



Affidavit #1 Mandy Martens
Sworn September 26, 2012
No. S090663
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**CAMBIE SURGERIES CORPORATION, CHRIS CHIAVATTI by his litigation guardian
RITA CHIAVATTI, MANDY MARTENS, KRYSTIANA CORRADO by her litigation
guardian ANTONIO CORRADO and ERMA KRAHN**

PLAINTIFF

AND:

**MEDICAL SERVICES COMMISSION OF BRITISH COLUMBIA, MINISTER OF
HEALTH SERVICES OF BRITISH COLUMBIA AND ATTORNEY GENERAL OF
BRITISH COLUMBIA**

DEFENDANTS

AND:

SPECIALIST REFERRAL CLINIC (VANCOUVER) INC.

DEFENDANT BY COUNTERCLAIM

**DUNCAN ETCHES, GLYN TOWNSON, THOMAS MACGREGOR, THE BRITISH
COLUMBIA FRIENDS OF MEDICARE SOCIETY, CANADIAN DOCTORS FOR
MEDICARE, MARIËL SCHOOFF, DAPHNE LANG, JOYCE HAMER, MYRNA
ALLISON, and CAROL WELCH**

INTERVENERS

AFFIDAVIT #1 OF MANDY MARTENS

I, MANDY MARTENS, Missions Assistant, of Langley, British Columbia, MAKE
OATH AND SAY AS FOLLOWS THAT:

1. I am a plaintiff in this action and as such have personal knowledge of the facts deposed to herein except where those facts are stated to be based upon information and belief, which facts I believe to be true.

2. I am aware that the defendant, the Medical Services Commission (the “**Commission**”), has applied for an injunction against the Plaintiff Cambie Surgeries Corporation (“**CSC**”) and the Defendant by Counterclaim Specialist Referral Clinic (“**SRC**”) to prohibit the contravention of the *Medicare Protection Act* (the “*Act*”), specifically sections 17(1) and 18(3), which relate to billing practices for benefits under the *Act*. I understand that if the injunction is granted, it will prevent individuals like me from seeking treatment at CSC and SRC, even when faced with unreasonable wait times in the public health care system.
3. I make this affidavit in support of the CSC’s and SRC’s opposition to the Commission’s injunction application.
4. I believe that individuals in British Columbia who are experiencing symptoms that have a serious negative impact on them, and are faced with unreasonable wait times in the public health care system, should have the same access that I had to the timely medical services provided by the CSC and the SRC. I also believe that this should not be altered or changed until it is determined whether this is a constitutional right for all citizens of British Columbia.
5. As I will explain below, in approximately April and May 2011, I observed blood and mucus in my stool and experienced severe abdominal pain. When I discussed these symptoms with my family doctor, I was referred to a specialist for a diagnostic colonoscopy, and booked for a consultation appointment seven months later. When the pain worsened and I was unable to obtain a timely diagnostic colonoscopy through the public health care system, I had no choice but to seek the services of the SRC and the CSC. In early June 2011, following an expedited colonoscopy performed at the Cambie Surgery Centre operated by CSC, I was diagnosed with advanced colon cancer. While this diagnosis was very upsetting for me, having an early diagnosis (approximately six months earlier than it would have been in the public system) expedited access to the surgeries and treatments I required. I believe it was the early diagnostic intervention that was critical to the success of my treatment. Without it, I believe the likelihood of success of my treatment would have been dramatically reduced.

6. I am currently 36 years of age. I live in Langley, British Columbia. I am a wife and mother of two daughters. I work part-time as a Missions Assistant at the church my family attends.
7. In April 2011, when I was 35 years old, I attended an appointment at my family doctor's office, Dr. Hansen. I had recently observed blood and mucus in my stool and told the doctor (who was substituting for my regular family doctor) that this caused me concern. My family doctor referred me to a specialist in Langley for a diagnostic colonoscopy for further testing. My family doctor contacted the specialist to book an appointment for me, and advised me that the first available appointment was seven months later, in November 2011. My family doctor told me this appointment was for a consultation only, and that the specialist would schedule me for a colonoscopy at a later date.
8. In May 2011, I began to experience pain on my right side and into the middle of my back. At first I thought the pain was caused by a pulled muscle, but it did not get better, which caused me concern. I went to a walk-in clinic on May 28, 2011. The physician at the clinic advised me to go to the emergency ward at a hospital if the pain became worse.
9. The next day, May 29, 2011, the pain was getting much worse and became more intense. I went to Emergency at Langley Memorial Hospital with my husband. While at the hospital, I had blood taken for blood-work. The attending physician told me that he thought my blood work looked good and that I appeared to him to be a healthy 35 year old woman. At that time I told the doctor that I was on a waiting list for a colonoscopy, and asked if there was any way that I could see a specialist right away. The attending physician told me that I was a healthy 35 year old woman and that if he was to call in a surgeon to examine me that the surgeon would not be very impressed. I felt that the attending physician was not taking my complaints seriously. Before I left the Hospital I was told by a staff member that I was scheduled for an abdominal ultrasound to look into why I was experiencing the pain in my side.
10. Shortly thereafter I went to the scheduled ultrasound. I also phoned the specialist's office I had been referred to back in April 2011, to see if I could have an earlier appointment. I

also asked to be placed on a cancellation list, but was told by the receptionist that it was unlikely that the process would be expedited. I was told that everyone goes on the cancellation list and therefore it would not speed up the process.

11. At that time I started to think about the possibility of going to a private clinic. I had spoken with my mother regarding my concerns about delay in obtaining a diagnosis, and my mother told me that it was possible to get a colonoscopy done privately.
12. Next I met with my family doctor to discuss the results of my ultrasound. My family doctor told me that the ultrasound results showed three masses on my liver. He told me that he did not think I had anything to worry about, but that he would like to confirm this with a CT scan. I was then scheduled to attend for a CT scan.
13. At that time I asked my family doctor whether he thought I should consult a specialist at a private clinic to at least expedite a diagnosis. He told me that he agreed it was a good option for me, considering the pain I was in, and the fact that masses had been found on my liver.
14. In mid-June 2011 I attended an appointment at the Langley Memorial Hospital for a CT scan.
15. At this time I was growing more concerned about my health, particularly because I had previously been told by my family doctor that the earliest available appointment with a specialist for a colonoscopy was in November 2011. I did not have any confirmed diagnosis at this time but I knew that something was not right. Three masses had been found on my liver, I had had blood in my stool, and I continued to have pain in my side. I was scared and frustrated because it appeared that I had no alternative but to wait months to see a specialist for a colonoscopy. I felt that I was not getting the response I needed from the public health care system. From discussions with my mother, I understood that there were private clinics in Vancouver where I could consult a physician for a fee. I researched it online and learned about the services offered by the Specialist Referral Clinic and the Cambie Surgery Centre.

16. Ultimately, I decided to seek assistance through a private clinic. I felt I had no other option. My husband and I agreed that I was not getting the response I required from the public health care system and needed to seek an alternative, for the sake of our family.
17. On June 6, 2011, I contacted the Specialist Referral Clinic and was scheduled for an expedited consultation and colonoscopy with Dr. Jean Lauzon at the Cambie Surgery Centre operated by CSC. On June 21, Dr. Lauzon performed the colonoscopy, including a biopsy. Dr. Lauzon informed me that the results of the biopsy showed that I had an advanced form of cancer (Dr. Lauzon referred to it as stage four cancer). I was shocked and very upset when I received this news.
18. Once I was diagnosed, I was able to book an emergency appointment with Dr. Phang at St. Paul's Hospital in Vancouver, British Columbia. Within the week that I had my colonoscopy, I had an appointment with Dr. Phang to discuss the surgery I required, which he referred to as a colon resection surgery. At that appointment, Dr. Phang called the Langley Memorial Hospital to obtain the results of my earlier CT scan. Dr. Phang told me that the CT scan showed that the cancer had metastasized to my liver. He explained that this meant the cancer had spread to my liver.
19. On June 28th, 2011, I was admitted for a colon resection surgery, which was performed by Dr. Phang. I understand from my discussions with Dr. Phang that the surgery was successful in removing all of the cancerous cells in my colon as well as some in my lymph nodes.
20. After a short recovery period, in September 2011, I started chemotherapy at the Abbotsford Cancer Agency. I had three rounds of chemotherapy, each lasting two weeks. At the Abbotsford Cancer Agency I had appointments with both Dr. Tan, a chemotherapy oncologist, and Dr. Ahmed, a radiation oncologist.
21. Following chemotherapy, I was admitted for liver surgery at Vancouver General Hospital with Dr. Steven Chung on October 11th, 2011. This surgery was required because the cancer had metastasized to my liver.

22. Following the liver surgery, I met with Dr. Tan at the Abbotsford Cancer Agency in approximately November 2011, to discuss the results of my surgeries (colon resection and liver surgery) and chemotherapy. I was advised that the treatments were a success, and that it appeared that all cancer cells had been removed. At this time both Dr. Tan and Dr. Ahmed recommended that I have a PET-CT scan to confirm that the cancer had all been removed from my body, prior to proceeding with further radiation and chemotherapy treatments. The doctors explained that the PET-CT scan was a very sensitive test that used live radiation to identify cancerous cells that would not be detected by a regular CT scan. They explained that if I still had cancer left in my body that there would be no point in proceeding with the radiation portion of my treatment. This was all very overwhelming for me.
23. Following the PET-CT scan, I felt relieved and blessed when Dr. Ahmed told me that the PET-CT scan results and other test results showed that the previous surgeries and chemotherapy had been a success. As a preventative measure, suggested by Dr. Tan and Dr. Ahmed, I then underwent radiation and oral chemotherapy from approximately December 2011 to January 2012. From approximately February 2012 to March 2012, I underwent four more rounds of chemotherapy.
24. I was able to have two surgeries and three rounds of chemotherapy before November 2011, which was when I was originally scheduled to have my first consultation with a specialist regarding a diagnostic colonoscopy in the public health care system. Following my diagnosis by Dr. Lauzon at the CSC, all of my surgeries and treatments were fast tracked. Following my emergency appointment with Dr. Phang, his assistant scheduled me for colon resection surgery the very next week. After three rounds of chemotherapy following the surgery by Dr. Phang, I was quickly admitted for liver surgery.
25. All medical practitioners who have diagnosed or treated me have advised me that it was the early diagnostic intervention at CSC that was critical to the success of my treatment. They advised me that had I waited until November 2011 for the diagnostic colonoscopy in the public system, the likelihood of a successful outcome of the treatment would have been dramatically reduced. They told me this was because in cases involving colorectal

cancer, it was important to screen, diagnose and treat it as quickly as possible, as the survival rate for early stage detection is approximately five times higher than late stage cancer.

- 26. In August 2012, I completed a follow-up examination and series of tests with oncologists at the Abbotsford Cancer Agency. I had a follow up colonoscopy with Dr. Phang (in June 2012), as well as blood tests and a CT scan. I was informed by the oncologists that these tests showed that I remain free of cancer. The oncologists at the Abbotsford Cancer Agency are overseeing my follow up care, and I have follow-up tests approximately every three months.
- 27. On September 25, 2012, I was contacted by my family doctor, who informed me that an oncologist at the Abbotsford Cancer Agency had transferred my case back to him, as the disease is officially in remission.
- 28. I am currently doing well. Following my diagnosis, surgeries, and treatment, I am once again able to engage in my life as a wife, mother, daughter, sister, aunt and friend. I just returned to work part-time. I am enjoying life. I am so thankful that I was given the chance to fight the disease that was spreading through my body. It is important to me that I do whatever it takes to stay healthy for my family, particularly my two daughters. I am so thankful I was able to obtain an early diagnosis through SRC and CSC, which allowed me to access the urgent treatment I required.

SWORN BEFORE ME in the City of)
 Langley, in the Province of British)
 Columbia, on this 26 day of September,)
 2012)

Kolodziej

 A Commissioner for taking affidavits in)
 the Province of British Columbia)

Ania Kolodziej
Exp. August 31, 2014.

Mandy Martens

 MANDY MARTENS