

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

TANYA LABONTE

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA as represented by THE
DIRECTOR OF CHILD WELFARE

Defendant

AMENDED STATEMENT OF CLAIM PURSUANT TO THE CLASS PROCEEDINGS

ACT

THE PARTIES

1. The Plaintiff, Tanya LaBonte was born on July 19, 1972, and resides in Calgary in the Province of Alberta.
2. The Plaintiff Tanya LaBonte is a representative of a class of persons who were resident in Alberta, who:
 - a) were assaulted, sexually assaulted or injured while under the age of 18,
 - b) after being assaulted, sexually assaulted or injured, had involvement with Child Welfare, including but not limited to a report of abuse, an investigation, a support agreement, a custody order, a temporary guardianship order, a permanent guardianship order or an adoption application,
 - c) had a potential legal claim, including but not limited to a claim under the Criminal Injuries Compensation Act, the Victims of Crime Act or a potential claim pursuant to a tort,

AMENDED THIS 25 DAY OF November D. 2004.

PURSUANT TO RULE ~~20~~ ~~UNDER OPEN CONCERN~~

DATED DAY OF

L. ROSS SEAL

CLERK OF THE COURT

- d) did not receive assistance from Child Welfare to protect his/her legal rights and potential legal claim, including but not limited to the hiring of a lawyer and the payment of the lawyer's fees and disbursements.

(hereinafter referred to as the "Class Members")

3. The Director of Child Welfare is the legal entity which represents Her Majesty the Queen. The Director of Child Welfare (herein after referred to as Child Welfare) had the statutory, fiduciary and common law duty to children in Alberta.

FACTS OF TANYA LABONTE'S CASE

4. From to 1979 to 1986 The Plaintiff, Tanya LaBonte, was subjected to lengthy periods of sexual and physical abuse while living under the care and custody of her mother. Plaintiff and her family were subject to the supervision of the Department of Social Services during the entire period of her abuse.
5. On several occasions neighbors and friends contacted the Defendant and the police regarding the abuse.
6. When the Defendant was contacted they did nothing to protect the Plaintiff or her sister, Trina from the abuse.
7. This lengthy abuse was inflicted by the Plaintiff's step-father, which abuse started when she was 7 years old up until the time she ran away which was when she was 14 years old.
8. In 1986, when she was 14 years old the Plaintiff could no longer take the abuse and ran away. Her mother, her sister and she went to the Women's Shelter in Edmonton. At that time the Plaintiff became the subject of a Permanent Guardianship Order, and the Plaintiff told the Defendant at that time again of the sexual and physical abuse inflicted by her stepfather.
9. It was not until two years later, in 1988 that the Plaintiff's stepfather was actually charged for the abuse. He was charged with seven counts of physical abuse, seven counts of sexual abuse and 7 counts of gross indecency.
10. In 1990, he was found, tried and convicted with a six month sentence in jail.
11. The Defendant, at no time, advised the Plaintiff of her legal rights to sue, or claim for Crimes Compensation, or hired a lawyer to represent her interests, or notify the Public Trustee.

FACTS REGARDING THE CLASS MEMBERS

12. The Class Members were physically assaulted, sexually assaulted, or injured in some way

while under the age of 18.

13. As a result of the assault, sexual assault or injury, the Class Members had a cause of action, a possible cause of action or a possible claim under the Criminal Injuries Compensation Act or the Victims of Crime Act.
14. After the assault, sexual assault or injuries , the Class Members had involvement with Child Welfare. The involvement included but is not limited to a report to Child Welfare that , the Class Member was a child in need of protective services, was the subject to Child Welfare Agreement, was subject to a Temporary Guardianship Order, was subject to a Permanenet Guardianship Order or was the subject of an adoption.
15. Child Welfare knew or ought to have known that , the Class Members needed to have their/her legal rights protected.
16. Child Welfare did not make an application for crimes compensation benefits for , the Class Members under the Criminal Injuries Compensation Act or the Victims of Crime Act.
17. Child Welfare did not:
 - a) Advise, the Class Members or the Class Members' relatives that he had a potential law suit
 - b) hire a lawyer for the Class Members
 - c) pay for a lawyer for the Class Members
 - d) file a law suit for damages for the Class Members
 - e) settle the Class Members's law suit for the Class Members on appropriate terms
 - f) notify the public trustee of a potential claim for a minor

THE COMMON ISSUES

18. Child Welfare owed a statutory, fiduciary and common law duty of care to Tanya LaBonte and the Class Members. Child Welfare breached its duty of care to Tanya LaBonte and the Class Members.
19. Child Welfare intentionally or negligently breached their statutory, fiduciary and common law duty to Tanya LaBonte, and the Class Members some particulars of which include:
 - (a) failing to promptly protect Tanya LaBonte and the Class Members' legal rights,
 - (b) failing to promptly obtain a lawyer for Tanya LaBonte and the Class Members,
 - (c) failing to promptly sue for Tanya LaBonte and the Class Members,
 - (d) failing to promptly apply for crimes compensation benefits for Tanya LaBonte and the Class Members.,

- (e) failing to promptly apply for other financial benefits for Tanya LaBonte and the Class Members.,
 - (f) allowing limitation periods to pass
 - (g) creating greater difficulty for Tanya LaBonte and the Class Members., to prove their legal cases due to the passage of time and the difficulty of preserving witnesses and evidence over a period of time,
 - (h) ignoring the policy manuals and reports which recommended that Child Welfare protect the legal rights of children such as Tanya LaBonte and the Class Members., by providing them with lawyers, paying for their legal fees, suing on their behalf, applying for compensation, providing children in care who were injured with compensation,
 - (i) placing the interests of Child Welfare, including financial interests, ahead of Tanya LaBonte and the Class Members.,
 - (j) failing to take steps to avoid the conflict of interests between Child Welfare's role as guardian and potential defendant to of Tanya LaBonte and the Class Members, and
 - (k) failing to consider the legal rights of Tanya LaBonte and the Class Members and failing to consider what steps should be taken to protect their legal rights.
20. Child Welfare knew or ought to have known of its above statutory, fiduciary and common law duties due to the preparation and receipt of written and verbal policy manuals, reports, research and through other law suits.
21. The decisions, actions, or inactions mentioned in the above paragraph were all operational decision. In the alternative, the decisions, actions or inactions mentioned in the above paragraph were policy decisions that were not *bona fides*, were irrational, and an improper exercise of Governmental discretion.
22. Child Welfare breached its public office when it breached its statutory, fiduciary and common law duties to Tanya LaBonte and the Class Members':
- i) With an intentional use of statutory authority for an improper purpose,
 - ii) knowing that it was beyond their statutory authority,
 - iii) with reckless indifference or willful blindness to the lack of statutory authority,
 - iv) with an intent to harm Tanya LaBonte,
 - v) with actual knowledge that harm would result, or
 - vi) with reckless indifference or willful blindness to the harm that could be foreseen to result.
23. Child Welfare concealed its policy regarding the provision of legal services to Tanya LaBonte and the Class Members.

24. Tanya LaBonte and the Class Members did not discover their cause of action until they filed this Statement of Claim or became aware of this Statement of Claim.
25. The policy or practice to intentionally, or negligently, fail to sue for, nor hire lawyers, for children in care with potential law suits and compensation claims and the other breaches of Child Welfare's duties of care to Tanya LaBonte and the Class Members from 1976 (or earlier) to 2004, is reprehensible and outrageous conduct that offends the public's sense of decency and warrants a claim of punitive damages.

THE COMMON DAMAGES

26. As a result of the actions and inactions of Child Welfare, Tanya LaBonte and the Class Members have suffered the following injuries:
 - a) missed limitation periods
 - b) denial of crimes compensation application
 - c) legal expenses to prosecute their claims that should have been paid by Child Welfare
 - d) increased legal fees to prosecute their claims due to the passage of time
 - e) inability to apply for compensation under the Criminal Injuries Compensation Act and the Victim's of Crime Act
 - f) lost opportunity to sue or apply for benefits
 - g) delay in receiving compensation,
 - h) delay and lost opportunity to enjoy the use of the compensation
 - i) delay and lost opportunity to receive treatment for injuries
 - j) lost interest
 - k) increased injuries as a result of the delay in receiving compensation and the delay in being able to pay for treatment
 - l) pain and suffering of living without the compensation
 - m) psychological injuries for having their trust violated
 - n) legal fees from criminal charges that resulted from the injuries
 - o) claims and judgments for damages from individuals who have sued or who have potential claims against them
 - p) general damages
 - q) special damages
 - r) aggravated damages
 - s) exemplary damages and
 - t) punitive damages


WHEREFORE THE PLAINTIFF TANYA LABONTE AND EACH CLASS MEMEBER CLAIMS from and against the Defendant, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA as represented by THE DIRECTOR OF CHILD WELFARE,:

- (a) General Damages in the sum of \$1,000,000.00;
- (b) Punitive Damages in the sum of \$100,000.00;
- (c) Aggravated Damages in the sum of \$100,000.00;
- (d) Special Damages for psychological and medical treatment in the sum of \$100,000.00;
- (e) Special Damages for educational or employment training in the amount of \$100,000.00;
- (f) Special Damages for loss of future income in the sum of \$2,000,000.00;
- (g) Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. J-1 and amendments thereto and Regulations thereunder
- (i) Costs of these proceedings on a solicitor client basis.
- (j) Such further and other relief as this Honourable Court may seem just, including but not limited to amendments to these pleadings.

DATED at the City of Edmonton, in the Province of Alberta, this 20 day of October, 2003 AND DELIVERED by Robert P. Lee, Barrister and Solicitor, 7904 - 103 Street, Edmonton, Alberta, T6E 6C3, Solicitor for Tanya LaBonte and the Class Members herein whose address for service is in care of the said Solicitor.

Pursuant to Rule 87 (c.1), it is the opinion of the Solicitors that the within action will take more than 25 days to try.

ISSUED out of the Clerk of the Court of Queen's Bench of Alberta, Judicial District of Edmonton, Alberta this 29 day of June, 2004.

"L. ROSS" 
CLERK OF THE COURT OF QUEEN'S
BENCH OF ALBERTA

TO: HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA as represented by THE DIRECTOR OF CHILD WELFARE,

No. 0403-12898

IN THE COURT OF QUEEN'S
BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

You have been sued. You are the Defendants. You have only 15 days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of Queen's Bench in Edmonton, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

BETWEEN:

TANYA LABONTE

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA as represented by THE DIRECTOR OF CHILD WELFARE

Defendant

AMENDED STATEMENT OF CLAIM
PURSUANT TO THE CLASS PROCEEDINGS
ACT

WARNING: *If you do not do both within 15 days, you may automatically lose the lawsuit. The Plaintiff may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff, or do either thing late.*

THIS STATEMENT OF CLAIM is issued by Robert P. Lee, Barrister and Solicitor, Solicitor for the Plaintiff who resides in Alberta, and whose address for service is in care of the said Solicitor at:

7904 - 103 Street

Edmonton, Alberta, T6E 6C3

Phone: (780) 438-4972

Fax: (780) 436-7771

and is addressed to the Defendant, whose addresses so far as is known to the Plaintiff is:
Edmonton, Alberta

File: 8898

