

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,

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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.

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