



No. S-090663  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

CAMBIE SURGERIES CORPORATION, CHRIS CHIAVATTI, MANDY MARTENS,  
KRYSTIANA CORRADO, WALID KHALFALLAH by his litigation guardian DEBBIE  
WAITKUS, and SPECIALIST REFERRAL CLINIC (VANCOUVER) INC.

**PLAINTIFFS**

**AND:**

MEDICAL SERVICES COMMISSION OF BRITISH COLUMBIA, MINISTER OF HEALTH  
OF BRITISH COLUMBIA, and  
ATTORNEY GENERAL OF BRITISH COLUMBIA

**DEFENDANTS**

**AND:**

DR. DUNCAN ETCHES, DR. ROBERT WOOLLARD, GLYN TOWNSON, THOMAS  
McGREGOR, BRITISH COLUMBIA FRIENDS OF MEDICARE SOCIETY, CANADIAN  
DOCTORS FOR MEDICARE, MARIËL SCHOOFF, DAPHNE LANG, JOYCE HAMER,  
MYRNA ALLISON, and the BRITISH COLUMBIA ANESTHESIOLOGISTS' SOCIETY

**INTERVENORS**

**AND:**

THE ATTORNEY GENERAL OF CANADA

**PURSUANT TO THE CONSTITUTIONAL QUESTION ACT**

**~~FURTHER REVISED TRIAL BRIEF~~**

**Filed by:** The Plaintiffs

The trial of this action is scheduled for 24 weeks and is scheduled to begin on September 6, 2016. The total time needed respecting items 2, 4, 5, 9, and 11 as applicable is estimated to be between 228 and 280 hours (11 to 14 weeks).

[X] The Plaintiffs expect the trial to complete within the scheduled time.

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## 1. Summary of Issues and Positions

The following are the issues in dispute in the claim and the filing parties' position on each:

Item	Issue in Dispute	Plaintiffs' Position
1.	<p>Section 7 of the <i>Charter</i></p> <p>a. Do the experiences and circumstances of the patient plaintiffs trigger their section 7 and section 15 rights under the <i>Charter</i>?</p> <p>b. Do section 14, 17, 18, and 45 of the <i>Act</i> (the "<b>impugned provisions</b>") breach the patient plaintiffs' right to liberty?</p> <p>c. Do the impugned provisions breach the patient plaintiffs' right to life and security?</p>	<p>a. The public health care system in British Columbia cannot provide reasonable health care within a reasonable time. The public health care system did not provide reasonable health care within a reasonable time to the patient plaintiffs. In these circumstances, the only option for the patient plaintiffs to obtain access to necessary health care in a reasonable time frame was to access and pay for private health care, which was prohibited by the impugned provisions.</p> <p>b. Yes. The right not to be deprived of liberty protects individuals' personal autonomy which includes the right to make important and fundamental life choices free from state interference. Choices relating to one's bodily</p>

		<p>integrity, personal health and well-being are important and fundamental life choices. The impugned provisions, on their own and together interfere with, and are intended to frustrate or substantially interfere with, the ability of individuals to make these choices, and constitute a deprivation of the right to liberty guaranteed by s. 7 of the <i>Charter</i>.</p> <p>c. Yes. The rights to life and liberty include the right to access necessary and appropriate healthcare in a reasonable time. The combined effect of the impugned provisions is to impede the ability of ordinary British Columbians to access health care of a reasonable standard within a reasonable time. British Columbia patients facing unreasonable wait times for surgery or diagnostic procedures in the public system, and the impugned provisions effectively preclude them from accessing private or alternative care. The prohibition on private insurance means that British Columbia patients can only access private or alternative care under the current scheme if private medical practitioners and clinics provide patients with medically required services in contravention to the <i>Act</i>.</p>
2.	a. Are the infringements of s. 7 in accordance with a recognized principle of fundamental justice?	a. No. The breaches of s. 7 of the <i>Charter</i> caused by the impugned provisions are not in accordance with principles of fundamental justice. The infringements are arbitrary, overbroad, vague, and disproportionate to their legislative goal.
3.	<p>Section 15 of the <i>Charter</i></p> <p>a. Does the Defendants' Preferential Policy discriminate on the basis of physical disability?</p>	a. Yes. Some injured or ill persons in British Columbia are exempted from the impugned provisions and are therefore able to access timely medical treatment outside of the public system. Other injured or ill persons are not entitled to do so. Disability is an enumerated ground under s. 15 of the <i>Charter</i> . All British Columbians who are disabled should have the equal benefit of health care, and no one should be left on wait lists with potentially tremendous health consequences because of the irrational distinctions reflected in the Preferential Policy.

		<p>The Defendants' Preferential Policy also discriminates on the basis of age. The Defendants' Preferential Policy implements a scheme according to which residents who have not reached the age of employment or who are of pensionable age, are excluded from its benefits.</p> <p>The restrictions on private medical care and the ability of those under the age of employment and of pensionable age to access it imposed by section 14, 17, 18 and 45 of the <i>Act</i> therefore make a distinction on the basis of age that imposes a substantial disadvantage on those subject to their application.</p>
4.	<p>Section 1 of the <i>Charter</i></p> <p>a. Are the breaches of s. 7 and s. 15 of the <i>Charter</i> saved by s.1?</p>	<p>a. No. The breaches of section 7 and section 15 are not saved by s.1 of the <i>Charter</i> because they are not necessary to protect the public health care system.</p> <p>The experience in all other countries with a public health care system and a private health care system shows that a parallel private health care system does not harm the provision of health care in the public system</p>
5.	a. Counterclaims	<p>a. The Counterclaims cannot be decided until the constitutionality of the impugned provisions is decided. Furthermore, the Defendants have not established an entitlement to damages. If there has in fact been 'claw backs' of Federal health care funding, the Defendants must establish that these 'claw backs' were the direct result of Cambie and SRC's operations and not due to other factors or decisions.</p>

## 2. Witnesses To Be Called

The following are the names and addresses of the witnesses the Plaintiffs intend to call at trial, the issue(s) each will address, an estimate of the time each will need for giving direct evidence, and the Plaintiffs' opinion on whether, if the court so orders or the parties all consent, the witness's direct evidence could conveniently be given by affidavit.

This list may be amended by the Plaintiffs prior to the start of the trial, as well as during the trial.

An asterisk beside a witness' name indicates that the Plaintiffs may seek to have this witness testify via video-conference.

The Plaintiffs' witnesses will be addressing issues relating to their personal and/or professional experiences in the public and private health care systems, including, but not limited to, the long wait times in public health care system, and the harms these wait times cause. The anticipated evidence of the majority of the Plaintiffs' witnesses has been provided to the Defendants in will-say statements, and thus, the issues each witness will address are not set out in detail here.

#	Name	Contact Information	Issue	Time in hours needed for direct	Direct evidence by affidavit (Y/N)
1.	Mandy Martens	Langley, BC	Patient Plaintiff who sought private care due to unreasonable wait times in public system	2 hours	N
2.	Chris Chiavatti	Montreal, QC	Patient Plaintiff who sought private care due to unreasonable wait times in public system	2 hours	N
3.	Krystiana Corrado	Vancouver, BC	Patient Plaintiff who sought private care due to unreasonable wait times in public system	2 hours	N
4.	Debbie Waitkus*	Kelowna, BC	Mother of Patient Plaintiff Walid Khalfallah; who sought out-of-country care for her son due to unreasonable wait times in public system	2 hours	N
5.	Dr. Brian Day	Vancouver, BC	Orthopaedic surgeon and representative of Cambie and SRC; Treating physician of Krystiana Corrado, Chris Chiavatti, and Erma Krahn; will testify to experiences as surgeon in both the public system and in private clinics, and experiences treating patients who sought care in the private system due to unreasonable wait times in public system	8 hours	N
6.	Dr. Chris Reilly	Vancouver, BC	Treating physician of Krystiana Corrado, Chris Chiavatti, Walid Khalfallah; will testify to role as treating physician; rationing of operating room (OR) time in public system; and consequences of rationing on patients	4 hours	N
7.	Dr. Mary Weckworth	Vancouver, BC	Treating physician of Krystiana Corrado; will testify to role of treating physician	1 hour	N
8.	Dr. Fadi Tarazi	Burnaby, BC	Treating physician of Krystiana Corrado; will testify to role as treating physician;	2 hours	N

			rationing of OR time in public system; and consequences of rationing on patients		
9.	Dr. Lawrence Barzelai	Vancouver, BC	Treating physician of Chris Chiavatti; will testify to role as treating physician; rationing of OR time in public system; and consequences of rationing on patients		Y
10.	Dr. Steven Hansen	Langley, BC	Treating physician of Mandy Martens; will testify to role as treating physician	1 hour	N
11.	Dr. Jean Lauzon	Surrey, BC	Treating physician of Mandy Martens; will testify to role as treating physician	1 hour	N
12.	Dr. Thomas Warshawski*	Kelowna, BC	Treating physician of Walid Khalfallah; will testify to role as treating physician	1 hour	N
13.	Dr. John O'Brien	South Surrey, BC	Treating physician of Erma Krahn; will testify to role as treating physician	1 hour	N
14.	Dr. Arno Smit	White Rock, BC	Treating physician of Erma Krahn; will testify to role as treating physician; rationing of OR time in public system; and consequences of rationing on patients	1 hour	N
15.	Dr. Bassam Masri	Vancouver, BC	Treating physician of Erma Krahn; will testify to role as treating physician; rationing of OR time in public system; and consequences of rationing on patients	2 hours	N
16.	Dr. Marcel Dvorak	Vancouver, BC	Orthopedic surgeon; will testify to experiences working in the public system and private clinics	2 hours	N
17.	Dr. William Regan	Vancouver, BC	Orthopedic surgeon; will testify to experiences working in the public system and private clinics	2 hours	N
18.	Dr. Ramesh Sahjpaul	North Vancouver, BC	Neurosurgeon; will testify to experiences working in the public system and private clinics	2 hours	N
19.	Dr. Mark Adrian	Vancouver, BC	Physical Medicine and Rehabilitation physician; will testify to experiences working in the public system and private clinics	2 hours	N
20.	Dr. Alastair Younger	Vancouver, BC	Orthopedic surgeon; will testify to experiences working	2 hours	N

			in the public system and private clinics		
21.	Dr. Derryck Smith	Vancouver, BC	Psychiatrist and former Medical Services Commissioner; will testify to his observations of the limitations to access and unreasonable wait times patients face for medical care; the preferential access to medical services for employees covered by WCB; and experiences as a Commissioner	2 hours	N
22.	Dr. Reza Nouri	Vancouver, BC	Pediatric Dentist; will testify to limitations to access and unreasonable wait times faced by children who require dental surgeries		Y
23.	Dr. Frank O. Tyers	Vancouver, BC	Cardiovascular and Thoracic Surgeon; will testify to rationing of OR time; unreasonable wait times with corresponding disease progression, pain and suffering his patients experience when being referred to specialists	1 hour	N
24.	Dr. John O'Brien-Bell	Surrey, BC	Family physician; will testify to unreasonable wait times in public system for diagnostic procedures, consultations and surgical procedures; and consequences of wait times for patients including disease progression, pain, and suffering	1 hour	N
25.	Dr. Victor Dirnfeld	Richmond, BC	Internal Medicine physician; will testify to rationing of various hospital resources including diagnostic testing and operating rooms due to limited funding	2 hours	N
26.	Dr. Allon Reddoch*	Whitehorse, Yukon	Chief Medical Consultant Yukon Workers Compensation Health and Safety Board; will testify to the functioning of the Workers Compensation systems; the use of private/expedited medical services in order to treat injured workers and rationale for the same; and the variability in defining "benefits" across provincial	2 hours	N

			public health insurance plans		
27.	Dr. Kevin Wade	Vancouver, BC	Ophthalmologist; will testify to experiences working in the public system and private clinics, including wait times for consultation and surgery due to rationing of OR resources in the public system; the disease progression his patients face while waiting for care; and consequences of same	1 hour	N
28.	Dr. Leslie Samaroo	Burnaby, BC	General/Family Practice and sessional medical advisor with WCB; will testify to his experiences in developing idea and process for expediting referrals and treatment for WCB patients through private facilities	2 hours	N
29.	Dr. Mark Godley	Vancouver, BC	Anesthesiologist; will testify to experiences working in the public system and private clinics; experiences with rationing of health care services in public system rendering physicians unable to provide timely care to their patients; the disease progression his patients face while waiting for care; and consequences of same	2 hours	N
30.	Dr. Jack Taunton	Vancouver, BC	Sports Medicine Physician; will testify to his experiences in the public health care system including long wait times for diagnostic tests and surgical consults; and how this may have a significant impact on patients' health outcomes and quality of life	2 hours	N
31.	Dr. Kevin Wing	Vancouver, BC	Orthopedic surgeon (foot and ankle); will testify to his experiences in public health care system including the lengthy delays his patients experience; and the consequences of being effectively disabled while his patients wait for care	1 hour	N
32.	Janet Walker	West Vancouver, BC	Registered nurse and Adjunct Professor; will testify to qualitative research regarding the experiences of Canadians	2 hours	N



			waiting for medical care in the public health care system		
33.	Gordon Denford	Victoria, BC	Business owner and former Medical Services Commissioner; will testify to his experiences regarding developing retirement communities for elderly individuals; this population's inability to receive timely medical care and the significant impact this has on their quality of life; and experiences as a Commissioner appointed to represent beneficiary interests	2 hours	N
34.	Dennis Mahoney*	Kelowna, BC	Patient Witness; will testify to experiences in obtaining medically necessary care through WCB	1 hour	N
35.	Elaine Baxter	North Vancouver, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
36.	Karl Woll	Kelowna, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
37.	Barb Collin	Vancouver, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
38.	Thomas Sobkowich	Surrey, BC	Patient Witness; will testify to experiences in obtaining medically necessary care through the WCB system	1 hour	N
39.	Stefan Fletcher	Victoria, BC	CEO of RebalanceMD clinic; will testify regarding outcomes to date	2 hours	N
40.	Dr. Robert Ouellet*	Montréal, QC	Radiologist in Quebec; will testify to his experiences with access issues for diagnostics and medically necessary care	2 hours	N
41.	Dr. James Longstaffe*	Winnipeg, Manitoba	Orthopaedic surgeon; will testify to difficulties in finding a permanent position after completing years of intensive training	1 hour	N
42.	Dr. Jim Douglas	Richmond, BC	Orthopaedic surgeon; will testify to his experience regarding the difficulty finding a permanent position after completing years of intensive training	1 hour	N

43.	Dr. Larry Warshawski	Vancouver, BC	Dermatologist with practice specialized to cancer patients; will testify to the unreasonable wait times his patients face for carcinoma treatment; and consequences of wait times for patients including disease progression, pain, and suffering	1 hour	N
44.	Dr. David Jones	Burnaby, BC	Family physician and Medical Director at Burnaby Hospital; will testify to the unreasonable wait times his patients face to receive treatment for diagnostic testing, specialist referrals, and treatment; and consequences of wait times for patients including disease progression, pain, and suffering	1 hour	N
45.	Kenneth Morrison	Langley, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
46.	Vadim Korkh	North Vancouver, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
47.	Anokh Aadmi	Vancouver, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
48.	Dr. Patrick McGeer	Vancouver, BC	Family physician; will testify to his experiences as experiences as an MLA and Cabinet minister, during which time he was responsible for UBC Hospital; and the events relating to the introduction of the <i>Canada Health Act</i>	2 hours	N
49.	Buzz Denroche	Langley, BC	Patient Witness who sought private care due to unreasonable wait times in public system	1 hour	N
50.	Grant Pearson	Langley, BC	Patient Witness who experienced unreasonably long wait time for medically necessary care in public health care system	1 hour	N
51.	Jill Hummerstone*	Harrison Hot Springs, BC	Patient Witness who experienced unreasonably long wait time for medically	1 hour	N

		necessary care in public health care system		
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**Total time: 81 hours**

### **3. Expert Reports**

The following are the expert reports the Plaintiffs intend to rely on at evidence at trial. The Plaintiffs currently anticipate having all of their expert witnesses provide *viva voce* evidence, and to provide evidence in chief.

An asterisk beside an expert's name indicates that the Plaintiffs may seek to have this expert testify via video-conference.

<b>Item</b>	<b>Name of Expert</b>	<b>Area of expertise</b>	<b>Date of Report(s)</b>
1.	Professor Dan Kessler	Health policy and health care finance	March 17, 2014  July 31, 2014  Updated Report: June 30, 2016
2.	Professor Michael Bliss	History of modern medicine with specific concentration on the history of health care in Canada	July 15, 2014
3.	Professor Alistair McGuire*	Health economics	March 17, 2014  July 15, 2014
4.	Professor John McGurran	Health policy, specifically waiting times and access to health care, clinical and public health epidemiology, and health care evaluation methodology	March 17, 2014  July 21, 2014  Updated Report: June 30, 2016
5.	Mr. Nadeem Esmail	Health care economist with a focus on health policy	March 17, 2014  July 15, 2014  Updated Report: July 27, 2016
6.	Dr. Leslie Vertesi	Hospital management; Emergency Medicine, Epidemiology; Waitlists and waitlist modelling	July 15, 2014  Updated Report: July 24, 2016
7.	Mr. Peter Holle*	Evidence-based comparisons between the national health care systems in Canada and Europe	July 15, 2014
8.	Mr. Yanick Labrie*	Economist and health care policy analyst	July 31, 2014
9.	Dr. Albert Schumacher*	Family Physician; Adjunct professor of Family Medicine at Schulich School of Medicine; Wait Times and Wait Times projects	July 15, 2014
10.	Dr. Steve Tredwell	Pediatric Orthopaedics (tertiary level surgical practice at BC Children's Hospital); Medical Ethics and	July 25, 2016

		Bioethics	
11.	Dr. Antoni Otto	General practitioner in Canada and previously UK; Health informatics	July 15, 2014
12.	Dr. Robert Hollinshead*	Clinical orthopaedic surgeon, Program management in health care systems (Head of Trauma Services, Chief of Orthopedics, Chief of the Department of Surgery); Expertise in public system functioning and private clinics	July 15, 2014
13.	Dr. Ross Davidson*	Clinical orthopaedic surgeon within both the New Zealand health care system and the Canadian healthcare system in British Columbia	July 15, 2014
14.	Ake Blomqvist*	Health care policy and financing	May 5, 2015
15.	Plaintiffs' expert responding to Dr. John Frank	TBD	TBD
16.	Plaintiffs' expert responding to Dr. Jack Jedwab	TBD	TBD

#### 4. Witnesses To Be Cross-Examined

The following are the names of the witnesses and expert witnesses the Plaintiffs anticipate cross-examining at trial, and an estimate of the time the Plaintiffs will need for each. This list may be amended prior to, and during, the trial.

Witnesses numbered 1-21 are those the Defendants have recently advised they intend to call at trial.

Witnesses numbered 22-33 are individuals the Defendants previously identified as witnesses, whom the Plaintiffs intend to cross-examine at trial.

The remaining lay witnesses of the Defendants (i.e. witnesses numbered 34-56) are individuals who may not need to attend at trial as their evidence may be contained in the Defendants' Prima Facie Fact documents relating to the Ministry of Health, the Health Authorities, and/or Diagnostic Imaging. The Plaintiffs have advised the Defendants that we may cross-examine some of these witnesses if there is a dispute about the statements in the Prima Facie Fact documents and/or further information is required by the Plaintiffs.

The Defendants have proposed that three of their expert witnesses be permitted to testify via video-conference (P.J. Devereaux; A. Oliver; A. Pollock). The Plaintiffs are agreeable to this proposal.

Witnesses with an asterisk beside their name indicates their evidence is anticipated by affidavit.

Item	Name	Description	Time in hours Needed
1.	Stephen Abercrombie*	Audit Manager, Audit and Investigations Branch, Ministry of Health	2 hours
2.	David Brar*	Director, Data Quality and Production, Priority	2 hours

		Projects Branch, PID, Ministry of Health	
3.	Joanne Fox*	Retired	2 hours
4.	Carly Van Soest*	Human Resources Administrative Assistant	2 hours
5.	Dr. Michael Gilbert	Clinical Associate Professor Division of Orthopedic Surgery, University of British Columbia	2 hours
6.	Dr. Andy Hamilton	Program Medical Director, Surgical Services, Interior Health Authority	3 hours
7.	Dr. Khati Hendry*	Rosedale Medical Associates	2 hours
8.	Dr. Wayne Hildahl*	Chief Executive Officer, Pan Am Clinic, Winnipeg Regional Health Authority	3 hours
9.	Dr. Richard Kendall	Orthopedic Surgery	2 hours
10.	Dr. Margaret McGregor*	Clinical Associate Professor and Director of Community Geriatrics, Department of Family Practice, University of British Columbia	3 hours
11.	Dr. Jordan Leith	Orthopedic Surgery	2 hours
12.	Andrew Montgomerie*	Director of Financial Services and Health Care Programs, WorkSafeBC	2 hours
13.	Dr. Farhad Moola	Fraser Orthopedic Institute	2 hours
14.	Dr. Trevor Stone	Clinical Assistant Professor, Department of Orthopaedics, University of British Columbia	2 hours
15.	Tom Vincent	Chair, Medical Services Commission	2 hours
16.	Dr. James Waddell	Orthopaedic surgeon in Ontario	2 hours
17.	Sandra Feltham		<b>Unknown</b> (no witness statement/ affidavit provided)
18.	Rosalie Guthrie		<b>Unknown</b> (no witness statement/ affidavit provided)
19.	Dr. Danyaal Raza		<b>Unknown</b> (no witness statement/ affidavit provided)
20.	Brenda Wagner		<b>Unknown</b> (no witness statement/ affidavit provided)
21.	Fanny Wong		<b>Unknown</b> (no witness statement/ affidavit provided)
22.	Tricia Braidwood-	Director, Hospital & Provincial Services, Health Authorities Division, Ministry of Health	2 hours

	Looney		
23.	Marilyn Copes*	Senior Advisor, Health Services Policy and Quality Assurance Division, Ministry of Health	3 hours
24.	Jane Crickmore	Executive Director, Laboratory, Diagnostic and Blood Services Branch, MSHHRD, Ministry of Health	2 hours
25.	Gordon Cross	Executive Director, Regional Grants and Decision Support, Ministry of Health	2 hours
26.	Teri Collins	Executive Director, Patient Safety and Care Quality, Ministry of Health	2 hours
27.	Bob De Faye	Former Chair Medical Services Commission	2 hours
28.	Kirk Eaton	Director, Diagnostic Imaging, Hospital & Provincial Services, Health Authorities Division, Ministry of Health	2 hours
29.	Rod Frechette	Executive Director, Health Sector Workforce Division – Negotiations and Compensation, Ministry of Health	2 hours
30.	Perry Kendall*	Provincial Health Officer	2 hours
31.	Manjit Sidhu	Assistant Deputy Minister Financial and Corporate Services Ministry of Health	2 hours
32.	Brian Sagar	Director, Health Services Policy and Quality Assurance Division, Ministry of Health	2 hours
33.	Cindy Laukkanen*	Program Director, Surgical Services, Fraser Health Authority	2 hours
34.	Alison Dormuth*	Director, Surgical Services & Strategic Implementation	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
35.	Nadeen Johansen	Senior Policy Analyst, Primary Health Care and Specialist Services Branch, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
36.	Rebecca John	Director, PHSA Monitoring, Hospital & Provincial Services, Health Authorities Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
37.	Marj Hallihan	Senior Policy Advisor Out of Country, Medical Beneficiary and Pharmaceutical Services Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
38.	Linda Lemke*	Director, Maternity & Surgical Program, Providence Health Care	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
39.	Angela Micco	Project Manager, Health Services Policy and Quality Assurance, Ministry of Health	<i>Cross-examination on information in</i>

			<i>Prima Facie Facts documents may be required</i>
40.	Beverly MacLean-Alley	Manager, Workforce Planning and Management, HHR Planning, Health Human Resources Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
41.	Shana Ooms	Director, Primary Health Care, Primary Health Care & Specialists Services, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
42.	Susan Scrivens	Planning Leader, Regional Surgery Executive Council, Vancouver Coastal Health Authority	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
43.	Arlene Paton	Assistant Deputy Minister, Population and Public Health, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
44.	Lynn Stevenson	Associate Deputy Minister, Health Services – Deputy Minister's Office, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
45.	Joanna Richards	Director, Clinical Consultation and Guidelines, Health Service Policy and Quality Assurance, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
46.	Mark Armitage	Executive Director, Health Services Policy and Quality Assurance Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
47.	Janis McGladrey*	Program Director, Heart and Lung Program, St. Paul's Hospital, Providence Health Care	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
48.	Pamela Liversidge	A/Director, Substance Abuse and Mental Health, IPCC, Health Authorities Division, Mental Health and Substance Use, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
49.	Debbie McLachlan	Director, Nursing Strategies, Health Sector Workforce Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
50.	John Capelli	Director, Policy and Communications, Ministry of Health	<i>Cross-examination on information in</i>

			<i>Prima Facie Facts documents may be required</i>
51.	Daryl Beckett	Director, Profession Regulation & Oversight Branch, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>
52.	Kevin Brown	Executive Director Workforce Planning & Management Branch, Health Sector Workforce Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>  <i>(no witness statement/ affidavit provided)</i>
53.	Jeremy Higgs*	Executive Director, Workforce Analysis/Health Sector, Workforce Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>  <i>(no witness statement/ affidavit provided)</i>
54.	Janine Johns*	Network Director, Surgical Services, Interior Health Authority	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>  <i>(no witness statement/ affidavit provided)</i>
55.	Martha Burd*	Director, Health System Analytics, Health Sector Planning & Innovation Division, Ministry of Health	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>  <i>(no witness statement/ affidavit provided)</i>
56.	Erdum Yaznogoglu	Manager and Senior Business Analyst Surgical Patient Registry Provincial Health Services Authority	<i>Cross-examination on information in Prima Facie Facts documents may be required</i>  <i>(no witness statement/ affidavit provided)</i>
57.	Professor Carolyn	Defendants' Expert Witness	2 hours



	DeCoster		
58.	Dr. Philip Devereaux	Defendants' Expert Witness	2 hours
59.	Professor James Gillespie	Defendants' Expert Witness	2 hours
60.	Professor Sarah Kreindler	Defendants' Expert Witness	2 hours
61.	Professor Eike-Henner Kluge	Defendants' Expert Witness	2 hours
62.	Dr. Allyson Pollock	Defendants' Expert Witness	2 hours
63.	Dr. Michael Rachlis	Defendants' Expert Witness	2 hours
64.	Mr. Scott Sinclair	Defendants' Expert Witness	2 hours
65.	Professor Jason Sutherland	Defendants' Expert Witness	2 hours
66.	Professor Ivy Bourgeault	Defendants' Expert Witness	2 hours
67.	Professor Jeremiah Hurley	Defendants' Expert Witness	4 hours
68.	Professor Gregory Marchildon	Defendants' Expert Witness	2 hours
69.	Professor Theodore Marmor	Defendants' Expert Witness	4 hours
70.	Dr. Robert McMurtry	Defendants' Expert Witness	4 hours
71.	Dr. Eric Bohm	Defendants' Expert Witness	2 hours
72.	Professor Charles Normand	Defendants' Expert Witness	2 hours
73.	Adam Oliver, PhD	Defendants' Expert Witness	2 hours
74.	Dr. Jeffrey Turnbull	Defendants' Expert Witness	2 hours
75.	Dr. Jacqueline Cumming	Defendants' Expert Witness	2 hours
76.	Dr. Edmond Charleton	Defendants' Expert Witness	2 hours
77.	Dr. John Frank	Attorney General of Canada's Expert Witness	2 hours
78.	Dr. Jack Jedwab	Attorney General of Canada's Expert Witness	2 hours
79.	Gigi Mandy	Attorney Canada of Canada's Fact Witness	2 hours
80.	Daphne Lang	Patient Intervenor Affiant	1 hour
81.	Mariel Schooff	Patient Intervenor Affiant	1 hour
82.	Larry Cross	Patient Intervenor Affiant	1 hour
83.	Peggy Eburne	Patient Intervenor Affiant	1 hour

84.	Barbara Gosling	Patient Intervenor Affiant	1 hour
85.	Myrna Allison	Patient Intervenor Affiant	1 hour

**Total time:** Minimum of 118 hours; may be significantly more if cross-examination of individuals with knowledge of Prima Facie Facts documents is required.

#### 5. Objection to Admissibility

The parties have agreed that there will not be any objections on the basis of admissibility of any expert reports filed by the Plaintiffs or Defendants. There may be arguments as to weight.

#### 6. Documents and Exhibits

1. The parties [x] have agreed on a common book of documents, to be supplemented by each party as the trial progresses.
2. The parties [x] have reached an agreement governing the use and admissibility of documents.

#### 7. Admissions

The parties have exchanged and continue to exchange notices to admit.

#### 8. Authorities

The Plaintiffs expect that there will be a joint book of authorities.

#### 9. Time required for submissions

The Plaintiffs estimate that 3 days will be required for their opening statement and 4 days will be required for their final submissions.

#### 10. Orders that may affect the conduct of the trial

The following orders contain provisions that may affect the conduct of the trial:

Date of Order	Nature of Order
Order of Associate Chief Justice Cullen of February 26, 2015	Ordering that BCAS may adduce affidavit evidence at trial regarding the factual information and experience of BC anesthesiologists in the planning and delivery of health care services in BC as described in the BCAS's "Synopsis of Intervenor's Evidence"
Pending Order	Granting leave to amend Third Notice of Civil Claim (i.e. remove Rita Chiavatti as Chris Chiavatti's litigation guardian, Antonio Corrado as Krystiana Corrado's litigation guardian and Erma Krahn as a plaintiff, and Carol Welch as Patient Intervenor)
Pending Order	Ordering the interim stay of the operation and enforcement of sections 14, 17, 18, 45 of the MPA as applied to the Clinics and physicians providing services through those clinics in respect of those services until June 6, 2016  <i>Defendants have consented to the extension of the stay to September 6, 2016, with the understanding that the Plaintiffs intend to apply to extend the stay further.</i>

Pending Order	Dismissal of the Intervenor BC Health Coalition application to challenge the standing of the Corporate Plaintiffs
Pending Order	Partially granting the Defendants' application to strike portions of the affidavit of Dr. Orfaly (representing the BCAS Intervenor) sworn February 16, 2015.

#### 11. Orders or Directions to be Applied for at the Trial Management Conference

Nature of Order or Direction	Time in Hours needed for application
Patient Intervenor's Document Production Application	1 hour

#### 12. Settlement

1. Settlement discussions or mediation sessions [X] have taken place.
2. A mediation [X] is not scheduled before the date set for trial.
3. The court at the trial management conference [X] will not be asked to assist the parties' efforts to settle.

#### 13. Trial to be heard with or without jury

The trial of this action is to be heard by the court  
[x] without a jury.

#### 14. Other Matters

Sitting Schedule	<p>The Plaintiffs propose the following sitting schedule (which is generally 3 weeks on, 1 week off)</p> <p>On:</p> <ul style="list-style-type: none"> <li>• September 6 - 9</li> <li>• September 12 - 16</li> <li>• September 19 - 23</li> </ul> <p>Off: September 26 - 30</p> <p>On:</p> <ul style="list-style-type: none"> <li>• October 3 - 7</li> <li>• October 11 - 14 (<i>October 10 is Thanksgiving</i>)</li> <li>• October 27 - 21</li> </ul> <p>Off: October 24 - 28</p> <p>On:</p> <ul style="list-style-type: none"> <li>• October 31 - November 4</li> <li>• November 7 (<i>November 8 - 10 is Judges' Conference and November 11 is Remembrance Day</i>)</li> <li>• November 14 - 18</li> <li>• November 21 - 25 (<i>According to 3 &amp; 1 schedule, this would be "OFF" week, the</i></li> </ul>
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	<p><i>Plaintiffs propose to make this an ON week)</i></p> <ul style="list-style-type: none"><li>• November 28 – December 2</li></ul> <p>Off: December 5 – 9 (<i>Plaintiffs unavailable</i>)</p> <p>On</p> <ul style="list-style-type: none"><li>• December 12 – 13 (<i>Mr. Justice Steeves unavailable December 14-16</i>)</li></ul> <p>Off: December 14 – January 3</p>
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Date: August 2, 2016



Signature of Peter A. Gall, Q.C.  
Lawyer for Plaintiffs