

S-217586
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MR. JUSTICE A. ROSS)

Vancouver, B.C.
May 31, 2022

BETWEEN:

ACTION4CANADA, KIMBERLY WOOLMAN, THE ESTATE OF JACQUELINE WOOLMAN, LINDA MORKEN, GARY MORKEN, JANE DOE #1, BRIAN EDGAR, AMY MURANETZ, JANE DOE #2, ILONA ZINK, FEDERICO FUOCO, FIRE PRODUCTIONS LIMITED, F2 PRODUCTIONS INCORPORATED, VALERIE ANN FOLEY, PASTOR RANDY BEATTY, MICHAEL MARTINZ, MAKHAN S. PARHAR, NORTH DELTA REAL HOT YOGA LIMITED, MELISSA ANNE NEUBAUER, JANE DOE #3

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT BRITISH COLUMBIA, PRIME MINISTER JUSTIN TRUDEAU, CHIEF PUBLIC HEALTH OFFICER THERESA TAM, DR. BONNIE HENRY, PREMIER JOHN HORGAN, ADRIAN DIX, MINISTER OF HEALTH, JENNIFER WHITESIDE, MINISTER OF EDUCATION, MABLE ELMORE, PARLIAMENTARY SECRETARY FOR SENIORS' SERVICES AND LONG-TERM CARE, MIKE FARNWORTH, MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL

BRITISH COLUMBIA FERRY SERVICES INC. (OPERATING AS BRITISH COLUMBIA FERRIES), OMAR ALGHABRA, MINISTER OF TRANSPORT, VANCOUVER ISLAND HEALTH AUTHORITY, THE ROYAL CANADIAN MOUNTED POLICE (RCMP), AND THE ATTORNEY GENERAL OF CANADA, BRITTNEY SYLVESTER, PETER KWOK, PROVIDENCE HEALTH CARE, CANADIAN BROADCASTING CORPORATION, TRANSLINK (BRITISH COLUMBIA)

DEFENDANTS

PROCEEDINGS IN CHAMBERS

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APPEARANCES:

Counsel for the Plaintiffs:	R. Galati (video)
Counsel for the Provincial Defendants:	M. Witten
Counsel for the Federal Defendants:	A. Gatti D. French
Counsel for Island Health and Providence Health Care:	T.J. Wedge L. Miller (video)
Counsel for TransLink and Peter Kowk:	T. Delaney J. Hamilton
Counsel for B.C. Ferries:	C. Bildfell

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Proceedings

1 Vancouver, B.C.
2 May 31, 2022
3
4 (THIS TRANSCRIPT CONTAINS A LARGE NUMBER OF
5 MISSED WORDS DUE TO THE QUALITY OF THE REMOTE
6 AUDIO)
7
8 THE CLERK: In the Supreme Court of British Columbia,
9 at Vancouver, this 31st day of May, 2022, calling
10 the matter of Action4Canada et al versus Her
11 Majesty the Queen [indiscernible] et al.
12 THE COURT: Thank you.
13 Could I have introductions, please?
14 CNSL M. WITTEN: Good morning, Justice Ross. It's Mark
15 Witten. Witten is spelled W-i-t-t-e-n. I am here
16 on behalf of the defendants, applicants on the
17 strike application, Her Majesty the Queen, Dr.
18 Bonnie Henry, Premier John Horgan, Adrian Dix,
19 Jennifer Whiteside, Mike Farnworth and Mable
20 Elmore.
21 THE COURT: Thank you, Mr. Witten.
22 CNSL A. GATTI: Good morning. My name is Andrea Gatti.
23 This is Olivia French. We both use the pronouns
24 she/her. We are here representing Canada, and
25 that includes the RCMP and also the named elected
26 officials and that would be Prime Minister Justin
27 Trudeau, Chief Public Health Officer Teresa Tam,
28 and the Minister of Transport Omar Alghabra.
29 THE COURT: Thank you.
30 CNSL T. WEDGE: Good morning, Mr. Justice. Wedge, W-e-
31 d-g-e, initials T.J., and on Teams is my
32 associated Laura Miller, counsel for Vancouver
33 Island Health Authority, and for Providence Health
34 Care, applicants today.
35 THE COURT: Thank you, Mr. Wedge.
36 CNSL T. DELANEY: Justice, Tim Delaney, D-e-l-a-n-e-y.
37 With me is Justin Hamilton, H-a-m-i-l-t-o-n, and
38 we are counsel for the defendant applicants
39 TransLink and Peter Kwok.
40 THE COURT: Thank you, Mr. Delaney.
41 CNSL C. BILDFELL: Justice Ross, it's Connor Bildfell.
42 That's B-i-l-d-f-e-l-l, first initial C. My
43 pronouns are he and him. I'm here for B.C.
44 Ferries.
45 THE COURT: Thank you, Mr. Bildfell.
46 CNSL R. GALATI: Is that it for the defendants, Justice
47 Ross?

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1 THE COURT: I see no-one else standing.
2
3 (VIDEOCONFERENCE COMMENCES)
4 (CNSL R. GALATI AT REMOTE LOCATION)
5
6 CNSL R. GALATI: Okay. My name is Rocco Galati, R-o-c-
7 c-o, G-a-l-a-t-i. I appear on behalf of all the
8 plaintiffs. And sitting around me at my
9 conference table here are two of my juniors and my
10 law clerk, in case I need some physical help with
11 some of the material. So, if you hear rustling,
12 it's them. They will not be participating. I
13 will [indiscernible].
14 THE COURT: Thank you, Mr. Galati.
15 Mr. Witten, are you leading the charge?
16 CNSL M. WITTEN: Yes, Justice. I just received notice
17 from Mr. Galati that there may be some sort of
18 objection to the one affidavit that is in the
19 materials. My suggestion would be that if Mr.
20 Galati wants to make an admissibility objection,
21 he simply do that in the course of his
22 submissions, and then I can respond in reply, if
23 necessary. I do believe he wanted that noted on
24 the record at the outset.
25 Is that correct, Mr. Galati?
26 CNSL R. GALATI: That's correct. I'm in your hands,
27 Justice Ross. I think it's a matter that should
28 be quickly dealt with, as a preliminary matter,
29 but if you wish to hear my friend out and then
30 I'll address it in response. It's all the same to
31 me, I'm sure. And I'm sure you're more than
32 capable in parsing it, if you [indiscernible].
33 THE COURT: My wife tells me I'm very good at
34 forgetting things so if you just -- Mr. Galati,
35 why don't you flag for me where -- what tab you
36 will be objecting to, so that --
37 CNSL R. GALATI: [Indiscernible] I believe it's Tab 19
38 of my friend's material?
39 THE COURT: Rebecca Hill Number 2?
40 CNSL R. GALATI: Yes, that's correct. Essentially all
41 it is, is a better affidavit attaching
42 [indiscernible] partial printouts of my client's
43 website and the website of which my Executive
44 Director and Founder, with other
45 co-directors of the Constitutional
46 [indiscernible]. I have two basic objections to
47 it. One, I don't see how it's admissible or

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1 relevant in a motion to strike.
2 Two, it's unfair to me 'cause it almost
3 requires telepathy to know why it's there. I
4 don't have a hint as to what my friends intend to
5 do with this material.
6 THE COURT: Okay. Thank you for that. I will keep
7 that in mind when submissions are made in relation
8 to it, if submissions are made in relation to it.
9 CNSL R. GALATI: Thank you.
10 THE COURT: Mr. Witten?
11 CNSL M. WITTEN: Thank you, Justice.

12
13 **SUBMISSIONS FOR PROVINCIAL DEFENDANTS BY CNSL M.**
14 **WITTEN:**
15

16 CNSL M. WITTEN: So, as I indicated, I will leading us
17 off today. The majority of the allegations in the
18 notice of civil claim, I think it's fair to say,
19 are directed towards the group of provincial
20 defendants. I anticipate being around an hour in
21 my submissions. Then, after that, the other
22 applicant defendants will speak to their strike
23 applications. There's significant overlap between
24 the applications and then Mr. Galati has agreed
25 that he will simply respond to all of these
26 applications, likely in the afternoon session.
27 And he has filed a joint application response to
28 all of the applications.

29 In my submissions I will be largely tracking
30 the Province's notices of application, which can
31 be found at Tab 4 of the first volume of the
32 Application Record, and then I'll also take you
33 through the Hill affidavit and also, the notice of
34 civil claim of the plaintiffs, as well, in the
35 course of my submissions. So, if you turn to
36 paragraph 1 of the factual basis, you can see
37 there that we've set out that this is a 391-page
38 notice of civil claim that attempts to challenge
39 the scientific and legal basis for the entirety of
40 British Columbia and Canada, and the other
41 defendants, various responses to the COVID-19
42 pandemic. And part one of the claim contains over
43 1,300 paragraphs and subparagraphs.

44 Paragraph 2 simply sets out the many
45 defendants. I won't take you through that. But
46 fundamentally our submission is that this claim is
47 a prolix convoluted document that is replete with

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1 groundless accusations against public official,
2 inflammatory language and it also contains
3 numerous what can only be called conspiracy
4 theories. The claim -- just to provide one
5 example, the claim characterizes the COVID-19
6 pandemic as a false pandemic that was designed and
7 implemented for improper and ulterior purposes, at
8 the behest of the World Health Organization,
9 controlled and directed by billionaire, corporate
10 and organizational global oligarchs --
11 CNSL R. GALATI: [Indiscernible] --
12 THE COURT: Mr. Witten. Could I just get you to pause
13 for a moment.
14 Mr. Galati?
15 CNSL R. GALATI: Yes, sir?
16 THE COURT: I'm not sure if it's your microphone that
17 we're picking up, or somebody on MS Teams, but
18 could I get you to mute your microphone while
19 you're not speaking? I'm happy to have you unmute
20 whenever you wish to say anything.
21 CNSL R. GALATI: I can say that as my wife refers to me
22 most times, I [indiscernible] muted.
23 THE COURT: Okay. We seem to be *ad idem* on that, Mr.
24 Galati.
25 CNSL R. GALATI: Yes, sir.
26 THE COURT: I'm sorry. Madam Registrar, I'm not sure
27 where we're getting --
28 THE CLERK: [Indiscernible].
29 THE COURT: Oh, great. Thank you very much, Madam
30 Registrar.
31 Sorry, Mr. Witten. I was getting some voices
32 in and I understand that some of the participants
33 were not muted.
34 CNSL M. WITTEN: Justice, if I could just have one
35 moment? My -- a member of my staff has a document
36 for me. If I could just have one moment?
37 THE COURT: Certainly.
38 CNSL M. WITTEN: So, I believe where I was ticking off
39 was paragraph 4, I had just read, organizational
40 and global oligarchs such as Bill Gates, in order
41 to install a new world economic order. And that
42 is a theme that runs throughout the notice of
43 civil claim. So, what I'd like to do is take you
44 briefly through a few basic pleadings principles.
45 Then I'll go to the notice of civil claim, take a
46 tour through that, and then I'll come back to the
47 more substantive submissions on 9-5 and its

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1 various subsections.

2 In summary, our position is that the
3 plaintiff's claim is deficient in form and
4 substance. It is a scandalous, frivolous and
5 vexatious pleading, as those terms are understood
6 under Rule 9-5(1). It fails to meet the basic
7 requirements for pleadings and it is an abuse of
8 the court's process. And for these reasons, we
9 say the claim should be struck under Rule 9-5(1),
10 without leave to amend.

11 At paragraph 6 we have replicated some
12 sections from the *Supreme Court Civil Rules*
13 setting out some basic rules for pleadings.
14 You'll be familiar with these. Rule 3-1 provides
15 that a notice of civil claim must do the
16 following:

- 17
18 (a) set out a concise statement of the
19 material facts giving rise to the claim;
20 (c) set out a concise summary of the legal
21 basis for the relief sought.
22

23 Rule 3-7 provides that pleadings must not contain
24 evidence, and as you'll see, there are dozens of
25 very lengthy quotes throughout the notice of civil
26 claim from various commentators on COVID, as well
27 as hundreds of footnotes. Sub 9, cannot plead
28 conclusions of law and general damages and sub 14
29 must not also be pleaded. There is a range of
30 dollars figures that are being claimed on behalf
31 of the various plaintiffs.

32 Paragraphs 8 and 9 set out a couple of
33 leading paragraphs that are oft cited in strike
34 applications. The first is a classic citation
35 from Homalco Indian Band [as read in]:
36

37 The function of pleadings is to clearly
38 define the issues of fact and law to be
39 determined by the court. The plaintiff must
40 state, for each cause of action, the material
41 facts. Material facts are those facts
42 necessary for the purpose of formulating the
43 cause of action. The defendant then sees the
44 case to be met and may respond to the
45 plaintiff's allegations in such a way that
46 the court will understand, from the
47 pleadings, what issues of fact and law it

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1 will be called upon to decide.

2
3 And in my submission the long, convoluted,
4 speculative, conspiratorial narratives that are
5 found in the notice of civil claim are in no sense
6 a pleading of material facts that is required.
7 And a very helpful paragraph that was recently
8 provided by Justice Voith, the Court of Appeal, in
9 the *Mercantile Office Systems* case, is replicated
10 at paragraph 9. And there Justice Voith says [as
11 read in]:

12
13 None of a notice of civil claim, a response
14 to civil claim and a counterclaim is a story.
15 Each pleading contemplates and requires a
16 reasonably disciplined exercise that is
17 governed, in many instances, in mandatory
18 terms by the rules and the relevant
19 authorities. Each requires the drafting
20 party to concisely set out the material facts
21 that give rise to the claim, or that relate
22 to the matters raised by the claim. None of
23 these pleadings are permitted to contain
24 evidence or argument.

25
26 And again, I would say that the 400- page claim is
27 replete with evidence and argument.

28 Turning over the page, paragraph 8, under the
29 heading 'Application to Strike', simply sets out
30 9-5(1). We are relying on sub a, b, and d, as I
31 believe the other applicants are. The claim
32 discloses no reasonable claim or defence,
33 unnecessary, scandalous, frivolous or vexatious.
34 And sub (d), otherwise an abuse of the process of
35 the court. And of course, the standard is the
36 plain and obvious standard, the standard from the
37 *Imperial Tobacco*.

38 So, with that -- with those principles in
39 mind, I'd like to now turn to the claim itself,
40 which is set out at Tab 1 of Volume 1 of the
41 application record. And what I'm going to do is
42 it's simply too large to go through in any detail,
43 but I'm going to take you through the major
44 headings and provide a little bit of summary. So,
45 if you could turn to the claim at page 5, it's a
46 section called 'The Parties'. And I should note
47 that there is a notice of discontinuance in

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1 respect of two plaintiffs, that we received just a
2 couple of days ago. We've appended that at Tab
3 94, at the very back of Volume 3. I just note
4 that.

5 But what is contained in --
6 CNSL R. GALATI: I'm sorry to interrupt you, but -- I
7 normally don't. With respect to the two parties
8 that have been discontinued, Justice Ross, there
9 will be a fair discontinuance. Mr. Parhar has
10 passed away, one of the plaintiffs. But I have
11 [indiscernible] but I will be in short order.

12 I'm sorry for the interruption, Mr. Witten.

13 THE COURT: Thank you for that, Mr.
14 Galati.

15 CNSL M. WITTEN: And so, in this section titled 'The
16 Parties', this is essentially a running narrative
17 of the individual plaintiff's experiences and
18 encounters with various COVID measures,
19 residential care facilities, hospitals, police
20 officers, and it is full of evidence, quotations.
21 And if anything, it resembles an affidavit. It's
22 more in the nature of an affidavit and it's very
23 extensive. That's the first eighty pages of the
24 claim.

25 If you could turn to page 85, there's a
26 section titled 'The Facts'. Sub (a), COVID-19
27 Timeline.

28 THE COURT: Just give me one sec, if you would, Mr.
29 Witten?

30 CNSL M. WITTEN: So, page 85, 'The Facts'?

31 THE COURT: Yes.

32 CNSL M. WITTEN: And here, the first fact is that in
33 2000 Bill Gates steps down as Microsoft's CEO and
34 creates the Gates Foundation and launches the
35 global alliance for vaccines and immunization.
36 And this fact section contains many, many
37 allegations about Bill Gates, Bill Gates' funding
38 of vaccine initiatives and research. And, also
39 infused is another theme here. Paragraph 45 is
40 Gain of Function Research. So, there's some
41 unidentified scientists, in 2002, in paragraph 45,
42 who are said to have engaged in gain of function.
43 That's essentially genetic modification of natural
44 viruses.

45 And so, this section weaves together Bill
46 Gates' philanthropic efforts with gain of function
47 research. And, it goes on for a number of pages.

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1 And ultimately, this fact section ends with the
2 emergence of COVID and the Bill and Melinda Gates'
3 funding for COVID research. And I'll just take
4 you to paragraph 155, under -- yeah, paragraph 155
5 on page 121, just for an example, just to give you
6 a flavour of the content here. So, if you have
7 paragraph 155 --

8 THE COURT: I'm there.

9 CNSL M. WITTEN: The plaintiffs state and the fact is
10 that the illegal actions and decrees issues by the
11 defendants and other public officials who are
12 unnamed, were done in abuse and excess of their
13 offices, knowingly to propagate a groundless and
14 falsely declared pandemic and generate fear and
15 confusion on the ground, not only with the
16 citizens, but further and moreover with
17 enforcement officials who are pursuing, detaining,
18 ticketing for perfectly legal conduct because of
19 the contradictory laws and conduct of these public
20 officials, all the while their own personal
21 conduct clearly manifests the knowledge that the
22 pandemic is false, the measures phony, designed
23 and implemented for improper and ulterior
24 purposes, at the behest of the World Health
25 Organization, controlled and directed by
26 billionaire corporate and organizational global
27 oligarchs.

28 And that leads us to the next section, also
29 on page 122. C, ignoring and failing to address
30 medical experts' evidence. This is a 40-page
31 section that includes numerous lengthy quotations
32 from various COVID skeptical scientists and
33 commentators, on a very wide range of topics,
34 everything from the efficacy of masks,
35 ventilators, PCR testing, and even the impacts of
36 the seasons on COVID morbidity. And so, just to
37 give you a quick example, if you could turn the
38 page, just over to page 128 and 129, you'll see an
39 example of the -- there's, I think, four or five
40 pages in a row of long quotations and citations to
41 various doctors and commentators, and that's
42 something that comes up again and again in this
43 claim, the pleading of evidence.

44 If you turn to page 160, it's the next major
45 section of the claim. This section is titled,
46 'The Science and Medicine of COVID-19'.

47 THE COURT: Page 160?

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1 CNSL M. WITTEN: Page 160. This is a 20-page section.
2 It's, in many respects, quite similar to the
3 previous one, lengthy quotes and footnotes from
4 COVID skeptics or COVID-19 measure skeptics,
5 downplaying the seriousness of the virus,
6 criticizing the measures or saying that they are
7 unscientific. That's the flavour of this section.

8 Let's skip over to -- in the interest of
9 time, page 188, Section F. And so, Section F is
10 titled 'Global Political Economic Agenda Behind
11 Unwarranted Measures'. And so, it starts off at
12 paragraph 207. The plaintiff say that the fact is
13 that the World Health Organization is not, nor
14 ever has been an objective, independent medical
15 body, but is riddled with overreaching
16 socioeconomic and political dictates of its
17 funders who inexplicably, over and above the
18 nation states who fund it, is heavily funded and
19 directed through its WHO Foundation and GAVI, by
20 international billionaire oligarchs and oligarch
21 organizations such as Bill Gates, GAVI, The World
22 Health Economic Forum. I won't go through, but
23 there's much more along a similar line.

24 I'll ask you to turn next to paragraph 208,
25 which is just a few pages later, at page 194. So,
26 continuing in this vein, in paragraph 208, the
27 plaintiffs state [as read in]:

28
29 The fact is that the nonmedical aims and
30 objectives to declare the pandemic where
31 something is not beyond one of many annual
32 season viral respiratory illnesses, was to,
33 inter alia, effect the following non-medical
34 agendas by using COVID-19 as a cover and
35 pretext, that it's to effect a massive gain,
36 stock market bailout, needed because the
37 banking system was poised to again collapse.

38
39 That's sub (a). I won't take you through sub (a)
40 1, 2 and 3, but I'll skip over to (b) on the next
41 page [as read in]:

42
43 The fact is that the pandemic pretense is
44 there to establish a new normal of a new
45 economic world order with a concurrent
46 neutering of the democratic and judicial
47 institutions, and an increase in dominance of

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1 the police state, massive and concentrated
2 push for mandatory vaccines of every human on
3 the planet Earth, with concurrent electronic
4 surveillance by means of proposed vaccine
5 chips, bracelets and immunity passports,
6 contract tracing via cellphones, surveillance
7 with the increased 5-G capacity, the
8 elimination of cash currency and the
9 installation of strictly digital currency to
10 better effect surveillance, the near complete
11 revamping of the educational system through
12 virtual learning, closure of schools. The
13 plaintiffs state and the fact is the
14 benefactors of these goals and agendas are
15 the global oligarchs who control and profit
16 from vaccines, the technical infrastructure
17 of information and communication such as Bill
18 Gates, his companies and organizations, for
19 [indiscernible] vaccination of profits with a
20 global shift to virtual economy.

21
22 Paragraph 210 [as read in]:

23
24 The plaintiffs state that the fact is that
25 this agenda is well on its way to
26 virtualizing, corporatizing and isolating
27 even parliament and the courts to an
28 embarrassing and debilitating degree.

29
30 Some evidence of this corruption of the court, sub
31 (b) [as read in]:

32
33 The Supreme Court of Canada announced virtual
34 Zoom hearings of its appeals, its first
35 virtual hearing on about June 10th, 2020.

36
37 This section goes on for many pages and if we go
38 on to page 212, it goes from World Health
39 Organization, Bill Gates, and the link is now made
40 to Canadians, this title, paragraph -- sorry,
41 paragraph 220 on page 212, the title is, 'The
42 World Health Organization, Gates, Trudeau, Dr.
43 Teresa Tam and Dr. Bonnie Henry'.

44 So, you can see there, in the first sentence,
45 at paragraph 220, 220, the plaintiff state that
46 [as read in]:
47

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1 The fact is that the connection and common
2 agreement between Gates, Trudeau, Tam, in
3 addition to their statements and actions in
4 furthermore of that agreement, as outlined.

5
6 And there's various citations as evidence of that.
7 So, this section tries to draw the Canadian Public
8 Health officials, like Dr. Bonnie Henry and Dr.
9 Teresa Tam, into this global conspiracy.

10 If you turn to page 221 there's a very
11 lengthy section on Dr. Bonnie Henry. It contains
12 some -- it can only be characterized as wild and
13 spurious allegations against her. If you turn to
14 page 240, paragraph 293, now, that simply contains
15 a quote that 82 percent of women --

16 THE COURT: Just give me on second, if would, Mr.
17 Witten? Sorry. Page 240?

18 CNSL M. WITTEN: Carry on to paragraph 293. Paragraph
19 293 on page 244.

20 THE COURT: I'm there.

21 CNSL M. WITTEN: So, this is another theme that runs
22 throughout the claim. Bonnie Henry was in
23 Pakistan, working with the World Health
24 Organization to [indiscernible] eradicate polio in
25 2000, and through this -- this, through a
26 vaccination program without the informed consent
27 of the recipients. And this, notwithstanding the
28 fact that according to the World Health
29 Organization every polio case, since 1979, has
30 been the result of the polio vaccine itself and
31 not naturally occurring. And I'm not going to get
32 into that, but don't believe polio to have been
33 eradicated. But more importantly, this allegation
34 around international work is again picked up at
35 paragraph 299, where it is said to be experimental
36 medical treatment contrary to the Nuremberg Code,
37 the Helsinki Declaration. It constitutes a crime
38 against humanity under the *Criminal Code*. And
39 then paragraph 300 also says that Dr. Bonnie
40 Henry, by authorizing vaccines for children age
41 twelve to seventeen, without the need for their
42 parent's consent, sub (d) goes on to say that in
43 the absence of informed consent, this is also
44 medical experimentation and a crime against
45 humanity, a violation of the *Criminal Code*, and
46 also the *War Crime and Crimes Against Humanity*
47 Act, and that's an allegation that's repeated

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1 later in the claim more explicitly. To be clear,
2 these are spurious, baseless allegations.

3 THE COURT: Please continue, Mr. Witten.

4 CNSL M. WITTEN: Yes. I will continue. I will skip
5 over sub (g). It's just a brief section on
6 consequences and violation of constitutional
7 rights. The next major section is sub (h). It
8 picks up at page 254 [as read in]:
9

10 COVID-19 vaccine -- we do not get back to
11 normal until we have a vaccine.
12

13 The section is --

14 THE COURT: Just give me one second, Mr. Witten. Thank
15 you. Go ahead.

16 CNSL M. WITTEN: That was page 254. Excuse me.

17 THE COURT: I'm there.

18 CNSL M. WITTEN: [As read in]:
19

20 We do not get back to normal until we have
21 the vaccine.
22

23 This section canvasses a range of topics about
24 vaccines, theories about vaccine dependency for
25 society. It gets into topics like microchipping
26 and total surveillance.

27 If you turn to paragraph 308, just a couple
28 pages over, there is a section titled -- this is
29 on page 259, paragraph 308.

30 THE COURT: Yes.

31 CNSL M. WITTEN: [As read in]:
32

33 Microchipping, community passports, social
34 contact, vaccines, surveillance and 5-G. The
35 plaintiffs state that, and the fact is, this
36 global vaccination scheme which is being
37 propelled and pushed by the defendants is
38 with the concurrent aim of total and absolute
39 surveillance of the plaintiffs and all
40 citizens.
41

42 There is a brief section on the media, pages 303
43 to 308, and then there is a summary that starts at
44 page 309, so you're going to have to skip about
45 forty pages ahead, in the claim. So, this is a
46 summary, beginning at page 309 [as read in]:
47

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1 In summary, the plaintiffs state that the
2 COVID-19 legislation, regulation, bylaws,
3 etc., violate constitutional rights.
4

5 And then there's some examples [as read in]:
6

7 Conduct of Justin Trudeau, the British
8 Columbia Premier John Horgan, and other
9 co-defendants constitute a dispensing of
10 parliament under the pretense of royal
11 prerogative, contrary to the plaintiff's
12 constitutional rights to a parliament.
13

14 I'll get into this in the Legal Basis section, but
15 I think this is -- this is what we would
16 characterize as really an incomprehensive
17 submission that's guised in constitutional and
18 legal language. But there's really no way to
19 respond to that using known doctrines of law.

20 Sub (b) and sub (c), over on the next page,
21 allege various *Charter* violations, division of
22 powers violations. So, there is certainly
23 reference to legal doctrines and legal language
24 there. But then sub (b) gets back into
25 conspiracy. Sub (d), that the COVID pandemic was
26 pre-planned and executed as a false pandemic,
27 through the World Health Organization, by
28 billionaire corporate organizational oligarchs. I
29 believe I've taken you through those allegations
30 already. Various aims such as *de facto*
31 elimination of small businesses, concentration of
32 power, and even sub (6), the neutering of the
33 parliament and the courts is all wrapped up in
34 this alleged global scheme.

35 So, that is -- that is part one. That's part
36 one of the claim. Part two begins on page 312.
37 And this section -- this is the relief sought
38 section. It seeks over two hundred orders, I
39 believe, if you include all of the subparagraphs.
40 And what these orders seek is declarations
41 endorsing the various theories that have been
42 advance in part one, declaring *Charter* breaches or
43 that there's no emergency, and also matters of
44 science, of policy, declarations, masks don't
45 work, or PCR testing is false, declarations that
46 the measures are causing more harm than good. It
47 goes on through seeking mandamus orders,

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1 prohibition orders, hundreds of thousands of
2 dollars for the plaintiffs. There is a truly
3 enormous range of declarations that are sought and
4 the section is very repetitive, very confusing to
5 make your way through it, and really unwieldy as
6 a legal document.

7 The legal basis starts at page 256 and it's
8 quite similar to part two.

9 THE COURT: Page 256?

10 CNSL M. WITTEN: Three hundred and fifty-six, Justice
11 Ross.

12 THE COURT: Thank you.

13 CNSL M. WITTEN: Page 356 is the legal basis section,
14 which continues on to page 391. It seeks a wide
15 variety of declarations again, some relating to
16 legal concepts like *Charter* breaches, others
17 seeking endorsement of the theories, such as the
18 global conspiracy or that various measures are
19 unscientific or don't work. And I think there's
20 really only one other paragraph that I'd like to
21 take you to. It picks up on the theme, the
22 allegations against Dr. Bonnie Henry. This is
23 actually back in part two, paragraph 293. Flip
24 back to paragraph 293, which is on page 319.
25 I'm actually not going to read this aloud. I'm
26 going to let -- I'm just going to let you read
27 this paragraph, paragraph 293.

28 THE COURT: I've read it.

29 CNSL M. WITTEN: Thank you.

30 So, that concludes the tour of the notice of
31 civil claim. And so, I'd like to turn back into
32 the Province's notice of application, which was at
33 Tab 4 of Volume 1. So, I'll pick up with Rule
34 9-5(1)(a). This is our submission, that the
35 notice of civil claim discloses no reasonable
36 claim. The first few paragraphs here, we deal
37 specifically with allegations that are simply
38 non-justiciable, that are allegations of
39 violations of the *Criminal Code* or doctrines
40 unknown to law, or international law that simply
41 can't be adjudicated in a domestic court. And so,
42 I will deal first with that set of allegations,
43 which are, again, sprinkled throughout the
44 400-page claim.

45 So, picking up at paragraph 11, we say [as
46 read in]:
47

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1 The claim is premised upon non-justiciable
2 questions and relies heavily upon
3 international treaties, *Criminal Code*
4 provisions and unknown causes of action that
5 are simply incapable of disclosing a
6 reasonable cause of action.

7
8 Paragraph 12 sets out some examples [as read in]:
9

10 Declarations pertaining to questions of
11 science, public health and conspiracy
12 theories that are simply not justiciable --
13

14 -- are the type of allegations that I'm concerned
15 with here, and these are set out at sub (a)
16 through (e). A number of examples.

17 So, sub (a) [as read in]:
18

19 A declaration that the science and
20 preponderance of the scientific world
21 community is of the consensus that A, masks
22 are completely ineffective in avoiding or
23 preventing transmission of an airborne
24 respiratory virus.
25

26 It's simply not justiciable in a Canadian domestic
27 court.

28 Sub (b) [as read in]:
29

30 Declaration that the declared rationales and
31 motives, execution of COVID measures by the
32 World Health Organization are not related to
33 a *bona fide*, nor an actual pandemic, but for
34 other political and socioeconomic reasons, at
35 the behest of the organizational oligarchs.
36

37 It's simply not justiciable, not something that
38 this court can or should entertain. It doesn't
39 pertain to a doctrine of law. And then sub (c) --
40 I won't go through all of these -- a declaration
41 that administering medical treatment without
42 informed consent constitutes experimental medical
43 treatment. So, those are some of the
44 non-justiciable allegations. I won't go through
45 sub (d) and sub (e).
46

47 Paragraph 13 deals with another category of
 claim that simply cannot be adjudicated in a civil

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1 action, and these are the numerous allegations in
2 respect of the *Criminal Code*. It's trite law that
3 cannot pursue *Criminal Code* allegations in a civil
4 action. We've cited one case there, the *Simon v.*
5 *Canada* case that stands for that proposition.

6 So, there are again, a number of examples
7 provided in the sub (a) through (f). I'm
8 providing some examples of this with citations.
9 Crimes against humanity under the *Criminal Code of*
10 *Canada* -- that's an allegation that's made
11 repeatedly, an allegation that there's medical
12 experimentation the constitutes criminal acts
13 pursuant to the *War Crime and Crimes Against*
14 *Humanity Act*, and also that sub (d), extra
15 suicides and drug overdoses tied to the COVID
16 measures constitute criminal negligence causing
17 death. None of these disclose a reasonable claim
18 that can be adjudicated in the B.C. Supreme Court.

19 Paragraph 14 deals with yet another set of
20 non-justiciable questions, and these are
21 violations of international legal instruments,
22 unwritten constitutional principles and causes of
23 action that are unknown to the law. So, sub (a)
24 provides an example. This is a reference to an
25 international legal instrument. Vaccine mandates
26 violate the *Universal Declaration of Bioethics and*
27 *Human Rights*, the *Nuremberg Code*, *Professional*
28 *Codes of Ethics*, and all *Provincial Health Acts*.
29 So, in respect of the international legal
30 instruments we have a dualist system in Canada.
31 Unless international law is expressly implemented
32 it is not actionable in a domestic court. So,
33 we've cited one case for that proposition, which
34 is the *Li v. British Columbia* case, the 2021 BCCA
35 256 cite in paragraph 14.

36 Sub (b) is another example of allegations in
37 respect of international legal instruments. The
38 *Helsinki Declaration of 1960*, and the *Nuremberg*
39 *Code*. So, I won't spend any more time on that.
40 Sub (c) is an allegation in respect of unwritten
41 constitutional principles, so there's an
42 allegation of the measures vesting in indefinite
43 emergency power in various defendants. It
44 constitutes a constitutional violation of
45 dispensing with parliament under the pretence of
46 royal prerogative, contrary to the *English Bill of*
47 *Rights*, as read into our unwritten constitutional

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1 rights, through the preamble of the *Constitution*
2 *Act 1867*. And as the Supreme Court of Canada
3 recently held in the *Toronto v. Ontario* case,
4 these are not independent constitutional
5 doctrines. It cannot simply violate an unwritten
6 constitutional principle and be entitled to a
7 *Charter* remedy under s. 24 or 52. So, that's the
8 *Toronto v. Ontario* case, paragraph 5. And the
9 remaining examples are simply more examples of
10 unknown causes of action or international legal
11 instruments that are alleged to have been
12 violated, and I will not take you through those
13 specific examples.

14 Paragraphs 15 to 17 deal with what I would
15 say are attempts to plead causes of action that
16 are known to law -- *Charter* breaches of s. 7 or
17 15, division of powers breaches. And so, in
18 respect of these allegations that are also
19 sprinkled throughout the claim, we say the claim
20 fails to set out material facts which, if true,
21 support these claims. Now, I'm not saying that
22 it's not possible to challenge various COVID
23 measures. Our office is defending ten other
24 constitutional challenges in respect of various
25 COVID measures, some very broad claims, some more
26 narrow. So, that's not my submission. I really
27 have two points in respect of these allegations
28 that do concern real actionable legal documents.

29 The first is that -- this is set out in
30 paragraph 16 --

31 THE COURT: Yes.

32 CNSL M. WITTEN: The general rule that facts pleaded
33 should be accepted as true for the purposes of a
34 strike application does not apply in -- and this
35 is a quote from the *Willow v. Chong* case [as read
36 in]:

37
38 A case like this where the notice of civil
39 claim is replete with assumptions,
40 speculation and in some instances outrageous
41 allegations, the law is clear that
42 allegations based on assumption and
43 speculation need not be taken as true.

44
45 And in my submission that reasoning applies in
46 this case. That's the *Willow v. Chong* case.

47 But more fundamentally and more importantly,

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1 in my submission, the reason why this very
2 extensive pleading does not raise a reasonable
3 claim is because the plaintiffs have failed to
4 plead the concise statement of material facts that
5 is necessary to support any complete cause of
6 action. The *Charter* claims are inextricably bound
7 up in a prolix argumentative, speculate narrative
8 of grand conspiracy that is simply incapable of
9 supporting a viable cause of action. And this is,
10 again, a quote. This is a quote from the *Fowler*
11 case, which I will take you through [as read in]:
12

13 It is impossible to separate the material
14 from the immaterial, the fabric of one
15 potential cause of action or claim from
16 another, or conjecture and conspiracy from
17 asserted facts.
18

19 And so this the one case that I will ask you to
20 turn up. It's contained in Volume 2 of the
21 application record, at ^ab 23. This is the *Fowler*
22 v. *Canada* case. It's a decision of former
23 Associate Chief Justice Cullen. We'll pick up at
24 paragraph 51, on page 7 of nine. This is a claim
25 in negligence, harassment and defamation. Picking
26 up at paragraph 51:
27

28 The present case in my view represents the circumstance in
29 which no coherent cause of action can be discerned from the
30 pleadings or responses to the demand for further and better
31 particulars and, in any event, those documents are so prolix,
32 over-broad, and reliant on irrelevant recitations of evidence
33 or narrative as to be impossible to respond to in any
34 meaningful way. In the result, I conclude that the plaintiff's
35 pleadings fall afoul of Rule 9-5(1)(a) and (b).
36

37 Paragraph 52:
38

39 While it appears that the plaintiff is seeking to make claims of
40 negligence, harassment and/or defamation, even assuming
41 the tort of harassment, or the conduct said to constitute it
42 can amount to a cause of action in British Columbia, as the
43 applicant notes, the plaintiff has not pleaded material facts
44 which would in any event establish any such cause of action
45 whether framed as harassment or as the intentional infliction
46 of mental suffering.
47

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1 As to the prospect of the defamation claim being successful,
2 I agree with the applicant's submissions that the plaintiff's
3 pleadings and responses simply do not reach the standard of
4 particularity, clarity or care necessary to establish such a
5 cause of action or even enable a reasonable response.
6

7 The apparent claim in negligence is similarly compromised
8 as it relies on the plaintiff's lengthy narrative-like response to
9 demand for particulars in which it is impossible to separate
10 the material from the immaterial, the fabric of one potential
11 cause of action or claim from that of another, and the
12 conjecture and opinion from the asserted fact.
13

14 The go on to say that the pleadings simply do not
15 meet any standard which enables or requires them
16 to be responded to, and the claim was struck.
17 And so, I would say that that reasoning applies
18 with full force in this claim, in respect of the
19 391 pages before you. So, those are my
20 submissions on sub (a). We say it is plain and
21 obvious that the claim, as pleaded, fails to
22 disclose a reasonable cause of action.

23 So, I'll move on to 9-5(1)(d) [as read in]:
24

25 The notice of civil claim is scandalous,
26 frivolous and vexatious. Paragraph 19 we set
27 out that a pleading is scandalous if it does
28 not state the real issue in intelligible form
29 and would require the parties to undertake
30 useless expense to litigate matters that are
31 relevant to the claim.
32

33 That's the *Gill v. Canada* case. [As read in]:
34

35 A claim is also scandalous or embarrassing if
36 it is prolix, includes relevant facts,
37 argument or evidence such that it is nearly
38 impossible for the defendant to reply to the
39 pleading and no [indiscernible/quiet voice]
40 to be met.
41

42 Pleadings that are so prolix and confusing
43 that it is difficult, if not impossible to
44 understand, should be struck.
45

46 And that's again, the *Gill* case. And so, at
47 paragraph 21 we set out that this is a scandalous

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1 pleading because it is prolix, confusing, nearly
2 impossible to respond to. Some of this will now
3 be quite familiar to you. It's a 391-page claim.
4 It seeks over 200 declarations. There are
5 extensive passages of completely irrelevant
6 information the long timeline, starting with --
7 from 2000, in respect of Bill Gates and his
8 funding efforts. Bill Gates is not a party to
9 this action. The lengthy narrative about the
10 global political agenda and the detailed 81-page
11 running narrative of the plaintiff's interactions,
12 in addition to the *Criminal Code* allegations, the
13 raising of convoluted legal arguments. That's
14 [indiscernible]. And then, of course, there are a
15 wide range of allegations against individuals who
16 are simply not a party to this claim -- Facebook,
17 Amazon, Goggle, Yahoo, Bill Gates. They're all
18 addressed. It's all entirely irrelevant and it
19 all goes to this being a scandalous pleading under
20 9-5(1) (b).

21 Paragraph 22 we set out that it also fails to
22 meet the basic requirements. It's over 1,500
23 paragraphs. It is by no means a concise statement
24 of the factual or legal basis. Dozens of
25 quotations from various commentators, extensive
26 pleading of evidence and citations to websites,
27 articles, policy documents. And also under sub
28 (b) is this word 'frivolous', and there's a whole
29 other body of case law about what is a frivolous
30 pleading. I provide a couple principles at
31 paragraph 23 [as read in]:
32

33 A pleading is frivolous if it is without
34 substance, is groundless, fanciful, trifles
35 with the court or wastes time.
36

37 We say that this claim is a frivolous pleading
38 because it promotes fanciful, ungrounded
39 conspiracy theories about the origins of the
40 COVID-19 pandemic, the efficacy of COVIC-19
41 measures, and the motivations, the personal
42 conduct of the provincial defendants. I've
43 provided four examples in the subsection (a)
44 through (d), of this allegation, the plaintiffs
45 state -- this is sub (a) [as read in]:
46

47 The plaintiff state the fact is that the

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1 illegal actions and decrees issued by the
2 defendants and other public officials were
3 done in abuse and excess of their offices,
4 knowingly to propagate a groundless and
5 falsely [indiscernible] pandemic, for
6 improper purposes at the behest of the
7 organizational global oligarchs.
8

9 I won't go through the sub (b) and sub (c). It's
10 more about the new world economic order, the
11 objective of an absolute total surveillance state.
12 It's groundless allegations that are frivolous,
13 they trifle and they waste the court's time.

14 Rule 9-5(1)(b) and (d) are what are dealt
15 with in the next section, and so we have lumped
16 together the assertion that the claim is both
17 vexatious and an abuse of process. That's
18 under -- and there's actually a typo there. It
19 should say Rule 9-5(1)(d), not sub (a).

20 THE COURT: B and D?

21 CNSSL M. WITTEN: B and D. Yes. And so, the reason why
22 we have lumped these two together is because, in
23 the *Dixon v. Score* [phonetic] case, it was said
24 that there is little distinction between a
25 vexatious action and one that is an abuse of
26 process. The two concepts have strikingly similar
27 features. Abuse of process is -- this is
28 paragraph 26 [as read in]:
29

30 It is not limited to where a claim or an
31 issue has already been decided in other
32 litigation. It's not just about *res*
33 *judicata*, issue estoppel. It is a flexible
34 doctrine applied by the court to values
35 fundamental to the court system.
36

37 And so, we've included a citation from the *CUPE*
38 [phonetic] case from the Supreme Court of Canada
39 where the court says [as read in]:
40

41 Canadian courts have applied the doctrine of
42 abuse of process to preclude re-litigation in
43 circumstances where the strict requirements
44 of issue estoppel are not met, but where
45 allowing the litigation to proceed would
46 nonetheless violate such principles as
47 judicial economy, consistency, finality, and

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1 the integrity of the administration of
2 justice. Vexatious actions include those
3 brought for an improper purpose, including
4 the harassment or oppression of other parties
5 by multifarious proceedings brought for
6 purposes other than the assertion of
7 legitimate rights.

8
9 And this is a quote. This is based off the *Lang*
10 *Mischner* [phonetic] case, which is oft cited in
11 vexatious litigant cases [as read in]:

12
13 Where it is obvious that an action cannot
14 succeed, or if the action would lead to no
15 possible good, or if no reasonable person can
16 reasonably expect to obtain relief, the
17 action is vexatious.

18
19 So those are some basic principles in respect of
20 abuse of process and vexatiousness. And so, I'll
21 move now to application, which begins at paragraph
22 28. And we say there is -- there are a multitude
23 of bases upon which to conclude that the claim is
24 an abuse of process. And these include [as read
25 in]:

26
27 The attempt to use the judicial process to
28 adjudicate non-justiciable conspiracy
29 theories, to seek declarations on
30 non-justiciable questions, medical science,
31 public health policy. These are improper
32 purposes.

33
34 But more concerning -- more concerning --

35
36 And this is at paragraph 29, we say that [as read
37 in]:

38
39 The claims bears the hallmarks of a vexatious
40 and abusive claim that is intended to harass
41 and oppress the parties.

42
43 As well as non-parties, I would add. And so, in
44 this respect, we say the claim advances against
45 the Provincial Health Officer, without factual
46 fact or foundation, spurious allegations of crimes
47 against humanity in relation to the implementation

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1 of COVID-19 measures and international public
2 health work in the early 2000's. The claim also
3 contains numerous irrelevant allegations about
4 alleged conflicts of interest or hypocritical
5 conduct relating to the private lives of both
6 parties and non-parties. I'm not going to repeat
7 those allegations in court, but they are all cited
8 there for you, at paragraph 29 sub (d). There are
9 broad, sweeping criminal allegations, which are
10 not actionable in a domestic court. But of
11 course, that fact is probably lost on the majority
12 of the public. But, they are not actionable in a
13 civil action and they are made against both named
14 and unnamed government employees and officials.
15 So, again, we've provided a number of citations,
16 and I won't take you through them all, at
17 paragraph 29 sub (c). And then, in sub (d) we
18 also say that the claim contains numerous
19 instances of inflammatory and inappropriate
20 language to describe the actions of the
21 defendants.

22 In sum, we say that this claim has been
23 brought for an improper purpose. To come back to
24 that language from the *Lang Mischner* case that I
25 spoke of just before, the plaintiffs and their
26 counsel must -- counsel must know, or they ought
27 to know, that a 391-page claim, seeking over 200
28 declarations, around criminal conduct and the
29 efficacy of public health measures -- this is a
30 quote -- "cannot succeed and would lead to no
31 possible good". And I just add here,
32 parenthetically -- I'm not going to ask you to
33 turn up any of these cases, but Tabs 78 to 94 are
34 all cases involving plaintiff's counsel with --
35 many with similarly sprawling pleadings, all of
36 which were struck out in approximately the last
37 six to ten years. So, some guidance -- you may
38 find some guidance in respect of this nature of
39 pleading from those cases, which are at Tab 78 to
40 94.

41 Paragraph 32 we say that the claim is
42 intended, at least in part, to intimidate and
43 harass public officials and politicians, including
44 the Provincial Health Officer, by advancing
45 spurious public allegations of criminal conduct,
46 conflicts of interest, ulterior motives. And
47 again, I'll just add, parenthetically, one of

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1 those cases that I just referenced, at Tab 76 to
2 86 is the *Gill v. McIver* [phonetic] case, and that
3 case was actually struck. That was a COVID case.
4 That was case was struck under Ontario's anti-slap
5 legislation. It was found to be a strategic
6 lawsuit against public participation, essentially.
7 It was brought for improper motives. So, that's
8 the one of those set of cases, one case that also
9 dealt with the COVID-19 pandemic.

10 And so, we say that this intention is
11 apparent from the nature of the pleadings and what
12 is alleged, but it is also further corroborated,
13 in our submission -- this is still at paragraph
14 32 -- by the plaintiff Action4Canada's
15 simultaneous campaign to encourage individuals to
16 serve government officials and politicians with
17 notices of liability for their actions in
18 responding to the COVID-19 pandemic. And these
19 are documents that, to a layperson, might look
20 like a real legal document. Hundreds of them have
21 been served in the past months and a number of
22 these are set out -- and a number of these are
23 contained in the affidavit of Rebecca Hill. And
24 so, I'll just take you through now, the Hill
25 affidavit, which is found at Tab 19 of Volume 1.

26 And so, if you have Tab 19, the affidavit of
27 Rebecca Hill, we can start by turning to Exhibit
28 A. This is a printout from the Action4Canada
29 website, and I'm actually going to -- I'm going to
30 take you through a couple of printouts in relation
31 to the statement of claim before I actually get to
32 these notices of liability, but I'm just going to
33 go through this affidavit altogether, just in the
34 interests of time. So, starting with page 2, you
35 can see there [as read in]:

36
37 Action4Canada is a grassroots movement
38 reaching out to millions of Canadians,
39 uniting our voices in opposition to the
40 destructive policies tearing the fabric of
41 this nation. God keep our land glorious and
42 free. Action4 --

43
44 The part I'm looking for is in relation to the
45 statement of claim. That's the second last
46 paragraph [as read in]:
47

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1 Statement of Claim Filed: Legal action
2 against the government officially commenced.
3 Action4Canada has commenced legal action
4 against the B.C. and federal government. We
5 have retained Rocco Galati, a top
6 constitutional lawyer, who's willing to take
7 on the defence of our *Charter* rights and
8 freedoms in response to the extreme and
9 destructive emergency measures of COVID-19.

10
11 And then there's a 'Donte Now' button. And the
12 evidence appears to suggest that there was fund
13 raising efforts for this action. If you turn over
14 to page 16 you can see this is in Exhibit D, at
15 page 16. You can see that Action4Canada reached a
16 hundred percent of the legal fund financial goal.
17 They've announced the filing of the statement of
18 claim. There's a press conference video with Mr.
19 Galati. And again, the promotion of the full
20 391-page claim in a link.

21 And so, the point here, leading up to the
22 notices of liability is submitted. There is a --
23 nothing has happened in court on this file, up
24 until this day, but there has been promotion. It
25 has been promoted online and there has also been
26 this simultaneous campaign by Action4Canada to
27 serve notices of liability.

28 And so, moving now, continuing through the
29 Action4Canada website to the notices of liability,
30 which I guess would be the second prong of their
31 campaign against COVID-19 measures, you can see,
32 at page 29 in Exhibit F, some information on the
33 notice of liability. You can see there in the
34 picture, notice of liability, serve your employer
35 today. And there's a pdf. Of an employer vaccine
36 notice of liability [as read in]:

37
38 Employers, whether medical or not, are
39 unlawfully practicing medicine --
40

41 This is the employers.
42

43 -- by prescribing, recommending and/or using
44 coercion to insist employees submit to the
45 experimental medical treatment for COVID-19,
46 namely being injected with one of the
47 experimental gene therapies commonly referred

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1 to a vaccine. According to top
2 constitutional lawyer Rocco Galati, both
3 government and private businesses cannot
4 impose mandatory vaccinations. Mandatory
5 vaccination in all employment context would
6 be unconstitutional and/or illegal, and/or
7 unenforceable and there's a recommendation to
8 notify your employer today that you will hold
9 him personally liable for any financial
10 injury and/or loss of your personal income
11 and ability to provide food and shelter for
12 your family if they choose to use coercion or
13 discrimination against you, based on your
14 decision not to participate in the COVID-19
15 experimental treatments.
16

17 And then there's some explanation on how to serve
18 this notice of liability on your employer [as read
19 in]:
20

21 Take action. Print it out.
22

23 And if you turn over to the next page you can
24 actually see that there's a recommendation to
25 video-record the serving of an employer with
26 this -- with this document, which to a layperson
27 would look like a legal document. And we have
28 included just a selection of the notices of
29 liability that made their way to the Attorney
30 General's office, by no means a comprehensive list
31 of them. I think we've included something like
32 eighty, but even that was simply a selection and
33 it only goes up to November. But just to show you
34 an example of this document, if you could turn to
35 page 92 of Exhibit H. So, this is the vaccine
36 notice of liability. You can see there, at the
37 bottom, it says, 'Source Action4Canada.com'.
38 That's the plaintiff. And they all contain that
39 source identifier.

40 And so, you can see that this is served on a
41 Clint Parker in the Coastal Fire Centre. And so
42 there are dozens and dozens, hundreds of these
43 that have simply been served on various public
44 servants and if you look at the language of the
45 document, to a layperson this would, of course, be
46 intimidating, perhaps stressful [as read in]:
47

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1 You are unlawfully practicing medicine by
2 prescribing, recommending, facilitating,
3 advertising, mandating, incentivising and
4 using coercion to insist employees submit to
5 any vaccine including the experimental gene
6 therapy injections for COVID-19, commonly
7 referred to as a vaccine.
8

9 And if you turn over to page 96, it's the last
10 page of this notice of liability. And there's a
11 quote, paragraph 96. Mr. Galati -- that's the
12 third last paragraph, and then the very last
13 paragraph [as read in]:
14

15 I hereby notify you that I will hold you
16 personally liable for any financial injury
17 and/or loss of my personal income and my
18 ability to provide food and shelter for my
19 family.
20

21 And it goes on. So, in my submission this is an
22 intimidation tactic. It's clear to a person with
23 legal training that there's no legal validity to
24 the document, but it is oppressive, intimidating
25 for civil servants to be receiving these
26 documents. And of course, many of them are
27 directed towards high-ranking public officials,
28 Dr. Bonnie Henry or the Health Minister, but many
29 of them were simply delivered as was recommended
30 by Action4Canada to a supervisor, and often in
31 person. And so, we say that corroborates that
32 this action is being brought for an improper
33 purpose, to intimidate and to harass.

34 And then moving on to paragraph 33, we also
35 submit that this claim is intended, the notice of
36 civil claim, to consolidate, publicize --

37 THE COURT: Just give me one second to get back there,
38 Mr. Witten, if you would? Thank you.

39 CNSSL M. WITTEN: Actually, if you're still in the
40 Action4Canada, or sorry, the affidavit of Rebecca
41 Hill, you could just turn to the very end, Exhibit
42 K. It should be the last tab in that binder.

43 THE COURT: I'm there.

44 CNSSL M. WITTEN: And so, this is -- Ms. Hill deposes in
45 her affidavit that she went to Mr. Galati's
46 Twitter account and simply printed it out and
47 appended it to an affidavit. I understand Mr.

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1 Galati may take issue with that. And this
2 affidavit is cited for this purpose in our
3 application response. And so, we note here that
4 Mr. Galati has 58,000 Twitter followers and that
5 the notice of civil claim, if you turn over the
6 next page, it was promoted, sent out to his 56,000
7 Twitter followers. Attached is the statement of
8 claim, notice of civil liability filed in B.C.
9 Supreme Court, covering a comprehensive challenge
10 to COVID measures, currently working on an
11 injunction on vaccine passports in B.C. And this
12 simply goes to my point that this is a legal
13 document. It has a court stamp on it. Nothing
14 has happened in the last eight months. I mean,
15 Mr. Galati -- in fairness to Mr. Galati, he's had
16 notice that we're bringing strike applications.
17 But this is the first time we've been in court.
18 But there has been much going on with the claim in
19 terms of its promotion, social media and the
20 internet.

21 And so, we say that is at least part of the
22 reason why this claim was filed and that is an
23 improper purpose. Because, of course, that court
24 stamp, to a layperson, does give a veneer of
25 credibility to the allegations. It looks -- or,
26 it is an official court document. And so, we say
27 these are improper purposes to file and prosecute
28 a civil action. We say there can be no question
29 that the claim is an abuse of process and
30 permitting this litigation to proceed would
31 violate the principles of judicial economy, the
32 integrity of the administration of justice. And
33 we say that providing the plaintiffs with an
34 opportunity to redraft their pleadings would only
35 further this abuse of the court's process. And
36 so, that is why we are not only asking for the
37 claim to be struck in its entirety, with costs.
38 We are asking for no leave to amend.

39 And subject to any questions, those are my
40 submissions on behalf of the provincial
41 defendants.

42 CNSL M. WITTEN: So, thank you, Mr. Witten. I may have
43 questions for you after I hear from all the
44 parties.

45 Ms. Gatti?

46 CNSL A. GATTI: Justice Ross, my thought is I might be
47 able to cut some of these submissions if we could

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1 take the morning break early. I hate to be
2 repetitive if I don't have to be.
3 THE COURT: Very well. We'll take fifteen minutes.
4 CNSL A. GATTI: Thank you very much.

5
6 (VIDEOCONFERENCE CONCLUDES)

7
8 (PROCEEDINGS ADJOURNED)
9 (PROCEEDINGS RECONVENED)

10
11 (VIDEOCONFERENCE RECOMMENCES)

12
13 THE COURT: Ms. Gatti?
14 CNSL A. GATTI: Justice Ross, again, I am Andrea Gatti
15 and I am here for the Federal Crown, and that
16 does --
17 THE COURT: Excuse me, Ms. Gatti.
18 CNSL A. GATTI: Yes.
19 THE COURT: Could I have quiet in the gallery, please?
20 Thank you.
21 CNSL A. GATTI: And I am, indeed, also representing the
22 federal public officials who have been personally
23 named in the claim.

24
25 **SUBMISSIONS FOR FEDERAL DEFENDANTS BY CNSL A. GATTI:**

26
27 CNSL A. GATTI: So, Canada does have a strike
28 application before you in the material. I don't
29 propose you turn to it, but for the sake of the
30 record, I just inform you that that is at Tab 9 of
31 the joint record.
32 THE COURT: Could I have quiet in the gallery, please?
33 People who won't respect the court or the -- I'm
34 continuing to hear somebody talk, while I'm
35 admonishing people not to talk. They will be
36 required to leave.
37 Ms. Gatti, if you would just grant us one
38 moment?
39 CNSL A. GATTI: Of course.
40 THE COURT: Thank you. So, Tab 9?
41 CNSL A. GATTI: For the record, that's where it is.
42 You don't need to turn to it. I won't be
43 referring to it.
44 THE COURT: Thank you.
45 CNSL A. GATTI: Canada does adopt the submissions of my
46 friend from British Columbia and I only have a
47 handful of submissions to add to those. And as I

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1 said prior to the break, I'll endeavour not to be
2 repetitive.

3 In Canada's submission the pleadings should
4 be struck for all the reasons identified by
5 British Columbia, but my -- the focus of my
6 submissions is actually on the question of whether
7 and to what extent the pleadings could even be
8 litigated on. And it's really more of a practical
9 problem. I intend to be maybe fifteen or twenty
10 minutes and I'll take you, I think, to one or two
11 cases.

12 Before we begin, I should note that Canada
13 has not filed a defence in this matter and
14 Canada's position was that the claim was just not
15 capable of anything more than a proforma response
16 and Canada opted to wait to see what would happen
17 with the strike application. So, in the event
18 that the court doesn't strike the claim and the
19 claim proceeds in some form, Canada would seek to
20 have the claim parties, the causes of action and
21 the material facts clarified significantly, and of
22 course, the time for serving and filing Canada's
23 defence would have to be noted and extended.

24 As my friend, I think, very capably
25 demonstrated in his submissions, the claim is long
26 and it contains a number of pleadings that are
27 convoluted and very difficult to follow. It
28 appears to contain numerous irrelevant pleadings
29 and it describes a vast panorama of characters and
30 events, and several lengthy narratives. And the
31 precise problem with this degree of breadth and
32 the scope of it is it would engage -- it would
33 draw all of the parties and in this case, not just
34 the defendants, but the plaintiffs, as well, into
35 a highly unproductive and expansive style of
36 litigation. My submissions in this may focus a
37 bit on the term 'scandalous', as a quality of the
38 proceedings. And of course, that's part of the
39 grounds to strike under Rule 9-5. But scandalous
40 as it's defined in the case law, which is, you
41 know, a lesser used, I think, prong of that 9-5
42 test, doesn't necessarily mean what it does in the
43 vernacular, this like sense of moral outrage.
44 But, my friend took you to the *Fowler* case and
45 Justice Cullen does refer to a definition of
46 scandalous. I won't -- we don't have to go back
47 to *Fowler* but I note for you that it's at

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1 paragraph 41.

2 And it says in paragraph 41 that [as read
3 in]:

4
5 Scandalous means so irrelevant that it would
6 involve the parties in useless expense and
7 would prejudice the trial of the action by
8 involving the parties in a dispute, apart
9 from the issues.

10
11 And so, what's notable about that idea and that
12 definition is that if we take all the facts as
13 true, as we may or may not be bound to on a motion
14 to strike of this kind, and even if buried in
15 these hundreds of pages, there are properly
16 pleaded causes of action and meritorious
17 prejudicial claims. The very structure and the
18 form of the claim in the proceeding hides that.
19 And then that way the pleadings are prejudicial to
20 both sides. And so, in that respect, as I noted
21 earlier, Canada's specific concern is quite
22 practical and that this pleading just simply
23 doesn't reach a standard of clarity and care
24 that's necessary to carve a path through
25 litigation, and even to enable, in Canada's
26 submission, a reasonable response.

27 My friend has taken us on a tour, as he
28 described the pleadings, but I just ask you to
29 look at it and look through the table of contents.
30 There is such a long list of narratives that this
31 claim touches upon that it really is impossible
32 for anyone, I expect, except those who have
33 drafted it and were very familiar with it, to
34 separate what's material from not material, one
35 cause of action from the other. And my friend has
36 noted that there seems to be, at least, a fair
37 amount of advocacy and conjecture to sift through.
38 And in that *Fowler* decision Justice Cullen does
39 refer to another decision, which is the *Homalco*
40 *Indian Band v. British Columbia*. That decision is
41 at Tab 26 of the joint record. But I'd like to
42 just read a quote from that, because I find it's
43 very helpful in this case.

44 So, I'm reading from paragraph 8 and it's not
45 long. It says [as read in]:

46
47 It appears the material facts of some of the

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1 causes of action are separated in the
2 pleading and can be found only with careful
3 study and by meticulous attention to the many
4 internal cross-references. As well, in some
5 instances allegations against one defendant
6 are contained in the same paragraphs as
7 allegations against the other defendant.
8 Moreover, particulars are sometimes mixed
9 with material facts and often serve as
10 particulars of more than one material fact.
11 Again, the nature and effect of these
12 particulars must be discerned, if that's
13 possible, but only through torturous analysis
14 of the document.
15

16 And what the court reasons in *Homalco*, and what
17 Justice Cullen, I believe, discusses in *Fowler* is
18 who's responsibility should that be? I mean, does
19 that fall on the court and on the defendants to
20 effectively sift through this material and
21 determine what's meaningful and what is the
22 subject of proper litigation? And in that
23 respect, I mean, this could be the subject of
24 discovery. With discovery, document discovery
25 alone, on this type of pleading, would have such
26 breadth and it would take so long to even
27 determine what's relevant, that there's no way
28 that that would be efficient or practical for
29 anyone. So, in Canada's view, you know, if we
30 assume that there are meaningful and important
31 claims within this, we need a practical solution,
32 and the first would be, in Canada's submission, to
33 have this omnibus claim struck and if there are
34 abuses of power at the hands of government, then
35 those matters should be properly litigated and not
36 hidden, effectively, in a thicket of weeds for us
37 to all try to figure out. And that favours
38 everyone, including the court, the defendants and
39 the plaintiffs.

40 And so, the one case I'd like to take you to
41 on that, and that's at Tab 32 of the joint record,
42 and my friend did refer to this earlier. So, this
43 is a B.C. Court of Appeal case entitled *Mercantile*
44 *Office Systems*. It's from 2021, so it's recent.

45 THE COURT: Sorry. I'm at Tab 32 and I've got Moosa
46 [phonetic].

47 CNSL A. GATTI: Hmm. Let's strike that out.

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1 THE COURT: Tab 31.

2 CNL A. GATTI: Thirty-one? Thank you.

3 So, this is a successful appeal of a chambers
4 judge decision dismissing a motion to strike. And
5 I admit readily that the pleading that underlies
6 this litigation is different than the one in many
7 way, or in many respects, in what we're looking at
8 here, but I take you first to the summary of the
9 reasons of the chambers judge. And that is at
10 paragraph 8. And I read from the second sentence.
11 She concluded that:

12
13 She referred to a number of relevant
14 authorities that identified the role or
15 function of pleadings. She concluded that the
16 application alleged "technical deficiency 'in
17 the air'." By this she meant that the
18 applicants had not identified specific
19 paragraphs as nonresponsive, argumentative or
20 containing evidence.

21
22 And so, clearly, that's distinguishable from what
23 the parties are arguing here. But nevertheless:

24
25 She was of the view that the application
26 before her was "structure-driven," in that
27 the applicants sought to have Warranty Life
28 organize its pleadings differently. She
29 considered that she was being asked to
30 "micro-manage Warranty Life's pleading
31 style".

32
33 And I take the court to this in the event that the
34 court should find itself at a similar crossroad,
35 which is that if the court is not sufficiently
36 convinced of the substantive laws of the claim,
37 then Canada would like to highlight that the claim
38 can still be stuck, based on these structural
39 formal laws. And the B.C. Court of Appeal in this
40 decision goes through a lengthy analysis to
41 justify that reasoning. And so, that begins at
42 paragraph 9 and it moves through analysis of the
43 formal requirements of a pleading and the rules
44 and culminates at paragraph 20.

45 And I read from paragraph 20:

46
47 I have addressed these various Rules and

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1 their accompanying forms at some length
2 because they establish how comprehensive and
3 prescriptive the requirements for specific
4 categories of pleadings are. These formal and
5 content-based requirements are neither
6 anachronistic nor technical. Instead, they
7 are necessary and serve to further the
8 purposes of the *Rules*. Those purposes and
9 their importance have been expressed on
10 numerous occasions by both this Court and by
11 trial judges.

12
13 Pleadings are foundational. They guide the
14 litigation process. This is true in relation
15 to the discovery of documents, examinations
16 for discovery, many interlocutory
17 applications and the trial itself.

18
19 And so, the analysis goes on in light of the
20 structural requirements under the rules and
21 ultimately overturns the dismissal of the chambers
22 judge. But what is important about the reasoning
23 is the very high degree of emphasis it places on
24 the formal requirements for pleadings, and
25 emphasizing that they're not technicalities. In
26 apply that here, it's of Canada's view that this
27 claim has to be struck on that basis. It merely
28 is impractical to continue or to ask the parties
29 to engage in a litigation of this kind that would
30 no doubt be costly, time-consuming, and involve us
31 in a number of pretrial motions.

32 And I think, subject to your questions, I'm
33 prepared to conclude my submissions.

34 THE COURT: Thank you, Mr. Gatti. I may have questions
35 for you after I've heard from all counsel.

36 CNSL A. GATTI: Thank you.

37 THE COURT: Mr. Wedge?

38 CNAL T. WEDGE: Wedge, initials T.J., for the record,
39 counsel for Island Health and Providence Health
40 Care.

41
42 **SUBMISSIONS FOR ISLAND HEALTH AND PROVIDENCE HEALTH**
43 **CARE BY CNSL T. WEDGE:**

44
45 CNAL T. WEDGE: Mr. Justice, I, too, will strive for
46 brevity. The Health Authorities, as I'll term
47 them, for ease in my submissions, do adopt the

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1 able submissions from my friends from Canada and
2 British Columbia. But I will highlight a couple
3 of items that are particular to the Health
4 Authority defendants in this action, and
5 applicants today. The Health Authority's notice
6 of application is at Tab 13. I don't propose to
7 take you there just yet. Indeed, I'm going to
8 start at Tab 3, which is the Health Authority's
9 response to civil claim. And we'll flip to page
10 2, and I'll get there in a moment.

11 As with the other applicants today, the
12 Health Authorities do ask that this matter is
13 struck in its entirety, pursuant to Rule 9-5. In
14 addition to the long list of deficiencies with
15 this notice of civil claim, highlighted by my
16 friends, the Health Authorities observe from these
17 submissions and from the notice of civil claim
18 that the panoply of allegations are really
19 focussed on the *Charter* effect of the legislation
20 and orders brought in by government to combat the
21 COVID-19 pandemic. Now, as you'll see at page 2
22 of the response to civil claim, Vancouver Island
23 Health Authority is a regional health board that's
24 a creature of statute, the Health Authority
25 [indiscernible]. Providence Health Care is not a
26 legal entity. It's actually the Providence Health
27 Care Society and that's a society pursuant to the
28 *Societies Act*, and it provides services in concert
29 with the Provincial Health Services Authority and
30 Vancouver Coastal Health Authority, which are
31 health authorities.

32 They're more kin to Crown Agencies or Crown
33 Corporations. They aren't government. They are
34 not able to pass legislation and they're not able
35 to issue the orders at issue before the court
36 today. As such, to the extent that the
37 plaintiff's issues are with the legislation and
38 the constitutionality of the legislation, if one
39 is able to glean it out of this pleading, that's
40 not an issue which the Health Authorities should
41 be involved in. They implement the legislation,
42 as is set out at paragraph 8 on page 2 of the
43 response to civil claim, as well as page 3,
44 paragraph 15. Now, paragraph 15 also does deal
45 with the statutory immunities in that legislation.
46 We don't propose for you to consider that today,
47 Mr. Justice, or address that. But the point is to

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1 highlight that what the Health Authorities were
2 doing and what appears, on our reading of the
3 notice of civil claim, is implementing legislation
4 as they're required to. So, to the extent that
5 the issue is with the legislation and the
6 constitutionality of that legislation, that's not
7 an issue which the Health Authorities should be
8 involved in.

9 Now, particularly in respect of the claim of
10 Woolmans, Jacqueline Woolman and the Woolman
11 Estate, which have been discontinued, as I
12 understand, against all the defendants, as far as
13 Vancouver Island Health Authority can tell, those
14 were the only plaintiffs with particular claims
15 against the Health -- the Island Health. I'm not
16 going to take you there, but for your ease of
17 reference, the claims against Island Health and
18 the factual basis are found at pages 7 to 23 of
19 the notice of civil claim. The claims for relief
20 start at page 342. And those are the two areas
21 where there's particularly -- a particular
22 identification of the Health Authority and the
23 plaintiffs with claims against them. In the case
24 of Providence Health Care, it's pages 32 to 37,
25 and the relief sought is at page 46. And there
26 appears to be a bit of a drafting error, because
27 in the factual basis the plaintiff with the claim
28 against Province Health is John Doe, or Jane Doe
29 Number 3, whereas in the relief sought section
30 there -- it's Jane Doe Number 2, as far as we can
31 tell. There is another Jane Doe number 3 with
32 additional claims that don't appear to be directed
33 at either Health Authority.

34 So, simply put, the Health Authorities aren't
35 government. They don't pass legislation. They
36 didn't make the health orders. As the claims and
37 allegations, as you'll see from the relief sought,
38 appear to only be claims under the *Charter*, and in
39 respect of Island Health it's measures are put in
40 place to protect senior care homes from COVID, the
41 masking requirements, visitation requirements,
42 etc., and in respect of Providence Health Care in
43 respect of masking requirements at St. Paul's
44 Hospital. These are implemented pursuant to
45 government order. The issue should be with the
46 legislation and not the actions of the health
47 authorities.

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1 Now, I'm going to go briefly to the Health
2 Authorities notice of application at Tab 13 and
3 I'm going to move forward to page 6, paragraphs 22
4 and 23. So, in the submission of the Health
5 Authorities, first the criterium prior to these
6 two is the absence of a claim, others that were no
7 reasonable cause of action, the Health Authorities
8 submit that there is no reasonable cause of action
9 against them on the basis that they aren't the
10 ones passing the legislation and orders that
11 appear to be at the heart of the issues before
12 this court. But also, that this pleading is
13 scandalous and embarrassing. In reading
14 paragraphs 22 and 23, at 22 it's stated [as read
15 in]:
16

17 A pleading is scandalous if it does not state
18 the real issue in an intelligible form and
19 would require the parties to undertake
20 useless expense to litigate matters that are
21 relevant to the claim.
22

23 Now, to the extent that there could be a
24 conceivable claim against either Health Authority,
25 and being this expansive claim with multiple
26 plaintiffs against multiple defendants, Island
27 Health would be necessarily involved in many
28 portions of an action that would have no relevance
29 to any claim against them. A claim is also --

30 THE COURT: Mr. Wedge, I just want to understand
31 your --

32 CNAL T. WEDGE: Yes?

33 THE COURT: -- what you've told me, and I know this is
34 factual, but --

35 CNAL T. WEDGE: Yes?

36 THE COURT: -- am I to understand that it's the Woolman
37 plaintiffs who have discontinued and they are the
38 only two individuals with a claim against
39 Vancouver Island Health?

40 CNAL T. WEDGE: The only discernible claim. Island
41 Health is lumped in with -- as the defendants in
42 other sections of this pleading. So, in the
43 submission of Island Health, with the Woolman's
44 claims gone, the only discernible cause -- stated
45 factual basis of the claim against Island Health
46 has been removed by the notice of discontinuance
47 and in that regard, in respect of Island Health in

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1 particular, we received confirmation of the court
2 if it isn't -- if you are inclined not to strike
3 the whole claim, Mr. Justice, that the claim is,
4 indeed, [indiscernible] against Island Health by
5 operation of this notice of discontinuance in the
6 absence of factual basis against Island Health.
7 CNSL R. GALATI: [Indiscernible] interrupt, Your
8 Honour, but in fairness to my friend, this
9 continuance was a recent development and I haven't
10 put the facts [indiscernible], but it may very
11 well be that my friend, Mr. Wedge, is correct and
12 over the lunch break I'll look at it closely, more
13 closely, and may be in a position to agree with
14 him with respect to his clients on the factual
15 substrata, as against his clients.
16 CNAL T. WEDGE: Okay.
17 THE COURT: And are you, Mr. -- thank you for that, Mr.
18 Galati. Are you referring to both Providence and
19 Vancouver Island Health Authority?
20 CNSL R. GALATI: Yes. [Indiscernible]. Yes, if the
21 factual substrata [indiscernible] then my friend
22 would be correct. There is no set, once this
23 continued, there's be no financial substrata, and
24 therefore, no cause of action against his client.
25 THE COURT: Thank you for that, Mr. Galati. We can
26 address that after lunch.
27 CNAL T. WEDGE: Thank you. And for clarity, from our
28 perspective, our understanding is that the
29 Woolman's case is only Island Health. It's
30 separate from that of Providence Health Care.
31 THE COURT: I understand that, as well. Thank you, Mr.
32 Wedge.
33 CNAL T. WEDGE: And then returning to page 6, paragraph
34 23, also a claim is scandalous and therefore
35 embarrassing if it prolix and includes irrelevant
36 facts, argument or evidence, such that it is
37 nearly impossible for the defendants to reply to
38 the pleadings, or know the case to ...
39 And part of the issue, as is highlighted
40 about the issue with the discontinuance against
41 Island Health, is given that the claims against
42 the Health Authorities may have specific sections
43 devoted to them, the manner in which the pleading
44 is drafted, with so many areas where the
45 allegations are lumped into as being against all
46 defendants, including the entire legal basis, it's
47 not possible for the Health Authorities, or any of

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by Cnsl T. Wedge**

1 the other non-governmental parties, to tease out
2 what particular claims might be against them.
3 So, in summary, Health Authorities seeks that
4 this matter should be struck, A, because there's
5 no actual reasonable claim against them because
6 they're not the ones who instituted the
7 legislation and the orders which appear to be the
8 heart of this matter. But B, the pleading cannot
9 be deciphered as between which defendants ought to
10 be actual and proper parties and what claims are
11 made against them, which is at the heart of the
12 pleadings itself, the ability for a defendant to
13 respond to a pleading and only being involved in
14 an action where the claims are actually directed
15 at them..

16 Subject to any questions, those are our
17 submissions.

18 THE COURT: Thank you, Mr. Wedge. And I may have
19 questions for you after I've heard from Mr.
20 Galati.

21 CNAL T. WEDGE: Thank you, Mr. Justice.

22 THE COURT: Mr. Delaney?

23 CNSL T. DELANEY: Yes.

24

25 **SUBMISSIONS FOR TRANSLINK AND PETER KWOK BY CNSL T.**
26 **DELANEY:**

27

28 CNSL T. DELANEY: Justice, my clients are TransLink and
29 Mr. Peter Kwok. TransLink, strictly speaking,
30 isn't a legal entity. It's more of a trade name.
31 The actual legal entity that operates the public
32 transportation system in the lower mainland is the
33 South Coast British Columbia Transportation
34 Authority. TransLink is more of a trade name.

35 The allegations against my client are
36 basically that they required one of the
37 plaintiffs, Foley, to wear a mask while on a Sky
38 Train and she was wrongfully arrested for that
39 reason. There's nothing actually at all in the
40 legal basis where I can see that my clients are
41 specifically identified. Instead, the allegations
42 and legal basis are more generic type allegations
43 that things like masks aren't effective and those
44 sorts of allegations. And the relief sought is
45 for breach of *Charter* rights and two million
46 dollars.

47 So, I adopt and will not repeat the

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1 submissions of my friends so far, but I'm going to
2 make just one submission to you, Justice, and I
3 won't take you to my notice of application, but
4 it's at Tab 16, so you know where it is in the
5 materials. But the one submission I do want to
6 make is just to pick up on what Mr. Witten was
7 saying with respect to, well, the usual rule is
8 that pleadings must be taken as true. That
9 doesn't apply where the allegations are based on
10 assumption and speculation. And the one case I do
11 wish to take you to, Justice, is at Tab 27. It's
12 the *Codere* [phonetic] v. *Canada Attorney General*
13 case. And you have it, Justice?

14 THE COURT: I do.

15 CNSSL T. DELANEY: All right. So, this is a decision
16 just from earlier this year and in this case the
17 court took judicial notice of the fact that COVID
18 was in existence and there'd been a pandemic and
19 things of that sort. You'll see at paragraph 1,
20 the plaintiff in that case, Mr. Codere, sought
21 judicial review of the federal government's
22 requirement that all its employees be vaccinated
23 against COVID-19. He asserts this requirement is
24 unreasonable because he believes the virus that
25 causes the disease does not exist. And if you go
26 to -- over the page, to page 3, paragraph 14, this
27 was an application to strike [indiscernible] and
28 in fact, the pleadings were struck. And at
29 paragraph 14 the court notes [as read in]:

30
31 The rule that allegations must be taken to be
32 true does not extend to facts that are
33 manifestly incapable of being proven.

34
35 Refers to the *Imperial Tobacco* case, and then also
36 makes the same point that my friend, Mr. Witten
37 made in the quote from *Operation Dismantle*, that
38 it does not require that allegations based on
39 assumptions and speculations be taken as true.
40 And if you go over to paragraph 23, the court
41 then -- this is -- undertakes a review of judicial
42 notice and at paragraph 23 notes [as read in]:

43
44 The facts may be notorious, even when the
45 decision maker cannot ascertain them
46 personally. For example, in *R. v. Colaja*
47 [phonetic] [which was a Supreme Court of

Submissions for TransLink and Peter Kwok by Cnsl T. Delaney

1 Canada decision], the Supreme Court of Canada
2 took judicial notice of the war in
3 Afghanistan, even though it's highly unlikely
4 its members, like most Canadians, travelled
5 there to witness the hostilities. The
6 evidence of the war is nevertheless notorious
7 because over the years trusted sources of
8 information have repeatedly mentioned it.
9 Thus, a reasonable person would not doubt
10 that there was a war in a distant country.

11
12 And then, if you go to paragraph 43, you'll see
13 that the court -- actually, it begins at paragraph
14 40, but onwards, the court reviews a number of
15 what I'll call COVID cases and paragraph 43 notes
16 [as read in]:

17
18 Courts across the country have reached
19 similar conclusions. In *Menzori* [phonetic]
20 the Ontario Superior Court of Justice took
21 judicial notice of the fact that COVID-19 is
22 caused by the SARS COVID 2 communicable and
23 highly contagious virus. The Alberta Court
24 of Queen's Bench noted that since early 2020
25 Canadians have been living in the midst of a
26 global pandemic caused by SARS COVID 2 virus.
27 We take judicial notice of this fact which is
28 so notorious and indisputable as not to
29 require proof.

30
31 And then at paragraph 45 it says [as read in]:

32
33 Thus, Canadian courts have taken judicial
34 notice of the fact that COVID-19 is caused by
35 the SARS virus. While these cases are not,
36 strictly speaking, binding on me, they are
37 persuasive authority.

38
39 And I submit, Justice, you can do the same here
40 and take judicial notice of these notorious facts.
41 And I submit you should.

42 And those are my submissions.

43 THE COURT: Sorry. Just with respect to that, you say
44 that I can take judicial notice of the existence
45 of the pandemic, COVID. Thus --

46 CNSL T. DELANEY: And that it --

47 THE COURT: Sorry, for interrupting.

Submissions for TransLink and Peter Kwok by Cnsl T. Delaney

1 CNSL T. DELANEY: Yeah.
2 THE COURT: But that that -- taking such judicial
3 notice would be a countervailing force against the
4 assumption that the assertions in the notice of
5 civil claim are soon to be correct?
6 CNSL T. DELANEY: That's exactly my submission. Now,
7 we still face the same problem that there's --
8 it's quite a large, long, and you couldn't do that
9 for --
10 THE COURT: I understand that you're not focussed on
11 that issue.
12 CNSL T. DELANEY: Yes.
13 THE COURT: But that's your -- you say that that's one
14 route?
15 CNSL T. DELANEY: Yes.
16 THE COURT: All right.
17 CNSL T. DELANEY: Thank you.
18 THE COURT: Mr. Bildfell?
19 CNSL C. BILDFELL: Justice Ross, I intend to be the
20 briefest of all. I don't know if there's a prize
21 for that, but there we have it.
22

23 **SUBMISSIONS FOR B.C. FERRY SERVICES BY CNSL C.**
24 **BILDFELL:**
25

26 CNSL C. BILDFELL: B.C. Ferries supports and adopts the
27 position of the applicants in this matter and we
28 consent to the order sought. And we have nothing
29 further to add.
30 THE COURT: Thank you, Mr. Bildfell. I think you win
31 the prize, although Mr. Galati may surprise us.
32 CNSL R. GALATI: If I [indiscernible].
33 THE COURT: Mr. Galati? So --
34 CNSL R. GALATI: Yes, sir.
35 THE COURT: We have until 12:30 and then you'll have
36 the afternoon, but leaving some amount of time for
37 response or reply by the applicants.
38 CNSL R. GALATI: It's been [indiscernible]. I used to
39 have a satellite office out of Vancouver
40 [indiscernible] with Mr. [indiscernible]. But I
41 have to [indiscernible] my clock. It's now 3:00
42 o'clock in Toronto. So, could we break for lunch
43 until that time, [indiscernible].
44 THE COURT: Three thirty our time until 5:00 o'clock
45 your time. So, our time, 12:30 to 2:00 o'clock.
46 CNSL R. GALATI: Is the lunch?
47 THE COURT: Is the lunch.

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1 CNSL R. GALATI: And it's 12:00 o'clock right now?
2 THE COURT: Yes.
3 CNSL R. GALATI: So, if we could break for lunch now, I
4 would agree to that. I'd [indiscernible] quicker.
5 If that's okay, with His Honour?
6 THE COURT: All right. Do you -- you want to take the
7 lunch break now and then --
8 CNSL R. GALATI: Yes.
9 THE COURT: -- I'm open. Do you want to resume at
10 1:30, Mr. Galati?
11 CNSL R. GALATI: Sure. That would be [indiscernible]
12 in my time, yes. And then we take -- how much do
13 I have [indiscernible]. I think it would be an
14 hour and half and that could leave my friends half
15 an hour for reply. Is that -- is that acceptable?
16 THE COURT: That seems fair to me, Mr. Galati.
17 CNSL R. GALATI: Thank you.
18 THE COURT: All right. We'll take this lunch break now
19 and resume at 1:30.
20
21 (VIDEOCONFERENCE CONCLUDES)
22
23 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
24 (PROCEEDINGS RECONVENED)
25
26 (VIDEOCONFERENCE RECOMMENCES)
27
28 THE CLERK: We're back on the record.
29 THE COURT: Thank you.
30 Mr. Galati?
31 CNSL R. GALATI: Thank you, Justice Ross. For my
32 purposes, all we'll need is [indiscernible]
33 application record of the plaintiffs and the white
34 bound book of authorities [indiscernible] 34
35 authorities [indiscernible]. If you have them
36 with you?
37 THE COURT: Thank you. I will close up everything
38 else.
39 CNSL R. GALATI: Thank you. And I'm going to apply the
40 very short, brief, clear written argument at Tab 9
41 of the application record. And I'll be -- I'll be
42 sticking along with that argument in my
43 [indiscernible] presentation.
44 THE COURT: All right. So, I'll open up that binder,
45 as well.
46 CNSL R. GALATI: Yes. Thank you. [Indiscernible].
47 It's a written argument. It's not the one that's

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1 in the response. It's an [indiscernible] page
2 written argument. [Indiscernible]. Thank you.
3 All right.
4

5 **SUBMISSIONS FOR PLAINTIFFS BY CNSL R. GLATAI:**
6

7 CNSL R. GALATI: So, [indiscernible], Justice Ross, is
8 first, Canada [indiscernible] as respondents and
9 then I will address some of the submissions,
10 mostly of Mr. Witten, [indiscernible] this
11 morning. But I don't want to continue to
12 [indiscernible] responses to him in my initial
13 presentation of the case. If that's acceptable to
14 you?

15 THE COURT: Absolutely.

16 CNSL R. GALATI: Okay. So, the first thing I would
17 like to, you know, in my written argument I
18 canvassed the general principles on a motion to
19 strike. Before I get there I do want to raise
20 this issue of the applicants' affidavit. I'm now
21 have a better understanding of [indiscernible] to
22 the specific -- the specific submissions speaking
23 to the [indiscernible]. So, I'm going to take
24 Your Honour first to pages 1 to 5 of my written
25 argument which are the general principles on a
26 motion to strike. [Indiscernible] to proceedings
27 against the Crown and cases against government
28 [indiscernible], but virtually all my cases are
29 met with motions to strike. They're just, fair
30 enough. You know? [Indiscernible].

31 So, the fact that I am [indiscernible] where
32 ten of my cases of the over 560 reported in the
33 jurisprudence, so we have close to 600 cases
34 recorded, federally and provincially, in three
35 different province. The fact that my friends
36 selectively choose [indiscernible] to strike is
37 somewhat concerning to me along with the other
38 [indiscernible] submissions my friend made
39 [indiscernible].

40 THE COURT: Mr. Galati, sorry to interrupt you --

41 CNSL R. GALATI: Right.

42 THE COURT: -- but until you told me that I didn't know
43 that.

44 CNSL R. GALATI: Okay.

45 THE COURT: I didn't understand from Mr. Witten that
46 he'd included ten cases where your pleadings have
47 been struck. I may have missed that.

Submissions for Plaintiffs by Cnsl R. Galati

1 CNSL R. GALATI: [Indiscernible].
2 THE COURT: Oh, all right.
3 CNSL A. GATTI: [Indiscernible] thousand of cases in
4 the courts. But anyway, I'll come back to that
5 issue later. But the only reason I'm making this
6 point is that motions to strike in our system are
7 common [indiscernible] day-to-day issues
8 [indiscernible], especially against government
9 [indiscernible]. We know what the general
10 principles are that often lead [indiscernible],
11 and so [indiscernible] principles [indiscernible]
12 the Supreme Court of Canada [indiscernible]. And
13 so, pages 1 to 5 of the [indiscernible] principles
14 and at page 2 of my written argument my expert in
15 [indiscernible] and [indiscernible] reminds us and
16 states [as read in]:

17
18 I am of the view that the age of civil
19 procedure should not act as an obstacles to a
20 just and [indiscernible] resolution of the
21 case.
22

23 With all due respect to my friends,
24 [indiscernible], but the main thrust of what I
25 heard was unsubstantiated conspiracy theories,
26 spurious, negligent conspiracy theories. This
27 would be too much work to try. The pleadings are
28 complex and [indiscernible]. Of course, they are
29 complex and [indiscernible]. They deal with the
30 COVID-19 measures in a global - in a global
31 [indiscernible] pandemic [indiscernible] in any
32 other subject matter since I've been a lawyer.
33 This is not the case of the milk truck hitting the
34 bicycle. This is a case on the COVID measures
35 that are applied provincially, federally,
36 [indiscernible] World Health Organization. All my
37 friends may talk about conspiracy theories. I have
38 not led conspiracy theories. I have not led
39 conspiracy theories. I have led conspiracies.

40 And you know, when I was in front of the
41 justice I saw many a case of complex conspiracy,
42 [indiscernible] conspiracy charge of illicit drug
43 distribution, for instance, of illicit drugs. The
44 notion of a conspiracy in Canadian law as a
45 criminal and civil dimension are recognized since
46 the assassination of Julius Caesar. Conspiracies
47 happen. Just because [indiscernible] a

Submissions for Plaintiffs by Cnsl R. Galati

1 conspiracy, that doesn't mean it's a conspiracy
2 theory, 'cause you don't want to deal with it.
3 And that's what my friends are doing -- are
4 suggesting. Mr. Galati is off his rocker. Look
5 at the things he's saying. Mr. Galati, on behalf
6 of his clients says yeah, but I'm pleading facts.

7 The WHO is funded by GAVI and Bill Gates,
8 number one and two founders. That's irrefutable.
9 The WHO says that. Prime Minister Trudeau gave a
10 billion Canadian dollars to follow his private,
11 profitable vaccine agenda. That's indisputable.
12 You can find that in his budget. That's not
13 denied by the Federal Government or Prime Minister
14 Trudeau.

15 Dr. Teresa Tam, our Chief Medical Officer,
16 sat on three WHO [indiscernible] as our Chief
17 Medical Officer. Dr. Bonnie Henry worked for the
18 WHO. Dr. Bonnie Henry was in Pakistan in the year
19 2000 administering Bill Gates' polio vaccines, and
20 in Pakistan, India and Africa, 486,000 children
21 were injured and killed as a result of that
22 vaccine.

23 The Indian Bar Association, which is not a
24 boatload of lunatics, has filed criminal charges
25 against Bill Gates for that vaccine campaign that
26 was administered in 200, with the participation of
27 Dr. Bonnie Henry. Are these unsettling
28 allegations? Yes. Are they comfortable? No. My
29 answer to that and the [indiscernible] conspiracy
30 is too bad. That doesn't mean they're conspiracy
31 theories.

32 We had a [indiscernible] between the WHO,
33 Bill Gates, the [indiscernible], our Prime
34 Minister, our Chief Medical Officer in Ottawa, and
35 our Chief Medical Officer in British Columbia.
36 [Indiscernible] both their actions and their
37 statements which you must also [indiscernible] a
38 conspiracy theory [indiscernible].

39 So, I take -- I take offence that I'm
40 [indiscernible] dismissed just because Mr. Witten
41 and his comments think this is all silly, made up
42 stuff. Deal with the facts as pleaded
43 [indiscernible] and then let's discuss the motion
44 to strike. And I'm sure [indiscernible] my
45 statement of claim on behalf of my clients. It's
46 a [indiscernible] but everybody [indiscernible].
47 The COVID-19 pandemic is not a simple clear issue.

Submissions for Plaintiffs by Cnsl R. Galati

1 [Indiscernible] cases in B.C. and elsewhere where
2 the pleadings are being attacked [indiscernible].
3 So, you're damned if you, damned if you don't. Is
4 this a [indiscernible] pleading? Of course not.
5 [Indiscernible]. Is it so imperfect that it
6 should be struck in whole or in part? Maybe in
7 part. And I'll make submissions on that. But
8 there's no way this pleading should be struck in
9 whole.

10 And so, when my friends [indiscernible] civil
11 procedure, we have to remember what Chief Justice
12 Lamer from the Supreme Court of Canada said
13 [indiscernible]. This is not [indiscernible], to
14 which I can't respond. What is it -- what is my
15 friend saying [indiscernible] conspiracy theory,
16 that this is a vaccine [indiscernible]? I'm
17 [indiscernible]. This is a vaccine
18 [indiscernible]. Is this a pandemic? Maybe. I
19 say it's a false pandemic with alternative motives
20 and the facts are open. [Indiscernible] Mr.
21 Witten talks about skeptics, that I led in
22 evidence. These aren't skeptics. These are
23 internationally renowned world experts in their
24 field. When I take you to the case law, I'll show
25 Your Honour why, in their opinions, and necessary
26 material for this statement of claim.

27 So, at the end of the day, now
28 [indiscernible] page 3 of my written argument.
29 But just because something is complex or novel is
30 not a basis to strike. In the *Imperial Tobacco*
31 case is a big extract at page 4, which really
32 [indiscernible] at paragraph 21, Chief Justice
33 McLaughlin says [as read in]:

34
35 The motion to strike is a tool that must be
36 used with care.
37

38 And at the other paragraph [indiscernible]. The
39 other appellate cases that I've extracted are
40 [indiscernible] and that the statement of claim
41 should not be struck just 'cause it's rather one
42 sided [indiscernible]. Those cases are
43 [indiscernible]. Your Honour, I'm not going to --
44 I'm not going to insult the court by taking you
45 through the cases. You can look at them
46 [indiscernible]. And then other cases
47 [indiscernible]. And this is important, why the

Submissions for Plaintiffs by Cnsl R. Galati

1 jurisprudence should not be disclosed at this
2 stage of the proceeding, and that's
3 [indiscernible].

4 And then lastly, in order to strike, the
5 Ontario courts have said that [as read in]:
6

7 The defendant must be [indiscernible] decide
8 the case directly on point from the same
9 jurisdiction [indiscernible]. But no such
10 case exists in whole or in part.
11

12 And that's the [indiscernible]. Now,
13 [indiscernible] my final point in my submission.

14 So, what you have is [indiscernible], Justice
15 Ross is a claim that [indiscernible] history in
16 emergence [indiscernible] the virus. Then,
17 scientific fact [indiscernible] and it must be
18 taken as proven. No-one in the world has actually
19 isolated the virus. The only evidence of the
20 virus is the so-called screening test by using the
21 PCR screening machine. [Indiscernible] page 186
22 of my claim. The Portuguese Court of Appeal, the
23 Austrian Court and the German Courts have filled
24 out the PCR machine and expert evidence that
25 [indiscernible] it produces a 96.5 percent false
26 positive. British Columbia [indiscernible] PCR
27 [indiscernible] t between 45 and 47 cycles.
28 That's [indiscernible]. And Justice Ross, these
29 cycles are not augmented. They are exponential.
30 So, with each cycle [indiscernible].

31 Now, these are not conspiracy theories.
32 These are [indiscernible] determinations on expert
33 evidence. Now, are you here, or is this court
34 here [indiscernible] to determine the science
35 [indiscernible]? No, you're not. But you are
36 here and I'll take you to the jurisprudence -- you
37 are here to determine and protect citizen's
38 constitutional rights where the measures don't
39 take into scientific inputs and opinions. That's
40 been determined.

41 So, the science and the medicine that's pled
42 is not there to ask the B.C. Supreme Court to
43 determine that the defendants are wrong and the
44 [indiscernible]. It's just to say, look, the
45 legislation, the decrees, the measures and the
46 damage has grossly overreached to the point the
47 constitutional rights have been [indiscernible] as

Submissions for Plaintiffs by Cnsl R. Galati

1 pleaded. And so, that's the centre of
2 [indiscernible]. I have [indiscernible] the
3 history of the COVID virus, the [indiscernible]
4 COVID virus, the history of the [indiscernible] of
5 the pandemic, the science, the medicine, the
6 politics and the legislation and decrees
7 [indiscernible]. Why should the [indiscernible]
8 make this unmanageably [indiscernible]? My God, I
9 was involved in conspiracy [indiscernible], with
10 boxes of evidence that [indiscernible].

11 One famous case in Toronto when I was working
12 with the Department of Justice [indiscernible].
13 We're not suggesting every case necessitates that
14 kind of energy and I'm not suggesting this would
15 even come close to that. But, a hard case, a
16 complicated case, a case that's too much work and
17 a list of resources, according to the respondent
18 Attorney General of Canada, is not a reason to
19 strike.

20 I'm now going to take you to -- my friends
21 took you through it, but on pages 5 to 81,
22 [indiscernible] essential material facts
23 [indiscernible] personal circumstances for appeal
24 from constitutional infringements suffered by the
25 person [indiscernible] Jane Doe -- Jane Doe
26 [indiscernible]. [Indiscernible] Justice Ross,
27 indiscernible].

28 THE COURT: I'm sorry. We're getting some talking in
29 the background. It appears that somebody who's on
30 the -- who is linked by phone, or by MS Teams,
31 doesn't have their microphone muted and is
32 speaking. I apologize, Mr. Galati.

33 CNSSL R. GALATI: Okay.

34 THE COURT: Madam Registrar, can we mute that person?
35 Thank you.

36 CNSSL R. GALATI: And so [indiscernible]. So, what we
37 have here, Your Honour, Justice Ross, is, the
38 various plaintiffs are constitutionally
39 challenging, not just provisions but executive
40 actions and inactions with respect to the COVID
41 measures, as [indiscernible] with respect to
42 vaccines and coercive means to enforce vaccines,
43 contrary to voluntary consent, masking, lockdowns,
44 social distancing in gatherings and PCR tests.
45 Those are the five things that the plaintiffs take
46 constitutional issue with.

47 And so, they declare the COVID-19 pandemic

Submissions for Plaintiffs by Cnsl R. Galati

1 cannot be seen in isolation in the Province of
2 British Columbia, from the federal jurisdiction of
3 Canada, cannot be seen in isolation in Canada
4 [indiscernible] of the pandemic, and to the
5 advisory and the mandates put out by the World
6 Health Organization, a UN Agency funded by a
7 [indiscernible] private citizen, Mr. Gates and
8 [indiscernible] GAVI. Now, that's a
9 [indiscernible]. Now, I don't care about
10 [indiscernible] business. They can do that. But
11 then to say that it's a spurious conspiracy theory
12 to say, well, Mr. [indiscernible], who doesn't
13 have [indiscernible] of instruction as a
14 scientist, doctor, or vaccinologist, he has no
15 expertise whatsoever, is funding the
16 [indiscernible] agency that makes [indiscernible].
17 And that's a fact.

18 And then we have the other connections where
19 I, on behalf of my clients, be able to prove, on a
20 balance of probability, a civil conspiracy,
21 actionable [indiscernible]. Maybe not. That
22 doesn't mean you get to strike it [indiscernible].
23 It's not a [indiscernible]. I have pled the
24 actions and statements of the [indiscernible].
25 So, when Prime Minister Trudeau and Premier Horgan
26 [indiscernible] from Bill Gates' quote [as read
27 in]:

28
29 There is no going back to normal without the
30 vaccines.

31
32 So, am I imagining that? No. The Prime Minister
33 and the Premier are saying that and they're giving
34 [indiscernible]. It [indiscernible].
35 So, [indiscernible] doesn't examine the *Charter*
36 infringements inflicted upon [indiscernible].

37 Now, let's apply the general principles in
38 the COVID-19 context. As I've said to Your Honour
39 [indiscernible] vaccine mandates, masking,
40 [indiscernible] PCR testing. So, what I want to
41 now do is take you to the [indiscernible] --

42 THE COURT: I think, Mr. Galati, you have -- You
43 indicated there were five things and when I wrote
44 it down it was four. You've just repeated those.

45 CNSL R. GALATI: I understand.

46 THE COURT: You're just repeated them as four.

47 CNSL R. GALATI: Sure.

Submissions for Plaintiffs by Cnsl R. Galati

1 THE COURT: And I just want to make sure I have
2 everything that you're saying.
3 CNSL R. GALATI: Okay. [Indiscernible] I slipped on a
4 banana. The first one is vaccines and
5 [indiscernible] measures.
6 THE COURT: Yeah.
7 CNSL R. GALATI: For vaccines. That's one. The second
8 is masking.
9 THE COURT: Yes.
10 CNSL R. GALATI: The third is lockdowns, lockdowns,
11 business lockdowns [indiscernible]. The third is
12 social distancing and [indiscernible]. And the
13 other is the PCR testing.
14 Now, the various plaintiffs have personal
15 knowledge, personal interaction with all five
16 [indiscernible] take issue with. So,
17 [indiscernible] on the transit system viciously
18 assaulted my client 'cause she wasn't wearing a
19 mask, 'cause she had a perfectly legitimate and
20 reasonable exemption, when she gets assaulted,
21 [indiscernible] from a transit police officer.
22 So, that's [indiscernible], direct Your Honour to
23 [indiscernible] argument on whether or not this
24 relief is available. Well, paragraph 2
25 [indiscernible] and I say that that
26 [indiscernible] threats of the constitutional
27 language [indiscernible]. And often people who
28 are not versed in constitutional law, think of
29 judicial [indiscernible] as a procedural avenue of
30 an application for judicial review. Judicial
31 review is simply [indiscernible] a review of
32 government legislation and action that will
33 [indiscernible]. It's still judicial review.
34 Paragraph 6 I state [indiscernible] asking
35 the Supreme Court of Canada stating that the
36 [indiscernible]. I think the [indiscernible].
37 That case was abandoned [indiscernible]. And I
38 extract that at paragraph 7. Then the Supreme
39 Court of Canada also reiterated [indiscernible]
40 constitutionality of legislation has always been a
41 [indiscernible]. There's no such thing as an
42 [indiscernible] question where constitutional
43 [indiscernible] are being claimed. No such thing.
44 But over the page, with respect to the
45 [indiscernible] remedies [indiscernible] Supreme
46 Court of Canada. The first page is the
47 [indiscernible] *v. Attorney General of British*

Submissions for Plaintiffs by Cnsl R. Galati

1 *Columbia* case, a case that [indiscernible] the
2 Supreme Court of Canada [indiscernible] to issue
3 [indiscernible] taxes paid by Air Canada under the
4 provisions of [indiscernible] constitution. In
5 *Canada v. [indiscernible]*, if you recall that
6 case, CESIS agents [indiscernible] and the Supreme
7 Court of Canada just issued [indiscernible] under
8 s. 7 of the *Charter*.

9 Now, the idea of [indiscernible]. And then
10 [indiscernible] in 2003, the Supreme Court of
11 Canada [indiscernible]. Well, I say
12 [indiscernible] to my friends, although there's a
13 technical objection to it, is that there we are
14 really seeking damages from a *Charter*
15 infringement. The *City of Vancouver v.*
16 *indiscernible* case makes it very clear that those
17 damages belong [indiscernible] Her Majesty the
18 Queen. [Indiscernible] infringed the
19 constitution. [Indiscernible] what that case
20 really sets out is that [indiscernible] need not
21 be [indiscernible]. That's very clear, that the
22 Supreme Court of Canada and the B.C. Court of
23 Appeal in *Hunt v. Airy* [phonetic]. I'm sorry
24 [indiscernible].

25 So that evidence and the issue of applying
26 these general principles to COVID litigation.
27 [Indiscernible] the areas that my clients are
28 attacking. [Indiscernible] cases where the same
29 objections and challenges have actually succeeded.
30 And the first one is *United States Supreme Court*
31 case with respect to church closings
32 [indiscernible] Justice Ross. This is a case --
33 there were two cases, actually, [indiscernible]
34 the same thing, where Governor Cuomo -- Governor
35 Cuomo of New York closed down the churches. And
36 the judge [indiscernible]. And I just want to
37 read in two passages from that case. The first is
38 [indiscernible] of the [indiscernible] decision.
39 At the bottom of the page, the Court states
40 [indiscernible] [as read in]:

41
42 Members of this court are not [indiscernible]
43 experts [indiscernible]. But even in a
44 pandemic the constitution will not be
45 [indiscernible].

46
47 THE COURT: Sorry. I'm at -- sorry, Mr. Galati. I'm

Submissions for Plaintiffs by Cnsl R. Galati

1 trying to find -- are you in the *Gorsich*
2 [phonetic] *decision*?
3 CNSL R. GALATI: No, I'm in the [indiscernible] at page
4 5.
5 THE COURT: Okay. Thank you.
6 CNSL R. GALATI: It's the third page and it's got
7 [indiscernible]. You see it? It's the last
8 paragraph.
9 THE COURT: I see it.
10 CNSL R. GALATI: Right. Then I'm going to the *Gorsich*
11 decision [indiscernible].
12 THE COURT: Sorry. Which tab am I at now?
13 CNSL R. GALATI: [Indiscernible].
14 THE COURT: Right.
15 CNSL R. GALATI: [Indiscernible] page 2 of his
16 decision, which is a page in.
17 THE COURT: I have the *Gorish* [phonetic].
18 CNSL R. GALATI: Okay. So, page 2, at the top of the
19 page, he states [as read in]:
20
21 At the same time [indiscernible] passing
22 restrictions on certain businesses he
23 consider "essential". And it turns out that
24 businesses together are considered essential
25 [indiscernible] lawyers and insurance agents
26 are all essential, too.
27
28 And then Justice [indiscernible] has a very harsh
29 comment there and he says [indiscernible] at page,
30 at the end of this decision, which is at page 7 of
31 this decision we have this conclusion [as read
32 in]:
33
34 It is time, past time to make way for all the
35 pandemic versus [indiscernible] challenges.
36 It is [indiscernible] in which the
37 constitution formulates [indiscernible]
38 churches, playgrounds and malls.
39
40 [Indiscernible] of the Supreme Court is very
41 simple. Yeah, you can take whatever measures you
42 want, but they better be constitutional
43 [indiscernible].
44 The other [indiscernible] that actually digs
45 less deeply into the evidence is the very recent
46 decision of the Indiana Supreme Court, which is
47 [indiscernible]. [Indiscernible]. And at Tab 28

Submissions for Plaintiffs by Cnsl R. Galati

1 you have the recent [indiscernible] Supreme Court
2 decision that very clearly held two things.
3 Number one, mandatory vaccines or coercive
4 measures to try to force people to take vaccines.
5 [Indiscernible] which is indistinguishable from s.
6 7 [indiscernible] Supreme Court after this case.

7 Secondly, what the Indian Supreme Court also
8 decided, based on the scientific evidence that
9 [indiscernible] was because vaccinated people can
10 equally transmit and receive the COVID virus,
11 notwithstanding their vaccination, but to take
12 measures that discriminate as between the
13 vaccinated and non-vaccinated [indiscernible]
14 constitution. [Indiscernible] s. 7 of our
15 Charter.

16 So, [indiscernible] is, yeah, you can take
17 measures but you can't force everybody to get a
18 vaccine, nor to enforce the recent measures to do
19 so [indiscernible] health workers, as well as
20 basic [indiscernible]. If they're not vaccinated
21 they can't access certain things, like
22 [indiscernible]. [Indiscernible] constitutional
23 provisions that are indistinguishable from ours.
24 [Indiscernible].

25 THE COURT: Mr. Galati, do you have -- sorry for
26 interrupting. On the *Indiana Supreme Court* case,
27 do you have paragraphs that I should reference,
28 or --

29 CNSL R. GALATI: For sure. I'm going to read you some
30 [indiscernible] if you want to note them down,
31 paragraphs 23, 41, 54, 57, and their conclusions
32 are neatly packaged at paragraphs 89 to the end.
33 I'll take you to paragraph 23 of that decision.
34 They start their analysis by stating [as read in]:

35
36 There is no doubt That this court has held
37 that [indiscernible] judgment, but whatever
38 decision of the authority is in regard to
39 [indiscernible] are taken based on this other
40 case.

41
42 But then they say [as read in]:

43
44 However, this does not mean the courts have
45 to [indiscernible], keeping in mind all the
46 relevant facts [indiscernible].
47 They say [indiscernible]for their basic

Submissions for Plaintiffs by Cnsl R. Galati

1 motions of fairness, equality and
2 constitutional [indiscernible].
3

4 At paragraph 83 the Canadian Supreme Court
5 continues, and so, paragraph 41, the court states
6 at 41 [as read in]:
7

8 The court may [indiscernible] it is necessary
9 to consider whether the right to privacy of
10 individuals [indiscernible] public health.
11 [Indiscernible]. It is true that the
12 [indiscernible] individual. [Indiscernible]
13 by nature of the individual's rights to
14 privacy [indiscernible]. [Indiscernible].
15 [Indiscernible] right of individuals to
16 choose [indiscernible]. [Indiscernible]
17 based on access to federal [indiscernible]
18 and federal resources for unvaccinated
19 persons [indiscernible] vaccination and
20 [indiscernible]. [Indiscernible].
21

22 At paragraph 54 of the decision the court states
23 [as read in]:
24

25 In any event [indiscernible] we're not here
26 to be scientific or medical [indiscernible].
27

28 But then they say at paragraph 54 [indiscernible]
29 has taken notes -- has taken notes of scientific
30 and medical [indiscernible] and research findings
31 in putting together its policy [indiscernible]
32 vaccination of the [indiscernible] population.
33 Now, my clients [indiscernible] world renowned,
34 internationally recognized experts saying to the
35 defendants [indiscernible]. Hold your horses.
36 What you're doing is not right. And so, that
37 whole [indiscernible] to the defendants'
38 constitutional duty to consult. And this is a
39 document [indiscernible] s. 7 of the
40 [indiscernible] policy the government is under a
41 constitutional duty to consult above and beyond
42 [indiscernible] to consult. That's what the
43 Indian Supreme Court is saying here. And that's
44 why the pleading of the fact that so many
45 international experts [indiscernible] conspiracy
46 theories and purveyors of misinformation
47 [indiscernible].

Submissions for Plaintiffs by Cnsl R. Galati

1 Lastly, at paragraph 57 of that decision we
2 have the court saying [as read in]:
3

4 [Indiscernible] with respect to
5 [indiscernible]. All vaccinated people
6 [indiscernible].
7

8 The facts [indiscernible] pleaded in that case,
9 even though they filed in August. These facts
10 were [indiscernible]. [Indiscernible] that the
11 vaccinated [indiscernible] in the city despite
12 being vaccinated. [Indiscernible] access to
13 [indiscernible] care for someone who is not
14 vaccinated.

15 So, I'm going to continue on, but the point
16 I'm making here, Your Honour, with all these
17 cases, [indiscernible] it's a two and a half page
18 summary at paragraph 89, at the end of that
19 decision. How can my friends [indiscernible]
20 vaccine, vaccine [indiscernible]? How can they
21 sit there and say this case is bad beyond doubt
22 when the [indiscernible] is actually
23 [indiscernible] flagging the same thing as my
24 clients? Only on a flat Earth could they argue
25 [indiscernible]. So, with that, if I could direct
26 Your Honour to page 9 of my written argument? The
27 Ontario Court of Appeal in a case called *Flemming*
28 [phonetic] in 1991, under s. 7 of the *Charter*
29 said:
30

31 You cannot inject [indiscernible] patients
32 without their consent [indiscernible].
33

34 And I'll just make you, at Tab 33, you have the
35 Ontario Court of Appeal decision. I'll just read
36 you the headnotes and you can read the case if you
37 like. It's a unanimous decision, Tab 33, second
38 page, after the L. The paragraph starts with
39 common law.

40 THE COURT: Yes?

41 CNSL R. GALATI: At common law [indiscernible] unwanted
42 medical treatment. A patient, in anticipation of
43 circumstances where he or she may be unconscious
44 or otherwise incapacitated and wasn't able to
45 contemporaneously express his or her wishes
46 regarding a particular form of medical treatment,
47 [indiscernible]. [Indiscernible] instructions

Submissions for Plaintiffs by Cnsl R. Galati

1 even in emergency. These traditional common law
2 principles [indiscernible]. The common law right
3 to [indiscernible] what shall be done with
4 [indiscernible]. And then, the next paragraph
5 [indiscernible] [as read in]:
6

7 [Indiscernible] the appeal provisions of the
8 act manifestly [indiscernible] s. 7 of the
9 *Charter*. Real medical procedures are
10 [indiscernible] which are often accompanied
11 by severe and sometimes irreversible adverse
12 side effects. Certification [indiscernible]
13 COVID vaccines [indiscernible]. There are 38
14 pages published on Pfizer as to
15 [indiscernible] permanent damage caused by
16 the Pfizer vaccines. The constitutional
17 right to refuse any and all medical treatment
18 [indiscernible] informed consent, is a
19 constitutional right.
20

21 If I could turn Your Honour's attention to Tab 34
22 [indiscernible] you'll find the Supreme Court of
23 Canada decision of *Carter v. Canada*, an assisted
24 suicide case of 2015. And at paragraph 67 of that
25 decision the Supreme Court [indiscernible] that
26 endorsement [indiscernible], which I just read to
27 you, at paragraph 67 forward Chief Justice
28 McLaughlin states as follows:
29

30 The law has long protected [indiscernible] in
31 medical decision making.
32

33 And she cites *A.C. v. Manitoba Director of Child*
34 *and Family Services*. That's the case where she
35 sets out [indiscernible] policies [indiscernible]
36 consult. [Indiscernible] stated that this
37 [indiscernible]. [Indiscernible].
38 [Indiscernible] the patient's decision. It is
39 this same principle that is at work.

40 Some of us may not like this decision.
41 Some of us may just want to do [indiscernible] and
42 choose to make their own decisions as
43 anti-vaccers, racists, on and on. This is not
44 what our constitution mandates. This is not what
45 our Supreme Court requires of us. And whether our
46 Supreme Court has resoundingly accepted the
47 arguments and the claims that my clients are

Submissions for Plaintiffs by Cnsl R. Galati

1 putting forward. Now a couple of other great
2 cases before I break to [indiscernible] Mr.
3 Witten set straight. If I may refer you to Tab 30
4 of my book of authorities? Tab 30 is a case
5 [indiscernible] on constitution. Police officers.
6 [indiscernible] it's a request by the Attorney
7 General to dismiss - to dismiss it because it's
8 spurious and vexatious. The court dismissed that
9 request. At Tab 29 --
10 THE COURT: Sorry. Sorry. Just clarify. They
11 dismissed - there was an application to dismiss
12 and the way you described it, you said the court
13 dismissed. But they dismissed the application,
14 not your action; correct?
15 CNSL R. GALATI: They did. They dismissed the motion
16 to strike [indiscernible].
17 THE COURT: Thank you.
18 CNSL R. GALATI: And at Tab - at Tab 29, similar
19 [indiscernible] case, [indiscernible] a similar
20 request was made to strike it because it was
21 spurious and vexatious, and the Ontario Court said
22 no, [indiscernible].
23 So, the other two cases at paragraph 20 of my
24 written argument I cite your court's recent case
25 [indiscernible] versus Dr. Henry, this is only a
26 few weeks ago, that was an action to strike on
27 standing. And the Supreme Court of British
28 Columbia, at Tab 31, dismissed the motion to
29 strike as against the [indiscernible].
30 [indiscernible] the issues in this are complex.
31 [indiscernible].
32 THE COURT: Mr. Galati, something has happened to your
33 microphone.
34 CNSL R. GALATI: I'm sorry. Apparently I pushed the
35 wrong [indiscernible]. Give me the last thing you
36 heard, Your Honour.
37 THE COURT: You were referring me to Justice Colville's
38 decision in - at paragraph 20.
39 CNSL R. GALATI: Yeah.
40 THE COURT: And then, I didn't hear you when you went
41 on, I take it, to paragraph 21?
42 CNSL R. GALATI: No, I [indiscernible] issues are
43 complex. At paragraph 15 Justice Colville says
44 [as read in]:
45
46 [indiscernible].
47

Submissions for Plaintiffs by Cnsl R. Galati

1 And at paragraph 39 on the issue of
2 [indiscernible] [as read in]:
3

4 [Indiscernible].
5

6 And then the case I really wanted Your Honour to
7 read is the last case I'm going to refer you to.
8 It's an Ontario Superior Court decision contained
9 at Tab 82, which is a decision of Mr. Justice
10 [indiscernible] -- I'm sorry. And in
11 [indiscernible] is that contrary to Mr. Justice
12 [indiscernible], Mr. Justice [indiscernible], with
13 all due respect, has a lot of lofty statements
14 that [indiscernible]. [Indiscernible] we all know
15 that [indiscernible]. [Indiscernible] the
16 pandemic. We can take judicial notice that
17 there's a declared pandemic. We cannot take
18 judicial notice of what the pandemic is
19 [indiscernible], what the virus's competition is,
20 who it's affecting, whether it's killed more
21 people than not. We can't take judicial notice of
22 [indiscernible].

23 Mister Justice, the Ontario Superior Court
24 says exactly that. So, the reason this case is in
25 court is that the issue of judicial notice on what
26 the COVID-19 virus is, is not [indiscernible].
27 It's not a matter of judicial notice. It's not a
28 [indiscernible]. So, at page 1 of this Ontario
29 decision, the court starts off, and these are very
30 profound, judicious statements [indiscernible].
31 [Indiscernible]. The Ontario Court says [as read
32 in]:
33

34 When they become [indiscernible] to ask
35 questions especially in the court, and then
36 they become unfashionable for judges to
37 receive answers, especially when children's
38 lives are at stake.
39

40 This was a lengthy dispute over who was going to
41 decide vaccination or non-vaccination.
42 [indiscernible] should judges sit back
43 [indiscernible] evidence? And it's this
44 information, even [indiscernible] self-serving
45 tool [indiscernible]. I would say the same holds
46 for conspiracy theories. [Indiscernible] never
47 acceptable in our adversarial system.

Submissions for Plaintiffs by Cnsl R. Galati

1 [Indiscernible] wrong. I don't even have to
2 explain [indiscernible].
3 [Indiscernible] my friend, Mr. Witten, this
4 morning. [Indiscernible] conspiracy theories
5 without telling me why. Tell me why the
6 conspiracy theories and tell me why they're not
7 factually grounded, cause of action in civil
8 conspiracy. The Ontario Court then goes on to
9 say, at paragraph 10 [as read in]:
10
11 [Indiscernible] vaccination [indiscernible].
12
13 Now, answer honestly. [Indiscernible].
14 [Indiscernible]. Why don't these people just do
15 what the government tells them to do?
16 [Indiscernible] insists on evidence and that's my
17 great concern is my point for this court, the
18 statement of claim sets out statements of fact
19 and must be taken as proven. If you
20 [indiscernible] the positive action
21 [indiscernible]. Will you succeed? That's not an
22 issue today. That's for another day.
23 [Indiscernible] summary motion judgment
24 [indiscernible].
25 B, at paragraphs 17 to 20, the Ontario Court
26 says [indiscernible] [as read in]:
27
28 —
29 [Indiscernible]. In contrast, the
30 [indiscernible] consideration. A, the
31 [indiscernible]. It seems to be
32 [indiscernible]. [Indiscernible].
33
34 And then he goes to the affidavit evidence that is
35 provided. And then [indiscernible] and this is
36 important. [Indiscernible] says [as read in]:
37
38 [Indiscernible].
39
40 [Indiscernible] the substance of the
41 [indiscernible] conspiracy theory [indiscernible].
42 They just dropped them [indiscernible],
43 meaningless [indiscernible] against the action in
44 civil conspiracy. And [indiscernible] in its
45 entirety, but I want to take you now, because I
46 have half an hour left, I will do my best to
47 [indiscernible].

Submissions for Plaintiffs by Cnsl R. Galati

1 I want to take you now to what the Ontario
2 Court says about judicial notice. Starting at
3 page -- paragraph 65 of the decision, the court
4 says --
5 THE COURT: I'm sorry. Which case?
6 CNSL R. GALATI: The same case. The [indiscernible].
7 THE COURT: Yes.
8 CNSL R. GALATI: The Ontario judgment of Justice
9 [indiscernible] at paragraph 65. It's at
10 Tab 32, Your Honour.
11 THE COURT: I'm there.
12 CNSL R. GALATI: And it starts by saying that's really
13 what many of these things belong to, to consider
14 how the evidence [indiscernible] paid judicial
15 notice of the fact that other children should be
16 vaccinated, A, because [indiscernible] judicial
17 resource [indiscernible] that all children should
18 be vaccinated [indiscernible]. But even if that's
19 not [indiscernible].
20 And then he cites a case -- another case from
21 the Ontario Court [indiscernible] judicial notice.
22 And at paragraph 67, and this is what's important
23 here. My friends expressly and implicitly, as
24 every other government that's defended these
25 proceedings has said, hey, listen. Canada Health
26 says so. [Indiscernible] official said so.
27 [Indiscernible] evidence says so. You don't want
28 to read the internet when you're an expert and
29 consider it and respond to it.
30 Here's what the justice of the Ontario Court
31 had to say about that [as read in]:
32
33 Why should we be [indiscernible]. A, that
34 [indiscernible]. B, what about the
35 residential school system? In that case
36 [indiscernible]. [Indiscernible].
37 And [indiscernible] 1950's Canada Public
38 Health promotion of smoking for pregnant
39 women for their own health.
40
41 So, my clients do not have to worship the dictates
42 of Canada - of public health officials. Even if
43 they did, the constitution does not ban
44 [indiscernible] of civil servants and just happen
45 to hold a medical degree as a public health
46 officer, and [indiscernible] we do not have to
47 have a blind [indiscernible] of an approach where

Submissions for Plaintiffs by Cnsl R. Galati

1 [indiscernible] anti-vaccers [indiscernible]
2 conspiracy case. That's offensive beyond the
3 pale.

4 So, we end here in in decision in which the
5 court has not only substantively considered the
6 issues and the relief sought by my clients, but
7 they've actually prevailed. So, where should this
8 [indiscernible]. That's just how you're treating
9 [indiscernible] in Canada. [Indiscernible].
10 [Indiscernible]. That's getting better and better
11 [indiscernible]. [Indiscernible]. The issue here
12 is not the choice of COVID measures, per se. It's
13 their enforced infringement of constitutional
14 rights. That's what's at risk here.

15 So, I want to [indiscernible] my presentation
16 [indiscernible]. And you know, I'm
17 [indiscernible]. He says that international
18 treaty provisions are not [indiscernible] in
19 Canada. Well, in 1991 -- that's 23 years ago,
20 [indiscernible] in a Supreme Court case
21 [indiscernible] in a case called *Baker*.
22 [Indiscernible] that all domestic legislation has
23 to be [indiscernible] in accordance with
24 international treaty provisions, whether or not
25 they were ratified [indiscernible] in Canada. And
26 at that [indiscernible] in the case was the
27 conventional [indiscernible] which Canada had not
28 implemented in Canada and the Supreme Court of
29 Canada [indiscernible] best interests of the child
30 under that treaty to [indiscernible]. A few years
31 later another case [indiscernible]. A few years
32 later [indiscernible] same thing, the Supreme
33 Court of Canada in a case called *Hape*, H-a-p-e,
34 ruled that if an international [indiscernible]
35 that specific right, without [indiscernible] is
36 the minimum standard and protection that is to be
37 [indiscernible] of our *Charter*. So, what's my
38 friend talking about, that international law
39 provision were not [indiscernible]? They
40 [indiscernible] specific enough [indiscernible]
41 under *Hape*, as ruled by the Supreme Court of
42 Canada.

43 The international rule of [indiscernible] in
44 my statement of claim on behalf of my clients
45 [indiscernible]. Now, in this case
46 [indiscernible]. After that there's another
47 [indiscernible] case called *R. v. Perry*, where the

Submissions for Plaintiffs by Cnsl R. Galati

1 conduct of the RCMP [indiscernible]. I forget the
2 name but [indiscernible] where the Supreme Court
3 [indiscernible] extra territory.

4 So, when my friend talks about
5 [indiscernible] international provisions, I'm
6 afraid I have to state that this is
7 [indiscernible]. The other thing that my friend
8 talks about and confuses, he talks about how
9 [indiscernible] constitutional principles are
10 [indiscernible] litigation. I don't disagree with
11 that. But my friend, unfortunately, doesn't
12 understand the distinction between the unwritten
13 constitutional principle of constitutionalism
14 [indiscernible] unwritten recognized
15 constitutional [indiscernible] recognized prior to
16 the 1982 patriation.

17 The Supreme Court of Canada [indiscernible]
18 constitutional rights [indiscernible] as follows.
19 Sanctity and protection of the physical
20 [indiscernible]. Habeas Corpus protected what
21 [indiscernible]. We've seen that in
22 [indiscernible] in the 1950's. The Supreme Court
23 of Canada read in freedom of religions and free
24 speech as a [indiscernible] constitutional right
25 that the province [indiscernible]. So, I don't
26 know what my friend has a problem understanding
27 [indiscernible] unwritten constitutional rights,
28 not principles -- rights, by recognizing prior to
29 the *Charter*.

30 [Indiscernible] I may be [indiscernible] my
31 friend [indiscernible] material on constitutional
32 rights [indiscernible]. I have to take umbrage
33 with these submissions [indiscernible].
34 [Indiscernible]. Well, I own some of the most
35 seminal successful prosecution cases in the
36 country. None of that is relevant. What's
37 relevant is what my clients are asserting in this
38 claim and the prosecution of [indiscernible] of
39 their assertions. And this [indiscernible]
40 transgression should be the messenger and not
41 [indiscernible] Ontario Court in the case of
42 [indiscernible]. We have to look at the evidence
43 [indiscernible]. We can't just start -- Your
44 Honour, we can't just start the allegations
45 [indiscernible].

46 I apologize to the court [indiscernible]
47 reading the statement in, but -- and I'm sure that

Submissions for Plaintiffs by Cnsl R. Galati

1 if you read it you'll see [indiscernible] not for
2 any reason but to stay away from these allegations
3 [indiscernible]. It's all grounded in fact.
4 And even if you did want to [indiscernible]
5 they're right. [Indiscernible].

6 And I'm going to end with this, Your Honour.
7 Now, I -- listen -- I understand [indiscernible].
8 It's not very nice of comfortable. But the law
9 has never been about [indiscernible], especially
10 when it comes to constitutional. You know, my
11 friends [indiscernible] affidavit, [indiscernible]
12 client's website. We [indiscernible] as if I had
13 anything to do with it. [Indiscernible] publicity
14 of these issues [indiscernible]. I just need
15 you - I just need you to know, Justice Ross, I
16 filed this case on August 17th, 2021. My friends
17 [indiscernible]. We finally got the thing on
18 [indiscernible], and then my friends submitted
19 their motion to strike. That's fine.

20 So, they filed it in January, returnable
21 February 22nd, while Mr. Galati is in
22 [indiscernible]. It's not as if I [indiscernible]
23 at all. And so, as soon as I was sent home to
24 fully recover, [indiscernible] of March, this date
25 had been set [indiscernible]. I asked my friends
26 for their indulgence and they said no. They
27 didn't see [indiscernible]. Okay?
28 [Indiscernible].

29 So, [indiscernible] and sat on the case, is
30 out there. [Indiscernible]. And I say that with
31 all due respect. So what if my clients are
32 publicizing [indiscernible]? [Indiscernible] not
33 to make public statements about our case, and I
34 understand my friends' [indiscernible]. They
35 probably are, too. But I'm not [indiscernible]
36 professional conduct. Sometimes I [indiscernible]
37 efforts, if I don't publicize for my client when
38 there are vested issues of public interest. And
39 [indiscernible]. And let's remember
40 [indiscernible] did this [indiscernible]. Ms.
41 [indiscernible] did this while she successfully
42 petitioned the Supreme Court of Canada for
43 assisted suicide. Ms. Carter did that while she
44 successfully petitioned for assisted suicide.
45 Ms. [indiscernible] did this[indiscernible].
46 There is nothing wrong with the plaintiffs taking
47 issues of public interest. We're not in an army

Submissions for Plaintiffs by Cnsl R. Galati

1 here. The plaintiffs have rights to assert and
2 [indiscernible]. [Indiscernible] my friend, M.
3 Witten's sense of propriety? No.
4 [Indiscernible]. Like, what's it here for? You
5 know?

6 Okay. So, [indiscernible] notices of
7 liability. [Indiscernible]. And, yeah, they're
8 right. [Indiscernible] says you type in the name
9 Rocco Galati and this is what came up. A few
10 tweets [indiscernible] which I founded in November
11 of 2004 which [indiscernible]. It showed Rocco
12 Galati [indiscernible] over the lunch break,
13 757,000 recorded [indiscernible] hits.
14 [Indiscernible] this type of evidence is really -
15 there's no place for this type of evidence.
16 This affidavit should be struck. It's
17 inadmissible. This doesn't happen and it's
18 really, with all due respect, it's offensive to me
19 [indiscernible]. I've litigated thousands of
20 cases successfully. And I have to put up with
21 this kind of aspersion in open court?

22 I'm sorry. You know, I'm not going to demand
23 Mr. Witten give me an apology, [indiscernible]
24 this type of [indiscernible] aspersion. Okay. I
25 have [indiscernible]. So, nothing to do with the
26 case before me [indiscernible]. But I've got to
27 tell you [indiscernible] and I had seventeen
28 federal [indiscernible] judges [indiscernible]
29 legally [indiscernible].

30 You know, sensationalizing the messenger does
31 not mean the messenger ain't right. And so,
32 [indiscernible]. This case has merit. The facts
33 really [indiscernible]. Now, I think Your Honour
34 [indiscernible]. I can accept that.

35 So, if you decide [indiscernible] in the
36 court, it should not be [indiscernible]. It
37 should be [indiscernible] on behalf of my client.
38 And with that, I thank you for your patience in
39 listening to me. If I sound [indiscernible] I'm
40 only concerned [indiscernible]. You know? And
41 thank you very much for [indiscernible].

42 THE COURT: Thank you, Mr. Galati.

43 I note the time. We normally take a
44 fifteen-minute break at 3:00 o'clock. We started
45 early. So, we'll take a fifteen-minute break now.

46 Mr. Witten, do you think that you'll -- the
47 applicants will be able to complete any reply by

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1 4:00 o'clock?
2 CNSL M. WITTEN: Justice Ross, I don't have anything to
3 say in reply. I'm content to rest on my
4 submissions in the main. I'm not sure about the
5 others.
6 THE COURT: I'll go party by party.
7 CNSL A. GATTI: No reply [indiscernible] Canada.
8 THE COURT: Thank you, Ms. Gatti.
9 Mr. Wedge?
10 CNAL T. WEDGE: Mr. Justice, no reply for
11 [indiscernible] Health Authorities.
12 THE COURT: Thank you, Mr. Wedge.
13 Mr. Delaney?
14 CNSL T. DELANEY: No reply.
15 THE COURT: And finally, [indiscernible], it's going to
16 be odd for you to talk now.
17 UNIDENTIFIED SPEAKER: No reply.
18 THE COURT: All right. Thank you very much. We are
19 adjourned.
20 CNSL R. GALATI: [Indiscernible]. Your Honour, I'm
21 sorry. In terms of housekeeping, with Mr. Wedge,
22 I promised I would [indiscernible].
23 CNAL T. WEDGE: [Indiscernible].
24 THE COURT: All right. I will reserve and we are
25 adjourned.
26
27 (VIDEOCONFERENCE CONCLUDED)
28
29 (PROCEEDINGS ADJOURNED AWAITING DECISION)
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32 TRANSCRIBER: M. Pedersen
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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.



M. Pedersen
Court Transcriber