



Affidavit #1 Barbara Louise Collin
Sworn October 4, 2012
No. S090663
Vancouver Registry

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**

PLAINTIFF

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.

DEFENDANT BY COUNTERCLAIM

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

INTERVENERS

AFFIDAVIT #1 OF BARBARA LOUISE COLLIN

I, BARBARA LOUISE COLLIN, Registered Nurse, of Vancouver, British Columbia,
MAKE OATH AND SAY AS FOLLOWS THAT:

1. I was diagnosed with breast cancer in August 2008, and underwent surgery at the Cambie Surgery Centre on April 10, 2010, and as such have personal knowledge of the facts deposed to herein except where those facts are stated to be based upon information and belief, which facts I believe to be true.

2. I am aware that the defendant, the Medical Services Commission (the "Commission"), has applied for an injunction against the Plaintiff Cambie Surgeries Corporation ("CSC") and the Defendant by Counterclaim Specialist Referral Clinic ("SRC") to prohibit the contravention of the *Medicare Protection Act* (the "Act"), specifically sections 17(1) and 18(3), which relate to billing practices for benefits under the Act. I understand that if the injunction is granted, it will prevent individuals like me from seeking treatment at CSC and SRC, even when faced with unreasonable wait times in the public health care system.
3. I make this affidavit in support of the CSC's and SRC's opposition to the Commission's injunction application.
4. I believe that individuals in British Columbia who are experiencing symptoms that have a serious negative impact on them, and are faced with unreasonable wait times in the public health care system, should have the same access that I had to the timely medical services provided by the CSC and the SRC. I also believe that this should not be altered or changed until it is determined whether this is a constitutional right for all citizens of British Columbia.
5. As I will explain below, following a routine mammogram in July of 2008, I was diagnosed with breast cancer. In the months that followed, I had a number of surgeries to remove the cancer from my body. I also underwent multiple rounds of chemotherapy treatment. During this time I was unable to work, and received disability benefits through my employer's disability insurance policy. In the Fall of 2009, I was advised that I required one final surgery before I could return to work. However, I was also advised that it would be several months before I could have the surgery in the public healthcare system. While I waited for my final surgery in the public healthcare system, I was in significant physical pain. It was also emotionally difficult for me. I was unable to work. Ultimately I had my final surgery at the Cambie Surgery Centre. Without access to the services provided by the Cambie Surgery Centre, I would have remained off work and in pain for several more months.

6. I am currently 52 years of age. I live in Vancouver, British Columbia. I have been a Registered Nurse for 31 years. For 25 years I worked as a Registered Nurse at UBC Hospital in Vancouver, British Columbia. For approximately 11 years I was a Registered Nurse in the medical / surgical wards of UBC Hospital. The remaining years, I worked in Psychiatry. Since then, I have worked, and continue to work as a Registered Nurse at the Mental Health Housing Services for Vancouver Coastal Health in Vancouver, British Columbia. I am also a wife and mother of two grown children.
7. In July 2008, I went for a routine mammogram. That same day I had an ultrasound, as requested by the mammogram technician that performed the mammogram. She told me this was because my scan was abnormal.
8. On August 11, 2008, I had a core biopsy performed at the mammogram clinic by one of their physicians. I was told I had cancer. The physician told me then that the next step was to consult a surgeon to remove the lump that had been found in my breast. I was horrified when I received this diagnosis.
9. On September 10, 2008, I met with a surgeon, Dr. Kuusk, to discuss the surgery that I required. Dr. Kuusk told me I would require a partial mastectomy. On September 23, 2008, Dr. Kuusk performed the surgery. When the lab results came back, Dr. Kuusk told me that the results did not show clear margins, which meant that the cancer was wider spread than Dr. Kuusk initially thought.
10. When I received the diagnosis I was devastated and upset. While I was hopeful about my recovery, I understood the doctors could not make any guarantees regarding my recovery. At that time, my son was 17 years old and my daughter was 23 years old. It was important to me to remain healthy for my children and my family.
11. Dr. Kuusk advised me that the next step was to have a second surgery, to try to remove the rest of the cancer.

12. On November 3, 2008, I had my second surgery. It was performed by Dr. Kuusk at Mount Saint Joseph Hospital in Vancouver, British Columbia.
13. On November 7, 2008, I met with Dr. Kuusk to discuss the results of my second surgery. Dr. Kuusk told me that unfortunately the lab results indicated that again, she did not receive clear margins, and that the cancer had spread to my lymph nodes.
14. At that time, Dr. Kuusk told me that the next step in my treatment was chemotherapy. On January 16, 2009, I began chemotherapy treatments at the BC Cancer Clinic, overseen by an oncologist, Dr. Kenneke. I finished chemotherapy treatments in approximately May 2009.
15. Once my chemotherapy treatments were complete, I was advised by Dr. Kenneke that a further treatment, likely a full mastectomy, was advised, to ensure that all the cancer had been removed from my body.
16. Through this whole period, beginning shortly after I was diagnosed in August 2008, I was unable to work. Following the surgeries, I was in a lot of pain and my ability to move my upper body was restricted. I also experienced substantial anxiety and sadness. During chemotherapy I had a number of additional symptoms, including hair loss, nausea, vomiting, fatigue, gastric reflux and decreased appetite.
17. As I was unable to work, I started by using my sick time. After that I went on long term disability leave, a benefit offered through my employer.
18. Being a health care professional myself, I consulted various health care professionals regarding my treatment, including Dr. Kuusk and the plastic surgeon to whom she referred me to discuss my reconstructive options. Different health care professionals gave me different opinions on further treatment options. After considering this advice, I felt my best option was to have a bilateral mastectomy, followed by breast reconstruction. My oncologist at the Cancer Clinic, Dr. Kenneke, suggested a unilateral mastectomy. My surgeon Dr. Kuusk suggested that I have a bilateral mastectomy. Dr. Kuusk told me

that a bilateral mastectomy was advisable because the doctors kept finding cancer cells, could not tell me how widespread the cancer was, and could not get clear margins with my partial mastectomies. I also understood from my discussions with health care professionals that if breast cancer returns it can be very serious, and I wanted to prevent this.

19. On June 16, 2009, I met with another surgeon, Dr. Van Laeken, to discuss the bilateral mastectomy and breast reconstruction surgery. I was referred to Dr. Van Laeken by my surgeon Dr. Kuusk.
20. I understood from Dr. Van Laeken that both the bilateral mastectomy and the surgical reconstruction of the breasts were insured benefits for breast cancer patients under the B.C. Provincial medical plan. I understood this to mean that I would not be required to pay for the surgery, and that it would be covered by the provincial medical plan.
21. Dr. Van Laeken explained to me that the surgical reconstruction was a two step-process. First, I would have the bilateral mastectomy surgery, at which time my breast tissue would be removed and chest expanders would be inserted under the skin tissue, in order to prepare for the insertion of implants. I understood that chest expanders were like small balloons, which would be inserted under the skin tissue on my chest. I understood that on a regular basis the nurse at Dr. Van Laeken's office would inject fluid into the expanders to gradually expand the space below the skin tissue to make room for implants. The second stage of the surgery would involve the removal of the chest expanders, and the insertion of the implants.
22. The bilateral mastectomy was performed at Mt. St. Joseph's Hospital by Dr. Kuusk and Dr. Van Laeken on July 7, 2009. At this time the breast tissue was removed and the chest expanders were put in.
23. For the next three or four months, I attended Dr. Van Laeken's office for fluid to be injected into the chest expanders.

24. When I met with Dr. Van Laeken in the Fall of 2009, she told me that I would be ready for my final surgery by December 2009. However, Dr. Van Laeken advised that I would not be scheduled for surgery until at least two months after that because of backlogs in the public healthcare system. She advised that I was unlikely to be scheduled until after the Vancouver Olympics, which was set to take place during mid to late February 2010.
25. I was eager to have my final surgery so I could return to work and so my life could get back to normal. I was also experiencing a lot of pain at that time. The chest expanders were very painful. They were full of liquid and put immense pressure on my chest. I was constantly preoccupied with this constant and extreme pressure on my chest. It felt like I had an elephant standing on my chest. It was also emotionally difficult for me, as I was aware of the physical abnormality of my chest. I was embarrassed by the size and location of the expanders. I was embarrassed to go swimming or to even hug someone because I had these large, hard, misplaced, fluid-filled balloons on my chest.
26. Shortly after the Vancouver Olympics, in March, 2010, I contacted Dr. Van Laeken's office, to ask when I would be scheduled for my final surgery. The receptionist advised me that an appointment for surgery was not available for at least another three months, due to backlogs in the public healthcare system. I was told by the receptionist that the earliest I would be scheduled for surgery was in June 2010, but there was no guarantee.
27. I was extremely upset and frustrated when I learned the earliest I could have my final surgery was June 2010. I had been diagnosed with breast cancer in August 2008, and had been unable to work since then. Moreover, I had been waiting since at least December 2009 for my final surgery. During that period, I was in a significant amount of physical pain. I was also unable to return to work. This had a number of negative effects on myself and my family. Since I was disabled from working, I was receiving monthly disability benefits from the disability insurance offered through my employer. As a result I received approximately only 70% of my usual earnings, and was required to make additional payments to maintain all medical benefits offered through my employer. The physical pain from the chest expanders continued to restrict my mobility. I felt stressed and experienced anxiety and depression. I could not do any of the activities I enjoyed and

considered an essential aspect of my life, such as working as a nurse and volunteering at my son's high school. I felt that because of backlogs in the public health care system, I had no control over my life and my health, and that I was being held hostage by the public health care system. During this period, due to my reduced income, my husband had to cash in some of his RRSPs so that we could satisfy our financial commitments. It was in my family's best interests that I return to work as soon as possible.

28. After already waiting several months, when I learned in March 2010 that the earliest possible surgery would be in June 2010, I started to consider whether there were any alternatives. As a nurse in British Columbia, I was aware that there were private facilities in British Columbia where individuals could have surgeries performed for a fee. I started researching options online and learned about the Cambie Surgery Centre, which I understand is operated by the Plaintiff Cambie Surgeries Corporation.
29. I contacted the Cambie Surgery Centre in March 2010. I explained that I was waiting for my final surgery, and that the receptionist at Dr. Van Laeken's office had advised me I could not have surgery in the public health care system for at least three months, and that when I spoke about having the surgery done privately the receptionist advised me that Dr. Van Laeken performed surgeries at the Cambie Surgery Centre.
30. I spoke with Dr. Van Laeken shortly thereafter. Dr. Van Laeken advised me that my surgery could be performed at the Cambie Surgery Centre as early as April 1, 2010. At that time I was advised that the surgery would cost approximately \$5500. Ultimately my surgery was scheduled for April 10, 2010.
31. Before my surgery, I wrote to my disability insurance provider, and requested that the disability insurance provider pay for the surgery. I explained to the disability insurance provider that I was in a lot of pain and was eager to get back to work, but I still required one final surgery. I explained that it would be less expensive for the disability insurance provider to simply pay for the surgery (so I could get back to work sooner), rather than continue to pay my monthly long term disability benefits while I waited for surgery in the

public health care system. The private surgery option was not only more cost effective for the disability insurance provider, it was physically and emotionally better for me.

32. Ultimately the disability insurance provider agreed to fund my surgery.
33. On April 10, 2010, Dr. Van Laeken performed my final surgery at the Cambie Surgery Centre. Since then, I have continued to see Dr. Van Laeken for follow up care.
34. Following the surgery I no longer had severe pain in my chest from the chest expanders. I very quickly returned to work. I started a gradual return to work in ^{May} ~~April~~ 2010, and within approximately two months I was back to work full-time doing the work that I loved to do.
35. Following my surgery at the Cambie Surgery Centre, I felt human again. I was finally in control of my life. I no longer felt like I was being held hostage by my illness or by the public health care system. My mood was much better. I was once again able to participate fully in my family life as well as my professional life.
36. If the Plaintiff Cambie Surgeries Corporation is not able to provide surgeries to patients like myself, this will cause unnecessary pain and suffering to citizens of British Columbia, who would not otherwise be able to access timely medical services.

SWORN BEFORE ME in the City of
Vancouver, in the Province of British
Columbia, on this 4th day of October
2012

Ania Kolodziej
A Commissioner for taking affidavits in
the Province of British Columbia

Ania Kolodziej
Exp. August 31 2014

Barbara L Collin
BARBARA LOUISE COLLIN