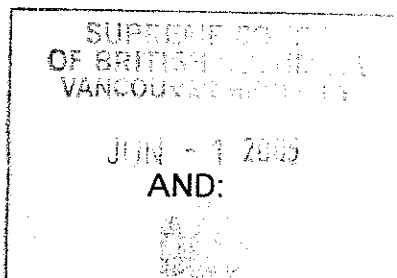


Amended Pursuant to Rules 15(5)(a)(ii) and 24(1)(b)
of the Rules of Court and pursuant to the Order of
Madam Justice Morrison made March 17, 2005

No SO24338
Vancouver Registry
Originally filed on August 2, 2002

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:



William Joseph Richard and WHM

PLAINTIFFS

**Her Majesty the Queen in Right of the Province
of British Columbia**

DEFENDANT

Brought under the Class Proceedings Act

AMENDED WRIT OF SUMMONS

(Name and address of each plaintiff)

William Joseph Richard
c/o General Delivery
Bennett, B.C.

WHM
New Westminster, B.C.

(Name and address of each defendant)

Her Majesty the Queen in Right of the
Province of British Columbia
c/o Attorney General
Room 232, Parliament Buildings
Victoria, B.C. V8V 1X4

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO THE DEFENDANT: Her Majesty the Queen in Right of the Province of British Columbia

TAKE NOTICE that this action has been commenced against you by the plaintiff for the claims set out in this writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim that you wish to have taken into account at the trial, **YOU MUST**

- a) **GIVE NOTICE** of your intention by filing a form entitled "Appearance" in the above registry of this court, at the address shown below, within the Time for Appearance provided for below and **YOU MUST ALSO DELIVER** a copy of the Appearance to the plaintiff's address for delivery, which is set out in this writ, and
- b) if a statement of claim is provided with this writ of summons or is later served on or delivered to you, **FILE** a Statement of Defence in the above registry of this court within the Time for Defence provided for below and **DELIVER** a copy of the Statement of Defence to the plaintiffs' address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- a) **YOU FAIL** to file the Appearance within the Time for Appearance provided for below, or
- b) **YOU FAIL** to file the Statement of Defence within the Time for Defence provided for below.

TIME FOR APPEARANCE

If this writ is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

If this writ is served on a person outside British Columbia, the time for appearance by that person after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, if the time for appearance has been set by order of the court, within that time.]

TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the plaintiff within 14 days after the later of _____

- a) the time that the Statement of Claim is served on you (whether with this writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- b) the end of the Time for Appearance provided for above.

[or, if the time for defence has been set by order of the court, within that time.]

1. The address of the registry is:

The Law Courts
800 Smithe Street
Vancouver, BC
V6Z 2E1

2 The plaintiffs ADDRESS FOR DELIVERY is:

JAMES M. POYNER
Poyner Baxter LLP
Barristers & Solicitors
Lonsdale Quay Plaza
408 - 145 Chadwick Court
North Vancouver, BC
V7M 3K1

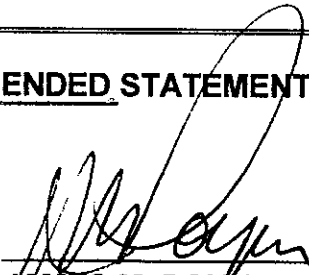
Fax number for delivery (if any): (604) 988-3632

3. The name and office address of the plaintiffs solicitor is:

JAMES M. POYNER
Poyner Baxter LLP
Barristers & Solicitors
Lonsdale Quay Plaza
408 - 145 Chadwick Court
North Vancouver, BC
V7M 3K1

The plaintiff's claim is: **PLEASE SEE ATTACHED AMENDED STATEMENT OF CLAIM.**

Dated: August 1st, 2002



JAMES M. POYNER
Solicitor for the Plaintiff

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

William Joseph Richard and WHM

PLAINTIFFS

AND:

**Her Majesty the Queen in Right of the Province
of British Columbia**

DEFENDANT(S)

Brought under the Class Proceedings Act

AMENDED STATEMENT OF CLAIM

The Parties

1. The Plaintiff, WILLIAM JOSEPH RICHARD, is self-employed as a Trapper and resides in the Village of Bennett, in the Province of British Columbia and also in Whitehorse, in the Yukon Territories
- 1A. The Plaintiff, WHM, is employed as a Loading Dock Worker and resides in the City of New Westminster, in the Province of British Columbia.
- 2 The Defendant, her Majesty the Queen in right of the Province of British Columbia (the "Crown"), is named in these proceedings pursuant to the provisions of the Crown Proceedings Act, R.S.B.C. 1996, c. 89 and amendments thereto.
3. At all material times the Crown, through and with its agents, servants and employees, owned and was responsible for the operation, funding, and supervision of Woodlands School ("Woodlands"), a residential facility for the care and control of the mentally retarded and persons in need of psychiatric care

4. At all material times Woodlands was located in New Westminster, British Columbia and was under the jurisdiction of and operated by the Defendant.
5. The Defendant retained and authorized servants, agents, representatives and/or employees to operate the school and/or gave instructions to such servants, agents, representatives and/or employees as to the manner in which the school was to function and operate
6. The Plaintiffs bring this action on their own behalf and on behalf of all persons who were previously confined to Woodlands and who suffered abuse including, but not limited to, physical, sexual, emotional and psychological abuse and/or who failed to receive a proper education while being confined to Woodlands. The Plaintiffs plead and will rely upon the Class Proceedings Act, R.S.B.C. 1996 c.50.

The Plaintiff William Joseph Richard

7. This Plaintiff was born on March 14, 1958
8. This Plaintiff was confined at Woodlands from 1972 to 1975, from age 14 until age 17.
9. During his confinement as a patient at Woodlands this Plaintiff was repeatedly assaulted by a female nurse, health care worker, or staff member who was an agent, servant, or employee of the Crown and who forcibly removed his clothing and fondled his genital areas several times each week during the entire time that he was at Woodlands. Each time this Plaintiff complained and pleaded for her to leave him alone, her answer was to tell him to "keep your mouth shut" and to not tell anyone. When he finally reported the assaults to another staff member his complaints were ignored.
10. Throughout the entire period that this Plaintiff was confined to Woodlands he was also physically abused through the receipt of continuous beatings, frequently on a daily basis throughout the years that he was there.

11. Throughout the entire period that this Plaintiff was confined to Woodlands he was also psychologically and emotionally abused, deprived of proper food and nutrition and was denied access to a proper education appropriate to his needs, skills and abilities.

The Plaintiff – WHM

- 11A. This Plaintiff was born in New Westminster in the Province of British Columbia on March 23rd, 1959, and is now 45 years of age.
- 11B. In August 1964 when this Plaintiff was 5 years of age his parents sent him to Woodlands School in New Westminster, British Columbia, where he was confined from time to time as hereinafter set out.
- 11C. This Plaintiff was confined in Woodlands School at various time commencing August 1964, June 1965, July 1965 and June 1973. His confinement came to an end in or about 1976.
- 11D. During the time that this Plaintiff was confined at Woodlands he was physically and sexually abused on many occasions by Woodlands staff members including, but not limited to, Frank Bobolitz, Tom Polland and John Fisher.
- 11E. On many occasions the said Frank Bobolitz thrust this Plaintiff into a bathtub filled with cold water and then held his head under the water for a period of time. He would also force this Plaintiff to withstand cold showers and would beat him on his bare buttocks with his belt.
- 11F. The said Tom Polland struck this Plaintiff on a number of occasions on the side of his head with an open hand.
- 11G. In the winter of 1966 when this Plaintiff was 6-1/2 years old he was stripped naked by ward supervisors and forcibly placed outside on an open air barred veranda where he was left for approximately one hour. During that time this Plaintiff was very cold and thought he was going to freeze to death.

11H. In the summer of 1967 this Plaintiff was severely beaten by the said Frank Bobolitz and Tom Polland and another male employee at Woodlands. On this occasion the said Tom Polland held this Plaintiff down and the said Frank Bobolitz as well as the unknown other male employee punched and kicked him several times.

11I. In 1973 when this Plaintiff was 14 years of age a night custodian employed at Woodlands School by the name of John Fisher took advantage of him, inducing him to perform oral sex upon the said John Fisher in return for small amounts of money and tobacco. These events occurred two or three times each week over a period of six months.

Plaintiffs' Injuries

12. As a result of the aforesaid sexual and physical assault, intentional infliction of mental suffering, negligence, breaches of duty and breaches of fiduciary duty committed by the crown, its authorized servants, agents, representatives and/or employees, the Plaintiffs have suffered and continue to suffer harm and injury including:

- a) Physical injury;
- b) Mental distress, anguish, and nervous shock;
- c) Loss of dignity and self esteem;
- d) Humiliation and embarrassment;
- e) Impairment of normal and proper sexual functioning;
- f) Impairment of relationships with family members;
- g) Difficulty in forming and maintaining relationships with other persons;

- h) Lasting psychological and emotional trauma;
- i) Continuing fears and anxiety;
- j) Forgone career and educational opportunities;
- k) Depression;
- l) Suicidal thoughts and gestures;
- m) Post traumatic stress disorder;
- n) Sleeping disorder;
- o) Impairment of anger management;
- p) Loss of income and loss of ability to earn income in the future;
- q) Loss of enjoyment of life;

13. As a further result of the wrongful behavior of the Defendant, its authorized servants, agents, representatives, and/or employees as herein aforesaid set out the Plaintiffs have incurred and will continue to incur expenses, including the expense of obtaining proper psychiatric and psychological counseling, medication, therapy, rehabilitation and other forms of treatment and care which will be required on both and ongoing and crisis basis.

Liability of the Defendant

14. All of the insulting and oppressive behavior referred to in paragraphs 9, 10 and 11 herein, committed upon the Plaintiffs by the Defendant, its authorized servants, agents, representatives, and/or employees, constitute the tort of assault and the

tort of intentional infliction of mental suffering, the results of which were or ought to have been foreseeable.

Duties owed by the Defendant to the Plaintiffs

15. By virtue of its jurisdiction over the operation of Woodlands, at all material times the Defendant owed duties to the Plaintiffs and to all members of the proposed class which include:
- a) to adequately, properly and effectively supervise the Woodlands environment and the conduct of its employees and other patients to ensure that no harm would befall Woodlands patients;
 - b) to protect Woodlands patients from any person or thing which would endanger or would be injurious to the health and well being of any patient;
 - c) to use reasonable care in ensuring the safety, well being and protection of Woodlands patients from any person or thing which would endanger or would be injurious to the health or well being of any patient;
 - d) to use reasonable care in ensuring the safety and well being and providing for the best interests of Woodlands patients;
 - e) to provide proper and adequate education and life skill training to Woodlands patients;
 - f) to provide a safe learning environment for Woodlands patients and in particular an environment free from physical, sexual, and/or psychological assault;
 - g) to set or implement standards of conduct for its employees and Woodlands patients to ensure that no employee or Woodlands patient would endanger the health or well being of any patient or any person;

- h) to provide for the patients a program and system through which abuse would be recognized and reported;
- i) to educate the patients in the use of a system through which abuse would be recognized and reported;
- j) on learning of a complaint that a Woodlands patient had been physically, sexually or psychologically abused in the Woodlands environment to pursue the complaint with due diligence;
- k) on learning of a complaint that a Woodlands student had been physically, sexually or psychologically abused in the school environment, to take any and all reasonable steps to prevent or to put an end to such abuse;
- l) on learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, to fully report the complaint to the Woodlands patient's legal guardian with due diligence;
- m) on learning of a complaint that a Woodlands patient had been physically, sexually or psychologically abused in the school environment, to take any and all reasonable steps to prevent and put an end to such abuse and ensure that the safety and well being of other Woodlands patients was not similarly endangered;
- n) on learning of a complaint that a Woodlands patient has been physically, sexually or psychologically abused in the school environment, to take any or all reasonable steps to ensure that persons coming into direct contact with the Woodlands patient, including peers, friends and siblings, were not in danger of abuse from the Woodlands students;
- o) on learning of a complaint that a Woodlands patient or former Woodlands patient had abused another person outside of the Woodlands environment, to know that the safety and well being of persons coming in direct contact with the Woodlands patient or Woodlands patients, may be endangered

and to take any or all reasonable steps to prevent and to put an end to such abuse;

- p) on learning of a complaint that an employee or Woodlands patient has engaged in conduct which is contrary to the Criminal Code of Canada, to report such conduct and the particulars thereof to the law enforcement agency which presides in the appropriate jurisdictions;
- q) on learning of a complaint that a Woodlands patient has been abused in the Woodlands environment, to warn other Woodlands patients or their legal guardians of the said complaints, such information or warning to include the nature, severity and extent of the complaint and the material risks and dangers arising from the said complaint;
- r) on learning of a complaint that a Woodlands patient has been abused in the Woodlands environment, to provide proper and reasonable treatment for its patients, their parents, legal guardians and/or family members;
- s) on learning of a complaint that a Woodlands patient or former Woodlands patient has abused another person outside of the Woodlands environment, to provide a reasonable intervention and treatment for its patients, former patients, parents, legal guardians, family members, and/or third parties directly affected by such abuse;
- t) on learning of a complaint that a Woodlands employee or Woodlands patient has engaged in conduct which is contrary to the Criminal Code of Canada, to report or to fully report such conduct to its patients, parents, or legal guardians.

Fiduciary Duties

16. The Defendant owed the Plaintiffs and all other members of the proposed class as mentally retarded persons in need of psychiatric care, a fiduciary duty which

included a duty to care for and protect the Woodlands patients and to act in their best interests at all material times

Vicarious Liability

17. The Defendant, by virtue of its quasi-parental responsibility for the safety and care of the Woodlands patients, is vicariously liable for the assaults perpetrated on the Woodlands patients by its authorized servants, agents, representatives and/or employees.

Breach of Contract

18. The Defendant owed contractual obligations to the legal guardians of the Woodlands patients which included, to care for and protect the Woodlands patients, to provide an appropriate education to the patients, to act in the patients best interests at all material times, and to fully inform the patients legal guardian of any and all factors which could threaten the patients safety or well being, or the safety or well being of others in direct contact with the patient.

The Defendant's Breaches of Duty

19. In breach of its duty of care and fiduciary duty, the Defendant failed to operate Woodlands in such a manner as to provide a safe, social and developmental environment for the patients, particulars of which include:

- a) Failing to adequately, properly and effectively supervise or direct the Woodlands environment and the conduct of its servants, representatives, agents or employees and patients to ensure that no harm would befall Woodlands patients;

- b) Failing to protect Woodlands patients from any person or thing which endangers or is injurious to the health and well being of any Woodlands patient;
- c) Failing to use reasonable care in ensuring the safety, well being and protection of Woodlands patients from any person or thing which would endanger or would be injurious to the health or well being of any Woodlands patient;
- d) Failing to use reasonable care in assuring the safety and well being and providing for the best interests of Woodlands patients;
- e) Failing to provide proper and adequate education and life skill training to the Woodlands patients;
- f) Failing to provide a safe learning environment and in particular an environment free from physical, sexual or psychological assaults;
- g) Failing to set or implement standards of conduct for its employees and patients to ensure that no employee or patient injured or endangered the health or well being of any patient or any person;
- h) Failing to provide the Woodlands patients a program and system for which abuse would be recognized and reported;

- i) Failing to educate the Woodlands patients in the use of a system through which abuse could be recognized and reported;
- j) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing pursue the complaint with due diligence;
- k) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to take any or all reasonable steps to prevent or put and end to such abuse;
- l) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to fully report the complaint to the patients legal guardian with due diligence and failing to take any or adequate steps to prevent of put an end to such abuse;
- m) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to recognize that the safety and well being of other Woodlands patients and others was endangered and failing to take any and all reasonable steps to put an end to such abuse;
- n) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to recognize that the safety and well being of persons coming in direct contact with the Woodlands patient may be endangered and failing to take any and all reasonable steps to prevent and put an end to such abuse;

- o) On learning of a complaint that a Woodlands patient had abused another person outside of the school, failing to recognize that the safety and well being of persons coming in direct contact with the Woodlands patient or patients may be endangered, and failing to take any and all reasonable steps to prevent or put an end to such abuse;
- p) On learning of a complaint that a Woodlands employee or patient has engaged in conduct which is contrary to the Criminal Code of Canada, failing to report such conduct and the particulars thereof to the law enforcement agency which presides in the appropriate jurisdictions;
- q) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to inform other Woodlands patients, their parents or legal guardians of the said complaint to include the nature, severity and extent of the said complaint and the material risks and dangers arising from the said complaint;
- r) On learning of a complaint that a Woodlands patient had been abused in the Woodlands environment, failing to provide proper and reasonable treatment for its patients, their parents, legal guardians and/or family members;
- s) On learning of a complaint that a Woodlands patient had abused another person outside of the school environment, to provide proper and reasonable

intervention and treatment for its patients, their parents, legal guardians, family members and/or third parties directly affected by such abuse.

- 20 In general, and in breach of its duty of care, fiduciary duty and contractual obligations, the Defendant operated or caused to be operated a residential facility whose patients, including the Plaintiffs and all members of the proposed class, were systematically subject to abuse, mistreatment, harassment, stress and isolation from family and community caused or permitted by the Defendant.

The Defendant's Misrepresentations

- 21 The Defendant, its servants, agents, representatives or employees, made negligent, reckless and fraudulent misrepresentations regarding the safety of Woodlands and Woodlands patients, and the standards, quality and scope of the day to day care, medical care and education provided by Woodlands through direct and indirect communications and information with the patients parents or legal guardians and by implication or otherwise.
22. These misrepresentations were made by the Defendant with the intent that the general public, including the Plaintiffs and members of the proposed class would rely on them.
23. These misrepresentations were made when the Defendant knew, or ought to have known, of the falsity of the representations or with reckless disregard for the truth, or alternatively were made negligently.

24 The patients were confined to Woodlands in reliance upon the aforesaid misrepresentations and suffered damage as hereinbefore particularized

Aggravated and Punitive Damages

25 The conduct of the Defendant as hereinbefore set out showed reckless disregard for the well being of the public, the Plaintiffs and members of the potential class. The Defendant's negligence was callous and arrogant and offends the ordinary community standards of moral and decent conduct. The actions, omissions, or both, of the Defendant involved such want of care as could only have resulted from actual conscious indifference to the rights, safety or welfare of the Plaintiffs and all other members of the proposed class and the Plaintiffs on their own behalf and on behalf of all proposed class members hereby claims for aggravated and punitive damages.

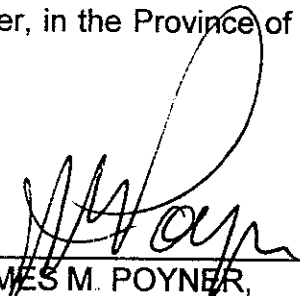
WHEREFORE the Plaintiffs and each of them claim on their own behalf and on behalf of members of the proposed class as follows:

- (a) General damages;
- (b) Aggravated Damages;
- (c) Punitive Damages;
- (d) Special Damages;

- (e) Compensation for breach of fiduciary duty;
- (f) Costs;
- (g) Interest pursuant to the Court Order Interest Act, and
- (h) Such further and other relief as to this Honourable Court may seem just.

PLACE OF TRIAL: Vancouver, British Columbia

DATED at the City of North Vancouver, in the Province of British Columbia
this 1st day of August, 2002.



JAMES M. POYNER,
Solicitor for the Plaintiff

THIS AMENDED STATEMENT OF CLAIM is given by **JAMES M. POYNER**, of the firm of **POYNER, BAXTER LLP**, Barristers & Solicitors, whose place of business and address for delivery is 408 - 145 Chadwick Court, North Vancouver, B.C., V7M 3K1; Telephone: (604) 988-6321; Facsimile: (604) 988-3632.

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

William Joseph Richard and WHM PLAINTIFFS

AND:

**Her Majesty the Queen in right of the Province
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DEFENDANT

Brought Under the Class Proceedings Act

**AMENDED WRIT OF SUMMONS
AND AMENDED STATEMENT OF CLAIM**

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On file: CA-7107 JMP