



Advising  
Complainants on  
Civil Sexual Assault  
Tort Claims

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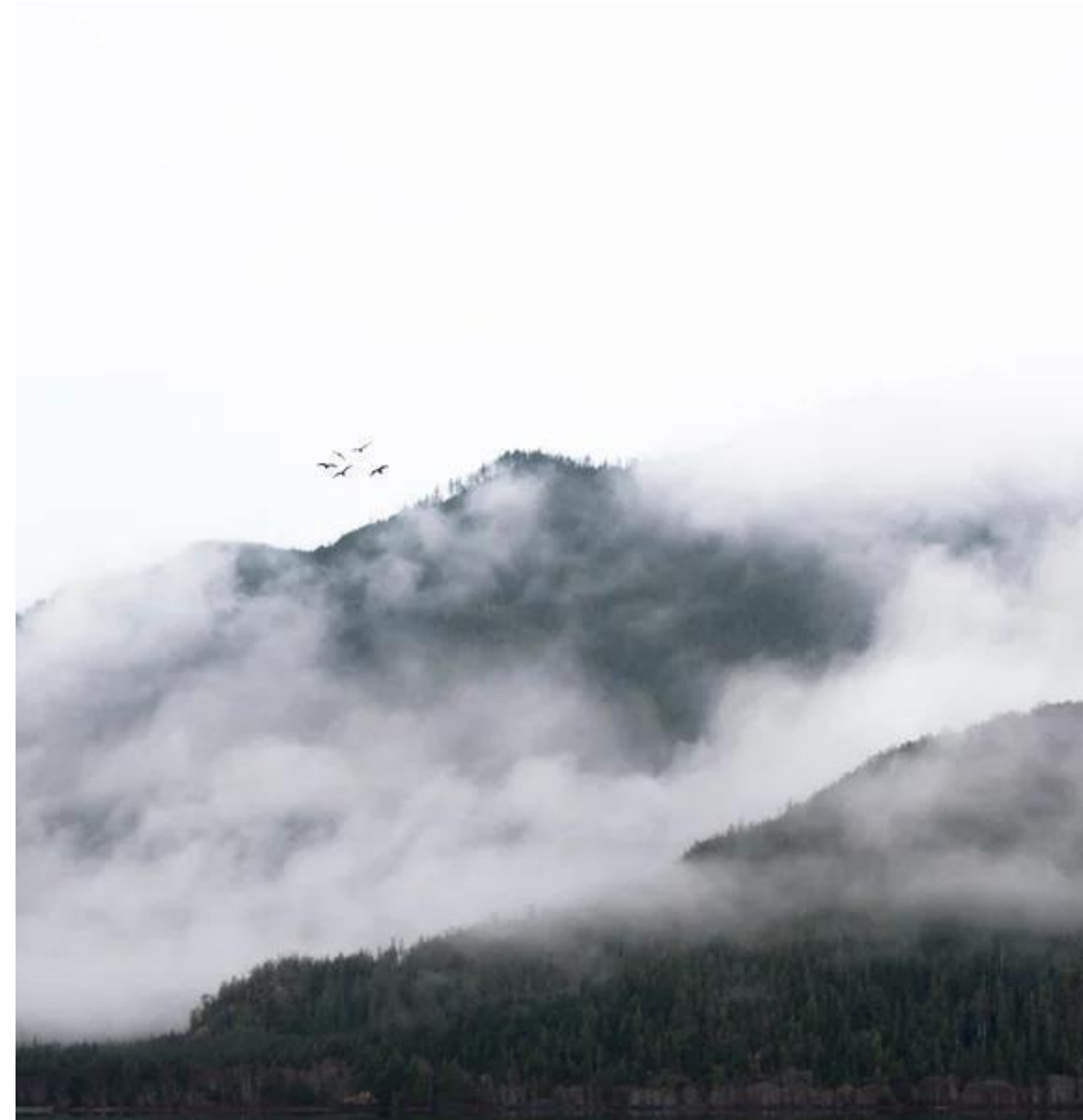
# Morgyn Chandler



Managing Partner, Hammerco  
Lawyers

# WHY DO THIS WORK?

- Providing options and education to survivors outside of the criminal legal process
- Institutional change
- Making a difference



# TRAUMA INFORMED PRACTICE

- Recognize that our legal system causes harm
- Do what is in your power to minimize that harm
- Be transparent and accountable at all times



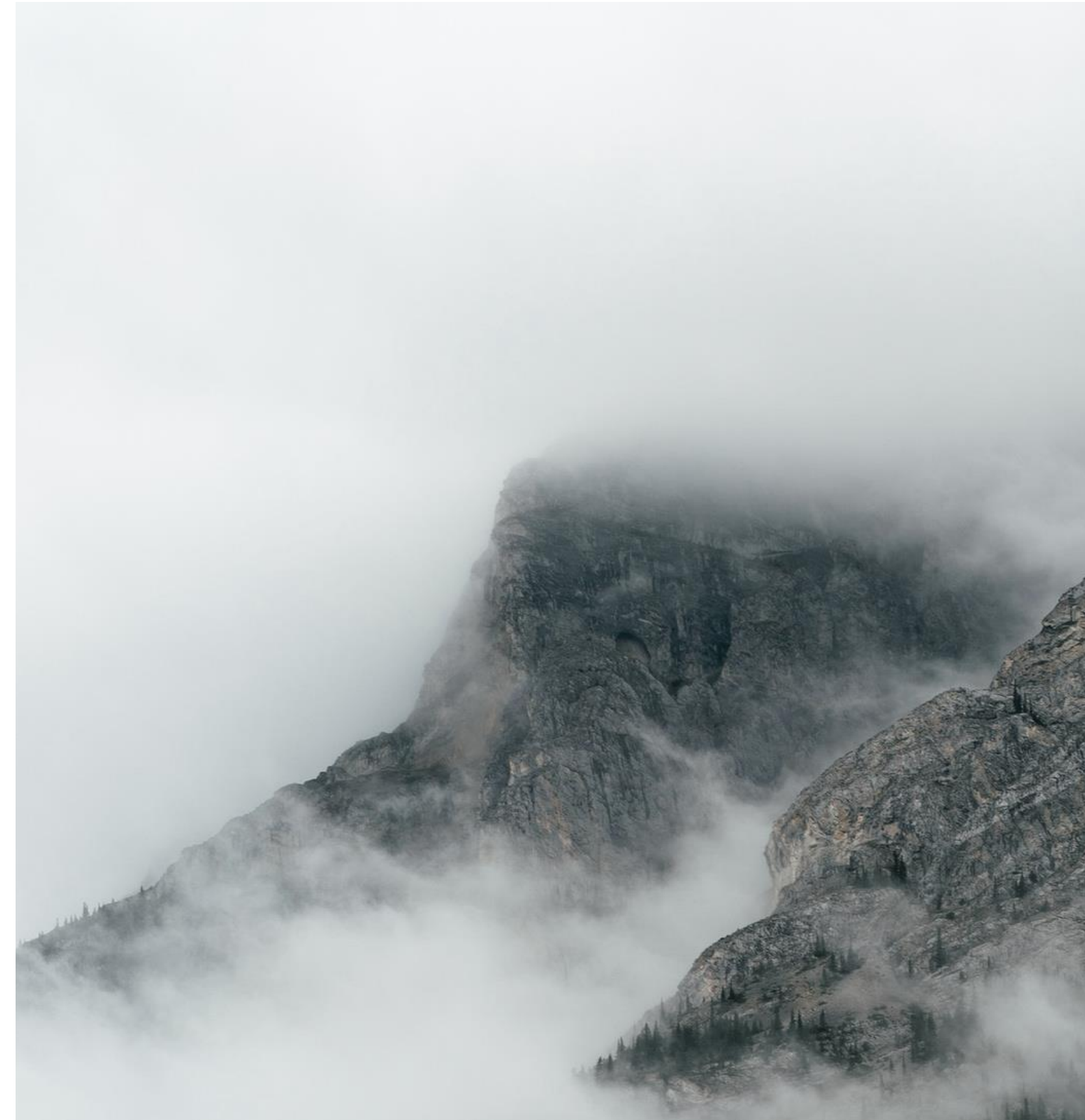
# INITIAL MEETING WITH THE CLIENT

- Trauma informed approach starts at intake
  - Be clear about the time you have, your objectives, and how you are going to conduct the conversation
- Build Trust and Rapport
  - Be up front about your role and its limitations as well as the limitations of our civil system
- Criteria for opening a file
  - Do you know who the defendants are, where they are and what assets they have



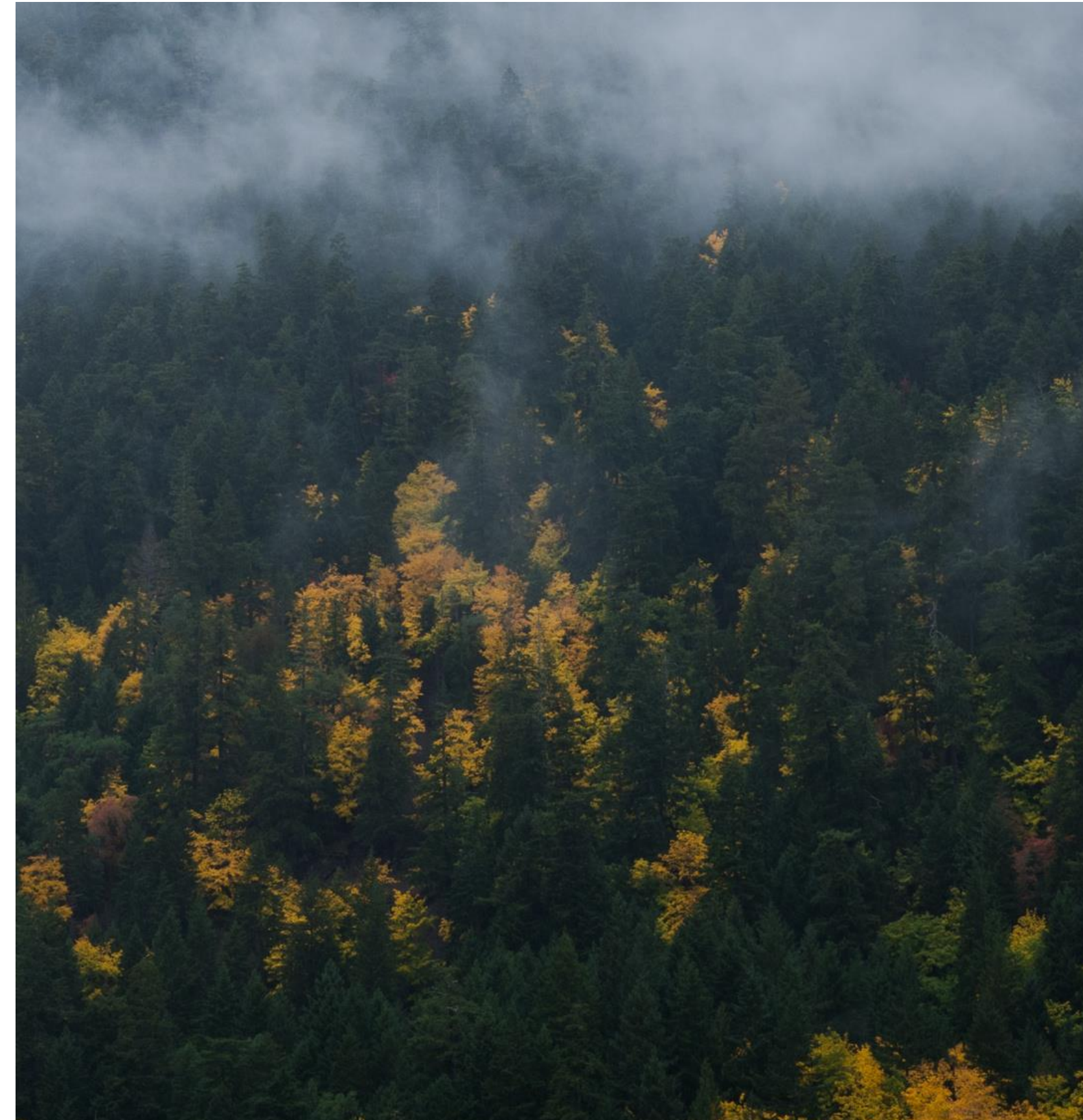
# PARTIES/CAUSES OF ACTION

- Who are your potential defendants?
  - Individual
  - Institution
  - Bystanders
- What are your potential causes of action?
  - Sexual assault and battery
  - Intentional infliction of mental suffering
  - Grooming
  - Tort of family violence (?)
  - Breach of privacy
  - Breach of fiduciary duty
  - Negligence
  - Vicarious Liability
  - Defamation



# UNIQUE CONSIDERATIONS

- Infant clients
- Privacy
  - Anonymization and publication ban
- Timing
  - Are there criminal proceedings?
- Document discovery
  - Extensive disclosure of medical records
- Examinations for discovery
  - How can you protect your client?



# UNIQUE CONSIDERATIONS

- Intersection with Family Law  
*McCann v. Berens, 2023 BCSC 2000*
- Workplace Issues
- Criminal proceedings
  - Impact of a conviction
  - What if the Defendant was found not guilty?

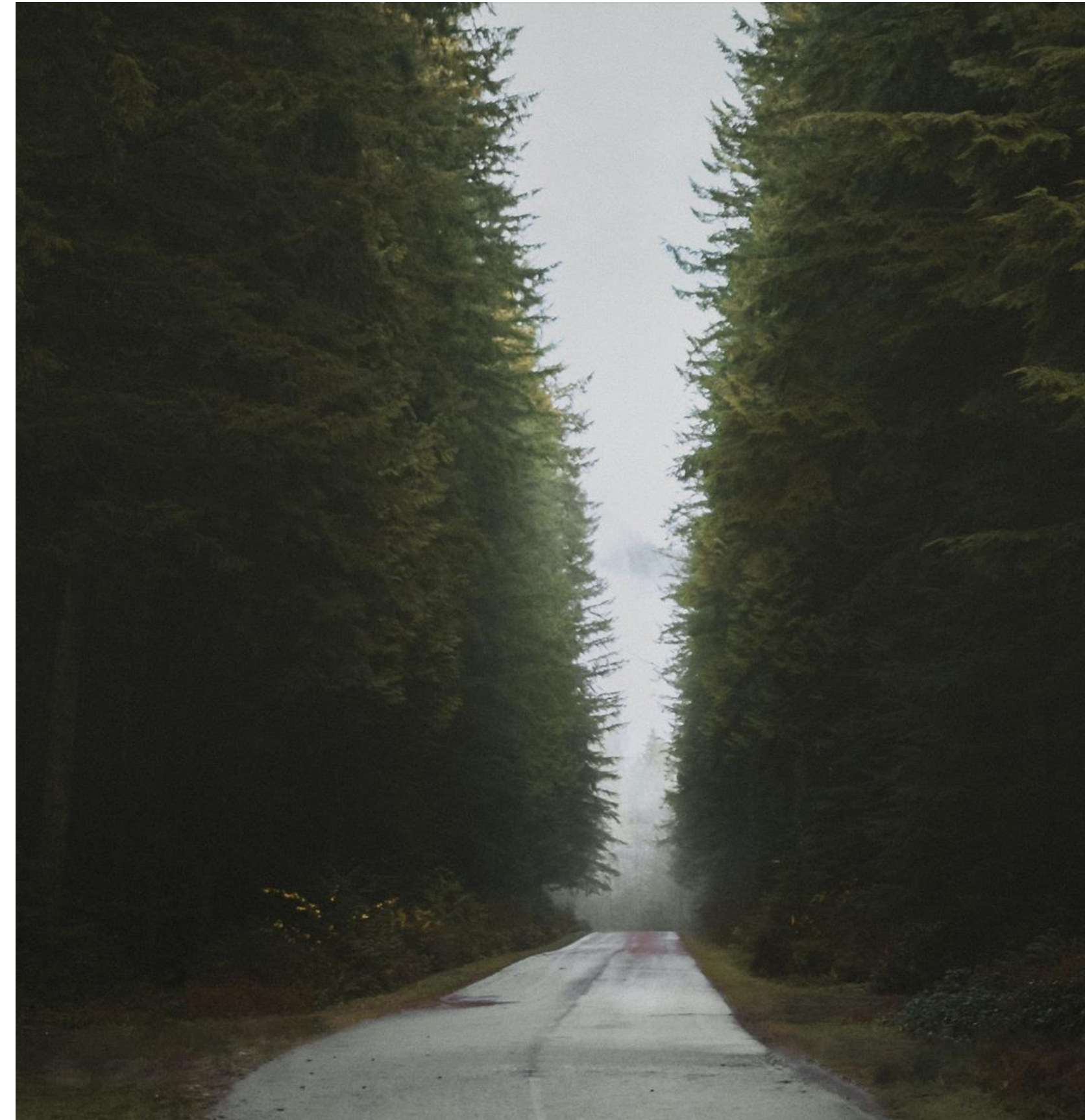


# DAMAGES

- Non-pecuniary damages
- Income loss
- Diminished earning capacity
- Future care
- Special damages
- Aggravated
- Punitive
  - ***K.H.C. v. Scheirer*, 2025 BCSC 998**
- Subros - HCCRA/CVAP

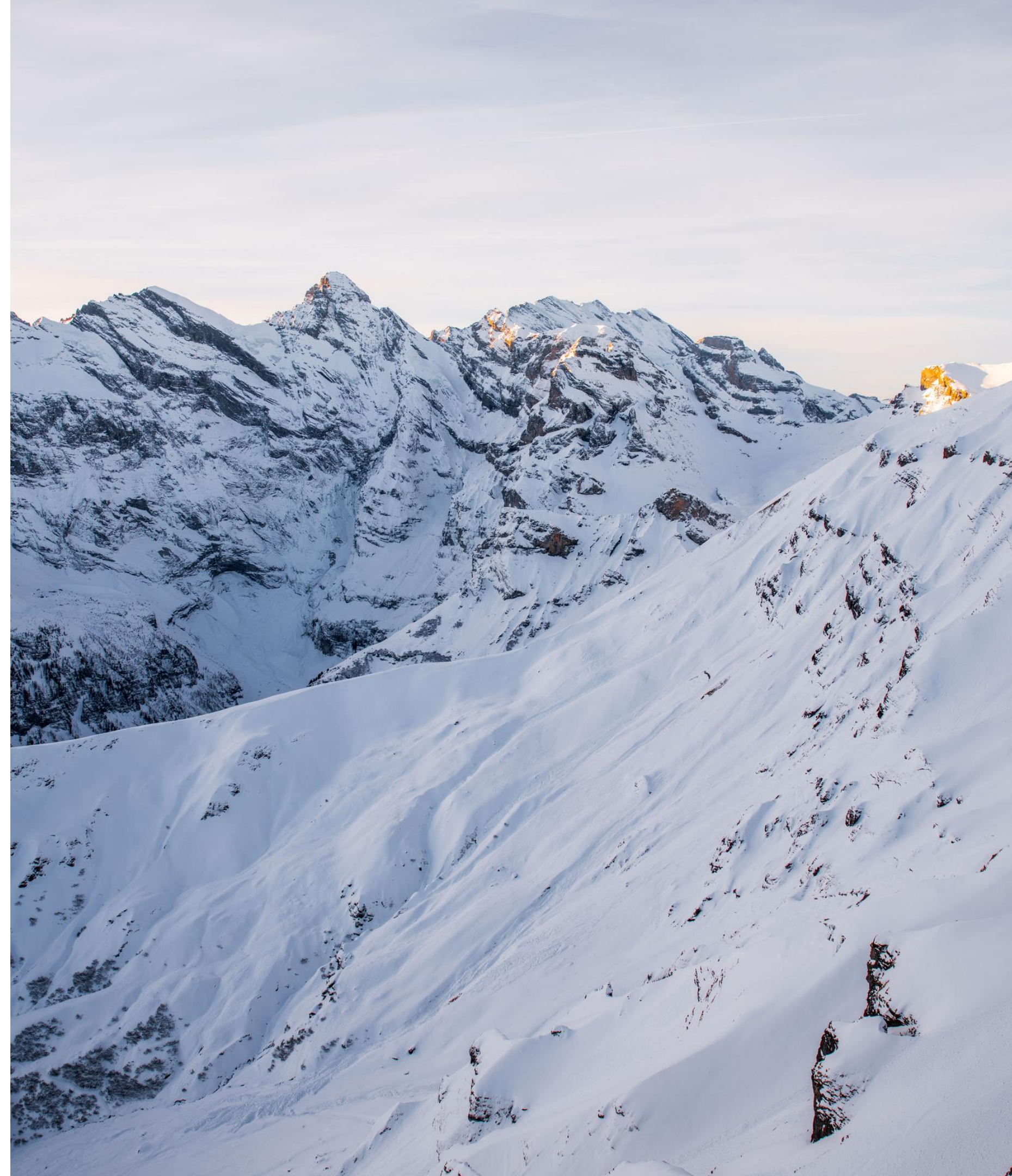
... To assess damages for the psychological impact of sexual abuse on a particular person is **like trying to estimate the depth of the ocean by looking at the surface of the water.**

*S.Y. v. F.G.C.*, 1996 CanLII 6597 (BC CA)



# PROS AND CONS OF A CIVIL LAWSUIT

- Accountability
- Take back control
- Have your voice heard
- Compensation
- Creative solutions



# PROS AND CONS OF A CIVIL LAWSUIT

- Adversarial system
- Burden of proof rests with survivor
- Legal system is not trauma informed
- Settlement may mean compromise
- Collecting damages



THANK YOU  
ANY QUESTIONS?