

Docket #: \_\_\_\_\_

**IN THE PROVINCIAL COURT OF ALBERTA**

JUDICIAL DISTRICT OF \_\_\_\_\_  
(*Court Location*)

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

-and-

\_\_\_\_\_  
(*print your full name*)

Applicant / Guardian

-and-

\_\_\_\_\_  
(name of co-guardian(s))

Guardian(s)

-and-

\_\_\_\_\_  
(names of children over the age of 12)

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**NOTICE OF APPLICATION FOR FUNDING FOR UNREPRESENTED  
GUARDIAN IN A CHILD PROTECTION PROCEEDING (ROWBOTHAM  
APPLICATION)**

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TAKE NOTICE THAT on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, or a date to be later set in court the Applicant will apply to the presiding Judge of the Provincial Court of Alberta, sitting in Courtroom #\_\_\_\_\_, in \_\_\_\_\_ Provincial Court, for the following:

1. An order granting the Applicant funding for the Applicants representation by a lawyer in a child protection proceeding and at the trial of that proceeding regarding the child \_\_\_\_\_ born \_\_\_\_\_.
2. A finding that there has been, or that there is a substantial likelihood that there will be, a breach of the Applicant's rights as guaranteed by section 7 and section 11(d) of the *Canadian Charter of Rights and Freedoms* unless he is represented by counsel; and
3. An order for an adjournment of the child protection proceedings before the court, pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms*, unless and until such funding for counsel is provided.

AND FURTHER TAKE NOTICE THAT the grounds for this Application are as follows:

1. The Applicant is before the Court in response to a child protection proceeding relating to the following children: listed in the Notice of Application and details of the child protection concerns are set out in the Court Report filed in this matter.

2. The Applicant has applied for Legal Aid funding but was denied. The Applicant appealed this decision, but the appeal processes of Legal Aid have been exhausted.

3. The Applicant is not currently represented by a lawyer and cannot afford to retain a lawyer privately.

4. The case is the result of a complex and detailed child protection investigation, is legally complex and involves substantial disclosure.

5. Sections 7 and 11(d) of the *Canadian Charter of Rights and Freedoms* guarantee the Applicant the right to a state funded counsel in child protection proceedings where the right to security of the person is affected by the state removal of a child from parental custody and where counsel is required to ensure a fair trial of the matter. Given the seriousness of the interests at stake, the complexity of child protection proceedings, the circumstances of the Applicant, there is a substantial likelihood that the Applicant will not receive a fair trial in this matter if the Applicant is not represented by a lawyer.

6. Accordingly, the Applicant is entitled to a remedy pursuant to section 24(1) of the *Canadian Charter of Rights and Freedoms*, and the Applicant requests that an adjournment of proceedings be imposed until such time as the Attorney General makes arrangements to provide the Applicant with a state-funded lawyer.

AND FURTHER TAKE NOTICE THAT the Applicant intends to rely on:

- 1) the attached Affidavit of the Applicant in support of this Application; and
- 2) such further and other materials as this Honourable Court may permit.

AND FURTHER TAKE NOTICE THAT the Applicant relies on the following authorities in support of this Application:

1. Rowbotham v. The Queen, [1988] OJ No 271, 41 C.C.C. (3d) 1 (Ont. C.A.);
2. New Brunswick (Minister of Health and Community Services) v. G. (J). [1999] 3 S.C.R.
3. Alberta (Director of Child Welfare) v. C.D. 2004 ABQB 697; and
4. W.S. v. Alberta (Child, Youth and Family Enhancement, Director) 2013 ABQB 231.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of \_\_\_\_\_ in the Province of Alberta this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Applicant's Signature \_\_\_\_\_

Applicant's Name \_\_\_\_\_

Applicants Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Email \_\_\_\_\_

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**IN THE PROVINCIAL COURT OF ALBERTA**

JUDICIAL DISTRICT OF \_\_\_\_\_

*(Court Location)*

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

-and-

\_\_\_\_\_  
*(print your full name)*

Applicant /Guardian

-and-

\_\_\_\_\_  
*(name of co-guardian(s))*

Guardian(s)

-and-

\_\_\_\_\_  
*(names of children over the age of 12)*

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**AFFIDAVIT OF THE APPLICANT**

*IN SUPPORT OF APPLICATION FOR FUNDING FOR  
UNREPRESENTED GUARDIAN IN A CHILD PROTECTION MATTER  
(ROWBOTHAM APPLICATION)*

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I, \_\_\_\_\_, MAKE OATH AND  
SAY AS FOLLOWS:

[1] I am the Applicant in this matter, and as such, I have personal knowledge of the matters set out herein, except where stated to be based on belief.

[2] I make this Affidavit in support of my application that the charges against me be conditionally stayed until I am provided with a state-funded lawyer.

[3] I am currently: (*check one*)

Residing at \_\_\_\_\_, in the  
\_\_\_\_\_ of \_\_\_\_\_, in the  
Province of Alberta.

Incarcerated at \_\_\_\_\_.

Of no fixed address.

[4] I am currently \_\_\_\_\_ years old, I was born in \_\_\_\_\_, and I am: (*check one*)

- A Canadian Citizen.
- A Canadian Permanent Resident.
- Not a Canadian Citizen or a Canadian Permanent Resident.

[5] My first language is \_\_\_\_\_, and: (*check one*)

- I can read, write, and speak either English or French.
- I cannot read, write, and speak either English or French without help from someone else, and I need the following kinds of help reading, writing, or speaking English or French:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

[6] The highest level of schooling I have completed is: (*check one*)

- Less than High School.

The last grade I completed was grade \_\_\_\_\_.

High School.

Technical or Trade School. The institutions I attended and certificates/diplomas I received are:

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College or University. The institutions I attended and certificates/diplomas I received are:

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[7] I am currently: (*check one*)

Unemployed.

Employed as a \_\_\_\_\_.

[8] I have been employed in these jobs with these employers in the past five (5) years:



<i>Start Date</i>	<i>End Date</i>	<i>Employer</i>	<i>Job Title</i>	<i>Monthly Salary (\$)</i>

[9] I applied to Legal Aid for coverage in this matter on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Legal Aid did not appoint a lawyer to represent me. I have attached the letter from Legal Aid informing me that my application for coverage was denied as shown in the attached documentation.

[10] I appealed Legal Aid's decision to deny me coverage to the Appeals Committee on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. My appeal was denied. I have attached the letter from Legal Aid informing me that my appeal was denied as shown in the attached documentation.

[11] It is my belief that the criteria used by the Legal Aid to decide whether to fund counsel has no direct relationship to my ability to oppose a child protection application relating to his or her children or whether or not I will receive a fair trial if I'm denied counsel.

[12] I have attached my Income Tax Returns from the Canada Revenue Agency for the following years:

Year	Income
Average Income	

[13] I have contacted three (3) private lawyers who practice criminal law in Alberta. I asked them how much they would charge to defend me at a trial in this matter. They estimated it would cost about this much to defend me at trial, and requested a retainer of about this much:

*Lawyer #1* - Trial: \$ \_\_\_\_\_ - Retainer: \$ \_\_\_\_\_,

*Lawyer #2* - Trial: \$ \_\_\_\_\_ - Retainer: \$ \_\_\_\_\_,

*Lawyer #3* - Trial: \$ \_\_\_\_\_ - Retainer: \$ \_\_\_\_\_,

[14] I currently have the following assets:

<b>Asset</b>	<b>Estimated Value</b>

[15] I currently have the following liabilities:

<b>Liability</b>	<b>Estimated Amount Owing</b>

[16] Since this child protection proceeding was commenced, I have not been able to save enough money to hire a lawyer to defend me because:

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[17] I do not think I will be able to properly represent myself at my trial  
because:

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[19] I make this affidavit in support of the within application and for no improper purpose.

SWORN BEFORE ME at the City ) \_\_\_\_\_  
of \_\_\_\_\_ in the Province of )  
Alberta this \_\_\_\_\_ day of \_\_\_\_\_, )  
202\_\_ )

\_\_\_\_\_  
A Commissioner for Oaths in and for the Province of Alberta