IN THE SUPREME COURT OF CANADA
ON APPEAL FROM THE SASKATCHEWAN COURT OF APPEAL

BETWEEN:

Arlene Lowery

APPLICANT
Appellant (Plaintiff)

AND:

Saskatchewan Government
-and-
Dr. C. Norman, M.D.,
Dr. S. Leibel, M.D., Dr. L.P. Ruthnum, M.D.,
Dr. E. Ivanochko (Reg. Psychologist)
City of Regina Police Department,
Chief Cal Johnston, Corporal Debbie Ferguson

RESPONDENTS
Respondents (Defendants)

AFFIDAVIT OF ARLENE LOWERY
In support of
APPLICATION FOR LEAVE TO APPEAL

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THIS AFFIDAVIT ALSO INCLUDES SUMMARIZED MATERIALS FROM PREVIOUS AFFIDAVITS FILED. THERE ARE CERTAIN EXHIBITS FILED AS SUBSTANTIVE MATERIALS THAT ARE ATTACHED.

1. This is the Affidavit of Arlene Lowery, Appellant (Plaintiff) to this action against the named Respondents (Defendants) and it is made in support of my application to the Supreme Court of Canada to take Leave to Appeal the decision of the appellate judges of the Saskatchewan Court of Appeal.

PREAMBLE:

2. The substantive materials on this file for the Chambers judge and the 3 appellate judges to read were factual.

3. The pleadings were not as the Chambers judge implied, of various allegations not able to discern who did what, when and where or who was culpable. And if they were did it really matter.

4. The pleadings as to which of the Respondents (Defendants) actions were culpable for what and why it mattered were clearly presented as *prima facia* evidence.

5. Exhibits such as medical reports on the 4 grandchildren named here as infant children plaintiffs proposed to this claim are evidence.

6. Charts such as that of the one on the interdisciplinary Sexual Abuse Team which operated under the umbrella of Saskatchewan Children's Justice was done for the Chamber Judge and the Appellate Justices (hereby referred to collectively as the justices) to eliminate confusion in my oral and written arguments.

7. A chart such as this and the one describing the chain of events with public servants over these 36 years was to bring clarity as to who was culpable for what and why it mattered.

8. The 4 justices have all agreed that this claim should be 'thrown-out' in lay terms, 'stricken' in legal terms, because it is frivolous, scandalous, prolix and meant to embarrass.

9. This affidavit is written for the appellate justices at the Supreme Court level to consider my application to be given an appeal, but it is mainly written to my fellow Canadians who have these substantive issues near and dear to their hearts.

10. After the death of my 2 month old granddaughter while in the protection and care of the Department of Social Services (DSS) counsel for these Respondents (Defendants) filed an *Exparte* Order on November 07, 2005.

11. This Order was filed after counsel had filed with the lower court all of their substantive materials to support their application 'to strike' my claim as per Rule 173 of the Court of Queen's Bench Rules.

12. It was filed to protect them, their actions and the public's knowledge thereof.

13. All the substantive materials filed for their position 'to strike my claim' and 'to seal portions' of this file can not be considered now and should never have been considered in the Chamber's judge's decision as stated in the appellate justices decision 2010 SKCA 109 (CanLII) .

14. The reason that their substantive materials can not be used is that Justice F. Kovach on December 01, 2005, gave me 'leave of the court' to amend my pleadings, as per my draft and file my amended claim by January 17, 2006.

15. He also told me to add to the Style of Cause (which is the cover page) the words Statement of Claim (Amended Fresh Copy) to distinguish it from the Original Copy of my claim, which was filed on July 25, 2005.

16. He further directed me to underline the entire Original Copy of my claim to dispose of it (that is set it aside) and to file all substantive materials to support my amended claim before the hearing of arguments. I 'got all that' and I did that.

17. Mr. Justice Kovach then directed counsel (all 5 of them) that once they had received my Statement of Claim (Amended Fresh Copy) they would need to file new (that is a new application 'to strike' my amended claim). They didn't 'get that' as they never filed new 'to strike' her amended claim.

18. That same day, Justice Kovach also directed all of us to file any substantive materials (that is supporting evidence) before arguments were to be heard.

19. He gave counsel until February 07, 2006 to file their materials, and mine also had to be filed before the matter returned to court on March 07, 2006.

20. The only materials that counsel filed were their Briefs of Law which were their arguments to strike both my original claim and my amended claim.

21. Counsel did NOT file a new application 'to strike her amended claim' therefore they can not strike it.

22. Counsel did NOT file substantive arguments to support striking it.

23. Therefore the only materials that were before the court on March 07, 2006, were counsels' Briefs of Law.

24. The Appellate Judges' erred in not recognizing that their not following the directions of Justice Kovach resulted in a fatal error and that they should have been found in default, and the matter gone to judgment.

25. December 01, 2005, Justice Kovach also attended to my application (R. 167) before him, requesting him to allow me to add the Government of Canada (Attorney General) and Joyce LaPrise as defendants to my amended claim in addition to my request to add my 4 grandchildren.

26. I should let you know that prior to providing the Order granting me permission to amend my claim as per the draft, Justice Kovach had before him, he polled each counsel member individually, asking them if they had read my claim (original) to which they claimed they had.

27. At this juncture he gave his Order that I could amend my pleadings (that is organize them into 3 parts as per the draft example before him).

28. Justice Kovach also allowed me to add a new pleading to my amended claim, the death of my infant granddaughter, pleading a 'wrongful death and gross negligence' against the Saskatchewan Government (Attorney General).

29. After allowing me to add all parties whom I requested Mr. Watson, Q.C. rose and announced "We object!"

30. To which Justice Kovach did another poll of the 5 counsel members asking them separately whom they opposed being added, naming each party to be added separately.

31. All of counsel objected to the adding of the grandchildren and the Government of Canada and NOT one of them objected to the adding of Joyce LaPrise.

32. Justice Kovach turned to the Court Reporter / Clerk to amend the Fiat to read that counsel objected to those parties to be added and that this would be argued (that is why they should not be added) when the matter returned to court.

33. The directives provided on December 01, 2005, by this learned Chambers judge were explicit so that even I as a 'dummie' in the legal arena, foreign to their Rules and Procedures understood what I was to do.

34. So the question is this: Why is it that the 5 learned counsel members did not understand what they were to do?

35. I had already filed affidavits on a minor under disability as per Queen's Bench Rules R. 42 and R. 43)on all 4 of them.

Litigation guardian

> (3) Except where otherwise provided, a minor may commence, continue or defend a proceeding by a litigation guardian. R. 42.
> **Court appointment not necessary**
> **43**(1) Unless otherwise ordered, any person who is not under disability may act as litigation guardian for a minor without being appointed by the court.
> **Affidavit required**
> (2) No person other than the Public Guardian and Trustee acting under *The Public Guardian and Trustee Act* or a litigation guardian appointed by the court shall act as litigation guardian for a minor until he has filed an affidavit in Form 5.

36. Justice Kovach had read the pleadings in the original claim and was not confused and found *prima facia* substance in them or he would never allowed me to amend my claim and would have 'stricken it' on December 01, 2005..

37. The pleadings really never changed (with the exception of adding the wrongful death of my granddaughter) but were reorganized into the 3 parts as mentioned earlier.

38. The history on the file is extensive and important and is detailed in Exhibit 1 attached entitled OVERVIEW OF LAWSUIT QBG 1306 of A.D. 2005 {subtitle Chronological Events of the History on the File which details the timeframe from July 25, 2005 to September 23, 2008.

39. The history from September 23, 2008 to the perfecting of my Appeal is summarized here as follows:

i. In February 2008 my husband had major heart surgery and I /we nearly lost him. The incredible duress led me to request as per an application to 'Take Leave to Appeal' the Decision 2008 SKQB 115 (CanLII). and counsel objected to this.
ii. I had taken the position that I would not move ahead with perfecting my appeal until I received from the Registrar, Mr. Dauncey a correction to the Style of Cause as described in Exhibit 1.
iii. My request was that the filing date of this decision be changed to March 12, 2008 as stamped (March 12, 2008) was in keeping with the Court of Queen's Bench Rules See Exhibit 3.

> **Recording judgments, decrees and orders, Certified copies**
> **Judgment to be entered as of date pronounced**
> **337** When any judgment is pronounced, the entry of judgment shall be dated as of the day on which such judgment is pronounced, unless the court shall otherwise order, and the judgment shall take effect from that date: provided that, by special leave of the court, a judgment may be antedated or post-dated. R. 337.
> **Date of entry in other cases**
> **338** In all other cases not within the last preceding rule, the entry of judgment shall be

> dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date. R. 338.

iv. I recognized that the decision was rendered (dictated) on March 06, 2008, but the filing date to be accurate mattered very much to me as per the Rules of the Court for the Saskatchewan Court of Appeal. – attached as Exhibit 2 is the Style of Cause, with the date if it having been received into court a March 12, 2008, crossed-out by the Registrar with 06 written across it.

v. Mr. Dauncey would not change the date but indicated it was announced to both counsel and myself upon the pronouncement of this decision on March 06, 2008 and he went so far as to claim that the notice of the decision was faxed to counsel and myself.

vi. If counsel received it, I did not.

vii. Counsel and Mr. Dauncey knew that if the date was accepted as March 06, 2008 I would be late in filing a Notice of Appeal within the 30 days required to do so.

viii. My position to not move forward to put forth my argument for my appeal again met with resistance from counsel.

ix. In 2007 (March 29th) I heard from my daughter that another baby had passed away suspiciously and our family was grieving again.

x. Summer came and I had to have gallbladder surgery in August and had complications and went back into hospital in September.

xi. Counsel were wanting me to put forward my argument and I had enough of their unethical tactics as stated in Exhibit 1 that I continued to resist filing it and I continued to be unduly stressed over this lawsuit.

xii. The Appeal Court Registrar, at counsels' urging received an Order for me to perfect my appeal.

xiii. In that Fiat (Exhibit 3.) Justice Cameron points out that I was already late in filing an application to appeal the decision of the Chambers judge and that even though he recognized I was having health issues, that I must perfect my argument for this appeal and if I didn't counsel could proceed to prosecute me.

xiv. The wording of Justice Cameron's Fiat was intended to prejudice me just as his using the date of the decision being filed being March 06, 2008.

xv. I perfected my appeal under great duress.

xvi. The appeal (argument) and supporting materials were filed and it was heard on September 21, 2009.

PROCEDURES:

40. The learned appellate justices, should have recognized in oral arguments and having read the substantive materials that I had before them (none of which counsel had with the exception of their Briefs of Law) that the 5 learned counsel had failed either collectively or separately to file a new application 'to strike' her amended and that this being the case they should have been noted in default as was argued by myself on March 07, 2006 and supported by the materials I filed.

41. Their individual Briefs of Law had the same problems as the Chambers judge's decision, they used interchangeably the original claim, the proposed claim (draft) and the amended claim, creating a hodgepodge effect to baffle and confuse.

42. The appellate justices erred in not recognizing the *prima facia* pleadings as defencable; they showed bias towards counsel for the Respondents (Defendants) by extracting their arguments from their Briefs of Law (without their having any substantive evidence) and they made the same concessions for the Chambers judge.

43. It is clear and simple: Counsel loses their case by default having no defensible argument to strike. See Exhibit 1. 'no Affidavits filed 'to strike'.

44. I 'get that' unless they have all found some 'wiggle room' to get around it.

45. The appellate judges erred in not recognizing that the *prima facie* evidence in the original claim was clearly stated in the 3 parts of the amended claim.

46. Most legal proceedings require a *prima facie* case to exist, following which proceedings may then commence to test it, and create a ruling. This may be called *facile princeps*, first principles.

47. The definition I am using is From Wikipedia, the free encyclopedia:

> *Prima facie* (pronounced /ˈpriːmə ˈfæsiːa/, from Latin *prīmā faciē)* is a Latin expression meaning *on its first appearance*, or *at first sight*. The

> literal translation would be "at first face", *prima* first, *facie* face, both in the ablative case. It is used in modern legal English to signify that on first examination, a matter appears to be self-evident from the facts.

PREJUDICE:

DID THE COURT REALLY UNDERSTAND WHAT WENT ON HERE?

48. As the Appellant (Plaintiff) and the litigation guardian for the 4 infant children named on this lawsuit it is my firm position that the lower court judge (the Chamber's judge and counsel) *abused their 'privilege and power'* to arrive at this decision.

49. I also concerned that the appellate decision, to agree with counsel and the Chamber's judge 'to strike' my amended claim was to save these Respondents (Defendants) and their counsel undue embarrassment.

50. Chief Justice Klebuc indicated to me after arguments were heard on September 21, 2009 that they (the justices) would be consulting with others and amongst themselves to adjudicate the matter and when they had come to a decision I would receive a written judgment.

51. I can not be certain to whom they consulted with- was it Joyce LaPrise herself, Normen Ducharme, Denis Racine of Canadian Heritage, counsel, Mr. Dauncey, the Attorney Generals, Mr. Hedlund (past Regional Director of DSS), Mr. Glenn Hagel (past Minister of Social Services and now Mayor of moose Jaw, Saskatchewan, the doctors, Dr. Ivanochko (reg. psychologist) named here – just how far and how wide were their consultations, and did they have a mini independent judicial review without my knowledge that prejudiced me irreparably.

52. Whomever they consulted with they provided only a 2 paragraph decision page 2 and agreed with the lower judge's decision.

53. After the public domain has a read both my Statement of Claim (Amended Fresh Copy) and some of the Exhibits filed here to support it, they can also decide as will the Supreme Court justices if I have a claim and should the decision of the Appellate

Court (and the lower court) be overturned and this entire matter go to judgment under a new application under Rule 174, that is being filed with this appeal.

54. The appellate judges should not have dismissed these irregularities of failure to file new (an application to strike and the substantive materials to support the application) as merely a Procedural Defect.

55. I recognized that the appellate judges realized that counsel had not filed a new application 'to strike' her amended claim (nor did they have any substantive materials filed to support their argument to strike because they addressed counsel with a question or a statement "you had to file new or "didn't you realize you had to file new?'

56. The appellate judges realized this as Chief Justice Klebuc addressed counsel for the Saskatchewan Government during his argument, stating "you had to file new!" to which counsel hesitated and said, "Well I guess I'm done then!" to which the entire court room burst into laughter with the exception of me.

57. Being left out of 'legal loop' I may have missed what was so funny, but it could have been that for almost every rule of the court or procedure they have another rule "to gain wiggle room' out of it.

DEFECTS AND DEFAULT:

58. One such Rule 5. (1) as stated in the Court of Queen's Bench Rules under

Procedural defect

> **5**(1) Unless the court otherwise orders, any procedural defect, including a failure to comply with these rules, shall be treated as an irregularity and shall not nullify a proceeding, any step taken in the proceeding, or any document, or order made therein.

59. The Rule I am relying on is Rule 100(1)would use to counter such a defense is:

Time for delivery of defence

> **100**(1) Except where otherwise ordered, a defendant who intends to defend the action shall serve and file a Statement of Defence:

(a) within 20 days after the day of service of the Statement of Claim where the defendant is served in Saskatchewan; provided that a Statement of Defence may be served and filed at any time before the action is noted for default.

60. By this time, February 07, 2006, counsel had only filed their Briefs of Law and a month Surely, Justice Kovach would note them in default as I would argue they should be found as such, but I was 'caught by surprise' as it was not Justice Kovach on the bench but Justice Chicoine.

61. Certainly by March 07, 2006 and the fact that Justice Kovach was familiar with the file and had met with us twice already and had a teleconference at the request of Mr. Dauncey and Mr. Brown, on January 16, 2006 (arranged on his behalf by the lower court Registrar) that Justice Kovach would be on the bench but no he wasn't.

62. When I told one lawyer about a change of judges at this juncture of the court proceedings and how disturbing this was to me, he told me that when you're in the lower court it is 'a crap shoot' as to what judge you'll get.

63. I never realized what a 'crap shoot' it would be.

64. The change of judges gave counsel 'all the wiggle room' they needed to defeat my amended claim.

65. It wasn't even funny that a new judge came into chambers admitting before arguments that he was not prepared to hear arguments, having just being handed the file 'on his way through the door'.

66. It wasn't funny the way he addressed me so disrespectfully.

67. It was somewhat amusing though to watch all the players present perform their magic.

68. Justice Chicoine felt he would proceed to hear arguments anyway.

69. He obviously recognized the extent or size of this file already, as he stated "Ms. Lowery you have a lot of material before the court and so hurry it along and don't keep us here until 8:00 tonight'.

70. What was more important for him to realize is that he had NO MATERIALS before him to strike my amended claim.

71. From the onset, I knew I would not have a fair hearing and that this amended claim was doomed for the archives.

72. I observed that counsel referred to previous materials filed to support their arguments to strike and as the learned appellate judges' recognized, they should not, or could not do this, just as the learned Chambers judge should not have done this.

73. On the other hand, I had filed new substantive materials as evidence to support my amended claim, some of which were the case notes provided to me by Mr. Tingly the Social Worker (retired) who placed my daughter with me, in January 1972.

74. He was the one who did the pre-adoption report, falsifying information as detailed in APPENDIX to the Argument Part One: of the amended claim (herein referred to as the claim).

75. The fraudulent act of altering a legal document in 1971 to obtain a desired outcome the first time, the adoption, was again committed by Mr. Tingley in his pre-adoption and post-adoption case notes, attached to his affidavit.

76. This affidavit material for counsel and the exhibits can not be used to support their arguments since they never filed new.

77. I am not entitled to use the affidavit material filed by counsel for their clients, but I can use the case notes and the medical reports, no mater how I received them (and some I had and some I did not have before) but all that I have I am entitled to them under the Saskatchewan Evidence Act. (See Part VII OF THIS APPLICATION).

78. I had filed these case notes and the medical reports and other reports done by the Social Worker at the Regina General Hospital (April 14, 1997) as substantive evidence to support Part One and Two of my claim. See APPENDIX I APPEAL BOOK (EXCERPTS).

79. Further, I have a videotape which Children's Justice took of me without prior consent in October, 2002 after the unlawful evictions.

80. I also refilled the Affidavit on a minor for the 4 infant children as plaintiffs.

81. So counsel, on March 07, 2006 kept referring to my claim as proposed, amended or the original all interchangeably.

82. This had to be done to disadvantage me and create confusion for surely they weren't confused, since even I as 'a dummie' in the legal arena could figure it out.

83. I also consider the Chambers judge not having been briefed on this file or reading it was a 'smoke-screen' for what went on.

84. Providing him the benefit of the doubt, perhaps he never did read it, as he told counsel and myself in a special Chambers meeting requested to take place on the authority of Chief Justice Laing [to hear fresh evidence for the death of my granddaughter] that he had no intentions of reading it.

85. That day it was like talking 'to the wind' as it did not matter if I said anything or not, the predetermined outcome was known before he came into court.

86. What a waste of taxpayer's money and what a waste of a precious life.

87. This judge was determined to discredit and undermine this lawsuit from 'the get go' and the grandchildren's rights and mine were disregarded.

88. I am a professional counsellor by vocation, and so I deal with a lot of families who have issues with codependency and addictions.

89. The term ‘dysfunctional’ is often used to describe the behaviors that transpire from day to day within them.

90. To qualify this, I should state that on any given day, all families have some degree these dysfunctional interactions going on at one time or another.

91. These families have codependent issues in which the dependent (the most needy person), depends on everyone that he is in relationship with to ‘meet their needs’ at the expense of the others’ needs ‘getting met’.

92. I liken this family to being ‘on a mobile above a baby’s crib’, whereby each member of this family is represented (hanging on one of those strings), one depending on the other and reacting to one another.

93. The goal in this family, is to keep the mobile in balance, so it does not chaotically start moving, the motto being ‘don’t rock the boat’, or things could go upside down.

94. Those in relationship with the dependent are termed codependent and they sacrifice a lot to keep this dependant happy –they don’t ‘rock the boat’, they give-in to their demands, they do the ‘eggshell’ walk, they do whatever they are told to do, much the same way many public servants respond to the Attorney Generals of the Government of Canada and the Saskatchewan Government.

95. All the while having a ‘no talk rule’. See no evil, speak no evil and hear no evil, and if you do hear it ‘keep quiet’.

96. I am no lawyer but I do study ‘human behavior’ and recognize that dysfunctional, codependent families can be identified in workplaces, just as healthier workplaces are supportive and nurturing.

97. Eric Berne’s ‘well known’ book “The Games People Play” describes this best.

THE HEARING OF MARCH 7, 2006.

98. This judicial gathering of the Chamber judge and the lawyers played their roles using deception as their main strategy.

99. The games were: I never read the file before coming into chambers, I didn't realize there was not an application to strike the amended, I am confused and so on.

100. Other actions of are being indignant and rude (bullying) to intimidate.

101. For 2.75 hours this back and forth arguing went on devoid of substantial inductive or deductive reasoning and was a means of creating confusion and wearing me down.

102. The Chambers judge is 'out of the loop' because he has not been briefed prior to coming into chambers, sitting 'cold' as it were on the bench.

103. We have Mr. Watson Q.C., counsel for Dr. E. Ivanochko getting up to sit beside me each time I presented my arguments, leaning back in his chair looking at me smugly and holding a hand-held audio-tape recorder, which again was not following the rules of the court concerning mechanical devices in the courtroom.
Rule 663. **Mechanical recording devices**

> **663** Except as provided by *The Recording of Evidence by Sound Recording Machine Act* or any order issued thereunder, ***no person shall record by any device, machine or system*** *the proceedings of any court or chambers without leave of the presiding judge. R. 663.*

104. To my knowledge Mr. Watson did not have leave or permission from the court to use his mechanical device.

105. But not to worry, they were doing pretty well as they wanted, when they wanted and how they wanted to, much like the Respondents (Defendants) did, having no regard for protocol, rules, standards of conduct and the like.

106. This same confusion and baffle gabbing, is inherent in the learned Chambers judge's written decision.

107. It shocked me that the appellate judges agreed with his decision.

108. It took me 6 weeks to get over it, and to decide to do this last 'faint hope' effort of having my case heard in the Supreme Court of Canada.

109. At least the appellate justices called the Chambers judge on one glaring error, that he should not have used the original claim or any substantive filed before the submission of my claim (amended) to arrive at his decision.

110. As amusing as it was, it had and still has had tragic consequences – in particular no justice for the 4 grandchildren as infant plaintiffs and their deceased sister.

111. Justice Chicoine indicates in his decision that I can't do whatever I want in the writing of my pleadings and yet he has done whatever he wants to my claim and that is to ignore the substantive pleadings, letting on that it is all confusing and he doesn't know who did what but uses these strategies to defeat my claim such as this; and further Mr. Brown and the Registrar did whatever they wanted (Exhibit 2).

112. Yet, he was able 'to strike' this claim and have 3 appellate judges agree with him and this is simply WRONG which ever way you look at it.

THE DECISION (2008 SKQB 115 (CanLII).

113. The Chambers judge tries to patronize me with this quote from his decision, on page 6 [15] Judges are cognizant of the difficulties which self-represented litigants encounter in preparing their own pleadings. There is a minimum standard which must be met, however, in order to ensure fairness to all of the parties in the litigation process and to prevent an abuse of the court's process. ---- - then *goes on to state:*

> Where it is impossible to distill a disparate number of allegations into coherent and material facts on which a cause of action against the defendants can be based, the claim will be struck. That is so whether or not the plaintiff is represented by legal counsel. In Saskatchewan Wheat Pool v. Kieling, [1994] 3 W.W.R. 714; (1993), 117 Sask.R. 218 (Q.B.), Armstrong J. stated at para. 43:
>
> > 43 Lay people cannot be expected to draft precise, correct legal pleadings.

> Nevertheless, one cannot be allowed to do whatever one wants, however one wants whenever one wants and the court still be in control of its own processes....2008 SKQB 115 (CanLII).

114. The first part of that paragraph wants you the public domain to believe that what was before the Chambers judge impossible to distill anything coherent from the number of unrelated allegations, he appears to be confused.

115. You have heard the saying "What is good for the goose is good for the gander".

116. Well let me paraphrase the above statement at paragraph [15] 43 this way:

> Nevertheless, one (justices, the court and lawyers) cannot be allowed to do whatever they want, however they want, and ignore the court process, its' rules and procedures, if justice is to be served---" SK **QB 115 (CanLII).**

117. Should the public domain be alright with judges being changed on a 'whim' at such a juncture in proceedings as this lawsuit was? Mr. Brown, counsel for the Saskatchewan Government filed a letter in November, 2005, requesting only 1 judge be assigned to this file.

118. Should we expect judges to be prepared to hear arguments?

119. Should we expect not to be bullied but treated with dignity and respect?

120. Should we expect transparency and honesty?

121. Should we expect them to provide decisions within a year and not take 2 years less a day, to try and use the Statute of Limitations as a means of deterring you from filing another claim he considers scandalous, frivolous and embarrassing?

122. This lawsuit should be 'near and dear' to all Canadians when it comes to the protection of babies and children and not having interference from public servants when you are trying to sell a property that you have every legal right to sell?

123. I never wanted to do this lawsuit but their grievous actions left me no choice.

124. I had written letters to the past Premier of Saskatchewan Roy Romanow; to Lorne Calvert, past Minister of Social Services and even to our current Attorney General of Saskatchewan, Don Morgan and to Premier Brad Wall and nothing was meaningfully addressed.

PLEADINGS, CAUSE OF ACTIONS and THE DAMAGES:

125. Pleadings concerning failure to protect, negligence and malice and breach of fiduciary duty and trust were attributed to certain parties.

126. Substantive materials are doctors reports, social worker's case notes and government documents from receiving Access to Information.

127. One of those doctor's reports was Dr. Norman's when on April 14, 1997, she examined Charlene Dobson.

128. Charlene is my granddaughter,[named as an infant child plaintiff (proposed)].

129. At that time she was 4 years 3 months old, and answered a pivotal question asked of her by Dr. Norman: "How did you get those marks on you (your body)?" and she replied, "Mommy burnt me with a knife-a really hot knife". This is documented in her medical report, filed here at Exhibit 5.

130. Dr. Norman was performing her duties as one who was contracted by the Attorney General, Saskatchewan Government functioning as a member of the integrated Saskatchewan Children's Justice Sexual Abuse Team. See diagram attached.

131. Dr. Norman also noted marks around her ankles and indicated they were suspicious as ligature marks, documenting this, again see Affidavit Part Two – Report April 14, 1997.

132. Jonathan Dobson, 8 months old brother, was also examined that same day by Dr. Norman and she found a rectal tear, which was suspicious of sexual abuse. See Affidavit Part Two – Report April 14, 1997.

133. See the report by the Social Worker who was there that day. See Affidavit Part Two: Exhibit.

134. Charlene Dobson told her grandmother how she got those (ligature) marks:. To recap:

> {"Grandma, once mommy was gone I would get out of my bed"-- (with her ankles tied) and shows me how she hops into the kitchen" *hopping into my kitchen, pulling out the kitchen drawer where the knives were, taking a sharp knife out and then sitting on the floor to demonstrate how she would cut herself loose -free.*
> "When I'm free grandma I run to Jonathan and cut him loose too.
> He is always crying because he is hungry (*and she tells me she makes up his bottle (which is powdered formula by the way)* and I get him his bottle and then I change his diaper. I lay beside him in the crib until he falls asleep, or I sleep under his bed.}

135. In January, 2007 DSS refused to protect another of my daughter's babies, telling her to find her own caregiver for this baby as they did not want another baby dying in their care and have more trouble with her mother – but she also died.

136. This time the baby died not in DSS's care but died as a result of reckless abandonment of her baby by commissioning my daughter to provide protective services for her baby.

137. She found a woman who had her own children apprehended and they allowed this.

138. I did not know anything about her being pregnant or having a baby until after she was born.

139. So a second baby died within 18 months of one another, dead because of their 'brainless' actions all the while I am navigating through court, working and caring for the children and the Chambers judge refuses to hear this evidence which was convincing and did not even read it.

137. I'm exhausted and want to quit this lawsuit, but my 2 darling grandbabies' whom I held, we all held, and loved immensely and rocked them and sang to them and kissed them, lie 'cold in their graves' because of gross negligence.

138. What happened to my grandchildren and myself, through their recklessness and criminal actions 'cries out' to be validated through this lawsuit and in justice being served.

139. Cover-ups, immunity for public servants, stating that they have 'acted in good faith' can no longer be the accepted norm.

140. These professionals know better or should have *known better* as this will only continue to breed recklessness and complacency.

141. The professional standards, codes of ethics and policies for these professionals are set out by their licensing bodies or the professional bodies they have association with (social workers, doctors, psychologists and police officers) and will be attached if time permits

142. Their individual and joint errors of commission and omission are without excuse and culpable.

143. Part Two is at the heart of all 3 Parts of this lawsuit and it is my hope that it will touch the hearts of every Canadian who reads it or hears about it, since as a society we demand better for the vulnerable, children and babies.

144. Part Three has prima facie pleadings in which the police assisted with 2 hostile evictions orchestrated by Joyce LaPrise.

145. The former Directors were not a part of this plan and were forced to go along with it being manipulated by the public servants identified and their mandate, or risk losing government program funding.

146. These public servants even colluded with the funding coordinator of the Aboriginal Healing Fund (AHF) to do 'their dirty work'. See APPENDIX III.

147. The first eviction was a police assisted eviction from the Program Centre on 2060 Broad Street, Regina and the 2nd eviction was on April 09th, 2002 from a property I had bought on a trust condition with the Directors of the organization at 2352 Smith Street.

148. About a week before Ms. Laprise did her dastardly act she told me this:

> [Arlene what I am about to do goes against my integrity but if this gets out I would never get another job anywhere in Canada.]

149. Justice Chicoine in his judgment makes this statement on page 29 and 30 paragraph [67] in relation to the adding of Joyce LaPrise:

> [67] I note at this juncture that the plaintiff states at paragraph 346 of the amended claim that after her eviction from her place of employment in April of 2002, she launched a lawsuit against the board of directors of the non-profit corporation that operated the counselling service. This action, QBG. No. 1005 of 2002, Judicial Centre of Regina, was commenced on May 3, 2002, more than three years before that commencement of the present action. That action is a claim for wrongful dismissal and for recovery of funds loaned to the non-profit corporation. Joyce Laprise is mentioned in the claim made in 2002, though not as a defendant. It would be an abuse of the process of this court to permit Joyce Laprise to be added as a defendant in an action which appears to cover the same ground as an earlier, ongoing action.

150. Justice Kovach read the entire claim and he obviously did not think it was an 'abuse of the court's process, as he said I could add her, and no one objected her to being added.

151. Joyce LaPrise, an employee with DSS was put on a 'one year leave of absence' to apply for a job posted publicly for an aboriginal person to fill.

152. Mr. Ducharme of Canadian Heritage got to the Program Director, Dan Pelletier to hire Joyce LaPrise and she got the job. See APPENDIX: Affidavit PART THREE, EXHIBIT .

153. Ms. LaPrise was DSS's 'hench(wo)man' to get rid of me' and she communicated with Normen Ducharme of Canadian Heritage and Tony Coughlin, now the Regional Director of DSS.

154. Emails and faxes during this time and communications between all 3 of them filed as substantive evidence to my pleadings confirms a collusion or conspiracy between the parties to this claim. See APPENDIX: Affidavit PART THREE, EXHIBIT .

155. After she completed her government mission, she went back to DSS.

156. Mr. Brown found out what Ms. LaPrise's role was, and suddenly opposed her being added to this claim, as a defendant and served her (by facsimile) the Statement of Claim (Amended Fresh Copy) at her place of work with Social Services.

158. I expect he was acting on her behalf as counsel.

159. On 3 occasions Ms. LaPrise was served in person, and refused service each time.

160. About Ms. LaPrise being added to the other claim QBG. 1005 of A.D. 2002, the Chambers judge forgot to mention in his judgment that he actually had taken over lawsuit QBG.1005 of A.D. 2002 while seized with a decision on this lawsuit.

161. Further he forgot to mention that I had requested he consolidate both Part Three and this lawsuit which Perry Erhardt of the Law Firm Olive Waller Zinkhan and Waller (OWZW) had filed for me after the last eviction.

162. Mr. Erhardt held onto my lawsuit until February 2005, never making one application to the court to secure my interest in the property so I could resume the sale of it and recover my investment; and yet, he somehow felt justified charging me $10,000.00.

163. He did nothing for me but took it on to 'save face' for his law firm which is politically enmeshed with the NDP, who advised me to go after the Directors of the organization and hold them responsible, not Ms. LaPrise, who was the NDP government's 'hench-woman'.

164. I reported him to the Saskatchewan Law Society and he has now just been named as the President of the Saskatchewan Law Society who had the audacity to write me and indicate that I had recovered any damages done to me in that I registered a 'for profit' sole proprietorship Anchor Inn with a similar name.

165. These justices, these Respondents (Defendants) and Mr. Erhardt will never appreciate the damages I and my family have suffered and continue to suffer, nor do they care

166. Mr. Erhardt only gave me his condolences for $10,000.00 - Arlene, clearly you have been wronged but made out he was helpless to 'right this wrong'.

167. He knew the 'whole story' and so did Justice Chicoine and the 5 counsel members for their client and to 'strike this claim' is unconscionable.

168. Justice Chicoine was briefed on this file for a fact, in fact he took control of both files.

169. If he had consolidated both lawsuits he would have had to add Joyce LaPrise and you can be certain these Attorney Generals, Government of Canada and Saskatchewan did not want her on and did not want Part Three consolidated with it to give credibility to Part Three as after all lawyers know how to write pleadings and a lawyer had written QBG. 1005 of A.D. 2002.

170. In waiting on a decision from Justice Chicoine (already 8 months past) and having him in court to address the new evidence on the death of my granddaughter on behalf of the siblings, I did not expect to see him again so soon.

171. But to my amazement he showed up as the judge on the bench for the hearing at the end of November 2006.

172. Just 8 months before, I had requested he consider consolidating these lawsuits in the manner described above.

173. He angrily snapped at me saying, "Ms. Lowery what do you want me to do, get off the bench and go to the registrar's office and pull the file?" to which I replied, "No I just want you to consider this".

174. Justice Chicoine, instead of consolidating these 2 lawsuits, fatally compromised them and I can not believe that it was just another 'crap' shoot in getting him twice.

175. I wanted to add the Aboriginal Healing Foundation (AHF) to QBG. 1005 of A.D. 2002 for their going along with Normen Ducharme of Canadian Heritage to 'take down' the organization and me.

176. Yet, I saw the AHF victims of this 'government plot' and told to 'put a hold' on our funding until we were evicted and they went along with it but were also manipulated by the Government of Canada.

177. The reason I wanted them on lawsuit QBG. 1005 of A.D. 2002 was so they would talk-'spill the beans' how the were influenced but Justice Chicoine, and Justice Vancise at the appellate court, made sure that didn't happen.

178. Everyone is under 'the no talk rule'.

THE ANCHORAGE – A DREAM GONE BAD:

179. The dream was to have a 'healing centre' to run a 'holistic rehabilitation program 'to help a high risk target group of Aboriginal young adults who were struggling as parents.

180. After Ms. LaPrise got hired she began to 'pit one against the other' and began rumors that the organization The Anchorage was Christian and the participants were being 'christianized' (likening it to the residential school experience) and some were not able to burn their sweet-grass and so on.

181. Most of the First Nations Directors were Christians and some of the participants.

182. This 'target group' of Aboriginal/ First Nations participants were from every spiritual/faith base and not all Aboriginal peoples are traditional.

183. Out of respect for everyone, we requested that no sweet-grass be burnt within the program centre, as some threatened to leave the program if that continued.

184. It was concluded that each participant was able to workout their spirituality in their own way and that this program was about tolerance and respect one for the other – after all it was called, Healing the Nation-One Family At A Time.

185. The participants had a 'holistic' healing program where they had an opportunity to address their addictions and learn healthy lifestyles through presentations, through group therapy and individual/ family counselling and were provided the opportunity to obtain skills training (GED 12 upgrading, computer literacy skills, job skills and the like).

186. This was Ms. LaPrise's 'smoke screen' that The Anchorage was trying to christianize the participants and the AHF didn't like it.

187. Not true, and the last evaluation that was done on the project for the Urban Multipurpose Aboriginal Youth Cenre (UMAYC) funded by Canadian Heritage was filed in its' entirety on this file. Excerpts of that evaluation are at the Appendix to this application:

THE FALLOUT CONTINUES FOR ME:

188. Two weeks ago I received an unsettling call from a previous client of my husband's who had brought her child(ren) to me for counselling.

189. She received counselling from my husband.

190. The judge in this matter had before him a report that I had done for this mother who used it to support her position on parental access.

191. Back then, Justice Kyle upon reading my report asked me to attend his office with the child(ren) and I did this. He used my report as an 'Expert Witness' at the time.

192. Although his lawyer tried to discredit my report at the time as not being a registered psychologist he deemed me to have enough combined education and experience to be considered an Expert Witness.

193. The matter was still before the court 2 weeks ago and the residing judge made issue with this report on the same grounds as before.

194. There was another psychological report done by a doctor of psychology (registered) that agreed with mine.

195. This judge told the mother he wanted her child(ren) to have counselling but told her that she was not to take her children to Arlene Lowery for counselling.

196. When she told the judge that her child(ren) wanted to come back to me, and proceeded to ask him why he didn't want the children to go back to me.

197. He answered that she does 'christian counselling' and proceeded to tell the client that my Master of Arts degree was from a seminary.

198. She told him that I never talk about religion with her and her kids, and that Justice Kyle considered her as an Expert Witness.

199. He concluded that Justice Kyle was from the 'old school'.

200. Now if the judge's answer to her was that I posed a Conflict of Interest as their father did not want me to see them or that he wanted another independent psychological assessment done, that would be reasonable.

201. The judge did tell her that she could continue to see my husband.

202. I have only paraphrased what was told to me by this mother but she has offered to provide me with the transcript on this part, to read for the exact wording.

203. Interestingly, the lawyer for the father was the lawyers for certain of these respondents (defendants).

204. What I do and have done, is on the website: http//anchorinn.page.tl/hope.htm.

205. I have to receive 40 Continuing Education Units (CEU) every year to continue my membership with the Professional Association of Canadian Christian Counsellors (PACCC), just like a psychologist does.

206. The CEU's I take are approved by the American Psychological Association.

207. My thesis for my Master of Arts degree was a research project entitled The Use of Art Therapy as a Diagnostic Tool with Children (and Adults), having received a mark of 98% and an overall GPA of 3.8 (90%).

208. I have counselled hundreds and hundreds of children, individual adults, coules and families for the past 21 years.

209. Enough! You see I am trying to justify myself and it does not feel good at all.

210. I am simply soooooooooooo 'sick and tired' of all of this, and will take a much needed 'leave of absence' to recover for this nightmare.

211. I will need to go back to work at some point, to pay my legal bills to these Respondents (Defendants) as well as to provide for our 4 grandchildren.

- APPLICABLE LAWS, STATUTES, ACTS and REGULATIONS TO SUPPORT MY APPEAL ARE ATTACHED TO THE APPENDIX AT VI AND VII OF THIS APPLICATION.

CONCLUDING REMARKS:

211 Charlene Dobson will be 18 years of age in January, 2011.

212 She is mature, has now been treated for Severe Anxiety Disorder and for once in her life with us she has enjoyed a near 'normal life' now.

213 She tells me that she has felt for sometime that she needed to tell about what happened to her so others out there know that what happened to her is happening to other children and we need to keep them safe.

214 This will also help her bring closure to an often tormented childhood, where she would wake-up screaming or had to be picked-up from school because she was overwhelmed with panic and fear.

215 These ‘nights of terror’ had me up with her in helping her to come-out of an often dissociated state.

216 She had to be comforted and told time and again that no one could hurt her anymore.

217 Even when she was older these fears would come-up again.

218 Last year she missed 57 days of her grade 11, until finally she was treated.

219 The change in her has been dramatic.

220 She was always a beautiful, talented and intelligent child, but she still is today, but the ‘good news’ now is that she can see a future.

221 I trust, that this Honourable Court will give her a chance to tell what happened to her and be believed.

222 You see, if she (and I) had been believed when she was just 4 years of age life would have been so much easier.

223 But the Minister of Social Services told the Prosecution Team that there was no substance to the grandmother’s story. This is documented in the Fiat of Justice McIntyre.

224 Even with burns on her body and ligature marks about her legs and ankles and her telling Dr. Norman, “Mommy burnt me with a knife – a really ‘hot knife” and having her words documented in that April 14, 1997 medical report (at Part Two Affidavit, Exhibits) and the physical evidence being documented, which corroborated her story, the Minister of Social Services ‘turned a blind eye’ and put the last 2 living siblings of Charlene Dobson and her brother, with their mother.

225 Both of them were sexually abused also.

226 My daughter, mother to the 4 infant children as plaintiffs, was commissioned by the Minister of Social Services to ‘go and find your own caregiver’ for this baby.

227 The reason they told her to do this was because they did not want to have to deal with her mother again if another one of her babies died in their care.

228 The last baby which died in the home of the caregiver which their mother found for her, and is lying in her grave by her sister, Autumn and by my parents.

229 So, I request that she be added as per the Rule of the Court of Queen's Bench **Minors**

> **Minor may proceed as adult**
> **42**(1) A minor may commence, continue or defend a proceeding as if of full age where:
>
> (b) before or after commencing the proceeding he obtains the leave of the court.

i. Paragraph 2(1)(d) of *The Child and Family Services Act* defines a **child** as an unmarried person under 16 years of age.
ii. She has finally stabilized emotionally since receiving treatment in May, 2010 as she describes in her affidavit and able to be added at this juncture with leave of the court to do so, which she and I jointly request.
iii. She should not wait until 18 years of age, as she is just 11 weeks shy of her 18th birthday and her testimony is crucial to Part Two and the just adjudication of it.

230. We both need closure as soon as possible –its' been a very long painful road and this court process has doubled the pain and suffering.

231. We request the decision of the appellate justices be overturned on the grounds argued in the Memorandum.

232. As a resolution to these matters we plead 'poverty status' and request exemption from further court costs, if possible due to the expectation that all Canadians will have an interest in what transpires here – what good could come of these tragedies.

233. You will note that I have not tried to litigate on the matter of the grandchildren being exposed to and harmed by 'gang members' or a cult, or a satanic cult, but I, like Dr. Colin Clay, continue to have a 'fixated delusional state' of mind that Charlene was exposed to a cult that did satanic rituals, even the killing of babies.

234. I absolutely know what happened to Charlene and even as a professional counsellor with experience, and having worked in nursing and in counselling with children, I have never seen or experienced a more traumatized child as Charlene.

235. We request that the Supreme Court find the most expedient means of bringing us closure and justice.

236. We suggest first, that the matter be set aside and goes to judgment under Rule 174.

237. Should this not be possible we request an independent judicial review be ordered or a trial by jury, or any Order that this Honourable court may deem just.

238. Any Statute of Limitations should be waived in the case of self-litigants who are under disability themselves from the undue stress experienced, being unable to meet the Statute of Limitations.

239. To the public, this lawsuit is about your interests and mine, in a free and democratic society where we can have property rights and not be interfered with, where we can 'go to court and seek justice and even receive it'

240. It is above all, listening to the children, that every child's rights supercede the rights of their parents, when they fail to care properly for them and in particular, abuse them, and it is about my daughter and the millions like her who need rehabilitation programs like The Anchorage operated, Healing the Nation – One Family At A Time.

241. To the justices that did the read the materials before them and did listen to the children, such as justices like Justice Kovach who took the time to read and take-in the original claim, and saw fit to give me 'leave to amend it', who heard the pleas (pleadings) of myself and my 4 grandchildren from those pages; and to the other justices that heard, like Justice Dickson who in February, 1998, put a restraining Order against the children's mother, in spite of opposition from social services, and for Justice McIntyre who knew there was 'more to this matter' than appeared on the surface; and to all those judges like Justice Kyle, who took the time to listen to the children that came to before them, who perhaps were also from 'the old school' I thank-you, we thank-you!

242. This lawsuit is about accountability and transparency, and the public having a very 'high expectation' for protection services when it comes to our children.

243. It is about not taking short-cuts and about over-hauling a beleaguered Social Services System – it's about justice.

244. If children and their caregivers are not believed, are ridiculed and silenced, then our government institutions are on a 'slippery slope' *to hell*.

245. Yes, this Affidavit is 32 pages long and 250 paragraphs.

246. For anyone who has found that I have been prolix, or found this scandalous or if I have embarrassed anyone, my apologies.

247. I needed to say all of this, as I have come to the end of this long, long journey.

248. The rest is up to God.

249. Finally, I will end with this quote:

Great is Justice !

Justice is not settled by legislators and laws
– it is in the Soul;
It can not be varied by statutes, any more than love,
pride, the attraction of gravity, can;
It is immutable - it does not depend on majorities –
majorities or what not, come at last before
the same passionless and exact tribunal.
For justice are the grand natural lawyers,
and perfect judges -it is in their Souls;
It is well assorted - they have not studied for nothing
- the great includes the less;
They rule on the highest grounds - they oversee
all eras, states, and administrations.
The perfect judge fears nothing
- he [she] could go front to front before God;
- Before the perfect judge all shall stand back
- life and death shall stand back
–heaven and hell shall stand back.
- Walt Whitman(1)

I conclude by reminding you that the law has two faces. It is, firstly, a practical craft and one whose texture is highly technical and precise. It is, secondly, a human process whose polar star is the protection and development of human dignity. (8) Given the high expectations that we have for judges, it is little wonder that we forget that they are human.

250. Charlene Dobson and I have high expectations that you will carefully consider this application and rule justly, as God applies wisdom to your knowledge.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED this 03rd day of November, 2010 *and:*

Sworn before me in Regina, Saskatchewan, Canada on the 3rd day of November, 2010.

Virginia Lee
(A Commissioner for Oaths)

A Commissioner for Oaths in and for Saskatchewan
My commission expires 28/02/2011

A. Lowery
Arlene Lowery