



No. S-090663
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN INDEPENDENT MEDICAL CLINICS ASSOCIATION,
CAMBIE SURGERIES CORPORATION, DELBROOK SURGICAL CENTRE
INC., FALSE CREEK SURGICAL CENTRE INC., OKANAGAN HEALTH
SURGICAL CENTRE INC., and ULTIMA MEDICAL SERVICES INC.

PLAINTIFFS

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

STATEMENT OF DEFENCE

1. Except where expressly noted otherwise, terms defined in the Statement of Claim have the same meaning in this Statement of Defence.
2. Except where expressly admitted, the Defendants the Medical Services Commission (the "Commission"), the Minister of Health Services of British Columbia (the "Minister") and the Attorney General of British Columbia deny each and every allegation in the Statement of Claim.
3. The Defendants admit the allegations in paragraphs 1, 3, 5, 6, 8, 24, 31, and 39 of the Statement of Claim.

4. The Defendants admit the allegations in paragraphs 2, 4, 7, 9, 20, 32, and 34 of the Statement of Claim so far as they are not inconsistent with the following:
 - (a) In response to paragraphs 2 and 4, neither Cambie nor False Creek is presently in good standing under the *Business Corporations Act*, S.B.C. 2002, c. 57.
 - (b) In response to paragraph 7, the function of the Commission is to facilitate reasonable access, throughout British Columbia, to quality medical care, health care, and diagnostic facility services in the manner provided for in the Act, and the purpose of the Act is to preserve a publicly managed and fiscally sustainable health care system in which access to necessary medical care is based on need and not on an individual's ability to pay.
 - (c) In response to paragraph 9, the defendant Attorney General of British Columbia is Her Majesty's Attorney for British Columbia and the Chief Law Officer of the Crown.
 - (d) The Defendants deny paragraph 20, but admit the statements found in sub-paragraphs (a) through (d), subject to the following:
 - (i) In response to sub-paragraph (b), the reference to a "community clinic" should be to a "community care facility as defined in section 1 of the *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75".
 - (ii) In further response to sub-paragraph (b), the reference to the "MSP tariff" should be to the payment schedule established by the Commission under section 26 of the Act (the "Payment Schedule").

- (iii) In further response to sub-paragraph (b), the limit in section 18, insofar as it applies to practitioners who have made an election under section 14, applies to all services, wherever provided, and not only to those provided in hospitals or community care facilities as defined.
- (iv) In further response to sub-paragraphs (b) and (c), the references to "patients" should be to "beneficiaries".
- (e) In response to paragraph 32, individuals seeking medically required services rendered by a medical practitioner are entitled to the equal protection and benefit of the law and are entitled to government action and government programs relating to health care which are administered without discrimination based on any ground set out in section 15(1), including physical disability.
- (f) In response to paragraph 34, section 27 of the Regulation also lists the statutory schemes for health care under:
 - (i) the *Royal Canadian Mounted Police Pension Continuation Act*, R.S.C. 1970, c. R-10;
 - (ii) the *Veterans Rehabilitation Act*, R.S.C. 1970, c. V-5; and
 - (iii) the *Hospital Insurance Act*, R.S.B.C. 1996, c. 204.
- (g) In further response to paragraph 34, section 27 of the Regulation has no relevance to the Plaintiffs' claim, as it relates to services rendered by "health care practitioners" and not "medical practitioners".

5. The Defendants have no knowledge with respect to the allegations in paragraphs 10, 11, 12, and 13 and put the Plaintiffs to the strict proof thereof.

6. In response to paragraph 17, the public health care system in British Columbia consists of much more than merely medical practitioners and hospitals. The Legislature appropriates funding for:
 - (a) Regional health sector funding, for the management and delivery of health services, including mental health services to adults, public and preventive health services, acute care services, provincial programs and home and community care services;
 - (b) MSP funding, for benefits provided by medical practitioners, health care practitioners, diagnostic facilities, and human resource and planning initiatives with respect to medical practitioners;
 - (c) PharmaCare funding, to pay the full or partial cost of designated prescription drugs, dispensing fees, and other approved items and services that complement PharmaCare programs;
 - (d) Various capital and debt servicing costs, for a share of debt servicing and amortization of capital costs related to health facility and equipment capital projects;
 - (e) Health benefits operations funding, for the administration of the MSP and PharmaCare;
 - (f) Emergency health services funding, for the administration, operation, and delivery of specified services;
 - (g) Vital statistics funding, for the expenses associated with the administration, registration, record maintenance, certification, statistical analysis, and reporting of births, deaths, and marriages in British Columbia; and
 - (h) Executive and support services funding, for (in part) direction to health authorities and other health providers, support to partners in delivering

health care services, monitoring of health authority compliance and performance, general services to support program delivery, development of the policy and legislative framework for the health system, development of long-term health care plans, monitoring and regulation of professional associations, and public health reports on population health through the Provincial Health Officer.

7. In response to paragraph 18, medically required services rendered by a medical practitioner who is enrolled under section 13 are called “benefits”, unless the Commission has determined under section 5 that they are not benefits. The MSP is a publicly funded plan that aims at promoting and improving the health of all citizens and providing high quality patient care that is medically appropriate and that ensures reasonable access to medically necessary services consistent with the *Canada Health Act*, R.S.C. 1985, c. C-6. The residents of British Columbia enrolled in the plan are called “beneficiaries” and are required to pay “premiums” pursuant to section 8.
8. In response to paragraph 19, the Commission determines what are considered “benefits” under the Act.
9. In response to paragraphs 21 and 23, the effect of sections 14, 17, and 18 of the Act is to put limits on the ability of medical practitioners to *charge beneficiaries* for medical services, not to preclude them from providing those services. With respect to medical practitioners who are not enrolled under the Act, the limits only apply to charges for medical services provided in the facilities referred to in subsections 18(2)(a) and (b) of the Act (hospitals and community care facilities).
10. In response to paragraph 25, there is no freestanding constitutional right to health care.

11. In response to paragraphs 31 through 38, the facts alleged disclose no reasonable claim that section 15(1) of the *Charter* has been breached.
12. In response to paragraph 40, Cambie was advised on or about 10 September 2008 that the Commission had authorized an audit of its billing and business practices and that the audit was authorized under section 36 of the Act. Cambie was advised on or about 6 October 2008 that the audit would focus on, among other things, charging beneficiaries for benefits contrary to section 17 of the Act.
13. In further response to paragraph 40, the Plaintiffs have failed to plead any material facts that disclose a reasonable claim that the proposed audit is a breach of section 7 of the *Charter*.
14. In further response to the Statement of Claim as a whole, the Defendants deny that any of the facts alleged constitute either an infringement or a denial of any of the Plaintiffs' constitutionally guaranteed rights or freedoms, or those of any other person.
15. In further response to the Statement of Claim as a whole, the Defendants say that if any person's rights have been infringed or denied, which is not admitted but specifically denied, any such infringement or denial is a reasonable limit prescribed by law that is demonstrably justifiable in a free and democratic society.

The Medical Services Commission

16. The Commission is a statutory body consisting of nine members appointed by the Lieutenant Governor in Council. Three members are appointed from among three or more persons nominated by the British Columbia Medical

Association (the "BCMA"). Three members are appointed on the joint recommendation of the Minister and the BCMA to represent beneficiaries. Three members are appointed to represent the Province of British Columbia (the "Province"). The Commission reports to the Minister.

17. The Commission's function, as set out in section 3(3) of the Act, is to facilitate, in the manner provided for in the Act, reasonable access throughout British Columbia to quality medical care, health care, and diagnostic facility services for British Columbia residents under the MSP.
18. The Commission's responsibilities include administering the MSP, under which medically required services ("benefits") are provided by enrolled medical practitioners to residents of British Columbia who are enrolled in the MSP ("beneficiaries").
19. In particular, under section 5 of the Act, the Commission has the responsibility and the authority to determine whether a service is a benefit, and whether any matter is related to the rendering of a benefit.

The Medical Services Plan

20. The MSP is a publicly funded health plan administered by the Commission on behalf of the Province. It is aimed at promoting and improving the health of all citizens and providing high quality patient care that is medically appropriate and that ensures reasonable access to medically necessary services consistent with the *Canada Health Act*.
21. The purpose of the Act is to preserve a publicly managed and fiscally sustainable health care system for British Columbia in which access to necessary medical care is based on need and not an individual's ability to pay.

22. This purpose is central to the preservation of the public health care system and its principles of universality, comprehensiveness, accessibility, portability, public administration, and sustainability.
23. Certain medical services are excluded from coverage under the MSP, such as those that are not considered to be "medically required," including purely cosmetic surgery and medical examinations related to employment or insurance applications. Also excluded are services provided for under certain other legislation, such as the *Workers' Compensation Act*, R.S.B.C. 1996, c. 492.
24. A person is a "beneficiary" under the Act if the person is a resident of British Columbia who is enrolled in accordance with the Act. A resident may choose whether or not to be a beneficiary, and thus entitled to have payments made for benefits in accordance with the Act. The Commission may cancel the enrolment of a beneficiary on application of the beneficiary.
25. Medical practitioners must enroll with the Commission in order to be entitled to submit claims. A medical practitioner may choose whether or not to apply to be enrolled, and an enrolled medical practitioner may cancel his or her enrolment by giving notice of the cancellation to the Commission.
26. Once they are enrolled, medical practitioners are reimbursed by the Commission in accordance with the Payment Schedule, which specifies the amounts that may be paid to a medical practitioner for rendering benefits to beneficiaries.
27. An enrolled medical practitioner has the option of electing to be paid for benefits directly by beneficiaries. When such an election has been made, the practitioner must not submit a claim with respect to services rendered

after the date the election becomes effective. If such an election is in effect, a beneficiary who pays a practitioner directly may request reimbursement from the Commission. An enrolled medical practitioner may revoke his or her election to be paid for benefits directly by beneficiaries.

The Billing System

28. Medical practitioners who are enrolled with the Commission and who provide medically required services to beneficiaries are compensated by the Commission. This method of compensation is known as the "fee-for-service" system, whereby medical practitioners are compensated based on the number and type of services performed. Generally speaking, an enrolled medical practitioner who provides services to a beneficiary in a hospital, such as surgical services, will submit a claim for those services to the Commission.
29. The Payment Schedule specifies the amounts that may be paid to medical practitioners for rendering benefits under the Act. In the case of surgical services, the Preamble to the Payment Schedule provides that the fees for surgery, unless otherwise specifically indicated, include the usual pre-operative preparation of up to one month's duration, the surgical procedure itself and post-operative follow-up. It also provides that unless otherwise specifically indicated, the normal post-operative period included in the surgical fee is 42 days and that the surgery fees include all concomitant services necessary to perform the listed services.
30. A medical opinion rendered by a medical practitioner, if medically required, is a benefit under the MSP whether the opinion is requested by another medical practitioner or on self-referral by a beneficiary.

31. Unless otherwise provided in the Act or in regulations or by the Commission, section 17(1) of the Act prohibits a person from charging a beneficiary for a benefit and prohibits a person from charging a beneficiary for materials, consultations, procedures, use of an office, clinic or other place or for any other matters that relate to the rendering of a benefit.
32. Section 18 of the Act sets limits on direct or extra billing for services by medical practitioners. Information regarding payment rules and services that are or are not benefits is available to all medical practitioners enrolled with the Commission.
33. The prohibitions contained in sections 17, 18, and 45 of the Act are essential to enable the Commission to fulfill its function, as set out in para. 17 above, and the purpose of the Act, as set out in para. 21 above.
34. The Defendants plead and rely on:
 - (a) *The Medicare Protection Act*, R.S.B.C. 1996, c. 286;
 - (b) *The Business Corporations Act*, S.B.C. 2002, c. 57;
 - (c) *The Community Care and Assisted Living Act*, S.B.C. 2002, c. 75; and
 - (d) *The Canada Health Act*, R.S.C. 1985, c. C-6.

WHEREFORE the Defendants the Medical Services Commission, the Minister of Health Services of British Columbia, and the Attorney General of British Columbia submit:

- a) The Plaintiffs' claim should be dismissed; and
- b) The Defendants should be awarded special costs.

COUNTERCLAIM OF THE DEFENDANT,
THE MEDICAL SERVICES COMMISSION

35. Except where expressly noted otherwise, terms and abbreviations defined in the Statement of Claim and the Statement of Defence have the same meanings in this Counterclaim.
36. The Defendant Commission claims as Plaintiff by Counterclaim against the Plaintiff Cambie, and against the Specialist Referral Clinic (Vancouver) Inc. (the "SRC"), the Defendant by Counterclaim.
37. The Commission repeats the facts contained in paragraphs 1-34 of the Statement of Defence.
38. Cambie operates the Surgery Centre, which purports to be a multi-specialty surgical facility.
39. The Surgery Centre offers many types of surgery, mostly on an out patient basis, including the following:
- Orthopedic (arthroscopic/sport injuries)
 - Plastic, Cosmetic and Oral
 - General Surgery
 - Laparoscopic Surgery
 - Gynecology
 - Vascular Surgery
 - Neurosurgery
 - Ophthalmology
 - Urology
 - Ear, Nose and Throat
 - Pediatric Dental
40. The Surgery Centre is located in premises at 2836 Ash Street, in the City of Vancouver, Province of British Columbia.

41. The SRC is a corporation that operates a clinic that purports to provide rapid access to medical specialists (the "Referral Clinic"). The specialists at the Referral Clinic sometimes refer patients to the Surgery Centre. In some cases, the specialists perform the referred surgery themselves at the Surgery Centre.
42. The Referral Clinic is located in premises at Suite 121, 555 West 12th Avenue, in the City of Vancouver, Province of British Columbia.
43. Beneficiaries who have undergone surgeries and other services at the Surgery Centre receive invoices from and make payments to the Referral Clinic for those surgeries and incidental services performed at the Surgery Centre.

The Commission's Inspection and Enforcement Powers

44. Under Part 7 of the Act, the Commission has powers of audit and inspection which enable it to carry out its obligations under the Act.
45. Under subsection 36(2), the Commission may appoint inspectors to audit, *inter alia*:
 - (a) the billing or business practices of persons who own, manage, control or carry on a business for profit or gain and, in the course of the business, direct, authorize, cause, allow, assent to, assist in, acquiesce in or participate in the rendering of a benefit to beneficiaries by practitioners; and
 - (b) the billing or business practices of persons who own, manage, control or carry on a business for profit or gain and who the Commission on reasonable grounds believes

- i. in the course of the business direct, authorize, cause, allow, assent to, assist in, acquiesce in or participate in the rendering of a benefit to beneficiaries by practitioners, or
 - ii. have contravened section 17 or 18 of the Act.
- 46. Under subsection 36(5), an inspector appointed by the Commission under subsection (2) may, at any reasonable time and for reasonable purposes of the audit, enter any premises and inspect
 - (a) records of a person described in subsection 36(2), or of a practitioner, and
 - (b) records maintained in hospitals, health facilities, and diagnostic facilities.
- 47. Under subsection 36(7) a justice may issue a warrant authorizing an inspector to enter a place to exercise the powers referred to in subsection (5), on being satisfied that there are in that place records or other things for which there are reasonable grounds to believe that they are relevant to matters referred to in subsection (5).
- 48. Under section 45.1, the Commission may apply to the Supreme Court for an injunction restraining a person from contravening, *inter alia*, subsections 17(1) or 18(1) or (3). The Supreme Court may grant such an injunction if satisfied that there is reason to believe that there has been or will be a contravention of the Act or the regulations. The Supreme Court may also grant an interim injunction.

Breaches of the Act by Cambie and by the SRC

49. The Commission has reason to believe that Cambie and the SRC have charged and will charge beneficiaries, directly or indirectly, for rendering surgical and other services which are benefits under the Act, or for matters that are related to rendering of those services, in contravention of section 17(1) of the Act.
50. The Commission also has reason to believe that there has been or will be a contravention of s. 18(3) of the Act by Cambie and by the SRC because the amounts they charge for surgical and other services that they provide to beneficiaries violate the statutory limits on direct or extra billing by a medical practitioner.
51. The Commission has received documentation showing that the Referral Clinic has billed beneficiaries for surgeries and other services performed at the Surgery Centre.
52. Cambie and the SRC have charged beneficiaries, directly or indirectly, for services listed on invoices as, *inter alia*: "surgery", "overnight", "administration fee surgery", "facility fee", "consultation/assessment", "surgeon's fee", "anaesthetic fee", "escort services", and "prepayment for surgery".
53. The Commission has reason to believe that these charges are charges for benefits or for matters that relate to the rendering of a benefit in contravention of s.17(1) of the Act, or that where a charge is permitted under the Act, the amount charged exceeded the amount permitted under s.18.

The Commission's Investigation

54. The Commission has asked Cambie, the SRC, and some of the medical practitioners who have rendered medical services at the Surgery Centre and the Referral Clinic to provide information about reports to the Commission from specific beneficiaries, and about the Surgery Centre's and the Referral Clinic's business practices in general.
55. Cambie, the SRC, and/or the medical practitioners involved have failed or refused to provide the information necessary to enable the Commission to determine whether there has been a breach of the Act.
56. The Commission has appointed inspectors to audit Cambie and the SRC, as authorized under section 36 of the Act, in order to obtain the necessary information to determine whether or not Cambie or the SRC, or both, are in breach of the Act.
57. The Commission informed Cambie and the SRC on September 10, 2008 that it had authorized an audit.
58. Cambie and the SRC have refused to permit the inspectors to enter their premises and inspect their records or the records of a practitioner, or to otherwise cooperate with the inspectors in the lawful performance of their duties.

WHEREFORE The Defendant, the Medical Services Commission claims against the Plaintiff, Cambie Surgeries Corporation and the Defendant by Counterclaim, Specialist Referral Clinic (Vancouver) Inc. for the following:

- a) A Warrant authorizing an inspector or inspectors named in the Warrant to enter the Surgery Centre and the Referral Clinic to inspect both of their

- records and/or the records of practitioners and to make copies of those records;
- b) An Injunction restraining Cambie and the SRC from hindering, molesting or interfering with an inspector or inspectors who has or have been authorized to carry out an audit of the Surgery Centre and the Referral Clinic;
 - c) An Injunction requiring Cambie and the SRC to permit the Inspector or Inspectors to enter the Surgery Centre and the Referral Clinic and inspect their records and/or the records of practitioners and to make copies of those records;
 - d) A Declaration that there is reason to believe that Cambie and the SRC have contravened or will contravene s. 17 of the Act;
 - e) A Declaration that there is reason to believe that Cambie and the SRC have contravened or will contravene s. 18 of the Act;
 - f) An Interim Injunction restraining Cambie and the SRC from contravening s. 17 of the Act;
 - g) An Interim Injunction restraining Cambie and the SRC from contravening s. 18 of the Act;
 - h) A Permanent Injunction restraining Cambie and the SRC from contravening s. 17 of the Act;
 - i) A Permanent Injunction restraining Cambie and the SRC from contravening s. 18 of the Act;
 - j) Costs of this action; and

- k) Such further and other relief as to this Honourable Court may seem just and appropriate.

COUNTERCLAIM OF THE DEFENDANT

THE MINISTER OF HEALTH SERVICES OF BRITISH COLUMBIA

59. Except where expressly noted otherwise, terms and abbreviations defined in the Statement of Claim or the Statement of Defence have the same meaning in this Counterclaim.
60. The Defendant Minister claims as Plaintiff by Counterclaim against all the Plaintiffs except the CIMCA (the "Plaintiff Clinics"), and against the Specialist Referral Clinic (Vancouver) Inc. (the "SRC"), the Defendant by Counterclaim.
61. The Minister repeats the facts contained in paragraphs 1-34 of the Statement of Defence.

The Unlawful Billing Practices

62. The Plaintiff Clinics and the SRC (jointly, the "Extra Billing Clinics"), and each of them, have at all material times planned, organized, arranged, participated in, facilitated, assisted, and been wilfully blind to unlawful billing practices, particulars of which include, but may not be limited to:
- (a) The charging of fees for
- i. the rendering of a benefit; and/or

- ii. materials, consultations, procedures, use of an office, clinic or for any other matters that related to the rendering of a benefit,

contrary to the Act; and

- (b) The facilitation of and participation in billing practices of medical practitioners that are contrary to the Act, including charging beneficiaries unauthorized fees for:

- i. benefits,
- ii. materials, consultations, procedures, use of an office, clinic or for any other matters related to the rendering of a benefit;
- iii. amounts in excess of those permitted by the law; and/or
- iv. services in respect of which a claim has also been submitted to the Commission.

63. In conjunction with these unlawful billing practices, the Extra Billing Clinics, and each of them, have required beneficiaries to sign "Acknowledgement Forms", which

- (a) misrepresented to beneficiaries that the services contracted for were not benefits under the Act, when in fact and in law they were;
- (b) purport to evidence the beneficiaries' acknowledgement that the services being provided to them were not benefits under the Act;
- (c) required undertakings from beneficiaries that they will not seek reimbursement from the MSP or any other government agency and

purporting to document the beneficiary's "waiver" of their entitlement in that respect;

- (d) purport to contractually bind a beneficiary to agree
 - i. not to make any claim to the MSP for any part of the costs of benefits provided to a beneficiary at the Extra Billing Clinics;
 - ii. not to file any complaint with any government body regarding the circumstances of the benefits provided to a beneficiary at the Extra Billing Clinics; and
 - iii. not to disclose any information to any government regarding the particulars of the beneficiary's surgery, including the costs that the beneficiary incurred for the services received at an Extra Billing Clinic; and
- (e) purport to require beneficiaries to indemnify the Extra Billing Clinic for damages and costs arising from a beneficiary's disclosure of any of the above information.

- 64. The full particulars and extent of the Extra Billing Clinics' participation in the activities described in the foregoing paragraphs are uniquely within the knowledge of the Extra Billing Clinics.
- 65. There is a strong public interest in maintaining a health care system that operates in a fair, efficient, and cost-effective manner, and in particular one that is, and is perceived to be, reasonably fair and equitable in the allocation of available medical resources throughout the population. The Extra Billing Clinics' violations of the law, specifically their unlawful billing practices and their practice of requiring beneficiaries to sign Acknowledgement Forms,

undermine that interest and threaten public confidence in the public health care system.

Grounds for Relief

66. The Province is entitled, under the *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8, to annual payments intended, *inter alia*, to protect the principles of public administration, comprehensiveness, universality, portability, and accessibility of the health care system, and to contribute to providing the best possible health care system for the residents of British Columbia (the "Canada Health Transfer").
67. Under the provisions of the *Canada Health Act*, Canada is required to deduct from the monies payable under the Canada Health Transfer any amounts that have been unlawfully billed by medical practitioners or others in respect of benefits available under the Act.
68. At all material times, the Extra Billing Clinics, and each of them, have known or ought to have known that their unlawful billing practices would cause loss to the Province because amounts unlawfully charged to beneficiaries would be deducted by Canada from the Canada Health Transfer.
69. The Extra Billing Clinics, and each of them, through the planning, arranging, organizing, and charging of unauthorized fees, and/or through the receipt or handling of other direct or indirect payments in connection with the provision of insured services, have themselves been engaged in unlawful billing practices in British Columbia and also have aided, abetted, assisted, and facilitated the unlawful billing practices of others who practised in the Extra Billing Clinics' facilities or who arranged payment through or with the participation of those facilities. The particulars of the nature and extent of

these violations are uniquely within the knowledge of the Extra Billing Clinics.


70. In acting unlawfully as they have, the Extra Billing Clinics have, and each of them has, intended to cause economic loss to the Province, or been wilfully blind or reckless with respect to whether such loss would occur.
71. The Province has suffered and will continue to suffer losses as a consequence of the acts and omissions of the Extra Billing Clinics, and each of them.
72. The Minister pleads and relies on the *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8.

WHEREFORE the Defendant the Minister of Health Services of British Columbia, on his own behalf and on behalf of Her Majesty the Queen in right of the Province of British Columbia, claims against the Plaintiffs and the Defendant by Counterclaim, Specialist Referral Clinic (Vancouver) Inc., the following:

- (a) damages for the unlawful actions of the Extra Billing Clinics;
- (b) a declaration that the Acknowledgement Forms are void and unenforceable as being unconscionable, oppressive, illegal, and inconsistent with public policy;
- (c) an interlocutory and a permanent injunction to restrain the Extra Billing Clinics from requiring beneficiaries to execute Acknowledgement Forms;
- (d) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;

- (e) Costs of this action; and
- (f) Such further and other relief as to this Honourable Court may seem just and appropriate.

DATED at Victoria, British Columbia, on this 20th day of February, 2009.



GEORGE H. COPLEY, Q.C.
Counsel for the Defendants
the Medical Services Commission,
the Minister of Health Services of British Columbia, and
the Attorney General of British Columbia

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PLAINTIFFS

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

STATEMENT OF DEFENCE

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