

COURT FILE NO. 17/61225

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

FRANCES BAARS AND DEREK BAARS

APPLICANTS

AND

THE CHILDREN'S AID SOCIETY OF HAMILTON

RESPONDENT

AFFIDAVIT OF TRACEY LINDSAY

I, Tracey Lindsay, work in the City of Hamilton, in the Province of Ontario MAKE OATH AND SAY:

1. I am employed by the Respondent, Children's Aid Society of Hamilton (the "Society). I am a Child Protection Worker assigned to Placement Resources. I have held that position since July 2002.
2. Part of my duties in placement resources is to provide services to foster parents and monitor the foster home as a suitable placement resource for children who are admitted to the care of the Society.
3. The Children's Aid Society of Hamilton is a not for profit corporation. It was incorporated in 1894.
4. In the province of Alberta, Child Protective Services is a branch of the provincial government.
5. The official government website of the province of Ontario states that "there are 47 children's aid societies." "Each Society is an independent, non-profit organization run by

a board of directors elected from the local community; or a First Nation operating under the Indian Act." Attached as Exhibit "A" to this affidavit is the excerpt from the website.

6. The Children's Aid Society of Hamilton and not the Province of Ontario has discretion as to who may be authorized as foster parents and sole discretion to close any foster home.
7. In December, 2015 the Children's Aid Society of Hamilton ("the Society") authorized the Applicants to be foster parents for the Society and entered into a Foster Parent(s) - Society Service Agreement that is attached to the affidavit of Frances Baars as Exhibit "E".
8. The said agreement provides at page 6 that the Applicants agree "To embrace the concept and philosophy of shared responsibility with the Society for the care of the child, but to accept the authority of the Society as ultimate decision-maker as guardian designate of the foster child."
9. The agreement further provides that the foster parents shall be respectful of the diverse cultural and religious needs of the children and youth and to show respect for the child's emotional ties with the birth parent.
10. The Applicants became foster parents to two sisters aged three and four on December 18, 2015. The birth mother, by written agreement, had voluntarily placed the children in the temporary care of the Society until she grew able to reunite with them.
11. The birth mother expected her children to enjoy the experience of Santa Claus and the Christmas celebration in the traditional way that the children were accustomed to. The mother also wished to get a picture of her children with Santa.
12. On December 23, 2015 I met with the children's services worker, Jessica MacKenzie, who advised that Frances Baars said that Santa does not come to her house. Jessica told the children that Santa would be delivering the presents to their birth mother's

home. Jessica was concerned, but happy that the foster parents did not tell the children that there was no Santa.

13. I advised the Applicants that the birth mother wished the children to enjoy Easter in the common tradition of the Easter Bunny and chocolate eggs for the children. I attempted to persuade the Applicants to put the children's interests before their own. I was mindful of Section 1 (1) and (2) of the Child and Family Services Act which is attached to the affidavit of Frances Baars as Exhibit "A".
14. The Applicants stated that they could not accept the Easter Bunny as a part of their Easter and could not lie about the Easter Bunny.
15. When asked how the Applicants would reconcile their position to not perpetuate Santa Claus and the Easter Bunny against the celebration of these concepts that the small children had enjoyed to date, Frances Baars responded in an email stating that "we do hold truth telling highly, and will not lie to children by teaching them that Santa and the Easter bunny are real. They will be told who is giving the gifts." The email is attached hereto as Exhibit "B".
16. I never ever asked the Applicants to lie or to betray their faith. I was concerned that the idea of the Easter Bunny would be destroyed for these young children if the Applicants said to the children that the Easter Bunny was not real. That would be unfair to the children and contrary to the wishes of their birth mother.
17. I attempted to convince the Applicants that the Easter Bunny was not a religious character and that it should not impact their beliefs. The Applicants were intransigent in their position that it would be a lie. We could not reach a compromise.
18. The interests of the children were paramount in my discussions with the Applicants however they were insistent the children's past enjoyment of Santa and the Easter bunny must be deferred while in their care.

19. I did not know that the conversations that I had with the Applicants made them "anxious and frustrated" as they never communicated that to me.
20. In 2016 Easter Sunday fell on March 27th. The children were removed from the Applicants home on March 4, 2016. While the children were in the home of the Applicants for under three months the applicants were able to meet their basic needs.
21. On March 3, 2016 I had a telephone conversation with Frances Baars. She wanted to know what would be written. If they moved to Calgary they want to foster and maybe adopt. They had heard that if you are closed by one agency they will never be opened elsewhere. I told her that this not necessarily true as each agency is independent.
22. On March 4, 2016 when the children were being moved they ran up to the society worker and said "why did you tell us to lie". When questioned, the girls repeated "why did you tell us to lie". While concerning, it was not fully pursued with the foster mother at that time in the presence of the children. This concern is referenced in paragraph four of the formal letter sent to the Applicants and attached to the affidavit of Frances Baars as Exhibit "F".
23. The Applicants state that they did not have recourse relating to the actions of the Society. In the Agreement found at Exhibit "E" of the affidavit of Frances Baars; Part D, paragraph 2: the foster parents had a right to engage the Internal Review Complaint Procedures which typically involves a tribunal made up of : a) a Society Director or manager without involvement with the file; b) a Society Board member and; c) a member from the community at large. The Applicants did not avail themselves of this process.
24. I agree with the Applicants that any discussion relating to moving a child to a same sex family was not relevant to the children in their care at that time. The conversation relating to moving a child to a same sex family is a usual dialogue with new foster

parents to assess their acceptance of the possibility. This is helpful in matching foster parents with children who may move to adoption.

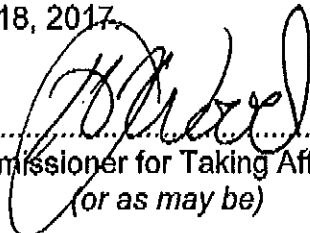
25. I did not appreciate that the same sex family discussion would evoke the hyper sensitive reaction with the Applicants. I deny making derogatory statements or disparaging accusations based upon the Applicant's Christian faith.

26. I respect the Applicant's rights relating to their religious beliefs and all times I was acting in the best interests of the children and wishes of the birth mother.

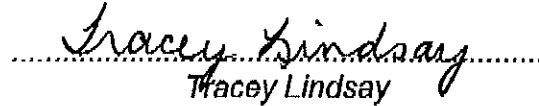
27. The children were reunited with their birth mother.

Sworn (or Affirmed) before me at the City,
of Hamilton,
in the Province of Ontario,
on April 18, 2017.

.....
Commissioner for Taking Affidavits
(or as may be)



.....
Tracy Lindsay
Tracy Lindsay



This is Exhibit "A" mentioned and
referred to in the Affidavit of

Tracey Lindsay

Sworn/Affirmed before me this 18th day of

April, 2017.



A Commissioner, etc.



MINISTRY OF CHILDREN AND YOUTH SERVICES



You are here > [Home](#) > [Professionals](#) > [Child welfare](#) > [About Ontario's children aid societies](#)

About Ontario's children aid societies

In Ontario, child protection services are provided by children's aid societies governed by the [Child and Family Services Act](#). The government provides funding and monitors children's aid societies. It also develops policies to support child welfare programs, and licenses children's group homes and foster homes.

Children's aid societies are responsible for investigating reports or evidence of abuse or neglect of children under the age of 16, and when necessary, taking steps to protect children. They also look after children who come under their care or supervision, counsel and support families, and place children for adoption.

All children's aid societies must comply with the [Child Protection Standards in Ontario](#) to provide consistent services to all children, youth and their families.

There are 47 children's aid societies across Ontario. A list of the children's aid societies is available online through the [Ontario Association of Children's Aid Societies](#). Each society is an independent, non-profit organization run by a board of directors elected from the local community, or a First Nation operating under the [Indian Act](#).

Child Protection Information Network

Ontario is implementing the Child Protection Information Network known as CPIN. This will modernize and replace the information systems used by children's aid societies.

CPIN will help enhance child safety by creating a single information system. It will allow children's aid societies to securely share confidential child protection information with one another and to better manage case files and finances. They will also be able to track which protection services children have received anywhere in Ontario and their results.

All personal information in CPIN will only be shared among children's aid societies, and only for providing child protection services.

The Provincial Advocate for Children and Youth's investigative authority

The [Provincial Advocate for Children and Youth Act](#) provides the [Provincial Advocate](#) with the authority to make recommendations that are aimed at improving the child welfare system so that it promotes the best interests, protection and well-being of children and youth. The Provincial Advocate has the authority to receive and respond to complaints, conduct reviews, represent the views and preferences of children and youth, make reports and provide recommendations.

Find out more about [the Provincial Advocate's role in Ontario](#).

The Provincial Advocate also has the ability to [investigate](#) matters relating to services provided by children's aid societies and residential licensees, where a children's aid society is the placing agency. This authority strengthens accountability, oversight and transparency of Ontario's child welfare system.

Learn more about [what to do if you have concerns](#) about a children's aid society.

Review of Motherisk hair strand testing

In response to the Honourable Susan Lang's final report, the government appointed an independent Commissioner in January 2016 to assist people who may have been affected by Motherisk laboratory's testing methodology, regardless of the date of the test. Over the next two years, Commissioner Judith C. Beaman will lead a review and resource centre that will provide legal, counselling and other support to affected individuals involved in child protection matters.

The Commission's office is now open and can be reached at 1-844-303-5476 or www.motheriskcommission.ca.

Learn more

- [Reporting child abuse and neglect](#)
- [Supports available to youth once they leave care](#)
- [Ontario's Children's Aid Societies Performance Indicators](#)
- [Review of the Child and Family Services Act](#)
- [Blueprint for Fundamental Change to Ontario's Child Welfare System](#)

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This is Exhibit "B" mentioned and
referred to in the Affidavit of

Tracey Lindsay

Sworn/Affirmed before me this 18th day of

April, 2017.



A Commissioner, etc.



Frances Baars
<francesbaars@gmail.com>
11/24/2015 01:32 PM

To: Sue Ross <sross@hamiltoncas.com>
cc
bcc
Subject: Re: a couple of questions

History: This message has been replied to.

Let me try answer these as best I can (Derek is here so we are discussing this too:)

re: Christmas and Easter - though we do not celebrate the holidays, we realize that our society does and children cannot be isolated from that reality. For Easter, it not being as big a celebration in society, it may slide by easier, but if the birth parent(s) want it to be a special day for the child, we are open to giving them chocolate or some such small thing (and we love chocolate too, so we always buy it anyways:). Since Easter always falls on a Sunday, we would still be going to church as regular. As to Christmas, we are most willing to celebrate by giving the child(ren) gifts and, if appropriate, helping them make gifts for their birth families - my family still celebrates Christmas with gifts and such, usually closer to New Years, and we continue to participate in that (and all foster kids would be included as part of the family). All that said, we do hold truth telling highly, and will not lie to children by teaching them that Santa and the Easter bunny are real. They will be told who is giving the gifts.

re: communicable diseases - every child is a human being, so all are welcome and will be loved in our home. We will be honest with relatives re: the disease the child has, and will let them make the choice of how best to encourage proper relationships and set proper boundaries surrounding contact.

Lastly, we currently have a crib and toddler bed at our place, and a single bed at my parents' place should we need it for an older child. And, if we need another crib, we'll get one from CAS. We do have a Pack-n-play we could use if needed until we can get the crib from CAS or elsewhere.

Hope that helps.
Frances

On Tue, Nov 24, 2015 at 12:06 PM, Sue Ross <sross@hamiltoncas.com> wrote:

Hi Frances

Affidavit of Tracey Lindsay sworn April 18, 2017

Frances Baars and Derek Baars v. The Children's Aid Society of Hamilton

Court File No: 17/61225

SUPERIOR COURT OF JUSTICE

Proceeding Commenced at:
45 Main Street East
Hamilton, Ontario, L8N 2B7

**AFFIDAVIT OF TRACEY LINDSAY
SWORN APRIL 18, 2017**

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