

**ONTARIO
SUPERIOR COURT OF JUSTICE**

NOTICE OF CLASS CONSTITUTIONAL QUESTION

BETWEEN:

IAN CARRUTHERS, GREG TOOMBS, NORM RYDER, GEORGE KAVALLIS, JAS GILL,
PATRICK JARDINE, DAVID HAMILTON, ROD BARRET, BRUCE JUNKER,
BLAINE GILBERTSON, KEN GRYSIUK, RICHARD LAST, DARREN SCHLAMB,
CHRIS LAWSON, SARAH LAWSON, EUGENE LAHO, NORMAN TRAVERSY,
DAVE CURTIS, TRICIA O'CONNOR, ANDRE MARTIN, ARMAND DURELLE,
GILLES MARTIN, GORDON WAYNE SKINNER, CHEY AMUIR, AND PAUL TAYLOR.
(On behalf of Canadians & others injured at work, while working in Canada)

Lead Complainants

AND

WorkSafeBC
Also known as the Workers Compensation Board of British Columbia

Defendant

AND

Workers' Compensation Appeal Tribunal of BC – WCATBC

Defendant

AND

Alberta Workers Compensation Board – AWCB

Defendant

AND

Alberta Appeals Commission – AAC

Defendant

Saskatchewan Workers Compensation Board – SWCB

Defendant

AND

Saskatchewan Board Appeal Tribunal – SBAT

Defendant

AND

Workers Compensation Board of Manitoba – WCBM

Defendant

AND

The Appeal Commission of Manitoba – ACM

Defendant

AND

Workplace Safety & Insurance Board – WSIB
Also known as the Workers Compensation Board of Ontario

Defendant

AND

Workplace Safety & Insurance Appeals Tribunal – WSIAT
Also known as the Workers Compensation Appeals Tribunal of Ontario

Defendant

AND

Commission des normes, de l'équité, de la santé et de la sécurité du travail – CNESST

Defendant

AND

WorkSafeNB
Also known as the Workers Compensation Board of New Brunswick

Defendant

AND

New Brunswick Workers' Compensation Appeals Tribunal – NBWCAT

Defendant

AND

Workers Compensation Board of PEI – WCBPEI

Defendant

AND

Workers' Compensation Appeal Tribunal of PEI – WCATPEI

Defendant

AND

Workers' Compensation Board of Nova Scotia – WCBNS,

Defendant

AND

Workers' Compensation Appeal Tribunal of Nova Scotia – WCATNS

Defendant

AND

Workplace Health, Safety and Compensation Commission – WHSCC,
Also known as the Workers Compensation Board of Newfoundland & Labrador

Defendant

AND

Workplace Health, Safety & Compensation Review Division – WHSCRD

Defendant

AND

Yukon Workers' Compensation Health and Safety Board – YWCHSB
Also known as the Workers Compensation Board of Yukon Territory

Defendant

AND

Yukon Workers' Compensation Appeal Tribunal – YWCAT

Defendant

AND

Northwest Territories Workers' Safety and Compensation Commission – NWTWSCC
Also known as the Workers Compensation Board of Northwest & Nunavut Territories

Defendant

AND

NWT and Nunavut Workers' Compensation Appeals Tribunal – NWTNWCAT

Defendant

NOTICE OF CLASS CONSTITUTIONAL QUESTION

The Lead Complainants intend to claim a remedy on behalf of a Class of Complainants, under section 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of the governments and agencies of the Governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Yukon Territory, Northwest Territories, and Nunavut Territory, here after referred to as the Defendants.

The question is to be argued orally, either in person or by video conference, on **June 1st, 2021 at 10 am (EST)**, or shortly afterwards. If the hearing is to take place in person it will be held at **45 Main street East**, in the City of **Hamilton**, in the Province of **Ontario**.

John Sopinka Courthouse
Ontario Superior Court of Justice
45 Main Street East,
Hamilton, Ontario L8N 2B7
Tel: (905) 645-5252
E-mail: HamiltonCivilOffice@ontario.ca

1. The lead complainants, on behalf of the class of complainants, claim the following:
 - a. A declaration certifying this as a Charter Class Claim under s. 24.1 of the *Charter* and any other applicable legislation.
 - b. General damages of \$25 Billion, or as otherwise calculated on an aggravated basis for infringement of the class complainants *Charter of Rights & Freedoms*.

- c. Punitive, aggravated, and exemplary damages in the amount of \$20 billion, or as otherwise determined by this Honourable Court.
- d. Prejudgment and post judgement interest calculated in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended.
- e. The costs of this proceeding on a substantial indemnity basis, plus all applicable taxes.
- f. The cost of administering the distribution of any amounts recovered on behalf of class of complainants this Charter Claim.
- g. An interim, interlocutory, and final mandatory order directing that the Defendants perform their public office duty of ensuring workers injured at work, while working in Canadian workplaces are cared for financially & medically in a fair, just, and immediate manner; and
- h. Such further and other relief as this Honourable Court may deem just.

THE FOLLOWING ARE THE MATERIAL FACTS GIVING RISE TO THE CONSTITUTIONAL QUESTION:

The Parties to this Charter Class Claim:

The Lead Complainants

2. The lead complainants, Ian Carruthers, Greg Toombs, Norm Ryder, George Kavallis, Jas Gill, Rod Barret, Bruce Junker, Blaine Gilbertson, Ken Grysiuk, Richard Last, Darren Schlamb, Chris Lawson, Sarah Lawson, Eugene Lahoo, Norman Traversy, Dave Curtis, Andre Martin, Armand Durelle, Gordon Wayne Skinner, Chey Amuir, and Mr. Paul Taylor (the “**Lead Complainants**”) are a group of individuals who have suffered injuries because of workplace accidents.
3. The Lead Complainants, in addition to suffering the injuries from the workplace accidents, have also suffered additionally physical, emotional, and financial harms, because of the Defendants’ actions and/or inactions which infringed their *Charter of Rights & Freedoms*.
4. The Lead Complainants are all Canadian Citizens, residing in various Provinces & Territories across Canada.
5. Mr. Paul Taylor (“**Mr. Taylor**”) will be acting as the main contact and representative for the Lead Complainants. Mr. Taylor will be acting as the Lead Complainants’ self-representative representative, until such time as counsel can be approved by the Lead Complainants to represent the Class Complainants.

The Class Complainants

6. The Lead Plaintiffs bring this Constitutional Question, on behalf of a group of individuals (the “***Class Complainants***”) who have been injured while working in Canada. Who have been partially or completely denied their lawful right to workers compensation benefits and as a result, their *Charter Rights* were infringed.
7. The Class Complainants have had their lawful entitlement to workers compensation benefits, wrongfully reduced and/or denied from the Defendants. This was done using one or all the following methods or processes:
 - a. **DEEMING,**
 - b. **PRE-EXISITNG CONDITIONS,**
 - c. **INDEPENDENT MEDICAL EXAMINERS - IMEs,**
 - d. **INTENTIONAL INSTITUTIONAL DELAYS,**
 - e. **DENYING OR REDUCING BENEFITS BASED ON AGE, and**
 - f. **SECONDARY INJURIES CAUSED BY THE WORKERS
COMPENSATION SYSTEM.**
8. As a result, the Defendants have infringed the Class Complainants’ rights under the *Charter of Rights and Freedoms*. Specifically, s. 2(b) – right to a belief, s. 7 – right to life liberty & security of person, s. 12, right nor to be treat in a cruel and or unusual manner, 15 – right to equality.

The Defendants

The Defendant - WorkSafeBC

9. WorkSafeBC is an agency of the Government of British Columbia, which is empowered

by the British Columbia *Workers Compensation Act*.¹ WorkSafeBC collects premiums from employers, which is used to fund the “*accident fund*.”² The accident fund is then use for the administration of the fund, as well as to cover the cost of workplace accidents.

Specifically, WorkSafeBC pays income replacement benefits, healthcare benefits and other benefits to Canadians & others injured at work.

10. The main purpose of WorkSafeBC is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that **Canadian & foreign taxpayers do not suffer financially**, because of workplace injuries and/or diseases, which occur in the Province of British Columbia.

11. The WorkSafeBC staff have a lawful duty to all individuals, who work in the Province of British Columbia and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith. WorkSafeBc is a public office and as such all WorkSafeBC staff are public office holders.

12. From here onwards, WorkSafeBC will be referred to as (the “***Defendants***”).

¹ See s. 316 of the *Workers Compensation Act*, 2019, RSBC, CH1

² S. 239 to 241 of the *Workers Compensation Act*, 2019, RSBC, CH1

Workers' Compensation Appeal Tribunal of BC

13. Workers Compensation Appeals Tribunal of BC (“WCATBC”) is a British Columbia

provincially empowered administrative tribunal, which receives its authority from the

British Columbia *Workers Compensation Act*.³

14. The WCATBC is a public office and as such all its staff are public officer holders. The

WCATBC is a Crown Agency and as such is liable, just as if it were a person for the

intentional wrongs it committed against individuals.

15. The WCATBC staff have a lawful duty to all individuals who come before them to

render the decisions in a procedurally fair manner and conduct their actions in good faith.

16. From here onwards, WCATBC will be referred to as (the “*Defendants*”).

Alberta Workers Compensation Board – AWCB

17. The Alberta Workers Compensation Board (“AWCB”) is an agency of the Government

of Alberta, which is empowered by the *Workers Compensation Act*.⁴ AWCB collects

premiums from employers, which is used to fund the “*accident fund*.”⁵ The accident fund

is then use for the administration of the fund, as well as to cover the cost of workplace

accidents. Specifically, AWCB pays income replacement benefits, healthcare benefits

and other benefits to Canadians & others injured at work.

³ See s. 278 of the *Workers Compensation Act*, 2019, RSBC, CH1

⁴ S. 2 of the *Workers Compensation Act*, 2000, CH W-15

⁵ S. 91 of the *Workers Compensation Act*, 2000, CH W-15

18. The main purpose of AWCB is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Alberta.
19. The AWCB staff have a lawful duty to all individuals, who work in the Province of British Columbia and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith. AWCB is a public office and as such all AWCB staff are public office holders.
20. From here onwards, AWCB will be referred to as (the “*Defendants*”).

The Appeal Commission of Alberta

21. The Workers Compensation Appeals Tribunal of Alberta (“**WCATAB**”) is an Alberta provincially empowered administrative tribunal, which receives its authority from the *Alberta Workers Compensation*.⁶
22. The WCATAB is a public office and as such all its staff are public officer holders. The WCATAB is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs it committed against individuals. The WCATAB staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.

⁶ S. 10 of the *Workers Compensation Act*, 2000, CH W-15

23. From here onwards, WCATAB will be referred to as (the “*Defendants*”).

The Saskatchewan Workers Compensation Board

24. The Saskatchewan Workers Compensation Board (“SWCB”) is an agency of the Government of Saskatchewan, which is empowered by the *Saskatchewan Workers' Compensation Act*,⁷. The SWCB collects premiums from employers, which is used to fund the “*injury fund*”.⁸ The injury fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the SWCB pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

25. The main purpose of the SWCB is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Saskatchewan.

26. The SWCB’s staff have a lawful duty to all individuals, who work in Saskatchewan and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith⁹. The SWCB is a public office and all the SWCB’s staff are public office holders.

27. From here onwards, SWCB will be referred to as (the “*Defendants*”).

⁷ 2013, SS 2013, c W-17.11

⁸ S. 114 to 115 of The *Workers Compensation Act*, 2013, SS 2013, c W-17.11

⁹ S. 24(2) of The *Workers Compensation Act*, 2013, Chapter W-17.11

The Saskatchewan Board Appeal Tribunal

28. The Saskatchewan Board Appeal Tribunal (“**SBAT**”) is a Saskatchewan provincially empowered administrative tribunal, which receives its authority from the Saskatchewan *Workers Compensation Act*.¹⁰ The SBAT hears appeals from final decisions from the SWCB. The main purpose of the SBAT is to be impartial and fair to ensure that the individual’s seeking benefits are giving the benefit of the doubt¹¹ based on the evidence before them.

29. The SBAT is a public office and as such all its staff are public office holders. The SBAT as a Crown Agency is liable, just as if it were a person, for the wrongs it committed against individuals.¹² The SBAT’s staff have a lawful duty to all individuals, who come before them, to render their decisions in a procedurally fair manner and conduct their actions in good faith¹³.

30. From here onwards, SBAT will be referred to as (the “***Defendants***”).

The Workers Compensation Board of Manitoba

31. The Workers Compensation Board of Manitoba (“**WCBM**”) is an agency of the Government of Manitoba, which is empowered by the Manitoba *Workers Compensation Act*¹⁴. The WCBM collects premiums from employers, which is used to fund the

¹⁰ C.C.S.M. c. W200.

¹¹ See s. 23(3) *The Workers Compensation Act*, 2013, Chapter W-17.11

¹² See s. 23(3) *The Workers Compensation Act*, 2013, Chapter W-17.11

¹³ See s. 23(3) *The Workers Compensation Act*, 2013, Chapter W-17.11

¹⁴ C.C.S.M. c. W200.

“*accident fund*”.¹⁵ The accident fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the WCBM pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

32. The main purpose of the WCBM is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Manitoba.

33. The WCBM’s staff have a lawful duty to all individuals, who work in Manitoba and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith¹⁶. The WCBM is a public office and all the WCBM’s staff are public office holders.

34. From here onwards, WCBM will be referred to as (the “*Defendants*”).

The Appeal Commission of Manitoba

35. The Appeal Commission of Manitoba (“**ACM**”) is a Manitoba provincially empowered administrative tribunal, which receives its authority from the Manitoba *Workers Compensation Act*.¹⁷ The ACM hears appeals from final decisions of the WCBM.

¹⁵ See s. 73 to 109 of *Workers Compensation Act*, C.C.S.M. c. W200

¹⁶ S. 61 of *The Workers Compensation Act*, C.C.S.M. c. W200

¹⁷ C.C.S.M. c. W200.

36. The ACM is a public office and as such all its staff are public office holders. The ACM as a Crown Agency is liable and as such is liable if it were a person, for the intentional wrongs it committed against individuals.¹⁸ The ACM's staff have a lawful duty to all individuals, who come before them, to render their decisions in a procedurally fair manner and conduct their actions in good faith¹⁹.

37. From here onwards, ACM will be referred to as (the “*Defendants*”).

The Workplace Safety & Insurance Board

38. The Workplace Safety & Insurance Board (“**WSIB**”) is a public office agency of the Government of Ontario, which is empowered by the *Workplace Safety & Insurance Act*.²⁰ The staff of the WSIB are all public office holders. The WSIB collects premiums from Ontario employers. The premiums are used to fund the “*insurance fund*”. The insurance fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the WSIB pays Canadians & others, injured at work, income replacement benefits, medical benefits, retraining, and for other services. Additionally, the fund is also used to cover the operating costs of the WSIB, the WSIAT, the Office of the Worker Advisor, the Office of the Employer Advisor, and the Fair Practices Commission.

39. The main purpose of the WSIB is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families,

¹⁸ S. 61 of *The Workers Compensation Act*, C.C.S.M. c. W200

¹⁹ S. 61 of *The Workers Compensation Act*, C.C.S.M. c. W200

²⁰ 1997, S.O. 1997, c. 16, Sched. A

and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases that occur in Ontario.

40. The WSIB's staff have a lawful duty to all individuals, who work in Ontario and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith²¹. The WSIB is liable, just as if it were a person, for wrongs committed against individuals, even if they were done in good faith.²² The WSIB is a public office and all the WSIB staff are public office holders.

41. From here onwards, WSIB will be referred to as (the "*Defendants*").

The Workplace Safety & Insurance Appeals Tribunal

42. The Workplace Safety & Insurance Appeals Tribunal ("**WSIAT**") is a Ontario provincially empowered administrative tribunal. The WSIAT receives its authority from the *Workplace Safety & Insurance Act*.²³ The WSIAT hears appeals from final decisions of the WSIB.

43. The WSIAT is a public office and as such all its staff are public office holders. The WSIAT as a Crown Agency and as such is liable just as if it were a person, for the wrongs committed against individuals.²⁴ The WSIAT's staff have a lawful duty to all

²¹ S. 179(1) of the *Workplace Safety & Insurance Act* 1997, S.O. 1997, c. 16, Sched. A

²² S. 179(2) of the *Workplace Safety & Insurance Act* 1997, S.O. 1997, c. 16, Sched. A

²³ *Workplace Safety & Insurance Act* 1997, S.O. 1997, c. 16, Sched. A

²⁴ S. 179(3) of the *Workplace Safety & Insurance Act* 1997, S.O. 1997, c. 16, Sched. A

individuals, who come before them, to render their decisions in a procedurally fair manner and conduct their actions in good faith²⁵.

44. From here onwards, WSIAT will be referred to as (the “*Defendants*”).

The Commission des normes, de l'équité, de la santé et de la sécurité du travail

45. The Commission des normes, de l'équité, de la santé et de la sécurité du travail

(“CNESST”) is a public office agency of the Government of Quebec, which is empowered by the *Workers compensation law of Quebec*. The staff of the CNESST are all public office holders.

46. The CNESST collects premiums from Quebec employers. The premiums are used to fund the “*accident fund*”. The insurance fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the CNESST pays Canadians & others, injured at work, income replacement benefits, medical benefits, retraining, and for other services. Additionally, the fund is also used to cover the operating costs of the CNESST, and other organizations involved in workers compensation.

47. The main purpose of the CNESST is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that **Canadian & foreign taxpayers do not suffer financially**, because of workplace injuries and/or diseases that occur in Quebec.

²⁵ S. 179(1) of the *Workplace Safety & Insurance Act* 1997, S.O. 1997, c. 16, Sched. A

48. The CNESST's staff have a lawful duty to all individuals, who work in Quebec and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith. The CNESST is liable, just as if it were a person, for wrongs committed against individuals, even if they were done in good faith. The CNESST is a public office and all the CNESST staff are public office holders.

49. From here onwards, CNESST will be referred to as (the “*Defendants*”).

WorkSafeNB

50. WorkSafeNB (“**WorkSafeNB**”) is an agency of the Government of New Brunswick, which is empowered by the *Workplace Health, Safety and Compensation Commission and Workers’ Compensation Appeals Tribunal Act*.²⁶ The WorkSafeNB collects premiums from employers, which is used to fund the “*Accident Fund*”²⁷ and the “*Disability Fund*”²⁸ The accident & disability funds are then used for administration of the funds, as well as to cover the cost of workplace accidents. Specifically, WorkSafeNB pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

51. The main purpose of WorkSafeNB is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families,

²⁶ S.N.B. 1994, c. W-14

²⁷ S. 1 of the *Workplace Health, Safety and Compensation Commission and Workers’ Compensation Appeals Tribunal Act* S.N.B. 1994, c. W-14

²⁸ S. 1 of the *Workplace Health, Safety and Compensation Commission and Workers’ Compensation Appeals Tribunal Act* S.N.B. 1994, c. W-14

and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Manitoba.

52. WorkSafeNB's staff have a lawful duty to all individuals, who work in New Brunswick and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith.²⁹ WorkSafeNB is a public office and as such all the WorkSafeNB's staff are public office holders.

53. From here onwards, WorkSafeNB will be referred to as (the "*Defendants*").

New Brunswick Workers' Compensation Appeals Tribunal

54. The New Brunswick Workers Compensation Appeals Tribunal ("NBWCAT") is New Brunswick provincially empowered administrative tribunal, which receives its authority from the *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act*.³⁰

55. The NBWCAT is a public office and as such all its staff are public office holders. The NBWCAT is a Crown Agency and as such is liable if it were a person for the intentional wrongs committed against individuals. NBWCAT staff have a lawful duty to all

²⁹ S. 15(3) of the *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act* S.N.B. 1994, c. W-14

³⁰ S. 20 of the *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act*

individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.³¹

56. From here onwards, NBWCAT will be referred to as (the “*Defendants*”).

Workers’ Compensation Board of PEI

57. The Workers Compensation Board of PEI (“**WCBPEI**”) is an agency of the Government of Prince Edward Island (“**PEI**”), which is empowered by the Prince Edward Island *Workers Compensation Act*.³² The WCBPEI collects premiums from employers, which it is used to fund the “*Accident Fund*.”³³ The accident fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the WCBPEI pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

58. The main purpose of the WCBPEI is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of PEI.

59. The WCBPEI’s staff have a lawful duty to all individuals, who work in PEI and suffer a personal injury because of a workplace accident, to render their decisions and conduct

³¹ S. 15(3) of the *Workplace Health, Safety and Compensation Commission and Workers’ Compensation Appeals Tribunal Act* S.N.B. 1994, c. W-14

³² S. 19 of the *Workers Compensation Act* RSPEI 1998 c W-7.1

³³ S. 60 of the *Workers Compensation Act* RSPEI 1998 c W-7.1

their actions in good faith³⁴. The WCBPEI is a public office and as such all the WCBPEI's staff are public office holders.

60. From here onwards, WCBPEI will be referred to as (the “*Defendants*”).

Workers Compensation Appeal Tribunal of PEI

61. The Workers Compensation Appeals Tribunal of Prince Edward Island (“WCATPEI”) is a PEI provincially empowered administrative tribunal, which receive its authority from the Prince Edward Island *Workers Compensation Act*.³⁵

62. The WCATPEI is a public office and as such all its staff are public officer holders. The WCATPEI is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs committed against individuals.

63. The WCATPEI staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.

64. From here onwards, WCATPEI will be referred to as (the “*Defendants*”).

Workers' Compensation Board of Nova Scotia

65. The Workers Compensation Board of Nova Scotia (“WCBNS”) is an agency of the Government of Nova Scotia, which is empowered by the Workers' Compensation Act.³⁶

³⁴ S. 57 of the *Workers Compensation Act* RSPEI 1998 c W-7.1

³⁵ S. 56 of the *Workers Compensation Act* RSPEI 1998 c W-7.1

³⁶ S. 151 of the *Workers' Compensation Act*, SNS 1994-95, c 10

The WCBNS collects premiums from employers, which is used to fund the “*Accident Fund*.” The accident fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the WCBNS pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

66. The main purpose of the WCBNS is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Nova Scotia.

67. The WCBNS’s staff have a lawful duty to all individuals, who work in Nova Scotia and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith.³⁷ The WCBNS is a public office and as such all the WCBNS’s staff are public office holders.

68. From here onwards, WCBNS will be referred to as (the “*Defendants*”).

Workers’ Compensation Appeals Tribunal of Nova Scotia

69. The Workers Compensation Appeals Tribunal of Nova Scotia (“**WCATNS**”) is a Nova Scotia provincially empowered administrative tribunal, which receives its authority from the Nova Scotia *Workers Compensation Act*.³⁸

³⁷ S. 167 of the *Workers’ Compensation Act*, SNS 1994-95, c 10

³⁸ S. 238 of the *Workers’ Compensation Act*, SNS 1994-95, c 10

70. The WCATNS is a public office and as such all its staff are public officer holders. The WCATNS is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs committed against individuals.

71. The WCATNS staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.

72. From here onwards, WCATNS will be referred to as (the “*Defendants*”).

The Workplace Health, Safety and Compensation Commission

73. The Workplace Health, Safety and Compensation Commission (“**WHSCC**”) is an agency of the Province of Newfoundland & Labrador, which is empowered by the *Workplace Health, Safety and Compensation Act*.³⁹ The WHSCC collects premiums from employers, which is used to fund the “*Injury Fund*.”⁴⁰ The injury fund is then used for administration of the fund, as well as to cover the cost of workplace accidents. Specifically, the WHSCC pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

74. The main purpose of the WHSCC is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families,

³⁹ S. 3 of the *Workplace Health, Safety and Compensation Act*, RSNL 1990, c W-11

⁴⁰ S. 93 of the *Workplace Health, Safety and Compensation Act*, RSNL 1990, c W-11

and that *Canadian & foreign taxpayers do not suffer financially*, because of workplace injuries and/or diseases, which occur in the Province of Newfoundland & Labrador.

75. The WHSCC's staff have a lawful duty to all individuals, who work in Newfoundland & Labrador and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith⁴¹. The WHSCC is a public office and as such all the WHSCC's staff are public office holders.

76. From here onwards, WHSCC will be referred to as (the "*Defendants*").

The Workplace Health, Safety & Compensation Review Division

77. The Workplace Health, Safety & Compensation Review Division ("**WHSCRD**") is a Newfoundland & Labrador provincially empowered administrative tribunal, which receives its authority from the Newfoundland & Labrador *Workplace Health, Safety and Compensation Act*⁴².

78. The WHSCRD is a public office and as such all its staff are public officer holders. The WHSCRD is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs committed against individuals.

79. The WHSCRD staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.

⁴¹ S. 14 of the *Workplace Health, Safety and Compensation Act*, RSNL 1990, c W-11

⁴² S. 22 of the *Workplace Health, Safety and Compensation Act*, RSNL 1990, c W-11

80. From here onwards, WHSCRD will be referred to as (the “*Defendants*”).

The Yukon Workers’ Compensation Health and Safety Board

81. The Yukon Workers’ Compensation Health and Safety Board (“YWCHSB”) is an

agency of the Government of Yukon, which is empowered by the Yukon *Workers’*

Compensation Act,⁴³. The YWCHSB collects premiums from employers, which is used to

fund the “*compensation fund*”.⁴⁴ The injury fund is then used for administration of the

fund, as well as to cover the cost of workplace accidents. Specifically, the YWCHSB

pays Canadians & others injured at work, income replacement benefits, medical benefits,

and for other services.

82. The main purpose of the YWCHSB is to promote fiscal responsibility. That being

because of workplace injuries and/or diseases that workers who are injured at work, their

families, and that *Canadian & foreign taxpayers do not suffer financially*, because of

workplace injuries and/or diseases, which occur in the Territory of the Yukon.

83. The YWCHSB’s staff have a lawful duty to all individuals, who work in Yukon and

suffer a personal injury because of a workplace accident, to render their decisions and

conduct their actions in good faith⁴⁵. The YWCHSB is a public office and as such all the

YWCHSB’s staff are public office holders.

84. From here onwards, YWCHSB will be referred to as (the “*Defendants*”).

⁴³ S. 115 of the *Workers Compensation Act*, SY 2008, c 12

⁴⁴ S. 91 to 97 of the *Workers Compensation Act*, SY 2008, c 12

⁴⁵ S. 61, 99, 105 of the *Workers Compensation Act*, SY 2008, c 12

The Yukon Workers' Compensation Appeal Tribunal

85. The Yukon Workers Compensation Appeals Tribunal (“YWCAT”) is a Yukon territorially empowered administrative tribunal, which receives its authority from the Yukon *Workers Compensation Act*.⁴⁶

86. The YWCAT is a public office and as such all its staff are public officer holders. The YWCAT is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs committed against individuals.

87. The YWCAT staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.⁴⁷

88. From here onwards, YWCAT will be referred to as (the “*Defendants*”).

The Workers' Safety & Compensation Commission (NWT & Nunavut)

89. The Workers' Safety & Compensation Commission (“WSCC”) is an agency of the Government of Saskatchewan, which is empowered by the Northwest Territories *Workers' Compensation Act* and the *Nunavut Workers Compensation Act*,⁴⁸. The WSCC collects premiums from employers, which is used to fund the “*Workers Protection Fund*”.⁴⁹ (s. 67) The injury fund is then used for administration of the fund, as well as to

⁴⁶ S. 62 of the *Workers Compensation Act*, SY 2008, c 12

⁴⁷ S. 65 of the *Workers Compensation Act*, SY 2008, c 12

⁴⁸ S. 82 of the *Workers' Compensation Act*, SNWT 2007, c 21, and also s. 82 of the *Workers' Compensation Act* SNU 2007, c.15

⁴⁹ S. 67 of the *Workers Compensation Act*, SNWT 2007, c 21 and also s. 67 of the *Workers' Compensation Act* SNU 2007, c.15

cover the cost of workplace accidents. Specifically, the WSCC pays Canadians & others injured at work, income replacement benefits, medical benefits, and for other services.

90. The main purpose of the WSCC is to promote fiscal responsibility. That being because of workplace injuries and/or diseases that workers who are injured at work, their families, and that **Canadian & foreign taxpayers do not suffer financially**, because of workplace injuries and/or diseases, which occur in the Northwest Territories & Nunavut Territories.

91. The WSCC's staff have a lawful duty to all individuals, who work in in the Northwest Territories & Nunavut Territories and suffer a personal injury because of a workplace accident, to render their decisions and conduct their actions in good faith⁵⁰. The WSCC is a public office and as such all the WSCC's staff are public office holders.

92. From here onwards, WSCC will be referred to as (the "***Defendants***").

The Northwest Territories and Nunavut Workers' Compensation Appeals Tribunal

93. The Northwest Territories and Nunavut Workers' Compensation Appeals Tribunal

("NTNWCAT") is a Northwest Territories and Nunavut Territorial empowered administrative tribunal, which receives its authority from the Northwest Territories

Workers Compensation Act and the Nunavut Territories *Workers Compensation Act*.⁵¹

⁵⁰ S. 102 & 103 of the *Workers Compensation Act*, SNWT 2007, c 21
and also s. 102 & 103 of the *Workers' Compensation Act* SNu 2007,c.15

⁵¹ S. 117 of the *Workers Compensation Act*, SNWT 2007, c 21
and also s. 117 of the *Workers' Compensation Act* SNu 2007,c.15

94. The NTNWCAT is a public office and as such all its staff are public officer holders. The NTNWCAT is a Crown Agency and as such is liable just as if it were a person for the intentional wrongs committed against individuals.

95. The NTNWCAT staff have a lawful duty to all individuals who come before them to render the decisions in a procedurally fair manner and conduct their actions in good faith.⁵²

96. From here onwards, NTNWCAT will be referred to as (the “*Defendants*”).

The Charter Class Claim

The unlawful use of DEEMING to reduce or suspend legitimate claims for workers compensation benefits:

97. The process of denying legitimate claims for workers compensation benefits for no legitimate reason, has been commonly referred to as “*deeming*” or “*determining*”.

98. Deeming is where an individual’s legitimate claim to workers compensation benefits have been reduced or suspended based solely on fictitious jobs, which the Defendants allege the individuals can do, or that these jobs are available for the individuals to do.

99. The Lead Complainants and the Class Complainants were told, by the Defendants, that they can work, when the Lead Complainants the Class Complainants could not, due to medical suitability and safety concerns.

⁵² S. 102 & 103 of the *Workers Compensation Act*, SNWT 2007, c 21
and also s. 102 & 103 of the *Workers' Compensation Act* SNU 2007, c.15

100. The Defendants provided no reason or proof for their allegations that the Lead Complainants and the Class Complainants could work. Moreover, these allegations were contrary to verified medical evidence that the Lead Complainants could not work.
101. As a result, the Lead Complainants and the Class Complainants lawful entitlement to workers compensation benefits were unlawfully reduced or suspended by the Defendants, without verified cause or verified reason.
102. Additionally, the Lead Complainants were advised by the Defendants, that there was safe and suitable work for the Lead Plaintiffs and the Class Complainants to perform, when the Defendants knew there was not or ought to have known there was not.
103. As a result, the Defendants would reduce or suspend the legitimate entitlement to workers compensation benefits, using DEEMING. This caused the Lead Complaints and the Class Complainants emotional harm, physical harm, and financial harm.
104. The Defendants' knowingly or ought to have known their actions, using DEEMING, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their disabilities and belief in their injuries.

105. The Defendants' knowingly or ought to have known their actions, using DEEMING, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

106. The Defendants' knowingly or ought to have known their actions, using DEEMING, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 12 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to not be treated with cruel and unusual treatment and/or punishment.

107. The Defendants' knowingly or ought to have known their actions, using DEEMING, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to understand the proceedings and provide the assistance of an interpreter.

108. The Defendants' knowingly or ought to have known their actions, using DEEMING, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of Equality and accommodate the Lead Plaintiffs' right to equality.

109. As a result of the knowing intentional infringement on the part of the Defendants, for using DEEMING to unlawfully deny entitlement to workers compensation benefits, the Lead Complaints are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

The unlawful use of PAID DOCTORS - IMEs to reduce or suspend legitimate claims for workers compensation benefits:

110. The lawful purpose of paid medical doctors or more commonly known as Independent Medical Examiners ("IMEs") is for non-medical staff to have explained to them complex medical terminologies and procedures.

111. However, over time the Defendants have abused the purpose of the IMEs, to instead provide pre-determined and overly favorable results for the Defendants. These overly favourable results allowed the Defendants to reduce or suspend the Lead Plaintiffs' and the Class Complainants legitimate entitlement to workers compensation benefits.

112. This may have been done through in-person examinations conducted on the Lead Plaintiffs and the Class Complainants by the IMEs, which had pre-determined and favourable outcomes for the Defendants.

113. Additionally, the Defendants have knowingly, intentionally, and without cause ignored the Lead Complainants' and the Class Complainants doctors' orders and reports. Instead, the Defendants use their paid IMEs to obtain a pre-determined medical outcome of what the Defendants wanted and directly profited from.

114. The most common method used by the Defendants is when they make use of their paid IMEs to have the IMEs reverse a Lead Complainants' and the Class Complainants doctors' orders, diagnosis and/or prognosis. This is done without the IMEs ever meeting or even examining the Lead Complainants or the Class Complainants. Instead, the IMEs base their decision on a cursory review of medical information on file. In addition to the medical information, a very biased narrative is provided by the Defendants to their IMEs. This is to ensure a predetermined outcome in favour of the Defendants. This process of making use of IMEs, with no in-person examinations of individuals has been commonly referred to as "*Paper Doctors.*"

115. As a result, the Defendants would reduce or suspend the legitimate entitlement to workers compensation benefits, using IMEs. This caused the Lead Complaints and the Class Complainants emotional harm, physical harm, and financial harm.

116. The Defendants' knowingly or ought to have known their actions, using IMEs to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their disabilities and belief in their injuries.

117. The Defendants' knowingly or ought to have known their actions, using IMEs, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

118. The Defendants' knowingly or ought to have known their actions, using IMEs, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' charter rights under s. 12 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' right to not be treated with cruel and unusual treatment and/or punishment.

119. The Defendants' knowingly or ought to have known their actions, using IMEs, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead

Plaintiffs’ and the Class Complainants right to understand the proceedings and be provided the assistance of an interpreter so the Lead Plaintiff’s and the Class Complainants would understand any proceeding involving the Defendants and their IMEs.

120. The Defendants’ knowingly or ought to have known their actions, using IMEs, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs’ and the Class Complainants charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of Equality and accommodate the Lead Plaintiffs’ and the Class Complainants right to equality.

121. As a result of the knowing and intentional infringement, on the part of the Defendants, for using IMEs, to deny the lawful entitlement to workers compensation benefits, the Lead Complaints are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

The unlawful use of PRE-EXISTING CONDITIONS to reduce or suspend legitimate claims for workers compensation benefits:

122. The Defendants have made unlawful use of alleged “***PRE-EXISTING CONDITIONS***” to reduce or suspend a legitimate entitlement to workers compensation benefits.

123. The Defendants would intentionally, knowingly, and deliberately, or ought to have known that they would claim a pre-existing age-related or other unrelated to work condition existed, when none did. The defendants would falsely claim that this alleged pre-existing condition is the reason the individual is not fully recovered. The purpose of which was so the Defendants could and did reduce or suspend the legitimate entitlement to workers compensation benefits.

124. The Defendants would intentionally, knowingly, and deliberately or ought to have known that they mislabel a work-related injury as a pre-existing age-related or other non-work-related condition. This was so the Defendants could and did reduce or suspend the legitimate entitlement to workers compensation benefits.

125. As a result, of the Defendants reducing or suspending a legitimate entitlement to workers compensation benefits, using PRE-EXISTING CONDITIONS. This caused the Lead Complaints and the Class Complainants emotional harm, physical harm, and financial harm.

126. The Defendants' knowingly or ought to have known their actions, using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their disabilities and belief in their injuries.

127. The Defendants' knowingly or ought to have known their actions, using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits. In doing so the Defendants infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

128. The Defendants' knowingly or ought to have known their actions, using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 12 of the *Charter of Rights and Freedoms*, on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to not be treated with cruel and unusual treatment and/or punishment.

129. The Defendants' knowingly or ought to have known their actions, using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to understand the proceedings and for the Defendants to provide the assistance of an interpreter to the Lead Plaintiffs' and the Class Complainants.

130. The Defendants' knowingly or ought to have known their actions, using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of equality and failure to accommodate the Lead Plaintiffs' and the Class Complainants right to equality.

131. As a result of the knowing intentional infringement on the part of the Defendants, for using PRE-EXISTING CONDITIONS, to unlawfully deny the lawful entitlement to workers compensation benefits, the Lead Complaints are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

The unlawful use of intentional systemic DELAYS to reduce or suspend legitimate claims for workers compensation benefits:

132. The institutional delays within the workers compensation systems in Canada, are intentional and from the deliberate intentional, and knowing, or ought to have known actions and inactions on the part of the Defendants, which have caused **INSTITUTIONAL DELAYS** through many different administrative tactics.

133. Some include the intentional and deliberate cutting of various budgets to prevent proper representation and interpretation under s. 14 of the Charter. The cutting of staff, to prevent the timely hearing of matters at the initial level and throughout the workers compensation appeal process.

134. The workers compensation systems across Canada are completely privately funded. The systems are in no way funded by taxpayers. Therefore, if there is a financial need to hire more staff to meet the demand of processing claims, the Defendants have a lawful duty to increase budgets, make recommendations to increase budgets, increase staffing, to if needed increase employer premiums to cover any costs, and do anything else to ensure speedy determination and payment of workers compensation benefits. To do anything else, the Defendants would be completely fiscally irresponsible.

135. All the provincial and territorial compensation systems have amounted massive surplus funds more than sixty billion dollars. Therefore, there should be no legitimate reason for any lengthy delay within any of the workers compensation systems within Canada.

136. It is overly common and contrary to the perception of Canada's courts that Canada's workers compensation system makes speedy determination and payment of workers compensation benefits. This in fact does not happen.

137. In many cases, individuals across Canada, are forced to wait years and even decades for determination and payment of their lawful entitlement to workers compensation benefits. While they are waiting, they do not receive any workers compensation benefits.

138. These delays cost not only the individuals who have a lawful entitlement to workers compensation benefits, but most importantly the intentional institutional delays cost taxpayers across Canada and elsewhere. This is because workers compensation is **NOT** taxpayer funded. However, when injured workers, are forced to use taxpayer funded social programs to survive, then the intentional institutional delays, within Canada's workers compensations system end up costing taxpayers in Canada and elsewhere untold amounts.
139. For example, in Ontario, data obtained from the Ministry responsible for social assistance, confirmed that **on average more than 4,000 injured workers a month are forced onto taxpayer funded social assistance programs**. This ends up costing Ontario taxpayers more than \$30 million per year. This does not include the many other taxpayer funded social programs that injured workers are forced to use because of the intentional institutional delays within Canada's workers compensations systems.
140. The INSTITUTIONAL DELAYS have caused severe hardship to individuals who have a lawful entitlement to workers compensation. In most cases, the institutional delays have also caused taxpayers financial hardship. This is because the individuals do not receive any workers compensation benefits while they are awaiting the determination and payment of their lawfully entitled workers compensation benefits. In many cases these individuals are forced onto taxpayer funded income replacement programs. This has caused the Lead Complaints and the Class Complainants emotional harm, physical harm, and financial harm. It has also caused financial harm to taxpayers.

141. The Defendants' knowingly or ought to have known their actions, and/or inactions to deal with the lengthy INSTITUTIONAL DELAYS, has unlawfully denied the lawful speedy entitlement to determination and payment of workers compensation benefits. Therefore, it has infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their right to speedy determination of workers compensation benefits.

142. The Defendants' knowingly or ought to have known their actions, and/or inactions to deal with the lengthy INSTITUTIONAL DELAYS, has unlawfully denied the lawful speedy entitlement to determination and payment of workers compensation benefits. Therefore, the Defendants infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

143. The Defendants' knowingly or ought to have known their actions, actions, and/or inactions to deal with the lengthy INSTITUTIONAL DELAYS, has unlawfully denied the lawful speedy entitlement to determination and payment of workers compensation benefits. Therefore, the Defendants infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 12 of the *Charter of Rights and Freedoms*, on the

grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to not be treated with cruel and unusual treatment and/or punishment, by causing or knowingly allowing to cause lengthy institutional delays, which prevented the speedy determination and payment of workers compensation benefits.

144. The Defendants' knowingly or ought to have known their actions, and/or inactions to deal with the lengthy INSTITUTIONAL DELAYS, has unlawfully denied the lawful speedy entitlement to determination and payment of workers compensation benefits. Therefore, the Defendants infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to understand the proceedings and for the Defendants to provide the assistance of an interpreter to the Lead Plaintiffs' and the Class Complainants for them to understand the intentional institutional delays, on the part of the Defendants.

145. The Defendants' knowingly or ought to have known their actions, and/or inactions to deal with the lengthy INSTITUTIONAL DELAYS, has unlawfully denied the lawful speedy entitlement to determination and payment of workers compensation benefits. Therefore, the Defendants infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of Equality and failure to accommodate the Lead Plaintiffs' and the Class Complainants right to equality. This was done by the Defendants wrongfully and unlawfully stigmatizing injured workers and workers compensation benefits as a tax-pay

funded social assistance. When they are not. As a result, the Defendants imposed draconian and inhumane delays within their appeals systems.

146. As a result of the knowing and intentional infringement, on the part of the Defendants, for failing to properly manage the intentional INSTITUTIONAL DELAYS, to unlawfully delay the lawful entitlement to speedy determination and payment of workers compensation benefits, the Lead Complaints are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

The unlawful use of AGE to reduce or suspend legitimate claims for workers compensation benefits:

147. The Defendants have suspended and/or reduced the lawful entitlement to workers compensation benefits, solely based on the age of the injured worker.

148. Previously, individuals would receive entitlement to full workers compensation benefits, regardless of the individuals' age. However, over the last few decades Defendants have unlawfully reduced or suspended the lawful entitlement to workers compensation benefits simply because an individual has reached the age of 65 or is over the age of 65.

149. The Defendants have replaced an individual's right to receive full workers compensation benefits after the age of 65 with an alleged retirement benefit. However, this retirement benefit will not provide an individual's entitlement to full workers

compensation benefits passed the age of 65. Simply base do not he age of the individual when they were injured.

150. For example, a worker is injured at the age of 60, they would receive entitlement to full workers compensation benefits until the age of 65. After which the individual's workers compensation benefits would be severely reduced, compared to an individual who was injured at the age of 50 or 40.

151. In another example, if an individual worked beyond the age of 65 and suffered a work injury, the individual would receive no workers compensation benefits. This is solely because of their age.

152. As a result, the Defendants and/or their respective governments through legislative changes, would reduce or suspend legitimate entitlement to workers compensation benefits, using AGE. This caused the Lead Complaints and the Class Complainants emotional harm, physical harm, and financial harm.

153. The Defendants' and/or their respective governments knew or ought to have known their actions, using AGE, to unlawfully reduce or suspend the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their disabilities and belief in their injuries.

154. The Defendants' and/or their respective governments knowingly or ought to have known their actions, using AGE, to unlawfully reduce or suspended the lawful entitlement to workers compensation benefits. In doing so the Defendants and/or their respective governments infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

155. The Defendants' and/or their respective governments knowingly or ought to have known their actions, using AGE, to unlawfully deny or reduce the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 12 of the *Charter of Rights and Freedoms*, on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to not be treated with cruel and unusual treatment and/or punishment.

156. The Defendants' and/or their respective governments knowingly or ought to have known their actions, using AGE, to unlawfully reduce or suspend the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to understand the proceedings and for the Defendants to provide the assistance of an interpreter to the Lead Plaintiffs' and the Class Complainants.

157. The Defendants' and/or their respective governments knowingly or ought to have known their actions, using AGE, to unlawfully reduce or suspend the lawful entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of Equality and failure to accommodate the Lead Plaintiffs' and the Class Complainants right to equality.

158. As a result of the knowing and intentional infringement, on the part of the Defendants, and/or their respective governments for using AGE, to unlawfully reduce or suspend the lawful entitlement to workers compensation benefits, the Lead Complaints are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

The intentional inaction of the Defendants and their respective governments to provide proper care for injured workers who suffer psychological harm because of their injury and dealing with the overly complex workers compensation systems:

159. Often individuals who are forced to go through the arduous process of appealing and re-appealing the Defendants decisions has taken a psychological toll on the individuals. These tolls on the individuals are secondary injuries.

160. The Defendants and their respective governments rarely acknowledge the harm done to individuals and their families and rarely compensate them for these secondary injuries.

161. Workers' compensation benefits pay on average between 80% and 90% of an individual's Net income. Additionally, according to the belief of the courts the workers compensation system is to provide speedy determination and payment of workers compensation benefits.
162. Most individuals are told they should have the equivalent of three months net income in savings. The purpose of which is to cover any unforeseen incidents in life, such as a work injury and the having to endure an appeal process. This is if the lawful entitlement to workers compensation benefits is wrongly denied.
163. An internal appeal within the workers compensation system can take anywhere from a year to several years or even several decades. While the individuals are awaiting the outcome of these appeal decisions, they do not receive any entitlement to the disputed workers compensation benefits.
164. Individuals are still expected to pay their rent on time, buy groceries, and other requirements of life. If there is an issue with the individuals to be able to pay for these required items, often they are forced to go on taxpayer funded social assistance income replacement programs. This taxpayer funded social income replacement programs are often substantially less than what the individual was receiving while they were working, or if they were receiving workers compensation benefits.

165. As a result of individuals having major shortfalls income to meet their most basics needs, the individuals suffer clinically diagnosed severe stress and anxiety. This much greater than what the average person would experience on a day-to-day basis.

166. As a result, the Defendants through their actions and/or inactions caused harm to the Lead Complaints and the Class Complainants this harm was emotional harm, physical harm, and financial harm.

167. The Defendants' knowingly or ought to have known their actions and/or inactions caused SECONDARY INJURIES, which the Defendants unlawfully denied entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 2(b) of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs and the Class Complainants right to their beliefs. Belief in their psychological disabilities and belief in their psychological injuries.

168. The Defendants' knowingly or ought to have known their actions and/or inactions caused SECONDARY INJURIES, which the Defendants unlawfully denied entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 7 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to their life, liberty, and security of person.

169. The Defendants' knowingly or ought to have known their actions and/or inactions caused SECONDARY INJURIES, which the Defendants unlawfully denied entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 12 of the *Charter of Rights and Freedoms*, on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to not be treated with cruel and unusual treatment and/or punishment.

170. The Defendants' knowingly or ought to have known their actions, and/or inactions caused SECONDARY INJURIES, which the Defendants unlawfully denied entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 14 of the *Charter of Rights and Freedoms* on the grounds of failing to recognize and accommodate the Lead Plaintiffs' and the Class Complainants right to understand the proceedings and for the Defendants to provide the assistance of an interpreter to the Lead Plaintiffs' and the Class Complainants.

171. The Defendants' knowingly or ought to have known their actions, and/or inactions caused SECONDARY INJURIES, which the Defendants unlawfully denied entitlement to workers compensation benefits, infringed the Lead Plaintiffs' and the Class Complainants charter rights under s. 15 of the *Charter of Rights and Freedoms* on the grounds of Equality and failure to accommodate the Lead Plaintiffs' and the Class Complainants right to equality.

172. As a result of the knowing and intentional infringement, on the part of the Defendants, their actions, and/or inactions caused SECONDARY INJURIES, and unlawfully deny workers compensation benefits for the injuries, the Lead Complainants are requesting, on behalf of the Class Complainants, be awarded damages, as indicated above, by this Honourable Court under s. 24.1 of the *Charter of Rights & Freedoms*.

Commonality of issues

173. Over the last few years, the Lead Complainants have reached out to others across Canada. The Lead Complainants have learned that all the Class Complainants have had their legitimate entitlement to workers compensation benefits denied using one or all of the methods being, deeming, pre-existing conditions, IMEs, institutional delays, age, and secondary injuries.

174. The issues are so common and widespread that injured workers groups created a campaign to raise awareness of some of the issues facing injured workers. The campaign was entitled “*WorkersCompIsARight*” and is based on three of the identified methods mentioned above by the Lead Complainants.

175. As a result of using one or all the methods the Defendants have infringed the Class Complainants rights under the Charter of Rights & Freedoms, specifically s. 2b, s. 7, s. 12, and s. 15 of the Charter of Rights & Freedoms.

THE FOLLOWING ARE THE LEGAL BASIS FOR THE CONSTITUTIONAL QUESTION:

176. That section 52 of the *Constitution* states that all parts of the Constitution, including the *Charter of Rights and Freedom* are the supreme law of Canada and any law and/or of government action that conflicts with the *Constitution* is of no force or effect.
177. That section 24(1) of the *Charter of Rights and Freedom* allows for any individual to apply to a court to obtain such remedy as the court considers appropriate and just.
178. That section 33(1) of the Charter of Rights and Freedoms confirms that the Charter of Rights and Freedoms applies to Federal, Provincial & Territorial government actions and/or laws.

Date: April 28, 2021

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200-1881 Scarth Street
Regina, Saskatchewan S4P 4L1
Fax: (306) 787-4311

AND TO: SASKATCHEWAN BOARD APPEAL TRIBUNAL

200-1881 Scarth Street
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AND TO: WORKERS COMPENSATION BOARD OF MANITOBA

333 Broadway,
Winnipeg, Manitoba R3C 4W3
Fax: (204) 954-4999

AND TO: THE APPEAL COMMISSION OF MANITOBA

600 - 330 St. Mary Ave.
Winnipeg, Manitoba R3C 3Z5

Fax: (204) 943-4393

AND TO: WORKPLACE SAFETY & INSURANCE BOARD

200 Front Street West
Toronto, Ontario M5V 3J1
Fax: (416) 344-4684

AND TO: WORKPLACE SAFETY & INSURANCE APPEALS TRIBUNAL

505 University Ave,
Toronto, Ontario M5G 1X3
Fax: (416) 326-5164

AND TO: COMMISSION DES NORMES, DE L'EQUITE, DE LA SANTE ET DE LA SECURITE DU TRAVAIL

524, rue Bourdages
Québec, QC G1K 7E2
Fax: (418) 266-4015

AND TO: WORKSAFENB

1 Portland St,
Saint John, New Brunswick E2L 3X9
Fax: (888) 629-4722

AND TO: NEW BRUNSWICK WORKERS' COMPENSATION APPEALS TRIBUNAL

P.O. Box 5001- 3700 Westfield Road
Saint John, New Brunswick E2L 4Y9
Fax: (506) 738-4104

AND TO: WORKERS' COMPENSATION BOARD OF PEI

14 Weymouth St,
Charlottetown, Prince Edward Island C1A 4Y1
Fax: (902) 368-5696

AND TO: WORKERS COMPENSATION APPEAL TRIBUNAL OF PEI

14 Weymouth St,
Charlottetown, Prince Edward Island C1A 4Y1
Fax: (902) 368-5696

AND TO: WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

5668 South St,
Halifax, Nova Scotia B3J 2Y2
Fax: (902) 491-8001

AND TO: WORKERS' COMPENSATION APPEAL TRIBUNAL OF NOVA SCOTIA

5670 Spring Garden Rd,
Halifax, Nova Scotia B3J 1H6

BACKSHEET

Taylor et al.
(Complainant)

v.

The WCB et al.
(*Respondents*)

Court file No. _____

Ontario Superior Court of Justice

PROCEEDING COMMENCED AT

Guelph Superior Court of Justice
74 Woolwich Street Guelph, Ontario N1H 3T9
Tel: (519) 824-4100

**NOTICE OF
CONSTITUTIONAL QUESTION**

Applicant:
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RCP-E 4C (May 1, 2016)

Fax: (902) 424-2321

AND TO: WORKPLACE HEALTH, SAFETY & COMPENSATION COMMISSION
148 Forest Rd,
St. John's, Newfoundland A1A 1E6
Fax: (709) 738-1714

AND TO: WORKPLACE HEALTH, SAFETY & COMPENSATION REVIEW DIVISION
Dorset Building, 2nd Floor
6 Mount Carson Avenue
Mount Pearl, Newfoundland A1N 3K4
Fax: (709) 729-6956

AND TO: YUKON WORKERS' COMPENSATION HEALTH AND SAFETY BOARD
401 Strickland St,
Whitehorse, Yukon Y1A 5N8
Fax: (867) 393-6279

AND TO: YUKON WORKERS' COMPENSATION APPEAL TRIBUNAL
456 Range Road
Whitehorse, Yukon Y1A 3A2
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AND TO: WORKERS' SAFETY & COMPENSATION COMMISSION
Box 8888,
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**AND TO: NORTHWEST TERRITORIES AND NUNAVUT WORKERS'
COMPENSATION APPEALS TRIBUNAL**
4920-52nd Street, Suite 1002 - 10th Floor Precambrian Building
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