

No. 11-19-118-cv, 2019

**IN THE NUNAVUT COURT OF JUSTICE**

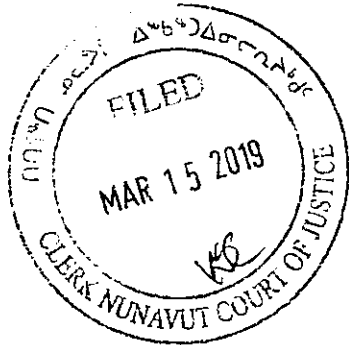
**BETWEEN:**

The Estate of David (Kunuk) Qajaakuttuk Qamaniq,  
and  
David Qamaniq and Leah Oingoot (Sangoya) Qamaniq  
and  
Berthe Atagootak, Paul Qamaniq, Roger (Kaiya) Qamaniq,  
and Len Joby Qamaniq by his next friend David Qamaniq  
Plaintiffs

and

Patrick Higgins (Cst)  
and  
Kyle Longmire (Cst) and Terry Hamlin (Cpl)  
and  
Royal Canadian Mounted Police and  
The Commissioner of the Royal  
Canadian Mounted Police

Defendants



**STATEMENT OF CLAIM**

This Statement of Claim is filed by:

**ANNE CRAWFORD**  
**Crawford Law Office**

P.O. Box 747  
Iqaluit, Nunavut  
X0A 0H0  
Nu Roll Number 1999-002

Solicitors for the Plaintiff  
whose address for service is above.

**The Defendants' address for service is, in each instance:**

c/o RCMP V Division Headquarters  
Bag 500  
960 Federal Rd  
Iqaluit, Nunavut, X0A 0H0

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Patrick Higgins (Cst)

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Kyle Longmire (Cst) and Terry Hamlin (Cpl)

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Royal Canadian Mounted Police and  
The Commissioner of the Royal Canadian Mounted Police

Defendants

**STATEMENT OF CLAIM**

1. The Plaintiffs are, respectively, the Estate of, the parents of, and the siblings of, the late David Qajaakuttuk Qamaniq hereafter "Kunuk" who died for a single gun shot wound fired by the Defendant Higgins on March 18, 2017 at Pond Inlet in the territory of Nunavut. All Plaintiffs reside at the Hamlet of Pond Inlet in Nunavut.
2. The Individual Defendants are, respectively, Patrick Higgins (Higgins) an on-duty constable in the Pond Inlet Detachment of the Royal Canadian Mounted Police (RCMP) who fired the shot which killed Kunuk on March 18, 2017 at Pond Inlet, Nunavut; Kyle Longmire (Longmire) an on-duty constable in the Pond Inlet Detachment of the Royal Canadian Mounted Police and Terry Hamlin (Hamlin) the on-duty NCO in charge of the operations of the Pond Inlet Detachment of the Royal Canadian Mounted Police (Cst) on that day and at that time, both of whom participated in the encounter with Kunuk which lead to his death.

3. All Individual Defendants resided at the Hamlet of Pond Inlet in the Territory of Nunavut at the time of Kunuk's death, but have subsequently been relocated by the Defendant RCMP to other communities and provinces. Service of each is within the care of the RCMP "V" Division Headquarters as the supervising Division for Pond Inlet and Nunavut.
4. The Police Agency Defendants, the Royal Canadian Mounted Police and The Commissioner of the Royal Canadian Mounted Police are the statutory authorities responsible for Policing Services in Nunavut, and are the employer of the individual defendants and responsible for the recruiting, posting, direction, training, and conduct of the individual Defendants. The Police Agencies are vicariously liable for the actions and omissions of the Individual Defendants.
5. On the day of his death Kunuk planned to go hunting by dog team with his close friend Michael Inuaraq but overslept and rose late at about 1PM. Kunuk was disappointed to miss the chance to hunt for his family and he was grieving the one-year anniversary of the death by suicide of his younger sister Enooya. Together with his mother he cried for his lost sister. Kunuk expressed despair and suggested that he too might commit suicide
6. When other family members entered the Qamaniq House #640, Kunuk became busy and went outside at about 1:30PM. Kunuk told his older brother Paul that he was going rabbit hunting. Kunuk went to the nearby house of his older sister Berthe Atagootak and got his .22 rifle and walked towards the community graveyard.
7. Kunuk's parents were deeply concerned that Kunuk was at risk of self-harm and each contacted the RCMP detachment in Pond Inlet on the regular (non-emergency) line to advise that Kunuk was at the graveyard and had been suicidal.
8. From their house Leah and David Qamaniq could see the RCMP vehicles leave the detachment and head to the graveyard area. They could see Kunuk leave the graveyard area and walk towards the beach.

9. David Qamaniq left his home at House #640 and approached an RCMP vehicle on the Beach where he saw the Defendant Corporal Terry Hamlin. David Qamaniq advised Hamlin that Kunuk was sober and straight. Corporal Hamlin's response was minimal if any. David Qamaniq went home. It was 2pm. From House 640 he noticed that the Police vehicle had moved and so he returned to the Beach area in his truck.
10. David saw his son and yelled out to him in Inuktitut to come home. Kunuk replied in Inuktitut that he was going rabbit hunting. David believed his son was now focused on bringing home some food and David drove back into Pond Inlet.
11. On returning, David noticed that the RCMP vehicle was still at the beach. David's vehicle got stuck in the snow, so David approached on foot the vehicle with the Defendant Corporal Terry Hamlin. Cpl Hamlin advised only that "a snow machine is coming". David returned to free his truck and then went to fill it with gasoline. He believed that any crisis had passed.
12. On returning to House 640 David learned that his wife had received a telephone call twice from the Health Centre advising her that Kunuk was at the Health Centre. Both David and Leah immediately went to the Health Centre where they saw nurses and three RCMP officers: Patrick Higgins (Cst), Kyle Longmire (Cst), and Terry Hamlin (Cpl).
13. The Qamaniqs were eventually permitted to see their son very briefly. There was blood everywhere in the treatment room. Kunuk was struggling to breathe. The Qamaniqs were only able to exchange eye contact with Kunuk and were escorted out of the examination room.
14. David went back House 640 to be with the other children. After a long time two nurses emerged from the examination room and advised Leah Qamaniq that her son Kunuk had died.
15. To the best of the Plaintiffs' knowledge and belief, the cause of Kunuk's death was homicide by a gun shot wound inflicted by the defendant Patrick Higgins.
16. The Plaintiffs assert that at the time Kunuk was shot:
  - a. Kunuk had committed no illegal act;
  - b. Kunuk was of sound mind;
  - c. Kunuk was engaged in legal activities;
  - d. Kunuk was not at a risk of harm to himself or others, and

that even if each of these was not, or was no longer, true that such change was provoked by the negligent and /or wrongful actions of the Defendants; and

that even if each of these was not, or was no longer, true none of the above is or would be in law an excuse or reason for a Defendant to shoot and kill Kunuk;

17. Any confrontation which arose, and the subsequent homicide was provoked by and as a result of the negligence or deliberate acts of the officer or officers involved, individually and collectively including:
  - a. the lack of training of the officers involved, in particular in the areas of mental health, suicide, non-lethal confrontation and de-escalation,
  - b. the inability of the officers involved to speak properly to Kunuk,
  - c. the failure or refusal of the officers involved to properly instruct themselves before and during the incident, including securing information from family and community members,
  - d. the failure of, or refusal by, the officers involved to properly use the communications tools available to him
  - e. the failure of, or refusal by the officers involved to properly rely on his fellow officers,
  - f. the failure of, or refusal by the officers to follow approved procedure,
  - g. the lack of resources secured by the officers before engaging in this call,
  - h. the personal and cultural biases of the officers, both implicit and those which they had explicitly formed, both unexpressed and which they had expressed in the community;
  - i. such further and other failures or negligence as may not be known to the Plaintiffs and as may appear from time to time;
  
18. Any confrontation which arose, and the subsequent homicide, as between any RCMP officer and Kunuk was provoked by and as a result of the negligence or deliberate acts of the Police Agency Defendants, including:
  - a. the failure to properly invest in, provide, support and exercise oversight over the training of the officers involved, in particular in the areas of mental health, suicide, non-lethal confrontation and de-escalation,

- b. the failure to invest in, find, recruit and support RCMP officers who speak Inuktitut and who have relevant Inuit community knowledge and experience;
- c. the failure to mitigate the failures in b) or to ameliorate the community connections of the Pond Inlet detachment above by hiring, recruiting and supporting Inuktitut speaking staff members who can support Officers in their community understanding and connection to avoid confrontations generally and this confrontation specifically;
- d. the failure to make appropriate efforts to respond, and the failure to respond, to and implement the recommendations from Coroner's Inquests from other Officer involved homicides and shootings in Nunavut,
- e. the failure to adequately equip Officers with technology and communications devices and access to expert knowledge, both Inuit and conventional, which would have supported and sustained officer interaction,
- f. the failure to adequately staff, equip Officers with statistics, information and knowledge which would have enhanced officer competence and confidence, and supported and sustained officer interactions,
- g. the failure to provide proper, adequate, appropriate and flexible procedures and back up which would permit or enhance officers' ability to safely interact with civilians in Pond Inlet in general and Kunuk in particular,
- h. the failure to adequately supervise, explore and remedy the personal and cultural biases of their officers, both implicit and those which they had explicitly formed, both unexpressed and which they had expressed in the community;
- i. such further and other failures or negligence as may not be known to the Plaintiffs and as may appear from time to time;

19. As a consequence of the above actions by the Defendants the Plaintiffs claim the following:

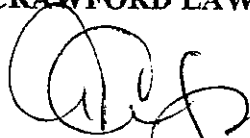
- a. Loss of expectation of life
- b. Loss of future earnings
- c. Loss of care, guidance and companionship
- d. Loss of support and dependency
- e. Loss of valuable services
- f. Damages for pain and suffering of the deceased prior to death
- g. Damages for pain and suffering of the other Plaintiffs

- h. Loss of expectation of life for David Qamaniq and Leah Oingoot (Sangoya) Qamaniq and heightened risk of loss of life for their children and the attendant losses, pain and suffering;
  - i. Loss of expectation of life for Berthe Atagootak, Paul Qamaniq, Roger (Kaiya) Qamaniq, and Len Joby Qamaniq and heightened risk of loss of life for their children and the attendant losses, pain and suffering;
  - j. Punitive, aggravated and exemplary damages;
  - k. Equitable disgorgement of resources not expended;
20. This action is commenced under the common law and sections 3 and 8 and all other provisions of the Fatal Accidents Act RSNu as well as section 31 and all other provisions of the Trustee Act, RSNu

As a result of the foregoing, the Defendants are fully liable to the Plaintiffs for their damages. The Plaintiffs propose that the trial of this action be held in front of a judge and civil jury at the Hamlet of Pond Inlet in Nunavut.

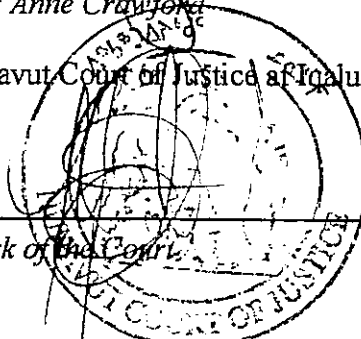
DATED at Iqaluit Nunavut on March 14, 2019 and delivered by CRAWFORD LAW OFFICE, solicitors for the Plaintiffs whose address for service is in the care the solicitor at PO Box 747, Building 691B, Iqaluit Nunavut X0A 0H0

**CRAWFORD LAW OFFICE**

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Per: Anne Crawford

AND ISSUED out of the Office of the Clerk of the Nunavut Court of Justice at Iqaluit Nunavut this 15<sup>th</sup> day of March, 2019.

 (seal)  
 D/ Clerk of the Court

To: Patrick Higgins (Cst)  
 c/o RCMP V Division Headquarters  
 Bag 500  
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Kyle Longmire (Cst)  
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Terry Hamlin (Cpl)  
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The Commissioner of the Royal Canadian Mounted Police  
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