

S-1510090
NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NEURVANA RECOVERY AND WELLNESS INC., NEURO ARCHITECHS, INC., THE
WELLBEING GROUP LTD., DAVID KENNEY AND SUSAN KENNEY

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
AS REPRESENTED BY THE MINISTRY OF CHILDREN AND FAMILY
DEVELOPMENT, INTERIOR HEALTH AUTHORITY, CHERYL BEAUCHAMP,
CELESTE FABRIS, JENNIFER MITCHELL, GRETCHEN RONDESTVEDT
AND JANE DOE

DEFENDANTS

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 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 plaintiff.

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(s),

- (a) if you were served with the Notice of Civil Claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Notice of Civil Claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Notice of Civil Claim anywhere else, within 49 days after that service, or
- (d) if the time for Response to Civil Claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

The Plaintiffs

1. The plaintiff, NeurVana Recovery and Wellness Inc. ("NeurVana"), is a company incorporated pursuant to the laws of British Columbia with an address for service of:

c/o Dentons Canada LLP,
20th Floor, 250 Howe Street,
Vancouver, British Columbia, V6C 3R8.

2. The plaintiff, Neuro Architechs, Inc. ("Neuro Architechs"), is a company incorporated pursuant to the laws of Ontario with an address for service of:

c/o Dentons Canada LLP,
20th Floor, 250 Howe Street,
Vancouver, British Columbia, V6C 3R8.

3. The plaintiff, The Wellbeing Group Ltd. ("Wellbeing"), is a company incorporated pursuant to the laws of Ontario doing business as The Wellbeing Institute with an address for service of:

c/o Dentons Canada LLP,
20th Floor, 250 Howe Street,
Vancouver, British Columbia, V6C 3R8.

4. The plaintiff, David Kenney, is the sole director of NeurVana and a shareholder of NeurVana, Neuro Architechs and Wellbeing, and has an address for service of:

c/o Dentons Canada LLP,
20th Floor, 250 Howe Street,
Vancouver, British Columbia, V6C 3R8.

5. The plaintiff, Susan Kenney, is a shareholder of NeurVana, Neuro Architechs and Wellbeing, and has an address for service of:

c/o Dentons Canada LLP,
20th Floor, 250 Howe Street,
Vancouver, British Columbia, V6C 3R8.

The Defendants

6. The Ministry of Children and Family Development oversees the delivery of child protection services in British Columbia, pursuant to the provisions of the *Child, Family and Community Services Act*, R.S.B.C. 1996, c. 46, as amended (the "CFCSA").

7. The Director of Child Protection (the "Director") is designated under the CFCSA by the Minister of Children and Family Development as the person responsible for the exercise of the powers and the performance of the duties and functions set out in the CFCSA.

8. The Director's powers may be delegated to social workers and team leaders of the Ministry of Children and Family Development. Collectively, the Ministry of Children and Family Development, the Director and his/her agents, including social workers and team leaders, will be referred to as "MCFD".

9. MCFD has an address for service of:

Deputy Attorney General
Ministry of Justice
PO Box 9280 Stn. Prov. Govt.
Victoria, British Columbia, V8W 9J7.

10. Cheryl Beauchamp is an employee and team leader with the Intake Investigation Team of the MCFD and has a business address of 400-1726 Dolphin Avenue, Kelowna, British Columbia.

11. Jennifer Mitchell is an employee and social worker with the Kelowna Intake and Investigation Office of the MCFD and has a business address of 400-1726 Dolphin Avenue, Kelowna, British Columbia.

12. Interior Health Authority ("Interior Health") is a regional health board established under the provisions of the *Health Authorities Act*, R.S.B.C. 1996, c. 180, as amended,

and the *Regional Health Boards Regulation*, B.C. Reg. 293/2001. Interior Health is responsible for delivering publicly funded health services to the people of the Southern Interior of British Columbia.

13. Interior Health has an address for service at:

Interior Health Authority
220-1815 Kirschner Road
Kelowna, British Columbia, V1Y 4N7.

14. Pursuant to the provisions of the *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75 (the "CCALA"), the Minister of Health and the director of licensing may delegate certain powers and duties under the CCALA to a Medical Health Officer ("MHO"). The powers and duties that may be delegated include those related to issuing licenses to operate community care facilities and investigating complaints of unlicensed community care facilities.

15. Under the *Public Health Act*, S.B.C. 2008, c. 28, as amended, a MHO may delegate his or her powers or duties to a person or class of persons.

16. Celeste Fabris is a Licensing Officer employed by Interior Health with delegated powers and duties under the CCALA and has a business address at 1340 Ellis Street, Kelowna, British Columbia.

17. Gretchen Rondestvedt is employed by Interior Health as Manager, Licensing and Information (Health Protection Services) and has a business address at 1340 Ellis Street, Kelowna, British Columbia.

18. Jane Doe is an individual with an identity unknown to the Plaintiffs and an address in or near Kelowna, British Columbia.

19. Pursuant to the provisions of the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, MCFD is designated Her Majesty the Queen in Right of the Province of British Columbia.

Overview of the Claim

20. Between 2011 and late 2013, Mr. Kenney and Ms. Kenney successfully ran NeurVana, a residential wellness centre in Kelowna, British Columbia that provided wellness services to youths and young adults struggling with behavioural and emotional challenges. NeurVana followed a holistic model and provided assistance to youths from all over the world.

21. In early December 2013, Interior Health began looking into whether NeurVana constituted a community care facility under the *CCALA* and needed a licence to operate. Ms. Fabris, a Licensing Officer with Interior Health, contacted Mr. Kenney to make inquiries with him. Mr. Kenney cooperated with Interior Health and met with its representatives to discuss whether NeurVana should obtain a licence. Mr. Kenney and Interior Health also scheduled a follow up meeting at NeurVana's premises for December 10, 2013. Initially, Interior Health was unable to determine whether NeurVana needed a licence but decided that, in the event a licence were needed, it would wait until the youths then enrolled in the program had returned home before advising NeurVana of its decision.

22. However, on December 5, 2013, before Interior Health was able to determine whether NeurVana needed a licence, MCFD removed the youths enrolled in its program asserting, in part, that NeurVana was not properly licenced.

23. MCFD removed the youths notwithstanding that it made no determination that the youths were in need of protection or that their health or safety was in immediate danger (which, if based on reasonable grounds, may have justified their exercising their powers to remove the youths under the *CFCSA*).

24. The day following the removal of the youths Interior Health interrupted its still ongoing inquiry and purportedly decided that NeurVana required a licence to operate. Despite not having the authority to prevent the ongoing operation of NeurVana, Interior Health sent NeurVana a letter ordering it to cease providing services immediately.

25. The Defendants used Interior Health's licensing authority to mask that the removal of the youths occurred in the absence of any conclusion by MCFD that the youths were in need of protection or in immediate danger and did so in the purported exercise of a power to order the closure of an unlicensed facility, which the Defendants did not and knew they did not have.

26. Thereafter, the Defendants continued to pursue and target the Plaintiffs, even after they left British Columbia, and fostered, encouraged and acquiesced in the impression that MCFD had reason to believe that the youths were in need of protection, or that their health or safety was in immediate danger, when in fact MCFD had not so concluded and knew that it had not. MCFD further encouraged and assisted the parents of some of the youths in engaging in civil actions against the Plaintiffs.

27. Throughout this time, and as particularized below, the Defendants acted in concert, with malice and for improper purposes.

28. As a direct result of the Defendants' unlawful and improper actions, the Plaintiffs suffered significant losses, including the loss of their business and harm to their reputations.

Overview of the Statutory Scheme

MCFD

29. The *CFCSA* empowers and governs the conduct of MCFD. The mandate of MCFD and its agents is to protect children and youth in British Columbia.

30. MCFD's authority to take action on behalf of children and youth is engaged when there is a need for protection, which can be from emotional or physical harm.

Interior Health

31. Interior Health is responsible for the delivery of health services in the Okanagan Similkameen Health Region, which includes Kelowna. Part of Interior Health's mandate includes the licensing and regulation of "community care facilities".

32. Some facilities require a license under the *CCALA*; others do not. A facility will meet the definition of a "community care facility" requiring a license under the *CCALA* when "care", as defined by the *CCALA* and corresponding regulations, is provided to three or more persons who are not related by blood or marriage.

33. The *CCALA* and the licensing mandate of Interior Health are aimed at ensuring vulnerable persons receiving medical assistance are protected from harm, lack of dignity, or substandard care which may put persons at risk.

34. At all material times, A.L. was a senior MHO with Interior Health with delegated powers and duties under the *CCALA* from the Minister of Health and/or the director of licensing for the issuance of licenses to operate community care facilities and investigate complaints of unlicensed community care facilities.

35. At all material times, Ms. Fabris had been delegated all of A.L.'s powers and duties under the *CCALA* for the issuance of licenses to operate community care facilities and to investigate complaints of unlicensed community care facilities.

36. At all material times, Ms. Rondestvedt, P.d.B., Team Leader – Licensing, Residential Care for Interior Health, and R.P., a MHO with Interior Health, had been delegated powers under the *CCALA* from A.L., another MHO or the Ministry of Health

related to the issuance of licenses to operate community care facilities and investigation of complaints of unlicensed community care facilities.

Background: NeurVana's Operations

37. In 2011, Mr. Kenney and Ms. Kenney opened NeurVana as a residential wellness centre in Kelowna. Mr. Kenney was responsible for the day-to-day management of NeurVana and all business related matters, and Ms. Kenney was NeurVana's Director of Wellness.

38. Prior to opening NeurVana, Mr. and Ms. Kenney had worked for a local youth residential therapeutic program known as Venture Academy, owned and operated by G.H. G.H. is a former MCFD official.

39. Between 2011 and December 2013, NeurVana operated out of two locations on the outskirts of Kelowna. The main property was known as 'the Ranch', and a second property, located close to the Ranch, was known as 'the Mountain' (collectively, the "Premises").

40. The Premises were rented in the name of Mr. Kenney and both Mr. and Ms. Kenney lived at the Mountain location.

41. When in operation, NeurVana provided wellness services to teens aged 13 to 19, and in some cases young adults up to the age of 24, who were struggling with behavioural and emotional challenges.

42. NeurVana combined individual care and attention with yoga, music, art, exercise, healthy eating, meditation, sleep, fun and play, life coaching, and sessions with Brainwave Optimization ("BWO"), a non-invasive technology that provides sound waves in the form of musical tones with an effect similar for some people to listening to meditation programs.

43. NeurVana did not offer or provide medical or psychiatric treatments.

44. As of December 2013, NeurVana employed sixteen full-time team members with educational experience and backgrounds with youth. In addition, NeurVana employed ten part-time employees and had contracts with local professionals to support in its program's offerings.

45. Parents of youth with personal challenges from multiple jurisdictions enrolled their children in NeurVana for a private fee. As part of the enrollment process, the parents and NeurVana entered into an agreement which contained a clause providing

that the parents temporarily delegated their parental powers regarding care and custody of their child to NeurVana.

46. Attendance at NeurVana and participation in its program were entirely voluntary on the part of the youth. NeurVana's policy was to allow enrolled youth to leave at any time, and Mr. and Ms. Kenney or other NeurVana staff had in the past dropped off youth at the local airport or bus station on request.

47. Youth signed a document at the time of enrollment acknowledging that attendance at NeurVana was voluntary (the "Voluntary Enrollment Form").

48. Although attendance at NeurVana was entirely voluntary, NeurVana staff and employees adequately supervised the youths at all times.

Initial Contact with Interior Health

49. On or about January 21, 2013, Mr. and Ms. Kenney met with two representatives from Interior Health to discuss the possibility of Interior Health collaborating with NeurVana to assist people suffering from traumatic brain injuries.

50. The Interior Health representatives met with NeurVana clients and team members, toured the Premises, and each representative participated in a BWO session. Although the initiative to collaborate ultimately did not proceed, NeurVana made a positive impression with Interior Health representatives.

51. During the January 21, 2013 meeting and subsequent communications with Interior Health representatives, Mr. and Ms. Kenney were not asked by anyone at Interior Health whether NeurVana was licensed, or whether NeurVana was required to be licensed, under the *CCALA*.

52. Following the conclusion of these communications with Interior Health's representatives, Mr. and Ms. Kenney had no further contact with Interior Health until December 2013.

Purported Complaints Several Months Later

53. Unbeknownst to the Plaintiffs, MCFD contacted Interior Health employees on or about November 27, 2013 to report that a complaint had been made that NeurVana was holding youths against their will and subjecting them to electro-shock therapy.

54. On or about November 29, 2013, Interior Health, and in particular Ms. Fabris, began investigating NeurVana and attempted an unscheduled site visit on or about December 2, 2013.

Interior Health begins Licensing Determination

55. On December 3, 2013, Mr. Kenney spoke with Ms. Fabris, who requested a meeting with him. Ms. Fabris did not disclose the purpose of the meeting, nor did she disclose her position with Interior Health.

56. On December 4, 2013, Mr. Kenney met with Ms. Fabris and another representative of Interior Health at their Kelowna office (the "December 4 Meeting").

57. Mr. Kenney was unaware that the purpose of the December 4 Meeting was to review whether NeurVana required a license to operate pursuant to the *CCALA*. Only once the December 4 Meeting began was Mr. Kenney informed by Ms. Fabris of the true purpose of the meeting. This lack of awareness by Mr. Kenney of the purpose of the December 4 Meeting was fostered intentionally by Interior Health.

58. After going through a document entitled the "Prescribed Services Worksheet", Mr. Kenney was advised that Interior Health, and in particular Ms. Fabris, was unable to conclude at that time whether NeurVana required a license under the *CCALA* but that NeurVana did not appear to meet the definition of a 'community care facility'.

59. Mr. Kenney was advised further by Ms. Fabris that Interior Health would require a site visit of the Premises before determining whether NeurVana required a license.

60. Those present at the meeting tentatively arranged for the site visit to take place the following Tuesday, December 10, 2013. Ms. Fabris advised Mr. Kenney that the appointment for the site visit would be confirmed in due course.

61. Ms. Fabris informed Mr. Kenney that she and her co-worker would need to meet with their superiors and review the NeurVana file in order to make a licensing determination. Mr. Kenney requested a meeting with the relevant Interior Health superiors in order to engage in the process and to collaborate with Interior Health. That request was denied.

62. Ms. Fabris informed Mr. Kenney that should Interior Health determine that NeurVana required a license under the *CCALA*, notice would be given and Interior Health would assist NeurVana in the licensing process.

63. Unbeknownst to the Plaintiffs, Interior Health decided shortly following the December 4 Meeting that, should NeurVana require a license, Mr. Kenney would be notified of this decision on December 20, 2013. Ms. Fabris selected that date because Mr. Kenney had informed her at the December 4 Meeting that all of the youths then enrolled at NeurVana would have completed the program or returned home for the holidays by December 20, 2013 and that no new youths would be arriving until December 29, 2013.

64. On December 4, 2013, Ms. Fabris informed MCFD of her discussions with Mr. Kenney during the December 4, 2013 Meeting and disclosed information provided by Mr. Kenney about NeurVana's and Mr. and Ms. Kenney's business practices, operations and clients. This information had been provided by Mr. Kenney for the purpose of assisting Interior Health's investigation into whether NeurVana required a license.

65. Ms. Fabris also advised MCFD of Interior Health's decision, in the event it decided NeurVana required a license, to advise Mr. Kenney of that determination on December 20, 2013.

MCFD Removes Youths from the Premises

66. On December 5, 2013, at approximately 10:00 am, and without prior notice to Mr. and Ms. Kenney, or a warrant, four MCFD social workers attended at and entered the Premises.

67. In particular, Ms. Beauchamp, Ms. Mitchell, S.H., a social worker from the Kelowna Intake and Investigation Office of the MCFD, and N.H., a team leader from the Kelowna Youth Response Team and Kelowna Family Service Team, attended at and entered the Premises.

68. Mr. and Ms. Kenney were not present on the Premises when the four social workers first arrived. They were alerted to the presence of MCFD when a NeurVana employee telephoned them to report that officials from the provincial government had arrived and demanded entry to the Premises.

69. At that time, nine youths between the ages of 13-18 were enrolled in NeurVana's program. On the morning when MCFD attended the Premises, there were:

- (a) Three youths at the Mountain property participating in BWO sessions under the supervision of two staff members, K.R., who holds a Bachelor of Science Degree in Psychology and Biology, and R.W., who holds a Bachelor of Art Degree in Psychology;

- (b) Four youths at the Ranch property participating in a coaching session under the supervision of two NeurVana staff members, H.H., who holds a Bachelor Degree in Psychology from Princeton University, and S.N, who holds degrees in social work and teaching;
- (c) One youth off-site at an appointment supervised by one staff member, K.J.; and
- (d) One youth off-site at an appointment supervised by Mr. and Ms. Kenney.

70. Mr. Kenney spoke briefly via telephone with Ms. Beauchamp, the social workers' team leader, who informed him that MCFD had received a report that NeurVana was holding youths against their will.

71. MCFD social workers proceeded to interview the youths and conduct a search of the Premises over a period of approximately three hours.

72. After Mr. and Ms. Kenney returned to the Premises, MCFD social workers instructed them to remain in the back area of the Ranch and to have no contact with any of the youths while the interviews were taking place. Mr. and Ms. Kenney were advised further that if they did not comply with this direction they would be arrested.

73. During this time, NeurVana employees and Mr. and Ms. Kenney encouraged MCFD social workers to contact the youths' parents in order to assess the situation fully. MCFD social workers did not do so.

74. At various times, MCFD social workers, and in particular Ms. Beauchamp, provided Mr. and Ms. Kenney with inconsistent or varying explanations for their attendance at the Premises, including that:

- (a) NeurVana was reportedly holding clients against their will;
- (b) NeurVana was not licensed; and
- (c) MCFD social workers were present in order to ensure the youths' safety.

75. NeurVana employees informed MCFD social workers that all youths signed the Voluntary Enrollment Form on admission to NeurVana and offered to show the forms to them. The social workers did not review the Voluntary Enrollment Form, the admission agreements signed by the youths' parents, which contained a clause providing that NeurVana had the authority to act on their behalf, or any other relevant documentation relating to the reasons, motivation, or authorization for the youths attending NeurVana.

76. After the youths were interviewed, MCFD advised Mr. and Ms. Kenney that the youths were being removed from the Premises immediately (the "Removal"). Mr. and Ms. Kenney observed some of the youths crying. Many appeared upset, and some asked to say goodbye to them. The youths were put into two MCFD vehicles and driven away.

77. Prior to deciding to remove the youths, MCFD social workers did not ask Mr. and Ms. Kenney about or give them an opportunity to respond to statements the social workers subsequently reported the youths made to them.

Lack of Grounds for the Removal

78. MCFD has developed and adopted policies and standards that must be adhered to by MCFD workers and agents in the performance of their duties under the *CFCSA*, including those duties related to investigating child protection concerns and removing children. In part, these policies, standards and procedures can be found in the "Child, Family and Community Services Manual" (the "Manual"), which describes obligations under the *CFCSA*, and the "Child and Family Development Service Standards: Child and Family Service Standards, Children in Care Service Standards" (the "Standards").

79. Under the *CFCSA*, MCFD may, in certain circumstances, remove a child or youth without prior authorization from the court. In particular, pursuant to s. 30, MCFD may remove a child if it has reasonable grounds to believe that the child needs protection and that the child's health or safety is in immediate danger, and no other less disruptive measure is available to adequately protect the child.

80. Section 25 of the *CFCSA* also allows MCFD to remove a child who is found without adequate supervision.

81. Further, s. 1(1) of the *CFCSA* provides that a parent includes a person to whom custody of a child has been granted by an agreement, or a person with whom a child resides and who stands in place of the child's parent or guardian.

82. The *CFCSA*, Manual and Standards provide that removal of a youth or child is a measure of last resort where child protection authorities have reasonable and probable grounds to believe that a child or youth is at risk of serious harm.

83. The *CFCSA*, Manual, and Standards all describe various less disruptive alternatives to apprehension or removal.

84. Further, in part, the purpose of the Standards is to promote and support a change in child welfare practice in British Columbia, including utilizing a spectrum of

responses to child protection allegations, with emphasis on less-invasive measures when possible.

85. The Manual also refers to the importance of considering, when possible, the views of children and youth when making decisions about their care.

86. At no time did MCFD have reasonable grounds to believe, and at no time did MCFD in fact conclude, that the youths were in need of protection or that the youths' health or safety was in immediate danger.

87. Further, at all material times, MCFD was aware that less disruptive measures, other than removing the youths, were available. However, MCFD failed to consider other less invasive measures.

88. In addition, at no time did MCFD have reasonable grounds to believe that the youths lacked adequate supervision.

89. In coming to the decision to remove the youths, MCFD further failed to adequately consider the age, maturity level, and development of the youths, and failed to seek information from all relevant and available sources.

90. At all material times, NeurVana and Mr. and Ms. Kenney were the targets and focus of MCFD's actions, as well as the actions of Ms. Beauchamp, Ms. Mitchell, N.H. and S.H.

91. In the circumstances, MCFD knew the impression its attendance at NeurVana and the removal of the youths would give to members of the public, including the youths' parents.

92. MCFD also knew that it would be seen as authoritative on the issue of the youths' wellbeing, and that Interior Health and others would rely upon any statements it made or acquiesced to with regard to NeurVana and the true basis for the Removal. MCFD further knew that any information it reported to Interior Health could affect Interior Health's investigation and determination of whether NeurVana required a licence, and NeurVana's ability to obtain a licence in the future.

93. Moreover, MCFD knew that following the Removal, NeurVana and Mr. and Ms. Kenney would be vulnerable, due to MCFD's actions, to misinformation, incomplete information or impressions that arose as a result of MCFD's actions. It was also aware that any misinformation or impressions could have a serious negative impact on NeurVana's and Mr. and Ms. Kenney's reputations and business interests.

94. Notwithstanding this knowledge, following the Removal MCFD engaged actively in discussions with Interior Health, and the youths' parents and their counsel with respect to NeurVana and Mr. and Ms. Kenney.

MCFD's Contact with the Youths' Parents and Interior Health

95. After the Removal, but later on the same day, MCFD contacted the youths' parents. MCFD informed the parents that they were required to pick up their child within hours, and that if they did not arrive within that time frame their child would be put into foster care that day. MCFD gave that direction knowing that most if not all of the parents they were calling lived some distance from Kelowna. MCFD social workers also stated to some of the parents words to the effect that NeurVana had been operating illegally and without a license, and that allegations of abuse or mistreatment had been made against NeurVana and Mr. and Ms. Kenney.

96. All of the youths' parents resided outside of the Kelowna area. Some of the parents resided outside of the province and country. To avoid immediate foster care, all of the youths and their families were forced to make sudden travel and accommodation arrangements at their own expense. Some of the youths were flown home to their respective parents that day and, the necessary travel arrangements being impossible to complete in the limited time MCFD afforded, at least one youth spent the night in foster care.

97. In addition, social workers with MCFD, including Ms. Beauchamp, Ms. Mitchell, N.H. and/or S.H., encouraged the parents of one or more of the youths to commence a civil suit against the Plaintiffs, with the intention of causing harm to the Plaintiffs' reputations and business interests.

98. At that time, MCFD, Ms. Beauchamp, Ms. Mitchell, N.H. and/or S.H were aware, or reasonably should have been aware, that the absence of a conclusion by them that the Removal was justified by s. 30 (where a child is in immediate danger and in need of protection) was incompatible with the bases for the litigation they were encouraging.

99. To date, neither the parents nor the Plaintiffs have received a written or oral explanation from MCFD explaining the reasons for the Removal.

100. On December 5, 2013, MCFD also advised Interior Health of the Removal and requested that Interior Health contact Ms. Beauchamp prior to talking to Mr. Kenney or his lawyers.

101. On December 5 or 6, 2013, Ms. Beauchamp discussed the Removal with Ms. Fabris, including certain of the statements the social workers reported the youths had made, and provided her with incorrect information regarding the Premises and the Plaintiffs' practices and program.

102. MCFD advised Interior Health and the youths' parents of the Removal, in circumstances where it knew that they would be looking to it for guidance with respect to the reasons for the Removal.

103. At no time did MCFD advise Interior Health or the youths' parents that MCFD had not determined that the youths were in need of protection or that their health and safety was in immediate danger. Further, MCFD was aware that its silence on this point would create the opposite impression.

104. During its initial and ongoing discussions with the youths' parents and Interior Health, MCFD knowingly left them with the impression or understanding that MCFD had acted out of concern that the youths were in immediate danger and in need of protection. Moreover, MCFD was aware that the youths' parents and Interior Health would, and in fact did, communicate with third parties about the Removal and further left them with the impression or understanding that MCFD had acted out of concern that the youths were in immediate danger and in need of protection.

Closure of NeurVana

105. After speaking with Ms. Beauchamp, and notwithstanding that the planned follow-up meeting and site visit still had not occurred, Ms. Fabris and Interior Health halted their licensing review and purported to decide on December 6, 2013 that NeurVana required a license under the *CCALA*. Interior Health and its employees took no notes of the December 6, 2013 meeting, following which Ms. Fabris purported to make her determination.

106. Prior to making this decision, neither Ms. Fabris nor any other Interior Health employee asked Mr. or Ms. Kenney about or gave them an opportunity to respond to the information MCFD had reported to Interior Health.

107. On December 9, 2013, Mr. Kenney received a letter dated December 6, 2013 from Interior Health (the "Cease and Desist Letter"). The Cease and Desist Letter alleged NeurVana was operating unlawfully as an unlicensed community care facility, contrary to the terms of the *CCALA*, and ordered NeurVana to cease operations effective immediately.

108. This was the first indication that the Plaintiffs received that Interior Health had reached a decision regarding whether NeurVana required a license under the *CCALA*.

109. Notwithstanding representations made by Interior Health employees at the December 4 Meeting that a site visit of the Premises would be needed in order to determine whether NeurVana required a license, a decision was reached before a site visit occurred. The original intention to delay advising NeurVana of any such decision until December 20 likewise was abandoned.

110. Interior Health, and in particular Ms. Fabris, P.d.B. and R.P., conducted their investigation into NeurVana and decided it required a license with a closed mind, in a manner contrary to the provisions of the *CCALA* and its regulations, and with knowledge that they lacked the authority to order NeurVana to close.

111. At all material times, NeurVana and Mr. and Ms. Kenney were the targets and focus of Interior Health's actions, as well as the actions of Ms. Fabris, P.d.B. and R.P.

112. Further, and in the alternative, the conduct of Interior Health, including Ms. Fabris, P.d.B. and R.P., was directed at the Plaintiffs with the intention of causing them harm, including to their reputations and economic interests.

113. Interior Health, in particular Ms. Fabris, P.d.B. and R.P., were aware that issuing a cease and desist letter to NeurVana in the circumstances was not within their statutory grant of authority. Additionally, Interior Health, in particular Ms. Fabris, P.d.B. and R.P., were aware that since the youths had been removed and no youths currently were attending NeurVana, there was no longer reason for Interior Health to have involvement with NeurVana.

114. The Defendants used Interior Health's and Ms. Fabris's licensing authority to mask that the Removal occurred in the absence of any conclusion by MCFD that the youths were in need of protection or that their health or safety was in immediate danger and did so in the purported exercise of a power to order the closure of an unlicensed facility, which power the Defendants did not have and knew they did not have.

115. Further, and in the alternative, Interior Health purported to exercise its powers in an effort to prevent NeurVana from reopening or assisting other youths, in circumstances where it knew the Defendants did not have the power or authority to do so.

116. In the circumstances, Interior Health knew the impression its purported determination and order that NeurVana cease operating would give to members of the public.

117. Interior Health knew that it would be seen as authoritative on the issue of whether NeurVana required a licence or should be operating and that the public would rely upon any statements it made or acquiesced to with regard to NeurVana's operations and any licensing requirements.

118. Interior Health further knew, or reasonably should have known, that NeurVana and Mr. and Ms. Kenney had been left vulnerable by reason of MCFD's actions, and that the impression that would be left by its purported decision and order would leave NeurVana and Mr. and Ms. Kenney further vulnerable to misinformation or incomplete information. It was also aware that any misinformation or impressions could have a negative impact on NeurVana's and Mr. and Ms. Kenney's reputations and business interests.

119. At all times leading up to, during and after the Removal, the Plaintiffs cooperated fully with Interior Health and MCFD.

120. NeurVana immediately had to cease operating and, by or about December 9, 2013, NeurVana and Mr. Kenney had removed all advertising within their control and communicated to Interior Health that they would seek to re-open as a day program, which would be exempt from the CCALA.

121. Following the Removal, and due to the post-removal conduct of the Defendants, Mr. and Ms. Kenney were left with no practical choice other than to re-start their personal and professional lives.

The Defendants' Ongoing Pursuit of the Plaintiffs

122. After the Removal and NeurVana's closure, the Defendants continued to target and pursue the Plaintiffs.

123. Several members of Interior Health and MCFD, including but not limited to Ms. Beauchamp and Ms. Fabris, sought to ensure that NeurVana remained closed after the Removal and that Mr. and Ms. Kenney were not able to open or operate a new business. The Defendants sought to collaborate with each other and other government actors to this end.

124. In furtherance of this goal, Interior Health and MCFD employees engaged in ongoing discussions regarding NeurVana and Mr. and Ms. Kenney and their business operations.

125. Further, at all material times, Interior Health and MCFD knew that Venture Academy was operating, and had been operating for some time, a residential therapeutic program, specifically targeted for minors aged 13 – 19 years of age, without a license. Interior Health and MCFD further knew that Venture Academy was using unlicensed host families (foster homes) in the community to provide accommodation for its clients.

126. At all material times, Venture Academy was involved with Interior Health, the Ministry of Health and/or MCFD as a contractor. Subsequent to the closure of NeurVana, Interior Health, MCFD and the Ministry of Health continued their involvement with Venture Academy. The Defendants strategized with G.H. on how to, and actively sought to, protect Venture Academy from fall-out arising from the Defendants' actions in respect of NeurVana and Mr. and Ms. Kenney.

127. Venture Academy was a direct competitor of NeurVana. Throughout their involvement with the Plaintiffs, Interior Health and MCFD provided Venture Academy with preferential treatment and favoured it over the Plaintiffs.

128. On or about January 7, 2014, Ms. Beauchamp and other MCFD social workers watched while Mr. and Ms. Kenney's business and home were packed up, and observed no youth were present. Ms. Beauchamp inquired to Ms. Fabris whether she knew where the Plaintiffs were going, and Ms. Fabris informed her that the Plaintiffs had indicated they were moving to a different province but that MCFD should continue to monitor them anyway.

129. Ms. Fabris, Ms. Beauchamp, and other members of MCFD and Interior Health continued to follow the Plaintiffs, whether or not the Plaintiffs remained in British Columbia.

130. On or about January 11, 2014, Jane Doe maliciously contacted NeurVana by email, under the false name Marie York, and falsely represented him or herself as a parent who was interested in retaining NeurVana's or Mr. and Ms. Kenney's services to assist his or her daughter. Jane Doe purported to make inquiries regarding whether NeurVana was still offering services and if so, whether they were offering services in a warm location.

131. On or about January 15, 2015, Ms. Kenney responded to Jane Doe's email and provided her with confidential information regarding NeurVana's and Mr. and Ms. Kenney's business operations and their inquiries into opening a new facility in the Cayman Islands.

132. Throughout the latter half of January and into early February 2014, Jane Doe continued to correspond with NeurVana and Ms. Kenney and attempted to elicit further information about NeurVana's and Mr. and Ms. Kenney's plans and business operations. Ms. Kenney provided information to Jane Doe about NeurVana, Mr. Kenney and herself in confidence and good faith and under the mistaken impression (which impression was intentionally created and fostered by Jane Doe) that Jane Doe was a parent seeking assistance for his or her child.

133. Subsequently and unbeknownst to the Plaintiffs, Jane Doe maliciously provided a copy of Ms. Kenney's email to others, including but not limited to the Kelowna Daily Courier. Jane Doe knew, intended and expected that Ms. Kenney's email would be republished by the Kelowna Daily Courier or other media, which in fact occurred in or about February 2014. Alternatively, such republication by the Kelowna Daily Courier and/or other media was the natural and probable result of Jane Doe providing them with a copy of the email.

134. On or about January 13, 2014, Ms. Fabris sent an email to Ms. Beauchamp in which she suggested that Ms. Beauchamp track NeurVana's Mr. and Ms. Kenney's location by calling and pretending to be a parent interested in enrolling a child in a program. The manner in which Ms. Fabris suggested Ms. Beauchamp track NeurVana and Mr. and Ms. Kenney was substantially the same as the tactic employed by Jane Doe.

135. Between December 5, 2013 and early 2014, MCFD's social workers allowed themselves to become engaged and involved in the parents' communications with NeurVana and Mr. Kenney, and their efforts to obtain a full refund from the Plaintiffs, knowing that the parents were relying on the appearance of their support and the Removal as support for their claims.

136. MCFD social workers further encouraged and provided assistance to and engaged in discussions with the parents of some of the youths regarding the parents' commencing civil actions against NeurVana and Mr. and Ms. Kenney, in circumstances where it knew that the absence of a conclusion by them that the removal was justified by s. 30 was incompatible with the bases for the litigation they were encouraging.

137. MCFD further involved Interior Health in its efforts to provide assistance to the parents knowing that Interior Health was reliant on the impression MCFD had given with respect to the basis for the Removal.

138. On or about February 4 and 5, 2014, the parents of three of the youths commenced civil actions against NeurVana and Mr. and Ms. Kenney alleging, among other things, that the Plaintiffs had abused the youths in their care and breached their contract with the parents to provide services to the youths (the "Civil Actions").

139. NeurVana and Mr. and Ms. Kenney denied the allegations raised in the Civil Actions and defended against them.

140. The Civil Actions were dismissed by consent between March 9 and April 14, 2015.

The Defendants' Involvement with the Plaintiffs to the Civil Actions and the Media

141. Following the commencement of the Civil Actions, social workers with MCFD and Interior Health engaged in discussions with, cooperated with and provided assistance to the plaintiffs in the Civil Actions.

142. Local and national media also began covering NeurVana's closure and the filing of the Civil Actions.

143. Starting in early February 2013, a series of news articles was published in Canada, as well as other countries, regarding NeurVana and Mr. and Ms. Kenney. The news articles reported that the British Columbia government had shut down NeurVana's facility and expressly referred to the abuse allegations that had been alleged in the Civil Actions. Some news articles further reported allegations that Mr. and Ms. Kenney had fled the country.

144. In or about early February 2014, one or more officials at MCFD and/or Interior Health communicated with the parents of some of the youths or with M.L., a Vancouver lawyer representing the parents. Those officials stated words to the effect that if Mr. and Ms. Kenney had not yet left the country, they most likely were planning to leave the country within the next week.

145. On or about February 7, 2014, The Province published an article online, in which M.L. was quoted as stating:

We have received word from the ministry that most likely, if [Mr. and Ms. Kenney] have not left the country, they are planning to leave the country within the

week... Right now, the speculation is that they are actually relocating the facility to the Cayman Islands. However that is not substantiated yet.

146. Within approximately twenty-four hours of the February 7, 2014 article being posted online, it was removed by The Province and replaced with an article that did not refer to the MCFD's comments.

147. Also in February 2014, Interior Health employees, including Ms. Rondestvedt and E.T., the Communications Officer with Interior Health, participated in interviews, information requests, and inquiries from media outlets, including but not limited to:

- (a) The Province;
- (b) CTV;
- (c) CBC (radio and television); and
- (d) The Kelowna Daily Courier.

148. Interior Health employees, including Ms. Rondestvedt and E.T., advised the media that NeurVana required a license under the *CCALA*, had been operating without a license and that Interior Health had required it to cease operations.

149. The media coverage of the Removal and closing of NeurVana and the commencement of the Civil Actions destroyed the Plaintiffs' reputations and resulted in harm to their economic interests.

150. At all material times, Interior Health and MCFD sought to damage the Plaintiffs' reputations, ensure that the Plaintiffs were not able to reopen their business, and mitigate unfavorable media attention directed to Venture Academy as a result of the closure of NeurVana.

The Defendants' Defamatory Statements and Ongoing Communications about NeurVana

151. On or about February 12, 2014, E.T. published in British Columbia certain words of and concerning NeurVana and Mr. and Ms. Kenney, in a written statement provided to certain media, including but not limited to B.S., an employee of the Canadian Broadcasting Corporation (the "CBC"), who was then known to E.T. to be employed by the CBC and intending to publish a story about NeurVana in the news media.

152. The February 12, 2014 statement contained defamatory words, particulars of which are as follows (the "E.T. Words"):

When Interior Health was made aware of this facility in early December, we determined that this was a type of facility that would require a license under the Community Care and Assisted Living Act.

153. E.T.'s February 12, 2014 statement was in response to an inquiry that expressly referred to NeurVana.

154. Further, NeurVana is the facility referred to in the February 12, 2014 email. The Plaintiffs rely on the following facts to show that the words refer to NeurVana:

- (a) In December 2013, Interior Health contacted NeurVana regarding the possibility of it needing a licence under the *CCALA*; and
- (b) In December 2013, Interior Health purportedly determined that NeurVana did require a license under the *CCALA*.

155. The February 12, 2014 statement further refers to Mr. and Ms. Kenney by implication. The Plaintiffs rely on the following facts to show that the words refer to Mr. and Ms. Kenney:

- (a) Mr. Kenney is a shareholder and sole director of NeurVana;
- (b) Ms. Kenney is a shareholder of NeurVana;
- (c) Interior Health was aware that Mr. and Ms. Kenney were the owners of NeurVana;
- (d) When Interior Health contacted NeurVana in December 2013, its representatives spoke to Mr. Kenney; and
- (e) Interior Health informed Mr. Kenney of its purported decision that NeurVana required a licence.

156. The February 12, 2014 statement and its subsequent republication were read by B.S. and a substantial but unquantifiable number of unidentifiable readers of CBC, who were possessed with knowledge of the Removal, but without the knowledge (which the Defendants actively sought to conceal) that MCFD had removed the youths without any conclusion that the youths' health or safety were in immediate danger or that they were in need of protection.

157. In the context of the February 12, 2014 statement as a whole, and the public attention flowing from the Removal, the E.T. Words (and other expression) convey the following natural and ordinary inferential meanings of and concerning the Plaintiffs to the average, ordinary person as a matter of impression:

- (a) NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health such that Interior Health only became aware of NeurVana in December 2013;
- (b) NeurVana and Mr. and Ms. Kenney were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it;
- (c) NeurVana and Mr. and Ms. Kenney were dishonest and engaged in illegal, unethical and unauthorized business practices; and/or
- (d) One or more of the above.

Each of those meanings is false, malicious and defamatory of and concerning each of the Plaintiffs.

158. The E.T. Words constitute libel insofar as they were published in writing by E.T. The publication of the E.T. Words caused NeurVana to sustain special damages, particulars of which will be provided on request.

159. E.T. knew, intended and expected that the E.T. Words would be republished by B.S., CBC or other media, which in fact occurred on or about February 13, 2014. Alternatively, such republication by B.S., CBC and/or other media was the natural and probable result of E.T.'s original publication of the E.T. words to B.S., CBC and/or other media.

160. E.T. published the defamatory expression with the knowledge that the meanings conveyed by the expression were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming NeurVana and Mr. and Ms. Kenney, closing or negatively impacting its business and exposing it to hatred, ridicule and contempt, lowering NeurVana and Mr. and Ms. Kenney in the estimation of others, and causing it to be shunned and avoided.

161. On or about February 12 or 13, 2014, Ms. Rondestvedt also published in British Columbia certain words of and concerning NeurVana and Mr. and Ms. Kenney, orally and in writing, to an individual who was then known to Ms. Rondestvedt to be a reporter employed by the Kelowna Daily Courier ("D.P.") who intended to publish a story about

NeurVana, the Removal and Mr. and Ms. Kenney in the news media. With Ms. Rondestvedt's express consent, in the course of an interview (the "Rondestvedt Interview"), D.P. made notes and/or audio recordings of Ms. Rondestvedt's defamatory words, particulars of which are as follows (the "First Rondestvedt Words"):

- (a) In early December, someone tipped off Interior Health officials that NeurVana was operating without a licence.

162. Subsequently, on February 14, 2014, D.P. and the Kelowna Daily Courier published in British Columbia certain words of and concerning NeurVana and Mr. and Ms. Kenney, in a written article posted on the internet entitled "Treatment facility for youth shut down" (the "Daily Courier Article").

163. The Daily Courier Article contained defamatory words, particulars of which are as follows:

In early December, someone tipped off officials that the facility was operating without a licence. They determined it needed one because staff were serving three or more clients deemed dependent and vulnerable, said Gretchen Rondestvedt, who manages licensing for the health authority.

"We immediately informed the operator that he needed to close his operations and he complied right away," she said.

164. The First Rondestvedt Words and the Daily Courier Article were read by D.P. and a substantial but unquantifiable number of unidentifiable readers of the Kelowna Daily Courier, who were possessed with knowledge of the Removal, but without the knowledge (which the Defendants actively sought to conceal) that MCFD had removed the youths without any conclusion that the youths' health or safety were in immediate danger or that they were in need of protection.

165. In the context of the Rondestvedt Interview and the Daily Courier Article each as a whole, and the public attention flowing from the Removal, the First Rondestvedt Words (and other expression) convey the following natural and ordinary inferential meanings of and concerning NeurVana and Mr. and Ms. Kenney to the average, ordinary person as a matter of impression:

- (a) NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health such that Interior Health only became aware of NeurVana in December 2013;

- (b) NeurVana and Mr. and Ms. Kenney were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it;
- (c) NeurVana and Mr. and Ms. Kenney were dishonest and engaged in illegal, unethical and unauthorized business practices; and/or
- (d) One or more of the above.

Each of those meanings is false, malicious and defamatory of and concerning each Plaintiff.

166. During the Rondestvedt Interview, Ms. Rondestvedt expressly referred to NeurVana and its owners, Mr. and Ms. Kenney. Alternatively, during the Rondestvedt Interview, Ms. Rondestvedt responded to questions that expressly referred to NeurVana and its owners, Mr. and Ms. Kenney.

167. The Daily Courier Article expressly referred to NeurVana and Mr. and Ms. Kenney.

168. The First Rondestvedt Words when published orally by Ms. Rondestvedt to D.P. constitute slander actionable *per se*. The publication of the First Rondestvedt Words caused the Plaintiffs to sustain special damages, particulars of which will be provided on request. The First Rondestvedt Words constituted libel insofar as they were published in writing by the D.P. and the Kelowna Daily Courier.

169. Ms. Rondestvedt knew, intended and expected that the First Rondestvedt Words would be republished by D.P. and the Kelowna Daily Courier, which in fact occurred on or about February 14, 2014. Alternatively, such republication by D.P. and the Kelowna Daily Courier was the natural and probable result of Ms. Rondestvedt's February 12 or 13, 2014 publication of the First Rondestvedt Words to D.P. and the Kelowna Daily Courier.

170. Ms. Rondestvedt published the above defamatory expressions with the knowledge that the meanings conveyed by the expressions were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming NeurVana and Mr. and Ms. Kenney, keeping closed or negatively impacting their business and exposing them to hatred, ridicule and contempt, lowering NeurVana and Mr. and Ms. Kenney in the estimation of others, and causing them to be shunned and avoided.

171. In or about early February 2014, Interior Health employees, including but not limited to E.T. and P.d.B., also coached G.H. of Venture Academy on how to communicate with the media.

172. Throughout this time, MCFD and Interior Health employees, including but not limited to Ms. Beauchamp, Ms. Fabris, Ms. Rondestvedt, P.d.B. and R.P. continued to engage in ongoing discussions regarding the Removal, Civil Actions and the media coverage surrounding the Plaintiffs and the abuse allegations.

173. In particular, on February 14, 2014, Ms. Beauchamp sent an email to Ms. Fabris, in which she stated that more families were joining the lawsuit against the Plaintiffs. On the same day, Ms. Fabris responded to Ms. Beauchamp's email and stated "Good! I hope they go after him for abuse."

174. Further, on February 14, 2014, Ms. Rondestvedt published in British Columbia certain words of and concerning Neurvana and Mr. and Ms. Kenney, in a written email to E.T. and another individual, L.P. The words had initially been contained in an email sent by G.H. to Ms. Rondestvedt and P.d.B.

175. The February 14, 2014 email contained defamatory words, particulars of which are as follows (the "Rondestvedt/G.H. Words"):

Press loves to blame government.

When the reporter contacted me yesterday the question was asked about the government's role in this and if they should be held responsible (I'm paraphrasing).

I said NO. How can the Health Ministry be held responsible if they didn't even know about it? When they did find out, [...] they investigated, assessed and took action deemed appropriate. I'm on your side!

I was contacted to gain perspective from a legitimate service provider.

Like [E.T.] said "its like comparing apples to oranges" and I responded "Yeah – bad apples to good oranges!"

176. The subject line of Ms. Rondestvedt's email was "Neurvana".

177. The words in the February 14, 2014, email referred to Neurvana and Mr. and Ms. Kenney. The Plaintiff relies on the following facts to show that the words refer to them:

- (a) In February 2014, G.H. was contacted by the media with respect to Interior Health's involvement with NeurVana and the closure of NeurVana;
- (b) G.H. spoke to Interior Health, including but not limited to P.d.B. and E.T., prior to conducting an interview with the media;
- (c) Mr. and Ms. Kenney are the owners of NeurVana; and
- (d) Interior Health and G.H. were aware that Mr. and Ms. Kenney were the owners of NeurVana.

178. In the context of the February 14, 2014 email as a whole, and the public attention flowing from the Removal, the Rondestvedt/G.H. Words (and other expression) convey the following natural and ordinary inferential meanings of and concerning the Plaintiffs to the average, ordinary person as a matter of impression:

- (a) NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health;
- (b) NeurVana and Mr. and Ms. Kenney were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it;
- (c) NeurVana and Mr. and Ms. Kenney were dishonest and engaged in illegal, unethical and unauthorized business practices;
- (d) It was a good thing that NeurVana's business had closed;
- (e) NeurVana should not be allowed to continue operating its business; and/or
- (f) One or more of the above.

Each of those meanings is false, malicious and defamatory of and concerning each Plaintiff.

179. The Rondestvedt/G.H. Words constitute libel insofar as they were published in writing by Ms. Rondestvedt. The publication of the Rondestvedt/G.H. Words caused the Plaintiffs to sustain special damages, particulars of which will be provided on request.

180. The Defendants coached, encouraged and acted in concert with G.H. They aided and participated in his publication of the Rondestvedt/G.H. Words. Further,

through Ms. Rondestvedt's republication of the defamatory statement, Ms. Rondestvedt and Interior Health further communicated their agreement with the content of the defamatory expression. As a result, the Defendants are jointly and severally liable for G.H.'s publication.

181. Ms. Rondestvedt published the defamatory expression with the knowledge that the meanings conveyed by the expression were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming the Plaintiffs, closing or negatively impacting their new business and exposing them to hatred, ridicule and contempt, lowering the Plaintiffs in the estimation of others, and causing them to be shunned and avoided.

182. In or about February 2014, M.L. also contacted Interior Health and requested information about the Plaintiffs. In response to M.L.'s email, Ms. Rondestvedt published in British Columbia on or about February 20, 2014 certain words of and concerning NeurVana and Mr. and Ms. Kenney in a written email to M.L.

183. Ms. Rondestvedt's February 20, 2014 email contained defamatory words, particulars of which are as follows (the "Second Rondestvedt Words"):

In response to your inquiry Interior Health was made aware of the NeurVana Recovery and Wellness Clinic in the early evening of November 27, 2013. Pursuant to Section 15 of the CCALA, licensing officers immediately took action based on allegations that this was a youth residential care facility and it was operating without a licence. The licensing team was faced with the challenges of locating the facility and making contact with the owner. Once contact was made with the owner the investigation was complete. The findings were that the facility was offering care to youths and needed a licence. A letter was delivered to the owner on December 6th that required him to cease operating until he was granted a licence. The owner complied.

184. Thereafter, on or about February 21, 2014, M.L. further sent an email to Interior Health reproducing parts of a confidential letter the Plaintiffs had sent to the youths' parents following their removal and asked Interior Health to comment on it.

185. On or about February 27, 2014, Ms. Rondestvedt responded to M.L.'s email and provided information to him regarding Interior Health's interactions with the Plaintiffs, including statements allegedly made by Mr. Kenney and Ms. Fabris at the December 4 Meeting and its purported decision that NeurVana needed a license and would be required to cease operations until one was granted.

186. Interior Health, in particular Ms. Rondestvedt, responded to inquiries from M.L. in circumstances where it knew that it would be seen as authoritative with respect to the history of Interior Health's involvement with NeurVana and the nature of NeurVana's operations. Further, Interior Health was aware that there was a possibility that its statements would be used in litigation against NeurVana and/or Mr. and Ms. Kenney.

187. On March 10, 2014, Ms. Rondestvedt again published the Second Rondestvedt Words in British Columbia, in a written email to P.d.B. and K.S-G., Manager, Administration and Support Services, whom Ms. Rondestvedt knew intended to republish the Second Rondestvedt Words in writing to the Better Business Bureau.

188. Subsequently, on or about March 10, 2014, K.S-G. republished in British Columbia the Second Rondestvedt Words, in a written letter to the Better Business Bureau.

189. Ms. Rondestvedt knew, intended and expected that the Second Rondestvedt Words would be republished by K.S-G. to the Better Business Bureau, which in fact occurred on or about March 10, 2014. Alternatively, such republication by K.S-G. was the natural and probable result of Ms. Rondestvedt's March 10, 2014 publication of the Second Rondestvedt Words to K.S-G.

190. The February 20 and March 10, 2014 emails and Interior Health's subsequent communication to the Better Business Bureau expressly referred to NeurVana.

191. Mr. and Ms. Kenney are further referred to in the February 20 and March 10, 2014 emails and Interior Health's subsequent communication to the Better Business Bureau. The Plaintiffs rely on the following facts to show that the words refer to Mr. Kenney:

- (a) Mr. Kenney is a shareholder and sole director of NeurVana;
- (b) Ms. Kenney is a shareholder of NeurVana;
- (c) Interior Health and the Better Business Bureau were aware that Mr. and Ms. Kenney were the owners of NeurVana;
- (d) Interior Health contacted Mr. Kenney in December 2013; and
- (e) The Cease and Desist Letter was sent to Mr. Kenney.

192. The Second Rondestvedt Words were read by M.L. and a unquantifiable number of unidentifiable readers of and individuals with the Better Business Bureau, who were

possessed with knowledge of the Removal, but without the knowledge (which the Defendants actively sought to conceal) that MCFD had removed the youths without any conclusion that the youths' health or safety were in immediate danger or that they were in need of protection.

193. In the context of the February 20 and March 10, 2014 emails, and the subsequent republication of the Second Rondestvedt Words by S.K-G. and Interior Health, each as a whole, and the public attention flowing from the Removal, the Second Rondestvedt Words (and other expression) convey the following natural and ordinary inferential meanings of and concerning the Plaintiffs to the average, ordinary person as a matter of impression:

- (a) NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health such that Interior Health only became aware of NeurVana in late November 2013;
- (b) NeurVana and Mr. and Ms. Kenney were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it;
- (c) NeurVana and Mr. and Ms. Kenney were dishonest and engaged in illegal, unethical and unauthorized business practices;
- (d) Interior Health's investigation into NeurVana was complete once it spoke with Mr. Kenney; and/or
- (e) One or more of the above.

Each of those meanings is false, malicious and defamatory of and concerning each Plaintiff.

194. The Second Rondestvedt Words constitute libel insofar as they were published in writing by Ms. Rondestvedt and K.S-G. The publication of the Second Rondestvedt Words caused the Plaintiffs to sustain special damages, particulars of which will be provided on request.

195. Ms. Rondestvedt published the above defamatory expressions with the knowledge that the meanings conveyed by the expressions were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming the Plaintiffs, keeping closed or negatively impacting their business and exposing them to hatred, ridicule and contempt, lowering the Plaintiffs in the estimation of others, and causing them to be shunned and avoided.

Circumstances Surrounding the Defendants' Communication with the Public and the Media

196. Interior Health communicated with the media and the Better Business Bureau in circumstances where it knew that it would be seen as authoritative with respect to the history of Interior Health's involvement with NeurVana and the nature of NeurVana's operations.

197. Interior Health was further aware of the impression its statements to the media would give to members of the public.

198. At no time did Interior Health make efforts to clarify or confirm with the media or the public that it had been aware of NeurVana since at least January 2013, that it had never made a determination as to the appropriateness or ethical nature of NeurVana's business, or that it lack the authority to close NeurVana.

199. Moreover, following the commencement of the Civil Actions and the corresponding media coverage, MCFD knew that in the absence of clarification from it, its attendance at NeurVana's premises and the removal of the youths would provide a level of credibility in the public's mind to the allegations raised in the Civil Actions greater than otherwise would be the case. Further, MCFD was aware that certain media articles suggested that MCFD was supporting the plaintiffs in the Civil Actions.

200. Throughout this time, MCFD social workers made no efforts to clarify or confirm with the media or the public that MCFD had not made a determination that the youths were in need of protection or their health and safety was in immediate harm, which would have caused them to act under section 30, with the full knowledge that their silence on this point would create the opposite impression.

Mr. and Ms. Kenney's Attempts to Start a New Business

201. Following the Removal, Mr. and Ms. Kenney made efforts to start a new wellness business. Mr. and Ms. Kenney began exploring the possibility of opening a wellness centre in the Cayman Islands. However, due to the intense media coverage of the Removal, the Civil Actions and Interior Health's involvement with NeurVana, Mr. and Ms. Kenney were forced to suspend those efforts.

202. Subsequently, and as a result of the Defendants' actions, Mr. and Ms. Kenney were placed on a watch-list by the Cayman Immigration authorities, as persons who "may be wanted by the authorities in Canada".

203. With the assistance of family members, Mr. and Ms. Kenney were able to move to Barrie, Ontario and open a new business, Neuro Architechs in or about May 2014.

204. Neuro Architechs ran a smaller daytime, non-residential program that provided services to people of all ages (from 10 years old to 84 years old), including BWO and life coaching.

205. Notwithstanding that they had no jurisdiction in Ontario, the Defendants continued to pursue Mr. and Ms. Kenney and their new business.

206. On October 23, 2014, Ms. Beauchamp called Mr. Kenney at his new telephone number in Ontario. She refused to provide him with her name but advised him that she was calling from B.C. Child Protection Services. She stated that they had closed him down the year before and understood that he had re-opened. Mr. Kenney stated that NeurVana had not re-opened and asked who was calling him. Ms. Beauchamp did not respond to Mr. Kenney's requests for her name and hung up on him. Subsequently Mr. Kenney determined, using the caller identification on his telephone and the British Columbia Government Directory, that Ms. Beauchamp had been the caller.

207. On or about October 23, 2014, Ms. Mitchell also published in British Columbia certain words of and concerning NeurVana, Neuro Architechs and Mr. and Ms. Kenney, in a written letter that was then sent to the Ontario Catholic Children's Aid Society of Toronto purportedly to warn them of Mr. and Ms. Kenney's presence and alleged past misconduct.

208. The October 23, 2014 letter contained defamatory words, particulars of which are as follows (the "Mitchell Words"):

On December 5, 2013, we attended [at NeurVana]...[t]he centre was run by David and Sue Kenney... The centre was shut down and the Kenneys fled the city with plans to set up a new centre in the Cayman Islands. No one was able to make contact with them and they basically dissolved the business. Today we received information that they have started a new treatment centre operating out of Barrie, ON...they offer similar services to what they had in Kelowna. It is unknown if they work out of this office, or if they use it as a front and have residential facilities in other locations...

There is currently a class action lawsuit in British Columbia between several of the families of the youth and the Kenneys wherein families of some of the maltreated youth are seeking to regain some of the many thousands of dollars they spend to send their kids to the facility and exposing the maltreatment of the children.

209. The October 23, 2014 letter expressly referred to NeurVana and Mr. and Ms. Kenney by name.

210. Neuro Architechs is the new corporation referred to in the October 23, 2014 letter. The Plaintiffs rely on the following facts to show that the words refer to Neuro Architechs:

- (a) Mr. and Ms. Kenney opened Neuro Architechs in 2014;
- (b) Neuro Architechs operated in or near Barrie, Ontario;
- (c) Mr. and Ms. Kenney are the owners and operators of Neuro Architechs; and
- (d) Neuro Architechs was a wellness centre that provided services to youths and young adults.

211. In the context of the October 23, 2014 letter as a whole, the Mitchell Words (and other expression) convey the following natural and ordinary inferential meanings of and concerning the Plaintiffs to the average, ordinary person as a matter of impression:

- (a) MCFD had concluded that the youths at NeurVana in Kelowna were in immediate danger and in need of protection;
- (b) Mr. and Ms. Kenney were dishonest people and had been exploiting the families of the children in their care and making a significant amount of money off them;
- (c) Mr. and Ms. Kenney were likely operating, or may be operating, in a similar manner with their new business, Neuro Architechs, in Ontario;
- (d) The Plaintiffs had attempted to conceal NeurVana and what they were doing in Kelowna, and may be doing the same in Ontario;
- (e) After MCFD had shut down NeurVana, Mr. and Ms. Kenney had reason to and did flee the country and had gone into hiding;
- (f) The activities of NeurVana and Mr. and Ms. Kenney resulted in class actions against them; and/or
- (g) One or more of the above.

Each of those meanings is false, malicious and defamatory of and concerning each Plaintiff.

212. The Mitchell Words constitute libel insofar as they were published in writing by Ms. Mitchell. The publication of the Mitchell Words caused the Plaintiffs to sustain special damages, particulars of which will be provided on request.

213. Ms. Mitchell published the defamatory expression with the knowledge that the meanings conveyed by the expression were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming the Plaintiffs, closing or negatively impacting their new business and exposing them to hatred, ridicule and contempt, lowering the Plaintiffs in the estimation of others, and causing them to be shunned and avoided.

214. Mr. and Ms. Kenney continued to operate Neuro Architechs into 2015. However, as a result of the media attention cause by the Defendants and Mr. and Ms. Kenney's resultant tarnished reputations, numerous prospective clients terminated contact with Neuro Architechs and it struggled financially.

215. Thereafter, in mid-2015, Mr. and Ms. Kenney opened Wellbeing and relocated their business to a property in Ontario owned by a family member. Wellbeing is a wellness centre that offers wellness services to three or four men, women and young adults at a time in a residential setting.

216. Wellbeing's business has barely been able to support itself as a result of the damage done to Mr. and Ms. Kenney's reputations by the Defendants' actions and the subsequent media coverage, which have continued to have a negative impact on Wellbeing's business, including through the cancellation of clients and prospective clients, in some cases even after they had paid a deposit.

Consequences of the Publication of Defamatory Expressions

217. The defamatory expressions complained of in this Notice of Civil Claim have each caused and continue to cause injury, loss and damage to each of NeurVana, Neuro Architechs and Mr. and Ms. Kenney, and were calculated to expose NeurVana, Neuro Architechs and Mr. and Ms. Kenney to contempt, ridicule and hatred, and to lower NeurVana, Neuro Architechs and Mr. and Ms. Kenney in the estimation of right-thinking people generally, and to cause other persons to shun and avoid NeurVana, Neuro Architechs and Mr. and Ms. Kenney, all of which has in fact occurred and continues to occur.

218. As a further consequence of the publication of each of the defamatory expressions complained of in this Notice of Civil Claim, NeurVana, Neuro Architechts and Mr. and Ms. Kenney and each of them have suffered and will continue to suffer special damages, particulars of which will be provided on request.

219. The loss, damage and expense incurred by each of the NeurVana, Neuro Architechts and Mr. and Ms. Kenney, include, among other things, substantial and persisting injury to reputation and in the case of the individual Plaintiffs, Mr. and Ms. Kenney, injury to pride and self-confidence, severe emotional distress, social damage, and injury to professional and personal relationships between the individual Plaintiff and other persons in British Columbia, elsewhere in Canada and the world.

220. The Defendants were actuated in publishing each of the defamatory expressions complained of in this Notice of Civil Claim for which each is responsible by express malice, which has increased the injury to NeurVana, Neuro Architechts and Mr. and Ms. Kenney, and has increased the mental distress and humiliation of the individual Plaintiffs, Mr. and Ms. Kenney.

Co-ordination and Improper Nature of the Defendants' Actions

221. At all material times, the Defendants acted in concert with each other and for improper purposes, including but not limited to seeking to close down NeurVana and prevent Mr. and Ms. Kenney from reopening NeurVana or opening or operating a new business, to harm the Plaintiffs' reputations, and to favour, promote and protect the interests of Venture Academy.

222. At all material times, Ms. Beauchamp, Ms. Mitchell, N.H., and S.H. were employees of MCFD and their actions and omissions were directly connected to and arose out of the conduct which they were authorized to carry out.

223. Further, and in the alternative, at all material times, the risks inherent in MCFD's enterprises permitted and materialized in the wrongful conduct of its employees, including but not limited to Ms. Beauchamp, Ms. Mitchell, N.H. and S.H.

224. At all material times, Ms. Fabris, Ms. Rondestvedt, E.T., P.d.B. and R.P. were employees of Interior Health and their actions and omissions were directly connected to and arose out of the conduct which they were authorized to carry out.

225. Further, and in the alternative, at all material times, the risks inherent in Interior Health's enterprises permitted and materialized in the wrongful conduct of its employees, including but not limited to Ms. Fabris, Ms. Rondestvedt, E.T., P.d.B. and R.P.

226. At all material times, Jane Doe was an employee of MCFD or Interior Health and his or her actions and omissions were directly connected to and arose out of the conduct which he or she was authorized to carry out.

227. Further, and in the alternative, at all material times, Jane Doe had been delegated powers under the CCALE from A.L., another MHO or the Ministry of Health related to the issuance of licenses to operate community care facilities and investigation of complaints of unlicensed community care facilities.

The Result of the Defendants' Conduct

228. As a result of the conduct of the Defendants, Neurvana was forced to cease operations and Mr. and Ms. Kenney lost their business, reputations, and financial security. All Neurvana employees and staff immediately were unemployed.

229. Mr. Kenney was forced to default on the terms of the lease agreement of the Premises and Mr. and Ms. Kenney effectively became insolvent. Mr. and Ms. Kenney's credit has been damaged, preventing them from obtaining financing from banks and forcing them to seek loans from family members.

230. Further, Neurvana was unable to provide the services which it had contracted with the youths and their parents to provide. It was also unable to provide a refund for those services to the parents.

231. As a result, Neurvana's and Mr. and Ms. Kenney's reputations, good will and relationships with their clients and their clients' families were damaged.

232. As a direct result of the actions of the Defendants and the damage to their reputations that followed, Mr. and Ms. Kenney also have been unable to seek employment in any position in the field of education.

233. Moreover, Mr. and Ms. Kenney's ability to open a new wellness centre has been hindered and harmed.

234. As a result of the damage to Mr. and Ms. Kenney's reputations, which resulted from the actions of the Defendants, and the Defendants' continued pursuit of Mr. and Ms. Kenney, Neuro Architechs' reputation and ability to retain clients was damaged causing Neuro Architechs to suffer losses, including but not limited to loss of income, business and reputation.

235. Further, Mr. and Ms. Kenney and Wellbeing continue to suffer losses as a result of the Defendants' conduct, including through the cancellation of clients and prospective clients.

236. On a number of occasions, Wellbeing has received inquiries from prospective clients or entered into an agreement with a new client and taken a deposit, only to have the potential client cease communications with Wellbeing or suddenly and without warning terminate the booking and/or demand the return of his or her deposit, upon reading the negative media coverage still available on the internet regarding NeurVana, Mr. and Ms. Kenney and the Defendants' involvement with them.

237. As a result of the damage to his reputation, Mr. Kenney is also no longer able to be involved directly in the marketing and admissions for Wellbeing.

Part 2: RELIEF SOUGHT

238. The Plaintiffs seek the following against the Defendants:

- (a) General and special damages in an amount to be determined at trial;
- (b) Punitive damages;
- (c) Pre-and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
- (d) Costs; and
- (e) Such further and other relief as this Honorable Court may consider just.

239. In addition to the relief sought in the preceding paragraphs as against both Defendants, the Plaintiffs claim against MCFD for a declaration that the removal of the nine youths was unlawful and did not comply with MCFD's own statute, policies, and regulations.

Part 3: LEGAL BASIS

240. The Plaintiffs rely on:

- (a) The common law tort of defamation;
- (b) The common law tort of negligence;

- (c) The public law principles underlying a public law duty of care and giving rise to the basis for a monetary award;
- (d) The common law tort of interference with economic relations;
- (e) The common law tort of misfeasance in public office; and
- (f) The common law tort of barratry.

241. The Plaintiffs also plead and rely on:

- (a) The *Negligence Act*, R.S.B.C. 1996, c. 333;
- (b) The *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75;
- (c) The *Child, Family and Community Services Act*, R.S.B.C. 1996, c. 46; and
- (d) The *Court Order Interest Act*, R.S.B.C. 1996, c. 79.

Malice and Improper Purpose

242. For the purposes of this claim, as described below, the Plaintiffs allege that employees of MCFD and Interior Health acted with malice and improper purpose.

243. Particulars of malice include, but are not limited to:

- (a) Ms. Fabris stating to Ms. Beauchamp that she hopes the youths' families go after NeurVana and Mr. and Ms. Kenney for abuse, revealing a personal rooting interest against NeurVana and Mr. and Ms. Kenney;
- (b) Interior Health and MCFD employees continuing to pursue and target NeurVana and Mr. and Ms. Kenney after they had left the Defendants' jurisdiction;
- (c) Interior Health and MCFD employees coaching and favouring Venture Academy, a competitor of the Plaintiffs;
- (d) MCFD employees encouraging and assisting with the Civil Actions; and
- (e) Fostering, encouraging and acquiescing in the impression in others that MCFD had concluded that the youths were in need of protection or that

their health or safety was in immediate danger when MCFD had reached no such conclusion.

Defamation

The E.T. Defamation

244. The Plaintiffs repeat and rely on paragraphs 151-160 and 217-220.

245. On or about February 12, 2014, E.T. falsely and maliciously provided a statement to the media containing a defamatory statement about the Plaintiffs. In particular, E.T. made the following defamatory statement:

When Interior Health was made aware of this facility in early December, we determined that this was a type of facility that would require a license under the Community Care and Assisted Living Act.

246. When coupled with the knowledge that MCFD had removed the youths from NeurVana, but not the knowledge (which the Defendants actively sought to conceal) that MCFD had done so without any conclusion that the youths were in immediate danger or in need of protection and read in its entirety, the February 12, 2014 statement meant and was understood to mean that NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health, were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it, and were dishonest and engaged in illegal, unethical and unauthorized business practices.

The Rondestvedt Defamations

247. The Plaintiffs repeat and rely on paragraphs 161-170, 174-183, 187-195 and 217-220.

248. On or about February 12 or 13, 2014, Ms. Rondestvedt falsely and maliciously made defamatory statements concerning NeurVana and Mr. and Ms. Kenney in an interview with the Kelowna Daily Courier. In particular, she stated words to the effect:

(a) In early December, someone tipped off Interior Health officials that NeurVana was operating without a licence.

249. Subsequently, on February 14, 2014, D.P. and the Kelowna Daily Courier published the Daily Courier Article. The Daily Courier Article contained defamatory words, particulars of which are as follows:

In early December, someone tipped off officials that the facility was operating without a licence. They determined it needed one because staff were serving three or more clients deemed dependent and vulnerable, said Gretchen Rondestvedt, who manages licensing for the health authority.

"We immediately informed the operator that he needed to close his operations and he complied right away," she said.

250. When coupled with the knowledge that MCFD had removed the youths from NeurVana, but not the knowledge (which the Defendants actively sought to conceal) that MCFD had done so without any conclusion that the youths were in immediate danger or in need of protection and read in their entirety, Ms. Rondestvedt's statements and the Daily Courier Article meant and were understood to mean that NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health, were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it, and were dishonest and engaged in illegal, unethical and unauthorized business practices.

251. On February 14, 2014, Ms. Rondestvedt falsely and maliciously sent an email to E.T. and L.P. containing a defamatory statement about the Plaintiffs. In particular, Ms. Rondestvedt published the following defamatory statement:

... How can the Health Ministry be held responsible if they didn't even know about it? When they did find out, [...] they investigated, assessed and took action deemed appropriate. [...]

Like [E.T.] said "its like comparing apples to oranges" and I responded "Yeah – bad apples to good oranges!"

252. The statement in the February 14, 2014 email when read in its entirety meant and was understood to mean that NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health, were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it, and were dishonest and engaged in illegal, unethical and unauthorized business practices.

253. The Defendants aided and participated in the publication of the defamatory expression complained of pursuant to a common design. Further the Defendants acted in concert to cause, procure, participate in and authorize the publication of the defamatory expression.

254. In particular, Interior Health employees coached and advised G.H. on how to communicate with respect to the Plaintiffs, and republished the defamatory statement. Throughout this time, MCFD and Interior Health employees continued to engage in ongoing discussions regarding the media coverage surrounding the Plaintiffs and the abuse allegations.

255. Through Ms. Rondestvedt's republication of the defamatory statement, Ms. Rondestvedt and Interior Health further communicated their agreement with the content of the defamatory expression.

256. On February 20, 2014, Ms. Rondestvedt falsely and maliciously sent an email to M.L. containing a defamatory statement about the Plaintiffs. In particular, she stated:

In response to your inquiry Interior Health was made aware of the NeurVana Recovery and Wellness Clinic in the early evening of November 27, 2013. Pursuant to Section 15 of the CCALA, licensing officers immediately took action based on allegations that this was a youth residential care facility and it was operating without a licence. The licensing team was faced with the challenges of locating the facility and making contact with the owner. Once contact was made with the owner the investigation was complete. The findings were that the facility was offering care to youths and needed to a licence. A letter was delivered to the owner on December 6th that required him to cease operating until he was granted a licence. The owner complied.

257. When coupled with the knowledge that MCFD had removed the youths from NeurVana, but not the knowledge (which the Defendants actively sought to conceal) that MCFD had done so without any conclusion that the youths were in immediate danger or in need of protection and read in its entirety, the February 20, 2014 statement meant and was understood to mean that NeurVana and Mr. and Ms. Kenney had intentionally concealed the operation of NeurVana from Interior Health, were operating a business of a nature that would have caused Interior Health to shut it down immediately upon Interior Health becoming aware of it, and were dishonest and engaged in illegal, unethical and unauthorized business practices.

258. On March 10, 2014, Ms. Rondestvedt again published the Rondestvedt Words, knowing, intending and expecting them to be republished by K.S-G., which in fact occurred on or about March 10, 2014.

The Mitchell Defamation

259. The Plaintiffs repeat and rely on paragraphs 207-213 and 217-220.

260. On or about October 23, 2014, Ms. Mitchell, a social worker with MCFD, falsely and maliciously sent a letter to the Catholic Children's Aid Society of Toronto, containing defamatory statements about the Plaintiffs. In particular, Ms. Mitchell made the following defamatory statements:

"The Kenneys fled the city with plans to set up a new centre in the Cayman Islands. No one was able to make contact with them and they basically dissolved the business"; "It is unknown if they work out of this office, or if they use it as a front and have residential facilities in other locations..."; and "[t]here is currently a class action lawsuit in British Columbia between several of the families of the youth as the Kenneys wherein families of some of the maltreated youth are ... exposing the maltreatment of the children".

261. The October 23, 2014 letter when read in its entirety meant and was understood to mean that MCFD had investigated NeurVana and determined that the Plaintiffs had been mistreating children in their care; the Plaintiffs had been using the families of the children and making a significant amount of money off them; Mr. and Ms. Kenney may be operating in a similar manner in Ontario; the Plaintiffs had attempted to conceal their business in Kelowna and may be doing the same in Ontario; after the shutdown of NeurVana, Mr. and Ms. Kenney fled the country and gone into hiding; and several of the families had stated a class action against Mr. and Ms. Kenney seeking compensation for the mistreatment of their children and the significant sums they had paid for their care.

262. Each of the above statements and their meanings are false, malicious and defamatory or and concerning each Plaintiff.

263. The above statements have the effect of lowering the reputation of the Plaintiffs' in the estimation of right-thinking members of society.

264. Further, the Defendants published the above defamatory expressions with the knowledge that the meanings conveyed by the expressions were false, or alternatively, with reckless indifference to whether they were true or false, and/or for the predominant purpose of harming the Plaintiffs and exposing them to hatred, ridicule and contempt, lowering the Plaintiffs in the estimation of others, and causing them to be shunned and avoided.

Negligence

265. Throughout the course of their interactions with the Plaintiffs, the Defendants targeted the Plaintiffs and engaged in direct communications and interactions with them.

At all material times, the Plaintiffs were the subject and focus of the Defendants' attention and activities.

266. Following its interviews with the youths and search of NeurVana's premises, MCFD decided to intervene in NeurVana's program and remove the youths, notwithstanding the absence of any conclusion that it had justification to do so under s. 30 of the *CFCSA*.

267. MCFD acted, and continued to act, in circumstances where it knew the impression its attendance at NeurVana's premises and the removal of the youths would leave, and that NeurVana and Mr. and Ms. Kenney would be left vulnerable, by reason of MCFD's actions, to misinformation or incomplete information.

268. Thereafter, notwithstanding that it knew it did not have the authority to prevent the ongoing operation of NeurVana, Interior Health purported to determine that NeurVana required a licence and ordered it to cease operating immediately.

269. Interior Health acted, and continued to act, in circumstances where it knew, or reasonably should have known, that NeurVana and Mr. and Ms. Kenney had been left vulnerable by reason of MCFD's actions, and that the impression that would be left by its purported decision and order would leave NeurVana and Mr. and Ms. Kenney further vulnerable to misinformation or incomplete information.

270. Following the Removal and the issuance of the Cease and Desist Letter, the Defendants continued to monitor and contact the Plaintiffs, and make inquiries about their whereabouts and business operations. The Defendants further continued to actively engage with each other and third parties, including the media, with respect to the Plaintiffs and their business operations.

271. As a result of their ongoing and targeted interactions with the Plaintiffs, the Defendants entered into a special relationship with the Plaintiffs that was close and direct.

272. Further, in these circumstances, the Defendants stepped outside their statutory mandates and entered into relationships of proximity with the Plaintiffs.

273. As a result of the unique and direct nature of their relationship, the Defendants owed the Plaintiffs a duty to take reasonable care in the exercise or purported exercise of their powers and their continuing communications regarding and interactions with the Plaintiffs.

274. More particularly, MCFD's proximate relationship to NeurVana and Mr. and Ms. Kenney gave rise to a duty to take reasonable care not to fuel, encourage, acquiesce in or allow to stand allegations that were unsupported by the true basis for the Removal.

275. By reason of its proximate relationship to NeurVana and Mr. and Ms. Kenney, Interior Health also owed them a duty to take reasonable care not to fuel, encourage, acquiesce in or allow to stand allegations it knew to be unsubstantiated regarding NeurVana's and Mr. and Ms. Kenney's involvement with Interior Health, and the nature of the business they were operating.

276. MCFD and Interior Health further owed the Plaintiffs a duty not to let the personal animus or recklessness of its employees influence the exercise of their or MCFD's powers.

MCFD was Negligent in its Conduct

277. The CFSCA, Manual and Standards set out the standards, policies and procedures that social workers are reasonably expected to follow. MCFD, and in particular Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, failed to follow these standards, policies and procedures and, at times, acted in a manner contrary to them.

278. MCFD and its employees, including but not limited to Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, breached their duties to the Plaintiffs. Particulars of MCFD's negligence includes, but are not limited to:

- (a) Allowing the personal animus or recklessness of its employees to influence the exercise of its powers;
- (b) Failing to ensure that its employees were not actuated by malice or improper purpose;
- (c) Failing to conduct its investigation into the Plaintiffs with an open mind;
- (d) Failing to adequately consider the age, maturity level, and development of the youths in the course of deciding to remove them;
- (e) Failing to seek information from all relevant and available sources before the Removal, including but not limited to the parents of the youths in question, NeurVana's files and NeurVana's staff members;

- (f) Failing to provide the Plaintiffs with a reasonable opportunity to respond to any concerns raised by the social workers;
- (g) Failing to ensure that it was at all times operating within the scope of its statutory authority;
- (h) Failing to adequately train and supervise its staff and to ensure that they were conducting their duties and responsibilities in a careful, unbiased and impartial manner;
- (i) Failing to consider alternative or less-invasive measures before the Removal;
- (j) Failing to make efforts to contact the youths' parents prior to the Removal;
- (k) Actively fueling and encouraging or acquiescing in or allowing to stand allegations that were unsupported by the true basis for the Removal;
- (l) Continuing to track and pursue the Plaintiffs both inside and outside British Columbia without any authority to do so; and
- (m) Failing to take reasonable steps to ensure that its communications with others regarding the Plaintiffs were true and accurate.

Interior Health was Negligent in its Conduct

279. Interior Health and its employees, including but not limited to Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P. and/or Jane Doe, breached their duties to the Plaintiffs. Particulars of Interior Health's negligence include, but are not limited to:

- (a) Allowing the personal animus or recklessness of its employees to influence the exercise of its powers;
- (b) Failing to ensure that its employees were not actuated by malice or improper purpose;
- (c) Allowing unqualified individuals to exercise its powers or powers delegated from a MHO;
- (d) Failing to consider whether NeurVana was operating a community care facility, subject to the *CCALA*, in a careful and impartial manner;

- (e) Conducting its investigative, licensing or other administrative duties with a closed mind and/or bias towards the Plaintiffs;
- (f) Taking into account, in the course of making its licensing determination, irrelevant information;
- (g) Failing to provide the Plaintiffs with an adequate opportunity to respond to information considered by it in the course of making its licensing determination;
- (h) Failing to adequately train and supervise its staff and to ensure that they were conducting their duties and responsibilities in a careful, unbiased and impartial manner and with reasonable procedural fairness;
- (i) Failing to ensure that it was at all times operating within the scope of its statutory authority;
- (j) Actively fueling and encouraging or acquiescing in or allowing to stand allegations or implications related to NeurVana's and Mr. and Ms. Kenney's involvement with Interior Health, and the nature of the business they were operating;
- (k) Failing to take reasonable steps to ensure that its communications with others regarding the Plaintiffs were true and accurate; and
- (l) Failing to take steps, or acting in a manner that was recklessly indifferent, to prevent the disclosure of personal information regarding the Plaintiffs' business operations.

280. As a direct result of MCFD's and Interior Health's negligence, the Plaintiffs suffered damages and losses, including but not limited to loss of income, loss of business opportunity; damage to reputation and emotional pain and suffering.

281. At all material times, it was reasonably foreseeable to MCFD and Interior Health that their failure to conduct themselves reasonably and in accordance with their duties to the Plaintiffs would result in the foregoing harm to the Plaintiffs.

Monetary Award Based on Public Law Principles

282. The Plaintiffs further plead and rely upon the public law duty of care and the public law principles giving rise to a basis for a monetary award, as described in *Paradis Honey Ltd. v. Canada*, 2015 FCA 89.

283. The Defendants' actions were unacceptable and indefensible, and warrant the exercise of the Court's remedial discretion.

284. The Plaintiffs have suffered significant loss and damages, as a result of the Defendants' actions, justifying the granting of monetary relief.

Interference with Economic Relations

285. MCFD unlawfully removed the youths from NeurVana without statutory or other authority. Further, in removing the youths, MCFD, and its employees, including but not limited to Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, acted in bad faith and for improper purposes.

286. MCFD's actions, and those of its employees, including but not limited to Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, interfered with the Plaintiffs' economic relations. In particular, they interfered with the Plaintiffs' business and contractual relations with the youths and their families.

287. At all material times, MCFD's actions, and those of its employees, including but not limited to Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, were intended to cause the Plaintiffs' and their economic interests harm.

Misfeasance in Public Office

MCFD

288. At all material times, Ms. Beauchamp, Ms. Mitchell, S.H., N.H. and/or Jane Doe were employees of MCFD and public officers engaged in activities related to the exercise of their powers or authority under the *CFCSA*.

289. In the course of engaging in activities related to the exercise of their statutory powers or authority, Ms. Beauchamp, Ms. Mitchell, S.H., N.H. and/or Jane Doe wrongfully:

- (a) Removed the youths from NeurVana knowing they lacked statutory or other authority to do so;
- (b) Used their positions or powers to influence Interior Health's licensing decision so as to provide justification after the fact for a removal that was not founded on s. 30 of the *CFCSA*;

- (c) Continued to exercise their powers and influence to perpetuate a false impression as to the basis for the Removal; and
- (d) Continued to pursue and track the Plaintiffs both inside and outside of British Columbia, without legal authority or justification.

290. There was no legal basis or authority for the above complained of acts and omissions.

291. At no time did MCFD conclude, or have reasonable grounds to conclude, that the youths were in need of protection, or that the youths' health or safety was in immediate danger. In addition, at no time did MCFD have reasonable grounds to believe that the youths lacked adequate supervision.

292. Further, at all material times, MCFD was aware that less disruptive measures, other than removing the youths, were available.

293. At all material times, Ms. Beauchamp, Ms. Mitchell, S.H., N.H. and/or Jane Doe were aware that they had no power or authority to commit the complained of acts and omissions, and that their actions were likely to injure the Plaintiffs.

294. Further and in the alternative, the complained of acts and omissions were conducted in bad faith, with a closed mind and for improper purposes, including but not limited to seeking to close down the Plaintiffs' business and prevent them from opening a new business, to harm the Plaintiffs' reputation, and to favour, promote and protect the interests of Venture Academy.

295. In particular, MCFD, and in particular Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, conducted their investigation into the Plaintiffs and decided to remove the youths with a closed mind, in a manner contrary to the policies and standards set out in the Manual and Standards, and with knowledge that they lacked the authority to remove the youths.

296. Further and in the alternative, at all material times, the conduct of MCFD, including Ms. Beauchamp, Ms. Mitchell, S.H., N.H. and/or Jane Doe was directed at the Plaintiffs with the intention of causing them harm, including but not limited to their reputations and economic interests.

Interior Health

297. At all material times, Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P. and/or Jane Doe were employees of Interior Health and, pursuant to the MHO's, Minister of Health's

and/or director of licensing's delegation of powers to them, public officers engaged in activities related to the exercise of their powers or authority under the *CCALA*.

298. In the course of engaging in activities related to the exercise of their statutory powers or authority, Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P. and/or Jane Doe wrongfully:

- (a) Used their positions and powers to justify a removal of youths that was not and could not be justified under s. 30 of the *CFCSA*;
- (b) Issued the Cease and Desist Letter and made efforts to prevent the continued operation of NeurVana, with knowledge that they had no statutory authority to do so;
- (c) Favoured Venture Academy and coached G.H. on how to respond to media inquiries; and
- (d) Continued to pursue and track the Plaintiffs both inside and outside British Columbia.

299. There was no legal basis or authority for the above complained of acts and omissions. At all material times, Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P. and/or Jane Doe were aware that they had no power or authority to commit the complained of acts and omissions, and that their actions were likely to injure the Plaintiffs.

300. Further and in the alternative, the complained of acts and omissions were conducted in bad faith, with a closed mind and for improper purposes, including but not limited to seeking to close down the Plaintiff's business and prevent them from opening a new business, to harm the Plaintiff's reputation, and to favour, promote and protect the interests of Venture Academy.

301. Further and in the alternative, at all material times, the conduct of Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P. and/or Jane Doe was directed at the Plaintiffs with the intention of causing them harm.

302. At all material times, the Plaintiffs had the right not to be injured or damaged by the Defendants' deliberate misfeasance and abuse of power.

Barratry

303. MCFD social workers, including Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe, encouraged the parents of one or more of the youths removed from

NeurVana to instigate a civil action against the Plaintiffs with the intention of causing harm to the Plaintiffs' reputations and business interests.

304. At all material times, MCFD acted in circumstances where it knew that the bases for the litigation it was encouraging were incompatible with the fact that MCFD had not concluded that the youths' health or safety was in immediate danger or that they were in need of protection.

Vicarious and Joint Liability

305. At all material times, MCFD was vicariously liable for the actions and omissions of its employees, including Ms. Beauchamp, Ms. Mitchell, N.H., S.H. and/or Jane Doe.

306. At all material times, Interior Health was vicariously liable for the actions and omissions of its employees, including Ms. Fabris, Ms. Rondestvedt, P.d.B., R.P., E.T. and/or Jane Doe.

307. Further, at all material times, the Ministry of Health had delegated statutory powers and authority to Ms. Fabris, Ms. Rondestvedt P.d.B., R.P. and/or Jane Doe.

308. Pursuant to the *Crown Proceedings Act*, the Crown is subject to all the liabilities to which it would be liable if it were a person, including but not limited to vicarious liability for the acts or omissions of its employees and agents.

309. At all material times, the Defendants acted in concert with each other and are jointly and severally liable pursuant to the *Negligence Act*.

General Damages Arising from the Tortious Conduct

310. By reason of the Defendants' unlawful conduct, the Plaintiffs have sustained loss and damage, particulars of which include but are not limited to:

- (a) Loss of their primary business, NeurVana;
- (b) Loss of income;
- (c) Loss of economic and business opportunities;
- (d) Damage to reputation; and
- (e) Emotional pain and suffering.

Plaintiffs' address for service: Dentons Canada LLP
20th Floor, 250 Howe Street
Vancouver, BC V6C 3R8
Attention: Emma Irving

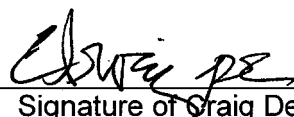
E-mail address for service (if any): emma.irving@dentons.com

Fax number address for service (if any): 604-683-5214

Place of trial: Supreme Court of British Columbia,
Vancouver Registry

The address of the registry is: 800 Smithe Street
Vancouver, British Columbia
V6Z 2E1

Date: 4/December/2015



Signature of Craig Dennis
Lawyer for 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 Plaintiffs claim damages arising from various torts and breaches of legal duties by the Defendants.

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: Enactments Relied On

- (a) The *Negligence Act*, R.S.B.C. 1996, c. 333;
- (b) The *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75, (the "CCALA"); and
- (c) The *Child, Family and Community Services Act*, (the "CFCSA"), R.S.B.C. 1996, c. 46.