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COMMISSION OF INQUIRY INTO THE CIRCUMSTANCES  
SURROUNDING THE DEATH OF PHOENIX SINCLAIR

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**Commission Disclosure 1722**

THE QUEEN'S BENCH  
FAMILY DIVISION  
WINNIPEG CENTRE

IN THE MATTER OF: "The Child and Family Services Act"

AND IN THE MATTER OF: PHOENIX VICTORIA HOPE SINCLAIR,  
23 APRIL 2000

BETWEEN:

WEST REGION CHILD AND FAMILY SERVICES,

Petitioner,

- and -

SAMANTHA DAWN KEMATCH and NELSON DRAPER STEVE SINCLAIR,

Respondents.

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TRANSCRIPT OF PROCEEDINGS, before The Honourable  
Master Lee, held at the Law Courts Complex, 408 York  
Avenue, in the City of Winnipeg, Province of Manitoba, on  
the 3rd day of May, 2000.

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APPEARANCES:

MS. M. BOWMAN, for the Petitioner  
MS. S. KEMATCH, in person  
MR. S. SINCLAIR, in person  
MR. J. HARVIE, for Anishinaabe Child and Family Services

RESTRICTION ON PUBLICATION

Please note that s. 75(2) of The Child and Family Services Act provides that no press, radio, or television report of certain proceedings shall disclose the name of any person involved in the proceeding as a party or witness, or disclose any information likely to identify any such person.

CP MATTER - RESTRICTION ON ACCESS

1 MAY 3, 2000

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3 MR. HARVIE: One further matter and that is the  
4 Winnipeg Child and Family Services versus Samantha Kematch  
5 and Steve Sinclair.

6 THE CLERK: That should be number 38.

7 THE COURT: Number 38?

8 MR. HARVIE: I beg your pardon, yes. Anishinaabe  
9 Child and Family Services has been served with this  
10 petition, Your Honour. I'm instructed to seek particulars  
11 at this time.

12 MS. BOWMAN: I can advise that the parents and  
13 the social worker are just outside, so we're fetching them.  
14 I believe this is a matter where the agency is seeking a  
15 three month temporary order and Mr. Orobko, I'm sure, can  
16 confirm that.

17 Present in court is Andrew Orobko, the supervisor  
18 of the CFS unit. And with him, I'm assuming, are the  
19 parents.

20 MS. KEMATCH: Yes.

21 MR. SINCLAIR: Yes.

22 MS. BOWMAN: Okay. Perhaps we can ask Mr. Orobko  
23 to present the plan and we can determine the parents'  
24 positions.

25 MR. OROBKO: Morning, Your Honour.

26 THE COURT: Morning.

27 MR. OROBKO: We have Mr. Steven Sinclair, the  
28 biological father of the child, Phoenix, present, as is the  
29 mother, Ms. Samantha Kematch.

30 At this point in time, Your Honour, the agency  
31 would ask that a three month temporary order of  
32 guardianship be granted with respect to the child, Phoenix.  
33 During those three months, the agency is asking that Ms.  
34 Kematch attend and complete a psychological assessment.

1 The assessor to be mutually agreed upon between the agency  
2 and Ms. Kematch.

3 During that time, we are also asking that both  
4 parents attend the parenting program and once again, that  
5 would be a program mutually agreed upon between the two  
6 parties.

7 And finally, during that three months, we are  
8 asking that the parents ensure they attend all visits with  
9 the child, Phoenix, to, to ensure that some form of bonding  
10 can, can ensure.

11 The agency is committed towards working the child  
12 home as quickly as possible and with parental cooperation  
13 and if they attend to those three things, we think we can  
14 achieve that goal.

15 THE COURT: And where is Phoenix placed during  
16 the, this time and what, what's the proposed placement if  
17 the agency obtains the order?

18 MR. OROBKO: Yes, child is currently in a, an  
19 agency emergency shelter. Ideally, we would like to have  
20 the child in an emergency foster home, but at this time it  
21 is in the shelter. And certainly, at this point, regular  
22 visitation has been set up. I believe it's two hours on a  
23 weekly basis at this point. We would strive to increase  
24 that visitation as we get closer to a return date.

25 THE COURT: All right. All right. If the  
26 parents could come forward to the microphone please.  
27 Morning. If each of you could state your full names so we  
28 have it on the court record please?

29 MR. SINCLAIR: Steve Sinclair.

30 MS. KEMATCH: Samantha Kematch.

31 THE COURT: And you're the parents of Phoenix?

32 MR. SINCLAIR: Yes.

33 THE COURT: And you understand at this time the  
34 agency is seeking a three month temporary order of

1 guardianship and Mr. Orobko has outlined to the court this  
2 morning what the plan of the agency is if they obtain that  
3 order?

4 MS. KEMATCH: Yes.

5 THE COURT: And you're aware of that, you're  
6 aware of your right to seek legal advice if you disagree  
7 with the agency application?

8 MS. KEMATCH: Yes.

9 THE COURT: And what is your position? Are you  
10 wishing to agree with the agency application, or --

11 MS. KEMATCH: Yeah, we agree to the three month  
12 temporary order --

13 THE COURT: All right.

14 MS. KEMATCH: -- and to go to parenting classes  
15 and (inaudible) see a psychiatrist or psychologist and  
16 visitation (inaudible).

17 THE COURT: Okay. Thank you.

18 Mr. Harvie, you're seeking an adjournment --

19 MR. HARVIE: Well --

20 THE COURT: -- or --

21 MR. HARVIE: -- in, in the circumstances, I don't  
22 think we need to hold up the order. My concern, however,  
23 Your Honour, is that program standards indicate that when a  
24 native child is apprehended and indeed, when a application  
25 is filed before the court, there's an obligation for the,  
26 for Winnipeg Child and Family Services to consult with the  
27 native child caring agency in an interest, in the interest  
28 of any foster placement being in accordance with program  
29 standards and the, the authority of Mr. Justice Goodman in  
30 this regard in the D.A.M. decision of last summer.

31 The concern, on behalf of my clients would be  
32 that they were provided with a letter dated April the 28th,  
33 advising them of the apprehension, with information to  
34 contact Marnie Sonderson (phonetic) about this matter.