



FORM 1  
(RULE 3-1 (1))

No. 260443

*In the Supreme Court of British Columbia*

Between

David Samuel Donovan

Plaintiff

and

Christa Findlay, Douglas Clouden, The Board of  
Education of School District No. 36 (Surrey) and Fraser  
Health Authority

Defendant

**NOTICE OF CIVIL CLAIM**

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

**This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.**

**Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

## **CLAIM OF THE PLAINTIFF(S)**

### **Part 1: STATEMENT OF FACTS**

1. The Plaintiff, DAVID SAMUEL DONOVAN, is the father and statutory beneficiary of the late Felicity Donovan ("Felicity"), a 16-year-old Indigenous youth and member of the Abenaki Nation of Odanak, Quebec.
2. At all material times, Felicity was a student at Elgin Park Secondary School in Surrey, British Columbia, a school operated by the Defendant, The Board of Education of School District No. 36 (Surrey) ("SD36").
3. The Defendant, Christa Findlay ("Findlay"), was at all material times a school counsellor employed by SD36 and held out as a person with specialized training to support students with mental health crises. She was assigned to be Felicity's primary contact and counsellor.
4. The Defendant, Fraser Health Authority ("FHA"), is a regional health authority responsible for delivering health services, including mental health services to youth, and at all material times operated the START Program (Short-Term, Assessment, Response, Treatment), to which Felicity was referred.
5. The Defendant, Douglas Clouden ("Clouden"), was at all material times the Leader of Risk Management Services for FHA, a senior officer responsible for overseeing patient safety incident investigations and responses.

#### **Pre-Death Negligence and Systemic Failure**

6. On or about October 16, 2023, the Plaintiff emailed Findlay, formally advising her of Felicity's "serious mental health issues," substance use, and academic struggles, thereby placing SD36 and Findlay on notice of a student in crisis and triggering their statutory and policy duties.
7. On or about October 18, 2023, Felicity disclosed a recent suicide attempt and ongoing suicidal ideation with a specific plan directly to Findlay. This disclosure created an acute, foreseeable, and immediate risk of harm, imposing a heightened duty on SD36 and Findlay to take urgent and effective protective action.
8. On or about October 20, 2023, Findlay contacted the SPEAC crisis program and provided information that formally established Felicity as a high-risk youth. During this call, Findlay made a specific undertaking to the SPEAC intake worker to coordinate Felicity's care, including contacting her external health providers, as documented in the SPEAC Intake Note from that date.
9. Findlay subsequently breached her duty of care and that specific undertaking by, inter alia:
  - a. Failing to complete the SPEAC referral process, abandoning the crisis service she had engaged;
  - b. Failing to take any meaningful follow-up action;
  - c. Failing to coordinate care between the school, SPEAC, and Felicity's family, creating a dangerous vacuum of responsibility; and
  - d. Failing to create or maintain any contemporaneous counselling notes or records of her critical interactions with Felicity, contrary to SD36's mandatory documentation procedures.
10. Following an emergency room visit, Felicity was formally referred to the FHA START Program in or about late October 2023. FHA thereby assumed a duty to provide her with reasonable mental health care and to create a clinical safety net.

11. The FHA START Program was systemically and operationally flawed. FHA has admitted in writing on August 29, 2024, that it "did not have a specific policy regarding continuity of care when clinicians are unavailable/sick."

12. As a direct and foreseeable consequence of this admitted systemic policy failure, a critical appointment for Felicity was cancelled in mid-December 2023 when her clinician was absent. No follow-up, rescheduling, or alternative care was provided. This cancellation and the lack of any safety net constituted an abandonment of Felicity, leaving her without any professional support immediately preceding her death.

13. On or about December 21, 2023, Felicity Donovan died by suicide.

#### Post-Death Mifeasance, Bad Faith, and Concealment

14. Following Felicity's death, the Defendants engaged in a coordinated pattern of bad-faith conduct, misrepresentation, and active concealment. The Plaintiff, as a grieving father, was uniquely vulnerable and reliant on the Defendants, who held a monopoly over the facts of his daughter's care. The Defendants' conduct was calculated to obstruct the Plaintiff's search for truth and accountability and to cause him to abandon his quest.

15. Particulars of Bad Faith and Concealment by SD36 and Findlay include:

a. In a meeting with the Plaintiff in January 2024, Findlay falsely claimed to have successfully referred Felicity to SPEAC, while actively concealing her negligent failure to complete the referral and coordinate care.

b. Findlay subsequently created or permitted the creation of fabricated internal records, including a debrief note dated June 24, 2024, which contained retroactive and contradictory information designed to justify her prior inaction.

c. Senior officers of SD36, including Assistant Superintendent Neder Dhillon, made a strategic decision to commission a review by a law firm, KPMG Law LLP, under the direction of legal counsel, asserting solicitor-client privilege for the predominant purpose of withholding factual findings from the Plaintiff, as confirmed in FIPPA response 25-0520.

16. Particulars of Bad Faith and Mifeasance by FHA and Clouden include:

a. FHA conducted a "quality of care review" which concluded, in bad faith, that "no issues" were found. FHA later admitted in writing on July 26, 2024, that this finding was based on "errors" and false information.

b. The Defendant Clouden, from his position in Risk Management, personally directed, edited, and gave "final approval" for the supposedly independent review. This constituted a fraudulent and bad-faith process designed to create a false exonerating record and was an abuse of his public office.

c. On May 13, 2024, Clouden made a knowingly false statement in writing to the Plaintiff, denying any "missed steps on behalf of the health authority," while he was personally aware of the admitted systemic policy failure and the cancelled appointment.

#### Systemic Discrimination

17. The Defendants, as public bodies, systematically failed to provide culturally safe care. They failed to engage their Indigenous Health offices and failed to consider Felicity's and the Plaintiff's Indigenous identity in their interactions. For example, at no point did any representative offer the involvement of an Elder, cultural support, or acknowledge the family's Indigenous identity and its relevance to Felicity's wellbeing and their grief. This systemic discrimination breached their duties under the Human Rights Code and the Declaration on the Rights of Indigenous Peoples Act, created a barrier to effective communication and trust, and directly contributed to the breakdown in Felicity's care plan and the Plaintiff's inability to obtain a truthful account after her death.

#### Causation and Damages

18. But for the Defendants' breaches of their duties, Felicity's death would have been prevented. The Defendants' specific undertakings to provide care, followed by their abandonment of those duties, directly led to her being without a clinical safety net. In the further alternative, the Defendants' negligent acts and omissions created a situation where Felicity was abandoned at her most vulnerable and materially contributed to the risk of her death by suicide. Further, and in the alternative, the Defendants' negligence caused a loss of a substantial chance of survival for Felicity, by depriving her of the mental health care that would have stabilized her condition.

19. The Plaintiff has suffered a recognized psychiatric illness, particularized as Post-Traumatic Stress Disorder and Major Depressive Disorder, which has been diagnosed by his treating clinicians and for which he is receiving ongoing therapeutic and psychiatric care. This illness was caused both by the manner of his daughter's death and, as a separate and distinct injury, by the Defendants' subsequent bad-faith conduct. It was reasonably foreseeable that the Defendants' deliberate misrepresentations and fabrication of records to a grieving father would cause severe mental injury. Their actions were so egregious and were calculated to produce a specific mental effect—namely, despair and the abandonment of his search for truth—and did in fact cause his recognized psychiatric illness.

## **Part 2: RELIEF SOUGHT**

1. Damages under the Family Compensation Act, R.S.B.C. 1996, c. 126;
2. Aggravated Damages;
3. Punitive Damages;
4. Damages for Negligent Infliction of Mental Injury (Nervous Shock);
5. A Declaration that the Defendants' conduct constituted systemic discrimination based on Indigenous identity and breached their reconciliation commitments under the Human Rights Code and the Declaration on the Rights of Indigenous Peoples Act;
6. An Order compelling the Defendant SD36 to produce the unredacted KPMG Law LLP report, or alternatively an in-camera judicial review of privilege claims pursuant to the Court's inherent jurisdiction and Rule 7-1(14);
7. Interest pursuant to the Court Order Interest Act, R.S.B.C. 1996, c. 79;
8. Court costs; and
9. Such further and other relief as this Honourable Court deems just.

## **Part 3: LEGAL BASIS**

1. The Defendants owed Felicity a duty of care to take reasonable steps to protect her from a foreseeable risk of suicide. They breached this duty through the particulars set out above. This includes breaches arising from system-wide failures, including the failure to establish adequate policies for continuity of care and culturally safe practices. SD36 and FHA are vicariously liable for the negligence of their employees, Findlay and Clouden. The Defendants' negligence caused a loss of a substantial chance of survival for Felicity.

2. Negligent Infliction of Mental Injury: The Defendants owed the Plaintiff a duty of care in their post-incident dealings. A relationship of proximity existed because the Defendants were the institutional custodians of the facts, the Plaintiff was the obvious and foreseeable person seeking answers, and the Plaintiff was uniquely vulnerable. It was reasonably foreseeable that their bad-faith conduct would cause serious mental injury. Their actions were so egregious and were calculated to produce a specific mental effect (despair and abandonment of his search for truth) and did in fact cause a recognizable psychiatric illness.

3. Breach of Statutory Duty: The Defendants breached their statutory duties under the School Act and Health Authorities Act, and their own binding policies.

4. Misfeasance in Public Office: The Defendants Findlay and Clouden, as public officers, exercised their public powers for the predominant and improper purpose of concealing evidence of institutional negligence and obstructing the Plaintiff's legitimate quest for accountability. They acted with deliberate, unlawful intent in fabricating records (Findlay) and directing a sham investigation (Clouden) and making knowingly false statements. They knew their conduct was an abuse of their public office and was likely to injure the Plaintiff.

5. The Defendants' conduct, as particularized above, constitutes discrimination on the basis of Indigenous identity contrary to s. 8 of the Human Rights Code and the reconciliation objectives of the Declaration on the Rights of Indigenous Peoples Act. This systemic discrimination is a particular of the Defendants' broader negligence and bad faith, and supports the claims for aggravated and punitive damages and the requested declaration.

6. Aggravated and Punitive Damages: The Defendants' conduct has been high-handed, malicious, oppressive, and reprehensible, justifying an award of aggravated and punitive damages for sanction and deterrence.

7. Each of these causes of action is pleaded in the alternative, and the Plaintiff relies on the totality of the facts and the combined conduct of the Defendants.

Plaintiff's address for service: 1701 130 Street 109 , Surrey, British Columbia , Canada V4A 4A2

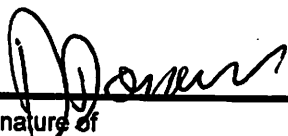
Fax number address for service (if any):

E-mail address for service (if any): donovanfamily@gmail.com

Place of trial: New Westminster Registry

The address of the registry is: 651 Carnarvon Street, New Westminster, British Columbia V3M1C9

Date: November 03, 2025

  
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Signature of

☒ Plaintiff

☐ Lawyer for plaintiff(s)

David Samuel Donovan

Surname: Donovan

First Name: David

Second Name: Samuel

Third Name:

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

## APPENDIX

### Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

### Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- |  |   |
|--|---|
| <input type="checkbox"/> contaminated sites          | <input type="checkbox"/> an employment relationship   |
| <input type="checkbox"/> construction defects        | <input type="checkbox"/> a will or other issues concerning the probate of an estate             |
| <input type="checkbox"/> real property (real estate) | <input type="checkbox"/> a matter not listed here   |
| <input type="checkbox"/> personal property           | <input type="checkbox"/> the provision of goods or services or other general commercial matters |
| <input type="checkbox"/> investment losses           |   |
| <input type="checkbox"/> the lending of money        |   |

### Part 3: THIS CLAIM INVOLVES:

- |   |  |
|---|--|
| <input type="checkbox"/> a class action     | <input type="checkbox"/> conflict of laws  |
| <input type="checkbox"/> maritime law       | <input type="checkbox"/> none of the above |
| <input type="checkbox"/> aboriginal law     | <input type="checkbox"/> do not know       |
| <input type="checkbox"/> constitutional law |  |

### Part 4: Enactments

- |  |  |
|--|--|
| <input type="checkbox"/> Builders Lien Act             | <input type="checkbox"/> Motor Vehicle Act       |
| <input type="checkbox"/> Court Order Interest          | <input type="checkbox"/> Occupiers Liability Act |
| <input type="checkbox"/> Insurance (Motor Vehicle) Act | <input type="checkbox"/> Supreme Court Act       |
| <input type="checkbox"/> Insurance (Vehicle) Act       | <input type="checkbox"/> Wills Variation Act     |
|  | <input type="checkbox"/> Other _____             |