

No. S-202406  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

ROBERT RORISON AND BRAYDEN METHOT

PLAINTIFFS

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA and  
HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

DEFENDANTS

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*

**ORDER MADE AFTER APPLICATION**

BEFORE ) THE HONOURABLE MR. JUSTICE ) Friday the 22<sup>nd</sup> day of  
 ) N. SMITH ) April, 2022.

ON THE APPLICATION of the plaintiffs coming on for hearing at 800 Smithe Street, Vancouver, BC on April 26-28, June 28-30, November 26, 2021 and February 11, 2022 and on hearing J. Scott Stanley, G. van Ert and E.A. Emery for the plaintiffs; G.P. Brown, K.C. and J.A. Morris for the defendant Insurance Corporation of British Columbia; G. Morley, L.V. Mauro and K. Millar for the defendant His Majesty the King In Right of the Province of British Columbia, and judgment being reserved to this date;

THIS COURT ORDERS THAT:

1 This action is certified as a class proceeding under the *Class Proceedings Act*, RSBC 1996 c. 50 in respect of the Accident Victim Class.

2 The application for certification as a class proceeding under the *Class Proceedings Act*, RSBC 1996 c. 50 in respect of the Ratepayer Class is dismissed.

3 The Accident Victim Class consists of all persons who were injured in a motor vehicle accident on or after January 1, 1994 while insured by the Insurance Corporation of British Columbia ("ICBC") and received accident benefits up to the legal limit of ICBC's liability to pay.

4 The plaintiff, Brayden Methot ("Methot"), is appointed as the representative plaintiff for the Accident Victim Class.

5 Murphy Battista LLP ("Class Counsel") is appointed as class counsel for the Accident Victim Class.

6 Methot asserts that the Accident Victim Class is entitled to damages and other relief in respect of payments ICBC has unlawfully made to the defendant His Majesty the King In Right of the Province of British Columbia (the "Province"). Methot asserts that these payments are unlawful on grounds including negligence, breach of contract and/or breach of its duty of good faith, and/or unjust enrichment.

7 Methot seeks against ICBC

(a) a damages award for Methot and the other members of the Accident Benefit Class in negligence, breach of contract and/or breach of a duty of good faith and/or unjust enrichment;

(b) a punitive damages award for Methot and the other members of the Accident Benefit Class;

(c) costs;

(d) interest pursuant to the *Court Order Interest Act*, RSBC 1996 c 79; and

(e) such further and other relief as to this Honourable Court may seem just.

8 The following common issues are certified in respect of the Accident Victim Class:

1. Did ICBC charge to the Accident Benefits accounts of members of the Accident Victim Class, and pay the Province (including MSP) amounts in respect of services for which ICBC was not liable under statute or regulation?
2. If so, is ICBC liable to the Accident Victim Class in (a) negligence; (b) breach of contract and/or breach of its duty of good faith; and/or (c) unjust enrichment?
3. Should the Court award punitive damages against ICBC to the Accident Victim Class?
4. Should any award for punitive damages be made as an aggregate award and if so, in what amount?

9 Within 14 days following the entry of this order, Class Counsel must publish on a web site accessible to the public a form by which class members or potential class members may opt out of this proceeding (the "Opt Out Form").

10 Class Counsel must give notice of right to opt out of this proceeding, and the Opt Out Form, by publication of notices in

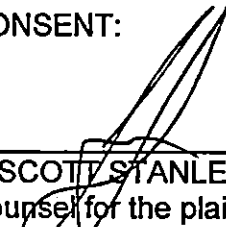
- (a) The Vancouver Sun;
- (b) The Vancouver Province;
- (c) The Kelowna Daily Courier;
- (d) The Victoria Times Colonist;
- (e) The Prince George Citizen;
- (f) The Globe and Mail; and
- (g) The National Post.


11 Members or potential members of the Accident Victim Class may opt out of this proceeding at any time until 6 months after the date on which the publication requirements in paragraphs 9 and 10 been met, after which point, they are deemed not to have opted out.


12 ICBC will provide Class Counsel with a list of the names and last known mailing addresses of all members of the Accident Victim Class in an electronic format no later than 90 days after the entry of this order.

13 The Litigation Plan attached as Schedule A is approved with liberty to the parties to apply to modify it as the proceeding progresses.

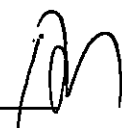
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
J. SCOTT STANLEY  
Counsel for the plaintiffs (applicants)

  
\_\_\_\_\_  
GUY P. BROWN, K.C.  
Counsel for the defendant (respondent)  
Insurance Corporation of British Columbia

  
\_\_\_\_\_  
J. GARETH MORLEY  
Counsel for the defendant (respondent)  
His Majesty the King in right of the  
Province of British Columbia

BY THE COURT

\_\_\_\_\_  
Registrar 





**SCHEDULE "A"**

No. S202406  
Vancouver Registry

*In the Supreme Court of British Columbia*

Between

**ROBERT RORISON AND BRAYDEN METHODOT**

**PLAINTIFFS**

and

**INSURANCE CORPORATION OF BRITISH COLUMBIA and HIS  
MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA**

**DEFENDANTS**

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**PLAINTIFF'S PROPOSED LITIGATION PLAN**

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The plaintiff Brayden Methodot proposes the following litigation plan.

**GENERAL**

***Defined Terms***

1. In this plan, terms have the same meaning as in the Amended Notice of Civil Claim, except that:
  - (a) "Class Action" means Supreme Court of British Columbia, Vancouver Registry, Court File No.: S202406;
  - (b) "Class Counsel" means Murphy Battista LLP;
  - (c) "Class Member" or "Class Members" means one or more members of the class defined as:

The Accident Victim Class consists of all persons: who were injured in a motor vehicle accident on or after January 1, 1994 while insured by the Insurance Corporation of British Columbia ("ICBC") and received accident benefits up to the legal limit of ICBC's liability to pay.

- (d) "Class Period" means the period from January 1, 1994 to the present;
- (e) "CPA" means the *Class Proceedings Act*, R.S.B.C. 1996, c. 50;
- (f) "Short Notice" means the short form of Notice of Certification attached as Appendix "A";
- (g) "Long Notice" means the long form of Notice of Certification attached as Appendix "B"; and
- (h) "Website" means [www.murphybattista.com](http://www.murphybattista.com).

### ***Reporting***

2. Class Counsel will report regularly to the Class Members through the Website. The information on the status of the Class Action will be updated regularly. Class Counsel will designate a person to manage the communications with Class Members.

## **CERTIFICATION MOTION**

### ***Notice***

3. As part of the certification order, the Court has:
- (a) Settled the form and content of the Long Notice and the Short Notice; and
  - (b) Settled the means by which the Notice of Certification will be given to the Class Members (the "Notice Program").
4. The Short Notice and the Long Notice have been approved in substantially the same form as attached as Appendices "A" and "B".

5. The Short Notice and the Long Notice are to be distributed in accordance with the following Notice Program:

(a) Short Notice:

(i) published once in the following newspapers:

- A. the Vancouver Sun;
- B. the Province;
- C. the Daily Courier;
- D. the Prince George Citizen; and
- E. the Times Colonist.

(ii) published once on the following social media platforms of Class Counsel:

- A. Facebook; and
- B. Twitter.

(b) Long Notice:

(i) posted on the Website;

(ii) posted prominently on ICBC's website; and

(iii) provided by Class Counsel to any person who requests it.

6. The opt-out date is set for 6 months after the date that the Notice Program set out in paragraph 5 is complete.

7. The following opt-out procedure is approved:

- (a) a person may opt out of the Class Action by sending a written election to opt out to Class Counsel; and
- (b) no Class Member may opt out of the Class Action after the expiration of the opt-out period.

8. Class Counsel will receive the opt-out notices and report to the Court the number of persons who opted-out.

#### **LITIGATION STEPS PRECEDING THE COMMON ISSUES TRIAL**

##### ***Case Conferences***

9. Class Counsel will ask the Court to set a case planning conference to schedule the steps in the Class Action pending the common issues trial. The schedule will include the litigation steps set out below.

10. There will be meetings before the case management judge every 90 days unless the parties agree, or the Court directs, that such hearings are not required or are required on a more or less frequent basis.

##### ***Document Exchange and Management***

11. Except as provided herein, or by agreement between the parties or court order, the parties shall exchange documents in accordance with the *Supreme Court Civil Rules*.

12. All documents will be exchanged electronically. The parties will agree on file formats for the exchange. Where metadata is non-existent or not material, documents exchanged will be in the form of word-searchable PDFs, unless otherwise agreed.

13. The parties may agree on a data management system or electronic document management system to manage all produced documents.



***Examinations for Discovery***

14. The parties will complete examinations for discovery within 6 months of receiving document production, subject to agreement between the parties or court order.

***Expert Reports***

15. Any expert reports will be exchanged in accordance with the *Supreme Court Civil Rules*.

***Applications***

16. At any stage, a party may bring a motion in respect of the common issues, if appropriate.

**TRIAL OF THE COMMON ISSUES**

17. The common issues trial with respect to the Accident Victim Class will determine the following:

- (a) Did ICBC charge to the Accident Benefits accounts of members of the Accident Victim Class, and pay the Province (including MSP) amounts in respect of services for which ICBC was not liable under statute or regulation?
- (b) If so, is ICBC liable to the Accident Victim Class in (a) negligence; (b) breach of contract and/or breach of its duty of good faith; and/or (c) unjust enrichment?
- (c) Should the Court award punitive damages against ICBC to the Accident Victim Class?
- (d) Should any award for punitive damages be made as an aggregate award and if so, in what amount?

**LITIGATION STEPS FOLLOWING THE COMMON ISSUES TRIAL**

18. Within 45 days of a decision following the common issues trial, assuming success in favour of the plaintiff, the parties shall attend a case planning conference to set a schedule and to confirm the process to be followed for next steps in the proceeding. The process which will be required will depend upon the nature of the decision at the common issues trial.

19. In addition to the costs associated with advancing the litigation, the plaintiff will ask the Court to order that ICBC pay all administration costs, including the costs of the notice and the fees of the administrator and referees or alternatively that those costs be paid out of the total recovery after payment of counsel fees, disbursements, and taxes but before any distribution to the eligible Class Members.

**AMENDMENTS OF THIS PLAN**

20. This plan may be amended from time to time by directions given at case management conferences or by further order of the Court.

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## APPENDIX "A": SHORT NOTICE

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### OFFICIAL COURT NOTICE

**If you were injured in a motor vehicle accident, received accident benefits from the Insurance Corporation of British Columbia, and exhausted the limits of your accident benefits, your rights may be affected by a class action.**

There is a class action in British Columbia against the Insurance Corporation of British Columbia ("ICBC"). The class action claims that ICBC engaged in an unlawful scheme to divert monies from the accident benefit accounts of persons injured in motor vehicle accidents to the Medical Services Plan of British Columbia ("MSP") causing harm to those injured in car accidents and who were entitled to accident benefits, but who were unable to use the full amount of the benefits available to them because ICBC unlawfully applied MSP charges to their accounts, thereby reducing their level of accident benefits.

This class action is continuing, and there are no funds to pay to class members at this time. If you do nothing, your legal rights will be affected.

#### **Who Qualifies?**

The Accident Victim Class consists of all persons who were injured in a motor vehicle accident on or after January 1, 1994 while insured by the Insurance Corporation of British Columbia ("ICBC") and received accident benefits up to the legal limit of ICBC's liability to pay.

#### **What Can You Get?**

There are no funds to pay to class members at this time. If you do nothing, you may be able to make a claim on any money that results from the class action.

#### **What Happens If I Do Nothing?**

You lose your right to sue ICBC on your own about this claim. You become a class member and you are bound by the result in the class action. If there are funds to pay to class members, you can make a claim.

#### **What If I Don't Like the Class Action or I Don't Want to be Included?**

*You can opt out.* If you want to keep your rights to sue ICBC about these claims yourself, you must opt out of the class action. If you opt out you will not be able to make a claim on any money that results from the class action. Unless you opt out, you cannot be part of a lawsuit against ICBC in the future about MSP payments charged to accident benefit accounts. The opt out deadline is \_\_\_\_\_.

#### **What happens next?**

This class action is not over. The next step is a trial where the Court will decide whether ICBC is liable to the class members and if the class members should get any compensation.

The Court will decide if and how you can claim your share of any funds obtained through the class action. The Court will appoint someone (the Claims Administrator) who can help you claim your share of these funds. Watch for another notice explaining how to claim money from this class action. Contact the lawyers below to make sure you are on the mailing list.

#### **GET MORE INFORMATION by:**

**Visiting the websites or contacting the lawyers at the information below:**

**[www.murphybattista.com](http://www.murphybattista.com)**

**Call toll-free 1-888-683-9621**

**Email [MSPClassAction@murphybattista.com](mailto:MSPClassAction@murphybattista.com)**

**Class members should monitor the websites for updated information on the class actions.  
DO NOT CONTACT THE COURT**

OFFICIAL COURT NOTICE

APPENDIX "B": LONG NOTICE

**IF YOU WERE INJURED IN A MOTOR VEHICLE ACCIDENT, RECEIVED ACCIDENT BENEFITS FROM THE INSURANCE CORPORATION OF BRITISH COLUMBIA, AND EXHAUSTED THE LIMITS OF YOUR ACCIDENT BENEFITS, YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION.**

- There is a class action in British Columbia against the Insurance Corporation of British Columbia ("ICBC"). The class action claims that ICBC engaged in an unlawful scheme to divert monies from the accident benefit accounts of persons injured in motor vehicle accidents to the Medical Services Plan of British Columbia ("MSP") causing harm to those insured in car accidents and who were entitled to accident benefits but were unable to use the full amount of the benefits available to them because ICBC unlawfully applied MSP charges to their accounts, thereby reducing their levels of accident benefits. This class action is continuing, and there are no funds to pay to class members at this time. You do not need to submit a claim form yet.
- Your legal rights are affected by this case. Please read this notice carefully.
- If you are still a customer of ICBC, this lawsuit will not affect your ongoing relationship with ICBC.

YOUR LEGAL RIGHTS	
If you support the class action and want to be able to make a claim on any money that results from the class action.	Do nothing now. Further notices will be published when it is time to submit a claim. Contact the lawyers (see question 18) to have any further notices sent directly to you.
If you do not support the class action.	You may opt out. You will be able to sue ICBC and on your own if you wish. If you opt out, you will not be able to share in any money which results from the class action. See questions 10-12 for more information.
If you want to sue ICBC on your own.	You must opt out. You will not be able to share in any money that results from the class action. See questions 10-12 for more information.

If you have any questions or want more information.	Contact the lawyers. See question 18 for their website, email address and phone number.
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- These rights and options – and the deadlines to exercise them – are explained in this notice.

## OFFICIAL COURT NOTICE

### 1. Why was this notice issued?

You have a right to know about a class action lawsuit brought against ICBC. The class action may affect your legal rights. This notice explains the lawsuit, who is included, and your legal rights.

In this notice, the person who sued ICBC (Brayden Methot) is called the "Plaintiff", and ICBC is called the "Defendant".

### 2. What is this lawsuit about?

The Plaintiff complains that ICBC engaged in an unlawful scheme to divert monies from the accident benefit accounts of persons injured in motor vehicle accidents to MSP causing harm to accident victims who could not make use of all the benefits owed to them.

### 3. Why is this lawsuit a class action?

In a class action, a person called a "representative plaintiff" sues on behalf of all the people, called "class members" or the "class", who have a similar claim. Mr. Methot represents the Accident Victim Class. A class action allows the courts to resolve the issues for everyone affected, except for those who choose to exclude themselves (opt out) from the class.

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## CLASS MEMBERSHIP

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To see if these class actions affect you, and if you might be entitled to make a claim for any money that results from the class action, you must first determine whether you are in the class.

### 4. How do I know if I am in the class?

The Accident Victim Class consists of: You are a member of the Accident Victim class if you:

The Accident Victim Class consists of all persons who were injured in a motor vehicle accident on or after April 1, 1994 while insured by the Insurance Corporation of British Columbia ("ICBC") and received accident benefits up to the legal limit of ICBC's liability to pay.

### 5. Are there exceptions to class membership?

No.

### 6. I am still a customer of ICBC. Will being in this class action affect my insurance or my relationship with ICBC?

No. Being a class member and being involved in the class action will not affect your relationship with ICBC or your insurance. Your relationship with ICBC will continue.

**7. What if I am still not sure if I am included?**

If you are not sure if you are included, you may call 1-888-683-9621 with questions. Also, the Court's official "class definitions" is at [www.murphybattista.com](http://www.murphybattista.com).

**8. What if I do not want to be in the class?**

You can opt out. See questions 10 to 12 for more information.

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**GETTING A PAYMENT**

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**9. How much money will I get and when?**

There is no money to pay to class members right now. We do not know whether there will be money to pay to class members as that depends on a trial to take place in the future. There will be further notices once we have more information. Contact the lawyers (see question 13 below) to make sure you are on the mailing list for future notices.

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**OPTING OUT OF THE CLASS**

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If you want to sue ICBC on your own, then you must take steps to exclude yourself. This is called "opting out".

**10. What happens if I opt out?**

If you opt out:

- (a) you will not be able to claim from any money that results from the class action;
- (b) you will not be bound by anything that happens in this lawsuit;
- (c) you will keep any right to sue ICBC on your own.

**11. What happens if I do NOT opt out?**

If you do NOT opt out:

- (a) you will be able to claim from any money that results from the class action;
- (b) you will be bound by anything that happens in this lawsuit;
- (c) you give up all your rights to sue ICBC about this same problem.

Call 1-888-683-9621 if you have any questions about the legal terminology or about your options.



**12. How do I opt out?**

You must send a signed letter to the lawyers stating that you are a class member in the MSP Class Action lawsuit and that you want to opt out by \_\_\_\_\_. You can send the letter by mail or email to:

Mail: Murphy Battista LLP  
MSP Class Action Lawsuit  
2020-650 West Georgia Street  
Vancouver, BC V6B 4N7

Email: [MSPClassAction@murphybattista.com](mailto:MSPClassAction@murphybattista.com)

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**THE LAWYERS (CLASS COUNSEL)**

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**13. Do I have a lawyer in this case?**

Yes. The law firm of Murphy Battista LLP represents the class members. You can contact them at:

Murphy Battista LLP  
MSP Class Action Lawsuit  
2020-650 West Georgia Street  
Vancouver, BC V6B 4N7  
604-683-9621 or 1-888-683-9621  
[www.murphybattista.com](http://www.murphybattista.com)

You will not be charged any money by these lawyers if you contact them. If you want to be represented by your own lawyer, you may hire one at your own expense.

**14. How and how much will the lawyers be paid?**

The lawyers will be paid a portion of any money that results from this class action. The lawyers will ask the Court to approve their fee. The fee, if approved by the Court, will be deducted from any money that results from this class action before paying class members' claims.

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**DOING NOTHING**

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**15. What happens if I do nothing at all?**

If you do nothing, you will be bound by anything that happens in the lawsuit. You will not be able to sue ICBC on your own for this same problem.

You do not need to do anything now to make a claim on any money that results from this class action. You will need to make a claim at a later date. If you contact the lawyers listed in question 13, they will make sure any further notices are sent directly to you.

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### HISTORY OF THE CLASS ACTION

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**16. What else has happened in these class actions?**

This class action was started in 2020. It has been certified. This means that this lawsuit can move forward to trial as a class action.

The Court has not commented on the likelihood of recovery on the part of the representative plaintiff or other members of the class, or as to the merits of the claims or defences asserted by either side. The allegations against the Defendant have not been proven.

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### NEXT STEPS IN THE CLASS ACTION

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**17. What happens next?**

The lawsuit is continuing. The next steps are for the plaintiff to learn more about what ICBC did. A trial will be scheduled.

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### GETTING MORE INFORMATION

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**18. How do I get more information?**

You can get copies of the claim as well as other information on the class action, at [www.murphybattista.com](http://www.murphybattista.com).

You can also email questions to [MSPClassAction@murphybattista.com](mailto:MSPClassAction@murphybattista.com) or call 604-683-9621 or call toll free at 1-888-683-9621.

The official court references for this lawsuit is:

*Rorison et al. v. Insurance Corporation of British Columbia et al*, Court File No. S202406, Vancouver Registry.

Please do not contact the Court. The lawyers would be happy to answer any questions you have.

**THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPREME COURT OF BRITISH COLUMBIA**

NO. S202406  
VANCOUVER REGISTRY

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IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**ROBERT RORISON AND BRAYDEN METHOD**

PLAINTIFF

AND:

**INSURANCE CORPORATION OF BRITISH  
COLUMBIA and HIS MAJESTY THE KING  
IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA**

DEFENDANTS

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**ORDER**

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MURPHY, BATTISTA  
Barristers and Solicitors  
2020 – 650 West Georgia Street  
Vancouver, B.C. V6B 4N7

Attention J. Scott Stanley  
Tel: 604-683-9621  
Fax: 604-683-5084

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JSS/jrc File No.: C1094

**AGENT: Last Minute**