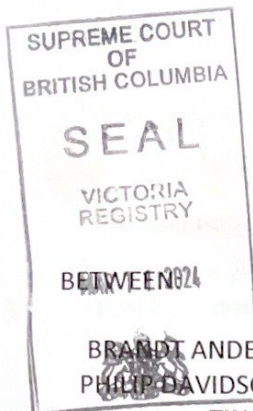


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Court File No.:
BCSC Registry: Victoria



IN THE SUPREME COURT OF BRITISH COLUMBIA

BRANDT ANDERSON, BRIANA HINDS, CORINNE FAIR, KRISTINA ANTONIC, MONICA ZULUAGA,
PHILIP DAVIDSON, SANDIE CARTIE, SHEENA MARSHALL, SHIRLEY BERG, TAMMY LEE BUDDECKE,
TINA JOHNSON, ZORAN BOSKOVIC, ZORICA BOSKOVIC, MAURICE TRUDEL

PLAINTIFF

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must:

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must:

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

Claim of the Plaintiff

Part 1 – Statement of Facts

The Parties

1. The Plaintiff Brandt Anderson (“Anderson”) is a 41-year-old residing in Lethbridge Alberta. Anderson worked for British Columbia Public Service for 11 years and, was serving as the Assistant Deputy Warden in the Adult Custody Division, BC Corrections. Anderson maintained an exemplary and unblemished employment record until he was placed on leave without pay November 23, 2021, and subsequently terminated March 11, 2022.
2. The Plaintiff Briean Hinds (“Hinds”) is a 41-year-old residing in British Columbia. She worked for British Columbia Public Service for 5 years and was serving as an HR Analyst in the BC Public Service Agency. Hinds maintained an exemplary and unblemished employment record until she was placed on leave without pay December 3, 2021, and subsequently terminated July 13, 2022.
3. The Plaintiff Corinne Fair (“Fair”) is a 55-year-old living in residing in British Columbia. She worked for British Columbia Public Service for 12 years and was serving as a Government Agent in the Ministry of Citizens’ Services. Fair maintained an exemplary and unblemished employment record until she was placed on a leave without pay November 25, 2021, and subsequently terminated on September 28, 2022.

4. The Plaintiff Kristina Antonic (“Antonic”) is a 40-year-old living in residing in British Columbia. She worked for British Columbia Public Service for 3 years and was serving as a Team Lead in the Ministry of Attorney General. Antonic maintained an exemplary and unblemished employment record until she was placed on a leave without pay on February 15, 2022, and subsequently terminated on September 27, 2022.
5. The Plaintiff Monica Zuluaga (“Zuluaga”) is a 41-year-old living residing in British Columbia. She worked for British Columbia Public Service for 1.5 years and was serving as a Talent Development Assistant in the Office of the Auditor General. Zuluaga maintained an exemplary and unblemished employment record until she was placed on leave without pay on November 24, 2021, and subsequently terminated on October 2, 2022.
6. The Plaintiff, Philip Davidson (“Davidson”) is a 41-year-old living in Victoria BC. He worked for British Columbia Public Service for 14 years and was serving as a Director, Policy and Stakeholder Relations in the Ministry of Advanced Education and Skills Training. Davidson maintained an exemplary and unblemished employment record until he was placed on leave without pay on November 23, 2021, and subsequently terminated on June 24, 2022.
7. The Plaintiff Sandie Cartie (“Cartie”) is a 61-year-old living in residing in British Columbia. She worked for British Columbia Public Service for 30.5 years and was serving as a Business Manager in the Ministry of Forests, Lands, Natural Resource Operations and Rural Development. Cartie maintained an exemplary and unblemished employment record until she was placed on Leave without pay March 17, 2022, and constructively dismissed on April 1, 2022.
8. The Plaintiff Sheena Marshall (“Marshall”) is a 40-year-old living residing in British Columbia. She worked for British Columbia Public Service for 14 years and was serving as a Director, People and Workplace Strategies in the Ministry of Forests. Marshall maintained an exemplary and unblemished employment record until she was placed on leave without pay on January 11, 2022, and subsequently terminated on July 8, 2022.
9. The Plaintiff Shirley Berg (“Berg”) is a 61-year-old residing in British Columbia. She worked for British Columbia Public Service for 28 years and was serving as a Finance Manager in the North

area in the Ministry of Forests, Lands, Natural Resource Operations and Rural Development. Berg maintained an exemplary and unblemished employment record until she was placed on leave without pay January 25, 2022, and subsequently terminated on September 23, 2022.

10. The Plaintiff Tammy Lee Buddecke (“Buddecke”) is a 55-year-old residing in British Columbia. She worked for British Columbia Public Service for 4 years and was serving as a Recruitment Support Worker/Recruiter. Buddecke maintained an exemplary and unblemished employment record until she was placed on leave without pay November 23, 2021, and subsequently terminated on March 14, 2022.
11. The Plaintiff Tina Johnson (“Johnson”) is a 58-year-old residing in British Columbia. She worked for British Columbia Public Service for 36 years and was serving as a Justice of the Peace, New Westminster Law Courts in the Ministry of the Attorney General. Johnson maintained an exemplary and unblemished employment record until she was placed on Leave without Pay November 23, 2021, and subsequently constructively dismissed on January 31, 2022.
12. The Plaintiff, Zoran Boskovic (“Boskovic”) is a 60-year-old residing in British Columbia. He worked for British Columbia Public Service for 26 years and was serving as a Senior Manager, Major Projects in the Ministry of Forests, Lands, Natural Resource Operations and Rural Development /Mountain Resorts Branch. Boskovic maintained an exemplary and unblemished employment record until he was placed on leave without pay January 18, 2022, and subsequently terminated on June 20, 2022.
13. The Plaintiff Zorica Boskovic (“Zorica”) is a 59-year-old residing in British Columbia. She worked for British Columbia Public Service for 24 years and was serving as a Resource Manager in the Ministry of Forests, Lands, Natural Resource Operations and Rural Development. Zorica maintained an exemplary and unblemished employment record until she was placed on leave without pay January 18, 2022, and subsequently terminated on June 20, 2022.
14. The Plaintiff, Maurice Trudel (“Trudel”) is a 50-year-old residing in British Columbia. He worked for British Columbia Public Service for 4.5 years and was serving as a Program Lead for the Indigenous Youth Internship Program and maintained an exemplary and unblemished

employment record until he was placed on leave without pay November 23, 2021, and subsequently terminated on March 14, 2022.

15. The Defendant, His Majesty the King in right of the Province of British Columbia is the designation of the government of the Province of British Columbia in proceedings against it, pursuant to the Crown Proceeding Act, R.S.B.C. 1996, c. 89 and has an address for service of the Attorney General, Ministry of Attorney General, PO Box 9290 Stn Prov Govt, Victoria, British Columbia (the “Provincial Government”).

Background

16. On November 1, 2021, the Defendant implemented Policy 25: COVID-19 Vaccination Policy (the “Policy”).

17. The stated objective of the Policy is:

“The BC Public Service (BCPS) is committed to the health, safety, and wellbeing of employees. In accordance with information and data provided by British Columbia’s Provincial Health Office (PHO), being fully vaccinated against COVID-19 is the most effective way to safeguard employee health and **reduce the risk of transmission** [emphasis added]”.

18. The Policy sets out, *inter alia*, the following details:

- a. The Policy applies to any government organization with BCPS employees hired under the *Public Service Act*;
- b. The Policy applies to all employees working for BCPS, regardless of whether the employees work remotely or onsite;
- c. New employees would be required to be vaccinated as a condition of their employment, effective November 8, 2021; and
- d. Employees who did not have at least one dose of a Health Canada approved COVID-19 vaccine by November 22, 2021, or those who did not disclose their vaccination status to their manager or supervisor by that date, would be placed on an unpaid leave of absence,

effectively suspension, on November 23, 2021, until they show proof of vaccination. The unpaid leave will last for three months, at which time the employee's employment may be terminated.

19. The Policy sets out the two possible categories for exemption from the vaccination: medical and religious.
20. The Policy does not have any exemptions relating to freedom of conscience, security of persons, or medical privacy.
21. On November 19, 2021, The Defendant issued Order in Council No. 627/2021 ("Order 627") enacting the *Public Service COVID-19 Vaccination Regulation* (the "*Regulation*").
22. This *Regulation* was issued the last business day before all BCPS employees had to be vaccinated or be placed on unpaid leave.
23. The *Regulation* sets out the following details:
 - a. In this *Regulation*, "COVID-19 Vaccination Policy" means the policy entitled "Human Resources Policy 25 – COVID-19 Vaccination" that was issued under section 5 (4) of the *Public Service Act* on November 1, 2021;
 - b. the COVID-19 Vaccination Policy is a term and condition of employment for employees; and,
 - c. If an employee is terminated under the COVID-19 Vaccination Policy, the employee is deemed to have been dismissed for just cause.
24. The Plaintiffs were employed with the British Columbia Public Service and carried out their positions in a variety of ministries within the BCPS.
25. The Plaintiffs held various roles with the BCPS during their time of employment, with each of their most recent positions held included:
 - a. Assistant Deputy Warden;
 - b. HR Analyst;
 - c. Government Agent;

- d. Team Lead;
- e. Talent Development Assistant;
- f. Director, Policy and Stakeholder Relations;
- g. Business Manager;
- h. Director, People and Workplace Strategies;
- i. Finance Manager, North Area;
- j. Recruitment Support Worker;
- k. Justice of the Peace;
- l. Senior Manager, Major Projects;
- m. Resource Manager; and
- n. Program Lead.

26. The Plaintiffs faithfully and diligently performed their duties on behalf of the defendant, and throughout their employment with the defendant the plaintiffs proved themselves to be valuable and reliable employees.

27. The Plaintiffs were all placed on leave without pay and terminated pursuant to the Policy and *Regulation*.

Part 2: RELIEF SOUGHT

28. The Plaintiffs claim as follows:

- a. Damages pursuant to the *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, s. 24(1)*. (“the Charter”).
- b. General damages for wrongful dismissal and breach of contract.
- c. Aggravated and Punitive damages.

- d. Special damages;
- e. Costs;
- f. Pre and Post Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- g. Such further and other relief as to this Court may seem just.

Part 3: Legal Basis:

Breach of Contract / Wrongful Dismissal

29. The Plaintiffs plead that being placed on leave without pay and dismissed from employment was a breach of their employment contract and constituted wrongful dismissal as:

- a. The objective of the Policy in “preventing transmission”, by means of vaccination, was unreasonable and unsustainable given the transmissibility, by way of evading the current vaccine, of the prevalent COVID-19 variant;
- b. The Policy was ambiguous on its face. The Policy was not permanent but rather drafted as temporary in nature with an end date tied to the ambiguity of government consensus;
- c. The Policy did not allow for a reasonable accommodation, such as telework arrangements, which limits an employee’s direct in-person contacts, and have proven to limit viral transmission. However, the same accommodation is available to vaccinated employees of the BCPS;
- d. The Policy fundamentally altered the Contract, *inter alia*, creating a penalty for non-compliance that summarily placed the Plaintiffs on unpaid leave;
- e. The Policy though its mandate created an unreasonable risk to the Plaintiffs safety;
- f. The penalty for breach of the Policy was not reasonable and objectively proportionate to the seriousness of the employee’s alleged misconduct;
- g. The Regulation unilaterally changed the Plaintiffs contractual agreement, without consent or consideration, and the contractual right to procedural fairness in a just

cause termination was eliminated, with a summary termination process left in its place;

- h. The Plaintiffs employment relationship did not include any terms allowing the Defendants to require The Plaintiffs to submit to, or conform with, any experimental medical procedures not agreed upon at the time of employment;
- i. The Plaintiff's employment relationship did not include any terms allowing the Defendant to require the Plaintiff's to communicate private medical information to the Defendant; and,
- j. The Plaintiff's employment relationship did not include any terms allowing the Defendant to summarily terminate the Plaintiff's based on their refusal to be subjected to a medical procedure which failed to undergo the proper clinical and safety trials and testing prior to public use.

Breach of the *Charter of Rights and Freedoms*

30. The Plaintiffs plead that the Policy, Regulation, and ensuing leave without pay, and termination of employment infringed on their rights under s.2a and s.7 of the Charter in a manner that does not accord with the principles of fundamental justice and cannot be justified pursuant to the criteria of s. 1 of the Charter as:

- a. The Policy and Regulation were not minimally impairing and there was no proportionality between the deleterious and salutary effects of the Policy and Regulation with the objectives of the Defendant;
- b. The Policy and Regulation imposed significant and unsubstantiated consequences for exercising their freedom of conscience under s.2a of the Charter, by choosing not to undergo a medical procedure, by prohibiting them from carrying out their duties, and prohibiting them from accessing BCPS property or sanctioned events which led to significant economic deprivation and harm;
- c. The Policy and *Regulation* were overly board, arbitrary, and grossly disproportionate and

the penalty imposed by non-compliance, had a specific coercive and deleterious effect on the Plaintiffs attempting to prevent them from making fundamental personal choices in mandating a medical procedure which, had serious and unknown risks to their health and welfare resulting in a substantive infringement on their rights under s.7 of the Charter.

31. The Plaintiffs plead that the Charter damages are a just and appropriate remedy in this case to vindicate rights, deter conduct, and achieve the objective of compensation.

Aggravated and Punitive Damages

32. Further, the Plaintiffs plead that Defendant has inflicted mental and emotional distress upon the Plaintiffs by engaging in conduct towards the Plaintiffs:

- a. that constitutes conduct that is flagrant and outrageous;
- b. that was calculated to produce harm and produce the consequences that flowed from the Policy and *Regulation*; and,
- c. that resulted in injury to the Plaintiffs.

33. The conduct of the Defendant demonstrates a wanton, high-handed and callous disregard for the interests of the Plaintiffs. This conduct merits an award of aggravated and punitive damages.

Plaintiff's address for service: c/o Umar A. Sheikh
Umar Sheikh Personal Law Corporation
PO Box 24062 Broadmead RPO
Victoria BC V8X 0B2

Fax number address for service (if any):

E-mail address for service (if any): usheikh@sheikhlaw.ca
Place of trial: Victoria, BC

The address of the registry is: 850 Burdett Avenue
Victoria, BC V8W 1B4

Date: March 11, 2024

Umar A. Sheikh

Signature of Plaintiff

Lawyer for Plaintiffs

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the Court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a List of Documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This is an action for wrongful dismissal and breach of contract, and infringement of Charter rights under s. 2a and s. 7.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law

- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4: ENACTMENTS:

- Builders Lien Act
- Divorce Act
- Family Relations Act
- Insurance (Motor Vehicle) Act
- Insurance (Vehicle) Act
- Motor Vehicle Act
- Occupiers Liability Act
- Supreme Court Act
- Wills Variation Act

OR

[description]