Court of Appeal File No. CA39971
Registry: Vancouver

COURT OF APPEAL

ON APPEAL FROM the Order of the Honourable Mr. Justice McEwan, of the British Columbia Supreme Court, Pronounced May 22, 2012

BETWEEN:

MONTSERRAT VILARDELL

Respondent (Plaintiff)

AND:

BRUCE DUNHAM

Respondent (Defendant)

AND:

ATTORNEY GENERAL OF BRITISH COLUMBIA

Appellant (Intervenor)

AND:

CANADIAN BAR ASSOCIATION – BRITISH COLUMBIA BRANCH
TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA

Respondents (Intervenors)

AND:

WEST COAST WOMEN'S LEGAL EDUCATION AND ACTION FUND

Respondents (Intervenor)

FACTUM OF THE RESPONDENT
WEST COAST WOMENS' LEGAL EDUCATION AND ACTION FUND

COUNSEL FOR THE APPELLANT
Attorney General of British Columbia
George H. Copley Q.C.
Ministry of Justice, Legal Services Branch
6th Floor, 1001 Douglas Street
Victoria, BC V8W 9J7
Tel. 250.356.8875
Fax. 250.356.9154
George.Copley@gov.bc.ca

COUNSEL FOR THE RESPONDENT
Montserrat Vilardell
Jamie Maclaren
Access Pro Bono Society of British Columbia
106 – 873 Beatty Street
Vancouver, BC V6B 2M6
Tel. 604.629.9666
Fax. 604.893.8934
jmaclaren@accessprobono.ca

COUNSEL FOR THE RESPONDENT
Canadian Bar Association – BC Branch
Sharon Matthews
Camp Fiorante Matthews
400 – 865 Homer Street
Vancouver, BC V6B 2W5
Tel. 604.689.7555
Fax. 604.689.7554
smatthews@cfmlawyers.ca

COUNSEL FOR THE RESPONDENT
Trial Lawyers Association of British Columbia
Darrell Roberts, Q.C.
Miller Thomson
1000 – 840 Howe Street
Vancouver, BC V6Z 2M1
Tel. 604.643.1280
Fax. 604.643.1200
droberts@millerthomson.com

COUNSEL FOR THE RESPONDENT
West Coast Women's Legal Education and Action Fund
Francesca Marzari and Kasari Govender
Young Anderson
1616- 808 Nelson Street
Vancouver, BC V6Z 2H2
Tel: 604-689-7400
Fax: 604-689-3444
marzari@younganderson.ca

I N D E X

OPENING STATEMENT

West Coast LEAF was granted leave to intervene with respect to the constitutional validity of the hearing fees as they relate to women in family law, and Canada's international human rights obligations.

Courts are not just another line item in a budget. They are a foundational institution in our democracy. In the context of family law, the courts are the locus of justice, where women can seek the application of the culmination of over 100 years in the advancement of the law as it relates to their rights in marriage and after marriage breakdown.

West Coast LEAF says that the choice to seek justice through the courts, and the benefit and protection of law in the courts, are rights protected by section 7 of the *Charter*. The state cannot impose requirements with the intent, or with the effect, of impeding women from accessing the courts, except in accordance with fundamental justice.

While some administrative restrictions on access to justice may accord with fundamental justice, hearing fees that impose an unfair and unequal barrier to access to the court for women cannot meet this test. This is particularly true in family law matters where the systemic inequality of the parties has been judicially recognized, and the benefit of the law is so readily apparent. Hearing fees cause sex discrimination in one of the most essential and foundational institutions in our democracy.

PART I STATEMENT OF FACTS

1. West Coast LEAF (WCL) relies on the following facts in the factums:

   (i) Respondent Intervenor TLABC ‘s factum: paragraphs 3, 10(c), (d), 11, 14;

   (ii) Respondent Intervenor CBABC ‘s factum: paragraphs 7, 11, 14-18, 20-23;

   (iii) The Appellant AGBC: paragraphs 9 and 13; and

   (iv) Respondent Plaintiff Vilardell: paragraphs 3-21.

2. WCL specifically relies on the following findings of fact:

   (a) The primary intent of the hearing fees is to deter people from going to court;

   Reasons for Judgment, paras.309 – 310, 392, 395. 398

   (b) The hearing fees are “a barrier to access” the courts. They have the effect of inhibiting, deterring, and obviously impeding individuals from using the courts to resolve their disputes;

   Reasons for Judgment, paras 392, 395, 396, 398, 425(3)

   (c) The case at bar was a family law proceeding regarding the mobility of the mother of a child, custody, property division, and spousal support. The hearing fees for this 10 day trial were $3,600, the approximate net monthly income of the family before breakup.

   Reasons for Judgment, 1, 26, and 396

   (d) In order to pay the hearing fees, Ms. Vilardell would have had to forgo food, transit and shelter;

   Vilardell Affidavit paras, 27-30, Appeal Book Vol. 1 at 218

   Reasons for Judgment, at 387

(e) The imposition of the hearing fees caused Ms. Vilardell significant anxiety in pursuing her application to move with her child.

Vilardell Affidavit paras 25-30, AB Vol 1, pp217-218

Reasons for Judgment at 421

3. In addition, WCL relies on the following facts and inferences as established by the law and in the evidence:

(a) Women, as a group, are statistically poorer after relationship breakdown than men, and therefore less able to pay hearing fees in order to access the court in family law matters, and more likely to be deterred from the court by such fees;

Boyd Affidavit, paras 15-33, Exhibit B, AB Vol 1 39-44, 125-150

Carson Affidavit, Exhibit B, Appeal Book Vol 1, pp 254-264

Reasons for Judgment at 90, 177

Moge v Moge, [1992] 3 SCR 813

(b) First Nations women, immigrant women, and women with disabilities are over-represented among those that are unable to pay hearing fees, or for whom the hearing fees pose a significant barrier, or deterrence, to use of the court.

Boyd Affidavit, Exhibit B, AB Vol 1 125-150,

Carson Affidavit, Exhibit B, Appeal Book Vol 1, pp 254-264

4. West Coast LEAF's intervention is focused on the hearing fees imposed under Appendix C, Schedule 1 of the *Supreme Court Family Rules* BC Reg 169/2009. The hearing fees imposed under those Rules are $0 for the first 3 days of a court hearing, $500 for each of the 4th to 10th days, and $800 for each day over 10 days.

PART II WCL POSITION ON THE ISSUES

5. Hearing fees impede and prevent access to Canada's courts, and the protections and benefit of the law provided by the courts in the area of family law. They therefore deprive women of both their s. 7 rights of liberty to access the courts, and security of the person in relation to the protection of the law through the courts.

6. The deprivation is not in accordance with principles of fundamental justice, in particular the principle of equality, provided expressly in s. 15 and 28 of the *Charter*, but which informs all sections of the *Charter*, and is a key component of the rule of law. The hearing fees are unfair, and arbitrary, and have a discriminatory effect on women in family law matters, since women are disproportionately less able to pay them.

7. International human rights law, an important guide to interpreting constitutional rights protection, places on the state an obligation not to unfairly impede or prevent the ability of women, and other individuals, to submit their disputes to the courts for a fair and just resolution. A United Nations Special Rapporteur has most recently found that court fees violate human rights generally, and women's rights more particularly, and these findings directly assist in interpreting the protections of s. 7 of the *Charter*.

PART III ARGUMENT

A. The Constitutional Right at Issue

8. The constitutional right asserted in this case is not "the right of a litigant to have access to the courts in the form of a trial before a superior court justice without being required to pay hearing fees in amounts that are unreasonable in the sense that they could not be paid by a person of modest means who, however, is not truly poor or indigent," as the Province asserts at paragraphs 29, 32 and 41 of its factum.

9. Nor is the right asserted in this case a general right to counsel in all or most civil, criminal, and family law disputes as was considered in *Christie*.

British Columbia (Attorney General) v. Christie, [2007] 1 SCR 873 at 11

10. The liberty right at issue is the right to choose to seek to justice in a court of law.

11. The security of person right at issue is the right to the protection of the law in matters that directly engage one's physical and psychological integrity.

12. The issue at bar is whether these rights are engaged or interfered with by the Province's imposition of hearing fees as a precondition to the judicial hearing of a family law dispute, and if so, whether the deprivation is in accordance with fundamental justice.

13. WCL says that the hearing fees are a direct and deliberate interference with women's rights:

(a) to freely choose to seek a judicial resolution of their family law dispute, without interference from the state; and

(b) to seek the benefit and protection of the law through the court in relation to matters that directly engage their physical and emotional health, safety, integrity and fundamental wellbeing.

14. In the family law context, the Province's imposition of hearing fees inhibits people's liberty and security of the person to access the courts to resolve disputes that engage issues deeply fundamental to human dignity, including the ability to parent one's children, to sustain oneself after marriage breakdown, to have the shelter of the family home, and to be safe from violence and abuse.

B. Hearing fees are state imposed interference with rights

15. The hearing fees engage s.32 of the *Charter*. The state action at issue in this case is the imposition of hearing fees under *BC Regulation* 168/2009 and 169/2009 with the express purpose, and established effect, of inhibiting use of the courts for the resolution of civil and family law disputes.

16. State interference or compulsion is also an element of the s.7 infringements of liberty and security of the person. In this respect, the trial judge's factual findings that

hearing fees are both intended to create a barrier to accessing the court, and do impose such a barrier, are more than sufficient to establish the state's direct interference with both women's liberty to choose to access the courts, and women's security interest in obtaining the protection of the law in family law matters from the courts.

A New Justice System for Families and Children: Report of the Justice Reform Working Group, May 2005, pp. 69-70

C. Hearing Fees interfere with the right to liberty under s. 7 of the *Charter*

17. The family law hearing fees are a direct and deliberate interference with women's rights to freely choose to seek a judicial resolution of their family law dispute, without interference from the state.

18. WCL adopts the submissions of the CBA at paragraphs 73-77 generally, and says that the deprivation of liberty created by the hearing fees applies *a priori* to women and to the family law hearing fees. In this regard, WCL adds the following:

19. The right to liberty is engaged "where state compulsions or prohibitions affect important and fundamental life choices." The two key elements to determining whether liberty is infringed are therefore: 1) state compulsion, and 2) its impact on fundamental life choices.

Blencoe v British Columbia (Human Rights Commission), 2000 SCC 44 at 49- 50

20. The freedom to seek justice by submitting one's private and often difficult family law disputes to the court is a choice that is part of the "fundamental notions of human dignity, personal autonomy, privacy and choice in decisions regarding an individual's fundamental being" protected by the s. 7 right to liberty. The fundamental nature of this choice was articulated in an address by McLachlin CJ at the Law School at Thompson Rivers University, and cited by the learned trial judge: "[to] be required to accept that you cannot have justice is to give up a part of yourself as a human being."

Reasons for Judgment at 399

21. The Crown's use of choice in this case implies that the courts are a mere service provided at the whim of government and accessed at the whim of people and corporations, subject only to a cost benefit analyses. WCL says that the choice to seek a fair and just resolution in the courts is a choice of such a fundamental nature that it goes to the heart of personal freedom, and cannot be deprived by the state. It therefore falls within that group of choices inextricably tied to the concept of human dignity which the *Charter* protects from state interference.

22. This is even more so in the case in family law matters where the issues submitted to the court themselves engage the liberty interest:

> I would have thought it plain that the right to nurture a child, to care for its development, and to make decisions for it in fundamental matters such as medical care, are part of the liberty interest of a parent. [...] [O]ur society is far from having repudiated the privileged role parents exercise in the upbringing of their children. This role translates into a protected sphere of parental decision-making which is rooted in the presumption that parents should make important decisions affecting their children both because parents are more likely to appreciate the best interests of their children and because the state is ill-equipped to make such decisions itself. Moreover, individuals have a deep personal interest as parents in fostering the growth of their own children.

B (R) v Children's Aid Society of Metropolitan Toronto, [1995] 1S.C.R. 315 at 83- 85.

23. The hearing fees are intended to, and do, deter people from using the courts. In that sense they are a direct form of state compulsion. In the context of family law, this denial will frequently be in relation to a matter that is itself fundamental to a parent's sense of self, such as her ability to nurture and care for her children. Thus, her liberty right is infringed.

D. Hearing Fees interfere with security of the person under s. 7 of the *Charter*

24. The hearing fees are a direct and deliberate interference with women's rights to seek the benefit and protection of the law through the courts in relation to matters that engage their physical and emotional health, safety, integrity and well-being.

25. The right to security of the person protects both the physical and psychological integrity of the person. At paragraph 245 of *Morgentaler*, Wilson J stated the following:

> 245 I agree with the Chief Justice and with Beetz J. that the right to "security of the person" under s. 7 of the Charter protects both the physical and psychological integrity of the individual. State enforced medical or surgical treatment comes readily to mind as an obvious invasion of physical integrity. Lamer J. held in *Mills v. The Queen*, [1986] 1 S.C.R. 863, that the right to security of the person entitled a person to be protected against psychological trauma as well -- in that case the psychological trauma resulting from delays in the trial process under s. 11(b) of the *Charter*. He found that psychological trauma could take the form of "stigmatization of the accused, loss of privacy, stress and anxiety resulting from a multitude of factors, including possible disruption of family, social life and work, legal costs and uncertainty as to outcome and sanction".

R v Morgentaler, [1988] 1 SCR 30 at 245 (Wilson J), see also at 19 (Dickson J), at 114, 120 (Beetz J)

26. Where the harm is not physical, the security of the person is triggered where (a) the psychological prejudice is serious, and (b) the harm results from the actions of the state.

Blencoe v. British Columbia (Human Rights Commission), 2000 SCC 44 at 57.

27. The psychological prejudice to a woman involved in a family law dispute whose access to the court is interfered with by the hearing fees is serious. Many of the same considerations that apply to trial delays considered in *Mills*, *supra*, are engaged in family law proceedings. For example, custody matters have been found to engage the psychological security of parents:

> The parental interest in raising and caring for a child is, as La Forest J. held in *B. (R.)*, supra, at para. 83, "an individual interest of fundamental importance in our society". Besides the obvious distress arising from the loss of companionship of the child, direct state interference with the parent-child relationship, through a procedure in which the relationship is subject to state inspection and review, is a gross intrusion into a private and intimate sphere. Further, the parent is often stigmatized as "unfit" when relieved of custody. As an individual's status as a parent is often fundamental

> to personal identity, the stigma and distress resulting from a loss of parental status is a particularly serious consequence of the state's conduct.

New Brunswick (Minister of Health and Comm. Services) v G (J), [1999] 3 SCR 46 at 61

28. Similar to complex child protection proceedings, child custody proceedings also pronounce on the "parent's fitness or parental status" and "pry into the intimacies of the relationship" between parent and child. Such relationships may only be interfered with in accordance with the best interests of the child (and indeed, may require such an interference), whether in custody disputes or child protection hearings. The seriousness of the psychological harm to the parents is of the same quality regardless of whether custody is at issue in a custody dispute or a state apprehension proceeding.

G(J) at 64

29. Outside of the context of a child protection proceeding, state interference with a custody dispute, such as through a state imposed deterrent to a judicial determination of that custody dispute, can therefore be expected to cause a serious state imposed psychological harm to both the parents and the child.

30. Hearing fees also interfere with security of the person rights by impeding access to the courts for women in violent relationships. In these cases, litigation may be the only option to resolve a family law dispute and maintain the safety and security of women and children. This has been recognized in the new *Family Law Act* (proclaimed to come into force in March 2013). The *FLA* says:

> s.8(1) A family dispute resolution professional consulted by a party to a family law dispute must assess, in accordance with the regulations, whether family violence may be present, and if it appears to the family dispute resolution professional that family violence is present, the extent to which the family violence may adversely affect:
>
> (a) the safety of the party or a family member of that party, and
>
> (b) the ability of the party to negotiate a fair agreement.

Family Law Act, Bill 16.

31. State deprivation of liberty and security of the person in the family law context is not limited to the more direct state interferences of child apprehension and state medical intervention. This is not the first case where state procedures and laws that may not be a direct threat to the security of a person, but which interfere with access to protections from such threats, have been considered. The assertion that it is not the state, but external or private forces that are the source of the loss of security of the person has been argued before and rejected where the law itself is an impediment to accessing protections from the harm.

32. In *PHS*, Canada argued that it was not the cause of the deprivations of security of the person faced by the clients of Insite. Canada argued that the deprivation of health and well-being was caused by the drug use of the clients themselves and the choices they made, and was not related to the legislation that precluded Insite's services. This argument was rejected:

> **93** …Where a law creates a risk to health by preventing access to health care, a deprivation of the right to security of the person is made out: *R. v. Morgentaler* (1988), at p. 59, *per* Dickson C.J., and pp. 105-106, *per* Beetz J.; *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519, at p. 589, *per* Sopinka J.; *Chaoulli*, at para. 43, *per* Deschamps J., and, at paras. 118-19, *per* McLachlin C.J. and Major J.; *R. v. Parker* (2000), 188 D.L.R. (4th) 385 (Ont. C.A.).

Canada (Attorney General) v PHS Community Services Society, 2011 SCC 44 [2011] 3 SCR 134 at 93

R v Morgentaler, [1988] 1 SCR 30, at 32-33, 51, 59, 86-87, 105-106

33. This decision, and the cases that have cited it, and relied upon in it, have established that laws that prevent access to the facilities that protect individual well-being themselves will directly interfere and impair security of the person.

34. In *Adams*, the City of Victoria and the Province argued that "the prohibition on the erection of shelter is not the cause of the respondents' state of homelessness or insecurity." They argued that "s. 7 is not engaged where, as a result of the state action, the claimants merely remain in a state of insecurity." The Court rejected this argument,

relying on both *Morgentaler* and *Rodriguez* to find that it is not necessary that the impugned state action be the sole or even primary cause of the deprivations at issue. In that case, the bylaw prohibiting the use of temporary shelter in public places was found to "impair the ability of the homeless to address their need for adequate shelter." The Court of Appeal approved the finding of the learned trial judge that this impairment "is a particular state action that is alleged to create a particular deprivation. In my view, this satisfies the need for the deprivation to have been caused by state action."

Victoria (City) v Adams, 2009 BCCA 563; 100 B.C.L.R. (4th) 28 at 86-89

35. In *Bedford* v *Canada*, Canada argued that it was not the cause of the deprivations of the security of the person faced by women engaged in prostitution, and that an insufficient causal link had been established between the challenged law and the deprivation. All five judges of the panel found that an infringement of security of the person was made out because the impact of the legislation, "in the world in which it actually operates," deprived women of their ability to avail themselves of necessary protections.

Bedford v Canada, 2012 ONCA 186, 346 DLR (4th) 385 at 108

36. In the context of family law, interference with access to the courts, and to the benefit of the law, prevents access to the very doctrines and enactments that engage the values underlying women's security of the person.

37. In *M v H*, Gonthier J in dissent (but not on this point) stated:

> 164 The history of family law is, in many ways, the history of the gradual emancipation of women from legal impediments to full equality.

He went on at paragraphs 164-170 to describe the evolution of the protections of women's security through the development of the family law in Chancery, the courts, and through legislation and law reform. This is the body of law that the hearing fees seek to deter women from accessing through the courts.

M v H, [1999] 2 SCR 3 at 164-170

38. The benefit of family law, and access to it through the courts, is at least as essential to women's security of the person after marriage breakdown (and indeed within a marriage) as access to a harm reduction facility was to the clients of Insite in *PHS,* or that the shelter of a tent was to the homeless of Victoria. Equally, the Province's deliberate interference with access to those protections through the courts constitutes a state deprivation of women's security of the person in the context of marriage breakdown and family law.

E. Hearing fees do not accord with the principles of fundamental justice

39. The principles of fundamental justice can be found in the basic tenets of our legal system, and are informed by the other values and rights entrenched in the *Charter*, including the rule of law.

Reference re s. 94 (2) of the Motor Vehicle Act of BC, [1985] 2 SCR 486, at 30-31, 63-69 (Lamer J), see also at 123 (Wilson J)

The Rule of Law

40. To limit access to court to only those wealthy enough to pay for such access is a violation of the rule of law. WCL adopts the analysis of the CBA with respect to the tenets of the rule of law at paragraphs 34-59, and with respect to equal access to justice at paragraphs 60-70 of its factum.

41. WCL says that while some limitations on <u>how</u> and <u>when</u> the court may be accessed may accord with the principles of fundamental justice, limitations based on <u>who</u> can attend court do not. Such limitations are fundamentally unfair and arbitrary.

Christie, supra [2007] 1 SCR 873 at 16-17

British Columbia Government Employees' Union v British Columbia (Attorney General), [1988] 2 SCR 214 at 25

T Bingham*; The Rule of Law,* (London: Allen Lane, 2010) at 6-9, 55, 66, 85

Equality

42. Substantive equality is a principle of fundamental justice under s.7 because the principles of equality underlie all *Charter* guarantees. In *Andrews*, Justice McIntyre stated that "[t]he section 15(1) guarantee is the broadest of all guarantees. It applies to and supports all other rights guaranteed by the *Charter*."

Andrews v Law Society of BC, [1989] 1 SCR 143 at 52

G(J), (L'Heureux-Dub? J., concurring reasons) at 112

43. The principles of fundamental justice in s. 7, read in the context of the *Charter* as a whole, including ss. 15 and 28, provides that liberty and security interests cannot be deprived in a way that discriminates on the basis of sex. The evidence establishes that hearing fees have a disproportionate and negative impact on women in family law matters, and are therefore not in accordance with the principles of fundamental justice.

44. The Supreme Court of Canada has repeatedly eschewed the "thin and impoverished vision" that is formal equality and affirmed that laws that disproportionately impact an enumerated or analogous ground are discriminatory and contrary to the substantive equality guarantees of the *Charter*. The issue is not whether the state action causes the inequality, but whether the law provides a system that is unequal in its actual effect, or is the source of further inequality. In this case, substantive sex equality under the *Charter* requires that the benefit of the court system be equally accessible to women.

Eldridge v British Columbia (Attorney General), [1997] 3 SCR 624 at 72-73

45. West Coast LEAF submits that hearing fees disproportionately impact women in family law matters and therefore discriminate against them. The record shows that women are generally lower income than men; women are particularly lower income than men post-relationship breakdown; and women who are Aboriginal, disabled or newcomers are even more likely to be lower income.

Affidavit of Susan Boyd*,* Appeal Book Vol. 1, pp 15-33*.*

Carson Affidavit, Exhibit B, Appeal Book Vol 1, pp 254-264

46. The record is further supported by the jurisprudence. Madam Justice L'Heureux-Dub? for the majority in *Moge* takes judicial notice of the fact that "In Canada, the feminization of poverty is an entrenched social phenomenon". She cites with approval the following statement from researcher L. J. Weitzman about the economic and impacts of divorce on women:

> For most women and children, divorce means precipitous downward mobility -- both economically and socially. The reduction in income brings residential moves and inferior housing, drastically diminished or nonexistent funds for recreation and leisure, and intense pressures due to inadequate time and money. Financial hardships in turn cause social dislocation and a loss of familiar networks for emotional support and social services, and intensify the psychological stress for women and children alike. On a societal level, divorce increases female and child poverty and creates an ever-widening gap between the economic well-being of divorced men, on the one hand, and their children and former wives on the other.

L J Weitzman *"The Divorce Revolution: The Unexpected Social and Economic Consequences for Women and Children in America (1985)",* as cited in *Moge v Moge,* [1992] 3 SCR 813 at 55-57.

47. The evidence in that case, taken from court records, established that two thirds of divorced women had total incomes below the poverty line, and almost three quarters fell below that line when support was excluded.

Moge at 57

48. The discriminatory effect on women of laws that affect parents who are poor has also been judicially noted: "Issues involving parents who are poor necessarily disproportionately affect women and therefore raise equality concerns and the need to consider women's perspectives."

G(J), (L'Heureux-Dub? J, concurring reasons) at 113

49. Women are disproportionately impacted by the imposition of hearing fees in the family law context because they are less likely than men to be able to afford them.

Women will thus be disproportionately excluded from initiating family law proceedings, and exercising their right to have custody and other family law matters adjudicated by the court. Put another way, the hearing fees are more likely to have the contemplated deterrent effect on access to the courts for women than men.

50. The hearing fees therefore discriminate against women, and are not in accordance with the principles of fundamental justice.

F. International Human Rights Law

51. International law principles are a "critical influence" on the interpretation of the scope of Charter rights, including s.7. The availability of "appropriate venues for redress such as courts and tribunals or administrative mechanisms that are accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women" is a protected right of the Canadian people that falls within our core rights to liberty and security of the person under s. 7.

Baker v Canada (Minister of Citizenship and Immigration), [1999] 2 SCR 817 at 70

52. A Report to the General Assembly of the United Nations recently came to the following conclusion regarding the imposition of fees to access the courts:

> The existence of administrative and other fees disproportionately disadvantages women, who often have less financial independence or access to financial resources. Women's access to the judicial system to determine civil claims with respect to divorce, child custody and land inheritance is impeded when excessive fees are imposed.

Report of the Special Rapporteur on Extreme Poverty and Human Rights to the General Assembly of the United Nations, 9 August 2012, at 54

53. More generally, international human rights guarantees underscore the direct connection between rights and equal access to the courts and effective remedies for rights violations. Conditions that have the effect of preventing individuals from effectively exercising their rights violate the *International Convention on Civil and Political Rights*. The Committee on Economic Social and Cultural Rights has stated that

state parties have a duty to fulfil the economic, social and cultural rights of men and women equally, which includes establishing "appropriate venues for redress such as courts and tribunals or administrative mechanisms that are *accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women.*" [emphasis added]

International Covenant on Civil and Political Rights, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47, 6 ILM 368 (in force 23 March 1976), at Arts 2(2), (3).

Universal Declaration of Human Rights, GA Res 217 (III) UN GAOR, 3d Sess, Supp No 13 UN Doc A/810 (1948) 71 at 8, 10.

International Covenant on Civil and Political Rights, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 6 ILM 368 (in force 23 March 1976), at 2(2), (3).

??rel? and N?kk?l?j?rvi v. Finland, Communication No 779/1997 24 October 2001 CCPR/C/73/D/779/1997 at 7.2

UN Committee on Economic Social and Cultural Rights*. Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment* No 16, 34th Sess, Annex, Agenda Item 5, UN Doc E/C12/ 2005/4 (2005) at 7.

54. Canada's international law obligations, and the principles enunciated in them, strongly support that the protection of women's liberty and security of the person rights are engaged by access to the courts, that the imposition of hearing fees impedes that access, and that this interference is contrary to fundamental justice and equality.

PART IV NATURE OF ORDER SOUGHT

55. The appeal should be dismissed.

All of which is respectfully submitted.

Dated at Vancouver, British Columbia this 20th day of November, 2012.

Francesca Marzari
Counsel for the Intervener
West Coast Women's Legal and
Education Action Fund

Kasari Govender
Counsel for the Intervener
West Coast Women's Legal and
Education Action Fund

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