

**COURT OF APPEAL OF ALBERTA**

Form AP-1  
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2203-0163AC  
TRIAL COURT FILE NUMBER: 2203 06698  
REGISTRY OFFICE: [REDACTED]  
PLAINTIFF/APPLICANT: ANNETTE LEWIS  
STATUS ON APPEAL: APPELLANT  
DEFENDANT/RESPONDENT: ALBERTA HEALTH SERVICES,  
ABC HOSPITAL, DR. A, DR. B,  
DR. C, DR. D, DR. E, and DR. F  
STATUS ON APPEAL: RESPONDENT  
DOCUMENT: **CIVIL NOTICE OF APPEAL**  
APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:  
Allison Pejovic and Eva Chipiuk  
Justice Centre for Constitutional Freedoms  
#253, 7620 Elbow Drive SW  
Calgary, Alberta T2V 1K2  
[REDACTED]



**WARNING**

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

**1. Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced, entered, and served: July 12, 2022.

Official neutral citation of reasons for decision, if any: 2022 ABQB 479

**2. Indicate where the matter originated:**

**Court of Queen's Bench**

Judicial Centre: [REDACTED]

Justice: The Honourable Mr. Justice R. Paul Belzil

On appeal from a Queen's Bench Master or Provincial Court Judge?: No

**3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).**

Permission to appeal not required.

**4. Portion being appealed (Rule 14.12(2)(c)):**

Whole

**5. Provide a brief description of the issues:**

The Appellant respectfully contends:

- 1) The Learned Chambers Justice erred in fact and in law by determining that the *Charter of Canadian Rights and Freedoms* (the "Charter") has no application to the Respondent physicians' Dr. A, Dr. B, Dr. C, Dr. D., Dr. E's ("Respondent physicians") policy requiring Covid-19 vaccination as a precondition to transplant surgery ("the Requirement").
  - a. The Learned Chambers Justice erred in fact and in law in finding that the Requirement was a clinical decision to be analyzed through the lens of a standard of care, and in failing to find that the Respondent physicians acted

as state agents in the imposition of the Requirement as it applies to all transplant candidates.

- b. The Learned Chambers Judge erred in fact and in finding that there was no evidence that Alberta Health Services (“AHS”) had any level of control over the Respondent physicians’ program.
  - c. The Learned Chambers Judge erred in fact and in law in finding that the Respondent physicians met the standard of care owed to the Appellant. The Learned Chambers Judge disregarded or misapprehended evidence and erred in not concluding that the Respondents failed to provide the Appellant with the appropriate information regarding the risks of the Covid-19 vaccines.
- 2) The Learned Chambers Judge erred in fact and in law in finding that AHS was not subject to *Charter* scrutiny because AHS was simply mirroring the Respondent physicians’ Requirement.
- a. The Learned Chambers Judge erred in fact and in law in finding that AHS’ policy was unfinished. The Learned Chambers Judge disregarded or misapprehended evidence and erred in not concluding that AHS’ was imposing a Covid-19 vaccination requirement for transplant candidates by November 2021, despite the fact that the written policy was unfinished.
  - b. The Learned Chambers Judge erred in fact and in law in failing to consider that the transplant program is a government healthcare scheme and that such a scheme must comply with the *Charter*.
- 3) The Learned Chambers Judge erred in law in finding that the *Alberta Bill of Rights* did not apply to the Respondents’ Requirements and erred in his finding

that the Appellant's claim under the *Alberta Bill of Rights* failed because her *Charter* claim failed.

- 4) The Learned Chambers Judge erred in fact by stating that there was overwhelming evidence that the Covid-19 vaccines are safe and effective.

**6. Provide a brief description of the relief claimed:**

The Appellant respectfully requests that the appeal be allowed, the decision of the Honourable Chambers Justice be set aside, and the following relief be granted:

- a. A Declaration pursuant to section 52(1) of the *Constitution Act, 1982* or section 24(1) of the *Charter* that the Respondents' Requirement to take the experimental Covid-19 injection as a prerequisite to life-saving surgery is a definitive violation of the Appellant's fundamental freedom of conscience and rights to life, liberty, security of person, and to freedom from arbitrary discrimination, protected under sections 2(a), 7 and 15 of the *Charter* and is therefore void and of no force or effect;
- b. Further, or in the alternative, a declaration that the Respondents' requirement to take the experimental Covid-19 injection as a prerequisite to life-saving surgery infringes on section 1 of the *Alberta Bill of Rights*, RSA 2000 c A-14;
- c. Costs, both on appeal and at the Court of Queen's Bench; and
- d. Such further and other relief as this court deems just and equitable.

**7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)**

No

**8. Does this appeal involve the custody, access, guardianship, parenting time, decision-making responsibility, contact or support of a child?**  
(Rule 14.14(2)(2)(b))

No

**9. Will an application be made to expedite this appeal?**

Yes

**10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate?** (Rule 14.60)

No

**11. Could this matter be decided without oral argument?** (Rule 14.32(2))


No

**12. Are there any restricted access orders or statutory provisions that affect the privacy of this file?** (Rules 6.29, 14.12(2)(e), 14.83)

Yes

**13. List respondent(s) or counsel for the respondent(s), with contact information:**

Daniel L. Morrow  
Natash O. Q. Laffin  
Krishen Singh  
Rayna S. Lew, Student-at-Law  
Bennet Jones LLP

  
Counsel for the Respondents Dr. A, Dr. B, Dr. C, Dr. D,  
Dr. E, & Dr. F

J. Mark Jackson, Q.C. &  
Alisha Hurley  
Field LLP

[REDACTED]  
[REDACTED]  
Counsel for the Respondents Counsel for the Respondents Alberta Health Services  
& ABC Hospital

**14. Attachments (check as applicable)**

Order filed July 22, 2022 (attached)

Restricted Access Order filed April 12, 2022 (attached)

Order Varying the Restricted Access Order filed June 17, 2022 (attached)