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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE

|                                    |   |                         |
|------------------------------------|---|-------------------------|
| JAMIE A. MILLION, individually and | ) |                         |
| as the Personal Representative of  | ) |                         |
| the ESTATE OF ARIANNA HERRON,      | ) |                         |
|                                    | ) |                         |
| Plaintiff,                         | ) |                         |
|                                    | ) |                         |
| vs.                                | ) | Cause No. 24-2-04653-32 |
|                                    | ) |                         |
| DAYBREAK YOUTH SERVICES, a         | ) |                         |
| Washington nonprofit corporation,  | ) |                         |
|                                    | ) | VERBATIM REPORT         |
| Defendant.                         | ) | OF PROCEEDINGS          |

**MOTION HEARING**

August 14, 2025  
Spokane County Courthouse  
Spokane, Washington  
Before the  
HONORABLE TONY HAZEL

Terri A. Cochran, CSR No. 3062  
Official Court Reporter  
1116 W. Broadway, Department No. 6  
Spokane, Washington 99260  
(509) 477-4413

**A P P E A R A N C E S**

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**August 14, 2015 - A.M. Session**

THE COURT: Please be seated. Thank you. And good morning.

MS. GIRTZ: Good morning, your Honor.

MR. SMITH: Good morning.

THE COURT: Good morning. Welcome. I want to make sure our Zoom is working and that all participants, either live or joining via Zoom, can see and hear all participants. This is the matter of Jamie Million, et al., versus Daybreak Youth Services, Cause No. 24-2-04653-32.

Counsels, would you be so kind as to introduce yourselves and all participants here today, including those that are attending via Zoom?

MS. GIRTZ: Yes. Rayna Girtz, attorney for plaintiff. And to my right is Alexia Howard-Mullins. She's just took the bar and has been diligently helping with this case during her internship with GLP.

We have Ben Compton, Morgan Williams, and Travis Clark via Zoom. And they are attorneys -- Morgan Williams is a Rule 9 attorney in our GLP Seattle office, and Ben and Travis are attorneys in our Seattle office. And Brennan Nolting is here behind us, and he's also an attorney in our Seattle office.

THE COURT: Thank you. Welcome.

1 MS. GIRTZ: Thank you.

2 THE COURT: Good luck on the bar. I hope you pass.  
3 Counsel?

4 MR. SMITH: Good morning, your Honor. David Smith for  
5 Daybreak Youth Services. With me today is Daybreak's chief  
6 financial officer, Rich Rutherford.

7 THE COURT: Thank you. I appreciate you being here.

8 And who do we have via Zoom? Has that already been  
9 demonstrated? We have Travis Clark, Morgan Williams, and  
10 B. Compton.

11 MS. GIRTZ: Yes, your Honor. Those are the attorneys  
12 that I introduced.

13 THE COURT: All right. Just -- just observing?  
14 They're not --

15 MS. GIRTZ: Just observing.

16 THE COURT: They're not participating in oral argument.

17 All right, counsels. I'm going to, first of all,  
18 apologize a little bit. I think, based on my miscommunication  
19 with my judicial assistant, you might have an expectation that  
20 you're here to argue the supplemental opposition. And I  
21 apologize for not being more clear in my communication. My  
22 intent for today's hearing -- and I do apologize for not being  
23 clear with my judicial assistant as to what I was intending.  
24 But once I saw the supplemental come in, I personally knew  
25 immediately how I should proceed there. And my position is I'm

1 striking that supplemental briefing. This court had made a  
2 ruling previously back in May regarding the wrongful death  
3 claim, granting summary judgment. I took the "Other Survival  
4 Actions," so they've been titled in the briefing, under  
5 advisement. That includes the negligent hiring, training,  
6 retention; negligent failure to protect respondeat superior  
7 liability; negligent failure to report child abuse and neglect;  
8 and negligent infliction of emotional distress, medical  
9 negligence, sexual harassment, and the WLAD claims.

10 So it was actually this court's intent to have this  
11 hearing be the pronouncement of the remaining issues on summary  
12 judgment that were under advisement. I apologize. I don't  
13 mean it as disrespect, but I'm not going to entertain new  
14 arguments. I'm simply going to rule on the substantive summary  
15 judgment. I will indicate that I did read all the supplemental  
16 briefing, but I am deciding there's not a procedure that allows  
17 for that. And so I'm striking it, and it should not be  
18 considered as part of the record. So both the response -- I  
19 did read both, but I'm not -- I'm striking them from the  
20 record.

21 MR. SMITH: (Raised hand.)

22 THE COURT: Yes, sir?

23 MR. SMITH: Your Honor, I'm sorry. I -- I just want to  
24 make sure I'm understanding the Court's intention this morning.  
25 So I regarded the briefing that you requested at the summary

1 judgment hearing --

2 THE COURT: Correct.

3 MR. SMITH: -- as the supplemental briefing.

4 THE COURT: Yes. And, okay, thank you for clarifying.

5 You're correct. I did request supplemental briefing at the  
6 summary judgment while I took the estate survival actions under  
7 advisement. Those are considered and are part of the record.  
8 The unrequested additional briefing more recently filed was not  
9 properly before the court.

10 MR. SMITH: Okay.

11 THE COURT: Those supplemental briefing that were  
12 requested are part of the record. What I'm not -- what I am  
13 striking from the record is the renewed opposition to summary  
14 judgment --

15 MR. SMITH: Okay.

16 THE COURT: -- and therefore the response to the  
17 renewed opposition. That's the portion that I'm striking,  
18 because it's not permitted. It was a -- I appreciate it; I  
19 respect it as an advocacy strategy. But it's not permitted by  
20 the court rules, and I don't see why I would allow that. I was  
21 simply taking those matters under advisement. And to the  
22 extent they were in addition to the supplemental briefing that  
23 I requested, I'm just indicating they're not properly filed.

24 So that's my ruling on that, and I will now turn to the  
25 substantive ruling on the remainder of the estate survival

1 actions.

2 I very rarely grant summary judgment, and when I do, I  
3 try to think about it very carefully because I'm aware of the  
4 standard that I need to follow. There can be no genuinely  
5 disputed material issues of fact, and all inferences need to be  
6 drawn in the light most favorable to the nonmoving party.

7 Here, when I look at the survival actions, I am  
8 granting summary judgment on the remaining causes of action. I  
9 do find that the plaintiff did not meet their burden shift.  
10 And I'm persuaded that no reasonable jury, even on the estate  
11 survival actions, and this was also part of my ruling on the  
12 underlying wrongful death cause of action, no reasonable jury  
13 could find causation without engaging in impermissible and  
14 unlawful speculation. And the court thought about that  
15 carefully when I discount or detract and apply the rules of  
16 evidence as to what would be excluded under inadmissible  
17 hearsay or speculation, lack of personal knowledge. When I  
18 detract all that evidence and apply basic evidentiary rulings  
19 to the information that was supplied by the plaintiff, very  
20 little facts can support a causal connection between the  
21 alleged breach of duties on all these cause of actions that I  
22 mentioned that are under the terms of estate survival actions.  
23 I rattled those off at the beginning of the hearing. I just  
24 don't find that as a matter of law a jury could find a causal  
25 connection of causation under these facts where we have a

1 situation where there's really no dispute the plaintiff was  
2 treated at Daybreak; from Daybreak's perspective, there were  
3 rumors of a potential sexual relationship between the  
4 counselor, Ms. Taber, and Arianna; but then I think it's 13 or  
5 14 months after Arianna left treatment, she then unfortunately  
6 and tragically overdosed on fentanyl.

7 Now, the court is well aware that -- I'm not conflating  
8 the death with the idea that Arianna could have suffered injury  
9 as a result of Daybreak's actions. At the end of the day,  
10 however, I find that no reasonable jury could conclude and find  
11 causation without engaging in speculation based on these facts.  
12 And so much of the evidence that the plaintiff put forward  
13 would be inadmissible when applying basic common and required  
14 practices of evidentiary standards.

15 So I find there's an essential missing element; and for  
16 that reason, I'm granting summary judgment in favor of Daybreak  
17 in this case. I recognize it's appealable. But I've tried to  
18 do my best to really think this through and draw all inferences  
19 in the light most favorable to the nonmoving party. So I  
20 assume the relationship existed, for example. I assume that  
21 there were some -- some feelings amongst the employees at  
22 Daybreak that there may have been a relationship. Certainly  
23 Daybreak was not put on notice of it. It is an undisputed fact  
24 that when Daybreak interviewed these individuals, both  
25 individuals denied any relationship existing at the time. And



1 assuming the relationship continued, which I do for the  
2 purposes of summary judgment standard, I find that that's  
3 beyond the scope of employment given that Arianna was already  
4 discharged or already ran away from the facility.

5 At the end of the day, respectfully I find that the  
6 plaintiff's evidence amounts to only speculation. For that  
7 reason, I'm granting summary judgment on all matters. And I  
8 wish everyone the best of luck. If Division III -- if you want  
9 to appeal this and Division III disagrees, I'll certainly be a  
10 fair judge. Most likely this case will be transferred by the  
11 time it -- if it did come back, if you were to appeal and  
12 prevail, most likely I'll be transferring. I've just become  
13 the presiding judge for the bench and I'll be transferring to  
14 juvenile, so this case will be transferring to another judge at  
15 the beginning of the year.

16 MR. SMITH: I --

17 THE COURT: I'm granting summary judgment.

18 MR. SMITH: Thank you, your Honor. I had submitted a  
19 proposed order, but it was on the supplement of the -- the  
20 renewed motion pleadings. I could have my office resend you  
21 the original order that we proposed, or I could work with  
22 counsel to create a new order for your consideration. I don't  
23 know what the Court would prefer.

24 THE COURT: I don't have your proposed order in -- in  
25 the top of my mind at this time. Counsel, I'll leave it to

1 you. As the prevailing party, however you wish to proceed,  
2 I'll take lead from you. How would you like to handle the  
3 order?

4 MR. SMITH: I'm happy to prepare one at my office, send  
5 it to the office --

6 THE COURT: Okay.

7 MR. SMITH: -- and after it goes to opposing counsel  
8 for them to review. And then hopefully we can present it  
9 without a note, a request for a presentation --

10 THE COURT: All right.

11 MR. SMITH: -- if there's disputes about the terms  
12 of --

13 THE COURT: Very well.

14 MR. SMITH: -- the order.

15 THE COURT: Here's what I'd ask you to do. I'd ask  
16 that you send that to me in editable format --

17 MR. SMITH: Yes.

18 THE COURT: -- so that if I want to make any changes.  
19 I'll then entertain whether I want to; if there's disagreement,  
20 have an additional presentment hearing. I also reserve the  
21 right to simply modify any order and enter it myself.

22 Counsel, as the prevailing party, I'm not offended if  
23 you wish to propose findings to me that may not mirror exactly  
24 what I've said on the oral record if you wish. And I'll think  
25 about that carefully as to whether I adopt those or not. But

1 feel free to do so, and I appreciate it. Thank you.

2 MR. SMITH: Yeah. So that's what I'll do.

3 THE COURT: Okay.

4 MR. SMITH: I -- I will -- we got the transcript of the  
5 first summary judgment proceeding, and I will order the  
6 transcript of today's proceeding just so I can more  
7 accurately --

8 THE COURT: Very well.

9 MR. SMITH: -- reflect the Court's words and then  
10 present that to opposing counsel. And hopefully, if we reach  
11 an agreement on that, we'll just present you with an agreed  
12 order.

13 THE COURT: Okay.

14 Understanding you're -- I'm sure you're not thrilled  
15 about the ruling, but does that sound like a reasonable  
16 protocol at this time.

17 MS. GIRTZ: Sounds reasonable. Thank you --

18 THE COURT: Okay.

19 MS. GIRTZ: -- your Honor.

20 THE COURT: Thank you, Counsel. I appreciate all your  
21 professionalism.

22 One other thing just to share with the parties. So  
23 this court has made the ruling within its 90 days requirement.  
24 I'm just sharing with the parties I'm about to have a baby any  
25 day. I'm going to be going on a couple weeks of leave. And so

1 if there's a couple-week delay in getting that order signed,  
2 you know the context for that.

3 MR. SMITH: No problem.

4 THE COURT: Okay.

5 MR. SMITH: And congratulations.

6 THE COURT: Thank you very much. Appreciate it.

7 All right, counsels, wish everyone involved the best of  
8 luck going forward. Thank you.

9 MR. SMITH: Thank you, your Honor.

10  
11 (PROCEEDING CONCLUDED.)

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## C E R T I F I C A T E

I, TERRI A. COCHRAN, certified official court reporter for Spokane County Superior Court, do hereby certify under penalty of perjury under the laws of the State of Washington that the foregoing transcript, entitled "Verbatim Report of Proceedings," was taken by me stenographically and reduced to the foregoing typewritten transcript at my direction and control and that the same is a true and correct record of the proceedings to the best of my ability, including any changes made by the judge reviewing the transcript. I further certify that I am in no way related to or employed by any party in this matter, nor any counsel in the matter, and I have no financial interest in the litigation.

DATED at Spokane, Washington, this 16th day of September, 2025.

s/ Terri A. Cochran  
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