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 3 of 3

January 31, 2023

DEWART GLEASON LLP
Lawyers
102-366 Adelaide Street West
Toronto, ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: 416-971-8000
Facsimile: 416-971-8001

Lawyers for the defendants

TO: **ROCCO GALATI LAW FIRM PROFESSIONAL CORPORATION**
1062 College Street, lower level
Toronto ON M6H 1A9

Rocco Galati, LSO No.: 29488Q
Email: rocco@idirect.com

Telephone: (416) 773 0309

Lawyers for the plaintiff

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

INDEX

E.	Reasons for Judgment of Justice Ross dated August 29, 2022 Action4Canada et al. v. HMQ et al., Supreme Court of British Columbia, Vancouver Registry Docket S217586
F.	GoFundMe page of Canadian Society for the Advancement of Science in Public Policy Re: BC Supreme Court COVID-19 Constitutional Challenge dated January 24, 2023
G.	Homepage, Canadian Society for the Advancement of Science in Public Policy website
H.	Informational Flyer, Canadian Society for the Advancement of Science in Public Policy
I.	Amy Judd, *Anti-vaccine card protesters confront sheriffs outside B.C. Supreme Court*, Global News, September 13, 2021
J.	Keith Fraser, *Judge orders more details be provided about COVID constitutional challenge*, Vancouver Sun, October 28, 2021
K.	Elizabeth McSheffrey, *Judge rejects B.C. government's bid to drop case against COVID-19 vaccine orders,* Global News, May 6, 2022
L.	Ian Holliday, *B.C. court rejects top doctor's effort to dismiss COVID-19 vaccine mandate lawsuit*, CTV News, May 7, 2022
M.	Keith Fraser, *B.C. Supreme Court chief judge dismisses four challenges to COVID-19 health orders*, Vancouver Sun, September 13, 2022
N.	Jason Proctor, *Lawyer challenging B.C. COVID-19 orders says class action could result in 3 million claims*, CBC News, December 14, 2022
O.	Website, *Donate to Action4Canada*, Action4Canada; https://action4canada.com/donate/
P.	*Crowd Spontaneously Donates $14,000 Cash To Vaccine Choice Canada And Action4canada To Sue Bc Government*, Vimeo, uploaded by Laura-Lynn Thomspon September 16, 2020 https://vimeo.com/458823583
Q.	Balance Sheet of Action4Canada as of August 15, 2021

R.	*I Interview Tanya Gaw About The Status Of Her/Rocco Galati's Case*, Youtube, uploaded by Liberty Talk 3 September 4, 2022 https://www.youtube.com/watch?v=lxhhd1VRES0
S.	*Action4Canada -The win that you thought was a loss!,* Canadian Rights Watch, uploaded September 5, 2022 https://canadianrightswatch.com/action4canada-the-win-that-you-thought-was-a-loss/
T.	Colin Butler, *Details emerge of Vaccine Choice Canada lawsuit over coronavirus response,* CBC News, August 13, 2020
U.	Ronnie, *Another Toronto Court Challenge, But Will This One Actually Go Anywhere?,* Canuck Law, April 29, 2021
V.	Facebook Post of Yvonne Sunshiney Coelho dated July 21, 2021
W.	Ronnie, *Action4Canada Sstatement of Claim Fatally Defective, Will Never Make It To Trial,* Canuck Law, August 31, 2021
X.	*B.C. RCMP investigating website selling fake mask and vaccine exemption 'certificates',* CBC News, January 27, 2022
Y.	Facebook Post of The Angry Albertan dated May 25, 2022
Z.	Ronnie, *VCC July 6, 2020 Suit: Truth Finally Comes Out (Sort Of)*, Canuck Law, August 24, 2022
AA.	Letter correspondence from Rocco Galati to Julia Lefebvre dated July 15, 2022
BB.	Reid Small, *BC's unvaccinated doctors want to get back to work – and they hope a billboard helps them,* West Coast Standard, August 26, 2022
CC.	Colin Dacre, *COVID-Mandate lawsuit tossed for being 'bad beyond argument',* Castanet, September 1, 2022
DD.	Reid Small, *Action4Canada leadership under fire after claim tossed,* West Coast Standard, September 9, 2022
EE.	Education, *Action4Canada Pamphlet causes controversy,* Global News, September 28, 2022
FF.	Rob Gibson, *Anti-SOGI pamphlet distributed at Kelowna school parking lot,* Castanet, September 28, 2022
GG.	Ronnie, *Action4Canada Apeal Baseless, Seems Designed To Waste Time & Money,* Canuck Law, September 29, 2022

HH.	Community News, *Action4Canada accusations anger five Central Okanagan trustees,* Kelowna Capital News, October 4, 2022
II.	Rob Munro, *Kelowna school trustees lash out at 'dangerous disinformation' on sexual orientation material,* Kamloops Info News, October 4, 2022
JJ.	Wayne Moore, *SD23 trustees push back against anti-SOGI accusations,* Castanet, October 4, 2022
KK.	Terry W. Robertson, *LETTER: Voters should reject the ParentsVoiceBC slate of candidates,* Kamloops Info News, October 12, 2022
LL.	Ronnie, *Kulvinder Gill Hit With $1.1 Million Cost Award For Bringing SLAPP,* Canuck Law, November 1, 2022
MM.	Tom Blackwell, *Vaccine-doubting doctor ordered to pay $1M in legal costs after her libel suit quashed,* National Post, November 3, 2022
NN.	Ronnie, *Ottawa Files Motion To Strike Federal Vaccine Passport Suit,* Canuck Law, November 14, 2022
OO.	Email correspondence from Robyn Hill to Penny Reid dated September 23, 2022
PP.	Statement of Claim; Vaccine Choice Canada et al. v. Trudeau et al., Toronto Superior Court File CV-20-00643451-0000
QQ.	"Rocco Galati's lockdown lawsuit: Ezra Levant interviews lawyer suing Trudeau, Dr. Tam and more!", YouTube, uploaded by Rebel News September 2020
RR.	LSBC Lawyer Directory search query re 'Galati' dated December 21, 2022
SS.	Sean Fine, *The lawyer who challenged the Harper government and won,* Globe and Mail, August 22, 2014
TT.	Reasons for Order and Order of Justice Russell dated December 28, 2012; Sivak et al. v. HMQ, Federal Court file number T-1700-11
UU.	Order and Reasons of Justice Zinn dated November 20, 2014; Galati et al. v. The Right Honourable Stephen Harper et al., Federal Court filee number T-1657-13
VV.	Reasons for Judgment of the Federal Court of Appeal Panel dated February 8, 2016; Galati et al. v. The Right Honourable Stephen Harper et al., Federal Court of Appeal file number A-541-14

WW.	Order and Reasons of Justice Zinn dated July 20, 2015; Da Silva Campos et al. v. Minister of Citizenship and Immigration et al., Federal Court file number T-2502-14
XX.	Order and Reasons of Justice Russell dated February 8, 2016; Committee for Monetary and Economic Reform ("COMER") et al. v. HMQ et al., Federal Court file number T-2010-11
YY.	Order and Reasons of Jsutice Barnes dated September 16, 2016; Wang et al. v. HMQ et al., Federal Court file number T-1747-15
ZZ.	Reasons for Judgment of Justice Webb dated November 22, 2016; Almacén v. HMQ, Federal Court of Appeal file number A-108-16
AAA.	Order and Reasons of Justice Roy dated August 24, 2017; Omani et al. v. HMQ, Federal Court file number T-1774-15
BBB.	Notice of Civil Claim issued August 17, 2021; Action4Canada et al. v. HMQ et al., Supreme Court of British Columbia Vancouver registry file number VLC-S-S-21
CCC.	Reasons for Order and Order of Justice Mactavish dated July 29, 2010 Tai v. Minister of Citizenship and Immigration, Federal Court file number IMM-196-10
DDD.	Order and Reasons of Justice Bell dated May 25, 2016; Liang v. The Minister of Citizenship and Immigration, Federal Court file number IMM-5667-15
EEE.	Gabrielle Giroday, *What was he thinking?,* Canadian Lawyer, May 31, 2016
FFF.	Website, LW & Associates, https://www.lwacorp.com
GGG.	CanLII Search Results dated December 20, 2022 re query 'Lawrence Wong'
HHH.	Reasons for Decision of Justice Stewart dated February 24, 2022; Gill et al. v. Maciver et al., 2022 ONSC 1279 Endorsement on Costs of Justice Stewart dated October 31, 2022; Gill et al. v. Maciver et al., 2022 ONSC 6169
III.	Take Action Canada, *Legal Action Update, To ALL 1st Responders, Law Enforcement, EMS, Essential Municipal/Provincial Workers,* December 19, 2021

JJJ.	Rocco Galati Law Firm Professional Corporation Retainer Agreement *RE: Ontario "First Responders/Essential Workers" (police, firefighter, paramedics/ ambulance, essential workers provincial/municipal) action against coercive vaccine mandates.*
KKK.	Statement of Claim filed May 30, 2022; Adelberg et al. v. HMQ et al., Federal Court file number T-1089-22
LLL.	Rocco Galati Law Firm Professional Corporation Retainer Agreement *RE: Federal Employees Action against coercive vaccine mandate, as well as challenge to the proposed Federal "Vaccine Passports" with the possibility of certifying as a class action proceeding.*
MMM.	Notice of Motion of the respondent HMQ dated November 4, 2022; Adelberg et al. v. HMQ et al., Federal Court file number T-1089-22
NNN.	Affidavit of Amina Sherazee sworn November 29, 2022; Adelberg et al. v. HMQ et al., Federal Court file number T-1089-22
OOO.	Website, *Canadian Society for the Advancement of Science in Public Policy Frequently Asked Questions,* dated August 16, 2022
PPP.	Letter correspondence from Rocco Galati to Polina Furtula dated February 3, 2021
QQQ.	Text message correspondence from Danielle Pistilli to Action4Canada WhatsApp group chat dated February 4, 2021
RRR.	Email correspondence from Ted Kuntz to Vladislav Sobolev and Kipling Warner dated June 16, 2021
SSS.	Email correspondence from Ted Kuntz to Vladislav Sobolev and Kipling Warner dated June 18, 2021
TTT.	Letter correspondence from Kipling Warner to Tanya Gaw dated July 13, 2021
UUU.	Procedural Updates, Quote from July 13, 2022 VCC Stream, YouTube, uploaded by Canuck Law September 1, 2022
VVV.	Amended Statement of Claim dated November 9, 2022; Galati v. Greene et al., Toronto court file number CV-22-00683933-0000
WWW.	Email correspondence from Candis Elliott to Kipling Warner dated September 8, 2022
XXX.	Video Livestream of Vaccine Choice Canada dated October 19, 2022
YYY.	Email correspondence from Dennis Young to Kilping Warner dated August 11, 2022

3.	Affidavit of Deepankar Gandhi affirmed January 27, 2023
A.	Email correspondence from Deepankar Gandhi to Dan Dicks, Press for Truth, dated January 27, 2021
B.	Press for Truth video blog dated July 19, 2022 (hyperlink)
C.	Press for Truth video interview with Maxime Bernier posted October 8, 2022
D.	*This Isn't Over!! "There Are Still Canadians Unable To Go Back To Their Jobs"* Maxine Bernier on PFT!. Odysee, uploaded by Press for Truth October 8, 2022 https://odysee.com/@PressForTruth:4/This-Isn't-Over:9
E.	*"According To Trudeau I'm An Extremist" TREND GOES VIRAL!!!.* Odysee, uploaded by Press for Truth September 16, 2022 https://odysee.com/@PressForTruth:4/According-To-Trudeau:7?r=HCcJmrURcKNKrHsBTHd6Z2oCfPFzXnmW
F.	Colin Perkel, *"Court slams 'gonzo logic' in wake of failed Nadon appointment", Maclean's*, February 19, 2016 https://www.macleans.ca/politics/ottawa/court-slams-gonzo-logic-in-wake-of-failed-nadon-appointment/
4.	Affidavit of Donna Towes affirmed January 27, 2023
A.	Email correspondence from Vaccine Choice Canada to Donna Toews dated June 19, 2020 through December 20, 2021
5.	Affidavit of Vladislav Sobolev affirmed January 27, 2023
6.	Affidavit of Federico Fuoco affirmed January 30, 2023
A.	Email correspondence from Federico Fuoco to Rocco Galati dated August 15, 2021

EXHIBIT “EEE”

What was he thinking?

This is Exhibit "EEE" 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

By Gabrielle Giroday
31 May 2016 / Share

Law Times added comment from Lawrence Wong on December 12, 2017.

A judge has ruled against a Vancouver lawyer for alleging the judge did not review a file related to an immigration case. The lawyer, Lawrence Wong, was ordered to pay $1,000 by Federal Court Justice Richard Bell.

In March, Bell had dismissed an application for leave and judicial review in a case by Kai Zhan Liang. According to the ruling, an associate from Wong's firm had gone to the Vancouver Registry Office to review a file, and alleged there were no signs Bell had gone through it.

The associate said in a deposition that there was "no marking, sticky note, hand writing, bent corner, crease or any other discernible sign of them having been read," and also said he saw no signature of a justice of the federal court.

"The original position of the applicant, denied at the oral hearing of this matter . . . 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," said the ruling, in *Liang v. Canada (Citizenship and Immigration)*.

At a hearing May 20, Wong allegedly backed away from saying the judge hadn't read the file, and instead said it may have been put in the wrong place.

"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," said the ruling.

Bell says the allegations were wrong on a number of counts, including the fact the allegations were founded on a notion that a judge would mark a publicly accessible file. He also said it "seems to presume a justice will make markings on court documents rather than in a bench book."

The judge says in response to the allegations, he consulted the registry in Ottawa, and located his signature and date on the document in question, as well as his initials.

"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,"

Bell called the allegations "an attack upon the integrity of the Court" that were "based upon speculation and innuendo and an inadequate verification at the Registry," and ordered Wong to personally pay $1,000.

"Nothing was overlooked. Registry staff did not place the file in the 'wrong pile.' This motion for reconsideration is dismissed," said the ruling.

Patricia Virc, a lawyer with Steinberg Title Hope & Israel LLP, says it was "kind-of a shocking thing for a lawyer to do" and she was "not surprised" costs were ordered against the lawyer personally.

"This was a very misguided approach to challenging a decision," she says.

Robin Seligman, a senior immigration lawyer with Seligman Law PC, said this was "a fair decision by the court and registry."

"It was frivolous and inappropriate for the lawyer to suggest that the judge had not read the file," Robin Seligman told *Legal Feeds*.

Lawrence Wong said in an email statement to *Legal Feeds* that he did "not find anything bizarre except the fact that leave was not granted for such a worthwhile case."

"The case was about a widowed mother not being allowed family reunification with her children in Canada even though all her children and grandchildren have lived here for many years. Her son's income was found to be insufficient to sponsor her after the Immigration Appeal Division had retroactively applied a new and higher income (by 30 per cent) requirement on him," he said.

Wong added that in Canada," when the official narrative is [that] we welcome immigrants, we have a judicial system that restricts immigrants' access to justice."

"The Federal Court is one place where immigrants cannot judicially review decisions as of right affecting their removal, sponsorship of close family members and citizenship applications. . ."

Wong said if clients are able to make it "to the Federal Court for judicial review, but later lose the judicial review" that they will subsequently "need the same judge who turned down their case to give them a chance to appeal, by way of a certified question of general importance."

Editor's note: Although attempts were made to contact him, Lawrence Wong claimed that he was not contacted for a response and so provided one to Legal Feeds, which was added Dec. 12, 2017.

Recent articles & video

SCC hears case about how administrative tribunals determine...

Construction contracts, dispute settlement process shifts with...

Vote for Canadian Lawyer's top regional firms in Ontario

Cecilia Barnes' dedication to helping entrepreneurs broug...

Competition Bureau invites comments on new guidelines for...

Retired Quebec Chief Justice Jacques Fournier joins BLG's disputes...

Most Read Articles

SCC hears case with implications for online privacy

17 Jan 2023

Janice Rubin of Rubin Thomlinson on breaking the boys club in...

17 Jan 2023

Robust regulatory scheme likely saved Canadian crypto trading...

20 Jan 2023

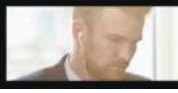
Trustees stress board directors must understand legal obligatio...

18 Jan 2023

Law Times
Canadian Law List
Lexpert® Rising Stars
Canadian Law Awards

Canadian Lawyer subscription
Newsletter
Digital editions
Authors
External contributors
Editorial board
Sitemap
RSS

Advertise
About us
Contact us
Privacy
Terms of Use
Terms & Conditions
Submit your move



Subscribe to CL Talk, a new weekly podcast brought to you by the *Canadian Lawyer*, *Law Times* and *Lexpert* editorial team

Learn more >

EXHIBIT “FFF”

LW & ASSOCIATES (/)

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

Our Services

Corporate Law

No matter what size your business is, there are always various kinds of obstacles that you may come across as you grow. We help your success become reality, so that you can do what you do best.

LEARN MORE (/CORPORATE)

Real Estate Law

Buying or selling property really is exciting, but the truth is that it also comes with stressful and confusing times. With so many moving parts, the pressure of all the legal paperwork involved can be overwhelming. Let us help you. We've helped countless buyers and sellers every year to make sure their sale or purchase goes smoothly, and free of worry.

LEARN MORE (/REAL-ESTATE)

Immigration Law

We have assisted with over 2,000 immigration cases over the last 30 years and we are proudly Canadian. Immigration can be a stressful and time-consuming process. LW & Associates is equipped with the experience and skills to help you achieve your immigration objectives.

LEARN MORE (/IMMIGRATION)

Civil Litigation

Civil litigation is a complicated process, but many times a necessary one. We will passionately advocate for your interests, with a thorough understanding of the facts and the law.

LEARN MORE (/REAL-ESTATE-1)

Immigration

Immigration can be a long complicated process with many hurdles, as the laws and procedures are constantly changing. Consult with our lawyers to accurately assess your application. Ensure that your application goes through without any unforeseen obstacles, and get advice on what options are available in your specific case. With our extensive experience in Canada's immigration system, your new life in Canada is in good hands.

Our immigration law services include:

Permanent Resident Applications

- Federal Skilled Worker Program
- Federal Skilled Trades Program
- Canadian Experience Class
- Provincial Nominee Program
- Humanitarian & Compassionate
- Permanent Resident Card Renewal

Family Sponsorship

- Common-Law Partner
- Conjugal Partner
- Spousal
- Parents & Grandparents
- Provincial Family Class
- Dependent Child & Other

Temporary Residency

- Visitor Visa
- Study Permit
- Work Permit
- Business Visitor Visa

- Youth Mobility Program

Additional Services Offered

- General Consultation
- Letters of Invitation
- Canadian Citizenship
- Start-up Visa

REQUEST A CONSULTATION (/HIRE-US)

EXHIBIT "GGG"

CanLII

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

"Lawrence Wong"

Case name, document title, file number, author or citation

Noteup/Discussion: cited case names, legislation titles, citation

Cases

All jurisdictions All courts and tribunals Any date By relevance

1. Geng v. Canada (Public Safety and Emergency Preparedness), 2017 FC 1155 (CanLII)
Federal Court — Canada (Federal)
2017-12-14 | 12 pages | cited by 31 documents
misrepresentation — residency — application — error in the administration — induce an error

2. Bankruptcy of Syntec Biofuel Inc., 2007 BCSC 656 (CanLII)
Supreme Court of British Columbia — British Columbia
2007-05-11 | 16 pages
bankruptcy — creditors — assets — offer — annulment

3. Lin v. Kuo, 2009 CanLII 25310 (ON SC)
Superior Court of Justice — Ontario
2009-05-21 | 11 pages
motion — security for costs — settlement — affidavits — cross-examinations
Practice and procedure

4. Mung c. Canada (Citoyenneté et Immigration), 1997 CanLII 16861 (CF)
Federal Court — Canada (Federal)
1997-07-16 | 4 pages
contrôle judiciaire — affidavit — délai — établi sous serment — agent des visas

5. Tai v. Canada (Citizenship and Immigration), 2010 FC 788 (CanLII)
Federal Court — Canada (Federal)
2010-07-29 | 2 pages | cited by 3 documents
appearing on his own affidavit — personally — adjournment — costs — clients

6. Canada (Minister of Citizenship and Immigration) v. Lam, 1999 CanLII 7527 (FC)
Federal Court — Canada (Federal)
1999-02-09 | 3 pages
citizenship — resident — person — attachment — absences

7. Hu v. Canada (Minister of Citizenship and Immigration), 2003 FC 1312 (CanLII)
Federal Court — Canada (Federal)
2003-11-07 | 5 pages | cited by 1 document
residence — overseas — citizenship — centralized their life — assignment

8. Liao v. Canada (Minster of Citizenship and Immigration), 2001 FCT 1273 (CanLII)
Federal Court — Canada (Federal)
2001-11-20 | 1 page
proficiency — redetermination — quashing — error — reviewable

9. Liang v. Canada (Citizenship and Immigration), 2016 FC 569 (CanLII)
Federal Court — Canada (Federal)
2016-05-25 | 3 pages | cited by 3 documents
file — reconsideration — pile — typed portion — deposes

10. LS Entertainment Group inc. et al v. Wong et al, 2000 BCSC 1789 (CanLII)
Supreme Court of British Columbia — British Columbia
2000-12-15 | 25 pages | cited by 12 documents
confidential information — conflict of interest — firm — copyrights — deposes

11. Wong v. Canada (Citizenship and Immigration), 2016 FCA 229 (CanLII)
Federal Court of Appeal — Canada (Federal)
2016-09-15 | 7 pages | cited by 13 documents
bar against appeals — removed from the file — constitutional — reconsideration motion — notice

12. Wong v. Canada (Citizenship and Immigration), 2007 FC 949 (CanLII)
Federal Court — Canada (Federal)
2007-09-21 | 7 pages | cited by 1 document
underlying application for judicial review — adequate alternative remedy — jurisdiction — improperly constituted — motion

13. Li v. Canada (Citizenship and Immigration), 2011 FC 1468 (CanLII)
Federal Court — Canada (Federal)
2011-12-13 | 5 pages
judicial review — application for permanent residence — sponsorship — visa office — costs

14. So v. Canada (Minister of Citizenship and Immigration), 1998 CanLII 7234 (FC)
Federal Court — Canada (Federal)
1998-01-08 | 4 pages
commercial venture — entrepreneur — participation in the management — substantial investment in a business — ability

15. R. v. Poon and Wong, 2006 BCSC 869 (CanLII)
Supreme Court of British Columbia — British Columbia
2006-06-05 | 49 pages | cited by 5 documents
lawyer — police — tell — interview — call

16. Chang v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 8832 (FC)
Federal Court — Canada (Federal)
1999-09-29 | 5 pages
citizenship — ginseng — days — absences — physical presence

17. Lam v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 8146 (FC)
Federal Court — Canada (Federal)
1999-05-19 | 2 pages
video-tape — tape — cross-examination — transcript — wishes a copy

18. Dragan v. Canada (Minister of Citizenship and Immigration), 2003 FCT 281 (CanLII)
Federal Court — Canada (Federal)
2003-03-07 | 9 pages | cited by 2 documents
writs of mandamus — applications — certified — selection criteria — moot

19. Li v. Canada (Citizenship and Immigration), 2012 FC 904 (CanLII)
Federal Court — Canada (Federal)
2012-07-19 | 7 pages
hardship — passport — suicide — permanent residence status — admissibility

20. Wu v. Canada (Minister of Citizenship and Immigration), 2000 CanLII 16653 (FC)
Federal Court — Canada (Federal)
2000-12-13 | 1 page
landing — error — centralized — fundamental — find

21. Canada (Minister of Citizenship and Immigration) v. Chang, 1999 CanLII 7469 (FC)
Federal Court — Canada (Federal)
1999-01-12 | 2 pages
residence — established — export — abroad — preceding

22. Canada (Minister of Citizenship and Immigration) v. Lan, 1999 CanLII 7471 (FC)
Federal Court — Canada (Federal)
1999-01-27 | 2 pages
abroad — husband — citizen — masters degree — residence

23. Rosemont Management /McCaul Leasehold Management v. Cityzien Properties, 2022 ONSC 5237 (CanLII)
Superior Court of Justice — Ontario
2022-11-02 | 3 pages
intervenors — sought — patties — uploaded — costs
Practice and procedure

24. Lee v. Canada (Minister of Citizenship and Immigration), 1998 CanLII 9010 (FC)
Federal Court — Canada (Federal)
1998-12-17 | 2 pages
improper as to be bereft — visa officer — motion — programme manager — bereft of any possibility

25. Lawrence Wong (Barrister and Solicitor), et al. v. Minister of Citizenship and Immigration, 2017 CanLII 8569 (SCC)
Supreme Court of Canada - Applications for Leave — Canada (Federal)
2017-02-23 | 1 page
daté — fédérale — autorisation — rejetée — arrêt

26. Canada (Minister of Citizenship and Immigration) v. Gu, 2000 CanLII 15443 (FC)
Federal Court — Canada (Federal)
2000-05-26 | 4 pages
residence — citizenship — person — chemical — off-shore

27. Lin v. Canada (Public Safety and Emergency Preparedness), 2021 FCA 81 (CanLII)
Federal Court of Appeal — Canada (Federal)
2021-04-21 | 4 pages | cited by 14 documents
delegates — inadmissibility — applications for judicial review — threshold — administrative

28. Huang v. Canada (Minister of Citizenship and Immigration), 2006 FC 507 (CanLII)
Federal Court — Canada (Federal)
2006-04-21 | 9 pages | cited by 2 documents
percentage of equity — entrepreneur — outstanding voting shares — control — qualifying business

29. Canada (Minister of Citizenship and Immigration) v. Dragan, 2003 FCA 139 (CanLII)
Federal Court of Appeal — Canada (Federal)
2003-03-12 | 6 pages | cited by 5 documents
expedited — irreparable harm — will — timetable — mootness

30. Tam v. Canada (Citizenship and Immigration), 1997 CanLII 16712 (FC)
Federal Court — Canada (Federal)
1997-05-07 | 4 pages | cited by 3 documents
visa officer — on-going participation in the management — business — ability to provide active — entrepreneur

31. Zhang v. Canada (Citizenship and Immigration), 2010 FC 75 (CanLII)
Federal Court — Canada (Federal)
2010-01-21 | 5 pages | cited by 18 documents
e-mail address — e-mail to communicate — e-mail communication — visa officer — spam

32. Wu v. Canada (Citizenship and Immigration), 2013 FC 614 (CanLII)
Federal Court — Canada (Federal)
2013-06-07 | 5 pages | cited by 2 documents
full-time basis by a business — rules of procedural fairness — employed on a full-time basis — documentation — residency

33. Zhu v. Canada (Minister of Citizenship and Immigration), 2000 CanLII 16222 (FC)
Federal Court — Canada (Federal)
2000-09-25 | 3 pages | cited by 1 document
cross-examination — missing — investor immigrant — supplemental — affidavit

34. Ho v. Canada (Citizenship and Immigration), 1997 CanLII 6167 (FC)
Federal Court — Canada (Federal)
1997-08-14 | 5 pages
visa officer — investor — net worth — directed a business — controlled

35. Zhang v. Canada (Public Safety and Emergency Preparedness), 2021 FC 746 (CanLII)
Federal Court — Canada (Federal)
2021-07-15 | 14 pages | cited by 6 documents
money laundering — integration — inadmissible — judicial review — conviction certificates

36. Chen v. Canada (Public Safety and Emergency Preparedness), 2020 FC 425 (CanLII)
Federal Court — Canada (Federal)
2020-03-27 | 17 pages | cited by 5 documents
inadmissible — admissibility — legitimate expectations — procedural fairness — family member

37. SDAB2018-0036 (Re), 2018 CGYSDAB 36 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2018-10-11 | 18 pages
proposed development — common amenity space — units — parcel — buildings

38. Canada (Citizenship and Immigration) v. Tian, 2018 FC 65 (CanLII)
Federal Court — Canada (Federal)
2018-01-23 | 5 pages | cited by 4 documents
humanitarian — compassionate — inadmissibility — removal — review

39. Zhu v. Canada (Minister of Citizenship and Immigration), 2002 FCT 81 (CanLII)
Federal Court — Canada (Federal)
2002-01-24 | 10 pages
visa officer — interview — application — scheduled — attend

40. T. M. Engineering Ltd. (Re), 1998 CanLII 30425 (BC EST)
British Columbia Employment Standards Tribunal — British Columbia
1998-02-03 | 10 pages
employment — fired — customer — delegate — enlarge

41. Liu v. Canada (Citizenship and Immigration), 2014 FC 42 (CanLII)
Federal Court — Canada (Federal)
2014-01-15 | 7 pages | cited by 3 documents
visa application — selection criteria — requirements — legislation — terminated

42. Canada (Citizenship and Immigration) v. Yaqoob, 2005 FC 1017 (CanLII)
Federal Court — Canada (Federal)
2005-07-22 | 10 pages | cited by 5 documents
refugee — evidence — terrorist — organization — complicity

43. Pua v Canada (Public Safety and Emergency Preparedness), 2012 CanLII 101837 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-11-14 | 3 pages
compassionate considerations — humanitarian — five-year period — university — education

44. Li v. Canada (Immigration, Refugees and Citizenship), 2021 FC 803 (CanLII)
Federal Court — Canada (Federal)
2021-07-29 | 7 pages
cards — permanent resident card — résident permanent — mandamus — carte

45. Zheng v. Canada (Immigration, Refugees and Citizenship), 2021 FC 616 (CanLII)
Federal Court — Canada (Federal)
2021-06-16 | 11 pages | cited by 7 documents
relationship — conjugal — common-law partnership — marriage — sponsorship

46. Wang v. Canada (Citizenship and Immigration), 2014 FC 1187 (CanLII)
Federal Court — Canada (Federal)
2014-12-10 | 11 pages
citizenship — adequate knowledge — test — procedural fairness — re-test the applicant s knowledge

47. Lo v. Canada (Citizenship and Immigration), 2007 FC 799 (CanLII)
Federal Court — Canada (Federal)
2007-07-31 | 13 pages
daughter — residency — stroke — evidence — son-in-law

48. Wang v. Canada (Minister of Citizenship and Immigration), 2002 FCT 146 (CanLII)
Federal Court — Canada (Federal)
2002-02-08 | 12 pages | cited by 2 documents
personal suitability — interview — visa officer erred — breach of procedural fairness — cross-examination

49. Wen v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 7671 (FC)
Federal Court — Canada (Federal)
1999-03-10 | 4 pages | cited by 2 documents
personal suitability — resourcefulness — visa officer — assessment — adaptability

50. Lo v. Canada (Minister of Citizenship and Immigration), 2002 FCT 1155 (CanLII)
Federal Court — Canada (Federal)
2002-11-07 | 12 pages | cited by 12 documents
visa officer — criminal equivalency — offence — functus officio — possession of an offensive weapon

51. Zhou v. Canada (Public Safety and Emergency Preparedness), 2012 CanLII 59857 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-02-22 | 3 pages
removal order on its face — submitted — validly issued — syntax — grammar

52. Zhou v. Canada (Citizenship and Immigration), 2010 FC 1230 (CanLII)
Federal Court — Canada (Federal)
2010-12-07 | 10 pages | cited by 2 documents
foreign national — visa officer — inadmissible — selection — documents

53. Deng v. Canada (Public Safety and Emergency Preparedness), 2008 FCA 234 (CanLII)
Federal Court of Appeal — Canada (Federal)
2008-07-10 | 2 pages | cited by 1 document
deceased — application — jurisdiction — hear — judicial review

54. Qian v. Canada (Public Safety and Emergency Preparedness), 2012 CanLII 61945 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-02-10 | 6 pages
employment — appointment — reasonable apprehension of bias application — press release — viewing the matter realistically

55. SDAB2017-0091 (Re), 2017 CGYSDAB 91 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2017-12-28 | 17 pages
rooftop amenity space — development — building — relaxations — parking

56. Lin v. Canada (Public Safety and Emergency Preparedness), 2019 FC 862 (CanLII)
Federal Court — Canada (Federal)
2019-06-26 | 13 pages | cited by 19 documents
residency — misrepresentation — inadmissibility — admissibility — permanent

57. Dhalla v. Canada (Minister of Citizenship and Immigration), 2006 FC 100 (CanLII)
Federal Court — Canada (Federal)
2006-01-31 | 2 pages | cited by 6 documents
permanent residence — attack — collateral — wrongful — negligence

58. Fan v. Canada (Citizenship and Immigration), 2016 FC 696 (CanLII)
Federal Court — Canada (Federal)
2016-06-21 | 2 pages | cited by 2 documents
fraudulent — procedural fairness — misrepresentation — immigration — prospective

59. Zhang v Canada (Public Safety and Emergency Preparedness), 2015 CanLII 80476 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-05-28 | 3 pages
residency — delegate — humanitarian — compassionate — shortfall

60. Yang v. Canada (Citizenship and Immigration), 2010 CanLII 94599 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-08-13 | 4 pages
marriage is genuine — memory — discrepancy — character — entered into primarily to acquire

61. Wen v. Canada (Public Safety and Emergency Preparedness), 2008 CanLII 44023 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-01-24 | 16 pages
adult — minor — husband — residency — sister

62. Wong v. Canada (Citizenship and Immigration), 2011 FC 971 (CanLII)
Federal Court — Canada (Federal)
2011-08-02 | 15 pages | cited by 10 documents
removal orders — five-year period — permanent resident — delegate — compassionate considerations

63. Wang v Canada (Citizenship and Immigration), 2016 CanLII 70646 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2016-07-18 | 3 pages
sponsor — truthfully — visa — evidence — refusal

64. Kuo-Ting v. Canada (Citizenship and Immigration), 1997 CanLII 16718 (FC)
Federal Court — Canada (Federal)
1997-05-07 | 2 pages
visa officer — entrepreneur — business — ability — immigrant

65. Kuang v. Canada (Citizenship and Immigration), 2008 CanLII 77848 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-09-24 | 4 pages | cited by 1 document
marriage — visa officer — genuine — evidence — entered into primarily to acquire

66. Liang v. Canada (Citizenship and Immigration), 2011 FC 541 (CanLII)
Federal Court — Canada (Federal)
2011-05-10 | 16 pages | cited by 3 documents
declaration — reasonable apprehension of bias — fake — interview — marriage

67. R. v. Barkow, 2008 ONCJ 84 (CanLII)
Ontario Court of Justice — Ontario
2008-02-27 | 22 pages | cited by 9 documents
sentence — cocaine — trafficking — thereby committing an offence — grams
Criminal | Sentencing

68. Wang v. Canada (Citizenship and Immigration), 2010 FC 841 (CanLII)
Federal Court — Canada (Federal)
2010-08-25 | 13 pages | cited by 1 document
processing — citizenship application — delay — mandamus — investigation

69. Zhu v. Canada (Citizenship and Immigration), 2013 FC 155 (CanLII)
Federal Court — Canada (Federal)
2013-02-15 | 13 pages | cited by 8 documents
breach of procedural fairness — visa officer — undecided — perfect his application — letter

70. Lee v. Li, 2001 BCSC 434 (CanLII)
Supreme Court of British Columbia — British Columbia
2001-03-22 | 12 pages
trembling — fraud — handwriting — characters — tremor

71. Tran v Tate, 2020 CanLII 120620 (ON LTB)
Landlord and Tenant Board — Ontario
2020-09-04 | 3 pages
eviction — tenancy — rent deposit — pay — owing

72. Li v. Canada (Citizenship and Immigration), 2011 CanLII 64840 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-05-27 | 5 pages
five-year period — late disclosure — client — departure — permanent resident

73. Chen v. Canada (Minister of Citizenship and Immigration), 2006 FC 85 (CanLII)
Federal Court — Canada (Federal)
2006-01-27 | 3 pages | cited by 26 documents
standard of review is correctness — residence — citizenship — days — absence

74. Chiu v. Canada (Minister of Citizenship and Immigration), 2005 FC 1036 (CanLII)
Federal Court — Canada (Federal)
2005-07-26 | 1 page | cited by 1 document
negative credibility finding — explanation — discrepancies — impugning — citizenship

75. He v Canada (Citizenship and Immigration), 2013 CanLII 99892 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-11-05 | 2 pages
sponsor — joint recommendation — application — permanent resident visa — officer

76. Canada (Minister of Citizenship and Immigration) v. Wu, 1999 CanLII 7664 (FC)
Federal Court — Canada (Federal)
1999-03-30 | 4 pages
residence — citizenship — preceding — standard of review — requirement

77. Wang v Canada (Citizenship and Immigration), 2016 CanLII 98575 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2016-11-21 | 5 pages
breach of natural justice — sponsor — jurisdiction to re-open — compassionate considerations — application

78. Zhang v Canada (Citizenship and Immigration), 2019 CanLII 138281 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2019-10-03 | 6 pages
divorce — dissolved primarily — second spouse — find — sponsor

79. Li v. Canada (Citizenship and Immigration), 2011 CanLII 91713 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-11-21 | 3 pages
visa — compassionate considerations — humanitarian — processing — permanent resident

80. Stephen v. Canada (Minister of Citizenship and Immigration), 1997 CanLII 5528 (FC)
Federal Court — Canada (Federal)
1997-09-10 | 3 pages
visa officer — self-employed person — significant contribution to the economy — self-employed category — artistic

81. Huang v. Canada (Citizenship and Immigration), 2013 FC 576 (CanLII)
Federal Court — Canada (Federal)
2013-05-29 | 19 pages | cited by 44 documents
physical presence test — test for citizenship — interview — jurisprudence — procedural fairness

82. Kurotsu v. Canada (Citizenship and Immigration), 1997 CanLII 16152 (FC)
Federal Court — Canada (Federal)
1997-01-06 | 3 pages
visa officer — application for permanent residence — job validation — qualify for immigration — suitability

83. Tan v Canada (Citizenship and Immigration), 2018 CanLII 115182 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2018-10-03 | 8 pages
lived in a common-law relationship — doctrine of res judicata applies — breach of procedural fairness — couple lived in a common-law — special circumstances

84. He v. Canada (Citizenship and Immigration), 2009 CanLII 36250 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2009-01-16 | 5 pages
visa officer — marriage — couple — family members — genuine

85. Qin v. Canada (Minister of Citizenship and Immigration), 2002 FCT 1154 (CanLII)
Federal Court — Canada (Federal)
2002-11-08 | 16 pages | cited by 16 documents
visa officer — experience as a dental hygienist — units of assessment — redetermination — cross-examination on affidavit

86. Vas v. Canada (Citizenship and Immigration), 2010 CanLII 95132 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-06-15 | 6 pages
marriage — panel — genuine — evidence — trip

87. Canada (Minister of Citizenship and Immigration) v. Wong, 1999 CanLII 7522 (FC)
Federal Court — Canada (Federal)
1999-02-09 | 3 pages
citizenship — residence — absences — person — attachment

88. Wan v Canada (Citizenship and Immigration), 2017 CanLII 64227 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2017-07-11 | 5 pages
sponsorship application — permanent resident visas — index — minimum necessary income — foreign

89. Lin v. Canada (Public Safety and Emergency Preparedness), 2010 CanLII 85542 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-01-05 | 5 pages
humanitarian — taking into account the best — residency — compassionate considerations — degree of establishment

90. Wu v. Canada (Citizenship and Immigration), 2007 CanLII 70957 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-12-07 | 5 pages
marriage — genuine — visa officer — wedding — purpose of acquiring

91. Fraser v New Concept Quality Doors Ltd., 2017 ONSC 1804 (CanLII)
Superior Court of Justice — Ontario
2017-03-21 | 5 pages
undertakings refusals motion — proceeding — success on the undertakings refusals — motion in the all-inclusive amount — removal
Practice and procedure

92. Ye v. Canada (Citizenship and Immigration), 2010 CanLII 94162 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-08-26 | 7 pages
relationship — visa — photographs — genuine — marriage

93. Hui v. Canada (Minister of Citizenship and Immigration), 1997 CanLII 16157 (FC)
Federal Court — Canada (Federal)
1997-01-09 | 3 pages
visa officer — business — entrepreneur — vegetarian restaurant — profits

94. Shen v. Canada (Citizenship and Immigration), 2009 CanLII 82872 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2009-08-07 | 4 pages
five-year period — residency obligation — humanitarian — compassionate considerations — ties

95. Hui v. Canada (Minister of Citizenship and Immigration), 1997 CanLII 4749 (FC)
Federal Court — Canada (Federal)
1997-01-09 | 3 pages
visa officer — business — entrepreneur — vegetarian restaurant — profits

96. Canada (Minister of Citizenship and Immigration) v. Chen, 2005 FCA 56 (CanLII)
Federal Court of Appeal — Canada (Federal)
2005-02-03 | 5 pages | cited by 4 documents
application for judicial review — convert — idem — quash — motion

97. Lee v. Canada (Public Safety and Emergency Preparedness), 2008 CanLII 44037 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-03-10 | 10 pages
ties — young — residency obligation — family — self-esteem

98. Zheng v Canada (Citizenship and Immigration), 2015 CanLII 97936 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-02-10 | 7 pages
visa office — balance of probabilities — genuine — marriage — find

99. Ou v. Canada (Citizenship and Immigration), 2011 CanLII 88137 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-09-14 | 7 pages
visa officer — marriage — interview — spent — father s funeral

100. Chu v. Canada (Citizenship and Immigration), 2008 FC 905 (CanLII)
Federal Court — Canada (Federal)
2008-07-24 | 4 pages | cited by 1 document
functional residence — days — established — periods — citizenship

101. Yang v Canada (Citizenship and Immigration), 2020 CanLII 113757 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2020-11-07 | 4 pages
removal — special relief — failed to observe a principle — natural justice — stay

102. Yip v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 8557 (FC)
Federal Court — Canada (Federal)
1999-08-25 | 6 pages
citizenship — country — absences — residence — attachment

103. Richter v Stratton, 2020 BCSC 654 (CanLII)
Supreme Court of British Columbia — British Columbia
2020-04-29 | 22 pages | cited by 2 documents
deck — strata — owners — rear — access

104. Chiu v. Canada (Minister of Citizenship and Immigration), 2005 FC 1671 (CanLII)
Federal Court — Canada (Federal)
2005-12-08 | 6 pages | cited by 1 document
younger daughters — removal — compassionate considerations — eldest daughter — humanitarian

105. Wang v Canada (Public Safety and Emergency Preparedness), 2012 CanLII 99505 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-10-23 | 7 pages
residency obligation — five-year period — compassionate considerations warrant special relief — best interests of a child — permanent resident

106. Campbell v. British Columbia, 1984 CanLII 670 (BC SC)
Supreme Court of British Columbia — British Columbia
1984-02-10 | 5 pages
rent controls — rentalsman — landlord — residential premises — amount

107. Canada (Minister of Citizenship and Immigration) v. Truong, 1998 CanLII 7379 (FC)
Federal Court — Canada (Federal)
1998-02-03 | 6 pages
adjudicator — term of imprisonment — convicted of an offence — imposed — determination

108. Zhang v. Canada (Citizenship and Immigration), 2014 FC 362 (CanLII)
Federal Court — Canada (Federal)
2014-04-15 | 6 pages | cited by 6 documents
shortfall — residency — compassionate considerations — removal — humanitarian

109. Lam v. Canada (Minister of Citizenship and Immigration), 1998 CanLII 8738 (FC)
Federal Court — Canada (Federal)
1998-11-10 | 4 pages | cited by 1 document
attend a swearing-in ceremony — anonymous letter — citizenship swearing-in ceremony — notification — advised

110. Canada (Minister of Citizenship and Immigration) v. Wong, 1998 CanLII 8801 (FC)
Federal Court — Canada (Federal)
1998-11-30 | 4 pages
integration into society — attachment — absences — abroad — student

111. Zeng v. Canada (Citizenship and Immigration), 2005 CanLII 59374 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2005-06-23 | 7 pages
marriage — panel finds — visa officer — genuine — permanent resident

112. Yang v Canada (Public Safety and Emergency Preparedness), 2013 CanLII 99737 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-08-27 | 8 pages
post-refusal period — removal orders — compassionate considerations — taking into account the best — humanitarian

113. Thai Agri Foods v. Choy Foong Trading, 2013 ONSC 883 (CanLII)
Superior Court of Justice — Ontario
2013-02-07 | 6 pages | cited by 5 documents
contract — agreement — settlement — counter-offer — terms
Contracts | Practice and procedure

114. Lam v. Canada (Citizenship and Immigration), 2008 CanLII 77980 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-12-16 | 8 pages
return — application — permanent resident — physically — travel

115. Tan v. Canada (Citizenship and Immigration), 2019 FC 668 (CanLII)
Federal Court — Canada (Federal)
2019-05-13 | 6 pages | cited by 2 documents
member of the family class — application of res judicata — staying — non-accompanying family member — sponsorship

116. Deng Estate v. Canada (Public Safety and Emergency Preparedness), 2009 FCA 59 (CanLII)
Federal Court of Appeal — Canada (Federal)
2009-02-26 | 5 pages | cited by 25 documents
extension of time — application for judicial review — motions — jurisdiction — leave

117. Hsu v. Canada (Public Safety and Emergency Preparedness), 2006 CanLII 52351 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2006-12-12 | 7 pages
sister — elder — retrospective — departure — residency

118. Bing Ma v. Canada (Citizenship and Immigration), 2007 FC 587 (CanLII)
Federal Court — Canada (Federal)
2007-06-06 | 7 pages | cited by 1 document
citizenship — four-year period — residency requirement — test — days

119. Chan (Re), 1998 CanLII 8805 (FC)
Federal Court — Canada (Federal)
1998-11-30 | 5 pages
centralized her mode of living — application for citizenship — abroad — residence — student

120. Chak v. Canada (Citizenship and Immigration), 2010 CanLII 81098 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-04-29 | 8 pages
marriage — brother — meeting — testimony — wife

121. Zhang v Canada (ublic Safety and Emergency Preparedness), 2014 CanLII 93972 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-01-09 | 8 pages
removal — children — best interests — evidence — positive factor

122. Cheung v Canada (Citizenship and Immigration), 2013 CanLII 99894 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-12-02 | 9 pages
marriage — balance of probabilities — visa officer — sisters — godparents

123. Luo c Canada (Citoyenneté et Immigration), 2014 CanLII 66626 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-08-18 | 10 pages
sponsor — temporary pause — applications — processing — permanent resident

124. Tian v Canada (Public Safety and Emergency Preparedness), 2017 CanLII 61304 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2017-07-04 | 6 pages | cited by 1 document
residency obligation — removal — five-year period — footnote — permanent resident

125. Xiu v Canada (Public Safety and Emergency Preparedness), 2018 CanLII 72624 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2018-05-30 | 7 pages
absences — residency obligation — application — misrepresentation — days

126. Liang v. Canada (Citizenship and Immigration), 2008 CanLII 77847 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-09-26 | 8 pages
sponsor — visa officer — visit — met — ex-wife

127. Feng v Canada (Citizenship and Immigration), 2014 CanLII 87358 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-08-10 | 7 pages
five-year period — daughter — husband — residency obligation — liver

128. Yan v Canada (Citizenship and Immigration), 2014 CanLII 98247 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-07-17 | 7 pages
sponsor — joint recommendation — reunited — humanitarian — compassionate

129. Gau v. Canada (Minister of Citizenship and Immigration), 2006 FC 1258 (CanLII)
Federal Court — Canada (Federal)
2006-10-23 | 6 pages | cited by 1 document
social services — visa officer — reasonably be expected to cause — application for judicial review — willingness

130. Shen v Canada (Citizenship and Immigration), 2015 CanLII 73191 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-01-27 | 7 pages
five-year period — foreign assignment — child directly affected — residency obligation — outside

131. SDAB2021-0081a&b (Re), 2021 CGYSDAB 81 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2022-02-03 | 11 pages
existing retaining wall — development permit — relaxation — proposed retaining wall — property

132. Su v Canada (Public Safety and Emergency Preparedness), 2015 CanLII 78018 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-04-09 | 7 pages
five-year period — permanent resident — child directly affected — humanitarian — compassionate

133. Liu v. Canada (Citizenship and Immigration), 2012 CanLII 61061 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-03-30 | 7 pages
marriage — visa — entered into primarily — status — genuine

134. Gao v. Canada (Citizenship and Immigration), 2008 CanLII 45216 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-02-15 | 7 pages
spouse — divorce from her ex-husband — entered into primarily — husband — genuine

135. Wu v Canada (Public Safety and Emergency Preparedness), 2014 CanLII 104470 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-06-26 | 9 pages
daughter — child — immigration — wedlock — husband

136. Nghiem v. Canada (Citizenship and Immigration), 2009 CanLII 83078 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2009-02-12 | 10 pages
marriage — couple — lives — purpose of acquiring any status — testimony

137. Lee v Canada (Citizenship and Immigration), 2015 CanLII 78017 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-04-02 | 10 pages
marriage — genuine — find — primarily for the purpose — testimony

138. X (Re), 2017 CanLII 61296 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2017-03-10 | 9 pages | cited by 1 document
likely country of removal — abeyance — evidence — reconsideration — decision-making process

139. Luk (Re), 2007 LSBC 13 (CanLII)
Law Society of British Columbia — British Columbia
2007-04-19 | 9 pages | cited by 6 documents
cheque — letter — practised — divorce — application

140. Shi v Canada (Public Safety and Emergency Preparedness), 2018 CanLII 140634 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2018-12-21 | 8 pages
panel finds — grandchildren — misrepresentation — removal — discretionary

141. Xu v. Canada (Minister of Citizenship and Immigration), 2005 FC 1575 (CanLII)
Federal Court — Canada (Federal)
2005-11-21 | 9 pages | cited by 7 documents
sponsor — member of the family class — foreign national — compassionate considerations — letter

142. Wang v. Canada (Public Safety and Emergency Preparedness), 2007 CanLII 47394 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-02-05 | 8 pages
residency — compassionate considerations — children — humanitarian — hardship

143. He v Canada (Citizenship and Immigration), 2021 CanLII 134179 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2021-07-22 | 8 pages
family class — sponsor — foreign national — compassionate — visa

144. Chen v. Canada (Minister of Citizenship and Immigration), 2006 FC 389 (CanLII)
Federal Court — Canada (Federal)
2006-03-27 | 7 pages | cited by 3 documents
particulars — pleading — misrepresentation — misfeasance — airlines

145. Huang v. Canada (Citizenship and Immigration), 2011 CanLII 89260 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-12-15 | 8 pages
government-subsidized housing — begun a new conjugal relationship — foreign national — visa — application for permanent residence

146. Cheng v. Canada (Citizenship and Immigration), 2008 CanLII 45181 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-03-07 | 10 pages
banquet — photos — hepatitis — wedding — marriage

147. Chen v. Canada (Citizenship and Immigration), 2008 FC 763 (CanLII)
Federal Court — Canada (Federal)
2008-06-19 | 8 pages | cited by 16 documents
citizenship — residence — statements — credit card — cellular telephone

148. Ho v. Canada (Citizenship and Immigration), 2009 CanLII 84521 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2009-10-09 | 10 pages
visa — divorce — relationship — lack of visits — second wife

149. Deng v. Canada (Citizenship and Immigration), 2008 FC 603 (CanLII)
Federal Court — Canada (Federal)
2008-05-21 | 8 pages | cited by 2 documents
application for judicial review — leave — extension of time to file — refugee — convoked

150. Chen v. Canada (Citizenship and Immigration), 2007 FC 1140 (CanLII)
Federal Court — Canada (Federal)
2007-11-02 | 8 pages | cited by 6 documents
centralized — citizenship — absences — residential — mode of existence

151. Chen v Canada (Public Safety and Emergency Preparedness), 2015 CanLII 85504 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-07-13 | 9 pages
spouse — taking into account the best — elder child — temporary resident visas — humanitarian

152. Liang v. Canada (Citizenship and Immigration), 2010 CanLII 96586 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-10-04 | 13 pages
broker — couple — genuine — marriage proposal — relationship

153. Chen v. Canada (Public Safety and Emergency Preparedness), 2007 CanLII 14582 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-02-26 | 11 pages
residency obligation — children — daughters — immigration officer — evidence

154. Tai v. Canada (Public Safety and Emergency Preparedness), 2009 CanLII 84323 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2009-12-10 | 10 pages
immigration officer — permanent resident cards — father — landed — children

155. Chen v. Canada (Citizenship and Immigration), 2008 CanLII 70164 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-04-10 | 10 pages
visa officer — hometown — marriage — wedding — interview

156. Wong v. Canada (Citizenship and Immigration), 2003 CanLII 54293 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2003-04-02 | 11 pages
field investigation — investigating officer — lady who answered the call — husband — evidence

157. Chan v. Canada (Citizenship and Immigration), 2012 CanLII 86946 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-05-07 | 12 pages
marriage — visa officer — genuine — children — ancestral home

158. Tran v. Canada (Citizenship and Immigration), 2010 CanLII 94493 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-06-23 | 11 pages
father — visa office interview — genuine relationship — family — find

159. Chiu v. Canada (Public Safety and Emergency Preparedness), 2007 CanLII 62011 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-11-21 | 14 pages
breach of natural justice — member — functus officio — procedural fairness — nullity

160. Wu v. Canada (Citizenship and Immigration), 2012 CanLII 95367 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-10-09 | 27 pages
permanent resident — travel document — five-year period — scheduling conference — status

161. Choi v. Canada (Citizenship and Immigration), 2010 CanLII 45210 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-01-21 | 11 pages
relationship — marriage — husband — couple — immigrate

162. Yang v. Canada (Public Safety and Emergency Preparedness), 2022 FC 329 (CanLII)
Federal Court — Canada (Federal)
2022-03-10 | 36 pages | cited by 2 documents
misrepresentation — special relief — card — removal — permanent resident

163. Jiang v Canada (Citizenship and Immigration), 2021 CanLII 87960 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2021-08-05 | 10 pages
visa office — father — provide his passport — permanent resident visa — landed

164. Shi v Canada (Public Safety and Emergency Preparedness), 2018 CanLII 139479 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2018-11-02 | 10 pages | cited by 1 document
misrepresentation — children — passport — residency — wife

165. Lu v. Canada (Citizenship and Immigration), 2011 CanLII 58547 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-03-03 | 14 pages
daughter — husband — family — residency obligation — child

166. Qing v. Canada (Minister of Citizenship and Immigration), 2005 FC 1224 (CanLII)
Federal Court — Canada (Federal)
2005-09-08 | 12 pages | cited by 13 documents
visa officer — tax — inadmissible — accumulated — application

167. Zheng v. Canada (Public Safety and Emergency Preparedness), 2013 CanLII 99692 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-09-30 | 10 pages
residency obligation — employment — humanitarian — compassionate — find

168. Su v. Canada (Citizenship and Immigration), 2011 CanLII 95432 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-01-24 | 13 pages
panel — marriage — balance of probabilities — primarily for the purpose — purpose of acquiring a status

169. Su v. Canada (Citizenship and Immigration), 2010 CanLII 95009 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-10-13 | 13 pages
marriage — remember — genuineness — visa officer — sister

170. Xu v. Canada (Citizenship and Immigration), 2007 CanLII 47714 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-04-25 | 12 pages
member of the family class — letter — sponsor — visa — written

171. Chan v. Lam, 2002 CanLII 44912 (ON CA)
Court of Appeal for Ontario — Ontario
2002-03-26 | 10 pages | cited by 9 documents
client — husband — offer to settle — wife — children
Practice and procedure

172. Liang v Canada (Citizenship and Immigration), 2015 CanLII 94075 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2015-11-30 | 11 pages
co-signer s withdrawal — sponsorship — visa — income — re-instate

173. Yim v Canada (Citizenship and Immigration), 2020 CanLII 24500 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2020-01-08 | 12 pages
res judicata — doctrine — decisive new evidence — previous — special circumstances

174. Gan v. Canada (Citizenship and Immigration), 2009 FC 1083 (CanLII)
Federal Court — Canada (Federal)
2009-10-22 | 11 pages
application — in-person interview — risk factors — judicial review — personalized risk

175. Goussev v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 8609 (FC)
Federal Court — Canada (Federal)
1999-08-31 | 11 pages | cited by 7 documents
visa officer — marine engineer — mekhanik — mechanical engineer — systems

176. 2308537 Ontario Inc. et al. v 1233121 Ontario Inc., 2015 ONSC 2630 (CanLII)
Superior Court of Justice — Ontario
2015-04-21 | 12 pages
balance of the purchase price — principal — instalment — payment — interest
Creditors and debtors | Property and trusts

177. Su v. Canada (Citizenship and Immigration), 2010 CanLII 80768 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-04-09 | 17 pages
residency obligation — full-time basis by a business — company — employed on a full-time basis — five-year period

178. Wong v. Canada (Citizenship and Immigration), 2007 CanLII 47716 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-04-18 | 14 pages
residency obligation — business — humanitarian — compassionate considerations — five-year period

179. Wu v. Canada (Citizenship and Immigration), 2011 CanLII 42312 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-01-06 | 12 pages
marriage — purpose of acquiring a status — panel — entered into primarily — proposal

180. Chiu v. Canada (Citizenship and Immigration), 2011 CanLII 89266 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-04-25 | 13 pages
marriage is genuine — relationship — purpose of acquiring — entered into primarily — privilege

181. Li v. Canada (Citizenship and Immigration), 2011 CanLII 58417 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-02-22 | 12 pages
permanent resident status — compassionate considerations — humanitarian — employed on a full-time basis — projects

182. Dragan v. Canada (Minister of Citizenship and Immigration), 2003 FCT 211 (CanLII), [2003] 4 FC 189
Federal Court — Canada (Federal)
2003-02-21 | 39 pages | cited by 62 documents
visa — applications — mandamus — selection — units of assessment

183. Chang (Re), 1998 CanLII 7477 (FC)
Federal Court — Canada (Federal)
1998-02-05 | 12 pages | cited by 1 document
residence — citizenship — résidence — living — accumulated

184. Iao v. Canada (Citizenship and Immigration), 2013 CanLII 62899 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-02-01 | 11 pages
sponsor — visa officer — member of the family class — application — time

185. Liu v. Canada (Citizenship and Immigration), 2008 FC 836 (CanLII)
Federal Court — Canada (Federal)
2008-07-04 | 14 pages | cited by 8 documents
citizenship — questions — written test — adequate knowledge — oral

186. SDAB2017-0071 (Re), 2017 CGYSDAB 71 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2017-11-29 | 16 pages
fence — trees — endorsement of the final instrument — developer is responsible for ensuring — property

187. St. George's Hill Trust (Trustee of) v. Li, 2013 BCSC 2165 (CanLII)
Supreme Court of British Columbia — British Columbia
2013-11-28 | 17 pages | cited by 1 document
meeting — client — advice — firm — questions

188. Zhang v. Canada (Public Safety and Emergency Preparedness), 2013 CanLII 94265 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2013-08-15 | 14 pages
five-year period — meeting the residency obligation requirements — physically present — days — biological father

189. Zhuang v. Canada (Citizenship and Immigration), 2007 CanLII 70897 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2007-12-27 | 13 pages
foreign national — non-accompanying family — sponsor — examined — application for permanent residence

190. Wong v. Luk, 2009 CanLII 66615 (ON SC)
Superior Court of Justice — Ontario
2009-11-26 | 11 pages
bid — line of credit — quantum meruit — affidavit — compensated
Practice and procedure

191. SDAB2018-0021 (Re), 2018 CGYSDAB 21 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2018-08-01 | 13 pages
stormwater management system — dams — ponds — golf course — development

192. Liu v Canada (Public Safety and Emergency Preparedness), 2021 CanLII 42434 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2021-02-17 | 14 pages
misrepresentation — child — family — remorse — husband

193. Teng v Canada (Citizenship and Immigration), 2012 CanLII 101681 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-11-09 | 16 pages
marriage — genuine — visa officer — primarily for the purpose — relationship

194. Lu v. Canada (Citizenship and Immigration), 2008 CanLII 45222 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2008-02-25 | 16 pages
medical examination — humanitarian — foreign nationals — compassionate considerations — undergo

195. Zeng v. Canada (Citizenship and Immigration), 2012 CanLII 34700 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2012-01-03 | 18 pages
inadmissibility — ground of refusal — foreign national — sponsor — interview

196. Motek Cultural Initiative v Metrolinx, 2022 CanLII 78160 (ON LT)
Ontario Land Tribunal — Ontario
2022-08-23 | 15 pages
expropriation — boomerang — tenancy — land — owner

197. Wong v. Canada (Public Safety and Emergency Preparedness), 2011 CanLII 39140 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2011-01-07 | 14 pages
removal orders — delegate — acting chief — evidence — humanitarian

198. SDAB2015-0044 (Re), 2015 CGYSDAB 44 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2015-09-25 | 19 pages
retaining wall — swale — property — relaxation — height

199. Manofmizpeh v. Ng, 2022 ONSC 1113 (CanLII)
Superior Court of Justice — Ontario
2022-02-16 | 19 pages
rent — lease — repairs — roof — skylight
Practice and procedure | Residential tenancies

200. Fang v. Canada (Citizenship and Immigration), 2014 FC 196 (CanLII)
Federal Court — Canada (Federal)
2014-02-27 | 16 pages | cited by 4 documents
letter — credibility — procedural fairness — duties — concerns

201. Liang v. Canada (Citizenship and Immigration), 2010 CanLII 68725 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2010-06-11 | 19 pages
immigration officer — panel — summons — genuineness of the marriage — submitted

202. SDAB2015-0042 (Re), 2015 CGYSDAB 42 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2015-08-17 | 43 pages
site — development permit — stripping — grading — sedimentation ponds

203. Borisova v. Canada (Minister of Citizenship and Immigration), 2003 FC 859 (CanLII), [2003] 4 FC 408
Federal Court — Canada (Federal)
2003-07-10 | 41 pages | cited by 4 documents
members of the putative class — visa — applications — selection — immigrants

204. Sun v Canada (Public Safety and Emergency Preparedness), 2019 CanLII 131096 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2019-12-05 | 19 pages
misrepresentation — application — permanent resident card — removal — renewal

205. Ney v. Canada (Attorney General), 1993 CanLII 1301 (BC SC)
Supreme Court of British Columbia — British Columbia
1993-05-03 | 18 pages | cited by 14 documents
child — health care — parental — treatment — medical

206. Lu v. Canada (Citizenship and Immigration), 2004 CanLII 71346 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2004-03-22 | 18 pages
visa officer — marriage — photographs — aunts — marry

207. Complainant v. The College of Physicians and Surgeons of British Columbia, 2016 BCHPRB 16 (CanLII)
Health Professions Review Board of British Columbia — British Columbia
2016-02-10 | 19 pages
disposition — drive — complaint — driving — investigation

208. SDAB2015--0118 (Re), 2015 CGYSDAB 118 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2016-03-30 | 56 pages | cited by 1 document
development permit — site — units — access road — intermunicipal gateways

209. SDAB2016-0058 (Re), 2016 CGYSDAB 58 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2017-02-21 | 78 pages
development — site — stalls — storage — road

210. Liu v. Canada (Public Safety and Emergency Preparedness), 2019 FC 849 (CanLII)
Federal Court — Canada (Federal)
2019-06-21 | 21 pages | cited by 6 documents
misrepresentation — error in the administration — admissibility — application — collateral attack

211. Lee v. Canada (Minister of Citizenship and Immigration), 2004 FC 1012 (CanLII), [2005] 2 FCR 3
Federal Court — Canada (Federal)
2004-07-21 | 24 pages | cited by 7 documents
definition of dependent child — student — academic — inadmissible — post-secondary institution

212. Stefanovska v. Kok (H.C.J.), 1990 CanLII 6848 (ON SC)
Superior Court of Justice — Ontario
1990-05-29 | 21 pages | cited by 20 documents
easement — purchasers — vendors — property — domestic utility
Contracts

213. Chen v. Canada (Minister of Citizenship and Immigration), 2004 FC 464 (CanLII)
Federal Court — Canada (Federal)
2004-03-26 | 22 pages | cited by 12 documents
permanent residents — irreparable harm — putative class — cards — card

214. Huang v Canada (Public Safety and Emergency Preparedness), 2020 CanLII 107048 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2020-08-04 | 24 pages
misrepresentation — husband — residency — family — stamps

215. X (Re), 2014 CanLII 98096 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2014-10-31 | 29 pages
claimant — non-political crime — square metre — political enemies — evidence

216. Yang v Canada (Public Safety and Emergency Preparedness), 2020 CanLII 84209 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2020-08-04 | 26 pages
misrepresentation — family — residency — wife — stamps

217. SDAB2014-0140 (Re), 2014 CGYSDAB 140 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2015-01-29 | 60 pages
retaining wall — developer — drainage — swale — height

218. SDAB2016-0051 (Re), 2016 CGYSDAB 51 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2016-12-21 | 63 pages
setback — building — parking — development — will

219. Lin v. Canada (Citizenship and Immigration), 2002 CanLII 47171 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2002-07-15 | 27 pages
principal — removal — minor — dependants — landing

220. Sui v. Canada (Minister of Public Safety and Emergency Preparedness), 2006 FC 1314 (CanLII)
Federal Court — Canada (Federal)
2006-10-30 | 26 pages | cited by 6 documents
delegate — application for restoration — temporary resident status — foreign national — enforcement officer

221. Iao v. Canada (Citizenship and Immigration), 2013 FC 1253 (CanLII)
Federal Court — Canada (Federal)
2013-12-16 | 28 pages | cited by 52 documents
sponsor — lock-in period — common-law partner — partenaire conjugal — permanent resident

222. Chow v. Canada (Citizenship and Immigration), 2004 CanLII 71242 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2004-04-15 | 34 pages
daughter — immigration officer — five-year period — humanitarian — compassionate

223. SDAB2016-0004 (Re), 2016 CGYSDAB 4 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2016-05-24 | 39 pages
retaining wall — height — pergola — relaxation — development permit

224. X (Re), 2020 CanLII 120798 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2020-06-12 | 92 pages
torture — embezzlement — confessions — alleged co-conspirators — project

225. Lei v. Canada (Citizenship and Immigration), 2006 CanLII 52338 (CA IRB)
Immigration and Refugee Board of Canada — Canada (Federal)
2006-07-20 | 44 pages
permanent residents under the former — retrospective — permanent resident status — persons who were permanent residents — panel

226. Ching v. Canada (Immigration, Refugees and Citizenship), 2018 FC 839 (CanLII)
Federal Court — Canada (Federal)
2018-08-16 | 72 pages | cited by 17 documents
abuse of process — evidence obtained by torture — delay — judicial review — remedy

227. SDAB2015-0142 (Re), 2015 CGYSDAB 142 (CanLII)
Calgary Subdivision & Development Appeal Board — Alberta
2016-08-19 | 136 pages
proposed development — site — building — parking — parcel

EXHIBIT "HHH"

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.

COUNSEL: *Jeff G. Saikaley*, for the Plaintiff Dr. Kulvinder Kaur Gill

Asher Honickman, for the Plaintiff Dr. Ashvinder Kaur Lamba

Howard Winkler and Eryn Pond, for the Defendant Dr. Angus Maciver

Julian Porter, for the Defendant Nadia Alam

Jaan Lilles and Katie Glowach, for the Defendants Dr. David Jacobs, Dr. Alex Nataros, Dr. Abdu Sharkawy, Dr. Nadia Alam and Dr. Michelle Cohen

Susan Toth, for the Defendant Dr. John Van Aerde

Andrea Gonsalves and Caitlin Milne, for the Defendant Dr. Andrew Fraser

Alex Pettingill, for the Defendants Dr. Ilan Schwartz, Dr. Marco Prado, Timothy Caulfield and Dr. Sajjad Fazel

Timothy Flannery, for the Defendant Dr. Terry Polevoy

Daniel Iny and Melanie Anderson, for the Defendant Dr. Andrew Boozary

Meredith Hayward and Michael Binetti, for the Defendants Tristan Bronca and The Medical Post

Brian Radnoff and David Seifer, for the Defendant The Pointer Group Incorporated

Andrew MacDonald, Carlos Martins and Emma Romano, for the Defendants André Picard and Carly Weeks

George Pakozdi, for the Defendant Alheli Picazo

Emma Carver, for the Defendant Bruce Arthur

HEARD: In Writing

ENDORSEMENT ON COSTS

Preliminary Background

[1] In my decision of February 24, 2022 I invited counsel for the parties to provide submissions as to costs if that subject could not be agreed upon.

[2] Unfortunately, none of the parties have been able to arrive at any resolution on costs. Accordingly, I received submissions from the several moving parties/defendants on these motions who were successful in obtaining the dismissals of the actions brought against them pursuant to 137.1 of the *Courts of Justice Act* ("*CJA*").

[3] In response I received very brief submissions from then counsel for the responding parties/plaintiffs. Given the nature and brevity of those submissions I gave counsel for the moving parties/defendants some additional time to determine their intentions in the expectation that they might wish to provide reply submissions.

[4] Following this inquiry as to the intentions of the moving parties/defendants, I received requests from new counsel for both responding parties/plaintiffs to provide supplementary submissions on costs. I granted that request.

[5] I now have received and reviewed those submissions as well as reply submissions from counsel for some of the moving parties/defendants.

Section 137.1 (7) of the Courts of Justice Act ("CJA")

[6] It is evident from my decision that the moving parties/defendants were entirely successful in obtaining complete dismissals of the proceedings brought against them. The approach to be taken regarding any costs to be awarded to successful moving parties/defendants on such motions is set out in s. 137.1 (7) of the *CJA*, as follows:

> (7) If a judge dismisses a proceeding under this section, the moving party is entitled to costs on 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.

[7] The costs provision that applies to this determination therefore requires that successful moving parties on motions of this nature are entitled to full indemnification of their costs unless such costs are not appropriate in the circumstances. As I interpret the provision, its purpose is to provide for full indemnification of the costs of successful moving parties, but not designed as punishment of the unsuccessful responding parties.

[8] The preservation of a discretion by the motions judge to fix costs is apparent in the language employed in the applicable provision. Even when costs on a full indemnity scale are sought, available and otherwise justifiable such costs may be determined not to be appropriate and disallowed as a result.

Issues

[9] Costs, inclusive of disbursements and applicable taxes, are sought by the moving parties/defendants as set out in their Joint Costs Submissions, as follows:

(a) Dr. Angus MacIver seeks costs of $98,530.24;

(b) Dr. Nadia Alam seeks costs in connection with the OMA dispute of $73,176.71;

(c) Dr. David Jacobs, Dr. Alex Nataros, Dr. Abdu Sharkawy, Dr. Nadia Alam and Dr. Michelle Cohen seek costs in connection with the Covid-19 dispute of $254,057.35;

(d) Dr. John Van Aerde seeks costs of $63,386.08;

(e) Dr. Andrew Fraser seeks costs of $100,211.82;

(f) Dr. Ilan Schwartz, Dr. Marco Prado, Timothy Caulfield and Dr. Sajjad Fazel seek costs of $138,464.37;

(g) Dr. Terry Polevoy seeks costs of $51, 058.69;

(h) Dr. Andrew Boozary seeks costs of $59,015.25;

(i) Tristan Bronca and The Medical Post seek costs of $129,337.77;

(j) The Pointer Group Incorporated seeks costs of $64,170.15;

(k) Andre Picard and Carly Weeks seek costs of $90,562.89;

(l) Alheli Picazo seeks costs of $33,281.26;

(m) Bruce Arthur seeks costs of $33,281.26.

[10] All amounts for costs and disbursements as set out above reflect claims for recovery of costs on a full indemnity basis.

[11] The total amount sought in costs by the moving parties/defendants therefore is $1,115,357.13.

[12] Two main issues have been advanced on behalf of the plaintiffs/responding parties in their costs submissions:

(a) Are the amounts sought by any or all of the moving parties/defendants for costs not appropriate in the circumstances?

(b) Should the costs of all of the moving parties/defendants be made payable by both plaintiffs/responding parties on a joint and several basis as has been requested?

Appropriateness of Amounts of Costs Sought

[13] It is submitted on behalf of both responding parties/plaintiffs that full indemnity costs are not appropriate, and that a significant reduction of the amounts claimed is particularly warranted as a result of the duplication of efforts of all counsel for the moving parties/defendants.

[14] Although a more cost-effective way of addressing the issues on the motion might have been employed, such as the bringing of one or more test motions on behalf of a small number of representative moving parties/defendants, all motions apparently were brought and heard together on agreement of the parties. Each had slightly different factual underpinnings which made separate arguments and considerations necessary.

[15] Where appears to have been possible, the moving parties/defendants dealing with the various claims who shared a similar factual foundation were represented by the same counsel. The fact that so many moving parties/defendants brought individual motions was inevitably the product of having been claimed against by the responding parties/plaintiffs in the same action but with respect to different statements and/or conduct.

[16] Although it must be observed that there was some degree of repetition and duplication of the legal principles that apply and of the public policy considerations in the various facta prepared and submitted by the moving parties/defendants, the issues were nevertheless of great importance to each of the parties and submissions were required to be tailored to the specific fact situations bearing on the many and various claims against them.

[17] As has been set out in the Joint Costs Submissions, in order for the moving parties/defendants to pursue these motions it was necessary for extensive affidavit material to be filed and for cross-examinations to be conducted. Facta were prepared and submitted to address the legal authorities bearing upon the outcome of the motions as well as the fairly extensive factual background giving rise to the various claims. Presence of counsel was required for the cross-examinations conducted and for all other necessary steps leading up to the motions, as well as for the hearing of the motions themselves.

[18] The motions were heard fairly efficiently over three days from September 27-29, 2021.

[19] Counsel for Dr. Jacobs et al. submitted a request for costs in an amount substantially higher than those submitted on behalf of most of the other moving parties/defendants. However, this is a product of having represented several of the moving parties/defendants, and the assumption of a leading role in the preparation of materials and presentation of submissions to the court throughout the process generally.

[20] It must also be noted that the responding parties/plaintiffs claimed damages of $2,000,000.00, a considerable sum by any calculation and of understandably great concern to the moving parties/defendants. Further, the costs now claimed are costs of the entire actions, all of which were dismissed in their entirety on these motions.

[21] Although counsel for the moving parties/defendants maintain the belief that third party funding was involved in maintaining the claims against their clients, this is strenuously denied by the responding parties/defendants and their former counsel. There is no evidence before that amounts to proof to the contrary, and I do not view this assertion as having any bearing on the subject of costs.

[22] I also have no reason to conclude that the fees and disbursements claimed by experienced counsel for the moving parties/defendants were not actually incurred.

[23] Although the individual responding parties/plaintiffs are not substantial corporations or institutions, they are educated persons who were represented by counsel throughout. I agree that no real access to justice argument serves to soften the costs consequences of their failure to withstand the motions brought. The purpose of the anti-SLAPP provisions, including the costs provisions, in the *CJA* is to discourage those who would seek to use the legal process improperly to shut down debate on matters of public interest (see: *Levant v. De Melle*, 2022 ONCA 79; *Niagara Peninsula Conservation Authority v. Smith*, 2018 ONSC 127; *Air Georgian Ltd. v. Eugeni*, ONSC 9 September 2019).

[24] Having said that, I am of the view that the responding parties/plaintiffs should not be expected to incur exposure to the costs for additional legal counsel, clerks or students who may have been present at any of the proceedings but did not take an active role. I consider the inclusion of such costs claimed against the responding parties/plaintiffs in these circumstances to be not appropriate. Accordingly, any costs of attendance in court or related proceedings claimed with respect to persons falling under that description are to be removed and the resulting amounts recalculated.

[25] Accordingly, the full indemnity costs in the amounts requested by counsel for the moving parties/defendants with the noted reductions are to be recoverable as claimed. If there is any issue or argument with respect to the amounts that result following such adjustments, I may be spoken to.

Joint and Several Liability for Costs

[26] Dr. Lamba submits that the OMA issue was not a SLAPP suit, and that costs on a partial indemnity scale are therefore appropriate.

[27] Having already determined that the claims arising out of the OMA issue comprise a SLAPP suit, I consider that the costs provisions of s. 137.1 (7) therefore apply for which the responding parties/plaintiffs are responsible to pay.

[28] It is further submitted on behalf of Dr. Lamba that she should not bear costs in connection with the Covid-19 issue on a joint and several liability basis with Dr. Gill.

[29] A reading of the Statement of Claim and an assessment of the issues advanced on the motions make it clear that Dr. Lamba made allegations against Dr. MacIver and Dr. Alam, and only with respect to the OMA issue. This comprised a comparatively small portion of the motions proceedings and the subject matter responded to and argued on behalf of the moving parties/defendants. Further, she did not file any affidavit and therefore was not cross-examined.

[30] In my view, the only costs which Dr. Lamba ought to be required to pay are those of Dr. MacIver and Dr. Alam on the OMA issue. As the claims in this regard are also advanced on behalf of Dr. Gill, both Responding Parties/Plaintiffs are to be jointly and severally liable for payment of those costs as determined herein.

[31] With respect to the costs awarded to the Moving Parties/Defendants in connection with their successful motions arising out of the Covid-19 issue, such costs are to be payable by Dr. Gill only.

Conclusion

[32] An order shall issue in accordance with these reasons.

Stewart J.

Date: October 31, 2022

CITATION: Gill v. Maciver, 2022 ONSC 1279
COURT FILE NO.: CV-20-652918-0000
DATE: 20220224

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	
Dr. Kulvinder Kaur Gill and Dr. Ashvinder Kaur Lamba Plaintiffs	*Rocco Galati, for the 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	*Howard Winkler and Eryn Pond*, for the Defendant Dr. Angus Maciver *Julian Porter,* for the Defendant Nadia Alam *Jaan Lilles and Katie Glowach*, for the Defendants Dr. David Jacobs, Dr. Alex Nataros, Dr. Abdu Sharkawy, Dr. Nadia Alam and Dr. Michelle Cohen *Susan Toth,* for the Defendant Dr. John Van Aerde *Andrea Gonsalves and Caitlin Milne*, for the Defendant Dr. Andrew Fraser *Alex Pettingill,* for the Defendants Dr. Ilan Schwartz, Dr. Marco Prado, Timothy Caulfield and Dr. Sajjad Fazel *Timothy Flannery,* for the Defendant Dr. Terry Polevoy *Daniel Iny and Melanie Anderson,* for the Defendant Dr. Andrew Boozary *Meredith Hayward and Michael Binetti*, for the Defendants Tristan Bronca and The Medical Post

) *Brian Radnoff and David Seifer*, for the
) Defendant The Pointer Group Incorporated
)
) *Andrew MacDonald, Carlos Martins and*
) *Emma Romano,* for the Defendants André
) Picard and Carly Weeks
)
) *George Pakozdi,* for the Defendant Alheli
) Picazo
)
) *Emma Carver*, for the Defendant Bruce
) Arthur
)
)
)
)
)
) **HEARD:** September 27, 28 and 29, 2021

REASONS FOR DECISION

Stewart J.

Nature of the Motions

[1] The Plaintiffs have initiated proceedings as against these more than 20 Defendants and claim damages in the aggregate of approximately $12,000,000.00 for defamation and other purported causes of action.

[2] The Defendants have brought these several motions pursuant to s. 137.1 of the *Courts of Justice Act* ("CJA"), R.S.O 1990, c C.43. Section 137.1 allows for the dismissal by judicial order of a proceeding that limits debate on matters of public interest. These motions are more commonly referred to as "anti-SLAPP" motions. A SLAAP refers to a strategic lawsuit against public participation, a characterization which the Defendants argue aptly attaches to the proceedings brought against them.

[3] The Plaintiffs argue that the motions do not satisfy the test for dismissal at this early stage and therefore submit that the relief requested by the Defendants should not be granted.

[4] The most relevant portions of Section 137.1 of the CJA provide as follows:

> **Dismissal of proceeding that limits debate**
>
> **Purposes**

137.1 (1) The purposes of this section and sections 137.2 to 137.5 are,

(a) to encourage individuals to express themselves on matters of public interest;

(b) to promote broad participation in debates on matters of public interest;

(c) to discourage the use of litigation as a means of unduly limiting expression on matters of public interest; and

(d) to reduce the risk that participation by the public in debates on matters of public interest will be hampered by fear of legal action. 2015, c. 23, s.3.

Definition, "expression"

(2) In this section,

"expression" means any communication, regardless of whether it is made verbally or non-verbally, whether it is made publicly or privately, and whether or not it is directed at a person or entity. 2015, c. 23, s. 3.

Order to dismiss

(3) On motion by a person against whom a proceeding is brought, a judge shall, subject to subsection (4), dismiss the proceeding against the person if the person satisfies the judge that the proceeding arises from an expression made by the person that relates to a matter of public interest. 2015, c. 23, s. 3.

No dismissal

(4) A judge shall not dismiss a proceeding under subsection (3) if the responding party satisfies the judge that,

(a) there are grounds to believe that,

(i) the proceeding has substantial merit, and

(ii) the moving party has no valid defence in the proceeding; and

(b) the harm likely to be or have been suffered by the responding party as a result of the moving party's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression. 2015, c. 23, s. 3.

[5] It is not disputed that the tort of defamation is governed by a well-established test requiring that three criteria be met:

> (a) that the words complained of were published, meaning that they were communicated to at least one person other than the plaintiff;
>
> (b) the words complained of referred to the plaintiff; and
>
> (c) the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person.

[6] Even if the definition of defamation is met, a defendant may have several defences to rely on to escape liability. These include justification, fair comment, qualified privilege and responsible journalism (see: *Grant v. Torstar Corp*., 2009 SCC 61).

[7] In order to properly consider the issues raised by a motion brought pursuant to s. 137.1 evidence may be filed by the parties to provide background and context to an impugned statement as well as to establish the chances of success of the claims and any available defences.

[8] Subsections 137.1(3) and (4) of the CJA set out a two-part test for a motion to dismiss an action on this basis. First, the defendant has the onus of showing that the plaintiff's proceeding arises from an expression that "relates to a matter of public interest". If the defendant meets that threshold, the court must dismiss the action unless the plaintiff satisfies the court that there are grounds to believe the proceeding has substantial merit, that there are grounds to believe that the defendant has no valid defence, and that the harm suffered by the plaintiff is sufficiently serious such that the public interest in allowing the proceeding to continue outweighs the public interest in protecting that expression.

[9] It is instructive to repeat that, once it has been established by the Defendants that the impugned communication relates to a matter of public interest, the burden on these motions rests on the Plaintiffs to establish that there is substantial merit to each of their claims.

[10] The three factors that comprise the plaintiff`s onus to meet the second branch of the test are conjunctive. If the plaintiff fails to meet the onus on any one of those three requirements, the action must be dismissed.

[11] The Supreme Court of Canada has considered the test for dismissal under s. 137.1 and has expressed views on issues related to the approach to be applied thereunder in two recent decisions: *1704604 Ontario Ltd. V. Pointes Protection Association*, 2020 SCC 22 and *Bent v. Platnick*, 2020 SCC 23.

[12] In *Pointes Protection*, "substantial merit" was defined as a real prospect of success. The requirement was further refined in *Bent v. Platnick* as demonstrating a prospect of success that need not be demonstrably likely, but one that weighs more in favour of the plaintiff.

[13] Substantial merit has been described as a more demanding standard than that applicable on a motion to strike a claim pursuant to Rule 21 of the *Rules of Civil Procedure* for failure to disclose a cause of action. Accordingly, more than merely some chance of success is required. In *Bent v. Platnick*, was stated (at para. 49):

> …for an underlying proceeding to have "substantial merit", it must have a real prospect of success — in other words, a prospect of success that, while not amounting to a demonstrated likelihood of success, tends to weigh more in favour of the plaintiff. In context with "grounds to believe", this means that the motion judge needs to be satisfied that there is a basis in the record and the law — taking into account the stage of the proceeding — for drawing such a conclusion. This requires that the claim be legally tenable and supported by evidence that is reasonably capable of belief.

[14] In *Bent v. Platnick*, the Court went on to state (at paras 87 and 88):

> In *Pointes Protection*, this Court clarifies the fact that unlike s. 137.1(3), which requires a showing on a balance of probabilities, s. 137.1(4)(a) expressly contemplates a "grounds to believe" standard instead: para.35. This requires a basis in the record and the law – taking into account the stage of the litigation – for finding that the underlying proceeding has substantial merit and that there is no valid defence.
>
> I elaborate here that, in effect, this means that any basis in the record and the law will be sufficient. By definition, "a basis" will exist if there is a single basis in the record and the law to support a finding of substantial merit and the absence of a valid defence. That basis must of course be legally tenable and reasonably capable of belief. But the "crux of the inquiry" is found, after all, in s. 137.1(4)(b), which also serves as a "robust backstop" for protecting freedom of expression.

[15] The "crux of the inquiry" therefore is the balancing exercise required by s. 137.1(4)(b) which involves a weighing of the seriousness of the harm to the Plaintiffs as a result of the expressions of the Defendants and the public interest in permitting the proceeding to continue, versus the public interest in protecting the expression.

[16] Having considered the submissions made on behalf of the parties, having applied the provisions of the legislation referred to above which govern the determination of the issues in light of the principles and considerations articulated by the Supreme Court of Canada in the authorities noted above, for the reasons that follow I find that an application of the test under s. 137.1 to each claim, including the allegations of "negligence" and "conspiracy" (which are nothing but dressed-up and unsubstantiated variations of the central claims of alleged defamation), must result in a dismissal of all claims.

[17] I also conclude that these claims are precisely ones that are of the kind that s. 137.1 is designed to discourage and screen out.

The Plaintiffs

[18] The Plaintiff Dr. Kulvinder Kaur Gill ("Dr. Gill") is a medical doctor practising at an allergy, asthma and clinical immunology clinic with locations in Brampton and Milton, Ontario. Dr. Gill has been a member of the Ontario Medical Association ("OMA") Governing Council and transparency of the OMA and the harm of escalating cuts to frontline health care. She is a founding member and leader of Concerned Ontario Doctors ("COD") which operates in part as a platform for the expression of her views.

[19] The undisputed evidence on the motion plainly shows that Dr. Gill is not afraid to voice unpopular views or to court controversy.

[20] Dr. Gill also is a frequent commentator on issues related to the Covid-19 pandemic and does so frequently on her Twitter account which has attracted more than 63,000 "followers".

[21] Accordingly, in addition to her campaign of attack on the OMA and its leadership, Dr. Gill has been an outspoken critic of prevailing public health advice on how to prevent or slow Covid-19 infection from spreading throughout the community, using social media platforms including Twitter to disseminate her controversial views. In doing so, Dr Gill has suggested that the risks posed by the Covid-19 virus are exaggerated, vaccines are unnecessary, lockdowns are illogical, and hydroxychloroquine is an effective treatment for infection caused by the virus.

[22] Dr. Gill has been formally and publicly cautioned by the College of Physicians and Surgeons of Ontario against using her position as a physician to bolster her dissemination of such misleading information which contradicts the positions advocated by public health authorities in Ontario and Canada. The prohibition contained in the *Regulated Health Professions Act* against use in a civil proceeding of documents or details of the College's investigation requires that no further mention or consideration of same enter into the deliberations required by these motions.

[23] The Plaintiff Dr. Ashvinder Kaur Lamba ("Dr. Lamba") is a medical doctor practising as a physician at a long-term care home and a retirement home in Etobicoke, Ontario and is an addiction physician in Thornhill, Ontario. She also has a family practice in Brampton. Dr. Lamba is a former OMA delegate and member of the OMA Governing Council and is now Secretary of the Board of COD.

[24] Dr. Lamba is to some extent a secondary protagonist with respect to the advancement of these claims which, in large part, arise out of matters in which Dr. Gill is the central figure. Dr. Lamba did not swear or file an affidavit in response to these motions. She asserts her claims only as against two of the Defendants and only with respect to allegations relating to statements said to have been made concerning her OMA activities and positions.

[25] The multi-million dollar claims for damages made by both Plaintiffs are for reputational damage only, although each Plaintiff continues to be active in their professional organization and affairs and to practise medicine unimpeded in Ontario. As will be referred to below, the Plaintiffs have advanced very little basis for demonstrating that they or their reputations have been damaged as a result of the statements or conduct of any of the Defendants.

The Defendants

[26] The Defendant Dr. Angus McIver ("Dr. McIver") is an elderly physician who holds no leadership position in the OMA. He has a primary Twitter account ("@smootholdfart") with 1206 followers, and a now-deleted secondary Twitter account ("@vitomaciver") which had been used mainly for posting photos of his dog.

[27] The Defendant Dr. Nadia Alam ("Dr. Alam") is a medical doctor practising as a family physician and anaesthetist in Ontario and is a Board Director of the Halton Hills Family Health Team. Dr. Alam has been and remains active in the OMA. From 2017-2020 she was a member of the Board of Directors of the OMA and was OMA President during 2018-2019. Dr. Alam is represented by two separate counsel in connection who separately address the two categories of allegations the Plaintiffs have made against her.

[28] The Defendant Dr. David Jacobs ("Dr. Jacobs") is a physician specializing in diagnostic radiology in Toronto. Dr. Jacobs is a leader in his specialty associations and professional governing bodies.

[29] The Defendant Dr. Alex Nataros ("Dr. Nataros") is a family physician practising medicine in British Columbia. Dr. Nataros is a recipient of the Leadership and Advocacy Award of the College of Family Physicians of Canada.

[30] The Defendant Dr. Michelle Cohen ("Dr. Cohen") is a family physician in Brighton, Ontario who is a public advocate on health policy issues, having published articles in various newspapers and periodicals on health policy topics.

[31] The Defendant Dr. John Van Aerde ("Dr. Van Aerde") is a specialist in paediatric medicine. Although now retired from clinical practice, Dr. Van Aerde remains active in various medical associations, medical education institutions as well as the Canadian Medical Association.

[32] The Defendant Dr Andrew Fraser ("Dr. Fraser") is a tenured professor at the University of Toronto Donnelly Centre for Cellular and Biomedical Research. He conducts research on genetic models of development and disease, and has significant training and experience in pathology and statistical analysis.

[33] The Defendant Dr. Ilan Schwartz ("Dr. Schwartz") is a physician with a subspecialty in infectious diseases, employed by the University of Alberta and the Alberta Health Services. Dr. Schwartz was involved in clinical trials of the use of hydroxychloroquine that were among the many such research investigations that showed it to be an ineffective treatment for Covid-19 infection.

[34] The Defendant Dr. Marco Prado ("Dr. Prado") is a professor at Western University with an established expertise in biochemistry and immunology.

[35] The Defendant Timothy Caulfield ("Caulfield") is a health policy and health sciences professor at the University of Alberta's Faculty of Law and School of Public Health whose research has dealt with misinformation in the context of health care and Covid-19.

[36] The Defendant Dr. Sajjad Fazel ("Dr. Fazel") is a post-doctoral associate at the University of Calgary and also holds a Masters Degree in Public Health.

[37] The Defendant Dr. Terry Polevoy ("Dr. Polevoy") is a retired family physician who is an active leader within various medical associations, including associations of physicians in his area of practice and provincial associations. Dr. Polevoy is active on social media, primarily through his Twitter account where he frequently shares information, opinions and news stories on a variety of subjects including politics and health care.

[38] The Defendant Dr. Andrew Boozary ("Dr. Boozary") is a physician in Toronto and the Executive Director of Population Health and Social Medicine at the University Health Network.

[39] The Defendant Dr. Abdu Sharkawy ("Dr. Sharkawy") is a physician with a specialization in infectious diseases and internal medicine. He routinely speaks in public and using his Twitter account to educate members of the public on health and medicine matters.

[40] The Defendant The Medical Post publishes both a print magazine and an online newspaper for Canadian physicians. The online newspaper is published daily and is only available to registered users or subscribers.

[41] The Defendant Tristan Bronca has worked with the Medical Post and has become familiar with the scientific literature on hydroxychloroquine showing it is not an effective treatment for covid-19.

[42] The Defendant The Pointer Group Incorporated ("The Pointer") is a paid subscription-bases digital-only media platform that provides locally-focused news in the Peel and Greater Toronto Regions.

[43] The Defendant André Picard ("Picard") is the Staff Senior Health Columnist for The Globe and Mail where he has worked since 1987. Picard reports and writes on health and health care issues. He is the author of six books on health-related subjects and speaks publicly on frequent occasions on such matters, also using a Twitter account for that purpose.

[44] The Defendant Carly Weeks is a Health Reporter for The Globe and Mail where she has been a staff writer since 2007. She writes and often speaks publicly on health-related topics and additionally uses a Twitter account for that purpose.

[45] The Defendant Alheli Picazo ("Picazo") is a freelance writer who primarily covers the topics of politics and health. She uses Twitter for this purpose and often tweets about the Covid-19 pandemic and related issues.

[46] The Defendant Bruce Arthur ("Arthur") is a columnist at the Toronto Star. He uses his Twitter account to express personal views and concerns on a variety of topics, including the Covid-19 pandemic.

[47] The Plaintiffs have discontinued their action as against the Defendants The Hamilton Spectator and Societe-Radio Canada.

Preliminary Observations

[48] As can be seen from the above descriptions of the Defendants, the Plaintiffs have brought these proceedings against more than 20 individual physicians, academics, medical and scientific experts, and journalists as well as against publications that have and continue to provide valuable information to the public about Covid-19.

[49] In the motions before the Court, the Defendants seek to avail themselves of a provision enacted by the legislature that is intended to operate as a shield against anyone seeking to stifle debate on issues that are of interest to the public. The ultimate issue before me is whether these claims are such that they should be dismissed on that basis at this early stage.

[50] The provision under which the Defendants move for orders dismissing the claims against them is not the first or the only available recourse by which a proceeding may be terminated or curtailed by the courts when appropriate. For instance, Rules 2.1.01, 20 and 21 establish bases upon which proceedings may be dismissed or adjudicated upon short of any full trial. No one has an absolute and unfettered right to pursue any civil claims through to full trial and judgment without confronting a possible roadblock that may bring the proceedings to a halt.

[51] One may well wonder about the motives of these full-time physicians who remain active in what might fairly be described as the politics of their professional associations in bringing proceedings seeking staggering money judgments against such a broad array of persons whom they claim to perceive as having injured their reputations. The sheer variety of their targets and the magnitude of their claims set them up to be examined pursuant to s. 137.1.

[52] Because there are so many claims made in these proceedings against so many Defendants, and so many arguments and defences advanced by them, applying the test on each of the motions brought on their behalf is a daunting task. However, it does appear that the claims can be grouped generally into 2 categories: those that arise out of statements made by some Defendants in the context of an OMA dispute, and those that arise out of or were provoked by the controversial views expressed by Dr. Gill about pandemic-related matters.

[53] In dealing with the substance of these various motions, I may repeat the same positions taken by various parties, or make liberal reference to those parts of the written submissions that have been filed on behalf of some parties as well as the rationales for those arguments as advanced.

[54] In several instances, some Defendants have sought to avail themselves of more than one available defence. As will be seen below, I consider it unnecessary to determine to any full extent or comment upon the defences of justification that have been asserted because I consider that the

additional defences of fair comment, responsible journalism and/or qualified privilege offer full defences to the claims and therefore no entry into what may be (at its highest) an arbitration of matters of scientific debate is necessary. By declining to do so, I do not purport to suggest that the opinions of the Plaintiffs are of equal persuasive merit to those views expressed by the Defendants, but only that a thorough evaluation of them for the purposes of these motions is not strictly required.

[55] As a general observation, counsel for the Plaintiffs has urged the Court to agree that it must adopt a fairly narrow approach to the s. 137.1 analysis referred to herein, must avoid drawing any inferences, and must not arrive at any conclusions based on a qualitative assessment of the evidence tendered by the parties.

[56] In my opinion, to adopt an overly-rigid and narrow approach to the analysis of the material filed in this case would be to ignore the stated purpose of the legislation as well as the "crux of the inquiry" and "robust backstop" descriptions employed by the Supreme Court of Canada to describe the balancing process that is designed to protect, in appropriate cases, freedom of expression on matters of public interest from the chilling prospect of litigation.

[57] Having said that, the material filed by the parties is such that it requires very little or nothing by the way of credibility assessments to dispose of the motions. Rather, the expressions or conduct of the Defendants that are the subject of the action are basically not in dispute. The critical task is to determine if they are protected when the analysis established by s. 137.1 is applied. Having carefully considered the evidence and arguments put forward by the Plaintiffs, I nevertheless am of the opinion that the expressions complained of attract the protection that a s. 137.1 analysis permits.

[58] For greater clarity, I view all of the expressions or statements complained of by the Plaintiffs to have been made on matters of public interest. The test required by s. 137.1 has been applied to each in order to determine the appropriate result. In each case, I should be taken to have accepted and adopted fully the submissions advanced on behalf of each of the Defendants.

The OMA Dispute Claims

A. Dr. MacIver

[59] Section 137.1 places an initial burden, which is purposefully not an onerous one, on a defendant to satisfy the motion judge that the proceeding arises from an expression that relates to a matter of public interest. At this first stage of the s. 137.1 analysis, it is not legally relevant whether the expression is desirable or deleterious, valuable or vexatious, or whether it helps or hampers the public interest. The only question is whether the expression pertains to any matter of public interest, defined broadly.

[60] The expression in the action brought against Dr. Maciver concerns tweets published by him on his Twitter feed in September 2018. In its entire context, Dr. Maciver's expression pertains to the public debate about the OMA sparked by the Plaintiffs and their physician advocacy organization COD on Twitter and their blocking of physicians who do not agree with their views.

[61] When Dr. Maciver published his tweets, the Plaintiffs through COD had been engaged in ongoing, serious and inflammatory attacks on the OMA and its leadership on Twitter and on other platforms. These attacks included allegations of fraud and corruption. Dr. Maciver wanted to respond to the Plaintiffs' Twitter attacks directly on their Twitter feeds that was the site of the public conversation but could not do so because the Plaintiffs had blocked him and others from engaging with them on Twitter.

[62] Frustrated by the Plaintiffs' blocking of him, Dr. Maciver tweeted the words complained of on his own Twitter feed. In his initial tweet, which is the primary subject of this litigation as against him, Dr. Maciver used some rather offensive name-calling towards the Plaintiffs. He deleted this tweet within days after posting it.

[63] The following facts provide context to Dr. Maciver's expression:

> (a) Prior to and at the time of the publication of the words complained of, there was significant interest in Ontario and, in particular, within the Ontario medical community concerning the contract negotiations between the Government of Ontario and the OMA, on behalf of Ontario physicians.
>
> (b) Since its formation, COD has taken positions critical of and has attacked the OMA and its leadership. The Plaintiffs, as leaders of COD, have a "lack of confidence in the integrity, fairness, accountability and transparency of the OMA." Dr. Maciver is one of the many OMA physicians who strongly oppose COD's and the Plaintiffs' ongoing attacks on the OMA.
>
> (c) In October 2017, Dr. Maciver replied to a COD tweet, expressing his ongoing disappointment in COD "continuing to fragment the profession in Ontario." Soon after his fairly benign expression of disappointment, the Plaintiffs blocked him from posting on their Twitter account.
>
> (d) The Plaintiffs also have blocked the Twitter accounts of other physicians who appeared to dissent from their political views concerning the OMA.
>
> (e) Prior to the publication of the words complained of, the Plaintiffs used Twitter to criticize the OMA and its leadership. These criticisms included allegations of fraud and corruption. Some examples of this are as follows:
>
> • OMA=toxic culture of misogyny, bullying & intimidation
>
> • None of them are held to account for their lies, unethical conduct, and bullying & intimidation of frontline MDs
>
> • Corrupt OMA's hypocrisy on Full Display
>
> • We will be fully united once we truly revamp the OMA. But that can only happen once it's dismantled, the vermin scurries out…

> • The following is the epitome (so far) of the egregiousness of this organization and its so called "leaders" - how disgusting can they get?
>
> • Instead, corrupt OMA's implementing draconian Code of Conduct to silence MDs
>
> • …undemocratic OMA passed Part 1 of 2 Part Code of Conduct to silence MDs from exposing unethical conduct
>
> • LAME DUCK OMA…Incoming OMA Pres Nadia Alam was NEVER elected by membership
>
> • Of course, the corrupt OMA rewards its unethical "leaders" with accolades and rewards. One word: karma.
>
> • Unbelievable hypocrisy on display
>
> • The corrupt OMA is taking extreme measures to muzzle your doctors…

[64] Leading up to the publication of his impugned tweets in September 2018, Dr. Maciver became increasingly frustrated by the Plaintiffs' attacks on the OMA and, in particular, their attacks on the honesty and integrity of its leadership. Dr. Maciver believed the Plaintiffs' attacks were very serious charges which called for debate and response on the main forum in which they were being made, i.e. the Plaintiffs' Twitter feeds. Because the Plaintiffs had blocked Dr. Maciver, he could not respond directly to them.

[65] On September 4, 2018, Dr. Maciver lost his temper over the Plaintiffs' ongoing conduct and what he viewed as the inflammatory positions they were taking on behalf of COD. Dr. Maciver reacted on his @smootholdfart account about being blocked by the Plaintiffs on Twitter. He made further tweets from his @vitomaciver account the same day and on September 8, 2018. From the outset, the primary focus of the Plaintiffs' complaint and this action against Dr. Maciver concerns the words "corksoakers" and "twats" published in the initial @smootholdfart tweet.

[66] In its entire context, Dr. Maciver's expression pertains to the public debate about the OMA sparked by the Plaintiffs and COD on Twitter and their blocking on Twitter of physicians who dissent from their inflammatory views.

[67] I am of the opinion that the impugned communications authored by Dr. Maciver were on a matter of public interest.

[68] In terms of referencing the Plaintiffs in the initial @smootholdfart Tweet, Dr. Maciver understood Dr. Gill and Dr. Lamba to be the public faces of COD on Twitter. This is the only reason he referenced them.

[69] The law is clear that people have no legal duty to "always be calm, cool, kind, gentle and polite." It has long been recognized by courts that "there is a distinction between actionable defamation and mere obscenities, insults and other verbal abuse" and "[t]he courts cannot award damages in favour of the victims of empty threats, insulting words or rudeness" (see: *Langille et al v. McGrath*, 2000 CanLII 46809).

[70] The law tolerates such speech not only as an expression of free speech in a free society but also as a safeguard against our court system being flooded with litigation.

[71] It is clear from the words complained of and the overall context in which they were published on Twitter that Dr. Maciver was communicating his disapproval of the conduct of the Plaintiffs. The offensive language used by him is pure name-calling, and not defamation.

[72] Although some of the language used by Dr. Maciver on Twitter may have been unprofessional and ill-advised, the words complained of are not defamatory and therefore not actionable. There is an important distinction in the law of defamation between words that are actionable for being defamatory and words that merely contain insults and are not actionable. Freedom of speech would be seriously curtailed if insulting comments, which have caused no harm to reputation, were actionable for being defamatory (see: *Diop v. Transdev Dublin Light Rail*, 2019 IEHA 849).

[73] On multiple occasions, Dr. Maciver has apologized to the Plaintiffs both publicly and privately and shown contrition for the heated language he used on Twitter. The fact of Dr. Maciver's apologies was also made known within the physician community on Twitter.

[74] On September 7, 2018, the Plaintiffs published a Facebook post to COD's many followers which referred to Dr. Maciver's "vulgarity" and repeated the allegedly offending language. In the post, the Plaintiffs wrongfully claimed that Dr. Maciver called them "cock sucking cunts" and further incorrectly told their readers that Dr. Maciver made his tweets as a leader of the OMA.

[75] Any reputational harm to the Plaintiffs purportedly caused by Dr. Maciver's expression is evidently of very low magnitude, if any has actually occurred.

[76] Dr. Gill offered no evidence of any harm arising from Dr. Maciver's briefly published expression, other than vague, unparticularized statements. In fact, it is her own evidence that she remains "a highly regarded member of [her] profession." Dr. Lamba has not seen fit to tender evidence on this motion to describe the alleged harm that she claims to have suffered.

[77] Even if for the purposes of this motion the words complained of are found to be defamatory of the Plaintiffs and that some general damages to their reputation are therefore to be presumed, then the record before me supports a conclusion that any damages suffered are likely to be assessed as merely nominal and insufficient to warrant continuation of this proceeding.

[78] An application of the s. 137(4)(b) "crux of the matter" analysis therefore requires a dismissal of the Plaintiffs' claims against Dr. Maciver. For the reasons he asserts, the public

interest in protecting Dr. Maciver's right to speak out on a matter of public interest outweighs any considerations that might otherwise favour allowing the action against him to continue.

[79] Accordingly, the relief requested by Dr. Maciver is hereby allowed and the action against him is dismissed.

B. Dr. Alam and the Medical Post

[80] In 2018 Dr. Alam was President of the OMA. The Plaintiffs objected to what they described as Dr. MacIvor's vulgarity and demanded via Facebook that the OMA and Dr. Alam censure him.

[81] Dr. Alam was then called upon to comment on this situation by members of the OMA as well. As such, Dr. Alam has raised a very strong defence that her response was written on an occasion of qualified privilege in furtherance of her duties to communicate to OMA membership and to respond to what may fairly be described as an attack upon her and the OMA by the Plaintiffs.

[82] The basic elements of the attack by the Plaintiffs may be seen in a statement published by the Plaintiffs on their Facebook page which states, in part:

> We are your Ontario Doctors
>
> September 7, 2018
>
> #METOOMEDICINE & THE TOXIC ONTARIO MEDICAL ASSOCIATION– PART 1
>
> A glimpse of OMA's toxicity. This is what we and frontline MDs are subjected to in private by the Ontario Medical Association (OMA) "leaders" and staff. Now one of the OMA's "leaders" feels so empowered that he now publicly makes his racist, sexist and misogynistic comments on Twitter. Slang for "cock sucking cunts".
>
> This vulgarity is from Dr. Angus Maciver: The OMA's "distinguished leader" who was awarded "OMA Life Member Award" for his ongoing 20 years on the corrupt OMA Council, currently as President of the Perth County Medical Society and previously as the Chair of the OMA Section of General Surgery. He is also a "leader" of the Ontario Association of General Surgeons, a former Royal College of Canada examiner and former University of Western Ontario Schulich School of Medicine faculty.
>
> This is the "new", "reformed" and "progressive" OMA. OMA; its leaders never practice what they preach and either repeatedly engage in, encourage or turn a blind eye to such disgusting behaviours. This is the toxic and pervasive culture at OMA's corrupt core.

> … This is the toxic and pervasive culture at the OMA's corrupt core. In the past 72 hrs, not a single OMA "leader", medical "leadership" organization or "feminist" advocacy "leader" has condemned this OMA "leader". Silence of acceptance has followed Maciver's vulgarity. It is unacceptable that still in 2018, it is not the vulgarity of comments or actions that evoke condemnation, but rather the privileged status of the harasser that evoke silence, and even worse, further empowerment of the harasser by those who witnessed it.
>
> The OMA is a toxic and self-serving organization that is corrupt to its core.…
>
> As a young, visible minority, female Canadian frontline MDs, fighting the corrupt establishment that is the OMA has felt akin to battling Goliath. But we are empowered by the truth and driven by knowing we are fighting for the future of Ontario's healthcare and for you: our patients and our colleagues.
>
> … We demand action from the Ontario Government NOW: a prompt, full independent forensic review of the corrupt OMA.
> -Dr Kulvinder Gill, President – Concerned Ontario Doctors
>
> -Dr. Ashvinder Lamba, Board Director – Concerned Ontario Doctors
>
> #exposcoma #carenotcuts #onpoli #onhealth #cdnhealth #healthcare #cdnpol #sexism #racism #misogyny FordNation Christine Elliott Robin Martin Effie Triantafilopoulos Ontario PC Party Andrea Horwath Ontario NDP

[83] On September 8, 2018, after the Plaintiffs posted their statement on Facebook, some OMA members formed the mistaken belief that Dr. Maciver had been speaking on behalf of the OMA or that he was an OMA staff member when he posted the tweet referred to.

[84] Dr. Alam consulted with senior management and staff of the OMA and it was agreed that she should contact Dr. Maciver in order to encourage him to apologize for what he had reportedly said, and Dr. Alam did so. Dr. Maciver advised that he had tried and would continue trying to resolve the dispute.

[85] On September 9, 2018, Drs. Gill and Lamba posted a further statement on Facebook, a partial transcript of which is as follows:

> We are Your Ontario Doctors
>
> September 9, 2018
>
> #Metoomedicine & the toxic Ontario medical association– part 2
>
> … We have never spoken to or interacted with OMA's decorated leader, Dr. Angus Maciver, in our personal or professional lives. We have never

interacted with him ever on any social media platform. But he has now forced himself into our lives. Six days ago, this OMA leader felt so empowered that he directly attacked the only two young, female, visible minority MDs on the entire Board of Concerned Ontario Doctors, using slang to call us "cock sucking cunts" on Twitter as other OMA leaders enabled and encouraged him. There was no apology. There were no condemnations from any of the OMA leaders or any of the many medical leadership organizations he is affiliated with. All these medical "leaders" condoned his toxic behavior and vulgarity with their silence. The OMA normalized it.

… What is most disturbing is that all of the OMA "leaders" remained silent publicly. Not a single OMA leader condemned their decorated leader for his overtly vulgar misogyny. Not one.

… The most disturbing was that after 6 days of silence, the OMA President Nadia Alam's response is to defend and empower him, validate his lies and attack us (see Picture 3 in comments below). The corrupt OMA, that MDs are forced to be members of and pay millions to for it to protect our "best" interests, defends the harasser and his professional misconduct. The OMA President Nadia Alam's first statement on Twitter came this morning (see Picture 4 in comments below), 6 days after the OMA leader's misogyny and only following mounting public pressure. Again Alam does not condemn him. she defends and empowers him, validates his lies and attacks us. This is failed leadership.

This is the same OMA President who just months ago, on International Women's Day, said she was "grateful that brave women speak up to change culture from the ground up like #metoo" (see Picture 5 in comments below). Now Alam is attacking those "brave women" because it is the toxic and corrupt OMA that she is defending.

The OMA President Alam's empowerment of the harasser comes as a selfproclaimed "feminist" & #metoo "advocate". Her response is deemed by the corrupt OMA to be the only word and is supposed to close the chapter. But it won't. Because #TimesUP. MDs have had enough of OMA's toxicity.

… As we have said before (Part 1: goo.gl/GFJ485), the OMA is a deeply corrupt, authoritarian, abusive and toxic organization. It is the biggest threat to the future of healthcare in ON and Canada. Ford's government must immediately undertake a fully independent forensic review of the OMA.

-Dr Kulvinder Gill, President – Concerned Ontario Doctors

-Dr. Ashvinder Lamba, Board Director – Concerned Ontario Doctors

> #exposcoma #carenotcuts #onpoli #onhealth #cdnhealth #healthcare #cdnpol #sexism #racism #misogyny FordNation Christine Elliott Robin Martin Effie Triantafilopoulos Ontario PC Party Andrea Horwath Ontario NDP

[86] On Sunday September 23, 2018, Dr. Alam received an e-mail from Drs. Lamba and Gill sent to her official OMA e-mail address and to her personal e-mail account. The text of that e-mail reads as follows:

> Drs. Kulvinder Gill and Ashvinder Lamba are giving the Ontario Medical Association (OMA) and its President Dr. Nadia Alam one last opportunity to tell the truth and condemn Dr. Angus Maciver for his vulgar misogyny and harassment against them. Do the right thing. Otherwise, your lies will be exposed.

[87] Section 25 of the *Libel and Slander Act* allows qualified privilege to apply on a matter of public interest between two or more people who have a direct interest in the matter, even if the communication is witnessed or reported on by media or other people.

[88] Parenthetically, on November 7, 2018 the Plaintiffs filed complaints against Dr. Alam with the College of Physicians and Surgeons of Ontario and in 2019 with the Human Rights Tribunal of Ontario concerning these same grievances.

[89] Once the Plaintiffs demanded that Dr. Alam respond publicly and accused her and the OMA of being corrupt the words of Dr. Alam complained of became a matter of public interest such as to satisfy s. 137.1(3) of the CJA and additionally were ones of special importance.

[90] I agree that a defence of qualified privilege is therefore available to Dr. Alam and applies here.

[91] Qualified privilege exists where a person making a communication has “an interest or duty (legal, social, moral, or personal) to publish the information in issue to the person to whom it is published” and the recipient has a “corresponding interest or duty to receive it”. This privilege attaches to the circumstance, and not the communication. Where the occasion itself is found to be covered by qualified privilege, then a defendant may publish remarks that are perhaps untrue and defamatory (unless the dominant motive was malice) without liability therefor.

[92] There has not been any evidence of malice led by the Plaintiffs to defeat the qualified privilege defence asserted by Dr. Alam.

[93] Dr. Alam therefore has satisfied the test of having a valid defence. In their Statement of Claim, the Plaintiffs also allege that Dr. Alam was in breach of her “duty of care” to them and was negligent in her conduct. There can be no recognized duty of care in these circumstances of such strong criticism of Dr. Alam that would limit her ability to respond proportionately as was done here. These additional claims that have been alleged are, in reality, mere restatements of the claims for defamation and are likewise dismissed.

[94] The Plaintiffs also allege that a quotation attributed to Dr. Alam that was published in the Medical Post was defamatory. Specifically, Dr. Alam's quote in the article was as follows:

> "I spoke to Dr. McIver [sic]. By then he had already apologized to the physicians on Twitter and over email. He is blocked by them so unclear if it got through. He agreed, there is no place for this type of language between colleagues. Ever."

[95] On its face, I find that there is nothing defamatory about the impugned statement, a strong defence. The full article in which this statement appears is contained at paragraphs 10 and 11 of the Factum filed on behalf of the Medical Post. Seeing Dr. Alam's statement in context will simply undermine any possible assertion that it is defamatory.

[96] The Plaintiffs failed to serve a libel notice or commence an action within the requirements of s. 5 of the *Libel and Slander Act* which constitutes an absolute bar to this action against the Medical Post, a similarly strong defence.

[97] As noted above, the third and final step of the section 137.1 analysis is the heart of the test. This section requires a balancing of the public interest in allowing a harmed plaintiff to pursue litigation against the public interest in protecting expressions. This step has been described as a "robust backstop" that allows judges to dismiss claims even if they are technically meritorious. Even where a plaintiff can show their proceeding has substantial merit and the defendant has no valid defence, it may still be in the public interest to prioritize protecting the expression over allowing a plaintiff to pursue a cause of action despite the harm it caused. To make this determination, the harm to the plaintiff as a result of the expression is weighed against the public interest in protecting that expression.

[98] To overcome this hurdle, the Plaintiffs must show 1) the existence of harm, 2) that the harm is linked to the expression, and 3) if harm is established and linked, that this linked harm is sufficiently serious to make it preferable to allow the proceeding to continue, rather than protecting the expression.

[99] Harm includes both monetary and non-monetary damages. While the Plaintiffs do not need to establish the full details of the harm, nor to have it be monetized, they do have to provide evidence of the existence of the harm, or evidence from which a judge can draw an inference of likelihood in respect of the existence of the harm, as well as the relevant causal link. Bald assertions will not be sufficient.

[100] As already noted, the Plaintiffs have not produced any evidence of harm suffered or to be suffered by them as a result of the words of which they complain.

[101] Dr. Alam's statements in issue and the Medical Post article are of sufficient importance to satisfy the balancing test as set out in s. 137.1(4)(b). Dr. Alam's speech and the information in the article were necessary and valuable. An application of the balancing test results in a determination strongly in favour of these Defendants. As a result, the claims against Dr. Alam and, to the extent it is also a target of these claims, against the Medical Post must be dismissed.

The Covid-19 Claims

[102] The Covid-19 claims arising out of statements made by the Defendants other than Dr. Maciver appear to be advance only by Dr. Gill. She has been very vocal in her criticism of how government officials and agencies and organizations like the World Health Organization ("WHO") have responded to the ongoing worldwide pandemic.

[103] The bulk of the communications in this category occurred on the lively and rather unbridled platform of Twitter, and comprise what may be accurately described as a Twitter Storm.

A. André Picard and Carly Weeks

[104] In early August 2020 Dr. Gill posted tweets in which she expressed her views on how society should respond to the pandemic. In the first, Dr. Gill said "we don't need a vaccine" for Covid-19, stating that those who had not figured this out were "not paying attention". In the second, she stated that society could "safely return to normal life now" with what she referred to as "#Humanity's existing effective defences against #COVID19", identified by her as "The Truth", "T-cell Immunity" and hydroxychloroquine ("HCQ").

[105] Andre Picard, the Staff Senior Health Columnist for The Globe and Mail, tweeted on his Twitter account that he found it "quite shocking" that Dr. Gill would publicly state such opinions that were so contrary to the prevailing consensus among medical professionals, scientists, and public health officials.

[106] Dr. Gill then attacked Picard by posting a tweet implying that he had no right to comment because of his lack of medical training and insinuating that he was advancing the so-called "political WHO narrative", apparently improperly influenced by his association with a charity established in memory of the late former Prime Minister Pierre Trudeau.

[107] The other three tweets by Picard and the single tweet by Weeks complained of were posted in the flurry of Twitter activity that followed Dr. Gill's attack on Picard. These included tweets about the controversial use of HCQ to treat Covid-19, and others attacking Picard or expressing support for him.

[108] Dr. Gill alleges that the tweets are defamatory of her. In addition, she appears to allege that Picard and Weeks engaged in some form of conspiracy to injure her.

[109] When Picard became aware of Dr. Gill's tweets, he was concerned that any prominent Ontario physician would publicly state views that were so contrary to the consensus among physicians, scientists and public officials on subjects on which he had reported extensively. He was concerned that Dr. Gill's statements had the potential to misinform or mislead people.

[110] In addition to the numerous tweets attacking Picard for his statement, several tweets were posted supporting him. Among the tweets posted on August 6, 2020 was one by the Defendant Tristan Bronca:

> "The country's top health journalist (accurately) points out that this doctor maybe shouldn't be pushing a drug that is now primarily pushed by conspiracy theorists. She responds with a conspiracy-minded smear about how he's in bed with the WHO. Remarkable work."

[111] At 5:55pm on August 6, 2020, Picard responded to Bronca's tweet by posting the second of his tweets that Dr. Gill complains of:

> "Add the subsequent avalanche of tweets from an army of hydroxychloroquine bots and unhinged conspiracy theorists and you have a concise summary of my day."

[112] As the discussion continued, at some point a "hashtag" was created that read "#IStandWithPicard". Twitter users include a hashtag symbol (#) before a relevant keyword or phrase to categorize or aggregate tweets and allow others to find them more easily.

[113] Users who posted tweets that included #IStandWithPicard did so to voice their support for Picard in response to the many tweets attacking him. Among them was a tweet from Picard's colleague at The Globe and Mail, Weeks.

[114] On the evening of August 6, 2020, Weeks saw that the #IStandWithPicard hashtag was trending on Twitter because Picard was being attacked by many users.

[115] After reading Picard's comments, Weeks agreed with Picard's reaction of "shock." Based on her research, reading and reporting about COVID-19, Weeks knew that there was a wealth of scientific literature and research regarding the lack of efficacy of HCQ against Covid-19, the difficulty of achieving herd immunity and the necessity of a safe and effective vaccine that contradicted Dr. Gill's opinions.

[116] Weeks sought to express her agreement with Picard's opinion about Dr. Gill's tweets and to show support for him in light of the negative comments that had been directed at him. She also sought to promote the dissemination of accurate information concerning COVID-19. Weeks was concerned that Dr. Gill's statements had the potential to misinform or mislead people.

[117] On the evening of August 6, 2020 Weeks responded to one of Picard's tweets by posting what is essentially the only expression by her, one for which she is being sued by the Plaintiffs for millions of dollars in damages:

> "André is one of the finest health communicators – anywhere – and has done more to help the public understand #COVID19 than anyone in the country. Grateful, as usual, for his no-nonsense takes and the fact he doesn't hesitate to call out BS when he sees it. #IStandWithPicard"

[118] At 8:37 a.m. on August 7, 2020, Picard posted the third of his tweets about which Dr. Gill complains, in which he reiterated his concern that a Canadian pediatrician had publicly stated that a coronavirus vaccine was not necessary:

> "While I appreciate all the kindness, and am flattered to have my own hash tag #IStandWithPicard, I would prefer that people focus not on trolls but on my initial concern, that a Canadian pediatrician is saying we don't need a #coronavirus vaccine. #Covid19 #antivax @cpso_ca"

[119] Picard tagged the Twitter account of the College of Physicians and Surgeons of Ontario because there was an ongoing public discussion about whether and how social media use by physicians during the pandemic should be regulated, a topic of evidently great public interest.

[120] Later on the morning of August 7, 2020, Dr. Jim Woodgett, a research scientist, posted a thread on Twitter in which he advocated for the dissemination and open-minded exchange of quality information and warned against drawing attention to misinformation. Dr. Woodgett suggested that Twitter users replace #IStandWithPicard with #IStandWithScience in their tweets. Among the tweets in Dr. Woodgett's thread was one that stated:

> "I'm sure André appreciates the support, but (apologies to him) he doesn't need it and the hashtag serves to direct people to the source of the issue. On the contrary, antivaccine and pro-HCQ advocates have everything to gain by attracting attention. This fuels their cause."

[121] In reply to this tweet on August 7, 2020, Picard posted the fourth and final of his tweets about which Dr. Gill complains, advocating for the dissemination of good science instead of engaging in pointless Twitter exchanges:

> "Thank you for this thoughtful thread. I wholeheartedly agree with this point in particular. We should use our energy to promote good science, not interacting with bots, trolls and politically-driven anti-science, #antivax (what's the polite word?) dogmatists. #Covid19 #scicomm."

[122] In my opinion, all of the expressions complained of made by Picard and Weeks are on matters of intense public interest.

[123] Those same expressions are in the nature of fair comment on statements made by Dr. Gill on a similar platform and therefore attract that defence. The Plaintiffs have not discharged their burden of showing that his defence to all their claims has no chance of success.

[124] Applying the public interest balancing test, I conclude that the need to protect the freedom of these Defendants to express such views far outweighs the considerations that might apply to any factors in favour of allowing the claims of Dr. Gill against Picard and Weeks, including the unsubstantiated claims of conspiracy, to continue. Accordingly, all claims against Picard and Weeks are dismissed.

B. Tristan Bronca

[125] On August 6, 2020, Bronca read the tweet by Picard mentioned above on Twitter:

> It's quite shocking to see a Canadian physician leader @dockaurG saying we don't need a #coronavirus vaccine, we just need t-cell immunity, hydroxychloroquine and "the Truth". #Covid19.

[126] There were two tweets by Dr. Gill visible in Picard's tweet. Her August 4, 2020 tweet stated:

> "If you have not figured out that we don't need a vaccine, you are not paying attention. #Factsnotfear".

[127] The second tweet of Dr. Gill stated:

> #Humanity's existing effective defences against #COVID19 to safely return to normal life now:
>
> -The Truth
> -T-cell Immunity
> -Hydroxychloroquine

[128] Bronca believed that Dr. Gill's statements ran counter to all the public health advice and scientific opinion Bronca was aware of at the time. Dr. Gill's tweet concerned him, especially given her job as a physician. Bronca was aware of other social media communications and tweets by Dr. Gill that were of the same vein.

[129] Bronca also saw Dr. Gill's response attacking Picard on August 6, 2020:

> It is quite shocking that a journalist with absolutely no medical training is attacking a MD for stating scientific facts. Not surprising given @picardonhealth is a Pierre Trudeau Foundation Mentor & on its Trudeau "#COVID19 Impact Committee" to drive the political WHO narrative.

[130] Bronca believed that Dr. Gill's attack on Picard had made him the target of many negative comments and criticism on Twitter. Bronca took a screenshot of the tweets of Picard and Dr. Gill and added his own opinion in his tweet, which stated:

> "The country's top health journalist (accurately) points out that this doctor maybe shouldn't be pushing a drug that is now primarily pushed by conspiracy theorists. She responds with a conspiracyminded smear about how he's in bed with the WHO. Remarkable work.

[131] The "country's top health journalist" refers to Picard. "This doctor" refers to Dr. Gill. The drug referred to in the Bronca Tweet is hydroxychloroquine.

[132] Through his work with Medical Post, Bronca had been immersed in reports of the studies and analysis being done relating to the efficacy of hydroxychloroquine as a treatment for Covid-19. Bronca had also spoken with medical experts who were well versed on the scientific literature

on the topic of hydroxychloroquine who did not believe it was an effective treatment for Covid-19. By August 6, 2020, Bronca understood that the majority of the scientific evidence showed that hydroxychloroquine was not an effective treatment for Covid-19.

[133] Bronca's tweet addresses Dr. Gill's attack on Picard and her accusation that he is driving "the political WHO narrative". Bronca understood that "WHO" refers to the World Health Organization. He understood the word "narrative", as used by Dr. Gill, is a common buzzword used by some to characterize the allegedly nefarious activities of global or high-powered organizations and the alleged lies they tell to cover up or disguise these activities.

[134] Bronca thought that Dr. Gill's attack on Picard suggested that he was an active part of those allegedly nefarious activities and lies. Bronca had seen no evidence that Picard was so involved. It appeared to him that by using the language she did, Dr. Gill was attempting to smear Picard and subject him to negative comments and online hate.

[135] Bronca's tweet on August 6, 2020, questions surrounding the development of effective treatments for Covid-19, and the development of vaccines for the prevention of Covid-19 were matters of great public interest to both the medical profession and the public at large. Bronca believes he should be able to publicly express his concerns about statements that run counter to public health advice and scientific opinion without the risk of lengthy and costly litigation for doing so.

[136] The Bronca tweet falls within the statutory definition of expression, which is expansive. Dr. Gill's claim against Bronca clearly "arises from" the Bronca tweet. In August 2020, and for many months prior to and after, the issue of treatments for and vaccinations for Covid-19 were matters of great public interest due to the global Covid-19 pandemic. The Bronca tweet, which responded to what he fairly considered to be misleading information regarding hydroxychloroquine as treatment for Covid-19, related to a matter of public interest.

[137] In my view, the Bronca tweet constitutes fair comment on a matter of public interest. This defence has been described as one that:

> "Protects obstinate, or foolish, or offensive statements of opinion, or inference, or judgment, provided certain conditions are satisfied. The word "fair" refers to limits to what any honest person, however opinionated or prejudiced, would express upon the basis of the relevant facts."

[138] The Bronca tweet was based on facts. As of August 6, 2020 the majority of the scientific evidence showed that hydroxychloroquine was not an effective treatment for Covid-19. In addition, the use of hydroxychloroquine in the treatment of Covid-19 had been promoted by Alex Jones and on websites like the Gateway Pundit, both of which had a history of promoting conspiracy theories. With respect to the second sentence of the Bronca tweet, it is a fact that Dr. Gill accused Picard of "driv[ing] the political WHO narrative" in her August 6, 2020 response to Picard.

[139] The Bronca tweet was also recognizable as comment by any reasonable reader of the tweet.

[140] Accordingly, there are grounds to believe that Bronca's defence of fair comment has a real prospect of success. The Plaintiffs have not discharged their onus to show otherwise.

[141] In the weighing of the interests pursuant to s. 137(4)(b), the Plaintiffs cannot satisfy the requirement that the harm suffered by them as a result of Bronca's expression is sufficiently serious such that the public interest in permitting the action to continue outweighs the public interest in protecting that expression. Indeed, the public interest in the protection of the right of Bronca to speak about such matters of intense public interest strongly favours dismissal of these claims.

[142] Accordingly, all claims against Bronca are dismissed.

C. Dr. Jacobs, Dr. Cohen, Dr. Nataros, Dr. Alam and Dr. Sharkawy

[143] The Plaintiffs have claimed against these five Defendants in defamation on the basis of their various Twitter posts, and provision by them of commentary in articles published by the Canadian Broadcasting Corporation, as follows:

> (a) That a single tweet by Dr. Sharkawy, posted August 6, 2020 in response to the Picard tweet is defamatory of Dr. Gill;
>
> (b) That three tweets by Dr. Jacobs dated August 7, 10 and 12, 2020 are defamatory of Dr. Gill;
>
> (c) Against Dr. Cohen on the basis of a series of tweets posted between August 6, 2020 and August 11, 2020, and comments made by Dr. Cohen in CBC's August 10, 2020 article "Ontario doctor subject of complaints after COVID-19 tweets", and in CBC's video news story "Complaints Filed against Ontario doctor after COVID-I 9 tweets" dated August 10, 2020;
>
> (d) Against Dr. Nataros on the basis of a series of tweets posted between August 6, 2020 to October 21, 2020, and comments made by Dr. Nataros in CBC's August 10, 2020 article "Ontario doctor subject of complaints after COVID-19 tweets", and in CBC's video news story "Complaints Filed against Ontario doctor after COVID-I 9 tweets" dated August 10, 2020;
>
> (e) That a tweet posted by Dr. Alam on August 6, 2020 in response to the Picard tweet is defamatory of Dr. Gill.

[144] The Plaintiffs have asserted several causes of action as against these Defendants broadly as a whole, with little to no particularization of alleged individual involvement. The Plaintiffs plead these Defendants are liable in negligence, conspiracy, and "breach of the doctor Defendants' professional obligations".

[145] The Plaintiffs' claims of conspiracy are deficiently pleaded bare assertions. The pleadings are bald, overly speculative, or simply restated legal principles rather than pleaded material facts. The Plaintiffs' pleading fails to set out any alleged "agreement" with particularity, lumps these

Defendants all together, and gives no particulars of damages. In my view, it is clear from the pleadings the conspiracy claim will fail.

[146] Further, the Plaintiffs have failed to meet their burden to adduce any evidence reasonably capable of belief to establish grounds to believe a conspiracy of this nature could have substantial merit or, for that matter, any merit at all.

[147] The Plaintiffs also broadly assert a negligence claim as against these Defendants. The general law of negligence requires that a claim in negligence be based on a duty of care owed to them by these Defendants. The Plaintiffs assert that a special duty of exists "as set out in protocol" when a physician makes representations or remarks about a fellow doctor to the public. No such duty of care between or among physicians exists such that a cause of action may arise.

[148] The Plaintiffs also assert that these Defendants are liable to the Plaintiffs in "breach of the doctor Defendants' professional obligations". The Plaintiffs have provided no basis in the record or law to support a breach of professional obligation gives rise to an independent cause of action. The Plaintiffs thereby fail in their burden to establish that there are grounds to believe the proceeding has substantial merit.

[149] The Plaintiffs' claim against Dr. Sharkawy pertains to a single tweet made on August 6, 2020, which is alleged to be defamatory to Dr. Gill.

[150] In response to the Picard tweet, on August 6, 2020 Dr. Sharkawy tweeted the following:

> @dockaurG Curious.,.who exactly are the "Concerned Doctors of Ontario" and do they espouse your views? The rest of us Ontario MDs are quite "concerned" that you are spreading very dangerous misinformation that will cost lives #Accountability.

[151] Dr. Sharkawy embedded the Picard tweet, and by extension, the two embedded tweets of Dr. Gill embedded in the Picard tweet.

[152] The Plaintiffs have the onus of showing that that none of the defences raised by Dr. Sharkawy are legally tenable or supported by evidence that is reasonably capable of belief such that they can be said to have no real prospect of success. Dr. Sharkawy relies on the defences of fair comment and justification. In my view the Sharkawy tweet meets all the requirements of the defence of fair comment. Dr. Sharkawy was responding to the fact Dr. Gill had publicly posted certain tweets regarding COVID-19 public health measures in the midst of the global COVID-19 pandemic, to the effect that COVID-19 vaccines were not necessary, and HCQ was an appropriate treatment for COVID-19. Dr. Sharkawy's statement that "[t]he rest of us Ontario MDs are quite concerned" was fair comment or at least presents a strong defence of fair comment.

[153] The Sharkawy tweet further satisfies the requirement that any person could honestly express that opinion on the proved facts. The public health guidance at the time, and to this day, is contrary to the views expressed by Dr. Gill in her August 4 tweet (about vaccines) and August 6 tweet (about HCQ) that Dr. Sharkawy commented his concerns about. Any reasonable person

could form the same concerns and opinion on the proved facts in light of the conflict with generally accepted public health guidance.

[154] The Plaintiffs allege Dr. Jacobs' August 7, 2020 tweet is defamatory. Dr. Jacobs's August 7, 2020 tweet responds to two prior tweets of Dr. Gill, which are attached to Dr. Jacobs tweet as a screenshot. Dr. Jacobs August 7, 2020 tweet reads as follows:

> No, we're not living through a scandal. We're living through one of the deadliest pandemics in the last century. What is most shocking is a medical doctor pushing conspiracy theories.
>
> This needs to stop. #Cdnpoli #COVID19 #IStandWithPicard
>
> #vaccine #coronavirus
>
> [Attached screenshot of Dr. Gill's July 3 tweet]
>
> We're living thru one of deadliest #BigPharma scandals in history. Most shocking/frightening—majority oblivious. #HCQWorks as prophylaxis & early treatment in #COVID19. HCQ doesn't work for greedy BigPharma, politicians abusing power, corrupted WHO/CCP, bought out media/academics
>
> [The July 3 tweet attached a June 30, 2020 tweet by Dr. Gill, which was also attached to Dr. Jacobs August 7, 2020 tweet]
>
> Irrational fear is driven by politicians abusing power, media misinformation, unethical academics, BigPharma COIs & corrupted WHO co-opted by CCP. Science & medicine have been hijacked & are being exploited for power & greed...

[155] There are no grounds to believe the Jacobs tweet is capable of bearing the defamatory meaning alleged in paragraph 151, including such imputations as to "call into question Dr. Gill's mental stability" or "suggest that she was/is endangering the lives of her patients".

[156] Further, the Plaintiffs cannot meet their burden under s. 137.1(4)(a)(ii) to show that there are grounds to believe Dr. Jacobs has no valid defence of fair comment. Dr. Jacobs further relies on the defence of fair comment. The Jacobs August 7 tweet satisfies the test for the defence of fair comment in that it is based on fact (Dr. Gill's tweets, the facts on which his comment was based, were included in the Jacobs August 7 Tweet), recognizable as comment (Dr. Jacobs' statement would be properly construed by the reasonable reader as reflecting his conclusion or inference arising from Dr. Gill's embedded tweets), could honestly be made by any person (Dr. Jacobs inference that Dr. Gill was pushing conspiracy theories has a clear linkage to the facts of Dr. Gill's statements that "HCQ doesn't work for greedy BigPharma, politicians abusing power, corrupted WHO/CCP, bought outmedia/academics" which by definition is a conspiracy theory).

[157] The Plaintiffs further allege Dr. Jacobs' August 10, 2020 tweet, which attached and quoted from the August 10, 2020 Canadian Broadcasting Corporation article about Dr. Gill entitled "Ontario doctor subject of complaints after COVID-19 tweets" is defamatory. The body of Dr. Jacobs' August 10, 2020 tweet contains only the title of the article, and a direct quote from the article "It's important that physicians recognize the influence they may have on social media, particularly when it comes to public health", included in the article from a spokesperson of the College of Physicians and Surgeons of Ontario. Dr. Jacobs replied to the tweet "The fact that so many people on this thread still believe that the current research supports the use of hydroxychloroquine, when the opposite is true, is exactly why it is so important for physicians to be responsible in what they say on social media".

[158] Further, there are no grounds to believe that Dr. Jacobs' August 10, 2020 tweet is defamatory in that it would lower Dr. Gill's reputation in the eyes of a reasonable person. An excerpt of a quote from the CPSO, coupled with a statement that it is important for physicians to be responsible on social media is incapable of bearing the defamatory meaning alleged. The Plaintiffs cannot establish that there are grounds to believe that the defence of fair comment will not succeed.

[159] Dr. Jacobs' August 10, 2020 tweet satisfies all elements of the defence of fair comment: (i) Public Interest: it was made on a matter of public interest, addressing physician influence on social media with respect to public health; (ii) Based on Facts: The August 10, 2020 tweet attached the CBC article, providing the full requisite factual backdrop; (iii) Recognisable as Comment: Dr. Jacobs' statement that the fact that many believed HCQ was an effective treatment for COVID-19 reflected why it was so important for physicians to be responsible on social media is clearly recognizable to the "reasonable reader" as comment. Any reasonable reader would understand that Dr. Jacobs shared the CBC article, then provided his opinion and conclusion regarding the article as comment below; (iv) Could honestly be made by any person: Dr. Jacobs' comment in the August 10, 2020 tweet is in agreement with the statement of the CPSO spokesperson mentioned in the article, demonstrating two commentors could honestly come to the same conclusion on the same known facts. (v) Absence of Malice: Dr. Jacobs posted his comment in good-faith, without malice. There are no grounds to believe the fair comment defence has no real prospect of success.

[160] The Plaintiffs further claim that a tweet made by Dr. Jacobs on August 12, 2020 is defamatory of Dr. Gill. The Plaintiffs cannot establish there are grounds to believe this claim has substantial merit. For a statement to be defamatory it must refer to the Plaintiff. Dr. Jacobs' August 12, 2020 Tweet does not refer to the Plaintiff, nor did the attached article. No connection was drawn to Dr. Gill in the tweet thread.

[161] Dr. Jacobs further asserts a defence of qualified privilege with respect to all three tweets that the Plaintiffs allege to be defamatory. As a physician, Dr. Jacobs has a moral and professional duty to: educate the public to ensure that medical knowledge is appropriately conveyed to facilitate health promotion and disease prevention; interpret information given out by health authorities during emergencies; and to participate in setting the standards of his profession. The public has an interest in receiving that information. There are no grounds to believe that this defence of qualified privilege has no real prospect of success in these circumstances. Indeed, it is a strong defence.

[162] Some of the impugned expressions of Dr. Nataros are alleged to be defamatory on the basis that they accuse Dr. Gill of spreading "misinformation", including his contribution to the August 10, 2020 CBC News Video, in which he states.

> This is a threat to me and my practice and my professional integrity here in British Colombia. It is a threat to my 15,000 patients to have a Canadian licensed physician promoting misinformation that is harmful.

[163] Further impugned expressions of Dr. Nataros appear to relate to allegations that his statements either encourage the public to lodge a complaint against Dr. Gill, or relate to statements Dr. Nataros made referencing the fact he had felt an obligation to report Dr. Gill to the CPSO. A further Impugned Expression relates to a statement that the "unanimous consensus of #MedTwitter is clear this @doekaurGMD ain't a leader among peers."

[164] There are no grounds to believe that the defence of fair comment relied upon by Dr. Nataros has no real prospect of success. Dr. Nataros made these comments: (i) On a matter of public interest: his expressions are addressing the physician regulation and the public health response to the COVID-19 pandemic; (ii) Based on Fact: The existence of the COVID-19 pandemic was broadly known and Dr. Nataros either responds to a Twitter thread, attaches his letter of complaint to the CPSO or the August 10, 2020 CBC Article to the expressions, providing the requisite factual backdrop; (iii) Recognizable as Comment: Dr. Nataros' statements are all recognizable as his opinion. The statement that he "took responsibility for a Colleague's misconduct", expresses his opinion of Dr. Gill's conduct, not a factual statement that there had been a finding of misconduct, (iv) could honestly be made by any person: Given the publicly available health information available at the time, any person could reasonably express the same opinion; (v) Absence of Malice: Dr. Nataros' only motivation in posting the impugned expressions was his concern for patients and the impact of misinformation on the public health response to the COVID-19 pandemic.

[165] Several of Dr. Cohen's tweets and expressions between August 6, 2020 and August 10, 2020 are alleged to be defamatory of Dr. Gill. The Plaintiffs cannot meet their burden to show that there are grounds to believe these expressions are defamatory and thus that the claim has any real chance of success, or there are grounds to believe Dr. Cohen has no valid defences.

[166] Certain of the impugned expressions of Dr. Cohen's which are alleged to be defamatory of Dr. Gill pertain to statements around Dr. Gill "blocking" people on Twitter. The Plaintiffs cannot meet their burden to show these statements are defamatory. There is no basis to discern that "blocking" someone on Twitter would tend to lower Dr. Gill's reputation in the eyes of a reasonable person. Dr. Cohen's statements use wording such as "blocked nearly every other Ontario Doctor on Twitter" which the reasonable reader would understand to not be a literal statement that nearly every doctor was blocked, but a hyperbolic statement, the sting of which is that Dr. Gill has blocked many Ontario physicians. As such, there are no grounds to believe that Dr. Cohen's defence of fair comment has no real prospect of success with respect to these expressions.

[167] Dr. Cohen also further relies on the defence of qualified privilege with respect to all impugned expressions. As a physician, Dr. Cohen believed she has a moral and professional duty to educate the public to ensure that medical knowledge is appropriately conveyed to facilitate health promotion and disease preventions, interpret information given out by health authorities during emergencies, and to participate in setting the standards of her profession. The public has an interest in receiving that information. There are no grounds to believe that this defence has no real prospect of success.

[168] The words of Dr. Alam's August 6, 2020 tweet on their face are not defamatory. Dr. Alam expresses her view that the medical evidence on the use of HCQ is "shaky", and that a COVID-19 vaccine is needed. While Dr. Alam's view may differ from that of Dr. Gill, a difference of professional opinion does not constitute defamation. There is nothing in Dr. Alam's tweet that would tend to lower either Plaintiff's reputation in the eyes of a reasonable person. The Plaintiffs cannot establish there are grounds to believe the defamation action as against Dr. Alam for the August 6, 2020 tweet has substantial merit, as the words are simply not capable of bearing a defamatory meaning.

[169] The Plaintiffs also cannot establish there are grounds to believe that Dr. Alam has no valid defence. There are no grounds to believe that her defence of fair comment has little prospect of success. Dr. Alam's August 6, 2020 tweet satisfies the test for fair comment: (i) Is made on a matter of public interest: the tweet is addressing the public health response and treatment options with respect to the COVID-19 pandemic; (ii) Based on Fact: The factual underpinning of the Picard Tweet is attached to Dr. Alam's tweet, and the existence of the COVID-19 pandemic was broadly known; (iii) Recognizable as Comment: Dr. Alam's statement that evidence of HCQ is "shaky" and that the need for a COVID-19 vaccine is real reflect Dr. Alam's opinion; (iv) Could honestly be made by any person: Given the publicly available health information available at the time, any person could reasonable person could express the same opinion; and (v) Absence of Malice: The evidence supports that Dr. Alam was not motivated by malice, but by her good-faith belief that an appropriate vaccine is vital to combat the COVID-19 virus.

[170] The burden of proof is on the Plaintiffs to show on a balance of probabilities that that (a) they likely have suffered or will suffer harm; (b) that such harm is as a result of the expression established under s. 137.1(3); and, (c) that the corresponding public interest in allowing the underlying proceeding to continue outweighs the deleterious effects on expression and public participation.

[171] Although a fully developed damages brief may not be necessary on a s. 137.1 motion, in this case there is simply a complete dearth of any evidence on the motion to show harm, or linking these Defendants' expressions to any of the undefined damages that are claimed by the Plaintiffs.

[172] The Plaintiffs' claims of harm are completely undifferentiated. The Plaintiffs fail to even allege specific claims of damage with respect to each individual Defendant or expression, let alone provide any evidence of a causal link of harm or damage arising from each expression.

[173] This is particularly problematic in the context of this case, as even if the Plaintiffs were able to establish harm, there are many potential causes of the harm that the Plaintiffs claim to have suffered. Evidence of a causal link of harm arising from the impugned expression is required.

[174] Evidence of a causal link between the expression and the harm is especially important, in the circumstances of the present motion, where there may be sources other than these Defendants' expressions that may have caused the Plaintiffs harm, including self-inflicted harm by the Plaintiffs themselves as a result of the professional and public criticism received for controversial statements and media appearances.

[175] These allegations appear to be part of a larger tactical campaign in opposition to COVID-19 public health measures, designed to benefit from the publicity of the claim to promote public health and policy views and to silence those who express views contrary to those of the Plaintiffs.

[176] The public interest of protecting the expression of these Defendants significantly outweighs any public interest in permitting the proceeding to continue. There are numerous relevant factors at the weighing stage which weigh heavily in favour of protecting their expressions.

[177] These Defendants were not motivated by any malice or ill-will towards the Plaintiffs. Rather, the defendant Physicians' expressions were motivated by good-faith efforts to protect the public from misinformation, and provide the public with health information in the context of an unprecedented global pandemic:

> (a) Dr. Sharkawy expressed concern that misinformation espoused to the public could result in Canadians choosing not to get vaccinated for COVID-19 or using unapproved treatments for COVID-19 that were not medically accepted. His expression was motivated by a moral duty as a physician to express his views to the public out of concern for public safety;
>
> (b) Dr. Jacobs's expressions were motivated by an intention to inform his followers of appropriate approved treatments for COVID-19, and a belief that properly informing the public could save lives. Dr. Jacobs emphasized the importance that the public receive a clear and consistent message when it comes to public health messaging, as harm to patients can arise when a physician provides an opinion that does not align with information from public health or government;
>
> (c) Dr. Cohen's expressions were motivated by concern about the public health impacts of Dr. Gill's tweets with respect to the need for COVID-19 vaccinations and the use of hydroxychloroquine. Dr. Cohen felt a duty as a physician to offer her views in the public interest.
>
> (d) Dr. Nataros felt a duty as a physician to offer his views to the public and address misinformation about COVID-19. Dr. Nataros' expressions were motivated by concern for public safety arising from the spread of misinformation on COVID-19 treatments and the efficacy of vaccines.

[178] The expressions of these Defendants in seeking to address misinformation are intimately tied to the search for truth, a core value underlying freedom of expression. The expression of these Defendants is therefore to be afforded a high weight in the s. 137.1(4)(b) weighing exercise.

[179] If this proceeding were allowed to continue, its chilling effects would have an impact well beyond the parties to this case. There is a real risk that the effects of this proceeding will stifle the speech of the Defendants, and deter other physicians, journalist, scientists, and other members of the public from engaging in public discussion and discourse about potential misinformation on matters of public health in the future. The public has a clear interest in discussion and discourse about matters of public health.

[180] Even on a generous interpretation of the limited evidence adduced by the Plaintiffs, the harm likely to be or already suffered by the Plaintiffs lies at the very low end of the spectrum as does the public interest in allowing the proceeding to continue. The balancing test produces a result that favours that urged by these Defendants.

[181] Accordingly, all claims as against these Defendants should be dismissed.

D. Dr. Van Aerde

[182] On August 4, 2020, Dr. Gill tweeted:

> "If you have not yet figured out that we don't need a vaccine, you are not paying attention. #FactsNotFear".

[183] Dr. Gill suggests in her Affidavit that this tweet was taken "out of context and distorted", and it was made in response to an announcement made "moments prior" by Dr. Theresa Tam at a press conference. She states this was a "singular 'vaccine Tweet'". And yet, she also posted "[w]e don't need a #SARSCoV2 vaccine" on July 8, 2020, a full month before Dr. Tam's press conference. Her clearly stated public position against COVID-19 vaccines is not affected by context.

[184] In another tweet, dated August 6, 2020, which was removed from Twitter for violating its rules, Dr. Gill stated:

> "#Humanity's existing effective defences against #COVID19 to safely return to normal life now includes: -Truth, -T-cell Immunity, Hydroxychloroquine."

[185] On August 6, 2020, Dr. Van Aerde, shocked by the anti-vaccine rhetoric of a fellow pediatrician, made the following expressions on Twitter and Facebook (collectively, the "Expressions"):

> "Requesting @Twitter and @TwitterSupport remove account @dockaurg for misinformation against vaccination and in favour of hydroxychloroquine and misrepresenting Canadian physicians."

> "Another Twitter account hacked? I am sorry if that is the case, But here is another of your tweets attached with unprofessional lies. As a colleague Pediatrician I have to admit that you are dangerous to children. How do you come up with this? Why Don't you quote evidence?"
>
> "I was blocked too… after I called out the untruths and supported Andre Picard. Some of us have requested Twitter to remove her account. She was trained in Western as Pediatrician. She has tweeted before on bogus treatments, lots of trolls followers. There is a call for her unprofessionalism to be looked at by cspo. Somebody mentioned she is part of our FB community, and I suggest for her to be removed for lack of professionalism and scholarship as per CANMEDS2105."

[186] Dr. Gill "blocked" Dr. Van Aerde shortly after these tweets were posted. Blocking on Twitter prevented Dr. Van Aerde from viewing and responding to Dr. Gill's tweets from his own Twitter account.

[187] There is no dispute that Dr. Van Aerde is the author of the expressions and that those expressions are captured by the statutory definition of expression under s. 137.1(2).

[188] Dr. Van Aerde's expressions relate directly to the COVID-19 global pandemic and information and disinformation about COVID-19. The expressions respond to Dr. Gill's propositions that "we don't need a vaccine", and all we need is "…-Truth, -T-cell Immunity, Hydroxychloroquine".

[189] No issue falls more squarely into the definition of a matter of public interest than a global pandemic. The public has a genuine stake in the matter of debates about pandemics and COVID-19 health treatments.

[190] To the extent that the content of the expressions made by Dr. Van Aerde are comments, rather than statements of fact, then there are reasonable grounds to believe that fair comment is a valid defence for him.

[191] The expressions are based on factual evidence that vaccines are a critical tool to end the pandemic and supported by multiple health agencies and organizations. Any person could honestly express that opinion on those facts. At least 22 other people did, nine of whom are Canadian physicians, as evidenced by this litigation.

[192] Dr. Van Aerde's expressions are very likely also protected by a defence of qualified privilege. The occasion here that triggers qualified privilege is the need to respond to an influential physician using her Twitter platform to spread misinformation in the middle of a pandemic. Misinformation about treatments and vaccines could have serious and widespread health consequences. Dr. Van Aerde had a professional, social, and moral duty to respond to Dr. Gill's statements and challenge her views.

[193] The Plaintiff has failed to adduce any evidence of a conspiracy. She provides no evidence in her affidavit of a conspiracy. The Statement of Claim makes bald allegations that, because Dr. Van Aerde was on the same Facebook group as other defendants, there is necessarily some conspiracy between them to harm Dr. Gill. She argues that the Defendants, "like a pack of hyenas" coordinated an attack on her without any evidence to support her claim.

[194] Dr. Gill also includes negligence as a cause of action in her claim but Dr. Gill's only evidence of negligence is adopting of allegations in her Statement of Claim as sworn facts. A cause of action in negligence is not properly set out in her pleadings. Dr. Gill is really claiming negligence because she was defamed. If she was defamed, the proper cause of action is defamation, which is her only plausible cause of action.

[195] The final step involves weighing the harm suffered against the interest in protecting the expression made. Dr. Van Aerde was somewhat harsh in his comments but not gratuitously so and the focus is not on whether the expression should have been more polite. Dr. Gill has suffered no harm as a result of the expressions of Dr. Van Aerde. The imposition of subjective and moralistic limits on debates, and in particular on those of scientists amidst a pandemic, is not in the public interest. When the final comparative weighing step of the test is applied, I consider that the correct result is that all claims against Dr. Van Aerde be dismissed.

E. Dr. Fraser

[196] On October 1, 2020, Dr Gill "quote-tweeted" (re-posted, with commentary), her own earlier tweet from September 17, 2020, which read:

> Why is there fear re meaningless "cases"? Up to 90% false+ d/t high PCR cycle thresholds on ppl who are not infectious. Even among the small % of actual true positives: it is good news b/c ICU adms & deaths are at all-time lows. These healthy ppl are contributing to herd immunity

[197] Dr Gill's October 1 tweet added the following additional commentary:

> This cannot be stressed enough. Rising "cases" amongst young & healthy ppl, without equal rise in ICU adms or deaths directly as a result of the virus, is very encouraging news: it means we are building natural community/herd immunity which will protect elderly & high-risk groups

[198] Dr. Fraser saw Dr. Gill's October 1 tweet and understood it to suggest that Ontario was developing natural herd immunity to COVID-19—a proposition that he considered to be dangerous misinformation about the risk of COVID-19 transmission that could lull Ontarians into abandoning public health measures at a time when infections were on the rise. Dr. Fraser was concerned that Dr. Gill's tweet would undermine public health efforts that aimed to reduce the spread of COVID-19 by encouraging the use of masks and social distancing, and reducing contacts.

[199] Dr. Fraser's understanding at the time, based on his review of infection rates in Ontario, was that nowhere near the percentage of the population required to achieve herd immunity had been infected and recovered from COVID-19 as of October 1, 2020. He was concerned that members of the public would read Dr. Gill's tweet and understand that precautions were no longer necessary because the population had achieved, or had nearly achieved, herd immunity. He feared this could cause people to disregard public health guidelines and expose themselves to a higher risk of infection. He was particularly concerned that individuals who read the tweet would be more likely to accept her statement as truthful and authoritative because Dr. Gill's Twitter profile highlights her physician credentials.

[200] Dr. Fraser had been closely following reporting of the nascent "second wave" of COVID-19 infections developing in Europe and had observed that Ontario appeared to be lagging a couple of weeks behind but following a similar trend. Of course, a "second wave" of infections in Ontario did ultimately occur, reaching its peak later that fall.

[201] Based on these concerns, Dr. Fraser posted a small number of tweets in response to Dr. Gill's October 1 tweet, and in response to her followers who engaged with him subsequently, in an effort to push back against what he considered to be misinformation that could have dangerous repercussions if left unchallenged. As a publicly funded scientist, Dr. Fraser felt that he had a responsibility to voice his concerns so that Dr. Gill's followers and others who saw her tweet would be aware that her views did not represent the consensus in the scientific community.

[202] Almost immediately after Dr. Fraser published his first tweet, Dr. Gill blocked him from her Twitter page, making it impossible for him to engage with her. She also "quotetweeted" Dr. Fraser's tweet and referred to Dr. Fraser using the same language about which she complains in this action.

[203] The impugned tweets relate to the COVID-19 pandemic, and the dangers of misinformation regarding the risk of transmission and the need for public health measures in response to the pandemic. That is a matter of significant public interest. One can scarcely imagine a topic of greater public interest.

[204] The first impugned tweet, which Dr. Fraser posted on October 1, 2020 in response to Dr. Gill's tweet, reads:

> Can you please stop with this herd immunity garbage? What proportion of the population is seropositive at this stage in your opinion? 80%? Or below 5%? This is simply lunatic stuff. I can't believe you are qualified as an MD.

[205] Applying the proper approach to determining meanings, the tweet means that the Ontario population had not reached herd immunity to COVID-19 as of October 1, 2020 and there was no reasonable basis to suggest that Ontario had reached or was close to reaching herd immunity. It was therefore irresponsible for Dr. Gill to tell the public that Ontario had reached or was close to reaching herd immunity.

[206] The reference to "lunatic stuff" is understood reasonably as a reference to the suggestion that Ontario had reached herd immunity—it does not convey the meaning that Dr. Gill is a lunatic. If it were to be understood as referring to Dr. Gill, it is mere vulgar abuse, an insult that might hurt Dr. Gill's feelings but that is not actionable and would not harm her reputation in the eyes of a right-thinking person.

[207] The second impugned tweet was a response Dr. Fraser posted to a tweet from Martin Kulldorff, which defended Dr. Gill after Dr. Fraser's first tweet. Dr. Fraser wrote:

> Let's at least agree that there is a substantial history here of Kulvinder pushing fact-free COVID myths.
>
> I also had anonymous threats to my personal email account for pointing out her skews and misrepresentations. Not the behaviour of a reasonable person I would say.

[208] The tweet meant and was understood to mean that prior to her October 1 tweet, Dr. Gill had made claims about COVID-19 that were not grounded in fact. The mention of "anonymous threats to my personal email account" and "Not the behaviour of a reasonable person" meant and were understood to mean that an anonymous supporter of Dr. Gill had made threats to Dr. Fraser's personal email account because Dr. Fraser had pointed out Dr. Gill's misrepresentations of fact. That supporter's conduct was not the behaviour of a reasonable person. That comment was not objectively understood to refer to Dr. Gill herself.

[209] Dr. Fraser posted the third and fourth impugned tweets in response to one of Dr. Gill's supporters, who had criticised one of his tweets. The tweets read:

> Dr. Gill was previously reprimanded for spreading untruths about COVID. She was pushing HCQ and suggested vaccine was unnecessary. She suggests that the low deaths SO FAR in Ontario's 2ND wave is due to herd immunity...nonsensical as I said. I stand by my condemnation of her views
>
> And:
>
> the reason I pushed back hard against her fact-free tweets is that this is the second time she is spreading harmful and dangerous views. Last time she was forced to retract her tweets. It is disgraceful that an MD continues to push illogical and wrong views during a pandemic.

[210] These tweets mean and were understood to mean that Dr. Fraser understood Dr. Gill had been admonished previously for making inaccurate statements about hydroxychloroquine as a COVID treatment and that vaccines are not needed and that she was forced to retract those tweets and Dr. Gill is again giving the public inaccurate and potentially harmful information about COVID, this time relating to herd immunity. Further, it is unreasonable to suggest that the low deaths in Ontario's second wave as of October 4 are due to herd immunity.

[211] Finally, the fifth impugned tweet was a comment Dr. Fraser made in response to a tweet by the Defendant, Marco Prado. It reads:

> Thank you Marco! I feel it is our responsibility as academics to try to push back against dangerous and wrong views that encourage complacency and a false sense of security during this pandemic. If this was the first time Dr. Gill had done this, it could be a mistake. It wasn't.

[212] This tweet meant and was understood to mean that academics have a responsibility during the pandemic to speak out when others express views that may lead members of the public to stop taking appropriate precautions and increasing their risk of contracting COVID- 19. Further, Dr. Gill's comments cannot be overlooked as a mistake because on Dr. Fraser's understanding it is not the first time she has published comments during the pandemic that are not based on fact and may have dangerous implications.

[213] Even if Dr. Gill were to satisfy the substantial merit requirement, she cannot meet her burden of demonstrating that Dr. Fraser has no valid defence to the claim. Dr. Gill must show there are grounds to believe that Dr. Fraser's defences have no real prospect of success. She must show that none of the defences are legally tenable or supported by evidence that is reasonably capable of belief. There must be a basis in the record and the law, taking into account the stage of the proceeding, to support a finding that the defences do not tend to weigh more favour of Dr. Fraser. Dr. Gill has not met that burden.

[214] The comments expressed in the impugned tweets have a nexus to the underlying facts. A person could honestly have made the same comments Dr. Fraser did based on the facts Dr. Fraser knew and as summarised above. Moreover, Dr. Fraser honestly believed in the comments he expressed. He believed that Dr. Gill's tweet suggested Ontario had reached, or was close to reaching herd immunity; that Ontario was in fact not close to COVID-19 herd immunity; and that it was unreasonable and dangerous for a physician to suggest otherwise to the public because it could result in individuals refusing to follow public health measures to reduce the transmission of the virus. Dr. Fraser honestly believed, based on the CBC article, that Dr. Gill had previously posted a tweet containing inaccurate information about COVID-19 and that the tweet had been taken down from Twitter for violating its rules—a public rebuke or reprimand.

[215] Dr. Fraser's unchallenged evidence is that he did not act out of any malice or ill-will toward Dr. Gill. Dr. Fraser did not and does not know Dr. Gill and had never interacted with her before his initial tweet in response to her October 1, 2020 tweet. He did not intend to cause any harm to Dr. Gill but his predominant motive was to ensure the public was not swayed by inaccurate, misinformation during a significant public health crisis. His only intention was to provide an opposing informed perspective regarding the appropriate interpretation of public health information relating to COVID-19 for the benefit of Dr. Gill's Twitter followers and for anyone else who became aware of Dr. Gill's October 1, 2020 tweet.

[216] Dr. Gill's and Dr. Fraser's tweets were public communications related to the appropriate public health response to a pandemic. At the time, Dr. Fraser perceived that members of the

Canadian public were genuinely confused about the risk of transmission of COVID-19 and what precautions were necessary to reduce the risk of transmission of this potentially deadly disease. There is a compelling social interest in attaching privilege to communications such as Dr. Fraser's impugned tweets, which respond to and debate statements made on a public forum relating to pressing matters of public health.

[217] To the extent Dr. Gill has suffered any harm, she has not shown any causal link to Dr. Fraser's impugned tweets. There are many potential causes of the harm Dr. Gill claims to have suffered. Dr. Gill herself is the most obvious cause of damage to her reputation. Other potential causes include the comments and criticisms of others. When Dr. Fraser published the impugned tweets, Dr. Gill was already the subject of criticism on social media for spreading misinformation about COVID-19.

[218] There is great public interest in protecting Dr. Fraser's expressions which are of substantial importance. He spoke up against what he considered to be misinformation that could lead individuals to ignore public health recommendations and measures designed to mitigate the risk of COVID-19 pandemic. A public health emergency in which informed, knowledgeable experts are stifled from commenting publicly to combat misinformation is a significant threat to the general public interest.

[219] When the ultimate balancing test is applied, the interests and factors that might favour allowing this action against Dr. Fraser to continue are easily and far outweighed by the public interest in protecting speech of this nature. Accordingly, all claims against Dr. Fraser are dismissed.

E. Dr. Schwartz, Timothy Caulfield, Dr. Prato and Dr. Fazel

[220] On August 6, 2020, Professor Caulfield responded to a tweet posted by André Picard on the same date in which Picard indicated he was shocked to see Dr. Gill tweeting that we do not need a coronavirus vaccine, but rather that we just need T-cell immunity, HCQ, and the truth:

> Incredible. A leading MD spreading #misinformation about vaccines & value of lockdown? Pushing disproven #Hydroxychloroquine?
>
> She has already blocked me (preemptive?), so can't see all. Will @cpso_ca explore? She's involved (leads?) "Concerned Ontario Doctors".

[221] Following his above tweet, Professor Caulfield then copied and pasted the following two tweets from Dr. Gill (the "#FactsNotFear tweets"), over which he included the letters "WTF":

> There is absolutely no medical or scientific reason for this prolonged, harmful, and illogical lockdown. #FactsNotFear

[222] On August 6, 2020, Professor Caulfield responded to a tweet by Dr. Michelle Cohen regarding the spread of misinformation on social media by tweeting "Go Team".

[223] On August 6, 2020, Dr. Fazel responded to the #FactsNotFear tweets as follows:

> I'll just put this here. #VaccinesWork #vaccination #VaccinesforALL
> [infographic from the Public Health Agency of Canada titled: "Vaccines Work", outlining the efficacy of vaccines for whopping cough, measles, chickenpox, mumps, diphtheria, and polio]

[224] On August 6, 2020, Dr. Fazel responded to a tweet by Professor Caulfield of the same date regarding a leading physician spreading misinformation:

> Just like any other profession, unfortunately, even in medicine you have a few rotten apples. This is why it's crucial to improve evidence-based literacy in the community.

[225] On August 6, 2020, Dr. Fazel responded to a post by Dr. Gill by tweeting:

> There is a difference between having opposing views that are backed by evidence and spreading misinformation.

[226] On July 22, 2020, Dr. Schwartz quoted a tweet regarding a comment by Dr. Anthony Fauci on vaccine antibodies and T-cells, and he added the following:

> Apparently "T-Cell Immunity" is the new rallying cry for anti-science plague enthusiasts who argue that many more people are immune than measured in serosurveys (which measure antibodies).
>
> [thinking emoji] I'd listen to Dr. Fauci [world emoji]'s pre-eminent immunologist on this one

[227] Dr. Schwartz subsequently added to that tweet:

> Case in point:
> [re-tweet of Dr. Gill's tweet: T-cell immunity, T-cell immunity, T-cell immunity…]

[228] On August 6, 2020, Dr. Schwartz responded to a tweet by Mr. Picard which re-posted a tweet that expressed disdain for Picard and support for Dr. Gill, and added a comment that "the trolls [were] out in full force":

> Yes, her army of despicables also attacked me last week when I called her out for her anti-science stance.

[229] On August 6, 2020, Dr. Schwartz responded to a tweet from Dr. Jo Kennelly, the late wife of Dr. Frank Plummer, in which Dr. Kennelly indicated that vaccine cell creation and T-cell natural immunity were not mutually exclusive in Dr. Plummer's eyes:

> Except it pains me that she uses his good name in vain to support her anti-science opinions.

[230] On August 10, 2020, Dr. Schwartz re-tweeted an article from CBC of the same date, titled "Ontario doctor subject of complaints after COVID-19 tweet".

[231] On August 10, 2020, Dr. Schwartz tweeted:

> This pediatrician has consistently espoused misinformation & conspiracy theories at a time when trust in our profession is critically important. She accuses all who call her out of bigotry & corruption & hides behind summer student experience in a respected lab.

[232] On October 4, 2020 Dr. Prado responded to a tweet posted by Dr. Andrew Fraser in which Dr. Fraser reported that he received threats from supporters of Dr. Gill to his personal email after challenging Dr. Gill's tweets. Regarding the supporters that threatened Dr. Fraser, Dr. Prado wrote:

> I have no patience with conspiracy theory defenders. My family lives in Brazil. Many people they know had major issues because of COVID and were in the hospital. Some died. You are right, stay strong and keep pushing for scientific facts Andy!

[233] Dr. Gill claims against these four Defendants in defamation and conspiracy. She also claims against Dr. Schwartz, Dr. Fazel, and Dr. Prado in negligence.

[234] Dr. Gill cannot prove the substantial merit element as she does not have viable causes of action in defamation, negligence, or conspiracy. Dr. Gill cannot prove the "no valid defence" element as the defences of fair comment and qualified privilege advance by these Defendants have sufficient validity. Dr. Gill cannot prove that any damages she may have suffered are sufficiently serious for the interest in permitting the proceeding to continue to outweigh the public interest in protecting the impugned expressions, and therefore she cannot overcome the public interest hurdle.

[235] Given that the proceeding arises from expressions made by these Defendants that relate to matters of public interest, the onus shifts to the Plaintiffs to show that there are grounds to believe that the proceeding has substantial merit and that these Defendants have no valid defence.

[236] None of the impugned statements of these Defendants are capable of giving rise to the defamatory meanings alleged. Further, those meanings would not have arisen in the minds of reasonable readers. In the "Twitter-sphere" the exchanges would simply be seen as a disagreement between medical professionals in terms that would not be interpreted as defamatory.

[237] In the circumstances, Dr. Gill cannot show that there are reasonable grounds to support a finding that these Defendants owed her a duty of care in these circumstances.

[238] There are no grounds to believe the conspiracy claim has substantial merit. The statement of claim is deficient and does not disclose a reasonable cause of action as it relates to the claim of

conspiracy against the moving parties. Moreover, Dr. Gill has put forward insufficient evidence to support such a claim.

[239] Dr. Gill cannot satisfy the court that there are grounds to believe that her claims of defamation, negligence, or conspiracy are legally tenable and supported by evidence reasonably capable of belief such that they have a real prospect of success.

[240] For the reasons set out in their detailed Factum at paragraphs 66 through 91, I agree with these Defendants that the Plaintiffs have not shown that their defences of fair comment and qualified privilege lack the necessary prospects of success to permit the action to proceed.

[241] When the balancing test is applied to the claims against these Defendants I consider that the comparative interests and considerations are very heavily in favour of the position advanced of these Defendants. Accordingly, all claims made against them are dismissed.

G. Dr. Polevoy

[242] Dr. Polevoy is a retired physician now living in the Region of Waterloo, Ontario. He has been an advocate for good patient care and public health for many years. Dr. Polevoy is also an active physician leader with a long history of leadership in specialty associations, and provincial associations.

[243] Dr. Polevoy uses his Twitter account as a platform to express his view on a number of topics, including to communicate with the public on health and medicine.

[244] The Plaintiffs have claimed damages for alleged defamation on the basis of series of tweets posted between August 6, 2020 and October 21, 2020 similar in nature to those of the other physician Defendants.

[245] Dr. Polevoy has adopted the arguments and submissions advanced on behalf of the other Defendant physicians with respect to the nature of his tweets and the available defences to him of fair comment and qualified privilege. In my opinion they apply equally to his tweeted expressions. Further, any communication expressing any complaint or concern about the Plaintiffs that he made to the College of Physicians and Surgeons of Ontario which is the governing body for physicians in the province must be considered to have occurred on an occasion of qualified privilege. Qualified privilege is a strong defence to any claims made by the Plaintiffs of defamation.

[246] A consideration of the factors that must be weighed when applying the ultimate balancing test on this motion likewise favours the interest in protecting his right to express himself on matters of public interest. As a result, all claims against Dr. Polevoy in this action are dismissed.

H. Dr. Boozary

[247] The only allegations in the Statement of Claim regarding Dr. Boozary are that he published three statements on his public Twitter profile in August 2020 which contain allegedly defamatory remarks concerning Dr. Gill.

[248] The following tweets are the allegedly defamatory tweets posted by Dr. Boozary:

(a) On August 6, 2020:

> The war on science is real in Canada- maybe ugliest when it comes from our own MD's. All indebted for the strength/integrity of science/health journalism as counter force up north.
>
> [attaches Dr. Kulvinder Kaur MDs tweet: if you have not yet figured out that we don't need a vaccine, you are not paying attention #FactsNotFear].

(b) On August 7, 2020:

> #IstandWithPicard – we all do. Hate only seems to fuel the bots will just continue to send love/strength to Andre/seven nation army of science at the front line. Trust in science and each other going to get us thru

(c) On August 9, 2020:

> Being blocked by @dockaurG a badge of honour sure but unsettling/win for misinformation that there's still an MD platform of >20k followers amplifying anti-science/anti-vax harm.

[249] Dr. Boozary has an interest and is actively involved in the public health response to COVID-19 as a primary care doctor, as an assistant professor at the Dalla Lana School of Public Health, and as a co-lead for the Toronto Region's COVID-19 Homelessness and Shelter Response. Through these roles and in the media, Dr. Boozary has been actively involved in public education. Dr. Boozary has also tweeted throughout the pandemic about emerging scientific research, his view on health policy responses, and how he believes we should be coming together to protect those who are most vulnerable.

[250] The proceeding against Dr. Boozary arises from an expression made by Dr. Boozary that relates to a matter of public interest. Dr. Boozary's tweets are expressions. All of Dr. Boozary's tweets relate to the COVID-19 pandemic – particularly about the importance of sharing health science information during the crisis – which is a topic of obvious public interest. At this stage, the court is not assessing the quality of the expression, and so it is not legally relevant whether the expression is desirable or deleterious, valuable or vexatious, or whether it helps or hampers the public interest … The question is only whether the expression pertains to any matter of public interest, defined broadly. This is not an onerous burden, and is clearly met in this case.

[251] Dr. Boozary's August 6 tweet does not make any defamatory statement about Dr. Gill. Dr. Gill tweeted "we don't need a vaccine", which was counter to prevailing scientific opinion that a vaccine is necessary to reduce mortality and prevent the ongoing spread of COVID-19. Dr.

Boozary stated in the August 6 tweet in response, copying Dr. Gill's tweet, "The war on science is real in Canada- maybe ugliest when it comes from our own MD's."

[252] Dr. Boozary's tweet does not injure Dr. Gill's reputation. Dr. Gill's own expression has an impact on her reputation in that people reading it may either agree or disagree and people may feel strongly either way. Dr. Gill has also continued to openly broadcast her opinions on the public health response to COVID-19, even where those opinions are contrary to prevailing scientific opinion, and is thus maintaining the reputation that she has created. Dr. Boozary's election to share his own view on the matter, to his much smaller audience, would not affect Dr. Gill's reputation. Those who agree with Dr. Gill might actually support the idea that she is involved in a "war on science" in that they disagree with the prevailing scientific opinion of the importance of vaccines in fighting COVID-19. In short, Dr. Boozary's comments in the August 6 tweet did nothing to lower the reputation of Dr. Gill and are not defamatory.

[253] Dr. Boozary's August 7 tweet is also not defamatory. The words of the Tweet do not refer to Dr. Gill. The Tweet is about hateful "bots", which by definition are unidentified Twitter users, and attempts to offer support to André Picard and scientists at the front line in the pandemic. A reasonable person could not interpret the August 7 tweet to have lowered Dr. Gill's reputation in any way.

[254] Finally, the August 9 tweet also is not defamatory. In the tweet, Dr. Boozary did not claim that Dr. Gill is anti-science or anti-vaccine, but rather that she used her large platform to amplify messages that are anti-science and anti-vaccine. He stated his opinion that it was concerning for a medical doctor with so many followers to be amplifying medical information which he considered to be contrary to scientific evidence. The August 9 tweet does not lower Dr. Gill's reputation as anyone familiar with Dr. Gill's Twitter account would be aware of the content she shares and could recognize that Dr. Boozary was stating his own views about that content, not falsely alleging anything against Dr. Gill.

[255] Even if Dr. Boozary's tweets were somehow defamatory, then the defence of fair comment applies to them. Thus, the Plaintiffs are unable to meet their burden of showing there are grounds to believe that Dr. Boozary's defence has no real prospect of success.

[256] All three of Dr. Boozary's tweets clearly meet the first criteria as they relate to the dissemination of scientific information regarding the COVID-19 pandemic, which is a matter of obvious public interest. The specific issues that Dr. Boozary was tweeting about within the broader rubric of the pandemic – namely, concerns about a medical doctor denying the need for a vaccine and support for health science reporting – are of particular concern during this global crisis.

[257] Turning to the other criteria for establishing fair comment for the August 6 tweet, these criteria are met. Dr. Boozary's comment relates to the fact that Dr. Gill tweeted that "we don't need a vaccine"; he embedded Dr. Gill's full tweet as evidence of this fact. The August 6 tweet is recognizable as a comment because "the war on science is real" is a conclusion or observation which is generally incapable of proof. Further, it is a matter of Dr. Boozary's opinion to say it is "ugliest" when this comes from a medical doctor. Any person could honestly hold these views,

given the prevailing scientific position that we do need a vaccine to combat COVID-19 and the important role of doctors in assuaging vaccine hesitancy.

[258] The other criteria are also met for the August 7 tweet. This tweet does not make any comment about Dr. Gill. Dr. Boozary makes three comments in this tweet: (1) he supports Picard and others on the "front line" in science; (2) we need to trust in science and each other; and (3) hate fuels the "bots". The first two comments are statements of support that require no factual basis.

[259] With respect to the third comment, Dr. Boozary's evidence in cross-examination was that he understood the term "bots" to refer to accounts that have no obvious human identity or accountability and are spreading vitriol against individuals not in relation to the subject matter of their tweets but against them personally, such as death threats.

[260] The August 7 tweet is a matter of comment and opinion, and a person could honestly express the same opinions on the facts.

[261] Finally, the August 9 tweet also meets the other criteria. The facts grounding Dr. Boozary's comments in this tweet are: Dr. Gill blocked Dr. Boozary on Twitter, Dr. Gill is a medical doctor, Dr. Gill had more than 20,000 twitter followers and Dr. Gill tweeted (which is quoted in Dr. Boozary's August 6 tweet) that "we don't need a vaccine". Calling Dr. Gill blocking him a "badge of honour" is a comment, as this is a subjective personal perspective on the known fact. Dr. Boozary also comments subjectively that he considers the existence of her account "unsettling" and a "win for misinformation", which are also clearly opinions.

[262] While Dr. Boozary has met the criteria for the defence of fair comment for all three expressions at issue, Dr. Gill has failed to establish that Dr. Boozary was actuated by express malice, an onus which she bears in order to defeat the privilege. Malice relates to the state of mind of the defendant and is ordinarily established through proof that the defendant knew the statement was untrue, was reckless with respect to its truth, did not believe the statements were true, or had some improper motive or purpose. Although Dr. Gill did not plead malice with any specificity, her claim that Dr. Boozary acted maliciously cannot succeed on any of these bases. Dr. Boozary affirmed his belief in the statements and that he made those statements for the purpose of expressing his opinion on the dissemination of public health information, without malicious intent. Dr. Boozary also denied Dr. Gill's unsupported allegation that his tweets were sexist, racist, or misogynistic.

[263] In applying the balancing test, Dr. Boozary rightly submits that Dr. Gill has failed to establish both the existence of harm as well as causation – both of which are required under the test.

[264] Dr. Boozary's expression has high importance. His tweets related to the spread of scientific information regarding the deadly global pandemic, in the midst of the crisis. Scientific and public health information about COVID-19 is a matter of obvious public interest, because everyone in the public has a substantial concern about this topic in that it affects the welfare of citizens, and in

particular there has been considerable public controversy about vaccinations. This interest far outweighs any interest that could support allowing the action against him to proceed.

[265] An application of the final balancing test results in a determination in Dr. Boozary's favour. All claims against him in this action are dismissed.

I. The Pointer Group Incorporated

[266] On October 19, 2020 Dr. Gill delivered a notice of libel pursuant to section 5 of the *Libel and Slander Act* to The Pointer concerning an article published by The Pointer on August 13, 2020 (the "Article"). The libel notice alleged that the Article contained defamatory statements about Dr. Gill.

[267] On October 22, 2020, The Pointer responded to the libel notice and denied that the Article was defamatory.

[268] The Article, published on August 13, 2020, reports on:

> (a) Tweets published by Dr. Gill on August 4, 5, 6 and 12, 2020, which appear in the Article in their entirety and which express her views that lockdowns are unwarranted and promotes the use of hydroxychloroquine as a treatment for the virus;
>
> (b) Twitter's removal of Dr. Gill's tweet on August 6, 2020, because it violated Twitter's policies. The August 6, 2020 tweet is set out in the Article even though it was removed on Twitter. That tweet promoted T-cell immunity (herd immunity) and hydroxychloroquine as humanity's effective defences against COVID-19;
>
> (c) Dr. Gill defending the use of a hydroxychloroquine and promoting it as "effective in the fight against COVID-19";
>
> (d) A complaint made to the College of Physicians and Surgeons of Ontario ("CPSO") about Dr. Gill's tweets;
>
> (e) The fact there are medical studies that have questioned the use of hydroxychloroquine as a treatment for COVID-19;
>
> (f) Health Canada's position that it does not support the use of hydroxychloroquine to prevent or treat COVID-19 without a prescription and warning Canadians about false and misleading claims; and
>
> (g) Concerns expressed by Dr. David Juurlink, head of clinical pharmacology and toxicology at the University of Toronto, regarding Dr. Gill's tweets including that her advice in her tweets is dangerous.

[269] Dr. Juurlink's comments in the Article are not the subject of Dr. Gill's claim and Dr. Juurlink is not a defendant in this action.

[270] The Article reports on Dr. Gill's own tweets, which are publicly available and are repeated verbatim in the Article. The Article also accurately reports that there are research and statements from public authorities that have contradicted Dr. Gill's views and that other members of the medical community do not support her views, have made complaints about her public statements and are concerned about the impact those statements will have on members of the public. There is nothing in the Article that is not true.

[271] Dr. Gill appears to have asserted that she did not make the statements attributed to her, and that the statements as reported were distorted and taken out of context. The Article simply reports on her tweets and does not take them out of context.

[272] Dr. Gill knowingly tweeted about the pandemic, despite the controversial nature of her views, and knowing that they would be subject to public criticism and media reports. The Article is a fair and accurate report about Dr. Gill's tweets and the controversy created by them, and is based on true underlying fact.

[273] The public has an interest in receiving competing viewpoints to those expressed publicly by Dr. Gill. Information on whether Dr. Gill's opinions expressed in her tweets are disputed is important to public debate and information about COVID-19 and potential treatments.

[274] The Pointer states that attempts to contact Dr. Gill for comment were made before publishing the Article, but she did not respond, nor did she follow up after publication of the Article. Before the Article was published, among other things, The Pointer sent an email to Dr. Gill at the email address: concernedontariodoctors@gmail.com, the email address for Concerned Ontario Doctors, but received no reply.

[275] In her affidavit sworn June 14, 2021 Dr. Gill asserted for the first time that The Pointer did not attempt to contact her before publishing the Article. She did not complain about this in her libel notice or in her Statement of Claim. In response to the libel notice, The Pointer wrote, among other things, that it had attempted to contact Dr. Gill for comment before publishing the Article. Dr. Gill did not dispute this.

[276] The Article contains references to four reliable sources: Dr. Juurlink, Health Canada, Health Link BC, and an extensive study by the New England Journal of Medicine on the efficacy of hydroxychloroquine for treatment of COVID-19.

[277] Dr. Gill claims that The Pointer did not engage in responsible journalism because it simply repeated the defamation of others without verification or competent investigation and echoed the defamation of the other Defendants. However, I agree with the arguments advanced by the Pointer that:

> (a) There was no repetition of defamation of others. The Article contained quotations from an interview The Pointer conducted with Dr. Juurlink. Dr.

> Juurlink is not a named defendant. The quotation in the Article from Dr. Juurlink is a statement of his opinion and it is a reasonable comment of his concerns about Dr. Gill's tweets. The Article is reporting his concerns, which are shared by other members of the medical community; and
>
> (b) There was no echoing of the defamation of the other defendants. The sole reference to another defendant in the Article was an indirect reference to the fact "the CBC [i.e. Radio Canada] reported Dr. Alex Nataros… filed a complaint with the [CPSO] for an "egregious spread of misinformation."" The article quotes from a tweet made by Dr. Nataros in response to Dr. Gill's tweets, which is part of Dr. Gill's claim. However, one quote of one tweet by one other defendant does not constitute a general repeating or echoing the defamation of others. As noted, the action was discontinued against Radio Canada.

[278] The Article therefore bears all of the features of a strong responsible journalism defence.

[279] Journalists at large must have the freedom to responsibly report on the COVID-19 pandemic, including Dr. Gill's comments and the criticism of them, irrespective of whether Dr. Gill has a valid basis to assert that lockdowns are ineffective or that hydroxychloroquine is effective against COVID-19. The media must be permitted to report responsibly on comments that affect the public and which are a matter of public interest.

[280] The Plaintiffs should not be permitted to stifle public discourse and participation in public health debates caused by their own public comments.

[281] In my view, the Plaintiffs have failed to discharge their onus of showing that The Pointer's defence of responsible journalism has very little chance of succeeding. In fact, I consider that the evidence entirely contradicts such a conclusion and that The Pointer has a very strong defence available to it.

[282] Further and finally, when the balancing test is ultimately applied, it results in an assessment very much in favour of The Pointer and the public interest concerns it has advanced. As a result, the claims against it in this action must be dismissed.

J. Alheli Picazo

[283] The action against Picazo is based on four tweets she posted to her Twitter account. The first three comprised a "thread" or series of tweets posted on August 6, 2020, prompted by a tweet from the Defendant, André Picard earlier that day. Picard's tweet embedded two tweets dated August 4 and 6, 2020 from Dr. Gill that read as follows:

> "If you have not yet figured out that we don't need a vaccine, you are not paying attention. #FactsNotFear"

and

> "#Humanity's existing effective defences against #COVID19 to safely return to normal life now:
> -The Truth
> -T-cell immunity
> -Hydroxychloroquine"

[284] In the first tweet in Picazo's impugned August 6, 2020 thread, Picazo wrote, "Her behaviour and tweets throughout the pandemic have been grossly irresponsible, to say the least. I would have no faith in her as a doctor for anything." Embedded in this tweet was an image of another tweet Dr. Gill sent on August 4, 2020, stating, "There is absolutely no medical or scientific reason for this prolonged, harmful and illogical lockdown. #FactsNotFear". Picazo's tweet also embedded a tweet by Bronca, which itself contained an image of the two tweets published by Dr. Gill set out at the previous paragraph.

[285] Picazo's second tweet stated, "This is unprofessional, imo." "Imo" is a well-known acronym for "in my opinion". That tweet embedded images of, and was a comment on, two additional tweets of Dr. Gill, which read:

> "#COVID19 Defined By
> "Absolute power corrupts absolutely"
> "A lie told often enough becomes truth"
> "Cancer of bureaucracy is destroying medicine"
> "Media's most powerful entity on earth: power to make the innocent guilty & to make the
> guilty innocent – control minds of masses""

and

> ""If you're not careful, newspapers will have you hating the ppl who are oppressed & loving the ppl who are doing the oppressing" 2020: frontline MDs silenced/censored for speaking the truth & upholding HippocraticOath [sic] while media invokes fear & "journalists" propagate lies"

[286] The third tweet in Picazo's thread stated, "There is an abandonment of science happening here, she just doesn't seem to be able to recognize the culprit", which was a comment on a tweet by Dr. Gill that stated:

> "My heart is broken watching #COVID19Canada unfold. Absolutely broken watching our govts embrace quackery & abandon science. Broken hearing endless political/media lies. Broken watching govts violate our freedom/rights. Broken from govts allowing Cdns to die when we can save them."

[287] The final tweet by Picazo that Dr. Gill alleges was defamatory was posted on October 20, 2020. That tweet was part of a series of tweets Picazo wrote regarding the renaming of Sir John A. MacDonald Hall at the Queen's University Faculty of Law, which was a news story at that time. Picazo was responding to comments made by Queen's Law professor Bruce Pardy that were critical of the proposal to remove the name. Picazo wrote, "What's more threatening to Canadians than the re-naming of a building? Covid denialism and promoting bad science and fringe theories/figures. #cdnpoli". That tweet contained embedded images of four other tweets from various accounts, including one from Dr. Gill that promoted the use of HCQ.

[288] Numerous articles and scholarly resources have been tendered by the various Defendants that make clear that Dr. Gill's views on the use of lockdowns as a public health measure, the proximity of reaching her immunity, the efficacy and safety of HCQ as a treatment for COVID-19, and the necessity of a COVID-19 vaccine run contrary to the generally accepted views of the scientific and medical community.

[289] To satisfy the requirements of s. 137.1(3), the moving party must demonstrate on a balance of probabilities that (i) the proceeding arises from an expression made by the moving party and that (ii) the expression relates to a matter of public interest. These requirements are easily satisfied in the case as against Picazo which arises from the four tweets referred to.

[290] Dr. Gill has claimed in defamation and also alleged conspiracy. There are no grounds to believe that either of these claims has a real prospect of success. Further, there are no grounds to believe that Picazo's defences of justification and fair comment have no real prospect of success.

[291] Picazo's impugned comments were that Dr. Gill's tweets: (a) were grossly irresponsible; (b) were unprofessional; (c) constituted an abandonment of science; (d) contained bad science; and (e) contained fringe theories.

[292] Although Dr. Gill further claims that Picazo said she engaged in "COVIDdenial". Picazo's October 20, 2020 tweet, which referred to "Covid denialism and promoting bad science and fringe theories/figures", was directed at Bruce Pardy, not at Dr. Gill. Picazo's tweet embedded four tweets (only one of which was a tweet of the Plaintiffs) that had been previously retweeted by Bruce Pardy. Reading this tweet in context, the meaning, as far as it relates to Dr. Gill's tweet, is that it was Bruce Pardy who was promoting bad science and fringe theories. Dr. Gill's tweet that was embedded in Picazo's October 20, 2020 tweet simply attached an article promoting the use of HCQ to treat COVID-19, and so the meaning (as it relates to Dr. Gill) is that the use of HCQ to treat COVID is "bad science" and a "fringe theory".

[293] In my view, these comments were not defamatory. The thrust of Picazo's comments is that Dr Gill's tweets promoted ideas and theories related to lockdowns, HCQ, and vaccines that contradicted the generally accepted medical and scientific consensus and that the tweets were, for that reason, irresponsible and unprofessional. Prior to August 6, 2020, Dr. Gill already had a reputation as an advocate of controversial opinions regarding the COVID-19 pandemic. Picazo's comments regarding Dr. Gill's tweets contain the same conclusions that a reasonable person would have reached. Picazo's tweets simply affirmed Dr. Gill's self-positioning as a bold, advocate

willing to "tell it like it is" in the face of (in Dr. Gill's view) misinformation being spread by the government, public health authorities, and the mainstream media.

[294] The content and tone of Picazo's tweets were mild and measured relative to the highly charged online discourse surrounding the COVID-19 pandemic and, in particular, to the way in which Dr. Gill expresses herself on Twitter.

[295] Picazo's impugned comments also attract a strong fair comment defence. They relate to a matter of public interest. They are based on fact, i.e., the underlying tweets from Dr. Gill that Picazo was referring to and are embedded in Picazo's tweets. These tweets, and the other tweets of Dr. Gill are publicly available on her Twitter page for the world to see.

[296] Picazo's comments are recognizable as comment and are expressly framed as such, and constitute an opinion that a person could honestly express on the proved facts. It is Picazo's unchallenged evidence that she was expressing her honestly held opinion that Dr. Gill's statements about COVID-19, vaccines and public health measures were inaccurate, irresponsible, and unprofessional for a medical doctor to be making, that they created a potential risk to public health, and that they ran counter to the prevailing views on these issues as expressed by public health authorities.

[297] The Plaintiffs have failed in their onus of demonstrating that the defence of fair comment has little or no application to Picazo's expressions. In my view, the record shows that a very strong defence in that regard is available to her.

[298] Further, Dr. Gill has failed to demonstrate or particularize any overt acts by Picazo in furtherance of the alleged conspiracy, to explain how Picazo acted in concert with other Defendants, or to set out particularized allegations of damages suffered as a result of the conspiracy. The conspiracy claim fails to meet the "substantial merit" test and should be dismissed on this basis alone.

[299] Finally, an application of the ultimate balancing test very much favours Picazo and the interests and values that she has argued must be protected. Accordingly, I conclude that all claims in this action against her ought to be dismissed.

K. Bruce Arthur

[300] On August 6, 2020, Arthur saw a tweet by André Picard, whom he follows on Twitter, which embedded the following August 4, 2020 tweet by Dr. Gill:

> "If you have not figured out that we don't need a vaccine, you are not paying attention. #FactsNotFear"

[301] Arthur was concerned by this tweet because it contradicted the public health advice he had become aware of over the previous months. He was particularly concerned that the tweet had been made by a physician.

[302] Arthur then reviewed Dr. Gill's Twitter account, and saw the following tweets:

> a) "There is absolutely no medical or scientific reason for this prolonged, harmful and illogical lockdown."
>
> b) "Current status of #COVID19 99.9% Politics, Power, Greed & Fear. 0.1% Science & Medicine."
>
> c) "#Humanity's existing effective defences against #COVID19 to safely return to normal life now: -The Truth – T-cell Immunity – Hydroxychloroquine."

[303] Arthur observed that Dr. Gill's tweets had been retweeted many, many times.

[304] Arthur also observed that Dr. Gill had tweeted about André Picard, accusing him of having been appointed by Trudeau to the COVID-19 Impact Committee "to drive the political WHO narrative." This tweet had resulted in a barrage of negative online vitriol directed at Picard.

[305] After learning that Dr. Gill had blocked him from being able to view her Twitter page, Arthur tweeted the following:

> I don't boast about being blocked, but this one is a badge of honour, from a Canadian doctor who is spreading dangerous misinformation, and who unleashed a troll farm at @picardonhealth, one of the finest public service journalists in Canada. What a disgrace.
>
> [Screenshot of Twitter message showing he had been blocked]
>
> Now, let's wait and see which media outlet her a platform. It'll be telling.

[306] This single tweet is the sole subject of the defamation claim against Arthur.

[307] The expression at issue relates to a matter of public interest – namely, the COVID-19 pandemic and ensuing public health response. The public interest nature of the expression should not be in dispute on this motion, particularly since Dr. Gill herself has extensively tweeted about this topic.

[308] When determining whether a statement has a defamatory meaning, attention must be given to the mode of communication, context, and all surrounding circumstances. As a platform, Twitter allows for an open exchange of ideas and invites users to engage with the views of others. By making controversial statements on this very public platform, Dr. Gill implicitly invited members of the public to respond to her views.

[309] Arthur's tweet cannot bear the defamatory meanings ascribed to it by Dr. Gill. It does not call her a conspiracy theorist, it does not call into question her mental stability, and it says nothing about her ability to care for her patients. It merely states Arthur's own view that her publicly-

available tweets include dangerous misinformation about COVID-19, and that the spreading of this misinformation and her related accusations hurled at Picard were a "disgrace".

[310] There is no evidence that the Arthur tweet lowered Dr. Gill's reputation. Her tweets were available for the public to see. Any reasonable member of the community could immediately look at her Twitter page and discern for themselves whether they agreed with Arthur's assessment of her tweets.

[311] Dr. Gill has fostered a reputation for herself as an outspoken and controversial advocate against public health advice on COVID-19 measures, and the mainstream media's coverage of COVID-19. Public health authorities have deemed anti-vaccine and anti-lockdown rhetoric to be "misinformation". Therefore, Arthur's characterization of Dr. Gill's tweets as "misinformation" likely served only to solidify her stance as a crusader against public health advice and the mainstream media, a reputation she herself created.

[312] Arthur's tweet also attracts a strong defence of fair comment on a matter of public interest. It was on a matter of obvious public interest. It was based in fact, as it directly responded to Dr. Gill's Twitter posts about vaccines, lockdowns, hydroxychloroquine and the overall COVID-19 public health response, which she does not dispute making. The tweet expressed an honestly held opinion that many other Defendants in this litigation shared. There is no credible suggestion or evidence that it was motivated by malice.

[313] Arthur's tweet is also recognizable as comment. Arthur was reacting to the fact that Dr. Gill had blocked him on Twitter, and tweeted that it being blocked was a "badge of honour" due to his opinion that she was "spreading dangerous misinformation" and had unfairly criticized Picard. The final words, "What a disgrace", shows that Arthur was only expressing his opinion and personal observation of Dr. Gill's actions on Twitter.

[314] Dr. Gill has not put forward any real evidence of any harm caused to her by Arthur's single tweet, or of any reputational or other harm at all.

[315] In any event, any potential harm arising from the impugned expressions is outweighed by the importance of allowing citizens to freely express themselves via social media platforms on what will be the defining public health issue of our time. An application of the ultimate balancing test to these facts requires that all claims against Arthur be dismissed.

Conclusion

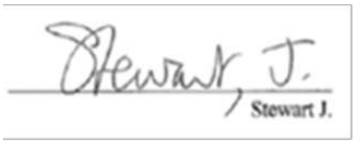
[316] For these reasons, the motions brought by the Defendants are granted, and all claims against them in these proceedings are hereby dismissed.

Costs

[317] Given the position taken on behalf of the Plaintiffs by their counsel in response to the suggestion made by some of the Defendants that the Plaintiffs' claims were being maintained with the possible benefit of third party funding, I did not consider it necessary or appropriate to refer to

it in the above reasons as it did not form any part of the applicable analysis. However, I should indicate to the parties that approach taken in that regard is without prejudice to the entitlement of any party to refer to such issue if there is a proper basis for doing so when making submissions on costs.

[318] If the parties cannot agree on the subject of costs, written submissions may be delivered by the Defendants for my consideration within 30 days of the date of this decision. Written submissions may be delivered by the Plaintiffs within 30 days thereafter.



Released: February 24, 2022

CITATION: Gill v. Maciver, 2022 ONSC 1279
COURT FILE NO.: CV-20-652918-0000
DATE: 20220224

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

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

REASONS FOR DECISION

Stewart J.

Released: February 24, 2022

EXHIBIT "III"

Legal Action Update – Take Action Canada

This is Exhibit "III" 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

Legal Action Update

To ALL 1st Responders, Law Enforcement, EMS, Essential Municipal/Provincial Workers

FINACIAL RELIEF FUND

1st Responders/Essential Workers Relief Fund

To ALL;

In support of ALL our Canadian Essential Workers, we at Take Action Canada have set up the Financial Relief Fund.

By way of very generous community donations we are now in a position to start receiving applications to those who find themselves in need of help!

Please submit your Application to the link below,

https://takeactioncanada.ca/financial-assistance/

Applications will be processed quickly.

"In the end, we will remember not the words of our enemies, but the silence of our friends." — *Dr Martin Luther King Jr*

LEGAL ACTION

Our Legal Action includes ANYONE who has been coerced

- Anyone Vaccinated under coercion
- Anyone Testing under coercion
- Anyone who's accommodation has been refused or rejected
- Anyone forced in to early retirement
- Anyone suspended without pay
- Anyone terminated

If you have already sent in your retainer ...thank you !

Quick updates as the goal posts keep moving new retainer date - **January 14, 2022.**

Our legal action includes ALL those at the municipal and provincial level who are essential workers as part of the infrastructure meaning transit, water, nuclear, garbage, correctional facilities etc. Here is the Province's link to essential designation:
https://www.publicsafety.gc.ca/cnt/ntnl-scrt/crtcl-nfrstrctr/esf-sfe-en.aspx/

These services and functions are considered essential to preserving life, health and basic societal functioning. These include, but are not limited to, the functions performed by first responders, health care workers employed by the municipality/province, critical infrastructure workers (e.g., Hydro, Transit and natural gas), and workers who are essential to supply critical goods such as food and medicines. Workers who deliver essential services and functions included.

UPDATE

The Canadian government has expanded its mandatory vaccination policy to early 2022 to include all federally regulated workplaces, including banks and the nation's largest Telecom, and Transportation providers.

We have now opened our legal actions to include

- Essential workers in banking/Credit Unions (includes tellers, managers etc.)
- Essential workers in Telecom (Bell, Rogers, Telus, Fido)
- Essential workers in Transportation (CN, Airlines, Transit, VIA etc.)

Retainers will NOT be cashed right away. I will be sending out an email several days prior to the retainer submission to Rocco, which will include a window of time to which you can withdraw if you have had a change of circumstance.

** Bank drafts will need to be abbreviated from:

FROM: Rocco Galati Law Firm Professional Corporation
TO: Rocco Galati Law Firm Prof.Corp.

Retainers are now due by January 14, 2022
1. Please fill out all the form **HERE IS THE LINK**

https://takeactioncanada.ca/wp-content/uploads/2021/12/Retainer-Essential_First-Responders-Rocco-Galati-Legal-RetainerV2.pdf

· Please fill it out
· Print it and sign it
2. Please sign in BLUE ink
3. Please attach a photo ID i.e. drivers licence, Passport etc.
4. Please send a cheque which must be made out as follows;

Rocco Galati Law Firm Professional Corporation
----NO TRUNCATIONS PLEASE OR THE BANK WILL REFUSE TO DEPOSIT
5. Please mail to:
(yes, PO PO is correct)
PO Box 90082
Golf Links PO PO
Ancaster Ontario
L9K 0B4

6. Please include with cheque on separate piece of paper:
YOUR NAME:
YOUR POSITION:
THE MUNICIPALITY YOU WORK FOR:
YOUR PHONE NUMBER:
YOUR EMAIL ADDRESS:

The FLAT FEE OF $1500 includes taxes.

FYI Disinformation Hurts Us All!

There has been an active smear campaign against Rocco Galati to include that he is on the government payroll or that he is controlled opposition. Nothing could be further from the truth.

Rocco Galati has been attacked and continues to be attacked by Canuck Law. In response to their accusations, Rocco has filed a multi-million dollar Statement of Claim (legal action) . **Click this link to read it .**

Also false is that Rocco is on the government payroll - without his consent or knowledge, Rocco along with 1000's of other lawyers were added to a Covid Subsidy government program in March 2020 for about $100.00. When Rocco discovered this he asked his accountant to remove his firm right away. Canuck Law knows this but is misinforming Canadians and misleading them that this is a "Galati money grab."

Good luck Canuck Law defending the legal action by Rocco!

You are all doing fantastic work and I can't thank you all enough for staying strong and committed to the battle.

We remain committed to you,

Sandy, Vincent and the entire Take Action Canada Team!

EXHIBIT "JJJ"

PROFESSIONAL CORPORATION
1062 College Street, Lower Level - Toronto, Canada M6H 1A9
Direct Line (416) 530-9684 Fax (416) 530-8129

FLAT FEE RETAINER - AGREEMENT

RE: Ontario "First Responders/Essential Workers" (police, firefighter, paramedics/ ambulance, essential workers provincial/municipal) action against coercive vaccine mandates.

I,_____ employed by/at
(specify _____, as a_____
hereby retain, along with numerous co-Plaintiffs ,ROCCO GALATI LAW FIRM PROFESSIONAL CORPORATION, as my lawyer, as part of a multi-Plaintiff proceeding, with respect to the above-noted matters, and authorize him to do all things necessary or reasonable to protect or advance my interests, including the employment of such agents, retaining of such counsel and incurring such necessary disbursements as he may deem advisable, as well as take whatever steps he deems necessary and appropriate with respect to the above-noted Ontario Superior Court proceedings, in which I am a Plaintiff.

The terms of this FLAT FEE retainer are as follows:

1. As between lawyer and client $1,500.00 (one thousand, five hundred), per Plaintiff, conditional upon reaching a sufficient number of Plaintiffs, which the sufficient number is to be determined at the sole and absolute discretion of Rocco Galati Law Firm Professional Corporation. If sufficient numbers are NOT reached, the retainer will be returned. If the action proceeds, this retainer is NON-refundable.

2. In the event that Court costs are awarded to us the Plaintiffs, those costs will be retained by our lawyer in lieu of fees on behalf of all the Plaintiffs, minus the $1,500.00 paid per Plaintiff.

3. I further understand and acknowledge that in the event that we are unsuccessful in Court, and the Court orders Court costs against us, that I am severally and jointly liable for those costs with the other Plaintiffs.

4. I further acknowledge, understand, and agree that this action will deal strictly with challenging the vaccine-mandate related to my employment, as related strictly to the proceeding in the Ontario Superior Court and **NOT** in any other venue or capacity, including any personal consultations with respect to my employer and/or union. In short, apart from the systematic challenge, there will not be any personal representation.

I fully understand that my lawyer, on the case, which will have multiple co-Plaintiffs, will not be instructed by me, but by a Committee, consisting of five (5) persons, namely: 1. Chris Daly; 2.Thomas O'Conner 3. Det Sgt Sandy Mackay 4. Officer Melissa Drodz; 5. Michael Spadafora. All communications, and instructions, will be through the Committee and not individually by the numerous Plaintiffs to my lawyer.

I acknowledge receipt of a copy of this retainer this _____ day of _____, 20_____
Day Month Year

Client Name: _____ _____
Signature

Witness Name: _____ _____
Witness

This is Exhibit "JJJ" 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 11CNo.: 781

EXHIBIT "KKK"

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

Court File No.: T-1089-22

FEDERAL COURT

N:

Karen **Adelberg**, Matthew **Anderson**, Wyatt George **Baiton**, Paul **Barzu**, Neil **Bird**, Curtis **Bird**, Beau **Bjarnason**, Lacey **Blair**, Mark **Bradley**, John **Doe** #1 , Daniel **Bulford**, John **Doe** #2, Shawn **Carmen** , John **Doe** #3, Jonathan Corey **Chaloner**, Cathleen **Collins**, Jane **Doe** #1 , John **Doe #4**, Kirk **Cox**, Chad **Cox**, Neville **Dawood**, Richard **de Vos**, Stephane **Drouin**, Mike **Desson**, Philip **Dobernigg**, Jane **Doe** #2 , Stephane **Drouin**, Sylvie **Filteau**, Kirk **Fisler**, Thor **Forseth**, Glen **Gabruch**, Brett **Garneau**, Tracy Lynn **Gates**, Kevin **Gien**, Jane **Doe** #3 , Warren **Green**, Jonathan **Griffioen** , Rohit **Hannsraj**, Kaitlyn **Hardy**, Sam **Hilliard**, Richard **Huggins**, Lynne **Hunka**, Joseph **Isliefson**, Leposava **Jankovic**, John **Doe** #5 , Pamela **Johnston**, Eric Jones-**Gatineau**, Annie **Joyal** , John **Doe** #6 , Marty (Martha) **Klassen**, John **Doe** #7 , John **Doe** #8 , John **Doe** #9 , Ryan **Koskela**, Jane **Doe** #4, Julians **Lazoviks**, Jason **Lefebvre**, Kirsten **Link**, Morgan **Littlejohn**, John **Doe** #10, Diane **Martin**, John **Doe** #11, Richard **Mehner**, Celine **Moreau**, Robin **Morrison**, Morton **Ng**, Gloria **Norman** , Steven **O'Doherty**, David **Obirek**, John Robert **Queen**, Nicole **Quick**, Ginette **Rochon**, Louis-Marie **Roy**, Emad **Sadr** , Matt **Silver**, Jinjer **Snider**, Maureen **Stein**, John **Doe** #12, John **Doe** #13, Robert **Tumbas**, Kyle Van de **Sype**, Chantelle **Vien**, Joshua (Josh) **Vold** , Carla **Walker**, Andrew **Wedlock** , Jennifer **Wells**, John **Wells**, Melanie **Williams**, David George John **Wiseman**, Daniel **Young**, Gratchen **Grison** , (officers with the **Royal Canadian Mountain Police)**

- and –

Nicole **Auclair**, Michael **Baldock**, Sabrina **Baron**, William Dean **Booth**, Charles **Borg**, Marie-Ève **Caron**, Thomas **Dalling**, Joseph Israel Marc Eric De **Lafontaine**, Ricardo **Green**, Jordan **Hartwig**, Rodney **Howes**, Christopher Mark **Jacobson**, Jane **Doe** #5, Pascal **Legendre**, Kimberly **Lepage**, Kim **MacDonald**, Cindy **Mackay**, Kim Martin-**McKay**, David **Mason**, Alexandra Katrina **Moir**, Joseph Daniel Eric **Montgrain**, Radoslaw **Niedzielski**, Leanna June **Nordman,** Donald **Poole**, Edward Dominic **Power,** Norman L. **Reed**, Jane **Doe** #6, Brenden **Sangster**, Timothy Joseph **Seibert,** Ann-Marie Lee **Traynor**, Carl Barry **Wood**, Eddie Edmond **Andrukaitis**, Ruby **Davis**, Jennifer **Schroeder**, Joseph **Shea** employed by the **(Department of National Defence)**

- and -

Stefanie **Allard**, Jake Daniel **Boughner**, Brent **Carter**, Brian **Cobb**, Laura **Constantinescu,** Sonia **Dinu**, Aldona **Fedor**, Jane **Doe** #7, Malorie **Kelly**, Matthew Stephen **MacDonald**, Mitchell **Macintyre**, Hertha **McLendon,** Marcel **Mihailescu**,

Michael **Munro**, Sebastian **Nowak**, Diana **Rodrigues,** Natalie **Holden** , Adam Dawson **Winchester**, **(Canada Border Services Agency)**

- and -

Christine **Clouthier**, Debbie **Gray**, Jennifer **Penner**, Dale **Wagner,** Joseph **Ayoub**, **(Agriculture and Agri-food Canada)**

- and -

Jane **Doe** #8, **(Atlantic Canada Opportunities Agency)**

- and -

Melanie **DuFour, (Bank of Canada)**

- and -

Jennifer **Auciello**, Sharon **Ann Joseph**, Eric **Munro**, **(Canada Mortgage and Housing Corporation)**

- and -

Jane **Doe** #9, **(Canada Pension Plan)**

- and -

Natalie **Boulard**, Beata **Bozek**, John **Doe** #14, Nerin **Andrea Carr**, Sara Jessica **Castro**, Debbie (Dubravka) **Cunko**, Josée **Cyr**, Jane **Doe** #10, Carol **Gaboury**, Tania **Gomes**, Julita **Grochocka**, Monique **Harris**, William **Hooker**, Kirstin **Houghton**, Leila **Kostyk**, Diane C **Labbé**, Michelle **Lamarre**, Nicolas **LeBlond**, Suana-Lee **Leclair**, Paulette **Morissette**, Jennifer **Neave**, Pierre-Alexandre **Racine**, Benjamin **Russell**, Robert **Snowden**, Aabid **Thawer**, Heidi **Wiener**, Svjetlana **Zelenbaba**, Nadia **Zinck**, Aaron James Thomas **Shorrock**, Deirdre **McIntosh** , **(Canada Revenue Agency)**

- and -

Tamara **Stammis**, **(Canada School of the Public Service)**

- and -

Jasmin **Bourdon**, **(Canada Space Agency)**

- and -

Sharon **Cunningham**, Allen **Lynden**, Rory **Matheson**, **(Canadian Coast Guard)**

- and -

Tatjana **Coklin**, John **Doe** #15, Raquel **Delmas**, Jane **Doe** #11, Chelsea **Hayden**, Helene **Joannis**, Zaklina **Mazur**, Jane **Doe** #12, Jessica **Simpson**, Katarina **Smolkova**, **(Canadian Food Inspection Agency)**

- and -

Alexandre **Charland**, **(Canadian Forestry Service)**

- and -

Catherine **Provost**, Kristina **Martin**, **(Canadian Heritage)**

- and -

Jane **Doe** #13, **(Canadian Institutes of Health Research)**

- and -

Beth **Blackmore**, Roxanne **Lorrain**, **(Canadian Nuclear Safety Commission)**

- and -

Rémi **Richer**, **(Canadian Radio-television and Telecommunications Commission)**

- and –

Octavia **La Prairie**, (**Canadian Security Intelligence Service)**

- and –

Robert **Bestard**, **(City of Ottawa Garage Fed regulated)**

- and -

Kimberly Ann **Beckert**, **(Core Public Service)**

- and -

Sarah **Andreychuk**, Francois **Bellehumeur**, Pamela **Blaikie**, Natasha **Cairns**, Angela **Ciglenecki**, Veronika **Colnar**, Randy **Doucet**, Kara **Erickson**, Jesse **Forcier**, Valérie **Fortin**, Roxane **Gueutal**, Melva **Isherwood**, Milo **Johnson**, Valeria **Luedee**, Laurie

Lynden, Annette **Martin**, Craig **McKay**, Isabelle **Methot**, Samantha **Osypchuk**, Jane **Doe** #14, Wilnive **Phanord**, Alexandre Richer **Levasseur**, Kathleen **Sawyer**, Trevor **Scheffel**, **(Correctional Service of Canada)**

- and -

Jordan **St-Pierre**, **(Courts Administration Service)**

- and-

Brigitte **Surgue**, Jane **Doe** #15, **(Department of Canadian Heritage)**

- and-

Ghislain **Cardinal**, Heather **Halliday**, Paul **Marten**, Celine **Rivier**, Ngozi **Ukwu**, Jeannine **Bastarache**, Jane **Doe** #16, Hamid **Naghdian-Vishteh**, **(Department of Fisheries and Ocean)**

- and –

Ishmael **Gay-Labbe**, Jane **Doe** #17, Leanne **James**, **(Department of Justice)**

- and -

Danielle **Barabe-Bussieres**, **(Elections Canada)**

- and -

Tanya **Daechert**, Jane **Doe** #18, Francois **Arseneau**, Chantal **Authier**, Nathalie **Benoit**, Aerie **Biafore** , Rock **Briand**, Arnaud **Brien-Thiffault**, Sharon **Chiu**, Michel **Daigle**, Brigitte **Daniels**, Louise **Gaudreault**, Karrie **Gevaert**, Mark **Gevaert**, Peter **Iversen**, Derrik **Lamb**, Jane **Doe** #19, Anna **Marinic** , Divine **Masabarakiza**, James **Mendham** , Michelle Marina **Micko**, Jean **Richard**, Stephanie **Senecal** , Jane **Doe** #20, Ryan **Sewell**, Kari **Smythe**, Olimpia **Somesan**, Lloyd **Swanson**, Tyrone **White**, Elissa **Wong**, Jenny **Zambelas**, Li yang Zhu, Patrice **Lever**, **(Employment and Social Developement Canada)**

-and-

Jane **Doe** #21, Brian Philip **Crenna**, Jane **Doe** #22, Bradley David **Hignell**, Andrew **Kalteck**, Dana **Kellett**, Josée **Losier**, Kristin **Mensch**, Elsa **Mouana**, Jane **Doe** #23, Jane **Doe** #24, Valentina **Zagorenko**, **(Environment and Climate Change Canada)**

- and -

Pierre **Trudel**, **(Export Development Canada)**

- and –

Stephen Alan **Colley**, **(Federal Economic Development Agency for Southern Ontario)**

- and -

Vladimir **Raskovic**, **(Garda Security Screeing Inc)**

- and –

Mélanie **Borgia**, Jonathan Kyle **Smith**, Donna **Stainfield**, Annila **Tharakan**, Renee Michiko **Umezuki**, **(Global Affairs Canada)**

- and –

Dennis **Johnson**, **(Global Container Terminals Canada)**

- and –

Alexandre **Guilbeault**, Tara (Maria) **McDonough**, France **Vanier**, **(Government of Canada)**

- and –

Alex **Braun**, Marc **Lescelleur-Paquette**, **(House of Commons)**

- and –

Aimee **Legault**, **(Human Resource Branch)**

- and –

Dorin Andrei **Boboc**, Jane **Doe** #25, Sophie **Guimard**, Elisa **Ho**, Kathy **Leal**, Caroline **Legendre**, Diana **Vida**, **(Immigration, Refugees and Citizenship Canada)**

- and -

Nathalie Joanne **Gauthier**, **(Indigenous and Northern Affairs Canada)**

- and –

Christine **Bizier**,Amber Dawn **Kletzel**, Verona **Lipka**, Kerry **Spears**, **(Indigenous Services Canada)**

- and -

Sun-Ho **Paul Je**, **(Innovation, Science and Economic Development Canada)**

- and -

Giles **Roy**, **(National Film Board of Canada)**

- and -

Ray **Silver**, Michelle **Dedyulin**, Letitia **Eakins**, Julie-Anne **Kleinschmit**, Marc-Andre **Octeau**, Hugues **Scholaert**, **(National Research Council Canada)**

- and –

Felix **Beauchamp**, **(National Security and Intelligence Review Agency)**

- and -

Julia May **Brown**, Caleb **Lam**, Stephane **Leblanc**, Serryna **Whiteside**, **(Natural Resources Canada)**

- and -

Nicole **Hawley**, Steeve **L'italien**, Marc **Lecocq**, Tony **Mallet**, Sandra **McKenzie**, **(NAV Canada)**

- and –

Muhammad **Ali**, **(Office of the Auditor General of Canada)**

- and –

Ryan **Rogers**, **(Ontario Northland Transportation Commission)**

- and -

Theresa **Stene**, Michael **Dessureault**, John **Doe** #16, **(Park Canada)**

- and -

Charles-Alexandre **Beauchemin**, Brett **Oliver**, **(Parlimentary Protection Service)**

- and -

Carole **Duford**, **(Polar Knowledge Canada)**

- and –

Joanne Gabrielle **de Montigny**, Ivana **Eric**, Jane **Doe** #26, Salyna **Legare**, Jane **Doe** #27, Angie **Richardson**, Jane **Doe** #28, **(Public Health Agency of Canada)**

- and -

Fay Anne **Barber**, **(Public Safety Canada)**

- and -

Denis **Laniel**, **(Public Sector Pension Investment Board)**

- and –

Kathleen Elizabeth **Barrette**, Sarah **Bedard**, Mario **Constantineau**, Karen **Fleury**, Brenda **Jain**, Megan **Martin**, Jane **Doe** #29, Isabelle **Paquette**, Richard **Parent**, Roger Robert **Richard**, Nicole **Sincennes**, Christine **Vessia**, Jane **Doe** #30, Pamela **McIntyre**, **(Public Services and Procurement Canada)**

- and -

Isabelle **Denis**, **(Registrar of the Supreme Court of Canada)**

- and -

Jane **Bartmanovich**, **(Royal Canadian Mint)**

- and -

Nicole **Brisson**, **(Service Canada)**

- and -

Denis **Audet**, Mathieu **Essiambre**, Alain **Hart**, Andrea **Houghton**, Natalia **Kwiatek**, Dany **Levesque**, David **McCarthy**, Pascal **Michaud**, Mervi **Pennanen**, Tonya **Shortill**, Stephanie **Tkachuk**, Marshall **Wright**, **(Shared Services Canada)**

- and -

Eve Marie **Blouin-Hudon**, Marc-Antoine **Boucher**, Christopher **Huszar** , **(Statistics Canada)**

- and -

Steve **Young**, **(Telestat Canada)**

- and –

Nathan **Aligizakis**, Stephen **Daniel**, Alain **Douchant**, Krystal **McColgan**, Debbie **Menard**, Clarence **Ruttle**, Dorothy **Barron**, Robert **McLachlan**, **(Transport Canada)**

- and –

Scott Erroll **Henderson**, Denis **Theriault**, **(Treasury Board of Canada)**

- and –

Josiane **Brouillard**, Alexandra **McGrath**, Nathalie **Ste-Croix**, Jane **Doe** #31, **(Veterans Affairs Canada)**

- and -

Olubusayo (Busayo) **Ayeni**, John **Doe** #17, Cynthia **Bauman**, Jane **Doe** #32, , Laura Crystal **Brown** , Ke(Jerry) **Cai**, Nicolino **Campanelli**, Donald Keith **Campbell**, Colleen **Carder**, Kathy **Carriere**, Melissa **Carson**, David **Clark**, Bradley **Clermont**, Laurie **Coelho**, Estee **Costa**, Antonio **Da Silva**, Brenda **Darvill**, Patrick **Davidson**, Eugene **Davis**, Leah **Dawson**, Marc **Fontaine**, Jacqueline **Genaille**, Eldon **Goossen**, Joyce **Greenaway**, Lori **Hand**, Darren **Hay**, Krista **Imiola**, Catherine **Kanuka**, Donna **Kelly**, Benjamin **Lehto**, Anthony **Leon**, Akemi **Matsumiya**, Jane **Doe** #33, Jane **Doe** #34, Jane **Doe** #35, Anne Marie **McQuaid-Snider**, Lino **Mula**, Pamela **Opersko**, Gabriel **Paquet**, Christine **Paquette**, Carolin Jacqueline **Paris** , Jodie **Price**, Kevin **Price**, Giuseppe **Quadrini**, Saarah **Quamina**, Shawn **Rossiter**, Anthony **Rush**, Anthony **Shatzko**, Charles **Silva**, Ryan **Simko**, Norman **Sirois**, Brandon **Smith**, Catharine **Spiak**, Sandra **Stroud**, Anita **Talarian**, Daryl **Toonk**, Ryan **Towers**, Leanne **Verbeem**, Eran **Vooys**, Robert **Wagner**, Jason **Weatherall**, Melanie **Burch**, Steven **Cole**, Toni **Downie** , Amber **Ricard**, Jodi Stammis, **(Canada Post)**

- and -

Nicolas **Bell,** John **Doe** #18, John **Doe** #19, Jane **Doe** #36, John **Doe** #20, Paola Di **Maddalena**, Nathan **Dodds,** John **Doe** #21, Jane **Doe** #37, Nunzio **Giolti**, Mario **Girard**, Jane **Doe** #38, Jane **Doe** #39, You-Hui **Kim,** Jane **Doe** #40, Sebastian **Korak**, Ada **Lai**, Mirium **Lo,** Melanie **Mailloux**, Carolyn **Muir**, Patrizia **Paba,** Radu **Rautescu,** Aldo **Reano**, Jacqueline Elisabeth **Robinson**, John **Doe** #22, Frederick **Roy**, John **Doe** #23, Taeko **Shimamura,** Jason **Sisk**, Beata **Sosin,** Joel **Szostak**, Mario **Tcheon**, Rebecca Sue **Thiessen**, Jane **Doe** #41, Maureen **Yearwood**, **(Air Canada)**

- and -

John **Doe** #24, JOSÉE **Demeule**, Jacqueline **Gamble**, Domenic **Giancola,** Sadna **Kassan,** Marcus **Steiner**, Christina **Trudeau**, **(Air Canada Jazz)**

- and –

John **Doe** #25, Emilie **Despres**, **(Air Inuit)**

- and –

Rejean **Nantel**, **(Bank of Montreal)**

- and –

Lance Victor **Schilka**, **(BC Coast Pilots Ltd)**

- and –

Elizabeth **Godler**, **(BC Ferries)**

- and -

John **Doe** #26, Jane **Doe** #42, Tamara **Davidson,** Jane **Doe** #43, Karter Cuthbert Feldhoff de **la Nuez**, Jeffrey Michael Joseph **Goudreau**, Brad **Homewood**, Chad **Homewood,** Charles Michael **Jefferson,** John **Doe** #27, Janice Laraine **Kristmanson**, Jane **Doe** #44, Darren Louis **Lagimodiere**, John **Doe** #28, John **Doe** #29, Mirko **Maras,** John **Doe** #30, John **Doe** #31, John **Doe** #32, John **Doe** #33, John **Doe** #34, Jane **Doe** #45, John **Doe** #35, Kendal Stace-**Smith**, John **Doe** #36, Steve **Wheatley**, **(British Columbia Maritime Employers Association)**

- and -

Paul **Veerman**, **(Brookfield Global Integrated Solutions)**

- and -

Mark **Barron**, Trevor **Bazilewich**, John **Doe** #37, Brian **Dekker**, John **Gaetz**, Ernest **Georgeson**, Kyle **Kortko**, Richard **Letain**, John **Doe** #38, Dale Robert **Ross**, **(Canadian National Railway)**

- and –

Tim **Cashmore**, Rob **Gebert** , Micheal Roger **Mailhiot**, **(Canadian Pacific Railway)**

- and –

Karin **Lutz**, **(DP World)**

- and –

Crystal **Smeenk**, **(Farm Credit Canada)**

- and –

Sylvie M.F. **Gelinas**, Susie **Matias**, Stew **Williams**, **(G4S Airport Screening)**

- and –

Shawn **Corman**, **(Geotech Aviation)**

- and –

Juergen **Bruschkewitz**, Andre **Deveaux**, Bryan **Figueira**, David **Spratt**, Guy **Hocking**, Sean **Grant**, **(Greater Toronto Airports Authority)**

- and –

Dustin **Blair**, **(Kelowna Airport Fire Fighter)**

- and -

Hans-Peter **Liechti**, **(National Art Centre)**

- and –

Bradley **Curruthers**, Lana **Douglas**, Eric **Dupuis**, Sherri **Elliot** , Roben **Ivens**, Jane **Doe** #46, Luke Van **Hoekelen**, Kurt **Watson**, **(Ontario Power Generation)**

- and –

Theresa **Stene**, Michael **Dessureault**, Adam **Pidwerbeski**, **(Parks Canada)**
-and-

John **Doe** #39, **(Pacific Pilotage Authority)**

- and –

Angela **Gross**, **(Purolator Inc.)**

- and -

Gerhard **Geertsema**, **(Questral Helicopters)**

- and -

Amanda **Randall**, Jane **Doe** #47, Frank **Veri**, **(RBC Royal Bank)**

- and –

James (Jed) **Forsman**, **(Rise Air)**

- and -

Jane **Doe** #48, **(Rogers Communications Inc)**

- and –

Jerrilynn **Rebeyka**, **(SaskTel)**

- and –

Eileen **Fahlman**, Mary **Treichel**, **(Scotiabank)**

- and -

Judah Gaelan **Cummins**, **(Seaspan Victoria Docks)**

- and –

Darin **Watson**, **(Shaw)**

- and -

Richard Michael Alan **Tabak**, **(SkyNorth Air Ltd)**

- and –

Deborah **Boardman**, Michael **Brigham**, **(Via Rail Canada)**

- and -

Kevin Scott **Routly**, **(Wasaya Airways)**

- and -

Bryce **Sailor**, **(Waterfront Employers of British Columbia)**

- and -

Joseph **Bayda**, Jamie **Elliott**, John **Doe** #40, Randall **Mengering**, Samantha **Nicastro**, Veronica **Stephens**, Jane **Doe** #49, **(WestJet)**

- and -

Melvin **Gerein**, **(Westshore Terminals)**

PLAINTIFFS

AND:

Her Majesty The Queen, Prime Minister Justin **Trudeau**, Deputy Prime Minister and Minister of Finance Chrystia **Freeland**, Chief Medical Officer Teresa **Tam**, Minister of Transport Omar **Alghabra**, Deputy Minister of Public Safety Marco **Mendicino**, Johns and Janes **Doe**

DEFENDANTS

STATEMENT OF CLAIM

(Pursuant to s.17 (1) and (5)(b) ***Federal Courts Act***, and s.24(1) and 52 of the ***Constitution Act, 1982***)

(Filed this 30th day of May, 2022)

TO THE DEFENDANT:

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

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

FORM 171ARule 171

Statement of Claim

(General Heading — Use Form 66)

(*Court seal*)

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

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

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

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

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

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

(*Date*)

Issued by:

(*Registry Officer*)
Address of local office:

TO: (*Name and address of each defendant*)

(*Separate page*)

13

Court, **WITHIN 30 DAYS** after this statement of claim is served on you, if you are served within Canada.

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

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

Date: MAY 30 2022

Issued by: Nicole Hradsky

NICOLE HRADSKY
REGISTRY OFFICER
AGENT DU GREFFE

Address of local office:

Federal Court of Canada
180 Queen Street West, Suite 200
Toronto, Ontario M5V 3L6

TO: Department of Justice Canada
Ontario Regional Office
120 Adelaide Street West
Suite #400
Toronto, Ontario
M5H 1T1

CLAIM

1. The Plaintiffs claim:

   (a) Declarations that the "Covid-vaccine mandates" announced, promogulated and enforced by Federal Regulations and Executive decree by the Defendants and their officials and administrations are unconstitutional and of no force and effect in that:

      (i) There is no jurisdiction under s.91 of the ***Constitution Act, 1867*** to decree any medical treatment whatsoever as this lies, subject to constitutional restraint(s), within the exclusive jurisdiction of the Provinces;

      (ii) That any purported or pretended power, under the emergency branch of P.O.G.G (Peace, Order and and Good Government) can only be done by Legislation, with the invocation, subject to constitutional constraints, of the ***Emergencies Act (R.S.C., 1985, c. 22 (4th Supp.))***;

      (iii) That the ***Regulations*** and Executive decrees mandating such "vaccine mandates" are improper delegation, and constitute "dangling" ***Regulations***, not tied to any ***Act*** of Parliament;

      (iv) That, in any event, any purported mandatory, or coerced ***de facto*** mandatory vaccine mandates violate ss. 2, 6, 7, and 15 of the ***Charter,*** as enunciated, ***inter alia***, by the Ontario Court of Appeal in ***Fleming v. Reid*** (1991) 4 O.R. (3d) 74 and in the Supreme

Court of Canada in ***Morgentaler (1988)***, ***Rodriguez (1993)*** and ***Rasouli (2013),*** and ***Carter (2005)***;

(v) That any purported mandatory, or coerced ***de facto*** mandatory vaccines violate ss.2 and ss 7 of the ***Charter,*** as enunciated, ***inter alia***, by the Ontario Court of Appeal in ***Fleming v. Reid***, and the Supreme Court of Canada in ***Morgentaler (1988)***, ***Rodriguez (1993)*** violate international treaty norms which constitute ***minimal*** protections to be read into s.7 of the ***Charter*** as ruled, ***inter alia,*** by the Supreme Court of Canada in ***Hape,*** and the Federal Court of Appeal in ***De Guzman;***

(b) A further Declaration that Policy on ***COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police***, purportedly issued pursuant to ***sections 7 and 11.1 of the Financial Administration Act***, stipulating that Employment Insurance benefits are to be denied to anyone dismissed from their employment for refusing to be "vaccinated" with the COVID-19 inoculations is unconstitutional in that:

(i) There is no jurisdiction under s.91 of the ***Constitution Act, 1867*** to decree any medical treatment whatsoever as this lies, subject to constitutional restraint(s), within the exclusive jurisdiction of the Provinces;

(ii) The Pre-***Charter*** constitutional rights to freedom of conscience and religion as pronounced by the Supreme Court of Canada in, ***inter alia,***

Switzman v Elbing and A.G. of Quebec, [1957] SCR 285 and ***Saumur v City of Quebec, 2 S.C.R. 299;***

(iii) violates the rights, under s.2 of the ***Charter***, as well as s.1 under the ***Canadian Bill of Rights (1960)*** to freedom of conscience, belief, and religion;

(iv) violates s.7 of the ***Charter*** in violating the right to bodily and psychological integrity, as manifested in the constitutionally protected right to informed, voluntary, consent to any medical treatment and procedure, as well as violating international treaty rights, protecting the same right(s) which protections must be read in as minimal protection under s.7 of the ***Charter*** in accordance with, ***inter alia, Hape (SCC)*** and ***De Guzman (FCA);***

(c) a further declaration that the mandatory and/or coerced ***de facto*** mandatory medical treatment, in the absence of informed, voluntary consent, in this case covid-"vaccines", and PCR and other mRNA and RNA testing, constitute a Crime Against Humanity under international treaty and customary law, thereby making an offence under the ***War Crimes and Crimes Against Humanity Act*** in Canada;

(d) a further declaration that promoting, and executing, PCR testing constitutes a criminal act under sections 3 - 5 and s.7 of the ***Genetic Non-Discrimination Act (S.C. 2017, c. 3)***, and counselling and aiding and abetting a criminal act under s. 126 of the ***Criminal Code of Canada***, to wit, disobeying a statute;

(e) a further declaration that the introduction of "vaccine passports", and their compulsory use to obtain goods and services, as well as travel on trans-provincial

routes by air, train, and water vehicles, is unconstitutional and of no force and effect in violating:

(i) ss.6 and 7 of the ***Charter;***

(ii) violating s.9 of the ***Charter;***

(iii) violating the pre-***Charter***, recognized rights on "the liberty of the subject" remedied by way of ***habeas corpus.***

(f) a further declaration that **Interim Order Respecting Certain Requirements for Civil Aviation Due to Covid-19, No.61**, requiring covid "vaccination" and masking on planes, trains and boats is unconstitutional and of no force and effect in that:

(i) There is no jurisdiction under s.91 of the ***Constitution Act, 1867*** to decree any medical treatment whatsoever as this lies, subject to constitutional restraint(s), within the exclusive jurisdiction of the Provinces;

(ii) That any purported or pretended power, under the emergency branch of P.O.G.G (Peace, Order and and Good Government) can only be done by Legislation, with the invocation, subject to constitutional constraints, of the ***Emergencies Act (R.S.C., 1985, c. 22 (4th Supp.))***;

(iii) That the ***Regulations*** and Executive decrees mandating such "vaccine mandates" are improper delegation, and constitute "dangling" ***Regulations***, not tied to any ***Act*** of Parliament;

(iv) That, in any event, any purported mandatory, or coerced ***de facto*** mandatory vaccine mandates violate ss. 2, 6, 7, and 15 of the ***Charter,***

as enunciated, ***inter alia***, by the Ontario Court of Appeal in ***Fleming v. Reid*** (1991) 4 O.R. (3d) 74 and in the Supreme Court of Canada in ***Morgentaler (1988)***, ***Rodriguez (1993)*** and ***Rasouli (2013),*** and ***Carter (2005)***;

(v) That any purported mandatory, or coerced ***de facto*** mandatory vaccines violate ss.2 and ss 7 of the ***Charter,*** as enunciated, ***inter alia***, by the Ontario Court of Appeal in ***Fleming v. Reid***, and the Supreme Court of Canada in ***inter alia, Morgentaler (1988)***, ***Rodriguez (1993,*** and ***Carter (2005)*** violate international treaty norms which constitute ***minimal*** protections to be read into s.7 of the ***Charter*** as ruled, ***inter alia,*** by the Supreme Court of Canada in ***Hape,*** and the Federal Court of Appeal in ***De Guzman;***

(vi) There is no jurisdiction under s.91 of the ***Constitution Act, 1867*** to decree any medical treatment whatsoever as this lies, subject to constitutional restraint(s), within the exclusive jurisdiction of the Provinces;

(vii) The Pre-***Charter*** constitutional rights to freedom of conscience and religion as pronounced by the Supreme Court of Canada in, ***inter alia, Switzman v Elbing and A.G. of Quebec, [1957] SCR 285*** and ***Saumur v City of Quebec, 2 S.C.R. 299;***

(viii) violates the rights, under s.2 of the ***Charter***, as well as s.1 under the ***Canadian Bill of Rights (1960)*** to freedom of conscience, belief, and religion;

(ix) violates s.7 of the ***Charter*** in violating the right to bodily and psychological integrity, as manifested in the constitutionally protected right to informed, voluntary, consent to any medical treatment and procedure, as well as violating international treaty rights, protecting the same right(s) which protections must be read in as minimal protection under s.7 of the ***Charter*** in accordance with, ***inter alia, Hape (SCC)*** and ***De Guzman (FCA);***

(x) violating ss.6 and 7 of the ***Charter;***

(xi) violating s.9 of the ***Charter;***

(xii) violating the pre-***Charter***, recognized rights on "the liberty of the subject" remedied by way of ***habeas corpus.***

(b) a further declaration that the use of the PCR test, as a pre-cursor to imposing Quarantine, violates s.14 of the ***Quarantine Act (S.C. 2005, c. 20);***

(c) a further declaration that Her Majesty the Queen's servants, officials, and agents, in doing so, engaged in the following:

(i) A contravention of s.126 of the ***Criminal Code of Canada*** in (knowingly) "disobeying a statute";

(ii) Counselling and aiding and abetting a criminal offence, contrary to s.126 of the ***Criminal Code of Canada***, for violating the criminal provisions under s. 3-5 and 7 of the ***Genetic Non-Discrimination Act (S.C. 2017, c. 3)***;

(iii) The tort of abuse of process and malicious prosecution in charging those who refused such PCR tests with quasi-criminal offences and fines;

(d) a further declaration that the creation of a "vaccine passport" to travel domestically as well as to enter and leave Canada, violates the Plaintiffs';

(i) Pre-***Charter*** right to enter and leave, pursuant to the ***Magna Carta*** as read in through the Pre-amble to the ***Constitution Act, 1867;***

(ii) The rights contained in ss. 6 and 7 of the ***Charter***;

(iii) By international treaty law, as to be read in as a minimal protection under s. 7 of the ***Charter*** pursuant to, ***inter alia, Hape*** (SCC) and ***De Guzman (FCA);***

(e) a further declaration that there is no rational connection between being vaccinated or not, in terms of avoiding or preventing transmission of the COVID virus, and thus, in drawing a distinction and consequent punitive and deprivating measures against the unvaccinated, violates their rights to equality, both pre-***Charter,*** as well as under s. 15 of the ***Charter.b***

2. The Plaintiffs further seek:

(a) The re-instatement of their (employment) positions, ***nunc pro tunc***, to the day prior to their being mandatorily placed on leave without pay and subsequently dismissed from their position(s);

(b) Back-pay from their last day of paid employment to the date of judgment with:

(i) Corresponding benefits and financial contribution commiserate with that back-pay including, but not restricted to, pension earning, sick days and other benefits;

(ii) Re-instatement at the advanced level they would likely have attained by the date of judgment;

All in accordance with the Supreme Court of Canada ruling in, ***inter alia, Proctor v. Sarnia Board of Commissioners of Police*** [1980] 2 S.C.R. 72;

3. The Plaintiffs further seek, from the Defendants, monetary damages, as follows:

   (a) For each Plaintiff in general damages as follows:

      (i) $100,000 under the tort of misfeasance in public office by the named and unnamed Johns and Janes Doe public officer holders;

      (ii) $50,000 each against the Defendants under the tort of intimidation;

      (iii) $100,000 each against the Defendants under the tort of conspiracy to deprive them of their constitutional rights;

      (iv)$100,000 each, for the actions of Her Majesty the Queen's officials, servants, and agents, in the tort of constitutional violations in violating the Plaintiffs' pre-***Charter*** constitutional rights, to freedom of belief, conscience, and religion, violating of their s.2 ***Charter*** rights to conscience, relief and religion, as well as violation of their s.7 ***Charter*** rights to bodily and psychological integrity, in violating consent to medical treatment and procedure with respect to COVID-19 "vaccines" and "PCR" testing as well as breach of the right to pre-***Charter*** equality as well as section 15 of the ***Charter*** based on medical status which damages are required to be paid for by the Crown as ruled and set out by the SCC in **Ward v. City of Vancouver**;

      (v) $200,000 each per Plaintiff for the intentional infliction of mental distress and anguish to the Plaintiffs by the Defendants;

   (b) Punitive damages in the amount of $100,000 per plaintiff for the Defendants callous violation of the Plaintiffs' constitutional rights whereby the Defendants

knew, or had a reckless and wanton disregard to, the fact that they were violating the Plaintiffs' constitutional and statutory rights under Acts of Parliament.

4. The Plaintiffs further seek:

   (a) An interim stay/injunction of the Federal "vaccine mandates" and "passports" ***nunc pro tunc,*** effective the day before they were announced and/or implemented;

   (b) A final stay/injunction of the Federal "vaccine mandates" and "passports" ***nunc pro tunc,*** effective the day before they were announced and/or implemented.

5. The Plaintiffs seek costs of this action and such further and/or other relief as this Court deems just.

THE PARTIES

- **The Plaintiffs**

6. The Plaintiffs are all either:

   (a) Federal (former) Employees of various agencies and Ministries of the Government of Canada and servants, officials, and/or agents of the Crown;

   (b) Employees of Federal Crown Corporations; and

   (c) Employees of federally regulated sectors;

   As set out and categorized in the style of cause in the within claim.

7. Most of the Plaintiffs were sent home on "leave without pay" and/or subsequently fired for refusing to take the COVID-19 "vaccines" (inoculations) whether or not they were working from home, and/or further refused to multi-weekly PCR testing in order to continue working. All Plaintiffs were placed on leave without pay and fired

pursuant to the purported dictate of the ***Financial Administration Act*** with respect to Covid-19 "vaccines", purportedly mandated by the Treasury Board.

8. Some Plaintiffs are/were on medical leave but declined to take the covid-vaccine, particularly of which will be furnished subsequent to the issues of the within Statement of Claim. Some Plaintiffs due to the coercive illegal and unconstitutional actions and dictates of the Defendants and their officials took, under that duress, early and unvoluntary retirement, particulars of which will be furnished subsequent to the issuance of the within Statement of Claim.
9. All the Plaintiffs possess a conscientious and/or physical /medical reason for refusing to take the COVID-19 "vaccines" (inoculations).
10. While "exemptions" to these "mandatory vaccine mandates" exist, in theory, all of the Plaintiffs who sought an exemption were arbitrarily denied without reasons. The Plaintiffs further state that there is no obligation to seek any exemption before refusing the vaccines.
11. All the Plaintiffs are ineligible for Employment Insurance benefits because they were dismissed for refusing the "vaccines" (Inoculations).
12. All of the Plaintiffs wish to exercise their ss. 6 and 7 of the ***Charter*** rights to travel within Canada, as well as abroad, which is barred to them by virtue of a non-possession of a "vaccine passport".

- **The Defendants**

13. The Defendant, Justin Trudeau, is the current Prime Minister of Canada, and as such, a holder of a public office, and a primary propagator of the federal "vaccine mandates".

14. Deputy P.M Minister of Finance Crystia Freeland, and as such, a holder of public office, and a primary propagator of the federal "vaccine mandates".

15. The Defendant, Dr. Theresa Tam, is Canada's Chief Public Health Officer and as such a holder of a public office, centrally responsible for "vaccine mandates".

16. Marco Mendicino is Canada's Minister of Public Safety and, as such a holder of public office, and responsible for the enforcement of the "vaccine mandates".

17. The Defendant Omar Alghabra is the Federal Minister of Transport, as such a holder of public office, and responsible for the enforcement of the "vaccine mandates" with respect to travel within and outside Canada.

18. The Defendants Johns and Janes Doe, are Federal Administrators who implement and enforce the illegal and unconstitutional "vaccine mandates and passports" announced, issued and implemented by the other Defendants.

19. All the Defendants have knowingly, expressly, and through their actions planned, executed, and continue to enforce a coercive and ***de facto*** mandatory vaccine mandate, under the threat and actual firing the Plaintiffs from their employment, and further barring the Plaintiffs from their employment insurance benefits for refusing the vaccine, and further barring the Plaintiffs from traveling within and outside Canada on planes, trains and boats.

20. 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***, without the necessity of **mala fides.**

21. The Defendant Attorney General of Canada is, constitutionally, the Chief Legal Officer, responsible for and defending the integrity of all legislation, and Federal executive action and inaction, 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.

THE FACTS

22. The facts of this case are as set out below.

23. All the Plaintiffs were sent home on "leave without pay" and/or subsequently fired for refusing to take the COVID-19 "vaccines" (inoculations) whether or not they were working from home, and/or further refused to multi-weekly PCR testing, at their own expense, in order to continue working. This, pursuant to the dictates set out, purportedly, under ss.7 and 11 of the **Financial Administration Act**.

24. All the Plaintiffs possess a conscientious and/or physical /medical reason for refusing to take the COVID-19 "vaccines" (inoculations).

25. While "exemptions" to these "mandatory vaccine mandates" exist, in theory, all of the Plaintiffs who sought an exemption were arbitrarily denied without reasons. The Plaintiffs further state that there is no obligation to seek any exemption before refusing the vaccines.

26. Some Plaintiffs are/were on medical leave but declined to take the covid-vaccine, particularly of which will be furnished subsequent to the issues of the within Statement of Claim. Some Plaintiffs due to the coercive illegal and unconstitutional actions and dictates of the Defendants and their officials took, under that duress, early and involuntary retirement, particulars of which will be furnished subsequent to the issuance of the within Statement of Claim.

27. All the Plaintiffs are ineligible for Employment Insurance benefits because they were dismissed for refusing the "vaccines" (Inoculations).

28. In particular, the following Plaintiffs:

    (a) Shauna Lee Leclair and Anne Cheng resigned early and involuntarily under duress, under threat of being fired if they did not vaccinate;

    (b) Patrick Roy took the vaccine under duress and involuntarily;

    (c) Jacqueline Robinson, Monique Harris, and Nathan Aligizakis, along with other Plaintiffs, submitted exemptions and were denied.

29. All the Plaintiff John and Jane Does have initiated this proceeding as John and Jane Does due to their ***bona fide*** and reasonable fear of negative repercussions, as well as family and societal stigma and vilification from being identified, publicly, as "anti-vaxxers".

30. All of the Plaintiffs wish to exercise their ss. 6 and 7 of the ***Charter*** rights to travel within Canada, as well as abroad, which is barred to them by virtue of a non-possession of a "vaccine passport", notwithstanding that airlines and foreign countries of destination do not require nor do the airlines.

31. All the Defendants have knowingly, expressly, and through their actions planned, executed, and continue to enforce a coercive and ***de facto*** mandatory vaccine mandate, under the threat and actual firing the Plaintiffs from their employment, and further barring the Plaintiffs from their employment insurance benefits for refusing the vaccine, and further barring the Plaintiffs from traveling within and outside Canada on planes, trains and boats.

- **The "Pandemic" and its Measures**

32. The Plaintiffs state, and the fact is, that there is no, and there has not been, a "COVID-19 pandemic" beyond and/or exceeding the consequences of the fall-out of the pre-covid annual flu or influenza.

33. The Plaintiffs further state that, since early 2020, to the present, being three (3) flu seasons, the purported deaths resulting from complications of the COVID-19 have **not** been any marginally higher than the annual deaths from complications of the annual influenza.

34. The fact, and data is, that the COVID-19 measures have caused, to a factor of a minimum of five (5) to one (1), **more deaths** than the actual purported COVID-19 has caused. Given the admittedly high death/injury rates as a result of the cover 19 vaccines, and the most affected age groups, and given the most recent definition of what is required to be "up to date", namely:

(a) for people who are moderately or severely immunocompromised– five (5) doses; and

(b) for adults ages 60 and over and First Nation, Inuit and Métis individuals and their non-Indigenous household members – four (4) doses; and

(c) for adults up to 59 years of age – four (3) doses; and

(d) children, ages 12 to 17 – three (3) doses;

that this vaccine agenda is turning into a ***de facto*** eugenics agenda. The number of doses is forecast to increase every three (3) months.

35. The facts are that in Canada, 86% of all purported deaths have occurred in long-term care (LTC) facilities at an average age of 83.4 years, which exceeds the general life expectancy of Canadians, of age 81.

36. The Defendant officials scandalously claim that, during COVID-19 pandemic there have been **no** annual flus.

37. In Canada, no person under age 19 has died from COVID-19, as the primary cause of death (without co-morbidities).

38. The death rate for those who have contracted the COVID-19 virus has been 0.024 % (one quarter of one percent) for adults, and 0.0 % (zero) for children.

39. The Defendants and their officials falsely claim that Canada's death rate from Covid-19, being no higher than the complications of the annual flu, is because of the measures taken. This is wild speculation and incantation which could only be proven by comparison of jurisdictions (states and countries) which have taken **no** or **little** COVID measures against countries, such as Canada, who have taken severe measures.

40. A comparison of jurisdictions (such as some U.S. states) and 14 other countries who took no or little covid-19 measures shows that those jurisdictions and countries taking no or little measures fared just as well, and in fact **better** than countries such as Canada.

- **The Case Counts**

41. The Defendants, as well as provincial authorities, have based all their rationale and measures, with respect to Covid-19, tied to the "case counts" of positive testing for the Covid virus (SARS-CoV-2).

42. Case counts are based on "positive' PCR tests. "PCR" test, which when run **above a "35 thresh-hold cycle"**, have been found, by various court jurisdictions, and the avalanche of scientific data and expertise, to produce a **96.5% "false positive" rate**. This means that for every 100 "positive" cases announced, there are only 3.5 actual positive "cases".

43. In Canada, PCR testing is conducted at 43 to 47 threshold cycle rates, well above the 35-threshold cycle rate. These cycle rates are not cumulative but exponential with each cycle exponentially distorts and magnifying the false positive rate.

44. The PCR tests, according to its inventor, Kary Mullis, who won the Nobel Prize for inventing the PCR test who, was unequivocally and adamantly loud, before his death in October, 2019, that his PCR machine and test does **not** and **cannot** identify ***any*** virus, but is merely a screening test which must be followed by a culture test (of attempting to reproduce the virus) and concurrent blood (anti-body test), in order to determine whether that virus identified in the PCR test is dead (non-infectious) or alive (infectious). This is the so-called "gold standard" to verify the existence of any virus. This is **not** done in Canada with respect to the SARS-CoV-2.

45. The fact is that, above and beyond all the above, the virus, SARS-CoV-2 has **not** yet been identified or isolated anywhere in the world.

- **The COVID-"Vaccines" (Inoculations)**

46. The COVID-19 "vaccines" are not "vaccines". They have not gone through the required protocols nor trials. Their human trials are to end in 2023. They are "emergency use" "medical experimentation" as medically and historically understood.

47. Therefore, at this moment, they are admittedly "medical experimentation". Medical experimentation without voluntary, informed, consent, is a Crime Against Humanity born out of the Nuremberg Code, following the Nazi experimentation under the Nazi regime. They are also contrary to the Helsinki Declaration (1960).

48. Statistics, from Pfizer post-authorization data, in part, show that:

    (a) Of a group of 40,000 participants (with a significant number receiving "placebos"), there were 1,223 deaths:

    (b) That 10% of pregnant women spontaneously aborted, with an extreme number of still-born deaths of vaccinated pregnant women; and

    (c) a long list of severe, permanent side-effects.

49. The Plaintiffs further state, and fact is, that according to Public Health officials, including the Defendant, Teresa Tam:

    (a) The COVID-19 "vaccines" do **NOT** prevent transmission of the virus, even as between vaccinated and vaccinated individuals;

    (b) That the "vaccines" merely suppress symptoms;

    (c) That, in order to maintain a "vaccinated status", a "booster" shot of the useless and ineffective "vaccines", must be taken every three (3) months, projected to

continue, judging by the number of vaccines Justin Trudeau announced that he procured from Pfizer, until the year 2025;

(d) That the variants require these boosters and public health officials falsely claim that the "unvaccinated" are causing the "variants".

50. The Plaintiffs state, and the fact is, that internationally renowned experts, including a Nobel Prize winner in virology, Luc Montagnier, adamantly state and warn that it is **the "vaccines"** which are creating the "variants".

51. The Plaintiffs state, and the fact is, that on the Defendants' own assessment and claim there is:

(a) No correlation between transmission as between the vaccinated and unvaccinated;

(b) COVID "vaccines" do not prevent transmission nor immunize the vaccinated against the virus;

(c) That the "vaccines" merely suppress the virus symptoms;

(d) That the "vaccines"' effectiveness at even suppressing the symptoms are at best, 90 days (3 months).

The plaintiffs therefore state, and the fact is, that the measures taken are irrational, arbitrary, and violate the Plaintiff's rights to equal treatment before the law, as well as violate s.15 of the ***Charter***.

- **Tortious Conduct (at Common Law) Inflicted Against the Plaintiffs**
  - **Misfeasance of Public Office**

52. The Plaintiffs state, and fact is, that the Defendants, Justin Trudeau, Teresa Tam, and the other Co-Defendants have knowingly engaged in misfeasance of their public office, and abuse of authority, through their public office, as contemplated and set out by the Supreme Court of Canada in, ***inter alia, Roncarelli v. Duplessis, [1959] S.C.R. 121 Odhavji Estate v. Woodhouse [2003] 3 S.C.R. 263, 2003 SCC 69*** by knowingly:

(a) Exercising a coercive power to force unwanted "vaccination" knowing that:

(i) It is not a power section 91 of the ***Constitution Act, 1867*** grants the Federal Government as medical treatment is a matter of exclusive Provincial legislation, absent legislation and declaration of the ***Emergencies Act,*** subject to constitutional constraints. as set out and noted in the ***Emergencies Act*** itself;

(ii) Such coercive mandates and measures violate ss.2, 6, 7, and 15, of the ***Charter***;

(iii)Such coercive measures violate the ***Genetic Non-Discrimination Act;***

(iv) Such coercive measures violate international (treaty) norms and rights, which norms and rights are read into s. 7 of the ***Charter;***

(v) Such coercive measures in ignoring the statutory prohibitions, further constitute offences under **the *Criminal Code of Canada,*** including: disobeying a statute (s. 126) and Extortion (s. 346);

(vi) That such coercive measures were planned, executed, and implemented knowingly and perpetual statements and threats by Justin Trudeau and other Defendants that, "not vaccinating will carry consequences";

(vii) By coercive statements such as by Trudeau that: "The bottom line is if anyone who doesn't have a legitimate medical reason for not getting fully vaccinated chooses to not get vaccinated, there will be consequences";

(viii) By further inflammatory statements by Trudeau made on or about September 16, 2021 that persons who decline the vaccines: "Don't believe in science, they're often misogynists, also often racists,". "It's a small group that muscles in, and we have to make a choice in terms of leaders, in terms of the country. Do we tolerate these people?"

53. The Plaintiffs further state, and the fact is, that as a result of this misfeasance of public office, the Plaintiffs have been caused damages, including, but not restricted to:

(a) Loss of their livelihood;

(b) Mental anguish and distress;

(c) Loss of dignity and discrimination based on their medical status;

(d) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

- **Conspiracy**

54. The Plaintiffs further state that the Defendants, through their statements, actions, and co-ordinated actions and offices, are engaging in the tort of conspiracy as set out, ***inter alia***, by the Supreme Court of Canada in ***Hunt v. Carey Canada Inc [1990] 2 S.C.R. 959*** in that:

(a) 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,

(b) where the conduct of the defendants is unlawful, the conduct is directed towards the plaintiff (alone or together with others), and the defendants should know in the circumstances that injury to the plaintiff is likely to and does result.

The Defendants do so through the 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 which has caused the Plaintiffs damages including, but not restricted to:

(c) Loss of their livelihood;

(d) Mental anguish and distress;

(e) Loss of dignity and discrimination based on their medical status;

(f) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

55. The Plaintiffs state, and the fact is, that this conspiracy, between the named, and unnamed Johns and Janes Doe administrators, is borne out, by way of:

(a) Public statements by Trudeau and other Defendants that "not vaccinating will carry consequences":

(b) That those who decline vaccines "Don't believe in science, they're often misogynists, also often racists," "It's a small group that muscles in, and we have to make a choice in terms of leaders, in terms of the country. Do we tolerate these people?"

(c) It is not a power section 91 of the ***Constitution Act, 1867*** grants the Federal Government, absent legislation and declaration of the ***Emergencies Act,*** subject to constitutional constraints as set out as redundantly noted in the ***Emergencies Act;***

(d) Such coercive mandates and measures violate ss.2, 6, 7, and 15, of the ***Charter***;

(e) Such coercive measures violate the ***Genetic Non-Discrimination Act;***

(f) Such coercive measures violate international (treaty) norms and rights, which norms and rights are read into s. 7 of the ***Charter;***

(g) Such coercive measures in ignoring the statutory prohibitions, further constitute offences under **the *Criminal Code of Canada,*** including: disobeying a statute (s. 126) Extortion (s. 346);

(h) That such coercive measures were planned, executed, and implemented knowingly through the actions of the Defendants and perpetual statements, and threats, by Justin Trudeau and other defendants that, "not vaccinating will carry consequences".

- **Intimidation (through Third Parties)**

56. The Plaintiffs state, and fact is, that the Defendants, Justin Trudeau, Teresa Tam, and other Co-Defendants, in:

(a) Making their public threats of "consequences" for not "vaccinating"; and

(b) In implementing vaccine employment requirements of take the "jab or lose your job"; and

(c) Making such statements that those who decline vaccines: "Don't believe in science, they're often misogynists, also often racists,". "it's a small group that muscles in, and we have to make a choice in terms of leaders, in terms of the country. do we tolerate these people?"

(d) In then mandatorily drafting third parties such as government agencies, Crown corporations, and federally regulated sectors, into implementing those knowingly coercive, illegal, and unconstitutional measures in, and outside Canada;

Are liable in the tort of intimidation as set out in, ***inter alia,*** by the Court of Appeal of Ontario in ***McIlvenna v. 1887401 Ontario Ltd., 2015 ONCA 830,*** and other Supreme Court of Canada jurisprudence, as follows:

> [23]The tort of intimidation consists of the following elements:
>
> (a) a threat;
> (b) an intent to injure;
> (c) some act taken or forgone by the plaintiff as a result of the threat;
> (d) as a result of which the plaintiff suffered damages:
>
> Score Television Network Ltd. v. Winner International Inc., 2007 ONCA 424, [2007] O.J. No. 2246, at para. 1; see also Central Canada Potash Co. v. Saskatchewan, 1978 CanLII 21 (SCC), [1979] 1 S.C.R. 42. Although the pleading of intimidation is most frequently seen in the context of economic torts, the business context is not an essential element of the tort.

which has caused the Plaintiffs damages including, but not restricted to:

(e) Loss of their livelihood;

(f) Mental anguish and distress;

(g) Loss of dignity and discrimination based on their medical status;

(h) Violation and forfeiting their constitutional rights under ss.2, 6, 7, and 15 of their ***Charter*** rights;

(i) The forfeiting of their chosen vocations.

57. The Plaintiffs state that, in exercising their constitutional right(s) to choose not to take the Covid-19 "vaccines" they have been forced to forfeit those ss. 2, 6, 7, and 15 **Charte**r rights and forced to forfeit their livelihood in their federal or federally regulated employment which has led to the suffering of damages as set out above in the within statement of claim.

- **Intentional Infliction of Mental Anguish**

58. The Plaintiffs state, and the fact is, that the Defendants, through their illegal and unconstitutional "vaccine" and other Covid-19 mandates and "passports", have knowingly inflicted mental anguish on the Plaintiffs, as one of the "consequences" of exercising their constitutionally protected right(s) to decline any medical treatment and/or procedure based on the constitutionally protected right to informed, voluntary, consent.

59. The Plaintiffs further state, and the fact is, that they are knowingly inflicting this mental anguish and distress, which is manifested by:

(a) The Defendants' public statements that they know that they cannot "force" mandatory vaccination as it is unconstitutional;

(b) However, that not "voluntarily" "vaccinating" will "have consequences", which renders the decision unvoluntary through coercion and equally unconstitutional conduct, as set out by the Supreme Court of Canada in, ***inter alia,*** in the ***Morgentaler*** case;

(c) By stating that those who decline vaccines: "Don't believe in science, they're often misogynists, also often racists,". "It's a small group that muscles in, and we have to make a choice in terms of leaders, in terms of the country. Do we tolerate these people?" Thus vilifying and making the Plaintiffs the objects of disdain, disgust and abuse, which furthers the metal anguish and anxiety.

(d) Exercising a coercive power to force unwanted vaccination knowing that:

(i) It is not a power section 91 of the ***Constitution Act, 1867***, grants the Federal Government, absent legislation and declaration of the ***Emergencies Act,*** subject to constitutional constraints as set out and noted in the ***Emergencies Act;***

(ii) It is an issue already judicially determined to violate s. 7 of **Charter** and not saved by s. 1, as already ruled by, ***inter alia***, by the Ontario Court of Appeal in ***Fleming v. Reid*** (1991) 4 O.R. (3d) 74 and in the Supreme Court of Canada in ***Morgentaler (1988)***, ***Rodriguez (1993)*** and ***Rasouli (2013),*** and ***Carter (2005)*** (at paragraph 67);

60. The Plaintiffs state, and the fact is, that such coercive and unconstitutional conduct, and infliction of mental anguish and distress, includes the prohibition of applying for Employment Insurance benefits if dismissed for exercising their right(s) to informed,

voluntary, consent with respect to medical treatment and/or procedure, a well as being vilified as "anti-vaxxers" and prohibited from travel.

- **Violation of Constitutional Rights**
  - **Freedom of Conscience, Belief, and Religion (S. 2 of the *Charter)***

61. The Plaintiffs state, and the fact is, that their pre-***Charter***, recognized constitutional right(s) to freedom of conscience, belief, and/or religion have been violated, as set out by the Supreme Court of Canada in, ***inter alia, Switzman, v Elbing*** and ***Saumar*** v ***City of Quebec***, recognized as **rights** through the pre-amble of the ***Constitution Act, 1867.***

62. The Plaintiffs further state, that these rights are mirrored in s. 2 of the ***Charter***, and s.1 of the ***Canadian Bill of Rights*** (1960) and further violate those rights.

63. The Plaintiffs state, and the fact is, that the sincerely held belief of one (1) single individual, in the absence of a large group sharing that belief, is constitutionally protected under s. 2 of the ***Charter***, as set out by the Supreme Court of Canada in, ***inter alia***, ***Big M Drug Mart.***

64. The Plaintiffs state, as a result of this violation, the Plaintiffs have suffered damages, including, but not limited to:

(a) Loss of their employment;

(b) Mental anguish and distress;

(c) Loss of dignity and discrimination based on their medical status;

(d) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

For which they seek damages under s. 24(1) of the ***Charter*** because these violations are not saved by s.1 of the ***Charter***, which damages are payable and must be paid, by the Crown, as set out by the Supreme Court of Canada in, ***inter alia,*** the ***Ward v City of Vancouver*** case.

- **Life, Liberty, and Security of the Person (s.7 of the *Charter*)**

65. The Plaintiffs further state, and the fact is, that the Ontario Court of Appeal, and other Appellate Courts, as well as the Supreme Court of Canada, have clearly ruled that:

(a) s.7 of the ***Charter,*** protects a person's physical and psychological integrity;

(b) s.7 of the ***Charter*** , in that broad context, also protects the right to informed, voluntary, consent, to any medical treatment and/or procedure, and equally s. 7 ***Charter*** protected rights to refuse any medical treatment or procedure; that the Defendants are fully aware of the above and do not care, callously ignore, and violate the right of the Plaintiffs; and

(c) The Defendants hide behind a transparent Fig-leaf that while not "mandatory", failure to vaccinate "has (coercive and seismic) consequences" which coercive measures amount to making the vaccine mandates, and vaccines mandatory and unconstitutional as enunciated by the Supreme Court of Canada in, ***inter alia***, the ***Morgantaler, O'Connor*** cases as well as the ***Carter*** decision.

66. The Plaintiffs state, as a result of this violation, the Plaintiffs have suffered damages, including, but not limited to:

(a) Loss of their employment;

(b) Mental anguish and distress;

(c) Loss of dignity and discrimination based on their medical status;

(d) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

For which they seek damages under s. 24(1) of the ***Charter*** because these violations are not saved by s.1 of the ***Charter***, which damages are payable and must be paid, by the Crown, as set out by the Supreme Court of Canada in, ***inter alia,*** the ***Ward v City of Vancouver*** case.

- **Ss. 6 and 7 of the *Charter* – Vaccine Passports – Travel Bans**

67. The Plaintiffs further state that "vaccine passports" further violate their explicit right(s) under s.6 and 7 of the ***Charter*** granting them mobility of travel, domestically and internationally, which violations are arbitrary (contrary to s.7), irrational, and disproportionate, and thus fail any s.1 fundamental justice, or s.1 ***Charter*** analysis, in that:

(a) The Defendants admit, in their public statements, and scientific data, and science confirms, that transmission of the virus as between the vaccinated-to-vaccinated and vaccinated-to-unvaccinated, and ***vice versa,*** is NOT prevented by the COVID-19 "vaccines" (inoculations);

(b) That there is NO rational connection between being **un**vaccinated and higher risks of transmission;

(c) That the punitive bar to travel and board plains, trains, and boats is simply an irrational, arbitrary, over-reaching **punitive** dispensation of ***Charter*** violations and part of the malicious "consequences" of simply NOT "vaccinating".

68. The Plaintiffs state, and the fact is, that the "vaccine passports" are not in furtherance of a "public health agenda" but simply of an irrational coercive "vaccine political agenda" knowingly geared at the violation of rights to informed, voluntary, consent

and the constitutional right to decline any medical treatment and/or procedure. The Plaintiffs state that it is thus purely political.

69. The Plaintiffs state, and the fact is, that as a result of the "vaccine passports", and the removal of their mobility rights, the Plaintiffs have suffered, and will continue to suffer damages, which include, but are not restricted to:

(a) An inability to travel to visit family, which family relationships, particularly between parent and child are constitutionally protected under s.7 of the ***Charter*** as set out by the Supreme Court of Canada;

(b) That this restriction under **Interim Order Respecting Certain Requirements for Civil Aviation Due to Covid-19, No.61**, from visiting family creates mental anguish and distress when that travel to visit family includes members facing death,medical conditions, funerals, (particularly when attendance is religiously required), weddings, confirmations, bar mitzvahs, etc;

(c) An inability to vacation which is essential to recouping physical and psychological rest and integrity, which physical and psychological integrity is protected under s. 7 of the ***Charter;***

(d) Travel to attend specialized medical treatment not available locally;

(e) Restrictions to obtaining domestic medical treatment in hospital for lack of a "vaccine passport";

(f) Prohibitions against entering domestic hospitals:

(i) When a spouse is giving birth to their child;

(ii) When a loved-one is dying, under palliative care;

All of which violate physical and psychological integrity under s. 7 of the ***Charter,*** by denial of the explicit mobility rights protected by s.7 of the ***Charter*** (liberty and security of the person) as well as the mobility (travel) rights specifically protected under s. 6 of the ***Charter***.

70. The Plaintiffs state, as a result of this violation, the Plaintiffs have suffered damages, including, but not limited to:

(a) Loss of their employment;

(b) Mental anguish and distress;

(c) Loss of dignity and discrimination based on their medical status;

(d) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

For which they seek damages under s. 24(1) of the ***Charter*** because these violations are not saved by s.1 of the ***Charter***, which damages are payable and must be paid, by the Crown, as set out by the Supreme Court of Canada in, ***inter alia,*** the ***Ward v City of Vancouver*** case.

- **"Vaccinated" versus "Unvaccinated" Equality Violations**

71. The Plaintiffs state, and fact is, that the Defendants' "vaccine mandates and passports" have driven an irrationally, malicious, disproportionate and punitive wedge between the "vaccinated and unvaccinated" notwithstanding the Defendants' admission that the "vaccines" have little to no effectiveness in preventing transmission between anyone, whether vaccinated or unvaccinated, thereby engaging in a punitive and unequal and discriminatory treatment for those, who have chosen to exercise their constitutionally protected rights, pre-and post- ***Charter***, to informed

voluntary, consent, to any medical treatment/procedure, and the conditional right to decline treatment and ***procedure***.

- **Pre-Charter rights to Equality of Treatment**

72. The Plaintiffs state, and fact is, that the Supreme Court of Canada, pre-***Charter***, recognized equality of treatment by governments of all its citizens in, ***inter alia,*** the ***Winner (1952)*** case. This right to equality, was also recognized, by the U.S Supreme Court, in ***inter alia***, ***Bolling*** absent an equality provision, as a matter of due process and fundamental justice protecting citizens from arbitrary, irrational, action, the hallmark of s.7 of the ***Charter,*** whereby equality under s.15 and s. 7 of the ***Charter*** was recognized as a matter of due process, by the Supreme Court of Canada in ***Schmidt (1987).***

73. The Plaintiffs state, and the fact is, that their mistreatment, as "unvaccinated" citizens, violates their right against unequal treatment recognized, pre-***Charter***, as a constitutional **right** emanating from the Rule of Law, an unwritten conditional principle and imperative.

74. The Plaintiffs state, and fact is, that what is being violated is a recognized unwritten constitutional RIGHT which is not to be equated nor confused with an unwritten constitutional PRINCIPLE of Rule of Law, Constitutionalism, Democracy, Federalism, and Respect for Minorities as enunciated by the Supreme Court of Canada in the ***Reference re Secession of Quebec, [1998] 2 S.C.R. 217***

75. What is being relied upon here are the specific **rights recognized** through the pre-amble of the ***Constitutional Act, 1867***, and not the general underlying structural imperatives of the unwritten constitutional principles.

76. The Plaintiffs state and the fact is, that where there is a violation of an "unwritten" constitutional **right**, read in through to the pre-amble of the ***Constitution Act, 1867***, there is no s.1 ***Charter*** analysis, nor are the rights subject to s.33 ***Charter*** override as this source is not the ***Charter***.

- **S. 15 of the *Charter* – Discrimination on Emmerated and Analogous Grounds**

77. The Plaintiffs state and the fact is, that the Defendants have violated their right(s) against discrimination based on medical status, as follows:

(a) By ironically creating, in law, two immutable classes of individuals: the covid-"vaccinated" versus the covid-"unvaccinated";

(b) These two classes are immutable in that, once vaccinated, you are forever vaccinated and, so long as citizens choose to decline the "COVID-19 vaccines" (inoculations) there will be that immutable class based on medical status and thus, is akin to religion and belief in that, while a person may change beliefs or religion, the class is immutable, one is either vaccinated or not, in whole or in part, in this case, a person is "unvaccinated" by mere virtue of the absence of the COVID-19 "vaccination" , even though the person has had other vaccines, including the annual flu shot;

(c) The Plaintiffs are being denied rights and benefits and moreover, other constitutional rights, based on this discriminatory treatment.

78. The Plaintiffs state, as a result of this violation, the Plaintiffs have suffered damages, including, but not limited to:

(a) Loss of their employment;

(b) Mental anguish and distress;

(c) Loss of dignity and discrimination based on their medical status;

(d) Violation of their ss.2, 6, 7, and 15 of their ***Charter*** rights.

For which they seek damages under s. 24(1) of the ***Charter*** because these violations are not saved by s.1 of the ***Charter***, which damages are payable and must be paid, by the Crown, as set out by the Supreme Court of Canada in, ***inter alia,*** the ***Ward v City of Vancouver*** case.

The Plaintiffs further state, and the fact is, that the rights under the ***Charter*** do not sit in silo isolation of each other but are inter-twined and inseparable as set out by the SCC in, ***inter alia***, ***Morgentaler***, which case was unanimously endorsed by the SCC in ***inter alia***, ***O'Connor***.

- **S.1 of the *Charter***

79. The Plaintiffs state, and the fact is, that **none** of the ***Charter*** violations pleaded in this statement of claim are saved by s. 1 of the ***Charter*** in that:

(a) At this point "vaccine mandates and passports" are no longer part of a valid public health objective, if they ever were, as "COVID-19 vaccines" as they have been admitted to, and proven as, completely ineffective in blocking transmission and thus the objective now is clearly a never ending "vaccine objective" of a "booster" every three (3) months simply to "suppress symptoms" with absolutely no consequence to effective resistance from transmission.

(b) The vaccine mandates and passports are thus, and further arbitrary and irrational;

(c) These mandates and passports do NOT minimally impair the ***Charter*** rights being violated and therefore are overly-broad;

(d) And, lastly, the measures' and passports' deleterious effects far outweigh the beneficial effects in that, ***inter alia***:

(i) The deaths attributable to the COVID measures themselves far exceed the purported deaths from COVID-19 itself to a factor of a minimal of five (5) to one (1);

(ii) The economic devastation and cost has been seismic;

(iii) ***De facto*** over-ride and blanket removal of constitutional right(s) and the Rule of Law is pervasive, at the arbitrary command and benefit of a handful of unelected and democratically and constitutionally unaccountable "public health officers" acting in place of Legislatures, via decree, and in the absence of legislation and judicial scrutiny.

- ***Violation of Pre-Charter Constitutional Rights***

80. The Plaintiffs state, and the fact is, that where the Defendants are in violation of pre-existing recognized constitutional rights that pre-date the ***Charter,*** no s. 1 analysis ensues.

RELIEF SOUGHT

81. The Plaintiffs therefore seek:

(a) The relief and damages sought in paragraph 1 through 5 of the within statement of claim;

(b) Costs of this action on a solicitor -client basis regardless of outcome;

(c) Such further or other relief as counsel to the Plaintiffs may advise and/or this Honourable Court deems just.

The Plaintiffs propose that this action be tried at Toronto.

Dated at Toronto this 25th day of May, 2022.

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9

TEL: (416) 530-9684
FAX: (416) 530-8129

Email: rocco@idirect.com

Solicitor for the Plaintiffs

Court File No.:

FEDERAL COURT

B E T W E E N:

Karen Adelberg et al.

Plaintiffs

- and -

HER MAJESTY THE QUEEN,

Defendants

STATEMENT OF CLAIM

(Pursuant to s.17(1) and (5) (b)***Federal Courts Act***, and s.24(1) of the ***Charter***)

(Filed this 30th day of May, 2022)

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

Solicitor for the Plaintiffs

EXHIBIT “LLL”

RETAINER AGREEMENT

RE: Federal Employees Action against coercive vaccine mandate, as well as challenge to the proposed Federal "Vaccine Passports" with the possibility of certifying as a class action proceeding.

I,_____employed by/at as a _____, hereby retain, along with numerous co-Plaintiffs ROCCO GALATI LAW FIRM PROFESSIONAL CORPORATION, as my lawyer, as part of a multi-Plaintiff proceeding, with respect to the above-noted matters, and authorize him to do all things necessary or reasonable to protect or advance my interests, including the employment of such agents, retaining of such counsel and incurring such necessary disbursements as he may deem advisable, as well as take whatever steps he deems necessary and appropriate with respect to the following Federal Court proceedings, in which I am a Plaintiff. The terms of the retainer are as follows:

1. As between lawyer and client $1,000 per Plaintiff conditional upon reaching a sufficient number of Plaintiffs, which the sufficient number is to be determined at the sole and absolute discretion of Rocco Galati Law Firm Professional Corporation. If sufficient numbers are not reached, the retainer will be returned.

2. In the event that Court costs are awarded to us the Plaintiffs, those costs will be retained by our lawyer in lieu of fees on behalf of all the Plaintiffs, minus the $1,000.00 paid per Plaintiff.

3. I further understand and acknowledge that in the event that we are unsuccessful in Court, and the Court orders Court costs, that I am severally and jointly liable for those costs with the other Plaintiffs.

4. I further acknowledge, understand, and agree that this action will deal strictly with challenging the vaccine-mandate related to my federal employment, and the federal vaccine passports, as related strictly to the proceeding in the Federal Court and **NOT** in any other venue nor capacity, including any personal consultations with respect to my employer and/or union. In short, apart from the systematic challenge, there will not be any personal representation.

I fully understand that my lawyer, on the case, which will have multiple co-Plaintiffs, will not be instructed by me, but by a Committee, consisting of five (5) persons, to be determined**.** All communications, and instructions, will be through the Committee and not individually by the numerous Plaintiffs.

We acknowledge receipt of a copy of this retainer this day of , 2021.

_____

Client

_____

Witness:_____.

This is Exhibit "LLL" 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 “MMM”

Court File No./N° du dossier du greffe : CV-22-00683322-0000

Court File No.: T-1089-22

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;

ii. costs of this motion and of the Action; and,

iii. such further and other relief as the Court may deem appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. Pursuant to Rule 221 of the *Rules*, this Court may order that a pleading, or anything contained therein, be struck out on various enumerated grounds. These grounds include: that the pleading discloses no reasonable cause of action; is scandalous, frivolous, or vexatious; and, is otherwise an abuse of process. Pleadings may be struck out with or without leave to amend.

2. On May 30, 2022, the Statement of Claim (the "Claim") in the present matter was issued in the Federal Court.

3. Approximately 600 individual Plaintiffs bring the Claim. These Plaintiffs are current or former employees of the Government of Canada, federal Crown corporations, and organizations operating in federally regulated sectors.

4. The Plaintiffs' challenge the constitutionality of the Treasury Board of Canada ("Treasury Board") *Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police* (the "Treasury Board Policy") and Transport Canada's *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 61* (the "Interim Order").

5. The Treasury Board Policy was implemented on October 6, 2021 and was suspended on June 20, 2022.

6. The Interim Order was made on April 24, 2022 and was repealed on May 6, 2022. The vaccination requirements ceased to have effect on June 20, 2022 and on September 30, 2022, a subsequent version to the Interim Order issue, which was the latest and only remaining regulation, was repealed.

7. The Plaintiffs not only seek to recover alleged damages, but also declarations of invalidity regarding government action in general and specifically to set aside the Treasury Board Policy and the Interim Order. In order to set aside the decisions of a federal decision maker, the Plaintiffs must proceed by judicial review. This form of relief is not available through an action for damages.

8. Even if the Plaintiffs were permitted to reconstitute portions of the Claim as an application for judicial review, such an application would be moot as the Treasury

Board Policy and the Interim Order are no longer in force. The Court should not expend valuable and scarce judicial resources where an applicant has already obtained the result sought and where any outcome would have no real or concrete effect. Any ruling on any possible application will have no practical benefit to any of the parties.

9. The *FPSLRA* establishes a comprehensive scheme for resolving employment-related disputes in the federal public sector for employees in the core public administration and separate agencies. Section 236 states that "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."

10. Pursuant to s. 236, the procedures under the *FPSLRA* are the exclusive means for resolution of grievable employment-related disputes. The *FPSLRA* is an explicit ouster of the courts' jurisdiction.

11. There is no indication that the Plaintiffs employed in the federal public administration (CPA Plaintiffs and Plaintiffs employed by separate agencies) could not have filed grievances in relation to the matters in the Claim.

12. Plaintiffs who are not persons employed within the core public service are not subject to the Treasury Board Policy and have no basis upon which they can bring a challenge or seek damages emanating from the Treasury Board Policy.

13. Plaintiffs that wish to challenge the requirements under the Interim Order and to set aside the government decision-making may not do so by way of an action.

14. None of the Plaintiffs set out any material facts that may serve as a foundation for any cause of action. The Plaintiffs cannot seek compensatory damages or challenge government action including the Treasury Board Policy or the Interim Orders in a vacuum.

15. Bare conclusions without a factual basis are insufficient to support a cause of action. The requirement to plead material facts applies equally to *Charter* claims.

16. Allegations including fraud, malice, and misrepresentations, must be pleaded with sufficient particulars of each allegation. Bald allegations of bad faith, ulterior motives, or *ultra vires* conduct are both scandalous, frivolous, and vexatious and are an abuse of process.

17. The Claim is replete with baseless allegations that are incomprehensible, conspiratorial, salacious, extreme and scandalous.

18. The Respondent relies upon the following legislation:

    a. *Aeronautics Act*, RSC, 1985, c A-2

    b. *Federal Courts Act,* RSC, 1985, c F-7

    c. *Federal Courts Rules,* SOR/98-106

    d. *Federal Public Sector Labour Relations Act*, SC 2003, c 22, s 2

    e. *Financial Administration Act*, RSC, 1985, c F-11

THE FOLLOWING DOCUMENTARY EVIDENCE IS RELIED UPON IN SUPPORT OF THIS MOTION:

i. the Statement of Claim and proceedings taken in the within action;

ii. the Affidavit of Gabriella Plati Trotto, affirmed October 31, 2022; and,

iii. such further and other material as counsel may advise and this Honourable Court may allow**.**

DATED at the City of Toronto, in the Province of Ontario this 4th day of November 2022.

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1
Fax: (416) 973-0809

Per: Adam Gilani (LSO#74291P)
Renuka Koilpillai (LSO# 84368C)
Tel: (647) 256-1672
(416) 458-5530
Email: adam.gilani@justice.gc.ca
renuka.koilpillai@justice.gc.ca

Lawyers for the Respondent

EXHIBIT "NNN"

Court File No.:T-1089-22

FEDERAL COURT

B E T W E E N:

KAREN ADELBERG ET AL.

Plaintiffs

- and -

HIS MAJESTY THE KING ET AL.

Defendants.

AFFIDAVIT

I, Amina Sherazee, B.A., LL.B, of the City of Toronto, in the Province of Ontario, **MAKE OATH**

AND SAY:

1. I am a Lawyer in Ontario having been called to the bar in the year 2000.

2. I practice in the same offices as Rocco Galati (Law Firm Professional Corporation), and as such, have knowledge of the matter hereafter deposed.

3. In the course of my practice I have, in association, conjunction, as well as independently, been involved in conducting extensive review of evidence and the procurement of scientific and medical experts in various fields, including public health, virology, immunology, epidemiology, vaccinology, infectious disease, etc., with respect to the governments Covid-19 policies and measures, their scientific and medical basis, as well as their impact.

This is Exhibit "NNN" 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

4. I have read the Written Representation of the Defendants in the within motion to strike and state the following:

   (a) The factual assertions made in the statement of claim, while disputed by the Defendants and perceived as controversial, are nevertheless, capable of being proven by a preponderance of scientific and medical evidence, based on world renowned and recognized experts, as well as by authoritative sources;

   (b) the Plaintiffs intend to tender this evidence, which both supports the facts pleaded, and, also contradicts the assertions of the Government of Canada on which the impugned Policy and Interim order(s) are based;

   (c) Many of the facts pleaded, although characterized by the Defendants as "conspiratorial, scandalous, salacious or extreme" are capable of proof. For example, that the "Covid-19 vaccinations" do not prevent transmission is not only conceded by Federal and Provincial Chief Medical Officers, but the subject of judicial determinations in various jurisdictions throughout the world. Likewise, lawsuits against Federal agencies and governments in an effort to uncover the origins of Covid-19 and the declaration of a global pandemic are also underway. The Plaintiffs intend to adduce this evidence;

   (d) the Plaintiffs intend to contest the unproven and unsubstantial assertions of the Defendants, with respect to the scientific and medical data, in seeking to challenge measures as unjustifiably infringing constitutional rights.

5. Other Courts, in other jurisdictions, such as the United States, and Indian Supreme Courts, for example, have ruled in favor of the same or similar factual assertions and

claims made by the Plaintiffs in this case, after a review of the full evidentiary record, and not on a hollow dismissal of the facts, taken as proven, on a motion to strike.

6. That the facts in dispute in this case are "fraught with controversy" and require evidentiary proof and trial was anticipated and acknowledged in September 2021 by the Honourable Chief Justice of the Federal Court of Appeal in his comments to the *The Lawyers Daily*, attached and marked as "Exhibit A".

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on this 29th day of November, 2022.

Amina Sherazee

A Commissioner for Taking Affidavits
Rocco Galati, B.A., LL.B., LL.M.

Court File No.:T-1089-22

FEDERAL COURT

B E T W E E N:

KAREN ADELBERG ET AL.

Plaintiffs

- and -

HIS MAJESTY THE KING ET AL.

Defendants

AFFIDAVIT

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9

TEL: (416) 530-9684
FAX: (416) 530-8129

Email: rocco@idirect.com

This is Exhibit "A" referred to in the affidavit of Amina Shelazee sworn before me, this 29th day of November, 2022

A COMMISSIONER, ETC

Labour & Employment

Supreme Court mandates COVID jabs for in-court staff; Federal C.A. won't disclose COVID policies

Tuesday, September 07, 2021 @ 2:35 PM | By Cristin Schmitz

Canada's top court has informed *The Lawyer's Daily* that all nine of its judges are fully vaccinated against COVID-19 and that its staffers will have to be fully vaccinated in order to work in the Supreme Court of Canada's courtroom during the fall session which begins next month.

Responding to queries from *The Lawyer's Daily*, the Supreme Court of Canada said in an e-mailed statement that Chief Justice of Canada Richard Wagner has directed that access to the top court's Ottawa hearing room by "court staff, including law clerks, registry clerks and court attendants" will be "conditional upon being fully vaccinated, and this direction will be in effect for the fall session" which begins in early October.

Chief Justice of Canada Richard Wagner

"Until further notice, counsel will continue to appear remotely via Zoom, and the court building remains closed to the public," explained the Supreme Court's executive legal officer Renée Thériault, who noted that the court is continuing "to monitor the situation with a view to ensuring a safe and healthy workplace for all of our employees within the federal public service framework."

(The federal Liberal government announced last month, just before calling an election, that it will mandate COVID-19 vaccinations this fall for federal public servants — which would presumably include staff of the five Ottawa-based federally appointed courts. However, there is no federal vaccine mandate in place at this time, and there may never be, particularly if there is a change in government Sept. 20.)

As the delta variant of COVID-19 spurs a rapid rise of infections, particularly among unvaccinated persons, and as many businesses and public employers announce vaccine mandates, *The Lawyer's Daily* is contacting all chief justices and chief judges across the country to ascertain what specific policies, and measures, if any, their courts are rolling out to ensure that their court's judges and staff are fully vaccinated against COVID-19, and are thus protecting the public, litigants, lawyers and members of the court and staff.

The Federal Court recently became the first known court to announce that its judges are all fully vaccinated against COVID-19.

The Manitoba Court of Queen's Bench also announced last month that access to its chambers — whether by judges, judicial assistants, court staff or others — will be restricted to those who are fully vaccinated. Any judges who are not fully vaccinated will not be assigned judicial duties this month, Chief Justice Glenn Joyal said.

The Canadian Judicial Council (CJC), chaired by Chief Justice Wagner, recently told *The Lawyer's Daily* that each court, under the leadership of its chief justice, must independently make its own policies on COVID-19 vaccination for judges and staff, given its particular circumstances, in order to ensure the health, safety and well-being of all persons who attend the court building, as well as access to justice and the proper functioning of their court.

In response to a query, Chief Justice Marc Noël, who leads the Federal Court of Appeal, told *The Lawyer's Daily* he does not consider it ethically appropriate, however, for him or his court to disclose publicly "whether it has any personal views or institutional policies on this issue, one way or the other" given that the matter of vaccine mandates is likely to come before his court for adjudication and the court's paramount obligation is to maintain its impartiality.

"The issue of mandatory vaccination in workplaces and other settings is fraught with controversy. It is a subject of debate in the current federal election campaign," Chief Justice Noël explained in an e-mail. "This issue is almost certain to come before our court in the form of appeals from decisions on labour grievances, human rights complaints and other matters."

Chief Justice Noël noted that the CJC's recently published *Ethical Principles for Judges* stipulates that judges "must ensure that their conduct at all times maintains and enhances confidence in their impartiality", both actual and apparent.

"To preserve the actual and apparent impartiality of the court on this issue and related issues — as the court must — the court will not disclose whether it has any personal views or institutional policies on this issue, one way or the other," Chief Justice Noël explained. "The court's paramount responsibility, especially on an issue as controversial and unprecedented as this, is to ensure that Canadians are confident in this court's capacity and commitment to decide cases on the facts and the law and nothing else — not even any personal views and institutional policies we may happen to have. Thus, in no way should this response be seen as a desire to conceal the vaccination status of the judges."

The chief justice added that the court's registry, the Courts Administration Service, is "responsible for ensuring that all precautionary measures and requirements are taken to protect all who attend court premises. Judges presiding over hearings shall address any concerns about the safety of their courtrooms."

Photo of Chief Justice Richard Wagner by Supreme Court of Canada Collection

If you have any information, story ideas or news tips for The Lawyer's Daily *please contact Cristin Schmitz at* Cristin.Schmitz@lexisnexis.ca *or at 613-820-2794.*

Related Articles

- Courts' hiding their COVID-19 vaccination policies legally flawed, against public interest: experts
- Courts working on policies on judges' COVID jabs; Ont. C.A. staying with virtual hearings for now
- Manitoba Court of Queen's Bench one judge away from being fully vaccinated
- Judges on New Brunswick Appeal Court, Queen's Bench all vaccinated
- Federal Court becomes first known court to disclose COVID-19 vaccination status of its judges

Featured

Supreme Court sets out three-step test for accounting of profits in patent infringement cases

Latest

Tax  Sudden wealth syndrome

Criminal  Welcome to world of prison justice

[Legal Wire] Canada to contribute $27 million to creation of 'first-of-its-kind' Alberta lithium plant
[Legal Wire] Ontario court dismisses intrusion upon seclusion claims in class actions against corporations
[Legal Wire] Broad notice, summary judgment granted in favour of airline employee dismissed during pandemic

MEMORANDUM OF FACT AND LAW

In response to the Defendants' Written submissions ("submissions"), in support of their motion to strike, the Plaintiffs state as follows:

PART I - THE FACTS

1. The Plaintiffs rely on the facts as set out in the statement of claim, which, for the purposes of this motion, are required to be taken as proven[1].

2. The Plaintiffs further state, as global observations and submissions, that the Defendants:

   (a) improperly teeter-totter between asserting that certain facts are not "facts" because they are bald conclusions without evidentiary foundation, and at other times, that "facts" are not properly "facts" because they constitute "claims" or "conspiracy theories", without elaboration;

   (b) while such concerns and objections may, or may not, form the proper basis for a request for particulars, within the context of this motion, all "facts", pleaded as "facts", must be taken as proven "facts", in accordance with the above-noted jurisprudence; and

   (c) The Defendants, in engaging in this "Alice in Wonderland" dance of mischaracterizing the pleadings into what the Defendants say they mean, fly in the face of the clear holding of the Court of Appeal in arsenal wherein the court ruled:

> **10** In my view, for the purposes of Rule 221(1) of the *Federal Courts Rules*, SOR/98-10, the moving party must take the opposing party's pleadings as

[1] ***A.G. Canada v. Inuit Tapirasat of Canada [1980] 2 S.C.R. 735; Nelles v. Ontario (1989) 60 DLR (4th) 609 (SCC); Operation Dismantle Inc. v. The Queen [1985] 1 S.C.R. 441; Hunt v. Carey Canada Inc [1990] 2 S.C.R. 959; Dumont v. A.G. Canada [1990] 1 S.C.R. 279; Trendsetter Ltd. v. Ottawa Financial Corp. (1989)32 O.A.C. 327 (C.A.); Nash v. Ontario (1995) 27 O.R. (3d) 1 (Ont. C. A.). Canada v. Arsenault 2009 FCA 242; B.C. v. Imperial Tobacco Canada Ltd., [2005] 2 S.C.R. 473***

> they find them, and cannot resort to reading into a claim something which is
> not there. The Crown cannot, by its construction of the respondents' claim, make it say something which it does not say.
>
> - ***Canada v. Arsenault*** 2009 FCA 242, @ paragraph 10

3. With respect to the "facts" **filed by the Defendants** through the affidavit of Gabriella Prati Trotto, the Plaintiffs state that this affidavit is inadmissible under rule 21. While the Defendants feign that the affidavit is admissible on a challenge to jurisdictional grounds, the content of the affidavit and exhibits go to the factual (very contested at that) of the substance of the litigation itself. The affidavit is further inadmissible in that it posits "facts" from the face of the Representation of the face of the policy statements and interim order(s), which is highly improper and inadmissible, particularly on a motion to strike. On a motion to strike, the only admissible "facts" are those contained in the statement of claim which, for purposes of the motion, must be taken and accepted as having been proven. The Plaintiffs dispute the "facts" posited by these documents. If the "facts" posited are to be relied upon, let the Defendants incorporate them into their statement of defence.

4. In this Motion the Defendants plead "facts" which are in dispute on the Plaintiffs' action, from government "policy" as if proven, as to truth of content. The only way this motion to strike can succeed is if the Court also accepts as facts pleaded on this motion, but not proven, also without evidence, and dispense with the requirement of a trial of the facts.

5. For example, the Defendant declares that the vaccine mandate (Treasury Board Policy) and the vaccine passport (Interim Order) were required for health and safety of the Plaintiffs, the Plaintiffs' colleagues and the Plaintiffs' clients. **These "facts" are disputed** and are at the heart of the action. The doctrine of the Rule of Law, Judicial

Independence and the constitutional separation of powers between the executive and judiciary requires a full and fair trial based on a comprehensive examination of the all the evidence prior to disposition of this case.

6. A full and fair trial and a complete and comprehensive record of evidence is required before the Court can establish whether the Policy or the Order was indeed required or not, necessary or not, constitutional or not. This fact, baldly declared without evidence, on a motion to strike ***as*** evidence for striking pleadings, without proof, is scandalous, vexatious and invites the administration of justice into disrepute, undermining the Rule of Law, Independence of the Judiciary, and Constitutionalism.

7. The Defendants are inviting the Court to abdicate its role and function as an independent and impartial trier of fact. Examining the purpose and objective of impugned legislation, as well as the evidence on which it is based for compliance is the role of the Courts. This case is of seminal public, national importance and the Court should not shy away from conducting a trial because the issues raised by this case are "controversial" and have been mischaracterized by the Defendants as "conspiratorial", etc.

8. The Honourable Chief Justice Marc Noel, of the Federal Court of Appeal, recognized that the challenge to government vaccine polices are "fraught with controversy" on September 2021 when he publicly stated:

> "The court's paramount responsibility, especially on an issue as controversial and unprecedented as this, is to ensure that Canadians are confident in this court's capacity and commitment to decide cases on the facts and the law and nothing else — not even any personal views and institutional policies we may happen to have."
>
> - ***Affidavit of Amina Sherazee, "Exhibit A"***

9. By adducing evidence rationalizing the very impugned executive action, and legislation which is in dispute, without an opportunity for the Plaintiffs' evidence to be adduced, the

Defendants are inviting the Court to dispense with the Rule of Law, the Independence of the Judiciary, and blindly align its decision with bald executive mantra. Not only would this call the administration of justice in disrepute, but it would also vitiate the precarious balance of power required in a free and democratic society.

> ***-Ref re Remuneration of Judges of the Prov. Court of P.E.I.; Ref re Independence and Impartiality of Judges of the Prov. Court of P.E.I., 1997 CanLII 317 (SCC), [1997] 3 SCR 3***
> ***- Reference re Secession of Quebec, 1998 CanLII 793 (SCC), [1998] 2 SCR 217***

10. A case of this magnitude of national importance cannot be disposed of in a summary fashion without trial, in this perfunctory fashion, on a motion to strike.

PART II - THE ISSUES

11. Whether this motion ought to be disposed of in writing or after oral submissions?

12. Whether any portion of the statement of claim should be struck?

13. If any of the statement of claim is struck, whether it should be struck without prejudice, with leave to the Plaintiffs to amend?

PART III - LAW AND ARGUMENT

A/ Preliminary Issue – Disposition of motion in writing or orally

14. It is submitted that this is not a motion that is properly amenable to being disposed of in writing, without violating the Plaintiffs' rights to natural and fundamental justice to be heard because of, ***inter alia***;

(a) The novelty and complexity of the evidentiary and legal issue(s) pleaded in the statement of claim;

(b) The fact that there is no appellate conclusive determination, on all fours, of any of the issue(s) raised by the Plaintiffs with respect to the pleadings;

(c) The fact that there is evidence, issue(s), and relief sought in the within statement of claim **not** squarely dealt with in the jurisprudence;

All of which requires that the Plaintiffs be able to orally parse, through oral submissions, the vague, blunt, and inapplicable submissions of the Defendants. In writing is not a sufficient vehicle in this particular motion.

15. To deny the right to an oral hearing on this motion is to deny the Plaintiffs a fair hearing.

B/ Motion to Strike – The Jurisprudence – General Principles

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

(a) the facts pleaded by the Plaintiffs must be taken as proven and fact:[2]

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

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

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

---

[2] ***A.G. Canada v. Inuit Tapirasat of Canada [1980] 2 S.C.R. 735; Nelles v. Ontario (1989) 60 DLR (4th) 609 (SCC); Operation Dismantle Inc. v. The Queen [1985[1 S.C.R. 441; Hunt v. Carey Canada Inc [1990[2 S.C.R. 959; Dumont v. A.G. Canada [1990[1 S.C.R. 279; Trendsetter Ltd. v. Ottawa Financial Corp. (1989)32 O.A.C. 327 (C.A.); Nash v. Ontario (1995) 27 O.R. (3d) 1 (Ont. C. A.). Canada v. Arsenault 2009 FCA 242; B.C. v. Imperial Tobacco Canada Ltd., [2005] 2 S.C.R. 473***

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

and further, that:

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

and further that:

> **The fact that a pleading reveals "an arguable, difficult or important point of law" cannot justify striking out part of the statement of claim. Indeed, I would go so far as to suggest that where a statement of claim reveals a difficult and important point of law, it may well be critical that the action be allowed to proceed. Only in this way can we be sure that the common law in general, and the law of torts in particular, will continue to evolve to meet the legal challenges that arise in our modern industrial society.**
>
> …
>
> This brings me to the second difficulty I have with the defendants' submission. **It seems to me totally inappropriate on a motion to strike out a statement of claim to get into the question whether the Plaintiff's allegations concerning other nominate torts will be successful. This a matter that should be considered at trial where evidence with respect to the other torts can be led and where a fully informed decision about the applicability of the tort of conspiracy can be made in light of that evidence and the submissions of counsel.** If the Plaintiff is successful with respect to the other nominate torts, then the trial judge can consider the defendants' arguments about the unavailability of the tort of conspiracy. If the Plaintiff is unsuccessful with respect to the other nominate torts, then the trial judge can consider whether he might still succeed in conspiracy. Regardless of the outcome, it seems to me inappropriate at this stage in the proceedings to reach a conclusion about the validity of the defendants' claims about merger. I believe that this matter is also properly left for the consideration of the trial judge.
>
> ***- Hunt, supra* p. 14**

and further that:

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

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

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

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

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

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

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

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

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

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

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

C/ Constitutional Principles Applicable to Claim

17. It is further submitted that virtually all of the declaratory relief sought as well as much of the damages sought in tort, is constitutional. It is submitted that the Constitution delineates both legislative and executive limits, and does not belong to either the Federal or Provincial legislatures, as set out by the Supreme Court of Canada, in that:

> ***The constitution of Canada does not belong either to Parliament, or to the Legislatures; it belongs to the country and it is there that the citizens of the country will find the protection of the rights to which they are entitled....***
>
> - ***Nova Scotia (Attorney General) v. Canada (Attorney General)*** [1951] S.C.R. 31

and has been further held that the Executive, and every other government actor, and institution is bound by the terms of constitutional norms.

- ***Reference re Secession of Quebec,*** [1988] 2 S.C.R. 217

18. It has also been held, by the Supreme Court of Canada, that legislative **omission** can also lead to constitutional breaches.

- ***Vriend v. Alberta*** [1998] 1 S.C.R. 493

19. It is further submitted, and long-held that, pre-***Charter***, as well as post-***Charter,*** that all executive ***action*** and ***inaction*** requires conformity with constitutional norms.

- ***Air Canada v. British Columbia (Attorney General)*** [1986] 2 S.C.R. 539
- ***Vriend v. Canada [1998] 1 SCR 493***
- ***Canada (Prime Minister) v. Khadr***, [2010] 1 S.C.R. 44

D/ Nature of Plaintiff's Claim

20. The Plaintiffs, in their claim, seek the following:

(a) monetary damages;

-Statement of claim., Paragraph 3

Based on the following torts:

(i) Misfeasance of public;
(ii) Conspiracy;
(iii) Intimidation;
(iv) Violations of ss.2,7, and 15 of the ***Charter***;
(v) Intentional infliction of mental anguish;

(b) Declaratory relief as to jurisdiction, legislation, regulations and executive action and inaction;

-Ibid., paragraph 1

(c) injunctive relief or relief in the nature of **mandamus**;

- Ibid., Paragraph 2

Contrary to what the Defendants posit, nothing in the claim is based on any contract or labour paradigm. The claim is solely based on common law and constitutional tort, with declaratory relief ancillary to those torts, particularly the constitutional torts (violations).

E/ The Constitutional Right to Judicial Review and Declaratory Relief

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

> **31** The legislative branch of government cannot remove the judiciary's power to review actions and decisions of administrative bodies for compliance with the constitutional capacities of the government. Even a privative clause, which provides a strong indication of legislative intent, cannot be determinative in this respect (*Executors of the Woodward Estate v. Minister of Finance*, [1973] S.C.R. 120, at p. 127 [page213]). The inherent power of superior courts to review administrative action and ensure that it does not exceed its jurisdiction stems from the judicature provisions in ss. 96 to 101 of the *Constitution Act, 1867*: *Crevier*. As noted by Beetz J. in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048, at p. 1090, "[t]he role of the superior courts in maintaining the rule of law is so important that it is given constitutional protection". ***In short, judicial review is constitutionally guaranteed in Canada,*** particularly with regard to the definition and enforcement of jurisdictional limits..,.
>
> ***- Dunsmuir v. New Brunswick, 2008 SCC 9, at Paragraph 31***

It is submitted that the Plaintiffs confuse the substantive constitutional right to "judicial review" with the procedural vehicle by which it is exercised by restricting it to **applications** under s.18-18.1 as opposed to actions under s.17 of the ***Federal Court Act.*** This is misguided. Declaratory relief may be sought whether by way of application or by action either under s.17 and/or s.18-18.1 or by converting an application into an action under section **18.4(2)** of the ***Federal Courts Act***.

- s.18.4(2) ***Federal Courts Act***
- ***Edwards v. Canada*** (2000) 181 F.T.R. 219

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

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

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

> [134] This Court has held that although claims for personal remedies flowing from the striking down of an unconstitutional statute are barred by the running of a limitation period, courts retain the power to rule on the constitutionality of the underlying statute: *Kingstreet Investments Ltd. v. New Brunswick (Finance)*, 2007 SCC 1, [2007] 1 S.C.R. 3; *Ravndahl v. Saskatchewan*, 2009 SCC 7, [2009] 1 S.C.R. 181. ***The constitutionality of legislation has always been a justiciable question:*** *Thorson v. Attorney General of Canada*, [1975] 1 S.C.R. 138, at p. 151. ***The "right of the citizenry to constitutional behaviour by Parliament" can be vindicated by a declaration that legislation is invalid, or that a public act is ultra vires:*** *Canadian Bar Assn. v. British Columbia*, 2006 BCSC 1342, 59 B.C.L.R. (4th) 38, at paras. 23 and 91, citing *Thorson*, at p. 163 (emphasis added). **An "issue [that is] constitutional is always justiciable"**: *Waddell v. Schreyer* (1981), 126 D.L.R. (3d) 431 (B.C.S.C.), at p. 437, aff'd (1982), 142 D.L.R. (3d) 177 (B.C.C.A.), leave to appeal refused [1982] 2 S.C.R. vii (*sub nom. Foothills Pipe Lines (Yukon) Ltd. v. Waddell*).
>
> ...
>
> [140] ***The courts are the guardians of the Constitution and, as in Ravndahl and Kingstreet, cannot be barred by mere statutes from issuing a declaration on a fundamental constitutional matter. The principles of legality, constitutionality and the rule of law demand no less:*** see *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, at para. 72.
>
> ...
>
> [143] ***Furthermore, the remedy available under this analysis is of a limited nature. A declaration is a narrow remedy. It is available without a cause of action, and courts make declarations whether or not any consequential relief is available.*** As argued by the intervener Assembly of First Nations, it is not awarded against the defendant in the same sense as coercive relief: factum, at para. 29, citing *Cheslatta Carrier Nation v. British Columbia*, 2000 BCCA 539, 193 D.L.R. (4th) 344, at paras. 11-16.

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

24. It is further submitted that, the Defendants, in addition to ignoring the provisions of ss. 2 and 17 of the ***Federal Courts Act***, further ignore the statutory right to seek declaratory relief, ***albeit*** at times unenforceable wherein Rule 64 of the ***Federal Courts Rules*** reads:

> 64. Declaratory relief available —No proceeding is subject to challenge on the ground that only a declaratory order is sought, and the Court may make a binding declaration of right in a proceeding ***whether or not any consequential relief is or can be claimed.***

- Federal Courts Rules, R. 64

and it has been held that Declaratory relief may be sought (in an action), under s. 17 of the ***Federal Courts Act,***

-see, i.e., ***Edwards v. Canada*** (2000) 181 F.T.R. 219

which is consistent with the Supreme Court jurisprudence,

- ***Canada (Prime Minister) v. Khadr***, [2010] 1 S.C.R. 44

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

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

F/Jurisprudence on Covid-19 measures mitigating against striking claim

25. It is further submitted that jurisprudence, both in Canada and abroad, to the same claims and issues set out in the within claim, clearly weighs against striking this claim, whether in whole or in part.

26. Thus, the United States Supreme Court, struck, as unconstitutional measures against barring church gatherings on constitutional provisions indistinguishable from s.2 of the Canadian ***Charter***.

- ***592 U. S. ____ (2020)***

27. Recently, the Indian Supreme Court struck as unconstitutional, the Covid-vaccine, **coercive measures** as unconstitutional for offending a provision of their constitution protecting bodily integrity, indistinguishable from s.7 of the Canadian ***Charter***:

- ***Jacob Puliyel Vs. Union of India & Ors.***

28. Moreover, it has already been established, in Canadian jurisprudence that any medical treatment without the informed, voluntary, consent violates s.7 of the ***Charter*** and not saved by s.1:

> - ***Fleming v. Reid (1991), 48 O.A.C. 46 (CA)***
> - ***Carter v. Canada (Attorney General), 2015 SCC 5, [2015] 1 S.C.R. 331***

Wherein, the Supreme Court of Canada, in ***inter alia, Carter*** ruled:

> [67] The law has long protected patient autonomy in medical decision-making. In A.C. v. Manitoba (Director of Child and Family Services), 2009 SCC 30, [2009] 2 S.C.R. 181, a majority of this Court, per Abella J. (the dissent not disagreeing on this point), endorsed the "tenacious relevance in our legal system of the principle that competent individuals are — and should be — free to make decisions about their bodily integrity" (para. 39). This right to "decide one's own fate" entitles adults to direct the course of their own medical care (para. 40): it is this principle that underlies the concept of "informed consent" and is protected by s. 7's guarantee of liberty and security of the person (para. 100; see also R. v. Parker (2000), 2000 CanLII 5762 (ON CA), 49 O.R. (3d) 481 (C.A.)). As noted in Fleming v. Reid (1991), 1991 CanLII 2728 (ON CA), 4 O.R. (3d) 74 (C.A.), the right of medical self-determination is not vitiated by the fact that serious risks or consequences, **including death, may flow from the patient's decision. It is this same principle that is at work in the cases dealing with the right to refuse consent to medical treatment, or to demand that treatment be withdrawn or discontinued**: see, e.g., Ciarlariello v. Schacter, 1993 CanLII 138 (SCC), [1993] 2 S.C.R. 119; Malette v. Shulman (1990), 1990 CanLII 6868 (ON CA), 72 O.R. (2d) 417 (C.A.); and Nancy B. v. Hôtel-Dieu de Québec (1992), 1992 CanLII 8511 (QC CS), 86 D.L.R. (4th) 385 (Que. Sup. Ct.).

Moreover, the Indian Supreme Court, ruled, under their equality provision, indistinguishable from s.15 of the ***Charter***, that, based on the scientific evidence, drawing a distinction or discriminating as between "vaccinated" and "unvaccinated" individuals is unconstitutional because the vaccinated could equally transmit and receive the Covid-19 virus. In fact, this Indian Supreme Court decision heavily relies on jurisprudence from other common-law jurisdictions including the USA, Australia and New Zealand.

> - ***592 U. S. ____ (2020)***

29. In Ontario, attempts at moving to strike applications, ***in limine***, challenging the Covid-measures, have been dismissed.

> ***- Sgt. Julie Evans et al. v. AG Ontario et al.***
> ***- M.A. v. De Villa, 2021 ONSC 3828***

30. The Ontario Superior Court has also recently ruled that these issues of Covid-measures are not to be dealt with on a perfumatory basis, assuming and adopting the baldly-stated positions of public health officials, but to be dealt with, like any other case, on the available evidence and material bearing on the issue(s) before the Court.

> ***- J.N. v. C.G., 2022 ONSC 1198***

31. It is further submitted that the B.C. Supreme Court recently dismissed a motion to strike B.C's Covid-measures, **albeit** on standing, pointing out the complexity of the issues that the Covid-measures present.

> ***- Canadian Society for the Advancement of Science in Public Policy v. Henry, 2022 BCSC 724***

32. Furthermore, with respect to the Defendants' bald and baseless assertion that the vaccine mandates are not "mandatory" but a "choice", albeit coercive in that the choice is "be vaxxed or be fired", the caselaw on this point defies the Defendant's postulation in that:

(a) the Indian Supreme Court ruled that coercive measures are as unconstitutional as mandating measures: and

> ***- Jacob Puliyel Vs. Union of India & Ors.***

(b) the California Court of Appeal Fourth Appellate District recently ruled that a "choice" of vaccination or staying away from school was **not** a choice but a coercive, **de facto**, mandatory measure.

> ***- Let Them Choose et al. v. San Diego Unified School District (2022)***

G/ The Defendants' Position

- ***Claim barred by s.236 of the FPSLRA***

33. The Defendants, in paragraph 17 state that the plaintiffs "do not challenge any actions or omissions of the separate agencies" [apart from the Treasury Board]. This is not so. The Plaintiffs challenge all actions and omissions violating their constitutional rights pursuant to the Federal regulations, policies, and legislation driving those violations. In addition the hold those Defendants liable in the common-law and constitutional torts pleaded.

34. With respect to paragraphs 43 to 57 of the Defendant's Written Representations, and that:

(a) the Treasury Board has jurisdiction to impose vaccine mandates:

(b) that this Court has no jurisdiction with the jurisdiction under s.236 of the FPSLRA;

The Plaintiffs state that:

(i) There is no jurisdiction, under s.91 of the ***Constitution Act, 1867*** for the Federal Parliament nor executive to dictate medical treatment, which is the exclusive domain of the Provincial Legislatures;

(ii) there is no jurisdiction to impose unconstitutional measures that violate the ***Charter***, including ss.2, 7 and 15, and that to do so constitutes a constitutional **tort**;

(c) that this action is strictly grounded in constitutional declaratory relief and action in **common law and constitutional torts**, and not in any labour or collective bargaining issue(s).

35. The Supreme Court of Canada, as well as other appellate courts, have continually and consistently held that the collective bargaining or employment context does NOT exclude an action for **tort** within that relationship.

> ***- Weber v. Ontario Hydro, 1995 CanLII 108 (SCC), [1995] 2 SCR 929***
> ***- Northern Regional Health Authority v. Horrocks, 2021 SCC 42 (CanLII)***

36. In the same way that an employee could not raise this basis for (sexually) assaulting an employee in the context of employment, the coercive and intimidation measures to violate bodily and psychological integrity contrary to s.7 of the ***Charter***, and from common-law, is not a bar to this action.

37. There is no distinction between a sexual or common assault and a violation done to bodily integrity and psychological integrity under s.7 of the ***Charter***. At common law, and under the ***Charter***, mandating medical treatment is prohibited and coercive measures in furtherance of this is both a constitutional violation to bodily and psychological integrity;

> ***- Let Them Choose et al. v. San Diego Unified School District (2022)***
> ***-Jacob Puliyel Vs. Union of India & Ors.***

as well as constitute the common-law, tort of intimidation, pleaded in the within claim. The prohibition against mandatory vaccination, or any medical treatment under constitutional jurisprudence, is not disputable.

> ***- Carter v. Canada (Attorney General), 2015 SCC 5, [2015] 1 S.C.R. 331 at P.67***
> ***- Fleming v. Reid (1991), 48 O.A.C. 46 (CA)***

- ***This action ought to be a judicial review***

38. It is submitted that the Defendant's contention that this action for damages cannot be brought because it has to be brought as judicial review is either:

(a) embarrassing in its misstatement of the clear jurisprudence; and/or

(b) embarrassing in its ignorance of the jurisprudence;

in that the ***Telezone*** line of cases, six (6) concurrent judgments from the Supreme Court of Canada, in the Federal context, the Supreme Court of Canada clearly ruled that whether or not judicial review could be, or was/ was not brought it did not preclude on action for damages in either the Federal Court, or the Provincial Superior Courts.

> ***- Canada (Attorney General) v. TeleZone Inc., 2010 SCC 62 (CanLII), [2010] 3 SCR 585***
> ***- Canada (Attorney General) v. McArthur, 2010 S.C.C. 63***
> ***- Parrish & Heimbecker Ltd. v. Canada (Agriculture and Agri-Food), 2010 S.C.C. 64***
> ***- Nu-Pharm Inc. v. Canada (Attorney General), 2010 S.C.C. 65***
> ***- Canadian Food Inspection Agency v. Professional Institute of the Public Service of Canada, 2010 S.C.C. 66***
> ***- Manuge v. Canada, 2010 S.C.C. 67***
> ***- Sivak et al. v. MCI, 2011 FC 402***

39. It is further submitted, as the distinction between judicial review and action for damages, the Saskatchewan Court of Appeal, citing the six (6) Supreme Court of Canada ***Telezone*** line of cases, had this to say:

> [73] This distinction, between actions that seek to invalidate the effect of a previous court or tribunal order and legal proceedings which seek damages allegedly suffered as a consequence of such an order, was developed in six companion decisions of the Supreme Court of Canada released in 2010. The most frequently cited case out of this series is *Canada (Attorney General) v TeleZone Inc.*, 2010 SCC 62, [2010] 3 SCR 585 [*TeleZone*].
>
> [74] In *TeleZone*, the party of that name had initiated a claim for breach of contract, negligence, and unjust enrichment arising from the Minister of Industry Canada's decision not to issue the company a licence to provide telecommunications services. Industry Canada had indicated to TeleZone that six licences would be issued to applicants, but then ultimately only issued four, not including TeleZone. The defendants' position was that TeleZone's action was improper because it had not challenged Industry Canada's decision through judicial review. Justice Binnie described the principle underlying the question confronting the Court in the following terms:

> [18] This appeal is fundamentally about access to justice. People who claim to be injured by government action should have whatever redress the legal system permits through procedures that minimize unnecessary cost and complexity. The Court's approach should be practical and pragmatic with that objective in mind.
>
> (Emphasis added)

[75] He then set the line which divides those cases where a claim for damages can proceed and those cases where a litigant must pursue a matter in an alternative forum by reference to the litigant's objective or purpose for initiating the impugned proceeding:

> [19] If a claimant seeks to set aside the order of a federal decision maker, it will have to proceed by judicial review, as [*Canada v Grenier*, 2003 FCA 348, 262 DLR (4th) 337] held. However, if the claimant is content to let the order stand and instead seeks compensation for alleged losses (as here), there is no principled reason why it should be forced to detour to the Federal Court for the extra step of a judicial review application (itself sometimes a costly undertaking) when that is not the relief it seeks. Access to justice requires that the claimant be permitted to pursue its chosen remedy directly and, to the greatest extent possible, without procedural detours.
>
> (Emphasis added)

[76] On the facts, the Supreme Court held that TeleZone was seeking to recover damages from the Minister of Industry Canada's alleged tortious actions and contractual violations, and not to overturn the administrative decision not to issue it a licence. Accordingly, the Supreme Court allowed its claim to proceed in the Ontario Superior Court. In reaching this conclusion, Binnie J. offered the following additional guidance:

> [76] Where a plaintiff's pleading alleges the elements of a private cause of action, I think the provincial superior court should not in general decline jurisdiction on the basis that the claim looks like a case that should be pursued on judicial review. If the plaintiff has a valid cause of action for damages, he or she is normally entitled to pursue it.

- Solgi v College of Physicians and Surgeons of Saskatchewan, 2022 SKCA 96 (CanLII)
- Canada (Attorney General) v. TeleZone Inc., 2010 SCC 62 (CanLII), [2010] 3 SCR 585

40. It is further submitted that this anemic attempt by the Defendants to so qualify this action, runs afoul of the clear admonition of the Federal Court of Appeal in not taking the claim as pleaded, but rather nebulously and vaguely re-configuring it to suit the Defendants'

ends on this motion, contrary to the clear ruling of the Federal Court of Appeal in ***Arsenault***, wherein the Court ruled:

> **10** In my view, for the purposes of Rule 221(1) of the *Federal Courts Rules*, SOR/98-10, the moving party must take the opposing party's pleadings as they find them, and cannot resort to reading into a claim something which is not there. The Crown cannot, by its construction of the respondents' claim, make it say something which it does not say.
>
> - ***Canada v. Arsenault*** 2009 FCA 242, @ paragraph 10

- ***Claim Discloses No Reasonable Cause of Action***

41. With respect to paragraphs 58 to 78 of the Defendants' Written Representations the Plaintiffs state:

(a) when the facts pleaded are taken as proven, as is required on this motion; and

(b) when the causes of action, both in common-law and constitutional torts are assessed on the facts pleaded;

- ***Statement of Claim***, at paragraphs 22-78

the Plaintiffs state that reasonable causes of action are made out, on material facts pleaded, for the purposes of this motion to strike.

42. The jurisprudence is clear that, at common law, and under the ***Charter***, mandatory medical treatment without informed consent is a tortious and constitutional violation.

- ***Carter v. Canada (Attorney General), 2015 SCC 5, [2015] 1 S.C.R. 331 at P.67***
- ***Fleming v. Reid (1991), 48 O.A.C. 46 (CA)***

The Courts have also ruled, in the COVID-19 context that **coercive measures** to vaccinate constitute a violation of bodily and psychological integrity of the person, and that to treat the vaccinated an unvaccinated differently, in the face of the scientific and medical data that shows that vaccination does not prevent transmission, discriminates and violates equality of treatment.

- Let Them Choose et al. v. San Diego Unified School District (2022)
-Jacob Puliyel Vs. Union of India & Ors.

43. These coercive measures, under common law, not only violates s.2, 7 and 15 of the ***Charter***, but further constitute the **tort** of intimidation under common law.

- McIlvenna v. 1887401 Ontario Ltd., 2015 ONCA 830 (CanLII)

44. Lastly, with respect to the Defendants incantation of the "vague" and "unclear" pleading, the Plaintiffs deny that the pleadings are so, and further states that, at a maximum this echoing complaint may, if at all, go only to a request for particulars.

- ***Claim Not Justiciable***

45. With respect to paragraphs 79 to 85 of the Respondent's Written Representations and that the claim is not justiciable, the Plaintiffs state:

(a) The statement by the Defendants in paragraph 79 to 85 of its Written Representations is absurd in that the Plaintiffs do not plead this and the Defendants are again constructing straw-men contrary to the ruling in ***Canada v. Arsenault***; and

(b) It is evident, from the clear jurisprudence cited above, that the justiciability of any, and all legislation and or legislative omission, and/or executive action or inaction is justiciable.[3]

- ***Action is an abuse af Process***

46. With respect to paragraphs 86 to 90 of the Respondent's Written Representations and that the claim is an abuse of process, the Plaintiffs state:

(a) This action is not an abusive process in that:

[3] ***Edwards v. Canada*** (2000) 181 F.T.R. 219; ***Canada (Prime Minister) v. Khadr***, [2010] 1 S.C.R. 44; ***Thorson v. AG of Canada [1975] 1 SCR 138, @p. 15; Manitoba Metis Federation Inc. v. Canada (Attorney General), 2013 SCC 14, @paragraph 134***

(i) the facts;
(ii) causes of action pleaded;
(iii) relief sought; and
(iv) jurisdiction at common law, s.17 of the ***Federal Court Act***, and s.24(1) and s.52 of the ***Constitution Act 1982*** ground the action; and

(b) it is not strikable under **Rule** 221, or any other Rule on basis.

- ***Action is Scandalous, Frivolous, and Vexatious***

47. With respect to paragraphs 86 to 90 of the Respondent's Written Representations and that the claim is scandalous, frivolous, and vexatious, the Plaintiffs state:

(a) With all due respect to the Defendants' counsel's crystal ball and access to unascertained oracle of truth with reference to scientific and medical fact, the facts alleged in the statement of claim are capable of proof, and must be taken as proven for the purposes of this motion;

(b) Moreover, the Plaintiffs intend to establish those facts and are in the possession of the scientific and medical evidence, and expert witnesses, to prove these facts pleaded, which evidence and experts the Plaintiffs intend to tender at trial; and

-Affidavit of Amina Sherazee

(c) Again, the incantations of the Defendants that these allegations are "baseless" are more of a religious or political submission, because that determination can only be made after an assessment of the evidence, from the facts pleaded, that the Plaintiffs intend to tender.

48. With respect to the relevance on some jurisprudence that erroneously asserts "judicial notice", the Plaintiff state:

(a) that the very ***Khodeir*** the Defendants cite is not so categoric as the Defendants claim in that this Court in ***Khodeir*** clarified by stating:

> [35] I also wish to emphasize that the Attorney General is asking me to **take judicial notice solely of a narrow and basic fact regarding the COVID-19 pandemic, namely, the existence of the virus causing the disease**. Of course, knowledge about various aspects of COVID-19 continues to develop, **and there is a lively debate about which public health measures are most appropriate to fight the pandemic. In this process, some facts beyond the mere existence of the virus may or may not be sufficiently indisputable or notorious to warrant judicial notice.** I am not, however, called upon to set the outer boundaries of judicial notice in relation to the COVID-19 pandemic.

Furthermore the Court stated:

> [37] Moreover, if there was any evidence incompatible with the existence of the virus, one would have expected Mr. Khodeir to provide it to the Court. As we will see later, he utterly failed in this regard.
>
> *- Khodeir v. Canada (Attorney General), 2022 FC 44 (CanLII)*

And further, and of seismic importance and distinction is the fact that **no *Charter*** issues were raised in ***Khodeir*** as set out by the Court in stating:

> [5] **Unlike other litigants who have challenged the validity of the Policy, Mr. Khodeir does not invoke his rights guaranteed by the *Canadian Charter of Rights and Freedoms***. Rather, he asserts that the policy is *ultra vires* the *Financial Administration Act*, because it is unreasonable in the administrative law sense of the term. In this regard, his amended application alleges the following:

(b) the Plaintiffs, intend to provide an avalanche of evidence to prove the facts set out in the statement of claim which was **not** the case in ***Khodeir***;

- Affidavit of Amina Sherazee

(c) the jurisprudence on judicial notice, in the COVID-19 context, is not as simplistic nor as categorical, and open and shut, as the Defendants would have it in mis-stating the ruling in ***Khodeir*** and as ***Khodeir*** misapplied the Supreme Court of Canada in ***Find*** on the principle of judicial notice.

- R. v. Find, 2001 SCC 32 (CanLII), [2001] 1 SCR 863
- R. v. Morgan, 2020 ONCA 279 (CanLII)

And as to how ***Find*** and ***Morgan*** is interpreted by the Alberta Court of Appeal in ***R v Church in the Vine and Fortin, 2022 ABKB 704 (CanLII)*** where in it ruled:

> [53] This principle was adopted in this Court by Graesser J in ***R v Mella***, 2021 ABQB 785(released in September 2021) at para 40 and Whitling J in ***Sembaliuk v Sembaliuk***, 2022 ABQB 62 (released in January 2022) at para 8. In ***LMS v JDS***, 2020 ABQB 726 (released in October 2020) at para 18, Hollins J stated the following:
>
> > [18] I can take judicial notice of certain things about COVID, namely that it is a global pandemic and that our own public health officials have provided us with commonly-accepted precautions to avoid contracting COVID (wearing a mask, keeping distanced whenever possible, reducing contacts, washing hands). **However, in my view, I cannot take judicial notice of much more than that.**

And further by the Ontario Superior Court in ***J.N. v. C.G., 2022 ONSC 1198 (CanLII),*** wherein the Court stated:

> [1] When did it become illegal to ask questions? *Especially in the courtroom?*
>
> [2] And when did it become unfashionable for judges to receive answers? *Especially when children's lives are at stake?*
>
> [3] How did we lower our guard and let the words "unacceptable beliefs" get paired together? *In a democracy? On the Scales of Justice?*
>
> [4] **Should judges sit back as the concept of "Judicial Notice" gets hijacked from a *rule* of evidence to a *substitute* for evidence?**
>
> [5] And is "misinformation" even a real word? Or has it become a crass, self-serving tool to pre-empt scrutiny and discredit your opponent? To de-legitimize questions and strategically avoid giving answers. Blanket denials are almost never acceptable in our adversarial system. Each party always has the onus to prove their case and yet "misinformation" has crept into the court lexicon. A childish – but sinister – way of saying *"You're so wrong, I don't even have to explain why you're wrong."*

> [6] What does *any* of this have to do with family court? Sadly, these days it has *everything* to do with family court.
>
> [7] Because when society demonizes and punishes anyone who disagrees – or even dares to ask really important questions – the resulting polarization, disrespect, and simmering anger can have devastating consequences for the mothers, fathers and children I deal with on a daily basis.

And it is further submitted that the meaningless word "misinformation" is akin to the depraved slur of "conspiracy theory", or "theorist" without factual elaboration:

And further:

> [66] In *R.S.P. v. H.L.C.* 2021 ONSC 8362 (SCJ) Justice Breithaupt Smith recently set out a timely **warning about the danger of applying judicial notice to cases where expert opinion is unclear or in dispute.** It's a warning I whole heartedly adopt:
> .....

And further:

> [67] Why should we be so reluctant to take judicial notice that the government is always right?
>
> a. Did the Motherisk inquiry teach us nothing about blind deference to "experts"? Thousands of child protection cases were tainted – and lives potentially ruined – because year after year courts routinely accepted and acted upon substance abuse testing which turned out to be incompetent.
> b. What about the Residential School system? For decades the government assured us that taking Indigenous children away – and being wilfully blind to their abuse – was the right thing to do. We're still finding children's bodies.
> c. How about sterilizing Eskimo women? The same thing. The government knew best.
> d. Japanese and Chinese internment camps during World War Two? The government told us it was an emergency and had to be done. Emergencies can be used by governments to justify a lot of things that later turn out to be wrong.
> e. Few people remember Thalidomide. It was an experimental drug approved by Canada and countries throughout the world in the late 1950's. It was supposed to treat cancer and some skin conditions. Instead it caused thousands of birth defects and dead babies before it was withdrawn from the market. But for a period of time government experts said it was perfectly safe.

f. On social issues the government has fared no better. For more than a century, courts took judicial notice of the fact that it was ridiculous to think two people of the same sex could get married. At any given moment, how many active complaints are before the courts across the Country, alleging government breaches of Charter Rights? These are vitally important debates which need to be fully canvassed.
g. The list of grievous government mistakes and miscalculations is both endless and notorious. Catching and correcting those mistakes is one of the most important functions of an independent judiciary.
h. And throughout history, the people who held government to account have always been regarded as heroes – not subversives.
i. When our government serially pays out billions of dollars to apologize for unthinkable historic violations of human rights and security – how can we possibly presume that today's government "experts" are infallible?
j. Nobody is infallible.
k. And nobody who controls other people's lives – *children's lives* – should be beyond scrutiny, or impervious to review.

And further by the Ontario Superior Court in ***M.M. v. W.A.K., 2022 ONSC 4580***

(CanLII):

> [37] The issue before the court in taking judicial notice of scientific facts is not assessing whether the science is "fake science", but whether scientific facts that would normally require expert opinion to be admitted, may be judicially noticed without proof. This issue was recently addressed by Breithaupt Smith J. in *R.S.P. v. H.L.C.* 2021 ONSC 8362 in which she provided what has been described as a timely warning (*J.N. v. C.G.*, 2022 ONSC 1198 at para 65):
>
> > [57] Judicial notice of the facts contained in government publications are "capable of immediate and accurate demonstration by resort to readily accessible sources of indisputable accuracy." Such facts could include, for example, that there are two time zones in the Province of Ontario or that there were two deaths and 39 Intensive Care Unit admissions among Ontario children from January 15, 2020, to June 30, 2021 connected with SARS-CoV-2.
> >
> > [58] **Judicial notice cannot be taken of expert opinion evidence. Chief Justice McLachlin for the unanimous Court in *R. v. Find* underscored that: "Expert evidence is by definition neither notorious nor capable of immediate and accurate demonstration. This is why it must be proved through an expert whose qualifications are accepted by the court and who is available for cross-examination" (at paragraph 49).**

> [39] I also share the concerns expressed hy Pazaratz J. with respect to the court taking judicial notice of government information. In a recent case, similar to this case, he makes several critical observations:

With a similar refusal to take judicial notice ***in R.S.P. v. H.L.C., 2021 ONSC 8362 (CanLII).***

(d) The statement of claim pleads facts, concessions, uttered by Chief Medical Officers themselves.

49. It is thus submitted that the Defendants misstate the holding in ***Khodeir,*** misstate the Plaintiffs' pleading. Furthermore, the holding in ***Khodeir*** in any event is contrary to ***R. v. Find*** in misapplying ***R. v. Find***, and moreover contrary to the jurisprudence on judicial notice in the Covid context. In any event, nothing about "judicial review" in this context is "plain and obvious", "beyond argument", in the jurisprudence for the purpose of a motion to strike.

50. It is thus clear, for the purposes of this motion, that it is not plain and obvious beyond argument to the point that this action should be struck.

- ***Action is doomed to fail***

51. With respect to paragraphs 100 to 113 of the Respondent's Written Representations and with respect to the Defendants' judicial forecast the claim is "doomed" to fail the Plaintiffs state:

(a) The Defendants embarrassingly confuse the constitutional right to judicial review with the procedural avenue of conducting that judicial review by the procedural avenue of an **application** versus **an action**, again trying to reconfigure the pleading for its own fictitious purposes in that:

(i) Declarations can be sought under s.17 of the ***Federal Court Act***;

- ***Edwards v. Canada*** (2000) 181 F.T.R. 219

(ii) This action further and centrally **seeks damages**, which cannot be sought by way of application under s.18 -18.1 **unless** it were converted into an action under s.18.4(2) of the ***Federal Court Act***;

(iii) insofar as the ***Charter***, and/or other parts of the ***Constitution Act*** are invoked in virtually all the declaratory relief, ss.24 and s.52 of the ***Constitution Act, 1982*** further grounds the relief by way of action in conjunction with the damages in tort, both at common law and under the ***Charter***;

(iv) this issue was settled by the ***Telezone*** line of cases by the Supreme Court of Canada[4].

(b) It is again submitted that this not a proper "plain and obvious" case, "beyond argument" basis for striking the claim;

(c) With respect to the Defendants' submissions, at paragraph 107 to 113, of their Written Representations, that a "reconstituting of the action into a judicial review would make it moot", the Plaintiffs state:

(i) The defendants are again reconstituting the claim (action) for something it is NOT, and should not be, contrary to the Federal Court of Appeal ruling in ***Canada v. Arsenault 2009 FCA 242*** which merits repeating in that:

> [10] In my view, for the purposes of Rule 221(1) of the *Federal Courts Rules*, SOR/98-106, the moving party must take the opposing party's pleadings as they find them, and cannot resort to reading into a claim something which is not there. The Crown

---

[4] ***Canada (Attorney General) v. TeleZone Inc., 2010 SCC 62 (CanLII), [2010] 3 SCR 585Canada (Attorney General) v. McArthur, 2010 S.C.C. 63; Parrish & Heimbecker Ltd. v. Canada (Agriculture and Agri-Food), 2010 S.C.C. 64; Nu-Pharm Inc. v. Canada (Attorney General), 2010 S.C.C. 65; Canadian Food Inspection Agency v. Professional Institute of the Public Service of Canada, 2010 S.C.C. 66; Manuge v. Canada, 2010 S.C.C. 67; Sivak et al. v. MCI, 2011 FC 402***

> cannot, by its construction of the respondents' claim, make it say something which it does not say.
>
> ***- Canada v. Arsenault 2009 FCA 242 at paragraph 10***

(ii) Their argument is shot down by the ***Telezone*** line of cases;

(iii) It is not plain and obvious that vaccine mandate and making mandates are moot, in that the Defendants and their officials, including Prime Minister Trudeau, have made it clear that the same measures can and will be reinstituted if deemed necessary, and in any case, the exception to mootness clearly applies under Canadian jurisprudence

> ***- Borowski v. Canada [1989] 1 S.C.R. 342 (SCC)***
> ***- Vic Restaurant Inc. v. City of Montreal, 1958 CanLII 78 (SCC), [1959] SCR 58***
> ***- The Canadian Civil Liberties Association v. Nova Scotia (Attorney General), 2022 NSCA 64 (CanLII)***

And, the United States Supreme Court, in the context of Covid measures, and Covid context of church closings, rejected such a mootness argument due to the fact that churches again could see similar closures.

> ***- 592 U. S. ____ (2020)***

And further, in the covid-context, the Nova Scotia Court of Appeal made a similar ruling in stating on the exception to mootness;

> (b) Although moot, the Court should entertain this appeal owing to the public interests engaged;
>
> ***- The Canadian Civil Liberties Association v. Nova Scotia (Attorney General), 2022 NSCA 64 (CanLII)***

52. It is thus not "plain and obvious", "beyond argument", that this is moot nor that it is not subject to the exception on mootness.

53. In any event, the Declaratory Relief, tort and ***Charter*** damages are not moot.

- ***No Leave to Amend***

54. With respect to paragraphs 114 to 115 of the Respondent's Written Representations and that the claim should be given no leave to amend, the Plaintiffs state:

(a) If struck, in whole or in part, the Plaintiffs should be granted leave to amend in accordance with the jurisprudence in this Court:

- ***Collins v. Canada*** [2011] D.T.C. 5076
- ***Simon v. Canada*** [2011] D.T.C. 5016
- ***Spatling v. Canada*** 2003 CarswellNat 1013
- ***Larden v. Canada*** (1998) 145 F.T.R. 140
- ***Action4Canada v British Columbia (Attorney General), 2022 BCSC 1507 (CanLII)***

(b) In a recent, covid-measure case, which was struck due to it being prolix at (398 pages) the Court struck it without prejudice to issue an amended claim

- Action4Canada v British Columbia (Attorney General), 2022 BCSC 1507 (CanLII)

G/ Issues and Relief Not Covered in Defendants' Submissions

55. It is lastly submitted that, insofar as the Defendants neglect or chose, not to cover or move to strike other relief and/or paragraphs contained in the statement of claim, the Plaintiffs have not dealt with those portions of the claim in the within memorandum, ***albeit*** the Plaintiffs continue to rely on those paragraphs and relief.

H/ Costs

56. The Plaintiffs, in accordance with the jurisprudence, with respect to motions to strike, state that, where the motion is dismissed, in the main, the Plaintiffs are entitled to solicitor-client costs

- Lominadze v. Canada (MCI) [1998] F.C.J. No. 115

and the Plaintiffs state that they are also generally entitled, in this case, to solicitor-client costs, under ***Rule 400***.

-Singh v. MEI [1985] S.C.R. 177 (SCC)
-Borowski v. Canada [1989] 1 S.C.R. 342 (SCC)
-Canada (MEI) v. Villafranca [1992] F.C.J. No. 1189 (F.C.A.)
-Lominadze v. Canada (MCI) [1998] F.C.J. No. 115
-Ruby v. Canada [2002] S.C.J. No. 73 (SCC)

PART IV - ORDER SOUGHT

57. The Plaintiffs respectfully request that:

(a) the Defendants' motion to strike be dismissed;

(b) in the alternative, if any portions are struck, that is to be without prejudice, to file an amended statement of claim in accordance with the jurisprudence[5]:

(c) solicitor-client costs and, in accordance with ***Native Women's Assn. of Canada vs. Canada [1994] 3 SCR 627***, such further and other relief as this Honourable Court deems just.

All of which is respectfully submitted

Dated this 29th day of November 2022.

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9

TEL: (416) 530-9684
FAX: (416) 530-8129
Counsel for the Plaintiffs

[5] ***Collins v. Canada*** [2011] D.T.C. 5076; ***Simon v. Canada*** [2011] D.T.C. 5016; ***Spatling v. Canada*** 2003 CarswellNat 1013; ***Larden v. Canada*** (1998) 145 F.T.R. 140; ***Action4Canada v British Columbia (Attorney General), 2022 BCSC 1507 (CanLII)***

PART V - AUTHORITIES

- **Statutory Provisions Appendix A**

1. *Federal Courts Act*.
2. *Constitution Act, 1982*, *ss. 2, 7, 15, 24, 52.*
3. *Constitution Act, 1867*, *ss. 91, 92.*

- **Jurisprudence**

1. *592 U. S. (2020)*
2. *A.G. Canada v. Inuit Tapirasat of Canada [1980] 2 S.C.R. 735*
3. *Action4Canada v British Columbia (Attorney General), 2022 BCSC 1507 (CanLII)*
4. ***Adams-Smith v. Christian Horizons (1997)14 C.P.C.(4th)78 (Ont. Gen. Div.)***
5. *Air Canada v. British Columbia (Attorney General)* [1986] 2 S.C.R. 539
6. *B.C. v. Imperial Tobacco Canada Ltd., [2005] 2 S.C.R. 473*
7. *Borowski v. Canada [1989] 1 S.C.R. 342 (SCC)*
8. *Canada (Attorney General) v. McArthur, 2010 S.C.C. 63*
9. *Canada (Attorney General) v. TeleZone Inc., 2010 SCC 62 (CanLII), [2010] 3 SCR 585*
10. *Canada (MEI) v. Villafranca [1992] F.C.J. No. 1189 (F.C.A.)*
11. *Canada (Prime Minister) v. Khadr*, [2010] 1 S.C.R. 44
12. *Canada v. Arsenault 2009 FCA 242*
13. *Canada v. Solosky, [1980] 1 S.C.R. 821, @ p. 830*
14. *Canadian Food Inspection Agency v. Professional Institute of the Public Service of Canada, 2010 S.C.C. 66*
15. *Canadian Society for the Advancement of Science in Public Policy v. Henry, 2022 BCSC 724*

16. ***Carter v. Canada (Attorney General), 2015 SCC 5, [2015] 1 S.C.R. 331***

17. ***Collins v. Canada*** [2011] D.T.C. 5076

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

19. ***Dumont v. A.G. Canada [1990] 1 S.C.R. 279***

20. ***Dunsmuir v. New Brunswick, 2008 SCC 9, at Paragraph 31***

21. ***Edwards v. Canada*** (2000) 181 F.T.R. 219

22. ***Fleming v. Reid (1991), 48 O.A.C. 46 (CA)***

23. ***Grant v. Cormier – Grant, et. al*** (2001) 56 O.R. (3d) 215 (Ont. C.A.)

24. ***Hanson v. Bank of Nova Scotia (1994) 19 O.R .(3d) 142 (C.A.)***

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

26. ***J.N. v. C.G., 2022 ONSC 1198***

27. ***Jacob Puliyel Vs. Union of India & Ors.***

28. ***Khodeir v. Canada (Attorney General), 2022 FC 44 (CanLII)***

29. ***Larden v. Canada*** (1998) 145 F.T.R. 140

30. ***Let Them Choose et al. v. San Diego Unified School District (2022)***

31. ***Liebmann v. Canada*** [1994] 2 F.C. 3

32. ***Lominadze v. Canada (MCI) [1998] F.C.J. No. 115***

33. ***M.A. v. De Villa, 2021 ONSC 3828***

34. ***M.M. v. W.A.K., 2022 ONSC 4580 (CanLII):***

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

36. ***Manuge v. Canada, 2010 S.C.C. 67***

37. ***McIlvenna v. 1887401 Ontario Ltd., 2015 ONCA 830 (CanLII)***

38. ***Miller (Litigation Guardian of) v. Wiwchairyk (1997) 34 O.R. (3d) 640 (Ont.Gen.Div)***

39. ***Nash v. Ontario (1995) 27 O.R. (3d) (C.A.)***

40. ***Native Women's Assn. of Canada vs. Canada [1994] 3 SCR 627.***

41. ***Nelles v. Ontario (1989) 60 DLR (4th) 609 (SCC)***

42. ***Northern Regional Health Authority v. Horrocks, 2021 SCC 42 (CanLII)***

43. ***Nova Scotia (Attorney General) v. Canada (Attorney General)*** [1951] S.C.R. 31

44. ***Operation Dismantle Inc. v. The Queen [1985] 1 S.C.R. 441***

45. ***Parrish & Heimbecker Ltd. v. Canada (Agriculture and Agri-Food), 2010 S.C.C. 64***

Nu-Pharm Inc. v. Canada (Attorney General), 2010 S.C.C. 65

46. ***R v Church in the Vine and Fortin, 2022 ABKB 704 (CanLII)***

47. ***R. v. Find, 2001 SCC 32 (CanLII), [2001] 1 SCR 863***

48. ***R. v. Morgan, 2020 ONCA 279 (CanLII)***

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

50. ***R.S.P. v. H.L.C., 2021 ONSC 8362 (CanLII).***

51. ***Reference re Secession of Quebec,*** [1988] 2 S.C.R. 217

52. ***Ruby v. Canada [2002] S.C.J. No. 73 (SCC)***

53. Sgt. Julie Evans et al. v. AG Ontario et al.

54. ***Simon v. Canada*** [2011] D.T.C. 5016

55. ***Singh v. Canada (Citizenship and Immigration), 2010 FC 757***

56. ***Singh v. MEI [1985] S.C.R. 177 (SCC)***

57. ***Sivak et al. v. MCI, 2011 FC 402***

58. ***Solgi v College of Physicians and Surgeons of Saskatchewan, 2022 SKCA 96 (CanLII)***

59. ***Spatling v. Canada*** 2003 CarswellNat 1013

60. ***TD Bank v. Delloitte Hoskins & Sells*** (1991) 5 O.R. (3d) 417 (Gen. Div.)

61. ***The Canadian Civil Liberties Association v. Nova Scotia (Attorney General), 2022 NSCA 64 (CanLII)***

62. ***Thorson v. AG of Canada [1975] 1 SCR 138, @ p. 151***

63. ***Trendsetter Ltd. v. Ottawa Financial Corp. (1989)32 O.A.C. 327 (C.A.)***

64. ***Vic Restaurant Inc. v. City of Montreal, 1958 CanLII 78 (SCC), [1959] SCR 58***

65. ***Vriend v. Canada [1998] 1 SCR 493***

66. ***Weber v. Ontario Hydro, 1995 CanLII 108 (SCC), [1995] 2 SCR 929***

Court File No.:T-1089-22

FEDERAL COURT

B E T W E E N:

KAREN ADELBERG ET AL.

Plaintiffs

- and -

HIS MAJESTY THE KING ET AL.

Defendants

MEMORANDUM OF FACT AND LAW

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9

TEL: (416) 530-9684
FAX: (416) 530-8129

Email: rocco@idirect.com

EXHIBIT “OOO”

Frequently Asked Questions

This is Exhibit "OOO" 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

Search...

Rocco Galati & Related:

- **Are you affiliated with Rocco Galati? If not, why?** +
- **Is this a constitutional challenge or a proposed class action?** +
- **The longer a plaintiff's claim, the more likely they are to prevail. Right?** +
- **Isn't it really expensive to go to court?** +
- **Why don't you go after the federal government or the Prime Minister personally?** +
- **Can more than one similar class action co-exist?** +
- **What about vaccines, 5G, Bill Gates, and China? Do you intend to make an issue of these things in your campaign?** +
- **Are you affiliated with the evangelical movement?** +

How do I join your proposed class action? +

Why are you using GoFundMe? +

What kind of information is helpful for you in your work? +

What kind of information is not helpful for you in your work? +

Is this a constitutional challenge or a proposed class action? +

What is the current status of your litigation? +

What are you doing to help those seeking alternative or complementary medical treatments? +

Isn't it really expensive to go to court? +

Are you affiliated with Rocco Galati? If not, why? +

Can more than one similar class action co-exist? +

Are you affiliated with the Q Anon movement? +

Are you affiliated with the evangelical movement? +

Why aren't you using common law courts of the freeman-on-the-land movement, the Sovereign movement, or another variation of the de-taxer movement instead of the Supreme Court of British Columbia? +

Do you issue tax receipts to donors? +

Who is your lawyer? +

Are any of your staff paid? +

How do you store donor funds? +

I have really important information I need to get to you. How can I do this? +

I am a whistleblower with sensitive information for you. How can I provide it? +

I am a whistleblower. Can you provide me with legal advice prior to disclosure? +

If the law already says the government can do certain things, then what is the point of a legal challenge? +

Why don't you go after the federal government or the Prime Minister personally? +

Are you anti-vaccination? +

What about vaccines, 5G, Bill Gates, and China? Do you intend to make an issue of these things in your campaign? +

Do you have a Telegram channel? +

Do you have a WhatsApp channel? +

Are you a federal or provincial non-profit? +

I need individual legal representation. Can you help? +

Are you a federal or provincial non-profit? +

I need individual legal representation. Can you help? +

May I use either your name or emblem for commercial purposes? +

I am a journalist, blogger, talk show host or similar. Can I interview somone from CSASPP? +

I represent an interest group in our community. How can I provide input into your process? +

What about expert reports? Won't you need those? +

The longer a plaintiff's claim, the more likely they are to prevail. Right? +

I am running for public office. Will you endorse me? +

Are you affiliated with Keese Galati? If not, why?

We receive communications regularly from Mr. Galati's past donors with concerns. We are asked what became of the substantial funds that the community raised for him or his third-party fundraising arms. We do not have any information, were not involved in raising funds for either, nor did we ever seek to retain Mr. Galati. If you have concerns about his conduct, any member of the general public can submit an electronic complaint to the Ontario Law Society to initiate a formal investigation.

We are not affiliated with Mr. Galati. There are many reasons.

Mr. Galati is not licensed to practise law in British Columbia for any extended period of time. He can always be retained in Ontario, and in turn retain counsel in British Columbia. This is not unusual. However, then you are paying for two law firms. Anyone can verify whether a lawyer is licensed to practise law in British Columbia here.

We were advised directly by Mr. Galati himself that the lawyer he wished to retain in British Columbia is Lawrence Wong. Mr. Wong was personally sanctioned in 2010 for his conduct by a Federal Court judge with a fine.

A Federal Court judge noted in his reasons for judgment that some of Mr. Galati's billings were "excessive and unwarranted" in a separate proceeding. The same judge declined to award the full amount sought by Mr. Galati for his legal fees in that constitutional proceeding. The outcome has been discussed by other lawyers.

Mr. Galati is sometimes described by his followers as our nation's "top constitutional law" lawyer, yet there is no such professional designation in Canada, nor in particular in British Columbia. That is not to say that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. According to Mr. Galati, he studied tax litigation at Osgoode Hall. The Globe and Mail reported Mr. Galati "makes his money from doing tax law, not constitutional cases."

Mr. Galati filed a COVID-19 related civil proceeding in the Superior Court of Justice in Ontario on 6 July, 2020. To the best of our knowledge, as of 30 October, 2021, none of the twenty-one named defendants have filed replies, despite the plaintiff being at liberty to apply for a default judgment for the majority of that time. In an interview published 2 September, 2020, Mr. Galati claimed he intended to do his best to have an interlocutory mask injunction application heard before the Christmas holidays of 2020. As of 11 June, 2021, we are not aware of any scheduled hearings and no orders appear to have been made.

Is this a constitutional challenge or a proposed class action?

Our current civil proceeding is both a constitutional challenge and a proposed class proceeding. The options are not necessarily mutually exclusive.

The longer a plaintiff's claim, the more likely they are to prevail. Right?

There is no correlate.

Excessively long pleadings in the hundreds of pages in length are more likely to be struck. This is because the rules require pleadings to contain a concise statement of the material facts giving rise to the claim. Applications, as a related example, are limited to ten pages in length.

If a plaintiff ignores this requirement and files a claim that is not concise regardless, a defendant can bring an application pursuant to *Rule 22-7(2)* to dismiss the proceeding for non-compliance with the rules of court.

See *Pyper v. The Law Society of British Columbia*, 2017 BCCA 410 (CanLII), at para 51 for how the British Columbia Court of Appeal has already dealt with the general issue of prolix (unnecessarily long) pleadings.

A lawyer billing their client by the hour will bill considerably for filing a novel. When the novel is discarded on the basis of a technicality, it is the client that is stuck not only with the cost of its drafting, but also with the costs awarded to the other side on their successful application.

Isn't it really expensive to go to court?

The short answer is no. This is a common misunderstanding with the general public. Going to court is actually inexpensive. It's the lawyers that, if not carefully supervised, can become expensive. The courthouse is a public utility. The lawyer is a logically distinct entity with their own interests, even as an officer of the court.

The confusion is created with the ambiguous term "legal fees" popularized by lawyers. This term conflates two totally unrelated categories of expenses together.

Fees payable to the court are *legal fees* because the law requires you to pay them. They are generally non-negotiable. They are set out in statute, hence why they are legal. They range from a $1 to a few hundred dollars. Even the most complex civil proceedings only cost a few hundred to a few thousand dollars on average, comparable with a stay in a hotel.

The rest of the expenses typically go to lawyers for billable hours. These are not "legal fees" in the statutory sense. They are fees that are created through the law of promises, or contractual fees the parties agree to. They represent what a lawyer believes they are entitled to for their time. Hourly rates vary widely. Sometimes they correlate with a lawyer's competency and moral literacy, while other times they may not.

A lawyer's billable hours are in the same category as those paid to any other contractor hired to do anything for you, like a mechanic. Consent is the foundation. When a lawyer claims they need a $100,000 to prosecute a claim, what they are saying is they need $200 to file at the courthouse, a few hundred more for filing affidavits, requisitions, couriers, sometimes fees payable for expert reports, and the rest for themselves.

For whatever reason the Law Society is yet to campaign to clarify the confusion.

Why don't you go after the federal government or the Prime Minister personally?

The management of health care is generally agreed to be delegated under s 92(13) of our constitution to a provincial mandate. Accordingly, provincial authorities are responsible for any mistakes made in the management of health care decisions. Adding additional co-defendants may make for sensational headlines, but it can also invite an adverse costs award when they apply to have themselves struck from the style of cause.

Can more than one similar class action co-exist?

Generally not.

The Ontario Superior Court of Justice already ruled that there should not be two or more class actions that proceed in respect of the same putative class asserting the same cause or causes of action, and one action must be selected. The commencement of multiple class actions in the same or other jurisdictions may be an abuse of process with some stayed as an abuse of process.

Do you intend to make c
campaign?

Consider that if you are concerned about the prospect for an eventual mandatory vaccination program for COVID-19, or the science behind vaccinations in general, the executive rationalizing the measure based on its declaration of a state of emergency, that state of emergency granting extraordinary powers to the executive it otherwise would not have had, and we succeed in demonstrating to the court that there was never a reasonable justification for that state of emergency to begin with, or at least not to the extent in which it was implemented, then indirectly we have destroyed their argument - along with any other doors a state of emergency may have opened for it. *This is vital for readers to understand and cannot be underscored enough.*

Concurrent efforts in other jurisdictions may involve other pressing tangential issues. While these might be helpful, or even entertaining to follow, any success that they may enjoy does not necessarily achieve anything for people in British Columbia because healthcare is under a provincial mandate.

If the first effort in British Columbia fails, it may preclude the ability to make a second attempt. For that reason it is actually in the best interest for the defendant that the first suit contains as many peripheral issues that weaken its probability of success. If that suit is dismissed, the common law can make it difficult for someone to bring a more refined suit later with narrower issues to be tried.

This is why it is essential that our pleadings remain focused on what the desired orders actually turn on, rather than tangential issues that would be predicated on a successful narrower constitutional challenge in any event. As tempting as it may be for those passionate about other issues to broaden the scope of what is pled, this can create procedural vulnerabilities that allow a defendant a much lower barrier to disposing of the claim early without the substantive issues actually being heard on their merits.

That can result in the plaintiff getting hit with special costs (fined), though this is rare in an action brought as a class proceeding. In that event the lawyers get paid regardless, but the client is personally stuck with the consequences.

This is why some lawyers joke in the absence of a naive client that they don't lose cases, clients do. However, sometimes when they win they take credit for it in circulating the judgment among their peers.

We don't want that to happen. A precise, level-headed, minimum energy trajectory, free of hyperbole, aimed at an Achilles' heel, is far more sound.

Are you affiliated with the evangelical movement?

No. Canadians who self identified as evangelical in the 2011 census amounted to under 2.9 %. A minority demographic attempting to advocate on behalf of all affected putative class members may experience difficulties obtaining class certification.

EXHIBIT “PPP”

rocco@idirect.com
re: Canada Society for Advancement of Science -Notice of Action
February 03, 2021 at 20:11 EST
To: Polina Furtula

Dear Ms. Furtula,

Please see attached correspondence in response to your letter dated

January 29th, 2021.

Thank you,

This is Exhibit "PPP" 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

ROCCO GALATI LAW FIRM

PROFESSIONAL CORPORATION

Rocco Galati, B.A., LL.B., LL.M.

1062 College Street, Lower Level

Toronto ON M6H 1A9

TEL: 416-530-9684

FAX: 416-530-8129

"Oh why, oh why, does the wind never blow backwards?"---Woody Guthrie

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
1062 College Street, Lower Level
Toronto, Canada M6H 1A9
Direct Line (416) 530-9684 Fax (416) 530-8129

February 3, 2021

SENT VIA EMAIL

Polina Furtula
Citadel Law Corporation
1400-1125 Howe Street
Vancouver, British Columbia
V6Z 2K8
Email: pfurtula@citadellawyers.ca

Dear Ms. Furtula,

RE: Canadian Society for the Advancement of Science in Public Policy v Her Majesty the Queen in Right of the Province of British Columbia et al, SCBC Vancouver; Registry File NO: S210831

Thanks for your letter, dated January 29th, 2021 and attached Notice of Action.

I frankly do not understand how my clients filing their action "may cause unnecessary delay and procedural issues in advancing our [your] client's claim". Ours is not a class action proceeding and your client(s) do not hold a monopoly over COVID-19 litigation in B.C.

When we spoke a few months ago, you knew that our claim was in the works. (Without meaning to offend, I am not wholly impressed by your Statement of Claim).

I am less impressed by statements being made by Mr. Kip Warner, which have reached me, and which I attach to this letter. As it appears that he is your instructing client, I write you directly.

Please advise Mr. Warner that his comments are highly defamatory and if he does not issue a full and unmitigated apology, I have instructed my counsel to issue a defamation suit here in Ontario. His statements are beyond the pale.

Yours very truly,

Per:

Rocco Galati, B.A., LL.B, LL.M.
RG*sc
Encls.

Hope you are doing well. I just wanted to update you on the fact that the Canadian Society for the Advancement of Science in Public Policy (CSASPP) has filed their pleadings against the Crown and Bonnie Henry (Provincial Health Minister) as of Jan 26th, 2021. Please see link : https://www.scribd.com/document/492237670/Notice-of-Civil-Claim
You are welcome to share this with anyone and everyone.

This is our certificate of Incorporation :
https://www.scribd.com/document/492256545/CSACPP-Certificate-of-Incorporation

Now that we have started the litigation process we are still in need of Funding. Action 4 Canada has still not filed with Rocco. Legally at this point Rocco can't really file in BC anymore. The case law is that for class actions, its the first to the court house that generally has carriage of the file. If you would be so kind to share with everyone so to help the cause.

https://www.gofundme.com/f/bc-supreme-court-covid19-constitutional-challenge

This might interest you further.
Here are some talking about regarding Action 4 Canada and Rocco(1) Rocco isn't licensed to practise here in BC. He can always be retained in Ontario and in turn retain counsel in BC. But then you are paying for two law firms. You can verify that he is not licensed to practise here in BC at this page:

[redacted]

<https://www.lawsociety.bc.ca/lsbc/apps/lkup/mbr-search.cfm>

page 2 of 6.

(2) The lawyer Rocco wishes to retain here in BC is named Lawrence Wong. He specializes in immigration law. He was sanctioned in 2010 for his conduct by a Federal Court judge and fined. See for yourself:

<http://canlii.ca/t/2bz73>

(2) A Federal Court judge wrote in his judgment a few years ago that Rocco was found to have excessively billed for his time:

<http://canlii.ca/t/gfl0p#par7>

(4) The same judgment questioned Rocco's competency in constitutional law:

<http://canlii.ca/t/gfl0p#par9>

(5) Rocco is not a "constitutional law" lawyer. There is no such professional designation in Canada, nor in particular in BC. That's not to say, however, that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. But in Rocco's case his area of expertise is tax law.

<https://tgam.ca/3n8Zuyo>

(6) Every lawyer I know that has reviewed Rocco's Ontario pleadings said it was very poorly drafted. It will most likely get struck and never make it to trial to be heard on its merits. The reason being is he brings in all kinds of other topics that aren't necessary (Gates, 5G, vaccines, etc.) to obtain the order that he wants. This is how it likely would be struck:

http://canlii.ca/t/8lld#sec9_5

(6) Rocco wants far too much money to get started. This seems in line with (2);

(7) Nothing has been accomplished in Ontario since Rocco filed around six months ago. The defendants haven't even filed replies, despite the option to apply for a default judgment being available for the majority of that time;

(8) Even if he won in Ontario, it wouldn't have any direct bearing on us here in BC because health care is under a provincial mandate under s 92(13) of the constitution. In other words the Ontario Superior Court of Justice has no jurisdiction over what cabinet ministers do in BC. See:

<https://bit.ly/2Li6Baw>

(9) We are (CSASPP) a non-profit, non-partisan, and secular society. We are legally required to have a certain level of accounting controls and transparency;

EXHIBIT "QQQ"

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

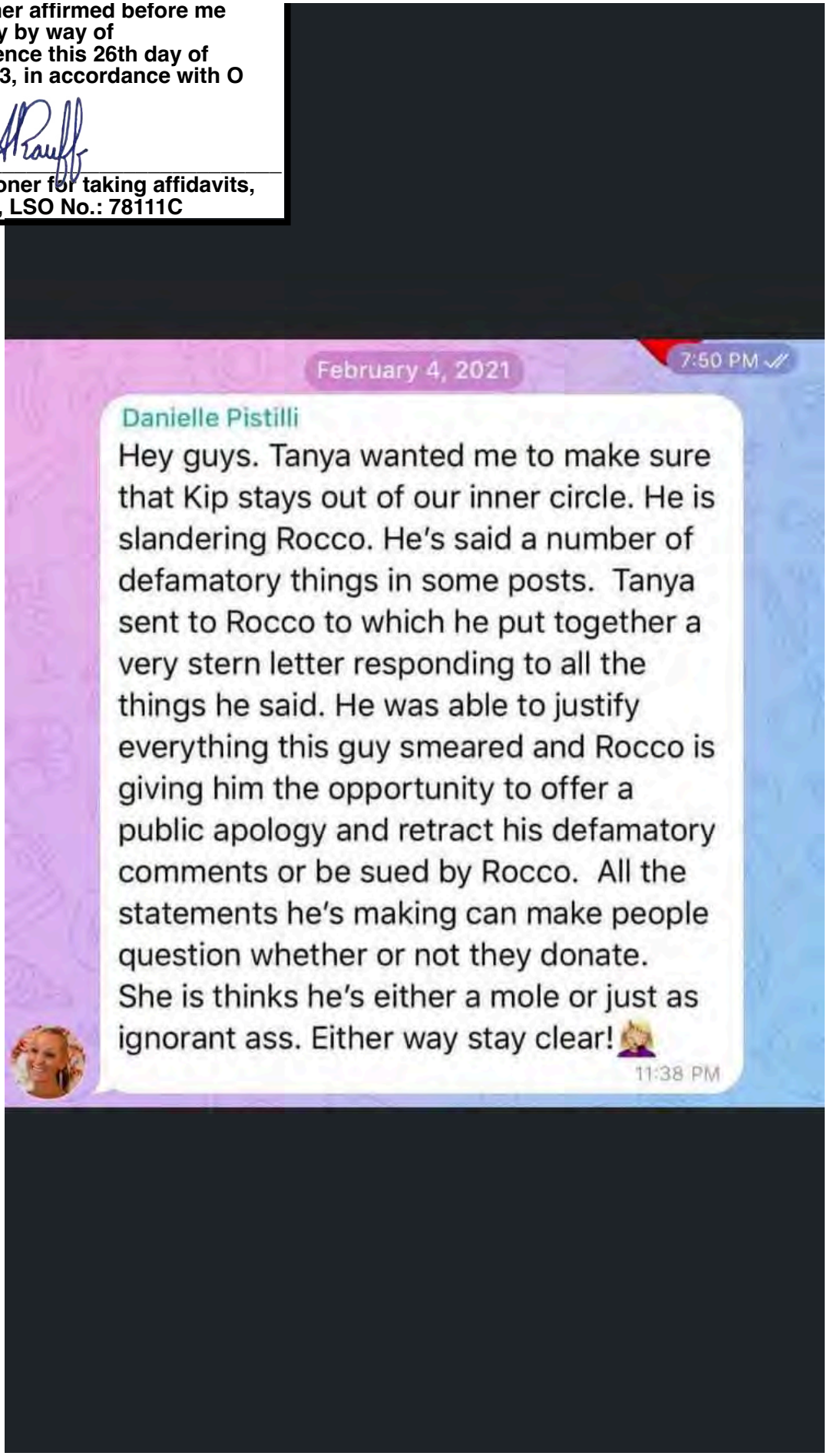


EXHIBIT "RRR"

BC legal challenge

From: Theodore Kuntz <ted@vaccinechoicecanada.com>
Date: Wed, 16 Jun 2021 12:49:20 -0700
To: kip@thevertigo.com, hugsnation2020@gmail.com
X-Mailer: Apple Mail (2.3654.80.0.2.43)

HI Kip and Vlad

I'm looking forward to our conversation tomorrow and learning more of your efforts to hold the BC government accountable.

This is the zoom link for our conversation:

Topic: Ted Kuntz's Zoom Meeting
Time: Jun 17, 2021 11:00 AM Vancouver

Join Zoom Meeting
https://us04web.zoom.us/j/74246861518?pwd=VHJ0ZW15MGc5cGM4aktaZmRXdDVydz09

Feel free to call me if anything comes up.

See you tomorrow.

ted
778-892-6650

This is Exhibit "RRR" 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 "SSS"

legal challenges

From: Theodore Kuntz <ted@vaccinechoicecanada.com>
Date: Fri, 18 Jun 2021 12:51:40 -0700
To: Hugs Nation <hugsnation2020@gmail.com>, kip@thevertigo.com
X-Mailer: Apple Mail (2.3654.80.0.2.43)

Hi Vlad and Kip

Thank you for the time yesterday to better understand the intention and scope of the application undertaken by the Canadian Society for the Advancement of Science in Public Policy.

I applaud your efforts to hold Dr. Bonnie Henry, and the BC government accountable.

I do want to ensure that there is clarity in your understanding of the legal action filed in Ontario and the pending legal action in BC.

These actions are c**onstitutional challenges** and not **class actions**.

I appreciate that you are not in a position to explain to those making inquiries the rationale for the delay in filing a default judgement in Ontario and the delay in the BC action. I can reassure you that each of the cases are proceeding. There are important reasons for the delays.

- the actions filed by Rocco Galati are distinctly different than the action you are proceeding with
- that Rocco has been formally retained and work on these filing have been continually worked on since May 2020.
- that all donations received have gone to support the legal actions

Can I suggest that rather than try to explain to your donors what is happening with the filings, that you direct them to the Constitutional Rights Centre, Action4Canada and Vaccine Choice Canada.

I can tell you that the board of VCC meets regularly with Rocco to review the case and to discuss the best strategy to move forward.

As I mentioned, Rocco has secured international experts to address the fundamental issues of this matter and will launch when all the necessary affidavits are in place. We already have thousands of pages of expert testimony secured and experts retained.

Can I also suggest that you remove the information posted under Are you affiliated with Rocco Galati, and if not, why not?

I personally find this information unhelpful, incomplete in its answers, and undermines confidence at a time when we need to stand behind our warriors.

This is a critical time in the history of humanity, and we need every resource we can to reclaim our rights and freedoms.

Le[illegible]

sincerely,

Ted Kuntz

EXHIBIT “TTT”

Canadian Society for the Advancement of Science in Public Policy
108 - 2115 Cypress Street
Vancouver, BC V6J 3M3

This is Exhibit "TTT" 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

Attn: Tanya Gaw, Founder
Action4Canada Corp
102–15910 Fraser Hwy, Suite #453
Surrey, BC V4N 0X9

BY PERSONAL DELIVERY

13 July 2021

Re: Invitation to participate

CSASPP v. HMTQ et al., BCSC, Reg No. S-210831

Dear Madame,

I am writing you in respect to the above captioned matter. The Canadian Society for the Advancement of Science in Public Policy ("CSASPP") is a provincial non-profit incorporated under the *Societies Act*, SBC 2015, c 18. You can learn more about us from our website at www.covidconstitutionalchallengebc.ca.

As you are undoubtedly aware, we initiated a proposed constitutional class proceeding on 26 January, 2021. Our litigation mandate has always been to obtain any available civil remedy for the maximum number of British Columbians that:

I. Revert in whole or in part any COVID-19 related statute, ministerial order, regulation, or other executive, regulatory, or legislative measure; past, extant, or proposed; that constrain any activity of any person inadequately supported by either science or law; and that

II. May facilitate that person's subsequent pursuit of a civil remedy brought against, with preference towards the natural over the legal, any other person complicit in the consultation, enactment, or enforcement of said.

Since the onset of our campaign, it has been brought to my attention by members of our community some remarks made by you in respect to the work of our staff. We do not currently

have any affiliation with your organization, nor with Mr. Rocco Galati whose retainer with Vaccine Choice Canada you are a supporter of. I strongly encourage you to seek legal advice, as I cannot provide you with any.

While initially I had sought to directly and constructively respond to your concerns in the public fora, eventually it became apparent that it was counterproductive to continue belabouring the same points. No amount of furnishing source material appeared to be adequate. I disengaged because executing our mandate remained our top priority.

Nevertheless, this continues to be an administrative burden on our organization's resources – not least of which is our time as unpaid volunteers.

There appears to remain some misunderstanding surrounding the nature of our work that I would like to assist in clarifying. While the legal test for the tort of defamation has long since been exceeded, both in libel and in slander, and while I have a fiduciary responsibility as a director to protect and advance the interests of our organization at common law, it is always preferable to exhaust diplomacy and reason.

We are a secular organization. That is not the same as being anti-religious. On the contrary, my reading and appreciation of scripture, in particular *Exodus 20:16*, reminds us all that *thou shalt not bear false witness against thy neighbour*.

Accordingly, I gave direction to my staff from the onset of our campaign to never disparage or interfere with the lawful work of any other community organization when interacting with the general public through any medium. This is especially important, given that you and I have never met, we both live in a Western liberal democracy where ideological tolerance is a cornerstone, and we both take issue with any public policy measure that constrains the otherwise free and unfettered exchange of ideas.

Within our organization we have a semi-formal steering committee of various community leaders and diverse demographics that act as liaisons to our putative class members, the latter of which may number in the several million. These include, but are not limited to, those of various theological denominations, including evangelicals like yourself.

Let me be clear. We are not interested in taking the thunder out of your sails. On the contrary, even at a time when you appear to be having considerable public relations' challenges, and consistent with my initial correspondence to you of 5 December, 2020, I continue to extend an olive branch to help get them moving again.

Although we are not in need of additional funding for the unforeseen future, we would welcome both a de-escalation and your participation in our steering committee so that you may be given an opportunity to provide input into our work and the litigation process, as

your colleagues in our communities already have been doing for many months. Further, this would provide you with an opportunity to revert to your stakeholders with positive news and renewed social relevance.

I would be happy to host you and your colleagues for tea and good faith dialogue at my personal residence. If you are amenable, please contact my receptionist at (604) 256-3060 to coordinate.

I thank you for your commitment to giving your demographic a voice. We look forward to hearing from you.

Yours truly,

Kip Warner, Executive Director
Canadian Society for the Advancement of Science in Public Policy (CSASPP)

KCSW/kcsw

EXHIBIT "UUU"

See enclosure and link below.

https://www.youtube.com/watch?v=Zi32UdEYZ2s

This is Exhibit "UUU" 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 “VVV”

Court File No./N° du dossier du greffe : CV-22-00683322-0000

Court File No.: CV-22-00683933-0000

This is Exhibit "VVV" 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 JU

B E T W E E N:

ROCCO GALATI

Plaintiff

- and -

SHARON GREENE, THE DIRECTOR OF INTAKE AND RESOLUTION, THE LAW SOCIETY OF ONTARIO ("LSO")

Defendants

<u>AMENDED</u> STATEMENT OF CLAIM

TO THE DEFENDANTS:

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or 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, A 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.

Toronto Superior Court of Justice / Cour supérieure de justice

IF YOU PAY THE PLAINTIFF CLAIMs, and $10,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $400 for costs and have the costs assessed by the court.

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.

EFILED

Date: 12-JUL-2022, Issued by:

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

TO: Sharon Greene
Intake and Resolution Counsel
Law Society of Ontario
393 University A venue, Suite 1100
Toronto, Ontario
MSG 1E6
Email: SGreene@lso.ca

AND TO: Intake and Resolution Director
Complaints & Compliance
Law Society of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N6
General line: 416-947-3315
Toll-free: 1-800-668-7380
Fax: 416-947-5263
Email: comail@lso.ca

AND TO: Law Society of Ontario
393 University A venue, Suite 1100
Toronto, Ontario
MSG 1E6
Email: lawsociety@lso.ca

Toronto Superior Court of Justice / Cour supérieure de justice

CLAIM

1. The Plaintiff claims:

(a) General damages as against the Defendants, as follows:

(i) $500,000.00, as against the Defendants, in negligent investigation, abuse of authority and process, breach of fiduciary duty, breach of statutory duty, interference with economic interests, intimidation, and violation of the Plaintiff's s.7 and s.15 ***Charter*** rights;

(ii) Pre-judgment and post judgment interest pursuant to s. 128 of the ***Courts of Justice Act R.S.O. 1990 c. C43***; and

(iii) costs of this action on a full indemnity basis and such further or other relief as this Court deems just.

(b) A declaration that s. 49.3 of the ***Law Society Act***, in the absence of a client complaint to the Law Society of Ontario, violates s.7 and 8 of the ***Charter,*** is not saved by s.1 of the ***Charter*** and should be accordingly "read down" pursuant to ss.24(1) and s.52 of ***the Constitution Act, 1982.***

(c) A further Declaration, if necessary, that **s. 9** of the **Law Society Act** violates ss. 7 and 15 of the Charter, emanating from the Rule of Law, in granting immunity from intentional and non-intentional tort, as well breaching the right to Independence of the Judiciary.

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

THE PARTIES

(a) The Plaintiff

2. The Plaintiff, Rocco Galati, is a senior lawyer, practicing in Toronto, Ontario, who has been practicing law since he was called to the bar in Ontario in 1989. The Plaintiff practices law through his law firm, Rocco Galati Law Firm Professional Corporation, duly incorporated under the laws of Ontario and the requirements of the ***Law Society Act.***

3. Rocco Galati is a highly regarded and prominent lawyer. He has been a Member of Canadian Who's Who (since 2011). In 2014 and 2015 he was named one of the Top 25 Influential Lawyers by Canadian Lawyer Magazine. In 2015 he was awarded the OBA (Ontario Bar Association) President's Award. He was in fact the first lawyer to receive the award, with previous Presidents' Awards having been bestowed on judges and two (2) advocacy groups.

4. Between May 2015 and May 2019, he served as an elected bencher for the Law Society of Ontario (LSO). Between May 2015 to February 2021, he also served as a Hearing Panel Member (Adjudicator) of the Ontario Law Society Tribunal (LST).

5. Rocco Galati has litigated, regularly, at all level Courts, including Tax Court, Federal Court, Federal Court of Appeal, all levels of Ontario Courts, other Provincial Superior Courts, as well as the Supreme Court of Canada. He has litigated in several provinces including Ontario, British Columbia, Alberta, Manitoba, and Quebec. He has, as counsel, over 500 reported cases in the jurisprudence. Some of his major cases include: ***Baker v. Canada (Minister of Citizenship and Immigration), 1999 CanLII***

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

699 (SCC), [1999] 2 SCR 817, Reference re Supreme Court Act, R.S.C. 1985 (Canada),* Reference re Section 98 of the *Constitution Act, 1867, R. v. Ahmad*, [2011] S.C.J. No. 6 (Toronto 18 Terrorism Case); *Felipa v. Canada,* [2011] F.C.J. No. 135**, ***Wang v. Canada, 2018 ONCA 798.

6. Rocco Galati has been asked to speak and has spoken, regularly, at various Law and other Conferences, as well as Law Schools, Universities and High Schools, across Canada from 1999 to present.

7. Rocco Galati is the founder and Executive Director of Constitutional Rights Centre Inc. since its inception in November, 2004.

8. Rocco Galati has co-authored books, namely: "*Criminal Lawyer's Guide to Immigration and Citizenship Law" (1996)*, "*The Power of the Wheel: The Falun Gong Revolution" (2001).* He has also produced three Films, *"Two Letters & Counting…" 2008-2011,* written, directed and performed by multi-Genie Award winning Tony Nardi, on the state of art and culture in Canada, and the treatment of "Aboriginal" and "Other" "Canadians" by the Two Solitudes Tribes of Canada, and on the Funding of "Canadian" Art and "Culture".

(b) The Defendants

9. The Defendant, Sharon Greene, is an Intake and Resolution Counsel with the Law Society of Ontario.

10. The Defendant, the Director of Intake and Resolution, is an employee with the Law Society of Ontario, and the Defendant, the Law Society of Ontario, is a statutory and

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

corporate body, and both are responsible for the oversight of the various Intake and Resolution counsels at the Law Society of Ontario, including their training to ensure competence and further to ensure that those counsel act in good faith. absence of bad faith, and are fair and reasonable in their role as Intake and Resolution counsel.

11. The Defendant, the Law Society of Ontario, is a successor to the Law Society of Upper Canada, established in 1797 and is, at common law, and under the ***Law Society Act*** statutorily, charged with the regulation of Barristers, and Solicitors, and "Licensees" as defined post 1992, and, as a statutory body and corporation, is liable, for the actions of the Co-Defendants, Sharon Greene and the Director of Intake and Resolution.

FACTS

- **The Nature of the Plaintiff's Legal Practice.**

12. Throughout the Plaintiff's legal career, especially to and including March 11th, 2020, the declared COVID-pandemic, the Plaintiff has been the subject of racially-based, abusive and frivolous complaints from government departments against whom he litigates, as well as self-generated LSO complaints based on newspaper and other media posts, and the racist/anti-Semite prone members of the public of large with nothing better to do than grind their racist axe. **None** of any of these numerous complaints, over the 33 plus years of the Plaintiff's practice, were ever referred to any disciplinary hearing, or any other disciplinary action.

13. The Plaintiff started his career (1987-1990) with the Department of Justice and since then, to the present, has been engaged in private practice mostly restricting his practice to proceedings against the Crown.

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

14. During the course of his career, in defending constitutional rights, the Plaintiff has had to withstand the relentless personal attacks, and several viable death threats, from racists, anti-Semitics, and extremists who took issue with his Calabrian, Jewish heritage and/or his clients, labelling his clients, and the Plaintiff, as "mobsters", "terrorists" or "anti-vaxxers".

15. The COVID-19 era is no exception. On May 19th, 2022, the Plaintiff received, from the Defendants, the 9th (!) complaint against the Plaintiff and one of his junior lawyers brought to his attention since the commencement of COVID-19 legal proceedings by his law firm on behalf of clients, which complaints have been brought against the Plaintiff and his junior lawyers just for doing their job(s) as lawyers, to the letter and spirit of Rule 5 .1- of the Law Society of Ontario's ***Rules of Professional Conduct***. In two of those complaints, the complainants were Defendants in cases the Plaintiff and his firm were conducting.

- **Plaintiff's history with the Law Society Pre-Covid-19**

16. Throughout the Plaintiff's legal career, especially to and including March 11th, 2020, the declared start of the COVID-pandemic, he has been the subject of racially-based, abusive and frivolous complaints from government departments against whom he litigates, self-generated LSO complaints based on newspaper and other media posts, as well as the racist/anti-Semite prone members of the public of large with nothing better to do than grind their racist axe. **None** of any of these numerous complaints, over the 33 plus years of the Plaintiff's practice, were ever referred to any disciplinary hearing.

17. The Plaintiff states that, as a Calabrian with Jewish ancestry, he is a member of historically discriminated group in Canada, including the interment of Italo-Canadians in World War II as well as the long-standing and pervasive depiction of Italians as criminals and "mobsters". The Plaintiff has also been, personally, the victim, throughout his years, including his teenage years, of racially-based violence on the part of racist Canadians at large, including police officers. He has also faced pervasive discrimination within the legal profession from both lawyers and judges alike.

18. The Plaintiff has never been charged nor convicted of any criminal offence nor been found to have ever committed any breach of the ***Rules of Professional Conduct*** of the Law Society.

- **Plaintiff's history with the Law Society Post-Covid-19**

19. Since the declaration of the COVID-19 pandemic, on March 11th, 2020, the Plaintiff and his junior lawyer have been the subject of no less than nine (9) baseless and abusive LSO complaints, some of them with racist over-tones and undertones, with respect to their roles as counsel on cases litigating COVID-19 measures imposed by Provincial and Federal governments.

20. Of those nine complaints, eight were dismissed. However, the LSO required the Plaintiff to respond to three (3), Alexandra Moore, "Lindsay H", and Donna Toews, of these complaints.

21. The complaints made were chronologically made as follows:

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

(i) December 2020, complaint from "Lindsay H.", through Intake and Resolution Counsel, Samantha Nassar;

(ii) February 18, 2021, complaint from Terry Polevoy, (a Defendant in a defamation case), through Intake and Resolution counsel, Samantha Nassar;

(iii) February 18th, 2021, complaint from Alexandra Moore (a defendant in a defamation case) against my junior lawyer, Samantha Coomara, through Intake and Resolution Counsel, Samantha Nassar;

(iv) February 22, 2021, complaint from Elana Goldfried, through Intake and Resolution counsel, Samantha Nassar;

(v) August 3, 2021, complaint from Alexandra Moore (a defendant in a defamation Case) through Intake and Resolution Counsel, Miko Dubiansky;

(vi) November 25th, 2021, a further complaint of Alexandra Moore, through Intake and Resolutions Counsel, Miko Dubiansky;

(vii) February 4, 2022 complaint of Terry Polevoy (another Defendant in a defamation case) through Intake and Resolution counsel, Sharon Greene;

(viii) February 4, 2022, two complaints from Franca Lombardi, through Intake and Resolution counsel, Miko Dubiansky;

(ix) May 19th, 2022 complaint by Donna Toews through Intake and Resolutions counsel, Sharon Greene.

Toronto Superior Court of Justice / Cour supérieure de justice

22. After the second complaint, from Alexandra Moore, the Plaintiff wrote to the Law Society on September 21, 2021, and stated as follows:

> The other thing I cannot fathom is the Law Society of Ontario's approach and conduct in forwarding this to me for response at all. Ms. Nassar was on the previous Moore complaints. There seems to have been absolutely no minimal review of them, nor Ms. Moore's website, to glean what Canuck Law and Ms. Moore are about with respect to me and my clients.
>
> In my last correspondence, on a similarly outrageous complaint, by an outrageous individual, with respect to an attempt to censor my speech, I indicated that the next time I received one of these, I would commence action against the LSO, in the absence of an apology.
>
> If I do not receive an apology from the LSO on this "Complaint" which should not even have reached me, if the minimum of research was done on Ms. Moore and her website, I will commence action against the LSO for negligent investigation and the newly-created tort of (online) harassment because, it seems to me, that the LSO is more than content and willing to be dupe and conduit for Ms. Moore's and Canuck Law's filth, anti-Semitic, racists, and derogatory harassment of me and my clients.

23. On May 19th, 2022, the Plaintiff received yet another ridiculous, baseless, and unfounded complaint by a non-client, whom the Plaintiff has never met, does not know, nor ever communicated with, namely a Ms. Donna Toews.

24. The Plaintiff, under threat of the powers in s. 49.3 of the ***Law Society Act***, was required to respond to this complaint, without any particulars whatsoever, but simply the misplaced assumption of the Defendant, Sharon Greene. Attached as “Schedule A” is a copy of the Plaintiff’s response dated June 29th, 2022, to the complaint, which the Plaintiff forwarded to the LSO. The Plaintiff pleads that “Schedule A” and the documents referred to and forwarded to the LSO with “Schedule A” are documents pleaded in the within Claim.

Toronto Superior Court of Justice / Cour supérieure de justice

25. Following receipt of this complaint, the Plaintiff filed action against the complainant and her Co-conspirators, attached as "Scheduled B". The Plaintiff adopts, relies upon, and incorporates the facts in the statement of claim in "Schedule B" as part and parcel of the within Statement of Claim.

25A. On June 28th, 2022 the Plaintiff participated, as legal counsel for a lawyer undergoing LSO investigation for issues arising from the lawyer's free speech as a private citizen. The lawyer was interviewed by two Law Society investigators one being Jill Cross. During that interview Jill Cross became acrimonious with the legal counsel, Rocco Galati, over objectionable questions, assumptions, and attempts to put words and attribute non-existent conduct to the lawyer being interviewed.

26. Following the Plaintiff's response to the complaint, dated June 29th, 2022, to the Law Society of Ontario, the Defendant(s), Sharon Greene, and the Law Society of Ontario, continued to pursue the abusive and baseless complaint with the Plaintiff.

- **Action4Canada**

27. Action4 Canada has been a client of the Plaintiff's law firm since October 2020.

28. The Plaintiff acts on Action4Canada's behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

29. The Plaintiff has absolutely NO role in their organization whatsoever, except to provide legal services, as described in the ***Law Society Act,*** as requested, directed, and instructed by their Board of Directors, through their president.

Toronto Superior Court of Justice / Cour supérieure de justice

30. Neither Ms. Toews, Mr. Warner, nor Mr. Gandhi, are on the Board of Directors Action4Canada.

- **Vaccine Choice Canada**

31. Vaccine Choice Canada (hereinafter "VCC") has been a client of the Plaintiff's law firm since 2015.

32. The Plaintiff acts on VCC's behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for VCC, under the instructions of VCC's Board of Directors, through their president.

33. Neither Ms. Toews, Mr. Warner, nor Mr. Gandhi, are on the Board of Directors of VCC.

- **Pertinent Chronology leading to Donna Toews' Complaint to the Law Society of Ontario**

34. On or about October, 2020, the Plaintiff was approached by Action4Canada, and other co-Plaintiffs, in British Columbia, for a lawsuit, however the retainer was not yet crystalized.

35. On December 5, 2020, the Defendant Kipling Warner, first contacted Tanya Gaw, the head of the Board of Directors for Action4Canada, indicating that he had organized a "similar" campaign to hers and directed her to view his lawsuit's GoFundMe page.

36. On or about December 14, 2020, the Plaintiff, in the within action, Rocco Galati, received a telephone call from a lawyer from British Columbia, Ms. Polina H. Furtula. This lawyer indicated that she was contemplating legal action against the British Columbia government over the COVID-19 measures imposed there. She requested that

the Plaintiff collaborate with her, owing to his expertise in Constitutional Law and proceedings against the Crown. Ms. Furtula's client(s) were Kipling Warner and his organization, "The Canadian Society for The Advancement of Science and Public Policy".

37. The Plaintiff, Rocco Galati, respectfully declined, and advised Ms. Furtula that he had been approached by a British Columbia group (Action4Canada) and other plaintiffs, and had, in principle, agreed to act for them in a challenge to the COVID-19 measures, once a retainer crystalized.

38. In January 2021, the Plaintiff began working on the Notice of Claim (Statement of Claim) for Action4Canada and **other co-Plaintiffs**, in British Columbia.

39. On January 27, 2021, the Defendant, Dee Gandhi, Kipling Warner's colleague, and treasurer of Canadian Society for the Advancement of Science in Public Policy, sent an independent journalist, Dan Dicks from "Press for Truth", a defamatory email about the Plaintiff, Rocco Galati. This journalist forwarded that email to the Plaintiff's client, Action4Canada. The email indicated that the Canadian Society for the Advancement of Science in Public Policy had filed their statement of claim, but then made defamatory remarks against the Plaintiff, Rocco Galati, and the case brought by the Plaintiff, and asserted that Kip Warner and the Canadian Society for the Advancement of Sciences in Public Policy had brought their case first and therefore would have "carriage of the matter", and then finally asked Action4Canada to assist them in soliciting donations on their behalf for their legal proceeding.

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

40. On January 29, 2021, the Plaintiff, Rocco Galati, received a letter from Ms. Furtula indicating that she represented the Canadian Society for the Advancement of Science in Public Policy, that she had filed on behalf of her client(s) and therefore, according to her, the Plaintiff could not file any proceedings on behalf of his clients.

41. On February 3rd, 2021, the Plaintiff, Rocco Galati, responded to Ms. Furtula's letter indicating her client did not have exclusive monopoly to litigation against the Crown. The Plaintiff, Rocco Galati, also, in the same response, issued a warning through Ms. Furtula about Mr. Warner's defamatory conduct against the Plaintiff, Rocco Galati.

42. From January 2021 and onward, the Defendants in the action attached in "Schedule B" hereto, Kipling Warner, his organization Canadian Society for the Advancement of Science in Public Policy, and his associates from the Canadian Society for the Advancement of Science in Public Policy, including Dee Gandhi, continued defaming the Plaintiff to the Plaintiff's clients, and others.

43. In or around June, 2021, the Defendants posted defamatory content about the Plaintiff on the Canadian Society for the Advancement of Science in Public Policy's webpage, which content disparaged the Plaintiff, and made further defamatory comments about the Plaintiff and the legal action(s) for which he had been retained. As a result, the Plaintiff's clients, Action4Canada and VCC, began receiving messages from their members concerned about the Defendants' statements. Kip Warner's defamatory comments continue in e-mail correspondence with third parties stating that, with respect to the Plaintiff, "we've been receiving reports weekly, sometimes daily, alleging bad faith, fraud, or other improprieties in Rocco's fundraising arms".

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

44. On August, 2021, the Plaintiff finalized and issued the Action4Canada, et al, Notice of Claim (Statement of Claim) in the British Columbia Supreme Court. This claim was on behalf of various Plaintiffs, Action4Canada being one, in British Columbia Court File No.: VLC-S-S-217586, in British Columbia.

45. From August to Christmas, 2021, the Defendants to this British Columbian Statement of Claim Court file No.: VLC-S-S-217586, on behalf of Action4Canada and others, dragged their heels over whether they would accept service for various Ministries and officials and requested an indulgence past the normal 30-day deadline, to respond, which the Plaintiff granted. They also indicated that they wished to bring an application (motion) to strike. The Plaintiff asked that they do so as soon as possible, under the instructions of his clients.

46. By Christmas Day, 2021, the Defendants had **not** brought their motions to strike. Over Christmas, the Plaintiff became very ill. On December 25th, 2021, the Plaintiff was bed-ridden. On January 2nd, 2022, the Plaintiff was admitted for a critical illness to the ICU in hospital.

47. After being admitted to hospital in January 2, 2022, the Plaintiff entered a very serious and life-threatening 11-day coma during which coma the Plaintiff came, three (3) times, under a minute from being declared dead. Through the grace of God, he survived. On or about January 13th, 2022, the Defendants, in British Columbia Supreme Court file no.: VLC-S-S-217586, bought their motions to strike returnable February 22, 2022. Meanwhile, while the Plaintiff was in a coma and incapacitated under s.37 of the ***Law Society Act***, he remained in a public hospital until his discharge on January 22, 2022.

Toronto Superior Court of Justice / Cour supérieure de justice

When he was no longer critical, but still acute, he was immobile and still required one-on-one nursing and acute medical care. He was discharged as a patient from a public hospital, on January 22, 2022, and he transferred himself to recover in a private medical setting with 24/7 care.

48. The Plaintiff did not return home until March 2, 2022, to continue recovering. He still has not regained full recovery at present.

49. The motion to strike, in British Columbia Action no.: VLC-S-S-217586, which had been set for February 22, 2022, in British Columbia, was adjourned by the Plaintiff's office to May 31st, 2022, in the hopes that he would be sufficiently and competently capable of arguing the motion to strike via zoom-link. The Plaintiff was granted permission to appear by zoom-link and argued the various motions on May 31st, 2022. The various motion(s) to strike were heard on May 31st, 2022 and the Court has reserved its decision.

50. Through the complaint, provided to the Plaintiff by the Law Society Defendants in the within claim, the Plaintiff learned that, while the Plaintiff lay in a coma, on January 15th, 2022, Kipling Warner was conspiring and encouraging Donna Toews (aka "Dawna Toews") to file a complaint against the Plaintiff with the Law Society of Ontario.

51. On January 15th, 2022, Ms. Toews filed her complaint with the Law Society of Ontario, which was forwarded to the Plaintiff on May 19th, 2022. The complaint alleged that the Plaintiff "misled" and "failed to act with integrity" because Ms. Toews, who had allegedly made a $1,000 donation, "in her husband's name", to the Plaintiff's **clients**, **VCC and Action4Canada**, to support their litigation, had not been personally apprised and updated by the Plaintiff, as well as not been invited to those organizations'

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

members-only meetings, and complained about the pace of the litigation, notwithstanding that:

(a) Donna Toews (aka "Dawna Toews"), has never been a client of the Plaintiff;

(b) The Plaintiff has never met with, been contacted by, nor ever had any communications with Donna Toews (aka "Dawna Toews");

(c) The Plaintiff has had absolutely no role in his clients' organizations and is not privy to their fundraising efforts nor how they spend their money apart for his legal services;

(d) The Plaintiff has no role in organizing any of his clients' members-only meetings.

52. The Plaintiff states that the substance of the complaint by Donna Toews (aka "Dawna Toews"), directed and encouraged by Kipling Warner, simply parrots the defamatory remarks made by the other three co-Defendants in the action attached hereto as "Schedule B".

- **Donna Toews (aka "Dawna Toews") and Kipling Warner**

53. While in hospital and in a coma, which was widely publicized (in fact false obituaries claiming the Plaintiff was dead emerged and some of which are still online), Kipling Warner was in communication with Donna Toews, via email, on how to make a complaint to the Law Society about the Plaintiff.

Toronto Superior Court of Justice / Cour supérieure de justice

54. Kipling Warner has also, and recently, orally communicated to a person, who does not want to be identified due to fear of Mr. Warner's military past and self-professed prowess as a computer hacker, that, "I want to see to it that Rocco Galati is disbarred and charged with Fraud". Kipling Warner, in discussions with the President of VCC, Ted Kuntz, insisted that because he (Kipling Warner) "filed first", that the Action4Canada British Columbia claim, which VCC supported, had to be withdrawn, and all donations to Action4Canada be returned, with the implication that the donations be forwarded to him, Kipling Warner, to support his litigation instead. Kip Warner's defamatory comments continue in e-mail correspondence with third parties stating that, with respect to the Plaintiff, "We've been receiving reports weekly, sometimes daily, alleging bad faith, fraud, or other improprieties in Rocco's fundraising arms."

55. Mr. Warner is under the delusion that he can claim, along with his "Canadian Society for the Advancement of Sciences in Public Policy" ("CSASPP") exclusive proprietary rights to litigate the COVID measures in British Columbia. In pursuit of this goal, he goes to all ends.

56. Mr. Warner, furthermore continued to make defamatory statements against the Plaintiff on CSASPP's website, https://www.covidconstitutionalchallengebc.ca. The irony is that the British Columbia Supreme Court struck Mr. Warner as a Plaintiff in one of his cases, for lack of standing, in British Columbia Supreme Court file No.: S-2110229.

57. The Plaintiff states that the Defendants, Mr. Warner and Mr. Gandhi, personally, in their email to the Plaintiff's client, and through their CSASPP website,

Toronto Superior Court of Justice / Cour supérieure de justice

https://www.covidconstitutionalchallengebc.ca, uttered and published defamatory statements against the Plaintiff, namely:

(a) In his email to an independent journalist, dated February 1, 2021, Mr. Gandhi wrote, as follows:

> Hope you are doing well. I just wanted to update you on the fact that the Canadian Society for the Advancement of Science in Public Policy (CSASPP) has filed their pleadings against the Crown and Bonnie Henry (Provincial Health Minister) as of Jan 26th, 2021. Please see link: https://www.scribd.com/document/492237670/Notice-of-Civil-Claim You are welcome to share this with anyone and everyone.
>
> This is our certificate of Incorporation :
>
> > https://www.scribd.com/document/492256545/CSACPP-Certificate-of-Incorporation
>
> Now that we have started the litigation process, we are still in need of Funding. Action 4 Canada has still not filed with Rocco. **Legally at this point Rocco can't really file in BC anymore. The case law is that for class actions, it's the first to the court house that generally has carriage of the file. If you would be so kind to share with everyone so to help the cause.**
>
> > https://www.gofundme.com/f/bc-supreme-court-covid19-constitutional-challenge
>
> this might interest you further.
>
> Here are some talking about regarding Action 4 Canada and Rocco
>
> (1) Rocco isn't licensed to practice here in BC. He can always be retained in Ontario and in turn retain counsel in BC. But then you are paying for two law firms. You can verify that he is not licensed to practice here in BC at this page: https://www.lawsociety.bc.ca/lsbc/apps/lkup/mbr-search.cfm
>
> (2) The lawyer Rocco wishes to retain here in BC is named Lawrence Wong. He specializes in immigration law. He was sanctioned in 2010 for his conduct by a Federal Court judge and fined. See for yourself: http://canlii.ca/t/2bz73

Toronto Superior Court of Justice / Cour supérieure de justice

(3) A Federal Court judge wrote in his judgment a few years ago that Rocco was found to have excessively billed for his time: <http://canlii.ca/t/gfl0p#par7>

(4**) The same judgment questioned Rocco's competency in constitutional law:**
<http://canlii.ca/t/gfl0p#par9>

(5) **Rocco is not a "constitutional law" lawyer. There is no such professional designation in Canada, nor in particular in BC.** That's not to say, however, that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like**. But in Rocco's case his area of expertise is tax law**.

<https://tgam.ca/3n8Zuyo>

(6) Every lawyer I know that has reviewed **Rocco's Ontario pleadings said it was very poorly drafted. It will most likely get struck and never make it to trial to be heard on its merits.** The reason being is he brings in all kinds of other topics that aren't necessary (Gates, 5G, vaccines, etc.) to obtain the order that he wants. This is how it likely would be struck:

http://canlii.ca/t/8lld#sec9_5

(6**) Rocco wants far too much money to get started. This seems in line with (2);**

(7) Nothing has been accomplished in Ontario since Rocco filed around six months ago. The defendants haven't even filed replies, despite the option to apply for a default judgment being available for the majority of that time;

(8) Even if he won in Ontario, it wouldn't have any direct bearing on us here in BC because health care is under a provincial mandate under s 92(13) of the constitution. In other words, the Ontario Superior Court of Justice has no jurisdiction over what cabinet ministers do in BC. See:

<https://bit.ly/2Li6Baw>

(9) We are (CSASPP) a non-profit, non-partisan, and secular society. We are legally required to have a certain level of accounting controls and

transparency

Thank you Dan, and I look forward to your response and your help.

(b) In or around June 2021, the CSASPP, Mr. Kipling, and the other directors of the CSASPP, have posted the following, about the Plaintiff:

> **Are you affiliated with Rocco Galati? If not, why?**
> **We receive communications regularly from Mr. Galati's past donors with concerns**. We are asked what became of the substantial funds that the community raised for him or his third-party fundraising arms. We do not have any information, were not involved in raising funds for either, nor did we ever seek to retain Mr. Galati. **If you have concerns about his conduct, any member of the general public can submit an electronic complaint to the Ontario Law Society to initiate a formal investigation**.
>
> We are not affiliated with Mr. Galati. There are many reasons.
>
> Mr. Galati is not licensed to practise law in British Columbia for any extended period of time. He can always be retained in Ontario, and in turn retain counsel in British Columbia. This is not unusual. However, then you are paying for two law firms. Anyone can verify whether a lawyer is licensed to practise law in British Columbia here.
>
> We were advised directly by Mr. Galati himself that the lawyer he wished to retain in British Columbia is Lawrence Wong. Mr. Wong was personally sanctioned in 2010 for his conduct by a Federal Court judge with a fine.
>
> A Federal Court judge noted in his reasons for judgment that some of Mr. Galati's billings were “excessive and unwarranted” in a separate proceeding. The same judge declined to award the full amount sought by Mr. Galati for his legal fees in that constitutional proceeding. The outcome has been discussed by other lawyers.
>
> Mr. Galati is sometimes described by his followers as our nation's "top constitutional law" lawyer, yet there is no such professional designation in Canada, nor in particular in British Columbia. That is not to say that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. According to Mr. Galati, he studied tax litigation at Osgoode Hall. The Globe and Mail reported Mr. Galati “makes his money from doing tax law, not constitutional cases.”

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

> Mr. Galati filed a COVID-19 related civil proceeding in the Superior Court of Justice in Ontario on 6 July, 2020. To the best of our knowledge, as of 30 October, 2021, none of the twenty-one named defendants have filed replies, despite the plaintiff being at liberty to apply for a default judgment for the majority of that time. In an interview published 2 September, 2020, Mr. Galati claimed he intended to do his best to have an interlocutory mask injunction application heard before the Christmas holidays of 2020. As of 11 June, 2021, we are not aware of any scheduled hearings and no orders appear to have been made.

58. Following the receipt of the Plaintiff's response to the Defendant, Sharon Greene, Sharon Greene continued to follow up and pursue the complaint, against the Plaintiff, made by Donna Toews with the assistance and instigation of Kipling Warner.

58A. On July 12th, 2022 the Plaintiff took action against Donna Toews, Kipling Warner and others, a copy of which claim is attached as “Schedule B” to the within claim.

58B. Less than four weeks from the issuance of this claim, on August 10th, 2022, Jill Cross, forwarded yet another complaint against the Plaintiff, arising from a political speech the Plaintiff gave, at Nathan Phillips Square, in November, 2021. This complaint was on the content of his purported speech. This complaint did not emanate with respect to Covid-19 measures, from a client or member of the public, but from the Law Society itself, without disclosing who at the Law Society initiated it. The Plaintiff requested clarification of the complaint and further objected, Jill Cross spear-heading the investigation given their interaction of June 28th, 2022, and further given the same very contextual nature, namely free speech of a private citizen. The Plaintiff fully intends to respond to this latest “complaint” by the timeline set, namely being the deadline of October 30th, 2022.

58C. On September 12, 2022, the Law Society transferred the complaint as overseen by Sharon Greene, to a different investigator. This new investigator notified the complainant, Donna Toews, a copy of which went to the Plaintiff, that given the action commenced against Toews, et al, that the Toews complaint would not be dealt at this time until the outcome of the action in Superior Court, at which time it would be exhumed and taken up again. This notwithstanding that the Plaintiff, Rocco Galati, had fully responded to the complaint.

- **Conspiracy**

59. The Plaintiff states and fact is, that the Defendants in the action attached as "Schedule B", Donna Toews (aka "Dawna Toews"), Kipling Warner, Dee Gandhi, the Canadian Society for the Advancement of Science in Public Policy, as well as other "duped co-conspirators", engaged in the actionable tort of conspiracy to undermine the Plaintiff's solicitor-client relationship with his clients, which relationships are statutorily, at common law, and s.7 of the ***Charter*** protected, as well as conspired to interfere with the Plaintiff's economic interests with his clients, pursuant to civil conspiracy as set out by the Supreme Court of Canada, in, inter alia, ***Hunt v. Carey Canada Inc., 1990 CanLII 90 (SCC), [1990] 2 SCR 959,*** which set out that the tort of the conspiracy comprised of the following features:

(a) In the first place there will be an actionable conspiracy if two or more persons agree and combine to act unlawfully with the predominating purpose of injuring the plaintiff.

(b) Second, there will be an actionable conspiracy if the defendants combine to act lawfully with the predominating purpose of injuring the plaintiff.

(c) Third, an actionable conspiracy will exist if defendants combine to act unlawfully, their conduct is directed towards the plaintiff (or the plaintiff

Toronto Superior Court of Justice / Cour supérieure de justice

and others), and the likelihood of injury to the plaintiff is known to the defendants or should have been known to them in the circumstances.

60. The Plaintiff further states that the Defendants in the action attached as "Schedule B" further conspired to engage in actionable abuse of process through the Law Society complaint, as well as intimidation (through a third party).

61. The Plaintiff states that the Defendant, Sharon Greene, in the within statement of claim jumped on a co-conspirator bandwagon with Donna Toews, Kipling Warner, and CSASPP, which conspiracy should have been evident to the Defendant, Sharon Greene, if she had carefully read Donna Toews' complaint form and attached documents, and if Shannon Greene conducted embryonic research and/or investigation of the complaint in a fair and reasonable manner. <u>All of which is indicia of bad faith an absence of good faith.</u>

62. The Plaintiff states that the LSO Defendants joined the actionable conspiracy against the Plaintiff when they adopted the complaint by forwarding the complaint and threatening the use of search and seizure powers under s.49(3) of the ***Law Society Act***.

- **The Law Society Complaint as a Tort of Abuse of Process**

63. The Plaintiff further states that Donna Toews' Law Society complaint constitutes an actionable abuse of process in law, brought in bad faith, and absence of good faith, as set out by the facts pleaded above and the jurisprudence in that, under the jurisprudence, abuse of process, as a tort, is made out where:

(a) the Plaintiff is a party to a legal process initiated by the Defendants, in this case a complaint to the Law Society of Ontario;

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

(b) the legal process (law society complaint) has been initiated for the predominant purpose of furthering some indirect, collateral and improper objective;

(c) the Defendants took or made a definite act or threat in furtherance of the improper purpose; and

(d) some measure of special damage has resulted.

64. The Plaintiff states that Ms. Toews, Mr. Warner, and Mr. Gandhi, and CSASPP, took and made acts, as well as pre and post-facto statements in furtherance of their improper purpose of trying to shut down the Action4Canada et al, lawsuit in British Columbia, and improperly attempting to redirect funds raised by Action4Canada to the Defendants, Kipling Warner, Dee Gandhi, and the CSASPP, as well as through the vehicle of a baseless, abusive, and bad faith complaint to the Law Society of Ontario. All this damaged and continue to damage the Plaintiff by way of reputation and his solicitor-client relationships.

65. The Plaintiff further states that the Law Society of Ontario Defendants in the within action magnified and augmented that actionable abuse of process and, that putting the Plaintiff through the process of a response, constitutes not only adding to the actionable abuse of process, but further is a separately actionable tort of abuse of process. And, in doing so, manifest bad faith and absence of good faith.

66. The Plaintiff further states that the Defendants in "Schedule B", in their actions, knowingly intended, and in fact inflicted, mental anguish and distress through their actions against the Plaintiff, all of which go to punitive damages. The Plaintiff further

Toronto Superior Court of Justice / Cour supérieure de justice

states that the Law Society Defendants in the within action are further augmenting and inflicting mental anguish and distress.

- **Interference with Economic Interest**

67. The Plaintiff states that, through their conduct and actions, the Defendants in the action attached hereto in "Schedule B" have engaged in interference with the Plaintiff's economic interests as set out by the facts, pleaded above, and set out by the jurisprudence in that:

(a) the Defendants intended to injure the plaintiff's economic interests;

(b) the interference was by illegal or unlawful means; and

(c) the Plaintiff suffered economic harm or loss as a result.

68. The Plaintiff states that the actions of the Defendants in the action attached hereto as **"Schedule B",** were intended to injure the Plaintiff's economic interests in his clientele, through defamatory and other tortious and unlawful interference and means as set out above, which resulted in economic harm and loss to the Plaintiff, through his reputation, and client base. The Plaintiff further states that the Law Society Defendants in the within action further augmented this interference with the Plaintiff's economic interest through their actions executed in bad faith and in the absence of good faith.

Toronto Superior Court of Justice / Cour supérieure de justice

- **Breach of Fiduciary Duty**

69. The Plaintiff further states that the Law Society Defendants, in the within action, in addition to the duties of fairness and reasonableness, at common law and Administrative Law, and under statute, further owe a fiduciary duty to the Plaintiff, as a Barrister and Solicitor, called to the Bar, by the Chief Justice of the Ontario Court of Appeal in March, 1989, in that the Defendant Law Society of Ontario assumed a fiduciary relationship, and owed a corresponding fiduciary duty of care to the Plaintiff, for the following reasons:

(a) The Defendants were, and are, in a position of power over the Plaintiff, and were able to use this power so as to control and affect the Plaintiff's interests;

(b) The Plaintiff was, and is, in a corresponding position of vulnerability toward the Defendants. The Plaintiff was, and is, therefore in a class of persons vulnerable to the control of the Defendants;

(c) There was, and is, a special position of trust between the Defendants and the Plaintiff, governed by statute, the ***Charter***, and the common law;

(d) The Defendants undertook to act in the best interests of the Plaintiff, in that:

(i) it is a statutory, Administrative Law, and constitutional requirement that the Defendants review, assess, and process complaints in a fair and reasonable fashion;

(ii) the Plaintiff, and other members of the bar, pay for the administration of the Law Society of Ontario, through their annual fees, including the disciplinary process; and

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

(iii) it is in the "public interest" that baseless, abusive, and/or racist-based complaints not be entertained and processed against lawyers failure of which is indicia of acting in bad faith and absence of good faith; and

(e) The Defendants breached this fiduciary duty;

And, as a direct result of this breach, the Plaintiff has suffered loss and damages, which include, ***inter alia:***

(a) Damage to reputation and interference with the economic and other dimensions of the Plaintiff's solicitor-client relationships with past, current, and prospective future clients;

(b) Loss of dignity; and

(c) Violation of his psychological integrity guaranteed and protected by s.7 of the ***Charter***, as well as violation of his dignity of equal treatment under s.15 of the ***Charter.***

- **Negligence (Negligent Investigation)**

70. The Plaintiff further states, based on the facts set out in the within claim, and the jurisprudence, that the Defendants are liable to the Plaintiff in negligence, and negligent investigation, as set out by the jurisprudence, in that:

(a) The Intake and Resolution Counsel, Sharon Greene, the Intake and Resolution Director, and the Law Society of Ontario, owed the Plaintiff a duty of care to rationally, fairly, and reasonably deal with the complaint against the Plaintiff;

(b) The Defendants were required to meet the standard of care, where the standard of care is assessed at the "reasonable investigator" (reasonable intake counsel);

Toronto Superior Court of Justice / Cour supérieure de justice

(c) The Intake and Resolution Counsel did not meet this standard;

(d) As a result, the Plaintiff suffered and continues to suffer damages as set out in the within claim;

and the Plaintiff further states that the Defendants, the Director of Intake and Resolution, and the Law Society of Ontario, have failed in his/her/their duty to properly instruct and train the Defendant, Sharon Greene, in her statutory, common-law, and constitutional duties in her role, and are equally liable for damages, as direct supervisor and employer.

- **Intimidation**

71. It is further submitted that the Defendants, in dealing with the Plaintiff pre-, but moreover post-COVID-19, since March 11th, 2020, have engaged, for the facts set out in the within claim, in the actionable tort of Intimidation, as defined by the Court of Appeal of Ontario in ***McIlvenna v. 1887401 Ontario Ltd., 2015 ONCA 830,*** and other Supreme Court of Canada jurisprudence, as follows:

> [23] The tort of intimidation consists of the following elements:
>
> (a) a threat;
>
> (b) an intent to injure;
>
> (c) some act taken or forgone by the plaintiff as a result of the threat;
>
> (d) as a result of which the plaintiff suffered damages:
>
> ***- McIlvenna v. 1887401 Ontario Ltd., 2015 ONCA 830***

72. The Plaintiff states that this tort of intimidation is most evident in the three (3) complaints the Plaintiff has been required to respond to, which he should not have been required to respond to, but is further evident in his being notified of six other

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

complaints upon which the LSO did **not** act upon. The Plaintiff states that if the LSO is not acting on complaints, "at this time", then there was no need to notify the Plaintiff except to remind, and intimidate the Plaintiff as to the menacing presence over the Plaintiff's professional (and personal) life. This is moreover pronounced in the threat to use the over-reaching powers under s.43.9 of the ***Law Society of Ontario Act*** in Sharon Greene's **initial** letter forwarding the complaint. These are all indicia of acting in bad faith and absence of good faith.

73. The Plaintiff states, and the fact is, that the Law Society of Ontario Defendants' actions and conduct, set out in the within statement of claim, are being carried out in bad faith, and in the absence of good faith, and knowingly contrary to their statutory and constitutional duties.

73A. The Plaintiff states that, with respect to all the tortious conduct, and causes of action pleaded, that the Defendants acted in bad faith and absence of good faith and that, in any event, the purported immunity conferred under s. 9 of the **Law Society Act**, is of no force and effect as it violates ss. 2 (freedom of expression), s.7 (psychological integrity), s.15 (equality) of the Charter, as well as the constitutional right of judicial independence in the legislative interference of the judiciary in applying the law unequally, in that no-one is above the law, as emanating from the constitutional imperatives of constitutionalism and the rule of law.

73B. The Plaintiff further states that the Defendant's bad faith, and absence of good faith, is evident, in addition to what is pleaded in paragraphs 10, 43, 54, 61, 63, 64, 65, 68, 69, 72, 73, 73A,, **inter alia**, by:

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

(a) forwarding, for response, of baseless and repugnant complaints laced with repugnant racial and ethnic over and under-tones as well as defamatory language;

(b) the harassment of notifying the Plaintiff of complaints, whose substance is undisclosed, which were summarily dismissed, with notification to the Plaintiff, whose only purpose is to harass and remind the Plaintiff that the clients he represents, and his imparted anti-covid measure views are not shared by the Law Society;

(c) by the retaliatory triggering of another Law Society complaint, again anchored on free speech, apparently self-triggered by the Law Society, merely four (4) weeks after the Plaintiff filed an action against the Law Society;

(d) the saturated, mere number of complaints, in such a short period of time;

(e) the history of the Law Society giving countenance to baseless complaints against the Plaintiff laced with racist and intolerant views of both the Plaintiff and his clients.

- **Violation of the Plaintiff's ss.7 and 15 *Charter* Rights**

74. The Plaintiff further states, for the facts pleaded in the within Statement of Claim, that the Defendants violated the Plaintiff's s.7 and s.15 ***Charter*** rights. The Plaintiff further states that these violations are not saved by s. 1 of the ***Charter***, and that he is further entitled to an award of damages pursuant to s. 24(1) of the ***Charter***, to be determined at trial.

Electronically issued / Délivré par voie électronique : 31-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

- **Declaration of Unconstitutionality of s. 49.3 of the *Law Society Act***

75. The Plaintiff states that, in absence of a client complaint, s. 49.3 of the ***Law Society Act*** violates ss.7 and 8 of the ***Charter,*** and ought to be accordingly "read down", pursuant to ss.24(1) and 52 of the ***Constitution Act, 1982,*** for violations of ss.7 and 8 of the ***Charter.***

- **Section 7 of the *Charter***

76. It is submitted that s. 49.3 of the ***Law Society Act*** is a standardless sweep and violates s.7, in violating, in an overly-broad and arbitrary fashion:

(a) The Solicitor-Client relationship protected by s.7 in the ***Charter*** as set out in the Supreme Court of Canada decision of ***Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC 7 (CanLII), [2015] 1 SCR 401****;*

(b) The privacy interests protected by both the solicitor and client in the Solicitor-Client relationship.

- **Section 8 of the *Charter***

77. The Plaintiff further states that s. 49.3 of the ***Law Society Act*** further violates s.8 of the ***Charter,*** in the absence of a client complaint, constituting an unreasonable search and seizure, which brings the administration of justice into dispute and which violation is not saved by s.1 of the ***Charter***, and for which it should be accordingly "read down" pursuant to ss.24(1) and 52 of the ***Constitution Act, 1982.***

Toronto Superior Court of Justice / Cour supérieure de justice

- **Liability of The Defendants and the Relief Sought**

78. The Plaintiff states that the Defendants are liable to the Plaintiff, jointly and severally, as set out in paragraph 1(a) of the within Statement of Claim, for the instances and reasons pleaded above, and seeks the relief requested in paragraph 1(a).

79. The Plaintiff further seeks the relief set out in paragraph 1(b) of this Statement of Claim.

80. The Plaintiff further pleads any and all documents mentioned in this Statement of Claim as documents referred to in the pleadings herein.

81. The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 26th day of October, 2022.

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

Lawyer for the Plaintiff, on his own behalf

ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
1062 College Street, Lower Level
Toronto, Canada M6H 1A9
Direct Line (416) 530-9684 Fax (416) 530-8129

"Schedule A"

STRICTLY PRIVATE AND CONFIDENTIAL

June 29, 2022

SENT VIA EMAIL

Sharon Greene
Intake and Resolution Counsel
Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: SGreene@lso.ca

Dear Ms. Greene,

RE: Law Society Complaint of Donna Toews, 2022-261151

This correspondence is in response to the above-referenced complaint.

- **The Complainant – Donna Toews**

I do not know Donna Toews.

She has never been my client.

To my recollection I have never had any direct contact with Ms. Toews.

I have never made any representations to her.

- **Kip Warner**

Kip Warner has never been my client. I have never had any direct communication with Mr. Warner. I have had contact, through Mr. Warner's solicitor, as set out below, to issue a caution with respect to his defamatory statements against me, and interfering with my solicitor-client relations, including with Vaccine Choice Canada and Action-4- Canada.

- **Vaccine Choice Canada**

Vaccine Choice Canada (hereinafter "VCC") has been a client of my law firm since 2015.

I act on their behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

- 30 -

I have absolutely NO role in their organization whatsoever, except to provide legal services, as described in the ***Law Society Act,*** as requested, directed, and instructed by their Board of Directors, through their president.

Neither Ms. Toews, nor Mr. Warner, are on the Board of Directors of VCC.

- **Action -4-Canada**

Action-4-Canada has been a client of my law firm since October, 2020.

I act on their behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

I have absolutely NO role in their organization whatsoever, except to provide legal services, as described in the ***Law Society Act,*** and requested, directed, and instructed by their Board of Directors, through their president.

Neither Ms. Toews, nor Mr. Warner, are on the Board of Directors of Action4Canada.

- **Pertinent Chronology leading to Donna Toews' Complaint**

On or about October, 2020, I was approached by Action-4-Canada, and other co-Plaintiffs for a lawsuit, however the retainer was not yet crystalized.

On or about December 14, 2020 I received a call from a British Columbia lawyer, Ms. Polina H. Furtula. This lawyer was contemplating legal action against the British Columbia government over the COVID-19 measures imposed there. She requested that I collaborate with her, owing to my expertise in constitutional law and proceedings against the Crown. She indicated that her prospective clients were Mr. Kipling Warner and his organization Canadian Society for the Advancement of Science in Public Policy.

I respectfully declined, and advised Ms. Furtula that I had been approached by a British Columbia group (Action4Canada) and other plaintiffs, and had, in principle, agreed to act for them in a challenge to the COVID-19 measures, once a retainer crystalized.

In January 2021, I began working on the Notice of Claim (Statement of Claim) for my clients, Action4Canada and the co-Plaintiffs.

On January 29, 2021, I received a letter from Ms. Furtula. I attach that letter as **Tab 1** to this my response. The organization she represented, Canadian Society for the Advancement of Science in Public Policy, was established and run by Kip Warner. Contrary to what Ms. Furtula asserts in her letter, I did **NOT** invite her to participate in the constitutional challenge I was bringing on behalf of my clients.

Within a few days, an independent journalist, concerned about the contents of an email he received on behalf of Kip Warner and the Canadian Society for the Advancement of Science and Public Policy ("CSAPP"), Kip Warner, forwarded that email to my client. I attach this email as **Tab 2** to this my response.

Toronto Superior Court of Justice / Cour supérieure de justice

ged their heels ov whet they would acce servic r vario s Minist officials
ested an indulgen past normal 30 days, respo which granted lso indic

litigation instead. Why? God only knows. But these are all details which are relevant to the present complaint.

Mr. Warner is under the delusion that he can claim, along with his "Canadian Society for the Advancement of Sciences in Public Policy" ("CSASPP") exclusive proprietary rights and monopoly to litigate the covid-measures in British Columbia. In pursuit of this he goes to all ends. (See **Tab 3** email to journalist).

Also attached as **Tab 5**, is a print-out from the CSASPP's website, (with Kip Warner as prime actor) continues to make defamatory statements against me and my colleagues. The irony is that the British Columbia Supreme Court struck Mr. Warner as a Plaintiff in one of his cases, for lack of standing. Attached, as **Tab 6**, is a copy of that decision.

Mr. Warner can litigate when and where he wishes. What he cannot do, is instigate defamatory statements, and conspire with Ms. Toews, to issue baseless LSO complaints to "see me disbarred." I note, and find it distressing, that in her complaint to the LSO, Ms. Toews requests that her identity be kept from me.

At this point, I have had enough with Mr. Warner, and have issued legal action against him, and Ms. Toews, over this last straw. Attached, at **Tab 7** is a copy of the Statement of Claim.

- **The Nature of My Practice**

I started my career (1987-1990) with the Department of Justice and since then, to the present, have been engaged in private practice mostly restricting my practice to proceedings against the Crown. Attached, as **Tab 8,** is a copy of my curriculum vitae, current to February, 2018.

Also attached as **Tab 9,** is a copy of all my reported cases, in the jurisprudence, which I argued, amongst many others that were not reported, current to 2019.

During the course of my career, in defending constitutional rights, I have had to withstand the relentless personal attacks, and several viable death threats, from racists, anti-Semitics, and extremists who took issue with my Calabrian, Jewish heritage and/or my clients, labelling them and me, as "mobsters", "terrorists" or "anti-vaxxer".

The COVID-19 era is no exception. This is the **8th (!)** complaint, against me and one of my junior lawyers, the LSO has brought to my attention since the commencement of COVID-19 legal proceedings by my law firm on behalf of clients, just for doing our job(s) as lawyers, to the letter and spirit of Rule 5.1-1. In two of those complaints, the complainants were Defendants in cases we were conducting. I attach, as **Tab 10,** a copy of a Statement of Claim against one such racist anti-Semite, who made two (2) complaints against me, and one against my junior lawyer.

In my response to yet another one of those LSO complaints by the same person, attached here as **Tab 11,** on September 21, 2021, I stated the following to the intake and resolution counsel:

> The other thing I cannot fathom is the Law Society of Ontario's approach and conduct in forwarding this to me for response at all. Ms. Nassar was on the previous Moore complaints. There seems to have been absolutely no minimal review of them, nor Ms.

Moore's website, to glean what Canuck Law and Ms. Moore are about with respect to me and my clients.

In my last correspondence, on a similarly outrageous complaint, by an outrageous individual, with respect to an attempt to censor my speech, I indicated that the next time I received one of these, I would commence action against the LSO, in the absence of an apology.

If I do not receive an apology from the LSO on this "Complaint" which should not even have reached me, if the minimum of research was done on Ms. Moore and her website, I will commence action against the LSO for negligent investigation and the newly-created tort of (online) harassment because, it seems to me, that the LSO is more than content and willing to be dupe and conduit for Ms. Moore's and Canuck Law's filth, anti-Semitic, racists, and derogatory harassment of me and my clients.

Attached, as **Tab 12**, is another response to yet another complaint similar to the one you have forwarded me for response by the LSO.

All previous 7 complaints have been dismissed, but I never received any apology, regret, nor recognition that anything was amiss in the Kingdom of the LSO, for negligence in screening frivolous and vexatious complaints against members who fearlessly execute their duty to the client, while suffering attacks on their reputation and practise in representing what some members of the general public refer to as "distasteful" clients. The lack of screening, research and furtherance of frivolous and vexatious complaints in light of the above warrants redress and is contrary to the principles set out under s.4.2. of the ***Law Society Act.*** With respect, it is actionable in damages, and other administrative and constitutional law redress.

- **Response to your Letter of May 2022**

Let me say, with respect, that it is obvious to me that, prior to sending your assumption-laden and, might I say, prejudicial accusations and threatening reference to s.49.3(2) of the ***Law Society Act***, letter of May 19, 2022 for "response", you did absolutely no preliminary inquiry into either Ms. Toews nor her enabler Mr. Warner. In turn, as in previous frivolous and outrageous complaints I have had to respond to, the LSO becomes enabler and provides a platform for abuse.

You assumed that Ms. Toews was a client, notwithstanding that it is clear from Ms. Toews intake form, that she has **never** been my client.

Whatever donations Ms. Toews may have made, "on behalf of husband", to either VCC, or Action-4-Canada, have **nothing** to do with me. I have no knowledge of them, NOR any responsibility for them. I am retained by the organizations under the instructions of their Board(s), on a fee for service basis.

I never made **any** representations to Ms. Toews, let alone her husband, nor do I have any duty to report nor respond to her, even if she had contacted me, which to my recollection and knowledge she did not.

As to what happened to any purported donated funds to VCC or Action-4-Canada is beyond my knowledge and concern. However, in the spirit of co-operation I forwarded the complaint to my

clients and they have responded. I attach, at **Tab 13**, a letter from Vaccine Choice Canada and at **Tab 14 a letter from Action-4-Canada.**

My clients have indicated that they do not want me to disclose solicitor-client privileged information as they are not complaining about me. I am instructed by the Boards of Directors of Vaccine Choice Canada and Action4Canada. Neither Ms. Toews nor Mr. Warner are on those boards.

In answer to the specific questions in your letter, I reproduce the questions and insert my answers below to your questions.

Question:

- **Please Advise what happened to the funds that Ms. Toews donated to Vaccine Choice Canada and Action4Canada, i.e., where were those funds directed to specifically?**
- **What is the relationship between you and Vaccine Choice Canada and Action4Canada? What is your role within these organizations?**
- **When Ms. Toews made her donations to these organizations, did she sign any forms? If so, please provide these.**

Answer: I have no involvement in the organizations, including any fund-raising efforts, and have no knowledge as to how these organizations spend their money. Both clients have retained me and paid me for legal advice, consultations, and opinions, as well as litigation.

Question:

- **Please advise:**
  - **-how much monies have been raised through donations to support the constitutional challenges?**
  - **In what form have these monies been received?**
  - **Are these funds being held in trust?**
  - **Have/are these funds been applied for their intended purpose? Please explain.**

Answer: See previous answer to first three questions. I have no role and no knowledge of my clients' fund-raising efforts or details with respect to fund-raising to run their organization(s), their operations and activities, nor expenses, including legal expenses. I have been paid by my clients for my services. I was paid by cheque(s) from these two organizations for services rendered.

-35-

Question:

- **What is the status of the constitutional challenge(s) that these funds are supporting/? Are you personally involved in these legal challenges?**

Answer: The status of these legal challenges is:

(a) Action4-Canada: awaiting decision on various motions to strike.

(b) VCC: The litigation is progressing in accordance with my client's instruction(s) and litigation strategy. (My client has, and had, a litigation strategy which they do not wish to fully disclose). My clients provide regular updates to their members.

I am personally in charge of the litigation.

Question:

- **Are you or another entity providing regular updates to donors? If so, how often and in what form are these updates provided?**

Answer: We (my firm) never have, nor are we, providing any "updates" to donors, as they are not our clients. The organization(s) provide updates **to their members**. On regular occasions, I have attended, at the request of my clients, zoom-meetings, in the form of "Q and As", with **my clients' members** to update and take questions on the state of law with respect to the COVID-19 measures, persons' duties/obligations and rights, and legal proceedings and decisions in Canada and other jurisdictions.

Question:

- **Please Respond to Ms. Toews Allegations that**
  - **she received no information about the progress of the constitutional litigation until after almost 18 months**
  - **Vaccine choice Canada, Action4Canada, and a third organization in Quebec have raised approximately 3.5 million to finance litigation in Ontario, British Columbia and Quebec.**
  - **She was not invited to any "members only" meetings with you as Vaccine Choice Canada had advised.**

Answer: What Ms. Toews has received, or not received, from VCC, is between her and VCC. What does this have to do with me? I repeat, she is not my client. I do not know her. I have never met her. I have had no communication with her. And, by the way, I am not telepathic.

With respect to her reference to $3.5 million raised, I have no clue as to what she is referring to. I have no knowledge of how much money is/was received by VCC or Action4Canada, or "third organizations in Quebec, Ontario, or British Columbia", whomever they may be. It would have been prudent to put the questions to Ms. Toews to obtain particulars as to that assertion, which is far, wide, and nebulous, and lacks any source. In any event, this question cannot possibly be answered by me. Would you

expect an independently retained lawyer, retained to represent the Cancer Society or Salvation Army on a specific legal proceeding, to account for donations or donors to the Cancer Society or Salvation Army?

With respect to not being "invited" to any 'members only' meetings", I am not the host of any of those organized or scheduled meetings, which my clients **sometimes** request that I attend. Incidentally, I do **NOT** have knowledge of or attend all those meetings, I am asked, by my clients, to attend specific meetings. There is no legal precedent specifying that a donor to an organization has the right to examine, challenge, and review the litigation strategy and pierce the solicitor-client relationship of the organization and their legal counsel. Hence, the allegation of "misleading" the donor, and "not acting with integrity" is baseless, preposterous and demonstrative of malice and/or bias.

I repeat my assertion that this complaint should never have reached me for response as it is clear from the intake-sheet that the complainant is NOT one of my clients, nor is there any indication that she ever communicated with me. Furthermore, any complaints, or questions, that Ms. Toews may have, are properly directed to the organizations and not me.

Duty of Fairness and Abuse of Discretion

As Intake and Resolution counsel you have discretion under s.49.3(1) of the ***Law Society Act***, on whether to conduct an investigation or not, or put a complaint to a lawyer for response.

The LSO is not required to pursue every single random complaint, by unknown and unvetted individuals, against its members. Since there is discretion, the exercise of that discretion must be able to withstand some scrutiny and must, **de minimus**, meet the requirements of reasonableness. In exercising your delegated statutory authority and discretion under s.49.3(1) of the ***Law Society Act***, you also owe a duty of fairness and this includes adherence to the principles of fundamental justice and the rule against bias at every step of the intake and investigation process as well as resolution of complaints in a fair and impartial manner.

Abusing the exercise of statutory authority, on the other hand, and abusing your discretionary power, results in the loss of jurisdiction. It is my submission that the Law Society does not have jurisdiction to proceed on Ms. Toews complaint and to do so is abusive.

With respect, the decision to conduct an investigation into, or, even the referral of the complaint of Ms. Toews for my response, exudes unfairness, and unreasonableness.

Notwithstanding that I requested particulars on these allegations, none were provided. In light of the fact that this is the nineth (8th) complaint entertained by the Law Society (specifically for COVID-19 litigation) in the course of two years alone, requiring extensive time and effort for response, is causing professional stress and mental distress, particularly at a time when I am physically vulnerable, for health reasons, is also tortious and actionable conduct.

With respect, given the (non) facts, the history, and context of these past and present allegations, the pursuit of this complaint is scandalous, insultingly prejudicial, and, frankly, stem and flow, unfortunately, from the same source of personally unfounded attacks against me as a person of Calabrian Jewish ancestry who represents views and clients despised by the majority of "Canadians", on constitutionally unpopular grounds. I regret to say that both as a lawyer, and former Bencher, some members of the public consider my clients and their causes "distasteful". Throughout my 33 plus years of practice, these personal attacks have been unfortunately just run-of-the-mill for me. This position and motive for random, non-client, unrelated, disgruntled "public" complaints against me, and my law practice, was made clear to the LSO on the previous frivolous and vexatious complaints, which were eventually dismissed. As counsel, you must execute the duty of fairness and apprise yourself of the context and history of the relationship between the present complaint and those of the past. You must also, at a minimum, ascertain, who the complaint and her affiliates are, the reasons for the complaint and the applicable ***Rules***, based on facts, and not assumptions, **prior** to advancing the complaint asserting very serious allegations against me, to my attention for response. You failed to do so, and instead, have required me to do your work for you notwithstanding that I requested particulars on these allegations, and none were provided. At this point, after suffering seven prior ignorant abusive complaint allegations, I am justified in asking the question, "why is the LSO so quick to jump on the proverbial assumption accusation bandwagon"?

- **Your Erroneous Characterization of "Misleading and Did Not Act with Integrity".**

Your statement to me, in your email dated May 24th, 2022, takes this complaint beyond the pale when, in answer to my request for particulars, you stated:

> With respect to the regulatory issues identified, these stem from Ms. Toews' complaint. Ms. Toews stated that she wanted her donations to be directed to you as the lawyer retained to bring constitutional challenges. However, she expressed concern that the funds may not have been applied to their intended purpose in view of the length of time since the litigation was funded and a statement of claim issued; the lack of updates provided to her; and a lack of transparency including her not being invited to 'members only' meetings with you. As such, the 'misleading' issue is directed to whether you may have misled Ms. Toews (and other similar donors) regarding the purpose and use of the donated funds.
>
> The allegation of 'did not act with integrity" flows from this and concerns whether or not you were honest and transparent with those who made donations to fund the constitutional litigation.

It is apparent from her complaint form, that she never hired me, yet you jumped to those postulations. There is no duty to report to each and every donor of my client organization. I have no privity with them. I make, and made, no representations to them. Let alone "mislead" them. You have misapplied the ***Rule.***

Neither Ms. Toews nor Mr. Warner are my clients. The standards of professional conduct I am required to meet are to be measured by the services I provide **my clients**

I have never had "any dealing in the course of my practice" with Ms. Toews. I have no relationship with her whatsoever.

Moreover Ms. Toews is directly and individually connected with Mr. Warner. Your intake failed to ascertain this. Had you performed this very basic and minimal scrutiny, the absurdity of the allegations, and that I am required to respond to an allegation that I have breached of the Rules, would become apparent.

The Rules cannot be stretched to an overly broad application to random, unrelated unknown members of the public who have a vindictive axe to grind with a lawyer. To propose such an overly broad application would cause the LSO complaints process to be inundated with frivolous, vexatious and abusive complaints and bring the administration and regulation of the profession into disrupt and disposition.

(a) "Misleading"

"Misleading appears in the Rules of Professional Conduct in the followings categories:

> **Marketing of Professional Services**
>
> **4.2-0** In this rule, "marketing" includes advertisements and other similar communications in various media as well as firm names (including trade names), letterhead, business cards and logos.
>
> **4.2-1** A lawyer may market legal services only if the marketing
>
> (a) is demonstrably true, accurate and verifiable;
>
> (b) is neither **misleading**, confusing, or deceptive, nor likely to mislead, confuse or deceive; and
>
> (c) is in the best interests of the public and is consistent with a high standard of professionalism.

As explained above, I did not market my services to this complainant. She is not my client, she has not hired me, I have never met or communicated with her. Ms. Toews **may** have sent a donation to organizations who have independently hired me to conduct litigation for them pursuant to a private retainer. The organization did not hire me based on any "marketing" whatsoever. There is no evidence or information in the complaint that I engaged in marketing that contravened the Rules because none exists. This can be confirmed by my clients, VCC and Action4Canada.The fact that these organizations collect donations to use at their discretion, and the terms of their donations, and how they allot their donations are between the organizations and their donors. I have nothing to do with it and therefore cannot account to you for it either. Therefore, the ***Rule*** is inapplicable.

The Rules of Professional Conduct also state, about "misleading":

> **SECTION 4.1 MAKING LEGAL SERVICES AVAILABLE**
>
> **Making Legal Services Available**
>
> **4.1-1** A lawyer shall make legal services available to the public in an efficient and convenient way.
>
> **Restrictions**
>
> **4.1-2** In offering legal services, a lawyer shall not use means that
>
> (a) are false or **misleading**;
>
> (b) amount to coercion, duress, or harassment;
>
> (c) take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet had a chance to recover;
>
> (d) are intended to influence a person who has retained another lawyer or paralegal for a particular matter to change that representative for that matter, unless the change is initiated by the person or that representative; or
>
> (e) otherwise bring the profession or the administration of justice into disrepute.

As explained above, Ms. Toews is not my client, I have never communicated with her or misrepresented to her. I did not offer legal services to her. She never retained me. I did not request or solicit donations from her on behalf of any client or for my client's litigation. The fact that she may have sent donations to organizations is between her and those organizations. This ***Rule*** is inapplicable.

(b) "Did not act with Integrity:

The Rules of Professional Conduct discuss "integrity", as follows:

> **SECTION 2.1 INTEGRITY**
>
> **2.1-1** A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with **integrity.**
>
> *Commentary*
>
> [1] **Integrity** is the fundamental quality of any person who seeks to practise as a member of the legal profession. If a **client** has any doubt about their lawyer's trustworthiness, the essential element in

the true **lawyer-client** relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed, regardless of how competent the lawyer may be.

[2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

[3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the **integrity** of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair a client's trust in the lawyer, the Law Society may be justified in taking disciplinary action.

[4] Generally, however, the Law Society will not be concerned with the purely private or extra-professional activities of a lawyer that do not bring into question the lawyer's professional integrity.

[4.1] A lawyer has special responsibilities by virtue of the privileges afforded the legal profession and the important role it plays in a free and democratic society and in the administration of justice, including a special responsibility to recognize the diversity of the Ontario community, to protect the dignity of individuals, and to respect human rights laws in force in Ontario.

2.1-2 A lawyer has a duty to uphold the standards and reputation of the legal profession and to assist in the advancement of its goals, organizations and institutions.

Commentary

[1] Collectively, lawyers are encouraged to enhance the profession through activities such as:

(a) sharing knowledge and experience with colleagues and students informally in day-to-day practice as well as through contribution to professional journals and publications, support of law school projects and participation in panel discussions, legal education seminars and university lectures;

(b) participating in legal aid and community legal services programs or providing legal services on a pro bono basis;

-41-

(c) filling elected and volunteer positions with the Law Society;

(d) acting as directors, officers and members of local, provincial, national and international bar associations and their various committees and sections; and

(e) acting as directors, officers and members of non-profit or charitable organizations.

[2] When participating in community activities, lawyers should be mindful of the possible perception that the lawyer is providing legal advice and a lawyer -client relationship has been created.

Notwithstanding my pointed request for particulars on how "integrity" was engaged, you did not provide any factual particulars. I submit that tis because none exist.

There are no facts in Ms. Toews' complaints that provide basis for allegations of "dishonourable or questionable conduct", indeed, no such conduct has been identified. Rule 2.1 should not be invoked and abused, for unauthorized purposes, or for acting on irrelevant considerations. The fact that Ms. Toews may have made a donation to my client is an irrelevant consideration. The ***Law Society Act*** does not authorize an investigation on that basis. Courts have frequently held that it is ***ultra vires*** for a statutory delegate to do so. Courts have also struck down arbitrary exercises of discretion where the delegate has acted upon no evidence or has ignored relevant considerations.

Contrary to your allegation, in all aspects, I upheld my obligations and acted with integrity in my dealing with both my clients, and others.

- **Rule 5.6-1**

Rule 5.6-1 states:

Encouraging Respect for the Administration of Justice

5.6-1 A lawyer shall encourage public respect for and try to improve the administration of justice.

I have not breached Rule 5.6 (1) of the ***Rules***. You have not provided any evidence or allegation that I have. On the contrary, I have spent my entire career trying to improve the administration of justice and encourage public respect for it and the Rule of Law. My practice consists of litigating the most difficult of cases, often successfully. These are often perceived or labelled as "controversial cases" whereby individual unrelated and random unrelated members of the public having erratic and vile reactions against me personally for simply doing my duty as a constitutional lawyer, practising according to my oath. It has become "controversial" to question government policy on the Covid-19 and as a lawyer, representing clients who do question the government policy have come under attack.

Toronto Superior Court of Justice / Cour supérieure de justice

In practising law, in a manner that upholds Rule 5.6-1, I have, regrettably, been the recipient of hate mail and subject to personal attacks and threats to my safety and my life. This is a regrettable, but not a new, phenomenon for me. When I represented clients charged pursuant to the Security Certificate provisions of **IRPA** and/or the Terrorism provisions of the ***Criminal Code*** I was virulently and invidiously slandered as a "terrorist lawyer", a "terrorist sympathizer" and even as a "terrorist" by random individual members of the public. That I "put the right of terrorists over citizens" and that I "defend citizenship of terrorists" are other examples. Those who attacked me believed in the global "war on terrorism" and that I was not entitled, as an advocate, to criticize or challenge the government's law in my statements or pleadings on behalf of my clients. These individuals alleged that by representing my clients, and making statements regarding the racism and racial profiling my clients were subjected to as Arabs and/or Muslims, by security services, in this country and elsewhere, that I was "a threat to the public" and the "security" of Canada.

Often the hate-mail directed against me, sometimes guised and cloaked as a "complaint", were coloured with racial bias and prejudice, and ethnic stereotyping, not only against my racial minority clients, but also against me as their ethnic minority lawyer. This is graphically illustrated by the institutional death threat I received while representing a Canadian citizen who was detained at Guantanamo Bay on allegations of "terrorism", wherein the "anonymous" caller demanded I cease representing "terrorists, or you a dead WOP!"

Revealingly, my non-ethnic and non-racial minority colleagues in the Bar, who also advocated on behalf of "terrorists suspects" and with whom I am well acquainted, did not receive the same barrage of hate mail or threats. This is not surprising given that many Royal Commissions, the SCC and the LSO have acknowledged the existence of racial and ethnic bias in the justice system and the legal profession. Racial and ethnic minority lawyers are disproportionately targeted for harsher treatment and unbridled harassment. They face discrimination within their own profession and prejudice from society and its members at large. Systemic and individual prejudice is pervasive.

It has not escaped me to consider ethnic malice as a root cause of this complaint. I have encountered this before: "Who does this Italian lawyer think he is to challenge our Canadian laws?". My suspicions are borne out in the current COVID context as I have received hate mail which is demeaning, reprehensible and xenophobic intended to intimidate me as an advocate. I am denominated as a: "scum lawyer", "mob lawyer", "mobster" - all referring to the stereotype of Italians as members of organized crime. That I "wasn't even born in Canada", that I am "a foreigner trying to change laws", and that I "will never be a Canadian, except in the civic sense, and even that is questionable."

However, what is equally troublesome and regrettable phenomenon for me, is that the LSO would give credence to the hate and prejudice, as illustrated by previous complaints forwarded by the LSO against me which I've had to respond to in order to dismiss. The LSO should act as a gatekeeper to defend the advocate who encourages public respect for and improvement to the administration of justice, as evidenced by my litigation record. Rather than defending the advocate for ethically and fearlessly

executing his duties, I am disheartened to learn that the LSO can be used as a vehicle for attacking a lawyer doing his/her job instead. To the extent that the LSO enables and allows for such harassment and attacks on me as a member, is an abuse of authority and discretion and constitutes tortious conduct. Furthermore, the ***Rules*** apply equally to you as a member personally and in your capacity as intake counsel. In particular, I would remind you of ***Rule*** 7-2-1 and the requirement to "avoid ill-considered or uninformed criticism of competence and conduct". Ms. Toew's complaint, as well as that of her predecessor complainants with respect to COVID-19 litigation is frivolous and vexatious. Had you conducted the minimal research that I have, you would have arrived at this conclusion. By misapplying misusing and abusing your authority and amplifying and escalating the complaint in the manner that you have is a breach of your duty under Rule 7.

- **Rule 5.1-1: Lawyer as Advocate**

In closing, as a former elected Bencher, I completely understand your role in the Law Society's protection of the "public interest". I know that your job is not an easy one and your work-load is heavy. However, with the utmost respect, this "complaint" was not diligently, or competently vetted, examined or researched before being passed on to a member for response. Unfortunately, it could constitute institutional "rubber stamping" of targeted character assassination and motive to "disbar" and ruin a member's legal career by disgruntled and random unrelated non-client individuals. It could also encourage the proliferation of hate-mail and retaliatory vindictive "complaints" against lawyers.

The intake process must act, in part, as a gatekeeper to sift through spurious and misdirected rantings and scandalous allegations (intended to intimidate and harass lawyers from acting as advocate), from that of legitimate complaints. This is not the LSO's first failure within the COVID litigation context.

I would remind you of Rule 5.1-1, which reads:

> 5.1-1 When acting as an advocate, a lawyer shall represent the client resolutely and honourably within the limits of the law while treating the tribunal with candour, fairness, courtesy, and respect.

And the first commentary to that Rule which reads and dictates that:

> [1] Role in Adversarial Proceedings - In adversarial proceedings, the lawyer has a duty to the client to raise fearlessly every issue, advance every argument and ask every question, however distasteful, that the lawyer thinks will help the client's case and to endeavour to obtain for the client the benefit of every remedy and defence authorized by law. The lawyer must discharge this duty by fair and honourable means, without illegality and in a manner that is consistent with the lawyer's duty to treat the tribunal with candour, fairness, courtesy and respect and in a way that promotes the parties' right to a fair hearing in which justice can be done. Maintaining dignity, decorum

and courtesy in the courtroom is not an empty formality because, unless order is maintained, rights cannot be protected.

The LSO is tasked with protection of the public, but also of the legal profession and its members, regardless of the client or case. Rule 5.1-1 is a cornerstone for Canada's justice system. The intake counsel's job is to not only protect the public, but also protect the profession from the public's vile, unjustified, false, and scandalous attack on lawyers, which is not in concert with the "public interest". It is not in your jurisdiction and mandate to jump on the proverbial "hate bandwagon".

In another context, outside of a Regulatory complaint, Donna Toews would have been successfully sued for defamation for her comments, and not be the assumptive springboard from which to catapult an unsubstantiated query sent to me for response. Ms. Toews comments and complaints are unfoundedly outrageous and malicious. That Kip Warner, given his history, added the fuel to the fire, is the more offensive. Yet, regrettably, you acted on them.

After this 8th, post-COVID, "from -COVID", "with COVID", LSO baseless complaint, I still await a LSO apology for having had to respond to them, failing which I will seek redress for unauthorized abusive conduct through legal proceedings in the Courts.

In responding to this complaint, I was required to disclose my personal health information as defined in the ***Personal Health Information Protection Act*** which is strictly private and highly confidential. While I have made this information available only to you, I do not authorize the disclosure or release of my private health information to anyone else, particularly the complainant and her affiliates and co-conspirators. I trust that any and all of my personal health information will be strictly protected.

Yours very truly,

Per:

Rocco Galati, B.A., LL. B, LL.M.
RG*sc
Encls.

-45-

Court File No.: "Schedule B"

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

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

STATEMENT OF CLAIM

TO THE DEFENDANTS:

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or 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, A 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.

-46-

IF YOU PAY THE PLAINTIFF CLAIMs, and $10,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $400 for costs and have the costs assessed by the court.

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: Issued by:

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

TO:

Donna Toews (Aka Dawna Toews)
10 Garth Street
Guelph, Ontario
N1H 2G3
dawnatoews@hotmail.com

AND TO:

KIPLING WARNER
Vancouver, BC Canada
kip@thevertigo.com

AND TO:

CANADIAN SOCIETY FOR THE ADVANCEMENT
OF SCIENCE AND PUBLIC POLICY
Unknown Address
Fax: +1 (604) 256-3060
Tel: +1 (604) 256-3060
reception@covidconstitutionalchallengebc.ca

AND TO

Dee GANDHI
Address/contact unknown
c/o CANADIAN SOCIETY FOR THE ADVANCEMENT
OF SCIENCE AND PUBLIC POLICY
Unknown Address
Fax: +1 (604) 256-3060
Tel: +1 (604) 256-3060
reception@covidconstitutionalchallengebc.ca

CLAIM

1. The Plaintiff claims:

General damages as against the Defendants, as follows:

(a) $500,000.00, as against the Defendants, Kipling Warner, Dee Gandhi and the Canadian Society for The Advancement of Science and Public Policy, for libel and slander (defamation), and irresponsible publication;

(b) As against all Defendants, severally and jointly, conspiracy to undermine the Plaintiff's solicitor-client relationships, interference with economic interests and intentional infliction of mental anguish and distress;

(c) As against all Defendants, severally and jointly, aggravated damages as against the Defendants in the amount of $250,000.00;

(d) As against all Defendants, severally and jointly, punitive damages in the amount of $250,000.00;

(e) an interim and permanent injunction requiring the retraction, removal, and prominent apology for any and all defamatory publication and/or remarks by the Defendants;

(f) As against Kipling Warner, Dee Gandhi, and The Advancement of Science and Public Policy, $100,000.00 for harassment as delineated by the Superior Court of Ontario in ***Caplan v Atas, 2021 ONSC 670;***

(g) an interim and permanent injunction prohibiting the Defendants, or anyone directly or indirectly associated with them, from posting or disseminating defamatory posts on the internet.

(h) prejudgment interest pursuant to s. 128 of the *Courts of Justice Act R.S.O. 1990 c. C43*; and

(i) costs of this action on a substantial indemnity basis and such further or other relief as this Court deems just.

THE PARTIES

(a) The Plaintiff

2 The Plaintiff, Rocco Galati, is a senior lawyer, practicing in Toronto, Ontario, who has been practicing law since he was called to the bar in Ontario in 1989. The Plaintiff practices law through his law firm Rocco Galati Law Firm Professional Corporation "duly" incorporated under the laws of Ontario and requirements of the ***Law Society Act.***

3 Rocco Galati is a highly regarded and prominent lawyer. He has been a Member of Canadian Who's Who (since 2011). In 2014 and 2015 he was named one of the Top 25 Influential Lawyers by Canadian Lawyer Magazine. In 2015 he was awarded the OBA (Ontario Bar Association) President's Award. He was in fact the first lawyer to receive the award.

4 Between May 2015 and May 2019, he served as an elected bencher for the Law Society of Ontario (LSO). Between May 2015 to February, 2021. he also served as a Hearing Panel Member (Adjudicator) of the Ontario Law Society Tribunal (LST).

5 Rocco Galati has litigated, regularly, at all level Courts, including Tax Court, Federal Court (of Appeal), all levels of Ontario Courts, other Provincial Superior Courts, as well as the Supreme Court of Canada. He has litigated in several provinces including Ontario, British Columbia, Alberta, Manitoba, and Quebec. He has, as counsel, well

over 500 reported cases in the jurisprudence. Some of his major cases include: ***Baker v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 699 (SCC), [1999] 2 SCR 817, Reference re Supreme Court Act, R.S.C. 1985 (Canada),*** **Reference re Section 98 of the *Constitution Act, 1867*, *R. v. Ahmad*, [2011] S.C.J. No. 6 (Toronto 18 Terrorism Case); *Felipa v. Canada*, [2011] F.C.J. No. 135.** ***Wang v. Canada, 2018 ONCA 798.***

6. Rocco Galati has been asked to speak and has spoken, regularly, at various Law and other Conferences, as well as Law Schools, Universities and High Schools, across Canada from 1999 to present.

7. Rocco Galati is the founder and Executive Director of Constitutional Rights Centre Inc. since its inception in November, 2004.

8. Rocco Galati has authored/co-authored books such as: *"Criminal Lawyer's Guide to Immigration and Citizenship Law" (1996)*, *"The Power of the Wheel: The Falun Gong Revolution" (2001)*. He has also produced three Films, *"Two Letters & Counting..." 2008-2011*, written, directed and performed by multi-Genie Award winning Tony Nardi, on the state of art and culture in Canada, and the treatment of "Aboriginal" and "Other" "Canadians" by the Two Solitudes Tribes of Canada, and on the Funding of "Canadian" Art and "Culture".

(b) The Defendants

9. The Defendant, Donna Toews (aka "Dawna Toews"), is a resident of Ontario. She has represented her name to be "Donna Toews" to the Law Society of Ontario, but

represents her name to be "Dawna Toews" on her business profile, social media, and email. The Plaintiff has had no personal connection nor contact with Ms. Toews. Ms. Toews made a complaint to the Law Society of Ontario against the Plaintiff on January 15th, 2022, which was forwarded by the Law Society to the Plaintiff on May 19th, 2022.

10 The Defendant, Kipling Warner, is a resident of British Columbia. The Plaintiff has had no personal connection nor contact with Kipling Warner. Kipling Warner encouraged and directed Donna Toews (aka "Dawna Toews") to make the Law Society of Ontario complaint against the Plaintiff and otherwise defamed the Plaintiff, as set out in the within Statement of Claim. Kipling Warner is the Director of the Canadian Society for the Advancement of Science and Public Policy.

11 The Defendant, Dee Gandhi, is the treasurer for the Canadian Society for the Advancement of Science and Public Policy.

12 The Defendant, The Canadian Society for The Advancement of Science and Public Policy, is a not-for-profit organization, established and promoted by Kipling Warner for the purposes of conducting anti-COVID measures litigation in British Columbia.

13 The Defendant(s) Janes and Johns Doe are Defendants unknown to the Plaintiff at this time, but who assisted the named Defendants in the named Defendants' tortious and actionable conduct against the Plaintiff.

FACTS

- **Donna Toews (aka "Dawna Toews")**

14. The Plaintiff does not know Donna Toews (aka "Dawna Toews")

15. Ms. Toews has never been the Plaintiff's client.

16. To his recollection, the Plaintiff has never had any direct contact with Ms. Toews

- **Kipling Warner and Associates**

17. The Plaintiff does not know Kipling Warner. The Plaintiff has had contact, through Mr. Warner's solicitor, as set out below, to issue a caution with respect to his defamatory statements against the Plaintiff and interfering with the Plaintiff's solicitor-client relations, including with Vaccine Choice Canada and Action4Canada.

18. The Plaintiff does not know Dee Gandhi. The Plaintiff has never had any direct contact with Mr. Gandhi

- **Vaccine Choice Canada**

19. Vaccine Choice Canada (hereinafter "VCC") has been a client of the Plaintiff's law firm since 2015.

20. The Plaintiff acts on VCC's behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for VCC, under the instructions of VCC's Board of Directors, through their president.

21. The Plaintiff has absolutely NO role in their organization whatsoever, except to provide legal services, as described in the ***Law Society Act,*** as requested, directed, and instructed by their Board of Directors, through their president.

- **Action4Canada**

22. Action4 Canada has been a client of the Plaintiff's law firm since October 2020

23. The Plaintiff acts on Action4Canada's behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

24. The Plaintiff has absolutely NO role in their organization whatsoever, except to provide legal services, as described in the ***Law Society Act,*** as requested, directed, and instructed by their Board of Directors, through their president.

25. Neither Ms. Toews, Mr. Warner, nor Mr. Gandhi, are on the Board of Directors of VCC or Action4Canada.

- **Pertinent Chronology leading to Donna Toews' Complaint to the Law Society of Ontario**

26. On or about October, 2020, the Plaintiff was approached by Action4Canada, and other co-Plaintiffs, in British Columbia, for a lawsuit, however the retainer was not yet crystalized.

27. On December 5, 2020, the Defendant Kipling Warner, first contacted Tanya Gaw, the head of the Board of Directors for Action4Canada, indicating that he had organized a "similar" campaign to hers and directed her view his lawsuit's GoFundMe page.

28. On or about December 14, 2020, the Plaintiff received a telephone call from a lawyer from British Columbia, Ms. Polina H. Furtula. This lawyer indicated that she was contemplating legal action against the British Columbia government over the COVID-19 measures imposed there. She requested that the Plaintiff collaborate with her, owing to his expertise in constitutional law and proceedings against the Crown. Ms. Furtula's client(s) were Kipling Warner and his organization, The Canadian Society for The Advancement of Science and Public Policy.

29. The Plaintiff respectfully declined, and advised Ms. Furtula that he had been approached by a British Columbia group (Action4Canada) and other plaintiffs, and had, in principle, agreed to act for them in a challenge to the COVID-19 measures, once a retainer crystalized.

30. In January 2021, the Plaintiff began working on the Notice of Claim (Statement of Claim) for Action4Canada and other co-Plaintiffs.

31. On January 27, 2021, the Defendant, Dee Gandhi, Kipling Warner's colleague, and treasurer of Canadian Society for the Advancement of Science in Public Policy, sent an independent journalist, Dan Dicks from Press for Truth, a defamatory email about the Plaintiff. This journalist forwarded that email to the Plaintiff's client, Action4Canada. The email indicated that the Canadian Society for the Advancement of Science in Public Policy had filed their statement of claim, but then made defamatory remarks against the Plaintiff and the case brought by the Plaintiff, asserted that the Defendants had brought their case first and therefore would have "carriage of the matter", and then asked to assist them in soliciting donations on their behalf for their legal proceeding.

32. On January 29, 2021, the Plaintiff received a letter from Ms. Furtula indicating that she represented the Canadian Society for the Advancement of Science in Public Policy, that she had filed on behalf of her client(s) and therefore the Plaintiff could not file any proceedings on behalf of his clients.

33. On February 3rd, 2021, the Plaintiff responded to Ms. Furtula's letter indicating her client did not have exclusive monopoly to litigation against the Crown. The Plaintiff also, in the same response, issued a warning to Ms. Furtula about Mr. Warner's defamatory conduct against the Plaintiff.

34. From January 2021 and onward, the Defendants, Kipling Warner, his organization Canadian Society for the Advancement of Science in Public Policy, and his associates from the Canadian Society for the Advancement of Science in Public Policy, including Dee Gandhi, continued defaming the Plaintiff to the Plaintiff's clients, and others.

35. In or around June, 2021, the Defendants posted defamatory content about the Plaintiff on the Canadian Society for the Advancement of Science in Public Policy's webpage, which content disparaged the Plaintiff, and made further defamatory comments about the Plaintiff and the legal action(s) for which he had been retained. As a result, the Plaintiff's clients, Action4Canada and VCC, began receiving messages from their members concerned about the Defendants' statements.

36 On August, 2021, the Plaintiff finalized and issued the Action4Canada, et al, Notice of Claim (Statement of Claim) in the British Columbia Supreme Court. This claim was on behalf of various Plaintiffs, Action4Canada being one, in British Columbia Court File No.: BCSC NO. VLC-S-S-217586.

37. From August to Christmas, 2021, the Defendants to this Statement of Claim, on behalf of Action4Canada and others, dragged their heels over whether they would accept service for various Ministries and officials and requested an indulgence past the normal 30-day deadline, to respond, which the Plaintiff granted. They also indicated that they wished to bring an application (motion) to strike. The Plaintiff asked that they do so as soon as possible, under the instructions of his clients.

38 By Christmas day, 2021, the Defendants had not brought their motions to strike. Over Christmas, the Plaintiff became very ill. On December 25th, 2021, the Plaintiff was bed-ridden. On January 2nd, 2022, the Plaintiff was admitted for a critical illness to the ICU in hospital.

39. After being admitted to hospital in January 2, 2022, the Plaintiff entered a very serious and life-threatening 11-day coma during which coma the Plaintiff came, three (3) times, under a minute from being declared dead. Through the grace of God, he survived. On or about January 13th, 2022, the Defendants, in British Columbia Supreme Court file no.: VLC-S-S-217586, bought their motions to strike returnable February 22, 2022. Meanwhile, while the Plaintiff was in a coma and incapacitated under s.37 of the ***Law Society Act***, he remained in a public hospital until his discharge on January 22, 2022. When he was no longer critical, but still acute, he was immobile and still required one-on-one nursing and acute medical care. He was discharged as a patient from a public hospital and he transferred himself to recover in a private medical setting with 24/7 care.

40. The Plaintiff did not return home until March 2, 2022, to continue recovering. He still has not regained full recovery at present

41. The motion to strike, which had been set for February 22, 2022, in British Columbia, was adjourned by the Plaintiff's office to May 31st, 2022 in the hopes that he would be sufficiently and competently capable of arguing the motion to strike via zoom-link. The Plaintiff was granted permission to appear by zoom-link and argued the motion on May 31st, 2022. The motion(s) to strike were heard on May 31st, 2022 and the Court has reserved its decision.

42. While the Plaintiff lay in a coma, in January, 2022, the Defendant Kipling Warner was conspiring and encouraging Donna Toews (aka "Dawna Toews") to file a complaint against the Plaintiff with the Law Society of Ontario.

43. On January 15th, 2022, Ms. Toews filed her complaint to the Law Society of Ontario, which was forwarded to the Plaintiff on May 19th, 2022. The complaint alleged that the Plaintiff "misled" and "failed to act with integrity" because Ms. Toews, who had allegedly made a $1,000 donation, "in her husband's name", to the Plaintiff's clients, VCC and Action4Canada, to support their litigation, had not been personally apprised and updated by the Plaintiff, as well as not been invited to those organizations' members-only meetings, and complained about the pace of the litigation, notwithstanding that:

(a) Donna Toews (aka "Dawna Toews"), has never been a client of the Plaintiff;

(b) The Plaintiff has never met with, been contacted by, nor ever had any communications with Donna Toews (aka "Dawna Toews"),

(c) The Plaintiff has had absolutely no role in his client (organization) and is not privy to their fundraising efforts nor how they spend their money apart for his legal services;

(d) The Plaintiff has no role in organizing any of his clients' members-only meetings.

The Plaintiff states that the substance of the complaint by Donna Toews (aka "Dawna Toews"), directed and encouraged by Kipling Warner, simply parrots the defamatory remarks made by the other three co-Defendants.

- **Donna Toews (aka "Dawna Toews") and Kipling Warner**

44. While in hospital and in a coma, which was widely publicized (in fact false obituaries claiming the Plaintiff was dead emerged and ones are still online), Kipling Warner was in communication with Donna Toews, via email, on how to make a complaint to the Law Society about the Plaintiff.

45 Kipling Warner has also, and recently, orally communicated to a person, who does not want to be identified due to fear of Mr. Warner's military past and self-professed prowess as a computer hacker, that "I want to see to it that Rocco Galati is disbarred and charged with Fraud". Kipling Warner, in discussions with the President of VCC, Ted Kuntz, insisted that because he (Kipling Warner) "filed first", that the Action4Canada British Columbia claim, which VCC supported, had to be withdrawn, and all donations to Action4Canada be returned, with the implication that the donations be forwarded to him, Kipling Warner, to support his litigation instead.

46. Mr. Warner is under the delusion that he can claim, along with his "Canadian Society for the Advancement of Sciences in Public Policy" ("CSASPP") exclusive proprietary rights to litigate the covid-measures in British Columbia. In pursuit of this he goes to all ends.

47 Mr. Warner, furthermore continued to make defamatory statements against the Plaintiff on CSASPP's website, https://www.covidconstitutionalchallengebc.ca. The irony is that the British Columbia Supreme Court struck Mr. Warner as a Plaintiff in one of his cases, for lack of standing, in British Columbia Supreme Court file No.: S-2110229.

48. The Plaintiff states that the Defendants, Mr. Warner and Mr. Gandhi, personally, in their email to the Plaintiff's client, and through their Canadian Society for the Advancement of Sciences in Public Policy website, https://www.covidconstitutionalchallengebc.ca, uttered and published defamatory statements against the Plaintiff, namely:

(a) In his email to an independent journalist, dated February 1, 2021, Mr. Gandhi wrote, as follows:

> Hope you are doing well. I just wanted to update you on the fact that the Canadian Society for the Advancement of Science in Public Policy (CSASPP) has filed their pleadings against the Crown and Bonnie Henry (Provincial Health Minister) as of Jan 26th, 2021. Please see link: https://www.scribd.com/document/492237670/Notice-of-Civil-Claim You are welcome to share this with anyone and everyone.
>
> This is our certificate of Incorporation :
> https://www.scribd.com/document/492256545/CSACPP-Certificate-of-Incorporation
>
> Now that we have started the litigation process, we are still in need of Funding. Action 4 Canada has still not filed with Rocco. **Legally at this point Rocco can't really file in BC anymore. The case law is that for class actions, it's the first to the court house that generally has**

carriage of the file. If you would be so kind to share with everyone so to help the cause.

https://www.gofundme.com/f/bc-supreme-court-covid19-constitutional-challenge

this might interest you further.

Here are some talking about regarding Action 4 Canada and Rocco

(1) Rocco isn't licensed to practice here in BC. He can always be retained in Ontario and in turn retain counsel in BC. But then you are paying for two law firms. You can verify that he is not licensed to practice here in BC at this page:
https://www.lawsociety.bc.ca/lsbc/apps/lkup/mbr-search.cfm

(2) The lawyer Rocco wishes to retain here in BC is named Lawrence Wong. He specializes in immigration law. He was sanctioned in 2010 for his conduct by a Federal Court judge and fined. See for yourself:
http://canlii.ca/t/2bz73

(3) A Federal Court judge wrote in his judgment a few years ago that Rocco was found to have excessively billed for his time:
<http://canlii.ca/t/gfl0p#par7>

(4) **The same judgment questioned Rocco's competency in constitutional law:**
<http://canlii.ca/t/gfl0p#par9>

(5) **Rocco is not a "constitutional law" lawyer. There is no such professional designation in Canada, nor in particular in BC.** That's not to say, however, that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. **But in Rocco's case his area of expertise is tax law**.

<https://tgam.ca/3n8Zuyo>

(6) Every lawyer I know that has reviewed **Rocco's Ontario pleadings said it was very poorly drafted. It will most likely get struck and never make it to trial to be heard on its merits.** The reason being is he brings in all kinds of other topics that aren't necessary (Gates, 5G, vaccines, etc.) to obtain the order that he wants. This is how it likely would be struck:

http://canlii.ca/t/8lld#sec9_5

15
-61-

(6) Rocco wants far too much money to get started. This seems in line with (2);

(7) Nothing has been accomplished in Ontario since Rocco filed around six months ago. The defendants haven't even filed replies, despite the option to apply for a default judgment being available for the majority of that time;

(8) Even if he won in Ontario, it wouldn't have any direct bearing on us here in BC because health care is under a provincial mandate under s 92(13) of the constitution. In other words, the Ontario Superior Court of Justice has no jurisdiction over what cabinet ministers do in BC. See:

<https://bit.ly/2Li6Baw>

(9) We are (CSASPP) a non-profit, non-partisan, and secular society. We are legally required to have a certain level of accounting controls and transparency

Thank you Dan, and I look forward to your response and your help.

(b) In or around June 2021, the Canadian Society for the Advance of Sciences in Public Policy, Mr. Kipling and the other directors of the Society, have posted the following, about the Plaintiff:

Are you affiliated with Rocco Galati? If not, why?
We receive communications regularly from Mr. Galati's past donors with concerns. We are asked what became of the substantial funds that the community raised for him or his third-party fundraising arms. We do not have any information, were not involved in raising funds for either, nor did we ever seek to retain Mr. Galati. **If you have concerns about his conduct, any member of the general public can submit an electronic complaint to the Ontario Law Society to initiate a formal investigation.**

We are not affiliated with Mr. Galati. There are many reasons

Mr. Galati is not licensed to practise law in British Columbia for any extended period of time. He can always be retained in Ontario, and in turn retain counsel in British Columbia. This is not unusual.

However, then you are paying for two law firms. Anyone can verify whether a lawyer is licensed to practise law in British Columbia here.

We were advised directly by Mr. Galati himself that the lawyer he wished to retain in British Columbia is Lawrence Wong. Mr. Wong was personally sanctioned in 2010 for his conduct by a Federal Court judge with a fine.

A Federal Court judge noted in his reasons for judgment that some of Mr. Galati's billings were "excessive and unwarranted" in a separate proceeding. The same judge declined to award the full amount sought by Mr. Galati for his legal fees in that constitutional proceeding. The outcome has been discussed by other lawyers.

Mr. Galati is sometimes described by his followers as our nation's "top constitutional law" lawyer, yet there is no such professional designation in Canada, nor in particular in British Columbia. That is not to say that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. According to Mr. Galati, he studied tax litigation at Osgoode Hall. The Globe and Mail reported Mr. Galati "makes his money from doing tax law, not constitutional cases."

Mr. Galati filed a COVID-19 related civil proceeding in the Superior Court of Justice in Ontario on 6 July, 2020. To the best of our knowledge, as of 30 October, 2021, none of the twenty-one named defendants have filed replies, despite the plaintiff being at liberty to apply for a default judgment for the majority of that time. In an interview published 2 September, 2020, Mr. Galati claimed he intended to do his best to have an interlocutory mask injunction application heard before the Christmas holidays of 2020. As of 11 June, 2021, we are not aware of any scheduled hearings and no orders appear to have been made.

49 The Plaintiff states that neither Mr. Warner, nor the website, https://www.covidconstitutionalchallengebc.ca, constitute a "broadcaster" under the ***Libel and Slander Act*** and, in any event, are not entitled to Notice under ***s.5 of the Libel and Slander Act,*** as they do not comply with the requirements of s.8 of that ***Act,*** in providing a prominent address for service.

- **Defamation**

50 The Plaintiff states, and the fact is, that the above-cited statements are/were false, and untrue statements, and further, by innuendo, defamatory and caused damage to the Plaintiff in that they tended to lower the esteem and reputation of the Plaintiff in the fair-minded members of the community, which statements were also designed to interfere with the Plaintiff's contractual obligations and economic interests, for all of which he has suffered, and continues to suffer, considerable financial damages and damage to reputation for the malicious, untruthful, and defamatory statements.

51 These untrue and false statements were malicious, irresponsible, negligent, and uttered with malicious intent, in that they attempt to assert and convince the public that the Plaintiff is *inter alia*:

(a) Violating the rules of conduct of his profession;

(b) Being immoral;

(c) Misappropriating donors' funds intended to for the legal proceeding;

(d) Not being licensed to practice law, and therefore charging twice (charging for a British Columbia law firms legal fees as well as his own);

(e) Excessive and unwarranted billing (the Defendants misapply a case here by insinuating a judge had found that the Plaintiff had charged his clients too much in a legal proceeding, when actually the case was about the Plaintiff trying to recuperate the costs of a proceeding that he had conducted out of his own pocket, which he had brought against the government in his own name,

where he had not charged anyone legal fees, and which case he had been successful and therefore was entitled to costs, the subject of that decision);

(f) Insinuating that "other lawyers" did not hold him in high esteem;

(g) Making his money in other areas of law and therefore not being a constitutional lawyer;

(h) Of purposely delaying the legal proceedings or of purposely delaying taking further steps in the legal proceeding;

(i) conning innocent people/clients out of their money;

(j) Representing his client for subversive motives and not for the public good;

(k) Intentionally failing to advance the COVID-19 cases on which he has been retained.

These statements are also saturated with defamatory innuendo that the Plaintiff is incompetent.

52. The Defamatory statements were published across multiple platforms and widely circulated by the Defendants and others, as well as specifically directed to the Plaintiff's clients.

53. Neither the Defendant, Kipling Warner, nor any representative of Canadian Society for the Advancement of Science in Public Policy, including the treasurer, Dee Gandhi, provided the Plaintiff the opportunity to answer the allegations before publishing the defamatory statements.

- **Conspiracy**

54. The Plaintiff states and fact is, that the Defendants, Donna Toews (aka "Dawna Toews"), Kipling Warner, Dee Gandhi, the Canadian Society for the Advancement of Science in Public Policy, as well as other "duped co-conspirators" engaged in the actionable tort of conspiracy to undermine the Plaintiff's solicitor-client relationship with his clients, which relationships are statutorily, at common law, and s.7 of the ***Charter*** protected, as well as conspired to interfere with the Plaintiff's economic interests with his clients, pursuant to civil conspiracy as set out by the Supreme Court of Canada, in, inter alia, ***Hunt v. Carey Canada Inc., 1990 CanLII 90 (SCC), [1990] 2 SCR 959,*** which set out that the tort of the conspiracy comprised of the following features:

> (a) In the first place there will be an actionable conspiracy if two or more persons agree and combine to act unlawfully with the predominating purpose of injuring the plaintiff.
>
> (b) Second, there will be an actionable conspiracy if the defendants combine to act lawfully with the predominating purpose of injuring the plaintiff.
>
> (c) Third, an actionable conspiracy will exist if defendants combine to act unlawfully, their conduct is directed towards the plaintiff (or the plaintiff and others), and the likelihood of injury to the plaintiff is known to the defendants or should have been known to them in the circumstances.

55. The Plaintiff further states that the Defendants further conspired to engage in actionable abuse of process through the Law Society complaint.

- **The Law Society Complaint as an Abuse of Process**

56. The Plaintiff further states that Donna Toews' Law Society complaint constitutes an actionable abuse of process in law, brought in bad faith, and absence of good faith, as

set out by the facts pleaded above and the jurisprudence in that, under the jurisprudence, abuse is made out where:

(a) the plaintiff must be a party to a legal process initiated by the Defendant, in this case a complaint to the Law Society of Ontario;

(b) the legal process must have been initiated for the predominant purpose of furthering some indirect, collateral and improper objective;

(c) the defendant took or made a definite act or threat in furtherance of the improper purpose; and

(d) some measure of special damage has resulted.

The Plaintiff states that Ms. Toews, Mr. Warner, and Mr. Gandhi, and the Canadian Society for the Advancement of Science in Public Policy, took and made acts, as well as post-facto statements in furtherance of their improper purpose of trying to shut down the Action4Canada et al, lawsuit in British Columbia, and improperly attempting to redirect funds raised by Action4Canada, to the Defendants, Kipling Warner, Dee Gandhi, and the Canadian Society for the Advancement of Science in Public Policy. All this damaged and continue to damage the Plaintiff by way of reputation and his solicitor-client relationships.

57 The Plaintiff further states that the Defendants, in their actions knowingly intended, and in fact inflicted, mental anguish and distress through their actions against the Plaintiffs, all of which go to punitive damages.

- **Interference with Economic Interest**

58. The Plaintiff states that, through their conduct and actions, the Defendants have engaged in interference with the Plaintiff's economic interests as set out by the facts, pleaded above, and set out by the jurisprudence in that:

(a) the Defendants intended to injure the plaintiff's economic interests;

(b) the interference was by illegal or unlawful means; and

(c) the Plaintiff suffered economic harm or loss as a result.

The Plaintiff states that the actions of the Defendants were intended to injure the Plaintiff's economic interests in his clientele, through defamatory and other tortious and unlawful interference and means as set out above, which resulted in economic harm and loss to the Plaintiff, through his reputation, and client base.

- **Online Harassment**

59. The Plaintiff further states that, in addition to defamation, the conduct of the Defendants, Kipling Warner and his CPSAPP, further constitutes the newly-recognised tort of (online) harassment as delineated by the Ontario Superior Court in ***Caplan v Atas 2021 ONSC 670***.

60. The Plaintiff states, and the fact is, that the Defendants have engaged in:

(a) Repeated and serial publications of defamatory material;

(b) Which defamatory material was not only designed and directed at the Plaintiff, but further designed to cause the Plaintiff further distress by targeting persons

the Plaintiff cares about, namely his clients and his clients' supporters, so as to cause fear, anxiety and misery;

As set out by the Superior Court in **Caplan v Atas 2021 ONSC 670**, at paragraph 68.

- **Liability of The Defendants and the Relief Sought**

61 The Plaintiff states that the Defendants are liable to the Plaintiff, jointly and severally, as set out in paragraph 1 of the within statement of claim, for the instances and reasons pleaded above.

62 The Plaintiff therefore seeks the relief set out in paragraph 1 of this statement of claim.

63 The Plaintiff further pleads any and all documents mentioned in this statement of claim as documents referred to in the pleadings herein.

The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 28th day of June, 2022.

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

Lawyer for the Plaintiff, on his own behalf

Court File No.:

Rocco Galati Plaintiff -and- Kipling Warner et al. Defendants	***ONTARIO*** **SUPERIOR COURT OF JUSTICE** **PROCEEDING COMMENCED AT TORONTO** **STATEMENT OF CLAIM**

Name: ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati
Address: 1062 College Street
Lower Level
Toronto ON M6H 1A9

Telephone No.: 416-530-9684
Fax No.: 416-530-8129

Lawyer for the Plaintiff,
on his own behalf

-70-

Court File No.: CV-22-00683933-0000

Rocco Galati	Sharon Greene et al.	
-and-		
Plaintiff	Defendants	

.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AMENDED
STATEMENT OF CLAIM

Name: ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
Address: 1062 College Street
Lower Level
Toronto ON M6H 1A9

Telephone No.: 416-530-9684
Fax No.: 416-530-8129

Lawyer for the Plaintiff,
on his own behalf

EXHIBIT “WWW”

Subject: Questioning support
Date: Thursday, September 8, 2022 at 13:35:53 Eastern Daylight Saving Time
From: Candis & Douglas Elliott <candis@telus.net>
To: Kip Warner <kip@thevertigo.com>

Hello, Kip
I have been keen and eagerly monitoring your success going through the court process with the important work of challenging the threat to the freedom of Canadians and am still praying for a good decision by C. Justice Hinkson. I was distressed to hear this morning that there may be some effort on your part to undermine the important work of R. Gallati on behalf of Action 4 Canada. I would hope this is a misunderstanding.

You must be aware how important it is for those of us standing up to the oppression occurring at all levels of government to be supportive of each others' efforts. if there is any truth to this report, I ask you to take a step back and find ways that we can work together. If it is a misunderstanding which I hope is true, please address it in the spirit of goodwill. We simply cannot afford infighting and there's so much work to be done why would we expend any energy undermining each other. If ever we needed each other, it's now!

Thanks for your good work, Kip
Candis

This is Exhibit "WWW" 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

Subject: Re: Questioning support
Date: Thursday, September 8, 2022 at 21:31:52 Eastern Daylight Saving Time
From: Kip Warner <kip@thevertigo.com>
To: Candis & Douglas Elliott <candis@telus.net>
Attachments: 2021-07-13 - CSASPP extends olive branch again.pdf

On Thu, 2022-09-08 at 17:18 -0700, Candis & Douglas Elliott wrote:

> Hi Kip
> Thanks for your interest demonstrated by your reply.
>
> Here is the link to what I heard this am -- Reference to conflict is
> about 1/2 through.
> Cheers
> Candis
>
> https://action4canada.com/legal-case-moving-forward/

Thanks Candis, but I don't know what her source is?

The last correspondence we sent her was 13 July, 2021. It went unanswered. I've attached a copy.

--
Kip Warner
OpenPGP signed/encrypted mail preferred
https://www.thevertigo.com

EXHIBIT "XXX"

See enclosure and this link.

This is Exhibit "xxx" 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 “YYY”

Re: Rocco Lawsuit

From: Dennis Young <d3young@gmail.com>
Date: Thu, 11 Aug 2022 10:47:42 -0700
To: Kip Warner <kip@thevertigo.com>
X-Mailer: Apple Mail (2.3696.120.41.1.1)
X-Gnd-Status: LEGIT

Ok thanks for the quick response...

DY

This is Exhibit "YYY" 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

> On Aug 11, 2022, at 10:45, Kip Warner <kip@thevertigo.com> wrote:
>
> On Thu, 2022-08-11 at 10:45 -0700, Dennis Young wrote:
>> Have you publicly addressed the defamation lawsuit by Rocco Galati?
>> Many people are wondering in the freedom movement.
>
> Hey Dennis,
>
> No, we haven't. We haven't even been properly served yet.
>
> --
> Kip Warner
> OpenPGP signed/encrypted mail preferred
> https://www.thevertigo.com

GALATI Plaintiff	- and -	**TOEWS et al.** Defendants	Court File No. CV-22-683322

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

AFFIDAVIT OF KIPLING WARNER

(affirmed January 26, 2023)

DEWART GLEASON LLP
102–366 Adelaide Street West
Toronto ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: (416) 971 8000

Lawyers for the named defendants

Tab 3

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

AFFIDAVIT OF DEEPANKAR GANDHI

(affirmed January 27, 2023)

I, **DEEPANKAR GANDHI**, of the City of Kovalam, in the State of Kerala, in the country of India, **SOLEMNLY AFFIRM** as follows:

1. I am a defendant in this proceeding and the treasurer for the defendant Canadian Society of Science and Public Policy (the "Society"). I therefore have knowledge of the matters to which I depose in this affidavit.

2. I am normally a resident of British Columbia but am currently living in India because I have accepted a job here.

3. I volunteer for the Society because I believe that its goal of challenging excessive

government restriction in relation to the SARS-CoV-2 virus is important.

4. I became treasurer of the Society because I have a background in accounting and wanted to contribute in the ways that I could to the effort.

5. While acting as a member of the Society's board of directors, I became aware of the plaintiff and of various groups that have retained him to pursue actions in relation to government restrictions relating to the virus.

6. I understood that the plaintiff had commenced an action in Ontario in July 2020, on behalf of an organization called Vaccine Choice Canada and others, on issues that overlapped with those on which the Society advocates.

7. As detailed further below, by early 2021, it did not appear that the plaintiff had done anything to move that action, which bears Ontario Superior Court of Justice court file no. CV-20-00643451-0000, forward. I understand that a copy of the statement of claim in that action will be marked as Exhibit PP to the affidavit of my co-defendant Kipling Warner in support of this motion ("Mr. Warner's affidavit").

8. I also understood that an organization with which the plaintiff was associated in British Columbia, Action4Canada, had raised funds from the public purportedly to fund a proceeding it intended to commence.

9. It, for example, conducted fundraising at rallies in summer 2020. I understand that a copy of a video of one of these rallies, uploaded to the web on September 26, 2020, will be marked as Exhibit P to Mr. Warner's affidavit. It can also be accessed at this link.

10. A balance sheet that Action4Canada filed with Corporations Canada, a copy of which I understand will be marked as Exhibit Q to Mr. Warner's affidavit, reflects that it had $208,838.16 in a legal expense account as of August 15, 2021.

11. I understand that a copy of a video recording dated September 4, 2022 of an interview in which Action4Canada's founder, Tanya Gaw, spoke beginning at approximately the 29:50 mark to having raised funds for the proceeding will be marked as Exhibit R to Mr. Warner's affidavit. I understand that a copy of a video recording dated September 5, 2022 of another interview in which Ms. Gaw spoke beginning at approximately the 11:25 mark about Action4Canada's fundraising will be marked as Exhibit S to Mr. Warner's affidavit.

12. By early 2021, Action4Canada had not yet commenced a proceeding in British Columbia.

13. Around the same time, the Society commenced a proposed class proceeding in British Columbia challenging the province's declaration of an emergency. The following is the class that the Society seeks for the court to certify:

> […] all persons residing or doing business in British Columbia who, since on or after March 17, 2020, have suffered personal injury or other damages as a result of the actions of the defendants in declaring a state of emergency pursuant to the EPA and Part 5 of the Public Health Act (the "Class").
>
> It is estimated that the Class consists of hundreds of thousands of residents and businesses in British Columbia.

14. On January 27, 2021 I sent an email, a copy of which is marked as Exhibit “A” to this affidavit, to Dan Dicks, an individual who I understood to be an independent journalist with a web publication called Press for Truth.

15. The purposes for which I sent Mr. Dicks this email are that:

a. I wanted to advise the public that the Society had commenced the proceeding, given

that public support and funding is key to the Society's ability to continue to move its proposed class proceeding forward, and

b. I wanted to clarify to those interested in challenges to government restrictions in relation to the SARS-CoV-2 virus that the Society was different from and intended to take a different litigation approach from that of Action4Canada and the plaintiff. I wanted to do this for the reasons in Mr. Warner's affidavit. In summary, the Society's board of directors did not agree that the plaintiff's litigation approach, as reflected by the statement of claim at Exhibit PP to Mr. Warner's affidavit, was effective, and considered the plaintiff to have been ineffective in moving that proceeding forward.

16. I believed that Press for Truth's readership, specifically, included at least some portion of the community that is concerned with government restrictions in relation to the SARS-CoV-2 virus and who had an interest in knowing (a) the status of a proposed class proceeding that had been commenced on behalf of a class within which they might fall; (b) what the relative chances of success of the Society's proceeding were as compared to proceedings on the same or overlapping issues; and (c) the Society's position with respect to how best to litigate challenges to government restrictions in relation to the SARS-CoV-2 virus. The basis for this belief was Press for Truth's previous reporting, including, for example:

a. a video blog dated July 19, 2022, a copy of which is marked as Exhibit “B” to this affidavit and can be accessed at this link, concerning mask mandates;

b. an interview with Maxime Bernier in which he and Mr. Dicks discussed concerns with vaccine mandates, a copy of a video of which is marked as Exhibit “C” to this affidavit and can be accessed at this link; and

c. a video blog dated September 16, 2022, a copy of which is marked as Exhibit "D" to this affidavit and can be accessed at this link, concerning the description of individuals who are unvaccinated as extremists.

17. I believed that the Society had a duty to convey the information I describe at paragraph 16 above to the citizens of British Columbia, and especially those who might fall into our class definition, so that they could make informed decisions as to which initiatives would be most fruitful for them to expend their finite resources and time.

18. I understood the statements in my email to Mr. Dicks to be factual, or else opinions that the Society's board and I reasonably held in light of the facts.

19. The facts were based on information from the cases, statutes, and news articles to which my email linked as well as the further information I describe in the next paragraph. While I am not a lawyer, I have become familiar with legal information during the Society's campaign, and my understanding of the legal issues raised in my email is informed by that experience.

20. I had received the particular information I set out in that email from the Executive Director and my fellow board member for the Society, Mr. Warner. Mr. Warner had advised me that he had conducted research into these issues, and had provided me with the hyperlinks that I included within that email. I reviewed Mr. Warner's research and commentary, found it compelling, and based on my review of the sources for his information believed it to be accurate.

21. Specifically, I believed, and continue to believe, that the following was and is true:

a. Action4Canada had not by January 27, 2021 commenced a proceeding in British Columbia challenging government restrictions in relation to the SARS-CoV-2 virus.

b. To the extent that Action4Canada intended to commence a proposed class proceeding with respect to the same issues as the Society on behalf of the same class of individuals, there would likely be a dispute with respect to carriage of the proposed class proceeding.

c. In making the determination as to who should have carriage of the proceeding, the court was likely to consider how advanced one proceeding was relative to the other and who had shown a tendency to move their proceeding forward in a timely manner.

d. The plaintiff was not licensed to practice law in British Columbia. I adopt the evidence at subparagraph 61(a) of Mr. Warner's affidavit with respect to this issue.

e. The plaintiff intended to engage an individual named Lawrence Wong as his co-counsel with respect to a proceeding in British Columbia. I adopt the evidence at paragraphs 64 to 68 of Mr. Warner's affidavit with respect to Mr. Wong.

f. In reasons for decision in *Galati v Harper* with respect to the costs that the plaintiff was seeking to recover in a proceeding he had commenced on his own behalf, a copy of which can be accessed at this link and I understand will be marked as Exhibit UU to Mr. Warner's affidavit, Justice Zinn of the Federal Court found that costs claimed by the plaintiff were excessive and unwarranted, observing:

> 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. […]
>
> 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. […]
>
> 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."

The plaintiff appealed from the costs portion of Justice Zinn's decision. A copy of the Federal Court of Appeal's reasons for judgment dismissing the appeal can be accessed at this link and I understand will be marked as Exhibit VV to Mr. Warner's affidavit.

g. Maclean's magazine reported on the Federal Court of Appeal's decision in an article dated February 9, 2016 entitled "Court slams 'gonzo logic' in wake of failed Nadon appointment: Federal Court of Appeal denounces the claims put forward by two lawyers who worked on the case", a copy of which is marked as Exhibit "E" to this affidavit and can be accessed at this link.

h. CTV News similarly reported on the Federal Court of Appeal's decision in an article dated February 9, 2016 entitled "Court slams 'gonzo logic' in nixing money claim over Harper judge battle", a copy of which is marked as Exhibit "F" to this affidavit and can be accessed at this link.

i. The regulatory bodies for the legal profession in Canada, as far as I am aware, do not recognize a professional designation of "constitutional law lawyer".

j. A lawyer may have an area of expertise, including in constitutional law.

k. The Globe and Mail had reported in an August 22, 2014 article, a copy of which can be accessed at this link and I understand will be marked as Exhibit SS to Mr. Warner's affidavit, having interviewed the plaintiff:

> 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.

l. I consider the 186-page statement of claim in the action that the plaintiff had commenced in Ontario on behalf of Vaccine Choice Canada to be poorly drafted. I believe that a court is likely to strike it, with the result that allegations within it will not be tried on their merits at a trial, among other reasons because it makes allegations regarding vaccines, Bill Gates, and '5G' that have tenuous connection to the order sought, which is set out at the beginning of the statement of claim.

m. It appeared to me that the amounts that Action4Canada had fundraised from the public for its action exceeded what would be reasonable legal fees and disbursements to commence a proceeding.

n. A court had issued the statement of claim in the action that the plaintiff had commenced in Ontario on behalf of Vaccine Choice Canada and others on July 6, 2020. By January 27, 2021, over six months later, none of the defendants to the claim had filed statements of defence. I understand that, in Ontario, a plaintiff may note a defendant in default should the defendant fail to deliver a statement of defence within 20 or, sometimes, 30 days of the service of the statement of claim.

o. Even if Vaccine Choice Canada's proceeding in Ontario was successful, it would not have any direct effect on citizens of British Columbia. I understand that legislating with respect to healthcare falls within the provinces' jurisdiction under section 92(13) of the *Constitution Act, 1867* and that the Ontario Superior Court of Justice could not declare

legislation or action by British Columbia's provincial government to be unconstitutional.

p. The Society is non-profit, non-partisan and secular. It is regulated under British Columbia's *Societies Act*, which requires it to meet certain minimum thresholds with respect to accounting controls and transparency.

22. I sent my email to Mr. Dicks in good faith and for the purposes described above. I have no prior relationship nor ill will toward the plaintiff. I was unaware of him prior to becoming involved in litigation on these issues. I did not and do not seek to injure the plaintiff.

23. I believe that everything that I wrote to Mr. Dicks was accurate and necessary to conveying the Society's position with respect to why its approach to litigation concerning government restrictions in relation to the SARS-CoV-2 virus is more likely to achieve results for those who the restrictions have affected than the plaintiff's approach on behalf of his various clients with goals that overlap with the Society's.

24. My statements to Mr. Dicks were motivated entirely by my sincere desire to advance the interests of like-minded individuals who want to challenge the excessive government response to the SARS-CoV-2 virus.

AFFIRMED BY THE DEPONENT at the City of Kovalam in the State of Kerala in the Country of India REMOTELY BY WAY OF VIDEO CONFERENCE before me at the City of Toronto in the Province of Ontario on January 27, 2023, in accordance with O Reg 431/20

Deepankar Gandhi

DEEPANKAR GANDHI

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

EXHIBIT “A”

Re: Notice of Civil Claim Filed in the Supreme Court of BC.

Date: Fri, 29 Jan 2021 13:23:26 -0700 (*30.01.21 01:53*)
From: dan@pressfortruth.ca
To: Gandhi <gandhi@vantam9.com>

This is Exhibit "A" to the affidavit of Deepankar Gandhi affirmed before me electronically by way of videoconference this 27th day of January, 2023, in accordance with O Reg 431/20

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

On 2021-01-27 12:42, Gandhi wrote:
> Hey Dan,
>
> Hope you are doing well. I just wanted to update you on the fact that
> the Canadian Society for the Advancement of Science in Public Policy
> (CSASPP) has filed their pleadings against the Crown and Bonnie Henry
> (Provincial Health Minister) as of Jan 26th, 2021. Please see link :
> https://www.scribd.com/document/492237670/Notice-of-Civil-Claim
> You are welcome to share this with anyone and everyone.
>
>
> This is our certificate of Incorporation :
> https://www.scribd.com/document/492256545/CSACPP-Certificate-of-Incorporation
>
>
>
> Now that we have started the litigation process we are still in need of
> Funding. Action 4 Canada has still not filed with Rocco. Legally at
> this point Rocco can't really file in BC anymore. The case law is that
> for class actions, its the first to the court house that generally has
> carriage of the file. If you would be so kind to share with everyone so
> to help the cause.
>
> https://www.gofundme.com/f/bc-supreme-court-covid19-constitutional-challenge
>
>

> Here are some talking about regarding Action 4 Canada and Rocco(1)
> Rocco isn't licensed to practise here in BC. He can always be
> retained in Ontario and in turn retain counsel in BC. But then you are
> paying for two law firms. You can verify that he is not licensed to
> practise here in BC at this page:
>
> <https://www.lawsociety.bc.ca/lsbc/apps/lkup/mbr-search.cfm>
>
> (2) The lawyer Rocco wishes to retain here in BC is named Lawrence
> Wong. He specializes in immigration law. He was sanctioned in 2010 for
> his conduct by a Federal Court judge and fined. See for yourself:
>
> <http://canlii.ca/t/2bz73>
>
> (2) A Federal Court judge wrote in his judgment a few years ago that
> Rocco was found to have excessively billed for his time:
>
> <http://canlii.ca/t/gfl0p#par7>
>
> (4) The same judgment questioned Rocco's competency in constitutional
> law:
>
> <http://canlii.ca/t/gfl0p#par9>
>
> (5) Rocco is not a "constitutional law" lawyer. There is no such
> professional designation in Canada, nor in particular in BC. That's not
> to say, however, that a lawyer cannot have an area of expertise like
> personal injury, strata, mergers and acquisitions, class actions, and
> the like. But in Rocco's case his area of expertise is tax law.
>
> <https://tgam.ca/3n8Zuyo>
>
> (6) Every lawyer I know that has reviewed Rocco's Ontario pleadings
> said it was very poorly drafted. It will most likely get struck and
> never make it to trial to be heard on its merits. The reason being is
> he brings in all kinds of other topics that aren't necessary (Gates,
> 5G, vaccines, etc.) to obtain the order that he wants. This is how it
> likely would be struck:

> http://canlii.ca/t/8lld#sec9_5
>
> (6) Rocco wants far too much money to get started. This seems in line
> with (2);
>
> (7) Nothing has been accomplished in Ontario since Rocco filed around
> six months ago. The defendants haven't even filed replies, despite the
> option to apply for a default judgment being available for the majority
> of that time;
>
> (8) Even if he won in Ontario, it wouldn't have any direct bearing on
> us here in BC because health care is under a provincial mandate under s
> 92(13) of the constitution. In other words the Ontario Superior Court
> of Justice has no jurisdiction over what cabinet ministers do in BC.
> See:
>
> <https://bit.ly/2Li6Baw>
>
>
> (9) We are (CSASPP) a non-profit, non-partisan, and secular society. We
> are legally required to have a certain level of accounting controls and
> transparency;
>
>
>
>
>
>
>
> Thank you Dan, and I look forward to your response and your help.
>
> To your best,

Thank you very much for the heads up!
Can I forward this info to Tanya Gaw? She's the go to person for the Galati case!
Let me know,
thank you!

EXHIBIT “B”

This is Exhibit "B" to the affidavit of Deepankar Gandhi affirmed before me electronically by way of videoconference this 27th day of January, 2023, in accordance with O Reg 431/20

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

This Is No Joke, It's ALL COMING BACK!!!

Posted on July 19, 2022 | In Breaking, Featured, Top Stories, Video Reports

Mask mandates are coming back despite the fact that it has been proven time and time again that they don't work, with some doctors even blowing the whistle at the risk of loosing their jobs or worse.

In this video Dan Dicks of Press For Truth looks at the latest data and science that proves masks don't work as the powers that ought not be are preparing to move into the next phase of their Covid-19(84) agenda.

WATCH ON ➜ ODYSEE

WATCH ON ➜ BITCHUTE

WATCH ON ➜ FLOTE

WATCH ON ➜ MINDS

WATCH ON ➜ RUMBLE

WATCH ON ➜ BASTYON

WATCH ON ➜ HIVE

WATCH ON ➜ YouTube (meh)

If you appreciate my efforts please consider making a contribution here:

Featured Videos


Ivan Provorov Didn't Do Anything Wrong And Neither Did Pink Floyd!!!


Al Gore's Unhinged "How Dare You" Moment At Davos Plus More Insane Rants From The WEF's Global Elite


Dan Dicks: Canada COVID Tyranny Is Blueprint For NWO


"Jesus Saves" Offends, Prostitutes Gather in Davos & Canada Opens First "Vaginoplasty" Post-Op Clinic


BREAKING FOOTAGE: Mask Dispute LEADS TO PATIENT'S DEATH After Being Restrained By Hospital Security!!!


SHOCKING: Drag Queen Story Time Counter Protesters Out Number Those Protecting The Innocence Of Kids


BEHOLD: THE NEW WOKE ORDER Is Emerging And It's ABSOLUTELY CRINGE...


The Great ~~Reset~~ Is Becoming The Great Resist! Get

Anarchapulco 2023!

SUPPORT:

DONATE ➜ https://pressfortruth.ca/donate/

SUBSCRIBESTAR ➜ https://www.subscribestar.com/pressfortruth

DONATE via Paypal ➜ https://www.paypal.me/PressforTruth

GoGetFunding ➜ https://goget.fund/2UBhENH

Bitcoin ➜ 19pNb9m5NyeDNXqTEAgZ5pyAXJwNroPKwq

Other Cryptocurrencies ➜ **https://pressfortruth.ca/donate-crypto/**

Or you can send an e-transfer to dan@pressfortruth.ca

If you're old fashioned like we are and prefer to keep it old school, we also accept cash, cheques, equipment and words of encouragement! You can send us those things here:

Dan Dicks P.O. Box 1521 Squamish BC V8B 0B1

Facebook Twitter LinkedIn

Here's What They're LEAVING OUT...
Previous

Brandon Has Covid And Also Says He Has Cancer...
Next

Recommended Posts

Ivan Provorov Didn't Do Anything Wrong And Neither Did Pink Floyd!!!

Al Gore's Unhinged "How Dare You" Moment At Davos Plus More Insane Rants From The WEF's Global Elite

Dan Dicks: Canada COVID Tyranny Is Blueprint For NWO

EXHIBIT “C”

Video Link:

https://odysee.com/@PressForTruth:4/This-Isn't-Over:9

This is Exhibit "C" to the affidavit of Deepankar Gandhi affirmed before me electronically by way of videoconference this 27th day of January, 2023, in accordance with O Reg 431/20

_____

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

EXHIBIT “D”

Video Link:

https://odysee.com/@PressForTruth:4/According-To-Trudeau:7?r=HCcJmrURcKNKrHsBTHd6Z2oCfPFzXnmW

This is Exhibit "D" to the affidavit of Deepankar Gandhi affirmed before me electronically by way of videoconference this 27th day of January, 2023, in accordance with O Reg 431/20

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

EXHIBIT “E”

macleans.ca

Court slams 'gonzo logic' in wake of failed Nadon appointment - Macleans.ca

By Colin Perkel, The Canadian Press February 9, 2016

4–5 minutes

Federal Court of Appeal denounces the claims put forward by two lawyers who worked on the case

TORONTO – Two lawyers who challenged the Harper government's ultimately aborted appointment of Marc Nadon to the Supreme Court of Canada have been handed a judicial spanking for trying to collect tens of thousands of dollars for their efforts.

In a sharply worded decision released Tuesday, the Federal Court of Appeal denounced the claims put forward by Rocco Galati and Paul Slansky as misguided and excessive.

The judges were especially scornful of Galati's assertion that denying him full legal costs would effectively mean the court was "in bed" with the government.

"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," Judge Denis Pelletier wrote for the court.

"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."

In 2013, then-prime minister Stephen Harper appointed Nadon to the country's top court. Galati challenged the eligibility of the Federal Court of Appeal judge to fill one of three seats reserved for Quebec. He put his challenge on hold when the government referred the issue to the Supreme Court, which then scuttled Nadon's appointment.

Galati asked for $51,706.54—based on a charge of $800 an hour he said was reasonable for a lawyer with his experience. Slansky, acting for the Constitutional Rights Centre, wanted $16,769.20 for helping Galati. In December 2014, Federal Court awarded them a combined $5,000 in a nod to the work they had done.

The lawyers appealed. They argued they had a constitutional right to their full legal costs on the grounds they had derived no personal benefit from the Nadon challenge, which they said went to the "architecture of the Constitution."

The Federal Court of Appeal was having none of it.

"When the partisan political overlay is stripped away, this was a lawyer's issue with very limited consequences beyond legal circles," Pelletier wrote for the panel. "It certainly did not go to the 'architecture of the Constitution'."

He also rejected their claim that the challenge had been successful given that Nadon's appointment did not go through.

"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," Pelletier said.

"It may make them successful politically or in the popular press, but that is a different matter."

The Appeal Court called it surprising the lawyers would claim $800 an hour — more than they normally charge their clients — saying the amount was excessive.

While Galati maintained nothing prevents a self-represented litigant from claiming legal costs, Pelletier called the concept an "oxymoron."

"A self-represented litigant, by definition, has no counsel and therefore no out-of-pocket expenses for which full indemnity is appropriate."

Judge David Stratas also took issue with Galati's assertion that because the government pays judges, their failure to order the government to pay private-sector lawyers would indicate judicial bias.

"An officer of the court should never make such a submission," Stratas said in separate comments.

"There are many cases where judges, paid by government, have condemned government misconduct and have ordered government to do something against its will."

The court ordered the lawyers to pay $1,000 in costs, with Stratas saying he would have awarded more if the government had asked for more.

Neither Galati nor Slansky responded immediately to a request for comment.

EXHIBIT “F”

POLITICS

Court slams 'gonzo logic' in nixing money claim over Harper judge battle

Colin Perkel The Canadian Press
Published Tuesday, February 9, 2016 1:07PM EST
Last Updated Wednesday, February 10, 2016 12:17AM EST

This is Exhibit "F" to the affidavit of Deepankar Gandhi affirmed before me electronically by way of videoconference this 27th day of January, 2023, in accordance with O Reg 431/20

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

Justice Marc Nadon arrives to appear before a parliamentary committee on Parliament Hill in Ottawa on Wednesday, October 2, 2013, regarding his nomination of Supreme Court of Canada Justice. THE CANADIAN PRESS/Sean Kilpatrick

TORONTO -- Two lawyers who challenged the Harper government's ultimately aborted appointment of Marc Nadon to the Supreme Court of Canada have been handed a judicial spanking for trying to collect tens of thousands of dollars for their efforts.

In a sharply worded decision released Tuesday, the Federal Court of Appeal denounced the claims put forward by Rocco Galati and Paul Slansky as misguided and excessive.

The judges were especially scornful of Galati's assertion that denying him full legal costs would effectively mean the court was "in bed" with the government.

Related Stories

- **Harper relations with Supreme Court not especially hostile: study**
- **Lawyers who fought Harper's SCC appointment fight 'paltry' costs award**

"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," Judge Denis Pelletier wrote for the court.

"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."

In 2013, then-prime minister Stephen Harper appointed Nadon to the country's top court. Galati challenged the eligibility of the Federal Court of Appeal judge to fill one of three seats reserved for Quebec. He put his challenge on hold when the government referred the issue to the Supreme Court, which then scuttled Nadon's appointment.

Galati asked for $51,706.54 -- based on a charge of $800 an hour he said was reasonable for a lawyer with his experience. Slansky, acting for the Constitutional Rights Centre, wanted $16,769.20 for helping Galati. In December 2014, Federal Court awarded them a combined $5,000 in a nod to the work they had done.

The lawyers appealed. They argued they had a constitutional right to their full legal costs on the grounds they had derived no personal benefit from the Nadon challenge, which they said went to the "architecture of the Constitution."

The Federal Court of Appeal was having none of it.

"When the partisan political overlay is stripped away, this was a lawyer's issue with very limited consequences beyond legal circles," Pelletier wrote for the panel. "It certainly did not go to the 'architecture of the Constitution'."

He also rejected their claim that the challenge had been successful given that Nadon's appointment did not go through.

"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," Pelletier said.

"It may make them successful politically or in the popular press, but that is a different matter."

The Appeal Court called it surprising the lawyers would claim $800 an hour -- more than they normally charge their clients -- saying the amount was excessive.

While Galati maintained nothing prevents a self-represented litigant from claiming legal costs, Pelletier called the concept an "oxymoron."

"A self-represented litigant, by definition, has no counsel and therefore no out-of-pocket expenses for which full indemnity is appropriate."

Judge David Stratas also took issue with Galati's assertion that because the government pays judges, their failure to order the government to pay private-sector lawyers would indicate judicial bias.

"An officer of the court should never make such a submission," Stratas said in separate comments.

"There are many cases where judges, paid by government, have condemned

government misconduct and have ordered government to do something against its will."

The court ordered the lawyers to pay $1,000 in costs, with Stratas saying he would have awarded more if the government had asked for more.

Neither Galati nor Slansky responded immediately to a request for comment.

READ MORE POLITICS NEWS

Morneau thinks feds 'probably' spent too much on COVID aid, 'worried' about 2023 recession

Canadians in Mexico should get in touch with embassy amid violence, says ambassador to U.S.

Political parties should list fundraising venue locations, Elections Canada suggests

Opposition MPs request 'urgent' meeting to discuss Via Rail and airline holiday travel issues

A year after Canada banned conversion therapy, Ottawa says no criminal charges laid

Trudeau and Zelenskyy hold 'substantive conversation' in first official call of new year

GALATI
Plaintiff

- and -

TOEWS et al.
Defendants

Court File Nos.: CV-21-00658403-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

AFFIDAVIT OF DEEPANKAR GANDHI

(affirmed January 27, 2023)

DEWART GLEASON LLP
102–366 Adelaide Street West
Toronto ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: (416) 971 8000

Lawyers for the named defendants

Tab 4

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

AFFIDAVIT OF DONNA TOEWS

(affirmed January 25, 2023)

I, **DONNA TOEWS**, of the City of Greenville, in the State of South Carolina, in the country of the United States of America, **SOLEMNLY AFFIRM** as follows:

1. I am a defendant in this proceeding and therefore have knowledge of the matters to which I depose in this affidavit.

2. I have concerns about government restrictions in response to the SARS-CoV-2 virus (the "coronavirus"). Challenging those restrictions, which I believe to have been excessive, is an important issue to me.

3. On June 19, 2020, I donated $1,000.00 in my husband's name to Vaccine Choice Canada,

an organization that I understood had retained the plaintiff to pursue a claim seeking relief on behalf of Canadians who had been harmed by government action in relation to the coronavirus. Vaccine Choice Canada confirmed that it had used my donation toward the plaintiff's legal fees in pursuing a proceeding in Ontario. In donating to Vaccine Choice Canada, I was given the option of adding a 'membership' to my 'file' so that I would be invited to 'member only' meetings with the plaintiff. I chose to do so. A copy of my email correspondence with Vaccine Choice Canada, dated June 19, 2020, is marked as Exhibit "A" to this affidavit.

4. I also donated $1,000.00 to Action4Canada, which had been soliciting donations to fund a similar lawsuit, on which it was also represented by the plaintiff, in British Columbia.

5. Vaccine Choice Canada ultimately commenced a claim on July 6, 2020.

6. I then heard nothing from Vaccine Choice Canada about the proceeding in respect of which I had donated the funds until December 20, 2021, when I contacted Vaccine Choice Canada for an update.

7. A representative of Vaccine Choice Canada responded, in part:

> Our case filed in the summer of 2020 has not had a hearing yet. The lawyer is working backstage, but he does not want to tell anything of what he is doing so that he does not give any opportunity to the enemy. If if we just said we are confident or we are not confident, it is enough to give metadata to the enemy.

A copy of this email is within the chain at Exhibit A to this affidavit.

8. I never attended a meeting with the plaintiff.

9. I had concerns as to whether the funds I had donated had been put to their intended use. I was aware that the plaintiff was an Ontario lawyer, and a member of the Law Society of Ontario,

and it was my understanding that the Law Society regulated the practice of law in Ontario.

10. I filed a complaint form with the Law Society of Ontario on January 13, 2022.

11. I did not, contrary to the plaintiff's assertions in the statement of claim, allege in my complaint form that he "misled" me or "failed to act with integrity".

12. I did not, contrary to the plaintiff's assertions in the statement of claim, seek to:

a. "undermine" the plaintiff's solicitor-client relationship, with anyone;

b. interfere with the plaintiff's "economic interests with his clients";

c. do anything unlawful;

d. "engage in actionable abuse of process"; or

e. inflict "mental anguish and distress" on the plaintiff.

13. I do not believe that I interfered with any of the plaintiff's relationships or economic interests. I am not aware of any publication of my complaint to anyone.

14. I also do not believe that I misused the Law Society of Ontario's process. I submitted the complaint in good faith, believing that the substance of my concerns fell within the scope of matters that the Law Society of Ontario could investigate and address.

15. I did not do anything with the "purpose of trying to shut down the Action4Canada et al, lawsuit in British Columbia, and improperly attempting to redirect funds raised by Action4Canada" to my co-defendants.

16. I do not know the plaintiff outside of the context of having made donations toward his legal fees. The purpose for my complaint was to seek accountability for the funds I had donated to contribute to the plaintiff's legal fees. I took no other steps in relation to the plaintiff.

AFFIRMED BY THE DEPONENT at the City of Greenville in the State of South Carolina in the country of the United States of America REMOTELY BY WAY OF VIDEO CONFERENCE before me at the City of Toronto in the Province of Ontario on January 25, 2023, in accordance with O Reg 431/20

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

DONNA TOEWS

EXHIBIT “A”

[redacted]

Attachments: PastedGraphic-1.tiff

This is exhibit "A" to the affidavit of Donna Toews affirmed before me on January 25, 2023

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

Begin forwarded message:

From: info@vaccinechoicecanada.com
Subject: Re: Donation
Date: December 20, 2021 at 7:05:43 PM EST
To: dawna toews <dawnatoews@hotmail.com>

Hello, Dawna.

The lawsuits are not a quick fix. If you remember well, the Adam Skelly lawsuit that had a quick hearing was also a quick fix, not for us. The hearing last 30 minutes and the courts dismissed it saying they had no jurisdiction to rule on the case.

Our case filed in the summer of 2020 has not had a hearing yet. The lawyer is working backstage, but he does not want to tell anything of what he is doing so that he does not give any opportunity to the enemy. If if we just said we are confident or we are not confident, it is enough to give metadata to the enemy.

The other thing to consider is that the situation we are facing now is new for everybody, even for the lawyers who are navigating it in the dark, without case precedences to guide them.

Rocco always said that the courts are not the solution; they are slow and they are part of the system. The cases we have had access to the ruling are not being ruled with the law, but with the system. Also, the independence of the courts can not be taken for granted. The courts have been imposing restrictions on those who work for them or attend their hearings. Can you say they are independent?

It is important to file the lawsuits, so that we have our side of the story in the system and maybe we will find a courageous judge or jury, who will stand up against the system with us.

The lawsuits will not help you in the short-term. Do not think you can make a donation and be a contributing party on the lawsuit, sit in your home and wait for the lawsuit to solve your problems. They won't. I donated to the lawsuit too, so I know how frustrating it is.

All the best,

Eloa

Please note: Neither I, nor any representatives of VCC, are permitted to give medical, nutritional or legal advice. The responses provided herein are for information purposes only.

On 2021-12-20 17:28, dawna toews wrote:

> Can you tell me if anything came of this lawsuit? Did the courts see this yet?
>
> Thank you for your time,
>
> Dawna
>
> ---
>
> **From:** Dawna Toews <dawnatoews@hotmail.com>
> **Sent:** June 22, 2020 12:51 PM
> **To:** info@vaccinechoicecanada.com <info@vaccinechoicecanada.com>
> **Subject:** Re: Donation
>
> Yes please add a membership to my file. Thank you for all you are doing.
>
> Dawna Toews
> Dawnatoews.com
> Canadian doTERRA Founder and Presidential Diamond
> Holistic Health Coach
> Ask me about Essential Oils!
>
> 
>
> > On Jun 19, 2020, at 1:46 PM, info@vaccinechoicecanada.com wrote:
> >
> > Hello Dawna,
> >
> > Thank you so very much for your generous donation. I can confirm with you that your donation is going to our "Legal Fund" which is going directly toward our legal fees for our upcoming Constitutional Challenge, which should be filed next week. Details are here: https://vaccinechoicecanada.com/in-the-news/vcc-announces-legal-action/
> >
> > If you would like me to add a membership to your file please let me know, I can do that as well, and you will be invited to member only meetings which most of the time include our lawyer Rocco Galati. The next meeting is tomorrow at 7 PM Ontario time.

Please let us know if you have any further questions!

Kindest regards,

Rita Hoffman

Vaccine Choice Canada

On 2020-06-19 10:05, Dawna Toews wrote:

> I just made a donation in my husband's name, but it did not allow me to specify what I wanted to donate to.
>
> I live in the city of Guelph and we have contacted VCC who will be supporting us in our fight here.
>
> I am not sure if the money we donated can go directly to this cause but that was my hope. It did not have a means to specify. Is that at all possible?
>
> Thank you for all you do. <3

Dawna Toews
Dawnatoews.com
Canadian doTERRA Founder and Presidential Diamond
Holistic Health Coach
Ask me about Essential Oils!

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

AFFIDAVIT OF DONNA TOEWS

(affirmed January 25, 2023)

DEWART GLEASON LLP
102–366 Adelaide Street West
Toronto ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: (416) 971 8000

Lawyers for the named defendants

Tab 5

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

AFFIDAVIT OF VLADISLAV SOBOLEV

(affirmed January 27, 2023)

I, **VLADISLAV SOBOLEV**, of the City of Richmond Hill, in the Province of Ontario, **SOLEMNLY AFFIRM** as follows:

1. I attended a videoconference meeting in relation to which the plaintiff has made allegations in the statement of claim in this matter. I have knowledge of the matters to which I depose in this affidavit.

2. The plaintiff pleads as follows in the statement of claim:

> Kipling Warner, in discussions with the President of VCC, Ted Kuntz, insisted that because he (Kipling Warner) "filed first", that the Action4Canada British Columbia claim, which VCC supported, had to be withdrawn, and all donations to Action4Canada be returned, with the implication that the donations be forwarded to him, Kipling Warner, to support his litigation instead.

3. I attended a meeting between one of the defendants in this action, Kipling Warner, and the

president of Vaccine Choice Canada, Ted Kuntz, that took place by videoconference on June 17, 2021. I was present for the entirety of the meeting, during which I largely observed rather than spoke.

4. The meeting was amicable. Mr. Kuntz and Mr. Warner discussed the Canadian Society for the Advancement of Science in Public Policy (the "Society"), its goals and its approach to litigation and fundraising.

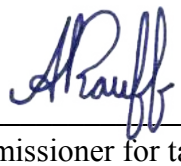
5. I am confident that Mr. Warner did not during that meeting, say, or say anything to the effect that:

a. Action4Canada needed to "withdraw" the proceeding it had commenced in British Columbia.

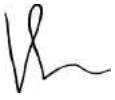
b. Action4Canada needed to return funds donated to it.

c. Action4Canada or anyone else should redirect donations to Mr. Warner or to the Society.

AFFIRMED BY THE DEPONENT at the City of Richmond Hill in the Province of Ontario REMOTELY BY WAY OF VIDEO CONFERENCE before me at the City of Toronto in the Province of Ontario on January 27, 2023 in accordance with O Reg 431/20



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



VLADISLAV SOBOLEV

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

AFFIDAVIT OF VLADISLAV SOBOLEV

(affirmed January 27, 2023)

DEWART GLEASON LLP
102–366 Adelaide Street West
Toronto ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: (416) 971 8000

Lawyers for the named defendants

Tab 6

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

AFFIDAVIT OF FEDERICO FUOCO

(affirmed January 30, 2023)

I, **FEDERICO FUOCO**, of the City of Vancouver, in the Province of British Columbia, **SOLEMNLY AFFIRM** as follows:

1. The plaintiff in this action has previously acted on my behalf as a lawyer. I have knowledge of the matters to which I depose in this affidavit.

2. I am a restaurant owner.

3. In spring 2020 the provincial government of British Columbia imposed a lockdown that affected my ability to continue to operate a restaurant I was running at the time, Federico's Supper Club. I became interested in challenging the measures that the government was taking. It seemed

to me that they were disproportionately harsh, arbitrary, and singled out some businesses as opposed to others.

4. In the summer of 2020, I attended rallies at which Action4Canada was in attendance. I at some point learned that Action4Canada was an organization that intended to commence a court proceeding to challenge the measures.

5. I began attending Action4Canada's weekly videoconference calls, which were often led by Action4Canada's principal, Tanya Gaw.

6. I subsequently agreed that the plaintiff in this action, Rocco Galati, could name the two companies that I had run whose operations the government's measures had affected, Fire Productions Limited and F2 Productions Incorporated, as plaintiffs in the proceeding that he intended to commence.

7. I at no point gave Mr. Galati permission to commence a proceeding on behalf of me personally.

8. In fact, I specifically instructed Mr. Galati, in writing, as to who to name in the proceeding. I identified that it was my two companies. A copy of my only email correspondence to Mr. Galati, dated August 15, 2021, is marked as Exhibit "A" to this affidavit.

9. I agreed to my companies' being named as plaintiffs because I understood that Action4Canada needed individuals to step up who had suffered losses because of the government's restrictions and because Ms. Gaw and Mr. Galati, among others, assured me and the others who attended the Action4Canada videoconference calls that the law was on our side. Ms. Gaw, among others, described the plaintiff as an expert in constitutional law. I believed Mr. Galati to be a

competent lawyer who I could trust to litigate the matter effectively.

10. I recall having one phone call alone with Mr. Galati, who asked me for some of the details of how the measures had affected my restaurants. To the best of my recollection, I did not execute a retainer agreement with Mr. Galati. Mr. Galati did not provide me with any individual updates after this.

11. The plaintiff commenced a proceeding on behalf of my two companies, and me in my personal capacity, by notice of civil claim issued August 17, 2021, a copy of which is marked as Exhibit BBB to the affidavit that I understand Kipling Warner affirmed in support of this motion on January 26, 2023 (the "Warner affidavit"). The pleading is 379 pages long.

12. After Mr. Galati commenced the proceeding, I received very little in the way of litigation updates, even from Action4Canada. Any updates that I did receive were vague.

13. In early September 2022, an individual with whom I had become familiar in the context of advocacy on these issues, Mr. Warner, sent me an article that he had seen in the Western Standard, a copy of which is marked as Exhibit DD to the Warner affidavit, reporting that the Supreme Court of British Columbia had released the decision that is marked as Exhibit E to the Warner affidavit and can be accessed at this link.

14. I learned upon reading the decision that the Court had struck the claim in its entirety, with leave to amend, stayed the proceeding pending the filing of a new claim, and awarded each defendant costs as against, among others, me. The costs are "payable forthwith in any event of the cause."

15. Despite being a plaintiff in the proceeding, I only learned about this decision through Mr. Warner and the media.

16. Mr. Galati at no point contacted me to advise me that the Court had struck the claim and awarded costs against me.

17. I have not heard anything from Mr. Galati since that decision's release.

18. On September 6, 2022, I filed a notice of discontinuance in the proceeding Mr. Galati had commenced, having lost confidence in him.

19. I have significant concerns about whether Mr. Galati represented me competently and consistent with his obligations to a client.

20. I have raised these with Mr. Warner and with the Law Society of Ontario.

AFFIRMED BY THE DEPONENT at the City of Vancouver in the Province of British Columbia REMOTELY BY WAY OF VIDEO CONFERENCE before me at the City of Toronto in the Province of Ontario on January 30, 2023 in accordance with O Reg 431/20

Federico Fuoco

FEDERICO FUOCO

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

[redacted]

This is Exhibit "A" referred to in the affidavit of Federico Fuoco affirmed before me electronically on January 30, 2023

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

From: Federico Fuoco <federico@telus.net>
Date: August 15, 2021 at 6:27:16 PM PDT
To: rocco@idirect.com
Cc: Federico Fuoco <federico@telus.net>
Subject: Fire Productions Ltd. and F2 Productions Inc

Hi Rocco,

As discussed in our conversation, I am instructing you to name Fire Productions Ltd. and F2 Productions Inc. as plaintiffs in the action and I further confirm that I am the sole shareholder and director of these corporations.

Thank you,

Federico Fuoco

Sent from my iPhone

GALATI Plaintiff	- and -	**TOEWS et al.** Defendants	Court File Nos.: CV-21-00658403-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

AFFIDAVIT OF FEDERICO FUOCO
(affirmed January 30, 2023)

DEWART GLEASON LLP
102–366 Adelaide Street West
Toronto ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: (416) 971 8000

Lawyers for the named defendants

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

MOTION RECORD OF THE MOVING PARTY DEFENDANTS

DEWART GLEASON LLP
Lawyers
102-366 Adelaide Street West
Toronto, ON M5V 1R9

Tim Gleason, LSO No. 43927A
Email: tgleason@dgllp.ca

Amani Rauff, LSO No. 78111C
Email: arauff@dgllp.ca

Telephone: 416-971-8000
Facsimile: 416-971-8001

Lawyers for the defendants