

Crawford Opening

- Ladies and Gentlemen of the jury, good morning.
- My name is Sandy Kovacs, and with me is my co-counsel, Jannelle Mackoff.
- We are the lawyers representing the plaintiff, Donna Crawford.

- In this lawsuit, Donna Crawford's claim against Dr. Anna Nazif falls under the law of negligence.
- Negligence is a difficult word to define for all situations, but in this context, the negligence alleged is medical or doctor malpractice.
- A doctor must exercise the degree of care and skill reasonably expected of a normal, prudent doctor in the same circumstances.
- In this situation, the defendant, Dr. Nazif, is a psychiatrist.
- As a general rule, a psychiatrist must exercise reasonable care when choosing to discharge a psychotic, schizophrenic patient from hospital.
- If she does not, and someone gets hurt, then she must compensate the injured party for the harm that results.

- In this opening statement, I am going to summarize the issues as well as the evidence I expect you will hear in this trial.
- Let me take you back to the night of December 5, 2012.
- It is almost midnight.
- Mr. Osuteye has been wandering all around the City of Vancouver for 19 hours.
- He is tired.

- He is thirsty.
- He is cold.
- He is wet.
- His thoughts are racing.
- He is hearing voices.
- He doesn't know where he's been.
- He feels like he's lost hours from his day.
- He is confused.
- It is dark.
- He finds his way back to the Salvation Army's Beacon Shelter, where he has been staying since early November.
- Mr. Osuteye is staying at the Beacon Shelter because he is not from Vancouver.
- Mr. Osuteye's home is in Edmonton, Alberta.
- The Beacon Shelter is located at 138 East Cordova Street, in the Downtown Eastside of Vancouver.
- Mr. Osuteye has missed curfew.
- He speaks to the evening staff at the shelter.
- He tells them he wants to go to hospital.
- The staff offer to arrange a Safe Ride shuttle for him.
- Mr. Osuteye declines.

- He says he will go the nearby police station to ask for help.
- He walks down the block to the police station on East Cordova Street.
- He buzzes the front door.
- He tells the police he needs help.
- The police call for an ambulance.
- Two paramedics arrive.
- Mr. Osuteye tells the paramedics he's been walking around since 7:00 a.m.
- He says he's been having hallucinations, that he is hearing voices and music.
- He tells them he suffers from schizophrenia.
- He tells them he takes a drug called risperidone.
- He gives his birthday, June 22, 1977.
- He is 35 years old.
- The paramedics examine Mr. Osuteye.
- They check his vital signs.
- They make several observations:
 - He is unable to focus.
 - He is struggling verbally.
 - He tends to drift off when speaking
 - He appears to be talking to someone

- He has disorganized thoughts
 - He is demonstrating “Bizarre Behavior”
- The paramedics record all of this in a Patient Care Report form, a form that goes with Mr. Osuteye in the ambulance to St. Paul’s Hospital.
- St. Paul’s Hospital is located at 1081 Burrard Street in Downtown Vancouver, not far from this courthouse.

- Mr. Osuteye is admitted to the emergency room at 7 minutes past midnight, early on December 6, 2012.
- On admission, he gives his home address, 2739 41st St NW, Edmonton, Alberta.
- A triage nurse assigns him to bed 14.
- Bed 14 is an acute bed in the emergency room, close to the nursing station.
- At 12:45 a.m., Registered Nurse Allison Jordan performs an intake assessment.
 - Nurse Jordan will be a witness in the plaintiff’s case.
 - I expect you will hear about her observations of Mr. Osuteye.
- He is calm and cooperative.
- He is not aggressive.
- He follows directions.
- But he is “guarded”.
- He won’t make eye contact.

- He is laughing and smiling inappropriately.
- He gives mostly one-word answers to her questions.
- And he appears to be responding to “internal stimuli”, meaning he is responding to inside voices.
- Nurse Jordan removes Mr. Osuteye’s clothing and belongings.
- She gives him a hospital gown.
- Amongst Mr. Osuteye’s belongings, she finds two blister packs of risperidone.

- Medical Student Dr. Rachel Li is working the graveyard shift in the emergency room.
- She performs an emergency physician assessment on Mr. Osuteye.
- She takes a history from him.
- He tells her that he has been walking around since 7:00 a.m.
- He says he doesn’t know where he has been.
- He says he had just had his prescription of risperidone refilled, but he has not taken it in the last 1 or 2 days.
- He says he is hearing “music”.
- He says he is hearing voices.
- He does not express any suicidal or homicidal thoughts.
- He says he uses marijuana, and that he last used it a couple days ago.
- He tells Dr. Li he’s from Edmonton, that he’s been in Vancouver for about one month.

- She observes that he is oriented to his person – meaning he knows who he is – but he is not oriented to time or place.
 - He doesn't know what time it is.
 - He doesn't know where he is.
- She makes several other observations:
 - The whites of his eyes are red.
 - His eyes are darting around.
 - His thoughts are disorganized
 - He has *some* range of emotion, but not a full range.
 - He is hearing voices, and he is responding to them.
- Dr. Li recommends a Form 4 “involuntary committal” under the *Mental Health Act*.
- Dr. Reza Pourvali is Dr. Li's supervisor and the attending emergency room doctor.
- Dr. Nazif's lawyers confirm that he will be called as a witness in their case. I expect you will hear the following evidence from him.
 - He performs his own, independent examination of Mr. Osuteye.
 - He concurs with Dr. Li's assessment.
 - Mr. Osuteye is suffering from hallucinations.
 - And he concludes it is “unclear” if he is compliant with his meds.
- Dr. Pourvali fills out and signs a Form 4 certificate.

- That Form 4 certificate authorizes St. Paul’s Hospital to hold Mr. Osuteye against his will for up to 48 hours.
- Mr. Osuteye cannot leave.
- It is Dr. Pourvali’s view that Mr. Osuteye has a disorder of the mind that is causing him serious impairment. He requires treatment, and a referral for a full consultation with a psychiatrist.
- In the Form 4 certificate, Dr. Pourvali certifies that he has examined Mr. Osuteye, and that it is his opinion that Mr. Osuteye is suffering from psychosis, in the context of an underlying history of schizophrenia.
- Dr. Pourvali also believes that Mr. Osuteye is at “risk of deterioration”.
 - He writes this exact phrase down on the Form 4.
- I expect you will hear evidence from Dr. Nazif and other doctors in this case that psychosis is a severe mental disorder in which thought and emotions are so impaired, that the person suffering from it has lost contact with external reality. I expect you will hear from Dr. Nazif herself (XFD read ins), that
 - Some patients with psychosis may feel that their body is being controlled by something else.
 - And some patients with psychosis can become violent, causing harm to themselves, or others.
- I expect you will hear from several witnesses including Dr. Nazif that, as a general rule, patients do not recover from psychosis without treatment.
- Without treatment, a schizophrenic with psychosis will usually get worse.
- And the standard treatment for someone exhibiting signs of active psychosis is anti-psychotic medication.
- Risperidone is a common type of anti-psychotic medication.

- After Dr. Pourvali certifies Mr. Osuteye, his blood work comes back from the lab.
- It is mostly normal, with the exception of two markers: his CK and lipase levels are elevated.
- CK stands for Creatine Kinase.
- CK is an enzyme protein found in the body's muscles.
- If the muscle is breaking down, the CK trickles out into the bloodstream and can be measured with a simple blood test.
- Mr. Osuteye's CK level is informative.
- Mr. Osuteye has walked so much and for so long before his admission – for 19 hours, by his own self-report – that he has actually started to cause some mild but measurable damage to his muscle tissue.
- To treat Mr. Osuteye's elevated CK, Dr. Pourvali orders IV fluid replacement.

- A nurse inserts an IV line into Mr. Osuteye's left hand at 01:50 a.m.
- The nurse who inserts the IV observes that Mr. Osuteye is smiling and "unsure of the situation".
- Nurses check on Mr. Osuteye frequently throughout the early morning hours.
- At 3:00 a.m., he has his eyes closed.
 - But he is not sleeping.
 - He is mumbling to himself.
- Nurse Allison Jordan returns to Mr. Osuteye's bedside at 4:45 a.m. to replace his bag of IV fluid.

- She finds him lying in his bed, with a bedsheet pulled over his head.
 - He is muttering to himself.
 - She cannot decipher what he is saying.
- She tells Dr. Pourvali that Mr. Osuteye might need some medication to keep him calm and help him sleep.
 - Dr. Pourvali orders a 2 mg dose of Ativan.
- I expect you will hear that Ativan is a benzodiazepine: it is a drug that acts on the brain and nerves to produce a calming or sedating effect.
 - And it makes a patient sleepy.
- Nurse Jordan gives Mr. Osuteye the Ativan at 5:00 a.m.
- His restlessness subsides.
- He falls asleep.
- He is reported to be snoring by 7:00 a.m.

- The defendant, Dr. Anna Nazif, is a medical doctor and a psychiatrist.
- To qualify as a psychiatrist, she received additional education and training, over and above her medical doctorate degree.
- She comes on shift at St. Paul's Hospital at around 8:30 a.m. on the morning of Thursday, December 6, 2012.
- It is an unusually quiet morning at St. Paul's.
- Dr. Nazif is told she has just one patient waiting for a psychiatric consultation.
- Dr. Nazif is training a medical student, Dr. Sebastian Ko.

- She reviews Mr. Osuteye’s ambulance report, some community social worker notes that are available to her, and the emergency department hospital chart.
- She also has some records from the Grey Nuns Hospital in Edmonton.
- These are records received after someone at St. Paul’s made fax requests to three hospitals in Edmonton.
- Grey Nuns is where Mr. Osuteye was first hospitalized and diagnosed with schizophrenia, in 2009, three years earlier.
- Those 2009 records contain some information.
- First, Mr. Osuteye is university educated.
- Second, he has a mother and two brothers in Edmonton. It was his family who actually took him to hospital in 2009.
- Also, his admission to Grey Nuns was an “involuntary admission” that followed his attempt to leave Edmonton, without any planning. His brother picked him up from the airport and drove him straight to the hospital.

- At around 9:30 a.m., Dr. Nazif and Dr. Ko approach Bed 14, where Mr. Osuteye waits.
 - He is sitting on the edge of the hospital bed, his feet dangling over.
- Dr. Nazif and Dr. Ko pull up two chairs and they sit in front of Mr. Osuteye.
- They begin by taking a history.
- Mr. Osuteye is polite and cooperative.
 - Dr. Nazif describes him as a “lovely, pleasant person”.
- He tells them he’s been walking “all over the city” for 19 hours.

- Mr. Osuteye also tells them he had been hospitalized just six months earlier at the Misericordia Hospital in Edmonton, after a “fight with brother”.
 - He says he was there for three weeks.
- Dr. Nazif observes Mr. Osuteye to stop talking mid-sentence.
 - Dr. Nazif considers that this might be thought-blocking, a symptom of psychosis.
 - But she accepts Mr. Osuteye’s explanation that his interrupted speech is due to his stutter.
- She also sees that his eye contact is limited, and he’s distracted.
 - But she thinks this might be because they’re in a busy area of the ER.
- And – in response to specific questioning – he denies he’s hearing voices.
- Dr. Nazif inquires into his medication compliance.
- The community health social worker’s system notes suggest Mr. Osuteye filled his prescription for risperidone just one week before.
- Mr. Osuteye tells Dr. Nazif he’s been taking his risperidone since getting the prescription refilled a week ago.
- She believes him.
- He tells her that he was living with his mom in Edmonton before moving to Vancouver.
 - He tells her his mom’s first name, Mercy.
 - He gives her phone number and address.
 - Dr. Nazif writes this information down

- But Dr. Nazif doesn't call Mercy Osuteye, I expect she will say, because Mr. Osuteye's asks her not to.
- She doesn't call Dr. Dewart, whom Mr. Osuteye identifies as his treating psychiatrist at the Misericordia.
- She doesn't follow up on getting records from Mr. Osuteye's most recent multiple week admission to the Misericordia.
- She doesn't ask to look at Mr. Osuteye's risperidone supply to see if he's taken any, because she assumes he's left his meds at the shelter.
- She doesn't give him any risperidone, because she trusts that he's going to take his risperidone when he gets back to his shelter, before bed.
- She is of the opinion that Mr. Osuteye has "slight" psychosis, but that he is stable.
- She concludes he is not at risk to himself or to others.
- She chooses – in her own words – to "decertify" Mr. Osuteye.
- She clears Mr. Osuteye psychiatrically, permitting his discharge from hospital.

- I expect you will hear from another psychiatrist, Dr. Ian Gillespie; he will be an expert in the plaintiff's case.
- He is scheduled to testify early next week.
- Dr. Gillespie has prepared a written report, giving notice of his expert opinion about Dr. Nazif's exercise of care in "decertifying" Mr. Osuteye.
- Based on what is in his expert report, I expect Dr. Gillespie's evidence will be critical of Dr. Nazif's decision to decertify Mr. Osuteye.

- But Dr. Nazif did decertify Mr. Osuteye from St. Paul's Hospital on the morning of December 6, 2012.
- A nurse removes his IV, and he is on his way out the door by 11:34 a.m.

- Mr. Osuteye gets back to the shelter.
- The next morning, Mr. Osuteye is smoking a cigarette outside.
- He sees a woman nearby, also smoking a cigarette.
- He feels a sudden urge to attack her.
- This alarms him.
- He runs down the street.
- He turns a corner into an alley.
- He sees an older Asian woman.
- He walks past her.
- He feels an urge again.
- He stops.
- He turns around.
- He looks at her.
- He takes a running jump, and he kicks her in the head.
- A man interrupts him and yells at him.
- Mr. Osuteye runs away.

- He runs for a few blocks to Pacific Boulevard, near BC Place.
- He sees another elderly woman.
- He walks past her a few steps.
- Then he walks back up beside her.
- He trips her to the ground.
- And he starts kicking her.

- Donna Crawford, then age 63 and retired, lives in a small studio apartment in the 1300 block of Hornby Street.
- On the morning of December 7, 2012, Ms. Crawford is out walking.
- It is a typical Vancouver December day: cool, overcast, with rainclouds moving in.
- It is 9:50 a.m.
- Ms. Crawford is walking in the 700 block of Pacific Blvd, near the Edgewater Casino and the Plaza of Nations.
- Nicholas Osuteye is there.
- He has already attacked two elderly women.
- He sees Donna Crawford.
- He walks up beside her.
- He sweeps her legs out from under her.
- She hits the ground.

- He winds up, and he kicks her head as hard as he can.
- He continues to kick and “stomp” on her.
- With full force, he jumps with both feet onto her face and torso.

- Carla Soregaroli is driving to her morning massage therapy appointment.
 - From her car, she witnesses Mr. Osuteye’s attacks.
 - She pulls over, and she runs at Mr. Osuteye, screaming.
 - Another man is also nearby, trying to distract Mr. Osuteye;
 - Mr. Osuteye starts to chase him.
 - Ms. Soregaroli attends to the second woman.
 - She calls 911.
 - But she doesn’t go near Donna Crawford, who she can see is lying motionless on the ground nearby. She can’t, because Mr. Osuteye is standing too close to Ms. Crawford.
 - She watches as Mr. Osuteye calmly throws his jacket over his shoulder and walks – not runs – away from the scene.
- Michael Jacko is also nearby, doing some urban gardening.
 - He witnesses the attack on Donna Crawford and the woman before her, as well as Mr. Osuteye’s subsequent attack on a car stopped at a traffic light.
 - He also calls 911. He is on the phone with 911 as he watches Mr. Osuteye strip down to his underwear and surrender to Police.

- Vancouver Police Cst. Mike Dewar and his partner, Cst. Brad Cook are the first officers on scene.
- By the time they arrive, Mr. Osuteye has already dressed down to his underwear.
- Mr. Osuteye submits.
- He is cooperative.
- They arrest him without challenge.
- They handcuff him.
- They sit him down on the curb.
- They give him a blanket because it is cold, and it's starting to rain.
- Mr. Osuteye is talkative.
- Cst. Dewar gets a digital audio recorder out of the squad car.
- You will hear that audio recording of Mr. Osuteye's arrest.
- You will hear Mr. Osuteye say, in his own words, that he was "hunting human beings like animals".
- I expect you will hear that Cst. Dewar searched Mr. Osuteye's clothing and pockets.
- You will hear about what he found.
- Amongst other things, he found a note from Mr. Osuteye's visit to St. Paul's Hospital the day before.
- He also found four blister packs of ten risperidone pills each.
- There were no pills missing from those blister packs.

- The paramedics take Donna Crawford to hospital.
- She survives, but with very serious injuries.
- Donna Crawford does not remember the attack.
 - She has amnesia over a significant period of time both before and after the attack.
 - But I expect she will say that she knows she suffered a severe head injury, multiple facial fractures, rib fractures, and a fractured forearm. She required months of rehabilitation before she could walk again. She continues to suffer from poor balance, and she has no sense of taste or smell. She continues to struggle with her memory.
- You will meet Donna Crawford shortly, because she will be our first witness.

- Before she takes the stand, it may be helpful for me to tell you what it is that Donna Crawford , as the plaintiff in this lawsuit, is asking you to do.
- Ms. Crawford is not suing Nicholas Osuteye.
- But Mr. Osuteye is a third party to this lawsuit, at Dr. Nazif's election.
- I expect Dr. Nazif will say that you should find Nicholas Osuteye liable to Ms. Crawford for civil assault, and that she herself was reasonable and careful in her decision to "decertify" him on December 6, 2012.
 - i. She will say that even if she made a mistake that, in hindsight, not every mistake constitutes negligence.
 - ii. She will say that she did just as any other psychiatrist might be expected to do in the same circumstances.
- But Donna Crawford brings this lawsuit against Dr. Nazif only.
- As the plaintiff, she is asking you to find that Dr. Nazif was negligent in choosing to "decertify" Nicholas Osuteye.