

**Court File No. CV-20-00643451-0000**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N :**

**Vaccine Choice Canada (VCC), Josee Anne McMAHON, Melina LEPE, Petronela GROZA, Carla SPIZZIRRI, \_\_\_\_\_, Alysa SHEPHERD, Scott Daniel COOKE (by his Litigation Guardian Denise Adele COOKE), and Denis RANCOURT**

**Plaintiffs/Responding Parties**

**and**

**Justin TRUDEAU, Prime Minister of Canada, Dr. Theresa TAM, Chief Medical Officer for Canada, Marc GARNEAU, Canadian Transport Minister, Doug FORD, Premier of Ontario, Christine ELLIOT, Minister of Health and Long-Term Care for Ontario, Stephen LECCE, Minister of Education for Ontario, Dr. David WILLIAMS, Ontario Chief**

**Medical Officer, CITY OF TORONTO, John TORY, Mayor City of Toronto, Dr. Eileen De Villa, Toronto Chief Medical Officer, The County of WELLINGTON-DUFFERIN-GUELPH (“CWDG”),**

**Nicola MERCER (Chief) Medical Officer for CWDG, WINDSOR-ESSEX COUNTY, Dr. Wajid AHMED (Chief) Medical Officer for Windsor-Essex County, His Majesty the King in Right of Canada, His Majesty the King in Right of Ontario, Attorney General of Canada, Attorney General of Ontario,**

**The Canadian Broadcasting Corporation (“CBC”), Johns and James DOE, officials and employees of the above-noted Defendants**

**Defendants/Moving Parties**

**FACTUM OF THE DEFENDANTS/MOVING PARTIES, His Majesty the King in Right of Canada, the Attorney General of Canada, Justin Trudeau, Dr. Theresa Tam, and Marc Garneau**

## OVERVIEW

1. The plaintiffs have brought a claim in the Ontario Superior Court of Justice asking for this Court to make declarations that the actions of various federal ministers and officers in relation to the COVID-19 pandemic are invalid. This Court does not have the jurisdiction to grant the declaratory relief sought by the plaintiffs. For this reason, all of the claims against Her Majesty the Queen in Right of Canada (now His Majesty the King), the Attorney General of Canada, Justin Trudeau, the Prime Minister of Canada, Dr. Theresa Tam, the Chief Public Health Officer of Canada and Marc Garneau, the former Canadian Transport Minister [together, the “federal defendants”] ought to be struck, without leave to amend.

2. Alternatively, and in addition to the critical issue of jurisdiction, these claims against the federal defendants should also be struck for disclosing no cause of action and for being frivolous, vexatious, and otherwise an abuse of process. The pleadings against the federal defendants, despite their remarkable length, do not support any specific cause of action against any of the federal defendants. Additionally, the plaintiffs’ pleadings are replete with inappropriately pled, offensive, and conspiratorial evidence regarding the federal defendants and are wholly deficient as pleadings for the purposes of an action. As a consequence of both their contents and their length, these pleadings are frivolous and vexatious and should be struck without leave to amend.

3. Further, even if the plaintiffs’ pleadings had disclosed a cause of action, their claims, which appear to relate to provincial and municipal actions taken during the COVID-19 pandemic, are moot, and this Court should not exercise its discretion to hear them.

## PART I – STATEMENT OF FACTS

4. The plaintiffs, a not-for-profit which advocates on the topic of vaccines,<sup>1</sup> and seven individuals who claim to have been personally affected by the COVID-19 measures [together, the “plaintiffs”] issued an 191 page long statement of claim on July 3, 2020. This claim is against the federal defendants, along with the Canadian Broadcasting Corporation, the Province of Ontario, several municipalities within the Province Ontario, and individuals who are named as officers and ministers of the province and these municipalities. This claim was later amended to remove one of the named individuals [“statement of claim”].<sup>2</sup>

5. For the purposes of this motion, the Amended Statement of Claim can be considered to have three parts. The first part, paragraphs 1 to 5, are remedies sought by the plaintiffs—a series of declarations about medical treatments, government action, and the constitution, and monetary damages from the Canadian Broadcasting Corporation (CBC).<sup>3</sup> The second part, paragraphs 6 to 45, pleads facts related to the seven individual plaintiffs and the alleged harms they have suffered as a result of the COVID-19 pandemic. The third part, paragraphs 46 to paragraph 261, describes how the COVID-19 pandemic was created by “Billionaire, Corporate, and Organizational Oligarchs” with the goal of installing a “New World (Economic) Order.”

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<sup>1</sup> Amended Statement of Claim, dated July 10, 2020, at para 230, [B-1-186](#).

<sup>2</sup> The amendments did not otherwise change the relief sought, and only removed the specific facts associated with the individual removed.

<sup>3</sup> The Claim against CBC has been since discontinued

## 1) The remedies sought

6. Against the federal defendants, the plaintiffs seek several declarations related to the “COVID Measures” allegedly undertaken by the federal defendants. Although the term “COVID measures” is not defined, the pleading suggests this includes every executive and administrative action undertaken by the federal government in response to the COVID-19 pandemic, including giving press conferences<sup>4</sup> and using executive powers under statutes such as the *Quarantine Act*.<sup>5</sup>

7. Specifically, the plaintiffs request declarations that the “COVID measures” are contrary to the English Bill of Rights<sup>6</sup> and the constitutional duty to govern,<sup>7</sup> and that they are *ultra vires* and in excess of the defendants authority.<sup>8</sup> However, the specific statutes of which the “COVID measures” are *ultra vires* are not identified.

8. Additionally, the plaintiffs seek declarations that several public health principles, including self isolation, social distancing, and the compulsory wearing of face masks, are not medically effective, and that they violate several sections of the *Charter*, specifically sections 2, 7, 8, 9, and 15.<sup>9</sup>

9. The plaintiffs ask for declarations that the federal defendants have breached the rights of the plaintiffs by “not taking any action” to curtail “Stalinist censorship” of coverage of the COVID-19 pandemic: specifically, CBC refusing to publish criticism of

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<sup>4</sup> Amended Statement of Claim at para 144, [B-1-76](#).

<sup>5</sup> Amended Statement of Claim at para 143, [B-1-76](#).

<sup>6</sup> Amended Statement of Claim at para 1(a), [B-1-18](#).

<sup>7</sup> Amended Statement of Claim at para 1(c), [B-1-19](#).

<sup>8</sup> Amended Statement of Claim at para 1(g), [B-1-23](#).

<sup>9</sup> Amended Statement of Claim at para 1(d), [B-1-19](#).

the “COVID measures”.<sup>10</sup> The plaintiffs also ask for a declaration that the federal defendants have aided the suppression and removal of “Facebook” and “YouTube” postings.<sup>11</sup>

10. Finally, the plaintiffs seek injunctive relief against “compelled, coercive COVID-Measures”, including mandatory vaccination.<sup>12</sup>

## **2) The individual plaintiffs’ allegations**

11. The individual plaintiffs plead damages they allege to have suffered as a result of the COVID-19 pandemic and corresponding measures. As best as can be determined, the damages appear to be caused by the actions of private parties, and the provincial and municipal governments.

12. Josee Anne McMahon alleges that she has found work from home challenging,<sup>13</sup> has difficulty getting groceries because of the mandatory mask order in Wellington County,<sup>14</sup> and has been yelled at for not using hand sanitizer.<sup>15</sup> She does not mention the federal defendants.

13. Petronela Groza alleges that she has been forced to leave a store for not wearing a mask,<sup>16</sup> and was asked to leave an OnRoute gas station for not wearing a

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<sup>10</sup> Amended Statement of Claim at para 1(u)(i), [B-1-30.](#)

<sup>11</sup> Amended Statement of Claim at para 1(u)(ii), [B-1-30.](#)

<sup>12</sup> Amended Statement of Claim at para 3, [B-1-31.](#)

<sup>13</sup> Amended Statement of Claim at para 8, [B-1-33.](#)

<sup>14</sup> Amended Statement of Claim at para 9(f), [B-1-35.](#)

<sup>15</sup> Amended Statement of Claim at para 9(b), [B-1-34.](#)

<sup>16</sup> Amended Statement of Claim at para 19, [B-1-39.](#)

mask.<sup>17</sup> She believes that statements made by Justin Trudeau, along with municipal and provincial actors, inspired the private party at the OnRoute to tell her to leave. She does not otherwise mention the federal defendants.

14. Melina Lepe alleges that she has been unable to leave her house, which has caused mental and physical pain,<sup>18</sup> and that Wellington-Dufferin-Guelph's mandatory mask order is adding insult to injury.<sup>19</sup> She does not mention the federal defendants.

15. Carla Spizzirri alleges that she has had difficulty selling condominiums because several of the condominium boards had adopted "no showing" rules and other rules which make her work challenging.<sup>20</sup> She does not mention the federal defendants.

16. Alyssa Shepherd alleges that a mask-wearing rule in Wellington-Dufferin-Guelph<sup>21</sup> has made it difficult for her to attend medical and dental appointments because she refuses to wear a mask.<sup>22</sup> She was also originally denied service at a Dollar Store although was ultimately let in.<sup>23</sup> Further, she alleges that COVID-19 emergency measures in Wellington-Dufferin-Guelph have caused harm to her children<sup>24</sup> and her work as a chiropractor.<sup>25</sup> She does not mention the federal defendants.

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<sup>17</sup> Amended Statement of Claim at para 20, [B-1-39.](#)

<sup>18</sup> Amended Statement of Claim at para 23, [B-1-41.](#)

<sup>19</sup> Amended Statement of Claim at para 24, [B-1-42.](#)

<sup>20</sup> Amended Statement of Claim at para 27, [B-1-43.](#)

<sup>21</sup> Note that although the Amended Statement of Claim identifies this as one county, this is actually two different counties (Dufferin and Wellington) and a city (Guelph) which share a public health unit. For the purposes of this motion, is sufficient to understand that these are municipal levels of government (i.e. not federal).

<sup>22</sup> Amended Statement of Claim at para 31(d), [B-1-45.](#)

<sup>23</sup> Amended Statement of Claim at para 31(g), [B-1-46.](#)

<sup>24</sup> Amended Statement of Claim at para 32, [B-1-47.](#)

<sup>25</sup> Amended Statement of Claim at para 33, [B-1-49.](#)

17. Scott Daniel Cooke, by his litigation guardian, alleges that the COVID-19 measures in Hamilton have caused him harm by taking away his support, social, medical and therapeutic network. He does not mention the federal defendants.

18. Finally, Denis Rancourt alleges that CBC has refused to cover any of the articles or letters he has written about COVID-19,<sup>26</sup> or print an interview he had with a CBC journalist. He alleges that the federal government has “chosen not to protect against this flagrant censorship.” He also says that YouTube has removed three of his videos, although he does not connect this to the federal government and says this was based on their publicly-stated policy to remove misinformation.<sup>27</sup> He does not otherwise mention the federal defendants.

### **3) The “New World (Economic) Order” allegations**

19. The final part of the pleadings is about the “New World (Economic) Order”. As explained in the “Summary” section of the statement of claim, the “COVID-pandemic was pre-planned and executed, as a false pandemic” by “Billionaire, Corporate, and Organizational Oligarchs” with the purpose of installing a “New World (Economic) Order”.<sup>28</sup> The “New World (Economic) Order” will include the elimination of small businesses, mandatory vaccination with “chip technology”, a shift to a virtual world that will prevent people from organizing, and “global governance”.<sup>29</sup>

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<sup>26</sup> Amended Statement of Claim at para 43, [B-1-55](#).

<sup>27</sup> Amended Statement of Claim at para 42, [B-1-55](#).

<sup>28</sup> Amended Statement of Claim at para 262, [B-1-201](#).

<sup>29</sup> Amended Statement of Claim at para 262, [B-1-201](#).

20. This part of the pleadings also describes the roles of the federal defendants in creating the “New World (Economic) Order”. This part of the claim identifies Dr. Tam as a “loyal servant” of the World Health Organization [“WHO”] whose alleged role it is to make sure Prime Minister Trudeau follows the orders of the WHO and Bill Gates.<sup>30</sup> Prime Minister Justin Trudeau is also allegedly involved in “foisting” this “globalist agenda” on Canadians and either knows or should know it will cause financial ruin.<sup>31</sup> It also identifies the federal “COVID measures”, including press conferences and orders under the *Quarantine Act*, although it does not identify any specific orders. It also does not identify any specific legislation which are alleged to be unconstitutional.

21. This part of the pleadings is heavily footnoted and pleads a wide variety of evidence, including newspapers, YouTube videos, and a variety of internet articles. In addition to discussing COVID, it also pleads additional facts about what appear to be other aspects of the “New World (Economic) Order”, including “video surveillance satellites”,<sup>32</sup> the role of the 5G cellular networks,<sup>33</sup> and, generally, the harms of childhood vaccination in a section called “Vaccines in General”.<sup>34</sup>

22. As best as can be determined, the “New World (Economic) Order” aspect of the pleadings does not include any specific damages caused to the individual plaintiffs, and is instead about the speculative harms which will be caused by the takeover of the world.

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<sup>30</sup> Amended Statement of Claim at para 215, [B-1-168.](#)

<sup>31</sup> Amended Statement of Claim at para 214, [B-1-164.](#)

<sup>32</sup> Amended Statement of Claim at para 108, [B-1-67.](#)

<sup>33</sup> Amended Statement of Claim at para 109, [B-1-67.](#)

<sup>34</sup> Amended Statement of Claim at paras 226-248, [B-1-183.](#)



## PART II – POINTS IN ISSUE

23. The issues before the Court on this motion are as follows:
- A. Should this Court dismiss the claims against the federal defendants on the ground that the Court has no jurisdiction?
  - B. Alternatively, should this Court dismiss the claims against the federal defendants on the ground that they do not give rise to a cause of action?
  - C. Alternatively, should this Court dismiss the claims because they are frivolous and vexatious?
  - D. Alternatively, should this Court dismiss the claims because they are moot?
  - E. If this Court dismisses the claims for any of the above reasons, should they allow the plaintiff leave to amend?

## PART III – SUBMISSIONS

### **A. This Court does not have jurisdiction to provide the remedies the plaintiffs seek against the federal defendants**

24. All of the remedies that the plaintiffs seek against the federal defendants are declarations or injunctions regarding the administrative and executive actions of these defendants. The Federal Court of Canada has exclusive original jurisdiction to grant declaratory relief against federal “tribunals”, which includes Orders-in-Council by Cabinet and other administrative actions.<sup>35</sup> As a consequence, this Court has no jurisdiction to grant this remedy, and it should dismiss this action on the ground that it does not have jurisdiction.<sup>36</sup>

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<sup>35</sup> *Federal Courts Act*, [RSC, 1985, c F-7](#) at [s 18\(1\)\(b\)](#) (“*Federal Courts Act*”)

<sup>36</sup> *Rules of Civil Procedure*, [RRO 1990, Reg 194](#), at r 21.01(3)(a) (“*Rules of Civil Procedure*”).

25. This Court must dismiss an action where it has no jurisdiction over the subject matter of the action. Paragraph 21.01(3)(a) of the *Rules of Civil Procedure* provides that:

**21.01(3)** A defendant may move before a judge to have an action stayed or dismissed on the ground that,

(a) the court has no jurisdiction over the subject matter of the action;

26. Although the Ontario Superior Court is a court of inherent jurisdiction, its jurisdiction can be limited by statute.<sup>37</sup> In this matter, the *Federal Courts Act* provides an exclusive original jurisdiction to the Federal Court to grant declaratory relief against any federal board, commission, or other tribunal. Subsection 18(1) provides that:

**18 (1)** Subject to section 28, the Federal Court has exclusive original jurisdiction

(a) to issue an injunction, writ of *certiorari*, writ of prohibition, writ of *mandamus* or writ of *quo warranto*, or grant declaratory relief, against any federal board, commission or other tribunal; and

(b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.

27. The *Federal Courts Act* defines “federal board, commission or tribunal” as any body or any person or persons having, exercising, or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament or by or under an order made pursuant to a prerogative of the Crown”.<sup>38</sup> This would include, for example, an order by the Governor-in-Council or the creation of rules or guidelines.<sup>39</sup>

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<sup>37</sup> *Canada (Attorney General) v TeleZone Inc*, [2010 SCC 62](#) at [para 16](#) (“Telezone”).

<sup>38</sup> *Federal Courts Act* at [s 2\(1\)](#).

<sup>39</sup> *Strickland v Canada (Attorney General)*, [2015 SCC 37](#) at [para 11](#) (“Strickland”).

28. The consequence of this is that a plaintiff cannot ask for declarations against federal tribunals in a Superior Court. This issue was recently extensively explored by the Alberta Court of Queen’s Bench, which noted that even if it might be expedient for a party to determine all of their issues in one court, section 18 of the *Federal Courts Act* is about the uniform review of decisions and actions of federal agencies in one place: the Federal Court.<sup>40</sup> The Court concluded that in a case where the only relief that plaintiff sought was declarations, the action must be dismissed by virtue of the *Federal Courts Act*.<sup>41</sup>

29. In this matter, all but one of the remedies that the plaintiffs are seeking against the federal defendants are explicit requests for declarations. The claims against the federal defendants are contained in paragraphs 1(a),(c),(d),(g),(u)(i) and (ii).<sup>42</sup> These claims are set out in Appendix 1. They ask for declarations that the “COVID measures”, specifically, self isolating, social distancing, wearing masks, and business closures, undertaken by the federal defendants are unconstitutional. The rest of the pleadings make it clear that these “COVID Measures” are related to administrative action—for example, making designations under the *Quarantine Act* SC 2005, C 20,<sup>43</sup> and not related to challenging any legislation.

30. The only exception to this exclusive jurisdiction outlined in subsection 18.1 of the *Federal Courts Act* is when a provincial Court may find administrative action to be invalid if it is a “necessary step in resolving the claims”—for example, the Court might

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<sup>40</sup> *Besse v Calgary (Police Service)*, [2018 ABQB 424](#) at [para 22](#) (“*Besse*”).

<sup>41</sup> *Besse* at [para 24](#).

<sup>42</sup> These are set out in Appendix 1

<sup>43</sup> Amended Statement of Claim at para 143, [B-1-76](#).

find an action invalid in a tort claim for negligence.<sup>44</sup> This principle comes from the idea that procedural detours to the Federal Court should not get in the way of the claimant directly pursuing their remedy.<sup>45</sup> This exception does not arise on these facts because the plaintiffs have only sought declarations, and no other remedies.

31. The only remedy the plaintiffs seek regarding the federal defendants which does not explicitly ask for a declaration is also outside of the jurisdiction of this Court because it is injunctive relief. In paragraph 3 of the pleadings, the plaintiffs seek injunctive relief against “COVID-measures” which they allege are either happening or will happen. Injunctive relief is also within the exclusive jurisdiction of the Federal Court of Canada under subsection 18(1)(a) and the Ontario Superior Court has clarified that attempting to seek injunctive relief in the Superior Court is an end-run around the jurisdiction of the Federal Court.<sup>46</sup>

32. Given that all of the remedies which the plaintiffs seek which involve the federal defendants are explicitly either declarations or injunctions, and therefore are outside of the jurisdiction of this Court, this Court should strike all of the claims involving the federal defendants from the pleadings, without leave to amend.

**B. This statement of claim does not give rise to any cause of action and should be struck**

33. Alternatively, this Court should strike all claims against the federal defendants on the basis that this statement of claim does not give rise to any cause of action against

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<sup>44</sup> *Strickland* at [para 79](#), see also *Canada (Attorney General) v McArthur*, [2010 SCC 63](#).

<sup>45</sup> *TeleZone* at [para 19](#). See also *Brake v Canada (Attorney General)*, [2019 FCA 274](#).

<sup>46</sup> *David Burkes v Canada Revenue Agency and Sheppard*, [2010 ONSC 3485](#) at [paras 12-15](#).

the federal defendants. The central element of these pleadings is that the COVID-19 pandemic was created by a group of “Billionaire, Corporate and Organizational Oligarchs”, including Bill Gates and the World Health Organization, who intend to install a “New World (Economic) Order”.<sup>47</sup> The plaintiffs wish for this Court to make a variety of declarations about the conduct of federal defendants, the other defendants, and generally on different public health measures related to COVID-19. Even if the Court had jurisdiction to make declarations, with relation to the federal defendants, the declarations sought are simply to declare facts, which the Supreme Court has made clear is not something that the Court may do

34. This Court may strike out a pleading if it discloses no reasonable cause of action.

Paragraph 21.01(3)(a) of the *Rules of Civil Procedure* provides that:

**21.01(1)** A party may move before a judge,

(b) to strike out a pleading on the ground that it discloses no reasonable cause of action or defence;

35. The facts in the statement of claim must be taken as true, unless patently ridiculous or manifestly incapable of being proven. The test is whether it is plain and obvious that the claim has no reasonable prospect of success.<sup>48</sup>

**i) *Plaintiffs do not plead sufficient facts about federal actors***

36. First, as discussed above, this Court has no jurisdiction to make the declarations requested. However, even if this Court considered the statement of claim as a whole, the statement of claim does not plead material facts which could give rise to any causes of action against any of the federal defendants.

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<sup>47</sup> Amended Statement of Claim at para 262(d), [B-1-202](#).

<sup>48</sup> *Paton Estate v Ontario Lottery and Gaming Corp*, [2016 ONCA 458](#) at [para 12](#).

37. The facts provided in the statement of claim are in two parts—the personal stories of the named plaintiffs and the alleged damages they have suffered<sup>49</sup>, and a description of the “New World (Economic) Order” and the machinations involved in its alleged implementation.<sup>50</sup>

38. The personal stories of the named plaintiffs, even with all the facts taken as true, do not ground a reasonable cause of action against the federal defendants. The named plaintiffs Josee McMahon<sup>51</sup>, Petronela Groza,<sup>52</sup> Melina Lepe,<sup>53</sup> Carla Spizzirri,<sup>54</sup> Alysa Shepherd,<sup>55</sup> and Scott Daniel Cooke<sup>56</sup> all provide facts which relate to COVID-measures which appear to have been taken by private parties, the Province of Ontario, or the municipalities where they live. No federal actors, orders, regulations or other actions are described. The only reference to the federal defendants is Petronela Groza’s speculation that private actors at a grocery store and a gas station were rude to her because they were inspired by remarks made by Justin Trudeau.<sup>57</sup> This is manifestly incapable of being proven and cannot ground a cause of action.

39. Indeed, only one plaintiff, Denis Rancourt, provides any material facts in respect of the federal defendants, and his issue is that the government is failing to protect his freedom of speech by not preventing “censorship”.<sup>58</sup> According to the pleadings, he met

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<sup>49</sup> Amended Statement of Claim at paras 6-45, [B-1-33](#).

<sup>50</sup> Amended Statement of Claim at paras 46-262, [B-1-57](#).

<sup>51</sup> Amended Statement of Claim at para 7-10, [B-1-33](#).

<sup>52</sup> Amended Statement of Claim at para 18-21, [B-1-39](#).

<sup>53</sup> Amended Statement of Claim at paras 22-25, [B-1-41](#).

<sup>54</sup> Amended Statement of Claim at para 26-28, [B-1-43](#).

<sup>55</sup> Amended Statement of Claim at paras 29-33, [B-1-44](#).

<sup>56</sup> Amended Statement of Claim at paras 34-37, [B-1-52](#).

<sup>57</sup> Amended Statement of Claim at paras 20, [B-1-39](#).

<sup>58</sup> Amended Statement of Claim at para 44-45, [B-1-56](#).

with a journalist from the CBC, and the content he provided was not used.<sup>59</sup> In other words, the government did not ensure that Denis Rancourt's interview would be communicated by the CBC.<sup>60</sup> It is uncontroverted in the jurisprudence that section 2(b) of the *Charter* does not impose positive obligations on government—the government does not need to provide Mr. Rancourt or any citizen with a platform to share his views.<sup>61</sup>

40. Additionally, the latter part of the pleadings which deal with the “New World (Economic) Order”, in addition to being patently ridiculous and incapable of being proven, do not include any damages to the plaintiffs and thus cannot support any claim. For example, part of the “New World (Economic) Order” plan involves putting “vaccine chips” in “every human on planet earth”.<sup>62</sup> A claim like this is ridiculous, impossible to prove, and further, does not give rise to any damages because it is only speculative.

***ii) Plaintiffs seek inappropriate declarations***

41. Second, even if this Court determines that it could make declarations against the federal defendants, the declarations sought are inappropriate because they ask for this Court to make findings of fact without connection to the rights of any parties. As the Ontario Court of Appeal has explained:

Declaratory relief must determine the rights of the parties. While determining the rights of the parties may entail findings of fact, courts do

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<sup>59</sup> Amended Statement of Claim at para 45, [B-1-56](#).

<sup>60</sup> Note that although the declarations sought include an allegation that the federal defendants are censoring individuals/failing to prevent censorship with regards to “Youtube” and “Facebook” as well, none of the individual defendants claim to have suffered damages from this.

<sup>61</sup> *Toronto (City) v Ontario (Attorney General)*, [2019 ONCA 732](#) at [para 47](#).

<sup>62</sup> Amended Statement of Claim at para 202(c)(i), [B-1-148](#).

not have jurisdiction to simply declare facts, detached from the rights of the parties.

42. As noted above, none of the plaintiffs appear to plead any facts with regards to the impact of the federal defendants on their rights. The declarations sought are generally for declarations on facts. For example, one declaration sought is for this Court to declare that certain medical measures, such as mask wearing, are not effective.<sup>63</sup>

43. Additionally, the plaintiffs also seek declarations and injunctions for speculative concerns about the future, such as their concern that the federal defendants will implement mandatory vaccines.<sup>64</sup> As explained by the Supreme Court in *Operation Dismantle*, the Court should not give declarations on “conjecture or speculative issues.”<sup>65</sup>

44. Overall, even if this Court did have jurisdiction in this case, the plaintiffs have not pled facts which give rise to a cause of action. Outside of the lengthy description of the “New World (Economic) Order”, which does not contain any damages, the pleadings do not allege that any damages to the individual plaintiffs were caused by the federal defendants.

### **C. The Claim should be struck for being frivolous and vexatious**

45. Further to the above, the claim should be struck for being frivolous and vexatious. It has many of the hallmarks of a frivolous and vexatious proceedings

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<sup>63</sup> Amended Statement of Claim at para 1(d)(iii), [B-1-19](#).

<sup>64</sup> Amended Statement of Claim at para 3, [B-1-31](#).

<sup>65</sup> *Operation Dismantle v The Queen*, [1985 CanLII 74 \(SCC\)](#), [1985] 1 SCR 441.



identified by the Courts:<sup>66</sup> rambling discourse, many, many pages, numerous footnotes, and a repeated misuse of legal, medical and other technical terms. Outside of the pages about the individual plaintiffs, the bulk of the pleadings (pages 46-190) are about an extended conspiracy involving Bill Gates, the New World Order, 5G, and spy satellites.

46. In a similar claim in British Columbia (*Action4Canada*), brought by the same counsel, the Superior Court of British Columbia struck the entire 391 page claim for being frivolous and vexatious:

I agree with the defendants' submission: the NOCC, in its current form, is not a pleading that can properly be answered by a responsive pleading. It describes wide-ranging global conspiracies that may, or may not, have influenced either the federal or the provincial governments. It seeks rulings of the court on issues of science. In addition, it includes improper allegations, including criminal conduct and "crimes against humanity". In my opinion, it is "bad beyond argument".<sup>67</sup>

47. The Court went on to hold that the claim could not be fixed by striking portions, that the claim is an embarrassing pleading, prolix, and must be struck in whole.

48. In another similar claim in the Federal Court (*Adelberg*), brought by the same counsel, a Federal Court judge also found that claim (50 pages long) was "bad beyond belief" for substantially the same reasons, and it was also struck in its entirety.<sup>68</sup>

49. The same is true here. This claim is impossible to respond to this claim, for the exact same reasons as the *Action4Canada* and *Adelberg* proceedings, and should be struck in its entirety.

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<sup>66</sup> *Dunning v Colliers Macaulay Nicolls Inc*, [2023 ONSC 73](#) at [para 25](#), quoting the annotation on Rule 2.1 of *Ontario Superior Court Practice*.

<sup>67</sup> *Action4Canada v British Columbia (Attorney General)*, [2022 BCSC 1507](#) at [para 45](#) ("*Action4Canada*")

<sup>68</sup> *Adelberg v Canada*, [2023 FC 252](#) at [para 52](#) ("*Adelberg*").

#### **D. Plaintiffs' claims are moot**

50. As discussed above, the plaintiffs fail to identify any federal laws, regulations or mandates which actually had an impact on them. In any case, the policies put in place during the COVID-19 pandemic are no longer in effect. As a result, the issue is moot.

51. Further, there is no reason for this Court to exercise its discretion to consider this moot matter. The main reason is the second of the *Borowski* factors: judicial efficiency.<sup>69</sup> To the extent that questions about COVID-19 policies could be dealt with by the Court, it will not be judicially efficient to consider them in the context of an 191-page long claim that is focused on Bill Gates (who is not named as a party), spy satellites, and the New World Order. However, the other two *Borowski* factors also militate against hearing this moot matter. There is little adversarial context in this matter to help the Court resolve the legal dispute—the federal government has little interest in arguing over such frivolous matters. Similarly, the Court's "law making function" should not weigh in on the questions such as the efficacy of masks and vaccines.

#### **E. This Court should not grant leave to amend**

52. This Court should not grant the plaintiffs leave to amend their pleading because amendment would serve no purpose. This statement of claim is incurable because it is based on an incorrect understanding of the jurisdiction of the Ontario Superior Court of Justice, it pleads no material facts which could otherwise give rise to a cause of action, it is frivolous and vexatious, and because it is moot.

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<sup>69</sup> *Borowski v Canada (Attorney General)*, [1989 CanLII 123 \(SCC\)](#).

53. Leave to amend should not be granted where it is plain and obvious that no tenable cause of action is possible on the facts.<sup>70</sup> This is the case here.

54. First, no amendment may address the fact that the relief may only be sought in the Federal Court. It is clear from the pleadings that the plaintiffs are seeking declaratory and injunctive relief. With the exception of the claim against CBC, the remedies the plaintiffs seek are declarations against municipal, provincial and federal defendants on their “COVID measures”. It is plain and obvious that no amendment will allow them to obtain their requested declarations against the federal defendants.

55. Second, there are no other facts plead which could give rise to a tenable claim against the federal government. As described above, the allegations of harm to the individual plaintiffs are with regards to private actors and municipal and provincial governments. The only two mentions of the federal defendants cannot be cured by amendment: the allegation that private parties caused harm to Ms. Groza based on their understanding of remarks made by Justin Trudeau is incapable of proof, and, Dr. Rancourt’s claim for a platform to share his opinions on COVID is based on an incorrect understanding of his rights under the *Charter*. It is plain and obvious that no amendment could make these into tenable causes of action.

56. Similarly, there are no facts within the “New World (Economic) Order” section of the pleadings which could give rise to a tenable cause of action. The allegations in this portion of the pleadings are sprawling, speculative, absurd, and generally incapable of

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<sup>70</sup> *Conway v The Law Society of Upper Canada*, [2016 ONCA 72](#) at [para 16](#) (“Conway”).

proof. The decision to provide leave to amend is discretionary.<sup>71</sup> There is no tenable cause of action within the “New World (Economic) Order” section.

57. Although the plaintiff’s counsel received leave to amend in the *Action4Canada* and the *Adelberg* matters, this present matter is distinguishable because both of those matters at least had some facts pled involving the federal defendants. *Adelberg* dealt with employees challenging a specific policy put in place by the federal government.<sup>72</sup> Meanwhile, in *Action4Canada*, at least one the plaintiffs pled that a federal policy had impacted them at an airport.<sup>73</sup> Neither of these exist here, where even a generous reading of claims does not find that any of the plaintiffs had any interactions with the federal government.

58. Third, the frivolous and vexatious nature of this proceeding is another reason why amendment should not be allowed. The Court of Appeal has explained that a Court does not need to grant leave to amend statements of claim which are scandalous, frivolous, or vexatious.<sup>74</sup> This matter is ultimately about a global conspiracy involving the New World Order which seeks to conquer the world. It is not an appropriate matter for the Canadian courts, and it would only serve to waste further resources to allow amendment.

59. Fourth, the fact that this matter is now moot and should not be considered is another reason to deny amendment. This aspect cannot be cured by any amendment.

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<sup>71</sup> *Conway* at [para 16](#).

<sup>72</sup> *Adelberg* at [para 2](#). Note that *Adelberg* was the subject of an appeal to the Federal Court of Appeal which was heard on November 8, 2023. The decision is under reserve.

<sup>73</sup> *Action4Canada* at [para 16-17](#)

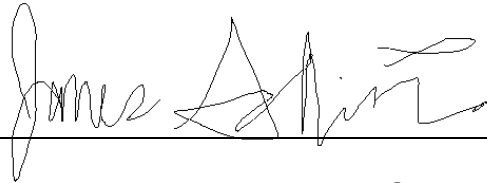
<sup>74</sup> *Huachangda Canada Holdings Inc v Solcz Group Inc*, [2019 ONCA 649](#) at [para 31](#).

## PART IV – ORDER SOUGHT

60. The federal defendants request an order:
1. Dismissing the action against the federal defendants, Justin Trudeau, Dr. Theresa Tam, Marc Garneau, Her Majesty the Queen in Right of Canada, the Attorney General of Canada;
  2. Costs for this motion.

### ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto November 17 2023



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Prime Minister of Canada, Dr. Theresa  
Tam, Chief Medical Officer for Canada,  
Marc Garneau, Canadian Transport  
Minister, His Majesty the King in Right of  
Canada and the Attorney General of  
Canada

## PART V – APPENDIX

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

a) A Declaration that the “COVID Measures” undertaken and orchestrated by Prime Minister Trudeau (“Trudeau”), and the Federal Crown, constitute a constitution violation of “dispensing with Parliament, under the pretense of Royal Prerogative” contrary the **English Bill of Rights (1689)** as read into our unwritten constitutional rights through the Pre-Amble of the **Constitution Act, 1867**, emanating from the unwritten constitutional principles of Rule of Law, Constitutionalism and Democracy, as enunciated by the Supreme Court of Canada in, **inter alia, Quebec Succession Reference**

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

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

- (i) “self isolation”;
- (ii) “social distancing”;
- (iii) the compulsory wearing of face masks;
- (iv) arbitrary and unjustified closure of businesses

In that the measures are not:

- (i) scientifically, nor medically, based nor proven to be effective whatsoever;
- (ii) pose physical and psychological harm; and
- (iii) are extreme, unwarranted and unjustified;

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

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

LL

(u) A Declaration that:

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

(ii) a Declaration that the Federal Crown has in fact aided the suppressing and removing of “Facebook” and “YouTube” postings, even by experts, which in any way contradict or criticize the WHO and government measures as “misinformation” “contrary to community standards”, by the federal Defendants threatening criminal sanction for such “misinformation”; thus violating s. 2 of the **Charter** by way of act, and omission, as delineated and ruled by the Supreme Court of Canada in, **inter alia, Vriend**.

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

## SCHEDULE A

### LIST OF AUTHORITIES

1. *Canada (Attorney General) v TeleZone Inc*, [2010 SCC 62](#)
2. *Strickland v Canada (Attorney General)*, [2015 SCC 37](#)
3. *Besse v Calgary (Police Service)*, [2018 ABQB 424](#)
4. *Canada (Attorney General) v McArthur*, [2010 SCC 63](#)
5. *Canada (Attorney General) v TeleZone Inc.*, [2010 SCC 62](#)
6. *Brake v Canada (Attorney General)*, [2019 FCA 274](#)
7. *David Burkes v Canada Revenue Agency and Sheppard*, [2010 ONSC 3485](#)
8. *Paton Estate v Ontario Lottery and Gaming Corp*, [2016 ONCA 458](#)
9. *Toronto (City) v Ontario (Attorney General)*, [2019 ONCA 732](#)
10. *Operation Dismantle v The Queen*, [1985 CanLII 74 \(SCC\)](#), [1985] 1 SCR 441
11. *Dunning v Colliers Macaulay Nicolls Inc*, [2023 ONSC 73](#)
12. *Action4Canada v British Columbia (Attorney General)*, [2022 BCSC 1507](#)
13. *Adelberg v Canada*, [2023 FC 252](#)
14. *Borowski v Canada (Attorney General)*, [1989 CanLII 123 \(SCC\)](#)
15. *Conway v The Law Society of Upper Canada*, [2016 ONCA 72](#)
16. *Huachangda Canada Holdings Inc v Solcz Group Inc*, [2019 ONCA 649](#)



## SCHEDULE B

### RELEVANT STATUTES/PROVISIONS

1. *Federal Courts Act*, [RSC, 1985, c F-7](#) at Act at [s 2\(1\)](#), [s 18\(1\)\(b\)](#)
2. *Rules of Civil Procedure*, [RRO 1990, Reg 194](#), at [r 21.01\(3\)\(a\)](#)

**Federal Courts Act, [RSC, 1985, c F-7](#) at Act**

<b>Definitions</b> <b>2 (1)</b> In this Act,	<b>Définitions</b>
<b><i>federal board, commission or other tribunal</i></b> means any body, person or persons having, exercising or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament or by or under an order made under a prerogative of the Crown, other than the Tax Court of Canada or any of its judges or associate judges, any such body constituted or established by or under a law of a province or any such person or persons appointed under or in accordance with a law of a province or under section 96 of the <a href="#">Constitution Act, 1867</a> ; ( <i>office fédéral</i> )	<b><i>office fédéral</i></b> Conseil, bureau, commission ou autre organisme, ou personne ou groupe de personnes, ayant, exerçant ou censé exercer une compétence ou des pouvoirs prévus par une loi fédérale ou par une ordonnance prise en vertu d'une prérogative royale, à l'exclusion de la Cour canadienne de l'impôt et ses juges et juges adjoints, d'un organisme constitué sous le régime d'une loi provinciale ou d'une personne ou d'un groupe de personnes nommées aux termes d'une loi provinciale ou de l'article 96 de la <a href="#">Loi constitutionnelle de 1867</a> . ( <i>federal board, commission or other tribunal</i> )
<b>Extraordinary remedies, federal tribunals</b> <b>18 (1)</b> Subject to section 28, the Federal Court has exclusive original jurisdiction <b>(a)</b> to issue an injunction, writ of <i>certiorari</i> , writ of prohibition, writ of <i>mandamus</i> or writ of <i>quo warranto</i> , or grant declaratory relief, against any federal board, commission or other tribunal; and	<b>Recours extraordinaires : offices fédéraux</b> <b>18 (1)</b> Sous réserve de l'article 28, la Cour fédérale a compétence exclusive, en première instance, pour : <b>a)</b> décerner une injonction, un bref de <i>certiorari</i> , de <i>mandamus</i> , de prohibition ou de <i>quo warranto</i> , ou pour rendre un jugement déclaratoire contre tout office fédéral;
<b>(b)</b> to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought	<b>b)</b> connaître de toute demande de réparation de la nature visée par l'alinéa a), et notamment de toute procédure engagée contre le procureur général du Canada afin

against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.	d'obtenir réparation de la part d'un office fédéral.
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**Rules of Civil Procedure, [RRO 1990, Reg 194](#)**

<b><u>RULE 21 DETERMINATION OF AN ISSUE BEFORE TRIAL</u></b>	<b><u>RÈGLE 21 DÉCISION D'UNE QUESTION AVANT L'INSTRUCTION</u></b>
<b><i>Where Available</i></b> <b>To Any Party on a Question of Law</b>	<b><i>Applicabilité</i></b> <b>À toutes les parties sur une question de droit</b>
<b>21.01</b> (1) A party may move before a judge,  (a) for the determination, before trial, of a question of law raised by a pleading in an action where the determination of the question may dispose of all or part of the action, substantially shorten the trial or result in a substantial saving of costs; or  (b) to strike out a pleading on the ground that it discloses no reasonable cause of action or defence,  and the judge may make an order or grant judgment accordingly. R.R.O. 1990, Reg. 194, r. 21.01 (1).	<b>21.01</b> (1) Une partie peut demander à un juge, par voie de motion :  a) soit, qu'une question de droit soulevée par un acte de procédure dans une action soit décidée avant l'instruction, si la décision de la question est susceptible de régler la totalité ou une partie de l'action, d'abrèger considérablement l'instruction ou de réduire considérablement les dépens;  b) soit, qu'un acte de procédure soit radié parce qu'il ne révèle aucune cause d'action ou de défense fondée.
(2) No evidence is admissible on a motion,  (a) under clause (1) (a), except with leave of a judge or on consent of the parties;  (b) under clause (1) (b). R.R.O. 1990, Reg. 194, r. 21.01 (2).	Le juge peut rendre une ordonnance ou un jugement en conséquence. R.R.O. 1990, Règl. 194, par. 21.01 (1).
<b>2) To Defendant</b>	(2) Aucune preuve n'est admissible à l'appui d'une motion :  a) présentée en application de l'alinéa (1) a), sans l'autorisation d'un juge ou le consentement des parties;  b) présentée en application de l'alinéa (1) b). R.R.O. 1990, Règl. 194, par. 21.01 (2).
(3) A defendant may move before a judge to have an action stayed or dismissed on the ground that,	<b>3) Au défendeur</b>

<p><b>Jurisdiction</b></p> <p>(a) the court has no jurisdiction over the subject matter of the action;</p>	<p>(3) Le défendeur peut demander à un juge, par voie de motion, de surseoir à l'action ou de la rejeter pour l'un des moyens suivants :</p> <p><b>Compétence</b></p> <p>a) le tribunal n'a pas compétence pour connaître de l'objet de l'action;</p>
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Court File No. CV- 20-00643451-0000

**VACCINE CHOICE CANADA et al.**

and

**TRUDEAU et al**

**Plaintiffs/Responding Parties**

**Defendants/Moving Parties**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at  
**Toronto**

**FACTUM OF THE DEFENDANTS/MOVING  
PARTIES, His Majesty the King in Right of  
Canada, the Attorney General of Canada,  
Justin Trudeau, Dr. Theresa Tam,  
Marc Garneau**

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Canada and the Attorney General of Canada