



NO. S-236918
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CHERYL WEEKS, ANJA BERGLER, HELEN IRVINE, CARY RYAN,
LAUREN PHILLIPS, and ANN-SUE PIPER

PLAINTIFFS

AND:

CITY OF ABBOTSFORD, DISTRICT OF CENTRAL SAANICH, CITY OF DELTA, TOWNSHIP OF ESQUIMALT, CITY OF NELSON, CITY OF NEW WESTMINSTER, DISTRICT OF OAK BAY, CITY OF PORT MOODY, CORPORATION OF THE DISTRICT OF SAANICH, CITY OF SURREY, CITY OF VANCOUVER, CITY OF VICTORIA, DISTRICT OF WEST VANCOUVER, ABBOTSFORD POLICE BOARD, CENTRAL SAANICH POLICE BOARD, DELTA POLICE BOARD, VICTORIA AND ESQUIMALT POLICE BOARD, NELSON POLICE BOARD, NEW WESTMINSTER POLICE BOARD, OAK BAY POLICE BOARD, PORT MOODY POLICE BOARD, SAANICH POLICE BOARD, SURREY POLICE BOARD, VANCOUVER POLICE BOARD, WEST VANCOUVER POLICE BOARD, POLICE COMPLAINT COMMISSIONER OF BRITISH COLUMBIA, HIS MAJESTY KING IN RIGHT OF PROVINCE OF BRITISH COLUMBIA, ATTORNEY GENERAL OF BRITISH COLUMBIA, MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL

DEFENDANTS

Brought pursuant to the *Class Proceedings Act*, RSBC 1996, c. 50

RESPONSE TO AMENDED NOTICE OF CIVIL CLAIM

Filed by: New Westminster Police Board ("NWPB")

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – NWPB’s Response to Facts

1. Unless expressly admitted herein NWPB denies each and every allegation of fact contained in Part 1 of the Amended Notice of Civil Claim ("ANOCC"), including that the criteria for certification of this action as a class proceeding pursuant to s. 4 of the *Class Proceedings Act*, RSBC 1996, c. 50 (the "CPA"), can be met in the circumstances.
2. None of the facts alleged in Part 1 of the ANOCC are admitted.
3. The facts alleged in paragraphs 1 - 4, 11, 12, 18, 27 - 29 and 35 - 59 of Part 1 of the ANOCC are denied insofar as they relate to claims against NWPB. The facts alleged

in these paragraphs are outside the knowledge of NWPB insofar as they relate to the claims of the other Defendants.

4. The facts alleged in paragraphs 5 - 10, 13 - 17, 19 - 26, and 30 - 34 of Part 1 of the ANOCC are outside the knowledge of NWPB.

Division 2 – NWPB’s Version of Facts

5. NWPB adopts and relies upon the facts and pleadings set out in paragraphs 6 - 15 of Part 1 of the Response to Civil Claim filed by the Defendant City of New Westminster (“New Westminster”) in this proceeding.

Division 3 – Additional Facts

Applicable Collective Agreements and Policies

6. At all material times, NWPB had in place protocols, policies, systems, procedures, and standards that were reasonable and proper, in accordance with the applicable standard of care and all applicable legislative schemes, including but not limited to the *Police Act*, the *Workers Compensation Act* and the *Code*.
7. NWPB adopts and relies upon the facts and pleadings set out in paragraphs 17 - 26 of Part 1 of the Response to Civil Claim filed by New Westminster in this proceeding.

The Plaintiffs’ Claims

8. Further and in the alternative, NWPB denies it owed a duty of care, contractual, statutory, or otherwise, to the Plaintiffs and/or the proposed class of plaintiffs.
9. In the further alternative, NWPB denies it breached any such duty, contractual, statutory, or otherwise, as alleged or at all, and puts the Plaintiffs to the strict proof thereof.
10. In response to the whole of the ANOCC and in specific response to paragraphs 1, 3, 37, 38 and 51 - 56 of Part 1 of the ANOCC, NWPB denies the existence of a “systemic culture of gender and sexual orientation-based harassment and discrimination” in the New Westminster Police Department.
11. In the alternative, NWPB denies that it, or any of its staff, employees, agents, or others for whom it is responsible, were complicit in such a culture, as alleged or at all.
12. In response to paragraph 58 of Part 1 of the ANOCC, NWPB expressly denies that the *Charter* rights of the Plaintiffs and/or the proposed class of plaintiffs were breached as alleged or at all.
13. In response to paragraph 59 of Part 1 of the ANOCC, NWPB denies that Gendered Discrimination, as defined in paragraph 54 of Part 1 of the ANOCC, caused or contributed to any suicides.

14. In the alternative, NWPB denies that it, or any of its staff, employees, agents, or others for whom it is responsible, were complicit in such Gendered Discrimination, as alleged or at all.
15. NWPB denies that the Plaintiffs and/or the proposed class of plaintiffs suffered injuries, loss, damage, or expense, as alleged or at all.
16. In the alternative, if the Plaintiffs and/or the proposed class of plaintiffs did suffer any injury, loss, damage and/or expense as alleged or at all, which is denied, the same was not caused or contributed to by any act, omission, negligence, fault and/or breach of duty of NWPB.
17. Further, or in the alternative, if the Plaintiffs and/or the proposed class of plaintiffs did suffer any injury, loss, damage and/or expense as alleged or at all, which is denied, such injury, loss, damage and/or expense is attributable to their previous and/or subsequent injuries, traumas, congenital defects, medical conditions, or events.
18. Further, or in the alternative, if the Plaintiffs and/or the proposed class of plaintiffs did suffer any injury, loss, damage and/or expense as alleged or at all, which is denied, they failed to take reasonable steps to mitigate their harm, loss, or expense.
19. In answer to the whole of the ANOCC, and in specific response to paragraphs 103 and 104 of the ANOCC, NWPB denies it is an agent of New Westminster and further denies it is liable to the Plaintiffs by statute, common law or otherwise.

Part 2: RESPONSE TO RELIEF SOUGHT

1. NWPB consents to the granting of the relief sought in NONE of the paragraphs of Part 2 of the ANOCC.
2. NWPB opposes the granting of the relief sought in paragraphs 60 - 64 of Part 2 of the ANOCC.
3. NWPB seeks an order that the Plaintiffs' claims against it be dismissed with costs payable to NWPB.

Part 3: LEGAL BASIS

1. NWPB denies each and every allegation in the ANOCC, whether fact or law.
2. NWPB adopts and relies on the Legal Basis set out in paragraphs 4 - 61 of Part 3 of the Response to Civil Claim filed by New Westminster and says that no claim lies against NWPB for the reasons set out therein.
3. NWPB pleads and relies upon the past and current provisions of the following enactments including with respect to any statutory defences set out therein:
 - (a) *Canadian Charter of Rights and Freedoms*, Schedule B to the Canada Act 1982 (UK), 1982, c. 11

- (b) *Class Proceedings Act*, RSBC 1996, c. 50;
- (c) *Community Charter*, SBC 2003, c. 26;
- (d) *Family Compensation Act*, RSBC 1996, c. 126;
- (e) *Health Care Costs Recovery Act*, SBC 2008, c. 27;
- (f) *Human Rights Code*, RSBC 1996, c. 210;
- (g) *Labour Relations Code*, RSBC 1996, c. 244;
- (h) *Limitation Act*, RSBC 1996, c. 266;
- (i) *Limitation Act*, SBC 2012, c. 13;
- (j) *Local Government Act*, RSBC 2015, c. 1;
- (k) *Negligence Act*, RSBC 1996, c. 333;
- (l) *Police Act*, RSBC 1996, c. 367;
- (m) *Police Amendment Act, 2023*, S.B.C. 2023, c. 3;
- (n) *Police Amendment Act, 2024*, S.B.C. 2024, c. 16;
- (o) *Privacy Act*, RSBC 1996, c. 373;
- (p) *Workers Compensation Act*, RSBC 2019, c. 1; and
- (q) Such further and other enactments as NWPB may advise.

NWPB's address for service:

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Dated: September 5, 2024



Per: David T. McKnight, and Naomi J. Krueger, lawyers for the Defendant, New Westminster Police Board

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.