

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

**NOTICE OF MOTION ON BEHALF OF
POTENTIAL WITNESSES SOR#1, SOR#2, SOR#4, PHN and TM**

HEARING DATES: MAY 22 & 23, 2012

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Potential witnesses identified by Commission counsel as SOR#1, SOR#2, SOR#4, and potential witnesses PHN and TM will make a motion before Commissioner Hughes on Tuesday, the 22nd of May, 2012 at 9:30 o'clock in the forenoon, or as soon thereafter as the matter can be heard, in the Pan Am Room, Winnipeg Convention Centre, 375 York Avenue, Winnipeg, Manitoba.

THIS MOTION IS FOR AN ORDER:

1. That prior to documents becoming publicly available in the context of the Inquiry, the Commissioner redact the names and other identifying information of SOR#1, SOR#2, SOR#4, PHN and TM.
2. That the Commissioner prohibit any form of publishing, broadcasting, or otherwise communicating by television, internet, radio, in print, or by any other means, the names and other identifying information of SOR#1, SOR#2, SOR#4, PHN and TM that may, notwithstanding paragraph 1 herein, be contained in documents produced at the Inquiry.
3. That the Commissioner prohibit any form of publishing, broadcasting, or otherwise communicating by television, internet, radio, in print, or by any other means at the Inquiry, the name, face or identity of SOR#1, SOR#2, SOR#4, PHN and TM.
4. That in his discretion, the Commissioner extend to SOR#1, SOR#2, SOR#4, PHN and TM any further considerations in respect of their comfort, safety and privacy that he determines ought reasonably to be extended to other witnesses at the Inquiry.
5. Such further and other relief as counsel may advise and the Commissioner may allow.

THE GROUNDS FOR THIS MOTION ARE:

1. 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 (the "Order in Council") 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. The Commission of Inquiry Amended Rules of Procedure and Practice, including, without limitation, Rules 6, 14, 19, 27, 42, 43 and 44.
4. The Ruling on Redactions of the Commissioner dated December 2, 2011 held that the names of Sources of Referral/informants, minors, and foster parents be redacted for the purposes of disclosure of documents to the parties.
5. *The Child and Family Services Act*, C.C.S.M. c. C80, including, without limitation, s. 18.1, 75 and 76.
6. It serves the interest of justice that the names of Sources of Referral/informants be redacted in order to promote or facilitate the reporting of child protection issues.
7. The publication or broadcast of specific names, faces and identities of SOR#1, SOR#2, SOR#4, PHN and TM are not relevant to the Inquiry.
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 this motion:

1. The Affidavit of Regan Spencer, affirmed April 10, 2012.
2. The Affidavit of Lynda Tjaden, affirmed April 10, 2012.

3. Such further and other evidence as counsel may advise and the Commissioner may allow.

April 11, 2012

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