

Dec. 18, 2021

AMENDED THIS \_\_\_\_\_ PURSUANT TO  
MODIFIÉ \_\_\_\_\_ CONFORMÉMENT À

Court File No. CV-18-00603786

☒ RULE/LA RÈGLE 26.02 ( a )

**ONTARIO**

☐ THE ORDER OF \_\_\_\_\_  
L'ORDONNANCE DU \_\_\_\_\_

**SUPERIOR COURT OF JUSTICE**

DATED/FAIT LE \_\_\_\_\_  
BETWEEN Nazreen  
Mohammed-  
rahaman

Digitally signed by Nazreen Mohammed-  
rahaman  
DN: cn=Nazreen Mohammed-  
rahaman, o=Government of Ontario,  
ou=People, email=Nazreen.Mohammed-  
rahaman@ontario.ca, c=CA  
Date: 2023.01.02 16:17:23 -0500

REGISTRAR \_\_\_\_\_  
SUPERIOR COURT OF JUSTICE

GREFFIER \_\_\_\_\_  
COUR SUPÉRIEURE DE JUSTICE

ROGER FOLEY

Plaintiff

- and -

VICTORIA HOSPITAL LONDON HEALTH SCIENCES CENTRE, SOUTH WEST LOCAL  
HEALTH INTEGRATION NETWORK, CENTRE FOR INDEPENDENT LIVING IN  
TORONTO, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, THE ATTORNEY  
GENERAL OF ONTARIO and THE ATTORNEY GENERAL OF CANADA

Defendants

**AMENDED AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANT

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEVEL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date August 22, 2018

Issued by M. Brenton

Local registrar

393 University Ave, Toronto ON, M5G 1E6

TO: **Victoria Hospital London Health Sciences Centre**  
800 Commissioners Road E  
London, ON N6A 5W9  
Fax: 519-667-6621

TO: **South West Local Health Integration Network**  
356 Oxford St W  
London, ON N6H 1T3  
Fax: 519-472-4045

TO: **Centre for Independent Living Toronto**  
365 Bloor St E  
Toronto, ON M4W 3L4  
Fax: 416-599-3555

TO: **Her Majesty the Queen in Right of Ontario, Attorney General of Ontario**  
720 Bay St, 11<sup>th</sup> Floor  
Toronto, ON M7A 2S9  
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TO: **Attorney General of Canada**  
Suite 3400, Exchange Tower  
Box 36, First Canadian Place  
Toronto, ON M5X 1K6  
Fax: 416-973-300

## CLAIM

### 1. The plaintiff claims:

- a) A declaration pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”), under part 1 of *The Constitution Act*, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11 (the “**Constitution Act**”) that the defendants have violated the plaintiff’s rights and freedoms set out in sections 7, 12 and 15 of the *Charter*, with respect to their failure to relieve the plaintiff’s intolerable suffering, and demeaning and degrading his right to life, liberty and security of the person by pushing assisted dying instead of assistance in living on the plaintiff, who suffers from a serious neurological disability and is dependent on the defendants for his dignity and survival;
- b) A declaration pursuant to section 24(1) of the *Charter*, with respect to the defendants’ two-year-long (and ongoing) denial of the relief of the plaintiff’s suffering by arbitrarily denying him a medically necessary service via a simple, alternative and available means of delivering the plaintiff a service he was already receiving, which would have protected his dignity, autonomy and bodily and psychological integrity. Instead, the defendants have attempted to force discharge the plaintiff, to work with contracted agencies that have failed him, which at the same time offering to refer him for assisted suicide and advising him they will be charging him 1,800 dollars a day at the non-OHIP hospital daily rate if he does not leave.
- c) A declaration pursuant to section 24(1) of the *Charter* that the defendants have violated the plaintiff’s section 7, 12, and 15 *Charter* rights, providing treatment that is cruel and unusual beyond the standard of decency, failing to provide the

- disadvantaged, vulnerable, and dependent plaintiff with treatment to relive suffering, and the necessities of life; endangering his life and putting his health and life seriously at risk;
- d) A declaration pursuant to section 24(1) of the *Charter* that the defendants have violated the plaintiff's section 7, 12, and 15 *Charter* rights to life, liberty and security of the person by attempting to force his discharge into unsafe and inadequate home and community services, limiting him with no other alternative to care, and violating the plaintiff's right to make fundamental life choices about his health and medical treatment.
- e) A declaration pursuant to section 24(1) of the *Charter* that the defendants have violated the plaintiffs section 7, 12 and 15 rights to a procedurally and substantively fair, impartial and open process to access self-directed funding, contrary to the rule of law and fundamental justice, causing prolonged intolerable suffering on the plaintiff;
- f) A declaration pursuant to section 24(1) of the *Charter* that the defendants have unlawfully discriminated against the plaintiff contrary to s.15 of the *Charter* because of the extent of his disability.
- g) A declaration pursuant to section 24(1) by the defendants denying him food and water, and failing to provide him with the necessities of life and endangering his life making him critically acidotic.
- h) damages pursuant to section 24(1) of the *Charter* for the violation of the plaintiff's rights and freedoms set out in sections 7, 12 and 15 of the *Charter* in the amount of 20,000,000.00, or such other sum as this Honourable Court may find appropriate;

hh) damages for breach of the duty of good faith, improper conduct, abuse of power and bad faith for wrongfully charging Roger Foley for insured health care services and extra-billing him 1,000,000.00! and climbing when he is on a disability pension for necessary and insured health care services and sending a collection agency after him to pressure him into a medically assisted death, from February 12, 2020 under the so called Canada's Universal Health Care including punitive damages of 3,000,000.00 for this egregious conduct and seeking reprisal against Roger Foley after he sought court intervention to protect himself from a wrongful death, exploitation and the escalating abuse, as a helpless totally dependent and severely disabled person against all the defendants;

hhh) The conduct of the defendants by wrongfully charging Mr. Foley for medically necessary insured services in order to try to coerce him into a Medically Assisted Death is malicious, oppressive and highhanded considering his severe disabilities and is a marked departure from ordinary standards of decency.

hhhh) There is a principle for the provision of insured services of utmost good faith and there has been a breach of this duty of good faith. The defendants are supposed to treat Mr. Foley's interest on the same footing as their own.

hhhhh) damages for breach of private and public law duty of care against all the defendants.

hhhhhh) damages for cruel and inhuman and degrading treatment, persecution of vulnerable persons with disabilities and crimes against humanity for a claim for damages under Canadian law against all the defendants.

hhhhhhh) any other such remedy as the court may consider just and appropriate pursuant to section 24(1) of the *Charter*;

- i) a declaration of invalidity pursuant to section 52(1) of *The Constitution Act*, 1982, Schedule B to the Canada Act 1982 (UK), 1982, cl 1, that the Medical Assistance in Dying (“MAID”) provisions under sections 241-241.4 of the *Criminal Code* (R.S.C., 1985, c. C-46) and the provisions under Bill C-7 An act to amend the Criminal Code (medical assistance in dying are unconstitutional, violate sections 7, 12 and 15 of the *Charter*, and are therefore of no force and effect. The MAID provisions fail to require the defendants to take any steps to even try to help relieve intolerable suffering or even require that other options even be tried before assisting vulnerable persons with disability to assisted death. This is not fundamentally just in a democratic and civil society based on the rule of law and an inclusive society with respect for vulnerable persons with disabilities. The MAID provisions have facilitated and continue to facilitate the humiliation, abuse, and degradation of the plaintiff and all other vulnerable persons with disabilities by improperly exploiting vulnerabilities and weakness in times of desperation. Very simple things like alternative choices need to be actually made available to relieve suffering and assist persons with life. The provisions contain insufficient safeguards that are inadequately designed to protect vulnerable people from abuse, coercion, and errors, facilitating assisted suicide instead of medical assistance in life.
- j) a declaration of invalidity pursuant to section 52(1) of *The Constitution Act* 1982, Schedule B to the Canada Act 1982 (UK), 1982, cl 1 that the Ontario’s *Patient’s First Act*, 2016, S.O. 2016, c. 30 and related Regulation O. Reg. 386/99 under the *Home*

- Care and Community Services Act*, 1994, S.O. 1994, c. 26 section 28.5(1) and Ontario Regulation 438/17 under the *HCCSA* amending O. Reg. 386/99, and Ontario Regulation 367/94 under the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20 are unconstitutional and the Connecting People to Home and Community Care Act, 2020 (CPHCCA) and accompanying Regulation violate sections 7, 12 and 15 of the *Charter*, and are therefore of no force and effect, as the legislation limits services available to disabled individuals, impeding sufficient or timely access to healthcare services, prevents sufficient access to tailored services to patient needs that would relieve their suffering forcing them with no other option but assisted dying.
- k) A declaration that Ontario's restructuring of the delivery of home and community care services, which take effect April 1, 2021, continues to delay and limit disabled individuals' access to services. The integration measures will take years to implement and will impede access to healthcare services and compound suffering.
- l) pre-judgment and post-judgment interest, pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- m) costs of this action payable by the Defendants, on a full indemnity basis, including any applicable taxes thereto; and
- n) such further and other relief as this Honourable Court may deem just and appropriate in all circumstances.

## THE PARTIES

The Plaintiff, Roger Foley (“**Mr. Foley**”) is a Canadian Citizen who is 42 years of age, residing in the City of London, in the Province of Ontario. His date of birth is September 16, 1975. As described further below, he is currently residing as an alternate-level-of care (“**ALC**”) patient at Victoria Hospital London Health Sciences Centre located in the City of London, in the Province of Ontario.

1. The Defendant, Victoria Hospital London Health Sciences Centre (“**Victoria Hospital**”) is a hospital that is part of the London Health Sciences Centre, located in the City of London, in the Province of Ontario. At all material times throughout Mr. Foley’s inpatient hospital admission, Victoria Hospital, through its agents, servants, and employees, has been responsible for his inpatient care and treatment.
2. The Defendant, South West Local Health Integration Network (“**SW LHIN**”), is a non-profit organization funded by the Ministry of Health and Long-Term Care of Ontario (“**MOHLTC**”) responsible for the regional planning, coordination, integration, administration, funding, and provision of local healthcare services in the South West Region of Ontario, which includes the City of London. It was established under Part II of the *Local Health System Integration Act*, 2006, S.O. 2006, c. 4. (“**LHSIA**”). In 2017, the South West Community Care Access Centre (“**SW CCAC**”) finalized its merge into the SW LHIN, transferring complete responsibility of home care in the South West region from the SW CCAC to the SW LHIN under Ontario’s Patient’s First Act, 2016.
3. The Defendant, Centre for Independent Living in Toronto (“**CILT**”), is a non-profit organization that administers the direct funding program in Ontario in partnership with the Ontario Network of Independent Living Centers (“**ONILC**”), funded by the Ontario



Ministry of Health and Long-Term Care (“**MOHLTC**”) through the Toronto Central Local Health Integration Network (“**TCLHIN**”).

4. The Defendant, the Attorney General of Ontario, is legal adviser to the Her Majesty the Queen in Right of Ontario, and is legal adviser to the Crown in Ontario, and is named as a party to this action on the basis that a declaration is being sought that provincial legislation is unconstitutional. party to this action on the basis that a declaration is being sought that provincial legislation is unconstitutional.
5. The Defendant, Her Majesty the Queen in right of Ontario (**the “Crown”**) is named in these proceedings pursuant to the provisions of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P. 27, and the amendments thereto (“**PACA**”). At all material times, the Crown, through and with its agents, servants and employees, was responsible for the planning, administration, funding, and provision of health care and home and community services, and direct funding in Ontario.
6. The Defendant, the Attorney General of Canada, is named in these proceedings pursuant to section 23 of the *Crown Liability and Proceedings Act*, R. S.C., 1985, c. C-50 (“*Crown Liability and Proceedings Act*”). At all material times, the Attorney General of Canada was responsible for overseeing the criminal justice system in Canada, and legislating the Medical Assistance in Dying (“**MAID**”) provisions of the *Criminal Code* (R.S.C., 1985, c. C-46).
7. The Defendant, Her Majesty the Queen in right of Ontario (the “**Crown**”) is named in these proceedings pursuant to the provisions of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P. 27, and the amendments thereto (“**PACA**”). At all material times, the Crown, through and with its agents, servants and employees, was responsible for the planning, administration, funding, and provision of health care and home and community

services, and direct funding in Ontario.

8. The Defendant, the Attorney General of Canada, is named in these proceedings pursuant to section 23 of the Crown Liability and Proceedings Act, R. S.C., 1985, c. C-50 (“Crown Liability and Proceedings Act”). At all material times, the Attorney General of Canada was responsible for overseeing the criminal justice system in Canada, and legislating the Medical Assistance in Dying (“MAID”) provisions of the Criminal Code (R.S.C., 1985, c. C-46). OVERVIEW

#### **i. Home care services in Ontario**

7. In Ontario, people who require care in their home can receive these services through the government. Most home care and community (or “attendant”) services in Ontario are currently provided under the *Home Care and Community Services Act*, 1994, S.O. 1994, c. 26 (“**HCCSA**”) now coordinated through LHINs (formerly through CCACs). These home care and community services include community support services, homemaking services, personal support services, and professional services, as defined under section 2 of the *HCCSA*.

8. These services are funded by the Ontario MOHLTC and administered through LHINs. The LHINs are responsible for deciding who receives care, the level of care needed and the duration of home care required. LHINs allocate funds to agencies and service providers to provide services regulated by the *HCCSA*.
9. The LHINs coordinate these services with private contracted community care agencies (“**agencies**”) that have been approved by the MOHLTC under the *HCCSA*. To be approved, agencies must abide to the *HCCSA* Bill of Rights, though there is no explicit requirement that agencies actually adhere. The MOHLTC may revoke or suspend approvals of agencies if there are reasonable grounds to believe the agency has contravened the terms and conditions imposed by the legislation or regulations.
10. The Bill of Rights, under Part III of the *HCCSA*, provides a codified list of rights for patients who are receiving home care services. These include the right against abuse, the right to respect a patients autonomy, dignity and privacy, the right to participate in the assessment of a patient’s needs and development of a plan of service, and the right to raise concerns or suggest changes to services provided or policies that may affect patient’s services.
11. Agencies provide Personal Support Workers (“**worker**” or “**PSW**”) who attend the homes of patients and provide them with assistance in their activities of daily living on a pre-scheduled basis. There is a cap of 90 hours per 30-day period, unless a special exemption is obtained, pursuant to the service maximums set out in O. Reg. 386/99 under the *HCCSA*.
12. Under this service model, home care patients have minimal input into their plan of service to suit their individual needs or control over their schedule or PSWs.

**ii. Self-directed funding (or direct funding programs) in Ontario**

13. Direct funding programs enable adults who require home care and community services to act as employer and control their schedule, payroll, hiring, training, and dismissal of care workers.
14. Directed funding programs in Ontario are available: a) locally, through programs created by LHINs; or b) or province-wide, through CILT.
15. LHINs have the legislative authority to establish self-directed funding programs under the *HCCSA*. Under section 28.5(1), the Minister may approve a LHIN to provide funding to or on behalf of a person to purchase a prescribed community service. Approved funding is subject to requirements set out in the section.
16. Direct funding for the provision of homecare services pursuant to section 28.5(1) of the *HCC SA* can be provided to specific categories of persons as set out in Ontario Regulation 438/17 under the *HCCSA* amending O. Reg. 386/99. These include children with complex medical needs, adults with acquired brain injuries, persons eligible for school health professional services and persons for whom the LHIN determines that extraordinary circumstances exist that justify the provision of the funding.
17. Across Ontario, there are various models of self-directed funding implemented at a regional level by LHINs. For example, the South East LHIN (“**SE LHIN**”) created (and has funded) the Seniors Managing Independent Life Easily (“**SMILE**”) program in 2008. The SMILE program is managed by the Victorian Order of Nurses (“**VON**”) a not-for profit, home and community care organization.
18. Province-wide, direct funding in Ontario is provided on a limited basis through the Self-Managed Attendant Services - Direct Funding Program (the “**DF program**”). The DF program is administered by CILT in Toronto, in partnership with the ONILC, and it is

funded by the MOHLTC. Funding for the program flows directly to CILT, in cooperation with the ONILC, who determine eligibility through the application and interview process, and then administers the allocation of the grants.

19. The Ontario government plans to modernize and integrate the delivery of home and community care services. Local Health Integration Networks will be rebranded as Home and Community Care Support Services and the system will slowly transition toward Ontario Health Teams. This process will take several years, beginning April 1, 2021.
20. The DF program is established under section 11.1(2) of the *Ministry of Community and Social Services Act*, R.S.O. 1990, c. M.20 (“**MCSSA**”), wherein the Minister is enabled to make a grant to, or on behalf of, a person who has a disability or is at least sixteen years old, to assist the person in obtaining goods and services that the person requires as a result of the disability, or to make such grants to organizations or agencies with which the Crown has entered into an agreement, which will then transfer such grants to persons with disabilities.
21. Ontario Regulation 367/94 under the *MCSSA* sets out the eligibility criteria for the program. The criteria includes, but is not limited to the following: the applicant must be at least sixteen years old, and require attendant services as a result of a permanent physical disability. Further, the person must understand the nature of their disability, the scope of services required, and be capable of arranging and directing their own services and managing the funding.
22. CILT has set up their own review mechanism, in which an independent third party can review eligibility decisions and determine whether the decision was procedurally and

substantively fair. The review decision should be provided within 60 days. Appeals may be made to the Health Services Appeal and Review Board (“**HSARB**”).

23. Under the SW LHIN, no model of self-directed funding has been implemented. Residents of the region must apply to CILT in Toronto for access to self-directed funding.

### **iii. Health as an area of concurrent jurisdiction**

24. Health is a matter of concurrent jurisdiction in Canada. As such, both the provincial government of Ontario and the federal government of Canada, legislate for areas of health legislation, depending on the circumstances and the focus of the legislation

### **iv. Health as a recognized right under the *Charter***

25. Violations of the *Charter* have been found by the Federal Government trying to deny health care coverage to vulnerable Refugees. There is no doubt there is a Constitutional protected right in the circumstances for both the Provincial and Federal Government to ensure that there is legislation that ensures proper health care is being provided to vulnerable persons who are suffering, so that they are not forced to assisted suicide without any real choice. Health care needs to be delivered to ameliorate suffering with proper safeguards to prevent wrongfully assisted suicides.

### **v. Medical Assistance in Dying**

26. In 2015, the Supreme Court of Canada decriminalized medical assistance in dying (or physician-assisted dying) in the seminal case, *Carter v Canada (AG)*, 2015 SCC 5. The Court struck down the provisions, sections 14 and 241 (b) of the *Criminal Code*, finding them invalid insofar that they prohibit physician-assisted death for a competent adult person who clearly consents to the termination of life and has a grievous medical condition

that is irremediable and causes enduring suffering. The court found these provisions unjustifiably infringed section 7 of the *Charter* and suspended the declaration of invalidity for a period of time to allow Parliament time to introduce legislation that reflects the decision and would not offend the *Charter*.

27. In response, Parliament enacted *An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)* (S.C.2016, c. 3) and amended provisions under sections 241-241.4 of the *Criminal Code* that created a framework for medical assistance in dying in Canada, including eligibility criteria and safeguards.
28. The eligibility criteria listed under section 241.2(1) of the *Criminal Code* provide that a person may receive MAID only if they meet all of the criteria listed:
- (a) they are eligible - or, but for any applicable minimum period of residence or waiting period, would be eligible - for health services funded by a government in Canada;
  - (b) they are at least 18 years of age and capable of making decisions with respect to their health;
  - (c) they have a grievous and irremediable medical condition;
  - (d) they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and
  - (e) they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.
29. Under section 241.2(2) of the *Criminal Code*, specific criteria must be met for a medical condition to be considered grievous and irremediable. Specifically, an individual must:
- (f) have a serious and incurable illness, disease or disability;

- (g) be in an advanced state of decline in capability that cannot be reversed;
  - (h) be enduring physical or psychological suffering from the illness, disease or disability that is intolerable to him or her and that cannot be relieved under conditions that he or she considers acceptable; and
  - (i) be at a point where his or her natural death has become reasonably foreseeable, taking into account all of his or her medical circumstances.
30. The section provides a list of safeguards under section 241.2(3) of the *Criminal Code* that before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must:
- (j) be of the opinion that the person meets all of the criteria set out in subsection (1);
  - (k) ensure that the person's request for medical assistance in dying was
    - (i) made in writing and signed and dated by the person or by another person
    - (ii) under subsection (4), and
    - (iii) signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;
  - (l) be satisfied that the request was signed and dated by the person - or by another person under subsection (4) - before two independent witnesses who then also signed and dated the request;
  - (m) ensure that the person has been informed that they may, at any time and in any manner, withdraw their request;
  - (n) ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in subsection (1);



- (o) be satisfied that they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are independent;
  - (p) ensure that there are at least 10 clear days between the day on which the request was signed by or on behalf of the person and the day on which the medical assistance in dying is provided or - if they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the person's death, or the loss of their capacity to provide informed consent, is imminent - any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;
  - (q) immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying; and
  - (r) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision.
31. In response to the decision in *Truchon c. Procureur general du Canada*, 2019 QCCS 3792, Parliament introduced Bill C-7 which would change the MAID provisions in the *Criminal Code*. The court in *Truchon* determined that the “reasonably foreseeable” requirement violated the *Charter* section 7 right to life, liberty, and security of the person. The amendments contained in Bill C-7 are summarized as follows:
- (s) A reasonably foreseeable natural death is no longer required.
  - (t) Mental illness cannot be the sole underlying condition.
  - (u) Only one person, rather than two, is required to witness the signing of the request.

- (v) Where natural death is reasonably foreseeable:
  - (i) The 10-day waiting period is eliminated.
  - (ii) Consent immediately prior to the administration of MAID can be waived.
  - (iii) Capacity immediately prior to the administration of MAID is no longer required if MAID has been arranged in writing in advance while the person was still capable.
- (w) Where natural death is not reasonably foreseeable:
  - (i) There is a 90-day waiting period, except if loss of capacity is imminent.
  - (ii) One of the physicians or nurse practitioners assessing eligibility must have expertise in the condition causing the person's suffering.
  - (iii) The person must be informed of options available to relieve their suffering and must be offered consultations with relevant professionals.
- (x) Additional reporting requirements requiring any person involved in eligibility assessments to file information.

**vi. Inadequate safeguards leading to the wrongful deaths of vulnerable persons with disabilities**

32. Despite the Supreme Court requiring legislation to be Constitutionally valid, Parliament put in place Unconstitutional legislation with inadequate safeguards. Persons who do not have to die to have their suffering relieved are forced to assisted suicide given no real alternative. If persons were actually provided access to assisted life, support and proper care, and having their unmet needs addressed to relieve their suffering, persons would not be put into positions where they had to decide to end their life through an assisted death.

33. The Supreme Court found that the risks associated with physician-assisted death could be limited through a carefully designed and monitored system of safeguards capable of protecting vulnerable people from abuse and error. This is lacking.

## **A. EVENTS THAT GAVE RISE TO ACTION**

### **1. Background**

35. The plaintiff, “Mr. Foley”, is suffering from complex medical conditions, including the Neurodegenerative disease Spino Cerebellar Ataxia, Osteoporosis, Degenerative Disc Disease, Cervical Spine fusion and Malformed Vertebrae, Asthma, Neuropathy, Chronic Migraines, Chronic Fatigue, Tinnitus, along with other health challenges.
36. As a result of these complex medical conditions, Mr. Foley has been rendered physically disabled, and has very limited mobility. He requires assistance with the routine activities of daily living, such as eating, taking his medication, grooming and bathing.
37. Mr. Foley has full capacity and remains intelligent, capable, personable, and is able to use all forms of technology such as the computer and telephone to email, make phone calls, conduct research, and schedule his time.
38. In 2009, Mr. Foley was living in the City of Toronto, Ontario working as a National Manager of E-Business at the Royal Bank of Canada when his health condition deteriorated to the point that he could no longer work.

### **ii. Agency care**

39. Thereafter, in 2010, Mr. Foley moved to London, Ontario, where his health condition continued to deteriorate, requiring home assistance from contracted agencies facilitated by both the SW LHIN and the SW CCAC. He received home care from the following

agencies: Paramed Home Health Services, Saint Elizabeth, and Cheshire Homes of London Inc ..

40. In 2014, Mr. Foley was approved for funding as a High Risk Senior under Cheshire's Supports for Daily Living Program through the Assisted Living Services for High Risk Seniors Policy, as he was found to meet the characteristics of a high-risk senior.
41. Mr. Foley's hours were approved under sections section 8 and 3.4 of the Ontario Regulation 386/99 Provision of Community Services, a regulation belonging to the *HCCSA*. The policy provides enhanced care to fragile members of the community who do not need to be in a long-term care home. Under this program, Mr. Foley received an average of approximately 210 hours of agency care per month, provided by Cheshire.
42. However, under agency care, Mr. Foley's needs were not being met and his condition deteriorated. There were frequent scheduling errors made by Agencies. Mr. Foley was hospitalized from food poisoning after being fed spoiled food by Agency workers. Burners were left on in Mr. Foley's kitchen. Mr. Foley was physically injured from being dragged on the floor by Agency workers during transfers.
43. Mr. Foley reported his situation and made regular complaints to both the SW LHIN and his agency care providers about the standard of care he was receiving from the agencies in his home. He requested more input into his home care and community service.

### **iii. Admissions to Victoria Hospital**

44. Mr. Foley was admitted to Victoria Hospital on and about November 3, 2015 due to his deteriorating physical and psychological health under agency care.
45. During his stay in the hospital, Mr. Foley was promised a higher standard of care by Cheshire, his agency care provider at that time. After approximately one month in Victoria

Hospital, Mr. Foley was discharged back into his home under Cheshire's care on or about December 2, 2015.

46. Back in his home, Mr. Foley's agency care quickly deteriorated. There was rotting food everywhere, vast amounts of mold, medication scattered on the floor and countertops, and obvious signs that Mr. Foley had been treated roughly and was in poor mental and physical shape.
47. By February 2016, Mr. Foley's mental and physical state deteriorated. After a stretch of approximately four days of particularly poor quality agency care - characterized by rotten food, unwashed plates, lack of medication, and being banged into walls - he required immediate hospitalization, and he was admitted at Victoria Hospital on or about February 3, 2016.

#### **iv. Application to CILT for Self-Directed Funding**

48. Mr. Foley contacted the SW LHIN on or about March 15, 2016 to inquire about self-directed funding, which would to enable him to employ agency workers of his choosing and manage his own schedule.
49. Mr. Foley was told by SW LHIN that direct funding was not available through the SW LHIN because they lacked the legislative authority to implement a self-directed funding program in their region. Mr. Foley was instructed that direct funding had to move through CILT in Toronto,
50. Subsequently, on or about March 17 2016, Mr. Foley submitted an application to the CILT for Direct Funding to enable him to self-direct his own care in his home.
51. Initially, Mr. Foley was placed on a several year waiting list at CILT until his application was expedited by CILT on or about July 14, 2016. Mr. Foley's application with CILT was

expedited after he tried to coordinate direct funding through the SW LHIN and VON, an organization with experience administering the self-directed funding the SMILE program through the SE LHIN since 2008.

52. Mr. Foley met with the Selection Panel from CILT on three dates: September 20, October 3, and November 14, 2016 to discuss his application for Self-Managed Attendant Services - Direct Funding Program.
53. The interview process was delayed by several months due to challenges with CILT accommodating the mobility and location needs of Mr. Foley. Moreover, there were further delays due to the replacement of a member of the panel after Mr. Foley lodged a complaint about unfair treatment.
54. CILT rendered a decision that Mr. Foley was ineligible for the Direct Funding Program on or about February 3, 2017.
55. In their decision letter, the CILT panel attributed delays in the application process to Mr. Foley's disabilities, which was cited as a reason why Mr. Foley was ineligible for direct funding.
56. On or about March 19, 2017, Mr. Foley filed a Request for Review to CILT. CILT's deadline to communicate a Request for Review decision was 60 days after the March 19, 2017 submission, on or about May 19, 2017.
57. CILT defaulted on the May 19, 2017 deadline.
58. A new Request for Review deadline was set for June 30, 2017. CILT also defaulted on that deadline due to cited issues with incomplete, erroneous and insufficient documentation provided by the CILT panel.

#### **v. Hospital stay at Victoria Hospital**

59. Mr. Foley has remained at Victoria Hospital since February 2016 due to concerns for his health and safety under agency care while waiting upon the delayed request for review decision.
60. During Mr. Foley's stay at Victoria Hospital, hospital staff has routinely refused to accommodate his medical condition and provide appropriate medical assistance devices to assist Mr. Foley.
61. Hospital administration has refused to transfer Mr. Foley to long- term stay unit of the Victoria Hospital, suitable for his needs as a disabled adult. Instead, Mr. Foley remained on an ALC patient in the mental health unit of the hospital, though hospital staff had expressed concerns to hospital administration that the mental health unit was unequipped to properly care for a patient in Mr. Foley's condition.
62. Further, hospital staff has routinely held important meetings about Mr. Foley, which he could not attend due to his disability, and made no effort to accommodate Mr. Foley despite his frequent requests.
63. Hospital staff has told Mr. Foley that he cannot access his computer or phone, and has refused him access to his own information and records.
64. Hospital staff has berated Mr. Foley because of his refusal to accede to an unsafe forced discharge. Staff have been verbally and physically aggressive towards Mr. Foley, and on many occasions, have ignored his requests for assistance.
65. Hospital staff has also failed to provide Mr. Foley with food and water, ignoring his requests for assistance on several occasions. In addition, Mr. Foley has been forced food, for which he has well-documented and communicated allergies and health issues.

66. The hospital became particularly aggressive on or about April 2018, where hospital staff denied Mr. Foley his basic necessities of life, including food and water, for an entire week. Hospital staff timed Mr. Foley and failed to help him with his basic hygiene and his activities of daily living knowing his severe disability. The hospital failed to assist Mr. Foley with going to the bathroom and left him in his own feces and denied him necessary equipment and services for his disability.
67. Under the hospital's care at end of April 2018, Mr. Foley's anion gap reached 32 (normal 12) making him critically acidotic and they callously, recklessly and deliberately endangering his life refusing him all blood tests and access to a physician. vi. Forced discharge and Medical Assistance in Dying
68. Mr. Foley was told by the SW LHIN that his home care hours would be reduced if he did not go back to Agency care under Cheshire. Mr. Foley refused. Subsequently, the SW LHIN reduced Mr. Foley's attendant care hours from the approximate 210 hours of care under the Assisted Living Services for High Risk Seniors Policy to just 90 hours.
69. Members of the hospital administration threatened to force a discharge on Mr. Foley, despite his treating physicians identifying that as an unsafe option for Mr. Foley.
70. On several occasions, hospital staff attempted to force discharge on Mr. Foley by threatening to charge him approximately \$1800 per day of hospital care if he would not leave the hospital.
71. Hospital staff has also pushed medically assisted suicide on Mr. Foley, who has refused to leave the hospital voluntarily or via forced discharge. Conversations about medically assisted suicide were pushed on Mr. Foley in the context of his forced discharge from the hospital.



72. Mr. Foley was told by hospital staff that he had stayed at the hospital for too long and if he did not receive self-directed funding, he should apply for assisted death as an option.
73. Hospital and SW LHIN staff have attempted to push Mr. Foley into a decision between an unsafe discharge back to agency care where his quality of life drove him to consider suicide, or medical assistance in dying at the hospital.
74. Mr. Foley has been pressured to ask for death due to the lack of availability of adequate care and as an alternative to facing undignified living conditions.
75. Mr. Foley has a grievous and irremediable condition and he is eligible for a Medically Assisted Death and other patients with Cerebellar Ataxia have been found eligible.
76. Instead of a Medically Assisted death, Mr. Foley wishes to have his intolerable suffering relieved by other means besides a Medically Assisted death, but that is all that is being offered to him as well as unlawfully billing him to coerce him to end his own life and abusing him through his care, demeaning him and ridiculing him to try to weaken his resolve and mocking his disabilities, harassing and bullying him..
77. Mr. Foley is being deprived of his rights to life, liberty and security of the persons that is not fundamentally just in a just and democratic society, is being subjected to cruel and unusual punishment and discrimination on the basis of his disabilities that he must end his life, so others can kill themselves and can have access to a so called manipulated state sponsored suicidal right, and it causes an unreasonable risk of wrongful deaths against Mr. Foley and others similarly situated.
78. Should Mr. Foley not have access to the court and spoken up, he would be deprived of his life through a so called Medically Assisted Death under the guise of legitimate health care and it would be too late for him to speak up.
79. The defendants have failed to provide Mr. Foley with a care option that would relieve his

intolerable suffering and promote his wellness, independence, and dignity in the hospital and in the community.

**vii. Assurances from Ontario**

80. Ontario, did promise in writing, in a letter by the Minister of Health and Long-Term Care, Dr. Eric Hoskins, to Roger Foley to relieve his suffering and that the MOHLTC and the SW LHIN were going to work together on his home care and community service to ensure a resolution that would provide Mr. Foley with appropriate, safe, care that reflected his preferences including a self-directed funding option.
81. Despite these assurances from the Minister of Health, the defendants have not reached a resolution, nor have they fulfilled their obligation to provide Mr. Foley with hospital care, home care and community service that is appropriate, safe and reflects Mr. Foley's preferences nor have they done anything to relieve Mr. Foley intolerable suffering.

## ***B. BREACH OF THE CHARTER***

82. The actions of the defendants towards the Mr. Foley particularized above have violated his basic human rights, and constitute a violation of his rights and freedoms under sections 7, 12 and 15 of the *Charter*.
83. These *Charter* breaches by the defendants also encompass breaches under the United Nations Convention on the Rights of Persons with Disabilities (“**CRPD**”) ratified by Canada on March 11, 2010. The CRPD provides for the rights of the disabled to dignity, autonomy, freedom from exploitation, respect for mental and physical integrity, live in the community, and an adequate standard of living. The UN Special Rapporteur on the rights of persons with disabilities has expressed significant concerns with the MAID provisions in the *Criminal Code* as well as the provisions in Bill C-7.

### ***i. Breach of section 7 Charter rights***

84. Pushing Mr. Foley into a forced discharge with severely reduced hours of care is a serious violation of Mr. Foley’s right to life, dignity, and security of the person by forcing him to make a choice between irremediable and intolerable suffering and death, instead of providing him with alternative means of assisted care that would relieve his suffering and encourage his independence, wellness, and dignity. This engages his right to life.
85. The defendants have treated Mr. Foley unfairly contrary to the principles of fundamental justice. The failure of the defendants to provide Mr. Foley with barrier-free access to healthcare services available under legislation is arbitrary without institutional justification.
86. Mr. Foley’s liberty has been seriously infringed by the defendants’ actions with respect to fundamental life choices about his health, medical treatment, and security of the person that lie at the very core of his independence and sense of dignity.

87. The defendants have failed to provide Mr. Foley with reasonable, barrier free access to health services; instead, the defendants have denied Mr. Foley reasonable access to healthcare and denied his right to be funded individually and have placed barriers to service access.
88. The right of Mr. Foley to control his own bodily integrity has been violated by the defendants' interference with his personal autonomy and his ability to control his own physical and psychological integrity.
89. The defendants have failed to provide Mr. Foley with available services that are already publicly available and funded and/or healthcare services that would enable him to control his medical treatment and protect his own physical and psychological integrity.
90. Instead, Mr. Foley has suffered severe psychological and physical harm as a result of unfair, discriminatory and poor quality treatment that has been imposed on him by the defendants.
91. Without a safe discharge option available, Mr. Foley's suffering has been prolonged and his dignity has been seriously compromised, as he remains a patient at Victoria Hospital.
92. Mr. Foley has been denied his right to fair process with respect to his application for self-directed funding.
93. The defendants violated Mr. Foley's *Charter* rights to life, liberty and security of the person when they pushed physician-assisted suicide on him: a vulnerable, disabled adult who was admitted to the hospital because he was suicidal due to his prolonged suffering under agency care. Mr. Foley is dependent on the defendants for his dignity and survival, and his physical and psychological integrity have been violated by demeaning, cruel and unusual treatment.

94. The provincial and federal impugned legislation is overbroad, disproportionate, arbitrary, unclear and vague, as persons who could have their suffering relieved with simple adjustments to their care and ensuring options are actually available, are unnecessarily assisted to their death without any adequate safeguards or sufficient oversight, which is not fundamentally just.
95. The impugned provincial and federal legislation has created restrictive barriers to care that have violated Mr. Foley's section 7 *Charter* right to life, liberty and security of the person and endangered his life. In particular, the restrictive service maximums set out in O. Reg. 386/99 under the *HCCSA* that limit home care and community service to 120 hours can be dangerous for high-needs disabled as they restrict access to the necessities of life and prioritized care.
96. Further, home care and community services provided under the *HCCSA* have violated Mr. Foley's section 7 *Charter* right to life, liberty and security of the person and endangered his life, as they have failed to ensure an adequate standard of care and safeguards to protect his security of the person and his physical and psychological integrity. There is no requirement to prevent deterioration of the vulnerable or disabled by tailoring care based on the specific circumstances such as priority or end of life care.

**ii. Breach of section 12 *Charter* rights**

97. The treatment that Mr. Foley has endured by the defendants - both in his home and at the hospital - constitutes degrading treatment contrary to section 12 of the *Charter*.
98. Forcing a discharge of Mr. Foley, a vulnerable, disabled person, into an unsafe and poor quality care environment, denying proper care and providing him with the only option as

assisted dying is cruel and unusual punishment, violating standards of decency and shocking the conscience of the community; it is grossly disproportionate.

99. Depriving Mr. Foley of essential healthcare and homecare and community services has put the life of Mr. Foley, a vulnerable, disadvantaged and disabled member of society, at risk, constituting cruel and unusual treatment.
100. Failing to provide necessities of life to a person suffering with a disability is cruel and unusual punishment and a form of inhumane torture.

### **iii. Breach of section 15 *Charter* rights**

101. Throughout his interview process with CILT, Mr. Foley has faced discrimination and unfair treatment based on his physical disabilities.
102. Although CILT is an organization designed to assist disabled people to live independently in the community, Mr. Foley has been treated differently. CILT refused to accommodate Mr. Foley's mobility and location needs and put up barriers to access.
103. CILT blamed substantial delays in the interview process on Mr. Foley's disabilities, and unfairly cited the delays as evidence of his ineligibility. The substantial delay in rendering a review decision has damaged his dignity.
104. At Victoria Hospital both the defendant hospital and SW LHIN, discriminated against Mr. Foley on account of his physical disability. Staff has failed to accommodate his needs, providing Mr. Foley with less than adequate treatment on a unit designed for mental health.
105. Mr. Foley has been subject to hostile treatment because he refuses to consent to an unsafe discharge. As such, he has been shut out of important meetings and conversations and denied access to information due to barriers with his disability that confine him to his bedside.

106. Further, Mr. Foley has been subject to derogatory remarks and cruel treatment by the defendants on the basis of his disability.
107. All of the defendants have discriminated against Mr. Foley with their rigid, inflexible and irrational approach to his health care and home care issues. The provincial legislation has failed to provide adequate home care and community services for disadvantaged and vulnerable members of society who share similar neurological disabilities creating specific hardships for his class of disability that falls outside the criteria for services such as self-directed funding.
108. Mr. Foley has been denied meaningful participation in his own healthcare decisions on the basis of discrimination due to his type of disability. Though Mr. Foley is physically incapacitated, he remains capable and intelligent. However, due to the physical manifestations of his neurological illnesses, such as slurred speech and immobility, the defendants have treated Mr. Foley as less intelligent, less credible, and less capable of participating in his own healthcare decisions, denying him his right to raise concerns or suggest changes to services that are fundamental to his life, liberty and security. These discriminatory practices that look down on the disabled has created tremendous hardship for Mr. Foley in advocating for himself throughout this process.
109. Mr. Foley and other individuals, who share similar disabilities, are facing tremendous pressure to end their lives, being made to feel they are a burden to society, with limited access to adequate healthcare and home care services. This treatment of disabled individuals, such as Mr. Foley, who are being offered medical assistance in dying rather than living, is creating a serious hardship on this vulnerable and disadvantaged class.

110. Mr. Foley is a person with high end needs is being particularly discriminated against as the more a person is disabled and fits in that subclass of high end needs, the greater the deprivation and the more disadvantaged and serious hardship they face and the greater their vulnerability and the greater the subclass is exploited.

**iv. *Charter* Damages under s.24(1)**

111. In the circumstances of this case, Mr. Foley is entitled in addition to all other remedies he seeks substantial monetary damages pursuant to section 24(1) of the *Charter* for violation of his constitutional rights and freedoms in order to: (a) Compensate him for his suffering and loss of dignity; (b) Vindicate his fundamental rights; and (c) Deter systemic violations of a similar nature.
112. There are no countervailing considerations rendering damages in this case inappropriate or unjust.

**C. UNCONSTITUTIONAL MAID PROVISIONS OF *CRIMINAL CODE***

113. The use of MAID provisions to end the life of disabled persons while restricting medically necessary services that would alleviate the persons irremediable and intolerable suffering, and prevent serious risk to their health, safety and security of the person, renders the MAID provisions under section 241-241.4 of the *Criminal Code* and the amendments in Bill C-7 Unconstitutional and contrary to sections 7, 12, and 15 of the *Charter* and is therefore of no force and effect.
114. Key objectives of MAID provisions were to affirm the inherent and equal value of every person's life and to protect vulnerable people from being encouraged to die in moments of weakness. As Mr. Foley's unfortunate circumstances illustrate, the MAID provisions do



not provide adequate safeguards or protections for vulnerable, disabled people as set out by the objectives of the Act. Rather, these provisions are dangerous as they can be used to facilitate the humiliation and abuse of persons with disabilities in times of desperation without any steps being taken by medical staff or the defendants to help these vulnerable disabled patients relieve their suffering or assist such patients with life.

115. The MAID provisions fail to provide adequate safeguards that ensure that vulnerable patients are provided with the range of available options for medical care. Instead, patients are being pressured to choose death, due to the lack of available options for medical care that could reduce their loss of personal dignity.
116. Seriously disabled patients like Mr. Foley, who could have many quality years ahead of them and want to choose life, are being forced into asking for death due to lack of adequate health care and home care options available to them.
117. The role of medical practitioners to respond to the needs, enhance the dignity of persons with serious disabilities, and to promote suicide prevention has been undermined by the MAID provisions, which have changed the conversation for health practitioners from life-promoting to life-ending treatment, validating the concerns of disabled patients that their lives are devalued, and that their only option in the absence of life sustaining care is death.
118. The MAID provisions fail to protect vulnerable people like Mr. Foley from abuse and errors, and it is not a carefully monitored system that is strictly monitored and enforced. Without more restrictive criteria, disadvantaged members of society like Mr. Foley, who are seen as a drain on the healthcare system, are being coerced into assisted death, as an easy alternative to providing adequate care.

119. The plaintiff pleads that the defendants have violated his *Charter* rights, and the MAID provisions of the *Criminal Code*, the amendments in Bill C-7, and the Ontario's *Patient's First Act*, 2016 and related *HCCSA* Regulation O. Reg. 386/99 under the *HCCSA* Ontario Regulation 438/17 under the *HCCSA* amending O. Reg. 386/99 are unconstitutional, as set out below:

**(a) As against the defendant, Attorney General of Canada:**

- (i) The plaintiff incorporates by reference all material facts from paragraphs 1-116 in this claim;
- (ii) The MAID provisions under sections 241-241.4 of the *Criminal Code* and the amendments in Bill C-7 are unconstitutional and contrary to sections 7, 12, and 15 of the *Charter* and are therefore of no force and effect.
- (iii) The Attorney General of Canada is aiding and facilitating unnecessary deaths of its disabled citizens with inadequate safeguards in place contrary to the *Charter* for which the plaintiff seeks remedies under section 52(1) of the *Constitution Act* and section 24(1) of the *Charter* including *Charter* damages;
- (iv) The Attorney General of Canada is forcing and coercing the plaintiff toward assisted suicide and failing to protect him, and relieve his suffering contrary to the *Charter* and International law contrary to the UN Convention on the Rights of Persons with disabilities which violates section 24(1) of the *Charter*;
- (v) The Attorney General of Canada has concurrent jurisdiction for health care in the circumstances and is egregiously failing to act allowing easily avoidable unnecessary deaths to disabled Canadians contrary to sections 52(1) and section 24(1) of the *Charter*;

- (vi) The Attorney General of Canada is denying its most important function to protect and safeguard its own vulnerable and disabled citizens from abuse, torture and wrongful deaths under section 24(1) of the *Charter*, when it continues to take inconsistent positions on fundamental *Charter* issues involving assisted dying;
- (vii) The MAID provisions under sections 241-241.4 of the *Criminal Code* and the amendments in Bill C-7 are overbroad, arbitrary and grossly disproportionate and the failure of appropriate safeguards is leading to assisted dying as options being put forward to persons who do not need to die to have their suffering relieved and live a dignified life;
- (viii) The Attorney General of Canada is not performing its basic function and role of protecting vulnerable disabled Canadians from suffering, torture, persecution, discrimination and abdicating its role and function for protecting Canadian contrary to section 24(1) of the *Charter*;
- (ix) The MAID provisions under sections 241-241.4 of the *Criminal Code* and the amendments in Bill C-7 are overbroad, arbitrary and grossly disproportionate by its manipulation of the consent process through misrepresentation, fraud or duress, when persons in reality are given no real less intrusive alternatives, and are actually not provided any care or assistance to relieve their suffering in practice, where there is no oversight, and undesirable Canadians who are a burden to society are assisted to their death in silence without any safeguarding, scrutiny or accountability;
- (x) The Federal Attorney General is required to provide an undeniable Constitutional Right to Health Care (as they now are required to provide Refugees with a Constitutional Right to health care services) for services, where any person has a

grievous and irremediable conditions and is suffering that would otherwise qualify for assisted dying, if they qualify for assisted dying they qualify for assisting living with the government being duty bound to relieve a person's suffering through providing services and support, when a person otherwise qualifies for assisted dying, so person have relief of their suffering and have their *Charter* rights protected;

- (xi) The failure of the Attorney General of Canada to require that safeguards are put in place in every single case before assisted dying can be an option, by scrutinizing that all efforts were made to ensure access to and availability of, equipment and services were actually put in place to relieve suffering before a person can consent without coercion to assisted dying.
- (xii) The amendments in Bill C-7 remove the requirement that a person's natural death be reasonably foreseeable. This exposes people with chronic illnesses and disabilities to additional risk. The provisions in Bill C-7 reinforce the ablest presumption that life with a disability is of lower quality and promotes the societal assumption that it is better to be dead than to live with a disability. The amendments completely remove any safeguards that would prevent someone from choosing MAID simply because appropriate care is not available.
- (xiii) If allowed to stand, the MAID provisions introduced in Bill C-7 will allow persons with disabilities to end their lives because of factors such as loneliness and isolation as well as inadequate access to high quality support and care. Explicit and implicit pressures, especially for elderly people with disabilities, will play a significant role in a person's choice to continue living or to choose death.

- (xiv) Bill C-7 continues to devalue the life of persons with disabilities and thus encourages them to choose MAID.
- (xv) The Attorney General is knowingly persecuting persons with disability and knowingly aware that disabled Canadians are being wrongfully put to their death, and as a result of their improper conduct, have an increased risk of death by knowingly being aware before Carter that there is a risk of wrongful death and argued that position, that vulnerable disabled persons would be abused and be put at risk of wrongful deaths but instead of doing their job to protect vulnerable Canadians they wrongfully spread propaganda about the safety of the MAID regime across the Country, and aided and abetted its ongoing sliding practices for an improper purpose to save money on the lives of people with disability instead of protecting them.
- (xvi) The Attorney General knowingly called an expert witness in litigation to help the opposing party, and have not advocated to protect vulnerable disabled Canadians and knew that there was the appearance of conflicts of interest by the judiciary and by partisan experts and advocates acting in Carter, and/or Truchon but did not take any steps to protect the rule of law and protect the integrity of the proceedings, and have not apparently made any regulations to protect the rule of law from judges who decided Carter profiting from their ruling and spreading propaganda about the safety of MAID and advocating for its continued sliding practice in books

they write after leaving public office and by doing so have breached the Rules of Natural Justice for Mr. Foley and others similarly situated leaving them as casualties of their improper conduct to undermine the rule of law in Canada and the protection of vulnerable and disabled citizens who rely on the Attorney General to protect them and protect the rule of law.

- (xvii) The Attorney General inaction in not disclosing the appearance of conflicts of interest in the legal proceedings in Carter and Truchon resulted in serious miscarriages of justice, illegitimate court ruling and mistrials to be used to abuse and expose Mr. Foley and other similarly situated persons to an increased risk of wrongful deaths.
- (xviii) The Attorney General basic duty is to uphold the rule of law in judicial proceeding and they failed to protect the rule of law by not taking any steps to advise the court of the conflicts that undermined the integrity of Carter and Truchon leaving no one to advocate for vulnerable disabled persons and protect their rights.
- (xix) The Attorney General actions have undermined Judicial Independence and the Rule of Law by allowing the court to be a political body that has free reign to set public policy based on the inclinations of the conflicted jurists on a matters of life and death, in Carter and Truchon, and by not

appealing Truchon, the Attorney General despite judicial precedents, is not performing its duty to protect the rule of law and protecting vulnerable disabled citizens as the Attorney General are making decisions based on politics and ideology rather than its job and duty to protect the rule of law and most of all, protect vulnerable citizens.

- (xx) As a result of the wrongful conduct by the Attorney General in Carter and Truchon, Mr. Foley rights to Procedural Fairness and Natural Justice require that he has his day in court so that he can take steps to remove any impact of conflicted jurists decisions and make sure that justice is done and seen to be done, and the rule of law is complied with through a fair and impartial trial, so that there is no risk of wrongful death and serious deprivations of his Charter rights and illegitimate decision get corrected to protect the rule of law and the court learns of the consequences of what the Attorney General allowed to happen to Mr. Foley and other similarly situated persons based on an abdication of their role of the Attorney General to the rule of law and protection of vulnerable groups including disabled person where there is no advocate for them as a party other than the Attorney General.

- (xxi) The Attorney General has ignored objective reports by the International community and the UN that their actions are grievously and flagrantly breaching International Law., the UN Convention on the Rights of Persons with Disability, the UN Declaration of Human Rights and the Rome Statutes of Crimes against Humanity and improper persecution and targeting of vulnerable and disabled persons.
- (xxii) *Charter* Damages under section 24(1) to vindicate the plaintiff's fundamental *Charter* Rights and Freedoms, deter systemic violations of a similar nature and compensate him for his suffering and loss of dignity;
- (xxiii) Such other further particulars as are provided prior to trial.

**(b) As against the defendant, Attorney General of Ontario:**

- (i) The plaintiff incorporates by reference all material facts as alleged from 1-116 in this claim and further
- (ii) The defendant, the Attorney General of Ontario, through their Minister working in the capacity as the Minister of Health and Long Term Care, had actual knowledge of Ontario's ongoing serious *Charter* violations of the plaintiff, as the Minister promised the plaintiff in writing that he would relieve his suffering but took no action and left the plaintiff no other choice but to be offered for assisted dying, the threat of a forced discharge, and a hospital bill for \$1,800 dollars per day. The defendant let the plaintiff suffer serious physical and psychological harm to his integrity, a serious restriction to his liberty, and put him in a life threatening situation because of the Ontario government's inept



failures pursuant to section 24(1) of the *Charter* and by denying him basic care he needed to have his suffering relieved;

- (iii) At all material times, the Crown, through and with its agents, servants and employees was responsible for the planning, administration, funding, and provision of healthcare and home care and community services in Ontario;
- (iv) The Ontario government knew that the current model of delivering home care services was inadequate and unconstitutional in its inability to provide appropriate access to services for patients with disabilities. The government was aware of the significant barriers that prevented patients from accessing care and thereby violated patients' *Charter* rights.
- (v) Failure to provide the plaintiff with a medically necessary service, which would relieve his intolerable suffering and allow him to maintain his dignity, independence and quality of life forcing him to assisted dying pursuant to section 24(1) of the *Charter*;

- (vi) Failure to provide the plaintiff with safe hospital, home and community care in the circumstances giving him only the option of assisted dying pursuant to section 24(1) of the *Charter*;
- (vii) Failure to ensure a quality of care for the plaintiff's hospital and home and community care to relieve his suffering giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (viii) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate hospital and home and community care giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (ix) Failure to provide the plaintiff with reasonable, barrier free access to health services and instead providing him with assisted dying as the only option pursuant to section 24(1) of the *Charter*;
- (x) Failure to provide the plaintiff with available healthcare, home care and community services that would enable him safe and dignified home and community care pursuant to section 24(1) of the *Charter*;
- (xi) Failure to provide the plaintiff with available healthcare, home care and community services that would enable the plaintiff to control his medical treatment and protect his physical and psychological integrity pursuant to section 24(1) of the *Charter*

(xii) Failure to improve the home and community care system in a timely fashion.

The Ontario government announced a restructuring of the system to transition to a new model called Ontario Health Teams. This process will take several years; years in which the plaintiff will continue to suffer and have his rights violated.

- (x) Violation of the plaintiff's right to life, liberty and security of the person by pushing medical assistance in dying on him, instead of providing him with life-assisting healthcare, home care and community services pursuant to section 24(1) of the *Charter*;
- (xi) a declaration of invalidity pursuant to section 52(1) of the *Constitution Act*, 1982, that the Ontario's *Patient's First Act*, 2016 and related Regulation O. Reg. 386/99 under the *HCCSA* Ontario Regulation 438/17 under the *HCCSA* amending O. Reg. 386/99 and the Connecting People to Home and Community Care Act, 2020 (CPHCCA) and accompanying Regulation are unconstitutional, violates s.7, s.12 and s.15 of the *Charter*, and are therefore of no force and effect as the legislation allows persons with disability that are suffering no timely or sufficient access to tailored quality service to relieve a person's suffering giving them no alternative but assisted dying or ensuring that there are adequate safeguards in place and people get the services they actually need to relieve their suffering to assist them with life.

(xii) Such other further particulars as are provided prior to trial.

**(c) As against the defendant, ~~the~~ Her Majesty the Queen in right of Ontario:**

- (i) The plaintiff incorporates by reference all material facts as alleged from 1-116 in this claim and further
- (ii) The defendant, the Attorney General of Ontario, through their Minister working in the capacity as the Minister of Health and Long Term Care, had actual knowledge of Ontario's ongoing serious *Charter* violations of the plaintiff, as the Minister promised the plaintiff in writing that he would relieve his suffering but took no action and left the plaintiff no other choice but to be offered for assisted dying, the threat of a forced discharge, and a hospital bill for \$1,800 dollars per day. The defendant let the plaintiff suffer serious physical and psychological harm to his integrity, a serious restriction to his liberty, and put him in a life threatening situation because of the Ontario government's inept failures pursuant to section 24(1) of the *Charter* and by denying him basic care he needed to have his suffering relieved;
- (iii) At all material times, the Crown, through and with its agents, servants and employees was responsible for the planning, administration, funding, and provision of healthcare and home care and community services in Ontario;
- (iv) The Ontario government knew that the current model of delivering home care services was inadequate and unconstitutional in its inability to provide appropriate access to services for patients with disabilities. The government was aware of the significant barriers that prevented patients from accessing care and thereby violated patients' *Charter* rights.

- (v) Failure to provide the plaintiff with a medically necessary service, which would relieve his intolerable suffering and allow him to maintain his dignity, independence and quality of life forcing him to assisted dying pursuant to section 24(1) of the *Charter*;
- (vi) Failure to provide the plaintiff with safe hospital and home and community care in the circumstances giving him only the option of assisted dying pursuant to section 24(1) of the *Charter*;
- (vii) Failure to ensure a quality of care for the plaintiffs hospital and home and community care to relieve his suffering giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (viii) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate hospital, home and community care giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (ix) Failure to provide the plaintiff with reasonable, barrier free access to health services and instead providing him with assisted dying as the only option pursuant to section 24(1) of the *Charter*;
- (x) Failure to provide the plaintiff with available healthcare, home care and community services that would enable him safe and dignified home and community care pursuant to section 24(1) of the *Charter*;
- (xi) Failure to provide the plaintiff with available healthcare, home care and community services that would enable the plaintiff to control his medical treatment and protect his physical and psychological integrity pursuant to section 24(1) of the *Charter*;

- (xii) Failure to improve the home and community care system in a timely fashion. The Ontario government announced a restructuring of the system to transition to a new model called Ontario Health Teams. This process will take several years; years in which the plaintiff will continue to suffer and have his rights violated.
- (xiii) Violation of the plaintiffs right to life, liberty and security of the person by pushing medical assistance in dying on him, instead of providing him with life-assisting healthcare, home care and community services pursuant to section 24(1) of the *Charter*;
- (xiv) Her Majesty knew or ought to have known that Mr. Foley as an Ontarian has been denied necessary insured health care as they receive the hospital bills for insured services and has been complicit in aiding and abetting coercion for Mr. Foley to end his life through a Medically Assisted Death through coercion so that they could save money on the back of Mr. Foley because they do not want to insure him because he is too disabled. breaching their basic duty of care to Mr. Foley as an Ontarian, and have not acted in good faith to protect Mr. Foley from abuse, torture and serious harm. The conduct is justification for not only Charter Damages but punitive damages as a result of not covering his insured services from February 12, 2020 knowing that is part of the coercion to get Mr. Foley to end his life,
- (xv) a declaration of invalidity pursuant to section 52(1) of the *Constitution Act* that the Ontario's *Patient's First Act*, 2016 and related Regulation O. Reg. 386/99 under the *HCCSA* Ontario Regulation 438/17 under the *HCCSA* amending O. Reg. 386/99 are unconstitutional, violates. s.7, s.12 and s.15 of the *Charter*, and are therefore of no force and effect as the legislation allows persons with

disability that are suffering no timely or sufficient access to tailored quality service to relieve a person's suffering giving them no alternative but assisted dying or ensuring that there are adequate safeguards in place and people get the services they actually need to relieve their suffering to assist them with life;

- (xvi) *Charter* Damages under section 24(1) to vindicate the plaintiffs fundamental *Charter* Rights and Freedoms, deter systemic violations of a similar nature and compensate him for his suffering and loss of dignity;
- (xvii) Such other further particulars as are provided prior to trial.

**(d) As against the defendant, South West Local Area Health Network (SW LHIN):**

- (i) The plaintiff incorporates by reference all material facts as alleged from 1-116 in this claim and further
- (ii) Failure to provide the plaintiff with a medically necessary service, which would relieve his intolerable suffering and allow him to maintain his dignity, independence and quality of life forcing him to assisted dying pursuant to section 24(1) of the *Charter*;
- (iii) Failure to provide the plaintiff with safe hospital and home and community care in the circumstances giving him only the option of assisted dying pursuant to section 24(1) of the *Charter*;
- (iv) Failure to ensure a quality of care for the plaintiff's hospital and home and community care to relieve his suffering giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;

- (v) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate hospital and home and community care giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (vi) Failure to ensure a quality of care for the plaintiff's hospital and home and community care and instead provide him with the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (vii) Failure to provide the plaintiff with reasonable, barrier free access to health services and instead providing him with assisted dying as the only option pursuant to section 24(1) of the *Charter*;



- (viii) Failure to provide the plaintiff with available healthcare, home care and community services that would enable him safe and dignified home and community care pursuant to section 24(1) of the *Charter*;
- (ix) Failure to provide the plaintiff with available healthcare, home care and community services that would enable the plaintiff to control his medical treatment and protect his physical and psychological integrity pursuant to section 24(1) of the *Charter*;
- (x) Violation of the plaintiff's right to life, liberty and security of the person by pushing medical assistance in dying on him, instead of providing him with life-assisting healthcare, home care and community services pursuant to section 24(1) of the *Charter*;
- (xi) Failure to provide the plaintiff with safe hospital and home and community care pursuant to section 24(1) of the *Charter*;
- (xii) Failure to ensure a quality of care for the plaintiff's hospital and home and community care pursuant to section 24(1) of the *Charter*;
- (xiii) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate home and community care pursuant to section 24(1) of the *Charter*;
- (xiv) Failure to treat the plaintiff with dignity with respect to his fundamental life choices about his health, medical treatment and security of the person pursuant to section 24(1) of the *Charter*;
- (xv) Failure to provide the plaintiff with reasonable, barrier free access to health services pursuant to section 24(1) of the *Charter*;

- (xvi) Failure to provide the plaintiff with reasonable, barrier free access to self-directed funding pursuant to section 24(1) of the *Charter* and contrary to the legislation;
- (xvii) Failure to ensure that every individual in Ontario has equal access to self-directed funding, including the plaintiff pursuant to section 24(1) of the *Charter*;
- (xviii) Failure to prevent discrimination against the plaintiff due to his disabilities;
- (xix) Failure to ensure that contracted healthcare and home care and community agencies are delivering safe and adequate services to the plaintiff;
- (xx) Failure to ensure that contracted healthcare and home care and community agencies are adhering to the Bill of Rights;
- (xxi) Failure to provide the plaintiff with available healthcare, home care and community services that would enable him safe and dignified home and community care;
- (xxii) Failure to provide the plaintiff with available healthcare, home care and community services that would enable the plaintiff to control his medical treatment and protect his physical and psychological integrity;
- (xxiii) Failure to provide the plaintiff with safe healthcare and hospital care;
- (xxiv) Violation of the plaintiffs right to life, dignity and security of the person pushing him into an unsafe, forced discharge;
- (xxv) Violation of the plaintiffs right to life, dignity and security of the person by reducing his assisted care hours to unsafe levels as a means to coerce a discharge;

- (xxvi) Violation of the plaintiffs right against degrading treatment;
- (xxvii) Violation of the plaintiff's right against cruel and unusual punishment,  
pushing him into a discharge into an unsafe, forced discharge and giving  
him no alternatives to relieve his suffering but assisted dying;

(xxviii) *Charter* Damages under section 24(1) to vindicate his fundamental *Charter* Rights and Freedoms, deter systemic violations of a similar nature and compensate him for his suffering and loss of dignity;

(xxiv) The South West LHIN knew that Mr. Foley as an Ontarian has been denied necessary insured health care and has been complicit in aiding and abetting the wrongful billing and withholding of his necessary health care, while coercing Mr. Foley to end his life through a Medically Assisted Death so that they could save money on the back of Mr. Foley because they do not want to insure him because he is too disabled. neglecting their basic duty of care to Mr. Foley as an Ontarian, and have not acted in good faith to protect Mr. Foley from abuse, torture and serious harm. The conduct is justification for not only Charter Damages but punitive damages as a result of not covering his insured services and from February 12, 2020 wrongfully billing him knowing that is part of the coercion to get Mr. Foley to end his life.

(xxix) Such other further particulars as are provided prior to trial.

**(e) As against the defendant, Victoria Hospital London Health Science Centre:**

- (i) The plaintiff incorporates by reference all material facts as alleged from 1-116 in this claim and further
- (ii) Failure to provide the plaintiff with a medically necessary service, which would relieve his intolerable suffering and allow him to maintain his dignity, independence and quality of life forcing him to assisted dying pursuant to section 24(1) of the *Charter*;
- (iii) Failure to provide the plaintiff with safe hospital care and ensure safe community care in the circumstances giving him only the option of assisted dying pursuant to section 24(1) of the *Charter*;
- (iv) Failure to ensure a quality of care for the plaintiff's hospital care and home care to relieve his suffering giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (v) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate hospital care giving him the only option of assisted dying pursuant to section 24(1) of the *Charter*;
- (vi) Failure to ensure a quality of care for the plaintiff's hospital care and instead providing him with the only option of assisted dying pursuant to section 24(1) of the *Charter*;

- (vii) Failure to provide the plaintiff with reasonable, barrier free access to health services and instead providing him with assisted dying as the only option pursuant to section 24(1) of the *Charter*;
- (viii) Failure to provide the plaintiff with available healthcare, home care and community services that would enable him safe and dignified home and community care pursuant to section 24(1) of the *Charter*;
- (ix) Failure to provide the plaintiff with available healthcare, home care and community services that would enable the plaintiff to control his medical treatment and protect his physical and psychological integrity pursuant to section 24( 1) of the *Charter*;
- (x) Violation of the plaintiffs right to life, liberty and security of the person by pushing medical assistance in dying on him, instead of providing him with life-assisting healthcare, and ensuring adequate home care and community services pursuant to section 24(1) of the *Charter*;
- (xi) Failure to provide the plaintiff with safe healthcare and hospital care;
- (xii) Failure to provide the plaintiff with the necessities of life such as food and water leading to acidosis and exposing him to harm and danger to his life;
- (xiii) Failure to provide the plaintiff with basic assistance with daily living including hygiene and personal care and instead offering assisted dying;
- (xiv) Failure to assist the plaintiff to go to the bathroom leaving him incontinent and lying in his stool and instead offering assisted dying;
- (xv) Failure to provide the plaintiff with equipment and services to maintain his limited mobility and instead offering assisted dying;

- (xvi) Failure to ensue appropriate medical care including physician attendance and instead abandoning the plaintiff and instead offering assisted dying;
- (xvii) Failure to provide the plaintiff with an appropriate team that could manage the plaintiffs needs to assist him with life but instead offering assisted dying then abandoning him and failing to provide necessities of life;
- (xviii) Failure to ensure a quality of care for the plaintiff refusing to transfer the plaintiff to a unit of the hospital equipped to deal with the needs of his disability;
- (xix) Failure to provide the plaintiff with proper equipment and accommodations to safely manage his disability at the hospital;
- (xx) Failure to provide barrier free access to the plaintiff to his information and records;
- (xxi) Violation of the plaintiffs right against discrimination with respect to his treatment at the mental health unit at the hospital, due to his physical disability;
- (xxii) Failure to ensure the plaintiff is treated with dignity with respect to his autonomy and right to be involved in his treatment decisions;
- (xxiii) Failure to prevent the plaintiff from suffering physical and psychological harm as a result of inadequate healthcare;
- (xxiv) Violation of the plaintiffs right against degrading treatment;
- (xxv) Violation of the plaintiffs right against cruel and unusual punishment, pushing him into a discharge into an unsafe, forced discharge, or assisting him to die or failing to provide necessities of life;
- (xxvi) Violation of the plaintiffs right against cruel and unusual punishment pushing him into medically assisted suicide instead of providing him with safe and available healthcare options;

(xxvii) Violation of the plaintiffs right to life, dignity and security of the person pushing him into an unsafe, forced discharge;

(xxviii) Violation of the plaintiffs right to life, dignity and security by pushing him into medically assisted suicide as a care option;

(xxix) *Charter* Damages under section 24(1) to vindicate the plaintiffs fundamental *Charter* Rights and Freedoms, deter systemic violations of a similar nature and compensate him for his suffering and loss of dignity;

(xxx) The hospital from February 12, 2020 knowingly and wrongfully is billing Mr. Foley for necessary health service to coerce him into a Medically Assisted Death and in 2021 egregiously sent the unlawful extra-billing accounts for more than approximately 1 Million dollars and climbing to a disabled person on a disability pension to a collection agency for unlawful demands for payments so that they could save money on the back of Mr. Foley or evade having to provide proper and necessary equipment and services to a vulnerable patient because they do not want care for him because he is too disabled. neglecting their basic duty of care to Mr. Foley as an Ontarian, and have not acting in good faith to protect Mr. Foley from abuse, torture and serious harm. The conduct is justification for not only Charter Damages but punitive damages as a result of not covering his insured services from February 12, 2020 knowing that is part of the coercion to get Mr. Foley to end his life.

(xxxi) While the hospital is wrongfully billing him and trying to coerce him into a Medically Assisted Death,, Mr. Foley has been advised by medical staff that it remains medically necessary for him to stay in the hospital until safe and



appropriate self-directed home care is arranged.

(xxxii) The hospital has implemented the Medically Assisted Death regime in violation of

s.7, s.12, and s15. to abuse Mr. Foley, neglect him , and coerce Mr. Foley to die

and relieving them of their obligations to care for Mr. Foley.

(xxxiii) The hospital induced and has counselled Mr. Foley to get a medically assisted

death and depriving him of his right to life and security of the person and his

liberty to health care decisions pressuring him to end his life as their final

solution for his suffering.so they do not have to relieve his suffering through

health care.

(xxxiv) The hospital has programs to exploit vulnerable persons like Mr. Foley including

wrongfully inducing vulnerable patients like Mr. Foley into a Medically Assisted

Death by offering organ donation as a gift or perk to make the coercive death

appear attractive and altruistic or a real product of a patients actual will, when it

is based on coercion, inducement and deception or a lack of free and informed

consent.

(xxxv) As well as violating Mr. Foley's Charter right the hospital has breached their private

law duty of care to Mr. Foley including negligence and gross negligence as pleaded

above against the hospital.

(xxxvi) Such other further particulars as are provided prior to trial.

**(f) As against the defendant, the Centre for Independent Living Toronto:**

- (i) The plaintiff incorporates by reference all material facts as alleged from 1-116 in this claim and further
- (ii) Failure to provide the plaintiff with his procedural rights to fair process and substantive right to due process;
- (iii) Failure to provide the plaintiff with proper accommodations for his disability to provide him with fair process;
- (iv) Failure to provide the plaintiff with barrier-free access;
- (v) Violation of the plaintiff's right against discrimination by failing to accommodate the plaintiff's physical disability;
- (vi) Failure to treat the plaintiff with dignity and the right of physical and psychological integrity;
- (vii) Failure to prevent substantial delays in the plaintiff's Right to Review that are interfering with his right to life, dignity and security of the person;
- (viii) Violation of the plaintiff's right against demeaning and degrading treatment;

- (ix) Failure to provide the plaintiff with reasonable, barrier free access to healthcare and home care and community services;
- (x) CILT implemented and denied Mr. Foley life affirming services and equal access to life affirming services that knowingly deprived Mr. Foley his right to life liberty and security and unlawfully implemented the Medically Assisted Death regime in violation of s.7, s.12, and s15. to abuse Mr. Foley, neglect him , and coerce Mr. Foley to die and relieve them of their obligations to care for Mr. Foley.
- (xi) CILT pre-selects in a bias and discriminatory manner patients that require less intense care then Mr. Foley and hoards their budget and neglects or wrongfully bars patients who are at risk of unnecessary deaths from access to their program from the MAID regime, despite claiming they provide such services to persons like Mr. Foley.and neglect their duty of care to Mr. Foley and did not act in good faith knowing the precarious situation of Mr. Foley and his high end care needs.
- (xii) *Charter* Damages under section 24(1) to vindicate his fundamental *Charter* Rights and Freedoms, deter systemic violations of a similar nature and compensate him for his suffering and loss of dignity;
- (xiii) Such other further particulars as are provided prior to trial.

#### **D. DAMAGES SUFFERED BY THE PLAINTIFF**

120. The defendants knew, or ought to have known, that as a consequence of their actions towards Mr. Foley, that he would suffer significant physical and psychological damages as described below.

121. As a result of these *Charter* violations and breaches of private and public duties of care improper conduct, and lack of good faith, Mr. Foley has suffered great distress, which has further deteriorated his physical and psychological condition. Mr. Foley has been seriously traumatized and negatively impacted by the breach of his *Charter* rights by the defendants and other rights, and has suffered and continues to suffer damages, which include, but are not limited to the following:

- (a) Physical and psychological harm;
- (b) Exacerbation of psychological illness;
- (c) Exacerbation of physical illness and/or ailments and the creation of new physical illness and/or ailments;
- (d) Pain and suffering;
- (e) An impaired ability to enjoy and participate in recreational, social and employment activities; and
- (f) The loss of general enjoyment of life.

122. At all material times, the defendants have known, or ought to have known, and continue to know, that the ongoing delay in failing to provide Mr. Foley with health and home care that does not compromise his health or safety and meets his needs, would continue to aggravate and continue to his injuries and damages.
123. As a result of the defendants' conduct, Mr. Foley has required and will continue to require further medical treatment, rehabilitation, counseling and other care.

#### **E. LOCATION OF TRIAL**

124. The Plaintiff proposes that this action be tried in the City of Toronto.

DATE: August 22, 2018

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FOLEY v. VICTORIA HOSPITAL ET AL

Court File No. CV-18-603786

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**AMENDED AMENDED STATEMENT  
OF CLAIM**

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