



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

*(Court Seal)*

DANIEL HARTMAN

Plaintiff

and

ATTORNEY GENERAL OF CANADA, THE DEPARTMENT OF HEALTH CANADA and  
PATRICIA A. HAJDU (MINISTER OF HEALTH)

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANT

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

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

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

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$20,000 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 \_\_\_\_\_  
Local Registrar

Address of court office: Suite 301 - 50 Frederick Hobson VC Drive  
Simcoe, Ontario N3Y 0E4

TO: Attorney General of Canada  
Office of the Deputy Attorney General of Canada  
284 Wellington Street  
Ottawa ON K1A 0H8

AND TO: The Department of Health Canada  
Office of the Deputy Attorney General of Canada  
284 Wellington Street  
Ottawa ON K1A 0H8

AND TO: Patricia A. Hajdu (Minister of Health)  
Office of the Deputy Attorney General of Canada  
284 Wellington Street  
Ottawa ON K1A 0H8

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## CLAIM

1. The Plaintiff claims:

- (a) Damages for loss of care, guidance and companionship under the Family Law Act, R.S.O. 1990, c. F.3 as amended in the amount of \$350,000.00;
- (b) Damages for nervous shock in the amount of \$200,000.00;
- (c) General Damages as a result of the Defendants Misfeasance in Public Office in the amount of \$2,000,000.00;
- (d) General Damages as a result of the Defendants Deceit and Fraud in the amount of \$2,000,000.00;
- (e) Damages as a result of the Defendants negligence in the amount of \$550,000.00;
- (f) Punitive or exemplary and/or aggravated damages in the amount of \$4,000,000.00;
- (g) Special damages in an amount to be particularized prior to the trial of this action;
- (h) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (i) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

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- (j) the costs of this proceeding, plus all applicable taxes; and
- (k) Such further and other Relief as to this Honourable Court may seem just.

### **The Parties**

2. The Plaintiff Daniel Hartman (“Daniel”) is the father of the deceased, Sean Hartman, who was a minor when deceased, advances this action pursuant to the *Family Law Act*, s. 61, R.S.O. 1990, c. F.3, s. 61 (1); 1999, c. 6, s. 25 (25); 2005, c. 5, s. 27 (28). Daniel resided in the city of xx in the Province of Ontario.

3. The Defendant, The Attorney General of Canada ("Canada"), is the properly named defendant in actions against the government of Canada pursuant to s. 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. 80.

4. The Defendant, Patricia A. Hajdu (“Hajdu”) served as Minister of Health for Canada from 2020 to 2021. Hajdu oversaw the Department of Health Canada and the Public Health Agency of Canada, key agencies coordinating the Canadian government's response to the COVID-19 pandemic.

5. The Defendant, The Department of Health Canada (“Health Canada”) is overseen by the Minister of Health, responsible for discharging the operational role of regulatory approval, monitoring, and compliance of Covid-19 vaccinations for use in Canada.

## Background

6. Health Canada's operational role in vaccine and drug authorization includes a rigorous independent review of submissions by vaccine manufacturers to determine, based only on scientific and medical evidence, that vaccines are safe and effective.

7. Health Canada's review of vaccine and drug authorization is governed by the *Food and Drug Regulations C.R.C., C.870*.

8. On September 16, 2020, the Minister of Health, pursuant to subsection 30.1(1) of the Food and Drugs Act, issued the *Interim Order Respecting the Importation, Sale and Advertising of Drugs for Use in Relation to COVID-19*. ("the Order").

9. The Order, inter alia, allowed for a 'fast track' process for approvals from Health Canada for COVID-19 vaccines. Under the fast-track process manufactures were able to apply for authorization of sale and distribution of Covid-19 vaccines without the completion of all research studies and Health Canada committed to review new evidence of a vaccine as it become available.

10. On September 17, 2020, Health Canada published a guidance document supporting the Interim Order Respecting the Importation, Sale and Advertising of Drugs for Use in Relation to COVID-19 stating, inter alia:

- (a) "Authorizations under this Interim Order will be granted only if Health Canada determines that the benefits and risks of the product are supported by evidence that the drug is safe, effective and of high quality. This takes into consideration

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the uncertainties related to the drug in the context of an urgent public health need related to COVID-19”.

- (b) “Health Canada will assess and monitor the safety and effectiveness of all products authorized under the Interim Order. Health Canada will take immediate action, including the suspension or cancellation of authorizations or establishment licenses, if required, to protect the health and safety of Canadians”.

11. The Defendants entered into an agreement with the Defendant’s Pfizer and BioNTech for the purchase of a minimum of 20 million doses up to a maximum of 76 million doses of the Pfizer-BioNTech’s Covid-19 vaccination (“the Purchase Agreement”). The particulars of the Purchase Agreement are in the exclusive control of the Defendants Canada, Pfizer and BioNTech

12. On October 9, 2020, Health Canada received Pfizer-BioNTech’s submission for approval of their COVID-19 vaccine for use in Canada, utilizing the process outlined in the Order.

13. On November 18, 2020, Pfizer-BioNTech released and published updated results of their Phase 3 clinical trials, for the Pfizer and BioNTech Covid-19 vaccination stating that the vaccine is 95 per cent effective at preventing COVID-19. (“Study 1”).

14. The results of the Study 1 showed that 8 out of 18,198 individuals who received the Covid-19 vaccination developed/contracted Covid-19 (“Vaccinated group”).

15. The results of Study 1 showed that 162 out of 18,325 patients who did not receive the Covid-19 vaccination developed/contracted Covid-19 (“Placebo group”).

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16. The difference between the Vaccinated and Placebo group was 0.88%.
17. Study 1 showed that of 18,198 individuals in the Vaccination group, 5770 individuals (26.7%) had an adverse reaction.
18. Study 1 showed that of the 18,325 individuals in the Placebo group, 2638 individuals (12.2%) had an adverse reaction.
19. On December 9, 2020, Health Canada authorized the Pfizer vaccine for use in Canada under the Order for individuals 16 years of age and older. On the same date Health Canada stated publicly that it had determined that the Pfizer-BioNTech vaccine meets the Department's stringent safety, efficacy and quality requirements for use in Canada ("Representation 1").
20. On or around December 9, 2020, Health Canada published the Regulatory Decision Summary for the Pfizer-BioNTech's Covid-19 vaccination ("Decision Summary")
21. The Decision Summary cited Study 1 and stated: "Compared to placebo, vaccine efficacy was evaluated to be 95% (with 95% confidence interval (CI) of 90.3% to 97.6%) in subjects without prior evidence of SARS-CoV-2 infection 7 days after the second administration of the vaccine".
22. The Decision Summary further stated, inter alia:
  - (a) "One limitation of the data at this time is the lack of information on the long-term safety and efficacy of the vaccine. The identified limitations are managed through labelling and the Risk Management Plan. The Phase 3 Study is ongoing and will continue to collect information on the long-term safety and efficacy of the vaccine.

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There are post-authorization commitment for monitoring the long-term safety and efficacy of Pfizer-BioNTech COVID-19 Vaccine”.

(b) “The data provided supports favorably the efficacy of Pfizer-BioNTech COVID-19 Vaccine as well as its safety. The efficacy of the vaccine was established to be approximately 95%, the vaccine was well tolerated by participants and has no important safety concerns. The benefit to risk assessment for Pfizer-BioNTech COVID-19 Vaccine is considered favorable”.

(c) “Pfizer-BioNTech COVID-19 Vaccine is therefore recommended for authorization for use under the Interim order respecting the importation, sale and advertising of drugs for use in relation to COVID-19, for active immunization to prevent coronavirus disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in individuals 16 years of age and older”.

23. The Pfizer-BioNTech’s Covid-19 vaccination was built on MRNA technology which had never before been used in the delivery of vaccinations on Canadian citizens.

24. On December 9, 2020, Pfizer and BioNTech issued a press release stating “Today’s decision from Health Canada is a historic moment in our collective fight against the COVID-19 pandemic and is a major step towards returning to normalcy in Canada. I’d like to acknowledge the tremendous efforts of Pfizer and BioNTech colleagues around the world who have contributed to the development of this vaccine,” says Cole Pinnow, President, Pfizer Canada. “We

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commend Health Canada for its careful and thorough assessment of our COVID-19 vaccine and timely action to help protect Canadians.”

25. On or around December 14, 2020, Pfizer-BioNTech’s Covid-19 vaccination began being administered on the on the Canadian population.

26. On February 2, 2021, the Public Health Agency of Canada issued a news release entitled “Government of Canada supports projected to encourage vaccine uptake in Canada” (“Representation 2”).

27. Representation 2 stated, inter alia, that:

- (a) “Today, the Minister of Health, the Honourable Patty Hajdu, announced an investment of more than \$64 million through the Immunization Partnership Fund (IPF) to help partners across the country in Canada increase COVID-19 vaccination uptake”.
- (b) “These funds will also support the efforts of community members and leaders to increase vaccine confidence and address barriers to access and acceptance within their communities”.
- (c) “Vaccines are an important and effective way to protect Canadians and stop the spread of COVID-19. Working with our partners, we will make sure that Canadians have the latest information about how and when they can get vaccinated, but also why they should get vaccinated. Through these partnerships, we are ensuring that

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Canadians make informed and confident vaccine choices for themselves and their families. Increasing vaccination uptake and acceptance is how we can work together to protect those most at-risk.” Stated by the Minister of Health.

- (d) “All Canadians deserve a chance to achieve optimal health. This includes having access to credible information about vaccination and the opportunity to have open conversations with healthcare providers. Doctors, nurses, midwives, other healthcare providers and community leaders are invaluable in sharing knowledge to help to keep us all safe, especially during a pandemic.” Stated by Dr. Theresa Tam, Chief Public Health Officer of Canada.

28. On April 1, 2021, the Pfizer and BioNTech, issued a press release stating, inter alia: “Pfizer and BioNTech Confirm High Efficacy and No Serious Safety Concerns Through Up to Six Months Following Second Dose in Updated Topline Analysis of Landmark COVID-19 Vaccine Study.”

29. On April 1, 2021, Pfizer and BioNTech released and published updated results of their Phase 3 clinical trials, stating: “Pfizer and BioNTech Confirm High Efficacy and No Serious Safety Concerns Through Up to Six Months Following Second Dose in Updated Topline Analysis of Landmark COVID-19 Vaccine Study.” (“Study 2”).

30. Pfizer was required to provide the data and results from Study 2 to Health Canada as part of the regulatory approval of the vaccine.

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31. The results of Study 2 showed 77 out of 20,998 patients who received the Covid-19 vaccination developed/contracted Covid-19 with no evidence of previous SARs-CoV-2 infection and 81 out of 22,166 patients who received the Covid-19 vaccination developed/contracted Covid-19 with or without evidence of previous infection.

32. The results of Study 2 showed 850 out of 21,096 with or without evidence of previous SARs-CoV-2 who did not receive the Covid-19 vaccination developed/contracted Covid-19 (“Placebo group”) and 873 out of 22,320 with or without evidence of previous infection who did not receive the Covid-19 vaccination developed/contracted Covid-19.

33. The difference between the Vaccinated and the Placebo group with no previous SARs CoV-2 infection was 3.6%

34. The difference between the Vaccinated and the Placebo group with or without evidence of previous SARS CoV-2 infection was 3.5%.

35. Study 2 showed that of 21,923 individuals in the Vaccination group 5241 individuals (23.9%) had a “related adverse event” and 127 (0.6%) suffered “any serious adverse event”.

36. Study 2 showed that of 21,921 of the Placebo group, 1311 (6.0%) had a “related adverse event” and 116 (0.5%) suffered “any serious adverse event”.

37. The difference in adverse events reflects an increase of +300% in related adverse events and + 10% in serious adverse events between the vaccinated group and the placebo group from Study 1.

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38. Study 2 shows deaths resulting from the vaccination prior to unblinding the study was at 15 deaths and the Placebo group with 14 deaths.

39. Study 2 shows that after unblinding the study and members of the Placebo group joined the vaccination group, an additional 5 deaths were recorded totalling 20 deaths in the vaccination group opposed to 14 deaths in the Placebo group.

40. On May 4, 2021, Prime Minister Justin Trudeau publicly stated "The impacts of catching COVID are far greater and far deadlier, as we've seen across the country, than potential side effects. Let me remind everyone that every vaccine administered in Canada is safe and effective, as evaluated by Health Canada." ("Representation 3").

41. On May 17, 2021, the Defendant, Canada launched the "Ripple Effect" advertising campaign to promote and encourage Covid-19 vaccinations. ("Representation 4")

42. Representation 4 stated, inter alia, that:

(a) "The Government of Canada is supporting Canadians to make informed COVID-19 vaccine choices. Today, the Honourable Patty Hajdu, Minister of Health, announced the launch of a new national campaign to encourage vaccine uptake, which will appear on television, radio, print, out-of-home and online".

(b) "Getting vaccinated will help reduce infection rates, ease pressure on the health system and create the conditions that will allow us to get back to important social, economic and recreational activities. Choosing to get vaccinated against COVID-

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19 can have a cascading effect, culminating in a more vaccinated and protected Canada and eventual easing of public health restrictions”.

(c) “Vaccines are one of the most important ways to protect the health of Canadians. The COVID-19 pandemic has been challenging for everyone and the COVID-19 vaccines have provided us with hope for a return to what we miss most. This advertising campaign will help empower people to get vaccinated for their own health, and for the health of their families, loved ones and communities.” Stated by Stated by the Minister of Health.

(d) “As vaccine availability expands, I urge all people in Canada to get vaccinated and support others to get vaccinated as soon as they can. Through campaigns such as the ‘Ripple Effect,’ we are reminding people that the individual choices we make will have a positive impact on our collective future. As more and more people in Canada get vaccinated, we move closer to getting back to the people, places, and activities we love. This is because getting vaccinated means you lower your personal risk of getting COVID-19 and you are less likely to transmit the virus to others.” Stated by Dr. Theresa Tam, Chief Public Health Officer of Canada.

43. On June 15, 2021, the Defendant, Canada, launched the “Ask the Experts campaign to encourage vaccine uptake”. (“Representation 5”).

44. Representation 5 stated, inter alia, that:

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- (a) “Vaccines are a very important tool to fight the COVID-19 pandemic. Now that more and more Canadians are able to get vaccinated, it is important that everyone does their part. This small action makes a big difference – for you and those in your community. With the *Ask the Experts* campaign, credible experts will answer questions Canadians may have about these vaccines, to encourage uptake across the country.” Stated by the Minister of Health.
- (b) “Having safe and effective vaccines along with informed, confident and motivated people getting vaccinated are key to Canada’s success for widespread and long-term control of COVID-19. Through the *Ask the Experts* campaign, trusted Canadian health experts listen and provide answers to your important questions about COVID-19 vaccination that are fundamental to vaccine confidence and informed decision making for you and your loved ones!” Stated by Dr. Theresa Tam, Chief Public Health Officer of Canada.

45. On July 27, 2021, Prime Minister Justin Trudeau published a statement from the Prime Minister’s Office stating, “The best way to end this pandemic is for everyone to get their shots as soon as they can”. (“Representation 6”).

46. Between December 9, 2020, and August 25, 2021, the Defendant, Hadju issued no statements, press releases, or public representations that a possible side effect of receiving the Pfizer-BioNTech COVID-19 vaccination was death.

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47. Between December 9, 2020, and August 25, 2021, the Defendant, Health Canada did not take any compliance or enforcement action against Pfizer or BioNTech in relation to the safety or efficacy of the Pfizer-BioNTech COVID- 19 vaccination.

48. Between December 9, 2020, and August 25, 2021, the Defendant, Hadju issued no compliance orders, press releases, or public representations that the clinical studies conducted by Pfizer and BioNTech demonstrated that the Pfizer-BioNTech COVID- 19 vaccination was minimally effective.

49. Between December 9, 2020, and August 25, 2021, the Defendant, Health Canada did not issue any clarification, statements, or representations that the clinical studies conducted by Pfizer and BioNTech demonstrated that the Pfizer-BioNTech COVID- 19 vaccination was minimally effective.

50. Between December 9, 2020, and August 25, 2021, the Defendant, Health Canada did not issue any clarification, statements, or representations that a possible side effect of receiving the Pfizer-BioNTech COVID-19 vaccination was death.

51. On August 25, 2021, Sean Hartman, who was 17 years of age, attended the Simcoe Muskoka District Health Unit and was administered his first COVID-19 vaccine consisting of the Pfizer-BioNTech COVID-19 mRNA vaccine Lot FD7204. Sean received the vaccine in his left deltoid.

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52. At all material times prior to receiving the Pfizer-BioNTech COVID- 19 vaccination, Sean Hartman was in excellent health.

53. On August 29, 2021, Sean Hartman attended the Emergency department at the Stevenson Memorial Hospital presenting with right shoulder pain, a rash to his face and vomiting. Sean was discharged with NSAIDs for pain and discomfort.

54. On the morning of September 27, 2021, 33 days after receiving the Pfizer-BioNTech COVID- 19 vaccination, Sean Hartman was found deceased in his bedroom by his mother.

55. The Plaintiff pleads that Sean Hartman died as a result of the Pfizer-BioNTech COVID- 19 vaccination.

**Misfeasance in Public Office**

56. As a department, Health Canada is responsible for administering acts and regulations, and for implementing government-wide regulatory initiatives. Health Canada was responsible for discharging the operational role of regulatory approval, monitoring, and compliance of Covid-19 vaccinations for use in Canada.

57. The Plaintiff pleads that Health Canada was recklessly indifferent or willfully blind in discharging its responsibilities of regulatory approval and oversight of the Pfizer-BioNTech COVID- 19 vaccination by, inter alia:

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- (a) Failing to reasonably and accurately review, interpret and report on the clinical data presented by Pfizer and BioNTech in relation to the approval of the Pfizer-BioNTech COVID- 19 vaccination efficacy and safety;
- (b) Recommending the Pfizer-BioNTech COVID- 19 vaccination for approval for use in Canada;
- (c) Failing to regulate, monitor, review, interpret and report on data presented by Pfizer and BioNTech in relation to new data which became available following the approval of the Pfizer-BioNTech COVID- 19 vaccination efficacy and safety; and,
- (d) Failing to recommend or issue a revocation of compliance to Pfizer and BioNTech following the public release of clinical data showing that the risks of Pfizer-BioNTech COVID- 19 vaccination were outweighed by the minimal efficacy of the vaccination.

58. The Plaintiff pleads Health Canada's reckless indifference or willful blindness produced the foreseeable result of providing a false representation to Canadians that the Pfizer-BioNTech COVID- 19 vaccination was safe and effective.

59. The Plaintiff pleads Health Canada's reckless indifference or willful blindness produced the foreseeable result of Sean Hartman's death.

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60. The Minister of Health is responsible for the oversight and direction of the Department of Health Canada and the Public Health Agency of Canada which were key agencies coordinating the Canadian government's response to the COVID-19 pandemic.

61. The Plaintiff pleads the Minister of Health was recklessly indifferent or willfully blind in discharging her responsibilities of approval, oversight, direction, and control over the vaccine approval process and Health Canada in relation to the regulatory approval and oversight of the Pfizer-BioNTech COVID- 19 vaccination by, inter alia:

- (a) Issuing a certificate of compliance to Pfizer and BioNTech allowing the Pfizer-BioNTech COVID- 19 vaccination to be purchased and distributed to Canadians for use;
- (b) Failing maintain oversight and control over Health Canda in relation to their regulatory responsibility for oversight, monitoring, evaluation, and assessment of the Pfizer-BioNTech COVID- 19 vaccination;
- (c) Representing to Canadians in public statements and press releases that the Covid-19 vaccination was safe and effective, despite the Minister and Minister's Department of Health possessing data to the contrary; and,
- (d) Failing to revoke the certificate of compliance issued to Pfizer and BioNTech following the public release of clinical data showing that the risks of Pfizer-

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BioNTech COVID- 19 vaccination were outweighed by the minimal efficacy of the vaccination.

62. The Plaintiff pleads the Minister of Health's reckless indifference or willful blindness produced the foreseeable result of instilling a false representation to Canadians that the Pfizer-BioNTech COVID- 19 vaccination was safe and effective.

63. The Plaintiff pleads the Minister of Health's reckless indifference or willful blindness produced the foreseeable result of Sean Hartman's death.

64. The Plaintiff pleads that the conduct of the Defendants Health Canada and the Minister of Health was recklessly indifferent or willfully blind in the exercise of public functions.

65. The Plaintiffs state that the Defendants Health Canada and the Minister of Health were reckless or willfully blind as to the fact that this conduct was unlawful and likely to injure Sean Hartman. As such, the Plaintiffs plead that the Defendants Health Canada and the Minister of Health are liable for misfeasance in public office.

#### **Deceit and Fraud**

66. The Plaintiff pleads that the Defendants made false representations of fact, Representations 1-6 above, regarding the safety and efficacy of the Pfizer-BioNTech COVID- 19 vaccination with reckless disregard as to the truth of the representations.

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67. The Plaintiff pleads that the Defendants through repeated representation and the expenditure of millions of dollars in campaigns to promulgate the representation intended that Sean Hartman should act in reliance of the representations.

68. The Plaintiff pleads that Sean Hartman acted in reliance of the Defendants representations when obtaining the Pfizer-BioNTech COVID- 19 vaccination.

69. The Plaintiff pleads that Sean Hartman acting in reliance upon the Defendants repeated representations obtained the Pfizer-BioNTech COVID- 19 vaccination which led to his death.

### **Negligence and Wrongful Death**

#### **Duty of Care owed to Sean Hartman**

70. The Defendant, Health Canada, owed a duty of care to Sean Hartman when exercising its operational function of independent review of submissions by vaccine manufacturers to determine, based only on scientific and medical evidence, that vaccines are safe and effective.

71. The Defendant, Health Canada, owed a duty of care to Sean Hartman when exercising its operational function authorizing the Pfizer-BioNTech COVID- 19 vaccination for use in Canada.

72. The Defendants owed a duty of care to Sean Harman when making representations regarding the safety and efficacy of the Pfizer-BioNTech COVID- 19 vaccination.

73. The Defendants owed a duty to warn Sean Harman of the risks associated with the safety and efficacy of the Pfizer-BioNTech COVID- 19 vaccination.

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74. The Defendants owed a duty of care to Sean Hartman to accurately inform him of all risks associated with the Pfizer-BioNTech COVID- 19 vaccination.

**Negligent Misrepresentation**

75. The Plaintiff pleads that the Defendants breached the standard of care by making representations regarding the safety of the Pfizer-BioNTech COVID- 19 vaccination that the Defendants knew or ought to have known were inaccurate. Alternatively, the Plaintiff submits that the Representations were made recklessly when the Defendants had insufficient information, while representing themselves as having sufficient information.

76. The Plaintiff pleads that the representations made by the Defendants were unreasonable in the face of the risks that were known or ought to have been known. Alternatively, the Representations made by the Defendants were unreasonable in face of the lack of direct information known to such a degree that the representations were negligent.

77. The Plaintiff pleads that the Defendants breached the standard of care and negligently misrepresented the safety of the vaccine and did not disclose the risks associated with the vaccine which include but not limited to myocarditis and pericarditis. The particulars include:

- (a) Failed to disclose that individuals under 40 had an increased risk of myocarditis after receiving the mRNA COVID-19 vaccine;
- (b) Failed to disclose that rates of myocarditis were higher in adolescent males;
- (c) Inadequate testing was performed to ensure the safety and efficacy of the vaccine;

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- (d) The Defendants failed to complete post market surveillance and inform the public of the results;
- (e) The Defendants failed to accurately, candidly, promptly and truthfully disclose the issues with the COVID-19 vaccine;
- (f) The Defendants failed to identify, implement, and verify that the procedures in place to address post market surveillance risks were in place to address issues, complaints, and timely notification of concerns; and,
- (g) The Defendant failed to change the public recommendations of the COVID-19 vaccine being that it was safe and effective.

78. The Plaintiff pleads that Sean Hartman reasonably relied on the representations made by the Defendants that the Pfizer-BioNTech COVID- 19 vaccination was safe and effective.

79. The Plaintiff pleads that but for the negligent misrepresentations of the Defendants described above, Sean Hartman would not have taken the Pfizer-BioNTech COVID- 19 vaccination and died as a result.

#### **Negligence causing Wrongful Death**

80. The Plaintiff pleads that the Defendant, Canada through its agency Health Canada negligently exercised its operational function authorizing the Pfizer-BioNTech COVID- 19 vaccination for use in Canada and breached the duty of care owed to Sean Hartman. The particulars of such include:

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- (a) failing to disclose that individuals under 40 had an increased risk of myocarditis after receiving the Pfizer-BioNTech COVID- 19 vaccination;
- (b) failing to disclose that rates of myocarditis were higher in adolescent males;
- (c) failure to require an adequate degree of testing, in a manner that would fully disclose the magnitude of the risks;
- (d) failing to complete post market surveillance and inform the public of the results;
- (e) failing to accurately, candidly, promptly and truthfully disclose the issues with the COVID-19 vaccine;
- (f) failing to identify, implement, and verify that the procedures in place to address post market surveillance risks were in place to address issues, complaints, and timely notification of concerns; and,
- (g) failing to properly, adequately, and fairly warn Sean Hartman of the magnitude of the risk of developing serious injuries or death.

81. The Plaintiff pleads that as a foreseeable and proximate result of the Defendant, Canada's, negligence, Sean Hartman's death occurred.

82. The Plaintiff pleads that the wrongful death of his son Sean Hartman, was caused by the negligence of the Defendants.

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## Conclusion

83. In addition to the foregoing, the Plaintiffs rely upon:

- (a) Sections 3, 21 and 23 of the *Crown Liability and Proceedings Act* R.S.C., 1985, c. C-50.
- (b) Section 61(1) *Family Law Act*, R.S.O. 1990, c. F.3
- (c) *Negligence Act*. R.S.O. 1990, c. N.1
- (d) Section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.
- (e) section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended,

84. The Plaintiffs therefore claim the relief set out in paragraph 1.

(Date of issue)

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Plaintiff

-and- ATTORNEY GENERAL OF CANADA et al.  
Defendants

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
SIMCOE

**STATEMENT OF CLAIM**

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