

# COURT OF APPEAL OF ALBERTA

Form AP-1

[Rule 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2101-0275AC

TRIAL COURT FILE NUMBER: 2021-05742

REGISTRY OFFICE: CALGARY

APPLICANT: ALBERTA HEALTH SERVICES

STATUS ON APPEAL: RESPONDENT

RESPONDENT: CHRISTOPHER SCOTT

STATUS ON APPEAL: APPELLANT

RESPONDENTS: WHISTLE STOP (2012) LTD., GLEN CARRITT, JOHN DOE(S) and JANE DOE(S)

STATUS ON APPEAL: NOT PARTIES TO THE APPEAL

DOCUMENT: **CIVIL NOTICE OF APPEAL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: Chad Williamson  
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FILE NO.: 00935C-CW



## WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. **Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced: October 13, 2021

Date entered: October 15, 2021

Date served: October 15, 2021

Official neutral citation of reasons for decision, if any:

*Alberta Health Services v Scott*, 2021 ABQB 812

The contents and Order there of hereinafter being referred to as the “**Decision**”.

2. **Indicate where the matter originated:**

Court of Queen’s Bench

Judicial Centre: Calgary

Justice: A.W. Germain

On appeal from a Queen’s Bench Master or Provincial Court Judge?: No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge: N/A

3. **Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)):**

Permission not required.

4. **Portion being appealed (Rule 14.12(2)(c)):**

Whole, including specifically, but not limited to:

a. The findings of fact of the learned Chambers judge.

b. The sanction / punishment for civil contempt of Court imposed by the learned Chambers Judge:

i. The quantum of the fine imposed on the Applicant;

- ii. The conditions, length, and terms of the probationary period imposed on the Applicant;
- iii. The quantum of community service required by the Applicant;
- iv. Restriction on travel outside the Province of Alberta imposed on the Applicant;
- v. Restriction on the Appellant's freedom of speech / the order compelling the involuntary speech of the Appellant; and
- vi. Such further and other portions of the Decision which Counsel may advise and this honourable Appellate Court permit given the circumstances.

5. **Provide a brief description of the issues:**

Whether the learned Chambers Judge erred in law, fact, or mixed fact and law by:

- a) Substituting his own findings of fact without an evidentiary or any basis for the same;
- b) Erring in his findings of fact and/or inferences drawn from the same;
- c) Unreasonably and/or disproportionately limiting or violating the Applicant's *Charter*<sup>1</sup> rights by:
  - i. Limiting or violating the Appellant's rights of mobility outside the Province of Alberta (the "**Mobility Restriction Order**");
  - ii. Limiting or violating the Appellant's absolute constitutional rights of freedom of expression by ordering the Appellant to engage in involuntary, compelled speech to include the following statement drafted by the learned Chambers Judge in all of the Appellant's public communications:

*"I am also aware that the views I am expressing to you on this occasion may not be views held by the*

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<sup>1</sup> *Canada Act 1982 (UK), 1982, c-11, including the Canadian Charter of Rights and Freedoms, sections 2(b), 2(c), 2(d), and 6.*

*majority of medical experts in Alberta. While I may disagree with them, I am obliged to inform you that the majority of medical experts favour social distancing, mask wearing, and avoiding large crowds to reduce the spread of COVID-19. Most medical experts also support participation in a vaccination program unless for a valid religious or medical reason you cannot be vaccinated. Vaccinations have been shown statistically to save lives and to reduce the severity of COVID-19 symptoms”* (the “**Compelled Speech Order**”); and

iii. Such other and further limits or violations of the Applicant's constitutional and Charter rights as shall be advised by Counsel in the adjudication of this appeal;

- d) By imposing sanctions disproportionate to the sanctions imposed on other contemnors whose conduct was more severe with fewer mitigating factors;
- e) By imposing sanctions upon the Appellant which are inconsistent with those available for civil contempt of Court pursuant to Rule 10.53 of the *Alberta Rules of Court*; and
- f) Such other and further issues as Counsel may advise and this Honourable Appellate Court consider in the adjudication of this appeal.

6. **Provide a brief description of the relief claimed:**

- a) An expedited hearing of this appeal;
- b) An absolute stay of the Decision pending the outcome of this appeal;
- c) A Declaration or an Order granting the Appellant a public interest standing;
- d) A reduction to the quantum of the fine imposed upon the Appellant, or alternatively, an order vacating the same;
- e) Variation to the sanctions imposed on the Appellant or an Order vacating the sanctions imposed on the Appellant as described herein and as will be advised by

Counsel in this appeal;

- f) An Order vacating or overturning Mobility Restriction Order and the Compelled Speech Order;
- g) A Declaration or Remedy pursuant to section 24(1) of the *Charter of Rights and Freedoms* (the “**Charter**”) or section 52(1) of the *Constitution Act, 1982*, or both, that the Mobility Restriction Order and the Compelled Speech Order are unreasonable because they disproportionately limit or violate the Appellant’s constitutionally protected rights and freedoms with respect to freedom of expression, freedom of peaceful assembly, freedom of association, and mobility rights pursuant to sections 2(b), 2(c), 2(d), and 6 of the *Charter* and other constitutional infringements as will be advised by Counsel in the adjudication of this appeal;
- h) A Declaration that the the Mobility Restriction Order and the Compelled Speech Order violates the Appellant's *Charter* rights as aforesaid and such violations are not saved by section 1 of the *Charter*.
- i) Costs of this appeal; and
- j) Such further and other relief as Counsel may advise and this Honourable Appellate Court deems meet and just given the circumstances.

7. **Is this appeal required to be dealt with as a fast track appeal?**

No.

8. **Does this appeal involve the custody, access, guardianship, parenting time, decision-making responsibility, contact or support of a child?**

No.

9. **Will an application be made to expedite this appeal?**

Yes.

10. **Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate?**

No.

11. **Could this matter be decided without oral argument?**

No.

12. **Are there any restricted access orders or statutory provisions that affect the privacy of this file?**

No.

13. **List respondent(s) or counsel for the respondent(s), with contact information:**

**Alberta Health Services**

Kyle Fowler, Counsel for the Respondent

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14.

**Attachments:**

Reasons for decision only. Additional attachments to be appended to the factum or will be included elsewhere in the appeal record.