



**Form 1 (Rule 3-1 (1))**

*Court File No. VLC-S-S-117170*

No.  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between:

**ROSEMARIE SURAKKA as  
the personal representative of LISA CHERYL DUDLEY**

Plaintiff

And:

**MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL OF THE  
PROVINCE OF BRITISH COLUMBIA, DISTRICT OF MISSION, ATTORNEY  
GENERAL OF CANADA**

Defendants

**NOTICE OF CIVIL CLAIM**

**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:**

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

(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**

1. The Plaintiff, ROSEMARIE SURAKKA, is a resident of Harrison Hot Springs and the personal representative and mother of LISA CHERYL DUDLEY, deceased. The Plaintiff has an address for service care of Ethos Law Group LLP, #1124 – 470 Granville Street, Vancouver, British Columbia.
2. The Defendant MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL OF THE PROVINCE OF BRITISH COLUMBIA is named pursuant to the *Police Act*, R.S.B.C. 1996, c. 367 (the "*Police Act*").
3. Further, the officers and civilian employees of the Royal Canadian Mounted Police ("RCMP") who were material participants to the events herein described were contracted to the Province of British Columbia and are deemed to be part of the provincial police force pursuant to the *Police Act*, *supra*, s. 14.

4. The Defendant DISTRICT OF MISSION is joined in these proceedings pursuant to the *Police Act, supra*, s. 3(2).
5. The Defendant the ATTORNEY GENERAL OF CANADA is joined in these proceedings in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50, s. 23(1).
6. Ms. Dudley was born on June 16, 1971 at Richmond, British Columbia and died on September 22, 2008 in the District of Mission, also in British Columbia.
7. The RCMP and its officers, agents and employees caused or contributed to a chain of events that resulted in the death of Ms. Dudley.
8. On September 18, 2008, at or about 10:40 pm, Ms. Dudley was shot twice in the neck while seated in a chair in her home at 31040 Greenwood Drive, in the District of Mission. Ms. Dudley was paralyzed when shot but not killed. Ms. Dudley's partner, Guthrie McKay, was also shot. Mr. McKay died of his wounds.
9. Greenwood Drive, the street on which Ms. Dudley's house was located, connects to Shaw Street, and together these streets form a loop of approximately 1.4 km in length within and around which semi-rural suburban residential properties are located.
10. At or about 10:42 pm on September 18, 2008, Ms. Dudley's neighbour called the Mission RCMP Detachment and was forwarded to Katrina Gardiner, a civilian employee at the RCMP's Chilliwack Operations Control Centre. The complainant reported to Ms. Gardiner that he and another neighbour had both heard what sounded like six gun shots in a row, followed by a crashing noise. The complainant also reported that he thought he heard something like yelling out after the first shot was fired.

The complainant said the sound came from the very end of Shaw Street before it turns to the left into Greenwood Drive; he further specified that the sounds came from "inside of the loop". The complainant spoke with the operator for approximately 3 minutes and 20 seconds.

11. Ms. Gardiner created an electronic dispatch ticket for distribution on the RCMP's electronic data system, as follows:

SHOTS HEARD/COM STATES WHAT SOUNDED LIKE 6 GUN  
SHOTS IN A ROW, @ THE VERY END OF SHAW B4 IT TURNS  
INTO GREENWOOD, COM THINKS THEY HEARD A CRASH  
AFTER BUT UNSURE  
COM IS PRETTY CERTAIN IT IS GUNSHOTS NOT  
FIRECRACKERS

12. Ms. Gardiner did not include on the dispatch ticket the following information relayed by the complainant, nor did she subsequently update the dispatch ticket to include the information:

- a) The complainant specified that the sounds of shots came from "inside" the loop;
- b) The complainant believed that he heard "something like yelling out" after the first shot; and
- c) The complainant was with another neighbour at the time of the call and both of them heard the shots.

13. At or about 10:45 pm Constable (now Corporal) Michael White responded to the dispatch ticket. Before departing for the area of Greenwood Drive from the Mission RCMP Detachment, Constable White radioed into the Operations Control Centre and spoke to dispatcher Theresa Ness.

Constable White and Ms. Ness expressed skepticism about, and laughed at, the report of six gun shots in a row.

14. At or about 10:46 pm, an Operations Control Centre Dispatcher asked for an additional car from the Mission Detachment to respond to a "possible shots fired" call on Shaw Street. Constable Samantha Audley responded. Constable Audley, accompanied by an auxiliary constable, proceeded to the area of Shaw Street and Greenwood Drive in a marked police vehicle.
15. About 30 seconds after the Operational Control Centre's call for a second vehicle, Constable White radioed the dispatcher that he did not require an additional car to assist. He was dispatched to the call and departed for the area of Shaw Street and Greenwood Drive at or about 10:47 pm.
16. At or about 10:51 pm, a radio dispatcher from the Operational Control Centre verbally confirmed with Constable White that the complainant "is fairly certain that it is not firecrackers". Constable White acknowledged the transmission.
17. Constable White arrived at the south intersection of Shaw Street and Greenwood Drive at or about 11:02 pm. Constable White patrolled around the loop in his vehicle.
18. Constable Audley arrived in the area of Shaw Street and Greenwood Drive at or around 11:05 pm and patrolled Greenwood Drive through to Shaw Street with her vehicle's alley lights on.
19. At or about 11:06 pm, Constables White and Audley met in their vehicles and conferred with each other for approximately one minute.
20. At or about 11:10 pm, Constable Audley was dispatched to another call and left the area of Greenwood Drive and Shaw Street.

21. At or about 11:07 pm, Constable White drove to the southern point of the loop defined by Greenwood Drive and Shaw Street and parked his vehicle. Between approximately 11:07 pm and 11:14 pm, Constable White remained parked at that location. At or about 11:14 pm, Constable White departed to attend the call to which Constable Audley had been dispatched.
22. At or about 1:37 am on September 19, 2008, Constable White recorded in a written General Occurrence Report that, in response to the report of shots fired earlier in the evening, he had attended a rural area and did not find any evidence of a crash nor of shots fired. He concluded the file.
23. Constables White and Audley failed to properly investigate the complaint of shots fired in the area of Greenwood Drive and Shaw Street and failed to conduct a thorough and appropriate search of the area. In particular:
  - a) Neither Constable White nor Constable Audley left their vehicles nor conducted a foot patrol in the course of their investigation.
  - b) Contrary to established policing practice, at no time did either Constable White or Constable Audley speak, or attempt to speak, with the complainant who had placed the call to the RCMP despite the physical presence of the complainant in the area of the investigation, and despite the officers' knowledge of the complainant's contact information. Further, neither officer at any time requested that other members follow up with the complainant.
  - c) At no time did either Constable White or Constable Audley make enquiries with residents in the area of Greenwood Drive and Shaw Street, nor did they request that other members do so.

- d) Neither officer attended the area of Greenwood Drive and Shaw Street again during daylight hours for further investigation, nor did they request that other members do so.
24. On September 22, 2008, a neighbour approached the back door of Ms. Dudley's house and saw Mr. McKay lying dead on the floor in plain view and Ms. Dudley seated in a chair seriously wounded. A 911 call was placed.
25. At approximately 5:00 pm on September 22, 2008, British Columbia Ambulance Service paramedics arrived on scene to find Ms. Dudley conscious and responsive, but affixed to her chair by dried blood. The chair was also mired by feces and urine. The paramedics treated Ms. Dudley for her injuries and maintained her condition until 5:35 pm, at which point Ms. Dudley was transferred to the care of the helicopter evacuation team. Ms. Dudley became unresponsive after her transfer, went into cardiac arrest and was pronounced dead some time after 6:40 pm on September 22, 2008.
26. Ms. Dudley was deprived of her right to life and security of the person due to the failures of the RCMP and its officers, employees and agents to adequately and reasonably respond to the complaint lodged at or about 10:42 pm on September 18, 2008. In particular, Ms. Dudley's demise was caused or contributed to by her being trapped, paralyzed and bleeding, in her chair for nearly four days. But for the failures of the RCMP and its members, employees and agents to reasonably respond to and investigate the complaint, Ms. Dudley's circumstances would not have remained undetected for four days.

**Part 2: RELIEF SOUGHT**

1. The Plaintiff claims against the Defendants for:
  - a) A declaration that Ms. Dudley was deprived of her right to life and security of the person in a manner that is not in accordance with the principles of fundamental justice, contrary to s. 7 of the *Charter*;
  - b) Damages pursuant to s. 24(1) of the *Charter*;
  - c) interest, pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
  - d) costs, including special costs; and
  - e) Such further and other relief as to this Honourable Court may seem meet and just.

**Part 3: LEGAL BASIS**

1. The Plaintiff pleads and relies on the *The Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.), c. 11 (the "*Charter*"), and in particular ss. 1, 7, 24(1) and 32 thereof.
2. The RCMP and its officers, employees and agents were at all material times agents of the Defendants and government actors and, as such, were bound to comport themselves in accordance with the *Charter*.
3. The RCMP and its members who are peace officers have a duty not to take actions, or to omit to take actions, in a manner that is arbitrary, reckless, negligent, or otherwise without justification in law, so as to pose



a threat to the life and security of the person of individuals, including the victims of violent crimes.

4. RCMP officers have a duty to reasonably investigate and respond to 911 calls, and the Plaintiff pleads and relies on the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, s. 18 , and the *Police Act*, *supra*, s. 7(2).
5. Further, the RCMP has a duty to adequately supervise and train its civilian personnel, including operational control centre dispatchers, and to ensure that those personnel do not act in a manner that is arbitrary, reckless, negligent or without justification in law in fulfilling the duties of their employment.
6. The Minister of Public Safety and Solicitor General of the Province of British Columbia must ensure that an effective and adequate level of policing and law enforcement is maintained in British Columbia, and the Plaintiff pleads and relies on the *Police Act*, *supra*, s. 2.
7. The District of Mission has a duty to provide policing in accordance with the terms of the *Police Act*, *supra*.
8. The Plaintiff pleads and relies on the principle of constitutionalism, the constitutional principle of the rule of law, and the principle that violations of constitutional rights, including violations leading to an individual's death, demand vindication.
9. The RCMP and its officers, employees and agents caused or contributed to a violation of the Ms. Dudley's right to life and security of the person contrary to s. 7 of the *Charter*, and that deprivation was not in accordance with the principles of fundamental justice. In particular, the deprivation was arbitrary, reckless, negligent, and without justification in law.

Plaintiff's address for service:

Ethos Law Group LLP  
1124 – 470 Granville Street  
Vancouver, B.C. V6C 1V5

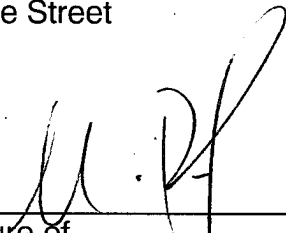
Fax number address for service (if any): 1 (866) 591-0597

E-mail address for service (if any): monique@ethoslaw.ca

Place of trial: Vancouver

The address of the registry is: 800 Smithe Street

Date: 27 October 2011

  
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Signature of  
 plaintiff  lawyer for plaintiff  
Monique Pongracic-Speier

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.

**Appendix**

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:** Claim for relief for breach of the right to life and security of the person, contrary to s. 7 of the *Charter*.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

*The Constitution Act, 1982* being Schedule B to the *Canada Act, 1982* (UK), 1982, c. 11