

**THE QUEEN'S BENCH**

**WINNIPEG CENTRE**

**BETWEEN:**

**KEVIN RICHARD KISILOWSKY**

**Applicant**

**and**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA**

**Respondent**

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**SUPPLEMENTAL AFFIDAVIT OF KEVIN RICHARD KISILOWSKY  
SWORN: DECEMBER \_\_, 2015**

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**JAN 19 2016**

R. Jay Cameron  
Justice Centre for Constitutional Freedoms  
#253, 7620 Elbow Drive SW.  
Calgary, Alberta T2V 1K2  
Phone: 403-796-8110  
Email: [jcameron@jccf.ca](mailto:jcameron@jccf.ca)  
Counsel for the Applicant

**THE QUEEN'S BENCH**  
**WINNIPEG CENTRE**

BETWEEN:

**KEVIN RICHARD KISILOWSKY**

Applicant,

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA**

Respondent,

**AFFIDAVIT OF KEVIN RICHARD KISILOWSKY**

**Sworn the day of December, 2015**

I, Kevin Richard Kisilowsky, of the town of Stonewall, in the Province of Manitoba, as a self-employed individual owing a renovation business,

MAKE OATH AND SAY THAT:

1. I am the Applicant in the within litigation and as such have personal knowledge of the matters and facts hereinafter deposed to by me, except where same are stated to be based upon information and belief, in which cases I believe them to be true.

2. As missionary evangelist, my goal is to encourage people to experience the transformative salvation of Jesus Christ, enabling them to have a relationship with God where they seek to live in accordance with His will.

3. I seek to build relationships with individuals, including individuals who tend to reside on the fringes of society, such as "bikers", and gain opportunities to share with them Jesus' love and truth. In these relationships, I have the opportunity to pray for individuals and their families and engaged them in discussion about spiritual life and faith. The target demographic of my ministry is not typically seeking denominational membership nor affiliated with a denomination.

4. For individuals desiring to grow in the Christian life, I invest further time to encourage them and disciple them with the Bible. We also have regular meetings where we share Christian devotions and pray for each other.

5. Most of the couples who ask me to perform their wedding ceremonies know me because of my outreach ministry.

6. Performing marriage ceremonies is not only an opportunity to serve the community, it is also an important part of my Christian ministry to couples who do not feel comfortable in church settings, but who desire a God-honouring wedding ceremony. I believe that God designed and ordained marriage and that I am doing God's will in performing God-honouring wedding ceremonies for the couples who ask me to do so. In the words of Christ:

4 "Haven't you read," he replied, "that at the beginning the Creator 'made them male and female,'<sup>5</sup> and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'? 6 So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate." Matthew 19:4-6.

7. Performing these wedding ceremonies also gives me the opportunity to serve as a Christian witness to those who attend the wedding ceremony. The wedding ceremonies I have performed are often attended by individuals who are also members of the fringes of the society, such as members of motorcycle clubs. . And while other people may not feel comfortable in such a setting, I am comfortable in that situation.

8. I have performed a number of marriages over the years for persons such as those described above. Attached as **Exhibit "A"** to this Affidavit is the service outline I typically use in performing wedding ceremonies.

9. While I have never been asked by a same-sex couple to perform their ceremony, it would directly violated my relationship with God for me to perform a ceremony uniting a same-sex couple in marriage, since I believe that same-sex intimacy is sinful in God's eyes. *See* Romans 1:18-28; 1 Timothy 1:10. For me to perform a same-sex ceremony would be to go against God and support what I believe God to have clearly prohibited. While I cannot support or participate in a same-sex wedding ceremony, I believe that God loves LGBT individuals and I am happy to say that I also love and serve LGBT individuals in ways that do not violate my faith and relationship with God. For example, I would be happy to perform renovation work for an LGBT

couple that needed work done on their house, because doing that renovation work does not violate my conscience. In my interactions with LGBT individuals, I am friendly and welcoming, and have hosted LGBT individuals in my home.

10. As a result of the revocation of my Certificate of Registration to Solemnize Marriages, both I and couples wanting me to perform their marriage ceremony have suffered hardship and significant inconvenience.

11. I have been forced to apply repeatedly for a one-time "temporary permit" (the "Temporary Permit") to officiate a marriage ceremony. The option of the Temporary Permit requires the preparation and filing of an application to the Province of Manitoba followed by a waiting period of 6 weeks.

12. The majority of couples who want me to perform their marriage want to get married within a very short period of time, less than six weeks. Some are sensing conviction that living together unmarried is wrong and that they should get married immediately. Others are simply desiring to be married as soon as possible. As mentioned, most of the marriage candidates are not comfortable in a traditional church setting. Others are unable or unwilling to meet a church's requirements, such as membership or counseling sessions, in order to be married by the church,

13. Before my Certificate of Registration to Solemnize Marriages was revoked, I experienced no impediment to accommodating such couples and conducting their wedding ceremonies. Since having my Certificate revoked, I have been forced to turn away at least four couples who wanted me to perform their wedding ceremonies, each time because I could not acquire the temporary permit in time.

14. On a couple occasions, where the couple insisted that I marry them, I was able to acquire the temporary permit in time to perform the wedding ceremony, but only by spending significant time and effort to acquire the permit, which left the couples in uncertainty about whether I would be able to perform their marriage ceremony until the permit was received. This uncertainty is understandable and is an impediment to my ministry.

15. I attend a small church which meets on Sunday mornings and that 10 to 30 people attend. My church is affiliated with the Apostolic Church of Pentecost of Canada (ACOP). I have been informed that the ACOP only authorizes licensed ministers to perform marriages. I have not attended seminary and have no religious training.

16. The couples who ask me to marry them are not connected to the small church I attend or to the ACOP; rather they are connected with me through my outreach ministry.

17. Many of the couples who ask me to do their marriage ceremony do not want to be associated with organized religion. I am able to minister to their spiritual needs precisely because I am not acting on behalf of an organized church. These couples know me and are happy to have me perform their marriage ceremony in a Christian manner, but they do not want organized religion to be a part of their marriage ceremony.

18. It is apparent that I am being discriminated against on the basis of my religious beliefs by the Province of Manitoba, as I am now prohibited from opportunities other citizens have to serve as marriage commissioners. The Temporary Permit process is unwieldy, time consuming and unnecessary as there are clearly other ways that the Province of Manitoba could accommodate my religious beliefs in the instant case.

19. In response to a Motion to Compel filed against the respondent Manitoba for refusal to answer questions on cross examination, I am informed by my counsel and do verily believe that on June 29, 2015, Ms. Heather Leonoff, counsel for the respondent Manitoba, sent my counsel the email attached as Exhibit "B" to this affidavit. On August 10, 2015, my counsel sent Ms. Leonoff a letter, attached as Exhibit "C", making specific inquiries of the respondent Manitoba. Counsel for Manitoba replied to the inquiries by a letter dated September 22, 2015, attached as Exhibit "D" to this affidavit.

20. I swear this Affidavit *bona fide*.

SWORN BEFORE ME at STONEWALL, )  
Manitoba, this 30 day of December, 2015 )

[Signature] )

[Signature]  
KEVIN RICHARD KISILOWSKY )

A Commissioner For Oaths  
in and for the Province of Manitoba

My Commission Expires:

June 4/16

Re- SWORN BEFORE ME AT THE  
CITY OF WINNIPEG, MANITOBA  
ON January 19 2010.  
T. SUNSTRUM  
DEPUTY REGISTRAR  
COURT OF QUEENS BENCH  
COURT OF JUSTICE  
FOR MANITOBA

[Signature]

## Marriage vows

My entry & Groom

Congregation Stand

Entry of Bridal Party

Invitation & Prayer

Giving away of the Bride

Congregation be seated

Devotional

Vows to the congregation

Blessing of the Rings

Exchange of Vows and Rings

Prayer of Blessing

Pronouncement and kiss the Bride

Signing of Docs

Additional announcements

Intro to the People

This is Exhibit "A" referred to in the  
Affidavit of Kevin Richard Kisilowsky  
Sworn/Affirmed before me this 15  
Day of January, 2016  
**T. SUNSTRUM**  
Deputy **DEPUTY REGISTRAR**  
**COURT OF QUEENS BENCH**  
**FOR MANITOBA**

## Invitation & Prayer

Today we gather together to witness the marriage of [Groom] & [Bride]

I ask that you attend as a witness of their vows to one another and before God. And that you encourage their love for one another and never say a word to discourage their love.

Let's pray:

Father God, giver and creator of love and everlasting life.

Almighty God who gave His Son for the Love of your people so that they would not perish but have everlasting life.

Father we invite you to witness their marriage and hear the vows exchanged this hour. Father we pray your presence here today and from this day on in the marriage. In the name of Jesus we ask  
Amen.

Who gives this woman to be wed?

Groom receives his Bride

Please be seated

## Devotional

Genesis 1:26 – 28

God created man and woman to be like Him. We are given dominion and authority over the earth and every living creature. One day, God will call us to give an account of how we have cared for His creation.

After the fall man had to work and sweat to make provision for himself and his family. The penalty for the woman was pain in child birth and that her husband would rule over her.

There are many opportunities for this authority, dominion and rule to be misused. However, in Ephesians 5:21-33 we find an example of how marriage is to work:  
READ

Jesus is the husband and we the church, are the bride. So great is God's love for us that He would sacrifice anything to save us. "God so loved the world that He gave His only Son. That whoever believes in Him should not perish but have eternal life. For God sent the Son into the world, not to condemn the world, but that the world might be saved through Him" John 3:16-17

If Jesus would sacrifice His body on the cross to pay the price for sin in you; To give you an opportunity to be free from sin, then what better picture do we need of love. It is the desire of Jesus to cleanse you and save you, so that He would have a Bride that is pure and without sin, spotless and without wrinkle. And He would sacrifice His body for His Bride.

A Husband should love and care for his wife as if she was his own self. Nurture and cherish your wife as Jesus does the church. Willingly sacrifice yourself for your Bride.

That is rulership, dominion and authority acted out, as much as Christ is head of His Church.

So also the wife must be subject to the husband as the church is to Christ. Follow your husband's leadership and rest in the knowledge that God designed this. Know also that God will call each of you into account for your part in the marriage



Cleave to one another and be like one person, love and respect one another. Act out the love of Jesus for the church, Act out the obedience of the church to Christ. Let no one come between you. Allow no one to do or say anything that is harmful to your union.

“Never the less, let each individual among you also love his own wife even as himself; and let the wife see to it that she respect her husband.” Eph 5:33

Finally let me read to you 1 Corinthians 13:4 – 8

### **Vow to the Congregation**

1. [Groom], will you have this woman to be your wife, to live together after the pattern of God’s Word? Will you love her, comfort her, honour and keep her in sickness and in health, and, forsaking all others, be faithful unto her so long as you both shall live?

Response: I will

2. [Bride], will you have this man to be your husband, to live together after the pattern of God’s Word? Will you love him, comfort him, honour and keep him in sickness and in health, and, forsaking all others, be faithful unto him so long as you both shall live?

Response: I will

Or

1. [Groom], as you vow before these family and friends and before our Father in heaven, do you [Groom] take [Bride] in the commitment of marriage as your wife? Do you choose her from the world as your best earthly friend? Do you promise to love, honour, cherish and respect, to guard her reputation, to cultivate for her sake all your manly virtues? To be considerate of her in all your life choices and in all things esteem her happiness as your own?

Response: I will

## **Prayer of Blessing**

Please join me in prayer for this couple.

O Eternal Father, God and Preserver of all mankind, giver of all mercy and grace, and author of everlasting life. Father we ask you in the name of Jesus to send your blessing upon this couple, [Groom] and [Bride] who we bless in your name.

Give them grace and mercy to perform and keep these vows and covenant made between them this hour and may they ever remain in love and peace together, through Jesus Christ our Lord, Amen.

## **Pronouncement**

For so much as [Groom] and [Bride], have consented together in holy wedlock and have witnessed the same before God and this company.

Having given their pledge of love to each other, and have declared the same by giving and receiving a ring, and the joining of hands. By the authority invested in me by the Province of Manitoba I now pronounce that they are husband and wife in the name of our Lord and Saviour Jesus Christ. Amen

You may kiss the bride.

1. pick up flowers
2. ask congregation to remain seated

Sign Documents & table

Announcements

Introduce to the people by name: Mr. & Mrs.

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**Re: Kisilowsky v. Manitoba - Motion to Compel**

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Leonoff, Heather (JUS) <Heather.Leonoff@gov.mb.ca>

Mon, Jun 29, 2015 at 11:41 AM

To: "Leonoff, Heather (JUS)" <Heather.Leonoff@gov.mb.ca>, Marty Moore <mmoore@jccf.ca>

Cc: John Carpay <jcарpay@jccf.ca>, "Turner, Leslie (JUS)" <Leslie.Turner@gov.mb.ca>

I have now had a chance to read the transcript. Are you wanting answers to the questions beginning on page 68 that were objected to on the basis of solicitor client privilege? If so than I can tell you that no inquiries were made prior to the letter going out. The impact on accessibility was not considered nor did we canvass the marriage commissioners. The VSA acted on legal advice and sent out the letter.

Is there something else you are wanting answers to? If so please let me know because I can't see anything else in the transcript.

*Heather Leonoff*

Constitutional Law Section

Legal Services Branch

Manitoba Justice

1205-405 Broadway

Winnipeg, Manitoba

R3C 3L6

Tel (204) 945-0717 Fax (204) 945-0053

This is Exhibit " B " referred to in the  
Affidavit of Kevin Richard Kisilowsky  
Sworn/Affirmed before me this 15  
Day of January, 2016  
**T. SUNSTRUM**  
**DEPUTY REGISTRAR**  
**COURT OF QUEBENS BENCH**  
**FOR MANITOBA**

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**From:** Leonoff, Heather (JUS)

**Sent:** June-26-15 9:06 AM

**To:** 'Marty Moore'

**Cc:** 'John Carpay'; Turner, Leslie (JUS)

**Subject:** RE: Kisilowsky v. Manitoba - Motion to Compel

I will have a look at it next week and get back to you.

*Heather Leonoff*

Constitutional Law Section



# Justice Centre for Constitutional Freedoms

August 10, 2015

Heather Leonoff  
Constitutional Law Section  
Legal Services Branch, Manitoba Justice  
1205-405 Broadway  
Winnipeg, Manitoba R3C 3L6

This is Exhibit " C " referred to in the  
Affidavit of Kevin Richard Kisilowsky  
Sworn/Affirmed before me this 19  
Day of January, 2014

**T. SUNSTRUM**  
DEPUTY REGISTRAR  
COURT OF QUEENS BENCH  
FOR MANITOBA

Dear Ms. Leonoff:

Re: *Kisilowsky v. Manitoba* – Inquiries Outstanding from Questioning of Linda Harlos

I appreciate your willingness to provide responses to inquiries left outstanding because of the assertion of solicitor-client privilege at the questioning of Linda Harlos on November 27, 2014. I have taken some time to review this matter and now submit the following inquiries to you.

You indicated in previous correspondence that in Manitoba emails and letters are regularly admitted by consent, and have indicated that you consent to your responses forming part of the Court Record. Please confirm that your answers are binding on the Province of Manitoba in this litigation.

We request answers to the following questions:

1. Did Manitoba make any effort to determine how many marriage commissioners, prior to September 16, 2004, would refuse to perform same sex marriages? If so, what efforts were made?
2. Did Manitoba make any inquiries or investigations prior to September 16, 2004, about whether there were marriage commissioners who would refuse to perform same sex marriages for specifically religious reasons? If so, what inquiries or investigations were made? What findings were made as a result?
3. Did Manitoba decide to require all marriage commissioners to perform same sex marriages regardless of the number of marriage commissioners who had religious objections to performing same sex marriages?
4. Was Manitoba's decision to require all marriage commissioners to perform same sex marriage ceremonies made to ensure same sex couples had access to marriage ceremonies performed by marriage commissioners?
5. Was Manitoba's decision to require all marriage commissioners to perform same sex marriages made regardless of the impact the number of marriage commissioners objecting to performing same-sex marriages on religious grounds would have on the accessibility of same sex couples to a ceremony performed by a marriage commissioner?

6. On what basis did Manitoba decide to require all marriage commissioners – without accommodating those with religious objections – to perform same sex marriages?
7. Please describe the process through which Manitoba decided to require all marriage commissioners to perform same sex marriages without exception, the September 16, 2004 Decision. Also, please answer the following specific questions:
  - a. When was this process started?
  - b. Which individuals from what positions were involved in this process?
  - c. When was the decision to require all marriage commissioners to perform same sex marriages without exception made?
  - d. How was this decision communicated to the Vital Statistics Agency?
  - e. When was this decision communicated to the Vital Statistics Agency?
  - f. Did Manitoba consider the *Charter* rights of religious marriage commissioners before it made this decision?
  - g. Did Manitoba consider its duty to accommodate marriage commissioners to the point of undue hardship before it made this decision?
  - h. Did Manitoba seek legal advice before it made this decision? If so, please identify the counsel Manitoba consulted.
  - i. Did Manitoba seek legal advice concerning the rights of religious marriage commissioners under the *Charter* and the *Human Rights Code* before it made this decision?
  - j. Did Manitoba consider the approach taken by provinces to provide exemptions to marriage commissioners and other civil officials who objected to performing same sex marriages? If so, please describe how Manitoba considered the approaches other provinces took to accommodate marriage commissioners.
  - k. Why did Manitoba reject the options taken by other provinces to accommodate marriage commissioners who refused to perform same sex marriages?
  - l. When did Manitoba consider the “single entry point” system?
  - m. Please describe how Manitoba considered the “single entry point” system.
  - n. Why did Manitoba reject the “single entry point” system?
  - o. Did Manitoba consider not publishing the name of marriage commissioners who objected to performing same sex marriages on religious grounds while permitting them to remain marriage commissioners?
8. What position did Manitoba take before Justice Yacobucci in *Vogel v. Canada (Attorney General)*, [2004] M.J. No. 418?
  - a. When did Manitoba learn that Justice Yacobucci would change the definition of marriage?
  - b. When was the Vital Statistics Agency informed that the definition of marriage had been changed?
  - c. How was the Vital Statistics Agency informed that the definition of marriage had been changed?
  - d. How did the Vital Statistics Agency know that Justice Yacobucci’s decision would not be appealed?

Ms. Heather Leonoff  
August 10, 2015  
Page 3

9. We request any records (emails, letters, decisions, memos, notes, etc.) relating to the September 16, 2004 Decision, including those records related to the consideration and rejection of options to accommodate marriage commissioners objecting to same-sex ceremonies.
10. When Mr. Kisilowsky informed the Vital Statistics Agency of his religious convictions prohibiting him from performing same sex marriages, did Manitoba consider if it could specifically accommodate Mr. Kisilowsky without suffering undue hardship?
11. Please describe why Manitoba could not accommodate Mr. Kisilowsky by removing his name from the public list of marriage commissioners while allowing him to be a marriage commissioner.
12. Did Manitoba decide that it could not allow Mr. Kisilowsky to maintain his license as a marriage commissioner because doing so would cause Manitoba undue hardship?
13. What hardship does Manitoba believe it would suffer if Mr. Kisilowsky were fully reinstated as a marriage commissioner?
14. We request any records (emails, letters, decisions, memos, notes, etc.) relating to the consideration and rejection of options to accommodate Mr. Kisilowsky while permitting him to remain a marriage commissioners.

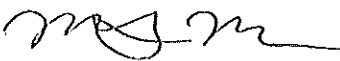
If solicitor-client privilege is asserted in partial or complete response to any of these questions, please provide:

- a. the identity of the government lawyer involved;
- b. the nature of the relationship in which legal advice was allegedly provided;
- c. the subject-matter of the legal advice allegedly provided; and
- d. the circumstances in which the legal advice was allegedly sought and rendered.

*Pritchard v. Ontario (Human Rights Commission)*, 2004 SCC 31, at paras. 19-20.

Thank you for your responses to these inquiries.

Sincerely,



for: R. Jay Cameron  
Justice Centre for Constitutional Freedoms  
Counsel for Kevin Kisilowsky

# Manitoba



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Constitutional Law  
Woodsworth Building  
1205 – 405 Broadway  
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Courriel : [allison.pejovic@gov.mb.ca](mailto:allison.pejovic@gov.mb.ca)

September 22, 2015

Attention: R. Jay Cameron

Dear : Sir

Re: *Kisilowsky v. Manitoba – Inquiries Outstanding from Questioning of Linda Harlos*

This letter is in response to your letter dated August 10, 2015 wherein you requested responses to inquiries outstanding due to solicitor-client privilege at the questioning of Linda Harlos on November 27, 2014.

We confirm that these answers are binding on the Province of Manitoba in this litigation. Your questions and our answers (in bold) are as follows:

1. Did Manitoba make any effort to determine how many marriage commissioners, prior to September 16, 2004, would refuse to perform same sex marriages? If so, what efforts were made?  
**No.**
2. Did Manitoba make any inquiries or investigations prior to September 16, 2004, about whether there were marriage commissioners who would refuse to perform same sex marriages for specifically religious reasons? If so, what inquiries or investigations were made? What findings were made as a result?  
**No.**
3. Did Manitoba decide to require all marriage commissioners to perform same sex marriages regardless of the number of marriage commissioners who had religious objections to performing same sex marriages?  
**Yes.**

**Manitoba**  
spirited energy  
vibrant d'énergie

This is Exhibit " D " referred to in the  
Affidavit of Kevin Richard Kisilowsky  
Sworn/Affirmed before me this 19  
Day of January, 2016  
**T. SUNSTRUM**  
DEPUTY REGISTRAR  
COURT OF QUEENS BENCH  
FOR MANITOBA

4. Was Manitoba's decision to require all marriage commissioners to perform same sex marriage ceremonies made to ensure same sex couples had access to marriage ceremonies performed by marriage commissioners?

**Yes, in part. Manitoba's primary reason was to ensure that same-sex couples were not subject to discrimination.**

5. Was Manitoba's decision to require all marriage commissioners to perform same sex marriages made regardless of the impact the number of marriage commissioners objecting to performing same-sex marriages on religious grounds would have on the accessibility of same sex couples to a ceremony performed by a marriage commissioner?

**Yes.**

6. On what basis did Manitoba decide to require all marriage commissioners – without accommodating those with religious objections – to perform same sex marriages?

**Manitoba has two other ways to accommodate religious objections to performing same-sex marriages.**

7. Please describe the process through which Manitoba decided to require all marriage commissioners to perform same sex marriages without exception, the September 16, 2004 Decision. Also, please answer the following specific questions:

- a. When was this process started?

**Immediately after the decision was rendered.**

- b. Which individuals from what positions were involved in this process?

**Manitoba Justice lawyers and senior staff at Consumer and Corporate Affairs.**

- c. When was the decision to require all marriage commissioners to perform same sex marriages without exception made?

**Shortly after the decision was rendered.**

- d. How was this decision communicated to the Vital Statistics Agency?

**Senior staff was part of the decision-making.**

- e. When was this decision communicated to the Vital Statistics Agency?

**See above.**

- f. Did Manitoba consider the *Charter* rights of religious marriage commissioners before it made this decision?

**Yes.**

- g. Did Manitoba consider its duty to accommodate marriage commissioners to the point of undue hardship before it made this decision?

**Manitoba considered the law.**



- h. Did Manitoba seek legal advice before it made this decision? If so, please identify the counsel Manitoba consulted.

**Manitoba Justice provided legal advice. Manitoba declines to identify the names of counsel.**

- i. Did Manitoba seek legal advice concerning the rights of religious marriage commissioners under the *Charter* and the *Human Rights Code* before it made this decision?

**Manitoba Justice provided legal advice. The nature of that advice is privileged.**

- j. Did Manitoba consider the approach taken by provinces to provide exemptions to marriage commissioners and other civil officials who objected to performing same sex marriages? If so, please describe how Manitoba considered the approaches other provinces took to accommodate marriage commissioner.

**The question assumes knowledge not in evidence regarding the approaches of other provinces. To the extent that this is a legal question, Manitoba declines to answer it. Manitoba made decisions based on a legal analysis.**

- k. Why did Manitoba reject the options taken by other provinces to accommodate marriage commissioners who refused to perform same sex marriages?

**This question assumes knowledge not in evidence regarding the approaches of other provinces. To the extent that this is a legal question, Manitoba declines to answer it. Manitoba accommodates religious beliefs by allowing religious organizations to identify individuals entitled to marry on their behalf and by allowing for temporary permits.**

- l. When did Manitoba consider the "single entry point" system?

**Manitoba does not use this system.**

- m. Please describe how Manitoba considered the "single entry point" system?

**Manitoba does not use this system.**

- n. Why did Manitoba reject the "single entry point" system?

**Manitoba does not use this system.**

- o. Did Manitoba consider not publishing the name of marriage commissioners who objected to performing same sex marriages on religious grounds while permitting them to remain marriage commissioners?

**Yes and this was rejected.**

8. What position did Manitoba take before Justice Yard in *Vogel v. Canada (Attorney General)*, [2004] M.J. No. 418?

**Manitoba consented.**

- a. When did Manitoba learn that Justice Yard would change the definition of marriage?

**When the decision was rendered.**

- b. When was the Vital Statistics Agency informed that the definition of marriage had been changed?

**At the time that the decision was rendered.**

- c. How was the Vital Statistics Agency informed that the definition of marriage had been changed?

**Staff was in court.**

- d. How did the Vital Statistics Agency know that Justice Yard's decision would not be appealed?

**Neither government had made any arguments against the decision. Neither government indicated it would appeal. Neither government did appeal.**

9. We request any records (emails, letters, decisions, memos, notes, etc.) relating to the September 16, 2004 Decision, including those records relating to the consideration and rejection of options to accommodate marriage commissioners objecting to same-sex ceremonies.

**To the extent that such records exist, they are privileged.**

10. When Mr. Kisilowsky informed the Vital Statistics Agency of his religious convictions prohibiting him from performing same sex marriages, did Manitoba consider if it could specifically accommodate Mr. Kisilowsky without suffering undue hardship?

**Manitoba has two other ways to perform marriages that accommodate religious beliefs.**

11. Please describe why Manitoba could not accommodate Mr. Kisilowsky by removing his name from the public list of marriage commissioners while allowing him to be a marriage commissioner.

**Every marriage commissioner licensed by the Province must be willing to perform all legal marriages. Manitoba has two other ways to perform marriages that accommodate religious views.**

12. Did Manitoba decide that it could not allow Mr. Kisilowsky to maintain his license as a marriage commissioner because doing so would cause Manitoba undue hardship?

**Manitoba's decision was taken based on its understanding of the law.**

13. What hardship does Manitoba believe it would suffer if Mr. Kisilowsky were fully reinstated as a marriage commissioner?

**This would violate the rights of others.**

14. We request any records (emails, letters, decisions, memos, notes, etc.) relating to the consideration and rejection of options to accommodate Mr. Kisilowsky while permitting him to remain a marriage commissioner.

**To the extent that these records exist, they are privileged.**

If solicitor-client privilege is asserted in partial or complete response to any of these questions, please provide:

- a. The identity of the government lawyer involved;
- b. The nature of the relationship in which legal advice was allegedly provided; and
- c. The subject-matter of the legal advice allegedly provided; and
- d. The circumstances in which the legal advice was allegedly sought and rendered.

**Any information was provided by lawyers employed by Manitoba Justice to other government staff. Manitoba declines to provide any additional information.**

Yours truly,



Allison Kindle Pejovic  
Crown Counsel