

CAMPAIGN FOR JUSTICE ON TOBACCO FRAUD

CAMPAGNE POUR OBTENIR JUSTICE FACE À LA FRAUDE DU TABAC

May , 2015

Address

This is the template of the letters sent to attorneys general and ministers of health in the provinces.

Dear Attorney General / Dear Minister:

Re: Absence of public knowledge about provincial lawsuits in response to allegations of tobacco industry conspiracy and fraud

As only a few Canadians are aware, the provinces and territories are suing or have taken steps toward suing Canadian tobacco companies and their international parents for tobacco-related health care costs incurred by these governments as a result of alleged tobacco industry conspiracy and fraud. As outlined in provincial statements of claim, these companies lied about tobacco risks including addiction, ‘light’ and ‘mild’ cigarettes, nicotine manipulation, second-hand smoke and marketing to kids. Provincial claims now exceed \$110 billion and are expected to reach \$150 billion.

If these allegations are proven in court, the predatory corporate misconduct involved would become the largest fraud in the history of Canadian business. Because health authorities believe this wrongful behaviour has caused or contributed to one to two million tobacco deaths in the decades at the centre of the lawsuits, proven allegations would constitute the most destructive fraud in the history of public health. As you may recall, in a letter to the provinces and territories in June 2014, 137 health and legal experts wrote and asked the provinces and territories to demand that public health outcomes be included in any court awards or settlements from this litigation <http://www.justiceontobaccofraud.ca/#news-link> . We the signatories of this letter still hold that deterrence, public health benefits and justice must remain objectives of these lawsuits.

Unfortunately, Canadians have extremely limited knowledge that this litigation is even before the courts. In a national poll to be released publicly for the first time in the next few days, a poll completed by one of Canada’s most experienced pollsters, we learn that less than 10 percent of Canadians are aware that the provinces are suing the manufacturers of the country’s largest cause of preventable illness and death. More disturbing, the poll found that less than one percent of Canadians are aware that this industry is being sued for conspiracy and fraud. This is tantamount to a total lack of awareness of the corporate behaviour behind a totally preventable epidemic.

This litigation should be pursued aggressively for several reasons beyond the important recovery of monies out of which the provinces have been defrauded. Deterrence of other corporate misbehaviour is one. But if no one is aware of the litigation the objective of deterrence is lost.

Remedying a past wrong is another. Research now shows that when smokers become aware of the industry's ugly behaviour, smoking cessation attempts increase. And when this occurs, illness is prevented and lives are saved. But if Canadians are totally unaware of the predatory practices behind the litigation, this public health benefit is also lost.

Of course justice for the millions of industry victims should be a critical objective of the lawsuits. However, since it is unlikely that any of the people behind the wrongful behaviour will be charged criminally, the civil litigation underway may be the only opportunity for victims to feel that a measure of justice has been realized. Yet, here too, if few know about the lawsuits, this element of the justice objective will also be lost.

When similar fraud litigation was underway in the United States, there was extensive media coverage of the lawsuits, related trials and potential settlements. And substantial public awareness of the industry's unconscionable behaviour followed. In Canada, there appears to be little reference to potential health outcomes in any litigation communication strategy. And, if a health outcome communication strategy exists, it has failed to communicate effectively any litigation objective other than a financial one, one that the industry describes as "a cash grab".

We ask you to correct this with aggressive individual and joint provincial communication strategies. The allegations behind the lawsuits can be disseminated via news releases, news conferences, litigation updates and through the very legitimate, independent-of-the-litigation public health strategy known to health departments as Tobacco Industry Denormalization. *

We are pleased to enclose a copy of the Dasko national poll. This poll was conducted in 2012 but, for strategic reasons, will not be released until May 25. Dr. Donna Dasko, a former lead public opinion supplier to Health Canada and other experts hold that they are unaware of any developments in the last two years that would alter the findings of this survey.

Virtually zero awareness of this litigation is not in your best interests as legislators and it is not in the best interests of justice or public health. Therefore, we leave you with this important question. What steps will you and your government take to create greater awareness of this litigation and of the alleged predatory industry behaviour that led to the cost recovery lawsuits?

* The Tobacco Industry Denormalization strategy transfers the responsibility for the tobacco epidemic from individual behaviour to corporate misbehaviour. It is a public health response to the predatory industry behaviour in a similar fact scenario that led a United States federal court to rule that the tobacco industry engaged in racketeering (*United States of America et al. v Philip Morris USA Inc. et al.* Final Opinion: August 17, 2006).

Sincerely,

Garfield Mahood, OC
President
Campaign for Justice
on Tobacco Fraud

Robert Solomon, LLB, LLM
Distinguished University Professor,
Faculty of Law and Interfaculty Program on Public Health
Western University

Fernand Turcotte, MD, MPH, FRCPC
Professor Emeritus
Faculty of Medicine,
Université Laval

Garfield Mahood, Robert Solomon and Fernand Turcotte have signed on behalf of the following signatories. Approvals are on file in the office of the Campaign for Justice on Tobacco Fraud.

Leigh Allard, President and Chief Executive Officer, The Lung Association,
Alberta and Northwest Territories

Mark Asbridge, MA, PhD, Associate Professor, Department of Community Health and
Epidemiology, Department of Emergency Medicine, Dalhousie University

Mary Jane Ashley, MD, Professor Emerita, Dalla Lana School of Public Health, University
of Toronto, and Chair, Expert Panel on the Renewal of the Ontario Tobacco Strategy (1999)

John Blatherwick, CM, OBC, CD, MD, FRCPC, Chief Medical Health Officer (1984-2007),
City of Vancouver and Vancouver Coastal Health

Geneviève Bois, MD, Porte-parole, Coalition québécoise pour le contrôle du tabac

Jack Boomer, Director, Clean Air Coalition of B.C.

Marcel Boulanger, MD, FRCPC, Medical Director (retired), Montreal Heart Institute

Debbie Brown, BN, MEd, Chief Executive Officer, Manitoba, Heart and Stroke Foundation

MaryAnn Butt, Chief Executive Officer, Newfoundland and Labrador,
Heart and Stroke Foundation

Paul Byrne, MB, ChB, FRCPC, Interim Director, John Dossetor Health Ethics Centre,
University of Alberta

Jim Chirico, H. BSc, MD, FRCP, (C), MPH, Medical Officer of Health / Executive Officer
North Bay Parry Sound District Health Unit, Ontario

Kevin Coady, Executive Director, Newfoundland and Labrador Alliance
for the Control of Tobacco

C. Ian Cohen, MD, CCFP, Dip. Sports Medicine, Sport and Exercise Physician,
Faculty of Kinesiology and Physical Education, University of Toronto

Charlotte Comrie, Chief Executive Officer, Nova Scotia and Prince Edward Island,
Heart and Stroke Foundation

Ian Culbert, Executive Director, Canadian Public Health Association

Charl Els, MD, Associate Clinical Professor, John Dossetor Health Ethics Centre,
University of Alberta

Robert Evans, OC, PhD, FRCS, FAHS, University Killam Professor,
Centre for Health Services and Policy Research, Professor, Department of Economics,
University of British Columbia

Pamela C. Fralick, MA, MPA, ICD.D, President and Chief Executive Officer,
Canadian Cancer Society

Lorraine Fry, Executive Director, Non-Smokers' Rights Association

John M. Garcia, PhD, Professor of Practice, School of Public Health and Health Systems,
Associate Director, Professional Graduate Programs, Applied Health Sciences,
University of Waterloo

Murray Gibson, Executive Director, Manitoba Tobacco Reduction Alliance

Doris Grinspun, RN, MSN, PhD, LLD (hon), O.ONT., Chief Executive Officer,
Registered Nurses' Association of Ontario

George Habib, President and Chief Executive Officer, Ontario Lung Association

Les Hagen, Executive Director, Action on Smoking and Health, Alberta

Donna Hastings, Chief Executive Officer, Alberta, North West Territories and Nunavut,
Heart and Stroke Foundation

David Hill, CM, QC, Founding Partner, Perley-Robertson, Hill & McDougall LLP, Ottawa

Roger Hodgkinson, MA, MB, BChir (Cantab), FRCPC, Chairman, Bio-ID Diagnostic Inc.
(a Canadian Biotechnology Company), Saskatoon

Dan Holinda, MSW, Executive Director, Canadian Cancer Society, Alberta/NWT Division

C. Stuart Houston, OC, SOM, DLitt, DCnL, MD, FRCPC, Professor Emeritus,
Medical Imaging and Radiology, University of Saskatchewan

Howard Hu, MD, MPH, ScD, Dean, Professor of Environmental Health, Epidemiology and Global Health, Dalla Lana School of Public Health, and Professor of Medicine, University of Toronto

Alex Hukowich, MD, CCFP, Medical Officer of Health, Kawartha, Pine Ridge District Health Unit and Coroner, County of Northumberland (retired)

Allan C. Hutchinson, LLB (Hons), LLM, LL.D, FRSC, Distinguished Research Professor and former Associate Dean, Osgoode Hall Law School, York University

Brian Iler, LLB, founding partner, Iler Campbell LLP, Toronto

Milan Khara, MBChB, CCFP, ABAM, Clinical Assistant Professor, Faculty of Medicine, University of British Columbia

Miriam Klassen, MD, MPH, Medical Officer of Health, Perth District Health Unit, Ontario

Donald B. Langille, MD, MHSc, Professor, Community Health & Epidemiology, Faculty of Medicine, Dalhousie University

Eric LeGresley, Hons BSc, MSc, LLB, LLM, former advisor to the World Health Organization, tobacco document specialist, Ottawa

Trudo Lemmens, LicJur, LLM Bioethics, DCL, Professor and Scholl Chair in Health Law Policy, Faculty of Law, Faculty of Medicine, and Joint Centre for Bioethics, University of Toronto

Joel Lexchin, MD, MSc, Professor, School of Health Policy and Management, Faculty of Health, York University

Barbara MacKinnon, President and Chief Executive Officer, New Brunswick Lung Association

Tom McAllister, Chief Executive Officer, Ontario, Heart and Stroke Foundation

Scott McDonald, President and Chief Executive Officer, BC Lung Association

Krista McMullin, President, Smoke-Free Nova Scotia

Anne McTiernan-Gamble, Chief Executive Officer, Canadian Cancer Society, New Brunswick

Jack Micay, MD, President, MediCinema Ltd., Toronto

Donald Neal, MD, CCFP, Adjunct Professor, Department of Family Medicine, Western University and Ontario Coroner, Goderich, Ontario

Rosana Pellizzari, MD, CCFP, MSC, FRCPC, Medical Officer of Health, Peterborough County City Health Unit, Ontario

Michael Perley, Director, Ontario Campaign for Action on Tobacco

Michael Rachlis, MD, MSc, FRCPC, LLD (Hon), Adjunct Professor, Institute of Health Policy, Management and Evaluation, University of Toronto

Barbara Riley, PhD, Executive Director, Propel Centre for Population Health Impact, Faculty of Applied Health Sciences, University of Waterloo

Jean Rochon, LL.L, MD, DrPH, Associate Expert, Institut national de santé publique du Québec, Minister of Health and Social Services, Province of Quebec (1994-1998), and Director Health Protection and Promotion Division, World Health Organization (1990-1994)

Richard Schabas, MD, MHSc, FRCPC, Medical Officer of Health, Hastings and Prince Edward Counties Health Unit, and Chief Medical Officer of Health, Province of Ontario (1987-1997)

Robert Schwartz, PhD, Executive Director, Ontario Tobacco Research Unit, Senior Scientist, Centre for Addiction and Mental Health, Associate Professor, Dalla Lana School of Public Health, University of Toronto

David Sculthorpe, Chief Executive Officer, Heart and Stroke Foundation

Richard S. Stanwick, MD, MSc, FRCP, FAAP, Chief Medical Officer of Health, Vancouver Island Health Authority

Larry Stinson, BSc, MPA(M), President, Ontario Public Health Association

Alix Stevenson, BA (Hons), LLB

Linda Stewart, BA, MBA, Executive Director, Association of Local Public Health Agencies, Ontario

David Sweanor, JD, Adjunct Professor of Law, University of Ottawa

James L. Winslow, MA, MSc, PhD, Neuroscience Programme, Faculty of Medicine, University of Toronto