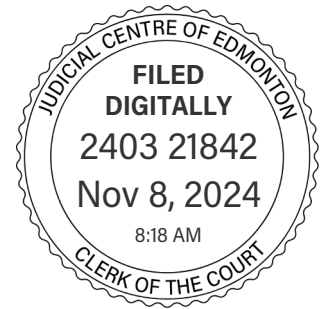


COURT FILE NUMBER 2403 21842
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF HADI SEIKALY
DEFENDANT DANIEL O'CONNELL



DOCUMENT **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Kingsgate Legal
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NOTICE TO DEFENDANT

You are being sued. You are a Defendant.

Go to the end of this document to see what you can do and when you must do it.

What this Lawsuit is About

- 1) The Defendant has engaged in retaliatory conduct towards the Plaintiff in response to the Plaintiff filing a disclosure of the Defendant's wrongdoing under the Alberta *Public Interest Disclosure (Whistleblower Protection) Act*, SA 2012 c P-39.5.
- 2) The Defendant's wrongful conduct has harmed the Plaintiff's professional reputation and livelihood, and constitutes wrongful interference with his professional and economic interests, misfeasance in and abuse of public office, defamation, and harassment.

The Parties, Relevant Organizations, and Roles

- 3) The Plaintiff, Dr. Hadi Seikaly, M.D., M.A. Leadership., FRCSC. FRCSEd (HON), is a globally recognized expert surgeon specializing in Head and Neck oncologic surgery and reconstruction, specifically in the resection and reconstruction of patients with cancer in the head and neck region.
- 4) Dr. Seikaly is qualified to practice medicine and surgery in the Province of Alberta. Dr. Seikaly has appointments with both the Departments of Surgery and Oncology at the University of Alberta, and has hospital and clinic privileges in the Alberta Health Services Edmonton Zone.
- 5) The Defendant, Dr. Daniel O’Connell, is concurrently the University of Alberta’s Divisional Director for the Division of Otolaryngology Head and Neck Surgery (the “U of A Divisional Director”) and the Edmonton Zone Clinical Section Head for the Section of Otolaryngology Head and Neck Surgery for Alberta Health Services (the “AHS Clinical Zone Section Head”).
- 6) Alberta Health Services is an agency under the direct supervision and control of the Ministry of Health of the Government of Alberta and part of the provincially integrated health system. It is accountable to the Alberta Minister of Health and provides health services to Albertans on behalf of and through financial support from the Government of Alberta.
- 7) The AHS Clinical Zone Section Head is appointed to perform duties for Alberta Health Services in providing health services to Albertans.
- 8) From April 1, 2006, to December 31, 2021, Dr. Seikaly was the AHS Clinical Zone Section Head.
- 9) As the AHS Clinical Zone Section Head, Dr. Seikaly was involved in providing leadership and operational management of healthcare professionals providing clinical and surgical care in the Edmonton region. This included providing stewardship and guidance in expanding the skills, expertise, and experience of those professionals in Otolaryngology Head and Neck surgery.
- 10) During Dr. Seikaly’s tenure as the AHS Clinical Zone Section Head, he expanded the zone section from 14 surgeons in 2006 to over 27 surgeons in 2021.
- 11) On January 11, 2022, the Defendant became AHS Clinical Zone Section Head in an interim capacity, and later in a permanent capacity upon being appointed for a 5-year term on December 1, 2023.

- 12) From April 2006 until October 2022, Dr. Seikaly was the U of A Divisional Director.
- 13) As the U of A Divisional Director, Dr. Seikaly was involved in providing leadership and operational management of medical professionals in the Department of Surgery at the University of Alberta. This included providing stewardship and guidance in expanding the expertise, knowledge and experience of those professionals undertaking research and education at the University of Alberta.
- 14) In furtherance of his mandate as the U of A Divisional Director, Dr. Seikaly tasked Dr. Jeffery Harris in 2006 with creating a fellowship for recruiting, training, and educating surgeons seeking focused and specialized training in advanced Head and Neck surgical oncology and reconstruction (the "Fellowship").
- 15) Between 2006 and 2008, Dr. Harris established the Fellowship, and in 2008 succeeded in obtaining accreditation for the Fellowship from the American Head and Neck Society.
- 16) The Fellowship Program Director is responsible for:
 - a) the recruitment, selection, education, and assessment of candidates admitted to the Fellowship (each, a "Fellow");
 - b) providing offers to potential Fellows, in their sole discretion;
 - c) the Fellowship's administration;
 - d) the education and training of the Fellows with support from members of the University of Alberta's Department of Surgery; and
 - e) coordinating the Fellows' access to clinical and surgical resources within Alberta Health Services and their provision of clinical and surgical services.
- 17) The Fellowship Program Director was:
 - a) Dr. Harris from 2006 to 2012, until his resignation;
 - b) the Defendant from 2012 to April 2022, as sole Director;
 - c) Dr. Seikaly and the Defendant from April 2022 to July 2023, as Co-Directors;
 - d) Dr. Seikaly from August 2023 to April 2024, as sole Director.

- 18) The Alberta Head and Neck Centre for Oncology and Reconstruction (“AHNCOR”) is a foundation established in 2009. From 2012 to February 12, 2024, Dr. Seikaly, the Defendant and Dr. Harris were directors of AHNCOR.
- 19) As each Fellow is a qualified physician with training and certification as a surgeon, they are expected to provide surgical and clinical care to patients while learning and participating in the Fellowship, for which Alberta Health compensates them on a fee-for-service model.
- 20) AHNCOR provides administrative services for the Fellows. The Fellows function as independent clinicians and bill Alberta Health on a fee for service model. To Dr. Seikaly’s knowledge, AHNCOR does not charge administrative fees to the Fellows.
- 21) To address potential delays in payment receipt from Alberta Health for a Fellow’s surgical and clinical services, or an inability of a Fellow to provide billable services, AHNCOR would provide payments to the Fellow to cover living expenses.
- 22) As part of his duties as Fellowship Program Director, the Defendant would have informed Fellowship candidates and any Fellow about AHNCOR’s role in providing administrative and financial assistance to them during their participation in the Fellowship.
- 23) The Defendant, as Fellowship Program Director, was expected to inform the Fellows that:
 - a) AHNCOR was a non-profit company and a CRA registered charity;
 - b) administrative services provided by AHNCOR are generally compensated by the foundation; and
 - c) any donations from them to AHNCOR would be appreciated.

Dr. Seikaly’s Whistleblower Disclosure

- 24) On November 21, 2022, Dr. Seikaly filed with Alberta Health Services a disclosure, as defined under the Alberta *Public Interest Disclosure (Whistleblower Protection) Act*, SA 2012 c P-39.5 (the “*Whistleblower Protection Act*”), naming the Defendant (the “Disclosure”).
- 25) Since becoming aware of the Disclosure, the Defendant has retaliated by taking actions to harm Dr. Seikaly, including harming Dr. Seikaly’s reputation, and standing in the community, reducing his ability to earn income, and adversely affecting his employment

and working conditions.

The Defendant's Receipt, Communication, and Acting on False Allegations

- 26) On January 10, 2024, an anonymous report was filed with the Governors of the University of Alberta (the "January Complaint"), which claimed, in part:

I am a former fellow of the head and neck surgery program at the University of Alberta. Despite it being an accredited program, it did not have any funding associated with it. I had to obtain a full license from the CPSA, and I had to pay 35% of my billings to the "Head and Neck Foundation", which I believe is controlled by Dr. Hadi Seikaly and Dr. Jeff Harris - <https://headandneckclinic.ca/the-foundation/>

- 27) As the past Fellowship Program Director and a director of AHNCOR, the Defendant knew that the January Complaint contained false, misleading, and inaccurate statements and had no reasonable basis, including that:
- a) the "Head and Neck Foundation" which the January Complaint references was in fact AHNCOR;
 - b) AHNCOR was not solely controlled by Dr. Seikaly and Dr. Harris, and that the Defendant was the third director;
 - c) no Fellow was required to pay any amounts to AHNCOR;
 - d) only the Fellowship Program Director would have the authority to mandate a Fellow to pay any of their billings;
 - e) at no time prior to April 2022 was Dr. Seikaly a Director or Co-Director of the Fellowship; and
 - f) other than a November 2022 donation from a Fellow received when Dr. Seikaly and the Defendant were Co-Directors of the Fellowship, no funds were received from any Fellows during the time Dr. Seikaly was a Director or Co-Director of the Fellowship.
- 28) On February 23, 2024, despite knowing the January Complaint to be false, inaccurate, and misleading, the Defendant forwarded its full contents to administrative and academic staff at the University of Alberta (the "First Publication of False Allegations").

29) In making the First Publication of False Allegations, the Defendant failed to identify that the January Complaint contained false, inaccurate, and misleading information about Dr. Seikaly, AHNCOR, and the Fellowship.

30) On April 5, 2024, a second anonymous report was filed with the Governors of the University of Alberta (the “April Complaint”), which claimed, in part:

I was a fellow in the Otolaryngology program at the University of Alberta. I was not given a salary through PGME, and I had to bill for patients that I saw. I was forced to give 35% of my billings to a “foundation” controlled by Hadi Seikaly and Jeffery Harris. I was told I had no choice but to do this. I did not feel supported by PGME, especially since I matched to this program through an accredited match. It seems wrong to me that faculty are profiting off of their trainees.

31) As the past Fellowship Program Director and a director of AHNCOR, the Defendant knew that the April Complaint contained numerous false, misleading, and inaccurate statements and had no reasonable basis, including that:

- a) the “foundation” which the April Complainant references was in fact AHNCOR;
- b) AHNCOR was not solely controlled by Dr. Seikaly and Dr. Harris, and that the Defendant was the third director;
- c) at no time prior to 2022 was Dr. Seikaly a director or co-director of the Fellowship;
- d) no Fellow was ever forced to give 35% of their billings to AHNCOR; and
- e) no funds received by AHNCOR were ever for the benefit or profit of Dr. Seikaly or Dr. Harris, and that Dr. Seikaly and Dr. Harris were not profiting through any funds in the care and control of AHNCOR.

32) On April 30, 2024, the Defendant, in his role as U of A Divisional Director, terminated Dr. Seikaly from his position as Fellowship Program Director based on the January Complaint and the April Complaint, despite knowing they contained false, inaccurate, and misleading information.

33) Further, in the termination notice to Dr. Seikaly, the Defendant stated that the University of Alberta Office of Post-Graduate Medical Education and the Advanced Training Council of the American Head and Neck Society, both of which are involved in the accreditation of the Fellowship, reviewed and supported the termination.

- 34) Neither the Office of Post-Graduate Medical Education of the University of Alberta, or the Advanced Training Council of the American Head and Neck Society, had provided the Defendant support for terminating Dr. Seikaly as Fellowship Program Director.
- 35) On or about April 30, 2024, the Defendant communicated to Dr. Donald Weed, the Chair of the Advanced Training Council of the American Head and Neck Society that:
- a) the Defendant was changing the Fellowship Program Director;
 - b) the change was because of multiple anonymous professionalism complaints naming Dr. Seikaly; and
 - c) the Defendant wanted to clear the name of the Fellowship.
- (collectively, the “Second Publication of False Allegations”, and together with the First Publication of False Allegations, the “Publications of False Allegations”)
- 36) At no time did the Defendant advise anyone that he knew that the January Complaint and April Complaint were false, inaccurate, and misleading.

The Defendant’s Reduction of Dr. Seikaly’s Office and Administrative Space Allocation

- 37) On May 24, 2024, the Defendant, in his capacity as Divisional Director, provided written notice to Dr. Seikaly of an upcoming change to his office and administrative space allocation:

*The office and administrative support staff space you currently occupy within the 1E4 footprint **is significantly larger than any other office and space allocations for any of the other full GFT or special continuing GFT members of the division** and allows for logical shared space allocation due to its size. To ensure the continued growth of our Division as well as accommodating other requests for space we need to reallocate a portion of the space you currently occupy. Academic space allocation within the 1E4 clinic needs to be optimized to allow 2 other surgeons to occupy the 1E4.34 office with you. The current office set up will be reorganized so that 2 other physician workspaces can be enabled within that space. There are three separate Medical Office assistant workspaces adjacent to the 1E4.34 physician office and these also need to be reorganized to allow two incoming physicians medical office assistants an appropriate place to work. Medical record storage also needs to be freed up next to this space to allow equitable access to all physicians who will occupy this*

*space. Please ensure that any personal effects and furniture are moved **into an arrangement that occupies only 1/3 of the footprint of 1E4.34 by June 26, 2024**, so that other furniture and equipment can be brought in, arranged and activated for any incoming physicians. [emphasis added]*

- 38) The average office and administrative space allocation for full GFT members of the division was approximately 26.37 m². The office and administrative space allocation for Dr. Seikaly was approximately 28.38 m², a difference of less than 8% compared to the average. The division of that space would result in a reduction of office and administrative space allocation to Dr. Seikaly by over 60%.

The Defendant's Reduction and Changing of Dr. Seikaly's Operating Theatre Allocations

- 39) Since December 2023, the Defendant, as the AHS Clinical Zone Section Head, has approved Operating Theatre allocations, including at the University Hospital.
- 40) Due to the highly specialized nature of Dr. Seikaly's surgical practice and the complex needs of patients requiring head and neck cancer resection and reconstruction, a significant portion of his surgeries can only be performed at the University Hospital. For some patients, the University Hospital is the only facility in the Edmonton-area with the necessary multidisciplinary teams, specialized equipment and facilities, and comprehensive post-operative care. In some cases, provincial healthcare policies and guidelines restrict such treatments to the University Hospital to ensure the best outcomes for patients with complex head and neck cancers.
- 41) Commencing January 2024, Dr. Seikaly's Operating Theatre allocations at the University Hospital for:
- a) major head and neck surgery were reduced by as much as 33%;
 - b) head and neck surgery were reduced by as much as 67%; and
 - c) overall surgery were reduced by as much as 67%.
- 42) Dr. Seikaly also provides clinical services to patients with cancer in the head and neck region, including initial consultations and diagnostics, treatment planning, symptom management, coordinating radiation or chemotherapy, and post-operative care and monitoring. These services help ensure continuity of care for patients with cancer, from diagnosis through treatment and recovery.

- 43) Scheduling and providing clinical services for patients within the Otolaryngology Clinical Section is completed on rotating 6-month schedules, while Operating Theatre allocation schedules are on 3-month schedules. Historically, and as part of good clinical practice, draft Operating Theatre allocations are communicated to all surgeons for comment and input.
- 44) Commencing January 2024, more than 35% of the Operating Theatre allocations to Dr. Seikaly were changed by, or at the direction of, the Defendant, without advance notice.
- 45) While the reduction of Operating Theatre allocations decreased Dr. Seikaly's ability to provide surgical services, the changing of Operating Theatre allocations interfered with his ability to provide clinical services.
- 46) The reductions and changes to Dr. Seikaly's Operating Theatre allocations, by or at the direction of the Defendant, were due to Dr. Seikaly being a party making the Disclosure. Commencing January 2024, of the 7 surgeons sharing Operating Theatre allocations, only Dr. Seikaly experienced significant reductions and substantial changes to his allocations.
- 47) Due to the reductions and changes to Dr. Seikaly's Operating Theatre allocations, he currently has over 10 times more patients waiting for surgery than the average for surgeons within the Otolaryngology Clinical Section that were not parties making the Disclosure.
- 48) Approximately 20% of his patients have waited 3 to 5 times longer than the target established by the Otolaryngology Clinical Section, which is more than 15 times the average for surgeons that were not parties making the Disclosure.
- 49) The reductions and changes to his Operating Theatre allocation has substantially impacted Dr. Seikaly's ability to perform surgeries, provide clinical services to cancer patients, address patient's surgical and clinical needs, and earn income.

Impacts on Patients and Healthcare

- 50) The reduction in and changing of Operating Theatre allocations has substantially impacted the surgical and clinical care received by Dr. Seikaly's patients. The changes, by or at the direction of the Defendant, impact Dr. Seikaly's patients as follows:
 - a) Delays in consultation, diagnosis, treatment planning and other clinical services.
 - b) Longer wait times for surgery, during which cancers may grow or metastasize.

- c) Reduced access to and coordination with multi-disciplinary care.
 - d) Interruptions or reductions in post-operative recovery care.
 - e) Increased and prolonged anxiety and pain.
 - f) Increased risk of death.
- 51) The reduction in and changing of Operating Theatre allocations has substantially impacted other aspects of the health system. The changes, by or at the direction of the Defendant, impact the health system as follows:
- a) Increased strain on other healthcare providers resulting from the redirection of patients to other professionals and the increased complexities of patient conditions.
 - b) The rescheduling of multi-disciplinary teams, resulting in scheduling conflicts, inefficiencies, and additional strain on their resources.
 - c) Reduced patient satisfaction resulting from increased wait times and disruptions in continuity of care.
 - d) Reduced training opportunities for residents, fellows, and other students interested in head and neck surgery.
 - e) Increased healthcare costs due patients' cancers progression requiring more extensive or costly procedures, or delays in treatment increasing the occurrence and severity of other conditions or complications.

Misfeasance in Public Office: Receipt, Communication, and Acting Upon Known False Allegations

- 52) The Defendant, in his role as AHS Clinical Zone Section Head, is a Public Official with statutory authority provided to him through his appointment by Alberta Health Services.
- 53) The First Publication of False Allegations was an unlawful act. The Defendant knew, or ought to have known, that the January Complaint contained false, inaccurate, and misleading information, yet he communicated its existence and content to administrative and academic staff of the University of Alberta.
- 54) The Second Publication of False Allegations was an unlawful act. The Defendant knew, or ought to have known, that the January Complaint and April Complaint contained false,

inaccurate, and misleading information, yet he communicated their existence to Dr. Weed.

- 55) Further, the January Complaint and the April Complaint was confidential information of Dr. Seikaly that the Defendant improperly disclosed to Dr. Weed.
- 56) Further, the communication of the existence of the January Complaint and April Complaint to Dr. Weed was defamatory to Dr. Seikaly.
- 57) The Publications of False Allegations, the improper disclosure of confidential information, and defamatory statements were made by the Defendant with an intention of harming Dr. Seikaly.
- 58) Alternatively, the Defendant was aware that the Publications of False Allegations, the improper disclosure of confidential information, and defamatory statements were likely to harm Dr. Seikaly and acted with deliberate disregard to his duties owed as a Public Official.
- 59) Dr. Seikaly was in fact harmed by the Publications of False Allegations, the improper disclosure of confidential information, and defamatory statements that were made by the Defendant.

Misfeasance in Public Office: Reduction and Changing of Operating Theatre Time Allocation

- 60) The reduction of Dr. Seikaly's Operating Theatre allocation by, or at the direction of, the Defendant, was a reprisal against Dr. Seikaly as a party making the Disclosure, contrary to section 24(2) of the *Whistleblower Protection Act* (the "First Reprisal").
- 61) The changing of Dr. Seikaly's Operating Theatre allocation by, or at the direction of, the Defendant, was a reprisal against Dr. Seikaly as a party making the Disclosure, contrary to section 24(2) of the *Whistleblower Protection Act* (the "Second Reprisal").
- 62) The First Reprisal and the Second Reprisal are illegal acts committed by the Defendant with the intention of harming Dr. Seikaly.
- 63) In the alternative, the Defendant had a duty to provide Operating Theatre allocations on the basis of surgeons' waitlists and patient needs, and acted with deliberate disregard for this duty by carrying out or directing the reduction and changing of Operating Theatre allocation, and with the knowledge that this was likely to harm Dr. Seikaly.

- 64) Dr. Seikaly was in fact harmed by the reduction and changing of Operating Theatre allocation to him and has suffered damages as a result.

Misfeasance in Public Office: Reduction of Office and Administrative Space Allocation

- 65) The Defendant's communication of an intention to reduce Dr. Seikaly's office and administrative space allocation was a reprisal against Dr. Seikaly as a party making the Disclosure contrary to section 24(2) of the *Whistleblower Protection Act* (the "Third Reprisal").
- 66) The Third Reprisal is an illegal act committed by the Defendant with the intention to harm Dr. Seikaly.
- 67) In the alternative, the Defendant was aware that the communication of an intention to reduce Dr. Seikaly's office and administrative space allocation was likely to harm Dr. Seikaly.
- 68) Further, the Defendant's communication of an intention to reduce Dr. Seikaly's office and administrative space allocation was an action that the Defendant knew or ought to have known was unwelcome and could foreseeably cause emotional distress (the "First Intentional Infliction of Distress").
- 69) Dr. Seikaly was harmed by the Third Reprisal and the First Intentional Inflection of Distress.

Abuse of Public Office

- 70) The Defendant, in his role as AHS Clinical Zone Section Head, is a Public Official with statutory authority provided to him through his appointment by Alberta Health Services.
- 71) In the First Reprisal, Second Reprisal, Third Reprisal, and First Intentional Infliction of Distress, the Defendant undertook unlawful acts with intentional use of his statutory authority, all for an improper purpose.
- 72) The Defendant had an intent to harm Dr. Seikaly in carrying out the First Reprisal, Second Reprisal, Third Reprisal, and First Intentional Infliction of Distress.
- 73) In the alternative, the Defendant deliberately regarded his duties as a Public Official in carrying out the First Reprisal, Second Reprisal, Third Reprisal, and First Intentional

Infliction of Distress and had knowledge that Dr. Seikaly would suffer harm as a result. In the further alternative, the Defendant displayed reckless indifference or willful blindness to the harm that Dr. Seikaly would suffer as a result from the First Reprisal, Second Reprisal, Third Reprisal, and First Intentional Infliction of Distress.

- 74) Dr. Seikaly was harmed by the First Reprisal, Second Reprisal, Third Reprisal, and First Intentional Infliction of Distress.

Unlawful Means

- 75) The Defendant is an employee of the University of Alberta and has an obligation:

- a) to protect confidential information obtained in the course of his employment; and
- b) to act honestly and in good faith in the performance of his duties.

- 76) The existence of the January Complaint and April Complaint was confidential information of Dr. Seikaly. The Second Publication of False Allegations was a breach of the Defendant's obligations of confidentiality owed to the University of Alberta and Dr. Seikaly as an employee of the University of Alberta, and is unlawful.

- 77) The Defendant's termination of Dr. Seikaly as Fellowship Director on the basis of the January Complaint and the April Complaint, which the Defendant knew were false allegations, was a breach of the Defendant's duty to act honestly and in good faith in the performance of his duties and is unlawful.

- 78) The Defendant intended to harm Dr. Seikaly by way of the Second Publication of False Allegations and his termination of Dr. Seikaly as Fellowship Director.

- 79) Dr. Seikaly was harmed by the Second Publication of False Allegations and his termination by the Defendant as Fellowship Director.

Interference with Professional and Business Economic Interests

- 80) In carrying out the Publications of False Allegations, the First Reprisal, Second Reprisal, Third Reprisal, and termination of Dr. Seikaly as Fellowship Director, the Defendant disregarded Dr. Seikaly's professional and economic interests.

- 81) The Defendant's Publications of False Allegations, the First Reprisal, Second Reprisal, Third Reprisal, and termination of Dr. Seikaly as Fellowship Director were acts committed with the intention of interfering with Dr. Seikaly's professional and economic interests.
- 82) Dr. Seikaly suffered damages as a result of the Defendant's unlawful interference with his professional and economic interests.

Defamation and Public Disclosure of Private Facts

- 83) In making the Publications of False Allegations, the Defendant publicized aspects of Dr. Seikaly's private life, which Dr. Seikaly did not consent to.
- 84) The Publications of the False Allegations were highly offensive to Dr. Seikaly and would be highly offensive to a reasonable person in the position of Dr. Seikaly.
- 85) The First Publication of the False Allegations was not of a legitimate concern to the administrative staff of the University of Alberta it was communicated to, or the public in general.
- 86) The Second Publication of False Allegations was not of a legitimate concern to Dr. Weed, or the public in general.
- 87) The Publications of False Allegations were defamatory and intended to impair Dr. Seikaly's reputation. In the alternative, the Publications of False Allegations would tend to lower Dr. Seikaly's reputation in the eyes of a reasonable person.

Intentional Infliction of Emotional Distress

- 88) The following were intentional actions by the Defendant towards Dr. Seikaly that the Defendant knew, or ought to have known, were unwelcome and could foreseeably cause emotional distress:
 - a) the First Publication of False Allegations;
 - b) the Second Publication of False Allegations;
 - c) the Defendant's termination of Dr. Seikaly as the Fellowship Program Director on the basis of the January Complaint and the April Complaint, which the Defendant knew were false;

- d) the reduction in Operating Theatre allocation to Dr. Seikaly;
 - e) the changing of the Operating Theatre days normally allocated to Dr. Seikaly; and
 - f) the Defendant's communication of an intention to reduce the office and administrative space allocation for Dr. Seikaly by over 60% on the basis that Dr. Seikaly's office space was less than 8% larger than average.
- 89) As a result of the Defendant's actions, Dr. Seikaly has experienced emotional distress.

Harassment

- 90) The Defendant's termination of Dr. Seikaly as Fellowship Director was without justification or support by the University of Alberta or the Advanced Training Counsel of the American Head and Neck Society and was:
- a) a reprisal against Dr. Seikaly as a party making the Disclosure, contrary to section 24(2) of the *Whistleblower Protection Act* (the "Fourth Reprisal", and together with the First Reprisal, Second Reprisal, and Third Reprisal, the "Reprisals");
 - b) an action that the Defendant knew or ought to have known was unwelcome and could foreseeably cause emotional distress (the "Second Intentional Infliction of Distress", and together with the First Intentional Inflection of Distress, the "Intentional Inflictions of Distress").
- 91) The Publications of False Allegations, Reprisals, and the Intentional Inflictions of Distress, constitute wrongful and actionable harassment of Dr. Seikaly.
- 92) The Defendant knew, or ought to have known, that the Publications of False Allegations, Reprisals, and the Intentional Inflictions of Distress, were unwelcome.
- 93) The Defendant's actions in carrying out or directing the Publications of False Allegations, Reprisals, and the Intentional Inflictions of Distress would, on their own or together, foreseeably cause emotional distress to Dr. Seikaly.
- 94) In carrying out or directing the Publication of False Allegations, Reprisals, and the Intentional Inflictions of Distress the Defendant intended to cause harm to Dr. Seikaly and Dr. Seikaly was, in fact, harmed.

Remedies Sought

95) The Plaintiff seeks the following relief against the Defendant:

- a) damages representing Dr. Seikaly's loss of income of \$500,000 annually, commencing January 2024;
- b) an interlocutory and permanent injunction restraining the Defendant from:
 - i) reductions to or changes of Dr. Seikaly's Operating Theatre allocations beyond those imposed on all surgeons at the University Hospital;
 - ii) changes to Dr. Seikaly's working conditions, including his office and administrative allocations, beyond those imposed on all surgeons at the University Hospital;
 - iii) publishing in any form or communicating with any person about the January Complaint and April Complaint;
 - iv) making any further disparaging, derogatory, or defamatory statements about Dr. Seikaly, in any form;
 - v) any further actions constituting reprisals under the *Whistleblower Protection Act*;
 - vi) any further actions constituting harassment, or which are known or ought to be known are unwelcome and could foreseeably cause emotional distress; and
 - vii) any further actions constituting interference with Dr. Seikaly's professional or economic interests.
- c) pecuniary and non-pecuniary general damages for loss of reputation, earning capacity, and earnings in the amount of \$500,000;
- d) aggravated damages in an amount that will be proven at trial and this Honourable Court sees fit to grant;
- e) punitive and exemplary damage in an amount this Honourable Court sees fit to grant;
- f) interest at markets rates, or pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. I-2, or such other rate as this Honourable Court sees fit to grant;

- g) costs of this action on an indemnity basis, inclusive of all disbursements and other charges reasonably incurred in the prosecution of this action or, in the alternative, costs on a solicitor and client basis, or such other basis as this Honourable Court sees fit to grant; and
- h) such further and other relief as may be proven at trial and that this Honourable Court shall deem just and equitable.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of King's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.