

IN THE SUPREME COURT OF NORTHWEST TERRITORIES

BETWEEN:

LARRY HENRY PONTUS, PUBLIC TRUSTEE FOR
THE NORTHWEST TERRITORIES, ADMINISTRATOR
FOR THE ESTATE OF EFFIE ELIZABETH BLAKE,
DECEASED

Plaintiff

- and -

INUVIK REGIONAL HOSPITAL, INUVIK HOSPITAL
BOARD OF MANAGEMENT, THE COMMISSIONER
OF THE NORTHWEST TERRITORIES, DOCTOR
JASON WAECHTER, JANE DOE AND JOHN DOE

Defendants

Application seeking a determination of a question of law on the interpretation of s.31
of the *Trustee Act*, R.S.N.W.T. 1988, c. T-8.

Heard at Yellowknife, NT: September 28, 2004

Reasons filed: January 21, 2005

REASONS FOR JUDGMENT OF THE HONOURABLE JUSTICE J.E. RICHARD

Counsel for the Plaintiff: Teri Lynn Bougie
Counsel for the Defendant Waechter: Jonathan Rossall
Counsel for the Remaining Defendants: Garth Malakoe

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REASONS FOR JUDGMENT

[1] The parties to these proceedings have stated a question of law for determination by the Court pursuant to Part 21 of the *Rules of Court*.

[2] The question of law is stated as follows:

“Do sections 31 to 33 of the *Trustee Act*, R.S.N.W.T. 1988, permit a claim to be advanced against an alleged wrongdoer by the Estate of the deceased for the loss of earning capacity of the estate resulting from the deceased’s premature death?”

[3] The plaintiff is the administrator of the estate of Effie Elizabeth Blake who died on July 18, 2000. The plaintiff alleges that Ms. Blake’s death was caused by the negligence of the defendant doctor, other medical personnel, and the defendant hospital. The plaintiff in the Statement of Claim seeks damages under several heads

of damages. One of those is a claim for the loss of earning capacity resulting from the wrongful death of Ms. Blake.

[4] At the hearing of this special case, all counsel agreed that the words “of the estate” following the words “earning capacity” ought to be deleted from the stated question of law.

[5] The Court has recently heard argument on the same question of law in another case — *Tilson Estate v. Summit Air* 2005 NWTSC 12. I have today issued a decision on *Tilson Estate*.

[6] The answer to the question of law posed by counsel in the within proceedings, and stated above, is “no”, essentially for the reasons stated in *Tilson Estate v. Summit Air* 2005 NWTSC 12.

[7] As this application was brought on behalf of all parties, there will be no costs of the within application.

J.E. Richard,
J.S.C.

Dated at Yellowknife, NT
this 21st day of January 2005

Counsel for the Plaintiff:	Teri Lynn Bougie
Counsel for the Defendant Waechter:	Jonathan Rossall
Counsel for the Remaining Defendants:	Garth Malakoe

S-0001-CV2002000035

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REASONS FOR JUDGMENT OF
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