

In the matter of the *Coroners Act*, R.S.O 1990, c. C.37

And in the matter of the

INQUEST TOUCHING UPON THE DEATH OF SAMUEL BROWN

MOTION RECORD

OF

THE FAMILY OF SAMUEL BROWN

**SARON LEGAL PROFESSIONAL
CORPORATION**

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Lawyer for the Brown Family

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AND TO: Ed Slater
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Coroner's Counsel

AND TO: Counsel for the parties with standing

In the matter of the *Coroners Act*, R.S.O 1990,

c. C.37 And in the matter of the

INQUEST INTO THE DEATH OF SAMUEL BROWN

**NOTICE OF
MOTION OF
THE
FAMILY OF SAMUEL BROWN**

TAKE NOTICE THAT the family of Samuel Brown, a Party with Standing at the Inquest into the death of Samuel Brown, will make a motion before Dr. David Cameron, Presiding Coroner. The motion is to be heard on a date and time to be set by the Presiding Coroner.

THE MOTION IS FOR:

1. An Order requiring W. Ross Macdonald School for the Blind (“W. Ross. Macdonald” or “The School”) or the coroner’s counsel to produce a list of all school policies and procedures in effect at the time of Samuel Brown’s death, and to produce any policies and procedures relating to the required conduct of principals, employees, independent contractors, volunteers and all other individuals working at or for the school (collectively, “Staff”) following a serious incident;
2. An Order requiring W. Ross Macdonald or the Coroner’s counsel to produce documents containing the names and job descriptions of all staff working at W. Ross Macdonald during the morning, day and nighttime / overnight shifts on February 8, 2018, and February 9, 2018, and their

responsibilities while on duty during this period;

3. An Order requiring W. Ross Macdonald or the Coroner's counsel to produce the following logs and reports created by the school staff:
 - a. Staff log book and notes documenting staff monitoring of Samuel Brown from February 4, 2018, to February 9, 2018;
 - b. Staff log book and notes documenting the 30 - minute interval monitoring of Samuel Brown conducted by school staff on February 8, 2018, and February 9, 2018;
 - c. Staff reports relating to Samuel Brown created by all staff members working at W. Ross MacDonald from February 4th, 2018, to February 9th, 2018.
4. An Order requiring W. Ross Macdonald or the Coroner's counsel to produce all email correspondence relating to Samuel Brown exchanged between the school's staff members in 2017 and 2018;
5. An order requiring W. Ross Macdonald or the Coroner's counsel to produce all staff Reports referenced in the report authored by Executive Director of the Provincial and Demonstration Schools Branch Dr. June Rogers, dated May 2, 2018 (hereinafter "Rogers Report").
6. An Order requiring the Brantford Regional Police to produce the following records that

relate to Samuel Brown:

- a. All 911 calls made by school staff relating to Samuel Brown throughout his enrolment at W. Ross Macdonald;
- b. All 911 calls made relating to Samuel Brown's death;
- c. All surveillance footage recorded at W. Ross Macdonald that relates to Samuel Brown and is in possession of the police.

7. An Order that the following witnesses be added to the Coroner's witness list and that the presiding coroner, Dr. Cameron, issue a summons compelling their evidence at the inquest:

- a. Officer Brad Cotton
- b. Officer L. Bignell
- c. Stephanie Rymon-Lipinski
- d. Tamara Cudek
- e. Dianne Harris
- f. Andrea Brown
- g. Erin Harris
- h. Office Whitworth
- i. Officer Gary Swift
- j. Detective Fishback
- k. Dr. Alvin Lowe
- l. Heidi James
- m. Bob Mannen
- n. Sherry (person who notified Samuel's mother of his death. Last name unknown.)
- o. Such other witnesses as counsel may advise when further material sought becomes available;

8. An Order that these records should be provided forthwith in whatever format is most appropriate (paper, electronic or other format), and if any records are stored or otherwise contained on a computer or other electronic system of information storage, that all persons in possession or control of such records shall give unfettered access to allow counsel for Samuel Brown's family to recover and fully copy the information therein.
9. An Order setting a date for the beginning of this inquest.
10. Such further and other relief as counsel may advise and the Presiding Coroner deems just.

THE GROUNDS FOR THE MOTION ARE:

11. Sections 31, 37, 40, 41, 47 and 50 of the *Coroners Act*, R.S.O 1990, c. C.37, as amended;
12. This inquest involves the tragic death of Samuel Brown ("Samuel"), a boy with vision and hearing impairment who died at 18 years old while in the care of W. Ross Macdonald School for the Blind ("W. Ross Macdonald"), in Brantford Ontario.
13. W. Ross Macdonald provides academic programming for blind and deafblind students from kindergarten to secondary school age, some of whom reside at the school weekly from Monday to Friday.
14. Samuel was found unresponsive and without vital signs in his bed at W. Ross Macdonald in the early morning of February 9th, 2018.

15. No school policies or procedures in effect at the time of Samuel's death have been included in the Inquest Brief produced by the Coroner's counsel. It is important to know what the school's policies and procedures were regarding emergencies and serious situations in order to determine whether these policies and procedures were implemented at the time of Samuel's death, and to recommend any necessary policy improvements.

16. There is no document in the Inquest Brief that provides information about all staff working at the school on February 8, 2018, and February 9, 2018. To determine the circumstances leading up to Samuel's death and the causes and manner of his death, it is important for the jury to know which staff members were working on the day before and the day of his death, the duration of their shifts, their qualifications, and their responsibilities while on duty.

17. The Rogers Report notes that school staff monitored Samuel at 30-minute intervals on the day that he was found without vital signs. However, staff log books documenting this 30-minute monitoring (and staff log books detailing the monitoring of Samuel throughout the week of his death) have not been provided to counsel for Samuel Brown. These log books will provide crucial insight into the circumstances, manner and causes of Samuel's death. The Rogers Report is attached as Exhibit "D" to the Affidavit of Phoebe Angelle Mosquera, sworn on January 30, 2022 in support of this motion.

18. The Inquest Brief does not include staff email exchanges pertaining to Samuel on the day of his death or the months leading up to that day. These email correspondences may contain essential information about the staff members' observations, assessments and concern regarding Samuel, the actions they took in response, and the reasoning that informed their actions. This information will help the jury deduce the medical cause(s) and circumstances of Samuel's death.

19. Counsel for Samuel Brown's family has not been given a recording of any 911 calls made by school staff regarding Samuel. The 911 call made at the time of Samuel's death is essential direct evidence that shows what was reported to the 911 dispatcher when he was found unresponsive, and how staff members responded to the emergency. Other 911 calls that staff made about Samuel (if any) throughout the duration of his enrolment at the school will help inform the jury of whether there were other serious incidents involving Samuel at the school.

20. Surveillance footage recorded at the school relating to Samuel is also important direct evidence that will assist in determining the cause and manner of death; it will give the jury a visual of the surroundings where Samuel died and the behavior of Samuel and the staff in the days prior to and the day of his death.

21. To give relevant and material evidence, witnesses in this inquest must be individuals privy to Samuel's medical profile before he died and / or to the events and circumstances leading up to his death, or experts in a subject matter related to his death. To this end, the proposed witnesses listed in this motion include staff members at W. Ross Macdonald, police officers and other first responders, and medical professionals who have direct knowledge of these matters. After reviewing the materials requested in this motion, counsel for Samuel Brown may advise the coroner of other people who should be summoned to give witness testimony.

22. A date for this inquest to begin has not been set. Samuel Brown has family members living in the United States who plan to attend the inquest in person. Scheduling a date on which the inquest will begin will enable these family members to make the necessary travel, work and schooling arrangements for them to attend. In addition, the inquest has been delayed by several

years, at great emotional cost to Samuel's family. His family members in Canada and abroad have been patiently awaiting the outcome of this inquest and are eager for it to begin.

23. Such further and other grounds as counsel may advise and the Coroner permits.

THE FOLLOWING EVIDENCE WILL BE RELIED UPON AT THE MOTION:

1. The Affidavit of Phoebe Angelle Mosquera sworn January 30, 2022, with Exhibits attached;
2. Such further and other evidence as counsel may advise and the Coroner permits.

January 31st, 2022

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Coroner's counsel

AND TO: Counsel for the parties with standing

CORONER'S COURT

IN THE MATTER OF the *Coroners Act*, R.S.O 1990, c. C.37
AND IN THE MATTER OF the Inquest into the Death of Samuel Brown

AFFIDAVIT OF PHOEBE ANGELLE MOSQUERA

I, Phoebe Angelle Mosquera, of the city of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I provide legal administrative services at Saron Legal Professional Corporation, the law firm of Saron Gebresellassi, counsel for the family of Samuel Brown. As such, I have knowledge of the matters hereinafter deposed to. Where I have relied on the information of others in making this affidavit, I have specified the source of such information, and do verily believe such information to be true.
2. Saron Gebresellassi represents the family of Samuel Brown, a party with standing at the inquest into the death of Samuel Brown.
3. On August 31st, 2021, Ms. Gebresellassi's office sent Coroner's counsel a reminder, by way of letter, to send records related to Samuel Brown to her office. Attached as Exhibit "A" to this affidavit is a copy of the August 31st, 2021 letter.
4. By September 2021, Ms. Gebresellassi's office had not received any records from the Coroner's counsel regarding Samuel Brown. On September 4th, 2021, and September 25th,

2021, Ms. Gebresellassi's office sent the Coroner's counsel two letters requesting for the pertinent records to be dispatched. Attached as Exhibits "B1" and "B2" to this affidavit are the September 4th, 2021, and September 25th, 2021 letters, respectively.

5. Ms. Gebresellassi received no response from the Coroner's counsel to her office's written requests for disclosure of pertinent documents.

6. I have reviewed the Inquest Brief produced by Coroner's counsel. The Brief does not include any policies and / or procedures that were in effect at the W. Ross Macdonald school for the blind at the time of Samuel Brown's death.

7. Included in the Inquest Brief is a "Night Duty Team Leader Shift Report" authored by team leader Diane Harris. The report documents Ms. Harris' observations of Samuel Brown during her shift at the school, which lasted from 10:30 pm on February 8th, 2018, until 7 am on February 9th, 2018 (the day of Samuel's death), and states that all staff were present for their shifts during that time. However, the report does not describe Ms. Harris' observations in detail, nor does it specify names of all staff members who were present. Attached as Exhibit "C" to this affidavit is the Shift Report.

8. The Inquest Brief does not include any document that lists which staff members were working at the school at the time of the death.


9. I have reviewed the Report written in letter form by Dr. June Rogers, Executive Director of the Provincial and Demonstration Schools Branch, dated May 2nd, 2018. This report references a 30 - minute monitoring protocol that staff implemented for Samuel Brown on February 8th, 2018, and February 9th, 2018. However, the log books documenting the details of this monitoring are not included in the Inquest Brief and have not been otherwise provided to Ms. Gebresellassi's office. Attached as Exhibit "D" to this affidavit is Dr. June Rogers' Report.

10. In Report, Dr. Rogers set out a chronology of events leading up to Samuel Brown’s passing and noted that this chronology was based on “staff reports”. However, these staff reports were not included in the Inquest Brief.

11. Ms. Gebresellassi’s office has not been advised of the Coroner’s witness list.

12. At this time, no date has been set for this Inquest to begin. I am advised by Ms. Gebresellassi, and I do verily believe, that several members of Samuel Brown’s family who wish to attend the inquest reside in the United States and will need ample notice in order to make travel arrangements to attend the Inquest.

13. I make this affidavit in support of the family's pre-inquest motion for various relief and for no other or improper purpose.

SWORN before me at the City of
Toronto in the Province of
Ontario on this 30
Day of January 2022.
Signed,  Saron Gebresellassi
A Commissioner for Taking
Oaths in Ontario



Phoebe Angelle Møsquera

This is Exhibit "A" referred to in the affidavit of **Phoebe Angelle Mosquera** (dated January 30, 2022), sworn before me this 30 day of January 2022.

Saron Gebresellasi



Signed – A Commissioner for Oaths in and For the Province of Ontario.



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August 31, 2021

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RE: Letter dt August 31, 2021, RE SAMUEL BROWN CORONER’S INQUEST

Good morning Counsel,

I appreciate your reply. You haven't dispatched a Form 2.

Meeting

I'm happy to schedule your September Pre-Inquest Meeting. I propose Sept 9, 10, 11, or 12, anytime in the afternoon.

Email Correspondence

Email correspondence and all the documents listed in the Document List dispatched to Ontario are needed to conduct a full and proper inquest.

Format

A hybrid method of a physical –virtual proceeding is needed to accommodate Ontario's Deaf –Blind Stakeholders in this matter given Samuel Brown was Deaf and Blind. Kindly reserve ASL interpreters no later than September 12, 2021, to prevent a scenario where none are available due to shortage or late requests.

Interveners

Durham Legal Clinic is seeking intervention status.

Please do not hesitate to contact me at any time to assist.

Sincerely,
Phoebe Angelle Mosquera

These are Exhibits “B1” and “B2” referred to in the affidavit of **Phoebe Angelle Mosquera**
(dated January 30, 2022), sworn before me this 30 day of January, 2022.

Saron Gebresellassi



Signed – A Commissioner for Oaths in and For the Province of Ontario.



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September 4, 2021

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RE: Letter dt September 4, 2021, RE SAMUEL BROWN CORONER'S INQUEST

Good morning,

Further to my last correspondence, I understand the connection with Dr. Titchkosky has been made. Dr. Titchkosky is a nationally-renowned expert in disability theory and we are delighted she will be able to contribute her expertise.

Please do not hesitate to reach out to me if I can be of any assistance in any aspect of your efforts.

Sincerely,
Phoebe Angelle Mosquera



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September 25, 2021

Ed Slater
Assistant Crown Attorney
Courthouse 2nd Flr, 44 Queen St,
Brantford, ON N3T 3B4
Email: Ed.Slater@ontario.ca

RE: Letter dt September 25, 2021

SAMUEL BROWN CORONER'S INQUEST

Dear Counsel,

Kindly confirm whether Ontario will be releasing all relevant and pertinent documents and records belonging to Samuel Brown and contained in the documents list dispatched to Ontario. I would be most appreciative to learn of your position.

A hybrid hearing is required in this matter to maintain conformity with minimum statutory requirements via the Ontario Human Rights Code vis-a-vis DeafBlind stakeholders. I am happy to reserve the Marriott Hotel or any other venue of Ontario's choosing.

I reiterate I am making arrangements for legal representation of the Brown family via their legal representatives at the PIM. I have October 3 4 and 5 available from 12 noon onward.


Lastly, please ensure ASL interpreters are booked and confirmed by October 5, or else the jeopardy of non-availability expands.

Should you wish to speak to Counsel in advance of the PIM, please inform me so I may execute your teleconference.

Sincerely,
Phoebe Angelle Mosquera

This is Exhibit “C” referred to in the affidavit of **Phoebe Angelle Mosquera** (dated January 30, 2022), sworn before me this 30 day of January 2022.

Saron Gebresellasi



Signed – A Commissioner for Oaths in and For the Province of Ontario.

SCANNED

Night Duty Team Leader Shift Report

Incident No.: 5246-18

Residence: All

Team Leader: Dianne Harris

Date: Thurs/Fri Feb 9

Time of Shift: 10:30-7:00am

- ❖ Contact with Security at start of shift x
- ❖ Check email at start of shift x
- ❖ Ensure Night Duty Blackberry is charged and carried throughout shift x
- ❖ Secure Med book and Med Box x
- ❖ Contact with Night Duty Staff in every area/unit/floor/house x
- ❖ Read and sign all Day Logs and Night Logs
- ❖ Read shift reports from all residences x
- ❖ Complete all other documentation (notes to other staff through log book, incident reports, med error reports, maintenance requests, fire drill, etc. x

(Distribute Report to Residence Manager, ALL Residence Coordinators, and only the Team Leaders the report pertains to)

If not all of the above have been completed, please indicate reasons here:

Observations and Comments Regarding Students

(Indicate student name, unit/area and Concerns)

Samuel Brown had been feeling unwell throughout the evening and received Tylenol at 9 pm so there was some concern as to how he would feel throughout the night shift. I checked his temperature at 1am and it was 36.7 so Tylenol was not administered. He sounded a little congested.

Observations and Comments Regarding Staff

(Indicate staff name, unit/area and Concerns)

No staff issues

Confidential
This record, and the information contained therein is being provided in confidence and shall not be disclosed to any person without the express written consent of the Chief of the Brantford Police Service

3 p.m to 11 p.m Plans

SCANNED

Maintenance Issues

(Maintenance requisition to be filled out and distributed accordingly)

No maintenance issues

Forms filled out

(Include Incident Reports, WSIB, Fire Drills, etc. and who they were distributed to)

No forms filled out

Other : No other student concerns

- o Physical direction/medication
- o HOH
- o HPH
- o Verbal cues
- o Concrete cues
- o Selective S.E.P. (Support and Engage)
- o Other

Confidential

This record, and the information contained therein is being provided in confidence and shall not be disclosed to any person without the express written consent of the Chief of the Brantford Police Service

This is Exhibit “D” referred to in the affidavit of **Phoebe Angelle Mosquera** (dated January 30, 2022), sworn before me this 30 day of January 2022.

Saron Gebresellasi



Signed – A Commissioner for Oaths in and For the Province of Ontario.

Ministry of Education

Provincial and Demonstration
Schools Branch
255 Ontario Street South
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Ministère de l'Éducation

Direction des écoles provinciales et
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May 2, 2018

Mr. and Mrs. Gladstone Brown
55 McCrimmon Drive
Brampton, ON
L7A 2Z5

Dear Mr. and Mrs. Gladstone Brown,

Please accept my most sincere condolences on the loss of your son, Samuel. I want you to know that the staff at W. Ross Macdonald School and the Provincial and Demonstration Schools Branch, are extremely saddened about Samuel's passing. I apologize for the delay in responding to your letter dated March 20, 2018.

We reviewed staff reports and the events of that week. I have set out below a brief summary of the events leading up to Samuel's passing as we understand them at this time. This chronology is based on the reports of staff who cared for him.

Sunday, February 4, 2018:

- Samuel arrived back at the school at around 7:00pm on Sunday evening. The school was not told by the bus driver or the aid who accompanied Samuel of any concerns regarding his health at that time, and school staff had no concerns.

Monday, February 5 and Tuesday February 6, 2018:

- Monday and Tuesday appeared to be typical days for Samuel. He participated in his activities as usual. Staff observed that Samuel appeared to be more tired than usual, but otherwise no concerns were raised about Samuel's health.

Wednesday, February 7, 2018:

- Staff observed that Samuel appeared a bit uncomfortable during the day. He seemed quiet and had negative vocals. Staff attributed Samuel's discomfort to the possibility that he was constipated, although the issue resolved later that day.

Thursday, February 8, 2018:

- Samuel seemed tired and congested. It was noted that he expressed negative vocals and did not seem to want to participate in his usual activities, such as the treadmill.
- Samuel was assessed by Student Health Services at lunch time while receiving his supplement. He had no temperature and his chest sounded clear.

- That afternoon, Samuel participated in a parachute activity for a few moments and seemed happy. He fell asleep in his chair in the afternoon. He woke up for a small drink of thickened water and applesauce and then was helped into his bed.
- At about 6:30pm, staff called you to let you know that Samuel was not feeling well. The staff noted that Samuel had been assessed by a nurse earlier in the day and that he did not have a temperature. The staff said he would be taking Samuel back to be assessed again when he woke up.
- At about 8:15pm, Samuel was assessed again by Student Health Services and his temperature was approximately 38 degrees Celsius. He was given Tylenol. Samuel went back to bed at around 9:00pm on February 8, 2018.
- Residence staff continued to provide regular 30 minute checks throughout the night.

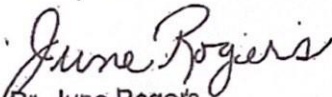
Friday, February 9, 2018:

- At 1:00am, staff took Samuel's temperature and it was normal. While his breathing sounded congested, Samuel seemed to be sleeping comfortably. Regular 30 minute checks continued until 6:00am, when two staff came in to wake Samuel.
- Samuel did not respond when staff tried to wake him. At that point, the staff immediately called 911. Staff also immediately began CPR and continued until paramedics arrived at the residence. Samuel was then taken to the hospital by paramedics.

I hope this information helps to answer some of your questions. Again, please accept my most sincere condolences.

If you have any questions, please contact me.

Sincerely,



Dr. June Rogers
Executive Director
Provincial and Demonstration Schools Branch