Court File No. CV-22-683322

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ROCCO GALATI

Plaintiff

- and -

DONNA TOEWS (AKA "DAWNA TOEWS"), KIPLING WARNER, CANADIAN SOCIETY FOR THE ADVANCEMENT OF SCIENCE AND PUBLIC POLICY ("CSAPP"), DEE GANDHI, JANES AND JOHNS DOE

Defendants

MOTION RECORD OF THE MOVING PARTY DEFENDANTS
(Motion Returnable September 12, 2023)
Volume 2 of 3

January 31, 2023

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EXHIBIT “JJ”

Kelowna

SCHOOL TRUSTEES PUSH BACK

SD23 trustees push back against anti-SOGI accusations

Wayne Moore - Oct 4, 2022 / 10:03 am

Photo: Jodi Quibell
Pamphlet distributed at Watson Road Elementary

A group of Central Okanagan school trustees are taking exception to accusations made against the district by Action4Canada.

The news release follows statements made by the anti-SOGI 123 group which made a number of false claims related to sexual orientation gender identity (SOGI) education in B.C. schools.

Among other things, they accuse the district, of creating special clubs in schools where children are exposed to websites including those containing gay porn.

"These baseless and harmful allegations undermine the hard work of our staff and negatively impact our students, many of whom already face serious challenges," the five trustees stated in Monday's news release.

"The trustees signed below strongly condemn these attacks. We will not tolerate this abusive behaviour and reaffirm in the strongest possible terms our support for our teachers, and our superintendent, Kevin Kaardal."

The statement from Action4Canada was in direct response to a Castanet story published a week ago after anti-SOGI pamphlets were found left on vehicles in the parking lot of Watson Road Elementary.

"Sexual orientation, gender identity and expression are protected under the BC Human Rights Code and the Canadian Charter," the trustees further state.

"It is the responsibility of the boards, district staff, administrators, teachers and support staff to provide environments where all students can thrive.

"Inclusive, equitable and nondiscriminatory practices and policies are integral to supporting students."

Action4Canada gained notoriety during the pandemic for espousing anti-vaccine views and has campaigned against 5G technology, abortion, "political Islam," the United Nations, legal cannabis and LGBTQ issues.

The trustees, chair Moyra Baxter, Norah Bowman, Wayne Broughton, Julia Fraser and Chantelle Desrosiers say staff in the schools across the district work to provide all students with a safe and welcoming environment which has the full support of of the board.

They call the disinformation being spread by Action4Canada, dangerous and being deliberately spread to try an influence voters prior to the election of a new board Oct. 15.

"We teach our students about the rights and responsibilities of free speech, including protecting human rights.

"The harmful lies and deception by Action4Canada and those affiliated with them underscore the importance of this work.

"It is our hope that the Central Okanagan Public Schools Board of Education will get back to its core purpose, educating students in a safe, inclusive , equitable and inspirational learning environment where each learner develops the attributes and competencies to flourish in a global community."

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More Kelowna News

This is Exhibit "JJ" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

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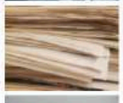
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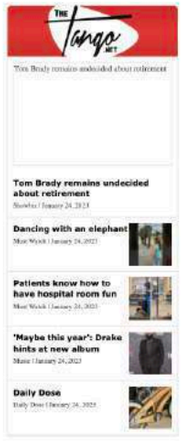

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EXHIBIT “KK”

This is Exhibit "KK" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

Kelowna News

LETTER: Voters should reject the ParentsVoiceBC slate of candidates

Terry W. Robertson

October 12, 2022 - 2:19 PM

OPINION

In 1990, when I was first elected as a SD 23 trustee, this District's sexual education curriculum erroneously questioned the efficacy of condoms in preventing the spread of HIV/AIDS, stubbornly advised teens that the only acceptable behavior was abstinence prior to marriage, and spoke of equality and inclusion but taught the negatives of a LGBTQ lifestyle "choice."

Realizing that much of the information being conveyed to students about acceptance and inclusion, as well as on the topics of sex and sexual orientation, was discriminatory, inaccurate, incomplete and outdated, I took on the challenge to move this District's policy and curriculum in these areas out of the 19th century and at least into the 20th.

While many of the proposed changes were adopted during my 12 year term on the board, it was not until some years after I had retired that the discriminatory language regarding LGBTQ persons was finally removed from the SD23 Policy Book.

A few years ago, the adoption and implementation of sexual orientation and gender identification (SOGI) programs and resources have probably moved SD23 fully into the 21st century. Hopefully, the only question in the next century will be "Why did it take them so long?"

However in a September 28, 2022 news release, a right-wing political lobby/activist group, Action4Canada weighed in with a vitriolic and scurrilous tirade against SD23's equality/inclusion program and sexual education curriculum. They assert that the SOGI program used by SD23 is like the "sexual grooming" of children by pedophiles and compare some support material to pornography. Action4Canada made these outrageous accusations against SD23 despite the fact that the program and curriculum are approved by the Ministry of Education and Child Care.

Action4Canada further alleged that the crime of child abuse is being committed and that the District superintendent is lying about the situation. The most bizarre part of all this is their overall insinuation that some kind of conspiracy is at work here. A conspiracy organized, according to the Action4Canada website, by unnamed "radical LGBTQ activists" to corrupt students.

Reading their news release and perusing the Action4Canada's website, which has language that must be described as anti-LGBTQ, anti-Islamic, and anti-immigrant, it is clear that this group has an underlying intolerance of certain groups of people.

Clearly, the Action4Canada news release came out during the election campaign of school trustees in order to bolster support for the four SD23 trustee candidates they have endorsed under the banner of ParentsVoiceBC (whose information and promotional video are posted on the Action4Canada webpage).

We need school trustees who are not only caring and tolerant of diversity, but also think clearly and make decisions based on facts and solid research, not on wild speculation and conspiracy theories.

Terry W. Robertson, Kelowna

We welcome your comments and opinions on our stories but play nice. We won't censor or delete comments unless they contain off-topic statements or links, unnecessary vulgarity, false facts, spam or obviously fake profiles. If you have any concerns about what you see in comments, email the editor.

Tags: Kelowna municipal election 2022, ParentsVoice B.C.

More News ...

TRENDING NOW: Tiger vs. goose battle doesn't go as expected

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OPINION Every day, about 2.5 million Canadians buy food at one of the 1,403...

iN wine

B.C.'s alcohol 'spike' during COVID starting to wane

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YO MAMA: Weathering the seasons with a toddler in tow

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EXHIBIT “LL”

This is Exhibit "LL" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

NOVEMBER 1, 2022 BY RONNIE

Kulvinder Gill Hit With $1.1 Million Cost Award For Bringing SLAPP

CITATION: Gill v. Maciver, 2022 ONSC 6169
COURT FILE NO.: CV-20-652918-0000
DATE: 20221031

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Dr. Kulvinder Kaur Gill and Dr. Ashvinder Kaur Lamba, Plaintiffs

AND:

Dr. Angus Maciver, Dr. Nadia Alam, André Picard, Dr. Michelle Cohen, Dr. Alex Nataros, Dr. Ilan Schwartz, Dr. Andrew Fraser, Dr. Marco Prado, Timothy Caulfield, Dr. Sajjad Fazel, Alheli Picazo, Bruce Arthur, Dr. Terry Polevoy, Dr. John Van Aerde, Dr. Andrew Boozary, Dr. Abdu Sharkawy, Dr. David Jacobs, Tristan Bronca, Carly Weeks, The Pointer, The Hamilton Spectator, Société-Radio Canada, the Medical Post, Defendants

BEFORE: Stewart J.

An Ontario doctor is facing financial ruination over a decision to sue almost 2 dozen parties over pretty harmless comments. Another is looking at a significant amount as well. It's hard to imagine why they thought taking this on would be a good idea.

On December 11, 2020, Kulvinder Gill and Ashvinder Lamba brought a $12.75 million defamation lawsuit against 23 individuals and organizations. While portions had to do with the CPSO, the bulk related to comments (mostly on Twitter) over "pandemic" measures.

Absurdly, many in the "freedom community" celebrated this lawsuit. Instead of suing, for example, the CPSO. this was aimed primarily at online critics.

Author's note: originally, Gill and Lamba were represented by Rocco Galati. He left in the Spring of 2022, and the pair obtained new (and separate) lawyers. Jeff G. Saikaley took over for Gill, and Asher Honickman for Lamba. Gill and Lamba are now trying to get money back from their former lawyer, but more on that coming up.

Yes, Twitter is a cesspool, and people are often nasty and rude. However, that doesn't justify attempting to bankrupt and destroy them. Cooler heads prevailed, and on February 24, 2022, the lawsuit was dismissed as a SLAPP, or a strategic lawsuit against public participation.

Ontario, like many jurisdictions, has laws on the books designed to quickly throw out claims that are brought to shut down speech and expression on issues of public concern.

Gill and Lamba served Notice of Appeal in March of 2022. That is still before the Court of Appeals, and will be addressed later on. In the meantime, there's still the issue of costs from the Trial Court, specifically fees from the various Defendants' lawyers.

Costs has been resolved, at least for this portion. Justice Stewart handed down a $1.1 million award, primarily against Gill, the main actor in the suit.

Why was this so high? Partly, because of the number of lawyers involved, but also because of the fairly unique way that SLAPP award are handed out.

For a bit of background on why SLAPP costs are calculated in an unusual manner, consider the sections from 137.1 of the Courts of Justice Act.

the motion and in the proceeding on a full indemnity basis, unless the judge determines that such an award is not appropriate in the circumstances. 2015, c. 23, s. 3.

Costs if motion to dismiss denied
(8) If a ***judge does not dismiss*** a proceeding under this section, the ***responding party is not entitled to costs on the motion***, unless the judge determines that such an award is appropriate in the circumstances. 2015, c. 23, s. 3.

Damages
(9) If, in dismissing a proceeding under this section, the judge finds that the responding party brought the proceeding in ***bad faith or for an improper purpose***, the judge may award the ***moving party such damages as the judge considers appropriate***. 2015, c. 23, s. 3.

From Sections 137.1(7) through (9) we can see full indemnity (100% of costs) is the standard if the Defendants are successful in getting the suit(s) dismissed. Should they fail, the Plaintiffs aren't automatically entitled to their costs. There's also a provision to allow for damages if a case is ever brought in bad faith.

Two other provisions worth noting: a case is considered "stayed" until all SLAPP issues are resolved, including appeals. This means that a claim can't be amended, nor can it be discontinued. It's "frozen in place", so to speak.

No further steps in proceeding
(5) Once a motion under this section is made, ***no further steps may be taken in the proceeding by any party until the motion, including any appeal*** of the motion, has been finally disposed of. 2015, c. 23, s. 3.

No amendment to pleadings
(6) Unless a judge orders otherwise, the ***responding party shall not be permitted to amend his or her pleadings in the proceeding***,
(a) ***in order to prevent or avoid an order under this section dismissing the proceeding***; or
(b) if the proceeding is dismissed under this section, in order to continue the proceeding. 2015, c. 23, s. 3.

One thing to consider, a lawsuit can be dismissed as a SLAPP if any of the defenses are *likely* to succeed. This is a much lower threshold than what's used for Summary Judgement.

Given this structure, there really isn't a reason for Defendants *not* to at least attempt this procedure, if it's applicable. Of course, it relates to topics of *public* interest, not private disputes.

These are the cost submissions from the various Defendants. Keep in mind, full indemnity is the default position, and of course everyone asked for it.

This probably caused panic in Gill and Lamba, with reality setting in about what they're facing. Given that they attempted to bankrupt people over mean words, it's unlikely any mercy would be shown.

What did they think would happen?

Obviously, attorney-client communications are confidential, but one has to wonder why Gill and Lamba attempted this lawsuit in the first place. Many people who read it could tell that this would go nowhere, and that a high cost award was very likely. Were they fully informed about the risks ahead of time?

Things would get stranger still.

Shortly after filing the Notice of Appeal, Galati, lawyer for Gill and Lamba, filed a Motion to be removed as counsel of record. He claimed to be too ill to continue. Much of the version publicly available is redacted as it contains privileged information. May 12, 2022, Justice Gillese granted it, leaving them scrambling to retain new counsel.

This came at a time when the pair were still dealing with the cost submissions. They did eventually find someone to take the Appeal, and for the cost submissions. Gill and Lamba then threw Galati under the bus, claiming that his prior cost submissions were entirely inadequate. This is very plausible, considering the $1 million (or more) at stake.

There was "case management" during the summer, with the issue of costs at the forefront. Gill and Lamba now had separate lawyers. This made sense since their interests now diverged. Lamba, a relatively minor player in this, seemed to think that a split on costs with Gill was unfair to her financially.

Keep in mind, all of this was still going on while there was an active challenge to the SLAPP ruling. It must have been stressful.

Going to the Court of Appeals might be seen as a Hail Mary, in an attempt to ward off financially crippling costs. But in the end, it will just dig them in deeper. It seems extremely unlikely the C.O.A. will help them at all. We will get to that further on.

Now, Gill is faced with a cost award of over $1 million.

Kulvinder Gill has other suit pending against University of Ottawa

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On March 15, 2021, Gill filed a $7 million lawsuit against the University of Ottawa, and Amir Attaran, one of its professors. The Claim lists 2 (two) rude and insulting tweets that Attaran had made. Apparently, the University is vicariously liable, being his employer.

> This idiot is a doctor in Ontario. Sort of a female version of Dr. Scott Atlas.

> Looks like the flying monkeys are out today for Dr. Gill.
> Research shows the Russian military intelligence (the GRU) are behind the anti-science COVID conspiracy social media.
> So with love from Canada.

Are these comments worth $7 million in damages?

July 13, 2021, a Notice of Intent to Defend was filed on behalf of Attaran and the school. It doesn't appear that anything has happened since then.

If Gill were wise, she would discontinue that case before she's faced with another anti-SLAPP Motion. She'd presumably be on the hook for a further $50,000 to $100,000.

Gill/Lamba are taking Galati and Coomara to Court now

In an interesting turn of events, Gill and Lamba are asking a Brampton Court for nearly $5,700 from their (now former) attorneys. Given the small amount, this seems likely to be a refund for disbursements. Samantha Coomara works at the same firm, and is a junior associate.

Gill/Lamba Appeal pending, but has zero chance of success

Gill and Lamba did file a Notice of Appeal, along with their Certificate Respecting Evidence within the 30 day time limit.

Then things started happening. Or rather, not happening.

It really doesn't help when the Appellant's counsel suggests that the Trial Judge may have been biased in making determinations. It was raised a few times in the Notice.

Nor does it help when the Appeal itself is baseless. Anti-SLAPP laws exist to throw out suits that clearly have little to no merit. The issue isn't who is the better expert, but whether the Defendants have the right to express themselves on certain topics. Name calling or insults alone are not actionable.

May 12, 2022, the Court of Appeals issued a notice that it was considering dismissed the Appeal for delay. Timelines are very short, and this can happen, unless proper permission to extend time is obtained. It seems that no material had been submitted by this point.

Counsel for Gill and Lamba bailed from the Appeal, claiming to have a prolonged illness, making it impossible to continue the work. In spite of that, the following happened:

- May 25, 2022, he filed a suit in Federal Court over workers who were fired
- May 31, 2022, he attended an Application to Strike (Action4Canada case)
- June 28, 2022, he sued an anti-lockdown group in BC
- July 12, 2022, he sued the Law Society of Ontario
- August 28, 2022, he filed a Notice of Appeal in BC (Action4Canada)
- October 12, 2022, he attended hearings for 2 Ontario cases

This is in addition to several ongoing fundraisers with groups like Action4Canada and Vaccine Choice Canada. There's still money to be made in this.

He just wanted off the Gill case — for whatever reason — and illness was a pretext.

Gill and Lamba have new counsel for their Appeal, but the problems remain. Specifically, that they sued many parties over content that isn't actionable. When the Appeal is eventually thrown out, they'll be on the hook for those costs as well.

The Appeal deadlines have been extended (yet again), and it's unclear when the materials will ever be submitted. A wise move at this point would be to discontinue, but that's a decision the Appellants have to make. They're digging themselves in deeper. True, they have new lawyers, but that doesn't make the Appeal any less frivolous.

While Section 137.1(7) typically allows for full indemnity (100% costs) for successful anti-SLAPP Motions, this would apply to the Appeals of those decisions. It's not too farfetched to see Gill and Lamba — or, primarily Gill — hit with another $200,000 to $400,000. This would be in addition to the $1.1 million that they're already on the hook for.

As for the Defendants, who still have to deal with an Appeal: they want their pound of flesh. There won't be any sympathy. There's already talk about getting liens, and having garnishment done. Unless Gill has significant assets to sell, she's looking at bankruptcy.

One has to wonder what kind of legal advice Gill and Lamba have received since 2020. Anyone with a working knowledge of anti-SLAPP legislation could have foreseen this outcome.

It would be interesting to see if a Law Society complaint gets filed, or already has been. With so much money at stake, things are going to be messy.

KULVINDER GILL/ASHVINDER LAMBA CASE:
(1) Gill/Lamba Defamation Lawsuit December 2020
(2) Gill/Lamba Case Dismissed As A SLAPP
(3) Gill/Lamba Notice of Appeal and Appellants' Certificate
(4) Gill/Lamba Appeal – Notice of Intention to Dismiss Appeal for Delay, May 12, 2022
(5) Gill/Lamba July 15 Letter To Obtain New Counsel
(6) Gill/Lamba Case Conference Brief July 29, 2022
(7) Gill/Lamba Endorsement New Counsel Cost Submissions August 3, 2022
(8) Gill/Lamba Case $1.1 Million In Costs Ordered October 31, 2022

KULVINDER GILL/ATTARAN/UOTTAWA CASE
(1) Gill-Attaran Statement Of Claim
(2) Gill Attaran Affidavit Of Service
(3) Gill-Attaran Notice Of Intent

VACCINE CHOICE CANADA COURT DOCUMENTS:
(1) VCC – Statement Of Claim Unredacted
(2) VCC – Discontinuance Against CBC
(3) VCC – Mercer Statement Of Defense
(4) VCC – Mercer Affidavit Of Service

VACCINE CHOICE CANADA LAWSUIT (2019):
(1) VCC – Statement Of Claim, October 2019 Lawsuit

ACTION4CANADA COURT DOCUMENTS:
(1) A4C Notice of Civil Claim
(2) A4C Response October 14
(3) A4C Legal Action Update, October 14th 2021 Action4Canada
(4) A4C Notice of Application January 12
(5) A4C Notice of Application January 17
(6) A4C Affidavit Of Rebecca Hill
(7) A4C Response VIH-Providence January 17
(8) A4C Response to Application BC Ferries January 19
(9) https://action4canada.com/wp-content/uploads/Application-Record-VLC-S-S217586.pdf
(10) https://drive.google.com/file/d/1BfS_MyxA9J11WeYZmk8256G7GsWEFZ62/view
(11) Notice_of_Discontinuance_Federico_Fuoco_Fire_Productions
(12) Notice_of_Discontinuance__Amy_Muranetz_
(13) A4C Notice Of Appeal September 28 2022

CHILDREN'S HEALTH DEFENSE CANADA/ONTARIO STUDENTS:
(1) Notice Of Application — April 20, 2021, Masks On Students
(2) Schools – Rule 2.1.01 Decision
(3) Schools — Notice Of Appearance Robert Kyle
(4) Schools — Notice Of Appearance Halton Durham

POLICE ON GUARD/OFFICERS:
(1) Notice Of Application — April 20, 2021

FEDERAL VACCINE PASSPORT CHALLENGE:
(1) Statement Of Claim, Federal Workers Forced Out

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August 12, 2022
In "Canada"

CANADA, CANADIAN DECISIONS, FREE SPEECH, PROCEDURAL

4 Replies to "Kulvinder Gill Hit With $1.1 Million Cost Award For Bringing SLAPP"

Tyler Durdan
NOVEMBER 1, 2022 AT 7:31 PM

Excellent Work !!!

Reply

Karen Selick
NOVEMBER 2, 2022 AT 2:37 AM

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gracejoubarne461654805
NOVEMBER 2, 2022 AT 6:56 AM

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Kata List Productions
NOVEMBER 3, 2022 AT 9:00 AM

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EXHIBIT “MM”

This is Exhibit "MM" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

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Toronto / News / National / Canada

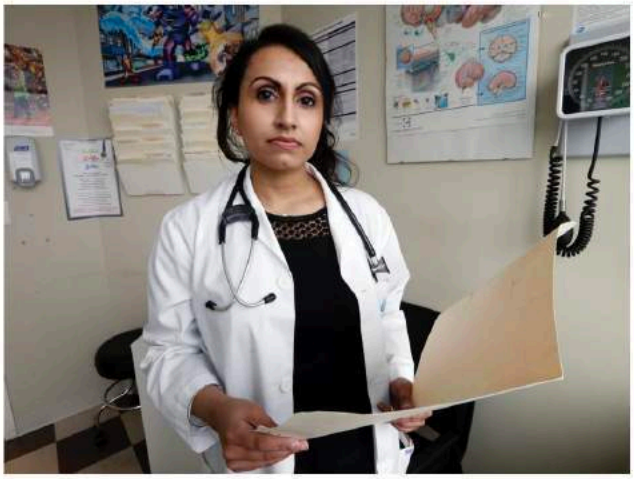
Vaccine-doubting doctor ordered to pay $1M in legal costs after her libel suit quashed

Gill accused her detractors of being a 'pack of hyenas' bent on destroying her reputation, but it proved to be a very expensive counter-attack

Tom Blackwell

Published Nov 03, 2022 • Last updated Nov 04, 2022 • 4 minute read

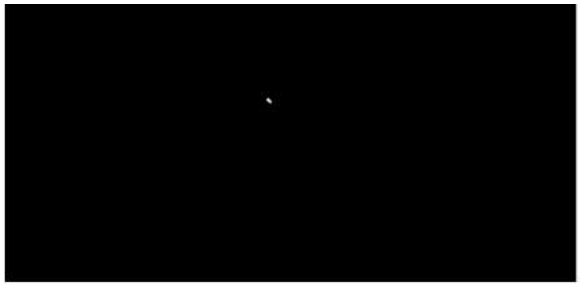
543 Comments



Dr. Kulvinder Kaur Gill, above in her clinic in Brampton in 2017, said a vaccine was not needed against the virus, that most people had natural immunity to COVID-19 and there was no scientific rationale for keeping people at home to short-circuit its spread. PHOTO BY MICHAEL PEAKE/POSTMEDIA/FILE

When a host of doctors, academics and journalists criticized her COVID vaccine-doubting, anti-lockdown views, Dr. Kulvinder Kaur Gill struck back, filing a $12-million libel suit against them.

STORY CONTINUES BELOW



Amongst other charges, she accused her detractors of being a "pack of hyenas" bent on destroying her reputation. It has proven to be a very expensive counter-attack.

A judge this week ordered the pediatrician in Brampton, west of Toronto, to pay the defendants as much as $1.1 million in legal costs after her lawsuit was struck down earlier this year as a potential curb on important public debate.

Part of the costs were assigned to a fellow plaintiff, Dr. Ashvinder Kaur Lamba, who sued only two of the 23 defendants, but Gill is on the hook for the bulk of the hefty award.

Justice Elizabeth Stewart said the cost sum was appropriate, noting that the damages sought by the two physicians in their suit was "a considerable sum by any calculation and of understandably great concern" to the people they sued.

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"Although the individual ... plaintiffs are not substantial corporations or institutions, they are educated persons who were represented by counsel throughout," she added.

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Jeff Saikaley, Gill's lawyer, said neither he nor his client would comment as she is appealing both this week's decision on costs, and the ruling in February that dismissed the lawsuit.

Meanwhile, the doctor faces more legal trouble at Ontario's College of Physicians and Surgeons. After cautioning Gill last year over some of her COVID statements, the regulator ordered her earlier this month to appear on similar charges before a discipline tribunal, a sort of trial where a guilty verdict could lead to revocation of her licen

Dr. Terry Polevoy, a retired Waterloo, Ont., family physician and crusader against bogus health-care products and practices, said Wednesday he welcomed the cost ruling.

Unlike some of the defendants, Polevoy had to pay his lawyer out of pocket because he's no longer practising, with bills already coming to over $51,000.

"It's a lot of stress, a lot of pent-up frustration at the legal system," he said.

Another person familiar with the file, who asked not to be named because it's still before the courts, said it was not so much one suit as 23 different ones rolled into a single case, with separate allegations against each defendant.

"You have to mount a very serious defence," said the person. "While it's an unprecedented cost award, it's also an unprecedented lawsuit."

STORY CONTINUES BELOW

The Canadian Medical Protective Association — which covers most professionally related legal costs for doctors — had initially refused to underwrite the expense of defending the suit for any of the physicians, but relented after an appeal to its board, said the source.

Gill filed her lawsuit in December 2020, accusing doctors, a former president of the Ontario Medical Association, university professors, media outlets and newspaper journalists of libelling her. Most of the remarks she singled out were comments on Twitter responding to her rejection of widely accepted science around COVID-19.

Among other things, Gill said a vaccine was not needed against the virus, that most people had natural immunity to COVID and there was no scientific rationale for keeping people at home to short-circuit its spread.

STORY CONTINUES BELOW

But the defendants filed an anti-SLAPP motion, a legal manoeuvre designed to put a stop early on to lawsuits that curb discussion in the public interest.

Justice Stewart ruled in their favour, saying that if the suit went ahead "its chilling effects would have an impact well beyond the parties to this case," deterring experts and the media from calling out potential misinformation. "Dr. Gill herself is the most obvious cause of damage to her reputation," the judge added.

In her decision this week, she rejected the plaintiffs' arguments that the costs award was excessive because the various lawyers essentially duplicated each other's work. Every person named in the suit had to argue the case based on separate facts, and the issues were of "great importance" to them, said the judge.

Gill was originally represented by Rocco Galati, the firebrand Toronto lawyer who has called public-health measures to combat the virus a "vicious fraud" and protective face coverings "slave-trade masks."

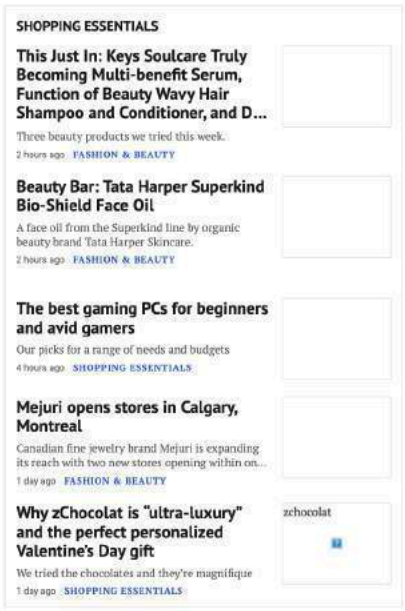
But against the wishes of clients Gill and Lamda, an Ontario judge allowed him to withdraw from the case in May, saying "he had a lengthy hospitalization and was in a coma, from which he is still recovering," a court order posted by the CanuckLaw.ca blog indicates. In the meantime, Galati had made "superficial" submissions to the judge on the legal-costs issue without the consent of his clients, Saikaley said in a July letter to Stewart.

As the larger case rolls on, Gill is also suing University of Ottawa health law professor Amir Attaran for $7 million over Tweets in which he called her an idiot, among other comments.

Attaran said Wednesday he has also filed a SLAPP motion, but has been holding off to see if the doctor would settle the case. He said he wants her to apologize for suing and admit she was wrong about COVID, but so far Gill has declined to do so.

"She now has 1.1 million reasons to reconsider her position," said Attaran. "We are prepared to go to court."

(Nov. 4 – corrects spelling of Dr. Lamba's name.)



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THIS WEEK IN FLYERS

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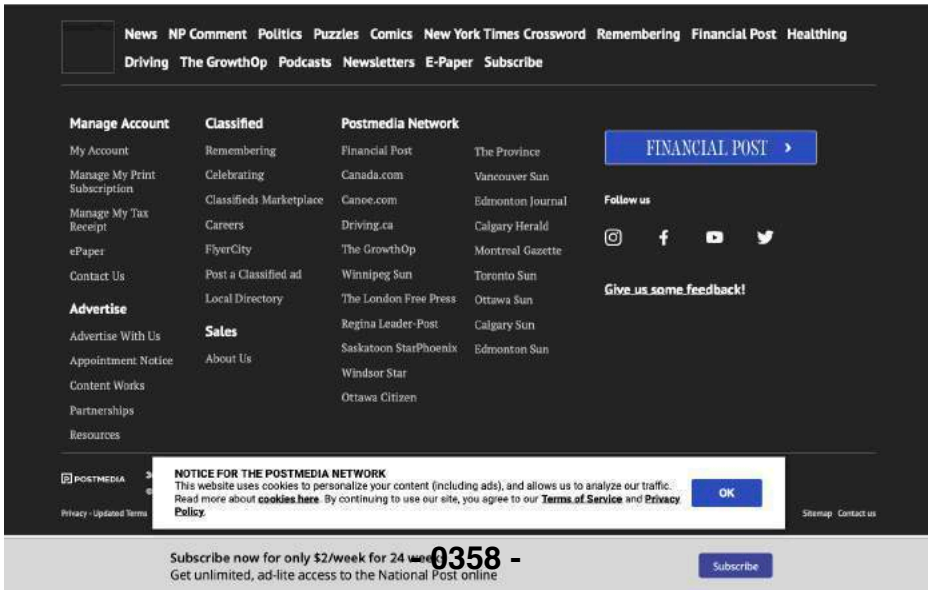

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EXHIBIT “NN”

This is Exhibit "NN" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

NOVEMBER 14, 2022 BY RONNIE

Ottawa Files Motion To Strike Federal Vaccine Passport Suit From Galati

Court File No.: T-1069-22

FEDERAL COURT

BETWEEN:

KAREN ADELBERG ET AL

Plaintiffs

and

HIS MAJESTY THE KING ET AL

Defendants

NOTICE OF MOTION
(Motion to Strike)

TAKE NOTICE THAT the Respondent makes a motion to the Court under Rule 221 of the *Federal Courts Rules* (the "*Rules*"). The Respondent requests that this motion be heard in writing under Rule 369 of the *Rules* and be decided based on written representations.

THE MOTION IS FOR:

i. an Order striking out the Statement of Claim issued on May 30, 2022 pursuant to Rule 221 (1) (a), (c), and (f) of the *Rules*, without leave to amend;

Another prediction seems to be playing out.

Late in 2021, Ottawa imposed "vaccine" requirements on nearly all Federal workers. In short, employees needed to have at least 2 shots of the (who-knows-what) injections to keep their jobs. Many retired, others quit, and some forced their bosses to let them go.

May 30, 2022, a lawsuit was filed in Federal Court by a man who supposedly is Canada's top Constitutional lawyer, Rocco Galati. But you wouldn't know that from the quality of his work.

The Federal Government has filed a Motion to throw out the Claim brought by 600 former members of the civil service. It alleges a number of serious defects, including: mootness, irrelevant issues, defects in the pleading, lack of jurisdiction, lack of factual basis, an improper filing, among other things.

A source told this site at the end of 2021 that such a suit was in the works. Allegedly, it would involve 500-600 individual Plaintiffs, with each paying $1,000 towards the proceedings. For that kind of money, one would expect a serious case to go forward.

Unfortunately, this review from September has aged very well. It contained an outline of several errors that would lead to the Statement of Claim getting struck.

The Action4Canada (BC) and Vaccine Choice Canada (ON) suits were covered in detail last year. Both were written without any consideration of the Rules of Civil Procedure in their respective Provinces. This Federal case contains most of the same errors. In many instances, it appears to be a direct cut and paste from the earlier ones.

Note: this isn't to justify coercing people to take injections. However, it's pretty much undeniable that this lawsuit never stood a chance. Painful as it is to admit, the Defense does have valid criticisms about the shoddy drafting. Here are some errors cited before:

- Rule 173: Allegations aren't set out in clearly numbered and organized paragraphs
- Rule 174: No concise statement of material facts provided
- Rule 181(1): Claim lacks the particulars (specifics) needed to go ahead
- Rule 182: Nature of damages not clearly specified
- Approximately 100 unidentified "John Does" and "Jane Does"
- Claim contains issues that cannot be presided over: Nuremberg Code' Helsinki Declaration; Criminal Code violations; and crimes against humanity

It was also predicted that the Defendants would file a Rule 221 Motion to Strike, for being frivolous, vexatious, and an abuse of process. The Federal Court Rules outline how this is done. And in an unsurprisingly turn of events, that's what happened.

Ottawa is citing "mootness" as a ground to strike the Claim, and is using the recent decisions against Peckford, Rickards, and the other Applicants. It wouldn't be fair to blame any Applicant for the Government pulling this stunt, but it comes up again.

There are a few other major issues that need to be addressed in the Motion.

One of the grounds that the Defendants bring up in their Motion is that these proceedings really should have been done up as an Application for Judicial Review. Sections 18(1) and (3) of the Federal Courts Act are cited, and it seems pretty clear cut.

> Extraordinary remedies, federal tribunals
> 18 (1) Subject to section 28, the ***Federal Court has exclusive original jurisdiction***
> (a) to ***issue an injunction***, writ of certiorari, writ of prohibition, writ of mandamus or writ of quo warranto, or ***grant declaratory relief, against any federal board, commission or other tribunal***; and
> (b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to ***obtain relief against a federal board, commission or other tribunal***.

> Remedies to be obtained on application
> (3) The remedies provided for in subsections (1) and (2) ***may be obtained only on an application for judicial review*** made under section 18.1.

On the surface, this appears to be a valid point. If one is to challenge the decision of Federal bodies — namely, the requirement of the "vaccine" for employment — this might have been the way to go.

Seriously, was the wrong paperwork filled out in order to get this suit started? It seems that this would be pretty basic for expert lawyers.

Granted, there are portions of the Claim that still could proceed as a Claim, such as asking for damages. That said, challenging an order is a different procedure.

Could an extension of time be applied for to fill out the correct forms? Sure, it can be attempted, but what a waste of time this has been.

Not off to a good start.

Are The Plaintiffs Barred From Bringing Legal Action At All?

Is jurisdiction a fatal error in this case?

> No Right of Action
> Marginal note: Disputes relating to employment
> .
> 236 (1) The right of an employee to seek redress by way of grievance for any dispute relating to his or her terms or conditions of employment is ***in lieu of any right of action that the employee may have*** in relation to any act or omission giving rise to the dispute.

Section 236 of the Federal Public Sector Labour Relations Act states that employees have the right to have their problems dealt with via collective bargaining, in lieu of Court action. If this holds, then presumably it would apply to everyone.

That's one of the major arguments being advanced: that the hundreds of Plaintiffs have no right to sue at all — regardless of form — since legislation provides for other remedies.

Granted, there are allegations of acting in bad faith. That said, the Defendants argue (correctly) that there's a lack of factual basis pleaded to support most of the conclusions. This will be a tough sell.

Action4Canada Trainwreck Is Cited In Latest Motion

The written arguments (see page 269) reference the recent Action4Canada case. It has been covered on this site before, and is making a comeback.

In August 2021, this site outlined the serious defects in the 391 page filing in Vancouver. It predicted that the case would be struck in its entirety for failing to meet even the basic requirements of a pleading. Although a rewrite was permitted, that's exactly what ultimately happened.

In order to ward off criticism, and presumably to keep the donations coming in, a frivolous Appeal was filed. It will go nowhere as well.

The litany of defects in that B.C. case will very likely be used to support striking the Federal one. Thanks to Justice Ross in Vancouver, the precedent has been set.

These Suits Actually Harm Genuine Truth Movements

A common criticism in the Motion to Strike is that the suit makes plenty of bald assertions, without ever laying a factual foundation. In short, it makes accusations, but doesn't provide enough detail so that a Court can seriously consider them.

Many of the allegations pleaded in the Statement of Claim are in fact true. However, without pleading a factual basis for making these claims, it just makes people look insane.

As awful as the actions of the Federal (and Provincial) Governments are, they do make a valid point: these cases are written so poorly that it's impossible to know what the cases are that the Defendants are supposed to respond to.

Looking through the filings of Galati and the Constitutional Rights Centre (see below), none of them are good. They aren't even decent. Instead, the quality of the drafting ranges from mediocre to downright comical.

Kulvinder Gill and Ashvinder Lamba are out at least $1.1 million for a failed $12.75 million defamation suit against 23 individuals and organizations. Their case was predictably dismissed as a SLAPP.

Gill and Lamba bizarrely decided to appeal that dismissal. Given how baseless the original defamation suit was, this will just lead to much larger cost awards when it's finally thrown out. There had been talk of a second Appeal, one specific to the cost Order.

Gill has another $7 million suit pending against the University of Ottawa, and one of its professors, Amir Attaran. This is even weaker, and vulnerable to another SLAPP Motion.

Action4Canada is currently appealing an August decision to strike the 391 page Notice of Civil Claim in its entirety. Instead of simply drafting it properly, this will waste time and money.

Vaccine Choice Canada's high profile suit from July 2020 has sat idle since the filing. It's nearly 200 pages, and contains plenty of irrelevant information that would lead to it getting struck. It's unclear at this point who has even been served.

Vaccine Choice Canada has an earlier lawsuit from October 2019. The last activity was March 2020, when the pleadings closed. That was 2 1/2 years ago.

Children's Health Defense (Canada), also has an Application from April 20, 2021. It's essentially a cut and paste of the Police of Guard version. It too has sat dormant.

These are all his cases. This is what the last 2 1/2 years or so of "fighting" in the Courts has led to.

None of these cases have gone anywhere. Either:

- They remain idle for months or years, or
- They are thrown out in preliminary stages

To address a concern that comes up: these are public matters.

If a person wishes to sue someone else in their private life, that is their business. However, the moment donations are asked for, it becomes a reportable case. This is especially true, given the public nature of the issues.

This site has been heavily criticized — and even sued — for reporting the truth about these "anti-lockdown" cases. They're garbage, and none of them have any chance of getting to Trial. It's not a matter of cheerleading for a certain side, but giving honest reviews.

On a positive note — if it can be called that — the Federal Government is only asking for $5,000 for costs to have this Claim thrown out. Certainly, it's far cheaper than in Ontario or British Columbia.

Considering that people actually have paid money for this type of representation, it comes across as a rip off. Victims should be demanding refunds and/or talking to the Law Society of Ontario.

FEDERAL VAXX PASS CHALLENGE
(1) https://policeonguard.ca/wp-content/uploads/2022/06/Filed-SOC.pdf
(2) Federal Court Vaccine Mandate Challenge
(3) Federal Court Vaccine Mandate Challenge Motion To Strike
(4) Federal Court Vaccine Mandate Challenge Affidavit Of Service
(5) Federal Court Vaccine Mandate Challenge Responding Motion Record
(6) Federal Court Of Canada Rules
(7) https://www.laws-lois.justice.gc.ca/eng/acts/F-7/page-3.html#docCont
(8) https://www.laws-lois.justice.gc.ca/eng/acts/P-33.3/page-13.html#h-406405

ACTION4CANADA COURT DOCUMENTS:
(1) A4C Notice of Civil Claim
(2) A4C Response October 14
(3) A4C Legal Action Update, October 14th 2021 Action4Canada
(4) A4C Notice of Application January 12
(5) A4C Notice of Application January 17
(6) A4C Affidavit Of Rebecca Hill
(7) A4C Response VIH-Providence January 17
(8) A4C Response to Application BC Ferries January 19
(9) https://action4canada.com/wp-content/uploads/Application-Record-VLC-S-S217586.pdf
(10) https://drive.google.com/file/d/1BfS_MyxA9J11WeYZmk8256G7GsWEFZ62/view
(11) Notice_of_Discontinuance_Federico_Fuoco_Fire_Productions
(12) Notice_of_Discontinuance__Amy_Muranetz_
(13) A4C Notice Of Appeal September 28 2022
(14) A4C Dismissal Order As Entered By BCSC

VACCINE CHOICE CANADA COURT DOCUMENTS:
(1) VCC – Statement Of Claim Unredacted
(2) VCC – Discontinuance Against CBC
(3) VCC – Mercer Statement Of Defense
(4) VCC – Mercer Affidavit Of Service

VACCINE CHOICE CANADA LAWSUIT (2019):
(1) VCC – Statement Of Claim, October 2019 Lawsuit

KULVINDER GILL/ASHVINDER LAMBA CASE:
(1) Gill/Lamba Defamation Lawsuit December 2020
(2) Gill/Lamba Case Dismissed As A SLAPP
(3) Gill/Lamba Notice of Appeal and Appellants' Certificate
(4) Gill/Lamba Appeal – Notice of Intention to Dismiss Appeal for Delay, May 12, 2022
(5) Gill/Lamba July 15 Letter To Obtain New Counsel
(6) Gill/Lamba Case Conference Brief July 29, 2022
(7) Gill/Lamba Endorsement New Counsel Cost Submissions August 3, 2022
(8) Gill/Lamba Case $1.1 Million In Costs Ordered October 31, 2022

KULVINDER GILL/ATTARAN/UOTTAWA CASE
(1) Gill-Attaran Statement Of Claim
(2) Gill Attaran Affidavit Of Service
(3) Gill-Attaran Notice Of Intent

POLICE ON GUARD/OFFICERS:
(1) Notice Of Application — April 20, 2021

ONTARIO STUDENTS/CHDC:
(1) Notice Of Application — April 20, 2021, Masks On Students
(2) Schools – Rule 2.1.01 Decision
(3) Schools — Notice Of Appearance Robert Kyle
(4) Schools — Notice Of Appearance Halton Durham

(3) Childrens Health Defense Registered office & Directors
(4) Childrens Health Defense Canada Annual Return

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In "Canada"

Federal Vaccine Passport Case Hears Motion To Strike Claim
January 22, 2023
In "Canada"

CANADA, GRIFTERS, LAWFARE, PROCEDURAL

2 Replies to "Ottawa Files Motion To Strike Federal Vaccine Passport Suit From Galati"

camfella62
NOVEMBER 15, 2022 AT 5:47 PM

I've always found Galati suspect, this just confirms my fears that he might be controlled opposition. I came across some research that shows that Galati and Sasha Stone and others involved in the resistance are part of some new age movement, I also read something about the great reset and the globalist movement involves the creation of a new religion, so I don't know what's going on but there's more than meets the eye with these people

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Gordon S Watson
NOVEMBER 15, 2022 AT 7:29 PM

inquiring minds want to know = did Rocco Galati get permission from the Law Society of B. C., to appear in the Supreme Court of British Columbia, on May 31 2022, ostensibly representing all Claimants in the Action4Canada thing?
if so > then surely the Law Society of BC has authority to discipline him for the abomination to which he signed his name.
if not > then Mr Galati was practicing law without a licence. Not unthinkable… in light of the serial travesties visited upon the Freedom movement/ Resistance by this shyster

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Vaccine Choice Canada Makes First Court Appearance, 2 1/2 Years Later

(U.S.) HR 61: Bill To Expand Scope Of Hate Crimes Introduced

Declaration on the North American Partnership for Equity and Racial Justice

Ryan Imgrund, Former "Pandemic" Expert, To Face Second O.C.T. Hearing

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EXHIBIT "OO"

Subject: Fwd: GoFundMe Message Response
Date: Friday, September 23, 2022 at 4:41:21 PM Eastern Daylight Saving Time
From: Robyn Hill
To: kip@thevertigo.com

This is Exhibit "OO" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

Sent from my iPhone

Begin forwarded message:

From: Robyn Hill <robyn_r_c@hotmail.com>
Date: May 24, 2021 at 6:51:32 PM PDT
To: 22+18ej3il@replyto.gofundme.com
Subject: Re: GoFundMe Message Response

Hi Penny,
I can confirm the lawsuit has been filed and is moving ahead. You can see proof of that with the filing stamp on the top of the Notice of Civil Claim. You will find that and all other information on the updates section, on the campaign page (including the Cease and Desist letter).
Please keep checking the campaign page periodically for announcements. The team has been focusing their resources on the substantive work at the court house, but will have a website and Facebook page up shortly.
As to the other people and groups you have mentioned we are not affiliated with them, but do work closely with the JCCF and Dr. Reiner Fuellmich.
Thank you for helping to raise awareness, it is very much appreciated by the team.

Sincerely Robyn Hill

Sent from my iPhone

On May 24, 2021, at 3:47 AM, GoFundMe <messages@gofundme.com> wrote:

** To respond directly to this message, simply click the 'Reply' button **

From: pmr4119@gmail.com

PLEASE NOTE: The message below is NOT from GoFundMe, but rather an individual who visited and contacted you through your campaign. GoFundMe has not verified the message's content, so we strongly discourage you from clicking links or sharing your account email address or other personal information without first verifying the sender's identity. GoFundMe will never ask for your account email address, password, or payment information in this manner. Do not respond if you are being offered a wire transfer or asked for a refund outside of GoFundMe. Please forward all suspicious messages to abuse@gofundme.com.

Visitor Message from pmr4119@gmail.com:

(Re: A thank you note from Robyn)

Hello, Robyn
It is I who thank you for being part of bringing this lawsuit forward.

I had not heard about it until yesterday, but was so very thankful when I did. (I learned about it through 'AwakeCanada.org" . Over the course of this week, I will be trying to raise the awareness of people across Canada, through fB groups which have memberships from coast-to-coast.

We (the general public) are having a hard time keeping abreast of what is happening with the various court cases. (We are all very aware that our very liberty might well hinge on the results.) *Could you please confirm for me that this lawsuit is actually "filed" and moving ahead? *

Have you connected yet with "Action4Canada"? I am going to assume that you have, but , to date, I have not seen Action4Canada mention this in their bulletins.

BTW : I am a long-time patient of Dr. Charles Hoffe, one of the doctors featured in the video , "Canadian Doctors Speak Out". Dr. Hoffe has felt the full wrath of the Health Authorities for speaking his truth. (Again, I am going to assume that you have heard about this -- he was widely interviewed (Laura Lynn TV, etc.).

Have you yourself contacted "Laura Lynn TV"? I am very confident that she/they would like to interview you.

Sincerely,
Penny Reid, Kamloops, BC

END OF MESSAGE

Sent from GoFundMe's Headquarters:
855 Jefferson Ave, PO Box 1329, Redwood City, CA 94063

EXHIBIT “PP”

This is Exhibit "PP" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Vaccine Choice Canada (VCC), Josee Anne McMAHON, Melina LEPE, Petronela GROZA, Carla SPIZZIRRI, Cindy CAMPBELL, Alysa SHEPHERD, Scott Daniel COOKE (by his litigation guardian Denise Adele COOKE), and Denis RANCOURT

Plaintiffs

-and-

Justin TRUDEAU, Prime Minister of Canada, Dr. Theresa TAM, Chief Medical Officer for Canada, Marc GARNEAU, Canadian Transport Minister, Doug FORD, Premier of Ontario, Christine ELLIOT, Minister of Health and Long-Term Care for Ontario, Stephen LECCE, Minister of Education for Ontario, Dr. David WILLIAMS, Ontario Chief Medical Officer, CITY OF TORONTO, John TORY, Mayor City of Toronto, Dr. Eileen DE VILLA, Toronto Chief Medical Officer, The County of WELLINGTON-DUFFERIN-GUELPH ("CWDG"),
Nicola MERCER (Chief) Medical officer for CWDG,
WINDSOR-ESSEX COUNTY, Dr. Wajid AHMED (Chief) Medical Officer for Windsor-Essex County, Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Ontario, Attorney General of Canada, Attorney General of Ontario, The Canadian Broadcasting Corporation ("CBC"), Johns and James DOE, officials and employees of the above-noted Defendants

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT:

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 an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have

a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: , 2020 Issued by:

Address of Local Office:
393 University
10th Floor Toronto, Ontario
M5G 1E6

TO: Attorney General of Canada
Department of Justice Canada
Ontario Regional Office
120 Adelaide Street West Suite #400
Toronto, Ontario M5H 1T1
Fax: (416) 954-8982
Tel: (416) 973-0942

AND TO: The Attorney General for Ontario
Crown Law office, Constitutional Law Branch
720 Bay St.
Toronto, Ontario
M7A 2S9
Tel: 416-326-4460
Fax: 416-326-401

AND TO: John Tory and City of Toronto,
City Solicitor's office, City of Toronto
100 Queen Street, W
Toronto, Ontario
M5H 2N2

AND TO: Dr Wajid Ahmed Medical Officer of Health
Windsor- Essex County Health Unit
Address: 1005 Ouellette Ave Windsor ON N9A 4J8
Phone: 519-258-2146
Fax: 519-258-6003
Email: crd@wechu.org

AND TO: Dr Nicola Mercer Medical Officer of Health
WDG Health Unit
Address: 160 Chancellors Way Guelph ON N1G 0E1
Phone: 519-822-2715
Fax: 519-836-7215
Email: info@wdgpublichealth.ca

CLAIM

1. As against the Crown and Municipal Defendants the Plaintiffs claim:

a) A Declaration that the "COVID Measures" undertaken and orchestrated by Prime Minister Trudeau ("Trudeau") , and the Federal Crown, constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy , as enunciated by the Supreme Court of Canada in, **inter alia , Quebec Secession Reference;**

b) A Declaration that:

(i) s. 7.0.1 through s.70.11 of the **Emergency Management and Civil Protection Act,** RSO 1990.C.e.9 (the **"Act),** and in particular vesting an indefinite emergency power in the Premier and Lt.-Governor, and further that the "COVID Measures", undertaken and orchestrated by Premier Doug FORD ("Ford") and the Provincial Crown, constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and

Democracy , as enunciated by the Supreme Court of Canada in, **inter alia , Quebec Secession Reference;**

(ii) A further Declaration that the "emergency", COVID-19 "pandemic" declaration issued by Ontario, did not, and does not, meet the statutory requisite criteria set out in s.7.0.1(3) of that **Act,** and is in further contravention of s. 7.0.2(1) and (3) of that **Act** ,and that the declaration of emergency, and its extensions, be declared **ultra vires** the **Act;**

c) A Declaration that the COVID Measures taken by both Trudeau and Ford, and their respective governments, at the blind and unquestioned dictates of the World Health Organization ("WHO") bureaucrats, constitute a constitutional violation of the abdication of the duty to govern, as enunciated in, **inter alia,** the **Re Gray** and **Canada (Wheat Board)** v. **Hallett and Carey Ltd.** decisions of the Supreme Court of Canada;

d) A Declaration that the COVID Measures undertaken by Trudeau, and his officials, violate ss. 2, 7, 8, 9, and 15 of the **Charter,** specifically the measures:

(i) "self isolation";

(ii) "social distancing";

(iii) the compulsory wearing of face masks;

(iv) arbitrary and unjustified closure of businesses;

In that the Measures are not:

(i) scientifically, nor medically, based nor proven to be effective whatsoever;

(ii) pose physical and psychological harm; and

(iii) are extreme, unwarranted and unjustified;

And that the measures violate of s.2 (right of association) s. 7 (life, liberty, and security of person), s.8 (unlawful search and seizure), s. 9 (arbitrary detention by enforcement officers), s.15(equality before and under the law), are further not in accordance with the tenets of fundamental justice in their overbreadth, nor are they justified under s. 1 of the **Charter** in that they are not demonstrably justified in a free and democratic society;

e) A Declaration that the declaration of a public emergency in Ontario, and the very Legislation, Regulations and Orders enacted pursuant to the **Emergency Management and Civil Protection Act, 250 1990 c. E-9,** infringe s. 2, 7,s.8, 9, and 15 of the **Charter** specifically the measures of :

(v) "self isolation";

(vi) "social distancing";

(vii) the compulsory wearing of face masks;

(viii) arbitrary and unjustified closure of businesses;

(ix) the closure of schools, daycares, park amenities, and playgrounds;

(x) the discontinuance of access to education, medical, dental, chiropractic, naturopathic, hearing, dietary, therapeutic and other support, for the physically and mentally disabled, particularly special needs children with neurological disorders; and

(xi) the closing down of religious places of worship;

In that the Measures are not:

(i) scientifically, nor medically, based nor proven to be effective whatsoever;

(ii) pose physical and psychological harm; and

(iii) are extreme, unwarranted and unjustified.

And that the measures violate of s.2 (right of association) s. 7 (life, liberty, and security of person), s.8 (unlawful search and seizure), s. 9 (arbitrary detention by enforcement officers), s.15(equality before and under the law), are not in accordance with the tenets of fundamental justice in their overbreadth, nor are they justified under s. 1 of the **Charter** in that they are not demonstrably justified a in free and democratic society;

f) A Declaration that the Municipal COVID Measures enacted by By-Law, and Orders, by the City of Toronto, and conduct of John Tory, are **ultra vires** the Provincial **Act** and **Regulations,** and are further unconstitutional and are of no force and effect, for breaches of s.2 (right of association) s. 7 (life, liberty, and security of person), s. 8 (unlawful search and

seizure), s.9 (arbitrary detention by By-Law officers), and s. 15 of the **Charter**, specifically the measures of :

(i) "self isolation";

(ii) "social distancing";

(iii) the compulsory wearing of face masks;

(iv) arbitrary and unjustified closure of businesses;

(v) the closure of schools, daycares, park amenities, and playgrounds;

(vi) the discontinuance of access to education, medical, dental, chiropractic, naturopathic, hearing, dietary, therapeutic, and other support, for the physically and mentally disabled, particularly special needs children with neurological disorders;

(vii) the closing down of religious places of worship;

In that the Measures are not:

(i) scientifically, nor medically, based nor proven to be effective whatsoever;

(ii) pose physical and psychological harm; and

(iii) are extreme, unwarranted and unjustified.

And that the measures violate of s.2 (right of association) s. 7 (life, liberty, and security of person), s.8 (unlawful search and seizure), s. 9 (arbitrary detention by enforcement officers), s.15(equality before and under the law), are not in accordance with the tenets of fundamental

justice in their overbreadth, nor are they justified under s. 1 of the **Charter** in that they are not demonstrably justified in a free and democratic society;

g) A Declaration that, in the imposition of the COVID Measures, Trudeau, Ford, and Tory, and all the named Medical officer Defendants, have engaged in **ultra vires** and unconstitutional conduct and have acted in, abuse and excess of their authority;

h) A Declaration that the concept of "social distancing" is neither scientifically, nor medically based, and is an ineffective and a fictional concept, which has no scientific nor medical basis and hitherto unknown, with respect to a seasonal viral respiratory illness;

i) A Declaration that:

(i) the orders from the Medical Officers from the Counties of Wellington-Dufferin-Guelph and Winsor-Essex, and any and all County or Municipal By-Law or Health Officers and orders, respecting mandatory wearing face-masks, is unconstitutional; and

(ii) a further Declaration that the mandatory wearing of face-masks is both ineffective and poses a health risk, and is a violation of s. 7 of the **Charter** (liberty and security of the person) in violating the physical and psychological integrity, by seriously restricting a person's primordial right to breath, as well as restricting the very right of liberty, to choose **how** to breath, as well as pose a physical and medical danger;

belief, and religion in banning association, including religious gatherings, and further restricting physical and psychological liberty and security of the person rights under s.7 of the **Charter,** and are not in accordance with the tenets of fundamental justice, nor demonstrably justified under s. 1 of the **Charter;**

l) A Declaration that the arbitrary, irrational, and standardless sweep of closing businesses and stores as "non-essential", and the manner of determining and executing those closures, constitutes unreasonable search and seizure contrary to s. 8 of the **Charter** and not demonstrably justified under s.1 of the **Charter;**

m) 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;

n) A Declaration that prohibitions and obstacles to protest against COVID Measures in Ontario, and in Toronto, are a violation of the constitutional rights to freedom of expression, conscience, belief , and association, assembly, and petition, under s. 2 of the **Charter,** and not demonstrably justified by s. 1, as well as a violation of these constitutional rights, recognized **prior to** the **Charter,** through the Pre-Amble to the **Constitution Act, 1867** and against international treaty rights protected by s. 7 of the **Charter;**

o) A Declaration that any and all COVID Measures coercively restraining and curtailing the physical and psychological integrity of the Plaintiffs, and any and all physical and psychological restraints, including but not restricted to:

(i) "self-isolation";

(ii) no gatherings of more than five (5) and later ten (10)persons, or any set number;

(iii) the shutting down of children's playgrounds, daycares and schools;

(iv) "social distancing";

(v) the compelled wearing of face-masks;

(vi) prohibition and curtailment of freedom of assembly, including religious assembly, and petition;

(vii) the imposition of charges and fines for the purported breach thereof;

(viii) restriction of travel on public transport without compliance to physical distancing and masking

(ix) restrictions on shopping without compliance to masking and physical distancing;

(x) restrictions on attending restaurants and other food service establishments without compliance to masking, physical distancing, and providing name/address/contact information for contact tracing purposes.

Constitute a violation of ss. 2,7,8, 9, and ss. 15 of the **Charter** , to freedom of association, conscience religion, assembly, and express on under s. 2, liberty and security of the person in violating the physical and psychological integrity of the liberty and security of the person, not in accordance tenets of fundamental justice, contrary to s. 7, and further breach of the rights against unreasonable search and seizure contrary to s. 8, arbitrary detention under s. 9 of the **Charter** , and not demonstrably justified under s. 1, as well as breach of the unwritten parallel rights, recognized as constitutional rights, through the Pre-Amble of the **Constitution Act, 1867** and affected by means of removing measures against the "Liberty of the Subject" by way of **habeas corpus**;

(p) Further Declarations that:

(i) the thoughtless imposition of "social distancing" and self-isolation at home breaches s. 2 of the **Charter,** in denying the right to freedom of association and further breachs the right to physical and psychological integrity, under s. 7 of the **Charter** (liberty) in curtailing and restricting physical movement, which measures are wholly unjustified on any scientific or medical basis, and which are not in accordance with the tenets of fundamental justice in being vague, and suffering from overbreadth, and which cannot be justified under s. 1 of the **Charter;**

(ii) That the measures themselves, and the arbitrary detention, by enforcement officers, in enforcing these vague and over-broad, and often **ultra vires,** and contradictory "orders", is a violation of the right against arbitrary detention under s. 9 of the **Charter** and that, in the course of such "enforcement" the search and seizure of private information, including medical information, from individuals, being charged with purported violations of such orders, constitutes a violation of ss.7 and 8 of the **Charter,** and that neither violation of s. 7 or 8 are in accordance with the tenets of fundamental justice nor justified under s. 1 of the **Charter;**

(iii) That the use of "contact-tracing Apps" constitutes a violation of **s.** 8 of the **Charter**, and further violates ss. 7 and 8 of the **Charter** with respect to the constitutional rights to privacy, under both sections, and that such breaches are not in accordance with the tenets of fundamental justice, and are further not justified under s. 1 of the **Charter;**

(iv) That the compelled use of face masks breaches, in restricting the right to breath, at the crux of life itself, and the liberty to choose how to breath, infringes s. 7 to the **Charter** liberty, security of the person and is not in accordance with the tenets of fundamental justice and not justified by s. 1 of the **Charter;**

(v) That the above-noted infringements under s. 2, 7, 8, and 9, as well as the arbitrary decisions on what businesses to close, and which

ones to be left open, constitutes a. 15 of the **Charter** violation based on:

(i) Conscience, belief , and religion;

(ii) Association, assembly and petition;

(iii) Trade and profession;

And further that such measures are arbitrary, and discriminate before and under the law, contrary to s. 15 of the **Charter** (and not justified under s.1 of the **Charter**), and are further a violation of the unwritten constitutional right to equality recognized before the **Charter,** as unwritten constitutional rights through the Pre-Amble to the **Constitution Act, 1867** as emanating from the principles of Rule of Law, Constitutionalism, and Respect for Minorities as enunciated by the Supreme Court of Canada in **Quebec Secession Reference**;

r) A Declaration that any and/ all Municipal /County By-Laws and/or orders, with respect to compulsory face masks, are **ultra vires** the Provincial legislation in that the Province has expressly refused to make face-masking compulsory;

s) 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;

t) A Declaration that the WHO proposal, that it may be necessary to enter people's homes and remove children from parents, or separate families, who are tested positive for COVID-19, is flagrantly unconstitutional in violating the s.2 rights to freedom of association (the family unit) as well as violating the parent-child relationship protected by s.7 of the **Charter,** as established by the Supreme Court of Canada;

u) A Declaration that:

(i) the Defendant Federal Crown, and its agencies and officials, including but not restricted to the CRTC, have, by glaring acts and omissions, breached the rights of the Plaintiffs to freedom of speech, expression, and the press, by not taking any action to curtail what has been described by the UK scientific community as "Stalinist censorship", particularly the CBC in knowingly refusing to cover/or publish the valid and sound criticism of the COVID measures, by recognized experts;

(ii) a Declaration that the Federal Crown has in fact aided the suppressing and removing of "Facebook" and "YouTube" postings, even by experts, which in any way contradict or criticize the WHO and government measures as "misinformation" "contrary to community standards", by the federal Defendants threatening criminal sanction for such "misinformation";

thus violating s. 2 of the **Charter** by way of act, and omission, as delineated and ruled by the Supreme Court of Canada in, **inter alia** , **Vriend;**

v) A Declaration that the measures have a devastating impact on those with severe physical and neurological special needs, particularly children, and infringe s. 15 of the **Charter,** and the unwritten right to equality through the Pre-Amble to the **Constitution Act, 1867**, based on psychical and mental disability, and age, and not justified under s. 1 of the **Charter;**

2. Such further and/or other Declaratory relief as counsel may advise and this Honorable Court entertain.

3. As against the Crown and Municipal Defendants, Interim and/or final injunctive relief, from any mandatory vaccine, or compelled use of face-mask, and against any other compelled, coercive COVID-Measures, whether by legislative provision and/or Regulation / order thereunder, particularly measures which interfere with physical and psychological integrity without informed consent.

4. As against the CBC:

(a) A Declaration that:

(i) the CBC, as the publicly- funded broadcaster under the **Broadcast Act,** owes a fiduciary duty to be fair, independent, impartial, objective, and responsible, in its news coverage and investigation of the "pandemic", and COVID- Measures, which fiduciary duty it has flagrantly and knowingly breached;

(ii) that the CBC, owing a duty of care to the Plaintiffs as the national, publicly - funded broadcaster, has been grossly negligent in its coverage and reporting on the COVID-19;and

(iii) That the CBC has knowingly and intentionally suppressed, censored, and unjustifiably belittled expert opinion opposed and critical of the WHO and government line on COVID, and thus propagated "misinformation" and "false news" .

(b) General damages in the amount of $1 Million dollars;

(c) Punitive damages in the amount of $10 Million dollars;

(d) Such further or other injunctive relief as counsel may advise and this Honorable Court grant.

5. Cost of this action on a substantial indemnity basis and such further or other relief this Court deems just.

THE PARTIES

- **The Plaintiffs**

6. Vaccine Choice Canada ("VCC") is a federally registered not-for-profit educational society. VCC is committed to protecting health by informing of the existing and emerging scientific literature evaluating the risks, side effects, and potential long-term health effects of artificial immunization. VCC works to protect the right of all people to make fully informed and voluntary vaccine decisions, for themselves and their children. VCC further advocates for safe vaccines. VCC further works to advocate and support the statutory and constitutional rights tied to the right to vaccinate, and the right not to vaccinate, based on best science and medicine, with informed consent. Vaccine Choice Canada was originally incorporated as the Vaccination Risk Awareness Network ("VRAN") in 1982. It changed its name to Vaccine Choice Canada (VCC) in 2014.

7. The Plaintiff Josee Anne McMahon, is a resident of Ontario. Residing in Mississauga.

8. The Plaintiff, McMAHON, is a mother to four (4) children and also a children's Mental Health Therapist. She works in an essential service and has found herself to be working from home since covid- 19 closed the province in March, 2020. She has been providing telephone sessions from March to April and video sessions have started as of May. She is finding that about 50% of the families that she would normally work with are not able to engage by telephone or by

video due to many barriers. She has found it challenging to work from home considering she now have four (4) small children at home who are also doing school virtually and need adult assistance. Covid measures have made it impossible to find childcare. McMAHON has had her own children interrupt client phone calls and video sessions in order to meet her children's needs. She would normally be able to work 7-9 hours from the office daily. But, since the shutdown, she is not able to do that but works significant reduced hours. Some of the families and youth and families that she has talked with are reporting an increase in anxiety/depression and suicidal ideation. Children are feeling extremely disconnected.

9. McMAHON states that personally, the Covid measures have affected her as follows:

(a) She has some significant allergies to corn and wheat and all of the hand sanitizer products contain alcohol made mostly from these two (2) products;

(b) She has been yelled at and shamed in public places for not using the sanitizer when it's a health issue for her;

(c) Her son also has the same reaction when he uses hand sanitizer;

(d) She has been told she cannot enter some stores or receive some services without using hand sanitizer first;

(e) Some of the stores that she would normally frequent have signs up saying that everyone has to wear masks;

(f) She cannot do groceries as she would normally in Wellington County because of the mandatory mask order;

(g) Local grocery shopping is pricier for her due to rural pricing;

(h) If she declines wearing a mask, she is told she "can't go into stores or receive services";

(i) She has asthma and has had lung issues over the years;

(j) She also has experienced trauma where a mask was held forcibly over her face to prevent her from screaming while she was being sexually and physically assaulted in a past crime;

(k) She now has to disclose personal health information in order to enter stores with which she disagrees, and is otherwise denied service;

(l) She no longer feels safe going out because of all of the above.

10. McMAHON further states that she objects to face-masks based on the fact that they are ineffective with respect to respiratory viruses, further pose physical and psychological health risks, and further violate her rights under s. 2 and 7 of the **Charter.**

11. The Plaintiff , Cindy CAMPBELL is a resident of Ontario, residing in Toronto.

12. CAMPBELL has been a Registered Nurse for the past 25 years. She has a Bachelor's of Science in Nursing from the University of Victoria and a Master's degree in Health and Aging from Queens University. She is also a certified operating room nurse and holds certification in gastroenterology with The Canadian Nurses Association.

13. CAMPBELL has a special interest in older adults and nursing education and has published work related to both. Her pursuit of leadership in education led her to complete a prestigious Advanced Clinical Practice Fellowship with the Registered Nurses Association of Ontario for which she was awarded the 2019 nursing practice award from the downtown Toronto hospital in which she has been employed for 20 years.

14. During that time, CAMPBELL has worked across all areas of Peri-operative Services including the main operating room and endoscopy. Her main area of practice however is in the elective outpatient surgery unit(EOPS). This is an ambulatory unit that performs a diverse range of surgeries to treat a range of conditions, many of which are causing patients significant harm, suffering, or pain. During these procedures, important diagnostic testing may also take place to identify such things as cancers and infections.

15. Upon announcement of the COVID-19 pandemic in mid-March, 2020, EOPS was closed and converted into an annex for the Emergency Room to manage suspected overflow. The endoscopy unit was closed to elective procedures and also was converted into an overflow area for the ICU. The Main Operating Room, which has 12 ORs, was also closed, and only emergency or high priority cases that met strict criteria were allowed. This meant a dramatic workload reduction in surgeries and for staff. Similar workload reductions would have been mirrored in units across the hospital subjected to closure mandates.

16. At the onset of the pandemic, CAMPBELL was assured she would be used for sick calls because of COVID-19 - she was never called in. During this time the

units that were converted into ER and ICU overflows sat unused- there was no overflow. She was told that she may be transferred to another setting that may be in need during the COVID crisis- she was never called in to help. As a casual RN, she had all her posted shifts canceled and was not given another shift until June 17- this meant almost 3 months without an income and pension contributions. Considering her unit remains at half capacity, she suspects shifts will remain scant until they are fully open again.

17. As an RN, CAMPBELL'S primary role is that of patient advocate. As a patient advocate, CAMPBELL states, and the fact is, with respect to several consequences of the COVID-19 management measures namely:

(a) Canceled surgeries and endoscopy procedures: This is an issue with serious consequences. CAMPBELL states that there is no question, considering the volume of cases canceled, that this act alone resulted in significant numbers of missed diagnoses and physical harm including death as a result of conditions left untreated/undiagnosed. In addition, the physical and mental suffering of those left to manage debilitating conditions without medical intervention was unwarranted.

(b) No visitor policies: On her last day in the OR, on March 25, 2020, following the implementation of no visitor policies, CAMPBELL'S unit performed surgery on a young man who was in such a state of depression that he was near catatonic. His surgeon told CAMPBELL how this grown man cried when he heard his mother could not be there when he awoke post-surgery and could no longer visit him. CAMPBELL states, and the

fact is, that this is but one of thousands of stories across Canada. Despite hospitals' embrace of family care models that recognize the connection of family support upon positive health outcomes, families were deemed incompetent to take necessary precautions and were indefinitely shut out. This is further troubling in an era that suggests medical error is the third leading cause of death in North America. Family plays an essential role as advocates and in the prevention of medical error. This is particularly true in multicultural settings that left patients without family translators, older adults with dementia /cognitive impairments, etc. The long duration of this policy was punishing and caused significant, unnecessary suffering and harm.

(c) Mask recommendations are not based on scientific or medical evidence and pose an infection transmission risk. As an Operating room nurse, CAMPBELL has extensive training in masking. As such, CAMPBELL is very aware of the alarming, rampant breaches around safe and effective mask use currently happening in the community. Dr. Tam initially expressed these same concerns around mask contamination and their risk of spreading infection. Yet, Dr. Tam abandoned these valid concerns and the historic viewpoint that endured through all past epidemics and pandemics that did not recommend community mask use. Based on very low grades of evidence, she began recommending public use of cloth masks. Risks of masks equally extend to populations excluded and isolated as a result of mask use in the community such as hearing-impaired

older adults. Not only does this alienate these populations but miscommunication as a result of mask use could have serious outcomes.

(d) Long-term care (LTC) homes were left unprepared which resulted in unnecessary death and suffering despite ample warning.

18. The Plaintiff, Petronela GROZA, is an Ontario resident residing in North Augusta. She recently moved there from Toronto.

19. On May 26th, 2020, at around 5:30pm, Groza and her 10yr old child had gone to Longo's, a supermarket at York Mills and Leslie in Toronto, for groceries, but we were stopped as they had entered the doors and an employee demanded that they wear a mask before entering. The store employee, and Manager, stipulated that they had the discretion, as a private business, as per the statements of Premier FORD, and Mayor TORY, to impose mask requirements. The Plaintiff and her daughter left the store as she refuses to wear masks because they are ineffective and dangerous to her health, and a violation of her constitutional rights. The Plaintiff and her daughter were forced to leave the store. The Plaintiff states, and fact is, that there were no Regulations or Orders requiring the wearing of masks to enter businesses that were deemed "essential". The Plaintiff states that public statements made by Ford and Tory had individuals enacting their own, arbitrary, and irrational laws with respect to "essential" services such as food, and further that Ford and Tory were not only reckless but also exceeded their authority in making these statements.

20. On June 13th, 2020, at around noon, the Plaintiff Groza was driving on highway 401 Eastbound, and pulled into the Cambridge "OnRoute" to use the washroom

and buy lunch. At the entrance there was a man with a mask that demanded the Plaintiff wear a mask. The Plaintiff informed him that she does not wear a mask and he informed the Plaintiff that it was "the law" to wear a mask if she wanted to enter the Onroute. The Plaintiff informed him that just the day before she had stopped at an Onroute and was not forced to wear a mask. He insisted that it was the law . Groza then asked him to show her the law. He pointed in the general direction of the door and said it was written on the door. He stated: "you can go see it on the door." Groza walked to the door, did not see anything that would stand out, and since she desperately needed to use the washroom she proceeded to walk to the washroom and used the facilities. Groza left the OnRoute without buying anything to eat. Groza then drove on to the OnRoute in Trenton, where she entered without a mask, and no one stopped her from using the facilities and purchasing her late lunch. The Plaintiff states, and the fact is, that such confusion, and consequent hardship and damage, is the result of the reckless and excess of authority statements made by Trudeau, Ford, Tory, and their Medical Officers, with respect to what Covid-measures have, or have not, actually put into law, and simply express the at-the-moment ill-informed views of these Defendants.

21. The Plaintiff GROZA absolutely refuses the wearing of a face-masks. She further denies the efficacy of social distancing and sees both as a violation of her s. 2 and 7 **Charter** rights, as well as the fact that the indisputable science is that neither measure prevent the contraction of any virus and are otherwise detrimental to her health.

22. The Plaintiff, Melina LEPE, is an Ontario Resident residing in the County of Wellington-Dufferin-Guelph.

23. The Plaintiff, LEPE, states that when lockdown started on March 17th, 2020, she was a new mother with a 6 -month old baby. The Plaintiff and child were just starting to get out into the world going to local infant events provided by the city and local businesses, going grocery shopping, meeting with friends for lunch, and other routine social activities. The Plaintiff states that the last day they went out was March 13th, 2020. They have not left the house except to go for walks since that day: no socializing, no music classes, no story readings, and no swim lessons- all cancelled or closed due to the emergency orders. Even meeting in a park and keeping physical distance was not allowed. As a new mother who suffered from birth trauma and is recovering from birth related PTSD, the Plaintiff states that being cut off from her new community has been traumatizing and psychologically and socially unhealthy. This had a negative effect on her mental health which she already had a history with prior to her daughter's birth. The Plaintiff was unable to continue with her health care services that were deemed "non-essential" by the provincial government, but to someone recovering from major surgery, they are extremely essential. This has left the Plaintiff in physical pain which has affected her ability to care for her family. The Plaintiff's daughter was also unable to continue with health services that she had previously, as they were also deemed non-essential by the provincial government. The early life experiences the Plaintiff planned to give her daughter for her growth and development were taken away.

24. The Plaintiff, LEPE, states that Wellington- Dufferin- Guelph County's mandatory mask order is adding insult to injury. The Plaintiff is opposed to the order for several reasons:

(a) It takes away her right to bodily autonomy, which the Plaintiff takes extremely seriously, as she is firm in her conviction in medical freedom and her right to choose what goes in and on her body. She finds it very scary to have that right taken away.

(b) It is not backed by scientific evidence. The Plaintiff was easily able to find science-based articles studies showing that masks, especially cloth ones, are not effective at protecting oneself or others. In fact, they can have a negative impact on physical and mental health. The Plaintiff further states that our public health officials should have been more prudent in their research if they truly want to protect the public's health.

(c) It has had a negative effect on her mental health. As someone who has suffered with, at times, debilitating anxiety that gives the sensation of not being able to breathe, wearing a mask is a huge trigger for the Plaintiff. Knowing that if she goes out without one, and claims medical exemption, the Plaintiff will be faced with questioning and perhaps even refusal of entry, which is also is also anxiety- inducing. The Plaintiff is then left with little options. Despite the fact that her County has been moved to "Phase 2", the Plaintiff states that her life has changed very little as she is still housebound and unable to attempt to return to some sense of normalcy due

the mandatory mask order of the County's Medical Officer, Nicola Mercer.

25. The Plaintiff LEPE absolutely refuses the wearing of a face-masks. She further denies the efficacy of social distancing and sees both as a violation of her s. 2 and 7 **Charter** rights, as well as the fact that the indisputable science is that they do not prevent the contraction of any air-borne virus and are otherwise detrimental to your health.

26. The Plaintiff, Carla SPIZZIRRI, resides in Toronto and is a real-estate agent.

27. The Plaintiff, SPIZZIRRI states, and fact is, that Condo Boards across the GTA are allowed to make up their own rules for each individual building and quite a few are opting to have a "no showing" rule for condos listed for sale. Some allow showings only after a conditional offer is received. This is unfair to the owners of these units and it makes it very difficult to sell these units, sight unseen. Also, all condo buildings only allow two people per elevator ride. The Plaintiff has waited as long as 1.5 hours to get on an elevator. While this rule has been implemented for Covid-19, the Plaintiff states it has never been implemented for previous "pandemics" such as SARS. The Plaintiff states, and fact is that her clients are not happy with these restrictions, not to mention that many of the Plaintiff's clients are losing their incomes and livelihoods making them unable to buy and sell. The Plaintiff further states and fact is, that the uncertainty of the market, as a result of the Covid-measures, is also impacting purchases and sale prices greatly. The Plaintiff states that, despite real estate being deemed an "essential service, that showing procedures are very strict

when properties do allow showings such as: requesting a signed contract which enforces wearing masks and gloves, not using the toilet, only allowing one (1) client at a time in the property, and in most cases they are unable to touch anything inside the property.

28. SPIZZIRRI states that it has made it next-to-impossible to work under these conditions and that her income has dropped drastically. The Plaintiff further states that she refuses to wear a face-mask, and that the Covid-measures violate her rights under ss.2 and 7 of the **Charter.**

29. The Plaintiff, Alysa SHEPHERD, is a Doctor of Chiropractory, residing in the County of Welling-Dufferin-Guelph, Ontario.

30. The Plaintiff, SHEPHERD, opposes the COVID-measures enacted by the government(s) as set out below.

31. The Plaintiff , as a citizen, opposes these measures because :

(a) As an individual with a history of mental health struggles the emergency measures, including but not limited to: limitations in visiting people, physical and social distancing (i.e. not touching people or visits in groups larger than 5), threats of fines for non-compliance, disruptions in health care services that SHEPHERD had been using and needs, in order to support her own health and well-being, have imposed stress and strain on her mental and physical health and well-being. Prior to the declaration of emergency measures and lockdown, SHEPHERD was utilizing a variety of approaches to support herself and to heal these struggles, no longer available to her.

(b) More specifically, since approximately September, 2018 SHEPHERD has been receiving regular nutritional therapy via I-V. SHEPHERD was scheduled to receive her monthly I-V therapy a few days after the emergency measures were enacted, and therefore, SHEPHERD did not receive them. SHEPHERD had now been three (3) months without this nutritional support and is feeling the negative effects in her body.

(c) Further to this, in order to obtain this service, as a resident of Wellington-Dufferin-Guelph County, SHEPHERD now must wear a mask to any such appointment, which she refuses to do for reasons set out below.

(d) SHEPHERD was also in the process of scheduling necessary and non-routine dental work (amalgam extraction and replacement), immediately prior to the pandemic, and this service again, became inaccessible to her. Again, because of Ministry of Health ("MOH") guidelines for dentistry, SHEPHERD must mask to enter the dental clinic , which she refuses to do.

(e) SHEPHERD had also been going for regular craniosacral therapy appointments to support her health and well-being, which also, were cancelled and she has not had access to since the start of the emergency measures. SHEPHERD does not feel the government has the right to take away her health care and decide what is 'essential' vs. 'non-essential' in this regard.

(f) SHEPHERD also take serious objection with the suspension of Parliament and the lack of transparent process with how her government is currently

conducting itself. SHEPHERD states that the measures enacted have not been congruent with the scientific and medical data, with best scientific practices, and the best evidence available. SHEPHERD has written multiple letters to elected officials which are continually ignored or to which she receives the rare tepid response. SHEPHERD states, and the fact is , that this has all set a precedent for this to happen every influenza season, which would be devastating for her and many.

(g) On June 13th, 2020, SHEPHERD went to the Dollar Store on Stone Road in Guelph, to buy supplies for her children, and at first was denied entrance as she was not masked, despite clear exemption criteria allowing one to enter stores without a mask, if masking creates an issue with breathing or with parameters related to health and well-being. Only when SHEPHERD pushed back against the store manager that this was discrimination and illegal was she allowed to enter, "at her own peril", risking personally taking on the $5,000 fine for being unmasked if a spot-check was performed by Public Health. While SHEPHERD was inside, this all felt stressful for her. SHEPHERD's family have now made the decision to take their commercial activity outside WDG, adding to the already high level of strain in her family due to the heightened time which errands will now take, having to drive out of the County for all their needs..

32. SHEPHERD, as a mother of two young children, aged five (5) (Quentin) and two and a half (2.5) (Ivy) years old, further objects to the emergency measures enacted and lock down for the following reasons:

(a) Loss of childcare. Both her children attended Star Seedlings, a licensed childcare centre in Guelph, at the time the emergency measures were declared and the centre was forced to close. As a working mother, this has placed an undue level of strain and stress on her life, as she struggled to juggle her own entrepreneurial business and supporting patients clinically, while her husband worked, and her two children were at home without childcare. Her children cannot go back at this time, as the plan had been to switch them to part- time at the end of June, and only full-time children are allowed back in this 'phase' of the Covid-19.

(b) Further to this, SHEPHERD objects based on the stress caused to her children, specifically her five (5) year old, who has asked near daily from the beginning about the closure of the childcare centre, when he can see his friends again, when he can see his teachers again, and when they can go out for things he enjoys such as bubble tea, to play in parks, and to have play dates at friends' houses. Her son turned five (5) on May 5, 2020 and was not able to have a birthday party as he wished, and SHEPHERD was left to deal with his disappointment and sadness over this.

(c) Furthermore, SHEPHERD has witnessed clear regression of her five (5) year-old, during the emergency, into tantrums and increased aggressive behaviour towards his sister, neither of which were occurring prior to

lockdown. Both her children have experienced sleep regressions since lockdown began. SHEPHERD has specifically observed Quentin sucking his thumb, which he has never done, even as an infant.

(d) With many stores not allowing children to come inside, as well as the overtly fearful messaging and bizarre policies and procedures enacted within (physical distancing, wearing of PPE), all errands have been conducted by either SHEPHERD or her husband without their children, which is atypical for their home and has imposed further stress and strain on their family.

(e) SHEPHERD 's children also only saw their grandparents once during the emergency measures, notwithstanding that they could keep the number of people within the allowed limit of five (5), their grandfather was worried about the potential of a fine, and did not want to risk seeing the grand-children in person.

(f) SHEPHERD's son also lost access to health care which was necessary for him and his development. Being four or five (4-5) years old during this time, virtual appointments are a poor option for him, as he will not reliably interact through one, and screen use is something they attempt to minimize. Specifically, he lost his speech therapy as well as craniosacral therapy appointments.

(g) SHEPHERD further objects to the WDG mandatory mask order for citizens under the age of five (5) as this is not congruent with best science, and what is known regarding masking, nor is it mentally or socially

healthy for children to see this or wear a mask. As her son is five (5), the order would stipulate he wear a mask. Her son has only seen people masked in person once and he reacted with extreme fear. He hid between his mother's legs, would not speak above a whisper, and only in her ear, and behaved in a highly atypical fashion for him. He later told SHEPHERD that the masks were scary.

(h) SHEPHERD's son may also lose his Senior Kindergarten year of school this coming September, 2020, depending on what is 'allowed' and 'required' at that point in time. SHEPHERD's husband has stated "Quentin is basically in prison. I don't blame him for being squirrely."

33. As a chiropractor, SHEPHERD objects to the emergency measures and measures enacted by the various layers of government for the following reasons:

(a) When restrictions were lifted on the practice of chiropractic, her college followed mandates set forth by the Minister of Health ("MOH") that SHEPHERD, as a practitioner, wear a medical-grade mask when unable to maintain a two-meter distance from her patients (i.e. during the treatment portion of the visit). This mandate occurred after she had written and sent two letters to government officials (one of these letters directly to Joel Friedman of CCO), detailing the lack of efficacy and benefit as well as the numerous risks to those wearing a mask or those they interact with. SHEPHERD states that this is not only a violation of her right to bodily integrity and right to choose, but also has had detrimental effects on both

her physical and mental health. There were no exemption criteria given for this mandate for chiropractors.

(b) Specifically, SHEPHERD has found that mask-wearing causes her to feel sleepy, mentally dull, and causes headaches. Furthermore, the mandate to mask served to activate previous personal trauma for her, and has been detrimental to her mental health in this regard.

(c) Forced reduction in activity has had a negative impact on her livelihood and her income, while she remained accountable for her expenses. Furthermore, some patients who cancelled their appointments, or have been without care, and who otherwise would have had in-person follow-up, have experienced exacerbations to pre-existing conditions, without those visits.

(d) Apparent harm to patient trust and rapport, with children being afraid to come near SHEPHERD for treatment and adults choosing to wear a mask after stating they cannot breathe, on her freshly disinfected table. As of June 18th, 2020, SHEPHERD can specifically cite: one (1) patient reporting having gone on anxiety medication specifically due to pandemic anxiety ; one (1) mother of a female child reporting her child screaming in fear prior to her appointment; one (1) mother of a three (3) year old reporting screaming of her child when seeing masks; one (1) new patient rating his health and wellbeing a 3/10 since lockdown, where prior to that he rated it as a 7-8/10 ; numerous conversations with patients about stress related to covid and the measures enacted - stress of working without

childcare, stress of lost job and financial uncertainty, stress of poor ergonomics working from home ; numerous conversations with other parents about how their children have been affected - including sleep problems, speech regressions, behavioral issues; numerous patients have spoken of stress around wearing a mask, and the negative effects they feel when wearing one (which was mandated by WDG region when entering commercial enterprises).

(e) SHEPHERD further states, and fact is, that at the outset of the emergency measures, messaging was delivered, by the Ministry of Health, to Ontario-based chiropractors, not to talk about or share how they can help improve resiliency and fortify immunity, on threat of receiving a profcssional complaint with no certainty as to how that complaint would be decided. This is not in alignment with the oath sworn upon entering practice to 'first do no harm', nor is it congruent with the right to freedom of expression.

(f) When SHEPHERD discussed this with the lawyer for the Chiropractor College of Ontario ("CCO") , Mr. Joel Friedman, the message was that if SHEPHERD speaks about anything, that she does so at her own professional peril. However Mr. Friedman was clear that CCO would **fully support** SHEPHERD's dissemination of the narrative coming from the MOH and government, but to speak against the MOH or government would be at her own risk, even if in alignment with published science and best available medical evidence.

(g) As a health careworker, with a background in research, SHEPHERD further objects to the WDG mandatory mask order because it is not aligned with best evidence and known science and creates unnecessary risk to physical health, mental health, relational and social health, as SHEPHERD clearly articulated in a third letter sent to various levels of elected officials, to which SHEPHERD has received no response. Furthermore, there is no end date on the order or even a date of re-assessment as would seem prudent for an evidence-informed approach to this. No cited science was given to support this order of mandatory masking.

34. The Plaintiff, Scott Daniel COOKE (by his litigation guardian Denise Adele COOKE) resides in Hamilton, Ontario.

35. Scott Daniel Cooke is a 23 year-old male with autism diagnosis since age three (3).

36. He is 6'3'', weighs 220 lbs., and has been assessed by a Philologist functioning at the level of a four (4) year-old Although he has speech, and can read some, his emotional and functional age is four (4).

37. Scott Daniel Cooke has been totally, mentally, devastated by the COVID-measures, in depriving him of his routine activities and social and emotional network, without recourse. He suffers severely, from not being able to understand, nor accommodate, under the Covid-measures, why he cannot play where he has played, or anywhere else, why he cannot do the other physical and social activities he did. He will not countenance wearing a mask , does not

understand and therefore cannot comply with "social distancing" or "isolation", given his severe neurological disability and his special needs. The plaintiff, through his litigation guardian, states that Scott's ss.2 and 7 **Charter** are being violated, and given his disability, his s.15 **Charter, through the acts and omissions** of the Covid-measures, are also being violated in that NO regard, thought, nor measures, whatsoever, were enacted or executed to mitigate the utterly devastating damage to the mentally and physically disabled as a result of the Covid-measures. The fact is that Scott's entire support, social, medical, and therapeutic network has been ripped away from him without any regard to his special needs.

38. The Plaintiff, Professor Denis RANCOURT, Ph. D., resides in Ottawa, Ontario.

39. Denis Rancourt, B.Sc., M.Sc., Ph.D., is a former tenured Full Professor of Physics, University of Ottawa. Full Professor is the highest academic rank. He is an expert in public health. He has taught over 2,000 university students, and supervised more than eighty (80) junior research terms or degrees at all levels from post-doctoral fellow to graduate students to NSERC undergraduate researchers. He headed a research laboratory, and attracted significant research funding for two decades. He supervised doctoral students in both physics and environmental science. He has been an invited plenary, keynote, or special session speaker at major scientific conferences nearly forty (40) times. He has published over one hundred (100) research papers in leading scientific journals, in the areas of physics, chemistry, geology, materials science and environmental science, including environmental nanoparticles. He co-discovered the

phenomenon of "superferromagnetism", and co-discovered the unique meteoritic alloy "antitaenite". He has a scientific impact factor (h-index) of 39 (84% of Nobel Prize winners in physics had h-indexes of at least 30), and his articles have been cited more than 5,000 times in peer-reviewed scientific journals.

40. Presently, Dr. Rancourt is a registered mentor for physics students at the University of Toronto, and is a Researcher (volunteer position) at the Ontario Civil Liberties Association (ocla.ca). He is a frequent media commentator. His articles and interviews are published in many media venues. His recent video interviews and reporting videos about the science of the COVID-19 epidemic and the science of masks for preventing viral respiratory diseases have already been viewed more than 0.5 million times. He is scheduled to be an invited opening speaker at the October, 2020 'Fifth International Public Conference on Vaccination', organized by the National Vaccine Information Center (NVIC) (USA).

41. The Plaintiff, RANCOURT, in April, 2020, published an article entitled **"Masks Don't Work: A review of science relevant to COVID-19 social policy"**. This was carried on the "Research Gate" website. Subsequently, "Research Gate" removed the article Rancourt's article after the article had received some four hundred thousand (400, 000) reads.

42. YouTube also removed three of 3 of RANCOURT's videos, which were part of his " PlayList" entitled "COVID-19 with Denis Rancourt". The 3 videos were entitled:

- "Masks don't work against COVID-19 article by Denis Rancourt"
- "Jane Scharf advocate for vulnerable persons reacts to COVID-19 policy"
- "Denis Rancourt - Why COVID-19 is global mass hysteria".

RANCOURT states . and the fact is, that Youtube removed the videos in accordance with its publicly- stated policy to remove any "misinformation" contrary to its "community standards", with respect to covid-measures, which is concededly applied to any and all opinions that run contrary to the official WHO dogma, notwithstanding that those contrary opinions come from recognized experts in their field.

43. RANCOURT has written or co-authored the following published authoritative documents about COVID-19:

- **"Masks Don't Work: a Review of Science Relevant to Covid-19 Social Policy"**, first published and widely distributed on 11 April 2020.
- **"Criticism of Government Response to COVID-19 in Canada"**, Report for the Ontario Civil Liberties Association (OCLA), first published and sent to governments and media on 18 April 2020.
- **"All-cause mortality during COVID-19: No plague and a likely signature of mass homicide by government response"**, first published and widely distributed on 2 June 2020, DOI: 10.13140/RG.2.2.24350.77125

- **"OCLA Asks WHO to Retract Recommendation Advising Use of Face Masks in General Population"**, 9-page letter, co-authored with OCLA Executive Director Dr. Joseph Hickey, sent to the WHO Director General, all MPs, all Premiers, all Ontario MPPs, and the media on June 21st, 2020.

Despite this timely and authoritative body of work, noted by the scientific community, and covered in the international media, the CBC has refused to make any mention of these works, and has not provided these perspectives and this scientific information to the Canadian public. RANCOURT further states that CBC has chosen to not cover any other experts who take critical or contrary view of the COVID measures executed by the Federal, Provincial, and Municipal governments at the direction and behest of the WHO.

44. A CBC high-profile journalist had interviewed RANCOURT, at length, about face masks, said the content would be on the evening news, on his blog, and on the radio, and then the content was never used.

45. RANCOURT states, and the fact is, that the Federal Crown, and respective Ministries and agencies charged with Broadcasting, and freedom of speech, expression, and the media, have chosen not to protect against this flagrant censorship, and as such, through omission, infringe RACOURT'S, and other Plaintiffs', right to freedom of speech, expression, and the media contrary to s.2 of the **Charter.** In fact the federal Crown further supports these violations by its threat to criminalize, under the **Criminal Code,** the same contrary opinions now being censored, as "misinformation", even where those opinions come from recognized experts. RANCOURT further states that he opposes all current

COVID-Measures because they are not scientifically or medically based, rely on false and distorted data , are based on a false declaration of a pandemic, and because they violate his ss.2, and 7 **Charter** rights.

- **The Defendants**

46. The Defendant, Justin Trudeau, is the current Prime Minister of Canada, and as such, a holder of a public office.

47. The Defendant, Dr. Theresa TAM, is Canada's Chief Public Health Officer and as such a holder of a public office.

48. The Defendant Her Majesty the Queen in Right of Canada, is statutorily and constitutionally liable for the acts and omissions of her officials.

49. The Defendant Attorney General of Canada is, constitutionally, the Chief Legal Officer, responsible for and defending the integrity of all legislation, as well as responding to declaratory relief, including with respect constitutional declaratory relief, and required to be named as a Defendant in any action for declaratory relief.

50. The Defendant Marc GARNEAU is the Federal Minister of Transport, and as such a public office holder.

51. The Defendant Her Majesty the Queen in Right of Ontario, is statutorily and constitutionally liable for the acts and omissions of her officials.

52. The Defendant Attorney General of Ontario, is, constitutionally, the Chief Legal Officer for Ontario, responsible for and defending the integrity of all legislation, as well as responding to declaratory relief with respect to legislation,

including with respect to its constitutionality, and required to be named as a Defendant in any action for declaratory relief.

53. The Defendant Doug FORD, is the current Premier of Ontario, and as such a holder of a public office.

54. The Defendant Dr. David WILLIAMS, is Ontario's Chief Medical officer, and as such a holder of a public office.

55. The Defendant, Christine ELLIOT, is the current Minister of Health and Long-Term Care for the Province of Ontario and as such a holder of a public office and Long-Term Care.

56. The Defendant Stephen Lecce, is the Minister of Education for Ontario.

57. The Defendant, The City of Toronto, is a Municipality in the Province of Ontario and governed by, inter alia, the **Municipal Act** and all other applicable Provincial Acts.

58. The Defendant JOHN TORY, is the Mayor of the City of Toronto, and as such a holder of a public office.

59. The Defendant Dr. Eileen De VILLA, is Toronto's Chief Medical Officer, and as such a holder of a public office.

60. The Defendant County of Wellington- Dufferin- Guelph is a County in the Province of Ontario and the Defendant, Nicola MERCER is its (Chief) Public Health Officer, and as such, Nicola MERCER is a holder of public office.

61. The Defendant County of Windsor-Essex is a County in the Province of Ontario and the Defendant, Wajid Ahmed is its (Chief) Public Health Officer, and as such, Wajid Ahmed is a holder of public office.

62. The Defendant unknown Johns and Janes DOE, are employees of the Crown and Municipal Defendants and as such are holders of a public office.

63. The Defendant, The Canadian Broadcasting Cor[oration ("CBC"), is Canada's publicly-funded broadcaster and governed , **inter alia**, under the Federal **Broadcast Act,** with a public mandate as Canada's national publicly-funded broadcaster.

THE (FURTHER) FACTS

A/ "COVID- 19"- THE TIMELINE

64. In 2000 Bill Gates steps down as Microsoft CEO and creates the 'Gates Foundation'' and (along with other partners) launches the 'Global Alliance for Vaccines and Immunization ('GAVI''). The Gates Foundation has given GAVI approximately $4.1 Billion. Gates has further lobbied other organizations, such as the World Economic Forum ("WEF") and governments to donate to GAVI including Canada and its current Prime Minister, Justin Trudeau, who has donated over $1 Billion dollars to Gates/GAVI.

65. **In 2002** Scientists engage in "gain-of-function" (GOF) research that seeks to generate viruses *"with properties that do not exist in nature"* and to *"alter a pathogen to make it more transmissible (to humans) or deadly."* [1] [2]

66. In **November, 2002,** China's Guangdong province reports the first case of ''atypical Pneumonia'', later labeled as SARS. In the same month at the University of North Carolina (UNC) Ralph Baric announced the creation of a **synthetic** clone of a mouse coronavirus.

67. On **October 28th, 2003** the Baric group at UNC announces a **synthetic** recreation of the SARS virus.

68. **In 2005** Research demonstrates that Chloroquine is a potent inhibitor of SARS coronavirus infection and transmission. [3]

[1] https://www.ncbi.nlm.nih.gov/books/NBK285579/
[2] https://www.sciencemag.org/news/2014/10/us-halts-funding-new-risky-virus-studies-calls-voluntary-moratorium
[3] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1232869/

69. From **2009** to the present, the "Bill and Melinda Gates Foundation" donates millions to the 'Imperial College of London''(ICL), and further funded the debunked modeling, by Neil Ferguson, at the ICL, that set the COVID-19 'pandemic'' declaration in Motion and acceleration, through the WHO and governments around the globe following suit.

70. **In January 2010** Bill Gates pledges **$10 billion** in funding for the World Health Organization ("WHO") and announces "the Decade of Vaccines." In fact, Bill Gates and GAVI are the second and third largest funders of the WHO after the US government. Currently, the USA, through its President, has cut off funding's to WHO for loss of confidence in it. (Various other countries have also expelled the WHO on allegations of corruption, attempted bribery of its officials, and lack of confidence).

71. **In May 2010**, the Rockefeller Foundation writes a Report, later leaked, unintentionally from within the organization, with a study of a future pandemic scenario, where an unknown virus escapes Wuhan, China, and a "hypothetical" scenario on what the appropriate response would be, and its core scenario entitled "how to secure global governance in a pandemic". The Plaintiffs state , and the fact is, that the scenario scripted in this May 2010, Report is what has unfolded during the "COVID-19" so-called "pandemic".

72. **In 2011** a review of the literature by the British Columbia Centre for Disease Control to evaluate the effectiveness of social distancing measures such as school closures, travel restrictions, and restrictions on mass gatherings to address an influenza pandemic concluded that *"such drastic restrictions are not*

economically feasible and are predicted to delay viral spread but not impact overall morbidity." [4]

73. **In May, 2012,** the 194 Members States of the "World Health Assembly" endorse the 'Global Vaccine Action Plan (GVAP) led by the Bill and Melinda Gates Foundation in collaboration with GAVI, and the World Health Organization (WHO).

74. **In 2014** Under President Obama, the National Institute of Health (NIH) **halts federal funding** for gain-of-function (GOF) research. The funding hiatus applies to 21 studies "reasonably anticipated to confer attributes to influenza, MERS, or SARS viruses such that the virus would have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route." NIH later allows 10 of the studies to **resume.**

75. **In 2015** NIAID awards a five-year, $3.7 million grant to conduct gain-of-function studies on the "risk of bat coronavirus emergence." Ten percent of the award goes to the Wuhan, China, Institute of Virology.

76. **In January, 2015** at a public appearance, Bill Gates states: '' We are taking things that are genetically modified organisms and we are injecting them into little kids' arms; we just shoot them right into the vein''.

77. **In 2017** Dr. Marc Lipsitch of the Harvard School of Public Health tells the *New York Times* that the type of gain-of-function experiments endorsed by Dr. Fauci's NIAID have "done **almost nothing** to improve our preparedness for pandemics, and yet risked creating an accidental pandemic."

[4] Social Distancing as a Pandemic Influenza Prevention Measure
https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf

78. **In 2019** NIAID awards a six-year renewal grant of $3.7 million to EcoHealth Alliance and the Wuhan Institute of Virology (in China) to continue their gain-of-function studies on bat coronaviruses.

79. At the January, 2019, World Economic Forum in Davos, Switzerland, **on January 23rd, 2019,** on a CNBC interview Bill Gates boasts that he expects to have a "twenty-fold" return on his $10 Billion vaccine investment with the next few decades.

80. British and French researchers **publish** a study (May 5, 2020) estimating that COVID-19 could have started as early as **October 6, 2019.**

81. On **October 18th, through 27th, 2019** Wuhan, China hosts the Military World Games, held every four years, where more than 9,000 athletes, from 100 countries complete. The telecom systems for the Athletes' Village are powered with 5-G technology "showcasing its infrastructure and technological prowess''.

82. **On October 18, 2019** - The Bill & Melinda Gates Foundation, the World Economic Forum and the Johns Hopkins Center for Health Security convene an invitation-only "tabletop exercise" called **Event 201** to map out the response to *a hypothetical global coronavirus pandemic*.

83. **In November-December, 2019, -** General practitioners in northern Italy start noticing a **"strange pneumonia."**

84. **On December 2nd and 3rd, 2019** Vaccine scientists attending the WHO's Global Vaccine Safety summit confirm **major problems** with vaccine safety around the world.

85. **On December 3rd, 2019**, At the Global Vaccine Safety Summit in Geneva Switzerland, Prof Heide Larson, MA PhD, Director of the "Vaccine Safety Project", stated:

> "I think that one of our biggest challenges is, as Bob said this morning, or yesterday, we're in a unique position in human history where we've shifted the human population to vaccine-induced, to dependency on vaccine-induced immunity and that's on the great assumption that populations would cooperate. And for many years, people lined up the six vaccines, people were there; they saw the reason. We're in a very fragile state now. We have developed a world that is dependent on vaccinations. We don't have a choice, but to make that effort."

86. **On December 18th, 2019,** researchers at the Massachusetts Institute of Technology (MIT) report the development of a novel way to record a patient's **vaccination history,** by using smart-phone readable nano-crystals called ''quantum dots'', **embedded** in the skin using micro-needles. In short, a vaccine chip embedded in the body. This work and research are funded by the Bill and Melinda Gates Foundation.

87. **On December 31,2019** - Chinese officials inform the WHO about a **cluster** of "mysterious pneumonia" cases. Later, the *South China Morning Post* reports that it can trace the first case back to **November 17th , 2019.**

88. **On January 7th, 2020** - Chinese authorities formally **identify** a "novel" coronavirus.

89. **On January 11, 2020** - China records its **first death** attributed to the new coronavirus.

90. **On January 20, 2020** - The first **U.S. coronavirus case** is reported in Washington State.

91. **On January 23rd, 2020,** Shi Zheng-Li releases a paper reporting that the new corona virus (COVID-19) is 96% identical to the strain that her lab isolated from bats in 2013 but never publicized.

92. **On January 30, 2020** - The WHO declares the new coronavirus a **"global health emergency."**

93. **In January, 2020** - A study of US military personnel confirms that those who received an influenza vaccine had an increased susceptibility to coronavirus infection. [5]

94. On **February 5th, 2020** - Bill and Melinda Gates announce **$100 million** in funding for coronavirus vaccine research and treatment efforts. **On February 11th, 2020** the WHO gives the virus its name: 'COVID-19''.

95. **On February 28th, 2020** - The WHO states that most people will have mild symptoms from SARS-CoV-2("COVID19") infection and get better without needing any special care.

96. **On February 28th, 2020 ,** the WHO announces that more than 20 vaccines are in development globally.

97. **On February 28th, 2020,** the WHO states – "Our greatest enemy right now is not the virus itself. It's fear, rumors and stigma." [6]

98. **On March 5th, 2020** - Dr. Peter Hotez of Baylor College told a US Congressional Committee that coronavirus vaccines have always had a "unique

[5] https://www.sciencedirect.com/science/article/pii/S0264410X19313647
[6] WHO Director-General's opening remarks at the media briefing on COVID-19 - 28 February 2020 https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---28-february-2020

potential safety problem" — a "kind of paradoxical immune enhancement phenomenon." [7]

99. On **March 11,2020 -** The WHO declares COVID-19 a **pandemic.**

100. On **March 12th, 2020** Education Minister Stephen Lecce ordered the closing down of public schools, on the advice of Dr. Williams the co-Defendant.

101. On **March 16th, 2020** - Neil Ferguson of Imperial College London, scientific advisor to the UK government, publishes his computer simulations warning that there will be **over two million** COVID-19 deaths in the U.S. unless the country adopts "intensive and socially disruptive measures." **Imperial College London receives funding from Bill and Melinda Gates Foundation.**

102. On **March 16th, 2020 -** Dr. Anthony Fauci tells Americans that they must be prepared to "**take more drastic steps"** and "hunker down significantly" to slow the coronavirus's spread.

103. On **March 16th, 2020 -** NIAID launches a **Phase 1 trial** in 45 healthy adults of the mRNA-1273 (COVID-19) coronavirus vaccine co-developed by NIAID and Moderna, Inc. The trial skips the customary step of testing the vaccine in **animal models** prior to proceeding to human trials.

104. On **March 17th, 2020** – Prime Minister Trudeau asks for lockdown measures, under the **Federal Quarantine Act,** banning travel**.** The same date Premier Doug FORD declares an Emergency in Ontario, under ots Provincial legislation.

105. **On March 19th, 2020** - The status of COVID-19 in the United Kingdom is downgraded. COVID-19 is no longer considered a high consequence infectious disease (HCID). The Advisory Committee on Dangerous Pathogens (ACDP) in

[7] https://www.c-span.org/video/?470035-1/house-science-space-technology-committee-hearing-coronavirus&start=1380

the UK is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease). [8] [9]

106. **On March 24th , 2020 -** Global medical experts declared that efforts to contain the virus through self-isolation measures would negatively impact population immunity, maintain a high proportion of susceptible individuals in the population, prolong the outbreak putting more lives at risk, damage our economy and the mental stability and health of the more vulnerable. [10] [11]

107. **On March 24th, 2020** - Professor Peter Gotzche issues a statement - *"The coronavirus mass panic is not justified."*

108. On **March 24th,2020 -** Bill Gates announces funding for a company that will blanket Earth with $1 billion in **video surveillance satellites.**

109. **On March 26th, 2020** Microsoft announces it is acquiring 'Affirmed Networks'' focused on 5-G and "edge" computing''.

110. On **March 26th, 2020** - Dr. Fauci publishes an **editorial** in the *New England Journal of Medicine* stating that "the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza," with a case fatality rate of perhaps 0.1%.

[8] https://www.gov.uk/topic/health-protection/infectious-diseases
[9] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/
[10] https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/
[11] https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

111. On **March 30th 2020,** Dr Michael J. Ryan, Executive Director of the Health Emergencies Programme at the World Health Organization publicly stated, during a press conference that:

> "And at the moment in most parts of the world due to lock-down most of the transmission that's actually happening in many countries now is happening in the household at family level.
> In some senses transmission has been taken off the streets and pushed back into family units. Now we need to go and look in families to find those people who may be sick and remove them
> and isolate them in a safe and dignified manner".

112. **March 31, 2020,** Dr. Theresa Tam states that, "it is not clear that masks actually help prevent infections, and may increase the risk for those wearing them."

113. On **April 2nd, 2020** - Bill Gates states that a coronavirus vaccine "is the only thing that will allow us to return to normal."

114. **In April, 2020-** A review of the scientific literature conducted by Denis Rancourt, Ph.D., with regards to the use of masking, concluded there is **no** scientific evidence to substantiate the effectiveness of masking of the general public to prevent infection and transmission. [12]

115. **On April 6th, 2020 -** German epidemiologist, Knut Wittkowski, releases a statement warning that artificially suppressing the virus among low risk people like school children may *"increase the number of new infections"* as it keeps the virus circulating much longer than it normally would. [13]

116. On **April 6th, 2020 -** Dr. Anthony Fauci states, "I hope we don't have so many people infected that we actually have **herd immunity."**

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[12] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy

[13] Stand Up for Your Rights, says Bio-Statistician Knut M. Wittkowski. American Institute for Economic Research. April 6, 2020 https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/

117. **On April 9th, 2020** - Canadian public health officials stated – "In a best-case scenario, Canada's total COVID-19 deaths can range from 11,000 to 22,000." And "In the bad scenarios, deaths go well over 300,000." (As of May 21, 2020, the total reported deaths from COVID 19 in Canada was 6,145.) The number of deaths attributed to COVID-19, is in line with typical yearly seasonal viral respiratory illness deaths in Canada. However, the Covid-death numbers are inflated based on the parameters dictated by the WHO to list a death as a Covid-death, namely anyone who has the Covid-19, at time of death ,regardless of whether another clear primary cause of death is evident apart from the simple presence of the covid-19 virus.

118. **On April 10th, 2020** - John Carpay, president of the Justice Centre for Constitutional Freedoms in Canada has stated there is reason to conclude that the government's response to the virus is deadlier than the disease itself. [14]

119. On **April 15th, 2020** - Bill Gates pledges another $150 million to coronavirus vaccine development and other measures. He states, "There are **seven billion** people on the planet. We are going to need to vaccinate nearly everyone."

120. **On April 18th, 2020,** US News reports corona virus tests are ineffective due to lab contamination at the EDC and the CDC's violation of its manufacturing standards.

121. On **April 24th, 2020** - The Ontario government took the "extraordinary step" to release a database to police with a list of everyone who has tested positive for COVID-19 in the province.[15]

[14] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/

122. On **April 30th, 2020 -** Bill Gates writes that "the world will be able to go back to the way things were . . . when **almost every person on the planet** has been vaccinated against coronavirus." Gates also states that "Governments will need to expedite their usual drug approval processes in order to deliver the vaccine to over 7 billion people quickly."

123. **On May 5th, 2020,** Neil Ferguson resigns from the UK government's Scientific Advisory Group for Emergencies (SAGE) after flouting and breaking his own social distancing rules. **On May 6th, 2020**, an anonymous soft-ware engineer (ex-Google) pronounces Neil Ferguson's COVID-19 computer model "unusable for scientific purposes''. In fact, Ferguson's COVID-19 model has been laughing-stock and debacle.

124. **On May 11th, 2020**, UK Chief Medical Officer Whitty states that COVID-19 is 'harmless' to the vast majority''.

125. **On May 14th, 2020**, Microsoft announces that it is acquiring UK-based 'Metaswitch Networks'', to expand its Azure 5-G strategy.

126. On **May 19th, 2020 -** Health Canada approves human trials of a SARS-CoV-2 (COVID-19) vaccine without clear evidence that prior animal testing to identify the potential risk of pathogenic priming (immune enhancement) has been conducted.

127. **On May 21st, 2020** - Four Canadian infectious disease experts, Neil Rau, Susan Richardson, Martha Fulford and Dominik Mertz state - "the virus is unlikely to

[15] https://toronto.ctvnews.ca/mobile/ontario-takes-extraordinary-step-to-give-police-list-of-all-covid-19-patients-1.4910950?fbclid=IwAR10jfu_5OYq5BPZJKMyyqiN2P47dK_wbZzFMqC8WEpFxiIhEFt81cGnfqc

disappear from Canada or the world any time soon" and "It is unlikely that zero infections can be achieved for COVID-19." [16]

128. **By May 2020 -** Over six million Canadians have applied for unemployment benefits and 7.8 million Canadians required emergency income support from the Federal government, [17] because of economic shut-downs and closures dictated by Covid-measures.

129. **By May, 2020 -** Estimates of the Federal deficit resulting from their response to SARS-CoV-2 (COVID-19) ranges up to $400 billion. [18] (This exceeds the Canada's national budget for a year).

130. On **May 20th, 2020 -** Dr. Teresa Tam, Canada's Chief Medical Officer, publicly advised the use of non-medical masks for the general public to provide an *"added layer of protection"* that could help prevent asymptomatic or pre-symptomatic Covid-19 patients from unknowingly infecting others. Dr. Tam's advice is not supported by scientific evidence. [19]

131. **On May 21st, 2020 -** A letter from Mark Lysyshyn, MD, Deputy Chief Medical Health Officer with Vancouver Coastal Health states – "Although children are often at increased risk for viral respiratory illnesses, that is not the case with COVID-19. Compared to adults, children are less likely to become infected with COVID-19, less likely to develop severe illness as a result of infection and less likely to transmit the infection to others." Dr. Lysyshyn further states – "Non-medical masks are not needed or recommended. Personal protective equipment

[16] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns
[17] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[18] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[19] https://www.politico.com/news/2020/05/20/canada-non-medical-masks-provinces-reopen-271008

such as medical masks and gloves are not recommended in the school environment." [20]

132. On **May 22nd,2020** - Prime Minister Justin Trudeau told reporters that "contact tracing" needs to be ramped up across the county. Trudeau stated that he "strongly recommends" provinces use cell phone apps when they become available, and that this use would likely be mandated.

133. On or about **May 25th,2020**, the Federal government announced potential **Criminal Code** provisions, making it a criminal offence to publish "misinformation" about the COVID-19. "Misinformation" quickly evolves to mean as any opinion or statement, **even from recognized experts**, which contradicts or criticizes measures taken and/ or mandated by the WHO, to be implemented globally by national and regional governments.

134. **As of June 9th, 2020,** neither Prime Minister Trudeau, nor Premier Ford are willing and in fact refusing to disclose what medical advice, and from whom, they are acting upon.

135. **On June 11th, 2020** Toronto Mayor John Tory announces that mandatory face-masks will be implemented on the Toronto Transit Commission's (TTC) subways, busses and street cars, notwistanding that operations of the TTC continued as normal for the last four (4) months since the declared "out break" and "emergency" without neither any face-masks, nor any realistic way of reinforcing the six feet (2 meter) social distancing rule, on public transit. The Plaintiffs state, and the fact is, that face-masks, it has been scientifically and medically established, do NOTHING to prevent spread of air-borne viruses, and

[20] http://www.vch.ca/Documents/COVID-VCH-Schools-May-21-2020.pdf

in fact cause other health problems. The Plaintiffs state and the fact is, that the Defendants and their officials are stepping up compulsory face-masks in order to maintain a physical and visual tool to maintain panic, fear, and to enforce compliance of their baseless measures due to increasing public resistance, and of their groundless and false basis . The masks, further act as a visual and present symbol of intimidation and show of who is in power, and do not act to medically assist but to publicly muzzle, panic, instill fear, and exert compliance to irrational and ineffective COVID measures from the Plaintiffs and others. The Plaintiff states and the fact is, that these measures were up-stepped after a Canadian survey was released that revealed, **inter alia**, that:

(a) 50% of Canadians did not believe Justin Trudeau was being honest about the COVID-Measures ;

(b) 16% of the Canadians believe that the COVID-Measures are being used to effect mandatory vaccination and contract tracing and other surveillance;

(c) 19% of the Canadians do not believe that COVID-19 is no more harmful then a common flu; and

(d) 7% of the Canadians believe that COVID-19 does not exist at all and is being mis-used as pretext for other, ulterior motives.

136. On or about **June 11th, 2020**:

(a) Wellingtone- Dufferin – Guelph County, in Ontario, through its public health officer, Dr. Nicola Mercer, announced, ordered, that **all** customers and all employees, of **all** businesses in the County, would be required to

wear face-masks , including children under the age of 5 , and special-needs persons, who cannot and will not countenance a face-mask;

(b) On **June 3rd, 2020** Federal Minister of Transport, Marc Garneau , announced that face-masks are required by **all,** when taking public transportation in Canada whether by plane, train, ship, or transit.

(c) On **June 11th, 2020**, Toronto Mayor John Tory announced the coming compulsory wearing of face-masks on the Toronto transit Commission vehicles and property.

(d) On **June 18th, 2020** the County of Windsor-Essex, in Ontario, through its public health officer, Dr. Wajid Ahmed, announced ordered, that **all** customers and all employees, of **all** businesses in the County, would be required to wear face-masks.

137. Between **April 1st and June 15th, 2020** the Canadian Civil Liberties Association (CCLA) reports that approximately 10,000 Covid related charges were laid across Canada, 2,853 in Ontario.

138. **On June 17th, 2020,** the Toronto Hospital for Sick Children, considered the world's Premier Children's hospital completed an advisory report, publicly released days later, to the Minister of Health and Education, with respect to recommendations for the re-opening of school in September, 2020. The report was prepared by two experts (in Virology) , upon the **contribution and review** of another **twenty (20)** experts as well as the "SickKids Family Advisory Networks". The 11-page report is resound and clear on the facts stat:

(a) Children are at extremely **low** risk when it comes to COVID-19;

(b) Schools should re-pen in a normal setting in September, 2020 in Ontario;

(c) That **no** mask should be worn by children because of no evidence of effectiveness and in fact masks pose a health risk for children;

(d) Social distancing should not be employed; and

(e) That masks and social distancing pose significant physical and psychological health risks to children.[21]

139. **On June 23rd, 2020**, the Justice Centre for Constitutional Freedoms calls for, in a 69-page report, an end to the lock-down measures based on an analysis of the lack of medical and scientific evidence for their imposition and the infliction of unwarranted and severe **Charter** violations.[22]

140. **On June 26th , 2020**, Sweden's COVID-19 expert, Anders Tegnell, blasted the WHO'S response to COVID-19 and states that the "world went crazy" and further stingingly criticized the WHO as "mis-interpreting data" in branding Sweden as one of eleven (11) countries who are seeing a "resurgence" in COVID-19 cases. The Plaintiff state, and the fact is, that Sweden was one of the few countries in the World who did **not** adopt, wholesale, the WHO protocol and in fact faired much better then the countries who did, including Canada in that there was no economic shut-down in Sweden. Dr. Tegnell further stated that the lockdowns "fly in the face of what is known about handling virus pandemics.[23]

[21] "COVID-19: Recommendations for School Re-opening", Toronto Hospital for Sick Children, Report dated June 17th, 2020.
[22] "Unprecedented and unjustified: a Charter Analysis of Ontario's Response to COVID-19" June 22nd, 2020.
[23] "Daily Mail Online", Daily Mail.com, June 26th, 2020

141. On **June 18th, 2020** Premier Doug FORD announced an upcoming up-step and acceleration of the implementation of 'contract tracing'' surveillance through cellphones.

142. **On June 28th, 2020** The City of Toronto announces and put forward a mandatory mask By-Law for all indoor public venues including private businesses.

B/ THE COVID-19 MEASURES

- **Federal Measures**

143. On or about March 17th, 2020 Justin Trudeau announces a lock-down and invoked the following legislation with respect to "pandemic":

a) The **Federal Quarantine Act,** stipulating the lock-down of flights to Canada, and that Canadians returning to Canada, self-isolate and quarantine themselves for a 14- day period;

b) Various prices of legislation setting out financial assistance for various persons and sectors.

Trudeau further and effectively shut down Parliament. Parliament has only "convened", sparingly, to pass spending measures, with an amputated, hand-picked, selection of 25 MPs, notwithstanding that technology such as "Zoom", exists to accommodate and convene the entire Parliamentary contingency of the 338 MPs, to date it has not happened. Parliamentary Communities rested in a legislative coma until April, 2020, where after some sit virtually.

144. Justin Trudeau held (holds) daily press conferences to "inform" Canadians, and further issues decrees and orders, such as "stay home", which decrees and fiats

have no legal effect, notwithstanding, that they were acted upon by Municipal and Provincial enforcement officers, but at that no time has the Federal Parliament invoked the Federal **Emergencies Act .**

- **Provincial Measures**

145. On or about March, 17th, 2020 Premier of Ontario. Doug Ford and his government invoked the Provincial **Emergency Management and Civil Protection Act**, with a declared state of emergency, last extended to July 9th, 2020, and enacted to date, 48 **Regulations** thereunder with enforcement orders, which are:

In force

- Declaration of Emergency, O Reg 50/20
- Emergency Order Under Subsection 7.0.2 (4) of the Act, O Reg 51/20
- Emergency Order Under Subsection 7.0.2 (4) of the Act, O Reg 52/20
- Extension of Emergency, Order Made Under the Act , O Reg 105/20
- Order Made Under the Act - Extensions and Renewals of Orders, O Reg 106/20
- Order Under Subsection 7.0.2 (4) of the Act - Streamlining Requirements for Long-Term Care Homes, O Reg 95/20
- Order Under Subsection 7.1 (2) of the Act - Limitation Periods, O Reg 73/20
- Standards, O Reg 380/04
- Subsection 7.0.2 (4) of the Act - Child Care Fees, Order Under, O Reg 139/20
- Subsection 7.0.2 (4) of the Act - Closure of Outdoor Recreational Amenities, Emergency Order Under, O Reg 104/20
- Subsection 7.0.2 (4) of the Act - Hospital Credentialing Processes, Order Under, O Reg 193/20
- Subsection 7.0.2 (4) of the Act - Stage 1 Closures, Order Under, O Reg 82/20
- Subsection 7.0.2 (4) of the Act - Stage 2 Closures, Order Under, O Reg 263/20

- Subsection 7.1 (2) of the Act - Treatment of Temporary Covid-19 Relief Payments to Employees, Order Under, O Reg 195/20

Repealed or Spent

- Order Under Subsection 7.0.2 (4) of the Act - Service Agencies Providing Services and Supports to Adults With Developmental Disabilities and Service Providers Providing Intervenor Services, Order Under, O Reg 121/20
- Subsection 7.0.2 (4) of the Act - Access to Covid-19 Status Information by Specified Persons, Order Under, O Reg 120/20
- Subsection 7.0.2 (4) of the Act - Access to Personal Health Information by Means of the Electronic Health Record, Order Under, O Reg 190/20
- Subsection 7.0.2 (4) of the Act - Agreements Between Health Service Providers and Retirement Homes, Order Under, O Reg 140/20
- Subsection 7.0.2 (4) of the Act - Certain Persons Enabled to Issue Medical Certificates of Death, Order Under, O Reg 192/20
- Subsection 7.0.2 (4) of the Act - Closure of Public Lands for Recreational Camping, Order Under, O Reg 142/20
- Subsection 7.0.2 (4) of the Act - Congregate Care Settings, Order Under, O Reg 177/20
- Subsection 7.0.2 (4) of the Act - Deployment of Employees of Service Provider Organizations, Order Under, O Reg 156/20
- Subsection 7.0.2 (4) of the Act - Drinking Water Systems and Sewage Work Order Under, O Reg 75/20
- Subsection 7.0.2 (4) of the Act - Electricity Price For RPP Consumers, Order Under, O Reg 80/20
- Subsection 7.0.2 (4) of the Act- Electronic Service, Order Under, O Reg 76/20
- Subsection 7.0.2 (4) of The Act - Enforcement of Orders, Order Under, O Reg 114/20
- Subsection 7.0.2 (4) of the Act - Global Adjustment for Market Participants and Consumers, Order Under, O Reg 191/20
- Subsection 7.0.2 (4) of the Act - Limiting Work to a Single Long-Term Care Home, Order Under, O Reg 146/20
- Subsection 7.0.2 (4) of the Act - Limiting Work to a Single Retirement Home, Order Under, O Reg 158/20
- Subsection 7.0.2 (4) of the Act - Management of Long-Term Care Home Outbreak, Order Under, O Reg 210/20

- Subsection 7.0.2 (4) of the Act - Management of Retirement Homes in Outbreak, Order Under, O Reg 240/20
- Subsection 7.0.2 (4) of the Act - Pick Up and Delivery of Cannabis, Order Under, O Reg 128/20
- Subsection 7.0.2 (4) of the Act - Signatures in Wills and Powers of Attorney, Order Under, O Reg 129/20
- Subsection 7.0.2 (4) of the Act - Special Rules re Temporary Pandemic Pay, Order Under, O Reg 241/20
- Subsection 7.0.2 (4) of the Act - Temporary Health or Residential Facilities, Order Under, O Reg 141/20
- Subsection 7.0.2 (4) of the Act - Traffic Management, Order Under, O Reg 89/20
- Subsection 7.0.2 (4) of the Act - Use of Force and Firearms in Police Service, Order Under, O Reg 132/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Hospital Health, Order Under, O Reg 116/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Hospital Social Services Administration Boards, Order Under, O Reg 154/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Mental Health and Addictions Agencies, Order Under, O Reg 163/20
- Subsection 7.0.2 (4) of the Act — Work Deployment Measures for Municipalities, Order Under, O Reg 157/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Service Agencies Providing Violence Against Women Residential Services and Crisis Line Services, Order Under, O Reg 145/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures in Long-Term Care Homes), Order Under, O Reg 77/20
- Subsection 7.0.2 (4) of the Act - Work Deployment Measures in Retirement Homes, Order Under, O Reg 118/20
- Subsection 7.0.2 (4) - Prohibition on Certain Persons Charging Unconscionable Prices for Sales of Necessary Goods, Order Under, O Reg 98/20
- Subsection 7.1 (2) of the Act - Corporations, Co-Operative Corporations and Condominium Corporations, Order Under, O Reg 107/20
- Under Subsection 7.0.2 (4) of the Act, Order Made, O Reg 74/20
- Under Subsection 7.0.2 (4) of the Act--Education Sector, Order Made, O Reg 205/20

146. The net, summary effect, of the orders contained in the above **Regulations** are as follows:

a) Ordering the shut-down of all business, except for 'essential'' businesses which were tied to food, medicine, doctors, and hospitals;

b) A 'social distancing'' of two (2) meters;

c) No 'public gathering'' of more than five (5) persons, who are un-related, with s 'social distancing'' of two (2) meters, which was later increased to ten (10) persons;

d) Restaurant and bar shut-downs, except for take-out service;

e) The physical closure of all public and private schools, daycares, and universities;

f) The mandatory use of face-masks, mandated by the Ministry of Health, to all the Medical Regulatory Medical Services Colleges, to direct all their licensed members to impose mandatory masking of all patients, employees, and members, in their place of work;

g) The shut-down of all park amenities including all play-grounds and facilities for children;

h) The elimination of one-on-one, and all other programs for special-needs children, and those suffering from neurological and physical disabilities;

i) Banning all public gatherings over five (5) persons, notwithstanding a social distancing of two (2) meters, including the banning of religious services, including a restriction on marriages, funerals, and other religious actions and ritual and rites.

j) The provision for offences, laying of charges, and imposition of heavy fines for breach of the orders, with an impossibility to challenge those fines as the Provincial Offences Court is physically closed and the **Provincial Offences Act** tickets make it clear that the charge and fine cannot be 'mailed in'' but that the person must attend, physically, at the **Provincial Offences Act** Court to file a defense of the charges, only to find a closed Courthouse.

147. In none of those Regulations did the Province require mandatory, community wearing of face-masking in public nor private locations. Premier Ford expressly declined to do so.

148. The Provincial Legislature, but-for rare convening to pass and invoke the legislation, has not regularly sat, despite the existing and easy technology to sit the full cogency of the MPPs of the Legislature. FORD has effectively dispensed with Parliament (the Provincial Legislature).

- **City of Toronto Municipal Measures**

149. The City of Toronto , through Mayer John Tory, on March 23rd, 2020 issued a "Declaration of an Emergency" invoking the following measures:

a) "Emergency order No.1 – "To impose Regulations requiring physical distancing within park and public Squares";

b) "Emergency No. 2 -"To impose physical distancing within Nathan Phillip Square in the same manner as other Public Squares".

It is to be noted that these two orders were NOT passed, pursuant to **Provincial legislation,** but under the City of Toronto's own By-Law **Municipal Code.** It is

further to be noted that the Municipal Measures in fact contradicted, and were more restrictive than the Provincial Measures and are therefore illegal and **ultra vires,** notwithstanding that Municipal enforcement offices then detained and charged persons under the **Provincial Offences Act,** for engaging in activities in compliance with Provincial law, covering the same matters(s) and activities.

150. The City of Toronto further passed By-Law 322- 2020, in which it banned, under s. 1, and s. 2, anyone remaining in a park or public space "for longer than an incidental period", and socially distancing with only "members of the same household", which is **completely** in contravention of the Provincial order in Provincial Regulation O Reg 104/20, s. 1(4), passed pursuant to s, 7.0.2(4) of the **Ontario Act**. The Plaintiffs state, and the fact is, that not only were these measures which were enforced, **ultra vires** the Provincial legislation, but further violated ss.2, 7,8, and 9 of the **Charter.** This By-Law further provides for the delegation of the By-Law provisions which was delegated to the Chief officer of Health, Eileen De Villa, a co-Defendant in the within claim.

151. On April 1st, 2020 a "Class Order" purportedly passed pursuant to s. 22(5.0.1) of the **Health Protection and Promotion Act,** Dr. Eileen De Villa, Toronto's Medical Officer of Health, made an order, for anyone who:

a) Is identified with a diagnosis of COVID-19;

b) Has signs and symptoms of COVID-19,or have been tested and awaiting results;

c) Otherwise has reasonable grounds to believe to have COVID-19;

d) Is in close contact with any in (a) to (c) above.

Were ordered by De Villa to:

a) Isolate and stay at home, with no visitors;

b) Remain in isolation for 14-days;

And further made an array of other orders respecting follow-up Medical advice and treatment. Exemptions to this order were made for:

a) Asymptotic person who provide essential services;

b) those receiving essential medical services; and

c) anyone who in the opinion of Toronto public health would not be in the public interest.

The enunciated rationale for this "class order was" on the grounds that, **inter alia,** COVID-19 was a communicable "disease".

152. The Plaintiffs state, and the fact is, that De Villa's orders were neither scientifically nor medically grounded, were statutorily **ultra vires** , and violate s. 2, 7, 8, and 9, and 15 of the **Charter.** The Plaintiffs further state that there was no evidence, scientific or medical, to have reasonable and probable grounds that it was any way more pervasive or dangerous than any other seasonal viral respiratory illness of the past fifteen (15) years.

153. **On June 28th, 2020,** the City of Toronto introduced a By-Law to require mandatory, community, face-masks requirements for indoors, of all "public" spaces, including private business open to the public. The city issued posters for store owners to post, which included the requirement of store owners to enforce masking, but NO mention of exemptions to masking.

154. **On June 30th, 2020,** the Canadian Civil Liberties Association called for the extraordinary step, calling on the public to engage in "civil disobedience" of the Toronto masking By-Law, based on the overwhelming scientific and medical evidence, that masks are ineffective and pose heath risks.

155. Moreover, the Plaintiffs state, and fact is, that the enforcement officers were, on the ground, stopping, detaining and charging individuals, under the **Provincial Offences Act,** such as a single person sitting by herself on a park bench with no-one around, or a child bicycle riding through a park with a parent based on the media reports of Trudeau, Ford , and Tory, and their respective Chief Medical Officers, illegally declaring to "Stay home" and "do not go out except for food and medicine", when in fact such prohibitions were nowhere to be found in the law.

- **Reckless and Unlawful Statements and Actions of Leaders**

156. The Plaintiffs state, and the fact is, that Trudeau, Ford, and Tory were (and continue to be) reckless in their groundless, ignorant, and arrogant dictates, without legal basis, so as to cause and instill a general atmosphere of fear, panic and confusion. Such decrees by Trudeau, Ford, and Tory include, but are not restricted to the following:

(a) With respect to Prime Minister Justine Trudeau, he made the following (mis)statements, for example:

(i) Prime Minister Justin Trudeau told Canadians: "**People should be staying home, self-isolating with family.**"[24]

[24] Retrieved at : https://ottawacitizen.com/news/local-news/covid-19-confirmed-cases-latest-news-and-other-developments-in-ottawa/

(ii) **"We've all seen the pictures of people online who seem to think they're invincible," Trudeau said. "Well, they're not. Go home and stay home."**[25]

(iii) Justin Trudeau has issued a stern warning to Canadians who ignore social distancing advice, telling citizens to "**go home and stay home!"** – and leaving open the possibility his government could take more extreme measures as the number of confirmed coronavirus cases continues to rise.[26]

(iv) "To all the kids out there, **who can't go on play dates** or on spring break vacation...I know this is a big change, but we have to do this for our grandparents and for the nurses and doctors in hospitals."[27]

(v) "So, to everyone, **stay at home,** and no matter what stay 2 meters apart, if you do have to go out. When it gets hard let's remember we are all in this together." (24:35) "...how important it is not just for ourselves, but for our loved ones and health care workers, for our seniors, **that we stay home,** that we stay 2 meters apart, as much as we can and that we continue to wash our hands regularly." (30:12)[28]

(vi) "I know it is tough to stay home, especially as the weather gets nicer. If you have kids, it is even tougher, but to get back outside and running around the playground and park as soon as possible, **you need to keep them inside for a little longer**. (10:22)[29]

(vii) "...but I can tell you that we know it is very difficult situation for Canadians. There are very challenging projections out there that will emphasize how important it is for all of us to do our part, **to stay home**, to keep ourselves safe, to keep our loved ones safe and get through this..."(42:26)[30]

(viii) More and more Canadians are avoiding public spaces. If your friends or family members are still going to parks and playgrounds, they are risking lives. Tell them to stop.[31]

(ix) On the topic of Asymptomatic viral shed contradiction puts to questions the merit of social distancing among healthy people: A

[25] Retrieved at: https://www.vice.com/en_ca/article/g5xng4/coronavirus-updates-canada-ottawa-and-justin-trudeau-may-jail-and-fine-people-to-keep-them-home
[26] Retrieved at: https://www.theguardian.com/world/2020/mar/23/justin-trudeau-canada-coronavirus-stay-home
[27] https://www.richmond-news.com/news/trudeau-dodges-covid-19-lockdown-appeals-1.24103564
[28] Retrieved at: https://www.youtube.com/watch?v=76iqxbZz4X8
[29] Retrieved at: \https://www.youtube.com/watch?v=A3GDk8uHv5A
[30] Retrieved at : https://www.youtube.com/watch?v=mfAa0vLltn8

[31] https://pbs.twimg.com/media/EVf0_maXkAE7qBg.jpg

reporter asks Mr. Trudeau, after his wife had been tested positive for coronavirus, what kind of advice he had received from medical doctors.

> "In terms of advice I have gotten from medical professionals, it was explained to me that **as long as I do not show any symptoms at all, there is no value in having me tested."** (15:30)A reporter asks about the possibility of transmission to other members of the cabinet,17:02 "According to Health Officials **the fact that I have expressed no symptoms means that anyone that I engaged with throughout this week has not been put at risk** (17:12)[32]

(b) While Trudeau made the above-noted comments and decrees, **without legal basis whatsoever**, and further contradicted actual Provincial laws, Trudeau, all the while breaks social distancing Provincial Laws by: :

(i) On March 29, 2020 ; **Dr. Theresa Tam,** the **Chief Public Health Officer of Canada**:

"Urban dwellers/Cottagers should RESIST THE URGE to head to the cottage and rural properties as these communities have less capacity to manage COVID19."

(ii) On April 1st, 2020 the government of Quebec introduced strict **travel restrictions** across the province, including police checkpoints to prevent unnecessary travel in and out of Quebec.

(iii) Shortly after **calling on Canadians to "stay home"** and "Skype that big family dinner," Trudeau crossed the provincial border from Ottawa into Quebec on Easter

[32] Retrieved at: https://www.youtube.com/watch?v=SjEgtT98jqk

Weekend to visit his wife and three children who had been living at their Harrington Lake cottage since **March 29** , 2020.[33]

(c) With respect to Premier Doug Ford:

(i) Premier Ford tells business they can refuse customers that will not wear a mask.

> "Any business has the right to refuse anyone. That's their business," Ford said on a teleconference last week. Despite the fact that no mandatory masks order was in place, and contrary to the legal opinion of the Canadian Civil Liberties Association (CCLA);[34]

(ii) Ford tells people to stay away from their cottages but goes to visit his own cottage;[35]

(iii) Doug Ford has over his two daughters, and family, who each live in different households for a total of 6 – violating 5 person maximum orders.[36]

(d) With respect to Toronto Mayor John Tory:

(i) **On April 19, 2020:** numerous photos of social distancing violations during a parade to salute health care workers (pictured standing shoulder to shoulder down University Ave.)[37]

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[33] Retrieved at https://globalnews.ca/news/6815936/coronavirus-justin-trudeau-andrew-scheer-easter-travel/
[34] https://www.cambridgetimes.ca/news-story/9994798-doug-ford-says-businesses-can-refuse-anyone-not-wearing-a-mask-but-rights-watchdog-says-not-so-fast/?fbclid=iwar2_ba_3eddfpm0shzqjpnht6fmhw0yjfualjugjrnxczcvi_70gfwodqla
https://www.inbrampton.com/no-mask-no-service-businesses-have-the-right-to-require-masks-on-customers?fbclid=IwAR2UMCjwOtyIXU898j_EwlnBr1nuqiM7TJxJDs6ECz5tACPAHFMipGiHB7c
[35] https://toronto.citynews.ca/2020/05/08/ford-cottage-coronavirus/

[36] https://www.cbc.ca/news/canada/toronto/ford-physical-distancing-daughters-1.5564756
[37] Retrieved from: https://www.cbc.ca/news/canada/toronto/toronto-salutes-health-care-workers-covid19-1.5537982

(ii) May 23: Here is Tory violating social distancing rules and modeling counterproductive mask use at Trinity Bellwoods park , where **thousands** had gathered;[38]

157. The Plaintiffs state, and the fact is, that the various leaders are fast and loose with ignoring their own rules, contrary to law, and ignoring the actual rules implemented, because they know the measures are false and ineffective and that the virus is no more dangerous than a seasonal viral respiratory illness. This further holds true for Neil Ferguson who put out the false modeling early on, in March, 2020, and who had to resign his post in the UK for breaching the Rules. Other examples of such reckless behaviour and statements include:

(a) On April 25th FORD calls protestors opposing government lockdowns as "selfish" "irresponsible" "yahoos";

(b) Mayor John Tory agreed with Ford, saying the quickest way to end the shutdown is for people to stay home.

> "Gathering in a large group is to thumb your nose at **well accepted science and professional health advice**. It risks undoing the good we have all sacrificed to achieve together. In fact it runs the risk of making the shutdown longer,"

Tory said in a statement on Saturday.[39] The Plaintiff states, and fact is, that TORY has no clue, and is wholly unqualified, and has not, assessed the "well accepted science" and "advice", and same holds for FORD and TRUDEAU, all of whom simply follow one singular dogma from the WHO, while refusing to disclose the "science", its substance or source,

[38] retrieved at: https://www.cp24.com/video?clipId=1964623
[39] Retrieved at: https://www.cbc.ca/news/canada/toronto/ontario-shutdown-protesters-queens-park-yahoos-1.5545253

and what "advice" is being given by whom to them all-the-while ignore vast pool of experts who state that the measures are **NOT** warranted;

(c) Andrew Scheer and family, Elizabeth May, and Liberal Cabinet Minister ignore social distancing orders:

> "Parliamentarians packed onto a small nine-seat government jet last week — ignoring pandemic health guidelines to maintain a distance of two meters from others — in their haste to reach Ottawa for a vote on federal emergency economic legislation that passed on Saturday. Green Party Leader Elizabeth May, who lives in B.C., boarded the Challenger jet along with Liberal B.C. cabinet minister Carla Qualtrough, Conservative Opposition Leader Andrew Scheer, his wife and their five children last Friday — filling all seats on the aircraft."[40]

(d) Dr. Bonnie HenryBC Provincial Health Officer allows gatherings of 50 and when challenged on conflicting figures from across Canada confirm "None of these are based on scientific evidence."[41]

(e) Dr. Yaffe:Ontario's Associate Chief Officer of Health Dr. Yaffe caught blatantly violating the social-distancing rules, just minutes after the premier said that based on public-health officials' advice we'll have to stay on lock-down for an indefinite period.[42] No such indefinite "lock-down" was mandated by any law.

158. The Plaintiffs state, and the fact is, that the illegal actions, and decrees issued by Trudeau, Ford, Tory, and other public officials were done, in abuse and excess of their offices, knowingly to propagate a groundless and falsely-declared 'pandemic'', and generate fear and confusion on the ground, not only with

[40] Retrieved from: https://www.cbc.ca/news/politics/challenger-flight-may-scheer-qualtrough-1.5530542
[41] Retrieved at: https://www.1043thebreeze.ca/2020/04/01/bc-not-budging-on-50-person-limit-restriction/
[42] https://twitter.com/RosemaryFreiTO/status/1254908247322083331

citizens, but further, and moreover, with enforcement officials who are pursuing, detaining, ticketing for perfectly legal conduct, because of the contradictory laws, and conduct of these public officials. All the while, their own personal conduct clearly manifests a knowledge that the 'pandemic'' is false, and the measures phony, designed and implemented for improper and ulterior purposes, at the behest of the WHO, controlled and directed by Billionaire, Corporate, and Organizational Oligarchs.

C/ IGNORING AND NOT ADDRESSING THE MEDICAL EXPERTS' EVIDENCE

- **The Nature of Viral Respiratory Illness (or Disease) and COVID-19**

159. The Plaintiff Dr. Denis RANCOURT, Ph.D., and co-Plaintiffs state, and the fact is that, as is borne out by vast preponderance of medical and scientific study, that regardless of the novel viral specification ("strain"), viral strains which lead to Seasonal Viral Respiratory Illness (Diseases) annually follow the same pattern, namely:

(a) That classifying causes of death by "influenza" or "influenza-related", or "pneumonia" is unhelpful and unreliable in the face of under-lying chronic diseases, particularly in the elderly (co-morbidity");

(b) That what is of more and central relevance is simply the total number of excess deaths during a viral strain season;

(c) That the year-to-year winter-burden (excess) mortality in mid- latitude nations is robustly regular, with respect to Seasonal Viral Respiratory illness due to the following:

(i) The absolute humidity which directly controls the impact of the transmission of airborne, pathogen-laden aerosol particle droplets;

(ii) In mid-latitude countries, on either side of the Equator, "Flu-season" emerges in the late fall-winter months, owing to the dry, humidity-free, air which allows the pathogen-laden aerosol particles to travel freely and effectively to infect and be transmitted from person to person which phenomenon occurs on both sides of the Equator, at different times on the calendar year, given the reversal of the seasons on the opposite sides of the Equator;

(iii) As the temperature rises, and humidity content in the air increases, the incident of transmission is reduced.[43] In tropical year-round hot climates this phenomenon is not generally in play. Nor is it at play in extreme cold climates towards both North and South Poles.

160. The Plaintiffs further state, and the fact is, as reflected in the scientific and medical literature that:

(a) The above means that all the viral respiratory diseases that seasonally plague temporal-climate populations every year are extremely contagious for two reasons: (1) they are transmitted by small aerosol particles that are part of the fluid air and fill virtually all enclosed air spaces occupied by

[43] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.

humans, and (2) a single such aerosol particle carries the minimal infective dose (MID) sufficient to cause infection in a person, if breathed into the lungs, where the infection is initiated.

(b) This is why the pattern of all-cause mortality is so robustly stable and distributed globally, if we admit that the majority of the burden is induced by viral respiratory diseases, while being relatively insensitive to the particular seasonal viral ecology for this operational class of viruses. This also explains why the pattern is inverted between the Northern and Southern hemispheres, irrespective of tourist and business air travel and so on.

(c) The data shows that there is a persistent and regular pattern of winter-burden mortality that is independent of the details, and that has a well constrained distribution of year to year number of excess deaths (approximately 8% to 11% of the total yearly mortality, in the USA, 1972 through 1993). Despite all the talk of epidemics and pandemics and novel viruses, the pattern is robustly constant.

(d) An anomaly worthy of panic, and of harmful global socio-economic engineering, would need to consist of a naturally caused yearly winter-burden mortality that is statistically greater than the norm. That has not occurred since the unique flu pandemic of 1918 (the "Spanish Influenza"). Covid-19 is no exception and no more virulent than all others apart from the influenza pandemic of 1918.

(c) Scientific studies show that the three recent epidemics assigned as pandemics, the H2N2 pandemic of 1957, the H3N2 pandemic of 1968, and the H1N1 pandemic of 2009, were not more virulent (in terms of yearly winter-burden mortality) than the regular seasonal epidemics . In fact, scientific studies further show that the epidemic of 1951 was concluded to be more deadly, on the basis of P&I data, in England, Wales and Canada, than the pandemics of 1957 and 1968).[44]

- **Contrary Views of the Experts to WHO protocol**

161. The Plaintiffs further state that the COVID-19 measures have in fact accelerated, and caused more than would be normal deaths, and in the elderly population, which has accounted for 81% of the deaths with respect to COVID-19, mostly in Long-Term Care facilities.[45]

162. The Plaintiffs state and fact is that these Defendants, while purportedly relying on "advice" from their medical officers, are not transparent as to what the advice was, nor the scientific/ medical basis was, and in fact suppressing it. In fact, to date, they refuse to disclose where they are ultimately getting this 'advice'', and from whom, based on what medical evidence. The fact is that they are simply parroting the "advice" and dictates of the WHO without any scrutiny whatsoever, and without ever addressing nor recognizing Canadian and international experts who took, and continue to take, a contrary view and criticism of those directives from the WHO.

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[44] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.

[45] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.

163. The Plaintiffs state that such experts include, but are not restricted to:

(a) **Dr Sucharit Bhakdi** , a specialist in microbiology. He was a professor at the Johannes Gutenberg University in Mainz, Germany, and head of the Institute for Medical Microbiology and Hygiene and one of the most cited research scientists in German history.

(b) **Dr Wolfgang Wodarg,** a German physician specializing in Pulmonology, politician and former chairman of the Parliamentary Assembly of the Council of Europe. In 2009 he called for an inquiry into alleged conflicts of interest surrounding the EU response to the Swine Flu pandemic.

(c) **Dr Joel Kettner** , a professor of Community Health Sciences and Surgery at Manitoba University, former Chief Public Health Officer for Manitoba province and Medical Director of the International Centre for Infectious Diseases.

(d) **Dr John Ioannidis**, a Professor of Medicine, of Health Research and Policy and of Biomedical Data Science, at Stanford University School of Medicine and a Professor of Statistics at Stanford University School of Humanities and Sciences. He is director of the Stanford Prevention Research Center, and co-director of the Meta-Research Innovation Center at Stanford (METRICS).

(e) **Dr Yoram Lass**, an Israeli physician, politician and former Director General of the Health Ministry. He also worked as Associate Dean of the Tel Aviv University Medical School and during the 1980s presented the science-based television show Tatzpit.

(f) **Dr Pietro Vernazza** , a Swiss physician specializing in Infectious Diseases at the Cantonal Hospital St. Gallen and Professor of Health Policy.

(g) **Frank Ulrich Montgomery** ,a German radiologist, former President of the German Medical Association and Deputy Chairman of the World Medical Association.

(h) **Prof. Hendrik Streeck**, a German HIV researcher, epidemiologist and clinical trialist. He is professor of virology, and the director of the Institute of Virology and HIV Research, at Bonn University.

(i) **Dr Yanis Roussel et. al.** – A team of researchers from the Institut Hospitalo-universitaire Méditerranée Infection, Marseille and the Institut de Recherche pour le Développement, Assistance Publique-Hôpitaux de Marseille, conducting a peer-reviewed study on Coronavirus mortality for the government of France under the 'Investments for the Future' programme.

(j) **Dr. David Katz** , an American physician and founding director of the Yale University Prevention Research Center.

(k) **Michael T. Osterholm**, a regents professor and director of the Center for Infectious Disease Research and Policy at the University of Minnesota.

(l) **Dr Peter Goetzsche** , a Professor of Clinical Research Design and Analysis at the University of Copenhagen and founder of the Cochrane Medical Collaboration.[46]

[46] https://www.fort-russ.com/2020/03/coronavirus-skepticism-these-12-leading-medical-experts-contradict-the-official-government-media-narrative/

And the Plaintiffs state, and fact is, that the above-noted experts are not alone in their contrary views and criticisms, but merely examples of a much bigger body of experts who take the same views, which contradict and criticize the WHO and current measures adopted by Canada, Ontario and Toronto.

164. These experts have expressed, in summary, for example, the following opinions:

(a) By **Dr. Sucharit Bhakdi**:

> "**[that The government's anti-COVID19 measures] are grotesque, absurd and very dangerous [...] The life expectancy of millions is being shortened.** The horrifying impact on the world economy threatens the existence of countless people. The consequences on medical care are profound. Already services to patients in need are reduced, operations cancelled, practices empty, hospital personnel dwindling. All this will impact profoundly on our whole society. All these measures are leading to self-destruction and collective suicide based on nothing but a spook."

(b) By **Dr Wolfgang Wodarg** that:

> "what is missing right now is a rational way of looking at things. We should be asking questions like "How did you find out this virus was dangerous?", "How was it before?", "Didn't we have the same thing last year?", "Is it even something new?" That's missing."

(c) By **Dr Joel Kettner** that:

> "I have never seen anything like this. I'm not talking about the pandemic, because I've seen 30 of them, one every year. It is called influenza. And other respiratory illness viruses, we don't always know what they are. But I've never seen this reaction, and I'm trying to understand why. . . I worry about the message to the public, about the fear of coming into contact with people, being in the same space as people, shaking their hands, having meetings

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https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/?__cf_chl_jschl_tk__=337111ad6d6d902b24b4e099f5281c65e3e4b9f4-1585388282-0-Af0o_edKyUgbHvh1VcWNkI9pmmKmNDpIe3t8p8AzOfNSL3KMq2f_1tyTqyj4i1RlgmD_uDh8P8ulAs_zAhps_nKe8fMclO8scdW1V4Jf5xpZtzHt3Hg5mrz4twlZSnTJ3tojWZUi6Vu4pAcnuDnaZ4WVv7Da0oCcEh38A0GuO5trR0zZOfPrwpXW5P7QIRjcNju5ST6yX4Ev7A09GNLFQRibRI8X1HgEpCzf5fPIQtOchyiX9wWUG-oM4wIgZqVvKDyUdHNQO1ZpMAXQFtOaEb9VeapKfqawhowADQDFU00X9yL8VLExpR33YwWjprrD7_zYCdPsI6xlOAZ06Js3balu9t35M7s2F9IrPgzUR0W5&fbclid=IwAR0ZWy2bg8_Hioqtuj-5xuOP8zKS-ds2-OqPxNL3MArzYJbwwEhrKImvnkA

with people. I worry about many, many consequences related to that. . . In Hubei, in the province of Hubei, where there has been the most cases and deaths by far, the actual number of cases reported is 1 per 1000 people and the actual rate of deaths reported is 1 per 20,000. So maybe that would help to put things into perspective."

(d) **By Dr John Ioannidis** that:

"Patients who have been tested for SARS-CoV-2 are disproportionately those with severe symptoms and bad outcomes. As most health systems have limited testing capacity, selection bias may even worsen in the near future. . . The one situation where an entire, closed population was tested was the Diamond Princess cruise ship and its quarantine passengers. The **case fatality rate there was 1.0%,** but this was a largely elderly population, in which the death rate from Covid-19 is much higher. . . .Could the Covid-19 case fatality rate be that low? No, some say, pointing to the high rate in elderly people. However, even some so-called mild or common-cold-type coronaviruses that have been known for decades can have case fatality rates as high as 8% when they infect elderly people in nursing homes. If we had not known about a new virus out there, and had not checked individuals with PCR tests, the number of total deaths due to "influenza-like illness" would not seem unusual this year. At most, we might have casually noted that flu this season seems to be a bit worse than average. . . ."A fiasco in the making? As the coronavirus pandemic takes hold, we are making decisions without reliable data", *Stat News*, 17th March 2020."

(e) **By Dr Yoram Lass** that:

"Italy is known for its enormous morbidity in respiratory problems, more than three times any other European country. In the US about 40,000 people die in a regular flu season. . . .In every country, more people die from regular flu compared with we all forget: the swine flu in 2009. That was a virus that reached the world from Mexico and until today there is no vaccination against it. But what? At that time there was no Facebook or there maybe was but it was still in its infancy. The coronavirus, in contrast, is a virus with public relations. . . .Whoever thinks that governments end viruses is wrong. – Interview in *Globes*, March 22nd 2020."

(f) **By Dr Pietro Vernazza** that:

> "We have reliable figures from Italy and a work by epidemiologists, which has been published in the renowned science journal ‹Science›, which examined the spread in China. This makes it clear that around 85 percent of all infections have occurred without anyone noticing the infection. 90 percent of the deceased patients are verifiably over 70 years old, 50 percent over 80 years. . . .In Italy, one in ten people diagnosed die, according to the findings of the *Science* publication, that is statistically one of every 1,000 people infected. Each individual case is tragic, but often – similar to the flu season – it affects people who are at the end of their lives. . . . **If we close the schools, we will prevent the children from quickly becoming immune. . . .We should better integrate the scientific facts into the political decisions.** – Interview in *St. Galler Tagblatt*, 22nd March 2020 ."

(g) **By Frank Ulrich Montgomery** that:

> "I'm not a fan of lockdown. Anyone who imposes something like this must also say when and how to pick it up again. Since we have to assume that the virus will be with us for a long time, I wonder when we will return to normal? You can't keep schools and daycare centers closed until the end of the year. Because it will take at least that long until we have a vaccine. Italy has imposed a lockdown and has the opposite effect. They quickly reached their capacity limits, but did not slow down the virus spread within the lockdown. – Interview in *General Anzeiger*, 18th March 2020."

(h) **By Prof. Hendrik Streeck** that:

> "The new pathogen is not that dangerous, it is even less dangerous than Sars-1. The special thing is that Sars-CoV-2 replicates in the upper throat area and is therefore much more infectious because the virus jumps from throat to throat, so to speak. But that is also an advantage: Because Sars-1 replicates in the deep lungs, it is not so infectious, but it definitely gets on the lungs, which makes it more dangerous. . . .You also have to take into account that the Sars-CoV-2 deaths in Germany were exclusively old people. In Heinsberg, for example, a 78-year-old man with previous illnesses died of heart failure, and that without Sars-2 lung involvement. Since he was infected, he naturally appears in the Covid 19 statistics. But the question is whether he would not have died anyway, even without Sars-2. – Interview in *Frankfurter Allgemeine*, 16th March 2020".

(i) **By Dr Yanis Roussel** et. al. that:

> "The problem of SARS-CoV-2 is probably overestimated, as 2.6 million people die of respiratory infections each year compared with less than 4000 deaths for SARS-CoV-2 at the time of writing. . . .This study compared the mortality rate of SARS-CoV-2 in OECD countries (1.3%) with the mortality rate of common coronaviruses identified in AP-HM patients (0.8%) from 1 January 2013 to 2 March 2020. Chi-squared test was performed, and the P-value was 0.11 (not significant)....it should be noted that systematic studies of other coronaviruses (but not yet for SARS-CoV-2) have found that the percentage of asymptomatic carriers is equal to or even higher than the percentage of symptomatic patients. The same data for SARS-CoV-2 may soon be available, which will further reduce the relative risk associated with this specific pathology. – "SARS-CoV-2: fear versus data", *International Journal of Antimicrobial Agents*, 19th March 2020."

(j) **By Dr. David Katz** that:

> "I am deeply concerned that the social, economic and public health consequences of this near-total meltdown of normal life — schools and businesses closed, gatherings banned — **will be long-lasting and calamitous, possibly graver than the direct toll of the virus itself**. The stock market will bounce back in time, but many businesses never will. The unemployment, impoverishment and despair likely to result will be public health scourges of the first order. – "Is Our Fight Against Coronavirus Worse Than the Disease?", *New York Times* 20th March 2020."

(k) **By Michael T. Osterholm** that:

> "Consider the effect of shutting down offices, schools, transportation systems, restaurants, hotels, stores, theaters, concert halls, sporting events and other venues indefinitely and leaving all of their workers unemployed and on the public dole. The likely result would be not just a depression but a complete economic breakdown, with countless permanently lost jobs, long before a vaccine is ready or natural immunity takes hold. . . [T]he best alternative will probably **entail letting those at low risk for serious disease continue to work, keep business and manufacturing operating**, and "run" society, while at the same time advising higher-risk individuals to protect themselves through physical distancing and ramping up our health-care capacity as aggressively as possible. With this battle plan, we could gradually

build up immunity without destroying the financial structure on which our lives are based.
– "Facing covid-19 reality: A national lockdown is no"

cure", *Washington Post* 21st March 2020

(l) **By Dr Peter Goetzsche** that:

> "Our main problem is that no one will ever get in trouble for measures that are too draconian. They will only get in trouble if they do too little. So, our politicians and those working with public health do much more than they should do. . . .No such draconian measures were applied during the 2009 influenza pandemic, and they obviously cannot be applied every winter, which is all year round, as it is always winter somewhere. We cannot close down the whole world permanently. . . .Should it turn out that the epidemic wanes before long, there will be a queue of people wanting to take credit for this. And we can be damned sure draconian measures will be applied again next time. But remember the joke about tigers. "Why do you blow the horn?" "To keep the tigers away." "But there are no tigers here." "There you see!"[47]
> "Corona: an epidemic of mass panic", blog post on *Deadly Medicines* 21st March 2020

165. Expert criticism has also been levelled by Canadian experts, including:

(a) **By Dr Denis Rancourt, Ph.D.,** expert in public health and Researcher,

In stating that:

> "Federal and provincial Canadian government responses to and communications about COVID-19 have been irresponsible."'The approach being followed by governments is reckless.'"'Justification for the early panic-response is not corroborated.'"'Faith in epidemic-modelling of catastrophe-scenarios and mitigation strategies is not justified."[48]

(b) **Dr. Richard Schabas,** Ontario's former Chief Medical Officer who is of

the opinion that:

[47] Another 10 experts have been added to this link. Total is 22 experts.
https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

[48] http://ocla.ca/wp-content/uploads/2014/01/OCLA-Report-2020-1-Criticism-of-Government-Response-to-COVID19.pdf

- "We have **fundamentally over-reacted and misjudged the magnitude of the problem**."
- "lockdown measures are unsustainable"
- "the virus isn't going anywhere"
- "In no country, including Italy, has the death toll come anywhere close to what we would expect in an average influenza year."(CBC News, March 22, 2020)[49]

(c) Based on Dr. Richard Schabas' study of SARS and quarantine[50] Schabas states:

> "far more cases are out there than are being reported. This is because many cases have no symptoms and testing capacity has been limited. There have been about 100,000 cases reported to date, but, if we extrapolate from the number of reported deaths and **a presumed case-fatality rate of 0.5 per cent**, the real number is probably closer to two million – the vast majority mild or asymptomatic."
>
> " **the number of deaths was comparable to an average influenza season**. That's not nothing, but it's not catastrophic. either, and it isn't likely to overwhelm a competent health-care system. Not even close." "Quarantine belongs back in the Middle Ages. Save your masks for robbing banks. Stay calm and carry on. **Let's not make our attempted cures worse than the disease.**"[51]

(d) **Dr Joel Kettner** - former Chief Public Health Officer for Manitoba province; professor of Community Health Sciences and Surgery at Manitoba University; Medical Director of the International Centre for Infectious Diseases. In a phone interview on CBC Radio he stated:

> "in 30 years of public health medicine **I have never seen anything like this**, anything anywhere near like this. I'm not talking about the pandemic, because I've seen 30 of them, one every year. It is called influenza. . . . But I've never seen this reaction, and I'm trying to understand why.

[49] https://www.youtube.com/watch?v=sm9alyH8x
https://ca.news.yahoo.com/virus-isnt-going-anywhere-says-121720522.html
[50] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2094974/
[51] https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-register-as-a-dire/

> . . . **the data they are getting is incomplete to really make sense of the size of the threat**. We are getting very crude numbers of cases and deaths, very little information about testing rates, contagious analysis, severity rates, who is being hospitalised, who is in intensive care, who is dying, what are the definitions to decide if someone died of the coronavirus or just died with the coronavirus. There is so much important data that is very hard to get to guide the decisions on how serious a threat this is.
>
> The other part is **we actually do not have that much good evidence for the social distancing** methods. It was just a couple of review in the CDC emerging infectious disease journal, which showed that although some of them might work, we really don't know to what degree and the evidence is pretty weak.
> The third part is the pressure that is being put on public health doctors and public health leaders. And that **pressure is coming from various places**. The first place it came from was the Director-General of the World Health Organization (WHO) when he said *"This is a grave threat and a public enemy number one"*, I have never heard a Director-General of WHO use terms like that."[52]

166. Other pointed criticism and opposite views include:

(a) **Stanford University Team**—to the effect that the Evidence of Covid 19 mortality rate is low;[53]

(b) **By Thomas Stavola**, Rutgers University Law School Relaxation of Lockdown via Quarantine of Symptomatics and Digital Contact Tracing, Experts Agree, indicating that:

> "The latest scientific data indicates that mild and asymptomatic prevalence is much higher than previously thought, thus, **the true**

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[52] https://off-guardian.org/2020/03/17/listen-cbc-radio-cuts-off-expert-when-he-questions-covid19-narrative/?__cf_chl_jschl_tk__=d3faf8dfba5018289da87f791a612c2495a7f86d-1585163840-0-AcjXr346mVjSnluV8YDpGpd_VknFDStnK_liia4dphot9-E3ukKrgN7snq4BA4LggYPkDzLCQ8JXC7G-hqZtf0BZ0LJgFi5mB5Wv34UJsPHJy6UbROLM35V1nV98oiPR7t8pfCOhZ75WWrgS4NCn6vwzBMXALZw0UMU32u_sjPnsW53IpHqSEyCnDdx9dfpJokTen28kaf0ls4UoNQMtfCxCbBpmxmdeFwYj6XWo-XQXWC4rA57a_cBCLR54bfmC1imS1vPBIsHHqIjjCg5N2joQ9spQJUCbF80INdWsmat8SOzlb2pDrtNdA9dCUd62LRszCWgTBrVxRFu7zJPABr3Jj0hvjtLlkniXq3AnMs1ICU0rIhPAGzHmXAsEvsRUw

[53] https://www.greenmedinfo.com/blog/stanford-team-finds-evidence-covid-19-mortality-rate-low-2-17-times-lower-whos-esta?utm_campaign=Daily%20Newsletter%3A%20Personal%20update%20%28VVNwqr%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpbCI6ICJqb2huZnJvbW91dHdlc3RAZ21haWwuY29tIiwgImtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

> **fatality rate is closer to 0.4%**, or possibly even lower. While SARS-CoV-2 can be severe in very small subset, these values indicate that the population-based severity burden is much lower than initially considered months ago. Studies indicate that asymptomatic transmission is negligible[1]. Maria Van Kerkhove, who heads the World Health Organization's emerging diseases and zoonoses unit, stated that asymptomatic cases are definitely not a major driver of transmission."[54]

(c) **By Knut Wittkowski** - German epidemiologist. **Mass Isolation Preventing Herd Immunity** , and conluding that:

> "The lockdown prevents the normal progression of natural immunity that is key to protecting the wellbeing of the most vulnerable. The extended lockdown will increase the harm already done many fold including deaths.
>
> Dr. Wittkowski said we must protect and quarantine the frail, sick and very elderly 10% of our population, while allowing the other 90% to acquire the virus with mild to no symptoms, thereby gaining true NATURAL herd immunity. He estimated this to be a 4 week process.
>
> When people are allowed to go about their daily lives in a community setting, he argued, the elderly could eventually – sooner rather than later – come into contact with the rest of the population in "about four weeks" because the virus at this point would be "vanquished."
>
> ***"With all respiratory diseases, the only thing that stops the disease is 'herd immunity,'"*** [55]

(d) **By Martin Dubravec, MD -** Allergist/Clinical Immunologist Allergy and Asthma Specialists of Cadillac Cadillac, MI, conducting that:**The Answer is Herd Immunity**[56]**;**

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[54] https://medium.com/@tomstavola/latest-science-on-covid-19-and-digital-contract-tracing-f58ee55b3b9b

[55] https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/?fbclid=IwAR2ZuYv6CbCsjiln2UJHXOk84KOjb5OWoxceTSiaNZdI_eZuhadppi25PnE
https://ratical.org/PerspectivesOnPandemic-II.html

[56] https://aapsonline.org/coronavirus-covid-19-public-health-apocalypse-or-anti-american/

(e) **By Dr. Dubravec's** whose advice on how to end this epidemic is:

> "What can be done to end this epidemic? **The answer is herd immunity**. Let those who will not die nor become seriously ill from the disease get infected and immune to the disease. Don't close schools – open them up! Don't close universities – reopen them! Let those under the age of 65 with no significant health problems go to work. Their risk of death is very close to zero. They become the wall that stops the virus.
>
> **Our current strategy of isolating these healthy people from the virus: a. is not working** – the virus is still spreading and b. for those who theoretically may be shielded from the virus, they will get exposed later. **Our current strategy is actually leading to a prolonged COVID-19 season!** Herd immunity works and despite our current efforts to mess it up, **herd immunity will be the ultimate reason the virus dies down**. We should promote the concept, not try to stop it. Unlike the influenza epidemics of the past, this virus is not attacking young people. We can use herd immunity to our collective advantage."
>
> **The bottom line is that herd immunity is what will stop the virus from spreading. Not containment. Not a vaccine. Not staying locked in our homes.** It's time we had an honest conversation on how to move beyond containment.

(f) By **Professor Peter C. Gøtzsche** that: **"The Coronavirus mass panic is not justified."**[57]

(g) **By the Wall Street Journalin "Rethinking the Coronavirus Shutdown", that :**

> No society can safeguard public health for long at the cost of its economic health.[58]

[57] https://www.deadlymedicines.dk/wp-content/uploads/G%C3%B8tzsche-The-Coronavirus-mass-panic-is-not-justified.pdf
[58] https://www.wsj.com/articles/rethinking-the-coronavirus-shutdown-11584659154

(h) **By the Professor Yitzhak Ben Israel** of Tel Aviv University, who plotted the rates of new coronavirus infections of the U.S., U.K., Sweden, Italy, Israel, Switzerland, France, Germany, and Spain, concluding that:

> "The numbers told a shocking story: irrespective of whether the country quarantined like Israel, or went about business as usual like Sweden, **coronavirus peaked and subsided in the exact same way**. The professor believes this evidence - **actual evidence and data, not the projections of some model - indicate that there is no need for either quarantines or economic closures."**[59]

(i) **By Professor Stefano Montanari that: "The Virus Vaccine is a Scam"[60];**

(j) **By Virologist Hendrick Streeck that: "There is no danger of infecting someone else while shopping"[61];**

(k) **By:**

(i) **Sucharit Bakhdi:**[62]

(ii) **John Ioannidis, Stanford:**[63]

(iii) **John Lee:**[64]

(iv) **Perspectives on the Pandemic | Professor Knut Wittkowski | Episode 2.**[65]

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[59] https://www.afa.net/the-stand/culture/2020/04/shutdowns-were-pointless-all-along/#.XpnwkkhQ_ZA.facebook
[60] https://europeansworldwide.wordpress.com/2020/04/02/the-virus-vaccine-is-a-scam/
[61] https://www.zuercher-presse.com/virologe-hendrick-streeck-gibt-keine-gefahr-beim-einkaufen-jemand-anderen-zu-infizieren/?cn-reloaded=1
[62] https://www.youtube.com/watch?v=JBB9bA-gXL4&fbclid=IwAR1XMZJdTEpe-9woCk7YlMd5WShxUms_loYZYLKVBR8CQICkG-VjD63Z5SY
[63] https://www.youtube.com/watch?v=d6MZy-2fcBw&fbclid=IwAR1LCsQoUVv3dmZzn_2Uwzl85XgFofld0tnn8iSMTMAODv5N9_Dwsi7f3K4
[64] https://www.spectator.co.uk/article/how-to-understand-and-report-figures-for-covid-19-deaths-/amp
[65] https://www.youtube.com/watch?v=IGC5sGdz4kg

(v) **"Medical Doctor Blows C Vi Rus Scamdemic Wide Open" Andrew Kaufman M D in (Nederlands ondertiteld);**[66]

All indicating that the "pandemic" is **not** a pandemic and the modeling and measures unwarranted;

(l) **French researchers**: in COVID FEAR vs. DATA :

> "Under these [first world] conditions, there does not seem to be a significant difference between the mortality rate of SARS-CoV-2 in OECD countries and that of common coronaviruses " which are responsible for 10 to 20 percent of all respiratory infections, including colds, worldwide."[67]

(m) **In :Coronavirus COVID-19: Public Health Apocalypse or Panic, Hoax, and Anti-American?**[68]**;**

(n) **In :Stanford doctor says Fauci doesn't have the evidence to back up his claims;**[69]

(o) **In :Questioning Conventional Wisdom in the COVID-19 Crisis, with Dr. Jay Bhattacharya;**[70]

(p) **By Dr M. I. Adil , Corona Virus is a Hoax;**[71]

(q) **In Resp therapist blowing the whistle on covid -19.**[72]

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[66] https://www.youtube.com/watch?v=S8JBg9H725E

[67] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7102597/?fbclid=IwAR29vpTe-Dk-_xoVzVRbuAgVhil1k0DcZkGqyYsak6lCOByjZcBRP6cyjc

[68] https://aapsonline.org/cornoavirus-covid-19-public-health-apocalypse-or-panic-hoax-and-anti-american/

[69] https://www.youtube.com/watch?v=-UO3Wd5urg0

[70] https://www.youtube.com/watch?v=J04YzligPyU

[71] https://www.youtube.com/watch?v=y9WeiOX1UuQ&feature=youtu.be

[72] https://www.youtube.com/watch?v=R0aDAM5LzWA

- **COVID- Measures Worse than Virus**

167. Another thematic point of sound scientific and medical criticism is that the COVID - measures are worse than the virus as reflected in, **inter alia**, the following:

(a) At least one study suggests the ultimate changes in contact patterns triggered by social distancing measures **could end up having a negative effect on the population** and, in some cases, even worsen the outcome of the epidemic.[73]

(b) **Cost of Coronavirus cure could be deadlier than the disease.**[74], by Carpay who is president of the Justice Centre for Constitutional Freedoms;

(c) **California ER Physicians: Sheltering in Place Does More Harm than Good - Lowers Our Immune System.**

(d) Doctors Dan Erickson and Artin Massihi of Accelerated Urgent Care in Kern County, California say the longer people stay inside, the more their immune system drops. The secondary effects, the child abuse, alcoholism, loss of revenue – all of these are, in our opinion, significantly more detrimental thing to society than a virus that has proven similar in nature to the seasonal flu that we have every year.[75]

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[73] J R Soc Interface. 2018 Aug; 15(145): 20180296.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6127185/pdf/rsif20180296.pdf
https://www.greenmedinfo.com/blog/social-distancing-may-worsen-epidemic-outcomes

[74] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/

[75] https://vaccineimpact.com/2020/california-er-physicians-sheltering-in-place-does-more-harm-than-good-lowers-our-immune-system/
https://prepforthat.com/kern-county-california-doctors-coronavirus-end-shutdown/

(e) **Economic Consequences of Lockdown:**

> "Our leaders must reopen our country immediately. We will survive this virus. We will not survive this economic lockdown."[76]

168. With respect to treatment measures, the Defendants further ignored, and continue to ignore, the following expert criticism and opposition;

(a) **Ventilators are not working and may be increasing harm.** New evidence reveals there is no 'pneumonia' nor ARDS with CV 19. Ventilators are not only the wrong solution, but high pressure intubation can actually wind up causing more damage than without. Ventilators are not working and may be increasing harm. Over 80% of individuals put on ventilators are dying. [77]

(b) **Managing the Flow.** The truth for any new virus is that most people will be exposed to it. If one's goal is to NEVER get COVID-19, one would pretty much need to live on lockdown for the rest of his/her life. The ONLY reason for the lockdown is to manage the flow of people through our hospitals so that those who have acute symptoms will get the care they need to hopefully not die. Is the desire to manage the flow of people through our hospitals worth shutting down our economy? Given most hospitals are operating at 50% or less of capacity, have we not over managed the flow?

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[76] https://www.facebook.com/groups/221945012378955/

[77] https://web.archive.org/web/20200405061401/https://medium.com/@agaiziunas/covid-19-had-us-all-fooled-but-now-we-might-have-finally-found-its-secret-91182386efcb

(c) **No Evidence Masks Work.** No RCT study with verified outcome shows a benefit for HCW or community members in households to wearing a mask or respirator. There is no such study. Likewise, no study exists that shows a benefit from a broad policy to wear masks in public. Furthermore, if there were any benefit to wearing a mask, because of the blocking power against droplets and acrosol particles, then there should be more benefit from wearing a respirator (N95) compared to a surgical mask, yet several large meta-analyses, and all the RCT, prove that there is no such relative benefit.

(d) **Ineffectiveness of Masks & Respirators -** D. G. Rancourt.[78]

(e) **Conflicting Advice About Face Masks to Prevent CV 19.** There is currently no evidence that wearing a mask (whether medical or other types) by healthy persons in the wider community setting, including universal community masking, can prevent them from infection with respiratory viruses, including COVID-19.[79]

(f) **The surgeon general said not to wear a mask.**[80]

(g) **Over 3 times the risk of contracting influenza like illness if cloth mask is used versus no mask at all;**[81]

(h) "Penetration of cloth masks by particles was almost 97% compared to medicalmaskswith44%";[82]

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https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_19_social_policy?fbclid=IwAR3xOsnDOC2

https://thevaccinereaction.org/2020/04/face-masks-to-prevent-covid-19-conflicting-facts-advice/#_edn5

https://www.businessinsider.com/who-no-need-for-healthy-people-to-wear-face-masks-2020-4

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/

(i) **Report on surgical mask induced deoxygenation during major surgery"**[83] ;

(j) **Co-Factors:** Not everyone is at equal risk of dying from COVID 19. CV 19 has spread unevenly around the world, clustered in several hot pockets, while leaving other areas with scant outbreaks. What other factors are contributing to the COVID 19 virus mortality?;

(k) **Link Between Air Pollution and CV 19;**[84]

(l) **Underlying Disease and COVID- 19.**[85]

169. The Plaintiffs state, and the fact is, that the evidence is that far many, more people have died as result of the "pandemic" measures themselves, than purportedly from the "COVID- deaths", even if one takes the deaths "caused" by COVID as a given, through the following consequences of the measures:

(a) Spikes in suicide rates resulting in intense clinical depression from the measures;

(b) Spikes in drug over-dose attributable to measures;

(c) Spikes in domestic violence and murder as a direct result of the measures;

(d) Deaths resulting from the cancellation of over 170,000 medical surgeries;

(e) Deaths from persons afraid to leave their homes to obtain medical diagnosis and treatments; and

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[82] https://www.sciencedaily.com/releases/2015/04/150422121724.htm
[83] https://www.ncbi.nlm.nih.gov/pubmed/18500410
[84] https://thevaccinereaction.org/2020/04/study-shows-link-between-fine-particle-air-pollution-and-covid-19-mortality/
[85] https://thevaccinereaction.org/2020/04/covid-19-hospitalized-patients-and-underlying-chronic-disease/

(f) Sub-space spikes in starvation, given the UN World- Food Bank warning that 130 Million additional people will be on the brink of starvation by end of 2020 due to disruption of supply chains due to COVID Measures.

170. It is to be noted that the above-noted criticism was early on in the outbreak which criticism has now intensified both in volume and accuracy, that the COVOD-measures are unwarranted, extreme, and not based on science and medicine.

171. Another pointed area of disagreement and criticism, which continues, along with the above-noted, which the Defendants refuse to acknowledge, ignore, and not respond to, is the questioning of this as a "pandemic" rather than a typical seasonal viral respiratory illness, as reflected, inter alia, by the following:

(a) **California has a 0.0003% Chance of Death from Covid 19**":

> "Initial models were woefully inadequate. They predicted millions of cases of death. Not of prevalence or incidence but deaths. This is not materializing. What is materializing in California is 12% positives... This equates to 4.7 million cases in California. This is the good news.... We have seen 1,227 deaths. California has 0.0003% chance of death from Covid-19. Is this enough to justify a lock-down?"
>
> **"COVID-19 Antibody Seroprevalence in Santa Clara County, California"**Conclusion: "The population prevalence of SARS-CoV-2 antibodies in Santa Clara County implies that the infection is much more widespread than indicated by the number of confirmed cases. Population prevalence estimates can now be used to calibrate epidemic and mortality projections." [86]

[86] https://www.medrxiv.org/content/10.1101/2020.04.14.20062463v1

(b) The above research, in (a) above, is ground-breaking and provides foundational support for narratives such as :

(i) the initial models were incorrect;

(ii) conflicts of interest (Gates/Fauci/Democrats) contributed to an over-hyped response and failure to revisit despite availability of new data (confirmation bias);

(iii) we need to be rational here as the lock-down is hurting normal citizens - the 99% ;

(iv) no evidence exists to justify forceful solutions like mandatory Covid-19 vaccinations, community immunity passwords. contact tracing, or increased domestic surveillance:

(v) we need to root out and remove all conflicts of interests in our public health institutions, both CDC and WHO; again

(vi) **Annual Influenza Deaths vs. CV 19 deaths.** It is claimed that 7 to 8,000+ Canadians die from season viral respiratory illness each year. The number of Canadians who have died from Covid-19 does not stray from annual season viral respiratory illness death total,[87] notwithstanding the inflated, false " covid-deaths";

(c) In 2009-2010, the world experienced the swine flu pandemic (H1N1). During that pandemic it is claimed that 203,000 people were killed world-

[87] https://www.worldometers.info/coronavirus/?nsukey=8gR2B80EUvHglg1gz%2FFrRbGWu%2BhOoChcVMEV2tcidO%2FquhcnKlUPJ6Oevxq86h8W7SYtAC%2FYsoVycvKvhtVZgT%2FvREx1TON%2BcUTJ6uKZDsLJ4QDUYN0QG2n2ifAPsDuLBJZryuEWbYH8BsYmR4hwz1oazvCLjqZsbV0YQAANZ46gHbo7Sf%2Beyzk1c3WND68j

wide by the virus. There was not a need to shut down our entire way of life in 2009. It is still unclear why this is the strategy being implemented today;

(d) The CDC has tracked the total number of Americans who die every week from pneumonia. For the last few weeks, that number has come in far lower than at the same moment in previous years. How could that be? **It seems that doctors are classifying conventional pneumonia deaths as COVID-19 deaths.** That would mean this epidemic is being credited for thousands of deaths that would have occurred if the virus never appeared here.

(e) **Number of influenza cases and deaths according to WHO every year.**[88]

(f) **Are the numbers of CV deaths accurate?**[89]

(g) **Montana physician Dr. Annie Bukacek discusses how COVID 19 death certificates are being manipulated;**[90]

(h) **Italy: 99% who died from virus had other illness;**[91] The Key Points being that :

- The cases and deaths of this new disease COVID19 are being described as "flu-like symptoms with pneumonia" but **there is NO data that shows SARSCov2 is present in all of these cases/deaths.** Only coronavirus of which there are many strains.

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[88] http://www.euro.who.int/en/health-topics/communicable-diseases/influenza/seasonal-influenza/burden-of-influenza?fbclid=IwAR0ZDNTwTXKGve_oJVmtZsGKFAI44JYSo6IAf4GkA47EYD8805b6FS-8Rkw

[89] https://www.ctvnews.ca/health/coronavirus/why-the-exact-death-toll-for-covid-19-may-never-be-known-1.4881619

[90] https://www.youtube.com/watch?v=CnmMNdiCz_s

[91] https://www.bloomberg.com/news/articles/2020-03-18/99-of-those-who-died-from-virus-had-other-illness-italy-says?utm_campaign=pol&utm_medium=bd&utm_source=applenews&fbclid=IwAR0qN9k2HVrnAghrK-Wrl72J7oBoNY1vFAGY3dI-M7GWKirK6cfUeAI16yg

- This is because **the PCR test is not reliable enough** to identify the new strain - laboratory testing is only identifying coronavirus. This is the flaw in the CDC/WHO theory of causality for this "new" disease "COVID19". They haven't provided any data about the presence of this new strain (SARSCov2) in COVID19 and it is known that many influenza viruses and bacteria cause "flu-like symptoms with pneumonia".

- Until you have evidence to prove the causality of COVID19 disease as being to SARsCov2 by showing that it is present in every case of the disease then there is no new disease. Koch's postulates need to be used to provide proof of causality.

- **Mathematical Modeling Flawed**
In March, UK epidemiologist Neil Ferguson from the Imperial College of London issued a mathematical "model" that predicted that as many as 500,000 in the UK would die from Covid-19. On March 24th Ferguson revised his modeling projections to read 20,000 deaths, and "likely far fewer." On April 2nd Ferguson revised it again to read 5,700 deaths. The problem was that many world leaders used Ferguson's original number to shut down most of the planet.[92]

(i) The Canadian government implemented the lockdown on the basis of Neil Ferguson's Imperial College mathematical modeling that was grossly flawed. Ferguson has drastically backtracked on his predictions which begs the question why is Canada now doubling down on the lockdown that will not be lifted until a vaccine is ready?

(j) **UK Decides CV 19 No Longer A 'High Consequence Infectious Disease'** As of March 19, 2020, COVID-19 is no longer considered to be a high consequence infectious diseases (HCID) in the UK.[93]

[92] https://prepforthat.com/fear-mongering-covid-19-epidemiologist-says-he-was-wrong/
[93] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/

(k) High Consequence Infectious Disease Public Health England, have provided current information and regarding COVID-19 mortality rates as low. The Advisory Committee on Dangerous Pathogens (ACDP) in the UK and is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease).[94]

(l) **Our World in Data researchers announced this week that they had stopped relying on World Health Organization data for their models.**[95]

(m) **New Oxford study suggests millions have already built up coronavirus immunity.**[96]

(n) **Lack of Good Data. If you are going to do something as draconian as shut down an economy, you better be right, and you better have good data.** The government has neither.[97]

(o) **Dr Teresa Tam's incompetent virus response.**[98]

(p) **BC health officer Dr Bonnie Henry admits They did not use science to impose restrictions.**[99]

172. The measures have been also heavily criticized, on a legal basis, in Canada and abroad. Early on in the declaration, on March 26th, 2020 the UN Commissioner

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[94] https://www.gov.uk/topic/health-protection/infectious-diseases

[95] https://fee.org/articles/oxford-based-group-stops-using-who-data-for-coronavirus-reporting-citing-errors/?fbclid=IwAR1okWvgn-qe7zvbHxoUY_U-4Nlqe6A8mOVwGqw4_N3qk9TXsfs_P6eEMJA

[96] https://news.yahoo.com/oxford-study-suggests-millions-people-221100162.html?soc_src=hl-viewer&soc_trk=fb

[97] https://www.foxnews.com/opinion/tucker-carlson-we-must-ask-the-experts-how-they-screwed-up-the-coronavirus-models-so-badly?fbclid=IwAR0xrpFytibdv5JJLOR2fveTjvpj5b23tn7JFn2uemrXeu27GDFRpeuDLoI

[98] https://www.spencerfernando.com/2020/03/29/devastating-timeline-reveals-total-incompetence-of-theresa-tams-virus-response/

[99] https://www.youtube.com/watch?v=SY8fclCOG4c&feature=youtu.be&fbclid=IwAR0BmcUm4qk7BB3VuJRqvaJpyuB0VfyfkvmVMGHLmF-u0KiKJbD_cdKQIIs&app=desktop

for Human Rights, Michelle Bachelet, took an opposite view to that of Dr. Teresa Tam, whose view is that it is appropriate to run rough-shod over these rights and worry about it later, where Bachelet early declared that:

> "Lockdowns, quarantines and other such measures to contain and combat the spread of COVID-19 should always be carried out in strict accordance with human rights standards and in a way that is necessary and proportionate to the evaluated risk."

173. Former UK Supreme Court Justice Lord Sumpton was an early opponent to the lock-down measures. In a BBC interview of May18th, 2020, he re-iterated and stated, **inter alia**, as follows:

> JS: because they seem to me to have no real purpose in continuing the lockdown other than to spare themselves public criticism. now one does understand why politicians don't want to be criticized but it's the mark of a statesman that you're prepared to stand up for the national interest and not simply to run away before public opinion. especially when you have in a sense created that public opinion yourself by frightening the daylights out of people over the over the last eight weeks and trying to persuade them that this is a much more virulent epidemic than it actually is.
>
> ....
>
> LS: what i'm advocating now is that the lockdown should become entirely voluntary. it is up to us, not the state, to decide what risks we are going to take with our own bodies. now, the traditional answer that people give to that is: "well, but by going out or in the streets and in shops and things you are infecting other people". but you don't have to take that risk you can voluntarily self-isolate. you don't have to go into the streets. you don't have to go to the shops. people who feel vulnerable can self-isolate, and the rest of us can then get on with our lives.
>
> ....
>
> we have never lived in a risk-free world and we're never going to live in a risk-free world.
>
> ...
>
> we are entitled to take risks with our own lives especially when basically life is only worth living if you are prepared to engage in social activities. which inevitably involve risk. that is part of life.

174. The Plaintiffs state, and fact is, that the above-noted **scientific and medical expert opinions,** against and in severe criticism of the "pandemic" declaration. and its draconian and un-necessary measures, are not exhaustive, but examples. The Plaintiffs state, and fact is, that the Defendants have never acknowledged. addressed, spoken to, nor responded to these contrary expert views, and further state that the Defendants, including the mega-social media, such as YouTube. Facebook, Amazon, Google, Yahoo and like, as well as CBC, have intentionally suppressed, censored, belittled and removed the publication of any such contrary views, contrary to the principles and methodology of science and medicine. with the acquiescence and actual support of the Canadian Federal government. which government threatens to add criminal sanctions to assist these media for what they irrationally, arbitrarily and unscientifically deem "misinformation" , and further violate the Plaintiffs' rights to freedom of speech, expression, and the media, contrary to s.2 of the **Charter**, by the government's acts and omissions in making threats of criminalizing speech, and doing absolutely nothing, by omission, to regulate this type of "Stalinist censorship".

D/ THE SCIENCE & MEDICINE OF COVID-19

- **Summary (Overview)**

175. The Plaintiffs state, and the fact is, that the World Health Organization,("WHO"), our federal, provincial and municipal governments, and the mainstream media, propagate that we are facing the biggest threat to humanity in our lifetime. This is false.

176. The fact is that, false and baseless predictions of wide-spread infection with high rates of mortality persuaded governments that unprecedented containment measures were necessary to save us from certain peril.

177. The fact is that, while there is more about the SARS-CoV-2("COVID-19") coronavirus that needs to be understood, the scientific and medical evidence clearly demonstrates that the mathematical modeling used to justify extreme containment measures were invalid. Further, that the vast majority of the population is not at serious risk of complications or mortality as a result of exposure to COVID-19.

178. The fact is that, the mass and indiscriminate containment of citizens, the restriction of access to our economy, courts, parliament and livelihoods, medical and therapeutic care, and the imposition of physical distancing and other restrictions are measures that have never before been implemented nor tested, nor have a scientific or medical basis.

179. The fact is that, the impact of these measures on physical, emotional, psychological, and economic well-being is profoundly destructive, unwarranted, and clearly not sustainable.

180. The fact is that, these drastic isolation measures are not supported by scientific or medical evidence. There is considerable agreement in the scientific community that such drastic measures are not sustainable nor warranted or justified, and while these measures may delay viral spread, they are unlikely to impact overall morbidity.

181. The fact is that, this over-hyped COVID-19 pandemic narrative is creating unnecessary panic and being used to justify systemic governmental violations of the rights and freedoms that form the basis of our society, including our constitutional rights, sovereignty, privacy, rule of law, financial security, and even our very democracy.

182. The fact is that, it is clear that significant violations of the Plaintiffs' rights and freedoms are being perpetrated by the federal, provincial and municipal governments and health authorities.

183. The fact is that, as a result of all of the above, the Plaintiffs have suffered and continue to suffer, severe violations of their constitutional rights which are justified on any measurement, including s. 1 of the **Charter.**

- **The Covid -Measures Unscientific, Non-Medical, Ineffective, and Extreme**

184. The Plaintiffs state and the fact is, that the Measures implemented lack scientific and medical evidence to support containment measures in that:

(a) Mass and indiscriminate lockdown of the general population has not been previously attempted in modern history, and has no scientific nor medical basis. In fact, Dr. Bonnie Henry, BC Chief Medical Officer, has flatly stated that the measures are not based on science or medicine.

(b) A 2011 review of the literature to evaluate the effectiveness of social distancing measures such as school closures, travel restrictions, and restrictions on mass gatherings to address an influenza pandemic concluded that *"such drastic restrictions are not economically feasible*

and are predicted to delay viral spread but not impact overall morbidity." [100]

(c) There are no realistic and contextual studies of the negative social, family, psychological, and individual health consequences of extended general population lockdowns, nor the impact on the national economy.

(d) The long-term impact of the broadly applied infringements of civil rights and freedoms is not known, including any permanent structural erosion of democracy itself due to increased authoritarianism and heightened regulatory or penal consequences for violating government directives.

(e) The measures enacted by the federal, provincial and municipal governments are unprecedented.

(f) The government has acted in diametrical opposition to the precautionary principle: *"Government shall not act with insufficient scientific knowledge, if the action has any likelihood of causing more harm than good".*

(g) Justification for the early panic response has not been corroborated. [101]

(h) Faith in epidemic-modeling and the resulting mitigation strategies are not justified.

(i) Physicians globally are expressing alarm over the exponentially growing negative health consequences of the national shutdown. [102] [103]

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[100] Social Distancing as a Pandemic Influenza Prevention Measure
https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf
101 http://ocla.ca/wp-content/uploads/2014/01/OCLA-Report-2020-1-Criticism-of-Government-Response-to-COVID19.pdf
[102] https://www.scribd.com/document/462319362/A-Doctor-a-Day-Letter-Signed#from_embed
[103] https://www.forbes.com/sites/gracemarieturner/2020/05/22/600-physicians-say-lockdowns-are-a-mass-casualty-incident/#20248e5250fa

(j) Despite the importance given to physical distancing as a containment measure, there is a lack of scientific evidence on the effectiveness of such intervention on the long-term health of citizens. [104] [105]

(k) There is no scientific evidence to substantiate the effectiveness of two meter 'physical distancing' as an intervention to reduce SARS-CoV-2 transmission and infection and to improve overall health. [106]

(l) Dr. Martin Dubravec, MD, a Clinical Immunologist states: *"The bottom line is that herd immunity is what will stop the virus from spreading. Not containment. Not a vaccine. Not staying locked in our homes. It's time we had an honest conversation on how to move beyond containment."* [107]

(m) A review of the scientific literature with regards to the use of masking concluded there is no scientific evidence to substantiate the effectiveness of masking of the general public to prevent viral infection and transmission. [108]

(n) Denis Rancourt, Ph.D. has identified the many unknowns regarding the potential harm from a broad public policy of masking. Rancourt concludes: "In an absence of knowledge, governments should not make policies that have a hypothetical potential to cause harm. The government

[104] Benjamin E Berkman. Mitigating pandemic influenza: the ethics of implementing a school closure policy. Journal of Public Health Management and Practice: JPHMP, 14(4):372–378, August 2008. PMID: 18552649.
[105] https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf
[106] https://www.zuercher-presse.com/virologe-hendrick-streeck-gibt-keine-gefahr-beim-einkaufen-jemand-anderen-zu-infizieren/?cn-reloaded=1
[107] https://aapsonline.org/coronavirus-covid-19-public-health-apocalypse-or-anti-american/
[108] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy

has an onus barrier before it instigates a broad social-engineering intervention or allows corporations to exploit fear-based sentiments." [109]

(o) A study of cloth masks cautions against the use of cloth masks. The study concludes: "As a precautionary measure, cloth masks should not be recommended." [110]

(p) According to Dr. Richard Schabas, former Chief Medical Officer for Ontario -*"Quarantine belongs back in the Middle Ages. Save your masks for robbing banks. Stay calm and carry on. Let's not make our attempted cures worse than the disease."* [111]

(q) On May 20, 2020, Dr. Teresa Tam, Canada's Chief Medical Officer, publicly advised the use of non-medical masks for the general public to provide an *"added layer of protection"* that could help prevent asymptomatic or pre-symptomatic Covid-19 patients from unknowingly infecting others. Dr. Tam's advice is not supported by scientific evidence. [112]

(r) It would appear that any advice/requirement to use masks is for a purpose/agenda other than the prevention of viral infection and transmission.

(s) A paper published on January 30, 2020 in *The New England Journal of Medicine* (*NEJM*) which appeared to confirm that individuals who are

[109] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy
[110] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/
[111] https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-appear-as
[112] https://www.politico.com/news/2020/05/20/canada-non-medical-masks-provinces-reopen-271008

asymptomatic can transmit SARS-CoV-2 to others has subsequently proven to contain major flaws and errors.[113]

(t) The imposition of mass and indiscriminate self-isolation measures prevents the development of natural immunity necessary to secure herd immunity and end the epidemic. [114]

(u) On April 6, 2020, German epidemiologist, Knut Wittkowski, released a statement warning that artificially suppressing the virus among low risk people like school children may *"increase the number of new infections"* as it keeps the virus circulating much longer than it normally would. [115]

(v) On March 24, 2020 global medical experts declared that efforts to contain the virus through self-isolation measures would negatively impact population immunity, maintain a high proportion of susceptible individuals in the population, prolong the outbreak putting more lives at risk, damage our economy and the mental stability and health of the more vulnerable. [116] [117]

(w) A review of recent literature pertaining to social distancing measures conducted by David Roth and Dr. Bonnie Henry of the BC Centre for Disease Control concluded the following: a) widespread proactive school closures are likely not an effective prevention measure during an influenza

[113] https://www.sciencemag.org/news/2020/02/paper-non-symptomatic-patient-transmitting-coronavirus-wrong
[114] https://www.aier.org/article/herd-immunity-is-misleading/
[115] Stand Up for Your Rights, says Bio-Statistician Knut M. Wittkowski. American Institute for Economic Research April 6, 2020
https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/
[116] https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/
[117] https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

pandemic; b) stringent travel restrictions and border control may briefly delay imminent pandemics, these approaches are neither economically nor socially feasible; and c) there is no recent evidence outlining the effectiveness of the prohibition of mass gatherings. [118]

(x) According to a public statement issued by the BC Ministry of Health: a) COVID-19 virus has a very low infection rate in children and youth; b) In BC, less than 1% of children and youth tested have been COVID-19 positive; c) There is no conclusive evidence that children who are asymptomatic pose a risk to other children or to adults, and d) Schools and childcare facility closures have significant negative mental health and socioeconomic impacts on vulnerable children and youth. [119]

(y) According to a May 21, 2020 letter from Dr. Mark Lysyshyn, MD, Deputy Chief Medical Health Officer with Vancouver Coastal Health: *"Although children are often at increased risk for viral respiratory illnesses, that is not the case with COVID-19. Compared to adults, children are less likely to become infected with COVID-19, less likely to develop severe illness as a result of infection and less likely to transmit the infection to others."* Dr. Lysyshyn further states: *"Non-medical masks are not needed or recommended. Personal protective equipment such as medical masks and gloves are not recommended in the school environment."* [120]

(z) On May 21, 2020, British Columbia's Chief Health Officer, Dr. Bonnie Henry stated: *"We're encouraging people [to wear masks] as a mark of*

[118] https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf
[119] https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-guidance-k-12-schools.pdf
[120] http://www.vch.ca/Documents/COVID-VCH-Schools-May-21-2020.pdf

respect, as a mark of politeness, and paying attention to the welfare of others." The recommendation to mask no longer is on the basis of effectiveness but instead is being promoted as a social grace. [121]

(aa) British Columbia's Chief Health Officer, Dr. Bonnie Henry, when addressing a question regarding the inconsistency among the provinces of Canada on COVID-19 restrictions placed on Canadians stated: *"None of this is based on science."* [122]

(bb) The reported number of deaths attributed to SARS-CoV-2 is demonstrably unreliable given the inclusion of "*presumptive*" deaths, and the failure of the medical establishment to differentiate between individuals dying *from* COVID 19 and those with co-morbidities dying *with* COVID 19. [123] [124]

(cc) The failure to differentiate between individuals dying *from* COVID 19 and those with co-morbidities dying *with* COVID 19 inflates the risk of mortality from SARS-CoV-2 and undermines confidence in any response strategy based on mortality statistics. [125]

(dd) Doctors globally are being pressured to issue death certificates that identify COVID 19 as the cause of death even when other co-morbidity issues are the more likely cause of death.

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[121] https://www.straight.com/covid-19-pandemic/may-21-coronavirus-update-bc-resistance-health-measures-regional-restrictions-gender-differences-second-wave

[122] https://www.youtube.com/watch?v=SY8fclCOG4c&feature=youtu.be&fbclid=IwAR0BmcUm4qk7BB3VuJRqvaJpyuB0VfyfkvmVM6HLmF-u0KiKJbD_cdKQIIs&app=desktop

[123] Why the exact death toll for COVID-19 may never be known. CTV News, April 3, 2020 https://www.ctvnews.ca/health/coronavirus/why-the-exact-death-toll-for-covid-19-may-never-be-known-1.4881619

[124] https://www.cpsbc.ca/for-physicians/college-connector/2020-V08-02/04

[125] https://www.bloomberg.com/news/articles/2020-03-18/99-of-those-who-died-from-virus-had-other-illness-italy-says

(ee) The presentation of mortality data, expressed as a percentage of deaths of *tested and confirmed cases*, is distorting the risk and creating undue panic. This data fails to include a significant percentage of the population who contracted the virus but were not tested nor confirmed and who recovered without medical intervention.

(ff) To date, the number of reported deaths attributed to SARS-CoV-2 is not out of "normal" range when compared to the annual mortality from influenza and pneumonia (seasonal viral respiratory illness) recorded through the last decade. [126] [127] [128]

(gg) According to Dr. Richard Schabas, former Chief Medical Officer of Ontario, strictly by the numbers, the coronavirus does not register as a dire global crisis.

(hh) No data has been provided by the Government of Canada nor Ontario to indicate that the total mortality in Canada has increased substantially from previous years.

(ii) Mortality modeling by the World Health Organization, Imperial College of London, and the US Institute for Health Metrics and

[126] Strictly by the numbers, the coronavirus does not register as a dire global crisis. Richard Schabas. The Globe and Mail March 9, 2020
https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-register-as-a-glo
[127] New Data Suggest the Coronavirus Isn't as Deadly as We Thought. WDJ/Opinion. April 17, 2020
https://www.greenmedinfo.com/blog/stanford-team-finds-evidence-covid-19-mortality-rate-low-2-17-times-lower-whos-esti
https://www.medrxiv.org/content/10.1101/2020.04.14.20062463v2
[128] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7102597/?fbclid=IwAR29vpTe-Dk-xgVzVRbuAgVhil1k0DcZkGqyYsak6lC-OByjZcBRP6cyjc

Evaluation have all been drastically "downgraded". Strategies and measures based on these original predictions are invalid.[129] [130]

(jj) As of March 19, 2020, the status of COVID-19 in the United Kingdom was downgraded. COVID-19 is no longer considered a high consequence infectious disease (HCID). The Advisory Committee on Dangerous Pathogens (ACDP) in the UK is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease). [131] [132]

(kk) **On March 26, 2020,** Dr. Anthony Fauci published an editorial in the *New England Journal of Medicine* stating that *"the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza with a case fatality rate of perhaps 0.1%."* [133]

(ll) On April 9, 2020, Canadian public health officials stated: "In a best-case scenario, Canada's total COVID-19 deaths can range from 11,000 to 22,000." And "In the bad scenarios, deaths go well over 300,000." As of May 21, 2020, the total reported deaths from COVID 19 in Canada was 6,145. As of July 2, 2020, the total deaths attributed to COVID 19 in Canada was 8,642. In 2018, the mortality rate of the 2018 influenza/pneumonia in Canada which

[129] How One Model Simulated 2.2 Million U.S. Deaths from COVID-19. Cato Institute. April 21, 2020 https://www.cato.org/blog/how-one-model-simulated-22-million-us-deaths-covid-19
[130] https://prepforthat.com/fear-mongering-covid-19-epidemiologist-says-he-was-wrong/
[131] https://www.gov.uk/topic/health-protection/infectious-diseases
[132] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/
[133] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7121221/

was **23 per 100,000**. [134] In a population of 37.7 M, this equates to approximately 8,671 deaths. This is the mortality even though a vaccine exists for both influenza and pneumonia and there is a high uptake rate in the senior population.

(mm) The World Health Organization knew as early as February 28, 2020 that most people will have mild illness from SARS-CoV-2 infection and get better without needing any special care. [135]

(nn) The Canadian government has implemented a re-start strategy that continues to maintain the unsubstantiated narrative that the SARS-CoV-2 virus is extra-ordinarily dangerous and requires extra-ordinary social distancing measures never before implemented.

(oo) The re-start strategy recommended by the federal and various provincial governments is based on 'sector' rather than 'risk'. There is no evidence that a re-start based on sector has scientific merit.

(pp) According to a number of infectious disease experts, hospital capacity, rather than the number of infections should be the metric of choice for relaxing restrictions. [136]

(qq) There is no evidence that harms caused by the mass and indiscriminate containment of citizens was calculated and

[134] https://www.statista.com/statistics/434445/death-rate-for-influenza-and-pneumonia-in-canada/
[135] WHO Director-General's opening remarks at the media briefing on COVID-19 - 28 February 2020 https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---28-february-2020
[136] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns

considered in the modeling and strategic planning response to SARS-CoV-2. [137]

(rr) SARS (2003), Swine Flu/H1N1 (2009), and MERS (2012) were all considered pandemics by the World Health Organization. Each of these pandemics were effectively contained without lockdowns, economic ruin, violations of privacy, and the indefinite loss of the right to work and personal freedoms. SARS and MERS dissipated on their own naturally without any vaccine intervention. [138]

(ss) Academic studies of media coverage during the 2003 Canadian SARS outbreak concluded that the media coverage was excessive, sensationalist, and sometimes inaccurate. Government health agencies were criticized for lacking a unified message and communications strategy, resulting in confusion and panic about the disease. [139] These same criticisms hold even more true for media and government response to SARS-CoV-2.

(tt) The suspension of our civil liberties is not justified by the known risk posed by SARS-CoV-2.

(uu) In a statement released on March 24, 2020, professor Peter Gotzche states: *"The coronavirus mass panic is not justified."* The suspension of our right to liberty, to work, to travel, and to conduct

[137] Rethinking the Coronavirus Shutdown. WSJ/Opinion. March 19, 2020
https://www.wsj.com/articles/rethinking-the-coronavirus-shutdown-11584659154
[138] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2094974/
[139] https://www.thecanadianencyclopedia.ca/en/article/sars-severe-acute-respiratory-syndrome

commerce is not justified by the known risk posed by SARS-CoV-2. [140]

(vv) There is no independent human rights oversight committee to track human rights violations associated with SARS-CoV-2 response measures in Canada.

(ww) Communications about SARS-CoV-2 by the Government of Canada and mainstream media have been exaggerated, distorted, irresponsible, and appear to have been purposely designed to evoke fear and panic. The fear is out of proportion to the actual risk of mortality.

(xx) Governments and media have repeatedly failed to properly distinguish between the 'risk of infection' and 'the risk of mortality'. For the vast majority of the population the risk of mortality is extremely low.

(yy) Prevalence of SARS-CoV-2 in the entire Canadian population is very low. Extreme social controls should never be used in low prevalence epidemics.

(zz) As presented by PHAC, the modelling techniques used to establish probabilities of the epidemic trends and thus "inform" policy decisions have no basis in evidence, are completely inflated, and essentially amount to statistical chicanery.

[140] The Coronavirus mass panic is not justified. Professor Peter C. Gøtzsche24 March 2020
https://www.deadlymedicines.dk/wp-content/uploads/G%C3%B8tzsche-The-Coronavirus-mass-panic-is-not-justified.pdf

(aaa) Using total case numbers as though they represent the risk of being infected with SARS-CoV-2 is perception management. While these numbers may be of interest for epidemiological study, they have little bearing on the true risk facing citizens.

(bbb) Severity of SARS-CoV-2 is estimated by infection fatality rates. Infection fatality rates cannot be established until the total number of cases, both symptomatic and asymptomatic, in the entire population can be estimated.

(ccc) The Canadian government failed to perform a national random sample test to establish a SARS-CoV-2 baseline across the entire population to justify the restrictions and violations of rights and freedoms.

(ddd) Exaggerated claims and distorted messages have contributed to an atmosphere of fear and uncertainty that is destructive to the well-being of Canadians. It would appear that the real epidemic is an epidemic of fear.

(eee) The evoked fear and panic is so entrenched amongst a large proportion of Canadians that it is extremely difficult to reverse that message even when the scientific data does not support such panic.

(fff) As recent as May 22, 2020 Prime Minister Justin Trudeau told reporters that contact tracing needs to be ramped up across the county. Trudeau stated that he "strongly recommends" provinces use cell phone apps when they become available, and that this use

would likely be mandated. Use of surveillance technologies to monitor citizens constitutes a clear violation of our right to privacy.

(ggg) As of May 24, 2020, the Prime Minister of Canada has not invoked the *Emergencies Act*. Therefore, emergency measures announced by the Prime Minister and his public statements to Canadians to "just stay home" have no legal basis or authority, are an abuse of power, and is resulting in confusing, dangerous and unlawful messaging.

(hhh) The Prime Minister of Canada and Ontario Premier Doug Ford have repeatedly stated that *"life will not return to normal until a vaccine is found"*. It is irresponsible to base a return to normal upon a vaccine when there is no guarantee that an effective and safe vaccine can be developed.

(iii) There are significant risks to both individuals and to confidence in the health care system by accelerating the development of a SARS-CoV-2 vaccine by relaxing normal and prudent safety testing measures.

(jjj) Health Canada has approved human trials of a SARS-CoV-2 vaccine (May 19, 2020) without clear evidence that prior animal testing to identify the potential risk of pathogenic priming (immune enhancement) has been conducted. Pathogenic priming

has prevented the development of an effective and safe coronavirus vaccine to date.

(kkk) Dr. Peter Hotez of Baylor College (who has previously tried to develop a SARS vaccine) told a US Congressional Committee on March 5, 2020 that coronavirus vaccines have always had a "unique potential safety problem" — a "kind of paradoxical immune enhancement phenomenon." [141]

(lll) To impose through influence, mandate, or coercion an inadequately tested SARS-CoV-2 vaccine product upon all Canadians when 99% of the population is not at risk of mortality is reckless, irresponsible and immoral.

(mmm) A SARS-CoV-2 vaccine ought to be targeted at the less than 1% of the population that is at risk of mortality, rather than the more than 99% that is not at risk.

(nnn) There is no moral, medical or ethical justification to ignore prudent safety protocols and to suggest that the use of this yet to be developed medical product is necessary for life to return to normal.

(ooo) Dr. Allan S. Cunningham, a retired pediatrician, has raised the possibility that a potential contributor to the current coronavirus outbreak is the seasonal influenza vaccine. A randomized placebo-controlled trial in children showed that the influenza vaccine

[141] https://www.c-span.org/video/?470035-1/house-science-space-technology-committee-hearing-coronavirus&start=1380

increased fivefold the risk of acute respiratory infections caused by a group of non influenza viruses, including coronaviruses. [142] [143]

(ppp) A study of US military personnel confirms that those who received an influenza vaccine had an increased susceptibility to coronavirus infection. [144]

(qqq) EU numbers show correlation between influenza vaccine and coronavirus deaths. The countries with highest death rates (Belgium, Spain, Italy, UK, France, Netherlands, Sweden, Ireland and USA) had all vaccinated at least half of their elderly population against influenza.[145]

(rrr) Canada continues to be one of only two G20 Nations which fails to compensate citizens who are injured and killed by government approved and recommended vaccine products. The other is Russia.

(sss) The unwillingness of the Government of Canada to provide compensation for vaccine injury, while at the same time imposing vaccine products upon its citizens, is unconscionable.

(ttt) To rely on a vaccine as the required strategy to returning life to normal is reckless, irresponsible and unwarranted.

(uuu) Jonathan Kimmelman, director of McGill University's biomedical ethics unit stated: "Outbreaks and national emergencies often

[142] https://www.bmj.com/content/368/bmj.m810/rr-0
[143] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3404712/
[144] https://www.sciencedirect.com/science/article/pii/S0264410X19313647
[145] https://www.thegatewaypundit.com/2020/05/niall-mccrae-david-kurten-eu-numbers-show-correlation-flu-vaccine-coronavirus-deaths/

create pressure to suspend rights, standards and/or normal rules of ethical conduct. Often our decision to do so seems unwise in retrospect."

(vvv) On June 8th , 2020 the WHO publicly announced that the risk of symptomatic spreading of the virus was "**very rare**". This statement removed by Facebook as "fake News", given its very early, prior contrary assessment, the WHO, the next day partially retroacted this this June 8th, 2020 statement by qualifying without details or explanation that modeling suggested Asymptomatic transmission is possibly as high as 40%: NO evidence or study was provided, nor the basis of the previous day's release. On July 4th, 2020 the WHO re-re paddled back to its original June 8th, 2020 position.

185. The Plaintiff, VCC, had posted on its website, a CNBC report announcing the June 8th, 2020 WHO release, on Facebook, with respect that Asymptomatic transmission was very rare, which was immediately removed by Facebook as "Fake News" for, contradicting earlier WHO releases.

E/ HYPER – INFLATED, DISTORDETED TOTAL NUMBER OF CV-19 "CASES" & "DEATHS"

186. The Plaintiffs state that the total number of Covid-19 cases is the basis for almost all of the Covid-19 data including deaths in those cases, recovery from those cases, hospitalizations and ICU admissions of those cases and total active cases.[146] Total case numbers are also used for other epidemiological metrics (e.g., virulence and transmission rates of Covid-19).

187. Yet the total case numbers are inflated by both RT-PRC testing and WHO coding definitions.

188. The Plaintiffs state that the WHO coding of cases allows 'virus not identified', i.e., probable cases to be counted as Covid-19 cases.[147] WHO coding also inflates death data numbers by requiring **all cases** where Covid-19 is "probable or confirmed" to be certified as a death due to Covid-19 regardless of comorbidities. Admonishing physicians to "always apply these instructions, whether they can be considered medically correct or not."[148]

189. RT-PCR was never intended as a diagnostic tool[149] and is not an antigen test[150].

190. The Plaintiffs state that the PCR tests are based on an arbitrary cycling number (Ct) that is not consistent among testing laboratories.[151] "Cycling too much

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[146] Public Health Agency of Canada, https://www.canada.ca/en/public- health/services/diseases/2019-novel-coronavirus-infection/health-professionals/national-case-definition.html"Confirmed:A person with laboratory confirmation of infection with the virus that causes COVID-19 performed at a community, hospital or reference laboratory (NML or a provincial public health laboratory) running a validated assay. This consists of detection of at least one specific gene target by a NAAT assay (e.g. real-time PCR or nucleic acid sequencing).

[147] WHO ICD-10 Coding https://www.who.int/classifications/icd/COVID-19-coding-icd10.pdf?ua=1]

[148] WHO Cause of Death Guidelines https://www.who.int/classifications/icd/Guidelines_Cause_of_Death_COVID-19-20200420-EN.pdf?ua=1

[149] Dr. Judy Mikowitz https://articles.mercola.com/sites/articles/archive/2020/05/03/is-the-new-coronavirus-created-in-a-lab.aspx "Epidemiology is not done with PCR. In fact, Kary Mullis who invented PCR, Nobel Laureate, and others, said PCR was never intended for diagnostic testing."

[150] Not an Antigen Test: Prof Eleanor Riley, Professor of Immunology and Infectious Disease, University of Edinburgh and Dr Colin Butter, Associate Professor and Programme Leader in Bioveterinary Science, University of Lincoln https://www.sciencemediacentre.org/expert-comment-on-different-types-of-testing-for-covid-19/

could result in false positives as background fluorescence builds up in the PCR reaction." Tests can show positive for minute amounts of RNA that are not causing illness and for non-infectious fragments of RNA.[152] RT-PCR tests cannot prove the pathogenic nature of the RNA.

191. RT-PCR tests have a specificity of 80-85%.[153] This means 15-20% of the time a positive test does not indicate the presence of RNA of SARS-CoV-2, but of some other RNA source. RT-PCR testing is not reliable for SARS-CoV-2 testing.[154]

192. RT-PCR tests are more likely to be false positive than false negative.[155] In low prevalence countries like Canada: "Such [false positive] rates would have large impacts on test data when prevalence is low. Inclusion of such rates significantly alters four published analyses of population prevalence and asymptomatic ratio. The high false discovery rate that results, when prevalence is low, from false positive rates typical of RT-PCR assays of RNA viruses raises questions about the usefulness of mass testing…"[10]

193. The Plaintiffs state that the implications of false positive tests include the following: "There are myriad clinical and case management implications. Failure to appreciate the potential frequency of false positives and the

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[151] Issues with the RT-PCR Coronavirus Test, David Crowe and Dr. Stephen Bustin, April 23, 2020 https://theinfectiousmyth.com/coronavirus/RT-PCR_Test_Issues.php]

[152] https://www.independent.co.uk/news/world/asia/coronavirus-south-korea-patients-infected-twice-test-a9491986.html

[153] RT-PCR Test 80–85% specificity per Dr. James Gill, Warwick Medical School, England https://www.sciencemediacentre.org/expert-comment-on-different-types-of-testing-for-covid-19/]

[154] Stability Issues of RT-PCR Testing of SARS-CoV-2, March 10, 2020 Abstract: https://pubmed.ncbi.nlm.nih.gov/32219885/ Full text: https://onlinelibrary.wiley.com/doi/full/10.1002/jmv.25786
"In our study, we found a potentially high false negative rate of RT-PCR testing for SARS-CoV-2 in hospitalized patients in Wuhan clinically diagnosed with COVID-19. Furthermore, the RT-PCR results showed a fluctuating trend. These may be caused by insufficient viral material in the specimen, laboratory error during sampling, or restrictions on sample transportation."]

[155] . 10 False positives in reverse transcription PCR testing for SARS-CoV-2 https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v1.full.pdf]

consequent unreliability of positive test results across a range of scenarios could unnecessarily remove critical workers from service, expose uninfected individuals to greater risk of infection, delay or impede appropriate medical treatment, lead to inappropriate treatment, degrade patient care, waste personal protective equipment, waste human resources in unnecessary contact tracing, hinder the development of clinical improvements, and weaken clinical trials."[156]

194. A Chinese study[157] found, "In the close contacts of COVID-19 patients, nearly half or even more of the 'asymptomatic infected individuals' reported in the active nucleic acid test screening might be false positives."[158]

195. The Public Health Agency of Canada reports more than 1.4 million people have had PCR tests.[159] Considering the false positive rate, especially for contact tracing, this is not a good use of our resources (both dollars and testing staff).

196. As of June 15th, 2020 the COVID "statistics" are as follows:

(a) Population of Canada 2020--- 37,742,154;

(b) Total number of confirmed or probable cases as of June 15th -- 99,147;

(c) Therefore, 0.0026% of Canadians are testing positive;

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156 https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v2 <https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v2>

157 Potential false-positive rate among the 'asymptomatic infected individuals' in close contacts of COVID-19 patients, March 23, 2020
http://html.rhhz.net/zhlxbx/017.htm
Full translation: https://theinfectiousmyth.com/articles/ZhuangFalsePositives.pdf

158 https://www.reddit.com/r/COVID19/comments/fik54b/false_positives_among_asymptomatic/ <https://www.reddit.com/r/COVID19/comments/fik54b/false_positives_among_asymptomatic/>

159 PHAC Daily Update, May 25: 1,454,966 total people tested
https://www.canada.ca/content/dam/phac-aspc/documents/services/diseases/2019-novel-coronavirus-infection/surv-covid19-epi-update-eng.pdf

(d) 0.00021% of Canadians are dying ''with'' or ''of COVID'' (there is no current differentiation between death " with" or "from" COVID statistically speaking). As of June 15,2020 the national death count from covid stands at 8,175, a completely inflated and distorted number, due to levels of gross mismanagement of patient care in institutions where outbreaks are reported, and death certificate mislabelling of dying ''with'' covid, as opposed to dying ''from'' covid. Meanwhile, the statistics (2018) for other causes of death, according to statistics Canada, in Canada were as follows:

(i) Suicides--- 3,811;
(ii) influenza and pneumonia (seasonal viral respiratory illness) --- 8,511*;
(iii) accidents (unintentional injuries) ---13,290;
(iv) medical error (including medications)--- 28,000;
(v) heart disease--- 53,134;
(vi) cancer--- 79,536.

197. The Plaintiffs state, and fact is that the US, UK, and Italy, through their public health officials have publicly admitted that a COVID death is tallied as such, simply where the COVID virus is found, **albeit** inactive, and regardless of whether the patient died from another **primary** cause of death, such as from cancer in palliative care. Thus a senior US Health official, on April 19th,2020, Dr. Ezike, Director of Public Health, put it this way:

> That means, that if you were in hospice and had already be given a few weeks to live, and then you also were found to have COVID, that would be counted as a COVID death.

> ''It means technically if you died of a clear alternate cause but you had COVID at the same time, its still listed as a COVID death.
>
> Everyone who is listed as a COVID death doesn't mean that was the cause of the death, but they had COVID at the time of death.

The Plaintiffs state, and the fact is, that Canada uses the same system, mandated by the WHO, because the WHO collapsed three different ways of certifying and classifying death into one, in order to grossly inflate the number of deaths "attributable" to covid-19.

198. This includes someone like George Floyd who was killed (murdered) by four (4) Minneapolis police officers, who have been charged with murder, in that the official autopsy report stipulated that he had tested positive for COVID months earlier. (Why George would be tested for COVID, in the circumstances, is beyond baffling).

199. The Plaintiffs state, and the fact is, that in many jurisdictions, such as New York City, a hospital is paid much more to deal with a "COVID-death", than a non-COVID death.

200. The Plaintiff states, and the facts is, that the false and faulty manner and method of determining a ''COVID-death'', is wholly and exclusively dictated by WHO guidelines and parroted by Chief Medical Officers in Canada, in furtherance of the WHO's false ''pandemic'', to instill baseless fears, in the WHO's non-medical agenda, at the control and instigation of Billionaire, Corporate, and Organizational Oligarchs, who actually control the agenda of the WHO, to effect their plan to install a New World (Economic) Order by means of

economic shut-down and mandatory vaccinations and surveillance of the planet's population.

F/ GLOBAL POLITICAL, ECONOMIC AGENDA BEHIND UNWARRANTED MEASURES

- **The Non-Medical measures and Aims of The Declared Pandemic- The Global Agenda**

201. The Plaintiffs state, and the fact is that the WHO is not, nor ever has been, an objective, independent **medical** body, but is riddled with over-reaching socio-economic and political dictates of its funders who, inexplicably over and above the nation-states who fund-it, is heavily funded, and directed, through its "WHO Foundation", and **GAVI,** by international Billionaire Oligarchs, and Oligarch organizations such as Bill Gates, GAVI, the World Economic Forum ("WEF"). The Plaintiff states, and the fact is, that WHO vaccination programs, funded by the Bill Gates and Melinda Foundation, have been accused, by the governments of various sub-Saharan African countries, as well as Nicaragua, India, Mexico and Pakistan, the Philippines, of conducting unsafe, damaging vaccine experiments on their children. In India, the Courts are investigating these vaccination experiments on children. The WHO has recently, in the context of the COVID-19, been expelled from various countries for lack of confidence, corruption, and attempted bribery of their officials, up to, and including, head(s) of state. The Plaintiffs further state, and fact is:

(a) There is a declared agenda to impose global mandatory vaccination, ID chipping, testing and immunity certification on all citizens. This global agenda has been in the works for decades. [160]

(b) Bill Gates, through his Foundation and Organization(s), is the largest private funder to the World Health Organization, is a leading proponent of keeping the economy locked down until a vaccine is developed. Gates is also a major advocate behind the contact tracing initiative. [161] Gates is a major investor in developing a SARS-CoV-2(COVID-19) vaccine and in tracking technology. Gates has a clear financial conflict of interest in advocating for a vaccine and contact tracing.

(c) Bill Gates has no medical or scientific training or credentials and holds no elected office. He should not be determining the fate of mankind. [162]

(d) The Gates Foundation (along with other partners) helped launch the Global Alliance for Vaccines and Immunization (GAVI). The foundation has given $4.1 billion to GAVI over the past 20 years;[163]

(e) These self-propelling agenda personally benefit Gates and other Billionaires, Corporations, and Organizations, particularly vaccines and computer and wireless technology, in his pharmaceutical (vaccine) holdings and agenda, as well as IT and internet holdings and concerns in that, overnight , a vast majority of socio-economic activity has been dislocated to a "virtual", "new normal" whereby everything from

[160] https://childrenshealthdefense.org/news/a-timeline-pandemic-and-erosion-of-freedoms-have-been-decades-in-the-making/
[161] https://www.lifesitenews.com/news/bill-gates-life-wont-go-back-to-normal-until-population-widely-vaccinated
[162] https://childrenshealthdefense.org/news/government-corruption/gates-globalist-vaccine-agenda-a-win-win-for-pharma-and-mandatory-vaccination/
[163] https://www.vox.com/future-perfect/2020/4/14/21215592/bill-gates-coronavirus-vaccines-treatments-billionaires

commerce, schools, Parliament, Courts, are converting to "virtual'', not to mention the electronic surveillance through cellphone applications for contract tracing;

(f) The Gates Foundation project to develop at-home testing evolved from a two-year-old research project from the University of Washington that was intended to track the spread of diseases like influenza. All told, the Gates Foundation has poured about $20 Million into the effort. A project funded by the Gates Foundation will soon begin issuing at-home specimen collection kits for the novel coronavirus, COVID-19, according to a report in the Seattle Times.[164]

(g) Dr. Joel Kettner, former Chief Medical Officer revealed that pressure is being put on public health doctors and public health leaders by the Director-General of the World Health Organization (WHO) when he said, *"This is a grave threat and a public enemy number one"*. Kettner states – "I have never heard a Director-General of WHO use terms like that." [165]

(h) While these initiatives are presented as measures to address health, they significantly increase control by governments over their citizens, violate privacy, and are part of an agenda to impose vaccination by mandates and other forms of coercion.

(i) Contact tracing applications are being installed in cell phone software upgrades without the express knowledge or permission of consumers;

[164] https://www.seattletimes.com/seattle-news/health/gates-funded-program-will-soon-offer-home-testing-kits-for-new-coronavirus/

[165] https://off-guardian.org/2020/03/17/listen-cbc-radio-cuts-off-expert-when-he-questions-covid19-narrative/

(j) The Centre for Disease Control in the United States is actively lobbying for increased masking and physical distancing measures, without substantive evidence to justify these measures., while in Canada compulsory masking has also emerged;

(k) Alan Dershowitz, a Harvard Law school professor has declared: *"If a safe vaccine is to be developed for Covid-19, I hope it's mandated, and I will defend it, and we'll argue that in the Supreme Court of the United States."* [166]

(l) Social media platforms such as Facebook, Pinterest, Instagram, Twitter, YouTube and others, under the direction of governments, are actively censoring information that challenges the SARS-CoV-2(COVID-19) pandemic narrative. Public debate on this topic is not being permitted, where Canada is no exception, and even worse, with the Canadian government threatening to enact **Criminal Code** provisions for those who utter or publish ''misinformation'' on COVID-19, including expert opinion;

(m) The voices of highly credentialed and respected scientists and medical doctors have been censored by the government and media, preventing them from providing critical information from their decades long experience in dealing with infectious diseases and epidemics. Even our own public health experts' experience and advice, gathered over many decades has been ignored. This includes Dr. Joel Kettner, former Chief

[166] https://www.forbes.com/sites/christopherrim/2020/05/20/more-than-stimulus-checks-how-covid-19-relief-might-include-mandated-vaccines/?fbclid=IwAR2nrvg0WDTdv_KwjL_wedTNWBe3pxbqQeQAvQJK4m8OfSctLGFhAU9rGYE#1d19b0d57992

Medical Officer of Manitoba and Dr. Richard Schabas, former Chief Medical Officer of Ontario.

(n) Scientists have been involved in "gain-of-function" (GOF) research since 2002 that seeks to generate viruses *"with properties that do not exist in nature"* and to *"alter a pathogen to make it more transmissible (to humans) or deadly."* [167] [168]

(o) Rather than instruct people on how to improve their overall health or boost their immunity with healthy foods, quality supplements, and physical activity, governments are telling citizens that the only way to survive the coronavirus crisis is to rush the development of a vaccine and then inject all seven billion humans on the planet.

(p) Many scientists and doctors have expressed confidence in high dose Vitamin C, Vitamin D supplementation, and other generic, inexpensive, and readily available medications and treatments to assist recovery. To state that there is no cure to SARS-CoV-2 (COVID-19) is dishonest.

(q) The "no cure" agenda devolves directly from the pharmaceutical industry, which is receiving billions of dollars from governments to develop expensive and, so far, unproven as safe and effective "cures". Yet safe, effective and inexpensive remedies that help with recovery from Covid-19 already exist.

[167] https://www.ncbi.nlm.nih.gov/books/NBK285579/
[168] https://www.sciencemag.org/news/2014/10/us-halts-funding-new-risky-virus-studies-calls-voluntary-moratorium

(r) Research in 2005 demonstrated that Chloroquine is a potent inhibitor of SARS coronavirus infection and spread, thus negating the urgent need for a vaccine. [169]

(s) Some governments are actively restricting access to treatments that have been proven to alleviate the symptoms of SARS-CoV-2(COVID-19) including VITAMIN C and D, zinc, HCQ, GTH precursors, and oxygen treatments, including hyperbaric chambers.

(t) The decision by governments globally to institute social controls and severe containment measures will prolong the epidemic and guarantee successive waves of infection. As social controls are lifted, susceptible individuals previously cocooned from infection will become exposed. Successive waves of infection is a certainty as a result of severe containment measures that prevented the development of natural immunity.

(u) Prime Minister Trudeau and Ontario Premier Ford have stated that "life will not return to normal until we have a vaccine", parroting Bill Gates and Gates' agenda, and has failed to take "mandatory vaccination" off the table as a potential action of the government.[170] It would appear that the Prime Minister and Premier are not considering any alternative plan to ending this lockdown.

[169] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1232869/
[170] https://nationalpost.com/news/canada/coronavirus-live-updates-covid-19-covid19

(v) The Government of Canada has not assumed legal and financial liability for any injury or death resulting from containment measures or the use of any vaccine.

(w) When a government uses its power to force ordinary citizens to give up their freedoms, that nation is in great danger of moral and economic collapse. [171]

202. 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" 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 and that;

(i) With 10 days of the declared pandemic European and North American banks were given $2.3 Trillion dollars and further amounts to hold up stuck markets and corporations, for a total of approximately $5 Trillion dollars, largely going un-noticed in the face of the "pandemic", with this number progressively climbing ;

(ii) The shutting of virtually **all** , small independent businesses, with the bizarre, **but intended** consequence that a local, street-level clothing-store, or hardware store, or any store not selling food or medicine, is forced shut down but a Walmart or Costco could sell

[171] https://www.chp.ca/commentary/free-injections-or-mandatory-vaccinations

anything and everything in its stores because one section of the store sold food (an essential service);

(iii) Other stores unable to sell , had to close with the consequence that all small hardware shops, and the like, were closed but the large corporations such as Home Depot, and the like, were equipped to take o-line orders and have drive-by pick up;

(b) The fact is that the pandemic pretense is there to establish a "new normal"; of the 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 5G capacity;

(d) The elimination of cash- currency and the installation of strictly digital currency to better-effect surveillance;

(e) The near-complete revamping of the educational system through "virtual" learning and closure of schools, particularly at the University levels.

203. The Plaintiffs state, and the fact is, that the benefactors of these goals and agendas are the global oligarchs who control and profit from vaccines and the technical infrastructure of information and communication such as Bill Gates,

and his companies and Organizations, who pursues global vaccination and profits from a global shift to "virtual economy" along with the other corporate oligarchs and their "on-line" sale and distribution infrastructure of globalization, and by-passing of effective national governance of nation-states under their own respective Constitutions, including Canada.

204. The Plaintiffs state, and the facts is, that this agenda is well on its way to "virtualizing", "corporatizing", and "isolating" even Parliament and the Courts to an embarrassing and debilitating degree as reflected by:

(a) Virtual Parliamentary Committers and sittings become the "new normal" because a declared "pandemic", is available every year, with projected "2nd and 3rd waves;

(b) The Supreme Court of Canada, on June 3rd,2020 announced virtual, "Zoom" hearing of its appeals with its first virtual appeal hearing on or about June 10th, 2020;

(c) The Chief Justice of the Ontario Superior Court, Justice Justice Geoffrey Morawetz, embarrassingly declared, on May 29th, 2020 that :

> "there is no real return to full-scale, what I will call normal operations, to pre-March operations, until such time that there's a vaccine available".

Whether the Chief Justice is aware, or not aware, that he was echoing a mantra originated by Bill Gates, and an agenda Gates has been pursuing for decades, which serves Bill Gates and his associates, is unknown.

205. The Plaintiffs further state, and the fact is, that this agenda executed under the pretext of the COVID-19 has been long in the planning and making, as reflected and borne out by, **inter alia** the following facts and documents:

(a) (i) "decade of vaccines" declared by Bill Gates, and its funding with the full support of the Canadian government, under a Memorandum of Understanding in 2020 up to including PM Trudeau, and further, on or about May 18th, 2020, gifting Bill Gates another $800 Million dollars of Canadian Taxpayer dollars in addition to prior millions already gifted;

(ii) The public statements made by Bill Gates and others for mandatory vaccination of the globe, with vaccine-chips, chip-bracelets, smart-phone tracing, covid-testing, and surveillance of everyone;

(iii) The criminal vaccine experiments causing horrific damage to innocent children in India, Pakistan, Africa and other developing countries;

(b) The Rockefeller Foundation Report, issued on May 2010, and leaked, in which report a hypothetical scenario and hypothetical is laid out with the effect of " how to obtain global governance during a pandemic", and which report, posits an unknown virus escaping Wuhan, China;

(c) **The 2010** Canadian Film Board documentary in which Dr. Theresa Tam, an ex-WHO committee member, is featured and quoted to have stated, with respect to a potential pandemic;

Transcript (of Film Documentary):

1:25 – 1:32 - "Large epidemics and pandemics occur on a regular basis through-out history, and it will occur again. It definitely will."

57:00 - 58:00 - "If there are people who are non-compliant, there are definitely laws and public health powers that can quarantine people in mandatory settings."

"It's potential you could track people, put bracelets on their arms, have Police and other set-ups to ensure quarantine is undertaken."

"It is better to be pre-emptive and pre-cautionary and take the heat of people thinking you might be overreacting, get ahead of the curve, and then think about whether you've over-reacted later. It's such a serious situation that I think decisive early action is the key."

Narrator Colm Feore states: "Police checkpoints are set up on all the bridges and everyone leaving the city is required to show proof of vaccination. Those who refuse to cooperate are taken away to temporary detention centers."

1:22 – "What is certain is an epidemic or pandemic is coming."[172]

(d) Gates, through the Bill and Melinda Gates Foundation, between 2003 and 2017,vaccine program killing thousands of children and severely injuring 486,000-plus in India, Pakistan, and Africa in administrating vaccines, as exposed by Robert Kennedy Junior and his Defense of Children Foundation, and others, and the fact that in India the Courts are investigating this conduct, and an unsuccessful motion brought in the Italian Parliament to have

[172] NFB Website: http://onf-nfb.gc.ca/en/our-collection/?idfilm=55974
Toronto Sun article: https://torontosun.com/news/national/warmington-tam-talked-of-tracking-bracelets-in-2010-epidemic-film

Gates indicted and extradited for crimes against humanity , and further that developing nation states declaring that they have been "guinea pigs", mostly children, in furtherance of global vaccination;

(e) A study by Dr. Peter Aaby in Africa, **DTP Vaccine Increases Mortality 5-Fold, In Study Without Healthy User Bias** concluded: "**DTP was associated with 5-fold higher mortality than being unvaccinated.** *No prospective study has shown beneficial survival effects of DTP.* **All currently available evidence suggests that DTP vaccine may kill more children from other causes than it saves from diphtheria, tetanus or pertussis.**"[173] DTP while discontinued North America is still administered in the developing World.

(f) All the facts pleaded, in the above statement of claim with respect to Bill Gates, the Gates Foundation, GAVI, the WEF, Gates'entrenchment in vaccinating, mandatorily the entire planet, and his vaccine-chip pursuits with smart-phone surveillance, covid-testing, acquisition of 5G companies for maximum contact tracing and surveillance, his relationship with the WHO and its funding;

(g) A UN report, commissioned and released, in September, 2019, prepared by the "Global Preparedness Ministry Board", in which

[173] http://vaccinepapers.org/high-mortality-dtp-vaccine/

an "Apotyliptic Pandemic" is predicted killing as many as 80 million people;

(h) "Event 201", an exercise, simulating a pandemic, prior to October 18th, 2019, organized by Gates, GAVI, which included the "World Economic Forum", on invitation only;

(i) The Government of Canada's, minutely detailed 67- page Report, entitled" Government of Canada Response Plan COVID-19", final version 3.1", with previous versions unavailable, which could not have been researched and written a mere couple of weeks prior to the declaration of lock-downs and emergency in Canada;

(j) The heavily censored UK "Sage Report" of late-May, 2020;

(k) The International Lobby, spear-headed by Bill Gates and others as set out in the within Statement of Claim;

(l) The Suppressed German government 93-page, May, 2020, report which was eventually and recently leaked, which clearly and conclusively determined that the "pandemic" and measures are unjustified. The salient summary of which reads:

cs. KM4 – 51000/29#2

KM4 Analysis of Crisis Management (Brief Version)

Remarks: It is the task and aim of crisis management groups and any crisis management to recognize **extraordinary threats** and to fight them **until** the **normal state** is re-established/regained.
A normal state cannot therefore be a crisis.

Summary of the results of this analysis

1. In the past the crisis management did not (unfortunately against better institutional knowledge) build up adequate instruments for danger analysis. The situational reports, in which all information relevant for decision-making should be summarized in the continuing/current crisis, today still only cover a small excerpt of the looming spectrum of danger. An assessment of danger is in principle not possible on the basis of incomplete and inappropriate information. Without a correctly carried out assessment of danger, no appropriate and effective planning of measures is possible. The deficient methodology has an effect on a higher plane with each transformation; politics so far has had a strongly reduced chance to make factually correct decisions.

2. The observable effects of COVID-19 do not provide sufficient evidence that there is – in relation to the health consequences of all of society – any more than a **false alarm. At no point in time, it is suspected, was there a danger as a result of this new virus for the population (comparison is the usual death rate in Germany).** Those who die of corona are essentially those who statistically die this year, because they have arrived at the end of their lives and their weakened bodies cannot any longer fight coincidental everyday challenges (including the approximately 150 circulating viruses). **The danger of COVID-19 was overestimated. (In a quarter of a year worldwide no more than 250,000 deaths with COVID-19, as opposed to 1.5 million deaths during the 2017/18 influenza season). The danger is obviously no larger than that of many other viruses. We are dealing with a global false alarm which has been unrecognized over a longer period of time. - This analysis was reviewed by KM4 for scientific plausibility and does not fundamentally oppose the data and risk assessments provided by the RKI [Robert Koch Institute].**

3. A fundamental reason for not discovering the suspected false alarm is that the existing policies for the actions of the crisis management group and the crisis management during a pandemic do not contain appropriate instruments for detection which would automatically triger an alarm and the immediate cancellation/abandonment of measures, as soon as either a pandemic proves to be a false alarm or it is forseeable that the collateral damage – and among these especially the parts that destroy human lives – threatens to become larger than the health effects of and especially the deadly potential of the illness under consideration.

4. In the meantime, the collateral damage is higher than the recognizable benefit. The basis of this assessment is not a comparison of material damages with damage to persons (human lives). Alone a comparison of deaths so far due to the virus with deaths due to the measures decreed by the state (both without certain data). Attached below is an overview-type summary of collateral health damages (incl. Deaths), reviewed by scientists as to plausibility.

5. The (completely useless) collateral damage of the corona crisis is, in the meantime, gigantic. A large part of this damage will only manifest in the nearer and more distant future. This cannot be avoided anymore, only minimized.

6. Critical infrastructures are the lifelines necessary for the survival of modern societies. As a result of the protective measures, the current security of supply is no longer a given as it usually is (so far gradual reduction of the basic security of supply, which could result in a fallout in future challenging situations). The resilience of the highly complex and strongly interdependent complete system of critical infrastructure has been reduced. Our society lives, from now on, with increased vulnerability and a higher risk of failure of infrastructures necessary for life. This can have fatal consequences, if on the in the meantime reduced level of resilience of KRITIS a truly dangerous pandemic or other danger should occur.

Four weeks ago, UN-general Secretary Antonio Guterres of a fundamental risk. Guterres said (according to a report in the Tagesschau on April 4, 2020): "The weaknesses and insufficient preparation which are becoming apparent through this pandemic give insight into how a bioterrorist attack could look – and these weaknesses possibly increase a risk thereof." According to our analysis, in Germany a grave deficiency is the lack of an adequate system for the analysis and assessment of danger.

7. the protective measures decreed by the state, as well as the manifold societal activities and initiatives which, as initial protective measures cause the collateral damage, but have in the meantime lost any purpose, are largely still in effect. It is urgently recommended to abolish these immediately, to avert damage to the population – especially unnecessary additional deaths -, and to stabilize the situation around critical infrastructure, which is possibly becoming precarious.

8. The deficits and failures in crisis management consequently lead to communication of information that was not well-founded. (A reproach could be: The state showed itself to be one of the biggest fake-news-producers in the corona crisis).

From these insights it follows:

a) The proportionality of interference with the rights of eg. Citizens is currently not given, since the state did not carry out an appropriate consideration with the consequences. The German constitutional court demands an appropriate balancing of measures with negative consequences. (PSPP judgement of May 5, 2020).

b) The situational reports of the crisis management group BMI-BMG and the communications from the state to the provinces regarding the situation must there fore henceforth
-conduct an appropriate analysis and assessment of dangerous
-contain an additional section with meaningful, sound data regarding collateral damage (see remarks in the long version)
-be freed of irrelevant data and information which are not required for the assessment of danger, because they make it difficult to see what is going on
-an index should be formed and added at the beginning

c) An appropriate analysis and assessment of danger is to be performed immediately. Otherwise the state could be liable for damages that have arisen.[174]

206. The Plaintiffs further state, and fact is, that in a study issued by Stefan Homburg, Christof Kuhbandner, at the Leibniz University Hannover, Germany, **post-June 8th, 2020,** these authors soundly concluded in their study that the lock-down measures as modelled and executed were Not effective, globally comparing countries following the WHO protocols and countries that did not.[175]

207. The Plaintiffs state, and the fact is, that this agenda includes the "World Economic Forum ("WEF")". The Plaintiffs state and fact is that the WEF;

[174] https://human-synthesis.ghost.io/2020/05/31/km4-analysis-of-crisis-management-short-ver/ <https://human-synthesis.ghost.io/2020/05/31/km4-analysis-of-crisis-management-short-ver
[175] http://diskussionspapiere.wiwi.uni-hannover.de/pdf_bib/dp-671.pdf

(a) Consistently promotes a "New Economic World Order" ,which is a vision in the process of being rolled out under the auspices of the World Economic Forum, of which one of the main sponsors is **The Bill & Melinda Gates Foundation.**

(b) The World Economic Forum is the International Organization for Public-Private Cooperation. **The Forum engages the foremost political, business, cultural and other leaders of society to shape** global, regional and industry agendas.

(c) The World Economic Forum is committed "to the launch of the Great Reset - a project to bring the world's best minds together to seek a better, fairer, greener, healthier planet as we rebuild from the pandemic." "The COVID-19 crisis has shown us that our old systems are not fit any more for the 21st century," said World Economic Forum Executive Chairman Klaus Schwab. "In short, we need a great reset."[176]

(d) Since its launch on March 11th, 2020, the Forum's COVID Action Platform has brought together 1,667 stakeholders from 1,106 businesses and organizations to mitigate the risk and impact of the unprecedented global health emergency that is COVID-19. The platform is created with the support of the **World Health Organization.**[177]

[176] https://www.weforum.org/agenda/2020/06/the-great-reset-this-weeks-world-vs-virus-podcast/
[177] https://cepi.net/about/whoweare/

(e) **The WEF sponsors have big plans**:"...the world must act jointly and swiftly to revamp all aspects of our societies and economies, from education to social contracts and working conditions. Every country, from the United States to China, must participate, and every industry, from oil and gas to tech, must be transformed. In short, we need a **"Great Reset" of capitalism." "The World Economic Forum is launching a new Davos Manifesto**, which states that companies should pay their fair share not taxes, show zero tolerance for corruption, uphold human rights throughout their global supply chains, and advocate for a competitive, level playing field." Klaus Schwab, Founder and Executive Chairman, World Economic Forum.[178]

(f) In 2017 Germany, India, Japan, Norway, the Bill & Melinda Gates Foundation, the Welcome Trust and the World Economic Forum founded the Coalition for Epidemic Preparedness Innovations (CEPI) to facilitate **focused support for vaccine development to combat major health epidemic/pandemic threats.** As an organization, the Forum has a track record of supporting efforts to contain epidemics. In 2017, at the Annual Meeting, the Coalition for Epidemic Preparedness Innovations (CEPI) was launched – bringing together experts from government, business, health, academia and civil society to accelerate the development of

[178] https://www.weforum.org/the-davos-manifesto

vaccines. CEPI is currently supporting the race to develop a vaccine against this strand of the coronavirus.[179]

(g) Event 201, the pandemic exercise in October 2019, was co-sponsored by the World Economic Forum and the Gates Foundation. [180]

208. Further with respect to global vaccination, in the context of Covid, the WEF has stated:

(a) That :

> "The COVID-19 crisis is affecting every facet of people's lives in every corner of the world. But tragedy need not be its only legacy. On the contrary, the pandemic represents a rare but narrow window of opportunity to reflect, reimagine, and reset our world to create a healthier, more equitable, and more prosperous future. Interactive diagram."[181]

(b) And that:

> "The changes that are underway today are not isolated to a particular country, industry, or issue. They are universal, and thus require a global response. Failing to adopt a new cooperative approach would be a tragedy for humankind. **To draft a blueprint for a shared global-governance architecture,** we must avoid becoming mired in the current moment of crisis management.
>
> Specifically, this task will require two things of the international community: wider engagement and heightened imagination. The engagement of all stakeholders in sustained dialogue will be crucial, as will the imagination to think systemically, and **beyond one's own short-term institutional and national considerations."**[182]

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[179] https://cepi.net/about/whoweare/ https://apps.who.int/gpmb/assets/annual_report/GPMB_annualreport_2019.pdf pg 19
[180] https://www.centerforhealthsecurity.org/event201/
[181] https://www.weforum.org/agenda/2020/06/now-is-the-time-for-a-great-reset
[182] https://intelligence.weforum.org/topics/a1G0X000006OLciUAG?tab=publications
https://www.weforum.org/agenda/2018/11/globalization-4-what-does-it-mean-how-it-will-benefit-everyone/

209. In early July, 2020, Trudeau announced the massive expenditure of post-COVID-19 infrastructure spending to re-align the economy, in concert with the WEF agenda, in tandem with private sector partnership whereby the anticipated privatization of public assets is a given.

210. The Plaintiffs state, and the fact is, that:

(a) This agenda, conspiracy, is spear-headed by Bill Gates, and other Billionaire, Corporate, and Organizational Oligarchs, include vaccine, Pharmaceutical, and Technology Oligarchs, through the WHO, GAVI, and the WEF, whom they fund and effectively direct and control;

(b) National and Regional Leaders who are simply, knowingly and/ or unknowingly, as duped c-conspirators, partaking in this conspiracy by simply declaring a "pandemic", "emergency", and delegating decisions to their Chief medical officers who are simply following the dictates and guidelines without question nor concern for the world expert opinions against such measures, of the WHO;

(c) In effect there are less than a hand-full of people dictating the virtual fate of the planet whereby sovereign Parliaments, Courts, and Constitutions are by-passed;

(d) The "social media", such as Google, Facebook, YouTube, Amazon owned and operated by the likes of Bill Gates, Mark Zukerberg, and, in Canada, the CBC,funded and controlled by the Federal Government, are knowingly

playing in concert with this over-arching conspiracy, and in fact over-lapping conspiracies.

208. The Plaintiffs further state that through their conduct, communication, agreement, and functions of their intertwined respective public and private offices, the Defendants, knowingly and unknowingly, intentionally and unintentionally, as outlined, ***inter alia***, by the Supreme Court of Canada in the test set out in ***Hunt v. Carey*** and jurisprudence cited therein, have and to continue to:

(a) engage in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs, through the declaration of a false pandemic and implementation of coercive and damaging measures including the infliction of a violation of their constitutional rights as set out above in the within statement of claim; and/or

(b) to engage, in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, is to cause injury to the Plaintiffs, through the declaration of a false pandemic and implementation of coercive and damaging measures including the infliction of a violation of their constitutional rights as set out above in the within statement of claim, that Defendants and officials and employees, should know, in the circumstances, that injury to the Plaintiffs , is likely to, and does result.

211. The Plaintiffs state, and the fact is, that Canada's , and Trudeau's, connection to Gates, Gates' foundation, and various companies , and the global vaccine industry, is **inter alia,** as follows:

(a) PM Trudeau has echoed Bill Gates' sentiments that mass mandatory vaccination of people is necessary for any sense of normalcy to return.

(b) Gates uses proxies to successfully lobby the Canadian Government.

(c) The Gates Foundation founded GAVI, the Global Vaccine Alliance in 1999 with $750 million and continues to run it and fund it. The Global Vaccine Alliance, is an organization devoted to pushing vaccinations on the public all across the world.

(d) GAVI hired a lobbying firm called Crestview Strategy, a public affairs agency. Their Mission Statement is: "We make, change, & mobilize opinion."

(e) Canada has gifted Bill Gates, and his related Foundation and companies well over $1 Billion dollars in pursuit of his agenda, $800 Million recently by Justin Trudeau;

(f) Crestview has lobbied the Canadian Government on at least 19 occasions since2018 on various "health" matters, all on behalf of GAVI.

- **Bill Gates- Vaccines, Pharmaceuticals & Technology**

212. The Plaintiffs state, and the fact is, as set out in the within Statement of Claim, that Bill Gate's companies, and associates, manifest a clear agenda, for himself and his associates in the vaccine, pharmaceutical and technology, industries,

through the **de facto** control of the WHO, influencing and dictating its agenda, to:

(a) Effect a mandatory, global, vaccine policy and laws, which would net an approximately $1.3 Trillion per year, in which vaccine industry he is major proponent and investor;

(b) To effect surveillance, through his vaccination agenda, as outlined in their public statement, and the MIT developed smart-phone application to embed nannocrystal beneath the skin which can be read by a smart-phone through smart-phones, and 5-G capacity, in which industries Gates is a major stake-holder and investor;

(c) Using the above to "virtualize" and globalize the World economy , in which virtual and global New World (Economic) Order in which Gates further sits in the centre, along with the other Billionaire and corporate oligarchs;

(d) All of which is being effected and accelerated through the false pronouncement of a COVID-19 'pandemic'', and implementation of baseless and false, draconian measures.

213. The Plaintiffs state, and the fact is, that Bill Gates' statements, and conduct, in the above-noted facts, has been documented, as reflected in the within Statement of Claim, namely at paragraphs 63, 68, 69, 72, 75, 78, 81, 85, 93, 100, 107, 112, 118, 121, 124, 199, 200, 201, 202, 203, 205, of the within Statement of Claim, with respect to his agenda and conspiracy with others, including the Defandants.

- **The WHO / Gates/ Trudeau and Dr. Teresa Tam**

214. The Plaintiffs state and fact is, that the connection and common agreement between Gates-Trudeau-Tam, in addition to their statements and actions in furthermore of that agreement as outlined above in the within Statement of Claim, is further manifested by the following:

(a) On April 9, 2020 just before Easter, Trudeau announced that:

> *"We will not be coming back to our former normal situation; we can't do that until we have developed a vaccine and that could take 12 to 18 months..... [and]....This will be the new normal until a vaccine is developed."*[183]

(b) Trudeau's statement is a script lifted straight from Bill Gates' echoing almost word for word, the message Gates has been pushing since the coronavirus in North America earlier this winter. The April 9th **Highwire video clip at 2:07** captures Gates stating:

> "Things won't go back to truly normal until we have a vaccine that we've gotten out basically to the entire world."[184]

(c) Instead of following the recommendations of leading scientists, doctors and epidemiologists, Trudeau is foisting the Gates/WHO/ GAVI/ WEF globalist agenda which he knows or ought to know, will result in financial ruin for millions of Canadians including the Plaintiffs.

(d) Despite the prevailing global consensus on natural herd immunity, Bill Gates is determined however, to prevent natural immunity so he can

[183] https://nationalpost.com/news/canada/coronavirus-live-updates-covid-19covid19
[184] Blowing the Whistle on Covid-19, April 9, 2020: https://www.youtube.com/watch?v=5g4u1LJQ7_k

mandate his new vaccine(s) for everyone. Noted scientist and journalist, Rosemary Frei, shows Bill Gates does not want people to acquire immunity to COVID-19. Rather, Bill Gates prefers that we suffer the 'economic pain' of lockdown in order to prevent us from acquiring natural immunity as Gates has stated:

> "We don't want to have a lot of recovered people [...] To be clear, we're trying – through the shut-down in the United States – to not get to one percent of the population infected. We're well below that today, but with exponentiation, you could get past that three million [people or approximately one percent of the U.S. population being infected with COVID-19 and the vast majority recovering]. I believe we will be able to avoid that with having this economic pain."[185]

(e) In her latest compelling article, **Covid-19 Meltdown and Pharmas' Big Money Win,** Barbara Loe Fisher delves into the many disturbing angles of this epic viral/political war unleashed on humanity, the havoc caused by the Gates & Fauci lockdown policy and the economic spinoffs spawned by the pandemic.[186]

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[185] Did Bill Gates Just Reveal the Reason for the Lockdowns: By Rosemary Frei, Off-Guardian, April 4, 2020 https://off-guardian.org/2020/04/04/did-bill-gates-just-reveal-the-reason-behind-the-lockdowns/?__cf_chl_jschl_tk__=8a31c96b7b831b06c6631d2d800e39e274fdb4c5-1593827339-0AbbQnElw4gYMqoe14KfV-9sVWpJ8_fO6ZguVbep6dVylwrKGMbqfHkxidxl_3uCK08NImuk8B5fJzKB4cL3viT1qQYvV8722SeZLNTHOWUovzpclfiZQcDifxvg3QQ6jPmp
ZkNGtNlwGs874a0MhuRY9_t7yNj8TycXmcBXidqKFHOtCmuLJEmS9ZGcLDsNGb5WKidfnHO7DSzlQ10eNBgHMLXcrbjPrKsESdGlhwd3LjoY6FiHbJu4UIbTEJMbsKQFlq5XIIOtoLGY2e7fThzjnbUBrcjpv76AL5aOYmAQAIICC3ttqOt_k21mLMgHNFafI2gWSIIa4a2SUAI8IzoKXLcbkuTr0lpvKrbjkF8B4ij3p8MdQOK0DZHcW

[186] Covid-19 Meltdown and Pharma's Big Money Win: https://thevaccinereaction.org/2020/04/covid19-meltdown-and-pharmas-big-money-win/

(f) Covid-19 has sparked the hottest new market in town vaccine development. A staggering number of coronavirus vaccines are under development right now with astronomical piles of money being thrown at it. Gates is in the thick of it along with Tony Fauci. director of the National Institute for Allergy and Infectious Diseases (NIAID). Both are on record stating they don't want people developing natural immunity, in stating:

> "Now, I hope we don't have so many people infected that we actually have that herd immunity, but I think it would have to be different than it is right now", says Fauci.[187]

(g) Natural immunity would disrupt Bill Gates expressed intension to "vaccinate everything that moves". In a video interview Gates says:

> "Eventually, what we'll have to have is certificates of who is a recovered person, who's a vaccinated person, because you don't want people moving around the world where you'll have some countries that won't have it under control…"[188]

(h) The Gates foundation has invested tens of $billions in vaccine development which includes a decades long vicious propaganda war against anyone questioning vaccine safety. Gates' *'decade of vaccines'* from 2010-20 captured the global media and social media giants that have demonized and ruthlessly censored the 'vaccine risk aware' movement comprised mostly of vaccine injured families trying to protect their children and the basic human right to informed consent and exemption

[187] Covid-19 Meltdown and Pharma's Big Money Win: https://thevaccinereaction.org/2020/04/covid19-meltdown-and-pharmas-big-money-win/
[188] 6 How we must respond to the coronavirus epidemic, Youtube video March 25, 2020:https://www.youtube.com/watch?v=Xe8fljxicoo#t=33m45s

rights. This has been documented by various publications, which explore the massive influence and control with which the Gates' empire manipulates global health and vaccine policies.[189]

(i) In one article Canadian medical journalist, Celeste McGovern investigates the upcoming vaccine and microchip technologies Gates is funding.[190]

(j) In another, Robert F. Kennedy Jr. exposes the Gates/WHO agenda listing their deadly vaccine experiments in the developing world. Kennedy explains:

> "In 2010, when Gates committed $10 billion to the WHO, he said "We must make this the decade of vaccines." A month later, Gates said in a TED Talk that new vaccines "could reduce population." And, four years later, in 2014, Kenya's Catholic Doctors Association accused the WHO of chemically sterilizing millions of unwilling Kenyan women with a "tetanus" vaccine campaign.[191]

(k) Another expose is that of Vera Sharav, a Holocaust survivor and founder of the Alliance for Human Research Protection. She examines how Gates' table top 'Event 201' pandemic exercise in October, 2019, set the stage for how the coronavirus pandemic would be handled. It predicted the pandemic would end ONLY after an effective vaccine had been brought to market. It is no coincidence that the coronavirus pandemic was unleashed just weeks after Gates' pandemic 'war games' rehearsal and is now

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[189] Bill Gates search-Covid -19 Global Pandemic, Vaccine Impact News: https://vaccineimpact com/?find=bill+gates

[190] Bill Gates and Intellectual Ventures Funds Microchip Implant Technology, By Celeste McGovern, April 14, 2020: https://www.greenmedinfo.com/blog/bill-gates-and-intellectual-ventures-funds-microchipimplant-vaccine technology1?utm_campaign=Daily%20Newsletter%3A%20Bill%20Gates%20and%20Intellectual%20Ventures%20Funds%20Microchip%20Implant%20Vaccine%20Technology%20%28TCCz3V%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpbCI6ICJjLm1jZ292ZXJuQGhvdGlhaWwuY29UiwglmtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

[191] Bill Gates' Globalist Agenda: A Win-Win for Pharma and Mandatory Vaccination by Robert F Kennedy Jr April 9, 2020, Children's Health Defense:https://childrenshealthdefense.org/news/governmentcorruption/gates-globalist-vaccine-agenda-a-win-win-for-pharma-and-mandatory-vaccination/

playing out, as lockdown scenario threatens to continue until the new vaccine arrives?[192]

(l) Sharav also delves into Gates' vast business ventures related to enhancing pharmaceutical products and vaccines. His ID2020 is a digital ID program aimed at identifying 1 billion + people lacking identity documents. Also in development are several ID devices that people could be forced to have implanted into their body to identify their vaccine and birth-control status.[193]

215. With respect to the Defendants Trudeau and Tam, the Plaintiffs state, and the fact is that:

(a) Theresa Tam, Canada's chief public health officer and longtime loyal servant of the WHO, serves on multiple international committees and related organizations that dictate global health policies. Her main job is to make sure that Trudeau follows the WHO/Gates lockdown policy until the new Covid-19 vaccine arrives in 18 months.

[192]Bill Gates & Intellectual Ventures Funds Microchip Implant Vaccine Technology by Celetes McGovern, April 14, 2020: https://www.greenmedinfo.com/blog/bill-gates-and-intellectual-ventures-fundsmicrochip-implant-vaccinctechnology1?utm_campaign=Daily%20Newsletter%3A%20Bill%20Gates%20and%20Intellectual%20Ventures%20Funds%20Microchip%20Implant%20Vaccine%20Technology%20%28TCCz3V%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpbCI6ICJjLm1jZ292ZXJuQGhvdG1haWwuY29tIiwgImtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

[193] Coronavirus provides dictators and oligarchs with a dream come true, By Vera Sharav, Alliance for Human Research Protection, March 26, 2020: https://ahrp.org/coronavirus-provides-oligarchs-with-adream-come-true/

(b) Molly Chan, author of a **probing analysis** of Dr. Tam's career thinks it's evident from her background that:

> "Theresa Tam works with the world's most powerful globalist entities that have tremendous say in how the world deals with disease and immunization. This power enables them to have a grip on the entire planet, and to decide which measures are put into place to control the behaviour of people in any event they choose to cause a panic over. With COVID-19, we have a perfect example of how the decisions of this small group of people can lead to global hysteria and unprecedented societal changes."[194]

(c) Molly Chan asks important questions on Tam's career and extensive influence:

> "Does this make Theresa Tam a puppet or master? How is it possible to not follow WHO recommendations, when you're the one making them? She is on powerful committees!"

(d) Considering the multiple numerous high-level positions Dr. Tam holds on the international stage, Tam's first loyalty is not to the wellbeing of Canadians , or the Plaintiffs, but to the globalist policies so generously funded by Gates and Big Pharma.

[194] Dr. Theresa Tam, Queen of the Vaccine by Molly Chan, Civilian Intelligence Network, March 31, 2020: https://civilianintelligencenetwork.ca/2020/03/30/dr-teresa-tam-queen-of-the-vaccine/

(e) Chan dubs Tam as the *'Queen of Vaccine'* and explains:

> "convened public health leaders and parents to collaborate on the effort to shut down any hint of anti-vaccine thought. Governments, including Canada and the U.S. are also working with social media companies to remove vaccine misinformation and promote scientific literacy. She wants to make sure that people are not allowed to publicly say anything against vaccinations, and establish them as just a normal part of life, no questions asked."[195]

(f) While flexing her expansive influences, it seems a 'no brainer' Theresa Tam has been instrumental in controlling the CBC's narrative about the need to snuff out *'vaccine hesitancy'* which includes the ruthless censorship of any voices that would question vaccine safety in mainstream media.

(g) Tam is accused of **"total incompetence"** in having botched the Canadian response to the COVID-19 pandemic:

> "Tam has failed miserably, putting political correctness, and virtue-signalling lecturing ahead of doing her job. She couldn't grasp the situation in time, and when she grasped the seriousness of it was far too late to stop it."[196]

(h) The Toronto Sun's **cutting review** of Theresa Tam's incompetence says:

> "Our country is now run by 'healthcrats'. Dr. Theresa Tam is the Healthcrat who runs the federal government. **Her record on being wrong is spotless.**"[197]

(i) In a **recent interview** in Chatelaine magazine, Tam bashes vaccine resistors and accuses them of causing measles outbreaks. Her cryptic

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[195] Dr. Theresa Tam, Queen of the Vaccine by Molly Chan, Civilian Intelligence Network, March 31, 2020: https://civilianintelligencenetwork.ca/2020/03/30/dr-teresa-tam-queen-of-the-vaccine/
[196] Devastating timeline reveals complete incompetence of Theresa Tam's Virus Response https://spencerfernando.com/2020/03/29/devastating-timeline-reveals-total-incompetence-of-theresatams-virus-response/
[197] The healthcrats cure is proving worse than the disease, Toronto Sun, April 10, 2020: https://torontosun.com/opinion/columnists/snobelen-the-healthcrats-cure-is-proving-worse-than-thedisease

statement, ***"I always think we do a really good job, when no one knows what we're doing"***, reveals the federal health agency's lack of transparency and inability to provide crucial epidemiological data during this crisis.

G/ CONSEQUENCES OF MEASURES TO THE PLAINTIFFS AND OTHER CITIZENS, AND VIOLATION OF CONSTITUTIONAL RIGHTS

216. The Plaintiffs state, and the facts is, that the impact of containment measures to Plaintiffs is, **inter alia** that:

(a) Mass containment measures negatively impacts the development of herd immunity, artificially prolongs the epidemic, extends the period of confinement, and contributes to maintaining a high proportion of susceptible individuals in the population.

(b) California emergency room physicians stated that *"sheltering in place does more harm than good and lowers our immune system."* [198]

(c) The measures employed to achieve the objective of *"flattening the curve"* so as not to overwhelm the health care system were disproportionate to the objective. Our health care system has consistently operated at 40 – 50% **below** capacity since the introduction of these measures.

(d) The suspensions of rights to participate in community and in commerce has caused substantial and irreparable harm to the economy, livelihoods, communities, families, and the physical and psychological well-being of Canadians and the Plaintiffs. These include:

[198] https://vaccineimpact.com/2020/california-er-physicians-sheltering-in-place-does-more-harm-than-good-lowers-our-immune-system/

(i) A dramatic increase in reports of domestic violence (30%).

(ii) Over six million Canadians have applied for unemployment benefits and 7.8 million Canadians required emergency income support from the Federal government (as of May 2020). [199]

(iii) The deepest and most rapid loss of jobs, savings and income in the history of Canada. [200]

(iv) Numerous citizens have been forced into unemployment and poverty, the loss of their business, and bankruptcy.

(v) Estimates of the Federal deficit resulting from their response to SARS-CoV-2 ranges up to $400 billion (May 2020). [201]

(vi) Leading Economic Indicators show the Canadian economy is now in "*freefall*". [202]

(vii) Illnesses and conditions not related to SARS-CoV-2 have gone untreated and undiagnosed.

(viii) Dramatic increase in number of individuals dying at home due to lack of medical care and for fear of visiting emergency wards despite the fact that most hospitals have capacity.

(ix) Denial of access to health care professionals including doctors, dentists, chiropractors, physiotherapists, naturopaths, homeopaths, physiotherapists, massage therapists, optometrist, and osteopaths.

[199] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[200] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[201] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[202] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/

(x) Denial of access to health care services including cancer treatments, elective surgeries, testing, diagnosing, and treatment.

(xi) Regulated health care practitioners, including chiropractors, Naturopaths, and Homeopaths have been directed to refrain from providing health care knowledge to individuals concerned about SARS-CoV-2. This is an unwarranted infringement on the right to therapeutic choice.

(xii) Dramatic Increase in mental health challenges including suicide.

(xiii) The significant potential for the traumatizing children due to the disproportionate fear of contracting a virus for which the risk of death is virtually zero.

(xiv) Significant increase in alcohol consumption and drug use.

(xv) Denial of access to healthy recreation including parks, beaches, camping, cottages, and activities as golf, tennis, swimming, etc.

(xvi) Denial of a public education for children.

(xvii) Denial of access to consumer goods and services.

(xviii) Individuals dying alone in hospital and extended care facilities without the support of family and friends. [203]

(xix) Fathers denied access to be present for the birth of their child.

(xx) Elderly parents in supportive care are denied access to the support of their family and friends.

[203] https://globalnews.ca/news/6866586/bc-woman-disability-dies-covid-19/

(xxi) The effective closure of Courts of Law is unprecedented, illegal, unconstitutional, undemocratic, unnecessary, and impedes the ability of Canadians to hold our governments accountable.

(xxii) The effective closure of Parliaments is unprecedented, illegal, unconstitutional, undemocratic, unnecessary, and impedes the ability of Canadians, including the Plaintiffs, to hold governments accountable.

217. The Plaintiffs further state, and fact is, that:

(a) To combat COVID-19, "Canada's federal government has committed to measures totaling around $400 billion, of which about two-fifths constitutes direct spending." Currently, the deficit for 2019-2020 is expected to be well over $180-$200 Billion. This is seven times larger than the previous year's deficit. It is expected the interest alone, even at the very low current interest rates will cost $1B each year. [204]

(b) There is no evidence that the impact of these negative consequences were calculated, much less fully considered in the government's response to SARS-CoV-2.

(c) John Carpay, president of the Justice Centre for Constitutional Freedoms in Canada has stated there is reason to conclude that the government's response to the virus is deadlier than the disease itself. [205]

[204] https://www.huffingtonpost.ca/entry/canada-budget-deficit-covid19_ca_5e85f6bcc5b60bbd735085f4
[205] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/

(d) The cost of combatting SARS-CoV-2 is placed disproportionately on the young and blue collar and service workers who cannot work from home, as opposed to white collar workers who often can.

(e) The results from Sweden, and other countries that did not engage in mass and indiscriminate lockdowns, demonstrates that other more limited measures were equally effective in preventing the overwhelming of the health care system, and much more effective in avoiding severe economic and individual health consequences.

(f) The Ontario government took the "extraordinary step" to release a database to police with a list of everyone who has tested positive for COVID-19 in the province.[206]

218. Furthermore, while upon the declaration of the pandemic, based on a totally erroneous modeling, postulated that, as opposed to regular 650, 000 deaths every year form seasonal viral respiratory illness , world-wide, that 3.5 Million may or would die, the erroneous COVID implemented measures have proven to be more devastating than the "pandemic" at its posited worse in that:

(a) In Canada, as elsewhere, 170,000+ medical, surgical, operations are canceled, with the numbers climbing, as well as closure of other medical services at hospital, which have caused deaths;

(b) With the fear of lock-downs and self-isolation, patients have not accessed their doctor for diagnosis of medical problems;

(c) Documented spikes of domestic violence and suicides have been recorded;

[206] https://toronto.ctvnews.ca/mobile/ontario-takes-extraordinary-step-to-give-police-list-of-all-covid-19-patients-1.4910950?fbclid=IwAR10jfu_5OYq5BPZJKMyyqiN2P47dK_wbZzFMqC8WEpFxilhEFt81cGnfqc

(d) Inordinate spike in alcoholism, drug use, and clinical depression;

(e) Moreover, and most-shocking, the UN through an official of the World Food Bank, on April 22nd,2020, had published a document stating that, because of COVID-19 (measures)and the disruption of supply chain, it estimates that 130 **Million "additional people"** "on the planet could be on the brink of **starvation by end of year 2020** which, begs the question: why is it justifiable to add 130 Million deaths to purportedly save 3.5 Million?

219. The Plaintiffs state, and the facts is, that the purported, and false, goals of the WHO measures and its purveyors, such as the Defendants, are a perpetual moving target, and purposely shift to an unattainable goals, in that:

(a) The initial rationale for the mass lockdown of Canadian society was to "flatten the curve" to avoid overwhelming health care services. It was never about preventing the coronavirus from spreading altogether, but rather to render its spread manageable.

(b) It appears now that the goal has changed. Government appears to have shifted the goal to preventing the virus from infecting any and all Canadians. If so, this ought to be made clear, as should the justification for the change. [207]

(c) Yoram Lass, the former director-general of Israel's Ministry of Health is of the opinion that "lockdown cannot change the final number of infected people. It can only change the *rate* of infection." [208]

[207] https://nationalpost.com/opinion/raymond-j-de-souza-on-covid-19-a-lockdown-without-a-clear-goal
[208] https://www.spiked-online.com/2020/05/22/nothing-can-justify-this-destruction-of-peoples-lives/#.XsgqiN6D0uQ.facebook

(d) There are warnings of an imminent "second wave." But if the "first wave" has been flattened, planked or buried to the extent that in vast areas of the country very few people have been exposed to the virus at all, then the "second wave" is not really a second wave at all, but a delayed first wave.

(e) Minimizing the total spread of the coronavirus until a vaccine is available will be the most expensive goal in the history of human governance.

(f) There is no scientific evidence to substantiate that the elimination of the virus through self-isolation and physical distancing is achievable or medically indicated.

(g) According to four Canadian infectious disease experts, Neil Rau, Susan Richardson, Martha Fulford and Dominik Mertz - *"The virus is unlikely to disappear from Canada or the world any time soon"* and *"It is unlikely that zero infections can be achieved for COVID-19."* [209]

(h) There is no compelling reason to conclude that the general-population lockdown measures (first requested by the Trudeau government on 17 March) had a detectable effect in Canada. The lockdown measures may have been implemented after "peak prevalence" of actual infections, which renders mitigation measures entirely without effect.

(i) The Government of Canada has been slow to endorse the re-opening of the economy even as hospitals remain well below capacity – the metric that was initially used to justify the restrictions.

[209] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns

H/ THE PROPOSED COVID-19 VACCINE- "WE DO NOT GET BACK TO NORMAL UNTIL WE HAVE A VACCINE"

220. The Plaintiffs state, and the fact is, that the narrative and mantra created and propagated by Bill Gates that "we do not get back to normal until we have a vaccine" has been accelerated by a falsely declared "pandemic" to what has been a persistent push for **mandatory** vaccination of every human being on the planet, along with "global governance" as propagated by Bill Gates, Henry Kissinger, the Rockefeller Foundation, GAVI, the WEF, and their likes.

221. With respect to (mandatory) vaccines and the COVID-19, the Defendants, in addition to pushing the ultimate aim of mandatory vaccines, spear-headed by Bill Gates, and others, have also ignored and refuse to address the issues in the context of COVID-19, let alone vaccines at large, as reflected in, inter alia, the following:

(a) **Intention to Create Vaccine Dependency:** Is it ethical to deny children, young people and most of the population who are at low risk of mortality the opportunity to develop natural immunity when we know natural immunity is lifelong in most cases? Are we going to create another condition where we become 'vaccine dependent' or will we recognize the value of natural herd immunity? Advocates of the natural herd immunity model are of the opinion that rather than the mass isolation of billions of people, only the most at-risk people and their close associates should be isolated. The forced mass quarantine of an entire, mostly low-risk

population is disproportionate and unnecessary. This is the position being utilized by Sweden.[210]

(b) **Will A COVID 19 Vaccine Be Safe?**

(i) **Dr. Anthony Fauci** – is the director of the National Institute of Allergy and Infectious Diseases in the United States. Fauci has stated: *"We need at least around a year and a half to make sure any new vaccine is safe and effective."* [1]

(ii) **Dr. Paul Offit** - Offit warns, *"Right now you could probably get everyone in this country to get this (CV) vaccine because they are so scared of this virus. I think we should keep remembering that most people who would be getting this vaccine are very unlikely to be killed by this virus."*

(iii) **Dr. Peter Hotez** - dean of the National School of Tropical Medicine at Baylor College of Medicine, told Reuters, *"I understand the importance of accelerating timelines for vaccines in general, but from everything I know, this is not the vaccine to be doing it with."*

(iv) **Pathogenic Priming[211];**

[210] https://vaccinechoicecanada.com/in-the-news/will-a-covid-19-vaccine-save-us/
[211] https://www.sciencedirect.com/science/article/pii/S2589090203001867via%3Dihub=&amp=1

(c) **Jonathan Kimmelman,** a biomedical ethics professor at McGill University in Montreal, is watching how both scientific and ethical standards are maintained while the pandemic vaccine trials progress at breakneck speed.

> "My concern is that, in the fear and in the haste to develop a vaccine, we may be tempted to tolerate less than optimal science," Kimmelman said. "That to me seems unacceptable. The stakes are just as high right now in a pandemic as they are in non-pandemic settings. "To show how long the process can take, Kimmelman points to the example of the ongoing search for an effective HIV vaccine that began in the 1990s. Before healthy people worldwide receive a vaccine against SARS-CoV-2, the risk/benefit balance needs to tip in favor of the vaccine's efficacy in offering protection over the potential risks, he said. The balance still exists even in the face of a virus wreaking an incalculable toll on human health and society." [212]

(d) CBC News March 24, 2020 reported by Amina Zafar;[213]

(e) Moderna's vaccine uses genetic material from the virus in the form of **nucleic acid.** That tells the human body how to make proteins that mimic viral proteins and this should provoke an immune response. Denis Leclerc, an infectious diseases researcher at Laval University in Quebec City, said the advantage of nucleic acid vaccines like Moderna's is that they're much faster to produce than other types. While relatively safe, **nucleic acid vaccines are generally not the preferred strategy**, Leclerc said, because they **don't have the same safety record** as the traditional approach.

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[212] https://www.cbc.ca/news/canada/coronavirus-covid19-april16-canada-world-1.5534020
[213] https://www.cbc.ca/news/health/covid-19-vaccine-research-1.5497697

(f) **Will a COVID 19 vaccine be effective?Ian Frazer** - Immunologist Ian Frazer has downplayed the role of a vaccine in overcoming the coronavirus pandemic, saying it may "not stop the spread of the virus in the community". That's if a vaccine can be developed at all. Frazer, a University of Queensland scientist who was recognized as Australian of the Year in 2006 for his contribution to developing HPV vaccines, said a COVID-19 vaccine may not be the end-all to the current crisis. [214]

(g) **Role of Influenza Vaccination to Current Outbreak - Allan S. Cunningham**, Retired pediatrician The possibility that **seasonal flu shots are potential contributors** to the current outbreak. A randomized placebo-controlled trial in children showed that flu shots increased fivefold the risk of acute respiratory infections caused by a group of non influenza viruses, including coronaviruses.[215]

(h) **Mandatory Vaccination**

(i) **Diane Doucet** – Message to New Brunswick Committee on Law Amendments"Mandatory vaccination may soon be imposed on the entire population. Eventually, every person will have to decide between attending school, keeping their job, their home and their ability to participate in society and their so-called freedom to choose. People will also be at risk of losing their jobs if they speak out against mandatory vaccinations.

We are not talking about quarantining individuals infected by a disease. We are talking about the segregation of healthy children and adults from participating in society. Their crime is that they do not consent to handing over their bodies to the tyrannical will of a vaccine cartel which is accountable to no one.

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[214] https://7news.com.au/lifestyle/health-wellbeing/coronavirus-australia-immunologist-ian-frazer-expresses-doubt-around-role-of-vaccine-in-pandemic-c-983647

[215] https://www.bmj.com/content/368/bmj.m810/rr-0

> The policy makers look down upon the citizenry with arrogance. We live in a system that views the common people as being too ignorant to decide what's best for themselves and their children. When corporations, health agencies and government institutions treat people like chattel and punish those who do not submit, you have slavery. If an institution can take it upon itself and do what it wants to people's bodies against their will, then you live in a slave system. We find ourselves here today, wondering how we managed to slip this low."

- **Microchipping /Immunity Passports/ Social Contact Vaccine Surveillance & 5G**

222. 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.

223. In addition to the facts, pleaded with respect to Gates' vaccine-chip, nannocrystal "app" already developed, in late June, 2020, cell-phone companies, at the request of Justin Trudeau that the 30-Million eligible Canadians "voluntarily" load up "contract-tracing apps" now available from the phone-tech giants. These companies began dumping the apps on to customers without **informed** consent.

224. On June 30th, 2020, Canada announced that it was participating, to be included, as one of an initial fifteen (15) countries, to require "immunity passport", a cell-phone application disclosing medical vaccination history.[216] Canada is one of an initial fifteen (15) countries to enter into a contract to deploy "immunity

[216] https://www.mintpressnews.com/mass-tracking-covi-pass-immunity-passports-slated-roll-15-countries/269006/

passport" technology. The technology would utilize a cell-phone application to disclose medical vaccination history. [217]

225. The Plaintiffs further state, and the fact is, that above and beyond what is set out above in the within Statement of Claim, mandatory vaccination, for any disease, let alone a **virus**, is a flagrant violation of the Plaintiffs' **Charter** , and written constitutional rights, under s. 2 and 7 of the **Charter,** to freedom of belief, conscience, religion, and life liberty and security of the person as a violation of physical and psychological integrity, where informed medical consent is absent in a mandatory scheme.

- **Vaccines in General**

226. The Plaintiffs state, and the fact is that:

(a) it is undisputed that vaccines cause severe, permanent injury up to and including death in a certain percentage of those who are vaccinated, including physical, neurological, speech, and other disabilities;

(b) that, as a result of this reality, risk, and severe injury, certain North American jurisdictions, such as the USA, and Quebec, as well as all G-7 countries except Canada, have established compensation schemes for those injured and killed by vaccines;

(c) that Ontario has no such compensation scheme;

(d) that there is no individual pre-screening, to attempt to pre-determine, which individual may have a propensity to be so injured, even in cases where older siblings, in the same family have been injured, no

[217] https://www.mintpressnews.com/mass-tracking-covi-pass-immunity-passports-slated-roll-15-countries/269006/

investigation is undertaken or weighed with respect to the risks of their younger siblings being vaccinated;

(e) the Plaintiffs state, and the fact is, that while peanuts and other nuts, as an absolute proposition, do not injure or kill, they do injure or kill those who are allergic to them. While schools have taken saturated and heightened steps to make their spaces "nut-free", the risks of vaccines to children, particularly those who are pre-disposed to injury and death from them, are completely ignored.

227. The individual, biological Plaintiffs state that they further rely on the facts set out below under the Plaintiff heading "Vaccine Choice Canada (VCC)".

228. The individual, biological Plaintiffs state that the compulsory vaccination , and or testing, schemes violates their rights, by act and omission. Mandatory vaccination removes the right to weigh the "risks" of vaccinating or not vaccinating, to allow for informed choice, in that vaccines can cause injury or death, is a violation of their rights as follows:

(a) an ***in limine*** compulsory vaccination scheme violates s.2(a) and (b) of the ***Charter*** in infringing the rights to freedom of conscience, religion, thought and belief, as well as infringing the rights to liberty and security of the person, in interfering with the physical and psychological integrity of the person and the right to make choices as to that integrity and autonomy, pursuant to s.7 of the ***Charter***;

(c) that the failure and omissions of the Defendants, their officials and delegees, in the vaccination scheme, to transparently and honestly present the

risks of vaccination, pro and con, and the failure and omissions to make individual assessments to pre-determine and pre-screen those children who may have a propensity and pre-disposed to being vaccine injured, constitutes a violation of the same ***Charter*** cited above, in depriving the right to an informed consent before medical treatment through vaccine is compulsorily administered, by way of omission as set out by the Supreme Court of Canada in, ***inter alia, Vriend*** in unnecessarily exposing children and adults, to injury up to and including death, by an overly-broad, untailored, indiscriminate and blind vaccination scheme, notwithstanding the dire and pointed warnings in the manufacturers' own very inserts and warnings as to the risks.

229. The Plaintiffs state that the violations of their ss. 2(a) and (b) ***Charter*** rights are not justified under s.1 of the ***Charter*** and puts the Defendants to their onus of justifying the violations. The Plaintiffs further state that the violations of their s.7 ***Charter*** rights, as set out above in the statement of claim, are not in accordance with the tenets of fundamental justice in that the scheme and provisions suffer from overbreadth and that the protection of overbreadth in legislation has been recognized, by the Supreme Court of Canada, as a tenet of fundamental justice, and that further they cannot be saved under s.1 of the ***Charter,*** the onus of which lies with Defendants.

- **Vaccine Choice Canada (VCC)**

230. Vaccine Choice Canada is a federally registered not-for-profit educational society. VCC is committed to protecting children's health by informing parents of the existing and emerging scientific literature evaluating the risks, side effects, and potential long-term health effects of artificial immunization. VCC works to protect the right of all people to make fully informed and voluntary vaccine decisions for themselves and their children. Vaccine Choice Canada was originally incorporated as the Vaccination Risk Awareness Network (VRAN) in 1982. It changed its name to Vaccine Choice Canada(VCC) in 2014.

231. In the 38 years that Vaccine Choice Canada, and its predecessor organization, has been involved in reviewing the vaccine safety literature, supporting families in their vaccine decisions, and developing educational materials related to vaccine safety, efficacy and necessity, so that individuals can make responsible and informed decisions, VCC has noted, uncovered, and researched certain established facts as set out below.

232. VCC states that, with respect to facts pertinent to product safety testing, the facts and medical literature sets out that:

(a) Vaccines do not undergo the same level of safety testing as is required for all other drugs and medical products.

(b) None of the vaccines licensed for use in Canada have been tested for safety using long-term, double blind, placebo-controlled studies.

(c) Vaccine products licensed for use in Canada are not evaluated for safety using a neutral placebo, [218] a requirement for all other pharmaceutical products.

(d) Vaccines are an invasive medical intervention whose safety is determined primarily by the amount of injury or death reported *after* vaccination.

(e) Pre-licensing safety monitoring of childhood vaccines, prior to the vaccines being administered, is not long enough to reveal whether vaccines cause autoimmune, neurological or developmental disorders. [219]

(f) Studies designed to examine the long-term effects of the cumulative number of vaccines or other aspects of the vaccination schedule have not been conducted. [220]

(g) There are too few scientifically sound studies published in the medical literature to determine how many serious brain and immune system problems are or are not caused by vaccines. [221]

(h) The design and reporting of safety outcomes in MMR vaccine studies, both pre- and post-marketing, is largely inadequate. [222]

(i) Vaccines have not been tested for carcinogenicity, toxicity, genotoxicity, mutagenicity, ability to impair fertility, or for long-term adverse reactions.

(j) Health Canada does not conduct its own independent clinical trials to determine vaccine safety and efficacy and instead relies on the data provided by the vaccine manufacturers.

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[218] https://www.icandecide.org/wp-content/uploads/2019/08/VaccineSafety-Version-1.0-October-2-2017-1.pdf
[219] https://icandev.wpengine.com/wp-content/uploads/2019/08/ICAN-Reply.pdf
[220] https://www.nap.edu/catalog/13563/the-childhood-immunization-schedule-and-safety-stakeholder-concerns-scientific-evidence.
[221] https://www.nvic.org/PDFs/IOM/2013researchgaps-IOMchildhoodimmunizationschedulea.aspx
[222] https://www.cochrane.org/CD004407/ARI_using-combined-vaccine-protection-children-against-measles-mumps-and-rubella

(k) Studies comparing the overall health of vaccinated and unvaccinated children reveal that vaccinated children are significantly more likely to have neuro-developmental disorders and chronic illness. [223]

(l) There is evidence that vaccines are contaminated with unintended ingredients and that the health impact of injecting these ingredients is unknown. [224]

(m) Canada is the only G7 Nation without a national program to compensate those injured or killed by vaccination, and one(1) of two(2) G-20 Nations without a vaccine injury compensation program. The other nation being Russia.

(n) The United States Vaccine Injury Compensation Program has awarded more than $4.1 billion in compensation since 1989.

(o) The published medical literature recognizes that vaccines can cause permanent injury including death.

(p) The US government has acknowledged that vaccination can cause brain damage resulting in symptoms of autism in genetically susceptible children. [225]

(q) The US Centre for Disease Control (CDC)has acknowledged that every domestic case of polio that occurred after 1979 was caused by the vaccine strain of polio. [226]

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[223] https://antivakcina.org/files/MawsonStudyHealthOutcomes5.8.2017.pdf

[224] https://www.corvelva.it/it/speciale-corvelva/vaccinegate-en.html

[225] https://www.jeremyrhammond.com/wp-content/uploads/2019/10/080226-Vaccine-Autism-Court-Document-Kirby-HuffPost.pdf.

[226] https://web.archive.org/web/20150103130229/http://www.cdc.gov/vaccines/vpd-vac/polio/dis-faqs.htm.

(r) Vaccines include ingredients that are classified as poisons, carcinogens, toxins, neurotoxins, immune-and-nervous-system disruptors, allergens, fertility inhibitors, and sterilizing agents.

(s) Health Canada exposed children to cumulative levels of mercury and aluminum, in the incubation of the vaccines that exceeded the US FDA's safety guidelines.

233. VCC states that, with respect to the facts pertinent to screening for susceptibility to vaccine injury, that:

(a) Pre-screening to identify individuals who may be at increased susceptibility to vaccine injury and death does not occur in Canada.

(b) Health Canada has not committed resources to identify those individuals who may have increased susceptibility to experience vaccine injury or death.

(c) Policies to administer vaccines to "Mature Minors", often without the knowledge and consent of the parents and without the informed consent of the "Mature Minor",, in schools and medical settings without the knowledge or consent of the parents has inadequate safety protocols to fully consider the personal and family medical history prior to vaccination.

(d) This failure to fully consider personal and family medical history puts these youth at increased risk of vaccine injury.

234. VCC states that, with respect to the facts pertinent to monitoring of adverse effects of vaccination, that:

(a) Doctors and health care workers are not trained to recognize and diagnose vaccine injury.

(b) There are no legal consequences when medical professionals fail to report vaccine injury.

(c) Parents' observations of health and behavioral changes following vaccination are routinely ignored and denied by doctors and rarely captured in adverse events reporting systems.

(d) It is recognized that fewer than 1% of vaccine adverse reactions are reported. [227]

(e) Ontario's AEFI reporting system has lower reporting rates than other provinces. [228]

(f) The medical industry has failed to fully consider the combined toxicology of vaccine ingredients and the synergistic effect of combining vaccine ingredients.

230. VCC states that, with respect to the facts pertinent to safeguarding policy over patient health, that:

(a) The primary metric used by Health Canada to measure the success of the vaccine program appears to be how many vaccines are delivered.

(b) The goal of public health vaccine policy is to persuade parents to comply with the full vaccine schedule. [229]

(c) The pursuit of the goal of persuading parents to comply with vaccination recommendations is incompatible with the goal of allowing parents to possess the knowledge they need to exercise their right to informed consent, and act in their child's best interests.

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[227] https://healthit.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf
[228] https://www.myhealthunit.ca/en/health-professionals-partners/resources/Health-Care-Professionals/adverse-events/Annual_Report_Vaccine_Safet.pdf
[229] https://cic-cci.ca/

(d) The right to informed consent has been recognized as one of the most fundamental ethics in medicine.

(e) Public health professionals routinely fail to inform citizens of their legal right to personal, religious and medical exemptions where they exist.

(f) Health Canada, with respect to vaccines, places public policy over individual health considerations.

(g) Government policy makers have refused to consider the fact that the risks of the target diseases are not the same for every child and that some children are at greater risk of being harmed by vaccines due to genetic or environmentally caused predispositions.

(h) Government policymakers ignore that the fact that for informed consent to happen, the risk-benefit analysis must be conducted for *each* vaccine and *individually for each child.*

(i) Antibody titre testing is rarely conducted in an effort to avoid unnecessary vaccination.

(j) An increasing number of parents are choosing not to vaccinate because they recognize that public health vaccine policy poses a serious threat to both their health and liberty.

235. VCC states that, with respect to the facts pertinent to lack of accountability for vaccine Injury, that:

(a) Vaccine manufacturers and medical professionals are not held legally and financially accountable when vaccine injury and death occurs.

(b) A consequence of this legal immunity is that there is no legal or financial incentive for the vaccine industry to make their products safer, even when there is clear evidence that vaccines *can* be made safer.

(c) Systemic corruption within the medical establishment is well recognized within the scientific community. [230] [231]

(d) Conflicts of interest in biomedical research are "very common". [232]

236. VCC states that, with respect to the facts pertinent to informed consent, that Consumers are rarely informed that:

(a) vaccines do not confer life-long immunity;

(b) not all vaccines eliminate susceptibility to infection;

(c) not all vaccines are designed to prevent the transmission of infection;

(d) most vaccines do not alter the safety of public spaces; [233]

(e) Health Canada has acknowledged that vaccines are voluntary in Canada and cannot be made mandatory due to the Canadian Charter of Rights and Freedoms;

(f) there is no scientific evidence that herd immunity can be achieved using vaccines due to the temporary nature of the immunity offered nor that vaccine herd immunity is more effective that natural herd immunity;

(g) vaccine can and do cause permanent injury and death;

(h) there is no scientific evidence that vaccines are primarily responsible for reduced mortality over the last century as is often claimed;

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230 https://www.nybooks.com/articles/2009/01/15/drug-companies-doctorsa-story-of-corruption/
231 https://doi.org/10.1111/eci.12074
232 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1182327/.
233 https://childrenshealthdefense.org/news/why-you-cant-trust-the-cdc-on-vaccines/

(i) the human body has an innate capability to fight off infections and heal itself ;

(j) the pharmaceutical companies that produce almost all vaccines have been found guilty and paid billions of dollars in criminal penalties for research fraud, faking drug safety studies, failing to report safety problems, bribery, kickbacks and false advertising [234];

(k) Canadian children are among the most vaccinated children in the world

(l) there is no compensation available in Canada, except for Quebec, should vaccination result in injury or death;

(m) only two provinces in Canada (Ontario and New Brunswick) require exemptions to decline vaccination;

(n) recommended/required vaccines vary by province, by state, and by country.

237. Consumers are rarely provided with the product monograph (product information insert) by health care providers. Vaccines monographs warn of limitations to vaccine safety testing as well as recognized adverse events following vaccination which include severe and permanent injury and death.

238. Vaccine mandates violate the medical and legal ethic of informed consent.

239. Vaccine mandates violate *'The Universal Declaration of Bioethics and Human Rights'*, the *Nuremberg Code*, professional codes of ethics, and all provincial health Acts.

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[234] **GlaxoSmithKline Fined $3B After Bribing Doctors to Increase Drug Sales.** https://www.theguardian.com/business/2012/jul/03/glaxosmithkline-fined-bribing-doctors-pharmaceuticals?CMP=share_btn_fb
Merck: Corporate Rap Sheet
http://www.corp-research.org/merck

240. A review of the transcripts of the vaccine education materials produced by the Ontario government reveal that the risk of vaccine injury is discussed superficially, and that consumers are given insufficient information to make an informed decision.

241. A review of Public Health Agency of Canada recommended curriculum for school children reveals that education on the risk of vaccine injury is absent, as is education on the right to informed consent. [235]

242. The vaccine risk information provided to consumers varies by health region.

243. Vaccines are routinely administered to youth in medical clinics and school settings without the knowledge or consent of their parents.

244. Youth vaccinated in school-based clinics routinely report being intimidated into vaccination and being threatened with expulsion if they refuse vaccination.

245. Public health presents as if all vaccines carry the exact same risk/benefit assessment for all individuals.

246. Individual benefit versus individual risk of vaccination is rarely considered.

247. Indigenous people are required to receive vaccines other than those required for non-Indigenous people based on assumed risk, not upon medical evidence of risk.

248. VCC states that, with respect to the facts pertinent to the ***Immunization of School Pupils Act*** (ISPA), that:

(a) Only school children are mandated to provide their medical records under ISPA. Adults are not required and are less likely to be 'up to date' with their vaccinations.

[235] https://kidsboostimmunity.com/sites/default/files/reusable_files/kbi_bc.pdf

(b) The forced disclosure of private medical records puts a child's medical privacy at risk.

(c) This disclosure often results in the child being ostracized by school staff and peers.

(d) The ISPA does not give the medical officer of health authority to suspend a student. Only a principal can suspend a student from school. The Education Act does not have any section that allows a principal to suspend for lack of medical records. Yet this is routinely done for those who do not, or refuse, to comply with the mandatory scheme.

(e) Parents who do not comply with unlawful suspension are threatened with child protection services.

(f) Children who are under vaccinated or without exemptions are intimidated, held in the office, and incorrectly told by school officials that they need to get their shots or they cannot come to school.

(g) The HSARB (Health Service Appeal and Review Board), which deals with appeals of suspensions, registration and expulsions, cannot rule on ***Charter*** challenge cases, as the enabling legislation specifically bars jurisdiction to adjudicate ***Charter*** issues.

(h) There is zero accountability for violations of rights by the medical officer of health. This has resulted in many cases of the Medical Officer of Health unlawfully suspending young children for 60 to 90 school days, contrary to the 20 days suspension as set out in the ISPA.

I/ THE MEDIA

249. The Plaintiff states that the Defendant CBC, and other mainstream media, is purposely suppressing valid, sound, and sober criticism of recognized experts with respect to the measures that amount to censorship and violation of freedom of speech, expression and the media.

250. The Plaintiffs state, and the fact is, that CBC, a completely publicly- funded news service, and national broadcaster, paid for by Canadian taxpayers, has been to the Trudeau government, and acted as, PRAVDA was and acted for the Soviet Union in the cold-war, with respect to coverage of the COVID- "pandemic", "emergency", and its draconian measures.

251. The Plaintiffs state that CBC, as the nationally and publicly-funded broadcaster under the public broadcasting policy for the Canadian public, under the **Broadcast Act,** owes:

(a) a Fiduciary duty to the Plaintiffs and all citizens; and

(b) a duty in Negligence (negligent investigation) to the Plaintiffs and all citizens;

To be independent, fair, balanced, and objective in its coverage of the "pandemic", declared "emergency", and the measures undertaken, which duties it has breached causing damages to the Plaintiffs.

- **Negligence**

252. The Plaintiff states that the Defendant, CBC, as a publicly-funded mandate to publicly broadcast on behalf of Canadians, owes a common-law, and statutory duty of care to the Plaintiffs, to fairly, independently, objectively report, and engage in responsible journalism, on the news and current affairs, and the Plaintiffs further state that:

(a) the CBC breached that duty of care; and

(b) as a result of the breach of that duty of care, the Plaintiffs suffered damages.

253. The Plaintiff states and the fact is, this duty was breached by the CBC's negligent acts and omissions, including **inter alia**, the following:

(a) The daily broadcasting of Trudeau's press-conferences, with absolutely no questions about the scientific and medical evidence behind the measures, and their source;

(b) Whether contrary expert views exist, to the secret advice being followed;

(c) If opposite, expert opinion exist, what is the government's response to it?;

(d) The CBC further dumps, on a daily basis, the government numbers on COVID-positive rates, and death rates, without any investigation or scrutiny as to the basis of compiling those numbers, and who and how the parameters are determined in complying those numbers nor any contextual analysis as to what they mean;

(e) The CBC has done **no** independent investigation, nor asked any questions, on the scientific or medical basis of the COVID- measures but simply

parrots the government line, and has not investigated, exposed, nor published the avalanche of Canadian and World experts who firmly hold an opposite view, and severe criticism of the measures, nor put those criticism to the Federal Defendants for response.

254. In short, the Plaintiffs state, and the fact is, that CBC has breached its duty of care to the Plaintiffs, and has not acted in a fair, independent, objective, and responsible manner, but has acted in a manner more akin to a propagandistic state news agency serving a dictatorial regime.

255. The Plaintiffs state, and the fact is, that CBC has actually gone far beyond the above in that, in the rare instance CBC pretends to tackle an opposite view, CBC irresponsibly belittles, and in fact intentionally misleads, the Plaintiffs and viewers. For example, in a story published May 21st, 2020, written by CBC's Andrea Bellemere, Katie Nicholson and Jason Ho entitled **"How a debunked COVID-19 video kept spreading after Facebook and YouTube took it down"**, these "reporters" falsely and intentionally distort with respect to the video in question entitled **"Plandemic"**. In the story they refer, with a picture, to a person CBC describes as: "featuring controversial virologist Judy Mikovitz". In the story, these three "reporters" choose to:

(a) Delete the fact that it is **Dr. Judy Mikovitz, Ph. D.**, is a **recognized expert in virology** who worked at the Centre for Disease Control (CDC) with Anthony Fauci, with whom she had serious disagreement which she documented in her book entitled **"Plague Corruption"**;

(b) That she continues to work in, and be recognized as an expert in virology;

(c) The "reporters" do not give a hint as to by whom, when, on what medical basis her expert views were "debunked";

(d) Nor do the "reporters" investigate, nor pose any questions, about why it is appropriate to remove from Facebook, or YouTube, the views of a recognized, working World expert, of virology, with respect to issues of COVID-19. This conduct by these "reporters" and CBC, is intentional at worst, and depraved and gross negligence at best.

- **Fiduciary Duty**

256. The Plaintiffs further state that the CBC further has a fiduciary relationship, and owed a corresponding fiduciary duty, to the Plaintiffs, as the national publicly-funded broadcaster to fairly, independently, objectively report, and engage in responsible journalism, on the news and current affairs for the following reasons:

(a) The Defendant CBC is in a position of power over the Plaintiffs, with respect to what it covers and reports; and was able to use this power so as to control and affect the Plaintiff's interests in their right to freedom of speech, expression, and the media for their national, publicly-funded broadcaster under the **Broadcast Act,** with respect to the covid - "pandemic', "emergency" and measures;.

(b) The Plaintiffs are in a corresponding position of vulnerability toward CBC in depending on CBC to put out fair, balanced, responsible, objective and responsible reports on the reality of the "pandemic", the declared "emergency" as well as measures undertaken;

(c) CBC impliedly and statutorily undertakes to so, to act in the best interests of the Plaintiffs', and the public, in its functions and work, in that:

(i) the Defendant CBC performs a public function, to operate as Canada's national publicly-funded broadcaster under statute;

(ii) the Defendant CBC impliedly and statutorily undertakes to so to act in the best interests of the Plaintiffs'.

257. The Plaintiffs state that the Defendants breached this fiduciary duty as set out above in this Statement of Claim.

258. The Plaintiffs state, and the fact is, that CBC, Facebook, YouTube , Google, and other social media are viciously censoring, and removing any and all content that criticizes or takes issue with the WHO, and governments that follow WHO guidelines, with respect to covid-19, as purported "misinformation" contrary to "community standards" even when that content is posted by a recognized expert.

259. The Plaintiffs further state, and the fact is, that the Defendant Federal Crown is by way of act and omission, under **inter alia,** the **Broadcast Act** , and its Agencies such the CRTC, legislatively and administratively violating the Plaintiffs' rights under s. 2 of the **Charter,** to freedom of expression and the press in doing nothing to halt what has been described by members of the scientific community as " Stalinist censorship", by government, along with media the likes of CBC, Facebook, and YouTube. In fact, the Federal Crown goes further, in following suit with these social media censors, to propose

criminal sanctions for posting such deemed and anointed "misinformation" by all, including experts.

260. On or about end of May, 2020 the UK " Scientific Advisory Group for Emergency (SAGE) –COVID-19 Response, in response to the unwarranted measures of redaction, and removing, all criticism in respect of COVID-Measures, from the Report, of this government advisory body, the body responsible for their SAGE report referred to the government redaction as "Stalinist Censorship".

261. The Plaintiffs state, and the fact is, that CBC, Facebook, and YouTube, and other major social media, in their coverage of the COVID-19, have acted in the same fashion, by knowingly and intentionally suppressing and removing expert opinion not in line with the official dogma of the WHO, which is being blindly and deafly parroted and incanted by the Defendant governments (leaders) and their officials, to the detriment of the Plaintiffs and citizens at large, in violation of their constitutional rights.

J/ SUMMARY

262. In summary, the Plaintiffs state that the COVID -19 Legislation, and Regulations By-Laws, and orders, violate, as follows, the Plaintiffs' statutory and constitutional rights in:

(a) That the conduct of Justin Trudeau and Doug Ford, constitute a dispensing of Parliament under the pretense of Royal prerogative contrary to the Plaintiffs' constitutional rights to a Parliament;

(b) That the declaration of an emergency by Doug Ford in Ontario, was **ultra vires** , and continues to be **ultra vires,** the **Act** in failing to meet the requisite criteria to declare an emergency;

(c) That the declared emergency, and measures implemented thereunder are:

(i) Not based on any scientific or medical basis;

(ii) Are ineffective , false, and extreme;

(iii) Contravene ss. 2, 7,8,9, and 15 of the **Charter ;**

(iv) Contravene the same parallel unwritten constitutional rights, enshrined through the Pre-Amble of the **Constitution Act, 1867;**

(v) Contravene the same rights fund in the international treaty, read in, as a minimal standard of protection, under s. 7 of the **Charter,** as ruled by the Supreme Court of Canada, in, **inter alia,** the **Hape** decision;

(d) That the ''COVID- pandemic'' was pre-planned, and executed, as a false pandemic, through the WHO, by Billionaire, Corporate, and Organizational Oligarchs the likes of Bill Gates, GAVI, the WHO, the WEF, and others, in order to install a New World (Economic) Order with:

(i) **De facto** elimination of small businesses;

(ii) Concentration of wealth and the power to control economic activity in large global corporations;

(iii) To disguise a massive bank and corporate bail-out;

(iv) To effect global, **mandatory** vaccination with chip technology, to effect total surveillance and testing of any and all citizens, including the Plaintiffs;

(v) To shift society, in all aspects into a virtual'' world at the control of these vaccine, pharmaceutical, technological, globalized oligarchs, whereby the Plaintiffs, and all others, cannot organize nor congregate.

(vi) To effectively immobilize resistance to ths agenda by neutering Parliaments and the Courts, and by extension the Constitution and Constitutional Democracy and Sovereignty, in short to obtain "global governance".

263. The Plaintiffs rely on:

(a) the Statutory Schemes set out in the within statement of claim;

(b) The Pre-Amble to the **Constitution Act, 1867** and jurisprudence thereunder;

(c) ss. 2, 7,8,9, 15, and 24(1) of the ***Charter;***

(d) s. 52(1) of the ***Constitution Act, 1982;***

(d) the ***Common Law***;

(e) such further statutory or constitutional provisions as counsel may advise.

264. The Plaintiffs therefore request:

(a) The relief set out in paragraphs 1 to 5 of the within the Statement of Claim;

(b) Costs of this action on full indemnity basis;

(c) Such other or further relief as counsel for the Plaintiff may advise and this Honourable Court grant.

265. The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 3rd day of July, 2020.

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Court File No:

VCC, et al -AND- Justin Trudeau, et al
Plaintiffs Defendants

(Short title of proceeding)

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at Toronto

STATEMENT OF CLAIM

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EXHIBIT "QQ"

See enclosure and link below.

https://www.youtube.com/watch?v=7y0qU-p0xQU&

This is Exhibit "QQ" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

EXHIBIT “RR”

MENU

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Last name (required): exact match | Galati

First name or first initial (optional):

City (optional):

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This is Exhibit "RR" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

For detailed information about this directory, read Lawyer Directory Important Notice.

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Last name (required): exact match | Galati

First name or first initial (optional):

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EXHIBIT "SS"

THE LUNCH

The lawyer who challenged the Harper government and won

SEAN FINE > JUSTICE WRITER
PUBLISHED AUGUST 22, 2014

This article was published more than 8 years ago. Some information may no longer be current.

Rocco Galati
RACHEL IDZERDA/THE GLOBE AND MAIL

COMMENTS SHARE

Wherever I've gone this year in Canada, lawyers are talking about Rocco Galati. What's Rocco going to do next? If the Prime Minister tries any funny business with the courts, Rocco will stop him. Rocco won't sit by …

It's as if Mr. Galati, the Toronto lawyer who brought grief to the Conservative government, has been designated the Unofficial Opposition. He's the first person ever to challenge a Prime Minister's appointment of a Supreme Court judge. And he won. All the resources Stephen Harper and his government could bring to bear, and this upstart spending $42,000 of his own money won the case. And he's not done.

Canada's Unofficial Opposition is eating a tuna salad, washed down with red wine (a Negroamaro, an earthy wine from Friuli), at an outdoor patio on College Street in Toronto's Little Italy, just down the street from the three-storey house he has turned into an office for his small law firm.

The government never thought someone named Galati could defeat it, he says.

"They were so arrogant in assuming that an argument from me couldn't win or shouldn't win, because we live in a tribal culture. You're only an expert if you're anglo or francophone.… That's been made clear to me for 26 years. I'd put my win ratio in impossible cases up against anybody's, yet I'm still ridiculed when I bring a challenge. How does that work?"

But the real question is – why him? Why not someone else in this country of lawyers?

Trending

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BARRY HERTZ

This is Exhibit "SS" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

goes across the street to buy me new ones."

Snazzy in a beige linen suit with a striped shirt and grey-patterned tie (only the open-toed sandals hint at non-conformity), the 55-year-old comes from a world far from Ottawa's Wellington Street, where the Supreme Court and the Parliament buildings sit in a majestic row. He and his 12 siblings were born in Calabria, in southern Italy. Five of them died in early childhood. His father, a farmer, was court-martialled twice and interned because he didn't want to fight in Mussolini's army.

"He always told me the fascists don't come marching in overnight. It's a slow march."

His father came to Toronto in 1965, found work in construction, and brought the family over a year later. Only three of the children received any formal education, Mr. Galati says. But that includes a brother who, though he had only two years of public schooling, went to the University of Toronto as a mature student and became a lawyer.

"Because of my sense of history, I don't like the idea of injustice. Growing up in Toronto was no picnic in the sixties and seventies. It was a very brutal, racist environment. The police were enforcing wartime regulations. On College Street, up until Trudeau rewrote the loitering laws, more than two Italian males could not congregate. They'd get billy-sticked home by the police."

Although he is Catholic, he says his family was Jewish, on both sides, at one time. (When I first met him at his office, he showed me his late grandfather's Argentine identification document from 1918, framed on the wall. It has a Star of David on it.) He says most people don't realize how many Jews (and Muslims) used to live in Calabria, or about the violence used to kill or convert them in previous centuries. It's a recurrent theme of his – the loss of historical memory.

A fighter for long shots, he was a long shot himself. He says he was once assessed in school as intellectually handicapped, and it was only through the efforts of an English teacher at his technical high school, who recognized his perceptiveness in Shakespeare studies, that he was able to go to an academic school for Grade 13.

Bob Dylan saved him from life as an electroplater. He quit his job to move to Montreal to learn to read the poet Arthur Rimbaud in French; he came to Rimbaud knowing that he had influenced Bob Dylan.

"He was not very popular in his early years. That was to my liking – this guy stands on what he believes."

Once again, his future (and Canada's) was altered by the kindness of a teacher. He enrolled in non-credit courses in poetry at McGill University, and a teacher told him he'd written a publishable poem, and saw to it that McGill accept him as a full-time student. Despite an A- average, journalism schools and teachers' colleges rejected him – he still wonders if it was because of his name.

At York University's Osgoode Hall Law School in Toronto, he learned that his love of Bob Dylan stood him in good stead: Constitutional law was like poetry.

"I had a professor at Osgoode, a very bright man, Graham Parker, who I took courses on statutory interpretation from. He said to me, 'Do you read or write poetry?' I said, 'Yeah, I do both.' He said, 'I can tell. Reading statutes is as difficult as reading poetry.'"

He started his law career by working for – of all places – the federal Justice Department. "It seemed the best place for me to get to court frequently." But he owed $122,000 in bank and student loans, and the interest rate was 22 per cent; his salary was $29,000. If not for his financial need, "I might have stayed, because I enjoyed the kind of law they did."

Appeal. It was an unusual choice in several respects: He was semi-retired; he was a maritime law specialist (hardly a big need on the court); and he was little-known.

The Canadian legal community raised hardly a peep.

But in early October, Mr. Galati stepped in. He filed a lawsuit in Federal Court, saying the choice was illegal under the Supreme Court Act, which governs appointments. Federal Court judges can't be appointed for any of the three spots reserved for Quebec judges, he said.

There was nothing personal in it, he says.

"In fact, I like Justice Nadon. I was tormented by bringing the challenge. I thought he was a good judge. I got along with him. That's not the point. If it was my father, I would have brought the challenge."

Justice Nadon immediately stepped aside, pending a resolution of Mr. Galati's lawsuit. Then, Quebec's National Assembly passed a unanimous resolution opposing the appointment. Prime Minister Harper then asked the Supreme Court to rule on whether it was legal.

So why didn't anyone else challenge the appointment? "Look," Mr. Galati says, "there are about 300,000 lawyers in Canada. I think 299,995 think they're all going to the Supreme Court and they don't want to blow their chances. They're worried about their reputation."

Few thought he had a chance to win. "Most people in the legal establishment thought his case was frivolous," University of Montreal law professor Paul Daly says.

Fighting the odds is nothing new for Mr. Galati. Early in his career he argued 27 separate times in Federal Court that government officials need to provide reasons for their decisions. Finally, in Baker v. Canada, a 1999 deportation case on which he was co-counsel with Roger Rowe, representing a Jamaican immigrant mother, he won his point at the Supreme Court.

"It was epoch-making," Prof. Daly said. "Your liberty and sometimes your life are really in the hands of a government official. Because of Baker, the government has to give reasons for finding against you."

In the Nadon case, he had a secret advantage: he knew the Supreme Court Act inside and out from another improbable case.

Four years ago, he learned that a judge hearing a constitutional challenge of his was 77 – two years past retirement age – and that the chief justice could appoint a retired "deputy judge" if he needed someone to hear a case. The Federal Court had followed the practice since its creation in 1970, and a predecessor court since 1927. In 80 years, no one had challenged the practice. Mr. Galati did, in Felipa v. Canada, and won.

We are having a good laugh. In an earlier story, I somehow managed to slip his quote about the Harper government enjoying "urinating on the Constitution" past my editors. "I say that all the time," he tells me. "You're the first guy who put that in."

It is hard to say what is more fun to talk to Mr. Galati about – the personal or political. He's what my mother would call *a character*. His cellphone voice mail is a Miranda warning: "If you're anyone else except Miranda, please do not leave a message." Miranda is his daughter who is away at university in the United States. (Mr. Galati also has twin four-year-old boys from his second marriage; Miranda is from his first.)

Few outside of legal circles realize the lasting importance of the Nadon case. The Supreme Court gave itself the protection of the Constitution; from here on in, any changes to its composition will require provincial consent. On Mr. Galati's back, the court insulated itself from tampering.

Although he calls that "a big win," he still describes the ruling as a disappointment. "The way they politically split it is inconsistent and illogical." (The court said Federal Court judges can be named to the six non-Quebec spots on the Supreme Court.)

It's news to him that lawyers everywhere are talking about him. "That's strange," he says. The case hasn't changed his life, "except taking away time from my family and from my billable hours."

He makes his money from doing tax law, not constitutional cases.

And now he has launched a challenge to another of the Harper government's judicial appointments – that of Federal Court of Appeal Justice Robert Mainville to the Quebec Court of Appeal, and any subsequent appointment to the Supreme Court.

"The other thing I hear – 'You won the Nadon reference, but that's because nobody likes Nadon; everyone likes Mainville.' What kind of kindergarten debate is that, really? That's just stupid. Liking or not liking has nothing to do with it."

Rain has begun to fall, more on me than on him. Mr. Galati is in fine form, still going strong after two hours, the tuna long since finished. It is a good thing he picked up those batteries.

"I hear, 'Mr. Justice Mainville wanted a transfer to Montreal for personal reasons.' I sympathize. Are they going to bend the Constitution for me? Should we bend the Constitution for any individual? Well, no. If we do, we're back into *l'état, c'est moi.* We're back to the divine right of kings, Louis XIV and the Versailles culture.

"This is why stacking of the courts is a very serious concern. There's only one difference between a dictatorship and a constitutional monarchy: a fair and independent judiciary standing between the authority of the state and the rights of the citizen."

I tell him I need to pay him for the batteries so no one can accuse me of anything. I give him $5.

"Yeah, okay," he says. "I'm going to give you $1.50 back because as a lawyer I won't be bribed either." And he does.

In his own words:

Rocco Galati on the business of law:

"If I go broke, I'm no good to anybody. A lot of good lawyers who do a lot of good work lose sight of the business side and they go under."

On the source of his sharp tongue:

"It comes from my mother. She had a great, quick wit and was very quick with a metaphor. Everything that came out of her mouth was original and often funny."

On his previous work representing suspected terrorists:

appointment of Federal Court of Appeal Justice Robert Mainville to the Quebec Court of Appeal:

"The Federal Court, because they're human beings, is going to be resistant to the idea because he's one of their own. You know that beautiful line in *O Brother, Where Art Thou?* where the evil sheriff is the personification of the devil, and says 'The law is a *human* institution?' Therein lies the historic, ageless tension between the rule of law and human capriciousness and tribal impulses."

On whether the Supreme Court will grant leave to appeal, if the Mainville case goes that far:

"What's in it for the Supreme Court at this point? Nothing, they've constitutionalized their status. Will they care about one judge? Maybe not. There are a lot of variables that have nothing to do with the law, but with human frailties and dysfunction and a non-adherence to the idea of law."

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EXHIBIT “TT”

Federal Court | Cour fédérale

Date: 20120228

Docket: T-1700-11

Citation: 2012 FC 272

Ottawa, Ontario, February 28, 2012

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

DAVID SIVAK, LUCI BAJZOVA, MONIKA SIVAK, LUCIE BAJZOVA, MIROSLAV SARKOZI, ANDREJ BALOG, ZANETA BALOGOVA, GALINA BALOGOVA, VIKTOR SARKOZI, ANDREJ BALOG, ANDREJ BALOG, MARIE BALOGOVA, LUKAS BALOG, MILAN LASAB, MILADA LASABOYA, and ELVIS KULASIC

Plaintiffs

and

HER MAJESTY THE QUEEN and THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Defendants

REASONS FOR ORDER AND ORDER

THE MOTION

[1] I have before me a motion by the Defendants to strike portions of the Plaintiffs' Amended Statement of Claim. I heard this motion in conjunction with a motion by the Plaintiffs seeking certification as a class action and, to some extent, both motions need to be considered together.

[2] By way of judgment, dated March 31, 2011, I converted the Plaintiffs' previous judicial review application into an action pursuant to subsection 18.4(2) of the *Federal Courts Act*, directing that henceforth the judicial review would be treated and proceeded with as an action.

[3] Since actions are commenced by way of Statement of Claim, the Plaintiffs filed their most recent Amended Statement of Claim (Claim) on October 19, 2011, and it is this document against which the Defendants' strike motion is directed.

[4] The Defendants do not seek to strike the Claim in its entirety. They acknowledge the importance of resolving as quickly as possible the dispute between the parties concerning procedural fairness, natural justice, and the validity of the Fact-Finding Mission Report on State Protection Czech Republic, dated June 2009 (2009 Report) in so far as the 2009 Report relates to the Refugee Protection Division's (RPD) decision-making process. What the Defendants object to are those portions of the Claim that deal with tort allegations, as well as a few more peripheral matters which they say do not comply with the rules and jurisprudence that govern pleadings in this Court.

OVERVIEW

[5] After reviewing the Claim, my general conclusion is that the impugned portions are, as the Defendants allege, often little more than bald accusations which the Plaintiffs have attempted to bolster with colourful rhetoric and irrelevant asides instead of providing a real basis of fact. For example, a passage such as

> there is no doubt, in the minds of anyone involved with refugees, particularly the members of the immigration bar, as well as notable NGOs, that this "June, 2009 Report" was manufactured by the IRB, as a means of appeasing the Minister, in order to base negative findings and refugee determinations, which would reduce the acceptance rates of Czech Roma

is a statement of what the Plaintiffs hope to prove, but it also reveals that the Plaintiffs are short of facts to support their case, and so have to fall back upon the alleged omniscience of the "immigration bar" and "anyone involved with refugees." I do not see anywhere in the rules that govern pleadings that facts can be dispensed with provided plaintiff or defendant invokes the oracular powers of their own counsel and his or her cohorts at the bar.

[6] This matter was converted to an action because it raised important matters of possible institutional bias that I felt could not be assessed on judicial review given the limited record available to the Court. Since conversion, the Plaintiffs have broadened the scope of their objectives and now wish to accuse the Canadian government of conspiring to deprive them, and other Czech Roma, of their rights under our immigration system. If the Plaintiffs wish to launch such an attack they must proceed efficiently and effectively.

[7] To proceed efficiently and effectively both sides must abide by and follow the *Federal Courts Rules* (Rules) which were promulgated precisely for this purpose. At this stage in the proceedings the Plaintiffs must comply with the rules that govern the form and content of pleadings. In my view, the Plaintiffs have not done this with their Claim, and the result is that this action has already taken much longer than it should have taken to reach this stage. The issues raised by the Plaintiffs have a significance for many other extant and future refugee claims, and the system could easily become trammelled as other claims are held in abeyance to await the outcome of this action.

This situation gives rise to an even greater need for efficiency and effectiveness than might otherwise be the case. Hence, from this point on, the Court will look to counsel on both sides to do everything in their power to ensure the just, most expeditious and least expensive determination of this dispute on its merits.

[8] Deficient pleadings do not promote the just, most expeditious and least expensive determination on the merits. In fact, they promote the opposite, which is why it is important that the objections to the Claim be dealt with quickly and that timelines be set to achieve the remaining steps needed to carry this dispute to a resolution.

THE MOTION TO STRIKE

[9] Rather than request particulars, the Defendants have brought a motion to strike some portions of the Claim. After hearing the differences between counsel on these matters, I do not think the Defendants are being premature or heavy-handed. The wide disparity of views between the parties over what is required of pleadings means that the Court's early involvement is to be preferred.

The Applicable Rules

[10] I see no dispute between the parties concerning the applicable rules and principles that govern pleadings. The Plaintiffs simply allege that they have complied with the law and that their Claim as presently drafted is sufficient.

[11] The two principal functions of pleadings are to clearly define the issues between litigants and to give fair notice of the case which has to be met by the other side. See *Cerqueira v Ontario*, 2010 ONSC 3954.

[12] Rule 174 requires that every pleading shall contain a concise statement of the material facts on which the party relies, but shall not include evidence by which those facts are to be proven.

[13] Rule 181 requires that a pleading "shall contain particulars of every allegation contained therein."

[14] Pursuant to subsection 221(1) of the Rules, a defendant may bring a motion to strike out all or some of a statement of claim on the following grounds:

a. It discloses no reasonable cause of action;

b. It is immaterial, or redundant; or

c. It is scandalous, frivolous or vexatious.

[15] The test in Canada to strike out a pleading under Rule 221 of the Rules is whether it is plain and obvious on the facts pleaded that the action cannot succeed. In this regard, the Supreme Court of Canada has noted that the power to strike out a statement of claim is a "valuable housekeeping measure essential to effective and a fair litigation." See *Hunt v Carey Canada Inc.*, [1990] 2 SCR 959 and *R v Imperial Tobacco Canada Ltd.* 2011 SCC 42, at paragraphs 17 and 19.

[16] In determining whether a cause of action exists, the following principles are to be considered:

a. The material facts pled are to be taken as proven, unless the alleged facts are based on assumptive or speculative conclusions which are incapable of proof;

b. If the facts, taken as proven, disclose a reasonable cause of action, that is, one with some chance of success, then the action may proceed; and

c. The statement of claim must be read as generously as possible, with a view to accommodating any inadequacies in the form of the allegations due to drafting deficiencies.

See *Operation Dismantle Inc. v Canada*, [1985] 1 SCR 441.

[17] These basic principles have acquired a fairly heavy gloss of case law over the years as the Court has applied them to particular sets of pleadings. I think it might be helpful at this stage to set out some of the more basic guidelines that have emerged from the cases that I believe have relevance for this motion.

Rule 174

[18] In *Baird v Canada* 2006 FC 205; affirmed 2007 FCA 48, a statement of claim was held to be fatally flawed where it did not specify a time when the offending activities giving rise to the causes of action took place. Nor did it specify which Crown servant did something wrong. The pleadings were allegations and conclusions, and did not provide the essential facts grounding the cause of action.

[19] In *Sunsolar Energy Technologies (S.E.T.) Inc. v Flexible Solutions International Inc.* 2004 FC 1205, this Court concluded that in order to implead corporate officers and directors, actual actions of personal conduct must be pleaded. A bare assertion of conclusion is not an allegation of material fact, nor can it support a cause of action against an individual defendant. Nor can it be pled that it is a "reasonable conclusion" that an individual was implicated to a sufficient extent to support a finding of deliberate acts. To hold otherwise is to turn an action into a fishing expedition.

[20] *Conohan v The Cooperators*, [2002] 3 FC 421, 2002 FCA 60 makes the often repeated point that it is sufficient for a party to plead the material facts. Counsel is then at liberty to present in argument any legal consequences which the facts support.

[21] The importance of pleading facts is asserted again in *Johnson v Canada (Royal Canadian Mounted Police)* 2002 FCT 917, where the Court reiterated that it is not sufficient for a claim to contain assertions without facts upon which to base those assertions. In *Johnson*, this meant that a plea of breach of agreement must allege the relevant terms that have been breached, and a plea of breach of fiduciary duty must identify the material facts alleged to give rise to the existence of the duty and the breach.

[22] *Kastner v Painblanc* (1994), 58 CPR (3d) 502, 176 NR 68 (Fed. CA) emphasizes the important general point that an action is not a fishing expedition and that a plaintiff who starts proceedings in the hope that something will turn up abuses the Court's process.

Rule 181

[23] *Chen v Canada (Minister of Citizenship and Immigration)* 2006 FC 389, makes it clear that the purpose of pleadings is to define the matters at issue between the parties, but the purpose of particulars is different. Particulars are meant to provide the opposing party with sufficient information of the allegations being advanced so that it might know the case to be met at trial and to prepare a full and meaningful response. If a pleading is not good as a matter of law, particulars cannot save it. If it is not good as a matter of pleading, particulars will not improve it. These distinctions are of significance in the present case because Plaintiffs' counsel often took the position before me that this motion to strike is not appropriate because the Defendants have not asked for particulars and, if the Claim as pled is in any way defective, such defects can be remedied by the Court simply ordering particulars.

[24] *Paul v Kingsclear Indian Band* (1997), 137 FTR 275 (TD), however, establishes clearly that there is no obligation on a defendant to demand particulars and a plaintiff cannot cure an otherwise deficient statement of claim by arguing that defendant has not sought particulars.

Rule 221

[25] *Edell v Canada (Revenue Agency)*, [2010] GSTC 9, 2010 FCA 26, reaffirms the fundamental rule that in a motion to strike the Court is narrowly limited to assessing the threshold issue of whether a genuine issue exists as to material facts requiring a trial. All allegations of fact,

unless patently ridiculous or incapable of proof, must be accepted as proved. The defendant who seeks summary dismissal bears the evidentiary burden of showing the lack of a genuine issue.

[26] The fundamental rule, however, must take into account that no cause of action can exist where no material facts are alleged against the defendant. See *Chavali v Canada* 2002 FCA 209.

[27] *Apotex Inc. v Glaxo Group Ltd*, 2001 FCT 1351 teaches that the Court should generally refuse to strike out "surplus statements" that are not prejudicial. Doubt is to be resolved in favour of permitting the pleading so that relevant evidence in support of the pleading may be brought before the trial judge.

[28] Also, while the Court is not required to re-draft pleadings, it must examine defective pleadings to determine if they could be saved through proper amendments. See *Sweet v Canada* (1999), 249 NR 17 (Fed. CA).

[29] Even though, if there is any doubt, paragraphs in the pleadings should be left in so that evidence may be brought before the trial judge, this does not mean that redundant or immaterial paragraphs outlining the evidence should remain in the pleadings. See *Mathias v The Queen*, [1980] 2 FC 813 (TD).

[30] *Kisikawpimootewin v Canada*, 2004 FC 1426 reiterates the well-recognized premise that a scandalous, vexatious or frivolous action includes an action where the pleadings are so deficient in factual material that the defendant cannot know how to answer. This is echoed again in *Murray v*

Canada (1978), 21 NR 230 (Fed. CA). A claim that does not sufficiently reveal the facts upon which a cause of action is based, such that it is not possible for the defendant to answer or the Court to regulate the action, is a vexatious action.

[31] There are many cases that hold that an action cannot be brought on speculation in the hope that sufficient facts may be gleaned on discovery to support the allegations made in the pleadings. See, for example, *AstraZeneca Canada Inc. v Novopharm Ltd.* 2009 FC 1209; appeal dismissed 2010 FCA 112.

[32] In fact, it is an abuse of process for a plaintiff to start proceedings in the hope that something will turn up. A plaintiff should not be permitted to discover the defendant to pursue such an action. See *Kastner*, above.

[33] I think it is also well-established that the rule that material facts in a statement of claim must be taken as true in determining whether a reasonable cause of action is disclosed does not require that allegations based upon assumptions and speculation be taken as true. See *Operation Dismantle*, above.

GROUNDS

The Minister of Foreign Affairs

[34] The Defendants say that the Minister of Foreign Affairs should be struck from the Claim as he is not a proper or necessary party; nor is he vicariously liable for acts or omissions of employees at visa posts abroad.

[35] Paragraph 104(1)(*a*) of the Rules authorizes the Court to order that a person who is not a proper or necessary party shall cease to be a party to an action. A person is only considered a necessary party where he or she would be bound by the results of the action, and where there is a question in the action "which cannot be effectually and completely settled unless he is a party." The Defendants say that the Minister of Foreign Affairs does not fall into either category. Furthermore, where the Plaintiffs' Claim does not seek relief against a defendant, and makes no allegations against him, that defendant is not a necessary party.

[36] The Defendants say that, in the present case, the Claim does not disclose any material facts that establish wrongdoing on the part of the Minister of Foreign Affairs or that support a cause of action against him. The Claim contains only bald allegations respecting this defendant which are asserted in the form of conclusions. In fact, the Minister of Foreign Affairs is referred to only twice in the Claim: once in paragraph 7(b)(ii), which describes the Minister as a party while making allegations against his staff, and again in paragraph 23 in which the Plaintiffs conclude, without any supporting facts, that the Minister of Foreign Affairs "conspired with and facilitated in the manufacturing of the June 2009 Report." It is possible that the Plaintiffs are also referring to the

Minister of Foreign Affairs in paragraphs 26 and 27 of the Claim, which allege a "Ministerial and IRB effort to attempt to be rid of the Roma problem" and a "Ministerial and RPD conspiracy." However, the term "Ministerial" is not defined in the Claim and no facts are pled to support the conclusions in those paragraphs. Therefore, it is entirely unclear how the Minister of Foreign Affairs is implicated in any alleged wrongdoing.

[37] Furthermore, the Defendants say that the Minister of Foreign Affairs is not vicariously liable for the acts or omissions of the staff members at the embassies and visa posts abroad. While unclear from the vague language in the Claim, the Plaintiffs appear to make this allegation at paragraph 7(b)(ii). The Minister of Foreign Affairs, however, is himself a Crown servant when acting in his official capacity. An individual Crown servant is not vicariously liable for the torts of subordinate Crown servants. This also applies to the statement at paragraph 7(b)(iii) in which the Plaintiffs claim that the Minister of Citizenship and Immigration is liable for the actions of his employees and staff.

[38] Based on the foregoing, the Defendants say that the Claim does not comply with Rules 174 and 181 respecting the allegations against the Minister of Foreign Affairs. He should be removed as a party to the within action and the Claim should be amended accordingly. In addition, the portions of paragraph 7(b) alleging vicarious liability on the part of the Minister of Foreign Affairs and the Minister of Citizenship and Immigration should be struck.

[39] In response, the Plaintiffs argue that, with respect to paragraphs 9 to 23 of the Defendants' submissions:

a. The Minister of Foreign Affairs in statutorily charged with overseeing, *inter alia*, the operations of Canada's embassies and the foreign missions, including the issuance of visas when visa requirements are imposed;

b. Questions with respect to the contact of the two researchers who drafted the "June, 2009 Issue Paper", and the Canadian Embassy were refused answered;

c. The Plaintiffs plead, as a fact, that both the Minister of Citizenship and Foreign Affairs, conspired to:

   (i) Engage in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs, and all other Canadians (*sic*); and/or

   (ii) To engage in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, and all other Czech Roma, is to cause injury to the Plaintiffs and all other Czech Roma, or the Defendants' officials should know, in the circumstances, that injury to the Plaintiffs, and all other Czech Roma, is likely to, and does result;

d. The Plaintiffs have pleaded that the actions of the Minister, and his officials, breached their Charter and constitutional rights;

e. While Ministers are generally not named as Defendants, there are exceptions to this, particularly with respect to constitutional and Charter issues and the Plaintiffs state that this is such an exception and that, at this juncture, it is premature to strike any parties from the pleadings. See *Liebmann v Canada (Minister of National Defence)*, [1994] 2 FC 3 and *Cairns v Farm Credit Corp.*, [1992] 2 FC 115.

[40] I do not think that the Plaintiffs adequately answer the complaints raised by the Defendants. My reading of the Claim leads me to the conclusion that the Plaintiffs' accusations against the Minister of Foreign Affairs are, as pled, nothing more than speculative allegations and conclusions unsupported by material facts.

[41] I agree with the Defendants that, as presently drafted, the Claim does not disclose sufficient material facts to establish and support:

a. Any wrongdoing on the part of the Minister of Foreign Affairs;

b. Any cause of action against him;

c. How the Minister of Foreign Affairs could be vicariously or otherwise liable for the acts and omissions of other people such as staff members at the embassies and visa posts abroad and/or the imposition of visa requirements.

[42] As it stands, the allegations against the Minister of Foreign Affairs are bald accusations. If the Plaintiffs wish to establish that the Minister of Foreign Affairs has conspired to cause them injury, then they must set out the facts upon which they rely. As presently drafted, the Claim merely states what the Plaintiffs hope to prove at trial. At this stage, this amounts to a fishing expedition. As the Federal Court of Appeal made clear in *Simon v Canada*, 2011 DTC 5016; 2011 FCA 6, the requirement that a pleading contain a concise statement of the material facts relied upon is a technical requirement with a precise meaning in law. Each constituent element of a cause of action must be pleaded with sufficient particularity. Making allegations without a factual foundation is an abuse of process. In my view, there is nothing clear and/or inferable in the way the Minister of Foreign Affairs is simply accused of wrongdoing on the basis that he has some vague responsibility

for overseeing embassies and foreign missions, or that embassy officials are somehow conducting a broad "Ministerial" conspiracy.

[43] The Federal Court of Appeal in *Baird v Canada* 2007 FCA 48 affirmed that a statement of claim was fatally flawed where it did not specify a time when the offending activities giving rise to the causes of action took place, and did not specify which Crown servant did something wrong. It is not enough to plead allegations and conclusions. The essential facts grounding a cause of action must be pled.

[44] The applicable rules and jurisprudence interpreting those rules, are readily available to the Plaintiffs and their counsel. The failure to plead sufficient material facts to support a claim against the Minister of Foreign Affairs, or particular Crown servants, leads me to conclude that the Plaintiffs have no such facts and are seeking to use these proceedings as a fishing expedition.

Negligence

[45] I also agree with the Defendants that the Plaintiffs have not pled, or factually substantiated, the essential elements of the tort of negligence.

[46] As the Defendants point out, to support a cause of action in negligence, a statement of claim must include sufficient facts to support the essential elements of the tort. These include establishing a duty of care, providing details of the breach of that duty, explaining the causal connection between the breach of duty and the injury, and setting out the actual loss. Such a claim requires a factual

basis that identifies each wrongful act as well as negligence, such as the "when, what, by whom and to whom of the relevant circumstances." See *Benaissa v Canada (Attorney General)* 2005 FC 1220, at paragraph 24.

[47] The Plaintiffs make a bald allegation at paragraph 28(b) of the Claim that the "Defendants' officials have been negligent in the exercise of their common-law, statutory, and constitutional duties owed to the Plaintiffs" and that these duties arose in the context of the processing of their refugee claims pursuant to the *Immigration and Refugee Protection Act*. This is followed by unsubstantiated statements that the "Defendants' officials breached this duty of care" and that this caused the Plaintiffs' losses.

[48] I agree with the Defendants that such allegations are nothing more than conclusions and are not sufficient to support a cause of action in negligence. No details have been provided to identify the "Defendants' officials," to explain their roles and responsibilities in relation to the Plaintiffs, or to establish their connection to any of the parties. Similarly, the Claim is silent as to the "Defendants' officials" particular acts or omissions that the Plaintiffs' claim were negligent and no facts are included to support the specific "common-law, statutory and constitutional duties" that were allegedly breached. It seems to me that the general requirements for establishing liability in tort have not been met and it would be impossible to conduct the necessary analysis to determine whether liability could be established. As the Defendants point out, this is particularly difficult where the defendant is a government actor. Issues arise as to whether public law discretionary powers establish private law duties owed to particular individuals or whether the decisions in question were policy decisions or operational decisions. These questions are very complex and

detailed factual pleadings are required in order to properly determine whether a cause of action exists.

[49] As I read the Claim as presently drafted, the majority of the limited factual allegations upon which the claim in negligence is based relate mainly to members of the Board and/or of the Board's Research Directorate. The Defendants are correct to point out that these individuals are not linked to the named Defendants in the Statement of Claim and factual allegations respecting their conduct are insufficient and fail to ground liability in negligence by the named Defendants.

[50] All that the Plaintiffs say in general reply is that "the proper and complete context and reading [of all their tort claims] illustrate that the various causes of action are properly pleaded."

[51] Once again, if the Claim is read in the light of the relevant rules and governing jurisprudence, I think the Plaintiffs fall a long way short of providing what is required.

Conspiracy

[52] The Defendants point out that the Plaintiffs have not pled the essential elements of the tort of conspiracy and that paragraphs 23, 27 and 28(a)(iv) should therefore be struck from the Claim.

[53] The Defendants direct the Court to the Supreme Court of Canada decision in *Canada Cement LaFarge Ltd. v British Columbia Lightweight Aggregate Ltd.*, [1983] 1 SCR 452 (SCC) at paragraph 33 for the constituents of the tort of conspiracy:

> … whereas the law of tort does not permit an action against an individual defendant who has caused injury to the plaintiff, the law of torts does recognize a claim against them in combination as the tort of conspiracy, if:
>
> 1. whether the means used by the defendants are lawful or unlawful, the predominant purpose of the defendants'conduct is to cause injury to the plaintiff; or,
>
> 2. where the conduct of the defendants is unlawful, the conduct is directed towards the plaintiff… and the defendants should know in the circumstances that injury to the plaintiff is likely to and does result.

[54] In *Normart Management Ltd. v West Hill Redevelopment Co.*, (1998), 37 OR (3d) 97 (OCA) the Ontario Court of Appeal provided guidance with respect to pleading the tort of conspiracy at paragraphs 21 and 22. Applied to the present context, I think this means that, as the Defendants point out,

a. All the parties to the conspiracy must be identified and their relationship to each other must be described;
b. Agreements between the various defendants must be pled with all facts material to such agreements including the parties to each agreement, the date of the agreement, and the object and purpose of each agreement;
c. Overt acts of each of the alleged conspirators in pursuance or furtherance of the conspiracy must be pled with clarity and precision, including the times and dates of such overt acts; and
d. The pleadings must allege the injury and the damage occasioned to the plaintiffs and special damages in the sense of the monetary loss the plaintiffs have sustained must be pled and particularized.

[55] Once again, I have to agree with the Defendants that the Claim is entirely deficient with respect to pleading the elements of the tort of conspiracy. Bald allegations of a conspiracy involving undefined Ministers, the Board, and unidentified "Defendants' officials" are made at paragraphs 23, 27 and 28(a)(iv) without any reference to the above requirements. The Plaintiffs also accuse the "Defendants' officials" of engaging in unlawful conduct at paragraph 28(b)(iii)(A), but provide no details to describe this conduct or establish its unlawfulness. This is scandalous and vexatious.

[56] Once again, the Plaintiffs provide no detailed response and say little more than that, in their opinion, they have complied with the rules and the governing jurisprudence.

[57] I have to conclude that, once again, when the Claim is read against the rules and governing jurisprudence, the paragraphs alleging conspiracy should be struck.

Misfeasance in Public Office/Abuse of Authority

[58] The Defendants make similar complaints in relation to this aspect of the Claim. They say that the Plaintiffs have not pled the essential elements of the tort of misfeasance in public office/abuse of authority, so that, paragraphs 24 and 28(a)(i) and (iii) of the Claim should be struck.

[59] In *Freeman-Maloy v Marsden*, (2006) 79 OR (3d) 401, the Ontario Court of Appeal provided the following guidance regarding the constituents of the tort of misfeasance in a public office:

> [10] The tort of misfeasance in a public office is founded on the fundamental rule of law principle that those who hold public office

> and exercise public functions are subject to the law and must not abuse their powers to the detriment of the ordinary citizen. As Lord Steyn put it in *Three Rivers District Council v. Bank of England* (No. 3), [2000] 2 W.L.R. 1220, at p. 1230 W.L.R.: "The rationale of the tort is that in a legal system based on the rule of law executive or administrative power 'may be exercised only for the public good' and not for ulterior and improper purposes." The "underlying purpose" of the tort of misfeasance in a public office "is to protect each citizen's reasonable expectation that a public officer will not intentionally injure a member of the public through deliberate and unlawful conduct in the exercise of public functions": *Odhavji*, *supra*, at para. 30.
>
> [11] In *Three Rivers*, *supra*, the House Lords identified the ingredients of the tort as being: (1) the defendant must be a public officer; (2) the claim must arise from the exercise of power as a public officer; and (3) the mental element, namely, the defendant must have acted with malice or bad faith. In *Odhavji*, at para. 23, [page407] Iacobucci J. described the elements of the tort in similar terms: "First, the public officer must have engaged in deliberate and unlawful conduct in his or her capacity as a public officer. Second, the public officer must have been aware both that his or her conduct was unlawful and that it was likely to harm the plaintiff."

[60] The Supreme Court of Canada has also provided extensive guidance with regard to this tort. In *Odhavji Estate v Woodhouse* 2003 SCC 69 (SCC), the Supreme Court of Canada emphasized the following:

> 22 What then are the essential ingredients of the tort, at least insofar as it is necessary to determine the issues that arise on the pleadings in this case? In *Three Rivers*, the House of Lords held that the tort of misfeasance in a public office can arise in one of two ways, what I shall call Category A and Category B. Category A involves conduct that is specifically intended to injure a person or class of persons. Category B involves a public officer who acts with knowledge both that she or he has no power to do the act complained of and that the act is likely to injure the plaintiff. This understanding of the tort has been endorsed by a number of Canadian courts: see for example *Powder Mountain Resorts, supra*; *Alberta (Minister of Public Works, Supply and Services)* (C.A.), *supra*; and *Granite Power Corp. v. Ontario*, [2002] O.J. No. 2188 (QL) (S.C.J.). It is important, however, to recall that the

two categories merely represent two different ways in which a public officer can commit the tort; in each instance, the plaintiff must prove each of the tort's constituent elements. It is thus necessary to consider the elements that are common to each form of the tort.

23 In my view, there are two such elements. First, the public officer must have engaged in deliberate and unlawful conduct in his or her capacity as a public officer. Second, the public officer must have been aware both that his or her conduct was unlawful and that it was likely to harm the plaintiff. What distinguishes one form of misfeasance in a public office from the other is the manner in which the plaintiff proves each ingredient of the tort. In Category B, the plaintiff must prove the two ingredients of the tort independently of one another. In Category A, the fact that the public officer has acted for the express purpose of harming the plaintiff is sufficient to satisfy each ingredient of the tort, owing to the fact that a public officer does not have the authority to exercise his or her powers for an improper purpose, such [page282] as deliberately harming a member of the public. In each instance, the tort involves deliberate disregard of official duty coupled with knowledge that the misconduct is likely to injure the plaintiff.

24 Insofar as the nature of the misconduct is concerned, the essential question to be determined is not whether the officer has unlawfully exercised a power actually possessed, but whether the alleged misconduct is deliberate and unlawful. As Lord Hobhouse wrote in *Three Rivers, supra*, at p. 1269:

> The relevant act (or omission, in the sense described) must be unlawful. This may arise from a straightforward breach of the relevant statutory provisions or from acting in excess of the powers granted or for an improper purpose.

Lord Millett reached a similar conclusion, namely, that a failure to act can amount to misfeasance in a public office, but only in those circumstances in which the public officer is under a legal obligation to act. Lord Hobhouse stated the principle in the following terms, at p. 1269: “If there is a legal duty to act and the decision not to act amounts to an unlawful breach of that legal duty, the omission can amount to misfeasance [in a public office].” See also *R. v. Dytham*, [1979] Q.B. 722 (C.A.). So, in the United Kingdom, a failure to act can constitute misfeasance in a public office, but only if the failure to act constitutes a deliberate breach of official duty.

> 25 Canadian courts also have made a deliberate unlawful act a focal point of the inquiry. In *Alberta (Minister of Public Works, Supply and Services) v. Nilsson* (1999). 70 Alta. L.R. (3d) 267, 1999 ABQB 440, at para. 108, the Court of Queen's Bench stated that the essential question to be determined is whether there has been deliberate misconduct on the part of a public official. Deliberate misconduct, on this view, consists of: (i) an intentional illegal act; and (ii) an intent to harm an individual or class [page283] of individuals. See also *Uni-Jet Industrial Pipe Ltd. v. Canada (Attorney General)* (2001), 156 Man. R. (2d) 14, 2001 MBCA 40, in which Kroft J.A. adopted the same test. In *Powder Mountain Resorts, supra*, Newbury J.A. described the tort in similar terms, at para. 7:
>
> > ... it may, I think, now be accepted that the tort of abuse of public office will be made out in Canada where a public official is shown either to have exercised power for the specific purpose of injuring the plaintiff (i.e., to have acted in "bad faith in the sense of the exercise of public power for an improper or ulterior motive") or to have acted "unlawfully with a mind of reckless indifference to the illegality of his act" and to the probability of injury to the plaintiff. (See Lord Steyn in *Three Rivers*, at [1231].) Thus there remains what in theory at least is a clear line between this tort on the one hand, and what on the other hand may be called negligent excess of power -- i.e., an act committed without knowledge of (or subjective recklessness as to) its unlawfulness and the probable consequences for the plaintiff. [Emphasis in original.]
>
> Under this view, the ambit of the tort is limited not by the requirement that the defendant must have been engaged in a particular type of unlawful conduct, but by the requirement that the unlawful conduct must have been deliberate and the defendant must have been aware that the unlawful conduct was likely to harm the plaintiff.

[61] It seems to me, then, that in order to establish a cause of action based on the tort of public misfeasance/abuse of authority, the Claim must meet the following requirements:

a. It must be established that the Defendant(s) is a public officer;

b. The Claim must arise from the exercise of power as a public officer; and

c. The mental element, namely that the Defendant(s) must have acted in bad faith or with malice, must be present.

[62] As the Defendants point out, while the Plaintiffs have listed the generic elements of the tort of misfeasance in public office/abuse of authority at paragraph 28(a)(iii) of their Claim, they have failed to provide material facts to substantiate the allegations. Again, the "Defendants' officials" are not identified, there are no particulars respecting the nature of the public offices that particular individuals are alleged to have held, the unidentified "Defendants' officials" are not connected to the named Defendants, and the bald allegation of "unlawful conduct" is not substantiated by material facts. Also, the majority of the factual allegations in the Claim refer to members of the Board and/or of the Board's Research Directorate and their relationship to the named Defendants, or to the "Defendants' officials" is not established in the Claim.

[63] With respect to the allegations in this regard against the Minister of Citizenship and Immigration at paragraph 24 of the Claim I agree with the Defendants that insufficient material facts are pled and details of the public comments that were allegedly made are not provided. Paragraph 24 of the Claim is not sufficient to ground a cause of action against the Minister of Citizenship and Immigration based on public misfeasance/abuse of authority.

[64] Once again, the Plaintiffs provide no substantial response to these deficiencies in their Claim. They simply say that they disagree and that their Claim complies with the relevant rules and jurisprudence. I cannot accept this position.

[65] Based on the foregoing, paragraphs 24 and 28(a)(i) and (iii) of the Claim should be struck, as well as any other reference to the tort of public misfeasance/abuse of authority.

Abuse of Process

[66] The Defendants have similar complaints with regard to the abuse of process claims. They say the Plaintiffs have not pled the essential elements of the tort of abuse process and it is not relevant to the within proceedings.

[67] An allegation of "abuse of process" is made at paragraph 28(a)(ii) of the Claim. The Plaintiffs assert that unidentified Defendants' officials "engaged in an abuse of process at common law." This allegation is not factually substantiated.

[68] The tort of abuse of process usually involves the misuse of the process of the Court to coerce someone in a way that is outside the ambit of the legal claim upon which the Court is asked to adjudicate. The Federal Court of Appeal in *Levi Strauss & Co. v Roadrunner Apparel Inc.* (1997), 76 CPR (3d) 129 (FCA) held that:

> A review of the authorities shows that the essential element of the tort of abuse of process is that the abuser must have used the legal process for a purpose other than that which it was designed to serve, in other words for a collateral, extraneous, ulterior, improper or illicit purpose. The gist of the tort is the misuse of or perversion of the Court's process and there is no abuse when a litigant employs regular legal process to its proper conclusion, even with bad intentions.

[69] The Defendants say that it is entirely unclear from the Claim how the tort of abuse of process could be applied to the actions of any of the named Defendants and that, in any case, the

elements of the tort have not been pled. For these reasons they say that paragraph 28(a)(ii) should therefore be struck, as well as any other reference to the tort of abuse of process.

[70] Once again, the Plaintiffs assert that they have pled this matter appropriately. However, they also say that abuse of process is not restricted to Court proceedings and that it can attach to Ministerial abuse. They say that the essential point is that the Ministers have interfered with the IRB which is supposed to be as independent as the judiciary. The Plaintiffs say that the Ministers and their staffs have interfered with the IRB both by their comments and their actions.

[71] Quite apart from whether abuse of process can be applied in this context (basically a legal point that can be left for future determination) it is my view that the Plaintiffs still need to provide the factual underpinnings for the tort. Before the Defendants can properly respond, they still need to know the who, where, when, what and how of these allegations. Factual substantiation is missing from the Claim. For this reason, I think I have to strike paragraph 28(a)(ii) and other reference to the tort of abuse of process.

Conclusions on the Named Torts

[72] Generally speaking, then, with regard to the named private law causes of action, I feel that the Defendants' objections to the pleadings are substantially justified, and that the Claim fails to comply with Rule 174 and the "plain and obvious" test posited in *Hunt*, above.

Sections 7 and 15 of the Charter

[73] The Defendants allege that the Plaintiffs' allegations at paragraphs 24, 28(a)(v) and 28(b)(iii)(A), (B) and (D) of the Claim respecting alleged breaches of sections 7 and 15 of the Charter are speculative and hypothetical and are not supported by adequate facts. In both respects, the Plaintiffs assert that the actions of unidentified officials of the Defendants breached the Plaintiffs' sections 7 and 15 Charter rights, resulting in damages. They have failed to indicate how one or more of their protected interests have been infringed, and they have also failed to identify the circumstances or context in which the breaches allegedly occurred. I have to agree with the Defendants that the allegations in this regard are stated in the form of conclusions without any factual basis. This does not meet the requirements set out by the Supreme Court of Canada in *MacKay v Manitoba*, [1989] 2 SCR 357.

[74] Charter allegations in the Claim that are made in a "factual vacuum" should be struck. In *MacKay*, above, the Supreme Court of Canada provided the following guidance:

> 9 *Charter decisions should not and must not be made in a factual vacuum.* To attempt to do so would trivialize the Charter and inevitably result in ill-considered opinions. The presentation of facts is not, as stated by the respondent, a mere technicality; rather, it is essential to a proper consideration of Charter issues. A respondent cannot, by simply consenting to dispense with the factual background, require or expect a court to deal with an issue such as this in a factual void. Charter [page362] decisions cannot be based upon the unsupported hypotheses of enthusiastic counsel. [emphasis added]

[75] Once again, the Plaintiffs say that their Claim sufficiently pleads the facts and grounds upon which the Defendants can respond to the allegations of Charter breaches, but they have also indicated that they are not adverse to providing particulars if the Defendants require them.

[76] Once again, I have to agree that, with regard to sections 7 and 15 and the Charter, the Claim is deficient in the ways alleged by the Defendants.

Redundant and Immaterial Material

[77] The Defendants say that, pursuant to subsection 222(1) of the Rules, the Court can strike out a pleading on the ground that it is "immaterial or redundant." Immaterial or redundant allegations in a claim result in useless expense and prejudice the trial by involving the parties in a dispute that is wholly apart from the issues. Similarly, portions of a pleading that are irrelevant or inserted for colour should also be struck as they are scandalous.

[78] On this basis, the Defendants seek to strike the following paragraphs from the Claim for the following reasons:

a. Paragraphs 12(c) and 14 - in these paragraphs, the Plaintiffs purport to have knowledge of the opinions of "members of the refugee bar, and others" respecting the June 2009 Report and assert that this ill-defined group predicted that the situation was a repeat of the "Hungarian (Roma) Lead Case." Such opinions cannot be proven, the scope of the group is not clearly identifiable, the allegations are unsubstantiated and they are irrelevant and redundant to the Claim. Such allegations

are inserted for colour only and should be struck as they are scandalous and violate the Rules;

b. Paragraph 12(f) and 17- these paragraphs also refer to the "Hungarian Lead Case" and are argumentative, inserted for colour only, and are irrelevant and redundant to the within Claim;

c. Paragraph 20 - this paragraph refers to the cross-examination of Gordon Ritchie and the Defendants' alleged refusal to answer undertakings. These factual details are irrelevant to the Claim;

d. Paragraph 25 - this paragraph should be struck because it is repetitive of paragraph 28 which is in fact pled with more specificity (although factually insufficient in any event). Paragraph 25 does not refer to a specific cause of action upon which the Plaintiffs base their entitlement to the damages claimed and is redundant;

e. Paragraph 27 - this paragraph is immaterial to the Claim. It refers to the treatment of the Roma during the Holocaust and is inserted for colour only and is redundant.

[79] In response, the Plaintiffs simply say that "these 'facts' with respect to the Hungarian Roma Lead Case, in *Geza v Canada (Minister of Citizenship and Immigration)*, [2006] FCJ No 477, (FCA) were not only pleaded, and advanced, but also further *accepted* by the Court of Appeal in that case."

[80] It is difficult to know what the Plaintiffs mean by this allegation, and which "facts" they are referring. *Geza* was not an action and we are in the present case dealing with particular rules of pleadings. The Rules are clear that the pleadings are to contain facts, not evidence. I just do not see,

for instance, what the unsubstantiated collective opinion of the immigration bar has to do with the factual underpinnings of this case. The same goes for most of the other points. In my view, the redundant material simply has no place in this Claim and impedes progress towards a clear statement of facts and issues to which the Defendants can respond, and the Court can adjudicate. The Plaintiffs may well feel a sense of historical grievance, and they may have good reason for it, but I think it better to wait until the facts are provided before the government of Canada and the RPD are connected with Hitler's Holocaust and a historical "continuum of persecution." I am well aware of the cases referred to earlier where the Court has refused to strike "surplus" statements that do not give rise to prejudice. However, accusations of this kind are not self-evident facts. All they do is raise the emotional and rhetorical temperature of the action and impede the just, most expeditious and least determination of the action on its merits.

[81] I disagree with the Defendants regarding paragraph 12(f) which, although it refers to the "Hungarian Lead Case" and unspecified public comments by Minister Kenney, does allege facts which may be relevant and may help to ground the principal claim of institutional bias.

[82] As regards paragraph 25, because paragraph 24 is not substantiated by relevant facts, there is nothing to ground the Minister's alleged public references and the balance of the paragraph is really pleading evidence.

Improperly Pleading Evidence

[83] As the Defendants point out, Rule 174 of the Rules directs that a statement of claim shall not include evidence by which the facts of the case are to be proven.

[84] On this basis, the Defendants say that the following paragraphs of the Claim should be struck:

a. Paragraph 12(c) - not only should this paragraph be struck on the basis that it is irrelevant and/or immaterial, it also constitutes evidence.;

b. Paragraph 12(g) - this paragraph lists the credentials of Paul St. Clair. This is evidence that has no place in the Claim;

c. Paragraph 14 - as noted above, this paragraph purports to confirm the opinion in the minds of "anyone involved with refugees, particularly the members of the immigration bar" which could constitute evidence.

[85] The Plaintiffs provide little by way of response on this issue other than disagreement. There is significant overlap here with other grounds of complaint and I think I have said enough already to explain why I agree with the Defendants on these points.

Miscellaneous Deficiencies

[86] The Defendants also complain of the following deficiencies:

a. The term "Minister" is used throughout the Claim without proper specificity given that two Ministers are named as Defendants. In this regard, it is unclear which Minister the Plaintiffs are referring to in certain sections of the Claim. Further, the Plaintiffs appear to use the Minister of Immigration, Minister Kenney, Minister, Immigration Minister and the Minister of Citizenship and Immigration interchangeably (see, for example, paragraph 12(b), 12(c), 22 and 24.) Such terminology must be clarified so that the Defendants can properly respond to the Claim;

b. The Plaintiffs have not defined or listed the statutory provisions or legislation upon which they rely despite making numerous, vague references to statutory breaches through the Claim;

c. The relief outlined in paragraph 6 of the Claim is duplicative of the relief outlined in paragraph 1(a) to (d). As well, the Plaintiffs have only particularized their damages with respect to their negligence claim.

[87] Given that I have already accepted the Defendants arguments as outlined above, I think that these difficulties disappear and/or do not sufficiently offend the Rules to warrant striking.

Conclusions

[88] It seems to me that the Defendants have provided ample authority and justification for striking certain portions of the Claim as outlined above.

[89] In *George v Harris*, [2000] OJ No 1762, at paragraph 20, Justice Epstein, then of the Ontario Superior Court of Justice, provided examples of what constitutes a "scandalous," "frivolous" or "vexatious" document:

> i. A document that demonstrates a complete absence of material facts;
>
> ii. Portions of a pleading that are irrelevant, argumentative or inserted for colour, or that constitute bare allegations;
>
> iii. A document that contains only argument and includes unfounded and inflammatory attacks on the integrity of a party, and speculative, unsupported allegations of defamation;
>
> iv. Documents that are replete with conclusions, expressions of opinion, provide no indication whether information is based on personal knowledge or information and belief, and contain many irrelevant matters.

[90] A statement of claim containing bare assertions but no facts on which to base those assertions discloses no reasonable cause of action and may also be struck as an abuse of process. Furthermore, as indicated above, a claimant is not entitled to rely on the possibility that new facts may arise as the case progresses. On the contrary, the facts must be pled in the initial claim. The question of whether those facts can be proven is a separate issue, but they must be pled nonetheless.

[91] The authorities cited above also show that when a particular cause of action is pled, the claim must contain pleadings of fact that satisfy all of the necessary elements of that cause of action. Otherwise, it will be plain and obvious that the claim discloses no reasonable cause of action.

[92] A statement of claim will also be struck on the grounds that it is so unruly that the scope of the proceedings is unclear. As stated by this Court in *Ceminchuk v Canada*, [1995] FCJ No 914, at paragraph 10

> A scandalous, vexatious or frivolous action may not only be one in which the claimant can present no rational argument, based upon the evidence or law, in support of the claim, but also may be an action in which the pleadings are so deficient in factual material that the defendant cannot know how to answer, and a court will be unable to regulate the proceedings. It is an action without reasonable cause, which will not lead to a practical result.

[93] The Plaintiffs claim that this motion to strike is premature and the Defendants were obliged to request particulars first. However, as pointed out above, I think the jurisprudence of the Court is clear that there is no obligation on defendants to demand particulars and a plaintiff cannot cure an otherwise deficient statement of claim by arguing that the defendants have not sought particulars. See *Paul v Kingsclear Indian Band*, (1997), 132 FTR 145 (TD).

Amendments

[94] I have no motion or request before me from the Plaintiffs that they be allowed to amend their Claim to correct the deficiencies outlined above. By and large, they have simply alleged that they have already pled in accordance with the relevant rules and governing jurisprudence. For the most part, and for reasons given, I cannot accept this position. I am well aware that an amendment should be allowed where a claim might possibly succeed if the pleading is amended and that to deny an amendment there must be no scintilla of a cause of action. See *Larden v Canada* (1998), 145 FTR 140. However, the Plaintiffs have not sought leave to amend and I have nothing before me to

suggest that the Plaintiffs can establish the scintilla of a cause of action in relation to those portions of the Claim that have been struck.

[95] It will soon be a year since I ordered this matter converted to an action, and yet we are still dealing with the fundamentals of the Claim. The time has come to adopt a more urgent approach to this action and I want counsel on both sides to acknowledge this factor and to proceed and conduct themselves accordingly. I know that Mr. Galati plans to take a break during the rest of January and February, but he has indicated he can be available to deal with this file during March 2012. In any event, the matter cannot be allowed to drag on and both counsel must expect to have to prioritize this action in future. Both sides acknowledge the importance of the issues raised for the immigration system generally and there is already a significant body of applications in this Court awaiting the outcome of these proceedings. That body will grow and will, eventually, begin to cause problems for the administration of justice in this Court, as well as for the handling of cases before the IRB. This uncertainty must be addressed quickly and the Court will be looking for counsel's enhanced assistance in ensuring the just, most expeditious and least expensive determination of the merits.

ORDER

THIS COURT ORDERS that

1. For reasons given, the following are struck from the Amended Statement of Claim pursuant to Rule 221(1) of the *Federal Court Rules* without leave to amend:

   (i) Paragraph 6(b)

   (ii) Paragraph 12(c);

   (iii) Paragraph 14;

   (iv) Paragraph 17;

   (v) Paragraph 20;

   (vi) Paragraph 24;

   (vii) Paragraph 25;

   (viii) Paragraph 27;

   (ix) Paragraph 12(g);

   (x) The Minister of Foreign Affairs as a party;

   (xi) All references to the Minister of Foreign Affairs in the body of the Claim;

   (xii) Paragraph 28(b) and all other references to the tort of negligence;

   (xiii) Paragraphs 23, 27 and 28(a)(iv) and all references to the tort of conspiracy;

   (xiv) Paragraphs 24, 28(a)(i) and (iii) and all references to the tort of public misfeasance/abuse of authority;

   (xv) Paragraphs 28(a)(ii) and all references to the tort of abuse of process;

(xvi) All allegations of breach of sections 7 and 15 of the Charter contained in paragraphs 24, 28(a)(v), 28(b)(iii)(A), (B) and (D), and elsewhere in the claim.

2. The Defendants shall have the costs of this motion.

3. Counsel will confer and prepare and provide to the Court on or before March 20th, 2012, an itemized list of the further steps to be taken in this action and a preliminary timetable for accomplishing them. If necessary, the Court will then establish the time for a conference meeting to discuss and resolve points of concern.

"James Russell"
Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	T-1700-11
STYLE OF CAUSE:	SIVAK et al. Plaintiffs - and - HER MAJESTY THE QUEEN and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Defendants
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	January 16, 2012
REASONS FOR ORDER AND ORDER:	HON. MR. JUSTICE RUSSELL
DATED:	February 28, 2012

APPEARANCES:

Rocco Galati	PLAINTIFFS
Marie-Louise Wcislo Prathima Prasad Susan Gans	DEFENDANTS

SOLICITORS OF RECORD:

ROCCO GALATI LAW FIRM PROFESSIONAL CORPORATION Toronto, Ontario	PLAINTIFFS
Myles J. Kirvan Deputy Attorney General of Canada	DEFENDANTS

EXHIBIT "UU"

Federal Court | Cour fédérale

Date: 20141120

Docket: T-1657-13

Citation: 2014 FC 1088

Ottawa, Ontario, November 20, 2014

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**ROCCO GALATI, AND
CONSTITUTIONAL RIGHTS CENTRE INC.**

Applicants

and

**THE RIGHT HONOURABLE STEPHEN HARPER,
HIS EXCELLENCY THE RIGHT HONOURABLE
GOVERNOR GENERAL DAVID JOHNSTON,
THE HONOURABLE JUSTICE MARC NADON,
JUDGE OF THE FEDERAL COURT OF APPEAL,
THE ATTORNEY GENERAL OF CANADA, AND
THE MINISTER OF JUSTICE**

Respondents

ORDER AND REASONS

[1] The within application was filed October 7, 2013, seeking "declaratory, prerogative and injunctive relief, from the decision, made October 3rd, 2013, to appoint and 'swear in' (Administering of oath) the Honourable Justice Marc Nadon, a Judge of the Federal Court of

Appeal to the Supreme Court of Canada pursuant to the requirements of ss. 4(2), 6, 10 and 11 of the *Supreme Court Act of Canada* and s. 41(d) and 42(d) of the *Constitution Act, 1982*."

[2] On October 22, 2013, the Governor in Council referred two questions to the Supreme Court of Canada relating to the challenged appointment of Justice Nadon to the Supreme Court [the Reference]. On motion by the Attorney General of Canada, this application was stayed on consent, by Order dated November 12, 2013, pending the release of the decision of the Supreme Court on the Reference. Both applicants applied to the Supreme Court of Canada for leave to intervene in the Reference and for costs. Mr. Galati requested that his costs be on a solicitor-client basis. Leave to intervene was granted but no order was made as to costs.

[3] The applicants sought and were granted a further stay of this application. Following the appointment of Justice Gascon to the Supreme Court, a case management conference was held following which, on agreement of the parties, an Order issued on August 25, 2014, that "the final disposition of this application, including costs, shall be conducted by way of written submissions from the parties."

[4] Each applicant filed identical motions seeking:

a) A declaration that where a private citizen brings a constitutional challenge to legislation and/or executive action, going to the "architecture of the Constitution", from which he/she derives no personal benefit, per se, and is successful on the constitutional challenge, that he/she is entitled to solicitor-client costs of those proceedings, as to deny those costs constitutes a breach of the constitutional right to a fair and independent judiciary;

b) That the Applicant be granted leave to issue a notice of discontinuance in the within application;

c) that the Applicant be granted his solicitor-client costs of the within application, including the within motion; and

d) Such further order and/or direction as this Court deems just.

[5] Mr. Galati, a barrister and solicitor, but acting on his own behalf, has provided a Statement of Account showing 56.4 hours of services at an hourly rate of $800 and disbursements of $638.00, for a total bill of costs, including tax of $51,706.54.

[6] The Constitutional Rights Centre Inc. has provided a Statement of Account for work done by Paul Slansky, a barrister and solicitor, showing 14.55 hours of services at an hourly rate of $800, for a total bill of cost, including tax of $16,769.20.

[7] The respondents submit that these bills of costs are excessive and unwarranted given that the application was stayed at such an early stage. I agree. As one example, Mr. Galati's claim for 7.6 hours to "review, research, Attorney General's motion for stay" in light of the Reference is excessive and unwarranted.

[8] The respondents filed a cross-motion for an order dismissing the application. In response to the request for costs, the respondents submit that as there has been no judgment and no successful party, there should be no costs awarded. In the alternative, they submit that there is no constitutional right to costs in Canada and, "having regard to the factors set out in Rule 400(3), the purposes of costs would be well-served by a single award of costs, assessed according to Column III."

[9] The applicants have provided no authority for the proposition that "where a private citizen brings a constitutional challenge to legislation and/or executive action, going to the 'architecture of the Constitution', from which he/she derives no personal benefit, per se, and is successful on the constitutional challenge, that he/she is entitled to solicitor-client costs of those proceedings, as to deny those costs constitutes a breach of the constitutional right to a fair and independent judiciary."

[10] The respondents point to a decision of the Tax Court of Canada in *Lee v Canada (Minister of National Revenue – MNR)*, [1991] TCJ No 243, wherein it was stated that:

> There is no constitutional right to an award of costs. Moreover, there is no specific Charter Right that is infringed by the failure of a Court to award costs. Any attempt to impose such a requirement through jurisprudence would amount to an excess of jurisdiction. The role of this Court is confined to the determination of constitutional challenges to existing legislation.

[11] Although not binding on me, I agree with the observations of the Tax Court Judge. Moreover, there is no justification in these circumstances to an award of solicitor-client costs. Indeed, the Supreme Court of Canada in a decision cited by the applicants, *Mackin v New Brunswick*, [2002] 1 SCR 405, a case that did involve judicial independence, reversed the award of solicitor-client costs made by the Court of Appeal and substituted an award of party and party costs only. The Supreme Court specifically stated that "solicitor-client costs are not appropriate in this case."

[12] I agree with the respondents that considering Rule 400(3), there is no just basis to award the applicants solicitor-client costs. Such an award is exceptional: *Chretien v Canada*

(Commission of Inquiry into the Sponsorship Program and Advertising Activities, Gomery Commission), 2011 FCA 53 at para 3. There is no conduct of the respondents in this application that warrants such an award; nor is there any other circumstance that makes this a case warranting the highest award of costs. Although the application would have involved complex issues of law and have been of importance to the judicial system and the constitution of Canada, the application was derailed and supplanted by the Reference. As such, very little work needed to be done on the application by the applicants. The mere filing of it appears to have had the desired result.

[13] However, I accept that but for the applicants commencing this application, it was unlikely that the Reference would have occurred. At the time the application was filed, there was no apparent objection made to the appointment of Justice Nadon on constitutional grounds by any person or government. To that extent, one could argue that the applicants have done Canada a service and should not be out-of-pocket in so doing.

[14] There is no longer any *lis* between these parties, and the application will be dismissed; however, I am of the view that the applicants are entitled to a single award of costs.

[15] In these circumstances, it makes little sense to refer the costs to a taxing officer – it would not be an appropriate use of judicial resources. Recognizing that an award of costs is a matter of discretion, and considering the factors set out in Rule 400(3), I will order a single award of costs to the applicants, fixed on a lump sum basis in the amount of $5000.

ORDER

IT IS HEREBY ORDERED THAT this application is dismissed, and the applicants are awarded a single award of costs, fixed on a lump sum basis in the amount of $5000.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1657-13

STYLE OF CAUSE: ROCCO GALATI ET AL v THE RIGHT HONOURABLE STEPHEN HARPER ET AL

MOTION DEALT WITH IN WRITING WITHOUT THE APPEARANCE OF PARTIES

ORDER AND REASONS OF THE HONOURABLE MR. JUSTICE ZINN

DATED: NOVEMBER 20, 2014

WRITTEN REPRESENTATIONS BY:

Rocco Galati	FOR THE APPLICANT ROCCO GALATI
Paul Slansky	FOR THE APPLICANT CONSTITUTIONAL RIGHTS CENTRE INC.
Paul J. Evraire / Andrew Law	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Rocco Galati Law Firm Professional Corporation Toronto, Ontario	FOR THE APPLICANT ROCCO GALATI
Slansky Law Professional Corporation Toronto, Ontario	FOR THE APPLICANT CONSTITUTIONAL RIGHTS INC.
William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENTS

EXHIBIT “VV”

Federal Court of Appeal | Cour d'appel fédérale

Date: 20160208

Docket: A-541-14

Citation: 2016 FCA 39

CORAM: **PELLETIER J.A.**
STRATAS J.A.
GLEASON J.A.

BETWEEN:

ROCCO GALATI,
CONSTITUTIONAL RIGHTS CENTRE INC.

Appellants

and

THE RIGHT HONOURABLE STEPHEN HARPER, HIS EXCELLENCY THE RIGHT HONOURABLE GOVERNOR GENERAL DAVID JOHNSTON, THE HONOURABLE MARC NADON, JUDGE OF THE FEDERAL COURT OF APPEAL, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF JUSTICE

Respondents

Heard at Toronto, Ontario, on January 11, 2016.

Judgment delivered at Ottawa, Ontario, on February 8, 2016.

REASONS FOR JUDGMENT BY: PELLETIER J.A.

CONCURRED IN BY: GLEASON J.A.
CONCURRING REASONS BY: STRATAS J.A.

Federal Court of Appeal | Cour d'appel fédérale

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Respondents

REASONS FOR JUDGMENT

PELLETIER J.A.

[1] Mr. Galati, on his own behalf, and the Constitutional Rights Center (CRC) appeal from the costs portion of the Federal Court's decision, reported as 2014 FC 1088, dismissing their application for various heads of relief in relation to the appointment of Mr. Justice Marc Nadon, a judge of the Federal Court of Appeal, to the Supreme Court of Canada. The Federal Court

denied their motions for solicitor-client costs and made a single award of costs in favour of both appellants fixed on a lump sum basis at $5,000. Mr. Galati and the CRC appeal from that decision arguing that they have a constitutional right to solicitor-client costs. They also argue that the Federal Court should have awarded them such costs pursuant to its discretionary power pursuant to Rule 400 of the Federal Courts Rules, SOR/98-106.

[2] For the reasons which follow, I would dismiss the appeal.

I. FACTS

[3] On or before October 3, 2013, the Governor in Council appointed Justice Marc Nadon, a former advocate of Quebec and a member of the Federal Court of Appeal, to the Supreme Court of Canada to occupy one of the three seats on the Supreme Court which are reserved for persons appointed "from among the judges of the Court of Appeal or of the Superior Court of the Province of Quebec or from among the advocates of that Province": see section 6 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 (the *Act*). It was known at the time that there was an issue about the eligibility of judges of the Federal Courts to occupy those seats, as evidenced by the fact that, at the same time as he announced his intention to appoint Justice Nadon to the Supreme Court, Prime Minister Harper released legal opinions prepared at the Government's request, all of which held that such an appointment did not contravene section 6 of the *Act*.

[4] Mr. Galati and the CRC did not share this view and on Monday October 7, 2013, they filed a joint notice of application in the Federal Court (the Joint Application) in which they sought various heads of relief, on the ground that a judge of the Federal Court or the Federal Court of Appeal was ineligible, by the terms of section 6 of the *Act*, to be appointed to one of the

three "Quebec" seats on the Supreme Court. They sought to have Justice Nadon's appointment set aside.

[5] Perhaps because of the Joint Application, perhaps because of the concerns of the Quebec Bench and Bar which prompted the Governor in Council to seek out legal opinions in the first place, the Governor in Council referred the interpretation of sections 5 and 6, as well as its proposed amendments to the *Act*, to the Supreme Court (the Reference) which ultimately ruled that *former* advocates of Quebec, including any former Quebec advocate appointed to one of the Federal Courts, were ineligible to occupy one of the "Quebec" seats on the Supreme Court. Justice Nadon's appointment to the Supreme Court was held to be invalid: see *Supreme Court Act* ss.5 and 6, 2014 SCC 21.

[6] Following the issuance of the Joint Application on October 3, 2013, a case management conference was held before Mr. Justice Zinn, and was adjourned to October 24, 2013.

[7] When the case management conference resumed, an order was made setting a timeline for the filing of materials as well as a hearing date for the Attorney General's motion for a stay of the Joint Application pending the disposition of the Reference, a motion which Mr. Galati and the CRC (sometimes referred to as the Joint Applicants) intended to oppose.

[8] After carefully considering the Attorney General's motion for a stay (for a period of 7.6 hours, in Mr. Galati's case), the Joint Applicants eventually consented to a stay of the Joint

Application in exchange for the Attorney General's undertaking not to oppose their application for intervener status in the Reference.

[9] Mr. Galati and the CRC were granted intervener status and appeared at the hearing of the Reference.

[10] Following the release of the Supreme Court's decision, a further case management conference was held where, by agreement of the parties, it was ordered that the final disposition of the Joint Application and the question of costs would proceed by way of written submissions.

[11] In that context, both the Joint Applicants filed motions seeking:

a) A declaration that where a private citizen brings a constitutional challenge to legislation and/or executive action, going to the "architecture of the Constitution", from which he/she derives no personal benefit, per se, and is successful on the constitutional challenge, that he /she is entitled to solicitor-client costs of those proceedings, as to deny those costs constitutes a breach of the constitutional right to a fair and independent judiciary;

b) That the Applicant be granted leave to issue a notice of discontinuance in the within application;

c) That the Applicant be granted his solicitor-client costs of the within application, including the within motion; and

d) Such further order and/or direction as this Court deems just.

[12] Mr. Galati argued for an award of costs in his favour calculated on the basis of 56.4 hours of service at an hourly rate of $800, plus disbursements in the amount of $638, for a total award (including tax) of $51,706. The CRC claimed costs of $16,769 based on 14.55 hours of service by its counsel, Mr. Slansky, at an hourly rate of $800. In argument, Mr. Galati acknowledged

that his regular hourly rate is not $800 as his clientele do not have the means to pay such an exalted rate. He advised that $800 per hour is the rate for substantial indemnity pursuant to Part 1 of Tariff A of the Ontario *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, for lawyers of his year of call and experience.

[13] The Attorney General opposed Mr. Galati's and the CRC's motions and filed a cross motion seeking the dismissal of the Joint Application. On the question of costs, the Attorney General argued that since, as of the date of the argument, no judgment had been rendered in the Joint Application, there was no successful party and therefore no basis for an order for costs. In any event, the Attorney General argued that there was no constitutional right to costs. If an order of costs were to be made, having regard to the factors mentioned in Rule 400(3) of the *Federal Courts Rules*, SOR/98-106, it should be a single award assessed on Column III of Tariff B.

II. THE DECISION UNDER APPEAL

[14] In its decision, the Federal Court noted that Mr. Galati and the CRC provided no authority for the proposition that there was a constitutional right to solicitor-client costs in the circumstances described in their motions. Such authority as there was consisted of a Tax Court of Canada case, *Lee v. Canada (Minister of National Revenue)*, [1991] T.C.J. No. 243, in which it was held that there was no constitutional right to an award of costs, let alone solicitor-client costs. The Federal Court agreed with the position taken by the Tax Court of Canada as to the absence of a constitutional right to costs. Furthermore, having regard to the principles governing the award of solicitor-client costs, there was no basis for making an order of that nature in this case since there was no conduct on the part of the respondents which would justify such an

award, nor were there any other circumstances which would justify the highest award of costs: Reasons, paragraph 12.

[15] That said, the Federal Court accepted that "but for the applicants commencing this application, it was unlikely that the Reference would have occurred." In the end result, even though the Federal Court dismissed the application, it awarded Mr. Galati and the CRC costs jointly in the amount of $5,000 because "one could argue that the applicants have done Canada a service and should not be out-of-pocket in so doing:" see Reasons at paragraph 13.

III. ISSUES

[16] Mr. Galati and the CRC raise two issues. The first is that the Federal Court Judge erred in failing to analyze their claim that, in the case of public interest litigation which satisfies the test they propose, there is a constitutional requirement that a successful litigant be awarded his solicitor-client costs because the failure to do so is a breach of the constitutional right to a fair and impartial judiciary. The second issue is that, even if there is no constitutional right to solicitor-client costs, the Federal Court judge erred in failing to award them such costs in the circumstances of this case.

[17] In the alternative, Mr. Galati argues that the Federal Court's reasons are unintelligible for purposes of appellate review. Having conducted such an appellate review, I find no merit to this allegation.

IV. STANDARD OF REVIEW

[18] Costs are within the discretion of the presiding judge: see Rule 400(1) of the *Federal Courts Rules*, SOR/98-106 (the *Rules*). As such, an award of costs is a discretionary decision, reviewable on a highly deferential standard, unless it can be shown that the Court erred in law in making the award of costs it did: see *Turmel v. Canada (Attorney General)*, 2016 FCA 9, at paragraphs 11-12.

V. DISPOSITION

[19] Since Mr. Galati and the CRC criticize the Federal Court for not analyzing their claim to solicitor client costs, I am required to step outside the four corners of the Federal Court's decision to do that which the Joint Applicants ask us to do.

[20] The first point to be disposed of is the hourly rate used by the Mr. Galati and the CRC in their respective claims for costs. Their claim to be entitled to the substantial indemnity rate of $800 which apparently would apply to these counsel under the Ontario *Rules of Civil Procedure* is puzzling. Mr. Galati and Mr. Slansky are both experienced counsel who presumably know that the costs of litigation conducted in the Federal Courts are awarded in accordance with the *Federal Courts Rules*. They would also presumably know that the *Federal Courts Rules* do not provide for an hourly rate benchmark (other than an amount per unit of service as described in the Tariff) such as the *Rules of Civil Procedure* apparently do. Given this knowledge, it is surprising that Mr. Galati would seek an order of costs in excess of what he would have billed a client for the same services.

[21] As a self-represented litigant, the best Mr. Galati could hope for, under the Federal Courts Rules and the jurisprudence on self-represented litigants is to recover his regular hourly rate: see *Thibodeau v. Air Canada*, 2007 FCA 115, [2007] F.C.J. No. 404, at paragraph 24.

[22] I might add that a claim for solicitor-client costs by a self-represented litigant is an oxymoron. A self-represented litigant, by definition, has no counsel and therefore no out-of-pocket expenses for which full indemnity is appropriate.

[23] As for the CRC, its claim for solicitor-client costs would be limited to its actual out-of-pocket expense for legal fees. If, as appears to be the case given Mr. Slansky's request that any costs awarded be paid to him personally, counsel is acting *pro bono*, then the same considerations apply. Any award of solicitor-client costs would be limited to Mr. Slansky's regular hourly rate. One is left to wonder why experienced counsel before the Federal Courts would seek costs calculated on a basis other than that provided by the *Federal Courts Rules*.

[24] This appeal raises two questions: is there such an entitlement to solicitor client costs (on any basis) and, if there is, do the Joint Applicants satisfy the conditions applicable to the award of such costs?

[25] Both Mr. Galati and the CRC raise, in slightly different ways, the issue of the economic imbalance between litigants who challenge legislative or executive action on constitutional grounds. The government has the full resources of the state available to it to defend its position while challengers who act in the public interest must rely on private resources and the goodwill

of *pro bono* counsel to advance their case. The former Court Challenges Programme was designed to deal with this imbalance but has been cancelled.

[26] The Supreme Court has recognized this gap but has declined to close it by judicial fiat. In *Little Sisters Book and Art Emporium v. Canada (Commissioner of Customs and Revenue)*, 2007 SCC 2, [2007] 1 S.C.R. 38, at paragraph 4, the Supreme Court held that "[c]ourts should not seek on their own to bring an alternative and extensive legal aid system into being." This position was re-affirmed in *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331 (*Carter*)at paragraph 137, where the Court dealt with an argument much like the one made by the Joint Applicants but in the context of the Court's normal discretionary power to award costs. There, the Supreme Court held that an award of special costs in public interest litigation would be justified if certain conditions were met. The first is that the issues raised must be truly exceptional, having significant and widespread societal impact. Secondly, not only must the litigants must have no personal financial interest in the litigation, they must show that it would not have been possible to effectively pursue the litigation with private funding: see *Carter* at paragraph 140.

[27] The Joint Applicants have modified this test by substituting for the requirement that the litigation have widespread societal impact, the condition that the litigation must go to the "architecture of the Constitution". They also make explicit the requirement that the applicants must be successful in the litigation. Before addressing the question of the Joint Applicants' right to solicitor client costs, whether pursuant to the Constitution or otherwise, it makes sense to see if the Joint Applicants satisfy the conditions for the award of such costs.

[28] The difficulty confronting the Joint Applicants is that they were not successful in their application. The Federal Court found that the Joint Application "was derailed and supplanted by the Reference": see Reasons at paragraph 12. It was therefore dismissed for mootness. Mr. Galati and the CRC take the position that because the Reference produced the result which they sought in the Joint Application, they were successful and entitled therefore to their solicitor client costs. It doesn't work that way. The fact that their application apparently set in motion a series of events which led to the conclusion which they hoped to achieve in their application does not make them successful litigants. It may make them successful politically or in the popular press, but that is a different matter. They can only claim costs in relation to the judicial treatment of the Joint Application which, as noted, was dismissed. To hold otherwise would be to create something in the nature of a finder's fee for constitutional litigation.

[29] To the extent the right to solicitor client costs accrues only to successful litigants, the Joint Applicants do not satisfy that test. Given this finding, it is not necessary for me to examine the other elements of the test which Mr. Galati and the CRC propose other than to comment that it is far from obvious that the interpretation of sections 5 and 6 of the *Act* goes to the "architecture of the Constitution".

[30] Turning now to the Joint Applicants entitlement to special costs pursuant to the Federal Court's discretion over the award of costs, and applying the *Carter* principles, I find that the applicants do not meet that test either. As I pointed out above, the Joint Application was not successful and that leads to the same conclusion in this scenario as in the previous scenario. Be that as it may, Mr. Galati and the CRC make much of the exceptional nature of the issues raised

by the Joint Application. There is no doubt that the issues raised were of significant importance, particularly to the members of the Federal Courts, but the interpretation of sections 5 and 6 of the *Act* did not have widespread societal impact. When the partisan political overlay is stripped away, this was a lawyer's issue with very limited consequences beyond legal circles. It certainly did not go to the "architecture of the Constitution".

[31] But, more importantly, the reason for which the claim for solicitor client costs ought to fail, and, in my view, does fail, is that it fails to meet the second criterion identified by the Court, namely that it would not have been possible to effectively pursue the litigation with private means. This refers to the litigation as it actually unfolded, not as it might have unfolded. As it actually unfolded, the Joint Application required some office time and a small number of attendances for a combined total of 71 hours of Mr. Galati's and Mr. Slansky's time. While this is not trivial, it is not an insuperable burden for two lawyers with busy practices. Furthermore, the burden on Mr. Galati and Mr. Slansky, to the extent that he was acting pro bono, has been relieved by the Federal Court's exceptional award of costs of $5,000, even though they were unsuccessful, so that they might not be out of pocket.

[32] For these reasons, then, the Joint Applicants have not shown that they come within the class of litigants who might be awarded solicitor client costs in public interest constitutional litigation, whether by right or through the exercise of the Court's discretion. It is therefore unnecessary for me to deal with the argument as to constitutional entitlement as it does not arise on these facts. That said, it sometimes occurs that a party makes an argument that is so

scandalous that it deserves to be condemned, whether it arises on the facts of the case or not. This is such a case.

[33] The following passages from Mr. Galati's memorandum of fact and law encapsulates the argument which was made in this case:

> With respect to the Respondent's position that the right to solicitor-client costs has no nexus to a fair and independent judiciary, the Appellant (Rocco Galati) states that in such cases, which involve nothing but protecting the integrity of the constitution, constitutionally offensive legislation, or Executive action violating the "architecture of the constitution", it has everything to do with a fair and independent judiciary. While the state apparatus is fully and amply funded to defend such violations, and a citizen who gets no personal benefit, per se, from upholding the integrity, structure and dictates of the Constitution, **in successfully** challenging such constitutional violations, to be denied his solicitor-client costs doing so can only lead to one conclusion in fact and in perception.
>
> That conclusion is that any Court siding with the state on such cases cannot be said to be "fair or independent" in the least sense, in fact, and in perception, that Court would be, in fact and in perception, 'in bed' with the state Respondents.
>
> Mr. Galati's memorandum of fact and law at paragraphs 20-22 (emphasis in the original).

[34] It is important to understand what is being said here. Mr. Galati and the CRC state as a fact that a Court which, having agreed that certain government action was inconsistent with the Constitution and having therefore set it aside, will nonetheless be seen to be, and will in fact be, "in bed" with the government if it fails to award the successful applicant its solicitor client costs. The tie-in to the Constitution is that this collusion deprives the affected litigant of its constitutionally protected right to a fair and independent judiciary.

[35] To be "in bed" with someone is to collude with that person. I do not understand how one could hope to protect the right to a fair and independent judiciary by accusing courts of colluding

with the government if they don't give the applicant its solicitor client costs. The entire Court system, it seems, must be alleged to be actually or potentially acting in bad faith in order to instill public confidence in the fairness and independence of the judiciary. This is reminiscent of the gonzo logic of the Vietnam War era in which entire villages had to be destroyed in order to save them from the enemy. The fact that this argument is made in support of an unjustified monetary claim leads to the question "Whose interest is being served here?" Certainly not the administration of justice's. This argument deserves to be condemned without reservation.

[36] In the circumstances, I am of the view that the Federal Court committed no error justifying our intervention and that even when, particularly when, the Joint Applicants' arguments are analyzed, this appeal should be dismissed with costs. The Attorney General seeks total costs in the amount of $1,000. In the circumstances, that is more than reasonable. I would therefore dismiss the appeal with one set of costs to the Attorney General fixed at $1,000, all inclusive.

"J.D. Denis Pelletier"
J.A.

"I agree
Gleason J.A."

STRATAS J.A. (Concurring reasons)

[37] I fully agree with my colleague's reasons and concur with his proposed disposition of this appeal. I wish to add a couple of other observations.

[38] At one point in his oral submissions, Mr. Galati submitted that, like government lawyers, judges are paid by the government and so if in circumstances such as these we do not order the government to pay private sector lawyers like him, the court would appear to be biased.

[39] The appearance of bias is to be assessed by the informed, reasonable person viewing the matter realistically and practically: *Committee for Justice and Liberty et al. v. National Energy Board et al.*, [1978] 1 S.C.R. 369 at page 394. That person would be aware of a number of things. Judges' impartiality is secured by guarantees of security of tenure and remuneration until retirement or age 75: *Constitution Act*, *1867*, 30 & 31 Vict., c. 3, sections 99-100. A long string of Supreme Court cases from *Valente v. The Queen*, [1985] 2 S.C.R. 673 to *Provincial Court Judges' Assn. (New Brunswick) v. New Brunswick (Minister of Justice)*, 2005 SCC 44, [2005] 2 S.C.R. 286 has developed exacting requirements to ensure that the judiciary remains fully independent from government while judicial remuneration is set. And there are many cases where judges, paid by government, have condemned government misconduct and have ordered government to do something against its will.

[40] In light of this, the informed, reasonable person viewing the matter realistically and practically would never think that judges are predisposed to the government just because the government pays them and does not pay others. This sort of submission can unfairly affect the

legitimacy and public perception of the court. An officer of the court should never make such a submission. See *Es-Sayyid v. Canada (Public Safety and Emergency Preparedness)*, 2012 FCA 59 at paragraph 50; *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484 at paragraph 113.

[41] In this case, the Federal Court exercised its discretion in the appellants' favour, awarding them $5,000 in costs for work done in starting a constitutional challenge that soon became moot. This is more than what other litigants doing the same amount of work would receive under the applicable law: *Federal Courts Rules*, R.S.C. 1985, c. F-7, Rule 400 and Tariff B.

[42] The appellants now come to this Court. They ask us to order that the government respondents—*i.e.*, the taxpayers—pay them $800 an hour, an amount they admit exceeds the rate they normally charge their clients. In his memorandum (at paragraph 15), Mr. Galati submits that if we do not make that order, we will be acting in "breach of the unwritten constitutional imperatives to the Rule of Law and Constitutionalism."

[43] The constitutional principle of the rule of law, enshrined in the preamble to the Canadian Charter of Rights and Freedoms, is not an empty vessel to be filled with whatever one might wish from time to time. Rather, it has a specific, limited content in the area of constitutional law. See, *e.g.*, *British Columbia v. Imperial Tobacco Canada Ltd.*, 2005 FCA 49, [2005] 2 S.C.R. 473 at paragraph 58. See also the previous cases in which we have reminded Mr. Galati of the doctrinal limits to this principle: *Yeager v. Day*, 2013 FCA 258, 453 N.R. 385 at paragraph 13; *Lemus v. Canada (Citizenship and Immigration)*, 2014 FCA 114, 372 D.L.R. (4th) 567 at paragraph 15; *Austria v. Canada (Citizenship and Immigration)*, 2014 FCA 191, 377 D.L.R. (4th) 151 at

paragraphs 71-74; *Toussaint v. Canada (Citizenship and Immigration)*, 2011 FCA 146, [2013] 1 F.C.R. 3 at paragraph 60.

[44] In rare circumstances of proven need, a party can obtain an interim costs award (*British Columbia (Minister of Forests) v. Okanagan Indian Band*, 2003 SCC 71, [2003] 3 S.C.R. 371) or state funding for counsel (*e.g.*, *R. v. Rowbotham* (1988), 41 C.C.C. (3d) 1 (Ont. C.A.)), in both cases on the basis of rates much lower than those sought here.

[45] But a constitutional right for lawyers acting as public interest litigants to collect pay and bonuses from the public purse in the amount of $800 an hour? I don't see that in the text of the Constitution or by necessary implication from it. Nor does the Supreme Court see it: *Little Sisters Book and Art Emporium v. Canada (Commissioner of Customs and Revenue)*, 2007 SCC 2, [2007] 1 S.C.R. 38 at paragraph 35; *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331 at paragraphs 139-141. I also reject the appellants' submission that some principle sitting invisibly alongside the visible text of our Constitution somehow springs up to entitle them to $800 an hour.

[46] The record discloses no inability on the part of the appellants at the outset of this litigation or even now to ask for donations to their cause. In this case, the appellants chose to proceed with their litigation, with no reasonable expectation of receiving more than the normal level of costs under Rule 400 and Tariff B of the *Federal Courts Rules*. And as I have said, in the circumstances of this case the Federal Court gave them even a little more than that.

[47] Like my colleague, I agree that there are no grounds for setting aside the costs order of the Federal Court and I would dismiss the appeal with costs in the amount of $1,000. Had the respondents asked for more, I would have granted more.

"David Stratas"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-541-14
STYLE OF CAUSE:	ROCCO GALATI, CONSTITUTIONAL RIGHTS CENTRE INC. v. THE RIGHT HONOURABLE STEPHEN HARPER, HIS EXCELLENCY THE, RIGHT HONOURABLE GOVERNOR GENERAL DAVID JOHNSTON, THE HONOURABLE MARC NADON, JUDGE OF THE FEDERAL COURT OF, APPEAL, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF, JUSTICE
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JANUARY 11, 2016
REASONS FOR JUDGMENT BY:	PELLETIER J.A.
CONCURRED IN BY:	GLEASON J.A.
CONCURRING REASONS BY:	STRATAS J.A.
DATED:	FEBRUARY 8, 2016

APPEARANCES:

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Paul Slansky	FOR THE APPELLANT, CONSTITUTIONAL RIGHTS CENTRE INC.
Andrew Law Christine Mohr	FOR THE RESPONDENTS, THE RIGHT HONOURABLE STEPHEN HARPER, HIS EXCELLENCY THE RIGHT HONOURABLE GOVERNOR

GENERAL DAVID JOHNSTON, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF JUSTICE

SOLICITORS OF RECORD:

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William F. Pentney Deputy Attorney General of Canada	FOR THE RESPONDENTS THE RIGHT HONOURABLE STEPHEN HARPER, HIS EXCELLENCY THE RIGHT HONOURABLE GOVERNOR GENERAL DAVID JOHNSTON, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF JUSTICE
Langlois, Kronstrom, Desjardins Montréal, Québec	THE HONOURABLE MARC NADON, JUDGE OF THE FEDERAL COURT OF APPEAL

EXHIBIT “WW”

ourt Cour fédérale

Date: 20150720

Docket: T-2502-14

Citation: 2015 FC 884

Ottawa, Ontario, July 20, 2015

PRESENT: The Honourable Mr. Justice Zinn

PROPOSED CLASS ACTION PROCEEDING

BETWEEN:

ANDRE DA SILVA CAMPOS, ARMANDO FILIPE FREITAS GONCALVES, AURELIO EDUARDO MARQUES ANJO, AURELIO JOSE ESTEVES MOTA, AVELINO JESUS LINHARES ORMONDE, CACIA APARECIDA SILVA FREITAS, CARLOS ALBERTO LIMA ARAUJO, CARLOS GARCES GOIS, CARLOS MANUEL LOUREIRO SILVA, CLAUDIA FELISMINA CARVALHO DA COSTA, EMANUEL PEREIRA PIRES, FRANCISCO FILIPE PEREIRA ANTUNES, GRZEGORZ JOZEF BIEGA, HENRIQUE MANUEL RODRIGUES DE MATOS, HERMINIO AUGUSTO JORGE PEDRO, JOAO GOMES CARVALHO, JOAO LUIS AGRELA SANTOS, JOAO PEDRO SOUSA REIS, JORGE PINHEIRO GOMES PRIOR, JOSE ANTONIO CAMPOS DE AZEVEDO, JOSE ANTONIO SILVA MONIZ, JOSE CARLOS SOUSA COSTA, JOSE FILIPE CUNHA CASANOVA, JOSE LUIS PEREIRA CUNHA, LEANDRO FILIPE MATOS GOMES DE SA, LUIS CARLOS FIGUEIREDO BENTO, LUIS FILIPE SILVERIO VICENTE, MACIEJ STANISLAW ZAPRZALA, MANUEL AGOSTINHO TOME LIMA, MANUEL DOMINGOS BORLIDO BARREIRAS, MANUEL COSTA SANTOS, MARCO FILIPE SILVA MARTINHO MARTINHO, MARCO

PAULO CRUZ PINHEIRO, MARIA ISABEL DE CASTRO GOUVEIA, MICHAL SZLESZYNSKI, NUNO RODRIGO RODRIGUES BORGES, PAOLO ROMANDIA, PEDRO MANUEL CARDOSO AREIAS, PEDRO MANUEL GOMES SILVA, PEDRO FILIPE VILAS BOAS SALAZAR NOVAIS, RICARDO JORGE CARVALHO RODRIGUES, ROBERTO CARLOS OLIVEIRA SILVA, ROGERIO JESUS MARQUES FIGO, ROSALINO DE SOUSA HENRIQUES, RUI MANUEL HENRIQUES LOURENCO, RUI MIGUEL DA COSTA LOPES, SILVIO ARNALDO FERNANDES, SOFIA ALEXANDRA LEAL AREIAS SILVA, VITOR MIGUEL DOS SANTOS RIBEIRO, WIKTOR ANTONI REINHOLZ, WOJCIECH PAWEL KACZMARSKI, ALESSANDRO COLUCCI, ANTONIO DE ARRUDA PIMENTEL, AUGUSTO JOSE DA COSTA SANTOS, BONIFACIO MANUEL COSTA SANTOS, CARLOS ALBERTO LIMA ARAUJO, CARLOS FILIPE BOTEQUILHAS RAIMUNDO, DANIEL ORLOWSKI, DARIUSZ DOMAGALA, EUGENIO PEDRO MACHADO DA SILVA, FELICE DI MAURO, FILIPE JOSE LARANJEIRO HENRIQUES, HUGO RAFAEL PAULINO DA CRUZ, JOSE CARLOS SOUSA COSTA, LUIS CARLOS DA PONTE CABRAL, PAULO ALEXANDRE ARRUDA VIANA, RICARDO JORGE VASCONCELOS BARROSO, VITOR MANUEL ESTEVES SILVA VIEIRA, ANA FILIPA CRUZ PEREIRA, ANA RITA ARAUJO, ARNALDO GOMES BRAS, BRUNO MARCELO MARTINS FERNANDES, CACIA APARECIDA SILVA FREITAS, CLAUDIA FELISMINA CARVALHO DA COSTA, FERNANDO ANTONIO PEREIRA MENDES, FERNANDO JORGE RIQUEZA BAGANHA, HELDER ANTONIO SANTOS AVILA BRUM, HENRIQUE MANUEL RODRIGUES DE MATOS, HERNANI SEBASTIAO MOUTINHO CORREIA, IGA GLUSZKO, JOAO FILIPE BRITO FERREIRA, JOSE LUIS PEREIRA CUNHA, LAUZER VINCENTE GOMES

LOPES, LUIS MIGUEL PEREIRA DA SILVA, MAFALDA MEDEIROS COSTA, MARIA ISABEL DE CASTRO GOUVEIA, MARIO ANDRE LIMA ROCHA, MICHAL SZLESZYNSKI, NUNO RODRIGO RODRIGUES BORGES, PAOLO ROMANDIA, PAULO FILIPE RAPOSO MARTINS, RAFAEL MANUEL BORGES BATALHA, RICARDO MIGUEL PIRES DE SOUSA, SANDRA CRISTINA PIRES DE SOUSA FERNANDES, SARA CRISTINA CUSTODIO PEREIRA, SILVIO ARNALDO FERNANDES, SOFIA ALEXANDRA LEAL AREIAS SILVA, STEPHANIE OLIVEIRA, VITOR CARVALHO MARQUES FIGUEIREDO, ALESSANDRO COLUCCI, ANTONIO DE ARRUDA PIMENTEL, ANTONIO DESIDERIO FERREIRA ANDRE, ANTONIO MARCIANO RAJAO ROSMANINHO, ANTONIO RICARDO FERRAZ DE SOUSA, ARMANDO FILIPE FREITAS GONCALVES, AUGUSTO JOSE DA COSTA SANTOS, AURELIO EDUARDO MARQUES ANJO, AURELIO JOSE ESTEVES MOTA, BONIFACIO MANUEL COSTA SANTOS, CARLOS MANUEL ALVES BARREIRA LUIS, EMANUEL PEREIRA PIRES, FERNANDO AZEVEDO FERREIRA, FERNANDO JORGE NEVES FERREIRA, JOSE ANTONIO FERNANDES DA COSTA, JOSE FILIPE CUNHA CASANOVA, JUSTYNA TADEL, MARIO FERNANDO CONCEICAO MARTINHO, PAULO JORGE FRANCO, PEDRO MANUEL GOMES SILVA, PEDRO FILIPE VILAS BOAS SALAZAR NOVAIS, RICARDO JORGE CARVALHO RODRIGUES, RICARDO JORGE MARTINS FERREIRA ANTUNES, RUI MIGUEL DA COSTA LOPES, WIKTOR ANTONI REINHOLZ, ANDRE DA SILVA CAMPOS, CARLOS MANUEL ALVES BARREIRA LUIS, EUGENIO PEDRO MACHADO DA SILVA, FILIPE JOSE LARANJEIRO HENRIQUES, FRANCISCO FILIPE PEREIRA ANTUNES, LANZER VICENTE GOMES LOPES, LUIS FILIPE SILVERIO VICENTE, LUIS MIGUEL

PEREIRA DA SILVA, RUI MIGUEL DA COSTA LOPES, SANDRA CRISTINA PIRES DE SOUSA FERNANDES, ANDRZEJ TOMASZ WAGA, AVELINO JESUS LINHARES ORMONDE, CARLOS ALBERTO BARBOSA SILVA, CARLOS ANTONIO FERREIRA MATOS, CARLOS GARCES GOIS, CARLOS JESUS CORREIA, CARLOS MANUEL LOUREIRO SILVA, DANIEL FILIPE COSTA FERREIRA, ENRIQUE FERNANDEZ PEREIRA, FABIO SOARES MONIZ, FERNANDO MEDEIROS CORDEIRO, GILVANE PAULINO DAMIAO, GRZEGORZ JOZEF BIEGA, HELIO ALEXANDRE DA SILVA GOMES, HERMINIO AUGUSTO JORGE PEDRO, IGOR SERGIO GOUVEIA GOMES, JOAO FILIPE SOUSA ARAUJO, JOAO GOMES CARVALHO, JOAO LUIS AGRELA SANTOS, JOAO PEDRO SOUSA REIS, JORGE PINHEIRO GOMES PRIOR, JOSE ANTONIO CAMPOS DE AZEVEDO, JOSE ANTONIO SILVA MONIZ, LEANDRO FILIPE MATOS GOMES DE SA, LUIS CARLOS FIGUEIREDO BENTO, MACIEJ STANISLAW ZAPRZALA, MANUEL AGOSTINHO TOME LIMA, MANUEL BORGES LEAL, MANUEL COSTA SANTOS, MARCO FILIPE DA SILVA MARTINHO, MARCO PAULO DA CRUZ PINHEIRO, PAULO JOAO DUARTE SABINO, PAULO ALEXANDRE COSTA REIS, PEDRO MANUEL CARDOSO AREIAS, PEDRO MIGUEL RIBEIRO PONTES, RICARDO JORGE FONSECA FURTADO, RICARDO JORGE SANTOS FERREIRA, ROBERTO CARLOS OLIVEIRA SILVA, ROGERIO DE JESUS MARQUES FIGO, ROSALINO DE SOUSA HENRIQUES, RUI MANUEL FERNANDES LIMA, RUI MANUEL HENRIQUES LOURENCO, VITOR ALBERTO VERGAS MARCAL, VITOR MANUEL ESTEVES SILVA VIEIRA, VITOR MIGUEL DOS SANTOS RIREIRO, WIESLAW KOTULA, ARTUR GRZEGORSZ KOTULA, WOJCIECH PAWEL KACZMARSKI, BRUNO MARCELO MARTINS FERNANDES,

CARLOS ALBERTO FERREIRA JESUS, EDGAR DA CRUZ SANTOS, JOAQUIM CARLOS PIEDADE FERREIRA, TIAGO FERNANDO MARQUES MAIO, AURELIO JOSE ESTEVES MOTA, CARLOS MANUEL LOUREIRO SILVA, EMANUEL PEREIRA PIRES, FERNANDO ANTONIO PEREIRA MENDES, FERNANDO AZEVEDO FERREIRA, IGA GLUSZKO, JOAO FILIPE BRITO FERREIRA, JORGE PINHEIRO GOMES PRIOR, LAUZER VICENTE GOMES LOPES, MACIEJ STANISLAW ZAPRZALA, MANUEL COSTA SANTOS, MARIO FERNANDO CONCEICAO MARTINHO, NUNO RODRIGO RODRIGUES BORGES, PEDRO FILIPE VILAS BOAS SALAZAR NOVAIS, RAFAEL MANUEL BORGES BATALHA, ROSALINO DE SOUSA HENRIQUES, RUI MANUEL FERNANDES LIMA, RUI MANUEL HENRIQUES LOURENCO, SANDRA CRISTINA PIRES SOUSA FERNANDES, TIAGO FERNANDO MARQUES MAIO, VITOR ALBERTO VERGAS MARCAL, WIKTOR ANTONI REINHOLZ, WOJCIECH PAWEL KACZMARSKI, ADELINO SILVA CAPELA, ALEXANDRE FERREIRA FILIPE, ANDRESZ TOMASZ MYRDA, ANTINIO JOAQUIM OLIVEIRA MARTINS, ANTINIO MANUEL DA SILVA MARQUES, CARLOS EURICO FERRAZ DE SOUSA, EDUARDO MANUEL RODRIGUES MARCELINO, ISAAC MANUEL LEITUGA PEREIRA, ISABELLE ANGELINO, JOAO PEDRO ESTEVES FERREIRA, JOAO TIAGO SOARES, JOAQUIM AGOSTINHO DA COSTA RODRIGUES, JOAQUIM FERREIRA SOARES, JOSE AUGUSTO LOPES FERREIRA, JOSE CARLOS GOUVEIA SALGADO, JOSE MANUEL SIEIRA GAVINA, JOSE JOAQUIM MARQUES TOURITA, JUVENAL SILVA CABRAL, MARIO LUIS COSTA RODRIGUES, MIGUEL ALEXANDRE ANDRINO GOMES, MILTIN CESAR AGUIAR CARREIRO, ROBERT ZLOTSZ, SERGIO FERNANDES SILVA

ANSELMO, SIIVINO ARAUJO COUTO, SIMAO PEDRO MARTINS DA COSTA, AND VALDEMAR FERREITRA COSTA

Plaintiffs

and

MINISTER OF CITIZENSHIP AND IMMIGRATION, MINISTER OF EMPLOYMENT AND SOCIAL DEVELOPMENT, HER MAJESTY THE QUEEN

Defendants

ORDER AND REASONS

[1] The defendants move to strike the Statement of Claim, without leave to amend. They submit that it discloses no reasonable cause of action, and is riddled with deficiencies such that the "claim is beyond particularizing or amending [and] should be struck in its entirety." I agree; however, the plaintiffs ought to be granted an opportunity to file an amended claim that properly and specifically sets out their claim(s).

[2] The present Statement of Claim comes close to being incomprehensible. The claim appears to assert that the plaintiffs have suffered damages and loss as a result of the delay, misfeasance, discrimination, negligence, and illegality in the processing of Labour Market opinions [LMOs], Labour Market Impact Assessments [LMIAs], work permits and permanent residence applications.

[3] This is a proposed class action proceeding against two Ministers for certain alleged acts and omissions, and against Her Majesty the Queen for the tortious acts and omissions of her officials and servants, including the two Ministers.

[4] It is alleged that all of the plaintiffs applied for, and were denied, LMO or LMIA assessments, on Temporary Work Permits [TWP], Work Permits [WP], or Provincial Nominee Program [PNP] permanent resident consideration. The plaintiffs are sorted into eight groups (it is unclear to the court whether some plaintiffs appear in more than one group), as described in paragraph 2 of the Statement of Claim, as follows:

> [Group 1] "are all Foreign Temporary Workers, [TFW] pursuant to the *IRPA Regulations,* under the authority of s. 12(2) of the *IRPA,* who applied for Foreign Temporary Worker permits and were denied because no Labour Market Opinion ("LMO") or Labour Market Impact Assessment ("LMIA") had been processed by the Defendant Minister of Employment and Social Development (formerly Minister for Human Resources and Social Development), following which the Minister of Immigration and his officials denied them work permits due to the inordinate, inexplicable, and actionable delay by the Minister of Human Resources and Social Development, contrary to his statutory duty to process, pursuant to s. 3(1)(f) of the *IRPA,* which applications were filed and denied to the Plaintiffs set out in, and in accordance with,*"Schedule A"* of the within Statement of Claim;"
>
> [Group #2] "are all Foreign Temporary Workers, pursuant to the *IRPA Regulations,* who were denied permits based on the erroneous, arbitrary, and *ultra vires* assessment that the Plaintiffs' trade or work category lack a labour market "shortage", which refusals were made based on conceded facts by the Defendants that:
>
> > (i) that no statistics existed with respect to "shortages";
> > (ii) that the Defendant Ministers expressed, publicly, that they hoped to have such statistics as to shortages, by 2015; and
> > (iii) that the best-placed authority as to shortages are the Provincial, local Labour authorities, industries, and trade unions;

which applications were filed and denied to the Plaintiffs set out in, and in accordance with, *"Schedule B"* to the within statement of claim;"

[Group #3] "were denied LMO/LMIA consideration due to illegal and *ultra vires* Ministerial directions and instructions by the Minister of Employment and Social Development, of a moratorium up to June 201h, 2014, which moratorium was applied nationally even though it arose from a local problem in Western Canada with no such problem existing in Ontario, particularly with the "ethnic food sector", and further which instructions were due to the incompetence and *ultra vires* LMO/LMIA assessments, as well as the impossible and onerous policies and requirements then imposed on June 20'h, 2014, looking forward beyond June 20'h, 2014, which included some of the following:

> (i) commit to hiring and training Canadians at high wage rates even though the employers cannot find Canadians willing and able to be trained and, further, if a company failed to find and train a Canadian worker over a 3-5 year period, then the company could face l year in jail and a $100,000 fine;
> (ii) agree to let in Ministry of Employment and Development (Human Resources and Social Development) investigators into their office, unannounced and without warrant, to review and take all company records; Ministry of Employment and Development (Human Resources and Social Development) investigators also were given ability to enter residential premises;

which LMO/LMIA applications, were filed and denied to the Plaintiffs set out in, and in accordance with *"Schedule C'* of the within Statement of Claim;"

[Group #4] were denied, contrary to law, and by way of illegal and *ultra vires* policy change and Minister's instructions, which policies and changes changed after the Plaintiffs' application was submitted, but before a decision on the assessment was made, whereby the new policies and instructions were applied to the LMO/LMIA, resulting in a refusal of the application, and actionable damages caused to the Plaintiffs set out in, and in accordance with *"Schedule D"* of the within Statement of Claim;

[Group #5] were denied an LMO/LMIA assessment and decision in order to .renew their work permits, due to arbitrary, and *ultra vires,* compliance order(s) against their employers and Plaintiffs which made it impossible to obtain a decision, such as:

(i) the inexcusable, inordinate delay in processing and verifying which could take 5-6 months;
(ii) making assessments, and assumptions regarding commercial, market and labour standard conditions which did not accord with reality and were based on mere assumptions without evidence, when the expertise, evidence, and information lay with local Provincial authorities, industries, and unions which were not accessed by the Defendants' officials;
(iii) while they called them "investigations" with respect to the compliance orders, the Defendants' officials in fact never showed up at work-sites, or offices, to speak to employers or employees; and
(iv) while an employer was under "compliance review", all applications for that employer were not processed;

which resulted in the denial of an LMO/LMIA assessment for the Plaintiffs who applied for one, prior to the arbitrary compliance orders were put in place, but before an assessment/decision could be made, which caused actionable damages for the Plaintiffs as set out in, and in accordance with *"Schedule E'* of the within Statement of Claim;"

[Group #6] "were not able to apply for required LMO/LMIA, to renew their work permits, due to arbitrary, and *ultra vires,* arbitrary changes to LMO/LMIA Rules for which these Plaintiffs made it impossible to obtain a decision, which rules include such orders as:

(i) the Defendants' officials would change the wage rates without notice;
(ii) the Defendants' officials would change the advertising requirements without notice;
(iii) the Defendants' officials would charge their analysis of their "labour market" statistics without notice; and
(iv) the Defendants' officials would change language requirements without notice;

which resulted in the denial of an LMOILMIA assessment for the Plaintiffs who applied for one, prior to the arbitrary rules were put in place, but before an assessment/decision could be made, which caused actionable damages for the Plaintiffs as set out in, and in accordance with *"Schedule F'* of the within Statement of Claim;"

[Group #7] "were eligible Provincial Nominee Program ("PNP") Applicants in Ontario who applied but, because of either illegal and *ultra vires* "quota" and inexplicable, illegal, and actionable delay by the Defendant Minister of Immigration, as well as superimposing and overriding provincial criteria and selection with

> irrelevant and *ultra vires* federal criteria, will not receive an answer to their application for their permanent residence, and will see removal proceedings against them before a decision can be made, thus causing actionable damages to these Plaintiffs as set out, and in accordance with *"Schedule G"* of the within Statement of Claim;"
>
> [Group #8] "who qualify for the "PNP" Programme in Ontario but who, because of the illegal, arbitrary, and *ultra vires* Federal "quota" by the Defendant Minister of Immigration, as well as super imposing and overriding provincial criteria and selection with irrelevant and *ultra vires* federal criteria, will not be processed, and subject to removal proceedings prior to a decision and thus caused actionable damages to the Plaintiffs as set in, and in accordance with *"Schedule H"* of the within Statement of Claim;"

[5] The plaintiffs submit that "the substantive issues" in this motion have been dealt with by the court in *Cabral et al v Canada (Minister of Citizenship and Immigration) et al*, T-2425-14, which is referred to as "the companion case" and they argue that the basis of the within motion is "virtually indistinguishable, in law, and that the within motion to strike ought to be dismissed, as was largely the case in T-2425-14."

[6] I agree with the defendants that the ruling on the motion to strike in T-2425-14 is of limited assistance in deciding the within motion because the subject matter of the actions are significantly different. I also agree with the defendants that the ruling in T-2425-14 is relevant in two respects: (i) whether the motion should be heard orally rather than in writing, and (ii) with respect to the plaintiffs' challenge to section 49 of the *Federal Courts Act* which bars jury trials should be struck. For the reasons given in T-2425-14, I find that this motion may be properly disposed of in writing pursuant to Rule 369 of the *Federal Courts Rules*, and that the allegation challenging section 49 of the *Federal Courts Act*, must be struck from the Statement of Claim.

[7] The defendants submit that the plaintiffs, as TFWs, are "without standing with respect to claims concerning the processing of applications for [LMO/]LMIAs and thus paragraphs 2(a)-(f) and 6(a)-(f) do not disclose a reasonable case of action." It is accurate, as the defendants plead that LMOs and LMIAs are applied for and issued to employers, not the workers hired under them. However, it is not plain and obvious that a worker cannot be adversely affected by the failure or delay of Canada to issue a LMO or LMIA to a prospective employer which would have permitted the worker to be hired. On the other hand, it is unclear to the court that the claim, as currently drafted, pleads that all or any of the plaintiffs would have been hired as temporary workers had these documents been issued.

[8] I am far from convinced that it is plain and obvious that none of these plaintiffs have a possible claim against the defendants; however, as presently drafted, the Statement of Claim cannot stand. The Statement of Claim suffers from a number of deficiencies that cannot be cured simply by striking its offensive parts for what would remain would not make sense. These deficiencies include the following:

1. The plaintiffs have not responded to what appears to be an accurate submission by the defendants that "the title of the proceeding lists 236 plaintiffs but upwards of 90 are listed twice [and] seven plaintiffs appear multiple times with names spelled in different ways making it unclear whether they are duplicate or different plaintiffs." This must be corrected in order that the defendants know who is bringing the action and without that information they are unable to mount much if any specific defence.

2. The Schedule "B" plaintiffs are described in paragraph 2(b) as having been denied permits but in Schedule "B" the plaintiffs are described as having been denied "LMIAs". This inconsistency must be resolved.

3. The Schedule "A" plaintiffs are described as having been denied LMIAs, but in Schedule "A" the plaintiffs list the dates they applied for work permits, which is not relevant to the claim these plaintiffs are advancing. Again, this must be resolved.

4. "In paragraph 12(a), the plaintiffs make passing reference to a 'criminal law duty of care, under s. 126 of the Criminal Code" [but] no facts are pleaded in respect of this claim, nor is this alleged duty of care otherwise referenced in the pleading." Absent such particulars, this pleading should be struck.

[9] The defendants submit that "the plaintiffs plead no material facts supporting a claim that delays in the processing of applications for LMIAs are actionable." The plaintiffs plead that there were delays in processing the LMOs and LMIAs and that those delays were "inordinate, inexplicable and actionable." I do not accept, as the defendants suggest, that the claim must set out the dates of application, the date of denial, and the processing time that passed. Those facts can be discovered through a demand for particulars if the information is not otherwise available to the defendants. It is not necessary for the purposes of pleading. On the other hand, the plaintiffs must plead more than mere delay. Without pleading the basis for its assertion that there was a delay (such as comparing the processing time to an average, or basing the processing on some specific direction or policy), the defendants cannot respond.

[10] I agree with the defendants that the plaintiff s' pleading that they have been or will be denied permanent resident visas owing to 'quotas', 'delays', and 'ultra-vires federal criteria' is far too general. The plaintiffs must plead material facts to establish the alleged quota, delay and ultra-vires claims, and plead facts the support the allegation that they have been or will be denied permanent resident visas to which they would otherwise be entitled.

[11] I agree with the defendants that the "plaintiffs allege certain Ministerial instructions, policies, compliance orders, rules, quotas, and 'federal criteria' are 'illegal and ultra-vires'" without specifically identifying them or stating how they are illegal or ultra-vires. Absent this information, the pleading is deficient as it lacks material facts necessary for the defendants to respond to the allegation.

[12] The Statement of Claim, insofar as it makes allegations relating to TFWP, LMIAs, the PNP, the Federal Skilled Workers Program, the Federal Trades Program, work permits, permanent residence visas, compliance orders, assessments of labour shortages, and the food-services moratorium of 2014, is deficient because there are no facts or insufficient facts pled to permit the defendants and the court to understand the bases of these claims. I agree with the defendants that these pleadings are "neither complete nor intelligible."

[13] I further agree with the defendants that it appears that part of this claim, as it relates to the plaintiffs in T-2425-14, is duplicative. If so, and to that extent, it is improper.

[14] These irregularities and material deficiencies are sufficient, in the court's view, to strike the Statement of Claim in its entirety; however, because there may be an actionable claim by some of these plaintiffs, they will be granted leave to file a Fresh Statement of Claim within sixty (60) days that conforms to these reasons, failing which the claim will be dismissed.

ORDER

THIS COURT ORDERS that:

1. The Statement of Claim is struck in its entirety;

2. The plaintiffs are granted leave to file a Fresh Statement of Claim within sixty (60) days of this Order that complies with the Reasons provided, failing which the action will be dismissed; and

3. Costs are in the cause.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2502-14
STYLE OF CAUSE:	ANDRE DA SILVA CAMPOS ET AL v MINISTER OF CITIZENSHIP AND IMMIGRATION ET AL

MOTION DEALT WITH IN WRITING WITHOUT THE APPEARANCE OF PARTIES

ORDER AND REASONS:	ZINN J.
DATED:	JULY 20, 2015

WRITTEN REPRESENTATIONS BY:

Rocco Galati	FOR THE PLAINTIFFS
Roger Flaim Prathima Prashad	FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Rocco Galati Law Firm Professional Corporation Barristers & Solicitors Toronto, Ontario	FOR THE PLAINTIFFS
William F. Pentney Deputy Attorney General of Canada Ottawa, Ontario	FOR THE DEFENDANTS

EXHIBIT "XX"

Federal Court | Cour fédérale

Date: 20160208

Docket: T-2010-11

Citation: 2016 FC 147

Ottawa, Ontario, February 8, 2016

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

COMMITTEE FOR MONETARY AND ECONOMIC REFORM ("COMER"), WILLIAM KREHM, AND ANN EMMETT

Plaintiffs

and

HER MAJESTY THE QUEEN, THE MINISTER OF FINANCE, THE MINISTER OF NATIONAL REVENUE, THE BANK OF CANADA, THE ATTORNEY GENERAL OF CANADA

Defendants

This is Exhibit "XX" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

ORDER AND REASONS

I. INTRODUCTION

[1] This is a motion by the Defendants under Rule 221 of the *Federal Court Rules*, SOR/98-106 [*Rules*] to strike the Plaintiffs' Amended Statement of Claim of March 26, 2015 [Amended Claim].

II. BACKGROUND

[2] The Plaintiff, Committee for Monetary and Economic Reform [COMER], is an economic "think-tank" based in Toronto. COMER was established in 1970 and is dedicated to research and publications on issues of monetary and economic reform in Canada. The individual Plaintiffs are members of COMER who have an interest in economic policy.

A. *History of the Litigation*

[3] This litigation was commenced on December 12, 2011, with the filing of the original Statement of Claim, which was amended in minor ways on January 19, 2012 [Original Claim].

[4] On August 9, 2013, the Original Claim was struck out in its entirety by Prothonotary Aalto, without leave to amend. Upon appeal from the decision of the Prothonotary, I struck the Original Claim in its entirety, but with leave to amend, by way of order on April 24, 2014 [Order of April 24, 2014].

[5] Appeal and cross-appeals of my Order of April 24, 2014 were dismissed by the Federal Court of Appeal on January 26, 2015. The Plaintiffs filed the Amended Claim on March 26, 2015. The Defendants now move to strike out this Amended Claim.

B. *The Amended Claim*

[6] The Plaintiffs' Amended Claim, while an amended version of the Original Claim, continues to seek a series of declarations relating to three basic assertions, as noted in my previous Order of April 24, 2014: first, that the *Bank of Canada Act*, RSC, 1985, c B-2 [*Bank Act*] provides for interest-free loans to the federal, provincial and municipal governments for the purposes of "human capital expenditures," and the Defendants have failed to fulfill their legal duties to ensure such loans are made, resulting in lower human capital expenditures by governments to the detriment of all Canadians; second, that the Government of Canada uses flawed accounting methods in relation to public finances, thereby understating the benefit of "human capital expenditures" and undermining Parliament's constitutional role as the guardian of the public purse; and third, that these and other harms are the result of Canadian fiscal and monetary policy being, in part, controlled by private foreign interests through Canada's involvement in international monetary and financial institutions.

[7] The pleadings of fact which accompany the Amended Claim define "human capital expenditures" as those that encourage the qualitative and quantitative progress of a nation by way of the promotion of the health, education and quality of life of individuals, in order to make them more productive economic actors, through institutions such as schools, universities,

hospitals and other public infrastructures. The Plaintiffs state that investment in human capital is the most productive investment and expenditure a government can make.

[8] The Amended Claim seeks nine declarations. The first is that ss 18(i) and (j) of the *Bank Act* require the Minister of Finance [Minister] and the Government of Canada to request, and the Bank of Canada to provide, interest-free loans for the purpose of human capital expenditures to all levels of government (federal, provincial and municipal).

[9] Second, the Plaintiffs ask the Court to declare that the Defendants have not only abdicated their statutory and constitutional duties with respect to ss 18(i) and (j) of the *Bank Act*, but that they have also, by way of a refusal to request and make interest-free loans under ss 18(i) and (j), caused a negative and destructive impact on Canadians through the disintegration of Canada's economy, its financial institutions, increases in public debt, a decrease in social services, as well as a widening gap between rich and poor, with the continuing disappearance of the middle class. In the accompanying facts to their Amended Claim, the Plaintiffs use a June 11, 2014 request of the Town of Lakeshore, Ontario as an example of an occasion when the Minister refused a request for an interest-free loan without regard to either the nature of the request or pertinent provisions of the *Bank Act*. The Plaintiffs say that the Minister's reasons for refusing the Town of Lakeshore's request are both financially and economically fallacious and not in accordance with statutory duties.

[10] Third, the Plaintiffs seek a declaration that s 18(m) of the *Bank Act*, and its administration and operation, is unconstitutional and of no force and effect. They say the Defendants have

abdicated their constitutional duties and handed them over to international, private entities whose interests have, in effect, been placed above those of Canadians and the primacy of the Canadian Constitution. The Plaintiffs state that no sovereign government such as Canada should ever borrow money from commercial banks at interest, when it can borrow from its own central bank interest-free, particularly when that central bank, unlike the banks of any other G-8 nation, is publically established, mandated, owned and accountable to Parliament and the Minister, and was created with that purpose as one of its main functions.

[11] Fourth, the Plaintiffs ask the Court to declare that the fact that the minutes of meetings involving the Governor of the Bank of Canada [Governor] and other G-8 central bank governors have been kept secret is *ultra vires* the Governor, as being contrary to the *Bank Act* – particularly s 24 – and ought to be considered unconstitutional conduct.

[12] The fifth declaration sought is that, by allowing the Governor to keep the nature and content of international bank meetings secret, by not exercising the authority and duty contained in ss 18(i) and (j) of the *Bank Act,* and in enacting s 18(m) of the *Bank Act*, Parliament has abdicated its duties and functions as mandated by ss 91(1)(a), (3), (14), (15), (16), (18), (19), (20) of the *Constitution Act, 1867,* as well as s 36 of the *Constitution Act, 1982.*

[13] The Plaintiffs' sixth and seventh declarations involve the manner in which the Minister accounts for public finances, which the Plaintiffs say is conceptually and logically wrong. The Plaintiffs seek a declaration that the Minister is required to list human capital expenditures — including those related to infrastructure as "assets" rather than "liabilities" in budgetary

accounting — as well as all revenues prior to the return of tax credits to individual and corporate tax payers, then subtract tax credits, then subtract total expenditures in order to arrive at an annual "surplus" or "deficit," as required by s 91(6) of the *Constitution Act, 1867*.

[14] The eighth declaration sought is that taxes imposed to pay for the interest on the deficit and the debt to private bankers, both domestic and foreign, are illegal and unconstitutional. The Plaintiffs claim that this is the result of a breach of the constitutional right(s) to "no taxation without representation" which occurs when the Minister fails to disclose anticipated revenues to Parliament before the return of anticipated tax credits, prior to determining whether an anticipated surplus or deficit will be incurred, in the tabling of the budget. This means that a full and proper Parliamentary debate cannot properly take place, thus breaching the right to no taxation without representation under both ss 53 and 90 of the *Constitution Act, 1867*, as well as the unwritten constitutional imperatives to the same effect. Also, it results in an infringement of the Plaintiffs' right to vote under s 3 of the *Charter*, which is tied to the right to no taxation without representation with respect to the Minister's constitutional violations. The result is a breach of the terms of the *Bank Act* relating to interest-free loans and the consequent constitutional violations by the Executive of its duty to govern, and its relinquishing of sovereignty and statutory decision-making to private foreign bankers.

[15] The ninth and final declaration sought is that the "privative clause" in s 30.1 of the *Bank Act* either (a) does not apply to prevent judicial review, by way of action or otherwise, with respect to statutorily or constitutionally *ultra vires* actions, or to prevent the recovery or damages based on such actions; or (b) if it does prevent judicial review and recovery, is unconstitutional

and of no force and effect, as breaching the Plaintiffs' constitutional right to judicial review and the underlying constitutional imperatives of the rule of law, Constitutionalism and Federalism.

[16] Besides the declaratory relief sought, the Plaintiffs also in the Amended Claim request damages in the amount of $10,000.00 each for individual Plaintiff: William Krehm, Anne Emmett, and for ten COMER Steering Committee [Steering Committee] members named in the Amended Claim, for the breach of their constitutional right of "no taxation without representation" and the inseparable infringement of the right to vote due to alleged constitutional breaches by the Minister. Further, the Plaintiffs request the return of the portion of illegal and unconstitutional tax, to be calculated and calibrated at trial, for each of the Plaintiffs and the members of the Steering Committing, consisting of the proportion of taxes to pay interest charges on the deficit, and debt between 2011 and the time of trial, paid by the Plaintiffs and Steering Committee members, due to the statutory and constitutional breaches of the Defendants' rights in refusing and/or failing to cover deficits in the budget by way of interest-free loans, as well as the breach of their right to no taxation without representation, to be calculated by the compounded interest changes set out in the budget, as a percentage of the budget, calculated as the same percentage paid by the Plaintiffs and Steering Committee members, to be calculated at trial.

III. ISSUES

[17] The Defendants have brought a motion to strike the Amended Claim on the grounds that, *inter alia*:

1. it fails to comply with the leave to amend granted and fails to remedy the problems identified in the Order of April 24, 2014;

2. it seeks to add parties and new claims that are not permissible by virtue of the leave to amend and the *Rules*;

3. it fails to disclose a reasonable cause of action against the Defendants, or any one of them;

4. it is scandalous, frivolous or vexatious;

5. it is an abuse of process of the Court;

6. it fails to disclose facts which would show that the action or inaction of the Defendants, or any one of them, could cause an infringement of the Plaintiffs' rights under the *Charter* or the Constitution;

7. the causal link between the alleged action or inaction of the Defendants or any one of them, and the alleged infringement of the Plaintiffs' rights is too uncertain, speculative and hypothetical to sustain a cause of action;

8. it seeks declaratory relief only available under s 18.1 of the *Federal Courts Act*, RSC, 1985, c F-7 [*Federal Courts Act*] and in any event such relief is not available to the Plaintiffs;

9. the Plaintiffs are not entitled to seek an advisory opinion from the Court;

10. it seeks to adjudicate matters that are not justiciable;

11. it seeks to impose a fetter on the sovereignty of Parliament and seeks to overrule or disregard the privilege of the House of Commons over its own debates and internal procedures;

12. the Plaintiffs do not have a s 3 *Charter* right to any particular form of taxation and there is no causal connection, or legitimate expectation between their vote and the presentation of a budget before the House of Commons and resulting legislation;

13. it concerns matters outside the jurisdiction of the Court; and

14. the Plaintiffs do not have standing to bring the Amended Claim as of right, nor can they meet the necessary requirements for the grant of public interest standing.

IV. STATUTORY PROVISIONS

[18] The following provisions of the *Bank Act* are applicable in these proceedings:

Powers and business	**Pouvoirs**
18. The Bank may	18. La Banque peut :
[…]	[…]
(i) make loans or advances for periods not exceeding six months to the Government of Canada or the government of a province on taking security in readily marketable securities issued or guaranteed by Canada or any province;	i) consentir des prêts ou avances, pour des périodes d'au plus six mois, au gouvernement du Canada ou d'une province en grevant d'une sûreté des valeurs mobilières facilement négociables, émises ou garanties par le Canada ou cette province;
(j) make loans to the Government of Canada or the government of any province, but such loans outstanding at any one time shall not, in the case of the Government of Canada, exceed one-third of the estimated revenue of the Government of Canada for its fiscal year, and shall not, in the case of a provincial government, exceed one-fourth of that government's estimated revenue for its fiscal year, and such loans shall be repaid before the end of the first quarter after the end of the fiscal year of the government that has contracted the loan;	j) consentir des prêts au gouvernement du Canada ou d'une province, à condition que, d'une part, le montant non remboursé des prêts ne dépasse, à aucun moment, une certaine fraction des recettes estimatives du gouvernement en cause pour l'exercice en cours — un tiers dans le cas du Canada, un quart dans celui d'une province — et que, d'autre part, les prêts soient remboursés avant la fin du premier trimestre de l'exercice suivant;
[…]	[…]
(m) open accounts in a central bank in any other country or in the Bank for International Settlements, accept deposits from central banks in other countries, the Bank for International Settlements, the International Monetary Fund,	m) ouvrir des comptes dans une banque centrale étrangère ou dans la Banque des règlements internationaux, accepter des dépôts — pouvant porter intérêt — de banques centrales étrangères, de la Banque des règlements

the International Bank for Reconstruction and Development and any other official international financial organization, act as agent or mandatary, or depository or correspondent for any of those banks or organizations, and pay interest on any of those deposits;	internationaux, du Fonds monétaire international, de la Banque internationale pour la reconstruction et le développement et de tout autre organisme financier international officiel, et leur servir de mandataire, dépositaire ou correspondant;
[…]	[…]
Fiscal agent of Canadian Government	**Agent financier du gouvernement canadien**
24. (1) The Bank shall act as fiscal agent of the Government of Canada.	24. (1) La Banque remplit les fonctions d'agent financier du gouvernement du Canada.
Charge for acting	**Honoraires**
(1.1) With the consent of the Minister, the Bank may charge for acting as fiscal agent of the Government of Canada.	(1.1) La Banque peut, avec le consentement du ministre, exiger des honoraires pour remplir de telles fonctions.
To manage public debt	**Gestion de la dette publique**
(2) The Bank, if and when required by the Minister to do so, shall act as agent for the Government of Canada in the payment of interest and principal and generally in respect of the management of the public debt of Canada.	(2) Sur demande du ministre, la Banque fait office de mandataire du gouvernement du Canada pour la gestion de la dette publique, notamment pour le paiement des intérêts et du principal de celle-ci.
Canadian Government cheques to be paid or negotiated at par	**Encaissement des chèques du gouvernement canadien**
(3) The Bank shall not make any charge for cashing or negotiating a cheque drawn on the Receiver General or on the account of the Receiver General, or for cashing or	(3) La Banque ne peut exiger de frais pour l'encaissement ou la négociation de chèques tirés sur le receveur général ou pour son compte et d'autres effets autorisant des paiements sur le

negotiating any other instrument issued as authority for the payment of money out of the Consolidated Revenue Fund, or on a cheque drawn in favour of the Government of Canada or any of its departments and tendered for deposit in the Consolidated Revenue Fund.	Trésor, ni pour le dépôt au Trésor de chèques faits à l'ordre du gouvernement du Canada ou d'un ministère fédéral.
[…]	[…]
No liability if in good faith	**Immunité judiciaire**
30.1 No action lies against Her Majesty, the Minister, any officer, employee or director of the Bank or any person acting under the direction of the Governor for anything done or omitted to be done in good faith in the administration or discharge of any powers or duties that under this Act are intended or authorized to be executed or performed.	30.1 Sa Majesté, le ministre, les administrateurs, les cadres ou les employés de la Banque ou toute autre personne agissant sous les ordres du gouverneur bénéficient de l'immunité judiciaire pour les actes ou omissions commis de bonne foi dans l'exercice — autorisé ou requis — des pouvoirs et fonctions conférés par la présente loi.

[19] The following provisions of the *Constitution Act, 1867*, are applicable in these proceedings:

Appropriation and Tax Bills	**Bills pour lever des crédits et des impôts**
53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.	53. Tout bill ayant pour but l'appropriation d'une portion quelconque du revenu public, ou la création de taxes ou d'impôts, devra originer dans la Chambre des Communes.

Recommendation of Money Votes

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

[…]

Application to Legislatures of Provisions respecting Money Votes, etc.

90. The following Provisions of this Act respecting the Parliament of Canada, namely, — the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved, — shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One

Recommandation des crédits

54. Il ne sera pas loisible à la Chambre des Communes d'adopter aucune résolution, adresse ou bill pour l'appropriation d'une partie quelconque du revenu public, ou d'aucune taxe ou impôt, à un objet qui n'aura pas, au préalable, été recommandé à la chambre par un message du gouverneur-général durant la session pendant laquelle telle résolution, adresse ou bill est proposé.

[…]

Application aux législatures des dispositions relatives aux crédits, etc.

90. Les dispositions suivantes de la présente loi, concernant le parlement du Canada, savoir : — les dispositions relatives aux bills d'appropriation et d'impôts, à la recommandation de votes de deniers, à la sanction des bills, au désaveu des lois, et à la signification du bon plaisir quant aux bills réservés, — s'étendront et s'appliqueront aux législatures des différentes provinces, tout comme si elles étaient ici décrétées et rendues expressément applicables aux provinces respectives et à leurs législatures, en substituant toutefois le lieutenant-gouverneur de la province au gouverneur-général, le gouverneur-général à la Reine et au secrétaire d'État, un an à

Year for Two Years, and of the Province for Canada.

deux ans, et la province au Canada.

Legislative Authority of Parliament of Canada

Autorité législative du parlement du Canada

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

91. Il sera loisible à la Reine, de l'avis et du consentement du Sénat et de la Chambre des Communes, de faire des lois pour la paix, l'ordre et le bon gouvernement du Canada, relativement à toutes les matières ne tombant pas dans les catégories de sujets par la présente loi exclusivement assignés aux législatures des provinces; mais, pour plus de garantie, sans toutefois restreindre la généralité des termes ci-haut employés dans le présent article, il est par la présente déclaré que (nonobstant toute disposition contraire énoncée dans la présente loi) l'autorité législative exclusive du parlement du Canada s'étend à toutes les matières tombant dans les catégories de sujets ci-dessous énumérés, savoir :

[…]

[…]

1A. The Public Debt and Property. (45)

1A. La dette et la propriété publiques. (45)

[…]

[…]

3. The raising of Money by any Mode or System of Taxation.

3. Le prélèvement de deniers par tous modes ou systèmes de taxation.

4. The borrowing of Money on the Public Credit.

4. L'emprunt de deniers sur le crédit public.

[…]

[…]

6. The Census and Statistics.	6. Le recensement et les statistiques.
[…]	[…]
14. Currency and Coinage.	14. Le cours monétaire et le monnayage.
[…]	[…]
16. Savings Banks.	16. Les caisses d'épargne.
[…]	[…]
18. Bills of Exchange and Promissory Notes.	18. Les lettres de change et les billets promissoires.
19. Interest.	19. L'intérêt de l'argent.
20. Legal Tender.	20. Les offres légales.
[…]	[…]

[20] The following provisions of the *Constitution Act, 1982*, are applicable in these proceedings:

Democratic rights of citizens	**Droits démocratiques des citoyens**
3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.	3. Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales.
Life, liberty and security of person	**Vie, liberté et sécurité**
7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles	7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes

of fundamental justice.	de justice fondamentale.
[…]	[…]
Equality before and under law and equal protection and benefit of law	**Égalité devant la loi, égalité de bénéfice et protection égale de la loi**
15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.	15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.
[…]	[…]
Commitment to promote equal opportunities	**Engagements relatifs à l'égalité des chances**
36. (1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to	36. (1) Sous réserve des compétences législatives du Parlement et des législatures et de leur droit de les exercer, le Parlement et les législatures, ainsi que les gouvernements fédéral et provinciaux, s'engagent à :
(a) promoting equal opportunities for the well-being of Canadians;	a) promouvoir l'égalité des chances de tous les Canadiens dans la recherche de leur bien-être;
(b) furthering economic development to reduce disparity in opportunities; and	b) favoriser le développement économique pour réduire l'inégalité des chances;

(c) providing essential public services of reasonable quality to all Canadians.	c) fournir à tous les Canadiens, à un niveau de qualité acceptable, les services publics essentiels.
Commitment respecting public services	**Engagement relatif aux services publics**
(2) Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.	(2) Le Parlement et le gouvernement du Canada prennent l'engagement de principe de faire des paiements de péréquation propres à donner aux gouvernements provinciaux des revenus suffisants pour les mettre en mesure d'assurer les services publics à un niveau de qualité et de fiscalité sensiblement comparables.

[21] The following provision of the *Rules* is applicable in these proceedings:

Motion to Strike	**Requête en radiation**
221. (1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	221. (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas:
(a) discloses no reasonable cause of action or defence, as the case may be,	(a) qu'il ne révèle aucune cause d'action ou de défense valable.
(b) is immaterial or redundant	(b) qu'il n'est pas pertinent ou qu'il est redondant ;
(c) is scandalous, frivolous or vexatious,	(c) qu'il est scandaleux, frivole ou vexatoire ;
(d) may prejudice or delay the fair trial of the action,	(d) qu'il risque de nuire à l'instruction équitable de l'action ou de la retarder;

(e) constitutes a departure from a previous pleading, or	(e) qu'il diverge d'un acte de procédure antérieur ;
(f) is otherwise an abuse of the process of the Court,	(f) qu'il constitue autrement un abus de procédure.
and may order the action be dismissed or judgement entered accordingly.	Elle peut aussi ordonner que l'action soit rejetée ou qu'un jugement soit enregistré en conséquence.

V. ARGUMENT

A. *Defendants' Submissions on the Motion*

(1) The Test on a Motion to Strike

[22] The Defendants say that the test to strike out a pleading under Rule 221 is whether it is plain and obvious on the facts pleaded that the action cannot succeed: *Sivak et al v The Queen et al,* 2012 FC 272 at para 15 [*Sivak*]; *R v Imperial Tobacco Canada Ltd,* 2011 SCC 42 at para 17 [*Imperial Tobacco*]. While there is a rule that material facts in a statement of claim should be taken as true when determining whether the claim discloses a reasonable cause of action, this does not require the court to accept at face value bare assumptions or allegations which may be regarded as scandalous, frivolous or vexatious, or legal submissions dressed up as facts: *Operation Dismantle v The Queen,* [1985] 1 SCR 441 at para 27 [*Operation Dismantle*]; *Carten v Canada*, 2009 FC 1233 at para 31 [*Carten*].

(2) Reasonable Cause of Action

[23] The *Rules* require that the pleading of material facts disclose a reasonable cause of action. A pleading must: (i) state facts and not merely conclusions of law; (ii) include material facts; (iii) state facts and not the evidence by which they are to be proved; and (iv) state facts concisely in a summary form: *Carten*, above; *Sivak*, above; Rules 174 and 181 of the *Rules*. The Plaintiffs' Amended Claim fails to do this. Its allegations do not provide the necessary elements of each cause of action together with the material facts. Furthermore, it is not clear if the Plaintiffs continue to rely on the allegations of conspiracy and misfeasance as facts to support these allegations are not included in the pleadings. As a result, it cannot be said that the Amended Claim's assertions result in the liability of the Defendants, or any one of them.

[24] The Amended Claim includes amendments that are not permissible under the *Rules:* new parties (the Steering Committee members) and a cause of action not grounded in the facts already pleaded (the allegation of a breach of s 3 *Charter* rights) have been added. The Defendants further argue that the Amended Claim breaches the terms of the permission to amend by failing to cure the problems identified in the Order of April 24, 2014.

[25] The Defendants say that there is no constitutional duty to present the federal budget in the manner sought by the Plaintiffs. As a result, no breach of the principle of no taxation without representation has occurred. The Supreme Court of Canada has held that no taxation without representation means that the Crown may not levy a tax without the authority of Parliament: *Kingstreet Investments v New Brunswick*, [2007] 1 SCR 3 at para 14; *Constitution Act, 1867*, ss

53 and 90. The present circumstances suggest that this constitutional requirement has been satisfied.

[26] As the master of its own procedure, Parliament cannot be said to have a duty to legislate. No cause of action can result from failing to enact a law: *New Brunswick Broadcasting Co v Nova Scotia (Speaker of the House of Assembly)*, [1993] 1 SCR 319 at 354-355 [*NB Broadcasting*]; *Telezone Inc v Canada (Attorney General)*, [2004] OJ No 5, 69 OR (3d) 161 (CA) [*Telezone*]; *Lucas v Toronto Services Board*, 51 OR (3d) 783 at para 10; *Moriss v Attorney General*, [1995] EWJ No 297 (England and Wales Court of Appeal) at para 38.

[27] Citing s 91(6) of the *Constitution Act, 1867*, the Plaintiffs allege that the accounting method employed in the budgetary process is unconstitutional. However, this subsection, "the Census and Statistics," is simply one of the classes of subjects enumerated in s 91 over which Parliament has exclusive legislative authority; it does not impose a duty to legislate and, as such, is of little help to the Plaintiffs. The Defendants point out that, in any event, much of what is being sought by the Plaintiffs is publically available from the Department of Finance. For example, *Tax Expenditures and Evaluations 2012* can be found online at http://www.fin.gc.ca/taxexp-depfisc/2012/taxexp12-eng.asp.

[28] With respect to the Plaintiffs' legitimate expectations argument, the Defendants state that it falls under the doctrine of fairness or natural justice, and does not create substantive rights: *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 26. The only procedure due to a Canadian citizen is that proposed legislation receive three readings in the

House of Commons and the Senate and that it receive Royal Assent: *Authorson v Canada (Attorney General)*, 2003 SCC 39 [*Authorson*]. The procedural rights described by the Plaintiffs have never existed: *Penikett v The Queen*, 1987 CanLii 145 (YK CA) at 17-18.

[29] The Defendants say that the Plaintiffs' reliance on the *Magna Carta* does not assist them. While the document holds a seminal place in the development of Canadian constitutional principles, it has been displaced by legislation in both the United Kingdom and Canada. It has no contemporary independent legal significance or weight and is therefore "amenable to ordinary legislative change": *Rocco Galati et al v Canada,* 2015 FC 91 at para 74 [*Galati*].

[30] Parliamentary privilege, including its corresponding powers and immunities, ensures the proper functioning of Parliament and is one of the ways in which the constitutional separation of powers is respected: *Telezone*, above, at para 13; *Canada (House of Commons) v Vaid*, 2005 SCC 30 at para 21 [*Vaid*]. In *Authorson*, above, the Supreme Court affirmed its decision in *Reference re Resolution to Amend the Constitution*, [1981] 1 SCR 753, indicating that the way in which a legislative body proceeds is a matter immune from judicial review and is one of self-definition and inherent authority. The United Kingdom *Bill of Rights of 1689*, 1 Will & Mar sess 2, c 2, partially codifies parliamentary privilege at article 9, precluding any court from impeaching or questioning the freedom of speech and debates or proceedings in Parliament: *Prebble v Television New Zealand,* [1994] UKPC 3, [1995] 1 AC 321 (JCPC); *Hamilton v al Fayed*, [2000] 2 All ER 224 (HL) [*Hamilton v al Fayed*].

[31] Once a category of privilege is established, it is not the courts but Parliament that may determine whether a particular exercise of privilege is necessary or appropriate: *Parliament of Canada Act*, RSC 1985, c P-1, ss 4-5 [*Parliament of Canada Act*]; *Pickin v British Railways Board*, [1974] AC 765 (HL) at 790; *Vaid*, above, at para 29. Recognized categories of privilege include freedom of speech and control over debates and proceedings in Parliament: *Vaid*, above. The Defendants assert that the budget debate, its presentation, supporting papers and associated legislation fall under this category of privilege: *Roman Corp v Hudon's Bay Oil & Gas Co,* [1973] 3 SCR 820 at 827-828; *NB Broadcasting,* above.

[32] By virtue of ss 53 and 54 of the *Constitution Act, 1867*, "Money Bills" must originate in the House of Commons, and the Governor General must grant a recommendation for the expenditure of public funds. There is no suggestion in the Amended Claim that these requirements have not been satisfied.

[33] COMER, as an unincorporated association, cannot benefit from the protection provided for the electoral rights of citizens provided by s 3 of the *Charter*. While this protection could apply to the two individual Plaintiffs, provided they are Canadian citizens, neither has plead such a cause of action. The Amended Claim makes no suggestion that the Plaintiffs' access to "meaningful participation" in the electoral process – what the Supreme Court has determined is protected by s 3 – has been in any way affected: *Figueroa v Canada (Attorney General*), [2003] 1 SCR 912 at para 27.

[34] In order for a cause of action to be brought under the *Charter*, at least a threat of violation of a *Charter* right must be established: *Operation Dismantle*, above, at para 7. The Amended Claim does not demonstrate a link between the actions of any of the Defendants and the alleged s 3 harms. The Defendants further submit that s 3 has never been interpreted to encompass any rights or legitimate expectations that a claimant's elected representatives will enact any particular measures or refrain from doing so.

[35] With respect to the Plaintiffs' damages claim for the return of allegedly unconstitutional taxes, the Defendants assert that no factual support has been brought forward to support such a claim.

[36] The Defendants also address several other allegations in the Amended Claim. As regards the alleged misfeasance by public officers in the withholding of anticipated total revenue, the Defendants say that the necessary elements of the tort – including any alleged state of mind of a person involved, wilful default, malice or fraudulent intention – are not made out: *St John's Port Authority v Adventure Tours Inc*, 2011 FC 198 at para 25. Of note is the absence of facts that would support a finding of deliberate and unlawful misconduct of a public officer, or that a public officer was aware that his or her conduct was unlawful and likely to harm the Plaintiffs: *Odhavji v Woodhouse*, 2003 SCC 69 at paras 23, 28-29. In terms of the nominate tort of statutory breach, the Supreme Court of Canada has established that it does not exist: *The Queen v Saskatchewan Wheat Pool*, [1983] 1 SCR at 225. Even so, the remedy for a breach of statutory duty by a public authority is judicial review for invalidity: *Holland v Saskatchewan*, 2008 SCC at para 9.

[37] The Plaintiffs also make a claim of conspiracy, but again fail to plead the material facts necessary to support such an allegation, such as the identity of the officials engaged in the conduct, the type of agreement entered into, the time the agreement was reached, the lawful or unlawful means that were to be used, and the nature of the intended injury to the Plaintiffs. Other requirements that are missing include an agreement between two or more persons and intent to injure: G.H.L. Fridman, *Introduction to the Canadian Law of Torts*, 2nd ed (Markham: Butterworths, 2003) at 185.

[38] The Plaintiffs plead that, through s 24 of the *Bank Act*, Parliament has allowed the impugned actions by the Government of Canada. However, the Defendants point out that this provision has nothing to do with the keeping of minutes by the Bank. In addition, the Plaintiffs have not provided the grounds necessary to demonstrate how s 30.1, which provides that no action lies against the Crown, the Minister of Finance and officials of the Bank of Canada for anything done or omitted to be done in good faith in the administration or discharge of any powers or duties under the *Bank Act*, would affect their rights.

(3) Declaratory Relief

[39] The Defendants make a series of submissions in relation to the Plaintiffs' claim for declaratory relief. First, they say the Federal Court has jurisdiction to issue declaratory and coercive remedies only as prescribed in the *Federal Courts Act*. Section 18 indicates that extraordinary remedies can only be obtained on an application for judicial review under s 18.1. Subsection 18.4(2) allows the Court to direct that an application for judicial review be treated

and proceeded with as an action, but does not authorize the Plaintiffs to initiate a request for declaratory or coercive relief in an action.

[40] The requirements for proper judicial review, as set out by s 18.1, include that only someone who is "directly affected by the matter in respect of which relief is sought" may bring an application. The Plaintiffs are not directly affected.

[41] The Plaintiffs' claim damages for a "return of the portion of illegal and unconstitutional tax." The Defendants say that it is hard to see how these taxes can be claimed without impugning the legality of the instruments that gave rise to their increase. Additionally, the law is clear that the Plaintiffs may only seek to attack administrative action by state actors by way of judicial review: *Telezone*, above, at para 52.

[42] Second, in order to claim declaratory relief, entitlement must be established. The Supreme Court of Canada has held that a declaration of unconstitutionality is a declaratory remedy for the settlement of a real dispute: *Khadr v Canada (Prime Minister),* 2010 SCC 3 [*Khadr*]. Before the court can issue a declaratory remedy, it must have jurisdiction over the issue at bar, the question before the court must be real and not theoretical, and the person raising it must have a real interest in raising it. The Defendants say that the Plaintiffs have not met any of these requirements.

[43] Third, the Plaintiffs are not entitled to refer matters for an advisory opinion. As determined in the Order of April 24, 2014, the Plaintiffs are asking that the Court declare that

their reading of the *Bank Act* and the Constitution is correct. This is akin to asking the Court for an advisory opinion. Without an adequate description of how a private right or interest has been affected, the Plaintiffs have not demonstrated a statutory grant of jurisdiction by Parliament that the Court can rule on and find that statutory and constitutional breaches have occurred.

[44] Fourth, declaratory relief necessitates a real dispute between the parties and cannot be issued in response to one that is merely hypothetical: *Operation Dismantle*, above, at para 33; *Diabo v Whitesand First Nation*, 2011 FCA 96; *Re Danson and the Attorney-General of Ontario*, (1987) 60 OR (2d) 679 at 685 (CA). A real dispute is not present here.

[45] Fifth, the Plaintiffs have no real interest or right that has been affected by the interpretation or operation of s 18 of the *Bank Act*. As noted in the Order of April 24, 2014, despite claiming to be acting for "all other Canadians," the Plaintiffs have failed to produce a pleading demonstrating how "all other Canadians" have been impacted in a way that constitutes an infringement of an individual or collective right. The Court is confined to declaring contested legal rights, and cannot give advisory opinions on the law generally: *Gouriet v Union of Post Office Workers*, [1978] AC 435 at 501-502 [*Gouriet*].

(4) Justiciability

[46] Justiciability is a normative inquiry that involves looking to the subject matter of the question, the manner of its presentation and the appropriateness of judicial adjudication: *Friends of the Earth - Les Ami(e)s de la Terre v Canada (Governor in Council),* 2009 FCA 297 [*Friends of the Earth*].

[47] The Defendants argue that the Court can, and in this case should, deal with statutory interpretation on a motion to strike: *Les Laboratoires Servier v Apotex Inc*, 2007 FC 837 at para 38. The Defendants state that it is critical to note that s 18 of the *Bank Act*, which enumerates the business and powers of the Bank of Canada, states that the Bank "may" do what is listed at paragraphs (a) through (p). The Plaintiffs want paragraphs (i) and (j) to be read as imperative: that the Bank of Canada is statutorily required, when necessary, to make interest-free loans for the purposes they define. Such mandatory language is not present and to invoke it borders on absurdity as it would suggest that Parliament did not follow through on its very purpose for creating a Bank of Canada, as set out in the *Bank Act's* preamble: to regulate credit and currency in the best interest of the economic life of the Canadian nation.

[48] If the *Bank Act* is to be read as imperative, the Defendants say that it will become necessary for the Court to detail the occasions when the Government of Canada "must" request loans and the Bank "must" provide them. Without these specifications, any declaration made by the Court will be meaningless, and the courts will not make a declaration where "it will serve little or no purposes": *Terrasses Zarolega Inc v RIO*, [1980] 1 SCR at 106-107.

[49] The Defendants point out that absent "objective legal criteria," the Court should decline to hear a matter since such a proceeding would entail significant consideration of policy matters, which are beyond the proper subject matter for judicial review: *Friends of the Earth*, above. at para 33.

[50] In asking for a declaration that the Minister and the Government of Canada be required to request interest-free loans for "human capital" and or "infrastructure" expenditures, the Plaintiffs are not merely seeking an interpretation of the *Bank Act*; they are seeking a coercive order. Section 18 does not support such a request. The Defendants argue that whether a particular loan should be sought by the Government of Canada and made by the Bank is an inappropriate matter for judicial involvement, both institutionally and constitutionally.

[51] Furthermore, the *Bank Act* does not set out any requirements in regards to how the Bank ought to exercise its lending powers. Loan-making is clearly subject to the Bank's discretion and contemplation of a wide range of circumstances that the Bank is best-positioned to weigh and consider.

[52] The Defendants say that under the Plaintiffs' plan, the task of regulating credit and currency in the best interest of the economic life of Canada would become the responsibility of the Court, which would have to pronounce the requirements for loans on an *ad hoc* basis, with coercive orders.

[53] Furthermore, the Plaintiffs' amendments have not addressed the deficiency related to the so-called improper "handing-off" to international institutions. The Defendants suggest that the Plaintiffs want the Court to instigate a grand inquisition in regard to monetary and fiscal matters. This is not the proper role of the Court and there is no such duty on the Defendants.

[54] The allegation of "handing-off" to international institutions is not a legal cause of action and is not justiciable. It is not concerned with the objective legality of an action or inaction, but instead with the abstract concept of "private interests" being placed above the "interests of Canadians." Only the people of Canada can, through the election of their representatives, determine the interests of Canadians.

[55] Government policy decisions and issues that are better decided by a branch of government are non-justiciable: *Imperial Tobacco*, above, at para 72; Lorne M Sossin: *Boundaries of Judicial Review: The Law of Justiciability in Canada* (Carswell: Toronto, 1999) at 4-5.

[56] The Defendants say that the Amended Claim attacks the way in which Canada develops and implements fiscal and monetary policy, as well as its participation in international economic organizations. It attempts to address abstruse issues relating to the governance of the Bank of Canada and fiscal policy-making – things that are properly the concern of governments, not the judiciary: *Ontario (Attorney General) v Fraser*, 2011 SCC 20 at para 302; *Public Service Alliance of Canada v Canada*, [1987] 1 SCR 424 at para 36; *RJR- MacDonald Inc v Canada (Attorney General)*, [1995] 3 SCR 199 at paras 21, 68; *Archibald v Canada*, [1997] 3 FC 335 at paras 54, 83.

[57] The Amended Claim is so broad and general in its parameters that it defies judicial manageability.

(5) Court's Jurisdiction

[58] The Defendants say that the test for determining if a matter is within the Federal Court's jurisdiction is stipulated in *ITO-International Terminal Operators LTD v Miida Electronics*, [1986] 1 SCR 752 at 766 [*ITO-International*]:

> 1. There must be a statutory grant of jurisdiction by Parliament.
>
> 2. There must be an existing body of federal law which is essential to the disposition of the case and which nourishes the statutory grant of jurisdiction.
>
> 3. The law on which the case is based must be "a law of Canada" as the phrase is used in s. 101 of the *Constitution Act*.

[59] As regards the first component of the test, there is no statutory grant for a suit to be brought against the Bank of Canada. It has been determined that s 17 of the *Federal Courts Act*, which provides that the Court has concurrent original jurisdiction in all cases in which relief is claimed against the Crown, does not apply to a statutory corporation acting as an agent of the Crown. Therefore, the Bank of Canada, a statutory corporation created by the *Bank Act*, cannot be said to be the Crown or a Crown Agent. The powers in s 18 are not fiscal agent powers, but rather powers that the Bank of Canada is entitled to exercise in its own right.

[60] Also, the Court has no jurisdiction over a Minister of the Crown. He or she may not be sued in his or her representative capacity; the Queen is the only proper defendant in an action against the Crown: *Peter G White Management v Canada*, 2006 FCA 190.

[61] The Defendants also say that the second part of the *ITO-International* jurisdictional test has not been met. It is not fulfilled simply by the fact that an allegedly misused power emanates from a federal statute. The Plaintiffs do not have specific rights, nor is there a detailed, corresponding statutory framework. The allegations against the Defendants relating to the abdication of statutory and constitutional duties can only be grounded in negligence, civil conspiracy or misfeasance. These matters are based on tort law and would properly be applied by the provincial courts.

[62] As regards the third portion of the test, s 3 of the *Charter* is not properly characterized as a "law of Canada" in the s 101 sense. To support this statement, the Defendants apply the reasoning in *Kigowa v Canada (Minister of Employment and Immigration)*, [1990] 1 FC 804 at para 8, which examined ss 7 and 9 of the *Charter*.

(6) Standing

[63] As a final issue, the Defendants assert that the Plaintiffs do not have standing to bring this claim. Their private rights have not been interfered with, nor have they suffered special damages specific to them from an interference with a public right: *Finlay v Canada (Minister of Finance)*, [1986] 2 SCR 607 at paras 18-22 [*Finlay*].

[64] A general disdain for a particular law or governmental action is not enough to meet the standard of "genuine interest" for public interest standing. A stronger nexus than what is presented in the Amended Claim is required between the party making the claim and the

impugned legislation: *Canadian Council of Churches v Canada*, [1992] 1 SCR 236; *Marchand v Ontario* (2006), 81 OR (3d) 172 (SCJ).

B. *Plaintiffs' Response to Defendants' Motion*

[65] The Plaintiffs assert, to the extent that the Order of April 24, 2014 refused to strike the declaratory relief (the bulk of the Amended Claim), and ruled that it is justiciable, that this motion to strike is an abuse of process because *res judicata* and issue estoppel apply.

(1) The Test on a Motion to Strike

[66] In terms of the general principles that ought to be applied on a motion to strike, the Plaintiffs assert that the facts pleaded by the Plaintiffs must be taken as proven: *Canada (Attorney General) v Inuit Tapirasat of Canada*, [1980] 2 SCR 735; *Nelles v Ontario* (1989), DLR (4th) 609 (SCC) [*Nelles*]; *Operation Dismantle*, above; *Hunt v Carey Canada Inc* [1990] 2 SCR 959 [*Hunt*]; *Dumont v Canada (Attorney General)*, [1990] 1 SCR 279 [*Dumont*]; *Nash v Ontario* (1995), 27 OR (3d) 1 (Ont CA) [*Nash*]; *Canada v Arsenault*, 2009 FCA 242 [*Arsenault*].

[67] The Plaintiffs echo the test referenced by the Defendants, asserting that a claim can be struck only in plain and obvious cases where the pleading is bad beyond argument: *Nelles*, above, at para 3. The Court has provided further guidance in *Dumont*, above, that an outcome should be "plain and obvious" or "beyond doubt" before striking can be invoked (at para 2). Striking cannot be justified by a claim that raises an "arguable, difficult or important point of law": *Hunt*, above, at para 55.

[68] The novelty of the Amended Claim is not reason in and of itself to strike it: *Nash*, above, at para 11; *Hanson v Bank of Nova Scotia* (1994), 19 OR (3d) 142 (CA); *Adams-Smith v Christian Horizons* (1997), 3 OR (3d) 640 (Ont Gen Div). Additionally, matters that are not fully settled by the jurisprudence should not be disposed of on a motion to strike: *RD Belanger & Associates Ltd v Stadium Corp of Ontario Ltd* (1991), 5 OR (3d) 778 (CA). In order for the Defendants to succeed, the Plaintiffs state that a case from the same jurisdiction that squarely deals with, and rejects, the very same issue must be presented: *Dalex Co v Schwartz Levitsky Feldman* (1994), 19 OR (3d) 215 (CA). The Court should be generous when interpreting the drafting of the pleadings, and allow for amendments prior to striking: *Grant v Cormier – Grant et al* (2001), 56 OR (3d) 215 (CA).

[69] The Plaintiffs also remind the Court that the line between fact and evidence is not always clear (*Liebmann v Canada,* [1994] 2 FC 3 at para 20) and that the Amended Claim must be taken as pleaded by the Plaintiffs, not as reconfigured by the Defendants: *Arsenault*, above, at para 10.

(2) Constitutional Claims

[70] As regards the general principles to be applied to their constitutional claims, the Plaintiffs state that, as previously plead to the Prothonotary and to me, the Constitution does not belong to either the federal or provincial legislatures, but rather to Canadians: *Nova Scotia (Attorney General) v Canada (Attorney General)*, [1951] SCR 31 [*Nova Scotia (AG)*]. Parliament and the Executive are bound by constitutional norms, and neither can abdicate its duty to govern: *Canada (Wheat Board) v Hallet and Carey Ltd,* [1951] SCR 81 [*Wheat Board*]; *Re George*

Edwin Gray, (1918) 57 SCR 150 [*Re Gray*] at 157; *Reference re Secession of Quebec*, [1988] 2 SCR 217 [*Reference re Secession of Quebec*].

[71] Furthermore, the Supreme Court of Canada has held that legislative omissions can lead to constitutional breaches (*Vriend v Alberta*, [1998] 1 SCR 493) and that all executive action and inaction must conform to constitutional norms: *Air Canada v British Columbia (Attorney General)*, [1986] 2 SCR 539; *Khadr*, above.

[72] With respect to the budgetary issue, the Plaintiffs submit that: (a) contrary to *Arsenault*, the Defendants misstate the Plaintiffs' Amended Claim; and (b) that s 3 of the *Charter* is intrinsically tied to the right of no taxation without representation and/or any other underlying right directly connected to the right to vote.

[73] The Plaintiffs say the Defendants misstate and fail to properly respond to the constitutional question. Two erroneous submissions and assumptions have been made. First, it is not plain and obvious that s 91(6) does not impose a duty, or that it is not arguable: *Wheat Board*, above; *Re Gray*, above, at 157; *Reference re Secession of Quebec*, above. Second, the Defendants have overlooked that the constitutional, primary duty in the budgetary process, is to outline all revenues and expenditures. This duty has evolved from the *Magna Carta* and is tied to the constitutional right to no taxation without representation. The Defendants have removed and failed to reveal the true revenue(s) to Parliament, which is the only body that can constitutionally impose tax and therefore approve the proposed spending. The Minister of Finance has essentially

removed the ability of Parliament to properly review, debate and pass the budget's expenditures and corresponding tax provisions.

[74] The Plaintiffs' position is misconstrued by the Defendants as an attempt to argue a right in the *Magna Carta*. All that is stated, the Plaintiffs argue, is that the right can be traced back to the *Magna Carta* and is codified by ss 53, 54 and 90 of the *Constitution Act, 1867*. It is submitted that the tort actions, which are founded in this right and the inseparable right to vote under s 3 of the *Charter*, may be "novel," but comply with the rules of pleading and the Order of April 24, 2014, while meeting the test for a reasonable cause of action.

[75] Furthermore, the tort action was not, and should not be, framed in public misfeasance or conspiracy. Rather, the actions of the Minister of Finance, with respect to the budgeting process, and those of the Bank of Canada officials who relegated or abdicated their duty, relate to the constitutional breaches and torts pleaded.

(3) Declaratory Relief

[76] On the issue of declaratory relief, the Plaintiffs say that the Defendants' submissions on the topic are, in any event, misguided and contrary to the jurisprudence. The Plaintiffs argue that the issue has already been decided by my Order of April 24, 2014 and was upheld by the Court of Appeal when it dismissed the Defendants' cross-appeal. Therefore, the matter constitutes *res judicata*, issue estoppel and abuse of process: *City of Toronto v CUPE, Local 79*, [2003] 3 SCR 77.

[77] Declaratory relief goes to the crux of the constitutional right to judicial review: *Dunsmuir v New Brunswick,* 2008 SCC 9 at paras 27-31; *Singh v Canada (Citizenship and Immigration)*, 2010 FC 757 at para 38; *Canada v Solosky*, [1980] 1 SCR 821 at 830. The Supreme Court of Canada has recently reaffirmed the scope of the right to declaratory relief, indicating that it cannot be statute-barred: *Manitoba Metis Federation Inc v Canada (Attorney General)*, 2013 SCC 14 at paras 134, 140 and 143.

[78] The Defendants ignore ss 2 and 17 of the *Federal Courts Act* as well as Rule 64 of the *Rules*. The Court has held that declaratory relief is available, and may be sought, under s 17 of the *Federal Courts Act*: *Edwards v Canada* (2000) 181 FTR 219 [*Edwards*]; *Khadr*, above.

(4) Justiciability

[79] As regards the issue of justiciability, noting that the Supreme Court of Canada has stated that the constitutionality of legislation has always been a justiciable issue, the Plaintiffs argue that just because the subject-matter at hand deals with socio-economic matters does not make it non-justiciable.

[80] The Plaintiffs argue that the Defendants have "figure-skated" from the notion of justiciability to that of a "political question." The Plaintiffs state:

> The "Political question" doctrine is an old doctrine adopted early in the jurisprudence over "pure questions of policy" or "choice" over "policies" *over which no statutory nor constitutional dimensions exists over which the Court can adjudicate*. In a word the subject-matter did *not* involve asserted statutory or constitutional rights. This is not the situation in the within case.

[81] In terms of issues dealing with socio-economic policies that the Supreme Court of Canada has found to be justiciable, the Plaintiffs point to the following:

- Whether "wage and price" controls were within the competence of the federal Parliament: *Reference re Anti-Inflation Act, 1975*, [1976] 2 SCR 373;
- Whether the limits on transfer payments between the federal government and provincial governments could unilaterally be altered: *Reference re Canada Assistance Plan (Canada)*, [1991] 2 SCR 525 [*CAP Reference*];
- A challenge by an individual regarding whether transfer payments by the federal government to the provincial governments with respect to welfare payments were illegal because the province was breaching certain provisions of the Canada Assistance Plan: *Finlay*, above.

[82] The Plaintiffs assert that the clear test for justiciability is whether there is a "sufficient legal component to warrant the intervention of the judicial branch": *CAP Reference*, above, at para 33. The Amended Claim meets this test. When social policies are alleged to infringe or violate *Charter*-protected rights, they must be scrutinized; this does not exclude "political questions": *Chaoulli v Quebec (Procureur general)*, 2005 SCC 35 at paras 89, 183, 185. In such cases the question before the court is not whether the policy is sound, but rather whether it violates constitutional rights, which is a totally different question: *Operation Dismantle*, above, at 472.

[83] The declaratory relief and damages sought in the Amended Claim are, according to the Plaintiffs, grounded in the interpretation of the *Bank Act*, and the constitutional duties and requirements of the budgetary process. These have not been respected. The Constitution, as a result, is being structurally violated and the Plaintiffs' rights are being infringed.

[84] The Defendants have confused the notion of justiciability with that of enforceability by not properly distinguishing between the declaratory relief and tort relief sought, and in viewing some of the declaratory relief as non-enforceable. The statutory right to seek declaratory relief is provided for by Rule 64 of the *Rules*, whether or not any consequential relief is or can be claimed. In addition, the Supreme Court of Canada has recognized that instances may exist where it is appropriate to declare but not enforce a right: *Khadr*, above.

(5) Standing

[85] Finally, the Plaintiffs submit that they clearly have standing to bring forward these justiciable issues on the facts pleaded. This standing is personal, but it is also public interest-based and is in line with recent jurisprudence: *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45; *Galati*, above.

[86] The Supreme Court of Canada has ruled that the Constitution does not belong to the federal or provincial governments, but to Canadian citizens (*Nova Scotia (AG)*, above), and that it is a tool for dispute resolution, of which one of the most important goals is to serve well those who make use of it: *Reference Re Residential Tenancies Act,* [1996] 1 SCR 186 at 210.

[87] The Plaintiffs submit that it is time to revisit the issue of standing with respect to the constitutional validity of statutes and executive actions. In cases like the present one, concerned with the constitutional validity of statutes and/or executive actions by way of declaratory relief, public interest standing is a constitutional right.

VI. ANALYSIS

[88] Pursuant to my Order of April 24, 2014 (as endorsed by the Federal Court of Appeal on January 6, 2015), the Plaintiffs have now served and filed the Amended Claim and the Defendants have brought a second motion to strike.

[89] The background to this dispute is set out in my Order of April 24, 2014.

A. *The Amendments*

[90] While the Amended Claim maintains the declaratory relief described in paragraphs 1 to 10 substantially intact from their previous pleading, the Plaintiffs have dropped the allegations that the unlawful actions of the Defendants violate ss 7 and 15 of the *Charter*. Instead, the Plaintiffs now seek, as part of their declaratory relief, a declaration:

> […]
>
> viii) that taxes imposed to pay for the interest on the deficit and debt to private bankers, both domestic and particularly foreign, are illegal and unconstitutional owing to,
>
> A/ the breach of the constitutional right(s) to no taxation without representation resulting from the Finance Minister's failure to disclose full anticipated revenues to MPs in Parliament, before the return of anticipated tax credits, prior to determining whether an anticipated surplus or deficit will be incurred, in the tabling of the budget, in that a full and proper debate cannot properly ensue as a result, thus breaching the right to no taxation without representation under both ss.53 and 90 of the ***Constitution Act, 1867***, as well as the

> unwritten constitutional imperatives to the same effect;
>
> B/ the infringement of the Plaintiffs' right to vote, under s. 3 of the ***Charter***, tied to the right to no taxation without representation with respect to the Minister of Finance's constitutional violations;
>
> C/ breach of the terms of the ***Bank of Canada Act***, with respect to interest-free loans, and the consequent constitutional violations, by the Executive, of its duty to govern, and relinquishing sovereignty and statutory decision-making to private foreign bankers;
>
> […]

[91] The Plaintiffs have also made it clear that their tort claims are not based upon public misfeasance and/or conspiracy. The new damages claim reads as follows:

> […]
>
> (b) damages in the amount of:
>
> i) $10,000.00 each for the Plaintiffs William Krehm and Ann Emmett, as well as the ten (10) named COMER Steering Committee members, named in paragraph 2(a) of the within statement of claim, for the breach of their constitutional right of "no taxation without representation" and the inseparable infringement of the right to vote under s. 3 of the Charter, as tied to the right and imperative against no taxation without representation, due to the constitutional breaches by the Minister of Finance with respect to the budgetary process; and
>
> ii) return of the portion of illegal and unconstitutional tax, to be calculated and calibrated at trial, for each of the Plaintiffs and members of COMER's Steering Committee, consisting of the proportion of taxes, to pay

> interest charges on the deficit, and debt, between 2011 and the time of trial, paid by the Plaintiffs and Steering Committee members of COMER, due to the statutory and constitutional breaches of the Defendants in refusing and/or failing to cover deficits in the budget by way of interest-free loans, as well as the breach of their right to no taxation without representation, to be calculated by the compounded interest changes set out in the budget, as a percentage of the budget, calculated as the same percentage paid by the Plaintiffs and Steering Committee members, to be calculated and calibrated at trial;
>
> […]

[92] Other amendments throughout the Amended Claim either bolster the claims with more facts (e.g. paras 15(h) and 22) or reflect the basic shifts referred to above (see paras 39, 41, 43 and 47).

B. *Rule 221 – Motion to Strike*

[93] As with the previous strike motion, there is no disagreement between the parties as to the basic jurisprudence that governs a motion to strike under Rule 221. For purposes of this motion, I adopt the principles set out in paras 66 and 68 of my Order of April 24, 2014. Essentially, the test for striking an action is a high one and the Defendants must show that it is plain and obvious, assuming the facts pleaded to be true, that the pleadings disclose no reasonable cause of action or that there is no reasonable prospect that the claim will succeed. See *Imperial Tobacco,* above, at paras 17, 21 and 25.

[94] As I found in my Order of April 24, 2014, this claim remains both novel and ambitious, but this does not mean that it is plain and obvious, assuming the facts pleaded to be true, that it does not give rise to a reasonable cause of action or that there is no reasonable prospect that it will not succeed at trial.

C. *Grounds for the Motion*

[95] The Defendants have raised a significant number of grounds for striking the Amended Claim. I will deal in turn with those grounds that I feel have substance and relevance.

(1) Budget Presentation and Taxation

[96] As regards the declaratory relief sought in paras 1(a)(vi) to (viii) of the Amended Claim dealing with the presentation of the Federal Budget by the Minister of Finance, that Defendants argue as follows:

> 12. There is no constitutional duty of presenting the federal budget in the manner sought by the plaintiffs. There is no breach of the principle of "no taxation without representation". This principle, as defined by the Supreme Court, means that the Crown may not levy a tax except with the authority of Parliament. This constitutional requirement was satisfied here.
>
> 13. Parliament is master of its procedure. It is well recognized that there is no duty on Parliament to legislate. There is no cause of action for the omission of Parliament to enact any law.
>
> 14. The plaintiffs allege that the accounting method used in the budgetary process is a breach of ss. 91(6) *Constitution Act, 1867*, which grants legislative power over "[t]he census and

> statistics" to Parliament. This provision will not aid them. Section 91 enumerates the classes of subjects and all matters coming within them to which the exclusive legislative authority of the Parliament of Canada is granted – it does not impose duties on Parliament or the Government. A reference to a class of federal power in the *Constitution Act, 1867* is not the imposition of a duty upon Parliament to legislate in respect of that subject matter. S. 91(6) – "the Census and Statistics" – is one of the classes of subjects enumerated in s. 91 for which it is declared in the *Constitution Act, 1867* that "the exclusive legislative authority of the Parliament of Canada extends to all matters coming within" this class of subjects.
>
> 15. In any event, much of the information sought by the plaintiffs to be included in the budget documents presented before Parliament is publicly available from the Department of Finance, for example: Tax Expenditures and Evaluations 2012 at: http://www.fin.gc.ca/taxexp-depfisc/2012/taxexp12-eng.asp.
>
> [footnotes omitted]

[97] The facts supporting the Plaintiffs' request for declaratory relief on this issue are set out in paras 25-43 of the Amended Claim. The main judicial point is stated as follows:

> [39] The Plaintiffs state, and the fact is, that the above "accounting method" used in the budgetary process are [*sic*] not in accordance with accepted accounting practices, are conceptually and logically wrong, and have the effect of perpetually making the real and actual picture of what total "revenues", "total expenditures", and what the annual deficit/surplus" [sic] actually is, what the annual "deficit/surplus" actually is, in any given year, and what, as a result the standing national "debt" is. Moreover, and more importantly, the Plaintiffs state, and fact is [sic], that such "accounting" methods foreclose any actual or real debate, or consideration, by elected MPs, in Parliament, as the actual financial picture is not

> available nor disclosed to either Parliamentarians nor the Canadian public. The Plaintiffs state, and the fact is, that such accounting method breaches s. 91(6) of the ***Constitution Act, 1867*** and the duty of the Defendant(s) to maintain accurate "statistics", and the ability of MPs in Parliament to fully and openly debate the budget, which breaches the Plaintiffs' right(s) to "no taxation without representation" and also infringes their right to vote under s. 3 of the ***Charter,*** as tied to the no right to taxation without representation.
>
> […]
>
> [41] The Plaintiffs state, and the fact is, that this failure and/or calculated choice by the Defendant Minister of Finance to withhold anticipated total revenue, before the subtraction of anticipated tax credits, along with anticipated expenditures, in the budget bill(s), violates the Plaintiffs' constitutional right to no taxation without representation as guaranteed by ss. 53 and 90 of the ***Constitution Act, 1867***, and unwritten constitutional imperative underlying it, dating back to the ***Magna Carta***, as well as diminishes, devalues and infringes on their right to vote under s. 3 of the ***Charter*** with respect to taxation as tied to deficit, debt, and the availability to debate the alternative of avoiding both by, ***inter alia***, exercising the interest-free Bank of Canada loans under s. 18 of the ***Bank of Canada Act***.

[98] It is true, as the Defendants say, that the Plaintiffs take issue with the way the Minister presents the federal budget to Parliament. However, the allegations set out above are not just that the Minister's accounting methods are fallacious because they fail to take account of human capital and do not appropriately take tax credits into account. If this was the point of the claims, then clearly it would be nothing more than a debate about proper accounting procedures in the context of the federal budget. However, the Plaintiffs provide the facts about how the federal budget is presented to Parliament and say why they think it is inappropriate before they go on to state the legal basis of their claim. And the legal basis of the claim is that the Minister's

accounting methods and practices breach s 91(6) of the *Constitution Act, 1867* because they mean the Defendants are not maintaining and presenting accurate statistics, which in turn breaches s 3 of the *Charter* because, in the end, inaccurate and misleading statistics prevent any meaningful debate on the budget in Parliament. This means in turn that MPs cannot fulfil their representative function and the Plaintiffs (at least the individual Plaintiffs) are therefore being taxed without any real representative input on the budget. This undermines s 3 of the *Charter* and the guarantees under ss 53 and 90 of the *Constitution Act, 1867*. This is my understanding of the Amended Claim on this issue.

[99] Clearly, the Plaintiffs disagree with the way the Minister compiles and presents the budget to Parliament. They know that this, in itself, is not a legal issue they can bring to the Court. So they have hitched their complaints to s 91(6) of the *Constitution Act, 1867*, s 3 of the *Charter* and the no taxation without representation principle. Can this hitching be equated with any previous application of the constitutional principles and provisions cited and relied upon? Not to my knowledge. But that is not the issue before me. *Charter* litigation generally suggests that the Supreme Court of Canada may find a *Charter* or constitutional breach that has not been previously identified.

[100] The Plaintiffs' target is the executive branch of government as embodied in the Minister of Finance. It is the Minister's actions that are alleged to thwart the Parliamentary process and to breach the *Constitution Act, 1867* and s 3 of the *Charter*. It has to be admitted that the arguments underlying the Plaintiffs' assertion of a Constitution and a *Charter* breach appear at this stage to be somewhat novel and esoteric but, as I have already said, this is not a sufficient ground for

saying that they disclose no reasonable cause of action or that there is no reasonable prospect of success at trial.

[101] The Plaintiffs reiterated the same points clearly in their oral arguments:

> The case before you is there is an executive breach of a constitutional requirement by the Minister of Finance with respect to the budget process, and that as a result the legislation that comes out of Parliament breaches the constitutional right to no taxation without representation. Why? The MPs are blindfolded.
>
> [Transcript of Proceedings p 38, lines 17-23]
>
> The right to vote includes the right to effective representation. If the MPs are blinded by executive constitutional breaches by the Minister of Finance, how does that ensure effective representation?
>
> [Transcript of Proceedings p 39, lines 1-5]
>
> [N]owhere in the pleadings are we asking Parliament to legislate. We are simply saying that there's an abdication of executive and parliamentary duty with respect to the budget as pleaded. That is a different matter.
>
> And the failure to act applies equally to the executive as it does to the legislative with respect to constitutional breaches….
>
> [Transcript of Proceedings p 39, lines 15-21]
>
> And the actual revenues are not presented to Parliament. That is what we have pleaded. That is the fact.
>
> [Transcript of Proceedings p 46, lines 20-22]
>
> At paragraph 22, I set out the codification of these principles in sections 53, 54, and 90, and then state that by removing and not revealing the true revenues of Parliament, which is the only body which can constitutionally impose tax and thus approve the

> proposed spending from the speech from the throne, the Minister of Finance is removing the elected MPs' ability to properly review and debate the budget and pass its expenditure and corresponding taxing provisions through elected representatives of the House of Commons. The ancient constitutional maxim of no taxation without representation was reaffirmed post-Charter by the Supreme Court of Canada in the Education Reference.
>
> [Transcript of Proceedings p 50, line 21 to p 51, line 5]

[102] It seems to me that these arguments and assertions cannot apply to COMER itself, which has no right to vote. As regards the individual Plaintiffs, even assuming they pay tax, the allegations remain abstract and theoretical. A central allegation – unsupported by facts – is that MPs are voting blind and have been hoodwinked by the Minister of Finance. There are no facts pleaded to support this bald allegation. MPs may well understand the issues raised by the Plaintiffs concerning budgetary accounting practices, but may have decided to accept them. The Plaintiffs are alleging that Parliament is being misled by the Minister, but that the Plaintiffs are not.

[103] There are no facts to say which MPs represent the individual Plaintiffs and whether those MPs have been approached and asked to deal with the issues raised in this claim or whether, having been made aware of the Plaintiffs' concerns, those MPs have voted for or against the budget. If MPs for the individual Plaintiffs have been apprised of the problem then, no matter how they vote, it is difficult to see how the Plaintiffs are not represented in Parliament on this issue. Representation does not mean that MPs must vote in accordance with the wishes of individual constituents. If representative MPs have not been contacted, then it is difficult to

understand why the individual Plaintiffs have come to Court to ask that it make findings about their rights of representation in Parliament.

[104] On the other hand, if MPs, or at least those which represent the individual Plaintiffs are aware of the accounting concerns that the Plaintiffs raise, then it seems to me there can be no undermining of the voting and representation rights of the individual Plaintiffs.

[105] There are no facts in the pleadings to suggest that any MPs are "voting blind" or are being misled by the Minister of Finance. Similarly, there are none to establish that Parliament does not monitor and assess the budgetary process, including the way the budget is compiled and presented by the Minister of Finance. The logic of the Amended Claim is that if Parliament is not adopting and acting upon the Plaintiffs' concerns about the budgetary process then Parliamentarians are blind. This is an unsupported assertion. It is not a fact.

[106] There is nothing more than a bald assertion that the Minister of Finance is "blindfolding" his Parliamentary colleagues and leading them astray to the detriment of the individual Plaintiffs, and, presumably, all Canadians with a right to vote.

[107] Even at an abstract level, this seems far-fetched, to say the least. The Plaintiffs are asking the Court to simply assume that Parliament does not have the wherewithal to understand the way the budget is compiled and presented. The logic here is that, because the budget is not being presented as the Plaintiffs think it ought to be presented, their Parliamentary representatives are being hoodwinked by the Minister of Finance and obviously do not know what they are doing

when they pass a budget. This position is presumptive and unsupported by any facts. It remains an abstract debate about how the budget should be presented.

[108] Bald assertions, without supporting facts, are not sufficient to satisfy the rules of pleading. See Rule 174 and accompanying jurisprudence.

[109] There is nothing in the facts as pleaded in the Amended Claim to suggest that Parliament is not fully aware of the criticisms levelled by the Plaintiffs against the Minister of Finance and that parliamentarians are not free to question and debate any budget presented from the perspective of those criticisms. Hence, there is nothing to support the allegation that the ability of MPs in Parliament to fully and openly debate the budget is impeded in any way. Further, if the Minister of Finance, in compiling the budget, chooses not to take "human capital" into account and/or chooses to withhold anticipated total revenue, before the subtraction of anticipated tax credits, along with anticipated expenditures, in budget bills, these choices also become the will of Parliament following the established procedures for debating and passing budgets. The Plaintiffs can have no right to insist that Parliament should only debate and pass budgets in accordance with the principles and procedures which they approve of and advocate. If the Plaintiffs disagree with the process then, like everyone else, they have access to their own Parliamentary representatives. Hence, in my view, there is no factual basis in the Amended Claim to support an allegation that the *Constitution Act*, *1867*, s 3 of the *Charter* or any constitutional principle is breached on the principle of no taxation without representation. If the individual Plaintiffs have a vote, then they are fully represented in Parliament, and it is Parliament that decides whether or not to pass the budget presented by the Minister of Finance in

accordance with its own procedures. No facts are pleaded to suggest that Parliament is not fully aware of the kinds of criticisms that the Plaintiffs have raised in this action against the Minister and the budgetary process, or that Parliament is not aware that the budgetary process is not open to the kinds of criticisms that the Plaintiffs allege in their Amended Claim.

[110] The Supreme Court of Canada made the following general point in *Authorson*, above, at para 38, quoting *Reference re Resolution to Amend the Constitution,* above:

> How Houses of Parliament proceed, how a provincial legislative assembly proceeds is in either case a matter of self- definition, subject to any overriding constitutional or self- imposed statutory or indoor prescription. It is unnecessary here to embark on any historical review of the "court" aspect of Parliament and the immunity of its procedures from judicial review. Courts come into the picture when legislation is enacted and not before (unless references are made to them for their opinion on a bill or a proposed enactment). It would be incompatible with the self- regulating — "inherent" is as apt a word — authority of Houses of Parliament to deny their capacity to pass any kind of resolution. Reference may appropriately be made to art. 9 of the *Bill of Rights* of 1689, undoubtedly in force as part of the law of Canada, which provides that "Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament".

[111] The Plaintiffs are not attacking any particular budget legislation that may have had an impact upon them that gives rise to a cause of action in any court of law. They are attacking the Parliamentary process that they say is used to present, debate and pass budget bills into law. They want the Court to interfere, albeit on Constitutional and *Charter* grounds, with the way Parliament goes about its business. In my view, the jurisprudence is clear that the Court cannot

do this. The same conclusions must be reached even if the Court looks at the matter from the perspective of "when legislation is enacted and not before." Budget bills are passed in accordance with a self-regulating process in Parliament during which MPs can raise the issues of concerns to the Plaintiffs. There are no facts pleaded to suggest that the Plaintiffs are not as fully represented in Parliament on budget bills as they are on any other bill.

[112] As the House of Lords made clear in *Hamilton v al Fayed*, above:

> Article 9 of Bill of Rights 1689 provides:
>
> "That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."
>
> It is well established that article 9 does not of itself provide a comprehensive definition of parliamentary privilege. In *Prebble v. Television New Zealand Ltd.* [1995] 1 AC 321 at p. 332, I said:
>
> "In addition to article 9 itself, there is a long line of authority which supports a wider principle, of which article 9 is merely one manifestation, viz. that the courts and Parliament are both astute to recognise their respective constitutional roles. So far as the courts are concerned they will not allow any challenge to be made to what is said or done within the walls of Parliament in performances of its legislative functions and protection of its established privileges: *Burdett v. Abbott* (1811) 14 East 1; *Stockdale v. Hansard* (1839) 9 Ad. & E.C. 1; *Bradlaugh v. Gossett* (1884) 12 Q.B.D. 271; *Pickin v. British Railways Board* [1974] AC 765; *Pepper v. Hart* [1993] AC 593. As Blackstone said in his Commentaries on the Laws of England, 17th ed. (1830), vol. 1, p. 163: 'the whole of the law and custom of Parliament has its origin from this one maxim, "that whatever matter arises concerning either House of Parliament, ought to be examined, discussed and adjudged in that House to which it relates, and not elsewhere."

[113] This is confirmed by s 18 of the *Constitution Act, 1867* and s 4 of the *Parliament of Canada Act*. The privileges, immunities and powers of the Senate and House of Commons and their members are matters of self-definition and regulation by Parliament. In my view, the presentation, debate and passing of the federal budget allows for no role by the Courts. In the present case, no facts are pleaded to support a case that Parliament is not cognizant of the Minister's methodology or the perspectives of the Plaintiffs, or is being blinded.

[114] As far as the *Constitution Act, 1867* and s 3 of the *Charter* are concerned, COMER, as an unincorporated association, has no electoral rights. As regards the individual Plaintiffs, there are no facts pleaded to suggest that they do not have effective representation in Parliament when it comes to budget bills. In *Reference Re Provincial Electoral Boundaries (Saskatchewan),* [1991] 2 SCR 158 at 1836, the Supreme Court of Canada explained what representation means:

> Ours is a representative democracy. Each citizen is entitled to be *represented* in government. Representation comprehends the idea of having a voice in the deliberations of government as well as the idea of the right to bring one's grievances and concerns to the attention of one's government representative…
>
> [emphasis in original]

[115] Representation does not mean that the Plaintiffs have a right to force Parliament to proceed in a way that better suits their view of the appropriate way to present and pass a budget, and they have not pleaded facts to show that any particular budget legislation has negatively impacted a legal right that they enjoy.

[116] There is nothing in the Amended Claim to suggest that the individual Plaintiffs do not enjoy the same meaningful participation in the electoral process as any other Canadian voter. See *Figueroa*, above, at para 27. The Plaintiffs do not lack effective representation simply because budget bills are not presented and dealt with in accordance with their views of what they should or should not contain, and there is no suggestion that they lack a voice in the deliberations of government because they are unable to bring their grievances and concerns to the attention of the MPs who represent them. In my view, Constitutional and *Charter* protection cannot mean that individual voters have the right or the expectation that their views on the appropriate presentation and enactment of any particular piece of legislation will be followed by Parliament. This is not to say that voter concerns about the way that Parliament enacts legislation are not legitimate concerns. However, how Parliament proceeds is a matter of self-definition (see *Authorson*, above) unless, of course, there is some "overriding constitutional or self-imposed statutory or indoor prescription." In my view, notwithstanding the able arguments of Plaintiffs' counsel, the Plaintiffs do not plead anything in the Amended Claim to establish an overriding Constitutional prescription or a breach of s 3 of the *Charter* that could ground their claim for declaratory relief or damages for this aspect of their claim. The Plaintiffs don't even attempt to litigate any particular budget legislation. They focus their claim instead upon the budget compilation and Parliamentary process itself, and I think the jurisprudence is clear that the Court simply cannot go there. Article 9 of the *Bill of Rights of 1688/89* also prevents the Court from entertaining any action against any member of Parliament which seeks to make them personally liable for acts done or things said in Parliament. See *Hamilton v al Fayed*, above.

[117] In my view, then, those allegations of the Amended Claim that raise the taxation issue and seek relief based upon the *Constitution Act, 1867* and s 3 of the *Charter,* and the principle of no taxation without representation have to be struck because it is plain and obvious that they disclose no reasonable cause of action and have no reasonable prospect of success.

(2) *Bank Act* Issues

[118] The balance of the Amended Claim deals with alleged breaches of the *Bank Act* by the Minister of Finance and the Government of Canada. In its essentials, this aspect of the claim has not changed since I reviewed the Plaintiffs' previous Amended Statement of Claim in April, 2014.

[119] I think it is useful to bear in mind the grounds of the Defendants' cross-appeal that the Federal Court of Appeal was asked to consider in January, 2015 and which it dismissed:

> 1. The Judge erred in fact and law in finding that there are alleged breaches or issues in the Plaintiffs' Amended Statement of Claim ("Claim") that are justiciable;
>
> 2. The judge erred in law by finding that s. 18 of the *Bank of Canada Act* could not be interpreted in a motion to strike, but would require full legal argument on a full evidentiary record;
>
> 3. The judge erred in law by finding that had the learned Prothonotary determined s. 18 of the *Bank of Canada Act* to be a "legislative imperative" that the Claim would then become justiciable;
>
> 4. The judge erred in law by finding that even if s. 18 of the *Bank of Canada Act* is permissive, that this does not dispose of the matter of justiciability;

> 5. The judge erred in fact and in law by finding that the Claim does not require the Court to adjudicate and dictate competing policy choices and that objective legal criteria exist to measure the Plaintiffs' allegations;
>
> 6. The judge erred in law and in fact by characterizing the Claim as one which requires the Court to assess whether the Defendants have acted, and continue to act, in accordance with the *Bank of Canada Act* and the *Constitution*;
>
> 7. The judge erred in fact and in law by finding that relevant and material facts have actually been pleaded in the Claim in support of the declarations sought that the policies and actions allegedly pursued by the Defendants have not complied with the Bank of Canada Act and the Constitution;
>
> 8. The judge erred in law in finding on a motion to strike that any allegations in the Claim of breach of statute and/or of constitutional obligations may be justiciable depending on whether the Plaintiffs can establish a reasonable cause of action though appropriate and future amendments;
>
> …

[120] It also has to be borne in mind that in my Order of April 24, 2014, I did not say that the Plaintiffs were likely to succeed with their *Bank Act* claims. All I said was that the claims had to be struck in their entirely because, as they stood, they did not disclose a reasonable cause of action and had no prospect of success. The Federal Court of Appeal endorsed this position.

[121] I concluded that the "full import of the *Bank Act* and what is required of Canada and those Minister and officials who act, or don't act, in accordance with the Bank Act is at the heart of this dispute" (para 72) and that:

> [76] So, as regards the declaratory relief sought in this Claim, it is my view that the matters raised could be justiciable and appropriate for consideration by the Court. Should the Plaintiffs stray across the line into policy, they will be controlled by the Court. There is a difference between the Court declaring that the Government or the Governor, or the Minister, should pursue a particular policy and a declaration as to whether the policy or policies they have pursued are compliant with the Bank Act and the Constitution. The facts are pleaded on these issues. Subject to what I have to say about other aspects of the Claim, the Plaintiffs should be allowed to go forward, call their evidence, and attempt to make their case. It cannot be said, in my view, that it is plain and obvious on the facts pleaded that the action cannot succeed as regards this aspect of the Claim. And even if s.18 of the Bank Act is interpreted as purely permissive, that does not decide the issue raised in the Claim that Canada has obviated crucial aspects of the Bank Act and has subverted or abdicated constitutional obligations by making itself subservient to private international institutions.

[122] I said the *Bank Act* claims "*could be* justiciable and appropriate for consideration by the Court"(emphasis added) because the Plaintiffs do give their account of the socio-economic problems that arise from alleged breaches of the *Bank Act* and related constitutional principles. I concluded that this provided context for the alleged breaches in the claims because the Court needs to understand the Plaintiffs' version of what is at stake and what flows from the alleged breaches:

> [75] The difficult boundary between what a court should and should not decide will arise time and again in a case like the present. However, the issue is not whether the Court should mandate the Government and the Bank to adopt the economic positions espoused and advocated by the Plaintiffs. Nor will the Court be deciding whether a particular policy is "financially or economically fallacious," although this kind of accusation does appear in the Claim. In my view, the

> Court is being asked to decide whether particular policies and acts are in accordance with the Bank Act and the Constitution. If justiciability is a matter of "appropriateness," then the Court is the appropriate forum to decide this kind of issue. In fact, the Court does this all the time. The Supreme Court of Canada has made in clear that the Parliament of Canada and the executive cannot abdicate their functions (see *Wheat Board*, above) and that the executive and other government actors and institutions are bound by constitutional norms. See *Reference re Secession of Quebec*, above, and *Khadr*, above.

[123] From a *res judicata* perspective, it has to be borne in mind that the portions of the claim related to the *Bank Act* were struck under Rule 221. My comments about justiciability – "could be justiciable and appropriate for consideration by the Court," –not "are justiciable" simply went to Prothonotary Aalto's findings that they were not justiciable because they involved matters of policy rather than law. I was simply pointing out that legal issues could be distinguished from policy issues, so that the *Bank Act* claims could become justiciable "subject to what I have to say about other aspects of the Claim…." And when I say the "facts are pleaded on these issues," (para 76) the "issues" I am referring to are the facts that distinguish the law from policy. The Plaintiffs are right to point out that I thought the *Bank Act* claims could go forward, but this was subject to issues of jurisdiction and what I had to say about the other aspects of the claim, and the Federal Court of Appeal endorsed this reasoning and this approach to the claims.

[124] The reason I said the *Bank Act* claims "could be justiciable and appropriate for consideration by the Court" is because, as drafted, these claims give rise to problems of jurisdiction and justiciability that the Plaintiffs should have the opportunity to resolve by way of

amendments. Now that amendments have been made the Court has to decide whether the Plaintiffs have resolved these problems.

[125] The grounds brought forward by the Defendants in the present Rule 221 motion, as well as the arguments of the Plaintiffs, have to be considered in light of what the Court has already ruled about the *Bank Act* claims and what the Federal Court of Appeal has endorsed.

[126] The Plaintiffs fault the Defendants for again raising arguments on justiciability that the Court has already decided and the Federal Court of Appeal has endorsed. As a reading of my Order of April 24, 2014 shows, my conclusions on justiciability at that time were subject to serious reservations. I concluded that there were legal issues in the claims (breaches of the *Bank Act* and the Constitution) that the Court could deal with and that could be distinguished from the socio-economic policy assertions in the claims: "In my view, the Court is being asked to decide whether particular policies and acts are in accordance with the Bank Act and the Constitution. If justiciability is a matter of 'appropriateness,' then the Court is the appropriate forum to decide this kind of issue."

[127] I did not conclude, however, that the claims as drafted were sufficient to allow the Court to carry out this function (otherwise I would not have struck them under Rule 221), and I went on to point out that the *Bank Act* and related Constitutional claims had to be struck, and indicated what the Plaintiffs needed to do by way of amendment to allow the Court to consider the legal (as opposed to the socio-economic policy aspects) of the claims. It has to be borne in mind that I struck all of the claims and that the Federal Court of Appeal did not just endorse what I said

about justiciability; it also endorsed my decision to strike all of the claims and my reasons for doing so. So the important issue before me at this juncture is not whether the Court *could* examine and rule on the legal aspects of the claims; the issue is whether the amendments are sufficient to allow the Court to do this, and whether they overcome the problems I identified that compelled me to strike all of the claims in 2014.

[128] To be fair to both sides of this dispute, my Order of April 24, 2014 may sometimes confuse issues of jurisdiction and justiciability. The Federal Court of Appeal seemed to have no problem with this and, however these concerns should be characterized, I did set them out in some detail and I will discuss them here as I described them in my Order of April 24, 2014. The Defendants may not be entirely wrong when they characterize those problems as being about justiciability rather than jurisdiction.

[129] In my Order of April 24, 2014, I went on to examine the jurisdictional problems that arose in the Amended Statement of Claim that was then before me:

> [86] As I have concluded that it is not plain and obvious that the breach of statutory and constitutional obligations and the declaratory relief sought is not justiciable, all I can do at this juncture is decide whether the Court has the jurisdiction to deal with this aspect of the Claim. If amendments are made to portions of the Claim that are struck, this issue may have to be re-visited.
>
> [87] At this stage in the proceedings, s. 17 of the *Federal Courts Act* appears sufficiently wide enough to give the Federal Court concurrent jurisdiction where relief is sought against the Crown. This doesn't end the matter, of course, and the Defendants have asked the Court to examine and apply the *ITO v Miida*

Electronics Inc, [1986] 1 SCR 752 at p. 766 [*ITO*], jurisdictional test.

[88] Given the Federal Court of Appeal decision in *Rasmussen v Breau*, [1986] 2 FC 500 at para 12, to the effect that the *Federal Courts Act* only applies to the Crown *eo nomine*, and not to a statutory corporation acting as an agent for the Crown, it is difficult to see why the Bank should be named as a Defendant. However, the main problem in the way of determining jurisdiction at this stage is that the Plaintiffs have yet to produce pleadings that adequately set out how any private or other interest has been affected by the alleged statutory and constitutional breaches. The Plaintiffs are asking the Court to declare that their view of the way the Bank Act and the Constitution should be read is correct, and that breaches have occurred. This is akin to asking the Court for an advisory opinion, and I see nothing in the jurisprudence to suggest that the Court has the jurisdiction to provide this kind of ruling in the form of a declaration.

[89] The Plaintiffs are extremely vague on this issue. They simply assert that the Federal Court has jurisdiction to issue declarations concerning statutes such as the Bank Act, and jurisdiction over federal public actors, tribunals and Ministers of the Crown. They say they have private rights to assert but, as yet, and given that the tort and Charter claims must be struck, I see no private rights at issue. In addition, they claim to be acting for "all other Canadians," but, once again, they have yet to produce pleadings that adequately plead how the rights of "all other Canadians" have been impacted in a way that translates into the infringement of an individual or a collective right. If the rights of all Canadians are impacted, then the individual Plaintiffs would be able to describe, in accordance with the rules that govern pleadings, how their individual rights have been breached, but they have, as yet, not been able to do this.

[90] It seems to me that the fundamental problem of how the Plaintiffs can simply come to the Court and request declarations that their interpretations of the Bank Act and the Constitution are correct is the reason why they have attached tortious and Charter breaches to their Claim. They know that they need to show how

> individual rights have been infringed but, as of yet, they have not even set out in their pleadings how their own rights have been infringed, let alone the rights of "all other Canadians."
>
> [91] This means that, in terms of the *ITO* principles, the Plaintiffs have yet to show a statutory grant of jurisdiction by the federal Parliament that the Court can entertain and rule on the Claim as presently constituted (i.e. simply declare that statutory and constitutional breaches have occurred without an adequate description in the pleadings of how a private right or interest has been affected and the grounds for a valid cause of action), and they have yet to cite an existing body of federal law which is essential to the disposition of the case and which nourishes such a statutory grant of jurisdiction. The Plaintiffs do not have any specific rights under the legislation which they cite and they have provided no statutory or other framework for the exercise of any rights. They may be able to do these things with appropriate amendments to the pleadings. As yet, however, I cannot see how the Court acquires the jurisdiction to provide the declaratory relief that is sought.
>
> [emphasis in original]

[130] It seems to me that the Plaintiffs have not resolved these problems in the Amended Claim.

[131] The Plaintiffs take a very forceful and wide view on the availability of declaratory relief and the Court's jurisdiction to grant such relief. The Plaintiffs take the position that

> any citizen has a constitutional right, subject to frivolous and vexatious or no jurisdiction of the Court, to bring a public interest issue to the Court.
>
> [Transcript of Proceedings p 62, lines 25-27]

[132] Even if I were to accept this broad approach to standing, I still have to decide the jurisdictional issue which I could not decide in April, 2014 for the reasons quoted above that were endorsed by the Federal Court of Appeal, and which, to use the Plaintiffs' own logic, I must accept as *res judicata*. I said that the Plaintiffs could not just ask the Court for an advisory opinion on these *Bank Act* issues because "I see nothing in the jurisprudence to suggest that the Court has the jurisdiction to provide this kind of ruling in the form of a declaration." In retrospect, I might have characterized this as a justiciability issue but, in my view, the terminology doesn't matter because I decided that the problem was that the Plaintiffs were asking for a free-standing declaration that amounted to an advisory opinion and the Court is not in the business of granting free-standing opinions.

[133] The Plaintiffs' position on this issue is as follows:

> You have at paragraph 29 the ruling in Dunsmuir with respect to judicial review as a constitutional right. And Dunsmuir and other cases see judicial review writ large. It's not the procedural avenue of judicial review by way of application as opposed to by way of action. Under section 17 this Court has ruled one can seek declaratory relief by way of action, and that is in my factum.
>
> But if I can refer Your Lordship to paragraph 31, where I actually extract the portions from the Manitoba Métis case, and they are italicized and bolded at pages 242 and 243.
>
> "Citing Thorsen, the Supreme Court of Canada in this case", which is 2013 case," states: 'The constitutionality of legislation has always been a justiciable issue. The right of the citizenry to constitutional behaviour by Parliament can be vindicated by declaration that legislation is invalid or that a public act is ultra vires.'"

> That is paragraph 134 that is extracted. That is exactly what my clients seek with respect to the actions of the Minister of Finance and the resulting constitutional breach of their right to vote – of their right not to be taxed without effective representation by their MPs, because they're blindfolded by the Minister of Finance and what he does not deliver, which is a constitutional requirement, we say.
>
> And then over the page from paragraph 140, the Supreme Court states:
>
> "The Courts are the guardians of the Constitution and cannot be barred by mere statutes from issuing a declaration on a fundamental constitutional matter. The principles of legality, constitutionally and the rule of law demand no less."
>
> And then the passage that really answers my friend at paragraph 143 of Manitoba Métis Federation – an Inc., by the way, a corporation brought the challenge.
>
> "Furthermore, the remedy available under this analysis if 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."
>
> That statutorily reproduced under rule 64 of the Federal Courts Act, My Lord, which is reproduced at paragraph 32 of my factum, and this court in Edwards, which is right below that, has ruled that the declaratory relief may be sought in an action under section 17, which was have done. And then which is consistent with the Supreme Court of Canada jurisprudence in Khadr and Thorsen.
>
> [Transcript of Proceedings p 54 line 8 to p 55, line 28]

[134] The Plaintiffs appear to be of the view that, as a think-tank, they can simply come to Court and ask the Court to declare that the Minister of Finance and the Government of Canada are required to do certain things under the *Bank Act*, and that they have abdicated their constitutional duties, and allowed international private entities to trump the interests of

Canadians. COMER has no Constitutional or *Charter* rights to assert and the individual Plaintiffs are no differently situated from any other Canadian and have no demonstrable individual Constitutional and *Charter* rights to assert. In the Amended Claim, the Plaintiffs collectively remain a think-tank, seeking the Court's endorsement of alleged *Bank Act* and Constitutional breaches related to the *Bank Act* and international institutions.

[135] Having been given the opportunity to amend, there are still no material facts in the Amended Claim that link the impugned legislative scheme embodied in the *Bank Act* to an effect on themselves as Plaintiffs. Their argument is that freestanding declarations on the constitutionality of laws and legal authority are always available to any Canadian citizen.

[136] Since my Order of April 24, 2014 was considered by the Federal Court of Appeal, the Federal Court of Appeal has had occasion to consider and pronounce in some detail on what the Court can do with pleadings that contain freestanding requests for declaratory relief. In *Mancuso v Canada (National Health and Welfare),* 2015 FCA 227 [*Mancuso*], the Federal Court of Appeal provided the following guidance:

> [31] The appellants allege that their action can nonetheless proceed to trial on the basis of the surviving paragraphs. It is not problematic, in their view, that there are no material facts in the statement of claim, including none that link the impugned scheme to an effect on themselves as plaintiffs. They base this argument on the proposition that freestanding declarations on the constitutionality of laws and legal authority are always available.
>
> [32] On this latter point, there is no doubt. Free-standing declarations of constitutionality can be granted: *Canadian Transit Company v. Windsor (Corporation of the City)*, 2015 FCA 88. But the right

to the remedy does not translate into licence to circumvent the rules of pleading. Even pure declarations of constitutional validity require sufficient material facts to be pleaded in support of the claim. Charter questions cannot be decided in a factual vacuum: *Mackay v. Manitoba*, above, nor can questions as to legislative competence under the *Constitution Act, 1867* be decided without an adequate factual grounding, which must be set out in the statement of claim. This is particularly so when the effects of the impugned legislation are the subject of the attack: *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, at p. 1099.

[33] The Supreme Court of Canada in *Canada (Prime Minister) v. Khadr*, 2010 SCC 3, [2010] 1 S.C.R. 44, para. 46 articulated the pre-conditions to the grant of a declaratory remedy: jurisdiction over the claim and a real as opposed to a theoretical question in respect of which the person raising it has an interest.

[34] Following *Khadr*, this Court in *Canada (Indian Affairs) v. Daniels*, 2014 FCA 101 (leave to appeal granted) at paras. 77-79 highlighted the danger posed by a generic, fact-free challenge to legislation – in other words, a failure to meet the second *Khadr* requirement. Dawson JA noted that legislation may be valid in some instances, and unconstitutional when applied to other situations. A court must have a sense of a law's reach in order to assess whether and by how much that reach exceeds the legislature's vires. It cannot evaluate whether Parliament has exceeded the ambit of its legislative competence and had more than an incidental effect on matters reserved to the provinces without examining what its legislation actually does. Facts are necessary to define the contours of legislative and constitutional competence. In the present case, this danger is particularly acute; as the judge noted, the legislation at issue pertains to literally thousands of natural health supplements.

[35] This is not new law. While the plaintiffs point to *Solosky v. The Queen*, [1980] 1 S.C.R. 821 for the proposition that there is a broad right to seek declaratory relief, *Solosky* also notes that there must be "a 'real issue' concerning the relative interests of each [party]." The Court cannot be satisfied that this

> requirement is met absent facts being pleaded which indicate what that real issue is and its nexus to the plaintiffs and their claim for relief.

[137] In the present case, the Plaintiffs have not, in their Amended Claim, pleaded facts to demonstrate a "real" issue concerning the relative interests of each party, and the nexus of that real issue to the Plaintiffs and their claim for relief. Although as I pointed out in my Order of April 24, 2014, the Plaintiffs do distinguish between legal issues and policy issues, the legal issues remain theoretical with no real nexus to some interest of the Plaintiffs, other than an interest in having the Court endorse their opinion on the *Bank Act* issues raised.

[138] The Plaintiffs have not addressed the jurisdictional problems I referred to in paras 85 to 91 of my Order of April 24, 2014 and/or what might generally be referred to as the jurisdiction of the Court to entertain, or its willingness to grant, free-standing requests for declaration.

[139] Apart from the taxation issues which I have concluded are not justiciable for reasons set out above, the Plaintiffs have made little attempt in their amendments to rectify the problems I raised in my Order of April 24, 2014. The declaratory relief related to the *Bank Act* remains the same. The damages claimed in 1(b)(ii) appear to be based upon s 3 of the *Charter* and the no taxation without representation principle, which I have found to be non-justiciable.

[140] The Plaintiffs have urged me to treat my Order of April 24, 2014 and the Federal Court of Appeal decision on that judgement as *res judicata*. If I do this then I have to say that in their Amended Claim the Plaintiffs have still provided no legal or factual basis for the infringement of their private rights, and the declarations remain nothing more than a request that the Court

provide an advisory opinion that supports their view of the way the *Bank Act* and the Constitution should be read.

[141] In order to overcome this problem in their first Amended Statement of Claim, the Plaintiffs hitched their declaratory relief to ss 7 and 15 of the *Charter* and various tort claims, all of which they have now abandoned. In their stead, they have now hitched the declaratory relief to claims based on s 3 of the *Charter* and Constitutional guarantees of no taxation without representation, which I have found to be non-justiciable. This leaves the Court in the same situation as it found itself in April, 2014:

> [91] This means that, in terms of the *ITO* principles, the Plaintiffs have yet to show a statutory grant of jurisdiction by the federal Parliament that the Court can entertain and rule on the Claim as presently constituted (i.e. simply declare that statutory and constitutional breaches have occurred without an adequate description in the pleadings of how a private right or interest has been affected and the grounds for a valid cause of action), and they have yet to cite an existing body of federal law which is essential to the disposition of the case and which nourishes such a statutory grant of jurisdiction. The Plaintiffs do not have any specific rights under the legislation which they cite and they have provided no statutory or other framework for the exercise of any rights. They may be able to do these things with appropriate amendments to the pleadings. As yet, however, I cannot see how the Court acquires the jurisdiction to provide the declaratory relief that is sought.

[142] It seems to me that the Federal Court of Appeal in *Mancuso*, above, has now made it clear that a claim for a pure declaration must establish through pleading sufficient material facts that the Court has jurisdiction over the claims "and a real as opposed to a theoretical question in respect of which the person raising has an interest."

[143] I do not wish to denigrate, or even downplay, the Plaintiffs' concerns about the way that Parliament has dealt with economic and monetary issues. But not all concerns can be translated into legal action that can, or should, be dealt with by a court of law. Rather than supplement their previous ss 7 and 15 *Charter* claims, and their previous tort claims, the Plaintiffs have abandoned those claims altogether and have now come up with claims based upon s 3 of the *Charter* and Constitutional guarantees of no taxation without representation. As able as their arguments are, the sudden switch to a new game plan suggests that the Plaintiffs are not able to remove their concerns from the political realm and to characterize them in such a way that they can be dealt with by this Court.

[144] It seems to me, then, that the latest Amended Claim discloses no reasonable cause of action and has no prospect of success at trial. It also seems to me that the Plaintiffs are still asking the Court for an advisory opinion in the form of declarations that their view of the way the *Bank Act* and the Constitution should be read is correct. It also seems to me that they have failed to show a statutory grant of jurisdiction by Parliament that this Court can entertain and rule on their claim as presently constituted, or that they have any specific rights under the legislation which they invoke, or a legal framework for any such rights. As the Supreme Court of Canada pointed out in *Operation Dismantle*, above, the preventive function of a declaratory judgment must be more than hypothetical and requires "a cognizable threat to a legal interest before the Court will entertain the use of its process as a preventative measure" (para 33). The Court is not here to declare the law generally or to give an advisory opinion. The Court is here to decide and declare contested legal rights. See *Gouriet*, above, at 501-502.

D. *Other issues*

[145] The Defendants have raised a number of other issues going to the adequacy and appropriateness of the Amended Claim but, in light of the fundamental problems I have dealt with above, I see no point in going any further with my analysis.

E. *Leave to Amend*

[146] The Plaintiffs have asked the Court to consider, as an alternative form of relief, that they be allowed to proceed on the declaratory relief in their Amended Claim, with leave to amend any struck portions with respect to the damages portion of the claim.

[147] As set out above, I do not think that, even for the declaratory relief sought, that the Plaintiffs have been able to raise their claim above a mere request for an advisory opinion. In addition, as further explained above, given that the Plaintiffs have not been able to rectify the fundamental issues I pointed out in my Order of April 24, 2014, and have not suggested any way in which they could be rectified, I see no point in allowing an amendment. Having previously permitted the Plaintiffs such an opportunity, their response convinces me that, for reasons given, they have no scintilla of a cause of action that this Court can or should hear. Without having any real legal interest at stake, the Plaintiffs remain a think tank seeking to have the Court endorse their political and academic viewpoint. Amendments are not going to change this.

ORDER

THIS COURT ORDERS that

1. The Plaintiffs' latest Amended Claim is struck in its entirety;

2. Leave to amend is refused;

3. Costs are awarded to the Defendants.

"James Russell"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2010-11
STYLE OF CAUSE:	COMMITTEE FOR MONETARY AND ECONOMIC REFORM ("COMER"), WILLIAM KREHM, AND ANN EMMETT v HER MAJESTY THE QUEEN, THE MINISTER OF FINANCE, THE MINISTER OF NATIONAL REVENUE, THE BANK OF CANADA, THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	OCTOBER 14, 2015
ORDER AND REASONS:	RUSSELL J.
DATED:	FEBRUARY 8, 2016

APPEARANCES:

Rocco Galati	FOR THE PLAINTIFFS
Peter Hajecek	FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Rocco Galati Law Firm Professional Corporation Toronto, Ontario	FOR THE PLAINTIFFS
William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE DEFENDANTS

EXHIBIT “YY”

Federal Court | Cour fédérale

Date: 20160916

Docket: T-1747-15

Citation: 2016 FC 1052

Ottawa, Ontario, September 16, 2016

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

ZHENHUA WANG AND CHUNXIANG YAN

Plaintiffs

and

HER MAJESTY THE QUEEN, OXANA M. KOWALYK (ID MEMBER), SUSY KIM (ID MEMBER), IRIS KOHLER (ID MEMBER), OFFICER O'HARA (CBSA OFFICER), HAL SIPPEL, ERIC BLENKARN, ANDREJ RUSTJA, CBSA OFFICERS, ALL JOHN AND JANE DOE CBSA/CIC OFFICIALS UNKNOWN TO THE PLAINTIFFS, INVOLVED IN THE ARREST, DETENTION AND CONTINUED DETENTION OF THE PLAINTIFFS, LINDA LIZOTTE-MACPHERSON, PRESIDENT OF THE CBSA, MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS, MINISTER OF CITIZENSHIP AND IMMIGRATION, ATTORNEY GENERAL OF CANADA

Defendants

ORDER AND REASONS

[1] On these motions the Defendants seek relief under Rule 221 of the *Federal Courts Rules*, SOR/98-106, striking out the Statement of Claim filed by the Plaintiffs in this action on the basis that it discloses no viable cause of action, is scandalous, frivolous or vexatious, is an abuse of the process of the Court and is barred by cause of action estoppel.

[2] At the outset of argument the Plaintiffs conceded that the claims asserted against the President of the Canada Border Services Agency [CBSA], the Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration [CIC] should be struck. In the result the action is dismissed as against those parties. What remains for determination is whether the claims against the remaining Defendants should be struck and, if so, on what terms.

[3] In order to apply the legal principles relied upon by the parties it is necessary to consider the specific allegations in the Plaintiffs' 65 page Statement of Claim.

[4] The Plaintiffs' complaint arises out of their arrest and detention at the hands of the CBSA on March 7, 2014. Among other allegations the Plaintiffs say that they were wrongfully arrested and unlawfully detained on the strength of false information that CBSA and CIC officials either knowingly or negligently relied upon in the prosecution of the Plaintiffs' ongoing immigration detentions. Included in the claims against the named and unnamed officials are allegations that they misrepresented evidence, conspired to deprive the Plaintiffs of a fair hearing, and sought to punish the Plaintiffs for bringing refugee claims.

[5] Some representative passages concerning the alleged conduct of the CBSA and CIC officers are set out below:

> • The Arrest and Detention of Plaintiffs in Canada
>
> 87. Prior to, and up to being arrested by the CBSA on March 7th, 2014, the Plaintiffs were subject to the following actionable conduct by the CBSA/CIC officials:
>
> (a) negligent investigation in refusing to properly investigate the facts and evidence put forward by the Plaintiffs; and relying solely on the false information provided by those who defrauded the Plaintiffs, as well as officials of the People's Republic of China, and who were defendants in Ontario civil actions for that fraud and other criminal acts, for which negligent investigation the CBSA/CIC officers, and Her Majesty the Queen are liable, in that:
>
> (i) the officers owed a common-law and statutory duty of care to competently investigate prior to arrest and detention;
>
> (ii) the officer(s) breached that duty of care; and
>
> (iii) as a result of that breach they caused the Plaintiffs compensable damages;
>
> (b) that the initial duty to competently investigate is owed to the present day, which has been flagrantly breached and ignored by the named and unnamed CBSA/CIC officers, notwithstanding more comprehensive and updated information and evidence provided by Plaintiffs' counsel;
>
> (c) engaged in abuse and excess of authority, and misfeasance of public office for the facts set out above, by:
>
> (i) refusing disclosure undertaken and resisting disclosure due to the Plaintiffs;
>
> (ii) misrepresenting the nature and quality of the evidence against the Plaintiffs;

(iii) acting in bad faith, and absence of good faith, continued to shift the grounds, for continued detention against the Plaintiffs;

(iv) sought the continued detention of the Plaintiffs, as punishment, because the Plaintiffs made refugee claims, refugee claims necessitated by the actions of the Defendant CBSA/CIC officials who have now, knowingly, exposed the Plaintiffs to torture and/or death if returned to China;

(v) refusing to properly investigate;

(d) conspired to deprive the Plaintiffs of their statutory and constitutional rights, to be free of arbitrary and unlawful arrest and detention as set out below in this statement of claim;

(e) breached the Plaintiffs' constitutional right(s) to counsel; and

(f) otherwise breached their rights under s. 7 of the ***Charter***, to life, liberty, and security of the person, in a matter inconsistent with the tenets of fundamental justice, and contrary to s. 15 of the ***Charter***, by discriminating against the Plaintiffs based on their status as wealthy Chinese nationals, with respect to their investigation, arrest, detention, and continued detention of the Plaintiffs.

. . .

102. Prior to, and during, the 1st detention review, the Defendant CBSA/CIC officials at the hearing, engaged in the following actionable conduct:

(a) they continued to engage in negligent investigation as set out above;

(b) they engaged in abuse of process, and abuse and excess of authority, and misfeasance of public office by:

(i) refusing disclosure undertaken and owed to the Plaintiffs;

(ii) misrepresenting the nature and quality of the evidence against the Plaintiffs';

(iii) in bad faith, and absence of good faith, shifted the grounds, for continued detention against the Plaintiffs;

(iv) sought the continued detention of the Plaintiffs, as punishment, because the Plaintiffs made refugee claims, refugee claims necessitated by the actions of the Defendant CBSA/CIC officials who have now, knowingly, exposed the Plaintiffs to torture and/or death if returned to China;

(c) conspired to deprive the Plaintiffs of a fair hearing, and further conspired to continue the Plaintiffs' unlawful and arbitrary arrest and detention by:

(i) engaging in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs; and/or

(ii) engaging, in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, is to cause injury to the Plaintiffs, or the Defendants' officials should know, in the circumstances, that injury to the Plaintiffs, is likely to, and does result;

(d) continued to breach the Plaintiffs' right to counsel and effective right to assistance of assistance of counsel;

(e) endangered the lives of the Plaintiffs if ever returned to China; and

(f) otherwise breached their rights under s. 7 of the ***Charter***, to life, liberty, and security of the person, in a matter inconsistent with the tenets of fundamental justice, and contrary to s. 15 of the ***Charter***, by discriminating against the Plaintiffs based on their status as wealthy Chinese nationals, with respect to their investigation, arrest, detention, and continued detention of the Plaintiffs.

[6] In this action the Plaintiffs also seek damages from three members of the Immigration Division (collectively the ID Members) for unlawfully maintaining the Plaintiffs' detention in the context of three detention reviews. Each of the impugned decisions was overturned by this Court on judicial review. The Plaintiffs' claims are based, in part, on an assertion that ID Members Kowalyk, Kim and Kohler are liable in damages for failing to follow the Federal Court orders that quashed the earlier detention review decisions and for a variety of other adjudicative errors. Parts of the Statement of Claim assert causes of actions in negligence and others assert fraud and malice.

[7] The material allegations made against the ID Members are the following:

> MEMBER KOWALYK
>
> 106. In making her decision, on December 11th, 2014, ID Member O.M. Kowalyk, which decision was made in bad faith, and absence of good faith, the ID Member, with knowledge and intent and sole purpose of the continued detention of the Plaintiffs, contrary to law, engaged in the following conduct, and made the following baseless findings, with intention and knowledge, in bad faith and absence of good faith, for the sole purpose of continuing the unlawful detention of the Plaintiffs by:
>
> (a) making substantive determinations with respect to the strength and ***bona fides*** of the Plaintiffs' refugee claims which are outside the jurisdiction of the ID, and the exclusive jurisdiction of the RPD (Refugee Protection Division) of the IRB;
>
> (b) making rulings diametrically opposed to binding Federal Court orders and judgments;
>
> (c) knowingly misapplying the jurisprudence to the facts of the Plaintiffs' detention with the intention to continue the unlawful and arbitrary detention of the Plaintiffs;

(d) refusing a release plan, which has been accepted as a release plan, for those accused of (association with) terrorism in Canada;

(e) knowingly making capricious and perverse findings of fact and law, with the knowledge and intention of continuing the detention of the Plaintiffs; and

(f) doing all of the above set out in (a)-(e), based on discrimination, contrary to s. 15 of the ***Charter***, because the Plaintiffs are wealthy Chinese nationals;

which conduct and findings were contrary to the binding jurisprudence, and the knowledge, experience, and expertise of the Member which spans just over 30 years as an Adjudicator and ID member conducting detention reviews.

…

109. The Plaintiffs state and the fact is that the errors cited by the Federal Court were not "errors" by Member Kowalyk, but made knowingly by her, in bad faith, and absence of good faith, intentionally designed for the purpose of continuing the Plaintiffs' unlawful and unconstitutional detention.

…

MEMBER KIM

114. In making her decision, on April 2nd, 2015, ID Member Susy Kim, which decision was made in bad faith, and absence of good faith, the ID Member, with knowledge and intent and sole purpose of the continued detention of the Plaintiffs, contrary to law, engaged in the following conduct, and made the following baseless findings, with intention and knowledge, in bad faith and absence of good faith, for the sole purpose of continuing the unlawful detention of the Plaintiffs:

(a) making rulings diametrically opposed to binding Federal Court orders and judgment of Justice Phelan and knowingly ignored and contradicted Justice Phelan's judgment on judicial review;

(b) making substantive determinations with respect to the Plaintiffs' refugee hearings which are outside the jurisdiction of the ID, and the exclusive jurisdiction of the RPD (Refugee Protection Division) of the IRB;

(c) making rulings diametrically opposed to binding Federal Court orders and judgments;

(d) knowingly misapplying the jurisprudence to facts of the Plaintiffs' detention with the intention to continue the unlawful and arbitrary detention of the Plaintiffs;

(e) refusing a release plan, which has been accepted as a release plan, for those accused of (association with) terrorism in Canada;

(f) knowingly making capricious and perverse findings of fact and law, with the knowledge and intention of continuing the detention of the Plaintiffs; and

(g) doing all of the above set out in (a)-(e), based on discrimination, contrary to s. 15 of the ***Charter***, because the Plaintiffs are wealthy Chinese nationals;

which conduct and findings were contrary to the binding Federal Court jurisprudence, including that of the previous, successful judicial review, by the Federal Court, of the previous detention review of Oxana M. Kowalyk.

...

116. The Member's decision essentially adopted and rehashed the decision of the previous ID Member (Kowalyk). This is referenced in Justice Gagne's decision, at paragraph 48, as quoted in the previous paragraph of this Statement of Claim. The decision further ignores and flies in the face of the judicial review conducted by Justice Phelan of ID Member Kowalski's decision, whereby ID Member Kim knowingly adopts Kowalyk's errors to fly in the face of the Federal Court decision quashing Kowalyk's decision.

117. The Plaintiffs state and the fact is that the errors cited by the Federal Court were not "errors" by Member Susy Kim, but made knowingly by her, in bad faith, and absence of good faith, intentionally designed for the purpose of continuing the Plaintiffs' unlawful and unconstitutional detention.

…

MEMBER KOHLER

143. In making her decision, which decision was made in bad faith, and absence of good faith, the ID Member, Iris Kohler, with knowledge and intent and sole purpose of the continued detention of the Plaintiffs, contrary to law, engaged in the following conduct, and made the following baseless findings, with intention and knowledge, in bad faith and absence of good faith, for the sole purpose of continuing the unlawful detention of the Plaintiffs:

(a) making rulings diametrically opposed to binding Federal Court orders and judgments;

(b) making substantive determinations with respect to the Plaintiffs' refugee hearings which are outside the jurisdiction of the ID, and the exclusive jurisdiction of the RPD (Refugee Protection Division) of the IRB;

(c) knowingly misapplying the jurisprudence to facts of the Plaintiffs' detention with the intention to continue the unlawful and arbitrary detention of the Plaintiffs;

(d) refusing a release plan, which has been accepted as a release plan, for those accused of (association with) terrorism in Canada;

(e) knowingly making capricious and perverse findings of fact and law, with the knowledge and intention of continuing the detention of the Plaintiffs; and

(f) doing all of the above set out in (a)-(e), with discrimination, contrary to s. 15 of the ***Charter*** **,** because the Plaintiffs are wealthy Chinese nationals;

which conduct and findings were contrary to the binding Federal Court jurisprudence, including that of previous, successful judicial reviews, by the Federal Court, of previous detention reviews, by Justice Phelan and Justice Gagné, as set out above.

...

146. Furthermore, ID Member Kolher's decision, rehashes and repeats the reasons of the previous two ID Members' decisions, with a number of paragraphs being extracted and merged from ID Member Kowalyk's, and ID Member Kim's decision, which findings and conclusions knowingly,

> and with the sole intent to continue the detention of the Plaintiffs, fly in the face of the previous two Federal Court decisions of Justice Phelan and Justice Gagné.
>
> 147. The Plaintiffs state and the fact is that the errors cited by the Federal Court were not "errors" by Member Iris Kohler, but made knowingly by her, in bad faith, and absence of good faith, intentionally designed for the purpose of continuing the Plaintiffs' unlawful and unconstitutional detention.

[8] In addition to the above allegations, the Statement of Claim includes prolix, unfocussed and generalized accusations of a conspiracy to harm the Plaintiffs carried out by the named Defendants and other unnamed government officials. It is not possible to tell whether the ID Members are included in all of the conspiracy allegations but, in a few instances, they are expressly identified. For the most part, these conspiracy allegations simply repeat the earlier pleading of individualized bad faith set out above. Below are the key conspiracy allegations specific to the ID Members:

> (d) that the ID members, Oxana Kowalyk, Susy Kim, Iris Kohler, have also done so in a separate and overlapping conspiracy, by:
>
> (i) making substantive determinations with respect to the Plaintiffs' refugee hearings which are outside the jurisdiction of the ID, and the exclusive jurisdiction of the RPD (Refugee Protection Division) of the IRB;
>
> (ii) making rulings diametrically opposed to binding Federal Court orders and judgments particularly the Federal Court orders and judgment made with respect to the Plaintiffs; on judicial review(s) of their detention;
>
> (iii) knowingly misapplying the jurisprudence to facts of the Plaintiffs' detention with the intention to continue the unlawful and arbitrary detention of the Plaintiffs;

(iv) refusing a release plan, which has been accepted as a release plan, for those accused of (association with) terrorism in Canada;

(v) knowingly making capricious and perverse findings of fact and law, with the knowledge and intention of continuing the detention of the Plaintiffs; and

(vi) doing all of the above set out in (a)-(e), based on discrimination, contrary to s. 15 of the ***Charter***, because the Plaintiffs are wealthy Chinese nationals;

…

155. The Plaintiffs further state that actions of the named and unnamed CBSA/CIC officers, in conjunction with the ID Members, at the behest and false information from agents of the People's Republic of China, and the fraudsters Szeto and Chen, with the resulting unlawful and unconstitutional detention, constitute torture and unusual treatment contrary to the ***Convention Against Torture and Other Cruel or Unusual Treatment***, and also constitutes a crime against humanity contrary to, ***inter alia***, s. 6 of the ***Crimes Against Humanity Act***, as well as an offence under the ***Criminal Code of Canada***. The Plaintiffs state, and fact is, that the named and unnamed officials, in furtherance of attempting to remove the Plaintiffs to China, are acting as ***de facto*** agents for the People's Republic of China, and in fact are accessories, co-conspirators with the attempt to deliver the Plaintiffs to torture, and unlawful imprisonment and/or death. This conspiracy, and over-lapping conspiracies, and unlawful and unconstitutional conduct, through the knowledge and willful conduct of the above-noted officials, in bad faith and the absence of good faith, also grounds the basis for civil and constitutional torts and liability.

…

158. The Plaintiffs further state that this entire process, is a statutory and constitutional abuse of process, by way of disguised extradition, on false information obtained from fraudsters and officials of a dictatorial regime, with a refusal by Canadian officials to properly and competently investigate, to remove at the request of a regime that engages in ***inter alia***, torture, without the procedural and substantive safeguards of the ***Extradition Act***, which the

> named and unnamed officials, and ID Members, know run contrary to the Royal Commission Inquiry conducted with respect to Maher Arar, and its report and recommendations, as well as the Ontario Court of Appeal decision (leave to the SCC denied), finding it constitutionally impermissible to extradite based on information obtained by torture, as set out in ***USA v. Kadr***, which decision is a document referred to in the pleadings herein.

[9] In one concluding passage, the Statement of Claim asserts that the ID Members, among others, were acting "as ***de facto*** agents of the People's Republic of China, in what amounts to a disguised and baseless extradition" (see para 156 (vi)).

I. Analysis

[10] Rule 221 of the *Federal Courts Rules* applies to these motions and provides for relief on the following basis:

STRIKING OUT PLEADINGS	RADIATION D'ACTES DE PROCÉDURE
221 (1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	221 (1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :
(a) discloses no reasonable cause of action or defence, as the case may be,	a) qu'il ne révèle aucune cause d'action ou de défense valable;
(b) is immaterial or redundant,	b) qu'il n'est pas pertinent ou qu'il est redondant;
(c) is scandalous, frivolous or vexatious,	c) qu'il est scandaleux, frivole

	ou vexatoire;
(d) may prejudice or delay the fair trial of the action,	d) qu'il risque de nuire à l'instruction équitable de l'action ou de la retarder;
(e) constitutes a departure from a previous pleading, or	e) qu'il diverge d'un acte de procédure antérieur;
(f) is otherwise an abuse of the process of the Court,	f) qu'il constitue autrement un abus de procédure.
and may order the action be dismissed or judgment entered accordingly.	Elle peut aussi ordonner que l'action soit rejetée ou qu'un jugement soit enregistré en conséquence.
(2) No evidence shall be heard on a motion for an order under paragraph (1)(a).	(2) Aucune preuve n'est admissible dans le cadre d'une requête invoquant le motif visé à l'alinéa (1)a).

[11] The Defendants all contend that the Statement of Claim discloses no cause of action known to law and is scandalous, frivolous and vexatious. They also argue that a markedly similar Statement of Claim was struck out by the Ontario Superior Court as disclosing no viable cause of action, thus rendering this proceeding an abuse of process by relitigation or subject to cause of action estoppel. The Immigration Division members also rely on the immunity that is afforded to them by section 156(a) of the *Immigration and Refugee Protection Act,* SC 2001, c 27 [IRPA].

II. The claims against the ID Members

[12] There is no question that the claims advanced against the ID Members in the performance of their adjudicative duties are protected by a strongly worded immunity provision. Section 156 of IRPA states:

> 156. Immunity and no summons – The following rules apply to the Chairperson and the members in respect of the exercise or purported exercise of their functions under this Act:
>
> (a) no criminal or civil proceedings lie against them for anything done or omitted to be done in good faith; and
>
> (b) they are not competent or compellable to appear as a witness in any civil proceedings.

[13] Mr. Galati opposes the motion to strike the claims against the ID Members on the basis that the Court must take the pleaded facts as provable. He asserts that it is only where it is plain and obvious that a pleading is bad that it can be struck: see, for instance, *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 at page 980, 74 DLR (4th) 321. Motions to strike under Rule 221 of the *Federal Courts Rules* are, of course, also subject to Rule 174 requiring that every pleading contain "a concise statement of the material facts on which the party relies".

[14] While I accept that, on a motion to strike, the Court must take the pleaded facts to be provable and should only strike in the clearest of cases, at the same time not every legal theory that can be imagined by the creative legal mind must be entertained. For instance, I do not agree that this Court must accept, as potentially viable, fanciful interpretations of the scope of immunity afforded to the ID Members by section 156 of IRPA. An example of such an argument

is the Plaintiffs' contention that they are entitled to pursue a cause of action for the negligent enforcement of a judicial decree (*i.e.*, the Federal Court judgments). The Plaintiffs advance this claim on the strength of the decision in *Holland v Saskatchewan*, 2008 SCC 42, [2008] 2 SCR 551. That case, of course, involved an allegation of negligent implementation of a judicial decree and not negligent adjudication. In the face of the broad immunity created by section 156, it is plain and obvious that this allegation and any similar allegation could not, in the absence of pleaded material facts bearing on bad faith, possibly succeed.

[15] The same can be said of the allegations concerning ostensible errors made by the ID Members. The Statement of Claim does not survive a motion to strike by the pleading of a series of supposed errors followed by a bare assertion of bad faith and conspiracy. Indeed, all of the conspiracy allegations are purely speculative and improper. To assert without any factual foundation that the ID Members were engaged in a conspiracy to harm the Plaintiffs with the CBSA and CIC officials and were acting as de facto agents of the Chinese authorities is particularly scandalous and improper. What the record actually discloses is that the ID Members produced thoughtful and thorough decisions. This Court found some discrete reviewable errors in their decisions but identified nothing blameworthy and returned the cases for redetermination. The remedy for adjudicative error lies in judicial review and not in a collateral action seeking damages.

[16] What the Court must still consider is whether some remainder of the Statement of Claim would, if proven, be sufficient to escape the confines of section 156. To determine this, it is necessary to consider the basic principles with respect to pleadings. The fundamental purpose

and rule of pleadings were discussed by Justice Eric Bowie in *Zelinski v the Queen*, [2002] 1 CTC 2422, [2002] DTC 1204 (TCC) and recently endorsed by Justice Wyman Webb in *Beima v Canada*, 2016 FCA 205, [2016] FCJ No 907 (QL):

> 4 The purpose of pleadings is to define the issues in dispute between the parties for the purposes of production, discovery and trial. What is required of a party pleading is to set forth a concise statement of the material facts upon which she relies. Material facts are those facts which, if established at the trial, will tend to show that the party pleading is entitled to the relief sought …
>
> 5 The applicable principle is stated in Holmsted and Watson [Ontario Civil Procedure, Vol. 3, pages 25-20 to 25-21]:
>
> > This is the rule of pleading: all of the other pleading rules are essentially corollaries or qualifications to this basic rule that the pleader must state the material facts relied upon for his or her claim or defence. The rule involves four separate elements: (1) every pleading must state facts, not mere conclusions of law; (2) it must state material facts and not include facts which are immaterial; (3) it must state facts and not the evidence by which they are to be proved; (4) it must state facts concisely in a summary form.

[17] The question is therefore whether the Statement of Claim contains any material factual allegations that could support a finding of bad faith on the part of any of the ID Members in the discharge of their adjudicative functions. In this context, bad faith requires proof of deliberate dishonest conduct by each of the ID Members in carrying out their detention review responsibilities.

[18] An assessment of the Statement of Claim must begin with an appreciation of the legal principles that distinguish between speculative or conclusory allegations and those that are sufficiently particularized to be subjected to further judicial scrutiny (*i.e.*, material facts that are

capable of supporting a potentially viable cause of action). This distinction is discussed by Justice David Stratas in *Merchant Law Group v Canada Revenue Agency*, 2010 FCA 184, 321 DLR (4th) 301 [*Merchant Law*] in the following passage:

> [34] I agree with the Federal Court's observation (at paragraph 26) that paragraph 12 of the amended statement of claim "contains a set of conclusions, but does not provide any material facts for the conclusions." When pleading bad faith or abuse of power, it is not enough to assert, baldly, conclusory phrases such as "deliberately or negligently," "callous disregard," or "by fraud and theft did steal": *Zundel v. Canada*, 2005 FC 1612, 144 A.C.W.S. (3d) 635; *Vojic v. Canada (M.N.R.)*, [1987] 2 C.T.C. 203, 87 D.T.C. 5384 (F.C.A.). "The bare assertion of a conclusion upon which the court is called upon to pronounce is not an allegation of material fact": *Canadian Olympic Association v. USA Hockey, Inc.* (1997), 74 C.P.R. (3d) 348, 72 A.C.W.S. (3d) 346 (F.C.T.D.). Making bald, conclusory allegations without any evidentiary foundation is an abuse of process: *AstraZeneca Canada Inc. v. Novopharm Limited*, 2010 FCA 112 at paragraph 5. If the requirement of pleading material facts did not exist in Rule 174 or if courts did not enforce it according to its terms, parties would be able to make the broadest, most sweeping allegations without evidence and embark upon a fishing expedition. As this Court has said, "an action at law is not a fishing expedition and a plaintiff who starts proceedings simply in the hope that something will turn up abuses the court's process": *Kastner v. Painblanc* (1994), 58 C.P.R. (3d) 502, 176 N.R. 68 at paragraph 4 (F.C.A.).
>
> [35] To this, I would add that the tort of misfeasance in public office requires a particular state of mind of a public officer in carrying out the impunged action, *i.e.*, deliberate conduct which the public officer knows to be inconsistent with the obligations of his or her office: *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 263, 2003 SCC 69 at paragraph 28. For this tort, particularization of the allegations is mandatory. Rule 181 specifically requires particularization of allegations of "breach of trust," "wilful default," "state of mind of a person," "malice" or "fraudulent intention."

[19] More recently, Justice Michael Manson discussed the need for particulars when pleadings allege fraud or malice. His comments in *Tomchin v Canada*, 2015 FC 402, 332 CRR (2d) 64 [*Tomchin*] are particularly apt on this motion:

> [21] In order to strike a pleading on the ground that it does not disclose a reasonable cause of action, those allegations that are properly pleaded as concise material facts and are capable of being proved must be taken as true (*Hunt v Carey Canada Inc*, [1990] 2 SCR 959; *Federal Court Rules*, Rule 174). However, that rule does not apply to allegations based on assumptions and speculation (*Operation Dismantle Inc v Canada*, [1985] 1 SCR 441 at para 27).
>
> [22] As well, any pleading of misrepresentation, fraud, malice or fraudulent intent must provide particulars of each and every allegation; bald allegations of bad faith, ulterior motives or *ultra vires* activities is both "scandalous, frivolous and vexatious", and an abuse of process of this Court (*Federal Court Rules*, Rule 191; *Merchant Law Group v Canada (Revenue Agency)*, 2010 FCA 184 at paras 34-35).
>
> ...
>
> [38] Throughout the Statement of Claim, the Plaintiff alleges bad faith and ulterior motives on the part of the Defendants. However, I agree with the Defendants that the allegations are purely speculative and none of the statements are supported by the facts as pleaded. What the facts show is nothing other than legitimate, *intra vires* reasons for the Plaintiff's interview, investigation and detention by CBSA.
>
> …
>
> [47] The pleading as a whole is replete with opinion and conclusory statements, devoid of the concise, material facts needed to support a viable cause of action. I agree with the Defendants that the Statement of Claim appears to have been filed for collateral purposes, in the hopes that a fishing expedition may yield some claim of substance that may somehow support the Plaintiff's desire for a remedy against the Defendants. His position is simply wrong (*Kastner v Painblanc,* [1994] FCJ No 1671 at para 4 (FCA)).

[20] The allegations made by the Plaintiffs against the ID Members in this proceeding are bad for the same reasons identified in the *Merchant Law* and *Tomchin* decisions noted above. The allegations of bad faith and malice are merely conclusions unsupported by any material facts. The allegation of a conspiracy in concert with the People's Republic of China is particularly troublesome. In the absence of any supporting facts it is a scandalous allegation and, in that form, should never have been pleaded.

[21] I can only conclude from the total absence of particulars that the claims made against the ID Members were solely intended to embarrass those Defendants for making detention rulings adverse to the Plaintiffs' interests. In the result, all of the claims against the ID Members are struck out without leave to amend and the action is dismissed as against each of them.

[22] The ID Members are entitled to their costs in the action. Having regard to the scandalous nature of the allegations made against them, an increased award of costs is justified. These Defendants are awarded $5,500 payable within 30 days by the Plaintiffs, jointly and severally.

III. The claims against the CBSA and CIC

[23] One of the principal arguments advanced on behalf of the CBSA and CIC Defendants is that this action is an abusive relitigation of a very similar cause of action dismissed by the Ontario Superior Court of Justice. To fairly address this argument it is necessary to examine the scope and disposition of that earlier action.

[24] The Statement of Claim issued on behalf of the Plaintiffs in the Ontario Superior Court of Justice named, among other parties, CIC and the CBSA as Defendants. That Statement of Claim sets out, almost verbatim, much of the factual history contained in the Federal Court Statement of Claim (see for example paras 16-18 and 76-99).

[25] Nevertheless, the specific allegations directed at the conduct of CIC and the CBSA in the Ontario pleading were limited to the following:

> 62. CIC and CBSA knew, or ought to have known, at the time that the application forms were submitted by Chen and Szeto, that Chen and Szeto were not licensed or approved immigration consultants or professionals, and that they were submitting the application documents contrary to the IRPA s. 91(1).
>
> 63. Furthermore, subsequent to Ms. Yan and Mr. Wang's discovery that Chen and Szeto were not licensed to submit immigration applications, and subsequent to their discovery of significant other misrepresentations and frauds perpetuated against them by Chen and Szeto, CIC and CBSA were notified by letters dated, respectively, January 27, 2014 and February 5, 2014 from counsel for Ms. Yan and Mr. Wang, specifically advising CIC and CBSA that:
>
> (a) Ms. Yan and Mr. Wang had discovered that Chen and Szeto were not licensed or approved immigration consultants and were not licensed or qualified to complete and submit applications to Canada Immigration on their behalf;
>
> (b) Ms. Yan and Mr. Wang had reason to believe that Chen and Szeto had provided incorrect information on the applications;
>
> (c) Chen and Szeto had threatened repeatedly to make false reports regarding Ms. Yan and Mr. Wang to CBSA and Canada Immigration in the course of continued attempts at extorting funds from Ms. Yan and Mr. Wang. Because of the legal actions and criminal complaints made by Ms. Yan and Mr. Wang against Chen and Szeto, Ms. Yan and

Mr. Wang had reason to believe that Chen and Szeto had made and were continuing to make false allegations to CBSA and CIC against Ms. Yan and Mr. Wang; and

(d) Ms. Yan and Mr. Wang were requesting copies of all application documents submitted on their behalf by Chen and Szeto.

64. Ms. Yan and Mr. Wang have to date received no response whatsoever from CBSA or CIC to the January 27th and February 5th letters.

65. Therefore, in addition to the fact that CIC and CBSA should have known that Chen and Szeto were in breach of s. 91(1) of the IRPA at the time of submission of the purported application, CIC and CBSA should certainly have known, and commenced a specific investigation and consulted with Ms. Yan and Mr. Wang's counsel, after receipt of their counsel's February notice letter.

66. Further, having received the latest application in or about 2013, and possibly previous applications from Chen and Szeto prior to that time, and then the February notification from counsel for Yan and Mr. Wang, CBSA should then have known that they were relying upon documents, the preparation of which were a criminal offence by Chen and Szeto contrary to s. 91(1) of the IRPA.

67. Knowing that the preparation of the application documents was a criminal offence by third parties, the CBSA should not have instructed its counsel to rely upon information on those documents to continue the detention and deny the freedom of Ms. Yan and Mr. Wang.

68. Chen and Szeto were not licensed or approved immigration consultants, and they were submitting the application documents contrary to the IRPA s. 91(1).

…

74. The CBSA's arrest disclosure referred to "tips" that they received in respect of Ms. Yan and Mr. Wang.

75. Ms. Yan and Mr. Wang believe that their concerns, set out in their counsel's February 2014 letter to CIC and CBSA, were correct and that Chen and Szeto made false report to the Canadian immigration agencies including CIC and CBSA, as well as false reports to the embassy, national government, and provincial

> government of China, as well as false reports to the Dominican Republic, all falsely claiming improperly actions and activities by the Plaintiffs.
>
> …
>
> 109. The plaintiffs state pleading that they have suffered damages as a result of the Citizenship and Immigration Canada and Canada Border Services Agency failure:
>
> (a) to identify and take preventative steps because, at the time that the application forms were submitted by Chen and Szeto, Chen and Szeto were not licensed or approved immigration consultants or professionals, and that they were submitting the application documents contrary to the IRPA s. 91(1);
>
> (b) to take preventative action, including contacting counsel for the plaintiffs, upon receipt of counsel's letter in February 2014 warning that Chen and Szeto were not licensed and may have file false information regarding the plaintiffs;
>
> (c) to refrain from using documents prepared by Chen and Szeto and relying upon "tips" from Chen and Szeto as a part of the basis for investigation and detention of the plaintiffs; and
>
> (d) to refrain from CBSA instructing its Minister's Counsel to rely on documents prepared by Chen and Szeto in submissions at Detention Hearings to continue the detention of the plaintiffs.

[26] Not surprisingly, the Attorney General of Canada moved to strike the Ontario Statement of Claim as it related to CIC and the CBSA on the basis that it disclosed no cause of action and was otherwise frivolous, vexatious and an abuse of the Court process. On the day the motion was to be heard, the Plaintiffs' then counsel (not Mr. Galati) requested and obtained an adjournment based, in part, on an argument that "new facts" had emerged "which inform the Plaintiffs' case against the moving Defendants". Plaintiffs' counsel also advised the Court that he intended to

amend the Statement of Claim. Thrown-away costs were awarded to the Attorney General in the amount of $2,500.00, payable within 30 days.

[27] The Attorney General brought the motion to strike back before the Court on June 17, 2015. Plaintiffs' counsel failed to file any responding material and seems not to have opposed the motion. Indeed, in an apparent effort to avoid the motion to strike, the Plaintiffs filed a Notice of Discontinuance on June 11, 2015. Justice Edward Belobaba described the filing of the Notice of Discontinuance as "improper" and of no effect. He went on to strike the claims against the Attorney General without leave to amend on the following basis:

> The AG Canada's motion to strike St. of Claim as against AG Canada (CIC & CBSA) w/o leave to amend is granted. Unopposed. No reasonable cause of action is created by not investigating s 91 IRPA breaches. Ps have not alleged insufficient legal basis for detention. I agree with and adopt AG's submissions in paras. 35-37, 38-40 and 41-43, 45 and 50 of AG's Factum.

[28] By reference Justice Belobaba adopted the following points from the Attorney General's written arguments:

> 35. There is nothing in *IRPA* that imposes a duty on CIC or CBSA to investigate or take action against anyone who contravenes s. 91 by giving representation or advice in an immigration proceeding or application for consideration.
>
> 36. Similarly, s. 91(9) of *IRPA*, which provides that "[e]very person who contravenes subsection (1) commits an offence..." does not impose any duty on CIC or CBSA to investigate or penalize every person who breaches s. 91.
>
> 37. The Plaintiffs have cited no authority to show any duty on CIC or CBSA to investigate or penalize all persons who may have breached s. 91 of *IRPA*. They have also not pointed to any rationale for imposing such a duty on CIC or

CBSA or indicated how it would be possible or feasible to perform such a duty.

2) No cause of action created by not investigating Ms. Chen and Mr. Szeto

38. The Plaintiffs seem to suggest that CIC or CBSA should have investigated Ms. Chen and Mr. Szeto after the Plaintiffs' counsel wrote letters of January 27, 2014, and February 5, 2014 advising that these persons breached s. 0091. This allegation fails to show any cause of action as the Plaintiffs cannot, by their counsel's letters, create a duty on CIC and CBSA to investigate persons who allegedly breach s. 91(1), where no such duty exists in law.

> Claim, paras 63, 65, 68, 109(b), [Motion Record of the AG]

39. The Plaintiffs have not explained how their counsel's letters could mandate CIC or CBSA to investigate or prosecute Ms. Chen or Mr. Szeto for breaching or allegedly breaching s. 91, absent any legislative duty, court order or other legal requirement to do so.

40. Further, the Plaintiffs do not allege that their detention by CBSA is unlawful, i.e. that there are insufficient legal bases for the detention. As such, they fail to show any reasonable cause of action regarding their detention.

3) Plaintiffs have not alleged insufficient legal basis for detention

Plaintiffs' detention currently based on flight risk

41. The Plaintiffs assert a claim for "Special damages in the amount of $10,000.00 of each day of detention of the plaintiffs by the defendant Canada Border Services Agency", but nowhere in the Claim do the Plaintiffs allege that their detention is unlawful.

> Claim, para 1 (o), [Motion Record of the AG]

42. It seems that the Plaintiffs are seeking damages for time spent in lawful detention. However, this does not give rise to any reasonable cause of action.

43. Further, the Plaintiffs implicitly admit that their detention is lawful, as they assert that "the essence of its [CBSA's]

> current claims against the Plaintiffs" include "the flight risk and misrepresentation issues". While the Plaintiffs say that these "claims" are "in any event, incorrect", they do not indicate any reason why they are not flight risks. In addition, they do not allege that the flight risk issue was caused by Ms. Chen or Mr. Szeto. In fact, their allegations indicate the contrary.
>
> Claim, para 45, [Motion Record of the AG]
>
> ...
>
> 45. The Plaintiffs' allegations indicate that they are foreign nationals who are detained in Canada as flight risks, i.e., being unlikely to appear for examination, an admissibility hearing or removal from Canada. Since they state that "flight risk" is part of the essence of CBSA's claims against them, and flight risk in these circumstances is sufficient for their lawful detention by the Immigration Division, the mere fact that they are detained or that they disagree with the flight risk finding does not create a reasonable cause of action.
>
> ...
>
> 50. As such, the Plaintiffs fail to show any cause of action against the AG (on behalf of CIC or CBSA) regarding their detention, or regarding the use or reliance of alleged incorrect information submitted by Mr. Chen and Mr. Szeto, as the Plaintiffs' allegations indicate that CIC or CBSA relied on information other than that received from Ms. Chen and Mr. Szeto, to lawfully detain them as flight risks, pursuant to *IRPA*.

[29] It is quite clear to me that Justice Belobaba effectively dismissed the Plaintiffs' claims against the CIC and the CBSA alleging a negligent investigation, albeit in relation to specified deficiencies pertaining to the supposed fraudsters, Szeto and Chen. To the extent that the Statement of Claim purported to assert a claim to damages from the Plaintiffs' detention, that, too, was dismissed.

[30] I have some reservations about globally applying abuse of process principles to this motion to strike based on the Ontario Superior Court's dismissal endorsement. That proceeding was supported by a few vague allegations of negligent investigation by unnamed officials in the CBSA and CIC, but the Statement of Claim did not include allegations against the ID Members named in this action nor did it assert that government officials acted or conspired to present false evidence to the Immigration Division for the purpose of harming the Plaintiffs. In addition to the absence of a clear overlap of pleaded issues, it is also not entirely clear what the Ontario Superior Court decided beyond the finding that no cause of action based on an alleged negligent investigation could be made out. It is also of some significance that the Ontario action was dismissed on a motion to strike that was unopposed. Finally, some of the allegations in the Federal Court Statement of Claim post-date the dismissal of the Ontario action. Those after-the-fact allegations cannot be struck based on the argument that a party is required to put its best case forward and cannot selectively plead or split its case. Alleged events that have not yet occurred cannot be reasonably anticipated and pleaded. Given these issues I am not prepared to strike the entire Statement of Claim based on abuse of process by relitigation principles. That is not to say, however, that all of what has been pleaded in this action is permissible in the face of the dismissal of the Ontario action. In my view, the Plaintiffs are not entitled to replead their allegations concerning supposedly negligent investigations by the CBSA, CIC or any of their officials. The Ontario Superior Court found those allegations could not support a viable cause of action and the Plaintiffs are not legally entitled to relitigate that issue in this Court. To do so is an abuse of process: see *Toronto (City) v CUPE, Local 79*, 2003 SCC 63 at para 37, [2003] 3 SCR 77. Those allegations are accordingly struck from the Statement of Claim without leave to amend.

[31] There is not much of any substance that remains in the Statement of Claim, and what does remain is devoid of material facts. Prolixity, repetition and the bare pleading of a series of events are not substitutes for the requirement that a defendant know what is being factually and legally alleged so that a proper answer and defence can be stated. What is always required is a recitation of material facts that can support an arguable cause of action. Nevertheless, there are some generalized allegations that CBSA and CIC officials knowingly fabricated a case against the Plaintiffs in order to keep them in custody. In theory, a viable cause of action for misfeasance in public office could arise, provided that there are sufficient material facts pleaded to support it. Here there are none and the remaining portions of the Statement of Claim are struck out for that reason and because what little remains is unintelligible. The Plaintiffs will, however, have leave to file a fresh Statement of Claim provided that it contains sufficient material particulars to support a cause of action for misfeasance in the prosecution of a case for the detention of the Plaintiffs.

[32] These Defendants have been successful on their separate motions and are entitled to their costs which I fix at $3,500.00. These costs are similarly payable jointly and severally by the Plaintiffs within 30 days.

ORDER

THIS COURT ORDERS that these motions are allowed and the Statement of Claim is struck out in its entirety. The action against the Defendants, Oxana M. Kowalyk (ID Member), Susy Kim (ID Member), Iris Kohler (ID Member), Linda Lizotte-Macpherson, President of the CBSA, the Minister of Public Safety and Emergency Preparedness, the Minister of Citizenship and Immigration is dismissed without leave to amend or refile. The Plaintiffs will have leave to refile only in respect of a cause of action framed in accordance with these reasons.

THIS COURT FURTHER ORDERS that the Defendants Oxama M. Kowalyk, Susy Kim and Iris Kohler, shall have their costs in the amount of $5,500.00 payable by the Plaintiffs jointly and severally within thirty (30) days.

THE COURT FURTHER ORDERS that the remaining Defendants shall have their costs in the amount of $3,500.00 payable by the Plaintiffs jointly and severally within thirty (30) days.

"R.L. Barnes"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1747-15
STYLE OF CAUSE:	ZHENHUA WANG AND CHUNXIANG YAN v HER MAJESTY THE QUEEN, OXANA M. KOWALYK (ID MEMBER), SUSY KIM (ID MEMBER), IRIS KOHLER (ID MEMBER), OFFICER O'HARA (CBSA OFFICER), HAL SIPPEL, ERIC BLENKARN, ANDREJ RUSTJA, CBSA OFFICERS, ALL JOHN AND JANE DOE CBSA/CIC OFFICIALS UNKNOWN TO THE PLAINTIFFS, INVOLVED IN THE ARREST, DETENTION AND CONTINUED DETENTION OF THE PLAINTIFFS, LINDA LIZOTTE-MACPHERSON, PRESIDENT OF THE CBSA, MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS, MINISTER OF CITIZENSHIP AND IMMIGRATION, ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MAY 16, 2016
ORDER AND REASONS:	BARNES J.
DATED:	SEPTEMBER 16, 2016

APPEARANCES:

Mr. Rocco Galati	FOR THE PLAINTIFFS
Mr. Jonathan Dawe Mr. Michael Dineen	FOR THE DEFENDANTS OXANA M. KOWALYK (ID MEMBER) SUSY KIM (ID MEMBER) IRIS KOHLER (ID MEMBER)
Mr. Jamie Todd Ms. Ildiko Erdei	FOR THE DEFENDANTS OFFICER O'HARA (CBSA OFFICER) HAL SIPPEL ERIC BLENKARN ANDREJ RUSTJA, CBSA OFFICERS

ALL JOHN AND JANE DOE CBSA/CIC OFFICIALS UNKNOWN TO THE PLAINTIFFS, INVOLVED IN THE ARREST, DETENTION AND CONTINUED DETENTION OF THE PLAINTIFFS
LINDA LIZOTTE-MACPHERSON, PRESIDENT OF THE CBSA
MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
MINISTER OF CITIZENSHIP AND IMMIGRATION
ATTORNEY GENERAL OF CANADA

SOLICITORS OF RECORD:

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William F. Pentney Deputy Attorney General of Canada	FOR THE DEFENDANTS OFFICER O'HARA (CBSA OFFICER) HAL SIPPEL ERIC BLENKARN ANDREJ RUSTJA, CBSA OFFICERS ALL JOHN AND JANE DOE CBSA/CIC OFFICIALS UNKNOWN TO THE PLAINTIFFS, INVOLVED IN THE ARREST, DETENTION AND CONTINUED DETENTION OF THE PLAINTIFFS LINDA LIZOTTE-MACPHERSON, PRESIDENT OF THE CBSA MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS MINISTER OF CITIZENSHIP AND IMMIGRATION ATTORNEY GENERAL OF CANADA

EXHIBIT "ZZ"

Federal Court of Appeal | Cour d'appel fédérale

Date: 20161122

Docket: A-108-16

Citation: 2016 FCA 296

CORAM: **STRATAS J.A.**
WEBB J.A.
WOODS J.A.

BETWEEN:

DANILO MAALA ALMACÉN

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on November 22, 2016.
Judgment delivered from the Bench at Toronto, Ontario, on November 22, 2016.

REASONS FOR JUDGMENT OF THE COURT BY: WEBB J.A.

This is Exhibit "ZZ" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

Federal Court of Appeal | Cour d'appel fédérale

Date: 20161122

Docket: A-108-16

Citation: 2016 FCA 296

CORAM: **STRATAS J.A.**
WEBB J.A.
WOODS J.A.

BETWEEN:

DANILO MAALA ALMACÉN

Appellant

and

HER MAJESTY THE QUEEN

Respondent

REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on November 22, 2016).

WEBB J.A.

[1] The Appellant's Amended Statement of Claim dated September 23, 2014 was struck by an Order of the Prothonotary dated August 10, 2015 (2015 FC 957) without leave to amend. The Appellant then brought a motion before the Federal Court to set aside this Order. This motion was dismissed by Order and reasons of Russell J. dated March 9, 2016 (2016 FC 300). This appeal is from this Order of Russell J.

[2] The Appellant commenced the action in the Federal Court following the denial of the Appellant's application to remain in Canada on Humanitarian and Compassionate grounds pursuant to section 25 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the H&C Decision). The claim alleged various causes of action including misfeasance in public office, negligence, and breaches of the *Canadian Charter of Rights and Freedoms*. The Appellant also filed an application for leave and judicial review of the H&C Decision. This application for leave was denied by Shore J. and a subsequent motion for reconsideration of this decision was dismissed. The test before Shore J. was whether there were fairly arguable issues in relation to the H&C Decision. Since leave was denied and the motion for reconsideration dismissed, the conclusion is that there were no fairly arguable issues.

[3] The Prothonotary struck the Appellant's Amended Statement of Claim on the basis that, based on the facts as pled, this Statement of Claim did not disclose a reasonable cause of action. The Prothonotary also stated that, in the alternative, he would have struck this Statement of Claim as an abuse of process since, in his view, this was an attempt to re-litigate the decision of Shore J. to dismiss the application for leave in relation to the H&C Decision.

[4] Russell J. reviewed the decision of the Prothonotary on a *de novo* basis and dismissed the Appellant's motion to set aside the Order of the Prothonotary on the basis that it was an abuse of process as it "is simply an attempt to re-litigate the reasonableness of the H&C decision, and the Court has already dealt with the reasonableness of that decision" (paragraph 46 of his reasons). Russell J. also found that he would dismiss the motion on the basis that, based on the facts as alleged in this Statement of Claim, no reasonable cause of action was disclosed.

[5] In this Court, the Appellant submitted that, at the time of the issuance of the Statement of Claim, the application for leave had not been decided. This changes nothing: once the leave application was decided, none of the issues against the validity of the decision were fairly arguable. In these circumstances an action based on the validity of the decision cannot succeed and, in our view, the foundation of his claim is the unreasonableness of the H&C Decision.

[6] The Appellant submits that the Supreme Court holdings in *Attorney General of Canada v. TeleZone Inc.*, 2010 SCC 62, [2010] 3 S.C.R. 585 (*TeleZone)* and five related cases support his position in this appeal. We disagree. None of the six cases involved a prior related proceeding that was determined by a court to be not fairly arguable. In the *TeleZone* cases the Supreme Court did not repeal the doctrine against re-litigation – that doctrine applies here.

[7] In this appeal, we have not been persuaded that Russell J. committed any reviewable error in dismissing the Appellant's motion and therefore, the appeal will be dismissed, with costs.

"Wyman W. Webb"
J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-108-16
APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE RUSSELL OF THE FEDERAL COURT DATED MARCH 9, 2016, DOCKET NO. T-1508-14.	
STYLE OF CAUSE:	DANILO MAALA ALMACÉN v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	NOVEMBER 22, 2016
REASONS FOR JUDGMENT OF THE COURT BY:	STRATAS J.A. WEBB J.A. WOODS J.A.
DELIVERED FROM THE BENCH BY:	WEBB J.A.

APPEARANCES:

Rocco Galati	FOR THE APPELLANT
Rachel Hepburn Craig Marina Stefanovic	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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EXHIBIT “AAA”

Federal Court | Cour fédérale

Date: 20170824

Docket: T-1774-15

Citation: 2017 FC 786

Ottawa, Ontario, August 24, 2017

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

EMAD IBRAHIM AL OMANI, LINA HOUSNE HAMZA NAHAS, AND SULTAN EMAD AL OMANI (A MINOR), LULWA EMAD IBRAHIM AL OMANI (A MINOR), HAYA EMAD IBRAHIM AL OMANI (A MINOR), BY THEIR LITIGATION GUARDIANS, EMAD IBRAHIM AL OMANI AND LINA HOUSNE HAMZA NAHAS

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

ORDER AND REASONS

[1] The Plaintiffs form a family from Saudi Arabia who applied for permanent residence in Canada under the Federal Skilled Worker Class. They submitted a statement of claim alleging a number of causes of action resulting in various heads of damages against the Defendant due to

their treatment in the immigration system. They also seek, or give notice of intent to seek, declarations that certain provisions in the *Federal Courts Act*, RSC, 1985, c F-7 [*Federal Courts Act*] and the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] are unconstitutional. The Defendant moved to strike the statement of claim in its entirety. The Court must determine whether the Defendant has established that the statement of claim fails to meet the pleadings requirements set out in the *Federal Courts Rules*, SOR 98-106 [the Rules]. At the Plaintiffs' request, the Court must also determine whether to grant leave to amend any claims that are struck.

I. Facts as set out in the statement of claim

[2] The principal Plaintiff, Emad Al Omani, first submitted an application for permanent residence in Canada under the Federal Skilled Worker Class pursuant to subsection 12(2) of the IRPA in September 2006. That application included his wife, Lina Housne Hamza Nahas, and their two children, Lulwa Ehmad Alomani and Sultan Emad Alomani, as accompanying dependents. Their third child, Haya Emad Ibrahim Al Omani, was later added to the application.

[3] The Canadian High Commission in London dealt with the application and refused it in December 2009 because it fell two points short of the score of 67 needed for a positive decision. The Plaintiffs mainly contest the visa officer's award of 4/10 points for "adaptability" and 10/16 points for English proficiency, both of which are made by applying subsection 76(1) and related provisions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The principal Plaintiff maintains he should have received 5 adaptability points for his Canadian brother plus at least 3 adaptability points for his wife's university degree. On language

proficiency, he argues the visa officer should have considered other evidence of his English language abilities:

> A/ with respect to adaptability, the ***Regulations*** and CIC's own website, sets out that the Plaintiff, Emad Al Omani, should have obtained, under "adaptability", 5 points, because he has a "sibling" (brother) who is a Canadian citizen and another 3 points because his spouse has a University degree, for a ***minimum*** of 8 out of 10 points for "adaptability", and these 8 out of 10 points, which are statutorily predetermined, are ***before*** even considering the other factors of adaptability, such as the fact that both the Plaintiff and his wife have university degrees from English instruction universities, have a net worth of $2.3 ***million*** (CDN), of which half is in liquid assets, have family in Canada, have a job offer in Canada, from the company run and owned by the Plaintiff's brother;
>
> B/ with respect to language (English) proficiency, the Plaintiff, Emad Al Omani, only received 10 out of 16 points, notwithstanding that the ***Regulations***, and CIC's representations, indicate that the prescribed English exam is ***not*** the only means by which to access English proficiency, and notwithstanding that the Applicant raised the issue of the need to write the exam, when he in fact graduated from an English-speaking University, has worked for English-speaking companies, in the English language, and was in the third year of a four year MBA programme, in English, which he had not yet completed due to work demands, and that the officer was in possession of confirmation of all of the above, and refused to exercise jurisdiction to assess his English proficiency, in the circumstances, within the context of his "ability to become economically established in Canada"
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> (at para 20(b)(ii) of the statement of claim).

[4] The decision was challenged in the Federal Court. In August 2010, the decision was set aside by the Federal Court and the matter was sent back for redetermination by a different visa officer.

[5] As part of the process of redetermination, the principal Plaintiff submitted further documentation requested by the Defendant and was called for an interview in January 2014. It is asserted that the interview lasted some 15 minutes. The officer asked the principal Plaintiff to explain a change in his job description. Towards the end of the interview, the officer would have asked the principal Plaintiff suddenly whether he "belonged to, or was in any way associated with "any group or organization like Al Qaeda in Iraq" ". The principal Plaintiff categorically replied, according to the statement of claim, that he did not belong to, nor associated with, such groups as Al Qaeda, nor Al Qaeda itself (statement of claim, para 26(b)). When the principal Plaintiff asked for more detail on the question, the officer refused due to "secrecy" concerns.

[6] In March 2014, the redetermination of the Plaintiffs' permanent residence application resulted in a second negative decision. The refusal explained that "there are reasonable grounds to believe [the principal Plaintiff is] a member of the inadmissible class of persons described in 34(1)(f)" of the IRPA.

[7] In September 2014, once again the Federal Court ordered that the second negative decision be set aside and the matter was sent back for redetermination. On the record as it stands, the Plaintiffs had not heard from the Crown with respect to this second redetermination. The Plaintiffs sued.

II. Arguments

[8] Fundamentally, the Plaintiffs argue that they have been mistreated in Canada's immigration system to a degree that warrants compensation. They allege the Defendant is liable

in tort for misfeasance in public office, abuse and excess of jurisdiction and authority, abuse of process, negligence and negligent investigation, conspiracy, and for breaches of the plaintiffs' section 7 and section 15 *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*] rights.

[9] The Plaintiffs are seeking:

i. general damages in the amount of $200,000 per Plaintiff;

ii. aggravated damages in the amount of $50,000 per Plaintiff;

iii. punitive damages in the amount of $50,000 per Plaintiff;

iv. any and all economic loss damages pleaded, to be calculated at trial;

v. a declaration and/or finding that section 49 of the *Federal Courts Act*, barring jury trials in the Federal Court, is unconstitutional, and of no force and effect;

vi. a declaration and/or finding that the requirement to seek leave from an administrative decision, under the IRPA, to commence judicial review under section 18 of the *Federal Courts Act*, pursuant to section 72(1) of the IRPA, violates the constitutional right to judicial review and a fair and independent judiciary and is of no force and effect; and

vii. solicitor-client costs of this action and any other relief the Court deems just.

[10] The Defendant contends in her motion to strike that the statement of claim fails to establish any of the alleged causes of action and does not properly plead damages. They further seek to strike the two named Ministers (Foreign Affairs and Citizenship and Immigration) from the action in favour of Her Majesty the Queen, as well as the Plaintiffs' constitutional arguments respecting the *Federal Courts Act* and the IRPA.

III. Law on a motion to strike

[11] Is before the Court the motion to strike brought on behalf of the Defendant. Rule 221(1) permits the Court to strike a claim on certain grounds:

221(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it	**221(1)** À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas :
(a) discloses no reasonable cause of action or defence, as the case may be,	**a)** qu'il ne révèle aucune cause d'action ou de défense valable;
(b) is immaterial or redundant,	**b)** qu'il n'est pas pertinent ou qu'il est redondant;
(c) is scandalous, frivolous or vexatious,	**c)** qu'il est scandaleux, frivole ou vexatoire;
(d) may prejudice or delay the fair trial of the action,	**d)** qu'il risque de nuire à l'instruction équitable de l'action ou de la retarder;
(e) constitutes a departure from a previous pleading, or	**e)** qu'il diverge d'un acte de procédure antérieur;
(f) is otherwise an abuse of the process of the Court,	**f)** qu'il constitue autrement un abus de procédure.
and may order the action be dismissed or judgment entered accordingly.	Elle peut aussi ordonner que l'action soit rejetée ou qu'un jugement soit enregistré en conséquence.

The Defendant primarily relies on Rule 221(1)(a), which allows a claim to be struck if it "discloses no reasonable cause of action.". Rule 221(1)(c) is also in play.

[12] The test to strike a claim under Rule 221 sets a high bar. First, it is assumed that the facts stated in the statement of claim can be proven. The Court must be satisfied that it is plain and obvious that the pleading discloses no reasonable cause of action assuming the facts pleaded are true: *R v Imperial Tobacco Canada Ltd.*, 2011 SCC 42, [2011] 3 SCR 45 at para 17; *Hunt v Carey Canada Inc*, [1990] 2 SCR 959 [*Hunt*] at p 980. The Defendant bears the onus of meeting this test: *Sivak v Canada*, 2012 FC 272, 406 FTR 115 [*Sivak*] at para 25.

[13] In *Hunt*, the Supreme Court sided with the articulation of the rule in England to the effect that "if there is a chance that the plaintiff may succeed, then the plaintiff should not be "driven from the judgment seat"" (p. 980). A high bar indeed to succeed on a motion to strike. Some chance of success will suffice or, as Justice Estey said in *Att. Gen. of Can. v Inuit Tapirisat et al*, [1980] 2 SCR 735, "(o)n a motion such as this a court should, of course, dismiss the action or strike out any claim made by the plaintiff only in plain and obvious cases and where the court is satisfied that "the case is beyond doubt"" (p.740).

[14] To show a plaintiff has a reasonable cause of action, the statement of claim must plead material facts satisfying every element of the alleged causes of action: *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227, 476 NR 219 [*Mancuso*] at para 19; *Benaissa v Canada (Attorney General)*, 2005 FC 1220 [*Benaissa*] at para 15. The plaintiff needs to explain the "who, when, where, how and what" giving rise to the Defendant's liability (*Mancuso*, para 19, *Baird v Canada*, 2006 FC 205 at paras 9-11, affirmed in 2007 FCA 48).

[15] Thus, there appears to be a balance. On one hand, a chance of success is enough for the matter to proceed. On the other, the material facts must be pleaded in sufficient detail such that the cause of action may exist. The purpose of pleadings is to give notice to the opposing party and define the issues in such a way that it can understand how the facts support the various causes of action. As the Court of Appeal put it in *Mancuso*, "(i)t is fundamental to the trial process that a plaintiff plead material facts in sufficient detail to support the claim and relief sought" (para 16). The Plaintiffs note that pleadings can still proceed despite being "far from models of legal clarity" (*Manuge v Canada*, 2010 SCC 67, [2010] 3 SCR 672 at para 23). But it remains that adequate material facts must be pleaded. Parties cannot make broad allegations in their statement of claim in the hope of later going on a "fishing expedition" to discover the facts: *Kastner v Painblanc* (1994), 176 NR 68, 51 ACWS (3d) 428 (FCA) at p.2.

[16] Rules 174 and 181 further define the minimum requirements for a statement of claim. Pursuant to Rule 174, every pleading must contain the material facts on which the party relies.

174 Every pleading shall contain a concise statement of the material facts on which the party relies, but shall not include evidence by which those facts are to be proved.	**174** Tout acte de procédure contient un exposé concis des faits substantiels sur lesquels la partie se fonde; il ne comprend pas les moyens de preuve à l'appui de ces faits.

Rule 181 requires that a pleading contain particulars of any alleged state of mind of a person, malice, or fraudulent intention.

181(1) A pleading shall contain particulars of every allegation contained therein, including	**181(1)** L'acte de procédure contient des précisions sur chaque allégation, notamment :

(a) particulars of any alleged misrepresentation, fraud, breach of trust, wilful default or undue influence; and	**a)** des précisions sur les fausses déclarations, fraudes, abus de confiance, manquements délibérés ou influences indues reprochés;
(b) particulars of any alleged state of mind of a person, including any alleged mental disorder or disability, malice or fraudulent intention.	**b)** des précisions sur toute allégation portant sur l'état mental d'une personne, tel un déséquilibre mental, une incapacité mentale ou une intention malicieuse ou frauduleuse.

[17] But what are "material facts"? They cannot be conclusions or bald allegations: *Merchant Law Group v Canada Revenue Agency*, 2010 FCA 184 at para 34; 321 DLR (4th) 301 [*Merchant*]; *Mancuso* at paras 17-18. You cannot plead bad faith as a material fact by merely stating phrases such as "deliberately or negligently" or "callous disregard:" *Zündel v Canada*, 2005 FC 1612 at para 16, affirmed in 2006 FCA 356. A modicum of story-telling is required. The statement of claim must contain enough facts for the Defendant to understand, for instance, what the bad faith allegation is based on.

[18] The jurisprudence suggests that a pleading can fall into one of three categories along a spectrum. The pleading either shows *no scintilla* of a cause of action, in which case the motion to strike would succeed, shows *a scintilla* of a cause of action, in which case there may be leave to amend, or it shows a *reasonable* cause of action. The Federal Court of Appeal similarly described in *Mancuso* material facts and bald allegations as lying on a continuum:

> [18] There is no bright line between material facts and bald allegations, nor between pleadings of material facts and the prohibition on pleading of evidence. They are points on a continuum, and it is the responsibility of a motions judge, looking

> at the pleadings as a whole, to ensure that the pleadings define the issues with sufficient precision to make the pre-trial and trial proceedings both manageable and fair.

IV. Issues

[19] Motions to strike can present short questions with lengthy answers. Based on the aforementioned law, we are concerned with two overarching issues in this case:

1. Is it plain and obvious that the statement of claim discloses no reasonable cause of action with respect to some or all of the claims?
2. Do some claims that could be struck nevertheless show a scintilla of a cause of action such that the Plaintiffs should be granted leave to amend those claims?

V. Analysis of each alleged cause of action

[20] The Court must take the statement of claim as it is. It must be read as generously as possible, thereby avoiding to put weight on what may be drafting deficiencies. However, would not be drafting deficiencies what would amount to speculations, hoping to find facts on discovery to support the allegations made. In effect, the motions judge is looking for the facts, taken as proven at this stage that will satisfy all of the necessary elements of the cause of action.

A. *Material facts*

[21] We find guidance in the binding decision of the Federal Court of Appeal in *Mancuso* on the requirements for a statement of claim to resist a motion to strike under rule 221.

[22] The main theme in *Mancuso* is the requirement that there be sufficient material facts pleaded. The material facts that are pleaded must be sufficient to support the claim and the relief sought. That means therefore that the facts must be advanced so that the cause of action may be established, leading to an appropriate remedy. The Court of Appeal agreed with the judge in *Mancuso* that "pleadings play an important role in providing notice and defining the issues to be tried and that the Court and opposing parties cannot be left to speculate as to how the facts might be variously arranged to support various causes of action" (para 16). The plaintiff must commit to more than merely stating some facts, a sort of narrative taken as proven, and then posit a series of alleged causes of action in order to prevail on a motion to strike.

[23] A plaintiff will want to maximize her flexibility in a statement of claim. But she "must plead, in summary form but with sufficient detail, the constituent elements of each cause of action or legal ground raised. The pleading must tell the defendant who, when, where, how and what gave rise to its liability" (*Mancuso*, para 19). As is often the case, the principle behind the rule helps understand the scope of the requirement. Hence, we read at paragraph 17 of *Mancuso*:

> [17] The latter part of this requirement – sufficient material facts – is the foundation of a proper pleading. If a court allowed parties to plead bald allegations of fact, or mere conclusory statements of law, the pleadings would fail to perform their role in identifying the issues. The proper pleading of a statement of claim is necessary for a defendant to prepare a statement of defence. Material facts frame the discovery process and allow counsel to advise their clients, to prepare their case and to map a trial strategy. Importantly, the pleadings establish the parameters of relevancy of evidence at discovery and trial.

[24] Thus, adequate pleadings are required up front; adequate material facts are mandatorily required. As put by the *Mancuso* Court at para 20, "(p)laintiffs cannot file inadequate pleadings

and rely on a defendant to request particulars, nor can they supplement insufficient pleadings to make them sufficient through particulars: *AstraZeneca Canada Inc. v. Novopharm Limited*, 2010 FCA 112."

[25] That translates into the requirement that tort claims be identified and then the material facts are set out such that the elements of the tort claim are satisfied. In my view, that is largely missing in this statement of claim, which has made the examination of the motion to strike quite cumbersome.

B. *How the statement of claim is organized*

[26] The statement of claim is difficult to apprehend and somewhat unwieldy. It starts off with bald allegations of various infringements, be they abuse of process, excess of authority, public misfeasance, negligence, negligent investigation, contempt of two Federal Court Judgments, as well as violation of section 15 and 7 of the *Charter*. For good measure, there is also an allegation that section 49 of the *Federal Courts Act* (prohibition of jury trails) and 72 of the IRPA (requirement that leave be granted for judicial review) are unconstitutional and of no force and effect.

[27] It then continues with a series of paragraphs that allege facts, what constitutes in fact a narrative. Follow a number of paragraphs which provide a series of heads of damages that allegedly would result from the facts as presented. The chapeau of para 30 simply states that damages were suffered as a result of "officials' inexcusable delay, false and unfounded allegations, and breach of duty to process the main Plaintiffs' application."

[28] Paragraphs 32 to 35 of the statement of claim that the Plaintiffs list causes of action. Thus, para 32 declares that there was:

- abuse and excess of jurisdiction and authority;
- abuse of process at common law and section 7 of the *Charter*;
- public misfeasance.

The paragraph ends with a mere declaration, without any connection with the facts, that "tortious conduct has caused the damages". What particular facts constitute the alleged tortious conduct is nowhere to be found in the pleading.

[29] Para 34 of the statement of claim seeks to be somewhat more precise in suggesting that the delay between various proceedings constitutes in itself abuse and excess of authority as well as public misfeasance, alleging bad faith at para 35.

[30] The Plaintiffs chose to plead in the alternative that officials have been negligent and engaged in negligent investigation. As for these causes of action, the statement of claim does not state what facts are pled in support of its essential elements. Rather, it is simply stated that they are owed a duty of care "to competently and with due dispatch properly process an application …as well as competently and diligently investigate any allegations of inadmissibility" (para 36).

[31] In the further alternative, the Plaintiffs allege a conspiracy to deny their permanent residence. This time, the allegations are barely more precise in that the Plaintiffs allege "a contrived denial made in bad faith", delay and baseless association with Al Qaeda (para 37). I note that, again, the material facts that would give precision to the alleged conspiracy are not

stated. In fact, there is a general allegation of conspiracy, but bad faith, delay and baseless association do not make a conspiracy, i.e. where there is proof of agreement and execution. The Defendant does not know who, when, where, how and what which would give rise to its liability.

C. *Amending pleadings*

[32] It does not suffice for the Court to rule that a pleading is deficient. Rule 221 requires consideration of whether a pleading should be struck with or without leave to amend. The jurisprudence points to various considerations which come into play in making such determination.

[33] The Plaintiffs have raised the possibility that if the statement of claim is struck in part or in whole, leave to amend the pleadings should be granted. As long as a pleading shows a scintilla of a cause of action, it will not be struck out if it can be cured by amendment: *Hunt* at pp 976-978; *Simon v Canada*, 2011 FCA 6 [*Simon*] at para 8; *Collins v Canada*, 2011 FCA 140 at para 30 [*Collins*]; *Sivak* at para 94; *Sweet v Canada* (1999), 249 NR 17 at para 21 (FCA) [*Sweet*]; *Larden v Canada*, (1998) 145 FTR 140 at para 26; *Kiely v Her Majesty the Queen*, (1987) 10 FTR 10 (FCTD) at p 2; *Waterside Ocean Navigation Co Inc v International Navigation Ltd*, [1977] 2 FC 257 at para 4.

[34] The case law teaches that a pleading will not be struck out without leave to amend unless there is no scintilla of a cause of action (*McMillan v Canada*, (1996) 108 FTR 32 [*McMillan*] and *Sivak*). But there must be that scintilla. As Associate Chief Justice Jerome put it in *McMillan*, "(t)he burden on the applicant under R. 419 (1)(a) is heavy since portions of the

pleadings will only be struck out if it is clear that the claim cannot be amended to show a proper cause of action" (para 39).

[35] However, it is not for the Court to redraft the pleadings. In *Sweet*, the Court of Appeal commented that "(e)ach proceeding is to be assessed on its own merits, with consideration being given to, inter alia, the personal situation of the party, the issues and arguments raised, the manner and tone in which they are raised, the number and proportion of allegations that are defective and the readiness of the amendments needed" (my emphasis, para 21).

[36] In fact, if a scintilla of a cause of action has been pleaded, this Court may be more reticent to strike claims without leave to amend in case it is the first version of the pleading, as in this case. In *Simon* and *Collins*, the Court of Appeal warned that failure to comply with the rules once the pleadings have been allowed to be amended would expose the pleadings to the risk of being struck out (*Simon* at para 17 and *Collins* at para 31).

D. *Alleged causes of action*

[37] At the outset of the hearing, the parties agreed that the Defendant's list of claims was a satisfactory way to organize the discussion. I will proceed through each claim in this order and address the two issues identified above.

Claim 1: Misfeasance in public office

[38] The statement of claim alleges the tort of misfeasance in public office. Because it constitutes the cause of action on which the Plaintiffs have chosen to rely the most heavily, I have attempted to gather the various paragraphs of the statement of claim which refer to misfeasance:

> 1. The Plaintiffs claim […] all of which damages arise from: […]
>
> (ii) the Defendants' servants and officers' actions, and lack of action and omissions, in not issuing the permanent resident visas, and not complying with the Federal Court orders, constitutes an abuse of process, abuse and excess of authority and jurisdiction, public misfeasance, as well as negligence, and negligent investigation, all compensable at common-law, under the ***Immigration and Refugee Protection Act ("IRPA")***, as well as s. 24(1) of the ***Charter***.
>
> […]
>
> 32. The Plaintiffs state, and the fact is that:
>
> (a) the Defendants' officials have, with knowledge and intent, abused process, abused and exceeded authority and jurisdiction, and engaged in public misfeasance of their office, in their refusal to lawfully abide by the Federal Court order and terms of the ***IRPA*** and ***Regulations***, and issue permanent residence visas, and in the refusal(s) to give any cogent and/or sober answers to the plaintiffs and their counsel, except stone silence and stone-walling and that the Defendants' servants and officials have: […]
>
> (iii) engaged in public misfeasance as set out by the Supreme Court of Canada in ***Odhavji Estate v. Woodhouse [2003] 3 S.C.R. 263***, in that:
>
> A/ the officials engaged in deliberate, unlawful conduct in the exercise of their public functions;
>
> B/ the officials are aware that the conduct is unlawful and likely to injure the plaintiffs; and

> C/ the officials' tortious conduct is the legal cause of the plaintiffs' injuries pleaded herein;
>
> […]
>
> 33. The Plaintiffs state that the Defendants' officials have a common-law duty, as well as a statutory duty under s. 3(1)(f) of the ***IRPA***, as interpreted and confirmed by this Court, in ***Dragan v Canada QL [2003] F.C.J. No. 260*** and ***Liang v Canada (M.C.I.) 2012 FC 758*** decisions to process applications consistently and promptly, which sub-section reads:
>
> > 3. (1) The objectives of this Act with respect to immigration are
> >
> > …
> >
> > (f) to support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces […]
>
> 34. The Plaintiffs state that the Defendants' inexcusable, inordinate, and castigating delay, both between the time of the 1st judicial review and the 2nd negative decision, as well as the 2nd judicial review to the present, constitutes abuse and excess of authority, as well as public misfeasance, of public office, in that inexcusable delay has been determined to constitute public misfeasance in ***inter alia, McMaster v. Canada, [2009] F.C.J. No. 1071***, by this Court.
>
> 35. The Plaintiffs further state that the conduct of the officers, and nature and substance of both decisions to deny the Plaintiffs permanent residence, has been made in bad faith, and absence of good faith, and further constitutes public misfeasance as set out above in the within statement of claim.

[39] As indicated earlier, the Plaintiffs must plead with sufficient detail the constituent elements of each cause of action. But that is not enough. The Plaintiffs must also plead material facts in sufficient detail. As already indicated earlier, the trial judge in *Mancuso* commented, and it was specifically approved by the Court of Appeal, that "opposing parties cannot be left to speculate as to how the facts might be variously arranged to support various causes of action"

(para 16). I am afraid this statement of fact suffers from that very deficiency. The elements of the tort of misfeasance are set out in *Odhavji Estate v Woodhouse*, 2003 SCC 69, [2003] 3 SCR 263 at paras 22-23 [*Woodhouse*]. The tort may take two different forms, but each requires the elements which are common to both. These elements are "(f)irst, the public officer must have engaged in deliberate and unlawful conduct in her or her capacity as a public officer. Second, the public officer must have been aware both that his or her conduct was unlawful and that it was likely to harm the plaintiff" (para 23). The tort may be approached in two ways. The two elements can be independently established, requiring unlawful conduct and knowledge that conduct was likely to cause harm. Or, both elements can be satisfied by proving the public officer specifically intends to injure a person because such officers do not have the authority to exercise their powers for an improper purpose (*Woodhouse* at para 23).

[40] The first element is focused on whether the alleged misconduct is deliberate and unlawful. This can arise from an act or omission that "arises[s] from a straightforward breach of the relevant statutory provisions or from acting in excess of the powers granted for an improper purpose": *Three Rivers District Council v Bank of England (No. 3)*, [2000] 2 WLR 1220 at p 1269, cited in *Woodhouse* at para 24.

[41] The second element establishes the nexus between the impugned public official and the plaintiff by requiring that defendants know that their conduct was unlawful and likely to harm. One can read at paragraph 29 of *Woodhouse*:

> The requirement that the defendant must have been aware that his or her unlawful conduct would harm the plaintiff further restricts the ambit of the tort. Liability does not attach to each officer who blatantly disregards his or her official duty, but only to

> a public officer who, in addition, demonstrates a conscious disregard for the interests of those who will be affected by the misconduct in question. This requirement establishes the required nexus between the parties. Unlawful conduct in the exercise of public functions is a public wrong, but absent some awareness of harm there is no basis on which to conclude that the defendant has breached an obligation that she or he owes to the plaintiff, as an individual. And absent the breach of an obligation that the defendant owes to the plaintiff, there can be no liability in tort.

The Court has further commented that this element requires the Defendant, at the very least, to have been "subjectively reckless or wilfully blind as to the possibility that harm was a likely consequence of the alleged misconduct" (*Woodhouse* at para 38).

[42] The requirement that the Defendant must have known that the conduct was unlawful is essential to the tort of misfeasance in public office. A public official's decision may well be adverse to certain people's interests, and yet still be lawful:

> The requirement that the defendant must have been aware that his or her conduct was unlawful reflects the well-established principle that misfeasance in public office requires an element of "bad faith" or "dishonesty". In a democracy, public officers must retain the authority to make decisions that, where appropriate, are adverse to the interests of certain citizens. Knowledge of harm is thus an insufficient basis on which to conclude that the defendant has acted in bad faith or dishonestly. A public officer may in good faith make a decision that she or he knows to be adverse to the interest of certain members of the public. In order for the conduct to fall within the scope of the tort, the officer must deliberately engage in conduct that he or she knows to be inconsistent with the obligations of the office.
>
> (*Woodhouse*, para 28)

[43] With that understanding of the tort, I will assess whether the statement of claim sufficiently pleads both tort elements for each of the Plaintiffs' misfeasance pleadings. The statement of claim seems to allege misfeasance on four grounds: (i) refusal to abide by Federal Court orders; (ii) refusal to issue permanent resident visas; (iii) refusal to provide "cogent and/or sober" answers to questions posed by the Plaintiffs; and (iv) delay in processing the Plaintiffs' permanent residence applications. For the first three grounds, the Plaintiffs allege that the actions were done "with knowledge and intent", but no similar claim is made with respect to the alleged processing delay.

(1) *Misfeasance claim 1: Contempt*

[44] I see no potential for deliberate, unlawful conduct in the first allegation of contempt. The statement of claim says both Court orders sent the visa decision back for redetermination. There is no indication as to how the redetermination should proceed. No direction was given by the Court. The first redetermination resulted in a second negative decision, and the second redetermination is outstanding. The pleadings contain no facts, let alone material facts, showing that the orders were not followed. In fact, the exact opposite occurred. There was no refusal to abide by the court orders.

[45] As a result, I cannot see a scintilla of a cause of action in the Plaintiffs' claim that the Defendant failed to abide by the orders in bad faith. I am striking the misfeasance claim respecting the "refusal to abide by Federal Court orders" without leave to amend.

(2) *Misfeasance claim 2: Refusal to issue permanent visas*

[46] The second allegation is not, *prima facie*, unlawful. The act of refusing to issue permanent residence visas regularly occurs as a result of implementing IRPA. In this case, it is not completely clear on the record how the refusal to issue visas constitutes misfeasance.

[47] The statement of claim offers that the first visa officer awarded the principal Plaintiff the wrong number of points under the IRPR in the face of evidence to the contrary and that the visas were denied "with knowledge and intent". The relevant provisions set precise point allocations for the adaptability criterion, leaving the visa officer little discretion in how to award points for a Canadian relative or a spouse's education.

[48] It also states that the second visa officer deemed the principal Plaintiff inadmissible on the basis of wrong information. The relevant inadmissibility provisions of IRPA state that a foreign national is inadmissible for "being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to [in above subsections]" (para 34(1)(f) of IRPA). The determination of whether that organization engages in the enumerated acts requires that the officer must have "reasonable grounds" to believe in order to make that decision. That leaves a measure of appreciation to the officer. Certainty beyond a reasonable ground is not required. The test does not contemplate either that the officer be satisfied on a balance of probabilities, the legal standard in civil matters (*Canada (Attorney General) v Fairmont Hotels Inc.*, 2016 SCC 56, [2016] 2 SCR 720). Reasonable grounds to

believe will suffice. The Plaintiffs, on the other hand, state that there is no basis for the inadmissibility finding.

[49] The phrase "with knowledge and intent" is a bald conclusion; however, there are sufficient material facts alleged early in the statement of claim to appreciate that there is a basis for the claim that both actions were deliberate conduct. It appears to me that there is a scintilla of a cause of action pleaded however imperfectly. But more precision is needed. The material facts must be plainly identified and they must be connected to the elements of the tort asserted, including of course the required state of mind (*Mancuso*, para 26).

[50] The second tort element is knowledge that the visa denials were unlawful and likely to harm the Plaintiffs. The statement of claim says that the visa officers denied the lawful visa issuance "with knowledge and intent" and "in bad faith". If the officers did award the wrong number of points and deem the principal Plaintiff inadmissible in the face of clearly contradictory evidence, this is sufficient to plead that the officers knew their conduct was unlawful. *Woodhouse* found that a similarly-worded pleading was sufficient to establish a reasonable cause of action in misfeasance:

> Insofar as the second requirement is concerned, the statement of claim alleges that the acts and omissions of the defendant officers "represented intentional breaches of their legal duties as police officers". This plainly satisfies the requirement that the officers were aware that the alleged failure to cooperate with the investigation was unlawful. The allegation is not simply that the officers failed to comply with s. 113(9) of the *Police Services Act*, but that the failure to comply was intentional and deliberate.
>
> (*Woodhouse*, para 36)

[51] The only reference to knowledge that the unlawful conduct would likely harm the Plaintiffs is at paragraph 35, which states "that the conduct of the officers, and nature and substance of both decisions to deny the Plaintiffs permanent residence, has been made in bad faith" and the general assertion that the alleged misfeasance was done "with knowledge". Bald conclusions such as "in bad faith" do not qualify as material facts (*Merchant* at para 34). Moreover, Rule 181 requires that Plaintiffs provide particulars on the material facts they are pleading to support a tort's mental element. Here, the Plaintiffs seem to be pointing to several circumstantial facts to argue that the Defendant intentionally misprocessed their permanent residence applications over a ten-year period to keep them out of Canada.

[52] If someone applies for a permanent residence visa, they expect to have it properly processed because they want to live in Canada. It is not a stretch to infer that improper denial of such a visa would likely harm applicants wanting to come to Canada. Of course, the statement of claim should actually plead specifically the material facts necessary to make out this second tort element. That was not done. *Mancuso* requires the who, when, where, how and what. The issue must be defined with more precision in order to make the proceedings manageable and fair. The amended pleadings will have to provide the material facts such that the Defendant will know what it is defending against. At this stage, one has to speculate somewhat as to what facts constitute the cause of action. More and better precision is called for.

[53] My role on a motion to strike is not to decide the Plaintiffs' chance of succeeding with this argument (*Minnes v Minnes* (1962), 39 WWR 112). Because I see a scintilla of a cause of action, barely, I am also granting leave to amend this particular misfeasance claim with respect

to the second tort element (i.e. material facts underpinning the allegation that the public official "knew" that their act or omission would likely harm the Plaintiff).

(3) *Misfeasance claim 3: Refusal to provide answers*

[54] The fact that the Defendant refused to answer the Plaintiffs' questions does not show unlawful conduct. This does not show a cause of action, let alone a reasonable one. Unlike the points calculation and the inadmissibility decision, the Plaintiffs failed to point to a statutory obligation that the visa officer(s) breached or show that the officer(s) acted unlawfully in the exercise of their public functions generally. As a result, I am striking the misfeasance allegation concerning the "refusal to provide "cogent and/or sober" answers to questions posed by the Plaintiffs" without leave to amend.

(4) *Misfeasance claim 4: Delay in processing visa applications*

[55] For the fourth misfeasance allegation regarding processing delays, the Plaintiffs relied on *McMaster v Canada*, 2009 FC 937, 352 FTR 255 [*McMaster*] for the authority that delay can constitute unlawful conduct in a misfeasance action. *McMaster* concerned an inmate who was repeatedly denied properly-sized running shoes in the face of a statutory obligation to provide adequate footwear. The statutory obligation that the Plaintiffs rely on for delay in the immigration context is subsection 3(1)(f) of IRPA, as interpreted in *Liang v Canada (Citizenship and Immigration)*, 2012 FC 758 at paragraph 25; 413 FTR 145 [*Liang*] and *Dragan v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 211 at paragraph 45, 227 FTR 272 [*Dragan*]. This subsection states:

> 3 (1) The objectives of this Act with respect to immigration are […]
>
> (f) to support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces;

Liang and *Dragan* found, on applications for *mandamus*, that unreasonable delay can amount to an implied refusal to perform the statutory duty to process visa applications under the IRPA. Justice Rennie, then of this Court, found in *Liang* that a *prima facie* case for delay was made out where applications requiring processing had been outstanding for 4.5 to 10 years.

[56] The Defendant seeks to distinguish *Liang* and *Dragan* on the basis that they dealt with applications for *mandamus*, not private law actions. They argue that "even where delays are found to be unreasonable or inordinate, this does not give rise to a free-standing cause of action", citing *Farzam v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1659, 284 FTR 158 [*Farzam*] at para 105; and *Haj Khalil v Canada*, 2007 FC 923, 317 FTR 32 [*Khalil*] at para 8 (affirmed in *Haj Khalil v Canada*, 2009 FCA 66) (at para 28 of their written representations). Both *Farzam* and *Khalil* dealt with actions in negligence, not misfeasance in public office.

[57] The Plaintiffs' visa applications have been effectively outstanding for 10 years given they are still waiting for the outcome of their second redetermination. This falls at the outer end of Justice Rennie's suggested timelines for establishing *prima facie* unreasonable delay in the *mandamus* context. The Defendant has not presented an authority stating that unreasonable delay in processing visa applications cannot amount to unlawful conduct for the purposes of a misfeasance action. As a result, this appears to be an issue requiring discussion at trial and not on

a motion to strike. The Supreme Court in *Hunt* commented that "(p)rovided that the plaintiff can present a "substantive" case, that case should be heard" (p 975). It is premature on a motion to strike to rule on the matter.

[58] As noted above, unlike the first three misfeasance allegations, the Plaintiffs failed to specifically plead that the delay was "deliberate", but did plead that it was done "in bad faith", which implies a measure of deliberation. There are circumstantial facts that could support this tort element, namely the use of different grounds to refuse the visas in the first and second denial, but the statement of claim fails to plead clearly that the delays were deliberate. In *Woodhouse*, the Supreme Court struck allegations that lacked the words "deliberate" and "intentional", because inadvertence or negligence is insufficient to make out the intentional tort of misfeasance:

> 37 Although the allegation that the Chief deliberately failed to segregate the officers satisfies the requirement that the Chief intentionally breached his legal obligation to ensure compliance with the *Police Services Act*, the same cannot be said of his alleged failure to ensure that the defendant officers produced timely and complete notes, attended for interviews in a timely manner, and provided accurate and complete accounts of the incident. As above, inadvertence or negligence will not suffice; a mere failure to discharge the obligations of the office cannot constitute misfeasance in a public office. In light of the allegation that the Chief's failure to segregate the officers was deliberate, this is not a sufficient basis on which to strike the pleading. Suffice it to say, the failure to issue orders for the purpose of ensuring that the defendant officers cooperated with the investigation will only constitute misfeasance in a public office if the plaintiffs prove that the Chief deliberately failed to comply with the standard established by s. 41(1)(b) of the *Police Services Act*.
>
> [my emphasis]

Through the narrative offered as facts, I see however a scintilla of a cause of action on this first tort element, but the pleadings must properly set out the full cause of action. They will have to be significantly amended.

[59] As with the second misfeasance claim, the pleadings on the second tort element—knowledge of unlawful conduct and likelihood of harming the Plaintiffs—are not explicit and are close to being bald, which fails to meet the requirements of Rules 174 and 181. With respect to the Defendant's knowledge that their delays were unlawful, the statement of claim fails to plead the material facts showing which public officials had this knowledge. Was the first officer aware of an unlawful delay that would likely cause harm in 2009, or only the second officer in 2014? Or was it other individuals that knew the delay was unlawful?

[60] With respect to the Defendant's alleged knowledge that the delays were unlawful and likely to harm the Plaintiffs, I see a scintilla of a cause of action. It is reasonable to infer that an alleged 10-year delay in processing does not fulfill the IRPA objective of "prompt processing" and would likely cause harm to the waiting family. However, again, the statement of claim must plead sufficient material facts to qualify as a reasonable cause of action. I would not strike the pleadings without allowing an opportunity to amend in order to satisfy the requirements.

[61] Accordingly, I am granting leave to amend this particular misfeasance claim with respect to the first tort element prerequisite that the unlawful conduct was deliberate, and with respect to the second tort element requirement that the public official "knew" that their act or omission was unlawful and likely to harm the Plaintiffs.

Claim 2: Abuse and excess of jurisdiction and authority

[62] The Plaintiffs refer to "abuse and excess of jurisdiction and authority" at multiple points in their pleadings, often in concert with their claims respecting misfeasance in public office:

> 1. The Plaintiffs claim […] all of which damages arise from: […]
>
> (ii) the Defendants' servants and officers' actions, and lack of action and omissions, in not issuing the permanent resident visas, and not complying with the Federal Court orders, constitutes an abuse of process, abuse and excess of authority and jurisdiction, public misfeasance, as well as negligence, and negligent investigation, all compensable at common-law, under the ***Immigration and Refugee Protection Act ("IRPA")***, as well as s. 24(1) of the ***Charter***.
>
> […]
>
> 32. The Plaintiffs state, and the fact is that:
>
> (a) the Defendants' officials have, with knowledge and intent, abused process, abused and exceeded authority and jurisdiction, and engaged in public misfeasance of their office, in their refusal to lawfully abide by the Federal Court order and terms of the ***IRPA*** and ***Regulations***, and issue permanent residence visas, and in the refusal(s) to give any cogent and/or sober answers to the plaintiffs and their counsel, except stone silence and stone-walling and that the Defendants' servants and officials have: […]
>
> (i) engaged in abuse and excess of jurisdiction and authority as historically contemplated by the Supreme Court of Canada in ***Roncarelli v. Duplessis, [1959] S.C.R. 121, et seq*** **[***Roncarelli*];
>
> […]
>
> 34. The Plaintiffs state that the Defendants' inexcusable, inordinate, and castigating delay, both between the time of the 1st judicial review and the 2nd negative decision, as well as the 2nd judicial review to the present, constitutes abuse and excess of authority, as well as public misfeasance, of public office, in that inexcusable delay has been determined to constitute public misfeasance in ***inter alia, McMaster v. Canada, [2009] F.C.J. No. 1071***, by this Court.

[63] The Defendant argues that abuse and excess of authority and jurisdiction alleged by the Plaintiffs is encapsulated in the tort of misfeasance. I agree. The following discussion of the tort of misfeasance in public office in *Woodhouse* confirms that it covers the claim of abuse and excess of authority and jurisdiction as contemplated in *Roncarelli v Duplessis*, [1959] SCR 121:

> 18 The origins of the tort of misfeasance in a public office can be traced to *Ashby v. White* (1703), 2 Ld. Raym. 938, 92 E.R. 126, in which Holt C.J. found that a cause of action lay against an elections officer who maliciously and fraudulently deprived Mr. White of the right to vote. Although the defendant possessed the power to deprive certain persons from participating in the election, he did not have the power to do so for an improper purpose. Although the original judgment suggests that he was simply applying the principle *ubi jus ibi remedium*, Holt C.J. produced a revised form of the judgment in which he stated that it was because fraud and malice were proven that the action lay: J. W. Smith, *A Selection of Leading Cases on Various Branches of the Law* (13th ed. 1929), at p. 282. Thus, in its earliest form it is arguable that misfeasance in a public office was limited to circumstances in which a public officer abused a power actually possessed.
>
> 19 Subsequent cases, however, have made clear that the ambit of the tort is not restricted in this manner. In *Roncarelli v. Duplessis*, [1959] S.C.R. 121, this Court found the defendant Premier of Quebec liable for directing the manager of the Quebec Liquor Commission to revoke the plaintiff's liquor licence. Although *Roncarelli* was decided at least in part on the basis of the Quebec civil law of delictual responsibility, it is widely regarded as having established that misfeasance in a public office is a recognized tort in Canada. See for example *Powder Mountain Resorts Ltd. v. British Columbia* (2001), 94 B.C.L.R. (3d) 14, 2001 BCCA 619; and *Alberta (Minister of Public Works, Supply and Services) v. Nilsson* (2002), 220 D.L.R. (4th) 474, 2002 ABCA 283. In *Roncarelli*, the Premier was authorized to give advice to the Commission in respect of any legal questions that might arise, but had no authority to involve himself in a decision to revoke a particular licence. As Abbott J. observed, at p. 184, Mr. Duplessis "was given no statutory power to interfere in the administration or direction of the Quebec Liquor Commission". Martland J. made a similar observation, at p. 158, stating that Mr. Duplessis' conduct involved "the exercise of powers which, in law, he did not possess at all". From this, it is clear that the tort is not restricted to the abuse of a statutory or prerogative power actually held. If that were

> the case, there would have been no grounds on which to find Mr. Duplessis liable.

[64] As a result, I am striking the reference to abuse and excess of jurisdiction and authority as a stand-alone cause of action. The matter ought to be dealt with under the misfeasance claims once properly amended.

Claim 3: Abuse of process

[65] The statement of claim pleads the tort of abuse of process in the same paragraphs already referred to above for misfeasance in public office and quoted at length at paragraph 38 of these reasons.

[66] The Defendant contends that abuse of process "involves the misuse of the process of the courts to coerce someone in a way that is outside the ambit of the legal claim upon which the court is asked adjudicate": para 33 of the Defendant's written representations citing *Levi Strauss & Co v Roadrunner Apparel Inc*, (1997), 76 CPR (3d) 129 (FCA) at p 3.

[67] The Supreme Court of Canada authority provided by the Plaintiffs, *United States of America v Cobb*, 2001 SCC 19, [2001] 1 SCR 587 [*Cobb*], also defines abuse of process in terms of abusing the court process:

> 37 Canadian courts have an inherent and residual discretion at common law to control their own process and prevent its abuse. The remedy fashioned by the courts in the case of an abuse of process, and the circumstances when recourse to it is appropriate were described by this Court in *R. v. Keyowski*, [1988] 1 S.C.R. 657, at pp. 658-59:

> The availability of a stay of proceedings to remedy an abuse of process was confirmed by this Court in *R. v. Jewitt*, [1985] 2 S.C.R. 128. On that occasion the Court stated that the test for abuse of process was that initially formulated by the Ontario Court of Appeal in *R. v. Young* (1984), 40 C.R. (3d) 289. A stay should be granted where "compelling an accused to stand trial would violate those fundamental principles of justice which underlie the community's sense of fair play and decency", or where the proceedings are "oppressive or vexatious" ([1985] 2 S.C.R. [128], at pp. 136-37). The Court in *Jewitt* also adopted "the caveat added by the Court in *Young* that this is a power which can be exercised only in the 'clearest of cases'" (p. 137).

[68] In a similar decision on a motion to strike, Prothonotary Aalto also concluded that *Cobb* relates to abuse of the court process and that the plaintiff failed to plead facts making out this tort:

> [64] On the tort of abuse of process, I agree with the Crown's submissions that *Cobb* does not support the Plaintiff's submission that this tort exists on these facts. In *Cobb*, the Supreme Court explicitly defined abuse of process as abuse of the Court's own process and that definition did not include a public official's abuse of any process in a vacuum. The Plaintiff neither pleads facts relating to an abuse of a Court process nor did he provide any case-law that expands the tort of abuse of process beyond the abuse of the Court's process as conceptualized in *Cobb*.
>
> (*Almacén v Her Majesty the Queen*, 2015 FC 957, upheld at 2016 FC 300 and subsequently upheld at 2016 FCA 296)

[69] Moreover, the Plaintiffs pleaded no material facts going to the elements of this tort in their statement of claim (i.e. how or when a court process was abused). Actually, when

discussions of immigration officials came before this Court, twice they were returned for a new determination. It is difficult to see how seizing the Court on judicial review by the Plaintiffs can be an abuse of process of the Court by the Defendant. Therefore, I am striking this claim without leave to amend.

Claim 4: Negligence and negligent investigation

[70] The statement of claim pleaded negligence and negligent investigation as follows:

> 36. In the alternative the Plaintiffs state that, the Defendants' officials have been negligent, and engaged in negligent investigation, in the exercise of their common-law, statutory, and constitutional duties owed to the Plaintiffs in that:
>
> (i) the Defendants' officials owe a common-law, statutory, and constitutional, duty of care to competently and with due dispatch properly process an application sent back by judicial order pursuant to an application for judicial review under the statutory scheme pursuant to the ***IRPA*** as well as competently and diligently investigate any allegations of inadmissibility;
>
> (ii) the Defendants' officials breached this duty of care; and
>
> (iii) as a result of this breach the Plaintiffs have suffered loss and damages which includes, ***inter alia***;
>
> A/ the mental suffering and distress of separation between the plaintiffs and their family in Canada, also protected by s.7 of the ***Charter***;
>
> B/ irreparable loss of companionship, of the Plaintiffs, particularly that involving the children;
>
> C/ economic loss, to be quantified at trial, in being deprived of, inter alia;
>
> > (i) the benefit of the Plaintiff, Emad Al Omani, to exercise his proper place and activity in the joint business interests of his brother in Canada;
> >
> > (ii) the incursion of legal costs incurred to date, to be determined at trial;

> D/ the mental stress and anguish of falsely being branded as associated with Al Qaeda, or such groups, which further endangers their very lives;
>
> E/ their right to equal treatment and protection under the law, as required by s. 3(3)(d) of the ***IRPA***, the structural imperatives of the Constitution, as well as s. 15 of the *Charter*, and loss of their dignity to the extent of unequal treatment under the law.

[71] The Defendant argues that the Plaintiffs have failed to plead material facts pertaining to each element of a negligence action, particularly duty of care and breach of the standard of care. I agree. The pleadings are declaratory, without any connection of material facts with the elements of the tort.

[72] When a duty of care is not clearly established in the case law, the *Anns* test is used to determine if a duty exists, as per *Cooper v Hobart*, 2001 SCC 79, [2001] 3 SCR 537 at paragraph 30. The Defendant summarized the test at paragraph 36 of her written representations:

> (a) Does the relationship between the parties in the circumstances disclose the reasonably foreseeable harm and proximity sufficient to establish a *prima facie* duty of care; and
>
> (b) Notwithstanding the existence of a *prima facie* duty of care, are there residual policy considerations that should negative the imposition of a duty of care?

[73] The only allegations that the Plaintiffs pleaded with respect to duty of care is to allege that the Defendant owes a duty of care to (i) “competently and with due dispatch properly process an application sent back by judicial order pursuant to an application for judicial review under the statutory scheme pursuant to the IRPA” and to (ii) “competently and diligently investigate any allegations of inadmissibility” (at para 36 of the statement of claim). They

pleaded no facts whatsoever going to either element of the *Anns* test (*Anns v Merton London Borough Council*, [1978] AC 728 (HL)).

[74] The Plaintiffs also pleaded scarce facts as to the breach of this alleged duty of care. Repeating the points above, they allege the Defendant did not properly process an application sent back by judicial review and did not properly investigate allegations of inadmissibility. In my view, this is less than thin.

[75] The Plaintiffs stated that there exists a duty of care without even alleging how that can be. What is the duty of care that was owed by immigration officers? The English Court of Appeal in *W. v Home Office*, [1997] EWJ No 3289 (QL) [*W. v Home Office*] found twenty years ago that there is no proximity such that a duty of care exists between a plaintiff and immigration officers. One can read at para 28:

> The process whereby the decision making body gathers information and comes to its decision cannot be the subject of an action in negligence. It suffices to rely on the absence of the required proximity. In gathering information, and taking it into account, the Defendants are acting pursuant to their statutory powers and within that area of their discretion where only deliberate abuse would provide a private remedy. For them to owe a duty of care to immigrants would be inconsistent with the proper performance of their responsibilities as immigration officers. In conducting their inquiries, and making decisions in relation to immigrants, including whether they should be detained pending those inquiries, and making decisions in relation to immigrants, including whether they should be detained pending those inquiries, they are acting in that capacity of public servant to which the considerations outlined above apply.

That is the view taken by this Court in *Premakumaran v Canada*, 2005 FC 1131 [*Premakumaran*].

[76] In that case, finding support in *A. O. Farms Inc v Canada*, [2000] FCJ no 1771, 28 Admin LR (3d) 315 (FCA), the Court found that the immigration officers as agents of the government owe "a duty of care to the public as a whole and not to the individual Plaintiffs. The Plaintiffs cannot be considered a "neighbour" for these purposes and no such relationship should be created between the Defendant and individual members of the public" (*Premakumaran*, at para 25). The Federal Court of Appeal agreed. It found that "(i)n this case, however, no duty of care arises. As the Motions Judge correctly found, no special relationship of proximity and reliance is present on the facts of this case" (*Premakumaran v Canada,* 2006 FCA 213, [2007] 2 FCR 191, at para 24). It is one thing to allege that the performance in office constitutes a misfeasance. It is quite another to base one's claim on a duty of care leading to a claim in negligence. Misfeasance and negligence are completely different and target different states of mind.

[77] The *W. v Home Office* case found an echo in this Court in *Benaissa*. There, the Court found that the process of the gathering of information by the decision-making body leading to a decision cannot be the subject of an action in negligence. There may be, in my view, circumstances in which a degree of proximity will be sufficient. However, the bare assertion that unidentified immigration officers deliberately failed to process the application for permanent residence in a timely fashion does not plead the duty of care that would distinguish this case and the facts that could disclose the factual basis for the allegation of negligence. This does not

disclose a reasonable cause of action. I cannot see a scintilla of a cause of action. There is not even the beginning of something that could be amended.

[78] Justice Russell faced a similar statement of claim in *Sivak*. He struck the negligence claim for failing to plead material facts going to the essential elements of the tort of negligence:

> [45] I also agree with the Defendants that the Plaintiffs have not pled, or factually substantiated, the essential elements of the tort of negligence.
>
> [46] As the Defendants point out, to support a cause of action in negligence, a statement of claim must include sufficient facts to support the essential elements of the tort. These include establishing a duty of care, providing details of the breach of that duty, explaining the causal connection between the breach of duty and the injury, and setting out the actual loss. Such a claim requires a factual basis that identifies each wrongful act as well as negligence, such as the "when, what, by whom and to whom of the relevant circumstances." See *Benaissa v Canada (Attorney General)*, 2005 FC 1220, at paragraph 24.
>
> [47] The Plaintiffs make a bald allegation at paragraph 28(b) of the Claim that the "Defendants' officials have been negligent in the exercise of their common-law, statutory, and constitutional duties owed to the Plaintiffs" and that these duties arose in the context of the processing of their refugee claims pursuant to the *Immigration and Refugee Protection Act*. This is followed by unsubstantiated statements that the "Defendants' officials breached this duty of care" and that this caused the Plaintiffs' losses.
>
> [48] I agree with the Defendants that such allegations are nothing more than conclusions and are not sufficient to support a cause of action in negligence. No details have been provided to identify the "Defendants' officials," to explain their roles and responsibilities in relation to the Plaintiffs, or to establish their connection to any of the parties. Similarly, the Claim is silent as to the "Defendants' officials" particular acts or omissions that the Plaintiffs' claim were negligent and no facts are included to support the specific "common-law, statutory and constitutional duties" that were allegedly breached. It seems to me that the general requirements for establishing liability in tort have not been met and it would be impossible to conduct the necessary analysis

> to determine whether liability could be established. As the Defendants point out, this is particularly difficult where the defendant is a government actor. Issues arise as to whether public law discretionary powers establish private law duties owed to particular individuals or whether the decisions in question were policy decisions or operational decisions. These questions are very complex and detailed factual pleadings are required in order to properly determine whether a cause of action exists.
>
> [my emphasis]

[79] In my view, the claim as pled does not disclose a reasonable cause of action; indeed, there is not even a scintilla of a cause of action. The pleadings are nothing other than general allegations and conclusions without providing the material facts required or even what the duty of care may be. Bare assertions of conclusions are not allegations of material facts. The Plaintiffs only declare that there exists some duty of care. The Court in *Sivak*, relying on *Kisikawpimootewin v Canada*, 2004 FC 1426 [*Kisikawpimootewin*] and *Murray v Canada* (1978), 21 NR 230 (FCA) found that "a claim that does not sufficiently reveal the facts upon which a cause of action is based, such that it is not possible for the defendant to answer or the Court to regulate the action, is a vexatious action" (para 30). The Plaintiffs have asserted the claim as an alternative. In so doing, they have failed to provide any material fact relevant to a negligence claim that could support what is at any rate a vague claim based on bald assertions and conclusions.

[80] The tort of negligent investigation requires the Plaintiffs to plead facts pertaining to the conduct of the investigation into the inadmissibility finding to make out a reasonable cause of action (*Hill v Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41 at para 68). The Defendant argues that "[i]n the few cases where the standard of care has been held to have

been breached, the conduct of investigators has involved egregious and overzealous behaviour" (at para 45 of the Defendant's written representations). Examples of such conduct include "ignoring exculpatory or other material evidence" and "making decisions based primarily on assumptions or stereotypes" (*Safa Almalki v Canada*, 2012 ONSC 3023 at para 17). There is nothing of the sort that is even alleged by the Plaintiffs in this lawsuit.

[81] The Supreme Court also noted in *Woodhouse* that citizens are not entitled to a certain level of thoroughness in an investigation, nor are they entitled to a certain outcome:

> 40 … Individual citizens might desire a thorough investigation, or even that the investigation result in a certain outcome, but they are not entitled to compensation in the absence of a thorough investigation or if the desired outcome fails to materialize…

[82] The statement of claim recounts only the principal Plaintiff's 15-minute interview where he was asked about Al Qaeda and states that the officer refused to explain the reason for the question; it pleads that these allegations have no basis:

> 24. On January 13th, 2014 the Plaintiff, Emad Al Omani was called in for a ***very brief*** interview with respect to his application re-determination.
>
> 25. On March 17th, 2014 the Plaintiff was, Emad Al Omani was sent a second negative decision, which stated and concluded, without any reasons whatsoever, that;
>
> > "In particular, there are reasonable grounds to believe that you are a member of the inadmissible class of persons described in 34(1)(f) of the Immigration and Refugee Protection Act." […]
>
> 26. The Plaintiff, Emad Al Omani, advises that at ***no time*** was he either:

> (a) given notice of these outrageous and untrue conclusions and allegations; nor
>
> (b) shown any evidence nor any information, to address these false allegations and conclusions.
>
> During the interview, the Plaintiff was asked an unfocused, nebulous, and non-contextual question about Al Qaeda. In fact, during the fifteen (15) minute interview, the Plaintiff, Emad Al Omani, was only asked two questions, namely:
>
> (a) to explain the change in his job description […]
>
> (b) the officer asked the Plaintiff if the Plaintiff belonged to, or was in any way associated with "any group or organization like Al Qaeda in Iraq", to which the Plaintiff categorically replied that he did ***not*** belong to, ***nor*** associated with such groups as Al Qaeda, nor Al Qaeda itself.
>
> The Plaintiff then asked the officer to be more specific with respect to why he would even ask such a question, but the immigration officer refused, citing "secrecy" barring him from divulging any Canadian government information.
>
> 27. The earlier application, which had been denied, had no such allegations nor conclusions for denial. It was denied based on the fact that some documents relating to Emad Al Omani, were missing, and a miscalculation and blatant error(s) in applying the selection criteria, for which it was sent back for reconsideration by Federal Court order.

[83] Apart from these statements, no material facts are given. There is nothing on the conduct of the investigation that led to the inadmissibility finding. I agree with the Defendant that the statement of claim fails to plead facts, let alone sufficient material facts to establish the tort of negligent investigation other than suggesting that the Plaintiffs are unhappy with the conclusion reached that they are inadmissible. The pleadings do not even begin to give any indication to support a general allegation that the investigation may have been negligent. I see no scintilla of an argument and am striking this claim without leave to amend. There is not even the faintest

allegation of the who, when, where, how and what giving rise to liability. It is plain and obvious that the claim cannot succeed. The Plaintiffs throw up in the air an accusation with nothing to support it. There is nothing to amend. Actually, the Plaintiffs did not even attempt to specify how the claim could be amended (*Ward v Canada (Public Safety and Emergency Preparedness)*, 2014 FC 568, para 30). The fact of the matter is that there is no cause of action given the material facts pleaded. It is not so much that there are deficiencies which may be cured by amendment. There is no cause of action pleaded.

Claim 5: Conspiracy

[84] In what appears to be the further alternative, the Plaintiffs allege that the Defendant is engaged in a conspiracy at paragraph 37 of their statement of claim:

> 37. The Plaintiffs further state that the Defendant's officials have:
>
> (a) (i) engaged, and are engaging in a conspiracy, through their conduct and communications, to deny the Plaintiff's statutory, constitutional, as well as international treaty rights, to deny their permanent residence under Canadian law, as well as a fair and impartial assessment of their application, a conspiracy as outlined, ***inter alia***, by the Supreme Court of Canada in the test set out in ***Hunt v. Carey*** and jurisprudence cited therein, namely to;
>
> > A/ engage in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiff; and/or
> >
> > B/ to engage, in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiff, is to cause injury to the Plaintiff, or the Defendants' officials should know, in the circumstances, that injury to the Plaintiff, is likely to, and does result;
>
> The details and particulars of which conspiracy(ies) are as follows:

> (b) that the first denial was a contrived denial made in bad faith, and absence of good faith, entirely designed and engineered to deny, contrary to law, the Plaintiffs' application;
>
> (c) that the inordinate, inexcusable, and castigating delay between the 1st judicial review determination, and second denial, as well as the inordinate, inexcusable and castigating delay since the 2nd judicial review, to the present, are all designed to stone-wall and deny the Plaintiffs' procedural and substantive rights to have their applications possessed [*sic*];
>
> (d) that the baseless, false, and wholly contrived allegations of inadmissibility for association with Al Qaeda, or such groups, have been designed and engineered to simply deny the Plaintiffs their procedural and substantive right to have their application(s) processed under the ***IRPA***.
>
> The Plaintiffs state that all known (and unknown) officers to the Plaintiffs involved in the investigation, processing, and denial of the Plaintiffs' application have conspired with the goal of denying the Plaintiffs, by any and all means necessary, and therefore liable in conspiracy as set out by the Supreme Court of Canada, in ***Hunt v. Carey*** as follows [repeats test as set out above].
>
> 38. The Plaintiff states, and the fact is, that as a direct result of the Defendant's officials illegal actions, and tortious conduct, the Plaintiffs have, and will, suffer damages which he claims as set out the within statement of claim.

[85] As the Plaintiffs outlined, *Hunt* explains that the tort of conspiracy can be established on two grounds: (i) the plaintiff can claim a conspiracy to injure in that two or more people work together in agreement using lawful or unlawful means for the predominant purpose of injuring the plaintiff, who is in fact injured; or (ii) the plaintiff can claim a conspiracy of unlawful acts where two or more people work together in agreement to engage in unlawful conduct directed toward the plaintiff that they ought to know is likely to cause injury to said plaintiff, who is in fact injured.

[86] The Defendant referred to *Normart Management Ltd v West Hill Redevelopment Co Ltd*, (1998), 37 OR (3d) 97 (ONCA), for a list of the elements that need to be pleaded to establish a cause of action in conspiracy. The Ontario Court of Appeal writes at paragraph 21:

> [21] In *H.A. Imports of Canada Ltd. v. General Mills Inc.* (1983), 42 O.R. (2d) 645, 150 D.L.R. (3d) 574 (H.C.J.), O'Brien J., dealing with the civil action of conspiracy as pleaded, quoted from Bullen, Leake and Jacob's *Precedents of Pleadings*, 12th ed. (London: Sweet & Maxwell, 1975), as follows at pp. 646-47:
>
> > The statement of claim should describe who the several parties are and their relationship with each other. It should allege the agreement between the defendants to conspire, and state precisely what the purpose or what were the objects of the alleged conspiracy, and it must then proceed to set forth, with clarity and precision, the overt acts which are alleged to have been done by each of the alleged conspirators in pursuance and in furtherance of the conspiracy; and lastly, it must allege the injury and damage occasioned to the plaintiff thereby.

[87] The statement of claim under review speaks of denials to grant permanent residence based on flimsy reasons followed by long periods without any action on the part of the government; however it identifies those involved in the alleged grand conspiracy as “all known (and unknown) officers to the Plaintiffs involved in the investigation, processing, and denial of the Plaintiffs’ application” (at para 37). This obviously does not constitute an identification by name. It is not either by group or job positions. The Plaintiffs identify officers based on their allegation that those who dealt with the matter, given that permanent residence was denied, have conspired together. The statement of claim does not describe the alleged conspirators’ relationship with each other apart from implying that they are those who worked on the

Plaintiffs' application at some point. It is as if the Plaintiffs seek to derive some conspiracy against them based on two denials and the periods of time between events.

[88] The statement of claim fails to describe the agreement(s) between the alleged conspirators. It pleads their alleged overall approach—denying the processing of the Plaintiffs' permanent residence application "by any and all means necessary"—but does not plead material facts precisely describing the purpose of the agreement between the known and unknown officers. It is fine to have a conspiracy theory, but it must be spelled out. Crying "conspiracy" is not enough to disclose a reasonable cause of action.

[89] Reading the pleadings as generously as can be, there is no way to decipher what the agreement may be, who the conspirators are, whether the alleged conspiracy has the predominant purpose to injure the Plaintiffs, as opposed to pursuing some other purpose, whether the alleged conspiracy is to use lawful or unlawful means. In other words, we are left with a bald and bold allegation without even attempting to define the essential elements of the tort alleged, and obviously, offering any fact, material or not, to substantiate an allegation.

[90] Instead of identifying the branch of the tort of conspiracy the Plaintiffs wish to rely on in order to state material facts on which they actually rely, they make a completely generic assertion, without more. There is not even anything about how there can be a conspiracy, as opposed to, for instance mere knowledge or approval of a cause of conduct. Proof of agreement and execution is required. Nothing of the sort is alleged with material facts in support.

[91] All that is known is that the Plaintiffs were denied permanent residence twice. The pleadings, in my view, amount to a complete absence of definition of the tort and its elements. It is plain and obvious that there is no reasonable cause of action. It is as if the Plaintiffs were suggesting that, given they were denied twice and there were delays, there must be somehow a conspiracy. It is not pleading conspiracy to merely allege these facts and, without more, suggest an agreement the purpose of which is unknown. Put a different way, the Plaintiffs seem to allege their experience with immigration authorities is such that there must be some conspiracy hatched somewhere.

[92] The pleadings are also so deficient in factual material that the Defendant would be incapable to know how to answer. They are bare assertions that are unfounded; not only they do not disclose a reasonable cause of action they could be struck as frivolous or vexatious (*Senechal v Muskoka (District Municipality)*, [2003] OJ No 885; *Kisikawpimootewin supra*).

[93] In terms of overt acts, which would tend to show that some agreement to work together exists and could be opposed to the co-conspirators, the statement of claim simply references the first visa denial, the delay between the first judicial review and the second visa denial, the delay since the second judicial review, and the inadmissibility allegations. There is no trace of any agreement, just some discrete events. The Plaintiffs pleaded a series of independent events, and did not present anything tending to show that the conspirators agreed to undertake these acts to further the conspiracy; rather, they rely on their overarching statement that the Defendant aimed to deny the Plaintiffs' application processing, without more.

[94] The nature of a conspiracy requires that there be participants, some known and others unknown, who agree to do something that will cause injury (*Cement LaFarge v B.C. Lightweight Aggregate*, [1983] 1 SCR 452). Here, the material facts allowing to conclude to some agreement are absent. The date, the object and the purpose of an agreement between unknown participants is not even pled. No overt act by the participants in furtherance of the conspiracy is offered in the pleadings. These are bald allegations involving undefined persons without even a hint of the agreement which is central to a claim of conspiracy. As found in *Sivak* at para 55, this constitutes a pleading that is vexatious (see also *Kisikawpimootewin*). It is not possible, on the basis of these pleadings, for the Defendant to know how to answer. The pleading is "so defective that it cannot be cured by simple amendment" (*Krause v Canada*, [1999] 2 FCR 476 (FCA)). The Plaintiffs never indicated how they could amend their pleadings on this front such that there could be some assessment of "the readiness of the amendments needed", in the words of the Federal Court of Appeal in *Sweet*.

[95] I agree with the Defendant that the Plaintiffs have failed to plead all the elements of the tort of conspiracy. It may be argued that none were pleaded. It is entirely deficient with respect to pleading the essential elements of the tort. Given the complete lack of detail on the alleged agreement, I see no scintilla of an argument. As a result, I am striking this claim without leave to amend.

Claim 6: Breach of Plaintiffs' section 7 and 15 Charter rights

[96] The Plaintiffs allege both section 7 and section 15 *Charter* breaches at various points in their statement of claim. They note that decisions under the IRPA must be applied in a manner that is consistent with the *Charter*:

> 33. The Plaintiffs state that the Defendants' officials have a common-law duty, as well as a statutory duty under s. 3(1)(f) of the ***IRPA***, as interpreted and confirmed by this Court, in ***Dragan v Canada QL [2003] F.C.J. No. 260*** and ***Liang v Canada (M.C.I.) 2012 FC 758*** decisions to process applications consistently and promptly […] and that such decisions must be ***Charter***-compliant, as dictated by s. 3(3)(d) of the ***IRPA*** which states:
>
> **(3)** This Act is to be construed and applied in a manner that…
>
> (d) ensures that decisions taken under this Act are consistent with the *Canadian Charter of Rights and Freedoms*, including its principles of equality and freedom from discrimination and of the equality of English and French as the official languages of Canada

[97] The section 7 allegations appear at paragraphs 30, 32, and 36:

> 30. As a result of the Defendants' officials' inexcusable delay, false and unfounded allegations, and breach of duty to process the main Plaintiffs' application, the Plaintiffs have suffered the following damages:
>
> (a) with respect to Emad Al-Omani his wife and children, the dire danger, indelible stigma, and mental distress and suffering knowing that the High Commission is making false and unfounded allegations that he is associated with Al Qaeda, or such groups, as well as the mental suffering of not being able to join his brothers and families in Canada and the financial damages in not being able to engage with his brothers in their business in Canada, of which he has a financial interest;
>
> (b) the mental stress and anxiety, and endangerment of their lives, knowing that false allegations of association with Al Qaeda, or

> such groups, have been made which places their lives at risk in Saudi Arabia
>
> […]
>
> 32. The Plaintiffs state, and the fact is that:
>
> (a) the Defendants' officials have […]
>
> > (iv) breached the plaintiffs constitutional right(s) to the Rule of Law and Constitutionalism, as well as their s. 7 and 15 ***Charter*** Rights;
>
> which tortious conduct has caused the damages set out in paragraph 30 in the statement of claim herein.
>
> […]
>
> 36. In the alternative the Plaintiffs state that, the Defendants' officials have been negligent, and engaged in negligent investigation, in the exercise of their common-law, statutory, and constitutional duties owed to the Plaintiffs in that […]
>
> (iii) as a result of this breach the Plaintiffs have suffered loss and damages which includes, ***inter alia***;
>
> > A/ the mental suffering and distress of separation between the Plaintiffs and their family in Canada, also protected by s.7 […]
> >
> > D/ the mental stress and anguish of falsely being branded as associated with Al Qaeda, or such groups, which further endangers their very lives;

[98] The section 15 allegations at paragraphs 1, 30, 32, 36 centre on the allegation that the Plaintiffs were treated unequally on the grounds of race and national origin because they are Saudi Arabs:

> 1. The Plaintiffs claim: […]
>
> iii) the actions and omissions of the visa office at the Canadian High Commission in London, England, constitutes a […] breach of the Plaintiffs' right to the Rule of Law, Constitutionalism, as well

> as equal treatment, both under the underlying imperatives to the constitution as well as s. 15 of the ***Charter***;
>
> 30. As a result of the Defendants' officials' inexcusable delay, false and unfounded allegations, and breach of duty to process the main Plaintiffs' application, the Plaintiffs have suffered the following damages: […]
>
> (c) loss of dignity in being treated unequally contrary to s. 3(3)(d) of the ***IRPA***, the unwritten principles of the constitution, and s. 15 of the ***Charter***, based on race and national origin, to wit: as Saudi Arabs.
>
> 32. The Plaintiffs state, and the fact is that:
>
> (a) the Defendants' officials have […]
>
> > (iv) breached the plaintiffs constitutional right(s) to the Rule of Law and Constitutionalism, as well as their s. 7 and 15 ***Charter*** Rights;
>
> which tortious conduct has caused the damages set out in paragraph 30 in the statement of claim herein. […]
>
> 36. In the alternative the Plaintiffs state that, the Defendants' officials have been negligent, and engaged in negligent investigation, in the exercise of their common-law, statutory, and constitutional duties owed to the Plaintiffs in that […]
>
> (iii) as a result of this breach the Plaintiffs have suffered loss and damages which includes, ***inter alia***; […]
>
> > E/ their right to equal treatment and protection under the law, as required by s. 3(3)(d) of the ***IRPA***, the structural imperatives of the Constitution, as well as s. 15 of the *Charter*, and loss of their dignity to the extent of unequal treatment under the law.

[99] A preliminary issue with the Plaintiffs' claim is whether the Plaintiffs hold sections 7 and 15 *Charter* rights that can be breached. The Plaintiffs are referred to as "Saudi nationals" in the statement of claim and it appears that the principal Plaintiff only interacted with immigration officers at the Canadian High Commission in London, United Kingdom. The Plaintiffs pleaded

damages on the basis that they have not been able to join their family in Canada. They are not Canadian, nor is it clear they were in Canada when the alleged *Charter* violations occurred.

[100] The Defendant did not raise this as a ground to strike the statement of claim, so I will not consider it in my decision on this motion. However, given the fundamental nature of this threshold issue I think it is worth summarizing recent law on the topic.

[101] In *Tabingo v Canada (Citizenship and Immigration)*, 2013 FC 377; [2014] 4 FCR 150, Justice Rennie questioned whether foreign nationals hold *Charter* rights and summarized the jurisprudence applicable to this issue at paragraphs 61-79. He found that the case law generally does not extend *Charter* rights to non-Canadians or those outside of Canada, but since the parties did not contest the issue, he did not draw his own conclusion:

> [75] Other recent decisions of this Court have found that non-citizens outside of Canada generally do not hold *Charter* rights: *Zeng v Camada (Attorney General)*, 2013 FC 104, paras 70-72; *Kinsel v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1515, paras 45-47; *Toronto Coalition to Stop the War v Canada (Minister of Public Safety and Emergency Preparedness)*, 2010 FC 957, paras 81-82. These three decisions followed Justice Blanchard's determination that a *Charter* claim may only be advanced by an individual who is present in Canada, subject to criminal proceedings in Canada, or possessing Canadian citizenship.
>
> [76] This limitation on the application of the *Charter* is not a recent development. Even prior to *Slahi*, the Federal Court and the Federal Court of Appeal had interpreted *Singh* as barring *Charter* claims from non-citizens outside Canada: *Canadian Council of Churches v Canada (Minister of Employment and Immigration)*, [1990] 2 FC 534 (CA) (aff'd on other grounds [1992] 1 SCR 236); *Ruparel v Canada (Minister of Employment and Immigration)*, [1990] 3 FC 615; *Lee v Canada (Minister of Citizenship and Immigration)*, [1997] FCJ No 242; *Deol v Canada (Minister of Citizenship and Immigration)*, [2001] FCJ No 1034 (aff'd on other grounds 2002 FCA 271).

> [77] The only exception counsel identified involved an applicant claiming the right to citizenship, rather than the privilege of immigration: *Crease v Canada*, [1994] 3 FC 480. In that case the applicant had applied for citizenship from within Canada and had a Canadian mother.
>
> [78] The respondent does not dispute either the applicants' standing or the application of the *Charter*. The parties appear to coalesce around the proposition that the FSW applications establish a sufficient nexus with Canada to extend the reach of sections 7 and 15. The jurisprudence does not support this concession. What is in issue involves the repercussions abroad of domestic legislation. In this case, there is no question of the extra-territorial application of the *Charter* as an adjunct of the actions of Canadian officials abroad, nor is there, as I conclude on the evidence, non-compliant administration of the legislation. The issue framed by this case is whether the protections provided by sections 7 and 15 reach foreign nationals, when residing outside of or beyond Canadian territory.
>
> [79] Despite my reservations as to the correctness of the concession, given that there is no *lis* between the parties on the issue, I will not determine the point. *Charter* jurisprudence should develop incrementally through the interface of opposing positions and interests. In any event, it is unnecessary to determine the point, as I find that the claims of infringement fail on their merits.

[102] On appeal to the Federal Court of Appeal (*Tabingo v Canada*, 2014 FCA 191; [2015] 3 FCR 346 [*Tabingo*]), Justice Sharlow acknowledged Justice Rennie's remarks in *Tabingo*, but also found that she did not need to draw a conclusion on the issue:

> [53] In this Court, the Minister argues that the applicants do not have rights under section 7 or subsection 15(1) of the Charter. However, for reasons that will become apparent from the discussion below, I do not consider it necessary to express an opinion on that point.

[103] Putting aside this preliminary issue and turning to the causes of action as pleaded, statements of claim must plead material facts pertaining to each element of an alleged *Charter* violation. Once again, *Mancuso* provides useful guidance, at paragraph 21:

> [21] There are no separate rules of pleadings for Charter cases. The requirement of material facts applies to pleadings of Charter infringement as it does to causes of action rooted in the common law. The Supreme Court of Canada has defined in the case law the substantive content of each Charter right, and a plaintiff must plead sufficient material facts to satisfy the criteria applicable to the provision in question. This is no mere technicality, "rather, it is essential to the proper presentation of Charter issues": *Mackay v Manitoba*, [1989] 2 S.C.R. 357 at p. 361.

[104] The section 7 of constitutional right requires that it be established that the right to life, liberty or security has been violated. The pleadings are silent as to what right would have been violated. As it has been established, more than 30 years ago, the three interests protected by section 7 are distinct (*Singh v Minister of Employment and Immigration*, [1985] 1 SCR 177; *Re B.C. Motor Vehicle Act*, [1985] 2 SCR 486). There is no indication to be found in the pleadings of what interest is involved where a permanent resident visa has been denied to a foreigner.

[105] Not only the interests are not identified such that could be identified the elements that need to be proven given the ambit of each interest, but the pleadings don't give any indication as to how the interest might be engaged. To put it another way, there are no material facts pleaded. What are the facts to support an allegation of interference with the life, the liberty or the security of a person that is not allowed to immigrate to Canada, a privilege that has not been elevated to the level of a right (*Medovarski v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51, [2005] 2 SCR 539). At best, the pleadings speak in terms of mental stress and anxiety

generated by governor action. It may be worth noting that the Supreme Court discussed that matter in *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44, [2000] 2 SCR 307 [*Blencoe*] and found that stress, stigma and anxiety did not deprive of the right to life, liberty and security of the person:

> 97 To summarize, the stress, stigma and anxiety suffered by the respondent did not deprive him of his right to liberty or security of the person. The framers of the *Charter* chose to employ the words, "life, liberty and security of the person", thus limiting s. 7 rights to these three interests. While notions of dignity and reputation underlie many *Charter* rights, they are not stand-alone rights that trigger s. 7 in and of themselves. Freedom from the type of anxiety, stress and stigma suffered by the respondent in this case should not be elevated to the stature of a constitutionally protected s. 7 right.

If the Plaintiffs wish to make the case, especially in spite of *Blencoe*, they have to plead the material facts, which they have not done. They are essential (*Mackay v Manitoba*, [1989] 2 SCR. 357 [*Mackay*]) even more so perhaps where the Supreme Court has already found that stress, stigma and anxiety for someone living in this country did not rise to a constitutionally protected right. I do not wish to suggest that it cannot be done in an appropriate case; it is just that it is especially important that facts be pled such that there can be a reasonable cause of action. Otherwise, "the defendant would be left guessing as to the scope of the case it has to meet to respond to the section 7 infringement" (*Mancuso*, para 23).

[106] I am comforted in my conclusion by the similar finding made in *Sivak* where the Court stated that the Plaintiffs "have failed to indicate how one or more of their protected interests have been infringed, and they have also failed to identify the circumstances or context in which the breaches allegedly occurred. I have to agree with the Defendants that the allegations in this

regard are stated in the form of conclusions without factual basis." (para 73). To quote from *Mackay* at p 362, "*Charter* decisions cannot be based upon unsupported hypothesis of enthusiastic counsel."

[107] The statement of claim also references mental suffering and financial damages resulting from the visa denials, neither of which are sufficient to ground a *Charter* claim in the absence of additional material facts as set out by the Federal Court of Appeal in *Tabingo*:

> [97] The appellants are foreign nationals who reside outside Canada. Their only connection to Canada is that they have applied under a Canadian statute for the right to become permanent residents. They have no legal right to that status, and no right to enter or remain in Canada unless they attain that status. They had the right to seek permanent resident status under the IRPA, and when they did so they had the right to have their applications considered under the IRPA. However, neither of those rights is a right to life, liberty or security of the person. When their applications were terminated by subsection 87.4(1), they were not deprived of any right that is protected by section 7 of the Charter.
>
> [98] The appellants argue that if their applications had been accepted they would have acquired the right to enter and remain in Canada, which means necessarily that they would also have acquired all Charter rights except those given only to citizens of Canada. They argue that, because of the importance of their objective of becoming permanent residents of Canada, the loss of their right to have their permanent resident visa applications considered is such a blow to their psychological and physical integrity that it should be construed as the loss of a right that is within the scope of section 7 of the Charter.
>
> [99] I do not accept this argument. I have no doubt that the termination of the appellants' permanent resident visa applications caused them financial loss, but financial loss alone does not implicate the rights to life, liberty and security of the person. The termination of their applications could have been profoundly disappointing to the appellants and perhaps for some psychologically damaging, but the evidence does not establish the high threshold of psychological harm necessary to establish a

> deprivation of the right to security of the person: *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307.

[108] The Plaintiffs also failed to plead facts pertaining to the section 7 internal analysis regarding the principles of fundamental justice. Being deprived of the right to life, liberty or security of the person in accordance with the principles of fundamental justice is not violation of section 7. It simply does not suffice to make a general allegation that section 7 *Charter* rights have been violated

[109] With respect to the section 15 claims, they suffer from the same deficiencies. The Defendant argues that the Plaintiffs must show that there has been a distinction on an enumerated or analogous ground and that this distinction creates a disadvantage by perpetuating prejudice or stereotyping to properly plead a section 15 claim: *R v Kapp*, 2008 SCC 41, [2008] 2 SCR 483 [*Kapp*] at para 17; *Withler v Canada (Attorney General)*, 2011 SCC 12, [2011] 1 SCR 396 at paras 30-31. They argue that even if there are enough facts to show adverse impact on an enumerated ground, the statement of claim does not plead facts showing how the treatment amounts to discrimination. Such analysis includes various factors such as:

> […] (1) pre-existing disadvantage, if any, of the claimant group; (2) degree of correspondence between the differential treatment and the claimant group's reality; (3) whether the law or program has an ameliorative purpose or effect; and (4) the nature of the interest affected.
>
> *Kapp* at para 19

[110] I agree with the Defendant that the Plaintiffs have not provided any material facts establishing how they were discriminated against.

[111] The statement of claim fails to plead the basic elements of either *Charter* claim. These pleadings are once again so defective that they cannot be cured by simple amendment. There is not a reasonable cause of action disclosed. Since I see no scintilla of a cause of action to be cured, I have to strike both, without leave to amend.

Claim 7: Damages

[112] The Defendant argues that the Plaintiffs' damages should be struck for lacking particularity. Damages are primarily pleaded at paragraphs 1, 30 and 36 of the statement of claim:

> 1. The Plaintiffs claim:
>
> (a) general damages in the amount of $200,000 per Plaintiff;
>
> (b) aggravated damages in the amount of $50,000 per Plaintiff;
>
> (c) punitive damages in the amount of $50,000 per Plaintiff;
>
> (d) any and all economic loss damages pleaded, to be calculated at trial;
>
> […]
>
> 30. As a result of the Defendants' officials' inexcusable delay, false and unfounded allegations, and breach of duty to process the main Plaintiffs' application, the Plaintiffs have suffered the following damages: […]
>
> (a) with respect to Emad Al-Omani his wife and children, the dire danger, indelible stigma, and mental distress and suffering knowing that the High Commission is making false and unfounded allegations that he is associated with Al Qaeda, or such groups, as well as the mental suffering of not being able to join his brothers and families in Canada and the financial damages in not being able to engage with his brothers in their business in Canada, of which he has a financial interest;
>
> (b) the mental stress and anxiety, and endangerment of their lives, knowing that false allegations of association with Al Qaeda, or

> such groups, have been made which places their lives at risk in Saudi Arabia […]
>
> (c) loss of dignity in being treated unequally contrary to s. 3(3)(d) of the ***IRPA***, the unwritten principles of the constitution, and s. 15 of the ***Charter***, based on race and national origin, to wit: as Saudi Arabs.
>
> […]
>
> 36. In the alternative the Plaintiffs state that, the Defendants' officials have been negligent […]
>
> (iii) as a result of this breach the Plaintiffs have suffered loss and damages which includes, ***inter alia***;
>
> A/ the mental suffering and distress of separation between the plaintiffs and their family in Canada, also protected by s.7 of the ***Charter***;
>
> B/ irreparable loss of companionship, of the Plaintiffs, particularly that involving the children;
>
> C/ economic loss, to be quantified at trial, in being deprived of, inter alia;
>
> (i) the benefit of the Plaintiff, Emad Al Omani, to exercise his proper place and activity in the joint business interests of his brother in Canada;
>
> (ii) the incursion of legal costs incurred to date, to be determined at trial;
>
> D/ the mental stress and anguish of falsely being branded as associated with Al Qaeda, or such groups, which further endangers their very lives;
>
> E/ their right to equal treatment and protection under the law, as required by s. 3(3)(d) of the ***IRPA***, the structural imperatives of the Constitution, as well as s. 15 of the Charter, and loss of their dignity to the extent of unequal treatment under the law.

[113] The Plaintiffs argue that damages do not need to be precisely calculated at this stage.

There is some support for this position in *Woodhouse*:

> 41 Although courts have been cautious in protecting an individual's right to psychiatric well-being, compensation for damages of this kind is not foreign to tort law. As the law currently stands, that the appellant has suffered grief or emotional distress is insufficient. Nevertheless, it is well established that compensation for psychiatric damages is available in instances in which the plaintiff suffers from a "visible and provable illness" or "recognizable physical or psychopathological harm": see for example *Guay v. Sun Publishing Co.*, [1953] 2 S.C.R. 216, and *Frame v. Smith*, [1987] 2 S.C.R. 99. Consequently, even if the plaintiffs could prove that they had suffered psychiatric damage, in the form of anxiety or depression, they still would have to prove both that it was caused by the alleged misconduct and that it was of sufficient magnitude to warrant compensation. <u>But the causation and magnitude of psychiatric damage are matters to be determined at trial. At the pleadings stage, it is sufficient that the statement of claim alleges that the plaintiffs have suffered mental distress, anger, depression and anxiety as a consequence of the alleged misconduct.</u>
>
> […]
>
> 74 As discussed in the context of the actions for misfeasance in a public office, courts have been cautious in protecting an individual's right to psychiatric well-being, but it is well established that compensation for psychiatric damages is available in instances in which the plaintiff suffers a "visible and provable illness" or "recognizable physical or psychopathological harm". At the pleadings stage, it is sufficient that the statement of claim alleges mental distress, anger, depression and anxiety as a consequence of the defendant's negligence. <u>Causation and the magnitude of psychiatric damage are matters to be determined at trial.</u>
>
> [my emphasis]

[114] The same rule applies to other categories of damages. Other than damages alleged to result from the *Charter* violations that have been struck out, I agree with the Plaintiffs that the Defendant has not discharged her burden to show why the alleged damages should be struck. Whether they will be able to show that they have suffered damages, including that their psychiatric well-being has been affected beyond grief or emotional disturbance or distress,

remains to be shown. However the test is not likelihood of success, but rather reasonable cause of action. I am allowing the damages to proceed as pleaded.

Claim 8: Whether Ministers should be named in the statement of claim

[115] The statement of claim provides the following description of the named Defendants:

> 3. (a) the Defendant, Her Majesty the Queen is statutorily and vicariously liable for the acts and omissions of her servants pursuant to s. 17(1)(5) of the ***Federal Courts Act*** as well as ss. 24(1) and 52 of the ***Constitution Act***, 1867, and in particular, any purported Crown prerogative, if any exists post the Patriation of the ***Constitution Act, 1982***, and ***Canada Act, 1982***, by the Defendants', the Minister of Foreign Affairs, and/or Citizenship and Immigration, employees of the Canadian High Commission in London, England;
>
> (b) The Defendant, the Minister of Foreign Affairs is statutorily and constitutionally responsible for maintaining and staffing Canada's visa posts abroad; and
>
> (c) The Defendant, the Minister of Citizenship and Immigration is statutorily and constitutionally responsible for administering the ***IRPA*** and its ***Regulations***.

[116] The defendants seek to strike the two named Ministers (Foreign Affairs and Citizenship and Immigration) in favour of a single defendant, Her Majesty the Queen who then becomes the Defendant. The defendants note that the named Ministers are not themselves liable for the damages claimed in this case (*Federation of Newfoundland Indians v Canada*, 2003 FCT 383 at para 30). In *Cairns v Farm Credit Corp.*, [1992] 2 FC 115; 49 FTR 308, Justice Denault wrote:

> [6] The plaintiffs have named the Honourable William McKnight as a defendant in this action. A Minister of the Crown cannot be sued in his representative capacity, nor can he be sued in his personal capacity unless the allegations against him relate to

> acts done in his personal capacity (*Re Air India* (1987), 62 O.R. (2d) 130, (sub nom. *Air India Flight 182 Disaster Claimants v. Air India*) 44 D.L.R. (4th) 317 (H.C.)). As the plaintiffs have made no claims against the Minister relating to actions done in his personal capacity, the Honourable William McKnight must be struck as a party to the action.

Similar comments are found in *Mancuso v Canada (National Health and Welfare)*, at para 180. At the hearing of the case, counsel for the Plaintiffs all but conceded the point. At any rate, that appears to be the state of the law (*Sibomana v Canada*, 2016 FC 943 at paras 32-33).

[117] I see no reason to name these two Ministers in the present case; therefore I am striking them from the statement of claim in favour of Her Majesty the Queen as the sole Defendant.

Claim 9: Constitutionality arguments regarding jury trials under the Federal Courts Act and leave for judicial review under the IRPA

[118] The Plaintiffs indicated that they plan to constitutionally challenge section 49 of the *Federal Courts Act*, which bars jury trials, on the basis that it violates "the constitutional imperatives of Rule and Law and Constitutionalism, as well as the right to a jury trial, grounded in the *Magna Carta*, and continued in s. 11(f) of the *Charter* in the criminal context, as well as the residual clause of s. 7 of the *Charter* in the civil context […]" (statement of claim, para 39).

[119] The Plaintiffs also seek a declaration that subsection 72(1) of the IRPA is unconstitutional on the basis that the Defendant's officials "can perpetually deny a meritorious application whereby, sooner or later, a leave application will be denied" and a leave application is not, in itself, judicial review (at paras 40(a) and (c) of the statement of claim).

[120] The Defendant argues that both arguments should be struck because they are wholly immaterial to the present action.

[121] In *Mancuso*, the Federal Court of Appeal encountered a similar issue on a motion to strike seeking declarations on the constitutionality of other legislation. It concluded that while free-standing declarations of constitutionality are available, they require a factual grounding:

> [32] […] Free-standing declarations of constitutionality can be granted: *Canadian Transit Company v. Windsor (Corporation of the City)*, 2015 FCA 88. But the right to the remedy does not translate into licence to circumvent the rules of pleading. Even pure declarations of constitutional validity require sufficient material facts to be pleaded in support of the claim. Charter questions cannot be decided in a factual vacuum: *Mackay v. Manitoba*, above, nor can questions as to legislative competence under the Constitution Act, 1867 be decided without an adequate factual grounding, which must be set out in the statement of claim. This is particularly so when the effects of the impugned legislation are the subject of the attack: *Danson v. Ontario (Attorney General)*, [1990] 2 S.C.R. 1086, at p. 1099.
>
> [33] The Supreme Court of Canada in Canada *(Prime Minister) v. Khadr*, 2010 SCC 3, [2010] 1 S.C.R. 44, para. 46 articulated the pre-conditions to the grant of a declaratory remedy: jurisdiction over the claim and a real as opposed to a theoretical question in respect of which the person raising it has an interest.
>
> [34] Following *Khadr*, this Court in *Canada (Indian Affairs) v. Daniels*, 2014 FCA 101, 2014 FCA 101 (leave to appeal granted) at paras. 77-79 highlighted the danger posed by a generic, fact-free challenge to legislation – in other words, a failure to meet the second Khadr requirement. Dawson JA noted that legislation may be valid in some instances, and unconstitutional when applied to other situations. A court must have a sense of a law's reach in order to assess whether and by how much that reach exceeds the legislature's *vires*. It cannot evaluate whether Parliament has exceeded the ambit of its legislative competence and had more than an incidental effect on matters reserved to the provinces without examining what its legislation actually does. Facts are necessary to define the contours of legislative and constitutional competence. In the present case, this danger is particularly acute;

> as the judge noted, the legislation at issue pertains to literally thousands of natural health supplements.
>
> [35] This is not new law. While the plaintiffs point to *Solosky v. The Queen*, [1980] 1 S.C.R. 821 for the proposition that there is a broad right to seek declaratory relief, *Solosky* also notes that there must be "a 'real issue' concerning the relative interests of each [party]." The Court cannot be satisfied that this requirement is met absent facts being pleaded which indicate what that real issue is and its nexus to the plaintiffs and their claim for relief.
>
> [my emphasis]

[122] With respect to the section 49 claim, I note that the Plaintiffs, in their memorandum of fact and law at paragraph 18, explain that this is not an argument, but rather a notice of relief to be sought. There is nothing else. Justice Zinn struck the same section 49 argument in *Cabral v Canada (Citizenship and Immigration)*, 2016 FC 1040 as immaterial to the present action. I agree. If it is no more than a notice that something will follow, it is useless; furthermore, the said notice does not even contemplate section 26 of the *Crown Liability and Proceedings Act*, RSC, 1985, c C-50. It is a different matter of a procedural nature which does not accord with a statement of claim. It shall be struck from the statement of claim. In so doing I do not wish to suggest that the constitutionality of section 49 cannot be attacked in these proceedings.

[123] With respect to the Plaintiffs' claim respecting subsection 72(1) of the IRPA, I agree with the Defendant that this pleading is immaterial at this point. The Plaintiffs have had two visa decisions quashed and sent back for judicial review. Each time leave was evidently granted. The statement of claim references a hypothetical future refusal to grant leave. That cannot be the basis of a challenge to the legislation in this case. This is no more than a theoretically question,

certainly not a real question on the facts of this case. As a result, the Plaintiffs' complete lack of factual basis on which to bring this claim, I am striking this claim without leave to amend.

VI. Conclusion

[124] If there is compensation to be awarded, it is not through the law of conspiracy or negligence, but rather through the law of misfeasance in public office, once properly pleaded. There is simply nothing to suggest in the statement of claim that the essential elements of the tort have even been considered. It is simply not enough to say "negligence" or "conspiracy". More is needed to have a scintilla of a cause of action. The essential elements of one cause of action are not the same as another cause of action. Misfeasance is not negligence, and negligence is not conspiracy. The material facts for each will vary. The approach taken was in effect to tell the story generally without connecting the facts to the causes of action alleged later in the document. At the end of the day, we are left with a narrative that supports a cause of action in misfeasance, which requires to be pled with more precision, but is dearly missing with respect to the alternative causes of action in negligence and conspiracy. In my view, there is a scintilla of cause of action in misfeasance pleaded such that with appropriate amendments in order to allege the material facts required, the matter could proceed further.

[125] Some of the claims are therefore struck out, without leave to amend:

1. misfeasance in public office – refusal to abide by court order
2. misfeasance in public office – refusal to answer questions
3. abuse and excess of jurisdiction and authority

4. abuse of process

5. negligence and negligent investigation

6. conspiracy

7. sections 7 and 15 of the *Charter* violations

8. constitutional arguments concerning section 49 of the *Federal Courts Act* and section 72 of the *Immigration and Refugee Protection Act*.

[126] Some claims are struck with leave to amend:

1. misfeasance in public office – refusal to issue visas and delay in issuing visas

2. misfeasance in public office – delay in issuing visas

3. damages – *Charter* violations.

[127] Finally, the named ministers are struck in favour of Her Majesty the Queen.

[128] Given the split success on the motion, there will not be an award of costs.

ORDER in T-1774-15

THIS COURT ORDERS that for the reasons given, the following causes of action are struck out from the statement of claim, without leave to amend, pursuant to Rule 221(1) of the *Federal Courts Rules*:

1. misfeasance in public office – refusal to abide by court order
2. misfeasance in public office – refusal to answer questions
3. abuse and excess of jurisdiction and authority
4. abuse of process
5. negligence and negligent investigation
6. conspiracy
7. sections 7 and 15 of the *Charter* violations
8. constitutional arguments concerning section 49 of the *Federal Courts Act* and section 72 of the *Immigration and Refugee Protection Act*.

For the reasons given, the following sections are struck from the statement of claim, with leave to amend, pursuant to Rule 221(1) of the *Federal Courts Rules*:

1. misfeasance in public office – refusal to issue visas and delay in issuing visas
2. misfeasance in public office – delay in issuing visas
3. damages – *Charter* violations.

In view of the fact that the success is split on this motion to strike, no costs will be awarded.

On the consent of both parties, the Plaintiffs will have 60 days from the date of this Order to file an amended statement of claim and the Defendant will have 30 days to file a Statement of Defence from the date of service of the amended statement of claim.

"Yvan Roy"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1774-15
STYLE OF CAUSE:	EMAD IBRAHIM AL OMANI, LINA HOUSNE HAMZA NAHAS, AND SULTAN EMAD AL OMANI (A MINOR), LULWA EMAD IBRAHIM AL OMANI (A MINOR), HAYA EMAD IBRAHIM AL OMANI (A MINOR), BY THEIR LITIGATION GUARDIANS, EMAD IBRAHIM AL OMANI AND LINA HOUSNE HAMZA NAHAS V HER MAJESTY THE QUEEN
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	SEPTEMBER 26, 2016
ORDER AND REASONS:	ROY J.
DATED:	AUGUST 24, 2017

APPEARANCES:

Rocco Galati	FOR THE PLAINTIFFS
Susan Gans	FOR THE DEFENDANT

SOLICITORS OF RECORD:

Rocco Galati Law Firm Professional Corporation Toronto, Ontario	FOR THE PLAINTIFFS
Deputy Attorney General of Canada Toronto, Ontario	FOR THE DEFENDANT

EXHIBIT “BBB”

Court File No. ***VLC-S-S-217586***
Registry No.
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 CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

1. (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above- named registry of this court within the time for response to civil claim described below, and

2. (b) serve a copy of the filed response to civil claim and counter claim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

(a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,

(b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,

(c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

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CLAIM OF THE PLAINTIFF(S)

Part 1: STATEMENT OF FACTS

- **THE PARTIES**
- **The Plaintiffs and their personal facts**

1. The Plaintiff **"Action4Canada"**, is a grassroots organization centred in British Columbia, whose facts, in support of its claim for relief, are as follows:

   (a) Action4Canada was co-founded in August of 2019;

   (b) The activities of Action4Canada are in direct response to government legislation that undermines Canada's ***Constitution***, the ***Charter***, and Canadian democratic values.

   (c) At the onset of 2020, Action4Canada took note of the ongoing emergency measures that were being enacted in response to the Covid-19 pandemic. Many concerned citizens reached out to Action4Canada, to voice the hardships they faced due to these measures such as loss of job/income, business closures, school closures, and the re-scheduling of emergency surgeries. Action4Canada stepped up to advocate for those concerned citizens, and has continued to listen to their pleas, and find ways to take action for them.

   (d) Action4Canada advocates, educates and takes action in pursuit of upholding the Rule of Law, the Constitution and democratic governance in accordance with Canada's constitutional order and the Rule of Law.

2. The Plaintiffs **Kimberly Woolman** ("Kimberly"), **The Estate of Jaqueline Woolman** ("Jaqueline") are residents of British Columbia, whose facts, in support of their claim for relief, and who have suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

   (a) Kimberly is the adult daughter of Jaqueline Woolman, who passed away on January 30th, 2021. Jaqueline's eldest daughter passed away in August 2005, and her husband passed away in July 2011. Kimberly moved to British Columbia from Ontario to help take care of their mother, who had developed dementia in or about 2018.

   (b) Jaqueline's remaining three (3) grown children, Sheldon, Kimberly and Michelle all lived within a few blocks of Jacqueline's Long-term care residences: New Horizons (Discovery Harbour), and eventually Yucalta Lodge both located in Campbell River, British Columbia.

   (c) Once diagnosed with dementia, a decision was made in April 2019 to have her placed in a private long-term care, at New Horizons (Discovery Harbour) on 850 14th Avenue, in Campbell River, British Columbia. The decision came after Jaqueline had experienced two (2) falls, and two (2) hip surgeries on both hips, the first fall and surgery took place in December 2017, and in January 2018 she has her second fall, while in the New Horizons care home, and her surgery was also in January of 2018.

(d) Kimberly and Michelle had many issues with New Horizons for advocating for their mother's health, and on April 4th, 2019 they were banned without explanation from visiting Jacqueline.

(e) After multiple complaints filed against New Horizons care home by Kimberly and her siblings with regards to Jaqueline's care, punitive restrictions were put in place by the home. As a result of those restrictions, the children had Jacqueline transferred to a different care home, Yucalta Lodge, which operates as a public (publicly-funded) under the Vancouver Island Health Authority at 555 2nd Ave, Campbell River, British Columbia in early 2019. Jacqueline's transfer to the Yucalta Lodge facility was completed in May 2019, with Michelle's assistance through her work connections as the scheduler at a social work office.

(f) In May 2019, upon completion of Jaqueline's transfer, Jae Yon Jones, the manager at Yucalta Lodge, constantly changed the rules, contradicted herself and outright lied about many issues brought forth by Kimberly and her siblings in relation to their mother. Kimberly and her siblings tried to resolve these issues in many meetings, to no avail. These issues went on to persist, and only became amplified by the Covid-19 restrictions put in place in 2020.

(g) Sometime in 2019, Jaqueline's doctor approved allowable alcohol shots to manage her pain. By March 2020, Nursing staff were not offering Jaqueline any alcohol, without any medical reason as to why. A decision

was made after the Covid-19 pandemic began, to put Jaqueline on fentanyl, which was later increased from 25mcg to 37.5mcg. however Jaqueline was no longer asking for any alcohol at that point because she would become too sedated. Similarly, also in March of 2020, the staff at Yucalta Lodge forced Jaqueline to quit smoking, a habit that helped her remain calm, by administering a nicotine patch for Jaqueline, without the consent of Michelle and Kimberly.

(h) Jaqueline was left to waste away in bed, obtaining bed sores as a result of staff removing her access to her wheelchair, which in turn resulted in muscle atrophy.

(i) On April 24th, 2020 Kimberly visited the Yucalta Lodge to take her mother supplies as she had done on numerous occasions. Kimberly was stopped at the door by staff who informed her that she could not enter due to newly implemented Covid-19 restrictions. Kimberly pulled up documentation on her phone that stated she could enter, as she did not understand what the security measures were about. The Director, Jae Yon Jones took the phone from Kimberly's hand, informing her that she could not come in. Kimberly decided to leave the items for her mother, and was told that the items would have to be "quarantined" for a few days.

(j) After the interaction that took place on April 24th, 2020, Kimberly went to visit her mother from outside of her room's window. There were two (2) nurses inside with Jaqueline, without any PPE equipment on. Kimberly

was confused, as she had thought that the new measures had mandated that PPE equipment was necessary in all spaces at the time. Kimberly decided to take a picture, to document the nurses at Yucalta Lodge failing to follow Provincial health mandates, while denying entry to concerned family members such as herself. As Kimberly was outside the window, many staff members passed by, and one staff member took a photo of her license plate as she entered her car.

(k) On April 24th, 2020, after Kimberly had left the Yucalta Lodge premises, and returned home, the police began banging on Kimberly's apartment door. This lasted for about five (5) or ten (10) minutes. Kimberly was terrified they were going to break the door down. The Police officers then circled the building in their car, and drove past her apartment several times before leaving. They returned several times, over the course of several days either in their cruisers around the parking lot outside of Kimberly's apartment, or banging on the inside apartment door, again without notice, and without identifying themselves. Kimberly was distraught that the someone from Yucalta Lodge may have notified the police that she had purportedly defied their Covid-19 policies.

(l) On April 29th, 2020, Kimberly posted the photo of her mother, Jaqueline in her room with the two (2) nurses who had no PPE-equipment to her Facebook page, and was subsequently asked to remove it by the Yucalta Lodge staff. As a result of the photo on Kimberly's Facebook page, she

was informed that she could no longer attend at Yucalta Lodge property. Yucalta Lodge alleged that Kimberly, and Jaqueline's entire family were security threats to staff safety. Kimberly was told all calls to her mother would go through management. At that time, the Manager also assured Kimberly that when her visitation restrictions were removed, she would be notified. They were later removed in May of 2020, and no one in the family was notified.

(m) After the visits stopped in April of 2020, Jaqueline was calling Kimberly and Michelle constantly, while having breakdowns. She was often found trying to leave the building, thinking she could go to the airport or other places in her state of dementia.

(n) In June of 2020, Kimberly was on a zoom call with her mother when the activities-worker entered the room with Jaqueline wearing a mask. Kimberly commented to Jaqueline on how the efficacy of masks was questionable when it came to the prevention of the spread of viruses. Shortly afterwards, Michelle received a letter dated June 12th, 2020 from Jae Yon Jones, Manager outlining her 'disrespectful behaviour', despite Michelle not even being on the zoom call in question. Michelle was then informed that all zoom sessions had been cancelled, and she was no longer allowed on Yucalta Lodge property, including anywhere near Jacqueline's window.

(o) From June 12th, 2020 onwards, Michelle, and Kimberly's calls to the nurses phone on the unit to speak with their mother were repeatedly denied, and staff told them that they had to go through the manager or social worker to speak with their own mother. Yucalta Lodge staff consistently failed to answer the questions posed by Jaqueline's children as to whether or not the process that they had to go through in order to speak to their mother was standard protocol for all clients, or a sanction placed on their family alone.

(p) Sometime in June 2020, Jacqueline's son Sheldon went to Yucalta Lodge to see his mother and was confronted with security guards as if he were a threat. He was also told that he was not allowed in the building and later the Manager confirmed that he too was now banned from the property. This was only the second time during Jacqueline's entire stay at Yucalta Lodge that he was ever there to see here in person.

(q) On June 15th, 2020, Kimberly and Michelle received another written notice that all Zoom visits were cancelled, and told to direct all issues regarding Jacqueline's health to her Doctor. Michelle replied to this email notice by asking what the reason for the cancellation was, and if all resident's zoom sessions were cancelled. This question was never answered, or addressed in any manner. Instead, Michelle received a letter detailing her "disrespectful behaviour" towards all staff by simply asking questions. Michelle was told to not be present on the property. At that point, all three

(3) of Jacqueline's children had been banned arbitrarily without cause, from the physical property, in addition to being banned via phone and zoom calls.

(r) On July 3rd, 2020 Kimberly and Michelle found out that visits had been re-instated since May 2020 and they had not been notified. Yucalta Lodge had two (2) full months to notify the children that they could have been seeing their mother despite being previously assured that they would be notified when they could see their mother again. Kimberly had, at the time spoken to a new care-worker who was very kind, and obliged their requests to take their mother out for drives and informed them that other clients were having visits from their family members. The odd time that Kimberly and Michelle were able to try to talk to their mother, the new care-worker would be the one to answer the phone. They never stopped calling to try to talk to their mother.

(s) On July 10th, 2020 Yucalta Lodge claimed the new nurse was misinformed. By July 13th, 2020 the children were informed that they could only have 'supervised' visits with their own mother, although they only allowed Michelle to do so. All sorts of harsh conditions were laid out for the visits such as "social distancing in a car", wearing masks at all times, and 14-day "quarantines". Michelle began being followed by the staff when she would pick up Jaqueline, and so she would often have to drive to remote locations

to meet Jaqueline's son, Sheldon, and Kimberly so that they could see their own mother without the surveillance of the Yucalta Lodge staff.

(t) In one instance, Michelle picked up her mother with her mask that had horizontal slits to breathe and not fog up her glasses on. This was subsequently reported to the director Mae Jon Jones as Michelle having "holes" in her mask, and the punitive action for that was another fourteen (14)-day quarantine for Jacqueline. The same care worker who dropped off Jaqueline to Michelle had the same gaps on the sides of her face and nose.

(u) Several times, Jacqueline had been prepared for the outings with soiled briefs, despite Michelle making constant reminders to staff prior to picking her up, it persisted.

(v) Staff workers were bringing Jacqueline to Michelle's car in her chair until sometime in July 2020, when she was delivered by two (2) or more security staff. This was another tactic by the manager to convey that there is something dangerous about Jacqueline's family, specifically Michelle as they decried that only Michelle was allowed to pick up her mother, and indeed see her during these drives. When Michelle pulled in to pick up Jacqueline, security staff were observed coming from another location outside, likely sent to intimidate her.

(w) On July 14th, 2020 Jacqueline's son, Sheldon called Yucalta Lodge to talk to Jaqueline, and his call was denied. He was told that he would have to go through the Manager to seek approval for his phone call.

(x) On September 3rd, 2020 Michelle called the Yucalta nurses' phone, as directed to talk to her mother, and was denied three (3) times. The first time she was told that she had to call the Manager, or head nurse and then was told not to call again. She called called back anyway, and was transferred to Louise Smith, the head Registered Nurse, who told her that she could not talk to her mother without the Manager's approval. Michelle repeatedly asked if this is the policy for all clients and family members, to which she was given a repetition of the "policy" as an answer.

(y) On September 14th, 2020 Michelle sent a notice that she would be stopping payment for Jaqueline's care if her Rights were not respected, including her ceasing restriction of family members visiting with her in person and on the phone. No response to this notice was ever received.

(z) September 19th, 2020 Michelle went to pick up Jacqueline. Jaqueline's birthday is September 21st, and so they had planned to celebrate at Michelle's house, alongside Kimberly. When Michelle presented to pick up Jacqueline, she was slumped in her chair, could not move her feet/legs at all on her own. Michelle was unable to transfer Jacqueline to the car without hurting her. The security guards kept watch the entire time and when asked to help, refused to do so. Michelle asked staff workers leaving

the building for help, they too refused her. Michelle called her brother Sheldon for help, but he did not answer his phone. Jacqueline was in a great deal of pain, and could hardly express herself. As a result, Jaqueline was unable to go home to celebrate her birthday with her family but was returned into the home by the security guards who refused to assist her to get into her daughters' car.

(aa) On September 21st, 2020, Jacqueline's birthday, Michelle called and spoke with a person named "Melissa" asking to speak to her mother, and was told that she had to go through Manager's, Ms. Jones. Her call to Ms. Jones was denied.

(bb) On September 22nd, 2020, Michelle called the Vancouver Island Health Authority complaint line and spoke with a person named "Sophia" who sounded very surprised by the Manager, and other staff's behaviour. She then provided the process to file a formal claim against Yucalta Lodge with the Vancouver Island Health Authority, which Michelle did.

(cc) In October of 2020, due to Jacqueline's decline in health and threat of death, the family managed to schedule a visit in Jacqueline's room with her. This included Sheldon, Kimberly and Michelle. More rules were set in place, and the threat of this visit being cancelled was constantly put forth to the children. They all felt that it might be the last time they would see their mother alive. They agreed to washing their hands, masks, and a questionnaire. They would not agree to their temperatures being taken.

Kimberly's temperature goes up when she was in pain, as the result of a car accident, and Michelle was at the end of menopause. Kimberly and Michelle's requested were obliged, and they were escorted to Jaqueline's room by the Social Worker, and a security guard as they were a perceived threat within the facility.

(dd) They noticed on their way out after the visit, that several staff members were sitting around a table talking, and none of them were wearing masks, or gloves.

(ee) Sometime later in October of 2020, the children noticed during Zoom sessions that Jacqueline's wheel chair was not beside her bed. Their belief was that this had been the case since they had stopped them from going in to see Jaqueline in March, 2020, which lead to her experiencing muscle atrophy. The children further believe, that they removed access to her wheelchair to deliberately cause atrophy in her muscles so that she could no longer move around independently, around the same time that they took her smoking rights away.

(ff) Throughout November, and December 2020, the children were able to have Zoom visits at request to the Social Worker. The last two (2) visits included an automatic timer of forty (40) minutes which cut the meeting off automatically.

(gg) During the Zoom call of December 10th, 2020 Michelle asked the operator click to allow for recording, and she obliged this request. Michelle also

asked her why there was a timer, and she stated that they have always been forty (40) minutes. This was not true, as they have visited on Zoom with their mother for an hour or more during past zoom calls.

(hh) Jacqueline's rapid decline could easily be seen and heard in pictures and audio/video recordings, and had seen an increase since the covid-19 related measures began.

(ii) From February 20th, 2020 until her death on January 30th, 2021, the children clearly discerned that her cognitive abilities and speech were in major decline due to the lack of any stimulation, increases in medication, hopelessness, helplessness, depression, and despair in missing her family. Jacqueline always expressed to her children how thankful she was for her children, and constantly said she did not know what she would do without them every time they talked to her before she became completely sedated due to the drugs she was being prescribed.

(jj) Jacqueline was cut off from all her friends and family in Ontario, as none of them have been able to get through to her since at least March 2020. She had been isolated completely and treated even worse than prisoners in solitary confinement. Toward the end, Jaqueline was unable to hold up the phone to speak with her own children.

(kk) Jaqueline's condition became grave, as both staff and her doctor admitted, yet Michelle and Kimberly were not allowed to be with her throughout her final days.

(ll) Other residents of the care home were able to engage with their families without having security surrounding them, and without having to have their phone calls cleared by management.

(mm) Following each car outing Michelle and Kimberly had with their mother, she would not be allowed out for another fourteen (14) days. In prison, even people in solitary are allowed out for an hour a day for fresh oxygen. Jacqueline was only getting out for approximately **one (1) hour every fourteen (14) days**, and by that point, she had not been outside since September 19th, 2020.

(nn) On December 21, 2020 the family made arrangements with Chris MacDonald (social worker) for several zoom sessions with their mother over Christmas holidays, while he was to be off work.

(oo) On December 22, 2021 Kimberly and Michelle had a zoom session with Jacqueline during which, Jacqueline complained of 'chest pain'. Michelle called for a worker to tend to her. One worker came rather quickly, and was told Jacqueline is having chest pain. After 28 minutes another came in with antacids. At no time was indigestion mentioned. Kimberly and Michelle asked why antacid and why no one is checking any of Jacqueline's vital signs. The second 'care worker' walked out of the room. Shortly after that, Jacqueline was crying and the timer on the Zoom meeting cut the session. The timers were new. Previously there was no

timer and they talked with their mother for an hour; sometimes more each time. The timers were punitive.

(pp) On December 24th, 2020, as a punitive measure to the Dec 22nd zoom call, all previously arranged Zoom calls were cancelled. Again, all phone calls were either ignored, or staff continued to tell Kimberly, Michelle, and Sheldon that they could not talk to their own mother due to the 'Safety Plan'.

(qq) Sheldon spoke with a staff member named Joanne, and asked her if she would put on the film "Scrooge, A Christmas Carol" for Jacqueline that night as it is family tradition to watch the film around Christmas. She agreed and when Sheldon asked to speak with Jacqueline he was told he as to talk with the manager or social worker, none of whom were in the office for at least a week. He was denied again. Joanne then agreed to set up a phone call for the children with their mother on Christmas Day.

(rr) On December 25th, 2020 there was no call from Yuculta Lodge so the children called repeatedly later in the day to wish their mother a 'Merry Christmas'. They were denied again, and the "Safety Plan" was the excuse provided by Yuculta Lodge. They were again told that they could only talk to their mother with management's permission, none of which were available for at least a week.

(ss) On December 31, 2020, Michelle requested (FOIA) a hard copy of the "Safety Plan" that since June, 2020, all staff stated was the reason no one could communicate with Jacqueline Woolman on the phone. Family

questioned staff repeatedly asking what the safety plan has to do with the children speaking with their mother. They never answered, only continually referred to the "Safety Plan" as the reason they wouldn't put any of our or other family and friend's calls through to Jacqueline.

(tt) On January 13th and 14th, 2021 Michelle called the Social Worker as directed to speak with her mother, and left messages. Both went to voice mail, none were returned. All through this time, the family tried desperately to speak with their mother. All calls were DENIED claiming orders per the 'Safety Plan', or ignored and sent to voice mail with no returned calls.

(uu) On January 20, 2021 Michelle Woolman received a written response (Request ID: 29609074) to her FOIA request for the Safety Plan. A copy of the "Safety Plan" has to date, never been received. This letter states in part; "They (Yuculta) have advised me that they follow the Island Health's Safety Plan and that there is no written plan in regards to the family." This legal document confirms, since June, 2020 until Jacqueline's death, six (6) months later the staff lied about the contents of the safety plan.

(vv) On January 21, 2020, at approximately 1:00 p.m. Michelle received an email from Philip Friesen (approximately 300 kms away) stating in part; "I would like to ask that you no longer directly contact the Yucalta site by telephone and email, and no longer consider Chris MacDonald as your point of contact." Mr. MacDonald, the family's 'designated contact' at the time to

speak with their mother, had been ignoring all of our calls and requests to talk to their mother. Mr. Friesen offered to set up regular zoom visits for Wednesdays at 10:00a.m.. The very next morning, Michelle received a call that Jacqueline Woolman was palliative. Jacqueline was palliative and non-communicative at that time of Mr. Friesen's email and beforehand for 2 days.

(ww) On January 22, 2021at 09:39 a.m., Michelle received a call from "Greg" at Yuculta informing her "your mom has taken a bit of a turn, so she's palliative now, ah, she hasn't been eating for a couple of days". He directed Michelle to call Philip Friesen (Director in Victoria, BC) to set up visits. Michelle asked Greg to take the phone to Jacqueline and place at her ear so she could hear Michelle's voice. Frist, he claimed he couldn't because he was not on a remote phone. Then Michelle asked him to call back on the portable phone and he refused to do so.

(xx) Michelle made arrangements with the Director in Victoria for 1:00 p.m. hrs for all three (3) adult children to visit their mother that same day. Sheldon, Kimberly and Michelle all attended and were escorted by security to Jacqueline's room.

(yy) The first thing they noticed was her two (2) wing back chairs had been removed. Then they noticed there were no liquids for her anywhere in the room. When staff brought back the chairs, they were asked why Jacqueline wasn't getting any fluids. They replied that they offer them and she

declines, then said "she has to ask for them." The children informed the staff 'she can't ask', as she couldn't speak. Jacqueline was non-communicative. Staff refused to accommodate her need for hydration and walked out of the room as they always did.

(zz) Michelle then asked the security guard who was sitting outside Jacqueline's door, if he would ask for some swabs and cups. He did so immediately and they began swabbing Jacqueline's mouth with water. After a short time Jacqueline began to respond and perked up a little bit. She recognized who they were and they even got her to smile a few times. Family stayed for just over an hour. While there, family noticed they stuffed a picture of Jaqueline's husband (married 52 years until his passing) in a drawer where she couldn't see it, and a 64 year old picture of her father that was on the wall in a frame was removed from the frame and had been deliberately folded (ruined) and bent. The frame and glass were intact. It had not fallen from the wall.

(aaa) After Jaqueline's children's visit, on their way out at the lobby, the Manager, Ms. Jae Yon Jones was there and Sheldon asked her (holding up the ruined 64 year old picture of our grandfather) 'Who did this?". He was not physically close to her (at least 25 feet) and he was not threatening. She did not answer the question and turned to walk to her office calling the police as she did so.

(bbb) On January 30th, 2021 Jaqueline died. Michelle had to make arrangements through the Director in Victoria for pick up of the now late Jacqueline's belongings. Michelle was told no family member was permitted on the property and to arrange for someone else to attend. Mr. Friesen then offered to hire a moving company to which Michelle replied she had already made arrangements with a family friend to do the task. Then the (interim) Manager, Yuculta, Chris MacDonald (the 'social worker' beforehand) insisted on a moving company to do so. Michelle informed him she already had a contract with Mr. Friesen (offer, consideration, acceptance) and that he would be held accountable if he did not allow access to the family friend.

(ccc) The Covid-19 measures while purportedly having the intention of increasing safety, actually had an adverse reaction on Jaqueline's health, rapidly increasing her decline, and eventual death. Kimberly, Michelle, and Jaqueline's estate seek relief against the Vancouver Island Health Authority for the undue hardship that Jaqueline faced as a result of their enactment of Covid-19 measures that saw her treated like a prisoner.

(ddd) The children were not able to hold a proper funeral with other family members to give their last respects as is tradition. There was no proper grieving and healing for Jaqueline's death. No proper funeral, or ceremony. Jaqueline's treatment resulted not only in pain and suffering, and mental distress to Jaqueline but also to her children in suffering trauma and severe depression as a result. All of Jacqueline's adult children have been

traumatized by treatment Jacqueline suffered in both facilities; especially Yuculta Lodge.

3. The Plaintiff **Jane Doe #1** ("Jane"), is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

   (a) Jane is a Nurse Aid in the Luther Court long-term care home for seniors, located in Victoria, British Columbia and has expressed deep-seated concerns with regards to the ill-treatment of her care home clients.

   (b) Jane has witnessed clients live in an abusive, patronizing, and stressful environment. As seniors having to make a big adjustment to accommodate Covid-measures, they often forget to comply with masking mandates. It is during those moments that Jane has witnessed them being policed and abused for such "mistakes".

   (c) Jane is also quite concerned for her own health, as she noted that Bonnie Henry, who has previously been supportive of Nurses Unions, shared sentiments that Nurses should not be in the profession unless they vaccinate. Jane is distressed by such coercive statements, which violate her constitutional rights.

   (d) Jane has also asked the British Columbia Health Authority to provide an FOI on a request for the arbitration that Bonnie Henry signed on in 2019

stating, in support of the Nurses Union, that masks are useless. However, the Health Authority has refused to oblige this request.

(e) The Plaintiff states, and the fact is that, the measures enacted by British Columbia Chief Medical Officer Bonnie Henry, has created a stressful environment for many like Jane, who have watched the Long-term care system become similar to a jail/prison. Jane feels concern not only for herself, but also for her clients. The measures failed to uphold health and safety for seniors and in fact the measures have led to deplorable conditions which in fact have caused and/or accelerated the untimely and premature deaths of many seniors.

(f) The Plaintiff, Jane Doe #1, does not wish to reveal her identity for fear of reprisal, and dismissal, by her employer.

4. The Plaintiff(s) **Amy Muranetz** and **Brian Edgar** are residents of British Columbia, whose facts, in support of their claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, with respect to using the B.C. Ferries Inc. transportation system are as follows:

(a) **Amy Muranetz** (“Amy”) is a Victoria, British Columbia resident and mother, who shares custody of her daughter with her daughter’s father, who resides in Delta, British Columbia. As such, Amy has been using the British Columbia Ferries every other week for the past four-and-a-half (4.5) years as she shares joint custody of her daughter.

(b) On November 2nd, 2020 Amy had an incident on British Columbia Ferries that left her distressed. She was, and is currently living on Vancouver Island, and boarded the ferry at 5:00 p.m. at the Swartz Bay terminal to Tsawwassen terminal, as a walk-on passenger with her daughter. Amy made her medical exemption to masking known to the reception, and was let through with her daughter. Once aboard the ferry, Amy purchased her return ticket for 7:00 p.m. from the gift shop.

(c) As Amy began to board the ferry at the Tsawwassen terminal reception desk, to make her way back home, she was stopped by the ticket seller who asked her where her mask was. In reply, Amy stated her medical exemption. She was then asked where her medical documentation of such was, but Amy did not have any documents to show on her, as none are required. The ticket seller proceeded to threaten Amy, stating that she would not be allowed on the ferry. Amy simply continued on through the gateway.

(d) After making her way onto the ferry, Amy was stopped on the front bow of the ship by five (5) British Columbia ferries employees, and the Chief Steward, who stated that Amy would not be let on to the ferry. Amy proceeded to share personal, and confidential medical information in response, to indicate proof of her medical exemption, however the British Columbia ferries employees then proceeded to threaten her with force. Amy was escorted off the bow by security. Brittany Sylvester, the terminal

manager at Tsawwassen Ferry, escorted Amy down to the main waiting area. Amy broke down as a result of the traumatic, and embarrassing experience that she had just gone through.

(e) A first aid attendant employee came to Amy's assistant, as she was having trouble breathing, and began having PTSD flashbacks to being four (4) years old, and remembering dealing with a very aggressive sexual attack. The first aid attendant assured her that they would get her home on the 9:00 p.m. ferry, however he also asked if Amy could hold a mask up to her mouth, and suggested that they could, perhaps, smuggle her via a van onto the ferry. Amy recorded this interaction.

(f) Amy continued to be pressured to leave the premises, although she had no place to go if she did. Amy was repeatedly asked where she was going to go, and she continued to cry, and plead that they stop pressuring her.

(g) It was then suggested to Amy by the first aid attendant that perhaps the main ticket agent who initially threatened her, had stereo-typed her as an 'anti-masker'. Brittany, the manager then argued with him, stating "no, she wasn't stereo-typing, she was doing her job". Brittney then began to ask Amy if she had been asked about masks before, and Amy informed her that she would be recording their conversation. Brittney then ordered the first aid attendant to leave Amy's side and demanded that all staff leave the area. Amy was then informed that Brittney would be calling the police.

(h) As the room emptied, Amy was left by herself as police arrived on the scene. The Delta police officers then proceeded to drive her to a Tim Horton's coffee shop in Tsawwassen, and left her there. Amy then called a cab to her daughter's father's house. Amy filmed the entire incident, as she was quite distraught by their conduct.

(i) The following morning, November 3rd, 2020, Amy found a local clinic that provided over-the-phone consultations. The clinic emailed Amy a letter stating that, as she suffers from anxiety/Post-traumatic stress disorder, the British Columbia Ferries must take that into consideration with regards to her masking exemption.

(j) On November 4th, Amy returned to the Tsawwassen ferry terminal with the intention of returning home. She purchased a ticket at the ticket ATM, and was asked by reception about where her mask was. Amy simply stated that she had an exemption, and, when asked if she had a letter, did not hesitate to produce the one she had procured from the clinic the previous day. The receptionist asked Amy if she had a mask on her person, which she did, and then they let her go through.

(k) At approximately 11:10 a.m., Amy was in the BC Ferries cafeteria, and just about to eat a salad when Brittney, the terminal manager approached her. Brittney stated, "you know why I'm here". Amy simply replied by noting that she had a letter, and was more than willing to show Brittney that letter, however Brittney stated that Amy would need to exit the ship

before she would read her letter. Amy declined, and told Brittney she could read it then, and there, however Brittney refused this suggestion, and that is when Amy began recording the interaction. Brittney then stated that the ferry would not leave the harbour so long as Amy was on it, and that she was calling security. Amy asked why, as she had been more than willing to produce her medical exemption letter, to which Brittney replied that she was now banned from travelling due to what had "happened the other day".

(l) Brittney left Amy for a few minutes, as about five (5) or six (6) security guards and employees began to gather, and two (2) Delta Police Department Officers arrived. Amy produced her letter to the police, and although they appeared just as confused as she was, they asked her to leave the vessel.

(m) Amy quietly stood up and, was escorted off of the ferry. She then asked Brittney to refund her trip. The two (2) police officers escorted Amy to a car, where one drove her to her ex's home. To date, British Columbia Ferries employees have made no further note about Amy being able to return home to her city, and life. She is under great distress, although she has gone to great lengths to prove that she has a masking exemption. As a result of the Defendants' abusive and illegal conduct, she has suffered damages in mental distress, anxiety and violations to her constitutional rights.

5. **Brian Edgar** is a resident of Mill Bay, British Columbia.

   (a) Brian travelled from Departure Bay, Nanaimo on the 8:25AM ferry scheduled to travel to Horseshoe Bay on October 17th, 2020. Brian, and his friend Karla arrived at the terminal, and paid for their vehicle, and themselves. They then parked in the vehicle waiting area. They walked out of the area to look for some friends in long-term parking who were coming with them. They were travelling to Vancouver.

   (b) They arrived on deck five (5) and started walking to the back of the boat, passing the Chief Steward's office, and just as they walked by, a man came out and told them masks are mandatory on board, and that if they did not want to wear them they would have to go upstairs onto the outer decks. It was clear that most of the people in that area were not wearing masks and anyone who was wearing a mask was very well distanced from the group not wearing masks. Because of this situation, Brian felt it was a good place to be without infringing on anyone so he joined the group and remained there until it was time to return to the vehicle.

   (c) While on board a couple things occurred that Brian was not witness to. One was that one of his new friends returned from the bathroom with her two (2) year old daughter and said that another passenger had stood in front of her blocking her passage back to where their group was seated. The other passenger told her she had to wear a mask. There was more interaction verbally and other passengers were commenting as well. As she got past the

individual blocking her passage, someone yelled out "your baby is f***ed". Her baby heard all of this. Shortly before returning to the car, Brian was told that RCMP had been called to meet the ship because of something that had happened on board.

(d) Brian returned to the car and waited to disembark. Shortly thereafter, the boat docked but the unloading did not begin. Brian recalls being held on board for approximately twenty (20) minutes before cars were allowed to disembark. During that time, Brian could see there were people with dogs (presumably RCMP) and others that appeared to be police or security.

(e) When they were allowed to disembark, they were guided out of the flow of traffic and brought to a halt in front of the traffic that was waiting to board the ferry. They were detained there for fifteen (15)- twenty (20) minutes. An RCMP officer and a BC Ferries employee approached them. The Officer asked Karla to produce her License, which she did. The rest of the group were asked for ID, and declined. They were then notified that somehow they had gathered information, which indicated that their group was connected to some incident that had occurred on board and that they were being banned from further travel aboard any British Columbia Ferries vessel for the rest of that day.

(f) They expressed that they had plans to return home that evening and had done nothing wrong and had been involved with no incidents aboard the vessel. Karla let them know that she had remained in her vehicle for the duration of the ferry ride. They were informed that as a private service British Columbia

Ferries had the right to ban them from travel for the day, as British Columbia Ferry Services Inc., operating as BC Ferries (BCF), is a former provincial Crown corporation, now operating as an independently managed, publicly owned Canadian company. The RCMP officer returned Karla's license and they were allowed to drive away, feeling both confused, and inconvenienced by this interaction with British Columbia ferries.

(g) The BC Ferries is realistically the only daily or regular means of travel from the Islands to the mainland and therefore an **essential** service fir B.C. residents and BC Ferries is abusing its authority and **not** applying the law. The responsible minister, in omitting to properly regulate this abuse is violating these platintiff's s.7 and s.15 ***Charter*** rights of the Plaintiffs.

6. The Plaintiff **Jane Doe #3** ("Jane") is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

   (a) Jane is a nineteen (19)-year old young woman residing in Abbotsford, British Columbia with her parents.

   (b) Jane has fought, and survived through two bouts of cancer, has had her left leg amputated, has a hearing disability, and is currently experiencing heart failure.

(c) On October 16th, 2020 Jane attended at St. Paul's Hospital in Vancouver, British Columbia upon referral from her pediatric oncologist/cardiologist at Surrey Memorial hospital, due to her experiencing sudden onset of heart failure.

(d) Upon Jane's arrival at approximately 10:30 p.m., with her parents, at St. Paul's Hospital, they were offered masks which they refused citing their exemptions, which were honoured without question.

(e) As Jane and her mother transitioned through various meetings with doctors, and various waiting areas, their mask exemptions continued to be honoured. Jane's father was also allowed to continue into the acute ER ward to join them, all the while having his own masking exemption honoured in addition to his wife, and daughter's exemptions.

(f) At approximately 3:30 a.m. on October 17th, 2020 a Dr. Angela M. approached Jane and her parents to speak with them. Jane clearly outlined her care needs, including 24/7 parental support and Dr. Angela M. confirmed that this need would be upheld. Neither Jane, nor either of her parents wore masks during this entire interaction.

(g) At approximately 5:20 a.m. on October 17th, 2020 an attendant sought out Jane, and her parents to take them to the room that they would be staying in, room 5B. Neither Jane, nor either of her parents wore masks during this interaction.

(h) Upon their arrival at 5B, Jane and her parents were approached, and subsequently attacked by a nurse named Andrea. Andrea attacked Jane by asking her "Don't you know we are in a Pandemic? Don't you care about people?" Jane simply replied that while she did of course care for others, she was experiencing heart failure, and as such would not engage in any action that would increase that risk. Her parents also stated that neither of them were able to physically tolerate masks, and were as such exempt as well.

(i) Upon hearing Nurse Andrea's loud accusations, the individual who was sharing a room with Jane began to yell out "What is going on out there? Is someone not wearing a mask? My family has to wear masks? I am afraid, very afraid."

(j) Jane, and her parents calmly went on to explain that there was no provincial, or city-wide mask mandate, and that a requirement to wear a masks when one is exempt is a violation of the Human Rights Code. Jane, and her parents also added, that masks produced an anxiety/trauma response.

(k) Jane, and her parents were then informed that they had to sign a waiver stating that they were declining service from the hospital, so as to illustrate that the hospital was waiving all responsibility, and placing that upon Jane and her family. However, Jane, and her parents were not declining service, in fact, they were at the hospital seeking care, and treatment for Jane's

heart failure. Jane's parents explained that not only does her condition require constant parental supervision, but also that, due to Jane's hearing disability, they could not wear masks when communicating with her.

(l) In response to the vast explanation provided by Jane's parents, even as their own child experienced heart failure, the nurses handed them a copy of a document entitled "Essential Visits During COVID-19 Recovery". Jane's parents noted that the document did not, in fact mention anywhere that the wearing of masks is mandatory. Dr. Angela M. returned to visit the family, and expressed to them that her hands were tied with regards to hospital policy.

(m) Jane felt that the situation was compromising her, and placing her at risk. As such, she asked who else the family could speak with. Dr. Angela M. said that she would go to speak with her boss, Dr. Pritchard. Unfortunately, Dr. Pritchard also stated that the masking exemption would not be allowed. Dr. Angela M. then informed the family that if they could not comply, the choice was theirs.

(n) As Jane and her family waited in the hallway to speak to an administrator, they were approached by a nurse named Jodi, who harshly informed them that they had already been told to wear masks multiple times, and that this had been documented throughout their stay at the hospital. Jane and her family noted that they had already spoken to Nurses Andrea, and Sapna, along with Dr. Angela M. who were all acquainted with their exemptions.

(o) Jane and her family were then told that they needed to leave the unit, or face the threat of security. Nurse Jodi escorted the three to the door of the unit, and left upon being asked who else the family could speak with. Nurse Jodi never returned, so Jane's mother sought her out. Jane's mother was again, escorted to the door of the unit by Nurse Jodi, who simply stated that an individual named Janet Silver was the only person that they could speak to, but that she was not working at the time, and that she would not come up to the floor. Nurse Jodi then walked away without providing any further information by way of documentation, nor orally.

(p) At 7:00 a.m. Jane, and her parents realized they had no choice but to leave St. Paul's Hospital, as they had no one else to speak to. Jane and her parents followed up with the referring physician, Dr. Hoskings, of the British Columbia Children's Hospital, however it took days before contact was achieved.

(q) During that time period, Jane continued to suffer from lack of sleep, swelling, inability to walk, and overall distress.

(r) Since that time, Jane, and her parents have tried to reason with Wynne Chui, a clinical nurse specialist, and Dr. Virani of the Heart Function Clinic. Both individuals work out of St. Paul's Hospital. Despite their attempts to appease Jane, and her parent's requests, it was determined that Jane would not be able to receive in-patient care in a way that honoured her exemptions in all circumstances.

(s) As a result of this entire situation, Jane, and her parents feel abandoned by their health-care system. St. Paul's Hospital negligently placed Jane at risk of severe heart failure, and as such, Jane and her parents remain scarred, and anxious as to who, and what system they can rely on for the necessary care Jane requires going forward.

(t) Since October 2020, Jane has not been able to access medical treatment through the public health system which is causing her immeasurable pain, suffering, stress and anxiety as well as endangerment of her very life.

7. The Plaintiff **Ilona Zink** ("Ilona") is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

(a) Ilona Zink has been investing in her business since the age of sixteen (16) when she achieved a level one Makeup Artistry Certification. Shortly thereafter, she went on to attain two (2) additional advanced makeup diplomas that covered advanced photography, theatrical and film makeup, aesthetics, hair styling, colour analysis, and nail technician. In addition, Ilona completed the STAR personality profiling program. By the age of twenty-four (24), she launched her first salon 'Ilona's Aesthetics Inc.'

(b) In 2007, Ilona launched Garrison Studio in the Garrison Crossing, Chilliwack, British Columbia area. Ilona was generating approximately $100,000 annually, prior to re-locating to the Okanagan. Upon her move to

the Okanagan, she settled into Kelowna, British Columbia, and began starring in a local makeover show entitled "Garage Makeovers", in addition to re-launching the Kelowna location of Garrison Studio.

(c) From 2007, until the beginning of the Covid-19 pandemic in 2020, Garrison Studio successfully survived three (3) years of heavy construction in the area, including 8 months of road closures. Ilona invested into building the salon from the ground up, including the necessary expenses such as plumbing, utilities, permits, and all of the salon supplies. The community was just as enthusiastic about the arrival of Garrison Studio as Ilona was passionate about it.

(d) When March of 2020 hit, and the Province of British Columbia began enacting measures that ordered businesses to close, her business was hit hard. In the entire mall, Ilona's was the only business that was forced to close on March 9th, 2020. To make matters worse she was required by mall management to maintain and upkeep her storefront "daily" as though it were operating. Ilona witnessed all the other stores in the mall remaining open and making money while she was forced to stay closed. She was also informed that any vandalism would not be at the responsibility of mall management.

(e) In an attempt to keep up with customer service, Ilona forwarded the salon phone number to her home line. However, over the course of a three (3)-month period only nine (9) clients ever reached out.

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(f) Not only did Ilona's business suffer, but her income as a landlord also suffered. Her tenant decided that she was not going to pay her any further rent. The government informed tenants that they did not have to pay rent, and informed Ilona that she could not evict her to seek a paying tenant. Thus, neither Ilona's business, nor the tenant were bringing in any income, yet she still had a $3000/month payment to shell out for her home as well as an additional $300/month for property taxes.

(g) As a consequence of the tenant not paying rent, Ilona was put in a precarious position with the landlord/house financier as she was in a rent to own contract. Ilona was forced into court proceedings to protect and uphold her contractual agreement to remain in her home.

(h) When Ilona contacted the government seeking financial support, she was informed that as a self-employed individual she was ineligible for such support. She was also ineligible for a business loan, as such a loan required $50,000+ in staff payroll which does not exist for the type of salon that Ilona was running.

(i) As a single mother to a 14-year-old daughter, Ilona became overwhelmed by the simple fact that she was unable to purchase groceries, let alone foot bills such as rent, utilities, phone, car payments, and many other such necessary payments. As a result, Ilona's mental health has suffered immensely.

(j) Ilona was finally able to apply for CERB support payments in late May of 2020, approximately two-and-a-half (2.5) months after she was forced to close her doors on March 9th, 2020. However, after being closed for only 8 weeks at that point, her business had already suffered irreparable damage. Ilona had already fallen behind on all necessary payments both business and personal in nature, and thus, her credit score dropped so low that she was denied the chance to open up a bank account. Due to falling behind on internet service provider payments, Ilona has also lost access to her business email, thus making it difficult for her to collect pertinent evidence. Now a fifty-seven (57)-year-old woman, Ilona feels that the government has wiped out everything she has invested in her business, and by extension, her life since the age of sixteen (16), in a single move with their highly unjust, and baseless Covid-measure orders.

8. The Plaintiff **Federico Fuoco** ("Federico"), is a resident of British Columbia, whose facts, in support of his claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

(a) Federico Fuoco is the owner of the restaurant 'Gusto', which serves up authentic Italian food in the centre of downtown Vancouver, British Columbia, and has been an active restauranteur for the past twenty-one (21) years. He was also sole shareholder and director of "Fire Productions

Limited" and "F2 Productions Inccorporated", two (2) companies duly incorporated under the laws of British Columbia which were forced to cease operation due to the Covid-measures and their enforcement.

(b) Federico lost one of his restaurants, 'Federico's Supper Club' as a result of the 2020 lockdowns, despite having spent countless dollars on masks for staff, and safety features within the restaurant. His loss also had a domino effect on his staff, and as such he is fearful, and anxious of the newer, stricter measures currently being imposed by Bonnie Henry.

(c) On March 29th, 2021 British Columbia health officer Bonnie Henry announced that all restaurants must close their indoor services effective midnight of the following day, March 30th, 2021.

(d) Federico, like countless other restauranteurs in the Province, was caught completely off-guard by this announcement that was made without prior consultation or forewarning.

(e) For Federico, this complete lack of consultation by the Bonnie Henry was reminiscent of the last-minute decision to cut off liquor service at 8:00 p.m. on New Year's Eve 2020, and with the upcoming Easter holiday, he had, like many other restauranteurs in the Province, spent thousands of dollars on food supplies in preparation for the Easter weekend.

(f) Federico chose to remain open, so that both he, himself, and his staff could continue to gain a livelihood. That all came to an end on Thursday April 1st, 2021 when he was served with a business closure order by his local

health inspector, Greg Adamson. Federico was given no prior warning(s), and at the time he was served with this Closure Order. Federico only had two customers drinking tea in his restaurant at the time. After serving the closure order, the health inspector directed his attention to the customers and employees, harassing them, and instruction them to leave.

(g) Federico complied with the ban on indoor dining, over the Easter long weekend. He closed as per his annual norm on Good Friday, and Easter Sunday. On Saturday April 3rd, 2021, he was open in compliance with the most recent health orders, but in contravention of the Closure Order he was served with.

(h) At 1:00 a.m. on Monday, April 5th, 2021 Federico found a Business License Suspension, and Closure Order duct-taped to the glass of his front door at Gusto restaurant, indicating that the suspension would last until April 20th, 2021 at minimum.

(i) On Tuesday, April 6th, 2021 Federico received a Liquor License suspension as "an establishment cannot have a liquor license without a valid business license in place." Federico was devastated, as he had already spent thousands of dollars on renewing all of the licenses related to his business for the year.

(j) When Federico approached Kathryn Holm, the Vancouver Chief License inspector if the extension could be reduced, in order to allow him to open on April 20th, 2021 he was met with flat out hostility. Holm responded by

letting Federico know that not only would she not oblige his request, but she also threatened to extend the closure indefinitely, meaning only the City Council could override her decision.

(k) Federico has always tried to remain in full compliance with safety recommendations, and orders from Bonnie Henry for the safety of everyone, including his staff, however he is adamant that the inequity and inconsistency of these orders that penalize restaurant owners above others is completely arbitrarily, negligent, and target the forced closure of only small, independent businesses in favour of multi-national corporations, and denies any concept of evenly applied justice. For example, while customers cannot stand up at Federico's bar to taste wines, even if socially distanced, Bonnie Henry has exempted and allowed for people to engage in wine-tasting at wineries in B.C. This is obviously because Bonnie Henry owns a winery.

9. The Plaintiff **Valerie Ann Foley** ("Valerie Ann"), is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

(a) Valerie Ann is a single mother residing in Richmond, British Columbia. She is a 'person with disability' and has respite care.

(b) On December 5th, 2020 at approximately 1:10 p.m., Valerie Ann boarded the Pacific centre skytrain in downtown Vancouver, British Columbia, when she noticed a transit officer following her.

(c) The transit officer, Peter Kwok with badge #325 then began harassing Valerie Ann about not wearing a mask, and she responded by simply producing her exemption card, which she was not required to do by law.

(d) The transit officer continued to harass Valerie Ann for further proof of a masking exemption. He then informed Valerie Ann that she either had to put on a mask, or cover her face. Valerie Ann informed him that she needed a healthy amount of oxygen to breathe.

(e) The transit officer refused to leave Valerie Ann alone, and continued harassing her, and threatening to place her under arrest for refusing to wear a mask, or face covering. The transit officer then grabbed Valerie Ann by her left arm and began punching her in her side, back, and ribs.

(f) This caught the attention of other passengers, and one of the passengers in the back of the train began yelling for the transit officer to leave Valerie Ann alone. The transit officer momentarily let Valerie Ann go, and then grabbed her again and slammed her against the wall twice.

(g) Valerie Ann tried to move away from the transit officer, and sit back down in her seat, but he grabbed her by her right arm and dragged her right off of the Skytrain as it pulled to a stop. The transit officer then handcuffed Valerie to a railing, where two (2) other transit officers came to his

assistance. While Valerie Ann was handcuffed to the railing an announcement was made over the transit loud-speaker reminding travelers to wear a mask but explicitly stated: “unless you are exempt”.

(h) The two (2) other transit officers escorted Valerie to an elevator where she was taken out to the street, still handcuffed, and detained in the back of a police car. After twenty (20) minutes, two (2) police officers arrived and performed a thorough search of Valerie’s person, and her belongings.

(i) After waiting inside the police car for an additional twenty (20) to thirty (30) minutes, the police officers drove Valerie Ann to a garage in Vancouver where she was told she was going to have her photo, and fingerprints taken.

(j) Valerie Ann did not actually get out, and get her fingerprints taken. Instead, the two (2) police officers drove her to Lansdowne mall in Vancouver, British Columbia, to where her car was parked by the Skytrain station. The police officers asked Valerie to sign a document, that she did not properly understand, however she felt undue influence to sign in their presence and did so. Valerie Ann was told that the police officers needed to seize her phone, and they did so.

(k) Valerie Ann was, and remains well aware that masks are mandatory in public spaces in British Columbia, except for those with qualifying medical exemptions. Such measures are not being enforced properly, and Valerie Ann’s experience is one such example of the extremes that people

are not resorting to, to uphold the covid-19 restrictions. She has been physically and psychologically traumatized and injured by the illegal conduct and assault of the transit officers.

10. The Plaintiffs **Linda Morken** ("Linda") and **Gary Morken** ("Gary"), are residents of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

    (a) Linda Morken resides with her husband, Gary Morken in East Sooke, British Columbia.

    (b) On Friday, February 5th, 2021, at approximately 1:40 p.m. Linda was shopping with her husband Gary for groceries at Village Foods Market in Sooke, British Columbia.

    (c) The store did not have any dedicated personnel stationed at its entrance, so Linda and Gary were not questioned about their lack of masks. They often shop at that same store, without masks on.

    (d) After about twenty (20) minutes of shopping, Linda decided to ask an employee where the plastic bags could be found. Linda required a plastic bag for the oysters that she was planning on purchasing.

    (e) The employee informed Linda that she required a mask to shop in the store. Linda replied that she had a masking exemption, and then repeated her question about the location of the plastic bags. The employee pointed

Linda in the direction of the plastic bags, and then informed her that they do not accept exemptions in their store.

(f) As Linda moved through the store, she asked another employee for clarity on the location of the plastic bags along the way. The employee provided her with directions, and made no mention as to her lack of mask.

(g) Upon Linda's return to the Fish monger with plastic bag in hand, Linda was informed by another employee that she would have to leave the store as she was not wearing a mask. Linda informed him that she was exempt, and would be leaving the store shortly, after paying for her groceries.

(h) The employee stated that exemptions were not honoured in their store, and left the scene, seemingly to go and inform a supervisor, of Linda and Gary's presence in the store.

(i) Several other customers had overheard the employees' statement. A few of them became disrespectful toward Linda and Gary. One man proclaimed himself to be a lawyer, and then proceeded to inquire as to what Linda's exemption was. Linda was well aware that she was within her rights to keep details of her exemption confidential.

(j) One woman spoke up in defense of Linda and Gary. The woman identified herself as a lawyer and informed the inquisitive onlookers that some people were exempt from wearing masks. She herself, along with everyone else in the store was masked.

(k) The store manager then approached Linda and Gary, with an angry and hysterical demeanor. He only identified himself as the store manager, but refused to identify himself by name. He stated that they did not allow exemptions in the store, that there were no exemptions, and that all of his employees and customers must be masked.

(l) Linda and Gary made attempts to explain their exemptions, but were told that they must leave the store immediately and that they would not be allowed to pay for their groceries.

(m) Linda stated that she would be waiting to talk to the police upon their arrival, but that she and Gary would be waiting for them in the store. Neither Linda nor Gary raised their voices as they advocated for themselves. The store manager continued to engage in boisterous, angry theatrics throughout the entire encounter.

(n) Gary went on to wait in the area just outside of the doors, but Linda remained inside, choosing to stand quietly out of the way of any other customers.

(o) While Linda was waiting, she noticed an empty till. She approached the till, placed her groceries on it, and the cashier began cashing her out. Linda was already finalizing payment for her groceries via credit card, when the store manager ran over, yelling that the groceries could not be paid for. Linda informed him that the transaction had already been approved, and suggested that he calm down.

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(p) Linda informed that store manager that she would stand out of the way, and continue to wait for the arrival of the RCMP officers, which she did.

(q) As Linda stood waiting, another employee shouted at her to leave the store and never return. Linda replied that she would be leaving soon, however she would be back to shop in the store once they realized that they were the ones breaking the law by not honouring masking exemptions.

(r) Linda later learned from her husband Gary, that the store manager, along with one of the employees were harassing him throughout the duration of the time that Linda stood inside waiting for the RCMP officers to arrive.

(s) Two (2) RCMP vehicles arrived. A truck driven by RCMP Constable Steve James ("Constable James"), and a car driven by RCMP constable Kathleen Biron ("Constable Biron"). Upon their arrival they spoke to Gary, along with the store manager and his assisting employee.

(t) RCMP constable James then approached Linda, and informed her that she was not allowed to shop in the store without a mask. Linda attempted to calmly assert her exemption.

(u) Constable James informed Linda that masks were mandated, and that she must have one on to be inside the store. Linda attempted to speak, but she was silenced by constable James, who told her that if she said anything more, she would be placed under arrest.

(v) Linda asked what exactly she would be arrested for, and constable James informed her that she would be arrested for not wearing a mask in an

indoor public space. Linda attempted to speak again, and constable James silenced her again, stating that she had done enough talking.

(w) Immediately following this, the time was approximately 2:00 p.m. when Linda was arrested, handcuffed, and subsequently escorted from the store by RCMP Constable Steve James, and Kathleen Biron.

(x) While still in the store, and during the process of Linda's arrest, Constable Steve James stated that the reason for Linda's arrest came as a result of her failure to wear a mask while frequenting a public space.

(y) Neither of the Constables made mention to Linda at that time of trespassing, or assault. She was only informed that the reason for her arrest was due to her non-compliance with masking measures in place.

(z) Linda was not asked for her name, or identification. Both Constables also failed to inform her of her rights at any time during her handcuffing, arrest, removal from store, and subsequent detainment within the police car.

(aa) As Linda was being placed in the backseat of the RCMP car, she refused to get in until she was told where she was doing. She asserted that she would not be going anywhere until her husband was informed about where she was being taken. Linda was extremely fearful that they would attempt to detain her at a "quarantine centre".

(bb) Linda was informed that she would be taken to the RCMP detachment on Church Street in Sooke, British Columbia. Linda told Gary that she would

see him there, and was then taken away without another word from either constable.

(cc) RCMP Constable Kathleen Biron drove Linda to the Sooke RCMP detachment.

(dd) Upon Linda's arrival at the garage of the Sooke RCMP detachment, constable Kathleen Biron formally placed her under arrest, and charged with assault. Linda was shocked upon learning her charge, as she had not assaulted any individual at the store.

(ee) Linda questioned the charge of assault, however Constable Biron advised her not to speak any further, and began reading off Linda's rights to her.

(ff) Linda then requested that the handcuffs be removed, as she was experiencing significant pain in her wrists, and shoulders. They were not removed. Linda recalls having a very difficult, and painful time attempting to exit the police cruiser, with her hands still behind her back.

(gg) Linda was then brought from the garage, into an office area of the RCMP detachment.

(hh) Linda was asked whether she was experiencing any flu-like symptoms such as fever, cough, or any sort of sickness in general. Linda answered "not at all". She was then asked to wear the mask that constable Biron had provided, which she refused, asserting her exemption.

(ii) Linda went on to answer questions about her identification, and place of residence. Linda had, in the presence of the constables, left her purse which

carried her identification with her husband Gary prior to getting inside their vehicle. Therefore, Linda did not have any physical forms of identification on her person at the RCMP detachment.

(jj) Linda had only her Vaccine Choice Canada business cards, and a Vaccine Choice Canada "Stand Up for Freedom" pin on her person at the time.

(kk) Linda could feel the adrenaline of stress coursing through her body throughout the entire ordeal, which increased her heart rate to very rapid levels.

(ll) Linda has had a long-standing heart condition, that is well known to, and well documented by her family physician.

(mm) After a considerable amount of time had passed, Linda's handcuffs were finally removed, and she was instructed to remove her jacket, sweater, jewelry, watch, and shoes. Linda was very cold, so she requested to have only her jacket, sweater, and shoes back. Her requests for those items of clothing were denied, and she was told that she would get them back only upon her release.

(nn) Linda was never given the opportunity to discuss her experience in having had her rights violated at the store, or at the detachment. Each time that Linda tried to speak, she was silenced. Although both Linda and Gary made note that Constable James made considerable efforts to discuss the events that took place with the store manager, and employees.

(oo) Linda suggested that the constables take note of the poster that had recently been issued by the British Columbia Office of the Human Rights Commissioner in hopes that they would see that she and Gary had the right to be exempt from masking.

(pp) Linda's person was then thoroughly searched by the Constables.

(qq) Linda's indicated legal counsel, was then telephoned by the RCMP constables, as Linda herself was placed in a small, and cold room. There was a single phone in the room, and Linda was instructed not to touch it until it rang, at which point it would be her legal counsel on the line. Linda waited in that room for about thirty (30) minutes, until the constables informed her that they were not able to reach her legal counsel.

(rr) Linda was then placed in a cell, and was later given a blanket after expressing that she felt cold.

(ss) Linda was extremely uncomfortable, and began experiencing joint pain due to not having a sweater, jacket, or shoes with her. Her shoulders, and wrists were still in pain due to being handcuffed. Linda experienced amplified symptoms of her diagnosed illnesses as a result of being too cold. Her diagnosed illnesses include Hemochromatosis, Psoriatic Arthritis, CFS, Fibromalgia, and Sjogren's Syndrome.

(tt) Linda once again requested that constable Biron return her articles of clothing to prevent her arthritic pain from worsening in the cold. Linda was simply informed that the heat was turned up. Although Linda did not have

her watch, she estimated that she was left in this state for three (3) – four (4) hours.

(uu) At some point during Linda's time in the cell, she was informed that the constables had returned to the store to review video footage of the events that had taken place.

(vv) Upon their return, constable Biron informed Linda that she was being released. While Linda was still confined to her cell, she was asked to provide Gary's phone number so that he could be called to pick her up.

(ww) Linda informed Constable Biron that Gary did not have a cell phone, but that he was likely waiting for her in the detachment parking lot. Constable Biron then asked Linda to describe Gary's truck and provide her with his full name. She also informed Linda that they could not find her drivers license in the system, although Linda assured her that it was active, and updated.

(xx) Linda was then asked to re-state her address, and the spelling of Gary's name, and for confirmation that Gary and Linda resided at the same place of residence.

(yy) Constable Biron recorded the information that Linda relayed onto the blue latex gloves that she was wearing, and left Linda in the cell for approximately another thirty (30) minutes.

(zz) Upon her release from the Sooke RCMP detachment, Linda was given back her belongings, and presented with two fines. One fine was for the "Failure to wear a face covering indoor public space – CRMA 3(1)" in the

amount of $230. The second was for the "Failure to comply with direction from an enforcement officer – CRMA 6" also in the amount of $230.

(aaa) When Linda inquired about her assault charge, she was informed that video footage had confirmed that no such assault had taken place. Linda was informed that an individual at the store had claimed that she had purposefully coughed on the cashier. Linda understood that the video confirmed that she was standing alone, at a distance from others, where she coughed once. Linda noted herself that, in any event, it would have been difficult to cough on the cashier as they were situated behind plexiglass.

(bbb) Linda requested a copy of the video footage from the store, and was informed that she could attain it via FOI, or through legal counsel and that the RCMP would not be providing her with a copy.

(ccc) Linda requested to register a formal complaint with the RCMP officers against the store owner, and employee(s) for falsifying claims of assault. As a result, Linda felt shamed, and humiliated by the staff, and customers. Constable James informed her that the assault was a concern raised by the staff, and that had determined that no such assault had ever taken place.

(ddd) Constable James also stated that the store was within its rights as it was private property, and went on to compare it to Linda's home. Linda replied that during operational business hours, the store is open to the public and as such, is not private property. Constable James continued to insist that it was,

though neither himself, nor Constable Biron ever made any mention of trespass.

(eee) Constable James also informed Linda that he has looked up the documents on masking exemptions from the British Columbia Office of the Human Rights Commissioner. He stated that they follow orders given to them from the RCMP. Linda realized that Constable James may have never been informed of the legalities with regards to masking exemptions.

(fff) Linda stated once again, that she wished for the RCMP to lay charges against the store, and its staff for making frivolous, vexatious claims against Linda, causing her immense distress. This request was once again denied, and Linda was released.

(ggg) When Linda was re-united with Gary, he informed her that Constable Biron had presented him with a ticket that, without checking, he had assumed was for Linda. Gary simply placed it in the glove compartment. However, Linda had her own blue ticket sheet with her, and upon re-inspection, Gary realized that he himself had been issued with a ticket for frequenting an indoor public space without a mask on.

(hhh) Both Linda, and Gary remain extremely distraught, and mistrustful of the RCMP's lack of knowledge of the law surrounding masking exemptions, and their abusive and false arrest. For individuals with such serious health complications, this is deeply concerning. They both suffered physically and psychologically from the RCMP officers' misconduct.

11. The Plaintiff **Pastor Randy Beatty** ("Randy"), is a resident of British Columbia, whose facts, in support of his claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

    (a) Randy Beatty is a pastor at the Living Waters Fellowship located at 2222 Regent Rd, Black Creek, British Columbia V9H 1A1.

    (b) Randy maintains that Bonnie Henry's Orders are in violation of the constitutional right to worship, assemble, and Section 176 (1-3) of the ***Criminal Code***.

    (c) Due to Bonnie Henry's Orders, Randy's church has been subjected to three (3) encounters with the RCMP thus far, as of April 7th, 2021.

    (d) During the first encounter, which was on February 21st, 2021, an officer came to "educate" Randy, and his congregation, following their morning service. They were informed that they were in violation of Covid-19 orders and would be fined if they continued to hold any services. The officer was respectful and considerate. They asked him why the big stores, liquor stores, bars and restaurants were allowed to be open, but the church was forbidden to hold service. He replied, "We are in a tough position. A neighbour had called in a complaint."

    (e) Social Media slander has been rampant for the church, and on FB Merville and Black Creek, Rant and Rave were also debating the church holding

services, and causing backlash against them. Threatening messages have been left on the church answering machine.

(f) On March 14th, a police car was parked outside the church property watching, but they made no contact.

(g) On March 22nd, Randy received a call warning of tickets for the church, and its attendees. This conversation was followed up with an email informing Randy of the health officers' directives and that if anyone else submitted a complaint, Randy was told that he was under threat that the RCMP would issue a ticket of $2300 to the church and a second ticket of $230 per person for each attendee at the church service.

(h) In addition to s. 176 of the ***Criminal Code***, the harassment by Police violated the freedom of conscience, belief, religion, and association contrary to the ***Constitution Act, 1867*** and s.2 of the ***Charter***.

12. The Plaintiff **Michael Martinz** ("Michael") is a resident of British Columbia, whose facts, in support of his claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

(a) On Wednesday March 3rd, 2021 Michael Martinz was returning to Canada from a two (2)-week fly fishing expedition in Colombia via Houston and San Francisco on United flight UA5689. The flight arrived in Vancouver at approximately 1:00 p.m.

(b) Upon exiting the aircraft, Michael walked through Vancouver Airport without a face mask using his British Columbia medical doctor issued medical exemption. He arrived at the automated kiosks in the customs area and filled out his entry information, and proceeded to enter the serpentine queue to speak with a CBSA officer.

(c) Shortly after Michael entered the serpentine queue a CBSA officer politely asked him if he had a face covering. Michael replied that he had a medical exemption, and offered the officer to have a look at his documents.

(d) The officer took the exemption document from Michael and examined them, and immediately asked what the exemption was for. Michael replied that he was under no obligation to provide that information to the officer. The officer acknowledged that Michael was correct, and returned to his original position behind the CBSA stations. The officer returned moments later, and escorted Michael to the far side of the CBSA stations, near the south wall declaring that he did not want Michael "out in the open with the other passengers without a face mask on". Michael complied, and followed the officer.

(e) At the furthest south CBSA station Michael was greeted by another CBSA officer, who asked him some generic questions, including asking him as to why he was traveling during a pandemic. He then questioned Michael as to why he had not booked a designated covid quarantine hotel. Michael replied that he had no intention of staying at a quarantine hotel or taking

their PCR test, citing both his section 6 **Charter** rights, and section 14(1) of the ***Quarantine Act*** prohibiting medical tests which penetrate his body.

(f) The officers then informed Michael that he would have to speak with a Health Canada agent and state his case to that individual. Michael's documents were stamped, and retained, and it was indicated to Michael that the officer was handing off the documents to the Health Canada agent.

(g) Michael was then led to the far northern wall of the entrance hall and placed behind a plastic paneled wall. He was informed, once again that they did not want him out with the other passengers unmasked. Michael was then approached by another CBSA officer, who engaged him in generic conversation. During this time the officer offered to collect Michael's luggage, and returned with the luggage on a cart.

(h) Soon after Michael obtained his luggage, the Health Canada agent arrived with two (2) RCMP members at her side. The CBSA officer departed at this point.

(i) The Health Canada agent declared that she was a Registered Nurse and began asking Michael a series of questions regarding his health status. He replied in the negative to all questions, which were in relation to flu-like symptoms. The agent then began to state to Michael as to why such covid measures are in place, and threatened to fine him for non-compliance. Michael asserted his s. 6 **Charter** rights, and told her that he had no interest in complying with unconstitutional orders. The agent probed

Michael as to why he had a medical exemption, to which he again replied that he was under no obligation to disclose that information. The agent did not like this answer, and instructed Michael that she needed to know, and encouraged him to cooperate. Michael obliged, and informed her of the underlying cause. The agent then tried to co-erce Michael into taking a PCR test by telling him that it "only enters your nose about an inch". Michael replied "one inch or one millimetre is still a contravention of section 14(1) of the ***Quarantine Act***". The agent then left, seemingly angered by Michael's response.

(j) After roughly twenty (20) minutes, the agent returned. She exclaimed that she could fine Michael $3,450.00 for every day that he was not in the Covid hotel, and other fines for missing the day eight (8) PCR test. He politely re-asserted his rights, and that he would not be complying. She then told him that he was in contravention of s.58 of the ***Quarantine Act***.

(k) When she departed, Michael quickly referenced the ***Quarantine Act*** which he had previously downloaded. Michael noted that what text he could read on her paper work as she rapidly flipped through and pointed to sections was the word Covid appearing many times. This word appears nowhere in the ***Quarantine Act***, as he noted. He was highly suspicious of her unlawful behaviour at this point.

(l) Another twenty (20) minutes later, the agent returned, with and the RCMP escort. She informed Michael that she had contacted his doctor with

regards to his exemption, and that his doctor had confirmed it as being valid. She then produced a ticket, and fined Michael for $3,450.00

(m) She then discussed what further enforcement actions could be taken against him.

(n) At approximately 2:00 p.m. on the afternoon of June 11th, 2021 Michael landed at the Calgary (YYC) International Airport on a flight from Denver, Colorado. He was returning from a trip abroad to Oklahoma City, and various locations in Costa Rica seeking new life opportunities.

(o) He had left Canada on May 22nd, 2021, with his spouse Kari Strobel and she accompanied him for the duration of the trip and throughout the re-entry process.

(p) Upon their arrival at Calgary, and as soon as they exited the aircraft for United flight UA5388, they proceeded to walk through a very empty airport towards the customs and immigration area. They both carry medical mask exemptions provided by their physician. While they were in the CBSA line up a female CBSA officer approached them asking if they needed masks. Michael replied that they did not and they produced their paperwork. The officer was courteous, reviewed their paperwork and asked no further questions before walking away.

(q) After a period of twenty (20) to thirty (30) minutes in the line-up, it was their turn to engage with a CBSA officer. Michael presented their paperwork, Passports, PCR tests, and 'Arrive Can' printout, and informed

him that they would not be staying in the Government Quarantine facility, and that they would be exercising their section 6, 7, and 9 **Charter** rights. The CBSA officer asked some questions about their travel, whether they had anything to declare, and then directed us to the Health Canada station at the East side of the customs area.

(r) The CBSA officer expressed no concerns about their non-compliance with the illegal travel order. As directed, they approached the Health Canada unit. They were met by a very curt and disrespectful woman that began asking questions in a "rapid fire" fashion.

(s) Michael informed her that they would not be taking the arrival PCR test, and that they would not be staying at the Government Quarantine Facility. She began threatening them fines and produced some paperwork, which she filled out in rapid succession, and erroneously checked the box indicating that they had failed to answer relevant questions in contravention to Sec 15(1) of the ***Quarantine Act***. This is a false statement. When she provided the form for Michael to sign, he noticed that she had transcribed his name incorrectly including his last name, and Michael pointed this out to her, which she then corrected. Michael produced his phone to take a picture of the document and she loudly exclaimed that no photos are allowed in this area.

(t) Michael then asked if he was going to be provided a copy of this document to which she replied that he would. He then signed the document, although felt that he was under duress to do so, and handed the form back to her.

(u) Michael's wife, Kari refused to sign her copy.

(v) They then moved on to the next station where Michael again explained their situation, and a Health Canada official in the neighbouring wicket found great humour in his statements regarding section 14.1 of the ***Quarantine Act*** being poorly written for this situation. They were all able to have a laugh, and the process of having their paperwork stamped lasted no longer than four (4) to five (5) minutes and they were on their way to collect their luggage.

(w) Upon leaving the arrival hall, an airport official was directing compliant travelers toward the PCR testing station, and Michael informed her that they were declining the tests and she said "Okay" with a smile and that was that. Michael was surprised at the stark difference in his experiences, and was taken aback at how a federal order and could be carried out so disparately between regions, that is between Vancouver and Calgary.

12. The Plaintiff **Makhan S. Parhar** ("Makhan") is a resident of British Columbia, whose facts, in support of his claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

    (a) In January, 2020 discussions of Covid-19 began to frequent the media, and **Makhan S. Parhar**'s yoga studio, incorporated as "North Delta Real Hot Yoga Ltd." in Delta, British Columbia started suffering financially as people started to become afraid of attending class. Regular students and even long-term students began cancelling memberships, or asking to have a hold put on. The new year, January to March is the time that the studio usually has the most influx of new students and revenue.

    (b) By March, 2020 Makhan's studio was barely hanging on as class numbers had dwindled due to the fear of contracting Covid-19. He had no intention of closing down, he simply could not afford to shut down. What little amount the studio had left in memberships, was essential for them to pay their bills.

    (c) Makhan had no idea that a 'state of emergency' was declared, as he was stressed in his own life about paying upcoming bills, and keeping his now struggling business running. Makhan sent an email advising students to continue classes to keep their immune system healthy.

    (d) This email triggered many people, and people started calling Delta City Council, Delta Police, the MLA's and the media. Immediately, Makhan

started receiving mass amounts of hate emails and phone calls. He also started receiving horrible reviews, and had to close the Studio Facebook page.

(e) Makhan started to receive calls from the media, and spoke with CBC only. The day that he spoke to them, March 19th, 2020 and in the days following, he had horrible and negative articles written about him by every media outlet in the Vancouver area.

(f) A Delta By-law enforcement officer attended at Makhan's studio, and asked why they did not shut down. He told them it was his business, and that he needed to stay open. The By-law enforcement officer then asked if Makhan, and his patrons were "social distancing" inside the studio, and Makhan stated that he did not know that he had to do so. He also informed the officer that business was very slow, and patrons were spaced out by default as a result of that. The officer said he would be by the next day to check if the studio was in compliance.

(g) However, two (2) hours later, the By-law officer came back with a supervisor and they told Makhan that his business licence was suspended by Delta City Council to which Makhan replied that he was just told that the one officer would be coming back the next day to check if the studio was in compliance with social distancing protocols. The supervisor ignored this, and said that they were acting on orders from Delta council. Any subsequent questions that Makhan tried asking were ignored.

(h) At that point, Makhan felt hopeless, and depressed, a feeling that has grown worse since that day.

(i) The hate that Makhan has experienced after the studio closing, and the articles spun by media outlets has been overwhelming. He has even been recognized at stores such as The Home Depot. Throughout the past several months, he has stopped going to stores unless absolutely necessary. When he does go out, he is never alone, and lives in constant fear that someone will stir up an altercation with him.

(j) In August 2020, Makhan was denied boarding at the gate by Air Canada after agreeing to wear a mask for a flight. They were not honouring his medical exemption, and as such Makhan gave in and agreed to wear one. At the gate, just before boarding, they denied his boarding because they did not trust that he would keep the mask on. Air Canada subsequently banned Makhan for life and refused to refund his money. He had to go through his credit card company to get that money back.

(k) On October 27th, 2020 Makhan was returning from visiting friends at Flatoberfest in South Carolina. The final leg of three (3) flights was from San Francisco to Vancouver. Makhan was handed a covid-19 quarantine form by the flight attendant just as the plane started its descent. Makhan did not fill it out, and at about 9:30 pm he went to Canadian customs and handed his passport to them. They asked for the quarantine form, and Makhan

answered that he did not fill it out, and did not have any plans of doing so. He was then asked to go speak to the health officer.

(l) Makhan explained the same to the health officer. He was informed that he needed to fill it out as RCMP officers stood off to the side. Makhan filled out the form and signed it.

(m) The following day, October 28th 2020, Makhan went on with his regular life. Around approximately 4:30 pm, he received a phone call from his daughter. She told him that the police were at their home. Constable Jacob Chong with badge #262 took the phone from Makhan's daughter and informed him that, as he was not at home, he would be writing Makhan a $1,150.00 violation ticket, and leaving it there. He refused to tell Makhan his first name at the time, and informed him that he would be back to check on Makhan the following day.

(n) Makhan's daughter was traumatized and afraid after this encounter. She did not want to come home after school the following day.

(o) The following day, October 29th 2020, Makhan stayed home all day. Constable Chang with badge #262, of the New Westminster Police Department came at approximately 7:30 pm with and unidentified officer holding badge #330. He would not answer any questions that Makhan asked of him with regards to what jurisdiction he was operating under. He served Makhan another ticket and told him to toss the ticket from the previous day.

(p) The next four (4) days saw Makhan going about his business, and this entailed him being outside of the home most of the day. The police came several times and he was home once during their visits.

(q) On November 2nd, 2020 at approximately 11:15 pm, Makhan was coming home and noticed a New Westminster Police SUV outside of the parking garage. As he recognized Makhan's car, he turned on his emergency lights. Makhan pulled into the underground and waited for the police. Constable Hildebrand with badge #323 approached the car and told him he was under arrest. He told Makhan to get out of the car.

(r) After Makhan parked and got out of the car, he was arrested and put in handcuffs. He asked several times, if he had committed a crime. The constable refused to answer his questions. Makhan stated several times that this was a false arrest.

(s) Constable Chris Faris with badge #337 started reading Makhan his rights. Makhan repeated the same questions as to whether or not he had committed a crime, or if there was a victim or a complainant. The officer refused to specify the charge and took Makhan to the station.

(t) At the police station, Makhan told all the police that this was a false arrest.

(u) Makhan declined a phone call to a lawyer, and was placed in a cell.

(v) The police damaged his $70 track pants by cutting the draw-strings out of them, and when he asked if they would be reimbursing him the cost of the pants, they replied "no".

(w) After falling asleep, Constable Hildebrand woke Makhan up and told him that he needed to confirm his name and birthdate in order to get out in the morning. Makhan declined, and Constable Hildebrand repeated himself. Makhan stated that he needed to think about the lawfulness of answering. He repeated himself and he said it was to get Makhan out in the morning. Makhan was fatigued at that point, he stated that he was under duress and provided him the information he requested.

(x) Later that night, or in the early morning, Constable Jacob Chong with badge #262, woke Makhan up and told him that he was issuing another violation ticket.

(y) On the morning of November 3rd, 2020 while Makhan was in the holding cell, he received a call from duty counsel. Makhan told the guard that he did not ask for a lawyer. The guard told him that duty calls all the detainees in jail to help get them out. Makhan decided to speak to the duty counsel. He told Makhan that his bail hearing would be before noon and that he would then find out from the Crown what the matter with Makhan would entail.

(z) At around 3:00 pm, Makhan started to worry about his release, as he still had not heard from the duty counsel. Makhan asked the guard to speak to his lawyer, and provided the lawyer's name. The guard looked up the phone number, and returned twenty (20) – thirty (30) minutes later. He held up a phone and informed Makhan that it was his bail hearing.

(aa) Makhan had trouble hearing the other end of the phone-line. In addition, there was a very loud vent in his cell.

(bb) The Crown prosecutor spoke for twenty (20)-thirty (30) minutes, and stated that they wanted Makhan detained up until the trial. The Duty Counsel suggested that Makhan be released on his own recognizance. In the end, the judge allowed Makhan out as long as a surety signed and would be responsible for him adhering to his bail conditions.

(cc) The judge said that Makhan's surety would have to come to the Court during business hours. It was 4:20pm at that point, and the Court Registry was closed. Makhan spent another night in jail. He was told that he could call someone, and that he would be transferred to a bigger jail for the night. A female police officer got Makhan to sign off on his bail conditions while a justice of the peace was on the phone.

(dd) At approximately 6:00-7:00 pm, Makhan arrived at the North Fraser pre-trial Detention Centre. He was placed on 'Droplet Protocol'. The nurse told him that he would be swabbed. Makhan refused any swabs, or anything placed inside of his bodily cavity. Makhan was segregated immediately after intake. He asked for a phone call, but was repeatedly denied. He was told that he could not interact with the general population until he had obtained a negative test result.

(ee) Makhan told them that he had a bail surety, but needed to phone someone. He stated repeatedly that no one knew of his arrest, and he simply wanted to inform them of such. The prison staff showed Makhan no sympathy.

(ff) Makhan was given a bagged vegetarian dinner, and informed them he was vegetarian for future meals. He was fed three (3) meals a day. Breakfast was at about 7:30 am. Lunch was usually brought at about 10:45 – 11:00 am, and dinner was at about 4:30 pm on Wednesday, Thursday and Friday. On Friday, Makhan was released just as dinner was served, so he did not eat dinner.

(gg) Both Wednesday, and Thursday night's dinners and Thursday's lunch contained meat, therefore Makhan did not get to eat the full meals. He had previously requested, as denoted above, that he was a vegetarian, and the prison denied his request for vegetarian meals.

(hh) On Thursday, when Makhan realized that he might be in jail until after the weekend, and maybe longer. Makhan cleaned the cell by dipping his shower towel (though he was not actually allowed to shower), in the toilet, and wiping down the top bunk, and other areas of the cell.

(ii) Makhan was not allowed to shower nor use the phone because he was not allowed to leave his cell. He asked repeatedly for phone use. The supervisor told him the same thing repeatedly. Makhan required a negative covid-19 test result to be allowed out of his cell. However, the supervisor agreed to take a number and make a call on Makhan's behalf.

(jj) That same day, Makhan asked for, then begged multiple times to get clean underwear and socks. The guards kept agreeing, but the requested garments were never delivered. Finally, very late on Thursday, one (1) of the guards provided Makhan with the requested garments.

(kk) Out of fear that he would be in jail past the weekend and for weeks ahead, Makhan was left in very little choice but to submit himself to a Covid test. This was done in hopes of getting a negative result. Makhan was told that if the test was positive they would contact him, however he never heard from them.

(ll) Thus far, Makhan has had his first court appearance, pre-trial conference, and awaits another pre-trial conference on May 5th, 2021. His bail conditions instruct him to abide by all regulations stipulated by Bonnie Henry. A trial date is set for July 20th, and 30th, 2021.

(mm) Makhan remains very distraught, for himself, and his family's sake.

13. The Plaintiff **Melissa Anne Neubauer** ("Melissa") is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

(a) Melissa is a Teacher at the Clearwater secondary school, in Clearwater, British Columbia.

(b) Melissa was on a medical leave from work from March 9th, 2020 – June 30th, 2020 due to having a break down in March of 2020, and being

admitted to the mental health unit at Royal Inland Hospital in Kamloops, British Columbia.

(c) By June 30th, 2020, school was finished for the Summer, and as such Melissa physically returned to her work in September of 2020, when school was back in session again.

(d) When Melissa returned for health and safety training the first week of school in September 2020, the Principal of the school, Darren Coates insisted that she wear a mask. Melissa explained that she was exempt. Melissa was then required to have her doctor complete a four(4)-page medical form to allow her exemption. After that, a Disability Accommodation Plan was created for Melissa, which restricted her movement within the school. Restrictions included limiting her access to a washroom, only allowing her access to the building at certain times, and through a specific door, and limiting her access to the office supplies room. These restrictions made Melissa's job difficult.

(e) Melissa made efforts to follow the restrictions, however the principal often harassed her both verbally, and in writing to do a "better job" at following them.

(f) In February 2021, the principal sent Melissa a letter outlining further restrictions on her movements in the school. Melissa only worked half-days at that point, and one of the new restrictions mandated that she was not allowed to be in the hallways between 8:00 a.m. and 3:20 p.m.,

meaning that she would not be able to exit the building on days that she finished work mid-day, and she would be unable to arrive on days that she started work mid-day. The new restrictions also prevented Melissa from using the washrooms during those times, and the suggested solution was that she leave her class unattended, and use the washroom when there were no students in the hallways. The restriction also meant that any preparation that Melissa needed to do using the printer/photocopier had to be done outside of her contractual workday.

(g) The principal called two (2) meetings: on February 17th, 2021, and February 19th, 2021 as he felt Melissa still was not following the restrictions correctly. Melissa then received a call from the Human Resources Deparement on February 22nd, 2021 telling her that she was being placed on administrative leave pending an independent medical exam by a psychiatrist. The purpose of this medical exam was to confirm that Melissa's family doctor and psychiatrist were providing accurate medical information, and to determine if she was competent to be in a position of responsibility as a teacher. Melissa's first day off of work was February 23rd, 2021. The Independent Medical Exam took place on March 31st, 2021, and Melissa was finally allowed to return to work April 28th, 2021.

(h) Since returning to work she has been wearing a plastic face shield and have not experienced restrictions with her movement around the school, until

May 5th, 2021 when the principal handed Melissa a surplus letter. This letter means that Melissa no longer has a job after the end of the current school year, in June 2021. The school district has an obligation to find Melissa another position in the district, but the position does not have to be in the same community that she currently lives in. As there are no positions available in Melissa's current community of Clearwater, British Columbia, she is being forced to move. Melissa has a mortgage and is at risk of losing her home should her position get suspended, and she will be forced to sell her home and move if her job is relocated to another region. Melissa strongly feels that she was chosen to receive the surplus letter because she did not comply with the masking mandates in the school, and because she is being discriminated against due to her medical conditions. Furthermore the government (Crown) and its Ministers of Education, Health, Public Safety, as well as Chief Medical Officer Bonnie Henry are breaching her constitutional rights, by way of commission, and omission, in not protecting her rights.

14. The Plaintiff **Jane Doe #3** ("Jane") is a resident of British Columbia, whose facts, in support of her claim for relief, and who has suffered actionable damages directly as a result of the Covid measures imposed and enforced by, and on behalf of the named Defendants, are as follows:

    (a) Jane is a Licensed Practical Nurse ("LPN") at Royal Inland Hospital in Kamloops, British Columbia where she resides.

(b) At the beginning of 2020, Royal Inland Hospital had made a goal to reduce the number of patients being admitted in order to prepare for the "First Wave" of Covid-19 patients. Normally the hospital census is running at 115-120 %. This information was given to Jane, and her team each morning by the charge nurse. Through May 2020 to the middle of June 2020, the Hospital census had been declining greatly, around 80%. Patients had been told not to admit themselves unless it was absolutely critical requiring immediate medical attention.

(c) Jane's father had been one of those patients that had ignored his medical needs in order to stay clear of a hospital in fear of getting Covid-19, causing the severity of his condition to progress. Shortly after, he had suffered a heart attack and was admitted to the hospital anyways. The hospital informed him that they would need to put off a scheduled surgery he had scheduled in Kelowna, British Columbia due to Covid-19 measures "until further notice". He was then put on more medication to alleviate symptoms he was having.

(d) As Jane was working in the Hospital, she was feeling concerned that beds would fill up due to an influx of Covid patients, but they never did. The hospital census stayed at 80% for some time, and then declined even further. Nurses that worked casual shifts soon started to worry that there was not enough work for them to obtain any shifts. During this period, Jane

was extremely worried about her father for whom she was caring at his house regularly.

(e) After the hospital began to open up for surgeries around October of 2020, the census began to climb again. The increase in patient census was not related to Covid-19 but from patients who had put their health on hold from the beginning of the year. Jane observed that Covid-19 precautions were not at all organized, and that Nurses would get emails one (1) – two (2) weeks later pertaining to someone who had tested positive with no actual record of the person's name. Instead, room numbers those patients had stayed in were referred to, but who had been in the rooms could not be tracked, nor could the location of where those people had gone, and who else they had interacted with. This then led to further intervention, patients considered high risk for covid-19 were tested on admission. At various times, there would be patients considered high risk in rooms with three other patients, most of whom suffered from cognitive decline and would not know to stay away from the closed curtain with a precaution sign pinned to it.

(f) Throughout the later Fall months of 2020, Jane would often read on social media that the Hospital was overrun with Covid patients, and that it was over census. This was not true, although Jane did not work on the "Covid Floor", she knew nurses that did and they reported to her that there was an

average of eight (8) patients total at the time. Although, it was true that the hospital was over census, that was normal pre-pandemic for the hospital.

(g) By February 2021 Covid-19 Vaccines were being distributed to the staff. While at work on one shift in February 2021, Jane heard a "Code Blue" meaning cardiac/respiratory distress being called out over the loud speaker on the vaccine distribution floor. This had not been the only one as Jane had been told by multiple nurses. It was around late February, when "the big outbreak" at Royal Inland hospital went to main stream news. And ninety (90) people had been reported to be positive cases (approximately sixty (60) of these were hospital staff).

(h) Nurses were already scarse and this had put even more strain on the remaining nurses as the nurses who tested positive had to quarantine at home for fourteen (14) days. This had also created fear amongst all of the Kamloops community.

(i) Despite all of this, many Nurses that had been working on the Covid floor and had been around other nurses who had tested positive, without a mask were not testing positive. Jane noted that this did not make any sense. Also, nurses who had taken the vaccine had adverse reactions and tested positive fir Covid-19. One nurse with an underlying heart condition, but previously with no need for treatment, suddenly came down with an exacerbating heart condition characterized by extreme fatigue and heart palpitations as

well as becoming significantly ill, and has since been unable to return to work for more than six (6) hours.

(j) In March 2021 Jane had been pulled to the Covid floor. There was one patient considered “Red” meaning that they were covid positive and were in an isolation negative pressure room. However, Jane’s patient, whose test was pending, was put in an room with three (3) other patients, one of whom had severe dementia and would be unable to identify danger. Later that night, Jane checked that patient's results only to find out they were negative and there was only one (1) active Covid positive case in the hospital.

(k) By the end March 2021, Jane had asked her family doctor, Dr. Victor De Kock for a mask exemption due to her increased anxiety and history of asthma that had become exceptionally worse due to the consistency of wearing something over her face for twelve (12) hours a day. This was denied by Dr. Victor De Kock, as he stated that he had been ordered by ‘Interior Health’ not to give out exemptions, especially not to health care workers.

(l) On April 8th, 2021 Jane made another Appointment to attempt to get a mask exemption as her mental health was becoming noticeably worse. Jane recorded Dr. Victor De Kock this time, as she stated “I can not breath” and that her anxiety was getting out of control. He had again refused to provide

her with an exemption, and prescribed her anxiety medication along with a refill on her inhaler.

(m) Throughout March and April of 2021,Vaccines were being pushed on staff. Staff that refused to get the shot were being shamed by others, for allegedly "putting others in harm's way". Work began to be too much for Jane, and new information about shedding vaccines had emerged while Interior Health remained silent about it. Jane had been researching the information on the transmitting and/or shedding that can occur via coming into contact with vaccinated people, and was very distressed about her well-being. Jane remained fearful that she would lose her job, and because she was concerned about the possibilities of shedding, she decided to take a stress leave from work, with May 1st being her final day of work. She is presently still on stress leave, relying on Employment Insurance, and awaiting further information that can guarantee her safe return to work.

(n) Jane has not revealed her name on this action for fear of reprisal and/or dismissal by her employer for being a Plaintiff.

- **The Defendants**

23. The Defendant, Justin Trudeau, is the current Prime Minister of Canada, and as such, a holder of a public office.

24. The Defendant, Dr. Theresa TAM, is Canada's Chief Public Health Officer and as such a holder of a public office.

25. The Defendant Her Majesty the Queen in Right of Canada**,** is statutorily and constitutionally liable for the acts and omissions of her officials, particularly with respect to **Charter** damages as set out by the SCC in, ***inter alia***, ***Ward v. City of Vancouver***.

26. The Defendant Attorney General of Canada is, constitutionally, the Chief Legal Officer, responsible for and defending the integrity of all legislation, as well as responding to declaratory relief, including with respect constitutional declaratory relief, and required to be named as a Defendant in any action for declaratory relief.

27. The Defendant Omar ALGHABRA is the Federal Minister of Transport, and as such a public office holder.

28. The Defendant Her Majesty the Queen in Right of British Columbia**,** is statutorily and constitutionally liable for the acts and omissions of her officials, particularly with respect to **Charter** damages as set out by the SCC in, ***inter alia***, ***Ward v. City of Vancouver***.

29. The Defendant Attorney General of British Columbia**,** is, constitutionally, the Chief Legal Officer for British Columbia, responsible for and defending the

integrity of all legislation, as well as responding to declaratory relief with respect to legislation, including with respect to its constitutionality, and required to be named as a Defendant in any action for declaratory relief.

30. The Defendant John HORGAN, is the current Premier of British Columbia, and as such a holder of a public office.

31. The Defendant Dr. Bonnie HENRY, is British Columbia's Chief Medical Officer, and as such a holder of a public office.

32. The Defendant Mike FARNWORTH, is the current Minister of Public Safety and Solicitor General and, as such, a holder of public office.

33. The Defendant, Adrian DIX, is the current Minister of Health for the Province of British Columbia and as such a holder of a public office.

34. The Defendant Jennifer WHITESIDE, is the Minister of Education for British Columbia, and as such, a public office holder.

35. The Defendant, The Canadian Broadcasting Corporation ("CBC"), is Canada's publicly-funded broadcaster and governed, **inter alia**, under the Federal **Broadcast Act,** with a public mandate as Canada's national, publicly-funded broadcaster.

36. The Defendant, British Columbia Ferry Services Inc., operating as BC Ferries, is a former provincial Crown corporation, now operating as an independently managed, publicly owned Canadian company, under Crown license and authority.

37. The Defendant, Mable Elmore is the current British Columbia Parliamentary Secretary for Seniors' Services and Long-Term Care.

38. The Defendant, The Royal Canadian Mounted Police ("RCMP") are the federal and national police service of Canada, providing law enforcement at the federal level, as well as the Province of British Columbia under renewable memorandum and contract.

39. The Defendant, Vancouver Island Health Authority provides health care services through a network of hospitals, clinics, centres, health units, and long-term care locations in British Columbia.

40. The Defendant, Brittney Sylvester is the current BC Ferries Terminal Manager (Relief) at the Tsawwassen, British Columbia, Canada Ferry Terminal.

41. The Defendant, Providence Health Care is a Catholic health care provider that operates seven facilities in Vancouver, British Columbia, Canada. Providence Health Care was formed through the consolidation of CHARA Health Care Society, Holy Family Hospital and St. Paul's Hospital on April 1st, 1997.

42. The Defendant, TransLink (British Columbia), is the statutory authority responsible for the regional transportation network of Metro Vancouver in British Columbia, Canada, including public transport, major roads and bridges.

43. The Defendant, Peter Kwok, is a Translink Transit officer with Badge #325.

- **THE FACTS**

A/ "COVID- 19"- THE TIMELINE

44. **In 2000** Bill Gates steps down as Microsoft CEO and creates the 'Gates Foundation'' and (along with other partners) launches the 'Global Alliance for Vaccines and Immunization ('GAVI''). The Gates Foundation has given GAVI approximately $4.1 Billion. Gates has further lobbied other organizations, such as the World Economic Forum ("WEF") and governments to donate to GAVI including Canada and its current Prime Minister, Justin Trudeau, who has donated over $1 Billion dollars to Gates/GAVI.

45. **In 2002** Scientists engage in "gain-of-function" (GOF) research that seeks to generate viruses *"with properties that do not exist in nature"* and to *"alter a pathogen to make it more transmissible (to humans) or deadly."* [1] [2]

46. In **November, 2002,** China's Guangdong province reports the first case of ''atypical Pneumonia'', later labeled as SARS. In the same month at the University of North Carolina (UNC) Ralph Baric announced the creation of a **synthetic** clone of a mouse coronavirus.

47. On **October 28th, 2003** the Baric group at UNC announces a **synthetic** recreation of the SARS virus.

48. **In 2005** Research demonstrates that Chloroquine is a potent inhibitor of SARS coronavirus infection and transmission. It was deemed a safe drug by the WHO in 1979, except in high doses. [3] [4]

[1] https://www.ncbi.nlm.nih.gov/books/NBK285579/
[2] https://www.sciencemag.org/news/2014/10/us-halts-funding-new-risky-virus-studies-calls-voluntary-moratorium

49. From **2009** to the present, the "Bill and Melinda Gates Foundation" donates millions to the 'Imperial College of London''(ICL), and further funded the debunked modeling, by Neil Ferguson, at the ICL, that set the COVID-19 'pandemic'' declaration in Motion and acceleration, through the WHO and governments around the globe following suit.

50. **In January 2010** Bill Gates pledges **$10 billion** in funding for the World Health Organization ("WHO") and announces "the Decade of Vaccines." In fact, Bill Gates and GAVI are the second and third largest funders of the WHO after the US government under the Presidency of President Trump. The USA, through its President, cut off funding to the WHO for loss of confidence in it. (Various other countries have also expelled the WHO on allegations of corruption, attempted bribery of its officials, and lack of confidence).

51. **In May 2010**, the Rockefeller Foundation writes a Report, later leaked, unintentionally from within the organization, with a study of a future pandemic scenario, where an unknown virus escapes, and a "hypothetical" scenario on what the appropriate response would be, and its core scenario entitled "how to secure global governance in a pandemic". The Plaintiffs state , and the fact is, that the scenario scripted in this May 2010, Report is what has unfolded during the "COVID-19" so-called "pandemic".

[3] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1232869/
[4] https://apps.who.int/iris/bitstream/handle/10665/65773/WHO_MAL_79.906.pdf?sequence=1&isAllowed=y

52. **In 2011** a review of the literature by the British Columbia Centre for Disease Control to evaluate the effectiveness of social distancing measures such as school closures, travel restrictions, and restrictions on mass gatherings to address an influenza pandemic concluded that *"such drastic restrictions are not economically feasible and are predicted to delay viral spread but not impact overall morbidity."* [5]

53. **In May, 2012,** the 194 Members States of the "World Health Assembly" endorse the 'Global Vaccine Action Plan (GVAP) led by the Bill and Melinda Gates Foundation in collaboration with GAVI, and the World Health Organization (WHO).

54. **In 2014** Under President Obama, the National Institute of Health (NIH) **halts federal funding** for gain-of-function (GOF) research. The funding hiatus applies to 21 studies "reasonably anticipated to confer attributes to influenza, MERS, or SARS viruses such that the virus would have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route." NIH later allows 10 of the studies to **resume.**

55. **In 2015** NIAID awards a five-year, $3.7 million grant to conduct gain-of-function studies on the "risk of bat coronavirus emergence." Ten percent of the award goes to the Wuhan, China, Institute of Virology.

[5] Social Distancing as a Pandemic Influenza Prevention Measure
https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf

56. **In January, 2015** at a public appearance, Bill Gates states: '' We are taking things that are genetically modified organisms and we are injecting them into little kids' arms; we just shoot them right into the vein''.

57. In 2018 the World Economic Forum ("WEF") puts forward a proposal for future "Vaccine Passports".

58. **In 2017** Dr. Marc Lipsitch of the Harvard School of Public Health tells the *New York Times* that the type of gain-of-function experiments endorsed by Dr. Fauci's NIAID have "done **almost nothing** to improve our preparedness for pandemics, and yet risked creating an accidental pandemic."

59. **In 2019** NIAID awards a six-year renewal grant of $3.7 million to EcoHealth Alliance and the Wuhan Institute of Virology (in China) to continue their gain-of-function studies on bat coronaviruses.

60. At the January, 2019, World Economic Forum in Davos, Switzerland, **on January 23rd, 2019,** on a CNBC interview Bill Gates boasts that he expects to have a "twenty-fold" return on his $10 Billion vaccine investment with the next few decades.

61. British and French researchers **publish** a study (May 5, 2020) estimating that COVID-19 could have started as early as **October 6, 2019.**

62. On **October 18th, through 27th, 2019** Wuhan, China hosts the Military World Games, held every four years, where more than 9,000 athletes, from 100 countries complete. The telecom systems for the Athletes' Village are powered with 5-G technology "showcasing its infrastructure and technological prowess''.

63. **On October 18, 2019 -** The Bill & Melinda Gates Foundation, the World Economic Forum and the Johns Hopkins Center for Health Security convene an invitation-only "tabletop exercise" called **Event 201** to map out the response to *a hypothetical global coronavirus pandemic*.

64. **In November-December, 2019, -** General practitioners in northern Italy start noticing a "**strange pneumonia.**"

65. **On December 2nd and 3rd, 2019** Vaccine scientists attending the WHO's Global Vaccine Safety summit confirm **major problems** with vaccine safety around the world.

66. **On December 3rd, 2019**, At the Global Vaccine Safety Summit in Geneva Switzerland, Prof Heide Larson, MA PhD, Director of the "Vaccine Safety Project", stated:

> "I think that one of our biggest challenges is, as Bob said this morning, or yesterday, we're in a unique position in human history where we've shifted the human population to vaccine-induced, to dependency on vaccine-induced immunity and that's on the great assumption that populations would cooperate. And for many years, people lined up the six vaccines, people were there; they saw the reason. We're in a very fragile state now. We have developed a world that is dependent on vaccinations. We don't have a choice, but to make that effort."

67. **On December 18th, 2019,** researchers at the Massachusetts Institute of Technology (MIT) report the development of a novel way to record a patient's **vaccination history,** by using smart-phone readable nano-crystals called ''quantum dots'', **embedded** in the skin using micro-needles. In short, a vaccine

chip embedded in the body. This work and research are funded by the Bill and Melinda Gates Foundation.

68. **On December 31,2019 -** Chinese officials inform the WHO about a **cluster** of "mysterious pneumonia" cases. Later, the *South China Morning Post* reports that it can trace the first case back to **November 17th , 2019.**

69. **On January 7th, 2020** - Chinese authorities formally **identify** a "novel" coronavirus.

70. **On January 11, 2020 -** China records its **first death** attributed to the new coronavirus.

71. **On January 20, 2020 -** The first **U.S. coronavirus case** is reported in Washington State.

72. **On January 23rd, 2020,** Shi Zheng-Li releases a paper reporting that the new corona virus (COVID-19) is 96% identical to the strain that her lab isolated from bats in 2013 but never publicized.

73. **On January 30, 2020 -** The WHO declares the new coronavirus a **"global health emergency."**

74. **In January, 2020** - A study of US military personnel confirms that those who received an influenza vaccine had an increased susceptibility to coronavirus infection. [6]

[6] https://www.sciencedirect.com/science/article/pii/S0264410X19313647

75. On **February 5th, 2020 -** Bill and Melinda Gates announce **$100 million** in funding for coronavirus vaccine research and treatment efforts. **On February 11th, 2020** the WHO gives the virus its name: 'COVID-19''.

76. **On February 28th, 2020** - The WHO states that most people will have mild symptoms from SARS-CoV-2("COVID19") infection and get better without needing any special care.

77. **On February 28th, 2020 ,** the WHO announces that more than 20 vaccines are in development globally.

78. **On February 28th, 2020,** the WHO states – "Our greatest enemy right now is not the virus itself. It's fear, rumors and stigma." [7]

79. **On March 5th, 2020** - Dr. Peter Hotez of Baylor College told a US Congressional Committee that coronavirus vaccines have always had a "unique potential safety problem" — a "kind of paradoxical immune enhancement phenomenon." [8]

80. On **March 11, 2020 -** The WHO declares COVID-19 a **pandemic.**

81. On **March 16th, 2020 -** Neil Ferguson of Imperial College London, scientific advisor to the UK government, publishes his computer simulations warning that there will be **over two million** COVID-19 deaths in the U.S. unless the country adopts "intensive and socially disruptive measures." **Imperial College London receives funding from Bill and Melinda Gates Foundation.**

[7] WHO Director-General's opening remarks at the media briefing on COVID-19 - 28 February 2020 https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---28-february-2020

[8] https://www.c-span.org/video/?470035-1/house-science-space-technology-committee-hearing-coronavirus&start=1380

82. On **March 16th, 2020 -** Dr. Anthony Fauci tells Americans that they must be prepared to "**take more drastic steps**" and "hunker down significantly" to slow the coronavirus's spread.

83. On **March 16th, 2020 -** NIAID launches a **Phase 1 trial** in 45 healthy adults of the mRNA-1273 (COVID-19) coronavirus vaccine co-developed by NIAID and Moderna, Inc. The trial skips the customary step of testing the vaccine in **animal models** prior to proceeding to human trials.

84. On **March 17th, 2020 –** Prime Minister Trudeau asks for lockdown measures, under the **Federal Quarantine Act,** banning travel**.** On **March 18th, 2020** British Columbia declares its emergency under the ***Emergency Program Act [RSBC 1996] c. 111.***

85. **On March 19th, 2020** - The status of COVID-19 in the United Kingdom is downgraded. COVID-19 is no longer considered a high consequence infectious disease (HCID). The Advisory Committee on Dangerous Pathogens (ACDP) in the UK is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease). [9] [10]

86. **On March 20th, 2020,** documents in three (3) countries outline Government's policy on coronavirus was going to use applied psychology in order to ramp up

[9] https://www.gov.uk/topic/health-protection/infectious-diseases
[10] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/

fear in the population, in order to get the population to adhere more closely to the Government's policy over the response to Coronavirus.[11]

87. **On March 24th , 2020** - Global medical experts declared that efforts to contain the virus through self-isolation measures would negatively impact population immunity, maintain a high proportion of susceptible individuals in the population, prolong the outbreak putting more lives at risk, damage our economy and the mental stability and health of the more vulnerable. [12] [13]

88. **On March 24th, 2020** - Professor Peter Gotzche issues a statement - *"The coronavirus mass panic is not justified."*

89. On **March 24th, 2020 -** Bill Gates announces funding for a company that will blanket Earth with $1 billion in **video surveillance satellites.**

90. **On March 26th, 2020** Microsoft announces it is acquiring 'Affirmed Networks'' focused on 5-G and "edge" computing''.

91. On **March 26th, 2020 -** Dr. Fauci publishes an **editorial** in the *New England Journal of Medicine* stating that "the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza," with a case fatality rate of perhaps 0.1%.

92. On **March 30th, 2020,** Dr Michael J. Ryan, Executive Director of the Health Emergencies Programme at the World Health Organization publicly stated, during a press conference that:

[11] https://childrenshealthdefense.eu/eu-issues/brian-gerrishs-testimony-to-reiner-fullmich-our-oppressors-are-very-frightened-people/
[12] https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/
[13] https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

> "And at the moment in most parts of the world due to lock-down most of the transmission that's actually happening in many countries now is happening in the household at family level.
> In some senses transmission has been taken off the streets and pushed back into family units. Now we need to go and look in families to find those people who may be sick and remove them
> and isolate them in a safe and dignified manner".

93. **March 31, 2020**, Dr. Theresa Tam states that, "it is not clear that masks actually help prevent infections, and may increase the risk for those wearing them."

94. On **April 2nd, 2020** - Bill Gates states that a coronavirus vaccine "is the only thing that will allow us to return to normal."

95. **In April, 2020-** A review of the scientific literature conducted by Denis Rancourt, Ph.D., with regards to the use of masking, concluded there is **no** scientific evidence to substantiate the effectiveness of masking of the general public to prevent infection and transmission. [14]

96. **On April 6th, 2020** - German epidemiologist, Knut Wittkowski, releases a statement warning that artificially suppressing the virus among low risk people like school children may *"increase the number of new infections"* as it keeps the virus circulating much longer than it normally would. [15]

97. On **April 6th, 2020 -** Dr. Anthony Fauci states, "I hope we don't have so many people infected that we actually have **herd immunity."**

98. **On April 9th, 2020** - Canadian public health officials stated – "In a best-case scenario, Canada's total COVID-19 deaths can range from 11,000 to 22,000."

[14] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy
[15] Stand Up for Your Rights, says Bio-Statistician Knut M. Wittkowski. American Institute for Economic Research. April 6, 2020 https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/

And "In the bad scenarios, deaths go well over 300,000." (As of May 21, 2020, the total reported deaths from COVID 19 in Canada was 6,145.) The number of deaths attributed to COVID-19, is in line with typical yearly seasonal viral respiratory illness deaths in Canada. However, the Covid-death numbers are inflated based on the parameters dictated by the WHO to list a death as a Covid-death, namely anyone who has the Covid-19, at time of death ,regardless of whether another clear primary cause of death is evident apart from the simple presence of the covid-19 virus.

99. **On April 10th, 2020** - John Carpay, president of the Justice Centre for Constitutional Freedoms in Canada stated there is reason to conclude that the government's response to the virus is deadlier than the disease itself. [16]

100. On **April 15th, 2020 -** Bill Gates pledges another $150 million to coronavirus vaccine development and other measures. He states, "There are **seven billion** people on the planet. We are going to need to vaccinate nearly everyone."

101. **On April 18th, 2020,** US News reports corona virus tests are ineffective due to lab contamination at the EDC and the CDC's violation of its manufacturing standards.

102. On **April 24th, 2020 -** The Ontario government took the "extraordinary step" to release a database to police with a list of everyone who has tested positive for COVID-19 in the province.[17]

[16] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/
[17] https://toronto.ctvnews.ca/mobile/ontario-takes-extraordinary-step-to-give-police-list-of-all-covid-19-patients-1.4910950?fBritish Columbialid=IwAR10jfu_5OYq5BPZJKMyyqiN2P47dK_wbZzFMqC8WEpFxiIhEFt81cGnfqc

103. On **April 30th, 2020 -** Bill Gates writes that "the world will be able to go back to the way things were . . . when **almost every person on the planet** has been vaccinated against coronavirus." Gates also states that "Governments will need to expedite their usual drug approval processes in order to deliver the vaccine to over 7 billion people quickly."

104. **On May 5th, 2020,** Neil Ferguson resigns from the UK government's Scientific Advisory Group for Emergencies (SAGE) after flouting and breaking his own social distancing rules. **On May 6th, 2020**, an anonymous soft-ware engineer (ex-Google) pronounces Neil Ferguson's COVID-19 computer model "unusable for scientific purposes''. In fact, Ferguson's COVID-19 model has been a laughing-stock and debacle.

105. **On May 11th, 2020**, UK Chief Medical Officer Whitty states that COVID-19 is 'harmless' to the vast majority''.

106. **On May 14th, 2020**, Microsoft announces that it is acquiring UK-based 'Metaswitch Networks'', to expand its Azure 5-G strategy.

107. On **May 19th, 2020 -** Health Canada approves human trials of a SARS-CoV-2 (COVID-19) vaccine without clear evidence that prior animal testing to identify the potential risk of pathogenic priming (immune enhancement) has been conducted.

108. **On May 21st, 2020** - Four Canadian infectious disease experts, Neil Rau, Susan Richardson, Martha Fulford and Dominik Mertz state - "the virus is unlikely to

disappear from Canada or the world any time soon" and "It is unlikely that zero infections can be achieved for COVID-19." [18]

109. **By May 2020** - Over six million Canadians have applied for unemployment benefits and 7.8 million Canadians required emergency income support from the Federal government, [19] because of economic shut-downs and closures dictated by Covid-measures.

110. **By May, 2020** - Estimates of the Federal deficit resulting from their response to SARS-CoV-2 (COVID-19) ranges up to $400 billion. [20] (This exceeds the Canada's national budget for a year). By April 20th, 2021, according to the Federal Budget released, the national debt has climbed to $1.2 Trillion.

111. On **May 20th, 2020 -** Dr. Teresa Tam, Canada's Chief Medical Officer, publicly advised the use of non-medical masks for the general public to provide an *"added layer of protection"* that could help prevent asymptomatic or pre-symptomatic Covid-19 patients from unknowingly infecting others. Dr. Tam's advice is not supported by scientific evidence. [21]

112. Throughout the "pandemic" Bonnie Henry was on record saying masks do not work and was also part of the 2015 nurses arbitration as an expert witness, reporting the same.[22]

[18] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns
[19] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[20] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[21] https://www.politico.com/news/2020/05/20/canada-non-medical-masks-provinces-reopen-271008
[22] https://action4canada.com/masks/

113. **On May 21st, 2020** - A letter from Mark Lysyshyn, MD, Deputy Chief Medical Health Officer with Vancouver Coastal Health states – "Although children are often at increased risk for viral respiratory illnesses, that is not the case with COVID-19. Compared to adults, children are less likely to become infected with COVID-19, less likely to develop severe illness as a result of infection and less likely to transmit the infection to others." Dr. Lysyshyn further states – "Non-medical masks are not needed or recommended. Personal protective equipment such as medical masks and gloves are not recommended in the school environment." [23]

114. On **May 22nd, 2020** - Prime Minister Justin Trudeau told reporters that "contact tracing" needs to be ramped up across the county. Trudeau stated that he "strongly recommends" provinces use cell phone apps when they become available, and that this use would likely be mandated.

115. On or about **May 25th,2020**, the Federal government announced potential **Criminal Code** provisions, making it a criminal offence to publish "misinformation" about the COVID-19. "Misinformation" quickly evolves to mean as any opinion or statement, **even from recognized experts**, which contradicts or criticizes measures taken and/ or mandated by the WHO, to be implemented globally by national and regional governments.

[23] http://www.vch.ca/Documents/COVID-VCH-Schools-May-21-2020.pdf

116. **As of June 9th, 2020,** neither Prime Minister Trudeau, nor British Columbia Premier Horgan are willing, and in fact refusing to disclose what medical advice, and from whom, they are acting upon.

117. The Plaintiffs state and the fact is, that the Defendants and their officials, were stepping up compulsory face-masks in order to maintain a physical and visual tool to maintain panic, fear, and to enforce compliance of their baseless measures due to increasing public resistance, and of their groundless and false basis. The masks, further act as a visual and present symbol of intimidation and show of who is in power, and do not act to medically assist but to publicly muzzle, panic, instill fear, and exert compliance to irrational and ineffective COVID measures from the Plaintiffs and others. The Plaintiffs state and the fact is, that these measures were up-stepped after a Canadian survey was released that revealed, **inter alia**, that:

(a) 50% of Canadians did not believe Justin Trudeau was being honest about the COVID-Measures ;

(b) 16% of the Canadians believe that the COVID-Measures are being used to effect mandatory vaccination and contract tracing and other surveillance;

(c) 19% of the Canadians do not believe that COVID-19 is no more harmful then a common flu; and

(d) 7% of the Canadians believe that COVID-19 does not exist at all and is being mis-used as pretext for other, ulterior motives.

118. On **June 3rd, 2020** Federal Minister of Transport, Omar Alghabra, announced that face-masks are required by **all,** when taking public transportation in Canada whether by plane, train, ship, or transit.

119. Between **April 1st and June 15th, 2020** the Canadian Civil Liberties Association (CCLA) reports that approximately 10,000 Covid related charges were laid across Canada.

120. **On June 17th, 2020,** the Toronto Hospital for Sick Children, considered the world's Premier Children's hospital completed an advisory report, publicly released days later, to the Minister of Health and Education, with respect to recommendations for the re-opening of school in September, 2020. The report was prepared by two experts (in Virology) , upon the **contribution and review** of another **twenty (20)** experts as well as the "SickKids Family Advisory Networks". The 11-page report is resound and clear on the facts stat:

(a) Children are at extremely **low** risk when it comes to COVID-19;

(b) Schools should re-pen in a normal setting in September, 2020 in Ontario;

(c) That **no** mask should be worn by children because of no evidence of effectiveness and in fact masks pose a health risk for children;

(d) Social distancing should not be employed; and

(e) That masks and social distancing pose significant physical and psychological health risks to children.[24]

[24] "COVID-19: Recommendations for School Re-opening", Toronto Hospital for Sick Children, Report dated June 17th, 2020.

121. **On June 23rd, 2020**, the Justice Centre for Constitutional Freedoms calls for, in a 69-page report, an end to the lock-down measures based on an analysis of the lack of medical and scientific evidence for their imposition and the infliction of unwarranted and severe **Charter** violations.[25]

122. **On June 26th , 2020**, Sweden's COVID-19 expert, Anders Tegnell, blasted the WHO'S response to COVID-19 and states that the "world went crazy" and further stingingly criticized the WHO as "mis-interpreting data" in branding Sweden as one of eleven (11) countries who are seeing a "resurgence" in COVID-19 cases. The Plaintiff state, and the fact is, that Sweden was one of the few countries in the World who did **not** adopt, wholesale, the WHO protocol and in fact faired much better then the countries who did, including Canada, in that there was no economic shut-down in Sweden. Dr. Tegnell further stated that the lockdowns "fly in the face of what is known about handling virus pandemics.[26]

123. **On June 30th, 2020,** the Ontario Civil Liberties Association called for the extraordinary step, calling on the public to engage in "civil disobedience" of the masking By-Laws, based on the overwhelming scientific and medical evidence, that masks are ineffective and pose health risks.

[25] "Unprecedented and unjustified: a **Charter** Analysis of Ontario's Response to COVID-19" June 22nd, 2020.
[26] "Daily Mail Online", Daily Mail.com, June 26th, 2020

124. **As of June 23rd**, 2021 it has come to light that a Portugal court ruling revealed that only 0.9% of 'verified cases' died of COVID, numbering 152, not the 17,000 deaths that have been claimed[27]

125. Since the summer of 2020, to the present, the saturated criticism of the Covid measures, from the world scientific, medical and legal community has been overwhelming, with an avalanche of peer-reviewed studies that indicate that: lockdowns do not work; masks do not work; social distancing does not work. As well as Public Health Officers, including Bonnie HENRY, warning that the Covid-19 "vaccines" will **not** ensure immunity, will further not prevent re-transmission of the virus to and from the people vaccinated.

126. Meanwhile, from the summer of 2020, to the present, the avalanche of the preponderance of the scientific and medical evidence also clearly demonstrates that the harms, including the death-toll, from the measures themselves exponentially **far** out-numbers the harm and deaths from the virus.

127. The Plaintiffs state, and the fact is, that the lockdowns themselves, of schools and businesses, and to independent business, and that community is that their lockdowns are both unnecessary, ineffective, and wholesale destructive.

[27] https://americasfrontlinedoctors.org/frontlinenews/lisbon-court-rules-only-0-9-of-verified-cases-died-of-covid-numbering-152-not-17000-claimed/

- **B/ THE COVID-19 MEASURES**

- **Federal Measures**

128. On or about March 17th, 2020 Justin Trudeau announces a lock-down and invoked the following legislation with respect to "pandemic":

a) The **Federal Quarantine Act,** stipulating the lock-down of flights to Canada, and that Canadians returning to Canada, self-isolate and quarantine themselves for a 14- day period;

b) Various pieces of legislation setting out financial assistance for various persons and sectors.

Trudeau further and effectively shut down Parliament. Parliament has only "convened", sparingly, to pass spending measures, with an amputated, hand-picked, selection of 25 MPs, notwithstanding that technology such as "Zoom", exists to accommodate and convene the entire Parliamentary contingency of the 338 MPs, to date it has not happened. Parliamentary Communities rested in a legislative coma until April, 2020, where after some sit virtually.

129. Justin Trudeau held (holds) daily press conferences to "inform" Canadians, and further issues decrees and orders, such as "stay home", which decrees and fiats have no legal effect, notwithstanding, that they were acted upon by Municipal and Provincial enforcement officers, but at that no time has the Federal Parliament invoked the Federal **Emergencies Act .**

- **Provincial Measures**

130. In British Columbia, the government followed suit as set out below.

131. On **March 17, 2020**, Bonnie Henry issued a notice under purportedly the ***Public Health Act*** **(the *"PHA")*** that the transmission of the infectious agent SARS-CoV-2, had caused cases and outbreaks of an illness known as COVID-19 in British Columbia.

132. On March 18, 2020, the British Columbia Provincial Government declared a "state of emergency" under the ***Emergency Program Act [RSBC 1996] c.111***.

133. The declaration of a public health emergency further purports to empower Bonnie Henry (the Chief Provincial Health Officer), to issue verbal orders that had immediate effect.

134. The purported rationale for the emergency in the period between January 1st to March 31st, 2020, was that there were three (3) reported deaths attributed to the COVID-19 virus in Canada. Two (2) in Ontario, and one (1) in British Columbia.

135. In the following months, the mortality rate attributed to COVID-19 increased but was mainly concentrated in care home facilities, and especially those that were understaffed and without sufficient medical supplies, just like every other previous year where the elderly die, in similar numbers, from the complications of yearly influenza.

136. In its "emergency" response, the Provincial Government closed large sectors of the British Columbia economy: closing restaurants, fitness facilities, shopping centres, religious and other peaceful gatherings, issued travel bans, cancelled

medical treatments, as well as purported to prohibit constitutionally protected association and assembly for protests.

137. While hospitals prepared for an influx of COVID-19 patients, many medical procedures and operations were cancelled under the Provincial Government's directives. As a result, many died from cancelled surgeries and non-seeking of medical treatment. However, the high number of intensive care COVID-19 patients did not materialize. Most people infected with COVID-19 experienced mild to moderate influenza-like symptoms that dissipated quickly.

138. By **June 24, 2020**, the British Columbia Provincial Government and Public Health Officer's restrictions on non-essential travel, hotels, and film industries were lifted. By **September 2020**, on site, and in person instruction at public schools, was reintroduced, after having been locked down.

139. The authority to exercise emergency powers under Part 5 of the ***PHA*** purportedly ends when the Provincial Health Officer provides notice that the emergency has passed (s. 59(1)).

- **Orders of Provincial Health Officer Bonnie Henry**

140. The Provincial Health Officer has issued more than fifty (50) orders purportedly under the authority of Part 5 of the ***Public Health Act [SBC 2008] c. 28,*** including verbal orders (the "PHA Orders").

141. Most of the Provincial Health Officer's ***Public Health Act [SBC 2008] c. 28*** Orders do not reference the medical or scientific basis for issuing the order and do not satisfy the requirements of s. 52 of the ***Public Health Act [SBC 2008] c.***

28, and further constitute the constitutional violation of "dispensing with Parliament under the pretext of Royal Prerogative". In a word, Bonnie Henry is illegally and unconstitutionally acting and governing as if she were the Queen.

132. Order of the Provincial Health Officer, Bonnie Henry, was issued on February 5th, 2021.

133. Order of the Provincial Health Officer was issued on April 21st, 2021.

134. Order of the Provincial Health Officer dated June 30th, 2021.

134. In British Columbia, like elsewhere, the deaths caused by the **covid-measures themselves** far outnumber the deaths purportedly caused by Covid-19.

142. Despite the relatively low number of persons infected by COVID-19 in British Columbia, the Public Health Officer failed to provide notice that the emergency had passed and the Lieutenant Governor in Council continued to extend the emergency declaration under *EPA*, through a series of indefinite and unjustified extensions to the present day.

143. British Columbia is currently in the longest state of "emergency" in its history.

- **Ministerial Orders**

144. Furthermore, As of **June 17, 2020**, the British Columbia Provincial Government had issued thirty(30) orders under the authority of s. 10(1) of the ***Emergency Program Act [RSBC 1996] c.111,*** including orders that were later repealed and replaced. More orders have been issued since then. All of the orders issued

by the Minister contain provisions stating that they apply only for so long as the declaration of the state of emergency is in effect, which has, to date, been in perpetuity.

145. Most of the Provincial Government's orders do not reference a specific sub-paragraph under s. 10(1) but instead rely on the general provision in s. 10(1) that the Minister may "do all acts and implement all procedures necessary to prevent, respond to or alleviate the effects of any emergency or disaster.", without specifying the “effects” and how those “effects” justify the state of emergency.

146. The Plaintiffs state, and fact is, that reality is that either all or most of the Ministerial orders were not necessary to "prevent, respond or alleviate" any of the effects of COVID-19 to the population of British Columbia.

147. The Provincial Government also failed to establish legally binding conditions on the use of sub-delegated powers to suspend, waive or otherwise alter statutory provisions for the following Ministerial orders and subsequent orders replacing them:

a) Ministerial Order M083 which issued on March 26, 2020, after the initial declarationof a provincial state of emergency. This order applied to municipalities, regional districts and the City of Vancouver. Ministerial Order M083 was repealed and replaced by a new order on May 1, 2020, M139, subsequently in turn repealed and replaced by a new order, M192, on June 17, 2020.

b) M139, Local Government Meetings and Bylaw Process (COVID-19) Order No. 2,which repealed and replaced M083, Local Government Meetings and Bylaw Process (COVID-19) Order;

c) Ministerial Order M089, Residential Tenancy (COVID-19) Order, 30 March 2020.

d) Ministerial Order M179, Commercial Tenancy (COVID-19) Order, 29 May 2020;

e) Ministerial Order M416, Food Liquor premises, Gatherings and Events (COVID-19) Order No. 2;

f) Ministerial order M425 was issued on November 24th, 2020;

g) Ministerial Order M172 was issued on April 21st, 2021.

141. Indeed, the Ministerial Orders and ***Public Health Act [SBC 2008] c. 28*** Orders (collectively, the "orders") were and continue to be, inconsistent, contradictory, and contrary to reasonably established medical and scientific principles and research, and do not satisfy the requirements of s. 9 of the ***Emergency Program Act [RSBC 1996] c.111*** and s. 52 of the ***Public Health Act [SBC 2008] c. 28,*** including for, but not limited to, the following reasons:

(a) discouraging the public from wearing masks on the basis that they were ineffective;

(b) mandating that masks be worn in public places;

(c) closing in-house dining but permitting take-out;

(d) not mandating that cooks in public dining establishments wear maskswhile preparing food for take-out;

(e) allowing in-house dining for groups of the same household, that could sitnext to groups of different households;

(f) failing to enforce these orders;

(g) allowing shopping in large warehouse grocery and "big box" franchisessuch as Walmart, Costco, and others (the "Big Box Stores");

(h) prohibiting and interfering with religious gatherings contrary to s.176 of the ***Criminal Code***;

(i) prohibiting peaceful gatherings if unrelated to work contrary to constitutional rights as set out below in the within Notice;

(j) limiting shopping in shopping malls;

(k) prohibiting certain travel throughout British Columbia but allowing travelers from other provinces to travel within British Columbia;

(l) admitting that the limit on the size of gatherings is arbitrary and was never grounded in science.

142. The effects of these restrictions placed on the Plaintiffs and other British Columbians, have caused damage disproportionate to any threat posed by COVID-19, including but not limited to the following:

(a) Significant increase in overdose deaths. For example, approximately five people die per day in British Columbia due to an overdose, which is more than the number of people attributed to COVID-19 related deaths in British Columbia;

(b) Increase in suicide rates;

(c) Increase in depression and mental-health illness;

(d) Loss of gainful employment;

(e) Increase in domestic violence, including child battery;

(f) Increase in bankruptcies and foreclosures;

(g) Increase in divorces and deteriorations in personal relationships;

(h) Decrease in critical services for the homeless and low income;

(i) Increase in deaths due to medical treatments/surgeries being denies. 40% increase in cancer deaths forecasted as people were too fearful to see their physician to receive early diagnosis;

(j) Increase in insurance premiums;

(k) Such other effects as may be proved at trial.

143. The Plaintiffs state, and fact is, that placing this in perspective, in 2018, three-

hundred and fourteen (314) British Columbians died in motor vehicle incidents. In 2019, nine-hundred and eighty-four (984) people died from illicit drug use in British Columbia and in 2020, one-thousand, five-hundred and forty-eight (1,548) people died from illicit drug use.

144. In contrast, there were 678 deaths in British Columbia attributed to COVID-19 by the end of week 50 in 2020.

145. The Plaintiffs state, and fact is, that ten-fold times more people are dying from the Covid measures than from Covid-19 itself.

146. This kind of economic harm has impacted and will continue to impact British Columbians and all those who do business in British Columbia for decades by making British Columbian goods and services less competitive in the global marketplace.

147. The Plaintiffs, like many British Columbians, have experienced, and continue to experience, severe economic hardship as a result of the Orders.

148. Meanwhile the Provincial Government, the Provincial Health Officer, and her staff continue to enjoy economic security through salaries, other benefits, and pensions. All government salaries, other benefits, and pensions are at public expense and far less subject to market conditions than the millions of British Columbians' lack of economic security caused by the continued state of "emergency".

149. Neither the Provincial Government nor the Public Health Officer to-date have conducted a risk assessment to assess the likelihood and severity of the

negative consequences of the Orders, including those negative outcomes to economic, physical,emotional, and mental wellbeing mentioned but not limited to the Restriction Effects.

150. The net, summary effect, of the orders contained above are as follows:

(a) Ordering the shut-down of all business, except for ‘essential’’ businesses which were tied to food, medicine, doctors, and hospitals;

(b) A ‘social distancing’’ of two (2) meters;

(c) No ‘public gathering’’ of more than five (5) persons, who are un-related, with ‘social distancing’’ of two (2) meters, which was later increased to ten (10) persons;

(d) Restaurant and bar shut-downs, except for take-out service;

(e) The physical closure of all public and private schools, daycares, and universities;

(f) The mandatory use of face-masks, mandated by the Ministry of Health, to all the Medical Regulatory Medical Services Colleges, to direct all their licensed members to impose mandatory masking of all patients, employees, and members, in their place of work;

(g) The shut-down of all park amenities including all play-grounds and facilities for children;

(h) The elimination of one-on-one, and all other programs for special-needs children, and those suffering from neurological and physical disabilities;

(i) Banning all public gatherings over five (5) persons, notwithstanding a social distancing of two (2) meters, including the banning of religious services, including a restriction on marriages, funerals, and other religious actions and ritual and rites.

151. On May 21st, 2021, Dr. Bonnie Henry, and her department announced the availability of the Covid vaccines for twelve (12) to seventeen (17) year olds, without the need for their parents' consent, notwithstanding:

(a) That the Vaccines have NOT undergone required trial and safety protocols but were all made under and "emergency" basis;

(b) That there has NOT been a recorded death or life-threatening case of any twelve (12) to seventeen (17) year old in Canada;

(c) That twelve (12) to seventeen (17) year olds are not at risk of Covid-19;

(d) That, in the absence of informed consent, it constitutes medical experimentation and thus constituted a "crime against humanity" emanating from the Nuremberg trials, and principles following the medical experimentations by the Nazi regime and codified in Canada, as a Criminal act, pursuant to the ***War Crime and Crimes Against Humanity Act;***

(e) And that on June 5th, 2021 Dr. Joss Reimer, Medical Lead for the Manitoba Vaccine Implementation Task Force, in asserting that the various vaccines can be mixed, publicly declared that the Covid-19 vaccinations are a "big human experiment";

(f) That many twelve (12) to seventeen (17) year olds do not possess the intellectual capacity to give informed consent;

(g) And by doing so Dr. Bonnie Henry, and the Province of British Columbia are violating the s.7 ***Charter*** protected right of the parent-child relationship and in contempt and subversion of the "mature minor" doctrine of the ***Supreme Court of Canada***.

- **Reckless and Unlawful Statements and Actions of Leaders**

152. The Plaintiffs state, and the fact is, that Trudeau, and the other Co-Defendants reckless in their groundless, ignorant, and arrogant dictates, without legal basis, so as to cause and instill a general atmosphere of fear, panic and confusion. Such decrees by Trudeau, and others, including Henry, included, but are not restricted to the following:

(a) With respect to Prime Minister Justine Trudeau, he made the following (mis)statements, for example:

(i) Prime Minister Justin Trudeau told Canadians: "**People should be staying home, self-isolating with family."**[28]

[28] Retrieved at : https://ottawacitizen.com/news/local-news/covid-19-confirmed-cases-latest-news-and-other-developments-in-ottawa/

(ii) "**We've all seen the pictures of people online who seem to think they're invincible," Trudeau said. "Well, they're not. Go home and stay home."**[29]

(iii) Justin Trudeau has issued a stern warning to Canadians who ignore social distancing advice, telling citizens to "**go home and stay home!"** – and leaving open the possibility his government could take more extreme measures as the number of confirmed coronavirus cases continues to rise.[30]

(iv) "To all the kids out there, **who can't go on play dates** or on spring break vacation...I know this is a big change, but we have to do this for our grandparents and for the nurses and doctors in hospitals."[31]

(v) "So, to everyone**, stay at home,** and no matter what stay 2 meters apart, if you do have to go out. When it gets hard let's remember we are all in this together." (24:35) "…how important it is not just for ourselves, but for our loved ones and health care workers, for our seniors, **that we stay home,** that we stay 2 meters apart**,** as much as we can and that we continue to wash our hands regularly." (30:12)[32]

(vi) "I know it is tough to stay home, especially as the weather gets nicer. If you have kids, it is even tougher, but to get back outside and running around the playground and park as soon as possible, **you need to keep them inside for a little longer**. (10:22)[33]

(vii) "…but I can tell you that we know it is very difficult situation for Canadians. There are very challenging projections out there that will emphasize how important it is for all of us to do our part, **to stay home**, to keep ourselves safe, to keep our loved ones safe and get through this…"(42:26)[34]

(viii) More and more Canadians are avoiding public spaces. If your friends or family members are still going to parks and playgrounds, they are risking lives. Tell them to stop.[35]

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[29] Retrieved at: https://www.vice.com/en_ca/article/g5xng4/coronavirus-updates-canada-ottawa-and-justin-trudeau-may-jail-and-fine-people-to-keep-them-home
[30] Retrieved at: https://www.theguardian.com/world/2020/mar/23/justin-trudeau-canada-coronavirus-stay-home
[31] https://www.richmond-news.com/news/trudeau-dodges-covid-19-lockdown-appeals-1.24103564
[32] Retrieved at: https://www.youtube.com/watch?v=76iqxbZz4X8
[33] Retrieved at: \https://www.youtube.com/watch?v=A3GDk8uHv5A
[34] Retrieved at : https://www.youtube.com/watch?v=mfAa0vLItn8

[35] https://pbs.twimg.com/media/EVf0_maXkAE7qBg.jpg

(ix) On the topic of Asymptomatic viral shed contradiction puts to questions the merit of social distancing among healthy people: A reporter asks Mr. Trudeau, after his wife had been tested positive for coronavirus, what kind of advice he had received from medical doctors.

> "In terms of advice I have gotten from medical professionals, it was explained to me that **as long as I do not show any symptoms at all, there is no value in having me tested."** (15:30)A reporter asks about the possibility of transmission to other members of the cabinet,17:02 "According to Health Officials **the fact that I have expressed no symptoms means that anyone that I engaged with throughout this week has not been put at risk** (17:12)[36]

(b) While Trudeau made the above-noted comments and decrees, **without legal basis whatsoever**, and further contradicted actual Provincial laws, Trudeau, all the while breaks social distancing Provincial Laws by:

(i)On March 29, 2020 ; **Dr. Theresa Tam,** the **Chief Public Health Officer of Canada**:

"Urban dwellers/Cottagers should RESIST THE URGE to head to the cottage and rural properties as these communities have less capacity to manage COVID19."

(ii) On April 1st, 2020 the government of Quebec introduced strict **travel restrictions** across the province, including police checkpoints to prevent unnecessary travel in and out of Quebec.

[36] Retrieved at: https://www.youtube.com/watch?v=SjEgtT98jqk

(iii) Shortly after **calling on Canadians to "stay home"** and "Skype that big family dinner," Trudeau crossed the provincial border from Ottawa into Quebec on Easter Weekend to visit his wife and three children who had been living at their Harrington Lake cottage since **March 29** , 2020.[37]

(c) With respect to Premier Doug Ford of Ontario:

(i) Premier Ford tells business they can refuse customers that will not wear a mask.

> "Any business has the right to refuse anyone. That's their business," Ford said on a teleconference last week. Despite the fact that no mandatory masks order was in place, and contrary to the legal opinion of the Canadian Civil Liberties Association (CCLA);[38]

(ii) Ford tells people to stay away from their cottages but goes to visit his own cottage;[39]

(iii) Doug Ford has over his two daughters, and family, who each live in different households for a total of 6 – violating 5 person maximum orders.[40]

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[37] Retrieved at https://globalnews.ca/news/6815936/coronavirus-justin-trudeau-andrew-scheer-easter-travel/

[38] https://www.cambridgetimes.ca/news-story/9994798-doug-ford-says-businesses-can-refuse-anyone-not-wearing-a-mask-but-rights-watchdog-says-not-so-fast/?fBritish Columbialid=iwar2_ba_3eddfpm0shzqjpnht6fmhw0yjfualjugjrnxczcvi_70gfwodqla
https://www.inbrampton.com/no-mask-no-service-businesses-have-the-right-to-require-masks-on-customers?fBritish Columbialid=IwAR2UMCjwOtyIXU898j_EwlnBr1nuqiM7TJxJDs6ECz5tACPAHFMipGiHB7c

[39] https://toronto.citynews.ca/2020/05/08/ford-cottage-coronavirus/

[40] https://www.cbc.ca/news/canada/toronto/ford-physical-distancing-daughters-1.5564756

(d) With respect to Toronto Mayor John Tory:

(i) **On April 19, 2020:** numerous photos of social distancing violations during a parade to salute health care workers (pictured standing shoulder to shoulder down University Ave.)[41]

(ii) May 23: Here is Tory violating social distancing rules and modeling counterproductive mask use at Trinity Bellwoods park, where **thousands** had gathered;[42]

(e) With respect to Bonnie Henry, by imposing lock-down measures but exempting wine-tasting at wineries, because Henry owns a winery which begs the question: if you can stand and wine taste at her winery, why can you not taste at a bar?

(f) With respect to Jagmeet Singh,

(g) With respect to Jason Kenney,

(h) With respect to Mike Farnworth,

(i) With respect to John Horgan,

153. The Plaintiffs state, and the fact is, that the various leaders are fast and loose with ignoring their own rules, contrary to law, and ignoring the actual rules implemented, because they know the measures are false and ineffective and that the virus is no more dangerous than a seasonal viral respiratory illness. This further holds true for Neil Ferguson who put out the false modeling early on, in

[41] Retrieved from: https://www.cbc.ca/news/canada/toronto/toronto-salutes-health-care-workers-covid19-1.5537982
[42] retrieved at: https://www.cp24.com/video?clipId=1964623

March 2020, and who had to resign his post in the UK for breaching the Rules. Other examples of such reckless behaviour and statements include:

(a) British Columbia Premier John Horgan has made statements referring to British Columbia citizens as "selfish", telling those who hold a masking exemption to "Buy a Boat", as opposed to exercising their exemption to ride the BC Ferries. He has also used methods of guilt-tripping, and fear-mongering to encourage compliance above consent: "It does disappoint me that British Columbians are disregarding good advice," even making further threats to treat citizens in a matter akin to cattle: "The challenge is personal behaviour," he said, then added by way of warning: "We don't want to use a stick." And has also gaslighted women, "Pregnant **people** are now a priority population to get their vaccine. All Health Canada - approved vaccines are safe and effective, including for **people** who are pregnant.", and young people, who have been proven to exhibit the lowest risks for contracting deadly cases of Covid-19, "the cohort from 20 -29 was not paying attention to the Covid broadcasts," "Do not blow this for the rest of us".

(b) Public Safety Minister Mike Farnworth has been quoted making bigoted, threatening, and condescending statements toward British Columbia citizens.

"Shut up, grow up and mask up,"

"These irresponsible idiots need to look in the mirror,"

> "They are the problem and the sooner we get this curve bent down, the sooner we get COVID under control, then they can go back to their narcissistic self-indulgent ways - but until that time, they don't have the right to endanger the health of the public."

154. The Plaintiff states, and fact is, that Horgan has no clue, and is wholly unqualified, and has not, assessed the "well accepted science" and "advice", and same holds for Farnworth and TRUDEAU, all of whom simply follow one singular dogma from the WHO, while refusing to disclose the "science", its substance or source, and what "advice" is being given by whom to them all-the-while ignore vast pool of experts who state that the measures are **NOT** warranted;

(c) Andrew Scheer and family, Elizabeth May, and Liberal Cabinet Minister ignore social distancing orders:

> "Parliamentarians packed onto a small nine-seat government jet last week — ignoring pandemic health guidelines to maintain a distance of two meters from others — in their haste to reach Ottawa for a vote on federal emergency economic legislation that passed on Saturday. Green Party Leader Elizabeth May, who lives in British Columbia, boarded the Challenger jet along with Liberal British Columbia cabinet minister Carla Qualtrough, Conservative Opposition Leader Andrew Scheer, his wife and their five children last Friday — filling all seats on the aircraft."[43]

[43] Retrieved from: https://www.cbc.ca/news/politics/challenger-flight-may-scheer-qualtrough-1.5530542

(d) Dr. Bonnie Henry, British Columbia Provincial Health Officer allows gatherings of 50 and when challenged on conflicting figures from across Canada confirm "None of these are based on scientific evidence."[44]

(e) Dr. Yaffe: Ontario's Associate Chief Officer of Health Dr. Yaffe caught blatantly violating the social-distancing rules, just minutes after the premier said that based on public-health officials' advice we'll have to stay on lock-down for an indefinite period.[45] No such indefinite "lock-down" was mandated by any law.

(f) Dr. Bonnie Henry: Bonnie Henry was caught taking a helicopter trip, while unmasked over the 2021 Easter long weekend, in violation of her own mandates limiting intra-provincial travel over the holiday. Bonnie Henry also continued to allow wine tastings during the time period that provincial ministerial orders in British Columbia prohibited restaurants, bars, and pubs from allowing indoor dining. Bonnie Henry is a part-owner of the Clos du Soleil winery in Keremios, British Columbia.

155. 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'', and generate fear and confusion on the ground, not only with citizens, but further, and moreover, with enforcement officials who are pursuing,

[44] Retrieved at: https://www.1043thebreeze.ca/2020/04/01/British Columbia-not-budging-on-50-person-limit-restirction/
[45] https://twitter.com/RosemaryFreiTO/status/1254908247322083331

detaining, ticketing for perfectly legal conduct, because of the contradictory laws, and conduct of these public officials. All the while, their own personal conduct clearly manifests a knowledge that the 'pandemic'' is false, and the measures phony, designed and implemented for improper and ulterior purposes, at the behest of the WHO, controlled and directed by Billionaire, Corporate, and Organizational Global Oligarchs.

• C/ IGNORING AND FAILING TO ADDRESS MEDICAL EXPERTS' EVIDENCE

•The Nature of Viral Respiratory Illness (or Disease) and COVID-19

156. From the on-set of the declared emergency, and shortly thereafter up to the summer of 2020, experts such as Dr. Denis RANCOURT, Ph.D., set out that the scientific preponderance of the evidence which contradicted and criticized the measures invoked, as set out below, and the fact is that, as is borne out by vast preponderance of medical and scientific study, that regardless of the novel viral specification ("strain"), viral strains which lead to Seasonal Viral Respiratory Illness (Diseases) annually follow the same pattern, namely:

(a) That classifying causes of death by "influenza" or "influenza-related", or "pneumonia" is unhelpful and unreliable in the face of under-lying chronic diseases, particularly in the elderly (co-morbidity");

(b) That what is of more and central relevance is simply the total number of excess deaths during a viral strain season;

(c) That the year-to-year winter-burden (excess) mortality in mid- latitude nations is robustly regular, with respect to Seasonal Viral Respiratory illness due to the following:

(i) The absolute humidity which directly controls the impact of the transmission of airborne, pathogen-laden aerosol particle droplets;

(ii) In mid-latitude countries, on either side of the Equator, "Flu-season" emerges in the late fall-winter months, owing to the dry, humidity-free, air which allows the pathogen-laden aerosol particles to travel freely and effectively to infect and be transmitted from person to person which phenomenon occurs on both sides of the Equator, at different times on the calendar year, given the reversal of the seasons on the opposite sides of the Equator;

(iii) As the temperature rises, and humidity content in the air increases, the incident of transmission is reduced.[46] In tropical year-round hot climates this phenomenon is not generally in play. Nor is it at play in extreme cold climates towards both North and South Poles.

157. The Plaintiffs further state, and the fact is, as reflected in the scientific and medical literature that:

(a) The above means that all the viral respiratory diseases that seasonally plague temporal-climate populations every year are extremely contagious

[46] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.

for two reasons: (1) they are transmitted by small aerosol particles that are part of the fluid air and fill virtually all enclosed air spaces occupied by humans, and (2) a single such aerosol particle carries the minimal infective dose (MID) sufficient to cause infection in a person, if breathed into the lungs, where the infection is initiated.

(b) This is why the pattern of all-cause mortality is so robustly stable and distributed globally, if we admit that the majority of the burden is induced by viral respiratory diseases, while being relatively insensitive to the particular seasonal viral ecology for this operational class of viruses. This also explains why the pattern is inverted between the Northern and Southern hemispheres, irrespective of tourist and business air travel and so on.

(c) The data shows that there is a persistent and regular pattern of winter-burden mortality that is independent of the details, and that has a well constrained distribution of year to year number of excess deaths (approximately 8% to 11% of the total yearly mortality, in the USA, 1972 through 1993). Despite all the talk of epidemics and pandemics and novel viruses, the pattern is robustly constant.

(d) An anomaly worthy of panic, and of harmful global socio-economic engineering, would need to consist of a naturally caused yearly winter-burden mortality that is statistically greater than the norm. That has not occurred since the unique flu pandemic of 1918 (the “Spanish Influenza”).

Covid-19 is no exception and no more virulent than all others apart from the influenza pandemic of 1918.

(e) Scientific studies show that the three recent epidemics assigned as pandemics, the H2N2 pandemic of 1957, the H3N2 pandemic of 1968, and the H1N1 pandemic of 2009, were not more virulent (in terms of yearly winter-burden mortality) than the regular seasonal epidemics . In fact, scientific studies further show that the epidemic of 1951 was concluded to be more deadly, on the basis of P&I data, in England, Wales and Canada, than the pandemics of 1957 and 1968).[47]

- **Contrary Views of the Experts to WHO protocol**

158. The Plaintiffs further state that the COVID-19 measures have in fact accelerated, and caused more than would be normal deaths, and in the elderly population, which has accounted for 81% of the deaths with respect to COVID-19, mostly in Long-Term Care facilities.[48]

159. The Plaintiffs state and fact is that these Defendants, while purportedly relying on "advice" from their medical officers, are not transparent as to what the advice was, nor the scientific/ medical basis was, and in fact suppressing it. In fact, to date, they refuse to disclose where they are ultimately getting this 'advice'', and from whom, based on what medical evidence. The fact is that they are simply parroting the "advice" and dictates of the WHO without any scrutiny whatsoever,

[47] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.
[48] "All-Cause Mortality during COVID-19". Denis G. RANCOURT PhD., June 2nd, 2020, and all cited scientific and medical studies therein.

and without ever addressing nor recognizing Canadian and international experts who took, and continue to take, a contrary view and criticism of those directives from the WHO.

160. The Plaintiffs state that such experts include, early on, but are not restricted to:

(a) **Dr Sucharit Bhakdi**, a specialist in microbiology. He was a professor at the Johannes Gutenberg University in Mainz, Germany, and head of the Institute for Medical Microbiology and Hygiene and one of the most cited research scientists in German history.

(b) **Dr Wolfgang Wodarg**, a German physician specializing in Pulmonology, politician and former chairman of the Parliamentary Assembly of the Council of Europe. In 2009 he called for an inquiry into alleged conflicts of interest surrounding the EU response to the Swine Flu pandemic.

(c) **Dr Joel Kettner** , a professor of Community Health Sciences and Surgery at Manitoba University, former Chief Public Health Officer for Manitoba province and Medical Director of the International Centre for Infectious Diseases.

(d) **Dr John Ioannidis**, a Professor of Medicine, of Health Research and Policy and of Biomedical Data Science, at Stanford University School of Medicine and a Professor of Statistics at Stanford University School of Humanities and Sciences. He is director of the Stanford Prevention Research Center, and co-director of the Meta-Research Innovation Center at Stanford (METRICS).

(e) **Dr Yoram Lass**, an Israeli physician, politician and former Director General of the Health Ministry. He also worked as Associate Dean of the Tel Aviv University Medical School and during the 1980s presented the science-based television show Tatzpit.

(f) **Dr Pietro Vernazza** , a Swiss physician specializing in Infectious Diseases at the Cantonal Hospital St. Gallen and Professor of Health Policy.

(g) **Frank Ulrich Montgomery** ,a German radiologist, former President of the German Medical Association and Deputy Chairman of the World Medical Association.

(h) **Prof. Hendrik Streeck**, a German HIV researcher, epidemiologist and clinical trialist. He is professor of virology, and the director of the Institute of Virology and HIV Research, at Bonn University.

(i) **Dr Yanis Roussel et. al.** – A team of researchers from the Institut Hospitalo-universitaire Méditerranée Infection, Marseille and the Institut de Recherche pour le Développement, Assistance Publique-Hôpitaux de Marseille, conducting a peer-reviewed study on Coronavirus mortality for the government of France under the 'Investments for the Future' programme.

(j) **Dr. David Katz** , an American physician and founding director of the Yale University Prevention Research Center.

(k) **Michael T. Osterholm**, a regents professor and director of the Center for Infectious Disease Research and Policy at the University of Minnesota.

(l) **Dr Peter Goetzsche** , a Professor of Clinical Research Design and Analysis at the University of Copenhagen and founder of the Cochrane Medical Collaboration.[49]

And the Plaintiffs state, and fact is, that the above-noted experts are not alone in their contrary views and criticisms, but merely examples of a much bigger body of experts who take the same views, which contradict and criticize the WHO and current measures adopted by Canada and British Columbia.

161. These experts have expressed, early on, in summary, for example, the following opinions:

(a) By **Dr. Sucharit Bhakdi**:

> "[**that The government's anti-COVID19 measures] are grotesque, absurd and very dangerous […] The life expectancy of millions is being shortened.** The horrifying impact on the world economy threatens the existence of countless people. The consequences on medical care are profound. Already services to patients in need are reduced, operations cancelled, practices empty, hospital personnel dwindling. All this will impact profoundly on our whole society. All these measures are leading to self-destruction and collective suicide based on nothing but a spook."

[49] https://www.fort-russ.com/2020/03/coronavirus-skepticism-these-12-leading-medical-experts-contradict-the-official-government-media-narrative/
https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/?__cf_chl_jschl_tk__=337111ad6d6d902b24b4e099f5281c65e3e4b9f4-1585388282-0-Af0o_edKyUgbHvh1VcWNkl9pmmKmNDpIe3t8p8AzOfNSL3KMq2f_1tyTqyj4i1RIgmD_uDh8P8ulAs_zAhps_nKe8fMclO8scdWTV4Jf5xpZtzHt3Hg5mrz4twiZSnTJ3tojWZUi6Vu4pAcnuDnaZ4WVv7Da0oCcEh38A0GuO5trR0zZOfPrwpXW5P7QlRjcNju5ST6yX4Ev7A09GNLFQRibRI8X1HgEpCzf5fPIQtOchyiX9wWUG-oM4wIgZqVvKDyUdHNQO1ZpMAXQFtOaEb9VeapKfqawhowADQDFU00X9yL8VLExpR33YwWjprrD7_zYCdPsI6xlOAZ06Js3baIu9t35M7s2F9IrPgzUR0W5&fBritish Columbialid=IwAR0ZWy2bg8_Hioqtuj-5xuOP8zKS-ds2-OqPxNL3MArzYJbwwEhrKImvnkA

(b) By **Dr Wolfgang Wodarg** that:

> "what is missing right now is a rational way of looking at things. We should be asking questions like "How did you find out this virus was dangerous?", "How was it before?", "Didn't we have the same thing last year?", "Is it even something new?" That's missing."

(c) By **Dr Joel Kettner** that:

> "I have never seen anything like this. I'm not talking about the pandemic, because I've seen 30 of them, one every year. It is called influenza. And other respiratory illness viruses, we don't always know what they are. But I've never seen this reaction, and I'm trying to understand why. . . I worry about the message to the public, about the fear of coming into contact with people, being in the same space as people, shaking their hands, having meetings with people. I worry about many, many consequences related to that. . . In Hubei, in the province of Hubei, where there has been the most cases and deaths by far, the actual number of cases reported is 1 per 1000 people and the actual rate of deaths reported is 1 per 20,000. So maybe that would help to put things into perspective."

(d) **By Dr John Ioannidis** that:

> "Patients who have been tested for SARS-CoV-2 are disproportionately those with severe symptoms and bad outcomes. As most health systems have limited testing capacity, selection bias may even worsen in the near future. . . The one situation where an entire, closed population was tested was the Diamond Princess cruise ship and its quarantine passengers. The **case fatality rate there was 1.0%,** but this was a largely elderly population, in which the death rate from Covid-19 is much higher. . . .Could the Covid-19 case fatality rate be that low? No, some say, pointing to the high rate in elderly people. However, even some so-called mild or common-cold-type coronaviruses that have been known for decades can have case fatality rates as high as 8% when they infect elderly people in nursing homes. If we had not known about a new virus out there, and had not checked individuals with PCR tests, the number of total deaths due to

> "influenza-like illness" would not seem unusual this year. At most, we might have casually noted that flu this season seems to be a bit worse than average. . . ."A fiasco in the making? As the coronavirus pandemic takes hold, we are making decisions without reliable data", *Stat News*, 17th March 2020."

(e) **By Dr Yoram Lass** that:

> "Italy is known for its enormous morbidity in respiratory problems, more than three times any other European country. In the US about 40,000 people die in a regular flu season. . . .In every country, more people die from regular flu compared with we all forget: the swine flu in 2009. That was a virus that reached the world from Mexico and until today there is no vaccination against it. But what? At that time there was no Facebook or there maybe was but it was still in its infancy. The coronavirus, in contrast, is a virus with public relations. . . .Whoever thinks that governments end viruses is wrong. – Interview in *Globes*, March 22nd 2020."

(f) **By Dr Pietro Vernazza** that:

> "We have reliable figures from Italy and a work by epidemiologists, which has been published in the renowned science journal ‹Science›, which examined the spread in China. This makes it clear that around 85 percent of all infections have occurred without anyone noticing the infection. 90 percent of the deceased patients are verifiably over 70 years old, 50 percent over 80 years. . . .In Italy, one in ten people diagnosed die, according to the findings of the *Science* publication, that is statistically one of every 1,000 people infected. Each individual case is tragic, but often – similar to the flu season – it affects people who are at the end of their lives. . . . **If we close the schools, we will prevent the children from quickly becoming immune.** . . .**We should better integrate the scientific facts into the political decisions**. – Interview in *St. Galler Tagblatt*, 22nd March 2020 ."

(g) **By Frank Ulrich Montgomery** that:

> "I'm not a fan of lockdown. Anyone who imposes something like this must also say when and how to pick it up again. Since we have

> to assume that the virus will be with us for a long time, I wonder when we will return to normal? You can't keep schools and daycare centers closed until the end of the year. Because it will take at least that long until we have a vaccine. Italy has imposed a lockdown and has the opposite effect. They quickly reached their capacity limits, but did not slow down the virus spread within the lockdown. – Interview in *General Anzeiger*, 18th March 2020."

(h) **By Prof. Hendrik Streeck** that:

> "The new pathogen is not that dangerous, it is even less dangerous than Sars-1. The special thing is that Sars-CoV-2 replicates in the upper throat area and is therefore much more infectious because the virus jumps from throat to throat, so to speak. But that is also an advantage: Because Sars-1 replicates in the deep lungs, it is not so infectious, but it definitely gets on the lungs, which makes it more dangerous. . . .You also have to take into account that the Sars-CoV-2 deaths in Germany were exclusively old people. In Heinsberg, for example, a 78-year-old man with previous illnesses died of heart failure, and that without Sars-2 lung involvement. Since he was infected, he naturally appears in the Covid 19 statistics. But the question is whether he would not have died anyway, even without Sars-2. – Interview in *Frankfurter Allgemeine*, 16th March 2020".

(i) **By Dr Yanis Roussel** et. al. that:

> "The problem of SARS-CoV-2 is probably overestimated, as 2.6 million people die of respiratory infections each year compared with less than 4000 deaths for SARS-CoV-2 at the time of writing. . . .This study compared the mortality rate of SARS-CoV-2 in OECD countries (1.3%) with the mortality rate of common coronaviruses identified in AP-HM patients (0.8%) from 1 January 2013 to 2 March 2020. Chi-squared test was performed, and the P-value was 0.11 (not significant).…it should be noted that systematic studies of other coronaviruses (but not yet for SARS-CoV-2) have found that the percentage of asymptomatic carriers is equal to or even higher than the percentage of symptomatic patients. The same data for SARS-CoV-2 may soon be available, which will further reduce the relative risk associated with this specific pathology. – "SARS-CoV-2: fear versus data", *International Journal of Antimicrobial Agents*, 19th March 2020."

(j) **By Dr. David Katz** that:

> "I am deeply concerned that the social, economic and public health consequences of this near-total meltdown of normal life — schools and businesses closed, gatherings banned — **will be long-lasting and calamitous, possibly graver than the direct toll of the virus itself**. The stock market will bounce back in time, but many businesses never will. The unemployment, impoverishment and despair likely to result will be public health scourges of the first order. – "Is Our Fight Against Coronavirus Worse Than the Disease?", *New York Times* 20th March 2020."

(k) **By Michael T. Osterholm** that:

> "Consider the effect of shutting down offices, schools, transportation systems, restaurants, hotels, stores, theaters, concert halls, sporting events and other venues indefinitely and leaving all of their workers unemployed and on the public dole. The likely result would be not just a depression but a complete economic breakdown, with countless permanently lost jobs, long before a vaccine is ready or natural immunity takes hold. . . [T]he best alternative will probably **entail letting those at low risk for serious disease continue to work, keep business and manufacturing operating**, and "run" society, while at the same time advising higher-risk individuals to protect themselves through physical distancing and ramping up our health-care capacity as aggressively as possible. With this battle plan, we could gradually build up immunity without destroying the financial structure on which our lives are based.
> – "Facing covid-19 reality: A national lockdown is no"
>
> cure", *Washington Post* 21st March 2020

(l) **By Dr Peter Goetzsche** that:

> "Our main problem is that no one will ever get in trouble for measures that are too draconian. They will only get in trouble if they do too little. So, our politicians and those working with public health do much more than they should do. . . .No such draconian measures were applied during the 2009 influenza pandemic, and they obviously cannot be applied every winter, which is all year

> round, as it is always winter somewhere. We cannot close down the whole world permanently. . . .Should it turn out that the epidemic wanes before long, there will be a queue of people wanting to take credit for this. And we can be damned sure draconian measures will be applied again next time. But remember the joke about tigers. "Why do you blow the horn?" "To keep the tigers away." "But there are no tigers here." "There you see!"[50] "Corona: an epidemic of mass panic", blog post on *Deadly Medicines* 21st March 2020

162. Expert criticism has also been levelled by Canadian experts, including:

(a) **By Dr Denis Rancourt, Ph.D.,** expert in public health and Researcher,

In stating that:

> "Federal and provincial Canadian government responses to and communications about COVID-19 have been irresponsible.""The approach being followed by governments is reckless.""Justification for the early panic-response is not corroborated.""Faith in epidemic-modelling of catastrophe-scenarios and mitigation strategies is not justified."[51]

(b) **Dr. Richard Schabas,** Ontario's former Chief Medical Officer who is of

the opinion that:

- "We have **fundamentally over-reacted and misjudged the magnitude of the problem**."
- "lockdown measures are unsustainable"
- "the virus isn't going anywhere"
- "In no country, including Italy, has the death toll come anywhere close to what we would expect in an average influenza year." (CBC News, March 22, 2020)[52]

[50] Another 10 experts have been added to this link. Total is 22 experts.
https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

[51] http://ocla.ca/wp-content/uploads/2014/01/OCLA-Report-2020-1-Criticism-of-Government-Response-to-COVID19.pdf

[52] https://www.youtube.com/watch?v=sm9alyH8x
https://ca.news.yahoo.com/virus-isnt-going-anywhere-says-121720522.html

(c) Based on Dr. Richard Schabas' study of SARS and quarantine[53] Schabas states:

> "far more cases are out there than are being reported. This is because many cases have no symptoms and testing capacity has been limited. There have been about 100,000 cases reported to date, but, if we extrapolate from the number of reported deaths and **a presumed case-fatality rate of 0.5 per cent**, the real number is probably closer to two million – the vast majority mild or asymptomatic."
>
> " **the number of deaths was comparable to an average influenza season**. That's not nothing, but it's not catastrophic, either, and it isn't likely to overwhelm a competent health-care system. Not even close." "Quarantine belongs back in the Middle Ages. Save your masks for robbing banks. Stay calm and carry on. **Let's not make our attempted cures worse than the disease**."[54]

(d) **Dr Joel Kettner** - former Chief Public Health Officer for Manitoba province; professor of Community Health Sciences and Surgery at Manitoba University; Medical Director of the International Centre for Infectious Diseases. In a phone interview on CBC Radio he stated:

> "in 30 years of public health medicine **I have never seen anything like this**, anything anywhere near like this. I'm not talking about the pandemic, because I've seen 30 of them, one every year. It is called influenza. . . . But I've never seen this reaction, and I'm trying to understand why.
>
> . . . **the data they are getting is incomplete to really make sense of the size of the threat**. We are getting very crude numbers of cases and deaths, very little information about testing rates, contagious analysis, severity rates, who is being hospitalised, who is in intensive care, who is dying, what are the definitions to decide

[53] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2094974/

[54] https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-register-as-a-dire/

> if someone died of the coronavirus or just died with the coronavirus. There is so much important data that is very hard to get to guide the decisions on how serious a threat this is.
>
> The other part is **we actually do not have that much good evidence for the social distancing** methods. It was just a couple of review in the CDC emerging infectious disease journal, which showed that although some of them might work, we really don't know to what degree and the evidence is pretty weak.
> The third part is the pressure that is being put on public health doctors and public health leaders. And that **pressure is coming from various places**. The first place it came from was the Director-General of the World Health Organization (WHO) when he said *"This is a grave threat and a public enemy number one"*, I have never heard a Director-General of WHO use terms like that."[55]

163. Other pointed criticism and opposite views, early on, included:

(a) **Stanford University Team**—to the effect that the Evidence of Covid 19 mortality rate is low;[56]

(b) **By Thomas Stavola**, Rutgers University Law School Relaxation of Lockdown via Quarantine of Symptomatics and Digital Contact Tracing, Experts Agree, indicating that:

> **"**The latest scientific data indicates that mild and asymptomatic prevalence is much higher than previously thought, thus, **the true fatality rate is closer to 0.4%**, or possibly even lower. While SARS-CoV-2 can be severe in very small subset, these values indicate that the population-based severity burden is much lower

[55] https://off-guardian.org/2020/03/17/listen-cbc-radio-cuts-off-expert-when-he-questions-covid19-narrative/?__cf_chl_jschl_tk__=d3faf8dfba5018289da87f791a612c2495a7f86d-1585163840-0-AcjXr346mVjSnluV8YDpGpd_VknFDStnK_liia4dphot9-E3ukKrgN7snq4BA4LggYPkDzLCQ8JXC7G-hqZtf0BZ0LIgFi5mB5Wv34UJsPHJy6UbROLM35V1nV98oiPR7t8pfCOhZ75WWrgS4NCn6vwzBMXALZw0UMU32u_sijPnsW53IpHqSEyCnDdx9dfpJokTen28kaf0ls4UoNQMtfCxCbBpmxmdeFwYj6XWo-XQXWC4rA57a_cbcLR54bfmC1imS1vPBIsHHqIjjCg5N2joQ9spQJUCbF80INdWsmat8SOzIb2pDrtNdA9dCUd62LRszCWgTBrVxRFu7zjPABr3Jj0hvjtLIkniXq3AnMs1lCU0rIhPAGzHmXAsEvsRUw

[56] https://www.greenmedinfo.com/blog/stanford-team-finds-evidence-covid-19-mortality-rate-low-2-17-times-lower-whos-esta?utm_campaign=Daily%20Newsletter%3A%20Personal%20update%20%28VVNwqr%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpBritish ColumbiaI6ICJqb2huZnJvbW91dHdlc3RAZ21haWwuY29tIiwgImtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

> than initially considered months ago. Studies indicate that asymptomatic transmission is negligible[1]. Maria Van Kerkhove, who heads the World Health Organization's emerging diseases and zoonoses unit, stated that asymptomatic cases are definitely not a major driver of transmission."[57]

(c) **By Knut Wittkowski** - German epidemiologist. **Mass Isolation Preventing Herd Immunity** , and conluding that:

> "The lockdown prevents the normal progression of natural immunity that is key to protecting the wellbeing of the most vulnerable. The extended lockdown will increase the harm already done many fold including deaths.
>
> Dr. Wittkowski said we must protect and quarantine the frail, sick and very elderly 10% of our population, while allowing the other 90% to acquire the virus with mild to no symptoms, thereby gaining true NATURAL herd immunity. He estimated this to be a 4 week process.
>
> When people are allowed to go about their daily lives in a community setting, he argued, the elderly could eventually – sooner rather than later – come into contact with the rest of the population in "about four weeks" because the virus at this point would be "vanquished."
>
> ***"With all respiratory diseases, the only thing that stops the disease is 'herd immunity,'"*** [58]

(d) **By Martin Dubravec, MD -** Allergist/Clinical Immunologist Allergy and Asthma Specialists of Cadillac Cadillac, MI, conducting that:**The Answer is Herd Immunity[59];**

[57] https://medium.com/@tomstavola/latest-science-on-covid-19-and-digital-contract-tracing-f58ee55b3b9b

[58] https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/?fBritish Columbialid=IwAR2ZuYv6CbcsjiIn2UJHXOk84KOjbSOWoxceTSiaNZdl_eZuhadppi25PnE https://ratical.org/PerspectivesOnPandemic-II.html

[59] https://aapsonline.org/coronavirus-covid-19-public-health-apocalypse-or-anti-american/

(e) **By Dr. Dubravec's** whose advice on how to end this epidemic is:

> "What can be done to end this epidemic? **The answer is herd immunity**. Let those who will not die nor become seriously ill from the disease get infected and immune to the disease. Don't close schools – open them up! Don't close universities – reopen them! Let those under the age of 65 with no significant health problems go to work. Their risk of death is very close to zero. They become the wall that stops the virus.
>
> **Our current strategy of isolating these healthy people from the virus: a. is not working** – the virus is still spreading and b. for those who theoretically may be shielded from the virus, they will get exposed later. **Our current strategy is actually leading to a prolonged COVID-19 season!** Herd immunity works and despite our current efforts to mess it up**, herd immunity will be the ultimate reason the virus dies down**. We should promote the concept, not try to stop it. Unlike the influenza epidemics of the past, this virus is not attacking young people. We can use herd immunity to our collective advantage."
>
> **The bottom line is that herd immunity is what will stop the virus from spreading. Not containment. Not a vaccine. Not staying locked in our homes.** It's time we had an honest conversation on how to move beyond containment.

(f) By **Professor Peter C. Gøtzsche** that: "The Coronavirus mass panic is not justified."[60]

(g) By the Wall Street Journal in "Rethinking the Coronavirus Shutdown", that:

> No society can safeguard public health for long at the cost of its economic health.[61]

[60] https://www.deadlymedicines.dk/wp-content/uploads/G%C3%B8tzsche-The-Coronavirus-mass-panic-is-not-justified.pdf
[61] https://www.wsj.com/articles/rethinking-the-coronavirus-shutdown-11584659154

(h) **By the Professor Yitzhak Ben Israel** of Tel Aviv University, who plotted the rates of new coronavirus infections of the U.S., U.K., Sweden, Italy, Israel, Switzerland, France, Germany, and Spain, concluding that:

> "The numbers told a shocking story: irrespective of whether the country quarantined like Israel, or went about business as usual like Sweden, **coronavirus peaked and subsided in the exact same way**. The professor believes this evidence - **actual evidence and data, not the projections of some model - indicate that there is no need for either quarantines or economic closures."**[62]

(i) **By Professor Stefano Montanari** that: "The Virus Vaccine is a Scam"[63];

(j) **By Virologist Hendrick Streeck** that: "There is no danger of infecting someone else while shopping"[64];

(k) **By:**

(i) **Sucharit Bakhdi:**[65]

(ii) **John Ioannidis, Stanford:**[66]

(iii) **John Lee:**[67]

(iv) **Perspectives on the Pandemic | Professor Knut Wittkowski | Episode 2.**[68]

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[62] https://www.afa.net/the-stand/culture/2020/04/shutdowns-were-pointless-all-along/#.XpnwkkhQ_ZA.facebook

[63] https://europeansworldwide.wordpress.com/2020/04/02/the-virus-vaccine-is-a-scam/

[64] https://www.zuercher-presse.com/virologe-hendrick-streeck-gibt-keine-gefahr-beim-einkaufen-jemand-anderen-zu-infizieren/?cn-reloaded=1

[65] https://www.youtube.com/watch?v=JBB9bA-gXL4&fBritish Columbialid=IwAR1XMZJdTEpe-9woCk7YlMd5WShxUms_loYZYLKVBR8CQICkG-VjD63Z5SY

[66] https://www.youtube.com/watch?v=d6MZy-2fcBw&fBritish Columbialid=IwAR1LCsQoUVv3dmZzn_2UwzI85XgFofld0tnn8iSMTMAODv5N9_Dwsi7f3K4

[67] https://www.spectator.co.uk/article/how-to-understand-and-report-figures-for-covid-19-deaths-/amp

[68] https://www.youtube.com/watch?v=lGC5sGdz4kg

(v) "Medical Doctor Blows C Vi Rus Scamdemic Wide Open"

Andrew Kaufman M D in (Nederlands ondertiteld);[69]

All indicating that the "pandemic" is **not** a pandemic and the modeling and measures unwarranted;

(l) **French researchers**: in COVID FEAR vs. DATA :

> "Under these [first world] conditions, there does not seem to be a significant difference between the mortality rate of SARS-CoV-2 in OECD countries and that of common coronaviruses " which are responsible for 10 to 20 percent of all respiratory infections, including colds, worldwide."[70]

(m) In: Coronavirus COVID-19: Public Health Apocalypse or Panic, Hoax, and Anti-American?[71];

(n) In: Stanford doctor says Fauci doesn't have the evidence to back up his claims;[72]

(o) In: Questioning Conventional Wisdom in the COVID-19 Crisis, with **Dr. Jay Bhattacharya**;[73]

(p) **By Dr M. I. Adil**, Corona Virus is a Hoax;[74]

(q) In Resp therapist blowing the whistle on covid -19.[75]

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[69] https://www.youtube.com/watch?v=S8JBg9H725E

[70] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7102597/?fBritish Columbialid=IwAR29vpTe-Dk-_xoVzVRbuAgVhil1k0DcZkGqyYsak6lC-OByjZcBRP6cyjc

[71] https://aapsonline.org/cornoavirus-covid-19-public-health-apocalypse-or-panic-hoax-and-anti-american/

[72] https://www.youtube.com/watch?v=-UO3Wd5urg0

[73] https://www.youtube.com/watch?v=J04YzligPyU

[74] https://www.youtube.com/watch?v=y9WeIOX1UuQ&feature=youtu.be

[75] https://www.youtube.com/watch?v=R0aDAM5LzWA

164. Since the summer of 2020, to the present, the avalanche of the world "scientific" evidence and community of scientists and doctors continues to scream, which falls upon the deaf ears of the Defendants, that:

(a) Masks do **not** work to prevent the transmission of aerosol, airborne virus, in that:

(i) masks do not slow or stop the spread of viruses;[76]

(ii) in fact, masks may help viruses spread;[77]

(iii) most robust studies have found little to no evidence for the effectiveness of cloth face masks in the general population;[78]

(iv) when masks (especially cloth masks) are worn improperly and over extended periods they can actually cause disease and other serious health issues;[79]

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[76] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7707213/
https://www.aier.org/article/masking-children-tragic-unscientific-and-damaging/
https://www.aier.org/article/masking-a-careful-review-of-the-evidence/
https://www.aier.org/article/the-year-of-disguises/
https://www.smh.com.au/national/farce-mask-its-safe-for-only-20-minutes-20030427-gdgnyo.html
https://wwwnc.cdc.gov/eid/article/26/5/19-0994_article
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7707213/pdf/aim-olf-M206817.pdf

[77] https://eurjmedres.biomedcentral.com/articles/10.1186/s40001-020-00430-5

[78] https://wwwnc.cdc.gov/eid/article/26/5/19-0994_article
https://www.cebm.net/covid-19/masking-lack-of-evidence-with-politics/
https://www.cidrap.umn.edu/news-perspective/2020/04/commentary-masks-all-covid-19-not-based-sound-data
https://www.nejm.org/doi/full/10.1056/NEJMp2006372
https://www.medrxiv.org/content/10.1101/2020.03.30.20047217v2
https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1
http://www.asahi.com/ajw/articles/13523664
https://bmjopen.bmj.com/content/5/4/e006577
https://www.nejm.org/doi/full/10.1056/NEJMp2006372

[79] https://www.technocracy.news/blaylock-face-masks-pose-serious-risks-to-the-healthy/

(v) breathing in the microscopic particles from synthetic masks can cause health problems including cancer similar to asbestos. Some masks have been recalled because they have been found to contain toxic materials dangerous to lungs;[80]

(vi) masks use leads to dry and irritated eyes, rashes, nosebleeds, pneumonia and other bacterial infections, damages to ear cartilages;[81]

(vii) Masks cause a rapid buildup of CO2 to levels, which are deemed unsafe by OSHA.[82]

(b) That "lock-downs" do not work, and in fact cause irreparable, devastating harm:

(i) a French study of 160 countries found no association between stringency of government lockdowns/restrictions and Covid-19 mortality;[83]

(ii) a peer-reviewed study, dated January 5, 2021 by eminent Stanford professors of medicine, infectious disease epidemiology and public health stated that the evidence:

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https://apps.who.int/iris/bitstream/handle/10665/332293/WHO-2019-nCov-IPC_Masks-2020.4-eng.pdf?sequence=1&isAllowed=y
https://bmjopen.bmj.com/content/5/4/e006577

[80] https://www.ecotextile.com/2021040127603/dyes-chemicals-news/exclusive-chemical-cocktail-found-in-face-masks.html
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7537728/
https://www.science.news/2021-01-15-long-term-mask-use-breeds-microbes-lung-cancer.html
[81] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7362770/
https://link.springer.com/article/10.1007/s00266-020-01833-9
[82] https://ohsonline.com/Articles/2016/04/01/Carbon-Dioxide-Detection-and-Indoor-Air-Quality-Control.aspx?Page=2
[83] https://www.frontiersin.org/articles/10.3389/fpubh.2020.604339/full

> "fails to find strong evidence supporting a role for more restrictive NPIs (Non-Pharmaceutical Interventions, such as lock downs) in control of Covid-19… We fail to find an additional benefit for stay-at-home orders and business closures";[84]

(iii) another medical research paper states:

> "This phenomenological study assesses the impacts of full lockdown strategies applied in Italy, France, Spain and United Kingdom, on the slowdown of the 2020 COVID-19 outbreak. Comparing the trajectory of the epidemic before and after the lockdown, **we find no evidence of any discontinuity in the growth rate, doubling time, and reproduction number trends"; [85]**

(iv) a New Zealand study found that government mandated lockdowns did not reduce Covid-19 deaths; [86]

(v) another medical research paper states:

> "closure of education facilities, prohibiting mass gatherings and closure of some non-essential businesses were associated with reduced incidence **whereas stay at home orders and closure of all non-businesses was not associated with any independent additional impact**."[87]

(vi) the Great Barrington Declaration signed thus far by 13,985 medical & public health scientists, 42,531medical practitioners states:

> "As infectious disease epidemiologists and public health scientists we have grave concerns about the damaging physical and mental health impacts of the prevailing COVID-19 policies, and recommend an approach we call Focused Protection
>
> Coming from both the left and right, and around the world, we have devoted our careers to protecting people. **Current**

[84] https://onlinelibrary.wiley.com/doi/10.1111/eci.13484
[85] https://www.medrxiv.org/content/10.1101/2020.04.24.20078717v1
[86] https://www.tandfonline.com/doi/full/10.1080/00779954.2020.1844786
[87] https://arxiv.org/pdf/2005.02090.pdf

lockdown policies are producing devastating effects on short and long-term public health. The results (to name a few) include lower childhood vaccination rates, worsening cardiovascular disease outcomes, fewer cancer screenings and deteriorating mental health – leading to greater excess mortality in years to come, with the working class and younger members of society carrying the heaviest burden. Keeping students out of school is a grave injustice.

Keeping these measures in place until a vaccine is available will cause irreparable damage, with the underprivileged disproportionately harmed.

Fortunately, our understanding of the virus is growing. We know that vulnerability to death from COVID-19 is more than a thousand-fold higher in the old and infirm than the young. Indeed, for children, COVID-19 is less dangerous than many other harms, including influenza.

As immunity builds in the population, the risk of infection to all – including the vulnerable – falls. We know that all populations will eventually reach herd immunity – i.e. the point at which the rate of new infections is stable – and that this can be assisted by (but is not dependent upon) a vaccine. Our goal should therefore be to minimize mortality and social harm until we reach herd immunity.

The most compassionate approach that balances the risks and benefits of reaching herd immunity, is to allow those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk. We call this Focused Protection.

Adopting measures to protect the vulnerable should be the central aim of public health responses to COVID-19. By way of example, nursing homes should use staff with acquired immunity and perform frequent PCR testing of other staff and all visitors. Staff rotation should be minimized. Retired people living at home should have groceries and other essentials delivered to their home. When possible, they should meet family members outside rather than inside. A comprehensive and detailed list of measures, including approaches to multi-generational

> households, can be implemented, and is well within the scope and capability of public health professionals.
>
> Those who are not vulnerable should immediately be allowed to resume life as normal. Simple hygiene measures, such as hand washing and staying home when sick should be practiced by everyone to reduce the herd immunity threshold. Schools and universities should be open for in-person teaching. Extracurricular activities, such as sports, should be resumed. Young low-risk adults should work normally, rather than from home. Restaurants and other businesses should open. Arts, music, sport and other cultural activities should resume. People who are more at risk may participate if they wish, while society as a whole enjoys the protection conferred upon the vulnerable by those who have built up herd immunity."

This Declaration was authored and signed in Great Barrington, United States, on October 4, 2020, by: **Dr. Martin Kulldorff,** professor of medicine at Harvard University, a biostatistician, and epidemiologist with expertise in detecting and monitoring infectious disease outbreaks and vaccine safety evaluations; **Dr. Sunetra Gupta**, professor at Oxford University, an epidemiologist with expertise in immunology, vaccine development, and mathematical modeling of infectious diseases; **Dr. Jay Bhattacharya,** professor at Stanford University Medical School, a physician, epidemiologist, health economist, and public health policy expert focusing on infectious diseases and vulnerable populations;[88]

[88] https://gbdeclaration.org

(vii) neither the long-established pandemic preparedness reports for Canada nor the World Health Organization included lockdowns as an evidence-based non-pharmaceutical measure in response to a pandemic[89];

(viii) the research study, "Effect of school closures on mortality from coronavirus disease 2019: old and new predictions" concluded:

> "We confirm that adding school and university closures to case isolation, household quarantine, and social distancing of over 70s would lead to more deaths compared with the equivalent scenario without the closures of schools and universities;"[90]

(ix) the research paper: "A country level analysis measuring the impact of government actions, country preparedness and socioeconomic factors on COVID-19 mortality and related health outcomes" found:

> Rapid border closures, **full lockdowns**, and wide-spread testing **were not associated with COVID-19 mortality per million people;**"[91]

(x) a news article found that the COVID-linked hunger is tied to 10,000 excess child deaths each month;[92]

[89] https://apps.who.int/iris/bitstream/handle/10665/329438/9789241516839-eng.pdf
https://www.longwoods.com/articles/images/Canada_Pandemic_Influenza.pdf

[90] https://www.bmj.com/content/371/bmj.m3588
[91] https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(20)30208-X/fulltext
[92]https://apnews.com/article/virus-outbreak-africa-ap-top-news-understanding-the-outbreak-hunger-5cbee9693c52728a3808f4e7b4965cbd

(xi) a research study found:

> "Substantial increases in the number of avoidable cancer deaths in England are to be expected as a result of diagnostic delays due to the COVID-19 pandemic in the UK;"[93]

(xii) as a result of COVID-19 measures there is significant collateral damage to the healthcare system with respect to issues such as delayed diagnosis[94], impacts on cancer patients,[95]impacts on disabled persons;[96] and further issues;

(xiii) COVID-19 lockdowns have imposed substantial economic costs on countries in Africa, and other countries around the world.[97]

(c) That the PCR testing, at over 35 cycles, is a fraudulent and useless manner to "test", calculate and count "cases" and "infections". A PCR test alone cannot indicate whether the virus in that person is either virulent or infectious. PCR tests require further culturing tests where the virus is injected into other cells and then monitored to see if it infects other cells. Peer-reviewed scientific journals from prestigious sources indicate that at 35 cycles, less than 3% of PCR confirmed "cases" of viral cultures are positive and therefore actually virulent and infectious.[98]

[93] https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(20)30388-0/fulltext
[94] https://www.sciencedirect.com/science/article/pii/S0923753420398252
[95] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7534993/
[96] https://pesquisa.bvsalud.org/controlecancer/resource/pt/mdl-32383576?src=similardocs
[97] https://ideas.repec.org/h/fpr/ifpric/133835.html

[98] Peer-Reviewed Medical Paper: https://academic.oup.com/cid/advance article/doi/10.1093/cid/ciaa1491/5912603; and

165. That alternative, recognized early treatments like HCQ and Ivermectin, exist, but the Defendants banned their use:

(a) the use of a five-day course of Ivermectin is associated with lower mortality in hospitalized patients with coronavirus disease.[99] There are 89 studies, 48 of which are peer reviewed, to date, which review the efficacy of ivermectin.[100]

(b) Hydroxychloroquine (HCQ) is effective both as a pre-exposure prophylaxis and as early post-exposure treatment, when administered in appropriate doses, especially when started within the first five days of symptom onset.[101] There are 285 studies with respect to the efficacy of using HCQ as a treatment, including 213 which are peer-reviewed.[102]

(c) Vitamin D deficiency is associated with higher risk of COVID-19, and vitamin D may be used to help treat COVID-19.[103]

166. That the Defendants, Trudeau, Tam, Henry, and other Public Health Officers have publicly stated and represented that the Covid-19 "vaccines" will **not** result in immunity nor protect against transmission from and to the vaccinated, and

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Peer-reviewed paper: https://www.thelancet.com/journals/lanmic/article/PIIS2666-5247(20)30172-5/fulltext.
[99]https://www.sciencedirect.com/science/article/pii/S0012369220348984
https://www.sciencedirect.com/science/article/pii/S1201971220325066
https://www.sciencedirect.com/science/article/pii/S2589537020304648

[100] https://c19ivermectin.com
[101] https://www.sciencedirect.com/science/article/pii/S0924857920303423;
https://www.ejinme.com/article/S0953-6205(20)30335-6/fulltexthttps://www.medrxiv.org/content/10.1101/2020.08.20.20178772v1
https://www.amjmed.com/article/S0002-9343(20)30673-2/fulltext
https://c19study.com.
[102] https://c19study.com
[103] Database of all vitamin D COVID-19 studies. https://c19vitamind.com/

that, despite the fact that Trudeau has announced the procurement of "booster" Covid-19 vaccines up to and including, **2024**, the other measures will have to be maintained, all of which is irrational, unscientific, non-medical, and utterly illogical. The Plaintiffs state, and fact is, that such admissions by the Defendants render the proposal of a "Vaccine Passport", for any use, irrational, illogical, arbitrary, and contrary to ss.2,7 and 15 of the ***Charter***.

•COVID-Measures Worse than Virus

167. Early on, and into the summer of 2020, another thematic point of sound scientific and medical criticism is that the COVID - measures are worse than the virus as reflected in, **inter alia**, the following:

(a) One study suggests the ultimate changes in contact patterns triggered by social distancing measures **could end up having a negative effect on the population** and, in some cases, even worsen the outcome of the "epidemic".[104]

(b) **Cost of Coronavirus cure could be deadlier than the disease.[105],** by Carpay who is president of the Justice Centre for Constitutional Freedoms;

(c) **California ER Physicians:** Sheltering in Place Does More Harm than Good - Lowers Our Immune System.

[104] J R Soc Interface. 2018 Aug; 15(145): 20180296.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6127185/pdf/rsif20180296.pdf
https://www.greenmedinfo.com/blog/social-distancing-may-worsen-epidemic-outcomes

[105] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/

(d) Doctors Dan Erickson and Artin Massihi of Accelerated Urgent Care in Kern County, California say the longer people stay inside, the more their immune system drops. The secondary effects, the child abuse, alcoholism, loss of revenue – all of these are, in our opinion, significantly more detrimental thing to society than a virus that has proven similar in nature to the seasonal flu that we have every year.[106]

(e) **Economic Consequences of Lockdown:**

> "Our leaders must reopen our country immediately. We will survive this virus. We will not survive this economic lockdown."[107]

168. With respect to treatment measures, the Defendants further ignored, and continue to ignore, the following expert criticism and opposition;

(a) **Ventilators are not working and may be increasing harm.** New evidence reveals there is no 'pneumonia' nor ARDS with CV 19. Ventilators are not only the wrong solution, but high pressure intubation can actually wind up causing more damage than without. Ventilators are not working and may be increasing harm. Over 80% of individuals put on ventilators are dying. [108]

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[106] https://vaccineimpact.com/2020/california-er-physicians-sheltering-in-place-does-more-harm-than-good-lowers-our-immune-system/
https://prepforthat.com/kern-county-california-doctors-coronavirus-end-shutdown/

[107] https://www.facebook.com/groups/221945012378955/

[108] https://web.archive.org/web/20200405061401/https://medium.com/@agaiziunas/covid-19-had-us-all-fooled-but-now-we-might-have-finally-found-its-secret-91182386efcb

(b) **Managing the Flow.** The truth for any new virus is that most people will be exposed to it. If one's goal is to NEVER get COVID-19, one would pretty much need to live on lockdown for the rest of his/her life. The ONLY reason for the lockdown is to manage the flow of people through our hospitals so that those who have acute symptoms will get the care they need to hopefully not die. Is the desire to manage the flow of people through our hospitals worth shutting down our economy? Given most hospitals are operating at 50% or less of capacity, have we not over managed the flow?

(c) **No Evidence Masks Work.** No RCT study with verified outcome shows a benefit for HCW or community members in households to wearing a mask or respirator. There is no such study. Likewise, no study exists that shows a benefit from a broad policy to wear masks in public. Furthermore, if there were any benefit to wearing a mask, because of the blocking power against droplets and aerosol particles, then there should be more benefit from wearing a respirator (N95) compared to a surgical mask, yet several large meta-analyses, and all the RCT, prove that there is no such relative benefit.

(d) **Ineffectiveness of Masks & Respirators -** D. G. Rancourt.[109]

[109] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy?fBritish Columbialid=IwAR3xOsnDOC2oRHau1k8F8_rA6CmfTvca6eZY1lS_BH0GRc5uHhKYPoWEmfk

(e) **Conflicting Advice About Face Masks to Prevent CV 19.** There is currently no evidence that wearing a mask (whether medical or other types) by healthy persons in the wider community setting, including universal community masking, can prevent them from infection with respiratory viruses, including COVID-19.[110]

(f) **The surgeon general said not to wear a mask.**[111]

(g) **Over 3 times the risk of contracting influenza like illness if cloth mask is used versus no mask at all;**[112]

(h) "Penetration of cloth masks by particles was almost 97% compared to medicalmaskswith44%";[113]

(i) **Report on surgical mask induced deoxygenation during major surgery"**[114] **;**

(j) **Co-Factors:** Not everyone is at equal risk of dying from COVID 19. CV 19 has spread unevenly around the world, clustered in several hot pockets, while leaving other areas with scant outbreaks. What other factors are contributing to the COVID 19 virus mortality?;

(k) **Link Between Air Pollution and CV 19;**[115]

(l) **Underlying Disease and COVID- 19.**[116]

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[110] https://thevaccinereaction.org/2020/04/face-masks-to-prevent-covid-19-conflicting-facts-advice/#_edn5

[111] https://www.businessinsider.com/who-no-need-for-healthy-people-to-wear-face-masks-2020-4

[112] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/

[113] https://www.sciencedaily.com/releases/2015/04/150422121724.htm

[114] https://www.ncbi.nlm.nih.gov/pubmed/18500410

[115] https://thevaccinereaction.org/2020/04/study-shows-link-between-fine-particle-air-pollution-and-covid-19-mortality/

169. The Plaintiffs state, and the fact is, that the evidence is that far many, more people have died as result of the "pandemic" measures themselves, than purportedly from the "COVID- deaths", even if one takes the deaths "caused" by COVID as a given, through the following consequences of the measures:

(a) Spikes in suicide rates resulting in intense clinical depression from the measures;

(b) Spikes in drug over-dose attributable to measures;

(c) Spikes in domestic violence and murder as a direct result of the measures;

(d) Deaths resulting from the cancellation of over 170,000 medical surgeries;

(e) Deaths from persons afraid to leave their homes to obtain medical diagnosis and treatments; and

(f) Sub-space spikes in starvation, given the UN World- Food Bank warning that 130 Million additional people will be on the brink of starvation by end of 2020 due to disruption of supply chains due to COVID Measures.

170. It is to be noted that the above-noted criticism was early on in the outbreak which criticism has now intensified both in volume and accuracy, that the COVOD-measures are unwarranted, extreme, and not based on science and medicine.

171. Another pointed area of disagreement and criticism, which continues, along with the above-noted, which the Defendants refuse to acknowledge, ignore, and not

[116] https://thevaccinereaction.org/2020/04/covid-19-hospitalized-patients-and-underlying-chronic-disease/

respond to, is the questioning of this as a "pandemic" rather than a typical seasonal viral respiratory illness, as reflected, inter alia, by the following:

(a) **California has a 0.0003% Chance of Death from Covid 19**":

> **"**Initial models were woefully inadequate. They predicted millions of cases of death. Not of prevalence or incidence but deaths. This is not materializing. What is materializing in California is 12% positives... This equates to 4.7 million cases in California. This is the good news.... We have seen 1,227 deaths. California has 0.0003% chance of death from Covid-19. Is this enough to justify a lock-down?"
>
> **"COVID-19 Antibody Seroprevalence in Santa Clara County, California"**Conclusion: "The population prevalence of SARS-CoV-2 antibodies in Santa Clara County implies that the infection is much more widespread than indicated by the number of confirmed cases. Population prevalence estimates can now be used to calibrate epidemic and mortality projections." [117]

(b) The above research, in (a) above, is ground-breaking and provides foundational support for narratives such as :

(i) the initial models were incorrect;

(ii) conflicts of interest (Gates/Fauci/Democrats) contributed to an over-hyped response and failure to revisit despite availability of new data (confirmation bias);

(iii) we need to be rational here as the lock-down is hurting normal citizens - the 99% ;

[117] https://www.medrxiv.org/content/10.1101/2020.04.14.20062463v1

(iv) no evidence exists to justify forceful solutions like mandatory Covid-19 vaccinations, community immunity passwords, contact tracing, or increased domestic surveillance;

(v) we need to root out and remove all conflicts of interests in our public health institutions, both CDC and WHO; again

(vi) **Annual Influenza Deaths vs. CV 19 deaths.** It is claimed that 7 to 8,000+ Canadians die from season viral respiratory illness each year. The number of Canadians who have died from Covid-19 does not stray from annual season viral respiratory illness death total,[118] notwithstanding the inflated, false " covid-deaths";

(c) In 2009-2010, the world experienced the swine flu pandemic (H1N1). During that pandemic it is claimed that 203,000 people were killed world-wide by the virus. There was not a need to shut down our entire way of life in 2009. It is still unclear why this is the strategy being implemented today;

(d) The CDC has tracked the total number of Americans who die every week from pneumonia. For the last few weeks, that number has come in far lower than at the same moment in previous years. How could that be? **It seems that doctors are classifying conventional pneumonia deaths as COVID-19 deaths.** That would mean this epidemic is being credited for

[118] https://www.worldometers.info/coronavirus/?nsukey=8gR2B80EUvHgIg1gz%2FFrRbGWu%2BhOoChcVMEV2tcidO%2FquhcnKlUPJ6Oevxq86h8W7SYtAC%2FYsoVycvKvhtVZgT%2FvREx1TON%2British ColumbiaUTJ6uKZDsLJ4QDUYN0QG2n2ifAPsDuLBJZryuEWbYH8BsYmR4hwzToazvCLjqZsbV0YQAANZ46gHbo7Sf%2Beyzk1c3WND68j

thousands of deaths that would have occurred if the virus never appeared here.

(e) Number of influenza cases and deaths according to WHO every year.[119]

(f) Are the numbers of CV deaths accurate?[120]

(g) Montana physician **Dr. Annie Bukacek** discusses how COVID 19 death certificates are being manipulated;[121]

(h) **Italy: 99% who died from virus had other illness;**[122] The Key Points being that :

- The cases and deaths of this new disease COVID19 are being described as "flu-like symptoms with pneumonia" but **there is NO data that shows SARSCov2 is present in all of these cases/deaths.** Only coronavirus of which there are many strains.

- This is because **the PCR test is not reliable enough** to identify the new strain - laboratory testing is only identifying coronavirus. This is the flaw in the CDC/WHO theory of causality for this "new" disease "COVID19". They haven't provided any data about the presence of this new strain (SARSCov2) in COVID19 and it is known that many influenza viruses and bacteria cause "flu-like symptoms with pneumonia".

- Until you have evidence to prove the causality of COVID19 disease as being to SARsCov2 by showing that it is present in every case of the disease then there is no

[119] http://www.euro.who.int/en/health-topics/communicable-diseases/influenza/seasonal-influenza/burden-of-influenza?fBritishColumbialid=IwAR0ZDNTwTXKGve_oJVmtZsGKFAl44JYSo6IAf4GkA47EYD8805b6FS-8Rkw

[120] https://www.ctvnews.ca/health/coronavirus/why-the-exact-death-toll-for-covid-19-may-never-be-known-1.4881619

[121] https://www.youtube.com/watch?v=CnmMNdiCz_s

[122] https://www.bloomberg.com/news/articles/2020-03-18/99-of-those-who-died-from-virus-had-other-illness-italy-says?utm_campaign=pol&utm_medium=bd&utm_source=applenews&fBritish Columbialid=IwAR0qN9k2HVrnAghrK-Wrl72J7oBoNY1vFAGY3dI-M7GWKirK6cfUeAI16yg

new disease. Koch's postulates need to be used to provide proof of causality.

- **Mathematical Modeling Flawed**
  In March, UK epidemiologist Neil Ferguson from the Imperial College of London issued a mathematical "model" that predicted that as many as 500,000 in the UK would die from Covid-19. On March 24th Ferguson revised his modeling projections to read 20,000 deaths, and "likely far fewer." On April 2nd Ferguson revised it again to read 5,700 deaths. The problem was that many world leaders used Ferguson's original number to shut down most of the planet.[123]

(i) The Canadian government implemented the lockdown on the basis of Neil Ferguson's Imperial College mathematical modeling that was grossly flawed. Ferguson has drastically backtracked on his predictions which begs the question why is Canada now doubling down on the lockdown that will not be lifted until a vaccine is ready?

(j) **UK Decides CV 19 No Longer A 'High Consequence Infectious Disease'** As of March 19, 2020, COVID-19 is no longer considered to be a high consequence infectious diseases (HCID) in the UK.[124]

(k) High Consequence Infectious Disease Public Health England, have provided current information and regarding COVID-19 mortality rates as low. The Advisory Committee on Dangerous Pathogens (ACDP) in the UK

[123] https://prepforthat.com/fear-mongering-covid-19-epidemiologist-says-he-was-wrong/
[124] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/

and is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease).[125]

(l) Our World in Data researchers announced this week that they had stopped relying on World Health Organization data for their models.[126]

(m) New Oxford study suggests millions have already built up coronavirus immunity.[127]

(n) Lack of Good Data. If you are going to do something as draconian as shut down an economy, you better be right, and you better have good data. The government has neither.[128]

(o) Dr Teresa Tam's incompetent virus response.[129]

(p) **British Columbia health officer Dr Bonnie Henry admits They did not use science to impose restrictions**.[130]

172. The measures have been also heavily criticized, on a legal basis, in Canada and abroad. Early on in the declaration, on March 26th, 2020 the UN Commissioner for Human Rights, Michelle Bachelet, took an opposite view to that of Dr. Teresa Tam, whose view is that it is appropriate to run rough-shod over these rights and worry about it later, where Bachelet early declared that:

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[125] https://www.gov.uk/topic/health-protection/infectious-diseases

[126] https://fee.org/articles/oxford-based-group-stops-using-who-data-for-coronavirus-reporting-citing-errors/?fBritish Columbialid=IwAR1okWvqn-qe7zvbHxoUY_U-4Nlqe6A8mOVwGqw4_N3qk9TXsfs_P6eEMJA

[127] https://news.yahoo.com/oxford-study-suggests-millions-people-221100162.html?soc_src=hl-viewer&soc_trk=fb

[128] https://www.foxnews.com/opinion/tucker-carlson-we-must-ask-the-experts-how-they-screwed-up-the-coronavirus-models-so-badly?fBritish Columbialid=IwAR0xrpFytibdv5JJLOR2fveTjvpj5b23tn7JFn2uemrXeu27GDFRpeuDLoI

[129] https://www.spencerfernando.com/2020/03/29/devastating-timeline-reveals-total-incompetence-of-theresa-tams-virus-response/

[130] https://www.youtube.com/watch?v=SY8fclCOG4c&feature=youtu.be&fBritish Columbialid=IwAR0BmcUm4qk7BB3VuJRqvaJpyuB0VfyfkvmVM6HLmF-u0KiKJbD_cdKQlls&app=desktop

> "Lockdowns, quarantines and other such measures to contain and combat the spread of COVID-19 should always be carried out in strict accordance with human rights standards and in a way that is necessary and proportionate to the evaluated risk."

173. Former UK Supreme Court Justice Lord Sumpton was an early opponent to the lock-down measures. In a BBC interview of May18th, 2020, he re-iterated and stated, **inter alia**, as follows:

> JS: because they seem to me to have no real purpose in continuing the lockdown other than to spare themselves public criticism. now one does understand why politicians don't want to be criticized but it's the mark of a statesman that you're prepared to stand up for the national interest and not simply to run away before public opinion. especially when you have in a sense created that public opinion yourself by frightening the daylights out of people over the over the last eight weeks and trying to persuade them that this is a much more virulent epidemic than it actually is.
> ….
> LS: what i'm advocating now is that the lockdown should become entirely voluntary. it is up to us, not the state, to decide what risks we are going to take with our own bodies. now, the traditional answer that people give to that is: "well, but by going out or in the streets and in shops and things you are infecting other people". but you don't have to take that risk you can voluntarily self-isolate. you don't have to go into the streets. you don't have to go to the shops. people who feel vulnerable can self-isolate, and the rest of us can then get on with our lives.
>
> ….
>
> we have never lived in a risk-free world and we're never going to live in a risk-free world.
>
> …
>
> we are entitled to take risks with our own lives especially when basically life is only worth living if you are prepared to engage in social activities. which inevitably involve risk. that is part of life.

174. The Plaintiffs state, and fact is, that the above-noted **scientific and medical expert opinions,** against and in severe criticism of the "pandemic" declaration, and its draconian and un-necessary measures, **are not exhaustive, but examples**. The Plaintiffs state, and fact is, that the Defendants have never acknowledged, addressed, spoken to, nor responded to these contrary expert views, and further state that the Defendants, including the mega-social media, such as YouTube, Facebook, Amazon, Google, Yahoo and like, as well as CBC, have intentionally suppressed, censored, belittled and removed the publication of any such contrary views, contrary to the principles and methodology of science and medicine, with the acquiescence and actual support of the Canadian Federal government, which government threatens to add criminal sanctions to assist these media for what they irrationally, arbitrarily and unscientifically deem "misinformation" , and further violate the Plaintiffs' rights to freedom of speech, expression, and the media, contrary to s.2 of the **Charter**, by the government's acts and omissions in making threats of criminalizing speech, and doing absolutely nothing, by omission, to regulate this type of "Stalinist censorship".

175. Since the summer of 2020, this factor of the measures being in force, and causing more devastation than the virus, has gone from severe to catastrophic as reflected by:

(a) There are more suicides because of the measures and purported deaths by Covid-19;

(b) There are more drug overdoses because of the measures and purported deaths by Covid-19;

(c) There is more starvation caused by the measures and purported deaths by Covid-19;

(d) There are far more deaths, from cancelled, necessary surgeries and fear to access medical treatment for fear of covid, than purportedly from Covid itself.

(e) There are devastating mental health disorders caused by the measures;

(f) Domestic violence, child, and sexual abuse have sky-rocketed;

(g) Small businesses and livelihoods, to the tune of millions, have been obliterated.

- **D/ THE SCIENCE & MEDICINE OF COVID-19**
- **Summary (Overview)**

176. The Plaintiffs state, and the fact is, that the World Health Organization, ("WHO"), our federal, provincial, and municipal governments, and the mainstream media, propagate that we are facing the biggest threat to humanity in our lifetime. This is false.

177. The fact is that, false and baseless predictions of wide-spread infection with high rates of mortality persuaded governments that unprecedented containment measures were necessary to save us from certain peril.

178. The fact is that, while there is more about the SARS-CoV-2("COVID-19") coronavirus that needs to be understood, the scientific and medical evidence

clearly demonstrates that the mathematical modeling used to justify extreme containment measures were invalid. Further, that the vast majority of the population is not at serious risk of complications or mortality as a result of exposure to COVID-19.

179. The fact is that, the mass and indiscriminate containment of citizens, the restriction of access to our economy, courts, parliament and livelihoods, medical and therapeutic care, and the imposition of physical distancing and other restrictions are measures that have never before been implemented nor tested, nor have a scientific or medical basis.

180. The fact is that, the impact of these measures on physical, emotional, psychological, and economic well-being is profoundly destructive, unwarranted, and clearly not sustainable.

181. The fact is that, these drastic isolation measures are not supported by scientific or medical evidence. There is considerable agreement in the scientific community that such drastic measures are not sustainable nor warranted or justified, and while these measures may delay viral spread, they are unlikely to impact overall morbidity.

182. The fact is that, this over-hyped COVID-19 pandemic narrative is creating unnecessary panic and being used to justify systemic governmental violations of the rights and freedoms that form the basis of our society, including our constitutional rights, sovereignty, privacy, rule of law, financial security, and even our very democracy.

183. The fact is that, it is clear that significant violations of the Plaintiffs' rights and freedoms are being perpetrated by the federal, provincial and municipal governments and health authorities.

184. The fact is that, as a result of all of the above, the Plaintiffs have suffered and continue to suffer, severe violations of their constitutional rights which are justified on any measurement, including s. 1 of the **Charter.**

- **The Covid-Measures Unscientific, Non-Medical, Ineffective, and Extreme**

185. From the on-set of the declared emergency to summer of 2020, the Plaintiffs state and the fact is, that the Measures implemented lack scientific and medical evidence to support containment measures in that:

(a) Mass and indiscriminate lockdown of the general population has not been previously attempted in modern history, and has no scientific nor medical basis. In fact, Dr. Bonnie Henry, BRITISH COLUMBIA Chief Medical Officer, has flatly stated that the measures are not based on science or medicine.

(b) A 2011 review of the literature to evaluate the effectiveness of social distancing measures such as school closures, travel restrictions, and restrictions on mass gatherings to address an influenza pandemic concluded that *"such drastic restrictions are not economically feasible and are predicted to delay viral spread but not impact overall morbidity."* [131]

[131] Social Distancing as a Pandemic Influenza Prevention Measure
https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf

(c) There are no realistic and contextual studies of the negative social, family, psychological, and individual health consequences of extended general population lockdowns, nor the impact on the national economy.

(d) The long-term impact of the broadly applied infringements of civil rights and freedoms is not known, including any permanent structural erosion of democracy itself due to increased authoritarianism and heightened regulatory or penal consequences for violating government directives.

(e) The measures enacted by the federal, provincial and municipal governments are unprecedented.

(f) The government has acted in diametrical opposition to the precautionary principle: *"Government shall not act with insufficient scientific knowledge, if the action has any likelihood of causing more harm than good"*.

(g) Justification for the early panic response has not been corroborated. [132]

(h) Faith in epidemic-modeling and the resulting mitigation strategies are not justified.

(i) Physicians globally are expressing alarm over the exponentially growing negative health consequences of the national shutdown. [133] [134]

(j) Despite the importance given to physical distancing as a containment measure, there is a lack of scientific evidence on the effectiveness of such intervention on the long-term health of citizens. [135] [136]

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132 http://ocla.ca/wp-content/uploads/2014/01/OCLA-Report-2020-1-Criticism-of-Government-Response-to-COVID19.pdf
[133] https://www.scribd.com/document/462319362/A-Doctor-a-Day-Letter-Signed#from_embed
[134] https://www.forbes.com/sites/gracemarieturner/2020/05/22/600-physicians-say-lockdowns-are-a-mass-casualty-incident/#20248e5250fa

(k) There is no scientific evidence to substantiate the effectiveness of two meter 'physical distancing' as an intervention to reduce SARS-CoV-2 transmission and infection and to improve overall health. [137]

(l) Dr. Martin Dubravec, MD, a Clinical Immunologist states: *"The bottom line is that herd immunity is what will stop the virus from spreading. Not containment. Not a vaccine. Not staying locked in our homes. It's time we had an honest conversation on how to move beyond containment."* [138]

(m) A review of the scientific literature with regards to the use of masking concluded there is no scientific evidence to substantiate the effectiveness of masking of the general public to prevent viral infection and transmission. [139]

(n) Denis Rancourt, Ph.D. has identified the many unknowns regarding the potential harm from a broad public policy of masking. Rancourt concludes: "In an absence of knowledge, governments should not make policies that have a hypothetical potential to cause harm. The government has an onus barrier before it instigates a broad social-engineering intervention or allows corporations to exploit fear-based sentiments." [140]

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[135] Benjamin E Berkman. Mitigating pandemic influenza: the ethics of implementing a school closure policy. Journal of Public Health Management and Practice: JPHMP, 14(4):372–378, August 2008. PMID: 18552649.
[136] https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf
[137] https://www.zuercher-presse.com/virologe-hendrick-streeck-gibt-keine-gefahr-beim-einkaufen-jemand-anderen-zu-infizieren/?cn-reloaded=1
[138] https://aapsonline.org/coronavirus-covid-19-public-health-apocalypse-or-anti-american/
[139] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy
[140] https://www.researchgate.net/publication/340570735_Masks_Don't_Work_A_review_of_science_relevant_to_COVID-19_social_policy

(o) A study of cloth masks cautions against the use of cloth masks. The study concludes: "As a precautionary measure, cloth masks should not be recommended." [141]

(p) According to Dr. Richard Schabas, former Chief Medical Officer for Ontario -*"Quarantine belongs back in the Middle Ages. Save your masks for robbing banks. Stay calm and carry on. Let's not make our attempted cures worse than the disease."* [142]

(q) On May 20, 2020, Dr. Teresa Tam, Canada's Chief Medical Officer, publicly advised the use of non-medical masks for the general public to provide an *"added layer of protection"* that could help prevent asymptomatic or pre-symptomatic Covid-19 patients from unknowingly infecting others. Dr. Tam's advice is not supported by scientific evidence. [143]

(r) It would appear that any advice/requirement to use masks is for a purpose/agenda other than the prevention of viral infection and transmission.

(s) A paper published on January 30, 2020 in *The New England Journal of Medicine* (*NEJM*) which appeared to confirm that individuals who are asymptomatic can transmit SARS-CoV-2 to others has subsequently proven to contain major flaws and errors. [144]

[141] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/
[142] https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-register-as-a-dire/
[143] https://www.politico.com/news/2020/05/20/canada-non-medical-masks-provinces-reopen-271008
[144] https://www.sciencemag.org/news/2020/02/paper-non-symptomatic-patient-transmitting-coronavirus-wrong

(t) The imposition of mass and indiscriminate self-isolation measures prevents the development of natural immunity necessary to secure herd immunity and end the epidemic. [145]

(u) On April 6, 2020, German epidemiologist, Knut Wittkowski, released a statement warning that artificially suppressing the virus among low risk people like school children may *"increase the number of new infections"* as it keeps the virus circulating much longer than it normally would. [146]

(v) On March 24, 2020 global medical experts declared that efforts to contain the virus through self-isolation measures would negatively impact population immunity, maintain a high proportion of susceptible individuals in the population, prolong the outbreak putting more lives at risk, damage our economy and the mental stability and health of the more vulnerable. [147] [148]

(w) A review of recent literature pertaining to social distancing measures conducted by David Roth and Dr. Bonnie Henry of the British Columbia Centre for Disease Control concluded the following: a) widespread proactive school closures are likely not an effective prevention measure during an influenza pandemic; b) stringent travel restrictions and border control may briefly delay imminent pandemics, these approaches are

[145] https://www.aier.org/article/herd-immunity-is-misleading/
[146] Stand Up for Your Rights, says Bio-Statistician Knut M. Wittkowski. American Institute for Economic Research. April 6, 2020
https://www.aier.org/article/stand-up-for-your-rights-says-professor-knut-m-wittkowski/
[147] https://off-guardian.org/2020/03/24/12-experts-questioning-the-coronavirus-panic/
[148] https://www.europereloaded.com/twenty-two-experts-questioning-the-coronavirus-panic-videos-scientific-common-sense/

neither economically nor socially feasible; and c) there is no recent evidence outlining the effectiveness of the prohibition of mass gatherings. [149]

(x) According to a public statement issued by the British Columbia Ministry of Health: a) COVID-19 virus has a very low infection rate in children and youth; b) In British Columbia, less than 1% of children and youth tested have been COVID-19 positive; c) There is no conclusive evidence that children who are asymptomatic pose a risk to other children or to adults, and d) Schools and childcare facility closures have significant negative mental health and socioeconomic impacts on vulnerable children and youth. [150]

(y) According to a May 21, 2020 letter from Dr. Mark Lysyshyn, MD, Deputy Chief Medical Health Officer with Vancouver Coastal Health: *"Although children are often at increased risk for viral respiratory illnesses, that is not the case with COVID-19. Compared to adults, children are less likely to become infected with COVID-19, less likely to develop severe illness as a result of infection and less likely to transmit the infection to others."* Dr. Lysyshyn further states: *"Non-medical masks are not needed or recommended. Personal protective equipment such as medical masks and gloves are not recommended in the school environment."* [151]

[149] https://nccid.ca/wp-content/uploads/sites/2/2015/04/H1N1_3_final.pdf
[150] https://www2.gov.British Columbia.ca/assets/gov/health/about-British Columbia-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-guidance-k-12-schools.pdf
[151] http://www.vch.ca/Documents/COVID-VCH-Schools-May-21-2020.pdf

(z) On May 21, 2020, British Columbia's Chief Health Officer, Dr. Bonnie Henry stated: *"We're encouraging people [to wear masks] as a mark of respect, as a mark of politeness, and paying attention to the welfare of others."* The recommendation to mask no longer is on the basis of effectiveness but instead is being promoted as a social grace. [152]

(aa) British Columbia's Chief Health Officer, Dr. Bonnie Henry, when addressing a question regarding the inconsistency among the provinces of Canada on COVID-19 restrictions placed on Canadians stated: *"None of this is based on science."* [153]

(bb) The reported number of deaths attributed to SARS-CoV-2 is demonstrably unreliable given the inclusion of "*presumptive*" deaths, and the failure of the medical establishment to differentiate between individuals dying *from* COVID 19 and those with co-morbidities dying *with* COVID 19. [154] [155]

(cc) The failure to differentiate between individuals dying *from* COVID 19 and those with co-morbidities dying *with* COVID 19 inflates the risk of mortality from SARS-CoV-2 and undermines confidence in any response strategy based on mortality statistics. [156]

[152] https://www.straight.com/covid-19-pandemic/may-21-coronavirus-update-British Columbia-resistance-health-measures-regional-restrictions-gender-differences-second-wave
[153] https://www.youtube.com/watch?v=SY8fclCOG4c&feature=youtu.be&fBritish Columbialid=IwAR0BmcUm4qk7BB3VuJRqvaJpyuB0VfyfkvmVM6HLmF-u0KiKJbD_cdKQIls&app=desktop
[154] Why the exact death toll for COVID-19 may never be known. CTV News, April 3, 2020 https://www.ctvnews.ca/health/coronavirus/why-the-exact-death-toll-for-covid-19-may-never-be-known-1.4881619
[155] https://www.cpsBritish Columbia.ca/for-physicians/college-connector/2020-V08-02/04
[156] https://www.bloomberg.com/news/articles/2020-03-18/99-of-those-who-died-from-virus-had-other-illness-italy-says

(dd) Doctors globally are being pressured to issue death certificates that identify COVID 19 as the cause of death even when other co-morbidity issues are the more likely cause of death.

(ee) The presentation of mortality data, expressed as a percentage of deaths of *tested and confirmed cases*, is distorting the risk and creating undue panic. This data fails to include a significant percentage of the population who contracted the virus but were not tested nor confirmed and who recovered without medical intervention.

(ff) To date, the number of reported deaths attributed to SARS-CoV-2 is not out of "normal" range when compared to the annual mortality from influenza and pneumonia (seasonal viral respiratory illness) recorded through the last decade. [157] [158] [159]

(gg) According to Dr. Richard Schabas, former Chief Medical Officer of Ontario, strictly by the numbers, the coronavirus does not register as a dire global crisis.

(hh) No data has been provided by the Government of Canada nor British Columbia to indicate that the total mortality in Canada has increased substantially from previous years.

[157] Strictly by the numbers, the coronavirus does not register as a dire global crisis. Richard Schabas. The Globe and Mail. March 9, 2020
https://www.theglobeandmail.com/opinion/article-strictly-by-the-numbers-the-coronavirus-does-not-register-as-a-dire/
[158] New Data Suggest the Coronavirus Isn't as Deadly as We Thought. WDJ/Opinion. April 17, 2020
https://www.greenmedinfo.com/blog/stanford-team-finds-evidence-covid-19-mortality-rate-low-2-17-times-lower-whos-esta
https://www.medrxiv.org/content/10.1101/2020.04.14.20062463v2
[159] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7102597/?fBritish Columbialid=IwAR29vpTe-Dk-_xoVzVRbuAgVhil1k0DcZkGqyYsak6lC-OByjZcBRP6cyjc

(ii) Mortality modeling by the World Health Organization, Imperial College of London, and the US Institute for Health Metrics and Evaluation have all been drastically "downgraded". Strategies and measures based on these original predictions are invalid.[160] [161]

(jj) As of March 19, 2020, the status of COVID-19 in the United Kingdom was downgraded. COVID-19 is no longer considered a high consequence infectious disease (HCID). The Advisory Committee on Dangerous Pathogens (ACDP) in the UK is also of the opinion that COVID-19 should no longer be classified as an HCID (High Consequence Infectious Disease). [162] [163]

(kk) **On March 26, 2020,** Dr. Anthony Fauci published an editorial in the *New England Journal of Medicine* stating that *"the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza with a case fatality rate of perhaps 0.1%."* [164]

(ll) On April 9, 2020, Canadian public health officials stated: "In a best-case scenario, Canada's total COVID-19 deaths can range from 11,000 to 22,000." And "In the bad scenarios, deaths go well over 300,000." As of May 21, 2020, the total reported deaths from

[160] How One Model Simulated 2.2 Million U.S. Deaths from COVID-19. Cato Institute. April 21, 2020
https://www.cato.org/blog/how-one-model-simulated-22-million-us-deaths-covid-19
[161] https://prepforthat.com/fear-mongering-covid-19-epidemiologist-says-he-was-wrong/
[162] https://www.gov.uk/topic/health-protection/infectious-diseases
[163] https://prepforthat.com/uk-officials-covid-19-no-longer-high-consequence-infectious-disease/
[164] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7121221/

COVID 19 in Canada was 6,145. As of July 2, 2020, the total deaths attributed to COVID 19 in Canada was 8,642. In 2018, the mortality rate of the 2018 influenza/pneumonia in Canada which was **23 per 100,000**. [165] In a population of 37.7 M, this equates to approximately 8,671 deaths. This is the mortality even though a vaccine exists for both influenza and pneumonia and there is a high uptake rate in the senior population.

(mm) The World Health Organization knew as early as February 28, 2020 that most people will have mild illness from SARS-CoV-2 infection and get better without needing any special care. [166]

(nn) The Canadian government has implemented a re-start strategy that continues to maintain the unsubstantiated narrative that the SARS-CoV-2 virus is extra-ordinarily dangerous and requires extra-ordinary social distancing measures never before implemented.

(oo) The re-start strategy recommended by the federal and various provincial governments is based on 'sector' rather than 'risk'. There is no evidence that a re-start based on sector has scientific merit.

[165] https://www.statista.com/statistics/434445/death-rate-for-influenza-and-pneumonia-in-canada/
[166] WHO Director-General's opening remarks at the media briefing on COVID-19 - 28 February 2020 https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---28-february-2020

(pp) According to a number of infectious disease experts, hospital capacity, rather than the number of infections should be the metric of choice for relaxing restrictions. [167]

(qq) There is no evidence that harms caused by the mass and indiscriminate containment of citizens was calculated and considered in the modeling and strategic planning response to SARS-CoV-2. [168]

(rr) SARS (2003), Swine Flu/H1N1 (2009), and MERS (2012) were all considered pandemics by the World Health Organization. Each of these pandemics were effectively contained without lockdowns, economic ruin, violations of privacy, and the indefinite loss of the right to work and personal freedoms. SARS and MERS dissipated on their own naturally without any vaccine intervention. [169]

(ss) Academic studies of media coverage during the 2003 Canadian SARS outbreak concluded that the media coverage was excessive, sensationalist, and sometimes inaccurate. Government health agencies were criticized for lacking a unified message and communications strategy, resulting in confusion and panic about

[167] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns
[168] Rethinking the Coronavirus Shutdown. WSJ/Opinion. March 19, 2020
https://www.wsj.com/articles/rethinking-the-coronavirus-shutdown-11584659154
[169] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2094974/

the disease. [170] These same criticisms hold even more true for media and government response to SARS-CoV-2.

(tt) The suspension of our civil liberties is not justified by the known risk posed by SARS-CoV-2.

(uu) In a statement released on March 24, 2020, professor Peter Gotzche states: *"The coronavirus mass panic is not justified."* The suspension of our right to liberty, to work, to travel, and to conduct commerce is not justified by the known risk posed by SARS-CoV-2. [171]

(vv) There is no independent human rights oversight committee to track human rights violations associated with SARS-CoV-2 response measures in Canada.

(ww) Communications about SARS-CoV-2 by the Government of Canada and mainstream media have been exaggerated, distorted, irresponsible, and appear to have been purposely designed to evoke fear and panic. The fear is out of proportion to the actual risk of mortality.

(xx) Governments and media have repeatedly failed to properly distinguish between the 'risk of infection' and 'the risk of

[170] https://www.thecanadianencyclopedia.ca/en/article/sars-severe-acute-respiratory-syndrome
[171] The Coronavirus mass panic is not justified. Professor Peter C. Gøtzsche24 March 2020
https://www.deadlymedicines.dk/wp-content/uploads/G%C3%B8tzsche-The-Coronavirus-mass-panic-is-not-justified.pdf

mortality'. For the vast majority of the population the risk of mortality is extremely low.

(yy) Prevalence of SARS-CoV-2 in the entire Canadian population is very low. Extreme social controls should never be used in low prevalence epidemics.

(zz) As presented by PHAC, the modelling techniques used to establish probabilities of the epidemic trends and thus "inform" policy decisions have no basis in evidence, are completely inflated, and essentially amount to statistical chicanery.

(aaa) Using total case numbers as though they represent the risk of being infected with SARS-CoV-2 is perception management. While these numbers may be of interest for epidemiological study, they have little bearing on the true risk facing citizens.

(bbb) Severity of SARS-CoV-2 is estimated by infection fatality rates. Infection fatality rates cannot be established until the total number of cases, both symptomatic and asymptomatic, in the entire population can be estimated.

(ccc) The Canadian government failed to perform a national random sample test to establish a SARS-CoV-2 baseline across the entire population to justify the restrictions and violations of rights and freedoms.

(ddd) Exaggerated claims and distorted messages have contributed to an atmosphere of fear and uncertainty that is destructive to the well-being of Canadians. It would appear that the real epidemic is an epidemic of fear.

(eee) The evoked fear and panic is so entrenched amongst a large proportion of Canadians that it is extremely difficult to reverse that message even when the scientific data does not support such panic.

(fff) As recent as May 22, 2020 Prime Minister Justin Trudeau told reporters that contact tracing needs to be ramped up across the county. Trudeau stated that he "strongly recommends" provinces use cell phone apps when they become available, and that this use would likely be mandated. Use of surveillance technologies to monitor citizens constitutes a clear violation of our right to privacy.

(ggg) As of May 24, 2020, the Prime Minister of Canada had not invoked the *Emergencies Act,* nor has he to date. Therefore, emergency measures announced by the Prime Minister and his public statements to Canadians to "just stay home" have no legal basis or authority, are an abuse of power, and is resulting in confusing, dangerous and unlawful messaging.

(hhh) The Prime Minister of Canada and British Columbia Premier John Horgan have repeatedly stated that *"life will not return to normal*

until a vaccine is found". It is irresponsible to base a return to normal upon a vaccine when there is no guarantee that an effective and safe vaccine can be developed.

(iii) There are significant risks to both individuals and to confidence in the health care system by accelerating the development of a SARS-CoV-2 vaccine by relaxing normal and prudent safety testing measures.

(jjj) Health Canada approved human trials of a SARS-CoV-2, under an Interim Order, of a SARS-CoV-2 vaccine (May 19, 2020) without clear evidence that prior animal testing to identify the potential risk of pathogenic priming (immune enhancement) has been conducted. Pathogenic priming has prevented the development of an effective and safe coronavirus vaccine to date.

(kkk) Dr. Peter Hotez of Baylor College (who has previously tried to develop a SARS vaccine) told a US Congressional Committee on March 5, 2020 that coronavirus vaccines have always had a "unique potential safety problem" — a "kind of paradoxical immune enhancement phenomenon." [172]

(lll) To impose through influence, mandate, or coercion an inadequately tested SARS-CoV-2 vaccine product upon all

[172] https://www.c-span.org/video/?470035-1/house-science-space-technology-committee-hearing-coronavirus&start=1380

Canadians when 99% of the population is not at risk of mortality is reckless, irresponsible and immoral.

(mmm) A SARS-CoV-2 vaccine ought to be targeted at the less than 1% of the population that is at risk of mortality, rather than the more than 99% that is not at risk.

(nnn) There is no moral, medical or ethical justification to ignore prudent safety protocols and to suggest that the use of this yet to be developed medical product is necessary for life to return to normal.

(ooo) Dr. Allan S. Cunningham, a retired pediatrician, has raised the possibility that a potential contributor to the current coronavirus outbreak is the seasonal influenza vaccine. A randomized placebo-controlled trial in children showed that the influenza vaccine increased fivefold the risk of acute respiratory infections caused by a group of non influenza viruses, including coronaviruses. [173] [174]

(ppp) A study of US military personnel confirms that those who received an influenza vaccine had an increased susceptibility to coronavirus infection. [175]

(qqq) EU numbers show correlation between influenza vaccine and coronavirus deaths. The countries with highest death rates (Belgium, Spain, Italy, UK, France, Netherlands, Sweden, Ireland

[173] https://www.bmj.com/content/368/bmj.m810/rr-0
[174] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3404712/
[175] https://www.sciencedirect.com/science/article/pii/S0264410X19313647

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and USA) had all vaccinated at least half of their elderly population against influenza.[176]

(rrr) Canada continues to be one of only two G20 Nations which fails to compensate citizens who are injured and killed by government approved and recommended vaccine products. The other is Russia.

(sss) The unwillingness of the Government of Canada to provide compensation for vaccine injury, while at the same time imposing vaccine products upon its citizens, is unconscionable.

(ttt) To rely on a vaccine as the required strategy to returning life to normal is reckless, irresponsible and unwarranted.

(uuu) Jonathan Kimmelman, director of McGill University's biomedical ethics unit stated: "Outbreaks and national emergencies often create pressure to suspend rights, standards and/or normal rules of ethical conduct. Often our decision to do so seems unwise in retrospect."

(vvv) On June 8th, 2020 the WHO publicly announced that the risk of symptomatic spreading of the virus was "**very rare**". This statement removed by Facebook as "fake News", given its very early, prior contrary assessment, the WHO, the next day partially retracted this June 8th, 2020 statement by qualifying without details or explanation that

[176] https://www.thegatewaypundit.com/2020/05/niall-mccrae-david-kurten-eu-numbers-show-correlation-flu-vaccine-coronavirus-deaths/

modeling suggested Asymptomatic transmission is possibly as high as 40%: NO evidence or study was provided, nor the basis of the previous day's release. On July 4th, 2020 the WHO re-re paddled back to its original June 8th, 2020 position.

186. A posted report announcing the June 8th, 2020 WHO release, on Facebook, with respect that Asymptomatic transmission was very rare, which was immediately removed by Facebook as "Fake News" for, contradicting earlier WHO releases.

187. From the summer of 2020, to the present, the alarm and clarity that the Defendants have **not** been following the science, or medicine, has intensified, world-wide, and in Canada, while the Respondents continue to refuse to disclose the source and substance of whose and what science they are following, based on what?

188. British Columbia doctors have written Bonnie Henry, publicly, requesting she disclose and explain her "scientific" basis for the measures. She has consistently refused. In fact, doctor(s) doing so, or criticizing Covid-measures such as Dr. Stephen Malthouse, and other, have been pursued by their Regulatory College for simply asking questions of Bonnie Henry and the Covid measures. Directors from the College of Surgery and Physicians of British Columbia have issued, on the pain of discipline and removal of medical license, that no criticism of the official Public Health opinions, dictates, and treatment will be tolerated by the College.

189. This is not restricted to British Columbia. On April 20th, 2021 Ontario doctors demanded, of Ontario Premier Doug Ford, an open and public discussion and debate of his measures as they do not add up to science or medicine, like the measures in British Columbia.

- **E/ HYPER – INFLATED, DISTORDETED TOTAL NUMBER OF CV-19 "CASES" & "DEATHS"**

190. Since the on-set of the "emergency", and into the summer of 2020, the Plaintiffs state that the total number of Covid-19 cases is the basis for almost all of the Covid-19 data including deaths in those cases, recovery from those cases, hospitalizations and ICU admissions of those cases and total active cases.[177] Total case numbers are also used for other epidemiological metrics (e.g., virulence and transmission rates of Covid-19).

191. Yet the total case numbers are inflated by both RT-PRC testing and WHO coding definitions.

192. The Plaintiffs state that the WHO coding of cases allows 'virus not identified', i.e., probable cases to be counted as Covid-19 cases.[178] WHO coding also inflates death data numbers by requiring **all cases** where Covid-19 is "probable or confirmed" to be certified as a death due to Covid-19 regardless of

[177] Public Health Agency of Canada, https://www.canada.ca/en/public- health/services/diseases/2019-novel-coronavirus-infection/health-professionals/national-case-definition.html"Confirmed:A person with laboratory confirmation of infection with the virus that causes COVID-19 performed at a community, hospital or reference laboratory (NML or a provincial public health laboratory) running a validated assay. This consists of detection of at least one specific gene target by a NAAT assay (e.g. real-time PCR or nucleic acid sequencing).

[178] WHO ICD-10 Coding https://www.who.int/classifications/icd/COVID-19-coding-icd10.pdf?ua=1]

comorbidities. Admonishing physicians to "always apply these instructions, whether they can be considered medically correct or not."[179]

193. RT-PCR was never intended as a diagnostic tool[180] and is not an antigen test[181].

194. The Plaintiffs state that the PCR tests are based on an arbitrary cycling number (Ct) that is not consistent among testing laboratories.[182] "Cycling too much could result in false positives as background fluorescence builds up in the PCR reaction." Tests can show positive for minute amounts of RNA that are not causing illness and for non-infectious fragments of RNA.[183] RT-PCR tests cannot prove the pathogenic nature of the RNA.

195. RT-PCR tests have a specificity of 80-85%.[184] This means 15-20% of the time a positive test does not indicate the presence of RNA of SARS-CoV-2, but of some other RNA source. RT-PCR testing is not reliable for SARS-CoV-2 testing.[185]

196. RT-PCR tests are more likely to be false positive than false negative.[186] In low prevalence countries like Canada: "Such [false positive] rates would have large

[179] WHO Cause of Death Guidelines https://www.who.int/classifications/icd/Guidelines_Cause_of_Death_COVID-19-20200420-EN.pdf?ua=1

[180] Dr. Judy Mikowitz https://articles.mercola.com/sites/articles/archive/2020/05/03/is-the-new-coronavirus-created-in-a-lab.aspx "Epidemiology is not done with PCR. In fact, Kary Mullis who invented PCR, Nobel Laureate, and others, said PCR was never intended for diagnostic testing."

[181] Not an Antigen Test: Prof Eleanor Riley, Professor of Immunology and Infectious Disease, University of Edinburgh and Dr Colin Butter, Associate Professor and Programme Leader in Bioveterinary Science, University of Lincoln https://www.sciencemediacentre.org/expert-comment-on-different-types-of-testing-for-covid-19/

[182] Issues with the RT-PCR Coronavirus Test, David Crowe and Dr. Stephen Bustin, April 23, 2020 https://theinfectiousmyth.com/coronavirus/RT-PCR_Test_Issues.php]

[183] https://www.independent.co.uk/news/world/asia/coronavirus-south-korea-patients-infected-twice-test-a9491986.html

[184] RT-PCR Test 80–85% specificity per Dr. James Gill, Warwick Medical School, England https://www.sciencemediacentre.org/expert-comment-on-different-types-of-testing-for-covid-19/]

[185] Stability Issues of RT-PCR Testing of SARS-CoV-2, March 10, 2020 Abstract: https://pubmed.ncbi.nlm.nih.gov/32219885/ Full text: https://onlinelibrary.wiley.com/doi/full/10.1002/jmv.25786
"In our study, we found a potentially high false negative rate of RT-PCR testing for SARS-CoV-2 in hospitalized patients in Wuhan clinically diagnosed with COVID-19. Furthermore, the RT-PCR results showed a fluctuating trend. These may be caused by insufficient viral material in the specimen, laboratory error during sampling, or restrictions on sample transportation."]

impacts on test data when prevalence is low. Inclusion of such rates significantly alters four published analyses of population prevalence and asymptomatic ratio. The high false discovery rate that results, when prevalence is low, from false positive rates typical of RT-PCR assays of RNA viruses raises questions about the usefulness of mass testing…"[10]

197. The Plaintiffs state that the implications of false positive tests include the following: "There are myriad clinical and case management implications. Failure to appreciate the potential frequency of false positives and the consequent unreliability of positive test results across a range of scenarios could unnecessarily remove critical workers from service, expose uninfected individuals to greater risk of infection, delay or impede appropriate medical treatment, lead to inappropriate treatment, degrade patient care, waste personal protective equipment, waste human resources in unnecessary contact tracing, hinder the development of clinical improvements, and weaken clinical trials."[187]

198. A Chinese study[188] found, "In the close contacts of COVID-19 patients, nearly half or even more of the 'asymptomatic infected individuals' reported in the active nucleic acid test screening might be false positives."[189]

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[186] . 10 False positives in reverse transcription PCR testing for SARS-CoV-2
https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v1.full.pdf]

[187] https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v2
<https://www.medrxiv.org/content/10.1101/2020.04.26.20080911v2>_____

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[188] Potential false-positive rate among the 'asymptomatic infected individuals' in close contacts of COVID-19 patients, March 23, 2020
http://html.rhhz.net/zhlxbx/017.htm
Full translation: https://theinfectiousmyth.com/articles/ZhuangFalsePositives.pdf

199. The Public Health Agency of Canada reports more than 1.4 million people have had PCR tests.[190] Considering the false positive rate, especially for contact tracing, this is not a good use of our resources (both dollars and testing staff).

200. As of June 15th, 2020 the COVID "statistics" are as follows:

(a) Population of Canada 2020--- 37,742,154;

(b) Total number of confirmed or probable cases as of June 15th -- 99,147;

(c) Therefore, 0.0026% of Canadians are testing positive;

(d) 0.00021% of Canadians are dying ''with'' or ''of COVID'' (there is no current differentiation between death "with" or "from" COVID statistically speaking). As of June 15,2020 the national death count from covid stands at 8,175, a completely inflated and distorted number, due to levels of gross mismanagement of patient care in institutions where outbreaks are reported, and death certificate mislabelling of dying ''with'' covid, as opposed to dying ''from'' covid. Meanwhile, the statistics (2018) for other causes of death, according to statistics Canada, in Canada were as follows:

(i) Suicides--- 3,811;
(ii) influenza and pneumonia (seasonal viral respiratory illness) --- 8,511*;

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189 https://www.reddit.com/r/COVID19/comments/fik54b/false_positives_among_asymptomatic/ <https://www.reddit.com/r/COVID19/comments/fik54b/false_positives_among_asymptomatic/>

190 PHAC Daily Update, May 25: 1,454,966 total people tested https://www.canada.ca/content/dam/phac-aspc/documents/services/diseases/2019-novel-coronavirus-infection/surv-covid19-epi-update-eng.pdf

(iii) accidents (unintentional injuries) ---13,290;
(iv) medical error (including medications)--- 28,000;
(v) heart disease--- 53,134;
(vi) cancer--- 79,536.

201. The Plaintiffs state, and fact is that the US, UK, and Italy, through their public health officials have publicly admitted that a COVID death is tallied as such, simply where the COVID virus is found, **albeit** inactive, and regardless of whether the patient died from another **primary** cause of death, such as from cancer in palliative care. Thus a senior US Health official, on April 19th,2020, Dr. Ezike, Director of Public Health, put it this way:

> That means, that if you were in hospice and had already been given a few weeks to live, and then you also were found to have COVID, that would be counted as a COVID death.
>
> ''It means technically if you died of a clear alternate cause but you had COVID at the same time, its still listed as a COVID death.
>
> Everyone who is listed as a COVID death doesn't mean that was the cause of the death, but they had COVID at the time of death.

The Plaintiffs state, and the fact is, that Canada uses the same system, mandated by the WHO, because the WHO collapsed three different ways of certifying and classifying death into one, in order to grossly inflate the number of deaths "attributable" to covid-19.

202. This includes someone like George Floyd who was killed (murdered) by four (4) Minneapolis police officers, who have been charged with murder, in that the official autopsy report stipulated that he had tested positive for COVID months

earlier. (Why George would be tested for COVID, in the circumstances, is beyond baffling).

203. The Plaintiffs state, and the fact is, that in many jurisdictions, such as New York City, a hospital is paid much more to deal with a "COVID-death", than a non-COVID death.

204. The Plaintiff states, and the facts is, that the false and faulty manner and method of determining a ''COVID-death'', is wholly and exclusively dictated by WHO guidelines and parroted by Chief Medical Officers in Canada, in furtherance of the WHO's false ''pandemic'', to instill baseless fears, in the WHO's non-medical agenda, at the control and instigation of Billionaire, Corporate, and Organizational Oligarchs, who actually control the agenda of the WHO, to effect their plan to install a New World (Economic) Order by means of economic shut-down and mandatory vaccinations and surveillance of the planet's population.

205. From the summer of 2020 to the present, the fraud, and fraudulent misuse of the PCR testing, which accounts for the "case-counts", and in turn the panic and justification for **ALL** Covid-measures continues, without the explanation to the public that:

(a) The inventor of the PCR test, Nobel-Prize winner Kary Mullis, made it clear that the PCR test **cannot** and **does not** detect any virus that it can diagnose **any** virus but is merely a screening investigative test and that, in order to verify the existence of a virus you must:

(i) Do a culture test to isolate and identify the virus; and

(ii) A concurrent blood-test to check for anti-bodies to verify that the virus is still infectious;

(b) The PCR test, when used at a threshold cycle of 35 or over, in the "positive" cases, 96.5% are false positives, which has been judicially excepted by three (3) courts, and currently British Columbia tests at between 43-45 cycles and which means that every time British Columbia announces a positive case count it needs to be reduced by 96.5%;

(c) That the PCR test will give a positive for all coronaviruses of which there are seven(7);

(d) That the PCR test will register and count as positive dead, **non**-infectious virus fragments;

(e) That dead, non-infectious virus fragments remain in the body for up to 80 days from the time the virus **ceases** to be infectious;

(f) That the positive "case(s) count(s)" has no relationship to the **death count.**

(g) In November 2020, a Portuguese court ruled that PCR tests are unreliable.[191]On December 14, 2020, the WHO admitted the PCR Test has a 'problem' at high amplifications as it detects dead cells from old viruses, giving a false positives.[192] On February 16th, 2021, BC Health

[191] https://unitynewsnetwork.co.uk/portuguese-court-rules-pcr-tests-unreliable-quarantines-unlawful-media-blackout/
[192] https://principia-scientific.com/who-finally-admits-covid19-pcr-test-has-a-problem

Officer, Bonnie Henry, admitted PCR tests are unreliable.[193] On April 8th, 2021, the Austrian court ruled the PCR was unsuited for COVID testing.[194]On April 8th, 2021, a German Court ruled against PCR testing stating, "the test cannot provide any information on whether a person is infected with an active pathogen or not, because the test cannot distinguish between "dead" matter and living matter".[195] 9 On May 8th, 2021, the Swedish Public Health Agency stopped PCR Testing for the same reason.[196] On May 10th, 2021, Manitoba's Chief Microbiologist and Laboratory Specialist, Dr. Jared Bullard testified under cross examination in a trial before the court of Queen's Bench in Manitoba, that PCR test results do not verify infectiousness and were never intended to be used to diagnose respiratory illnesses.[197]

206. In fact, as of April 2021, the Canadian and British Columbia claim that approximately 23,000 Canadians have died "from" and "with" Covid which is a fraudulent and misrepresenting statistic in that this is over the equivalent of two (2) flu seasons which means that 11,500 purportedly died in 2019-2020 and another 11,500 purportedly died in the 2020-2021 flu season. Even accepting the questionable dying "with Covid", 11,500 is not significantly higher than the

[193] https://rumble.com/vhww4d-bc-health-officer-admits-pcr-test-is-unreliable.html
[194] https://greatgameindia.com/austria-court-pcr-test/
[195] https://2020news.de/sensationsurteil-aus-weimar-keine-masken-kein-abstand-keine-tests-mehr-fuer-schueler/
[196] https://tapnewswire.com/2021/05/sweden-stops-pcr-tests-as-covid19-diagnosis
[197] https://www.jccf.ca/Manitoba-chief-microbiologist-and-laboratory-specialist-56-of-positive-cases-are-not-infectious

8,500-9,100 who died from complications of the annual influenza, every year, prior to Covid-19. Vis-à-vis the population, it still amounts to a mere ¼ of 1% (0.0027%) of the population. To call this a "pandemic" is to engage in fraud and fear-mongering. The Plaintiffs state, and the fact is that an extremely exponential more people have died as a direct result of the Covid measures themselves.

- **F/ GLOBAL POLITICAL, ECONOMIC AGENDA BEHIND UNWARRANTED MEASURES**

  - **The Non-Medical measures and Aims of The Declared Pandemic- The Global Agenda**

207. The Plaintiffs state, and the fact is that the WHO is not, nor ever has been, an objective, independent **medical** body, but is riddled with over-reaching socio-economic and political dictates of its funders who, inexplicably over and above the nation-states who fund-it, is heavily funded, and directed, through its "WHO Foundation", and **GAVI,** by international Billionaire Oligarchs, and Oligarch organizations such as Bill Gates, GAVI, the World Economic Forum ("WEF"). The Plaintiff states, and the fact is, that WHO vaccination programs, funded by the Bill Gates and Melinda Foundation, have been accused, by the governments of various sub-Saharan African countries, as well as Nicaragua, India, Mexico and Pakistan, the Philippines, of conducting unsafe, damaging vaccine experiments on their children. In India, the Courts are investigating these vaccination experiments on children. The WHO has recently, in the context of the COVID-19, been expelled from various countries for lack of confidence,

corruption, and attempted bribery of their officials, up to, and including, head(s) of state. The Plaintiffs further state, and fact is:

(a) There is a declared agenda to impose global mandatory vaccination, ID chipping, testing and immunity certification on all citizens. This global agenda has been in the works for decades; [198]

(b) Bill Gates, through his Foundation and Organization(s), is the largest private funder to the World Health Organization, is a leading proponent of keeping the economy locked down until a vaccine is developed. Gates is also a major advocate behind the contact tracing initiative. [199] Gates is a major investor in developing a SARS-CoV-2(COVID-19) vaccine and in tracking technology. Gates has a clear financial conflict of interest in advocating for a vaccine and contact tracing;

(c) Bill Gates has no medical or scientific training or credentials and holds no elected office. He should not be determining the fate of mankind. [200]

(d) The Gates Foundation (along with other partners) helped launch the Global Alliance for Vaccines and Immunization (GAVI). The foundation has given $4.1 billion to GAVI over the past 20 years;[201]

(e) These self-propelling agenda personally benefit Gates and other Billionaires, Corporations, and Organizations, particularly vaccines and computer and wireless technology, in his pharmaceutical (vaccine)

[198] https://childrenshealthdefense.org/news/a-timeline-pandemic-and-erosion-of-freedoms-have-been-decades-in-the-making/
[199] https://www.lifesitenews.com/news/bill-gates-life-wont-go-back-to-normal-until-population-widely-vaccinated
[200] https://childrenshealthdefense.org/news/government-corruption/gates-globalist-vaccine-agenda-a-win-win-for-pharma-and-mandatory-vaccination/
[201] https://www.vox.com/future-perfect/2020/4/14/21215592/bill-gates-coronavirus-vaccines-treatments-billionaires

holdings and agenda, as well as IT and internet holdings and concerns in that, overnight , a vast majority of socio-economic activity has been dislocated to a "virtual", "new normal" whereby everything from commerce, schools, Parliament, Courts, are converting to "virtual'', not to mention the electronic surveillance through cellphone applications for contract tracing;

(f) The Gates Foundation project to develop at-home testing evolved from a two-year-old research project from the University of Washington that was intended to track the spread of diseases like influenza. All told, the Gates Foundation has poured about $20 Million into the effort. A project funded by the Gates Foundation announced it would begin issuing at-home specimen collection kits for the novel coronavirus, COVID-19, according to a report in the Seattle Times;[202]

(g) Dr. Joel Kettner, former Chief Medical Officer revealed that pressure is being put on public health doctors and public health leaders by the Director-General of the World Health Organization (WHO) when he said, *"This is a grave threat and a public enemy number one"*. Kettner states – "I have never heard a Director-General of WHO use terms like that." [203];

[202] https://www.seattletimes.com/seattle-news/health/gates-funded-program-will-soon-offer-home-testing-kits-for-new-coronavirus/

[203] https://off-guardian.org/2020/03/17/listen-cbc-radio-cuts-off-expert-when-he-questions-covid19-narrative/

(h) While these initiatives are presented as measures to address health, they significantly increase control by governments over their citizens, violate privacy, and are part of an agenda to impose vaccination by mandates and other forms of coercion;

(i) Contact tracing applications are being installed in cell phone software upgrades without the express knowledge or permission of consumers;

(j) The Centre for Disease Control in the United States is actively lobbying for increased masking and physical distancing measures, without substantive evidence to justify these measures., while in Canada compulsory masking has also emerged;

(k) Alan Dershowitz, a Harvard Law school professor has declared: *"If a safe vaccine is to be developed for Covid-19, I hope it's mandated, and I will defend it, and we'll argue that in the Supreme Court of the United States."* [204];

(l) Social media platforms such as Facebook, Pinterest, Instagram, Twitter, YouTube and others, under the direction of governments, are actively censoring information that challenges the SARS-CoV-2(COVID-19) pandemic narrative. Public debate on this topic is not being permitted, where Canada is no exception, and even worse, with the Canadian government threatening to enact **Criminal Code** provisions for those who

[204] https://www.forbes.com/sites/christopherrim/2020/05/20/more-than-stimulus-checks-how-covid-19-relief-might-include-mandated-vaccines/?fBritish Columbialid=IwAR2nrvg0WDTdv_KwjL_wedTNWBe3pxbqQeQAvQIK4m8OfSctLGFhAU9rGYE#1d19b0d57992

utter or publish ‘’misinformation’’ on COVID-19, including expert opinion;

(m) The voices of highly credentialed and respected scientists and medical doctors have been censored by the government and media, preventing them from providing critical information from their decades long experience in dealing with infectious diseases and epidemics. Even our own public health experts’ experience and advice, gathered over many decades has been ignored. This includes Dr. Joel Kettner, former Chief Medical Officer of Manitoba and Dr. Richard Schabas, former Chief Medical Officer of Ontario;

(n) Scientists have been involved in “gain-of-function” (GOF) research since 2002 that seeks to generate viruses *“with properties that do not exist in nature”* and to *“alter a pathogen to make it more transmissible (to humans) or deadly.”* [205] [206];

(o) Rather than instruct people on how to improve their overall health or boost their immunity with healthy foods, quality supplements, and physical activity, governments are telling citizens that the only way to survive the coronavirus crisis is to rush the development of a vaccine and then inject all seven billion humans on the planet;

(p) Many scientists and doctors have expressed confidence in high dose Vitamin C, Vitamin D supplementation, and other generic, inexpensive,

[205] https://www.ncbi.nlm.nih.gov/books/NBK285579/
[206] https://www.sciencemag.org/news/2014/10/us-halts-funding-new-risky-virus-studies-calls-voluntary-moratorium

and readily available medications and treatments to assist recovery. To state that there is no cure to SARS-CoV-2 (COVID-19) is dishonest;

(q) The "no cure" agenda devolves directly from the pharmaceutical industry, which is receiving billions of dollars from governments to develop expensive and, so far, unproven as safe and effective "cures". Yet safe, effective and inexpensive remedies that help with recovery from Covid-19 already exist;

(r) Research in 2005 demonstrated that Chloroquine is a potent inhibitor of SARS coronavirus infection and spread, thus negating the urgent need for a vaccine; [207]

(s) Some governments are actively restricting access to treatments that have been proven to alleviate the symptoms of SARS-CoV-2(COVID-19) including VITAMIN C and D, zinc, HCQ, GTH precursors, and oxygen treatments, including hyperbaric chambers;

(t) The decision by governments globally to institute social controls and severe containment measures will prolong the epidemic and guarantee successive waves of infection. As social controls are lifted, susceptible individuals previously cocooned from infection will become exposed. Successive waves of infection is a certainty as a result of severe containment measures that prevented the development of natural immunity;

[207] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1232869/

(u) Prime Minister Trudeau and Premiers, including the Respondents, have stated that "life will not return to normal until we have a vaccine", parroting Bill Gates and Gates' mantra and agenda, and has failed to take "mandatory vaccination" off the table as a potential action of the government.[208] It would appear that the Prime Minister and Premier are not considering any alternative plan to ending this lockdown;

(v) The Government of Canada has not assumed legal and financial liability for any injury or death resulting from containment measures or the use of any vaccine;

(w) When a government uses its power to force ordinary citizens to give up their freedoms, that nation is in great danger of moral and economic collapse. [209]

208. 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" 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 and that;

[208] https://nationalpost.com/news/canada/coronavirus-live-updates-covid-19-covid19
[209] https://www.chp.ca/commentary/free-injections-or-mandatory-vaccinations

(i) With 10 days of the declared pandemic European and North American banks were given $2.3 Trillion dollars and further amounts to hold up stuck markets and corporations, for a total of approximately $5 Trillion dollars, largely going un-noticed in the face of the "pandemic", with this number progressively climbing ;

(ii) The shutting of virtually **all**, small independent businesses, with the bizarre, **but intended** consequence that a local, street-level clothing-store, or hardware store, or any store not selling food or medicine, is forced shut down but a Walmart or Costco could sell anything and everything in its stores because one section of the store sold food (an essential service);

(iii) Other stores unable to sell, had to close with the consequence that all small hardware shops, and the like, were closed but the large corporations such as Home Depot, and the like, were equipped to take on-line orders and have drive-by pick up;

(b) 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 5G capacity;

(d) The elimination of cash- currency and the installation of strictly digital currency to better-effect surveillance;

(e) The near-complete revamping of the educational system through "virtual" learning and closure of schools, particularly at the University levels.

209. The Plaintiffs state, and the fact is, that the benefactors of these goals and agendas are the global oligarchs who control and profit from vaccines and the technical infrastructure of information and communication such as Bill Gates, and his companies and Organizations, who pursues global vaccination and profits from a global shift to "virtual economy" along with the other corporate oligarchs and their "on-line" sale and distribution infrastructure of globalization, and by-passing of effective national governance of nation-states under their own respective Constitutions, including Canada.

210. The Plaintiffs state, and the facts is, that this agenda is well on its way to "virtualizing", "corporatizing", and "isolating" even Parliament and the Courts to an embarrassing and debilitating degree as reflected, ***inter alia*** by:

(a) Virtual Parliamentary Committees and sittings become the "new normal" because a declared "pandemic", is available every year, with projected "2nd and 3rd waves;

(b) The Supreme Court of Canada, on June 3rd,2020 announced virtual, "Zoom" hearing of its appeals with its first virtual appeal hearing on or about June 10th, 2020;

(c) The Chief Justice of the Ontario Superior Court, Justice Justice Geoffrey Morawetz, embarrassingly declared, on May 29th, 2020 that :

> "there is no real return to full-scale, what I will call normal operations, to pre-March operations, until such time that there's a vaccine available".

Whether the Chief Justice is aware, or not aware, that he was echoing a mantra originated by Bill Gates, and an agenda Gates has been pursuing for decades, which serves Bill Gates and his associates, is unknown.

211. The Plaintiffs further state, and the fact is, that this agenda executed under the pretext of the COVID-19 has been long in the planning and making, as reflected and borne out by, **inter alia** the following facts and documents:

(a) (i) "decade of vaccines" declared by Bill Gates, and its funding with the full support of the Canadian government, under a Memorandum of Understanding in 2020 up to including PM Trudeau, and further, on or about May 18th, 2020, gifting Bill Gates another $800 Million dollars of Canadian Taxpayer dollars in addition to prior millions already gifted;

(ii) The public statements made by Bill Gates and others for mandatory vaccination of the globe, with vaccine-chips, chip-

bracelets, smart-phone tracing, covid-testing, and surveillance of everyone;

(iii) The criminal vaccine experiments causing horrific damage to innocent children in India, Pakistan, Africa and other developing countries;

(b) The Rockefeller Foundation Report, issued on May 2010, and leaked, in which report a hypothetical scenario and hypothetical is laid out with the effect of " how to obtain global governance during a pandemic", and which report, posits an unknown virus escaping Wuhan, China;

(c) **The 2010** Canadian Film Board documentary in which Dr. Theresa Tam, an ex-WHO committee member, is featured and quoted to have stated, with respect to a potential pandemic;

Transcript (of Film Documentary):

1:25 – 1:32 - "Large epidemics and pandemics occur on a regular basis through-out history, and it will occur again. It definitely will."

57:00 - 58:00 - "If there are people who are non-compliant, there are definitely laws and public health powers that can quarantine people in mandatory settings."

"It's potential you could track people, put bracelets on their arms, have Police and other set-ups to ensure quarantine is undertaken."

"It is better to be pre-emptive and pre-cautionary and take the heat of people thinking you might be overreacting, get ahead of the curve, and then think about whether you've over-reacted later. It's such a serious situation that I think decisive early action is the key."

Narrator Colm Feore states: "Police checkpoints are set up on all the bridges and everyone leaving the city is required to show proof

of vaccination. Those who refuse to cooperate are taken away to temporary detention centers."

1:22 – "What is certain is an epidemic or pandemic is coming."[210]

(d) Gates, through the Bill and Melinda Gates Foundation, between 2003 and 2017,vaccine program killing thousands of children and severely injuring 486,000-plus in India, Pakistan, and Africa in administrating vaccines, as exposed by Robert Kennedy Junior and his Defense of Children Foundation, and others, and the fact that in India the Courts are investigating this conduct, and an unsuccessful motion brought in the Italian Parliament to have Gates indicted and extradited for crimes against humanity , and further that developing nation states declaring that they have been "guinea pigs", mostly children, in furtherance of global vaccination;

(e) A study by Dr. Peter Aaby in Africa, **DTP Vaccine Increases Mortality 5-Fold, In Study Without Healthy User Bias** concluded: "**DTP was associated with 5-fold higher mortality than being unvaccinated.** *No prospective study has shown beneficial survival effects of DTP.* **All currently available evidence suggests that DTP vaccine may kill more children from other causes than it saves from diphtheria, tetanus or**

[210] NFB Website: http://onf-nfb.gc.ca/en/our-collection/?idfilm=55974
Toronto Sun article: https://torontosun.com/news/national/warmington-tam-talked-of-tracking-bracelets-in-2010-epidemic-film

pertussis."[211] DTP while discontinued North America is still administered in the developing World.

(f) All the facts pleaded, in the above statement of claim with respect to Bill Gates, the Gates Foundation, GAVI, the WEF, Gates'entrenchment in vaccinating, mandatorily the entire planet, and his vaccine-chip pursuits with smart-phone surveillance, covid-testing, acquisition of 5G companies for maximum contact tracing and surveillance, his relationship with the WHO and its funding;

(g) A UN report, commissioned and released, in September, 2019, prepared by the "Global Preparedness Ministry Board", in which an "Apotyliptic Pandemic" is predicted killing as many as 80 million people;

(h) "Event 201", an exercise, simulating a pandemic, prior to October 18th, 2019, organized by Gates, GAVI, which included the "World Economic Forum", on invitation only;

(i) The Government of Canada's, minutely detailed 67- page Report, entitled" Government of Canada Response Plan COVID-19", final version 3.1", with previous versions unavailable, which could not

[211] http://vaccinepapers.org/high-mortality-dtp-vaccine/

have been researched and written a mere couple of weeks prior to the declaration of lock-downs and emergency in Canada;

(j) The heavily censored UK "Sage Report" of late-May, 2020;

(k) The International Lobby, spear-headed by Bill Gates and others as set out in the within Statement of Claim;

(l) The Suppressed German government 93-page, May, 2020, report which was eventually and recently leaked, which clearly and conclusively determined that the "pandemic" and measures are unjustified. The salient summary of which reads:

cs. KM4 – 51000/29#2

KM4 Analysis of Crisis Management (Brief Version)

Remarks: It is the task and aim of crisis management groups and any crisis management to recognize **extraordinary threats** and to fight them until the **normal state** is re-established/regained.
A normal state cannot therefore be a crisis.

Summary of the results of this analysis

1. In the past the crisis management did not (unfortunately against better institutional knowledge) build up adequate instruments for danger analysis. The situational reports, in which all information relevant for decision-making should be summarized in the continuing/current crisis, today still only cover a small excerpt of the looming spectrum of danger. An assessment of danger is in principle not possible on the basis of incomplete and inappropriate information. Without a correctly carried out assessment of danger, no appropriate and effective planning of measures is possible. The deficient methodology has an effect on a higher plane with each transformation; politics so far has had a strongly reduced chance to make factually correct decisions.

2. The observable effects of COVID-19 do not provide sufficient evidence that there is – in relation to the health consequences of all of society – any more than a **false alarm. At no point in time, it is suspected, was there a danger as a result of this new virus for the population (comparison is the usual death rate in Germany).** Those who die of corona are essentially those who statistically die this year, because they have arrived at the end of their lives and their weakened bodies cannot any longer fight coincidental everyday challenges (including the approximately 150 circulating viruses). **The danger of COVID-19 was overestimated. (In a quarter of a year worldwide no more than 250,000 deaths with COVID-19, as opposed to 1.5 million deaths during the 2017/18 influenza season). The danger is obviously no larger than that of many other viruses. We are dealing with a global false alarm which has been unrecognized over a longer period of time. - This analysis was reviewed by KM4 for scientific plausibility and does not fundamentally oppose the data and risk assessments provided by the RKI [Robert Koch Institute].**

3. A fundamental reason for not discovering the suspected false alarm is that the existing policies for the actions of the crisis management group and the crisis management during a pandemic do not contain appropriate instruments for detection which would automatically triger an alarm and the immediate cancellation/abandonment of measures, as soon as either a pandemic proves to be a false alarm or it is foreseeable that the collateral damage – and among these especially the parts that destroy human lives – threatens to become larger than the health effects of and especially the deadly potential of the illness under consideration.

4. In the meantime, the collateral damage is higher than the recognizable benefit. The basis of this assessment is not a comparison of material damages with damage to persons (human lives). Alone a comparison of deaths so far due to the virus with deaths due to the measures decreed by the state (both without certain data). Attached below is an overview-type summary of collateral health damages (incl. Deaths), reviewed by scientists as to plausibility.

5. The (completely useless) collateral damage of the corona crisis is, in the meantime, gigantic. A large part of this damage

will only manifest in the nearer and more distant future. This cannot be avoided anymore, only minimized.

6. Critical infrastructures are the lifelines necessary for the survival of modern societies. As a result of the protective measures, the current security of supply is no longer a given as it usually is (so far gradual reduction of the basic security of supply, which could result in a fallout in future challenging situations). The resilience of the highly complex and strongly interdependent complete system of critical infrastructure has been reduced. Our society lives, from now on, with increased vulnerability and a higher risk of failure of infrastructures necessary for life. This can have fatal consequences, if on the in the meantime reduced level of resilience of KRITIS a truly dangerous pandemic or other danger should occur.

Four weeks ago, UN-general Secretary Antonio Guterres of a fundamental risk. Guterres said (according to a report in the Tagesschau on April 4, 2020): "The weaknesses and insufficient preparation which are becoming apparent through this pandemic give insight into how a bioterrorist attack could look – and these weaknesses possibly increase a risk thereof." According to our analysis, in Germany a grave deficiency is the lack of an adequate system for the analysis and assessment of danger.

7. the protective measures decreed by the state, as well as the manifold societal activities and initiatives which, as initial protective measures cause the collateral damage, but have in the meantime lost any purpose, are largely still in effect. It is urgently recommended to abolish these immediately, to avert damage to the population – especially unnecessary additional deaths -, and to stabilize the situation around critical infrastructure, which is possibly becoming precarious.

8. The deficits and failures in crisis management consequently lead to communication of information that was not well-founded. (A reproach could be: The state showed itself to be one of the biggest fake-news-producers in the corona crisis).

<u>From these insights it follows:</u>

a) The proportionality of interference with the rights of eg. Citizens is currently <u>not given</u>, since the state did not carry out

an appropriate consideration with the consequences. The German constitutional court demands an appropriate balancing of measures with negative consequences. (PSPP judgement of May 5, 2020).

b) The situational reports of the crisis management group BMI-BMG and the communications from the state to the provinces regarding the situation must there fore henceforth
-conduct an appropriate analysis and assessment of dangerous
-contain an additional section with meaningful, sound data regarding collateral damage (see remarks in the long version)
-be freed of irrelevant data and information which are not required for the assessment of danger, because they make it difficult to see what is going on
-an index should be formed and added at the beginning

c) An appropriate analysis and assessment of danger is to be performed immediately. Otherwise the state could be liable for damages that have arisen.[212]

212. The Plaintiffs further state, and fact is, that in a study issued by Stefan Homburg, Christof Kuhbandner, at the Leibniz University Hannover, Germany, **post-June 8th, 2020,** these authors soundly concluded in their study that the lock-down measures as modelled and executed were Not effective, globally comparing countries following the WHO protocols and countries that did not.[213]

213. The Plaintiffs state, and the fact is, that this agenda includes the "World Economic Forum ("WEF")". The Plaintiffs state and fact is that the WEF;

(a) Consistently promotes a "New Economic World Order" ,which is a vision in the process of being rolled out under the auspices of the

212 https://human-synthesis.ghost.io/2020/05/31/km4-analysis-of-crisis-management-short-ver/ <https://human-synthesis.ghost.io/2020/05/31/km4-analysis-of-crisis-management-short-ver
213 http://diskussionspapiere.wiwi.uni-hannover.de/pdf_bib/dp-671.pdf

World Economic Forum, of which one of the main sponsors is **The Bill & Melinda Gates Foundation.**

(b) The World Economic Forum is the International Organization for Public-Private Cooperation. **The Forum engages the foremost political, business, cultural and other leaders of society to shape** global, regional and industry agendas.

(c) The World Economic Forum is committed "to the launch of the Great Reset - a project to bring the world's best minds together to seek a better, fairer, greener, healthier planet as we rebuild from the pandemic." "The COVID-19 crisis has shown us that our old systems are not fit any more for the 21st century," said World Economic Forum Executive Chairman Klaus Schwab. "In short, we need a great reset."[214]

(d) Since its launch on March 11th, 2020, the Forum's COVID Action Platform has brought together 1,667 stakeholders from 1,106 businesses and organizations to mitigate the risk and impact of the unprecedented global health emergency that is COVID-19. The platform is created with the support of the **World Health Organization.**[215]

[214] https://www.weforum.org/agenda/2020/06/the-great-reset-this-weeks-world-vs-virus-podcast/
[215] https://cepi.net/about/whoweare/

(e) **The WEF sponsors have big plans**:"…the world must act jointly and swiftly to revamp all aspects of our societies and economies, from education to social contracts and working conditions. Every country, from the United States to China, must participate, and every industry, from oil and gas to tech, must be transformed. In short, we need a **"Great Reset" of capitalism." "The World Economic Forum is launching a new Davos Manifesto**, which states that companies should pay their fair share not taxes, show zero tolerance for corruption, uphold human rights throughout their global supply chains, and advocate for a competitive, level playing field." Klaus Schwab, Founder and Executive Chairman, World Economic Forum.[216]

(f) In 2017 Germany, India, Japan, Norway, the Bill & Melinda Gates Foundation, the Welcome Trust and the World Economic Forum founded the Coalition for Epidemic Preparedness Innovations (CEPI) to facilitate **focused support for vaccine development to combat major health epidemic/pandemic threats.** As an organization, the Forum has a track record of supporting efforts to contain epidemics. In 2017, at the Annual Meeting, the Coalition for Epidemic Preparedness Innovations (CEPI) was launched – bringing together experts from government, business, health,

[216] https://www.weforum.org/the-davos-manifesto

academia and civil society to accelerate the development of vaccines. CEPI is currently supporting the race to develop a vaccine against this strand of the coronavirus.[217]

(g) Event 201, the pandemic exercise in October 2019, was co-sponsored by the World Economic Forum and the Gates Foundation. [218]

(h) As early as 2016, the president of the WEF, announced his and the WEF's intentions that, "within 10 years", humans would be microchipped, including in the brain, to integrate with technology;

(i) In the Fall of 2020, the WEF commissioned a study written by two (2) McGill University professors, entitled: Transhumanism : How to make the Human Body an effective Information Platform" with volunteer, body-microchipped study groups;

214. Further with respect to global vaccination, in the context of Covid, the WEF has stated:

(a) That:

> "The COVID-19 crisis is affecting every facet of people's lives in every corner of the world. But tragedy need not be its only legacy. On the contrary, the pandemic represents a rare but narrow window of opportunity to reflect, reimagine, and reset our world to create a healthier, more equitable, and more prosperous future. Interactive diagram."[219]

[217] https://cepi.net/about/whoweare/ https://apps.who.int/gpmb/assets/annual_report/GPMB_annualreport_2019.pdf pg 19
[218] https://www.centerforhealthsecurity.org/event201/
[219] https://www.weforum.org/agenda/2020/06/now-is-the-time-for-a-great-reset

(b) And that:

> "The changes that are underway today are not isolated to a particular country, industry, or issue. They are universal, and thus require a global response. Failing to adopt a new cooperative approach would be a tragedy for humankind. **To draft a blueprint for a shared global-governance architecture,** we must avoid becoming mired in the current moment of crisis management.
>
> Specifically, this task will require two things of the international community: wider engagement and heightened imagination. The engagement of all stakeholders in sustained dialogue will be crucial, as will the imagination to think systemically, and **beyond one's own short-term institutional and national considerations."**[220]

215. In early July, 2020, Trudeau announced the massive expenditure of post-COVID-19 infrastructure spending to re-align the economy, in concert with the WEF agenda, in tandem with private sector partnership whereby the anticipated privatization of public assets is a given. In September 2020, Trudeau announced his support for the "Great [2030] Reset".

216. The Plaintiffs state, and the fact is, that:

(a) This agenda, is spear-headed by Bill Gates, and other Billionaire, Corporate, and Global Organizational Oligarchs, which include vaccine, Pharmaceutical, and Technology Oligarchs, through the WHO, GAVI, and the WEF, whom they fund and effectively direct and control;

[220] https://intelligence.weforum.org/topics/a1G0X000006OLciUAG?tab=publications
https://www.weforum.org/agenda/2018/11/globalization-4-what-does-it-mean-how-it-will-benefit-everyone/

(b) National and Regional Leaders who are simply, knowingly and/ or unknowingly, as duped partners, partaking in this agenda by simply declaring a "pandemic", "emergency", and delegating decisions to their Chief medical officers who are simply following the dictates and guidelines without question nor concern for the world expert opinions against such measures, of the WHO;

(c) In effect there are less than a hand-full of people dictating the virtual fate of the planet whereby sovereign Parliaments, Courts, and Constitutions are by-passed;

(d) The "social media", such as Google, Facebook, YouTube, Amazon owned and operated by the likes of Bill Gates, Mark Zukerberg, and, in Canada, the CBC, funded and controlled by the Federal Government, are knowingly playing in concert with this over-arching conspiracy, and in fact over-lapping conspiracies.

208. The Plaintiffs further state that through their conduct, communication, agreement, and functions of their intertwined respective public and private offices, the Defendants, knowingly and unknowingly, intentionally and unintentionally, as outlined, ***inter alia***, by the Supreme Court of Canada in the test set out in ***Hunt v. Carey*** and jurisprudence cited therein, have and to continue to:

(a) engage in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs, through the declaration of a false pandemic and

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implementation of coercive and damaging measures including the infliction of a violation of their constitutional rights as set out above in the within statement of claim; and/or

(b) to engage, in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, is to cause injury to the Plaintiffs, through the declaration of a false pandemic and implementation of coercive and damaging measures including the infliction of a violation of their constitutional rights as set out above in the within statement of claim, that Defendants and officials and employees, should know, in the circumstances, that injury to the Plaintiffs , is likely to, and does result.

217. The Plaintiffs state, and the fact is, that Canada's , and Trudeau's, connection to Gates, Gates' foundation, and various companies , and the global vaccine industry, is **inter alia,** as follows:

(a) PM Trudeau has echoed Bill Gates' sentiments that mass mandatory vaccination of people is necessary for any sense of normalcy to return.

(b) Gates uses proxies to successfully lobby the Canadian Government.

(c) The Gates Foundation founded GAVI, the Global Vaccine Alliance in 1999 with $750 million and continues to run it and fund it. The Global Vaccine Alliance, is an organization devoted to pushing vaccinations on the public all across the world.

(d) GAVI hired a lobbying firm called Crestview Strategy, a public affairs agency. Their Mission Statement is: "We make, change, & mobilize opinion."

(e) Canada has gifted Bill Gates, and his related Foundation and companies well over $1 Billion dollars in pursuit of his agenda, $800 Million recently by Justin Trudeau;

(f) Crestview has lobbied the Canadian Government on at least 19 occasions since2018 on various "health" matters, all on behalf of GAVI.

•**Bill Gates- Vaccines, Pharmaceuticals & Technology**

218. The Plaintiffs state, and the fact is, as set out in the within Statement of Claim, that Bill Gates companies, and associates, manifest a clear agenda, for himself and his associates in the vaccine, pharmaceutical and technology, industries, through the **de facto** control of the WHO, influencing and dictating its agenda, to:

(a) Effect a mandatory, global, vaccine policy and laws, which would net an approximately $1.3 Trillion per year, in which vaccine industry he is major proponent and investor;

(b) To effect surveillance, through his vaccination agenda, as outlined in their public statement, and the MIT developed smart-phone application to embed nanocrystal beneath the skin which can be read by a smart-phone

through smart-phones, and 5-G capacity, in which industries Gates is a major stake-holder and investor;

(c) Using the above to "virtualize" and globalize the World economy , in which virtual and global New World (Economic) Order in which Gates further sits in the centre, along with the other Billionaire and corporate oligarchs;

(d) All of which is being effected and accelerated through the false pronouncement of a COVID-19 'pandemic'', and implementation of baseless and false, draconian measures.

219. The Plaintiffs state, and the fact is, that Bill Gates' statements, and conduct, in the above-noted facts, has been documented, as reflected in the within Statement of Claim.

- **The WHO / Gates/ Trudeau/Dr. Teresa Tam/ and Dr. Bonnie Henry**

220. The Plaintiffs state and fact is, that the connection and common agreement between Gates-Trudeau-Tam, in addition to their statements and actions in furthermore of that agreement as outlined above in the within Statement of Claim, is further manifested by the following:

(a) On April 9, 2020 just before Easter, Trudeau announced that:

> *"We will not be coming back to our former normal situation; we can't do that until we have developed a vaccine and that could take 12 to 18 months…..*

> *[and]….This will be the new normal until a vaccine is developed."*[221]

(b) Trudeau's statement is a script lifted straight from Bill Gates' echoing almost word for word, the message Gates has been pushing since the coronavirus in North America earlier this winter. The April 9th **Highwire video clip at 2:07** captures Gates stating:

> "Things won't go back to truly normal until we have a vaccine that we've gotten out basically to the entire world."[222]

(c) Instead of following the recommendations of leading scientists, doctors and epidemiologists, Trudeau is foisting the Gates/WHO/ GAVI/ WEF globalist agenda which he knows or ought to know, will result in financial ruin for millions of Canadians including the Plaintiffs.

(d) Despite the prevailing global consensus on natural herd immunity, Bill Gates is determined however, to prevent natural immunity so he can mandate his new vaccine(s) for everyone. Noted scientist and journalist. Rosemary Frei, shows Bill Gates does not want people to acquire immunity to COVID-19. Rather, Bill Gates prefers that we suffer the 'economic pain' of lockdown in order to prevent us from acquiring natural immunity as Gates has stated:

> "We don't want to have a lot of recovered people […] To be clear, we're trying – through the shut-down in the United States – to not get to one percent of the population

[221] https://nationalpost.com/news/canada/coronavirus-live-updates-covid-19covid19
[222] Blowing the Whistle on Covid-19, April 9, 2020: https://www.youtube.com/watch?v=5g4u1LJQ7_k

> infected. We're well below that today, but with exponentiation, you could get past that three million [people or approximately one percent of the U.S. population being infected with COVID-19 and the vast majority recovering]. I believe we will be able to avoid that with having this economic pain."[223]

(e) In her latest compelling article, **Covid-19 Meltdown and Pharmas' Big Money Win,** Barbara Loe Fisher delves into the many disturbing angles of this epic viral/political war unleashed on humanity, the havoc caused by the Gates & Fauci lockdown policy and the economic spinoffs spawned by the pandemic.[224]

(f) Covid-19 has sparked the hottest new market in town – vaccine development. A staggering number of coronavirus vaccines are under development right now with astronomical piles of money being thrown at it. Gates is in the thick of it along with Tony Fauci, director of the National Institute for Allergy and Infectious Diseases (NIAID). Both are on record stating they don't want people developing natural immunity, in stating:

> "Now, I hope we don't have so many people infected that we actually have that herd immunity, but I think it would have to be different than it is right now", says Fauci.[225]

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[223] Did Bill Gates Just Reveal the Reason for the Lockdowns: By Rosemary Frei, Off-Guardian, April 4, 2020 https://off-guardian.org/2020/04/04/did-bill-gates-just-reveal-the-reason-behind-the-lockdowns/?__cf_chl_jschl_tk__=8a31c96b7b831b06c6631d2d800e39e274fdb4c5-1593827339-0AbbQnElw4gYMqoe14KfV-9sVWpJ8_IO6ZguVbep6dVylwrKGMbqfHkxidxl_3uCK08NImuk8B5fJzKB4cL3viT1qQYvV8722SeZLNTHOWUovzpclffZQcDifxvg3QQ6jPmp ZkNGtNlwGs874a0MhuRY9_t7yNj8TyeXmeBXidqKFHOtCmuLJEmS9ZGcLDsNGb5WKidfnHO7DSzIQ110eNBgHMLXerbjPrKsESdGlhwd3LjoY6FiHbJu4U1bTEJMbsKQFlq5XIIOtoLGY2e7fThzjnbUBrcjpv76AL5aOYmAQAllCC3ttqOt_k21mLMgHNFafl2gWSlla4a2SUAI8IzoKXLcbkuTr0IpvKrbjkF8B4ij3p8MdQOK0DZHcW

[224] Covid-19 Meltdown and Pharma's Big Money Win: https://thevaccinereaction.org/2020/04/covid19-meltdown-and-pharmas-big-money-win/

[225] Covid-19 Meltdown and Pharma's Big Money Win: https://thevaccinereaction.org/2020/04/covid19-meltdown-and-pharmas-big-money-win/

(g) Natural immunity would disrupt Bill Gates expressed intension to "vaccinate everything that moves". In a video interview Gates says:

> "Eventually, what we'll have to have is certificates of who is a recovered person, who's a vaccinated person, because you don't want people moving around the world where you'll have some countries that won't have it under control…"[226]

(h) The Gates foundation has invested tens of $billions in vaccine development which includes a decades long vicious propaganda war against anyone questioning vaccine safety. Gates' *'decade of vaccines'* from 2010-20 captured the global media and social media giants that have demonized and ruthlessly censored the 'vaccine risk aware' movement comprised mostly of vaccine injured families trying to protect their children and the basic human right to informed consent and exemption rights. This has been documented by various publications, which explore the massive influence and control with which the Gates' empire manipulates global health and vaccine policies.[227]

(i) In one article Canadian medical journalist, Celeste McGovern investigates the upcoming vaccine and microchip technologies Gates is funding.[228]

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[226] 6 How we must respond to the coronavirus epidemic, Youtube video March 25, 2020:https://www.youtube.com/watch?v=Xe8fIjxicoo#t=33m45s

[227] Bill Gates search-Covid -19 Global Pandemic, Vaccine Impact News: https://vaccineimpact.com/?find=bill+gates

[228] Bill Gates and Intellectual Ventures Funds Microchip Implant Technology, By Celeste McGovern, April 14, 2020: https://www.greenmedinfo.com/blog/bill-gates-and-intellectual-ventures-funds-microchipimplant-vaccine technology1?utm_campaign=Daily%20Newsletter%3A%20Bill%20Gates%20and%20Intellectual%20Ventures%20Funds%20Microchip%20Implant%20Vaccine%20Technology%20%28TCCz3V%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpBritish ColumbiaI6ICJjLm1jZ292ZXJuQGhvdG1haWwuY29tIiwgImtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

(j) In another, Robert F. Kennedy Jr. exposes the Gates/WHO agenda listing their deadly vaccine experiments in the developing world. Kennedy explains:

> "In 2010, when Gates committed $10 billion to the WHO, he said "We must make this the decade of vaccines." A month later, Gates said in a TED Talk that new vaccines "could reduce population." And, four years later, in 2014, Kenya's Catholic Doctors Association accused the WHO of chemically sterilizing millions of unwilling Kenyan women with a "tetanus" vaccine campaign.[229]

(k) Another expose is that of Vera Sharav, a Holocaust survivor and founder of the Alliance for Human Research Protection. She examines how Gates' table top 'Event 201' pandemic exercise in October, 2019, set the stage for how the coronavirus pandemic would be handled. It predicted the pandemic would end ONLY after an effective vaccine had been brought to market. It is no coincidence that the coronavirus pandemic was unleashed just weeks after Gates' pandemic 'war games' rehearsal and is now playing out, as lockdown scenario threatens to continue until the new vaccine arrives?[230]

(l) Sharav also delves into Gates' vast business ventures related to enhancing pharmaceutical products and vaccines. His ID2020 is a digital ID program

[229] Bill Gates' Globalist Agenda: A Win-Win for Pharma and Mandatory Vaccination by Robert F. Kennedy Jr. April 9, 2020, Children's Health Defense:https://childrenshealthdefense.org/news/governmentcorruption/gates-globalist-vaccine-agenda-a-win-win-for-pharma-and-mandatory-vaccination/

[230]Bill Gates & Intellectual Ventures Funds Microchip Implant Vaccine Technology by Celetes McGovern, April 14, 2020: https://www.greenmedinfo.com/blog/bill-gates-and-intellectual-ventures-fundsmicrochip-implant-vaccinetechnology1?utm_campaign=Daily%20Newsletter%3A%20Bill%20Gates%20and%20Intellectual%20Ventures%20Funds%20Microchip%20Implant%20Vaccine%20Technology%20%28TCCz3V%29&utm_medium=email&utm_source=Daily%20Newsletter&_ke=eyJrbF9lbWFpBritish ColumbiaI6ICJjLm1jZ292ZXJuQGhvdG1haWwuY29tIiwgImtsX2NvbXBhbnlfaWQiOiAiSzJ2WEF5In0%3D

aimed at identifying 1 billion + people lacking identity documents. Also in development are several ID devices that people could be forced to have implanted into their body to identify their vaccine and birth-control status.[231]

221. With respect to the Defendants Trudeau and Tam, the Plaintiffs state, and the fact is that:

(a) Theresa Tam, Canada's chief public health officer and longtime loyal servant of the WHO, serves on multiple international committees and related organizations that dictate global health policies. Her main job is to make sure that Trudeau follows the WHO/Gates lockdown policy until the new Covid-19 vaccine arrives in 18 months.

(b) Molly Chan, author of a **probing analysis** of Dr. Tam's career thinks it's evident from her background that:

> "Theresa Tam works with the world's most powerful globalist entities that have tremendous say in how the world deals with disease and immunization. This power enables them to have a grip on the entire planet, and to decide which measures are put into place to control the behaviour of people in any event they choose to cause a panic over. With COVID-19, we have a perfect example of how the decisions of this small group of people can lead to global hysteria and unprecedented societal changes."[232]

[231] Coronavirus provides dictators and oligarchs with a dream come true, By Vera Sharav, Alliance for Human Research Protection, March 26, 2020: https://ahrp.org/coronavirus-provides-oligarchs-with-adream-come-true/

[232] Dr. Theresa Tam, Queen of the Vaccine by Molly Chan, Civilian Intelligence Network, March 31, 2020: https://civilianintelligencenetwork.ca/2020/03/30/dr-teresa-tam-queen-of-the-vaccine/

(c) Molly Chan asks important questions on Tam's career and extensive influence:

> "Does this make Theresa Tam a puppet or master? How is it possible to not follow WHO recommendations, when you're the one making them? She is on powerful committees!"

(d) Considering the multiple numerous high-level positions Dr. Tam holds on the international stage, Tam's first loyalty is not to the wellbeing of Canadians , or the Plaintiffs, but to the globalist policies so generously funded by Gates and Big Pharma.

(e) Chan dubs Tam as the *'Queen of Vaccine'* and explains:

> "convened public health leaders and parents to collaborate on the effort to shut down any hint of anti-vaccine thought. Governments, including Canada and the U.S. are also working with social media companies to remove vaccine misinformation and promote scientific literacy. She wants to make sure that people are not allowed to publicly say anything against vaccinations, and establish them as just a normal part of life, no questions asked."[233]

(f) While flexing her expansive influences, it seems a 'no brainer' Theresa Tam has been instrumental in controlling the CBC's narrative about the need to snuff out *'vaccine hesitancy'* which includes the ruthless censorship of any voices that would question vaccine safety in mainstream media.

[233]Dr. Theresa Tam, Queen of the Vaccine by Molly Chan, Civilian Intelligence Network, March 31, 2020: https://civilianintelligencenetwork.ca/2020/03/30/dr-teresa-tam-queen-of-the-vaccine/

(g) Tam is accused of "**total incompetence**" in having botched the Canadian response to the COVID-19 pandemic:

> "Tam has failed miserably, putting political correctness, and virtue-signalling lecturing ahead of doing her job. She couldn't grasp the situation in time, and when she grasped the seriousness of it was far too late to stop it."[234]

(h) The Toronto Sun's **cutting review** of Theresa Tam's incompetence says:

> "Our country is now run by 'healthcrats'. Dr. Theresa Tam is the Healthcrat who runs the federal government. **Her record on being wrong is spotless.**"[235]

(i) In a **recent interview** in Chatelaine magazine, Tam bashes vaccine resistors and accuses them of causing measles outbreaks. Her cryptic statement, ***"I always think we do a really good job, when no one knows what we're doing"***, reveals the federal health agency's lack of transparency and inability to provide crucial epidemiological data during this crisis.

222. Since the summer of 2020, to the present, this agenda has been made the clear by, but not limited to, the following:

(a) Admission and boasting by the likes of Gates and the WEF of what their plan is, including admission and promotion of the "2030 re-set" by Trudeau, as well as by the WEF stating that: "by 2030 you will own nothing, but you will be happy";

[234]Devastating timeline reveals complete incompetence of Theresa Tam's Virus Response https://spencerfernando.com/2020/03/29/devastating-timeline-reveals-total-incompetence-of-theresatams-virus-response/
[235] The healthcrats cure is proving worse than the disease, Toronto Sun, April 10, 2020: https://torontosun.com/opinion/columnists/snobelen-the-healthcrats-cure-is-proving-worse-than-thedisease

(b) By the censorship of social and mainstream media of anything, and everyone critical of the Covid-measures;

(c) By the banning of alternative medical treatment and prosecution and persecution of Doctors who advocate alternative medical treatment to the awaited vaccine such as British Columbia doctors Stephen Malthouse, David Code, Dr. Dorle Kneifel, and Ontario doctors Dr. Patrick Phillips, Dr. Kulvinder Gill, Dr. Caroline Turek;

(d) By the economic devastation of independent businesses to the corresponding increased and doubling of profits by the billionaire oligarchs and corporate oligarchs;

(e) By the "emergency" approval of vaccines, that did not comply with the necessary animal and human trials without which approval normally could not ensue and whereby approval of such experimental medical vaccines could not only see approval if no existing alternative medical treatment available could assist or alleviate with respect to the virus, which explains why such medicine as HCQ, Ivermectin, etc… was banned for use for treating Covid-19;

- **Dr. Bonnie HENRY – History and Conduct as British Columbia Chief Medical Officer – Ignoring the Science**

223. Dr. Henry worked internationally with the WHO/UNICEF polio eradication program in Pakistan and with the WHO to control the Ebola outbreak in Uganda.[236]

224. Dr. Henry helped to establish the Canada Pandemic Influenza Plan, which contains recommendations for health-related activities during the spread of a virus.[237] Canada Pandemic Influenza Preparedness Task Group (CPIPTG) members: B Henry (Chair), Canada's pandemic vaccine strategy Acknowledgements.[238]

225. In 2012, Health Canada demanded that nurses who refused to take a vaccine would be mandated to wear a mask throughout the 6-month flu season; it was known as VOM (Vaccinate or Mask). The Ontario Nurses Union filed a grievance against St. Michael's Hospital's VOM policy. The result was a precedent setting win for nurses across the country. The arbitrator in the case ruled that wearing masks "was not supported by science and was most likely an attempt to drive up vaccination rates among staff."

226. Dr. Henry was one of the expert witnesses who was instrumental in overturning the mask mandate and testified in the 2015 case saying, "there's very scant

[236] https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/biographies
[237] https://en.wikipedia.org/wiki/Bonnie_Henry
[238] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5764724/

evidence about the value of masks in preventing the transmission of influenza." Dr. Henry goes on to say that there is no data to support wearing masks and, "When we look at individual strains circulating and what's happening, I think we need it to be consistent with the fact that there was nothing that gave us support that providing a mask to everybody all the time was going to give us any additional benefit over putting in place the other measures that we have for the policy."

227. In December 2019, Dr. Henry supported the arbitrator's 2015 decision on behalf of British Columbia Nurses.

228. In May 2020, Dr. Henry unequivocally states, "there is no evidence that if you're not ill wearing a mask, particularly wearing a mask outside or out in public, that provides much protection or any benefit at all." Dr. Henry further admits that asymptomatic people do not spread the virus, "we have not seen anybody not showing any symptoms passing it on to anyone else."[239] **Henry also admits there is "no real science behind the decisions she is making."**[240]

229. Throughout 2020, Dr. Henry is on record repeatedly saying that masks are not effective and yet in March of 2021, Dr. Henry once again lies to the public claiming she has never said that masks do not work.[241]

[239] https://rumble.com/vbdsmb-bonnie-henry-admits-no-evidence-masks-work-for-those-not-sick.html
[240] https://canucklaw.ca/wp-content/uploads/2020/07/COVID-19_-B.C.-health-officer-explains-50-vehicle-limit-for-events.mp4
[241] https://action4canada.com/masks/

230. Henry is duty bound to make decisions based on science and facts, and yet it is very evident that she intentionally ignored the information available to her on masking, asymptomatic spread, social distancing and lockdowns, and instead implemented the draconian measures that destroyed people's livelihoods and put the public in harm's way on multiple levels.

231. On June 28, 2012, Dr. Henry worked for BCCDC Emergency - Management and Environmental Health and was a presenter at the Public Health Ethics and Pandemic Planning. Dr. Henry listed the goals of the CPIP (Canadian Pandemic Influenza Plan) and ensured that, were there a pandemic, the plan must account for minimizing serious and overall deaths and minimize societal disruption amongst Canadians. She also lists the risks to schoolchildren of closing schools, and the fact that children are at very low risk of contracting or transmitting viruses. However, Dr. Henry supports that government restrictions are acceptable, including forced quarantine and personal autonomy being effected by forced vaccinations. Dr. Henry, along with her fellow presenter, Dr. Unger, believe this is the right, moral and ethical thing to do.[242]

232. As a result of Dr. Henry's previous involvement with the CPIP, BCCDC, Dr Fauci, and the WHO, and as she currently holds the position of British Columbia's Chief Health Officer, there is reason to be concerned that Dr. Henry's actions are calculated and possibly pre-mediated based on the level of training

242 https://mediasite.phsa.ca/Mediasite/Showcase/bccdc/Presentation/e4823d251a8c40a38cdc80666f7d0fa71d

Dr. Henry has participated in. Of great concern is, Dr. Henry's willingness to openly and aggressively violate the public's "guaranteed" ***Charter*** Rights. Specifically, their right to bodily autonomy, security of the person, to be employed and provide for one's family, the freedom of mobility, the freedom of speech and to assemble, the freedom to access medical care and the right to live without being subjected to discrimination and hate.

233. To date, Dr. Bonnie Henry, along with the other British Columbia Defendants have engaged in illegal and unconstitutional actions as set out below:

234. To begin with, the emergency measures are based on the claim that we are experiencing a "public health emergency." There is no evidence to substantiate this claim. In fact, the evidence indicates that we are experiencing a rate of infection consistent with a normal influenza season.[243]

235. The purported increase in "cases" is a direct consequence of increased testing through the inappropriate use of the PCR instrument to diagnose so-called COVID-19. It has been well established that the PCR test was never designed or intended as a diagnostic tool and is not an acceptable instrument to measure viral infections. Its inventor, Kary Mullis, has clearly indicated that the PCR testing device was never created to test for coronavirus.[244] Mullis warns that, "the PCR Test can be used to find almost anything, in anybody. If you can amplify one

[243] https://www.bitchute.com/video/nQgq0BxXfZ4f
[244] https://rumble.com/vhu4rz-kary-mullis-inventor-of-the-pcr-test.html

single molecule, then you can find it because that molecule is nearly in every single person."

236. In light of this warning, the current PCR test utilization, set at higher amplifications, as in British Columbia, for example is using it at cycles of 35+, is producing up to 97% false positives.[245] Therefore, any imposed emergency measures that are based on PCR testing are unwarranted, unscientific, and fraudulent. An international consortium of life-science scientists has detected 10 major scientific flaws at the molecular and methodological level in a 3-peer review of the RTPCR test to detect SARS-CoV-2.[246]

237. In November 2020, a Portuguese court ruled that PCR tests are unreliable, and when run at 35 threshold cycles are or, produce a 96.5% false positive rate. British Columbia runs them at 43-45 cycles.[247]

238. On December 14, 2020, the WHO admitted the PCR Test has a 'problem' at high amplifications as it detects dead cells from old viruses, giving a false positive.[248]

239. On February 16, 2021, **Dr. Henry herself admitted that PCR tests are unreliable, yet still continued to use them to identify cases.[249]**

240. On April 8, 2021, the Austrian court ruled the PCR test was unsuited for COVID testing.[250]

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[245] https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciaa1491/5912603
[246] https://cormandrostenreview.com/report/
[247] https://unitynewsnetwork.co.uk/portuguese-court-rules-pcr-tests-unreliable-quarantines-unlawful-media-blackout/
[248] https://principia-scientific.com/who-finally-admits-covid19-pcr-test-has-a-problem/
[249] https://rumble.com/vhww4d-bc-health-officer-admits-pcr-test-is-unreliable.html
[250] https://greatgameindia.com/austria-court-pcr-test/

241. On April 8, 2021, a German Court ruled against PCR testing stating, "the test cannot provide any information on whether a person is infected with an active pathogen or not, because the test cannot distinguish between "dead" matter and living matter."[251]

242. On May 8, 2021, the Swedish Public Health Agency stopped PCR testing for the same reason.[252]

243. On May 10th, 2021, Manitoba's Chief Microbiologist and Laboratory Specialist, Dr. Jared Bullard, testified under cross-examination in a trial before the Court of Queen's Bench in Manitoba, that PCR test results do not verify infectiousness and were never intended to be used to diagnose respiratory illnesses.[253]

244. On July 21, 2021 - Innova Medical Group Recalled Unauthorized SARS-CoV-2 Antigen Rapid Qualitative Test with Risk of False Test Results. The FDA has identified this as a Class I recall, the most serious type of recall. Use of these devices may cause serious injuries or death.[254]

245. On July 21, 2021 the CDC sent out a "Lab Alert revoking the emergency use authorization to RT-PCR for COVDI-19 testing and encourages laboratories to adopt a multiplexed method that can facilitate detection and differentiation of SARS-CoV-2 and influenza viruses". The CDC is admitting that the RT-PCR test

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[251] https://2020news.de/sensationsurteil-aus-weimar-keine-masken-kein-abstand-keine-tests-mehr-fuer-schueler/
[252] https://tapnewswire.com/2021/05/sweden-stops-pcr-tests-as-covid19-diagnosis/
[253] https://www.jccf.ca/Manitoba-chief-microbiologist-and-laboratory-specialist-56-of-positive-cases-are-not-infectious/
[254] https://www.fda.gov/medical-devices/medical-device-recalls/innova-medical-group-recalls-unauthorized-sars-cov-2-antigen rapid-qualitative-test-risk-false-test

'cannot' differentiate between SARS, influenza or the common flu. This is confirmation of what was stated in Section 7 and reported since the onset of the so-called pandemic.[255]

246. On July 21, 2021 an FDA document admits the "COVID" PCR test was developed without isolation Covid samples for test calibrations, effectively admitting it's testing something else. In the FDA document, it is clearly stated that ordinary seasonal flu genetic material was used as the testing marker in the PCR test kits. The authorities would have known that many people would test "positive" for it, thus allowing them to use these results to create the "covid" narrative.[256]

247. Prior to COVID-19, the definition of a case (in a medical sense) has been a patient with significant symptoms. With the implementation of the PCR test, cases are now being defined as someone who tests positive regardless of whether they have any symptoms or not.

248. Dr. Henry has been knowingly conflating positive PCR test result with the actual disease, thereby deliberately misleading the public into believing the infection is far more serious and widespread than it actually is. At no time in history have we ever encouraged asymptomatic people to get tested, yet Dr. Henry allowed this to happen to keep the case numbers high.

[255] https://www.cdc.gov/csels/dls/locs/2021/07-21-2021-lab-alert-Changes_CDC_RT-PCR_SARS-CoV-2_Testing_1.html
[256] https://www.naturalnews.com/2021-08-01-fda-covid-pcr-test-fraud.html

249. The British Columbia government is reportedly decreasing the amplifications of the PCR test in order to lower the number of COVID-19 cases to deceive the public into believing that the decline in cases is a result of people being "vaccinated." The government is now testing the vaccinates at much lower threshold rates, but the **unvaccinated** at 43-45.

250. Dr. Henry has been instrumental in disseminating information to the public that is knowingly false, deceptive and/or misleading. To knowingly disseminate false information is a violation of the *Health Professions Act*.

251. It is evident that the government, with the recommendations and support of Dr. Henry, have imposed the emergency measures based on the fraudulent, unwarranted and unscientific use of the PCR test.

252. Based on this compelling and factual information, the emergency measures, as well as the use of the COVID-19 experimental injection ("vaccine"), were not, and are not required or recommended. In fact, warnings around the world are calling for the immediate halt of the experimental 'vaccines' due to the volume of extreme adverse reactions, including death.

253. Furthermore:

a) The Nuremberg Code,[257] to which Canada is a signatory, states that it is essential before performing medical experiments on human beings, there is voluntary informed consent. It also confirms, a person involved should have legal capacity to give consent, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to

[257] https://media.tghn.org/medialibrary/2011/04/BMJ_No_7070_Volume_313_The_Nuremberg_Code.pdf

enable him/her to make an understanding and enlightened decision. This requires, before the acceptance of an affirmative decision by the experimental subject, that there should be made known to him/her the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonable to be expected; and the effects upon his/her health or person which may possibly come from participation in the experiment.

b) All the treatments being marketed as COVID-19 "vaccines", are still in Phase III clinical trials until 2023,[258] and hence, qualify as a medical experiment. People taking these treatments are enrolled as test-subjects and are further unaware that the injections are not actual vaccines as they do not contain a virus but instead an experimental gene therapy.

c) None of these treatments have been fully approved; only granted emergency use authorization by the Food and Drug Administration (FDA), which Health Canada[259] [260] [261] is using as the basis for approval under the interim order, therefore, fully informed consent is not possible.

d) Most vaccines are trialed for at least 5-10 years,[262] and COVID-19 treatments have been in trials for less than a year.

e) No other coronavirus vaccine (i.e., MERS, SARS-1) has been approved for market, due to antibody-dependent enhancement, resulting in severe illness and death in animal models.[263]

f) Numerous doctors, scientists, and medical experts are issuing dire warnings about the short and long-term effects of COVID-19 injections, including, but not limited to, death, blood clots, infertility, miscarriages, Bell's Palsy, cancer, inflammatory conditions, autoimmune disease, early-onset dementia, convulsions, anaphylaxis, inflammation of the heart,[264]

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[258] https://clinicaltrials.gov/ct2/show/NCT04368728?term=NCT04368728&draw=2&rank=1
[259] https://action4canada.com/wp-content/uploads/Summary-Basis-of-Decision-COVID-19-Vaccine-Moderna-Health-Canada.pdf
[260] https://www.canada.ca/en/health-canada/services/drugs-health-products/covid19-industry/drugs-vaccines-treatments/authorization/applications.html
[261] https://www.pfizer.com/news/hot-topics/the_facts_about_pfizer_and_biontech_s_covid_19_vaccine
[262] https://hillnotes.ca/2020/06/23/covid-19-vaccine-research-and-development/
[263] https://www.tandfonline.com/doi/full/10.1080/21645515.2016.1177688

[264] https://www.nbcconnecticut.com/news/coronavirus/connecticut-confirms-at-least-18-cases-of-apparent-heart-problems-in-young-people-after-covid-19- vaccination/2494534/

> and antibody dependent enhancement leading to death. This includes children ages 12-17 years old.[265]

Dr. Byram Bridle, a pro-vaccine Associate Professor on Viral Immunology at the University of Guelph, gives a terrifying warning of the harms of the experimental treatments in a peer reviewed scientifically published research study[266] on COVID-19 shots. The added Spike Protein to the "vaccine" gets into the blood, circulates through the blood in individuals over several days post-vaccination, it accumulates in the tissues such as the spleen, bone marrow, the liver, the adrenal glands, testes, and of great concern, it accumulates high concentrations into the ovaries. Dr. Bridle notes that they "have known for a long time that the Spike Protein is a pathogenic protein, it is a toxin, and can cause damage if it gets into blood circulation." The study confirms the combination is causing clotting, neurological damage, bleeding, heart problems, etc. There is a high concentration of the Spike Protein getting into breast milk and reports of suckling infants developing bleeding disorders in the gastrointestinal tract. There are further warnings that this injection will render children infertile, and that people who have been vaccinated should NOT donate blood.

254. Minors are at nearly zero percent risk of contracting or transmitting this respiratory illness and are, instead, buffers which help others build their immune

[265] https://childrenshealthdefense.org/defender/vaers-data-reports-injuries-12-to-17-year-olds-more-than-triple/
[266] https://omny.fm/shows/on-point-with-alex-pierson/new-peer-reviewed-study-on-covid-19-vaccines-sugge

system. The overall survival rate of minors who have been infected with the SARS-CoV-2 virus is 99.997%.[267] **In spite of these facts, the British Columbia government and Dr. Henry are pushing the experimental treatment , to be applied to minors, without parental consent, with the tragic outcome of a high incidence of injury and death.**

255. According to Health Canada's Summary Basis of Decision,[268] updated May 20, 2021, the trials have not proven that the COVID-19 treatments prevent infection or transmission. **The Summary also reports that both Moderna and Pfizer identified that there are six areas of missing (limited/no clinical data) information: "use in pediatric (age 0-18)", "use in pregnant and breastfeeding women", "long-term safety", "long-term efficacy" including "real- world use", "safety and immunogenicity in subjects with immune-suppression", and concomitant administration of non-COVID vaccines." Furthermore:**

a) Under the Risk Management plan section of the Summary Basis of Decision, it includes a statement based on clinical and non-clinical studies that "one important potential risk was identified being vaccine-associated enhanced disease, including VAERD (vaccine-associated enhanced respiratory disease)." **In other words, the shot increases the risk of disease and side-effects, and weakens immunity toward future SARS related illness.**

b) The report specifically states, "**The possibility of vaccine-induced disease enhancement after vaccination against SARS-CoV-2, has been**

[267] https://online.anyflip.com/inblw/ufbs/mobile/index.html?s=08

[268] https://action4canada.com/wp-content/uploads/Summary-Basis-of-Decision-COVID-19-Vaccine-Moderna-Health-Canada.pdf

> **flagged as a potential safety concern that requires particular attention by the scientific community**, including the WHO, the Coalition for Epidemic Preparedness Innovations (CEPI) and the International Coalition of Medicines Regulatory Authorities (ICMRA)."[269]

In spite of this information, Dr. Henry, with the support of John Horgan, Adrian Dix and Mike Farnworth, has intentionally and consistently mislead the public by insisting the COVID injection is safe, and goes further to highly recommend the "vaccine" as safe for pregnant women, nursing infants and children.

256. As reported in the United States to the Vaccine Adverse Events Reporting System (VAERS), there have been more deaths from the COVID-19 injections in five months (Dec. 2020 – May 2021) than deaths recorded in the last 23 years from all vaccines combined.[270] Furthermore:

a) It is further reported that only one percent of vaccine injuries are reported to VAERS,[271] compounded by several months delay in uploading the adverse events to the VAERS database.[272]

b) On July 2, 2021, VAERS data release showed 438,441 reports of adverse events following COVID-19 injections, including 9,048 deaths and 41,015 serious injuries, between December 14, 2020, and July 2, 2021, and that adverse injury reports among 12-17-year old's more than tripled in one week.[273]

c) Dr. McCullough, a highly cited COVID-19 medical specialist, came to the stunning conclusion that the government was "...scrubbing unprecedented

[269] https://www.tandfonline.com/doi/full/10.1080/14760584.2020.1800463
[270] https://vaccineimpact.com/2021/CDC-death-toll-following-experimental-covid-injections-now-at-4863-more-than-23-previous-years-of-recorded-vaccine-deaths-according-to-vaers/

[271] https://www.lewrockwell.com/2019/10/no_author/harvard-medical-school-professors-uncover-a-hard-to-swallow-truth-about-vaccines/
[272] https://vaxoutcomes.com/thelatestreport/
[273] https://childrenshealthdefense.org/defender/cdc-vaers-deaths-reported-covid-vaccines/

> numbers of injection-related-deaths." He further added, "...a typical new drug at about five deaths, unexplained deaths, we get a black-box warning, your listeners would see it on TV, saying it may cause death. And then at about 50 deaths, it's pulled off the market."[274]

257. Canada's Adverse Events Following Immunization (AEFI) is a passive reporting system and is not widely promoted to the public, hence, many adverse events are going unreported. Historically, in Canada, only about 1% of adverse effects are actually reported.

258. Dr. Joss Reimer, medical lead for Manitoba's Vaccine Implementation Task Force, says that new vaccine recommendations from the National Advisory Committee on Immunization on mixing mRNA vaccines will be a form of trial and error. Reimer stated, "Well in some ways, during a pandemic everything we do is a big human experiment."[275] However, according to Health Canada's Summary Basis of Decision Pfizer and Moderna warn that the interchangeability of the injections is unknown and recommend first and second dose of the same shot. The World Health Organization also warns that mixing the vaccines is dangerous.

259. Safe and effective treatments, Hydroxychloroquine and Ivermectin, and preventive measures, Vitamin D and Zinc, exist for COVID-19, apart from the

[274] https://johnbwellsnews.com/highly-cited-covid-doctor-comes-to-stunning-conclusion-govt-scrubbing-unprecedented-numbers-of-injection-related-deaths-by-leo-hohmann/
[275] https://www.ctvnews.ca/politics/manitoba-vaccine-lead-says-mixing-vaccines-is-part-of-pandemic-s-big-human-experiment-1.5457570?fbclid=IwAR0sYVZiRZgkhAjPn_9q3IRuFdBfTvWIi_noINrhe69Aefzf8NxlKR_iXsI

experimental shots, yet the British Columbia government and Dr. Henry are prohibiting their use.[276] [277]

260. Messaging from the British Columbia government and Dr. Henry has placed pressure on the public to receive "vaccines" in exchange for the loosening of implemented lockdowns, restrictions, and infringements of various freedoms. This includes an inability to make income or see family members as a result of these restrictions, which adversely affects people's ability to meet basic needs and care for themselves and their families.

261. The British Columbia government and Dr. Henry have incentivised the receiving of injections, measuring the public's compliance against the degree, prevalence and severity of lockdowns and restrictions. This is a form of coercion, **and in fact criminal extortion**, as it makes clear specific consequences of non-compliance, which includes continued difficulty to make income, to maintain businesses, to maintain living standards and meet personal/familial responsibilities due to the continuation of these lockdowns and restrictions. This has also impacted the medical and homecare system wherein family members are not permitted to visit their family members. This is likely to continue due to the unconscionable mandate to vaccinate healthy people. This, all in the face of the

[276] https://www.washingtonexaminer.com/news/study-finds-84-fewer-hospitalizations-for-patients-treated-with-controversial-drug-hydroxychloroquine
[277] https://www.ctvnews.ca/politics/manitoba-vaccine-lead-says-mixing-vaccines-is-part-of-pandemic-s-big-human-experiment-1.5457570?fbclid=IwAR0sYVZiRZgkhAjPn_9q3IRuFdBfTvWIi_noINrhe69Aefzf8NxlKR_iXsI

fact that the Supreme Court of Canada has established that it is a s.7 ***Charter*** right to refuse **any** medical treatment without informed, **voluntary**, consent.

262. The elderly have been treated cruelly and inhumanely by forcing the harmful experimental injection on them and also withholding loved ones from being "permitted" to visit them. Many elderly people died alone with no one by their side in their final hours to comfort and console them. The isolation of the elderly has been comparable to convicted criminals in solitary confinement. The elderly have been isolated for up to a month at a time, and now going on 16 months. Criminals subjected to this kind of isolation were compelled to choose a lethal injection over being subjected to the intense feelings of separation from human contact. Therefore, it sadly comes as no surprise that the elderly are choosing euthanasia over further lockdowns.[278]

263. Over 80% of all deaths occurred in care-homes and were people over the age of 80. The majority had multiple existing comorbidities.

264. As for children, they have been exposed to unprecedented amounts of fear, instability, shaming, psychological trauma, bullying, and segregation through the COVID-19 measures[279] and, are therefore, even more susceptible to being influenced by those in authority than their developmental stage would usually entail. Children have experienced extreme depression and anxiety due to the COVID-19 measures and are at the highest scale of suicide ideation of all age

[278] https://www.ctvnews.ca/health/facing-another-retirement-home-lockdown-90-year-old-chooses-medically-assisted-death-1.5197140
[279] https://action4canada.com/student-mask-covid-exemptions/

groups. The "pandemic" has taken a heavy toll on children's mental health.[280] [281] The "extra" suicides and drug over-doses undisputedly tied to Covid-measures constitutes criminal negligence causing death.

265. The curriculum, and indeed all government narratives, exclude full disclosure of the growing risks (adverse reactions and death) of the experimental treatments, and the emerging evidence that the shots do not provide protection, as claimed. Informed consent with FULL disclosure is mandatory and yet, due to lack of research data, "full" disclosure cannot be provided.

266. As a result of the British Columbia government and Dr. Henry's push to vaccinate the masses, 'medically unqualified' people such as politicians, teachers, and business owners, have also placed pressure on the public to receive an injection that might (according to medical specialists) jeopardize their health by harming or even killing them.

267. Recommendations/mandates from the British Columbia government and Dr. Henry, that people take COVID-19 injections, are being made in complete contradiction to statements, recommendations, and findings of qualified medical practitioners and world-renowned scientist and virologist, including the inventor of the mRNA technology, Dr. Robert Malone, who is calling for "an immediate

[280] https://www.thestar.com/news/gta/2021/07/08/very-very-concerning-pandemic-taking-heavy-toll-on-childrens-mental-health-sick-kids-study-shows.html
[281] https://toronto.ctvnews.ca/most-ontario-youth-experienced-depression-during-pandemic-early-data-suggests-1.5501275

halt of the COVID-19 "vaccines" due to the severe adverse reactions; in particular, the extreme danger it poses to young people."[282]

268. Researchers in Britain have also called on the government to halt their use of the coronavirus "vaccine" immediately after discovering potentially "toxic" side-effects.[283]

269. Dr. Vladimir Zev Zelenko, MD, called child vaccine mandates "coercive human experimentation," calling for those responsible for such policies to be tried for "crimes against humanity."

270. "According to the CDC, healthy kids 18 or younger have a 99.998% rate of recovery from COVID-19 WITHOUT any treatment," Zelenko told America's Frontline Doctors (AFLDS). "There is NO medical necessity for any vaccines. Especially, an experimental and unapproved mRNA injection that has shown to have many dangerous side effects."

271. He continued: "Any government or individual that forces or mandates children to get this experimental injection is in direct violation of the Geneva convention's prohibition against coercive human experimentation. These are criminals of the highest order and must be brought to justice for crimes against humanity."[284]

272. On June 25, 2021, Spanish researchers are conducting studies of the mRNA vaccines and the preliminary analysis of vaccination vials confirms the presence

[282] https://gospelnewsnetwork.org/2021/06/29/mrna-inventor-says-to-stop-covid-vaccines-now/
[283] https://www.oann.com/chinese-virus-vaccine-produces-toxic-effects-british-researchers-call-on-govt-to-halt-use-immediately/#
[284] https://americasfrontlinedoctors.org/frontlinenews/dr-zelenko-calls-child-vaccine-mandate-coercive-human-experimentation-crimes-against-humanity/

of graphene nanoparticles. Graphene oxide is a highly toxic substance. The discovery made here by La Quinta Columna is being referred to as a full-fledged attack of State bioterrorism, or at least with the complicity of governments to the entire world population, now constituting crimes against humanity.[285]

273. On July 3, 2021, CTV News is spewing propaganda to support the governments' objective to force the experimental injection on the healthy Canadians who choose to reject the injection. The propaganda further incites discrimination, unreasonable fear and intolerance (hate) towards the unvaccinated.[286]

274. The injections being heavily promoted by Dr Henry have not been through the strict protocol normally assigned to new drugs or treatments. They were only approved by the FDA to be used under emergency authorization. This FDA approval was the basis for the "interim" approval by Health Canada. One of the main criteria for that authorization was that there are no alternative treatments available. This is the reason why Dr. Henry has withheld crucial information regarding other proven treatments for COVID-19, such as Hydroxychloroquine and Ivermectin. If she admitted that there were other treatments, then that criterion would no longer be met and the injections would have to be pulled and subjected to more in-depth study to be able to justify their use.

275. Dr. Henry is using her position to promote this experimental genetic technology of unknown efficacy and safety. With the knowledge of Premier Horgan,

[285] https://www.orwell.city/2021/06/covid-19-is-caused-by-graphene-oxide.html
[286] https://www.ctvnews.ca/health/coronavirus/unvaccinated-people-are-variant-factories-infectious-diseases-expert-says-1.5495359

Minister of Safety Mike Farnworth, and Minister of Health Adrian Dix, she is deliberately misleading the public causing further harm and death. Everyone who takes these injections has the right to informed consent regarding the nature of the authorization, and to know that by taking it they are themselves becoming the test subjects in the Phase III trials. She is abusing the trust and duty that people naturally have towards someone who presents themselves as a physician.

276. She is even going so far as to tell minors that they do not need parental consent when she is fully aware there is even less safety data to warrant risking the lives of children who are at extremely low risk from COVID-19.

277. Dr. Henry is on record recommending the “vaccine” for pregnant women. She is therefore responsible and duty bound to know the harms and alert people to them. She is using her trusted position to manipulate women into taking a harmful shot.

278. On April 26, 2021, Dr. Henry made a public announcement and claimed that when the vaccine was originally tested and introduced, there were some concerns about whether women who were pregnant should receive it, but then states, "now there is more substantial data supporting it is safe and effective in pregnancy" ... and adds, "A new study released last week showed protected antibodies are transmitted through breast milk to the infant as well."[287] [288] Dr. Bridle’s report

[287] https://globalnews.ca/news/7813885/b-c-encourages-pregnant-women-to-get-vaccinated-but-wont-move-them-up-the-list/
[288] https://healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2021/75959a-eng.php

warned of infants with gastrointestinal bleeding. There are further reports of infant deaths associated with nursing mothers who had taken the shot.

279. Dr. Henry is once again outright lying because according to Health Canada's Summary Basis of Decision, **updated May 20, 2021**, it maintained what it had since the onset: that both the Moderna and Pfizer manufacturers identified that there are six areas of missing (limited/no clinical data) information. Listed as follows: **"use in paediatric (age 0-18)"**, **"use in pregnant and breastfeeding women**", "long-term safety", "long-term efficacy" including "real world use", "safety and immunogenicity in subjects with immune-suppression", and "concomitant administration of non-COVID vaccines."

280. **This is on Health Canada's website and was part of the Health Canada approval process, to which Dr. Henry has full access.**

281. In mid-June, the *New England Journal of Medicine* published a study called "Preliminary Findings of mRNA Covid-19 Vaccine Safety in Pregnant Persons" by Tom T. Shimabukuro and others from the Center of Disease Control's "v-safe COVID-10 Pregnancy Registry Team." The team wrote that there were "no obvious safety signals among pregnant [women] who received Covid-19 vaccines" even though it published a table which showed that **82% of women in the study who were injected with either the Pfizer or the Moderna vaccine during early pregnancy, lost their babies (miscarried).** [289]

[289] https://www.breakingchristiannews.com/articles/display_art.html?ID=33214

282. On April 19, 2021, Dr. Henry uses the single death of an infant as more fodder to manipulate compliance of the masses. Dr. Henry says that the infant's tragic death "reminds us of the vicious nature of this virus." The reality was that this infant was already a patient at the British Columbia Children's Hospital for a pre-existing condition.[290]

283. The same article goes on to say that this was the very first death under the age of 30 in the entire province of British Columbia (population 5 million). More than a year (and two "waves") into the pandemic. That in itself highlights just how NOT dangerous this virus is to young people under the age 30.

284. In a news report on May 14, 2021, after numerous reports of adverse effects from the AstraZeneca injection, Dr. Henry continued to manipulate and coerce the public into taking the jab by only reporting on cases, **not deaths**, by PCR based cases. She further claims in her public announcement that youth are now at great risk for contracting COVID-19. Dr. Henry makes this claim with no evidence to substantiate it. Dr. Henry blatantly lies about youth getting COVID-19 saying, "especially young people are having severe disease with Covid-19." The facts are that young people are at nearly zero percent risk of contracting or transmitting this virus and if they do get it, they have mild symptoms.

[290] https://web.archive.org/web/20210420021347/https://vancouversun.com/news/local-news/infant-dies-from-covid-19-at-b-c-childrens-hospital

285. Dr. Henry's May 14, 2021, news update included a Langley man, Mr. Mulldoon,[291] who was hospitalized and had to undergo surgery to remove six feet of his small intestines due to a severe reaction to the AstraZeneca shot. Dr. Henry sidestepped the issue and minimized the fact that this man's life has been permanently impacted by referring to his blood clot as “very rare.” Statistics prove otherwise.

286. The fact is, there can be no "informed" consent since this experimental "vaccine" is still in the trial phase. All the potential side-effects are unknown. Anyone involved in this experiment is equivalent to a lab rat, at this point.

287. When countries around the world, including several provinces in Canada, were banning AstraZeneca due to the serious adverse reactions including death, Dr. Henry is on record continuing to not only make it available to the public but promote it and claiming it is "perfectly safe.”

288. The duty of disclosure for informed consent is rooted in an individual’s right to bodily integrity and respect for patient autonomy. A patient has the right to understand the consequences of medical treatment regardless of whether those consequences are deemed improbable, and have determined that, although medical opinion can be divided as to the level of disclosure required, the standard is simple, “A Reasonable Person Would Want to Know the Serious Risks, Even

[291] https://www.msn.com/en-ca/news/canada/covid-19-bc-man-hospitalized-with-astrazeneca-vaccine-induced-blood-clot/ar-BB1gHW5y

if Remote." ***Hopp v Lepp, supra; Bryan v Hicks***, ***1995 CanLII 172 (BCCA); British Columbia Women's Hospital Center, 2013 SCC 30***.[292]

289. Vaccination is voluntary in Canada, yet, some federal, provincial, municipal officials have incentivised the taking of COVID-19 injections, even suggesting that lockdowns and lockdown measures will not end until enough of the population has received these injections. This is despite the negative impacts lockdowns have had on the health and well-being of the citizenry. Canadian law has long recognized that individuals have the right to control what happens to their bodies; law which is being directly infringed upon by these officials.

290. Dr. Henry has been instrumental in disseminating information to the public that is knowingly false, deceptive and/or misleading, resulting in egregious crimes against humanity, the division of families and society, abuse and mistreatment of our elderly and children, the destruction of our economy, employment and businesses, prohibiting medical care, and all of these things contributing to increased drug overdoses, suicide, depression, excess deaths and an overall breakdown of society.

291. Dr. Henry persists, in the face of mounting evidence, to misrepresent COVID-19 as a deadly condition when this condition produces only mild or no symptoms for the greatest percentage of the population (99.997%).

[292] https://www.canlii.org/en/ca/scc/doc/2013/2013scc30/2013scc30.html?resultIndex=1

- **Dr. Bonnie HENRY – Vaccines and the WHO**

292. As per her Biography, Bonnie Henry has worked with the WHO and UNICEF Polio eradication program, as well as with the WHO to manage Uganda's Ebola outbreak[293].

293. Bonnie Henry was in Pakistan working with the WHO to purportedly eradicate polio in 2000. This through a vaccination program, without informed consent of the recipients, and this notwithstanding the fact that, according to the WHO, every Polio case since 1979 has been a result of the Polio vaccine itself and not naturally occurring. [294]

294. The Bill and Melinda Gates Foundation is a member, and funding organization of the WHO, specifically when it comes to the topic of developing vaccines, and delivering them to the "developing world"[295]

295. The Bill and Melinda Gates Foundation developed a highly comprehensive campaign to dispel "misinformation", and coerce Pakistani families to vaccinate their infants by implying that all infants should receive the vaccine unless there was a reason not to.[296]

296. The World Bank released a project appraisal document naming all of the sponsors on the project for a polio eradication project in Pakistan, that named the

[293] Biographies - Province of British Columbia (gov.British Columbia.ca)
[294] Bonnie Henry – National Collaborating Centre for Infectious Diseases (nccid.ca)
[295] WHO | Bill & Melinda Gates Foundation
[296] Polio: Questions and Answers (immunize.org)

Bill and Melinda Gates Foundation as a sponsor, and the WHO as one of the major planning organizations on the project.[297]

297. As recently as May 2018, children have been not only experiencing injury, but also death at the hands of the Polio vaccine that has seen mass campaigns across even the most remote parts of their nation, including invasive door-to-door vaccination campaigns, since 1998, yet these deaths are often brushed aside. These massive injuries and deaths have been documented in South Asia (India and Pakistan) as well as Africa.[298]

298. Also per her biography, Bonnie Henry has been heavily involved, in the past, in the management of "mass gatherings" in Canada and abroad[299]. This included the Vancouver 2010 Olympic, and Paralympic Winter Games. Incidentally, Todd Dennett, former employee at the Bill and Melinda Gates foundation was appointed to be responsible for overseeing the medal ceremonies[300]. Todd Dennett was the manager of scheduling and trip operations at the Bill and Melinda Gates Foundation from March 2005-April 2008[301]. Todd Dennett is now the CEO and founder of Tiller Global, a company that boasts of a portfolio including having worked with: Bill and Melinda Gates Foundation, Microsoft, HIV Vaccine Trials Network[302].

[297] World Bank Document
[298] Deaths of children after getting polio vaccine panic people - Pakistan - DAWN.COM
[299] Biographies - Province of British Columbia (gov.British Columbia.ca)
[300] Making the Olympic medal moment perfect: it's all in the details | The Seattle Times
[301] Todd Dennett | LinkedIn
[302] Portfolio – Tiller Global

299. The Plaintiffs state, and fact is, that administrating medical treatment without informed consent constitutes experimental medical treatment and contrary to the ***Nuremberg Code*** and ***Helsinki Declaration*** of 1960, still in vigor, and further and thus constitutes a crime against humanity under the ***Criminal Code*** of Canada.

300. On May 21st, 2021, Dr. Bonnie Henry, and her department announced the availability of the Covid vaccines for twelve (12) to seventeen (17) year olds, without the need for their parents consent, notwithstanding:

(a) That the Vaccines have **NOT** undergone required trial and safety protocols but were all made under an "emergency" basis;

(b) That there has **NOT** been a recorded death or life-threatening case of any twelve (12) to seventeen (17) year old in Canada;

(c) That twelve (12) to seventeen (17) year olds are not at risk of Covid-19;

(d) That, in the absence of informed consent, it constitutes medical experimentation and thus constituted a "crime against humanity" emanating from the Nuremberg trials, and principles following the medical experimentations by the Nazi regime and codified in Canada, as a Criminal act, pursuant to the ***War Crime and Crimes Against Humanity Act;***

(e) And that on June 5th, 2021 Dr. Joss Reimer, Medical Lead for the Manitoba Vaccine Implementation Task Force, in asserting that the

various vaccines can be mixed, publicly declared that the Covid-19 vaccinations are a "big human experiment";

(f) That many twelve (12) to seventeen (17) year olds do not possess the intellectual capacity to give informed consent;

(g) And by doing so Dr. Bonnie Henry, and the Province of British Columbia are violating the s.7 ***Charter*** protected right of the parent-child relationship and in contempt and subversion of the "mature minor" doctrine of the ***Supreme Court of Canada***.

- **G/ CONSEQUENCES OF MEASURES TO THE PLAINTIFFS AND OTHER CITIZENS, AND VIOLATION OF CONSTITUTIONAL RIGHTS**

301. The Plaintiffs state, and the facts is, that the impact of containment measures to Plaintiffs is, **inter alia** that:

(a) Mass containment measures negatively impacts the development of herd immunity, artificially prolongs the epidemic, extends the period of confinement, and contributes to maintaining a high proportion of susceptible individuals in the population.

(b) California emergency room physicians stated that *"sheltering in place does more harm than good and lowers our immune system."* [303]

[303] https://vaccineimpact.com/2020/california-er-physicians-sheltering-in-place-does-more-harm-than-good-lowers-our-immune-system/

(c) The measures employed to achieve the objective of *"flattening the curve"* so as not to overwhelm the health care system were disproportionate to the objective. Our health care system has consistently operated at 40 – 50% **below** capacity since the introduction of these measures.

(d) The suspensions of rights to participate in community and in commerce has caused substantial and irreparable harm to the economy, livelihoods, communities, families, and the physical and psychological well-being of Canadians and the Plaintiffs. These include:

(i) A dramatic increase in reports of domestic violence (30%).

(ii) Over six million Canadians have applied for unemployment benefits and 7.8 million Canadians required emergency income support from the Federal government (as of May 2020). [304]

(iii) The deepest and most rapid loss of jobs, savings and income in the history of Canada. [305]

(iv) Numerous citizens have been forced into unemployment and poverty, the loss of their business, and bankruptcy.

(v) Estimates of the Federal deficit resulting from their response to SARS-CoV-2 ranges up to $400 billion (May 2020). [306]

[304] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[305] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/
[306] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/

(vi) Leading Economic Indicators show the Canadian economy is now in "*freefall*". [307]

(vii) Illnesses and conditions not related to SARS-CoV-2 have gone untreated and undiagnosed.

(viii) Dramatic increase in number of individuals dying at home due to lack of medical care and for fear of visiting emergency wards despite the fact that most hospitals have capacity.

(ix) Denial of access to health care professionals including doctors, dentists, chiropractors, physiotherapists, naturopaths, homeopaths, physiotherapists, massage therapists, optometrist, and osteopaths.

(x) Denial of access to health care services including cancer treatments, elective surgeries, testing, diagnosing, and treatment.

(xi) Regulated health care practitioners, including chiropractors, Naturopaths, and Homeopaths have been directed to refrain from providing health care knowledge to individuals concerned about SARS-CoV-2. This is an unwarranted infringement on the right to therapeutic choice.

(xii) Dramatic Increase in mental health challenges including suicide.

(xiii) The significant potential for the traumatizing children due to the disproportionate fear of contracting a virus for which the risk of death is virtually zero.

[307] https://www.macdonaldlaurier.ca/beyond-lockdown-canadians-can-have-both-health-and-prosperity-an-open-letter-to-the-prime-minister/

(xiv) Significant increase in alcohol consumption and drug use.

(xv) Denial of access to healthy recreation including parks, beaches, camping, cottages, and activities as golf, tennis, swimming, etc.

(xvi) Denial of a public education for children.

(xvii) Denial of access to consumer goods and services.

(xviii) Individuals dying alone in hospital and extended care facilities without the support of family and friends. [308]

(xix) Fathers denied access to be present for the birth of their child.

(xx) Elderly parents in supportive care are denied access to the support of their family and friends.

(xxi) The effective closure of Courts of Law is unprecedented, illegal, unconstitutional, undemocratic, unnecessary, and impedes the ability of Canadians to hold our governments accountable.

(xxii) The effective closure of Parliaments is unprecedented, illegal, unconstitutional, undemocratic, unnecessary, and impedes the ability of Canadians, including the Plaintiffs, to hold governments accountable.

302. The Plaintiffs further state, and fact is, that:

(a) To combat COVID-19, "Canada's federal government initially committed to measures totaling around $400 billion, of which about two-fifths constitutes direct spending." Currently, the deficit for

[308] https://globalnews.ca/news/6866586/British Columbia-woman-disability-dies-covid-19/

2019-2020 is expected to be well over $1.2 Trillion. This is seven times larger than the previous year's deficit. [309]

(b) There is no evidence that the impact of these negative consequences were calculated, much less fully considered in the government's response to SARS-CoV-2.

(c) John Carpay, president of the Justice Centre for Constitutional Freedoms in Canada has stated there is reason to conclude that the government's response to the virus is deadlier than the disease itself. [310]

(d) The cost of combatting SARS-CoV-2 is placed disproportionately on the young and blue collar and service workers who cannot work from home, as opposed to white collar workers who often can.

(e) The results from Sweden, and other countries that did not engage in mass and indiscriminate lockdowns, demonstrates that other more limited measures were equally effective in preventing the overwhelming of the health care system, and much more effective in avoiding severe economic and individual health consequences.

(f) The Ontario government took the "extraordinary step" to release a database to police with a list of everyone who has tested positive for COVID-19 in the province.[311]

[309] https://www.huffingtonpost.ca/entry/canada-budget-deficit-covid19_ca_5e85f6British Columbiac5b60bbd735085f4
[310] https://www.jccf.ca/the-cost-of-the-coronavirus-cure-could-be-deadlier-than-the-disease/
[311] https://toronto.ctvnews.ca/mobile/ontario-takes-extraordinary-step-to-give-police-list-of-all-covid-19-patients-1.4910950?fBritish Columbialid=IwAR10jfu_5OYq5BPZJKMyyqiN2P47dK_wbZzFMqC8WEpFxiIhEFt81cGnfqc

303. Furthermore, while upon the declaration of the pandemic, based on a totally erroneous modeling, postulated that, as opposed to regular 650, 000 deaths every year form seasonal viral respiratory illness , world-wide, that 3.5 Million may or would die, the erroneous COVID implemented measures have proven to be more devastating than the "pandemic" at its posited worse in that:

(a) In Canada, as elsewhere, 170,000+ medical, surgical, operations are canceled, with the numbers climbing, as well as closure of other medical services at hospital, which have caused deaths;

(b) With the fear of lock-downs and self-isolation, patients have not accessed their doctor for diagnosis of medical problems;

(c) Documented spikes of domestic violence and suicides have been recorded;

(d) Inordinate spike in alcoholism, drug use, and clinical depression;

(e) Moreover, and most-shocking, the UN through an official of the World Food Bank, on April 22nd,2020, had published a document stating that, because of COVID-19 (measures)and the disruption of supply chain, it estimates that 13**0 Million "additional people" "**on the planet could be on the brink of **starvation by end of year 2020** which, begs the question: why is it justifiable to add 130 Million deaths to purportedly save 3.5 Million?

304. The Plaintiffs state, and the facts is, that the purported, and false, goals of the WHO measures and its purveyors, such as the Defendants, are a perpetual moving target, and purposely shift to an unattainable goals, in that:

(a) The initial rationale for the mass lockdown of Canadian society was to "flatten the curve" to avoid overwhelming health care services. It was never about preventing the coronavirus from spreading altogether, but rather to render its spread manageable.

(b) It appears now that the goal has changed. Government appears to have shifted the goal to preventing the virus from infecting any and all Canadians. If so, this ought to be made clear, as should the justification for the change. [312]

(c) Yoram Lass, the former director-general of Israel's Ministry of Health is of the opinion that "lockdown cannot change the final number of infected people. It can only change the *rate* of infection." [313]

(d) There are warnings of an imminent "second wave." But if the "first wave" has been flattened, planked or buried to the extent that in vast areas of the country very few people have been exposed to the virus at all, then the "second wave" is not really a second wave at all, but a delayed first wave.

(e) Minimizing the total spread of the coronavirus until a vaccine is available will be the most expensive goal in the history of human governance.

(f) There is no scientific evidence to substantiate that the elimination of the virus through self-isolation and physical distancing is achievable or medically indicated.

[312] https://nationalpost.com/opinion/raymond-j-de-souza-on-covid-19-a-lockdown-without-a-clear-goal
[313] https://www.spiked-online.com/2020/05/22/nothing-can-justify-this-destruction-of-peoples-lives/#.XsgqiN6D0uQ.facebook

(g) According to four Canadian infectious disease experts, Neil Rau, Susan Richardson, Martha Fulford and Dominik Mertz - *"The virus is unlikely to disappear from Canada or the world any time soon"* and *"It is unlikely that zero infections can be achieved for COVID-19."* [314]

(h) There is no compelling reason to conclude that the general-population lockdown measures (first requested by the Trudeau government on 17 March) had a detectable effect in Canada. The lockdown measures may have been implemented after "peak prevalence" of actual infections, which renders mitigation measures entirely without effect.

(i) The Government of Canada has been slow to endorse the re-opening of the economy even as hospitals remain well below capacity – the metric that was initially used to justify the restrictions.

305. Since the summer of 2020, the above-noted consequences have exponentially multiplied, magnified, and chronically festered to the large point of deprivation and deaths, caused by the measures.

- **H/ THE COVID-19 VACCINE- "WE DO NOT GET BACK TO NORMAL UNTIL WE HAVE A VACCINE"**

306. From the on-set of the declared "emergency", the Plaintiffs state, and the fact was, that the narrative and mantra created and propagated by Bill Gates that "we do not get back to normal until we have a vaccine" has been accelerated by a

[314] https://nationalpost.com/opinion/opinion-we-are-infectious-disease-experts-its-time-to-lift-the-covid-19-lockdowns

falsely declared "pandemic" to what has been a persistent push for **mandatory** vaccination of every human being on the planet, along with "global governance" as propagated by Bill Gates, Henry Kissinger, the Rockefeller Foundation, GAVI, the WEF, and their likes.

307. With respect to (mandatory) vaccines and the COVID-19, the Defendants, in addition to pushing the ultimate aim of mandatory vaccines, spear-headed by Bill Gates, and others, have also ignored and refuse to address the issues in the context of COVID-19, let alone vaccines at large, as reflected in, inter alia, the following:

(a) **Intention to Create Vaccine Dependency:** Is it ethical to deny children, young people and most of the population who are at low risk of mortality the opportunity to develop natural immunity when we know natural immunity is lifelong in most cases? Are we going to create another condition where we become 'vaccine dependent' or will we recognize the value of natural herd immunity? Advocates of the natural herd immunity model are of the opinion that rather than the mass isolation of billions of people, only the most at-risk people and their close associates should be isolated. The forced mass quarantine of an entire, mostly low-risk population is disproportionate and unnecessary. This is the position being utilized by Sweden.[315]

(b) **Will A COVID 19 Vaccine Be Safe?**

[315] https://vaccinechoicecanada.com/in-the-news/will-a-covid-19-vaccine-save-us/

(i) **Dr. Anthony Fauci** – is the director of the National Institute of Allergy and Infectious Diseases in the United States. Fauci has stated: *"We need at least around a year and a half to make sure any new vaccine is safe and effective."* [1]

(ii) **Dr. Paul Offit** - Offit warns, *"Right now you could probably get everyone in this country to get this (CV) vaccine because they are so scared of this virus. I think we should keep remembering that most people who would be getting this vaccine are very unlikely to be killed by this virus."*

(iii) **Dr. Peter Hotez** - dean of the National School of Tropical Medicine at Baylor College of Medicine, told Reuters, *"I understand the importance of accelerating timelines for vaccines in general, but from everything I know, this is not the vaccine to be doing it with."*

(iv) **Pathogenic Priming**[316]**;**

(c) **Jonathan Kimmelman**, a biomedical ethics professor at McGill University in Montreal, is watching how both scientific and ethical standards are maintained while the pandemic vaccine trials progress at breakneck speed.

> "My concern is that, in the fear and in the haste to develop a vaccine, we may be tempted to tolerate less than optimal

[316] https://www.sciencedirect.com/science/article/pii/S2589090203300186?via%3Dihub=&amp=1

> science," Kimmelman said. "That to me seems unacceptable. The stakes are just as high right now in a pandemic as they are in non-pandemic settings. "To show how long the process can take, Kimmelman points to the example of the ongoing search for an effective HIV vaccine that began in the 1990s. Before healthy people worldwide receive a vaccine against SARS-CoV-2, the risk/benefit balance needs to tip in favor of the vaccine's efficacy in offering protection over the potential risks, he said. The balance still exists even in the face of a virus wreaking an incalculable toll on human health and society." [317]

(d) CBC News March 24, 2020 reported by Amina Zafar;[318]

(e) Moderna's vaccine uses genetic material from the virus in the form of **nucleic acid.** That tells the human body how to make proteins that mimic viral proteins and this should provoke an immune response. Denis Leclerc, an infectious diseases researcher at Laval University in Quebec City, said the advantage of nucleic acid vaccines like Moderna's is that they're much faster to produce than other types. While relatively safe, **nucleic acid vaccines are generally not the preferred strategy**, Leclerc said, because they **don't have the same safety record** as the traditional approach.

(f) **Will a COVID 19 vaccine be effective? Ian Frazer** - Immunologist Ian Frazer has downplayed the role of a vaccine in overcoming the coronavirus pandemic, saying it may "not stop the spread of the virus in the community". That's if a vaccine can be developed at all. Frazer, a

[317] https://www.cbc.ca/news/canada/coronavirus-covid19-april16-canada-world-1.5534020
[318] https://www.cbc.ca/news/health/covid-19-vaccine-research-1.5497697

University of Queensland scientist who was recognized as Australian of the Year in 2006 for his contribution to developing HPV vaccines, said a COVID-19 vaccine may not be the end-all to the current crisis. [319]

(g) **Role of Influenza Vaccination to Current Outbreak - Allan S. Cunningham**, Retired pediatrician The possibility that **seasonal flu shots are potential contributors** to the current outbreak. A randomized placebo-controlled trial in children showed that flu shots increased fivefold the risk of acute respiratory infections caused by a group of non influenza viruses, including coronaviruses.[320]

(h) **Mandatory Vaccination**

(i) **Diane Doucet** – Message to New Brunswick Committee on Law Amendments"Mandatory vaccination may soon be imposed on the entire population. Eventually, every person will have to decide between attending school, keeping their job, their home and their ability to participate in society and their so-called freedom to choose. People will also be at risk of losing their jobs if they speak out against mandatory vaccinations.

We are not talking about quarantining individuals infected by a disease. We are talking about the segregation of healthy children and adults from participating in society. Their crime is that they do not consent to handing over their bodies to the tyrannical will of a vaccine cartel which is accountable to no one.

The policy makers look down upon the citizenry with arrogance. We live in a system that views the common people as being too ignorant to decide what's best for themselves and their children. When corporations, health agencies and government institutions treat people like chattel and punish those who do not submit, you

[319] https://7news.com.au/lifestyle/health-wellbeing/coronavirus-australia-immunologist-ian-frazer-expresses-doubt-around-role-of-vaccine-in-pandemic-c-983647
[320] https://www.bmj.com/content/368/bmj.m810/rr-0

> have slavery. If an institution can take it upon itself and do what it wants to people's bodies against their will, then you live in a slave system. We find ourselves here today, wondering how we managed to slip this low."

- **Microchipping /Immunity Passports/ Social Contact Vaccine Surveillance & 5G**

308. 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.

309. In addition to the facts, pleaded with respect to Gates' vaccine-chip, nannocrystal "app" already developed, in late June, 2020, cell-phone companies, at the request of Justin Trudeau that the 30-Million eligible Canadians "voluntarily" load up "contract-tracing apps" now available from the phone-tech giants. These companies began dumping the apps on to customers without **informed** consent.

310. On June 30th, 2020, Canada announced that it was participating, to be included, as one of an initial fifteen (15) countries, to require "immunity passport", a cell-phone application disclosing medical vaccination history.[321] Canada is one of an initial fifteen (15) countries to enter into a contract to deploy "immunity passport" technology. The technology would utilize a cell-phone application to disclose medical vaccination history. [322]

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[321] https://www.mintpressnews.com/mass-tracking-covi-pass-immunity-passports-slated-roll-15-countries/269006/

[322] https://www.mintpressnews.com/mass-tracking-covi-pass-immunity-passports-slated-roll-15-countries/269006/

311. The Plaintiffs further state, and the fact is, that above and beyond what is set out above in the within Statement of Claim, mandatory vaccination, for any disease, let alone a **virus**, is a flagrant violation of the Plaintiffs' **Charter** , and written constitutional rights, under s. 2 and 7 of the **Charter,** to freedom of belief, conscience, religion, and life liberty and security of the person as a violation of physical and psychological integrity, where informed medical consent is absent in a mandatory scheme.

312. Furthermore, and more importantly, the Plaintiffs state that public officials, including the relevant Defendants, Trudeau, Tam, and Henry have warned that, despite the anticipated five (5) years of the Covid-19 "vaccines", the vaccines will **not** result in immunity: do not prevent transmission of the virus to and from the recipient: and that the other measures, lockdoans, maskins and useless PCR tests must be maintained indefinitely. This all begs the question: why then roll out an experimental "vaccine" by-passing the safety protocols?

Version April 29/21

- **Authorized COVID "Vaccines"**

313. Since the Summer of 2020, with respect to the Covid "vaccines", the events have unfolded as set out below.

314. There are four COVID-19 vaccines which have received emergency use authorization in Canada: [323]

(a) The **Pfizer-BioNTech** COVID-19 vaccine was authorized for use in Canada on December 9, 2020.

(b) The **Moderna** COVID-19 vaccine was authorized for use in Canada on December 23, 2020.

(c) The **AstraZeneca** COVID-19 vaccine was authorized for use in Canada on February 26, 2021.

(d) The **Janssen** COVID-19 vaccine was authorized for use in Canada on March 5, 2021.

(e) Merck, a major pharmaceutical company, which was developing two (2) potential vaccines, abandoned their development and publicly announced, that it is **more** effective for people to simply contract the virus and let the natural immune system deal with it.

Note: Health Canada authorized two manufacturers to produce this vaccine developed by AstraZeneca and Oxford University: AstraZeneca and Serum Institute of India (SII). NACI has not specifically reviewed evidence for the SII vaccine, but Health Canada has deemed SII and AstraZeneca vaccines to be comparable. Authorization of the SII COVID-19 vaccine (COVISHIELD) was based on its comparability to the AstraZeneca COVID-19 vaccine as

[323] https://www.canada.ca/content/dam/phac-aspc/documents/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines/recommendations-use-covid-19-vaccines-en.pdf

determined by evaluation and direct comparison of manufacturing processes and controls and the quality characteristics of the two products. The results of this comparison by Health Canada determined that the two products were sufficiently similar and that the efficacy, immunogenicity and safety of COVISHIELD could be inferred from the non-clinical and clinical studies from the AstraZeneca COVID-19 vaccine.

315. These "vaccines" constitute experimental Medical Devices in that:

(a) Canadians have been led to believe that the COVID 19 vaccines have undergone robust clinical trials and have proven these products to be both safe and effective. That belief is simply untrue. In fact it is a bald and intentional lie.

(b) Those partaking in the COVID 19 vaccines are test subjects in ongoing clinical trials. [324]

(c) The COVID-19 vaccines have not received full Health Canada approval. They have only been granted 'interim use'; i.e. 'emergency use authorization'. This means that these medical products are considered 'experimental'. Those partaking in these products are subjects in human clinical trials. In order to obtain emergency use, it must be established that no other recognized and approved medical treatment or drugs are available to mitigate, assist, or avert the disease which explains the

[324] https://off-guardian.org/2021/01/03/what-vaccine-trials

banning and use of such drugs as HCQ, Ivermectin, Vitamin D, Zinc, and Magnesium in combination, treatments that have been proven effective.

(d) These "vaccine" products are unlike any previous vaccine. The most significant difference with the Pfizer and Moderna vaccines is the introduction of 'messenger RNA/DNA technology'. This technology has never before been injected into humans on a mass scale to function as a vaccine.

(e) The AstraZeneca and Janssen vaccines use a genetically modified virus to carry genes that encode SARS-CoV-2 spike proteins into the host cells. Once inside the cell, the spike protein genes are transcribed into mRNA in the nucleus and translated into proteins in the cytosol of the cell.

(f) The long-term consequences of injecting genetic technology into humans on a mass scale is, quite simply, unknown.

316. Safety Trials have not been completed with these vaccines and furthermore:

(a) None of the vaccines authorized for COVID-19 have completed Phase III clinical trials. Clinical trials are still ongoing.

(b) Phase III safety results will not be concluded until 2022 - 2024 depending upon the manufacturer.

(c) Long-term safety data does not exist for these products. [325]

[325] https://www.fda.gov/media/144416/download

(d) The normal development timeline to determine the safety of a vaccine is 5 - 10 years. It is impossible to know the safety and efficacy of a new medical product in the few months these products have existed.

(e) It is also important that Canadians know that these 'vaccines' are unlike any previous vaccine.

(f) There are significant concerns related to the fast tracking of a COVID 19 vaccine, with safety being first and foremost.

(g) Vaccine manufacturers have been working on a coronavirus vaccine for more than fifty (50) years with no success.

(h) A coronavirus vaccine carries the risk of what is known as 'pathogenic priming' or 'disease enhancement', whereby instead of protecting against infection, the vaccine makes the disease worse in vaccinated individuals. [326]

(i) The mechanism that causes disease enhancement is not fully understood and has prevented the successful development of a coronavirus vaccine to date.

(j) Disease enhancement occurred with the dengue fever vaccine. Vaccines developed for other coronaviruses, SARS-1 and MERS, resulted in a high rate of death in test animals.

(k) Normal protocols to test the safety of vaccines include testing in animals prior to testing in human subjects.

[326] https://www.reuters.com/article/us-health-coronavirus-vaccines-insight-idUSKBN20Y1GZ

(l) Animal testing prior to human trials is even more necessary for a coronavirus vaccine as all previous efforts to develop a coronavirus vaccine have failed because the vaccine caused an exaggerated immune response upon re-exposure to the virus. [327] Vaccinated animals suffered hyper-immune responses including inflammation throughout their bodies, especially in their lungs. Consequently, those vaccines were never approved.

(m) In the rush to develop a COVID vaccine, Health Canada has permitted vaccine makers to either bypass animal testing entirely or conduct animal testing concurrently with testing in humans.

(n) Dr. Peter Hotez, dean of the National School of Tropical Medicine, was involved in previous efforts to develop a SARS vaccine. On March 5, 2020, Hotez told a US Congressional Committee that coronavirus vaccines have always had a "unique safety problem" — a "kind of paradoxical immune enhancement phenomenon." [328]

(o) Hotez has stated, "I understand the importance of accelerating timelines for vaccines in general, but from everything I know, this is not the vaccine to be doing it with."

[327] childrenshealthdefense.org/defender/pfizer-COVID-vaccine-trial-pathogenic-priming/
[328] https://www.c-span.org/video/?470035-1/house-science-space-technology-committee-hearing-coronavirus&start=1380

(p) Vaccine manufacturers have yet to provide data that defines the vaccine's interaction with other vaccines or prescription medications. [329]

(q) COVID-19 vaccines have not been tested for their ability to cause cancer, induce organ damage, change genetic information, impact the fetus of a pregnant woman or to impair fertility.

(r) The product monograph for the AstraZeneca vaccine authorized for use in Canada states: [330] "It is unknown whether AstraZeneca COVID-19 Vaccine may impact fertility. No data are available." "The safety and efficacy of AstraZeneca COVID-19 Vaccine in pregnant women have not yet been established." "It is unknown if AstraZeneca COVID-19 Vaccine is excreted in human milk. A risk to the newborns/ infants cannot be excluded." "The safety and efficacy of AstraZeneca COVID-19 Vaccine in children and adolescents (under 18 years of age) have not yet been established. No data are available." "Currently, there is limited information from clinical trials on the efficacy of AstraZeneca COVID-19 Vaccine in individuals ≥65 years of age."

(s) William Haseltine, a former Harvard Medical School professor states that, "These protocols seem designed to get a drug on the market on a timeline arguably based more on politics than public health." [331]

[329] COVID-vaccine.canada.ca/info/pdf/pfizer-biontech-COVID-19-vaccine-authorisation.pdf?fbclid=IwAR0vCv09_332PjR41OUBJOy1k1ESQg--_CbAqcGpk1ZWY71xBztuLDE05oE
[330] https://covid-vaccine.canada.ca/info/pdf/astrazeneca-covid-19-vaccine-pm-en.pdf
[331] https://www.washingtonpost.com/opinions/2020/09/22/beware-covid-19-vaccine-trials-designed-succeed-start/

317. The Plaintiffs further state, and the fact is, that these Vaccines include never before used mRNA genetic technology in that:

(a) The Pfizer and Moderna vaccines includes ingredients never before used in licenced vaccines, and function unlike any previous vaccine to date.

(b) These treatments are more accurately a medical device and includes synthetic genetic technology based on a computer generated *"spike glycoprotein antigen encoded by RNA and formulated in lipid nanoparticles".* [332]

(c) According to the Canadian National Advisory Committee on Immunization (NACI) – Recommendations on the Use of COVID-19 Vaccines: [333] **"**mRNA vaccines *that use messenger RNA (mRNA) platforms contain modified nucleotides that code for the SARS-CoV-2 spike protein. A lipid nanoparticle formulation delivers the mRNA into the recipient's cells. Once inside the cytoplasm of a cell, the mRNA provides instructions to the cell's protein production machinery to produce the trans-membrane spike protein antigen that becomes anchored on the cell's external surface."*

(d) The NACI claims – "*The mRNA does not enter the nucleus of the cell and does not interact with, or alter, human DNA." and "The mRNA, lipid nanoparticle, and spike protein are degraded or excreted within days to*

[332] https://www.fda.gov/media/144416/download
[333] https://www.canada.ca/content/dam/phac-aspc/documents/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines/recommendations-use-covid-19-vaccines-en.pdf

weeks from time of immunization." (page 17) Evidence to substantiate these claims have not been provided.

(e) The same document states: *"COVID-19 vaccines based on viral vector platforms use a modified virus to carry genes that encode SARS-CoV-2 spike proteins into the host cells. The vector virus is a type of adenovirus that has been modified to carry COVID-19 genes and to prevent replication. These modifications are intended to prevent the viral vector from causing disease (i.e., they are non-replicating). Once inside the cell, the SARS-CoV-2 spike protein genes are transcribed into mRNA in the nucleus and translated into proteins in the cytosol of the cell. The AstraZeneca vaccine uses a modified chimpanzee adenovirus vector (ChAd). "* (page 17) Again, evidence to substantiate these claims have not been provided.

(f) This technology has never before been injected into humans on a mass scale.

(g) The long-term consequences of injecting genetic technology into a human body is unknown.

(h) A white paper produced by Moderna states: "DNA vaccines have a risk of permanently changing a person's DNA." [334]

[334] https://www.modernatx.com/sites/default/files/RNA_Vaccines_White_Paper_Moderna_050317_v8_4.pdf

(i) The Moderna White Paper also states: "As with all new vaccines, time is needed to establish the level and duration of immunogenicity and the safety profile of mRNA vaccines in larger, more diverse populations."

(j) The potential exists for significant consequences, not only for the person receiving the vaccine, but for future generations as it is highly possible that the mRNA/DNA in the vaccine will combine with the recipient's own DNA and be transmitted to their offspring.

(k) The mRNA vaccine uses the cell's own machinery to create a protein that is identical to the spike protein on the coronavirus. This protein is also found in the placenta and in sperm. If a constant immune response is initiated by the vaccine against this protein, it will likely attack these human tissues as well and prevent placentas and sperm from forming properly. This autoimmune cross-reactivity could cause infertility, miscarriages and birth defects.

(l) The mRNA in the Pfizer vaccine was sequenced from the 3rd iteration of the original WUHAN published Genome SARS-CoV-2 (MN908947.3). The WHO protocols Pfizer used to produce the mRNA do not appear to identify any nucleotide sequences that are unique to the SARS-CoV-2 virus. When questioned Pfizer confirmed: "The DNA template does not come directly from an isolated virus from an infected person." [335]

[335] https://off-guardian.org/2021/01/03/what-vaccine-trials

318. The Plaintiffs state, and the fact is, that: Vaccines manufacturers have been given total immunity from liability, in that:

(a) COVID-19 vaccine manufacturers have been granted total immunity from liability for any harm or injury caused by their products.

(b) Federal procurement minister Anita Anand justified the indemnity in the following statement - *"All countries, generally speaking, are faced with the issue of indemnification of companies, especially in cases of novel technologies like this."* [336]

(c) Ordinarily, a 'novel technology' would demand a higher level of oversight and accountability, not less.

(d) Without legal accountability, there is no financial incentive for manufacturers to make the safest vaccines possible, nor is there incentive to remove injurious vaccines from the marketplace.

(e) Legal and financial indemnity does not exist with any other product licensed for use in Canada.

(f) Experience in other countries reveals that eliminating or severely restricting manufacturer liability for injury or death result in an ever-expanding market of poorly tested vaccine products.

(g) A 2017 study investigated the consequences in the United States of removing litigation risk related to vaccines. The researchers concluded that vaccines that were licensed after legislation that pre-empted most product

[336] https://globalnews.ca/news/7521148/coronavirus-vaccine-safety-liability-government-anand-pfizer/

liability lawsuits are associated with a significantly higher incidence of adverse events than were vaccines that were licensed under a previous regime that permitted consumers to sue. [337]

319. The Plaintiffs further state, and the fact is, that there is **No Evidence** the Vaccine Prevents Infection or Transmission, and the Public Health officers warn of this very fact and further that:

(a) These medical devices have been declared 'effective' even though manufacturers have not demonstrated that their product prevents infection or transmission, nor whether the device will result in a reduction in severe illness, hospitalization, or death. [338] [339] [340]

(b) According to a report in the British Medical Journal, *"Hospital admissions and deaths from COVID-19 are simply too uncommon in the population being studied for an effective vaccine to demonstrate statistically significant differences in a trial of 30,000 people. The same is true of its ability to save lives or prevent transmission: the trials are not designed to find out."* [341]

(c) Given these vaccines have not been proven to prevent infection or transmission, there is no evidence that they contribute to community protection/herd immunity.

[337] https://link.springer.com/article/10.1007/s11151-017-9579-7
[338] https://blogs.bmj.com/bmj/2020/11/26/peter-doshi-pfizer-and-modernas-95-effective-vaccines-lets-be-cautious-and-first-see-the-full-data/
[339] https://www.nytimes.com/2020/09/22/opinion/covid-vaccine-coronavirus.html
[340] https://stopmedicaldiscrimination.org/home#af86c044-aed2-496d-92bb-e1d76dca284e
[341] www.bmj.com/content/371/bmj.m4037

(d) What is being reported by vaccine manufacturers is relative risk reduction, not absolute risk reduction The absolute risk reduction appears to be less than 1%.[342]

(e) On the Public Health Agency of Canada website, the National Advisory Committee on Immunization (NACI) "recommends that all individuals should continue to practice recommended public health measures for prevention and control of SARS-CoV-2 infection and transmission (wear a face covering, maintain physical distance, and avoid crowds) **regardless of vaccination with COVID-19 vaccines.**" (pg. 41) [343]

(f) According to the 'Recommendations on the use of COVID-19 vaccines' on the Government of Canada website - *"There is currently insufficient evidence on the duration of protection and on the efficacy of these vaccines in preventing death, hospitalization, asymptomatic infection and reducing transmission of SARS-CoV-2."* [344]

(g) According to the National Advisory Committee on Immunization – Recommendations on the Use of COVID-19 Vaccines: [345] *"Due to the availability of only short-term clinical trial data, the duration of*

[342] https://blogs.bmj.com/bmj/2020/11/26/peter-doshi-pfizer-and-modernas-95-effective-vaccines-lets-be-cautious-and-first-see-the-full-data/
[343] https://www.canada.ca/content/dam/phac-aspc/documents/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines/recommendations-use-covid-19-vaccines-en.pdf
[344] https://www.canada.ca/en/public-health/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines.html#a2
[345] https://www.canada.ca/content/dam/phac-aspc/documents/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines/recommendations-use-covid-19-vaccines-en.pdf

protection provided by COVID-19 vaccination is currently unknown." (page 18) and *"Efficacy against hospitalization was not assessed in the clinical trials of the mRNA vaccines, but evidence from the clinical trials involving the AstraZeneca vaccine is <u>suggestive</u> of a protective effect against hospitalization."* (page 20)

(h) The data from Phase 1, 2, and 3 clinical trials presented to the High Consequence Infectious Disease Working Group and NACI are unpublished and have not been made available for independent third party review and verification.

320. The Plaintiffs further state, and fact is, that the British Columbia Health Information is not Congruent with Vaccine Manufacturer Information in that:

(a) Information disseminated by BC Health and the BC Centre for Disease Control is not congruent with information taken directly from the Pfizer Emergency Use Authority request to the US FDA.

(b) The Pfizer Emergency Use Authorization request states the following: [346]

- **Under section 6.2 - Unknown Benefits/Data Gaps**:
- **Duration of protection**

It is not possible to assess sustained efficacy over a period longer than 2 months.

- **Effectiveness in certain populations at high-risk of severe COVID-19**

[346] https://www.fda.gov/media/144416/download

The subset of certain groups such as immunocompromised individuals is too small to evaluate efficacy outcomes.

- **Effectiveness in individuals previously infected with SARS-CoV-2**

Available data are insufficient to make conclusions about benefit in individuals with prior SARS-CoV-2 infection.

- **Effectiveness in pediatric populations**

The representation of pediatric participants in the study population is too limited to adequately evaluate efficacy in pediatric age groups younger than 16 years.

- **Future vaccine effectiveness as influenced by characteristics of the pandemic, changes in the virus, and/or potential effects of co-infections**

The evolution of the pandemic characteristics . . . as well as potential changes in the virus infectivity, antigenically significant mutations to the S protein, and/or the effect of co-infections may potentially limit the generalizability of the efficacy conclusions over time.

- **Vaccine effectiveness against asymptomatic infection**

Data are limited to assess the effect of the vaccine against asymptomatic infection.

- **Vaccine effectiveness against long-term effects of COVID-19 disease**

At present it is not possible to assess whether the vaccine will have an impact on specific long-term sequelae of COVID-19 disease in individuals who are infected despite vaccination.

- **Vaccine effectiveness against mortality**

  A larger number of individuals at high risk of COVID-19 and higher attack rates would be needed to confirm efficacy of the vaccine against mortality.

- **Vaccine effectiveness against transmission of SARS-CoV-2**

  Data are limited to assess the effect of the vaccine against transmission of SARS-CoV-2 from individuals who are infected despite vaccination.

- **Under Section 6. 3 - Known Risks**:

The vaccine has been shown to elicit increased local and systemic adverse reactions as compared to those in the placebo arm.

Severe adverse reactions occurred in 0.0 - 4.6% of participants.

- **Under Section 6.4 - Unknown Risks/Data Gaps**:
- **Safety in certain subpopulations**

There are currently insufficient data to make conclusions about the safety of the vaccine in subpopulations such as children less than 16 years of age, pregnant and lactating individuals, and immunocompromised individuals.

- **Adverse reactions that are very uncommon or that require longer follow-up to be detected**

Use in large numbers of individuals may reveal additional, potentially less frequent and/or more serious adverse events not detected in the trial safety population.

- **Vaccine-enhanced disease**

Risk of vaccine-enhanced disease . . . remains unknown and needs to be evaluated further.

- **Under Section 7.0 - VRBPAC Meeting Summary:**
- **The Vaccines and Related Biological Products Advisory Committee** convened on December 10, 2020 to discuss potential implications of authorization of the Pfizer vaccine. The committee members acknowledged the following:
    - The importance of long-term safety data for the Pfizer-BioNTech COVID-19 Vaccine as it is made using a technology not used in previously licensed vaccines.
    - The lack of data on how the vaccine impacts asymptomatic infection and viral shedding.
    - FDA noted that the vaccine should not be administered to individuals with known history of a severe allergic reaction to any component of the vaccine.
    - Appropriate medical treatment used to manage immediate allergic reactions must be immediately available in the event an acute anaphylactic

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- FDA explained that there are insufficient data to inform vaccine-associated risks in pregnancy.
- Committee members raised concerns about the limited conclusions about the prevention of severe disease based on the study endpoints.
- Potential benefits that could be further evaluated but are not necessary to support an EUA include: prevention of COVID-19 in individuals with previous SARS-CoV-2 infection, prevention of mortality and long-term complications of COVID-19, reduction in asymptomatic SARS-CoV-2 infection and reduction of SARS-CoV-2 transmission.
- Known risks include: common local and systemic adverse reactions, (notably injection site reactions, headache, fever, chills, myalgia, and fatigue), all of which are usually mild to moderate and lasting a few days, with higher frequency in younger vaccine recipients.
- Potential risks that should be further evaluated include: uncommon to rare clinically significant adverse reactions that may become apparent with more widespread use of the vaccine.
- Since the roll-out of the vaccine, the following immediate, and identifiable reactions have included: death, blood clots, heart attacks, and strokes, as well as various less drastic side effects,

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while the long-term adverse reactions will be revealed with the passage of time and completion of the human trials expected to be completed 2023.

(c) On the Public Health Agency of Canada website, the National Advisory Committee on Immunization (NACI) states: [347]

(i) "Currently, there is **insufficient evidence on the duration of protection of COVID-19 vaccines** and the effectiveness of COVID-19 vaccines in reducing transmission of SARS-CoV-2." (pg. 41)

(ii) "The immune response to SARS-CoV-2, including duration of immunity, is not yet well understood. Reinfections with SARS-CoV-2 have been reported." (p. 41)

(iii) "Currently, there is a lack of evidence on potential differences in vaccine efficacy or safety between those with and without prior evidence of SARS-CoV-2 infection." (p. 41)

(iv) "Currently, there are no data on COVID-19 vaccination in individuals who are immunosuppressed."

(v) "NACI recommends that a complete COVID-19 vaccine series may be offered to individuals who are immunosuppressed . . . if

[347] https://www.canada.ca/content/dam/phac-aspc/documents/services/immunization/national-advisory-committee-on-immunization-naci/recommendations-use-covid-19-vaccines/recommendations-use-covid-19-vaccines-en.pdf

informed consent includes discussion about the limited evidence on the use of COVID-19 vaccines in this population." (p. 42)

(vi) "It is currently unknown whether immunocompromised individuals will be able to mount an immune response to the authorized COVID-19 vaccines." (p.43)

(vii) "Currently, there are no data on the safety and efficacy of COVID-19 vaccines in pregnancy or during breastfeeding. Pregnant or breastfeeding individuals were excluded from the mRNA and viral vector COVID-19 vaccine clinical trials." (p. 45)

(viii) "Currently, there are no data to inform outcomes of inadvertent administration of COVID- 19 vaccine to pregnant individuals or their developing fetus in clinical trials." (p. 45)

(ix) "There is currently no evidence to guide the time interval between the completion of the COVID-19 vaccine series and conception. In the face of scientific uncertainty, it may be prudent to delay pregnancy by 28 days or more after the administration of the complete two-dose vaccine series of a COVID-19 vaccine." (p. 45)

(x) "NACI recommends that a complete vaccine series with a COVID-19 vaccine may be offered to individuals in the authorized age group who are breastfeeding . . . if informed consent includes discussion about the limited evidence on the use of COVID-19 vaccines in this population. " (p. 45)

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(xi) "As no immunological correlate of protection has been determined for SARS-CoV-2, these cellular responses cannot be interpreted as corresponding with vaccine protection." (p.50)

(xii) "There is limited data on the efficacy or effectiveness of mRNA vaccines against P.1 (variant of concern) and P.2 (variant of interest)." (p. 50)

(d) Information on the Health BC website states: "Vaccines are very safe. It is much safer to get the vaccine than to get COVID-19. Serious side effects due to the vaccines were not seen in the clinical trials." [348]

(e) The BC Center for Disease Control website states: "The vaccine will help reduce the spread of COVID-19 in B.C. Vaccines save lives by preventing disease, especially for people most likely to have severe illness or die. If enough people get vaccinated, it makes it difficult for the disease to spread." [349] This information is not consistent with manufacturer statements.

(f) These statements above in (d) and (e), are **not supported** by the data, the information provided by Pfizer and the Vaccines and Related Biological Products Advisory Committee, nor the National Advisory Committee on Immunization (NACI).

[348] https://www.healthlinkbc.ca/healthlinkbc-files/covid-19-vaccines
[349] http://www.bccdc.ca/health-info/diseases-conditions/covid-19/covid-19-vaccine/vaccines-for-covid-19

(g) This distortion of the facts raises serious concerns of the integrity of Canadian regulatory agencies.

321. Furthermore, and more importantly, the Plaintiffs state that public officials, including the relevant Defendants, Trudeau, Tam, and Henry have warned that, despite the anticipated five (5) years of the Covid-19 "vaccines", the vaccines will not result in immunity: do not prevent transmission of the virus to and from the recipient: and that the other measures, lockdowns, masking, and useless PCR tests must be maintained indefinitely. This all begs the question: why then roll out an experimental "vaccine" by-passing the safety protocols?

322. The Plaintiffs state, and the fact is that under the circumstances "emergency" improperly and negligently deficient, untested "Vaccines" are Not Warranted for the following reasons:

(a) Many individuals who intend to be at the front of the line for a COVID-19 vaccine will do so because they believe COVID-19 is an illness with a high rate of mortality. This fear creates a sense of panic that compels people to accept a medical product with an unknown safety and efficacy profile.

(b) Our federal and provincial governments and the mainstream media persist in describing COVID-19 as a "deadly" condition. This is not true for the vast majority of the population.

(c) The risk of mortality is primarily to those over 80 years of age in poor health, residing in extended care facilities. LTC residents accounted for 81% of all reported COVID-19 deaths in Canada in 2020. [350]

(d) For the greatest percentage of the population under 70 years in good health, COVID-19 poses a very low risk and the use of an experimental product is not warranted.

(e) According to the CDC, the case survival rate of COVID-19 in patients ages 0 – 17 is 99.998%, 99.95% in patients 18 – 49 years, and 99.4% in patients 50 – 64 years. (as of March 19, 2021) [351]

(f) There is no evidence that the benefits of vaccination for COVID-19 outweigh the risks.

(g) What is also rarely acknowledged by our government, public health officers, and the corporate media is that safe and effective drugs and vitamin and mineral supplementation for the prevention and treatment of COVID-19 have been identified. [352] [353] [354] [355] [356] [357]

(h) Such treatments make illegal the use of an experimental product.

[350] https://www.cihi.ca/sites/default/files/document/covid-19-rapid-response-long-term-care-snapshot-en.pdf?emktg_lang=en&emktg_order=1
[351] https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html
[352] https://www.americasfrontlinedoctors.org/covid-19/treatments
[353] www.youtube.com/watch?v=BLWQtT7dHGE
[354] https://anthraxvaccine.blogspot.com/2021/01/first-country-bans-ivermectin-lifesaver.html
[355] https://www.hsgac.senate.gov/imo/media/doc/Testimony-Kory-2020-12-08.pdf
[356] https://www.evms.edu/media/evms_public/departments/internal_medicine/Marik-Covid-Protocol-Summary.pdf
[357] https://covexit.com

(i) Canadians do not have access to treatments that have demonstrated effectiveness in treating COVID-19 including HCQ and Ivermectin.[358] [359] [360]

(j) The only Health Canada recommended treatment for COVID-19 is oxygen therapy and ventilation. [361]

(k) The province of British Columbia updated its COVID treatment guidelines on April 18, 2021 to include inhaled budesonide and colchicine for ambulatory outpatient and long-term care. [362]

323. The Plaintiffs state, and the fact is, that there has been No Individualized Risk-Benefit Analysis has been conducted by the Defendants, and further that:

(a) The arguments used to legalize and implement COVID-19 vaccination are political and ideological rather than evidence-based.

(b) In the rush to approve a COVID-19 vaccine a robust analysis of the risks vs benefits has not been conducted. Indeed, how does one conduct a risk-benefit analysis when both the risks and the benefits are unknown?

(c) Some researchers have described the use of a COVID-19 vaccine in the general population as *"the most reckless and brazen experiment in the history of humanity."*

358 https://www.americasfrontlinedoctors.org/covid-19/treatments
359 https://covexit.com/first-ambulatory-treatment-recommended-for-covid-19-in-canada/
360 https://covexit.com/wp-content/uploads/2021/04/Antimicrobial-Immunomodulatory-Therapy-adults.pdf
361 https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/clinical-management-covid-19.html.
362 https://covexit.com/first-ambulatory-treatment-recommended-for-covid-19-in-canada/

(d) Implementing an 'everyone should be vaccinated' policy assumes the risk-benefit is the same for everyone. This is simply not true and fails to take into consideration the established fact that the risk of COVID-19 varies greatly depending upon several known variables, most especially age and pre-existing conditions. These variables must be considered when assessing the risk and benefit of utilizing these medical devices.

(e) Deaths in the frail and elderly following COVID-19 vaccination have prompted health officials to recognize the need to assess individuals for their 'fitness to be vaccinated'. [363]

(f) As of April 16, 2021, Canada has reported 3,738 vaccine related adverse reactions including 19 deaths which are under investigation. [364] As of April 16, 2021, VAERS reports 86,080 adverse events following COVID-19 vaccination, including 3,186 deaths. What is to be remembered is that, historically, VAERS reports about a small portion of all adverse effects and deaths actually reported. A mere 1% are reported.[365] [366]

(g) We ought to have robust evidence that the benefits of vaccination clearly outweigh the risks. This has not been demonstrated.

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[363] https://www.bmj.com/content/372/bmj.n167/rapid-responses
[364] https://health-infobase.canada.ca/covid-19/vaccine-safety/
[365] https://www.medalerts.org/vaersdb/findfield.php?TABLE=ON&GROUP1=CAT&EVENTS=ON&VAX=COVID19
[366] https://www.medalerts.org/vaersdb/findfield.php?TABLE=ON&GROUP1=AGE&EVENTS=ON&VAX=COVID19&DIED=Yes

(h) The reporting of vaccine injury is subjective, voluntary, and there are no consequences for failing to report vaccine injury.

(i) Physicians receive little to no training on how to recognize and diagnose vaccine injury, and open themselves up to criticism and reprimand if they do fill out the vaccine injury reports.

(j) A Harvard Pilgrim Health Care study found that less than 1% of vaccine adverse reactions were reported. [367]

(k) The real number of children and adults who experience vaccine injury is unknown. The Defendant government(s) are not tracking documents, nor reporting hospitalizations and deaths due to the Covid vaccines.

324. The Plaintiffs further state, and fact is, that with respect to the constitutionally established right to informed consent that:

(a) It is not possible to give informed consent when the results of the clinical trials are unknown.

(b) Informed consent is the most fundamental aspect of an ethical medical system and a free society.

(c) It is imperative that any individual contemplating getting a COVID-19 vaccine be fully aware that these vaccines have not completed the most basic testing to demonstrate either safety or efficacy and that they are participating in a medical trial.

[367] https://healthit.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf

(d) In a letter dated October 3, 2020, Dr. Michael Yeadon, a former Vice President of Pfizer stated – *"All vaccines against the SARS-CoV-2 virus are by definition novel. If any such vaccine is approved for use under any circumstances that are not EXPLICITLY experimental, I believe that recipients are being misled to a criminal extent."* [368]

(e) In a paper published in **The National Center for Biotechnology Information** entitled 'Informed consent disclosure to vaccine trial subjects of risk of COVID-19 vaccines worsening clinical disease', the authors state – *"COVID-19 vaccines designed to elicit neutralizing antibodies may sensitize vaccine recipients to more severe disease than if they were not vaccinated. The specific and significant COVID-19 risk of anti-body dependent enhancement (ADE) should have been and should be prominently and independently disclosed to research subjects currently in vaccine trials, as well as those being recruited for the trials and future patients after vaccine approval, in order to meet the medical ethics standard of patient comprehension for informed consent."* [369] [370]

325. The Plaintiffs further state, and the fact is that Health Canada Oversight has been and continues to be Insufficient in that:

[368] https://coronaversation.wordpress.com/2020/11/11/dr-mike-yeadons-open-letter-regarding-sars-cov-2-vaccine/
[369] https://pubmed.ncbi.nlm.nih.gov/33113270/
[370] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7645850/pdf/IJCP-9999-e13795.pdf?fbclid=IwAR1U-vdWXpOG0SJb0VGR1KkmkqsioWKY8Ux-iOeWpyt0xxa7C5HwlhFBZnU

(a) Many Canadians assume Health Canada provides rigorous oversight and would not permit a vaccine to be introduced to the Canadian public without robust testing to ensure both safety and effectiveness. The fact is that Health Canada does not conduct its own clinical trials to determine the safety and efficacy of a vaccine. Instead, Health Canada relies on the data provided by the vaccine manufacturers.

(b) Vaccine manufacturers are not required to maintain a blinded, neutral placebo-control group, the gold standard for safety testing. This failure undermines the integrity of claims of vaccine safety. (page 53) [371]

(c) Vaccine producers such as Pfizer, Merck and GlaxoSmithKline have paid billions in criminal penalties and settlements for research fraud, faking drug safety studies, failing to report safety problems, bribery, kickbacks, and false advertising. [372] [373]

(d) Moderna has never before produced a vaccine.

(e) In 2009, Pfizer paid $2.3 billion to resolve criminal and civil allegations in what was then the largest health care fraud settlement in history. [374]

(f) The Vaccine Injury Compensation Program in the United States has paid out more than $4.4 B in compensation for vaccine injury and death since 1989. [375]

[371] https://www.fda.gov/media/144416/download
[372] www.corp-research.org/merck
[373] https://www.theguardian.com/business/2012/jul/03/glaxosmithkline-fined-bribing-doctors-pharmaceuticals?CMP=share_btn_fb
[374] https://abcnews.go.com/Business/pfizer-fined-23-billion-illegal-marketing-off-label/story?id=8477617

(g) Canada is one of only two G20 Nations without a national vaccine injury compensation program.

(h) Canada is more than three decades behind other countries in acknowledging vaccine injury and providing financial compensation to those injured and killed by vaccination.

(i) While Prime Minister Trudeau promised a COVID vaccine injury compensation program in December 2020, the details of the program have yet to be revealed, and a vaccine injury compensation program has yet to be implemented.

(j) Vaccines are not benign medical products. Vaccination is an invasive medical procedure that delivers by injection complex biochemical drugs and now genetic modifying technology.

(k) Because of this complexity and uncertainty, the level of safety testing for a COVID-19 vaccine ought to be even more rigorous. But this is not the case. The safety testing of the COVID-19 vaccine is less rigorous and more incomplete as compared with other vaccines and pharmaceutical drugs.

(l) The consequences of rushing a novel and inadequately tested product can be serious, permanent, and even deadly. [376]

(m) Data following the administration of the Pfizer vaccine reveals that 2.8% of test subjects experienced a 'health impact' significant enough such that

[375] https://crsreports.congress.gov/product/pdf/LSB/LSB10584
[376] https://hpv-vaccine-side-effects.com/covid-19-vaccine-side-effects-world-map/

they were *"unable to perform normal daily activities, unable to work, and required care from a health professional."* [377]

(n) If the entire Canadian population were to be vaccinated with the Pfizer vaccine, more than 900,000 people could experience a 'health impact' of this significance.

(o) There are significant conflicts of interest and a lack of transparency with COVID purchase contracts with the Government of Canada.

(p) Moderna's research and development partner is the National Institute of Allergy and Infectious Diseases (NIAID), directed by Dr Anthony Fauci. Moderna shares joint ownership of vaccine patent with NIAID scientists. [378] [379]

(q) NIAID and Dr. Fauci are financially conflicted when recommending this product.

(r) Health Canada lacks transparency by not releasing COVID purchase contract details or answering questions about leaked documents that raised questions about the integrity of the mRNA vaccines.[380]

[377] https://www.cdc.gov/vaccines/acip/meetings/downloads/slides-2020-12/slides-12-19/05-COVID-Clark-508.pdf
[378] https://www.documentcloud.org/documents/6935295-NIH-Moderna-Confidential-Agreements.html
[379] https://www.statnews.com/pharmalot/2020/08/28/moderna-covid19-vaccine-coronavirus-patents-darpa/
[380] https://www.physiciansweekly.com/covid-19-ema-leaks-raise-concerns-over-vaccine-mrna-integrity/

- **Vaccines in General**

326. The Plaintiffs state, quite apart from the "Covid vaccines", which are not "vaccines" as medically and historically understood and medically defined, that with previous vaccines in general, the fact is that:

(a) it is undisputed that vaccines cause severe, permanent injury up to and including death in a certain percentage of those who are vaccinated, including physical, neurological, speech, and other disabilities;

(b) that, as a result of this reality, risk, and severe injury, certain North American jurisdictions, such as the USA, and Quebec, as well as all G-7 countries except Canada, have established compensation schemes for those injured and killed by vaccines;

(c) that British Columbia has no such compensation scheme;

(d) that there is no individual pre-screening, to attempt to pre-determine, which individual may have a propensity to be so injured, even in cases where older siblings, in the same family have been injured, no investigation is undertaken or weighed with respect to the risks of their younger siblings being vaccinated;

(e) the Plaintiffs state, and the fact is, that while peanuts and other nuts, as an absolute proposition, do not injure or kill, they do injure or kill those who are allergic to them. While schools have taken saturated and heightened steps to make their spaces "nut-free", the

risks of vaccines to children, particularly those who are pre-disposed to injury and death from them, are completely ignored.

327. The individual, biological Plaintiffs state that compulsory vaccination, and or testing, schemes violates their rights, by act and omission. Mandatory vaccination removes the right to weigh the "risks" of vaccinating or not vaccinating, to allow for informed choice, in that vaccines can cause injury or death, is a violation of their rights as follows:

(a) an ***in limine*** compulsory vaccination scheme violates s.2(a) and (b) of the ***Charter*** in infringing the rights to freedom of conscience, religion, thought and belief, as well as infringing the rights to liberty and security of the person, in interfering with the physical and psychological integrity of the person and the right to make choices as to that integrity and autonomy, pursuant to s.7 of the ***Charter***;

(b) that the failure and omissions of the Defendants, their officials and delegees, in the vaccination scheme, to transparently and honestly present the risks of vaccination, pro and con, and the failure and omissions to make individual assessments to pre-determine and pre-screen those children who may have a propensity and pre-disposed to being vaccine injured, constitutes a violation of the same ***Charter*** cited above, in depriving the right to an informed consent before medical treatment through vaccine is compulsorily administered, by way of omission as set out by the Supreme Court of Canada in, ***inter alia, Vriend*** in unnecessarily exposing children

and adults, to injury up to and including death, by an overly-broad, untailored, indiscriminate and blind vaccination scheme, notwithstanding the dire and pointed warnings in the manufacturers' own very inserts and warnings as to the risks.

328. The Plaintiffs state that the violations of their ss. 2(a) and (b) ***Charter*** rights are not justified under s.1 of the ***Charter*** and puts the Defendants to their onus of justifying the violations. The Plaintiffs further state that the violations of their s.7 ***Charter*** rights, as set out above in the statement of claim, are not in accordance with the tenets of fundamental justice in that the scheme and provisions suffer from overbreadth and that the protection of overbreadth in legislation has been recognized, by the Supreme Court of Canada, as a tenet of fundamental justice, and that further they cannot be saved under s.1 of the ***Charter,*** the onus of which lies with Defendants.

329. The Plaintiffs state that, with respect to facts pertinent to product safety testing, the facts and medical literature sets out that:

(a) Vaccines do not undergo the same level of safety testing as is required for all other drugs and medical products.

(b) None of the vaccines licensed for use in Canada have been tested for safety using long-term, double blind, placebo-controlled studies.

(c) Vaccine products licensed for use in Canada are not evaluated for safety using a neutral placebo, [381] a requirement for all other pharmaceutical products.

(d) Vaccines are an invasive medical intervention whose safety is determined primarily by the amount of injury or death reported *after* vaccination.

(e) Pre-licensing safety monitoring of childhood vaccines, prior to the vaccines being administered, is not long enough to reveal whether vaccines cause autoimmune, neurological or developmental disorders. [382]

(f) Studies designed to examine the long-term effects of the cumulative number of vaccines or other aspects of the vaccination schedule have not been conducted. [383]

(g) There are too few scientifically sound studies published in the medical literature to determine how many serious brain and immune system problems are or are not caused by vaccines. [384]

(h) The design and reporting of safety outcomes in MMR vaccine studies, both pre- and post-marketing, is largely inadequate. [385]

(i) Vaccines have not been tested for carcinogenicity, toxicity, genotoxicity, mutagenicity, ability to impair fertility, or for long-term adverse reactions.

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[381] https://www.icandecide.org/wp-content/uploads/2019/08/VaccineSafety-Version-1.0-October-2-2017-1.pdf
[382] https://icandev.wpengine.com/wp-content/uploads/2019/08/ICAN-Reply.pdf
[383] https://www.nap.edu/catalog/13563/the-childhood-immunization-schedule-and-safety-stakeholder-concerns-scientific-evidence.
[384] https://www.nvic.org/PDFs/IOM/2013researchgaps-IOMchildhoodimmunizationschedulea.aspx
[385] https://www.cochrane.org/CD004407/ARI_using-combined-vaccine-protection-children-against-measles-mumps-and-rubella

(j) Health Canada does not conduct its own independent clinical trials to determine vaccine safety and efficacy and instead relies on the data provided by the vaccine manufacturers.

(k) Studies comparing the overall health of vaccinated and unvaccinated children reveal that vaccinated children are significantly more likely to have neuro-developmental disorders and chronic illness. [386]

(l) There is evidence that vaccines are contaminated with unintended ingredients and that the health impact of injecting these ingredients is unknown. [387]

(m) Canada is the only G7 Nation without a national program to compensate those injured or killed by vaccination, and one(1) of two(2) G-20 Nations without a vaccine injury compensation program. The other nation being Russia.

(n) The United States Vaccine Injury Compensation Program has awarded more than $4.1 billion in compensation since 1989.

(o) The published medical literature recognizes that vaccines can cause permanent injury including death.

(p) The US government has acknowledged that vaccination can cause brain damage resulting in symptoms of autism in genetically susceptible children. [388]

[386] https://antivakcina.org/files/MawsonStudyHealthOutcomes5.8.2017.pdf

[387] https://www.corvelva.it/it/speciale-corvelva/vaccinegate-en.html

(q) The US Centre for Disease Control (CDC) has acknowledged that every domestic case of polio that occurred after 1979 was caused by the vaccine strain of polio. [389]

(r) Vaccines include ingredients that are classified as poisons, carcinogens, toxins, neurotoxins, immune-and-nervous-system disruptors, allergens, fertility inhibitors, and sterilizing agents.

(s) Health Canada exposed children to cumulative levels of mercury and aluminum, in the incubation of the vaccines that exceeded the US FDA's safety guidelines.

330. The Plaintiffs state that, with respect to the facts pertinent to screening for susceptibility to vaccine injury, that:

(a) Pre-screening to identify individuals who may be at increased susceptibility to vaccine injury and death does not occur in Canada.

(b) Health Canada has not committed resources to identify those individuals who may have increased susceptibility to experience vaccine injury or death.

(c) Policies to administer vaccines to "Mature Minors", often without the knowledge and consent of the parents and without the informed consent of the "Mature Minor",, in schools and medical settings without the knowledge or consent of the parents has inadequate safety protocols to

[388] https://www.jeremyrhammond.com/wp-content/uploads/2019/10/080226-Vaccine-Autism-Court-Document-Kirby-HuffPost.pdf.
[389] https://web.archive.org/web/20150103130229/http://www.cdc.gov/vaccines/vpd-vac/polio/dis-faqs.htm.

fully consider the personal and family medical history prior to vaccination.

(d) This failure to fully consider personal and family medical history puts these youth at increased risk of vaccine injury.

331. The Plaintiffs state that, with respect to the facts pertinent to monitoring of adverse effects of vaccination, that:

(a) Doctors and health care workers are not trained to recognize and diagnose vaccine injury.

(b) There are no legal consequences when medical professionals fail to report vaccine injury.

(c) Parents' observations of health and behavioral changes following vaccination are routinely ignored and denied by doctors and rarely captured in adverse events reporting systems.

(d) It is recognized that fewer than 1% of vaccine adverse reactions are reported. [390]

(e) British Columbia's AEFI reporting system has no better record than the national one nor reporting rates than other provinces. [391]

(f) The medical industry has failed to fully consider the combined toxicology of vaccine ingredients and the synergistic effect of combining vaccine ingredients.

[390] https://healthit.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf
[391] https://www.myhealthunit.ca/en/health-professionals-partners/resources/Health-Care-Professionals/adverse-events/Annual_Report_Vaccine_Safet.pdf

(g) Bonnie Henry has instructed people to mix vaccines for 1st and 2nd shot even though Moderna, for instance, has clearly stated that they do not known the effects of interchangeability and therefore only recommend first and second shot of the Moderna vaccine. Bonnie Henry has further advocated the immunization of twelve (12) to seventeen (17) year olds **without the consent of their parents.**

255. The Plaintiffs state that, with respect to the facts pertinent to safeguarding policy over patient health, that:

(a) The primary metric used by Health Canada to measure the success of the vaccine program appears to be how many vaccines are delivered.

(b) The goal of public health vaccine policy is to persuade parents to comply with the full vaccine schedule. [392]

(c) The pursuit of the goal of persuading parents to comply with vaccination recommendations is incompatible with the goal of allowing parents to possess the knowledge they need to exercise their right to informed consent, and act in their child's best interests.

(d) The right to informed consent has been recognized as one of the most fundamental ethics in medicine.

(e) Public health professionals routinely fail to inform citizens of their legal right to personal, religious and medical exemptions where they exist.

[392] https://cic-cci.ca/

(f) Health Canada, with respect to vaccines, places public policy over individual health considerations.

(g) Government policy makers have refused to consider the fact that the risks of the target diseases are not the same for every child and that some children are at greater risk of being harmed by vaccines due to genetic or environmentally caused predispositions.

(h) Government policymakers ignore that the fact that for informed consent to happen, the risk-benefit analysis must be conducted for *each* vaccine and *individually for each child*.

(i) Antibody titre testing is rarely conducted in an effort to avoid unnecessary vaccination.

(j) An increasing number of parents are choosing not to vaccinate because they recognize that public health vaccine policy poses a serious threat to both their health and liberty.

256. The Plaintiffs state that, with respect to the facts pertinent to lack of accountability for vaccine Injury, that:

(a) Vaccine manufacturers and medical professionals are not held legally and financially accountable when vaccine injury and death occurs.

(b) A consequence of this legal immunity is that there is no legal or financial incentive for the vaccine industry to make their products safer, even when there is clear evidence that vaccines *can* be made safer.

(c) Systemic corruption within the medical establishment is well recognized within the scientific community. [393] [394]

(d) Conflicts of interest in biomedical research are "very common". [395]

257. The Plaintiffs state that, with respect to the facts pertinent to informed consent, that Consumers are rarely informed that:

(a) vaccines do not confer life-long immunity;

(b) not all vaccines eliminate susceptibility to infection;

(c) not all vaccines are designed to prevent the transmission of infection;

(d) most vaccines do not alter the safety of public spaces; [396]

(e) Health Canada has acknowledged that vaccines are voluntary in Canada and cannot be made mandatory due to the Canadian **Charter** of Rights and Freedoms;

(f) there is no scientific evidence that herd immunity can be achieved using vaccines due to the temporary nature of the immunity offered nor that vaccine herd immunity is more effective than natural herd immunity;

(g) vaccine can and do cause permanent injury and death;

(h) there is no scientific evidence that vaccines are primarily responsible for reduced mortality over the last century as is often claimed;

(i) the human body has an innate capability to fight off infections and heal itself;

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393 https://www.nybooks.com/articles/2009/01/15/drug-companies-doctorsa-story-of-corruption/
394 https://doi.org/10.1111/eci.12074
395 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1182327/.
396 https://childrenshealthdefense.org/news/why-you-cant-trust-the-cdc-on-vaccines/

(j) the pharmaceutical companies that produce almost all vaccines have been found guilty and paid billions of dollars in criminal penalties for research fraud, faking drug safety studies, failing to report safety problems, bribery, kickbacks and false advertising [397];

(k) Canadian children are among the most vaccinated children in the world

(l) there is no compensation available in Canada, except for Quebec, should vaccination result in injury or death;

(m) only two provinces in Canada (Ontario and New Brunswick) require exemptions to decline vaccination;

(n) recommended/required vaccines vary by province, by state, and by country.

258. Consumers are rarely provided with the product monograph (product information insert) by health care providers. Vaccines monographs warn of limitations to vaccine safety testing as well as recognized adverse events following vaccination which include severe and permanent injury and death.

259. Vaccine mandates violate the medical and legal ethic of informed consent.

260. Vaccine mandates violate *'The Universal Declaration of Bioethics and Human Rights'*, the *Nuremberg Code*, professional codes of ethics, and all provincial health Acts.

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[397] **GlaxoSmithKline Fined $3B After Bribing Doctors to Increase Drug Sales**.
https://www.theguardian.com/business/2012/jul/03/glaxosmithkline-fined-bribing-doctors-pharmaceuticals?CMP=share_btn_fb
Merck: Corporate Rap Sheet
http://www.corp-research.org/merck

261. A review of the available literature of the vaccine education materials produced by the British Columbia government reveals that the risk of vaccine injury is discussed superficially, if at all, and that consumers are given insufficient information to make an informed decision.

262. A review of Public Health Agency of Canada recommended curriculum for school children reveals that education on the risk of vaccine injury is absent, as is education on the right to informed consent. [398]

263. The vaccine risk information provided to consumers varies by health region.

264. Vaccines are routinely administered to youth in medical clinics and school settings without the knowledge or consent of their parents.

265. Youth vaccinated in school-based clinics routinely report being intimidated into vaccination and being threatened with expulsion if they refuse vaccination.

266. Public health presents as if all vaccines carry the exact same risk/benefit assessment for all individuals.

267. Individual benefit versus individual risk of vaccination is rarely considered.

268. Indigenous people are required to receive vaccines other than those required for non-Indigenous people based on assumed risk, not upon medical evidence of risk.

269. On May 21st, 2021, Dr. Bonnie Henry, and her department announced the availability of the Covid vaccines for twelve (12) to seventeen (17) year olds, without the need for their parents consent, notwithstanding:

[398] https://kidsboostimmunity.com/sites/default/files/reusable_files/kbi_British Columbia.pdf

(a) That the Vaccines have **NOT** undergone required trial and safety protocols but were all made under an "emergency" basis;

(b) Furthermore, Bonnie Henry is falsely claiming that the vaccine is safe and approved for children, despite Health Canada's Summary Basis of Decision, updated May 20th, 2021, stating the trials have not proven that the Covid-19 treatments pevent infection or transmission, which trials will not be completed until 2023. The summary also reports that both Moderna and Pfizer identified that there are six areas of missing (limited/no clinical data) information: "use in paediatric (0-18)", "use in pregnant and breastfeeding women", "long-term safety", "long-term efficacy" including "real world use", and concomitant administration of non-Covid Vaccines". The WHO, on June 20th, 2021 called for an immediate halt to the vaccination of children and adolescents.

(c) That there has **NOT** been a recorded death or life-threatening case of any twelve (12) to seventeen (17) year old in Canada;

(d) That twelve (12) to seventeen (17) year olds are not at risk of Covid-19;

(e) That, in the absence of informed consent, it constitutes medical experimentation and thus constituted a "crime against humanity" emanating from the Nuremberg trials, and principles following the medical experimentations by the Nazi regime and codified in Canada, as a Criminal act, pursuant to the ***War Crime and Crimes Against Humanity Act;***

(f) And that on June 5th, 2021 Dr. Joss Reimer, Medical Lead for the Manitoba Vaccine Implementation Task Force, in asserting that the various vaccines can be mixed, publicly declared that the Covid-19 vaccinations are a "big human experiment";

(g) That many twelve (12) to seventeen (17) year olds do not possess the intellectual capacity to give informed consent, however the government of British Columbia has been encouraging youth to make appointments on their own, with friends, or with "trusted adults" by way of s.17 of the ***Infants Act***. This propaganda aimed at children violates the parent-child relationship under s.7 of the ***Charter***.[399]

(h) And by doing so Dr. Bonnie Henry, and the Province of British Columbia are violating the s.7 ***Charter*** protected right of the parent-child relationship and in contempt and subversion of the "mature minor" doctrine of the ***Supreme Court of Canada***.

- **I/ THE MEDIA**

270. From the time of the declaration of "emergency" to the present, the Plaintiffs state that the Defendant CBC, and other mainstream media, is purposely suppressing valid, sound, and sober criticism of recognized experts with respect to the measures that amount to censorship and violation of freedom of speech, expression and the media.

[399] https://www2.gov.bc.ca/gov/content/covid-19/vaccine/youth

271. The Plaintiffs state, and the fact is, that CBC, a completely publicly- funded news service, and national broadcaster, paid for by Canadian taxpayers, has been to the Trudeau government, and has acted as, PRAVDA did for the Soviet Union in the cold-war, with respect to coverage of the COVID-"pandemic", "emergency", and its draconian measures.

272. The Plaintiffs state that CBC, as the nationally and publicly-funded broadcaster under the public broadcasting policy for the Canadian public, under the **Broadcast Act,** owes:

(a) a Fiduciary duty to the Plaintiffs and all citizens; and

(b) a duty in Negligence (negligent investigation) to the Plaintiffs and all citizens;

To be independent, fair, balanced, and objective in its coverage of the "pandemic", declared "emergency", and the measures undertaken, which duties it has breached causing damages to the Plaintiffs.

- **Negligence**

273. The Plaintiff states that the Defendant, CBC, as a publicly-funded mandate to publicly broadcast on behalf of Canadians, owes a common-law, and statutory duty of care to the Plaintiffs, to fairly, independently, objectively report, and engage in responsible journalism, on the news and current affairs, and the Plaintiffs further state that:

(a) the CBC breached that duty of care; and

(b) as a result of the breach of that duty of care, the Plaintiffs suffered damages.

274. The Plaintiff states and the fact is, this duty was breached by the CBC's negligent acts and omissions, including **inter alia**, the following:

(a) The daily broadcasting of Trudeau's press-conferences, with absolutely no questions about the scientific and medical evidence behind the measures, and their source;

(b) Whether contrary expert views exist, to the secret advice being followed;

(c) If opposite, expert opinion exist, what is the government's response to it?;

(d) The CBC further dumps, on a daily basis, the government numbers on COVID-positive rates, and death rates, without any investigation or scrutiny as to the basis of compiling those numbers, and who and how the parameters are determined in complying those numbers nor any contextual analysis as to what they mean;

(e) The CBC has done **no** independent investigation, nor asked any questions, on the scientific or medical basis of the COVID- measures but simply parrots the government line, and has not investigated, exposed, nor published the avalanche of Canadian and World experts who firmly hold an opposite view, and severe criticism of the measures, nor put those criticism to the Federal Defendants for response.

275. In short, the Plaintiffs state, and the fact is, that CBC has breached its duty of care to the Plaintiffs, and has not acted in a fair, independent, objective, and

responsible manner, but has acted in a manner more akin to a propagandistic state news agency serving a dictatorial regime.

276. The Plaintiffs state, and the fact is, that CBC has actually gone far beyond the above in that, in the rare instance CBC pretends to tackle an opposite view, CBC irresponsibly belittles, and in fact intentionally misleads, the Plaintiffs and viewers. For example, in a story published May 21st, 2020, written by CBC's Andrea Bellemere, Katie Nicholson and Jason Ho entitled **"How a debunked COVID-19 video kept spreading after Facebook and YouTube took it down",** these "reporters" falsely and intentionally distort with respect to the video in question entitled **"Plandemic"**. In the story they refer, with a picture, to a person CBC describes as: "featuring controversial virologist Judy Mikovitz". In the story, these three "reporters" choose to:

(a) Delete the fact that it is **Dr. Judy Mikovitz, Ph. D.**, is a **recognized expert in virology** who worked at the Centre for Disease Control (CDC) with Anthony Fauci, with whom she had serious disagreement which she documented in her book entitled **"Plague Corruption";**

(b) That she continues to work in, and be recognized as an expert in virology;

(c) The "reporters" do not give a hint as to by whom, when, on what medical basis her expert views were "debunked";

(d) Nor do the "reporters" investigate, nor pose any questions, about why it is appropriate to remove from Facebook, or YouTube, the views of a recognized, working World expert, of virology, with respect to issues of

COVID-19. This conduct by these "reporters" and CBC, is intentional at worst, and depraved and gross negligence at best.

- **Fiduciary Duty**

277. The Plaintiffs further state that the CBC further has a fiduciary relationship, and owed a corresponding fiduciary duty, to the Plaintiffs, as the national publicly-funded broadcaster to fairly, independently, objectively report, and engage in responsible journalism, on the news and current affairs for the following reasons:

(a) The Defendant CBC is in a position of power over the Plaintiffs, with respect to what it covers and reports; and was able to use this power so as to control and affect the Plaintiff's interests in their right to freedom of speech, expression, and the media for their national, publicly-funded broadcaster under the **Broadcast Act,** with respect to the covid - "pandemic', "emergency" and measures;.

(b) The Plaintiffs are in a corresponding position of vulnerability toward CBC in depending on CBC to put out fair, balanced, responsible, objective and responsible reports on the reality of the "pandemic", the declared "emergency" as well as measures undertaken;

(c) CBC impliedly and statutorily undertakes to so, to act in the best interests of the Plaintiffs', and the public, in its functions and work, in that:

(i) the Defendant CBC performs a public function, to operate as Canada's national publicly-funded broadcaster under statute;

(ii) the Defendant CBC impliedly and statutorily undertakes to so to act in the best interests of the Plaintiffs'.

278. The Plaintiffs state that the Defendants breached this fiduciary duty as set out above in this Statement of Claim.

279. The Plaintiffs state, and the fact is, that CBC, Facebook, YouTube , Google, and other social media are viciously censoring, and removing any and all content that criticizes or takes issue with the WHO, and governments that follow WHO guidelines, with respect to covid-19, as purported "misinformation" contrary to "community standards" even when that content is posted by a recognized expert.

280. The Plaintiffs further state, and the fact is, that the Defendant Federal Crown is by way of act and omission, under **inter alia,** the **Broadcast Act** , and its Agencies such the CRTC, legislatively and administratively violating the Plaintiffs' rights under s. 2 of the **Charter,** to freedom of expression and the press in doing nothing to halt what has been described by members of the scientific community as " Stalinist censorship", by government, along with media the likes of CBC, Facebook, and YouTube. In fact, the Federal Crown goes further, in following suit with these social media censors, to propose criminal sanctions for posting such deemed and anointed "misinformation" by all, including experts.

281. On or about end of May, 2020 the UK " Scientific Advisory Group for Emergency (SAGE) –COVID-19 Response, in response to the unwarranted

measures of redaction, and removing, all criticism in respect of COVID-Measures, from the Report, of this government advisory body, the body responsible for their SAGE report referred to the government redaction as "Stalinist Censorship".

282. The Plaintiffs state, and the fact is, that CBC, Facebook, and YouTube, and other major social media, in their coverage of the COVID-19, have acted in the same fashion, by knowingly and intentionally suppressing and removing expert opinion not in line with the official dogma of the WHO, which is being blindly and deafly parroted and incanted by the Defendant governments (leaders) and their officials, to the detriment of the Plaintiffs and citizens at large, in violation of their constitutional rights.

- **J/ SUMMARY**

283. In summary, the Plaintiffs state that the COVID -19 Legislation, and Regulations By-Laws, and orders, violate, as follows, the Plaintiffs' statutory and constitutional rights in:

(a) That the conduct of Justin Trudeau, the British Columbia Premier John Horgan and the other Co-Defendants, constitute a dispensing of Parliament under the pretense of Royal prerogative contrary to the Plaintiffs' constitutional rights to a Parliament;

(b) That the declaration of an emergency by the Defendant John Horgan, in B.C, was **ultra vires** , and continues to be **ultra vires,** the **Act** in failing to meet the requisite criteria to declare an emergency;

(c) That the declared emergency, and measures implemented thereunder are:

(i) Not based on any scientific or medical basis;

(ii) Are ineffective , false, and extreme;

(iii) Contravene ss. 2, 6, 7,8,9, and 15 of the **Charter ;**

(iv) Contravene the same parallel unwritten constitutional rights, enshrined through the Pre-Amble of the **Constitution Act, 1867;**

(v) Contravene the same rights found in international treaties, read in, as a minimal standard of protection, under s. 7 of the **Charter,** as ruled by the Supreme Court of Canada, in, **inter alia,** the **Hape** decision;

(d) That the "COVID- pandemic" was pre-planned, and executed, as a false pandemic, through the WHO, by Billionaire, Corporate, and Organizational Oligarchs the likes of Bill Gates, GAVI, the WHO, and their former and current associates such as Theresa Tam and Bonnie Henry, the WEF, and others, in order to install a New World (Economic) Order with:

(i) **De facto** elimination of small businesses;

(ii) Concentration of wealth and the power to control economic activity in large global corporations;

(iii) To disguise a massive bank and corporate bail-out;

(iv) To effect global, **mandatory** vaccination with chip technology, to effect total surveillance and testing of any and all citizens, including the Plaintiffs;

(v) To shift society, in all aspects into a virtual'' world at the control of these vaccine, pharmaceutical, technological, globalized oligarchs, whereby the Plaintiffs, and all others, cannot organize nor congregate.

(vi) To effectively immobilize resistance to the agenda by neutering Parliaments and the Courts, and by extension the Constitution and Constitutional Democracy and Sovereignty, in short to obtain "global governance".

284. The Plaintiffs rely on:

(a) the Statutory Schemes set out in the within statement of claim;

(b) The Pre-Amble to the **Constitution Act, 1867** and jurisprudence thereunder;

(c) ss. 2, 7,8,9, 15, and 24(1) of the ***Charter;***

(d) s. 52(1) of the ***Constitution Act, 1982;***

(d) the ***Common Law***;

(e) such further statutory or constitutional provisions as counsel may advise.

Part 2: RELIEF SOUGHT

285. Declarations that the "Covid-measures" and declaration of the "emergency" invoked by the Respondents:

(a) do not meet the prerequisite criteria of any "emergency" as prescribed by ss.9-10.2 nor ss.12-13 of the ***Emergency Program Act [RSBC 1996],*** nor is it within the jurisdictional purview s.52(2) of the ***Public Health Act, SBC [2008],*** and further contravenes s.3(1) and s.120(1) of the ***Public Health Act SBC [2008]***;

(b) that the invocation of the measures, dealing with health and public health, breach the Plaintiffs' right to consult and constitutional duty to consult, of the Respondents, both in procedure, and substance, with respect to broad sweeping public health measures both under administrative law, and the fundamental justice requirement under section 7 of the ***Charter*** as enunciated and ruled by the ***SCC***;

(c) that, in any event, if the pre-requisites of an "emergency" are met, as declared to be a national and international "emergency", the jurisdiction, and constitutional duty, to deal with this "national emergency", and its measures, is strictly with the Federal Parliament, under the ***Federal Emergencies Act*** and ***Quarantine Act,*** pursuant to s. 91(7) and (11) of the ***Constitution Act, 1867***, as well as under the "Peace, Order, and

Good Government ("POGG")" Power, under s.91 of the ***Constitution Act, 1867*** and not the jurisdiction of the provincial legislature;

(d) that quarantine is Federal jurisdiction and not within the jurisdiction of the Province;

(e) that "lock-downs", and "stay at home orders", and any curfews, in whole or in part, are forms of Martial law outside the Province's jurisdiction under s. 92 of the ***Constitution Act, 1867*** and, subject to constitutional review and constraints, matters of Federal jurisdiction under the POGG power and s. 91(7) of the ***Constitution Act, 1867;***

(f) that "lock-downs", in any event, and the arbitrary and irrational means by which businesses have been ordered closed and/or restricted constitute an unreasonable seizure contrary to s.8 of the ***Charter***;

286. As against the Crown (and Municipal) Defendants the Plaintiffs further claim:

(a) A Declaration that the purported order of the chief health officer, Dr. Bonnie Henry, dated April 30th, 2021, as well as June 30th, 2021, along with previous such orders, before and after June 30th, 2021 and any such duplicate future or extended orders, purportedly made under ss. 30, 31, 32 and 39(3) of the *Public Health Act,* S.B.C 2008 ("the Act"), are ***ultra vires*** that Act, and null and void, as an enveloping emergency order of national dimension; and the strict

jurisdiction of the Federal Government under s.91 (7) and (11) as well as the "POGG" power of the ***Constitution Act, 1867***, which rests in the exclusive jurisdiction, subject to constitutional review and constraints, with the Federal Parliament.

(b) A further Declaration that ministerial order #M182 of April 30th, 2021, as well as the order of Bonnie Henry of June 30th, 2021, and the lockdown and travel restrictions are of no force and effect as constitutionally, Martial Law, pursuant to s.91(7) as well as the POGG Power;

287. A Declaration that the ***Public Health Act,*** and ss.30, 31, 32, and 39(3) of the *Act* is restricted to making orders of a local or regional scope and not of a completely provincial application in the context where the declared threat is not provincial in nature but national, and that the province is without jurisdiction to make such orders and measures as such orders and measures are the jurisdiction subject to constitutional review and constraints, of the ***Federal Parliament under the Emergencies Act,*** and under s. 91 under the POGG power, as well as ss.91(7) and (11) of the ***Constitution Act 1867***.

288. A Declaration that the Province, in any event, while maybe having jurisdiction with respect to some localized measures which coincidentally may have consequential impact on liberty, movement and association, has no constitutional jurisdiction to restrict or target the physical/psychological liberty, expression, association, and/ or assembly of every individual in the Province and that, if such

jurisdiction exists, subject to constitutional review and constraint, it rests with the Federal Parliament and government pursuant to the ***Federal Emergencies Act***.

289. A Declaration that the purported order, by Dr. Bonnie Henry, purportedly pursuant to s.52(2) of the ***Public Health Act,*** that "the transmission of the infectious agent SARS-CoV-2, based on high "case counts", based on a PCR test, is ***ultra vires*** the ***Act*** and ***non est factum***, in that:

(a) It does not constitute a "regional event" but, by its purported terms constitutes a national and international event, and is *ultra vires* the authority of the British Columbia Parliament and government with jurisdiction, if any, subject to constitutional review and constraints, resting with the **Federal Parliament** under the ***Emergencies Act***;

(b) The classification as such is not scientifically nor medically based;

(c) The evidence is lacking and contrary to the scientific and medical evidence;

(d) That "cases' do not equate to "deaths" and that the purported death rate is no higher than complications from the annual influenza;

(e) That the distorted "case" counts are fraudulent, based on the fraudulent use generating cases of "PCR" test, which is a test that:

a) At best was designed as a "screening test" which requires a follow-up culture and blood test to ensure the detection of

an **infectious virus**, and was **never** designed, nor equipped to be a diagnostic test;

b) That is is fraudulently being used as a diagnostic test;

c) That the PCR test has scientifically been debunked, as well as judicially determined, based on the scientific evidence, that when used at a "threshold cycle" of thirty five (35) or higher, to cause between 82% to 96.5% "false positives";

d) That British Columbia tests at a threshold cycle of well over forty (40) "threshold cycles". In weekly meetings with Bonnie Henry, doctors reported that her second in comman gave instruction to turn up the PCR for the sole purpose of creating increased cases.

290. A Declaration that the order of April 23rd, and June 30th, 2021 and previous such orders, and subsequent such orders or extensions, in any event, violate the ***Constitution Acts, 1867, 1982***, as follows:

(a) That the restrictions on freedom of expression, conscience, association, and assembly, were recognized, and continue to apply, as unwritten constitutional rights, through the Pre-amble of the ***Constitutional Act, 1867***, and that the Province has absolutely no jurisdiction to curtail those rights, as set out by the Supreme Court of Canada, and that if such curtailment were to be effected, it rests, subject to constitutional review, and constraints, in the jurisdiction of the Federal Parliament;

(b) That these same rights, contained in ss. 2(a)(b), 7, 8, 9 and 15 of the ***Charter*** are also being violated by the Order(s) of Bonnie Henry and none of the violations are justified under a free and democratic society under s. 1 of the ***Charter*** that that:

(i) The measures do not evidentiarily, scientifically, nor medically set out a valid legislative objective;

(ii) Are not rational;

(iii) Are not tailored to minimally to infringe the constitutional rights; and

(iv) The measures' deleterious effects far outweigh the beneficial effects in that the number of deaths **caused by the measures** are at a ratio of deaths well above for every death purportedly attributed to COVID-19.

291. A Declaration that administrating medical treatment without informed consent constitutes experimental medical treatment and contrary to the ***Nuremberg Code*** and ***Helsinki Declaration*** of 1960, still in vigor, and further and thus constitutes a crime against humanity under the ***Criminal Code of Canada***.

292. A declaration that the offering, promoting, and administering of Covid-Vaccines, or any other medical treatment to twelve (12) to seventeen (17) year olds without the informed consent of the parent(s) constitutes:

(a) In the absence of informed consent, medical experimentation and thus further constitutes a "crime against humanity" emanating from the

Nuremberg trials and principles following the medical experimentations by the Nazi regime and codified in Canada, as a criminal act, pursuant to the ***War Crime and Crimes Against Humanity Act***;

(b) And by doing so Dr. Bonnie Henry and the Province of British Columbia are violating the s.7 ***Charter*** protected right of the parent-child relationship and in contempt and subversion of the "mature minor" doctrine of the ***Supreme Court of Canada***.

(c) A Declaration that s.17 of the ***Infants Act [RSBC 1996] C. 223***, if it purports to grant (12) to (17) year olds, or children younger than (12), the ability to orally, or in writing, give informed, voluntary consent to any medical treatment, including vaccines, is of no force and effect as violating s.7 of the ***Charter*** in that:

(i) It interferes with the parent-child relationship which has been recognized by the SCC, to be constitutionally protected by s.7 of the ***Charter***;

(ii) It violates s.7 of the ***Charter*** with respect to the minor by violating the minor's physical and psychological integrity, in incurring a possible adverse reaction without the benefit of understanding the risk thereby vitiating the informed, voluntary consent required under s.7 of the ***Charter***;

(iii) Given that the Covid vaccines have not been finally approved, with human trials not ending until the end of 2023 and the

concession by Public Health officers that the "Covid Vaccines" are thus medically "experimental" it violates s.7 of the ***Charter*** by contravention of the ***Nuremberg Principles*** and ***Code***, as well as the ***Helsinki Declaration*** of 1960, both of which international instruments provide and are to be read in as the minimal protection under s.7 of the ***Charter*** as dictated by, ***inter alia***, by the ***SCC*** in the ***Hape*** decision; and

(iv) Violates s.15 of the ***Charter***, based on age, in not providing minors with the same constitutional protection of informed, voluntary consent provided and upheld under s.7 of the ***Charter***, that adults have.

293. A Declaration that the measures imposed by Dr. Bonnie Henry constitute a crime against humanity contrary to s.7 and 15 of the ***Charter*** in the unjustifiable deaths directly caused by her measures, including suicides, deaths from cancelled surgeries, drug over-doses, and depraved abuse of children, especially the physically and neurologically disabled, in that she knows that her measures are worse than the purported "Covid-deaths", and that Dr. Bonnie Henry has in fact been complicit in crimes against humanity in her dispersing and administered deadly and unsafe vaccines in India (Pakistan) in or about the year 2000. Bonnie Henry has further advocated the immunization of twelve (12) to seventeen (17) year olds without the consent of their parents.

294. A Declaration that the "COVID Measures" undertaken and orchestrated by Prime Minister Trudeau ("Trudeau"), Premier Horgan, the Federal Crown, Provincial Crown, and their named officials constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy , as enunciated by the Supreme Court of Canada in, **inter alia** , **Quebec Secession Reference.**

295. A Declaration that the ***Public Health Act, [SBC 2008]*** (the **"Act),** and in particular vesting an indefinite emergency power in the Premier and Lt.-Governor, and further that the "COVID Measures", undertaken and orchestrated by Premier John HORGAN ("Horgan") as well as Bonnie Henry, Mike Farnworth, Jennifer Whiteside, Adrian Dix, and the Provincial Crown, constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy , as enunciated by the Supreme Court of Canada in, **inter alia** , **Quebec Secession Reference;**

296. A Declaration that the COVID Measures taken by both Trudeau, Horgan, Farnworth, Dix, Whiteside, and Henry, and their respective governments, at the

blind and unquestioned dictates of the World Health Organization ("WHO") bureaucrats, in defiance and ignoring of the avalanche of scientific and medical evidence to the contrary, constitute a constitutional violation of the abdication of the duty to govern, as enunciated in, **inter alia**, the **Re Gray** and **Canada (Wheat Board)** v. **Hallett and Carey Ltd.** decisions of the Supreme Court of Canada;

297. A Declaration that, in the imposition of the COVID Measures, the Defendants have engaged in **ultra vires** and unconstitutional conduct and have acted in, abuse and excess of their authority;

298. A Declaration that the concept of "social distancing" is neither scientifically, nor medically based, and is an ineffective and a fictional concept, which has no scientific nor medical basis and hitherto unknown, with respect to a seasonal viral respiratory illness;

299. A Declaration that any **mandatory** vaccine scheme against any purported COVID-19, by way of **mandatory** vaccine, ***or any coercive or extortive measures to force the Plaintiffs to "choose" to*** vaccinate, **without informed, voluntary, consent**, such as the use of "vaccine passports" or any and all other coercive measures, is unconstitutional, and no force and effect in that:

    (a) It infringes s. 2 of the **Charter** in violating freedom of conscience, religion and thought;

(b) Infringes s. 7, life, liberty, and security of the person in violating physical and psychological integrity in denying the right to choose, based on informed, voluntary, medical consent;

(c) Breaches the same parallel rights recognized prior to the **Charter,** as written constitutional rights through the Pre-Amble to the **Constitution Act, 1867;**

(d) Breaches parallel international treaty rights to no medical treatment without informed consent, and right to bodily integrity, which international treaty rights are to be read in, as a minimal s. 7 **Charter** protection, as enunciated by the Supreme Court of Canada in, **inter alia** the **Hape** decision;

(e) And that, under no circumstances are mandatory vaccines, nor coerced compliance to vaccines, in accordance with the tenets of fundamental justice, nor demonstrably justified under s. 1 of the **Charter;**

300. A Declaration that:

a) Social distancing, self-isolation, and limits as to the number of persons who can physically congregate, and where they can congregate, violates the unwritten rights contained, and recognized pre-**Charter**, by the SCC, through the pre-amble to the ***Constitution Act, 1867*** and that the Province has no jurisdiction to do so under s.92 of the ***Constitution Act, 1867***, as ruled by the ***SCC***, with respect to rights to freedom of association, thought, belief, and religion in banning association, including religious

gatherings, as well as violate s. 2 **Charter** and further restricting physical and psychological liberty and security of the person rights under s.7 of the **Charter,** and are not in accordance with the tenets of fundamental justice, nor demonstrably justified under s. 1 of the **Charter;**

b) That prohibitions and obstacles to protest against COVID Measures in British Columbia, are a violation of the constitutional rights to freedom of expression, conscience, belief , and association, assembly, and petition, under s. 2 of the **Charter,** and not demonstrably justified by s. 1, as well as a violation of these constitutional rights, recognized **prior to** the **Charter,** through the Pre-Amble to the **Constitution Act, 1867** and against international treaty rights protected by s. 7 of the **Charter;**

301. A Declaration that the arbitrary, irrational, and standard-less sweep of closing businesses and stores as "non-essential", and the manner of determining and executing those closures, and "lock-downs", constitutes unreasonable search and seizure contrary to s. 8 of the **Charter** and not demonstrably justified under s.1 of the **Charter;**

302. 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;

303. A Declaration that any and all COVID Measures coercively restraining and curtailing the physical and psychological integrity of the Plaintiffs, and any and all physical and psychological restraints, including but not restricted to:

(a) "self-isolation";

(b) no gatherings of more than five (5) and later ten (10)persons, or any set number;

(c) the shutting down of children's playgrounds, daycares and schools;

(d) "social distancing";

(e) the compelled wearing of face-masks;

(f) prohibition and curtailment of freedom of assembly, including religious assembly, and petition;

(g) the imposition of charges and fines for the purported breach thereof;

(h) restriction of travel on public transport without compliance to physical distancing and masking;

(i) restrictions on shopping without compliance to masking and physical distancing;

(j) restrictions on attending restaurants and other food service establishments without compliance to masking, physical distancing, and providing name/address/contact information for contact tracing purposes.

(k) Crossing into and leave British Columbia and any and all subdivisions within British Columbia;

Constitute a violation of ss. 2,6,7,8, 9, and ss. 15 of the **Charter** , to freedom of association, conscience religion, assembly, and express on under s. 2, liberty and security of the person in violating the physical and psychological integrity of the liberty and security of the person, not in accordance tenets of fundamental justice, contrary to s.6(mobility rights) and well as s. 7(liberty), and further breach of the rights against unreasonable search and seizure contrary to s. 8, arbitrary detention under s. 9 of the **Charter** , and not demonstrably justified under s. 1, as well as breach of the unwritten parallel rights, recognized as constitutional rights, through the Pre-Amble of the **Constitution Act, 1867** and affected by means of removing measures against the "Liberty of the Subject" by way of **habeas corpus** as well as constituting Martial Law measures outside the scope of the Province under s.92, and subject to constitutional constraints, the exclusive jurisdiction of the Federal Parliament under s.91 (POGG), s.91(7) and (11) and the ***Federal Emergencies Act R.S.C. 1985***, and ***Quarantine Act S.C. 2005***;

304. Further Declarations that:

(a) the thoughtless imposition of "social distancing" and self-isolation at home breaches s. 2 of the **Charter,** in denying the right to freedom of association and further breaches the right to physical and psychological integrity, under s. 7 of the **Charter** (liberty) in curtailing and restricting physical movement, which measures are wholly unjustified on any

scientific or medical basis, and which are not in accordance with the tenets of fundamental justice in being vague, and suffering from overbreadth, and which cannot be justified under s. 1 of the **Charter;**

(b) That the measures themselves, and the arbitrary detention, by enforcement officers, in enforcing these vague and over-broad, and often **ultra vires,** and contradictory "orders", is a violation of the right against arbitrary detention under s. 9 of the **Charter** and that, in the course of such "enforcement" the search and seizure of private information, including medical information, from individuals, being charged with purported violations of such orders, constitutes a violation of ss.7 and 8 of the **Charter,** and that neither violation of s. 7 or 8 are in accordance with the tenets of fundamental justice nor justified under s. 1 of the **Charter;**

(c) That the use of "contact-tracing Apps" constitutes a violation of **s.** 8 of the **Charter**, and further violates ss. 7 and 8 of the **Charter** with respect to the constitutional rights to privacy, under both sections, and that such breaches are not in accordance with the tenets of fundamental justice, and are further not justified under s. 1 of the **Charter;**

(d) That the compelled use of face masks breaches, in restricting the right to breath, at the crux of life itself, and the liberty to choose how to breath, infringes s. 7 to the **Charter** liberty, security of the person and is not in

accordance with the tenets of fundamental justice and not justified by s. 1 of the **Charter;**

(e) That the above-noted infringements under s. 2,6, 7, 8, and 9, as well as the arbitrary decisions on what businesses to close, and which ones to be left open, constitutes a. 15 of the **Charter** violation based on:

(i)Conscience, belief , and religion;

(ii)Association, assembly and petition;

(iii)Trade and profession;

(iv)Mobility;

And further, that such measures are arbitrary, and discriminate before and under the law, contrary to s. 15 of the **Charter** (and not justified under s.1 of the **Charter**), and are further a violation of the unwritten constitutional right to equality recognized before the **Charter,** as unwritten constitutional rights through the Pre-Amble to the **Constitution Act, 1867** as emanating from the principles of Rule of Law, Constitutionalism, and Respect for Minorities as enunciated by the Supreme Court of Canada in **Quebec Secession Reference**;

305. A Declaration that the use of "vaccine passports" is a violation of ss. 2,7, and 15 of the ***Charter***, and that the use of "vaccine passports" and any and all other coercive measures to compel, as de facto mandatory, the constitutionally protected right to refuse medical procedure or treatment without informed consent, including vaccines further violates ss. 2, 7, and 15 of the ***Charter***, as

well as those mirrored unwritten rights established pre-***Charter*** under the ***Constitution Act, 1867***.

306. A Declaration that the Vaccine propaganda being pushed to twelve (12) to seventeen (17) year olds by the British Columbia government by way of s.17 of the ***Infants Act***, in fact, violates the child-parent relationship in s.7 of the ***Charter***.

307. 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;

308. A Declaration that:

(a) the Defendant Federal Crown, and its agencies and officials, including but not restricted to the CRTC, have, by glaring acts and omissions, breached the rights of the Plaintiffs to freedom of speech, expression, and the press, by not taking any action to curtail what has been described by the UK scientific community as "Stalinist censorship", particularly the CBC in knowingly refusing to cover/or publish the valid and sound criticism of the COVID measures, by recognized experts;

(b) a Declaration that the Federal Crown has in fact aided the suppressing and removing of "Facebook" and "YouTube" postings, even by experts, which in any way contradict or criticize the WHO and

government measures as "misinformation" "contrary to community standards", by the federal Defendants threatening criminal sanction for such "misinformation";

thus violating s. 2 of the **Charter** by way of act, and omission, as delineated and ruled by the Supreme Court of Canada in, **inter alia**, **Vriend**.

309. A further Declaration that the failure, and in fact intentional choice, by the British Columbia Defendants, as well as Federal Defendants, to ensure that the Plaintiffs constitutional rights are not violated by those public officials purporting to enforce the Covid measures, as well as private agents purporting to enforce Covid measures, is not prevented and not legislated, and in fact such violations are encouraged, constitute violations of the Plaintiffs delineated by the Supreme Court of Canada in, ***inter alia, Vriend***.

310. A Declaration that the measures have a devastating impact on those with severe physical and neurological special needs, particularly children, and infringe s. 15 of the **Charter,** and are not justified under s. 1 of the **Charter**, and further violate the unwritten right to equality through the Pre-Amble to the **Constitution Act, 1867**, based on psychical and mental disability, and age;

311. 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;

c) that all measures of masking, social distancing, and school "lockdown" (closures) are a sole and direct result of the mounting, or "rising" "cases", being cases, which are 96.5% false positive;

d) that the PCR test, in and by itself, as used, cannot distinguish between dead (non-infectious) vs. live (infectious) virus fragments;

e) that (solitary confinement) isolation/quarantine of asymptomatic children, for any duration, is abusive, and constitutes violations under s.7 and 15, of the ***Constitution Act, 1982*** as violating the physical and psychological integrity, contrary to s. 7 of the ***Charter***, and further constitutes cruel and unusual treatment under s. 7 of the ***Charter***; and further violates s.7, by way of the International Law under the ***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;*** and

f) that such treatment of children is particularly egregious with respect to children with special needs, suffering physical and neurological

disabilities, in violating s.7 and s.15 of the ***Charter*** in that absolutely no particular or special provisions are made for them, to accommodate their disability(ies), with respect to the Covid measures.

312. 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 SARS-CoV-2 which leads to COVID-19;

b) that prolonged use of masks results, especially for children, in irreparable physical, neurological, psychological,language development, and social development harms, some of which are irreversible;

c) that "lockdowns", quarantine and isolation are ineffective and cause more damage than they prevent;

d) that Public Health officials, including the Defendants, as well as the WHO, have pronounced that the Covid "Vaccines" do **NOT** prevent transmission, in either direction, between vaccinated and non-vaccinated persons.

313. A Declaration that the mandatory use of masks, isolation and PCR testing, in the school context, violates children's constitutional rights under:

a) section 7 of the ***Charter*** in infringing their rights to physical and psychological safety, and integrity, as well as, medical procedure/treatment without informed consent;

b) section 7 in infringing their right to education, flowing from their right to education under the ***Education Act,*** and further under section 7 of the ***Charter*** as interpreted by the Canadian Courts, as well as under section 7 by way of the ***International Convention on the Rights of the Child*** as read in as a minimal protection under section 7 of the ***Charter,*** as enunciated, ***inter alia,*** by the Supreme Court of Canada in ***Baker***, ***Hape,*** and the Federal Court of Appeal in ***De Guzman***;

314. A Declaration that the notion of "asymptomatic" transmission, from children to adults, of an airborne respiratory virus, is "oxymoronic", without scientific, or medical basis, and hitherto scientifically and medically unknown;

315. A Declaration that masking, social distancing and testing in school settings, particularly elementary school(s), is unscientific, non-medical, unlawful, and unconstitutional and should be halted forthwith;

316. A Declaration that children do not pose a threat with respect to Covid-19, to their teachers;

317. A Declaration that teachers who do not wish to mask have the statutory and constitutional right not to mask.

318. A Declaration that the masking of children is unscientific, non-medical, physically, psychologically, neurologically, socially, and linguistically harmful to them and that the masking of children be prohibited, regardless and despite their parents' requests and/or directions, because as children have their own independent rights under the ***Education Act*** , s. 7 and 15 of the ***Charter,*** as well as s.7 of the ***Charter*** as read in, and through, the international law under the ***Convention on the rights of the Child;***

319. A Declaration that the mandatory vaccination of public service employees, or any citizens for that matter, without informed, voluntary, consent, is unconstitutional and of no force and effect as violating ss.2,7, and 15 as set out above in this statement of claim, in that compulsory medical treatment has been clearly ruled, by the Supreme Court of Canada, and other Appellate Courts, as violating s.7 of the ***Charter***.

320. A Declaration that **none** of the above ***Charter*** violations are saved by s.1 of the ***Charter***, as they fail to meet the test, thereunder, as enunciated in, inter alia, the ***Oakes*** decision, as the measures:

(a) Are not pursuant to valid statutory objective;

(b) The measures are not rational;

(c) The measures are not tailored for minimal impairment of the **Charter** rights;

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(d) The measures dilatory effects far outweigh their beneficial effects;

321. Orders, in (the nature of) **Prohibition**, prohibiting the Respondent(s) from:

a) administering any PCR test that has above a 25 threshold cycle as a screening test only;

b) registering a "case", as "positive", based on a positive PCR screen test, without following up with a culture test to determine that it is the SARS-CoV-2 virus, as well as a further con-current blood test to determine antibody activity to verify that the virus is alive (infections) and not dead (not-infections), which procedure **constitutes** scientifically accepted method to isolate, identify, and confirm the presence of an infectious virus in a person;

c) "locking down" any school(s);

d) requiring any masking or face covering of **any children;**

e) Conducting classes and school by remote, online, distance learning over a computer which is not a statutory nor constitutionally acceptable alternative to in-person school learning, especially for children with physical and neurological disabilities and that the Respondents be

prohibited from conducting remote classrooms outside the physical school setting;

f) requiring solitary confinement of children and barring contact with family members for any duration;

g) deeming of two "positive" PCR result(s) in a school as an "outbreak", which is absurd ad nauseam, and constitutes a violation of s.7 of the ***Charter*** in fraudulently creating undue panic and fear.

322. Orders, in the nature of **mandamus,** requiring the Respondent Ministers to:

a) reveal the source and substantive advice received, from whom, based on what specific scientific and medical evidence for the measures imposed;

b) reveal all data with respect to what threshold cycle rate **all** PCR tests are administered;

c) provide a release of all data comparing "cases" and co-relating them to "all-cause mortality", and the location(s) and ages of those purportedly dead "**from"** as opposed to "with", Covid, as well as the demographic age groups of the deaths;

d) Order the re-attendance of the Applicant children to return to their school without masks, and without PCR testing, for in-person learning.

323. The Plaintiffs, with respect to enforcements measures, of police, by-law, and health officers further seek:

(a) A Declaration that a "reception, or "informal gathering", under s. 19 and 20 of ***Order of the Provincial Health Officer – Gatherings and Events (March 24th, 2021)***, or any such subsequent order(s), pursuant to the ***Public Health Act [SBC 2008],*** does **not** include a gathering whose obvious purpose is to assemble, associate and otherwise gather to exercise freedom of speech, expression and/or assembly and religion as constitutionally recognized under the ***Constitution Act, 1867*** as well as s.2 of the ***Charter;***

(b) A Declaration that, with respect to the masking:

(i) that no police officer has the jurisdiction to apply the ***Trespass Act, [RSBC 2018] c. 3*** to a person who declares a legal exemption to a mask, and who enters a public place; and

(ii) that owners of places of business who refuse to comply with lawful exemptions may be charged with an offence pursuant to the ***Emergency Program Act [RSBC 1996] c 111*** and ***Ministerial Orders*** and ***Regulations*** thereunder;

(iii) that Police Officers are equally entitled to masking exemptions and to be free from coercion by their superiors to take a Covid vaccine,

or PCR test contrary to their constitutional right to refuse based on informed consent;

(iv) That Police officers, like any other citizen, are constitutionally entitled, as ruled by the ***Supreme Court of Canada*** and ***Court of Appeal***, to refuse medical treatment without informed consent, including vaccines, and that Police officers should be free from coercion by superiors to be vaccinated;

(c) A Declaration that police, and/or a by-law, Provincial Offences, or Health Officer, with respect to an individual who fails and/or refuses to comply with any oral and written orders from any of the Provincial Respondents do not have the powers of arrest against that individual under Provincial ***Regulations*** such as those set out in Part 4, Division 6 of the ***Public Health Act SBC [2008]***, and the closing summation of Bonnie Henry's ***Orders***;

(d) That the bar of entry across "Provincial Borders", but for "essential travel" by residents/citizens coming from Alberta, as well as the **intra**-provincial travel bans without probable grounds of an offence being committed, which is a form of imposing Martial Law, without the jurisdiction to do so as per s.91(7) of the ***Constitution Act 1867***. It is also contrary s.7 of the **Charter (Liberty)**, for vagueness and over-breadth as well as s.6 of the **Charter**, and thus compels the Police officer to breach their oath to uphold

the Constitution and further, that the RCMP has no jurisdiction to set up roadblocks at British Columbia's "borders" and refuse passage into British Columbia, as well as set out by the SCC, Pre-**Charter**, in ***inter alia Winner***;

(e) That the measures and enforcement of the measures under ***Ministerial Orders 172/2021 and 182/2021***, as set out above in subparagraph (d) constitutes Martial Law, Police State measures outside the scope of the Province's jurisdiction under s.92 of the ***Constitution Act, 1867,*** and are within, subject to constitutional restraints, the jurisdiction of the Federal Parliament under s.91(7) and (1) and the "Peace, Order, and Good Government "(POGG)" Power on s.91 of the ***Constitution Act, 1867***, and thus further compels the Police officer to breach their oath to uphold the Constitution;

(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*** thus granting the power of arrest to a police officer in the enforcement of a regulatory and/or municipal by-law as enunciated by the ***SCC*** in ***R v. Sharma [1993] 1 S.C.R. 650***;

(g) A Declaration that the RCMP has no jurisdiction to enforce Provincial Health nor "emergency" measures in the Province of British Columbia;

(h) A Declaration that, in any event, the restriction of physical movement and travel bans based on "essential travel", is a violation of s.7 liberty and security of the person, not in accordance with fundamental justice as being void for vagueness, as well as overbreadth, and impossible to enforce, in that it is nearly impossible to ascertain, while respecting an individual's ***Charter*** right to remain silent, and right against arbitrary detention and questioning, to determine whether that person has, "on reasonable and probable grounds" committed an offence;

(i) A Declaration that a police constable or by-law officer cannot, by way of general, blanket order(s), from his/her administrative supervisors, be directed how, when and in what circumstance, to lay a charge against an individual and thus dictate the discretion of that Police officer;

(j) A Declaration that no politician should be directing nor commenting on how, whom or in what circumstances any police officer should enforce nor apply the applicable law;

(k) A Declaration that the Covid emergency measures violate a police constable's duty, as office-holder to Her Majesty the Queen, in that the enforcement of the provisions, and the enforcement provision(s) are of no force and effect and unconstitutional in in allowing, and being directed by superiors, to violate a citizen's constitutional rights under the ***Constitution Act 1867***, as well as the ***Charter***, as follows:

(i) Violation of freedom of expression, speech, association, assembly and religion contrary to those unwritten constitutional rights recognized by the Supreme Court of Canada through the Preamble to the ***Constitution Act, 1867,*** as well as s.2 of the ***Charter;***

(ii) Violation of the right to liberty and security of the person through the arbitrary and unreasonable detention, arrest, and interference with the physical liberty and movement of citizens, contrary to the Liberty of the Subject under ***Habeas Corpus***, as well as ss. 7, 9, and 10(c) of the ***Charter;***

(iii) Violation of the protection against unreasonable search and seizure contrary to s.8 of the ***Charter;***

(iv) Placing police officers in the potential violation, with respect to religious gatherings and services, of committing an offence contrary to s. 176 of the ***Criminal Code.***

323. Order(s), (in the nature of) **Prohibition** to:

(a) all police administrative supervisor(s) to cease and desist in interfering with a police constable's discretion as to how to apply and enforce the law, following the investigation by that individual police constable;

(b) all publicly elected politicians to cease and desist in interfering with a police constable's discretion as to how to apply and enforce the law, following the investigation by that individual police constable;

(c) all "public health officers" to cease and desist in interfering with a police constable's discretion as to how to apply and enforce the law, following the investigation by that individual police constable;

(d) All Police administrative superiors to cease and desist from coercive and illegal conduct, directions, and/or orders geared to denying masking exemptions of officers, PCR testing and vaccines contrary to the Police officer's constitutional rights to refuse any medical procedure and/or treatment with informed consent as enunciated and ruled by the ***Supreme Court of Canada***;

(e) All public officials, and the named Defendants, from implementing **any** mandatory vaccination measures, nor implementing any "Vaccine Passport" measures whatsoever.

324. The Plaintiffs seek the Declaratory and Prerogative/Injunctive relief set out in this Statement of Claim. In addition, the Plaintiffs seek damages, as set out below:

(a) With respect to **Action4Canada** damages in the amount of $1 Million for:

(i) A breach of s.2(a), (c), and (d) **Charter** rights to exercise freedoms of religion, peaceful assembly, and association via the limitations placed since the onset of the Covid-19 emergency measures.

(b) With respect to **Kimberly Woolman** Damages in the amount of $2 Million for:

(i) a breach of their s.7 **Charter** right to not be subjected to cruel and unusual punishment, in that the Yucalta Lodge care home unconstitutionally separated them from visiting their elderly mother, and caring for her on a number of occasions in retaliation to their voicing opinions in relation to their mother Jaqueline Woolman's care, and further violation and interference with their s.7 protected right to the parent-child relationship;

(ii) Violation of their s. 2(c) and (d) **Charter** right to association, in that the Yucalta Lodge care home prevented them from visiting their mother individually, and together, and monitored their association, and assembly on a number of occasions when they picked their mother up.

(iii) Violation of their s.2(b) **Charter** fundamental freedom of thought, belief, opinion, and expression, in that the Yucalta Lodge care home prevented them from sharing an open dialogue with their mother in relation to the Covid-19 emergency measures in general, and the specific measures that the care home had put into place.

(c) With respect to the **Estate of Jaqueline Woolman** damages in the amount of $2 Million for violations of the deceased, during her lifetime, recoverable by the estate for:

(i) Violation, during the deceased's lifetime of her s.7 **Charter** right to not be subjected to cruel and unusual punishment. The Yucalta Lodge care home repeatedly breached this right by subjecting Jaqueline Woolman to abusive quarantining measures, as well as the cruel, and anxiety-inducing separation from her children that she was made to endure, and interference of the s.7 Charter protected right to the parent-child relationship;

(ii) For a breach of the deceased's s.15 **Charter** equality rights to not face discrimination, which the Yucalta Lodge care home breached by taking advantage of Jaqueline Woolman's mental, physical disability, as well as her age by ignoring her wishes.

(iii) damages for a breach of her s.2 (c) and (d) **Charter** fundamental freedoms to associate with her own children, and in particular, her two (2) daughters Kimberly and Michelle Woolman.

(iv) For the intentional causing of pain and suffering of the Plaintiff as a result of the constitutional violations.

(d) With respect to **Jane Doe #1** damages in the amount of $200,000.00 for:

(i) a breach of her s.7 **Charter** rights to life, liberty, and security of the person in that the Covid-19 emergency measures enacted by Bonnie Henry have resulted in her employer enforcing the use of masks on their premises, including forcing Jane to wear a mask while at work.

(ii) The cause of anxiety and pain and suffering as a result.

(e) With respect to **Brian Edgar** damages in the amount of $200,000 for:

(i) A breach of his s.7, 8, 9, and 10 **Charter** rights, as Brian, and his party were detained for questioning, and asked to produce identification documentation by the police after exiting a BC Ferries vessel, although their only allegedly suspicious behaviour had been associating with a group of people heading to the same event in Vancouver.

(ii) A breach of his s.2 (c) and (d) **Charter** rights to associate, which the BC Ferries infringed upon by targeting Brian and his party for peacefully assembling, and associating with each other, and another group on the vessel that were all attending the same event in Vancouver on that given date.

(iii) A breach of his s.15 **Charter** right to be free from discrimination, which the BC Ferries staff infringed by specifically targeting Brian, and his party for the simple reason that they were attending a specific event in Vancouver on that given date.

(f) With respect to **Amy Muranetz** damages in the amount of $200,000 for:

(i) A breach of her s.7 ***Charter*** rights to life, liberty, and security of the person as she was stopped, and questioned about her mask prior to entering a BC Ferries vessel, and several times while aboard the vessel, by the BC Ferries staff.

(ii) A breach of her s.15 ***Charter*** right to be free from discrimination, which the BC Ferries staff infringed by specifically targeting her for not wearing a mask.

(iii) A breach of her s.8, 9 and 10 ***Charter*** rights to remain secure against unreasonable search and seizure, as well as not be arbitrarily detained, and be informed of the reason for detention. BC Ferries staff stopped, detained, and questioned Amy at length and leisure without reasonable explanation.

(iv) A breach of her s.6 ***Charter*** mobility rights, as Amy, was banned by BC Ferries staff indefinitely from travelling back home on the BC Ferries.

(v) A breach of her s.7 ***Charter*** right to be free from cruel and unusual treatment, and punishment. Amy was treated inhumanely by BC Ferries staff in that they continued to detain, and mistreat her while she experienced a Post-traumatic Stress Disorder ("PTSD") episode while under their watch. It was also an excessive punishment, for the BC Ferries staff to prevent Amy from returning home on the ferries, for simply exercising a medical masking exemption.

(vi) For the intentional causing of pain and suffering of the Plaintiff as a result of the constitutional violations.

(g) With respect to **Jane Doe #2** damages in the amount of $2 Million for:

(i) A breach of her s.15 ***Charter*** right to be free from discrimination, which the Hospital staff infringed upon by specifically targeting her for not wearing a mask, and deciding to deny her imminent medical treatment based on such.

(ii) A breach of her s.7 ***Charter*** rights to life, liberty, and security of the person as she was stopped, and questioned about her lack of mask throughout her time at the hospital, and this took precedence over carrying out her imminent and necessary medical treatment.

(iii) A breach of her s.7 ***Charter*** right to be free from cruel and unusual treatment, and punishment. Jane was punished, and denied critical medical treatment for a life-threatening illness for exercising a valid, medical masking exemption.

(iv) For the intentional causing of pain and suffering of the Plaintiff as a result of the constitutional violations;

(v) For endangering her very life.

(h) With respect to **Valerie Ann Foley** damages in the amount of $2 Million for:

(i) A breach of her s.7 ***Charter*** rights to life, liberty, and security of the person as she was stopped, and questioned about her lack of mask, for which she carried a medical exemption.

(ii) A breach of her s.8, 9 and 10 ***Charter*** rights to remain secure against unreasonable search and seizure, as well as not be arbitrarily detained, and be informed of the reason for detention. The Vancouver Skytrain Transit Officer not only lacked the jurisdiction to do so, but went on to verbally, and physically harass, and viciously assault, and subsequently handcuff Valerie while failing to provide any reasonable explanation for the severity of his actions.

(iii) A breach of her s.7 ***Charter*** right to be free from cruel and unusual treatment, and punishment. Valerie was disproportionately treated, including being physically assaulted by the Vancouver Skytrain Transit Officer, for the alleged crime of being un-masked with a valid medical exemption.

(iv) For the intentional causing of pain and suffering of the Plaintiff as a result of the constitutional violations.

(i) With respect to **Linda** and **Gary Morken** damages in the amount of $250,000 each for:

(i) A breach of their s.7 ***Charter*** rights to life, liberty, and security of the person as they were stopped, and questioned about their lack of masks, for which they carried valid medical exemptions.

(ii) A breach of Linda's s.8, 9 and 10 ***Charter*** rights to remain secure against unreasonable search and seizure, as well as not be arbitrarily detained, and be informed of the reason for detention. The store staff, and RCMP Officers failed to provide the explicit, and reasonable causes behind Linda's search, and detention.

(iii) A breach of both Linda, and Gary's s.15 ***Charter*** right to be free from discrimination, which the store staff, and RCMP Officers infringed upon by specifically targeting them for being un-

masked, and going above and beyond the reasonable protocol that the situation had called for, simply for that reason;

(iv) Unlawful detention and confinement.

(j) With respect to **Pastor Randy Beatty** damages in the amount of $500,000 for:

(i) A breach of s.2 (a), (b), (c), and (d) rights for Randy to exercise his freedom of expression, religion, peaceful assembly, and association, as the result of emergency measures that not only limited his church services, but at times saw them close entirely, despite following strict safety protocols;

(ii) A breach of Randy's s.15 ***Charter*** right to be free from discrimination due to religious beliefs, and many Covid-19 measures discriminate upon religious peoples, including Christians to refrain from engaging with the measures and mandates due to their religious beliefs.

(k) With respect to **Ilona Zink** damages in the amount of $500,000 for:

(i) A breach of her s. 6(2)(b) ***Charter*** right to gain a livelihood, which becomes difficult and next-to-impossible when covid-19 mandates involve the closure of specific businesses, calling some essential, and others "non-essential";

(ii) Unreasonable seizure contrary to s.8 of the ***Charter***.

(l) With respect to **Federico Fuoco** damages in the amount of $750,000 for:

(i) A breach of his s. 6(2)(b) ***Charter*** right to gain a livelihood, which becomes difficult when covid-19 mandates involve the closure of specific businesses, calling some essential, and others "non-essential".

(ii) A breach of Federico's s.15 ***Charter*** right to be free from discrimination due to his beliefs, and his masking exemption, yet he was discriminated against by the city of Vancouver who denied him the attempt to open his restaurant safely, and served him with closure notices, and revocation of his licensing in relation to his business.

(iii) For the slanderous, and baseless attacks on his business as the result of the rampant environment of division that has been created in British Columbia due to the Covid-19 emergency measures, and this has impacted not only public opinion on Federico, a well-known restauranteur in Vancouver, but also his restaurant business.

(m) With respect to **Fire Productions Limited**, and **F2 productions Incorporated**, damages in the amount of $750,000.00 for:

(i) Violation of s.8 of the ***Charter*** in the unreasonable seizure of the businesses as a result of "lock-downs";

(ii) Damages, to be calculated at trial, for loss of income as a result of the unconstitutional lock-downs and violations of s.8 of the ***Charter***.

(n) With respect to **Michael Martinz** damages in the amount of $250,000 for:

(i) A breach of his s.7 ***Charter*** rights to life, liberty, and security of the person as he was stopped, from passing through airport security, despite holding a Canadian passport so that he could be forced to take a PCR test, contrary to s.14(1) of the ***Quarantine Act***.

(ii) A breach of Michael's s.8, and 9 ***Charter*** rights to remain secure against unreasonable search and seizure, as well as not be arbitrarily detained, as he was stopped from leaving the airport, and detained for a lengthy time period as airport staff, and a nurse made attempts to force him to take the penetrative PCR test against his will and contrary to s.14(1) of the ***Quarantine Act***.

(o) With respect to **Makhan S. Parhar** damages in the amount of $250,000 for:

(i) A breach of his s.7 ***Charter*** rights to life, liberty, and security of the person as he was stopped, from passing through airport security, despite holding a Canadian passport so that he could be forced to take a PCR test.

(ii) A breach of Makhan's s.8, 9, 10(c) and 11 ***Charter*** rights to remain secure against unreasonable search and seizure, as well as not be arbitrarily detained, and be informed of the reason for detention. For much of the time that Makhan was detained, his questions as to why were left unanswered.

(iii) A breach of his s.7 ***Charter*** rights to be free from cruel and unusual treatment and punishment. Not only was Makhan placed in quarantine, but during his time detained in jail, he was denied vegetarian meals that he specifically requested.

(iv) A breach of his s. 6 ***Charter*** mobility rights, as he was placed under quarantine restrictions.

(v) For the intentional causing of pain and suffering of the Plaintiff as a result of the constitutional violations.

(p) With respect to **North Delta Real Yoga Real Hot Yoga Limited** damages in the amount of $750,000 for:

(i) Violation of s.8 of the ***Charter*** in the unreasonable seizure of the businesses as a result of "lock-downs";

(ii) Damages, to be calculated at trial, for loss of income as a result of the unconstitutional lock-downs and violations of s.8 of the ***Charter***.

(q) With respect to **Melissa Anne Neubauer** damages in the amount of $250,000 for:

(i) A breach of her s.15 ***Charter*** rights to be free from discrimination, as her employers discriminated against her for seeking a valid masking exemption, which they eventually denied. She is now seeking employment in another region entirely.

(ii) A breach of the s.6(2)(b) ***Charter*** right to gain a livelihood in any province in Canada, and can not do so due to the discrimination she faced at the hands of her employer, as a result of the Covid-19 restrictions.

(r) With respect to **Jane Doe #3** damages in the amount of $750,000 for:

(i) A breach of the s.15 ***Charter*** rights to be free from discrimination, and she felt that due to being unvaccinated, she was not able to comfortably carry out her work as a vital essential medical worker.

(ii) A breach of the s.6(2)(b) ***Charter*** right to gain a livelihood in any province in Canada, due to the aforementioned reason, and the discrimination that she faced as a result thereof, having had to leave her place of work on a stress leave.

324. The Plaintiffs further seek such other or further monetary damages, to be calculated at trial, as counsel may advise and this Honourable Court grant.

325. The Plaintiffs further state that the damages they have suffered, as a result of the unlawful actions of both public and private actors, lie at the feet of the Crown Defendants in that they have chosen and/or failed to institute measures and enforcement to ensure that, in the execution of the "Covid measures", the Plaintiffs/ rights under those measures were respected and enforced thus violating their statutory and constitutional rights by act and omission, for which the Crown is liable in damages.

326. As against the **CBC**:

(a) A Declaration that:

(i) The CBC, as the publicly- funded broadcaster under the **Broadcast Act,** owes a fiduciary duty to be fair, independent, impartial, objective, and responsible, in its news coverage and investigation of the "pandemic", and COVID- Measures, which fiduciary duty it has flagrantly and knowingly breached;

(ii) That the CBC, owing a duty of care to the Plaintiffs as the national, publicly - funded broadcaster, has been grossly negligent in its coverage and reporting on the COVID-19; and

(iii) That the CBC has knowingly and intentionally suppressed, censored, and unjustifiably belittled expert opinion opposed and critical of the WHO and government line on COVID, and thus propagated "misinformation" and "false news".

(b) Further as against the CBC, general damages in the amount of $10 Million dollars;

(c) Punitive damages in the amount of $10 Million dollars;

(d) Such further or other injunctive relief as counsel may advise and this Honorable Court grant.

327. The Plaintiffs further seek Costs of this action and such further and/or other Declaratory relief as counsel may advise and this Honorable Court entertain.

Part 3: LEGAL BASIS

327. That the "Covid-measures" and declaration of the "emergency" invoked by the Respondents:

(a) Do not meet the prerequisite criteria of any "emergency" as prescribed by ss.9-10.2 nor ss.12-13 of the ***Emergency Program Act [RSBC 1996],*** nor is it within the jurisdictional purview of s.52(2) of the ***Public Health Act, SBC [2008],*** and further contravenes s.3(1) and s.120(1) of the ***Public Health Act SBC [2008]***;

(b) Breach the Plaintiffs' right to consult and constitutional duty to consult, of the Respondents, both in procedure, and substance, with respect to broad sweeping public health measures both under administrative law, and the fundamental justice requirement under section 7 of the ***Charter*** as enunciated and ruled by the ***SCC***;

(c) If the pre-requisites of an "emergency" are met, as declared to be a national and international "emergency", the jurisdiction, and constitutional duty, to deal with this "national emergency", and its measures, is strictly with the Federal Parliament, under the ***Federal Emergencies Act*** and ***Quarantine Act,*** pursuant to

s. 91(7) and (11) of the ***Constitution Act, 1867***, as well as under the "Peace, Order, and Good Government ("POGG")" Power, under s.91 of the ***Constitution Act, 1867*** and not the jurisdiction of the provincial legislature;

(d) That quarantine is Federal jurisdiction;

(e) That "lock-downs", and "stay at home orders", and any curfews, in whole or in part, are forms of Martial law outside the Province's jurisdiction under s. 92 of the ***Constitution Act, 1867*** and, subject to constitutional review and constraints, matters of Federal jurisdiction under the POGG power and s. 91(7) of the ***Constitution Act, 1867***.

(f) that "lock-downs", in any event, and the arbitrary and irrational means by which businesses have been ordered closed and/or restricted constitute an unreasonable seizure contrary to s.8 of the ***Charter***.

328. As against the Crown Defendants, and Officials:

(a) That the purported order of the chief health officer, Dr. Bonnie Henry, dated April 30th, 2021, as well as June 30th, 2021 along with previous such orders, before and after June 30th, 2021, and any such duplicate future or extended orders, purportedly made under ss. 30,

31, 32 and 39(3) of the *Public Health Act,* S.B.C 2008 ("the Act"), are ***ultra vires*** that Act, and null and void as an enveloping emergency order of national dimension; and the strict jurisdiction of the Federal Government under s.91 (7) and (11) as well as the "POGG" power of the ***Constitution Act, 1867***, which rests in the exclusive jurisdiction, subject to constitutional review and constraints, with the Federal Parliament.

(b) That Ministerial order #M182 of April 30th, 2021, as well as the order of Bonnie Henry on June 30th, 2021, and the lockdown and travel restrictions are of no force and effect as constitutionally, Martial Law, pursuant to s.91(7) as well as the POGG Power;

329. That the ***Public Health Act****,* and ss.30, 31, 32, and 39(3) of the *Act* is restricted to making orders of a local or regional scope and not of a completely provincial application in the content where the declared threat is not provincial in nature but national, and that the province is without jurisdiction to make such orders and measures as such orders and measures are the jurisdiction subject to constitutional review and constraints, of the ***Federal Parliament under the Emergencies Act****,* and under s. 91 under the POGG power, as well as ss.91(7) and (11) of the ***Constitution Act 1867***.

330. That the Province, in any event, while maybe having jurisdiction with respect to some localized measures which coincidentally may have consequential impact

on liberty, movement and association, has no constitutional jurisdiction to restrict or target the physical/psychological liberty, expression, association, and/ or assembly of every individual in the Province and that, if such jurisdiction exists, subject to constitutional review and constraint, it rests with the Federal Parliament and government pursuant to the ***Federal Emergencies Act***.

331. That the purported order, by Dr. Bonnie Henry, purportedly pursuant to s.52(2) of the ***Public Health Act,*** that "the transmission of the infectious agent SARS-CoV-2, based on high "case counts", based on a PCR test, is ***ultra vires*** the ***Act*** and ***non est factum***, in that:

(a) It does not constitute a "regional event" but, by its purported terms constitutes a national and international event, and is *ultra vires* the authority of the British Columbia Parliament and government with jurisdiction, if any, subject to constitutional review and constraints, resting with the **Federal Parliament** under the ***Emergencies Act***;

(b) The classification as such is not scientifically nor medically based;

(c) The evidence is lacking and contrary to the scientific and medical evidence;

(d) That “cases’ do not equate to “deaths” and that the purported death rate is no higher than complications from the annual influenza;

(e) That the distorted “case” counts are fraudulent, based on the fraudulent use generating cases of “PCR” test, which is a test that:

(i) At best was designed as a “screening test” which requires a follow-up culture and blood test to ensure the detection of an **infectious virus**, and was **never** designed, nor equipped to be a diagnostic test;

(ii) That is fraudulently being used as a diagnostic test;

(iii) That the PCR test has scientifically been debunked, as well as judicially determined, based on the scientific evidence, that when used at a “threshold cycle” of thirty five (35) or higher, to cause between 82% to 96.5% “false positives”;

(iv) That British Columbia tests at a threshold cycle of well over forty (40) “threshold cycles”. In weekly meetings with Bonnie Henry, doctors reported that her second in comman gave instruction to turn up the PCR for the sole purpose of creating increased cases.

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332. That the order of April 23rd, 2021 and previous such orders, and subsequent such orders or extensions, in any event, violate the ***Constitution Acts, 1867, 1982***, as follows:

(a) That the restrictions on freedom of expression, conscience, association, and assembly, were recognized, and continue to apply, as unwritten constitutional rights, through the Pre-amble of the ***Constitutional Act, 1867***, and that the Province has absolutely no jurisdiction to curtail those rights, as set out by the Supreme Court of Canada, and that if such curtailment were to be effected, it rests, subject to constitutional review, and constraints, in the jurisdiction of the Federal Parliament;

(b) That these same rights, contained in ss. 2(a)(b), 7, 8, 9 and 15 of the ***Charter*** are also being violated by the Order(s) of Bonnie Henry and none of the violations are justified under a free and democratic society under s. 1 of the ***Charter*** that that:

(i) The measures do not evidentiarily, scientifically, nor medically set out a valid legislative objective;

(ii) Are not rational;

(iii) Are not tailored to minimally infringe the constitutional rights; and

(iv) The measures' deleterious effects far outweigh the beneficial effects in that the number of deaths **caused by the measures** are at a ratio of 10-12 deaths for every death purportedly attributed to COVID-19.

333. That administrating medical treatment without informed consent constitutes experimental medical treatment and contrary to the ***Nuremberg Code*** and ***Helsinki Declaration*** of 1960, still in vigor, and further and thus constitutes a crime against humanity under the ***Criminal Code of Canada.***

325. The offering, promoting, and administering of Covid-Vaccines, or any other medical treatment to twelve (12) to seventeen (17) year olds without the informed consent of the parent(s) constitutes:

(d) In the absence of informed consent, medical experimentation and thus further constitutes a "crime against humanity" emanating from the Nuremberg trials and principles following the medical experimentations by the Nazi regime and codified in Canada, as a criminal act, pursuant to the ***War Crime and Crimes Against Humanity Act***;

(e) And by doing so Dr. Bonnie Henry and the Province of British Columbia are violating the s.7 ***Charter*** protected right of the parent-child relationship and in contempt and subversion of the "mature minor" doctrine of the ***Supreme Court of Canada***.

(f) S.17 of the ***Infants Act [RSBC 1996] C. 223***, if it purports to grant (12) to (17) year olds, or children younger than (12), the ability to orally, or in writing, give informed, voluntary consent to any medical treatment, including vaccines, is of no force and effect as violating s.7 of the ***Charter*** in that:

(i) It interferes with the parent-child relationship which has been recognized by the SCC, to be constitutionally protected by s.7 of the ***Charter***;

(ii) It violates s.7 of the ***Charter*** with respect to the minor by violating the minor's physical and psychological integrity, in incurring a possible adverse reaction without the benefit of understanding the risk thereby vitiating the informed, voluntary consent required under s.7 of the ***Charter***;

(iii) Given that the Covid vaccines have not been finally approved, with human trials not ending until the end of 2023 and the concession by Public Health officers that the "Covid Vaccines" are thus medically "experimental" it violates s.7 of the ***Charter*** by contravention of the ***Nuremberg Principles*** and ***Code***, as well as the ***Helsinki Declaration*** of 1960, both of which international instruments provide and are to be read in as the minimal protection under s.7 of the ***Charter*** as dictated by, ***inter alia***, by the ***SCC*** in the ***Hape*** decision; and

(iv) Violates s.15 of the ***Charter***, based on age, in not providing minors with the same constitutional protection of informed, voluntary consent provided and upheld under s.7 of the ***Charter***, that adults have.

334. That the measures imposed by Dr. Bonnie Henry constitute a crime against humanity contrary to s.7 and 15 of the ***Charter*** in the unjustifiable deaths directly caused by her measures, including suicides, deaths from cancelled surgeries, drug over-doses, and depraved abuse of the elderly and children, especially the physically and neurologically disabled, in that she knows that her measures are worse than the purported "Covid-deaths", and that Dr. Bonnie Henry has in fact been complicit in crimes against humanity in her dispersing and administered deadly and unsafe vaccines in India (Pakistan) in or about the year 2000. Bonnie Henry has further advocated the immunization of twelve (12) to seventeen (17) year olds without the consent of their parents.

335. That the "COVID Measures" undertaken and orchestrated by Prime Minister Trudeau ("Trudeau"), Premier Horgan, the Federal Crown, Provincial Crown, and their named officials constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy , as

enunciated by the Supreme Court of Canada in, **inter alia** , **Quebec Secession Reference.**

336. That the ***Public Health Act, [SBC 2008]*** (the **"Act),** and in particular vesting an indefinite emergency power in the Premier and Lt.-Governor, and further that the "COVID Measures", undertaken and orchestrated by Premier John HORGAN ("Horgan") as well as Bonnie Henry, Mike Farnworth, Jennifer Whiteside, Adrian Dix, and the Provincial Crown, constitute a 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,** emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy , as enunciated by the Supreme Court of Canada in, **inter alia** , **Quebec Secession Reference;**

326. The COVID Measures Measures taken by both Trudeau, Horgan, Farnworth, Dix, Whiteside, and Henry, and their respective governments, at the blind and unquestioned dictates of the World Health Organization ("WHO") bureaucrats, in defiance and ignoring of the avalanche of scientific and medical evidence to the contrary, constitute a constitutional violation of the abdication of the duty to govern, as enunciated in, **inter alia**, the **Re Gray** and **Canada (Wheat Board)** v. **Hallett and Carey Ltd.** decisions of the Supreme Court of Canada;

337. That in the imposition of the COVID Measures, the Defendants have engaged in **ultra vires** and unconstitutional conduct and have acted in, abuse and excess of their authority;

338. That the concept of "social distancing" is neither scientifically, nor medically based, and is an ineffective and a fictional concept, which has no scientific nor medical basis and hitherto unknown, with respect to a seasonal viral respiratory illness;

339. That any **mandatory** vaccine scheme against any purported COVID-19, by way of **mandatory** vaccine, ***or any coercive or extortive measures to force the Plaintiffs to "choose" to*** vaccinate, **without informed, voluntary consent**, such as the use of "vaccine passports" or any and all other coercive measures, is unconstitutional, and no force and effect in that:

(a) It infringes s. 2 of the **Charter** in violating freedom of conscience, religion and thought;

(b) Infringes s. 7, life, liberty, and security of the person in violating physical and psychological integrity in denying the right to choose, based on informed medical consent;

(c) Breaches the same parallel rights recognized prior to the **Charter,** as written constitutional rights through the Pre-Amble to the **Constitution Act, 1867;**

(d) Breaches parallel international treaty rights to no medical treatment without informed consent, and right to bodily integrity, which international treaty rights are to be read in, as a minimal s. 7 **Charter** protection, as enunciated by the Supreme Court of Canada in, **inter alia** the **Hape** decision;

(e) And that, under no circumstances are mandatory vaccines, nor coerced compliance to vaccines, in accordance with the tenets of fundamental justice, nor demonstrably justified under s. 1 of the **Charter;**

340. That:

a) Social distancing, self-isolation, and limits as to the number of persons who can physically congregate, and where they can congregate, violates the unwritten rights contained, and recognized pre-**Charter**, by the SCC, through the pre-amble to the ***Constitution Act, 1867*** and that the Province has no jurisdiction to do so under s.92 of the ***Constitution Act, 1867***, as ruled by the ***SCC***, with respect to rights to freedom of association, thought, belief, and religion in banning association, including religious gatherings, as well as violate s. 2 **Charte**and further restricting physical and psychological liberty and security of the person rights under s.7 of the **Charter,** and are not in accordance with the tenets of fundamental justice, nor demonstrably justified under s. 1 of the **Charter;**

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b) That prohibitions and obstacles to protest against COVID Measures in British Columbia, are a violation of the constitutional rights to freedom of expression, conscience, belief , and association, assembly, and petition, under s. 2 of the **Charter,** and not demonstrably justified by s. 1, as well as a violation of these constitutional rights, recognized **prior to** the **Charter,** through the Pre-Amble to the **Constitution Act, 1867** and against international treaty rights protected by s. 7 of the **Charter;**

341. That the arbitrary, irrational, and standardless sweep of closing businesses and stores as "non-essential", and the manner of determining and executing those closures, and "lock-downs", constitutes unreasonable search and seizure contrary to s. 8 of the **Charter** and not demonstrably justified under s.1 of the **Charter;**

342. 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;

343. That any and all COVID Measures coercively restraining and curtailing the physical and psychological integrity of the Plaintiffs, and any and all physical and psychological restraints, including but not restricted to:

(a) "self-isolation";

(b) no gatherings of more than five (5) and later ten (10) persons, or any set number;

(c) the shutting down of children's playgrounds, daycares and schools;

(d) "social distancing";

(e) the compelled wearing of face-masks;

(f) prohibition and curtailment of freedom of assembly, including religious assembly, and petition;

(g) the imposition of charges and fines for the purported breach thereof;

(h) restriction of travel on public transport without compliance to physical distancing and masking;

(i) restrictions on shopping without compliance to masking and physical distancing;

(j) restrictions on attending restaurants and other food service establishments without compliance to masking, physical distancing, and providing name/address/contact information for contact tracing purposes.

(k) Crossing into and leave British Columbia and any and all subdivisions within British Columbia;

Constitute a violation of ss. 2,6,7,8, 9, and ss. 15 of the **Charter** , to freedom of association, conscience religion, assembly, and express on under s. 2, liberty and security of the person in violating the physical and psychological integrity of the liberty and security of the person, not in accordance tenets of fundamental justice, contrary to s.6(mobility rights) and well as s. 7(liberty), and further breach of the rights against unreasonable search and seizure contrary to s. 8, arbitrary detention under s. 9 of the **Charter** , and not demonstrably justified under s. 1, as well as breach of the unwritten parallel rights, recognized as constitutional rights, through the Pre-Amble of the **Constitution Act, 1867** and affected by means of removing measures against the "Liberty of the Subject" by way of **habeas corpus** as well as constituting Martial Law measures outside the scope of the Province under s.92, and subject to constitutional constraints, the exclusive jurisdiction of the Federal Parliament under s.91 (POGG), s.91(7) and (11) and the ***Federal Emergencies Act R.S.C. 1985***, and ***Quarantine Act S.C. 2005***;

344. That:

(a) The thoughtless imposition of "social distancing" and self-isolation at home breaches s. 2 of the **Charter,** in denying the right to freedom of association and further breaches the right to physical and psychological integrity, under s. 7 of the **Charter** (liberty) in curtailing and restricting physical movement, which measures are wholly unjustified on any

scientific or medical basis, and which are not in accordance with the tenets of fundamental justice in being vague, and suffering from overbreadth, and which cannot be justified under s. 1 of the **Charter;**

(b) The measures themselves, and the arbitrary detention, by enforcement officers, in enforcing these vague and over-broad, and often **ultra vires,** and contradictory "orders", is a violation of the right against arbitrary detention under s. 9 of the **Charter** and that, in the course of such "enforcement" the search and seizure of private information, including medical information, from individuals, being charged with purported violations of such orders, constitutes a violation of ss.7 and 8 of the **Charter,** and that neither violation of s. 7 or 8 are in accordance with the tenets of fundamental justice nor justified under s. 1 of the **Charter;**

(c) The use of "contact-tracing Apps" constitutes a violation of **s.** 8 of the **Charter**, and further violates ss. 7 and 8 of the **Charter** with respect to the constitutional rights to privacy, under both sections, and that such breaches are not in accordance with the tenets of fundamental justice, and are further not justified under s. 1 of the **Charter;**

(a) The compelled use of face masks breaches, in restricting the right to breath, at the crux of life itself, and the liberty to choose how to breath, infringes s. 7 to the **Charter** liberty, security of the person and is not in

accordance with the tenets of fundamental justice and not justified by s. 1 of the **Charter;**

(b) The above-noted infringements under s. 2,6, 7, 8, and 9, as well as the arbitrary decisions on what businesses to close, and which ones to be left open, constitutes a. 15 of the **Charter** violation based on:

(i) Conscience, belief, and religion;

(ii) Association, assembly and petition;

(iii) Trade and profession;

(iv) Mobility;

And further that such measures are arbitrary, and discriminate before and under the law, contrary to s. 15 of the **Charter** (and not justified under s.1 of the **Charter**), and are further a violation of the unwritten constitutional right to equality recognized before the **Charter,** as unwritten constitutional rights through the Pre-Amble to the **Constitution Act, 1867** as emanating from the principles of Rule of Law, Constitutionalism, and Respect for Minorities as enunciated by the Supreme Court of Canada in **Quebec Secession Reference**.

345. That the use of "vaccine passports" is a violation of ss. 2,7, and 15 of the ***Charter***, and that the use of "vaccine passports" and any and all other coercive measures to compel, as de facto mandatory, the constitutionally protected right to

refuse medical procedure or treatment without informed consent, including vaccines further violates ss. 2, 7, and 15 of the ***Charter***, as well as those mirrored unwritten rights established pre-***Charter*** under the ***Constitution Act, 1867***.

346. The Vaccine propaganda being pushed to twelve (12) to seventeen (17) year olds by the British Columbia government by way of s.17 of the ***Infants Act***, in fact, violates the child-parent relationship in s.7 of the ***Charter***.

347. 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;

348. That:

(a) The Defendant Federal Crown, and its agencies and officials, including but not restricted to the CRTC, have, by glaring acts and omissions, breached the rights of the Plaintiffs to freedom of speech, expression, and the press, by not taking any action to curtail what has been described by the UK scientific community as "Stalinist censorship", particularly the CBC in knowingly refusing to cover/or publish the valid and sound criticism of the COVID measures, by recognized experts;

(b) The Federal Crown has in fact aided the suppressing and removing of "Facebook" and "YouTube" postings, even by experts, which in any way contradict or criticize the WHO and government measures as "misinformation" "contrary to community standards", by the federal Defendants threatening criminal sanction for such "misinformation";

thus violating s. 2 of the **Charter** by way of act, and omission, as delineated and ruled by the Supreme Court of Canada in, **inter alia**, **Vriend**;

349. That the failure and in fact intentional choice by the British Columbia Defendants, as well as Federal Defendants, to ensure that the Plaintiffs constitutional rights are not violated by those public officials purporting to enforce the Covid measures, as well as private agents purporting to enforce Covid measures, is not prevented and not legislated, and in fact such violations are encouraged, constitute violations of the Plaintiffs delineated by the Supreme Court of Canada in, ***inter alia, Vriend***.

350. That the measures have a devastating impact on those with severe physical and neurological special needs, particularly children, and infringe s. 15 of the **Charter,** and are not justified under s. 1 of the **Charter**, and further violate the unwritten right to equality through the Pre-Amble to the **Constitution Act, 1867**, based on psychical and mental disability, and age;

351. That the measures of masking, social distancing, PCR testing, and lockdowns of schools in British Columbia, by the Respondents, are:

(i) not scientifically, or medically, based;

(ii) 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;

(iii) All measures of masking, social distancing, and school "lockdown" (closures) are a sole and direct result of the mounting, or "rising" "cases", being cases, which are 96.5% false positive;

(iv) The PCR test, in and by itself, as used, cannot distinguish between dead (non-infectious) vs. live (infectious) virus fragments;

(v) The (solitary confinement) isolation/quarantine of asymptomatic children, for any duration, is abusive, and constitutes violations under s.7 and 15, of the ***Constitution Act, 1982*** as violating the physical and psychological integrity, contrary to s. 7 of the ***Charter***, and further

constitutes cruel and unusual treatment under s. 7 of the ***Charter***; and further violates s.7, by way of the International Law under the ***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;*** and

(vi) is particularly egregious with respect to children with special needs, suffering physical and neurological disabilities, in violating s.7 and s.15 of the ***Charter*** in that absolutely no particular or special provisions are made for them, to accommodate their disability(ies), with respect to the Covid measures;

352. That the science, and preponderance of the scientific world community, is of the consensus that:

(i) masks are completely ineffective in avoiding or preventing transmission of an airborne, respiratory virus such as SARS-CoV-2 which leads to COVID-19;

(ii) that prolonged use of masks results, especially for children, in irreparable physical, neurological, psychological,

language development, and social development harms, some of which are irreversible;

(iii) that "lockdowns", quarantine and isolation are ineffective and cause more damage than they prevent;

(iv) that Public Health officials, including the Defendants, as well as the WHO, have pronounced that the Covid "Vaccines" do NOT prevent transmission, in either direction, between vaccinated and non-vaccinated persons.

353. That the mandatory use of masks, isolation and PCR testing, in the school context, violates children's constitutional rights under:

(i) section 7 of the ***Charter*** in infringing their rights to physical and psychological safety, and integrity, as well as, medical procedure/treatment without informed consent;

(ii) section 7 in infringing their right to education, flowing from their right to education under the ***Education Act,*** and further under section 7 of the ***Charter*** as interpreted by the Canadian Courts, as well as under section 7 by way of the ***International Convention on the Rights of the Child*** as read in as a minimal protection under section 7 of the ***Charter,*** as enunciated, ***inter alia,*** by the Supreme Court of

Canada in ***Baker***, ***Hape,*** and the Federal Court of Appeal in ***De Guzman***;

354. That the notion of "asymptomatic" transmission, from children to adults, of an airborne respiratory virus, is "oxymoronic", without scientific, or medical basis, and hitherto scientifically and medically unknown.

355. That masking, social distancing and testing in school settings, particularly elementary school(s), is unscientific, non-medical, unlawful, and unconstitutional and should be halted forthwith.

356. That children do not pose a threat with respect to Covid-19, to their teachers;

357. That teachers who do not wish to mask have the statutory and constitutional right not to mask;

358. That the masking of children is unscientific, non-medical, physically, psychologically, neurologically, socially, and linguistically harmful to them and that the masking of children be prohibited, regardless and despite their parents' requests and/or directions, because as children have their own independent rights under the ***Education Act*** , s. 7 and 15 of the ***Charter,*** as well as s.7 of the ***Charter*** as read in, and through, the international law under the ***Convention on the rights of the Child;***

359. that the mandatory vaccination of public service employees, or any citizens for that matter, without informed, voluntary, consent, is unconstitutional and of no

force and effect as violating ss.2,7, and 15 as set out above in this statement of claim, in that compulsory medical treatment has been clearly ruled, by the Supreme Court of Canada, and other Appellate Courts, as violating s.7 of the Charter.

360. That **none** of the above ***Charter*** violations are saved by s.1 of the ***Charter***, as they fail to meet the test, thereunder, as enunciated in, inter alia, the ***Oakes*** decision, as the measures:

(a) Are not pursuant to valid statutory objective;

(b) The measures are not rational;

(c) The measures are not tailored for minimal impairment of the **Charter** rights;

(d) The measures dilatory effects far outweigh their beneficial effects;

361. That, with respect to enforcements measures, of police, by-law, and health officers:

(a) A "reception, or "informal gathering", under s. 19 and 20 of ***Order of the Provincial Health Officer – Gatherings and Events (March 24th, 2021)***, or any such subsequent order(s), pursuant to the ***Public Health Act [SBC 2008],*** does **not** include a gathering whose obvious purpose is to assemble,

associate and otherwise gather to exercise freedom of speech, expression and/or assembly and religion as constitutionally recognized under the ***Constitution Act, 1867*** as well as s.2 of the ***Charter;***

(b) With respect to the masking that:

(i) No police officer has the jurisdiction to apply the ***Trespass Act, [RSBC 2018] c. 3*** to a person who declares a legal exemption to a mask, and who enters a public place; and

(ii) Owners of places of business who refuse to comply with lawful exemptions may be charged with an offence pursuant to the ***Emergency Program Act [RSBC 1996] c. 111*** and ***Ministerial Orders*** and ***Regulations*** thereunder;

(iii) Police Officers are equally entitled to masking exemptions and to be free from coercion by their superiors to take a Covid vaccine, or PCR test contrary to their constitutional right to refuse based on informed consent;

(iv) Police officers, like any other citizen, are constitutionally entitled, as ruled by the ***Supreme Court of Canada*** and ***Court of Appeal***, to refuse medical treatment without informed consent, including vaccines, and that Police officers should be free from coercion by superiors to be vaccinated;

(c) That police, and/or a by-law, Provincial Offences, or Health Officer, with respect to an individual who fails and/or refuses to comply with any oral and written orders from any of the Provincial Respondents do not have the powers of arrest against that individual under Provincial ***Regulations*** such as those set out in Part 4, Division 6 of the ***Public Health Act SBC [2008]***, and the closing summation of Bonnie Henry's ***Order*** of March 31st, 2021;

(d) That the bar of entry across "Provincial Borders", but for "essential travel" by residents/citizens coming from Alberta, as well as the **intra**-provincial travel bans without probable grounds of an offence being committed, which is a form of imposing Martial Law, without the jurisdiction to do so as per s.91(7) of the ***Constitution Act 1867***. It is also contrary s.7 of the **Charter (Liberty)**, for vagueness and over-breadth as well as s.6 of the **Charter**, and thus compels the Police officer to breach their oath to uphold the Constitution and further, that the RCMP has no jurisdiction to set up roadblocks at British Columbia's "borders" and refuse passage into British Columbia, as well as set out by the SCC, Pre-**Charter**, in ***inter alia Winner***;

(e) That the measures and enforcement of the measures under ***Ministerial Orders 172/2021 and 182/2021***, as set out above in subparagraph (d) constitutes Martial Law, Police State measures outside the scope of the Province's jurisdiction under s.92 of the ***Constitution Act, 1867,*** and are

within, subject to constitutional restraints, the jurisdiction of the Federal Parliament under s.91(7) and (1) and the "Peace, Order, and Good Government "(POGG)" Power on s.91 of the ***Constitution Act, 1867***, and thus further compels the Police officer to breach their oath to uphold the Constitution;

(f) That the 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*** thus granting the power of arrest to a police officer in the enforcement of a regulatory and/or municipal by-law as enunciated by the ***SCC*** in ***R v. Sharma [1993] 1 S.C.R. 650***;

(g) That the RCMP has no jurisdiction to enforce Provincial Health nor "emergency" measures in the Province of British Columbia;

(h) That the restriction of physical movement and travel bans based on "essential travel", is a violation of s.7 liberty and security of the person, not in accordance with fundamental justice as being void for vagueness, as well as overbreadth, and impossible to enforce, in that it is nearly impossible to ascertain, while respecting an individual's ***Charter*** right to remain silent, and right against arbitrary detention and questioning, to determine whether that person has, "on reasonable and probable grounds" committed an offence;

(i) A police constable or by-law officer cannot, by way of general, blanket order(s), from his/her administrative supervisors, be directed how, when and in what circumstance, to lay a charge against an individual and thus dictate the discretion of that Police officer;

(j) No politician should be directing nor commenting on how, whom or in what circumstances any police officer should enforce nor apply the applicable law;

(k) The Covid emergency measures violate a police constable's duty, as office-holder to Her Majesty the Queen. in that the enforcement of the provisions, and the enforcement provision(s) are of no force and effect and unconstitutional in in allowing, and being directed by superiors, to violate a citizen's constitutional rights under the ***Constitution Act 1867***, as well as the ***Charter***, as follows:

(i) Violation of freedom of expression, speech, association, assembly and religion contrary to those unwritten constitutional rights recognized by the Supreme Court of Canada through the Preamble to the ***Constitution Act, 1867,*** as well as s.2 of the ***Charter;***

(ii) Violation of the right to liberty and security of the person through the arbitrary and unreasonable detention, arrest, and interference with the physical liberty and movement of citizens, contrary to the

Liberty of the Subject under ***Habeas Corpus***, as well as ss. 7, 9, and 10(c) of the ***Charter;***

(iii) Violation of the protection against unreasonable search and seizure contrary to s.8 of the ***Charter;***

(iv) Placing police officers in the potential violation, with respect to religious gatherings and services, of committing an offence contrary to s. 176 of the ***Criminal Code;***

362. That the Constitutional Rights of the Plaintiffs have been violated as set out in the within Statement of Claim as set out in the facts, as well as the relief sought, including the relief sought for monetary damages.

363. Such further or other grounds as counsel may advances and this Honourable Court accept.

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Date: August 16th, 2021

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

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Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) Prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

APPENDIX

[*The following information is provided for data collection purposes only and is of no legal effect.*] **Part1: CONCISE SUMMARY OF NATURE OF CLAIM:**

This claim challenges the statutory and constitutional validity of the Covid measures, both Federal and Provincial by way of Declaratory, and other relief.

Part2: THIS CLAIM ARISES FROM THE FOLLOWING:

[*Check one box below for the case type that best describes this case.*]

A personal injury arising out of:

[ ] a motor vehicle accident

[ ] medical malpractice

[ ] another cause

A dispute concerning:

[ ] contaminated sites

[ ] construction defects

[ ] real property (real estate)

[ ] personal property

[ ] the provision of goods or services or other general commercial matters

[ ] investment losses

[ ] the lending of money

[ ] an employment relationship

[ ] a will or other issues concerning the probate of an estate

[ ] a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[*Check all boxes below that apply to this case*]

[ ] a class action

[ ] maritime law

[ ] aboriginal law

[x] constitutional law

[ ] conflict of laws

[ ] none of the above

[] do not know

Part 4:

[*If an enactment is being relied on, specify. Do not list more than 3 enactments.*]

-ss.2, 6, 7, 8, 9, 10, 15, 24 and 52 of the **Constitution Act, 1982**

-**Emergency Program Act [RSBC 1996] c. 111 [RSBC 1996]** ss. 2,7,8,9,15,24

-**Public Health Act [SBC 2008] c. 28**

EXHIBIT "CCC"

Federal Court

Cour fédérale

Date: 20100729

Docket: IMM-196-10

Citation: 2010 FC 788

Vancouver, British Columbia, July 29, 2010

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

TING-HSIANG TAI, TSAI-HUEI CHANG, WEI-HSUAN TAI, and LIN TAI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] This application for judicial review came on for hearing before me in Vancouver. At the outset of the hearing an issue arose with respect to the fact that counsel for the applicants was appearing on his own affidavit. After hearing from counsel, I ordered that the matter be adjourned to allow the applicants to retain new counsel. I took the question of costs under reserve.

[2] The affidavit provided by Lawrence Wong does not merely provide an evidentiary foundation for uncontested facts or for the admission of documents that were before the Immigration Appeal Division when it made its decision. Rather, Mr. Wong has put his litigation strategy before the IAD into issue in support of his clients' procedural fairness arguments. It was clearly not appropriate in these circumstances for counsel to appear on his own affidavit.

[3] I am of the view that there are "special reasons" for an award of costs in this case within the meaning of Rule 22 of the *Federal Courts Immigration and Refugee Protection Rules*, SOR/93-22. I am moreover satisfied that these costs should be paid personally by the solicitor for the applicants.

[4] Mr. Wong was put on notice by letter dated May 27, 2010, that counsel for the respondent objected to his appearing on his own affidavit. No steps were taken by Mr. Wong at that time to either seek leave of the Court under Rule 82 of the *Federal Courts Rules*, SOR/98-106 to appear on his own affidavit, or to withdraw from the file so that his clients could obtain new legal representation.

[5] Counsel for the respondent renewed her objection to Mr. Wong appearing in this matter in a second letter, this one dated July 23, 2010. Once again, Mr. Wong took no steps to resolve this issue in advance of the date set for the hearing of the application.

[6] Mr. Wong was advised that the Court was considering making an award of costs payable by him personally, and was given the opportunity to be heard. He did not provide a satisfactory

explanation for his conduct in this matter. His explanation that he originally had an associate working on the file when he put in his own affidavit in support of his clients' application does not assist him, in light of his statement that his associate left his office in April of 2010.

[7] Moreover, the fact that the Court does in some cases grant leave to counsel to appear in his or her own affidavit also does not assist Mr. Wong. Not only was leave not sought in a timely manner, it is also clear from the jurisprudence of this Court that leave will not be granted where, as here, the affidavit in issue deals with substantive matters: see, for example, *Sawridge Band v. Canada*, 2002 FCT 254, 112 A.C.W.S. (3d) 623.

[8] Finally, the Court does not accept Mr. Wong's claim that the respondent left him "no way out" by refusing to allow him to withdraw his affidavit. The respondent's refusal was based upon the fact that it was Mr. Wong's affidavit that had been the basis for the Court's grant of leave in this matter. As Mr. Wong himself conceded, there was indeed a "way out" for him, which was for him to withdraw from the file and for his clients to retain new counsel.

[9] The need for this adjournment is entirely attributable to Mr. Wong's conduct. The applicants cannot be expected to be aware of the rules governing the propriety of counsel appearing on his own affidavit, and should not be liable for the costs of the adjournment. Consequently, the Court orders that the costs of this adjournment should be paid personally by Lawrence Wong. These costs are fixed in the amount of $200.

[10] In accordance with the provisions of Rule 404(3) of the *Federal Courts Rules*, the Court orders that Mr. Wong deliver a copy of this Order personally to the applicants.

ORDER

THIS COURT ORDERS that:

1. This matter is adjourned to a date to be fixed by the Judicial Administrator;

2. Costs of the adjournment are fixed at $200, which are to be paid personally by Lawrence Wong;

3. A copy of this Order is to be served personally on the applicants by Mr. Wong.

"Anne Mactavish"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-196-10
STYLE OF CAUSE:	TING-HSIANG TAI et al. v. MCI
PLACE OF HEARING:	Vancouver, BC
DATE OF HEARING:	July 27, 2010
REASONS FOR ORDER AND ORDER:	MACTAVISH J.
DATED:	July 29, 2010

APPEARANCES:

Lawrence Wong	FOR THE APPLICANTS
Caroline Christiaens	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Lawrence Wong & Associates Barristers and Solicitors Vancouver, BC	FOR THE APPLICANTS
Myles J. Kirvan, Q.C. Deputy Attorney General of Canada Vancouver, BC	FOR THE RESPONDENT

EXHIBIT "DDD"

Federal Court Cour fédérale

Date: 20160525

Docket: IMM-5667-15

Citation: 2016 FC 569

Fredericton, New Brunswick, May 25, 2016

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

KAI ZHAN LIANG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

ORDER AND REASONS

[1] The applicant, Kai Zhang Liang, seeks through counsel, Lawrence Wong, reconsideration of my decision made on March 24, 2016, in which I dismissed the applicant's application for leave and judicial review. The facts underpinning this request for reconsideration pursuant to Rule 397(1) of the *Federal Courts Rules* are somewhat bizarre.

This is Exhibit "DDD" to the affidavit of Kipling Warner affirmed before me electronically by way of videoconference this 26th day of January, 2023, in accordance with O Reg 431/20

A Commissioner for taking affidavits, Amani Rauff, LSO No.: 78111C

[2] In an affidavit in support of the reconsideration request, an associate in Mr. Wong's law firm deposes to having attended the Vancouver Registry Office, having taken pictures of the Court file and having concluded there was "no marking, sticky note, hand writing, bent corner, crease or any other discernible sign of them having been read". The affiant further deposes that he did not "find any signature of any Justice of the Federal Court". Curiously, the affiant states that "I did not see any physical sign of it being read". The original position of the applicant, denied at the oral hearing of this matter held on May 20, 2016, is that I did not read the file. Of course, if I did not do so, such conduct would have constituted a serious violation of my oath of office. At the hearing, Mr. Wong abandoned the contention that I had not read the file and simply asserted that the file had been placed in the "wrong pile". Essentially, Mr. Wong contended that the case was so meritorious that any reasonable judge would have granted leave and Registry staff must have placed a "leave granted" file in the "leave dismissed" pile. In essence, Mr. Wong contends either serious wrongdoing on the part of one of Her Majesty's justices or serious negligence on the part of the Registry staff.

[3] The affidavit in support of the motion for reconsideration is lacking in several respects. First, it presumes a justice is going to mark up a copy of a file to which the public has access. Second, it seems to presume a justice will make markings on court documents rather than in a bench book. Third, it deposes to comments made by unnamed Registry staff regarding material apparently in my possession during consideration of the leave application. Those comments, in which it is asserted that Mr. Wong's associate observed and photographed the same file (pieces of paper) that I had in my possession during my deliberations, are inaccurate.

[4] My sole purpose on a motion under Rule 397(1) of the *Federal Courts Rules* is to determine whether I overlooked anything. Such a motion does not serve as an appeal. Because of the seriousness of the allegations made by Mr. Wong, I consulted the Registry in Ottawa. As proof that his investigative techniques were inadequate and, in my view, inappropriate, I retrieved the actual order signed by me. The typed portion of the order reads "This application for leave and judicial review is hereby dismissed". Immediately above the typed portion, in my handwriting is found the date "24 Mar 2016". Immediately below the typed portion is found my signature "B. Richard Bell", which I personally placed on the document. Immediately below my signature, in my handwriting are found the word and initials "Justice FC"; this latter notation being an abbreviation for "Justice of the Federal Court".

[5] Nothing was overlooked. Registry staff did not place the file in the 'wrong pile'. This motion for reconsideration is dismissed.

[6] The respondent requests costs in the amount of $1000 assessed personally against counsel for the applicant, Mr. Wong. The respondent contends the motion lacks merit and in addition, constitutes an attack upon the "integrity of the Court and Registry staff and offends the principal of judicial immunity and deliberative secrecy". In his written submission, which constitutes a public document, Mr. Wong, an officer of the Court, states that a review of the "court file, the physical file covers and the actual files show there is no written record of physical trace that will give the appearance that the file has been reviewed by a judge". This public statement made by an officer of the Court is inaccurate. The hand written signature of a judge, the hand written

notation of the date and the identity of the Court constitute *prima facie* proof the file has been reviewed by a judge.

[7] In the circumstances, I conclude that the attack upon the integrity of the Court, which is based upon speculation and innuendo and an inadequate verification at the Registry, constitute special circumstances under Rule 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules (Immigration Rules)* for the making of an order of costs. For the reasons set out herein, I consider this proceeding to have been incurred improperly and without reasonable cause as contemplated by Rule 404(1) of the *Immigration Rules*. In the circumstances, I agree with counsel for the respondent that this is an appropriate case for the award of costs against the applicant (Rule 22) and a direction that the solicitor, Mr. Wong, personally pay the costs of the applicant as contemplated by Rule 404(1)(a) of the Immigration Rules.

ORDER

THIS COURT ORDERS that:

1. The motion is dismissed with costs payable forthwith by the applicant to the respondent in the amount of $1000;

2. Lawrence Wong, counsel for the applicant, is directed to personally pay the costs of the applicant;

3. No order is made pursuant to Rule 404(3) of the *Immigration Rules*.

"B. Richard Bell"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5667-15
STYLE OF CAUSE:	KAI ZHAN LIANG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING (HELD BY WAY OF TELECONFERENCE):	FREDERICTON, NEW BRUNSWICK
DATE OF HEARING:	MAY 20, 2016
ORDER AND REASONS:	BELL J.
DATED:	MAY 25, 2016

APPEARANCES:

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SOLICITORS OF RECORD:

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William F. Pentney Deputy Attorney General of Canada Vancouver, B.C.	FOR THE RESPONDENT

ROCCO GALATI
Plaintiff

- and -

DONNA TOEWS, *et al.*
Defendant

Court File No.: CV-22-00683322-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

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