Form 27
[Rules 6.3 and 10.52(1)] C70013

COURT FILE NUMBER	2401-05557
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	CARRIE SAKAMOTO
DEFENDANTS	ATTORNEY GENERAL OF CANADA and HIS MAJESTY THE KING IN RIGHT OF ALBERTA
	***Brought under the Class Proceedings Act,* SA 2003, c C-16.5**
DOCUMENT	**AMENDED APPLICATION BY PLAINTIFF**

Clerk's Stamp

NB

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date:	**TBD**
Time:	**9:00 a.m.**
Where:	**Calgary Courts Centre, 601 5 St. SW, Calgary, AB T2P 5P7**
Before Whom:	**The Honourable Ms. Justice N. Dilts**

Go to the end of this document to see what else you can do and when you must do it.

Remedy Claimed or Sought

1. Certifying this action as a class proceeding against the Defendants, the Attorney General of Canada ("**Canada**") and His Majesty the King in Right of Alberta ("**Alberta**") pursuant to the *Class Proceedings Act*, S.A. 2003 c. C-16.5.

2. Defining the class as follows:

> All individuals who received Covid-19 vaccines (the "**Covid Vaccine**" or "**Covid Vaccines**") marketed or manufactured by Pfizer-BioNTech, AstraZeneca PLC, Moderna Inc., Janssen Inc. and Novavax Inc. (the "**Vaccine Manufacturers**") in the Province of Alberta between December 9, 2020 and the date of certification of this action as a class proceeding, or such other date determined to be appropriate by the Court (the "**Class Period**") and suffered injury (the "**Class**" or "**Class Members**").

3. The nature of the claim is as follows:

   a. The contract between Pfizer-BioNTech ("**Pfizer**") and Canada for the supply of the Covid Vaccines explicitly states that Pfizer did not warrant the Covid Vaccines for safety or efficacy:

   > [Canada] further acknowledges that **the long-term effects and efficacy of the Vaccine are not currently known and that there may be adverse effects** of the Vaccine that are not currently known.[1] [emphasis added]

   Notwithstanding the above disclaimer and in the face of vaccine mandates imposed by the Defendants, the Defendants routinely warranted to the public that the Covid Vaccines were "safe and effective."

   b. Pfizer's Covid Vaccine product monograph dated ~~December~~ September 16, 2021, and revised March 21, 2023, states:

   > **There are currently no data available from Pfizer and BioNTech clinical trials on the interchangeability** of COMIRNATY with other COVID-19 vaccines to complete the primary vaccination series or for a booster dose.[2] [emphasis added]

   c. AstraZeneca PLC ("**AstraZeneca**") Covid Vaccine product monograph dated November 19, 2021, states:

   > **There are no safety, immunogenicity or efficacy data to support inter-changeability** of VAXZEVRIA with other non-ChAdOx1-S (recombinant) COVID-19 vaccines.[3] [emphasis added]

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[1] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "C", at Section 5.5, on page 18.
[2] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "E", at paragraph 4.2 under "Recommended Dose and Dosage Adjustment".
[3] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "F" at page 7 under "Warnings and Precautions".

d. The National Advisory Committee on Immunization states that the Covid Vaccines were to be administered based on the Vaccine Manufactures' product monograph.[4]

e. All the Vaccine Manufacturers' product monographs contain similar warranties, representations and cautions which explicitly do not allow for the inter-changeability between different Covid Vaccines.

f. Canada's agreements with the Vaccine Manufacturers uniformly include clauses that do not guarantee the vaccines' safety, effectiveness, or interchangeability. These contracts explicitly acknowledge a lack of data to support claims of safety or efficacy at the time of agreement.

g. Moreover, both the Covid Vaccine contracts and the accompanying product monographs from the outset listed potential adverse events such as myocarditis, pericarditis, severe allergic reactions, thromboembolic events, and neurological disorders.[5] These documents from the Vaccine Manufacturers repeatedly cautioned and warned about inherent uncertainties and risks associated with the Covid Vaccines from the time of their initial distribution.

h. Despite the Vaccine Manufacturers warnings and cautions detailed in the Covid Vaccine contracts and product monographs, Canada and Alberta's servants—including Prime Minister Justin Trudeau, the Chief Public Health Officer of Canada, Dr. Teresa Tam, Premier Jason Kenney, and the Chief Medical Officer of Health for Alberta, Dr. Deena Hinshaw (the "**Defendants' Servants**") — repeatedly assured the public that the Covid Vaccines were safe, effective, and interchangeable without disclosing the risks and dangers that had been made known to them by the Vaccine Manufactures.

i. The Defendants' Servants knew or ought to have known that representing the Covid Vaccines as "safe and effective" and "interchangeable" were materially false, misleading, negligent and contrary to the representations made by the Covid Vaccine Manufacturers in the Covid Vaccine contracts and the product monographs. By failing to disclose that regulatory due diligence had been bypassed, the Defendants' Servants misrepresented the nature of the approval process.

j. The Defendants also implemented coercive measures that infringed upon civil liberties, including:

    i. Canada's servants issued travel mandates that restricted unvaccinated individuals to travel within and outside of Canada, effectively pressuring the public to get vaccinated to retain their freedom of movement.

    ii. Alberta's servants issued health orders that restricted unvaccinated individuals from accessing certain establishments and participating in

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[4] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "G"; Archived 1: Recommendations on the use of COVID-19 vaccine(s) [2020-12-12] - Canada.ca.

[5] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "E" at paragraph 8, pages 31-53; and Exhibit "F" at pages 4 and 6-8.

various activities. These measures, which were later deemed unlawful in Alberta by the Court of King's Bench, were intended to increase Covid Vaccine uptake.

iii. Alberta's Servants also provided financial incentives to encourage vaccination, effectively using economic leverage to boost Covid Vaccine uptake.

k. The Defendants would not have been able to implement such extreme and coercive measures if they disclosed that the Covid Vaccines were not warranted for safety or efficacy, or interchangeability.

l. The coercion and duress resulting from these tactics not only pressured individuals into compliance but also compromised their ability to provide informed consent to such medical treatment. By creating an environment of fear and urgency, the Defendants undermined the autonomy required for informed consent, thereby invalidating the legitimacy of the decision-making process and stripping individuals of their right to make informed healthcare choices.

m. Alberta Health Service's Policy on Informed Consent for treatment and procedures requires that individuals have the right to determine what happens to their own bodies based on the principle of informed consent. Alberta Health Service's Policy on Informed Consent defines the principles for obtaining informed consent from an individual receiving health care services:

- requires capacity;
- shall be informed;
- shall be specific;
- shall be voluntary;
- requires understanding; and
- shall be documented.[6]

n. The College of Physicians and Surgeons of Alberta mandates that a patient's informed consent must include, but is not limited, to:

i. Be free of undue influence, duress, or coercion when making the consent decision; and

ii. Based on a proper explanation that includes, but is not limited to, common

[6] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "I" at pages 1-2; Alberta Health Services – Policy on Informed Consent.

risks and significant risks.[7]

o. The Defendants misrepresented the Covid Vaccines as safe, effective and interchangeable and failed to disclose the bypassing of standard regulatory due diligence without adequately warning the public of the potential health risks and dangers that lead to serious, life-threatening, and even fatal consequences to individuals who receive those vaccines.

p. The Defendants' actions undermined the critical role of regulatory bodies in pharmaceutical oversight, as established under the *Food and Drugs Act*, RSC 1985, c F-27 by bypassing standard safety and efficacy requirements and misrepresenting this process to the public, eroding public trust in health regulatory systems.

q. The Canadian Adverse Events Following Immunization Surveillance System ("**CAEFISS**") is a federal, provincial and territorial public health post-market vaccine safety surveillance system.[8] CAEFISS is managed by the Public Health Agency of Canada and is meant to provide both passive (spontaneous reports from Federal agencies, Provinces and Territories) and active surveillance.

r. Alberta's COVID-19 Pandemic Data Review Task Force: Final Report, issued on January 28, 2025, revealed significant safety concerns with the Covid Vaccines, including a 96.875% spontaneous miscarriage rate in pregnant women, increased myocarditis risks, and the lack of transmission prevention, and made recommendations such as halting mRNA vaccine administration without full risk disclosure and establishing support for vaccine-injured Albertans.[9]

s. The Defendants' failure to implement the recommendations made by the Alberta Government Covid Task Force Report, coupled with their failure to provide accurate, transparent, and timely public health data, including clear and updated vaccine adverse event reporting through the CAEFISS, which has not been updated since January 19, 2024, and presents unclear data, further compromising informed consent and public safety.[10]

t. The Federal Defendant established the Vaccine Injury Support Program ("**VISP**") on June 1, 2021, acknowledging the potential for Covid Vaccine-related injuries and deaths, and both the Federal and the Provincial Defendants knew or ought to have known of its purpose. Despite VISP's recognition of 58,712 adverse events, including 11,702 serious events and 488 deaths reported via the CAEFISS by January 5, 2024, only 209 individuals received compensation.[11] The Defendants' failure to enhance VISP's transparency, accessibility, or funding to address the scale of reported harms, while continuing to promote Covid Vaccines without disclosing known risks after the rescission of public health emergency measures by

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[7] Affidavit of Tracey Bradley sworn September 12, 2024, Exhibit "J", at paragraph 5; Standards of Practice of the College of Physicians & Surgeons.
[8] Affidavit of Tracey Bradley sworn June 2, 2025, Exhibit "B", at page 275.
[9] Affidavit of Gary Davidson, Exhibit "A", at PDF pages 201 and 208-209.
[10] Affidavit of Tracey Bradley sworn June 2, 2025, Exhibit "C", at page 283.
[11] Affidavit of Tracey Bradley sworn June 2, 2025, Exhibit "C", at page 284.

April 2022 (Provincial) and June 2023 (Federal), breached their duty to protect public health, provide transparent data and effective remedies. Furthermore, the Defendants' failure to update CAEFISS with clear, accessible data since January 5, 2024, obscured critical safety information, misleading the public and undermining informed consent, causing further harm to the Plaintiff and Class Members.

u. The Federal Defendant issued the following public statement regarding vaccine safety and VISP:

> Vaccines are only approved in Canada after thorough and independent review of the scientific evidence. They are also closely monitored once on the market and can quickly be removed from market if safety concerns are identified. Notwithstanding the rigour of clinical trials and excellence in vaccine delivery, a small number of Canadians may experience an adverse event following immunization, caused by vaccines or their administration.
>
> Like any medication, vaccines can cause side effects and reactions. After being vaccinated, it's common to have mild and harmless side effects — this is the body's natural response, as it's working to build immunity against a disease. However, it is also possible for someone to have a serious adverse reaction to a vaccine. The chances of this are extremely rare — less than one in a million — **and we have a duty to help if this occurs**. [emphasis added]
>
> It is for this reason that the Public Health Agency of Canada ("**PHAC**") is implementing a pan-Canadian no-fault vaccine injury support program for all Health Canada approved vaccines, in collaboration with provinces and territories. Building on the model in place in Québec for over 30 years, **the program will ensure that all Canadians have to have fair access to support in the rare event that they experience an adverse reaction to a vaccine**. This program will also bring Canada in line with its G7 counterparts with similar programs, and ensure the country remains competitive in accessing new vaccines as they become available.[12] [emphasis added]

v. In establishing VISP, the Defendants acknowledged the potential for vaccine-related adverse events, committed to monitoring vaccine safety, and committed to provide support for those injured. However, the Defendants failed in their duty to the public by not adequately monitoring failed Covid vaccines, ensuring timely and transparent reporting of Covid vaccine adverse events, and providing sufficient compensation to those injured by Covid vaccines, thereby exacerbating harm to the Plaintiff and Class Members.

w. The Defendants relied on public messaging and written materials to promote the Covid Vaccines as "safe," effective," and "interchangeable" which failed to adequately communicate the risks to ensure informed consent, as required under Alberta Health Services' Policy and the College of Physicians and Surgeons of

[12] Affidavit of Tracey Bradley sworn June 2, 2025, Exhibit "H", at pages 357-358.

Alberta standards. Health care professionals must ensure risk information is communicated and understood, especially for vaccines given to healthy individuals, and written brochures alone are insufficient.[13] The Defendants, acting as medical advisors, did not adequately disclose risks, limiting informed consent and causing harm to the Plaintiff and Class Members.

x. The Federal Defendant is responsible under the *Canada Health Act*, RSC 1985, c C-6 and the *Department of Health Act*, SC 1996, c 8 for promoting and protecting the physical and mental well-being of Canadians, and under the *Food and Drugs Act* for ensuring that drugs and vaccines authorized for use in Canada are safe, effective, and of high quality. These obligations include ensuring proper regulatory oversight, ongoing safety monitoring, and accurate public communication regarding health risks. The Provincial Defendant, under the *Public Health Act*, RSA 2000, c P-37, is responsible for delivering public health programs and services, and under the *Health Information Act*, RSA 2000, c H-5, for ensuring that health information is accurate, complete, and disclosed in a manner that supports informed health decision-making. Both levels of government are required to act in a manner that protects public health and enables individuals to make informed medical decisions.

y. The Defendants—the Federal Government, by approving and promoting Covid Vaccines under the *Food and Drugs Act* and by failing to uphold its responsibility under the *Canada Health Act* and the *Department of Health Act* to protect and promote the health of Canadians, and the Provincial Government, by delivering vaccines and implementing public health policies under the *Public Health Act* and managing health information under the *Health Information Act*—breached their statutory duties to ensure that health products were safe, that adverse events were accurately and transparently reported, and that citizens were provided timely, complete, and truthful information necessary for informed consent. These failures obstructed individual decision-making, impaired access to compensation mechanisms, and resulted in serious injury to the Plaintiff and Class Members.

z. The Defendants misrepresentation mirrors the horrific case of thalidomide, which was initially marketed as safe for various minor ailments, including morning sickness in pregnant women, when it was launched in 1957.[14]

aa. The claim that thalidomide was safe was pivotal to its approval in Canada and its widespread use in 1960.[15] However, concerns about its safety were emerging and by 1961 thalidomide was definitively connected to severe birth defects prompting its dramatic withdrawal from the market worldwide in 1961-1962.[16] This tragic outcome directly contradicted the initial assertions that it was safe, leading to one of the most significant pharmaceutical disasters in history, with thousands of babies born with severe malformations.

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[13] Affidavit of Tracey Bradley sworn June 2, 2025, Exhibit "G", at page 349.
[14] *Celgene Inc. v. Canada (Health)*, 2012 FC 154 (CanLII).
[15] *Ibid.*, at paragraph 4.
[16] *Ibid.*, at paragraph. 5.

bb. The thalidomide tragedy led to a major overhaul of Canada's regulatory framework "to improve safety requirements and, for the first time, to require evidence of efficacy."[17] This reform highlighted the critical role of regulatory bodies in pharmaceutical oversight, acknowledging that initial claims about a drug's safety and effectiveness could be contradicted by subsequent evidence, and emphasized the responsibility of these bodies to respond to such findings. It also reinforced that the duty of care and public trust in these agencies are not merely procedural but are essential in ensuring that Defendants' actions are taken in the public interest and for the safety for all Canadians.

cc. The Defendants' claims regarding the safety, effectiveness, and interchangeability of the Covid Vaccines, without adequate disclosure of potential health risks, parallel the initial misrepresentations seen with thalidomide. These misrepresentations by the Defendants led to unforeseen health complications and have undermined public trust in health regulatory systems, further eroding confidence in public health and regulatory frameworks.

dd. In the wake of the thalidomide scandal, the United Kingdom introduced significant regulatory changes through the *Medicines Act,* 1968, fundamentally reshaping how pharmaceuticals were marketed and established strict licensing requirements for all medicines.[18]

ee. This class action arises from the injuries and harms caused by Covid Vaccines due to the Defendants' unlawful, negligent, deceptive, and coercive practices in their warnings, marketing, promotion, and distribution of the Covid Vaccines which undermined informed consent of the Class.

ff. This class action also arises from the Defendants' misrepresentations and the failure to provide accurate and complete information, required for obtaining the Class Members informed consent, thereby violating the trust and duty of care expected from public health and regulatory bodies in ensuring the safety and efficacy of medical interventions.

gg. The Defendants' servants assumed roles typically reserved for healthcare practitioners by making authoritative public statements about the safety, efficacy, interchangeability, and necessity for the mass medical intervention of the Covid Vaccines. In doing so, the Defendants infringed on the fundamental principle of informed consent between individuals and their medical professionals, which is cornerstone of the doctor-patient relationship. As a result of this interference, the Defendants assumed a heightened duty of care by stepping into the role as medical advisors. Consequently, this placed an elevated responsibility on the Defendants to ensure that their advice was not only accurate but was also free from any coercion or manipulation.

hh. The integrity of the requirement for informed consent is paramount in safeguarding

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[17] *Ibid.*, at paragraph 44.

[18] Affidavit of Tracey Bradley, Exhibit "K" at paragraph 3.1.13; Medicines legislation and regulation in the United Kingdom 1500-2020.

the individuals' right to make informed and voluntary health decisions free from coercion. Public health authorities bear a significant responsibility to ensure that the public receives accurate, transparent, and complete information about medical interventions. By failing to uphold this standard, the Defendants compromised public trust and potentially exposed individuals to unnecessary risks. This breach of trust is not just a matter of misinformation but represents a failure in the duty of care that the Defendants are expected to uphold. This is even more important when their statements influence millions of individuals to undergo a specific medical procedure.

ii. Specifically, the Defendants Servants, Dr. Theresa Tam and Dr. Deena Hinshaw, through their public statements as public health officials and by referring to the public as their "patients," positioned themselves as trusted medical advisors to the public, thereby assuming a duty of care. This positioning was not merely symbolic. It carried with it the legal and ethical obligations associated with providing medical advice, including the duty to not mislead or withhold critical information.

jj. The Defendants' duty of care required them not to mislead or make false and unqualified statements regarding the safety, efficacy and interchangeability of the Covid Vaccines.

kk. The Defendants established a relationship of trust with the public during a global health crisis but misled the public though the following actions:

i. Canada's Servants approved the Covid Vaccines, knowing that the Vaccines Manufacturers did not, and could not, warrant their products for safety, efficacy or interchangeability and bypassed standard regulatory due diligence under the *Food and Drugs Act*. This was done while publicly representing the Covid Vaccines as "safe and effective" and promoted their interchangeability. Canada's Servants concurrently suppressed information about the risks and dangers associated with the Covid Vaccines and the lack of full regulatory scrutiny at various times falsely claimed that the Covid Vaccines stopped or reduced transmission or prevented Covid infection contrary to express denials of such properties by the Vaccine Manufacturers.

ii. Alberta's servants administered the Covid Vaccines while representing them as "safe and effective", promoting their interchangeability, and suppressing information about the risk and dangers associated with the Covid Vaccines and the absence of standard regulatory oversight.

ll. Collectively, the Defendants conspired to promote the safety, efficacy and interchangeability of the Covid Vaccines and the adequacy of their regulatory approval while actively suppressing information regarding their risks and dangers. This concerted effort, characterized by the repetition of specific slogans, suppressing information on dangers, coercing and incentivizing individuals into undergoing medical treatment without full disclosure of the associated risks, violated the public's right to informed consent and constitutes a conspiracy to

commit assault and battery.

mm. The Defendants' actions caused harm to the Class Members due to negligence, negligent misrepresentation, breach of public duty, and conspiracy, or any claim this Honourable Court deems appropriate.

nn. The scale of this misconduct impacted millions of individuals. Thus, underscoring the severity of the breach of trust and the duty of care that public health officials owe to the public that they serve. This case reveals not just isolated errors but systemic failures of the Defendants that allowed such misrepresentations and harms to occur. It underscores the critical need for government accountability in managing public health crises and in how the Defendants communicate with the public, emphasizing the paramount importance of transparency and integrity in public health directives.

Issues

4. Defining the following issues as common issues for trial, either jointly or severally:

Misrepresentation

a. Did the Defendants represent the Covid Vaccines as "safe," "effective," and/or "interchangeable"?

b. Were the Defendants' representations about the safety, efficacy, and interchangeability of the Covid Vaccines false, misleading, deceptive, or contrary to the *Food and Drugs Act*?

c. Did the Defendants suppress or fail to disclose known or emerging risks, adverse event data, or regulatory limitations relating to the Covid Vaccines, including information from manufacturers and the Canadian Adverse Events Following Immunization Surveillance System?

Statutory Breaches

d. Did the Federal Defendant breach its duty under the *Canada Health Act* and the *Department of Health Act* to protect and promote the health of Class Members by failing to adequately monitor Covid Vaccine safety, ensure access to compensation for injuries, or provide the public with accurate, timely, and complete information about vaccine-related harms?

e. Did the Federal Defendant breach its duty under the *Food and Drugs Act* by authorizing and continuing to promote Covid Vaccines that were unsafe, ineffective, or inadequately tested, and by failing to take corrective action as new risk data emerged?

f. Did the Provincial Defendant breach its duty under the *Public Health Act* by implementing Covid Vaccine programs and policies that failed to protect public health and exposed Class Members to foreseeable risks of serious harm?

g. Did the Provincial Defendant breach its duty under the *Health Information Act* by failing to ensure Class Members had access to accurate, clear, and complete health information necessary to support informed decision-making about the Covid Vaccines?

Negligence

h. Did the Defendants breach their duty of care by failing to update the Canadian Adverse Events Following Immunization Surveillance System with current, transparent, and accessible data after January 5, 2024, thereby breaching their duty to monitor vaccine safety and inform the public of emerging risks?

i. Did the Defendants breach their duty of care by promoting, delivering, or mandating the Covid Vaccines adequately monitoring adverse event data, updating safety guidance as new risks emerged, or providing accurate and transparent public health information?

j. Did the Defendants act negligently by failing to establish or maintain an accessible and effective vaccine injury compensation program, despite their knowledge of foreseeable risks, the volume of adverse events, and the public's reliance on government-led vaccination programs?

k. Did the Defendants breach their duty of care by mandating, coercing, or incentivizing Covid vaccination in a manner that disregarded individual risk profiles, undermined the physician–patient relationship, and compromised the ability of individuals to make fully informed medical decisions?

l. Did the Defendants act negligently by failing to implement the recommendations and cautions outlined in the Alberta Government Covid Task Force Report, thereby exposing Class Members to preventable risks and harms associated with the Covid Vaccines?

Negligent Misrepresentation

m. Did the Defendants present themselves as medical or public health experts and provide advice or coercive measures that exceeded their statutory authority, in circumstances where they knew or ought to have known that the public would rely on such representations, thereby giving rise to negligent misrepresentation and a corresponding duty of care?

Informed Consent

n. Did the Defendants' representations, suppression of risk information, or coercive measures vitiate the ability of Class Members to provide informed consent for the Covid Vaccines?

o. Did the Defendants' actions interfere with the physician-patient relationship or contravene informed consent requirements under Alberta Health Services policies and regulatory standards?

Misfeasance/Abuse of Public Office

p. Did the Defendants act with reckless indifference or willful blindness in promoting the Covid Vaccines, knowing or ought to have known of their risks?

q. Did the Defendants' failure to update the Canadian Adverse Events Following Immunization Surveillance System since January 5, 2024, with transparent and accessible data constitute misfeasance in public office?

r. Did the Federal Defendant's authorization and continued promotion of Covid Vaccines under the *Food and Drugs Act*, and their failure to uphold the duty under the *Canada Health Act* and the *Department of Health Act* to protect and promote the health of Class Members, despite emerging evidence of risks and ineffectiveness, constitute misfeasance in public office by failing to ensure the safety, efficacy, and proper monitoring of health products?

s. Did the Provincial Defendant's failure to disclose adverse event data, implement the Alberta Government Covid Task Force recommendations, or revise public guidance, contrary to the duties imposed by the *Public Health Act* and the *Health Information Act* constitute misfeasance in public office by failing to protect Class members and uphold statutory responsibilities?

t. Did the Defendants' implementation of coercive mandates, including *ultra vires* Chief Medical Officer of Health Orders and federal travel mandates, constitute misfeasance in public office by knowingly or recklessly exceeding their statutory authority to deprive individuals of their civil liberties in order to coerce Covid vaccination?

u. Did the Defendants fail to establish and maintain an effective vaccine injury compensation program to adequately support those harmed by the Covid Vaccines constitute misfeasance in public office?

Conspiracy to Commit Assault and Battery

v. Did the Defendants conspire to suppress risk information, misrepresent vaccine safety or efficacy, and coerce medical interventions without informed consent, thereby committing a conspiracy to commit assault and battery?

Breach of Fiduciary Duty

w. Did the Defendants, by presenting themselves as public health experts, assume a fiduciary or special duty to the public and breach that duty by misrepresenting vaccine safety and withholding risk information?

Reliance and Harm

x. Did Class Members rely on the Defendants' representations about the safety, efficacy, or interchangeability of the Covid Vaccines?

y. Did Class Members suffer physical, emotional, or financial harm as a result of receiving the Covid Vaccines?

z. Are the Defendants liable for the harms suffered by Class Members under one or more of the following: negligence, negligent misrepresentation, breach of statutory duty, misfeasance in public office, breach of fiduciary duty, or conspiracy?

Damages and Remedies

aa. Can the court assess damages in the aggregate, in whole or in part, for the Class?

bb. Should one or more of the Defendants pay punitive, exemplary, or aggravated damages to the Class?

and any other common issues disclosed by the Statement of Claim.

5. Appointing Carrie Sakamoto as Representative Plaintiff for the Class Members.

6. Appointing Rath & Company, Barristers and Solicitors, as Class Counsel.

7. Approving the Notice of Certification to the Class Members in the form attached as Schedule "A", or in such form as approved by the Court.

8. Directing that any preliminary issues and motions be heard during the certification hearing.

9. Directing that the Notice of Certification be issued as follows:

a. By posting a notice on Class Counsel's website;

b. By forwarding the Notice of Certification to any Class Member who requests it;

c. By publishing the Notice of Certification across Alberta including in the Edmonton Journal, the Calgary Sun, The Globe and Mail, and the National Post;

d. By releasing a News Release to a wide range of news sources regarding the Claim and appearing on news broadcasts to direct Class Members to Class Counsel's website; and

e. By such other notice as counsel may request, and the Court directs.

10. Directing that the expense of the Notice of Certification in paragraphs 7 and 8 shall be borne by the Defendants, subject to review and readjustment by agreement or order at the termination of this proceeding.

11. Directing that Class members may opt out of this class provided by delivering a signed opt out coupon, in the form attached as "Schedule B" (the "**Opt Out Form**") by a date to be determined (the "**Opt Out Deadline**") to Class Counsel by e-mail, mail, or facsimile and must be received, or post marked, if delivered by mail, by the Opt Out Deadline.

12. No Class Member may opt out of the class proceeding after the Opt Out Deadline, except

with leave of the Court.

13. Class Counsel may make non-material changes to the Notice of Certification and the Opt Out Form as are necessary.

14. Approving the Litigation Plan in the form attached as "Schedule C", or such form as approved by the Court.

15. The Notice of Certification shall commence on the date of the certification order and conclude four months later, unless otherwise ordered by the Court.

16. Costs of this application, payable forthwith in any event of the cause.

17. Such further and other relief as this Honourable Court may permit.

Grounds for Making This Application

18. Section 5(1) of the *Class Proceedings Act* outlines five requirements for certifying a proposed class action:

    a) The pleadings disclose a cause of action.

    b) There is an identifiable class of two or more persons.

    c) The claims of the prospective class members raise a common issue, even if the common issue does not predominate over individual issues.

    d) A class proceeding would be the preferable procedure for the fair and efficient resolution of the common issues.

    e) There is a person eligible to be appointed as representative plaintiff.[19]

19. If these certification requirements are met, the Court must grant the certification order; there is no residual discretion to deny it.

20. A class action is a procedural tool that allows one or more persons to bring an action on behalf of, or for the benefit of, numerous persons who suffered a common wrong. It is intended to provide an efficient mechanism to achieve redress for widespread harm or injury.

21. The certification motion is procedural in nature. It plays a screening role, but it is limited in scope.[20] It focuses on ensuring that the claims advanced are appropriate for resolution using the mechanism of a class proceeding.

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[19] *Class Proceedings Act*, SA 2003, c C-16.5 at section 5(1).

[20] *Pro-Sys Consultants Ltd. v. Microsoft Corporation*, 2013 SCC 57 (CanLII), [2013] 3 SCR 477, ("***Pro-Sys***") at para 10; *Jensen v. Samsung Electronics Co. Ltd.*, 2021 FC 1185 (CanLII), [2022] 3 FCR 34 ("***Jensen***"), at paras 60-62.

22. The pleadings herein disclose a cause of action against the Defendants.

23. There is an identifiable class of two or more persons.

24. The claims of the class members raise common issues respecting the within litigation.

25. A class action will be preferable procedure for resolution of the common issues.

26. The Plaintiff, Carrie Sakamoto is appropriate to be appointed as Representative Plaintiff:

    a) will fairly and adequately represent the interests of the class;

    b) had produced a plan that sets out a workable method of advancing the action; and

    c) does not have, on the common issues, an interest that is in conflict with the interest of other class members.

27. The certification stage focuses on whether the suit is appropriately prosecuted as a class action.[21] The certification motion does not involve an assessment of the merits, viability or strength of the claims.[22]

28. The Supreme Court of Canada set out the key principles of class actions in the seminal class action case of *Hollick v. Toronto*.[23] Chief Justice McLachlin highlighted the goals of class action legislation and cautioned that if such goals are to be achieved, the courts must construe class proceeding legislation generously and must not take an overly restrictive approach.[24] Further, the test for certification should be applied in a purposive and generous manner to achieve the main goals of class actions: providing access to justice for litigants, promoting the efficient use of judicial resources, and sanctioning wrongdoers to encourage behavior modification.[25]

29. The claims raised in this action justify the certification of this class action, as they involve common issues that affect a large segment of the population and warrant judicial consideration to ensure justice, enforce government accountability, and safeguard public health.

Material or Evidence to be Relied Upon

30. The Plaintiff relies upon the following materials in support of this Application:

    a) The pleadings filed in the within action;

    b) *Ingram v. Alberta (Chief Medical Officer of Health)*, 2023 ABKB 453 Decision;

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[21] *Hollick v. Toronto (City), 2001 SCC 68 (CanLII), [2001],* SCC 68 (CanLII), [2001] 3 SCR 158 ("***Hollick***"), at para. 16; *Pro-Sys*, at para 103.
[22] *Pro-Sys*, at para 102.
[23] *Hollick*, SCC 68 (CanLII) ("***Hollick***"), [2001] 3 SCR 158.
[24] *Hollick*, at para 15.
[25] *Hollick*, at paras 15 and 16; *Western Canadian Shopping Centres Inc. v. Dutton*, 2001 SCC 46 (CanLII), [2001] 2 SCR 534, at paras 26-29; *Pro-Sys*, at paras 137-141.

c) The Affidavit(s), if any, filed in support of this Application;

d) The materials and authorities set out in the brief to be filed in support of this Application; and

e) Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules

31. *Alberta Rules of Court*, AR 124/2010, Rules 1.2, 1.4, 2.9, 3.68, 6.2, 6.3, 10.32, and 13.11.

32. Such further and other Rules of the *Alberta Rules of Court* as counsel may advise.

Applicable *Acts* and Regulations

33. *Alberta Health Act,* SA 2010, c A-19.5;

34. *Alberta Health Care Insurance Act,* RSA 2000, c A-20;

35. *Canada Health Act, RSC 1985, c C-6;*

36. *Class Proceedings Act*, SA 2003, c C-16.5;

37. *Contributory Negligence Act,* RSA 2000, c C-27;

38. *Crown Liability and Proceedings Act,* RSC 1985, c C-50;

39. *Food and Drugs Act,* RSC 1985, c F-27;

40. *Health Agency of Canada Act,* SC 2006, c5;

41. *Public Health Act,* RSA 2000, c P-37;

42. *Public Health Agency of Canada Act*, SC 2006, c5;

43. *Fatal Accidents Act, RSA 2000*, c F-8;

44. *Health Information Act*, RSA 2000, c H-5;

45. *Department of Health Act*, SC 1996, c 8; and

46. Such further and other material as counsel may advise and this Honourable Court may permit.

Any Irregularity Complained of or Objection Relied Upon

47. None.

How the Application is Proposed to be Heard or Considered

48. In person, with one, some or all of the parties present.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

"SCHEDULE A"
Notice of Certification to the Class Members

1. Did you receive a Covid Vaccine in Alberta between December 9, 2020, to [DATE] (the "**Affected Period**")? **YES/NO**

2. Did you suffer and injury from the Covid Vaccine? **YES/NO**

If you answered **YES** to the questions above, a class action may affect your rights. Please read this carefully.

A COURT AUTHORIZED THIS NOTICE. YOU ARE NOT BEING SUED.

On [DATE] the Court of King's Bench of Alberta certified a class action lawsuit on behalf of individuals who:

- who received Covid-19 vaccines (the "**Covid Vaccines**") marketed or manufactured by Pfizer-BioNTech, AstraZeneca PLC, Moderna, Inc., Janssen Inc. and Novavax Inc. (the "**Vaccine Manufacturers**") in the Province of Alberta between December 9, 2020, and [DATE], and

- who suffered injury

the "**Class**" or "**Class Members**".

If you meet this definition, you have a choice whether or not to stay in the Class. If you know a person who meets this definition but who has not seen this Notice, please share this Notice with them.

The Court has not decided whether the Government of Canada or the Government of Alberta has done anything wrong. There still has to be a court case about whether the Government of Canada or the Government of Alberta did anything wrong. There is no money or benefits available now for compensation, and there is no guarantee that there will ever be any money or benefits for compensation.

However, your rights are affected by this lawsuit, and you have a choice to make now. This Notice is to help you make this choice.

To stay in the Class and the lawsuit, you do not have to do anything. If money or benefits are obtained through this lawsuit, you will be notified about how to make a claim. You will be legally bound by all orders and judgments, favorable or not, and you will not be able to sue the Government of Canada or the Government of Alberta on your own about the same legal claims in this lawsuit.

If you do not want to stay in the lawsuit, you must submit an Opt Out Form, or send a letter that says you want to be removed from the Class by [DATE]. You can find a copy of the Opt Out Form here; [website address]. If you send a letter, the letter must stay that you want to be removed from the Class and include your name, address, telephone number and signature. You must send your Opt Out Form or letter by email, facsimile, or mail to Rath & Company at the address below by

[DATE] and it must be received or post-marked, if delivered by mail by [DATE]. If you are removed (opt out) of this lawsuit and money or benefits are later awarded, you will not share in those. But you keep any right to sue the Government of Canada or the Government of Alberta on your own about the same legal claims in this lawsuit subject to any applicable limitation period.

The Court has appointed Rath & Company ("Class Counsel") to represent the Class. You don't have to pay Class Counsel to participate in the lawsuit. If money or benefits for the Class are obtained through the class action, Class Counsel may ask for lawyers' fees and costs, which would be deducted from any money obtained or would be paid separately by the Government of Canada or the Government of Alberta. The Court has to approve Class Counsel's request to be paid and will only approve an amount that is fair and reasonable.

For more information about this lawsuit and your rights:

Visit:	https://rathandcompany.com/covid-19-vaccine-class-action/
Email:	Covidclassaction@rathandcompany.com
Call toll-free:	1-866-231-7284
Write to:	Rath & Company 282050 Hwy 22 W Foothills, AB T0L 1W2 CANADA
Fax to:	1-403-931-4048

TO BE REMOVED FROM THE LAWSUIT YOU MUST ASK TO BE REMOVED ("OPT OUT") BY [DATE]
BASIC INFORMATION

What is a Class Action Lawsuit?

A class action lawsuit is a legal action where a group of people collectively brings a claim to court. This type of lawsuit is distinct from individual cases, as it represents the interests and seeks compensation for a class of people who have been affected by similar acts of negligence or harmful practices. Class action suits provide a more comprehensive approach to addressing widespread issues, allowing for a collective voice in legal proceedings. These lawsuits can be instrumental in achieving justice for a larger group and can potentially set precedents for future legal and protective standards.

What is certification?

The court must first assess whether the claim should be advanced in the form of a class action. The court will consider whether the claim shows an appropriate cause of action, an identifiable class of persons, and issues that are shared in common. The court will also determine whether a class action is a preferable procedure, and whether there is an appropriate representative plaintiff. If the

class action is certified by the court, the representative plaintiff or plaintiffs will advance the case on behalf of all class members.

Am I a class member?

When a class action is certified, a definition of the class is provided. If you are an individual class member meeting the class description, then you do not need to sign up to be part of the class action – you are automatically included.

If you received a Covid Vaccine in 2020-2024 and wish to register with us as a member of the group, please fill out intake form.

Do I have to pay to be part of the class action?

No. This class action will proceed on a contingency fee basis. This means that the lawyers bringing the action will only be paid if the class action succeeds. If successful, the lawyers will be paid a portion of the settlement or judgment, but only if the Court approves.

"SCHEDULE B"
OPT OUT FORM

Email to: Covidclassaction@rathandcompany.com

Write to: Rath & Company, 282050 Hwy 22 W, Foothills, AB, T0L 1W2 CANADA

Fax to: 1-403-931-4048

THIS IS NOT A CLAIM FORM. COMPLETING THIS OPT OUT FORM WILL EXCLUDE YOU FROM RECEIVING ANY COMPENSATION ARISING OUT OF ANY SETTLEMENT OR JUDGEMENT IN THE CLASS PROCEEDING NOTED BELOW:

COURT OF KING'S BENCH OF ALBERTA COURT NO.: 2401-05557

PROPOSED CLASS ACTION PROCEEDING BETWEEN

CARRIE SAKAMOTO

And

ATTORNEY GENERAL OF CANADA and HIS MAJESTY THE KING IN RIGHT OF ALBERTA

I understand that by opting out of this class proceeding I am confirming that I do NOT wish to participate in this class proceeding. I do NOT with to receive any benefit that may be obtained from this lawsuit.

I understand that I must mail email, fax or mail this Opt Out Form before [DATE] or else it will NOT be valid.

I understand that any individual claim I may have must be commenced within an applicable limitation period or else it will be legally barred. I understand that the filing of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.

I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period and for taking all necessary legal steps to protect any claim I may have.

Name of Class Member	Signature of Class Member
Telephone Number	Date
Name of Witness	Signature of Witness
Telephone Number	Date

"SCHEDULE C"
LITIGATION PLAN

A. COMMON ISSUES AND CERTIFICATION MOTION

1. At the certification motion, the Plaintiff seeks to certify this action as a class proceeding on behalf of

> All individuals who received Covid-19 vaccines (the "**Covid Vaccines**") marketed or manufactured by Pfizer-BioNTech, AstraZeneca PLC, Moderna, Inc., Janssen Inc. and Novavax Inc. (the "**Vaccine Manufacturers**") in the Province of Alberta between December 9, 2020, and the date of certification of this action as a class proceeding, or such other date determined to be appropriate by the Court (the "**Class Period**") and suffered injury
>
> collectively, the "**Class**" or "**Class Members**".

2. At the certification motion, the Plaintiff seeks certification of the following common issues, either jointly or severally:

Misrepresentation

a. Did the Defendants represent the Covid Vaccines as "safe," "effective," and/or "interchangeable"?

b. Were the Defendants' representations about the safety, efficacy, and interchangeability of the Covid Vaccines false, misleading, deceptive, or contrary to the *Food and Drugs Act*?

c. Did the Defendants suppress or fail to disclose known or emerging risks, adverse event data, or regulatory limitations relating to the Covid Vaccines, including information from manufacturers and the Canadian Adverse Events Following Immunization Surveillance System?

Statutory Breaches

d. Did the Federal Defendant breach its duty under the *Canada Health Act* and the *Department of Health Act* to protect and promote the health of Class Members by failing to adequately monitor Covid Vaccine safety, ensure access to compensation for injuries, or provide the public with accurate, timely, and complete information about vaccine-related harms?

e. Did the Federal Defendant breach its duty under the *Food and Drugs Act* by authorizing and continuing to promote Covid Vaccines that were unsafe, ineffective, or inadequately tested, and by failing to take corrective action as new risk data emerged?

f. Did the Provincial Defendant breach its duty under the *Public Health Act* by implementing Covid Vaccine programs and policies that failed to protect public health and exposed Class Members to foreseeable risks of serious harm?

g. Did the Provincial Defendant breach its duty under the *Health Information Act* by failing to ensure Class Members had access to accurate, clear, and complete health information necessary to support informed decision-making about the Covid Vaccines?

Negligence

h. Did the Defendants breach their duty of care by failing to update the Canadian Adverse Events Following Immunization Surveillance System with current, transparent, and accessible data after January 5, 2024, thereby breaching their duty to monitor vaccine safety and inform the public of emerging risks?

i. Did the Defendants breach their duty of care by promoting, delivering, or mandating the Covid Vaccines adequately monitoring adverse event data, updating safety guidance as new risks emerged, or providing accurate and transparent public health information?

j. Did the Defendants act negligently by failing to establish or maintain an accessible and effective vaccine injury compensation program, despite their knowledge of foreseeable risks, the volume of adverse events, and the public's reliance on government-led vaccination programs?

k. Did the Defendants breach their duty of care by mandating, coercing, or incentivizing Covid vaccination in a manner that disregarded individual risk profiles, undermined the physician–patient relationship, and compromised the ability of individuals to make fully informed medical decisions?

l. Did the Defendants act negligently by failing to implement the recommendations and cautions outlined in the Alberta Government Covid Task Force Report, thereby exposing Class Members to preventable risks and harms associated with the Covid Vaccines?

Negligent Misrepresentation

m. Did the Defendants present themselves as medical or public health experts and provide advice or coercive measures that exceeded their statutory authority, in circumstances where they knew or ought to have known that the public would rely on such representations, thereby giving rise to negligent misrepresentation and a corresponding duty of care?

Informed Consent

n. Did the Defendants' representations, suppression of risk information, or coercive measures vitiate the ability of Class Members to provide informed consent for the

Covid Vaccines?

o. Did the Defendants' actions interfere with the physician-patient relationship or contravene informed consent requirements under Alberta Health Services policies and regulatory standards?

Misfeasance/Abuse of Public Office

p. Did the Defendants act with reckless indifference or willful blindness in promoting the Covid Vaccines, knowing or ought to have known of their risks?

q. Did the Defendants' failure to update the Canadian Adverse Events Following Immunization Surveillance System since January 5, 2024, with transparent and accessible data constitute misfeasance in public office?

r. Did the Federal Defendant's authorization and continued promotion of Covid Vaccines under the *Food and Drugs Act*, and their failure to uphold the duty under the *Canada Health Act* and the *Department of Health Act* to protect and promote the health of Class Members, despite emerging evidence of risks and ineffectiveness, constitute misfeasance in public office by failing to ensure the safety, efficacy, and proper monitoring of health products?

s. Did the Provincial Defendant's failure to disclose adverse event data, implement the Alberta Government Covid Task Force recommendations, or revise public guidance, contrary to the duties imposed by the *Public Health Act* and the *Health Information Act* constitute misfeasance in public office by failing to protect Class Members and uphold statutory responsibilities?

t. Did the Defendants' implementation of coercive mandates, including *ultra vires* Chief Medical Officer of Health Orders and federal travel mandates, constitute misfeasance in public office by knowingly or recklessly exceeding their statutory authority to deprive individuals of their civil liberties in order to coerce Covid vaccination?

u. Did the Defendants fail to establish and maintain an effective vaccine injury compensation program to adequately support those harmed by the Covid Vaccines constitute misfeasance in public office?

Conspiracy to Commit Assault and Battery

v. Did the Defendants conspire to suppress risk information, misrepresent vaccine safety or efficacy, and coerce medical interventions without informed consent, thereby committing a conspiracy to commit assault and battery?

Breach of Fiduciary Duty

w. Did the Defendants, by presenting themselves as public health experts, assume a fiduciary or special duty to the public and breach that duty by misrepresenting

vaccine safety and withholding risk information?

Reliance and Harm

x. Did Class Members rely on the Defendants' representations about the safety, efficacy, or interchangeability of the Covid Vaccines?

y. Did Class Members suffer physical, emotional, or financial harm as a result of receiving the Covid Vaccines?

z. Are the Defendants liable for the harms suffered by Class Members under one or more of the following: negligence, negligent misrepresentation, breach of statutory duty, misfeasance in public office, breach of fiduciary duty, or conspiracy?

Damages and Remedies

aa. Can the court assess damages in the aggregate, in whole or in part, for the Class?

bb. Should one or more of the Defendants pay punitive, exemplary, or aggravated damages to the Class?

the "**Common Issues**".

If certification is granted, the Plaintiff proposes the following Litigation Plan:

B. NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE

3. The Plaintiff will request that the Court settle the form and content for notification of the certification of this action (the "**Notification of Certification**"), the timing and manner of providing Notice of Certification, and set out an opt-out date being [4] months following the issuance of the certification order.

4. The Plaintiff proposes that the Notice of Certification be disseminated as follows:

a) By posting a notice on the Rath & Company Barristers and Solicitors (the "**Class Counsel**") website;

b) By forwarding the Notice of Certification to any Class Member who requests it;

c) By publishing the Notice of Certification across Alberta including the Edmonton Journal, Calgary Sun, The Globe and Mail and the National Post;

d) By releasing a News Release to a wide range of news sources about the Claim and appearing on news broadcasts to direct Class Members to Class Counsel's website; and

e) By such other notice as counsel may request, and the Court directs.

5. The costs of the Notice of Certification set out in paragraph 4 above are to be borne by the Defendants.

6. The Plaintiff will ask that the Court approve the Opt Out Form to be used by Class Members wishing to opt out of the class action, which will require the Class Members to provide sufficient information to establish their membership in the Class.

7. Class Counsel will organize and receive Opt Out Forms, or other written documentation, from any Class Member opting out of the class action. Only written Opt Out Forms delivered to Class Counsel will be accepted and must be delivered within the Opt Out Deadline.

8. Within [60] days after the expiration of the Opt Out Deadline, Class Counsel will deliver to the Court and the parties an affidavit listing the names of all persons who have opted out of the class action.

C. LITIGATION STEPS PRIOR TO THE DETERMINATION OF THE COMMON ISSUES

Pleadings and Production

9. The Defendants shall serve a Statement of Defence to the Statement of Claim within [60] days from the date of certification order.

10. The Plaintiff shall have [30] days from service of the Statement of Defence to serve a Reply, if any.

11. Within [90] days from the certification order, the parties shall agree upon a timetable for production of documents and examinations, to be approved by the Court.

12. The Plaintiff shall apply for such further direction as may be required.

*Case Management Conference ("**CMC**")*

13. The Plaintiff proposes that a CMC of this action be fixed for hearing within [90] days of the certification order to address the following issues:

    a) Content of documentary productions and deadline;

    b) Deadline for examinations for discovery;

    c) Deadline for motions arising from examinations for discovery;

    d) Deadline for re-attendances at examinations for discovery, if any;

    e) Deadline for requests to admit; and

f) Deadline for exchange of expert reports.

14. Set dates for further CMC as necessary.

Common Issues Trial

15. The common issues trial will determine the Common Issues at a time and place fixed by the Court, in the City of Calgary, or otherwise with the order of the Court.

D. LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS

Notice of Resolution of Common Issues

16. A CMC will be held within [30] days of the issuance of judgment for the Plaintiff on any of the common issues to settle the form and content for notification of the resolution of the Common Issues and the claims and individual issues processes, if applicable ("**Notice of Resolution**"), the timing and manner of providing the Notice of Resolution ("**Resolution Notice Plan**") and requiring Class Members to file claims ("**Claims Forms**") by a fixed date with Class Counsel.

17. The Plaintiff suggests a similar method of notice be ordered as per paragraph 4.

Valuation of Damages

18. Assuming that one or more of the Common Issues are resolved in favour of the Plaintiff, the Plaintiff proposes the following methods for assessing and distributing damages for the Class Members as follows:

a) Aggregate damages to be distributed on a *pro-rata* basis; and

b) If necessary, damages of individual claimants to be determined in individual assessments in a manner to be determined by the Court.

Resolution of the Individual Issues

19. The Plaintiff is seeking an aggregate assessment of monetary relief as a common issue. If aggregate damages are not awarded, or if the Court concludes that assessments are required in addition to a determination of aggregate damages, it may still be necessary to establish a procedure to determine the individual damages of Class Members, or any other individual issues as directed by the Court.

20. Within [90] days of the issuance of the judgment on the common issues, the parties will convene for argument to determine the appropriate process to determine the individual issues, if any.

21. At that hearing, both parties will be at liberty to make submissions regarding the methodology for resolving the remaining individual issues. Potential methods

include claims processes, references, mini-trials, mediations, arbitrations, or other means approved by the Court. At this time, the Plaintiff intends to propose a method of resolving outstanding individual issues as set out below.

22. The Court will be asked to specify procedures and deadlines by which Class Members shall identify themselves as claimants wishing to make claims for individual compensation.

23. The Plaintiff will ask the Court to settle the form and content of the Notice of Resolution and to set a date by which Class Members will be required to file a claim with Class Counsel.

24. The Plaintiff will ask the Court to order that the Notice of Resolution be distributed in accordance with the Resolution Notice Plan set out above, except it shall not be mailed to Class Members who validly opted out of the class action.

25. The Plaintiff anticipates that given the nature of the damages suffered by Class Members, adjudication of the claims could be resolved through an efficient process which could involve the following steps, and which would be subject to the Court's discretion:

    a) Each claimant could submit a claim form to a referee appointed by the Court (the "**Referee**"). The claim form shall include supporting documentation and expert evidence, as applicable.

    b) The Referee shall deliver a copy of the claim form and any supporting documentation and expert evidence to the Defendants.

    c) The Defendants shall have thirty days following receipt of the claim form and documentation, or such other time period as may be set by the Court, in which to file with the Referee a written opposition to all or part of the claim, including responding documentation and/or expert evidence. The written opposition shall state the reasons for the opposition and shall be deemed to constitute their response. The Defendants shall attach all supporting documentation and expert evidence, as applicable.

    d) On request by either of the parties, the Referee shall determine what if any additional production is required by either party, what examination may be conducted, and whether participation by any other parties is necessary in the process.

    e) The Referee shall communicate his/her decisions in writing to the claimant and to the Defendants.

    f) The assessment of damages may be in writing or by means of oral hearing, depending on the nature and complexity of the claim and the severity of the alleged damages, in accordance with the Court's determination. The

availability and manner of appeal procedures will be determined by the Court.

g) It may be possible to categorize and value claims in accordance with a grid according to the nature and severity of the damages, as agreed to by the parties or as ordered by the Court.

E. MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN

26. Class Counsel will develop a web-based registration system as well as a telephone line which will permit potential Class Members to contact Class Counsel and provide information necessary to assist in the advancement of the action.

Review of the Plan

27. This Litigation Plan may be reconsidered and revised under the continuing case-management authority of the Court after the determination of the Common Issues or upon application by the parties.

Claims Administration

28. The Plaintiff proposes that Class Counsel provide the claims administration for any settlement achieved, for global damages distribution and individual damages determinations.

29. If a settlement is achieved and a settlement fund is provided, Class Counsel will administer payments out of the fund to claimants based on the procedures set out above, with approval and/or modification by the Court.

Class Action Website

30. From time to time, Class Counsel will provide updates, post frequently asked questions and answers, and post other documentation relating to the class action on its website.