

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Akonwie v. Northern and First Nations Authority*,
2025 BCSC 51

Date: 20250114
Docket: 2463339
Registry: Prince George

Between:

Tanya Akonwie

Plaintiff

And:

**Attorney General of Canada, The Minister of Public Safety and
Solicitor General in The Province of British Columbia, Northern Health
Authority and First Nations Health Authority**

Defendants

Before: The Honourable Mr. Justice Ball

Reasons for Judgment

The Plaintiff appeared in person without
legal counsel:

T. Akonwie

Counsel for Attorney General of Canada
and the Minister of Public Safety and
Solicitor General in the Province of British
Columbia:

A. Choi

Counsel for the Northern Health Authority:

A. Christoff

Counsel for the First Nations Health
Authority:

A.E. Olson

Place and Date of Hearing:

Prince George, B.C.
October 8, 2024

Place and Date of Judgment:

Vancouver, B.C.
January 14, 2025

Table of Contents

INTRODUCTION 3
BACKGROUND..... 3
CLAIMS AGAINST THE FNHA..... 4
CLAIMS AGAINST THE NHA 4
LAW..... 5
 Rule 9-5 – Striking Pleadings 5
ANALYSIS..... 7
CONCLUSION..... 9

Introduction

[1] These are reasons for judgment on the application by the defendants Northern Health Authority (“NHA”) and First Nations Health Authority (“FNHA”) for an order:

- a) to strike out the entirety of the plaintiff’s claim, without leave to amend;
- b) to dismiss the claim pursuant to Rule 9-5(1) of the *Supreme Court Civil Rules*, BC Reg 168/2009; and
- c) for costs.

Background

[2] The plaintiff, Tanya Akonwie, filed a Notice of Civil Claim (the “Claim”) on February 1, 2024 against the NHA and FNHA. The plaintiff used an unusual format in the Claim which outlined a series of events occurring over a period of approximately one year.

[3] The plaintiff is a Métis woman who resides in Vanderhoof, B.C.

[4] The FNHA is a First Nations non-profit society which is incorporated pursuant to the *Societies Act*, S.B.C. 2015, c. 18. It provides community health services to First Nations communities in British Columbia. The FNHA provides virtual healthcare services to First Nations communities with limited or no access to primary care providers. On July 28, 2023, the plaintiff contacted a FNHA nurse by telephone, with whom the plaintiff had previous contact. During the phone call, the plaintiff was apparently in distress and suicidal. Based on the behaviour of the plaintiff, the FNHA staff initiated a wellness check to ensure the safety and wellbeing of the respondent. The FNHA had no involvement with the plaintiff thereafter.

[5] RCMP conducted the wellness check and transported the plaintiff to the Vanderhoof Hospital (the “Hospital”) to be treated by hospital staff. The Hospital is an NHA facility. The plaintiff was discharged by the Hospital on the following morning.

Claims against the FNHA

[6] The allegations in the Claim that pertain to the FNHA appear to amount to a claim in negligence. The plaintiff alleges that two FNHA employees, a nurse and an “officer worker”, were negligent and reckless in calling the RCMP to conduct a wellness check. The plaintiff alleges that the FNHA workers did not have the authority to do so.

Claims against the NHA

[7] The allegations in the Claim against the NHA appear to relate to the failure of three doctors and a nurse to conduct various tests and to properly assess the plaintiff’s symptoms in December 2022. These included allegations of failures to:

- a) conduct an early ultrasound to ensure the health of her unborn baby;
- b) provide stress management advice;
- c) treat the plaintiff’s allegedly high prolactin levels; and
- d) identify the plaintiff’s symptoms as trauma responses.

[8] The plaintiff further alleges in the Claim that the Hospital failed by:

- a) attempting to administer medication;
- b) attempting to take urine and blood samples;
- c) contacting the RCMP;
- d) requesting the RCMP restrain the plaintiff,
- e) discussing the plaintiff’s medical status with the RCMP officers; and
- f) admitting the plaintiff overnight at the Hospital.

[9] There is only one doctor specifically identified in the Claim that works at the NHA facility.

[10] The Claim’s legal basis includes:

- a) unspecified references to human rights; and

- b) as well as government documents, articles, inquiries and approximately a dozen court judgments from the Supreme Court of Canada and the Provincial Court of British Columbia.

[11] The Claim does not provide particulars as to how the sources cited apply in this case.

[12] The plaintiff seeks general, aggravated, and punitive damages, as well as damages “pursuant to the Charter of Rights and Freedoms, costs, pre-judgment interest and post-judgment interest.”

[13] Insofar as the Claim relates to the NHA, it is almost entirely based on allegations of diagnosis and treatment failures of unidentified physicians who were not and have never been employees of the NHA. Doctors who provide clinical care at the Hospital are either independent contractors or medical staff members who have been granted privileges to provide services at the Hospital as independent physicians and are not paid by the NHA. Nurses are employees of the NHA.

Law

Rule 9-5 – Striking Pleadings

[14] Rule 9-5(1) provides that if a pleading:

- a) discloses no reasonable claim;
- b) is unnecessary, scandalous, frivolous or vexatious;
- c) may prejudice, embarrass or delay the hearing of the proceeding; or
- d) is an abuse of the process of the court, it may be struck.

[15] Pleadings are necessary to define the issues of fact and law with clarity and precision in order to give the other party fair notice of the case to be met at trial. Pleadings also define the essential contours of the case; they facilitate useful pretrial case management, establish parameters for pretrial discovery and disclosure, and determine the necessity and scope of expert opinions: *Keene v. British Columbia*

(*Ministry of Children and Family Development*) & *Others*, 2003 BCSC 1544 at para. 27; *Sahyoun v. Ho*, 2013 BCSC 1143 at para. 20.

[16] Pleadings are not intended to provide a detailed narrative of facts and events that may have bearing on the outcome of the case. Pleadings are not evidence. The contents of pleadings must be factual in nature, setting forth a concise and orderly statement of the material facts that support the claim: *Kindylides v. John Does*, 2020 BCCA 330 at paras. 29–31.

[17] In *Mercantile Office Systems Private Ltd. v. Worldwide Warranty Life Services Inc.*, 2021 BCCA 362, the Court held:

[44] Nevertheless, none of a notice of claim, a response to civil claim, a counterclaim is a story. Each pleading contemplates and requires a reasonably disciplined exercise that is governed, in many instances in mandatory terms, by the *Rules* and the relevant authorities. Each requires the drafting party to “concisely” set out the “material facts” that give rise to the claim or that relate to the matters raised by the claim. None of these pleadings are permitted to contain evidence or argument.

[18] The test under Rule 9-5(1)(a) is whether it is “plain and obvious” that the plaintiff’s claim discloses no reasonable cause of action: *Hunt v. Carey*, [1990] 2 S.C.R. 959 at para. 36, 1990 CanLII 90 (SCC); *Knight v. Imperial Tobacco Canada*, 2011 SCC 42 at para. 17. No evidence is admissible on an application under Rule 9-5(1)(a). The application must be decided based solely on the pleadings. The *Rule* assumes that the facts in the pleadings are true, however the *Rule* does not require that allegations based on assumptions or speculation are taken to be true: *Hunt* at para. 57; *Edmond v. British Columbia*, 2013 BCSC 1102 at para. 52.

[19] The test under Rule 9-5(1)(b) was summarized by Justice Fisher, as she then was, in *Willow v Chong*, 2013 BCSC 1083, as follows:

[20] Under Rule 9-5(1)(b), a pleading is unnecessary or vexatious if it does not go to establishing the plaintiff’s cause of action, if it does not advance any claim known in law, where it is obvious that an action cannot succeed, or where it would serve no useful purpose and would be a waste of the court’s time and public resources: *Citizens for Foreign Aid Reform Inc. v Canadian Jewish Congress*, 1999 CanLII 5860 (BCSC), [1999] B.C.J. No. 2160 (S.C.); *Skender v Farley*, 2007 BCCA 629. If a pleading is so confusing that it is

difficult to understand what is pleaded, it may also be unnecessary, frivolous or vexatious. An application under this sub-rule may be supported by evidence.

Analysis

[20] The NHA submits that the Claim is:

“a prolix and convoluted document that is replete with the Plaintiff’s opinions on treatment she ought to have received arising from apparently self-diagnosed medical conditions, and her perceptions of how certain incidents occurred while she was experiencing self described “trauma cycles””.

[21] The Claim is, as the NHA submits, a rambling narrative of irrelevant facts and evidence. the following are several examples of this finding:

- a) details relating to the respondent’s relationship with her husband, allegations of abuse, the respondent’s history of miscarriages in Cameroon, and a “private constitutional challenge” for her husband to procure access to Canada;
- b) details of unrelated events, such as discussions with an unnamed suicide hotline worker and the respondent’s trip across Canada to Newfoundland in July 2023; and
- c) reasons for the respondent’s deteriorating mental health, which are unrelated to the Claim, and diagnoses made by “medical professionals she encountered in both Canada and England”.

[22] The plaintiff has alleged certain causes of action but has failed to allege material facts which support these claims. I will address each of these in turn.

[23] The Claim refers to physicians who are not employees of the NHA, and hence, the NHA has no responsibility for the conduct of such physicians. Thus, in addition to the issues of conciseness and relevance in the form of the Claim, the substance likewise falls short. The Claim does not plead material facts to support a reasonable cause of action against the NHA.

[24] Further, as the Claim relates to nurses, the NHA submitted that it is the attending physicians, not nurses, who are responsible for decisions such as:

- a) admitting a patient to hospital;

- b) transferring the patient to other facilities;
- c) referring the patient to specialists;
- d) diagnosing disease; and
- e) ordering tests and explaining test results to the patient.

[25] The Claim alleges that the NHA violated the plaintiff's privacy. This part of the Claim is problematic because there is no common law tort of invasion or breach of privacy. While the *Privacy Act*, R.S.B.C. 1996, c. 373 specifies an actionable statutory remedy in privacy, the plaintiff did not plead or refer to the *Privacy Act* or the requirements thereunder.

[26] The Claim further alleges the NHA, and its employees, were negligent. It also seems to disclose a negligence claim against the FNHA. An allegation of negligence requires that:

- a) a plaintiff to prove that the defendant owed the plaintiff a duty of care;
- b) the defined duty of care was breached by the defendant; and
- c) the breach caused damages to the plaintiff which damages must also be proved: *Clements v. Clements*, 2012 SCC 32 at para. 7.

[27] The Claim fails to establish the material facts that establish the elements for negligence. It does not plead the duty owed, the standard breached, or causation.

[28] Regarding the plaintiff's claim in negligence against the NHA, the Claim alleges one nurse failed to order an "early ultrasound". It is unclear, based on the Claim, what the other bases for negligence are. Damages cannot be inferred based on the contents of the Claim. A claim in negligence must fail in these circumstances.

[29] Regarding the plaintiff's claim in negligence against the FNHA, she likewise does not identify the standard of care, nor does she plead facts that point to a breach of the standard of care by the FNHA. The plaintiff pleads that she had a history of suicidal ideation and that the FNHA staff knew of this history. The plaintiff also pleads that she was suicidal on July 28, 2023, and informed the FNHA staff of

this. Based on these pleaded facts, and the lack of any facts relating to a breach of a standard of care or causation, the Claim does not disclose a reasonable cause of action against the FNHA.

[30] The Claim does not clearly plead the tort of intentional infliction of mental suffering, however, the NHA address this in their submissions. For a claim for intentional infliction of mental distress to be brought, a plaintiff must prove conduct that:

- a) is flagrant and extreme,
- b) is plainly calculated to produce harm; and
- c) results in visible or proven illness: *Pinkerton v. Victoria Saanich Dressage Owners and Riders Society*, 2020 BCSC 1838 at para. 59.

[31] The two encounters with nurses, described by the plaintiff are:

- a) first, the alleged failure to request an ultrasound; and
- b) second, that the plaintiff remain in hospital for long enough for mental health supports to be put in place for the plaintiff, and then allowing the plaintiff to leave the hospital of her own volition.

[32] Neither of these encounters would meet the legal requirement for intentional infliction of mental distress and must fail.

[33] The plaintiff seeks damages pursuant to the *Charter of Rights and Freedoms, s. 7, Part 1 of the Constitution Act, 1982 [Charter]*. The Claim does not make a formal *Charter* challenge, nor does it disclose facts which would implicate the NHA or the FNHA in any *Charter* challenge.

Conclusion

[34] The Claim violates Rules 9-5(1)(a) and (b). The Claim is long, prolix, and unclear. It is plain and obvious that the pleadings disclose no reasonable cause of action against NHA and FNHA. I find that the Claim, based on the foregoing, cannot succeed.

[35] On this basis, the plaintiff's claims against the both the NHA and the FNHA are struck and the proceeding dismissed.

[36] The NHA and FNHA are entitled to costs of this application, payable by the plaintiff forthwith after assessment as a matter of normal difficulty.

"Ball, J."