

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

**NOTICE OF MOTION
of
The General Child and Family Services Authority, First Nations of Northern
Manitoba Child and Family Services Authority, First Nations of Southern
Manitoba Child and Family Services Authority and Child and Family All Nation
Coordinated Response Network (the “Authorities” and “ANCR”)**

The Authorities and ANCR will make a motion before Commissioner Hughes on Tuesday, May 22, 2012 at 9:30 o'clock in the forenoon, in the Pan Am Room, Winnipeg Convention Centre, 375 York Avenue, Winnipeg, Manitoba.

THIS MOTION is for an order:

Regarding Witnesses

- (a) That the Commissioner prohibit any form of publishing, broadcasting, streaming or otherwise communicating by television, internet, radio, in print, or by any other means, the name, face or identity of any witness at the Inquiry who is or was:
- i. A child and family services employee who had direct involvement in the delivery of services to Phoenix Sinclair;
 - ii. A source of referral/informant; and
 - iii. An individual who is testifying about services they received from child and family services

unless the witness consents to the release of this information.

Regarding Exhibits and Transcripts

- (b) That the Commissioner's Ruling on Redactions dated December 2, 2011 apply to the dissemination of documents at all public hearings of the Commission;
- (c) That the transcripts and exhibits referred to in Rule 45 of the Commission's Amended Rules of Procedure and Practice be redacted in accordance with the Commissioner's Ruling on Redactions dated December 2, 2011 prior to being made available for public viewing.
- (d) That the Commission permit the affidavits of Cheryl Regehr and Bruce Rivers, both sworn March 30, 2012, to be relied upon in the within motion and in the related publication ban motions;
- (e) That the Commission allow Cheryl Regehr and Bruce Rivers to file supplemental affidavits for the sole purpose of confirming that their March 30, 2012 affidavits were filed in support of the within motion and are applicable to the other publication ban motions;
- (e) Such further and other relief as counsel may advise and the Commissioner may allow.

THE GROUNDS FOR THE MOTION ARE:

- (a) The relief sought is in the best interests of children in Manitoba;
- (b) The relief sought will mitigate against the unintended negative consequences of media reports undermining the delivery of child welfare services in general;
- (c) The Commissioner has the inherent jurisdiction to make the order 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;

- (d) 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 laws;
- (e) Commission of Inquiry Rules of Procedure and Practice, including, without limitation, Rules 6, 14, 42 to 46;
- (f) *The Child and Family Services Act* of Manitoba, in particular the Declaration of Principles and sections 18.1, 75 and 76;
- (g) The Order sought is consistent with the general intent and purpose of *The Child and Family Services Act* of Manitoba to better protect children;
- (h) *The Child and Family Services Authorities Act* of Manitoba, in particular section 19;
- (i) The Commissioner's Ruling on Redactions dated December 2, 2011;
- (j) 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:

- (a) The Affidavit of Cheryl Regehr, sworn March 30, 2012;
- (b) The Affidavit of Bruce Rivers, sworn March 30, 2012;
- (c) Order in Council No. 89/2011;

- (d) The Commissioner's Ruling on Redaction, dated December 2, 2011;
- (e) Affidavit of Janet Kehler, affirmed June 27, 2011;
- (f) Affidavit of Janet Kehler, affirmed April 4, 2012;
- (g) Affidavit of Evelyn Wotherspoon, sworn March 29, 2012;
- (h) Affidavit of Elizabeth McLeod, sworn April 3, 2012;
- (i) Affidavit of Shirley Cochrane, affirmed April 3, 2012;
- (j) Supplemental Affidavit of Bruce Rivers, Sworn April 11, 2012;
- (k) Supplemental Affidavit of Cheryl Regehr, Sworn April 11, 2012;
- (l) Such further and other material as counsel may advise and the Commissioner may allow.

April 11, 2012

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