

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)

AFFIDAVIT OF D. MARIE MARCHAND
(Section 47(1)(b) of the Rules of the *Supreme Court of Canada*)

I, D. MARIE MARCHAND, DO HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. I am a self represented Applicant in an Application for Leave to the Supreme Court of Canada. I attended the hearing of *Joy Cheskes, Denbigh Patton, C.M. and D.S. v. Ontario*, (Attorney General), Ontario Superior Court of Justice, Court File No. 06-CV-319936PD2. I was provided with the complete record of the case by Janet Minor, Counsel for the Ontario General, on Monday, November 12, 2007, the day before the hearing of the Appeal of this case on November 13 and 14 before the Court of Appeal of Ontario. I was advised by Janet Minor, Counsel for the Attorney General, and believe this to be true, that if I were to make a motion for the inclusion of the record, the Attorney General would not oppose me and that the *Cheskes, supra*, material would

assist my case. As a result of being provided with the material and being in attendance for the entire application hearing of *Cheskes, supra*, I have knowledge of the matters in which I hereinafter depose.

The Proposed Evidence

2. The Applicant applies under subsection 62(3) of the *Supreme Court Act* to a Judge of this Court for special leave to receive further evidence. The applicant requests that this court consider further evidence in the form of 1 affidavit.

A. An affidavit detailing and including research done on the affects of having information about biological kin separated upon adoption (“the March Affidavit”):

3. This is an affidavit sworn by Karen March, April 19, 2007, a recognized sociologist and expert in adoption research in Canada. The affidavit is an extensive and most current survey of the affects of the open adoption records in Canada and elsewhere, explaining, *inter alia*, the methodological challenges related to predicting emotional responses. The affidavit explains the importance and usefulness of open records in studying the affects of sealed records, concluding irrespective of findings delineating the positive affects of contact, that openness is in itself, a discursive tool in dispelling assumptions that may be held when a lack of knowledge is allowed to determine public policy decisions. The affidavit is tendered to counter the Court of Appeal of Ontario’s erroneous findings in failing to find the application judge erred in fact and in law, in finding that possible but unproven assumptions about future possible emotional responses should determine section 15(1) *Charter* rights.

4. The affidavit proposed for admission is attached as exhibit “A” to this my affidavit.

Affirmed before me in the City of Toronto)
in the Province of Ontario this day)
of 2008.)

A Commissioner of Oaths