

Court file number:

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF ONTARIO)

BETWEEN:

**INFANT NUMBER 10968, also known as
D. MARIE MARCHAND**

Applicant
(on application for leave)

and

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO**

Respondents
(Respondents)

NOTICE OF MOTION TO A JUDGE
(Section 62(3) of the *Supreme Court Act*, Rule 47 of the *Supreme Court of Canada*)

Application under *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, C.11

TAKE NOTICE that Infant Number 10968, also known as, D. Marie Marchand, hereby applies to the Court, pursuant to section 62(3), for an order to receive further evidence, namely:

- 1) The Affidavit of Karen March, sworn April 19, 2007

or such further or other order as the said Judge may deem appropriate

AND FURTHER TAKE NOTICE that the motion shall be made on the following grounds:

- a) The proposed fresh evidence bears on 2 principle issues on which the Applicant applies to this Court for leave: 1) whether the deliberate deprivation of adopted people of their true biological origins is a violation of their s. 15(1) equality rights under the law; and, 2) whether the deprivation of this right is justified under section 1 of the *Charter*.
- b) The Court of Appeal of Ontario made findings that the application judge's findings were supported by the evidence. The affidavit of Karen March, sworn April 19, 2007, is tendered to correct the errors of fact and law made by the application judge and to assist this Court in properly assessing the legitimacy of discriminatory legislation in promoting its stated purpose – the protection of birth parents from the children they created and who were subsequently adopted, irrespective of the object and purpose of the impugned legislation being in the “best interest of the child”.
- c) The affidavit contains credible evidence relevant to the issues raised by this application for leave to appeal and can reasonably affect the result.

IN SUPPORT OF THIS MOTION, the Applicant relies on the following:

- 1. Affidavit of D. Marie Marchand

Dated at Toronto, Ontario, this 4th day of February 2008.

SIGNED BY:

D. Marie Marchand
227 Sterling Road, Suite 101
Toronto, Ontario, M6R 2B2

Tel: 416 538 0224
Email: bigbear3@sympatico.ca

Applicant acting in person

ORIGINAL TO: THE REGISTRAR

TO: MINISTRY OF THE ATTORNEY GENERAL
Crown Law Office – Constitutional Law Branch
720 Bay Street, 8th floor
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Zachary Green
Tel: (416) 326-8517
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Solicitors for the respondent Her Majesty the Queen in Right of Ontario

AND TO: CATHOLIC CHILDREN’S AID SOCIETY OF TORONTO
26 Maitland Street
Toronto, Ontario M4Y 1C6
Helen Murphy
Tel: (416) 395-1593
Fax: (416) 395-1676

Solicitors for the respondent Catholic Children’s Aid Society of Toronto

NOTICE TO THE RESPONDENT TO THE MOTION: A respondent to the motion may serve and file a response to this motion within 10 days after service of this motion. If no response is filed within that time, the motion will be submitted for consideration to a Judge or Registrar, as the case may be.

If the motion is served and filed with the supporting documents of the application for leave to appeal, then the Respondent may serve and file the response to the motion together with the response to the application for leave.