

## BC Human Rights Tribunal

1270 - 605 Robson Street

Vancouver BC V6B 5J3

Phone: 604-775-2000

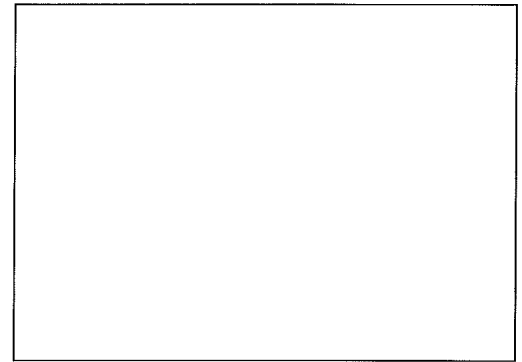
Fax: 604-775-2020

Toll Free: 1-888-440-8844

TTY: 604-775-2021

## GENERAL INSTRUCTIONS

- For detailed instructions select the **Help** buttons as you go or check **All Instructions** now
- See the Tribunal's website for further information – [www.bchrt.bc.ca](http://www.bchrt.bc.ca)
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Email** us your form by attaching a saved copy and sending it to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of your Complaint Form and all of your documents



Tribunal Stamp

## For assistance with filing your complaint contact

**BC Human Rights Clinic**

Tel: 604-622-1100

Toll-Free: 1-855-685-6222

[www.bchrc.net](http://www.bchrc.net)

**The Law Centre**

Tel: 250-385-1221

[www.thelawcentre.ca](http://www.thelawcentre.ca)

## YOUR INFORMATION

*and the Union of BC Indian Chiefs and Frank Paul Society*

FIRST NAME: ** David		LAST NAME: ** Dennis	
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE): Jason Gratl			
MAILING ADDRESS: ** 601-510 West Hastings Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5C 3E6
<p><b>Purpose of collecting contact information:</b> The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the Respondent.</p>			
TELEPHONE: ** 604-694-1919	FACSIMILE: 604-608-1919	CELLULAR:	
EMAIL:			

## YOUR COMPLAINT

### STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a co-worker, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company you worked for, a newspaper, a school board, a trade union, a society or a strata corporation.

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#### Respondent 1:

NAME: ** Provincial Health Services Authority			
RELATIONSHIP TO YOU: ** The Authority has province wide responsibility for Provincial clinical policy and service delivery			
MAILING ADDRESS: ** 200 - 1333 West Broadway Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5Y 3W2
TELEPHONE: ** 604-675-7400	FACSIMILE: 604-708-5869	CELLULAR:	
EMAIL: ** phsacomm@phsa.ca			

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#### Respondent 2:

NAME: ** British Columbia Transplant Society			
RELATIONSHIP TO YOU: ** The Agency responsible for maintaining transplant waitlists. It is funded by and an agency of the PHSA			
MAILING ADDRESS: ** 350 - 555 West 12th Avenue			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5Z 3X7
TELEPHONE: ** 604-877-2240	FACSIMILE:	CELLULAR:	
EMAIL: ** info@ bct.phsa.ca			

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#### Respondent 3:

NAME: ** Her Majesty the Queen in Right of British Columbia (Ministry of Health)			
RELATIONSHIP TO YOU: ** Has overall responsibility for the health services available in the Province			
MAILING ADDRESS: ** 1515 Blanshard Street			
CITY: ** Victoria		PROVINCE: ** BC	POSTAL CODE: ** V8W 3C8
TELEPHONE: ** 1-800-663-7867	FACSIMILE:	CELLULAR:	
EMAIL: ** EnquiryBC@gov.bc.ca			

## Respondent 4:

NAME: ** Vancouver Coastal Health Authority			
RELATIONSHIP TO YOU: ** The Authority is responsible for the clinical policies and resource allocation at Vancouver General Hospital			
MAILING ADDRESS: ** 601 West Broadway			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V5Z 4C2
TELEPHONE: ** 604-736-2033	FACSIMILE:	CELLULAR:	
EMAIL: ** pcqo@vch.ca			

## STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

List the area(s) and ground(s) of discrimination that apply to your complaint:

Your complaint must show that the Respondent's conduct took place in an area of daily life protected under the *BC Human Rights Code*. These are called "**areas of discrimination**".

It must also show that you have a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**".

These protected personal characteristics may be:

- actual (for example, your ancestry or age), or
- perceived (for example, someone thinks that you have or may develop a disability in the future, or makes homophobic comments regardless of your sexual orientation).

**Not all grounds of discrimination apply to all areas of discrimination.**

## Respondent 1: Provincial Health Services Authority

### Area of Discrimination

- |   |                                  |  |                                   |
|---|----------------------------------|--|-----------------------------------|
| <input checked="" type="radio"/> Accommodation, service or facility | <input type="radio"/> Employment | <input type="radio"/> Employment advertisement | <input type="radio"/> Publication |
| <input type="radio"/> Purchase of property                          | <input type="radio"/> Tenancy    | <input type="radio"/> Unions and associations  | <input type="radio"/> Wages       |

"**Accommodation, service or facility**" means an accommodation, service or facility that is customarily available to the public. Examples are hotels, stores, restaurants, schools, government programs, community recreation programs, and stratas.

### Grounds of Discrimination

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> Age                           | <input checked="" type="checkbox"/> Ancestry | <input type="checkbox"/> Colour            | <input type="checkbox"/> Family Status                  |
| <input type="checkbox"/> Gender Identity or Expression | <input type="checkbox"/> Marital Status      | <input type="checkbox"/> Mental Disability | <input checked="" type="checkbox"/> Physical Disability |
| <input type="checkbox"/> Place of Origin               | <input checked="" type="checkbox"/> Race     | <input type="checkbox"/> Religion          | <input type="checkbox"/> Sex                            |
| <input type="checkbox"/> Sexual Orientation            |  |  |   |

"**Ancestry**" is defined broadly and includes where a person's family is from.

**Details:\*\*** Mr. Dennis is of Nuu-chah-nulth ancestry

"**Physical Disability**" includes a physical condition that affects or is seen as affecting a person's abilities.

**Details:\*\*** Mr. Dennis has alcohol use disorder

"**Race**" is defined broadly to include groups such as First Nations, Métis, Chinese or South Asian.

**Details:\*\*** Mr. Dennis is Indigenous

**Respondent 2:** British Columbia Transplant Society

✓ The Area(s) & Grounds are the same as Respondent 1

**Respondent 3:** Her Majesty the Queen in Right of British Columbia (Ministry of Health)

✓ The Area(s) & Grounds are the same as Respondent 1

**Respondent 4:** Vancouver Coastal Health Authority

✓ The Area(s) & Grounds are the same as Respondent 1

## STEP 3: RESPONDENTS' CONDUCT

Answer these questions to show that the Respondent's conduct could be discrimination under the *Human Rights Code*

**Respondent 1:** Provincial Health Services Authority

### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
2019 06 04	Mr. Dennis was denied a place on the liver transplant wait list because of a 6 month alcohol abstinence policy for those with a history of substance use disorders. Liver transplants are a service customarily made available to the public. Mr. Dennis has abstained from alcohol since June 4, 2019.

### 2. What is the adverse impact on you?..

The abstinence policy places Mr. Dennis' health at risk, potentially fatally, by delaying his access to a transplant. It is also an affront to his sense of dignity, respect and self worth.

### 3. How was each ground of discrimination a factor in the adverse impact?..

The abstinence policy directly discriminates against people with disabilities, specifically alcohol use disorders, as the 6 month abstinence standard only applies to those with a particular history of substance abuse and limits them from receiving a timely liver transplant. There is little or no scientific support for the abstinence policy.

The abstinence policy has an adverse impact discriminatory effect limiting Indigenous people and people of Indigenous ancestry from receiving liver transplants as they suffer higher rates of alcohol use disorder as the direct result of historic colonial and racist policies implemented at all levels of Canadian government.

**Respondent 2:** British Columbia Transplant Society

### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
2019 06 04	Mr. Dennis was denied a place on the liver transplant wait list because of a 6 month alcohol abstinence policy for those with a history of substance use disorders. Liver transplants are a service customarily made available to the public. Mr. Dennis has abstained from alcohol since June 4, 2019.

### 2. What is the adverse impact on you?..

The abstinence policy places Mr. Dennis' health at risk, potentially fatally, by delaying his access to a transplant.

It is also an affront to his sense of dignity, respect and self worth.

### 3. How was each ground of discrimination a factor in the adverse impact?..

The abstinence policy directly discriminates against people with disabilities, specifically alcohol use disorders, as the 6 month abstinence standard only applies to those with a history of substance abuse and limits them from receiving a timely liver transplant. There is little or no scientific support for the abstinence policy.

The abstinence policy has an adverse impact discriminatory effect limiting Indigenous people and people of Indigenous ancestry from receiving liver transplants as they suffer higher rates of alcohol use disorder than the general public as the direct result of historic colonial and racist policies implemented at all levels of Canadian government.

## Respondent 3: Her Majesty the Queen in Right of British Columbia (Ministry of Health)

### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
2019 06 04	Mr. Dennis was denied a place on the liver transplant wait list because of a 6 month alcohol abstinence policy for those with a history of alcohol use disorders. Liver transplants are a service customarily made available to the public. Mr. Dennis has abstained from alcohol since June 4, 2019.

### 2. What is the adverse impact on you?..

The abstinence policy places Mr. Dennis' health at risk, potentially fatally, by delaying his access to a transplant. It is also an affront to his sense of dignity, respect and self worth.

### 3. How was each ground of discrimination a factor in the adverse impact?..

The abstinence policy directly discriminates against people with disabilities, specifically alcohol use disorders, as the 6 month abstinence standard only applies to those with a history of alcohol abuse and limits them from receiving a timely liver transplant. There is little or no scientific support for the abstinence policy.

The abstinence policy has an adverse impact discriminatory effect limiting Indigenous people and people of Indigenous ancestry from receiving liver transplants as they suffer higher rates of alcohol use disorders than the general public as the direct result of historic colonial and racist policies implemented at all levels of Canadian government.

## Respondent 4: Vancouver Coastal Health Authority

### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
Date (YYYY MM DD) **	What Happened? **
2019 06 04	Mr. Dennis was denied a place on the liver transplant wait list because of a 6 month alcohol abstinence policy for those with a history of alcohol use disorders. Liver transplants are a service customarily made available to the public. Mr. Dennis has abstained from alcohol since June 4, 2019.

## 2. What is the adverse impact on you? <sup>\*\*</sup>

The abstinence policy places Mr. Dennis' health at risk, potentially fatally, by delaying his access to a transplant. It is also an affront to his sense of dignity, respect and self worth.

## 3. How was each ground of discrimination a factor in the adverse impact? <sup>\*\*</sup>

The abstinence policy directly discriminates against people with disabilities, specifically alcohol use disorders, as the 6 month abstinence standard only applies to those with a history of alcohol abuse and limits them from receiving a timely liver transplant. There is little or no scientific support for the abstinence policy.

The abstinence policy has an adverse impact discriminatory effect limiting Indigenous people and people of Indigenous ancestry from receiving liver transplants as they suffer higher rates of alcohol use disorders than the general public as the direct result of historic colonial and racist policies implemented at all levels of Canadian government.

## STEP 4: PART A – TIME LIMIT TO FILE COMPLAINT

To file your complaint on time, you must file it within one year of each Respondent's conduct (acts or omissions). If only some of the conduct happened in the last one year, your complaint may be filed in time if all of that Respondent's conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether your complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

### 1. Did all the conduct you say is discrimination happen in the last one year?

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Yes

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No

## STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer your complaint (put your complaint on hold) until another proceeding capable of dealing with your human rights complaint, such as a grievance, has been completed. If your complaint is deferred, the Tribunal will take no further steps until the deferral ends.

Is there another proceeding? <sup>\*\*</sup>

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Yes

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No

## STEP 6: REMEDIES

### 1. List the type of remedies you want: <sup>\*\*</sup>

1. A declaration that the Abstinence Policy is discriminatory against David Dennis personally, and Indigenous peoples and people with Alcohol Use Disorders generally.
2. An order that the Abstinence Policy be removed from the Liver Transplant Referral Exclusion Criteria.
3. An order that David Dennis be placed on the liver transplant waiting list.
4. An order for damages as compensation for injury to dignity, feelings and self respect.

### 2. List any other person or organization affected by these remedies:

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## STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a "settlement meeting". This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

**Do you want to participate in a settlement meeting?..**

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Yes

☐

No

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## STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of your complaint form and your documents
- send your complaint form to the Tribunal

Owen Stewart  
for Jason Graft

**Check the following for:**

☒

I confirm that the information in this complaint form is true and accurate to the best of my knowledge and belief..

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## WHAT HAPPENS NEXT?

After the Tribunal has reviewed your complaint, it will tell you one of the following:

- your complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
- your complaint form is incomplete and the Tribunal will ask you for further information by a certain date
- your complaint is deferred pending the outcome of other proceedings
- your complaint cannot be accepted for filing because:
  - your complaint is not covered by the BC *Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
  - your complaint does not set out enough information to support a complaint of discrimination under the BC *Human Rights Code*
  - your complaint was filed late and the Tribunal has decided not to accept it.

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## PROTECTION FROM RETALIATION

After a complaint is filed a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint was filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the Code also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If you or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms.

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## HELP FILING YOUR COMPLAINT

For assistance with filing your complaint contact:

**BC Human Rights Clinic**  
300 - 1140 W Pender Street  
Vancouver BC V6E 4G1  
Tel: 604-622-1100  
Fax: 604-685-7611  
Toll Free: 1-855-685-6222  
www.bchrc.net

**The Law Centre – University of Victoria Faculty of Law**  
225 - 850 Burdett Avenue  
Victoria BC V8W 0C7  
Tel: 250-385-1221  
Fax: 250-385-1226  
www.thelawcentre.ca

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## PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.



Schedule A to Complaint dated August 11, 2019

**IN THE HUMAN RIGHTS TRIBUNAL OF BRITISH COLUMBIA**

BETWEEN:

DAVID DENNIS, UNION OF BRITISH COLUMBIA INDIAN CHIEFS and  
FRANK PAUL SOCIETY

COMPLAINANTS

AND:

PROVINCIAL HEALTH SERVICES SOCIETY, VANCOUVER COASTAL HEALTH  
AUTHORITY, BRITISH COLUMBIA TRANSPLANT SOCIETY, HER MAJESTY THE  
QUEEN IN RIGHT OF BRITISH COLUMBIA (MINISTRY OF HEALTH)

RESPONDENTS

**NOTICE OF COMPLAINT**

**Filed by: The Complainants, David Dennis, Union of British Columbia Indian  
Chiefs and Frank Paul Society**

**CLAIM OF THE COMPLAINANTS**

**Part 1: STATEMENT OF FACTS**

1. David Dennis is an Indigenous man of Nuuchahnulth ancestry. He has end stage liver disease with associated alcohol use disorder. He has advanced MELD and Child-Pugh scores, both of which are common metrics to determine liver health. His address for service is 601-510 West Hastings Street, Vancouver, British Columbia.

2. Union of British Columbia Indian Chiefs ("UBCIC") is a non-profit society incorporated pursuant to the *Societies Act*, S.B.C. 2015, c.18. UBCIC's mandate is to work towards implementation, exercise and recognition of Indigenous Title, Rights and Treaty Rights, to protect Indigenous land and waters and to implement all aspects of the United Nations Declaration on the Rights of Indigenous Peoples for the establishment and maintenance of minimum standards for the survival, dignity, well-being and rights of Indigenous Peoples. UBCIC's address for service is 601-510 West Hastings Street, Vancouver, British Columbia.
3. Frank Paul Society is a non-profit society incorporated pursuant to the *Societies Act* SBC 2015 c. 18. Its purposes include creation, communication and implementation of progressive policies that address the specific realities of urban Native peoples in Canada and to improve the lives and conditions of urban Native peoples as they relate to policies set out by federal, provincial and municipal governments. It has an address for service at 601-510 West Hastings Street, Vancouver, British Columbia.
4. David Dennis has been informed that he is a good candidate for a liver transplant, but that he is excluded from eligibility for a liver transplant by a mandatory 6 month alcohol abstinence policy (the "Abstinence Policy"). The Abstinence Policy excludes persons with alcohol use disorder from the waiting list for liver transplants until they have abstained from consumption of alcohol for a minimum period of six months. David Dennis' exclusion from eligibility for a liver transplant procedure places David Dennis' health at risk, potentially fatally, and is an affront to his sense of self worth, respect and dignity.
5. David Dennis has abstained from alcohol use since June 4, 2019. The Abstinence Policy excludes David Dennis from eligibility for a liver transplant until December 4, 2019 at the earliest.
6. Liver transplants are a health service customarily made available to the public.
7. Oppressive historic and current racist and colonialist policies at all levels of government contribute to higher rates of alcohol use disorder among Indigenous people. Contributing factors for higher rates of alcohol use disorder include a lack of genetic protective factors (metabolizing enzyme variants) combined with genetically mediated factors (externalizing traits, consumption drive, drug

sensitivity/tolerance) that combine with key environmental factors (trauma exposure, early age of onset of use, environmental hardship/contingencies).

## The Respondents

8. Her Majesty the Queen in Right of the Province of British Columbia as represented by the Ministry of Health (the “Province”) has overall responsibility for the health services available in British Columbia.
9. The Provincial Health Services Authority (“PHSA”) is a society incorporated pursuant to the *Societies Act*, SBC 2015, c.18. PHSA’s purpose is to plan, manage and operate the integrated delivery of Province-wide health care services. PHSA has Province wide responsibility for provincial clinical policy and service delivery, including in the area of organ donation and transplantation health. PHSA has an address of 200 – 1333 W Broadway Ave, Vancouver, British Columbia.
10. The British Columbia Transplant Society (“BCTS”) is funded by and is an agency of PHSA. BCTS is responsible for maintaining transplant waitlists. BCTS has an address a 350 – 555 W 12<sup>th</sup> Ave, Vancouver, British Columbia.
11. Vancouver Coastal Health Authority (“VCHA”) is a regional health board incorporated pursuant to the *Health Authorities Act*, RSBC 1996 c. 180. The VCHA is responsible for development of policies, priorities, delivery and allocation of resources for health services within its designated region. VCHA has an address of 601 West Broadway Ave, Vancouver, British Columbia.
12. Vancouver General Hospital is the only location in the Province where liver transplants are performed. The VCHA is responsible for management, delivery and operation of the health care services provided at Vancouver General Hospital.
13. The Province, PHSA, VCHA and BCTS are jointly responsible for developing, sustaining, maintaining and implementing the Abstinence Policy. The Abstinence Policy is listed on the VCHA’s Liver Transplant Referral Form – Exclusion Criteria.

## Part 2: RELIEF SOUGHT

14. The complainants seek the following relief:

- a. A declaration that the Abstinence Policy discriminates against David Dennis, Indigenous people, and persons with Alcohol Use Disorder;
- b. An order that the Abstinence Policy be removed from the Liver Transplant Referral Exclusion Criteria;
- c. An order that David Dennis be placed on the liver transplant waiting list;
- d. An order for damages as compensation for injury to dignity, feelings and self respect, and for deterioration of health; and
- e. Such further and other order as the Tribunal may find just and equitable.

**Part 3: LEGAL BASIS**

15. The Abstinence Policy deprives David Dennis and other persons with alcohol use disorder, and tends to deprive Indigenous people generally of eligibility for a liver transplant. Liver transplants are a service customarily available to the public. The Abstinence Policy results in differential treatment and discrimination on the basis of race, ancestry and disability.

16. The Abstinence Policy lacks a reasonable or scientific justification for its use as exclusion criteria for a liver transplant.

Complainants' address for service:      Gratl & Company  
Barristers and Solicitors  
601-510 West Hastings Street  
Vancouver, BC V6B 1L8  
**Attn: Jason Gratl**

Fax number for service:                      604-608-1919

E-mail address for service (if any):      n/a

The address of the Tribunal is:

The BC Human Rights Tribunal  
1270 - 605 Robson Street  
Vancouver, British Columbia  
V6B 5J3

Date:

A handwritten signature in black ink, appearing to be 'Jason Gratl', written over a horizontal line.

Signature of lawyer for complainant  
Jason Gratl