



NO. S-224088
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**JESSY RAE DESTINY WE-GYET NEAL,
LAURA JULIE-FAITH DOBSON,
JAKE PHILLIP LOPEZ SMITH and
RACHELLE LYNN DESCHAMPS**

PLAINTIFFS

AND:

**THE ATTORNEY GENERAL OF CANADA and
HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

DEFENDANTS

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

REPLY

Filed by: Jessy Rae Destiny We-Gyet Neal, Laura Julie-Faith Dobson, Jake Phillip Lopez Smith and Rachelle Lynn Deschamps.

In reply to: The response to civil claim filed by His Majesty the King in Right of the Province of British Columbia (the "**Province**") on October 16, 2023 (the "**Response**").

Doctrine of Core Policy Immunity Does Not Bar Relief Sought

1. In reply to paragraphs 109-110 of the Response, the plaintiffs' claim of systemic negligence against the Province does not impugn core policy decisions.
2. As pleaded in the Consolidated Notice of Civil Claim filed on June 5, 2023 (the "**Consolidated Claim**") — including at paragraphs 7, 79-81, 129 and 133 of the Consolidated Claim — the plaintiffs assert that the Province has been systemically

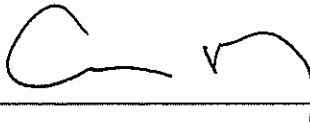
negligent in the operational implementation of its own child and family services policies and the delivery of essential services.

3. The doctrine of core policy immunity does not shield the Province from liability in systemic negligence for its operational activities or operational decisions, including the implementation, performance or carrying out of its formulated policies.
4. Further, the funding conduct at issue here does not engage core policy. The plaintiffs' pleading specifically alleges that the Province acted negligently in failing to rationally allocate "pre-existing" resources to prevention services. All or most of the existing funding was geared toward the removal of class members at higher cost, while little or none of the existing resources were allocated to prevention services and culturally appropriate services, among others, aimed at helping Indigenous families keep their children at home. The mere presence of budgetary, financial, or resource implications is not determinative of whether a decision is core policy.

Discoverability

5. In reply to paragraph 139 of the Response, the plaintiffs plead and rely on the rules for discoverability under the *Limitation Act*, SBC 2012, c. 13 (the "*Limitation Act*") and the *Limitation Act*, RSBC 1996, c. 266 (the "*1996 Act*").
6. Section 6 of the *1996 Act* and s. 8 of the *Limitation Act* contain special rules for discoverability that centre on reasonableness. Further, both versions of the *Limitation Act* contain special discoverability rules for "persons under a disability", such as minors, which state that a limitation period for commencing a claim will not start running until the person is no longer under a disability.

Dated: November 16, 2023



Signature of Angela Bespflug,
Lawyer for the Plaintiffs