

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N :

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA
and ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

**ATTORNEY GENERAL OF CANADA
(representing the Minister of Indian and Northern Affairs)**

Respondent

- and -

**CHIEFS OF ONTARIO and
AMNESTY INTERNATIONAL CANADA**

Interested Parties

**NOTICE OF MOTION
Motion to Strike the Respondent's Expert Report**

TAKE NOTICE THAT the First Nations Child and Family Caring Society ("the Caring Society" or "the complainant") will make a motion to the Canadian Human Rights Tribunal on September 26, 2012, or as soon as it may be heard, in accordance with the timelines established by the Tribunal in the June 25, 2012 Case Management Conference Call.

THE MOTION IS FOR an Order striking the Respondent's expert report (in two parts) and covering letter from KPMG, filed September 15, 2010, and such further and other relief as counsel may request and this Honourable Tribunal may permit.

THE GROUNDS FOR THE MOTION ARE AS FOLLOWS:

1. Rule 6(3) of the *Canadian Human Rights Tribunal Rules of Procedure* sets out the requirements for expert witness reports, and provides that a report in respect of any expert witness that a party intends to call shall i) be signed by the expert; ii) set out the expert's name, address, and qualifications; and iii) set out the substance of the expert's proposed testimony;
2. The expert report served and filed by the Respondent on September 15, 2010 fails to meet the requirements set out in Rule 6(3), and thus cannot be entered into evidence;
3. Specifically, the Respondent's expert report purports to be authored by KPMG, a consulting firm, but fails to identify or set out the qualifications of any expert who the Respondent intends to call as an expert witness in respect of the report;
4. Without identifying its individual author and his or her qualifications, a report is inadmissible as expert evidence; and
5. Rules 1(1), 3(2), and 6(3) of the *Canadian Human Rights Tribunal Rules of Procedure* and section 50 of the *Canadian Human Rights Act*.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

- i) Affidavit of Sarah Wassill and attached exhibit;
- ii) The written submissions of the complainant; and
- iii) Such further and other documentary evidence or other material that counsel may advise and this Tribunal may accept.

Dated: July 23, 2012



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