

New Westminster

27-Nov-25

REGISTRY

No. 260443
New Westminster
Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DAVID SAMUEL DONOVAN

PLAINTIFF

AND:

CHRISTA FINDLAY, DOUGLAS CLOUDEN, THE BOARD OF EDUCATOIN OF SCHOOL
DISTRICT NO. 36 (SURREY) AND FRASER HEALTH AUTHORITY

DEFENDANTS

RESPONSE TO CIVIL CLAIM

Filed by: Fraser Health Authority and Douglas Clunden (the “defendants”)

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendants’ Response to Facts

1. The facts alleged in paragraphs 2 and 13 of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged in paragraphs 4, 5, 10-12, 14, 16-19 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in paragraphs 1, 3, 6, 7-9, 15 of Part 1 of the Notice of Civil Claim are outside the knowledge of the defendants.

Division 2 – Defendants’ Version of Facts

4. The facts alleged in paragraphs 5 of Part 1 of the Notice of Civil Claim are admitted.
5. The facts alleged in paragraphs 7, 8-16 of Part 1 of the Notice of Civil Claim are denied.

6. The facts alleged in paragraphs 1, 2, 3, 4, 6 of Part 1 of the Notice of Civil Claim are outside the knowledge of the defendants.

Division 2 – Defendants’ Version of Facts

1. The defendant Fraser Health Authority is a Health Authority operating pursuant to the *Health Authorities Act*, RSBC 1996 c. 180. The Fraser Health Authority operates hospital and community health care services within a specific geographical area including Surrey, British Columbia.
2. The defendant Douglas Clunden is employed as a Leader, Risk Management Services at the Fraser Health Authority, and is an employee of the Fraser Health Authority. At all material times the defendant Clunden was acting within the scope of his duties as an employee and Risk Manager for the Fraser Health Authority.
3. On October 18, 2023 Felicity Donovan was seen at emergency department at Surrey Memorial Hospital with persistent depression and suicidal ideation. She was assessed by a physician and was discharged into the community with referrals to the Fraser Health Authority START program and the Fraser Health Authority Transition Program. The nursing staff completed a referral form for the START Program and Transition Program and provided information to Felicity Donovan and her mother Laura Donovan about the START Program and Transition Program.
4. The defendant Fraser Health Authority operates community health care programs called the START program and the Transition Program. These are separate programs that are both designed for short term mental health support for youth between 6 and 18 years of age and are part of the Child, Youth and Young Adult Mental Health and Substance Use programs at Fraser Health Authority. In October 2023 The Transition Program was a pilot program which was initiated to assist with transition of youth with mental health concerns from Surrey Memorial Hospital to community based long-term support services. The START program is the Short Term Assessment Response Treatment program and provides approximately 5 to 6 sessions of mental health counselling support after referral to the program by community or other health provider including hospitals. Both programs are designed to provide support and counselling while a youth is transitioning to long term community based mental health care and support.

5. The referral completed by the Surrey Memorial Hospital nurse was received by both the Transition program and the START program on or around October 19, 2023. Shortly after receiving the referral clinicians from the Transition program and from the START Program initiated communication with the plaintiff Laura Donovan, David Donovan and Felicity Donovan.
6. Felicity Donovan received the following counselling services from the Transition Program:

October 25, 2023 – In person meeting with Transition Program clinician and Felicity Donovan

November 2, 2023 – In person meeting with Transition Program clinician and Felicity Donovan

November 11, 2023 – Telephone meeting with Transition Program clinician and Felicity Donovan

November 17, 2023 – Telephone meeting with Transition Program Clinician and Felicity Donovan

7. Felicity Donovan received the following counselling services from the START Program:

October 23, 2023 – In person meeting with START Program clinician, Felicity Donovan and David Donovan.

November 1, 2023 – In person meeting with START Program clinician, Felicity Donovan and Laura Donovan

November 15, 2023 – In person meeting with START Program Clinician, Felicity Donovan and Laura Donovan

November 29, 2023 – In person meeting with START Program Clinician, Felicity Donovan and Laura Donovan

December 6, 2023 – In person meeting with START Program Clinician, Felicity Donovan and Laura Donovan

8. On October 23, 2023, an initial in person assessment occurred with the START Program clinician and Felicity Donovan and David Donovan. During that session an assessment was conducted by the START Program clinician including reviewing the Felicity Donovan's background, her family situation, school history and history and current status of mental health conditions. Based on Felicity Donovan's initial assessment, the clinician determined that Felicity was a low risk for suicide. In the initial assessment the clinician assisted Felicity with review of coping mechanisms and safety strategies. A written safety plan was completed by Felicity Donovan and David Donovan at that meeting. The START Program Clinician provided advice regarding when to seek help and phone numbers and resources for crisis situations. At the initial assessment meeting Felicity Donovan and David Donovan were scheduled for a follow up session date of November 1, 2023. They were provided with the START telephone number and advised to call START if at any point they needed support or assistance.
9. A clinician from the Transition Program contacted Felicity Donovan and Laura Donovan on October 19, 2023. An appointment was set to meet in person with the Transition Program clinician on October 25, 2023.
10. A clinician from the Transition Program met with Felicity Donovan on October 25, 2023 in person. At that meeting the Transition Program clinician advised Felicity Donovan of resources that Felicity could access including KIDS Help Phone, START phone line, and the Fraser Health Crisis Line.
11. On November 1, 2023 the START Program Clinician met with, Felicity Donovan and Laura Donovan for a counselling session. The clinician reviewed further strategies for coping skills and dealing with emotions. During the November 1, 2023 session, the START Program Clinician assessed Felicity Donovan's risk of suicide and determined that it was low and was improved from the previous session. On November 2, 2023 a clinician from the Transition program had an in person meeting with Felicity Donovan. The Transition Program clinician reviewed further coping mechanisms including ways to remain safe around alcohol. A telephone check in was scheduled for November 11, 2023 with the Transition Program, and a final session was scheduled with the Transition Program on November 17, 2023, after which Felicity would be discharged from the Transition Program while she continued with the START Program.

12. At this time in addition to the START team and Transition team, Felicity Donovan was also seeing a clinical counsellor in the community privately twice per week.
13. On November 11, 2023 a clinician from the Transition Program had a telephone call check-in with Felicity Donovan who advised that she had had a good week. A final session with the Transition Program was arranged for November 17, 2023.
14. On November 15, 2023 a clinician from the START program had an in person meeting with Felicity Donovan and her mother. The START Program clinician reviewed coping strategies for worries, emotional regulation and impulsiveness. During the November 15, 2023 session, the START Program clinician assessed Felicity Donovan's risk of suicide and determined that it was low and was further improved from the previous session. A further session was booked for November 22, 2023.
15. At or around the time of November 15, 2023 Felicity Donovan was seen by a psychiatrist in the community for her mental health condition, and the psychiatrist provided treatment, recommendations and prescribed medication.
16. On November 17, 2023 the clinician from the Transition Program had a telephone meeting with Felicity Donovan. Felicity reported she was doing well and thanked the clinician for her support. Felicity Donovan was aware she would receive continued support through the START Program and was advised that she would be discharged from the Transition Program.
17. On November 22, 2023 Felicity Donovan did not attend the scheduled session with the START Program clinician. A START Program clinician called Laura Donovan and called Felicity Donovan but no answer was obtained, and a voice message was left by the clinician asking them to call back.
18. On November 23, 2023 Laura Donovan the START Program and spoke with the START Program Clinician. Laura Donovan reported that Felicity Donovan was trying to manage the schedule of her own appointments and had forgotten about the appointment on the previous day. No indication of any concern or changes in Felicity Donovan's circumstances were identified. Laura Donovan reported that Felicity was safe and would attend the next scheduled session.

19. On November 23, 2023 a clinician with the START Program called Felicity Donovan and left a voice message asking her to call START, following up on the missed session.
20. On November 28, 2023 a clinician with the START Program called Laura Donovan to ask about Felicity Donovan and confirm the session for the following day. Laura Donovan reported that Felicity was doing well and would attend the session.
21. On November 29, 2023 a clinician with the START Program had an in-person counselling session with Felicity Donovan and Laura Donovan. The assigned clinician reviewed the status of Felicity Donovan, and provided techniques for grounding and stress tolerance as well as information regarding healthy relationships. The clinician provided information regarding further resources for Felicity and the family regarding programs they could access after the START program sessions came to an end. During the November 29, 2023 session, the START Program Clinician assessed Felicity Donovan's risk of suicide and determined that it was low and was continuing to improve from the previous session. A further session was booked for December 6 at 7 pm.
22. On December 6, 2023 a clinician with the START Program had an in-person counselling session with Felicity Donovan and Laura Donovan. Laura Donovan reported that she had seen positive signs and changes in Felicity Donovan and Felicity had had a good week. Laura Donovan advised the clinician that Felicity had found a long term counselling therapist in the community. The clinician reviewed with Felicity Donovan techniques to improve her stress tolerance and set goals for her to practice. During the December 6, 2023 session, the START Program Clinician assessed Felicity's risk of self-harm or suicide and determined that it was low and that she had made significant improvements over the prior sessions. A further session was booked for the following Wednesday December 13 at 7 pm.
23. On December 12, 2023 the clinician at the START Program reported to the START Program that she was ill and would not be able to attend the START Program the following day December 13, 2023.
24. On December 13, 2023 an assistant with the START Program called the number provided for primary contact for Felicity Donovan and advised that the assigned clinician was not available for the next scheduled counselling session that was to take place on December 13.

25. Between December 13 and 19, 2023 neither the Fraser Health Authority nor the START Program were advised of any concerns about Felicity's mental health or changes in her condition.
26. Felicity Donovan attempted suicide on December 19, 2023 and died on December 21, 2023 as a consequence of the injuries sustained in the suicide attempt.
27. As of the time of December 13, 2023 the clinical judgment and assessment of the START Program clinician was that Felicity Donovan was a low risk for suicidality, had improved in her mental health stability since the commencement of the START Program sessions, had arranged for appropriate long term community counselling support and was ready for transition out of the START program. Felicity Donovan and her parents David Donovan and Laura Donovan were aware that if they had concerns about Felicity Donovan's mental health they could contact the START Program and an appointment or referral to other resources could have been arranged.
28. At all material times the Fraser Health Authority operating as the START Program and the Transition Program, provided care, treatment and counselling services with reasonable skill, care and diligence and in accordance with the accepted standards of practice.
29. The defendant Fraser Health Authority had ongoing communication with David Donovan and Laura Donovan following the death of Felicity Donovan and offered to assist with arranging access to counselling for the family. The Fraser Health Authority also provided information to David Donovan and Laura Donovan to respond to their questions and requests.
30. The Fraser Health Authority received a complaint to the Patient Care Quality Office from the plaintiffs David Donovan and Laura Donovan, and the Patient Care Quality Office provided a written response pursuant to the *Patient Care Quality Review Board Act* S.B.C. 2008, c. 35. Any and all responses, recommendations provided by the defendant Fraser Health Authority were provided in good faith and without malice.
31. The defendant Douglas Clunden had communication with the plaintiff David Donovan at various times in 2024 in relation to requests for records from the Health Authority. The defendants FHA and Douglas Clunden deny that the communications made by Douglas

Clouden to the plaintiffs contained any false statements, and state that all such communications were made in good faith and without malice

Division 3 – Additional Facts

1. On August 12, 2025 Laura Donovan, David Donovan, Laura-Jane Donovan and Cordelia Donovan filed a Notice of Civil Claim in the New Westminster Registry under action 259160. In that proceeding Laura Donovan identified herself as the “intended Administrator of the Estate of Felicity Donovan” and mother of Felicity Donovan. In that proceeding Laura Donovan sought relief on behalf of herself and David Donovan under the Family Compensation Act.
2. On November 4, 2025 David Donovan subsequently filed a Notice of Discontinuance in 259160 purporting to discontinue the proceedings in action 259160 only as to his own claims against the defendants in that action.
3. The Action 259160 in the New Westminster Registry is still extant and has not been resolved.

Part 2: RESPONSE TO RELIEF SOUGHT

1. The defendants consent to the granting of relief sought in the following paragraph(s) of Part 2 of the Notice of Civil Claim: NONE
2. The defendants oppose the granting of relief sought in the following paragraph(s) of Part 2 of the Notice of Civil Claim: ALL
3. The defendants take no position on the granting of the relief sought in the following paragraph(s) of Part 2 of the Notice of Civil Claim: NONE

Part 3: LEGAL BASIS

1. In response to the whole of the Notice of Civil Claim, this action seeks relief under the *Family Compensation Act* which is the same relief and subject matter sought in New Westminster Registry Action no. 259160 and as such is an abuse of process, and in contravention of the *Family Compensation Act* section 6.

2. In response to the whole of the Notice of Civil Claim these defendants state that the relief sought by the plaintiffs' in Part 2, paragraph 5 is not within the jurisdiction of this court to order in this proceeding, and has no proper basis in the facts or law.
3. In response to part 2, paragraphs 2 and 3, and part 3, paragraph 6 of the Notice of Civil Claim, these defendants deny any conduct that could support a claim in aggravated or punitive damages. The plaintiffs have failed to provide particulars or material facts that relate to a claim in either aggravated or punitive damages, and these defendants demand further particulars of any such claim.
4. In response to the whole of the Notice of Civil Claim, the defendants specifically deny that they or any employees, servants or agents of the Fraser Health Authority were negligent or in breach of any duty or statutory duty as alleged or at all, and further specifically deny that the plaintiff has suffered the loss and damage claimed, or any loss or damage compensable under the *Family Compensation Act*.
5. In response to the whole of the Notice of Civil Claim, the defendants, or servants, employees or agents of the Fraser Health Authority, say that they provided care, treatment, counselling and support to Felicity Donovan with reasonable skill and diligence and in accordance with accepted standards of practice.
6. In answer to the whole of the Notice of Civil Claim, these defendants deny that they owed a duty of care as alleged or at all directly to the plaintiff.
7. In answer to the whole of the Notice of Civil Claim, if these defendants did owe any duty to the plaintiff, which is not admitted and is specifically denied, then these defendants were not negligent or in breach of any duty toward the plaintiffs.
8. In answer to the whole of the Notice of Civil Claim, these defendants deny that injury, loss or damage to the plaintiff was foreseeable in relation to communications with the plaintiff as alleged or at all.
9. IN answer to paragraph 2 of the Notice of Civil Claim these defendants that any actions or communications on the part of the defendant were calculated to cause injury loss, or damage to the plaintiff as alleged or at all.

10. These defendants deny that the plaintiff that the plaintiff suffered the injury, loss, damage, mental effect or psychiatric illness as alleged or at all.
11. In response to paragraph 4 of part 3 of the Notice of Civil Claim these defendants say that the tort of misfeasance in public office has no application to the facts and circumstances of this matter. The defendant Douglas Clunden is not a person in public office. The plaintiffs have not pleaded material facts capable of supporting a claim of misfeasance of public office.
12. In response to paragraph 6 of part 3 of the Notice of Civil Claim the plaintiffs claim in regarding discrimination under the *Human Rights Code* or *Declaration of Rights of Indigenous Peoples Act* does not establish a legal basis for any civil claim that is recognized by law, and should be dismissed.
13. In the alternative, and in further answer to the whole of the Notice of Civil Claim, if these defendants were negligent or committed some wrongful act, neglect or default, which is not admitted but is specifically denied, then such wrongful act, neglect or default did not cause or contribute to the death of Felicity Donovan, and these defendants put the plaintiff to the strict proof thereof.
14. In the alternative and in further answer to the whole of the Notice of Civil Claim, if these defendants were negligent or in breach of duty as alleged or at all, which is not admitted but is specifically denied, then such negligence or breach did not cause or contribute to the loss, damage or expense suffered by the plaintiff
15. In the further alternative and in further answer to the whole of the Notice of Civil Claim, if Felicity Donovan's death or if any injury, loss, damage or expense suffered by the plaintiff, was caused or contributed to by the fault of these defendants, or their employees, servants or agents, all of which is denied, then these defendants say that the acts or omissions of others, including Felicity Donovan, caused or contributed to the injury, loss, damage or expense and these defendants plead and rely upon the *Negligence Act*, RSBC 1996 c. 333.
16. These defendants plead the *Patient Care Quality Review Board Act*, SBC 2008, c. 35 sections 18 and 20, and state that any communication or documents or report created pursuant to that process is privileged by a qualified privilege. These defendants say further that evidence or

reports relating to the patient care quality complaint made regarding Felicity Donovan cannot be produced in this proceeding and cannot be the subject of evidence or any claim in this action.

17. The defendant Fraser Health Authority admits that it is vicariously liable for the defendant Douglas Clunden. These defendants state that no action for damages may be brought against Douglas Clunden pursuant to section 14 of the *Health Authorities Act*, RSBC 1996, c. 180.

Defendant's address for service:

Dives, Harper, Stanger & Mizrahi LLP
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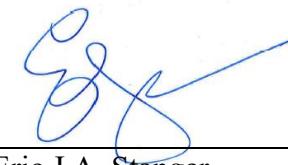
Fax number address for service:

E-mail address for service:

Date: November 26, 2025

DIVES, HARPER, STANGER & MIZRAHI LLP

Per:



Eric J.A. Stanger
Lawyer for the defendants Fraser
Health Authority and Douglas
Clunden

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.