

Overview of UHCWBC and BCPSEF Class Action Certification Hearings

Introduction

This overview provides a clear and simple summary of the certification hearings for two proposed class actions:

- **UHCWBC (United Health Care Workers of British Columbia):** Representing unionized healthcare workers.
- **BCPSEF (BCPS Employees for Freedom):** Representing unionized public sector employees.

Both groups are challenging the B.C. government's COVID-19 vaccine mandates introduced in Fall 2021. These mandates required workers to get vaccinated or disclose their vaccination status, leading to unpaid leave or termination for those who didn't comply. The lawsuits claim this violated workers' rights, including freedom of association under the Charter of Rights and Freedoms (Section 2(d)), privacy rights, and involved misuse of public office by the Provincial Health Officer (PHO), Dr. Bonnie Henry.

The hearings were to decide if these can proceed as class actions (group lawsuits) rather than individual cases. This would allow affected workers to join together for efficiency and shared costs. The hearings took place in two parts:

- **Part 1:** April 28 to May 2, 2025 (5 days).
- **Part 2:** December 1 to December 12, 2025 (10 days).

The cases were heard together in B.C. Supreme Court in Vancouver, presided over by Justice Emily Burke. Notes are based on public updates from BCPSEF. The decision on certification is still pending as of January 2026.

Key Claims in the Lawsuits

- **Breach of Employment Contracts:** The government and PHO allegedly interfered with workers' contracts by imposing new rules without proper consultation.
- **Charter Rights Violation (Section 2(d)):** Workers' right to freedom of association was infringed because the mandates changed employment terms without involving unions.
- **Misfeasance in Public Office:** The PHO acted in bad faith by issuing orders based on claims that vaccines prevented transmission, despite evidence suggesting otherwise.
- **Breach of Privacy:** Requiring disclosure of vaccination status violated privacy laws.
- **Inducement to Breach Contracts (Healthcare Workers Only):** The PHO's orders forced employers to bar unvaccinated workers, breaking contracts.

Workers like representative plaintiffs Ferguson, Perepolkin (healthcare), and Baldwin (B.C. government employees) shared stories of job loss, financial hardship, and emotional harm.

Part 1: April-May 2025 Hearings (Days 1-5)

These days focused on the plaintiffs' (workers') arguments and evidence. The goal was to show why the cases should be certified as class actions.

Day 1 (April 28)

The hearings began with an overview of the cases. Plaintiffs' lawyer Umar Sheikh explained how healthcare and public sector workers went from being praised as heroes during COVID-19 to facing mandates that led to job loss. He argued the court has the right to hear the case, despite union involvement, because the mandates were government actions that changed employment terms. The PHO's orders claimed unvaccinated workers were a health risk, but evidence suggested vaccines didn't fully prevent infection or transmission.

Day 2 (April 29)

Focus shifted to the PHO's orders and worker stories. The lawyer reviewed evidence that mandates weren't in collective agreements (union contracts). Representative plaintiffs Ferguson and Perepolkin (healthcare workers) described being placed on unpaid leave and terminated. Their unions filed grievances, but arbitrators ruled the terminations were due to the PHO orders, not employer fault.

Day 3 (April 30)

The day centered on expert evidence from Alan Cassels, a pharmaceutical policy researcher. The government objected, saying he's not qualified as a medical expert. The plaintiffs argued Cassels meets the legal test for experts: his work reviews drug data and regulatory documents. He analyzed vaccine product info and found no claims that they prevented transmission, yet the government mandated them for that reason.

Day 4 (May 1)

More on Cassels' evidence, then focus on B.C. government employee representative plaintiff Jason Baldwin. He was a compliance analyst for the Ministry of Finance placed on unpaid leave and terminated for not disclosing his status. The mandates allowed no exemptions for beliefs or remote work. His union refused to challenge the policy in court, dropping his grievances. Baldwin filed a complaint against the union, but it was dismissed.

Day 5 (May 2)

The plaintiffs wrapped up by explaining class action requirements under B.C. law:

1. Valid legal claims.
2. Identifiable group.
3. Common issues.
4. Class action is best.
5. Suitable representatives.

They argued the mandates weren't supported by science on transmission prevention and were done in bad faith. Evidence from the government was seen as irrelevant at this stage, which is about procedure, not the full merits.

The hearings paused here, with more dates set for December 2025.

Part 2: December 2025 Hearings (Days 6-15)

These days included more plaintiffs' arguments, then the defendants' (government and PHO) responses, and final replies.

Days 6-8 (December 1-3): Plaintiffs' Continued Arguments

- Summarized why mandates breached contracts, Charter rights, and privacy.
- Argued the PHO lacked good faith, knowing vaccines didn't stop transmission.
- Explained class actions can include groups with similar harms, even if not identical.
- Noted unions failed to fully challenge mandates, making court the only option.
- Outlined a litigation plan, including how to manage claims and communicate with members.
- Emphasized class actions are efficient and promote access to justice.

Days 9-13 (December 4-10): Defendants' Arguments

The government sought to dismiss the cases, arguing:

- No one was truly "mandated" to vaccinate—they could choose not to and face consequences.
- Issues should go through unions and arbitration, not court (abuse of process).
- No valid claims for misuse of office or privacy breaches.
- Cassels' evidence is inadmissible as he's not a virus expert.
- Classes are too broad, vague, or overlapping, with no common issues.
- Individual differences (e.g., some got exemptions) make class action unsuitable.
- PHO has legal immunity unless proven bad faith.

They presented their own expert on vaccine efficacy and reviewed the health system's structure.

Days 14-15 (December 11-12): Plaintiffs' Replies

- Countered that court has jurisdiction because mandates created new terms outside union agreements.
- Argued classes are identifiable by objective facts (e.g., subject to orders leading to harm).
- Over-inclusiveness isn't a barrier; all affected by mandates share issues.
- Common questions (e.g., was the PHO's action lawful?) can be decided together, with individual damages later.
- Privacy and Charter claims apply broadly, not just to terminated workers.
- Class action is preferable for efficiency over hundreds of separate cases.

The hearings ended with a procedural dispute over a summary document, which the judge allowed orally.

Current Status

The judge is now reviewing everything to decide on certification. If approved, the cases proceed to trial as class actions. If not, appeals may follow. This fight highlights workers' struggles against mandates and seeks accountability for alleged rights violations. Updates will come as available.