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Affidavit #1 of Dr. Ramesh Sahjpaul  
October 5, 2012  
No. S090663  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**CAMBIE SURGERIES CORPORATION, CHRIS CHIAVATTI by his litigation guardian  
RITA CHIAVATTI, MANDY MARTENS, KRYSTIANA CORRADO by her litigation  
guardian ANTONIO CORRADO and ERMA KRAHN.**

PLAINTIFFS

AND:

**MEDICAL SERVICES COMMISSION OF BRITISH COLUMBIA, MINISTER OF  
HEALTH SERVICES OF BRITISH COLUMBIA AND ATTORNEY GENERAL OF  
BRITISH COLUMBIA**

DEFENDANTS

AND:

**SPECIALIST REFERRAL CLINIC (VANCOUVER) INC.**

DEFENDANTS BY COUNTERCLAIM

**DR. DUNCAN ETCHES, DR. ROBERT WOOLARD, DR. GLYN TOWNSON, THOMAS  
MCGREGOR, THE BRITISH COLUMBIA FRIENDS OF MEDICARE SOCIETY,  
CANADIAN DOCTORS FOR MEDICARE, MARIËL SCHOOFF, DAPHNE LANG,  
JOYCE HAMER, MYRNA ALLISON, and CAROL WELCH**

INTERVENORS

I, Dr. Ramesh Sahjpaal, surgeon, of 405-125 East 13<sup>th</sup> Avenue, North Vancouver, British Columbia, V7L 2L3, MAKE OATH AND SOLEMNLY AFFIRM THAT:

1. I am a surgeon who works within public hospitals in British Columbia and at the Cambie Surgeries Corporation (herein referred to as "CSC") and the Specialist Referral Clinic ("SRC"). As such, I have direct knowledge of the information stated herein, except where stated to be on information and belief in which case I believe it to be true.
2. I make this affidavit in support of SRC's and CSC's opposition to the injunction sought by the Medical Services Commission (the "Commission") to prohibit SRC and CSC from providing medical services in contravention of certain provisions of the *Medicare Protection Act* (the "Act") (specifically sections 17(1) and 18(3), which relate to billing practices for benefits under the *Act*) prior to a ruling on the constitutionality of these provisions.
3. As I explain below, I believe that if the residents of British Columbia are not able to pay a facility fee for surgeries at CSC or obtain timely medical assessments at SRC, just as residents, for example, of Alberta can lawfully do, it will have a negative impact on the ability of the residents of British Columbia to access timely health care.

#### **My Professional Qualifications**

4. I am a neurosurgeon with a full time clinical practice in both the public and the private health care sector in British Columbia. I am presently the Chief of Surgery at Lions Gate Hospital, in North Vancouver.
5. I completed my undergraduate degree in biomedical sciences in 1982 at the University of Toronto, and further completed my medical degree at the University of Toronto in 1987. From 1987-1989, I completed a one-year internship in internal medicine followed by a one-year residency in general surgery at Queens University, in Kingston, Ontario. From 1989-1990, I trained in Ear, Nose and Throat Surgery at the University of Western Ontario, where I then completed by neurosurgical training from 1990-1995, including a fellowship

in epilepsy surgery in 1995-199. Later I did a fellowship in spine surgery at University of Tennessee, Memphis. From 1995-2001, I was a consultant neurosurgeon at University Hospital, University of Western Ontario, London, Ontario.

### **My work in the public hospitals in British Columbia**

6. From 2001-2003, I worked at Vancouver General Hospital.
7. Since 2003, I have worked as a neurosurgeon at Lions Gate Hospital, in North Vancouver, where I am the Chief of Surgery in the Neurosurgery department, and at St. Paul's Hospital, in Vancouver.
8. My practice consists of performing general neurosurgery, including both cranial and spinal surgeries.
9. I do not have Operating Room ("OR") time allocated at St. Paul's Hospital. I am only allocated on average one day a week of OR time at Lions Gate Hospital. The number of surgeries I can perform during one day of OR time varies depending on the cases. For smaller spinal procedures such as single or double level discectomy, laminectomy, or fusions, I can complete a procedure within two hours. Larger spinal or cranial surgeries take longer, sometimes as much as six to eight hours.
10. In the public health care system in British Columbia, I typically see 40 patients a week for consultations and perform 3-5 surgical procedures a week.
11. I am capable of doing a greater number of procedures weekly. However, budgetary constraints within the public system restrict me from performing more procedures than I do presently. There are several reasons for this.

12. There are finite labour and non-labour resources in the public health sector; this includes finite levels of nursing, OR personnel, equipment, implants, patient beds, diagnostic and investigative equipment, and limited hours during which the OR suite can be accessed.
13. As a result of these restrictions, wait times for neurosurgical procedures in the public health care system in British Columbia are lengthy. Many patients on my surgical wait list can wait upwards of one year for a surgical procedure in the public system. Urgent cases are seen as quickly as possible and often bump less urgent patients. Many patients wait a long time to see me in the public system, often as long as 12-18 months after the referral has been triaged.
14. Non-urgent cases can become emergent when treatment is delayed. It is detrimental to my patients to wait for treatment on lengthy wait lists. Physicians develop a relationship with their patients. As a result of delayed treatments and excessive wait times, my patients experience physical, emotional, and psychological suffering that could be avoided with earlier treatment. A large proportion of my patients are not able to return to work during their wait times and have restrictions to their mobility, their neurological function, and generally in their activities of daily living. These disruptions can cause depression and anxiety.
15. Further, many of my patients are required to take pain-killers to cope with the pain, especially patients suffering from spinal issues. Prolonged use of narcotics leads to psychological and physical dependence.
16. As a result of the above, I am quite often not able to offer care in as timely a manner as I would like and that I believe is reasonable and necessary.
17. I triage my own patients in the public health care system to try and prioritize and see patients who would benefit the most from seeing me earlier. This process is time consuming and for the most part uncompensated. There are many referrals for which I simply cannot provide appointments due to my wait list.

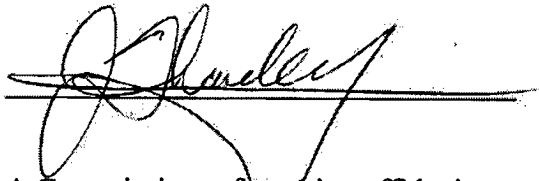
### **My work as a surgeon at SRC and CSC**

18. In addition to my work in public hospitals, I also work at SRC and CSC.
19. At SRC, I see patients for consultations or medical assessments. The patients who receive medical assessments at SRC often choose to receive treatment at CSC.
20. By providing services at SRC and CSC, I am able to perform more surgeries. I operate at CSC on average two days per month, performing approximately four to five procedures per day or approximately eight to ten additional procedures per month more than I would if I were working solely in the public sector.
21. CSC does not have the same restrictions on surgical time as public hospitals. Unlike in the public hospitals, where surgeries are carried out only during certain hours, surgeries at CSC can be done at any time.
22. The College of Physicians and Surgeons of British Columbia restricts the types of procedures that can be performed at private clinics to single or two level procedures and only one type of fusion procedure. As a result, I am only able to perform smaller spinal procedures at CSC.
23. For patients at SRC and CSC, I am able to book them in for consultation almost immediately, and book them for surgical procedures as soon as they are ready for treatment. It is very unusual for a patient, once diagnosed and desiring treatment, to wait more than two weeks for treatment at CSC, unless they choose to do so.
24. My work at SRC and CSC does not reduce my work in public hospitals. Rather, it enables me to fully utilize my surgical skills and time, which benefits the residents of British Columbia. Also, by operating at CSC, I am able to decongest my surgical wait list in the

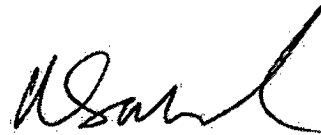
public system, especially for larger cases. In this way, my work at SRC and CSC facilitates more timely care in the public sector.

25. If the injunction is granted against SRC and CSC, and I and other doctors are no longer able to treat patients at SRC and CSC, our patients who are not exempted under the *Act* will be added to the wait lists in the public health care system. This will compound the already overly lengthy wait times in the public sector, and cause harm to all of the patients in British Columbia, without any corresponding benefit to the provision of health care in the province.

**AFFIRMED BEFORE ME** at the City of )  
Vancouver, in the Province of British )  
Columbia, this 5<sup>th</sup> day of October, 2012 )



A Commissioner for taking affidavits )  
in the Province of British Columbia )



**DR. RAMESH SAHJPAUL**

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