



Case in Brief: ***Sanis Health Inc. v. British Columbia***

Judgment of November 29, 2024 | On appeal from the Court of Appeal for British Columbia  
Neutral citation: 2024 SCC 40

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***The Supreme Court rules that a provincial statute allowing British Columbia to bring a class action on behalf of multiple governments in Canada for harm caused by opioids is constitutional.***

In 2018, British Columbia brought an action against pharmaceutical companies that manufacture, market, and distribute opioid products throughout Canada. British Columbia alleged that every province and territory in Canada has experienced high numbers of addictions, illnesses and deaths due to an opioid epidemic and that the defendants contributed to the epidemic by falsely marketing their products as being less addictive and less prone to abuse than other pain medications. British Columbia asked the Supreme Court of British Columbia to certify the action as a class proceeding, allowing it to act as a representative plaintiff on behalf of all federal, provincial, and territorial governments and agencies that paid healthcare, pharmaceutical and treatment costs related to opioids. Section 11 of the *Opioid Damages and Health Care Costs Recovery Act* (“ORA”) allows British Columbia to bring an action on behalf of multiple governments but allows a government to opt-out of the proceeding.

Several defendants brought applications in the Supreme Court of British Columbia, arguing that section 11 of the ORA was unconstitutional because it fell beyond the authority of the legislature under the *Constitution Act, 1867*. They argued it does not respect the territorial limits of British Columbia’s power and undermines the sovereignty of other governments in Canada. The application judge dismissed the applications. The court said that section 11 of the ORA is a purely procedural mechanism to allow British Columbia to act on behalf of other governments in proceedings related to opioid-related wrongs. It concluded that section 11 therefore fell within the province’s constitutional authority to legislate regarding the administration of justice in the province. The court also found that section 11 respects the territorial limits of British Columbia’s authority since it only affects other governments once they consent to participate in the proceeding.

The defendants appealed the decision, arguing that the application judge was incorrect to find that section 11 of the ORA was within the authority of the British Columbia legislature because it affected the “substantive civil rights” of other provinces. The Court of Appeal dismissed the appeal, and agreed with the application judge’s conclusion that section 11 created a procedural mechanism. The defendants appealed to the Supreme Court.

The Supreme Court has dismissed the appeal.

**The British Columbia statute deals with procedural rights and falls within the province’s authority over the administration of justice.**

Writing for the majority, Justice Karakatsanis concluded that section 11 of the ORA is within the authority of the province of British Columbia. The courts below were correct in finding that the pith and substance of section 11 is the creation of a procedural mechanism for the application of the ORA to the existing opioid-related proceeding. Section 11 does not deal with substantive rights, it is meaningfully connected to the province of British Columbia, and it respects the legislative sovereignty of other governments in Canada. It is properly classified under section 92(14) of the *Constitution Act, 1867*, which grants the provinces the authority to legislate in relation to the administration of justice in the province. Under this head of power, provinces may enact laws and regulations pertaining to courts, rules of court and civil procedure. Section 11 presumptively authorizes British Columbia to act as a representative plaintiff on behalf of a class of other governments in Canada who choose to participate in this class proceeding.

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**Breakdown of the decision:** *Majority*. Justice [Karakatsanis](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Martin](#), [Kasirer](#), [O’Bonsawin](#) and [Moreau](#) agreed) | *Dissenting*: Justice [Côté](#) would have allowed the appeal.

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