

| | | |
|-----------------------|---|----------------------------|
| e-document | T-573-23-ID 1 | |
| F I L E D | FEDERAL COURT COUR FÉDÉRALE March 13, 2023 13 mars 2023 Lindsay Krieger | D É P O S É |
| EDM | 1 | |

(Court File No.)

FEDERAL COURT

BETWEEN:

**DREW NESBITT CONDIE, JACKSON DREW CONDIE, OSCAR BRADY CONDIE & ZAPHIA
VIVIAN CONDIE**

PLAINTIFFS

and

HIS MAJESTY THE KING IN RIGHT OF CANADA

DEFENDANT

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are
required to prepare a statement of defence in Form 171B prescribed by the [Federal
Courts Rules](#), serve it on the plaintiff's solicitor or, if the plaintiff does not have a
solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this
Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if
you are served in Canada or the United States: or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if
you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of
defence if you or a solicitor acting for you serves and files a notice of intention to
respond in Form 204.1 prescribed by the [Federal Courts Rules](#).

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

DATE: March 7, 2023

Issued by: _____
(Registry Officer)

Address of local office:

Rice Howard Place
10060 Jasper Avenue
Tower 1, Suite 530
Edmonton, Alberta
T5J 3R8

TO:

HIS MAJESTY THE KING IN RIGHT OF CANADA
Department of Justice Canada
Floor 1, 10423 101 Street NW
Edmonton, AB T5J 4Y8

RELIEF SOUGHT

1. The Plaintiffs, Drew Condie, Jackson Condie, Oscar Condie & Zaphia Condie, each claim:
 - a. a Declaration that the Defendant, His Majesty the King in Right of Canada, owed and was in breach of statutory and common law duties to the Plaintiff;
 - b. a Declaration that the Defendant is liable to the Plaintiff for the damages caused by its breach of statutory and common law duties;
 - c. general and aggravated damages arising from the Defendant's breach of statutory and common law duties in the amount of \$1,000,000.00;
 - d. damages against the Department of National Defence (DND) and the Canadian Armed Forces (CAF) in the amount of \$5,000,000.00 for a negligent investigation undertaken by the Military Police Service (MP) and the Canadian Forces National Investigation Service (CFNIS) into the attempted murder of the minor plaintiffs and arson of a unit within the Private Married Quarters (PMQ) at CFB Edmonton;
 - e. special damages in an amount to be determined, including future and anticipated medical and out of pocket expenses;
 - f. punitive and/or exemplary damages in the amount of \$5,000,000.00;
 - g. prejudgment and post-judgment interest;
 - h. the costs of the action, including GST and other taxes applicable, on a substantial indemnity basis; and
 - i. such further and other relief as this Honourable court may deem just.

THE PARTIES

2. The Plaintiff, MCpl Drew Condie (ret'd), was a military career professional who resides in Edmonton, in the Province of Alberta, and is 45 years age. He enrolled in the CAF in 1998, at the age of 20. Mr. Condie is now retired from CAF.
3. The Plaintiff, Jackson Condie is the child of Drew and Chantal Condie and is 17 years of age. He resides in Edmonton, in the Province of Alberta. At the time of the fire, Jackson was 10 years old.

4. The Plaintiff, Oscar Condie is the child of Drew and Chantal Condie and is 16 years of age. He resides in Edmonton, in the Province of Alberta. At the time of the fire, Oscar was 8 years old.
5. The Plaintiff, Zaphia Condie is the child of Drew and Chantal Condie and is 15 years of age. She resides in Edmonton, in the Province of Alberta. At the time of the fire, Zaphia was 7 years old.
6. The Department of National Defence (DND) is established by the *National Defence Act* RSC, 1985, c N-5, s 3, and is presided over by the Minister of National Defence.

THE FACTS

7. In June 2015, Drew Condie, a Master Corporal in CAF, was granted primary parenting of his three children, Jackson, Oscar, and Zaphia by the Court of Queen's Bench of Alberta.
8. The children were scheduled to attend a summer camp while their father was deployed to Saskatchewan on OPERATION LENTUS to fight wildfires in Saskatchewan in July 2015.
9. The mother of the children, Chantal Condie, a Corporal in CAF, was angry about the change in parenting.
10. The MPs at Canadian Forces Base Edmonton refused on numerous occasions to enforce an Order of the Court of Queens Bench to enforce return of the children from their mother's home under a police enforcement clause in the Parenting Order.
11. Prior to July 2015, Jerris Popik, a social worker with the Military Family Resource Centre at CFB Edmonton, reported to MPs that Ms. Condie was a danger to herself and the children. No actions were taken by the MPs to assess the risk or remove the children from harm.
12. Ms. Condie removed the children from the summer camp in their father's absence and without his knowledge or consent. She then proceeded on or about July 19, 2015, to take the children to West Edmonton Mall where she lavished them with entertainment and a stay at the hotel.

13. Ms. Condie was found to have withdrawn \$10,000.00 from her bank account and to have written a letter to a friend on stationary from the Fantasyland Hotel. The children witnessed her mailing the letter. The letter stated, among other things, "when you receive this I will be in jail or dead".
14. On or about the night of July 20, 2015, Ms. Condie sedated her children with cold medicine even though none of the children were ill at the time.
15. During that night, the older two children reported smoke and a possible fire to Ms. Condie. She reassured them and had them return to sleep. The older child did not succumb to the medication he had been administered. When the fire became worse, he was able to escape the PMQ and summon help from the neighbours to rescue the other two children. Ms. Condie was also rescued from the fire.
16. Three members of the CAF were awarded medals for their actions to save the children from the fire.
17. The MPs then pursued Mr. Condie in an erroneous investigation of starting the fire and attempting to harm or kill Ms. Condie and the children. After eight months, and no efforts to confirm his whereabouts on the night in question, the MPs closed the investigation.
18. Ms. Condie was not questioned about the fire until March 2016, several months after the fire.
19. In the investigation by the MPs/CFNIS, Ms. Condie attempted to blame the children and then Mr. Condie for personally setting the fire. Her allegations were not consistent with the evidence nor the circumstances of a recent loss of parenting in the family court.
20. The letter she had written indicating that she was intent on killing herself and the children was not investigated in the context of the fire. It was instead put in a separate investigation file and not associated with the fire until investigators were forced to link the evidence to the fire by Mr. Condie's insistence.
21. There was no investigation into the children or Ms. Condie being sedated or drugged at the time of the fire. No testing was done on any of the children or Ms. Condie.

22. The children, as witnesses, were consistent in their stories and showed no indications of being responsible for the fire.
23. Mr. Condie was not in the Edmonton area at the time of the fire which could be proven by duty logs and witnesses.
24. The Co-Operators General Insurance Company (insurance company) fire investigator, in his preliminary report of July 27, 2015, clearly established that the fire was deliberately set with accelerants and was arson.
25. The Canadian Forces Fire Marshall completed an investigation into the fire on April 18, 2016. The report is redacted and not sufficient to clearly indicate the cause of the fire and how the fire was likely started. The report was referred to CFNIS for further investigation. No further investigation was done at this time.
26. The children have required extensive psychological support since the fire and subsequent upheaval of the investigations and assessments.
27. Mr. Condie has required extensive psychological support to deal with the consequences of his children being put into danger and then having the danger ignored by the CAF. He had to release early from CAF due to the psychological and emotional injury he sustained due to the mishandled investigation. He was only 50 days short of a full pension when medically released.

CRIMINAL PROCEEDINGS

28. The MPs/CFNIS failed to act on any of the evidence in the months and years that followed despite Mr. Condie approaching them several times to investigate the attempted murder of his children.
29. Mr. Condie filed a complaint with the Canadian Forces Provost Marshall regarding the investigation. The complaint was closed on December 11, 2017, the letter suggests that the complaint was unwarranted.
30. In February 2018, Mr. Condie retained legal counsel to assist him with pursuing a private prosecution for attempted murder of the children.
31. On October 15, 2018, Mr. Condie received the insurance company's fire investigator's report after having to bring a civil claim in order to compel its release to him. He then provided this report to the MPs/CFNIS but no actions were taken to continue or re-open the investigation.

32. In July 2018, Ms. Condie was denied unsupervised access to her children by the family court as the Court determined she was a risk to the children from the attempts on their lives and the subsequent psychological and emotional trauma of continued exposure to their mother who had tried to kill them.
33. MPs/CFNIS continued to ignore these facts presented to them at the time.
34. In July 2018, the Court ordered that she undergo a psychological assessment before she could bring her claim for access.
35. Mr. Dev Sawh was engaged to do the Practice Note 7 in May 2019. The assessment was completed in September 2019.
36. At some point in his assessment, Mr. Sawh, broke client confidentiality to approach the MPs/CFNIS with his concerns regarding the risk Ms. Condie posed to the children, Mr. Condie and the community.
37. Only then, in or about the summer of 2019, 4 years after the incident involving three children, did the MPs/CFNIS begin a thorough and complete investigation into the fire and the attempted murder of the children.
38. In or about September 18, 2019, Ms. Condie was charged with three (3) counts of attempted murder and two (2) counts of arson.
39. On January 14, 2020, Mr. Condie was granted full decision-making and parenting of the three children based on the assessment of Mr. Sawh. Ms. Condie was denied any direct access to the children, even by electronic or written communications.
40. On February 24, 2023, Ms. Condie was convicted of all charges.

DAMAGES

41. As a result of the negligent MP/CFNIS investigation the plaintiffs have suffered sustained psychological and emotional injury, including but not exclusively pain and suffering, stress, and anxiety. The after-effects continue to this day.
42. Mr. Condie will never be able to fully realize the career he had earned through his devoted and diligent service to his country, including but not limited to loss of salary and pension entitlements. The negligence he has suffered has resulted in

his career coming to a much sooner end than he intended in the summer of 2015.

43. The Plaintiffs' entire lives changed because of the lack of investigation into the fire and the conduct of the CAF throughout this period and seeks damages for mental distress.

44. Significant legal costs were incurred by Mr. Condie to push for the criminal investigation and prosecution. In addition, there are legal costs associated with ensuring the safety of his children from further physical, psychological and emotional harm.

45. Since the conviction of Ms. Condie, DND and CAF have taken no action to remedy the situation or compensate the Plaintiffs for the negligence and injuries they have been subject to since the summer of 2015.

JURISDICTION

46. The Crown is liable for the damages for which, if it were a person, it would be liable, in respect of a tort committed by a servant of the Crown (*Crown Liability and Proceedings Act* RS 1985 c C-50 s3(b)).

47. The Plaintiffs are resident of Alberta.

48. The actions of the Defendant all occurred in the Province of Alberta, Canada.

49. The Plaintiff proposes that this action be tried at Edmonton, Alberta.

March 7, 2023



Catherine M. Christensen
Barrister & Solicitor
Valour Law
405. 1 Tache Street
St Albert, AB T8N 1B4
780-544-2200
Fax 866-560-9826
info@valourlaw.com