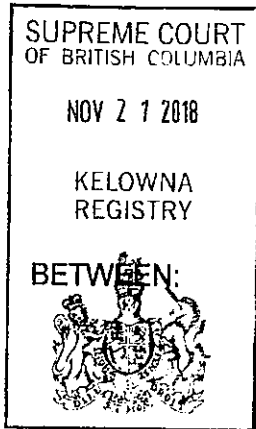


FORM 1  
(RULE 3-1 (1))

121471

File No.:  
Court Registry: Kelowna



**IN THE SUPREME COURT OF BRITISH COLUMBIA**

[REDACTED]

PLAINTIFF

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA  
(MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT AND DIRECTOR OF CHILD  
WELFARE), ROBERT RILEY SAUNDERS and SIOBHAN STYMES

DEFENDANTS

**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 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**

21NOV18 1808420 RISS  
48014 121471

200.00

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

CEIS  
Doc. #  
Initials: *[Signature]*

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, 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

### Part 1: STATEMENT OF FACTS

#### The Parties

1. The Plaintiff, is a First Nations youth who was in the continuing custody of the Province of British Columbia pursuant to the provisions of the *Child, Family and Community Service Act*, [R.S.B.C. 1996], c.46. (the "CFCSA").
2. The Plaintiff was at all material times in the custody of her personal guardian, the Provincial Director of Child Welfare (the "Director"), pursuant to s. 50 of the *CFCSA*.
3. The Defendant, Her Majesty the Queen in right of the Province of British Columbia (the "Crown") is represented by her agent, the Ministry of Children and Family Development ("MCFD"). The Defendant, Her Majesty the Queen in Right of the Province of British Columbia (MCFD), is named a defendant pursuant to ss.2(c) and 7 of the *Crown Proceedings Act*, [R.S.B.C. 1996], c.89.
4. The Director is designated by the Minister for Children and Family Development under s. 91 of the *CFCSA* and has the rights, powers, duties and responsibilities for the supervision, care, custody and guardianship of all children in the custody of the province. The Director has the right to delegate his or her rights, powers, duties and responsibilities, but has the duty to train, monitor, supervise and review the decisions and conduct of the delegates.
5. The Defendant, Robert Riley Saunders, is a social worker who at all material times was an employee of the government of British Columbia acting in the course of his employment duties, and was delegated by the Director the right, power, duty and responsibility for the supervision, care, custody and guardianship of the Plaintiff.
6. The Defendant, Siobhan Stymes ("Stymes"), is the Team Leader who at all material times was an employee of the government of British Columbia acting in the course of her employment duties, and was delegated by the Director the right, power, duty and responsibility for the supervision, care, custody and guardianship of the Plaintiff.
7. The Defendant, Stymes, was the Team Leader and direct supervisor of Robert Riley Saunders.

8. The Defendant, Stymes, had direct knowledge of the emotional and psychological abuse inflicted on the Plaintiff by Robert Riley Saunders.
9. The Defendant, Stymes, directly inflicted emotional and psychological abuse on the Plaintiff.
10. The Defendant, Stymes, undermined the Plaintiff's will to make decisions or contribute to personal decisions that would benefit the Plaintiff by manipulating the Plaintiff and by abusing the power and control that she had over the Plaintiff.

### **The Plaintiff**

11. The Plaintiff became a child in the continuing care of the Province pursuant to a continuing custody order. The Plaintiff was and is vulnerable to abuse given her history of parental neglect, medical neglect, transiency and exposure to traumatic circumstances.

### **Saunders**

12. In the course of his employment as a social worker, Saunders was delegated responsibility for the Plaintiff, and had fiduciary obligations to the Plaintiff to ensure that he acted at all times in the Plaintiff's best interest, and placed the Plaintiff's interest above his own.
13. Pursuant to s. 2 of the *CFCSA*, Saunders had at all material times an obligation to make the Plaintiff's safety and well-being paramount considerations.
14. Pursuant to s. 4 of the *CFCSA*, Saunders had at all material times an obligation to consider the Plaintiff's best interests, including:
  - a) The Plaintiff's safety;
  - b) The Plaintiff's physical and emotional needs and level of development;
  - c) The importance of continuity in the Plaintiff's care;
  - d) The quality of the Plaintiff's relations with her parents and other persons;
  - e) The Plaintiff's cultural, racial, linguistic and religious heritage, including the importance of preserving the Plaintiff's cultural identity as an aboriginal person;
  - f) The Plaintiff's views; and
  - g) The effects on the Plaintiff of any delays in decision-making.
15. At all material times, Saunders failed to consider the Plaintiff's best interests or safety and well-being. Saunders failed to ensure the Plaintiff received adequate care and support, and failed to provide for the Plaintiff's basic needs. Saunders failed to ensure that the Plaintiff had access to community and familial supports, failed to include the Plaintiff in future and permanency planning, failed to consider the Plaintiff's views, and failed to document the

Plaintiff's plan of care. Saunders failed to facilitate the Plaintiff's access to her aboriginal and cultural heritage.

16. Saunders was verbally and emotionally abusive to the Plaintiff. Saunders derided the Plaintiff and her family. Saunders' verbal and emotional abuse of the Plaintiff was intended to and succeeded in undermining the Plaintiff's self-confidence and self-esteem, and undermined her belief that she might be entitled to any form of financial support from the state for her subsistence level of material well-being, such as food, clothing or shelter.
17. In exercising parental control as a delegate of the Director, Saunders exercised ultimate control over the Plaintiff's life. Saunders had complete control over every aspect of the Plaintiff's life, including where the Plaintiff would live, the Plaintiff's access to family members, the Plaintiff's access to services and financial assistance, and the Plaintiff's connection to her cultural heritage.
18. The Plaintiff was at all material times in a vulnerable position in relation to Saunders, and Saunders represented the primary source of parental stability and security in the Plaintiff's life. The Plaintiff placed complete trust and confidence in Saunders.
19. Saunders was aware of the Plaintiff's vulnerability and aware that he exercised parental control over the Plaintiff, and breached his fiduciary obligations to the Plaintiff to act in the Plaintiff's best interests and to make the Plaintiff's safety and well-being paramount considerations. Saunders failed to apply for benefits or entitlements to which he knew or ought to have known the Plaintiff was entitled.
20. Saunders did not act in good faith in his dealings with the Plaintiff. He knew that he did not have lawful authority to deprive the Plaintiff of funds and benefits designated for the Plaintiff. Saunders knew that his actions and statements would harm the Plaintiff.
21. Saunders engaged in the same and similar unlawful and inexcusable activities in respect of dozens of other children in his care, most of whom are Aboriginal children.

#### **Harm to the Plaintiff**

22. The Plaintiff was harmed by Saunders' negligent social work, by the misappropriation of funds and benefits designated for his care and needs, and by the breach of trust and confidence. The Plaintiff was deprived of those funds and benefits and her vulnerability to further predation from other sources increased, and the Plaintiff was exploited due to her vulnerability. As a result of Saunders' actions, the Plaintiff's living situation was unstable and transient. The Plaintiff's physical and psychological health suffered as a result of Saunders' actions. The Plaintiff's trust and confidence in parental and authority figures has been severely compromised.
23. The Plaintiff was exposed to periods of hunger, street homelessness and illicit drugs such as methamphetamine, crack, cocaine, and MDMA.

## **Failings of the Director**

24. The Director failed to conduct reviews of Saunders and Stymes files to detect whether Saunders and Stymes were carrying out their duties appropriately and in accordance with the Plaintiff's best interests.
25. In particular, without limiting the generality of this pleading, Saunders' team lead did not hold the weekly and monthly consultation with Saunders as required by policy and/or failed to ascertain whether the children assigned to Saunders received appropriate care and failed to ascertain their level of well-being. Saunders' team lead was not properly supervised by a manager and the manager was not properly supervised by the Executive Director. The Executive Director was not properly supervised by his supervisors in Victoria.
26. The Director's failure to detect, supervise, restrict, review and restrain Saunders has resulted in harm to the Plaintiff.
27. Once Saunders' misconduct was detected, the Director failed to move expeditiously to review and restrain Saunders and failed to advise the Plaintiff and ameliorate her position in a timely fashion, which exacerbated and prolonged the harms caused by Saunders.

## **High-Risk Aboriginal Youth**

28. Saunders sought out and exploited Aboriginal high-risk youth because he knew that his supervisors and managers would not look too closely at their affairs or adequately safeguard their interests. Saunders knew that if Aboriginal high-risk youth complained about him, his supervisors and managers would likely not listen to them.

## **Part 2: RELIEF SOUGHT**

The Plaintiff claims damages from the Defendants as follows:

- (a) general damages;
- (b) aggravated and punitive damages;
- (c) damages and remedies for breach of fiduciary duty;
- (d) an interim, interlocutory and permanent injunction requiring the Defendants to provide financial, safety, health, therapeutic and educational support to the Plaintiff and other class members, in addition to and above their entitlements at law;
- (e) tracing and accounting of all funds misappropriated by Saunders;
- (f) an interim, interlocutory or final order restraining Saunders from having direct or indirect contact with the Plaintiff or other class members;
- (g) costs, including special costs and applicable taxes on those costs;

(h) pre- and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c. 79, and amendments thereto; and

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

### Part 3: LEGAL BASIS

1. The Plaintiff claims as against Saunders in negligence, defalcation, misfeasance of public office, abuse of process, conversion, breach of fiduciary duty and fraud.
2. The Plaintiff says that the Province is vicariously liable for any torts committed by Saunders. The Plaintiff says that the Province is directly liable in negligence and breached its fiduciary duties to the Plaintiff by ignoring warning signs that Saunders was harming youth in his care and by failing to inform the Plaintiff of Saunders' conduct and remediate the conditions leading to her vulnerability and exploitation in a timely way.
3. Saunders' actions and the Province's failure to inform and respond to the situation in a timely way are reprehensible and outrageous and warrant an award of punitive damages.

Plaintiff's address for service: 618 Main Street, Penticton, B.C. V2A 5C8

Fax number address for service: 778-476-6225

Place of Trial: Kelowna

The address of the registry is: 1355 Water Street, Kelowna, B.C.

Date: November 21, 2018

  
\_\_\_\_\_  
Signature of Michael Patterson  
Lawyer for Plaintiff

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.

COURT FILE NO.:  
KELOWNA REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:



PLAINTIFF

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA (MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT AND  
DIRECTOR OF CHILD WELFARE), ROBERT RILEY SAUNDERS and SIOBHAN  
STYMES

DEFENDANTS

---

**NOTICE OF CIVIL CLAIM**

---

MICHAEL PATTERSON  
Barrister and Solicitor  
618 Main Street  
Penticton, B.C. V2A 5C8  
Telephone: (236) 422 0883  
Fax: (778) 476 6225