

Action No. 0403 12898

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

BETWEEN:

TANYA LABONTE, JESSE STECHYNSKY and RHONDA MCPHEE

Plaintiffs

-and-

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

Defendant

REPLY TO THE STATEMENT OF DEFENCE OF
HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA

1. In Reply to paragraph 17 of the Statement of Defence of Her Majesty the Queen In Right of Alberta ("HMTQ"), the Plaintiffs claim that they were a person under disability under the Limitations Act, R.S.A. 2000. c. L-12.
2. In Reply to paragraph 17 of the Statement of Defence of HMTQ, the Plaintiffs claim that they did not did not and in the circumstances ought not to have known of the injury for which the Plaintiffs seeks a remedial Order within 2 years of the filing of the Statement of Claim pursuant to s. 3 of the Limitations Act, R.S.A. 2000. c. L-12.
3. In Reply to paragraph 17 of the Statement of Defence of HMTQ, the Plaintiffs claim that they did not did not and in the circumstances ought not to have known that their injury was attributable to the conduct of the Defendant pursuant to s. 3 of the Limitations Act, R.S.A. 2000. c. L-12.
4. In Reply to paragraph 17 of the Statement of Defence of HMTQ, the Plaintiffs claim that they did not did not and in the circumstances ought not to have known that the injury suffered by the Plaintiff warranted bringing a proceeding pursuant to s. 3 of the Limitations Act, R.S.A. 2000. c. L-12.
5. In Reply to paragraph 17 of the Statement of Defence of HMTQ, the Plaintiffs claim that 10 years has not passed from the time that the claim arose pursuant to s. 3 of the Limitations Act, R.S.A. 2000. c. L-12. The Plaintiffs claims arose when the Plaintiffs

requested compensation for the breach by HMTQ for failing to take all appropriate steps to make a claim under the Criminal Injuries Compensation Act or the Victims of Crime Act or commence civil action to obtain compensation on their behalf and HMTQ refused to compensate the Plaintiffs for those breaches.

6. In Reply to paragraph 18 of the Statement of Defence of HMTQ, the plaintiffs claim that there was a special relationship between the Plaintiffs and the Defendant and that it was unconscionable for HMTQ to:

- a) fail to take all appropriate steps to make a claim under the Criminal Injuries Compensation Act or the Victims of Crime Act or commence civil action to obtain compensation on behalf of the Plaintiffs or to seek the assistance of the Public Trustee,
- b) fail to advise the Plaintiffs that the Plaintiffs ought to take all appropriate steps to make a claim under the Criminal Injuries Compensation Act or the Victims of Crime Act or commence civil action to obtain compensation on their own behalf or to seek the assistance of the Public Trustee,
- c) fail to advise the Plaintiffs that the Plaintiffs could bring an action against HMTQ and/or the Public Trustee for HMTQ's and the Public Trustee's failure to take all appropriate steps to make a claim under the Criminal Injuries Compensation Act or the Victims of Crime Act or commence civil action to obtain compensation on behalf of the Plaintiffs
- d) fail to inform the Plaintiffs of the contents of the Plaintiff's files and HMTQ's policies and preventing the Plaintiffs from having access to the contents of the Plaintiff's files and HMTQ's policies which concealed material facts which the Plaintiff must prove to succeed at trial.

7. In reply to paragraph 19 of the Statement of Defence of HMTQ, the Plaintiffs deny that the decisions were policy decisions, but if they were they were not made in good faith.

DATED at the City of Calgary, in the Province of Alberta, this February 23, 2009, AND DELIVERED BY Docken & Company, Barristers and Solicitors, Solicitors for the Plaintiffs, whose address for service in care of the said Solicitors at 900, 800 - 6th Avenue SW, Calgary, Alberta T2P 3G3.

~~ISSUED out of the Office of the Clerk of the Court of Queen's Bench of Alberta, Judicial District of Edmonton, this _____ day of February, 2009.~~

~~Clerk of the Court~~

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Defendants

REPLY TO THE STATEMENT OF
DEFENCE OF THE PUBLIC HER
MAJESTY THE QUEEN IN RIGHT OF
ALBERTA

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