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COURT COURT OF KING'S BENCH OF ALBERTA

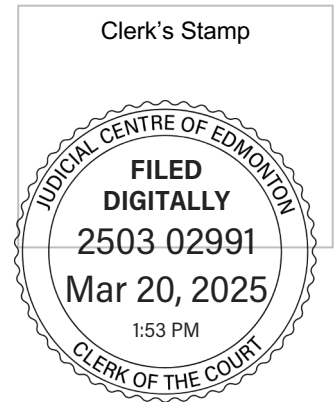
JUDICIAL CENTRE EDMONTON

PLAINTIFFS ATHANA MENTZELOPOULOS

DEFENDANTS ALBERTA HEALTH SERVICES, HIS MAJESTY THE KING IN RIGHT OF ALBERTA as represented by ADRIANA LaGRANGE in her capacity as MINISTER OF HEALTH

DOCUMENT **REPLY TO STATEMENTS OF DEFENCE**

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This is the Reply of the Plaintiff, Athana Mentzelopoulos (“Mentzelopoulos”), to the Statement of Defence filed by the Defendant His Majesty the King in Right of Alberta as represented by Adriana LaGrange in her capacity as Minister of Health (“LaGrange”), filed on March 13, 2025, and the Statement of Defence filed by Alberta Health Services (“AHS”) on March 14, 2025.

**STATEMENT OF FACTS RELIED ON:**

1. Mentzelopoulos adopts and relies upon the facts stated in her Statement of Claim.
2. On January 8, 2025, Mentzelopoulos was terminated as CEO and President of AHS on a “without cause” basis by Deputy Minister of Health Andre Tremblay. That day, LaGrange issued a press statement that said:

“Thank you to Athana Mentzelopoulos for her dedication, service and leadership during her time as AHS CEO. Her contributions to improving our health care system were important, and we are deeply grateful for all she’s done to advance these efforts.”

3. Despite LaGrange acknowledging Mentzelopoulos and her dedicated work and leadership at AHS, both LaGrange and AHS have now filed Statements of Defence that are filled with completely unfounded, entirely fictitious, malicious and bad faith allegations about Mentzelopoulos and her performance while CEO and President of AHS. The allegations, which Mentzelopoulos expressly denies, are a blatant, vindictive, malicious, and bad faith attempt to publicly smear Mentzelopoulos, damage her reputation and future employment prospects, and deflect from the substance of the allegations in the Statement of Claim.
4. The false, vindictive, and malicious allegations in the Defences have been compounded by recent false public statements about Mentzelopoulos made by Premier Danielle Smith, and are consistent with recent comments made by Premier Smith's former Chief of Staff, Marshall Smith, who has told people that he intends to ensure that Mentzelopoulos "never works again in Canada."
5. Mentzelopoulos replies to the completely unfounded, bad faith, malicious and fictitious allegations in the Statements of Defence as set out in the paragraphs below.
6. Mentzelopoulos was specifically hired to help steer AHS through a complicated and multifaceted healthcare "refocusing" effort, which effort was directed by Alberta Health. Mentzelopoulos at all times carried out her duties and obligations with a view to the best interests of AHS, the nature of the publicly funded health care system in Alberta, the need to ensure continuity of health care services, and in accordance with best management practices and operational standards.
7. Mentzelopoulos reported to the AHS Board of Directors under the terms of her 4-year employment contract. The Board had confidence in Mentzelopoulos throughout her work at AHS, and contrary to the false allegations in the Defences, the Board did not lose confidence in her at any time. Further, the Board never expressed any concerns to her about her performance as CEO and President, or about her work in guiding AHS through the (often underfunded and poorly articulated) healthcare "refocusing" that was being directed by Alberta Health.
8. Further, LaGrange was satisfied with, and in fact complimentary of, Mentzelopoulos and her efforts to guide AHS through a complicated healthcare "refocusing" effort.
9. For example, and contrary to the false allegations in the Defences about supposed performance issues, on December 2, 2024, Mentzelopoulos met with LaGrange to discuss the status of the ongoing health care "refocusing" and disaggregation of AHS. At this meeting, LaGrange told Mentzelopoulos that she was happy with the work Mentzelopoulos had been doing at AHS. Specifically, LaGrange told Mentzelopoulos:

"I think you've done some phenomenal things in Alberta Health Services, like honestly I really do"
10. Despite LaGrange specifically praising Mentzelopoulos' work to December 2, 2024, just over 1 month later, on January 7, 2025, LaGrange was demanding that the AHS Board fire Mentzelopoulos.

11. The following events occurred after the December 2, 2024, meeting:

- a. On December 13, 2024, LaGrange had another meeting with Mentzelopoulos and AHS Board Chair Angela Fong. At this meeting, Mentzelopoulos explained that the AHS investigation and the external forensic audit had revealed several preliminary but potentially very serious concerns including issues around the involvement of Prasad and another former senior AHS procurement employee with the CSFs, and a potential conflict of interest around various contracts and the principals of certain service providers and AHS suppliers. At this briefing, LaGrange was specifically asked by Board Chair Angela Fong:

“Minister, do you have any concerns entering into contracts which will be competitive and all of the things we describe with individuals that were involved in these potentially very concerning activities?”

LaGrange indicated she was not concerned despite the investigations not being completed. For her part, Mentzelopoulos did not yet know that the external forensic audit had uncovered the actual email account for Prasad at MHCare at the same time he had been employed by AHS in a senior procurement position. This specific information was in a draft report received from the external forensic investigator received by AHS that day.

- b. After the meeting with LaGrange, AHS provided Alberta Health with a draft letter that was to be sent to the principals of the Red Deer and Lethbridge CSFs to restart the negotiations. Over the next week, Alberta Health, and apparently in some cases LaGrange herself, provided edits to the letter, including specific removal of any questions around the potential involvement of Prasad and another former AHS procurement employee in the CSFs.
- c. On December 16, 2024, AHS was advised by Alberta Health that Tsuut’ina Nation had “expressed a desire to the Premier to build a Surgical Centre,” and that “the Premier may have made some commitments to this group so expectation management could be challenging.” For her part, Mentzelopoulos was not surprised as political interference around AHS-funded procurement had become common place.
- d. On December 19, 2024, Mentzelopoulos briefed the AHS Board about the AHS investigation and ongoing external forensic audit, including now confirmed and serious concerns around Prasad having an email account with MHCare during at least part of the time he was employed by AHS, and while he appeared to have been negotiating the purchase of children’s acetaminophen from MHCare.
- e. Mentzelopoulos advised the AHS Board that the external forensic audit was targeted for completion by the end of January 2025 (having commenced in November 2024) and that she would bring the full results to the Board for review and direction.

- f. Mentzelopoulos further advised the Board that the goals of the investigation and external forensic audit were:
- i. to determine if a case could be made for return to AHS of the outstanding \$49.2 million balance on the MHCare contract for children’s acetaminophen, and
  - ii. to ensure that new CSF contracts could withstand any future scrutiny given the issues that had now been discovered.
- g. Members of the AHS Board then recommended to Mentzelopoulos that the investigation and external audit be expanded (presumably the AHS Board members were also “infatuated” with the investigations as LaGrange bizarrely alleges against Mentzelopoulos in her Statement of Defence). Further, a member of the Board also recommended that Mentzelopoulos should consider bringing the matter to the attention of the RCMP.
- h. Importantly:
- i. Deputy Minister of Health, Andre Tremblay (“Tremblay”),
  - ii. Deputy Minister of Mental Health and Addictions, Evan Romanow (“Romanow”), and
  - iii. Deputy Minister of Seniors, Community and Social Services, Cynthia Farmer,
- attended the December 19, 2024, AHS Board meeting – in their dual capacities as both Deputy Ministers with the Government and also as AHS Board members. All 3 Deputy Ministers heard the recommendation by other AHS Board members that the investigation potentially be expanded and the matter be forwarded to the RCMP for potential criminal investigation. Tremblay, Romanow, and Farmer, in their capacities as Deputy Ministers, would have advised their own Ministers – including Tremblay advising LaGrange – about the meeting.
- i. The next day, on Friday, December 20, 2024, AHS sent a letter to MHCare Medical demanding a “full accounting and reconciliation of the prepayments AHS made to MHCare” for the \$70 million that was somehow prepaid by AHS to MHCare for the still unfilled provision of children’s acetaminophen.
- j. The very next business day, being Monday, December 23, 2024, Mentzelopoulos received a letter from Assistant Deputy Minister of Health, Chris Nickerson. The letter instructed Mentzelopoulos to wind up the internal investigation in CSFs and transfer all related files to Alberta Health. The letter specifically directed that:
- “AHS shall cease any due diligence underway with respect to the CSF Procurements or any selected proponents unless and until further notified.”

- k. On January 2, 2025, Mentzelopoulos talked to Romanow. Romanow said the Minister of Mental Health and Addictions, Dan Williams, was “very concerned” about the AHS internal investigations and the forensic audit, including the investigation of “our good friend JP” (JP being a reference to Prasad). Romanow said that Minister Williams was concerned that the investigation could lead to potential connections between various government officials and Sam Mraiche and MHCare Medical around AHS procurement issues. Romanow told Mentzelopoulos that his Minister was:

“freaked out about any potential connectivity or any exposure that there may be directly or indirectly to government through through [sic] AHS”

Romanow then asked Mentzelopoulos in respect of Deputy Minister of Health Tremblay:

“are they saying to back off and tamp stuff down on that front?”

Mentzelopoulos confirmed to Romanow that she had received the December 23, 2024, letter from Assistant Deputy Minister of Health Nickerson instructing AHS to stop the investigation into CSFs and transfer all related files to Alberta Health.

Romanow then discussed the development of recovery communities and the political involvement and direction around that part of the healthcare “refocusing”. Romanow told Mentzelopoulos:

“There's essentially now, I assume it's the minister who's hearing from his constituents, but he's freaked out because the connections with Metis Nation of Alberta, the builder that they've got building the recovery community with MNA, is the same builder with three others. And it's, it's connected to Sam as well. And with this Aaron Barner, who's with Metis Nation of Alberta, who's there in the pictures at the Oilers game and stuff.”

and

“So this is the thing that freaks me out. I definitely know Marshall was involved on that side, which you know, then makes me wonder about his integrity, or standing on anything else. If, if I know he, he thought that was, it was almost his idea. Oh, my God. So it potentially does point over.”

- l. On January 6, 2025, Mentzelopoulos sent a letter to Assistant Deputy Minister of Health Nickerson that strongly recommended that the Government continue its due diligence efforts into the CSFs and MHCare given the number of remaining issues and concerns and their complexity. Mentzelopoulos then specifically advised Nickerson that she was scheduled to meet with the Auditor General on January 10, 2025.

- m. Two days later, on January 8, 2025, Mentzelopoulos was terminated expressly on a “without cause” basis by Deputy Minister of Health Tremblay. The AHS Board did not approve this action or pass any motion to authorize it. Tremblay had no lawful authority to terminate Mentzelopoulos but did so anyway on instructions from LaGrange.
  - n. Deputy Minister Tremblay then canceled the January 10, 2025, meeting with the Auditor General after terminating Mentzelopoulos.
  - o. On January 20, 2025, Mentzelopoulos sent a demand letter to AHS – since widely reported by the media including the Globe & Mail after being leaked to the media by unknown persons – that contained many of the allegations later set out in the Statement of Claim.
  - p. On January 29, 2025, AHS replied to the demand letter indicating that:
    - i. A committee of the AHS Board, that did not include the Deputy Ministers who also sat on the Board, would be handling the demand letter;
    - ii. A copy of the demand letter had been sent to Alberta Health; and
    - iii. A copy of the demand letter had also been sent to the Auditor General.
  - q. Two days later, on January 31, 2025, LaGrange dismissed the entire AHS Board and installed Tremblay as the Official Administrator of AHS.
12. In Reply to paragraph 2 of the LaGrange Statement of Defence, the investigations and external audit commenced by AHS, but then shut down by LaGrange and her officials, have now resulted in at least 6 ongoing investigations by:
- a. The Royal Canadian Mounted Police;
  - b. The Alberta Auditor General;
  - c. Treasury Board and Finance;
  - d. Retired Manitoba Judge Wyant (at an apparently initial cost of \$500,000.00 to the Alberta taxpayer, and who was appointed by the Premier, will be overseen by another Cabinet Minister who sits with LaGrange and the Premier in Cabinet, and who has not been given any independent authority to compel evidence or records as part of an investigation);
  - e. The Office of the Ethics Commissioner; and
  - f. An evidently renewed internal investigation by AHS itself.

13. Further, the Premier and LaGrange have now both publicly stated that the issues Mentzelopoulos and her team of highly competent and dedicated officials at AHS uncovered are “serious” and need to be thoroughly investigated. As a result, Mentzelopoulos is left to assume that the “infatuation” into the “dramatic tale and false narrative” alleged in the LaGrange Statement of Defence is more contagious than initially thought.

14. In respect of other false narratives and unfounded allegations in the Statements of Defence:

- a. In reply to paragraph 29 of the LaGrange Defence, Mentzelopoulos does not use the word “twat” but understands that a complaint was submitted in 2024 regarding (former) Deputy Minister Tremblay’s use of a similar, but more derogatory, term in respect of a female employed by the Government, and she assumes that whomever provided information for the LaGrange Defence must have misunderstood the information they received around that allegation in respect of Mentzelopoulos.
- b. Mentzelopoulos also denies that she “verbally berated” any as-yet-to-be named Assistant Deputy Minister, and she was never advised of any such incident.
- c. In reply to paragraph 54 of the LaGrange Defence that indicates Prasad “was being considered for a role in PSOS”, on December 6, 2023 (before her start date as CEO), Mentzelopoulos was provided with a power point presentation that confirmed that Alberta Health had, in fact, hired Prasad as its Managing Director of Procurement & System Optimization Secretariat as of December 4, 2023.
- d. Further, and in respect of allegations in paragraph 45(d) of the LaGrange Defence, Prasad was employed by Alberta Health on October 18, 2024, when LaGrange issued the October 2024 Directive and took over all CSF contract negotiations, including the renewal contract for ASG, and then set specific rates for CSFs that AHS later determined were in excess of the most recently negotiated AHS rates for other CSFs. Mentzelopoulos understands that Prasad helped draft the October 2024 Directive and helped establish the rates for the CSFs.
- e. Still further, the Government including LaGrange was aware of serious concerns around Prasad in late October 2024. Specifically, on October 30, 2024, Assistant Deputy Minister of Health, Darren Hedley (“ADM Hedley”), texted Mentzelopoulos after Prasad had prepared the false and misleading response to the media inquiry about AHS contracts with MHCare and Sam Mraiche. In his texts, ADM Hedley asked Mentzelopoulos:

“Would we be able to quietly get it set up to put JP on leave and shut down his access? I’ll have to do the same on our side.”

and

“Confirming with Nicole as she is trying to connect with Rob.”

[Nicole being Nicole Williams, Chief of Staff for LaGrange, and Rob being Rob Anderson, Chief of Staff for Premier Smith]

and

“We’re terminating JP’s IT access to AH tonight as well. I will meet with him in the morning to let him know we’re putting him on administrative leave.”

The text messages from ADM Hedley indicated to Mentzelopoulos that both LaGrange and likely also Premier Smith were aware, via their respective Chiefs of Staff, of concerns around Prasad. At a minimum, they seemingly knew about the false and misleading media response that Prasad had drafted indicating that AHS did not have contracts with MHCare, and that triggered the resulting administrative leave for Prasad.

15. Both Defences also imply that Mentzelopoulos was somehow tasked with responsibility for the healthcare refocusing. However, the actual accountability for re-focusing lay with Alberta Health. For example, Minister’s Directive D13-2024 to support refocus stated:

“... AHS shall not, without the prior written consent of the Department, make any public announcement or communicate with any news, other media, or health system stakeholder in respect to matters set out in this Directive.”

Alberta Health led all communications related to the health care refocusing, with a key message being, “For frontline providers, day-to-day responsibilities will not change.” AHS was provided with periodic updates from Alberta Health on their communications and change management to support re-focusing, including on December 17, 2024, when they updated AHS on branding for the new health care agencies. Furthermore, some of the directives and ministerial orders were required in the absence of legislative change, including Ministerial Order 806/2024 to allow “AHS to disclose to Alberta Health and for Alberta Health to collect from AHS health information that is in the custody or under the control of AHS ...”

16. Mentzelopoulos expressly denies the false narrative and unfounded allegations at paragraph 10 of the AHS Defence and will be seeking particulars of the vague and unspecified allegations.
17. Specific to any allegations in either of the Defences around budgeting and fiscal management, which are also expressly denied, Mentzelopoulos managed significant under-funding of the health care system in both fiscal year 2023/24 and 2024/25.
18. AHS simply did not receive sufficient funding from Alberta Health in 2024/25 to address the known wage, inflationary and new investment requirements. Despite the lack of sufficient funding, AHS was still required to submit a balanced budget, along with information about what would be required to manage within funded levels. For AHS to achieve a balanced budget, AHS had to find a way to reduce costs equal to 2.3 per cent of total expenses. That equated to targets of \$384 million in cost reductions for AHS and \$39 million in cost reductions for Recovery Alberta (a total consolidated amount of \$423 million).



19. On March 28, 2024, AHS provided LaGrange with a comprehensive list of 2024/25 financial risks as part of the B2024 budget submission. The identified risks then emerged largely as predicted.
20. Mentzelopoulos was not permitted to communicate this budget shortfall to AHS employees, but she worked with her AHS executive to begin a “core review” process early in fiscal year 2024/25 in an effort to address the budget shortfall that she would manage as CEO and President.
21. In July 2024, Alberta Health provided a budget update to the Government’s Cabinet Health sub-committee. The Committee was advised that:
  - a. There was approximately \$900 million that had been identified as potential “cost containment and savings initiatives” within the overall Alberta Health portfolio, with approximately \$423 million identified within AHS itself;
  - b. AHS had provided financial data “at the most granular level of detail” to support independent third-party validation from an external consultant (Ernst & Young); and
  - c. Critically, AHS would be required to potentially eliminate up to 1,919.8 FTEs in order to comply with a June 2024 Minister’s Directive from LaGrange and manage the existing budget constraints.
22. Mentzelopoulos led a number of strategic initiatives including surge planning, work to reduce service disruptions, efforts to reduce surgical backlogs, core review, and changes to Strategic Clinical Networks, and she submitted a comprehensive capital plan to Alberta Health in September 2024 which included information about an immediate acute care shortage of 741 beds. Mentzelopoulos also managed un-budgeted political priorities, including the temporary catheterization lab at the Red Deer Regional Hospital.
23. AHS continued to provide significant financial reporting to Alberta Health throughout Mentzelopoulos’ tenure, including the November 2024 AHS Quarter 3 Forecast Memo.
24. The Forecast Memo pointed out, among other things, that AHS was still waiting on a decision from LaGrange on 267 proposed savings initiatives that were provided to LaGrange over the summer of 2024. The Forecast Memo also noted that:
  - a. As of October 2024, AHS had implemented 647 initiatives amounting to an estimated \$136 million in savings that were less disruptive than other options;
  - b. In the areas of diagnostic imaging and lab services, AHS currently had no acceptable tools to curb demand or to cap activity and budgets;
  - c. Many of the Continuing Care Capacity Plan beds planned to open were at risk for withdrawal by operators due to their increasing construction and mortgage costs. As a result, AHS’ ability to expand community-based continuing care was at risk of not achieving or effectively meeting the needs of Alberta’s aging population; and

- d. The refocus initiative – directed and led by Alberta Health – had created additional unbudgeted costs. These costs had not been included in the AHS budget forecast because AHS could not incur additional refocusing related costs without corresponding funding from Alberta Health. This information was shared with both Alberta Health and Mental Health and Addiction for consideration in their respective budget forecast submissions because of AHS’s focus on avoiding unbudgeted expenses based on advice from the Ernst & Young Expenditure Review.
25. It was in this context of significant AHS budget constraints and ongoing funding pressures that Mentzelopoulos, and other dedicated AHS employees, undertook a review of the proposed CSF contracts because of the significantly increased pricing compared to other private surgical providers such as Clearpoint Health, and compared to AHS internal costing. Government officials pressured AHS to sign off on the CSF agreements despite significant concerns about the increased costs and expenses that would be incurred by AHS, and therefore by the Alberta taxpayer.
26. However, LaGrange eventually ordered Alberta Health to take over the CSF negotiations and set the prices that would come from the AHS budget for contracts that AHS would have to sign, via the October 2024 Directive.
27. The references in the LaGrange Defence at paragraphs 40 and 41 to an interim report are deliberately misleading. The interim report being quoted was a “preliminary” finding and it related to the initial concerns over the ASG contract that developed in late August 2024, and which contract pre-dated Mentzelopoulos’ hiring by AHS.
28. However, the interim report did not (and could not at the time) address issues that developed shortly thereafter involving Prasad, MHCare, and the expanding and serious concerns about the South and Central CSFs and possibly also ASG. In any event, on October 18, 2024, LaGrange issued the October 2024 Directive and assumed control of the ASG and other CSF contracts and took control of AHS procurement regarding the CSF contracts.
29. Finally, in reply to the allegation that Mentzelopoulos was somehow upset by the plans to break up AHS and that her role at AHS was merely transitional, she was specifically told in November 2023 by Deputy Minister of Health Tremblay and ADM Hedley that the intention was for Mentzelopoulos to initially assume the role of President and CEO of AHS, and then be transitioned over to what became Acute Care Alberta. She was also assured and promised a 4-year term of employment if she left her employment at the Alberta Medical Association.

**ANY MATTERS THAT DEFEAT THE DEFENCE OF THE DEFENDANT(S):**

30. The Plaintiff relies upon the facts and matters plead above as defeating the Defences of the Defendants.

**REMEDY SOUGHT:**

31. The false, unfounded, and bad faith allegations by both Defendants in the Statements of Defence, as well as public statements made by LaGrange and now also the Premier in her capacity as a representative of His Majesty the King in Right of Alberta, have effectively rendered mitigation of damages and obtaining similar new employment during the remaining contract term effectively impossible.
32. Further, the allegations are a vindictive, malicious, and bad faith attempt to publicly damage the reputation of Mentzelopoulos and impair her future employment prospects.
33. Therefore, Mentzelopoulos is amending the following remedy at paragraphs 78(b) and 78(e) of the Statement of Claim as follows:
  - b. Judgment for bad faith, aggravated, and/or punitive damages, in the amount of \$1,700,000.00;
  - e. Solicitor-client costs and pre-judgment interest.