

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

-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

**NOTICE OF MOTION OF THE DEFENDANTS/MOVING PARTIES,
His Majesty the King in Right of Ontario and the Attorney
General of Ontario**

The Defendants His Majesty the King in Right of Ontario and the Attorney General of Ontario will make a motion to the Court on January 30, 2024, at 10:00 am or as soon thereafter as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1 (1) because it is (insert one of on consent, unopposed or made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- X orally (via Zoom, if required).

THE MOTION IS FOR:

1. An Order striking out the plaintiffs' claim against the defendants His Majesty the King in Right of Ontario, Doug Ford, the Premier of Ontario, Christine Elliott, the Minister of Health of Ontario, Stephen Lecce, the Minister of Education of Ontario, Dr. David Williams, the Chief Medical Officer of Health of Ontario, and the Attorney General of Ontario (together, the "Ontario defendants") with no leave to amend on the basis that the pleadings disclose no reasonable cause of action;
2. An Order striking out the entirety of the plaintiffs' claim against the Ontario defendants or portions of the claim with no leave to amend on the basis that the pleadings are scandalous, frivolous, and vexatious;
3. Costs of the motion; and
4. Such further and other relief as this Court deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

a) The Amended Statement of Claim

1. The plaintiffs are Vaccine Choice Canada, a not-for-profit corporation which purports to advocate on the topic of vaccines, and seven individuals (together, the "Plaintiffs") who claim to have been personally affected by various laws, policies, and measures adopted in response to the COVID-19 pandemic.

2. The Amended Statement of Claim names the Ontario defendants, along with His Majesty the King in Right of Canada, the Attorney General of Canada, several municipalities within the Province of Ontario, and several individuals who are named as officers and ministers of the federal government and these municipalities. The Canadian Broadcasting Corporation (the “CBC”) was also named as a defendant, but the action was discontinued as against the CBC in or around July 2022.
3. The bulk of the allegations against the Ontario defendants concern various laws, policies, and measures adopted in response to the COVID-19 pandemic, which the Amended Statement of Claim refers to as “COVID Measures”. The COVID Measures include social distancing and self-isolation requirements; temporary closures of schools, daycares, parks and playground facilities; and temporary restrictions on the operation of places of worship.
4. The Plaintiffs seek several declarations as against the Ontario defendants, including declarations that:
 - a. Sections 7.0.1 to 7.0.11 of the *Emergency Management and Civil Protection Act*, RSO 1990, c E.9 (“*EMCPA*”) and the COVID Measures are a constitutional violation of “dispensing with Parliament, under the pretense of Royal Prerogative” and contrary to the unwritten constitutional principles of the Rule of Law, Constitutionalism, and Democracy;
 - b. The declaration of emergency under s. 7.0.1(3) of the *EMPCA* did not satisfy the requisite statutory criteria and was therefore *ultra vires* the *EMCPA*;
 - c. The COVID Measures are an abdication of the Ontario government’s constitutional duty to govern;

- d. The declaration of emergency made under s. 7.0.1(3) of the *EMPCA*, and all Regulations and Orders made under the *EMCPA*, infringe ss. 2, 7, 8, 9, and 15 of the *Charter*, and are not justified under s. 1 of the *Charter*; and
- e. Any mandatory vaccination scheme in respect of COVID-19 would infringe ss. 2 and 7 of the *Charter*, and not be saved under s. 1 of the *Charter*.

b) *The Pleadings do not disclose any reasonable cause of action against the Ontario Defendants*

- 5. The Amended Statement of Claim discloses no reasonable cause of action against any of the Ontario defendants.
- 6. It is plain and obvious that the Ontario defendants have not dispensed with Parliament or abdicated “the duty to govern”. On the contrary, the measures the Plaintiffs complain of were enacted under express legislative authority by the Lieutenant Governor in Council, the Minister of Education, the Minister of Health, and the Chief Medical Officer of Health. The impugned declarations of emergency were repeatedly confirmed by resolution of the Legislative Assembly.
- 7. Further, the allegations against the Ontario defendants are moot because the declaration of emergency under the *EMCPA* and the orders made under that Act are no longer in effect. No further orders can be made under the *EMCPA* absent a new declaration of emergency.
- 8. Further, all orders made under the *Reopening Ontario Act, 2020*, SO. 2020, c. 17 have either expired or been revoked. The authority to amend or continue orders under the *Reopening Ontario Act, 2020* has lapsed.
- 9. It is plain and obvious that the action as against the Ontario defendants will fail, as the allegations are lacking in particulars about the specific

Regulations and Orders being challenged, and are plainly incapable of proof.

c) *The Pleadings are scandalous and vexatious*

10. In addition to the above, the pleadings related to the Ontario defendants are scandalous, frivolous and vexatious and ought to be struck.
11. The pleadings are replete with irrelevant, speculative and bare allegations, including numerous allegations which are beyond belief or proof. The pleadings are filled with conspiracy theories, including allegations regarding Bill Gates, the World Health Organization, and “a declared agenda to impose global mandatory vaccination, ID chipping, testing and immunity certification on all citizens” that “has been in the works for decades.”
12. Rules 1.04, 1.05, 21.01(1)(b), 21.01(3)(d), 25.06(1), 25.11(b), 57.01, 57.03(1) of the *Rules of Civil Procedure* (R.R.O. 1990, Reg. 194);
13. *Courts of Justice Act*, RSO 1990, c C43; and
14. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. Amended Statement of Claim issued July 20, 2020.
2. Such further and other evidence as counsel may advise and this Court may deem just.

Date: April 4, 2023

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VACCINE CHOICE CANADA ET AL

AND

TRUDEAU ET AL

Plaintiffs

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at
Toronto

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**MINISTRY OF THE ATTORNEY GENERAL
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