

Form 27
[Rules 6.3 and 10.52(1)]

COURT FILE NUMBER 2401-05557

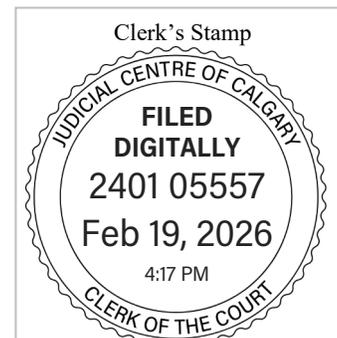
COURT COURT OF KING'S BENCH OF ALBERTA

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 **BRIEF OF THE PLAINTIFF**

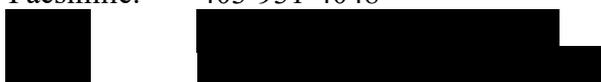
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Rath & Company
Barristers and Solicitors
282050 Highway 22 W
Foothills, AB T0L 1W2

Attention: Jeffrey R.W. Rath/Eva Chipiuk

Phone: 403-931-4047

Facsimile: 403-931-4048



CONTENTS

I.	INTRODUCTION	1
II.	NATURE OF THE CLAIM.....	2
III.	PROPOSED CLASS DEFINITION	3
IV.	COMMON ISSUES.....	4
V.	THRESHOLD FOR CERTIFICATION AND PREFERABILITY OF A CLASS PROCEEDING	7
VI.	FACTS	11
	A. Not Safe, Not Effective, Not Interchangeable	11
	B. Novel and Lowered Interim Approval Standards relaxed	13
	C. Coercive Advertising, Mandates, and Incentives	15
	D. Failure to Monitor and Disclose Adverse Events	17
	E. Failure of the Vaccine Injury Support Program.....	18
	F. Failure to Operationalize Government Findings.....	19
	G. Injury to Plaintiff.....	20
VII.	CAUSES OF ACTION	21
	A. Negligent Misrepresentation.....	22
	B. Negligence	34
	C. Misfeasance in Public Office	37
	D. Breach of Fiduciary Duty.....	40
	E. Conspiracy to Commit Assault and Battery.....	42
VIII.	CONCLUSION.....	45
IX.	AUTHORITIES	47

I. INTRODUCTION

1. This is a proposed class proceeding brought on behalf of Albertans who received one or more COVID-19 vaccines (“**Covid Vaccines**”), relied on authoritative public representations made by federal and provincial government actors concerning vaccine safety, efficacy, and interchangeability, and suffered compensable injury as a result.
2. This proceeding does not challenge vaccination as a public health tool in the abstract, nor does it seek to relitigate the existence or seriousness of the COVID-19 pandemic. The focus of the claim is specific: whether the Defendants, acting through coordinated public messaging, mandates, and incentives, misrepresented material facts and implemented coercive measures that vitiated informed consent, exceeded statutory authority, and caused foreseeable harm.
3. The claims advanced are systemic in nature. They arise not from individualized clinical encounters, but from coordinated government conduct, uniform public messaging, coercive government mandates, incentives, and restrictions, directed at the population at large. The legality and consequences of that conduct cannot be meaningfully assessed through fragmented individual actions.
4. This Court correctly outlined the causes of action raised in this class action and summarized as follows:
 - a) The Defendants and their agents and agencies authorized or administered Covid Vaccines when they knew that they were unsafe and/or ineffective;
 - b) The Defendants provided the public with false, misleading and/or incomplete information regarding the safety and efficacy of the vaccines, thereby preventing members of the public from making an informed decision regarding vaccination; and
 - c) The Defendants led a coercive campaign to compel the public to get vaccinated.¹
5. Informed consent requires that individuals receive full, accurate, and complete information, and that they have the freedom to decide without coercion, threat, or fear of social or economic consequences. Bodily autonomy means that every person maintains control over what happens to their own body. When senior political leaders and public health authorities insert themselves into these personal rights, by promoting only benefits, minimizing risks, or attaching consequences to refusal, consent ceases to be informed, and autonomy ceases to be autonomy. It becomes compliance, driven not by choice but by state-imposed pressure.
6. The *Class Proceedings Act*² (the “**CPA**”) is designed to promote judicial economy, access to justice, and behaviour modification by resolving common issues in a single proceeding. The threshold for certification under section 5 of the *CPA* is intentionally low. Certification

¹ [Sakamoto v Canada \(Attorney General\), 2025 ABKB 149 \(CanLII\)](#), at [para 3](#).

² [Class Proceedings Act](#), SA 2003, c C-16.5.

is not a test of the merits, but a procedural determination of whether the statutory criteria are met.³ Courts are required to interpret class proceedings legislation generously and to avoid an overly restrictive approach.⁴

7. This class action falls squarely within the purpose of the *CPA*. Individual claims against the government are illusory in the face of the Defendants' overwhelming resource advantage and the systemic nature of the alleged misconduct. Only a class action can meaningfully address the common issues arising from the Defendants' conduct, ensure access to justice for vaccine-injured Albertans, and promote behaviour modification of the government involved.

II. NATURE OF THE CLAIM

8. This proposed class proceeding arises from a coordinated and systemic course of conduct undertaken by the Defendants throughout the Class Period in response to the COVID-19 pandemic. The Plaintiff alleges that the Defendants, acting through elected officials, public health authorities, and governmental agencies, exercised extraordinary authority over the population of Alberta and, in doing so, breached their legal duties to provide accurate information, respect informed consent, act within statutory limits, and implement adequate systems for monitoring, reporting, and compensating vaccine-related injuries.
9. In particular, the Plaintiff alleges that throughout the Class Period the Defendants engaged in the following conduct:
 - a) Represented to the public, repeatedly and in absolute terms, that Covid Vaccines were "safe," "effective," and "interchangeable," without adequate qualification;
 - b) Misleadingly represented that the Covid Vaccines prevented transmission, hereby misrepresenting the products as conventional "vaccines";
 - c) Failed to disclose, minimized, withheld, or suppressed, known risks, uncertainties, and limitations associated with the Covid Vaccines, including limitations acknowledged by vaccine manufacturers, regulators, and emerging post-marketing data;
 - d) Authorized, promoted, and encouraged vaccination pursuant to interim, expedited, or novel approval mechanisms, without clearly explaining to the public the nature of those mechanisms or their departure from traditional approval standards;
 - e) Implemented coercive measures, including mandates, exclusionary policies, and financial or social incentives, that tied vaccination status to travel, participation in public and social life, employment, education, and unemployment insurance benefits;

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

⁴ [Hollick v. Toronto \(City\), 2001](#) SCC 68 (CanLII), [2001] 3 SCR 158 ("**Hollick**"), at [para 15](#).

- f) Issued or enforced public health orders that exceeded statutory authority or were issued with reckless indifference to legal limits, constitutional principles, and foreseeable harm to individuals;
 - g) Continued to promote vaccination using categorical assurances of safety and efficacy despite mounting evidence of adverse events and acknowledged uncertainty;
 - h) Failed to ensure timely, transparent, and accessible reporting of vaccine-related adverse events, including material delays in surveillance, investigation, and public disclosure of injury data;
 - i) Failed to establish, administer, or adequately fund a competent and responsive Vaccine Injury Support Program capable of providing timely, fair, and meaningful compensation to those injured; and
 - j) Failed to operationalize or implement recommendations arising from a government-led task force concerning vaccine safety monitoring, risk communication, and injury recognition.
10. As a result of this systemic conduct, Class Members were deprived of the ability to make free, voluntary, and informed medical decisions. Consent to vaccination was obtained in an environment shaped by misleading information, omission of material facts, and coercion, contrary to the legal standard of informed consent. Many Class Members suffered physical injury, psychological harm, economic loss, or a combination thereof.
11. The causes of action advanced arise directly from this systemic conduct and include: negligent misrepresentation, negligence, misfeasance in public office, breach of fiduciary duty, and conspiracy to commit assault and battery. These claims raise common questions of law and fact concerning the Defendants' representations, omissions, use of coercive authority, failure to implement adequate injury surveillance and compensation mechanisms, and breach of statutory and public law duties. Their resolution depends on an assessment of the Defendants' systemic conduct, statutory authority, and public representations, not on individualized circumstances of each Class Member.

III. PROPOSED CLASS DEFINITION

12. The Plaintiff seeks certification on behalf of the following class:

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 who suffered injury (the "**Class**" or "**Class Members**").

13. The proposed Class definition is objective, ascertainable, and grounded in common factual criteria:⁵ receipt of a Covid Vaccine within the Class Period in Alberta and the occurrence of injury. The definition does not require a determination of liability or causation at the certification stage and is capable of refinement by the Court if necessary.

IV. COMMON ISSUES

14. The Supreme Court of Canada (“SCC”) emphasized that certification is a “procedural tool” and that courts should avoid an unduly restrictive approach that would defeat access to justice.⁶ In *Pro-Sys Consultants Ltd. v. Microsoft Corporation*, (“*Pro-Sys*”), the SCC further confirmed that certification does not require evidentiary resolution or perfectly framed issues at the outset, but only that the issues are capable of class-wide determination.⁷ Similarly, the Ontario Court of Appeal confirmed that common issues may be modified over time and that certification should not be denied merely because issues may later require refinement.⁸

15. In an effort to assist the Court and the parties, and without diminishing the seriousness or scope of the claims, the Plaintiff proposes the following revised common issues, which focus on the Defendants’ systemic conduct and its class-wide effects:

- a) Did the Defendants’ conduct constitute negligent misrepresentation? Specifically:
- i. Did the Defendants make public representations, whether expressly or implicitly, regarding the safety, efficacy, or interchangeability of Covid Vaccines to the public?
 1. If yes, did the Defendants fail to disclose material risks or minimize risks, uncertainties, regulatory limitations, or emerging safety concerns associated with Covid Vaccines, including known limitations of interim approval processes and adverse event reporting systems?
 - ii. Did the Defendants misrepresent the Covid products as “vaccines,” rather than medical treatments or therapeutic interventions, in circumstances where they did not prevent infection or transmission but were intended primarily to reduce severity of symptoms?
 1. If yes, did that characterization materially affect public understanding, risk perception, and consent?
 - iii. Did the Defendants owe a duty of care to Class Members when issuing authoritative public representations, guidance, and directives regarding Covid Vaccines and vaccination policies?

⁵ *Rumley v. British Columbia*, 2001 SCC 69 (CanLII), [2001] 3 SCR 184, at [para 21](#).

⁶ *Hollick*, at [para 14](#).

⁷ *Pro-Sys*.

⁸ *Cloud v. Canada (Attorney General)*, 2004, 73 O.R. (3d) 401 (C.A.).

1. If yes, did the Defendants breach that duty by disseminating public health information that was false, misleading, selectively framed, or incomplete, including by presenting Covid Vaccines as “safe,” “effective,” or “interchangeable” while omitting known uncertainties, regulatory limitations, evolving safety signals, and known deficiencies in adverse-event reporting and surveillance systems?
- iv. Did the Federal Defendant owe statutory duties under the *Public Health Agency of Canada Act*, the *Department of Health Act*, the *Canada Health Act*, and the *Food and Drugs Act*, and did the Provincial Defendant owe statutory duties under the *Public Health Act* and the *Health Information Act*, to ensure that public health and vaccine-related information communicated to the public was accurate, complete, transparent, and not misleading?
 1. If yes, did the Defendants breach those statutory duties by disseminating public health messaging that was false, misleading, selectively framed, or incomplete, including by presenting vaccines as “safe,” “effective,” or “interchangeable” while omitting known uncertainties, regulatory limitations, evolving safety signals, and known deficiencies in adverse-event reporting and surveillance systems?
 - v. Did the Defendants’ representations and omissions create an erroneous impression of Covid Vaccine safety that was reasonably relied upon by Class Members and that materially impaired or vitiate informed consent on a class-wide basis?
- b) Did the Defendants’ conduct constitute negligence? Specifically:
- i. Did the Defendants owe Class Members a duty of care to exercise reasonable care in the collection, monitoring, assessment, disclosure, and communication of public health and vaccine-related information?
 - ii. Did the Defendants breach that duty by failing to act with reasonable care in the monitoring, assessment, disclosure, and response to safety risks associated with Covid Vaccines, including by failing to provide accurate, timely, complete, and balanced public health information and by failing to adequately monitor, assess, disclose, or respond to reported adverse events?
 - iii. When exercising powers under the relevant federal and provincial statutory schemes, did the Defendants owe duties to protect public health, monitor and respond to vaccine safety risks, and avoid foreseeable harm to Class Members? In particular:
 1. With respect to the Federal Defendant, did the exercise of powers under the *Public Health Agency of Canada Act*, the *Department of Health Act*, the *Canada Health Act*, and the *Food and Drugs Act* impose duties to protect and promote public health, monitor and

- respond to vaccine safety risks, and mitigate foreseeable harm, and if so, were those duties breached?
2. With respect to the Provincial Defendant, did the exercise of powers under the *Public Health Act* and the *Health Information Act* impose duties to protect public health and ensure that health information communicated to the public was accurate, timely, clear, and complete, and if so, were those duties breached?
- iv. Did the Defendants act outside the scope, purpose, or limits of the relevant legislative schemes in issuing public health messaging, guidance, or programs relating to Covid Vaccines?
 1. If yes, did such conduct expose Class Members to foreseeable harm without statutory authority, thereby constituting negligence?
 - v. Did the Provincial Defendant, having commissioned and received Alberta Government Covid Task Force findings identifying serious deficiencies in Covid Vaccine safety monitoring, adverse-event reporting act negligently or with reckless indifference by failing to implement, address, or respond to those findings?
 - vi. Did the existence, design, and operation of the Vaccine Injury Support Program demonstrate the Defendants' knowledge of vaccine-related harm and the foreseeability of injury, and did the Defendants act negligently in the design, implementation, or administration of that program, including through delay, inaccessibility, under-compensation, or systemic failure to respond to known injuries?
 - vii. If the Defendants acted outside statutory authority or contrary to the purposes of the governing legislation, did such conduct constitute negligence by exposing Class Members to foreseeable harm without lawful justification?
 - viii. Did the Provincial Defendant, having commissioned and received the Alberta Government Covid Task Force findings identifying serious deficiencies in vaccine safety monitoring, adverse-event reporting act negligently or with reckless indifference by failing to implement or respond to those findings?
 - ix. Did the Defendants act negligently in the design, implementation, or administration of the Vaccine Injury Support Program, including through delay, inaccessibility, under-compensation, or systemic failure to respond to known injuries?
 - x. Does the existence and documented failure of the Vaccine Injury Support Program demonstrate knowledge of harm and foreseeability of injury on the part of the Defendants?

- c) Did the Defendants commit misfeasance in public office by knowingly or recklessly disregarding statutory duties or foreseeable harm in the promotion, authorization, monitoring, or enforcement of Covid vaccination policies?
- d) Did the Defendants breach fiduciary duties owed to Class Members by assuming extraordinary control over public health decision-making while withholding material risk information or undermining informed consent?
- e) Did the Defendants conspire to commit assault and battery by promoting, enforcing, incentivizing, or coercing Covid vaccination without valid and informed consent?
- f) Did mandates, incentives, penalties, and restrictions imposed by the Defendants undermine voluntariness and render consent ineffective or legally invalid on a class-wide basis?
- g) Did Class Members reasonably rely on the Defendants' authoritative representations, guidance, and information systems when deciding to receive Covid Vaccines? If yes, did that reliance materially contribute to exposure to risk and resulting harm?
- h) Can the Court assess damages in the aggregate, in whole or in part, for the Class?
- i) Should one or more of the Defendants pay punitive, exemplary, or aggravated damages to the Class?

V. THRESHOLD FOR CERTIFICATION AND PREFERABILITY OF A CLASS PROCEEDING

16. The threshold for certification under section 5 of the *CPA* is intentionally low. This certification inquiry is procedural, not determinative of liability. Courts must construe class proceeding legislation generously and must not take an overly restrictive approach.⁹ 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.¹⁰ It is not the role of the Court at certification to resolve contested facts, weigh evidence, or decide complex legal questions.¹¹
17. The Alberta Court of Appeal recognized in *Alberta (Minister of Infrastructure) v. Nilsson* (“*Nilsson CA*”) that all government actors must act within the bound of the law and may be held responsible when they exceed their legal authority and cause harm stating:

Such abuses may occur when zealous civil servants over-step their authority for what they believe is the best interests of the public without due regard for

⁹ [Hollick](#), at [para 15](#).

¹⁰ [Hollick](#), at [para 15](#) and [para 16](#); and [Western Canadian Shopping Centres Inc. v. Dutton](#), 2001 SCC 46 (CanLII), [2001] 2 SCR 534, at [paras 26-29](#); and [Pro-Sys](#), at [paras 137-141](#).

¹¹ [Pro-Sys](#), at [para 102](#); and [AIC Limited v. Fischer](#), 2013 SCC 69 (“*AIC*”), at [para 40](#).

individuals consequently harmed, or when executive decisions are made which bend the rule **and injure a few to avoid politically undesirable consequences**.¹² [emphasis added]

18. In *Nilsson CA*, the Alberta Court of Appeal rejected the Crown’s unduly narrow interpretation of the mental element for misfeasance in public office that would effectively insulate government actors from accountability, stating that:

...that requiring proof of subjective awareness by the responsible officials of the *probability* of loss through the very events they declined to inquire into had an Orwellian character to it in the context of that case.¹³

19. The SCC in *Roncarelli v Duplessis*, (“*Roncarelli*”)¹⁴ affirmed the foundational principle that no public official is above the law and that discretionary power must be exercised within lawful limits, stating:

The act of the respondent through the instrumentality of the Commission brought about a breach of an implied public statutory duty toward the appellant; it was a gross abuse of legal power expressly intended to punish him for an act wholly irrelevant to the statute...

That... such, a step and its consequences are to be suffered by the victim without recourse or remedy... would signalize the beginning of disintegration of the rule of law...¹⁵

20. This principle reinforces that discretionary public power remains subject to judicial scrutiny, even in politically charged contexts.

21. In *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13 (“*Antrim*”), the SCC emphasized that fairness governs the relationship between citizen and state. Where individuals are required to bear a disproportionate burden arising from public action, compensation may be required, stating:

The point was well put by Robins J. in *Schenck*, a decision approved by La Forest J. in *Tock*. In allowing the plaintiffs’ action for nuisance resulting from damage to their orchards from salt applied to a nearby highway, Robins J. said:

... their injury is a cost of highway maintenance and **the harm suffered by them is greater than they should be required to bear in the circumstances, at least without compensation**. Fairness between the citizen and the state demands that the burden imposed be borne by the public generally and not by the plaintiff fruit farmers alone.¹⁶ [emphasis added]

¹² *Alberta (Minister of Infrastructure) v. Nilsson*, 2002 ABCA 283 (CanLII), at [para 95](#).

¹³ *Ibid.*, at [para 118](#).

¹⁴ *Roncarelli v. Duplessis*, 1959 CanLII 50 (SCC), [1959] SCR 121.

¹⁵ *Ibid.*, at [PDF](#) pages 141-142.

¹⁶ *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13 (CanLII), [2013] 1 SCR 594, at [para 39](#).

22. The same principle applies here. The Plaintiff alleges that identifiable individuals bore direct and foreseeable harms arising from systemic and centralized government conduct.
23. The principle that where there is a right, there must be a remedy, even in the case of government actors, was established in 1703 in *Ashby v White* (“*Ashby*”), where the Court found:

It is a vain thing to imagine there should be right without a remedy... and where Parliamentary matters come before us... we must not be deterred, but are bound by our oaths to determine it.¹⁷

24. This case demands a return to the foundational principles established in *Ashby*, *Roncarelli* and *Nilsson CA*: that government acts are held accountable when they exceed lawful authority and cause harm, and that courts must not abdicate their role in enforcing those limits. As affirmed in *Antrim*, when a citizen or a clearly defined group is asked to bear more than their fair share of the burden for public action, fairness demands that the public as a whole share in the cost.
25. These are not radical legal claims. They arise from extraordinary exercises or misuse of public power and invoke well-established doctrines designed precisely to address such circumstances. The novelty lies in the facts, not the law.
26. This case involves centralized, prescriptive, and coercive, public health measures implemented under the cloak of public authority. Absent certification, such conduct would be effectively insulated from collective judicial scrutiny and would undermine the purposes of the *CPA*.
27. The harms alleged were direct, foreseeable, and significant. The Defendants promoted public health orders and emphasized benefits while minimizing risks, coerced compliance through mandates affecting mobility and social participation, or incentivized compliance through financial rewards. As a direct result of these authoritative measures, individuals took the Covid Vaccines to avoid penalties imposed by the Defendants. Some Albertans, including the Plaintiff, suffered injury as a result. The establishment of the Vaccine Injury Support Program confirms foreseeability of vaccine-related injury, yet the program failed to provide timely, accessible, or adequate compensation to those injured.
28. Rarity is not a bar to certification. Courts have repeatedly certified complex causes of action, recognizing that certification turns not on the likelihood of success, but on whether the claim is properly pleaded. In *Pro-Sys*,¹⁸ the SCC certified a complex conspiracy claim, holding:

I cannot say it is plain and obvious that Pro-Sys’s claim in predominant purpose conspiracy cannot succeed.¹⁹

¹⁷ *Ashby v. White* (1703), 2 Ld. Raym. 938, 92 E.R. 126 [Attached hereto as “TAB 1”].

¹⁸ *Pro-Sys*.

¹⁹ *Pro-Sys*, at para 78.

29. Certification ensures that serious and systemic allegations are adjudicated on a full evidentiary record.²⁰ The Plaintiff has clearly met and exceeded that procedural threshold.
30. The Defendants’ representations and advertising campaigns regarding Covid Vaccine safety, efficacy, and interchangeability were central to the public’s decision-making process. Those representations formed the informational foundation upon which compliance was demanded or incentivized. If the Defendants’ representations were misleading or incomplete, they directly undermined the Plaintiff and the Class Members ability to make informed decisions. The scope and intensity of the Defendants Covid vaccination campaigns, including coordinated messaging and coercive measures, warrants judicial scrutiny.
31. Any attempt to deflect responsibility ignores the Defendants’ role in shaping the information environment relied upon by both the public and healthcare providers. As recognized in *Ingram v Alberta*²¹ (“*Ingram 2024*”), enforcement is presumed and flows from the responsible decision-making authorities:
- The causes of action that I have found to be properly pleaded – negligence and misfeasance in public office – concern the making of the CMOH Orders not the enforcement of the CMOH Orders. **More to the point, the making of the CMOH Orders presumes enforcement.** No separate analysis is required to ascertain whether enforcement was wrongful. **Any wrongfulness of enforcement flows from the alleged wrongful making of the CMOH Orders.**²² [emphasis added]
32. The alleged conduct was centralized, uniform, and systemic. It arose from coordinated public communications, statutory decision-making, and enforcement mechanisms implemented at scale. The legality and consequences of that conduct do not depend on individualized circumstances but on common evidence concerning what was said, what was known, and how public power was exercised.
33. While the factual context of this case is novel, the legal principles underlying the claim are not. Courts have repeatedly recognized that class proceedings are an appropriate vehicle for testing the boundaries of government accountability in new factual circumstances. Class actions frequently challenge or refine legal principles, particularly in areas of government accountability, and such claims may properly proceed where they raise substantial public concern or implicate fundamental rights.²³
34. The Plaintiff’s claim raises serious and systemic issues, including authoritative misrepresentations, coercive vaccination campaigns, restricted access to essential public health information, and interference with civil liberties, ultimately causing harm to the

²⁰ *Pro-Sys*, at [para 26](#); and *Hollick*, at [para 24](#) and [para 25](#).

²¹ *Ingram v Alberta, 2024* ABKB 631 (CanLII) (“*Ingram, 2024*”).

²² *Ingram, 2024* ABKB 631 (CanLII), at [para. 93](#).

²³ *Attis v. Canada (Minister of Health), 2005* CanLII 10884 (ON SC), at [para. 9](#); *Kwicksutaineuk/Ah-Kwa-Mish First Nation v. British Columbia (Agriculture and Lands), 2009* BCSC 1593 (CanLII), at [paras. 53-55](#); and *Ingram, 2024* ABKB 631 (CanLII), at [para. 108](#).

Plaintiff and Class Members. These matters are of significant public importance and warrant full examination by the Court on a complete evidentiary record, rather than premature dismissal. Given the unprecedented nature of this compulsory public health regime, this class proceeding should be certified so that the legality and limits of such extraordinary exercises of public power may be properly examined.

35. Certification of this action advances all three objectives of the *CPA*:
- a) **Access to Justice:** Individual actions against federal and provincial governments concerning pandemic-era conduct are prohibitively complex and costly. Absent certification, most Class Members would have no realistic means of pursuing redress.
 - b) **Judicial Economy:** The claims raise overlapping legal and factual issues concerning government representations, statutory authority, and public health decision-making. Resolving these issues once avoids inconsistent findings and duplicative litigation.
 - c) **Behaviour Modification:** This proceeding seeks to ensure that governments remain accountable when exercising extraordinary powers, particularly in circumstances affecting bodily autonomy and informed consent.
36. A class proceeding is therefore the preferable procedure. Individual litigation would be prohibitively complex and costly, would risk inconsistent findings on common governmental conduct, and would undermine judicial economy.
37. Certification ensures that serious and systemic allegations concerning the exercise of public authority are adjudicated transparently and fairly on a full evidentiary record.

VI. FACTS

38. The following section summarizes key facts already in evidence that ground the Plaintiff's claims. These facts demonstrate that the Defendants authorized, promoted, and compelled Covid Vaccines while knowing that material uncertainties existed regarding safety, efficacy, and interchangeability, and while withholding or minimizing those uncertainties in public communications. They further demonstrate that the Defendants failed to transparently monitor, update, and disclose vaccine adverse event data, and failed to provide a functional compensation mechanism for those injured.
39. When viewed cumulatively, the evidence supports the Plaintiff's allegations of negligent misrepresentation, negligence, misfeasance in public office, breach of fiduciary duty, and conspiracy to commit assault and battery.

A. Not Safe, Not Effective, Not Interchangeable

40. Throughout the Class Period, the Defendants knew or ought to have known that the Covid Vaccines had not been established as "safe, effective, or interchangeable" according to traditional regulatory and clinical standards. This is confirmed in the Covid Vaccine

contractual documents, product monographs, regulatory records, and the Defendants' official statements, which acknowledged, among other things:

- "...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**."²⁴
- "The safety and efficacy of COMIRNATY in children under 6 months of age have **not yet** been established."²⁵
- "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."²⁶
- "The safety and efficacy of COMIRNATY in pregnant women have **not yet** been established."²⁷
- "There are **no safety, immunogenicity or efficacy data to support interchangeability** of VAXZEVRIA with other non-ChAdOx1-S (recombinant) COVID-19 vaccines."²⁸
- On November 19, 2021, that "The safety and efficacy of VAXZEVRIA in pregnant women have **not yet been established**."²⁹
- On November 19, 2021 "The safety and efficacy of VAXZEVRIA in children and adolescents (under 18 years of age) **have not yet been established**. No data are available."³⁰
- "Manufacturer(s) have sought approval of the vaccine(s) and provided evidence as to its safety and efficacy **only when** it is used in accordance with the product monographs."³¹
- "There is currently **insufficient evidence** on the duration of protection and on the efficacy of this vaccine in preventing death, hospitalization, infection and reducing transmission of SARS-CoV-2, although studies are ongoing."³²
- "There is currently **minimal evidence** to inform on differences in vaccine efficacy **or safety** between those with and those without prior evidence of SARS-CoV-2

²⁴ Tracey Bradley Affidavit filed September 16, 2024 ("Bradley Affidavit 1") at Exhibit C, para 5.5, at page 53.

²⁵ Bradley Affidavit 1 at Exhibit E, para 4.2.1, at page 102.

²⁶ Bradley Affidavit 1, at Exhibit E, para 4.2.1, at page 103.

²⁷ Bradley Affidavit 1, at Exhibit E, para 7.1.1, at page 128.

²⁸ Bradley Affidavit 1, at Exhibit F, para 7, at page 188.

²⁹ Bradley Affidavit 1, at Exhibit F, para 7.1.1, at page 190.

³⁰ Bradley Affidavit 1, at Exhibit F, para 7.1.3, at page 190.

³¹ Bradley Affidavit 1, at Exhibit G, at page 216.

³² Bradley Affidavit 1, at Exhibit G, at page 217.

infection at the time of vaccination.”³³

- “Due to the availability of only short-term clinical trial data, the duration of COVID-19 vaccine efficacy, and vaccine effectiveness, are **currently unknown**.”³⁴
 - “There is currently **no available evidence** on medium- and long-term efficacy of the authorized COVID-19 vaccine.”³⁵
 - “There are **no data** yet to be able to assess the efficacy of the authorized COVID-19 vaccine against hospitalizations or deaths specifically.”³⁶
 - “There is currently **no reported evidence** on the efficacy of the authorized COVID-19 vaccine to prevent asymptomatic infection, to reduce viral shedding, or to prevent transmission.”³⁷
 - “**No** immunological correlate of protection has been determined for SARS-COV-2; therefore, **all immunological evidence in support of vaccine efficacy is indirect** and cannot directly be used to estimate efficacy.”³⁸
 - “Currently, there is a **lack of evidence on potential differences in vaccine efficacy or safety** between those with and without prior evidence of SARS-CoV-2 infection.”³⁹
 - “**Evidence** on COVID-19 vaccination in those less than 12 years of age **is absent, and only limited clinical data on the safety and efficacy** of the Pfizer-BioNTech COVID-19 vaccine in those aged 12 to 15 years is available.”⁴⁰ [Emphasis Added]
41. These admissions, drawn from the Covid Vaccine contracts, product monographs, regulatory records, and official documents issued by the Defendants, directly contradict the Defendants’ repeated public statements that the Covid Vaccines were “safe,” “effective,” and “interchangeable.” The evidence establishes that material uncertainties were known, ongoing, and significant, and that those uncertainties were not transparently conveyed to the public at the time vaccination was promoted and compelled.

B. Novel and Lowered Interim Approval Standards relaxed

42. The Covid Vaccines were authorized under a novel interim regulatory regime that departed from the traditional approval framework, which ordinarily requires established evidence of safety and clinical effectiveness. Instead, authorization was granted on the basis of a

³³ Bradley Affidavit 1, at Exhibit G, at page 218.

³⁴ Bradley Affidavit 1, at Exhibit G, at page 229.

³⁵ Bradley Affidavit 1, at Exhibit G, at pages 230-231.

³⁶ Bradley Affidavit 1, Exhibit G, at page 231.

³⁷ Bradley Affidavit 1, Exhibit G, at page 231.

³⁸ Bradley Affidavit 1, Exhibit G, at page 231.

³⁹ Bradley Affidavit 1, Exhibit G, at page 249.

⁴⁰ Bradley Affidavit 1, Exhibit G, at page 254.

subjective risk-benefit assessment that expressly contemplated unknown risks, and evidentiary gaps and uncertainties. As stated in the authorizing material:

- The authorization of a drug under the Interim Order is predicated on the Minister’s determination that the evidence provided supports the conclusion that **the benefits outweigh the risks associated with the drug**, taking into account the uncertainties related to the benefits and risks, as well as the urgent public health need caused by COVID-19.⁴¹
 - The Interim Order provides the Minister with the ability to take into consideration the uncertainties and the urgent public health needs in the context of the COVID-19 pandemic while determining if a drug demonstrates that **its benefits outweigh its risks**.⁴²
 - These additional submission flexibilities include exemption from the requirements for “detailed reports of the tests made to establish the safety” and “substantial evidence of the clinical effectiveness” of the new drug under paragraphs C.08.002(2)(g) and (h) if the applicant is able to provide sufficient **evidence that the benefits of the drug outweigh the risks**, taking into account uncertainties as well as the public health need related to COVID-19 (subsection C.08.002(2.1)).⁴³
 - **To mitigate any risks associated with uncertainties related to the accelerated development and authorization of COVID-19 drugs**, as well as to facilitate continued oversight, these amendments to the FDR carry over the ability, from the ISAD Interim Order... are amended to allow the Minister to impose T&Cs on that subset of new drugs for which the manufacturer of the COVID-19 drug made a “statement” under subsection C.08.002(2.1) **that uses the flexible safety and efficacy evidentiary requirements of the new drug submission**.⁴⁴
 - The authorization of a COVID-19 drug under the Interim Order was based on the determination that the evidence provided supports the conclusion that **the benefits outweigh the risks associated with the drug**, taking into account the uncertainties related to the benefits and risks.⁴⁵ [Emphasis added]
43. The interim approval framework forms a central part of the evidentiary record for the Plaintiff’s claims. While regulatory flexibility may be permissible in emergencies, the Defendants publicly characterized the Covid Vaccines as having met traditional safety and efficacy standards, when they did not. The record demonstrates that the nature and limits of the interim approval regime were not disclosed at the time vaccination was promoted and compelled. This evidence is common to all Class Members and supports the pleaded causes of action.

⁴¹ Tracey Bradley Affidavit, filed January 12, 2026 (“Bradley Affidavit 3”), Exhibit A, at pages 7-8.

⁴² Bradley Affidavit 3, Exhibit A, at page 9.

⁴³ Bradley Affidavit 3, Exhibit B, at page 62.

⁴⁴ Bradley Affidavit 3, Exhibit B, at page 64.

⁴⁵ Bradley Affidavit 3, Exhibit B, at page 67.

C. Coercive Advertising, Mandates, and Incentives

44. The Defendants did not merely encourage vaccination through information. They implemented targeted advertising, mandates, penalties, and incentives designed to compel compliance with Covid vaccination policies. Vaccination status was tied to employment, education, mobility, travel, and participation in social life, including restrictions on family visits. The following are a limited number of the statements made by the Defendants:

a) On January 20, 2021, Dr. Hinshaw, Chief Medical Officer of Health (“CMOH”), Alberta, publicly and falsely stated:

We will continue to monitor every dose that is administered to make sure we’re protecting Albertans health. I am providing regular updates on this because I want Albertans’ to understand that we are watching closely and that the benefits of these vaccines far outweigh the risks. I hope this information helps Albertans understand what the options are and make the informed choice to get immunized when it’s their turn. That choice will help protect them, their loved ones and their community. That choice will save lives.⁴⁶

b) Starting in February 2021 until October 2021, the Provincial Defendant ran a “Vaccine Facts” advertising where they stated in part:

i. “Vaccination is safe and vital;”

ii. “Getting vaccinated means peace of mind for you, and those around you;”

iii. “The best vaccine for your is the one that’s available first;” and

iv. “All approved vaccines in Canada are rigorously researched.”⁴⁷

c) On March 31, 2021, Health Canada and the Public Health Agency of Canada publicly stated:

Only vaccines that are safe, effective and of the highest quality are authorized by Health Canada. Canada is recognized around the world for its high standards and rigorous vaccine review process.⁴⁸

d) On or about May 4, 2021, Prime Minister Justin Trudeau publicly stated “The impacts of catching Covid are far greater and far deadlier, as we’ve seen across the country, than potential side effects. Let me remind everyone that every vaccine administered in Canada is safe and effective, as evaluated by Health Canada.”⁴⁹

e) On April 26, 2021, Health Canada and the Public Health Agency of Canada

⁴⁶ Amended Statement of Claim, filed July 2, 2025, at para 63(a).

⁴⁷ Affidavit of Gene Smith, filed September 19, 2025, Exhibit B.

⁴⁸ Bradley Affidavit 1, Exhibit A, Image A-6.

⁴⁹ Amended Statement of Claim, filed July 2, 2025, at para 63(c).

publicly stated:

COVID-19 vaccines have been rigorously tested during their development and then carefully reviewed by Health Canada experts. Only vaccines that are proven to be safe, effective and of high quality are authorized for use in Canada.⁵⁰

- f) In May and June 2021, the Provincial Defendant ran a “Back to Normal” advertising campaign where they stated in part:
- i. “All approved vaccines are researched until proven safe... Every approved vaccine has met Health Canada’s strict standards for safety, quality and effectiveness”;
 - ii. “Thousands of Albertans have died, including many young previously healthy people... Remember, the sooner we all get vaccinated, the sooner we can get back to our normal lives”;
 - iii. “If we all get vaccinated as soon as possible, we’ll be back to doing the things we love before long”; and
 - iv. “Vaccinated people are protected people. The more of us that get vaccinated, the sooner we can all spend time with the people we care about.”⁵¹
- g) On or about June 21, 2021, Dr. Hinshaw publicly stated:
- Our AB data shows that both Pfizer and Moderna have 90+% effectiveness with two (2) doses. Pfizer is about 90% effective and Moderna 93% after two (2) doses. Bottom line: both are safe and both work very well.
- Both Pfizer and Moderna are mRNA vaccines. They’re not identical but extremely similar and it’s perfectly okay to get one dose of each. In fact, there’s some evidence that suggests this may actually boost your immune response.⁵²
- h) On or about June 29, 2021, Dr. Hinshaw publicly stated: “It has been a tremendous privilege to support Albertans over the last 16 months and to help keep you informed. This pandemic has tested us and at time it has polarized us. It has challenged all of us in ways we never could have expected. But it has also made clear one indisputable fact, we are stronger and safer together.”
- i) On September 3, 2021, Tyler Shandro, Minister of Health for the Provincial Defendant stated:

Vaccines are safe, effective, and a game-changer... While we do not need

⁵⁰ Bradley Affidavit 1, Exhibit A, Image A-8.

⁵¹ Affidavit of Gene Smith, filed September 19, 2025, Exhibit D.

⁵² Bradley Affidavit 1, Exhibit B, Image B-6.

to return to the same widespread and dramatic measure we had in place earlier in the pandemic, unvaccinated Albertans in particular are still at risk and are placing a heavy load on our health-care system. This is why we are taking measured steps and introducing a new incentive program to encourage more Albertans to get the jab.⁵³

j) On September 3, 2021, Prime Minister stated publicly:

We're going to make sure that people boarding a plane, train, or cruise ship are vaccinated – so that everyone, including airline staff like those I met this morning, can stay safe and healthy.⁵⁴

k) On or around September 24, 2021, the Provincial Defendant announced a Restriction Exemption Program that prohibited individuals from attending certain spaces unless they demonstrated proof of Covid 19 vaccination status.⁵⁵

l) On or about October 6, 2021, the Federal Defendant announced mandatory Covid-19 vaccination requirements for federally regulated transportation.⁵⁶

45. The evidence on the record demonstrates that the Defendants did not merely provide neutral information. They implemented coordinated messaging, mandates, restrictions, and incentives that tied vaccination status to employment, mobility, education, travel, and participation in public life. The record supports a finding of systemic conduct by the Defendants throughout the Class Period.

D. Failure to Monitor and Disclose Adverse Events

46. The Canadian Adverse Events Following Immunization Surveillance System (“CAEFISS”) is the federal-provincial-territorial post-market vaccine safety surveillance program responsible for collecting, monitoring, and publicly reporting adverse events following immunization in Canada. The Federal Defendant publicly stated:

Robust vaccine safety monitoring efforts continue. If any COVID-19 vaccine safety concerns are detected, we will communicate them promptly.⁵⁷

47. The last publicly available update to CAEFISS is dated January 19, 2024.⁵⁸ According to that last update, CAEFISS recorded 488 deaths occurring after administration of a Covid Vaccine. During the same reporting period, 58,712 adverse events were reported, of which 11,702 were classified as serious.

48. CAEFISS is intended to provide timely, transparent, and accessible vaccine safety information to Canadians. However, the last publicly available update is dated January 19,

⁵³ Affidavit of Gene Smith, filed September 19, 2025, Exhibit K, at page 2.

⁵⁴ Bradley Affidavit 1, Exhibit A, Image A-15.

⁵⁵ Bradley Affidavit 1, Exhibit M.

⁵⁶ Bradley Affidavit 1, Exhibit L.

⁵⁷ Bradley Affidavit 1, Exhibit O, page 1.

⁵⁸ Bradley Affidavit 1, Exhibit O; Amended Statement of Claim, filed July 2, 2025, at paras 44 and 92.

2024, which is now more than two years old.

49. No updated data has been produced on the record. In addition, neither the Federal nor the Provincial Defendants produced a witness capable of speaking to the operation, updating, or current status of CAEFISS. Accordingly, the only evidence on the record is that CAEFISS has not been publicly updated since January 2024.

E. Failure of the Vaccine Injury Support Program

50. On December 10, 2020, the Federal Defendant announced the establishment of the Vaccine Injury Support Program stating in part:

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...

“Our publicly funded health care system is a source of pride, and this program will make it even better. Canadians can have confidence in the rigour of the vaccine approvals system, however, in the rare event that a person experiences and adverse reaction, **this program will help ensure they get the support they need.** I will work with my provincial and territorial counterparts to set this program in place quickly.” The Honourable Patty Haju, Minister of Health.⁵⁹ [emphasis added]

51. The Plaintiff filed evidence describing significant operational failures within the Vaccine Injury Support Program, including the following:

The Vaccine Injury Support Program has been extremely frustrating and, at times, feels incredibly dismissive and even abusive. Since March of 2023, I have been assigned to eight case managers. The case managers do not stay long and are frequently replaced. Navigating the Vaccine Injury Support Program has been dehumanizing experience, particularly given my medical and psychological conditions...

I have been disheartened and demoralized by the treatment I have received by both Canada and Alberta’s governments. The lack of support and the suppression of my injury by those who should be managing and providing me assistance with my health crisis, which was triggered by the vaccines they promoted, has been profoundly demoralizing and dehumanizing.⁶⁰

52. In September 2025, public reporting revealed serious operational deficiencies in the Vaccine Injury Support Program and in the Public Health Agency of Canada’s oversight of the program. The reporting identified, among other concerns:

Oxaro had received \$50.6 million in taxpayer money; \$33.7 million has been spent on administrative costs, while injured Canadians received \$16.9 million. Updated

⁵⁹ Tracey Bradley Affidavit, filed June 9, 2025 (“Bradley Affidavit 2”), Exhibit H, page 2.

⁶⁰ Sakamoto Affidavit, filed September 16, 2024, at paras. 27 and 29.

Health Canada figures released last week show the company has now received \$54.1 million and spent \$36.3 million on administration costs, with just \$18.1 million paid to injured Canadians...

PHAC and Oxaro underestimated the number of injury claims VISP would get, initially predicting 40 per year and then up to 400 valid claims annually. More than 3,317 applications have been filed — of those, more than 1,738 people await decisions on their claims...[Emphasis added]

Some injured applicants say they face a revolving door of unreachable Vaccine Injury Support Program case managers and require online fundraising campaigns to survive...

Some Vaccine Injury Support Program applicants and former staff said Oxaro was unequipped to deliver fully on the program’s mission to deliver “timely and fair” support, and questions emerged about why the Public Health Agency of Canada (PHAC) chose this company over others, while internal documents suggested poor planning from the start...

“PHAC is currently accelerating its audit of Oxaro and Oxaro’s management of the Vaccine Injury Support Program, and the Agency will provide recommendations on alternative delivery models for the program,” Emilie Gauduchon-Campbell, a senior communications adviser responsible for issues management in the health minister’s office, said in July.⁶¹ [emphasis added]

53. The evidence on the record shows that the Defendants did not maintain a functional, accessible, and effective vaccine injury compensation mechanism. While the creation of Vaccine Injury Support Program acknowledges that Covid Vaccines could and did cause injury, the Program has failed to provide timely, adequate, or meaningful compensation to those harmed.
54. Notably, the Defendants did not file affidavit evidence addressing these deficiencies, did not produce a witness available to speak to the administration of Vaccine Injury Support Program, and have not provided substantive clarification as to how or whether these systemic failures have been remedied.

F. Failure to Operationalize Government Findings

55. On January 28, 2025, the Provincial Defendant released Alberta’s COVID-19 Pandemic Data Review Task Force: Final Report, (the “**Alberta Government Covid Task Force**”) a report commissioned by the Premier to evaluate Alberta’s pandemic response.⁶²
56. The Alberta Government Covid Task Force made a series of serious findings, including that Covid Vaccines were associated with reported deaths and injuries, carried known risks of myocarditis with unknown long-term safety outcomes, did not prevent transmission, and

⁶¹ Transcript Gene Smith, Exhibit A for ID.

⁶² Dr. Davidson Affidavit, filed June 12, 2025, at Exhibit “A”.

posed heightened risks when used interchangeably. The Alberta Government Covid Task Force acknowledged that informed consent required disclosure of risks at the time of administration. It found that public messaging was coercive, that infection-acquired immunity was downplayed, and that vaccination was prioritized through mandates rather than individualized medical judgment. The Alberta Government Covid Task Force further identified secretive and centralized decision-making, obstruction and withholding of safety information by provincial officials, interference with physician independence, and systemic barriers preventing physicians from fully disclosing vaccine risks, benefits, and alternatives to patients.⁶³ The Alberta Government Covid Task Force demonstrates that the statement made by Dr. Hinshaw set out at paragraph 44(a) was materially false and misleading.

57. The Alberta Government Covid Task Force issued multiple recommendations, including halting mRNA vaccine administration absent full disclosure of risks, discontinuing use in healthy children and adolescents, conducting further safety research, establishing dedicated support for vaccine-injured Albertans, and initiating a public inquiry into regulatory capture and external influences on public health decision-making.⁶⁴
58. Dr. Gary Davidson, the primary author of the Alberta Government Covid Task Force Report, included the report as an exhibit in this proceeding on behalf of the Plaintiff and was available to be questioned on its contents.⁶⁵ The Defendants elected not to cross-examine him on the Report. The evidentiary record therefore includes the Task Force findings without contradiction through cross-examination.
59. The Defendants did not cross-examine Dr. Davidson and did not provide a witness capable of speaking to the substance, implementation, or response to the report.⁶⁶ The evidentiary record therefore reflects that the Alberta Government Covid Task Force's findings stand unchallenged through cross-examination and that its recommendations have not been operationalized.

G. Injury to Plaintiff

60. The Plaintiff received a Covid Vaccine in reliance on the Defendants' representations and in the context of the coercive measures described above. The Plaintiff specifically stated:

I did not take the Covid Vaccines out of personal preference; I took the Covid Vaccines under duress and I relied on representations made by various representatives of the Defendant. This includes public health authorities with Canada and Alberta and elected officials who urged me and other members of the public to get vaccinated. These representatives promoted the vaccines as safe, effective, and crucial for preventing the spread of Covid. They also suggested that without vaccination, individuals would increase the risk of spreading respiratory illnesses like Covid, stating that vaccination was necessary in order for life to return

⁶³ Amended Statement of Claim, filed July 2, 2025, at paras 44 and 92.

⁶⁴ Dr. Davidson Affidavit, filed June 12, 2025, Chapter 8 Vaccines – Conclusions.

⁶⁵ Dr. Davidson Affidavit, filed June 12, 2025.

⁶⁶ Dr. Klein Transcript, pages 20-24.

to normal...

I was not warned of any serious side effects, health risks, or dangers from mixing different types of Covid Vaccines. In fact, I heard various government representatives say mixing Covid Vaccines was safe and might even provide additional protection against the Covid virus.⁶⁷

61. The Plaintiff subsequently suffered serious and permanent injuries following the administration of a Covid Vaccine, including:
- a) Severe and permanent Bell's Palsy;
 - b) Anxiety;
 - c) Depression;
 - d) Memory loss;
 - e) Vision loss;
 - f) Hearing loss;
 - g) Cognitive impairment;
 - h) Synkinesis;
 - i) Loss of sleep;
 - j) Speech impairment;
 - k) Facial disfigurement;
 - l) Facial paralysis;
 - m) Tinnitus; and
 - n) Vertigo.⁶⁸
62. The Plaintiff was diagnosed and informed by her physicians that the Covid Vaccine was the cause of her serious and permanent Bell's Palsy.⁶⁹

VII. CAUSES OF ACTION

63. At certification, the Plaintiff is not required to prove the cause of action. The Court must determine only whether the pleadings disclose a reasonable cause of action, whether there

⁶⁷ Sakamoto Affidavit, filed September 16, 2024, at paras 5 and 13.

⁶⁸ Amended Statement of Claim, filed July 2, 2025, at para 76.

⁶⁹ Sakamoto Affidavit, filed September 16, 2024, at para 18.

are common issues, and whether a class proceeding is the preferable procedure. The Plaintiff submits that each of these requirements is satisfied.

64. Throughout the Class Period, the Defendants occupied a position of authority and public trust as the primary source of information regarding Covid Vaccines, while conditioning participation in employment, travel, and public life on compliance with vaccination policies. In that context, representations concerning vaccine safety, efficacy, and necessity were authoritative in nature, reasonably relied upon, and foreseeably determinative of individual medical decision-making.
65. The Plaintiff pleads causes of action in negligent misrepresentation, negligence, misfeasance in public office, breach of fiduciary duty, and conspiracy to commit assault and battery. Each arises from the Defendants' public communications, operational decision-making, and the promotion, implementation, and enforcement of Covid vaccination policies.
66. The Plaintiff alleges that misleading or incomplete public messaging, combined with coercive enforcement measures, undermined informed consent and caused harm to the Plaintiff and Class Members. Those allegations ground the pleaded causes of action and raise common issues suitable for determination in this class proceeding.

A. Negligent Misrepresentation

67. The test for negligent misrepresentation requires the Plaintiff to plead: (a) a duty of care based on a special relationship; (b) an untrue, inaccurate, or misleading representation; (c) negligence in making the representation; (d) reasonable reliance; and (e) resulting damages.⁷⁰
68. At the certification stage, the question is not whether each element is ultimately proven, but whether it is plain and obvious that the claim cannot succeed.
69. Accordingly, the issue at certification is whether it is plain and obvious that no duty of care could exist. A duty of care is at least reasonably arguable where government actors assume centralized authority over health information, demand compliance through law or policy, restrict alternatives, and issue representations intended to direct and govern individual medical decision-making.⁷¹
70. Whether the Defendants' representations were negligent, whether reliance was reasonable, and whether harm was foreseeable are quintessential common issues suitable for class-wide determination and inappropriate for resolution at certification.⁷²
71. The Plaintiff pleads that the Defendants assumed a position of authority and trust as the dominant and often exclusive source of information concerning Covid Vaccines. Those

⁷⁰ [Queen v. Cognos Inc., 1993](#) CanLII 146 (SCC), [1993] 1 SCR 87, at PDF page 110; [DAKA Holdings Ltd v Boyle \(Village\)](#), 2026 ABKB 83 (CanLII), at para 78.

⁷¹ [Hercules Managements Ltd. v. Ernst & Young, \[1997\]](#) 2 SCR 165.

⁷² [Pro-Sys](#).

representations were made in the context of an interim regulatory approval regime that expressly departed from the traditional requirement that vaccines be proven “safe and effective,” and where authorization instead granted on an expedited and subjective risk-benefit assessment. Through repeated public statements, advertising, and coordinated messaging campaigns, the Defendants nonetheless represented that the vaccines were “safe,” “effective,” and “interchangeable,” without adequate qualification, while simultaneously exercising compulsory authority through public health orders, mandates, incentives, and penalties that conditioned access to employment, mobility, and public life.

72. Without limiting the foregoing, the Plaintiff further pleads that the Defendants negligently misrepresented the very nature and function of the Covid Vaccines themselves. The Defendants repeatedly characterized the products as “vaccines” in the traditional sense, thereby conveying to the public that they would prevent Covid-19 infection and transmission. As the evidence evolved, however, the products were acknowledged not to prevent infection or transmission, but instead to reduce the severity of symptoms in some recipients.
73. A product that modifies the course or severity of illness, rather than preventing infection or transmission, is materially different in nature from a traditional vaccine. This distinction was material to individual risk-benefit assessments and informed consent. The Defendants failed to clearly, accurately, or timely disclose this distinction to the public, despite knowing or ought reasonably to have known that individuals were relying on the term “vaccine” to mean protection from infection and spread.
74. Whether the Covid injections were properly characterized as “vaccines” is a matter for trial, however, the continued use of unqualified vaccine terminology as contrary evidence emerged is pleaded as negligent misrepresentation of a material fact.
75. The Defendants’ advertisements and messaging conveyed a uniform and unequivocal narrative of safety, efficiency, and interchangeability. Class Members were not informed, through official government channels used to promote vaccination, that adverse-event data existed, that injuries were being reported, or that material uncertainties remained regarding short-, medium-, or long-term risks.
76. The Plaintiff pleads that the Defendants represented, expressly or implicitly, that publicly available adverse-event data accurately reflected known risks. However, CAEFISS has not been publicly updated since January 19, 2024.⁷³ The continued reliance on outdated, delayed, or incomplete surveillance data while presenting vaccination as unequivocally safe is pleaded as a misrepresentation by omission, as the public was not informed of reporting delays, backlog, methodological limitations, or the absence of updated data.
77. The Plaintiff further pleads that the establishment of the Vaccine Injury Support Program constituted a representation that vaccine-related injuries were rare and that, in the unlikely event of harm, a functional and accessible compensation mechanism would provide meaningful redress. The evidence on the records reveals significant operational

⁷³ Bradley Affidavit 1, Exhibit O; and Bradley Affidavit 2, Exhibit C.

deficiencies within the program. The pleaded facts support the inference that public assurances regarding the adequacy and functionality of the Vaccine Injury Support Program were materially misleading.

78. The Provincial Defendant commissioned and publicly released an official review of Alberta’s pandemic response in the form of the Alberta Government Covid Task Force Report. The report identified serious concerns regarding vaccine safety monitoring, adverse-event reporting, informed consent, and injury support mechanisms, and set out specific recommendations for corrective action. By publishing the report, the Provincial Defendant represented to the public that the identified issues were credible, material, and warranted governmental response. The Plaintiff pleads that the failure to correct prior categorical safety assurances, issue updated public warnings, or implement or formally address the Alberta Government Covid Task Force’s recommendations, while continuing to promote vaccination, constitutes a material misrepresentation by omission an admission against interest by the Provincial Defendant that deficiencies existed in the safety monitoring, reporting, and consent framework it had previously represented as sufficient.
79. The Plaintiff pleads that the Defendants’ public representations regarding Covid Vaccine safety, efficacy, and interchangeability were made within, and purportedly pursuant to, specific statutory frameworks that impose affirmative obligations to act reasonably, transparently, and in the public interest. These statutes define both the scope of the Defendants’ authority and the limits within which public health information may lawfully be communicated. Whether the Defendants complied with those statutory duties, or instead acted outside them, is a central common issue supporting certification of the negligent misrepresentation and negligence claims.
80. At the federal level, the *Public Health Agency of Canada Act*⁷⁴ expressly contemplates the regulation of how public health information is collected, analyzed, interpreted, published, and distributed, underscoring Parliament’s recognition that the integrity of public health information is essential to lawful and effective public health governance. Section 15 of the *Public Health Agency of Canada Act* provides:

“15. (1) The Governor in Council may, on the recommendation of the Minister, make regulations respecting

(a) the collection, analysis, interpretation, publication and distribution of information relating to public health, for the purpose of paragraph 4(2)(h) of the *Department of Health Act*; and

(b) the protection of that information if it is confidential information, including if it is personal information as defined in section 3 of the *Privacy Act*.

(2) Every person who knowingly possesses, uses or discloses information in contravention of a regulation made under subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$50,000 or to

⁷⁴ [Public Health Agency of Canada Act](#), SC 2006, c 5.

imprisonment for a term not exceeding six months, or to both.⁷⁵

81. This statutory scheme confirms that public health information is not merely advisory or discretionary messaging, but regulated information subject to legal standards governing its accuracy, interpretation, and publication. The express inclusion of analysis, interpretation, and publication reflects a legislative intent that public health authorities exercise care, diligence, and honesty in how scientific data and risk information are communicated to the public.
82. The inclusion of an offence provision for the knowing misuse or improper disclosure of public health information further underscores Parliament's recognition that improper handling of such information can cause serious public harm. This framework supports the Plaintiff's position that the dissemination of outdated, incomplete, or selectively framed safety information, while presenting it as authoritative and comprehensive, falls outside the scope of lawful public health communication contemplated by the *Public Health Agency of Canada Act*.
83. Similarly, the *Department of Health Act*⁷⁶ sets out the Federal Minister of Health's powers, duties, and functions relating to health, including:
- (2) Without restricting the generality of subsection (1), the Minister's powers, duties and functions relating to health include the following matters:
- (a.1) the **promotion and preservation of the physical, mental and social well-being of the people of Canada**;...
- (c) investigation and research into public health, including the monitoring of diseases;
- (d) **the establishment and control of safety standards and safety information requirements for consumer products** and of safety information requirements for products intended for use in the workplace;...
- (i) cooperation with provincial authorities with a view to the coordination of efforts made or proposed for preserving and improving public health.
[emphasis added]
84. These statutory duties reinforce that federal health authorities are required to ensure that public communications concerning health risks and medical interventions are accurate, balanced, and transparent, particularly where those communications are intended to influence individual medical decision-making at a population-wide level.
85. The *Canada Health Act*⁷⁷ further reflects a foundational commitment to protecting and promoting the health of residents through public administration grounded in accessibility,

⁷⁵ [Public Health Agency of Canada Act](#), SC 2006, c 5, [s 13](#).

⁷⁶ [Department of Health Act](#), SC 1996, c 8.

⁷⁷ [Canada Health Act](#), RSC 1985, c C-6.

universality, and accountability. Section 3 of the act states:

It is hereby declared that the **primary objective of Canadian health care policy is to protect, promote and restore the physical and mental well-being of residents of Canada** and to facilitate reasonable access to health services without financial or other barriers.” [emphasis added]

86. The *Canada Health Act* informs the broader statutory context in which federal health authorities communicate with the public. Public confidence in the health system depends on accurate and complete information, and the Plaintiff pleads that misrepresenting or overstating vaccine safety and effectiveness undermines the very objectives the *Act* is designed to advance.
87. Read together with the *Department of Health Act*, the *Canada Health Act*, and section 15 of the *Public Health Agency of Canada Act* supports the Plaintiff’s position that federal health authorities were required to communicate public health information in a manner that was accurate, transparent, and not misleading, particularly where that information was intended to guide population-wide medical decision-making and informed consent.
88. This statutory framework presupposes accuracy, completeness, and transparency. Nothing within it authorizes the dissemination of misleading, incomplete, or selectively framed health information, nor does it permit uncertain, evolving, or conditional scientific conclusions to be presented to the public as settled fact.
89. The *Food and Drugs Act*⁷⁸ establishes a comprehensive and consistent statutory prohibition against false, misleading, or deceptive information in relation to regulated products, including drugs, medical devices, and therapeutic products. In particular, section 9(1) provides:

No person shall label, package, treat, process, sell or advertise any drug in a manner that is **false, misleading or deceptive or is likely to create an erroneous impression** regarding its character, value, quantity, composition, merit or safety.⁷⁹ [emphasis added]

This prohibition captures misleading impressions created by omission or selective framing, not only affirmative false statements.

90. Section 20(1) of the *Food and Drugs Act* further states:

No person shall label, package, treat, process, sell or advertise any device in a manner that is **false, misleading or deceptive or is likely to create an erroneous impression** regarding its design, construction, performance, intended use, quantity, character, value, composition, merit or safety.⁸⁰ [emphasis added]

⁷⁸ *Food and Drugs Act*, RSC 1985, c F-27.

⁷⁹ *Food and Drugs Act*, RSC 1985, c F-27, s 9.

⁸⁰ *Food and Drugs Act*, RSC 1985, c F-27, s 20.

91. Section 21.6 of the *Food and Drugs Act* goes on to state:

No person shall knowingly make a false or misleading statement to the Minister — or knowingly provide him or her with false or misleading information — in connection with any matter under this Act concerning a therapeutic product.⁸¹

92. These prohibitions are enforced through significant penalties. Section 31.2(1) of the *Food and Drugs Act* provides that contraventions of the act relating to therapeutic products constitute offences punishable by substantial fines and imprisonment. Parliament’s imposition of serious penalties underscores the central importance of truthful, accurate, and complete safety information in protecting public health.

93. Read together, these provisions establish that the dissemination of false, misleading, selectively framed, or incomplete safety information is expressly prohibited by the *Food and Drugs Act*. Presenting Covid Vaccines as unequivocally “safe,” “effective,” or “interchangeable,” while omitting known uncertainties, regulatory limitations, or evolving safety signals, is pleaded as inconsistent with these statutory requirements and as creating an erroneous impression of safety contrary to the *Food and Drugs Act*.

94. At the provincial level, the *Public Health Act*⁸² imposes a mandatory statutory duty on the Chief Medical Officer of Health to base public health recommendations on actual monitoring of health outcomes. Section 14(1)(a) provides that the Chief Medical Officer:

...shall, on behalf of the Minister, monitor the health of Albertans and make recommendations to the Minister, provincial health agencies, provincial health corporations and health services delivery organizations on measures to protect and promote the health of the public and to prevent disease and injury.⁸³

95. The statutory requirement to monitor health, and then to recommend measures in response to that monitoring, necessarily requires that recommendations be grounded in an accurate, current, and honest assessment of the available health data. Recommendations that are issued while known limitations in surveillance systems, delays in data reporting, or emerging adverse outcomes are minimized or omitted are not rationally connected to the monitoring function the *Public Health Act* mandates. The Plaintiff pleads that where the Provincial Defendant issued prescriptive public messaging and supported coercive measures while failing to accurately reflect deficiencies in adverse-event reporting, data backlogs, and evolving safety signals, the Provincial Defendant acted inconsistently with its statutory duty under section 14(1)(a) *Public Health Act*.

96. Similarly, the *Health Information Act*⁸⁴ imposes a statutory duty on custodians of health information to ensure the accuracy and completeness of health information before it is used or disclosed. Section 61 of the *Act* provides that:

⁸¹ [Food and Drugs Act](#), RSC 1985, c F-27, s 21.6.

⁸² [Public Health Act](#), RSA 2000, c P-37.

⁸³ [Public Health Act](#), RSA 2000, c P-37, s 14.

⁸⁴ [Health Information Act](#), RSA 2000, c H-5.

Before using or disclosing health information that is in its custody or under its control, a custodian must make a reasonable effort to ensure that the information is accurate and complete.⁸⁵

97. This duty reflects a legislative recognition that health information is relied upon to make consequential medical and personal decisions, and that the use or disclosure of inaccurate or incomplete information can cause foreseeable harm. The Plaintiff pleads that the Provincial Defendant breached this statutory duty by using and disclosing public health information in the form of official messaging and guidance that relied on incomplete, outdated, or selectively framed safety data, while failing to disclose known limitations in adverse-event reporting systems, delays in data updates, and emerging safety signals material to public understanding and informed consent.
98. Section 61 requires custodians to make reasonable efforts to ensure accuracy and completeness **before** using or disclosing health information; it does not permit custodians to discharge that duty by shifting the burden onto individuals to independently locate, interpret, or reconcile complex and evolving safety data. The Plaintiff pleads that where official communications conveyed reassurance, certainty, and authority, without clearly disclosing their limitations, the Provincial Defendant failed to meet the statutory requirement to take reasonable steps to ensure that the health information used and disclosed was accurate, complete, and fit for its intended purpose.
99. Taken together, these statutes define the legal boundaries within which the Defendants were required to act when communicating with the public about Covid Vaccines. They do not confer immunity for misstatements or omissions. Instead, they impose a standard of care grounded in accuracy, completeness, and the avoidance of foreseeable harm, particularly where the information communicated directly affected bodily integrity and informed consent. The Plaintiff pleads that negligent misrepresentation arises precisely because the Defendants spoke from a position of statutory authority, on matters within its exclusive knowledge and control, in circumstances where public reliance was not only foreseeable, but functionally unavoidable.
100. In the alternative, the Plaintiff pleads that if the Defendants' conduct is found to be undertaken outside the scope, purpose, or limits of those enactments it is therefore incapable of grounding statutory discretion. *Ultra vires* conduct that cannot be justified by legislative authority may attract liability in negligent misrepresentation, negligence, and misfeasance in public office.
101. Whether the Defendants complied with, exceeded, or acted contrary to their statutory mandates is a common legal issue that does not depend on individualized evidence. It turns on statutory interpretation, the content and character of the representations made, and the centralized and coordinated manner in which vaccine safety information was communicated through official government channels. These questions are properly determined on a full evidentiary record and strongly support certification of the Plaintiff's claims.

⁸⁵ [Health Information Act](#), RSA 2000, c H-5, [s 61](#).

102. Rather than fulfilling their statutory duties of transparency, monitoring, and public disclosure, the Defendants maintained and promoted assurances of vaccine safety while adverse-event data remained outdated, incomplete, delayed, or uncontextualized. This failure was not isolated or incidental. It formed part of a systemic communications strategy that reinforced public confidence while withholding material risk information, thereby compounding the negligent misrepresentations pleaded and independently grounding claims in negligence and misfeasance in public office.
103. This case is **not** one of good-faith uncertainty, evolving evidence, or the reasonable exercise of judgment in difficult circumstances. The Plaintiff does not plead simply that knowledge changed over time. Rather, the pleadings allege the continued and unqualified use of authoritative public messaging to reassure safety and promote compliance, while known limitations, reporting delays, methodological constraints, and emerging safety signals were not meaningfully disclosed through the same centralized government channels used to direct individual conduct. The systemic presentation of stale, incomplete, selectively framed, or uncontextualized data as reassurance of safety, particularly where contrary or qualifying information was known or reasonably available, constitutes negligent misrepresentation by omission.
104. The SCC, in *R v. Imperial Tobacco* (“*Imperial Tobacco*”)⁸⁶ recognized that a “special relationship” capable of grounding a duty of care may arise where government conduct creates proximity through foreseeability, reliance, and direct impact, even in a regulatory or public policy context.⁸⁷ In *Imperial Tobacco*, the SCC held that where government action is directed at a defined and identifiable group, and where the consequences of that action on the group’s interests are foreseeable, proximity may be established notwithstanding the public nature of the conduct. Critically, the Court emphasized that the proximity analysis turns on the nature of the relationship created by the government’s conduct, including the extent to which affected parties were targeted, relied on government representations or actions, and were directly impacted, rather than on a formal characterization of the conduct as “policy” or “regulation”.
105. The same analysis applies in this case. The Defendants engaged in specific, sustained, and authoritative conduct aimed at influencing individual medical decision-making, including through uniform public communications, guidance, and binding public health measures relating to Covid vaccination. The Defendants knew, or ought to have known, that individuals subject to those communications and measures would reasonably rely on official representations concerning vaccine safety, efficacy, and necessity, particularly where those representations were reinforced through mandates, penalties, and restrictions affecting mobility, and access to services.
106. This case does not seek to impose liability for abstract policy choices. It concerns the legal consequences of specific government representations that created reliance and had direct, foreseeable impacts on Class Members, and the implementation of coercive measures based on that information. Consistent with *Imperial Tobacco*, the existence of a duty of

⁸⁶ [R. v. Imperial Tobacco Canada Ltd., 2011 SCC 42](#) (“*Imperial Tobacco*”) (CanLII), [2011] 3 SCR 45.

⁸⁷ [Imperial Tobacco](#).

care cannot be avoided simply by characterizing the impugned conduct as public policy or regulatory in nature.

107. The representations at issue must be understood in their full legal and factual context. The Defendants’ public health messaging did not occur in an ordinary informational environment. It occurred within a framework of government-mandated public health orders, closures, restrictions, and penalties that fundamentally altered the relationship between the state and individuals. During the Class Period, Albertans were subject to sweeping directives that restricted movement, education, travel, and access to public life.
108. In this context, the Defendants’ representations about Covid Vaccines carried exceptional authority and practical consequence. The alleged “special relationship” arises from the Defendants’ combined role as policymakers, enforcers, and authoritative sources of medical guidance, influencing personal healthcare decisions during an unprecedented public health crisis. This convergence of authority, compulsion, and representation reasonably establishes proximity and a duty of care toward those whose health decisions were foreseeably affected.
109. The SCC’s decision in *Hill v. Hamilton-Wentworth Regional Police Services Board*, (“*Hill*”)⁸⁸ further supports the Plaintiff’s position that the Defendants were required to meet a standard of reasonableness, not a diluted or exceptional standard. In *Hill*, the Court confirmed that the common law standard of care for public authorities is informed by factors including the foreseeability and gravity of harm, the cost or burden of preventing injury, professional standards, and statutory obligations.⁸⁹ As the SCC held:

Courts are not in the business of second-guessing reasonable exercises of discretion by trained professionals. An appropriate standard of care allows sufficient room to exercise discretion without incurring liability in negligence. Professionals are permitted to exercise discretion. What they are not permitted to do is to exercise their discretion unreasonably. This is in the public interest.⁹⁰

The SCC further emphasized that the applicable standard is not perfection or hindsight optimization, but the conduct of a reasonable professional in the circumstances prevailing at the time, while maintaining accountability where discretion falls outside the bounds of reasonableness.⁹¹

110. Applied here, the foreseeable risk of serious harm from inaccurate, incomplete, or selectively framed vaccine information, particularly where that information directly affected body integrity and informed consent, combined with the minimal burden of providing accurate, timely, and transparent disclosure, supports a meaningful and enforceable standard of care. At a minimum, *Hill* confirms that the applicable standard of care, and whether it was met in these unprecedented circumstances, are fact-driven

⁸⁸ [Hill v. Hamilton-Wentworth Regional Police Services Board, 2007](#) SCC 41 (CanLII) (“*Hill*”), [2007] 3 SCR 129.

⁸⁹ *Hill*, at para 70.

⁹⁰ *Hill*, at para 54.

⁹¹ *Hill*, at para 73.

questions that cannot be resolved at certification and are property left for determination on a full evidentiary record.

111. The law further distinguishes between high-level policy formulation and operational conduct. While governments may enjoy immunity for core policy decisions, operational actions that implement policy, including the dissemination of specific, authoritative information intended to guide individual conduct, may attract liability.⁹² Specifically the SCC stated in *Imperial Tobacco*:

Unless it is plain and obvious that on those facts the action has no reasonable chance of success, the motion to strike must be refused. To put it another way, if there is a reasonable chance that the matter as pleaded may in fact turn out not to be a matter of policy, then the application to strike must be dismissed. Doubts as to what may be proved in the evidence should be resolved in favour of proceeding to trial. The question for us is therefore whether, assuming the facts pleaded to be true, it is plain and obvious that any duty of care in negligent misrepresentation would be defeated on the ground that the conduct grounding the alleged misrepresentation is a matter of government policy and hence not capable of giving rise to liability in tort.⁹³

112. The SCC's analysis of proximity in *Hercules Managements Ltd. v. Ernst & Young* ("**Hercules**")⁹⁴ provides further support for the existence of a reasonably arguable duty of care. In negligent misrepresentation cases, proximity is grounded in the relationship of reliance between the parties as the SCC explained:

The label "proximity", as it was used by Lord Wilberforce in *Anns, supra*, was clearly intended to connote that the circumstances of the relationship inhering between the plaintiff and the defendant are of such a nature that the defendant may be said to be under an obligation to be mindful of the plaintiff's legitimate interests in conducting his or her affairs. Indeed, this idea lies at the very heart of the concept of a "duty of care", as articulated most memorably by Lord Atkin in *Donoghue v. Stevenson*, 1932 CanLII 536 (FOREP), [1932] A.C. 562, at pp. 580-81. In cases of negligent misrepresentation, the relationship between the plaintiff and the defendant arises through reliance by the plaintiff on the defendant's words. Thus, if "proximity" is meant to distinguish the cases where the defendant has a responsibility to take reasonable care of the plaintiff from those where he or she has no such responsibility, **then in negligent misrepresentation cases, it must pertain to some aspect of the relationship of reliance.**⁹⁵ [emphasis added]

113. In other words, where one party provides information knowing the other will rely on it, and that reliance is reasonable in the circumstances, the relationship is sufficiently proximate to give rise to a duty of care. Proximity in negligent misrepresentation therefore turns on foreseeable and reasonable reliance, not physical closeness or direct interaction.

⁹² *Imperial Tobacco*, at para. 88.

⁹³ *Imperial Tobacco*, at para. 70.

⁹⁴ *Hercules Managements Ltd. v. Ernst & Young*, 1997 CanLII 345 (SCC), [1997] 2 SCR 165 ("**Hercules**").

⁹⁵ *Hercules*, at para 24.

114. Both elements of proximity are met on the pleadings. The Defendants ought reasonably to have foreseen that individuals would rely on authoritative statements concerning vaccine safety, efficacy, and interchangeability, particularly where those statements were reinforced by mandates, penalties, and incentives that demanded compliance. Reliance was likewise objectively reasonable where the Defendants positioned themselves as the primary and authoritative source of public health information, constrained alternatives, and conditioned participation in public life on adherence to their guidance. At a minimum, *Hercules* confirms that proximity and duty of care are at least reasonably arguable and cannot be negated at the certification stage.
115. Vaccination status was tied to mobility, travel, and participation in public and social life. In this environment, individuals did not merely receive information; they were compelled to act upon it. The foreseeability of reliance and harm flows from the direct and deliberate connection between the Defendants' representations and the consequences imposed on Class Members.
116. Whether the Defendants' conduct is properly characterized as policy or operational is a mixed question of fact and law that cannot be determined at certification and must be assessed on the pleaded facts, taken as true.
117. The Plaintiff's claim is not pleaded in the abstract. It identifies specific, repeated, and authoritative representations made through official government channels, including statements by the Prime Minister of Canada, the Premier of Alberta, and senior public health officials that were intended to, and did, influence individual medical decision-making in circumstances of compulsion and constrained choice.
118. For example, the Plaintiff relies on specific details of the Provincial Defendants' misrepresentations including the Alberta's Chief Medical Officer of Health stating on June 21, 2021:
- Our AB data shows that both Pfizer and Moderna have 90+% effectiveness with 2 doses. Pfizer is about 90% effective and Moderna 93% after 2 doses. Bottom line: both are safe and both work very well.
- These vaccines are safe & they will protect you & those around you... Both Pfizer and Moderna are mRNA vaccines. They're not identical but extremely similar and **it's perfectly ok to get one dose of each. In fact, there's some evidence that suggests this may actually boost your immune response.**⁹⁶ [emphasis added]
119. That statement, like many others, relied on relative risk reduction (“RRR”) not the absolute risk reduction (“ARR”) and was highly misleading in the circumstances. The Defendants presented RRR as unequivocal “risk reduction” in plain language, without disclosing that ARR measure the actual difference in risk experienced by individuals and is a metric necessary for informed clinical decision-making. In contrast, RRR reflects only proportionate risk reduction, irrespective of baseline individual risk. By deliberately omitting ARR and failing to disclose material risk information, the Defendants misled

⁹⁶ Bradley Affidavit 1, Exhibit B, Image B-6.

Class Members about the true magnitude of the benefits and safety of the Covid Vaccines.

120. Similar assurances were made at the federal level. On February 24, 2021, the Federal Defendant stated:

Health Canada is expediting the review of all vaccines for COVID-19, but timelines can vary according to the completeness and complexity of the data that is provided to us. Ultimately, **Health Canada will not authorize a vaccine until it has been shown to be safe and effective.**⁹⁷ [emphasis added]

And on March 31, 2021, the Federal Defendant stated:

Only vaccines that are safe, effective and of the highest quality are authorized by Health Canada. Canada is recognized around the world for its high standards and rigorous vaccine review process.⁹⁸ [emphasis added]

121. At the time these representations were made, the Covid Vaccines had been authorized under interim and expedited regulatory pathways that expressly relied on incomplete clinical data. Long-term safety outcomes, rare adverse event profiles and durability of protection had not been established. Despite this, the Defendants represented to the public that the Covid Vaccines had been shown to be “safe and effective,” without disclosing the conditional, evolving, and provisional nature of the underlying approvals. In doing so, they conveyed regulatory certainty and established safety findings that did not, in fact, exist at the time. This omission was material to informed consent and fundamentally altered the risk information upon which Class Members relied.
122. Further, notwithstanding that Vaccine Manufacturers’ product monographs and regulatory submissions did not recommend interchangeability of different Covid Vaccines due to the absence of clinical trial data supporting mixed dosing schedules, the Defendants publicly promoted “mix and match” administration without disclosing that such use fell outside the manufacturers’ studied protocols.
123. These omissions were material to informed consent and fundamentally altered the risk information upon which Class Members relied.
124. The pleaded representations are concrete, authoritative, and uniform. Their content, the status of the speakers, and the circumstances in which they were made are all capable of determination on a class-wide basis.
125. The Defendants positioned themselves as the primary and authoritative source of public health information during a period of acute vulnerability and compulsion. It was reasonably foreseeable that the public would rely on their assurances in making significant and, in many cases, irreversible medical decisions.
126. The pleadings therefore raise a live issue as to proximity, duty of care, reasonable reliance,

⁹⁷ Bradley Affidavit 1, Exhibit A, Image A-5

⁹⁸ Bradley Affidavit 1, Exhibit A, Image A-6.

and foreseeable harm arising from inaccurate or incomplete information. These issues are common to the Class and turn on centralized government representations and omissions, not individualized conduct.

127. Whether those representations amount to negligent misrepresentation is a matter for trial. At certification, it is sufficient that the pleadings disclose a reasonable cause of action supported by detailed factual allegations that warrant adjudication on a full evidentiary record.

B. Negligence

128. The tort of negligence requires the Plaintiff to plead: (a) a duty of care; (b) a standard of care; (c) a breach of that standard; (d) causation; and (e) damages.
129. At certification, the Court does not determine whether negligence is proven, but whether it is plain and obvious that the claim cannot succeed.
130. The SCC confirmed that negligence claims against the Crown must identify negligent conduct by individual public officials acting within the scope of their duties. In *The Cleveland-Cliffs Steamship Company v. The Queen*, the Court held that liability attaches where a plaintiff can point to negligent acts of government servants.⁹⁹ Torts committed by Crown employees are actionable under Crown liability legislation. The Crown remains liable even where its servant's negligence was not the sole cause of the injury.¹⁰⁰
131. In this case the Prime Minister, Premier, and public health authorities for both Canada and the Province made specific and identifiable representations. Where public authorities undertake actions that create a foreseeable risk of physical or psychological harm, particularly through the exercise of extraordinary statutory or executive powers that directly affect bodily autonomy, a duty of care may arise. This includes circumstances in which government actors take concrete operational steps that materially influence individual medical decision-making.
132. At certification, the Court is asked only to determine whether the existence and content of this duty, and the alleged departures from it, are reasonably arguable and capable of common determination.

Statutory Breaches (remove from Table of Contents)

133. The applicable standard of care is informed by the statutory mandates under which the Defendants acted, not as independent causes of action, but as context defining what reasonable care required in the circumstances.¹⁰¹ Rather, the statutes relied upon inform the content of the standard of care owed when exercising operational discretion.
134. The Plaintiff pleads that Crown servants acting on behalf of the Defendants, including senior public health officials, undertook operational acts that engaged a duty of care,

⁹⁹ *The Cleveland-Cliffs Steamship Company v. The Queen*, 1957 CanLII 74 (SCC), [1957] SCR 810, at page 814.

¹⁰⁰ *The King v. Murphy*, 1948 CanLII 47 (SCC), [1948] SCR 357, at page 361.

¹⁰¹ *The Queen (Can.) v. Saskatchewan Wheat Pool*, 1983 CanLII 21 (SCC), [1983] 1 SCR 205, at pages 222-223.

- including directing, promoting, and enforcing mass vaccination in circumstances of compulsion. The duty included taking reasonable steps to avoid exposing the public to foreseeable harm once vaccination was promoted and enforced at scale.
135. The *Canada Health Act*, whose purpose is to protect and promote the physical and mental well-being of residents, informs a duty to ensure that public health measures promoted and compelled at scale were supported by accurate, current, and complete safety information.
 136. The *Public Health Agency of Canada Act* and the *Department of Health Act*, which assign responsibility for monitoring health risks and communicating public health information, inform a duty to ensure that population-wide health guidance was not misleading by omission and was reasonably responsive to evolving safety data.
 137. The *Food and Drugs Act*, which prohibits misleading impressions regarding the safety and performance of therapeutic products, further informs the expectation that operational decisions be reasonably responsive to emerging safety signals.
 138. The *Public Health Act* and the *Health Information Act* inform corresponding provincial duties to exercise public health powers with reasonable diligence and to ensure that health information used and disclosed was accurate, complete, and updated as risks evolved.
 139. These statutory schemes do not impose strict liability. They inform the content of the standard of care. The Plaintiff alleges that coercive mandates, incentives, and restrictions, combined with incomplete, outdated, or selectively framed safety information, created a foreseeable risk of harm inconsistent with reasonable care.
 140. The pleaded failures to monitor, update, and accurately contextualize vaccine safety information, to respond to known reporting deficiencies, and to implement reasonable corrective measures are alleged breaches of that standard of care.
 141. Further, if the Defendants' conduct exceeded statutory authority or departed from the purposes of the governing legislation, it cannot attract statutory immunity. *Ultra vires* or negligent operational conduct by Crown servants is actionable under applicable Crown liability legislation, even where other factors may have contributed to the harm.¹⁰²
 142. Taken together, the pleadings disclose a viable negligence claim grounded in identifiable operational conduct. Whether the Defendants met the applicable standard of care, or acted outside the scope of lawful authority, is a matter for trial. At certification, it is sufficient that the claim is reasonably arguable and capable of determination, in material respects, on a common basis.

Operational Failures

143. The Plaintiff pleads that the Defendants owed a duty to act reasonably in the operational exercise of public health powers that directly affected bodily integrity and personal medical decision-making. That duty arises not from abstract policy, but from specific actions and

¹⁰² [Roncarelli v. Duplessis, 1959](#) CanLII 50 (SCC), [1959] SCR 121 at PDF pages 141-142.

omissions by Crown servants taken in circumstances of foreseeable harm.¹⁰³ The Plaintiff identifies specific systems, programs, and decisions implemented by Crown servants that were required to function with reasonable diligence once mass vaccination was promoted and enforced.

a. Failure of the Canadian Adverse Events Following Immunization Surveillance System

144. The continued reliance on outdated, delayed, or incomplete adverse-event reporting systems constitutes negligent operational conduct. A reasonable public authority exercising mass public health powers would ensure that safety monitoring systems are current, transparent, and responsive to emerging risks. The most recent publicly available CAEFISS data is dated January 5, 2024. There have been no publicly released updates since that date. The Provincial Defendant produced a witness who was unable to speak to the operation or updating of CAEFISS. The Federal Defendant did not produce a witness capable of addressing its administration or current status. Accordingly, the only evidence presently available is that CAEFISS has not been publicly updated since January 2024.
145. Continuing to promote and administer vaccination at scale while relying on a surveillance system that has not been updated publicly for over two years falls below the standard of reasonable care and supports the pleaded negligence claim.
146. In these circumstances, proper scrutiny requires full documentary production and cross-examination. The only mechanism capable of creating that complete evidentiary record is this proposed class proceeding. Certification is therefore necessary to allow the claims to proceed on a full and transparent record.

b. Failure of the Vaccine Injury Support Program

147. The creation of the Vaccine Injury Support Program confirms that vaccine-related injury was foreseeable, not speculative. However, the failure of that program to provide timely, adequate, and functional compensation constitutes further negligent operational conduct. A reasonable public authority anticipating vaccine-related injury would be expected to implement an effective mitigation and compensation mechanism.
148. The documented delays, administrative deficiencies, and inability to provide meaningful redress support the allegation that reasonable care was not exercised. In the context of negligence, these facts support an inference that the Defendants knew or ought reasonably to have known that injuries were occurring and that their response mechanisms were inadequate, yet continued enforcement and promotion persisted.
149. The evidence on the record includes the Plaintiff's own delayed and frustrated experience,¹⁰⁴ and public reporting described the Vaccine Injury Support Program as "troubled" and affected by "serious flaws," with federal officials seeking recommendations

¹⁰³ *Just v. British Columbia*, [1989] 2 SCR 1228, at page 1236, para e; *Cooper v. Hobart*, 2001 SCC 79 at para 36.

¹⁰⁴ Affidavit of Carrie Sakamoto ("Sakamoto Affidavit"), filed Sept 16, 2024, at paras. 24-29.

for alternative delivery models.¹⁰⁵

150. On the record before this Court, the Vaccine Injury Support Program has demonstrably failed to function as an effective and timely compensation mechanism. The Defendants' operational decisions, knowledge, and response to that failure require full documentary production and cross-examination at trial. Certification is therefore necessary to permit these negligence claims to proceed on a complete evidentiary record.

c. Failure to Operationalize the Alberta Government Covid Task Force Recommendations

151. The negligence of the Provincial Defendant is compounded by its failure to implement corrective measures following receipt and public release of the Alberta Government Covid Task Force Report, which identified serious deficiencies in vaccine safety monitoring, adverse-event reporting, informed consent, and the treatment of vaccine-injured individuals. The evidence presently on the record indicates that no meaningful steps were taken to implement those recommendations. The commission of a government report and the public release identifying systemic deficiencies and proposing reforms reasonably conveys that corrective action will follow. The failure to operationalize those recommendations, while continuing prior policies and messaging, supports the pleaded negligence. Whether reasonable steps were taken, and why they were not implemented, can only be determined on a full evidentiary record following documentary production and cross-examination.

152. The elements of negligence are reasonably argued on the pleadings. These alleged breaches arise from systemic and operational failures in how public health powers were exercised and safety information was acted upon. Whether Crown servants breached their duty of care is therefore a common issue suitable for class-wide determination.¹⁰⁶

C. Misfeasance in Public Office

153. The tort of misfeasance in public office is established where:

- a) A public official engages in deliberate unlawful conduct in the exercise of public functions; and
- b) The official knows that the conduct is unlawful and likely to harm the plaintiff, or is recklessly indifferent or willfully blind to that unlawfulness and the risk of harm.¹⁰⁷

154. The tort of misfeasance in public office requires proof of deliberate misconduct by a public official. Deliberate misconduct is established by proving:

¹⁰⁵ Transcript Gene Smith, Exhibit A for ID.

¹⁰⁶ *Reilly v Alberta*, 2024 ABCA 270 (CanLII), at [para. 21](#).

¹⁰⁷ *Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 at [para 25](#).

1. an intentional illegal act, which is either:
 - i. an intentional use of statutory authority for an improper purpose; or
 - ii. actual knowledge that the act (or omission) is beyond statutory authority; or
 - iii. reckless indifference, or willful blindness to the lack of statutory authority for the act;
 2. intent to harm an individual or a class of individuals, which is satisfied by either:
 - i. an actual intention to harm; or
 - ii. actual knowledge that harm will result; or
 - iii. reckless indifference or willful blindness to the harm that can be foreseen to result.¹⁰⁸
155. The Plaintiff pleads that the Defendants, acting through senior officials and agencies, intentionally used statutory authority for improper purposes, or acted with reckless indifference or willful blindness to statutory limits, by continuing to promote, enforce, and maintain Covid vaccination programs despite known safety uncertainties, deficiencies in adverse-event reporting, and failures in injury compensation mechanisms.
156. With respect to illegality, the Plaintiff pleads that the Defendants were bound by the purposes and limits of the *Public Health Agency of Canada Act*, *Department of Health Act*, *Canada Health Act*, *Food and Drugs Act*, *Public Health Act*, and *Health Information Act*. These statutes authorize action to protect public health, not to mislead the public, suppress known risks, compel medical compliance without lawful justification, or disregard emerging evidence of harm.
157. The Plaintiff pleads that the Defendants knew or were recklessly indifferent to the fact that:
- a) Covid Vaccines were authorized under an interim regime expressly acknowledging material uncertainty;
 - b) Adverse-event reporting systems were delayed, incomplete, and under-representative of real-world harm;
 - c) Vaccine-injuries were real given the establishment of the Vaccine Injury Support Program; and
 - d) Continued promotion and enforcement would foreseeably cause physical, psychological, and economic harm to Class Members.
158. Despite this knowledge, the Defendants continued to exercise extraordinary public powers, including mandates, penalties, and exclusion from public life, without correcting prior

¹⁰⁸ [Ingram, 2024](#), at [para. 54](#).

- assurances, without transparently addressing known risks or injuries, and without recalibrating advertisement programs in light of emerging harm. This conduct is pleaded as reckless indifference or willful blindness to both statutory limits and foreseeable harm.
159. The misuse of public power alleged was systemic and coordinated, not episodic. It arose from coordinated governmental action across departments, agencies, and levels of government. Whether the Defendants knowingly or recklessly exceeded lawful authority, or pursued public health objectives by impermissible means, is therefore a common issue capable of class-wide determination.
160. The Plaintiff further pleads that the Defendants’ own actions confirm knowledge of harm, including:
- a) The establishment and funding of the Vaccine Injury Support Program;
 - b) Ongoing awareness of adverse-event reports and safety signals;
 - c) The commissioning and receipt of the Alberta Government Covid Task Force identifying serious deficiencies; and
 - d) The continued failure to meaningfully respond to any of these findings.
161. Although misfeasance in public office requires proof of deliberate misconduct at trial, certification requires only that the pleaded facts are capable of satisfying the legal test. Here, the pleadings raise a live issue as to whether the Defendants acted with reckless indifference or willful blindness to illegality and foreseeable harm, matters that turn on internal knowledge, decision-making, and communications within government.
162. These issues are unsuitable for determination at certification. Only through discovery and trial will the parties be able to obtain and test the evidence relating to the Defendants’ knowledge, statutory authority, internal deliberations, and the systemic manner in which public powers were exercised.
163. Justice Feasby’s articulation of “collateral purpose that is plausibly bad faith” in *Ingram 2024*,¹⁰⁹ reflects this same framework, confirming that misfeasance encompasses intentional misuse of authority, actual knowledge of illegality, or reckless indifference to statutory limits and foreseeable harm. This formulation underscores that misfeasance is not confined to bad faith or malice, but extends to reckless disregard for legality and harm.
164. The pleadings allege conduct going beyond mere error or poor judgment, including continued promotion of vaccination programs under assurances of safety, efficacy, and interchangeability despite known uncertainties and risks. Whether this conduct meets the threshold of deliberate misconduct is a matter for trial.
165. Even absent proof of subjective intent to harm, reckless indifference or willful blindness to foreseeable injury is sufficient to satisfy the intent element of misfeasance. The Plaintiff

¹⁰⁹ [Ingram, 2024](#), ABKB 631 (CanLII) at [para 47](#).

pleads specific factual allegations demonstrating misuse of statutory authority, including the issuance of *ultra vires* public health orders,¹¹⁰ the use of financial incentives to compel compliance, and restrictions on civil liberties to enforce vaccination under allegedly false assurances.

166. The pleaded facts support an inference of reckless indifference or willful blindness to foreseeable harm, which is sufficient to ground misfeasance in public office. The establishment of the Vaccine Injury Support Program supports the inference that the Defendants were aware of potential harm, reinforcing the pleaded allegation of recklessness.
167. Notably, the Defendants have not provided any evidence addressing these deficiencies. The Provincial Defendant produced witnesses that could not speak to the operation of the Vaccine Injury Support Program and the Federal Defendant did not produce a witness available for cross-examination on the program's administration, and has not evidence produced evidence clarifying how or whether these systemic failures have been remedied.
168. In these circumstances, the only mechanism capable of examining the Defendants' conduct on a complete evidentiary record, following documentary production and cross-examination, is this proposed class proceeding. For these reasons, certification is necessary to permit the claims to proceed to determination on a full and transparent record.
169. Accordingly, the Plaintiff pleads a viable claim for misfeasance in public office that raises serious and common issues concerning the deliberate misuse of public authority during the pandemic. These issues warrant determination on a full evidentiary record and support certification of this cause of action as a common issue.

D. Breach of Fiduciary Duty

170. A fiduciary or fiduciary-like duty arises where:
 - a) Scope for the exercise of some discretion or power;
 - b) That power or discretion can be exercised unilaterally so as to affect the beneficiary's legal or practical interests; and
 - c) A peculiar vulnerability to the exercise of that discretion or power.¹¹¹

Whether such a duty exists turns on the factual relationship created, not formal labels or the identity of the actor.

171. Applying this test, the Plaintiff pleads that the Defendants assumed fiduciary or fiduciary-like obligations toward the Plaintiff and Class Members by exercising unprecedented and centralized control over matters directly engaging bodily integrity and personal medical decisions at a time when the public was uniquely vulnerable, dependent, and subject to

¹¹⁰ [Ingram v Alberta \(Chief Medical Officer of Health\), 2023](#) ABKB 453 (CanLII) at [para 3](#).

¹¹¹ [Frame v. Smith, \[1987\]](#) 2 SCR 99 at page 102; [Hodgkinson v. Simms, \[1994\]](#) 3 SCR 377 at page 379, para d.

compulsory public health authority.

172. Throughout the Class Period, the Defendants held themselves out as the authoritative source of medical and public health expertise, assumed responsibility for defining acceptable medical conduct, and asserted control over the conditions under which individuals could participate in public life. Public health directives were framed as necessary medical guidance, and compliance was presented as essential to personal and collective safety. In doing so, the Defendants undertook a role that went beyond general governance and entered the sphere of directing individual health decisions.
173. Throughout the Class Period, the Defendants held themselves out as the authoritative source of medical and public health expertise, assumed responsibility for defining acceptable medical conduct, and asserted control over the conditions under which individuals could participate in public life. Public health directives were framed as necessary medical guidance, and compliance was presented as essential to personal and collective safety. In doing so, the Defendants undertook a role that went beyond general governance and entered the sphere of directing individual health decisions.
174. The Defendants exercised broad and unilateral discretion over Class Members' interests of the highest order, including bodily autonomy, medical treatment, and informed consent. Vaccination status was tied to access to public spaces, travel, education, and other aspects of daily life. This discretionary power was exercised through binding public health orders, mandates, and enforcement mechanisms, leaving individuals with no meaningful ability to refuse vaccination without incurring serious legal or social consequences.
175. By assuming responsibility for guiding medical decision-making on a population-wide basis, restricting access to alternatives, and attaching legal and social consequences to compliance, the Defendants placed Class Members in a position of acute dependency on the accuracy, transparency, and completeness of government guidance.
176. This exercise of discretionary power created a position of pronounced vulnerability. Class Members were dependent on the Defendants for accurate, complete, and transparent information about the nature, risks, and limitations of the Covid Vaccines being promoted and enforced. The Defendants controlled the informational environment, limited competing narratives, and represented their guidance as medically authoritative. In these circumstances, Class Members were unable to independently protect their own interests and were compelled to rely on the Defendants' judgment.
177. This vulnerability arose directly from the Defendants' assumption of discretionary power and effective control over access to public life and personal medical choice. Through binding public health orders, penalties, and exclusionary measures, the Defendants exercised unilateral authority that left individuals with no meaningful ability to refuse vaccination without suffering serious legal and social consequences.
178. The asymmetry of power, combined with the Defendants' exclusive control over the content and framing of vaccine-related information, placed Class Members in a position of dependency on the Defendants' judgment and representations. In these circumstances, the

Defendants' discretion directly engaged bodily autonomy, and the accuracy and completeness of the information provided was integral to the preservation, or vitiating, of informed consent.

179. Where government actors exercise discretionary power that directly governs medical treatment and bodily integrity, fiduciary-like obligations may arise. The Defendants, as public health authorities, controlled both the decision-making framework and the informational basis upon which compliance was demanded. By mandating compliance while controlling vaccine messaging, the Defendants assumed an obligation to act with loyalty, good faith, and candour toward those whose bodily integrity was directly affected.
180. Accordingly, the pleadings raise a live issue as to whether the Defendants' assumption of discretionary power, control over medical information, and coercive enforcement of compliance created a fiduciary or fiduciary-like duty owed to the Plaintiff and Class, and whether that duty was breached through misrepresentation, suppression of risks, and the subordination of individual interests to institutional objectives. This issue is fact-driven and cannot be resolved at certification.

E. Conspiracy to Commit Assault and Battery

181. The tort of civil conspiracy is established where:
- a) Two or more persons act in concert;
 - b) With a common purpose or agreement, which may be inferred from coordinated conduct;
 - c) To employ unlawful means, or to pursue a lawful objective by unlawful means; and
 - d) Damage to the plaintiff results.¹¹²
182. At the certification stage, the Plaintiff need not prove agreement, intent, or unlawful means on a balance of probabilities. It is sufficient to plead facts showing that the conspiracy claim is reasonably arguable and not plain and obvious to fail.
183. Medical treatment without valid informed consent constitutes battery, regardless of the absence of malicious intent. The SCC has stated:

The tort is an intentional one, consisting of an unprivileged and unconsented to invasion of one's bodily security. True enough, it has some advantages for a plaintiff over an action of negligence since it does not require proof of causation and it casts upon the defendant the burden of proving consent to what was done. Again, it does not require the adducing of medical evidence, although it seems to me that if battery is to be available for certain kinds of failure to meet the duty of disclosure there would necessarily have to be some such evidence brought before

¹¹² [Hunt v. Carey Canada Inc., 1990](#) CanLII 90 (SCC), [1990] 2 SCR 959, at page 986, para a.

the Court as an element in determining whether there has been such a failure.¹¹³

184. Valid informed consent requires that consent be voluntary, informed, specific, and given by a person with capacity, and that material risks be disclosed in a manner that a reasonable person would consider significant.¹¹⁴
185. Consent is not voluntary where it is obtained through coercion, deception, or abuse of authority. Where a significant imbalance of power is exploited to secure compliance, the law treats apparent consent as legally ineffective. The SCC recognized that:
- The doctrines of duress, undue influence, and unconscionability have arisen to protect the vulnerable when they are in a relationship of unequal power. For reasons of public policy, the law will not always hold weaker parties to the bargains they make. Professor Klippert in his book *Unjust Enrichment* refers to the doctrines of duress, undue influence, and unconscionability as “justice factors”. He lumps these together under the general term “coercion” and states, at p. 156, that “[i]n essence the common thread is an illegitimate use of power or unlawful pressure which vitiates a person’s freedom of choice”. **In a situation where a plaintiff is induced to enter into an unconscionable transaction because of an inequitable disparity in bargaining strength, it cannot be said that the plaintiff’s act is voluntary.**¹¹⁵ [emphasis added]
186. This principle applies with particular force where the state exercises extraordinary authority over mobility rights and access to public life and benefits such as employment insurance while simultaneously directing medical decision-making. Where compliance with vaccination was made a practical precondition to participation in civil life, the existence of voluntariness is reasonably arguable to have been vitiated by state-imposed pressure, not individual clinical discretion.
187. The Plaintiff pleads that the Defendants are liable in conspiracy to commit assault and battery, arising from their coordinated, ongoing, and systemic conduct in promoting, enforcing, and maintaining Covid vaccination policies in circumstances where informed consent was vitiated and bodily integrity was infringed.
188. The Plaintiff recognizes and does not plead that the Defendants personally administered Covid Vaccines. Rather, the Plaintiff pleads that the Defendants combined to create, maintain, and enforce a coercive framework that foreseeably resulted in non-consensual physical contact through vaccination, knowing or being recklessly indifferent to the likelihood that individuals would submit under compulsion rather than voluntary, informed choice.
189. The Plaintiff pleads that informed consent was vitiated by:
- a) Categorical representations that Covid vaccines were “safe,” “effective,” and

¹¹³ [Reibl v. Hughes, 1980](#) CanLII 23 (SCC), [1980] 2 SCR 880, at page 890.

¹¹⁴ Bradley Affidavit 1, Exhibit I, at page 320.

¹¹⁵ [Norberg v. Wynrib, 1992](#) CanLII 65 (SCC), [1992] 2 SCR 226, at pages 247-248.

- “interchangeable,” without disclosure of material risks, uncertainties, or regulatory limitations;
- b) Conditioning mobility, participation in public life, education, employment, and employment insurance on vaccination status;
 - c) The use of mandates, penalties, and social restrictions to compel compliance; and
 - d) The suppression or minimization of adverse-event data and known reporting deficiencies.
190. Where consent is obtained under conditions of systemic pressure and deprivation of meaningful alternatives, it is not voluntary at law. Non-consensual physical contact resulting from such pressure constitutes assault and battery.
191. The Plaintiff further pleads that the Defendants knew or were recklessly indifferent to the fact that:
- a) Vaccination did not prevent infection or transmission;
 - b) Safety data was incomplete and evolving;
 - c) Adverse-event reporting materially lagged behind real-world harm;
 - d) Consent obtained under these conditions was legally defective; and
 - e) Physical injury was occurring, as evidenced by adverse-event data and the creation of the Vaccine Injury Support Program.
192. Deliberate maintenance of coercive mandates in the face of known legal consequences satisfies the mental element required for conspiracy grounded in unlawful means. The Plaintiff pleads that the Defendants, acting through senior officials, departments, agencies, and coordinated intergovernmental mechanisms, pursued a common course of conduct directed at achieving population-wide vaccination through compelled compliance, not voluntary medical choice, and that such coordination supports the inference of agreement necessary to ground conspiracy.
193. Whether consent was vitiated, whether unlawful means were employed, whether the Defendants acted in concert, and whether resulting vaccinations constituted assault and battery are systemic issues arising from uniform government conduct, not individualized clinical encounters. These issues are therefore properly addressed in a class proceeding and are not amenable to resolution at certification.
194. The Plaintiff pleads that the Defendants’ coordinated conduct created and sustained conditions in which individuals were compelled to submit to vaccination through misinformation, coercion, and deprivation of meaningful choice. In law, consent procured by such means is no consent at all, and non-consensual medical intervention constitutes battery.

195. The conspiracy claim discloses a reasonable cause of action and should proceed to certification so that the legality of the Defendants' coordinated conduct, and its consequences for bodily autonomy and consent, may be determined on a full evidentiary record.

VIII. CONCLUSION

196. This proposed class proceeding raises serious, systemic, and justiciable issues concerning the conduct of federal and provincial authorities in the promotion, authorization, monitoring, and enforcement of Covid vaccination policies. The evidentiary record already demonstrates that these issues are neither speculative nor abstract. Certification is required to ensure these claims are adjudicated transparently and fairly on their merits, rather than foreclosed at a preliminary stage.
197. The pleadings disclose viable causes of action grounded in established principles of negligence, negligent misrepresentation, misfeasance in public office, breach of fiduciary duties, and conspiracy. It is not plain and obvious that these claims are bound to fail. On the contrary, they raise substantial questions about government accountability, informed consent, statutory compliance, and the appropriate limits on the exercise of extraordinary public power.
198. The proposed Class is clearly defined, the common issues predominate over individual questions, and a class proceeding is plainly the preferable procedure. The alleged misconduct was uniform and systemic, the evidence will substantially overlap, and individual litigation would be impractical, inefficient, and inaccessible for most Class Members. Absent certification, similarly situated individuals would be left to pursue fragmented and prohibitively costly individual actions against well-resourced public authorities.
199. Independent law reform bodies have long recognized that vaccine injury litigation is uniquely ill-suited to traditional individual proceedings. The Law Reform Commission of Saskatchewan found in 2007:

Litigation of negligence claims can be costly and time consuming as well as uncertain. The Manitoba Law Reform Commission observed that in *Rothwell v. Raes*:

The trial judgment in favour of the defendants was not rendered until nine years after the vaccine in question was given. An appeal to the Ontario Court of Appeal was dismissed two years later. At trial, there were 50 witnesses who testified for 74 days. It has been estimated that the legal costs of the *Rothwell* litigation exceeded \$1,000,000...

In *Rothwell*, the trial judge expressed the opinion that **“the normal process of litigation is an utterly inappropriate procedure for dealing with claims of this nature.”**...

The Manitoba Law Reform Commission is more succinct: “In practical terms, the

tort process holds out very little promise for an efficient and fair remedy for those children who suffer vaccine-related injury and illness.”¹¹⁶ [emphasis added]

200. The record of prolonged, prohibitively expensive, and procedurally complex vaccine litigation demonstrates that individual actions are neither efficient nor realistically accessible. Denying certification in these circumstances would have consequences beyond the interests of the individual parties. It would effectively insulate broad governmental conduct from meaningful judicial scrutiny, deprive injured individuals of any realistic avenue for redress, and undermine the core objectives of the *CPA*: access to justice, judicial economy, and behaviour modification.
201. Certification ensures that the legality and limits of the Defendants’ conduct, and its consequences for identifiable Albertans, are determined once, on a full evidentiary record, rather than through piecemeal and prohibitively costly litigation. The Defendants will have the opportunity to justify their conduct on a full evidentiary record. If that conduct exceeded lawful authority or breached applicable duties, the *CPA* provides the appropriate mechanism for accountability.
202. For all of these reasons, the Plaintiff respectfully submits that the requirements for certification under section 5 of the *CPA* are satisfied and that this action should be certified to proceed as a class proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 19th day of February 2026.

RATH & COMPANY BARRISTERS AND SOLICITORS



EVA CHIPIUK
Counsel for the Plaintiff
CARRIE SAKAMOTO

¹¹⁶ Bradley Affidavit 2, Exhibit G; Law Reform Commission of Saskatchewan, [Vaccination and the Law - Consultation Paper, Law Reform Commission of Saskatchewan, 2007](#) CanLIIDocs 223, at pages 18-20.

IX. AUTHORITIES

STATUTES

1. [Canada Health Act](#), RSC 1985, c C-6.
2. [Class Proceedings Act](#), SA 2003, c C-16.5.
3. [Department of Health Act](#), SC 1996, c 8.
4. [Food and Drugs Act](#), RSC 1985, c F-27, [s 9](#), [s 20](#), [s 21.6](#).
5. [Health Information Act](#), RSA 2000, c H-5, [s 61](#).
6. [Public Health Act](#), RSA 2000, c P-37, [s 13](#), and [s 14](#).

CASE LAW

7. [AIC Limited v. Fischer, 2013](#) SCC 69, at [para 40](#).
8. [Alberta \(Minister of Infrastructure\) v. Nilsson, 2002](#) ABCA 283 (CanLII), at [para 95](#), and [para 118](#).
9. [Antrim Truck Centre Ltd. v. Ontario \(Transportation\), 2013](#) SCC 13 (CanLII), [2013] 1 SCR 594, at [para 39](#).
10. *Ashby v. White* (1703), 2 Ld. Raym. 938, 92 E.R. 126 [**Attached hereto as “TAB 1”**].
11. [Attis v. Canada \(Minister of Health\), 2005](#) CanLII 10884 (ON SC), at [para 9](#).
12. [Cloud v. Canada \(Attorney General\), 2004](#), 73 O.R. (3d) 401 (C.A.).
13. [Cooper v. Hobart, 2001](#) SCC 79 at [para 36](#).
14. [DAKA Holdings Ltd v Boyle \(Village\), 2026](#) ABKB 83 (CanLII), at [para 78](#).
15. [Frame v. Smith, \[1987\]](#) 2 SCR 99 at page 102.
16. [Hercules Managements Ltd. v. Ernst & Young, \[1997\]](#) 2 SCR 165, at [para 24](#).
17. [Hill v. Hamilton-Wentworth Regional Police Services Board, 2007](#) SCC 41 (CanLII), [2007] 3 SCR 129, at [para 54](#), [para 70](#) and [para 73](#).
18. [Hodgkinson v. Simms, \[1994\]](#) 3 SCR 377 at page 379, at para d.
19. [Hollick v. Toronto \(City\), 2001](#) SCC 68 (CanLII), [2001] 3 SCR 158, at [para. 14](#), [para. 15](#), [para 16](#), [para 24](#) and [para 25](#).

20. [Hunt v. Carey Canada Inc., 1990](#) CanLII 90 (SCC), [1990] 2 SCR 959, at page 986, at para a.
21. [Ingram v Alberta \(Chief Medical Officer of Health\), 2023](#) ABKB 453 (CanLII), at [para 3](#).
22. [Ingram v Alberta, 2024](#) ABKB 631 (CanLII), at [para 47](#), [para. 54](#), [para. 93](#), and [para. 108](#).
23. [Jensen v. Samsung Electronics Co. Ltd., 2021](#) FC 1185 (CanLII), [2022] 3 FCR 34, at [paras 60-62](#).
24. [Just v. British Columbia, \[1989\]](#) 2 SCR 1228 \ 2 SCR 1228 at page 1236, para e.
25. [Kwicksutaineuk/Ah-Kwa-Mish First Nation v. British Columbia \(Agriculture and Lands\), 2009](#) BCSC 1593 (CanLII), at [paras. 53-55](#).
26. [Norberg v. Wynrib, 1992](#) CanLII 65 (SCC), [1992] 2 SCR 226, at pages 247-248.
27. [Odhavji Estate v. Woodhouse, 2003](#) SCC 69 (CanLII), [2003] 3 SCR 263 at [para 25](#).
28. [Pro-Sys Consultants Ltd. v. Microsoft Corporation, 2013](#) SCC 57, at [para 10](#), [para 26](#), [para 78](#), [para 102](#), and [paras 137-141](#).
29. [Queen v. Cognos Inc., 1993](#) CanLII 146 (SCC), [1993] 1 SCR 87, at **PDF** page 110.
30. [R. v. Imperial Tobacco Canada Ltd., 2011](#) SCC 42 (CanLII), [2011] 3 SCR 45, at [para 70](#), and [para 88](#).
31. [Reibl v. Hughes, 1980](#) CanLII 23 (SCC), [1980] 2 SCR 880, at page 890.
32. [Reilly v Alberta, 2024](#) ABCA 270 (CanLII), at [para 21](#).
33. [Roncarelli v. Duplessis, 1959](#) CanLII 50 (SCC), [1959] SCR 121, at **PDF** pages 141-142.
34. [Rumley v. British Columbia, 2001](#) SCC 69 (CanLII), [2001] 3 SCR 184, at [para 21](#).
35. [Sakamoto v Canada \(Attorney General\), 2025](#) ABKB 149 (CanLII), at [para 3](#).
36. [The Cleveland-Cliffs Steamship Company v. The Queen, 1957](#) CanLII 74 (SCC), [1957] SCR 810, at page 814.
37. [The King v. Murphy, 1948](#) CanLII 47 (SCC), [1948] SCR 357, at page 361.
38. [The Queen \(Can.\) v. Saskatchewan Wheat Pool, 1983](#) CanLII 21 (SCC), [1983] 1 SCR 205, at pages 222-223.
39. [Western Canadian Shopping Centres Inc. v. Dutton, 2001](#) SCC 46 (CanLII), [2001] 2 SCR 534,), at [paras 26-29](#).

SECONDARY SOURCES

40. Law Reform Commission of Saskatchewan, [Vaccination and the Law - Consultation Paper, Law Reform Commission of Saskatchewan, 2007](#) CanLII Docs 223, at pages 18-20.

TAB 1 - *Ashby v. White* (1703), 2 Ld. Raym. 938, 92 E.R. 126

TAB 1

Ashby v. White (1703), 2 Ld. Raym. 938, 92 E.R. 126

2. PRIDEAUX *versus* MORRIS. Trin. 2 Ann.

2 Salk. 502. Farresl. 13.

Action on the case for a false return of Parliament-men, against the sheriff; here the plaintiff declared, that whereas he was duly elected, the sheriff returned another to be so, who in fact was not duly elected. The question was, whether, this being a Parliamentary matter, might be determined here in this Court?

Holt C.J. The cause of the plaintiff's suit is a wrong done out of Parliament, and whatever falls under the regulation of law in such case, is subject to the law of the land; for laws are to be executed out of Parliament: but for the rules of the House of Commons, as to their sitting, &c. they are within the House, and the Judges cannot know them, there being no practice of them out of the Parliament; yet if a law should be made relating to them, or they should become necessary to be determined on account of some other matter cognizable by the Judges, we must take notice of and determine them. Though I think, for a false return the party can have no action, where there may be a determination in the House of Commons, because of the inconvenience of contrary resolutions; and so here, if one is voted elected, another person cannot bring an action and say, that he was duly elected and returned, because his name does not appear upon record: but where the right of election, either is determined, or cannot be determined in Parliament, as in case of a dissolution, &c. an action lies for the false return.

And he was of opinion, that for a double return, no action lay against the sheriff before the Statute 7 & 8 W. 3. Not only as it is the only method he hath to indemnify himself, but when the right comes to be determined in [524] Parliament, one indenture returned is taken off the file, and then there is no double return.

3. ASHBY *versus* WHITE & AL'. Mich. 2 Ann.

[See S. C. 2 Ld. Raym. 938 (with note).]

Mod. Cas. 45, 50, 53, 56. 1 Salk. 19, 20. 3 Salk. 17.

In action upon the case against the constables of Ailesbury, the plaintiff declared, that such a day the late King's writ issued and was delivered to the Sheriff of B. for election of members of Parliament in his county; whereupon the said sheriff made out his precept or warrant to the defendants, being constables of A. to chuse two burgesses for that borough, which precept was delivered to the said constables; and that, in pursuance thereof, the burgesses were duly assembled, &c. and the plaintiff, being then duly qualified to vote for the election of two burgesses, offered to give his voice for Sir. T. L. and S. M. Esq; to be burgesses of Parliament for the said borough; but the defendants knowing the premisses, with malice, &c. obstructed him from voting, and refused and would not receive his vote, nor allow it; and that two burgesses were chose, without allowing or receiving his voice: a verdict was found for the plaintiff; and upon motion in arrest of judgment, three Judges held, that this action would not lie, 'till the Parliament had decided, whether the plaintiff had a right to vote as an elector.

Holt C.J. The case is truly stated, and the only question is, whether or not, if a burgess of a borough, that has an undoubted right to give his vote for the chusing a burgess of Parliament for that borough, is refused giving his vote, has any remedy in the King's Courts for this wrong against the wrong-doer? All my brothers agree, that he has no remedy; but I differ from them, for I think the action well maintainable, that the plaintiff had a right to vote, and that in consequence thereof the law gives him a remedy, if he is obstructed; and this action is the proper remedy. By the common law of England, every commoner hath a right not be subjected to laws, made without their consent; and because it cannot be given by every individual man in person, by reason of number and confusion, therefore that power is lodged in their representatives, elected by them for that purpose, who are either knights, citizens or burgesses: and the grievance here is, that the party not being allowed his vote, is

not represented. The election of knights of shires is by [525] freeholders; and a freeholder has a right to vote by reason of his freehold, and it is a real right; and the value of his freehold was not material till the Statute of H. 7, which requires it should be 40s. a-year, for before that every freeholder, though of never so small a value, had a right to vote at these elections. In boroughs, some of which are by prescription, they have a right of voting *ratione burgagii*, and *ratione tenuræ*; and this like the case of a freeholder before mentioned is a real right, annexed to the tenure in burgage: and in cities and corporations, it is a personal inheritance, and vested in the whole corporation, but to be used and exercised by the particular members; and such a privilege cannot be granted but to a corporation. This is a noble franchise and right, which entitles the subject in a share of the Government and Legislature. And here the plaintiff having this right, it is apparent that the officer did exclude him from the enjoyment of it, wherein none will say he has done well, but wrong to the plaintiff; and it is not at all material whether the candidate, that he would have voted for, were chosen, or likely to be, for the plaintiff's right is the same, and being hindered of that, he has injury done him, for which he ought to have remedy. It is a vain thing to imagine, there should be right without a remedy; for want of right and want of remedy are convertibles: if a statute gives a right, the common law will give remedy to maintain it; and where-ever there is injury, it imports a damage: and there can be no petition in this case to the Parliament, nor can they judge of this injury, or give damages to the plaintiff. Although this matter relates to the Parliament, yet it is an injury precedaneous to the Parliament; and where Parliamentary matters come before us, as incident to a cause of action concerning the property of the subject, which we in duty must determine, though the incident matter be Parliamentary, we must not be deterred, but are bound by our oaths to determine it. The law consists not in particular instances, but in the reason that rules them; and if where a man is injured in one sort of right he has a good action, why shall he not have it in another? And though the House of Commons have right to decide elections, yet they cannot judge of the charter originally, but secondarily in the determination of the election; and therefore where an election does not come in debate, as it doth not in this case, they have nothing to do: and we are to exert and vindicate the [526] Queen's jurisdiction, and not to be frightened because it may come in question in Parliament; and I know nothing to hinder us from judging of matters depending on charter or prescription: he concluded for the plaintiff.

Here judgment being given for the defendant, contrary to the opinion of the Chief Justice; on a writ of error afterwards brought in the House of Lords, the judgment was reversed by a great majority of the Lords, who concurred with Holt C.J.

4. THE QUEEN *versus* PATY & AL'. Mich. 3 Ann.

2 Salk. 503, 504.

On a writ of habeas corpus, the defendants, who had been committed to Newgate by the House of Commons, were brought into Court; and the cause of their commitment was returned to be, for having commenced and prosecuted an action at law against the constables of Ailesbury, for refusing their votes in the election of members of Parliament, in contempt of the jurisdiction, and breach of the privileges of the House of Commons. The counsel for the defendants, prayed that they might be discharged for several reasons; and for that they had done no unlawful act, &c. But three of the Judges opposed it, and said, that the House of Commons were the proper Judges of their own privileges, &c.

Holt C.J. I am of opinion, that the prosecution of the suit is lawful, and no breach of the privilege of that House; nor can their judgment make it so, or conclude this Court from determining contrary; and when the House of Commons exceed their legal bounds and authority, their acts are wrongful, and cannot be justified more than the acts of private men: there is no question but their authority is from the law, and as it is circumscribed, so it may be exceeded. If we should say, they are Judges of their privilege and their own authority, and no body else, that would make their privileges as they would have them: in such case, if there be a wrongful imprisonment