

DEC 20 2019

No. S1914378
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TANEYA ANN GINA-MARIE TAYLOR

PLAINTIFF

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA (MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT), THE
DIRECTOR OF CHILD, FAMILY AND COMMUNITY SERVICES, JOHN DOE, JANE
DOE, ROBERT RILEY SAUNDERS, SIOBHAN STYNES, TERRA PLUT and
INTERIOR SAVINGS CREDIT UNION

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiffs 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 plaintiffs,

(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

Part 1: STATEMENT OF FACTS

The Parties

1. The Plaintiff, Taneya Taylor, is a First Nations woman born on March 14, 2000. The Plaintiff has an address for service at 511-55 East Cordova Street, in the City of Vancouver, British Columbia.
2. The Defendant Her Majesty the Queen in Right of the Province of British Columbia (the "Province") is represented by her agent, the Ministry of Children and Family Development ("MCFD"). The Province is named a defendant pursuant to ss.2(c) and 7 of the *Crown Proceedings Act*, R.S.B.C. 1996, c.89.
3. The Director of Child, Family and Community Services (the "Director") is designated by the Minister for Children and Family Development under s.91 of the *Child, Family and Community Service Act*, R.S.B.C. 1996, c.46 (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 and for protection of children at risk. 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.
4. The Defendant Robert Riley Saunders ("Saunders") was a social worker and team leader who was at all material times an employee of the Director and the Province 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.
5. The Defendant Siobhan Stynes ("Stynes") was a social worker and team leader who was at all material times an employee of the Director and the Province 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 Terra Plut (“Plut”) was a social worker and team leader who was at all material times an employee of the Director and the Province 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.
7. The Jane Doe and John Doe Defendants are team leaders and supervisors who are responsible for ensuring the quality and consistency of Saunders’ work and the work of other Ministry employees, the Executive Directors who are responsible for the Supervisors and Team Leaders, and the Assistant Deputy Minister who is responsible for the Executive Directors and responsible for ensuring regional compliance with internal policies and ensuring that each regional district has sufficient financial and human resources.
8. Lorne Palmer is the biological father of Taneya Taylor.
9. Tammy Macpherson and Mark Macpherson (the “Macphersons”) are foster parents in the employ of the Director and the Province.
10. Randall Dueck and Jillian Dueck (the “Duecks”) are or were foster parents or custodians in the employ of the Director and the Province.
11. The Defendant Interior Savings Credit Union (“Interior Savings”) is a financial institution with an address for service at 3200-650 W. Georgia Street in Vancouver, British Columbia.

The Plaintiff Apprehended

12. The Plaintiff was born in Cranbrook, British Columbia. The Province and the Director apprehended the Plaintiff and removed her from the custody of her biological mother on June 26, 2003, in part due to her mother’s tumultuous and chaotic relationship with Randall Dueck. At the time of her apprehension, the Plaintiff was vulnerable to abuse given her history of parental neglect, medical and mental vulnerability and exposure to adverse circumstances. Her mother later died in a motor vehicle accident.

13. On July 14, 2003, the Director and the Province placed the Plaintiff with the Macphersons for a period of approximately 5 months, pursuant to a temporary custody order issued July 10, 2003. The Director and the Province knew or ought to have known that the Macphersons were not capable, suitable, qualified or adequate to act as foster parents to the Plaintiff or any other children. The Director and the Province failed to adequately screen the Macphersons and others in the Macpherson household.
14. The Macphersons unlawfully abused the Plaintiff and exposed her to risk in the following ways:
 - a. The Macphersons used violence and excessive force against the Plaintiff and other foster children in the presence of the Plaintiff;
 - b. The Macphersons exposed the Plaintiff to alcohol and their judgment was clouded by alcohol consumption;
 - c. The Macphersons exposed the Plaintiff to another child in their care, who was known by the Macphersons, the Director and the Province to have engaged in a pattern of sexually inappropriate behavior in the presence of or with the Plaintiff.
15. The Director and the Province knew or ought to have known that the Plaintiff was at risk of abuse by the Macphersons and the child with sexually inappropriate behavior but they placed the Plaintiff with the Macphersons despite their knowledge of the risk. The Director and the Province discovered the abuse of the Plaintiff and risk of abuse of the Plaintiff, including symptoms of the sexual abuse, at the Macphersons' in August of 2003 but they failed to transfer the Plaintiff out of the Macphersons' custody until December 1, 2003, thereby prolonging and exacerbating the abuse.
16. On December 1, 2003, the Province and the Director withdrew their temporary custody order and the Plaintiff was removed from the Macphersons placement and placed in the sole custody of Palmer.

17. As of December 1, 2003, Palmer had a history of domestic violence, including violence resulting in criminal convictions, and the Province and the Director knew or ought to have known that Palmer had a history of domestic violence and that it was not suitable or safe to assign Palmer as a caregiver for the Plaintiff. The Province and the Director failed to assess Palmer's fitness as a parent, failed to conduct a criminal records check, and failed to conduct a home study or readiness assessment before transferring the Plaintiff into Palmer's custody. The Province and Director failed to check in on the Plaintiff and failed to provide any or adequate support to Palmer despite knowing that he was volatile and lacked the resources to raise the Plaintiff. The Plaintiff remained in Palmer's custody for approximately 12 years.

18. While in Palmer's custody, the Plaintiff failed to receive the requisite care needed by a child and also experienced emotional and physical abuse. Unlawful abuse of the Plaintiff by Palmer that should have been anticipated by the Director and the Province included:

- a. Palmer punched or hit the Plaintiff in the face as a form of discipline;
- b. Palmer pinned the Plaintiff to the floor;
- c. Palmer kicked the Plaintiff out of the house;
- d. Palmer engaged in dramatic displays of violence, including breaking the Plaintiff's personal items and smashing her computer;
- e. Palmer threatened to kill the Plaintiff and threatened other forms of violence; and
- f. Palmer assaulted the Plaintiff's friends in her presence.

19. The abuse was actually known or ought to have been known to the Director and the Province at the latest by January of 2013. In April of 2015, the Director and the Province became aware that the Plaintiff was at risk of internet luring, but nothing was done to protect the Plaintiff. Despite knowing of the abuse of and risk of harm to the Plaintiff at the latest by January of 2013, the Director and the Province failed to remove the Plaintiff from Palmer's custody until January of

2015. The Plaintiff was not assigned to foster parents from January of 2015 until November of 2015, and she was homeless during this period.

20. In November of 2015, the Director and the Province assigned the Plaintiff to the custody of the Duecks. As of that date, the Director and the Province knew or ought to have known that the Duecks had severe and chronic substance use disorder and were not suitable, adequate or fit to act as foster parents to the Plaintiff or any other person. The Director and the Province failed to properly screen the Duecks or comply with other reasonable safeguards and policies before placing the Plaintiff with the Duecks.
21. Within a week or two of being placed with the Duecks, the Plaintiff began reporting to the Director and the Province that the Duecks were not suitable and requested support for leaving the Duecks. The Plaintiff's reports included that she was being isolated from family events, that her brother was being forced to sleep in a storage room, that she was forced to sleep in a windowless room, that she was kicked out of the house by the Duecks for reporting inadequacies to the Director, that the Duecks were alcoholics and were addicted to drugs and that they consumed drugs in her presence and drank to excess on a daily basis, that the Duecks drove drunk with her in the vehicle and that the Dueck marriage was unstable and they fought and threatened to leave one another on a regular basis.
22. The Director and the Province failed to act in response to the Plaintiff's reports and failed to act in response to other information that they learned from other sources and refused to move the Plaintiff to another foster home. As a consequence of verbal abuse, inadequate care and other inappropriate behaviour by the Duecks and because the Director and the Province refused to take action, the Plaintiff ran away from the Duecks and was essentially homeless. The Plaintiff threatened and attempted suicide to the knowledge of the Director and the Province. When the Plaintiff asked for support and funds for shelter and food, and asked for an independent living arrangement, the social

workers assigned to the Plaintiff accused her of being greedy, self-serving and manipulative.

23. The Plaintiff gave birth to her first child, Gavin, in March of 2016. The Director and Province apprehended the child against the Plaintiff's wishes on the basis that the Plaintiff was homeless and lacked the resources to care for her child. The Director, Jane Doe or John Doe placed Gavin in the care of the Duecks.
24. On September 26, 2016, having denied the Plaintiff's request for an independent living arrangement and insisting that she was able to move in with the Duecks despite the Plaintiff's insistence that the Duecks have serious alcohol and drug problems and are otherwise unfit, Terra Plut and Riley Saunders and another social worker held a meeting. At that meeting, Plut, Saunders and the other social worker acknowledged that the Plaintiff was at serious risk of harm and involvement with law enforcement, and expressly agreed to respond to that risk by ensuring that the internal MCFD documents record that the Plaintiff has repeatedly been offered adequate shelter, despite knowing that the adequacy of the Dueck placement had not been appropriately ascertained by them or anyone else at the Ministry.
25. On October 27, 2016, Randall Dueck overdosed on injection opioids in a child's bedroom in his own residence. A paramedic reported that he had a needle hanging from his arm and was resuscitated with Narcan. At that time, the Director and the Province finally cancelled the Plaintiff's and Gavin's placement with the Duecks, but the Director and the Province again refused the Plaintiff's request to enter into an independent living arrangement and failed to provide the Plaintiff with suitable food, clothing or shelter until February of 2018 even though the Director and the Province knew that the Plaintiff was essentially homeless during that period.
26. If the Director, Province, Saunders, Stynes, Plut or Jane or John Doe offered the Plaintiff another placement with a foster parent or other approved resource in October of 2016 or thereafter, it was reasonable for the Plaintiff to refuse that placement, given the Province and Director's previous failures and the Plaintiff's

experience with Saunders, Stynes, Plut, Jane Doe, John Doe, the Macphersons, Palmer and the Duecks.

27. Lacking suitable shelter, the Plaintiff developed a substance use disorder and was sexually exploited. Substance misuse and sexual exploitation was reasonably foreseeable on the part of the Director, the Province, Jane Doe, John Doe and Saunders. The Director, the Province, Jane Doe, John Doe and Saunders knew or ought to have known that the Plaintiff needed food, clothing, shelter, mental health care and emotional support.
28. Saunders was assigned by the Director and the Province as the Plaintiff's social worker and/or team leader in or before the fall 2016, before the Plaintiff's placement with the Dueck's was terminated. The Plaintiff asked Saunders for an independent living arrangement. Saunders told the Plaintiff that independent living arrangements do not exist. Saunders told the Plaintiff that she was not his problem and there was nothing he could or should do for her. Saunders was verbally abusive to the Plaintiff and used derisive language in his dealings with her. Saunders verbal abuse of the Plaintiff contributed to her decision not to accept any placements offered by him or others working with him, if any such offers were made.
29. Saunders opened a joint bank account or trust account with the Plaintiff at Interior Savings Credit Union on March 26, 2017, on the pretext that Saunders would give the Plaintiff funds using the account. Saunders used the account to deposit cheques made out to the Plaintiff that were intended to provide the Plaintiff with funds for food, clothing and shelter. Saunders then transferred the Plaintiff's funds to his own account and used the funds to pay for trips, vehicles, and his own mortgage for himself and his family. Saunders closed the account on January 8, 2018 and took the remaining funds in cash for himself.
30. 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, and did not advise the Public Guardian and Trustee that the Plaintiff had a legal claim or claims, which prevented the Public Guardian and Trustee from advancing the Plaintiff's claim or claims.

31. 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.
32. Saunders engaged in the same and similar unlawful and inexcusable activities in respect of dozens of other children in his care, most of whom were Indigenous children.
33. The Plaintiff reported to Jane Doe and John Doe and to the Director that Saunders was not doing his job as a social worker, but Jane Doe, John Doe, the Director and the Province took no action in response to the Plaintiff's reports about Saunders.
34. On June 30, 2017, the Plaintiff gave birth to her second child, Betty, and Saunders, acting on behalf of the Director and the Province, apprehended the child and removed her from the Plaintiff's custody on the basis that the Plaintiff was homeless and lacked the resources to take care of the child.
35. Saunders' theft, fraud and defalcation of the Plaintiff's funds was detected by the Director, Jane Doe and John Doe in December of 2017. On February 2, 2018, the Plaintiff was offered an independent living arrangement which she accepted.

Harm to the Plaintiff

36. The Plaintiff was harmed by Saunders' and the other Defendants' negligent social work and provision of foster care, by the misappropriation of funds and benefits designated for her care and needs, and by their breach of trust and confidence. The Plaintiff's physical and psychological health suffered as a result of the Defendants' acts and omissions. The Plaintiff was sexually exploited and was separated from and deprived of a relationship with her children. The

Plaintiff's trust and confidence in parental and authority figures has been severely compromised.

Failings of the Director, Province, Stynes, Plut, Jane Doe and John Doe

37. At material times, the Director delegated social worker and team leader status to Saunders, Stynes, Plut, Jane Doe and John Doe, and each of them failed to provide adequate food clothing and shelter to the Plaintiff. The Director, the Province, Saunders, Stynes, Plut, Jane Doe and John Doe all knew that the Plaintiff was effectively homeless since the age of 15, and they failed to take reasonable steps to secure shelter for her and what shelter they secured was known or ought to have been known to be inadequate, harmful and abusive.
38. Having failed to take adequate steps to ensure that the Plaintiff had reasonable shelter, the Director, the Province, Saunders, Stynes, Plut, Jane Doe and John Doe also failed to provide her with sufficient resources and support to raise her own children, and then apprehended her children, Gavin and Betty, on the basis that the Plaintiff was effectively homeless and lacked the resources to raise her children. Although Saunders and Stynes were advocating for the removal of her children from her custody, Saunders and Stynes attended the Plaintiff's meetings with the Plaintiff's legal counsel regarding these removals.
39. The Director, Stynes, Plut, Jane Doe and John Doe failed to adequately supervise, restrict, review and restrain Saunders, Stynes, Plut and Jane Doe and John Doe. The Director failed to implement adequate systems, restraints and controls to detect and prevent Saunders' misappropriation of funds and benefits. The Director, Jane Doe, John Doe, Stynes and Plut failed to conduct reviews of Saunders' files to detect whether Saunders was carrying out his duties appropriately and in accordance with the Plaintiff's best interests.
40. In particular, without limiting the generality of this pleading, the Defendants Jane and John Doe did not hold the weekly and monthly consultations 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.

41. The Defendant team leaders were not properly supervised by their managers/supervisors, Jane or John Doe and their managers/supervisors were not properly supervised by the Executive Director, Jane or John Doe. The Executive Director, for instance, knew that a manager, who was supposed to be working in Kelowna, was actually assigned to the Penticton office during most of the relevant period. The names of Defendants John and Jane Doe will be ascertained by means of discovery. The Executive Director entirely failed to or only partially communicated the dysfunction of the Aboriginal/High Risk division of the MCFD office in Kelowna to the Assistant Deputy Minister.
42. The Executive Director was not properly supervised by the Assistant Deputy Minister, Jane or John Doe. The Assistant Deputy Minister did not ensure that the regional district followed internal MCFD policies or appropriate practices and did not ensure that the regional district had sufficient financial and human resources. The Assistant Deputy Minister failed to require the Executive Director to provide complete reports dealing with the functioning and dysfunction of the Aboriginal/High Risk division of the MCFD office in Kelowna and was willfully blind to the reports and warning signs that he or she noticed.
43. The Director was aware of previous instances of Saunders' misconduct and was aware of management and supervision failures and failed to implement adequate supervision and controls that would have detected Saunders' misconduct in a timely fashion. The Director's failure to detect, supervise, restrict, review and restrain Saunders has resulted in harm to the Plaintiff.
44. Once Saunders' misconduct was detected, the Director and Jane Doe and John Doe failed for a period of eight months 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.

Interior Savings

45. Interior Savings allowed Saunders to open a joint account or trust account with or on behalf of the Plaintiff. Interior Savings knew or ought to have known that

this would allow Saunders to transfer funds in the Plaintiff's name without her consent. Interior Savings knew or ought to have known that Saunders was engaging in suspicious transactions because he repeatedly attended the same Interior Savings branch with numerous cheques for children and the cheques had incomplete address information. Interior Savings also knew or ought to have known or detected that Saunders was living beyond his means and was transferring funds into his own account.

46. Saunders opened numerous joint accounts with children known by Interior Savings to be subject to a continuing custody order. In some cases, Interior Savings assisted Saunders by having the children sign forms opening the joint accounts but failed to advise the children that the accounts were joint accounts with Saunders. Interior Savings repeatedly breached its own policies in allowing Saunders to open joint and trust accounts with or for children without identification and without attending the branch. Interior Savings repeatedly circumvented and/or breached its own internal policies for joint accounts and accounts with children.
47. Employees of Interior Savings knew Saunders personally because they had repeated interactions with him. In part because of his repeated transactions with Interior Savings' employees, Interior Savings and its employees knew that Saunders was a government employee with a fixed salary and that the funds entering into his personal account were irregular and that his transaction patterns were irregular.
48. Interior Savings knew or ought to have known that the children did not personally attend Interior Savings to access any of their funds and that the children did not have electronic access to the funds or have debit or ATM cards. Interior Savings set up these joint accounts knowing that Saunders was the only one of the two 'joint' account holders that would be able to access the funds. Interior Savings knew or ought to have known that Saunders accessed the funds electronically and moved them to his own account with Interior Savings and used the funds to pay his own expenses.

49. Interior Savings allowed Saunders to empty out and close numerous joint accounts in January of 2018 in a highly unorthodox series of transactions that were manifestly nefarious, after the Ministry had provided Interior Savings with more than sufficient information to put them on additional notice that Saunders was engaged in problematic transactions. Interior Savings also provided credit information to third parties and extended credit to Saunders and thus had occasion to review his banking information and detect the suspicious and problematic transactions.

Indigenous Heritage

50. The Director, Province, Jane Doe, John Doe and Saunders were legally required to and breached their requirements to provide for the cultural and spiritual development of the Plaintiff within her cultural heritage. The Director, Province, Jane Doe, John Doe and Saunders' breach of their duty contributed to the Plaintiff's deprivation of her cultural connection to her band and traditional culture, and her loss of spirituality and cultural heritage.

PART 2: RELIEF SOUGHT

51. The Plaintiff claims damages from the Defendants as follows:

- a. General damages;
- b. Aggravated and punitive damages;
- c. An interim, interlocutory and permanent injunction requiring the Defendants to provide financial, safety, health, therapeutic and educational supports to the Plaintiff, in addition to and above their entitlements at law;
- d. Tracing and accounting of all funds misappropriated by Saunders;
- e. An interim, interlocutory or final order restraining Saunders from having direct or indirect contact with the Plaintiff;
- f. Costs, including special costs and applicable taxes on those costs;
- g. Pre- and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c.79, and amendments thereto; and
- h. Such further and other relief as to this Honourable Court may seem just.

PART 3: LEGAL BASIS

52. The Plaintiff claims against Palmer in negligence, breach of fiduciary duty, assault and battery. The Plaintiff claims as against the Macphersons and Duecks in negligence and breach of fiduciary duty.
53. The Plaintiff claims as against Saunders in negligence, defalcation, misfeasance of public office, abuse of process, conversion, breach of fiduciary duty and fraud. The Plaintiff claims as against the Director, Stynes, Plut, Jane Doe and John Doe in negligence and breach of fiduciary duty for failing to protect the Plaintiff from being harmed by Saunders, Palmer, the Macphersons and the Duecks, and for failing to provide food, clothing, shelter, emotional support or health and mental health treatment.
54. The Plaintiff says that the Province is vicariously liable for any torts committed by Saunders, Jane Doe, John Doe, the Director, the Macphersons and the Duecks. The Province is directly liable to the Plaintiff.
55. Saunders' actions and the failure of the Director, Province, Jane Doe and John Doe to respond to the risks and harms visited on the Plaintiff in a timely way are reprehensible and outrageous and warrant an award of punitive damages. The Province's direct liability allows for an award of punitive damages against the Province or payable jointly and severally by the Province.
56. Interior Savings is liable in negligence and for breach of contract in failing to implement adequate safeguards to ensure that Saunders could not unlawfully convert the Plaintiff's funds, and for failing to notify the Plaintiff of the suspicious circumstances and transactions. Interior Savings accepted the Plaintiff as a member by means of the Personal Member Application accepted through her purported agent Saunders and Interior Savings owed the Plaintiff the express and contractual duties of a credit union member and account holder. Interior Savings' conduct is reprehensible and outrageous and warrants an award of punitive damages.

Plaintiffs' address for service:

Gratl & Company
Barristers and Solicitors
511-55 East Cordova St
Vancouver, BC V6A 0A5
Attn: Jason Gratl

Fax number for service:

604-608-1919

E-mail address for service (if any):

n/a

Place of trial:

Vancouver

The address of the registry is:

The Law Courts
800 Smithe Street
Vancouver, British Columbia
V6Z 2E1

Date: December 20, 2019



Signature of lawyer for Plaintiff
Jason Gratl