

IN THE MATTER OF: Commission of Inquiry into the Circumstances Surrounding
the Death of Phoenix Sinclair

**NOTICE OF MOTION
of
INTERTRIBAL CHILD AND FAMILY SERVICES (ICFS)**

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INTERTRIBAL CHILD AND FAMILY SERVICES (ICFS)

Intertribal Child and Family Services (ICFS) will make a motion before Commissioner Hughes on May 22, 2012 and May 23, 2012, at 9:30 in the morning, or as soon thereafter as the motion can be heard, at the Pan Am Room, in the Winnipeg Convention Centre, 375 York Ave, Winnipeg, Manitoba.

THE MOTION IS FOR AN ORDER:

- 1) That the Commissioner prohibit any form of publishing, broadcasting, or otherwise communicating by television, internet, radio, print, or by any other means, the name, face, or identity of any witness at the Inquiry who is or was a Social Worker, as well as the name of any Social Worker identified in documents produced at the Inquiry;
- 2) That the Commissioner prohibit the live broadcasting or streaming of the Inquiry;
- 3) That prior to documents becoming publically available in the context of the Inquiry, the Commissioner redact the names and other identifying information of:
 - a) Sources of referral/informants, provided such people are irrelevant to the hearing of this Inquiry;

- b) Persons who were minors (age 18 or younger) at the time the document was created, provided such people are irrelevant to the hearing of this Inquiry;
 - c) Family members of the persons described in b) above; and
 - d) Foster parents, provided such people are irrelevant to the hearing of this Inquiry.
- 4) In the alternative, that the Commissioner exercise his jurisdiction to prohibit the video or audio recording and broadcasting of testimony given by Social Workers at the Inquiry; and
 - 5) Such further and other relief as counsel may advise and the Commissioner may allow.

THE GROUNDS FOR THE MOTION ARE:

- 1) The Commissioner has the inherent jurisdiction to make the orders sought as necessarily incidental to the carrying out of his functions pursuant to Order in Council 89/2011 appointing the Commissioner to conduct the Inquiry;
- 2) In particular, paragraph 6 of the Order in Council, which mandates the Commissioner to conduct the Inquiry having regard to *The Freedom of Information and Protection of Privacy Act of Manitoba* and other relevant privacy legislation;
- 3) Commission of Inquiry Rules of Procedure and Practice, including, without limitation, Rules 6, 14, 42, 43 and 44;
- 4) The Commissioner's December 2, 2011 Ruling on Redactions held that the names or sources of referral/informants, minors, and foster parents be redacted for the purposes of disclosure of documents to the parties
- 5) It serves the interest of justice, of the Inquiry and is otherwise in the public interest to grant the Orders sought, which Orders do not unduly restrict the principles of open courts and freedom of the press and which Orders promote or facilitate the reporting of child protection issues;

- 6) Sections 18.1, 75, and 76 of the *Child and Family Services Act of Manitoba*;
- 7) It serves the general intent and legislative goals of the *Child and Family Services Act of Manitoba* to better protect children;; and
- 8) Such further and other grounds as counsel may advise and the Commissioner may allow.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- 1) The Affidavit of Shirley Cochrane, affirmed the 3rd day of April, 2012;
- 2) Such other Affidavit material supporting the Motion and filed with respect to this matter; and
- 3) Such further and other material as counsel may advise and this Honourable Court may allow.

Dated: April 4, 2012

BOOTH DENNEHY LLP



Hafeez Khan / James Benson
Counsel for
Intertribal Child and Family Services