From: David Dickson
Sent: March 11, 2024 2:08 PM
To: Tamara@RebelNews.com
Subject: Carrie Sakamoto et al. - CONFIDENTIAL
Importance: High
Sensitivity: Confidential

As the Senior Editor for this story (stating with the original filing last year and the 'new' late (beyond the two-year limitations period) filing recently, maybe you could answer some of the following questions for me. Note I have added some additional documents for context.

I have posted this online, but I have received no reply.
@RebelNewsOnline, @ezralevant I have some questions.

The government (and all involved) need to be held accountable for what they have done (and continue to do i.e. https://dksdata.com/Care). However, this has to be done properly and NOT in a way that takes advantage of those already suffering especially when challenges appear designed to fail AGAIN.

@EvaChipiuk named CBC and the Canadian Health Minister as being the ones who persuaded Carrie to take the shots. I called Eva out on that last year. She has blocked me as a result. Now Eva has deleted the original SoC as the details in it will destroy the current claim. Do they think the government and courts are so stupid that they will forget the original court filings and postings on Social Media?

Issues outlined her to Eva in July 2023
https://dksdata.com/Court/Eva.pdf

Original SoC (backup) - read the full claim.
https://web.archive.org/web/20240304230532/https://empoweredcanadians.ca/wp-content/uploads/2023/06/Statement-of-Claim-Amended.pdf

Now we have Jeff Rath saying it was Deena Hinshaw who persuaded Carrie to take the shots. From the two filings alone, the lawyers appear to have compromised her case.
Why are you not asking about that?

New amended SoC.
https://rathandcompany.com/class-action-documents/

As Janssen has been added to the claim.. why did Rath and Eva not name @ABDanielleSmith? She was pushing Janssen harder than anyone in 2021.
https://x.com/dksdata/status/1764814721310654533

And what about the XBB shots that were pushed hard recently through government bribes to pharmacies?
https://dksdata.com/BenefactBulletins

And while we are talking about Alberta Lawyers and Rebel News. Why have you ignored requests for comment on the GWS/TDF tax assessment and over $400K in overbilling?
https://x.com/dksdata/status/1759636487983841669
https://x.com/dksdata/status/1758560557043495234

What about $8.5 million by Rath & Company?
https://courtreportcanada.substack.com/p/alberta-law-firm-owes-first-nation

And what about the other claim based on Ingram?

https://x.com/dksdata/status/1687669835185217537
https://dksdata.com/Court/Ingram/Ingram-Nowandthen.pdf

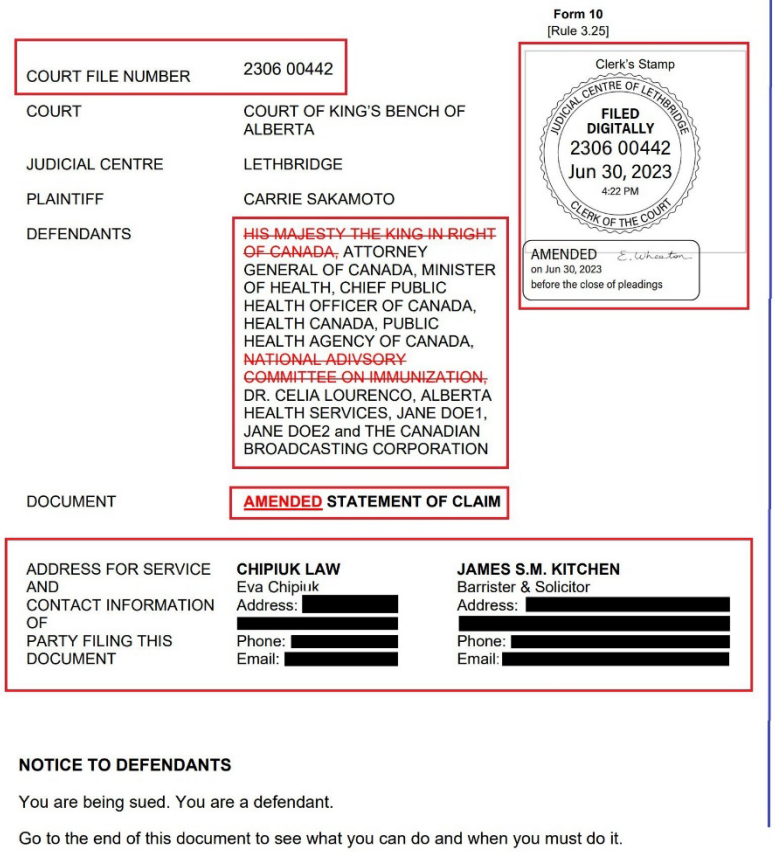
What about the clear deliberate cover-ups in Alberta?
https://x.com/dksdata/status/1761958454359380303
https://x.com/dksdata/status/1755276621181862205

Where is the investigative journalism at Rebel News?

Maybe start here (then again you have had all of this sent directly to you in the last four years):
https://avoidabledeathawareness.com
https://dksdata.com/AlbertaDead#COMMUNICATIONS

https://x.com/dksdata/status/1767224492357513431?s=20

https://empoweredcanadians.ca/wp-content/uploads/2023/06/Statement-of-Claim-Amended.pdf



Form 10
[Rule 3.25]

COURT FILE NUMBER	2306 00442
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	LETHBRIDGE
PLAINTIFF	CARRIE SAKAMOTO
DEFENDANTS	~~HIS MAJESTY THE KING IN RIGHT OF CANADA,~~ ATTORNEY GENERAL OF CANADA, MINISTER OF HEALTH, CHIEF PUBLIC HEALTH OFFICER OF CANADA, HEALTH CANADA, PUBLIC HEALTH AGENCY OF CANADA, ~~NATIONAL ADIVSORY COMMITTEE ON IMMUNIZATION,~~ DR. CELIA LOURENCO, ALBERTA HEALTH SERVICES, JANE DOE1, JANE DOE2 and THE CANADIAN BROADCASTING CORPORATION
DOCUMENT	**AMENDED STATEMENT OF CLAIM**

Clerk's Stamp
JUDICIAL CENTRE OF LETHBRIDGE
FILED DIGITALLY
2306 00442
Jun 30, 2023
4:22 PM
CLERK OF THE COURT
AMENDED
on Jun 30, 2023
before the close of pleadings

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**CHIPIUK LAW** Eva Chipiuk Address: [redacted] Phone: [redacted] Email: [redacted]	**JAMES S.M. KITCHEN** Barrister & Solicitor Address: [redacted] Phone: [redacted] Email: [redacted]

NOTICE TO DEFENDANTS

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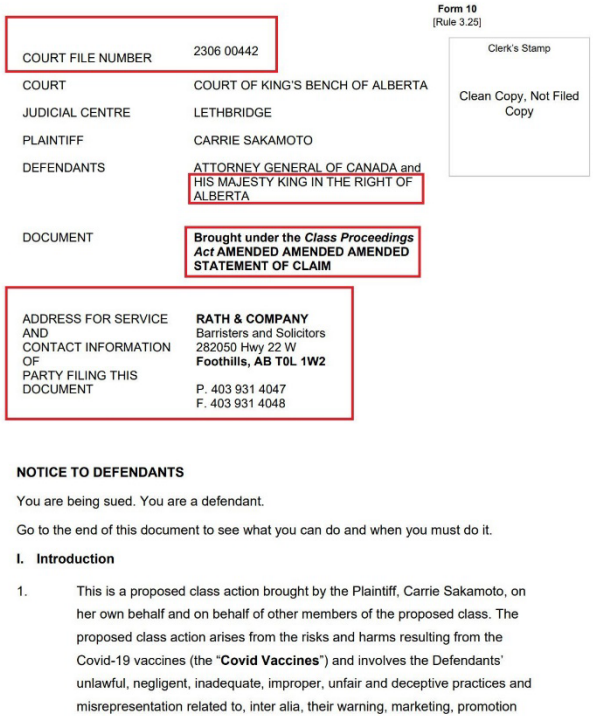
https://rathandcompany.com/class-action-documents/



Form 10
[Rule 3.25]

Clerk's Stamp
Clean Copy, Not Filed Copy

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PLAINTIFF	CARRIE SAKAMOTO
DEFENDANTS	ATTORNEY GENERAL OF CANADA and HIS MAJESTY KING IN THE RIGHT OF ALBERTA
DOCUMENT	**Brought under the *Class Proceedings Act* AMENDED AMENDED AMENDED STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**RATH & COMPANY** Barristers and Solicitors 282050 Hwy 22 W **Foothills, AB T0L 1W2** P. 403 931 4047 F. 403 931 4048

NOTICE TO DEFENDANTS

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I. Introduction

1. This is a proposed class action brought by the Plaintiff, Carrie Sakamoto, on her own behalf and on behalf of other members of the proposed class. The proposed class action arises from the risks and harms resulting from the Covid-19 vaccines (the "**Covid Vaccines**") and involves the Defendants' unlawful, negligent, inadequate, improper, unfair and deceptive practices and misrepresentation related to, inter alia, their warning, marketing, promotion

David

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my Linked in profile Microsoft Partner

"The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis."
Dante Alighieri
"So whoever knows the right thing to do and fails to do it, for him it is sin."
James 4:17

Some rules to live by:
Always do the best you can by your family.
Go to work every day.
Always speak your mind.
Never hurt anyone that doesn't deserve it.
And never take anything from the bad guys.
(Mel Gibson: Edge of Darkness 2010)

https://avoidabledeathawareness.com

Form 10
[Rule 3.25]

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JUDICIAL CENTRE OF LETHBRIDGE
FILED DIGITALLY
2306 00442
Jun 30, 2023
4:22 PM
CLERK OF THE COURT

AMENDED E. Wheaton
on Jun 30, 2023
before the close of pleadings

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**CHIPIUK LAW** Eva Chipiuk Address: [redacted] Phone: [redacted] Email: [redacted]	**JAMES S.M. KITCHEN** Barrister & Solicitor Address: [redacted] Phone: [redacted] Email: [redacted]

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I. Introduction

1. The Plaintiff, Carrie Sakamoto, suffered permanent, significant physical, psychological, and emotional harms, and other damages, after taking a second Covid-19 ("Covid") vaccine.

2. This claim arises in relation to damages suffered by the Plaintiff because of the Minister of Health's, and its agents and agencies (collectively the "Minister of Health") derelict approval and the Defendants' coordinated misinformation campaign in respect of the Covid vaccines which deliberately interfered with the Plaintiff's ability to exercise her right to informed consent to medical treatment.

3. The Minister of Health has a duty to ensure that the therapeutic products approved for use in Canada are safe and effective. The Minister of Health hastily altered the statutory vaccine approval under the *Food and Drugs Act* to approve the Covid vaccines in an expedited and novel manner, relied on information provided by the manufacturers and external public health authorities and did not independently assess the safety and efficacy standards traditionally required (the "Derelict Approvals").

4. The Minister of Health has a duty to recall a therapeutic product if the Minister of Health believes it presents a serious or imminent risk of injury to human health. Despite increased injury warnings, the Minister of Health did not recall the Covid Vaccines.

5. The Defendants have a duty to not provide false, misleading and deceptive information regarding therapeutic products to the public, including the Plaintiff. The Defendants, in a coordinated and strategic manner, launched a comprehensive false, misleading and deceptive misinformation campaign that created an erroneous impression regarding the character, value, composition, merit and safety of the Covid vaccines to entice and coerce the public to take the Covid vaccines (the "Vaccine Campaigns"). Despite increased adverse events

and injury warnings, the Defendants did not alter their messaging about the safety and efficacy of the Covid vaccines.

6. The Defendants held themselves out as public health experts, reporting on behalf of health experts and public health broadcasters establishing a relationship of trust between themselves and the public during the Covid pandemic at a time when the public was vulnerable, and they knew or ought to have known that the public would be relying on their information for their health, safety and protection. Meanwhile, the Defendants misrepresented the Covid vaccines and encouraged, and even implored, the public to trust the Defendants for their health, safety and protection. Further, the Defendants censored and suppressed information relating to the adverse events and injuries from the Covid vaccine to influence public confidence in the Covid Vaccines and maintain trust in the public health authorities. The Plaintiff alleges that the Defendants breached their public duty, acted negligently and committed malfeasance in public office in doing so.

7. In issuing the Derelict Approvals and implementing the Vaccine Campaigns, the Plaintiff alleges that the Defendants knew, or ought to have known, that the Derelict Approvals and the Vaccine Campaigns would cause damages to the public, including the Plaintiff, and the Defendants failed to take adequate measures, or any, to prevent harm to the public, including the Plaintiff.

II. Facts

a. The Parties

8. The Plaintiff, Carrie Sakamoto, (“Carrie”) was born November 7, 1975. At the time of filing this Statement of Claim, Carrie is 47 years old, and resides in the City of Lethbridge, in the Province of Alberta.

9. The Defendant, the Attorney General of Canada, is named pursuant to the *Crown Liability and Proceedings Act* R.S.C., 1985, c. C-50 as the representative of the Minister of Health and the various federal agents and agencies represented by

this minister, including but not limited to the Chief Public Health Officer of Canada, Health Canada, the Public Health Agency of Canada~~, National Advisory Committee on Immunization~~ and Dr. Celia Lourenco.

10. The Defendant, Alberta Health Services ("AHS"), is the single health authority for the province of Alberta~~, and~~ was established pursuant to the *Regional Health Authorities Act*, RSA 2000, c. R-10 and delivers medical services on behalf of the Government of Alberta's Ministry of Health and employs or contracts nurses, physicians, and other healthcare personnel.

11. The Defendants, Jane Doe1 and Jane Doe2, identified themselves as representatives of AHS and administered the Covid Vaccines to the Plaintiff.

12. The Defendant, The Canadian Broadcasting Corporation ("CBC"), is the national public broadcaster created pursuant to the *Broadcasting Act,* S.C. 1991, c. 11.

b. Derelict Approvals

13. The *Food and Drugs Act*, RSC 1985, c F-27, (the "*Food and Drugs Act*") exists to ensure all therapeutic products meet health, safety and quality requirements and must undergo rigorous testing prior to being approved for human use in Canada.

14. The Minister of Health is responsible for ensuring that therapeutic products sold in Canada are safe and effective for their intended purpose and has the authority under section C08.002 of the *Food and Drug Regulations*, CRC, c. 870 (the "*Food and Drugs Regulation*"), to issue an approval for a new therapeutic product in Canada.

15. Before manufacturers can market a therapeutic product in Canada, under the *Food and Drug Regulations*, they need to obtain a Drug Identification Number or a Notice of Compliance, or both. To get these, manufacturers must provide strong

evidence of the product's quality, safety, and efficacy as required under Canada's *Food and Drugs Act* and *Food and Drug Regulations*.

16. Under the *Food and Drug Regulations* that were in force at the beginning of the Covid pandemic, it could take several years for a manufacturer to develop a therapeutic product and generate the information and evidence required to satisfy the regulatory requirements.

17. Section 30.1 of the *Food and Drugs Act* authorizes the Minister of Health to make an interim order if the Minister of Health believes that immediate action is required to deal with a significant risk, direct or indirect, to health or safety.

18. On September 16, 2020, the Minister of Health made an interim order under s. 30.1 of the *Food and Drugs Act* to create an approval process that applied only to COVID-19 drugs (which includes vaccines) and was approved by the Governor in Council on September 25, 2020 (see P.C. 2020-682, Canada Gazette Part I, Vol. 154, No. 40 p. 2587 (the “Interim Order”)). The Interim Order lowered the usual approval criteria for therapeutic drugs in Canada.

19. In and around that same time, the Minister of Health, approved several Covid vaccines designated to protect against the disease Covid from Pfizer Inc., AstraZeneca PLC, Moderna, Inc. and Janssen Inc. (respectively the “Covid Vaccines” and the “Vaccine Manufacturers”). The Covid Vaccines were approved after the Minister of Health concluded that the benefit of the Covid Vaccines outweighs the risks and was not based on the usual safety and efficacy standard. The Minister of Health signed contracts with the Vaccine Manufacturers that forced the Canadian government to keep the agreements confidential and to indemnify the Vaccine Manufacturers for negligence and against any financial liability in the event of vaccine related harm.

20. Pfizer-BioNTech submitted their application for approval on October 9, 2020, and the Pfizer-BioNTech vaccine was approved by the Minister of Health on December 9, 2020 (the “Pfizer Vaccine”). AstraZeneca submitted their application for approval on September 9, 2020, and the AstraZeneca vaccine was approved by the Minister of Health on February 26, 2021 (the “AstraZeneca Vaccine”).

21. The Minister of Health authorized the Covid Vaccines relying on guidance from external regulatory agencies and Vaccine Manufacturers with the knowledge that domestic independent evaluation had not been undertaken to determine that the Covid Vaccines were fit for their purpose and had an adequate safety profile.

22. As of March 16, 2021, thirteen countries in the European Union suspended the authorization of the AstraZeneca Vaccine. At the time the applicable health authorities in the United States had not authorized the use of the AstraZeneca Vaccine.

23. It is alleged that the Vaccine Manufacturers engaged in “expedited” research to obtain regulatory approvals and launch the distribution of the Covid Vaccines worldwide as quickly as possible. It is also alleged that the Vaccine Manufacturers manipulated data, or presented misleading data, and misled regulatory authorities to secure approvals. The Minister of Health did nothing to ensure this was not the case by not requiring a proper and rigorous review of the information presented by the Vaccine Manufacturers.

24. The Vaccine Manufacturers have an inherent conflict of interest in representing their products for regulatory approval as safe and effective, and have in the past been known to manipulate data to make the drugs seem safer and more efficacious than they really are. The only safety and quality safeguards come from national regulatory authorities, such as Health Canada and the Food and Drugs Administration in the United States.

25. The Pfizer and Moderna Vaccines utilized a gene therapy (mRNA) technology which had never been successfully tested for efficacy and safety in humans. When the mRNA technology had been used, prior to the Covid pandemic, there were severe side effects observed, prompting the need for more safety related clinical research. Neurological complications, like Bell's Palsy, were indicated as a serious side-effect of the mRNA technology. To date, the Vaccine Manufacturers have not produced a successful coronavirus vaccine using gene therapy technology.

26. The Center for Disease Control and Prevention database Vaccine Adverse Reporting System in the United States reveals that the severe adverse events and deaths from the Covid Vaccines in 2021 and 2022 were significantly higher than all other vaccines combined from 2011 to 2020. Data from Canada and around the world shows a concerning trend in excess deaths that has not been researched or adequately explained by the public health authorities. The leading cause of death in Alberta was "unknown" and public health authorities and regulatory bodies in Canada or Alberta respectively have not been able to explain this increase in deaths.

27. If the Minister of Health believes that a product presents a serious or imminent risk of injury to health, he may recall the product and, in addition, may disclose confidential business information about a product without notification if the purpose of the disclosure is related to the protection or promotion of human health or the safety of the public. The Minister of Health's lack of action in not recalling, or pausing, the Covid Vaccines was grossly negligence and in bad faith given the patterns of excess death and injury emerging in Canada and around the world.

28. The Defendants knew or ought to have known by February 2021 that the Covid Vaccines were the cause of substantial increased serious adverse events and deaths yet continued to advertise the Covid Vaccines as "safe" and "effective" when they knew or ought to have known otherwise. Instead, the Defendants

disregarded expert opinion and scientific evidence demonstrating increased and concerning adverse events and death from the Covid Vaccine. When foreign authorities suspended their Covid Vaccines' approvals, in light of the risks known, the Minister of Health did not.

c. Coordinated Vaccine Campaigns

29. The *Food and Drugs Act* prohibits advertising any therapeutic product in a manner that is false, misleading, or deceptive or is likely to create an erroneous impression regarding the character, value, composition, merit or safety of the therapeutic product. Any person that promotes the sale of therapeutic product is subject to the *Food and Drugs Act*.

30. One of the roles of Health Canada is to provide health information to the public to make informed decisions about their health care. One of the roles of AHS is to deliver safe, high-quality health care in Alberta. One of the obligations on medical professionals is to obtain consent and ensure the patient is fully informed and understands a medical procedure or treatment before it takes place.

31. The Defendants, and each one of them, engaged in false, misleading, and deceptive Vaccine Campaigns designed to censor, entice, shame, cause fear and coerce Canadians to take the Covid Vaccines. The risks from Covid Vaccines were known but not clearly laid out for the public, and in fact intentionally censored and suppressed, which did not allow people to make independent, informed assessment about whether the Covid Vaccines were a necessary or safe therapeutic intervention.

32. The objective of the Vaccine Campaigns was to vaccinate everyone, young and old, without any regard to the risk that Covid actually presented to such persons versus the risk of the Covid Vaccines.

33. The Vaccine Campaigns include, but are not limited to:

a. the “safe and effective” campaign;
b. the “we are in it together” campaign;
c. #ThisIsOurShot campaign;
d. the “first vaccine is the best vaccine” campaign;
e. the “mix-and-match” campaign;
f. #ShotofHope campaign; and
g. the “trust the science” campaigns.

34. On or about March 15, 2021, the Defendants marketed the Covid Vaccines with the slogan, “the first vaccine, is the best vaccine”. Specifically, the Defendants represented that all the approved vaccines for Covid are highly effective at preventing severe disease and reducing transmission.

35. The Defendants failed to ensure that the information they disseminated to the public was credible, reliable, and accurate and instead acted in a false, misleading, and manipulative manner to the public, including the Plaintiff. The Defendants censored and suppressed information relating to the adverse events from the Covid Vaccine to influence public confidence in Covid Vaccines and maintain trust in the public health authorities.

36. The Vaccine Campaigns had the effect of violating the public’s right to informed consent to or reject a medical treatment, freedom from coercion to accept a medical treatment not voluntarily chosen and freedom from medical or scientific experimentation.

37. The Vaccine Campaigns prevented access to the information necessary for members of the public to understand and assess critical issues about the safety and efficacy of the Covid Vaccines, the medical consequences of refusing the Covid Vaccines, alternative treatments to the Covid Vaccines and the application of each of these factors to individual personal medical profiles.

38. Further, AHS provided the Covid Vaccines to the public at no cost and offered monetary incentives to entice and coerce the public to take the Covid Vaccines under false assurances.

39. The Vaccine Campaigns provided false, misleading, and deceptive information to the public and did not allow individuals to access or receive information necessary for informed consent thereby eviscerating informed consent by the public, including the Plaintiff.

d. The Plaintiff

40. Starting around March of 2020, Carrie was continuously exposed to the Defendants' fear-based messaging regarding the Covid pandemic. From around December of 2020, Carrie was inundated by the Defendants' imploring her to take claiming the Covid Vaccines will protect her health and safety, and the health and safety of others.

41. On April 21, 2021, Carrie was administered a vaccine manufactured by AstraZeneca by Jane Doe1 in at the Exhibition Pavilion in Lethbridge, Alberta. On June 18, 2021, Carrie was administered a vaccine manufactured by Pfizer by Jane Doe2 at the Exhibition Pavilion in Lethbridge, Alberta. The representations made by the Defendants instilled fear in Carrie regarding the Covid pandemic causing her to take the Covid Vaccines in the belief that it would protect her health and safety, and the health and safety of those around her.

42. Immediately following the administration of the Pfizer Vaccine, Carrie experienced severe flu-like symptoms including nausea, dizziness, and fever. Her symptoms continued to get worse throughout the week.

43. On July 1, 2021, Carrie's husband took her to the Chinook Regional Hospital in Lethbridge, Alberta (the "Hospital") because her symptoms were becoming increasingly severe. On the way to the Hospital, Carrie noticed that the right side

of her face began to droop and she experienced stroke like symptoms. Carrie was discharged that day, was told her symptoms would resolve themselves and was told to go home.

44. Throughout the night and into the next day Carrie's symptoms got worse, and she went back to the Hospital. She was admitted to the Hospital on July 2, 2021. Her symptoms got increasingly worse and she was put on a feeding tube because she was unable to properly chew and swallow her food.

45. On or about July 9, 2021, the doctors at the Hospital informed Carrie that her injuries were caused by the Pfizer Vaccine administered to the Plaintiff on June 18, 2021. The right side of her throat was paralyzed and she had to relearn how to swallow. The right side of her face and tongue were paralyzed making chewing and swallowing without choking extremely difficult. Her speech was slurred. Her right eye was paralyzed open so it had to be covered and taped shut. She experienced pain in her face, ear and head at all times. She experienced hearing loss in her right ear. Her balance was affected such that she needed a walker to move around. She constantly experiences vertigo. She takes four different medications every day. She has memory loss and sleeping is difficult for her. She is still in pain and has swelling in her face, ear and head, and experiences constant headaches. She was advised that the damage is permanent.

46. As a result of being administered the Covid Vaccines, the Plaintiff has suffered the following injuries ("Injuries"):
    a. Severe and permanent Bell's Palsy;
    b. Anxiety;
    c. Depression;
    d. Memory loss;
    e. Vision loss;
    f. Hearing loss;
    g. Cognitive impairment;

h. Synkinesis;
i. Loss of sleep;
j. Speech impairment;
k. Facial disfigurement;
l. Facial paralysis;
m. Tinnitus; and
n. Vertigo.

47. On July 15, 2021, Carrie was discharged from the Hospital.

48. On August 30, 2021, Carrie was sent a letter from the Vaccine Injury Support Program.

49. On November 1, 2021, Carrie and her family put their home and farm up for sale. She could not perform household tasks, she experienced fatigue, lack of concentration, was on several medications and required constant medical treatment. She lost her independence and ability to maintain her farm and family home.

50. In the fall of 2021 and into early 2022, two separate AHS representatives called Carrie at home and specifically advised her to take the Covid Vaccine as a booster and told her that it was “safe” for her to do so.

51. In the fall of 2021 and into early 2022, Carrie reached out to many Canadian mainstream media networks, including the CBC, to tell them her story so they could share the impacts of adverse events from the Covid Vaccines with the public and medical doctors. She was advised that they could not report on information that negatively reported on the Covid Vaccines.

52. On April 13, 2022, her family sold their family farm because she could not drive and live independently on the farm with her three children and husband due to the

Injuries and increased medical appointments in Lethbridge. The rushed sale caused Carrie and her family a significant financial loss.

53. On August 10, 2022, upon her request, Carrie received a letter from her medical doctor stating that it is not safe for her to take additional Covid Vaccines.

54. On March 3, 2023, Carrie is informed by letter that she is accepted into the Vaccine Injury Support Program confirming that the Pfizer Vaccine likely caused her serious and permanent Bell's Palsy. Carrie was offered a modest compensation from the Vaccine Injury Support Program limited to losses for the following injuries: (i) hearing, (ii) mimic (facial paralysis), and (iii) esthetic of the face.

III. CLAIMS

a. Public Duty

55. Governmental agencies including, public health, regional health authorities, publicly funded health care providers and the national public broadcaster do not have a legal duty to: (i) protect the health and safety of the public; (ii) provide the public with fair, accurate and independent information; or (iii) act in the best interest of the public. However, these same governmental agencies held themselves out to the public as public health experts, reporting on behalf of health experts and public health broadcasters establishing a relationship of trust between themselves and the public during the Covid pandemic at a time when the public was vulnerable. The Defendants knew or ought to have known that the public, including the Plaintiff, would be relying on their information for their health, safety and protection. Further, these governmental agents and agencies encouraged, and even implored, the public to trust the Defendants for their health, safety, and protection during the Covid pandemic and specifically with respect to the Covid Vaccines.

56. Traditionally, for therapeutic product approvals in Canada the Minister of Health has a legal duty to:

a. Ensure that the therapeutic products approved for use in Canada are safe and effective s. C.08.002(2)(g) and (h) of the *Food and Drugs Regulation*;
b. Recall therapeutic products from distribution where it is believed that a therapeutic product presents a serious or imminent risk of injury to health under s. 21.3(1) the *Food and Drugs Act*;
c. Ensure that advertisement of therapeutic products are not false, misleading or deceptive or is likely to create an erroneous impression regarding its design, construction, performance, intended use, quantity, character, value, composition, merit or safety under s. 9(1) of the *Food and Drugs Act*; and
d. Disclose confidential business information about a therapeutic product without notifying the person to whose business or affairs the information relates or obtaining their consent, if the Minister believes that the product may present a serious risk of injury to human health under s. 21(2) of the *Food and Drugs Act*.

57. However, the Minister of Health's traditional legal duty regarding safety and efficacy was removed for approval of the Covid Vaccines under the Interim Order. The Minister of Health <u>did not</u> have a legal duty to ensure that the Covid Vaccines approved for use in Canada were safe and effective. Instead, the Covid Vaccine approval test was based on whether there was "sufficient evidence to support the conclusion that the benefits associated with the drug outweigh the risks, having regard to the uncertainties relating to the benefits and risks and the necessity of addressing the urgent public health need related to COVID-19" (s. 5(c)).

58. In respect of the Covid Vaccines, the Minister of Health maintained a legal duty to:

a. Recall therapeutic products from distribution where it is believed that a therapeutic product presents a serious or imminent risk of injury to health;

b. Ensure that advertisement of therapeutic products are not false, misleading or deceptive or is likely to create an erroneous impression regarding its design, construction, performance, intended use, quantity, character, value, composition, merit or safety; and
c. Disclose confidential business information about a therapeutic product without notifying the person to whose business or affairs the information relates or obtaining their consent, if the Minister believes that the product may present a serious risk of injury to human health.

59. The Minister of Health retained a public duty with respect to the Covid Vaccines, as described above, which it could not abrogate simply by the Interim Order. The Minister of Health had a legal duty to monitor, recall and update the public messaging and disclose confidential business information about the safety and efficacy of the Covid Vaccines and failed to do so when a serious or imminent risk of injury to health was perceived and in doing so fettered its discretion.

60. Meanwhile the Defendants engaged in Vaccine Campaigns that deceived the public by telling the public that the Covid Vaccines were “safe”, “effective” and/or of “high quality” rather than candidly telling the public the truth about the novel approval process for the Covid Vaccines. All Defendants were promoting the Covid Vaccines and were subject to the *Food and Drugs Act*. The Defendants had a legal duty to monitor and update the public messaging about the safety and efficacy of the Covid Vaccines which it failed to do. The Minister of Health exercise his duty to ensure the advertisements regarding the Covid Vaccines were not false, misleading or deceptive and in doing so fettered its discretion.

61. The Defendants established a relationship of trust, breached their legal duties and the Plaintiff relied on the representations made by the Defendants when taking the Covid Vaccine and the Plaintiff has suffered significant physical, emotional, psychological damages and other damages.

b. Negligent Misrepresentation

62. The violations of the *Food and Drugs Act*, by the Defendants, in an addition to being a statutory violation, constitute a negligent misrepresentation.

63. The Defendants, individually and collectively, made untrue, inaccurate, or misleading representations, including but not limited to:

a. The Covid Vaccines were safe and fit for its intended use;
b. The Covid Vaccines were effective for its intended use;
c. The Covid Vaccines were of merchantable quality;
d. The Covid Vaccines had been adequately tested to ensure that the risks or adverse reactions were likely to occur with the appropriate range of tolerance;
e. The representations made in the Vaccine Campaigns; and
f. Such further and other representations as will be particularized in the course of this proceeding.

(collectively the “Representations”).

64. The Representations were made by the Defendants when the Defendants knew or ought to have known they were inaccurate. Alternatively, the Representations were made negligently or recklessly when the Defendants had insufficient information, while representing themselves as having sufficient information. Further the Defendants had a duty to update the Representations and messaging about the safety and efficacy of the Covid Vaccines which they also failed to do.

65. The Defendants’ Representations deceived the public and abused their special relationship of trust by making the Representations rather than candidly telling the public the truth about the Covid Vaccines. The Defendants intentionally misled the public about the Covid Vaccines claiming they were “safe”, “effective” and of “high quality” despite not being required to pass any formal safety or efficacy testing. In addition to making the Representations, the Defendants urged the Plaintiff to obtain any available vaccine at the very first opportunity.

66. The Defendants acted negligently and recklessly by suppressing information related to adverse events from the Covid Vaccines and suppressing opinions of medical and scientific experts, from Canada and around the world, who raised concerns about the Covid Vaccines and disagreed with the Representations made by the Defendants.

67. The Defendants, and each one of them, engaged in strategic and coordinated false, misleading, deceptive, fear and censorship in the Vaccine Campaigns, designed to entice, implore, shame and coerce Canadians to take the Covid Vaccines. Because the Defendants, each of them, agreed on a common purpose to brand and advertise the Covid Vaccines as “safe” and “effective” they are jointly and severally liable.

68. AHS provided the Covid Vaccine to the public at no cost, and even offered monetary rewards, in an effort to entice and encourage the public to take the Covid Vaccines thereby eviscerating informed consent required to treat the Plaintiff.

69. CBC, as Canada’s national, public broadcaster has an obligation to the Canadian public to ensure that the information is of a high standard which includes, but is not limited to: accuracy, fairness, balance, impartiality and integrity. CBC, in its capacity as Canada’s national, public broadcaster amplified the Representations using the Vaccine Campaigns.

70. CBC as the public broadcaster abdicated its responsibility to hold the governmental agencies and employees to account by being a mouthpiece of the Minister of Health and the various provincial health authorities in Canada.

71. The Plaintiff states that she was in a proximate relationship of trust to the Defendants as a citizen, taxpayer and consumer of the information offered by the Defendants.

72. The Plaintiff claims that the Defendants owe a duty of care to accurately inform the Plaintiff about the Covid Vaccines.

73. Each of the Defendants knew, or ought to have known, that the Plaintiff would rely upon the Representations made. Opting to be administered the Covid Vaccines, the Plaintiff relied upon the Representations made by each of the Defendants, to her detriment.

74. Given that the information about the Covid Vaccines was negligently misrepresented by the Defendants to the public, including the Plaintiff, it eviscerated the Plaintiff's ability to provide informed consent.

75. But for the Representations made by the Defendants, the Plaintiff would not have been vaccinated. But for the Representations made, the Plaintiff would not have suffered permanent significant physical, emotional, psychological damages and other damages.

c. Negligence

76. The Covid Vaccines were not reasonably safe or effective and thus were defective products. The Covid Vaccines were not properly conceived, designed, formulated, tested, researched, studied, packaged, distributed, sold, and placed in the stream of commerce.

77. The Covid Vaccines were not a reasonably safe therapeutic product because of, but not limited to, the following reasons:
    a. The foreseeable risks exceeded the benefits associated with the products;
    b. The products were more dangerous than ordinary consumers, including the Plaintiff, would reasonably expect;
    c. The products did not have adequate, effective warning and instructions in light of the dangers associated with their use;
    d. The products were inadequately tested; and

e. The products were not fit for the purpose for which they were intended.

78. The Covid Vaccines were unreasonably dangerous, beyond the dangers which could reasonably have been contemplated by the Plaintiff. Any benefit to the Plaintiff from being administered the Covid Vaccines was outweighed by the serious and undisclosed risks associated with its use.

79. For young and healthy women, like the Plaintiff, the benefits of the Covid Vaccines did not outweigh the risks. Since the Plaintiff is a young, healthy woman, the risk of Covid leading to death or serious health complications was minimal while the risk of the Covid Vaccines was disproportionate for the alleged minimal benefit, if any, that she would enjoy.

80. The Plaintiff ~~she~~ was owed a duty of care at all material times:

a. By the Minister of Health to ensure that the Covid Vaccines were fit for intended use;
b. By the Minister of Health to demand appropriate testing to determine whether, and to what extent, the Covid Vaccines posed serious health risks, including the magnitude of risk of developing serious injuries, including without limitation, Bell's Palsy;
c. By the Defendants to properly, adequately, and fairly warn the Plaintiff of the magnitude of the risk of developing serious injuries; and
d. By the Defendants to monitor, investigate, evaluate, report, and follow-up on adverse reactions, including death, to the use of the Covid Vaccines.

81. The Plaintiff claims that all the Defendants owed the Plaintiff a duty of care at all material times to:

a. Ensure that the information regarding the Covid Vaccines was accurate, fair, balanced, and impartial; and

b. Ensure diverse opinions of medical and scientific experts, from Canada and around the world, who raised concerns about the Covid Vaccines were considered.

82. The Defendants breached their respective standards of care. The Plaintiff states that her damages were caused by the negligence of the Defendants.

83. Such negligence includes but is not limited to the following:

a. The Minister of Health, failed to adequately test the Covid Vaccines and/or failed to require an adequate degree of testing;
b. The Minister of Health, negligently authorized the Covid Vaccine;
c. The Minster of Health failed to recall the Covid Vaccines from the market when serious or imminent risk of injury to health was believed to be present;
d. The Minister of Health agreed to keep business information about the Covid Vaccine confidential when serious or imminent risk of injury to health was believed to be present;
e. AHS, in contacting the Plaintiff on two separate occasions, advised the Plaintiff to take another Covid Vaccine after the Injuries;
f. AHS provided the Covid Vaccines to the public at no cost, and promoted monetary rewards, in an effort to entice and encourage the public to take the Covid Vaccines;
g. The Defendants, but for the CBC, failed to ensure that the Covid Vaccines were not dangerous to recipients, and that they were fit for the intended purpose and of merchantable quality;
h. The Defendants failed to provide the Plaintiff, and the general public with proper, adequate, and/or fair warning of the risks associated with the use of the Covid Vaccines;
i. The Defendants failed to adequately monitor, evaluate, and act upon reports of adverse reactions in Canada and elsewhere; and
j. The Defendants censored and suppressed information related to adverse events and injuries about the Covid Vaccines.

k. The Defendants censored and suppressed opinions of medical and scientific experts, from Canada and around the world, who raised concerns about the Covid Vaccines.

84. The Plaintiff claims that each of the Defendants, but for the CBC, owed a duty of care to the Plaintiff to:
    a. Inform her about the risks and dangers associated with being administered the Covid Vaccines;
    b. Inform her of the risks and dangers associated with being administered two Covid Vaccines from two separate manufacturers; and/or
    c. Inform her of the risks and dangers associated with being administered two Covid Vaccines with two different vaccine delivery systems.

85. The Defendants breached their respective duties of care, and consequently the standard of care, to provide information about the risks and dangers associated with the Covid Vaccines and thereby the Plaintiff was unable to give informed consent in respect of the Covid Vaccines.

d. Misfeasance/Abuse of Public Office

86. The Minister of Health abused its public office, acted in bad faith and intentionally misled the public about the Covid Vaccines by way of a novel approval scheme that did not require evidence that the Covid Vaccines be either “safe”, “effective” or of “high quality”. In direct contradiction with the public messaging from the Minister of Health, the novel Covid Vaccines approvals, in fact, lowered the approval standards.

87. Under the Interim Order, the requirements for approval of the Covid Vaccines were altered such that the approvals were given based on the conclusion that the benefits associated with the Covid Vaccines outweigh the risks making the new Covid Vaccines approval a subjective test. There must be strict objective evidence of both safety and efficacy. It must also be objectively clear that the benefits

outweigh the risks before a new drug is approved. It can only be objectively clear that the benefits of a drug outweigh the risks when the benefits and risks are objectively known.

88. Further, in the novel approval process for the Covid Vaccines, the Minister of Health relied on Relative Risk Reduction over Absolute Risk Reduction metrics. In communicating the risks and benefits associated with the Covid Vaccines, the more accurate and reliable measure for providing medical information to the public, and the Plaintiff, so they could make informed health decisions is Absolute Risk Reduction. The Relative Risk Reduction is the same generally irrespective of their level of risk and therefore suggests higher benefits than really exist. The Minister of Health abused its public office, acted in bad faith and intentionally mislead the public about the risk and benefit metric used for approving the Covid Vaccines.

89. The Minister of Health abused its public office, acted in bad faith and intentionally mislead the public in stating that the Covid Vaccines would stop the public from getting infected and stop transmission. The Vaccine Manufactures did not study these clinical endpoints and there was no data to support such representations.

90. The Minister of Health abused its public office, acted in bad faith, and intentionally misled the public that they could mix-and-match the Covid Vaccines, which the Plaintiff did, with absolutely no clinical evidence of such a practice. There was no scientific basis on which to recommend such a practice. In fact, the World Health Organization issued a strong warning against Canada's mix-and-match approach for the Covid Vaccines and called it a "dangerous trend".

91. A fundamental safeguard for therapeutic products allows the Minister of Health to pause or recall therapeutic product approval if new evidence raises a safety or efficacy concern or if fraud is discovered. The Minister of Health should not have relied on misleading and arguably fraudulent representations from the Vaccine

Manufacturers. Alternatively, the Minister of Health relied on Vaccine Manufacturers' own evidence which demonstrated that the harm caused by the Covid Vaccines exceeded the benefit. The Minister of Health acted in bad faith for not recalling or pausing the Covid Vaccines and continuing to recommend the Covid Vaccines despite increased safety and efficacy concerns.

92. The Interim Order allowed unapproved Covid Vaccines to be imported into Canada as long as the Canadian Government was the purchaser. The rationale was, to deal with the Covid pandemic, by purchasing the unapproved Covid Vaccines so that they would be available for distribution once approved for use, thereby creating a serious conflict of interest. Meanwhile, the Minister of Health acted in abused its public office, acted in bad faith, and intentionally coordinated with the Vaccine Manufacturers to keep the Covid Vaccine agreements confidential and to indemnify the Vaccine Manufacturers for negligence and against any financial liability in the event of vaccine related harm.

93. The Defendants, and all of them, were in a conflict of interest and had an economic interest in urging the public to obtain the Covid Vaccines. The conflict of interest caused the Defendants to act in deliberate and unlawful action that put the interests of the Vaccine Manufacturers over the interests of the public.

94. The Defendants, and all of them, intentionally censored and suppressed data relating to adverse events and injuries from the Covid Vaccines to influence public confidence in Covid Vaccines and maintain trust in the public health authorities. The Defendants knew or ought to have known of the increased risk from the Covid Vaccines through information submitted by the Vaccine Manufacturers, and from medical and scientific experts that raised this issue, but that information was not clearly laid out to the public, and in fact it was intentionally censored and suppressed, which did not allow the public, including the Plaintiff, to make an independent, informed assessment about whether the Covid Vaccines were a necessary or safe therapeutic intervention.

95. Further, the Minister of Health made it difficult for the public to report severe adverse events and injuries from the Covid Vaccines to the public health authorities in an effort to censor and suppress data relating to adverse events and injuries from the Covid Vaccine.

96. The Minister of Health intentionally engaged in conduct that it knew was unlawful and likely to cause harm to the public, including the Plaintiff.

97. As a result of the Minister of Health's malfeasance, the Plaintiff has suffered severe, permanent physical, psychological and emotional harm, and other damages.

IV. Damages

98. The Plaintiff claims that the Defendants' actions and breaches, as set out above, caused the Plaintiff extensive damages.

99. As a result of the Defendants' actions and breaches, the Plaintiff has suffered from severe physical, psychological, and emotional harms, and other related health problems.

100. The psychological damages caused by the Defendants' actions and breaches have caused the Plaintiff to suffer significant mental distress and loss of enjoyment of life.

101. The Plaintiff has incurred and will continue to incur medical expenses, lost income, and other expenses due to the Defendants' actions and breaches.

102. Continuously since June 18, 2021, the Plaintiff has been unable to complete many of her activities of daily living, her housekeeping duties, her farm responsibilities, and family responsibilities.

103. The Plaintiff's Injuries, including but not limited to paralysis, hearing loss, vision loss, speech impairment, vertigo and memory loss have impaired her from staying focused, and have left her able to perform daily tasks.

104. The Plaintiff has, as a direct and proximate result of the Defendants' actions and breaches suffered damages, such as past and future loss of income, out-of-pocket expenses, past and future medical expenses, as well as non-pecuniary damages arising from the harms suffered.

105. As a result of the Defendants' actions and breaches, the Plaintiff has suffered the following damages:

    1. Pain and suffering and loss of enjoyment of life;
    2. Infliction of psychological harm;
    3. Past and future loss of future income earnings, earning capacity and competitive advantage;
    4. Past and future loss of housekeeping capacity;
    5. Past and future cost of care;
    6. Pecuniary loss due to the expedited sale of the Plaintiff's farm;
    7. Out-of-pocket expenses; and
    8. Other such damages as will be proven at the trial of this action.

106. The Plaintiff claims that the Defendants, and each of them, are liable for the negligence of their employees, agents, or servants, acting within the scope of their employment or agency.

107. The Plaintiff claims that the Defendants, and each of them, are vicariously liable for the actions of their employees, agents, or servants.

108. The Plaintiff proposes that the trial of this action take place at the Lethbridge Courthouse, in the Province of Alberta.

V. Remedy Sought

109. The Plaintiff seeks the following remedies against the Defendants in this action:

A. General damages in an amount of $5,000,000.00 to be proven at trial.

B. Special ~~and punitive~~ damages in an amount of $2,500,000.00 to be proven at trial for, but not limited to:

i. Mental and other harms resulting from the Derelict Approvals;
ii. Mental and other harms resulting from the Vaccine Campaigns;
iii. Future loss of income;
iv. Loss of earning capacity and competitive advantage;
v. Loss of housekeeping capacity;
vi. Costs of psychological care;
vii. Future costs of care;
viii. Losses due to the expedited sale of the Plaintiff's farm; and
ix. Such further and other losses as will be proven at trial.

C. Punitive damages in the amount of $3,000,000.00.

D. A declaration that the Covid Vaccine approvals were unlawful.

E. A declaration that the Minister of Health, and its agents and agencies, exceeded their lawful authority in approving the Covid Vaccines.

F. A declaration that the Minister of Health, and its agents and agencies, following approval of the Covid Vaccines and seeing increased adverse effects the Covid Vaccines, ought to have recalled or paused the Covid Vaccines.

G. A declaration that the Defendants ought to have monitored and updated their public messaging about the safety and efficacy of the Covid Vaccines.

H. The Plaintiff seeks costs.

I. The Plaintiff claims prejudgment interest in accordance with the provisions of the *Judgment Interest Act*, RSA 2000, c J-1, as amended.

J. Such further and other relief as counsel may advise and this Honourable Court may deem just.

110. **The Plaintiff pleads and relies on the following**:

a. The *Alberta Rules of Court,* Alta Reg 124/2010;
b. *Broadcasting Act, SC 1991,* c 11;
c. Conflict of Interest Act, SC 2006, c 9, s 2;
d. *Conflicts of Interest Act,* RSA 2000, c C-23;
e. *Food and Drugs Act,* RSC 1985, c F-27;
f. *Food and Drug Regulations,* CRC, c 870;
g. *Judgment Interest Act*, RSA 2000, c J-1;
h. *Public Service Employment Act*, SC 2003, c 22, ss 12, 13;
i. *Public Service Employee Relations Act*, RSA 2000, c P-43;
j. Regional Health Authorities Act, RSA 2000; and
k. Such other enactments and legislation as the Plaintiff may advise and this Honourable Court may consider given the circumstances.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

- 20 days if you are served in Alberta
- 1 month if you are served outside Alberta but in Canada
- 2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of King's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.

From: David Dickson
Sent: Wednesday, July 12, 2023 1:19 PM
To: Eva Chipiuk <info@empoweredcanadians.ca>
Subject: RE: Re; Your offer of assistance
Sensitivity: Confidential

Good afternoon, Eva (I assume I am responding to Eva as the email is signed "The Empowered Canadians Admin Team").

Covering your points below. I spent as much time with the police and justice agencies in Canada (Alberta Justice, SolGen, PPSC, RCMP, Surete, every police agency in Alberta and the Sheriff) as I did with Merseyside Police, but I appreciate the thanks. It is clear from your comments that your response relates to my speech and not to any of the material sent to you. Nowhere in my material did I mention Liverpool (the City of Liverpool has not had its own Police Force for a very long time. My force was Merseyside Police). I reference Liverpool in speeches as most people can't even pronounce Merseyside, but everyone knows Liverpool from the Beatles. I am confused as to how you even found my speech (given two days after the email and website contact) when it was not referenced in the material. You say you do not have time to review the material I sent, but had time to watch a speech that was between 1:10 mins and 1:30 mins (depending if you watched the live or reposted copy). In hindsight, I am glad you have watched, as it appears to have been the trigger to respond, where the communication was not.

As regards the lawsuit you have filed, or more importantly the amendment at the two year limit for filing, I have gone back and read the defendant section. On second review, I see I was incorrect in mistaking the Canadian Government for the Alberta Government in the striking. The wording of "His Majesty…" is confusingly anachronistic and being stricken out in red in the online copy, it was hard to read on a phone. My apologies for that error. That being said, the point as regards the GoA not being named on the file still stands though, especially with the passing of two years since not only the injury but the knowledge that it was an injury caused by the vaccine. The point as regards NACI being struck also stands based on the material AHS and others named in the lawsuit relied upon. That information was clearly misrepresented by Dr. Hinshaw (who publicly stated she had reviewed the information) and others representing the GoA at that time. The evidence against both of those parties is quite significant, as I have outlined in the material I sent. With what I know of the Court systems, adding NACI back would be impossible and adding the GoA ("His Majesty the King in Right of Alberta") would be an near impossible task now. Maybe this will be corrected for the next case.

The absence of the GoA on your file while naming AHS (who are, by law, only acting for the Health Minister), as your amendment explains, seems to be a fatal flaw in a local effort. Trying to prove the CBC and federal parties were the only source of misinformation for a local Lethbridge resident seems implausible by any standard, as you admitted in one of your interviews. And I was surprised to hear you say that you had excluded naming the vaccine manufacturer purely out of monetary concern.

The reality is that health is a provincial responsibility. All the pressure and propaganda to push the vaccines on Albertans came from the GoA itself, supported by the local media. This started with the provable lies as regards the amount of active COVID cases and COVID deaths that were articulated by ex CMOH Deena Hinshaw, current CMOH Mark Joffe and Health Minister Tyler Shandro in the March 26th, 2020 update. The amount of local based propaganda and misinformation being put out daily by the GoA and local media from the start is significant to cases such as this, particularly when the Federal authorities rely on the information provided by the Provinces for risk assessment and overall reporting of cases, hospitalizations and deaths. All the risk messaging on cases, hospitalisations, 'by vaccine status', lotteries, coercive payments for vaccination and more, came from the provincial government. The requirement to obtain fully informed consent was a local requirement at the time of receiving the vaccine and yet the Health Minister and CMOH (past and present) failed to ensure this was happening. They are still failing in that regard, despite being fully aware of their malfeasance. The COVID vaccine consent forms for Alberta (frm21765) outline the risks, 'off-label' use and more. Yet no-one was given the full consent forms (as the nurses administering the vaccines were not aware of them in most cases). It is possible that Carrie never even received the type of vaccination she thinks she did. If you had read the material I sent rather than watching an 'off the cuff' speech, you would have realised that. Danielle Smith is aware of all this (and has been for quite some time), but she refuses to address it, instead continuing to allow the use of vaccinations she herself has publicly admitted pose serious health risks, including death. Further, Danielle Smith is now

overseeing the deleting of critical evidence of said wrongdoings from public GoA servers after she was specifically notified of that evidence. Evidence that has been on those servers since May of 2020.

At the end of the day, this is yours and James' case. I was hoping that someone would be fighting to end the insanity and expose the crimes that have been committed to draw a halt to the number of injured and dead. I was hoping this might be you. Instead, I see a wash and repeat of James Coates, Sheila Annette Lewis and so many others in this matter. All the evidence has been in the hands of the JCCF and their associated lawyers and organisations for quite some time, but instead of bringing it forward, it is buried. Why?

I am working on a summary of items for other parties and may send it on when completed, although I suspect you are not really interested in what evidence I have. In the meantime, I will continue making people aware of the facts and pushing for someone to finally do their job for the sake of the children, those in Care Homes and all those vaccinated who I fear are soon to realise their worst nightmares are yet to come.

And for those thinking this is over, I will draw your attention to the signs that now adorn AHS facilities. I brought attention to this 'bait and switch' when mask were announced to be dropped in Alberta on June 19th, 2023. As with the vaccines, this is not even close to over.
https://twitter.com/dksdata/status/1679200831349100544?s=20

Devon Rural Hospital July 12th, 2023

David

David T. Dickson
Disabled Police Officer (retired - injury on duty)
C.E.O. DKS DATA (www.dksdata.com**)**
Consulting C.I.O.
Management/Legal Consultant
Privacy and Cybersecurity Expert.
Cell:
Fax:
Email: *david.dickson@dksdata.com*
COVID 19 Information: *https://dksdata.com/COVID19*

my LinkedIn profile Microsoft Partner

"The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis."
Dante Alighieri
"So whoever knows the right thing to do and fails to do it, for him it is sin."
James 4:17

Some rules to live by:
Always do the best you can by your family.
Go to work every day.
Always speak your mind.
Never hurt anyone that doesn't deserve it.
And never take anything from the bad guys.
(Mel Gibson: Edge of Darkness 2010)

https://avoidabledeathawareness.com

From: Eva Chipiuk <info@empoweredcanadians.ca>
Sent: Tuesday, July 11, 2023 4:41 PM
To: David Dickson <david.dickson@dksdata.com>
Subject: Re; Your offer of assistance

David Dickson,

Thank you for your service as a police officer to the people of Liverpool.

We took the time to listen to your speech in its entirety and valued your passion and attention.

We appreciate your speculation on how the lawsuit may play out in court, but we believe you have misunderstood our statement of claim.

We have received your emails with the provided information and offer of support. As you can imagine, we have been receiving a great number of email submissions with offers of help, as well as calls for assistance. It is a time-consuming process to go through all of the emails and categorize the massive amount of information coming in. We appreciate your patience in this.

We would ask that you assist us by summarizing your submissions into one or two pages and explain how it can be used to assist our case.

Respectfully,

The Empowered Canadians Admin Team

Form 10
[Rule 3.25]

COURT FILE NUMBER	
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	REBECCA MARIE INGRAM
PLAINTIFF	CHRISTOPHER SCOTT, carrying on business as THE WHISTLE STOP CAFÉ
DEFENDANT	HIS MAJESTY THE KING IN RIGHT OF ALBERTA
	***Brought under the Class Proceedings Act,* SA 2003, c C-16.5**
DOCUMENT	**STATEMENT OF CLAIM**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Rath & Company Barristers and Solicitors 282050 Highway 22 W Foothills, AB T0L 1W2 **Attention: Jeffrey R. W. Rath** Phone: 403-931-4047 Facsimile: 403-931-4048 Email: jrath@rathandcompany.com

Clerk's Stamp

NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

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

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

Overview

1. Since March 16, 2020, Dr. Deena Hinshaw ("**Dr. Hinshaw**"), as Alberta's Chief Medical Officer of Health ("**CMOH**") pronounced approximately 113 public health orders, known as Chief Medical Officer of Health Orders ("**CMOH Orders**") purportedly pursuant to Section 29(2.1) of the *Public Health Act*, RSA 2000, c P-37 (the "***PHA***").

2. On July 31, 2023, the Alberta Court of King's Bench determined that the CMOH Orders listed in **Appendix "B"** were *ultra vires* the *PHA.*

3. Measures imposed by these unlawful CMOH Orders forced many businesses deemed "non-essential" by Dr. Hinshaw across the Province of Alberta to shut down, or severely restrict their operations, resulting in significant losses to the businesses, and their owners and shareholders. These businesses included, but are not limited to, public and private recreation and fitness facilities and associated services, physiotherapists, private entertainment facilities, bars and night clubs, dine-in restaurants, and retail services.

4. As a result of the illegal CMOH Orders, some businesses were completely prohibited from having anyone access their premises in order to conduct business. Others were restricted in the use they could make of their business property for regular operations. The CMOH Orders that prohibited, partially or fully, access to business premises and the use of business property thereon thereby causing significant losses to the businesses affected, are listed in **Appendix "A"**.

5. The CMOH Orders listed in **Appendix "A"** were negligently issued and unreasonable because they were made without lawful authority. They were made as a result of an unreasonable and unlawful interpretation of the *PHA* and violate Section 1 of the *Alberta Bill of Rights*, RSA 2000, c A-14 which provides that individuals in Alberta have the right to enjoyment of property and the right not to be deprived thereof except by due process of law.

6. This is a proposed class action on behalf of all individuals who owned and/or operated businesses in the Province of Alberta, and whose business operations were fully or partially restricted as a result of the measures contained in the CMOH Orders, and who suffered losses as a result.

THE PARTIES

The Plaintiffs

7. The Plaintiffs claim on their behalf and on behalf of the Class and all Class Members for an order pursuant to the *Class Proceedings Act*, SA 2003, c C-16.5 (the "***CPA***") certifying this action as a Class proceeding and appointing them or other members of the Class as representative plaintiffs of the Class.

8. The Plaintiff, Rebecca Marie Ingram ("**Ms. Ingram**") is an individual residing in the City of Calgary, in the Province of Alberta.

9. The Plaintiff, Christopher Scott ("**Mr. Scott**") is an individual and the sole proprietor of The Whistle Stop Café located off Highway 21, at Highway 50, in the Hamlet of Mirror, in the Province of Alberta.

10. Ms. Ingram and Mr. Scott (collectively the "**Plaintiffs**") are proposed representatives of a class of individuals from across Alberta who owned and/or operated businesses in the Province of Alberta, and whose business operations were fully or partially restricted as a result of the measures contained in the CMOH Orders, and who suffered losses as a result.

The Class

11. The Plaintiffs bring this action in their own right, and pursuant to the *CPA* on behalf of the following Class:

    Natural persons who:

    (a) owned or operated, either wholly or partially, a business or businesses in the Province of Alberta, and whose business operations were fully or partially restricted as a result of the measures contained in the CMOH Orders resulting in economic losses;

    (b) between March 17, 2020, and the date of certification of this action as a Class proceeding, or such other date determined to be appropriate by the Court (the "**Class Period**"); and

    (c) Suffered damage and losses as a result.

    (the "**Class**" or "**Class Members**")

The Defendant

12. The Defendant, His Majesty the King in right of Alberta ("**Alberta**"), is named in these proceedings pursuant to the *Proceedings Against the Crown Act*, R.S.A. 2000, c P-25.

FACTS

A. The CMOH Orders

13. On March 17, 2020, the Lieutenant Governor in Council passed O.C. 80/2020 declaring a public health emergency for 90 days under Sections 52.1 and 52.8 of the *PHA* due to the presence of pandemic COVID-19 in the Province of Alberta.

14. The Lieutenant Governor in Council declared two more 90-day public health emergencies with respect to COVID-19 on November 24, 2020, per O.C. 354/2020, and on September 15, 2021, per O.C. 255/2021.

15. Since March 16, 2020, Dr. Hinshaw, as the CMOH, pronounced approximately 113 CMOH Orders purportedly pursuant to Section 29(2.1) of the *PHA.*

16. The CMOH Orders imposing restrictions or closures of the businesses of the Class Members are listed in **Appendix "A"** to this Statement of Claim.

17. The final CMOH Order pronounced by Dr. Hinshaw was CMOH Order 10-22, dated June 14, 2022.

18. Prior to July 31, 2023, the CMOH Orders benefitted from a presumption of validity. They were regulations purportedly made pursuant to the *PHA*, and legislative instruments are presumptively constitutional.

19. On July 31, 2023, in *Ingram v. Alberta (Chief Medical Officer of Health*), 2023 ABKB 453, ("***Ingram***") the Alberta Court of King's Bench found that the CMOH Orders listed in **Appendix "B"** to this Statement of Claim (the "**Impugned Orders**") were invalid, being *ultra vires* the *PHA* because the final decision makers were the cabinet and committees of cabinet, rather than the CMOH, or one of her statutorily authorized delegates as required by the *PHA.* As a result, all CMOH Orders pronounced by Dr. Hinshaw, including those listed in **Appendix "A"** to this Statement of Claim were *ultra vires* the *PHA,* and unlawful.

20. The Paramountcy Clause of the *PHA,* Section 75, expressly states the supremacy of the *Alberta Bill of Rights*. Section 2 of the *Alberta Bill of Rights* provides that the *PHA* must be construed and applied so as not to authorize the abrogation, or infringement of rights protected by Section 1 of the *Alberta Bill of Rights,* unless the Alberta government passes legislation declaring that the infringement may occur "notwithstanding" the *Alberta Bill of Rights.*

21. Section 1(a) and Section 2 of the *Alberta Bill of Rights* provide:

> 1. It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion, sexual orientation, sex, gender identity or gender expression, the following human rights and fundamental freedoms, namely:

(a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;

[Emphasis added].

2. Every law of Alberta shall, unless it is expressly declared by an *Act* of the Legislature that it operates notwithstanding the *Alberta Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

B. The Plaintiffs' Experiences with the CMOH Orders

Ms. Ingram

22. Until on or around January 15, 2023, Ms. Ingram was the sole shareholder and director of The Gym Fitness Club Ltd. ("**The Gym**"), a gym and personal fitness studio located in the City of Calgary.

23. Ms. Ingram purchased The Gym in March 1995. From that date she was its business owner, shareholder, and director, and as such, The Gym and Ms. Ingram's shares in The Gym were Ms. Ingram's personal property. As a single mother of five children and a small business owner, revenue generated from The Gym was the main source of income for Ms. Ingram and her family for the past twenty-eight years.

24. As a result of the measures imposed upon Ms. Ingram and The Gym by the unlawful CMOH Orders, and corresponding financial hardship, Ms. Ingram was forced put The Gym up for sale. The sale of The Gym closed on or around January 18, 2023.

25. The Gym was Ms. Ingram's primary source of income, and she hoped to pass The Gym on to her children.

26. The restrictions and unlawful CMOH Orders devastated Ms. Ingram's business and the value of the shares she owned in The Gym.

27. As a result of the CMOH Orders, The Gym was forced to close for three months in the Spring of 2020 (the "**First Lockdown**"), during which time it had no revenue and incurred debts including $10,000.00 in unpaid rent, $12,000.00 to ENMAX Corporation for utilities, and an approximately $25,000.00 to other companies that continued to bill The Gym during this period.

28. In November 2020, Ms. Ingram was forced to curtail The Gym's operations pursuant to CMOH Orders 37-2020, and 39-2020 and incurred losses as a result. In December 2020, pursuant to CMOH Order 42-2020, Ms. Ingram was forced to close The Gym to the public, with no indication from Dr. Hinshaw or the Government of Alberta of a date when it could be re-opened (the "**Second Lockdown**").

29. The closures of indoor gyms, fitness centres, and recreation centres were continued by Dr. Hinshaw and the Government of Alberta in January 2021 pursuant to CMOH Order 01-2020, again with no indication from Dr. Hinshaw or the Government of Alberta of a date when it could be re-opened.

30. During the Class Period there were no reported cases of COVID-19 contracted at, or connected to The Gym. When The Gym was permitted to open it abided by and implemented public health requirements and cleaning measures for which The Gym and Ms. Ingram incurred costs and losses.

31. As a result of the CMOH Orders requiring the curtailment of operations or closure for gyms and fitness centres, The Gym received daily membership cancellations and membership holds, resulting in a considerable reduction in monthly sales.

32. Ms. Ingram mitigated the damage to her property by taking advantage of the COVID-19 federal government relief associated with the First Lockdown. This relief consisted of a $40,000.00 loan, $5,000.00 utility relief, and 50% "rent relief" paid the landlord of The Gym's premises. During the Second Lockdown, The Gym was granted government relief in the form of a grant for $15,000.00. None of these grants or loans compensated her for the economic losses incurred.

33. In the four and a half months that The Gym was illegally forced to close, The Gym received $20,000.00 in government relief, plus a reduction in rent of approximately $26,300.00 against lost revenue of approximately $30,000.00 ($135,000.00 over 4.5 months) while still incurring monthly expenses.

34. Ms. Ingram struggled to pay back COVID-19 loans with the rising operating costs of The Gym and devastation of her business caused by the unlawful CMOH Orders.

35. As a result of the damage and losses to her business, in August 2022, Ms. Ingram was forced to sell the home she had owned for twenty-three years and in which she resided with four of her five children, to keep The Gym open and operating.

36. Despite the sale of her home and investing the proceeds into keeping The Gym operational, Ms. Ingram was extremely concerned that there was a real possibility The Gym could still go bankrupt as a result of the damage and losses it had sustained from the

closures and interruptions to its business operations imposed by the unlawful CMOH Orders, and could certainly not survive any further measures that might be imposed by the Defendant that fully or partially restricted its operations.

37. Rather than face bankruptcy, Ms. Ingram elected to sell The Gym, while she still could, as a going concern. The new owner took possession of The Gym on or around January 18, 2023.

38. Ms. Ingram sold The Gym as a 100% share sale for $250,000.00. This was at a considerable undervalue given that the fitness equipment alone had cost her approximately $385,000.00 USD and on a multiple of revenue basis when The Gym operated as a going concern, had a business value of approximately $10,000,000.00.

39. From the sale of The Gym, Ms. Ingram had to pay back $40,000.00 received from the Canada Emergency Business Account ("**CEBA**") program. She further owed the landlord of The Gym's premises back rent of over $55,000.00 arising from the closures and restrictions imposed by the CMOH Orders, however, the landlord agreed to accept the lesser sum of $30,000.00. Ms. Ingram also had to incur $25,000.00 sellers finance on the sale, meaning that Ms. Ingram has to wait until the 5th year after the sale before the purchaser is obliged to pay her the remaining $25,000.00 of the purchase price.

40. The Gym provided Ms. Ingram with the main source of income for her and her family for twenty-eight years and provided them with a good standard of living.

41. As a result of the unlawful CMOH Orders, Ms. Ingram lost not only her business and business income of twenty-eight years but was forced to sell her family home in order to keep The Gym operational long enough to sell it as a going concern and avoid it going out of business altogether, along with unpaid debts. Ms. Ingram is now forced to rent a property in which she and four of her five children reside.

Mr. Scott

42. Mr. Scott has owned and operated The Whistle Stop Café since July 9, 2019.

43. The Whistle Stop Café comprises a restaurant, convenience store, and gas station, a 20 ft drive-in movie screen, and a full-service year-round campground and RV park with full hookups. Since July 9, 2019, Mr. Scott has employed between six and fourteen people to work at The Whistle Stop Café, depending on the time of year.

44. Mr. Scott was forced to close or interrupt regular business operations of The Whistle Stop Café, beginning in or around March 17, 2020, as a result of the unlawful CMOH Orders.

45. The unlawful CMOH Orders continued to require the closure, or significant reduction of the business operations of The Whistle Stop Café throughout 2020 and 2021, until approximately mid February 2022.

46. Around January 2021, until April 2021, Mr. Scott permitted customers to dine in and hold public gatherings at The Whistle Stop Café.

47. As a resulted, Alberta Health Services issued unlawful closure orders for The Whistle Stop Café. Alberta Health Services subsequently obtained an injunction order under the *PHA* against Mr. Scott and The Whistle Stop Café to force compliance with the unlawful closure orders.

48. On or around May 5, 2021, RCMP officers and Alberta Health Services officials forcibly closed The Whistle Stop Café, prevented access to the building, and changed the locks preventing Mr. Scott from entering his property. Alberta Gaming, Liquor and Cannabis agents seized the liquor supply all pursuant to unlawful CMOH Orders.

49. The RCMP officers and Alberta Health Services officials failed to properly secure the building and as a result it was broken into, glass was smashed, and approximately $10,000.00 worth of cigarettes were stolen. Mr. Scott further incurred losses of approximately $4,000.00 in spoiled food.

50. On or around May 8, 2021, Mr. Scott was unlawfully arrested and charged with allegedly breaching the *PHA.* Following his unlawful arrest, Mr. Scott was unlawfully incarcerated for three days at the Red Deer Remand Centre.

51. Following the May 5, 2021, attendance by RCMP officers and Alberta Health Services officials, The Whistle Stop Café was forcibly and unlawfully closed for approximately 8 weeks, as a result of which Mr. Scott lost approximately $350,000.00 comprising property damage, loss of revenue, and extra expenses incurred by him.

52. The Court proceedings and closure of The Whistle Stop Café pursuant to the unlawful CMOH Orders had societal impacts on Mr. Scott. He received death threats against him and his family. One of the teachers at his son's school likened Mr. Scott to Adolf Hitler in front of Mr. Scott's son and his son's classmates. Alberta Premier, Jason Kenney, Justice Minister Tyler Shandro, Alberta Health Services officials, including the CMOH Dr. Hinshaw had all disparagingly defamed Mr. Scott by calling him various names including "rebel" and "superspreader".

53. Due to the CMOH Orders and the resulting closures and restrictions to his ordinary business operations, and the 8-week closure of The Whistle Stop Café in 2021, Mr. Scott lost his regular customer base.

54. On July 31, 2023, in *Ingram* the Alberta Court of King's Bench found that the CMOH Orders pursuant to which Mr. Scott had been charged were unlawful. On August 28, 2023, Mr. Scott was cleared of all charges against him as a result of the decision in *Ingram*.

55. During the Class Period, to the best of Mr. Scott's knowledge, there were no reported cases of COVID-19 contracted at, or connected to, The Whistle Stop Café. When The Whistle Stop Café was open, it abided by and implemented public health requirements and cleaning measures for which the business and Mr. Scott incurred additional costs.

56. Mr. Scott mitigated the damage to his property by taking advantage of the COVID-19 federal government relief, including a $60,000.00 loan from the CEBA program which still remains owing, and Canada Emergency Response Benefit ("**CERB**") for approximately $12,000.00. Mr. Scott also took advantage of the Canada Emergency Wage Subsidy ("**CEWS**") that provided a subsidy of up to 75% of eligible remuneration paid by him to every eligible employee. CEWS was available to employers who demonstrated a decline in revenue as a result of the COVID-19 pandemic.

57. The measures imposed upon Mr. Scott and the business operations of The Whistle Stop Café by the unlawful CMOH Orders, including the 8-week closure of The Whistle Stop Café devasted Mr. Scott's business and he now faces the formidable task of trying to rebuild it and his customer base, as well as repay the COVID-19 government relief in a challenging economy and rising operating costs.

58. Mr. Scott's losses include, but are not limited to:

    (a) Loss of profit;

    (b) Loss of revenues;

    (c) Loss of rents;

    (d) Extra expenses incurred;

    (e) Loss of property;

    (f) Loss of customer base; and

    (g) Loss or termination of employees.

Alberta Bill of Rights

59. Ms. Ingram, Mr. Scott, and the Class Members are persons who have rights under the *Alberta Bill of Rights* to enjoyment of property and not to be deprived thereof except by due process of law.

60. At all material times, the Ms. Ingram, Mr. Scott, and the Class Members were within the knowledge, contemplation, power, and control of Alberta who is bound by the *Alberta Bill of Rights.*

61. The paramountcy clause of the *PHA*, Section 75, expressly states the supremacy of the *Alberta Bill of Rights*, and there is no Act of the Legislature that expressly declares that the *PHA* operates notwithstanding the *Alberta Bill of Rights.* As such the *PHA* is to be construed and applied so as not to abrogate, abridge, or infringe, or to authorize the abrogation, abridgement, or infringement of any of the rights of freedoms recognized and declared in the *Alberta Bill of Rights*, including an individual's property rights.

62. Further, the CMOH Orders have now been found by the Alberta Court of King's Bench to be unreasonable and unlawful, being *ultra vires* the *PHA.* Accordingly, they do not constitute "due process of law" and violate, without justification, the rights of Ms. Ingram, Mr. Scott, and the Class Members to enjoyment of property.

63. The CMOH Orders were issued negligently and without justification.

64. "Due process" requires that the Legislature, or its lawful delegated authority, act in accordance with the legislative process, i.e., in accordance with the process set out in the *PHA.* The CMOH Orders were not promulgated in accordance with the legislative process set out in the *PHA.*

65. The Impugned Orders were unlawful *ab initio*, and therefore could not have been enacted pursuant to a valid legislative objective. As such, the Impugned Orders can be distinguished from legislation or regulations made *intra vires* the enabling legislation, but subsequently found by the Courts to offend the provisions of the *Alberta Bill of Rights.*

66. The validity, objective, and motives for promulgating the Impugned Orders, including the underlying political, economic, social, or partisan considerations, and whether they would be successful, are all irrelevant because of the ease by which the Alberta Legislature can abrogate from the *Alberta Bill of Rights.* The rights and freedoms contained in the *Alberta Bill of Rights* are absolute, and the only mechanism to abrogate Section 1(a) is for the Alberta Legislature to invoke the notwithstanding provisions, which it chose not to do.

Negligence

67. The Defendant is liable to Ms. Ingram, Mr. Scott, and the Class Members in negligence.

68. The Defendant owed Ms. Ingram, Mr. Scott, and the Class members a duty to use due care in giving effect to, or putting into operation, Alberta's core policies concerning the management of the COVID-19 pandemic in the Province of Alberta, including measures imposed pursuant to the *PHA.*

69. Ms. Ingram, Mr. Scott, and the Class members have suffered adverse effects and damages as a result of the Defendant's actions and omissions, which fell below the standard of care applicable to it. The damages and losses of Ms. Ingram, Mr. Scott and the Class Members have suffered are a foreseeable consequence of the Defendant's actions and omissions.

70. At all material times, the Defendant owed Ms. Ingram, Mr. Scott, and the Class Members a *prima facie* duty of care. The relationship between Ms. Ingram, Mr. Scott, and the Class Members and the Defendant was sufficiently proximate such that, in the reasonable contemplation of the Defendant, any negligence in responding to the COVID-19 pandemic, including pronouncing CMOH Orders that were *ultra vires* the *PHA,* in breach of the *Alberta Bill of Rights,* and arbitrarily implementing the CMOH Orders, would likely cause damage to Ms. Ingram, Mr. Scott, and the Class Members. There was a sufficient degree of proximity between Ms. Ingram, Mr. Scott, and the Class Members and the Defendant such that that the imposition of a duty upon the Defendant to take reasonable care not to injure, or cause losses and damage to Ms. Ingram, Mr. Scott, and the Class Members would be just and reasonable.

71. It was reasonably foreseeable that the Defendant's inadequacy and negligence in responding to the COVID-19 pandemic in the Province of Alberta and implementing unlawful CMOH Orders that enforced, with penalties, the closure of or significant curtailment of businesses and entities without adequate proof or reasons would result in harm to Ms. Ingram, Mr. Scott, and the Class Members.

72. Ms. Ingram's, Mr. Scott's, and the Class Members' property included the businesses they owned and operated, as well as their shares in those businesses during the Class Period. The Plaintiffs' and the Class Members' businesses and entities were incorporated and/or regulated pursuant to the *Business Corporations Act*, or equivalent legislation, and relevant regulations passed and enforced by Alberta. Their operations were and are subject to licenses, permits and taxes determined, approved, and governed by Alberta.

73. There are no policy considerations that negate the imposition of the duty of care upon the Defendant. The CMOH Orders pronounced by Dr. Hinshaw purportedly pursuant to

Section 29(2.1) of the *PHA*, were operational decisions, implementing, or administering Alberta's core policy decisions on how to protect the health of Albertans and prevent the spread of COVID-19 in the Province by regulating persons and businesses living and operating in the Province of Alberta.

74. The CMOH Orders were not core policy decisions based on public policy considerations, such as budgetary, economic, social, and political factors. Rather, based on the unverified, unscientific, and negligent opinions and recommendations of Dr. Hinshaw, they operationalized the core policy decisions of the government of Alberta.

75. The CMOH Orders, were not a *bona fide* exercise of the Defendant's discretion under the *PHA* because they were made without authority, being *ultra vires* the *PHA,* and violated S. 1 of the *Alberta Bill of Rights*, and were negligent, unscientific, unverified, untested, unworkable solutions to a respiratory virus that was always going to take the course it took regardless of any such "Orders".

76. The Alberta government and the CMOH negligently defined and promoted vaccines as "safe and effective", closing businesses and denying businesses the custom of unvaccinated patrons, in the negligent belief that the vaccines "stopped the spread" and that the vaccines either prevented COVID-19 or "stopped vaccinated people spreading the virus".

77. At no point did the Defendant ever require Canada to provide copies of the vaccine supply contracts, such that Alberta could confirm whether and to what extent the vaccines were warranted by their manufacturers to be either safe or effective.

78. The Defendant conducted no independent due diligence as to the safety of the vaccines, or their suitability for being required to attend businesses, or employment, or travel, or any other public establishment.

79. The Defendant was responsible for ensuring, or, at the very least taking reasonable, good faith steps to ensure the CMOH Orders were necessary, lawful and *intra vires* the *PHA,* which they failed to do.

80. The Defendant was further responsible for ensuring, or at the very least taking reasonable, good faith steps to ensure that the rights of Ms. Ingram, Mr. Scott, and the Class Members were not violated by the CMOH Orders, which it failed to do.

81. The Defendant knew, or ought to have known that as the cabinet, or committees of the cabinet of the government of Alberta were the final decisions-makers regarding the CMOH Orders, the CMOH Orders were *ultra vires* the *PHA* and as a result would clearly and directly infringe the rights of Ms. Ingram, Mr. Scott, and the Class Members under

the *Alberta Bill of Rights* and that members of the Executive Council were entirely unqualified to make these decisions.

82. The Defendant acted recklessly, in a negligent manner, in bad faith, and/or in abuse of its power, in pronouncing CMOH Orders which it knew, or ought to have known, were *ultra vires* the *PHA* and thereby infringed the rights under the *Alberta Bill of Rights* of those individuals to whom they applied.

83. Ms. Ingram, Mr. Scott, and the Class Members, as well as the damage they incurred as a direct result of the CMOH Orders during the Class Period, are readily identifiable. In fact, Ms. Ingram's business, The Gym, and those businesses owned and operated by the Class Members were directly identified by the Defendant in the unlawful CMOH Orders.

84. The Defendant breached the standard of care of reasonableness by failing to act in a reasonably competent manner while executing operational decisions in response to the presence of COVID-19 in the Province of Alberta.

85. Not one Alberta government official exercised their independent professional judgement regarding the measures imposed upon Ms. Ingram, Mr. Scott, and the Class Members. Instead, the Defendant followed without question the directions from the Public Health Agency of Canada, which had its own public health agenda, including supporting the vaccine mandates, the World Health Organization, and vaccine company profits, and other political objectives as opposed to *bona fide* public health objectives.

86. The Defendant failed to "follow the science" available early in the pandemic that vaccines did not stop the spread of COVID-19, or that vaccinated individuals were just as likely to spread the virus, as unvaccinated individuals.

87. By unlawfully and negligently restricting those individuals who could work for and patronize businesses to those who could prove they were vaccinated, or provide proof of a negative COVD-19 test result taken within the requisite prior timeframe, or an original vaccine medical exception letter, or by preventing healthy people at little or no serious risk from the virus from patronizing these businesses, the CMOH Orders caused losses or damage to Ms. Ingram, Mr. Scott, and the Class Members.

88. The particulars of the Defendant's negligence and operational negligence that resulted in breaches of the duty and standard of care owed to Ms. Ingram, Mr. Scott, and the Class Members are as follows:

    a) Failing to ensure that the CMOH Orders were lawful and *intra vires* the *PHA*;

    b) Failing to follow the Defendant's own Pandemic Plan;

c) Failing to provide sufficient or adequate support compensation and funding for Class Members in the face of the full or partial restrictions imposed upon the Class Members' businesses by the CMOH Orders;

d) Failing to access available federal funding to implement public health measures to combat the spread of COVID-19; and

e) Other such failures as will be proven at trial.

89. Alberta's Department of Finance knew or should have known that the financial business supports put in place for the Plaintiffs and Class Members were insufficient to fully compensate them for their losses and were never intended to fully compensate businesses impacted by the unlawful CMOH orders. The Defendant deliberately underfunded such business support knowing or being careless to the fact that it would lead to business bankruptcies.

90. The Defendant failed to follow its own procedures, legislation, and guidelines to deal with emergencies such as the public health emergency created by COVID-19, including Alberta's Pandemic Influenza Plan.

91. Alberta opted out of the federal COVID-19 contract tracing app and implemented its own COVID-19 contract tracing app, which had been riddled with issues since its roll-out to the public in the summer of 2020. The Defendant has publicly acknowledged its failure to adequately trace the transmission of COVID-19 in the Province of Alberta on multiple occasions, which it noted was partly a result of its inability to hire a sufficient number of staff.

92. As a result of the Defendant's negligent and *ultra vires* response to COVID-19 within the Province of Alberta as set out herein, the Defendant implemented the CMOH Orders (which were made without lawful authority) requiring the closure or significant curtailment of operations for business and entities without any reasons or evidence that such businesses and entities were at risk of spreading COVID-19, or that healthy patrons attending these businesses were at significant risk of serious harm from COVID-19.

93. Further, the Defendant breached Section 30(2)(b) and (c) of the *PHA* which provides that the CMOH may not order the closure of business premises for a period of more than 24 hours without an order from a judge of the Court of Justice to extend this period of closure for an additional period of not more than 7 days. Notwithstanding that the closure of businesses under the unlawful CMOH orders was for a period or periods in excess of 24 hours, the Defendant negligently failed to make any such application to a judge of the Court of Justice.

94. The Defendant's negligence and carelessness in responding to the presence of COVID-19 in the Province of Alberta and the resulting unlawful CMOH Orders requiring the closure or significant curtailment of operations and entities in the Province of Alberta caused damage to the property of the Plaintiffs and Class Members and resulting losses to them. But for the unlawful CMOH Orders requiring the closure or curtailment, or both, of the businesses of the Plaintiffs and the Class Members, their respective property would not have been damaged, and they would not have incurred additional losses resulting from damage to their property.

95. The damage to the property of the Plaintiffs and the Class Members and resulting losses from the property damages were a direct and foreseeable consequence of the Defendant's careless response to the response to COVID-19, particularly the CMOH Orders which were made without lawful authority.

96. As a result of the Defendant's acts and omissions, the Plaintiffs and the Class Members have experienced damage to their property in the form of economic losses and assets being less fit for use and diminution of the asset value of their businesses and entities, as well as their shares in those businesses and entities. As a result of the property damages, the Plaintiffs and the Class Members incurred consequential economic loss in the form of loss of income and loss of earning capacity.

Damages

97. As a result of the Defendant's negligence, Ms. Ingram, Mr. Scott, and the Class Members have suffered the following types of harm:

    a) Damage and loss to personal property which has resulted in a loss of value of that property;

    b) Loss of profit and revenues;

    c) Loss of income and earning capacity;

    d) Loss of customer base;

    e) Loss or termination of employees;

    f) Extra expenses incurred; and

    g) Such other heads of loss as will be proven at trial.

Conversion

98. Through the intentional promulgation, administration, and enforcement of the unlawful CMOH Orders, the Defendant wrongfully and without lawful authority interfered with, damaged, or destroyed the personal property and businesses of Ms. Ingram, Mr. Scott, and the Class Members.

99. The unlawful CMOH Orders wrongfully exercised control over the specific businesses and personal property of Ms. Ingram, Mr. Scott, and the Class Members, and denied, negated, or prevented how they chose to operate and use their businesses and personal property, causing them loss and damage.

100. The provisions of the unlawful CMOH Orders interfered with and exercised control over the businesses and personal property of Ms. Ingram, Mr. Scott, and the Class Members in a manner inconsistent with their rights of title, possession, and usage.

101. By promulgating, administering, and enforcing the provisions of the unlawful CMOH Orders ostensibly for the public benefit, the Defendant intentionally exercised control over the businesses and property of Ms. Ingram, Mr. Scott, and the Class members in a manner which was inconsistent with their ownership and rights.

Breach of Fiduciary Duty

102. At all material times, the Defendant placed itself in a position of fiduciary in regard to the property and interests of the Plaintiffs and Class Members. By utilizing the full mechanism of government, including its police powers, the Defendant took control of the property of the Plaintiffs and Class Members for its own purposes and damages arose as a result of the failure of the Defendant to manage that property in accordance with the standard of care required of a fiduciary.

103. The Defendant took control of the property and businesses of the Plaintiffs and Class Members through the unlawful CMOH Orders which were promulgated for its own purposes and ostensibly for the public benefit. The Plaintiffs and the Class members were in a completely vulnerable position with respect to their relationship to the Defendant and were not entitled to negotiate with the Defendant concerning those provisions of the unlawful CMOH Orders adversely affecting their own property and businesses.

104. The Plaintiffs and the Class members trusted that the Defendant would act in their best interests with regard to their property and businesses over which the Defendant had taken control, which the Defendant failed to do.

105. The unlawful CMOH Orders taking control of the property and businesses of the Plaintiffs and the Class Members were silent as to the Defendant's duties and obligations regarding the management and administration of that property and those businesses. As such, equitable and fiduciary principles stepped in, pursuant to which the Defendant was obliged to manage the property and businesses of the Plaintiffs and Class Members in accordance with the standard of care and diligence required of a fiduciary, which the Defendant failed to do.

Expropriation Without Compensation

106. The closures and restrictions on operations of the businesses of the Plaintiffs and Class Members pursuant to the unlawful CMOH Orders and in violation of the *Alberta Bill of Rights* amounted to the Defendant's expropriation or governmental "use" of their property without compensation. With respect to the *Alberta Bill of Rights*, the Legislature can only expropriate property without compensation when it uses clear and unambiguous language that outlines its intent to do so which the Defendant failed to do.

107. Neither the *PHA*, nor the unlawful CMOH Order contain any clear and unambiguous language outlining the intention of the Alberta Legislature or the CMOH to expropriate property without compensation.

108. Section 52.7(1) of the *PHA* provides that where the Minister or regional health authority acquire or sues real or personal property under Section 52.6 or where real or personal property is damaged or destroyed due to the exercise of any powers under the Section, the Minister or regional health authority shall pay reasonable compensation in respect of the acquisition, use, damage or destruction.

109. The unlawful CMOH Orders interfered with the property and businesses of the Plaintiffs and Class Members by putting them to a "use" that has caused damages to them.

Section 66.1 of the PHA

110. Section 66.1 of the *PHA* offends Section 1 of the *Alberta Bill of Rights* insofar is it prohibits actions for damages arising from the infringement of their property rights guaranteed under Section 1(a) of the *Alberta Bill of Rights.*

111. In any event, the CMOH Orders were made *ultra vires* the *PHA* and as such, the Defendant was not carrying out lawful duties, or exercising valid powers under the *PHA*, or any other enactment. As a result, the Defendant is not entitled to rely on Section 66.1 of the *PHA.*

112. Further, the constitutional rights of Ms. Ingram, Mr. Scott, and the Class Members under the *Alberta Bill of Rights* have been breached by the invalid CMOH Orders without the justification of "due process of law" and as a result, the Defendant cannot rely on Section 66.1 of the *PHA.*

Exemplary or Aggravated Damages

113. The Plaintiffs and Class Members claim exemplary, or aggravated damages from the Defendant. A high standard of conduct is expected from the government of Alberta towards its citizens, including promulgating and enforcing only lawful regulations, including any made under the *PHA*, which was not provided, and Alberta's conduct towards the Plaintiffs, the Class Members, and their respective small businesses was reprehensible, high-handed and oppressive.

114. The Plaintiffs and Class Members propose that the mode of trial of this action be by jury and held at the Calgary Courts Centre, in the City of Calgary, in the Province of Alberta.

115. In the opinion of the Plaintiffs and the Class Members, the trial of the within action will not exceed 25 days.

Remedy sought:

116. The Plaintiffs on their own behalf and on behalf of all Class Members seek:

a) An Order certifying this action as a class proceeding and appointing Ms. Ingram and Mr. Scott as the representative plaintiffs for the Class Members;

b) A Declaration that the Defendant has violated the rights of Ms. Ingram, Mr. Scott, and the Class Members under s. 1 of the *Alberta Bill of Rights* in relation to the promulgation, administration, and enforcement of the unlawful CMOH Orders;

c) A Declaration that the Defendant is liable to the Plaintiffs and Class Members for damages, including general and special damages caused by their breach of their common law duty of care and in conversion in relation to the promulgation, administration, and enforcement of the unlawful CMOH Orders;

d) Special damages in an amount to be proven at trial;

e) General damages for negligence and conversion in an amount to be proven at trial;

f) Damages for breach of fiduciary duty in an amount to be proven at trial;

g) Exemplary, or aggravated damages in an amount to be proven at trial;

h) Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, C. J-1;

i) Costs of this action pursuant to the *CPA*, or alternatively, on a full or substantial indemnity basis, plus the cost of administration and notice pursuant to the *CPA*, plus applicable taxes; and

j) Such further and other relief as counsel may advise and this Honourable Court may allow.

NOTICE TO THE DEFENDANT(S)

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.

Appendix "A"

CMOH Order 02-2020; CMOH Order 07-2020; CMOH Order 18-2020; CMOH Order 19-2020; CMOH Order 25-2020; CMOH Order 34-2020; CMOH Order 37-2020; CMOH Order 39-2020; CMOH Order 42-2020; CMOH Order 43-2020; CMOH Order 44-2020; CMOH Order O1-2021; CMOH Order 02-2021; CMOH Order 04-2021; CMOH Order 05-2021; CMOH Order 08-2021; CMOH Order 09-2021; CMOH Order 10-2021; CMOH Order 12-2021; CMOH Order 14-2021; CMOH Order 17-2021; CMOH Order 19-2021; CMOH Order 20-2021; CMOH Order 30-2021; CMOH Order 31-2021;CMOH Order 40-2021; CMOH Order 42-2021; CMOH Order 43-2021; CMOH Order 44-2021; CMOH Order 45-2021; CMOH Order 46-2021; CMOH Order 47-2021; CMOH Order 52-2021; CMOH Order 53-2021; CMOH Order 54-2021; CMOH Order 55-2021; CMOH Order 59-2021; and CMOH Order 08-2022.

Appendix "B"

Business Closure Restrictions

CMOH Order 02-2020, ss. 2-4; CMOH Order 07-2020, ss. 6,12; CMOH Order 18-2020, ss. 3-4, 6-7; CMOH Order 19-2020, ss. 11-12, 14-15; CMOH Order 25-2020, s. 3; CMOH Order 34-2020, s.3; CMOH Order 37-2020, ss. 3-4, 8-9, 15-16; CMOH Order 39-2020, ss. 6-13, 17-21, 23-25, 29-30; CMOH Order 42-2020, ss. 25-32, 34-36, 40-42; CMOH Order 43-2020; CMOH Order 44-2020; CMOH Order O1-2021, ss. 25-31; CMOH Order 02-2021, ss.34-47, 54; CMOH Order 04-2021, ss. 31-46, 51-56; CMOH Order 05-2021, ss. 42-46, 51-56, 69-72, 78-79; CMOH Order 08-2021, ss.34-45, 50-54, 69-73, 85-87; CMOH Order 09-2021; CMOH Order 10-2021, ss.6.7-7.4, 8.5-8.7, 9.2-9.6; CMOH Order 17-2021, ss. 9-17; CMOH Order 14-2021, s. 3; CMOH Order 12-2021, ss. 5.1-5.4, 6.2, 6.5, 6.7-6.12, 8.5-8.7, 9.2-9.5, 10.3; CMOH Order 19-2021, ss. 5.1-5.1.4, 6.3-6.5, 6.1.2, 6.1.5, 6.1.7-6.1.12, 8.3, 8.1.4, 9.3-9.4, 9.1.2-9.1.4, 10.3-10.4,10.1.3; CMOH Order 20-2021, ss.5.1-5.6, 6.2, 6.5, 6.7-6.12, 6.1.4-6.1.6, 8.2, 8.4, 9.2-9.4, 10.3; CMOH Order 30-2021, ss.4.1-4.4, 5.2, 5.5, 5.7-5.12, 8.3, 8.5; and CMOH Order 31-2021, ss.4.2-4.3, 4.7-4.9, 4.11, 5.3, 6.2-6.6, 7.2, 7.4, 8.2, 8.4, 10.2, 11.2-11.5, 12.2, 12.7-12.10.

Court of Queen's Bench of Alberta

Citation: Tallcree First Nation v Rath & Company, 2020 ABQB 592

Date: 20201008
Docket: 1803 05262
Registry: Edmonton

Between:

Tallcree First Nation

Appellant

- and -

Rath & Company and Jeffrey R W Rath

Respondents

Appeal from the Decision of the Review Officer, dated the 7th day of September, 2018

Memorandum of Decision
of the
Honourable Mr. Justice Donald Lee

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Overview

[1] This is an appeal from the Review Officer's ("RO") decision with respect to the Tallcree ("Tallcree") First Nation's Contingency Fee Agreement ("CFA") entered into with Rath & Company and Jeffrey RW Rath ("Rath") of Priddis, Alberta, on or about October 14, 2015. The contingency fee agreement before the RO was a result of an agricultural benefits settlement paid by the Government of Canada to Tallcree in the sum of $57,590,375. The 20% contingency fee amounted to $11,518,075.

[2] Rule 10.13(1) allows a lawyer or a client to request "a review of retainer agreement" or a lawyer's charges, or both. In this particular case, Tallcree filed its appointment on March 15, 2018, to review a retainer agreement, indicating its request only to review the retainer agreement. Tallcree reiterated this position at the hearing before the RO.

[3] The RO determined that while the 20% contingency fee resulted in an extremely high fee that he had never seen before, it was not one that was clearly unreasonable. Tallcree now appeals the RO's decision.

[4] Rule 10.9 does not use the term "clearly" unreasonable. Rather the Rule only refers to the RO determining the "reasonableness" of a retainer agreement:

> 10.9 The reasonableness of a retainer agreement and the reasonableness of a lawyer's charges are subject to review by a review officer in accordance with these rules, despite any agreement to the contrary.

[5] The RO also found that at a 20% contingency fee was essentially a minimum percentage applicable in the simplest of cases, without any legal foundation for accepting that 20% minimum.

[6] Both of these decisions by the RO constitute reversible errors.

Standard of Review

[7] I conclude that in the present appeal there is no binding authority upon me that determines the standard of review for a RO's determination of the reasonableness of a retainer agreement alone, without reviewing the reasonableness of the lawyer's actual account, which is the case here. In fact, no applicable authority was cited by either counsel for this specific situation.

[8] However, ***Ashraf v Zinner Law Office***, 2013 ABQB 730 does deal with the standard of review in an appeal from a RO's assessment of a lawyers account only at paragraph 27:

> [27] The standard of review in an appeal from a review officer has been considered in several recent decisions. In Repchuk v Silverberg, 2013 ABQB 305 at para 38 [Repchuk], Justice Tilleman summarized the standard of review as follows:
>
> A review officer may fall into error in at least the following ways:
>
> 1. erring in fact, for which a party must demonstrate that the fact as found is "clearly in error": Sweetgrass First Nation v Rath & Company, 2013 ABQB 165 at para 27 [Rath & Co], FMC v Kristof Financial Inc, 2012 ABQB 359 at para 17, 215 ACWS (3d) 1010 [FMC], McLennan Ross v Keen Industries Ltd (No 2) (1988), 1988 ABCA 224 (CanLII), 86 AR 311 at para 7 (CA) [McLennan Ross 2];
>
> 2. erring in principle (law), which will be shown if a party can demonstrate that the review officer proceeded on an erroneous principle, failed to apply a required principle or that the award of the review officer is so high or low as to betray an error of principle: Rath & Co at para 27, McLennan Ross 2 at paras 6, 13;
>
> 3. erring in true questions of jurisdiction (law), for which a standard of correctness will apply: Rath & Co at para 20, Panther Petroleum Ltd v Code Hunter, 2002 ABQB 158 at para 16, 112 ACWS (3d) 225, MacKimmie Matthews v Hector (1998), 1998 ABCA 278 (CanLII), 219 AR 163 at para 7 (CA); and
>
> 4. failing to provide a hearing that is procedurally fair, for which a standard of correctness will apply: Anderson v Alberta Securities Commission, 2008 ABCA 184 at para 30, 437 AR 55 [Anderson].
>
> (Emphasis in original).

[9] The Supreme Court of Canada's most recent wide-ranging administrative law decision ***Canada (Minister of Citizenship and Immigration) v Vavilov***, 2019 SCC 65 stated that the standard of review should be "palpable and overriding error", where the legal principle is not readily extricable such as in a question of mixed fact and law:

> [31] We wish to emphasize that because these reasons adopt a presumption of reasonableness as the starting point, expertise is no longer relevant to a

> determination of the standard of review as it was in the contextual analysis. However, we are not doing away with the role of expertise in administrative decision making. This consideration is simply folded into the new starting point and, as explained below, expertise remains a relevant consideration in conducting reasonableness review.
>
> [32] That being said, our starting position that the applicable standard of review is reasonableness is not incompatible with the rule of law. However, because this approach is grounded in respect for legislative choice, it also requires courts to give effect to clear legislative direction that a different standard was intended. Similarly, a reviewing court must be prepared to derogate from the presumption of reasonableness review where respect for the rule of law requires a singular, determinate and final answer to the question before it. Each of these situations will be discussed in turn below.
>
> …
>
> [37] It should therefore be recognized that, where the legislature has provided for an appeal from an administrative decision to a court, a court hearing such an appeal is to apply appellate standards of review to the decision. This means that the applicable standard is to be determined with reference to the nature of the question and to this Court's jurisprudence on appellate standards of review. Where, for example, a court is hearing an appeal from an administrative decision, it would, in considering questions of law, including questions of statutory interpretation and those concerning the scope of a decision maker's authority, apply the standard of correctness in accordance with *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at para. 8. Where the scope of the statutory appeal includes questions of fact, the appellate standard of review for those questions is palpable and overriding error (as it is for questions of mixed fact and law where the legal principle is not readily extricable) (underlining added): see *Housen*, at paras. 10, 19 and 26-37. Of course, should a legislature intend that a different standard of review apply in a statutory appeal, it is always free to make that intention known by prescribing the applicable standard through statute.

[10] Presumably where the RO made an extricable error of law or principle, the standard of "correctness" still applies, as stated in ***Housen*** supra at paragraph 36:

> 36 To summarize, a finding of negligence by a trial judge involves applying a legal standard to a set of facts, and thus is a question of mixed fact and law. Matters of mixed fact and law lie along a spectrum. Where, for instance, an error with respect to a finding of negligence can be attributed to the application of an incorrect standard, a failure to consider a required element of a legal test, or similar error in principle, such an error can be characterized as an error of law, subject to a standard of correctness. Appellate courts must be cautious, however, in finding that a trial judge erred in law in his or her determination of negligence, as it is often difficult to extricate the legal questions from the factual. It is for this reason that these matters are referred to as questions of "mixed law and fact". Where the legal principle is not readily extricable, then the matter is one of "mixed law and fact" and is subject to a more stringent standard. The general

> rule, as stated in Jaegli Enterprises, supra, is that, where the issue on appeal involves the trial judge's interpretation of the evidence as a whole, it should not be overturned absent palpable and overriding error.

[11] Accordingly, I conclude that the standard of review in this appeal is:

a) "Correctness", if the RO proceeded on an erroneous principle, failed to apply a required principle, or the award of the RO in allowing the entire $11,518,075 fee was so high as to betray an error of principle, as these situations would constitute a reversible error; and

b) "Palpable and overriding error," if the legal principle is not readily extricable such as in a question of mixed fact and law.

[12] If a reversible error is found in the RO's decision, Rule 10.27(1) applies:

> 10.27(1) After hearing an appeal from a review officer's decision, the judge may, by order, do one or more of the following:
>
> (a) confirm, vary or revoke the decision;
>
> (b) revoke the decision and substitute a decision;
>
> (c) revoke all or part of the decision and refer the matter back to the review officer or to another review officer;
>
> (d) make any other order the judge considers appropriate.

[13] In determining the standard of review, I note that pursuant to Rule 10.26(2), this is an appeal on the Record, and is not a *de novo* hearing:

> 10.26 (2) The appeal from a review officer's decision is an appeal on the record of proceedings before the review officer.

[14] Pursuant to Rule 10.26(3), the "Record" consists of the following:

> 10.26(3) The record of proceedings is
>
> (a) Form 42 served under rule 10.13(2),
>
> (b) the material the parties filed to support or oppose, or that was required for, the review,
>
> (c) the transcript of the proceedings before the review officer, unless the judge waives this requirement, and
>
> (d) the review officer's certificate.

New Ground of Appeal

[15] There was a new ground of appeal raised by Tallcree before me that was not presented to the RO, specifically that Rath's lawyers account does not comply with Rule 10.7(7) which reads as follows.

> 7) Every account rendered under a contingency fee agreement must contain a statement that at the client's request a Review Officer may determine both the

> reasonableness of the account and the reasonableness of the contingency fee agreement.

[16] Rath's February 16, 2018, one-page legal account, was rendered approximately two and a half years after the retainer agreement, and did not contain a statement that the client could request a review of the retainer agreement and/or lawyer's charges as required under Rule 10.7(7) cited above.

[17] Tallcree's evidence is that it has received independent legal advice from its present appellant counsel, Ms. Kennedy, and it was aware of the review process since April or May of 2017.

[18] The issue is whether this defect in Rath's one page legal billing is sufficient to trigger the application Rule 10.8 which reads as follow:

> 10.8 If a lawyer does not comply with rule 10.7(1) to (4), (6) and (7), the lawyer is, on successful accomplishment or disposition of the subject-matter of the contingency fee agreement, entitled only to lawyer's charges determined in accordance with rule 10.2 as if no contingency fee agreement had been entered into.

[19] Part of the problem in introducing a new issue at the appeal stage that was not before the RO is that this new issue has never been addressed by Rath. Presently, I have no evidence before me as to why Rath did not comply with the requirement of Rule 10.7(7). However given my decision herein, I do not need to deal with this new ground of appeal.

Analysis

[20] The taxation of accounts pursuant to the new *Rules of Court* which came into effect in November 2010 specified that the reasonableness of the contingency agreement is to be determined at the time the retainer agreement was entered into:

> Rule 10.19(2)
> (2) A review of a retainer agreement must be based on the circumstances that existed when the retainer agreement was entered into.

[21] Accordingly, I am limited to determining the RO's determination on the Record of the issue of the reasonableness of the retainer agreement at the time it was entered into, as no review of the account has been sought. This represents a somewhat unique situation given that all of the authorities cited generally address the review of a retainer agreement and a lawyer's account, or the lawyer's accounts alone.

[22] ***MS v DM***, 2014 ABQB 702 describes at paras [33] through [39] some of the important general considerations when dealing with CFA's:

> [33] The court's jurisdiction to deal with those issues was explained by the Alberta Court of Appeal in the case of Morrison v Rod Pantony Professional Corporation, 2008 ABCA 145 at paras 12-13, 429 AR 259:

> [12] With respect to contingency fee agreements, the court has a dual jurisdiction:
>
> (a) It has its normal jurisdiction to interpret and enforce contracts; and
>
> (b) It has an exceptional jurisdiction under R. 619(4) to "vary, modify or disallow the agreement".
>
> The power to vary a contract found in the Rule is not one available to the court at common law.
>
> [13] As a general rule, issues regarding the interpretation of a contingency fee agreement should be resolved first by the ordinary rules respecting contractual interpretation. Once the proper legal interpretation of the retainer agreement has been established, the Taxing Officer (and the court) can then review it for unreasonableness or unconscionability under R. 619(4).

[34] The authority given by rule 619(4) for the Court to vary, modify, or disallow the agreement is now found in rule 10.18(3)(b) of the Rules of Court.

[35] The Law Society of Alberta Code of Conduct, rules 2.06(2), also addresses contingency agreements. The Rule and commentary provide:

> 2.06 (2) Subject to Rule 2.06 (1), a lawyer may enter into a written agreement in accordance with governing legislation that provides that the lawyer's fee is contingent, in whole or in part, on the outcome of the matter for which the lawyer's services are to be provided.
>
> Commentary
>
> In determining the appropriate percentage or other basis of a contingency fee, a lawyer and client should consider a number of factors, including the likelihood of success, the nature and complexity of the claim, the expense and risk of pursuing it and the amount of the expected recovery. Party-and-party costs received by a lawyer are the property of the client and should therefore be accounted for to the client in accordance with the Alberta Rules of Court, Rule 10.7. The test is whether the fee, in all of the circumstances, is fair and reasonable.
>
> . . .

[36] There are other important considerations when dealing with contingency fee agreements.

[37] The aim of contingency fees is to make court proceedings available to people who could not otherwise afford to have their legal rights determined. This goal should be encouraged and a flexible approach should be taken to problems arising from contingency fee arrangements in order to facilitate access to the courts for more Canadians: Rusk (Next Friend of) v Medicine Hat (City), 2001

> ABQB 1020 at para 15, 305 AR 332 [Rusk], citing Coronation Insurance v Florence, [1994] SCJ No 116 at para 14 (SCC).
>
> [38] That said, one must also consider that the people who rely on contingency fee arrangements are often vulnerable due to poverty, impact of injuries, educational status, or other social disadvantages. The Alberta Rules of Court, Alta Reg 124/2010, Law Society Code of Conduct, and jurisprudence related to contingency fee agreements and other legal fee arrangements offer some protection for this potentially vulnerable segment of the population.
>
> [39] Accordingly, when considering applications that challenge the interpretation or fairness of a contingency fee agreement, the necessity and importance of encouraging this form of legal fee arrangement should be balanced with the need to safeguard the citizens who rely on contingency fee agreements in order to have access to justice.
>
> (Emphasis added)

[23] I conclude that given the sensitive nature of CFA's with respect to vulnerable members of the community and their ability to access justice, amongst other reasons, the onus is on Rath to satisfy the Court that the CFA is fair and not unreasonable at the time it was entered into.

Facts

Rule 10.19(2) The Circumstances that Existed when the Retainer Agreement was Entered Into:

Tallcree's Economic Circumstances Due to the Rapid Unemployment Related to the Collapse of the Alberta Oil and Gas Exploration Industry. Tallcree First Nation Requires This Money Urgently on an Emergency Basis.

[24] The best evidence of the circumstances that existed when the CFA was entered into on October 14, 2015 can be found in Rath's own letter, written by him less than two months afterwards. Rath's letter dated December 10, 2015 to the federal Minister of Indigenous and Northern Affairs, and to the federal Minister of Justice, has been reproduced in its entirety as part of the Schedule A documents to this decision.

[25] I conclude that Rath's December 10, 2015 letter specifically sets out as closely as possible the circumstances that existed less than two months prior at the time the CFA was entered into. These circumstances, as stated by Rath himself, read as follows:

> Pursuant to Prime Minister Trudeau's statement on December 8, 2015 that "(i)t is time for a renewed, nation-to-nation relationship with First Nations peoples, one that understands that the constitutionally guaranteed rights of First Nations in Canada are not an inconvenience but rather a sacred obligation", our client's view is that it would be not only immoral and in bad faith, but in breach of the Honour or the Crown and the Crown's Constitutional and fiduciary duties for the Government of Canada to continue to withhold monies that it has acknowledged

> for over 10 years are owing. In continuing to do so, the Government would continue along the path of its predecessor in creating an unfair advantage in settlement negotiations by withholding funds from some of Canada's poorest citizens as a means of extracting an unfair or unreasonable settlement on the basis of poverty that Canada itself has created and supported through its previous refusals to honour its "sacred obligations".
>
> . . .
>
> Our clients are in dire economic circumstances due to the rampant unemployment related to the collapse of the Alberta Oil & Gas Exploration Industry. Tall Cree First Nation requires this money urgently on an emergency basis.
>
> It is the respectful view of our clients that a failure to immediately undertake payment of this amount would be nothing more than a continuation of the immoral and unlawful conduct of the previous 10 years of failed First Nations policy.
>
> . . .
>
> On behalf of Tallcree First Nation, we request your most immediate response to this letter.
>
> (Emphasis added)

Tallcree's Understanding of the Circumstances at the time of the CFA

[26] I accept that Tallcree was aware of the terms of the CFA, was aware as to the possible range of recovery, and was aware of the 20% fee that would accompany that general range of recovery between approximately $50 to $80 million dollars.

[27] However, Tallcree was unaware at the time of the CFA about how long such a recovery would take. How lengthy a process the settlement would take, and how quickly the settlement could be reached, were critical factors for Tallcree in determining the reasonableness of the CFA, as is evident from the Band Administrator's evidence quoted below:

> Page 37, line 30 to Page 38, line 16
>
> THE REVIEW OFFICER: So when the contingency fee agreement was entered into, you probably know roughly what kind of moneys are at stake here. MR.
>
> CARDINAL: I would say yes to that. What we didn't understand is the timeframe. You understand, our claim started with Miller Thomson back in 2000, 2001, somewhere in that vicinity. We understood in entering into this contingency fee agreement that this could potentially take years. This could potentially take an undisclosed amount of time in which case Rath & Company would have, in our view, been quite entitled to take 20 to 35 percent if they had to go to Court, had to call experts and I think it was explained by Mr. Rath at that time, if we do have to call experts in, it is going to cost, you know, potentially thousands and thousands of dollars to be able to provide litigation at the highest level in this country, potentially all the way to - -
>
> THE REVIEW OFFICER: And the timeframe was what, 2015.

MR. CARDINAL: October, 2015.

THE REVIEW OFFICER: Okay. And it went right through to 2017 before the settlement was achieved; is that right?

MR. CARDINAL: The first settlement came in in 2017, yes -- or the offer came in 2017 which the –

THE REVIEW OFFICER: So that's two years anyway.

MR. CARDINAL: Not quite. October of 2015 and so you're not quite two years. So you're a little better than 18 months

. . .

Transcript: Page 42, line 27 to Page 43, line 7

THE REVIEW OFFICER: Okay. And you also did say that, you know, you knew you were looking at a range of possible recovery or benefit of, you know, between 50 some million and 80 some million which was the counteroffer in that letter. So you knew the range, you had the percentage so you could have sort of sorted out in your mind what this is going to cost in the end.

MR. CARDINAL: I could have sorted it out, absolutely, when we believed at the time that this could take potentially years.

THE REVIEW OFFICER: Okay, so it is the issue of the timing.

MR. CARDINAL: It's the issue of how much time was spent and how much risk was really involved in Rath taking on this case. That's why we're saying, like, this happened so quickly that, you know, 20 percent seems outrageous. And if we felt at any point in time that we could have approached Mr. Rath and re-negotiated that – I mean, he stood up in public meetings and basically said, you know, whether this goes ahead or not he is going to get paid and he is going to get paid his 20 percent and he said that at the very first meeting before we really got going with any offers or anything on the table. Basically, you know, when membership stood up and asked him, what are your fees going to be? It's 20 percent. And, you know, and he stood -- he stood behind that. We felt at any point in time we could have negotiated with him to something a little more what we felt would have been reasonable.

(Emphasis added)

Other Relevant Circumstances at the Time of the CFA

[28] Rath points out that Tallcree was a sophisticated First Nation that owned a number of operating businesses in 2018. Tallcree's financial circumstances at the time of the CFA in October 2015 were not clear from the Record except for Rath's representation in December 2015 to the two federal Ministers that Tallcree was in "dire economic circumstances" and needed the settlement monies "urgently on an Emergency basis". However one can assume that some or all of their 2018 businesses were operating in October 2015, but that the substantial financial

settlement it received of over $57.5 million in 2017 had improved its financial standing by the 2018 fiscal year.

[29] Other relevant circumstances that existed at the time of the Retainer Agreement was entered into included that Tallcree had previously retained another law firm Ackroyd for approximately eight years from 2007 on an hourly fee basis to negotiate these agricultural benefits claims with the Government of Canada.

[30] Tallcree was dissatisfied with its previous lawyers Ackroyd because they had not made much progress on the claims and allegedly had not reported on a regular basis since 2013.

[31] However, as referenced by Rath in his December 2015 letter to the two Federal Ministers, this was probably not Ackroyd's fault entirely because it appears that no claims were being dealt with during this time by the Government of Prime Minister Stephen Harper:

> However, these settlement negotiations were shelved by the Government of Canada under Prime Minister Stephen Harper, and as a result, these claims have since languished or been opposed by Canada, including in the Specific Claims negotiation process and before the Specific Claims Tribunal. It is our client's sincere hope that, in the light of Prime Minster Trudeau's recent address to First Nation leaders that "constitutionally guaranteed rights of First Nations in Canada are not an inconvenience but rather a sacred obligation", the new Government of Canada will take action to remediate this state of affairs.

[32] Tallcree had a draft of the proposed CFA for a period of approximately one year before they executed it. At that time, as found by the RO, Tallcree had the opportunity to have other legal counsel go over the proposed CFA. It appears that Tallcree did not actually have the draft reviewed by any other legal counsel before signing it (Hearing Transcript at page 111, lines 14 to 21; and page 133, lines 32 to 34 to page 134, line 4).

[33] However, Tallcree argues that Rath withheld critical information from Tallcree at the time of the CFA that strongly suggested that the agricultural benefit settlement that they were seeking would be resolved favourably and quickly. In hindsight, this was predictable as a result of statements made by Prime Minister Justin Trudeau, who appeared to promise to resolve these types of claims as soon as possible, as referenced in Rath's December 2015 letter quoted from earlier. Tallcree notes that all Rath ever told them was that they had close connections to the Trudeau government.

[34] While Tallcree's previous legal counsel had filed formal claims for the unfulfilled Treaty promises related to agricultural benefits on behalf of Tallcree in 2012, I conclude that Rath was essentially only successful in settling those claims in short order after the CFA because of the change in government. Rath would have been aware of this fortuitous change in the attitude of the Federal government at the time the October 14, 2015 retainer agreement was entered into, as a fixed date election was legislated by *S.C. 2000 c.9* to occur on October 19, 2015.

[35] In this regard, I understand that there were approximately 20 other First Nations who settled their agricultural benefits claims around the same time Tallcree did, represented by Rath or other legal counsel, nine of which were settled by Tallcree's prior legal counsel Ackroyd. These other similar settlements by Rath and other law firms establish that these settlements were clearly attainable at the time the CFA was entered into.

Rath's after the fact time records were only $391,900 versus a fee charged of $11,518,075

[36] The RO considered Rath's statement of account issued on February 16, 2018. It consisted of two lines referencing the settlement and the contingency fee as can be seen in Schedule A. Tallcree quite properly raised the issue of a more detailed account with Rath. Tallcree had retained present legal counsel for this appeal in approximately May 2017. Six months later on August 15, 2018, the Respondents submitted their time records, which were only an estimate of the work completed on the agricultural benefits settlement matter since the Respondents did not keep actual contemporaneous time records on this file. The total of $391,900 in time records based on an average $500 hourly rate showed an estimate of $298,800 claimed by Jeffrey Rath and $93,100 claimed by the other lawyers at Rath & Company. Rath was a small six-member firm situated in Priddis, Alberta. These time records total $391,900, approximately 1/29 or 3% of the contingency fee amount received by Rath of over $11.5 million.

[37] From the Record, my review of the actual work performed by Rath shows that even this "after the fact time estimate" still overstated the actual time spent on this file. I reach this conclusion because Rath's legal work in this case essentially consisted of filing a formal claim in Federal Court, and sending the three-page letter less than two months after the CFA dated December 10, 2015 to the two federal Ministers in Ottawa on behalf of Tallcree, proposing an offer of settlement in the amount of approximately $83,000,000.

[38] After some minor negotiations and a one-year bureaucratic delay between the government negotiators and Rath, a settlement figure of $57,590,375 was finalized at the end of 2016, and the ratification process began. I conclude based on my review of the Record that the bulk of Rath's efforts consisted of outstanding paperwork and efforts by Rath to comply with federal government administrative processes and documentation of no particular complexity or uniqueness, usually authored or signed off on by Rath's paralegal.

The RO's Decision

[39] The factors applied in this case by the RO emanate from ***Rusk v Medicine Hat (City of)***, 2001 ABQB 1020, which was a decision of this Court under the *Rules* in force prior to November 2010. Under the pre-November 2010 Rules, "reasonableness" could be looked into on the date the work was completed, presumably when the final account was rendered. In this case, the difference in time between the Retainer Agreement dated October 14, 2015 and February 16, 2018 when the account was issued, was a period of almost 2 ½ years.

[40] The RO applied the ***Rusk*** factors from paragraph 32 of that decision:

1. the financial circumstances of the plaintiff;
2. whether the law firm carried the disbursements;
3. the complexity of the issues;
4. the experience and competence of defendants' counsel;
5. the degree of risk assumed by plaintiffs' counsel;
6. the experience and competence of plaintiffs' counsel;
7. the time expended by plaintiffs' counsel;
8. the timing of the settlement;
9. the importance of the case to the plaintiffs; and
10. whether the settlement was a good one.

[41] I accept the RO's conclusion that to obtain the settlement of $57,590,375 did require a specialized knowledge of the history of these claims and treaties that only a few lawyers who practice extensively in the area would have necessarily been aware of.

[42] However, the RO was concerned in his reasons for judgment that the quick settlement may have resulted in an unreasonable fee:

> Transcript, Page 38, Lines 17 – 25
>
> The only factor in all of this that did cause me to pause is the one paragraph in one of Mr. Molstad's authorities. Let's see if I can find it, where the suggestion was that, I am not sure I can find it, but there was a suggestion there that if circumstances changed, what might have been a reasonable contingency fee agreement at the time may result in an unfair fee. I can't find it, but I am sure that you all heard what it was and you will be able to find it later if you need to. So I paused a little bit. I paused on that because the amount here is high. Although a lot of work was put in to getting the result, it probably was not the amount of work that was contemplated by either side. Yes, the objective was to get things done as quickly as possible but it just seemed that the fee was extremely high.

[43] Nevertheless the RO found that although the CFA resulted in an extremely high fee that he had never seen before, it was not clearly unreasonable as he states below in his official Decision:

> **(RO's) Rule 10.19 Decision:** The provision in the contingency fee agreement for the calculation of fees was found to be reasonable and the resulting fee of $11,518,075.00 was not "unexpectedly unfair" or clearly unreasonable on the facts in this case. For these reasons and because a Review Officer is bound to give substantial deference to a contingency fee agreement, the fee claimed by the Law Firm is allowed in full. (Emphasis added)

[44] The RO further found in his Reasons for Judgment that a 20% contingency fee was acceptable because it was "not clearly unreasonable", and because it was at the low end of contingency fees applicable in the simplest of "slam dunk" cases where liability was not in issue, as he stated below in his reasons:

> Transcript Page 137, Lines 34-41
>
> At what point during the conduct of the matter was it resolved? That is not in issue here because we are dealing with the low percentage, the 20 percent. So that's for the 20 percent is the percentage applied to really the initial steps in getting things done. If this were litigation, it could have gone on with the next stage up to another percentage and so on. Twenty percent is on the low end of contingency fee agreements. In personal injury actions, a 20 percent fee, if you see one, would be applied to cases where liability is not in issue. It is a clear-cut case. You are going to win, you know, it is just a matter of how much work it is going to take to get there and then you go up from there.
>
> . . .
>
> Transcript Page 139, Lines 3-9

> And then those are the factors that are considered by a Review Officer when there is no contingency fee agreement. So that is why I often say if it is in the agreement, unless it is clearly unreasonable, I have to respect it. Twenty percent, although it produces a high fee, I cannot say it is clearly unreasonable.
>
> So for all of these reasons, I find that the 20 percent is reasonable and the fee generated from the 20 percent is not clearly unreasonable. . . .
>
> (Emphasis added)

Conclusion

[45] The standard of review herein is such that I can vary or revoke the RO's decision if the RO made a "palpable and overriding error" with respect to a question of mixed fact and law; and "correctness" with respect to an extricable error of law or principle, or with respect to the $11.5 million-dollar fee award that betrays such error in principle.

[46] In my analysis, the reasons and decision of the RO are reversible for "correctness", and also contain "palpable and overriding errors" of mixed fact and law.

[47] Firstly, Rule 10.9 mandates a review based on whether the CFA is "reasonable", not whether it is "clearly unreasonable":

> 10.9 The reasonableness of a retainer agreement and the reasonableness of a lawyer's charges are subject to review by a review officer in accordance with these rules, despite any agreement to the contrary.

[48] Requiring that the CFA be shown to be "clearly unreasonable", is definitely a lower standard for Rath to meet. Determining the "reasonableness" of the CFA is not the same as the RO's decision that the resulting fee of $11,518,075 was not "unexpectedly unfair" or "clearly unreasonable" on the facts in this case.

[49] The RO's decision that the CFA was reasonable because of the resulting fee "was not unexpectedly unfair" or "clearly unreasonable" on the facts in this case is not the same as determining the "reasonableness" of a retainer agreement pursuant to Rule 10.9. This decision by the RO represents a reversible error of law.

[50] Secondly, it was also a palpable and overriding error for the RO on the facts as he found them to set a 20% contingency fee essentially as a minimum. Setting a 20% contingency as a reasonable low-end minimum percentage without question and without any caselaw precedent, automatically justified the $11.5 million-dollar legal fee in the RO's mind, as of course it was a simply mathematical calculation (20% x Amount Recovered). However, accepting 20% as a minimal contingency fee ignored other factors critical in the determination of the reasonableness of the CFA, for example, the actual time Rath spent on the file, and how quickly and how easily the settlement was reached. I note as well that Rath was a small six-lawyer law firm practicing in Priddis, Alberta, at all material times herein, and I have found that most of the work product found in the Record are actually simple emails created and signed by his paralegal.

[51] I conclude that both of the RO's decision on these two issues constitute reversible errors. There is no proper legal basis or foundation for the RO to have limited or fixed his low-end minimum contingency fee amount at 20% of any amount recovered, which is why the RO's

decision resulted in an incredibly high legal fee that even he had never seen before, as he stated. Furthermore, the RO's standard of "clearly unreasonable" is not the "correct" legal standard with which to review the CFA.

[52] Having found two reversible errors, Rule 10.27(1) and (2) applies. Pursuant to Rule 10.27(1)(b), I will revoke the RO's decision and substitute with my decision:

> 10.27(1) After hearing an appeal from a review officer's decision, the judge may, by order, do one or more of the following:
>
> (a) confirm, vary or revoke the decision;
>
> (b) revoke the decision and substitute a decision;
>
> (c) revoke all or part of the decision and refer the matter back to the review officer or to another review officer;
>
> (d) make any other order the judge considers appropriate.
>
> (2) If the amount of lawyer's charges payable pursuant to the decision of the review officer has been paid and, after payment, is reduced on appeal, the lawyer may be ordered to return the excess and, if the lawyer fails to do so, the lawyer, in addition to being liable for that amount, may be found guilty of a civil contempt.
>
> (Emphasis added)

My Post Decision Requirements

[53] Before deciding on the appropriate amount of the Respondent's account, I will give each party a further opportunity to provide me with written submissions as to the appropriate final amount of Rath's fee, based on the facts that I have found, and based on the Record that was before the RO. Tallcree submits that a one or two-million-dollar fee is appropriate in these circumstances.

[54] Any new evidence that the parties wish to reply on will have to comply with the ***Palmer v The Queen*** test:

> (1) The evidence should generally not be admitted if, by due diligence, it could have been adduced at trial provided that this general principle will not be applied as strictly in a criminal case as in civil cases;
>
> (2) The evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue in the trial;
>
> (3) The evidence must be credible in the sense that it is reasonably capable of belief; and
>
> (4) It must be such that if believed it could reasonably, when taken with the other evidence adduced at trial, be expected to have affected the result.

[55] I ask each counsel to supply me with their written argument with respect to the final amount of Rath's fee no later than October 30th, 2020.

Heard on the 20th and 21st days of February, 2020.
Supplemental Submissions August 18th and August 28th, 2020.

Dated at the City of Edmonton, Alberta this 8th day of October, 2020.

Donald Lee
J.C.Q.B.A.

Appearances:

Priscilla Kennedy
of Priscilla Kennedy Law
for Appellant, Tallcree First Nation

Edward Molstad, QC and Allie Larson
of Parlee McLaws LLP
for the Respondents

The “Schedule A” can be found on the Court file.

From: David Dickson
Sent: Wednesday, January 24, 2024 2:49 PM
To: Redacted @gov.ab.ca>; Office of the Premier <Premier@gov.ab.ca>; Health Minister <Health.Minister@gov.ab.ca>; Ministry of Justice <ministryofjustice@gov.ab.ca>
Cc: Drayton Valley-Devon <draytonvalley.devon@assembly.ab.ca>
Subject: RE: Follow-up to request for meeting
Importance: High

I am sorry Redacted, but you have a conflict here, which I suspect you know.

I must insist this is passed on to the Premier and Ministers for their immediate attention.

David

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Disabled Police Officer (retired - injury on duty)
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Privacy and Cybersecurity Expert.
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(Mel Gibson: Edge of Darkness 2010)

https://avoidabledeathawareness.com

From: Redacted @gov.ab.ca>
Sent: Wednesday, January 24, 2024 2:43 PM

To: David Dickson <david.dickson@dksdata.com>
Subject: RE: Follow-up to request for meeting

David,

I understand your concerns and respect your position. Should you reconsider, please know I am standing by ready to meet with you per the terms outlined in my last email.

Regards,

Redacted
Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted

Alberta Justice

Classification: Protected A

From: David Dickson <david.dickson@dksdata.com>
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To: Redacted @gov.ab.ca>
Subject: FW: Follow-up to request for meeting

No disrespect Keith, but that is neither secure nor enough time for what needs to be reviewed. I am not sure this would be an appropriate mechanism given the material and concerns.

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Sent: Wednesday, January 24, 2024 2:03 PM
To: David Dickson <david.dickson@dksdata.com>
Subject: RE: Follow-up to request for meeting

Hi David,

I would be glad to meet with you virtually for 30 minutes. You will have the ability to share your screen to show any documents you'd like to refer to.

I am available:

- Thurs Feb 1 after noon
- Tues Feb 6 at 10 am
- Wed Feb 7 at 2 pm

If none of those timeslots work for you, please let me know when would be more convenient.

If you have any documents you'd like me to review in advance of the meeting please forward them.

Regards,

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Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted

Alberta Justice

Classification: Protected A

From: David Dickson <david.dickson@dksdata.com>
Sent: January 24, 2024 1:36 PM
To: Redacted gov.ab.ca>
Subject: RE: Follow-up to request for meeting
Importance: High

Good afternoon, Keith,

Purpose/Outcome:
As I had outlined to MLA Boitchenko, the purpose of the meeting is to present the material I had shown him in person last year (and more). As MLA Boitchenko agreed, we would require a minimum of 2 hours for a presentation (more would be preferable).

A follow up from that would hopefully be a meeting of the Chiefs and Chiefs (who have invited me to present multiple times in the past). The extent of the matters I would be presenting could only be truly addressed at such a

meeting. However, it would be appropriate to present this to the Premier, Minister of Health and Minister of Justice initially as some of the concerns could be addressed by them immediately.

In the alternate, a meeting directly with the Chiefs and Chiefs would also suffice.

Much of this is sensitive and cannot be shared by email. However, much of the material provided should be enough to understand the gravity of the matters at hand.

This material shows the deliberate manipulation of information that would be considered criminal in nature. It includes areas from Lockdowns, Vaccination rollouts (and specific implementation), Avoidable Excess Deaths, Ongoing Incidents in Care Homes and more. Much of this involves Government and pseudo-government agencies (AHS, APL, Capital Care, Covenant Health, Office of the Auditor General, Office of Human Rights) etc. However, it also involves some private lawyers and other individuals who are part of the self titled 'freedom movement'.

This information goes back to 2020 and up to the present day. Some of the concerns have already been verified by our previous Health Minister, Jason Copping among others. Much of the areas in question are the domain of the Health Minister, but all would fall under the remit of the Justice Minister in the current context.

As a retired Police Officer and recognised expert in Judicial Matters (by PPSC, Alberta Justice and Police Agencies), more specifically digital evidence, I am only interested in providing what can be presented for further police investigation and in a courtroom.

As this directly impacts the Health and Safety of Albertans, Time is of the Essence.

I can be available at any time and any location.

David

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https://avoidabledeathawareness.com

Classification: Protected A

From: Redacted @gov.ab.ca>
Sent: Wednesday, January 24, 2024 1:06 PM
To: David Dickson <david.dickson@dksdata.com>
Subject: Follow-up to request for meeting

Good afternoon,

I write further to your requests to meet with Premier Smith, Minister LaGrange, and Minister Amery.

First, I offer my apology for the delay in a Justice representative getting in touch with you.

I have reviewed the correspondence you have sent. It would be helpful to know more precisely what it is you seek. You have shared some data and some feedback, but can you please identify what outcomes you hope to obtain from these meetings? This will be helpful in determining who is best to meet with you and how best we can prepare for such a meeting.

Regards,

Redacted
Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted

Alberta Justice

Classification: Protected A

From: David Dickson
Sent: Tuesday, February 13, 2024 2:17 PM
To: PSES Minister <PSES.Minister@gov.ab.ca>
Subject: RE: Review of evidence live 8pm MT - URGENT
Importance: High
Sensitivity: Confidential

Thank you for your prompt response.

However, the evidence to present DIRECTLY involves the Justice Ministers Chief of Staff, Redacted . The same Chief of Staff (and ex JCCF lawyer) who has been delaying the material being forwarded for many months. Mr. Redacted knows very well he cannot have a meeting yet continues to try and prevent the material moving forward. This is a crime.

I would hope that your office would ensure more discretion in future before contacting the very office mentioned below. This level of compromise at the Justice Ministers office (and the Chief Whip) cannot be allowed to expand into the office of the Minister of Public Safety and Emergency Services. This would impact the whole of the integrity of the Judicial process in Alberta.

These were the words of my MLA speaking to me at the Alberta Legislature just before I gave a speech - September 29th, 2023
I don't know if he knew I was already miked up for the speech when he spoke to me. He is lucky it wasn't live streamed. Based on his candor from the start, I don't think it would have changed what he has said and done, but it is clear he is now being put under pressure by the people above him. He has tried to help (and is one of the few who did). If only the media, police and other politicians had integrity.

*"I just spoke to the **Chief of Staff [Justice Minister]** at their office. **They will be contacting you**. I gave them all your information. **I explained what you have, all the documents. I said it takes about 2 hours to go through all the documents, and they really want to hear. They are going to invite their chief policy advisor to have a conversation as well**. I said, **you have done the work that I think the army should have done**. They didn't give me a date, but **I said it is urgent. I showed them the texts that you sent where this is from our [the government's] own site [referring to the XBB vaccine pushed contrary to NAVI and CDC guidelines]."***

This was the original meeting expectation after several follow ups by my MLA.

From: *Ministry of Justice <ministryofjustice@gov.ab.ca>*
Sent: *Wednesday,* ***October 11, 2023 10:56 AM***
To: *David Dickson <david.dickson@dksdata.com>*
Cc: *Drayton Valley-Devon <DraytonValley.Devon@assembly.ab.ca>*
Subject: *Drayton Valley - Devon - Constituent Concern*

Good morning David,

Your MLA Andrew Redacted *has shared your concerns with us, and the ministry has received your emails.*
A representative from our ministry will be in contact with you shortly.

Sincerely,

Office of the Minister of Justice
424 Legislature Building
10800 - 97 Avenue, Edmonton AB T5K 2B6
Phone (780)-427-2339
ministryofjustice@gov.ab.ca

Alberta Justice

Please see the attached email from the Chief of Staff triggered by my MLA making one final attempt to set the meeting up as promised.
How can a lawyer expect me to hand over the very material he knows implicates him directly? This is not a genuine offer to meet, but another further attempt to cover up what happened.
The reason for the stonewalling is that the evidence I showed my MLA last year is the evidence directly related to Redacted . Sadly, neither of us where aware of the direct connection at the time, but Mr. Redacted is aware.

From: Redacted @gov.ab.ca>
Sent: *Wednesday, January 24, 2024 2:03 PM*
To: *David Dickson <david.dickson@dksdata.com>*
Subject: *RE: Follow-up to request for meeting*

Hi David,
I would be glad to meet with you virtually for 30 minutes. You will have the ability to share your screen to show any documents you'd like to refer to.
I am available:

- *Thurs Feb 1 after noon*
- *Tues Feb 6 at 10 am*
- *Wed Feb 7 at 2 pm*

If none of those timeslots work for you, please let me know when would be more convenient.
If you have any documents you'd like me to review in advance of the meeting please forward them.
Regards,

Redacted
Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted @gov.ab.ca

Alberta Justice

The link below as it relates to Redacted and another 'freedom' lawyer Redacted. The original evidence from this nurse is what was shown to my MLA what caused him significant distress. It is this evidence I discussed with the Chief of Police, and he confirmed this identified criminal activity which Mr. Redacted appears to be continuing to interfere with.

https://www.jccf.ca/professional-misconduct-accusations-withdrawn-against-nurse-who-shared-information-about-covid-19-vaccinations/

This is a just a small amount of information I have tried to present which had been wilfully delayed at the cost of the lives of Albertans.

I have further evidence from my meeting with the UCP Chief Whip (which I can provide once I understand it will be treated appropriately).
Note that the Chief Whip indicated my information would be buried to protect the Premier, Party and Government, which has clearly been the case for some time now.

As a retired police officer, outside of the direct harms being caused by the delays, that disturbs me the most.

UCP Chief Whip – Tuesday January 30th, 2024.
"my job as the whip is to protect my premier my party and my government from foreign and domestic."

"when it comes to the Premier, there's going to be a level of disconnect"

"Well, there's going to be a separation from her"
"I can't have my premier taken down by Pawlowski or anyone else."

Me: "Do you know how many more people are going to die between now and May?"
Chief Whip: "Probably about 4,000"

I look forward to your prompt response.

David

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https://avoidabledeathawareness.com

From: PSES Minister <PSES.Minister@gov.ab.ca>
Sent: Tuesday, February 13, 2024 1:46 PM
To: David Dickson <david.dickson@dksdata.com>
Subject: Review of evidence live 8pm MT - URGENT

Good Afternoon David,

Thank you for your email sent February 12, 2024. We have spoken to the Minister of Justice's office and understand potential meeting times were provided to discuss this issue further. Following those meetings, we will determine best possible steps forward.

Thank you once again for reaching out.

Office of the Deputy Minister &
Public Safety and Emergency Services

Classification: Protected A

From: David Dickson <david.dickson@dksdata.com>
Sent: Monday, February 12, 2024 2:34 PM
To: mike.ellis@assembly.ab.ca; PSES Minister <PSES.Minister@gov.ab.ca>
Subject: FW: Review of evidence live 8pm MT - URGENT
Importance: High

For the immediate attention of the Minister of Public Safety and Emergency Services and Deputy Premier - Redacted
.

At the suggestion of one of the Chiefs of Police, I am reaching out in regard to the below and attached. I will call the office as a follow up.

I am aware that my emails have been intercepted at the direction of the Chief Whip and/or the Chief of Staff of the Justice Minister, hence this direct communication today.

Thanks,

David

From: David Dickson
Sent: Monday, February 12, 2024 12:35 PM
To: 'Danielle Smith' <71daniellesmith@gmail.com>; 'danielle.smith@assembly.ab.ca' <danielle.smith@assembly.ab.ca>; 'Office of the Premier' <Premier@gov.ab.ca>; 'Aileen Wong' <Aileen.Wong@capitalcare.net>; 'rachel.notley@assembly.ab.ca' <rachel.notley@assembly.ab.ca>
Subject: Review of evidence live 8pm MT
Importance: High

Following on from my communications about evidence of crimes going back to 2020 that are actively being covered up by the Chief of Staff at the Alberta Justice Ministers office (along with others in Alberta).

🚨Live at 8pm Mountain time

I will be discussing this set of recent tweets and explaining what is happening in Alberta.
https://twitter.com/dksdata/

https://dksdata.com/podcast/Podcasttweets.pdf

People are dying and I still remember my oath.

David

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ATTACHEMENT
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Subject: RE: Follow-up to request for meeting

David,

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Regards,

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Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted @gov.ab.ca

Alberta Justice

Classification: Protected A

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Alberta Justice

Classification: Protected A

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Sent: January 24, 2024 1:36 PM
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Subject: RE: Follow-up to request for meeting
Importance: High

Good afternoon, Redacted,

Purpose/Outcome:
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Much of this is sensitive and cannot be shared by email. However, much of the material provided should be enough to understand the gravity of the matters at hand.

This material shows the deliberate manipulation of information that would be considered criminal in nature. It includes areas from Lockdowns, Vaccination rollouts (and specific implementation), Avoidable Excess Deaths, Ongoing Incidents in Care Homes and more. Much of this involves Government and pseudo-government agencies (AHS, APL, Capital Care, Covenant Health, Office of the Auditor General, Office of Human Rights) etc. However, it also involves some private lawyers and other individuals who are part of the self titled 'freedom movement'.

This information goes back to 2020 and up to the present day. Some of the concerns have already been verified by our previous Health Minister, Jason Copping among others. Much of the areas in question are the domain of the Health Minister, but all would fall under the remit of the Justice Minister in the current context.

As a retired Police Officer and recognised expert in Judicial Matters (by PPSC, Alberta Justice and Police Agencies), more specifically digital evidence, I am only interested in providing what can be presented for further police investigation and in a courtroom.

As this directly impacts the Health and Safety of Albertans, Time is of the Essence.

I can be available at any time and any location.

David

David T. Dickson
Disabled Police Officer (retired - injury on duty)
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my LinkedIn profile Microsoft Partner

"The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis."
Dante Alighieri
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(Mel Gibson: Edge of Darkness 2010)

https://avoidabledeathawareness.com

Classification: Protected A

From: Redacted @gov.ab.ca>
Sent: Wednesday, January 24, 2024 1:06 PM
To: David Dickson <david.dickson@dksdata.com>
Subject: Follow-up to request for meeting

Good afternoon,

I write further to your requests to meet with Premier Smith, Minister LaGrange, and Minister Amery.

First, I offer my apology for the delay in a Justice representative getting in touch with you.

I have reviewed the correspondence you have sent. It would be helpful to know more precisely what it is you seek. You have shared some data and some feedback, but can you please identify what outcomes you hope to obtain from these meetings? This will be helpful in determining who is best to meet with you and how best we can prepare for such a meeting.

Regards,

Redacted
Chief of Staff
Office of the Minister of Justice
424 Legislature Building, Edmonton, AB
Redacted @gov.ab.ca

Alberta Justice

Classification: Protected A

From: David Dickson
Sent: Tuesday, February 20, 2024 11:00 AM
To: Redacted @assembly.ab.ca; PSES Minister <PSES.Minister@gov.ab.ca>; Office of the Premier <Premier@gov.ab.ca>; Redacted @capitalcare.net>
Subject: RE: Evidence of a COMPROMISED JUSTICE MINISTERS OFFICE
Importance: High
Sensitivity: Confidential

Good morning, Redacted ,

Things just took several nefarious turns since my last URGENT communication (I am still awaiting a response on this). I have added the Premier's Office and the CEO of Capital Care for their response. Both the Premier's Office and Redacted (CEO Capital Care) are aware of what is happening but refuse to respond. This is a clear neglect of duty on their part that is endangering the lives of Albertans in their care.

Please note that I do expect an immediate response from you and your office, Redacted along with an immediate follow up from the other recipients of this email.

Along with exposing some, let's call it fraud, in relation to [redacted] (one of the prominent Freedom Lawyers who is connected with Justice Minister Chief of Staff [redacted], [redacted], [redacted] et al) – see attached TDF vs GWS documents. Note they are all actively campaigning for 'new' lawsuits that are designed to do nothing but make lawyers rich and provide distractions. Had this been anything other than a law firm, I would expect there would have been arrests by now. The Transcripts don't tell the whole story as I have spoken to several direct billed clients related to this item. We are talking millions of dollars passing hands as part of this. And this is just one firm pulling the same stunt as so many others have been for the last 4 years. No wonder they are covering for the government right now. There is a lot of money at stake.

The endangerment and unlawful imprisonment of an 80-year-old global aphasic Care Home resident in Alberta.
More importantly right now, we have a clear direct attack on our family that is targeted at Karen's 80-year-old disabled mother in her Care Home - Capital Care Dickinsfield (CCD). Again, attached is an outline of the 'outbreak' where [redacted] (Karen's mother) was isolated under the false assumption of 'COVID' in December 2024. She had gastric flu confirmed by her doctor, that was, at out insistence, cleared rapidly with antibiotics. Had we not interviewed, [redacted] would have died during that time, something her doctor agreed with us on.

That being said, this took a more disturbing turn this week as we discovered last night – Family Day in Alberta.

I am writing it all up after some calls last night and this morning that demonstrate a clear attempt at another cover up of what happened. This involves a 24-hour unlawful detainment of Karen's mum between the 13th, and 14th of February 2024. This is all because we refuse to have [redacted] (Karen's mother) tested for COVID (especially when she has no symptoms) or wear a mask (she can't for medical reasons as per her doctor).

This morning, I spoke to the Redacted on the Unit who said, ***"I don't think she was***

isolated for more than a day or so. *I'd have to check the charts"*. She admitted [redacted]'s confinement was under false pretences and directly due to the actions of her staff… but not ***"for more than a day or so"***. [redacted]'s temporary doctor (her primary physician was away in Pakistan for the last two weeks) admitted last night that she had not seen [redacted] but was aware of the O2 drop and connected unlawful ISOLATION starting February 13th, 2024. She had called us yesterday morning to try and cover up the fact she had not seen [redacted] in person despite feigned concerns for [redacted]'s welfare and the improper forced Isolation. During my conversations with this doctor, she changed her story so many times and with such ease, it was disturbing.

Redacted**, what is the sentence for unlawful imprisonment of a vulnerable person followed by a conspiracy to cover it up?**

Note that Karen has [redacted]'s Power of Attorney. I am [redacted]'s Medical Proxy. CCD and the doctor are required by law to inform us of ANY change in [redacted]'s circumstances. In this case, not only did they not do that a growing number of people actively worked to cover up what they did. More disturbingly, this is not just 'isolated' to [redacted]. It is systemic leading to significant numbers of preventable and unlawful deaths under the 'care' of Alberta Health.

Sorry, I am vibrating at the moment. Karen is heading back to the Care Home right now to check on [redacted] (It is a 30-minute drive each way).

It is time you stepped up and DID YOUR JOB Redacted, as I did when I was in uniform.

I had already planned a live video podcast for this evening regarding the cover ups and obvious crimes involving 'freedom' lawyers and more. This will now be expanded to cover this item.

Please get back to me as a matter of urgency.

David

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(Mel Gibson: Edge of Darkness 2010)

https://avoidabledeathawareness.com

From: David Dickson
Sent: Friday, February 16, 2024 12:08 PM
To: Redacted @assembly.ab.ca; PSES Minister <PSES.Minister@gov.ab.ca>
Subject: FW: Evidence of a COMPROMISED JUSTICE MINISTERS OFFICE
Importance: High
Sensitivity: Confidential

As promised, Minister Redacted ,

The email I sent this morning directly to you had the name of the nurse unredacted. This copy is redacted for confidentiality.
Please respond urgently. TIME IS OF THE ESSENCE.

David

David T. Dickson
Disabled Police Officer (retired - injury on duty)
C.E.O. DKS DATA (www.dksdata.com**)**
Consulting C.I.O.
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The remainder of this email is redacted for confidentiality.

PART 1. Ingram and CM
Draft thoughts from a quick review of the Ingram decision (August 2023) and the new filing (2024).
Part one initially drafted in August 2023 with some minor additions here for context.
Take from it what you will.

Responses hailing the Ingram v Alberta as a win are misguided celebrations at best, willfully deceptive or possibly worse. https://www.jccf.ca/wp-content/uploads/2023/08/2023-07-31-DECISION-Ingram-v-Alberta-Chief-Medical-Officer-of-Health-FILED-July-31-20238.pdf

It is comparable to those who celebrated the 'Mature Minor' decisions as a win, but ignored the reality of how that judgment would be applied i.e. transgender therapy or vaccine insistence (through background coercion). Most adults don't have the wherewithal to make these decisions and now, instead of Informed Consent, we have children able to overrule their parents when making life altering decisions. This is the ultimate double-edged sword that is being ignored as it is in the Ingram v Alberta decision.

Frankly, lawyers supporting this need to go back to law school, as do many others, it appears. Especially those who are reading only the decision without all the context.

Doing an analysis without understanding or referencing the context of the outcome for the future and the actual filings and cross examination doesn't help anyone. I have read the application, watched the cross examinations and know what the plaintiffs' lawyers have buried to keep this insanity going. If people knew what these lawyers were really up to, they would put them in the same basket as the government.

Read the initial application that makes the completely opposite Ultra Vires argument to the final decision. If not for CM v Alberta (decided in 2022) they would probably have lost everything. And CM v Alberta was not a good decision for those wanting an end of restrictions.

MANY RESTRICTIONS STILL IN PLACE IN 2024 IN CARE HOMES https://dksdata.com/Care

Along with the uninformed and contrary to NACI and CDC guidelines push for vaccines in Alberta in the last few months alone. (https://dksdata.com/BenefactBulletins)

Not to mention the illegal manipulation of government records that is ongoing (https://dksdata.com/AlbertaDead)

Or the willful blocking of evidence (relevant to this case) by the current (2024) Chief of Staff to the Alberta Justice Minister (https://dksdata.com/Court/PremierFeb72024.pdf).

Also, the 'Impugned Orders' were initially those up to January 2021 (a specific subset of those were named as the ones impugned). This was potentially expanded to July 2021 and prior (for select Orders). So, saying ALL Orders were Ultra Vires is not true. And Ultra Vires is not strictly 'illegal', it is 'outside of the lawful authority'. This is not exactly the same (there are some nuances, especially in this case). The lawyers commenting should know the difference and be clear about that.

https://www.jccf.ca/wp-content/uploads/2020/12/2020-12-07-Originating-Application_Redacted.pdf

Also see:

https://www.albertacourts.ca/docs/default-source/qb/judgments/ingram-v-alberta-(chief-medical-officer-of-health)-2022-abqb-595---reasons-for-decision.pdf?sfvrsn=46de6982_5

Even the opening statement of the Romaine decision is clear about it not being 'ALL ORDERS'. *"[1] This application involves challenges to certain orders enacted by the Chief Medical Officer of Health for Alberta (CMOH)"* (clarified later at [6], [7]).

PART 1. Ingram and CM

In CM v Alberta, the argument was that Cabinet (in effect the Minister for Education) 'forced' the CMOH to drop an Order regarding the masking of children where the CMOH wanted to keep masks.

There are issues with the CM v Alberta decision as Justice Dunlop appears to have missed the powers that Bill 10 (and then Bill 66) provided Ministers, such as the Minister of Education when making the statement *"[7] I also find that, while Minister LaGrange's Statement on its face appears to prohibit school boards from imposing mask mandates, it does not do so, because the Minister can only do that through a* ***regulation****, and the statement was not a regulation.".* The Health Minister could have made a Ministerial Order (which would then have become law). However, a statement is neither a regulation nor a Ministerial Order.
https://albertacourts.ca/docs/default-source/qb/judgments/cm-v-alberta-2022-abkb-716---decision.pdf

Note that what is missing in all these decisions is the fact that there was no provable emergency (based on the government's own published data). Orders were made OUTSIDE of the State of Emergency. The State of Emergency declaration and Bill 10 used *"Pandemic Influenza"* and the *"significant likelihood of pandemic influenza"* to trigger the State of Emergency. COVID (SARS-CoV-2) is **NOT** influenza. This is a critical fact that appears to be being actively ignored by others, other than myself.
See Bill 10, Bill 66, M.O. 608/2020, OC 080/2020, OC 354/2020, OC 255/2021, M.O. 627/2020, M.O. 612/2020 (etc.)
https://dksdata.com/Court/Ingram

The issue with using the same argument as regards persons other than the CMOH making Orders from CM v Alberta in Ingram v Alberta is that this position hasn't been clarified for EVERY Order, just some. It will be easy to show the Orders Deena supported, wrote and published, regardless of Cabinet's input which is probably why the Judge wrote 'if I am wrong' at the end. In fact, Deena Hinshaw did not state she disagreed with or was forced against her will to enact the Orders she wrote, signed and published that were part of the 'Impugned Orders' in Ingram v Alberta.

That being said, it is possible to use this decision to get some PHA charges dropped (the very few that are left) but that remains to be seen. Dropping these final tickets is of no value to the rest of society and only impacts the few people like Chris Scott who are part of the larger group currently 'selling' this decision as a victory. Note that I have helped numerous people get their tickets withdrawn in the last three years using a simple process of asking for Full Disclosure, an area in which I am recognised as an expert by Alberta Justice and PPSC, along with the Courts. Dropping these last few cases now changes nothing for the future. However, the Ingram decision changes everything, and not in a good way. Now any 'Order' made by the CMOH will be unchallengeable by any means other than by the CMOH themselves (although there is always the option to fire the CMOH that still lies with the purview of the Health Minister, at this time). With the artificial ramping up of COVID Cases already happening, we will see the Winter to end all Winters. This legal Case made what is to come even worse (see https://dksdata.com/Care). How is this a win?

In Ingram v Alberta, Deena Hinshaw was asked three questions regarding her Orders. The answer was NO to all three.
https://albertacourts.ca/docs/default-source/qb/judgments/ingram-v-alberta-(chief-medical-officer-of-health)-2022-abqb-311---reasons-for-decision.pdf?sfvrsn=8d09af83_5
https://www.albertacourts.ca/docs/default-source/qb/judgments/ingram-v-alberta-(chief-medical-officer-of-health)-2022-abqb-595---reasons-for-decision.pdf?sfvrsn=46de6982_5

- *"Did the premier and cabinet … ever direct you, Dr. Hinshaw, to impose more severe restrictions in your CMOH orders than you had recommended to them?"*
- *"Did cabinet ever direct you to impose more severe restrictions on particular groups such as churches, gyms, schools and small businesses than you had recommended to them?"*
- *"Did you ever recommend to cabinet that restrictions should be lifted or loosened at any period of time and that recommendation was refused or ignored by cabinet?"*

PART 1. Ingram and CM

Deena Hinshaw wanted to be MORE restrictive throughout COVID (until July 2022 when the SAG published their report on Masks (see https://dksdata.com/MASKS#AHSSAG). Now Ingram v Alberta has provided the Case Law to ensure any CMOH in Alberta can do whatever they want without challenge, something that Rath is now openly admitting (despite his and other lawyers' initial misleading statements on the 'win'). This alone is a disaster for the coming flu season with what is now in place. It even puts in the framework for an Independent CMOH (like the OAG etc.) who is not answerable to the Health Minister so would have ZERO checks and balances. A literal WHO wet dream.

Even the Ultra Vires argument Grey and Rath put forward in the initial application (and for most of the hearing) was unsupportable and not the reason for the decision. See Ingram v Alberta [11], [12]. It was only towards the end of the hearing that Ingram (the applicant) finally added an argument consistent with CM. Note that I had already presented that Government acting Ultra Vires position (which was the actual decision of the judge, not what Rath and Grey originally argued) in my filing in November 2021 to which Rath and Grey had full access. Rath had the files even before I went to Court because Marilyn Burns sent them all to him without my approval. They refused to put that argument forward at that time in their case... but then added in through Ingram (the applicant) later in 2022 (see [13])!

See Page 11.

https://dksdata.com/Court/DavidDicksonPackage/25-AffidavitInResponse_Filed_Redacted.pdf

49) Further, in the Crown's evidence [emphasis added] *"Peter Lehmann Wines - 2015abqb481 excerpt";*

> *"[57] available against the Crown, so long as the Crown is not acting* ***unconstitutionally or ultra vires its lawful authority****:* ***Grand Council of Crees (of Quebec) v The Queen*** *(1981), [1982] 1 FC 599 at 600;* ***Lameman v Alberta****, 2013 ABCA 148 at paras 40–41, 553 AR 44 [****Lameman****]. This common law bar has been codified in the* ***Proceedings Against the Crown Act****, RSA 2000, c P- 25, s 17(1)."*
>
> *"[58] The Alberta Court of Appeal has suggested that* ***permanent injunctions against the Crown might be available*** *in the context of novel claims in rapidly evolving areas of the law (****Lameman*** *at para 42)."*

I am working through the 90-page summary now (*note: I never went any further on this*). It isn't just a loss; it is a disaster for the future. Everything being said about this case as a 'win' is arguably a pack of lies. Worse is what is behind this.

The applicants' arguments failed, and the exact opposite conclusion was made by Justice Romaine which the lawyers then twisted into 'their' win. The lawyers argued a Charter challenge and yet other lawyers now complain the judge mentions the Charter issues in her decision. As the Justice is required to provide the information relating to the reasoning behind her decision in the event of an appeal, this is reasonable, especially considering the importance of the Case. The applicants' experts were eviscerated during their cross examinations and even Rath and Grey dropped Dave Redman's evidence from their final arguments. Look at the summary of Dave Redman's testimony and then go and watch the examination under Oath (if you can find it). The plaintiffs' experts (and Rath and Grey) argued that everyone over 60/65 should have been isolated ("Focused Protection") and the rest of the Province let out. This action (taken in Care Homes and still in full force until June 19th, 2023 – STILL IN FORCE (and arguably worse) AS OF FEBRUARY 2024) is specifically what killed and continues to kill most people in care homes. These lawyers and experts know this. https://dksdata.com/Care.

This is what the Government wanted and has implemented for most of the last three years (four years now), if anyone had paid attention. It is also the reason Sweden had double the per capita deaths vs. Canada in 2020 (contrary to the popular opinion Sweden didn't lock down). Sweden implemented "Focused Protection" in the most extreme form in Care Homes for 8 full months in 2020. See https://dksdata.com/ExcessDeaths#SwedenExcessDeaths. The Ingram experts argued that as part of this 'Focused Protection', everyone over 60/65 should have been vaccinated the instant a vaccine was available. The Ingram experts even argued that asymptomatic transmission was rife with Omicron. Does this sound

PART 1. Ingram and CM
like a case where these lawyers and experts were on YOUR SIDE?
[And from there the vaccine rollout continued even after Danielle Smith was elected, but now under a more dangerous program than ever https://dksdata.com/BenefactBulletins, https://dksdata.com/AlbertaDead] .

The applicants/lawyers lost every argument on the Charter except for Tanner and a Section 2a argument about not being able to have Christmas with family. That was it. All other Charter challenges were struck down. They argued Ultra Vires in the pleadings saying Deena Hinshaw had NO AUTHORITY because she was not elected. The Judge's decision was the EXACT OPPOSITE, leading to case law now reinforcing what the WHO want. Doctors in control of ALL health emergencies (even without a State of Emergency being called through legislation) and the elected officials having NO SAY to stop them. This gives Danielle Smith the perfect excuse to say she can't do anything when restrictions are imposed by her pick of CMOH (Mark Joffe) who champions masks and vaccines more than Deena or Bonnie Henry.

Again, the Charter and Alberta Bill of Rights challenge (the basis for the application) was struck down other than Tanner missing out on family Christmas (a Charter Section 2a 'win' that has no value to anyone else as shown in the dismissal of the applicant Ingram's similar argument).

However, there was a shoring up of Section 1 and a dismissal of all Section 7 challenges as a result, adding to every other Charter failure we have seen. What did Einstein say about repeating one's mistakes? As I said, a tentative 'win' of the Orders that were held as necessary but may lead to a few old tickets being dropped. However, this more importantly allows more restrictive and unchallengeable Orders for the future. Now read the PHA and see what powers the CMOH and MOH have to isolate, detain, enter without warrant, destroy and more.

https://kings-printer.alberta.ca/1266.cfm?page=P37.cfm&leg_type=Acts&isbncln=9780779843398.

Whereas the Health Minister could intervene before, this case could end that ability leading to 'Medical Marxism' here in Alberta and by extension of the decision, Canada as a whole.

Not a WIN, but an unadulterated disaster now being used by lawyers and more (the 'freedom groups') to further support the same delay and donate tactics that have stopped us ending this from the start. Now more useless lawsuits lining lawyers' pockets will follow and nothing will be done to focus on stopping this.

I may publish my detailed review in the coming days, but this is already unraveling and more spin is following.

But believe what you want and keep donating to these people. It helps no-one and saves no-one. But it does distract from what is coming so the government and other monsters can keep pushing their true agendas.

The above was quickly written in response to the decision in August of 2023.

The following (Part 2) is again my opinion written this week.

Note: I am not a lawyer but would welcome the response of someone who is.

PART 2. Ingram & Scott

At least this time they may have named the right plaintiff in the Alberta Government. Up to this case, I was one of the few that did. However, as damages for these specific plaintiffs may relate to overzealous AHS employees, it is interesting that this time they didn't name AHS. Naming of defendants can tell a lot about the intent of the filing, and this is quite telling.

Despite people stating it is the JCCF, it has been filed by Rath and Company not the JCCF (although they may be connected along with others like the Democracy Fund i.e. Ezra Levant and that connection to the TWC) – This has its own separate list of issues, including questionable ethical practices in the past, as identified by the Democracy Fund etc.

My recent posts have related to some of these lawyers SPECIFICALLY. If people become aware of the details, I suspect they will put them in the same 'basket' as the government.

Remember, anyone who took actions that ensured the government continued while profiting from the misery of others (through fame and/or fortune), has blood on their hands no less than the government and their agents.

Constitutional Challenge/Bill of Rights. This filing is primarily focused on the Alberta Bill of Rights – The burden is on the plaintiffs in this process – there are minimal disclosure expectations on the Crown which makes this a long and costly uphill battle.

Class Action – Has to be certified.

So, what is the 'Class' of plaintiffs?

Two different Plaintiffs (Gym and Restaurant) were impacted in very different ways by differing Orders at different times.

In addition, these particular named plaintiffs were not impacted the same way as other similar businesses due to complicating factors such as how they pushed back (Contempt of Court etc.)

So, what is the 'Class' of plaintiffs?

What will the outcome change? If it is a win, then the lawyers take the majority of the money (taxpayers' money). This will not set any precedent as that has already been set in CM v Alberta (CM) and Ingram. So, what is the real goal of this? MONEY and another delaying distraction from what is really continuing to happen in Alberta and across the world – Death by Vaccine and Focused Protection – EXCESS DEATHS ALL AROUND.

One thing that has been missed over and over. Neither Ingram nor CM said EVERY Order was overturned; that has just been implied but not actually ratified in Court.

In fact, even in some of the Orders mentioned, it specifies sections not the whole Order. So, where does the assumption of 'ALL ODERS' come from?

As outlined in Point 2 of the filing:

> *On July 31, 2023, the Alberta Court of King's Bench determined that the CMOH Orders listed in Appendix "B" were ultra vires the PHA.*
> *Appendix "B"*
> *Business Closure Restrictions*
> *CMOH Order 02-2020, ss. 2-4; CMOH Order 07-2020, ss. 6,12; CMOH Order 18-2020, ss. 3-4, 6-7; CMOH Order 19-2020, ss. 11-12, 14-15; CMOH Order 25-2020, s. 3; CMOH Order 34-2020, s.3; CMOH Order 37-2020, ss. 3-4, 8-9, 15-16; CMOH Order 39-2020, ss. 6-13, 17-21, 23-25, 29-30; CMOH Order 42-2020, ss. 25-32, 34-36, 40-42; CMOH Order 43-2020; CMOH Order 44-2020; CMOH Order O1-2021, ss. 25-31; CMOH Order 02-2021, ss.34-47, 54; CMOH Order 04-2021, ss. 31-46, 51-56; CMOH Order 05-2021, ss. 42-46, 51-56, 69-72,*

PART 2. Ingram & Scott

78-79; CMOH Order 08-2021, ss.34-45, 50-54, 69-73, 85-87; CMOH Order 09-2021; CMOH Order 10-2021, ss.6.7-7.4, 8.5-8.7, 9.2-9.6; CMOH Order 17-2021, ss. 9-17; CMOH Order 14-2021, s. 3; CMOH Order 12-2021, ss. 5.1-5.4, 6.2, 6.5, 6.7-6.12, 8.5-8.7, 9.2-9.5, 10.3; CMOH Order 19-2021, ss. 5.1-5.1.4, 6.3-6.5, 6.1.2, 6.1.5, 6.1.7-6.1.12, 8.3, 8.1.4, 9.3-9.4, 9.1.2-9.1.4, 10.3-10.4,10.1.3; CMOH Order 20-2021, ss.5.1-5.6, 6.2, 6.5, 6.7-6.12, 6.1.4-6.1.6, 8.2, 8.4, 9.2-9.4, 10.3; CMOH Order 30-2021, ss.4.1-4.4, 5.2, 5.5, 5.7-5.12, 8.3, 8.5; and CMOH Order 31-2021, ss.4.2-4.3, 4.7-4.9, 4.11, 5.3, 6.2-6.6, 7.2, 7.4, 8.2, 8.4, 10.2, 11.2-11.5, 12.2, 12.7-12.10.

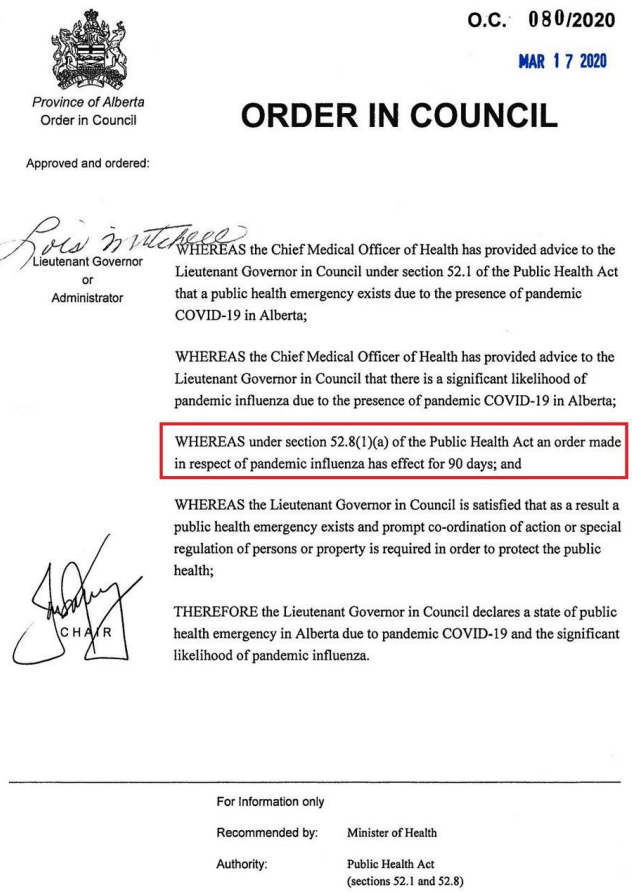
It is also possible that this case could open an opportunity for the Crown to overturn Ingram in part or in whole. In the case of CM, the argument of government interference/decision making is sound (Deena Hinshaw wrote an Order to respond to the Health Minister's Public Statement).

However, in Ingram it was agreed as fact that Deena Hinshaw wrote the Orders (all of which she was happy with) and presented the government with a multiple choice. The government chose one (but did not create any Orders). Deena Hinshaw signed it and implemented said choice of HER Orders. It could be argued that Deena Hinshaw was still in full control of the process and therefore her Orders were not Ultra Vires as executed (or at least some were). This case will open that potential.

Note also that there were two very different mechanisms in play starting in 2020 that relate to the PHA. Not to mention the third complication that came with Bill 10, Bill 66 and the subsequent changes to the PHA to encompass those extraordinary powers for ALL Ministers.

There is a difference from powers granted with the triggering of a State of Emergency under s52 i.e. the Order In Council 080/2020 and the associated Ministerial Order 608/2020 which were enacted AFTER the first actions by Deena Hinshaw starting on March 12th, 2020 (not March 16th or 17th as the filing suggests).

PART 2. Ingram & Scott
https://dksdata.com/DS/Shandro1.jpg



Province of Alberta
Order in Council

O.C. 080/2020

MAR 17 2020

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

WHEREAS the Chief Medical Officer of Health has provided advice to the Lieutenant Governor in Council under section 52.1 of the Public Health Act that a public health emergency exists due to the presence of pandemic COVID-19 in Alberta;

WHEREAS the Chief Medical Officer of Health has provided advice to the Lieutenant Governor in Council that there is a significant likelihood of pandemic influenza due to the presence of pandemic COVID-19 in Alberta;

WHEREAS under section 52.8(1)(a) of the Public Health Act an order made in respect of pandemic influenza has effect for 90 days; and

WHEREAS the Lieutenant Governor in Council is satisfied that as a result a public health emergency exists and prompt co-ordination of action or special regulation of persons or property is required in order to protect the public health;

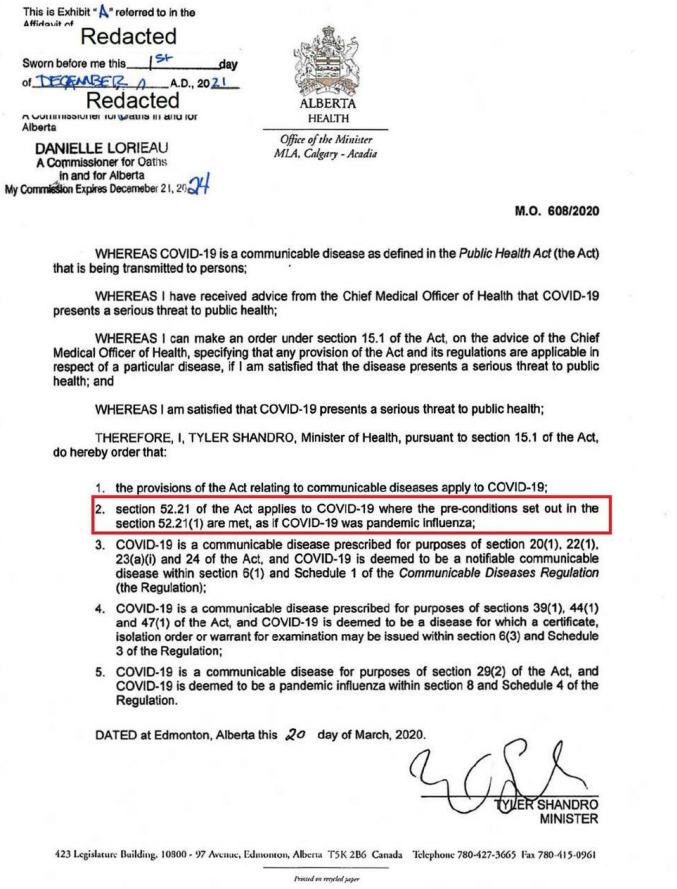
THEREFORE the Lieutenant Governor in Council declares a state of public health emergency in Alberta due to pandemic COVID-19 and the significant likelihood of pandemic influenza.

CHAIR

For Information only

Recommended by: Minister of Health

Authority: Public Health Act
(sections 52.1 and 52.8)



This is Exhibit "A" referred to in the Affidavit of
Redacted
Sworn before me this 1st day
of DECEMBER A.D., 2021
Redacted
A Commissioner for Oaths in and for Alberta
DANIELLE LORIEAU
A Commissioner for Oaths
in and for Alberta
My Commission Expires Decemeber 21, 2024

ALBERTA
HEALTH
Office of the Minister
MLA, Calgary - Acadia

M.O. 608/2020

WHEREAS COVID-19 is a communicable disease as defined in the *Public Health Act* (the Act) that is being transmitted to persons;

WHEREAS I have received advice from the Chief Medical Officer of Health that COVID-19 presents a serious threat to public health;

WHEREAS I can make an order under section 15.1 of the Act, on the advice of the Chief Medical Officer of Health, specifying that any provision of the Act and its regulations are applicable in respect of a particular disease, if I am satisfied that the disease presents a serious threat to public health; and

WHEREAS I am satisfied that COVID-19 presents a serious threat to public health;

THEREFORE, I, TYLER SHANDRO, Minister of Health, pursuant to section 15.1 of the Act, do hereby order that:

1. the provisions of the Act relating to communicable diseases apply to COVID-19;
2. section 52.21 of the Act applies to COVID-19 where the pre-conditions set out in the section 52.21(1) are met, as if COVID-19 was pandemic influenza;
3. COVID-19 is a communicable disease prescribed for purposes of section 20(1), 22(1), 23(a)(i) and 24 of the Act, and COVID-19 is deemed to be a notifiable communicable disease within section 6(1) and Schedule 1 of the *Communicable Diseases Regulation* (the Regulation);
4. COVID-19 is a communicable disease prescribed for purposes of sections 39(1), 44(1) and 47(1) of the Act, and COVID-19 is deemed to be a disease for which a certificate, isolation order or warrant for examination may be issued within section 6(3) and Schedule 3 of the Regulation;
5. COVID-19 is a communicable disease for purposes of section 29(2) of the Act, and COVID-19 is deemed to be a pandemic influenza within section 8 and Schedule 4 of the Regulation.

DATED at Edmonton, Alberta this 20 day of March, 2020.

TYLER SHANDRO
MINISTER

423 Legislature Building, 10800 - 97 Avenue, Edmonton, Alberta T5K 2B6 Canada Telephone 780-427-3665 Fax 780-415-0961

Printed on recycled paper

On March 12th, 2020, Deena Hinshaw used CMOH powers under s29 to restrict all gatherings over 250 people. This shut down many businesses. This did not need a State of Emergency (and still does not). This is why Deena Hinshaw was not worried when the State of Emergency lapsed. It is also how Mark Joffe was able to respond to the food poisoning incident in Calgary.

All of Deena Hinshaw's Orders were based on s29 and in HER VIEW there was a health issue she needed to respond to. CM and Ingram reinforce this power.

The weakness for Deena Hinshaw was her statement at the top of every Order that SHE HAD THE EVIDENCE.

> *"I, Dr. Deena Hinshaw, Chief Medical Officer of Health (CMOH) have initiated an investigation into the existence of COVID-19 within the Province of Alberta. This investigation has confirmed that COVID-19 is present in Alberta and constitutes a public health emergency as a novel or highly infectious agent that poses a significant risk to public health."*
>
> Or
>
> *"Whereas I, Dr. Deena Hinshaw, Chief Medical Officer of Health (CMOH) have initiated an investigation into the existence of COVID-19 within the Province of Alberta. Whereas the investigation has confirmed that COVID-19 is present in Alberta and constitutes a public health emergency as a novel or highly infectious agent that poses a significant risk to public health." etc.*

That has never been properly challenged (although I was going down that road with the Disclosure packages which I created for many people including Marilyn Burns and used in my own filing).

https://dksdata.com/Disclosure/

A Constitutional/Bill of Rights approach renders much of this option essentially moot allowing the Crown to continue to hide evidence.

Win or lose, the government will not allow any future Orders to fall foul of that process. They will either amend the PHA or let the CMOH continue with full control (neither is a good option for Albertans).

Neither of these plaintiffs have technically WON their case. Even in the Ingram case, Ingram was a plaintiff who lost. Chris Scott 'won' his case when the Crown decided not to challenge Ingram and asked the Court to 'acquit' (although this new case could open an avenue where the Crown is forced to overturn Ingram).

The actual case law started with the CM decision almost a year earlier than Ingram. I have done a breakdown of Ingram before – here (and above [Part 1] of this document).

https://dksdata.com/Court/Ingram/Ingram-InitialThoughts.pdf

Supporting material here: https://dksdata.com/Court/Ingram/

Note that there was a lot of information and evidence known to Rath and the JCCF at the time of the original examination of Deena Hinshaw that would have ended all of this if it had been Disclosed. However, it was not. Worse, it was later buried by the JCCF lawyer(s) and now the Justice Minister's Chief of Staff who has actively suppressed any information getting to the Justice Minister for many months.

I could go on, but this should do for a start.

If the lawyers and grifters keep telling you the Courts are corrupt... why do you keep giving them money for their monthly Carpayments?

Action No. 2201-06197
E-File Name: CVK23GREYL
Appeal No. _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

BETWEEN:

THE DEMOCRACY FUND

Plaintiff

and

LEIGHTON B.U. GREY and
GREY WOWK SPENCER LLP

Defendant

H E A R I N G
(Taxation Hearing)

Edmonton, Alberta
June 21, 2023

Transcript Management Services
Suite 1901-N, 601-5th Street, SW
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Phone: (403) 297-7392
Email: TMS.Calgary@just.gov.ab.ca

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Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary, Alberta

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June 21, 2023	Afternoon Session
D.M. Ellery	Review Officer
E Amirkhani (remote appearance)	For The Democracy Fund
R McCurrach (remote appearance)	For Leighton B.U. Grey and Grey Wowk Spencer LLP

Discussion

THE REVIEW OFFICER: Good afternoon. This is Court of King's Bench action 2201-06197. The application client is The Democracy Fund. They are represented by Ms. Amirkhani and two of her students from her office this afternoon. And the respondent law firm is Leighton B. U. Grey and Grey Wowk Spencer LLP. They're represented by Mr. McCurrach, and he also has a student from his office.

I'm the Review Officer this afternoon. My last name is Ellery, initials D.M. You were originally before me on June 8th, 2022, at which time there was a dispute over the jurisdiction of the Alberta court. I sent it off pursuant to Rule 10.81 to have some issues determined. Those issues appear to have been determined by Justice Anderson in an order of March 26 of this year. Let me just find the order. I have it here. In any event, she sent the matter back for the purposes of the review and she sealed part of a file. So I have received the materials from the firm, which were -- they are confidential evidence. And the accounts are what appear to be new accounts and a spreadsheet which I do not completely understand. I mean, I understand some of it but I will get further clarification on that. For some reason, I have lost Justice Anderson's order. But she reverted the matter back. There was no other direction that was contained in the order. Is that a fair comment, Ms. Amirkhani?

MS. AMIRKHANI: Yeah. The order you're referring to I believe is a consent order. The matter -- just by way of background -- procedural background -- so I came onto this file at the point where it was supposed to be heard. It was -- we were told by GWS that it was set down for a special application -- a Special Chambers hearing. In fact, it wasn't. It was a Morning Chambers hearing. And so it got all delayed and we ended up at a consent order that amounted to this, which brings us back here today. And the issues

are basically resolved as to -- the issues are resolved, but my friend can -- can speak otherwise if he doesn't agree with that.

MR. MCCURRACH: I would like to just briefly speak to that given that Mr. Grey was -- was named as one of the respondents in the -- in the consent order that my friend just mentioned. Number 1, or sorry, paragraph 1 in there states The Democracy Fund has (INDISCERNIBLE) to amend (INDISCERNIBLE) its appointment for review for lawyer's charges, filed June 1st, 2022, to remove Leighton B.U. Grey as --

MS. AMIRKHANI: Yes.

MR. MCCURRACH: -- as respondent. So I just wanted to clarify that the consent order has been entered.

MS. AMIRKHANI: And I would also mention -- because it just came to my attention that I provided the things that were to be filed, which is the redacted version of Mr. Honer's (phonetic) affidavit and the amended application removing Mr. Grey, to my assistant for filing. And it appears that she missed the boat on that --

THE REVIEW OFFICER: I have got that.

MS. AMIRKHANI: -- a little bit.

THE REVIEW OFFICER: Yes. And that is why I did not catch the order because I was looking at -- I thought this was the confidential evidence. So the order is a consent order. So Mr. Grey has been removed as a respondent. The redacted -- or the original affidavit of Mr. Honer has been struck, which I think is in a package here, and I have not opened the package. The redacted copy of the affidavit is attached to the order, which I have before me and I have read. And the matter is reverted to the review office.

So this became a consent order. The actual application did not proceed. Okay. We are all here then. Normally, I would start with the law firm, Ms. Amirkhani, but I am not going to today because I have read the affidavit of Mr. Honer. The redacted affidavit. And I am just going to start with a couple of questions of the firm, and then I will let you hit the high points in the affidavit or whatever you want for your submissions, Ms. Amirkhani.

MS. AMIRKHANI: Okay.

THE REVIEW OFFICER: And then we will return to the firm. First off, are we dealing with 28 or are we dealing with 29 accounts. The original materials I had at 29 accounts at $414,000. The material that was provided I am going to say today because I

looked at it today, but it was provided by the firm in this matter, suggests there is 28 of $368,000. And then I saw something else in the affidavit that suggested that it was $390,000. So do we have an exact number of how many accounts we are looking at?

MS. AMIRKHANI: I have 37.

THE REVIEW OFFICER: Thirty-seven?

MS. AMIRKHANI: Yes.

THE REVIEW OFFICER: Okay. Thirty --

MS. AMIRKHANI: And my calculation is -- my calculation of the total dollar value is $429,442.80.

THE REVIEW OFFICER: All right. Does that sound right to you, Mr. McCurrach?

MR. MCCURRACH: I think we're a little bit -- that might be the total amount between the parties for the various files, but I believe in terms of the subject matter of -- of the taxation hearing today the dollar figure that we have -- and this is not including the CN -- CN Rail, which I believe is another matter -- the dollar amount we have is $156,105.55.

THE REVIEW OFFICER: That is how much it says is outstanding. We are not looking at the amount that is outstanding. We are looking at the total amount of the accounts that are being reviewed.

MR. MCCURRACH: It's my understanding that that is the total amount owing on the accounts being reviewed today. I know there are other accounts, but just to recap on the ones -- just to make sure we're talking about the same ones. We have --

THE REVIEW OFFICER: Okay. Well, let us not spend more time on it. We will run with Mr. Amirkhani's number since she is the client and she knows what account she is dealing with. Now, in the materials that were provided recently, Mr. McCurrach, there was -- there are no retainer agreements contained in there. And in the affidavit of Mr. Honer there is one retainer agreement that deals with -- I cannot read their names -- Jocelyn (phonetic). Amber Jocelyn. Which is Exhibit N to the affidavit of Mr. Honer. Were there other retainer agreements?

MR. MCCURRACH: The agreement that I have that I understand to

govern those relationships -- the (INDISCERNIBLE) we're dealing with today is the interim period agreement, which is the one effective October 11th, 2021.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: It is at tab A of Mr. Honer's affidavit that he is referring to.

THE REVIEW OFFICER: Yes. I have got a copy of that. Now, where does it talk about CN and where does it talk about the various specific files in there, and where does it talk about Mr. Grey's hourly rate. I have looked through this a couple of times and I just -- I am either not seeing it or it is not jumping out at me.

MR. MCCURRACH: I will have to reference the exhibits in Mr. Honer's affidavit there.

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: (INDISCERNIBLE).

THE REVIEW OFFICER: We will come back to --

MR. MCCURRACH: The only (INDISCERNIBLE) intermediary.

THE REVIEW OFFICER: -- that. That is something I want to know. Now, the latest invoices that you attached to your materials -- and this is under cover of the letter June 14th, 2023 -- contain a breakdown of specific hourly entries. Were these the accounts that were provided initially to The Democracy Fund? I understand they are not. So I am just trying to confirm this.

MR. MCCURRACH: The ones that you are referring to most recently are the ones that have the heading respectfully TDF accounts summary by date and TDF accounts summary by claim. Are those the ones that you are initially referring to?

THE REVIEW OFFICER: Yes, the ones in this June 14th letter. I have gotten the accounts that are attached to Mr. Honer's affidavit. And I think those were the accounts that I saw back in June of last year. I will just refer to the first one --

MR. MCCURRACH: Okay.

THE REVIEW OFFICER: -- March 25th, 2022, 30 hours, $21,000 is all it

says, along with a brief three lines of what work was done.

MR. MCCURRACH: And sorry, which -- which exhibit of Mr. Honer's affidavit was this referring to?

THE REVIEW OFFICER: It is the very first account in the first -- in the second exhibit. I guess it is Exhibit C. What I am asking you specifically is when were these accounts that you have attached to the June 14th letter -- when were they prepared?

MR. MCCURRACH: I'm -- actually, I'm not sure when these records were prepared. It's my understanding they were prepared concurrently, but I don't have confirmation of that.

THE REVIEW OFFICER: Okay. And is there a computer printout from your office that shows time entries being put in or being recorded? That you used to prepare these accounts?

MR. MCCURRACH: Sorry, can you -- can you repeat that for me?

THE REVIEW OFFICER: How do you keep track of your time in your office when you are billing on file? How do you keep track of a .1 and how do you keep track of a .5?

MR. MCCURRACH: We have a program at our firm that we use called PC Law, which we enter those times into.

THE REVIEW OFFICER: Okay. So what I am asking is was there a printout from PC Law that was used to generate these accounts that are attached to the June 14th, 2023 letter?

MR. MCCURRACH: I believe these are the products of the PC Law system that print out and give the accounts -- the detail accounts as to who did the work and how much time was put in and that they -- that they were entered.

THE REVIEW OFFICER: Okay. So these were prepared from PC Law is what you are telling me?

MR. MCCURRACH: That's my understanding, yes.

Submissions by Ms. Amirkhani

THE REVIEW OFFICER: Okay. All right. Back to you, Ms. Amirkhani. Do you want to just take me through your issues or your client's issues with the carious accounts? And then we will come back to Mr. McCurrach.

MS. AMIRKHANI: Certainly. I just want to start by actually answering or commenting on the last question you just asked: when were these accounts prepared? I appreciate my friend's comment that they were prepared perhaps concurrently and that this is a printout from PC Law. And as part of TDF asking GWS to itemize their invoices, they provided TDF with something like 5,000 documents of internal correspondence and internal work product in order to allow TDF to try and verify the work that was completed. As part of that, and while my monthly summer students are here, we have seen that these invoices were actually -- they appear to have been recreated post hoc. They -- I can show you even just one example that I think will make clear where I'm coming from. If -- is sharing my screen okay in this scenario?

THE REVIEW OFFICER: Okay. I probably cannot see it, but just tell me where it is --

MS. AMIRKHANI: Oh, you're muted or my speakers are --

THE REVIEW OFFICER: -- or you can show me in the materials, but put it up on the screen if you want. I have got bad eyes.

MS. AMIRKHANI: I am sorry. I can't hear you. Can you unmute your speakers?

THE REVIEW OFFICER: Oh, sorry. I am muted. Yes, you can put it up on the screen and if I cannot see it just tell me where it is and I will dig it out of the materials.

MS. AMIRKHANI: Just one moment and I will just pull up an email that I think will answer our perspective --

THE REVIEW OFFICER: One --

MS. AMIRKHANI: -- on this question. So we have the ability to share. Okay. You should be able to now see -- of course, that --

THE REVIEW OFFICER: Oh, yes. There we go. I can read this. I have to use the small screen because the other one is too far away.

MS. AMIRKHANI: So we have an email from Megan Gurski

(phonetic). She's a paralegal at GWS. On April 1st, 2022 she's emailing Sarah Stuart (phonetic), who is another paralegal, and Jocelyn Gurke (phonetic), who was a third-year associate at that point in time. And it says Subject Alsom (phonetic) accounts at (INDISCERNIBLE). I have attached accounts. One is the detailed account yadda yadda: (as read)

> Please note your time to be added to the detailed account by email for tracking purposes. We need this account to equal 30 hours.

And then you see a response from a Sarah Stuart where she says Here is the listing of my time on this file. Now, I don't know if this was pulled from PC Law. Of course it could be. It's nicely formatted. It's possible. But this is how we understand these invoices to have been created because this is one example of a number of emails of this nature. So I thought that that might help you in understanding that.

THE REVIEW OFFICER: Okay. Now, is that in the affidavit of Mr. Honer?

MS. AMIRKHANI: It is not.

THE REVIEW OFFICER: It is not? Okay.

MS. AMIRKHANI: We -- it is not.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: There is going to be a number of documents unfortunately today -- and my understanding is that it's at your discretion to accept evidence that's not sworn --

THE REVIEW OFFICER: Yes.

MS. AMIRKHANI: -- it's -- all evidence from GWS's people. So it's not anything from our side. But you can tell me if you don't agree with anything that I'm -- I'm seeking to share with you today.

THE REVIEW OFFICER: No, there is not a problem so for. What was the date of that email again? March 22nd?

MS. AMIRKHANI: Yes. No, April 1st is the email from Megan Gurski and the response is April 4th.

THE REVIEW OFFICER: And what year?

MS. AMIRKHANI: 2022.

THE REVIEW OFFICER: Of 2022?

MS. AMIRKHANI: 2022.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Yes. And that -- just for timeline, the request -- the first request for detailed invoices was in March of 2022, and I do believe that is in the Honer affidavit. There's emails in there --

THE REVIEW OFFICER: Okay. And what was the name of the lawyer that provided their time there?

MS. AMIRKHANI: That was a paralegal --

THE REVIEW OFFICER: Oh.

MS. AMIRKHANI: -- and her name is Sarah Stuart.

THE REVIEW OFFICER: Okay. In the interest of being fulsomely prepared, I had prepared to speak to you about the background of the relationship between these parties, but I think you -- if you have read the --

THE REVIEW OFFICER: I have read the material. Just give me an overview so there is something on the record. Although this affidavit is filed --

MS. AMIRKHANI: Absolutely.

THE REVIEW OFFICER: -- but we should have what we have to consider --

MS. AMIRKHANI: Sure.

THE REVIEW OFFICER: -- at least on the record.

MS. AMIRKHANI: So The Democracy Fund, which I call TDF, is a charitable organization. Its principles are basically about constitutional litigation and

constitutional rights. They made an arrangement with Grey Wowk Spencer LLP, which I will refer to as GWS, in which TDF would provide funds for claims that GWS would run as the legal team for individual claimants that align with TDF's purposes. In fact, this is basically COVID or vaccine fighting litigation. Anti -- well, we won't use those words. But of that nature.

So the parties in October of 2021 enter into an intermediary agreement that I know you've seen is at appendix A of the redacted Honer affidavit. As you alluded to, there are no terms in the intermediary agreement that provide billing -- the way that this is going to be billed. It doesn't say anything about a flat fee, a blocked fee contingency. It doesn't say who is going to be working on the file or at what hourly rate. It's really terms about invoicing and things of that nature. There were then individual retainers entered into between GWS and the individual claimants. An example you've already brought to light is attached to Mr. Honer's affidavit, and I can't now recall -- I think it's Exhibit N. And in there, it very specifically says: (as read)

> Personnel, including lawyers other than the assigned lawyer, may work on a file from time to time. Where other lawyers work on your file, their time will be reported at their hourly rates and our account to you will include fees relating to the services of the initial lawyer or lawyers.

So the specific fees we have -- that we have written down anywhere, and they're in those individual retainers. And the engagement began -- things were moving -- and TD or GWS began billing TDF in a block fashion. A copy of those invoices are at Exhibit C of Mr. Honer's affidavit. And what you see there is that they're being -- GWS is billing TDF in flat amounts. In every instance, it's an increment of 10 hours. So 10 hours, 30 hours, 40 hours. Every hour is billed at $700 per hour, which is Leighton Grey's rate. And the descriptions of the work completed are very vague. As you mentioned, they're two, three sentences or lines and they're not really descriptive of the specific work and who did the work, how long each task took, and what tasks were completed.

Admittedly, TDF did pay some of these accounts. I think -- well, I won't speculate. But the reality is that they paid these accounts without really noticing what was going on and eventually in and around March 2022 a more diligent lawyer took on the role of managing this relationship. And at that point, Mr. Alan Honer, who is himself a lawyer, realized what was going on with the billing and brought it to GWS's attention. And he asked for, you know, itemized invoices at that time. In response, and I think it's important to look at, is Exhibit E of Mr. Honer's affidavit. It's Mr. Grey's response to that request. Sorry, my computer is giving me a bunch of trouble for no reason.

And in Exhibit E, what you see in Mr. Grey's email is that he says, Itemizing the accounts would be tedious and tiresome. He says something about hours that would be required to go back and make these dockets. And so from -- you know, in our submission it's quite obvious that they would have to be recreated after the fact because they hadn't been tracked. That is our submission on that -- the interpretation of that email.

Eventually, they do provide itemized invoices to TDF. I don't have an exact date on that. But what I do know is that those initial invoices billed every single hour at $700 per hour and did not identify who was doing the work billed. TDF took further issue with this and there's an email at Exhibit N of the Honer affidavit. I would argue it may be the most important email that we'll see today. It's from Mr. Grey, and I will actually read it verbatim because it's very important. Mr. Grey says: (as read)

> Not all of the hours were expended by me, but they were all billed out at my hourly rate per the terms of the retainer agreement. There was never representation otherwise as between the parties, and TDF paid the previous accounts as rendered. A best estimate is that about half of the hours were devoted by me, and the rest by Jocelyn [being Jocelyn Gurke, a third year] and the other staff.

So Mr. Grey here says that, you know, at least 50 percent of this work that's billed at $700 per hour, which I would argue is quite a substantial rate, wasn't completed by him and was completed by people of far less experience.

And we fast-forward. These things have gotten underway, and in December of 2022 for the first time we get what we're calling the revised accounts. And what has happened in the revised accounts -- and they were sent to me specifically on behalf of TDF -- is they have in I suppose acknowledgment of the fact that Mr. Grey did not himself do all of this work -- they've allotted 15 percent of the hours billed to Ms. Gurke at $250 an hour, which was her hourly rate at the time.

And I say -- I can say 15 percent with confidence because I've run the numbers on exactly how many of the hours were allocated to her. What's very notable in these revised accounts is that the way the time was allotted in most of -- well, I know not all, but almost every circumstance, is that Ms. Gurke has given exactly one third of the time that's billed at Mr. Grey's rate. So if Mr. Grey is billing, you know, 1.5 hours for a statement of claim draft, she's billing right underneath .5. If he's billing .35, which is in itself odd because I do not know any lawyers that bill in .05, she is billing .15. And so this pattern is in our submission an obvious recreation and random allocation of hours to Ms. Gurke.

So that brings us to where we are now. As -- as part of the initial request for invoices, as I

mentioned, TDF was provided 5,000 internal documents. My students went through them in detail and what we found is unfortunately that Mr. Grey's estimate is conservative in saying 50 percent of the work was done by other people. In our best estimate, and of course it's not a mathematical calculation -- but our best estimate is something like 80 percent of the work was done by paralegals. And of course, I have evidence with me today to show you that. I don't trust you to take my word on that.

And so what we've be seeking today, of course upon showing you sufficient evidence to satisfy you of our position, is an overall reduction in the rate at which 80 percent of Mr. Grey's hours were billed to the rate of a paralegal. And in addition to that, we have a couple of categories high level where we think a lot of the documents were duplicated because there were precedents that kind of carry from file to file. And we think that, you know, to a lesser extent some of the hours were overbilled in that sense in that they ultimately shouldn't have been quite as high as they were. And that may be a product of reconstructing things after the fact, but that's -- of course, I will show you what we're talking about.

THE REVIEW OFFICER: All right.

MS. AMIRKHANI: So if --

THE REVIEW OFFICER: Thank you. Just so I am clear on the December 22nd, 2022 documents that you got from the firm, are those the ones that are contained in the firms materials that are attached to the June --

MS. AMIRKHANI: I've never seen -- I didn't know that the firm provided you materials. They weren't provided to me. So I -- if you have anything that says @JG250 on any of the lines, that would be the revised accounts. But ...

THE REVIEW OFFICER: Okay. Let me just look at the affidavit of Mr. Honer again and see -- I am looking at Exhibit K of his affidavit. And there is a reference to a February 25th, 2022 account.

MS. AMIRKHANI: Oh, sorry. I said 2022. The revised accounts were provided December 20 -- yeah, December 2022. Yes, that's correct. Sorry. Continue.

THE REVIEW OFFICER: Okay. Let me just look. Mr. McCurrach, maybe you can help me while I am looking. The materials that were provided just this week to me, are those the new accounts that were sent to the client on or about December 22nd of 2022?

MR. MCCURRACH: The ones that you're referring to that were

submitted most recently, are you referring to the ones that they (INDISCERNIBLE) summary by date and by client? I believe those are the ones that are most recently submitted.

THE REVIEW OFFICER: Yes. I am asking about what you sent to -- to the client on or around December 22nd of 2022. Is is the -- is it the accounts that you sent me this week.

MR. MCCURRACH: Sir, give me one second and I'll just --

MS. AMIRKHANI: Sir, I can also possibly help you. If you -- can you tell me the first page of the accounts that you have there?

THE REVIEW OFFICER: The first one I've got in Mr. Honer's affidavit is February 25th of 2022 for $7,000. And then the next page is the statement of account for $7,840 worth of time.

MS. AMIRKHANI: So that -- yes, the one in the Honer affidavit is old and if you look at the -- if you have the revised ones, the February 18th, 2022 entry will say Continue drafting a statement of claim-JG at $250 per hour. So that's the different -- oh, I see. The --

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: -- lines are actually ...

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: I'm having trouble finding the document that you're referring to from December 22nd.

MS. AMIRKHANI: Steven White (phonetic) had sent it to me by email if that helps you at all.

THE REVIEW OFFICER: I am just trying to put these two groups of invoices together so that I can follow them a little bit better. The ones that you sent -- oh, this is why I cannot do it. The ones that you sent this week do not have any dates on them, but they refer to this Alstom group so let me -- well, why do we not start with you, Mr. McCurrach. What do you want to say? You have got an idea of the concerns that The Democracy Fund is raising. And I want to go back starting with these accounts that you just provided to me, and the second bits of the accounts that were sent to your client.

Submissions by Mr. McCurrach

MR. MCCURRACH: So I did want to clarify one point. I've asked the staff that (INDISCERNIBLE) counsel. These were not generated using PC Law. Instead, the time in the accounts were recorded through using Excel programs. I just want to clarify that so we're on the same page. With respect to the agreed upon rates, I think that there is perhaps a misunderstanding or a miscommunication as to what rates would apply. We do have the intermediary agreement, which my friend and I are in agreement that governs the relationship between TDF and GWS. And then as between the clients individually and GWS there are individual retainer agreements which set out the billable rate that will be billed for the client which sets out -- sets out the rate, which is billable according to whomever is doing the work on it.

The -- in terms of the billable rate within the intermediate agreement, nothing is specifically laid out in terms of a dollar figure. However, the agreement within section 7 of the intermediary agreement references that the intermediary, which is GWS, shall provide regular invoices to The Democracy Fund setting out the work completed by GWS in pursuit of the charitable activity in this case, which is the COVID-19 related litigation over the invoice period, which is not specified. The intermediary shall not withdraw any funds held in its trust account in trust for TDF in satisfaction of invoices until TDF approves such invoices in accordance with paragraph C, which only provides -- paragraph C, that is -- provides that TDF shall approve invoices issued by GWS if it can confirm satisfactory performance of the work provided for in such invoice. So before an issue is raised with what was done on the accounts, GWS provided said invoices with what was deemed to be sufficient details on the accounts. And up until new counsel came in, Mr. Honer, there was no issue on that.

So I mean the parameters for TDF approving of the invoices was fairly broad and based on the conduct of TDF paying past invoices we didn't deem that there was any issue with the billing scheme that was going on. So it seems only retrospectively for whatever reasons internally to TDF that an issue was drawn at the billable rate and the work being done. And then upon request of greater detail, GWS provided that. There seems to be some confusion as to what details on the account were pertinent. We've tried to summarize that. I mean there are, as my friend has pointed out, extensive back and forth correspondence of detail accounts. The most recent account summaries, the two ones by date and by client respectively, which if I'm understanding your question earlier, was initially issued on December 22nd of 2022. And I believe it was updated most recently in March of 2023 and provided this June.

Those are a generated summary just to provide ease of reading, which condenses all the

documentation and detailed invoices that I believe are set out in Mr. Honer's affidavit. And that's our position with respect to the billable rate. And our position that we have complied with the agreement that was set out in the intermediary agreement granted by TDF and that all of the accounts in -- honestly, all the details have been provided upon request and that they're -- they're honest and that they should stand as they are.

THE REVIEW OFFICER: Okay. Let me just go back to your first comment. So these invoices were not prepared by PC Law, is that correct?

MR. MCCURRACH: That's correct. I was initially mistaken on that.

THE REVIEW OFFICER: All right. And so you said they were prepared by Excel. What does that mean? Excel? Was the time kept contemporaneously with when the work was done?

MR. MCCURRACH: As the work was done within the Excel program as data would have been entered -- date, work, whoever was doing it -- at the billable rate. They were reported in the Excel sheet as work was being done on a daily basis or a per work basis, whoever was doing the work.

THE REVIEW OFFICER: Why would you use that system when you have got PC Law? That makes no sense to me. Do you do that with all of our clients? Is this the only client you did this with or do you do it with all of your clients? What is the purpose of having PC Law if you are keeping track of your time either on pieces of paper or on an Excel spreadsheet?

MR. MCCURRACH: I'm -- I'm not entirely privy to all of the internal policies of the firm admittedly, but I believe that it has to do with the fact that we have a Cold Lake head office and a Calgary -- Calgary office as well and the work was shared in between them. And I'm not sure if PC Law entries translate from the Calgary office as well to the Cold Lake office. I don't understand the policy for doing it in Excel. It may have been that the sheer volume of it happening and the amount of people working on it made for an easier work flow of having the individual working on the file, recording their time, and recording their work on it to submit it to an administration who would then enter it into PC Law. So that's -- that's my best guess on it. And I can say that personally I do -- do my own Excel entries and record that and then say at I'll our building site (INDISCERNIBLE), and then I'll provide that to administration here in Calgary and then they'll upload those onto PC Law. So assuming that that is the same for this -- for the people who work on files for TDF. Then that -- that would be my rationale for the policy. But if you -- if you need a direct answer on that, I'd be more than happy to take that back to more senior counsel and administration to figure out why Excel was used first before entering it into PC Law.

THE REVIEW OFFICER: Well, was it ever entered into PC Law? That -- you said it was not prepared from PC Law. I am talking about the accounts now. You said they were prepared from the Excel sheets, not from PC Law. I am familiar with PC Law and a couple of other systems, and when you request an account or a prebill at the end of the month, somebody hits a button and it spits it out and it has got everybody's time entry or it has got whoever has worked on the file, and it has got the amount of time they spent. That is the first thing. Who in the Calgary office worked on these files?

MR. MCCURRACH: So much of this was all done before my time, but I understand that Jocelyn was from the Calgary office. And I believe that there would be Steven White who worked for the Calgary office as well.

THE REVIEW OFFICER: Okay. Show me an account or one of the printouts that has their time in there. Because I have seen JG. I am not sure who JG is. They have some time on the February 25th, 2022 invoice involving -- does it say here? Oh, the Government of Canada. On January the 28th of 2022. JG again. JG on the 14th at $250 an hour. So is JG out of the Calgary office?

MR. MCCURRACH: (INDISCERNIBLE) again. JG is Jocelyn -- I can't pronounce her last name. Gurke, I believe. She was from the Calgary office and that's who JG was, through her invoicing.

THE REVIEW OFFICER: Okay. Okay. So --

MR. MCCURRACH: And (INDISCERNIBLE) -- oh, sorry.

THE REVIEW OFFICER: To go back to my question about why these were printed from PC instead of from this Excel spreadsheet.

MR. MCCURRACH: The account summaries instead of PC Law?

THE REVIEW OFFICER: Instead of PC Law, yes. Correct.

MR. MCCURRACH: I'm not (INDISCERNIBLE) whether PC Law provided documents of this nature. I think this was just done for expediencies sake to provide a quick summary. I -- I will have to inquire about that. But with -- with the Excel recording that was done initially by whoever was working on the file, it was approved -- one that was approved -- once that's approved by the reviewing lawyer, then those entries are entered into PC Law.

THE REVIEW OFFICER: Okay. So were the time entries for these files entered into PC Law?

MR. MCCURRACH: That's correct.

THE REVIEW OFFICER: So you did use PC Law then to generate the accounts, or you still didn't use PC Law?

MR. MCCURRACH: It's my understanding that they were generated using PC Law.

THE REVIEW OFFICER: Okay. You just corrected yourself 15 minutes ago saying, no, I was wrong. They were not generated by PC Law. It was done by Excel. There is an allegation --

MR. MCCURRACH: Sorry, Sir, I --

THE REVIEW OFFICER: -- that these accounts or that these -- this information at least that you have provided me -- and I am guessing what was provided to Ms. Amirkhani's firm, and is attached later midpart of Mr. Honer's affidavit, were generated after the fact. There was an email that we looked at where Mr. Grey said this is becoming tedious and tiresome. And the accounts have not been scrutinized. And that they refused to provide this information for what appears to be months. We were looking at this back in June of 2022. And the only accounts that existed at that time were these block building accounts. And the suggestion -- and it is a strong suggestion is that somebody went back and recreated the accounts or the detailed entries that we are looking at now. That is my simple question. And you are saying, no, it was from PC Law. And you said, no, it is not from PC Law. It is from Excel spreadsheets. But your office says PCL.

In the normal courts -- and I have had the -- I do not know whether it is the pleasure or the displeasure of throughout my entire practice, except for 1 month, having to build time. And it was done on PC Law. Initially. And it was on another system and another firm. But you keep track of your time, it goes into the computer, and bills are generated. When the client asked for this breakdown of the time and the work that was done, it -- I do not know why it was not provided immediately. Why a button was not punched and all of the details were printed off and sent to them.

MR. MCCURRACH: Sir, to address the first portion of your question about the Excel versus PC Law generation, I think the reason that there is a confusion or what seems to be a contradiction is that I just think we are talking about different documents. So when I am referred to what is generated by Excel, I am referring to just

those documents that are entered through Excel -- Excel sheet format under the TDF account summary by date and the TDF account summary by a client. Those are things that generated by Excel. And then when we are talking about the statements of account rendered -- sorry, the statement of account for services rendered, which are rife throughout Mr. Honer's affidavit, provide disbursements, billable rates. They told the fees, total disbursements, and they have the balance due and owing from her office. Those statements of accounts are what I'm saying are generated by PC Law. So not in any way to try -- to contradict myself. I just think that we are referring to different -- different documents.

THE REVIEW OFFICER: So your PC Law program takes a .1 for sending an email, a .2 for correspondence with the government, a .1 with regards to another letter, and it just cranks it into one number?

MR. MCCURRACH: So those -- those items are entered into -- individually into PC Law. It came from people recording their time in Excel and then having to enter those once approved into PC Law.

THE REVIEW OFFICER: And so every account, every month -- and I am just looking at the original accounts starting March 25th, 2022. There was exactly 30 hours' worth of time done by the lawyers in your office for a fee of $21,000. And then the next one on March 25th for the CP Rail, there was exactly 40 hours put in to PC Law by the lawyers in your office for the total of $28,000. Is that what you are saying?

MR. MCCURRACH: Sir, are you asking me if those billable hours are correct?

THE REVIEW OFFICER: Yes.

MR. MCCURRACH: That is my understanding that they accurately reflect the work that was done and are accurate.

THE REVIEW OFFICER: Okay. And so Mr. Grey's affidavit of March 25th, 2022 that we have already looked at, he says "It will take countless hours of unbillable time to produce the dockets that you now request". What is he talking about there? If these are all on your PC Law or in your Excel spreadsheets.

MR. MCCURRACH: Well, I think that the issue that the initial statements account didn't provide enough minute detail that was satisfactory to counsel for TDF. So I -- I wasn't privy to the conversation as to what exactly that would be -- those details. But I believe that -- well, TDF was a greater breakdown of every individual task that was done, and I don't think that we had -- we had the narrative on hand that TDF was

seeking, if I'm not mistaken.

THE REVIEW OFFICER: I think you must be mistaken because clearly the client asked for a breakdown -- a better breakdown of the work that was done and the time entries. That was what was ultimately provided. And I do not understand how it would take countless hours of unbillable time to produce the documents when they are on your PC Law and it just takes a push of a button.

MR. MCCURRACH: I'm not -- I'm not really clear on that, but -- I would have to seek clarification as to why it would be arduous to do that. I am not sure. That's because they had to be entered in PC Law. I'm not sure if they're entered in concurrently or the billing cycle was. But I would have to seek clarification as to why it was arduous to produce those details.

THE REVIEW OFFICER: Okay. And the materials that you have provided that purport to be accounts, they are called statements of accounts for services rendered. Not one of them has a date on them. What -- there is not -- unless I am not seeing it. I am seeing for professional services, March 25th to April 25th, for example, there is no date on the account, which is -- you know, it is different from the ones that are attached to the early part of Mr. Honer's affidavit. It has got a file number. It has got a date. You do not have a date on one of these. Now, you have got the disbursements.

MR. MCCURRACH: I'm saying dates on there -- (INDISCERNIBLE) is taking account for services rendered, at least in Mr. Honer's affidavit. Which documents are you referring to that are statements of claim that do not have dates?

THE REVIEW OFFICER: The ones that she just provided me this week. Some of them have dates. There is one with a date on it, but that is the first one I have seen. There is a second one with a date there in March. The next one does not have a date. The next one does not have a date. Then there is another March 25th. Okay.

MR. MCCURRACH: Sir, the summary -- the summary sheet that I'm -- that I'm looking at that we provided, the first column on the far left-hand side with the ending account date -- the ending should have everything in there. It should have every date. At least the document I'm looking at.

THE REVIEW OFFICER: I see it has a date for the entry, but the account is not dated. But the other accounts are dated. I do not understand if this is coming from your PC Law why it is leaving dates out or why it is putting them in some and not putting them in others.

MR. MCCURRACH: Sir, I believe that you are referring to the -- the Excel sheet that we have -- the summary. If you're referring to another document, then I think I need to figure out which one that is.

THE REVIEW OFFICER: I am not looking at the Excel sheet. I would describe the Excel sheet as the first four pages that you sent to me. And then it starts statement of account for services rendered. File CST13, no date.

MR. MCCURRACH: Everything that I am accounting has a date on it, Sir.

THE REVIEW OFFICER: Okay. Well, who sent me this stuff? It is signed be Leighton B.U. Grey, K.C., dated June 14th, 2023. I'm looking at the materials that were sent to me and I got this morning.

MR. MCCURRACH: Okay. In the -- I think we're referring to the same one here. We're referring to the one on June 14th, 2023 without a letter head on it sent via courier to --

THE REVIEW OFFICER: Correct.

MR. MCCURRACH: -- your office?

THE REVIEW OFFICER: That is right.

MR. MCCURRACH: Okay. And so we have got -- on paragraph 4 -- beginning of paragraph 4 -- paragraphs 4, 5, 6, 7, and 8. We've got itemized -- itemized dates. For example, in paragraph --

THE REVIEW OFFICER: I see that. I am asking a more simple question. The other accounts that you sent to your client initially have dates on them at the top of the account. And these ones are missing. Most of them are missing a date there. The suspicion is that these accounts were generated. It is very clear in the affidavit that the suggestion is that somebody went back and recreated these time entries sometime after the request was made back in June or December -- it was December they got some revised accounts. But Mr. Honer was asking for this I believe back in June of last year. And we have gotten through these emails from Mr. Grey saying it is going to be a long and tedious job. It is hard to do. And then suddenly these -- these accounts come along with specific time entries but none of them are dated. And I can see this would be -- it would take countless hours of unbillable time to produce the documents if they were being generated after the fact if the time had not been kept at the time So that is the point I am trying to make. If these had

been prepared at the time or even if they had been prepared months ago and you printed them off, they would likely have today's date on them or the date that you printed them off.

So we are looking at the right piece of paper now. You can see what I am talking about. You see where it says file number CTS13? There is no date underneath that like there is the ones that were originally sent to the client.

MR. MCCURRACH: In the June 14th correspondence, for example, at CST13, underneath it the itemized roman numerals there, I through VI, we have the dates for the file. The different statements of account, when they were billed. I mean, for example the first one, 26 October, 2021 to 23 November, 2021. So we have the dates for the itemized accounts.

THE REVIEW OFFICER: Okay. Now, let us go to the email of April 20th of 2022. In fact, this all predates our June meeting. So the client has been asking for these accounts long before I became involved and my offices were involved. There were as many as six people working on these cases at any given time. The usual estimate was between 7 to 10 hours per week. I'm looking for the email where he said that he spent about half of the time --

MS. AMIRKHANI: It's the same email.

THE REVIEW OFFICER: The same email.

MS. AMIRKHANI: It's the set point to the same email.

THE REVIEW OFFICER: There we are. The second paragraph, and I am quoting Mr. Grey again, best estimate is that about half of the hours were devoted by me and the rest by Jocelyn and the other staff. So we have talked about Jocelyn and the other staff. So we have talked about Jocelyn. Who else on the staff worked on these various files, Mr. McCurrach? Can you just look at the account and tell me who else was involved in the files please?

MR. MCCURRACH: Sir, as far as I -- as far as I'm aware, the lawyers that primarily worked on it were Mr. Grey and Jocelyn Gurke. Staff beyond that I'm assuming would be a reference to administrative staff.

THE REVIEW OFFICER: Sorry, I missed that. You do not know of anyone else that was working on the files?

MR. MCCURRACH: Besides the lawyers? The only two that I know

are Leighton Grey and Jocelyn. And then any other "Staff" would be administrative staff. But that really should be in the statements of account in the summaries provided. We have referenced whose done what work and at their rate. So I mean it's all in there.

THE REVIEW OFFICER: Okay. But Ms. Amirkhani said that only about 15 percent of Ms. Gurke's time was included or contained in those invoices by her calculation.

MS. AMIRKHANI: Sorry, can I just restate? My point was --

THE REVIEW OFFICER: Yes.

MS. AMIRKHANI: -- they took one from the 100 percent that was billed as Mr. Grey's time. They took 15 percent and allotted it to Ms. Gurke. It's not a statement on how much work Ms. Gurke actually herself did. The statement that might be better referenced at this point is that by our estimation 80 percent of the overall labour was done by paralegals. That might be a better --

THE REVIEW OFFICER: Oh, okay.

MS. AMIRKHANI: -- (INDISCERNIBLE) you were thinking of. Yeah.

THE REVIEW OFFICER: Okay. Let us start with the paralegals then. We will go back to the percentage of work that was done on these various files by paralegals. Mr. McCurrach, does that 80 percent sound accurate to you?

MR. MCCURRACH: Hello?

THE REVIEW OFFICER: Mr. McCurrach?

MR. MCCURRACH: I think we lost connection there. Do I have you now?

THE REVIEW OFFICER: Okay. You are back on now. I cannot see you but, yes, I can hear you. So how much time was done by paralegals on these accounts. Just a percentage. You have heard the number 80 percent thrown out there. And not just thrown it. Ms. Amirkhani says that is there calculation from having looked at the details. I do not have the benefit of the various files you were working on or your offices were working on, but I take it she does. That it is part of the 5,000 pages of documents that were sent to her offices.

MR. MCCURRACH: I don't have an estimate on that. All that I have to rely on are the statements of account and the summaries provided as to who was working on what. That's all I have.

THE REVIEW OFFICER: Okay. So to summarize, Mr. Grey worked on the files, Ms. Gurke worked on the files, and paralegals worked on the files with staff, is that right?

MR. MCCURRACH: Sorry, can you say that for me again?

THE REVIEW OFFICER: Mr. Grey, Ms. Gurke, and paralegals or assistants in your offices worked on the files.

MR. MCCURRACH: That would be our standard practice, yeah.

THE REVIEW OFFICER: Okay. Well, was there any different on this group of files that you are aware of?

MR. MCCURRACH: Not that I'm aware of. Any work that was done by the individuals was (INDISCERNIBLE) accordingly. So I mean, if it -- if it indicates Leighton Grey or Jocelyn Gurke then that's who did the work on the file.

THE REVIEW OFFICER: All right. So Mr. Leighton says again on that April 20th, 2022 invoice that "As many as six people working on these cases at any given time". That's the two lawyers and the rest would be staff?

MR. MCCURRACH: I -- I can't speak to any individual file. I wasn't working on them or I was for very little time. So I'm -- I'm not really sure who those individuals referenced would be, or if he's -- if he's talking on every file in general or specific ones in communication.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: And Sir, I assume that if -- I know that you're going to come back to me at some point.

THE REVIEW OFFICER: Yes.

MS. AMIRKHANI: But I will just make it known that I do have very clear evidence that the time is copy/paste from what the paralegal said she did and billed as Mr. Grey.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: To the extent that that's going to speed this up, I can show you that now and we can have a conversation about it, or I'm happy to wait if that's where we're going.

THE REVIEW OFFICER: Let us just come back to it in a couple of minutes. I have just got another question. The retainer agreement that is attached to Mr. Honer's affidavit, your officer did not provide copies of any retainer agreements, Mr. McCurrach. Is that the only written retainer agreement that you had with any of these half dozen files that you were working on for The Democracy Fund?

MR. MCCURRACH: In terms of the individual retainers between the clients and GWS?

THE REVIEW OFFICER: Correct.

MS. AMIRKHANI: That's what you're referring to?

THE REVIEW OFFICER: That intermediary agreement, I do not know what that is. I do not mean I do not know what it is, but in terms of it being a retainer agreement it is not -- it is a relationship that you have with The Democracy Fund or had with them. But it is not specific to what your offices were charging and who was going to work on the files?

MR. MCCURRACH: No, that should be captured under the individual retainer agreements for the clients. It is my understanding that each client or client group has those individual retainers --

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: -- with GWS.

THE REVIEW OFFICER: Okay. So why did you not provide them in your materials?

MR. MCCURRACH: I don't believe that -- I don't believe that we were requested for those materials and that we had to submit those. I mean, we were (INDISCENIBLE) to this hearing, providing with -- providing materials that we were directed to provide. And as far as I -- as far as I'm aware, we weren't directed to provide

retainer agreements, but I'm sure that's something that we can provide.

THE REVIEW OFFICER: Rule 10.14 says if a lawyer is served with notice of an appointment for a review of the lawyer's charges or a retainer agreement, that both the lawyer must file a copy of the accounts appropriately signed with respect to the client, a copy of any time records upon which the account is based, and a copy of any retainer agreement between the lawyer and the client. So I have seen at least one retainer agreement that was provided by The Democracy Fund in the affidavit of Mr. Honer. You didn't provide any of them. You didn't provide time records upon which the account is based, even though it should be available if you kept them on PC Law. I would be prepared to accept what you have provided here as time records, but I'm not satisfied that they were made at the time the work was done. And if they are a printout again from PC Law, I do not know why they are missing the dates on half of them. It just does not make sense to me.

So there is an obligation to provide them. But if you are telling me that all of them are the same as the retainer agreement signed by --

MS. AMIRKHANI: I believe we have --

THE REVIEW OFFICER: -- the (INDISCERNIBLE) --

MR. MCCURRACH: I will have to -- I'll inquire to see if we did file in the retainer agreements. I'm not familiar with everything that was filed.

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: That's my application now.

THE REVIEW OFFICER: Just one question about disbursements. I see on a number of these -- and I am looking at the initial ones that are contained in the materials you sent that the initial invoices that are attached to Mr. Honer's affidavit, and you claim $200 on every one of them for research via West Law. Is that the monthly fee that your offices pay for West Law?

MR. MCCURRACH: Do I have you again? I think my connection got interrupted.

THE REVIEW OFFICER: Okay. Can you hear me now?

MR. MCCURRACH: Yeah, I can hear you.

THE REVIEW OFFICER: All right. I am just looking at the first few invoices that are attached to Mr. Honer's affidavit and on each one of them you have charged $200 for case research via West Law. Is that a monthly fee that your office pays for access to West Law?

MR. MCCURRACH: We do have a subscription to West Law. I am not sure what we pay monthly for it.

THE REVIEW OFFICER: Well how does that happen to be just $200 each month? That is what I am leading up to.

MR. MCCURRACH: I will seek clarification if that is what we pay every month.

THE REVIEW OFFICER: Okay. Well, maybe you can have somebody seek that while we are continuing on here. Okay. Let us go back to Amirkhani. If you want to ask any questions of Mr. McCurrach at this time, or do you want to respond generally? If you want to ask him questions, I can give you that opportunity, but you do not have to do it right now.

MS. AMIRKHANI: I don't think I --

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Yeah, I appreciate that. I -- we've spent so much time in these documents at this point that I think that we probably have a better understanding of what happened.

THE REVIEW OFFICER: Okay.

Submissions by Ms. Amirkhani (Reply)

MS. AMIRKHANI: So I don't have any questions to ask on that. I will just -- we have one other retainer between individuals if you want to see it. Am I correct, ladies, that it's identical basically? I don't know if you see the other one? It's the same standard form. If you want to see it, I'm happy to share my screen and show it to you.

THE REVIEW OFFICER: I do not have to see it. It says the same -- it has the same provisions about Mr. Leighton's hourly rate being $700 and other lawyers will be charged out at their hourly rate I take it?

MS. AMIRKHANI: Yeah.

THE REVIEW OFFICER: Okay. All right.

MS. AMIRKHANI: So I think most productive because it is the biggest piece of the pie in our eyes is to talk about who did the work. And I will share my screen with you and I will actually just share to start that first email that I already showed you once. Let me know if you can -- oh, sorry. Okay. So you should be seeing -- I don't know what happened. There we go. An email.

THE REVIEW OFFICER: I see the email. April 4th?

MS. AMIRKHANI: Yeah.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: And it's noted at -- note that it's from Sarah Stuart and Sarah Stuart is a paralegal based on her signature line. And again, this is in response to the email from another paralegal asking for her time and she says here is a listing of my time on this file. And I will point out a couple of key entries and it applies to all of them, but in the interest of time we're going to pick the biggest ones here.

So on March 7, we have a revised statement of claim, 1 hour. And then we can turn to the statement of claim. Sorry, I should note this is on Alstom. That was the -- the subject line is Alstom. So this is referring to the Alstom account. March 7th, 2022. We go to Alstom. We go to the March account. March 7, revise SOC, 1 hour. Billed at $700 per hour.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: We go again -- if we look at March 16, we see an hour and a half further revisions to statement of claim per LG's notes and also we have 1 hour right here -- March 16 -- further revisions to statements of claim. So we have 1 hour here and 1-and-a-half hour, both on March 16th, for revisions. We look at the account. March 16, revised statement per claim updates, 2 hours, revisions to statements of claim, 2 hours. So granted they've increased it. So perhaps of that was Leighton's time or someone else's time. But at least part of that is being billed from Ms. Stuart's time, who was a paralegal, at $700 per hour. March 17, probably the grossest example is in this email. Internet research and further revisions to statement of claim, 4 hours. March -- March 17. Case research review and further revisions to SOC, 4 hours. Billed at $700 per hour. Another email. It is the same date, but on a different account. So it's another -- April 4,

2022. But this one is subject Feds for Freedom. And it is our understanding that that refers to the Government of Canada accounts. Again -- sorry, this is from Sarah Stuart again. So a paralegal. (INDISCERNIBLE) my time on this file. And it is also in response -- sorry, there's no email there. Sorry. So we'll just focus on this email.

THE REVIEW OFFICER: I found the account here.

MS. AMIRKHANI: Sure. The Government of Canada account?

THE REVIEW OFFICER: Yeah, the Government of Canada account for this time period.

MS. AMIRKHANI: And the specific bill that you're looking for is the one from April -- sorry, from February 25th to March 25?

THE REVIEW OFFICER: Twenty-five, yeah.

MS. AMIRKHANI: And it actually is dated. That's the one you'll be looking at there. Here we have in her email March 16, 2022. Review of (INDISCERNIBLE) materials and initial drafting of supplementary information to form 16 complaint, 2 hours. We look at the account. March 16. Exactly the same wording. This time it's billed for some reason at Jocelyn's rate, but the same 2 hours applies. Looking at her email again, we have March 17, 2022. Continue drafting of supplementary information to form 16 complaint, 1 hour. We look at the account, March 17, continue drafting of supplementary information to form 16. Billed at Ms. Gurke's rate of 250 an hour. One hour. And then, again, the grossest example in this email, we have March 21st, final drafting of supplementary information to from 16 complaint and organization of exhibits, 5 hours. And we see on March 21st the same and it's billed 6.5 hours. So they've tacked an hour and a half hopefully from work that someone else did. But 5 of those hours were done by a paralegal and billed at $700 per hour. And I -- you can stop me at any point or I'll just keep going.

THE REVIEW OFFICER: No, that is --

MS. AMIRKHANI: You have another email.

THE REVIEW OFFICER: Okay. No, let us get a few more examples. Another email?

MS. AMIRKHANI: Okay. So this one is for -- it is also from Sarah Stuart. It is the same date and it's for the Government of Alberta. This one is shorter so it

is easy. So you will be looking for the Government of Alberta -- sorry -- invoice --

THE REVIEW OFFICER: Yes.

MS. AMIRKHANI: -- from the same date. The February 25 to March 25 email. Or not email, invoice.

THE REVIEW OFFICER: I have got it. Okay.

MS. AMIRKHANI: And Ms. Stuart, she says Here is a listing of my time on this file, March 2nd, 2022. Detailed review of questionnaires and revisions to statement of claim, 4 hours. On the account. March 2nd, 2022. Detailed review of the questionnaires and revisions to SOC, 4 hours. Billed at $700 per hour. I can give you another one here. This is the last of the type. And mind you, I have to believe that there's actually tons of these emails in existence, but we weren't given everything. We were given what we were given and so this is what we have available to us that clearly demonstrates in our submissions the pattern.

Again, Sarah Stuart. Again, April 4th. This one details with the Salvation Army accounts. So the Salvation Army account, that would be dated March 25th. And Ms. Stuart says here is the time -- sorry, here's a listing of my time on this file. March 14, 2022. Detailed review of file materials and initial drafting of statement of claim, 6 hours. March 14th, that exact line. Six hours billed at $700 per hour. And on March 22nd, 2022, Ms. Stuart says she did further research and revisions to statements of claim, 2 hours. And we look at the account and there's that exact line and 2 hours is billed at $700 per hour. So those are what we call like the summary emails that make it very apparent what was happening. As I say, there's probably more of these in existence. They're not in our possession and I'm not in the interest of delaying this more than is necessary to get a fair result. But I can tell you that in addition to these emails -- or these emails were found by my students going through every document that was provided to us.

And what they found is continuous examples of this, just in a more finite way. So for example, where Leighton Grey is billed for drafting a demand letter, the emails make it very apparent that a paralegal drafted the demand letter. Where Leighton Grey's rate is charged, he -- actually, on this page already is a great example. Corporate registry searches. What $700 lawyer -- and I shouldn't really ask rhetorical questions in my submissions. But that is not a task that a $700 per hour lawyer does. That is an assistant task or paralegal task. But that's all to say -- and I can give you as many examples as you want to hear from me. It's very apparent that the vast, vast majority of the work that was billed for was not done at $700 per hour.

And my friend has made submissions that the intermediary agreement, being vague, gave them -- made this a fair means of billing, though I do note that he also said that those reflect who did the work, which we don't believe to be true. I don't know if it's appropriate to give case law in these scenarios, but I can tell you I've reviewed the case law and I can provide case law to the extent you want to hear it. But vagueness of an intermediary agreement or vagueness in a retainer does not benefit the solicitor. It is the solicitor's job to make it abundantly clear and to make their client aware the rates that they're going to face -- who is going to be working on the file -- what percentage of work is likely to be charged by who. What the rates for those people, including paralegals, are. And so in the absence -- and the case law also says in the absence of a clear statement as to how -- how accounts are to be billed, the default is Rule 10.2, reasonableness and fairness. And Rule 10.2 clearly states that one of the factors that determines what's reasonable and fair is the -- and I won't misquote it, but I also don't have it in front of me -- it's the experience of the lawyer doing the work.

So our submission is that they've, you know, taken advantage of TDF in this circumstance by billing as if a top billing lawyer was doing the work when in fact it wasn't a lawyer at all. So that's our submissions on the -- and again, to the extent you want to hear more, I'm happy to show you more examples.

THE REVIEW OFFICER: No.

MS. AMIRKHANI: But that's the -- where we were coming from in terms of --

THE REVIEW OFFICER: I am good with what you're pointing out here.

MS. AMIRKHANI: Okay. Now, do you want -- so I also have a piece that's about, you know, the hours -- the actual hours that were billed? And again, I have high level kind of categories we can talk about and I can show you. But do you want to speak about who did the work first, or do you want me to move on and we can talk about it all?

THE REVIEW OFFICER: I will give Mr. McCurrach an opportunity to respond to that question. I have asked it to him already and he has told me only two people worked on the file. Two lawyers worked on the file. Did you want t o add anything more, Mr. McCurrach?

MR. MCCURRACH: There is nothing that I have to add.

THE REVIEW OFFICER: Okay. Back to you, Ms. Amirkhani.

MS. AMIRKHANI: Amirkhani.

THE REVIEW OFFICER: Amirkhani. I am sorry.

MS. AMIRKHANI: You had it right at the beginning. No, no, it is okay. Just reading it, it is more letters than it looks like. Okay. We will talk then about specific areas we see room for reduction or that ought to be reduced based on what we have seen in the work done. The first area is what has been termed in these accounts as biweekly team meetings. And it helps me to illustrate, even if you are looking on paper. I'm just going to continue to share my screen with these accounts because it helps. I've highlighted so I know where my eyes are going.

When you review these accounts, you'll see that the last line of -- I think every single account is some statement like two biweekly team meetings to discuss tasks to be completed. And the amount billed varies. It's not clear why. But in -- you know, on their own they don't seem absurd. So .5 for a month of biweekly team meetings, that seems very reasonable. The issue become when we group them all together. So there are the same people -- from our view of all of these documents, the same exact people are working on all six accounts. There's no, you know, different groups working on different accounts. It's Megan Gurski, Jocelyn Gurke -- unfortunately, similar names -- Sarah Stuart, and Leighton Grey. They're working on these accounts and we haven't seen names from anyone else. Steven (INDISCERNIBLE) was working on a different related matter, but he wasn't involved in these accounts.

So the same four people are working on everything. Their billing across the accounts per month shows 8 to 12 hours total per month spent on biweekly meetings when you combine them all together, which means that this group of four people would have been meeting for 4 to 6 hours every 2 weeks to discuss these files. In our submission, that seems excessive. And because we're of the belief that these were recreated post hoc, it seems like trying to go for the same thing across accounts has led to an unreasonable outcome. And in total, 55.3 hours is billed at Leighton Grey's rate across all of the accounts. We would submit something more reasonable would be in the realm of, you know, 12 hours, which would give an hour every 2 weeks for all -- you know, for all six accounts to be discussed at once. So that's our first category. I can move on to our second.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Our second category is -- I'll term it as generic administrative entries, and I'll show you an example that I failed to highlight. It's actually right here. Receipt of review of claimant information, client questionnaires, and relevant

financial documents updating spreadsheets and trackers. That is billed for, in this case, 2 hours. This exists across I think again every single one of these invoices. I say that and I don't have one here. And for a total across all accounts of 123.4 hours, or $86,000 and change because they're billed at Leighton Grey's rate. And most notable in the CN Rail case, 45 hours of this nature was billed between September 13 and October 26. In our submission, this is the type of work that could be done by an assistant and it's not billable work at all. And two, that's incredibly excessive for that short a time period.

CN Rail then has another 35 hours charged in the remaining months for that same type of work. So again, in total, it's 100 -- over 123 hours billed to this type of -- this type of entry. It's a vague entry. We have no way of knowing even what it was or, you know, whether it was billed in line with the work that was being done. And in our submission, it shouldn't have been billed at all. It should have been done by an assistant.

The next area of potential reduction in terms of hours we see is the cease and desist letters. This one's going to be slightly messier so let me know if it becomes too much of a headache and, you know, we can talk about another way to do it. But what we found -- we reviewed the cease and desist letters that were available to us. They were billed across I believe four accounts. Maybe more. But they're all replicas. So you know, I have gone through and I have very honestly highlighted where things have changed, but it is very minor. And yet hours were billed on each account for the drafting of cease and desist letters. So I can show you what I hope to make -- or you mentioned you have a small screen so we'll see if this becomes too small for you.

So I'm going to attempt to show you side by side. This might make it too small for you and if it does you can let me know. Can you see those?

THE REVIEW OFFICER: Barely.

MS. AMIRKHANI: Barely? Okay.

THE REVIEW OFFICER: Just the big screen is too far away and the small screen -- no, I can see them here now.

MS. AMIRKHANI: I can probably make them very slightly larger, although I'm not working with a mouse which makes this more difficult. There we go. Okay. Unfortunately, I can't seemingly make it --

THE REVIEW OFFICER: Yes, that is fine.

MS. AMIRKHANI: -- bigger, if we can go on. But what I can show

you -- and I think from the bolding in the headlines you'll get the sense. And I will give you my -- as an officer in the court, I have gone through it and to the best of my ability highlighted wherever -- there's a plug over there -- wherever I saw that there was a change. But the one we're looking at over here is from CP Rail and it's a cease and desist. For the cease and desist on CP Rail, they billed 4.5 hours. And for the Alstom cease and desist on this side they billed 1.5 hours. And you'll see that nothing changes. I think at some point there's one statement that might change, but -- sorry, I'm just pointing my computer in here.

THE REVIEW OFFICER: Were these prepared by the paralegal also?

MS. AMIRKHANI: Do you remember, off the top of your head? I'm sure -- oh, yes they were. Yeah, they were.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: And we can dig out the email that shows that if you like. This was done by Megan -- okay, Megan Gurski, who is the other paralegal that's not Sarah Stuart. There's also one other paralegal whose name might come up. But yeah. So these are identical. And notably, I don't believe theses to be the first ones that were drafted. I -- I have (INDISCERNIBLE) University of Winnipeg here. It's not because it's different. It's because we believe that to be the precedent from which these were drafted in the first place. Our evidence on that is shaky so I won't die on that hill. But that is why I originally highlighted it.

So yeah. Effectively, no change between these two. Our understanding from the timing of when things were billed is that the CN Rail cease and desist letter was drafted first. I don't have a copy of that to work from. But what we do have is an email from -- and I can make this one full size so you can see it better -- Leighton Grey to Megan Gurski. Again, she is a paralegal. And Leighton says, Megan, we can also begin work on the CND letter using the CN precedent. So our understanding is that the CN Rail, being the first one that was drafted, was the precedent from which the rest of these were drafted.

In the interest of candour, I will be frank that there are some changes. I have two other letters that I can show you, but I can also just tell you the Salvation Army cease and desist has one extra paragraph and the Government of Canada cease and desist has an extra section which spans about a page and a half. But they did bill 8.1 hours for drafting the Government of Canada cease and desist. So we would say that that's still excessive. And if you would like to see it, I'm happy to show it to you.

THE REVIEW OFFICER: No, that is fine. How much time -- do you have the time that it was billed, the Salvation Army and the Government of Canada letters?

MS. AMIRKHANI: Yes. So the Salvation Army, they billed 3 hours. The Government of Canada, they billed 8.1 hours. I said Alstom, they billed 1.5, and CP Rail, they billed 4.5, and CN Rail, being what we believed to be the initial, was 3.6.

THE REVIEW OFFICER: All right. And each of these were drafted by either the paralegal --

MS. AMIRKHANI: Megan Gurski.

THE REVIEW OFFICER: Okay. And then charged out at $700 an hour?

MS. AMIRKHANI: Yes.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Yeah, I can tell you with great confidence that at no point is any paralegal rate ever charged.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Yeah. So that is that category of hours. And then the last one, I am happy to say, is on statements of claim. This one is less straightforward. Overall, they billed 96.4 hours for drafting statements of claim. There were a couple of statements of claim drafted and they vary slightly, more so than the cease and desist letters did. But still, we would say that this is excessive. It is kind of -- well, not kind of. Large (INDISCERNIBLE) and I can do that fund side by side again for you, doing the CP Rail version on one side and the Alstom version, which is a draft, but it's all we had unfortunately. We believe this to be the final draft. I don't even know if an Alstom statement of claim was ever filed, but it was drafted. So -- I'm not sharing. Thank you.

There we go. So again there a little on the small side unfortunately. Nope, I can't make them bigger. So we have them. And again, I've gone through and I've highlighted. I used CP Rail as the baseline because it was billed first. And in total, 24.5 hours were billed on CP Rail for drafting a statements of claim. This is the primary statement of claim. There are two others that are cited. We could only find one, and I will touch upon it in a minute. But this being the original, I've highlighted in the Alstom claim where things change. They've added a -- a paragraph to the -- sorry, to the relief sought. Of course, they've changed the dollar figures and things of that nature. The definitions have changed because they're fact specific. And of course the plaintiffs have as well.

I'll note that this looks like a lot of highlighting because it looks like a lot of change, but these are all copy/paste paragraphs that just say the plaintiff's name, their position at the company, the year or the date they started working, and how long they worked before they were terminated or quit. So these were basically just questionnaires turned into copy/paste paragraphs. The defendants of course are different, and then the summary of the Alstom policy were vary from the summary of the CP policy. But at this point, we start to see a lot of copying. So this is all about how vaccines work or don't work, and their submissions. This is again specific about the vaccine -- or sorry, the Alstom policy. But again, we get into the nature of COVID and vaccines and *Charter* rights and the claims of the plaintiffs under the constitution and the damages that they're seeking. And you know, then we have a duplicate of the relief that was sought at the top. So I haven't highlighted it. It is different, but it's just a copy/paste from the top.

So we are by no means saying this is a copy/paste the way the cease and desists were, but the legal argument underlying the statements of claim are the same. So I mean, I would charge, in my experience, 20 hours to bill a statement of claim from scratch. So to charge 20 hours for what is really 50 percent of a statement of claim seems excessive in our eyes. And for that reason, we're basically -- we would be asking to go with 50 percent of the hours billed on statements of claim, dropping it from 96.4 to 50.

THE REVIEW OFFICER: All right. And were each of these statements of claim billed at approximately 24 hours?

MS. AMIRKHANI: So 16.9 hours were billed for Alstom, 24.5 were billed for CP Rail, 12 hours were billed for Government of Canada, 16 hours were billed for Government of Alberta, 8 hours were billed for Salvation Army, and 19 hours were billed for CN Rail.

THE REVIEW OFFICER: All right. Thank you.

MS. AMIRKHANI: And this the end of our -- if you want to see more statements of claims, like I said --

THE REVIEW OFFICER: No.

MS. AMIRKHANI: -- I have that ready, but yeah.

THE REVIEW OFFICER: No.

MS. AMIRKHANI: Yeah. So those are our submissions. In terms of the big ticket time items, the groupings that made sense to us to do in an efficient way -- if

we were to go through line by line, there are small things here and there where we think that they are unreasonable, but this is such a large account and there are so many invoices in this case that we are trying to be reasonable and efficient. Our biggest concern is certainly the rate of billing. And then these are secondary but still very valid concerns in our eyes.

THE REVIEW OFFICER: Okay. Thank you. I wonder if we should -- just before we take a break, Mr. McCurrach, I'm going to come back to you. The first question or first issue that has been raised by Ms. Amirkhani -- I said your name hopefully correctly this time -- was who did the work. And we have got two lawyers and we have got two or three paralegals. And we have got what appears to be all of the paralegals time being billed at $700 per hour. What is your position on that?

MR. MCCURRACH: Well, unfortunately I don't have any knowledge on that so I have nothing to speak to it.

THE REVIEW OFFICER: Okay. Now, the next issue -- oh, sorry.

MR. MCCURRACH: I am -- I am curious though. I don't have copies of the correspondence referenced by my friend here. I'm just wondering -- the correspondence that are inter-office emails, how the other side came to be in possession of those.

MS. AMIRKHANI: Bradley Sinclair to Alan Honer in April of 2022 in a Dropbox-type folder email.

MR. MCCURRACH: Okay. Thank you.

MS. AMIRKHANI: I also hadn't been aware -- there was a time when we were arguing over disclosure and I wasn't aware that those were available and they became known to us.

MR. MCCURRACH: Okay. Thank you for clarifying.

THE REVIEW OFFICER: Okay. The second issue is the biweekly meetings. What are those all about Mr. McCurrach, and why are they so high on these files when there's only four or five people working on them and apparently working closely together?

MR. MCCURRACH: Well, I wasn't at the firm when they were happening. However, I do know that on other files of a similar nature on constitutional

matters that we do hold weekly or biweekly meetings as strategy sessions for particular files. So I'm assuming that that was a similar protocol on these. As far as the cost or justifying the cost, I don't have specific knowledge on that.

THE REVIEW OFFICER: Okay. And the general administrative entries that appear to be on almost all of the invoices that total a little over 123 hours, $86,000 worth of time. The question is why wasn't that work done by an assistant?

MR. MCCURRACH: I'm not sure.

THE REVIEW OFFICER: Okay. The cease and desist letters and the statements of claim are somewhat similar, but they're two different items. The cease and desist letters apparently were prepared by a paralegal or an assistant and charged out at Mr. Grey's rate. What was the reason for that?

MR. MCCURRACH: I'm not sure.

THE REVIEW OFFICER: All right. And is that the same for the statements of claim?

MR. MCCURRACH: Yeah, unfortunately I can't provide information or details on that.

THE REVIEW OFFICER: Okay. All right. Why don't we just take a 15-minute break. It's 3:00. Just before you go because I want to know about the West Law, are there any disbursements, Ms. Amirkhani, that you want further clarification on?

MS. AMIRKHANI: So -- and not to help my friend, but I am an officer of the court. I would expect the West Law disbursements to be a per page charge. You're correct that the frequency at which their $200 exactly is odd. And so I would like clarification on that. To the extent to those are not just like a per click charge, I will take issue with that. But yeah, that's the only one that I really have. I am curious what the MFE is, but it's $3 per invoice so I'm not overly concerned.

THE REVIEW OFFICER: Okay. What's the MFE, Mr. McCurrach?

MR. MCCURRACH: Unfortunately, I don't know. I'll have to seek clarification on that. It's the MFE charge?

THE REVIEW OFFICER: MFE, yeah.

MS. AMIRKHANI: It's always the last --

THE REVIEW OFFICER: It is not a big item, but I am curious. It is on every invoice.

MR. MCCURRACH: Okay.

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: Would you like me to speak to the West Law disbursement?

THE REVIEW OFFICER: If you know the answer right now.

MR. MCCURRACH: Certainly. It is our position that charging for the West Law subscription as a disbursement is a reasonable disbursement charge.

THE REVIEW OFFICER: Is that your monthly payment? Is that what you paid West Law for unlimited use?

MR. MCCURRACH: It's my understanding that the subscription monthly is -- is more than that. So it represents a portion thereof.

THE REVIEW OFFICER: Okay. Find out what it is per month please. Find out what it is per month. It is not a big issue for Ms. Amirkhani I do not think, but I am curious because it is one of the things we look at. Okay. Just find out what your monthly subscription is and how you got to the $200.

MR. MCCURRACH: Certainly.

THE REVIEW OFFICER: Okay. You can leave whatever these things are -- WebEx on. I will stop the recorder and then we will pick this up when we get back. Ms. Amirkhani, if you could give me a summary, and Mr. McCurrach also. It does not have to be in writing, but I would like you to summarize what you think these accounts should be reduced to if that is your position. And break it down the way you have done in terms of your submissions in the last half hour so we can get some handle as to what it is your client is looking for based on their complaints. All right.

MS. AMIRKHANI: Could I just before we leave in that respect then ask Mr. McCurrach what is Sarah Stuart's rate?

MR. MCCURRACH: I'm not sure. I'll have to get an answer on that. Sarah Stuart from legal?

MS. AMIRKHANI: Yeah. Sarah Stuart and Megan Gurski are the two names so those are the -- I assume -- our office charges paralegals at one rate so if they are the same that's great. I just need to -- I need to know what that is. I know a third year is 250, so I assume a paralegal is hundreds -- low hundred. But I would like to know.

MR. MCCURRACH: Okay. Yeah, I will obtain the answer.

THE REVIEW OFFICER: Can you find that out before we take the break? Otherwise we are probably going to have -- take another --

MS. AMIRKHANI: I have my cell phone so I can type the answer in quickly and get a number, but it'd be good to know.

THE REVIEW OFFICER: Okay.

MR. MCCURRACH: I'm sure I can find the answer for you if you can give me a couple seconds here.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: Sir, are you hearing feedback on your side?

THE REVIEW OFFICER: Are you getting feedback?

MS. AMIRKHANI: And it just stopped. Right when you said that it stopped. It's just like a crackling noise but it's ...

THE REVIEW OFFICER: It is probably coming from my end here.

MR. MCCURRACH: Okay. Sorry. I got clarification on that. Apparently they don't bill paralegal time. They don't have an hourly rate. They charge at a Leighton Grey's rate.

MS. AMIRKHANI: On all files that's the position?

MR. MCCURRACH: I'm not sure if that's on all files, but I will make that determination.

THE REVIEW OFFICER: So they keep track of their time and Mr. Grey bills that out at his hourly rate?

MR. MCCURRACH: That's my understanding. I just need to clarify if that's an all files or if that's just these TDF files. And so that -- the clarification I'm getting with respect to the paralegal charge is that from what the lawyers -- we charge for the lawyer's review and instruction of the paralegals at the lawyer's rate and that -- that's the same with all files.

THE REVIEW OFFICER: So you do not bill your paralegal's time?

MR. MCCURRACH: That seems to be what I'm getting here. I'm trying to seek clarification on that because that seems rather confusing to me as well.

THE REVIEW OFFICER: Well, let us not spend more time on it. if you find out something during the break, Ms. Amirkhani -- you might choose a rate from your calculations that you think is appropriate for the paralegals if that is a calculation that you are going to do. All right. I am going to turn the recorder off and let us meet back in 15 minutes, which would be 3:30.

MS. AMIRKHANI: All right. Thank you.

(ADJOURNMENT)

THE REVIEW OFFICER: We're back on the record. The West Law charges, Mr. McCurrach, what did you find out?

MR. MCCURRACH: So I found out that our baseline subscription is 1,300 to $1,400. West Law's an interesting animal in that if you go inside -- and you have to rely on the materials that are outside your subscription for that baseline costs, then there are additional charges on it. However, just using the baseline, these are the 1,300 to 1,400 a month. If you take 15 percent of that, we have I believe 195 or 210. So my understanding is that the disbursement is a 50 percent of the baseline West Law subscription in order to get the cost of that back as a disbursement.

THE REVIEW OFFICER: Okay. But it is not based on the actual usage by your firm for these files?

MR. MCCURRACH: Not on a -- no, not on a per client or a per work basis. It's a sort of flatline disbursement charge.

THE REVIEW OFFICER: Okay. What is the MFE please?

MR. MCCURRACH: The MFE -- the description I got on that was in relation to -- sorry, I'm just going to recap my conversation here. MFE -- MFE relates to binders (INDISCERNIBLE) at tabs 4, anything like that. I'm not sure what the acronym stands for the -- the MFE, but that was the explanation I was given. So it was sort of in-office supply.

THE REVIEW OFFICER: Okay. And Ms. Stuart, no hourly rate? Ms. (INDISCERNIBLE), no hourly rate?

MR. MCCURRACH: The hourly rate that we have across the board is 125 for their -- for the paralegals.

THE REVIEW OFFICER: Okay. All right. Let's go back to Ms. Amirkhani. Do you want to make final submissions in terms of what it is that your client is seeking in terms of a reduction from the -- the accounts? And as I understand it, we are dealing with 37 accounts that total $429,442.80. I have only got about 29 of them. So after the hearing, I am going to have my assistant send you a list that we have, Ms. Amirkhani, and then you can provide us with the other six accounts or so that bring it up to the 37 accounts.

Submissions by Ms. Amirkhani (Reply)

MS. AMIRKHANI: I'm guessing it is that you don't have CN Rail, which is the sixth account. But that is factored into my calculation.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: I can advise that I have spent a lot of times and I did just -- because there was a discrepancy in the number Mr. McCurrach said. I went through the totals -- the final totals -- the hourly totals of every invoice and I know that that -- that that number is what's the aggregate. And so in sum, we're seeking two things. One is a reduction of certain categories of time spent, and in particular we seek to reduce the biweekly team meetings from a total aggregate of 55.3 hours down to 12 hours. We seek to effectively eliminate the 123.4 hours spent on administrative tasks, which I can identify by highlighting on another date, collecting, sorting, updating trackers, things of that nature, which we submit should have been done by an assistant. We seek to reduce the hours spent on cease and desist letters from 20.7 to 5 hours, effectively representing the first draft that was written for 3 hours and 2 hours for the minor changes that were made thereafter. And we seek to reduce the amount of time that was spent on statements of claim from 96.4 hours to 50 hours -- about 50 percent -- to represent the replication of facts across -- or elements

across statements of claim. In sum, that amounts to a reduction of 228.8 hours, all of which were billed at Leighton Grey's rate of $700.

In addition, in light of the evidence we've seen on our side about the amount of work that was done by paralegals but billed at $700 per hour, we seek a reduction in the rate at which -- let me phrase this properly. I wrote it down because it's hard to phrase. We're seeking to reduce the rate billed on 80 percent of Mr. Grey's hours to a paralegal rate, and we will accept $125 per hour as that rate, leaving 20 percent billed at $700 and leaving Ms. Gurke's hours as is. I have -- and I would say for the benefit of my friend -- the calculation that I've done to reach the final figure that I'll give you. Mr. Leighton -- sorry, Mr. Grey, in total 603.3 hours were billed at his rate. When you reduce the 228.8 hours we're seeking to reduce, that leaves 374.5 hours at Leighton Grey's rate to start. Ms. Gurke billed out 108.85 hours. We're not touching that. So that remains. That leaves for her amount at 250 per hour $27,212.50. We then take Mr. Grey's rate and we apply a $125 paralegal rate to 80 percent of his remaining hours, leaving 20 percent billed at 700. And at total, that gives us for Mr. Grey's prior hours $112,760. Together, those are $138,972.50.

However, there were contributions made to these accounts by some of the individual claimants. They're identified on the bills there right before the final line on some of the bills. In total, across all six accounts and across all invoices, $42,226.66 was contributed by the claimants. So that brings the total billable pretax and redistribution to $97,745.84. I am of the mind that the West Law charge is improper. It is a firm management fee. It is the cost of running a firm. However, I haven't factored it into my background the calculation to date. And I -- I don't know what the total is. So I mean in the interest of my client (INDISCERNIBLE) I should really fight for that reduction as well, but I don't know the number off the top of my head. So barring that particular thing, if we add the distributions and we add tax it leaves us with a total sum of -- sorry -- $107,570.34.

THE REVIEW OFFICER: Okay. Just run the summary by me again. You are reducing Mr. Grey's time to $112,760?

MS. AMIRKHANI: Correct.

THE REVIEW OFFICER: Okay. And Ms. Gurke's time remains at 27,225.

MS. AMIRKHANI: 27,212.50.

THE REVIEW OFFICER: Okay. And what are you charging the paralegal time out at? At 125?

MS. AMIRKHANI: Yes, 125.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: I think that that's fair based on Ms. Gurke's rate.

THE REVIEW OFFICER: Okay. And that appears to be what the firm does charge on some files. And how much does that -- what dos that turn into -- calculate at?

MS. AMIRKHANI: Sorry, the 107,760 is -- is the aggregate of the 80 percent at 125 and the 20 percent at 700. I can divide them out if you want.

THE REVIEW OFFICER: Maybe do that. Can you send that over? And send a copy to Mr. McCurrach too. And if you want -- okay, I will turn the recorder off again so that I can see your numbers and Mr. McCurrach can have an opportunity to respond to them. Maybe just check on those accounts and just see if that 200 has been applied all the way across the board. Mr. McCurrach, when it comes --

MS. AMIRKHANI: I know that it hasn't. Sorry, I didn't mean to cut you off.

THE REVIEW OFFICER: I was just saying Mr. McCurrach, the general rule and what you see in the cost manual is that no West Law or computer research is allowed. But that manual was prepared 10 or 15 years ago and I am inclined to allow it when a firm keeps specific track of the West Law charges on the specific files. When a blanket number is used, that is when I thought possibly you were charging out the full amount of your monthly bill, which you are not. But when you are just calculating it, I am going to use the word randomly, without it being specific, I generally do not allow it. So I think that has to be removed. But I will turn the recorder off and if you could send that to the Calgary office. So reviewoffice.QBCalgary@Albertacourts.ca, please.

MS. AMIRKHANI: I'm sorry?

THE REVIEW OFFICER: I will just turn the recorder off.

MS. AMIRKHANI: Sure.

(ADJOURNMENT)

THE REVIEW OFFICER: We are back on the record and we have the spreadsheets that Ms. Amirkhani has prepared. And I'll just get you to take us through those numbers again and your calculations based on the representations you made before we

broke please.

MS. AMIRKHANI: Yeah, and in full disclosure, when I -- I don't know what happened, but when I separated out the 80 percent and the 20 percent as two line items, it slightly shifted.

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: I have -- I've run them as many times as I possibly can and I do believe them to be correct. But if anyone sees anything wrong, please tell me. So in columns F and G we have what I originally titled perspective deletions. These are the categories where we're looking to reduce the hourly rate if the hour is billed. And in particular in column G for each line item, I've taken the amount of hours that were actually billed, which is detailed in the tabs related to each of these titles, and I've reduced it by the amount we're seeking to leave in. So for example, for team meetings, 55.3 hours. For build, we believe that 12 hours is a fair amount. And so the difference is 43.3 hours. That would be a deleted number of hours. The collecting and sorting we're deleting 100 percent of the hours in our -- in our submissions. So that's what's there. And that continues on. It gives us a total of 228.8 hours that we ask to be deleted from the invoices in total.

Then if we look at columns B and C beginning at row 12, you have accumulated Leighton's hours -- that being the hours billed at $700 per -- at $700 per hour across all of the invoices and all of the accounts -- and Jocelyn's hours as billed as well, and applied the reduction in hours that we seek to the total hours from Leighton Grey. So he originally bills 603.3 hours. I've simply taken that and reduced it by 248.8 hours to give us a remainder of 374.5 hours. And I've left Jocelyn's hours as -- as is. Just for our knowledge, if that was billed at $700 per hour I've given you what that would look like, and Jocelyn's at $250 per hour. But then again, I've gone a step further, which is where we're requesting to have a percentage of Leighton's hours billed at the paralegal rate of $125. So this line item is -- his billable -- his billables, after the reduction times point 2 to make it 20 percent of the hours, times $700 per hour, that gives us how much is left at $700 per hour. And then I've taken the remainder, being his hours after the reduction times point 8 to give us 80 percent of the hours, times 125, being the paralegal rate that we're asking to be applied to that 80 percent of the hours. That gives us 37,450.

We then are able to combine those three numbers, so Jocelyn's rate, the 20 percent remaining at $700, and the 80 percent at 125, to a grand total of billables at $117,092.50. We then have to apply the things that come after the hours. So as I mentioned, $42,226.66 was contributed by individual claimants straight to GWS. In our submission, it would be improper for TDF to double pay for something that was already by an individual claimant. So I subtract that contribution. And it is calculated across each of the individual tabs related

to each count. That gives us a remainder of 74,865.84. I add the distributions, but subtract the amount for West Law. My summer students in the interim have calculated what was charged for West Law, and it amounts to 30 -- sorry, $3,250. So I'm adding the total distributions but subtracting West Law amounts to give us $76,317.94. And then I simply add .5 percent tax for GST.

THE REVIEW OFFICER: All right. Now, that is your calculation of the -- let me just get the number here -- the 37 accounts that were billed at almost $430,000. You are saying it should be reduced to 80,000?

MS. AMIRKHANI: Yes. And I also was surprised and I double checked the numbers. But the reality is when Leighton billed $600 hours, and we're asking that 228 of those hours be removed, it's a substantial reduction when they're $700 hours. Of course, if -- if you want to play with any of the numbers either in that amount that we're asking to be reduced in terms of hours or the percentage that's being allocated to paralegals, that will change that figure.

THE REVIEW OFFICER: All right. But your review and your offices review of the work that was done by the paralegals and the work that was done by Mr. Grey are approximately a 20/80 percent split?

MS. AMIRKHANI: Yes. And I mean, as I mentioned we don't have everything in the universe. We have what they provided us. It was substantial enough that, if I'm frank, our -- our wording at the end was what did Leighton do. Because there was actually no -- or very little. I shouldn't say no. There's very little documentary evidence of what he did. I know he edited things here and there. Provided notes. But the vast majority of the work is -- is from the paralegals and in our submission -- in our best estimation is 80 percent.

THE REVIEW OFFICER: Right. Mr. McCurrach, your turn.

Submissions by Mr. McCurrach (Reply)

MR. MCCURRACH: So one -- one particular aspect that I'm drawn to that is problematic is with the CN -- the CN Rail. So first of all, in this matter -- in terms of this hearing, we were under the understanding that CN was not included in this matter. I mean, there's no outstanding -- no outstanding bill that TDF has never paid and there was no documentation that as far as we're concerned was submitted by TDF or that we were provided an opportunity to submit on those accounts. And so we don't think that those should be included in -- in the calculation as it stands. And beyond that, we don't have instructions from our client at this point on -- on the settlement if that's even on the table.

So if we're going to proceed on that, we'd seek an adjournment to get instructions from our CN clients on this. It was our understanding that we were just dealing with the accounts minus CN.

THE REVIEW OFFICER: Well, the difference between the CN --

MS. AMIRKHANI: I can just respond to that briefly to say that the only reason I have the CN accounts is because I asked Mr. Sinclair to provide them to me in preparation for this hearing about a week ago. I think I received them on the 12th of June for the first time and it was in the context of preparing for this hearing which Mr. Sinclair booked from their office. So in my submission, it should have been very apparent to your office that this was going to be part of the review.

THE REVIEW OFFICER: The original accounts that were provided to --

MR. MCCURRACH: Sorry, as far as I'm aware the -- the CN Railway matter -- the CST11C on our end, was not included in the materials filed yesterday. So as far as I'm aware, they haven't been filed. But my friend is telling me that she was provided them by -- by Mr. Sinclair.

THE REVIEW OFFICER: Well, our office has had since last June 29 accounts that total $414,000. So there's an additional 15,000 of them. And if those are the CN accounts and they were provided to your friend, then they are probably before me. But it is only $15,000 of the $429,000.

MR. MCCURRACH: I have a figure that is closer to $225,000 for the CN accounts.

THE REVIEW OFFICER: Okay. So then the pile -- the CN accounts have been included right from the beginning. I haven't looked through them, but -- but I have to assume they are -- they are part of it. We are not just dealing with the amounts that have not been paid this week or this is an application by The Democracy Fund. They are looking at what I see is virtually all of the accounts. And we are not adjourning for you to try and have some settlement discussions. This matter is before me as a result of -- I can see some significant work that has been done settling issues that your firm raised in the first instance, which was that my office had no jurisdiction and this should be dealt with in Ontario. So did you have any comments about the 80/20 split or any of the other matters that we have actually been over just before we went on the break?

MR. MCCURRACH: In terms of the accounts that have been paid, it seems that the evidence is fairly clear that there has been some sort of error with regard to

what rates it was billed out at. I don't think that it's unfair, but I do have concerns about how this is going to go against the CN account seeing as how we haven't gone -- we haven't gone through examples or evidence of how the billing has been applied in those accounts. So I mean we're -- we're just going on the supposition it seems that the billing has been the same throughout and there's been no change.

THE REVIEW OFFICER: Okay. Do you have any further comments on the spreadsheet or the representations that have been made? To summarize it, there are the four items under perspective deletions. The TM meetings, the 43 hours there. the collecting and sorting 123 hours, the cease and desist letters, and the statements of claim, all of which were work apparently done by paralegals and charged out at Mr. Grey's hourly rate of $700.

MR. MCCURRACH: Are you asking me if I have any submissions --

THE REVIEW OFFICER: Yes, I am asking you for your comments. If you have got any comments on the calculation now that you have seen a specific calculation that has been done by The Democracy Fund on these accounts that were rendered from your office.

MR. MCCURRACH: I have no comment.

THE REVIEW OFFICER: Okay. What about the 80/20 split between the paralegal and Mr. Grey?

MR. MCCURRACH: I have no comment either.

THE REVIEW OFFICER: Okay. Is there anything that you want to see in closing?

MR. MCCURRACH: I have nothing further to say.

Decision

THE REVIEW OFFICER: All right. Well, thank you all for your submissions. This file has taken some time to get back before me but there were issues that were raised by the firm as to the jurisdiction of the Alberta Review Office in terms of dealing with these accounts. That has been settled by an order that appears now to be a consent order of Justice Anderson dated March 26, 2023. Let me just get my notes in order here.

The problem seemed to have arisen when the client was unhappy with the detail or the lack

of details contained in the accounts. And Mr. Honer raised that with the firm sometime before you were in front of me last June. And there was considerable back and forth which we don't have to get into. But it took the firm a lengthy period of time to finally get some further detail to the client to respond to the specifics they were looking for on these accounts. And we are dealing with 37 accounts totalling almost $430,000 over a relatively short period of time.

The Rules of Court say in Rule 1042(3) that every lawyer's account must contain a reasonable statement for description of the services performed, show the fee for the services, and separate out the disbursements. The accounts that were originally provided to the client don't provide, in my view, a reasonable statement of the description of the services that were performed. I'm just looking at the very first account in the affidavit, sworn May 26, 2022 of Mr. Honer. And this is the redacted affidavit I have got in front of me. And there is three and a half lines of description, a reference to 30 hours, and then being charged out at Mr. Grey's hourly rate of $700.

So there was noncompliance with that -- that provision of the Rules of Court. And there's caselaw that goes on to state that the client is entitled to know what it is that the firm did for them and the reasonable breakdown at the amount of time if it's required. Now, initially these accounts were being paid without much scrutiny. But at some point The Democracy Fund looked at them more closely and asked for additional information that took, in my view, a long time to come. Eventually, and I think it was by December of 2022, they were provided with more detailed accounts or attachments to the accountants that were more detailed.

And I am concerned about a couple of things as I have raised them already. First off, this is when this request was made back early in 2022. Mr. Grey fobs off on the client or blows the client off to a certain extent, to use that expression, by saying this is both tedious and tiresome. And he goes on to say that it is going to take countless hours of unbillable time to produce the documents that you now request.

There is confusion in terms of what I have heard today and the suggestions that were made in Mr. Honer's affidavit that these detailed papers that were provided to the client were not prepared contemporaneously with the doing of the work. And Mr. McCurrach has said that the firm uses PC Law, and he initially said that the accounts were generated by PC Law and then he said that they were generated from Excel spreadsheets. And then there was confusion again as to exactly how the detailed entries that we have before us -- and I've got the ones that are in the affidavit of Mr. Honer, but I also have got the materials that were provided earlier this week under cover of a letter of June 14th, 2023, some of which I notice do not have dates on them. So I am not sure where they came from.

But to suggest that it would be a big effort to produce these documents makes no sense to me. I used to the PC Law system. I am used to other legal accounting programs that I have seen in this job and at my own work, and it is very simple to produce these documents if time has been entered into the computer. If it has not, then of course it is going to take a long time. And again, I am not sure how it can be generated 6 months or a year down the road if it has not been carefully taken into account and carefully recorded at the time the work was done. So my concern is that these descriptions that have been provided were generated after the fact and are not very helpful for me in terms of being able to say, well, this is work that was actually done.

There were other issues though that have been raised by the client. In terms of the parties that worked on the file, we know that there were a couple of paralegals. We know Mr. Grey worked on the file. And we know that Ms. Jocelyn worked on the file, who is another lawyer om the firm. But I am getting confused by another email from Mr. Grey in April of 2022 where he says that the best estimates is that half of the hours were devoted by me and the rest by Jocelyn. And that appears to be the way the accounts were billed. In fact, Ms. Amirkhani suggests it is closer to a 20/80 percent instead of a 50/50 percent. And he says that as many as six people were working on the cases at any time, and we see from the materials that of those six people two of them were lawyers and the rest were paralegals. So assistants.

So there is some suggestion that Mr. Grey was either not happy by virtue of the fact that the time had not been kept when it was recorded or that maybe it did not correspond with what was billed. But in any event, eventually time records were provided to the client and their lawyers along with some 5,000 pages of paper, which allowed an analysis to be done of the work.

The actual biweekly meetings on these accounts, which total somewhere in the neighbourhood of 55 hours over a short period of time, and again were billed at Mr. Grey's hourly rate of $700, does appear to be exorbitant to me. Ms. Amirkhani has suggested 12 hours. Fifty-five hours of additional time at $700 an hour for five or six people who are working together every day on these files does seem to be excessive. There was also a comment made by Mr. McCurrach that the firm was using this Excel spreadsheet method of recording its time because a number of lawyers in Calgary were working on the file or a number of people in Calgary were working on the file and Mr. Grey apparently is not in Calgary. So again, that does not make a lot of sense to me. And when people or a small group are working on the file or talking on the file I would say somewhat regularly, and these meetings appear to be on the excessive end of the scale.

Similarly, with these general administrative entries of 123 hours, which computes to approximately $86,000 on these files, is likely something that could have been done by an

assistant. The cease and desist orders -- I see that one of them -- well, two of them took a huge amount of time. And again, they appear to have been prepared by the paralegal and might have been some overview by Mr. Grey. But he charged the paralegals time out at $700 per hour, and I think that is excessive and I think it is inappropriate. Similarly with the drafting and statements of claim.

And I say it is inappropriate because if we look at the retainer agreement -- and there were two retainer agreements apparently that were provided to the client, one of which is contained in the affidavit of Mr. Honer. And it says on the first page under legal fees in the last paragraph:

> We have stablished an hourly rate for each lawyer, which is subject to reasonable increases from time to time. The following hourly charges are currently applicable to the following lawyers.

And it is referring specifically to lawyers. So it is time that is going to be billed for the lawyers time, not the paralegals. Mr. Grey is at $700 an hour. That is quite an hourly rate, in my view, for a lawyer outside of the larger centres in Alberta, but it is what was agreed to between the parties and must be based on some experience that Mr. Grey has that resulted in the client's agreeing to pay $700 an hour. But I will tell you, that is a fairly high rate. It is not completely steep by Calgary standards, but it certainly is by Edmonton standards and I would think it would be extremely steep by Cold Lake standards. But that is what the client agreed to. So we will consider that it is appropriate under the circumstances.

When we get onto the next page of the retainer agreement in the third paragraph, and I am just paraphrasing here, it says that firm personnel including other lawyers may be assigned to do some work. And where other layers work on the file, their time will be recorded at their hourly rates. And that clearly was not done. We have seen I guess sometime by -- by Ms. Gurke. But if that is all the time that she put in on the file then that has been taken into account. But there is no hourly rate given in the retainer agreement. But the amount that she charged for time appears to be reasonable.

The next paragraph talks about when a legal assistant does work on the file. And again, I'm just paraphrasing. But it says unless the account is subcategorized and specific charges for the legal assistant's time at their calculated hourly rate, which we now know to be $125, the client will only be billed for the assigned lawyer's time spent reviewing the file and providing instructions to the legal assistant.

It's fairly clear from the entries or some of the entries that counsel has shown me this afternoon that this portion of the agreement was breached. Mr. Grey appears to be charging

out his assistant at his hourly rate and taking her work and charging it as if it was done by a lawyer. That is contrary to what Mr. McCurrach said earlier. That is not contrary. He actually said that the paralegal or the assistant's rates were charged out at Mr. Grey's rate. But then he -- he got additional information to indicate that their hourly rate was actually $125. That provision of the agreement appears clearly to have been breached and that is something that the client understandably would be surprised to find, that their assistant is being charged at $700 an hour, which is a fairly rich hourly rate under the circumstances.

We talked about the disbursements. I am of the view that the $200 per month that was charged should be coming out of these accounts. If the amounts had been actually incurred specific to a file, I would have -- I would have left them in. But it's an effort to collect back some of the monthly charge without providing any evidence that there was any use of that facility.

The retainer agreement -- and I'm not sure if retainer agreements were entered into with all of the other parties. But they were provided to my office by the firm, which they should have done. But I am satisfied that each of the clients that signed one signed the same agreement that I just alluded to. We have got the spreadsheet that provides a fairly detailed analysis by the client as to what they think they have been overcharged in this matter. And I thank Ms. Amirkhani for repairing that. I am going to leave it on the file because this may not be the end of this matter.

The split of 80/20 percent between the lawyer and the paralegal would be what I would consider to be somewhat consistent with what happens in situations where paralegals are used extensively. I am familiar with that because I had a foreclosure practice for a number of years and that was about the ratio of the split between our respective jobs. The paralegals did the bulk of the work at a lower hourly rate and we supervised the work and we signed the letters. But we certainly didn't charge out the paralegals time at whatever I was charging or my partners were charting at the time I was in practice. So the 20/80 split appears to be reasonable in a situations like this where Ms. Amirkhani and her staff have scrutinized the work that was done and found that to be the reality. Excuse me one minute.

(ADJOURNMENT)

THE REVIEW OFFICER: We are back on the record. The split of 80 percent and 20 percent appears to be reasonable and what I would expect under the circumstances. The administrative -- or collecting and sorting the administrative items that the client has complained about, I'm not sure that all of those should come out. But at most they would be charged at the rate of the assistant. The West Law charges of $3,250 should come out.

Essentially, when I look at these 37 accounts and the period of time over which the work was done, especially with an hourly rate of $700 being charged for assistance time, and an inordinate amount of time spent at team meetings and some overlap with the student's claim and the cease and desist letters. I am going to have to reduce these accounts. Ms. Amirkhani has suggested that the account should be reduced to $80,000 -- $80,133.84. And following her rationale, I'm a little concerned that maybe there should have been some inclusion of additional time for the administrative matters. And in the off chance that Mr. Grey did some more work on the file than they're giving him credit for, although I do not have any reason to doubt Ms. Amirkhani's calculations. I would not expect that Mr. Grey had done any more work than what she has calculated, which is somewhere in the range of 52 or $53,000. But to give some leeway and give some time for the administrative sorting and collecting of materials and the reduction for the team meetings and the other items. I am going to reduce the 37 accounts to the -- I am just going to round it to $100,000 all inclusive. And that takes into account contributions from the other parties and the disbursements.

So now we have to figure out how much has been paid on the accounts by your client, Ms. Amirkhani, because of --

MS. AMIRKHANI: Yeah, and -- sorry.

THE REVIEW OFFICER: No, go ahead. How much of the --

MS. AMIRKHANI: I can't be quoted on this. I believe it to be in the realm of 183,000. I'm hoping my friend has perhaps the accounts, considering they were paid to him, available. Do you by chance have them?

THE REVIEW OFFICER: Mr. McCurrach.

MR. MCCURRACH: Sorry, are you -- are you implying that OTF has paid the accounts even towards CN Rail?

THE REVIEW OFFICER: Yes, I am including them all.

MS. AMIRKHANI: My understand --

THE REVIEW OFFICER: There is only 15,000 of them that are not included in the materials that were filed back in June of 2022, Mr. McCurrach.

MR. MCCURRACH: Okay. I'm not sure what you're referring to, Sir. My main concern here is that pursuant to the notice to respond and the purpose of this hearing was to review the accounts that were specified in schedule A, which were at --

which can be seen at paragraph 24 of Mr. Honer's affidavit. And those included the five groups that GWS had rendered since October 2021, and notably did not account for the CN Rail accounts. We're concerned that a repeatable error is happening with applying any decision that might be made today to those CN Rail accounts. We (INDISCERNIBLE) properly with the object of today's hearing.

THE REVIEW OFFICER: Okay. Amirkhani, I just had my assistant send you over a list of the accounts --

MS. AMIRKHANI: Yes.

THE REVIEW OFFICER: -- that were provided to our offices, which as I say total about $415,000. Are the CN accounts included in there? There have to be if they are a couple of hundred thousand dollars. I'm not sure, Mr. McCurrach, what you thought was going to happen today. And unfortunately --

MR. MCCURRACH: Sorry, I don't know --

THE REVIEW OFFICER: -- there is material that is sealed on this file that I am not opening because I know Justice Anderson at least sealed an affidavit. And some of my other materials are missing. But ...

MS. AMIRKHANI: So in our review just quickly here of the accounts, it does appear that -- I don't know where Mr. McCurrach is getting hundreds of thousands of dollars from. In my review of the accounts, CN Rail makes up 97,000. And I'm also not sure how these other accounts -- it's tough because this isn't the identification system we've been using. The CS (INDISCERNIBLE) is not what we've been using here. So we're trying to align things. It appears you're missing the nine CN Rail accounts. And perhaps I can't reference certain things, but I was previously working with another lawyer at GWS on this matter. He was the one who was pursuing the jurisdictional issues and things of that nature that you settled with the court. And we have been speaking about CN Rail as included in this. It was -- (INDISCERNIBLE) came to have accounts because they mentioned CN Rail. So I'm not positive. You are missing the CN Rail invoices. I'm going to provide those to you. They are part of my calculation. There just seems to be three sets of numbers and I don't know where they're all coming from.

THE REVIEW OFFICER: Okay. But if they are $97,000 that would change the number to over 500,000 and that is not your calculation either.

MS. AMIRKHANI: Yeah, and the issue is I don't know -- I appreciate -- I can see how the 414,000 was calculated here. I question if the contributions made by

the individuals were not deducted from what your office has here as 414,000, and that might be where we're hitting a snag. Because then 42,000 off of that -- and then you add 90 -- would get us to where my difference is. I don't see anywhere on here that it would have been deducted. There's no column for that, you know, because it's not a normal thing.

MR. MCCURRACH: I think you mean between the CN Rail accounts. We've got a discrepancy. From what I'm showing, we have 12 accounts with CN Rail. And then similar to that is $125,102.74.

MS. AMIRKHANI: Well, I asked your office to send me the invoices. They told me it would take a week. It took a week and they sent me nine -- seven, nine, how many accounts -- nine invoices that total 97,000. So how many -- you have 12. I wasn't provided three of them so I haven't been able to analyze those.

MR. MCCURRACH: We have 12. And -- and it's my understanding to that even the -- there were a few of these accounts for CN have past limitation dates. I mean, that would sort of be another potential reviewable error.

THE REVIEW OFFICER: Why did you not raise that at the beginning when you heard that we were dealing with the CN accounts?

MR. MCCURRACH: I -- I didn't think that we were going to be dealing with the CN accounts. I had sort of raised the issue at the beginning that our -- our figures were off and I did not think that we were addressing the CN issues until we got into the actual figures and saw the calculation of those accounts were to be included in -- in this end calculation.

THE REVIEW OFFICER: What were your figures again? I am just looking at my notes. And I know you were using $156,000, but that's the amount that shows to be outstanding. We are not dealing with outstanding amounts. We are dealing with the gross amount of the accounts.

MR. MCCURRACH: The gross amounts have been paid, Sir.

THE REVIEW OFFICER: Pardon me?

MR. MCCURRACH: Are you referring to the amounts that have been paid?

THE REVIEW OFFICER: I am referring to how much -- no, I'm talking about what the face value of the accounts that we're being reviewed were today.

MR. MCCURRACH: And those -- those accounts we believe to be reviewed were the groups of -- the group of five accounts in Mr. Honer's affidavit, and that amount was the figure that I was initially speaking to, which if you -- if I can just refer to that. The amount we have for those -- those five groups of counts -- are the $156,105.55. So that -- that amount would be not including the CN accounts.

THE REVIEW OFFICER: Tell me about the accounts that are over 1 year old. How many of them are there?

MR. MCCURRACH: So these ones are 12 accounts related to CN Rail. And the figure for those that we have --

THE REVIEW OFFICER: What is the dates of them? I want to know how old they are.

MR. MCCURRACH: Certainly. We have -- I'll just run through them date by date: September 30th, 2021, October 7th, 2021, October 14th, 2021, October 26, 2021, November 22, 2021, December 16, 2021, January 28, 2022, February 25, 2022, March 25, 2022, April 25, 2022, May 27, 2022, and finally June 27, 2022.

THE REVIEW OFFICER: Okay. So the appointment was filed on June 1st, 2022. How many predate June 1st of 2021?

MR. MCCURRACH: Predate -- sorry, say it again?

THE REVIEW OFFICER: The appointment was filed on June 1st, 2022. How many of those CN accounts predate June 1st, 2021?

MR. MCCURRACH: So all of these would be post -- post June 2021, but these were not in the affidavit of Mr. Honer.

THE REVIEW OFFICER: They are in time then. Okay. I am going to deal with this. I am sure you are appealing it. I am going to try and deal with as much as we can. They are all within time. You suggested that they were out of time and that is not the case. So they are all within time and the calculation that has been done by the client takes them into account.

MS. AMIRKHANI: Sorry, just in fairness there are apparently three accounts that I have never seen. So they are not part of my calculation --

THE REVIEW OFFICER: Okay.

MS. AMIRKHANI: -- just to be transparent. I don't know the value of those three additional accounts are. I could get you all a calculation, but I appreciate we're -- and I also have an interest in wrapping this up. I can add it to my math and then you can create a new product if you want. But I haven't seen three accounts.

THE REVIEW OFFICER: What are the three that you have not seen and let us just eyeball it and I am going to give you a number today. Because as I say, I am sure this is going to be appealed. And then you have got the details which you can hash out in front of a judge. And Mr. McCurrach can take another run at it. Mr. McCurrach, what are the three --

MS. AMIRKHANI: Ms. McCurrach.

THE REVIEW OFFICER: -- accounts that have not been provided?

MS. AMIRKHANI: And I can tell you I have -- the oldest one I have starts September 13, 2021. So anything before that I don't have.

MR. MCCURRACH: I'm concerned here that we're -- we shouldn't be talking about these accounts. They're not rightly the subject of today's review application. I just want to go back to my -- my position on that. We can -- we can certainly review these --

MS. AMIRKHANI: (INDISCERNIBLE).

MR. MCCURRACH: -- but I don't --

MS. AMIRKHANI: And I appreciate you've already basically ruled on it, but can I make a submission on behalf of my client? That on June 1st, 2022 an appointment for review of lawyer's charges was filed. And on that, it -- the entire content of that is that all lawyer's accounts between the clients and the law firm which are requested to be provided -- oh, I see -- referred to in paragraph 24.

THE REVIEW OFFICER: And in addition to that, I have already referenced 10.14, where copies of all of the accounts should have been included, Mr. McCurrach. We spent all afternoon on this. None of these CN accounts are out of time. And Ms. Amirkhani and her staff have done their calculations based on all of the information that they've got. I'm still leaving -- I'm leaving the reduction at $100,000. If there's extra accounts, then Mr. McCurrach is going to have to prove that. Produce them to you, Ms. Amirkhani. And --

and you can have the judge sort it out or a judge can send it back for the calculation. But as I said, I have ruled on the 80/20 percent. I think that is reasonable. And it is just a question of adding in some more time when I have added in another $20,000 for potential deletions that I thought maybe you were a little bit harsh on. I will prepare a certificate to that effect. If you can get me the additional accounts --

MS. AMIRKHANI: Yes.

THE REVIEW OFFICER: -- we will add them in. And assuming you want to appeal to add the other three in there. I do not know what you are going to do. But all of the accounts should have been provided to the client, Mr. McCurrach. Okay.

MS. AMIRKHANI: Thank you for your time.

THE REVIEW OFFICER: I will prepare a certificate for the $100,000. I am going to say -- I do not know how much has been paid. That is something that has got to be sorted out by an application's judge because I do not have any jurisdiction to deal with it. So you will be in front of a judge one way or the other and you can take your new calculations to the judge and they have certainly got the ability to rejig the numbers based on what I have said. Unless they disagree with me. Then they will do it on their own terms.

MS. AMIRKHANI: And if -- just before we leave, appreciating that we will be in front of an application's judge at some point, is it in your view appropriate to speak to costs under 10.23 at this time or should we withhold that until this --

THE REVIEW OFFICER: Save that.

MS. AMIRKHANI: -- is kind of --

THE REVIEW OFFICER: Yes, save that for --

MS. AMIRKHANI: Okay.

THE REVIEW OFFICER: -- the judge. The judge can order costs for any delays and efforts that you have had to go through to get here and the fact that materials were not provided pursuant to Rule 10.14. And of course the time that you have to spend in front of the judge. All right?

MS. AMIRKHANI: Okay.

THE REVIEW OFFICER: All right. Thank you all --

MS. AMIRKHANI: Thank you very much.

THE REVIEW OFFICER: -- for your submissions. Have a good day.

MR. MCCURRACH: You too.

PROCEEDINGS CONCLUDED

Certificate of Record

I, David Michael Ellery, certify that this recording is the record made of the review in the Court of King's Bench, held in the Review and Assessment Boardroom 802 North at the Calgary Court Centre in Calgary, Alberta, on the 21st day of June, 2023, and that I was the review officer during these proceedings and was in charge of the sound recording machine during these proceedings.

Certificate of Transcript

I, Charlene Zaharia, certify that

(a) I transcribed the record, which was recorded by a sound recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

TEZZ TRANSCRIPTION, Transcriber
Order Number: TDS-1035279
Dated: July 10, 2023

Alberta Rules of Court
Rule 10.19
Clerk's Stamp

COURT FILE NO.	2201-06197
COURT	Court of Queen's Bench of Alberta
JUDICIAL CENTRE	Calgary
APPLICANT(S)	The Democracy Fund (the Client)
RESPONDENT(S)	Leighton B.U. Grey - Grey Wowk Spencer LLP (the Law Firm)
DOCUMENT	**CERTIFICATE OF REVIEW OF LAWYER'S CHARGES**

OFFICE OF THE REVIEW OFFICER
Calgary Courts Centre,
Suite 802-N, 601 – 5th St. S.W.
Calgary, Alberta T2P 5P7
Phone: 403-297-3862
Fax: 403-297-3805

Appearances:

For the Applicant: E Amirkani
For the Respondent: R McCurrach

The hearing of this matter took place on June 22, 2023, by electronic communication with the Review Officer at the Calgary Courts Centre.

Service: ☒ The Respondent was represented or appeared.

☐ The Respondent was served in accordance with Part 11 of the Rules of Court and an Affidavit of Service has been or will be filed.

☐ The Respondent was served in accordance with an Order made by the Court.

☐ Service on the Respondent was validated pursuant to Rule 10.17(1)(g).

Rule 10.10 Time Limit: The accounts described in the attached "Listing of Accounts" fell within the time limit specified in Rule 10.10(2).

Rule 10.19(4) Decision: The fees, disbursements, other charges, and GST charged by the Law Firm on the accounts were allowed, as follows:

Fees	
Taxable Disbursements	
Non-Taxable Disbursements	
Other Charges	
GST	
Total	$100,000

Rule 10.19(3)(b):

☒ No special circumstances, within the meaning of Rule 10.19(4)(b), were found.

☐ The following special circumstances were found and the amounts to be paid as a result of the special circumstances are hereby certified, as follows:

Rule 10.19(4-5) Certification of Amount Payable: the amount paid by the Client on the accounts reviewed is unknown and will be determined by the Court.

Costs:

☒ No award of costs is made with respect to this hearing.

☐ The Client is awarded costs of this hearing in the amount of $_____.

☐ The Law Firm is awarded costs of this hearing in the amount of $_____.

Interest: A Review Officer has no jurisdiction to rule on the entitlement to, or the quantum of, interest that a lawyer might claim on his or her accounts (see *Urichuk v. Code Hunter* [1986] A.J. No. 111, 68 A.R. 128 (C.A.)).

Appeal: Either party may appeal from a Review Officer's decision pursuant to Rule 10.26 of the Alberta Rules of Court.

DATED AT the City of Calgary, in the Province of Alberta, this 22nd day of June 2023.

D. Michael Ellery
Review Officer / Deputy Clerk of the Court