



T-2536-23

**FEDERAL COURT**

**SHAUN RICKARD and KARL HARRISON**

**Plaintiffs**

**AND**

**HIS MAJESTY THE KING, THE MINISTER OF TRANSPORTATION AND THE**

**ATTORNEY GENERAL OF CANADA**

**Defendants**

**STATEMENT OF CLAIM**

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the *Federal Courts Rules*, serve it on the plaintiff's solicitor or, if the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the *Federal Courts Rules*.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

November 29, 2023

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Federal Court of Canada  
180 Queen Street West  
Toronto, Ontario  
M5V 1Z4

Issued by: \_\_\_\_\_

Mary Sansone,  
Registry Officer  
Toronto

TO: **Department of Justice Canada**  
Civil Litigation Section  
50 O'Connor Street, 5th Floor  
Ottawa, Ontario  
K1A 0H8  
Telephone: 613-670-6214  
Fax: 613-954-1920  
Email: [AGC\\_PGC\\_OTTAWA@JUSTICE.GC.CA](mailto:AGC_PGC_OTTAWA@JUSTICE.GC.CA)

AND TO: **Department of Justice Canada**  
Ontario Regional Office  
120 Adelaide Street West, Suite 400  
Toronto, Ontario  
M5H 1T1  
Telephone: 416-973-0942  
Fax: 416-954-8982  
Email: [AGC\\_PGC\\_TORONTO.LEAD-DCECJ@JUSTICE.GC.CA](mailto:AGC_PGC_TORONTO.LEAD-DCECJ@JUSTICE.GC.CA)

Defendants

## CLAIM

1. The Plaintiffs claim the following:
  - a. Constitutional damages pursuant to Section 24(1) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”), in the amount of \$1,000,000, exclusive of interest and costs, for breach of the Plaintiffs’ Section 6, 7 and 15 rights and freedoms as guaranteed by the *Charter* as a result of government decision-making and actions that were rooted in negligence, bad faith and that were willfully blind as to the lack of scientific evidence and/or disconfirming scientific evidence regarding the efficacy, safety and role of Covid-19 vaccination in the transportation sector and, generally;
  - b. Costs of this action in accordance with the *Federal Court Rules*, SOR/98-106; and,
  - c. Such further and other relief as counsel may advise and this Honorable Court deem just.

### The Parties

2. The Plaintiff, Shaun Rickard, is an individual residing in Pickering, Ontario. At all material times, Mr. Rickard did not receive one of Canada’s authorized Covid-19 vaccines.
3. The Plaintiff, Karl Harrison, is an individual residing in Vancouver, British Columbia. At all material times, Mr. Harrison did not receive one of Canada’s authorized Covid-19 vaccines.
4. The Attorney General is named as a Defendant as this claim involves governmental decisions and actions made and implemented by the Government of Canada, the Minister of Transportation and the bureaucracy that supports the Ministry of Transportation.

### **The Prime Minister's Campaign Promise in the 2021 General Elections**

5. In August 2021, during the Canadian general election, Prime Minister Justin Trudeau made a campaign pledge that if re-elected he would mandate that Canadians must be vaccinated against Covid-19 in order to board a plane, train or boat, that is for all federally – regulated transportation services. Indeed, this pledge formed an official part of the Liberal Government's re-election platform, *Forward for Everyone*.
6. The federal election was held on September 20, 2021, and Mr. Trudeau was re-elected as Canada's Prime Minister.

### **The Prime Minister Formally Announces Mandatory Vaccination After the General Elections**

7. Shortly after being re-elected as Prime Minister, on October 6, 2021, the Canadian Government announced it will require mandatory vaccination against Covid-9 for all travelers (a) departing from Canadian airports (b) boarding VIA and Rocky Mountaineer trains and (c) using federally regulated marine transportation (the “**Vaccine Mandates**”).
8. The Canadian Government introduced these unprecedented Vaccine Mandates under the pretext that vaccination would help to both limit the risk of spreading Covid-19 and prevent against future Covid-19 outbreaks.
9. The Vaccine Mandates allowed Canadian travelers until November 30<sup>th</sup>, 2021, to comply with its requirements in order to access federally – regulated transportation services (i.e. to ensure that they had sufficient time to receive a Covid-19 vaccine).

## **Implementation of the Vaccine Mandate**

10. The Vaccine Mandates were implemented through a perpetual series of Ministerial Orders (“MO”) that were made pursuant to the *Aeronautics Act* (R.S.C., 1985, c. A-2) and the *Railway Safety Act* (R.S.C., 1985, c. 32 (4<sup>th</sup> Supp.))
11. Specifically, the Minister of Transportation relied on Section 4.71 (Aviation security regulations), 4.9 (Regulations respecting aeronautics) and 6.41(1) (Interim orders) of the *Aeronautics Act* as well as Section 4(4), 32.01 and 36 of the *Railway Safety Act* to enact the Vaccine Mandates.
12. The Plaintiffs plead that the Minister of Transportation has never before used these or other provisions within the above referenced legislation to require a medical procedure as a pre-condition to accessing federally regulated transportation services. Put differently, the Vaccine Mandates were truly unprecedented in Canadian history.
13. The impugned MOs were enacted between October 2021 until June 20, 2022, after which the impugned MOs were suddenly “suspended”.
14. As a result of Vaccine Mandates, the Plaintiffs were unable to travel within Canada or outside of Canada until June 20, 2022, using federally regulated transportation.
15. During this time, both Plaintiffs were confronted with an option to either receive an irreversible medical treatment, against their will and conscience, or forego any travel beyond Canada or within Canada using federally regulated transportation.
16. As a result of their personal medical choice to forego vaccination against Covid-19, the Plaintiffs were effectively identified as belonging to a new, segregated class of Canadians who simply could not travel by plane or train. Consequently, for a period of seven (7) months, the Plaintiffs could not visit their respective parents, who reside in the United

Kingdom, and who are both in poor health and aging. Additionally, Mr. Harrison could not travel to the UK to attend to his business.

**The Canadian Government knew the Vaccine Mandate Lacked Empirical Scientific and Epidemiological Support and Justification**

17. The Plaintiffs plead that the Vaccine Mandates were implemented to fulfil the Prime Minister's political pledge that was expressly made during the general election period – and formally incorporated into the campaign platform of the Liberal Party at the time of the 2021 general election.
18. Alternatively, the Plaintiffs plead that the Federal Government restricted Canadians' access and use of the federally regulated transportation sector in order to enhance its own, desired public health objective of achieving mass vaccination among Canadians while being willfully blind or without any due regard as to: (a) the efficacy and safety (or lack thereof) of this policy and the Covid-19 vaccines and (b) suitable alternatives that would not require Canadians to undergo an effectively compelled medical procedure, namely vaccination.
19. The Plaintiffs further plead that the decision, implementation, and continuation of the Vaccine Mandates was made in a manner that was clearly wrong, negligent and rooted in bad faith. In particular, the Minister of Transportation together with the Public Health Agency of Canada failed and neglected to:
  - a. Conduct any investigation, study, review, or analysis as to the risk and risk profile that Covid-19 specifically presented to the transportation sector, including having regard to (a) existing protective measures in place against Covid-19 during the relevant time period and (b) the risk of Covid-19 transmission among Canadian travelers within the transportation system (i.e. airports, airplanes etc.);

- b. Implement any system, whatsoever, by which to monitor and review the effectiveness of Covid-19 vaccination within the transportation sector on an on-going basis, or at all during the time in which the Vaccine Mandates were in placed;
- c. Evaluate the vaccine's purported protection against Covid-19 transmission;
- d. Evaluate and consider the protection against infection and transmission of Covid-19 that was afforded by alternative, Non-Pharmaceutical Interventions, including masking, negative PCR testing as well as natural immunity;
- e. Establish a cogent, intelligible, and transparent method of analyzing the unique risk of infection and transmission for different Covid-19 variants during the time period that the Vaccine Mandates were maintained and use such information to inform (i) whether the Vaccine Mandates ought to continue (ii) revise the Vaccine Mandates in a manner that reflects the risk profile for the different Covid-19 variants at the relevant time period.
- f. Establish *any* framework or criteria for decision-making with respect to extending the Vaccine Mandates for such time as it was in force and effect;
- g. Consider, study, monitor and understand the anticipated effects of the proposed Vaccine Mandates within a broader, epidemiological context to assess the risk of Covid-19 transmission and/or an outbreak of Covid-19 within the transportation sector as compared to the same risk within the community, generally.
- h. Deliberately ignored or trivialized the medical/scientific evidence as to the ineffectiveness (and therefore the utility and appropriateness) of the Covid-19 vaccines, namely waning immunity, on reducing or stopping the transmission of Covid-19.



20. The Canadian Government was negligent, willfully blind or acted in bad faith in maintaining the Vaccine Mandate despite knowing that the Covid-19 vaccine provided imperfect and time – limited protection against infection from Covid-19. Moreover, the Defendants had little to no scientific certainty as to the vaccine’s impact on the transmission of Covid-19 between infected and non-infected individuals, let alone how such transmission was impacted by different settings within the transportation system.
21. Finally, the Defendants were aware that the Covid-19 vaccines presented possible health/safety risks to Canadians but continued to publicly promote these vaccines as “safe” and “effective” notwithstanding scientific evidence to the contrary which was ignored and not communicated to Canadians. In fact, while mandating that Canadians be vaccinated against Covid-19 in order to travel, the Canadian Government, itself, signed agreements with vaccine manufacturers expressly acknowledging that the long-term risks and effects from the vaccines were, at best, unknown. Simply put, considerations that should have informed the decision-making and implementation of the Vaccine Mandates were ignored in order to fulfil the Prime Minister’s campaign pledge and, generally, because of the Defendants’ fixation that mass vaccination would help keep Canadians “safe” – despite the fact that this would breach the Plaintiffs’ *Charter* rights without justification and necessity.
22. The Plaintiffs state that the Public Health Agency of Canada never recommended or advised to the Minister of Transportation and Transport Canada to implement a vaccine mandate for travel. In fact, in the time leading to the Government’s announcement of the Vaccine Mandate, the Ministry of Transportation was actively seeking a public health justification to support their decision to implement the Vaccine Mandate.

23. The Plaintiffs further state that the Government was willfully blind, reckless, or acted in bad faith in developing the scope of the Vaccine Mandate, for those reasons listed herein. Notably, the team within the Ministry of Transportation responsible for this policy development and implementation did not include a medical doctor or an epidemiologist who might have advised as to the initial and continued scientific justification, or lack thereof, for any aspect of the Vaccine Mandates.
24. Considering the foregoing, the Canadian Government, including the Ministry of Transportation and the individuals involved with developing and implementing the Vaccine Mandates acted in a manner that was negligent and willfully blind with respect to relevant scientific and epidemiological facts and data known to them at that time. Accordingly, the decision to enact the several impugned MOs and maintain these MOs until June 20, 2022, was an act of bad faith by the Defendants.

**Section 24(1) Charter Damages are Just and Appropriate in the Circumstances**

25. The Plaintiffs state that, in light of the foregoing, the manner in which the Defendants introduced and maintained the Vaccine Mandates, amounts to a clear disregard for the *Charter* rights and freedoms of these Plaintiffs and, indeed, of all Canadians.
26. Furthermore, the *Charter* – infringing Vaccine Mandates diminished public faith in the efficacy of the *Charter's* protection of fundamental rights and freedoms.
27. In light of the foregoing, an award of constitutional damages pursuant to Section 24(1) of the *Charter* is functionally justified in the circumstances. Such an award would:
- a. compensate the Plaintiffs for their humiliation, indignity and inability to travel, at all, using federally regulated transportation in order to visit their ailing parents;

- b. vindicate their *Charter* rights and freedoms that we breached; and,
- c. deter similar, unjustifiable and politically motivated policies which prima facie breach the *Charter* rights and freedoms of Canadians.

28. The Plaintiffs proposes that this action be tried at Toronto, Ontario

November 29, 2023



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**Sam A. Presvelos**  
Counsel for the Plaintiffs

**Presvelos Law LLP**  
141 Adelaide Street West, Suite 1006  
Toronto, Ontario  
M5H 3L5

**Sam A. Presvelos**  
Tel: (416) 844-3457  
Email: [spresvelos@presveloslaw.com](mailto:spresvelos@presveloslaw.com)

[SOR/2021-150, s. 12](#)