



This is the 1<sup>st</sup> affidavit  
of Erin Haupt in this case  
and was made on August 10, 2015

Court File No:  
Court Registry: Vancouver

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**Petitioners: JUSTIN PIERCE and MICHELLE ARNOLD**

**Respondents: FRASER VALLEY ABORIGINAL CHILDREN AND YOUTH SOCIETY,  
DIRECTOR OF CHILD, FAMILY AND COMMUNITY SERVICES and HER  
MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA**

**AFFIDAVIT**

I, ERIN HAUPT, Lawyer, of 307 - 5577 153A Street, Surrey, BC, SWEAR (OR AFFIRM) THAT:

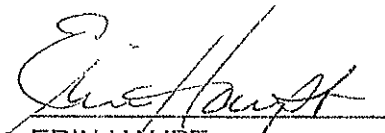
1. I am an associate lawyer with Hittrich Law, counsel for the Petitioners, and as such have personal knowledge of the facts and matters deposed to herein, save and except where such facts and matters are stated to be on information and belief and where so stated I verily believe such stated facts and matters are to be true.
2. This afternoon our firm was retained by the Petitioners Justin Pierce and Michelle Arnold to seek an emergency injunction preventing the removal of life support systems of their child, Mary Jane Pierce (the "Child"), born on April 5, 2015 and to prevent the transfer of her to Canuck Place for the purposes of palliative care to allow her to die.
3. The Respondents currently have temporary custody of the Child pursuant an order under section 35(2)(a) of the Child, Family and Community Service Act ("CFCSA") pronounced on Friday, August 7, 2015.
4. This Order is apparently a Consent Order but the Petitioners have advised that they were pressured into agreeing to this Order. The Petitioners have told me that they were told that if they did not agree to allowing the Respondents to have temporary custody, all future children of theirs would be taken into care immediately upon birth. They say they acted out of fear and did not really want to consent.
5. I have been advised that the Child was born prematurely, after a gestation period of 25 weeks. The Child has had multiple serious health problems and has been on life support. The Child has been hospitalized since birth.
6. The Petitioners have told me that they have been advised that their Child has little to no brain function, but the Petitioner Pierce has observed that she has opened her eyes and has responded to various stimuli.

7. The Petitioner Pierce has advised that they have had almost daily contact with the Child and "practically live" at Ronald McDonald House, a place for parents of critically ill children.
8. The Child is currently at BC Children's Hospital under the care of Dr Horatio Osiovich.
9. Earlier this evening, I spoke by phone to Dr. Osiovich. He advised that at 9:00 a.m. tomorrow the Child will be transferred to Canuck Place, after which the ventilator that she is on will be removed. It is my understanding that the intent is to allow her to die a natural death.
10. Dr. Osiovich was unable to confirm or deny whether or not the Child was in pain, or was suffering and that he could not say whether or not the removal of the ventilator would cause immediate death of the Child.
11. The Petitioners have advised that they did not consent at any time to the removal of life support for their Child.
12. I have been told by Mr. Hittrich that he has been on the phone today with Social Worker Deann Marshall, who is the Team Leader for the Fraser Valley Aboriginal Child and Youth Society and their counsel Les MacDonald. Mr. Hittrich has told me that he pleaded with them to delay the removal of life support for the Child. Attached as **Exhibit "A"** is a copy of a letter he wrote a short while ago and emailed to the Ms. Marshall and Mr. MacDonald. Mr. Hittrich has told me that they are obtaining instructions from Victoria and will get back.
13. I have been advised by the Petitioner Pierce that social workers became involved in April and thereafter some Court proceedings were commenced. We do not have a copy of the Form A Report to Court.
14. Late this afternoon, Mr. Hittrich and I spoke to Stacey Trimble, the previous counsel for the Petitioners. We requested the content of her file. She advised that she could not provide it without written consent from the Petitioners.
15. Ms. Trimble advised that she first met the Petitioners on July 14, 2015 and that the matter had been previously in Court in Richmond.
16. The Petitioner Pierce and Ms. Trimble confirmed that the file was then moved from Richmond to Chilliwack since the Petitioners were now residing in Chilliwack.
17. I was advised that on July 22, 2015, there was an appearance and the matter was set for a Presentation Hearing for October 31, 2015.
18. On August 5, 2015, Ms Trimble was informed that the matter would be brought forward as the Ministry was seeking removal of the Child from the parents for the purpose of the Ministry being able to consent to the termination of life support systems and a removal of the Child from BC Children's Hospital to Canuck Place for palliative care.
19. The Petitioners have been very clear that they did not consent to the removal of life support from their Child and that this was not mentioned in open Court on August 7, 2015.
20. The Petitioner Pierce will be attending Court tomorrow and can testify if necessary.

20. I swear this Affidavit in support of the pending Petition for the emergency relief set out in it and for no other or improper purpose.

SWORN (OR AFFIRMED) BEFORE ME at  
Surrey,  
British Columbia on August 10, 2015

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ERIN HAUPT

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A commissioner for taking affidavits for British  
Columbia

**JACK HITTRICH**  
**HITTRICH LAW**  
Barrister and Solicitor  
307, 5577 - 153A St, Surrey, B.C. V3S 5K7  
604-575-2274

August 10, 2015

File No: Pearce

Les MacDonald  
7105 Vedder Road  
Chilliwack, BC  
V2R 4G3

Via Fax: 1-604-858-2936  
And Via email to carles@shaw.ca

Dear Colleague:

**Very Urgent!**  
This is Exhibit "A" referred to in the  
affidavit of Erin Haupt  
sworn before me, at Surrey, B.C.  
this 10 day of August 2015

Re: MJ Pearce, born April 5, 2015

A COMMISSIONER FOR TAKING  
AFFIDAVITS FOR BRITISH COLUMBIA

I confirm that we have just been retained by Justin Pearce and Michelle Arnold the parents of Mary Jane Pearce, born April 5, 2015 ("MJ").

**This is a matter of life and death for MJ and your immediate attention is required.**

I confirm that Dr. Osioovich at BC Children's Hospital, has confirmed that at approximately 9:00 a.m. tomorrow, MJ is going to be transferred to Canuck Place where all life support will be removed, with the intent that she will die.

Firstly can you obtain instructions to postpone the withdrawal of life support for the time being?

We are scheduled to appear in the Supreme Court of BC at 8:00 a.m. tomorrow morning before Mr. Justice Sigurdson. You can gain entry at the Smith Street entry by advising the sheriff.

I gave you my cell which is 604-418-6500. My email is below.

Please provide to us as soon as possible as much as you can.

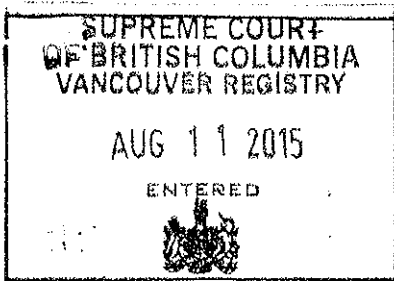
I will be providing you with a Petition as soon as I can.

**HITTRICH LAW**

Per:

*Jack Hittrich*

copy to clients



Form F73 (Rule 17-1(2))

- E152222  
Court File No.:  
Court Registry Vancouver

**In the Supreme Court of British Columbia**

Petitioners: JUSTIN PIERCE and MICHELLE ARNOLD

Respondents: FRASER VALLEY ABORIGINAL CHILDREN AND YOUTH SOCIETY,  
DIRECTOR OF CHILD, FAMILY AND COMMUNITY SERVICES and HER  
MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA

*FAMILY SERVICES*

**PETITION TO THE COURT**

*[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]*

**ON NOTICE TO:**

FRASER VALLEY ABORIGINAL CHILDREN AND YOUTH SOCIETY,  
DIRECTOR OF CHILD, FAMILY AND COMMUNITY SERVICES and HER  
MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA

This family law case is brought, for the relief set out in Part 1 below, by

- the persons named as petitioners in the style of proceedings above
- [name(s)] (the petitioner(s))

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form F74 of the Supreme Court Family Rules in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
  - (i) 2 copies of the filed response to petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: 800 Smithe Street, Vancouver, B.C.
(2)	The ADDRESS FOR SERVICE of the petitioners is: Hittrich Law 307-5500 153A Street, Surrey B.C. V3S 5K7 604-575-2274 604-575-2357 <a href="mailto:ihittrich@hittrichlaw.com">ihittrich@hittrichlaw.com</a>
(3)	The name and office address of the petitioner's lawyer is: See above

### CLAIM OF THE PETITIONERS

#### Part 1: ORDERS SOUGHT

1. An injunction preventing the removal of any and all life support for Mary Jane Pierce, born April 5, 2015 (hereinafter referred to as the "Child") and prohibiting the transfer of the Child to Canuck Place.
2. An order that all health care professionals and BC Children's Hospital continue providing all necessary medical care to the Child until further order.
3. Such further and other relief as deemed appropriate by this Court and as amended further by the Petitioners.
4. Costs.

#### Part 2: FACTUAL BASIS

1. This is an emergency Petition preventing the termination of the life of Mary Jane Pierce, (hereinafter referred to as "the Child") born on April 5, 2015 to the Petitioners Michelle Arnold and Justin Pierce.

2. The Respondents' currently have temporary custody of the Child pursuant an order under section 35(2)(a) of the Child, Family and Community Service Act ("CFCSA") pronounced Friday, August 7, 2015.
3. This Order is apparently a Consent Order but the Respondents have advised that they were pressured into agreeing to this Order. The Petitioners state that they were told that if they did not agree to allowing the Respondents to have temporary custody, all future children of theirs would be taken into care immediately upon birth. They acted out of fear.
4. The Child was born prematurely, after a gestation period of 25 weeks. She has had multiple serious health problems and has been on life support. The Child has been hospitalized since birth.
5. The Child is currently at BC Children's Hospital under the care of Dr Horatio Osiovich.
6. Dr. Osiovich advised that at 9:00 a.m. tomorrow the Child will be transferred to Canuck Place, after which the ventilator that she is on will be removed. It is understood that the intent is to allow the Child to die a natural death.
7. Dr. Osiovich was unable to confirm or deny whether or not the Child was in pain, or was suffering and he could not say whether or not the removal of the ventilator would cause immediate death of the Child.
8. At no time did the Petitioners consent to the removal of life support for their Child.
9. The Petitioner Pierce will be attending Court tomorrow and can testify if necessary.

**Part 3: LEGAL BASIS**

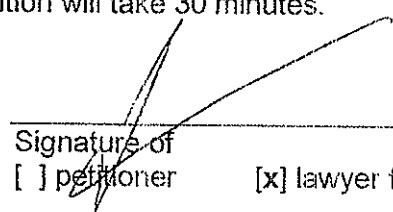
1. Supreme Court Rule 12 – 4 and the inherent jurisdiction of this Court
2. Parens Patriae jurisdiction of this Court
3. Family Law Act
4. Law and Equity Act
5. Rules of Court

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Erin Haupt, sworn August 10, 2015;
2. Oral evidence of the Petitioner Pierce;
3. Such further and other evidence as Counsel may advise.

The petitioners estimate that the hearing of the petition will take 30 minutes.

Date: August 10, 2015

  
\_\_\_\_\_  
Signature of

petitioner

lawyer for petitioner(s)

Jack Hittrich



***To be completed by the court only:***

Order made

in the terms requested in paragraphs [number] of Part 1 of this petition

with the following variations and additional terms:

Date: [dd/mmm/yyyy].

\_\_\_\_\_  
Signature of

Judge       Master