

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Din v. British Columbia (Attorney General)*,  
2025 BCSC 879

Date: 20250514  
Docket: S219057  
Registry: Vancouver

Between:

**Yin Yin Hia Din and Min Aung**

Plaintiffs

And

**His Majesty the King in Right of the Province of British Columbia (Minister of  
Public Safety and Solicitor General), Constable Matthew Wagner, Constable  
Daniel Losiak, Constable Benjamin Ouellette, and Constable John Doe #4**

Defendants

Before: The Honourable Justice Elwood

## Reasons for Judgment

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Place and Date of Hearing:

Vancouver, B.C.  
January 6 and 8, 2025  
February 4 and 12, 2025

Place and Date of Judgment:

Vancouver, B.C.  
May 14, 2025

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**I. INTRODUCTION**

[1] This action arises out of the tragic death of the plaintiffs' brother Kyaw Naing Din (aka Kyaw Naing Maung) on August 11, 2019, after he was shot by police officers in his home.

[2] The original notice of civil claim, which was prepared by legal counsel, named four unidentified RCMP officers and the Minister of Public Safety and Solicitor General as defendants. The claim sought damages for negligence and compensation under the *Family Compensation Act*, R.S.B.C. 1996, c. 126, arising out of the police attendance that resulted in Kyaw Din's death.

[3] In May of 2023, the plaintiffs, who were by then representing themselves, applied to amend the notice of civil claim and add Constable Yoon Gyo (David) Jung as a defendant. Justice Wilson allowed limited amendments, including the substitution of three members of the RCMP in the place of three of the unidentified officers, but dismissed the application to add Cst. Jung and denied other amendments sought by the plaintiffs.

[4] The plaintiffs now apply once again to add Cst. Jung. They also apply to add Corporal Shayne Shea, paramedics Brandon Bullach and Rikki Rebantad, the Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge as defendants.

[5] In a proposed further amended notice of civil claim, the plaintiffs seek to add: additional allegations of negligence, breach of the *Canadian Charter of Rights and Freedoms* [*Charter*] and trespass arising out of the police attendance on August 11, 2019; an alleged cover up of what really happened on that day; allegations that the defendants and proposed defendants provided false testimony to the Independent Investigations Office ("IIO") and the BC Coroners Service, and other allegations.

[6] The plaintiffs have provided comprehensive written submissions in support of the proposed further amended notice of civil claim. In brief, they submit that the

additional defendants and amendments are necessary and appropriate in the interests of justice for Kyaw Din and his family.

[7] The existing defendants oppose adding any defendants and most of the proposed amendments. They argue that the proposed additions and disputed amendments would take this action in entirely new directions, shortly before the scheduled trial date (the trial date has since been adjourned). Further, they argue that the proposed amendments fail to comply with the basic requirements for proper pleadings and raise new claims that are bound to fail.

[8] The proposed paramedic defendants oppose their addition on two grounds: they argue that some of the proposed claims are bound to fail; and they say that all of the proposed claims should be disallowed based on the factors that govern the addition of parties.

[9] For these reasons that follow, I have concluded that the proposed defendants should not be added as parties, but the plaintiffs should be given leave to further amend the amended notice of civil claim, so long as they take steps to correct a number of problems with the draft amendments.

## **II. BACKGROUND**

### **A. The Events of August 11, 2019**

[10] The following facts are taken from the current amended notice of civil claim and factual amendments which are presumed to be true for the present purposes.

[11] Kyaw Din lived with schizophrenia. He was under the care of medical professionals, who prescribed him medication to control his symptoms. He resided with his siblings, Yin Yin Hla Din and Min Aung, at their home in Maple Ridge.

[12] At approximately 1:00 pm on August 11, 2019, Yin Yin called 911 and asked for assistance from the Ridge Meadows RCMP to transport Kyaw Din to the hospital. In the past, Kyaw Din had always cooperated with the police and sometimes paramedics when they helped transport him to the hospital.

[13] Yin Yin told the dispatch operator that Kyaw Din had schizophrenia and that he was confused because he had not taken his medication for several days. She told the dispatch operator that Kyaw Din had threatened to hit her because he thought she was someone impersonating his sister, but she was uninjured and did not feel at risk of any harm.

[14] Constable Wagner was the first RCMP officer to arrive. Yin Yin told Cst. Wagner that Kyaw Din did not want to go to the hospital, but he was sitting peacefully in his room and was not at risk of harming himself or anyone else. She also told Cst. Wagner that Kyaw Din spoke Burmese and did not understand English well. Cst. Wagner said he would call an ambulance to take Kyaw Din to the hospital.

[15] Constable Losiak was the second RCMP officer to arrive. He stood on the porch while Cst. Wagner spoke to Yin Yin.

[16] Two paramedics, Mr. Bullach and Ms. Rebantad, arrived with an ambulance.

[17] Yin Yin spoke to Kyaw Din again and told the police officers and paramedics that Kyaw Din was calm but still did not want to go to the hospital. Yin Yin said some older siblings would be arriving soon, and everything would be okay because Kyaw Din would listen to them and take his medication or else agree to go to the hospital. Yin Yin told the police officers and paramedics that they could leave and she would call them again if their assistance was necessary.

[18] Two additional RCMP officers, Constable Ouellette and an officer who is currently identified in the pleadings as Constable John Doe #4, then arrived at the scene. Constable Ouellette was armed with a taser. Constable Doe #4 acted as the highest-ranking officer by taking control of the conduct of the other officers.

[19] Constable Doe #4 told Yin Yin that the police officers were going to go in and speak to Kyaw Din. Yin Yin provided Cst. Doe #4 with the information she had provided the other officers, and asked him to wait outside until her older siblings arrived and spoke to Kyaw Din.

[20] Despite Yin Yin's repeated requests that they wait, the four police officers and two paramedics entered the residence and proceeded toward Kyaw Din's bedroom. Constable Doe #4 entered the bedroom first, followed by Cst. Oullette holding the taser. Neither officer announced their presence as police or spoke to Kyaw Din.

[21] Officer Oullette fired the taser. A bottle flew through the air and hit the bedroom wall. Either Cst. Doe #4 or Cst. Oullette, or both, fired their service weapons and shot Kyaw Din a total of three times. Kyaw Din was fatally wounded and died at the scene.

[22] The police officers ordered the plaintiffs out of their home and would not allow them to return for approximately 12 hours while the police conducted an investigation.

[23] At approximately 9:30 pm, a van arrived to transport Kyaw Din's body. Two police officers arrived and stood by the van. As Kyaw Din's body was being brought out of the house and put into the van, and as members of his grieving family looked on, one of the officers, Cst. Jung, laughed out loud.

[24] The plaintiffs were traumatized by the officers' actions and the death of their beloved brother. They have suffered damages as a result, including mental distress and financial losses.

## **B. The IIO Investigation and Report**

[25] The IIO investigated the incident as a police-involved shooting. Forensic investigators working with the IIO attended at the scene on the day of the shooting and spoke with Yin Yin. Investigators with the IIO also interviewed the police officers and paramedics.

[26] On September 24, 2020, the Chief Civil Director of the IIO released a report in which he found that he did not have reasonable grounds to believe that an officer may have committed a criminal offence, and therefore he would not refer the matter

to Crown counsel for potential charges. The Director also found that the actions of the RCMP officers were “reasonable and appropriate”.

[27] On March 7, 2021, the plaintiffs requested that the Director review all the “incorrect and inconsistent” statements throughout the IIO’s public report; overturn the “unjust, biased” decision; and transfer the file to Crown counsel for consideration of charges.

[28] On September 7, 2021, Yin Yin and her family wrote indicating that the four officers and two paramedics had provided the IIO with “untruthful, inconsistent, contrived evidence and conspired against the truthful evidence of the firsthand eyewitnesses of the incident”. Yin Yin and her family also stated that there was a “cover-up of the identity of the police officer who shot and murdered our beloved brother, Kyaw with the firearm.”

**C. The Coroner’s Inquest and Verdict**

[29] The Coroners Service held an inquest into the death of Kyaw Din on February 28 to March 8, 2022.

[30] RCMP members, including the existing defendants and the proposed defendant Cpl. Shea, testified at the inquest. The two proposed paramedic defendants, Mr. Bullach and Ms. Rebantad, also testified.

[31] At the conclusion of the inquest, the jury made a number of recommendations related to improving the response to mental health calls and ensuring public accountability in such cases.

[32] The presiding Coroner produced a brief summary of the circumstances of the death as set out in the evidence that was heard by the jury. The Coroner specifically commented that more support was needed for people with mental health illness and their families.

[33] On August 9, 2022, the plaintiffs filed a petition seeking a judicial review of the Coroner’s inquest on the basis that, among other issues, the various police

officers involved had given false evidence related to the involvement of an alleged imposter claiming to be the supervising officer, Cst. Doe #4.

**D. Reasons for Judgment of Justice Wilson**

[34] The plaintiffs applied on May 1, 2023, to add Cst. Jung as a defendant and amend the notice of civil claim. The proposed claim against Cst. Jung was that, by laughing “inappropriately, inhumanely and unprofessionally”, he breached the “Police Code of Ethics” and subjected the plaintiffs to cruel and unusual punishment contrary to s. 12 of the *Charter*.

[35] In reasons for judgment dated May 5, 2023, indexed at 2023 BCSC 755, Wilson J. found that there was no basis for the *Charter* claim. Assuming that Cst. Jung laughed at a time when the plaintiffs were understandably vulnerable and upset, Wilson J. held that the officer’s actions could not be regarded as an exercise of state control as required for the *Charter* to apply. Rather, Wilson J. held, the alleged laughing was better described as inappropriate and insensitive behaviour by an individual.

[36] Justice Wilson queried whether the plaintiffs might be able to advance a claim against Cst. Jung in negligence. However, based on the limitation on personal liability in s. 21(3) of the *Police Act*, R.S.B.C. 1996, c. 367, Wilson J. found that Cst. Jung could only be liable if he was found to be grossly negligent, dishonest or guilty of malicious or wilful misconduct. Justice Wilson found that such a claim could not be inferred from the proposed allegations against Cst. Jung.

[37] Justice Wilson noted that an allegation that Cst. Jung laughed inappropriately was already in the notice of civil claim. He found that, based on the existing pleading, the plaintiffs could argue that Cst. Jung’s behaviour contributed to the harm they suffered and should be considered by the court in assessing the appropriate quantum of damages. Justice Wilson allowed an amendment that provided further factual detail about Cst. Jung’s laughing and its impact on the family members. However, he held that the proposed amendments that would have advanced a claim against Cst. Jung did not disclose a cause of action.

[38] Justice Wilson allowed a limited number of other amendments, including further particulars of the RCMP negligence and further particulars of the plaintiffs' loss and damages.

[39] One of the amendments that Wilson J. disallowed was to add a description to Cst. Doe #4 which would have stated that Cpl. Shea was not the officer in charge on August 11, 2019, and the supervisor with the grey hair still needed to be identified. Justice Wilson found that the premise of this proposed amendment was an allegation by the plaintiffs that Cpl. Shea falsely claimed during various investigations to have been the officer in charge. Justice Wilson was satisfied that "this proposed amendment adds nothing", and decided that the placeholder of Cst. Doe #4 was sufficient until the officer in charge was identified.

**E. The Proposed Further Amendments**

[40] A copy of the proposed further amended notice of civil claim is attached to these reasons for judgment as Appendix A.

[41] The plaintiffs propose to add significantly to the original notice of civil claim and the amendments allowed by Wilson J. The proposed additions include additional facts relating to the events of August 11, 2019, additional particulars and claims against the existing defendants, new allegations against the proposed defendants and an extensive analysis of the evidence at the Coroner's inquest.

[42] Counsel for the defendants has marked up the copy of the draft pleading attached as Appendix A, indicating the amendments the defendants do not oppose.

[43] Most of the disputed amendments are in the Legal Basis section of the draft pleading. The plaintiffs have not numbered the paragraphs in this section sequentially, so I will refer to the page numbers.

[44] On pp. 19–20, the plaintiffs allege violations of ss. 7–8 and 12 of the *Charter* and "human rights standards" by the RCMP officers. Most of these claims arise from the events on August 11, 2019. In addition, the plaintiffs propose to advance an

allegation that the existing defendants and the proposed defendant Cpl. Shea were involved in a “cover-up” of key facts surrounding the events. The primary allegations in support of the alleged cover-up are that the defendants deliberately concealed the identity of the supervising officer, and that Cpl. Shea has been impersonating this individual.

[45] On pp. 21–22, the plaintiffs propose particulars of “negligent, wilful or grossly negligent conduct of the police defendants”. Almost all of these particulars are related to the alleged wrongdoing by the police officers on August 11, 2019, although there is also reference to the alleged cover-up.

[46] On pp. 22–26, the plaintiffs propose to add a section entitled “Paramedics Negligence”. In this section, the plaintiffs set out “particulars of negligent, wilful or grossly negligent conduct of the two paramedics”. Many of these particulars concern “fabricated evidence”, the primary allegation being that the paramedics intentionally provided false evidence to the IIO and Coroner’s Court in coordination with the police defendants.

[47] Some of the proposed allegations against the paramedics relate to their involvement in the events of August 11, 2019. For example, the plaintiffs allege that the paramedics: did not employ any or adequate de-escalation techniques to manage the situation; pressured the police officers to unnecessarily arrest Kyaw Din under the *Mental Health Act*, R.S.B.C. 1996, c. 288 and failed to prioritize his medical care after he was shot by the police.

[48] On pp. 26–28, the plaintiffs propose to add a section entitled “Negligence of the Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge”. This section includes allegations that the RCMP detachment and Municipal Government of the City of Maple Ridge failed to properly train and supervise the police officers and paramedics who attended on August 11, 2019. The plaintiffs also advance a claim of vicarious liability against the RCMP detachment and Municipal Government of the City of Maple Ridge for the actions of the police officers and paramedics. In addition, the plaintiffs allege vicarious liability against

these proposed defendants for negligence by the dispatch operator in classifying the 911 call as a domestic disturbance between a brother and a sister instead of a mental health assistance call.

[49] On pp. 28–30, the plaintiffs propose to add allegations that the police officers and paramedics trespassed and violated ss. 7–8 and 12 of the *Charter* by entering their home, encroaching on the privacy of Kyaw Din’s bedroom and escalating a non-urgent situation to tragic consequences.

[50] Pages 31–44 largely repeat allegations made elsewhere in the proposed further amended notice of civil claim, set out evidence and cite case law.

[51] The balance of the proposed amendments set out, in lengthy detail, allegations that the police defendants and Cpl. Shea each gave false evidence under oath to disrupt the course of justice at the Coroner’s inquest.

### III. ANALYSIS

#### A. The General Requirements for Proper Pleadings

[52] The defendants argue that, viewed as a whole, the proposed further amended notice of civil claim is prolix, argumentative, repetitive, confusing and simply unnecessary. They argue that the proposed amendments do not state the real issues intelligibly, are not compliant with the Rules and do not assist in guiding the litigation or defining the issues of fact and law. On this basis alone, they argue, the plaintiffs’ application should be dismissed.

[53] There is merit in the defendants’ concerns. In *Mercantile Office Systems Private Limited v. Worldwide Warranty Life Services Inc.*, 2021 BCCA 362 [*Mercantile Office Systems*], the Court of Appeal explained that the function of pleadings is to clearly define the issues of fact and law to be determined by the court. The objective is not to tell a story or provide a narrative of events, but rather to state the material facts—the essential elements to formulate a claim or defence—as succinctly as possible: paras. 44–48.

[54] The basic rules for pleading a notice of civil claim are set out in Rules 3-1(2) and 3-7 of the *Supreme Court Civil Rules* [Rules], and numerous decisions of this Court. A notice of civil claim must:

- a) state facts and not merely conclusions of law;
- b) include, for each cause of action, the material facts on which the plaintiff relies to establish a complete cause of action;
- c) not include the evidence by which those facts are to be proved; and
- d) be as concise as the case allows.

*Mercantile Office Systems* at paras. 9–12, 19–20; *Simon v. Canada (Attorney General)*, 2015 BCSC 924 at paras. 15–19.

[55] Although the court must read pleadings generously, it is not required to presume the truth of allegations based purely on assumptions or wild speculation. Highly inflammatory pleadings may be subject to scrutiny by the court, albeit with great caution on an application to strike out or amend the pleadings: *Grosz v. Royal Trust Corporation of Canada*, 2020 BCSC 128, at paras. 58 and 104; *Willow v. Chong*, 2013 BCSC 1083, at para. 19; *Young v. Borzoni et al*, 2007 BCCA 16, at paras. 25–31.

[56] While I agree with the defendants that there are problems with the proposed further amended notice of civil claim, I would not dismiss the plaintiffs' application solely on the basis of non-compliance with the rules of pleadings. However, in my view the proposed amendments must be revised before any of them can be filed by the plaintiffs.

[57] The proposed amendments are substantial, both in scope and length. The proposed further amended notice of civil claim is over 57 pages long. The original notice of civil claim was just 13 pages long. The amendments allowed by Wilson J. were relatively minor, and added only about 10 paragraphs to the original claim.

[58] Some of the additional amendments add further factual detail to the events of August 11, 2019. These amendments are largely unobjectionable, except for the paragraphs which set out the plaintiffs' evidence, some of which are expressed in the first person. It is not appropriate to include evidence in a notice of civil claim.

[59] Other paragraphs are properly argument rather than pleading, primarily arguments about the need for accountability, transparency and access to justice for the death of Kyaw Din. Arguments like this have their place in these proceedings, but not in the notice of civil claim. The extensive argument in the draft pleading obscures the material facts (the essential elements of the alleged causes of action).

[60] On the other hand, viewed generously, as the Court must, the draft pleading, at least up to the bottom of p. 43, provides a coherent (albeit lengthy and repetitious) statement of the material facts and legal bases on which the plaintiffs rely.

[61] However, any additions to the existing pleading must be revised. As drafted, the proposed amendments would unduly burden the plaintiffs' pleading, with "story-telling" and argument, and obscure the essential elements of their claims.

[62] A properly disciplined approach to pleadings is exemplified by the original notice of civil claim in this case. Unfortunately, rather than updating or refining the original pleading, the plaintiffs have added on to it in a way that confuses rather than clarifies the issues.

[63] Where a claim is brought by a self-represented litigant, the Court should consider amendments to correct defective pleadings. While it is not the Court's role to give advice on how to draft their pleadings (*Ahmed v. Assu*, 2014 BCSC 1768 at para. 19), it is appropriate in my view for the Court to assist the self-represented plaintiffs in this case with an opportunity to amend to address the Court's concerns (see for example, *Kepa v. Catlin*, 2021 BCSC 1960).

[64] Accordingly, while I would not dismiss the plaintiffs' application solely on the basis the proposed amendments fail to comply with the rules of pleading, I will require the plaintiffs to revise the additions that are allowed with those rules in mind.

I will return to the necessary revisions in the Conclusion section of these reasons for judgment.

**B. The Test for Adding Defendants**

[65] The addition of parties to an existing action is governed by R. 6-2(7) of the *Rules*. The relevant sub-rule in this case is R. 6-2(7)(c).

[66] There are two requirements that an applicant must meet to obtain an order joining a new defendant under R. 6-2(7)(c): there must be a question or issue relating to or connected with any relief or subject matter of the proceeding; and, it must be just and convenient to determine that question or issue in the existing proceeding: *Smithe Residences Ltd. v. Boffo Investment Corp.*, 2019 BCSC 2185 at paras. 73–75; *Letvad v. Fenwick*, 2000 BCCA 630 [*Letvad*] at para. 21.

[67] The threshold on the first branch of the test is low, and may be determined on the proposed pleadings alone. The Court should not assess the relative chances of success; rather, the Court should consider only whether there is an issue between the parties: *The Owners, Strata Plan No. VIS3578 v. John A. Neilson Architects Inc.*, 2010 BCCA 329 at para. 45.

[68] The facts alleged against the proposed defendant, which are assumed to be true, must disclose a cause of action: *Meade v. Armstrong (City)*, 2011 BCSC 1591 at para. 16(5).

[69] In this case, the defendants and the proposed defendants argue that the proposed claims fail to disclose any cause of action. Amongst other problems, they say that many of the claims are bound to fail because of legislative provisions which bar the use of evidence from IIO investigations and Coroners inquests. They also argue that there is an insufficient connection between the proposed claims and the existing claims to satisfy the first branch of the test for adding parties. I will return to these arguments below.

[70] The factors to consider on the second branch of the test in determining whether it is just and convenient to add a defendant are the same as those for adding a new cause of action. These include the expiry of any limitation period for a separate proceeding, the extent of the delay, the reasons and any explanation for the delay, any prejudice arising from the delay, and the degree of connection between the existing action and the new parties and claims contemplated. The overriding question is what is just and convenient in the circumstances of the particular case: *John A. Neilson Architects Inc. at para. 46; Teal Cedar Products (1977) Ltd. v. Dale Intermediaries Ltd. (1996)*, 19 B.C.L.R. (3d) 282.

[71] In *Chouinard v. O'Connor*, 2011 BCCA 161, the Court of Appeal confirmed that this list of factors is not exhaustive. The overriding concern is whether it would be “just and convenient” to grant leave to add parties.

[72] In this case, the defendants and the proposed defendants argue that the two-year limitation period under the *Limitation Act*, S.B.C. 2012, c. 13 has expired for all of the plaintiffs’ claims, giving rise to a presumed prejudice from a lengthy delay the plaintiffs have not explained.

[73] The “proper period of delay to consider” is the elapsed time following the expiry of the limitation period plus one year for service of the notice of civil claim: *Amezcuca v. Taylor*, 2010 BCCA 128, at para. 36.

[74] This is because, until the time for service of a filed notice of civil claim expires, parties connected to the claim can still expect to be sued and should govern themselves accordingly. Until that time, no presumed or actual prejudice to the defendant from the passage of time can be attributed to the plaintiff’s delay: *McIntosh v. Nilsson Bros. Inc.*, 2005 BCCA 297 at para. 8.

[75] Put another way, where prejudice is said to arise from the plaintiff’s failure to apply to add a party sooner, the delay becomes prejudicial and necessary for the plaintiff to explain following the expiry of a limitation period plus one year.

[76] With these general principles in mind, I turn to each of the proposed defendants, and whether they should be added as parties to this action.

**C. Should the Proposed Defendants be Added as Parties?**

**1. Constable Jung**

[77] The proposed claim against Cst. Jung is in substance the same claim on which Wilson J. declined to add him as a defendant. Justice Wilson found that s. 21 of the *Police Act* barred an action in damages against Cst. Jung and the proposed pleadings did not bring the claim within the qualification in s. 21(3).

[78] The plaintiffs now allege that Cst. Jung was grossly negligent, dishonest or guilty of malicious or wilful misconduct. However, these are legal conclusions, for which material facts must be pleaded in support: R. 3-7(9); *Workers' Compensation Board v. Sort*, 2022 BCCA 318 at paras. 167–169.

[79] To overcome the qualified immunity in s. 21 of the *Police Act*, the plaintiffs would need to plead, not only that Cst. Jung was grossly negligent, dishonest or guilty of malicious or wilful misconduct, but also facts on which the court could reach those conclusions. If it is plain and obvious the s. 21 immunity applies in light of the facts pleaded, the amendment must be denied: *Walkom v. Law Society of British Columbia*, 2019 BCCA 391 at paras. 19 and 33.

[80] The material facts alleged by the plaintiffs are, as they were when Wilson J. considered the claim, that Cst. Jung laughed inappropriately at a time when the plaintiffs were grieving the recent loss of their beloved brother. Justice Wilson found that these facts might be relevant to the quantum of the plaintiffs' damages, but did not overcome the s. 21 immunity for Cst. Jung personally.

[81] I am unable to reach a different conclusion on the basis of the proposed further amended notice of civil claim. Accordingly, I must find that the proposed amendments do not raise a cause of action against Cst. Jung.

[82] The plaintiffs may amend the claim to particularize the laughter by Cst. Jung as an aggravating circumstance in the existing negligence claim; however, they cannot add Cst. Jung as a defendant.

## 2. Corporal Shea

[83] The plaintiffs allege in para. 10 of the proposed amended notice of civil claim that Cpl. Shea has been impersonating Cst. Doe #4, the unidentified grey-haired supervisor who was wearing a blue uniform shirt, a blue baseball cap, a blue vest and blue pants, and took command at the scene and made the critical decision to enter Kyaw Din's bedroom.

[84] The plaintiffs allege that Cpl. Shea has been impersonating Cst. Doe #4 with the intention of concealing the identity of the supervising officer who made the critical decisions that led to the fatal shooting of Kyaw Din.

[85] The difficulty is that the allegation that Cpl. Shea has been impersonating Cst. Doe #4 is based on evidence that Cpl. Shea and others gave at the Coroner's inquest.

[86] The *Coroners Act*, S.B.C. 2007, c. 15, includes a provision that makes any answer given by a witness at the Coroner's inquest inadmissible in these proceedings:

### **Rights of witnesses**

35 ...

(3) Any answer provided by a witness before a coroner must not be used or admitted in evidence against the witness in any trial or other proceedings, other than a prosecution for perjury in respect of the answer provided.

[87] The plaintiffs allege perjury against Cpl. Shea and other defendants at paras. 70–77 (pp. 43–55) of the proposed further amended notice of civil claim. However, perjury is a crime under the *Criminal Code of Canada*, R.S.C. 1985, c. C-46. Crimes are normally prosecuted by the Attorney General. Perjury is not a cause of action in a civil proceeding. This proceeding is not a prosecution for perjury.

[88] The legal effect of s. 35 of the *Coroners Act* is that the plaintiffs cannot use any answer provided by any of the witnesses at the Coroner's inquest to prove any of the allegations against the existing defendants or any allegation against any proposed defendant. Put another way, the allegation that Cpl. Shea impersonated Cst. Doe #4 at the Coroner's inquest is incapable of proof in these proceedings.

[89] The legislative purpose of s. 35 of the *Coroners Act* is to promote full and frank testimony by the witnesses who appear at Coroners inquests. The barrier that it creates against the use of any of the testimony by any defendant in these proceedings may seem unjust or unfair to the plaintiffs. However, it serves an important function in the administration of justice. It is a law created by the Legislature that cannot be ignored by the Court.

[90] The *Police Act* includes a similar provision that makes any information provided by any of the police officers to the IIO investigators inadmissible in these proceedings:

**Use of statements made by officers**

**38.102** (1) A statement provided or an answer given by an officer during an investigation under this Part is inadmissible in evidence in court in a civil proceeding for remedies against the officer in relation to the matter under investigation.

(2) Subsection (1) applies also in respect of evidence of the existence of a statement provided or answer given by an officer during an investigation under this Part.

[91] The legal effect of s. 38.102 of the *Police Act* is that the plaintiffs cannot use any statement provided by any of the officers the IIO collected to prove any allegations in this case. In other words, the allegation that Cpl. Shea impersonated Cst. Doe #4 to the IIO investigators is incapable of proof in these proceedings.

[92] Section 38.102 of the *Police Act* also serves an important function in the administration of justice by promoting full disclosure to the IIO. Again, this barrier was created by the Legislature and cannot be ignored by the Court.

[93] A claim must not be made against a defendant if it is based entirely on evidence that is made inadmissible by a statutory use immunity clause like s. 35 of the *Coroners Act* or s. 38.102 of the *Police Act*. *Forget v. Sutherland* (2000), 188 DLR (4th) 296 (ONCA) at para. 41.

[94] Accordingly, I find that the plaintiffs cannot add Cpl. Shea as a defendant.

### **3. The Paramedics**

[95] The proposed claims against the paramedics are based primarily on the allegations that they gave false information to the IIO and fabricated evidence at the Coroner's inquest.

[96] For the reasons discussed above, the plaintiffs cannot add the paramedics as defendants in this proceeding for any claims based entirely on information they provided to the IIO or evidence they gave at the Coroner's inquest.

[97] Some of the proposed allegations against the paramedics relate to their involvement in the events of August 11, 2019, independent of the IIO investigation or the Coroners inquest.

[98] A claim in negligence against the paramedics requires a duty of care. I am not aware of any prior court decision in which paramedics have been found to owe a duty of care to the patients or the family members of the patients they transport to the hospital. If allowed to proceed, the plaintiffs' negligence claim against the paramedics would be a novel cause of action.

[99] The deadline for a claim against the paramedics arising out of the events on August 11, 2019, has expired. Justice Wilson found that the limitation period for a claim based on the events of August 11, 2019, expired on April 11, 2022 (after considering the legislation that suspended limitation periods during the COVID-19 pandemic). The deadline for service of a claim against the paramedics based on those events expired on April 11, 2023. If they were added as defendants in this action, the paramedics would lose a clear limitation defence.

[100] The plaintiffs did not file the application to add the paramedic defendants until December 30, 2024. There is no meaningful explanation from the plaintiffs for this lengthy delay.

[101] The plaintiffs seem to blame their previous legal counsel for not including the paramedics as defendants in the original notice of civil claim. Blaming previous counsel is not an acceptable explanation. There is no evidence, for example, that the plaintiffs always intended to sue the paramedics and only failed to do so within the time limit because their lawyers failed to carry out their instructions. Also, the lawyers cannot be blamed for the delay since May of 2023. The plaintiffs were by then acting for themselves. They did not apply to add the paramedics when they applied to add Cst. Jung.

[102] This delay would be prejudicial to the paramedics. Their memory of the attendance on August 11, 2019, will have naturally faded with the passage of time. They have not participated in any of the proceedings in this action to date. If added, they would require separate counsel who would just be starting work on the case at a time when the other defendants say they are ready for trial.

[103] The proposed claims against the paramedics would also raise distinct issues. Their involvement in the proceeding would further complicate a trial that already involves a number of important issues. Even assuming the Court found that the paramedics owed Kyaw Din or the plaintiffs a duty of care, which, as stated would be unprecedented, the standard of care for paramedics would be very different from the reasonable use of force by police officers.

[104] Considering all of the above, I conclude that it would not be just and convenient to add the paramedics as defendants in this action.

#### **4. Ridge Meadows RCMP Detachment**

[105] The Ridge Meadows RCMP Detachment is not a legal entity. It cannot sue or be sued, and it cannot be added as a defendant in this action. *Goodhead v. The Law Society of B.C.*, 1997 CanLII 4299 (B.C.S.C.) at para. 13.

[106] In para. 81 on p. 18 of the proposed further amended notice of civil claim, the plaintiffs allege that the Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge are jointly and severally liable for the torts of the RCMP officers, paramedics and police dispatch operator under s. 11 of the *Police Act*.

[107] This is incorrect. Sections 11 and 14 of the *Police Act* make the Minister of Public Safety on behalf of the Provincial Government vicariously liable for torts committed by RCMP members in the performance of their duties. The *Police Act* does not impose vicarious liability on RCMP detachments for torts committed by RCMP members, paramedics or dispatch operators.

#### **5. The Municipal Government of the City of Maple Ridge**

[108] Likewise, the *Police Act* does not impose vicarious liability on municipalities for torts committed by RCMP members, paramedics or dispatch operators.

[109] The plaintiffs allege that the City of Maple Ridge was negligent in the training and supervision of the police officers and paramedics who attended on August 11, 2019. However, the plaintiffs do not plead material facts on which the court could find that the City owed a duty of care to Kyaw Din or his family.

[110] In my view, a negligence claim against the City would be bound to fail. The plaintiffs appear to have assumed incorrectly that the City employs the RCMP officers and paramedics who serve within its limits.

[111] For these reasons, I find that the proposed further amended notice of civil claim does not disclose a cause of action against the Ridge Meadows RCMP Detachment or the Municipal Government of the City of Maple Ridge.

#### **D. Should the Plaintiffs be Granted Leave to Amend?**

[112] The plaintiffs did not formally apply to amend the amended notice of civil claim. However, as the plaintiffs are representing themselves, I have considered

their draft pleading and supporting submissions as an application to amend the claims against the existing defendants.

[113] Amendments are governed by R. 6-1(7). Rule 6-1(1)(b) provides that, after the notice of trial has been served, as it has in this case, a party may only amend a pleading with leave of the court or consent of the parties.

[114] The courts take a generous approach to applications to amend pleadings. Amendments should be granted as necessary to enable the real issues between the parties to be tried. Amendments will be disallowed only if they would cause actual prejudice or if they disclose no reasonable cause of action. The test for a cause of action is the same as it would be on an application to strike out the pleadings: Is it plain and obvious the claim has no reasonable prospect of success? *Yenal v. Sahota*, 2023 BCSC 1022 at para. 6 citing *Nevsun Resources Ltd. v. Araya*, 2020 SCC 5 at para. 64 and *Kwikwetlem First Nation v. British Columbia (Attorney General)*, 2021 BCCA 311 at para. 166.

**1. Do the Amendments Raise New Causes of Action?**

[115] The defendants argue that the proposed amendments would add new causes of action that give rise to the limitation issues and concerns with delay discussed above in connection with the claims against the paramedics.

[116] I do not agree that the amendments concerning the events of August 11, 2019, raise new causes of action against the existing defendants.

[117] In *Swiss Reinsurance Company v. Camarin Limited*, 2018 BCCA 122, the Court of Appeal, at paras. 27–28, adopted both parties’ suggested descriptions of a “cause of action”, seeing “little difference” between them:

[27] ...

every fact which it would be necessary for the plaintiff to prove, if disputed, in order to support his or her right to the judgment of the court: [citation omitted]

[28] ... “a factual situation the existence of which entitles one person to obtain from the court a remedy against another person.” ...

[118] The Court held that an amendment does not raise a new cause of action simply because it “take[s] the cause of action from being one entirely in contract to being one also in tort” (para. 30), or where “a party merely pleads a new or alternative remedy based on the same facts already pleaded” (para. 31). More generally, the Court said that an amendment will not be taken to raise a new cause of action so long as it does “not change the substance of the issues” (para. 30).

[119] In this case, the plaintiffs’ proposed particulars of negligence, violations of ss. 7–8 and 12 of the *Charter* and trespass all relate to the same basic facts that formed the basis of the original notice of civil claim. These proposed pleadings do not change the substance of the issues between the existing parties. Accordingly, the plaintiffs’ delay does not give rise to concerns with the proposed amendments concerning the conduct of the existing defendants on August 11, 2019.

[120] On the other hand, the allegations concerning the IIO investigation and the Coroner’s inquest are based on facts that were not part of the original claim.

[121] It is unclear when the plaintiffs allege the defendants provided the false information to the IIO. However, it is clear that the plaintiffs were aware of the report by the IIO by March 7, 2021, and took issue with its conclusions largely on the basis of their concerns the police officers and paramedics had lied to the IIO. The two-year limitation period plus one year for service of a claim based on false statements to the IIO investigation therefore expired by March 7, 2024, at the latest.

[122] On the other hand, the relevant time for a claim based on the Coroner’s inquest did not expire before the plaintiffs brought this application. The inquest took place from February 28 to March 8, 2022. The two-year limitation period plus one year for service of a claim did not expire until March 8, 2025. The plaintiffs filed the notice of application on December 30, 2024. It was argued on January 6 and February 12, 2025.

**2. Proposed Claims Regarding the IIO and Coroners Inquest**

[123] More importantly, any cause of action based on the IIO investigation or evidence at the Coroner’s inquest is unsustainable because of s. 38.102 of the *Police Act* and s. 35 of the *Coroners Act* for the reasons discussed above.

[124] Accordingly, I would not grant the plaintiff leave to amend their pleading to include allegations that the defendants provided false information to the IIO or gave false evidence at the Coroners’ inquest.

**3. Proposed Particulars of Negligence**

[125] I would, however, grant the plaintiffs leave to amend the amended notice of civil claim to add material facts and particulars of the alleged negligence by the existing defendants on August 11, 2019.

[126] I would also allow the plaintiffs to include the alleged violations of ss. 7–8 and 12 of the *Charter* as particulars of the alleged negligence. I would allow these particulars as grounds on which the plaintiffs say the defendants’ conduct falls within the qualification from immunity under s. 21(3) of the *Police Act*. In other words, the plaintiffs may amend the pleading to allege that the defendants were grossly negligent or guilty of malicious or wilful misconduct because their actions were inconsistent with the *Charter*.

**4. Proposed Charter Damages Claims**

[127] The plaintiffs propose to add claims in damages as a remedy under s. 24(1) of the *Charter* for the alleged violations of ss. 7–8 and 12 of the *Charter*. This is a new remedy (although, as discussed, not a new cause of action). A *Charter* damages claim was included in the Relief Sought section of the original notice of civil claim; however, the only clear articulation of a *Charter* remedy in the original claim was based on s. 15 and directed at provisions of the *Family Compensation Act*.

[128] Many of the proposed *Charter* claims duplicate the existing tort claims. The amendments to allege violations of ss. 7 and 12 of the *Charter* overlap with the

allegations that the police were negligent. The foundation of both sets of claims is the same: the police failed to respond as reasonable officers would under similar circumstances, failed to employ any or adequate techniques to manage or de-escalate the situation, acted on incorrect assumptions and misinformation, failed to seek the assistance of a family member or a translator to communicate with Kyaw Din, failed to assess the threat properly, used excessive force, including unwarranted lethal force, and failed to act with appropriate sensitivity and compassion.

[129] The principles governing the availability of *Charter* damages originate from *Vancouver (City) v. Ward*, 2010 SCC 27, where the Supreme Court of Canada instructed that:

[19] ... The phrase “appropriate and just” limits what remedies are available. The court’s discretion, while broad, is not unfettered. What is appropriate and just will depend on the facts and circumstances of the particular case.

...

[34] A functional approach to damages under s. 24(1) means that if other remedies adequately meet the need for compensation, vindication and/or deterrence, a further award of damages under s. 24(1) would serve no function and would not be “appropriate and just”. The Charter entered an existent remedial arena which already housed tools to correct violative state conduct. Section 24(1) operates concurrently with, and does not replace, these areas of law. ...

[35] The claimant must establish basic functionality having regard to the objects of constitutional damages. The evidentiary burden then shifts to the state to show that the engaged functions can be fulfilled through other remedies. The claimant need not show that she has exhausted all other recourses. Rather, it is for the state to show that other remedies are available in the particular case that will sufficiently address the breach.

[Emphasis added.]

[130] In *Johnson v. British Columbia (Attorney General)*, 2022 BCCA 82, the Court of Appeal held that a claim in damages for *Charter* violations should be struck out if the pleadings make it clear that the actions giving rise to the alleged breaches (both *Charter* and private law) are identical, and that the consequences of those breaches are the same (paras. 68–70).

[131] In my view, it would not be possible for a judge in this case to make any additional award of damages under s. 24(1) for the alleged violations of ss. 7 and 12 of the *Charter* over and above the amounts that can be awarded for the negligence of the police officers.

[132] Accordingly, while I would allow the plaintiffs to allege violations of the *Charter* as particulars of the alleged negligence, I would not grant them leave to seek *Charter* damages for the alleged violations of s. 7 or s. 12 of the *Charter*.

[133] On the other hand, the alleged violation of s. 8 of the *Charter* is not identical to the negligence claim, and may in my view give rise to separate damages.

[134] The analysis under s. 8 of the *Charter* has two elements: was there a “search”, and, if so, was the search reasonable: *R. v. Tessling*, 2004 SCC 67 at para. 8. In this case, the plaintiffs allege that the police executed an unlawful search of their home without a warrant. They allege that Yin Yin withdrew her consent for the police to enter the home and asked repeatedly for the police to wait outside for the elder siblings to arrive. On these facts, the plaintiffs allege that the police officers breached s. 8 of the *Charter*. In my view, this is a distinct claim from the alleged negligent use of force against Kyaw Din.

[135] For these reasons, I would grant the plaintiffs leave to amend to seek *Charter* damages for the alleged violation of s. 8 of the *Charter*, but not for the alleged violations of s. 7 or s. 12 of the *Charter*.

#### **IV. CONCLUSION**

[136] The application to add defendants is dismissed.

[137] The plaintiffs are granted leave to further amend the amended notice of civil claim in accordance with these reasons for judgment.

[138] Rather than attempting to edit the proposed further amended notice of civil claim, the plaintiffs must redraft the amended pleading in accordance with the following directions:

- a) The amended pleading may include the proposed amendments the defendants did not oppose, as set out in Appendix A.
- b) The amended pleading may include additional factual allegations and particulars of the alleged negligence by the defendants on August 11, 2019, provided that the plaintiffs use their best efforts to:
  - i. limit the additional factual allegations to a concise statement of the material facts giving rise to the claims against the defendants;
  - ii. remove the evidence with which the facts will be proved; and
  - iii. avoid unnecessary repetition and argument.
- c) The amended pleading must not include allegations that the defendants provided false information to the IIO or gave false evidence at the Coroners' inquest.
- d) The amended pleading must not include claims in damages as a remedy under s. 24(1) of the *Charter* for the alleged violations of s. 7 or s. 12 of the *Charter*.
- e) The total amended pleading must be no more than 30 pages long (without reducing the size of the font or the margins on the pages).
- f) The amended pleading must be filed and delivered to counsel for the defendants within 45 days of the date on which these reasons are issued.

[139] The defendants will be at liberty to apply for an order striking out all or parts of the amendments if they do not comply with these directions.

[140] The parties did not make submissions on costs. While the plaintiffs were unsuccessful in their application to add defendants, my tentative view is that there was divided success overall between the plaintiffs and the existing defendants. Also, the City of Maple Ridge did not participate actively in the application. Accordingly, the costs order I would propose is that the proposed paramedic defendants are entitled to costs of the application, but otherwise the parties will bear their own costs.

[141] If any party disagrees with this proposed costs order, they may deliver written submissions through Supreme Court Scheduling within 28 days of the date on which these reasons are issued. Unless ordered otherwise following submissions, the order on costs will be as I have proposed.

“Elwood J.”

V. APPENDIX A

Original Filed October 07, 2021, and amended pursuant to the Order of Justice Wilson dated May 5, 2023, and entered on February 5, 2024

No. S-219057  
Vancouver Registry

**In the Supreme Court of British Columbia**

Between:

Yin Yin Hla Din, Min Aung

Plaintiffs

and:

~~Her Majesty the Queen~~ His Majesty the King in Right of the Province of British Columbia (Minister of Public Safety and Solicitor General), Constable ~~John Doe #1~~ Matthew Wagner, Constable ~~John Doe #2~~ Daniel Losiak, Constable ~~John Doe #3~~ Benjamin Ouellette, Constable ~~John Doe #4~~, Corporal Shayne Shea, Constable Yoon Gyo (David) Jung, Mr. Brandon Bullach, Ms. Rikki Rebantad, Ridge Meadows RCMP Detachment and Municipal Government of the City of Maple Ridge

DEFENDANTS

**PROPOSED AMENDED 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 the 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 Plaintiffs.

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,

- (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 the civil claim has been set by order of the court, within that time.

**CLAIM OF THE PLAINTIFFS**

**Part 1: STATEMENT OF FACTS**

**The Parties**

1. The Plaintiff, Yin Yin Hla Din (“Ms. Yin Yin Din”), is a delivery driver with an address for service of [REDACTED] in the Province of British Columbia.
2. The Plaintiff, Min Aung, (“Mr. Min Aung”) is a professional Class 1 driver with an address for service of [REDACTED], in the Province of British Columbia.
3. The Defendant, His Majesty the King in right of the Province of British Columbia (Minister of Public Safety and Solicitor General) (the “Crown”) is responsible for coordinating the provision of Royal Canadian Mounted Police services and overseeing police services in British Columbia. The Minister has an address for service of PO Box 9010 Stn. Prov Govt, in the City of Victoria, in the Province of British Columbia.
4. The Royal Canadian Mounted Police (the “RCMP”) is responsible for providing police services to the municipalities of Maple Ridge and Pitt Meadows in the province of British Columbia. It has an address for service of 11990 Haney Place, in the City of Maple Ridge, in the Province of British Columbia.
5. The Defendants Constable John Doe #1 (“Doe #1”), Constable John Doe #2 (“Doe #2”), Constable John Doe #3 (“Doe #3”), and Constable John Doe #4 (“Doe #4”) are

unidentified member of the RCMP (hereinafter referred to collectively as the "Police Defendants")-

6. The Police Defendant ~~Constable John Doe #1~~ ("Doe#1") is Cst. Matthew Wagner.

7. The Police Defendant ~~Constable John Doe #2~~ ("Doe#2") is Cst. Daniel Losiak.

8. The Police Defendant Constable John Doe #3 ("Doe#3") is Cst. Benjamin Ouellette.

9. Corporal John Doe #4 ("Doe#4") is the Corporal/Supervisor Police Officer with Grey Hair wearing a Blue uniform shirt, a Blue baseball hat, a Blue vest and a Blue pant who opened and entered Mr. Kyaw Din's bedroom on the day of the incident. He is an unidentified member of the RCMP whose identity has not been identified until today.

10. The Police Defendant Corporal Shayne Shea has been Impersonating the identity of Corporal John Doe #4 ("Doe#4"), the Corporal/Supervisor Police Officer with Grey Hair wearing a Blue uniform shirt, a Blue baseball hat, a Blue vest and a Blue pant who opened and entered Mr. Kyaw Din's bedroom.

Other Defendants:

(a) The Police Defendant, Constable Yoon Gyo (David) Jung, was a scene security Police Officer who attended the residence. Constable Yoon Gyo (David) Jung's behavior as a scene security officer was grossly unprofessional and unethical. His mocking laughter at grieving Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members when Mr. Kyaw Maung's body was being removed and loaded into a van at approximately 9:30 pm displayed a blatant disregard for the trauma inflicted upon them. This conduct breached his duty of care and caused additional emotional harm to the surviving family members of Mr. Kyaw Din. Constable Yoon Gyo (David) Jung behaved unethically with the malicious intention to further escalate the situation and, to provoke conflict and confrontation between the police officers and the grieving Plaintiffs and their family members.

(b) The Paramedics Defendant, Mr. Brandon Bullach with BC Ambulance Service attended the scene at the time of the shooting incident on August 11, 2019.

(c) The Paramedics Defendant, Ms. Rikki Rebantad with BC Ambulance Service attended the scene at the time of the shooting incident on August 11, 2019.

(d) The Defendant, Ridge Meadows RCMP Detachment is responsible for ensuring that its police services are properly trained, resourced, and supervised to meet community needs

(e) The Defendant, City of Maple Ridge is responsible for the negligent actions of the Ridge Meadows RCMP Police Officers, dispatch and Paramedics as it contracts with the RCMP for policing services. Under this arrangement, the City of Maple Ridge bears responsibility for ensuring that its police services and paramedics are adequately trained, resourced, and supervised to meet community needs. The systemic failures evident in this case reflect a broader neglect of duty on the part of the City.

**Background to the Claims**

11. 9. The Plaintiffs are two of six siblings, all of whom immigrated to Canada with their parents in August 1990 from Myanmar.

12. 40. On August 11, 2019, the Plaintiffs, Ms. Yin Yin Hla Din, Mr. Min Aung were living at [REDACTED], Maple Ridge, British Columbia (“the Residence”) with our brother Mr. Kyaw Naing Din (aka Mr. Kyaw Naing Maung) (Mr. Kyaw Din or Mr. Kyaw Maung) who lived with schizophrenia and was under the regular supervision of medical professionals, regularly seeing medical professionals, who prescribed him medication to control his symptoms

13. 40. On August 11, 2019, the Plaintiffs’ brother, Mr. Kyaw Naing Din, (aka Mr. Kyaw Naing Maung, (“Mr. Kyaw Din” aka “Mr. Kyaw Maung”) was shot and killed by one or more of the Police Defendants or an unidentified RCMP officer while in his bedroom (the “Bedroom”) at his residence at [REDACTED] in the City of Maple Ridge, in the Province of British Columbia (the “Din Residence”).

14. 44. At the time of his death, Mr. Kyaw Din was 54 years old and living with the plaintiffs at the Din Residence.

15. 42. Mr. Kyaw Din’s native language was Burmese, and he had a limited ability to communicate in English.

16. 43. Mr. Kyaw Din lived with schizophrenia and ~~was under the regular supervision of medical professionals~~ who regularly see medical professionals, who prescribed him medication to control his symptoms.

17. 44. On several prior occasions, both Ms. Yin Yin Din and Mr. Kyaw Din had called 9-1-1 seeking transport for Mr. Kyaw Din to hospital for treatment of his symptoms of schizophrenia. On each of those prior occasions, RCMP officers and sometimes paramedics had attended the Din Residence and Mr. Kyaw Din had always appreciated them and cooperated with them by attending with them to the hospital for treatment.

**The call to 9-1-1 on August 11, 2019**

18. 9-1. Ms. Yin Yin Din thought that Mr. Kyaw Maung might like to go to the hospital to get back on his medication as he always did in the past. On August 11, 2019, at approximately 1:00 p.m., Ms. Yin Yin Din called 9-1-1 requesting assistance transporting Mr. Kyaw Din to the hospital. Ms. Yin Yin Din conveyed the following information to the dispatcher and a police officer, Cst. Matthew Wagner to whom the call was transferred believed to be Doe #1 was Cst. Matthew Wagner:

- (a) Mr. Kyaw Din lived with a mental health condition that he controlled with daily medication, ~~but it appeared to her~~ as he had not taken his medication.
- (b) Ms. Yin Yin Din explained to the dispatcher and Doe #1 Cst. Matthew Wagner that she was requesting assistance to transport her brother, Mr. Kyaw Din to the hospital.
- (c) Although Mr. Kyaw Din was mildly confused with respect to Ms. Yin's identity and had made a verbal threat directed at her, she clearly explained to the dispatcher and Doe #1 Cst. Matthew Wagner that Mr. Kyaw Din did not harm her or himself or anyone, and everyone at the Din Residence was safe. He took a shower and went back to his Bedroom.
- (d) Ms. Yin Yin Din was uninjured and did not feel at risk of harm.
- (e) Mr. Kyaw Din himself has called 911 and has previously been going to the hospital with the assistance of the RCMP and paramedics without incident.
- (f) Mr. Kyaw Din was friendly with police and would prefer to deal with a female police officer; and
- (g)-Mr. Kyaw had the following personal characteristics:
  - i. he was 5'4" in height and overweight.
  - ii. aged 54 years; and,
  - iii. had long grey-brown hair.

19. ~~46.~~ The dispatcher and Doe #1 Cst. Matthew Wagner advised Ms. Yin Yin Din that police officers were on their way to speak with her.

**Two RCMP Officers arrive at the Din Residence**

20. At approximately 1:30 pm Constable Matthew Wagner (Doe#1) of the Ridge Meadows RCMP, Constable arrived at the Residence shortly. Ms. Yin Yin Din vividly witnessed and Recognize Cst. Matthew Wagner (Doe #1) was the very first Police Officer who arrived at our Residence and explained to him that she was asking for police assistance to transport my brother, Mr. Kyaw Maung to mental health hospital as he was mildly confused as he was off his medication for a few days.

21. While Cst. Matthew Wagner waited at the front door, Ms. Yin Yin Din went to my brother, Mr. Kyaw Maung, and told him that the police had arrived and asked him if he would like to go to the hospital. Mr. Kyaw Maung replied to me that he did not like to go to the hospital at that time.

22. Ms. Yin Yin Din went back to the front door and explained to Cst. Matthew Wagner (Doe#1) that Mr. Kyaw Maung presently did not like to go to the hospital at that time and he was peacefully sitting in his Bedroom, was non-violent and not at a risk of self-harm as Mr. Kyaw Din was not harming himself or anyone else.

23. Then, Ms. Yin Yin Din vividly witnessed a second Ridge Meadows RCMP Police Officer, Cst. Daniel Losiak (Doe#2) arrives on scene at our residence and stood leaning against the wall of the porch facing the street, away from her direction.

24. At all the times, while Ms. Yin Yin Din was talking with Constable Matthew Wagner (Doe#1) at the front door about the condition of her brother, Mr. Kyaw Din, the other Police Officer, Constable Daniel Losiak (Doe #2) who arrived later did not join in any conversation as he was just standing on the porch leaning against the wall of our Residence facing the street.

25. Ms. Yin Yin Din's brother, Mr. Min Aung, at all the time, was sitting in his bedroom (keeping the family dog in his bedroom to prevent from barking) which is about 5-6 feet away from Mr. Kyaw Maung's Bedroom throughout the incident and heard most of the conversations between me and the Police Officers. .

26. Constable Matthew Wagner (Doe#1) saw and understood that the situation was not urgent and told me that the police did not need to get involved in sending Mr. Kyaw Maung to the hospital. Constable Matthew Wagner told me that he would call an ambulance and advised me that I could take Mr. Kyaw Din to the hospital by myself.

**Two Paramedics arrive at the Din Residence**

27. In about five minutes, an ambulance with two paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad with the BC Ambulance Service arrived.

28. While the two Police Officers and the two Paramedics waited at the front door, Ms. Yin Yin Din went to Kyaw's Bedroom, and she saw Mr. Kyaw Din was sitting peacefully in the Bedroom. He was transferring a bag of sugar into a peanut butter jar for storage- told him that an ambulance had arrived and asked him if he would like to go to the hospital. Mr. Kyaw Din replied to her that he did not like to go to the hospital at that time.

29. Ms. Yin Yin Din returned to the front door and told Constable. Matthew Wagner (Doe #1), Cst. Daniel Losiak (Doe#2) and the paramedics who were all standing on the front porch that Mr. Kyaw Din was calm, sitting in his bedroom and did not like to go to the hospital at that time.

30. Ms. Yin Yin Din told them that Mr. Kyaw Maung's three older siblings, one Older sister, Ms. Hla Myaing Din, two Older brothers, Mr. Hla Shwe Din, and Mr. Thant Zin Din were on the way and would be arriving within 10 to 15 minutes and everything would be okay as Mr. Kyaw Din would listen to his three Older siblings who would talk to him and advise him to take his medication or go to the hospital.

31. After providing this information, the Plaintiff, Ms. Yin Yin Din as advised by her three older siblings, suggested to Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak and the Paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad they could leave the house, and she would call them again if their assistance was necessary as Mr. Kyaw Din did not like to go to the hospital at that time and their assistance was not urgently needed.

32. At that time, Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak ought reasonably to have concluded that Mr. Kyaw Din was not in urgent need of medical attention, and that there was no imminent risk of harm to Mr. Kyaw Din or anyone else. While talking on the police radio, Doe #1 Cst. Matthew Wagner asked Ms. Yin Yin Din the language Mr. Kyaw Din speaks. She told him that it was Burmese.

**RCMP Officers and Paramedics arrive at the Din Residence**

17. Two RCMP officers, Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak arrived at the Din Residence at approximately 1:30 pm. Ms. Yin Yin Din talked with Doe #1 Cst. Matthew Wagner and provided the following information:—

- a. Mr. Kyaw Din was sitting peacefully in the Bedroom, was non-violent and not at risk of self-harm.
  - b. Mr. Kyaw Din was presently unwilling to attend the hospital.
  - c. Ms. Yin Yin Din wanted Mr. Kyaw Din to attend the hospital for medication;—
- and
- d. Mr. Kyaw Din spoke Burmese and did not understand English well.—

18. Following receipt of the above information, Doe #1 Cst. Matthew Wagner advised Ms. Yin Yin Din that he was calling an ambulance to take Mr. Kyaw Din to hospital by herself without police involvement. Shortly after, two paramedics with the BC Ambulance Service, Mr. Brandon Bullach and Ms. Rikki Rebantad arrived at the Din Residence (the Paramedics”).

19. Ms. Yin Yin Din proceeded to the Bedroom. She observed Mr. Kyaw Din was sitting peacefully in the Bedroom. He was transferring a bag of sugar into a peanut butter jar for storage.

20. Ms. Yin Yin Din advised Mr. Kyaw Din that an ambulance had arrived and asked him if he would like to attend go to the hospital. Mr. Kyaw Din advised said to Ms. Yin Yin Din that he did not want to attend the hospital.

21. After speaking with Mr. Kyaw Din, Ms. Yin Yin Din returned to Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak and the Paramedics provided them with the following information:

- a. Mr. Kyaw Din was calm and sitting in the Bedroom, but he was unwilling to attend the hospital with them at that time.
- b. Mr. Kyaw Din's three Older siblings were on the way and would be arriving within 10 to 15 minutes and everything would be okay as they would be able to assist with convincing Mr. Kyaw Din to cooperate with police, and would talk to him by asking Mr. Kyaw Din to go to the hospital or take his medication.

22. After providing this information, the Plaintiff, Ms. Yin Yin Din as advised by her three older siblings, suggested to Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak and the Paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad they could leave the house, and she would call them again if their assistance was necessary as Mr. Kyaw Din did not like to go to the hospital at that time and their assistance was not urgently needed.

23. At that time, Doe #1 Cst. Matthew Wagner and Doe #2 Cst. Daniel Losiak ought reasonably to have concluded that Mr. Kyaw Din was not in urgent need of medical attention, and that there was no imminent risk of harm to Mr. Kyaw Din or anyone else. While talking on the police radio, Doe #1 Cst. Matthew Wagner asked Ms. Yin Yin Din the language Mr. Kyaw Din speaks. She told him that it was Burmese.

#### Additional RCMP Officers Arrive at the Din Residence

33. 24. Two additional RCMP officers, Doe #3 Cst. Benjamin Ouellette and Doe #4, (Corporal. Or the Supervisor Police Officer with Grey Hair who still has not been identified until today as he has been hiding AND CURRENTLY being IMPERSONATED by Corporal Shayne Shea), arrived at the Din Residence at approximately 1:45 pm. Doe #3, Cst. Benjamin Ouellette was armed with a Conducted Energy Weapon ("CEW"), or a "taser gun". Doe #4 acted as the highest ranking officer on the scene and took responsibility and control over the conduct of the other officers. Within a few minutes, two more RCMP officers, Constable Benjamin Ouellette (Doe#3), and the UNIDENTIFIED Corporal/Supervisor Police Officer with Grey Hair, wearing a Blue Uniform shirt, a Blue baseball hat, a Blue Vest, a Blue pant (Doe #4) currently being Impersonated by Corporal Shayne Shea (Cpl. Shayne Shea) arrived at our Residence. Cst. Benjamin Ouellette was a younger police officer armed with a Conducted

Energy Weapon ("CEW") or "Taser Gun". Doe #4 was an older Unidentified Supervisor Police Officer with Grey Hair. I vividly witnessed, recognize his face and recall that the facial appearance of the Grey-haired Supervisor Police Officer (Doe#4) was completely different from that of Cpl. Shayne Shea.

34. I distinctly recognized and recalled that the voice of the UNIDENTIFIED Corporal/Supervisor Police Officer with Grey Hair, wearing a Blue Uniform shirt, a Blue baseball hat, a Blue Vest, a Blue pant (Doe #4) and that of Corporal Shayne Shea are different.

35. 25. Doe #4 (Cpl/the Supervisor Police Office with Grey Hair being Impersonated by Cpl. Shayne Shea) advised Ms. Yin Yin Din that police officers were going to speak to Mr. Kyaw Din.

36. 26. Ms. Yin Yin Din pleaded with Doe #4 Cpl/the real Supervisor Police Office with Grey Hair still unidentified and being replaced by Cpl. Shayne Shea to await the arrival of the Older Siblings before attempting to access the Bedroom. Ms. Yin Yin Din provided the officers with the following information:

- (a) Mr. Kyaw Din's three Older Siblings were on the way and would arrive within 5-10 minutes.
- (b) the Older Siblings spoke English and Burmese and would be able to communicate with police and Mr. Kyaw Din.
- (c) . Mr. Kyaw Din's relationship with the Older Siblings was such that he would be more likely to listen to the Older Siblings than the police.
- (d) The Older Siblings would be able to persuade Mr. Kyaw Din to take his medication or attend the hospital.
- (e) Mr. Kyaw Din was sitting peacefully in the Bedroom, was non-violent and not at risk of self-harm as he has not harmed anyone or himself.
- ~~(f) Mr. Kyaw Din might become upset if police entered the Bedroom, and might throw something at them~~
- (g) Mr. Kyaw Din spoke Burmese and did not understand speak English well.

**The RCMP Officers enter the bedroom and fatally shoot Mr. Kyaw Din**

~~37. 27. Despite Ms. Yin Yin Din's repeated efforts to persuade earnestly requesting the RCMP officers to await the arrival of Mr. Kyaw Din's three Older Siblings, Doe #4 insisted unreasonably that he and his officers intended would immediately enter the Bedroom and speak to Mr. Kyaw Din. (In fact, there was no urgency for the officers to enter the Bedroom~~

since Mr. Kyaw Din did not harm himself or anyone obviously.) Despite Ms. Yin Yin Din's repeated efforts earnestly requesting the RCMP officers await the arrival of Mr. Kyaw Din's three Older Siblings, the Supervisor Police Officer/Corporal with Grey Hair (Doe#4) WHO HAS NOT YET BEEN IDENTIFIED currently being Impersonated by Cpl. Shayne Shea insisted unreasonably that he and his officers intended to speak to Mr. Kyaw Maung. (In fact, there was no valid urgency for the officers to enter the Bedroom since Mr. Kyaw Din did not harm himself or anyone obviously.

38. 28. The four police defendants and two paramedics entered the Din Residence. Doe #4 asked Ms. Yin Yin Din for directions to the Bedroom. Ms. Yin Yin Din replied that the Bedroom was at the end of the hallway. The four Ridge Meadows RCMP police defendants and two paramedics entered our Residence. The UNIDENTIFIED Supervisor Police Officer with Grey hair wearing a Blue Uniform shirt, a Blue baseball hat, a Blue Vest, a Blue pant (Doe#4) currently being Impersonated by Cpl. Shayne Shea asked me (Yin Yin) for directions to Mr. Maung's Bedroom (the Bedroom). I, Ms. Yin Yin Din replied that the Bedroom was at the end of the hallway.

39. 29. Ms. Yin Yin Din proceeded ahead of the police officers down the hallway towards the Bedroom. Ms. Yin Yin Din continued to plead with the officers not to enter the Bedroom and to await until Mr. Kyaw Din's Older Siblings arrived.

40. 30. Ms. Yin Yin Din opened the door to the Bedroom just a few inches wide and spoke again to Mr. Kyaw Din. He was seated in a chair beside his bed and opening a bottle. Ms. Yin Yin Din asked again if he would like to go to the hospital. He replied that he didn't want to attend go the hospital at that time.

41. 31. Ms. Yin Yin Din continued to plead with the police officers not to enter the Bedroom and to await the arrival of her siblings. Doe #4, Cst. Matthew Wagner who was standing behind Ms. Yin Yin Din in the hallway, told her there was no need to wait because they were trained to handle people in Mr. Kyaw Din's situation, and they were not going to shoot him.

42. I, Ms. Yin Yin Din Vividly remembered and recall that the Supervisor Police Officer with Grey Hair(Doe#4) wearing a Blue Uniform shirt, a Blue Baseball hat, a Blue Vest and a Blue Pant who has been currently Impersonated by Cpl. Shayne Shea, and Cst. Benjamin Ouellette (Doe#3), Cst. Daniel Losiak (Doe#2) and a Paramedic, Ms. Rikki Rebantad exited the back door of the house into the backyard and looked at the location of Mr. Maung's Bedroom, and then re-entered the house through the back door and came down the hallway to where I, Ms. Yin Yin Din was standing at the doorstep of Mr. Maung's Bedroom.

43. I, Ms. Yin Yin Din explained to the officers that once Mr. Kyaw Din's older sister and two older brothers arrived in a few minutes, everything would be okay as the older sister and brothers would talk to him and, Kyaw definitely would listen to the Older Siblings. I, Yin Yin Din told them that I was concerned that Mr. Kyaw Din might become upset if police entered the Bedroom, and might probably throw a bottle at them if he got upset as he told me that

he did not like to go to the hospital at the time. I, Ms. Yin Yin Din seriously and openly requested to the police officers not to shoot my brother, Mr. Kyaw Din. I told them that Mr. Kyaw Maung was a good person, peaceful and not violent.

44. Although Ms. Yin Yin Din repeatedly pleaded with them not to enter Kyaw's Bedroom yet, but to wait about 5-10 minutes for the arrival of Mr. Kyaw Din's older sister and two brothers who would de-escalate the situation by speaking to Mr. Kyaw Din, Doe #4 Cst. Matthew Wagner who was standing behind Ms. Yin Yin Din in the hallway told her that they did not need to wait for her older sister and brothers' arrival because they were trained to handle people in Mr. Kyaw Din's situation and were not going to shoot him.

45. Constable Matthew Wagner said, "**We don't need to wait for your sister and brothers to arrive. We won't shoot your brother. We know how to handle people like him who have mental health issues. We deal with them all the time.**" Then, Doe #4 Cst. Matthew Wagner said that he did not even have a gun in a laughing voice. (Doe #4 Cst. Matthew Wagner was standing several feet away from Kyaw's Bedroom at the doorstep of Min's Bedroom facing the entrance of Min's bedroom. The Plaintiff, Ms. Yin Yin Din was standing just a couple of feet away from Kyaw's Bedroom. Doe #4 Cst. Matthew Wagner kept standing at the doorstep Min's Bedroom from the moment he came into the house until shots were fired and he ordered me to get out of the house.)

46. 32. Doe #4 asked Ms. Yin Yin Din to back up a little bit to allow him and Doe #3 Cst. Benjamin Ouellette to access the Bedroom. Ms. Yin Yin Din complied with this request and backed up by moving just a few feet (two to three feet) behind Doe #3 Cst. Benjamin Ouellette and Doe #4. The UNIDENTIFIED Supervisor Police Officer with Grey Hair wearing a Dark Blue Uniform shirt, a Dark Blue Baseball hat, a Dark Blue vest, and a Dark Blue pant (Doe #4) currently being Impersonated by Corporal Shayne Shea asked Ms. Yin Yin Din to back up a little bit. Ms. Yin Yin Din complied with this request and backed up by moving just a few feet (two to three feet) behind Constable Benjamin Ouellette and the UNIDENTIFIED Supervisor Police Officer with Grey Hair (Doe#4) CURRENTLY BEING IMPERSONATED BY CORPORAL SHAYNE SHEA.

47. 33. Ms. Yin Yin Din observed Doe #3 Cst. Benjamin Ouellette position himself outside of the Bedroom door. He armed the CEW and aimed it towards the Bedroom door releasing red taser light even before Doe #4 the UNIDENTIFIED Supervisor Police Officer with Grey hair being Impersonated by Cpl. Shayne Shea opened the Bedroom door. I, Yin Yin was standing a few feet from Mr. Kyaw Maung's Bedroom, and I saw Cst. Benjamin Ouellette position himself outside of the Bedroom door. He armed his Taser Gun (CEW) and aimed it towards Mr. Maung's Bedroom door releasing red taser light even before the UNIDENTIFIED Supervisor Police Officer with Grey hair wearing a Dark Blue Uniform shirt, a Dark Blue Baseball hat, a Dark Blue vest, and a Dark Blue pant (Doe#4) currently being Impersonated by Cpl. Shayne Shea opened Mr. Maung's Bedroom door

48. 34. Doe #4 opened the Bedroom door and entered the Bedroom. Doe #3 Cst. Benjamin Ouellette entered the bedroom right behind Doe #4 the Supervisor Police Officer with Grey Hair being replaced by Cpl. Shayne Shea. None of the officers spoke to Mr. Kyaw or

announced their presence prior to the Doe #4 opening the door to the Bedroom. The Grey-haired Supervisor Police Officer wearing a Dark Blue Uniform shirt, a Dark Blue Baseball hat, a Dark Blue vest, and a Dark Blue pant (Doe #4) opened the Bedroom door and said, "Are you OK?" and entered the Bedroom completely being closely followed by Cst. Benjamin Ouellette. Both entered Mr. Kyaw Maung's Bedroom completely and quickly.

49. None of the officers spoke to Mr. Kyaw Maung or announced their presence prior to the (Doe #4) the Supervisor Police Officer with Grey Hair opening the door to the Bedroom. "Are you OK?" was the only thing the Supervisor Police Officer with Grey Hair (Doe#4) and Cst. Benjamin Ouellette (Doe#3) quickly entered the Bedroom completely. It was totally quiet as they both entered the Bedroom Completely. Mr. Kyaw Maung was expecting what they were going to say to him.

50. 35. Within seconds, Ms. Yin Yin Din heard the deployment of a CEW. This was immediately followed by a bottle travelling through the air and striking the Bedroom wall, and then three gunshots. I, Yin Yin saw the back of Constable Benjamin Ouellette who started shooting his Taser Gun. I, Ms. Yin Yin Din heard the deployment of a Taser Gun (CEW). This was immediately followed by a bottle travelling through the air and striking the Bedroom (bedside wall) wall, and then three gunshots. It was totally quiet after shots were fired

51. 36. Either Doe #4, Cpl./ the UNIDENTIFIED Supervisor Police Officer with Grey Hair BEING REPLACED BY CPL. SHAYNE SHEA, or Doe#3 Cst. Benjamin Ouellette, or both of them shot Mr. Kyaw Din a total of three times, striking him in the left cheek, the left side of his head, and the right side of his chest. Mr. Kyaw Din was fatally wounded and died at the scene.

52. It was totally quiet after the two police officers, Doe#3 Cst. Benjamin Ouellette and Doe #4, Cpl./ the UNIDENTIFIED Supervisor Police Officer with Grey Hair BEING REPLACED BY CPL. SHAYNE SHEA, who shot Mr. Kyaw Din with both the taser gun and the firearm. They did not come out of Mr. Kyaw Din's Bedroom. They alone continued to stay inside Mr. Kyaw Din's Bedroom for a few minutes during which no one let alone entered, but also came close to the Bedroom.

53. 37. Ms. Yin Yin Din was immediately ordered out of the Din Residence by Doe #1 and was not allowed to return into the house pending an investigation. Within minutes of their departure from the Din Residence, the Older Siblings arrived. Doe #1 Cst. Matthew Wagner who was positioned behind Ms. Yin Yin Din standing at the bedroom door of Mr. Min Aung ordered Ms. Yin Yin Din and everyone in the house to immediately get out of the house and was not allowed to return into the house. I was standing a few feet from Mr. Kyaw Maung's Bedroom. Cst. Matthew Wagner told me to back up if I did not like to get injured. I turned to and asked Cst. Matthew Wagner, who was standing at the doorstep of Mr. Min Aung if the police officers shot Mr. Maung. Cst. Matthew Wagner did not answer my question and ordered me and everyone in the house to get out of the house and was not allowed to return into the house. Cst. Matthew Wagner (Doe#1) said, "You now have to get out of the house. Everyone in the house has to get out of the house. As I left the house, walking

through the living room, I did neither saw any paramedic both in the living room and in the front yard; nor Cst. Daniel Losiak in the hallway.

54. Ms. Yin Yin Din got outside the house, and called her younger brother, Mr. Min Aung to come out of the house. Doe #3 Cst. Benjamin Ouellette, the police officer who shot Mr. Kyaw Din with taser gun exited the back door of the house and came around the side of the house to Ms. Yin Yin Din standing in the front yard in front of Min's opened screen window and talking to Min. Ms. Yin Yin Din told him that her brother, Mr. Min Aung was coming out of his room.

55. Doe #3 Cst. Benjamin Ouellette entered the house and headed to Mr. Min Aung's room. Ms. Yin Yin Din followed him to Min's bedroom. Min with the dog in his hand came out of his room. Ms. Yin Yin Din and Mr. Min Aung both got out of the house and stood by the garage door in the driveway. Within, a few minutes, Kyaw's older sister, Hla Myaing Din and two older brothers, Mr. Hla Shwe Din and Mr. Thant Din arrived.

56. Doe #3 Cst. Benjamin Ouellette and Doe #4 Cpl. or the UNIDENTIFIED Supervisor Police Officer with Grey Hair CURRENTLY BEING REPLACED BY CPL. SHAYNE SHEA who shot Mr. Kyaw Din with taser gun and firearm and murdered the Plaintiffs' brother. Mr. Kyaw Din were staying in the house while about one dozen newly arrived police officers seized the house. The Plaintiffs saw those many police officers going in and out of their residence using both front and back doors.

57. Cst. Benjamin Ouellette (Doe#3) came to Min again and asked what his name was. He wrote it down in his notebook and entered our Residence through the front door.

58. After approximately 30 minutes, the police officers sealed off the Din residence with yellow tape and did not permit the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung and their older brother, Mr. Hla Shwe Din while standing by the garage door on the driveway of their residence clearly heard the sound of pounding (banging) the drywall inside their residence for a few minutes since the front door of the house and the window in Mr. Min Din's room were opened.

59.-38. Police officers sealed off the Din Residence with yellow tape and did not permit the Plaintiffs to enter their home for approximately 12 hours. The Plaintiffs waited nearly all of this time in their sister's parked car in the next-door neighbour's driveway.

60. Independent Investigations Office (IIO) forensic investigators, Ms. Allison Franz and two male forensic officers arrived approximately around 5pm who stayed inside the Plaintiffs' residence for about four to five hours.

61.-39. At approximately 9:30 pm, a vehicle arrived in transport Mr. Kyaw Din's body. Minutes before the Plaintiffs' beloved brother, Mr. Kyaw Din's body was brought out of the house and put into the van, two male police officers, one Caucasian and one Asian arrived

and stood by the van. Ms. Yin Yin Din and the Older Siblings witnessed an RCMP officer, later determined to be Constable Yoon Gyo (David) Jung, laughed aloud. This indifference to the circumstances caused the Plaintiffs further harm.

62. Constable Yoon Gyo (David) Jung standing just a few feet away from the Plaintiffs and the family, inappropriately laughed out loud for no reason, while the Plaintiff, Ms. Yin Yin Din and family members in unimaginable grief standing, watching and waiting for to get a glimpse of their beloved brother, Mr. Kyaw Din's body. Constable Yoon Gyo (David) Jung's inappropriate action of laughing out really loud while the Plaintiffs and their family members in crisis grieving the sudden horrendous death of their brother, Mr. Kyaw was totally unprofessional and inhumane.

63. Constable Yoon Gyo(David) Jung behaved unethically with the malicious intention to further escalate the situation and, to provoke conflict and confrontation between the police officers and the grieving Plaintiffs and their family members.

64. At around 10 pm, I/O investigator, Ms. Allison Franz asked me (Yin Yin Din) and my brother, Mr. Min Aung that she got information that Min had a gun that she would like to take it away. She said that if we consent to her request, she would take the gun away with her for safety reasons. She said that it would be returned when the I/O investigation was complete.

65. She asked the location of Min's room. As we consented to her request to let her take the gun away, she then confirmed with YYD if the room where a computer was placed was Min's room. Then, she asked the location of the firearm in the room. YYD told her that the gun was locked and placed in the cupboard box and put on the shelf above Min's bed.

66. Ms. Allison Franz went inside the house and came back with the cupboard that contained the firearm in her arm. She confirmed with YYD that the firearm was locked and placed the cupboard box in her car.

67.-40. The Plaintiffs were permitted back into the Din Residence at approximately 1:00 am the next morning on August 12, 2019, after the police removed the tape around their Residence, they were indescribably traumatized, broken-hearted and shocked to see their brother, Mr. Kyaw Din's Bedroom stained with his blood all over. The edge of his mattress was soaked with his blood with pieces of his skins in it. The Plaintiffs also saw a dent on the wall of the hallway damaged by a weight. The Plaintiffs discovered significant big pools of blood in Mr. Kyaw Din's Bedroom floor and hallway. The edge of Mr. Kyaw Din's mattress was covered in blood. This caused the Plaintiff's further harm.

**Mr. Kyaw Din's Valuable Contributions to the Din Residence**

68.-41. At all material times, Mr. Kyaw Din was disabled from regular employment due to his mental health condition. He received social assistance and made regular contributions to the collective living arrangement at the Din Residence. In particular, Mr. Kyaw Din:

- a. provided love and companionship to Ms. Yin Yin Din and her siblings.
- b. made financial contributions to the household for food, maintenance of the utility bills and other expenses.
- c. assisted with household cleaning and maintenance.
- d. attended to the garbage and recycling; and
- e. provided care to family pets.

**Ms. Yin Yin Din and Mr. Min Aung Acted in the Place of Parents to Mr. Kyaw Din**

69-42. In many ways, Ms. Yin Yin Din acted as a parent to her brother Mr. Kyaw Din due in large part to his mental health condition and his requirement for assistance with daily living. In particular, Ms. Yin Yin Din provided Mr. Kyaw Din with:

- a. day-to-day support with his daily prescription medication, supplements, and other personal cares with eating regular healthy foods for his diabetic condition; and advising him to wear appropriately for the weather.
- b. assistance with obtaining and taking his medications.
- c. grocery shopping, preparing and tidying up after meals.
- d. Assistance with managing his diabetes.
- e. financial management such as paying bills and paying for day-to-day living.
- f. support with attending medical and other appointments.

70-43. Mr. Min Aung also acted as a parent toward Mr. Kyaw Din by providing support to Mr. Kyaw Din in similar ways.

71-44. Mr. Kyaw Din had a child-like dependency on Ms. Yin Yin Din and Mr. Min Aung as a result of his mental health condition and lacked the capacity to manage his own personal care and financial and legal affairs, and to provide for his own food, clothing and shelter. Accordingly, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung were legal guardian or caregivers acting as parents to Mr. Kyaw Din as they have acted as the Power of Attorneys and Health Care Representatives and next-of-kins of Mr. Kyaw Din.

**The Plaintiffs' Damages**

72-45. As a result of Mr. Kyaw Din's death, the plaintiffs have suffered loss and damage, including financial loss, loss of household support, and loss of love, care, guidance and companionship.

~~73-46~~. As a further result of Mr. Kyaw Din's death, the plaintiffs have suffered grievous psychological harm, including depression, anxiety, post-traumatic stress and anguish over the loss of their brother.

~~74-47~~. The Plaintiffs claim aggravated damages against the defendants, and each of them. The facts upon which the Plaintiffs rely in support of this claim are as follows:

- a. the actions and omissions of the defendants which caused Mr. Kyaw Din's death were sufficiently harsh, reprehensible, and malicious to warrant an award of aggravated damages; and
- b. Mr. Kyaw Din's death will continue to cause the Plaintiffs anguish and mental distress of such duration and depth as to have had a significant influence on the Plaintiffs' lives.

~~75-48~~. The Plaintiffs claim punitive damages against the defendants, and each of them. The acts upon which the Plaintiffs rely in support of this claim are as follows:

- a. the actions of the Police Defendants were unprovoked, unwarranted and in complete disregard of ordinary standards of morality or decent conduct.
  - b. the actions of the Police Defendants show a shocking and callous disregard for innocent members of the public whom the Police Defendants have an obligation to serve and protect.*
- c. the entry into Mr. Kyaw Din's bedroom by the Police Defendants was entirely unnecessary and unwarranted in the circumstances.
- d. the Police Defendants acted with an intent to injure Mr. Kyaw Din by first shooting him with a Conducted Energy Weapon and then a firearm.
- e. The Police Defendants failed to deal with Mr. Kyaw Din in a manner which was appropriate to the circumstances and created an environment which escalated the situation.
- f. the Police Defendants acted with negligent disregard for the circumstances, including disregarding the possibility that Mr. Kyaw Din would have listened to the Older Siblings and come willingly to the hospital, and disregarding that Mr. Kyaw Din had no history of violence;
- g. the Police Defendants have not been punished nor sanctioned in any way for the shooting and killing of Mr. Kyaw Din; and
- h. allowing the Police Defendants to escape punishment or sanction for their shocking and callous behaviour would cause the community's respect for the law and for the administration of justice to be diminished and would, in addition, cause the law and administration of justice in British Columbia to be brought into disrepute.

76.-49. The Plaintiffs claim the Minister further caused or contributed to the Plaintiffs' injuries by failing to adequately train and supervise its agents or employees, including the Police Defendants in how to effectively deal with people experiencing mental health issues, in dealing with culturally diverse citizens, in the use of force, and in de-escalation techniques.

77.-50. The Plaintiffs are beneficiaries as defined under the Health Care Recovery Act, SBC 2008, c 27 (the "HCCRA").

78.-51. As a result of the injuries suffered by the Plaintiffs as described herein and as may become known, the Government of British Columbia has made payments for health care services for or on the behalf of the Plaintiffs under the *Hospital Insurance Act, RSBC 1996, c 204, Medicare Protection Act, RSBC 1996, c 286, Continuing Care Act, RSBC 1996, c 70, Emergency Health Services Act, RSBC 1996, c 182*, and amendments hereto, and other payments, to provide to the Plaintiffs health care treatment, aid, assistance or service, drugs, devices, and other similar matters associated with their personal injuries.

79. 52. Under s 2 of HCCRA, the Plaintiffs hereby claim against the defendants and each of them, for the amount of payments made for or on behalf of the Plaintiffs under the *Hospital Insurance Act, RSBC 1996, c 204, Medicare Protection Act, RSBC 1996, c 286, Continuing Care Act, RSBC 1996, c 70, Emergency Health Services Act, RSBC 1996, c 182*, and amendments hereto, and other payments, to provide to the Plaintiffs health care treatment, aid, assistance or service, drugs, devices, and other similar matters associated with their personal injuries, particular of which will be provided prior to the trial of this action.

## Part 2: RELIEF SOUGHT

80.-53. The Plaintiffs' claim against the Defendants, and each of them:

- a. general damages.
- b. special damages.
- c. aggravated and punitive damages.
- d. *Charter* damages.
- e. damages pursuant to the *Family Compensation Act*, RSBC 1996, Chapter 126.
- f. costs, including special costs.
- g. interest pursuant to the *Court Order Interest Act*, RSBC 1996 Chapter 79; and

h. such further and other reliefs as the Court may determine.

**Part 3: LEGAL BASIS**

RCMP Negligence

~~81-54.~~ Her Majesty the Queen His Majesty the King in right of the Province of British Columbia (Minister of Public Safety and Solicitor General), Ridge Meadows RCMP Detachment and the Municipal Government of City of Maple Ridge are jointly and severally liable for the torts of the RCMP, Police Dispatch, Paramedics, and the torts committed by all Defendants including the Police Defendants in the performance of their duties pursuant to s.11 of the *Police Act*, RSBC 1996, c 367.

~~82-55.~~ The Plaintiffs claim all Defendants including the Police Defendants willfully or negligently caused us lasting physical and psychological injuries and this conduct was grossly negligent, dishonest, malicious or willful conduct within the meaning of s.21 of the *Police Act*, RSBC 1996, c 367.

~~83-56.~~ The deficiencies of the Police Defendants' willful, negligent or grossly negligent conduct include:

- a. failing to act as a reasonable police officer would in the circumstances.
- b. failing to employ any or adequate de-escalation techniques.
- c. failing to request the assistance of a translator.
- d. failing to adequately consider the cultural background of Mr. Kyaw Din and the impact the Older Siblings may have had in convincing him to attend the hospital.
- e. using more force than what necessary to control the situation using unnecessary excessive force to control the situation.
- f. using lethal force when it was unwarranted.
- g. failing to properly assess the circumstances before discharging their firearms.
- h. failing to uphold the trespass law without listening to the instructions of Ms. Yin Yin Din's advice on how best to deal with her brother.
- i. failing to properly consider whether Mr. Kyaw Din constituted a threat to himself or others.

- j. failing to act in accordance with their training and experience towards people with mental health conditions.
- k. failing to properly adjust their conduct in accordance with Mr. Kyaw Din's mental health condition.
- l. failing to coordinate effectively with the Paramedics.
- m. failing to consider Mr. Kyaw Din's previously peaceful interactions with the RCMP.
- n. such further and other particulars as counsel may advise.
- o. Inhumanely treating the Plaintiffs and the family, by inappropriately laughing out loud at the Plaintiff, Ms. Yin Yin Din and family members suffering from unimaginable grief.
- p. behaving unethically with the malicious intention to further escalate the situation (Constable Yoon Gyo (David) Jung's grossly unprofessional and unethical behavior as a scene security officer as he mockingly laughed at grieving the grieving Plaintiffs and the family members) to provoke conflict and confrontation between the police officers and the grieving family members of Mr. Maung
- q. failing to act in accordance with their training and experience violating police ethics and Section 12 of the Canadian Charter of Rights and Freedoms (Right to Freedom from Cruel and Unusual Treatment) as the Police Defendants used unnecessary lethal force and inflicted inhumane unusual treatment upon Mr. Kyaw Maung and the Plaintiffs
- r. failing to inform the family of Mr. Maung, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung that Mr. Maung would be apprehended under the Mental Health Act.
- s. failing to evacuate Mr. Maung's family, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung, compromising their safety and security, and further traumatizing the family by leaving the crime scene in a graphic and horrifying state, which the Plaintiffs were exposed to on August 12, 2019, by violating their Right to Life, Liberty, and Security of the Person enshrined in Section 7 of the Canadian Charter of Rights and Freedoms.
- t. failing to act in accordance with their training and experience neglecting their Duty of Care to the Public as Constable Yoon Gyo (David) Jung caused indescribable emotional harm to the surviving Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of Mr. Maung, Cst. Jung behaved grossly unprofessionally, unethically and mockingly as he laughed at grieving family members when Mr. Kyaw Maung's body was being removed.
- u. failure to uphold the Charter and Human Rights of surviving family, the Plaintiffs' Ms. Yin Yin Din and Mr. Min Aung as the Defendants violated the Plaintiffs Right to Truth and Accountability which is fundamental in International Human Rights law, particularly where state actors are implicated in serious human rights violations. The deliberate concealment of Grey-Haired Supervisor Police Officer John Doe #4's identity infringes

this right, denying the surviving family members and the public the ability to know who was responsible for Mr. Maung's death.

v. failure to uphold International Human Rights Standard which emphasizes the right of victims and their families to know the truth about human rights violations, especially in cases involving state actors.

w. failure to uphold International Human Rights Standard established by the Inter-American Court of Human Rights (*Velásquez Rodríguez v. Honduras* (1988)), that concealing the identities of state agents responsible for wrongful death is a violation of victims' and families' rights to truth and justice.

x. failure to uphold the Canadian Charter Rights Section 7: Right to Life, Liberty, and Security of the Person as the Ridge Meadows RCMP's actions have directly violated Section 7 of the *Canadian Charter of Rights and Freedoms*, which protects individuals' rights to life, liberty, and security. By withholding the identity of John Doe #4, who played a critical supervisory role during the incident, and misrepresenting the identity of the officer who fired the fatal shots, the RCMP effectively deprived Mr. Kyaw Maung family, the Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of security and peace of mind, deepening their trauma. in *Charkaoui v. Canada* (Citizenship and Immigration), 2007 SCC 9, the Supreme Court ruled that withholding essential information related to life, liberty, and security is incompatible with Section 7. Similarly *Gosselin v. Quebec (Attorney General)*, 2002 SCC 84: Emphasized that Section 7 extends beyond physical security to include psychological integrity, especially where state actions exacerbate trauma.

y. failure to uphold the Canadian Charter Rights Section 8: Protection Against Unreasonable Search and Seizure. The warrantless entry into Mr. Maung's private residence, compounded by the subsequent cover-up of key facts, constitutes a violation of Section 8. The concealment of John Doe #4's identity further demonstrates a disregard for the requirement of transparency and legality in police conduct. *R. v. Evans*, [1996] 1 S.C.R. 8: Clarified that law enforcement must act within strict legal limits, and concealment of evidence or identity undermines the principles of reasonable search and transparency. Similarly, *R. v. Feeney*, [1997] 2 S.C.R. 13: Reinforces that entering a residence without clear justification or proper legal procedure is unconstitutional.

z. failure to uphold the Canadian Charter Rights Section 12: Protection Against Cruel and Unusual Treatment The psychological distress caused by the RCMP's concealment of John Doe #4's identity and their false testimony constitutes cruel and unusual treatment under Section 12. The family's prolonged suffering, caused by the uncertainty surrounding the true circumstances of Mr. Maung's death, amplifies the inhumanity of the officers' conduct.

Moreover, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung state that all Defendants, including the Police Defendants, either willfully or negligently caused us enduring physical and psychological harm. This conduct, we assert, was grossly negligent, dishonest,

malicious, or willful, falling within the scope of section 21 of the *Police Act*, RSBC 1996, c 367.

**Particulars of Negligent, Willful, or Grossly Negligent Conduct of the Police Defendants:**

1. **Failure to Act Reasonably:** Defendants failed to respond as reasonable police officers would under similar circumstances.
2. **Lack of De-Escalation:** They did not employ any, or adequate, de-escalation techniques to manage the situation safely.
3. **Communication Barriers:** They failed to seek assistance from a translator, hindering effective communication with Mr. Kyaw Din.
4. **Cultural Sensitivity:** Inadequate consideration of Mr. Din's cultural background and the influential role his Three Older siblings (One Older Sister who used to relieve Mr. Kyaw Din's stress and anxiety through her jokes, Two Older Brothers who always used to de-escalate the situations for Mr. Kyaw Din) could have played in persuading him to seek medical help.
5. **Excessive Use of Force:** Unnecessary and excessive force was used to control the situation, including unwarranted lethal force.
6. **Improper Firearm Use:** Discharging firearms without adequately assessing the circumstances.
7. **Ignoring Family Guidance:** Disregarding advice from Ms. Yin Yin Din on how best to interact with her brother.
8. **Failure to Assess Threat:** Insufficient consideration of whether Mr. Kyaw Din posed a danger to himself or others.
9. **Neglecting Mental Health Training:** Police officers did not act in accordance with their training and experience in handling individuals with mental health conditions.
10. **Proper Coordination Failures:** Lack of effective coordination with paramedics on-site.
11. **History of Peaceful Interaction:** Failing to consider Mr. Din's previously peaceful encounters with the RCMP.
12. **Inhumane and Unethical Conduct:** Cst. Yoon Gyo (David) Jung mocked grieving family members by laughing during the removal of Mr. Din's body, escalating tensions.
13. **Violation of Charter Rights:** The Defendants' conduct infringed upon: (a) **Section 12:** Prohibiting cruel and unusual treatment, with the use of lethal force causing unnecessary suffering, (b) **Section 7:** Right to life, liberty, and security, as the Plaintiffs were subjected to psychological trauma due to the concealment of critical information, such as the identity of John Doe #4.
14. **Trauma and Scene Mismanagement:** The Plaintiffs were unnecessarily exposed to a graphic crime scene on August 12, 2019, exacerbating their trauma and violating their security.
15. **Accountability and Truth:** The concealment of John Doe #4's identity deprived the Plaintiffs of their right to truth and accountability, a fundamental principle in International Human Rights Law.

16. **International Human Rights Violations:** The actions contravened international legal standards emphasizing victims' rights to truth and justice, as established in *Velásquez Rodríguez v. Honduras* (1988).
17. **Violations of Section 8 – Unreasonable Search and Seizure:** The warrantless entry into Mr. Din's home, coupled with a cover-up of facts, breached Section 8, as clarified in *R. v. Evans* and *R. v. Feeney*.
18. **Delay in Providing Medical Assistance:** After using unnecessary lethal force, the Police Officers and the Paramedics failed to prioritize Mr. Kyaw Maung's medical care, neglecting their obligation to preserve life.

### **PARAMEDICS NEGLIGENCE**

The Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung claim that all Defendants, including the Paramedics Defendants, either willfully or negligently caused us enduring physical and psychological harm.

#### **Particulars of Negligent, Willful, or Grossly Negligent Conduct of the two Paramedics:**

1. **Fabricated Evidence:** Mr. Bullach and Ms. Rebatad intentionally provided false testimony to the Independent Investigations Office (IIO) and the Coroner's Court, in coordination with four Ridge Meadows RCMP officers.
  - (a) The two paramedics, Ms. Rebatad and Mr. Bullach contrived their evidence with the four Ridge Meadows RCMP Police Officers. Ms. Rikki Rebatad and intentionally provided false testimony to the Coroner's Court and to IIO Investigators that she, Mr. Brandon Bullach and the first two RCMP Police Officers, Cst. Wagner (Doe#1) and Cst. Losiak (Doe#2) entered our residence and went up to Mr. Kyaw Maung's Bedroom with the door shut. Although Ms. Rebatad falsely testified that she, Mr. Bullach, and the first two RCMP Police Officers, Cst. Wagner (Doe#1) and Cst. Losiak (Doe#2) entered our residence and went up to Mr. Maung's Bedroom, both, Ms. Yin Yin Din and Mr. Aung vividly remember and recall that none of them entered the house.

In reference to our evidence provided in Count 7 of Cst. Losiak, we, the first-hand witnesses of the incident, Ms. Yin Yin Din and Mr. Min Aung solemnly affirm that did not happen. Mr. Min Aung sitting in his bedroom located just 5-6 feet away from Mr. Maung's Bedroom did not hear any such kind of conversation from Cst. Wagner (Doe #1), Cst. Losiak (Doe #2) such as, (page 7, line 37-40 of the transcript of Cst. Wagner's testimony at Coroner's Court on March 3, 2022): "*Can you come out, please, so that we can speak to you? We'd like to get you some help. We have an ambulance here*", near Mr. Kyaw Din's Bedroom in the hallway.

The Report released by the Civilian Review and Complaints Commission for the Royal Columbia Mounted Police in February 2023 and our response to it. "The Commission is not satisfied with the RCMP's report into the matter. The Commission

found that the RCMP acted unreasonably when it terminated significant aspects of the public complaint investigation. The Commission also found that the RCMP members acted unreasonably when they decided to apprehend Ms. Din's brother under the provincial Mental Health Act, that they acted unreasonably when they failed to communicate appropriately with one another to maintain situational awareness, and that they unreasonably failed to try to de-escalate the situation before trying to enter the bedroom belonging to Ms. Din's brother and use surprise and force to subdue him." (Page 2 of the Civilian Review and Complaints Commission for the Royal Columbia Mounted Police.)

The two Paramedics, Ms. Rebantad, Mr. Bullach, Cst. Wagner and Cst. Losiak willfully and falsely testified by swearing falsely under oath to the effect that they had made multiple attempts to de-escalate the situation by approaching Mr. Maung's Bedroom in the hallway and communicating with Mr. Maung. They used falsehood to cover up their "failures to de-escalate the situation, their failures to properly communicate with Mr. Maung, and their failure to treat the issue as a medical emergency as opposed to a law enforcement response." which are the findings and decisions of the Civilian Review and Complaints for the RCMP as stated on page 10-11 of the report recently released to us on February 13, 2023, attached to this affidavit as Exhibit C3

In Langret Investments S.A. v. McDonnell, 1996 CanLII 1433 (BC CA), the Court held that amendments should be granted liberally where there is no prejudice, allowing issues to be fully tried. The harm caused by the officers' alleged misconduct and negligence warrants a thorough examination and proper adjudication in a single proceeding, supporting the addition of the paramedic, Ms. Rebantad as a defendant to enable an accurate determination of the facts.

(b) Ms. Rikki Rebantad intentionally provided significant false statements to IIO Investigators and the Coroner's Court that I, Ms. Din, was located behind the two paramedics, Ms. Rebantad and her partner, Mr. Brandon Bullach near the doorway into the kitchen and the living room area at the time of the incident.

(c) Ms. Rikki Rebantad incorrectly stated that when the Ridge Meadows RCMP Police Officers opened Me. Maung's room door, it immediately slammed back shut and the Police Officers tried to open the door one more time by forcefully pushing through and as they opened it, a weight disk came flying out of the room, and a struggle ensued, and she heard someone yell, "Taser, taser, taser.", the struggle continued and then three shots in rapid succession.

(f) Ms. Rebantad also incorrectly stated that when she heard three shots in rapid succession, she and her partner, Mr. Brandon Bullach looked at each other and were a little stunned. Then, they heard my (Ms. Yin Yin Din's) yelling who was located behind them and she was yelling, "Did they shoot him? Did they shoot him?" She continued to incorrectly said that I, Ms. Din, was trying to get past them to get down the hall. So, she kind of blocked her and they ushered me out the front door onto the porch."

2. **Accountability and Truth:** Their contrived testimony, central to the incident involving the tragic death of Mr. Kyaw Naing Maung (also known as Kyaw Naing Din), materially misrepresented key facts, obstructing justice and prejudicing the Plaintiffs' claims.
3. **Violation of ethical and professional obligations:** Their fabrication of evidence with the Police Defendants contravenes both ethical and professional obligations and constitutes actionable misconduct that contributed to the biased and unjust conclusion of the Independent Investigations Office (IIO), which determined that the use of force was justified.
4. **Accountability and Justice:** Their fabrications of evidence with the Police Defendants directly contradict the Plaintiffs' truthful, firsthand accounts, undermining the credibility of the IIO's decision and the subsequent Coroner's Court proceedings.
5. **Public interest and Abuses of power:** Their contrived evidence with the Police Defendants undermines the integrity of the investigation as it negatively impacts the credibility of the IIO's decision and the subsequent Coroner's Court proceedings.
6. **Integrity of the Investigations and the Judicial System:** Their intentionally contrived testimonies with the Police Officers. For example, the two paramedics' contrived evidence with the Police Officers that Mr. Bullach, Ms. Rebantad and the first two RCMP Police Officers, Cst. Wagner (Doe#1) and Cst. Losiak (Doe#2) entered the Plaintiffs' residence and went up to Mr. Maung's Bedroom and communicated with Mr. Maung to de-escalate the situation and hearing shouted warnings of the officers such as "Taser, Taser, Taser," "Drop it, drop it," and "He's got a knife," among other phrases, which were not heard by the Plaintiffs, who were present at the scene directly contradict the Plaintiffs' truthful, firsthand accounts, undermining the credibility of the IIO's decision, the subsequent Coroner's Court proceedings impacting the integrity of the Judicial System.
7. **Obstruction of the Plaintiffs' pursuit of justice:** Their contrived evidence and misrepresentations obstructed the Plaintiffs' pursuit of justice and contributed to a contrived narrative that undermines the Plaintiffs' ability to seek a fair determination of our claims.
8. **Failure to Act Reasonably:** They failed to respond as reasonable Paramedics would under similar circumstances.
9. **Lack of De-Escalation:** They did not employ any, or adequate, de-escalation techniques to manage the situation safely.
10. **Communication Barriers:** They failed to seek assistance from a translator, hindering effective communication with Mr. Kyaw Din.
11. **Cultural Sensitivity:** Inadequate consideration of Mr. Din's cultural background and the influential role his Three Older siblings (One Older Sister who used to relieve Mr. Kyaw Din's stress and anxiety through her jokes, Two Older Brothers

- who always used to de-escalate the situations for Mr. Kyaw Din) could have played in persuading him to seek medical help.
12. **Excessive Use of Force:** Mr. Brandon Bullach pressured Constable Matthew Wagner to arrest Mr. Maung unnecessarily and unreasonably under the Mental Health Act resulting in Police Defendants' unnecessary and excessive unwarranted lethal force causing tragic death of Mr. Kyaw Din, an innocent, non-threatening civilian with mental disability suffering from mental illness as he did not pose any harm to anyone or himself.
  13. **Ignoring Family Guidance:** Disregarding advice from Ms. Yin Yin Din on how best to interact with her brother.
  14. **Failure to Assess Threat:** Insufficient consideration of whether Mr. Kyaw Din posed a danger to himself or others.
  15. **Neglecting Mental Health Training:** Paramedics did not act in accordance with their training and experience in handling individuals with mental health conditions.
  16. **Proper Coordination Failures:** Lack of effective coordination with the Police Officers on-site.
  17. **History of Peaceful Interaction:** Failing to consider Mr. Din's previously peaceful encounters with the RCMP.
  18. **Failure to follow proper procedure:** The Paramedics failed to inform the family of Mr. Maung, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung that Mr. Maung would be apprehended under the Mental Health Act.
  19. **Delay in Providing Medical Assistance:** After using unnecessary lethal force, the Police Officers and the Paramedics failed to prioritize Mr. Kyaw Maung's medical care, neglecting their obligation to preserve life.
  20. **Inhumane and Unethical Conduct:** The two Paramedics and a female scene security Police Officer laughed out loudly from an earshot of grieving family members within minutes of the shooting incident, escalating tensions.
  21. **Violation of Charter Rights:**
    - a. The Defendants' conduct infringed upon:
      - i. **Section 12:** Prohibiting cruel and unusual treatment, with the use of lethal force causing unnecessary suffering.
      - ii. **Section 7:** Right to life, liberty, and security, as the Plaintiffs were subjected to psychological trauma due to the concealment of critical information, such as the identity of John Doe #4.
  22. **Trauma and Scene Mismanagement:** The Plaintiffs were unnecessarily exposed to a graphic crime scene on August 12, 2019, exacerbating their trauma and violating their security.
  23. **Accountability and Truth:** The concealment of John Doe #4's identity deprived the Plaintiffs of their right to truth and accountability, a fundamental principle in International Human Rights Law.
  24. **International Human Rights Violations:** The actions contravened international legal standards emphasizing victims' rights to truth and justice, as established in *Velásquez Rodríguez v. Honduras* (1988).
  25. **Violations of Section 8 – Unreasonable Search and Seizure:** The warrantless entry into the Plaintiffs' home, coupled with a cover-up of facts, breached Section 8, as clarified in *R. v. Evans* and *R. v. Feeney*

**26. Violation of International Human Rights, Accountability and Justice** failure to uphold International Human Rights Standard established by the Inter-American Court of Human Rights (*Velásquez Rodríguez v. Honduras* (1988)), that concealing the identities of state agents responsible for wrongful death is a violation of victims' and families' rights to truth and justice.

**Negligence of the Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge**

The Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge employed Police Officers the Paramedics who were unprofessional and improperly trained in handling mental health crises. The Detachment and the City failed to properly train and supervise its officers and paramedics to handle mental health-related calls in a professional and lawful manner, which directly contributed to the tragic death of Mr. Kyaw Naing Din (aka Kyaw Maung) on August 11, 2019.

The City of Maple Ridge responsible for funding and oversight of municipal police services as it contracts with the RCMP for policing services. Under this arrangement, the City of Maple Ridge bears responsibility for ensuring that its police services are adequately trained, resourced, and supervised to meet community needs. The systemic failures evident in this case reflect a broader neglect of duty on the part of the City and shares liability for failing to ensure the Ridge Meadows RCMP Police Officers were properly trained and supervised and allowing systemic issues in handling mental health crises to persist, contributing to the tragic death of Mr. Kyaw Maung, an innocent, harmless, non-threatening person with mental health disability suffering from mental illness during a mental health assistance call.

**Negligence in Employing and Training Police Officers**

The Ridge Meadows RCMP Detachment and the Municipal Government of the City of Maple Ridge employed Police Officers, Constable Matthew Wagner, Constable Daniel Losiak, Constable Benjamin Ouellette, Constable John Doe#4, Corporal Shayne Shea and Constable Yoon Gyo (David) Jung, the police dispatch and the two Paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad who were unprofessional and improperly trained in handling mental health crises. The Detachment and the City failed to properly train and supervise its officers and paramedics to handle mental health-related calls in a professional and lawful manner, which directly contributed to the tragic death of Mr. Kyaw Naing Din (aka Kyaw Maung) on August 11, 2019. Specifically:

**(a) Inadequate De-Escalation Training:** The Ridge Meadows RCMP Police Officers, Constable Matthew Wagner, Constable Daniel Losiak, Constable Benjamin Ouellette, Constable John Doe#4, Corporal Shayne Shea and Constable Yoon Gyo (David) Jung, the police dispatch and the two Paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad failed to de-escalate the situation, disregarding standard policing practices that emphasize restraint and communication, particularly in mental health crises. This resulted in excessive and unnecessary use of force, culminating in the tragic death of Mr. Maung. The officers

and the paramedics ignored the repeated pleas of Ms. Yin Yin Din to wait 10-15 minutes for the arrival of Mr. Kyaw Maung's three Older Siblings (one Older Sister and two Older Brothers) who were on the way to de-escalate the situation by speaking to Mr. Kyaw Maung.

(b) **Failure to Employ Proper Procedures:** The officers and the paramedics failed to inform family members of their intent to arrest Mr. Maung under the **Mental Health Act**. They did not make any proper effort to evacuate the premises or ensure the safety of family members, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung thereby violating the **Canadian Charter of Rights and Freedoms**, Section 7 (right to security of the person). They Entered Mr. Kyaw Maung's private bedroom without valid justification and used excessive, lethal force unnecessarily against a mentally ill, non-threatening individual reflecting systemic negligence in training and supervising officers to handle mental health incidents, violating the duty of care owed to the public.

**2. Fabrication of Evidence:** The Ridge Meadows RCMP officers, namely Constable Matthew Wagner, Constable Daniel Losiak, Constable Benjamin Ouellette, the Unidentified Grey-Haired Supervisor Police Officer (Doe#4) attired in a Blue Uniform Shirt, a Blue Baseball Hat, a Blue Vest and a Blue Pant whose identity being Impersonated by Corporal Shayne Shea and the attending two Paramedics, Mr. Brandon Bullach and Ms. Rikki Rebantad contrived their evidence and provided false testimony to the **Independent Investigations Office (IIO)** and the **Coroner's Court**, obstructing justice and misrepresenting key facts, including:

(a) Misrepresented key facts, including Mr. Kyaw Maung's actions and Ms. Yin Yin Din's location during the incident, contradicting her truthful testimony, obstructing justice and violating procedural fairness.

(b) Fabricating claims about warnings allegedly shouted by officers, such as "Taser, Taser, Taser" and "Drop it," which were not heard by any civilian eyewitnesses present.

These falsehoods hindered a transparent investigation and accountability of Ridge Meadows RCMP Police Officers for their use of excessive lethal force, amplifying the Detachment's negligence. The Detachment's failure to enforce ethical conduct among its officers constitutes gross negligence, warranting its inclusion as a Defendant.

**3. Gross Police Misconduct and Charter Violations:** The actions of the Ridge Meadows RCMP officers on August 11, 2019, constitute gross police misconduct, negligence, and breaches of constitutional rights:

(a) **Excessive Use of Force:** Mr. Maung, a harmless individual suffering from mental illness, was tased, shot with a firearm, and physically beaten to death in his bedroom for no justifiable reason. These actions violated Section 12 of the Charter, which prohibits cruel and unusual treatment.

(b) **Failure to Provide Language Support:** The officers and the paramedics failed to secure a Burmese translator, which was essential to communicate effectively with Mr.

Maung and ensure compliance. The actions of the Ridge Meadows RCMP Police Officers led to violations of Mr. Kyaw Maung's rights under the Canadian Charter of Rights and Freedoms, including:

- (i) Section 7: Right to life, liberty, and security of the person, violated by the unjustified use of excessive lethal force.
- (ii) Section 12: Protection from cruel and unusual treatment, breached by excessive force resulting in death.
- (iii) Section 8: Protection against unreasonable search, infringed by entering Mr. Maung's private bedroom without lawful justification.

The Ridge Meadows RCMP Detachment's systemic failures contributed to these violations, making it liable under the Charter.

**4. Dispatch Negligence:** The Ridge Meadows RCMP dispatch incorrectly classified the 911 call as a domestic disturbance **between a brother and a sister** instead of a mental health assistance call, causing officers to respond with heightened aggression leading to an unnecessarily escalated police response. He ignored crucial details provided by Ms. Din about her brother's mental health condition and the non-threatening nature of the situation. This misclassification and error underscores a lack of training and competence on the part of RCMP dispatch personnel. This clearly indicates negligence in dispatch training and protocols.

#### 5. Duty of Care and Systemic Failures

##### 1. Duty of Care Owed to Mr. Maung and His Family

The Ridge Meadows RCMP Detachment and the City of Maple Ridge owed a duty of care to Mr. Kyaw Maung, a vulnerable person suffering from mental illness, and to his family members, Mr. Min Aung and Ms. Din. This duty arises from their repeated reliance on police and paramedic services for mental health assistance. Mr. Maung trusted and appreciated the Police Officers who had previously transported him to Ridge Meadows Hospital and communicated with him effectively through a Burmese interpreter.

On August 11, 2019, the police breached this duty of care by:

- (i) **Excessive Use of Force:** Despite no immediate threat to himself or others, Ridge Meadows RCMP Police Officers tased, shot, and physically assaulted Mr. Kyaw Maung in his own bedroom. Their actions resulted in his brutal death, evidenced by bruises consistent with beating, kicking, and stomping.
- (ii) **Failure to Provide Urgent Medical Care:** After shooting Mr. Kyaw Maung, the Police Officers neglected their duty to transport him to a hospital for treatment of his gunshot wounds. Instead, they allowed him to succumb to his injuries, falsely claiming he had died immediately from blood loss.

##### 2. Trespass Law Violation by Police Officers and Paramedics

The Ridge Meadow RCMP Police Officers and paramedics violated trespass law under British Columbia's Trespass Act, [RSBC 2018] Chapter 3. Trespass is defined as unauthorized entry onto private property without the owner's or occupier's consent or remaining on the property after consent has been explicitly withdrawn.

**(a) Revocation of Consent:**

The Ridge Meadow RCMP Police Officers and paramedics disregarded repeated requests from Ms. Yin Yin Din, the 911 caller and the lawful occupier of the residence, to leave the house as no urgent assistance was required or to wait 10-15 minutes for the arrival of Mr. Kyaw Maung's three Older Siblings who were on their way to de-escalate the situation by speaking to Mr. Kyaw Maung. By requesting the Ridge Meadows RCMP Police Officers, Constable Matthew Wagner, Constable Daniel Losiak, Constable Benjamin Ouellette, Constable John Doe#4, Corporal Shayne Shea and the two Paramedics, Ms. Rikki Rebantad, and Mr. Brandon Bullach leave the property, Ms. Din effectively withdrew any implied consent for them to remain, as she was the lawful occupier of the home. Once consent is revoked, any further entry or continued presence constitutes trespass under the Trespass Act, unless the officers had lawful authority to remain. They entered not only the residence but also Mr. Kyaw Maung's bedroom without any justifiable reason, but based on the misinformation of the Unidentified Grey-Haired Supervisor Police Officer (Doe#4) attired in a Blue Uniform Shirt, a Blue Baseball Hat, a Blue Vest and a Blue Pant whose identity being Impersonated by Corporal Shayne Shea that Mr. Maung was suicidal, their entry constitutes trespass.

**(b) Violation of Bedroom Privacy:** Despite Ms. Din's repeated requests and clear instructions, the officers entered the home and proceeded to Mr. Maung's bedroom. Since bedrooms are especially private areas within a home, the Ridge Meadows RCMP Police Officers' entry into Mr. Maung's Bedroom without consent or justifiable legal authority exacerbates constitutes trespass and Charter violations. The fact that Mr. Maung was not apprehendable under the Mental Health Act as he did not harm anybody or himself, reportedly calm and peaceful without an apparent emergency undermines the argument of Cpl. Shayne Shea who has been Impersonating the Unidentified Grey-Hair Supervisor attired in a Blue Uniform Shirt, a Blue Baseball Hat, a Blue Vest and a Blue Pant, that their actions were justified by exigent. Definitely, the absence of an immediate emergency undermines any claim of exigent circumstances necessary to bypass consent.

**Trespass and Charter Violations:** The entry into the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung's Home and Mr. Kyaw Naing Din (aka) Kyaw Maung's Bedroom despite Ms. Din's repeated requests strongly indicates the violation of trespass laws. Furthermore, the lack of an urgent situation undermines claims of exigent circumstances and the tragic outcome of Mr. Kyaw Maung's unnecessary and avoidable death amplifies the legal implications of these actions, as it transitions from a civil issue of Trespass Violation to Criminal Negligence and Charter infringements and breached of Mr. Kyaw Maung's constitutional protections. They disregarded Ms. Din's clear objections and violated her rights as an occupier.

The Ridge Meadows RCMP Police Officers and paramedics violated fundamental rights enshrined in the **Canadian Charter of Rights and Freedoms**:

(a) **Section 7 (Right to Life, Liberty, and Security of the Person):**

The officers' unauthorized entry into Ms. Yin Yin Din's home and Mr. Kyaw Maung's bedroom, escalation of the situation, and subsequent actions directly led to the death of Mr. Maung. This constitutes a breach of Mr. Maung's right to life and security.

The police officers fail to properly communicate with Mr. Maung. The Police Officers also failed to bring a Burmese translator to properly communicate with Mr. Maung. The Police Officers failed to properly de-escalate the incident. The police officers did not listen to the repeated pleadings of Ms. Ms. Din to wait 10-15 minutes for the arrival of Mr. Maung's three Older sibling (one older sister and two older brothers) who were on the way to the scene to de-escalate the situation by speaking to Mr. Maung.

The police officers did not listen to the repeated pleadings of Ms. Ms. Din to wait 10-15 minutes for the arrival of Mr. Maung's three Older sibling (one older sister and two older brothers) who were on the way to the scene to de-escalate the situation by speaking to Mr. Maung. Besides, the police officers failed to inform Ms. Din and Mr. Min Aung that the police were going to arrest Mr. Maung under the Mental Health Act. If they were to follow the Proper Police Procedures, the police needed to inform Ms. Din and Mr. Aung their decision to arrest Mr. Maung under the Mental Health Act and needed to evacuate Ms. Din and Mr. Aung by asking them to stay outside the house violating their Charter Rights of Person of Security. The Police Officers intentionally provided false testimony that to the IIO and the Coroner's Court that they were not even aware that Mr. Min Aung was in his bedroom throughout the incident.

(b) **Section 8 (Protection Against Unreasonable Search or Seizure):**

The entry into Ms. Yin Yin Din's home and Mr. Kyaw Maung's bedroom without valid consent, legal authority, or a warrant constitutes an unreasonable search.

(c) **Section 12 (Right Not to Be Subjected to Cruel and Unusual Treatment):**

The excessive and disproportionate use of force, including the use of both a Taser and a firearm on Mr. Maung, followed by alleged physical assault leading to his death, represents cruel and inhuman treatment, especially given his vulnerable state as a person with mental illness. The excessive use of lethal force inflicted upon Mr. Kyaw Maung was inhumane and unnecessary, constituting cruel and unusual treatment.

Constable Yoon Gyo (David) Jung's behavior as a scene security officer was grossly unprofessional and unethical. His mocking laughter at grieving family members when Mr. Kyaw Maung's body was being removed displayed his negligent duty of care and caused additional emotional harm to the surviving Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of Mr. Kyaw Maung.

**(d) Transition from Civil Trespass to Criminal Negligence:** The violation of trespass laws escalated into a matter of criminal negligence due to the officers' actions and omissions:

- (i) **Failure to Respect Ms. Yin Yin Din's Instructions:**  
The refusal to heed the occupier's repeated requests not only constitutes trespass but also demonstrates disregard for the safety and dignity of those present in the house, Mr. Kyaw Maung, Ms. Yin Yin Din and Mr. Min Aung.
- (ii) **Escalation Leading to Tragic Consequences:**  
The unnecessary escalation of a non-urgent situation led to Mr. Maung's death. Evidently, Mr. Maung was not apprehensible under the Mental Health Act as he was calmly in his room, not posing an immediate threat to himself or others, invalidating any of the Ridge Meadows RCMP Police Officers' claim of exigent necessity.

**(e) Emotional and Psychological Harm to Surviving Family Members**

The officers' actions had a devastating impact on Mr. Maung's siblings, Ms. Yin Yin Din and Mr. Min Aung and family members who were left to witness the aftermath:

- (a) **Trauma from Crime Scene:**  
Upon re-entering the residence on August 12, 2019, Ms. Yin Yin Din and Mr. Min Aung found Mr. Kyaw Maung's Bedroom in a horrific state, with visible blood and skin fragments. This sight caused profound psychological trauma.
- (b) **Mockery by Constable Yoon Gyo (David) Jung:**  
Constable Yoon Gyo (David) Jung's unprofessional conduct—mockingly laughing within earshot of grieving family members—constituted a breach of ethical and professional standards, exacerbating the emotional harm caused to the family.

**Liability of Ridge Meadows RCMP Detachment and City of Maple Ridge**

The City of Maple Ridge shares liability as it contracts with the RCMP for policing services. Under this arrangement, the City of Maple Ridge bears responsibility for ensuring that its police services are adequately trained, resourced, and supervised to meet community needs. The systemic failures evident in this case reflect a broader neglect of duty on the part of the City.

The Detachment and the City of Maple Ridge are vicariously liable for the actions of their officers and paramedics:

- (a) **Duty of Care:** As agents of the Ridge Meadows RCMP Detachment and the City, the officers owed a duty of care to Mr. Maung and his family, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung to act professionally and lawfully. Their failure to de-escalate the situation and their use of unnecessary excessive force constitute breaches of this duty.
- (b) **Failure to Provide Safe and Professional Assistance:** The officers' actions directly contradict their duty to protect and assist vulnerable individuals like Mr. Kyaw Maung, who had previously relied on their help during mental health crises.

- (c) **Negligent Training and Oversight by Ridge Meadows RCMP Detachment:** The Ridge Meadows RCMP Detachment failed to properly train and supervise its officers to handle mental health-related calls in a professional and lawful manner, which directly contributed to the tragic death of Mr. Kyaw Naing Din (aka Kyaw Maung) on August 11, 2019. Specifically:
- (d) **Inadequate De-Escalation Training:** Police Officers failed to de-escalate the situation, disregarding standard policing practices that emphasize restraint and communication, particularly in mental health crises. This resulted in excessive and unnecessary use of force, culminating in the tragic death of Mr. Maung. The officers ignored the repeated pleas of Ms. Yin Yin Din to wait for family members who could have assisted in calming Mr. Maung.
- (e) **Failure to Employ Proper Procedures:** The officers failed to inform family members of their intent to arrest Mr. Maung under the **Mental Health Act**. No effort was made to evacuate the premises or ensure the safety of family members, thereby violating the **Canadian Charter of Rights and Freedoms**, Section 7 (right to security of the person).
- (f) **Dispatch Errors:** The dispatch improperly classified the 911 call as a domestic disturbance instead of a mental health assistance request, causing officers to respond with heightened aggression. This error underscores a lack of training and competence on the part of RCMP dispatch personnel.

In Conclusion, the Ridge Meadows RCMP Police Officers and paramedics violated trespass laws and fundamental Charter rights, leading to Mr. Kyaw Maung's tragic death. Their actions highlight a profound failure to uphold legal and ethical standards, warranting the inclusion of the Ridge Meadows RCMP Detachment and the City of Maple Ridge as Defendants.

### **3. Violation of the Canadian Charter of Rights and Freedoms**

The Ridge Meadows RCMP Police Officers' actions on August 11, 2019, contravened Mr. Kyaw Maung's and his surviving family Ms. Yin Yin Din and Mr. Min Aung's constitutional rights, including:

#### **(a) Section 7 (Right to Life, Liberty, and Security of the Person):**

The decision to arrest Mr. Kyaw Maung under the Mental Health Act lacked justification, as he posed no harm to himself or others. This violated his fundamental right to life.

The Ridge Meadows RCMP Police Officers failed to evacuate Mr. Min Aung and Ms. Din, compromising their safety and security. They further traumatized the family by leaving the crime scene in a graphic and horrifying state, which the family was exposed to on August 12, 2019.

#### **(b) Section 12 (Right to Freedom from Cruel and Unusual Treatment):**

The excessive use of lethal force inflicted upon Mr. Kyaw Maung was inhumane and unnecessary, constituting cruel and unusual treatment.

Constable Yoon Gyo (David) Jung's behavior as a scene security officer was grossly unprofessional and unethical. His mocking laughter at grieving family members when Mr. Kyaw Maung's body was being removed displayed his duty of care and caused additional emotional harm to the surviving Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of Mr. Kyaw Maung.

**(c) Neglect of the Rights of Family Members:**

The Ridge Meadows RCMP Police Officers neglected their duty of care owed to the public as they failed to evacuate Mr. Min Aung and Ms. Din, compromising their safety and security. They further traumatized the family by leaving the crime scene in a graphic and horrifying state, which the family was exposed to on August 12, 2019.

**4. Misrepresentation and Fabrication of Evidence**

The Ridge Meadows RCMP Police Officers attempted to obstruct justice by:

(a) Falsely claiming that Corporal Shea was informed by officers on the scene that Mr. Maung was suicidal. The Independent Investigations Office (IIO) documented that no such misinformation was provided.

(b) Misrepresenting their awareness of Mr. Min Aung's presence in another bedroom during the incident, thereby attempting to absolve themselves of the duty to evacuate him for his safety.

The Ridge Meadows RCMP Police Officers intentionally lied and provided falsely testified that they were not aware that Mr. Min Aung was present in his bedroom and did not recall if the dispatch had provided that information that there were three people in the house, Mr. Kyaw Maung, Ms. Din and Mr. Maung. In fact, it is clearly recorded in Mr. Din' 911 call.

Cst. Matthew Wagner Officers intentionally lied and provided falsely testified under oath on March 3, 2022, before the Honorable Madam Coroner Donita Kuzma that he had no idea that there was another family member, Mr. Min Aung to whom the firearm was registered was present in the another bedroom inside the house besides Ms. Din and Mr. Maung, and he did not recall if the dispatch relayed that information to him. (Page 27, lines 19-36), (Page 28, lines 5-20) of Exhibit J1, the transcript of the testimony of Cst. Matthew Wagner.

However, **dispatch 911 recordings and corroborating evidence**—including testimony from Cst. Daniel Losiak—clearly indicate that:

- 1. Dispatch Information Provided to Cst. Wagner:**  
Dispatch confirmed to Cst. Wagner that a firearm was registered to Mr. Min Aung, who was present at the residence but was not the subject of the call. This information was confirmed via a CFRO (Canadian Firearms Registry Online) check.
- 2. Contradictory Testimony by Cst. Losiak:**  
Under cross-examination by Counsel Neil Chantler, Cst. Losiak admitted that

dispatch had relayed information about Mr. Min Aung and the registered firearm. This contradicts Cst. Wagner's claims of ignorance.

Section 131(1) of the Criminal Code of Canada criminalizes the act of making a false statement under oath in a judicial proceeding, knowing it to be false, with the intent to mislead the court. The elements of perjury include:

1. **A sworn statement:** Cst. Matthew Wagner provided his testimony under oath during the Coroner's Inquest.
2. **Falsehood:** Dispatch 911 records and corroborating testimony demonstrate that Cst. Wagner knowingly provided false statements.
3. **Intent to mislead:** His testimony sought to obscure the officers' knowledge of key information, thereby misleading the court.

Evidently, Constable Matthew Wagner did commit perjury in a Formal Court Proceeding at the Provincial Coroner's Court during the Coroner's Inquest hearing into the death of Mr. Kyaw Naing Maung (aka) Mr. Kyaw Naing Din, before the Honorable Madam Coroner Ms. Donita Kuzma by swearing falsely with intent to mislead the Court.

(Page 27, lines 19-36), (Page 28, lines 5-20) of Exhibit J1, the transcript of the testimony of Cst. Matthew Wagner:

Although Cst. Matthew Wagner falsely and willfully testified under oath with intent to mislead the Court to the effect that when he had no idea that there was another family member, Mr. Min Aung in the other bedroom inside the house besides Ms. Din and Mr. Maung, and he did not recall if the dispatch relayed that information [(Page 27, lines 19-36), (Page 28, lines 5-20) of the transcript of the testimony of Cst. Matthew Wagner given at the Coroner's Court on March 3, 2022), or (Page 410, lines 19-36), (Page 411, lines 5-20) of Exhibit C1, Transcript of Coroner's Inquest hearing)] to him, there was sufficient evidence that the dispatch relayed that information to Cst. Matthew Wagner who was the Primary Officer to whom the call got Dispatched First. (Please see Cst. Daniel Losiak's evidence given to IIO Investigators, Ms. Stephanie Sim and Mr. Gareth Barnard on August 11, 2019, at (Page 3, lines 7-18) of Exhibit C2, Cst. Daniel Losiak's evidence to IIO Investigators that confirms that Cst. Matthew Wagner who was also known as Charlie-3 was the Primary Officer to the call and Cst. Daniel Losiak was Dispatched as Cover Unit for Cst. Matthew Wagner. (Page 3, lines 7-18) of Exhibit C2, Transcript of Cst. Daniel Losiak given to IIO Investigators, Ms. Stephanie Sim and Mr. Gareth Barnard on August 11, 2023):

**Constable Daniel Losiak: "Okay. So I was -- at the time the call came in I was far out east in Maple Ridge at approximately 271st, 272nd, checking out a residence. We were just heading back actually, westbound back into town, we were still way out there. The call came in, initially it was dispatched to Charlie-3, who is Cst. Wagner. I was dispatched as cover unit for him. We were quite a distance out. It came in as a domestic call in progress, although after reading the notes initially on the CAD it was -- it looked like a family dispute, some kind of brother, sister, family dispute."**

Moreover, although both Cst. Matthew Wagner [(Page 27, lines 19-36), (Page 28, lines 5-20) of the transcript of the testimony of Cst. Matthew Wagner given at the Coroner's Court

on March 3, 2022), or (Page 410, lines 19-36), (Page 411, lines 5-20) of Exhibit C1, Transcript of Coroner's Inquest hearing)] and Cst. Daniel Losiak [(Page 117, lines 23-33) of the Transcripts of Cst. Daniel Losiak's testimony given at the Coroner Court on March 1, 2022,) or (page 259, lines 23-33), of Exhibit C1, Transcript of Coroner's Inquest hearing)] falsely testified that they were not aware that there was another family member, Mr. Nin Aung's presence in another bedroom inside the house besides Ms. Din and Mr. Maung, and did not recall if the dispatch relayed that information to them. upon thorough cross-examination by the Counsel, Mr. Neil Chantler, Cst. Daniel Losiak admitted the truth that the Dispatch had relayed to them through CFRO check which is for firearms to see if there are any registered firearms to a residence it was discovered that a firearm was registered to my (Ms. Yin Yin Din's) different younger brother, Mr. Min Aung who was not the subject of complaint in this case, Mr. Maung, and I (Ms. Yin Yin Din) had already confirmed the firearm was safely locked away and Mr. Kyaw Maung did not have access to it. (Page 108, lines 40-47), (Page 109, lines 1-5) of the Transcripts of Cst. Daniel Losiak's testimony given at the Coroner Court on March 1, 2022.) or (page 250, lines 40-47), (Page 251, lines 1-5) of Exhibit C1, Transcript of Coroner's Inquest hearing):

**"Constable Daniel Losiak: There was one check that we do. We call it a CFRO check which is for firearms to see if there are any registered firearms to a residence. And in this case, it was positive and so -- but we determined that the firearm was registered to --to a -- to a different brother not our subject of complaint or -- or, in this case, Mr. Maung. And the sister had already -- Ms. Din had already confirmed that that firearm was safely locked away. He did not have access to it.**

**Counsel Mr. Neil Chantler: That information was relayed to you by dispatch, correct?  
Constable Neil Chantler: That's correct."**

Therefore, on March 3, 2022, at the Coroner's Court, Burnaby, Province of British Columbia, during the Coroner's Inquest hearing into the death of Mr. Kyaw Naing Maung (aka) Mr. Kyaw Naing Din, Constable Matthew Wagner did commit perjury contrary to section 131(1) of the Criminal Code of Canada as his statements directly conflicted with verified evidence.

**The Plaintiffs rely on R. v. Henry, 2005 SCC 76 where the Court establishes that a witness's knowledge of the falsity of their testimony is a critical element in proving perjury.**

**Moreover, R. v. Blackmore, 2017 BCSC 1288 establishes that perjury undermines the integrity of judicial proceedings and is treated as a serious offense.**

In fact, the Ridge Meadows RCMP Police Officers, Constable Matthew Wagner, Constable Daniel Losiak, Constable Benjamin Ouellette and Corporal Shayne Shea who has been impersonating the identity of the unidentified Grey-Haired Supervisor Police Officer attired in a Blue Uniform Vest, a Blue Baseball Hat, a Blue Vest, a Blue Pants who opened and entered Mr. Kyaw Maung's Bedroom for no justifiable reason but based on his misinformation that Mr. Maung was suicidal without heeding to the repeated pleadings of Ms. Yin Yin Din to wait 10-15 minutes for the arrival of Mr. Kyaw Maung's three Older Siblings (One Older Sister and two Older Brothers) to de-escalate the situation by speaking

to Mr. Maung committed perjury, as their statements directly conflicted with verified evidence.

The negligent actions of Ridge Meadows RCMP Police Officers and paramedics during the incident and their subsequent false testimony provided to the Independent Investigations Office and the Coroner's Court violated fundamental rights of Mr. Kyaw Maung and his surviving family, the Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family member enshrined in the **Canadian Charter of Rights and Freedoms**:

#### **Charter Violations Amplified by Misleading Testimony**

The officers' actions during the incident and subsequent false testimony exacerbate the violation of several Charter rights:

#### **Section 7 (Right to Life, Liberty, and Security of the Person)**

- (i) Cst. Wagner's testimony concealed critical information about the registered firearm and the presence of additional family member, Mr. Min Aung in another bedroom which could have influenced risk assessment and de-escalation strategies.
- (ii) This omission and subsequent escalation resulted in the loss of Mr. Maung's life, violating his Section 7 rights.

#### **Section 8 (Protection Against Unreasonable Search and Seizure)**

- (i) The officers' failure to properly assess the situation before forcibly entering Mr. Maung's private residence violated the family's reasonable expectation of privacy.
- (ii) The officers' actions and the misleading testimony further demonstrate a pattern of disregard for legal standards.

**Section 12 (Protection Against Cruel and Unusual Treatment)**: The excessive use of force against Mr. Maung, compounded by the officers' attempt to misrepresent facts during the Coroner's Inquest, highlights a systemic failure to respect the dignity and rights of vulnerable individ

#### **Broader Implications and Institutional Responsibility**

The RCMP Detachment and City of Maple Ridge bear institutional responsibility for the actions of their officers:

- (i) **Systemic Issues of Accountability**: Cst. Wagner's perjury reflects broader issues within the Ridge Meadows RCMP Detachment, where officers appear to prioritize self-preservation over transparency and accountability.
- (ii) **Failure to Ensure Accurate Testimony**: By failing to ensure the accuracy and integrity of officers' statements, the RCMP undermines public confidence in the justice system.

(iii) **Relevance of the Coroner's Inquest Findings:**

The purpose of a Coroner's Inquest is to determine the circumstances surrounding a death. Cst. Wagner's false testimony undermines this process, obstructing justice and delaying potential reforms.

In conclusion, Cst. Matthew Wagner's testimony during the Coroner's Inquest constitutes perjury under **Section 131(1) of the Criminal Code of Canada** and exemplifies a pattern of misconduct that infringes upon fundamental Charter rights. His actions not only misled the court but also obstructed efforts to uncover the truth about the circumstances leading to Mr. Maung's tragic death. Given the supporting evidence and legal precedents, this matter warrants thorough investigation and accountability measures.

(c) The Ridge Meadows RCMP officers and the attending paramedics contrived evidence and provided false testimony to the **Independent Investigations Office (IIO)** and the **Coroner's Court**, obstructing justice and misrepresenting key facts, including misstating the location of Ms. Yin Yin Din during the incident, contradicting her truthful testimony and fabricating claims about warnings allegedly shouted by officers, such as "Taser, Taser, Taser" and "Drop it," which were not heard by any civilian eyewitnesses present. These falsehoods hindered a transparent investigation and accountability for the use of unnecessary lethal force, amplifying the Detachment's negligence.

**(d) Gross Police Misconduct and Charter Violations**

The actions of the Ridge Meadows RCMP officers on August 11, 2019, constitute gross police misconduct, negligence, and breaches of constitutional rights:

**Excessive Use of Force:** Mr. Maung, a harmless individual suffering from mental illness, was tased, shot with a firearm, and physically beaten to death in his bedroom for no justifiable reason. These actions violated Section 12 of the Charter, which prohibits cruel and unusual treatment.

**Failure to Provide Language Support:** The officers failed to secure a Burmese translator, which was essential to communicate effectively with Mr. Maung and ensure compliance.

**Section 7: Right to Life, Liberty, and Security of the Person:** The use of lethal force against Mr. Maung resulted in the deprivation of his life, violating his **Section 7 rights**. The officers' failure to heed Ms. Yin Yin Din's repeated pleas to wait for family members to assist in de-escalation further exacerbates this violation. We refer to the Case Law, *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44 where the Court establishes the right to life under Section 7 where government actions endanger individual like Mr. Kyaw Maung and his surviving family members in this matter.

Similarly, we rely on *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35 where the Court establishes that "Denial of timely access to critical assistance leading to death breaches Section 7 rights."

**Section 8: Protection Against Unreasonable Search and Seizure:** The Ridge Meadow RCMP Police Officers forcibly entered the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung's Residence and Mr. Kyaw Maung's private Bedroom without a justifiable reason, violating Section 8. Corporal Shayne Shea's intentional false evidence to the Court and the Independent Investigations Office of the Province of British Columbia that he opened and entered Mr. Maung's Bedroom and could not wait 10-15 minutes for the arrival of Mr. Maung's three Older Siblings (one Older Sister and two Older Brothers who were on their way to de-escalate the situation by speaking to Mr. Maung because Mr. Maung was suicidal further highlights the lack of reasonable grounds for their trespass violation.

We refer to the Case Law, *R. v. Collins*, [1987] 1 S.C.R. 265 where the Court establishes that a warrantless search must meet stringent standards of reasonableness. Similarly, *R. v. Paterson*, 2017 SCC 15: emphasizes the high privacy expectation in one's home, making warrantless entry highly suspect.

**Section 12: Protection Against Cruel and Unusual Treatment:** The excessive use of force of the Ridge Meadow RCMP Police Officers and their subsequent misinformation constitute cruel and unusual treatment. Moreover, the cover-up of the identities of Grey-Haired Super John Doe#4 Grey-Haired Supervisor Police Officer (Doe#4) attired in a Blue Uniform Shirt, a Blue Baseball Hat, a Blue Vest and a Blue Pant whose identity being Impersonated by Corporal Shayne Shea and the Subjct Officer who shot Mr. Maung to death with a firearm, and their serious perjury inflicted psychological trauma on the surviving family, the Plaintiffs, Ms. Yin Yin Din and Mr. Min Aung and family members. We refer Case Law, *R. v. Smith* (Edward Dewey), [1987] 1 S.C.R. 1045 where the Court defines cruel and unusual treatment as that which is disproportionate or arbitrary. Similarly, *R. v. Ferguson*, 2008 SCC 6: confirms that state actions resulting in severe consequences to individuals' dignity breaches Section 12.

#### **5. Unprofessional Conduct and Mockery of Grieving Family**

Constable Yoon Gyo (David) Jung's behavior as a scene security officer was grossly unprofessional and unethical. His mocking laughter at grieving family members when Mr. Kyaw Maung's body was being removed displayed a blatant disregard for the trauma inflicted upon them. This conduct breached his duty of care and caused additional emotional harm to the surviving family members of Mr. Kyaw Din.

#### **6. Systemic Failures of the Defendants**

The Ridge Meadows RCMP Detachment and the City of Maple Ridge demonstrated systemic negligence, including:

**(a) Failure to Train and Supervise Officers:** The Ridge Meadows RCMP Police Officers lacked proper training in de-escalation techniques for mental health crises and failed to communicate effectively, as evidenced by their refusal to use a Burmese interpreter on August 11, 2019.

**(b) Dispatch Errors and Negligence:** The dispatch improperly classified the 911 call as a domestic disturbance between a brother and a sister instead of a mental health assistance request, causing officers to respond inappropriately with heightened aggression. This error underscores a lack of training and competence on the part of RCMP dispatch personnel.

**(c) Delay in Providing Medical Assistance:** After using unnecessary lethal force, the officers failed to prioritize Mr. Kyaw Maung's medical care, neglecting their obligation to preserve life.

#### Defendants' Negligence, Misconduct, and Obstruction of Justice

The officers' false testimony during the Coroner's Inquest and statements to the Independent Investigations Office (IIO) amount to perjury under Section 131(1) of the Criminal Code. Their deliberate falsehoods misled judicial proceedings and obstructed justice.

We refer to the following Case Laws: *R. v. Hoddinott* (1970), 3 C.C.C. 11 (Ont. C.A.); Highlights the gravity of perjury, particularly when it undermines public institutions. *R. v. Archer* (No. 2) (1977), 37 C.C.C. (2d) 469: Perjury that obstructs judicial investigations calls for strict accountability. *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484: Reinforces the duty of transparency and honesty in judicial settings.

#### Systemic Accountability and Institutional Failures

The impersonation and failure to identify the "Grey-Haired Supervisor" (John Doe #4) reflect systemic issues within the Ridge Meadows RCMP. Misrepresenting key facts, including the identity of the officer who authorized entry, undermines the transparency required for public trust. We refer to the following Case Laws:

- (1) *Hill v. Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41: Imposes a duty of care on police officers, holding them liable for negligent investigations.
- (2) *Henry v. British Columbia (Attorney General)*, 2015 SCC 24: Establishes state accountability when negligence or misconduct results in serious harm.

**7. Case Law Supporting Amendment of Pleadings:** The Plaintiffs rely on *Langret Investments S.A. v. McDonnell*, 1996 CanLII 1433 (BC CA), which emphasizes that Courts should generously allow amendments where there is no prejudice to the opposing party and where such amendments enable a full and fair adjudication of the issues. The addition of the Ridge Meadows RCMP Detachment is essential to fully explore their role in training, supervising, and equipping officers to handle mental health crises appropriately. Their actions—and omissions—directly contributed to the tragic and avoidable death of Mr. Kyaw Maung. Adding the Ridge Meadows RCMP Detachment and the City of Maple Ridge as Defendants ensures accountability for their systemic negligence and violations of duty.

**8. Public Interest and Justice:** This case is not only about securing justice for Mr. Kyaw Maung and his family but also about holding the Defendants accountable for systemic failures. Addressing these failures is critical to preventing similar tragedies in the future and

restoring public confidence in law enforcement, administration of justice and emergency services. Adding these Defendants ensures a comprehensive examination of the systemic failures that led to Mr. Maung's death. Without their inclusion, the Court cannot fully adjudicate the complex interplay of individual and institutional negligence that contributed to this tragedy.

The Ridge Meadows RCMP's concealment of John Doe #4's identity and their false testimony severely violate the fundamental rights of Mr. Kyaw Maung's family. These actions exemplify a systemic failure to uphold legal and ethical standards, necessitating thorough investigation, full disclosure, and appropriate accountability to restore public trust and justice for the surviving family of Mr. Kyaw Maung (aka) Mr. Kyaw Din, the Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members.

The Ridge Meadows RCMP officers' deliberate cover-up of John Doe #4's identity, along with their perjury and misinformation during the investigation of Mr. Kyaw Maung's tragic death, not only obstructs justice but also profoundly violates the fundamental human and Charter rights of Mr. Maung's surviving family, Ms. Yin Yin Din and Mr. Min Aung. Below is a detailed legal analysis of these violations under Canadian law.

### **Cover-Up Violates the Charter and Human Rights of surviving family members**

#### **I. Violation of the Right to Truth and Accountability**

##### **1. The Right to Truth: A Human Rights Perspective**

The right to truth is fundamental in international human rights law, particularly where state actors are implicated in serious human rights violations. The deliberate concealment of Grey-Haired Supervisor Police Officer John Doe #4's identity infringes this right, denying the surviving family members and the public the ability to know who was responsible for Mr. Maung's death.

#### **International Human Rights Standards:**

- o UN Human Rights Council Resolution 9/11 emphasizes the right of victims and their families to know the truth about human rights violations, especially in cases involving state actors.
- o In *Velásquez Rodríguez v. Honduras* (1988), the Inter-American Court of Human Rights established that concealing the identities of state agents responsible for wrongful death is a violation of victims' and families' rights to truth and justice.

#### **II. Violation of Canadian Charter Rights**

##### **1. Section 7: Right to Life, Liberty, and Security of the Person**

The Ridge Meadows RCMP's actions have directly violated **Section 7** of the *Canadian Charter of Rights and Freedoms*, which protects individuals' rights to life, liberty, and

security. By withholding the identity of John Doe #4, who played a critical supervisory role during the incident, and misrepresenting the identity of the officer who fired the fatal shots, the RCMP effectively deprived Mr. Kyaw Maung family, the Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of security and peace of mind, deepening their trauma. *Charkaoui v. Canada* (Citizenship and Immigration), 2007 SCC 9: The Supreme Court ruled that withholding essential information related to life, liberty, and security is incompatible with Section. *Gosselin v. Quebec (Attorney General)*, 2002 SCC 84: Emphasized that Section 7 extends beyond physical security to include psychological integrity, especially where state actions exacerbate trauma.

## **2. Section 8: Protection Against Unreasonable Search and Seizure**

The warrantless entry into Mr. Maung's private residence, compounded by the subsequent cover-up of key facts, constitutes a violation of **Section 8**. The concealment of John Doe #4's identity further demonstrates a disregard for the requirement of transparency and legality in police conduct. *R. v. Evans*, [1996] 1 S.C.R. 8: Clarified that law enforcement must act within strict legal limits, and concealment of evidence or identity undermines the principles of reasonable search and transparency. *R. v. Feeney*, [1997] 2 S.C.R. 13: Reinforces that entering a residence without clear justification or proper legal procedure is unconstitutional.

## **3. Section 12: Protection Against Cruel and Unusual Treatment**

The psychological distress caused by the RCMP's concealment of John Doe #4's identity and their false testimony constitutes **cruel and unusual treatment** under **Section 12**. The family's prolonged suffering, caused by the uncertainty surrounding the true circumstances of Mr. Maung's death, amplifies the inhumanity of the officers' conduct. *R. v. Smith* (Edward Dewey), [1987] 1 S.C.R. 1045: The Court recognized that inhumane treatment extends beyond physical punishment to include severe psychological harm caused by state actions. *R. v. Miller*, [1977] 2 S.C.R. 680: Excessive state action resulting in severe distress is deemed cruel and unusual, falling under the Section 12 protection.

## **III. Failure to Uphold Legal and Ethical Standards**

### **1. Police Accountability and Trust in the Justice System**

The RCMP's perjury and cover-up highlight a profound failure in upholding legal and ethical standards essential to maintaining public trust in law enforcement. This breach of trust undermines the rule of law and the administration of justice. *Hill v. Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41: The Supreme Court recognized that police misconduct erodes public confidence, necessitating a high standard of accountability. *Henry v. British Columbia (Attorney General)*, 2015 SCC 24: Held that public institutions must be transparent and accountable, particularly when their actions result in serious harm.

### **2. Institutional Cover-Up as Obstruction of Justice**

The deliberate cover-up of John Doe #4's identity and the officers' provision of false testimony obstructed the Independent Investigations Office (IIO) and the Coroner's Inquest, impeding justice and prolonging the family's suffering. *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484: Stresses the importance of judicial transparency and the detrimental impact of misleading testimony on the justice system. *R. v. White*, [1999] 2 S.C.R. 417: Misleading information provided to investigators constitutes obstruction, warranting serious legal repercussions.

**Coroner's Inquest and Obstruction of Transparency:** The officers and the paramedics' misleading testimony during the Coroner's Inquest subverted its primary function—to ascertain the truth surrounding Mr. Maung's death. This not only obstructs justice but also delays potential institutional reforms. Given the corroborated evidence of police misconduct, negligence, and perjury, immediate accountability is required to restore confidence in the justice system. The systemic issues must be addressed, and those responsible held to the highest standards of legal and ethical conduct. The surviving family members' demand for transparency, especially regarding the identity of John Doe #4, is both reasonable and essential for justice

The Plaintiffs, Ms. Yin Yin Din, Mr. Min Aung and family members of Mr. Kyaw Maung respectfully request the Court to Grant leave to add the Ridge Meadows RCMP Detachment and the City of Maple Ridge as Defendants by Recognizing that the Defendants owed a duty of care to Mr. Kyaw Maung and his family since they breached their duty of care through negligent training, negligent oversight, negligent supervision, using excessive lethal force unnecessarily, and systemic failures causing Mr. Kyaw Maung's death and traumatizing his surviving family, the Plaintiffs Ms. Yin Yin Din and Mr. Min Aung and family members. The Plaintiffs also respectfully, earnestly and humbly request the Court to Permit full discovery and trial to address the constitutional violations, trespass violation, and negligence that culminated in Mr. Kyaw Maung's death and traumatized his family.

50 63. The Police Defendants owed a duty of care to the Plaintiffs. That duty arose out of a relationship of sufficient proximity with the Plaintiffs. The relationship was formed when Ms. Din contacted 9-1-1 seeking assistance for her brother, and further established upon the Police Defendants' arrival at the Din Residence. The Police Defendants ought reasonably to have had the Plaintiffs in mind when they conducted themselves in the manner described herein that led to Mr. Kyaw Din's death.

51 64. The harm caused to the Plaintiffs was reasonably foreseeable to the Police Defendants. The Police Defendants had knowledge of the relationships between the Plaintiffs and Mr. Kyaw Din. The Police Defendants ought reasonably to have foreseen the situation they created by entering the bedroom. The Police Defendant ought reasonably to have foreseen the consequences of deploying the CEW and lethal force. The Police Defendants ought reasonably to have contemplated the harm that was caused to the Plaintiffs by Mr. Kyaw Din's death.

52 65. The Police Defendants failed to meet the standard of a reasonable police officer in the circumstances they found themselves in, particularly in responding to a mental health

call and apprised with the information they had been given by the Dispatcher and Ms. Yin Yin Din.

53 66. The conduct of the Police Defendants' conduct was flagrant and outrageous in the circumstances. Their conduct resulted in Mr. Kyaw Din's death.

54 67-~~Do~~ #4 The real Supervisor Police Officer with Grey Hair (who still has not been identified as he has been hiding), being replaced by Cpl. Shayne Shea failed to adequately assess and understand the situation and to appropriately direct and control the actions of the officers under his command, which resulted in Mr. Kyaw Din's death.

55 68. Pursuant to sections 11 and 14 of the *Police Act*, RSBC 1996, c 367, and section 20 of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10, the defendant Minister is jointly and severally liable for torts committed by municipal RCMP constables in the performance of their duties.

56 69. Particulars of the negligence of the Minister include by are not limited to the following:

a. failing to adequately train and supervise its agents and employees or failing to require them to be adequately trained and supervised, including the Police Defendants, with respect to the proper procedures to follow when dealing with mentally ill citizens, use of force, and culturally appropriate training.

b. failing to ensure the Maple Ridge RCMP have proper policies in place to effectively and safely deal with citizens in circumstances such as those described herein

**The Evidence at the Coroner's Inquest Hearing held from February 28- March 8, 2022**

70. During the Coroner's Inquest held from February 28- March 8, 2022, into the death of Mr. Kyaw Din, the four Ridge Meadow RCMP police officers, ~~Do~~ #1 Constable Matthew Wagner, ~~Do~~ #2 Constable Daniel Losiak, ~~Do~~ #3 Constable Benjamin Ouellette and ~~Do~~ #4 Cpl Shayne Shea, the two paramedics, Mr. Brandon Bullach, Ms. Rikki Rebantad, and Kyaw's sister and brother, Ms. Yin Yin Din and Mr. Min Aung Din testified.

71. Obviously, there was complete cover-up of the atrocious big metal stud on Kyaw's face, many bruises on Kyaw's neck, shoulders, arms, thighs, legs, back, and the sides of Kyaw's body that were not recorded and reported by the pathologist and Independent Investigations Office's Forensic Investigator, injuries on Kyaw's body, the real cause of death of Kyaw and the identity of the Corporal/ Supervisor Police Officer with Grey hair who opened, and entered Kyaw's bedroom, shot Kyaw with both a Tase Gun and a firearm and brutally murdered him in his own bedroom for no justifiable reason on August 11, 2019.

72. The Plaintiffs claim that the Police Defendants did commit perjury and "obstructed the course of justice as they willfully gave false testimonies under oath at the Coroner's Court during the hearing of Coroner's Inquest into the death of Mr. Kyaw Naing Maung (aka) Mr. Kyaw Naing Din held from February 28-March 8, 2022 within the meaning of ss. 120 and 127(2) [rep. & sub. 1972, c. 13, s. 8] of the Criminal Code, as stated in R. v. Moore, 1980 CanLII 314 (BC CA)

**"The definitions of the crime of perjury and of the crime which may be compendiously called "obstructing the course of justice" are respectively set out in ss. 120 and 127(2)[rep. & sub. 1972, c. 13, s. 8] of the Criminal Code, as follows:**

**120. Everyone commits perjury who, being a witness in a judicial proceeding, with intent to mislead gives false evidence, knowing that the evidence is false.**

**127(2) Everyone who wilfully attempts in any manner other than a manner described in subsection (1) to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and liable to imprisonment for ten years."**

73. The circumstances leading to Perjury regarding the testimony of Corporal Shayne Shea who has Impersonated the identity of the Unidentified Corporal/Supervisor Police Officer with Grey Hair wearing a BLUE UNIFORM SHIRT, A BLUE BASEBALL HAT, BLUE UNIFORM VEST AND A BLUE UNIFORM PANT who opened and entered completely Kyaw's bedroom are as follows:

On March 3, 2022, C intentionally lied and falsely testified under oath at the Coroner's Inquest. During his testimony, he made several false statements under oath with the intent of misleading the proceedings and obstructing the course of justice. His statements constitute perjury under section 131(1) of the Criminal Code of Canada, since he intentionally misled the Coroner's Inquest and disrupted the administration of justice. as outlined below:

**Cpl. Shayne Sheas Testimony given at the Coroner's Court on March 2, 2022, During Exam. by Counsel Mr. John MacNamee for Coroner' Inquest:**

On March 2, 2022, Cpl. Shea intentionally lied and falsely testified under oath to disrupt the course of justice at the Coroner's Inquest. During his testimony, he made multiple false statements as listed below.

1. Cpl. Shayne Shea intentionally lied and falsely testified under oath to disrupt the course of justice that he proceeded to the Residence after receiving a debrief from Cpl. Westr Cpl. Westra, in turn, received the information over the phone from two members, Cst. Matthew Wagner and Cst. Daniel Losiak, who were on the scene dealing with a barricaded suicidal male.

2. Cpl. Shayne Shea intentionally lied and falsely testified under oath to disrupt the course of justice that he showed up on the scene and acted as a supervisor to the other officers at

the Residence. (Impersonating a Peace Officer contrary to s.130 of the Criminal Code of Canada).

3. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cpl. Shayne Shea) walked in and spoke to Cst. Wagner (Doe#1), Cst. Losiak (Doe#2) who were already on scene and clarified a couple of things if Mr. Maung was apprehendable under s. 28 of the Mental Health Act and if he was barricaded. And based on their assessment of him, he was apprehendable under s. 28 of the Mental Health Act, and I broadcast over the air letting the dispatch, the other members listening, as well as the watch commander listening that Mr. Maung was not barricaded and that he was just simply in a room at the end of the hallway and the members were adamant that they need to apprehend him.

4. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cpl. Shayne Shea) showed up as supervisor on scene, opened Mr. Maung's Bedroom door the first time, made eye contact with Mr. Maung who made a quick eye contact, then it looked like Mr. Maung grabbed something, and although Cpl. Shea told the members that he couldn't see what it was, Mr. Maung stood back with a combative stance, prompting Cpl. Shea to quickly close the door for safety, creating a barrier between himself, Mr. Maung, and the other members.

5. He intentionally lied and falsely testified under oath to disrupt the course of justice that he and three Ridge Meadows RCMP Police Officers, Cst. Matthew Wagner, Cst. Daniel Losiak and Cst. Benjamin Ouellette were located in the hallway, he moved Cst. Ouellette up front to be on point on the door, because he had the Taser Gun (CEW), and then himself was on the door, and he had Cst. Wagner was standing next to him and Cst. Losiak was behind them

6. He intentionally lied and falsely testified under oath to disrupt the course of justice that there was no one else in the hallway except the four Police Officers, and I, Ms. Yin Yin Din was located in the living room with two EHS members.

7. He intentionally lied and falsely testified under oath to disrupt the course of justice that he and Cst. Matthew Wagner were shoulder-to-shoulder, and he asked Cst. Matthew Wagner to put away the handcuffs as he looked down and saw them in Cst. Matthew Wagner's hand.

8. He intentionally lied and falsely testified under oath to disrupt the course of justice that when he opened Mr. Kyaw Maung's Bedroom door the second time, he did not enter Mr. Kyaw Maung's Bedroom, but Cst. Benjamin Ouellette went inside being followed by Cst. Matthew Wagner who shot Mr. Kyaw Maung with the firearm.

9. He intentionally lied and falsely testified under oath to disrupt the course of justice that he asked Mr. Kyaw Maung's sister, Ms. Yin Yin Din to step back.

10. He intentionally lied and falsely testified under oath to disrupt the course of justice that when he opened the door, he saw Mr. Kyaw Maung agitated with a bladed stance, he determined himself even without all of this other information that, he could see Mr. Kyaw

Maung agitated and not going to come willingly.

**Corporal Shayne Shea's Testimony given at the Coroner's Court on March 2, 2022, During Exam. by Counsel for the RCMP, Mr. David Kwan:**

11. He intentionally lied and falsely under oath to disrupt the course of justice testified that all general duty Police Officers in Maple Ridge at the time of the incident wear khaki shirts.

12. He intentionally lied and falsely testified under oath to disrupt the course of justice that there was no supervisor who wore dark Blue uniform shirts on duty on the day of the incident.

13. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cpl. Shayne Shea) was not giving evidence on behalf of a grey-haired supervisor in the RCMP who was present in the hallway at the time of the incident. (Impersonating a Peace Officer contrary to s.130 of the Criminal Code of Canada).

**NOTE: PLEASE SEE THE DETAILED EXPLANATION AND VERIFIED EVIDENCE IN THE ATTACHED AFFIDAVIT OF MS. YIN YIN HLA DIN AND MR. MIN AUNG.**

**74. The circumstances leading to Perjury regarding the testimony of Constable Matthew Wagner (Doe #1) are as follows:**  
**Constable Matthew Wagner's Testimony given at the Coroner's Court on March 3, 2022, during examination by Counsel for the Coroner, Mr. John MacNamee**

March 3, 2022, Cst. Matthew Wagner (Doe#1) intentionally lied and falsely testified under oath at the Coroner's Inquest. During his testimony, he made several false statements under oath with the intent of misleading the proceedings and obstructing the course of justice. His statements constitute perjury under section 131(1) of the Criminal Code of Canada, since he intentionally misled the Coroner's Inquest and disrupted the administration of justice, as outlined below:

1. Cst. Matthew Wagner (Doe#1) intentionally lied and falsely testified under oath to disrupt the course of justice that Cst. Daniel Losiak (Doe#2) was the first police officer who arrived on scene at the Residence on August 11, 2019, and that Cst. Daniel Losiak primarily communicated with me (Ms. Yin Yin Din).

2. Cst. Matthew Wagner intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Matthew Wagner) and Cst. Losiak each approached (attended) Mr. Kyaw Maung's bedroom door multiple times and tried to communicate with him, and that I, Ms. Yin Yin Din had acted as their interpreter on these occasions.

3. Cst. Matthew Wagner intentionally lied and falsely testified under oath to disrupt the course of justice that Mr. Kyaw Maung was apprehendable under the Mental Health Act because there was a threat of violence.

4. He intentionally lied and falsely testified under oath to disrupt the course of justice and provided inconsistent evidence because although he initially testified that Mr. Maung was apprehendable under the Mental Health Act due to a threat of violence, he changed his previous incorrect evidence and provided correct, but inconsistent evidence that in fact, there was no safety/threat issue of Ms. Yin Yin Din, Mr. Kyaw Maung and everyone in the house.

5. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cpl. Shea was present at the Residence at the time police shot Kyaw. He also testified that Cpl. Shea was the supervising officer on the scene.

6. Cst. Matthew Wagner intentionally lied and falsely testified under oath to disrupt the course of justice that only four police officers, he, Cpl. Shea, Cst. Ouellette, and Cst. Losiak were present in the hallway outside Mr. Kyaw Maung's bedroom, and I, Ms. Yin Yin Din was located in the living room when officers entered Mr. Kyaw Maung's Bedroom or in the moments immediately before this. (or)

He intentionally lied and falsely testified under oath to disrupt the course of justice that he and Cst. Daniel Losiak, Cst. Benjamin Ouellette, and Cpl. Shayne Shea (has been impersonating the Unidentified Supervisor Police Officer with Grey Hair, Doe#4) attended the scene were positioned in the hallway near Mr. Kyaw Maung's Bedroom and I, Ms. Yin Yin Din was standing in the living room with the two paramedics.

He intentionally lied and falsely testified under oath to disrupt the course of justice that he saw Cpl. Shea opened Kyaw's bedroom door twice before officers entered the bedroom. Cpl. Shea open Mr. Kyaw Maung's Bedroom door the first time and then he closed it pretty quickly, looked at them and told them that he saw something in Mr. Maung's hand, and he's going to throw it at us, although he did not know what it was, and then he had Cst. Ouellette positioned across the hallway in the other room with his taser and then Cpl. Shea positioned him (Cst. Wagner) and Cst. Losiak line up behind him (Cpl. Shea) on the wall.

7. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cpl. Shayne Shea was the Supervisor Police Officer who instructed him to put away his handcuffs on the scene.

8. He intentionally lied and falsely testified under oath to disrupt the course of justice that he heard one of the officers yelled shouting, "Taser, taser, taser as Cst. Benjamin Ouellette moved up into the doorway of Mr. Kyaw Din's Bedroom when Cpl. Shayne Shea opened Mr. Kyaw Maung's Bedroom the second time.

9. He intentionally lied and falsely testified under oath to disrupt the course of justice that he entered Kyaw's bedroom behind Cst. Ouelette.

10. He intentionally lied and falsely testified under oath to disrupt the course of justice that Mr. Kyaw Maung stood up screaming and then he started slashing and stabbing at Cst. Ouellette and he (Cst. Matthew Wagner) believed Mr. Maung hit Cst. Benjamin Ouellette with the (paring) knife once into the body armor on his chest.

11. He intentionally lied and falsely testified under oath to disrupt the course of justice that he was the officer who shot Kyaw and he drew his firearm with his left hand and pushed Cst. Ouellette who was in front of him to the left with his right hand, shot Mr. Kyaw Maung with his firearm two to three times causing Mr. Maung to fall to the ground as he saw Mr. Kyaw Maung attempting to stab or slash Cst. Ouellette, and then checked Cst. Benjamin Ouellette to ensure there was no stab wound.

12. He intentionally lied and falsely testified under oath to disrupt the course of justice that he said "knife, knife, knife" before shooting Mr. Kyaw Maung.

13. He intentionally lied and falsely testified under oath to disrupt the course of justice that he was the officer who shot Mr. Kyaw Maung.

**Constable Matthew Wagner's Testimony given at the Coroner's Court on March 3, 2022, During Exam. by Counsel for Mr. Kyaw Naing Maung's family, Mr. Neil Chantler:**

14. He intentionally lied and falsely testified under oath to disrupt the course of justice that when he (Cst. Matthew Wagner) arrived on scene, Ms. Yin Yin Din has already engaged in conversation with Cst. Daniel Losiak.

15. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cst. Mathew Wagner (Doe#1) and Cst. Daniel Losiak (Doe#2) attended Kyaw's bedroom doorway with me, Ms. Yin Yin Din, to speak to Mr. Kyaw Maung through the door while I (Ms. Yin Yin Din) was speaking with my brother, Mr. Kyaw Maung Up to an upward of four times.

16. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Matthew Wagner, Doe#1) had no idea that there was another family member, Mr. Min Aung who was the registered owner of the firearm was present in the other bedroom inside the house besides Ms. Din and Mr. Maung, and he did not recall if the dispatch relayed that information to him.

17. He intentionally lied and falsely testified under oath to disrupt the course of justice that he did not recall that I, Ms. Yin Yin Din pleaded with him to wait about 10-15 minutes for the arrival of Mr. Kyaw Maung's three Older siblings, one Older Sister and two Older brothers who were on the way to the Residence and would be arriving in 10-15 minutes to de-escalate the situation by speaking to Mr. Kyaw Din.

**Constable Matthew Wagner's Testimony given at the Coroner's Court on March 3, 2022, During Exam. by Counsel for RCMP, Mr. David Kwan:**

18. He intentionally lied and falsely testified under oath to disrupt the course of justice that there were only four police officers in the hallway and Ms. Din was located in the living room with the two paramedics.

19. He intentionally lied and falsely testified under oath to disrupt the course of justice that

Cst. Ouelette was not in the bedroom when he deployed his Taser Gun (Conductive energy Weapon), and in fact deployed it from the doorway across the hallway of Mr. Maung's Bedroom.

20. He intentionally lied and falsely testified under oath to disrupt the course of justice that he saw Mr. Maung's body came to rest on his back on the ground facing upwards after he shot Mr. Maung three times with his firearm.

21. He intentionally lied and falsely testified under oath to disrupt the course of justice that all RCMP officers who are general duty officers wear light Grey or khaki standard uniform shirts and no one wears Blue shirts.

22. He intentionally lied and falsely testified under oath to disrupt the course of justice that there was no Grey-Haired Supervisor Police Officer from his detachment wearing a Blue Uniform shirt, a Blue Baseball Cap, a Blue Vest and a Blue Pant who entered Mr. Maung's Bedroom at the time of the shooting incident.

NOTE: PLEASE SEE THE DETAILED EXPLANATION AND VERIFIED EVIDENCE IN THE ATTACHED AFFIDAVIT OF MS. YIN YIN HLA DIN AND MR. MIN AUNG.

**75. The circumstances leading to Perjury regarding the testimony of Constable Constable Daniel Losiak are as follows:**

**Constable Daniel Losiak's Testimony given at the Coroner's Court on March 1, 2022, During Exam. by Counsel Mr. John MacNamee for Coroner' Inquest:**

On March 1, 2022, Cst. Daniel Losiak (Doe#2) intentionally lied and falsely testified under oath to disrupt the course of justice at the Coroner's Inquest. During his testimony, he made multiple false statements as listed below.

1. He intentionally lied and falsely testified under oath to disrupt the course of justice that he was the first officer who arrived at the Residence on August 11, 2019.
2. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Daniel Losiak, Doe#2) was the Police Officer who primarily communicated with me (Yin Yin) at the Residence on August 11, 2019.
3. He intentionally lied and falsely testified under oath to disrupt the course of justice that he was the primary officer to my (Yin Yin's) call on August 11, 2019, or the officer who first got dispatched to my call but not Cst. Matthew Wagner.
4. He intentionally lied and falsely testified under oath to disrupt the course of justice that he called the Emergency Health Services scene (EHS) to attend the scene during the incident at our Residence.

5. He intentionally lied and falsely testified under oath to disrupt the course of justice that he told me (Yin Yin) that Mr. Maung was going to be apprehended which I already told my brother, Mr. Maung.

6. He intentionally lied and falsely testified under oath to disrupt the course of justice that police officers approached the door to Mr. Maung's bedroom several times to try to de-escalate the situation, and that I acted as an interpreter on these occasions to help officers communicate with Kyaw.

7. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Losiak), Constable Wagner, I, (Yin Yin) and the two paramedics again approached Mr. Maung's Bedroom again after the two paramedics had arrived to de-escalate the situation by reassuring Mr. Maung that they were there to help him get to the hospital.

8. He intentionally lied and falsely testified under oath to disrupt the course of justice that Mr. Kyaw Maung was apprehendable under s. 28 of the Mental Health Act as it was quite clear that based off his deteriorating mental health because he was on he was on schizophrenia, and he had not been on his medication for some days.

9. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Daniel Losiak), and the police officers had been on scene for quite a lengthy period of time already for over an hour and had made so many attempts and exhausted their efforts to try to get Mr. Kyaw Maung to come out of his bedroom voluntarily.

10. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cpl. Shayne Shea was the Supervisor Police Officer who arrived on scene with Cst. Benjamin Ouellete at the Residence.

11. He intentionally lied and falsely testified under oath to disrupt the course of justice that the officers would enter Mr. Maung's bedroom to apprehend him, and that he developed a "tactical plan" for making entry; he and Cst. Matthew Wagner, Cst. Benjamin Ouellete and Cpl. Shayne Shea were located in the hallway, Corporal Shayne Shea was going to open Mr. Kyaw Maung's bedroom door, which was on his right, Cst. Benjamin Ouellete was located in the bedroom entrance across from Mr. Kyaw Maung's bedroom with conducted energy weapon (CEW), and Cst. Matthew Wagner and himself (Cst. Daniel Losiak) were in the hallway just behind that, he (Cst. Daniel Losiak) was partially into a bathroom.

12. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Daniel Losiak) saw me (Ms. Yin Yin Din) located in the living room at the time of the incident.

13. Cst. Daniel Losiak, on March 1, 2022, being a witness at the Coroner's Court, during the Coroner's Inquest hearing, in a Fomal Court Proceeding: a judicial hearing in the Provincial Coroner's Court of British Columbia into the death of Mr. Kyaw Naing Maung intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Daniel Losiak) saw me, Ms. Yin Yin Din in the living room at the time of the incident: which was contrary to the evidence he previously gave in his video interview to the IIO investigators, Ms. Stephanie Sim, and Mr. Gareth Bamard at Maple Ridge (Ridge Meadows) at RCMP.

Detachment on August 11, 2019, while a witness at during the Investigation of the Independent Investigations Office (IIO), on August 11, 2019 that Ms. Yin Yin Din was outside the house at the time of the incident: believe the sister was actually outside" knowing his evidence to be false.

14. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cpl. Shea opened Mr. Maung's bedroom door twice before the officers entered. He testified that the first time Cpl. Shea opened the door, he looked into the bedroom, then shut the door again and told the other officers he had seen Mr. Kyaw Maung holding something in his hand.

15. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Daniel Losiak) saw Cpl. Shayne Shea open Mr. Kyaw Maung's Bedroom door the second time.

16. He intentionally lied and falsely testified under oath to disrupt the course of justice that he checked Cst. Benjamin Ouellette, if he was stabbed under his vest after he heard two to three gunshots.

17. He intentionally lied and falsely testified under oath to disrupt the course of justice that On March 1, 2022, at the Coroner's Court, to the effect by giving inconsistent evidence which was contrary to the testimony he previously provided to the independence Investigations Office (IIO) of British Columbia that he believed that (the weight plate) hit Cst. Ouellette. Cst. Daniel Losiak testified at the Coroner's Court that he did not even recall saying in his statement to IIO that when the door was fully opened a second time by Cpl. Shea, he saw the object thrown out and he said, that he believed that hit Cst. Ouellette. He changed his evidence at the Coroner's Court that the weight did not hit Cst. Benjamin Ouellette.

18. He intentionally lied and falsely testified under oath to disrupt the course of justice that, when Mr. Kyaw Maung's bedroom door was fully opened for the second time, he saw a weight disc came flying out of the room which struck a wall in the hallway.

**Constable Daniel Losiak's Testimony given at the Coroner's Court on March 1, 2022, During Exam. by Counsel for Mr. Kyaw Maung's family, Mr. Neil Chantler:**

19. He intentionally lied and falsely testified under oath to disrupt the course of justice that at he did most of the communication by speaking with Ms. Yin Yin Din at the scene.

20. He intentionally lied and falsely testified under oath to disrupt the course of justice that the dipatch had actually given him the information that there was a firearm registered to Ms. Din's another (younger brother, Mr. Min Aung) brother and Mr. Maung did not have any access to it as it was safely locked away, but he did not know the fact that Mr. Min Aung was in the Residence.

**Constable Daniel Losiak's Testimony given at the Coroner's Court on March 1, 2022, During Exam. by Counsel for the RCMP, Mr. David Kwan:**

21. He intentionally lied and falsely testified under oath to disrupt the course of justice that there was no Grey-Haired Supervisor Police Officer (John Doe#4) wearing a Blue Uniform shirt, a Blue Baseball Cap, a Blue Vest and a Blue Pant who entered Mr. Maung's Bedroom at the time of the shooting incident.

NOTE: PLEASE SEE THE DETAILED EXPLANATION AND VERIFIED EVIDENCE IN THE ATTACHED AFFIDAVIT OF MS. YIN YIN HLA DIN AND MR. MIN AUNG.

**76. The circumstances leading to Perjury regarding the testimony of Constable Benjamin Ouellette are as follows:**

**Constable Benjamin Ouellette (Doe#3)'s Testimony given at the Coroner's Court on March 2, 2022, During Exam. by Counsel Mr. John MacNamee for Coroner' Inquest:**

On March 2, 2022, Cst. Ouelette (Doe#3) intentionally lied and falsely testified under oath to disrupt the course of justice at the Coroner's Inquest. During his testimony, he made multiple false statements as listed below.

1. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Ouelette Doe#3) and his Corporal Shayne Shea attended the Residence as the Supervisor on the day of the incident.
2. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Benjamin Ouellette Doe#3), and Cst. Daniel Losiak entered our Residence and made his way to the backyard to look through and see what Mr. Kyaw Maung was doing through the back window before Corporal Shayne Shea attended the scene.
3. He intentionally lied and falsely testified under oath to disrupt the course of justice that after he (Cst. Ouelette Doe#3) looked through Mr. Maung's back window, house and went to see the hallway because we used the term, "barricaded" which at the end of the day, he (Mr. Kyaw Maung) was not barricaded, he was just behind a closed door, but it was not his belief at that time that the door was locked. In the meantime, Cpl. Shayne Shea attended the scene, he went and met with Cp. Shea who was talking to Cst. Matthew Wagner and Cst. Daniel Losiak, Cpl. Shayne Shea asked the simple question of was the man inside the room apprehendable, which Cst. Matthew Wagner and Cst. Daniel Losiak confirmed that he was.
4. He intentionally lied and falsely testified under oath to disrupt the course of justice that Mr. Maung was apprehendable under s. 28 of the Mental Health Act because there was a

threat of violence.

5. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Ouellette) was positioned in the doorway of the Bedroom across the hallway from Mr. Kyaw Maung's Bedroom, Cpl. Shayne Shea was located at the hinge point of Mr. Maung's Bedroom and Cst. Wagner was behind Cpl. Shayne Shea and then Cst. Daniel Losiak was right behind Cst. Wagner, and it was their plan that he (Cst. Ouellette) would deploy his Taser Gun and then Cst. Wagner and Cst. Losiak would go inside Mr. Maung's Bedroom to apprehend him after the taser deployment.

6. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cst. Benjamin Ouellette deployed his Taser Gun and pointed it at Mr. Maung's Bedroom door that was closed at the time; and then Cpl. Shea advised/asked if they were ready to go as Cpl. Shea quickly opened Mr. Maung's Bedroom door for the second time.

7. He intentionally lied and falsely testified under oath to disrupt the course of justice that he saw Cpl. Shayne Shea open Mr. Maung's Bedroom door the first time quickly for about 30 centimeter wide, then Cpl. Shayne Shea, spoke to him that Mr. Maung had something in his hand although he did not say what it was.

8. He intentionally lied and falsely testified under oath to disrupt the course of justice that he deployed his Taser Gun (CEW) because he feared imminent bodily harm because Mr. MauNng threatened to hurt his sister and that he said that he would throw something at whoever comes to the door.

9. He intentionally lied and falsely testified under oath to disrupt the course of justice that Cpl. Shayne Shea asked him (Cst. Benjamin Ouellette), Cst. Matthew Wagner and Cst. Daniel Losiak if they were ready to go before opening Mr. Kyaw Maung's Bedroom the second time, Cpl. Shayne Shea opened the bedroom door quickly, he (Cst. Benjamin Ouellette), fired his Taser Gun at Mr. Muang when he was in position number 2, which was right in front of the closet, in the middle between the two Bedroom doors (the middle spot in the hallway between Mr. Maung's Bedroom and the bedroom across the hallway from Mr. Maung's Bedroom, Mr. Maung started to move towards the chair at the back of the room, Cst. Ben Ouellette said that he entered the room and moved towards the right corner to make the space and let Cst. Matthew Wagner and Cst. Daniel Losiak, who were behind him, enter the room.

10. He intentionally lied and falsely testified under oath to disrupt the course of justice that he shouted, prior to entering the bedroom, because Cpl. Shea told him that Mr. Kyaw Maung had something in his hand, I said, "Drop it, three times, Drop it, drop it, drop it", and then he saw Mr. Maung and then when he saw Maung, he started to say, "Taser, taser, taser," to let his coworkers know that he was going to deploy the taser, then moved into Mt. Maung's Bedroom thinking that his taser deployment was partially effective as he saw Mr. Maung stumbling or losing his balance causing Mr. Maung to sit in the chair in the back room shouting, "Go, go, go to his coworkers to move in and apprehend Mr. Maung and then that was when he heard, "knife, he has a knife.", he looked in Mr. Maung's hand and he could see the knife that Mr. Maung was holding a two to three inches long knife in his right

hand. \_\_\_\_\_

11. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Benjamin Ouellette) was pushed on his left side by Cst. Matthew Wagner causing him to fall on the two boxes of items on the left side of the bedroom in front of the bed, and while leaning on them, he heard gunshots, and Mr. Maung just fell on the ground. Cst. Benjamin said that he stood up from the boxes where he was leaning when Mr. Maung was on the ground, and he looked over his right shoulder and he saw Cst. Matthew Wagner who repeated, "He had a knife., and then both Cst. Matthew Wagner and he (Cst. Benjamin Ouellette) backed away from the bedroom., he (Cst Benjamin Ouellette) tried to engage with Mr. Kyaw Maung who was on the ground, and asked his coworkers to check themselves, went over the radio, advised his dispatcher that there were shots fired and there was a man on the ground and that they needed paramedics, although they were already there. \_\_\_\_\_

12. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Benjamin Ouellette), fired his Taser Gun at Mr. Muang when he was in position number2, which was right in front of the closet, in the middle between the two Bedroom doors (the middle spot in the hallway between Mr. Maung's Bedroom and the bedroom across the hallway from Mr. Maung's Bedroom), and because he couldn't create some kind of distance and then lift the taser up so that the charge was not dispersed, but in this case, because it was outside the bedroom, he could not back up otherwise the wires would either be touching the doorframe or would be broken by Cst. Wagner or Cst. Losiak who would be entering the door and then, therefore, if the wires were broken, the taser would not be effective. So, when I moved inside the bedroom, the taser was partially effective, but I thought that the lines of the taser were touching the ground, so I believed that the charge was just dissipating into the ground or the object it was touching at the time,

13. He intentionally lied and falsely testified under oath to disrupt the course of justice that he has been a police officer for three years, but not almost six years. \_\_\_\_\_

14. He intentionally lied and falsely testified under oath to disrupt the course of justice that he deployed his conductive energy weapon for the very first time since he became a taser-trained officer on March 7, 2019 when he deployed his taser on Kyaw on August 11, 2019. \_\_\_\_\_

15. He intentionally lied and falsely testified under oath to disrupt the course of justice that he used the doorframe as cover and then moved in the middle of the hallway as part of my training. \_\_\_\_\_

16. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Benjamin Ouellette) did not accept and recall that I, Ms. Yin Yin Din was located in the hallway right behind the supervisor officer. \_\_\_\_\_

17. He intentionally lied and falsely testified under oath to disrupt the course of justice that he (Cst. Benjamin Ouellette) did not recall supervising officer asking Ms. Din to back up a little bit prior to entering Mr. Maung's Bedroom. \_\_\_\_\_

18. He intentionally lied and falsely testified under oath to disrupt the course of justice that

he (Cst. Benjamin Ouellette) did not recall supervising officer saying, "Are you okay," as Mr. Maung's bedroom door was opened by Cpl. Shayne Shea.

19. He intentionally lied and falsely testified under oath to disrupt the course of justice he took instructions from Cpl. Shea in the time leading up to the officers' entry into Mr. Maung's bedroom.

20. He intentionally lied and falsely testified under oath to disrupt the course of justice that he, Cst. Benjamin Ouellette (Doe #3) shot Mr. Kyaw Maung (aka) Mr. Kyaw Din with his Taser Gun (CEW) as our Innocent, Harmless Civilian beloved brother, Mr. Kyaw Maung ran toward him and tried to stab him in the belly area.

21. He intentionally lied and falsely testified under oath to disrupt the course of justice that he tried to engage with Mr. Maung that was on the ground, and I was telling him, "Sir, if you hear me, don't move."

22. Constable Benjamin Ouellette did commit forgery contrary to section 366(1) of the Criminal Code of Canada by creating an incorrect timestamp of the time Taser Report. Cst. Benjamin Ouellette pulled the first trigger of his Taser Gun (CEW) during the Ridge Meadows RCMP police officers' shooting of our innocent harmless civilian, Mr. Kyaw Maung who was suffering from mental health illness to death at approximately 2:16 P.M. on August 11, 2019, in the Bedroom of Mr. Kyaw Din

There is significantly serious inconsistent evidence in the Taser Report regarding the time, and duration of the Taser deployments on the day of the incident on August 11, 2019. The Report shows that Cst. Benjamin Ouellette deployed his Taser X26P two times at the time of the last recorded data on August 11, 2019, from **14:23:45 to 14:23:50**, and both cycles were 5 seconds.

There is another significant contradictory evidence between the flat-out lies of the four police officers' and the two paramedics' version of how the incident happened and the true firsthand eyewitness, Ms. Yin Yin Din and Mr. Min Aung's version of the incident. The Ridge Meadow RCMP police officers and the two paramedics had contrived their evidence, and incorrectly stated that they all heard the yelling, "Drop it, drop it, drop it", "Taser, Tase, Taser", "Knife, he has a knife!", "Knife, knife, back out!, he's got a knife" and, "shots fired", "Check yourself", is not true at all.

77. The four Police Defendants, Constable Benjamin Ouellette, Constable Daniel Losiak Corporal Shayne Shea, Constable Matthew Wagner made false statements that are not truthful while under oath and committed perjury. They partook in the miscarriage of justice and corrupted the legal process. Obviously, they need to be charged with perjury and forgery charges as they partook in the miscarriage of justice and corrupted the legal process and disrupted the legitimate discovery of truth. The two Paramedics, Mr. Brandon Bullach, and Ms. Rikki Rebantad also gave false evidence to the Independent Investigations Office regarding the location of Ms. Yin Yin Din in the hallway on the day of the incident on August 11, 2019, stating that Ms. Yin Yin Din was located about 15 feet away from Mr. Kyaw Din's Bedroom. In fact, Ms. Yin Yin Din was located just a few feet (two- three feet) away from Mr. Kyaw Din's Bedroom at the time of the shooting.

**Loss of Mr. Kyaw Din's love, care, guidance and companionship**

~~57~~ 78 The Plaintiffs claim for the loss of love, care, guidance and companionship of Mr. Kyaw Din pursuant to the *Family Compensation Act*, RSBC 1996, c 126.

79. Given Mr. Kyaw Din's condition, the relationship between Ms. Yin Yin Din, Mr. Min Aung and Mr. Kyaw Din was more analogous to a parent-child relationship than that of a sibling relationship and ought to be captured by the provisions of the *Family Compensation Act* as Mr. Kyaw Din's death arose from the wrongful acts or negligence of the defendants.

~~58~~ 80. The term "parent" in the *Family Compensation Act* includes a grandparent and a stepparent (s.1) and should be interpreted to include anyone in a parent-like relationship with the diseased.

~~59~~ 81. Additionally, or in the alternative, the Plaintiffs claim the *Family Compensation Act* is contrary to the *Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 15 (the "*Charter*") based on the analogous ground of family status.

~~60~~ 82. Family status is not an enumerated ground under s.15 of the *Charter* but is an established and immutable ground for discrimination in human rights legislation across Canada.

~~64~~ 83. The exclusion of siblings in the circumstances of the Plaintiffs from the provisions of the *Family Compensation Act* does not have an ameliorative or remedial purpose, nor does the exclusion benefit a disadvantaged individual or group.

~~62~~ 84. The exclusion of siblings in the circumstances of the Plaintiffs from the *Family Compensation Act* is not saved by s. 1 of the *Charter* as this exclusion does not meet the reasonable limits test given the inclusion of siblings in other, similar provincial legislation.

~~63~~ 85. In support of this claim, the Plaintiffs also plead and rely on:

- a. the *Family Compensation Act*, RSBC 1996, c 126.
- b. *Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
- c. the *Negligence Act*, RSBC 1996, c 333.
- d. the *RCMP Act*, RSC 1985, c R-10 and regulations.
- e. the *Police Act*, RSBC 1996, c 367 and regulations.

f. the common law torts of negligence, assault and battery, intentional infliction of mental suffering and wrongful death.

g. the common law of damages; and

h. the *Court Order Interest Act*, RSBC 1996, c 79.

86. B.C.'s legislation is an anomaly as most other similar compensation acts contain provisions for siblings to make claims and thus creates a disadvantage for B.C. families seeking compensation for the loss of their loved ones due to wrongful death.

PLACE OF TRIAL: VANCOUVER, BRITISH COLUMBIA

Plaintiff's address for service: Ms. Yin Yin Hla Din and Mr. Min Aung

[REDACTED]  
[REDACTED]  
[REDACTED]

Fax number for service: [REDACTED]

Phone number for service: [REDACTED]

Email address for service: [REDACTED]

Place of trial: Vancouver, BC

The address of the registry is: The Law Courts, 800 Smithe Street, Vancouver, BC, V6Z 2E1

Date: December 12, 2024

\_\_\_\_\_  
Signatures of Ms. Yin Yin Hla Din and Mr. Min Aung

This Proposed Amended Notice of Civil Claim is filed and delivered by the Plaintiffs.

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:**

The Plaintiff's claim is for damages for injuries and losses caused by the negligence and fault of the defendants, and each of them.

**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: STATUTES**

1. *Court Order Interest Act*, RSBC 1996, c 79.
2. *Negligence Act*, RSBC 1996, c 333.
3. *Family Compensation Act*, RSBC 1996, c 126.
4. *Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
5. *Royal Canadian Mounted Police Act*, RSC 1985, c R-10; and
6. *Police Act*, RSBC 1996, c 367.