

Court File No. CV-21-00077187-0000

**ONTARIO SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,  
ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,  
SHERRI OGDEN, JAHMAL PIERRE, and LINSLEY GREAVES**

Applicants

-and-

**CITY OF HAMILTON**

Respondent

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**APPLICANTS' APPLICATION RECORD**

**VOLUME 2 (TABS 19-42)**

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<b>VOLUME 2 INDEX – <i>HEEGSMA ET AL. v. CITY OF HAMILTON</i></b>	
<b>TAB (EXHIBIT LETTER)</b>	<b>Document</b>
<b>APPLICANTS' EVIDENCE</b>	
19.	Affidavit of Shawn Arnold dated September 29, 2021
20.	Affidavit of Shawn Arnold dated May 9, 2022
21.	Transcript of the Cross Examination of Shawn Arnold dated August 14, 2024
<b>LINSLEY GREAVES</b>	
22.	Affidavit of Linsley Greaves dated June 2, 2022
23.	Affidavit of Linsley Greaves dated June 27, 2023
24.	Transcript of the Cross Examination of Linsley Greaves dated August 14, 2024
<b>KRISTEN HEESGMA</b>	
25.	Affidavit of Kristen Heegsma dated June 7, 2022
26.	Affidavit of Kristen Heegsma dated April 27, 2023
27.	Transcript of the Cross Examination of Kristen Heegsma dated August 23, 2024
<b>CASSANDRA JORDAN</b>	
28.	Affidavit of Cassandra Jordan dated June 3, 2022
29.	Transcript of the Cross Examination of Cassandra Jordan dated August 15, 2024
<b>JULIA LAUZON</b>	
30.	Affidavit of Julia Lauzon dated June 2022 (unsworn)
31.	Affidavit of Julia Lauzon dated August 12, 2024
32.	Transcript of the Cross Examination of Julia Lauzon dated October 15, 2024
<b>AMMY LEWIS</b>	
33.	Affidavit of Ammy Lewis (unsworn) dated June 2022
34.	Affidavit of Ammy Lewis dated August 14, 2024
35.	Transcript of the Cross Examination of Ammy Lewis dated August 14, 2024
<b>ASHLEY MACDONALD</b>	
36.	Affidavit of Ashley MacDonald dated June 13, 2022
37.	Transcript of the Cross Examination of Ashley Macdonald dated October 10, 2024
<b>DARRIN MARCHAND</b>	
38.	Affidavit of Darrin Marchand dated September 27, 2021

<b>39.</b>	<b>Transcript of the Cross Examination of Darrin Marchand dated October 13, 2021</b>
<b>40.</b>	<b>Affidavit of Darrin Marchand dated June 2, 2022</b>
<b>41.</b>	<b>Affidavit of Darrin Marchand dated April 25, 2023</b>
<b>42.</b>	<b>Transcript of the Cross Examination of Darrin Marchand dated August 29, 2024</b>



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

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AFFIDAVIT OF SHAWN ARNOLD  
(affirmed September 29, 2021)

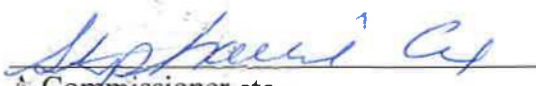
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I, Shawn Arnold, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

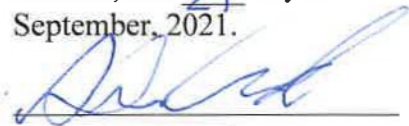
1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I am a person living in an encampment. I became homeless in 2020 when I was evicted from my rental unit.
3. In 2020 I went to Ferguson Street in Hamilton because I had nowhere else to go. We were eventually kicked out of Ferguson by a large presence of police and by-law officers that began dismantling tents and disposing of property. I was forced to look for another area to reside.
4. I am a recovery addict and have been clean. I am currently on methadone and scored 16 on an acuity test called the VISPD. Based on this assessment and the fact that I am staying away from drugs, a shelter is inappropriate and unhealthy for me. I will likely fall back into using if I go, and my acuity score speaks to difficulties in congregate settings like shelters where there is violence, other people with mental health issues and drug use.
5. The City agreed to a protocol in place of the structures by-law. This protocol allowed me to stay in a sanctioned park without having to move because of my high acuity rating of

16. I have been staying in JC Beemer park since the fall of 2020 when the protocol was enacted.
6. I have had both negative and positive experiences with by-law and the police – some exercising discretion to allow me to stay because they know I am not violent and that I cannot go to a shelter.
7. By staying in one location I am routinely able to connect with meals on meals, receive methadone and meet my other needs as agencies supporting me know when I am and I am not constantly moving.
8. Since the revocation of the protocol and enforcement of the structures by-law on August 30, 2021, I have been displaced from JC Beemer park and have been walking in search of refuge in another location. I no longer have a tent. I have had to move:
9. My tent was wrecked and so I couldn't re-erect it after people stole from me while I was away from it. I then began moving to various places in the City with the clothes on my back and backpack. It's hard without a tent having nowhere to relax. If I get a new tent I know that I
10. The City of Hamilton has not offered me shelter or housing prior to evicting me from encampments. will be asked to dismantle and move because of the By-law

**AFFIRMED BEFORE ME** in the  
City of Hamilton, this 29 day of  
September, 2021

  
A Commissioner etc.  
LSC/C 65464F

**AFFIRMED** at the City of  
Hamilton, in the Province of  
Ontario, this 29 day of  
September, 2021.



11. It was helpful to me to stay put in one place. I am now disconnected from agencies that would routinely visit me as I am wandering around and am exhausted.

Court File No.CV-21-00077817-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF SHAWN ARNOLD  
(affirmed May 9, 2022)

I, Shawn Arnold, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I became homeless in 2020.
3. My date of birth is 07/23/1969. *SA*
4. I am a person that receives the Ontario Disability Support Program income.
5. It is rare if not impossible for me to obtain housing in the private market rental market because my ODP income is so low. I receive \$497.00 in shelter benefits when I have shelter costs. I am not entitled to this shelter benefit when I do not have shelter costs, which means that I do not receive this benefit when I am unhoused. When I do not have housing I only receive the basic needs portion of the benefit which is \$672.00.

6. When I became homeless in 2020 I went to the Ferguson Street encampment in Hamilton. I was forced to leave the Ferguson encampment. By-law officers or police, I cannot recall which authority, had verbally advised in advance when I had to leave the encampment. I remained at the encampment at Ferguson Street until the last day that we were required to leave by. On the day that authorities came to evict encampment residents. I complied with their direction to leave because I did not feel that I had an option not to. I witnessed both police and by-law officers physically take down other residents' tents, hovering over people and take their personal possessions to dispose of them by placing them in piles for trucks to pick up. I did not want this to happen to my tent and possessions and I did not want to have conflict with them, so I abided by their direction to move.
7. At the time that advance notice to move was given to me, no one from the City of Hamilton assessed my personal needs or offered suitable shelter options for me to move to following the eviction. At the time of eviction I also did not receive support to ensure that I was moved into a form of shelter that I could function in.
8. After I was evicted from the Ferguson encampment, I moved to another park and the authorities at the Ferguson eviction were aware of this because I told them I would be moving to another green space.
9. I am a recovering addict and have an honest fear that my sobriety would be compromised if I went to a shelter. This is because people selling drugs will target shelters where they know that people use substances and some people who use shelters will use substances in them or around them. I find it easier to maintain sobriety outside of shelters, even if that means I am on the street with or without a tent.
10. I am currently using methadone to assist with the maintenance of my sobriety.
11. I have had a VIS PDT assessment and I was verbally told that my score was 16.
12. I was able to remain in a park for several months when the City agreed to a protocol that allowed some unhoused people to remain in sanctioned sites in public spaces. I was told that I could remain in the park that I was staying at in my tent, called JC Beemer Park, because my VIS PDT score was 16.
13. The benefits of having a tent in a stable location are as follows:
  - a. I was less sleep deprived. When I was evicted from JC Beemer park, which coincided with the end of the protocol that allowed me to stay there, I experienced severe sleep deprivation because I had nowhere to rest or sleep. I wandered the street for over 4 days without sleeping. Without a tent I am less likely to sleep because I do not have privacy

and I do not have a reliable community that provides safety. I am nervous to fall asleep in the open for fear of my things being stolen from me.

b. I could relax and lay down compared to wandering around

c. I did not have to pack and move constantly

d. It allowed me to better maintain connection to services. For example, my Wesley Day Centre and outreach workers would come to the encampment to bring food, clothing, and necessities and harm reduction supplies. My Wesley case worker assisted me to find housing but as soon as the protocol ended and I no longer could remain there, I witnessed authorities taking down tents and peoples' things, including my own. I was able to retrieve some of my possession but not all. When that eviction happened I lost my tent and majority of possessions and I was left with nowhere to go and I just had the possessions I could carry and was left to wonder without anywhere to sleep for days. During this time Caroline my Wesley worker was looking for me to sign a new lease with a rental unit which was a rooming house, but she could not locate me because I had been displaced from the encampment.

e. When I was able to stay in the encampment I was able to rely on the community of other residents there to watch my belongings whenever I needed to leave. I rarely have a phone while I am unhoused because it routinely gets stolen and it is expensive to replace and maintain. Without a phone it is difficult to maintain connections to services. I am forced to walk to every service that I need to utilize. By leaving the encampment I always risk having my tent and possessions stolen, which is why having a consistent place to stay with other people gives me a greater chance to leave my things while I attend appointments because they will be cared for while I am gone.

f. The tent provided shelter from weather.

14. It is my personal belief that I would not have been as efficiently connected to someone to assist me to secure housing if I had not been stabilized in one location in a tent.

15. I am currently living the rental unit that my Wesley worker assisted me to get.

AFFIRMED BEFORE ME in the )  
City of Hamilton, this 9<sup>th</sup> day of )  
May, 2022 )



AFFIRMED at the City of  
Hamilton, in the Province of  
Ontario, this 9<sup>th</sup> day of May,  
2022.



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16	following pages: NONE
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1	2
2	APPEARANCES:
3	Sharon Crowe For the Applicants
4	Curtis Sell
5	Nnonyechi Okenwa
6	Michelle Sutherland
7	Bevin Shores For the Respondent
8	Jordan Diacur
9	Vivian Caldas
10	ALSO PRESENT:
11	Katherine Finlayson Summer law student
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2	--- Upon commencing at 2:23 p.m.
3	SHAWN ARNOLD: Affirmed.
4	CROSS-EXAMINATION BY MR. DIACUR:
5	Q. Good afternoon, Mr. Arnold. My
6	name is Jordan Diacur. My name is just there below me
7	on the screen. If you can see it, that's how it's
8	spelled. I'm a lawyer acting for the City of Hamilton.
9	I have some questions for you today principally about
10	an affidavit that you swore, dated May 9, 2022. Do you
11	have a copy of that document in front of you?
12	A. Yes, I do.
13	Q. Have you --
14	A. Yes, I do.
15	Q. Thank you, sir. Have you reviewed
16	that document since you swore it in May 2022?
17	A. I'm just going through it now,
18	right now.
19	Q. I'm going to take you to certain
20	parts of it and have some questions to ask you about
21	it. But for now, I just want to know whether or not
22	you've reviewed it since you swore it.
23	A. Yeah.
24	Q. Okay. Have you done that recently
25	or was that a long time ago?
	A. (Indiscernible).



<p style="text-align: right;">5</p> <p>1 MS. CROWE: Can you speak louder?</p> <p>2 THE DEPONENT: I thought that was last</p> <p>3 night. Wasn't it? We went through this last night.</p> <p>4 BY MR. DIACUR:</p> <p>5 6 Q. Thank you, sir. To begin with,</p> <p>6 may I call you Mr. Arnold?</p> <p>7 A. You sure can.</p> <p>8 7 Q. I tend to also refer to witnesses</p> <p>9 as "sir." If that's all right with you, I propose to</p> <p>10 do that as well, unless there's another pronoun that</p> <p>11 you'd prefer that I use.</p> <p>12 A. I don't -- no, I don't have a</p> <p>13 problem with that at all, sir.</p> <p>14 8 Q. Thank you. Sir, your date of</p> <p>15 birth is July 23, 1969? Is that correct?</p> <p>16 A. That's right. Summer of '69.</p> <p>17 9 Q. Summer of '69, right. If I'm</p> <p>18 doing my math right, that makes you 55 years old today?</p> <p>19 A. Yeah, that's correct.</p> <p>20 10 Q. Sir, I understand that you are</p> <p>21 currently residing in Hamilton. Is that correct?</p> <p>22 A. That's correct.</p> <p>23 11 Q. How long have you resided in</p> <p>24 Hamilton?</p> <p>25 A. Pretty much my whole life, except</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">7</p> <p>1 of any rent payable, either to the YMCA or to the hotel</p> <p>2 that you're staying in currently? <b>A4668</b></p> <p>3 A. I don't believe so. I'm pretty</p> <p>4 sure it's just the same. I -- to be honest with you, I</p> <p>5 have enough things that I have -- I believe it's the</p> <p>6 same as it is.</p> <p>7 20 Q. In addition to your affidavit</p> <p>8 sworn May 9, 2022, there are two other documents that</p> <p>9 I'd like to show to you. First, I'll ask you whether</p> <p>10 you've seen them before. The first is a letter</p> <p>11 prepared by a doctor, Dr. Jill Wiwcharuk. I'll put the</p> <p>12 document up on the screen so that you can see it.</p> <p>13 There may also be a copy of it available that you can</p> <p>14 take a look at in hard copy. Can you see on the screen</p> <p>15 the document that I put up?</p> <p>16 A. No, but I believe I -- I have one</p> <p>17 in front of me.</p> <p>18 21 Q. Okay. So this is the letter. It</p> <p>19 has the Shelter Health Network letterhead and it's</p> <p>20 dated June 10, 2022. The copy that I have, anyway, is</p> <p>21 stamped Exhibit H to the affidavit of Jill Wiwcharuk.</p> <p>22 Is that the copy you're looking at?</p> <p>23 A. Yes.</p> <p>24 22 Q. And it references you and your</p> <p>25 date of birth in the bolded re line; is that right?</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">6</p> <p>1 in the 90s I was in Vancouver. But pretty much my</p> <p>2 whole life.</p> <p>3 12 Q. Were you born in Hamilton?</p> <p>4 A. Yes. Yes, I was.</p> <p>5 13 Q. Where are you currently residing?</p> <p>6 A. I was at the YMCA, but due to the</p> <p>7 fire, they have us at the -- the Premier. I believe it</p> <p>8 was called the Days Inn before.</p> <p>9 14 Q. It's a hotel?</p> <p>10 A. A hotel, yeah. Hotel -- yeah, I</p> <p>11 think it was Days Inn, but now it's called the Premier.</p> <p>12 They have us in there right now.</p> <p>13 15 Q. So you were renting a unit in the</p> <p>14 YMCA on James Street in Hamilton?</p> <p>15 A. Yes, I was.</p> <p>16 16 Q. And there was a fire that occurred</p> <p>17 in July of 2024; is that right?</p> <p>18 A. Yes.</p> <p>19 17 Q. And as a result of that fire, you</p> <p>20 were displaced from your unit; is that right?</p> <p>21 A. Yes, that's right.</p> <p>22 18 Q. And you've been provided alternate</p> <p>23 accommodation in a hotel space as a result of that?</p> <p>24 A. Yes.</p> <p>25 19 Q. Has there been any change in terms</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">8</p> <p>1 A. That's right.</p> <p>2 23 Q. Have you seen Dr. Wiwcharuk as a</p> <p>3 physician treating you?</p> <p>4 A. Is that the -- no, I haven't, I</p> <p>5 don't think. Is that the one that's at the network --</p> <p>6 or what's it called? They changed their name. That's</p> <p>7 the first -- no, I haven't seen, no.</p> <p>8 24 Q. You don't recall ever seeing</p> <p>9 Dr. Wiwcharuk for any medical treatment?</p> <p>10 A. No.</p> <p>11 25 Q. In this letter, Dr. Wiwcharuk</p> <p>12 indicates that you had been a regular patient of hers</p> <p>13 through SHN, Shelter Health Network, and The Hamilton</p> <p>14 Clinic since 2020. She also indicates that she --</p> <p>15 A. Oh, okay.</p> <p>16 26 Q. -- sporadically provided care</p> <p>17 since 2018. Does that jog your memory?</p> <p>18 A. Yes, I know what you're talking</p> <p>19 about. I understand who it is now, yes. That's</p> <p>20 correct, yeah.</p> <p>21 27 Q. Is that accurate that you saw her</p> <p>22 starting in roughly 2018 and became a regular patient</p> <p>23 in 2020?</p> <p>24 A. That's right.</p> <p>25 28 Q. She lists a number of pieces of</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. <b>A384</b> (905) 522-1653</p>

1 past medical history in the first paragraph of that  
 2 letter. She indicates opiate use disorder. Do you see  
 3 that?  
 4 **A. On the first page?**  
 5 29 **Q.** In the first paragraph on the  
 6 first page, that's right.  
 7 **A. Okay. Okay, yes, I do.**  
 8 30 **Q.** Is that something that you saw  
 9 Dr. Wiwcharuk for treatment of?  
 10 **A. Yes. Yes, it was.**  
 11 31 **Q.** Were you diagnosed with opiate use  
 12 disorder by Dr. Wiwcharuk?  
 13 **A. Yes. I'm still currently taking**  
 14 **the methadone and -- yeah, I'm still doing that too.**  
 15 32 **Q.** Prior to starting methadone  
 16 treatment, what opiates were you using?  
 17 **A. I was just -- hydromorphs and --**  
 18 **and cocaine, I guess. I've been doing -- I haven't**  
 19 **been -- I've stopped -- I haven't done needles for**  
 20 **about six months now. I'd say at least six months.**  
 21 **I'm doing the -- I'm doing pretty good on the --**  
 22 **staying away from people and trying to stay clean.**  
 23 33 **Q.** And the methadone treatment has  
 24 assisted you with that?  
 25 **A. Yes.**

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 (905) 522-1653

1 34 **Q.** The next thing that she lists --  
 2 **A. I'm --**  
 3 35 **Q.** Oh, sorry, I didn't mean to cut  
 4 you off, sir. What was that?  
 5 **A. I'm still taking the methadone and**  
 6 **it's working. It is working for me.**  
 7 36 **Q.** Now, Dr. Wiwcharuk also mentions  
 8 stimulant use disorder. Was that something that she  
 9 diagnosed you with?  
 10 **A. Stimulant? What is that? I don't**  
 11 **understand.**  
 12 37 **Q.** I'm asking you whether it's  
 13 something that you were told that you were diagnosed  
 14 with. Is that something you've ever heard before?  
 15 **A. I'm kind of confused on that, the**  
 16 **stimulant. I'm -- I'm confused there.**  
 17 38 **Q.** The next thing that she lists is  
 18 attention deficit hyperactive disorder. Is that  
 19 something that you were diagnosed with by  
 20 Dr. Wiwcharuk?  
 21 **A. Yeah.**  
 22 39 **Q.** Are you in treatment for ADHD,  
 23 attention deficit hyperactive disorder?  
 24 **A. I'm not in treatment, but I**  
 25 **just -- like I said, I'm focused on -- I stay away from**

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1 **certain crowds and I -- you know, I'm trying to focus**  
 2 **on just staying clean, and I've just -- I think I'm**  
 3 **doing a pretty good job. Not 90 percent or a hundred**  
 4 **percent perfect, but I'm doing a lot better than I was.**  
 5 40 **Q.** Do you know when the first time  
 6 you were told by a physician that you had attention  
 7 deficit hyperactive disorder was?  
 8 **A. I guess that was ten years ago or**  
 9 **so.**  
 10 41 **Q.** That's before you saw  
 11 Dr. Wiwcharuk?  
 12 **A. Dr. Jill -- Dr. Jill diagnosed me**  
 13 **with that.**  
 14 42 **Q.** The next thing she lists is  
 15 hepatitis C and she indicates recently treated.  
 16 **A. Yeah.**  
 17 43 **Q.** Was that something that she  
 18 treated you for, Dr. Wiwcharuk?  
 19 **A. Yeah, Dr. Jill. She did. Yes,**  
 20 **she did.**  
 21 44 **Q.** And did that resolve, the  
 22 hepatitis C, or do you still suffer from that  
 23 condition?  
 24 **A. No, it's resolved.**  
 25 45 **Q.** The last thing she lists is

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1 chronic left shoulder pain. What was the source of  
 2 that pain?  
 3 **A. I think it would have been -- I**  
 4 **had to depend on my -- my sleeping conditions, I guess,**  
 5 **because the pain in my shoulder's gone away.**  
 6 46 **Q.** So you don't still suffer from  
 7 chronic left shoulder pain?  
 8 **A. No.**  
 9 47 **Q.** Were you ever injured in your left  
 10 shoulder?  
 11 **A. Nothing serious or nothing, but**  
 12 **I -- maybe I, you know, fell off my bike a couple times**  
 13 **maybe, but nothing serious.**  
 14 48 **Q.** So no particular injury that you  
 15 can recall that would result in that sort of chronic  
 16 pain to your left shoulder?  
 17 **A. No.**  
 18 49 **Q.** One of the things that Dr. Jill  
 19 Wiwcharuk mentions in her letter, the second paragraph  
 20 now, is that you were living in a tent in J.C. Beemer  
 21 Park. That's in Hamilton?  
 22 **A. That's right.**  
 23 50 **Q.** It was in the winter of 2020/2021?  
 24 Is that accurate?  
 25 **A. No, it was in the summer.**

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		13
1	51	Q. So --
2		A. J.C. Beemer -- sorry, yeah,
3		that's -- it was in the winter, yes.
4	52	Q. And in those two years, the winter
5		of 2020/2021?
6		A. Yeah, that's right.
7	53	Q. She mentions here that you would
8		talk about your desire to treat opioid use disorder and
9		get on what she calls opioid agonist therapy, i.e.,
10		methadone. She then says, "However, he was unable to
11		follow up regularly enough to do so."
12		A. I --
13	54	Q. Why was that?
14		A. I don't -- I'm actually -- don't
15		know what she's talking about, because I got -- stayed
16		on it. And I did get off of it when I moved to -- when
17		I was housed, but I -- a year later I went back on it,
18		and then I think that would have been in 2022 or
19		something. I've been back on it since then.
20	55	Q. When did you begin methadone
21		treatment?
22		A. Let me think. 2020 or something
23		like that, I believe.
24	56	Q. At this time in the winter of
25		2020? Is that right?
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		14
1		A. I believe so.
2	57	Q. How did you obtain methadone
3		treatment? Was it from Dr. Jill Wiwcharuk?
4		A. That's right. That's correct.
5	58	Q. She mentions having to go to a
6		pharmacy daily for doses.
7		A. That's right.
8	59	Q. Is that something that you've been
9		doing since the winter of 2020?
10		A. That's correct.
11	60	Q. When Dr. Wiwcharuk says that you
12		were unable to follow up regularly enough to do so,
13		she's incorrect?
14		A. Yes, she is incorrect. Because
15		I -- if you miss three days, you have to restart, but I
16		never missed more than one day at a time. And I did
17		stop taking it for a year, but like I said, I went back
18		on it in 2022 and I've been on it. I've missed maybe
19		one day since then. Like, I'm -- I'm on -- I go to a
20		different clinic now. I'm at -- what's it -- I go to
21		the pharmacy on -- Pharma Plus on James Street South.
22	61	Q. When you went off the methadone
23		treatment and then reentered methadone treatment, was
24		that also via Dr. Jill Wiwcharuk or a different
25		physician?
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		15
1		A. A different physician. <b>A4670</b>
2	62	Q. And who was that?
3		A. I don't have her name. Yeah, I
4		don't have her name. Actually, her name's Dr. Jill but
5		it's a different Dr. Jill.
6	63	Q. I'll continue, but if you think of
7		her last name, you let me know.
8		A. Thank you.
9	64	Q. Now, my understanding is the
10		methadone treatment is designed to slowly decrease the
11		dosage over time, such that eventually you won't need
12		to be on the methadone treatment any longer. Is that
13		your understanding too?
14		A. Yes.
15	65	Q. Is that something that you are
16		experiencing, a lowering dose over time?
17		A. Well, I found it as a -- I don't
18		have to -- I don't have to be on it every day and worry
19		about being sick. Like, I can go two days and I'm fine
20		through the day. I don't have to, you know -- I don't
21		have to do -- I don't need it.
22	66	Q. Is that a choice that you've made,
23		that you won't pick up a dose on a particular day, or
24		is that something that you've been told by a doctor you
25		don't have to do?
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		16
1		A. Well, it's a -- I don't know how
2		it works. It's -- like, I can go the whole day without
3		even thinking about doing it or I won't be sick. It
4		helps me -- it prevents me from being sick and wanting
5		to do it.
6	67	Q. The last sentence in that
7		paragraph reads, "He found the crowded conditions in
8		shelters too hard to manage and he would end up
9		sleeping outside or couch surf somewhere." Do you see
10		that there? Second paragraph, last sentence.
11		A. Yeah, I see it.
12	68	Q. Is that accurate?
13		A. Yes, that's true.
14	69	Q. Do I understand from that that it
15		was possible for you to go into a shelter but you chose
16		not to due to crowded conditions?
17		A. I don't -- it's not just the
18		crowded conditions. I stay away from certain people.
19	70	Q. So it wasn't the crowded
20		conditions; it was particular individuals you wanted to
21		stay away from?
22		A. This is correct.
23		MS. CROWE: For the record, his initial
24		answer was "not just the crowded conditions." I don't
25		know if you picked that up. <b>A386</b>
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<p>17</p> <p>1 BY MR. DIACUR:</p> <p>2 71 Q. I'm not sure if that came through.</p> <p>3 So it wasn't just crowded conditions; it was also</p> <p>4 certain individuals?</p> <p>5 A. Well, certain individuals, yeah,</p> <p>6 comes with certain habits, and that's why I stay away</p> <p>7 from those crowds, to stay away from the habit.</p> <p>8 72 Q. Was there any other reason that</p> <p>9 you would choose not to go into a shelter?</p> <p>10 A. I wouldn't say any other reason,</p> <p>11 no. I just choose to stay away from people that -- you</p> <p>12 know, like I said, I'm going to -- I'm saving myself</p> <p>13 for the years of the drug abuse I've done and it's --</p> <p>14 you know, it's embarrassing, so I'm trying to just</p> <p>15 clean my act up a bit and stuff, but...</p> <p>16 73 Q. I understand that you --</p> <p>17 A. I just --</p> <p>18 74 Q. Sorry, I didn't mean to cut you</p> <p>19 off, sir.</p> <p>20 A. It's okay. I'm good. You can go</p> <p>21 ahead.</p> <p>22 75 Q. I understand that you have had a</p> <p>23 housing case worker assist you with obtaining housing</p> <p>24 in the past. Is that correct?</p> <p>25 A. That's correct.</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>19</p> <p>1 I'm wrong, but I think it was about \$450. <b>A4671</b></p> <p>2 84 Q. \$450 a month?</p> <p>3 A. I could be wrong. I believe</p> <p>4 that's what it was.</p> <p>5 85 Q. I understand that you receive</p> <p>6 ODSP --</p> <p>7 A. Yes.</p> <p>8 86 Q. -- Ontario Disability Support</p> <p>9 Program payments. Is that right?</p> <p>10 A. That's right. That's correct.</p> <p>11 87 Q. Was that true at that time as</p> <p>12 well?</p> <p>13 A. Yeah.</p> <p>14 88 Q. Do you recall when you first</p> <p>15 started receiving ODSP payments?</p> <p>16 A. It would have been closer to --</p> <p>17 started here in Ontario in '22? 2022, I believe. I</p> <p>18 believe it started in 2022. Yeah, I think the summer</p> <p>19 of 2022, I believe.</p> <p>20 89 Q. And is there any particular</p> <p>21 disability on which you rely to qualify for ODSP?</p> <p>22 A. I don't understand.</p> <p>23 90 Q. Well, as I understand it, Ontario</p> <p>24 Disability Support Program payments are made to those</p> <p>25 who qualify as disabled, so my question is whether</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p>18</p> <p>1 76 Q. And that they ultimately were able</p> <p>2 to obtain housing for you in 2021? Is that true?</p> <p>3 A. Yes.</p> <p>4 77 Q. Is that why you ultimately</p> <p>5 departed from J.C. Beemer Park?</p> <p>6 A. Yeah, I believe so.</p> <p>7 78 Q. Was the housing that you obtained</p> <p>8 located at 47 Ottawa Street North in Hamilton?</p> <p>9 A. Yes, that's right.</p> <p>10 79 Q. I know that area pretty well. 47</p> <p>11 Ottawa Street North, it's an apartment above a</p> <p>12 storefront. Is that correct?</p> <p>13 A. There was a storefront in the</p> <p>14 front of it and -- yeah, it's a couple doors up from</p> <p>15 the Tim Hortons.</p> <p>16 80 Q. The first Tim Hortons ever.</p> <p>17 A. Yeah.</p> <p>18 81 Q. Yeah, I know the area pretty well.</p> <p>19 So it's an apartment above a storefront?</p> <p>20 A. That's right.</p> <p>21 82 Q. Was that a rental unit?</p> <p>22 A. Yes.</p> <p>23 83 Q. Do you recall what you were paying</p> <p>24 to stay there?</p> <p>25 A. I believe I could -- correct me if</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>20</p> <p>1 there's a particular disability that was relied upon in</p> <p>2 order to qualify.</p> <p>3 A. I have -- I -- yeah -- I don't --</p> <p>4 I guess just -- I'm not sure how you can say this.</p> <p>5 (Indiscernible).</p> <p>6 91 Q. I'm sorry, sir. I couldn't hear</p> <p>7 that response. Could you speak up?</p> <p>8 A. I'm trying to -- terms, I don't --</p> <p>9 I believe it would be like a -- what do you call it? I</p> <p>10 have a problem with focusing -- focusing, and I guess</p> <p>11 that would be what the ADHD is.</p> <p>12 92 Q. Understood.</p> <p>13 A. I have, you know, I guess, a focus</p> <p>14 problem. I'll plan on doing something for the day, and</p> <p>15 I'll get ready to go, and then I would be like -- run</p> <p>16 into somebody else and they'll want me to -- I end up</p> <p>17 helping somebody else out or something.</p> <p>18 93 Q. Understood. Do you know how much</p> <p>19 you currently receive in ODSP payments each month?</p> <p>20 A. Almost \$700. \$680 or something.</p> <p>21 94 Q. Do you receive an additional</p> <p>22 amount for shelter benefits?</p> <p>23 A. Yeah. Yes, I believe it's \$400 or</p> <p>24 something. \$450, I believe.</p> <p>25 95 Q. Do you have any other income</p> <p>Nimigan Mihailovich Reporting Inc. <b>A387</b> (905) 522-1653</p>

<p style="text-align: right;">21</p> <p>1 besides ODSP payments each month?</p> <p>2 <b>A. No.</b></p> <p>3 96 <b>Q.</b> Sir, I'm going to put up on the</p> <p>4 screen the affidavit that I was referencing from</p> <p>5 May 2022. If you have a copy of that in front of you,</p> <p>6 I will tell you which paragraphs I'm referencing and I</p> <p>7 have some questions for you. At paragraph 5, you state</p> <p>8 "it is rare if not impossible for me to obtain housing</p> <p>9 in the private market rental market because my ODP</p> <p>10 income is so low." Now, you've told me about two</p> <p>11 different places that you have rented. I understand</p> <p>12 that the 47 Ottawa Street North rental was a private</p> <p>13 market apartment. Is that accurate?</p> <p>14 <b>A. Yes, it was.</b></p> <p>15 97 <b>Q.</b> Is that what you mean when you say</p> <p>16 that it's rare for you to be able to obtain such</p> <p>17 housing?</p> <p>18 <b>A. Well, the price of -- if you look</b></p> <p>19 <b>at the prices of just a bachelor, it's almost -- it's</b></p> <p>20 <b>really hard to find a place for under \$500 nowadays.</b></p> <p>21 98 <b>Q.</b> So, rare, but you say "rare if not</p> <p>22 impossible." So you would agree that it's rare, but</p> <p>23 it's not impossible, and that you've --</p> <p>24 <b>A. Yeah, it's not impossible, but</b></p> <p>25 <b>it's -- I know they have -- like, CityHousing has some</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>	<p style="text-align: right;">23</p> <p>1 <b>A. That's right.</b></p> <p>2 103 <b>Q.</b> That's a form of shelter that's</p> <p>3 available and that's within your budget?</p> <p>4 <b>A. That's right.</b></p> <p>5 104 <b>Q.</b> Paragraph 6 of your affidavit --</p> <p>6 this is again the May 2022 affidavit -- you indicate</p> <p>7 that you became homeless in 2020. How did that come to</p> <p>8 pass?</p> <p>9 <b>A. That was when I was staying at a</b></p> <p>10 <b>place from a friend, but they -- him and his wife split</b></p> <p>11 <b>up and he sold the place, so I had to move.</b></p> <p>12 105 <b>Q.</b> So due to a sale, you were evicted</p> <p>13 from that?</p> <p>14 <b>A. I wasn't evicted, but I had to</b></p> <p>15 <b>move because they sold the place.</b></p> <p>16 106 <b>Q.</b> Were you paying rent at that</p> <p>17 point?</p> <p>18 <b>A. Yes.</b></p> <p>19 107 <b>Q.</b> What was your source of income at</p> <p>20 that time?</p> <p>21 <b>A. My income?</b></p> <p>22 108 <b>Q.</b> Yes. If I understood, ODSP is</p> <p>23 your only source of income today, and that started in</p> <p>24 about 2022.</p> <p>25 <b>A. My last job, I was roofing. That</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>
<p style="text-align: right;">22</p> <p>1 <b>benefit where they're under certain conditions, some</b></p> <p>2 <b>people pay a low income for an apartment, but you have</b></p> <p>3 <b>to qualify or be on a -- on a waiting list or</b></p> <p>4 <b>something. I'm on a waiting list for the -- what's it</b></p> <p>5 <b>called -- the Indwell buildings. I think those are the</b></p> <p>6 <b>Native housing. Inwell or Indwell buildings.</b></p> <p>7 99 <b>Q.</b> And who assisted you with getting</p> <p>8 onto that waiting list?</p> <p>9 <b>A. I don't know. I think it was</b></p> <p>10 <b>Dr. Jill that was -- I believe it was. It's been about</b></p> <p>11 <b>two years.</b></p> <p>12 100 <b>Q.</b> At that point, you were still</p> <p>13 working with a housing case worker. Could it have been</p> <p>14 them?</p> <p>15 <b>A. Yes.</b></p> <p>16 101 <b>Q.</b> Do you recall the name of the</p> <p>17 housing case worker that you worked with?</p> <p>18 <b>A. I believe it was one of the ladies</b></p> <p>19 <b>from Social Navigator. That's who it was. What's her</b></p> <p>20 <b>name? I'm sorry. One of the ladies that works for the</b></p> <p>21 <b>Social Navigator team.</b></p> <p>22 102 <b>Q.</b> And you'd agree that the private</p> <p>23 rental market is not the only place that shelter or</p> <p>24 housing can be obtained? You've obtained housing at</p> <p>25 the YMCA; right?</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>	<p style="text-align: right;">24</p> <p>1 <b>was back in -- I believe that ended in 2019, I think.</b></p> <p>2 109 <b>Q.</b> You were employed up until 2019?</p> <p>3 And was it savings that you were using to pay rent in</p> <p>4 2020?</p> <p>5 <b>A. Yeah. It would have been -- not</b></p> <p>6 <b>ODSP, but -- what's it called? Welfare -- what's it</b></p> <p>7 <b>called?</b></p> <p>8 110 <b>Q.</b> At that point, you were receiving</p> <p>9 money from a different government source?</p> <p>10 <b>A. Yes.</b></p> <p>11 111 <b>Q.</b> You say that you went to the</p> <p>12 Ferguson Street encampment in Hamilton and you say "I</p> <p>13 was forced to leave the Ferguson encampment."</p> <p>14 <b>A. Yes.</b></p> <p>15 112 <b>Q.</b> As I understand it, the Ferguson</p> <p>16 Street encampment was dismantled in October 2020. Is</p> <p>17 that your recollection?</p> <p>18 <b>A. Yeah, I believe so. Yes.</b></p> <p>19 113 <b>Q.</b> My understanding is that a week of</p> <p>20 advance notice was given before anything was dismantled</p> <p>21 at the Ferguson Street encampment. Is that your</p> <p>22 recollection too?</p> <p>23 <b>A. I don't remember. I guess we had</b></p> <p>24 <b>some notice. It was very short notice, but -- yeah, I</b></p> <p>25 <b>think that would have been correct.</b></p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>

1 114 Q. I understand that, at that time,  
 2 there was an agreement between the City of Hamilton and  
 3 several other groups including a group called HAMSMaRT,  
 4 a group called Keeping Six and others. Was that your  
 5 understanding as well?  
 6 A. Yes.  
 7 115 Q. You're familiar with HAMSMaRT and  
 8 Keeping Six?  
 9 A. Yes.  
 10 116 Q. And that the agreement regarded  
 11 what was to happen at the Ferguson Street encampment  
 12 when it was being dismantled; is that right?  
 13 A. That's correct.  
 14 117 Q. The Ferguson Street encampment was  
 15 dismantled in the daytime; correct?  
 16 A. Yes.  
 17 118 Q. My understanding is that everybody  
 18 who was encamping at the Ferguson Street encampment was  
 19 offered shelter at that time of the dismantlement. Is  
 20 that your understanding as well?  
 21 A. I wouldn't believe -- I don't  
 22 think everyone was -- is -- I wouldn't say everybody  
 23 was offered shelter.  
 24 119 Q. If you see in paragraph 7 of your  
 25 affidavit, you say that "nobody from the City of  
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1 Hamilton assessed my personal needs or offered suitable  
 2 shelter options for me to move to following the  
 3 eviction."  
 4 A. That's correct.  
 5 120 Q. When you say that not everybody  
 6 was offered shelter options, are you referencing  
 7 suitable shelter options or any shelter options?  
 8 A. Well, they had -- they didn't  
 9 have -- they never offered me anyplace, except they  
 10 offered me -- an officer told me that if I went to the  
 11 park, J.C. Beemer, that there wouldn't be a problem  
 12 there. They would let us stay there. That's why I  
 13 went to the J.C. Beemer Park because they said if a  
 14 small group of us went there, that they would let it  
 15 slide and let us stay there. And the City removed all  
 16 my items, and then I went to the J.C. Beemer Park,  
 17 and --  
 18 121 Q. You say in paragraph 8 of your  
 19 affidavit that you moved to another park, and the  
 20 authorities at the Ferguson eviction were aware of this  
 21 "because I told them I would be moving to another green  
 22 space." Is that accurate?  
 23 A. Yes. That was the J.C. Beemer  
 24 place.  
 25 122 Q. That other green space you're  
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1 referencing is J.C. Beemer Park? **A4673**  
 2 A. Yes, that's correct.  
 3 123 Q. So you told them you would be  
 4 moving to another green space?  
 5 A. Yeah. Well, they offered me a  
 6 spot. They said if you go there, that they wouldn't --  
 7 there wouldn't be no trouble because they would leave  
 8 us -- they would let us be there.  
 9 124 Q. Just to be clear, when the  
 10 Ferguson encampment was dismantled, were you offered  
 11 any shelter option whatsoever?  
 12 A. No.  
 13 125 Q. When you say "offered suitable  
 14 shelter options," what you mean is any shelter options  
 15 in paragraph 7 of your affidavit?  
 16 A. No, I believe -- no, I believe  
 17 not.  
 18 126 Q. Do you recall why you used the  
 19 word "suitable" in paragraph 7 rather than "any"?  
 20 A. I don't believe -- no, I don't  
 21 believe they could -- they sent me to the J.C. Beemer  
 22 because that was the only place I was offered.  
 23 127 Q. So you're saying that it is not  
 24 true that anyone offered you a place to go that was  
 25 inside when the Ferguson encampment was dismantled?  
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1 A. They might have, yes. They  
 2 wouldn't offer me a place that -- the school that was  
 3 turned into a shelter. I forget what the name was.  
 4 Like I said, as I explained to them, I was -- I did not  
 5 want to go to any -- into the school or a shelter  
 6 because I was -- I wanted to stay away from that  
 7 situation.  
 8 128 Q. To be clear, you were offered a  
 9 shelter space, but you declined it because you didn't  
 10 think that it was appropriate for you?  
 11 A. Yeah, due to my addictions.  
 12 129 Q. You reference that in paragraph 9  
 13 of your affidavit, where you state that you are a  
 14 recovering addict and have a fear that sobriety would  
 15 be compromised if you went into a shelter. That's  
 16 true?  
 17 A. That's true.  
 18 130 Q. In terms of accepting shelter at  
 19 the YMCA where you were until the fire last month and  
 20 at the hotel space you're in now, why isn't that a  
 21 threat to your sobriety in the same way?  
 22 A. I don't understand.  
 23 131 Q. At the time that you left the  
 24 Ferguson Street encampment and it was dismantled, you  
 25 declined an offer of shelter because you felt it was a  
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<p style="text-align: right;">29</p> <p>1 threat to your sobriety. Why, then, was it okay to</p> <p>2 accept shelter at the YMCA until last month and then at</p> <p>3 the hotel space you're in now?</p> <p>4 <b>A. Okay, I understand. Because it</b></p> <p>5 <b>was December -- well, I believe it was January and it</b></p> <p>6 <b>was about minus 20 out, and one of the ladies from</b></p> <p>7 <b>Social Nav offered me a place, and my shelter was</b></p> <p>8 <b>falling apart, and I gave in and said I'm willing to</b></p> <p>9 <b>take your offer because the -- it was freezing cold</b></p> <p>10 <b>out. And I said okay. Like, I said -- I gave in and</b></p> <p>11 <b>took their offer.</b></p> <p>12 132 <b>Q.</b> And you've been successful in</p> <p>13 maintaining your methadone treatment while in the</p> <p>14 shelter that you accepted at that time?</p> <p>15 <b>A. That is correct.</b></p> <p>16 133 <b>Q.</b> And you've been successfully</p> <p>17 living in shelter both at the YMCA and in the hotel</p> <p>18 space you're in now since you accepted that offer?</p> <p>19 <b>A. That's correct too.</b></p> <p>20 134 <b>Q.</b> Sir, there are drug users and</p> <p>21 drugs in encampments. Is that not accurate?</p> <p>22 <b>A. Yes, there is.</b></p> <p>23 135 <b>Q.</b> There are people who sell drugs</p> <p>24 and who, in fact, target the occupants of encampments</p> <p>25 for sale of drugs. Is that not accurate?</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">31</p> <p>1 <b>A. What do you mean? I don't know</b></p> <p>2 <b>if --</b></p> <p>3 141 <b>Q.</b> Well, if it was the weather that</p> <p>4 ultimately made you decide to accept an offer of</p> <p>5 shelter --</p> <p>6 <b>A. Oh, okay, yeah. It was very cold,</b></p> <p>7 <b>and the lady took me down there and showed me the</b></p> <p>8 <b>place, and I gave in. I was like -- I said I'll --</b></p> <p>9 <b>like, I'll see what it's like, and went there, and it</b></p> <p>10 <b>wasn't as bad as I thought. The YMCA is a little</b></p> <p>11 <b>different than other shelters. You have your own</b></p> <p>12 <b>private room and stuff, so you have your private space</b></p> <p>13 <b>and -- excuse me. So you have your privacy, which is</b></p> <p>14 <b>good.</b></p> <p>15 142 <b>Q.</b> Just to be clear for the record, a</p> <p>16 tent in an encampment is not equivalent weather</p> <p>17 protection to being in a shelter like the YMCA, is it?</p> <p>18 <b>A. No.</b></p> <p>19 143 <b>Q.</b> It's better? The YMCA is better</p> <p>20 than living in a tent?</p> <p>21 <b>A. That's right. Unfortunately,</b></p> <p>22 <b>there was a -- they had an accident there and...</b></p> <p>23 144 <b>Q.</b> No, no, I understand. You've told</p> <p>24 me that alternate arrangements have been made at a</p> <p>25 hotel.</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>
<p style="text-align: right;">30</p> <p>1 <b>A. That's accurate, to my knowledge.</b></p> <p>2 136 <b>Q.</b> Encampments would pose an equal</p> <p>3 threat to your sobriety to the shelter environment you</p> <p>4 were afraid of. Is that not accurate?</p> <p>5 <b>A. Yes, that's accurate. But to be</b></p> <p>6 <b>honest with you, I've learned how to maintain -- my</b></p> <p>7 <b>addiction was like a -- it's all in your head and --</b></p> <p>8 <b>like, I can -- you don't need it. It's just -- I've</b></p> <p>9 <b>learned how to -- how do you say it? I've learned how</b></p> <p>10 <b>to deal with it. I don't need it and I'm a lot</b></p> <p>11 <b>stronger than I was at the time, so...</b></p> <p>12 137 <b>Q.</b> Since the weather ultimately --</p> <p>13 <b>A. I --</b></p> <p>14 138 <b>Q.</b> Oh, sorry, I didn't mean to cut</p> <p>15 you off, sir. Please finish.</p> <p>16 <b>A. I can say I'm a lot stronger now,</b></p> <p>17 <b>that I know how to walk away or say no or I'm okay, I</b></p> <p>18 <b>don't need it.</b></p> <p>19 139 <b>Q.</b> In your experience, since you've</p> <p>20 told me that it was the weather ultimately that led to</p> <p>21 your decision to accept shelter --</p> <p>22 <b>A. Yes.</b></p> <p>23 140 <b>Q.</b> -- a tent doesn't provide the same</p> <p>24 protection as, for example, a room in the YMCA, does</p> <p>25 it?</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">32</p> <p>1 <b>A. Yes.</b></p> <p>2 145 <b>Q.</b> The hotel space that you're in, is</p> <p>3 it any better or worse than the space in the YMCA?</p> <p>4 <b>A. No, it's -- it's comfortable. I'm</b></p> <p>5 <b>thankful for the space they give me.</b></p> <p>6 146 <b>Q.</b> In a shelter like the YMCA, you</p> <p>7 have access to supports such as meals? Is that</p> <p>8 accurate?</p> <p>9 <b>A. No. You have to get your own</b></p> <p>10 <b>meals. There's no meals included or nothing.</b></p> <p>11 147 <b>Q.</b> I'm not saying that they're</p> <p>12 included in the rent or that they're provided to you,</p> <p>13 but you have access to services such as food?</p> <p>14 <b>A. No. There's, like, a -- I bought</b></p> <p>15 <b>a small fridge on my own cash. No, there is no -- you</b></p> <p>16 <b>have to do it on your own.</b></p> <p>17 148 <b>Q.</b> I'm not saying that they're</p> <p>18 provided to you for free or that you don't have to</p> <p>19 obtain them, but you have the ability to go and obtain</p> <p>20 food from your room in the YMCA. Is that accurate?</p> <p>21 <b>A. No, it's not.</b></p> <p>22 149 <b>Q.</b> How do you feed yourself when</p> <p>23 you're in the YMCA or in your hotel space currently?</p> <p>24 <b>A. I go to the grocery store and buy</b></p> <p>25 <b>some -- you know, get a meal and -- or some of the</b></p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>



<p style="text-align: right;">33</p> <p>1 options they have in Hamilton for places that give</p> <p>2 meals out. On Fridays and Mondays, there's a truck</p> <p>3 that comes there and offers food. There's a lot of</p> <p>4 places in Hamilton that help people out with food.</p> <p>5 150 Q. The location of the hotel space</p> <p>6 and the YMCA are centrally located enough to allow you</p> <p>7 to access those sources of food and other supports?</p> <p>8 A. Yeah. In a way, yes.</p> <p>9 151 Q. Sir, I want to take you now to the</p> <p>10 second of the letters that I referenced at the outset.</p> <p>11 It's a letter written by a Dr. Rachel Lamont. I'll put</p> <p>12 that up on screen. Do you know who Dr. Rachel Lamont</p> <p>13 is?</p> <p>14 A. No, I don't believe so.</p> <p>15 152 Q. The letter is on McMaster</p> <p>16 University letterhead, Department of Psychiatry. The</p> <p>17 letter is dated December 21, 2023. I put it up on the</p> <p>18 screen, but do you have a copy of that in front of you,</p> <p>19 sir?</p> <p>20 A. (Indiscernible).</p> <p>21 153 Q. Sorry, I think your answer might</p> <p>22 have been a little garbled there --</p> <p>23 A. Yes, I do. Yes, I do.</p> <p>24 154 Q. Okay. You have that there? All</p> <p>25 right. You can see that this letter references you and</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> (905) 522-1653</p>	<p style="text-align: right;">35</p> <p>1 HAMSMaRT?</p> <p>2 THE DEPONENT: (Shaking head).</p> <p>3 MS. CROWE: No, that doesn't sound</p> <p>4 familiar?</p> <p>5 MR. DIACUR: I'm sorry, I thought that</p> <p>6 Mr. Arnold already identified that he does know</p> <p>7 HAMSMaRT and Keeping Six.</p> <p>8 THE DEPONENT: I know Keeping Six. I</p> <p>9 know Keeping Six.</p> <p>10 MR. DIACUR: Sorry, my notes say that</p> <p>11 he answered yes to both those.</p> <p>12 MS. CROWE: I think --</p> <p>13 THE DEPONENT: Yes, I was -- HAMSMaRT I</p> <p>14 don't know, but I know the Keeping Six people. Sorry,</p> <p>15 I was a little confused there. Okay, this is -- I have</p> <p>16 my dates wrong. I don't remember these people.</p> <p>17 BY MR. DIACUR:</p> <p>18 158 Q. I have a few questions that don't</p> <p>19 specifically turn on Dr. Lamont or your recollection of</p> <p>20 her outside of the fact that she visited you at J.C.</p> <p>21 Beemer. Is it your recollection that you moved into</p> <p>22 the YMCA in January 2024?</p> <p>23 A. Yes.</p> <p>24 159 Q. Dr. Lamont uses the word</p> <p>25 "eviction." You had also used that word in your</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> (905) 522-1653</p>
<p style="text-align: right;">34</p> <p>1 your date of birth?</p> <p>2 A. Yes, sir.</p> <p>3 155 Q. Do you recall seeing Dr. Rachel</p> <p>4 Lamont?</p> <p>5 A. No, I don't. When was the -- oh,</p> <p>6 I believe this was the lady that was bringing food and</p> <p>7 stuff to J.C. Beemer.</p> <p>8 156 Q. You saw Dr. Rachel Lamont there at</p> <p>9 J.C. Beemer Park? She came to see you?</p> <p>10 A. Yeah. She brought -- she was the</p> <p>11 lady that brought groceries and blankets and some</p> <p>12 survival -- you know, candles and stuff. She was a</p> <p>13 nice lady.</p> <p>14 157 Q. As I said, this letter is dated</p> <p>15 December 21, 2023. I understand that you obtained your</p> <p>16 room at the YMCA the following month in January 2024.</p> <p>17 Is that accurate?</p> <p>18 A. Wait a minute.</p> <p>19 MS. CROWE: Mr. Diacur, are you okay if</p> <p>20 I ask one question to maybe help him identify Dr.</p> <p>21 Lamont?</p> <p>22 MR. DIACUR: I have no problem with</p> <p>23 clarifications. That would be helpful, thank you.</p> <p>24 MS. CROWE: Thank you.</p> <p>25 Do you know of the organization</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> (905) 522-1653</p>	<p style="text-align: right;">36</p> <p>1 affidavit. Just to be clear, you weren't paying rent</p> <p>2 to stay at J.C. Beemer Park or at Ferguson before that?</p> <p>3 To encamp, there's no rent?</p> <p>4 A. No, there was no rent. There was</p> <p>5 no rent there. That's a park. No one was charging us</p> <p>6 any rent. I picked up garbage and kept it clean, but</p> <p>7 there was no rent.</p> <p>8 160 Q. The bottom of this first page of</p> <p>9 the letter, Dr. Lamont mentions escalating opioid use</p> <p>10 and numerous unintentional overdoses. Do you see that?</p> <p>11 A. In the last paragraph?</p> <p>12 161 Q. The last paragraph and actually</p> <p>13 the last sentence on the first page.</p> <p>14 A. (Indiscernible).</p> <p>15 COURT REPORTER: I'm sorry, could you</p> <p>16 please repeat that, Mr. Arnold?</p> <p>17 THE DEPONENT: I don't understand this</p> <p>18 last paragraph with the overdoses. I...</p> <p>19 BY MR. DIACUR:</p> <p>20 162 Q. Have you ever overdosed on</p> <p>21 opiates?</p> <p>22 A. I have, but that was about nine</p> <p>23 years ago or so -- eight years ago, probably.</p> <p>24 163 Q. Was there just one?</p> <p>25 A. No, there was maybe three.</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> (905) 522-1653</p>

<p style="text-align: right;">37</p> <p>1 164 Q. But they were all at that time?</p> <p>2 A. <b>No. That would have been many</b></p> <p>3 <b>years ago, I think. Like eight years ago or something.</b></p> <p>4 165 Q. When was the last time that you</p> <p>5 overdosed on opiates?</p> <p>6 A. <b>At least eight years ago.</b></p> <p>7 166 Q. Is it true that your opioid use</p> <p>8 escalated while encamped?</p> <p>9 A. <b>No, I was trying -- I was doing --</b></p> <p>10 <b>that's when I was trying to get away from it. I was --</b></p> <p>11 <b>it's hard to move around all the time, but I was -- I</b></p> <p>12 <b>was tired of being outside. You know, it's almost</b></p> <p>13 <b>impossible to feed yourself, let alone buy drugs and,</b></p> <p>14 <b>you know, have a place to stay. It's impossible.</b></p> <p>15 167 Q. Just to be clear, this letter</p> <p>16 which indicates your opioid use escalated while in</p> <p>17 encampment and the fact that you underwent numerous</p> <p>18 unintentional overdoses is not accurate?</p> <p>19 A. <b>That's true.</b></p> <p>20 168 Q. Sir, the City of Hamilton</p> <p>21 maintains records, written records regarding</p> <p>22 interactions that people have with the City-funded</p> <p>23 homelessness serving system.</p> <p>24 A. <b>Yes.</b></p> <p>25 169 Q. Would you sign an authorization</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">39</p> <p>1 --- Upon resuming at 3:25 p.m.</p> <p>2 RE-EXAMINATION BY MS. CROWE:</p> <p>3 171 Q. Is it okay if I call you Shawn?</p> <p>4 Shawn, I just have some redirect questions for you</p> <p>5 based on what we just discussed. Okay? We talked</p> <p>6 about the housing case worker that you had, and this is</p> <p>7 while you were staying at J.C. Beemer Park. Do you</p> <p>8 remember how long you worked with the housing worker</p> <p>9 before finding housing?</p> <p>10 A. <b>Almost a year, I believe.</b></p> <p>11 172 Q. Almost a year? Okay. I want to</p> <p>12 also circle back to the reason why you left J.C. Beemer</p> <p>13 Park, because earlier Mr. Diacur had asked you if you</p> <p>14 were housed and that's why you left. I want to bring</p> <p>15 your attention to paragraph 13 of your May '22</p> <p>16 affidavit. So under subparagraph A, you talk about</p> <p>17 being evicted from J.C. Beemer Park. I want to</p> <p>18 clarify. What was the reason why you left J.C. Beemer</p> <p>19 Park? Shawn?</p> <p>20 A. <b>I'm trying to remember.</b></p> <p>21 173 Q. Why don't you take a look at that</p> <p>22 paragraph of your affidavit first.</p> <p>23 A. <b>Why I was evicted? I don't</b></p> <p>24 <b>believe I was there when I was evicted, when they</b></p> <p>25 <b>were -- like, when they were -- police were involved</b></p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>
<p style="text-align: right;">38</p> <p>1 permitting records relating to you to be disclosed in</p> <p>2 this litigation?</p> <p>3 A. <b>Yeah.</b></p> <p>4 170 Q. Thank you, sir. Just a moment's</p> <p>5 indulgence, Counsel. I'd like to review my notes and</p> <p>6 make sure I didn't inadvertently miss a question, if</p> <p>7 you don't mind.</p> <p>8 MS. CROWE: Okay.</p> <p>9 MR. DIACUR: I'm going to stop sharing</p> <p>10 my screen, but may be it for me. I'm just going to go</p> <p>11 off audio for a second and flip through my pages. Just</p> <p>12 one second.</p> <p>13 --- (Off record)</p> <p>14 MR. DIACUR: Thank you very much,</p> <p>15 Counsel. Those are all of my questions for Mr. Arnold.</p> <p>16 Thank you, Mr. Arnold, for attending.</p> <p>17 THE DEPONENT: Thank you.</p> <p>18 MS. CROWE: Thank you. Can we just</p> <p>19 stand down for five minutes so I check on -- I believe</p> <p>20 Ammy Lewis is here as well.</p> <p>21 MR. DIACUR: Certainly. I think that</p> <p>22 it would be great to know who's available and we can</p> <p>23 plan.</p> <p>24 MS. CROWE: Great, thank you.</p> <p>25 --- Recess taken at 3:18 p.m.</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">40</p> <p>1 <b>and they were fighting with the police. I was already</b></p> <p>2 <b>gone from that. I wasn't involved in that situation.</b></p> <p>3 <b>I was already moved on. That's what that's about.</b></p> <p>4 174 Q. So paragraph --</p> <p>5 A. <b>It was on the news. They had --</b></p> <p>6 <b>the people in the park were -- it was almost like a</b></p> <p>7 <b>standoff with the police or whatever. The police got</b></p> <p>8 <b>involved with -- over there. I wasn't staying there at</b></p> <p>9 <b>that time. I was already gone.</b></p> <p>10 175 Q. Right. So I understand that there</p> <p>11 might have been different phases of the J.C. Beemer</p> <p>12 encampment eviction, and I know we're going back two</p> <p>13 years now. I just want to be really clear on what</p> <p>14 actually happened to you and why you left that park.</p> <p>15 Have you read paragraph A?</p> <p>16 A. <b>Paragraph 8?</b></p> <p>17 176 Q. A. So it's right there.</p> <p>18 A. <b>Oh, I see.</b></p> <p>19 177 Q. And let me know when you're done.</p> <p>20 A. <b>Yeah.</b></p> <p>21 178 Q. And then I'd also direct you to</p> <p>22 paragraph D on the next page. If you could have a</p> <p>23 quick read of that, as well, please. Are you finished?</p> <p>24 A. <b>Yeah.</b></p> <p>25 179 Q. Okay. What you've described in</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>

<p style="text-align: right;">41</p> <p>1 paragraph A and D are evictions from -- an eviction</p> <p>2 from J.C. Beemer, and then you talk about being</p> <p>3 disconnected from your worker --</p> <p>4 <b>A. Okay, I remember --</b></p> <p>5 180 <b>Q.</b> You're remembering?</p> <p>6 <b>A. Yeah.</b></p> <p>7 181 <b>Q.</b> Okay, great. I guess I'll ask the</p> <p>8 question again. Were you evicted from J.C. Beemer</p> <p>9 Park?</p> <p>10 <b>R/F</b> MR. DIACUR: I object. You've asked</p> <p>11 him that question and he answered it. He said --</p> <p>12 THE DEPONENT: Yeah, I --</p> <p>13 MR. DIACUR: -- "no, I wasn't there</p> <p>14 when the eviction happened." You can't keep asking him</p> <p>15 so his answer changes --</p> <p>16 THE DEPONENT: Yeah, I remember now --</p> <p>17 MR. DIACUR: That's completely</p> <p>18 improper --</p> <p>19 THE DEPONENT: I remember -- I remember</p> <p>20 now. They came and said --</p> <p>21 MR. DIACUR: No. I object to the</p> <p>22 question being asked again. He doesn't get to continue</p> <p>23 to answer now --</p> <p>24 THE DEPONENT: Excuse me, sir. I</p> <p>25 remember now --</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">43</p> <p>1 MS. CROWE: -- he was saying "I</p> <p>2 remember, it's coming back to me now," so I want to</p> <p>3 give him the opportunity to --</p> <p>4 THE DEPONENT: Yeah, that's just what</p> <p>5 I --</p> <p>6 MR. DIACUR: Yes, I understand that's</p> <p>7 the point of asking the question again, is to prompt</p> <p>8 him to change his evidence, but that's what's improper.</p> <p>9 I want this to be on the record.</p> <p>10 MS. CROWE: This is on the record, and</p> <p>11 you raised the issue in your cross. I am revisiting</p> <p>12 it, as it is my right, and he has -- you know, we can't</p> <p>13 expect the same delivery and responses as we could for</p> <p>14 the average litigant, and so I'm giving him a</p> <p>15 reasonable opportunity to correct his evidence --</p> <p>16 MR. DIACUR: No. You're asking the</p> <p>17 same question repeatedly and signalling that you want</p> <p>18 him to change his evidence. That's completely</p> <p>19 improper.</p> <p>20 THE DEPONENT: To my knowledge, I</p> <p>21 remember we were asked to leave, and I -- I was gone</p> <p>22 for a couple days. I came back. Somebody tore my tent</p> <p>23 all apart and all my stuff was -- like, what valuables</p> <p>24 were gone. A friend of mine that was in the area of</p> <p>25 the park said he didn't think I was coming back. It's</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>
<p style="text-align: right;">42</p> <p>1 MS. CROWE: Mr. Diacur, this is my</p> <p>2 witness. You put this issue to him and suggested --</p> <p>3 MR. DIACUR: You asked the question</p> <p>4 already and he answered it. You don't get to ask it</p> <p>5 again and get further information --</p> <p>6 MS. CROWE: You suggested a version of</p> <p>7 events that is inconsistent with his affidavit. I'm</p> <p>8 revisiting the same issue and having him address --</p> <p>9 MR. DIACUR: You already have revisited</p> <p>10 the same issue. You don't get to do it again.</p> <p>11 THE DEPONENT: I was unaware of this --</p> <p>12 <b>R/F</b> MR. DIACUR: I object to this answer</p> <p>13 being put on the record --</p> <p>14 MS. CROWE: Okay. Your objection is</p> <p>15 noted. This is my witness. I am going to have him</p> <p>16 clarify the misinformation that was given initially.</p> <p>17 BY MS. CROWE:</p> <p>18 182 <b>Q.</b> Can you tell us what happened --</p> <p>19 <b>A. Oh, sorry --</b></p> <p>20 <b>R/F</b> MR. DIACUR: That is the third time</p> <p>21 you've asked the question and I object again.</p> <p>22 MS. CROWE: He hasn't -- he was in the</p> <p>23 process of answering and you told us -- and in the</p> <p>24 process of him attempting to respond --</p> <p>25 THE DEPONENT: I said I --</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p style="text-align: right;">44</p> <p>1 because I was gone for a couple of days, but I -- I was</p> <p>2 a little bit upset with that. And at the same time,</p> <p>3 the City came to -- with a Bobcat and removed all</p> <p>4 the -- everything there. So I grabbed a couple of</p> <p>5 things quickly as they were coming with their -- the</p> <p>6 Bobcat and I took what I could and left. That's what I</p> <p>7 remember now on that day. And I believe it was raining</p> <p>8 out and that's it.</p> <p>9 BY MS. CROWE:</p> <p>10 183 <b>Q.</b> Thank you, Shawn. Can I ask you</p> <p>11 about the last sentence of this same paragraph D</p> <p>12 beginning with "during this time." Can you tell us</p> <p>13 what happened with Carol Anne, your housing worker and</p> <p>14 trying to find you?</p> <p>15 <b>R/F</b> MR. DIACUR: I object to this as well.</p> <p>16 This isn't a question that was raised in</p> <p>17 cross-examination. The affidavit speaks for itself.</p> <p>18 That's improper re-examination as well.</p> <p>19 MS. CROWE: Why is it improper?</p> <p>20 MR. DIACUR: You're allowed to ask</p> <p>21 questions about questions that were asked in</p> <p>22 cross-examination. This wasn't raised with him.</p> <p>23 BY MS. CROWE:</p> <p>24 184 <b>Q.</b> Okay, we'll move on. So, Shawn,</p> <p>25 you mentioned that your housing -- you're currently</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>



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1 staying in a hotel. Do you know how long you can stay  
2 there for?  
3 **A. I'm not sure. They haven't given**  
4 **us a date, but they're trying to find housing for**  
5 **everybody and hopefully it's not too long.**  
6 185 **Q.** Who is trying to help you find  
7 housing?  
8 **A. I believe the (indiscernible). I**  
9 **think --**  
10 **COURT REPORTER: I'm sorry, I can't**  
11 **hear that answer, Mr. Arnold.**  
12 **THE DEPONENT: The Red Cross and I**  
13 **believe Social Navigation.**  
14 **BY MS. CROWE:**  
15 186 **Q.** Okay. Do you know whether you're  
16 going to be able to return to the YMCA?  
17 **A. The third floor, I don't -- the**  
18 **people was -- which I was on the third floor. I don't**  
19 **think we'll be returning because I think there was too**  
20 **much extensive damage on the third floor. I don't**  
21 **believe there will be anyone returning there, as I was**  
22 **told. I don't even think they're going to open the**  
23 **third floor up again.**  
24 187 **Q.** Okay. So you have a couple of  
25 organizations who are trying to find housing for you.  
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1 Have you looked at rentals yourself?  
2 **A. I've been looking around, but the**  
3 **homeless that -- what's it called? Airbnb? That's way**  
4 **too expensive for my, you know -- I don't know. I'm**  
5 **just -- I'll see what happens.**  
6 188 **Q.** Okay. You might have to speak up  
7 a little bit. Okay?  
8 **A. Yeah, sorry.**  
9 189 **Q.** That's okay. Do you have any  
10 sense of how much the average one-bedroom rental would  
11 cost?  
12 **R/F** **MR. DIACUR: I object to that question.**  
13 It's not something that was raised in cross-examination  
14 and it would be opinion.  
15 **MS. CROWE: You suggested that it**  
16 **wasn't very hard for him to find a place that was**  
17 **affordable on an ODSP allowance --**  
18 **MR. DIACUR: I don't think I did**  
19 **suggest that, but this isn't a proper question in**  
20 **re-examination.**  
21 **MS. CROWE: You raised this very issue.**  
22 The availability of rental housing was raised during  
23 the cross-examination, so I'm responding to that.  
24 **R/F** **MR. DIACUR: I object to the question.**  
25 It's improper.  
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1 **BY MS. CROWE:** A4678  
2 190 **Q.** Can you answer? Do you have any  
3 idea of rental prices in Hamilton?  
4 **A. I believe -- I would say between**  
5 **\$600 to \$1,500 for an average bachelor or one bedroom**  
6 **or...**  
7 191 **Q.** Do you have any sense how  
8 available, like how many places are available in that  
9 price range?  
10 **R/F** **MR. DIACUR: I object to that question.**  
11 That's improper. This isn't re-examination.  
12 **BY MS. CROWE:**  
13 192 **Q.** Mr. Diacur asked you about  
14 maintaining your sobriety in the YMCA versus the  
15 shelter. Could you describe the setup at the YMCA  
16 versus the shelter? When you're at the YMCA, are you  
17 in a room or a dorm style?  
18 **A. In a room.**  
19 193 **Q.** Can you describe the privacy that  
20 you have at a YMCA versus a shelter?  
21 **A. You have your own room with a**  
22 **locked door and -- you know, yeah, you have to share a**  
23 **shower and a bathroom and that sort of stuff, but**  
24 **you're not -- at least you're not sleeping with -- you**  
25 **know, 20-cot room full of men sleeping on -- you know,**  
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1 **a room with 20 cots. You're at least with your own**  
2 **room, but -- which is nice, but...**  
3 194 **Q.** Okay. You said you moved into the  
4 YMCA in January of this year?  
5 **A. That's correct.**  
6 195 **Q.** Your affidavit of May 2022, when  
7 you're talking about your reasons for not accessing  
8 shelter because of concerns to maintain your sobriety,  
9 how would you describe your sobriety or your recovery  
10 from substance abuse now -- sorry, in January 2024 as  
11 opposed to when you were living in encampments in 2021?  
12 **A. I am --**  
13 196 **Q.** And 2022.  
14 **A. I would give myself -- from a 1**  
15 **out of 10, I would give myself an 8 1/2 to -- I believe**  
16 **I'd say I can -- like, I haven't used today. I -- I**  
17 **haven't even used yesterday. I haven't been able to**  
18 **give a clean sample, but I'm close to that.**  
19 197 **Q.** Okay. So 8 1/2 is your estimate  
20 of your recovery now?  
21 **A. (Nodding).**  
22 198 **Q.** Okay. And where would you say you  
23 were on that spectrum when you swore this affidavit in  
24 May 2022?  
25 **A. I was doing okay (indiscernible).**  
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<p style="text-align: right;">49</p> <p>1 <b>COURT REPORTER: I'm sorry, could you</b></p> <p>2 <b>please repeat that?</b></p> <p>3 <b>THE DEPONENT: I'm doing -- I'm just</b></p> <p>4 <b>saying I'm doing a lot better on my -- this whole year</b></p> <p>5 <b>I've been -- like, even my doctors are kind of proud of</b></p> <p>6 <b>me saying that when I -- you know, keep up the good</b></p> <p>7 <b>work, that I'm -- I don't -- hopefully I can one day</b></p> <p>8 <b>say I'm clean. That's my goal. You know, it's</b></p> <p>9 <b>actually my goal, having a place to live. Beyond that,</b></p> <p>10 <b>you know, to go to my family and tell them, you know,</b></p> <p>11 <b>I'm -- you know, it's embarrassing.</b></p> <p>12 199 <b>Q. Right.</b></p> <p>13 <b>A. I think I'm disgusted with myself.</b></p> <p>14 200 <b>Q. Okay. Shawn, I know this is</b></p> <p>15 <b>difficult to talk about, but can we go back two years,</b></p> <p>16 <b>so around May 2022? How would you say you were doing</b></p> <p>17 <b>at that time with your drug use and your recovery?</b></p> <p>18 <b>A. A lot worse that it is now.</b></p> <p>19 201 <b>Q. Thank you. Then Mr. Diacur also</b></p> <p>20 <b>asked about drugs -- exposure to drugs in encampments</b></p> <p>21 <b>versus exposure to drugs in shelters. In your opinion,</b></p> <p>22 <b>was there any difference in the threat to your</b></p> <p>23 <b>sobriety, your recovery, between the two types of</b></p> <p>24 <b>exposure?</b></p> <p>25 <b>A. I would say it's -- it's all in</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>	<p style="text-align: right;">51</p> <p>1 encampments --</p> <p>2 BY MS. CROWE: <b>A4679</b></p> <p>3 203 <b>Q. I think you're going to have to</b></p> <p>4 <b>speak up.</b></p> <p>5 <b>A. In the encampments, I would have</b></p> <p>6 <b>usually a group of friends that, you know, you usually</b></p> <p>7 <b>trust. Say you have someone to watch over your stuff</b></p> <p>8 <b>while you were out, you know, or I'd watch their stuff</b></p> <p>9 <b>while they're out, it's almost like a -- almost like a</b></p> <p>10 <b>little family of us there or something, you know?</b></p> <p>11 <b>Where in that -- in a room with strange people, you</b></p> <p>12 <b>know -- yeah.</b></p> <p>13 204 <b>Q. Okay.</b></p> <p>14 <b>A. I don't know. I guess they got</b></p> <p>15 <b>used to being outside and there was -- they can --</b></p> <p>16 <b>summertime, you know, you can make a little camp. In</b></p> <p>17 <b>the wintertime it's a little harder, but I have</b></p> <p>18 <b>survived it. I did it.</b></p> <p>19 205 <b>Q. If there is exposure to drugs at</b></p> <p>20 <b>both encampments and in shelters, why were you choosing</b></p> <p>21 <b>to stay in an encampment?</b></p> <p>22 <b>MR. DIACUR: He just answered that</b></p> <p>23 <b>question, Counsel.</b></p> <p>24 <b>MS. CROWE: He did not answer my</b></p> <p>25 <b>question with respect to the exposure to drugs. He</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>
<p style="text-align: right;">50</p> <p>1 <b>the head is all I can say. You know, I just have to</b></p> <p>2 <b>stay strong in keeping my focus on some other things.</b></p> <p>3 202 <b>Q. Right. Can you explain why you</b></p> <p>4 <b>were choosing -- if from your affidavit you were</b></p> <p>5 <b>indicating that one of your reasons for not accessing</b></p> <p>6 <b>shelter was because of your concern about exposure to</b></p> <p>7 <b>drugs and maintaining your sobriety, can you explain</b></p> <p>8 <b>why you were then choosing encampments?</b></p> <p>9 <b>A. Well...</b></p> <p>10 <b>R/F MR. DIACUR: No, I object to that</b></p> <p>11 <b>question as well. That's not proper re-examination.</b></p> <p>12 <b>It's not something that was not raised with him.</b></p> <p>13 <b>MS. CROWE: It was, Mr. Diacur. You</b></p> <p>14 <b>specifically said that there's the same exposure to</b></p> <p>15 <b>drugs that is in encampments versus shelters and that</b></p> <p>16 <b>it poses an equal threat.</b></p> <p>17 <b>MR. DIACUR: He agreed with that. You</b></p> <p>18 <b>are then asking him to change his evidence? Is that</b></p> <p>19 <b>what you're saying?</b></p> <p>20 <b>MS. CROWE: I'm asking him to explain</b></p> <p>21 <b>why he was choosing encampments versus shelters in that</b></p> <p>22 <b>context.</b></p> <p>23 <b>MR. DIACUR: That question can be</b></p> <p>24 <b>asked, but that's not what you asked the first time.</b></p> <p>25 <b>THE DEPONENT: In the shelter --</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b></p>	<p style="text-align: right;">52</p> <p>1 gave a general explanation as to why he was choosing</p> <p>2 encampment.</p> <p>3 <b>THE DEPONENT: Like I said --</b></p> <p>4 <b>MR. DIACUR: That is exactly the</b></p> <p>5 <b>problem and the nature of my objection. You are taking</b></p> <p>6 <b>an answer that he's given. You're not accepting it,</b></p> <p>7 <b>and you're prompting him to give further evidence that</b></p> <p>8 <b>you would prefer. That's not proper re-examination --</b></p> <p>9 <b>THE DEPONENT: I don't know why we're</b></p> <p>10 <b>arguing over --</b></p> <p>11 <b>MR. DIACUR: I object to the method of</b></p> <p>12 <b>this re-examination.</b></p> <p>13 <b>MS. CROWE: I know he gave evidence</b></p> <p>14 <b>to --</b></p> <p>15 <b>MR. DIACUR: If you ask a question and</b></p> <p>16 <b>he gives an answer, that's the answer. You can't ask</b></p> <p>17 <b>the same question again and --</b></p> <p>18 <b>MS. CROWE: He didn't answer -- he</b></p> <p>19 <b>didn't answer my question, and so --</b></p> <p>20 <b>THE DEPONENT: Why are we arguing</b></p> <p>21 <b>over --</b></p> <p>22 <b>MS. CROWE: -- I'm asking him to</b></p> <p>23 <b>clarify, which is my right under re-examination.</b></p> <p>24 <b>MR. DIACUR: So you're going to</b></p> <p>25 <b>continue asking the question until he tells you what</b>  <b>Nimigan Mihailovich Reporting Inc.</b>  <b>(905) 522-1653</b> <b>A395</b></p>

<div>53</div> <div> <p>1 you want him to say?</p> <p>2 MS. CROWE: I'm going to continue to</p> <p>3 ask him the question until he answers the question that</p> <p>4 I'm actually asking.</p> <p>5 MR. DIACUR: He did. You asked him and</p> <p>6 he answered it.</p> <p>7 MS. CROWE: He answered why he chooses</p> <p>8 encampments in general. He did not mention drug use.</p> <p>9 MR. DIACUR: That's right. That wasn't</p> <p>10 part of his answer. That's correct. He gave an answer</p> <p>11 to your question. He said it was because there are</p> <p>12 people in encampments that he can count on. That's his</p> <p>13 answer --</p> <p>14 MS. CROWE: I asked him a much more</p> <p>15 narrow question in the context of exposure to drugs.</p> <p>16 R/F MR. DIACUR: That's improper. I</p> <p>17 object.</p> <p>18 THE DEPONENT: That's all I have to</p> <p>19 say. I have nothing else to say about that.</p> <p>20 BY MS. CROWE:</p> <p>21 206 Q. Okay, we'll move on. Mr. Diacur</p> <p>22 also talked to you about the fact that the YMCA</p> <p>23 provides more protection against the elements than a</p> <p>24 tent would. Were there times that you slept outside</p> <p>25 without a tent?</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>	<div>55</div> <div> <p>1 something with what belongings I had and trying to find</p> <p>2 a place safe to -- you know, to rest when you've been</p> <p>3 up for days, and you might go to sleep and wake up with</p> <p>4 your shoes on still. So, yes, there's many times I</p> <p>5 slept without a tent.</p> <p>6 BY MS. CROWE:</p> <p>7 210 Q. And --</p> <p>8 A. You have the City saying it's the</p> <p>9 same -- we have a problem with you staying here, and</p> <p>10 then you get comfortable. Two months go by, and they</p> <p>11 say now you have to leave. I never had a problem with</p> <p>12 them or I'd have -- I'd have to say, almost every park</p> <p>13 or every place I stayed, the neighbours all got along</p> <p>14 with me. I never had any problems with the neighbours.</p> <p>15 211 Q. Okay. I want to draw your</p> <p>16 attention to paragraph 13(f) of your affidavit. If you</p> <p>17 could just read that. You've indicated that the tent</p> <p>18 provided shelter from weather. Can you explain?</p> <p>19 R/F MR. DIACUR: I object to that. How</p> <p>20 does that relate to the cross-examination that was</p> <p>21 conducted?</p> <p>22 MS. CROWE: Because you are talking</p> <p>23 about -- you raised specifically the protection that a</p> <p>24 tent provides from the weather comparatively to the</p> <p>25 YMCA. I'm asking him to talk about what kind of</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>
<div>54</div> <div> <p>1 A. When I was at the Y?</p> <p>2 207 Q. No. While you were homeless, were</p> <p>3 there times that you slept outside without a tent?</p> <p>4 A. Yeah.</p> <p>5 208 Q. Okay.</p> <p>6 R/F MR. DIACUR: I object to that question.</p> <p>7 How is that relating to the questions that were posed</p> <p>8 to him?</p> <p>9 BY MS. CROWE:</p> <p>10 209 Q. Okay. I want to bring your</p> <p>11 attention to --</p> <p>12 MR. DIACUR: Those two things are not</p> <p>13 connected, Counsel.</p> <p>14 MS. CROWE: Okay, give me a moment.</p> <p>15 THE DEPONENT: There was many times</p> <p>16 where I'd be (indiscernible) with what belongings I</p> <p>17 have, wondering where there was a safe spot to relax or</p> <p>18 the...</p> <p>19 COURT REPORTER: I'm sorry, I can't</p> <p>20 hear you, Mr. Arnold. You're going to have to keep</p> <p>21 your head up.</p> <p>22 THE DEPONENT: I'm saying there was --</p> <p>23 she asked me if there was times where I stayed out</p> <p>24 without a tent, and I'm saying there's many times where</p> <p>25 I didn't have a tent. I'd be in a shopping cart or</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>	<div>56</div> <div> <p>1 protection this tent provided from the weather.</p> <p>2 THE DEPONENT: Well (indiscernible)</p> <p>3 obviously dry.</p> <p>4 COURT REPORTER: I'm sorry, Mr. Arnold,</p> <p>5 you're going to have to keep your head up. I can't</p> <p>6 hear you when you're facing down.</p> <p>7 THE DEPONENT: I apologize. The tent</p> <p>8 is shelter. Without a tent, there's no shelter. And,</p> <p>9 yeah, of course a tent is a lot better to have than no</p> <p>10 tent.</p> <p>11 MS. CROWE: Did you catch that?</p> <p>12 COURT REPORTER: Yes, I did.</p> <p>13 MS. CROWE: Did you need him to repeat</p> <p>14 it? Thank you.</p> <p>15 BY MS. CROWE:</p> <p>16 212 Q. Okay. I want to talk to you about</p> <p>17 a report from Dr. Lamont. You seemed to have some</p> <p>18 trouble remembering meeting with Dr. Lamont back in</p> <p>19 December of last year. Do you remember going to a</p> <p>20 HAMSMaRT building on Main Street in the basement?</p> <p>21 R/F MR. DIACUR: I object to that. That's</p> <p>22 completely leading, Counsel.</p> <p>23 MS. CROWE: Mr. Diacur, I had</p> <p>24 previously asked if I could provide some guidance to</p> <p>25 jog his memory on this meeting. That's all I'm</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>

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1	attempting to do.	
2	MR. DIACUR: Yes, and he said he has no	
3	recollection of HAMSMaRT. Now you're going to say that	
4	there's a HAMSMaRT building and lead him to the answer	
5	you want? That's improper.	
6	MS. CROWE: That's fine. He's	
7	answered.	
8	R/F MR. DIACUR: I object to the question.	
9	Let's be clear.	
10	MS. CROWE: Noted.	
11	BY MS. CROWE:	
12	213 Q. In this report, as Mr. Diacur went	
13	over with you, she talks about the homelessness that	
14	you experienced after losing your housing on Ottawa	
15	Street. Okay?	
16	A. Yeah.	
17	214 Q. And then she talks about an	
18	increase in the number of opioid use and unintentional	
19	overdoses. You indicated that that didn't sound right	
20	to you, so I have a few questions about that. First of	
21	all, do you remember this meeting at all?	
22	A. At the HAMSMaRT?	
23	215 Q. Yes.	
24	A. Yes.	
25	216 Q. Okay. So you --	
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1	A. I don't remember -- I haven't	
2	overdosed since -- like, at all when I was at Ottawa	
3	Street or anything. There was never that overdose.	
4	217 Q. What is your definition of an	
5	overdose?	
6	A. You're -- the definition of a --	
7	you're not breathing or -- you know, you're -- I	
8	don't -- you're on your way out, I guess. There's no	
9	one there to help you (indiscernible).	
10	COURT REPORTER: I'm sorry. Could you	
11	please repeat that, Mr. Arnold?	
12	THE DEPONENT: An overdose is like	
13	you're -- you're not breathing. You're going to	
14	pass -- you know, I have no recollection of overdosing	
15	anytime during those times I stayed at the Ottawa	
16	Street. I don't know where that came up.	
17	BY MS. CROWE:	
18	218 Q. Right. So let's clarify that,	
19	because she's not talking about while you were in	
20	Ottawa Street. She's talking about after you moved and	
21	you were homeless again.	
22	A. Yeah, I don't remember.	
23	219 Q. You still don't remember, okay.	
24	A. No overdosing after that either.	
25	220 Q. Do you remember having a	
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1	discussion with Dr. Lamont about your drug use?	
2	A. Yes.	
3	221 Q. How much more of that meeting do	
4	you remember?	
5	A. I remember it was the winter. I	
6	had a bad cold. I was -- I guess it was necessary to	
7	talk about. Like, I could barely even breathe when I	
8	was talking to her. I felt kind of embarrassed. Like,	
9	I didn't want to embarrass her. I was embarrassed by	
10	myself. But she was trying to get a hold of me for a	
11	while, and I guess I was not in very -- my state of	
12	mind was zero when I ran into her --	
13	222 Q. Okay.	
14	A. -- which was a bit of an	
15	embarrassment. But still, I don't know anything about	
16	overdoses.	
17	223 Q. Okay, we're almost done. Okay,	
18	thank you. Those are my questions.	
19	--- Whereupon proceedings adjourned at 3:55 p.m.	
20		
21		
22		
23		
24		
25		
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1	I HEREBY CERTIFY THE FOREGOING	
2	to be a true and accurate transcription	
3	of my shorthand notes	
4	to the best of my skill and ability.	
5		
6		
7	[Electronically signed on August 22, 2024]	
8	Lydia Pak, Court Reporter	
9	Computer-Aided Transcription	
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	Nimigan Mihailovich Reporting Inc.	
	(905) 522-1653	

Court File No. CV-21-00077817-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD et al.**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF LINSLEY GREAVES**

1. I, LINSLEY GREAVES of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 52 year old Black man.
3. I am in receipt of benefits from Ontario Works. As a single person who is homeless, I receive approximately \$350 per month from Ontario Works for basic needs. I don't receive any shelter allowance while I am homeless. The shelter allowance is \$383 (for a total of \$733), which is insufficient for the price of rent in the private rental market.
4. I have wanted to apply for benefits from the Ontario Disability Support Program (ODSP) for a long time, but have been unable to focus enough to complete it. I was able to complete an application today with my doctor, Dr. Wiwcharuk.
5. I have had periods of homelessness for over ten years. Most recently, I was housed for seven years until about two years ago. My roommates did not pay their portion of the rent. It was my lease, so I was evicted.
6. I have stayed in several men's shelters in Hamilton during the first year of my most recent homelessness.
7. I had a street life past prior to going into shelter and it came back to haunt me. Some people feel like they have claimed part of the shelter for themselves. They perceived me as a threat or a competitor, so I became a target: my belongings were stolen, my property was damaged, and they tried to instigate fights with me.

8. I have also experienced racism in shelters. Most of the time, there are not big groups of African Canadian people in shelters because we usually have different support systems in place and can stay with friends or family. Sometimes there are one or two. You have to go along to get along: for example, I am not a scrapper (collecting random items), but if someone had a job to be done, I feel like I have to help to develop a closer kinship with others.
9. The N word is often used in shelters. Sometimes it's not directed to me, but the mentality seems to be that it's a go-to word when things get tense. I try not to engage directly unless it's directed at me. I don't want things to escalate and don't want to lose control. I am also worried that it will make me a target if I speak up. It is hurtful and makes me uncomfortable, particularly when it is said with hurt and anger.
10. I have also been racially profiled by shelter residents – they assume that I have dope because I am Black. They ask to buy from me, and then confront me in disbelief when I say no.
11. I am using crystal meth right now to get by. I have high anxiety and the meth helps me calm down. I use it about twice every half hour. I was worried about being caught and kicked out while in shelter and using. I am also anxious about being able to come and go from a shelter while using because if you are not there at the right times, you can be kicked out.
12. I also had trouble sleeping in shelters. It is loud, it smells, and I am surrounded by strangers. I was worried that people were lurking and trying to get me. Having all those strange men around me is uncomfortable and you don't know who may hurt you. I slept with my head at the foot of my bed to try to keep an eye on people.
13. I started saying in a tent after I was evicted. I was at Sanford and Barton – I believe it is called Woodlands Park. I stayed there for almost two years, in part while tents were allowed in certain parks. I was the last one to be evicted from the park. My tent had a kitchen area, living area, and storage area. I also had a workshop area to repair bikes. There was a canopy over top of the tent to protect me from the rain.
14. There were three women living beside me who wanted to be close to me for safety. They would call out to me if they needed me to scare anyone off.
15. There were about 16-20 people, or about seven tents, in the grassy area. Five tents were allowed in the area at the time under the previous Encampment Protocol.



16. It was comforting to be in one familiar location. I had friends with me and we looked out for each other. Community outreach like Keeping Six came by, neighbours cooked for us and brought us meals. Inside a tent, I felt more secure to sleep and was protected by the elements.
17. Eventually, By-Law officers came and told us that the City wanted their park back. We were given three days to move while they tore down tents in other areas. People in the smaller tents took off and moved to the escarpment to hide. I stayed because I thought I would be allowed because I had been there for so long and had not caused problems.
18. However, after three days, By-law and Social Navigation came back. They surrounded my tent with cars and police. The City's white trucks and bulldozers were there. I was the only one left. I was in the middle of it all and couldn't go anywhere. I felt very small. The Hamilton Encampment Support Network stood between me and the police and tried to negotiate a bit of time for me to move. A woman who lived in the area came by and said that we should not be moved because we were not bothering anyone. We were located at the back of a grassy field against a factory wall, mostly hidden from public view.
19. I was in the process of moving my belongings and the City kept pressuring me to get my things out quicker. They started the trucks and were driving them around. It was a lot of pressure. They offered to drive some of my belongings to a yard for temporary storage. I agreed because I had no other option, but was worried about my belongings.
20. I had nowhere to go and was separated from a lot of my belongings. I couldn't get hold of the storage site, or Social Navigation. I went to the Hub to see if they could get hold of anyone but they were not able. I ended up losing a truck load's worth of tools, camping supplies, tarps, beds, cots, and clothing. My tent was also lost.
21. I was offered a shelter room at Four Points hotel but I did not have anywhere to put even the belongings that I was able to take with me.
22. After being evicted, I was able to couch surf with a friend for a couple weeks. However, I could not stay indefinitely and had to move. After that, I was back on the streets trying to survive. I no longer had a tent because I lost it in the last eviction.
23. I stayed wherever necessary: there was a vent behind the family court building on MacNab. There were about 15 of us sleeping sausage style up against each other. We were forced to leave after about three weeks when the heating vents were turned off.

24. From there, I went to Urban Core's parking lot. I was there for about a week with some of the same people I had been at MacNab with. It was then closed up with fencing.
25. After Urban Core, I slept around City Hall and the Convention Centre. Then I was at a nearby church staircase. Then I circled back to Urban Core.
26. Everywhere I went, either By-Law or police would tell me I could not stay. At some point, I got a new tent, but we knew that we could not put one up because the City would be buzzing all around and tell us to take it down.
27. I tried to create a tent using tarps to protect against the elements. I just hoped that I could get some sleep before the cops came long.
28. It feels like the City is always trying to take away anything that makes homeless people comfortable: they turn off heating vents, if you stay on a cluster of benches, you come back and only one is left.
29. Staying outside without a tent has been very difficult for me. I can't really sleep. You are constantly moving around trying to stay warm and safe. It worsens my anxiety. I feel like a victim to the weather – there is nowhere to hide from it.
30. As a result, I fall asleep often during the day. I shrink into myself. It is hard to concentrate. I just want to find a quiet corner. I sleep at Wesley during the day when I can.
31. I ended up getting frostbite on my left foot and toes last winter while sleeping outside. I had a blanket on me but nothing else. It took time for the toes and then my foot to change colour. Then I had balance problem. It has been getting steadily worse and today Dr. Wiwcharuk told me I am going to lose my left big toe. She told me I will be an amputee. It is so painful now that even slight winds cause extreme pain.
32. I only learned of this Application today after meeting with Dr. Wiwcharuk at the Wesley Day Centre for treatment of my frostbite.

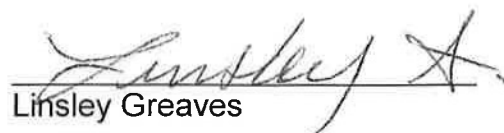
SWORN BEFORE ME in the City  
of Hamilton, this 2<sup>nd</sup> day of June, 2022



A Commissioner, etc.

Sharon Crome

Barrister & Solicitor

  
Linsley Greaves



ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
AND SHAWN ARNOLD, ET AL.

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF *Linsley Adams*

*Linsley Adams* of the City Hamilton in the Province of Ontario, Affirm and  
say:

1. Since June 2022 I have stayed in the following locations:

*a local friend's backyard Garage Shed.*  
*" " " "*  
*Now at Sandford Park - Woodlana Park.*

2. I have been impacted by on-going encampment evictions since June 2022 in the following ways:

- Loss of Belongings
- Mental Health
- Weight loss
- Personal Hygiene upkeep. - lockers.

3. Stable Medical access.  
Medical from passing byers.  
Self-esteem Issues.

4.

AFFIRMED AND DECLARED )  
before me at the City of Hamilton, )  
in the Province of Ontario, )  
this 28 day of June, 2023. )

Michael Holt  
A Commissioner etc.

Lesley Asart

## CONSENT TO RELEASE OF INFORMATION AND RECORDS

HAMILTON COMMUNITY LEGAL CLINIC  
CLINIQUE JURIDIQUE COMMUNAUTAIRE DE HAMILTON

TO: Dr Rachel Lamont

RE: Linglay Greaves.

I hereby authorize and consent to the release of any documents, records, or information, including electronic data/records, concerning myself which is in your possession, to **HAMILTON COMMUNITY LEGAL CLINIC/CLINIQUE JURIDIQUE COMMUNAUTAIRE DE HAMILTON**, as my solicitors and agents for such release.

And I further agree to release Rachel Lamont from any and all liability which may be occasioned by the release of such documents, records, or information.

DATED this 27<sup>th</sup> day of June, 2023.

SIGNED: 

WITNESS: 

<div>1</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>Court File No. CV-21-77187</p> <p>ONTARIO</p> <p>SUPERIOR COURT OF JUSTICE</p> <p>B E T W E E N:</p> <p>KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,</p> <p>MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,</p> <p>CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,</p> <p>CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,</p> <p>ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,</p> <p>SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and</p> <p>PATRICK WARD</p> <p>Applicants</p> <p>and</p> <p>CITY OF HAMILTON</p> <p>Respondent</p> <p>--- This is the Cross-Examination of LINSLEY GREAVES, an Applicant, herein, on his Affidavits Sworn the 2nd day of June, 2022, and the 5th day of July, 2023, taken via videoconference on the 14th day of August, 2024.</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </div>	<div>3</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>TABLE OF CONTENTS</p> <p>A4689</p> <p>INDEX OF EXAMINATIONS: PAGE NO.</p> <p>LINSLEY GREAVES: Affirmed..... 4</p> <p>CROSS-EXAMINATION BY MS. SHORES..... 4</p> <p>RE-EXAMINATION BY MS. CROWE..... 50</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </div>
<div>2</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>APPEARANCES:</p> <p>Sharon Crowe For the Applicants</p> <p>Curtis Sell</p> <p>Nnonyechi Okenwa</p> <p>Michelle Sutherland</p> <p>Bevin Shores For the Respondent</p> <p>Jordan Diacur</p> <p>Vivian Caldas</p> <p>ALSO PRESENT:</p> <p>Katherine Finlayson Summer law student</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </div>	<div>4</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <p>--- Upon commencing at 10:03 a.m.</p> <p>LINSLEY GREAVES: Affirmed.</p> <p>CROSS-EXAMINATION BY MS. SHORES:</p> <p>1 Q. Good morning, Mr. Greaves. Can</p> <p>5 you please state your full name for the record?</p> <p>6 A. My name is Linsley Osman Greaves.</p> <p>7 2 Q. And how do you spell your middle</p> <p>8 name?</p> <p>9 A. O-S-M-A-N.</p> <p>10 3 Q. O-S-M-A-N. And how would you like</p> <p>11 to be addressed today?</p> <p>12 A. As "Linsley."</p> <p>13 4 Q. "Linsley"? Great. Do you have</p> <p>14 any pronouns that you wish to share or that you use?</p> <p>15 A. No, that's quite fine.</p> <p>16 5 Q. Okay. And as we introduced off</p> <p>17 the record, my name is Bevin Shores. I'm a lawyer with</p> <p>18 the City of Hamilton. My pronouns are "she" and "her."</p> <p>19 And I'll be asking you some questions today about two</p> <p>20 affidavits that you've sworn. One of them -- or</p> <p>21 affirmed. One of them is June 2, 2022, and the other</p> <p>22 one is July 5, 2023.</p> <p>23 A. Okay.</p> <p>24 6 Q. Linsley, before we get started, if</p> <p>25 during this cross-examination you don't understand any</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> <p>A405</p> </div>

5

1 of my questions, please let me know. Okay?

2 **A. No problem.**

3 7 **Q.** Okay. And if you don't say so,

4 I'm going to proceed on the understanding that you do

5 understand my questions.

6 **A. Okay.**

7 8 **Q.** All right. So you're attending

8 today from the office of your lawyers, and you've got

9 your lawyers Sharon Crowe and Curtis Sell in the room

10 with you; correct?

11 **A. That's right.**

12 9 **Q.** And you understand that your

13 evidence is to be your own and no one's helping you

14 give evidence today; correct?

15 **A. That's right.**

16 10 **Q.** And as we discussed before we got

17 started, you'll give verbal responses because the

18 transcript that Lydia's going to prepare doesn't

19 reflect head nods or other gestures. Is that

20 understood?

21 **A. Okay.**

22 11 **Q.** All right. Have you reviewed your

23 June 2, 2022, affidavit?

24 **A. Yes, I have.**

25 12 **Q.** Can you confirm that everything in

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6

1 that affidavit is accurate?

2 **A. That's accurate, but the first,**

3 **like, change is that I'm now receiving ODPS but no**

4 **longer on welfare.**

5 13 **Q.** Okay. So you're receiving ODSP,

6 no longer on welfare. When did you start receiving

7 ODSP?

8 **A. Shortly after my injury.**

9 14 **Q.** Which injury is that?

10 **A. My leg amputation.**

11 15 **Q.** Okay. When was your leg

12 amputation?

13 **A. Date -- I don't have the date**

14 **exactly confirmed.**

15 16 **Q.** And we'll get to this, but

16 Dr. Claire Bodkin indicated that she saw you in

17 December of 2022, and she referred you to hospital

18 after which you had an amputation. Would it have been

19 around December of 2022?

20 **A. Yeah, it would be around that**

21 **time, I would think.**

22 17 **Q.** Okay. How much do you get for

23 ODSP?

24 **A. I believe it's \$700 now, if I'm**

25 **accurate.**

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7

1 18 **Q.** About \$700? And is that per month

2 or is that some other --

3 **A. Per month, yeah.**

4 19 **Q.** Per month. And what is the

5 disability for which you receive ODSP?

6 **A. Well, my leg amputation.**

7 20 **Q.** I'm going to come back to that,

8 but you also affirmed an affidavit dated July 5, 2023.

9 Have you reviewed that affidavit?

10 **A. I don't remember the dates on the**

11 **affidavits.**

12 21 **Q.** Okay. I'll put it up on the

13 screen for you so you can take a look and see if that

14 jogs your memory. I'm placing on the screen the

15 affidavit of Linsley Greaves and scrolling down to the

16 signature page. It says affirmed and declared the 5th

17 day of July 2023. Does that assist you?

18 **A. I'm getting there.**

19 MS. CROWE: Bevin, sorry to interrupt.

20 He also has a printed copy in front of him, so I'm

21 going to refer him to the printed copy.

22 MS. SHORES: Excellent, thank you.

23 BY MS. SHORES:

24 22 **Q.** Okay, Mr. Greaves. So have you

25 reviewed that affidavit?

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8

1 **A. Yes, I did briefly.**

2 23 **Q.** And can you confirm everything in

3 that affidavit is accurate?

4 **A. Yes, I can.**

5 24 **Q.** Okay. You currently live in

6 Hamilton?

7 **A. Yes, I do.**

8 25 **Q.** How long have you lived in

9 Hamilton for?

10 **A. I'd say 16 years now.**

11 26 **Q.** Where did you live before coming

12 to Hamilton?

13 **A. I was in Toronto.**

14 27 **Q.** Where are you currently living?

15 **A. I'm currently living outside.**

16 **It's in a park in Hamilton.**

17 28 **Q.** Which park are you living in?

18 **A. I don't know the exact name of it,**

19 **but it's on Sanford Street.**

20 29 **Q.** On Sanford Street?

21 **A. Yeah.**

22 30 **Q.** How long have you been in the park

23 on Sanford Street?

24 **A. About a month now.**

25 31 **Q.** Are you living in a tent in the

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**(905) 522-1653**

<p>1 park on Sanford Street?</p> <p>2 <b>A. Yes, I am.</b></p> <p>3 32 <b>Q.</b> And before living in the tent in</p> <p>4 the park on Sanford Street, where were you living?</p> <p>5 <b>A. I was at a shelter for a little</b></p> <p>6 <b>bit.</b></p> <p>7 33 <b>Q.</b> Which shelter were you staying at?</p> <p>8 <b>A. The Mission Services.</b></p> <p>9 34 <b>Q.</b> Mission Services. For how long</p> <p>10 were you staying at Mission Services approximately?</p> <p>11 <b>A. I believe it was, like, two</b></p> <p>12 <b>weeks -- two to three weeks.</b></p> <p>13 35 <b>Q.</b> And why did you leave the shelter</p> <p>14 at Mission Services?</p> <p>15 <b>A. At that time, I was confused and I</b></p> <p>16 <b>was losing property and I didn't know, like, what was</b></p> <p>17 <b>happening with my stuff, so I got upset and I didn't</b></p> <p>18 <b>want to go back because I was losing too much stuff</b></p> <p>19 <b>that I needed.</b></p> <p>20 36 <b>Q.</b> And prior to going to shelter at</p> <p>21 Mission Services, where were you living?</p> <p>22 <b>A. Not certain about that. I was</b></p> <p>23 <b>just outside in between.</b></p> <p>24 37 <b>Q.</b> Okay. So outside living in a</p> <p>25 tent?</p>	<p>1 42 <b>Q.</b> Before I move on to the next</p> <p>2 paragraphs in your affidavit, you mention at paragraph</p> <p>3 3 of your June 2, 2022, affidavit that when you were on</p> <p>4 Ontario Works, the shelter allowance would have been</p> <p>5 \$383, which you do say that you weren't receiving,</p> <p>6 "which is insufficient for the price of rent in the</p> <p>7 private rental market." Now that you're receiving</p> <p>8 ODSP, has that changed your ability to rent an</p> <p>9 apartment on the rental market?</p> <p>10 <b>A. Well, maybe somewhat, but the rent</b></p> <p>11 <b>in the market has gone up a lot more. So it's still</b></p> <p>12 <b>competitive and I can't really find anything at my</b></p> <p>13 <b>range for a single person.</b></p> <p>14 43 <b>Q.</b> Have you considered living with</p> <p>15 roommates to pool money --</p> <p>16 <b>A. Yeah, I have. Yes, I have.</b></p> <p>17 44 <b>Q.</b> And has that worked out at all?</p> <p>18 <b>A. Well, there's hardly anyone that's</b></p> <p>19 <b>cooperative enough or stable enough to do something</b></p> <p>20 <b>with that. It's just a few people that are able to.</b></p> <p>21 45 <b>Q.</b> Out of the people you know?</p> <p>22 <b>A. Yeah.</b></p> <p>23 46 <b>Q.</b> At paragraph 6 of your June 2022</p> <p>24 affidavit, you state you've stayed in several men's</p> <p>25 shelters in Hamilton during the first year of most</p>
<p>1 <b>A. Yes.</b></p> <p>2 38 <b>Q.</b> When you went into shelter at</p> <p>3 Mission Services, was there anything in particular that</p> <p>4 prompted you to go into shelter?</p> <p>5 <b>A. I'm not too sure. It's just,</b></p> <p>6 <b>like, accessibilities or need of, like, you know, to be</b></p> <p>7 <b>hygienically clean, or certain things like sleep or to</b></p> <p>8 <b>eat, basically. Necessities.</b></p> <p>9 39 <b>Q.</b> Have you been housed at all since</p> <p>10 coming to Hamilton? Sorry, strike that. You indicated</p> <p>11 that you were housed until about two years before your</p> <p>12 June 22, 2022, affidavit.</p> <p>13 <b>A. Yes.</b></p> <p>14 40 <b>Q.</b> So have you been housed at all</p> <p>15 since about 2020?</p> <p>16 <b>A. 2020? I don't think so. Not</b></p> <p>17 <b>after my eviction, no.</b></p> <p>18 41 <b>Q.</b> All right. Let's start talking</p> <p>19 about that a little bit. You stated at paragraph 5 of</p> <p>20 your June 2, 2022, affidavit "I was housed for seven</p> <p>21 years until about two years ago. My roommates did not</p> <p>22 pay their portion of rent. It was my lease, so I was</p> <p>23 evicted." That's the eviction that you just referred</p> <p>24 to?</p> <p>25 <b>A. Yeah.</b></p>	<p>1 recent homelessness. Do you remember which ones?</p> <p>2 <b>A. Not quite. Not quite exactly, no.</b></p> <p>3 47 <b>Q.</b> At paragraph 7, you say "I had a</p> <p>4 street life past prior to going into shelter and it</p> <p>5 came back to haunt me." When you say "came back to</p> <p>6 haunt me," do you mean you've had conflicts with other</p> <p>7 people who lived on the street?</p> <p>8 <b>A. Yeah. It's hard to be out on the</b></p> <p>9 <b>street without having conflicts. I mean, there's</b></p> <p>10 <b>always some challenge every day with people trying to</b></p> <p>11 <b>test their barrier.</b></p> <p>12 48 <b>Q.</b> At paragraph 8 of your June 2022</p> <p>13 affidavit, you say you experienced racism in shelters,</p> <p>14 and then you go on to describe that there are not big</p> <p>15 groups of African-Canadian people in shelters because</p> <p>16 "we usually have different support systems in place."</p> <p>17 And at paragraph 9, you state "The N word is often used</p> <p>18 in shelters. Sometimes it's not directed to me, but</p> <p>19 the mentality seems to be that it's a go-to word when</p> <p>20 things get tense." Are those things what you mean when</p> <p>21 you say you've experienced racism in shelters?</p> <p>22 <b>A. Well, yeah, generally.</b></p> <p>23 49 <b>Q.</b> And the use of the N word in</p> <p>24 shelters, that's not by the shelter staff; that's by</p> <p>25 other people there?</p>

<p>1                   <b>A. No, it's not common by the staff,</b>  2   <b>to hear anything like that. It's just generally the</b>  3   <b>public.</b>  4   50           <b>Q. The other people?</b>  5                   <b>A. Yeah.</b>  6   51           <b>Q. And the people who have used the N</b>  7   word, did you ever see those people out on the street?  8                   <b>A. Oh, yeah.</b>  9   52           <b>Q. In encampments?</b>  10                  <b>A. Oh, yeah. It's a wide bunch of</b>  11   <b>people, indifferences.</b>  12   53           <b>Q. Paragraph 10, you say you've been</b>  13   racially profiled by shelter residents. "They assume  14   that I have dope because I am Black." Has anyone ever  15   said specifically that they assume you have dope  16   because you're Black?  17                  <b>A. Not directly. It's just that --</b>  18   <b>it's my perception of a general assumption I think</b>  19   <b>people have of my culture, that because you, like,</b>  20   <b>generally are Black, you should have something. It's</b>  21   <b>an expectation of most of them, but it's not always the</b>  22   <b>truth.</b>  23   54           <b>Q. And again, that's not the shelter</b>  24   staff; that's other people who are --  25                  <b>A. Yeah, that's the general --</b></p>	<p>1   2022?  2                   <b>A. Perhaps, yeah.</b> <b>A4692</b>  3   60           <b>Q. And around that time, how much of</b>  4   your day would have been spent obtaining and using  5   crystal meth?  6                   <b>A. Not much, because other people</b>  7   <b>would come by and they would have some, a little bit,</b>  8   <b>so I would never have to really go out looking for</b>  9   <b>anything or chasing it -- you know? -- chasing the</b>  10   <b>dope.</b>  11   61           <b>Q. When you say other people would</b>  12   come by, you mean coming by to your tent?  13                  <b>A. Yeah, just my little social</b>  14   <b>circle. Someone would come by, drop by, come there.</b>  15   62           <b>Q. And are you using crystal meth at</b>  16   all or have you been able to stop completely?  17                  <b>A. I've been -- I've been greatly</b>  18   <b>reduced. I've just dabbled, like, now and then with it</b>  19   <b>because I was stressed out, but I'm not really as</b>  20   <b>addicted as I was before.</b>  21   63           <b>Q. And so have you gotten treatment</b>  22   for the underlying stress or anxiety that led you to  23   use crystal meth?  24                  <b>A. I had had a little bit of anxiety</b>  25   <b>pills, but I believe since my doctor situation hasn't</b></p>
<p>1   55           <b>Q. -- shelter residents? Sorry, I</b>  2   didn't mean to interrupt you. Paragraph 11 -- so this  3   is again in your June 2022 affidavit -- you state "I am  4   using crystal meth right now to get by. I have high  5   anxiety and the meth helps me calm down. I use it  6   about twice every half hour." Are you still using  7   crystal meth about twice every half hour?  8                  <b>A. I have briefly dabbled in it, but</b>  9   <b>I have reduced my usage in it. It affects my organs</b>  10   <b>and so forth, so I haven't been really using much of</b>  11   <b>anything.</b>  12   56           <b>Q. For how long would you have been</b>  13   using crystal meth with a frequency of twice every half  14   hour?  15                  <b>A. I'd say about -- I guess a year.</b>  16   57           <b>Q. A year. If I'm doing the math,</b>  17   that's about every 15 minutes. Is that accurate?  18                  <b>A. Well, not that -- not that</b>  19   <b>accurate, no. It's more or less, like, you know, I</b>  20   <b>guess, leisure time. Not every 15 minutes, no.</b>  21   58           <b>Q. So at that point in time, the</b>  22   rough year that you were using crystal meth -- well,  23   let me ask: Do you remember when that was, what year?  24                  <b>A. No, I can't say exactly.</b>  25   59           <b>Q. Okay. Sometime around June of</b></p>	<p>1   <b>straightened out, I haven't -- I haven't had any more,</b>  2   <b>like, medical assistance with it.</b>  3   64           <b>Q. Which was the doctor who gave you</b>  4   the anxiety pills?  5                  <b>A. I believe it was Julian.</b>  6   65           <b>Q. Julian? Is it Dr. Jill maybe?</b>  7                  <b>A. Yeah, Jill or Julian, yeah.</b>  8   66           <b>Q. Okay. How many times did you see</b>  9   Dr. Jill?  10                  <b>A. Basically twice a week when she</b>  11   <b>was operating. Yeah, about that.</b>  12   67           <b>Q. And where would you see Dr. Jill?</b>  13                  <b>A. At the Wesley Centre. She had an</b>  14   <b>office there.</b>  15   68           <b>Q. So you could go to the Wesley</b>  16   Centre and see Dr. Jill and get treatment?  17                  <b>A. Yeah.</b>  18   69           <b>Q. And do you remember what timeframe</b>  19   you would have been seeing Dr. Jill?  20                  <b>A. Oh, no. I'm bad with memory about</b>  21   <b>time and dates.</b>  22   70           <b>Q. Okay. Would it help you to think</b>  23   of when would be the last time that you saw Dr. Jill?  24                  <b>A. No. It's kind of hard. But she</b>  25   <b>has since left the city and moved on. But it's -- I</b> <b>A408</b></p>



<p>1 <b>don't know exactly when it's been.</b></p> <p>2 71 <b>Q.</b> Do you see anyone else now that</p> <p>3 Dr. Jill has moved? Is there another doctor who's</p> <p>4 filled that role for you?</p> <p>5 <b>A. I think I've dropped into a couple</b></p> <p>6 <b>of drop-ins, but I haven't addressed, like, my</b></p> <p>7 <b>substance use problem or I haven't had any, like,</b></p> <p>8 <b>stress about it to come and bring it to the table.</b></p> <p>9 <b>Generally, general health issues I've been putting</b></p> <p>10 <b>together.</b></p> <p>11 72 <b>Q.</b> Okay. Let me just make sure I</p> <p>12 understand your evidence. You're experiencing</p> <p>13 substance use problems but not to the point where</p> <p>14 you're seeking help with them?</p> <p>15 <b>A. Yeah, somewhat.</b></p> <p>16 73 <b>Q.</b> Now, I'm going to go back to your</p> <p>17 June 2022 affidavit. At paragraph 11 again, towards</p> <p>18 the end of the paragraph, you say "I am also anxious</p> <p>19 about being able to come and go from a shelter while</p> <p>20 using because if you are not there at the right times,</p> <p>21 you can be kicked out." Are you referring there to bed</p> <p>22 checks?</p> <p>23 <b>A. Oh, yeah. Bed checks, you got to</b></p> <p>24 <b>be there before -- or, well, while they check the beds.</b></p> <p>25 <b>So it's basically you're two minutes of being at the</b></p>	<p>1 Sanford and Barton. You believe it's called Woodlands</p> <p>2 Park. Is that where you are now? <b>A4693</b></p> <p>3 <b>A. Woodlands Park is just north of</b></p> <p>4 <b>the one that I'm at right now.</b></p> <p>5 80 <b>Q.</b> I see.</p> <p>6 <b>A. In the same proximity.</b></p> <p>7 81 <b>Q.</b> When you stayed in your tent after</p> <p>8 you were evicted, according to your affidavit, you</p> <p>9 stayed there for almost two years?</p> <p>10 <b>A. I don't remember the length of</b></p> <p>11 <b>time.</b></p> <p>12 82 <b>Q.</b> It says here in your affidavit it</p> <p>13 was almost two years, so that would probably be correct</p> <p>14 if that's what you wrote?</p> <p>15 <b>A. Okay. Then I would go with that.</b></p> <p>16 83 <b>Q.</b> You said your tent had a kitchen</p> <p>17 area, a living area, and a storage area. How big was</p> <p>18 your tent?</p> <p>19 <b>A. Well, every tent, it just went a</b></p> <p>20 <b>little more than we should have, and tried to make it a</b></p> <p>21 <b>more stable kind of home, like, environment. It wasn't</b></p> <p>22 <b>as big as big. It was just a couple feet, like 16 feet</b></p> <p>23 <b>by 10.</b></p> <p>24 84 <b>Q.</b> Okay. So this was all in one</p> <p>25 tent? You just had sort of a kitchen section, a living</p>
<p>1 <b>shelter.</b></p> <p>2 74 <b>Q.</b> So they check the bed to make sure</p> <p>3 you're still using it; right?</p> <p>4 <b>A. Yeah, that you're still in the bed</b></p> <p>5 <b>or you're going to use it overnight.</b></p> <p>6 75 <b>Q.</b> And they don't kick you out for</p> <p>7 just one missed bed check, though; right?</p> <p>8 <b>A. No, no. There's three bed checks</b></p> <p>9 <b>a night.</b></p> <p>10 76 <b>Q.</b> And so is there anything that</p> <p>11 would be stopping you from being there for at least one</p> <p>12 of the bed checks?</p> <p>13 <b>A. I don't know. Like, just rapid</b></p> <p>14 <b>stuff, if anything, but not any real, general object</b></p> <p>15 <b>that's going to stop me, period.</b></p> <p>16 77 <b>Q.</b> At paragraph 13, you say you</p> <p>17 started staying in a tent after you were evicted. We</p> <p>18 talked before about you having been evicted from your</p> <p>19 apartment. Is that when you started staying in a tent</p> <p>20 after you were evicted from your apartment?</p> <p>21 <b>A. That's right.</b></p> <p>22 78 <b>Q.</b> And so would that have been</p> <p>23 sometime around 2020? Do you remember?</p> <p>24 <b>A. Yeah, I believe so.</b></p> <p>25 79 <b>Q.</b> And you go on to say you were at</p>	<p>1 area --</p> <p>2 <b>A. Yeah. It was basically tarped</b></p> <p>3 <b>over and it was, like, separated by tarps.</b></p> <p>4 85 <b>Q.</b> Okay. Did you have like a camping</p> <p>5 tent or was it more just a structure covered with</p> <p>6 tarps?</p> <p>7 <b>A. It was a camping tent surrounded</b></p> <p>8 <b>by a structure covered with tarps.</b></p> <p>9 86 <b>Q.</b> And what kind of things did you</p> <p>10 store in your storage area?</p> <p>11 <b>A. Just general -- clothes, my bike,</b></p> <p>12 <b>general stuff, tools, just general stuff.</b></p> <p>13 87 <b>Q.</b> And how much space was taken up by</p> <p>14 your tent and the tarps and the storage area? Do you</p> <p>15 remember?</p> <p>16 <b>A. Not much. It was still</b></p> <p>17 <b>functional. I like everything to be more or less</b></p> <p>18 <b>concise. It was pretty tight and functional. I don't</b></p> <p>19 <b>know how much space in general.</b></p> <p>20 88 <b>Q.</b> You said 16 by 10 before. That</p> <p>21 would be the footprint of your tent in --</p> <p>22 <b>A. Yeah, about that in feet.</b></p> <p>23 89 <b>Q.</b> Okay. You said you had a kitchen</p> <p>24 area. Did you cook in there?</p> <p>25 <b>A. It was basically outside of the</b> <b>A409</b></p>



<p>1 tent. It was a basic grill, barbecue grill with a</p> <p>2 little wooden kind of slab top for the kitchen area.</p> <p>3 And we found an old cabinet that we had put -- like, I</p> <p>4 think it was the bottom of one of the cabinets. I just</p> <p>5 kind of improvised it.</p> <p>6 90 Q. And how was the grill fuelled?</p> <p>7 Was it propane or wood or charcoal --</p> <p>8 A. It was -- it was charcoal-fuelled.</p> <p>9 91 Q. When you were staying in your</p> <p>10 tent, you would still go out and move around and go see</p> <p>11 people, go to the Wesley Day Centre, go see your</p> <p>12 doctor, go out and about?</p> <p>13 A. Yeah.</p> <p>14 92 Q. So you're not sitting in the tent</p> <p>15 24/7?</p> <p>16 A. No.</p> <p>17 93 Q. Okay. Have you had things stolen</p> <p>18 from your tent when you're gone?</p> <p>19 A. Yes, at times.</p> <p>20 94 Q. At paragraph 15, you say that</p> <p>21 there were about 16 to 20 people among 7 tents. Do you</p> <p>22 know about how much space that group of seven tents</p> <p>23 took up?</p> <p>24 A. Well, basically, the field is, I'd</p> <p>25 say, like, about 200 feet long by about, I guess,</p>	<p>1 their property away at the same time. So that's</p> <p>2 like, they tore their stuff down, had these guys all,</p> <p>3 like, scooting around trying to find somewhere to</p> <p>4 stay.</p> <p>5 98 Q. And who told you that?</p> <p>6 A. Some of the people that I know.</p> <p>7 99 Q. Do you know their names?</p> <p>8 A. Oh, I -- no, I don't remember</p> <p>9 exactly everybody, but it's, like, two to four people</p> <p>10 that I know that's been talking about -- they were at</p> <p>11 another park that had been cleaned up, that they</p> <p>12 bulldozed, and then they went up higher towards the</p> <p>13 mountain area. And I think they cleaned around the</p> <p>14 escarpment, I heard, and they were coming -- there was</p> <p>15 an actual warning that they were coming down to</p> <p>16 Woodlands Park, so everyone was kind of anxious or</p> <p>17 nervous that they were coming down and they would take</p> <p>18 up the park. But they used a different method. They</p> <p>19 just kind of had to try to stay there and watch us all</p> <p>20 remove our stuff until they were ready to pull it up.</p> <p>21 100 Q. When you say tents being torn down</p> <p>22 in other areas, you didn't actually witness it</p> <p>23 yourself; this was just what other people were</p> <p>24 talking --</p> <p>25 A. I wasn't there. It was just</p>
<p>1 100-and-something feet wide. It generally went along</p> <p>2 the back edge of the field to the other side. It had a</p> <p>3 couple more as well.</p> <p>4 95 Q. Okay. At paragraph 17, you</p> <p>5 describe that, "Eventually, by-law officers came and</p> <p>6 told us that the City wanted their park back." You'd</p> <p>7 agree that other people couldn't use the space while</p> <p>8 you and your companions were in it?</p> <p>9 A. Other people? No. We were away</p> <p>10 from the field itself. We were, like, off to the side</p> <p>11 of the fencing, so the field was still wide open. The</p> <p>12 park was available to anyone that needed it.</p> <p>13 96 Q. Okay. So the people could use the</p> <p>14 field and the part of the park that you weren't in?</p> <p>15 A. Yeah. The park that I was -- the</p> <p>16 field was accessible. It was quite usable.</p> <p>17 97 Q. You say you were given three days</p> <p>18 to move while they tore down tents in other areas.</p> <p>19 What do you mean "tore down tents in other areas"?</p> <p>20 A. Well, we were hearing from other</p> <p>21 people, like, people that were, like, removed from</p> <p>22 their tents. They generally needed some space, so they</p> <p>23 came by our tent and were telling us that the City had</p> <p>24 them leave their tent while they tore down with a</p> <p>25 bulldozer and threw everything in the garbage, all</p>	<p>1 people that were displaced, that had nowhere to stay.</p> <p>2 Like, they came by to stay over there.</p> <p>3 101 Q. And you said that when the by-law</p> <p>4 officers came to your site, they didn't do that, and</p> <p>5 you describe in your affidavit "we were given three</p> <p>6 days to move"?</p> <p>7 A. Well, that's what they said that</p> <p>8 we would have, at least three days to move before</p> <p>9 they'd come and remove the stuff from the tents. But</p> <p>10 in general, we had nowhere to go to, so it was, like,</p> <p>11 where do we go with our stuff? You know, it was a big</p> <p>12 question. It was hard to get up and move anywhere.</p> <p>13 They were telling us to move from everywhere we went</p> <p>14 before that. Before that, it was hard to even</p> <p>15 stabilize for one night. They would come in the middle</p> <p>16 of the night and they would tell you you have to move</p> <p>17 in the middle of the night, or at four o'clock, or</p> <p>18 six o'clock. And it's like -- you know, it's just</p> <p>19 upsetting, like, to get up and move to nowhere that you</p> <p>20 don't really -- you didn't really plan it.</p> <p>21 102 Q. When you say people come in the</p> <p>22 middle of the night, tell me about that. Has that ever</p> <p>23 happened to you?</p> <p>24 A. Yeah. They had officers and</p> <p>25 by-law -- I don't think it was the by-law. It was just</p>

<p>1 officers in general telling us that we can't stay</p> <p>2 there. We had to pick up and leave. And it wasn't</p> <p>3 really a tent system. It was just, like, basic tarps,</p> <p>4 like, to keep from the wind and stuff. But they just</p> <p>5 kept on moving on consistently from everywhere that we</p> <p>6 settled down.</p> <p>7 103 Q. Okay. I want to find out</p> <p>8 specifically, though. If someone's telling you to move</p> <p>9 in the middle of the night, and you said it wasn't</p> <p>10 by-law, do you know who it was?</p> <p>11 A. It was generally the officers. I</p> <p>12 don't know, like, what they're called, their titles. I</p> <p>13 guess -- I don't know the titling of anyone.</p> <p>14 104 Q. Where were you when that happened?</p> <p>15 A. Ferguson was one. Well,</p> <p>16 generally, in every place. We were at City Hall. We</p> <p>17 were just moved around. Anywhere we could find a</p> <p>18 little bit of space in some shelter against the</p> <p>19 elements, we stayed there.</p> <p>20 105 Q. Okay. I want to know specifically</p> <p>21 about anytime where someone came to you in the middle</p> <p>22 of the night and you moved around. So you said that</p> <p>23 happened once at Ferguson?</p> <p>24 A. Yeah.</p> <p>25 106 Q. When did that happen?</p>	<p>1 soon as we put it down, they would come show up and</p> <p>2 they would ask us to get up and go again. It was hard</p> <p>3 to stay anywhere.</p> <p>4 111 Q. When would that have happened? Do</p> <p>5 you remember even what year?</p> <p>6 A. No. It's been a while. I can't</p> <p>7 remember all the times or the dates or anything like</p> <p>8 that, no.</p> <p>9 112 Q. Going back to when the by-law</p> <p>10 officers gave you three days to move from where you</p> <p>11 were at Woodlands Park, you state in your June 2022</p> <p>12 affidavit "I stayed because I thought I would be</p> <p>13 allowed because I had been there for so long and had</p> <p>14 not caused problems." And then at paragraph 18, you</p> <p>15 say "after three days, by-law and Social Navigation</p> <p>16 came back."</p> <p>17 A. Okay.</p> <p>18 113 Q. That's accurate?</p> <p>19 A. I remember that, yeah. Yeah, I</p> <p>20 remember that.</p> <p>21 114 Q. Did anyone tell you that you</p> <p>22 wouldn't have to move?</p> <p>23 A. No, no one told me that I wouldn't</p> <p>24 have to move. We all had to go.</p> <p>25 115 Q. Did you take any steps to move in</p>
<p>1 A. Like I said, I can't really put a</p> <p>2 date or time on anything. I just remember the event.</p> <p>3 107 Q. What time was it when it happened?</p> <p>4 A. It was later than usual, very</p> <p>5 late.</p> <p>6 108 Q. What's usual --</p> <p>7 A. It was very late, like -- I</p> <p>8 can't -- no, I don't know. It was just generally later</p> <p>9 than usual. I remember I had fallen asleep and I was</p> <p>10 woken up by officers just trying to tell us to take it</p> <p>11 down, and they were ready to move it right away, so we</p> <p>12 all had to get up and go.</p> <p>13 109 Q. Do you know for sure it was in the</p> <p>14 middle of the night, or was it just that you were</p> <p>15 sleeping and they woke you up?</p> <p>16 A. Well, being that there was no</p> <p>17 accurate clock there, I just felt as if it was way</p> <p>18 past, like, the middle of the night in general. It was</p> <p>19 later than usual.</p> <p>20 110 Q. Have you been told to move at</p> <p>21 night at any time other than the time at Ferguson that</p> <p>22 you just described to me?</p> <p>23 A. Well, late evening is also still</p> <p>24 night. But, yeah, generally around late evening too.</p> <p>25 We haven't been able to settle anywhere. It's like as</p>	<p>1 those three days?</p> <p>2 A. Like I said, it's just hard to</p> <p>3 find anywhere to put yourself together. Because</p> <p>4 anywhere you went, generally they came and they told</p> <p>5 you to leave. So it was hard for me to be able to come</p> <p>6 up with a place to go. I was kind of residulent (ph)</p> <p>7 to leave in general. And I kind of wanted to stay</p> <p>8 there because it was like it didn't seem as if it was</p> <p>9 in anyone's way. It was out of the way of everyone in</p> <p>10 the back of the park. Plus, I kind of got kind of</p> <p>11 situated and used to that. It's my neighbourhood in</p> <p>12 general. I wanted to be in my neighbourhood, for</p> <p>13 another thing.</p> <p>14 116 Q. Did you seek any help finding</p> <p>15 another place to go?</p> <p>16 A. As far as health concerns, we</p> <p>17 consulted, like, mostly around among each other. And</p> <p>18 they suggested, like, some way-off sites, like up in</p> <p>19 the mountain -- what do you call it -- like in the</p> <p>20 mountain escarpment, which is, like, not really a</p> <p>21 possible good site. There's a lot of bad things</p> <p>22 happening in that area, and down by the bay shore,</p> <p>23 which is a very cold area, so no one really wanted to</p> <p>24 get down that low by the waterfront. We were trying to</p> <p>25 stay, like, midsection.</p>

<p>1 117 Q. When was this happening? Do you 2 remember what month? 3 A. <b>No, I can't really say.</b> 4 118 Q. And -- 5 A. <b>In general, it was just -- we were 6 all just trying to hit the mountain or down by the 7 bayside and just asking each other where would we be 8 able to, like, pitch a tent. It was just in general 9 that was the common thinking.</b> 10 119 Q. Okay. At paragraph 19, you 11 describe you were in the process of moving your 12 belongings. "The City kept pressuring me to get my 13 things out quicker. They started the trucks and were 14 driving them around. It was a lot of pressure. They 15 offered to drive some of my belongings to a yard for 16 temporary storage. I agreed because I had no other 17 option, but was worried about my belongings." They 18 did, in fact, take your things to a yard for storage? 19 A. <b>Yeah, they did.</b> 20 120 Q. And at paragraph 21, you describe 21 you were offered a shelter room at Four Points Hotel; 22 that's correct? 23 A. <b>Yeah, they said there would be a 24 shelter at Four Points, but I had no -- I couldn't 25 bring any of my property with me. And when they had</b></p>	<p>1 123 Q. Did you make further efforts to <b>A4696</b> 2 try to get your things back after that time? 3 A. <b>I had no other contacts or no 4 other leads. I didn't know what else to do.</b> 5 124 Q. Going back to the hotel, you said 6 you couldn't take your things with you, but they had 7 already put your things in storage. So couldn't you go 8 to the hotel then? 9 A. <b>I probably could have went to the 10 hotel, but I had nothing of my own. It was all taken 11 to the yard.</b> 12 125 Q. Couldn't you have taken a few of 13 your things with you? 14 A. <b>Well, generally, I had no way of 15 transporting my stuff anywhere.</b> 16 126 Q. But you could have gone to the 17 hotel. I just don't understand. Could someone have 18 given you a bag or something? 19 A. <b>There was nothing like that option 20 offered or whatever. It was just a lot of pressure to 21 pick up the stuff and get it off the field. It was no 22 suggestion of what you're taking, what you're not 23 taking. It was just to get the stuff off the field, 24 put it all in the truck, and then you can call back 25 later and pick it up. I basically left there</b></p>
<p>1 the trucks take my property up and take them to their 2 yard, they told me I can call back in a couple days and 3 I can have my stuff brought back to me, but I had 4 called back and no one had answered the phone. And 5 then when I got a hold of someone, they said the person 6 in charge of the moving was not available. They were 7 out on -- in the -- they were out in the -- what do you 8 call it -- in the field, so they weren't able to reach 9 them. They didn't make no effort, and I was still 10 stuck without my stuff. 11 121 Q. When did you finally get a hold of 12 that person? How long after you left the encampment at 13 Woodlands Park? 14 A. <b>There was no getting a hold of -- 15 after my stuff has been removed from me, I haven't been 16 able to talk to anyone. I was there at the site when 17 they were taking it.</b> 18 122 Q. But you said you talked to someone 19 and they said the supervisor wasn't there, so when did 20 that conversation happen? 21 A. <b>Yeah, that was in search of -- 22 when we went to get my stuff back, I was on the phone 23 with the person and they said they couldn't really get 24 a hold of the person that was doing the movement or who 25 had moved my stuff.</b></p>	<p>1 empty-handed, with nothing. 2 127 Q. At paragraph 22, you say you were 3 able to couch surf with a friend for a couple of weeks. 4 Is that where you went after you left Woodlands Park? 5 A. <b>Well, at times I could have couch 6 surfed, but they had a family that -- I couldn't be 7 there anytime I wanted to be. It was kind of awkward 8 to get into, like, his place to stay because the 9 family's -- like, you know, it's their dwelling space.</b> 10 128 Q. So where did you go after you left 11 Woodlands Park? 12 A. <b>I just kind of stayed out for a 13 while, but I stayed at one or two of my friends' for a 14 little bit. I couldn't really do anything other than 15 that.</b> 16 129 Q. At paragraph 26, the second 17 sentence, you say "At some point, I got a new tent." 18 Do you remember when you got your new tent? 19 A. <b>Paragraph where?</b> 20 130 Q. 26. It's the third paragraph down 21 on the last page of your June 2022 affidavit. 22 A. <b>I don't remember when exactly I 23 got my new tent. I remember there was a space in 24 between that I had nothing, and then I did receive a 25 tent from -- I think it was the Outreach worker. But <b>A412</b></b></p>

<p>1 that, too, I was told that I couldn't have erected it,  2 and I had nothing, again, because they were taking it.  3 131 Q. And you don't remember when that  4 was?  5 A. No. That was practically -- like,  6 I think it was, like -- no, I don't remember exactly.  7 I can't say a date on anything. I can't tell you the  8 time or anything.  9 132 Q. At paragraph 26, you also say  10 "Everywhere I went, either by-law or police would tell  11 me I could not stay." When they told you that, how  12 long did they give you to leave?  13 A. Some of them, it was like --  14 generally, like, pick it up now, and some of them was  15 like, okay, well, they'll give you, you know, the day  16 they'll be back, shortly. You know? So it's, like,  17 when they come by, you have to start moving everything  18 out.  19 133 Q. When they tell you you can't be  20 here, you pack up and leave like they ask?  21 A. At times I do, and at times it's  22 hard to because I don't know wherever I'm going with  23 this stuff or what I'm going to do with myself. Like,  24 I don't have no other options. We tried to stay at  25 many other places, and they still told us to move, so</p>	<p>1 than, like, you know, being able have some of your own,  2 you know, belongings. And generally, that's what the  3 things are, that you can't bring this and that into  4 shelter. You just can't.  5 138 Q. But you would agree with me that  6 if it's cold out, for example, you can get warm by  7 going into a shelter?  8 A. Yeah, you could. You could go in  9 quickly and spend some time, but you would still have,  10 like, an erected tent that you might have someone  11 watch, or you just kind of leave it for two, three days  12 to keep up -- keep out of the weather and go back in  13 when the weather's better.  14 139 Q. I mean, you would agree, if it's  15 cold out, it's still going to be cold in your tent;  16 right?  17 A. Well, not normally, no. We had  18 heating sources to heat up or keep warm, sleeping bags  19 and blankets, all that.  20 140 Q. What heating sources do you use in  21 your tent?  22 A. We have, like, makeshift little  23 fireplaces. We have, I guess, all the -- what do you  24 call it -- warming blankets, like, the warming  25 blankets, and the -- like, four blankets between two</p>
<p>1 we ran out of options for a while. And it's hard to  2 just get your brain in gear that you're just going to  3 go over here or over there. It's the same scenario.  4 They'll tell you to move from wherever you sit.  5 134 Q. At this point in time, did you try  6 to get into shelter?  7 A. At that point in time, I don't  8 think I was trying to get into shelter. I was just  9 generally trying to stay -- stay, you know, out and  10 get -- being, like, you know, independent.  11 135 Q. One of the City's workers, Rob  12 Mastroianni, states that you were offered shelter in  13 March of 2022 and turned it down. Is it possible  14 that's accurate?  15 A. When was that?  16 136 Q. March of 2022.  17 A. March 2022? I don't recall  18 anything -- who's Rob?  19 137 Q. He's a worker with the City who  20 looks at shelter records.  21 A. I'm not too sure. Generally,  22 it's -- when they give you shelter, they separate you  23 from your property and your belongings, which is -- I  24 don't know. It's important to have these things. And  25 I can't see no other reason not to take shelter other</p>	<p>1 blankets is a good source. Even tarping over -- like,  2 two to three tarps over the top of the tent generally  3 keeps it warmer than the average.  4 141 Q. But it's still not as warm as  5 being indoors; right?  6 A. It won't a hundred percent warm,  7 but it could be -- you could wear a T-shirt inside the  8 tent no problem.  9 142 Q. Even in winter?  10 A. Yeah. We have -- we had enough  11 heat that we can at least wear a T-shirt inside the  12 tent.  13 143 Q. At paragraph 27 of your June 2022  14 affidavit, you say you "tried to create a tent using  15 tarps to protect against the elements. I just hoped  16 that I could get some sleep before the cops came  17 along." Did cops actually ever come along when you  18 were using that tent that you made using tarps?  19 A. I'm not sure which particular tent  20 that would be, but it's just a constant worry that they  21 will be there to pick you up out of your space. It was  22 always a constant on the mind. No matter where you  23 were, it always happened that they came along and they  24 told you to get up and get going.  25 144 Q. So you would move, you would set</p>

<p>1 up your tent or your shelter with your tarps, you would</p> <p>2 be worried that someone would come by, and if they came</p> <p>3 by, you would move when they told you?</p> <p>4 <b>A. Yeah.</b></p> <p>5 145 <b>Q.</b> At paragraph 31, you state you</p> <p>6 ended up getting frostbite on your left foot and toes</p> <p>7 last winter while sleeping outside. Do you remember</p> <p>8 when that frostbite happened?</p> <p>9 <b>A. Well, I remember I was tenting in</b></p> <p>10 <b>Woodlands Park and, like, about three, four days before</b></p> <p>11 <b>that, they had asked me to take my tent down. So I was</b></p> <p>12 <b>out in the general area for a while. I didn't sleep</b></p> <p>13 <b>for, like, two days. And finally, I came to a spot</b></p> <p>14 <b>where I felt like the weather would not affect me. And</b></p> <p>15 <b>it wasn't even cold out or anything. It was just kind</b></p> <p>16 <b>of chilly. I sat down for a rest and ended up falling</b></p> <p>17 <b>asleep outside, and that's when I got frostbite.</b></p> <p>18 146 <b>Q.</b> Had you tried to get into a</p> <p>19 shelter or warming centre?</p> <p>20 <b>A. At that point in time, the weather</b></p> <p>21 <b>wasn't bad, so there wasn't, like, an attempt to run</b></p> <p>22 <b>into a shelter. It was pretty -- it was pretty decent</b></p> <p>23 <b>out, and then it just went downhill. It just turned.</b></p> <p>24 <b>The temperature turned in an instant overnight.</b></p> <p>25 147 <b>Q.</b> Now, you say that it's been</p>	<p>1 your left big toe. "She told me I will be an amputee."</p> <p>2 Is that correct? That's what she told you? <b>A4698</b></p> <p>3 <b>A. I believe so. I believe that's</b></p> <p>4 <b>what it was.</b></p> <p>5 153 <b>Q.</b> Did she send you to the hospital</p> <p>6 or give you any treatment at that time?</p> <p>7 <b>A. There was nothing you could do at</b></p> <p>8 <b>the hospital because there was enough nerve damage and</b></p> <p>9 <b>my toes have already kind of, like, withered from</b></p> <p>10 <b>the -- like, the effect of the frostbite itself, it was</b></p> <p>11 <b>turning black with necrosis, they call it. So there</b></p> <p>12 <b>was nothing really you could do. You just have to -- I</b></p> <p>13 <b>had actually spent some time in the hospital bed before</b></p> <p>14 <b>it actually got that bad to this worse state before</b></p> <p>15 <b>they amputated it. I spent some time in the hospital.</b></p> <p>16 154 <b>Q.</b> I want to be clear, though.</p> <p>17 Dr. Wiwcharuk is telling you that you're going to lose</p> <p>18 your toe and you're going to be an amputee. Did she</p> <p>19 send you to the hospital? Did you get treatment at</p> <p>20 that time?</p> <p>21 <b>A. I don't remember how it, like,</b></p> <p>22 <b>unfolded.</b></p> <p>23 155 <b>Q.</b> You say you "only learned of this</p> <p>24 application today after meeting with Dr. Wiwcharuk."</p> <p>25 Did she tell you about the application?</p>
<p>1 getting steadily worse. You said it was in the winter.</p> <p>2 Do you know how long before you gave this affidavit in</p> <p>3 June 2022 it had been since you got frostbite?</p> <p>4 <b>A. I can't, no. I can't place the</b></p> <p>5 <b>time in between things right now.</b></p> <p>6 148 <b>Q.</b> Had you gotten medical treatment</p> <p>7 before you talked to Dr. Wiwcharuk in June 2022?</p> <p>8 <b>A. Medical treatment for what? A</b></p> <p>9 <b>particular condition after I --</b></p> <p>10 149 <b>Q.</b> The frostbite -- sorry.</p> <p>11 <b>A. After it got cold, I had sought</b></p> <p>12 <b>some medical treatment, yes, I had, but there was</b></p> <p>13 <b>nothing to do. It was just my toes had already started</b></p> <p>14 <b>to get -- like, change colours and so forth, so I</b></p> <p>15 <b>couldn't do much about anything. It was going downhill</b></p> <p>16 <b>from there. It was already setting.</b></p> <p>17 150 <b>Q.</b> How long after you got your</p> <p>18 frostbite did you get that treatment?</p> <p>19 <b>A. That's another question I don't</b></p> <p>20 <b>really have the answer to.</b></p> <p>21 151 <b>Q.</b> This Dr. Wiwcharuk referred to in</p> <p>22 paragraph 31, that's Dr. Jill; right?</p> <p>23 <b>A. 31? I believe it was.</b></p> <p>24 152 <b>Q.</b> Dr. Jill, according to paragraph</p> <p>25 31 of your affidavit, told you you're going to lose</p>	<p>1 <b>A. What application was that?</b></p> <p>2 156 <b>Q.</b> I assume it's this court</p> <p>3 proceeding, but I don't know. I can only go on the</p> <p>4 words that you've used.</p> <p>5 <b>A. Just the treatment of frostbite.</b></p> <p>6 <b>I don't know what application you're referring to.</b></p> <p>7 157 <b>Q.</b> Did she tell you anything about</p> <p>8 this court proceeding?</p> <p>9 <b>A. What in particular would be</b></p> <p>10 <b>mentioned? I didn't know there was anything about a</b></p> <p>11 <b>court that would be necessary for catching frostbite.</b></p> <p>12 <b>It was just -- I heard or -- I don't even remember</b></p> <p>13 <b>where I heard that I should put in a claim because of</b></p> <p>14 <b>my injuries. I don't recall where exactly, but I just</b></p> <p>15 <b>thought it was, like, the right thing to do.</b></p> <p>16 158 <b>Q.</b> I'm going to move to your July 5,</p> <p>17 2023, affidavit. At paragraph 2, the second --</p> <p>18 beginning with the bullet point just talking again</p> <p>19 about your frostbite, you say "In December 2022, I</p> <p>20 suffered a foot infection in both of my feet due to</p> <p>21 repeated evictions during the cold weather." So you</p> <p>22 hadn't had your amputation at that point yet?</p> <p>23 <b>A. Actually -- no, I -- well, if I</b></p> <p>24 <b>had it in both my feet, I still didn't -- I didn't have</b></p> <p>25 <b>the amputation at that time, if I'm referring to that.</b> <b>A414</b></p>

<p>1 I don't know if I'm speaking in the present or prior</p> <p>2 time.</p> <p>3 159 Q. I mentioned a Dr. Claire Bodkin,</p> <p>4 so I'm going to take you -- she wrote a letter, so I'm</p> <p>5 going to take you to that now. Dr. Claire Bodkin wrote</p> <p>6 a letter dated April 27, 2023. Have you seen this</p> <p>7 letter before?</p> <p>8 A. I did briefly run over it when I</p> <p>9 reviewed my affidavits, yes.</p> <p>10 160 Q. Okay. Dr. Bodkin says she saw you</p> <p>11 on December 15, 2022. And then I'm going to skip a</p> <p>12 little ahead a bit, because she says in the fourth</p> <p>13 paragraph, "I sent him immediately to the emergency</p> <p>14 department where he was admitted and ultimately</p> <p>15 underwent amputation of his left leg below the knee."</p> <p>16 So that's what I was saying before when I was asking if</p> <p>17 that helps you remember when you had your amputation.</p> <p>18 Would it have been around December or would it have</p> <p>19 been after that?</p> <p>20 A. I would -- I would still -- I'll</p> <p>21 go with what she's saying. Because if she actually</p> <p>22 knows the dates, then everything -- better to go with</p> <p>23 her professionalism.</p> <p>24 161 Q. She may, but doctors make mistakes</p> <p>25 sometimes, so your memory is important too. Does that</p>	<p>1 A. The Booth Centre?</p> <p>2 166 Q. The Booth Centre, yeah. <b>A4699</b></p> <p>3 A. That's the Mission -- is that the</p> <p>4 Mission Services?</p> <p>5 167 Q. I think so. It's one of --</p> <p>6 A. Yeah, that's a shelter. It's</p> <p>7 generally a shelter with overnight bed stay.</p> <p>8 168 Q. Okay. Are you aware of them</p> <p>9 offering things like bus tickets, or the ability for</p> <p>10 you to charge things, meet with people there, anything</p> <p>11 like that?</p> <p>12 A. Yeah, they do offer some access to</p> <p>13 things that people need on the streets, but it's not</p> <p>14 often that they have all that stuff available.</p> <p>15 169 Q. Do you have a case worker or an</p> <p>16 Outreach worker that you routinely work with?</p> <p>17 A. Yeah, I have one in the same place</p> <p>18 at Mission Services, Booth Centre, Justin.</p> <p>19 170 Q. Okay. And what is Justin doing</p> <p>20 for you?</p> <p>21 A. He's seeking shelter for me.</p> <p>22 171 Q. How often do you see Justin?</p> <p>23 A. Generally on the weekends.</p> <p>24 172 Q. Do you have any prospects of</p> <p>25 obtaining housing right now?</p>
<p>1 sound about right? Would it have been in the winter?</p> <p>2 A. It could be, yes.</p> <p>3 162 Q. Okay. Had you seen any other</p> <p>4 doctors between seeing Dr. Wiwcharuk and Dr. Bodkin</p> <p>5 about your frostbite or the problems with your feet and</p> <p>6 your legs?</p> <p>7 A. I don't recall all the medical</p> <p>8 encounters. I really don't.</p> <p>9 163 Q. Bear with me for a moment. I'm</p> <p>10 going to go back to your June 2022 affidavit. You</p> <p>11 mentioned that you saw Dr. Wiwcharuk at the Wesley Day</p> <p>12 Centre. Do you continue to go to the Wesley Day</p> <p>13 Centre?</p> <p>14 A. It's not the same place anymore.</p> <p>15 They changed the format and the Day Centre has been</p> <p>16 closed.</p> <p>17 164 Q. Okay. So where do you go now?</p> <p>18 A. There's nowhere really optional</p> <p>19 that I can go now. There is a couple churches there, I</p> <p>20 think, that offer, like, daytime dinners or meals or</p> <p>21 lunch or something like that, but they're closed early</p> <p>22 in the day, and sometimes -- some other days they're</p> <p>23 not open.</p> <p>24 165 Q. How about the Booth Centre? Do</p> <p>25 you ever go there?</p>	<p>1 A. I don't know. We filled out,</p> <p>2 like, almost every application and every type of forms</p> <p>3 that we had -- like, they have in their centre to put</p> <p>4 in to process.</p> <p>5 173 Q. Given your amputation, have you</p> <p>6 talked to anyone about getting into a residential care</p> <p>7 facility?</p> <p>8 A. There have been some times that</p> <p>9 are offered to me, yes, that it would be an elderly</p> <p>10 building with more older folks that I would be staying</p> <p>11 with in a residential facility, but it just doesn't</p> <p>12 seem feasible because -- I don't know. I'm just not</p> <p>13 familiar with that kind of environment.</p> <p>14 174 Q. Okay. But that would allow you to</p> <p>15 get indoors and have a roof over your head; right?</p> <p>16 A. Yeah, but I'm trying to find</p> <p>17 something stable. I don't want to just get indoors</p> <p>18 because I'm just running from the outdoors. I'm trying</p> <p>19 to find something that I can have a permanent stay on</p> <p>20 personal -- like myself, so I could build myself back</p> <p>21 up again.</p> <p>22 175 Q. But wouldn't the residential care</p> <p>23 facility be stable? You would have a spot there. It's</p> <p>24 yours.</p> <p>25 A. In truth, I don't know much about <b>A415</b></p>



<p>1 <b>it, and it's kind of like -- just that kind of</b></p> <p>2 <b>uncertainty kind of keeps me hesitant about what I'm</b></p> <p>3 <b>doing with it. I don't know much about these places.</b></p> <p>4 176 <b>Q.</b> So it was offered to you and you</p> <p>5 turned it down; you didn't want to go there?</p> <p>6 <b>A. I'm not sure about -- it just</b></p> <p>7 <b>didn't seem -- maybe the way they presented it, it</b></p> <p>8 <b>didn't seem as if it was a feasible answer to my</b></p> <p>9 <b>problems.</b></p> <p>10 177 <b>Q.</b> Mr. Greaves, the City of Hamilton</p> <p>11 keeps records of your attempts to stay in shelter and</p> <p>12 to obtain assistance, including housing assistance,</p> <p>13 shelter stays and service restrictions. Will you sign</p> <p>14 an authorization allowing those records to be disclosed</p> <p>15 in this litigation?</p> <p>16 <b>A. I don't see why not.</b></p> <p>17 178 <b>Q.</b> Okay. We can send an</p> <p>18 authorization to your lawyer to have you sign it.</p> <p>19 Thank you. Now, I was asking you about Dr. Bodkin</p> <p>20 before. Have you seen her more than once? She said</p> <p>21 see saw you before you got your amputation. Did you</p> <p>22 ever see her again?</p> <p>23 <b>A. Like I said, I have a very bad</b></p> <p>24 <b>memory, so it's hard for me to put the face behind the</b></p> <p>25 <b>name of what exactly or who they were.</b></p>	<p>1 details, but you've been in various tents in various</p> <p>2 parks since then? <b>A4700</b></p> <p>3 <b>A. Mm-hmm.</b></p> <p>4 186 <b>Q.</b> And shelters? In fairness to you,</p> <p>5 you also have said you had some stays in shelter?</p> <p>6 <b>A. Okay.</b></p> <p>7 187 <b>Q.</b> A doctor named Dr. Rachel Lamont</p> <p>8 also wrote a letter about you. Do you recall seeing a</p> <p>9 Dr. Rachel Lamont?</p> <p>10 <b>A. I remember the name Rachel.</b></p> <p>11 188 <b>Q.</b> Okay. Dr. Rachel Lamont wrote a</p> <p>12 letter about you dated January 30, 2024. Do you</p> <p>13 remember seeing her at all? Let me ask you that first.</p> <p>14 <b>A. I do remember seeing a Rachel,</b></p> <p>15 <b>yeah.</b></p> <p>16 189 <b>Q.</b> Okay. Did you see her more than</p> <p>17 once?</p> <p>18 <b>A. I can't tell you that. I don't</b></p> <p>19 <b>know how much time.</b></p> <p>20 190 <b>Q.</b> Okay. What was she seeing you</p> <p>21 for?</p> <p>22 <b>A. I believe it was about the same</b></p> <p>23 <b>treatment of my -- my injury, my frostbite.</b></p> <p>24 191 <b>Q.</b> What treatment did she do for you?</p> <p>25 <b>A. At that time, I needed -- I guess</b></p>
<p>1 179 <b>Q.</b> Okay. So you're not sure?</p> <p>2 <b>A. No, I'm not a hundred percent on</b></p> <p>3 <b>that. I can't say yes or no to that. I don't know who</b></p> <p>4 <b>exactly Dr. Bodkin is.</b></p> <p>5 180 <b>Q.</b> Okay. Since June of 2022 -- I'm</p> <p>6 now going to your July 5, 2023, affidavit -- you state</p> <p>7 at paragraph 1, "Since June 2022, I have stayed in the</p> <p>8 following locations: Last summer, 2022, I stayed in</p> <p>9 Beasley Park." Is that correct?</p> <p>10 <b>A. Yeah, I've been at Beasley Park.</b></p> <p>11 181 <b>Q.</b> You were staying there in a tent?</p> <p>12 <b>A. Yes.</b></p> <p>13 182 <b>Q.</b> And in fall of 2022, you stayed in</p> <p>14 your friend's shed?</p> <p>15 <b>A. Uh-huh.</b></p> <p>16 183 <b>Q.</b> As of July 2023, you said you were</p> <p>17 currently encamped at Woodlands Park and have been</p> <p>18 encamped there and in various locations since</p> <p>19 December 2022? That's correct?</p> <p>20 <b>A. Yeah.</b></p> <p>21 184 <b>Q.</b> And "encamped" meaning you're in a</p> <p>22 tent?</p> <p>23 <b>A. Yeah. I was in a spot, yeah.</b></p> <p>24 185 <b>Q.</b> Okay. Since July of 2023 -- I</p> <p>25 recognize you said before you couldn't remember exact</p>	<p>1 <b>I was under a lot of pain and there was a lot of --</b></p> <p>2 <b>like, just trying to stabilize my day-to-day, like, you</b></p> <p>3 <b>know, functionality, so I had to see some doctors to</b></p> <p>4 <b>get medication from them in general. I had to keep up</b></p> <p>5 <b>with my med prescription. I don't remember much more</b></p> <p>6 <b>other than that, that I was trying to find doctors to</b></p> <p>7 <b>help me through.</b></p> <p>8 192 <b>Q.</b> Did she help you with those</p> <p>9 problems?</p> <p>10 <b>A. I believe I have received some</b></p> <p>11 <b>kind of help from the doctor, yeah.</b></p> <p>12 193 <b>Q.</b> Do you remember what kind of help</p> <p>13 that was?</p> <p>14 <b>A. It's hard to say.</b></p> <p>15 194 <b>Q.</b> Okay. We're almost done,</p> <p>16 Mr. Greaves -- or Linsley. You've been very patient.</p> <p>17 There is something that you said in your July 2023</p> <p>18 affidavit. You state, on the fourth bullet point down,</p> <p>19 "On June 28, 2023, I lost a toe on my right foot" --</p> <p>20 MS. CROWE: Sorry, Bevin. Just give me</p> <p>21 one more second.</p> <p>22 MS. SHORES: Sorry, Counsel.</p> <p>23 MS. CROWE: What paragraph?</p> <p>24 MS. SHORES: It's paragraph 2, the</p> <p>25 fourth bullet point down. <b>A416</b></p>

<p>1 MS. CROWE: Of the July affidavit?</p> <p>2 MS. SHORES: Correct.</p> <p>3 MS. CROWE: Okay, we're with you.</p> <p>4 BY MS. SHORES:</p> <p>5 195 Q. Okay. So you say "On June 28,</p> <p>6 2023, I lost a toe on my right foot. I had not yet</p> <p>7 been able to seek medical treatment because of the</p> <p>8 distance to the hospital and my limited mobility." Did</p> <p>9 anyone ever offer to call you an ambulance or help you</p> <p>10 get to hospital?</p> <p>11 A. Not that I recall.</p> <p>12 196 Q. Okay. We talked before about how</p> <p>13 you saw Dr. Bodkin when you got those infections. Did</p> <p>14 she try to help you get to hospital for your toe on</p> <p>15 your right foot?</p> <p>16 A. The toe was -- like, I lost my</p> <p>17 toe. That means that I was in, like, the middle of my</p> <p>18 actual frostbite episode, because that's when it</p> <p>19 happened. Like, it already took place and my toe was</p> <p>20 just the first part of it that came undone.</p> <p>21 197 Q. So it might not have been June 28,</p> <p>22 2023, because we think your amputation was probably in</p> <p>23 December 2022?</p> <p>24 A. December -- oh, man. I don't</p> <p>25 know. I'm so uncertain about dates. I'm not trying to</p>	<p>1 202 Q. Okay, Linsley. I'm going to ask <b>A4701</b></p> <p>2 you some questions just to tie into some of what you</p> <p>3 were asked by Mr. Shores. Okay?</p> <p>4 A. Mm-hmm.</p> <p>5 203 Q. The first thing is ODSP. You're</p> <p>6 getting \$700 a month. If you were housed, do you know</p> <p>7 if you would get any more funding from ODSP?</p> <p>8 A. Yeah. It would be, like, basic</p> <p>9 diet and shelter, like, coverage.</p> <p>10 204 Q. Do you have any idea how much</p> <p>11 additional funding you would get from ODSP --</p> <p>12 A. No, no idea. It depends on what</p> <p>13 the rate's set at, at the housing.</p> <p>14 205 Q. Right.</p> <p>15 A. So whatever the rate's set at,</p> <p>16 they generally give you a couple more hundred on top of</p> <p>17 that, and that's for your shelter or transportation.</p> <p>18 206 Q. Okay. In your original affidavit,</p> <p>19 you had talked about not being able to afford rent</p> <p>20 while on Ontario Works, and then today we talked about</p> <p>21 that you have a housing worker, Justin, who's helping</p> <p>22 you look for housing. Has Justin had any discussions</p> <p>23 with you about the cost of rent or affordability?</p> <p>24 A. Well, we generally go down what's</p> <p>25 available and what we can afford or I can afford.</p>
<p>1 be complicated. It's just that it -- I didn't actually</p> <p>2 remember the months I'm outside, and what date and what</p> <p>3 month I'm in.</p> <p>4 198 Q. All you can do is do your best and</p> <p>5 give us the best memory that you have. That's all we</p> <p>6 ask. But just about getting to hospital, because you</p> <p>7 said that prevented you from getting medical treatment,</p> <p>8 had you asked for help getting to hospital? Anyone to</p> <p>9 call you an ambulance or call you a cab or help you</p> <p>10 with a bus?</p> <p>11 A. I can't really answer on that</p> <p>12 because I don't remember what state of mind I was in to</p> <p>13 say I did or did not. Maybe it -- I don't know.</p> <p>14 199 Q. Okay. Mr. Greaves, have you</p> <p>15 understood all of the questions I've asked you today?</p> <p>16 A. In general, yeah.</p> <p>17 200 Q. Okay. Are there any of your</p> <p>18 answers that you wish to change?</p> <p>19 A. No, I'm not going back on things.</p> <p>20 201 Q. Okay. Thank you for your time</p> <p>21 today. Those are my questions.</p> <p>22 A. All right.</p> <p>23 MS. CROWE: Thank you.</p> <p>24 --- (Off-record discussion)</p> <p>25 RE-EXAMINATION BY MS. CROWE:</p>	<p>1 Personally, I'm by myself. It's not optional. As far</p> <p>2 as going in with another person, we don't have another</p> <p>3 person that can be the person to go into renting an</p> <p>4 apartment with, so we just go by whatever the access --</p> <p>5 if the access is this much, if we can actually cover it</p> <p>6 or not.</p> <p>7 207 Q. You talked about your recent stay</p> <p>8 at Mission Services and that you were losing property.</p> <p>9 Can you clarify what you meant by you were losing</p> <p>10 property while you were there?</p> <p>11 A. Well, if you were to fall asleep</p> <p>12 at a table, you would lose your -- like, they'll take</p> <p>13 your knapsack. They'll take anything that they can get</p> <p>14 their hands on as soon as you turn your back. So</p> <p>15 everything that you can't sit on or lay on while you</p> <p>16 just kind of nap or, you know, pass out, it's generally</p> <p>17 gone. People's shoes have gone missing, you know,</p> <p>18 whole bags of clothes, everything that you practically</p> <p>19 own. And it's hard to be out there without anything.</p> <p>20 You know, these things, like, you gather them to try to</p> <p>21 keep you going, and then you have to start over again</p> <p>22 or you have to go back on your OW or whatever to pay</p> <p>23 for whatever you just bought. So it's still, like,</p> <p>24 running a threat, you know? It's hard.</p> <p>25 208 Q. Okay. Ms. Shores had also asked <b>A417</b></p>

A4702

1 you whether or not you've ever had anything stolen from  
2 your tents while you were away. Can you compare the  
3 experience that you've had with theft from shelter  
4 versus theft from your tent?  
5 **A. Well, theft from shelters are**  
6 **generally, like, rapidly -- it's constant, more**  
7 **constant than the ones in your tent. Generally, you**  
8 **will have -- like, even if someone might come by and**  
9 **stay over for a little, and they would decide when they**  
10 **want to leave when they're leaving, they would end up**  
11 **taking something. Like, they've probably been eyeing**  
12 **it for a while and they will end up taking whatever,**  
13 **like your propane torch or your propane cans, canister,**  
14 **or something that is important to have while you're**  
15 **outside. You know, a sleeping bag or -- you know,**  
16 **like, they will end up taking your belongings, even**  
17 **clothing or knapsacks. They'll take all that.**  
18 209 **Q. Where is it easier for you to**  
19 **safeguard your belongings, in shelter or in a tent?**  
20 **A. More in the tent because you can**  
21 **choose the ones that don't have that bad influence,**  
22 **that don't pick up your stuff. Like, we even talk**  
23 **amongst each other as to who's been -- like, you know,**  
24 **sticky fingers, whoever. So it would be easier to say**  
25 **no to people who have already, like, you know, done**

1 **someone else wrong. It's easier to say no to them,**  
2 **them not knowing that we already asked about them ahead**  
3 **of time.**  
4 210 **Q. Okay. Ms. Bevin had asked you**  
5 **about the eviction from Woodlands back in 2022. Do you**  
6 **remember what your emotional state was when you were**  
7 **evicted?**  
8 **A. I was disappointed, I know that.**  
9 **I didn't think it was fair that I was out there, for**  
10 **two. I always try to keep a positive attitude. And I**  
11 **had a few people that needed my help that -- I mean,**  
12 **people are coming to me for help a lot, but there's**  
13 **people that, like, you know, need my help. And I just**  
14 **kept on trying to pursue, like, the better option of**  
15 **everything. I couldn't really say what other options**  
16 **there were.**  
17 211 **Q. Ms. Shores had asked you -- I want**  
18 **to direct you to paragraph 19 and 21 of your June 2022**  
19 **affidavit. Just give us a second to go back to that.**  
20 **Ms. Shores had asked you about paragraphs 19 and 21**  
21 **where you were describing what was happening with**  
22 **transporting and removing your belongings, but we**  
23 **didn't talk about paragraph 20. Can you take a quick**  
24 **look at that paragraph? So you describe in this**  
25 **paragraph that you ended up losing a lot of belongings.**

1 Can you explain, to the best of your knowledge, how  
2 that happened?  
3 **A. This is when the City picked up my**  
4 **belongings and took them out to their -- to their yard,**  
5 **so I had nowhere else to put them. I mean, I had no**  
6 **way of contacting them.**  
7 212 **Q. Okay. And then were you ever able**  
8 **to contact anyone from the City --**  
9 **A. I haven't had no -- no one try and**  
10 **call to have that conversation to get my property back.**  
11 **It's just kind of a dead end.**  
12 213 **Q. Ms. Shores also mentioned an**  
13 **affidavit from the City's witness, Rob Mastroianni. Do**  
14 **you know Rob?**  
15 **A. Is that the Social Navigator**  
16 **officer?**  
17 214 **Q. No. I'm going to refer to his**  
18 **title in his affidavit. He's the manager of**  
19 **Homelessness and Housing Support. To the best of your**  
20 **knowledge, have you ever met him?**  
21 **A. I'm not quite remembering exactly**  
22 **who he was. Was this the mulatto dude?**  
23 215 **Q. Sorry?**  
24 **A. A mulatto guy? A big guy?**  
25 216 **Q. I'm not sure I can identify him**

1 that way. We can move on. In his affidavit, in  
2 paragraph 53, he indicates that you were offered  
3 shelter March 30, 2022, but declined. Do you have any  
4 memory of that?  
5 **A. I can't say no -- I can't say,**  
6 **yes, I remember the conversation, but we probably did.**  
7 **And there might have been a reasoning for that, if**  
8 **there was, that I declined on that. Maybe he just**  
9 **wanted me going to get up and leave my stuff and go**  
10 **stay in the spot, which didn't seem like it was a**  
11 **permanent solution. It was just, like, something that**  
12 **would just get me out of the park.**  
13 217 **Q. When you say that someone might**  
14 **have offered you shelter in March 2022, what's your**  
15 **understanding of what might have been offered?**  
16 **A. It could have been just to stay at**  
17 **a room in a hotel or -- I'm just -- because I remember**  
18 **there was a hotel room but in one of the shelters**  
19 **systems like Good Shepherd or the Mission Services,**  
20 **which I have been trying to stay when I could in there.**  
21 218 **Q. Okay. So March 2022, was this**  
22 **before or after your amputation?**  
23 **A. 2022? I think that was before.**  
24 219 **Q. Before March 30th? Okay, thank**  
25 **you. And then we talked about residential care**

A418

1 facilities. Has anyone ever offered you an actual  
2 address and a room?  
3 **A. No. I believe there was -- the**  
4 **first place was one of the places they offered me, and**  
5 **then there was another spot somewhat on the west side**  
6 **of Eastgate mall, around that area. They told me that**  
7 **there was a place, but that was not wheelchair**  
8 **accessible. It was just a house. Other than that,**  
9 **there was not much more options other than the shelter.**  
10 220 **Q.** Just to go back for a moment,  
11 Justin is your housing worker?  
12 **A. Mm-hmm.**  
13 221 **Q.** How long has he been working with  
14 you?  
15 **A. Probably four months.**  
16 222 **Q.** Did you have a housing worker  
17 before Justin?  
18 **A. I believe I had one at the Wesley**  
19 **Centre. I don't remember the name of them, though, who**  
20 **exactly it was. There was one at the Wesley Centre.**  
21 223 **Q.** Okay. And then we talked about  
22 this letter from Dr. Lamont. I just wanted to bring  
23 your attention to Dr. Lamont's letter, January 30,  
24 2024. So she indicates that she is a psychiatrist, in  
25 the first paragraph, with the Hamilton Social Medicine

58

1 Response Team and Shelter Health Network. I just want  
2 to clarify what you would have been seeing her for.  
3 Because you had indicated that you might have been  
4 seeing her for the frostbite, but she is, in fact, a  
5 psychiatrist.  
6 **A.** I probably had a lot of issues. I  
7 can't really put it under, like, my thumb right now.  
8 Psychologically, I wasn't really thinking on --  
9 clearly, I don't think, about much of anything because  
10 I've been trying to figure out things that I haven't  
11 been able to solve. I don't know what else to say  
12 here. Perhaps to meet back all together again, all the  
13 moments that I've been through.  
14 **MS. CROWE:** Okay, thank you. Those are  
15 my questions.  
16 --- Whereupon proceedings adjourned at 11:10 a.m.  
17 **I HEREBY CERTIFY THE FOREGOING**  
18 **to be a true and accurate transcription**  
19 **of my shorthand notes**  
20 **to the best of my skill and ability.**  
21  
22  
23 [Electronically signed on August 22, 2024]  
24 Lydia Pak, Court Reporter  
25 Computer-Aided Transcription

**Nimigan Mihailovich Reporting Inc.**  
(905) 522-1653

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD ET AL**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF KRISTEN HEEGSMA  
(Sworn June 7, 2022)**

1. I, KRISTEN KEEGSMA, of the City of Homeless in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 31 year old Indigenous woman.
3. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). As a single person who is homeless, I receive approximately \$900.00 per month from ODSP for basic needs and a special diet. I don't receive any shelter allowance while I am homeless. The shelter allowance is \$497.00 which is insufficient for the price of rent in the private rental market.
4. My medical conditions include mental health and substance use disorders. Specifically, I have PTSD, depression, anxiety, and Borderline Personality Disorder and Crohn's disease.
5. I have been homeless on and off since 2016. I have been consistently homeless since 2019.
6. Before becoming homeless in 2016, I was evicted after an ex abusive boyfriend damaged the apartment. In 2019, I was living with my grandparents. They thought I was reconciling with my abusive ex, and kicked me out.
7. After losing my housing, I started living on the streets. Then I was in shelter, and was kicked out. I was living on the streets until I got a tent, and then returned to shelter until being kicked out repeatedly.

8. In the summer of 2020, I stayed in a tent in different parks in Hamilton. The following chart is a breakdown of the locations and general timeframes:

Location	Timeframe	Duration of stay	Outcome
Ferguson Encampment	Summer 2020	About a month	Bylaw Officers evicted me
Jackie Washington	Summer 2020	About six months	By-Law Officers evicted me, and took my tent & I lost my belongings
Beasley Park	January or February 2021	About six months	By-Law Officers evicted me, took my tent & I lost some belongings
Wolverton Park	Fall 2021	Few months	By-Law Officers and police evicted me and I lost my belongings

9. After the Court denied the motion for an injunction on November 2, 2021, I knew the City would start enforcing the by-laws and force me to move.
10. Without a tent, I slept outside in nothing but a sleeping bag in different locations.
11. In the two to three weeks after being displaced from Wolverton Park, and while sleeping outside without a tent, I was repeatedly victimized. I was assaulted seven times, robbed three times, and raped. When I was without a tent, I slept on a bench outside of City Hall and woke up to a person raping me in the open.
12. My belongings were repeatedly stolen during assaults by another woman who was experiencing homelessness.
13. I reported the rape to police and was taken to the hospital for an examination and to have a rape kit done. I am unsure of the status of the investigation. I also saw my doctor.
14. I reported the assaults to staff at the Wesley Day Centre, who knew my attacker. Wesley staff spoke with the person. The assaults stopped. I did not report the assaults or robberies to the police because, as a homeless woman, I know there is a significant risk of more violence on the streets if people find out that I went to the police.



15. I have also had my backpack, money and belongings stolen. I have been robbed at knifepoint and gun point. I have woken up and realized my things were stolen. I have not reported these incidents to the police because I know that it is risky to do so, and because I know they won't be able to do anything about it. Without even a tent, there is no way to protect my belongings, and so I have no way of improving my situation. You don't even feel like a person.
16. I have stayed in shelters many times, and continue to try to access a shelter bed.
17. I experience several barriers to being able to access a shelter bed. First, women's shelters are almost always full. Every time I see my doctor (bi-weekly), he calls to try to find me a bed, and they are always. I don't have a phone and can't call on my own. Wesley Day Centre tries regularly – sometimes daily – to try to find a bed for me. Again, they are told the shelters are full.
18. Second, I have repeatedly been kicked out of shelters.
19. Third, I have been unable to access a shelter bed during times when I am in a relationship. There are no couples shelters in Hamilton. The City temporarily ran a hotel program out of Four Points Hotel, but the program ended. Even when the program was running, I was kicked out three times for the following reasons:
  - a. Travelling to London to visit my mom and daughter. I was away for a week and lost my room as a result;
  - b. I missed curfew after having to work late; and
  - c. My then boyfriend and I broke up and I was no longer eligible to stay in the hotel. He was sent to a men's shelter, but even after staff called, there was no space in the women's shelter for me. I was turned away to the street.
20. I had to leave Four Points a fourth time because my abusive ex-boyfriend was placed in the room beside me. I feared for my safety.
21. In March 2022, I tried to get into shelter with my then partner, but couples were not allowed.
22. I have not stayed in a tent since I was evicted from Wolverton Park. Without a tent, I have had to sleep outside in just a sleeping bag. I have slept in stairwells, in the double doors leading into stairs. I also slept outside City Hall on the heating vents until the City boarded up the vents in January 2022. I have also stayed outside the YWCA and most recently, outside the Four Points Hotel. I have a friend stayed at the Four Points Hotel and feel a little safer being close to her. I stay under a tarp and blanket.
23. If I can't find somewhere to sleep, I just walk around all night. It is scary. I am approached by men trying to solicit me for sex.

24. Without a tent, I have no privacy, or shelter from the elements. I have nowhere to store my belongings. I am more vulnerable to violence on the streets, and have been repeatedly attacked more often than when I am in a tent. I can't sleep properly. On average, I only sleep about two nights a week. I am up for days and then crash. If I wander the streets all night, I don't sleep at all. Because I am constantly sleep deprived, I can't concentrate, I fall asleep during the day all the time. Two weeks ago, I fell asleep while walking and fell. I hit my head on concrete and had a large gash on my head. I went to the hospital and my doctor.
25. There are various benefits from staying in a tent compared to without a tent in a sanctioned space and they are:
- a. I have privacy. Without a tent I have nowhere to change privately, to process my emotions in private or to have a moment where not everyone is watching me. A tent gives me a moment of reprieve from being constantly out in the open and subject to the noise and energy of the public street and others. It's like being in a jail cell without the bars.
  - b. It prevents the risk of rape and sexual assaults because the tent has a zipper and a lock that warns me of an intruder. I always locked my tent. When I had a sanctioned site I stayed with community who looked out for me; whereas, without a tent and without a sanctioned site, I am put into a circumstance of being alone and without a buddy system that I can rely on to call on when I am about to be attacked.
  - c. A tent in a community with other tents prevents overdoses because your neighbours will look out for you and administer Naloxone or contact emergency services for assistance. I have been saved by my encampments neighbours many times. Now, I wander around trying to hide and if I use drugs, I am all alone. A tent gives you a base so people can find you. Without a tent, I am wandering and alone, which increases my stress and feelings of aloneness fuelling my desire to use drugs in an effort to escape the survival mode that I am in. When I am in an encamped community I am less likely to use because of the emotional support that I receive from co-existing, which reduces the fears I have when I am without a tent and helping one another which makes me feel valued and like I matter. When I was living in an encampment I was able to save someone from overdosing. Had they been alone, they would have died. In my experience, more lives are saved when we lived together in an encamped space than when we are not permitted to do this and we are without shelter, hiding and wandering into hidden less visible locations where you're more likely to be alone than with others.
  - d. When I remained the same location with my tent and was not required to move I was able to better maintain connections to street outreach services who knew where to find me. This also allowed me to make friends that become like family and these relationships improve my happiness and mood. I do not have family to support me, but my encampment friends fulfil that gap in my life. The community that develops at the encampments that I have stayed in becomes a lifeline of support and helped

me to leave an abusive relationship. When you're in a community, you're more likely to be cared about by others, which makes you care more about yourself. In contrast, when I cannot put a tent, I wander and search for a place to sit or sleep alone and this results in a lack of communication and connection to others.

- e. By staying in an encampment I am able to leave my tent and possessions with others staying there without fear that they will be stolen.
  - f. Overall, being allowed a tent when I cannot be in a shelter brings me security, hope closeness and family through community.
  - g. It allows me to have some privacy while in a relationship;
  - h. I have friends and a family member, who I believe have been "hot-shotted" while sleeping or living on the streets. Someone injects them with Fentanyl or a mixture while they sleep. There has been talk amongst people experiencing homelessness that this is a new risk, and now I have friends who haven't used IV drugs dying from overdoses.
26. I can't put up a tent. I can't get into shelter. I am stranded with no safe place to go. It is so discouraging that half the time I want to die. I can't get help and I can't help myself.
27. Being evicted from encampments, and having to live and sleep without a tent has been very difficult.
28. I routinely attempt to enter women's shelters but am told that they are full. For instance, when I met with Doctor Tim O'Shea at the Aids Network on March 15, 2022, he assisted me to contact shelters as I did not have a phone to do this myself, and we were told that there was no shelter space. Despite his efforts I left my appointment with nowhere to go and without a tent.
29. Often times I do not have a phone because they are easily stolen and I cannot afford them. Without a phone I am forced to walk to shelters to try to get in. This is exhausting when I haven't slept or eaten.

30. In order to meet my basic needs I must rely on non-profits and institutions that provide services at specific times. It is a full time job trying to get food at the time that is available while also carrying my personal possessions on me while I also try to meet with other service providers such as doctors and system navigators who try to find me housing. Walking in search of services to meet my needs is exhausting and adds to the feelings of hopelessness. Trying to survive while relying on this system is worsened when I feel kicked down again every time I am evicted and my tent is taken.

SWORN BEFORE ME in the City  
of Hamilton, this 7<sup>th</sup> day of June, 2022

  
A Commissioner, etc.

Sharon Crowe  
Barrister & Solicitor

  
Kristen Heegsma

Court File No. CV-21-00077817-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, AND  
SHAWN ARNOLD, ET AL.

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF *Kristen Heegsma*  
(sworn April *27*, 2023)

I *Kristen Heegsma*, of the City of Hamilton in the Province of Ontario,

AFFIRM AND STATE:

1. Since June 2022, I have stayed in various locations, including in a tent on Kenora, in a handmade shelter in the woods, on the streets in downtown Hamilton in parks, on benches or the grass, in a tent at Beasley Park, downtown Burlington tram station, on the GO train, and on the streets in Toronto (on park benches, etc.)



2. In either December 2022 or January 2023, I went to a rooming house a friend was staying in. It was freezing cold outside, with a wind a snow storm. I needed to go somewhere warm. Once I arrived, I discovered there was another resident there I had previously had a conflict with. This person, and several others, ended up holding me captive and beating me for 48 hours. I was left with a broken nose, black eyes, and deeply traumatized. They stole my wallet with my bank card, birth certificate, SIN card, health card, and gift cards. They stole my ODSP cheque of approximately \$900 from my account. I did not report this to the police, because I worried I would be labelled a rat and in even more danger.

SWORN THIS day of April, 2023  
in the City of Hamilton, Province of  
of Ontario

Sharon Crowe  
A Commissioner, etc.

Sharon Crowe  
Barrister & Solicitor

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**KRISTEN HEEGSMA**

Court File No: CV-21-77187

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and PATRICK WARD

Applicants

and

CITY OF HAMILTON

Respondent

Cross-Examination on affidavits sworn June 7th, 2022, and April 27th, 2023, of KRISTEN HEEGSMA, Applicant, taken upon affirmation this 23rd day of AUGUST, 2024, via videoconference hosted by the offices of Nimigan Mihailovich Reporting Inc., One James St. S., Suite 701, Hamilton, Ontario, Canada L8P 4R5

**APPEARANCES:**

For the Applicants: SHARON CROWE  
Community Legal Clinic of York Region  
SUJIT CHOUDHRY  
Haki Chambers Global

For Respondent: JORDAN DIACUR  
Gowling WLG (Canada) LLP  
VIVIAN CALDAS  
LIZ MARR

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3	Cross- Examination by MR. DIACUR	
4		3
5	Re-Examination by MS. CROWE	
6		69
7	<b>EXHIBITS</b>	
8	No exhibits entered.	
9		
10	<b>GUIDE TO UNDERTAKINGS</b>	
11	This should be regarded as merely a guide	
12	and does not necessarily constitute a full	
13	and complete list.	
14		
15	UNDERTAKINGS (U/T) ARE FOUND ON THE FOLLOWING PAGES:	
16	n/a	
17		
18	Under advisements (U/A) are found on the following	
19	pages:	
20	33	
21	Refusals (R/F) are found on the following pages:	
22	71, 73, 74, 76	
23		
24		
25		

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NIMIGAN MIHAILOVICH REPORTING INC.

**KRISTEN HEEGSMA**

1 Upon commencing at 10:24 a.m.  
2 KRISTEN HEEGSMA, affirmed  
3 CROSS-EXAMINATION BY MR. DIACUR:  
4 BY MR. DIACUR:  
5 1 Q. Now, would you please state your  
6 full name for the record?  
7 A. Kristen Heegsma, K-R-I-S-T-E-N,  
8 H-E-E-G-S-M-A.  
9 2 Q. Thank you. And your date of  
10 birth is November 20th, 1990?  
11 A. October 20th, 1990.  
12 3 Q. October 20th, thank you. That  
13 must be an error in my notes. October 20th, 1990.  
14 And may I refer to you as Kristen?  
15 A. Yes.  
16 4 Q. Or ma'am?  
17 A. Yeah, either/or.  
18 5 Q. Thank you. So today I'm going  
19 to have some questions for you about statements in  
20 two affidavits that you have provided in this matter;  
21 the first is dated June 7th, 2022, and the second is  
22 dated April 27th, 2023. Do you have copies of those  
23 two documents available to you?  
24 A. Yes, I do.  
25 6 Q. Okay. I also have a copy that I

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NIMIGAN MIHAILOVICH REPORTING INC.

**KRISTEN HEEGSMA**

1 can put up on the screen as we go. There are two  
2 other documents that I intend to take you to and show  
3 you.  
4 Now, counsel, I'm not sure whether  
5 hard copy of these are available, but I can put them  
6 on the screen. The first is a letter in reference to  
7 you by a Dr. Lamont?  
8 A. Yeah.  
9 7 Q. The second is a letter in  
10 reference to you by a Dr. O'Shea?  
11 A. Yes.  
12 8 Q. So I can put those up on screen,  
13 and, in fact, I'll probably put them up on screen  
14 before your affidavit. So, just for your  
15 information, I'll show you what I'm referring to and  
16 what I'm talking about before asking you any  
17 questions about those.  
18 MS. CROWE: Thank you, Mr. Daicur.  
19 And just to confirm, she does have hard copies of  
20 those documents.  
21 MR. DIACUR: Excellent. Thank you,  
22 I appreciate that, counsel.  
23 MS. CROWE: Okay.  
24 BY MR. DIACUR:  
25 9 Q. So ma'am, how long have you

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NIMIGAN MIHAILOVICH REPORTING INC.

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KRISTEN HEEGSMA

1 lived in Hamilton?  
2 A. Since 2002.  
3 10 Q. Are you currently residing in  
4 Hamilton?  
5 A. Yes, I am.  
6 11 Q. And over the period since 2002,  
7 have you resided in any other municipalities , any  
8 towns or cities?  
9 A. Yes, I have.  
10 12 Q. Okay. And what are those?  
11 A. Barrie in 2004, I believe, and  
12 maybe 2005. And also in London in 2012 I want to  
13 say, and 2015 or '16. And then also in Oakville last  
14 year, off and on.  
15 13 Q. Anywhere else that you can  
16 recall?  
17 A. Not that I can recall of.  
18 14 Q. And so Oakville, was it last  
19 year? Was it all of last year or just part of it?  
20 A. No, just parts of it, off and  
21 on.  
22 15 Q. Okay.  
23 A. In the beginning of last year.  
24 And maybe the end of 2022. Like, I was there off and  
25 on for about two or three months.

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 16 Q. Understood. Okay, thank you for  
2 that.  
3 And where are you currently staying?  
4 A. Um, as of the beginning of this  
5 month, I'm back in encampments.  
6 17 Q. And what changed at the  
7 beginning of this month?  
8 A. My landlord turned out not to be  
9 my landlord, he turned out to be a tenant and they  
10 were subletting to me, and my step-father was out  
11 informing us, and he wasn't paying rent. So in turn,  
12 he ended up in the Landlord Tenant Board and we got  
13 kicked out, even though we were paying rent to him.  
14 18 Q. Got it. Okay. And where was  
15 that, where was that sublet?  
16 A. That was at 9 Faircourt Drive,  
17 in Stoney Creek.  
18 19 Q. And how long was that ongoing,  
19 that sublet?  
20 A. December was when I moved in; my  
21 father had been there for four or five months prior  
22 to me.  
23 20 Q. That's December 2023?  
24 A. Yes.  
25 21 Q. Okay. So I appreciate that

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 information.  
2 The first document that I'd like to  
3 take you to is the Dr. Lamont's letter that I  
4 referenced to previously. I'll share my screen and  
5 put it up on screen and you can confirm that you have  
6 the same document and are looking at the same  
7 document. It's dated June 20th, 2023; it's on  
8 McMaster University letterhead and HAMSMart  
9 letterhead. Do you see that?  
10 A. Yeah.  
11 22 Q. And as I scroll down, I see that  
12 Dr. Lamont is a psychiatrist?  
13 A. Yes.  
14 23 Q. And that she has been your  
15 treating psychiatrist since November of 2021; are  
16 both of those things accurate?  
17 A. Yes.  
18 24 Q. And she indicates that you have  
19 diagnoses of the following: Post-traumatic stress  
20 disorder, PTSD; borderline personality disorder;  
21 generalized anxiety disorder; depression and opioid  
22 and stimulant use disorders, severe; is that true?  
23 A. Yes.  
24 25 Q. And can you tell me what  
25 treatment you're receiving for those conditions?

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 A. I'm on what they call the Safe  
2 Supply Program for the opiate and stimulant use  
3 disorders.  
4 For the other ones, there's really  
5 not much treatment. I'm waiting to be put through  
6 the BT -- I believe it's called BPTD or -- it's for  
7 borderline.  
8 26 Q. Okay. And can you tell me what  
9 the City Supply Program involves?  
10 A. It's safe Supply Program. It's  
11 --  
12 27 Q. Oh, I'm sorry, I thought that  
13 you said "City." So Safe Supply Program, that's the  
14 name of it?  
15 A. Yes.  
16 28 Q. Okay.  
17 A. I'm on methadone, and I'm on  
18 Dilaudid 8 and Kadian to work my way off of opiates  
19 and stimulants.  
20 29 Q. Understood. Okay. And where do  
21 you receive that treatment?  
22 A. Through Dr. Tim O'Shea, and he  
23 is part of, I believe, McMaster, but I go to the  
24 Segue Clinic on Myrtle.  
25 30 Q. Understood. Thank you.

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KRISTEN HEEGSMASMA

1 And I think that is a good segue to  
2 the letter by Dr. O'Shea, which I'll take you to now,  
3 just jump to it on the screen. But it is a letter  
4 dated June 13th, 2022, and it's also on McMaster  
5 University letterhead but also Hamilton Health  
6 Sciences; can you see that?

7 A. Yeah.

8 31 Q. And so this letter identifies  
9 Dr. O'Shea as a physician. And he indicates that you  
10 have the following medical conditions, there are  
11 five. So 1: Crohn's disease; 2: Opioid use disorder;  
12 3: Stimulant use disorder; 4: Attention deficit  
13 hyperactivity disorder; and 5: post-traumatic stress  
14 disorder. Is that also true, that list?

15 A. Yeah.

16 32 Q. And are you receiving any  
17 treatment for Crohn's disease or attention deficit  
18 hyperactivity disorder? I believe these others are  
19 also listed by Dr. Lamont?

20 A. No, I'm not.

21 33 Q. Okay.

22 A. With the Crohn's, it's basically  
23 just at the beginning; I've only been diagnosed with  
24 it in the past year, so they're still trying to  
25 figure out how far I'm on it, like.

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMASMA

1 34 Q. Understood. So that's **A4714**  
2 relatively recent diagnosis?

3 A. Yes.

4 35 Q. And the others are more  
5 long-standing?

6 A. Yeah.

7 36 Q. Do you know when you were  
8 diagnosed, for example, with attention deficit  
9 hyperactivity disorder?

10 A. I believe that was when I was a  
11 child, to be honest.

12 37 Q. No, understood. I mean I  
13 understand that's often the case, but do you recall  
14 if that is true?

15 A. I'm pretty sure I was, like, 13  
16 when I found out, so, yes.

17 38 Q. Okay. And Dr. O'Shea says that  
18 he sees you every two weeks on average; is that still  
19 true?

20 A. Yes, it is.

21 39 Q. And in terms of picking up the  
22 medication that you had indicated, methadone, et  
23 cetera, by the Safe Supply Program, does that occur  
24 more often than every two weeks?

25 A. I do that every day at Sammy's

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMASMA

1 Pharmacy.

2 40 Q. Okay. Thank you. That was my  
3 next question is where that occurs.

4 All right. So a couple of other  
5 questions for you about living arrangements. So I  
6 understand, from your affidavit, that you had  
7 previously lived with grandparents, and the date on  
8 that was 2019; do I have that right?

9 A. Yes.

10 41 Q. And I understand that at some  
11 point that was no longer possible, but why is that?  
12 Why was it no longer possible to stay with your  
13 grandparents?

14 A. So I, previous to living with my  
15 grandparents, I was in an abusive relationship in  
16 which we got charged together, and also I jumped in  
17 front of a cop car for him to get away and for me to  
18 get away from him, because if I had not had police  
19 and everything, without calling cops, there was no  
20 way that I was probably going to live by the end of  
21 it.

22 Due to that, I ended up moving out  
23 of the city, moved in with my grandparents. When he  
24 got out of jail, after he had been arrested and I had  
25 been released, he messaged me with my grandparents'

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KRISTEN HEEGSMASMA

1 address and threatened to come out there, and due to  
2 my daughter being there, I didn't want that, so I  
3 agreed to meet up with him in Hamilton when I came  
4 for my step-daughter's grade eight grad, and my  
5 grandparents found out, thought that I was  
6 reconciling with him and kicked me out.

7 42 Q. But you were not reconciling  
8 with him?

9 A. No way in hell.

10 43 Q. No, understood, but that was the  
11 misunderstanding?

12 A. Yes.

13 44 Q. And was --

14 A. I didn't --

15 45 Q. -- there a discussion about that  
16 being a misunderstanding or was it simply no longer  
17 possible to stay there?

18 A. They thought I was lying and  
19 there was no way, because of my daughter, which I  
20 understand.

21 46 Q. When you say that they lived  
22 outside the city, where did they live?

23 A. London, Ontario.

24 47 Q. I understand that for a time you  
25 were in what's called the YMCA's Transitional Living

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NIMIGAN MIHAILOVICH REPORTING INC.

**A430**

KRISTEN HEEGSMA

1 Program; is that right?  
2 A. For three or four months, yes.  
3 48 Q. Okay. I understand that that  
4 may have ended in roughly September 2021; does that  
5 sound right?  
6 A. Approximately, July or  
7 September, yes.  
8 49 Q. And was this via the YWCA's  
9 location on McNab Street in Hamilton?  
10 A. Yes.  
11 50 Q. I understand that that  
12 Transitional Living Program lasts up to one year; is  
13 there a reason that you were there for only a few  
14 months?  
15 A. So I had money go missing from  
16 my room, and as far as I knew the only other people  
17 that had a key to my room would have been the staff,  
18 so when I found, figured out that portion of it, I  
19 decided to be a smart ass and a dumb ass at the same  
20 time and go into the staff office and make them  
21 realize what I felt. I got caught and I got kicked  
22 out.  
23 51 Q. Understood. While you were with  
24 the YWCA Transitional Living Program, you had a case  
25 worker working with you; is that correct?

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KRISTEN HEEGSMA

1 A. Yes, I did. **A4715**  
2 52 Q. And efforts were being made to  
3 locate housing for you?  
4 A. Yes.  
5 53 Q. And did that program result in  
6 you having housing?  
7 A. No, it did not.  
8 54 Q. And is it a result of that  
9 incident that you just mentioned?  
10 A. That and we didn't really start  
11 looking until, like, a week prior to that. Like,  
12 they don't really help you while you're there too  
13 much, to be honest.  
14 55 Q. And those efforts, the case  
15 worker efforts, ended when you were terminated from  
16 the program?  
17 A. Yes, they did.  
18 56 Q. Now, I understand that you had  
19 previously resided at an address, 123 Bold Street in  
20 Hamilton; is that right?  
21 A. Yes, I did.  
22 57 Q. And the date that I understand  
23 that you obtained that housing was January 18th,  
24 2022; does that sound right?  
25 A. Approximately, yes.

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 58 Q. Okay. And how did that come  
2 about?  
3 A. I ended up meeting somebody, he  
4 had an apartment, he offered me and my spouse a place  
5 to stay. I ended up moving in with her. He moved in  
6 with us. He was working with a housing worker as  
7 well. The landlord and her got into an argument and  
8 she ended up getting kicked out, and so obviously we  
9 did too.  
10 59 Q. Okay. So it was an argument  
11 that the friend had with the landlord?  
12 A. Yes, that had been ongoing from  
13 the time she moved in to the time that she was kicked  
14 out.  
15 60 Q. I understand that your address  
16 changed in 2022 to 2180 Itabashi Way in Burlington;  
17 is that right?  
18 A. Yes  
19 61 Q. And how did that happen?  
20 A. That was when I was going, I  
21 believe that's when I switched over to Oakville, and  
22 that's the ODSP office in Burlington.  
23 62 Q. Understood. Okay. So that  
24 address is for the ODSP office in Burlington, but you  
25 were actually staying in Oakville?

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KRISTEN HEEGSMA

1 A. I was going back and forth at  
2 that point, trying to find a place.  
3 63 Q. Understood.  
4 A. Yes.  
5 64 Q. Okay. Did you – well, did you  
6 access any other resources in Burlington or Oakville?  
7 A. I believe I ended up in jail, so  
8 I ended up in Milton, which was in Vanier.  
9 65 Q. So how did that come to pass?  
10 A. I was car-hopping one night,  
11 trying to come up with some more money or – to be  
12 able to stay in a hotel while I was in Oakville, and,  
13 yeah, I got caught.  
14 66 Q. Car-hopping means checking car  
15 doors and looking for money in cars?  
16 A. Yes. Yes.  
17 67 Q. And what was the result of that?  
18 You were charged and convicted?  
19 A. I was charged, convicted and  
20 released on, um, on, like, pre-trial custody.  
21 68 Q. I understand that in roughly  
22 late 2023, you were staying at an address, 9  
23 Faircourt Drive in Stoney Creek; is that right?  
24 A. Yes.  
25 69 Q. And is that the address that you

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NIMIGAN MIHAILOVICH REPORTING INC.

**A431**

KRISTEN HEEGSMA

1 were referencing earlier --  
2 A. Yes, it was.  
3 70 Q. -- that there was that Stoney  
4 Creek address? Okay.  
5 And again, how did that come to  
6 pass?  
7 A. Because the landlord turned out  
8 to be the tenant that was subletting to my  
9 step-father and I without, unbeknownst to us. So in  
10 turn, when he went to the Landlord Tenant Board for  
11 not paying rent and got kicked out, so did we.  
12 71 Q. Okay. But that was housing that  
13 was available to you because your father was already  
14 staying there?  
15 A. Yes.  
16 72 Q. Does your father still live in  
17 Hamilton?  
18 A. Yes, he does.  
19 73 Q. And that's not somewhere that  
20 you can stay currently?  
21 A. He's currently homeless as well.  
22 74 Q. Okay. You mentioned previously  
23 a spouse, was that a Douglas Friebe, F-R-I-E-B-E?  
24 A. That was as one of my exes, yes.  
25 75 Q. Okay. And what happened to him,

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KRISTEN HEEGSMA

1 Mr. Friebe?  
2 A. He ended up getting convicted of  
3 domestic abuse on me.  
4 76 Q. And is that the relationship  
5 that was abusive you were referencing earlier?  
6 A. No.  
7 77 Q. No. So that's a separate, a  
8 separate abusive relationship?  
9 A. Yes. I have very poor choice in  
10 men. I've been beaten up by almost every single  
11 boyfriend I've ever had, so --  
12 78 Q. I am sorry to hear that.  
13 Have you ever been married, other  
14 than to Douglas Friebe?  
15 A. I was never married, period, but  
16 I've been in common-law relationships, yes, many of  
17 them.  
18 79 Q. Okay. So if there's a reference  
19 to a spouse, for example, it's a common-law spouse?  
20 A. Yes.  
21 80 Q. Understood.  
22 Did you ever reside at a place  
23 called 8 Windsor Street in Hamilton?  
24 A. Yes, I did.  
25 81 Q. Okay. And how did that come to

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 pass?  
2 A. That was -- so my mom had been  
3 married three times; two of the guys continued to  
4 take me on as their step-daughter. One of them was  
5 the one that lived at 8 Windsor; one was the one that  
6 lived with me at 9 Faircourt. The one at 8 Windsor,  
7 he ended up hanging himself, so --  
8 82 Q. So do you know roughly when you  
9 stayed there?  
10 A. I've stayed there off and on,  
11 like, whenever I needed it basically at night or two  
12 to stay there since I was, like, 13.  
13 83 Q. Okay. So it wasn't a long-term  
14 residence, it was just a place where you could stay  
15 when you needed to?  
16 A. Yes. Or a place that I could  
17 have mail sent.  
18 84 Q. Understood. Okay. So it was a  
19 mailing address as well.  
20 And have you ever resided at 757  
21 King Street West in Hamilton?  
22 MS. CROWE: I'm sorry, what was that  
23 address?  
24 MR. DIACUR: 757 King Street West.  
25 MS. CROWE: Thank you.

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KRISTEN HEEGSMA

1 A. I think that was back in 2016  
2 maybe.  
3 BY MR. DIACUR:  
4 85 Q. Okay.  
5 A. I think that's where I was  
6 brought out.  
7 86 Q. That's not long ago?  
8 A. Yeah, I'm pretty sure that was  
9 where I was out on probation -- out on bail.  
10 87 Q. Okay. Is that a halfway house?  
11 A. No, it was a friend's house that  
12 bailed me out.  
13 88 Q. Okay. I'd like to turn now to  
14 your first affidavit; to do that I'm just going to go  
15 through from the index of this document. I'll put  
16 that on the screen.  
17 So on screen is your affidavit sworn  
18 June 7th, 2022; do you have that in front of you?  
19 A. Yes, I do.  
20 89 Q. Have you reviewed this document  
21 recently?  
22 A. Yes, I have.  
23 90 Q. Okay. Was there anything in the  
24 document that you found to be incorrect or that was  
25 needed to be added?

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NIMIGAN MIHAILOVICH REPORTING INC.

A432

A4716



KRISTEN HEEGSMA

1 A. No.  
2 91 Q. Okay. All right. I'm going to  
3 scroll down to paragraph 6. And you indicate that,  
4 "Before becoming homeless in 2016, I  
5 was evicted after an ex abusive  
6 boyfriend damaged the apartment."  
7 What residence are you referring to  
8 there?  
9 A. That one was 181 Jackson -- or  
10 John Street North.  
11 92 Q. And that's in Hamilton?  
12 A. Yes, it is.  
13 93 Q. And the boyfriend, is that Mr.  
14 Friebe or is it someone else?  
15 A. No, that one was someone else.  
16 That was the one that I, that I got kicked out over  
17 with my grandparents. His name was Shane Murray,  
18 a.k.a. Bones Malone.  
19 94 Q. All right. And at that time, in  
20 2016, there's an eviction from the apartment, what  
21 happened at that time?  
22 A. I had jumped in front of a cop  
23 car for my ex to get away; he had keys to my  
24 apartment. He had thought I was with somebody,  
25 because I was walking with one of this friends and he

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NIMIGAN MIHAILOVICH REPORTING INC.

KRISTEN HEEGSMA

1 didn't run into his friend till the next day, so he  
2 thought that me and his friend had dallied off  
3 somewhere and decided to sleep together, and so he  
4 went back to my apartment and caused a whole bunch of  
5 damage, flooded it, and I was evicted almost a week  
6 later when it was all said and done and the damage  
7 was concluded and everything.  
8 95 Q. Understood. And where did you  
9 go upon that eviction?  
10 A. Well, at the current time I was  
11 in jail, so I didn't find out until I got out that I  
12 had no place to go.  
13 96 Q. Okay. And was this because of  
14 the events that we discussed earlier, the checking of  
15 car doors and the arrests in Milton?  
16 A. No. No. I was under -- I was  
17 in jail for jumping in front of the cop car for my ex  
18 to get away, and also because he and I had gotten  
19 charged with an assault causing bodily harm, which it  
20 was dropped on me but it was on him.  
21 97 Q. And so that led to a separate  
22 conviction and a jail sentence?  
23 A. Yes.  
24 98 Q. And how long did that sentence  
25 last?

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KRISTEN HEEGSMA

1 A. I was in jail for 45 days, and  
2 then I got 18 months probation.  
3 99 Q. And when you were released from  
4 jail, where did you go?  
5 A. That's when I found out that I  
6 was homeless, and I went and spent a couple of nights  
7 at the 8 Windsor Street address until I could figure  
8 out what to do, and then I started to be in  
9 encampments, and --  
10 100 Q. And was that any -- in paragraph  
11 6 of your affidavit that you then reference in 2019  
12 you were living with your grandparents?  
13 A. Yes.  
14 101 Q. I know that we've discussed a  
15 number of addresses over time, but were you encamped  
16 between 2016 and 2019 when you moved in with your  
17 grandparents?  
18 A. Yes.  
19 102 Q. And was that always in the City  
20 of Hamilton?  
21 A. Yes.  
22 103 Q. And so how did it come to pass  
23 that you moved in with your grandparents in London?  
24 A. My daughter.  
25 104 Q. So she was living with your

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KRISTEN HEEGSMA

1 grandparents?  
2 A. They obtained custody of her and  
3 so, yes, she was staying there, and I was trying to  
4 get custody back.  
5 105 Q. Understood. And when did your  
6 grandparents obtain custody of your daughter?  
7 A. They obtained custody in 2017,  
8 December.  
9 106 Q. And how old was your daughter at  
10 that time?  
11 A. She was going on one years old.  
12 107 Q. Paragraph 6, the last sentence.  
13 "They thought I was reconciling with  
14 my abusive ex and kicked me out."  
15 You had referenced that previously.  
16 Just to be clear, was it made clear to your  
17 grandparents that your only alternative was  
18 homelessness and shelter if they kicked you out?  
19 A. Well, they knew, they definitely  
20 knew.  
21 108 Q. And did you stay in the City of  
22 London?  
23 A. No, I did not.  
24 109 Q. So you returned to Hamilton at  
25 that time?

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A433



KRISTEN HEEGSMASMA

1 A. Yes, I did.  
2 110 Q. And what was the reasoning for  
3 that?  
4 A. I knew more people out here, I  
5 figured I would have more support.  
6 111 Q. Understood. Okay.  
7 And in paragraph 7, you indicate  
8 that you were in shelter and that you were kicked out  
9 of shelter repeatedly. The shelter that you're  
10 referencing there, is it one in particular or more  
11 than one?  
12 A. It was more than one. Mostly  
13 the one was the, when they were doing the hotels, I  
14 was in the Hotel Program place at one, and four times  
15 at another, but -- and then there was also two normal  
16 shelters I was kicked out of.  
17 112 Q. And you said that you stayed in  
18 a hotel a number of times; was that for several  
19 nights at a time, or was it for single nights?  
20 A. Well, no, the hotel was mainly,  
21 like, hotel programs, when I was placed in there for  
22 housing, so it was at least a month normally that I'd  
23 be there.  
24 113 Q. So each time you went in, you'd  
25 stay for a period of time up to a month?

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KRISTEN HEEGSMASMA

1 A. Up to a month being the least  
2 amount of time. I was there for the shelter  
3 programs, like, it wasn't like I was paying for the  
4 hotel, it was the shelter program I was placed in.  
5 114 Q. Yeah. No, no, understood. But  
6 for the periods of time that you were staying in  
7 hotel -- I think you referenced five different times  
8 --  
9 A. Yes.  
10 115 Q. -- how long total did you stay  
11 in the hotel?  
12 A. I would say probably maybe a  
13 year over those five times.  
14 116 Q. And was there a reason that you  
15 would enter and then exit the hotel program?  
16 A. Um, I left one of the times, and  
17 the other four times I was kicked out.  
18 117 Q. And why did that happen?  
19 A. The first time I was kicked out  
20 due to the fact that I had a nighttime job and I  
21 wouldn't be there every night, so in turn they said  
22 if I wasn't there for my bed, I couldn't be there,  
23 basically. It didn't matter that I was trying to  
24 work to collect money to get a place on my own.  
25 118 Q. And where -- sorry, I didn't

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KRISTEN HEEGSMASMA

1 mean to cut you off, please continue.  
2 A. Two of the times was because I  
3 was with boyfriends, and they -- one didn't return,  
4 and one and I got into an argument and we split up;  
5 and then the last time I left.  
6 And the very first time I got kicked  
7 out was because I went to visit my grandparents, my  
8 grandmom and my child in London, and I didn't make it  
9 back in the allotted time due to the fact that I  
10 didn't have a car ride until two days later.  
11 119 Q. Understood. And so when you say  
12 that you stayed with your grandparents in London, you  
13 mentioned your mother, your mother was also staying  
14 with your grandparents?  
15 A. No, my mom also lived in London  
16 though.  
17 120 Q. Okay. So they're separate  
18 residence?  
19 A. Yes.  
20 121 Q. Have you ever stayed with your  
21 mother?  
22 A. For, like, three days, four days  
23 at a time when I go down there, that's it.  
24 122 Q. It's not possible to stay longer  
25 term?

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KRISTEN HEEGSMASMA

1 A. No. Me and my mom do not see  
2 eye to eye, for one; for two, she has a boyfriend  
3 that lives with her; and for three, my grandparents  
4 don't agree with us staying together and they're her  
5 co-signers.  
6 123 Q. Understood. Is there a reason  
7 why your grandparents don't agree with it?  
8 A. Because me and my mom do not see  
9 eye to eye.  
10 124 Q. So you referenced the hotel  
11 option, in and out of that for four or five times;  
12 you also referenced two normal shelters; what do you  
13 mean by that, which shelter are you referencing?  
14 A. Like, shelters, like the  
15 original shelters, like Mary's Place; and there was  
16 another one that I was placed in in, I believe,  
17 Burlington for, like, a night.  
18 125 Q. Okay. So there's one shelter,  
19 Mary's Place in Hamilton, and one in Burlington?  
20 A. Yeah.  
21 126 Q. And you referenced being kicked  
22 out repeatedly, were you able to stay in those  
23 shelters for any length of time or was it just a  
24 night or two at a time?  
25 A. I believe it was -- for the

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A434

KRISTEN HEEGSMASMA

1 hotel ones, it was at least a month, if not longer.  
2 127 Q. Right?  
3 A. For the one in Burlington, it  
4 was only one night because I was out there for an  
5 appointment; and then the one, Mary's Place here, I  
6 was there for maybe two or three nights.  
7 128 Q. And did that end because you  
8 were kicked out, as you say?  
9 A. Yes.  
10 129 Q. And why did that happen?  
11 A. The one at Mary's Place was due  
12 to a conflict of interest; and then the one in  
13 Burlington was because I was not from there, I was  
14 going back to Hamilton, so --  
15 130 Q. Conflict of interest, what do  
16 you mean?  
17 A. I mean it was with a, more like  
18 a coach use, that I was on probation and not allowed  
19 to deal with.  
20 131 Q. Understood. You referenced your  
21 employment, where were you working?  
22 A. Off and on I was working for a  
23 temp agency, and then I was also just looking for a  
24 job.  
25 132 Q. And where did you temp?

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KRISTEN HEEGSMASMA

1 A. AppleOne. A4719  
2 133 Q. And where is that located?  
3 A. It's in Stoney Creek. It's the  
4 temp service, they temp, but I worked at Karma Candy.  
5 134 Q. And how did that work out?  
6 A. It was all right, but I was only  
7 doing it for, very brief.  
8 135 Q. And what wages were you paid as  
9 a temp?  
10 A. Minimum wage.  
11 136 Q. And how long did you serve as a  
12 temp?  
13 A. I would say two, two months at  
14 Karma Candy, and maybe a week at another place.  
15 137 Q. And why did that end?  
16 A. With Karma Candy, it was because  
17 where I was living, I was on continental shift, and  
18 in turn I wasn't able to keep up with it. I was  
19 living in a home where there was four other people  
20 and I couldn't sleep during the day to be able to be  
21 up for my nighttime shift.  
22 138 Q. Was the temp agency able to  
23 place you anywhere else?  
24 A. They did try, but I didn't  
25 really have too many, like, too many -- I didn't know

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KRISTEN HEEGSMASMA

1 what I was doing that much, like it was too hard on  
2 me.  
3 139 Q. And in paragraph 7, you mention  
4 that you were living on the streets until you got a  
5 tent.  
6 A. Yes.  
7 140 Q. When did you get a tent, do you  
8 recall?  
9 A. I think it was, like, three  
10 months into it. I'm not sure.  
11 141 Q. Where did you get the tent?  
12 A. I believe Tim had given it to  
13 me, like the doctor.  
14 142 Q. Dr. O'Shea?  
15 A. Yes.  
16 143 Q. All right. So if I scroll to  
17 the next page, paragraph 8, you indicate that you  
18 stayed at the Ferguson encampment until it was  
19 dismantled in October of 2020; is that right?  
20 A. Yeah.  
21 144 Q. And that dismantling, there was  
22 notice provided that that was going to happen; is  
23 that right?  
24 A. No.  
25 145 Q. No, that's incorrect?

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KRISTEN HEEGSMASMA

1 A. That's incorrect, there was no  
2 notice on that one.  
3 146 Q. And the dismantling occurred in  
4 the daytime; is that right?  
5 A. Yes.  
6 147 Q. I understand that everyone in  
7 the encampment, the Ferguson encampment, was offered  
8 shelter at the time that it was dismantled; is that  
9 right?  
10 A. Not that I'm aware of.  
11 148 Q. I understand that shelter was  
12 offered to you and that you declined it; is that not  
13 the case?  
14 A. No.  
15 149 Q. So, ma'am, the City of Hamilton  
16 maintenance records regarding your interactions with  
17 the city-funded homelessness-serving system, would  
18 you agree to sign an authorization permitting records  
19 relating to you to be disclosed in this litigation?  
20 MS. CROWE: Mr. Diacur, what's the  
21 basis for this request?  
22 MR. DIACUR: Well, Ms. Heegsma has  
23 indicated that she did not decline shelter; my  
24 understanding is that city notes may indicate what  
25 happened at that time and they cannot be disclosed

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KRISTEN HEEGSMASMA

1 without authorization. So I am asking for the  
2 authorization for the disclosure so that we can get  
3 to the bottom of the issue on which I am examining  
4 her.

5 MS. CROWE: Okay, we'll take it  
6 under advisement.  
7 U/A

8 BY MR. DIACUR:  
9 150 Q. And looking at the chart on  
10 paragraph 8, I understand that you, after the  
11 Ferguson encampment was dismantled, went to Jackie  
12 Robinson Park; is that right?

13 A. Jackie Washington, yes.

14 151 Q. Yes, I'm sorry, I said Jackie  
15 Robinson, yes. No, that's the baseball player. I  
16 mean Jackie Washington, you're correct.

17 You went to Jackie Washington Park  
18 after the dismantling of the Ferguson encampment?

19 A. Yes.

20 152 Q. Okay. And that was in October  
21 of 2020?

22 A. Yes.

23 153 Q. Did you go straight there or was  
24 there anywhere else in between?

25 A. I believe I went straight there.

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KRISTEN HEEGSMASMA

1 154 Q. I understand from this chart **A4720**  
2 that bylaw officers spoke to you about remaining in  
3 Jackie Washington Park?

4 A. Yes.

5 155 Q. You were provided notice that  
6 you were not permitted to remain there; is that  
7 correct?

8 A. Yes.

9 156 Q. And I understand from the chart  
10 that you lost your tent and other belongings at the  
11 time that you vacated Jackie Washington Park; is that  
12 right?

13 A. Yes.

14 157 Q. And do I understand that you  
15 left the park voluntarily when you were told by bylaw  
16 that you couldn't remain and left possessions behind?

17 A. I did leave when I was told to.

18 I didn't have time to move everything that I was --

19 158 Q. How much notice were you given?

20 A. I was given, honestly, probably  
21 about, I would say the first time was a week, I  
22 think, and then the accident one was, like, an hour  
23 or two.

24 159 Q. So there was a week of notice  
25 provided?

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KRISTEN HEEGSMASMA

1 A. I believe so.

2 160 Q. And then bylaw returned and  
3 said:

4 "In an hour we are going to start  
5 dismantling"?

6 A. Yes. Yes.

7 161 Q. Based on the chart, I understand  
8 that you next went to Beasley Park in Hamilton. The  
9 dismantling of Jackie Washington -- or at least your  
10 notice to depart from Jackie Washington, did that  
11 occur in January or February of 2021?

12 A. I believe so.

13 162 Q. Did you go straight to Beasley  
14 Park from Jackie Washington Park?

15 A. I believe so.

16 163 Q. And just on followup question on  
17 Jackie Washington Park: when you spoke to bylaw, it  
18 was in the daytime; correct?

19 A. Yes.

20 164 Q. And that's when the dismantling  
21 occurred?

22 A. Yes.

23 165 Q. And I understand that Beasley  
24 Park, from the charts, again you spoke to bylaw  
25 officers?

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KRISTEN HEEGSMASMA

1 A. Yes.

2 166 Q. They provided notice that you  
3 were not permitted to remain in Beasley Park; is that  
4 right?

5 A. Yes.

6 167 Q. How long had you been in Beasley  
7 Park when that notice was given to you?

8 A. I believe four and a half, five  
9 months.

10 168 Q. And how much notice was provided  
11 to you that you were going to have to depart?

12 A. I believe that one was a month.

13 169 Q. And again, I understand that  
14 upon getting that notice, you ultimately left  
15 voluntarily and left some possessions behind; is that  
16 right?

17 A. Yes.

18 170 Q. And in that circumstance, why  
19 not take your possessions with you?

20 A. Because I was going into  
21 shelter, I believe.

22 171 Q. Okay. And was this the point  
23 where you went into the YWCA's Transitional Living  
24 Program?

25 A. I believe so.

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KRISTEN HEEGSMASMA

1 172 Q. So we've talked about that. And  
2 I understand that in the fall of 2021, you encamped  
3 at Woolverton Park; is that in Hamilton?  
4 A. Yes.  
5 173 Q. So if I've got the timeline  
6 right, roughly January or February 2021, you're at  
7 Beasley Park; you're there for about six months; you  
8 are told that you can no longer remain; you enter the  
9 YWCA's Transitional Living Program; you're there for  
10 a few months, as you told me, and then at Woolverton  
11 Park. Was there anywhere else in between?  
12 A. Not that I'm aware of.  
13 174 Q. And how long were you at  
14 Woolverton park?  
15 A. I would say I was there till  
16 June, I believe, May or June.  
17 175 Q. So through to sort of early  
18 summer, late spring of 2022; is that fair?  
19 A. I believe so.  
20 176 Q. And you indicate in the chart  
21 again that you spoke to bylaw officers; they gave you  
22 notice that you weren't able to remain any longer?  
23 A. Yes. But I was already getting,  
24 I was already, it was already approved for me to move  
25 into the YWCA at that point, either way.

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1 177 Q. Okay. So I just want to be  
2 want to be clear. So did you go back into the YWCA'S  
3 programming?  
4 A. No. No. I'm saying, like, it  
5 was already, when I got the notice, it was already in  
6 placement for me to go to the YWCA, I think it was  
7 already started.  
8 178 Q. Okay. Well, I just want to be  
9 clear on the timeline. So I had understood that you  
10 went into the YWCA'S Transitional Living Program  
11 after leaving Beasley Park; is that not right?  
12 A. Yes, that is right.  
13 179 Q. Okay?  
14 A. But I'm saying, like, I was  
15 working with someone that was getting me into the  
16 YWCA, which was a, it was a month process --  
17 180 Q. Understood. Okay.  
18 A. -- to do that.  
19 181 Q. So there was, there were steps  
20 being taken to re-enter the YWCA'S program?  
21 A. No, no, no, there were steps  
22 taken for me to first enter for the first time; I had  
23 never been there yet.  
24 182 Q. Oh, I see. So there were steps  
25 being taken when you, when you departed from Beasley

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1 Park?  
2 A. Yes.  
3 183 Q. And it was only when the  
4 Woolverton encampment was dismantled that you  
5 actually entered the YWCA'S program; do I have that  
6 right?  
7 A. No. No. I believe I entered  
8 the Beasley -- I believe from Beasley Park I went  
9 into YWCA; from the YWCA I went to Woolverton.  
10 184 Q. Right. And so what happened  
11 when you were departing from the Woolverton  
12 encampment?  
13 A. It was shut down, and then I  
14 believe I just ended up sleeping outside on benches  
15 and stuff.  
16 185 Q. Were you given notice by bylaw  
17 that you were no longer able to remain in Woolverton  
18 Park?  
19 A. No, that was when I -- I believe  
20 that's when I found out -- how I found out that the  
21 encampment law had changed was in Woolverton.  
22 186 Q. Were there already people  
23 encamped in Woolverton Park when you arrived there?  
24 A. No. I was the first one there.  
25 187 Q. Did other people join you after

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1 you encamped there?  
2 A. Four or five, yes.  
3 188 Q. And in terms of this contact  
4 with bylaw officers that you referenced at  
5 paragraph 8 of your affidavit, what does that look  
6 like?  
7 A. It was, there was, like, five, I  
8 believe five times more people, and we were all,  
9 like, semi, basically semi attached in a way, we  
10 were, like, really close to each other, because we  
11 were in the wooded park of the Woolverton.  
12 189 Q. So, I'm sorry, five bylaw  
13 officers attended, is that what you said?  
14 A. No, there was only one bylaw.  
15 190 Q. Okay. And what did they say?  
16 A. They just, I believe, told me  
17 that it was, I had one day to move because they were  
18 shutting down all encampments, that we were no longer  
19 allowed them, and I had to figure out something else.  
20 191 Q. So they gave one day of notice,  
21 is that right?  
22 A. Yeah.  
23 192 Q. And was that given to you during  
24 the daytime?  
25 A. Yes, it was.

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KRISTEN HEEGSMASMA

1 193 Q. And did they return the  
2 following day?  
3 A. Yes, they did.  
4 194 Q. What steps were taken when they  
5 returned?  
6 A. I had already packed up  
7 everything that I needed -- needed, not that I  
8 wanted, needed, and then I was leaving.  
9 195 Q. So you left Woolverton Park  
10 voluntarily upon being given notice?  
11 A. Not really voluntarily, I had no  
12 choice but to go.  
13 196 Q. You left possessions behind?  
14 A. Yes. I had no choice. I can't  
15 carry them.  
16 197 Q. What shelters did you contact at  
17 that point?  
18 A. I believe I contacted -- I  
19 believe -- actually, I had not contacted them, I  
20 believe my doctor had contacted every shelter that  
21 there was.  
22 198 Q. Is that a reference to  
23 Dr. O'Shea?  
24 A. Yes.  
25 199 Q. And what was the result of that?

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1 A. There was no shelter beds  
2 available.  
3 200 Q. Now, if I scroll down,  
4 paragraph 9, you indicate:  
5 "After the court denied the motion  
6 for an injunction on November 2nd,  
7 2021, I knew the city would start  
8 enforcing the bylaws and enforce me  
9 to move."  
10 How did you learn about that?  
11 A. I learned about it from the  
12 lawyers, from my doctor, and from, I believe, the  
13 outreach.  
14 201 Q. Now, are you saying that you  
15 assumed that there would be enforcement steps taken  
16 after the injunction was not granted?  
17 A. Well, I had been told that there  
18 would be.  
19 202 Q. And who told you that?  
20 A. The lawyer that reads -- I  
21 believe the bylaw even. Then -- and I think the  
22 encampment team, as well as the police.  
23 203 Q. Now, if I move on, in your  
24 affidavit, paragraph 11, I understand that you were  
25 the victim of a number of crimes and that there was

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1 at least one police report made; do I have that  
2 right?  
3 A. Yes.  
4 204 Q. Was there any police  
5 investigation that resulted from the report?  
6 A. I don't believe so.  
7 205 Q. And the injuries that you  
8 referenced, they were the results of these crimes  
9 that were committed against you; that's correct?  
10 A. Sorry, what was that question  
11 again?  
12 206 Q. The injuries that you  
13 referenced, assaulted seven times, robbed three  
14 times, et cetera, that was the result of the crimes  
15 that were committed against you; is that right?  
16 A. Yes.  
17 207 Q. And if I scroll down to  
18 paragraphs 13 and 14, there's a point that I don't  
19 quite understand; it seems like it might be  
20 contradictory. You reported some crimes to the  
21 police but not others because you say there is a  
22 significant risk of violence of if people find out  
23 you went to the police; is that right?  
24 A. Yes.  
25 208 Q. Okay. So just to be clear, are

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1 you saying that you considered the gravity of the  
2 crimes that occurred and only reported the ones that  
3 you considered to be more serious?  
4 A. No, I reported the ones that  
5 caused me more mental damage, more emotional damage  
6 or physical damage than the ones that would lead me  
7 to be caused more of that.  
8 209 Q. Understood. So paragraph 15,  
9 this is on the next page, if I scroll down, this is  
10 in the same affidavit, you say you know the police  
11 won't be able to do anything about things like armed  
12 robbery; what are you basing that statement on?  
13 A. The fact that even if I went to  
14 the police after my stuff was stolen, they couldn't  
15 prove that it was my stuff; they couldn't prove that  
16 it was stolen by them; they couldn't prove that I  
17 even wanted -- like I wasn't, I didn't sell the  
18 stuff, I didn't give it away, I didn't -- they had  
19 no, there would be no proof of anything, what would  
20 be the point? I would just get beat up more.  
21 210 Q. And in paragraph 16 of your  
22 affidavit, you indicate that you've stayed in  
23 shelters many times. We've discussed the YWCA and  
24 Mary's Place in Hamilton; are there any other  
25 shelters in Hamilton that you have stayed in?

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KRISTEN HEEGSMASMA

1 A. The Shelter Program, that's it.  
2 211 Q. The Hotel Program?  
3 A. Yeah. On, and the, there's  
4 another type of shelter thing, but I don't know what  
5 it was called; it was for, like, it was likely  
6 emergency or mental health, not the one at the  
7 hospital but the one on Emerald.  
8 212 Q. Is this the Bennett Program?  
9 A. Barrett Centre.  
10 213 Q. Barrett Program, that's right.  
11 Again, that's my notes, Barrett. The Barrett  
12 Program, that's a short-term, roughly five-night  
13 crisis, mental health crisis centre, is that right?  
14 A. Yes.  
15 214 Q. And you've stayed there?  
16 A. Yes.  
17 215 Q. Is that only once or more than  
18 once?  
19 A. Twice.  
20 216 Q. Twice. And do you recall  
21 roughly when?  
22 A. Um, I want to say in the end of  
23 2021 and beginning -- and then the end of 2022, I  
24 believe.  
25 217 Q. Is there any ongoing treatment

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1 that is given via the Barrett Centre? A4723  
2 A. No.  
3 218 Q. But you've received ongoing  
4 medical treatment by Dr. O'Shea and now Dr. Lamont?  
5 A. Yes.  
6 219 Q. You say in paragraph 17,  
7 regarding barriers, that women's shelters are almost  
8 always full; you would agree that they are sometimes  
9 not full, since you've been able to access them many  
10 times?  
11 A. Yes.  
12 220 Q. And you mentioned in paragraph  
13 18 that you have repeatedly been kicked out of  
14 shelters; we've discussed a couple of the reasons  
15 why.  
16 In terms of the results of being  
17 kicked out of a shelter, have you ever been told that  
18 you're no longer able to return to a particular  
19 shelter for a period of time?  
20 A. Yes, the Hotel Program.  
21 221 Q. Okay. And were you informed of  
22 how long you were no longer able to return?  
23 A. I believe it runs for a year.  
24 222 Q. So several months or a year did  
25 you say?

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1 A. Yes.  
2 223 Q. And in terms of the last time  
3 that you exited the Hotel Program, how did that come  
4 to pass?  
5 A. Like, how did I end up into it?  
6 224 Q. No, no, in terms of exiting, the  
7 last time that you left the Hotel Program, how did  
8 that come to pass? Was it by choice or was it again  
9 one of these incidents of being kicked out?  
10 A. No, that one was by choice.  
11 225 Q. Paragraph 19, you mention that  
12 you've been unable to access a shelter bed during  
13 times when you're in a relationship. Now, you could  
14 access a shelter bed without the person you are in a  
15 relationship with; correct?  
16 A. Correct.  
17 226 Q. You would choose not to do so  
18 when you're in a relationship, or to seek a shelter  
19 bed for yourself only; is that right?  
20 A. Yes.  
21 227 Q. And I understand that you had  
22 indicated that you had made use of hotel spaces for  
23 couples?  
24 A. Yes.  
25 228 Q. And you do mention in

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1 paragraph 19, in that lettered list, travelling to  
2 London to visit your mother and daughter; in terms of  
3 going there, how do you get there and back?  
4 A. I had taken either the train or  
5 the Go or the Greyhound.  
6 229 Q. And is this something that is  
7 part of custody for your daughter, that you have to  
8 visit her or have the ability to visit her on some  
9 regular schedule?  
10 A. It was.  
11 230 Q. And is no longer?  
12 A. No.  
13 231 Q. And is that because your  
14 grandparents have obtained custody?  
15 A. No, that is because my daughter  
16 is adopted.  
17 232 Q. Oh, understood. Okay. So she  
18 has been adopted?  
19 A. All five of my kids are adopted.  
20 233 Q. What are the ages of your  
21 children?  
22 A. My oldest will be 16 on the 27th  
23 of this month. My second one will be 15 in November.  
24 My third one will be 14 in February. My fifth one  
25 will be nine in October -- or eight in October,

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KRISTEN HEEGSMASMA

1 sorry. And my fifth one will be five in September.  
2 234 Q. And that's the daughter that  
3 we're referencing here in paragraph 19, your  
4 youngest?  
5 A. No, my second youngest.  
6 235 Q. Second youngest. Understood.  
7 And all of those children are with  
8 adoptive parents?  
9 A. Yes.  
10 236 Q. At paragraph 19(b), you  
11 reference missing curfew having to work late; we've  
12 discussed that, I believe. I just want to confirm,  
13 other than the temp service that had provided the  
14 opportunity for employment at several, well, two  
15 different places, throughout this period, since 2016  
16 that you've been experiencing homelessness off and  
17 on, have you worked anywhere else?  
18 A. No.  
19 237 Q. And currently you receive ODSP  
20 income; is that right?  
21 A. Yes.  
22 238 Q. It's referenced earlier in your  
23 affidavit, I just want to make sure that it's still  
24 something that you receive; is that true?  
25 A. Yes. Yes.

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KRISTEN HEEGSMASMA

1 239 Q. All right. So if we go to A4724  
2 paragraph 22 of your affidavit, you indicate staying  
3 with a friend outside the Four Points Hotel?  
4 A. Yes.  
5 240 Q. Where is the friend today?  
6 A. I believe she is in shelter, I'm  
7 not too sure.  
8 241 Q. If I go to paragraph 24, an  
9 inability to sleep properly --  
10 A. Yes.  
11 242 Q. -- as part of being unhoused.  
12 That sleep deprivation has existed throughout the  
13 period that you've been experiencing homelessness; is  
14 that right?  
15 A. Yes.  
16 243 Q. Do you sleep better when you are  
17 in a shelter?  
18 A. Sometimes, yes.  
19 244 Q. And you reference an injury, a  
20 gash, I believe you say, in, a large gash on your  
21 head; did you obtain medical treatment for that?  
22 A. I don't believe so.  
23 245 Q. Did you go to the hospital? Do  
24 you know?  
25 A. Yeah, I believe I did.

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KRISTEN HEEGSMASMA

1 246 Q. And would that have been St.  
2 Joe's or The General? Was that in Hamilton?  
3 A. It was in Hamilton. It probably  
4 would have been The General at that time.  
5 247 Q. And did you receive stitches or  
6 other treatment?  
7 A. I believe they did -- I got four  
8 staples.  
9 248 Q. Okay. If I scroll down to  
10 paragraph 25, there's another lettered list; I have  
11 some questions for you about this.  
12 There is a point here where you say  
13 that you were unable to access a tent; why would you  
14 be unable to access a tent?  
15 A. By not having the money or the  
16 means to do so, or not being able to go into the  
17 store that I'm trying to go into or --  
18 249 Q. I understand that you had  
19 previously obtained a tent from Dr. O'Shea, or via  
20 Dr. O'Shea's office; that's right?  
21 A. Yes.  
22 250 Q. After swearing this affidavit in  
23 June of 2022, were you able to access or obtain a  
24 tent?  
25 A. A week after when, sorry?

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1 251 Q. Oh, so the date on this document  
2 is June of 2022; after that time, were you able to  
3 obtain a tent?  
4 A. I believe so.  
5 252 Q. And how did you do that?  
6 A. To be honest, I believe I took  
7 it out the side door of a store.  
8 253 Q. Okay. Now, if I scroll down in  
9 this list, there is letter H; you indicate:  
10 "I have friends and a family member  
11 who I believe have been hot-shotted  
12 while sleeping or living on the  
13 streets."  
14 And you indicate that "hot-shotted"  
15 means someone injecting them with fentanyl or a  
16 mixture while they sleep?  
17 A. Yes.  
18 254 Q. Now, in terms of where that  
19 belief comes from, is that something that you have  
20 been told by these people or by others, or is it  
21 something that you have seen?  
22 A. Something I have seen, in the  
23 sense of my brother-in-law is now deceased due to his  
24 girlfriend.  
25 255 Q. So the family member you

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KRISTEN HEEGSMASMA

1 reference here is your brother-in-law?  
2 A. Yes.  
3 256 Q. And would that be the brother of  
4 Mr. Friebe who we discussed earlier?  
5 A. No, that would be the twin  
6 brother of my kid's father.  
7 257 Q. Okay. And so, just to be clear,  
8 you saw his spouse inject him with fentanyl or a  
9 mixture?  
10 A. No, not his spouse. He had done  
11 it himself, but he had gotten it, like, he, he had  
12 gotten the dope from his girlfriend who knew that the  
13 dope was bad, knew that it was killing people, knew  
14 that it would kill him if he did it.  
15 258 Q. Okay. So I think we're talking  
16 about two different things. So, in that case,  
17 somebody provided fentanyl, or a mixture, to him  
18 knowing that it was toxic; is that right?  
19 A. Yes.  
20 259 Q. And when you reference being  
21 hot-shotted, that would be somebody surreptitiously,  
22 secretly injecting somebody while they're sleeping?  
23 A. It could --  
24 260 Q. Is that right?  
25 A. It could mean that, yes, but it

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1 could also mean that they are given dope that is bad  
2 that killed then. A4725  
3 261 Q. Okay. Well, I'm just trying to  
4 clarify, because what's stated in the affidavit is  
5 than someone injects them with fentanyl, or a  
6 mixture, while they sleep, and I understand that to  
7 be the definition of "hot-shot" if it's being used;  
8 but it's actually broader than that, it could be just  
9 providing fentanyl or a mixture that is known to be  
10 toxic?  
11 A. Yes.  
12 262 Q. Okay. And in terms of your  
13 belief, how do, how did you come to the belief that,  
14 for example, you brother-in-law was being provided  
15 knowingly with a toxic mixture or fentanyl?  
16 A. Because she was the one that  
17 had -- like, his spouse is the one that had made the  
18 -- she had known that she had put something in it  
19 called xylene (xylazine) that was not good; she knew  
20 that other people had passed away from it; she knew  
21 that he was new, like a newer user, and she knew that  
22 he would die from it.  
23 263 Q. Was that reported to the police?  
24 A. I believe it has been, yes.  
25 264 Q. And in terms of the other part

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1 of the definition of "hot-shot," that someone  
2 secretly, while they're sleeping, being injected with  
3 fentanyl, or a mixture, what do you base your belief  
4 that that has occurred on?  
5 A. Based on, like, obituary  
6 documents, like documents from a coroner's report.  
7 265 Q. So you've seen a coroner's  
8 report where it states that this person was secretly  
9 injected with Fentanyl or a mixture?  
10 A. No, I've seen a coroner's report  
11 that stated that it was a toxic level of xylene, and  
12 I know that my brother-in-law could not hit himself,  
13 so I knew that his girlfriend had to be the one that  
14 would have given him the needle. I knew that he only  
15 started using needles when he got with this girl.  
16 And yes, I have seen the coroner's report to get  
17 that.  
18 266 Q. And you mentioned that this has  
19 also happened to friends of yours; how many?  
20 A. I would say at least three.  
21 267 Q. They reported being either given  
22 knowingly a mixture or Fentanyl that is toxic, or  
23 somebody injecting them while they sleep?  
24 A. No, they can't because they're  
25 deceased.

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1 268 Q. So the conclusion that that is  
2 what had to have occurred is an assumption that  
3 you're making?  
4 A. And something based on the fact  
5 that I know these people; I know what they do; I know  
6 what type of drugs; I know that they know their limit  
7 if it was in it. Like it's an assumption based on  
8 different aspects that I know of.  
9 269 Q. Understood.  
10 A. Or things that people have said,  
11 not just an assumption.  
12 270 Q. Understood. So if we go to  
13 paragraph 26 of your affidavit, you say:  
14 "I can't put up a tent."  
15 You have in the past put up a tent  
16 and encamped; correct?  
17 A. Yes, I have.  
18 271 Q. And I understand that you've  
19 been given notice that you had to move your tent from  
20 a particular park, but you could put up a tent now  
21 that you've obtained one; correct?  
22 A. Yeah, but really I'd be putting  
23 up a tent to be told I have to leave, so what would  
24 be the sense in putting up a tent?  
25 272 Q. Well, the alternative, it seems,

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1 from your affidavit, is sleeping without a tent. So  
2 my next question is: Sleeping with a tent is better  
3 than sleeping without one, isn't it?  
4 A. Yes, it is, but at the same  
5 time, moving every day and having to pack that tent  
6 up and move, when I could easily just stay in the  
7 same place, as long as I'm not bugging neighbours,  
8 it's easier.  
9 273 Q. No, I understand that.  
10 A. And then on top of it --  
11 274 Q. Sorry, I didn't mean to cut you  
12 off.  
13 A. On top of it, if I turn around  
14 and I get stuff, how am I ever going to be able to  
15 carry my tent and my stuff and move it, because you  
16 guys don't like where I place my tent?  
17 275 Q. No, I understand. We've gone  
18 over the history of moves from park to park over  
19 time. In each of those instances, though, you stayed  
20 in a park for, in some cases, a period of up to six  
21 months; is that not right?  
22 A. While you guys were in the,  
23 further -- like, when you guys were saying that we  
24 could encamp anywhere, yes. When there was legal  
25 documentation that we could camp in a park, yes.

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1 Now, no, I haven't been able to stay  
2 in a park past a week or two. A4726  
3 276 Q. Well, is it your understanding  
4 that as of August 2023 encamping indefinitely in city  
5 parks in the city of Hamilton is permitted?  
6 A. Yes.  
7 277 Q. So as of August of 2023, you've  
8 been aware of that?  
9 A. Well, yes, obviously, I've been  
10 in this, I've been part of this court hearing for a  
11 long time, for some time now, so I know everything  
12 that's been going on, yes.  
13 278 Q. And have you been encamping  
14 since August of 2023?  
15 A. Not until this month of this  
16 year, but where am I supposed to put up a tent now?  
17 Back then --  
18 279 Q. You told me that -- I'm sorry, I  
19 didn't mean to cut you off. Continue, please.  
20 A. Back then, it was the same  
21 thing, where could I put a tent up? No different  
22 than what it was.  
23 280 Q. Well, you had said that you were  
24 forced to move every day; I would like you to confirm  
25 that that's not true, that in fact you were given the

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1 ability to encamp for periods for time at each of  
2 Jackie Washington Park, Beasley Park, at the Ferguson  
3 encampment and at Woolverton Park; is that right?  
4 A. When you guys allowed us to  
5 encamp in parks, yes, I was able to stay.  
6 281 Q. Would you agree that shelters  
7 are safer than sleeping outside?  
8 A. No, I wouldn't say that.  
9 282 Q. On what basis is that not true?  
10 A. On the basis of, I could go to a  
11 shelter and I could have conflicts still, every day.  
12 I could end up going to a shelter in which there is a  
13 person there that does not like me, that wants to  
14 beat me every day of the week. No different than if  
15 I was in a tent or in an apartment building or in a  
16 city.  
17 283 Q. So there is nowhere that is  
18 safe, is that what you're saying?  
19 A. Technically, no, no place is  
20 safe.  
21 284 Q. If we go to paragraph 28 of your  
22 affidavit, you indicate:  
23 "I routinely attempt to enter  
24 women's shelters but am told that  
25 they are full."

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1 A. Yes.  
2 285 Q. We've established that there  
3 have been times when you've been able to enter  
4 shelters; that's correct?  
5 A. Yes.  
6 286 Q. And there have been times when  
7 you felt discouraged and stopped seeking a shelter  
8 bed; is that correct?  
9 A. Yes.  
10 287 Q. How lengthy are these periods  
11 where you feel discouraged and stop seeking a shelter  
12 bed?  
13 A. Um, maybe a month.  
14 288 Q. And during that period of time,  
15 let's say a month, you wouldn't become aware of any  
16 opportunities for a shelter bed or housing when  
17 you're not seeking it; that's fair to say?  
18 A. Well, yes and no.  
19 289 Q. Okay? In what way is that not  
20 correct?  
21 A. Because I don't need to see it  
22 to know that it's full, right? I have friends that  
23 talk, that can inform me of things, too.  
24 290 Q. So you're relying on a group of  
25 friends and their attempts to access shelters, is

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1 that right?  
2 A. I'm relying on myself, my group  
3 of friends, the city, just like you guys. Like, I'm  
4 supposed to have support, so in turn, if I have  
5 support, then I have people that will help me. "Oh,  
6 there's a bed available here and you should try it."  
7 Or "Oh, there's no space here but there might be  
8 space here." So, yes, I'm relying on other people as  
9 well as myself.  
10 291 Q. Understood. Okay. I would like  
11 to move to your subsequent affidavit, Which I'll put  
12 up on the screen now. This was sworn April 27th,  
13 2023, and it's largely in handwriting. Can you see  
14 that, or do you have a copy in front of you?  
15 A. Yes, I do.  
16 292 Q. Okay. The first -- whose  
17 handwriting is this? Is it yours?  
18 A. No.  
19 293 Q. Do you know who prepared this  
20 then, for you?  
21 A. I believe Sharon did it.  
22 294 Q. Okay. Well, that's fine, I  
23 don't need to ask any questions about conversations  
24 you had with your lawyer.  
25 This affidavit indicates that you've

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1 stayed in a number of different places since June of  
2 2022. A4727  
3 A. Yes.  
4 295 Q. But before we get into that, I  
5 understand that you had worked with a Wesley Urban  
6 Ministries case worker in roughly March of 2022; is  
7 that right?  
8 A. Yes.  
9 296 Q. And I understand that you  
10 ultimately submitted what's called an Access to  
11 Housing Application in March of 2023; does that sound  
12 right?  
13 A. I have done that a couple of  
14 times, and one was a SPDAT.  
15 297 Q. Yes, I understood about the  
16 VI-SPDAT, but does that sound right, in March of 2023  
17 there was an Access to Housing application submitted  
18 for you?  
19 A. I believe so.  
20 298 Q. And so I just want to go over  
21 the places that are indicated here in terms of where  
22 you stayed.  
23 There's a place on Kenora Avenue; is  
24 that right?  
25 A. Yes.

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1 299 Q. And again, that's in Hamilton,  
2 not in the City of Kenora?  
3 A. No, that's in Hamilton.  
4 300 Q. And so from roughly when to when  
5 did you stay there?  
6 A. I would say summer of 2022, the  
7 summer -- like, wait. Actually, spring of probably  
8 2023.  
9 301 Q. Okay. So you stayed there from  
10 the summer through the winter to the spring; is that  
11 right?  
12 A. I believe so.  
13 302 Q. And what shelter did you have on  
14 Kenora Avenue?  
15 A. It was just a tent in a park.  
16 303 Q. Do you remember the name of the  
17 park?  
18 A. It was a Crown's play --  
19 Crown's -- like it was in, near the highway; it  
20 wasn't in an actual park, it was, like, a field but I  
21 call it a park.  
22 304 Q. No, understood. It may have  
23 been the right of away for the highway?  
24 A. Yeah.  
25 305 Q. The next reference is to a

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1 handmade shelter in the woods. Now, first, why did  
2 you leave Kenora Avenue?  
3 A. I had gotten with somebody.  
4 306 Q. And did you go with them to the  
5 handmade shelter?  
6 A. Yeah, like he had made the  
7 shelter.  
8 307 Q. Where was that shelter, the  
9 handmade shelter?  
10 A. It was in Centennial area.  
11 308 Q. By the lake?  
12 A. Yeah, like -- well, no, it was  
13 off the train tracks, but --  
14 309 Q. And so it was, you say in the  
15 woods, but it was in the wooded area adjoining the  
16 rail line?  
17 A. It was in a wooded area from the  
18 rail line through the Walmart area.  
19 310 Q. Okay. Yes, now I know exactly  
20 where you mean. Okay.  
21 How long did you stay there?  
22 A. About two months, I would say.  
23 311 Q. And why did you leave that  
24 homemade shelter?  
25 A. The person I was staying with

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1 ended up in the hospital on life support.  
2 312 Q. And I understand that next there  
3 were a number of places, you say, on the streets in  
4 downtown Hamilton, in parks, on benches or the grass;  
5 you also mentioned in a tent at Beasley Park?  
6 A. Yes.  
7 313 Q. Now, how long did this period  
8 last where you were moving like this from place to  
9 place?  
10 A. I would say four, five days, two  
11 or three weeks.  
12 314 Q. And in terms of staying in  
13 Beasley Park, this is the second time that you were  
14 staying there?  
15 A. No, it would be the first time.  
16 315 Q. Okay. So this is a reference to  
17 the period that we've talked about earlier in the  
18 chart?  
19 A. Yes.  
20 316 Q. And there's a reference to the  
21 Burlington train station; when were you staying  
22 there?  
23 A. When I was going back and forth  
24 between Oakville and here.  
25 317 Q. You also referenced the GO

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1 train; is that how you were getting back and forth?  
2 A. Yes.  
3 318 Q. And then you mention "On the  
4 streets in Toronto." How did it come to pass that  
5 you were in Toronto?  
6 A. I had gone there to go boosting.  
7 319 Q. I'm sorry, I didn't catch that?  
8 A. I had gone there to go boosting.  
9 320 Q. I'm not sure what that means;  
10 can you explain?  
11 A. I had gone there to go stealing  
12 from stores.  
13 321 Q. Oh, okay. No, understood.  
14 Did you seek any shelter in Toronto?  
15 A. No.  
16 322 Q. Is there a reason that you  
17 didn't do that?  
18 A. I wasn't planning on being there  
19 long enough. I didn't want to be there for the first  
20 time.  
21 323 Q. How did you get there if you  
22 didn't want to be there?  
23 A. Because I went there in turn to  
24 try and get some money so that I could get out of the  
25 streets.

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1 324 Q. And so why did you leave  
2 Toronto?  
3 A. Because Toronto is not where I  
4 really wanted to be.  
5 325 Q. And Hamilton is?  
6 A. No, Hamilton is the only place  
7 that feels like home.  
8 326 Q. Got it. So if I go to paragraph  
9 2 of your affidavit, you mention a rooming house;  
10 where was this?  
11 A. That was at 9 Faircourt.  
12 327 Q. Oh, okay. So that's the 9  
13 Faircourt address; all right.  
14 A. Uh-huh.  
15 328 Q. And you mentioned a friend  
16 staying there and another resident; was that your  
17 father?  
18 A. Yes.  
19 329 Q. And you mentioned that there was  
20 a theft and access to your ODSP account.  
21 A. Yes.  
22 330 Q. How do you access your ODSP  
23 account?  
24 A. By Right Pay card.  
25 331 Q. Okay. And is that what

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1 happened, they stole that card and used it?  
2 A. Yes.  
3 332 Q. Was that -- I understand that  
4 the theft was not reported, out of fear, to the  
5 police, but was that reported to ODSP?  
6 A. Yes, it was.  
7 333 Q. And you mentioned a number of  
8 injuries, including an assault. The injuries again  
9 here are the result of crimes that were committed  
10 against you, would you agree with that?  
11 A. Yes.  
12 334 Q. And I understand that ultimately  
13 you were able to obtain housing via the Access to  
14 Housing application that was submitted by you, is  
15 that right?  
16 A. Hmm, no.  
17 335 Q. No. So that's not correct,  
18 there was no housing obtained via the Access to  
19 Housing application?  
20 A. Correct.  
21 MR. DIACUR: So I just want to --  
22 just a moment's indulgence, counsel, I want to make  
23 sure I didn't miss a question accidentally, but that  
24 may be all of the questions that I have for  
25 Ms. Heegsma. Just a moment.

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1 (Off record at 11:40:06 a.m.)  
2 (Resumes at 11:40:15 a.m.)  
3 MR. DIACUR: Yes, those are all of  
4 my questions. Thank you very much for attending and  
5 answering, ma'am.  
6 WITNESS: No problem.  
7 RE-EXAMINATION BY MS. CROWE:  
8 MS. CROWE: Thank you, Ms. Heegsma.  
9 I just have a few short questions, okay?  
10 336 Q. So we discussed a lot of  
11 timelines, a lot of addresses; one of the addresses  
12 was 123 Bold Street, in around January 2022, and you  
13 mentioned something about a spouse?  
14 A. Yes.  
15 337 Q. Okay. Was this a same sex or  
16 opposite sex partner?  
17 A. Same -- opposite, sorry.  
18 Opposite. That was Douglas.  
19 338 Q. Okay. And how long were you in  
20 that relationship?  
21 A. Six months.  
22 339 Q. Okay. And then when we were  
23 talking about your hotel stays, you mentioned that  
24 there were a couple of instances where it sounded  
25 like you were in a relationship at the time?

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1 A. Yeah.  
2 340 Q. Okay. And so I'm just looking  
3 back to your testimony. So when you were talking  
4 about the times that you were kicked out of shelter,  
5 you said that you were with boyfriends and one didn't  
6 return and one you got into an argument and he left?  
7 A. Yes.  
8 341 Q. So, can you help us understand,  
9 if your boyfriend didn't return, why would that  
10 result in you being kicked out?  
11 A. Because of the fact that it was  
12 a spouse -- it was a shelter for a spouse, you know,  
13 for relationships for couples.  
14 342 Q. Okay. And what about when you  
15 got into an argument and he left?  
16 A. I had asked for us to be  
17 separated and to have our own separate rooms, and  
18 they refused to do that; I got kicked out and they  
19 put him in a different shelter.  
20 343 Q. Okay. Thank you.  
21 And then you said another time you  
22 left is to go to London and see family and didn't  
23 make it back on time, what happened there, in terms  
24 of not making it back in time?  
25 A. The fact that it was that I had

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1 money for the bus but the bus was not able to,  
2 because at that time, I believe they were on strike,  
3 the buses were only running certain amount and I  
4 didn't, I didn't get one until Friday, or my  
5 grandparents wouldn't be able to drive me till  
6 Friday, but I was supposed to be able on the  
7 Wednesday. I called them on Tuesday to inform them  
8 on what was going on and they told me if I was not  
9 back by Wednesday, they were kicking me out.  
10 344 Q. Okay. Thank you.  
11 When Mr. Daicur was asking you about  
12 your encampment at Beasley, he asked you if you left  
13 voluntarily; what do you think "leaving voluntarily"  
14 means?  
15 A. Leaving voluntarily --  
16 MR. DIACUR: That's an improper  
17 question. I'm objecting to that, counsel.  
18 R/F  
19 MS. CROWE: Why is it improper?  
20 MR. DIACUR: Well, it's calling for  
21 her opinion, first of all, but also it's an attempt  
22 to expand her evidence; it is not an attempt to  
23 clarify an ambiguity, it is an attempt to expand her  
24 evidence beyond evidence that she's given. It's also  
25 calling for opinion evidence, so there's a couple of

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1 reasons.  
2 MS. CROWE: Well, I think I was  
3 asking her what her understanding was, but that's all  
4 right, we'll move on.  
5 345 Q. Okay. So in paragraph 11 of  
6 your June 2022 affidavit, you talk about some crimes  
7 that took place, and so I just wanted to distinguish.  
8 So there were assaults, thefts and a rape?  
9 A. Yes.  
10 346 Q. Okay. And Mr. Diacur was asking  
11 you about filing a report for the rape but not the  
12 other crimes, so I want to talk about the assaults,  
13 which you just confirmed that's separate than the  
14 rape incident?  
15 A. Yes.  
16 347 Q. Okay. Thank you.  
17 Do you know who assaulted you?  
18 A. Yes, I do.  
19 348 Q. So you were familiar with them.  
20 Did you know them before the assaults?  
21 A. Yes.  
22 349 Q. Okay. How did you know this  
23 person?  
24 A. They were --  
25 MR. DIACUR: I'm objecting to this

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1 as well. This is, again, an attempt to expand  
2 evidence than's been given; this isn't clarifying  
3 anything. This is re-direct, it's not an opportunity  
4 for her to just continue testifying. I object.  
5 R/F

6 MS. CROWE: No, this is absolutely  
7 clarifying. You asked about the circumstances under  
8 which she decided to report one crime and not the  
9 other.

10 MR. DIACUR: Yes.

11 MS. CROWE: And you classified her  
12 responses as referencing the gravity of the crimes,  
13 and so I am looking for clarification on the  
14 circumstances under which she reported one crime and  
15 not the other.

16 MR. DIACUR: Yes, but she's had the  
17 opportunity to give that evidence. Like, the  
18 affidavit speaks for itself on this subject. You're  
19 trying to expand her evidence and that's not the  
20 purpose of re-examination.

21 MS. CROWE: Well, I think that, you  
22 know, you are classifying this as expanding, I'm  
23 classifying this as clarifying, and so I take it that  
24 this is objection, but this is my witness, I'm going  
25 to direct her to answer the question.

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1 MR. DIACUR: Well, she can answer  
2 it, but I'm putting on the record my objection.  
3 R/F

4 MS. CROWE: I understand. Thank  
5 you.

6 350 Q. Okay. So you said that you knew  
7 the person who assaulted you?

8 A. Yes, I did.

9 351 Q. And how did you know them?

10 A. They were a friend previous to  
11 the assaults.

12 352 Q. Okay. And you mentioned  
13 reporting this staff to the Wesley -- this, the  
14 assaults to the Wesley Day Centre; what is the Wesley  
15 Day Centre?

16 A. The Wesley Day Centre was staff  
17 that I was able to talk to that weren't police and  
18 they weren't navigational workers either.

19 353 Q. Okay. And you mentioned that  
20 Wesley Day Centre staff knew the individual who was  
21 assaulting you?

22 A. Yes, they did. She was also a  
23 client of theirs.

24 354 Q. Okay. Thank you.  
25 And then you mentioned that at the

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1 beginning of this month you returned to living in an  
2 encampment?

3 A. Yeah.

4 355 Q. And we've talked about some of  
5 the previous times where you had to leave  
6 encampments; when was the last time you were told  
7 that you had to leave an encampment?

8 A. I believe it was in 2022.

9 356 Q. Okay. So for this month, you  
10 haven't been told to leave?

11 A. I was not told to leave, my  
12 friend was told to leave yesterday from their  
13 encampment they had just moved to. They had not had  
14 previous -- previously been told that they had to  
15 leave. But upon that happening, we found out that  
16 other people had been told. I just happened to be  
17 there yesterday when that happened, and they got told  
18 then that they had an hour to move. They have a dog,  
19 they had a bunch of stuff that they had just put up,  
20 just unpacked, and then all of a sudden they had an  
21 hour to repack it and we -- or they were getting  
22 demolished.

23 357 Q. And who told them that?

24 A. The police.

25 MR. DIACUR: I'm objecting. I'm

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1 objecting to this as well, counsel. This entire line  
2 of questioning is expanding the witness' evidence  
3 beyond what, anything that she was asked.  
4 R/F

5 The purpose of re-examination --  
6 MS. CROWE: Mr. Diacur, that's fine,  
7 that's fine.

8 MR. DIACUR: -- is to clarify an  
9 ambiguity or an issue with evidence that's been given  
10 in an affidavit versus what was said, a contradiction  
11 perhaps in the oral evidence, it's not to ask her  
12 about matters that she's not been cross-examined on  
13 because she's not given any evidence. The purpose of  
14 this is not to provide evidence that cannot be  
15 subject to cross-examination, which is what this  
16 would be. This is for the record.

17 MS. CROWE: Well, you specifically  
18 asked her about the timelines of staying in  
19 encampments and where she's staying, her current  
20 whereabouts. But that's fine, that's the end for my  
21 questions.

22 MR. DIACUR: Thank you very much,  
23 counsel.  
24 -- (Adjourned at 11:50 a.m.)  
25

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KRISTEN HEEGSMA

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I HEREBY CERTIFY THE FOREGOING  
to be a true and accurate  
transcription of my shorthand notes  
to the best of my skill and ability.



MARC BEEBE, O.C.R.  
Computer-Aided Transcription

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD, ET AL.**

Applicants

-and-

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF CASSANDRA JORDAN**

1. I, CASSANDRA JORDAN, of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. My date of birth is April 29, 1983.
3. I am Indigenous.
4. I have been homeless since August or September of 2020.
5. Before becoming homeless, I was living in a unit at 253 Victoria Avenue in Hamilton. The owner of the building passed away. The owner's children then told all tenants that we had to leave. They did not go through the Landlord and Tenant Board process to evict me. Instead, they used the police to unlawfully evict me. I lost almost all of my belongings.
6. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). As a single person who is homeless, I receive \$672 per month from ODSP. If I had shelter, I would receive a shelter allowance of \$497.00, per month.
7. My medical conditions include degenerative disc disease, chronic pain and substance abuse disorder.
8. I have had substance abuse issues but I am in recovery. I am currently treating my disorder with methadone.

9. I am prone to getting pneumonia. Living outside, trying to survive without a proper bed, without adequate shelter to shield me from the cold weather, snow and rain, and routinely having to move all of my life's possessions and rudimentary shelter, makes me more prone to pneumonia and exacerbates my pre-existing medical conditions. There have been times that I have required hospitalization to treat my pneumonia.
10. After I was evicted from my rental unit, I called shelters and was told that they were full.
11. I didn't have any storage for the few belongings I was able to pack, and had nowhere to go. I moved to a tent on Ferguson Avenue in Hamilton, where an encampment had already been established.
12. I stayed in the tent at Ferguson until the City dismantled the encampment on or about October 15, 2021. I had nowhere to go. The City took my tent in the process.
13. During the eviction at Ferguson, there were several police and by-law officers in attendance. The sheer number of authorities and the garbage removal trucks was intimidating and traumatizing. It felt very forceful and that I had no option but to move, especially because bylaw took my tent.
14. During the eviction from Ferguson, I was told that there was a hotel spot for me and that I could only take 1 bag of my belongings to it. I didn't want to dispose of my remaining belongings in order to get into the hotel spot and so I advised the person that I would make arrangements for my excess possessions and they advised that this was fine and the hotel spot would be available for me to claim the following morning. I returned to the Centre on Ferguson, the Wesley, and staff person there looked into my reserved hotel spot and I was told my spot was taken. It was upsetting to see that my room was not held when I advised the person that I was making arrangements for my things and they advised that it would be reserved for me for the next morning.
15. After I had no hotel room reserved for me, there was nowhere for me to go as women's shelters were full.
16. After being evicted from the Ferguson encampment, I went to stay at JC Beemer Park. I first stayed in a tent with a friend and then got another tent donated to me and then another one donated to me by some church people. I eventually was given a tarp to provide greater protection and straw for insulation.
17. The City eventually evicted me from JC Beemer Park. The eviction looked similar to that of Ferguson: a heavy police and by-law presence, bobcats to remove possessions and garbage removal. At the time of my eviction I was on a walker because of third degree burns on my leg that had yet to recover. The police who attended JC Beemer had arranged for me to go to the Barret Crisis Centre. The police said that the Barrett Centre would help them find somewhere to go after my 5 day stay there but all the Barret Centre did was discharge me after 5 days and hand me a list of the shelters that I already had


knowledge of. The shelters were full again and no one ensured that I transitioned into housing or a shelter. I utilized my last resort and went to my mom's house for a short period of time. I was still healing the first degree burns.

18. I could not stay at my mom's long term and eventually had to leave because my mom lives in public subsidized housing and if a guest stays longer than permitted, she will lose her subsidy.
19. After I left my mom's I had nowhere to go because every shelter I contacted was full at that time. Since then, I have stayed outside in several different locations. I have slept in tunnels, outside a local Tim Horton's, the back of City Hall, outside a church. When I am alone moving between several more hidden locations, I tend to be alone.
20. I tried to get into Carol Anne's place around the end of February but was denied because I tested positive for Covid and had to continue to live outside. It was freezing.
21. Being evicted from encampments, and having to live and sleep without a tent has been very difficult. I have been robbed. It is very difficult to sleep. Sometimes I don't even know what day it is. I am trying to abstain from using substances but it is difficult to do this while trying to survive.
22. Having to pack up and move when I am evicted from an encampment is exhausting physically, mentally and emotionally. It is scary because you don't know what to do. Every time you end up leaving things behind because it's not easy to move. It is a very traumatic experience.
23. Having a tent in one location creates safety because I am able to remain in one location with several other people who become reliable community allies. When a cluster of tents was permitted, I was able to develop a consistent community that looked out for one another and that would prevent theft. As well, we would share resources such as food and blankets to stay safe and fed. There is safety in numbers especially as a single female. For example, I had some guy climb in my tent to assault me and when I started yelling, the neighbouring encampment resident chased him away. Also, we were able to defend our possessions as a group when a theft was occurring because it was harder to bully a group that sticks together versus alone. When it got cold, we all shared one tent to stay warm.
24. While in an encampment I interacted routinely with Social Navigation with the Police. They could only refer us to shelters but they were always full and were the same shelters that we were already aware of. They communicated to us that they would warn us if by-law or other police were coming to move us. They would update us about what was happening because we don't have TV or cell phones with internet to find out what decisions were being made by the City and how we would be affected.
25. I have attempted to go to shelters. The women's shelters are almost always full. I don't have a phone, but do my best to phone to ask if there is a bed available. Willow's Place is a drop in centre for women, and they have often called trying to get me into a shelter.

They have not been able to get me into a shelter. It seems to me that everyone who is already in shelter is keeping their bed.

26. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. It is a congregate setting with people sleeping on the floor on either a mat or cot. They open at 10 p.m. In order to get in you have to line up hours in advance because there are only so many people they can take in. It isn't a sure thing. In March 2022, I was able to stay there for two nights. They were full on the third night and I was left outside at 10 p.m. with nowhere to go.
27. Carol Anne's Place has also called women's shelters to try to get me into shelter. They have also not been able to find a shelter bed for me.
28. When I am without shelter, I sometimes stay warm by going to the heat vents at City Hall but those were eventually boarded up and we were kicked out by police. It was the middle of winter and I thought I was going to freeze to death when this "option" of heat vents was removed and I had no shelter to go to.
29. During the winter, the Wesley became an emergency drop in during cold alerts and we would take turns coming in and out to warm up. This was not always an option though because it only opened up at random times when the City declared a cold alert on a case by case basis.
30. I am still unhoused and without shelter.

SWORN BEFORE ME in the City  
of Hamilton, this 3<sup>rd</sup> day of June, 2022

  
Cassandra Jordan

  
A Commissioner, etc.



<div>1</div> <div>1 Court File No. CV-21-77187</div> <div>2 ONTARIO</div> <div>3 SUPERIOR COURT OF JUSTICE</div> <div>4</div> <div>5 B E T W E E N:</div> <div>6 KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,</div> <div>7 MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,</div> <div>8 CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,</div> <div>9 CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,</div> <div>10 ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,</div> <div>11 SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and</div> <div>12 PATRICK WARD</div> <div>13 Applicants</div> <div>14</div> <div>15 and</div> <div>16</div> <div>17 CITY OF HAMILTON</div> <div>18 Respondent</div> <div>19</div> <div>20 --- This is the Cross-Examination of CASSANDRA JORDAN,</div> <div>21 an Applicant, herein, on her Affidavit Sworn the 3rd</div> <div>22 day of June, 2022, taken via videoconference on the</div> <div>23 15th day of August, 2024.</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>3</div> <div>1 TABLE OF CONTENTS</div> <div>2</div> <div>3 INDEX OF EXAMINATIONS:</div> <div>4</div> <div>5 CASSANDRA JORDAN: Affirmed..... 4</div> <div>6 CROSS-EXAMINATION BY MR. DIACUR..... 4</div> <div>7 RE-EXAMINATION BY MS. CROWE..... 49</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>
<div>2</div> <div>1 APPEARANCES:</div> <div>2 Sharon Crowe For the Applicants</div> <div>3 Wade Poziomka</div> <div>4 Curtis Sell</div> <div>5 Nnonyechi Okenwa</div> <div>6 Michelle Sutherland</div> <div>7</div> <div>8 Bevin Shores For the Respondent</div> <div>9 Jordan Diacur</div> <div>10</div> <div>11 ALSO PRESENT:</div> <div>12 Liz Marr Summer law student</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>4</div> <div>1 --- Upon commencing at 1:17 p.m.</div> <div>2 CASSANDRA JORDAN: Affirmed.</div> <div>3 CROSS-EXAMINATION BY MR. DIACUR:</div> <div>4 1 Q. Would you please state and spell</div> <div>5 your last name?</div> <div>6 A. <b>Cassandra Jordan, J-O-R-D-A-N.</b></div> <div>7 2 Q. Thank you. It is all right if I</div> <div>8 refer to you as Cassandra?</div> <div>9 A. <b>Yes.</b></div> <div>10 3 Q. Or ma'am?</div> <div>11 A. <b>Sure.</b></div> <div>12 4 Q. How long have you lived in</div> <div>13 Hamilton?</div> <div>14 A. <b>Since I was born.</b></div> <div>15 5 Q. You were born in Hamilton?</div> <div>16 A. <b>Yes, sir.</b></div> <div>17 6 Q. Where are you currently residing?</div> <div>18 A. <b>Outside the women's Y on the</b></div> <div>19 <b>sidewalk.</b></div> <div>20 7 Q. Your date of birth is April 29,</div> <div>21 1983; is that right?</div> <div>22 A. <b>That's right.</b></div> <div>23 8 Q. So you're 41 years old?</div> <div>24 A. <b>Yes, sir.</b></div> <div>25 9 Q. I'm going to have some questions.</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>

<p>5</p> <p>1 for you about an affidavit that you swore, dated</p> <p>2 June 3, 2022. I just want to make sure that you have a</p> <p>3 copy of that with you. I can also put it up on the</p> <p>4 screen.</p> <p>5 <b>A. Yes, I have it right here in front</b></p> <p>6 <b>of me.</b></p> <p>7 10 <b>Q.</b> You can use either, but I'll put</p> <p>8 it up on the screen for everybody's reference. I will</p> <p>9 have some questions for you about that. I understand</p> <p>10 that you formerly resided at 22 Beechwood Avenue. Is</p> <p>11 that correct?</p> <p>12 <b>A. That's right.</b></p> <p>13 11 <b>Q.</b> I'm sorry, I don't think I could</p> <p>14 hear that answer.</p> <p>15 <b>A. That is correct. That is my</b></p> <p>16 <b>uncle's address.</b></p> <p>17 12 <b>Q.</b> I'm sorry?</p> <p>18 <b>A. That's my uncle's address.</b></p> <p>19 13 <b>Q.</b> Okay, thank you. That was another</p> <p>20 question I had for you. I understand that you resided</p> <p>21 there starting in 2016. Is that correct?</p> <p>22 <b>A. I'm not sure when I first started</b></p> <p>23 <b>staying there.</b></p> <p>24 14 <b>Q.</b> I understand that that is the</p> <p>25 address that is on file for your ODSP payments or was</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p>7</p> <p>1 <b>whatever. I was -- like, I don't know. They just</b></p> <p>2 <b>didn't want me there.</b> <span style="color: red; font-weight: bold;">A4737</span></p> <p>3 20 <b>Q.</b> I understand that you spoke to</p> <p>4 someone at Mary's Place in January 2024 and indicated</p> <p>5 that you had lost housing due to a conflict or a</p> <p>6 relationship loss. Do you recall that?</p> <p>7 <b>A. Is this on this paper thing that</b></p> <p>8 <b>he's talking about?</b></p> <p>9 21 <b>Q.</b> This isn't in your affidavit.</p> <p>10 This is before we get to the questions about your</p> <p>11 affidavit.</p> <p>12 <b>A. Okay. So what were you saying</b></p> <p>13 <b>again?</b></p> <p>14 22 <b>Q.</b> So I understand that you spoke to</p> <p>15 somebody at Mary's Place, the drop-in centre, and you</p> <p>16 indicated to them that you had lost housing in</p> <p>17 January 2024 and indicated that that was due to a</p> <p>18 conflict or a relationship loss. Do you remember that?</p> <p>19 <b>A. Oh, because temporarily I had -- I</b></p> <p>20 <b>had a boyfriend for about a month or two and I</b></p> <p>21 <b>sometimes had stayed off and on with him, and he was</b></p> <p>22 <b>abusive, and I ended up getting away from that and</b></p> <p>23 <b>ended up at Mary's Place.</b></p> <p>24 23 <b>Q.</b> Okay. So that conflict, that's</p> <p>25 not what you were referring to with the sons of your</p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>
<p>6</p> <p>1 until recently. Does that sound correct?</p> <p>2 <b>A. Yes.</b></p> <p>3 15 <b>Q.</b> I understand that you've been</p> <p>4 receiving ODSP since 2005. Is that correct?</p> <p>5 <b>A. Yes.</b></p> <p>6 16 <b>Q.</b> And 22 Beechwood, that's over by</p> <p>7 Ivor Wynne or what's now Tim Hortons Field. Is that</p> <p>8 right?</p> <p>9 <b>A. By, like, Sherman and Barton.</b></p> <p>10 17 <b>Q.</b> Yeah, that's right. So pretty</p> <p>11 close to the old Ivor Wynne Stadium?</p> <p>12 <b>A. Yes.</b></p> <p>13 18 <b>Q.</b> When you receive ODSP payments,</p> <p>14 does it come directly to a bank account or onto a</p> <p>15 reloadable card for you?</p> <p>16 <b>A. Yes, sir.</b></p> <p>17 19 <b>Q.</b> Do you recall when you stopped</p> <p>18 residing at 22 Beechwood?</p> <p>19 <b>A. I'm having a hard time to</b></p> <p>20 <b>remember. The problem is my uncle, he had gotten sick.</b></p> <p>21 <b>He's got lung cancer, and he was in and out of the</b></p> <p>22 <b>hospital. And while he went in while -- while he was</b></p> <p>23 <b>in the hospital, his sons watched over the house and</b></p> <p>24 <b>they kicked me out when they were there because -- I</b></p> <p>25 <b>don't know. They just didn't want me to be there or</b></p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <b>(905) 522-1653</b></p>	<p>8</p> <p>1 uncle where you were staying at Beechwood? That's a</p> <p>2 separate incident?</p> <p>3 <b>A. Yes, sir.</b></p> <p>4 24 <b>Q.</b> I'm just trying to sort out the</p> <p>5 timeline. If you can't recall when you left Beechwood,</p> <p>6 do you recall any other places that you've lived since</p> <p>7 Beechwood?</p> <p>8 <b>A. I stayed in Jimmy Beemer Park. I</b></p> <p>9 <b>stayed at Carole Anne's Place. I stayed just at random</b></p> <p>10 <b>sidewalks. I stayed on the rail trail. I stayed on</b></p> <p>11 <b>the actual -- right inside the -- beside the rail</b></p> <p>12 <b>trail, right in the yard where the train tracks were</b></p> <p>13 <b>before I got moved and told I couldn't stay there</b></p> <p>14 <b>anymore. I'm sure the list goes on.</b></p> <p>15 25 <b>Q.</b> At paragraph 5 of your affidavit,</p> <p>16 you reference an address, 253 Victoria Avenue. Do you</p> <p>17 recall living there?</p> <p>18 <b>A. I had a room there, yes.</b></p> <p>19 26 <b>Q.</b> Was that --</p> <p>20 <b>A. An apartment there.</b></p> <p>21 27 <b>Q.</b> Was that before or after</p> <p>22 Beechwood?</p> <p>23 <b>A. That was -- that was -- that was</b></p> <p>24 <b>after, but it was also somewhat during because I got</b></p> <p>25 <b>that place because my boyfriend at the time had</b></p> <p style="text-align: center;"><b>Nimigan Mihailovich Reporting Inc.</b> <span style="color: red; font-weight: bold;">A453</span> <b>(905) 522-1653</b></p>

9

1 gotten -- was in the penitentiary, and he needed to  
 2 come out and have somewhere to go, so I got that place.  
 3 So that way, he was able to have stable -- somewhere  
 4 stable to live.

5 28 Q. How long did you stay there?  
 6 A. Well, until we got evicted.

7 29 Q. I understand that there's evidence  
 8 about an eviction, but do you recall how long you were  
 9 there?  
 10 A. I'm not -- I don't know -- I don't  
 11 know what he's talking about.

12 30 Q. You're not sure how long you  
 13 resided at 253 Victoria Avenue?  
 14 A. I remember I moved there sometime.  
 15 It was the summertime or something, I think, and I  
 16 stayed there -- what -- when did I get kicked out of  
 17 there? When was that? I can figure it out that way.

18 31 Q. The affidavit says that --  
 19 A. Okay. It --  
 20 32 Q. -- indicates it was August or  
 21 September of 2020?  
 22 A. In 2021, I stayed in a tent at  
 23 Ferguson. So I went right from that -- that apartment  
 24 on Victoria right to Ferguson, to the Tent City at  
 25 Ferguson.

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10

1 33 Q. But you don't recall how long you  
 2 were at that 253 Victoria Avenue address?  
 3 A. It was about a year or something.

4 34 Q. In paragraph 5 of your affidavit,  
 5 you say that the owner of the building at 253 Victoria  
 6 passed away, and the owner's children told all the  
 7 tenants that they had to leave?  
 8 A. Yeah. Well, what happened is  
 9 they -- he told us that we had to leave. They refused  
 10 our rent payments. Right? And then they went behind  
 11 our backs with lawyers and other people, and they sold  
 12 the house to a lawyer guy and didn't tell us they were  
 13 going to do that, and then got -- so he would come down  
 14 to evict us, like, the police, when the police had no  
 15 right to do that.

16 35 Q. So police officers attended?  
 17 A. Absolutely.

18 36 Q. What did the police officers tell  
 19 you?  
 20 A. They told us we had to leave.  
 21 Because they said apparently that -- because the owner  
 22 of the house had passed away, that now our lease that  
 23 we had with the guy was null and void.

24 37 Q. It doesn't reference any notice  
 25 being given to you. Were you given notice that you had

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11

1 to leave 253 Victoria?  
 2 A. Notice? Like handwritten stuff? **A4738**  
 3 38 Q. Were you given a written document  
 4 that says you have this much time left before you have  
 5 to leave? Anything like that?  
 6 A. Nothing from the tribunal.

7 39 Q. No, I understand, but were you  
 8 given notice by the landlords, by the children of the  
 9 deceased owner?  
 10 A. Not from the children, from the...  
 11 40 Q. The purchaser, the lawyer you  
 12 mentioned?  
 13 A. The people that had bought it,  
 14 they put a -- they came by and put a notice on the  
 15 inside of the door and said we had such-and-such days  
 16 to leave. It was only a couple of weeks or something,  
 17 if that, and we didn't really think that that really  
 18 had, like, any power over it because it was just, like,  
 19 a handwritten note there. You know?

20 41 Q. Since January of 2024, you've been  
 21 living unsheltered outside? Is that right?  
 22 A. Yes, sir, except for when I stayed  
 23 at the Barrett Centre for five days, and I was  
 24 hospitalized due to the police tackling me and putting  
 25 my leg through the socket. So I was hospitalized --

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12

1 42 Q. I have some questions for you  
 2 about that, for sure.  
 3 A. Okay. And also when I had the  
 4 burn on my leg, and I was, like, kicked out and with  
 5 nowhere to go. My mom picked me up and I stayed with  
 6 my mom temporarily until I could walk with a walker and  
 7 stuff like that.

8 43 Q. I have a couple of questions for  
 9 you about that too. You make use of the YWCA close to  
 10 where you're staying and Carole Anne's Place sometimes?  
 11 Is that true?  
 12 A. Mostly just Carole Anne's Place.

13 44 Q. Mary's Place as well? Is that  
 14 true?  
 15 A. Mary's Place, they pretty much  
 16 kicked me out because they said -- like, my abusive  
 17 boyfriend was calling there and showing up at the door,  
 18 and they said that I was -- I was putting the other  
 19 women in the shelter at risk, so I had to leave or go  
 20 to some other place that was, like, way out. I wasn't  
 21 prepared to do that because all my supports are in  
 22 Hamilton.

23 45 Q. Understood. Is there a case  
 24 worker who works with you to seek shelter?  
 25 A. Well, several different people.

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13

1 **Street Outreach, there's the Social Nav, all those**  
2 **people. They all talk to me and do several things for**  
3 **me.**  
4 46 **Q.** Are they actively seeking shelter  
5 for you, to your knowledge?  
6 **A. I think so.**  
7 47 **Q.** When was the last time you saw one  
8 of those people?  
9 **A. I seen Street Outreach yesterday.**  
10 48 **Q.** And did they tell you that there  
11 are any prospects for shelter for you?  
12 **A. No. They provided me a tent so I**  
13 **can leave the sidewalk where I am, so I can go to a**  
14 **more appropriate place.**  
15 49 **Q.** You mentioned the Barrett Centre  
16 earlier. My understanding is that that is a mental  
17 crisis centre. Is that your understanding?  
18 **A. It's a crisis centre, sure.**  
19 50 **Q.** Are there physicians? Are there  
20 doctors there?  
21 **A. I seen a physician. I seen a**  
22 **nurse that was down the street at the school when I**  
23 **needed to be there.**  
24 51 **Q.** Did they give you any medical  
25 treatment?

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14

1 **A. Yes, they did.**  
2 52 **Q.** I see in paragraph 7 of your  
3 affidavit you mention several medical conditions. You  
4 mention degenerative disc disease, chronic pain and  
5 substance abuse disorder. Are those the conditions  
6 that you were given treatment for?  
7 **A. No. When I was at Mary's Place,**  
8 **they were treating me for that. It was third-degree**  
9 **burns I had from the bottom of my butt cheek to the**  
10 **back of my knee.**  
11 53 **Q.** Well, we'll come to that. That's  
12 just a little later in your affidavit. I do have some  
13 questions for you about that. Have you ever received  
14 treatment for degenerative disc disease, chronic pain,  
15 or substance abuse disorder?  
16 **A. Have I ever received help for it?**  
17 54 **Q.** Yeah. Has a doctor ever treated  
18 you for those three things?  
19 **A. Yeah.**  
20 55 **Q.** You mention in paragraph 8 that  
21 you are treating substance abuse with methadone. Is  
22 that still true today?  
23 **A. Yeah. I've been off the**  
24 **methadone, but I have a -- I was supposed to go back**  
25 **on -- I was supposed to go back on Saturday, but**

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15

1 (indiscernible). A4739  
2 **MS. CROWE: Are you able to hear her?**  
3 **COURT REPORTER: I was just going to**  
4 **ask her to repeat that.**  
5 **MR. DIACUR: I think that I could hear**  
6 **what she was saying, but it is very faint.**  
7 **THE DEPONENT: I forgot what was I say**  
8 **now. Could you...**  
9 **BY MR. DIACUR:**  
10 56 **Q.** I can ask the question again if it  
11 would help.  
12 **A. Okay, yeah.**  
13 57 **Q.** It does say in paragraph 8 of your  
14 affidavit that you're currently treating substance  
15 abuse with methadone. Is that still true today?  
16 **A. No. Temporarily I've been cut off**  
17 **methadone. Right?**  
18 58 **Q.** Did you say that temporarily that  
19 was cut off?  
20 **A. Yeah. Temporarily I got cut off.**  
21 59 **Q.** Do you remember when that was cut  
22 off?  
23 **A. Yes. Okay, so I was on methadone,**  
24 **and then -- like, sometimes I have a hard time with --**  
25 **with travelling. Okay? I can't walk long distances**

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16

1 **and I can't get around very well because of what the**  
2 **police have done to me, and the fact that I threw my --**  
3 **like, I already had problems with my back, and the fact**  
4 **that it's through my whole spine. So I couldn't make**  
5 **it there every day. Because at the time -- like, most**  
6 **recently, I was staying at the Bayford (ph) and get**  
7 **hooked up with things I needed to get, and I...**  
8 60 **Q.** You were unable to go and pick up  
9 methadone every day, so it was cut off? Is that right?  
10 **A. Yes.**  
11 61 **Q.** Do you recall whether a physician  
12 indicated that you should resume that?  
13 **MS. CROWE: Did you hear the question?**  
14 **THE DEPONENT: Well, they said that**  
15 **they think that -- like, it would help with my**  
16 **substance abuse problems, yes, but it doesn't -- it's**  
17 **not doing what it needs to do for my pain management.**  
18 **So I made appointments. I missed one day, the second**  
19 **day. And I'm not sure, but now I have the**  
20 **(indiscernible) right here. I have a (indiscernible).**  
21 **COURT REPORTER: Sorry, can you please**  
22 **repeat that?**  
23 **THE DEPONENT: I have an appointment on**  
24 **Saturday.**  
25 **BY MR. DIACUR:**

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1 62 Q. So you have a physician's  
2 appointment, a doctor's appointment on Saturday?  
3 A. Yes. (Indiscernible) on John  
4 Street.

5 63 Q. At the John Street Clinic? Is  
6 that right?

7 A. Yeah. And they're going to put me  
8 on methadone, Kadian for pain, and also  
9 (indiscernible).

10 COURT REPORTER: Sorry, could you  
11 repeat that again?

12 THE DEPONENT: They're going to put me  
13 on methadone, Kadian, and they're also going to put me  
14 on Dilaudid, which is going to help my pain. Now, when  
15 I was on this program before, I was able to get the  
16 pain -- and it's the only thing -- mostly, like, what's  
17 happening without having any help with pain and stuff  
18 like that because I'm suffering -- at the moment I'm  
19 suffering.

20 64 Q. At the moment you're not receiving  
21 any treatment at all? Is that right?

22 A. No, I'm not receiving proper  
23 treatment for my pain and I'm suffering a lot, like,  
24 every day. It's a challenge for me. I can't walk  
25 properly. I'm in a lot of pain. Ever since they'd

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1 done my hip -- like, I threw my whole back out because  
2 I was missing discs in my spine and I had, like, a  
3 bulging disc and herniated disc and narrowing in the  
4 spine. They removed...

5 65 Q. I see in paragraph 9 of your  
6 affidavit you say "I am prone to getting pneumonia."  
7 Is that something that a doctor has told you or is that  
8 just from your experience?

9 A. No. I'm prone because after I had  
10 it -- after I had it, I was feeling very, very sick and  
11 I ended up in the hospital for a week. I ended up in  
12 the hospital.

13 66 Q. So you were hospitalized for  
14 pneumonia? Is that right?

15 A. Yeah, for a week.

16 67 Q. Do you know when that was?

17 A. Do you know when that was?

18 MS. CROWE: I can't answer.

19 THE DEPONENT: It was when I was living  
20 in -- living on Victoria.

21 BY MR. DIACUR:

22 68 Q. Okay. It was in that year that  
23 you were at the Victoria address?

24 A. Yes, sir.

25 69 Q. You say in paragraph 10, after you  
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1 were evicted from your rental unit -- I'm assuming  
2 that's still the Victoria address -- you called  
3 shelters and were told they were full. Do you recall  
4 what shelters you contacted?

5 A. Like, contacted while I was -- I  
6 contacted Carole Anne's. I contacted everyone that was  
7 on that fucking list. You know what I mean? Everyone  
8 on that list that says that it's a women's shelter and  
9 for emergency housing. I called every one.

10 70 Q. And we'll come to this later. I  
11 understand you were given a list of shelters by the  
12 police, as far as I can tell. Is that true?

13 A. When by the police?

14 71 Q. We'll come to that, then. I don't  
15 want to skip any paragraphs in your affidavit, so let's  
16 do that in order.

17 A. Mm-hmm.

18 72 Q. Paragraph 12 of your affidavit,  
19 you mention that you stayed in a tent at Ferguson until  
20 the City dismantled the encampment.

21 A. Yeah.

22 73 Q. And you reference October 15,  
23 2021. My understanding is that the Ferguson encampment  
24 was dismantled in or around October 15, 2020. I'm  
25 wondering if that's an error in the date. Do you know?

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1 A. It must be.

2 74 Q. In terms of what happened at the  
3 Ferguson encampment, paragraph 13 you mention that  
4 there were several police and by-law officers in  
5 attendance. You also say in paragraph 14 that during  
6 the Ferguson encampment being dismantled, you were told  
7 that there was a hotel spot for you and that you could  
8 only take one bag of belongings too. All of that is  
9 accurate?

10 A. Yeah. They told me that they had  
11 a hotel room for me, and right before I was getting  
12 ready to go, they told me I could only bring one bag of  
13 belongings. Well, I just been evicted from my house  
14 and I had more than one bag of belongings with me at  
15 the time. Okay? And they told me that I can't bring  
16 my stuff? Like...

17 75 Q. Right. I understand that what  
18 happened then, paragraph 14, you mention that there  
19 were arrangements made for your other possessions to be  
20 stored. That's true?

21 A. Yes. Well, I made arrangements.  
22 I had to call my mom and do all this. So I made  
23 arrangements for my stuff to be stored, and I think  
24 even maybe possibly they were putting storage by my  
25 mom -- or my mother-in-law's (ph) and putting it there  
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<p style="text-align: right;">21</p> <p>1 at the moment or something.</p> <p>2 76 Q. How long did it take for the</p> <p>3 arrangements to store some of your possessions? How</p> <p>4 long did that take?</p> <p>5 A. Well, I did it, like, that day.</p> <p>6 So my mom came down and she took a bunch of stuff, but</p> <p>7 I had to get rid of a whole bunch of stuff because I</p> <p>8 couldn't take it with me and I couldn't take it to the</p> <p>9 storage and put it in my mom's basement or nothing. So</p> <p>10 I lost a bunch of my stuff that way. Then the next</p> <p>11 day, when I finally took everything down -- like,</p> <p>12 remember, that day when they took everything, they</p> <p>13 never gave me a choice to keep my tent. They just</p> <p>14 ripped my fucking tent right down. They threw it in</p> <p>15 the back of a fucking garbage truck. So now even if I</p> <p>16 couldn't go to the -- to this hotel, now I'm fucked</p> <p>17 because I have no roof over my head. That night I</p> <p>18 slept outside without a roof over my head.</p> <p>19 77 Q. And that's the question I have for</p> <p>20 you next. Did you go to the hotel where the spot for</p> <p>21 you was being held?</p> <p>22 A. The next morning, I went to talk</p> <p>23 to them and I said, "Okay, like, what's going on?</p> <p>24 Because, like, you guys said you had a hotel room for</p> <p>25 me and, like, all my stuff's out here. What am I --</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">23</p> <p>1 Because I don't have a tent. I don't have a bed. I</p> <p>2 don't have nothing anymore. Right? So I stay on top</p> <p>3 of my, like, bin -- like, my bin and my bag -- where</p> <p>4 should this fucking shit go? Right? They tell me</p> <p>5 what's going on. And I seen my friend Misty. I seen</p> <p>6 her -- the vehicle had come for her, and her to go to</p> <p>7 the hotel. And I asked again, like, what's going on?</p> <p>8 And they're like, hold on, they just need to have to</p> <p>9 look into it. This is what they told me two, three</p> <p>10 times. Then finally I went back and was like, "What</p> <p>11 the fuck is going on? Like, I'm sitting out here all</p> <p>12 day waiting for something to happen. What is going on?</p> <p>13 Like, I can't be out here like this." And that's when</p> <p>14 they told me, "Oh, we're really sorry. We thought you</p> <p>15 weren't coming." They threw everything out with the</p> <p>16 garbage and all this shit. I was like, what the fuck?</p> <p>17 80 Q. This was the following day after</p> <p>18 the Ferguson encampment was dismantled? Is that right?</p> <p>19 A. Yeah. They promised me a hotel</p> <p>20 room, and then they gave it away on me, and then there</p> <p>21 was nowhere for me to go aside from where I was. I was</p> <p>22 one of the last people sitting on the street that day</p> <p>23 because I didn't know what the fuck to do or where to</p> <p>24 go with my stuff, and now I no longer had a fucking</p> <p>25 tent because they threw it in the back of the goddamn</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">22</p> <p>1 what am I doing?" Right? And that's when they told me</p> <p>2 that, "Oh, I was talking about the other place." They</p> <p>3 already had given it away to somebody else and they</p> <p>4 thought that I didn't want it. I said that's bullshit,</p> <p>5 because my friend, very good friend of mine, she was in</p> <p>6 the same position as me and she had been there a lot</p> <p>7 longer than me, and she had, like, way more stuff than</p> <p>8 I did, and she got to wait until the next day and just</p> <p>9 go and get into her apartment. So I didn't understand</p> <p>10 why mine was such a hard -- why I couldn't do the same</p> <p>11 thing when this is what's usually -- back there, they</p> <p>12 promised me they'd put me in a place and that we'd live</p> <p>13 there.</p> <p>14 78 Q. I understand it was somebody at</p> <p>15 the Wesley Day Centre who told you about the hotel</p> <p>16 issue? Is that right?</p> <p>17 A. Was that Ferguson Street, the</p> <p>18 Wesley there?</p> <p>19 79 Q. Yeah. So what you say in</p> <p>20 paragraph 14 is "I returned to" --</p> <p>21 A. So I went -- yeah, so I went -- I</p> <p>22 went into the building and I said, like, what's going</p> <p>23 on with the hotel, like, spot and everything because,</p> <p>24 like, I'm sitting out here and all my stuff's outside.</p> <p>25 I'm, like, sitting on top, like, my shit. Right?</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">24</p> <p>1 garbage truck.</p> <p>2 81 Q. Did you contact any shelters at</p> <p>3 that point?</p> <p>4 A. Fucking right, I did.</p> <p>5 82 Q. Which ones?</p> <p>6 A. I called everywhere. I had the</p> <p>7 workers calling for me. There was nowhere for me to</p> <p>8 go.</p> <p>9 83 Q. I understand in paragraph 15 you</p> <p>10 say that you went to J.C. Beemer Park at that point?</p> <p>11 Is that right?</p> <p>12 A. I made my way there, yeah.</p> <p>13 84 Q. Did you go there directly from the</p> <p>14 Wesley Day Centre?</p> <p>15 A. I had put my stuff in a cab and I</p> <p>16 went over there, yeah, because they knew I was at -- I</p> <p>17 had a friend over there, and I had to call my friend</p> <p>18 for some help. But it really -- it was kind of bad.</p> <p>19 Like, I'm calling on a friend, that is already homeless</p> <p>20 and living outside in a tent, for help.</p> <p>21 85 Q. And you received a tent that was</p> <p>22 donated? Is that right?</p> <p>23 A. Not at first. Like, I went</p> <p>24 without a tent at all and kind of, like, sleeping in</p> <p>25 other people's tents and have my stuff stolen and just</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>



<p style="text-align: right;">25</p> <p>1 <b>whatever for a while before I was able to get my own</b></p> <p>2 <b>tent.</b></p> <p>3 86 <b>Q.</b> How long did you remain at J.C.</p> <p>4 Beemer Park?</p> <p>5 <b>A. I don't know. When was the --</b></p> <p>6 <b>when did they come to -- to do the protest?</b></p> <p>7 87 <b>Q.</b> I don't know. You're saying that</p> <p>8 you stayed until the protest?</p> <p>9 <b>A. The encampment at Ferguson was</b></p> <p>10 <b>October 15th. Right? So when was the protest at Jimmy</b></p> <p>11 <b>Beemer? Do you not have a date on that?</b></p> <p>12 88 <b>Q.</b> I'm not sure what you're referring</p> <p>13 to by "protest" --</p> <p>14 <b>A. There was a protest that made the</b></p> <p>15 <b>news and everything. You don't remember anything of</b></p> <p>16 <b>that happening?</b></p> <p>17 89 <b>Q.</b> I'm not sure what you're</p> <p>18 referencing. So did you stay until there was a</p> <p>19 protest?</p> <p>20 <b>A. There was -- somebody lit a fire,</b></p> <p>21 <b>the propane tanks blew, and then they came, put a --</b></p> <p>22 <b>they evicted everybody in the city and wanted to evict</b></p> <p>23 <b>us last. Okay? Because they had already come to evict</b></p> <p>24 <b>us in that park before, and we had held hands in</b></p> <p>25 <b>solidarity and they couldn't get near the tents. So</b></p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">27</p> <p>1 92 <b>Q.</b> Okay. I understand that at J.C.</p> <p>2 Beemer Park, that is where the burns occurred. Is that</p> <p>3 correct?</p> <p>4 <b>A. Yes.</b></p> <p>5 93 <b>Q.</b> And I understand that it was in</p> <p>6 November or December of 2021 that the burns occurred.</p> <p>7 Is that right?</p> <p>8 <b>A. That's right.</b></p> <p>9 94 <b>Q.</b> Were you there at J.C. Beemer Park</p> <p>10 for over a year? Does that sound correct?</p> <p>11 <b>A. Pretty close, yeah.</b></p> <p>12 95 <b>Q.</b> And I understand --</p> <p>13 <b>A. We were working with --</b></p> <p>14 96 <b>Q.</b> I'm sorry.</p> <p>15 <b>A. We were working with people that</b></p> <p>16 <b>were trying to find better arrangements for us and</b></p> <p>17 <b>stuff, but we were fighting in court, and the City was</b></p> <p>18 <b>fighting against the encampments. There was just so</b></p> <p>19 <b>much going on that we weren't even -- we weren't able</b></p> <p>20 <b>to find better accommodations for quite a while.</b></p> <p>21 97 <b>Q.</b> Now, in terms of what happened at</p> <p>22 J.C. Beemer Park, I understand that there was notice</p> <p>23 given that the encampment in the park was going to be</p> <p>24 dismantled. Is that right?</p> <p>25 <b>A. No, no, no. There was notice</b></p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">26</p> <p>1 they didn't know how they were going to get us the next</p> <p>2 time. So this time, they got somebody to light a fire</p> <p>3 in one of the tents, which lit up the propane tanks,</p> <p>4 and the -- all of a sudden, the police show up, tape</p> <p>5 off the whole park, kick everybody out. And then</p> <p>6 even after the police were there, it still took another</p> <p>7 half an hour almost for the fire trucks to show up,</p> <p>8 which I didn't understand at all, because any other</p> <p>9 emergency, the fire trucks show up first.</p> <p>10 90 <b>Q.</b> I think I understand now. You're</p> <p>11 referencing the dismantling of the J.C. Beemer</p> <p>12 encampment. When you say "protest," that's what you</p> <p>13 mean?</p> <p>14 <b>A. Yeah. Yeah, it was a protest.</b></p> <p>15 <b>Like, 250 people were there. It made the news. You</b></p> <p>16 <b>know?</b></p> <p>17 91 <b>Q.</b> I believe I understand what you're</p> <p>18 referencing now. How did the burns to your legs occur?</p> <p>19 <b>A. Well, it was December and it was</b></p> <p>20 <b>cold outside, and I was trying to heat my tent with a</b></p> <p>21 <b>tabletop barbecue and I had it in my tent. The propane</b></p> <p>22 <b>tank was outside my tent, but I ran the cord inside. I</b></p> <p>23 <b>had the barbecue going. While I was attempting to get</b></p> <p>24 <b>changed into my pyjamas, I slipped and I put -- landed</b></p> <p>25 <b>on my bare ass on the barbecue.</b></p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">28</p> <p>1 given that the City had changed their protocols.</p> <p>2 That's what we were -- the notice we were given. What</p> <p>3 happened there that day was the fire that somebody</p> <p>4 started purposely so that we would have to be forced</p> <p>5 out of the park. Because then after the fire, they</p> <p>6 tried to say it wasn't safe for us to be there, because</p> <p>7 the fire, like, got hot on the hydro lines or</p> <p>8 something. So all of a sudden, it wasn't safe for us</p> <p>9 to be there, and that's how they got us out.</p> <p>10 98 <b>Q.</b> You disagreed that it was unsafe?</p> <p>11 <b>A. Absolutely.</b></p> <p>12 99 <b>Q.</b> But there was notice given that it</p> <p>13 was considered unsafe and that you would have to leave?</p> <p>14 Is that true?</p> <p>15 <b>A. Yeah. It was only way they could</b></p> <p>16 <b>get us out.</b></p> <p>17 100 <b>Q.</b> When the police and by-law</p> <p>18 attended at J.C. Beemer Park, that was during the</p> <p>19 daytime?</p> <p>20 <b>A. It was early morning.</b></p> <p>21 101 <b>Q.</b> I understand that from J.C. Beemer</p> <p>22 Park, you were referred to the Barrett Crisis Centre by</p> <p>23 the police. Is that true?</p> <p>24 <b>A. Yeah. I'd also like to add that</b></p> <p>25 <b>while they had us taped off and everything, they didn't</b></p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

29

1 allow any of the residents that were staying in tents  
 2 to talk to each other during that time. So we weren't  
 3 allowed to talk to each other. They weren't allowing  
 4 anybody, like, to come in -- into the park to help us  
 5 pack or anything like that. So at first, I was there  
 6 packing my whole entire tent with these third-degree  
 7 burns on the back of my leg, then eventually my mom  
 8 came and she had a connip-shit at the end of the road  
 9 there, and they eventually let my mom come in to help  
 10 me to pack my stuff and to get me out. But the thing  
 11 is, is even then, my mom was only allowed to talk to  
 12 me. She wasn't allowed to talk to anybody else that  
 13 was there either. Because at the time, my mom -- by  
 14 then, my mom had met everybody that was staying there.  
 15 There was Tilau (ph) and, you know, John, Homer and all  
 16 that. My mom had known all of them by then. And we  
 17 weren't allowed to talk to any of them because of --  
 18 they had it all blocked off. I tried to go and talk to  
 19 John, see what -- because I wanted to know where my  
 20 friends were going and where -- what was happening,  
 21 where I could find them after all this was done, and  
 22 they were blocking us from talking to each other.  
 23 102 Q. I understand that you were  
 24 referred to the Barrett Crisis Centre by the police at  
 25 the time that the J.C. Beemer encampment was

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30

1 dismantled. Is that true?  
 2 A. Yes.  
 3 103 Q. Is that the only time that you  
 4 were at the Barrett Crisis Centre or have you been  
 5 there more than once?  
 6 A. I believe that's the only time.  
 7 104 Q. So when we were referring to it  
 8 earlier, it occurred at this point, roughly November or  
 9 December of 2021?  
 10 A. Mm-hmm, yeah.  
 11 105 Q. I understand that the Barrett  
 12 Crisis Centre is short-term.  
 13 A. That's right.  
 14 106 Q. After you left the Barrett Crisis  
 15 Centre, did you contact any shelters at that point?  
 16 A. Well, here's the thing. We were  
 17 told by the police -- and even it was told, like, on  
 18 the news and everything -- that the Barrett Crisis  
 19 Centre was going to help us with accommodations, like,  
 20 meaning they were going to help us to find a place to  
 21 live after -- like, after the five days was up.  
 22 107 Q. I understand from paragraph 17  
 23 that you went and stayed at your mom's house at that  
 24 point after leaving the Barrett Centre. Is that  
 25 correct?

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31

1 A. Yeah. A4743  
 2 108 Q. Is it possible that shelter wasn't  
 3 offered to you because you had said you were going to  
 4 stay with your mother?  
 5 A. No, no, no. What happened was  
 6 there was nowhere for me to go, and because I had  
 7 third-degree burns from the back of my knee to the  
 8 bottom of my butt cheek, I was walking with a walker  
 9 and I was in excruciating pain, and I went and stayed  
 10 at my mom's house on a short-term because there was no  
 11 place for me to go. And my mom did not want me to be  
 12 out on the street with those burns and everything like  
 13 that because she was scared to death that they were  
 14 going to get infected or something.  
 15 109 Q. Where does your mother reside?  
 16 A. In Hamilton.  
 17 110 Q. In a house?  
 18 A. In a townhouse. And it's  
 19 subsidized housing, so I'm not able to stay there  
 20 long-term. It was only short-term because I had to --  
 21 because I needed help. Like, I couldn't even shower.  
 22 I couldn't get dressed on my own, nothing.  
 23 111 Q. Understood. You do say in  
 24 paragraph 18 that your mother's place is subsidized  
 25 housing, public-subsidized housing.

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32

1 A. Mm-hmm.  
 2 112 Q. Now, you say that you would be  
 3 considered a guest at that location?  
 4 A. That's right.  
 5 113 Q. Was any request made to allow you  
 6 to stay there?  
 7 A. She contacted her -- her landlord  
 8 or whatever and let them know that I would be staying  
 9 there temporarily.  
 10 114 Q. Was any request made that you  
 11 might be able to stay longer?  
 12 A. She talked to them about it. She  
 13 would lose her subsidy and she would have to pay market  
 14 rent.  
 15 115 Q. I understand that rules are  
 16 different when it comes to children compared to guests,  
 17 generally, in public-subsidized housing. Was your  
 18 mother told that you could not stay long-term?  
 19 A. I'm an adult child, and I think  
 20 it's a little bit different for adult children.  
 21 116 Q. Was your mother told that, to your  
 22 knowledge?  
 23 A. She was told that if I stayed, she  
 24 would not -- no longer be -- be accepted for the  
 25 subsidized rent thing. She couldn't get subsidized

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1 **rent anymore.**

2 117 **Q.** In paragraph 19 of your affidavit,  
3 you say that after you left your mother's, you had  
4 nowhere to go because every shelter you contacted was  
5 full. What shelters did you contact at that point?

6 **A.** I'm sure you got the list. The  
7 list hasn't changed in years. It's the same paper that  
8 you give everybody.

9 118 **Q.** You contacted everyone on a list?

10 **A.** Yeah. I couldn't even get a --

11 119 **Q.** Do you recall which shelters you  
12 contacted?

13 **A.** What is it? The Bayview -- what's  
14 the one that -- Bayview or something? The Mary's  
15 Place, Willow's, Carole Anne's, like, you name it.

16 120 **Q.** I understand from paragraph 20 of  
17 your affidavit that there was space at Carole Anne's  
18 Place at around the end of February, and this would be  
19 2022, but you were denied because you tested positive  
20 for COVID. Is that accurate?

21 **A.** I had stayed there for a couple  
22 days. Okay? And then -- and then I went to go -- they  
23 were testing and I -- I tested positive. I ended up  
24 sleeping -- there's -- like, at the top of MacNab,  
25 there's a little -- stairs. You go down. It's like a  
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1 **tunnel that goes underneath the train bridge. I slept**  
2 **in that tunnel. It was New Year's at the time. I**  
3 **slept there on New Year's Eve because I was not**  
4 **permitted to go inside the building.**

5 121 **Q.** Did you test positive for COVID at  
6 that point? Do you recall?

7 **A.** They said I tested positive, but I  
8 did not have any symptoms and I was not ill.

9 122 **Q.** Paragraph 24, you say that "while  
10 in an encampment, I interacted routinely with Social  
11 Navigation with the police," and you say that they  
12 could refer you to shelters. Do you recall what  
13 shelters you were referred to by Social Navigation or  
14 by the police?

15 **A.** There's no shelters. I don't know  
16 what you don't understand about this. There was  
17 nothing that they could refer me to shelters, if there  
18 were shelter spaces available, but there wasn't.

19 123 **Q.** That's what I want to ask you  
20 about. In terms of your contact with the shelters, how  
21 often were you contacting?

22 **A.** I'm not -- am I not saying  
23 something correctly?

24 MS. CROWE: You have to answer the  
25 questions, please.

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1 BY MR. DIACUR:

2 124 **Q.** Did you contact them every day? **A4744**

3 **A.** Well, when I was at Carole Anne's  
4 and I had COVID, I couldn't go anywhere because of the  
5 COVID. Right? So I was pretty much fucked there. And  
6 then I had called around and asked -- like, and I  
7 showed up, but even Carole Anne's Place, in the line,  
8 staying outside in the freezing cold waiting for a bed,  
9 only to be told that, you know, oh, I can't come in  
10 because they were full or stuff like this. Right?

11 125 **Q.** So you were being told by others  
12 that the shelters were full?

13 **A.** Carole Anne's Place is a last  
14 resort. Okay? If there is another space, if you go  
15 there and there's no space there, they will tell you,  
16 "Oh, well, there's room at Willow's," for instance.  
17 "You could go over there." They'll let you know that.

18 126 **Q.** So you're relying on contacting  
19 one shelter and seeing if they will be able to tell you  
20 that there's another place that's available?

21 **A.** I've called. Okay? I've called  
22 different shelters. I've called them. I don't  
23 understand why you're asking me the same question.  
24 I've called them. I've called and called and called  
25 and called just to be rejected, rejected, rejected,  
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1 **rejected.**

2 127 **Q.** How often have you contacted the  
3 shelters? Do you do that every day?

4 **A.** Not anymore.

5 128 **Q.** At some point were you doing it  
6 daily?

7 **A.** Yeah, at one point I was because,  
8 like, I wanted to get off the street. It was fucking  
9 freezing cold.

10 129 **Q.** You say in paragraphs 24 and 25  
11 that you don't have a phone but do your best to  
12 phone --

13 **A.** We used to go --

14 130 **Q.** -- to ask if there is a bed  
15 available. Is that accurate?

16 **A.** -- we used to go to the Wesley  
17 Centre and use the phone at the Wesley Centre.

18 131 **Q.** When were you doing that?

19 **A.** Every day when I went there to get  
20 something to eat.

21 132 **Q.** When was the last time that you  
22 used the phone at the Wesley Centre?

23 **A.** Well, the Wesley Centre is no  
24 longer there. You guys took that away too.

25 133 **Q.** Do you recall the last time that  
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<p style="text-align: right;">37</p> <p>1 you were able to use the phone at the Wesley Centre?</p> <p>2 <b>A. Well, months ago now. It's been</b></p> <p>3 <b>gone for a while.</b></p> <p>4 134 <b>Q. Is that the period of time that</b></p> <p>5 <b>we're talking about when you would contact shelters</b></p> <p>6 <b>every day?</b></p> <p>7 <b>A. When it was cold, I was calling</b></p> <p>8 <b>every day. Eventually, I said "Fuck this. Why am I</b></p> <p>9 <b>going to keep calling to be told the same fucking</b></p> <p>10 <b>thing?" So I just got a tent and I just built myself</b></p> <p>11 <b>somewhere outside where I could be warm, where I wasn't</b></p> <p>12 <b>going to be kicked to the curb or dragging my stuff</b></p> <p>13 <b>back and forth, back and forth every fucking day. You</b></p> <p>14 <b>know what I mean? This is stupid. Because even at</b></p> <p>15 <b>Carole Anne's Place, you go there -- the place opens</b></p> <p>16 <b>ten o'clock in the morning. They open. So you can go</b></p> <p>17 <b>in there at ten o'clock. You can have something to</b></p> <p>18 <b>eat. Then at twelve o'clock, they close. You take all</b></p> <p>19 <b>your stuff outside. Right? Everything you own has to</b></p> <p>20 <b>come outside with you and you drag it around in buggies</b></p> <p>21 <b>or whatever the fuck you got to drag it around in, and</b></p> <p>22 <b>then you have to line up, be the first -- like, so many</b></p> <p>23 <b>in line for 5:30, because at 5:30, 6:00, they open the</b></p> <p>24 <b>doors again. Well, this is the thing. At 5:30, 6:00,</b></p> <p>25 <b>I could be the first one in line. But if I wasn't</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">39</p> <p>1 <b>happened to it. And, like, this is something that</b></p> <p>2 <b>happens on the regular. So now I got no clothes</b></p> <p>3 <b>because all my clothes were in them. Then I get --</b></p> <p>4 <b>just boughten -- because they stole my suitcase, like,</b></p> <p>5 <b>probably a week before after that. You know what I</b></p> <p>6 <b>mean? This is retarded. Like, this is the nonsense</b></p> <p>7 <b>that's going on. It's not fair. It's not safe. Like,</b></p> <p>8 <b>I sleep outside on a fucking sidewalk, like on a mat</b></p> <p>9 <b>with blankets on a sidewalk. What do you think I do</b></p> <p>10 <b>when it rains? What do you do when it rains? You go</b></p> <p>11 <b>indoors. Right? Where the fuck do I go when it rains?</b></p> <p>12 135 <b>Q. In paragraph 25 of you're</b></p> <p>13 <b>affidavit, you say that the women's shelters are almost</b></p> <p>14 <b>always full. So you'd agree that there are times that</b></p> <p>15 <b>there are available rooms? Cassandra?</b></p> <p>16 <b>A. There's no rooms there. Okay? I</b></p> <p>17 <b>don't know why you keep asking me these same things.</b></p> <p>18 <b>There's no rooms there. I sleep on the sidewalk,</b></p> <p>19 <b>remember?</b></p> <p>20 136 <b>Q. Well, you say that they're almost</b></p> <p>21 <b>always full. That means that they're not always full,</b></p> <p>22 <b>you'd agree?</b></p> <p>23 <b>A. Yeah, occasionally someone might</b></p> <p>24 <b>die or something in a fucking -- a room might come up</b></p> <p>25 <b>for grabs, yeah.</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">38</p> <p>1 <b>there the night before, then I don't get in. Because</b></p> <p>2 <b>they tend to let the people that were there the night</b></p> <p>3 <b>before in. But those people that were there the night</b></p> <p>4 <b>before, they could have been at the end of the fucking</b></p> <p>5 <b>line. It don't matter because they already know</b></p> <p>6 <b>they're getting in, because they were there the night</b></p> <p>7 <b>before. Right? So, people, once they get a spot, they</b></p> <p>8 <b>ain't giving it up because they know how hard it is to</b></p> <p>9 <b>get a new one, to get a spot again. So you can come in</b></p> <p>10 <b>and you can have something to eat, and then they boot</b></p> <p>11 <b>you back outside again with all your stuff, unless you</b></p> <p>12 <b>leave it outside to have somebody watch it. Because if</b></p> <p>13 <b>you do that, then you run the risk of somebody stealing</b></p> <p>14 <b>your fucking shit, which happens all the time. I went</b></p> <p>15 <b>in there to have a shower. I had two bags. I had a</b></p> <p>16 <b>rolling suitcase and a rolling duffel bag. While I</b></p> <p>17 <b>went into the stall -- I like to use a wheelchair</b></p> <p>18 <b>stall, but somebody was in there taking their sweet ass</b></p> <p>19 <b>time, so I had to use the other stall. So I took my</b></p> <p>20 <b>one suitcase in there. The other one was just outside</b></p> <p>21 <b>the door. While I was in there using the bathroom,</b></p> <p>22 <b>somebody sneakily took my suitcase with all my clothes</b></p> <p>23 <b>and all my toiletries and everything like that, took it</b></p> <p>24 <b>away, and then I come out and it was just gone. I look</b></p> <p>25 <b>all over for it. It's gone. Nobody knows what</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">40</p> <p>1 137 <b>Q. And you have done that?</b></p> <p>2 <b>A. Or they might go to jail for some</b></p> <p>3 <b>stupid thing, for, you know, sleeping on the sidewalk</b></p> <p>4 <b>or something.</b></p> <p>5 138 <b>Q. And that has happened? You have</b></p> <p>6 <b>accessed shelter?</b></p> <p>7 <b>A. Yeah, temporarily, not for any</b></p> <p>8 <b>amount of time.</b></p> <p>9 139 <b>Q. Is there anything preventing you</b></p> <p>10 <b>from keeping a bed once you have one?</b></p> <p>11 <b>A. Anything preventing me from</b></p> <p>12 <b>keeping a bed once I have one. Well, you have to --</b></p> <p>13 <b>like I said, there's a lineup that you have to line up</b></p> <p>14 <b>for every day. There's -- you have to be able to get</b></p> <p>15 <b>along with the people every day. There's the stuff</b></p> <p>16 <b>that you have to drag in and out of the fucking</b></p> <p>17 <b>building every day. You know? It's just such a</b></p> <p>18 <b>hassle. That's why people tend to go for the</b></p> <p>19 <b>encampments because it's -- like, at least you can have</b></p> <p>20 <b>a day or two where you're going to have, like, time to</b></p> <p>21 <b>relax. Like, I'm, like, all fucking crippled up from</b></p> <p>22 <b>dragging bags and boxes and fucking everything all over</b></p> <p>23 <b>the place. I can't even, like, walk properly anymore.</b></p> <p>24 <b>Police fucking tackled me for walking on the street,</b></p> <p>25 <b>tackled me from behind, pulling my leg through the</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

<p style="text-align: right;">41</p> <p>1 <b>fucking socket.</b></p> <p>2 140 <b>Q.</b> I have a question for you about</p> <p>3 that in a moment, but I just want to be clear. You're</p> <p>4 saying that encampments are less of a hassle than</p> <p>5 shelter?</p> <p>6 <b>A.</b> They are -- they aren't -- yeah, I</p> <p>7 don't know. I don't really -- I haven't accessed a</p> <p>8 long-term shelter. I accessed a shelter like Carole</p> <p>9 Anne's Place where I'm allowed in for the night, and</p> <p>10 we'll see what happens tomorrow night.</p> <p>11 141 <b>Q.</b> Right. But as you say, if you</p> <p>12 have a bed, you are given preference for that bed</p> <p>13 again?</p> <p>14 <b>A.</b> Well, sometimes, yeah, but I --</p> <p>15 but thing is, I was given a bed one time. You know?</p> <p>16 That doesn't mean I'm guaranteed to get it the next</p> <p>17 night. These are people that are there every single</p> <p>18 night. And a lot of times, they -- they tend to give</p> <p>19 it to the older girls, the older women, the seniors.</p> <p>20 You know what I mean? The crippled people, the crazy</p> <p>21 people. So I kind of just slip between the cracks</p> <p>22 because I'm not completely batshit crazy, screaming at</p> <p>23 myself, and I'm not old as fuck, like, where I should</p> <p>24 be in a senior citizen's fucking home. Right? So I'm</p> <p>25 falling between the cracks, which doesn't make any</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">43</p> <p>1 came from the doctor's and I was exhausted, so I sat</p> <p>2 down for a minute and I was just kind of like -- like,</p> <p>3 relaxing because I was sick and I couldn't fucking do</p> <p>4 anything. Right? And so when they yelled at me that</p> <p>5 the girl stole my money, I got up and I yelled to the</p> <p>6 girl to give me back my money. She said she didn't</p> <p>7 have it, and I called her some names, told her she's a</p> <p>8 piece of shit, stuff like this, she should give it</p> <p>9 back. She -- "I don't have it, I don't have it." And</p> <p>10 then I look across the street, and all the while,</p> <p>11 there's three police across the street that watched the</p> <p>12 whole thing. Who knew? Right? And then I just, like,</p> <p>13 gave up. They weren't doing anything. I said, like,</p> <p>14 you don't -- like, whatever. This is what's going to</p> <p>15 go on. Like, people are going to steal from people,</p> <p>16 and police are going to sit there and watch, and it's</p> <p>17 okay? And that's what happened. So I turned around,</p> <p>18 frustrated, walked back to my spot. I was sitting. I</p> <p>19 sat there for a couple minutes, and then I got up to</p> <p>20 walk away. And I had a hammer that I got from my</p> <p>21 friend that is now deceased, and he was also a homeless</p> <p>22 person. And it was a -- like a father-daughter hammer</p> <p>23 set. It said something about "to a father that can fix</p> <p>24 anything, and a daughter" -- something -- I don't know.</p> <p>25 It doesn't matter what it said. But I was carrying</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">42</p> <p>1 sense. Because a lot of these women, they should be in</p> <p>2 homes. I don't even know why they're there. They need</p> <p>3 help and nobody's helping them. But you should go</p> <p>4 stand down by the YWCA. Stand there for a day and just</p> <p>5 watch them and see what goes on. Women screaming,</p> <p>6 arguing with themselves, screaming at the top of their</p> <p>7 lungs.</p> <p>8 142 <b>Q.</b> I understand that --</p> <p>9 <b>A.</b> Nobody's there. They're not</p> <p>10 screaming at anybody. They're just screaming. They</p> <p>11 think they're talking to somebody and nobody's fucking</p> <p>12 there.</p> <p>13 143 <b>Q.</b> I understand --</p> <p>14 <b>A.</b> Who's helping these people?</p> <p>15 144 <b>Q.</b> I understand that the altercation</p> <p>16 you referenced with the police occurred in 2022, on</p> <p>17 May 6th. Is that accurate?</p> <p>18 <b>A.</b> Sure. I think so.</p> <p>19 145 <b>Q.</b> You referenced it a couple of</p> <p>20 times. What happened on that date that led to your</p> <p>21 injury to your hip?</p> <p>22 <b>A.</b> Well, the police watched some</p> <p>23 woman steal money out of my bag, and then people were</p> <p>24 yelling at me and told me that the girl stole stuff out</p> <p>25 of my bag. Because I was sick with pneumonia and just</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">44</p> <p>1 that in my hand, and I walked down towards -- down the</p> <p>2 street, and then this is, like -- this was, like, ten</p> <p>3 minutes after this girl had already walked away with my</p> <p>4 money as the police watched her. I walked down the</p> <p>5 street with the hammer in my hand, because I was going</p> <p>6 to show my friend, another one of my friends, what I</p> <p>7 had gotten. When I turned the corner, I guess because</p> <p>8 I was walking in the direction of that girl, they</p> <p>9 thought I was going to go and do something to that</p> <p>10 girl, and -- even though she had been long gone for</p> <p>11 over ten minutes. They ran at me from behind and</p> <p>12 tackled me and dislocated by hip. They put my leg</p> <p>13 right through the socket and I had go to the hospital</p> <p>14 and have my whole leg reconstructed.</p> <p>15 146 <b>Q.</b> When --</p> <p>16 <b>A.</b> Which I -- high-risk surgery,</p> <p>17 because I had pneumococcal pneumonia at the time and,</p> <p>18 like, obviously they had to reconstruct my hip. And</p> <p>19 they never contacted my next of kin. And I had three</p> <p>20 court appearances in jail, because they arrested me for</p> <p>21 that. Go figure. Because they thought I -- they said</p> <p>22 that I had intent to -- to do something when I didn't,</p> <p>23 and they -- so I was also indignantly (ph), apparently,</p> <p>24 in the hospital. And so they were, like, on my back.</p> <p>25 Like, they didn't say nothing to me. They just plowed</p> <p style="text-align: right;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>



<p style="text-align: right;">45</p> <p>1 me right down. I was walking down the street with my</p> <p>2 friend. He has one leg, and they knocked him, flying</p> <p>3 out of the way, too.</p> <p>4 147 Q. What was the outcome of the</p> <p>5 criminal charges?</p> <p>6 A. I pled to a lesser charge just so</p> <p>7 I could get out of the hospital. Because they were</p> <p>8 sending me to the -- to the women's prison, and I was</p> <p>9 in no shape to go to a prison because I couldn't even</p> <p>10 walk.</p> <p>11 148 Q. What was the charge that you pled</p> <p>12 guilty to?</p> <p>13 A. Having a dangerous weapon in</p> <p>14 public.</p> <p>15 149 Q. I understand that --</p> <p>16 A. Like, I'm homeless. I'm pretty</p> <p>17 sure a hammer while you're homeless is not necessarily</p> <p>18 a weapon. It would be a tool. But I had to plead to</p> <p>19 that charge just to get out of the -- out of being in</p> <p>20 trouble and being in jail and all that. So I was</p> <p>21 pretty much forced into it.</p> <p>22 150 Q. I understand that you're currently</p> <p>23 sleeping on the sidewalk outside of the YWCA --</p> <p>24 A. Mm-hmm.</p> <p>25 151 Q. Do you currently have access to a</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>	<p style="text-align: right;">47</p> <p>1 in the ass it is to take everything out of your tent,</p> <p>2 move it 20 fucking feet, and then put everything back</p> <p>3 in it, especially when you have a disability and you're</p> <p>4 in pain?</p> <p>5 155 Q. And that was to comply with the</p> <p>6 space restrictions. Is that right?</p> <p>7 A. Yeah, because I wasn't close</p> <p>8 enough to the other guy to be considered part of the</p> <p>9 cluster. And then I decided, like -- the people that</p> <p>10 they were forcing me to be really close to, which</p> <p>11 pretty much you could hear them fart in the next tent</p> <p>12 because they were so fucking close to me -- I said</p> <p>13 screw this. I don't want to be around these people</p> <p>14 because they're sheisty people, so I went to -- down to</p> <p>15 another spot, moved it again. And when I moved there,</p> <p>16 they told me I couldn't be there because, once again, I</p> <p>17 guess the people beside me had too big of an encampment</p> <p>18 thing. They had, like, four tents all tarped off, so</p> <p>19 then I couldn't be there because of that. So I had</p> <p>20 to -- because it was -- theirs was too big, so I had to</p> <p>21 move again. Then I moved again, and -- I don't know.</p> <p>22 I moved three times, anyways, because of different</p> <p>23 things that they were telling me why -- different</p> <p>24 reasons that they've been giving me every time.</p> <p>25 156 Q. Are you going to take the Street</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>
<p style="text-align: right;">46</p> <p>1 tent?</p> <p>2 A. No.</p> <p>3 152 Q. In speaking to the Street Outreach</p> <p>4 team, have you been offered a tent?</p> <p>5 A. Oh, Street Outreach -- actually,</p> <p>6 Street Outreach, I just talked to them. They said if I</p> <p>7 go to another spot that's not the sidewalk out there,</p> <p>8 that they will try and help me with a tent. And I</p> <p>9 have --</p> <p>10 153 Q. And at present, it's permitted to</p> <p>11 encamp in a public park, subject to certain</p> <p>12 restrictions on space?</p> <p>13 A. Yeah, something like that. Five</p> <p>14 tents to a -- whatever it is. Five tents to a cluster</p> <p>15 and all that stuff, yeah, I guess.</p> <p>16 154 Q. Yeah, there's a certain set of</p> <p>17 restrictions on space --</p> <p>18 A. Also -- they were also telling us</p> <p>19 the tent -- the places that we were told we could go,</p> <p>20 like the bay front, I was told -- I was at City Hall.</p> <p>21 They told me to go down to the bay front. I went to</p> <p>22 the bay front and I was told I wouldn't be bothered</p> <p>23 there. And I had been told to move three times since</p> <p>24 I've been there, to different -- once, I had to move my</p> <p>25 tent literally 20 feet. Do you know how much of a pain</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>	<p style="text-align: right;">48</p> <p>1 Outreach team up on the offer of having a tent and</p> <p>2 encamping in a park?</p> <p>3 A. Well, the thing is they said</p> <p>4 they'll help me, but they are now telling me that you</p> <p>5 don't want to go to Gage Park because Gage Park is a</p> <p>6 shitshow. You don't want to go to the bay front</p> <p>7 because the bay front is a shitshow. Plus, I have a</p> <p>8 boyfriend that is there that was abusive towards me, so</p> <p>9 I don't want to be anywhere near him. And -- like,</p> <p>10 that only leaves me with so many other options. You</p> <p>11 know what I mean? Like, where else can I go? Like,</p> <p>12 you have to remember, I'm a woman by myself. Like,</p> <p>13 what am I going to do? I want to be in a spot where --</p> <p>14 like, if something happens and I scream for help, I</p> <p>15 want somebody to be able to hear me. It just seems</p> <p>16 like everybody's just shoving me in these places where,</p> <p>17 if I scream for help, no one can hear me. Because</p> <p>18 that's the whole point. They're just going to shove us</p> <p>19 all out of the way so nobody sees us and maybe the</p> <p>20 problem will go away. You know? That what it seems</p> <p>21 like.</p> <p>22 157 Q. I'm going to ask that again. Do</p> <p>23 you intend to take the Street Outreach team up on its</p> <p>24 offer of a tent and to encamp in a public park or not?</p> <p>25 A. Well, yeah, I think I am because I</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>



1 have nowhere else to go and I need to have some kind of  
2 shelter over me. Like, because it rains and I try to  
3 tarp my stuff. So my stuff keeps getting wet. I'm  
4 getting wet. I need some kind of shelter. I need it.  
5 I need that. It's getting cold now.

6 MR. DIACUR: Thank you, Counsel. Those  
7 are all my questions for this witness, and thank you,  
8 Cassandra, for attending and answering.

9 MS. CROWE: Thank you.

10 RE-EXAMINATION BY MS. CROWE:

11 158 Q. Cassandra, I just have a few  
12 questions to follow up, and then we'll be done. Okay?

13 A. Okay.

14 159 Q. We talked about Carole Anne's  
15 Place and you described it as a last resort. What is  
16 Carole Anne's Place?

17 A. It's like an overflow for the  
18 shelters.

19 160 Q. What does overflow for shelters  
20 mean?

21 A. It means, like, for any shelters  
22 that are full and any beds -- like, if anybody goes to  
23 those other shelters and they don't have any room, they  
24 all get shipped to Carole Anne's Place.

25 161 Q. When was the last time you stayed  
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1 at Carole Anne's Place?

2 A. I don't tend to stay there  
3 anymore. I stay there in the wintertime where they  
4 open up extra beds because it was cold. And we all  
5 sleep on the floor and on couches and on chairs and  
6 stuff like that. Like, there's women sleeping on the  
7 floor on the way to the bathroom.

8 162 Q. Thank you.

9 A. And the women that are there are  
10 trying their very best to accommodate everybody. You  
11 know what I mean? They know me well. They know that I  
12 live outside on the street, so they will -- at  
13 nighttime when they're not supposed to be letting  
14 people in, they will let me in to use the bathroom and  
15 stuff like that because they know that -- you know,  
16 they know I'm living out there. So they're trying  
17 their best, and I -- I am one of the better -- like, I  
18 don't know -- clients, I guess. Like, I help them with  
19 the things that they do. I help with the other  
20 clients. I help with the mental health stuff. I help  
21 with -- you know, I help try to control them, to  
22 de-escalate situations. I help clean up. You know,  
23 I -- I'm not a problem there. I'm a solution there.  
24 You know what I mean? Because I used to be a nurse  
25 before and I -- like, I'm good with people. You know?

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1 So I help them the best I can. They joke around saying  
2 when are they going to put me on the payroll. A4748

3 163 Q. When you were talking about the  
4 eviction from J.C. Beemer, you described it as early  
5 morning. Do you remember what time?

6 A. It was, like -- I know that it  
7 was, like, early like four or five o'clock because it  
8 was dark still, but it became light quickly, I think.

9 164 Q. Okay. And then you mentioned your  
10 discharge from the Barrett Centre and that shelters  
11 were full. How did you know that shelters were full at  
12 the time?

13 A. Because we're told. I called, my  
14 mom was calling my mom's friend. She called. The --  
15 like...

16 165 Q. Okay.

17 A. That's how I know.

18 166 Q. Thank you. And then we talked  
19 about you temporarily staying with your mom at her  
20 place. How did you feel about having to leave your  
21 mom's place?

22 A. Like, my mom is sick right now.  
23 She's getting older and she's not in good health.  
24 Right? Like, it sucked. Do you know what I mean?

25 167 Q. Okay.

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1 A. I want to be there to help her,  
2 but I can't. You know? I'm going through so much  
3 myself.

4 168 Q. Why did you choose your current  
5 location to stay?

6 A. Because I have access to food and  
7 showers, like, in those certain hours that they allow  
8 us to come when it's -- like, they have the day  
9 program. The day program is from 10:00 to 1:00 and I'm  
10 able to access Carole Anne's for food and showers at  
11 that time. When I can, I'll be there from 10:00 --  
12 10:00 to 11:30. In those hours, I'm able to access the  
13 building for a shower, bathroom, food.

14 MS. CROWE: Okay, thank you. Those are  
15 my questions.

16 --- Whereupon proceedings adjourned at 2:27 p.m.

17 I HEREBY CERTIFY THE FOREGOING

18 to be a true and accurate transcription

19 of my shorthand notes

20 to the best of my skill and ability.

21  
22 *Lydia Pak*  
23 (Electronically signed on August 24, 2024)

24 Lydia Pak, Court Reporter

25 Computer-Aided Transcription

Nimigan Mihailovich Reporting Inc.  
(905) 522-1653

A464

Court File No. CV-21-00077817-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
AND SHAWN ARNOLD, ET AL.**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF JULIA LAUZON  
(Sworn June , 2022)**

1. I, JULIA LAUZON of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. I am a 24 year old Indigenous woman experiencing homelessness.
3. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). I am occasionally employed, but have difficulty maintaining employment due to my disabilities.
4. My medical conditions include borderline personality disorder, OCD and substance abuse.
5. I have stayed on and off in a tent while homeless.
6. I have received trespassing notices and repeatedly told to move while staying in a tent.
7. I have repeatedly tried to get into shelters. Even though I don't have a phone, I am sometimes able to contact a shelter every day to ask about a bed. In March 2022, I tried for nine days in a row and was always told that they were full.
8. When you call to ask about a shelter bed, the shelter does not record your name. They tell you to call back every hour to check to see if a bed has opened up. It is impossible for me to do this without a phone.

9. There used to be a protocol where if all the shelters were full, Mary's Place would do a hotel referral. However, that no longer happens.
10. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. They open at 10 p.m. In order to get a mat on the floor, you have to line up much earlier.
11. I am occasionally able to get a spot at Carol Anne's Place. However, I was recently working as a bartender until 11:00 some nights. Even when I'm not working, I often arrive too late and cannot get a spot.
12. When Carol Anne's Place is full, I have slept right outside the building.
13. I have been assaulted while sleeping outside without a tent.
14. For the past few months, I have been "tent surfing" with different people. I never know how long I will be able to stay.
15. Being unable to stay in one location is very difficult. I hardly sleep. I am constantly on the move and not knowing where I will stay that night.
16. Because I never know where I am going to live and sleep, I am in constant survival mode. I can't focus on other things. Getting to appointments is difficult because I can't concentrate, and I can't afford the transportation costs. I don't get the medical help I need because I can't follow up.
17. I have a housing worker with the Hamilton Regional Indian Centre. I am on a waiting list of housing but don't have any idea how long it will take to find housing.

SWORN BEFORE ME in the City  
of Hamilton, this    day of June, 2022

---

A Commissioner, etc.

---

Julia Lauzon

Court File No. CV-21-00077817-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
AND SHAWN ARNOLD, ET AL.**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

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(Sworn June , 2022)**

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2. I am a 24 year old Indigenous woman experiencing homelessness.
3. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). I am occasionally employed, but have difficulty maintaining employment due to my disabilities.
4. My medical conditions include borderline personality disorder, OCD and substance abuse.
5. I have stayed on and off in a tent while homeless.
6. I have received trespassing notices and repeatedly told to move while staying in a tent.
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17. I have a housing worker with the Hamilton Regional Indian Centre. I am on a waiting list of housing but don't have any idea how long it will take to find housing.

SWORN BEFORE ME in the City  
of Hamilton, this ~~12~~ day of ~~June~~ <sup>August</sup> 2021

Shan She  
A Commissioner, etc.

Julia Lauzon  
Julia Lauzon

18. This is the affidavit drafted in June 2022.  
Sgt and I affirm its contents.



Julia Lauzon - 1

COURT FILE NO. CV-21-77187

09:01:02AM

ONTARIO SUPERIOR COURT OF JUSTICE

B e t w e e n:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO  
MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE  
DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA  
JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD,  
COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL  
PIERRE, LINSLEY GREAVES and PATRICK WARD

Applicant(s)

- and -

CITY OF HAMILTON

Respondent(s)

-----

The Cross-Examination on Affidavit sworn August 12,  
2024 of JULIA LAUZON, an Applicant herein, taken  
upon affirmation in the above action this 15th day  
of October, 2024, via videoconference, through the  
offices of Nimigan Mihailovich Reporting, Hamilton,  
Ontario.

-----

APPEARANCES:

CROWE, SHARON FOR THE PLAINTIFF(S)  
( Community Legal Clinic of York Region )

SHORES, BEVIN FOR THE DEFENDANT(S)  
( Gowling WLG )  
Also: Liz Marr

NIMIGAN MIHAILOVICH REPORTING INC.

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## I N D E X

WITNESS: Julia Lauzon

EXAMINATION BY: PAGE NO.

Ms. Shores.....3

## UNDERTAKINGS

Reporter's note: The following indices of undertakings, under advisements and refusals are provided for the assistance of counsel and do not purport to be complete or binding on the parties herein.

UNDERTAKINGS:

UNDER ADVISEMENTS:

REFUSALS:

## E X H I B I T S

EXHIBIT NO. DESCRIPTION PAGE NO.

## NIMIGAN MIHAIOVICH REPORTING INC.

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-- Upon commencing at 10:21 a.m.

JULIA LAUZON, AFFIRMED  
EXAMINATION BY MS. SHORES:

1 Q. Good morning, Ms. Lauzon. Can you please state your full name for the record?

A. Julia Lynn Lauzon.

2 Q. Sorry, Lynn is the middle name?

A. Yes.

3 Q. And you pronounce your surname Lauzon?

A. Yes, I do.

4 Q. I'm sorry, I was mispronouncing it before. And do you have any pronouns you wish to share?

A. She/her.

5 Q. And as I introduced off record just now, my name is Bevin Shores; I'm one of the lawyers for the respondent, City of Hamilton. My pronouns are she and her. We're going to be asking you some questions today about your affidavit that was affirmed August 12, 2024; and just to confirm, you have a copy of that affidavit in front of you, correct?

A. Yes, I do.

6 Q. All right. And you were affirmed to

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tell the truth just now?

A4754

A. Yes, I do.

7 Q. Now, you're attending this morning by telephone, not by Zoom, so can you just confirm where you're attending from today?

A. Barton Wentworth Detention Centre.

8 Q. From which detention centre?

A. Barton Wentworth. Hamilton Wentworth Detention Centre, Barton Street jail.

9 Q. Okay. So we can't see you and you can't see us and you're also on the phone, so as I explained off record, it's important to make sure that you keep your voice up and speak clearly, and also to give verbal answers as opposed to nodding or gesturing; is that understood?

A. Yes.

10 Q. Your lawyer is with you today, Ms. Crowe, correct?

A. Yes, she is.

11 Q. Is anyone else in the room with you?

A. No.

12 Q. And you understand that you're to have no assistance in giving your answers today, correct?

A. Yeah.

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13 Q. Now, you were originally scheduled to attend -- or sorry, we had intended that you would attend on this past Friday, October 11th. When did you go to the Barton jail?

A. I was arrested Thursday night, so I ended up going to the Barton jail Friday afternoon.

14 Q. Okay, and were you arrested because you were charged with an offence, or was it a warrant or something else?

A. It was a missed court date.

15 Q. A missed court date for what?

A. For a breach.

16 Q. A breach of what?

A. Probation.

17 Q. So you were arrested in connection with a missed court date for a breach of probation?

A. Yes.

18 Q. Okay. What were you on probation for?

A. I was on probation for a year for a past undertaking for an aggravated assault.

19 Q. All right. And the assault that you were convicted of, did that involve another person experiencing homelessness?

A. Yes.

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A470

<p style="text-align: center;">Julia Lauzon - 6</p> <p><b>20</b> Q. What were the circumstances of that assault?</p> <p>A. The male that I was dealing with, Rodney Reid, had previously assaulted me, as it states in my disclosure. I was trying to defend myself and it ended up getting out of hand and violent, and I regret it very much.</p> <p><b>21</b> Q. Where did the assault take place?</p> <p>A. It took place on Bay and York Boulevard.</p> <p><b>22</b> Q. Was that in an encampment?</p> <p>A. No, that was right across from the Salvation Army.</p> <p><b>23</b> Q. And were you incarcerated any time after you were convicted of the assault?</p> <p>A. Yes, I was incarcerated for, between January and March of this year.</p> <p><b>24</b> Q. Of 2024?</p> <p>A. Yes.</p> <p><b>25</b> Q. All right. So you currently reside in Hamilton?</p> <p>A. Yes, I'm at 181 Jackson now.</p> <p><b>26</b> Q. 181 Jackson. What type of residence is that?</p> <p>A. It's a bachelor apartment.</p> <p style="text-align: center;"><b>NIMIGAN MIHAILOVICH REPORTING INC.</b></p> <p>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</p>	<p style="text-align: center;">Julia Lauzon - 8</p> <p>in foster care, and I don't have any other family, so. <span style="color: red; font-weight: bold;">A4755</span></p> <p><b>35</b> Q. Between 2021 and when you got your apartment in 2024, have you had any other times when you've been housed?</p> <p>A. My whole life up until then.</p> <p><b>36</b> Q. Okay, and then -- sorry, maybe my question wasn't clear. So after 2021, were there any other times that you were housed?</p> <p>A. No.</p> <p><b>37</b> Q. So from 2021 until about this past September you were experiencing homelessness that whole time except for when you were incarcerated?</p> <p>A. Yes.</p> <p><b>38</b> Q. Were there any other periods of time from 2021 to this September that you were incarcerated other than the one you told us about earlier?</p> <p>A. No.</p> <p><b>39</b> Q. When you first began experiencing homelessness in 2021, where did you go?</p> <p>A. I first I was going to Carol Ann's Place.</p> <p><b>40</b> Q. How long did you stay at Carol Ann's Place?</p> <p style="text-align: center;"><b>NIMIGAN MIHAILOVICH REPORTING INC.</b></p> <p>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</p>
<p style="text-align: center;">Julia Lauzon - 7</p> <p><b>27</b> Q. How long have you lived at 181 Jackson?</p> <p>A. Since September.</p> <p><b>28</b> Q. Of this year?</p> <p>A. Yes.</p> <p><b>29</b> Q. Okay. And to give me an idea, how long have you lived in Hamilton generally?</p> <p>A. My whole life.</p> <p><b>30</b> Q. How old are you now?</p> <p>A. 26.</p> <p><b>31</b> Q. Before living at 181 Jackson, where were you living?</p> <p>A. I was homeless.</p> <p><b>32</b> Q. How long have you been experiencing homelessness?</p> <p>A. I've been experiencing homelessness since May of 2021.</p> <p><b>33</b> Q. What were the circumstances that led to you experiencing homelessness?</p> <p>A. I ended up losing my first born child and ended up on the street.</p> <p><b>34</b> Q. Okay. When you say you ended up on the street, what happened? You had a place to stay?</p> <p>A. I had a place to stay, and then -- they (unclear) to my parents so my child wouldn't go</p> <p style="text-align: center;"><b>NIMIGAN MIHAILOVICH REPORTING INC.</b></p> <p>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</p>	<p style="text-align: center;">Julia Lauzon - 9</p> <p>A. I would stay -- it was kind of on how many people were there. There were lots of line-ups at times, it was hard to get a hold of them. You had to leave your name, and I had no phone at the time for them (unclear) right.</p> <p><b>41</b> Q. Let me pause you there, Ms. Lauzon. I'm having a difficulty hearing you, so if you could just speak more clearly and keep your voice up, that would be helpful.</p> <p>A. At the beginning I was staying at Carol Ann's Place. They would call and you would give your name, and I didn't have a phone at the time so it was really hard for me to get a hold of them to call back to figure out if there was any place for me.</p> <p><b>42</b> Q. So if you couldn't get into Carol Ann's Place, would you go somewhere else?</p> <p>A. So Carol Ann's Place is the only emergency shelter drop-in that you don't have to call for a bed in advance, so I would wait outside.</p> <p><b>43</b> Q. Okay, and what would you do if you couldn't get into Carol Ann's Place?</p> <p>A. I would just wait outside. I didn't have a choice where else to go.</p> <p><b>44</b> Q. Did you ever stay in a tent? <span style="color: red; font-weight: bold;">A471</span></p> <p style="text-align: center;"><b>NIMIGAN MIHAILOVICH REPORTING INC.</b></p> <p>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</p>

Julia Lauzon - 10

A. Maybe a couple times. It was very rare.

45 Q. Okay. So if you weren't in a tent and -- well, let me back up. You said you may have stayed in a tent a couple of times. Does that including staying in a tent encampment?

A. Yeah, I stayed in one at Beemer Park before.

46 Q. When did you stay at Beemer Park?

A. Right before I was incarcerated.

47 Q. How long had you stayed at Beemer Park?

A. I stayed there about I'd say a couple weeks, two to three weeks before I was incarcerated this year.

48 Q. And was the reason that you stopped staying there because you were taken in in connection with that assault charge?

A. Yes.

49 Q. Let's back up a bit. Where were you staying before you were at Beemer Park?

A. I was just staying outside.

50 Q. Like where outside?

A. Around Carol Ann's Place. Around Salvation Army usually.

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Julia Lauzon - 12

A. I looked into it before, yeah, but I didn't have the money for it. A4756

55 Q. Have you ever looked into getting a tent for free from outreach workers?

A. I had one once; it got stolen.

56 Q. Where did it get stolen from?

A. Salvation Army where the truck came (unclear).

THE REPORTER: The what truck?

THE DEPONENT: The native women's outreach truck.

BY MS. SHORES:

57 Q. Sorry, they gave you the tent and then it was stolen?

A. Yeah.

58 Q. At paragraph 5 of your affidavit you do say that you stayed on and off in a tent while homeless, so I just want to make sure that we're capturing the correct periods of time. So you described staying at Beemer. Were there any other periods of time that you stayed in tents?

A. It was just the odd occasion tent surfing with other people in their tent.

59 Q. Okay. So staying with other people in their tents, and how much time would you say you

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Julia Lauzon - 11

51 Q. And were you at that point in time, so when you were at Beemer Park, were you reliably able to get into Carol Ann's Place or Salvation Army?

A. The Salvation Army is for men, so no. But Carol Ann's Place was till -- oftentimes will, right. You have to line up much earlier than they open to get a spot.

52 Q. So if you couldn't get into those places, where would you stay?

A. I would just sleep outside and hope there would be a spot open up for the night.

53 Q. When you say you would sleep outside, is there any reason that you wouldn't stay in a tent or try another shelter?

A. Like I said, I didn't have a phone, so it was hard to get hold of other shelters. And there's a lot of, there's a lot of -- there are some discrepancies with tenting. Like there's -- like depending who's there, there can be some negative interactions; a lot of things go missing. And if it's somebody else's tent, I don't know how long I'll get to stay there.

54 Q. Did you look into getting your own tent?

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Julia Lauzon - 13

stayed with other people in their tents?

A. A couple of days maybe.

60 Q. Okay. A couple of days at a time?

A. Yeah.

61 Q. Okay. And tell me in terms of time in total when you're not inside an indoor shelter, how much time would you say that you're staying with other people in their tents?

A. Can you repeat the question, please?

62 Q. Sure. So you said you would stay with people for a few days or a couple of days at a time, but I want to get a sense of how frequently you are staying with other people in tents. So can you tell me how often you're able to do that?

A. I would say a couple of nights every week.

63 Q. At paragraph 6 of your affidavit you state that you've received trespassing notices and repeatedly told to move while staying in the tent. So I want to ask you about the trespassing notices. How many have you received?

A. I don't even know. When you're with other people they still charge everybody that's inside.

64 Q. Are you able to give me an estimate? A472

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Julia Lauzon - 14

A. Probably, like, at least a dozen.

65 Q. And when was the last time you would have received one of these trespassing notices?

A. Probably would have been around the time I was incarcerated.

66 Q. And taking that time, what did they say that they were giving you the trespass notice for?

A. For being near the stairs of the Salvation Army.

67 Q. So did you have a tent set up there?

A. My friend did, yeah, but the cops came.

68 Q. So where physically was the tent? You said near the stairs on the Salvation Army. Was it on the sidewalk or something?

A. Yeah, on the sidewalk near the church.

69 Q. And so what did you do in response to that trespass notice?

A. I helped my friend take the tent down.

70 Q. Did they move?

A. Yeah.

71 Q. Okay. When you received the other

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Julia Lauzon - 16

you say that you repeatedly tried to get into shelters. You told us about Carol Ann's Place. Have you tried any of the other shelters?

A. I tried Mary's Place before. I to call Inasmuch and Interval House.

79 Q. And have you ever been able to stay at any of those shelters?

A. No.

80 Q. No. So have you ever stayed at Mary's place?

A. I think I was there at one point a few years ago, but it was only for a few days.

81 Q. And then did you try to get back into Mary's Place at any point after that?

A. No.

82 Q. And have you stayed at Inasmuch House or Interval House?

A. No.

83 Q. Did you look for any help from outreach workers or the other people working at the shelter if you weren't able to get into a spot?

A. Yeah, I tried to.

84 Q. Were they ever successful in finding you somewhere?

A. No.

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Julia Lauzon - 15

trespass notices, where --

A. In front of (inaudible).

72 Q. Sorry, I was rethinking my question and then you said something that I didn't quite catch?

A. In front of the Hamilton Hub.

73 Q. In front of Hamilton Hub. And again, was that tent being sort of on the sidewalk there?

A. Yeah.

74 Q. And what did you do in response to that trespass notice?

A. Again, we had to take everything and take it down.

75 Q. And then move?

A. Yeah.

76 Q. Okay. Did you ever receive trespass notices anywhere other than the Salvation Army or the Hamilton Hub?

A. Those are the few places that were more common.

77 Q. Do you remember getting a trespass notice being located anywhere else?

A. No.

78 Q. At paragraph 7 of your affidavit,

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Julia Lauzon - 17

85 Q. You mentioned at paragraph 3 of your affidavit that you're occasionally employed but have difficulty maintaining your employment due to your disability. When you're employed, what kind of work do you do?

A. Previously worked in a funeral home, and I was a bartender before.

86 Q. And other than your current predicament, are you still employed?

A. No.

87 Q. When was the last time you were employed?

A. (Inaudible).

88 Q. I didn't catch that?

A. Last time I was employed was in summer of 2021.

89 Q. And which job was that?

A. My bartending job.

90 Q. Have you looked for work since then?

A. No.

91 Q. And what's preventing you from looking for work?

A. Well, back then it was the stress of trying to be on the streets in general and trying to survive everyday, not knowing where I'm going to

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sleep at night.

**92 Q.** And now that you have an apartment, are you planning to start working again?

**A.** Yes.

**93 Q.** You listed in your affidavit some medical conditions. At paragraph 4 you state: "My medical conditions include borderline personality disorder, OCD and substance abuse."

When you were you diagnosed with borderline personality disorder?

**A.** When I was 15.

**94 Q.** And how about OCD, when were you diagnosed with that?

**A.** 15.

**95 Q.** And how about substance abuse, when were you diagnosed with that?

**A.** 20.

**96 Q.** At 20. And do you still suffer from substance abuse?

**A.** Yes.

**97 Q.** Are you in treatment for substance abuse?

**A.** Not right now, no.

**98 Q.** Do you have any plan to get into treatment?

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**A.** Yes.

**99 Q.** Okay. What substances do you use?

**A.** Methamphetamine and Fentanyl.

**100 Q.** Methamphetamine and Fentanyl you said?

**A.** Yes.

**101 Q.** At paragraph 9 of your affidavit you state: "There used to be a protocol where if all the shelters were full, Mary's Place would give you a hotel referral." Have you ever stayed at a hotel through this referral?

**A.** No.

**102 Q.** No. Have you ever stayed at a hotel funded through the shelter system regardless whether it was referred through Mary's Place?

**A.** No.

**103 Q.** So just out of curiosity, then, why did you put that in your affidavit if you haven't stayed in a hotel?

**A.** Pardon?

**104 Q.** Why mention that in your affidavit if you've never stayed in a hotel?

**A.** Because if you don't have a phone, then how are you supposed to call them?

**105 Q.** Perhaps you didn't understand my

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question. If you've never stayed in a hotel, then why include that in your affidavit? **A4758**

**A.** I'm not sure.

**106 Q.** Okay. Is it possible that you stayed in a hotel and just haven't remembered?

**A.** No.

**107 Q.** Because it came up on another witness's examination, I'm going to ask. The City of Hamilton does keep records about your attempts to stay in shelter and obtain assistance, including shelter stays and service restrictions, if any. Can you just confirm that you have not signed an authorization allowing those records to be disclosed in this litigation?

**A.** (Inaudible).

**108 Q.** I didn't catch that. Was that okay?

**A.** Yes.

**109 Q.** So that's a yes? Your connection might be breaking up again or something, I didn't hear you?

**A.** Yes.

**110 Q.** Thank you. At paragraph 11 of your affidavit you state that you're occasionally able to get a spot at Carol Ann's Place but that you were working as a bartender until 11 some nights. On the

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nights that you were working, were you able to tell the people at Carol Ann's Place that you intended to come back after work?

**A.** Yeah, they wouldn't hold a bed for you.

**111 Q.** Even if you had stayed there the night before?

**A.** Yeah.

**112 Q.** At paragraph 13 you state that you've been assaulted while sleeping outside without a tent. Is that the incident that you described to me earlier?

**A.** Yes.

**113 Q.** And if I understand what you described earlier, even though you were convicted of an assault, there was also an assault taking place directed at you?

**A.** Yes.

**114 Q.** Did you receive medical treatment for that assault?

**A.** No.

**115 Q.** Did you seek medical treatment for that assault?

**A.** No.

**116 Q.** And was the assault on you reported **A474**

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to the place?

**A.** It was reported in my, in my statements to my lawyer when I went to court.

**117 Q.** Okay. And did the person who assaulted you also receive a conviction as a result?

**A.** They ended up getting convicted at the end of my sentence, but I already had time served.

**118 Q.** Do you ever encounter the person who assaulted you on the street these days?

**A.** No.

**119 Q.** At paragraph 14 you say that you've been tent surfing with different people and you never know how long you'll be able to stay. So I want to ask you a little bit more about the tent surfing that you described earlier. Are they more or less the same people who you will stay with?

**A.** Yes.

**120 Q.** And so how do you find people to stay with? Are they people that you already know?

**A.** People that I already know.

**121 Q.** And before -- I asked you about the period of time before you were incarcerated earlier this year, but I want to know a little bit more about where you've been staying after you were

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Ontario disability support?

**A.** I'm trying to update my files and my medical stuff. (Unclear) my basic needs, they only paid my rent, so I'm hoping when I'm incarcerated this time I will (unclear).

**128 Q.** So I think you anticipated my question which was whether your ODSP increased so that you could have some help with your rent. So if I understand you correctly, yes, the ODSP gives you some additional money for your rent and you're hoping to keep that and keep your apartment while you're dealing with the situation at the Barton jail, right?

**A.** Yes.

**129 Q.** I'm just going to take a moment to look over my notes, Ms. Lauzon. Just a couple more questions. At paragraph 16 of your affidavit you indicate that you had difficulty going to appointments because you can't concentrate and because you can't afford the transportation costs. Have you sought any assistance getting help with the transportation costs?

**A.** No, I haven't.

**130 Q.** Okay. You haven't asked about getting bus tickets at the Hub or Salvation Army or

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released and before you got your apartment. So after you were released from your incarceration, where did you stay?

**A.** I just stayed on the streets.

**122 Q.** So tent surfing some nights?

**A.** Yeah.

**123 Q.** And staying outside other nights?

**A.** Yeah.

**124 Q.** And at that point in time, so this is earlier this year or this summer I would take it, any particular reason at that point in time you didn't get your own tent?

**A.** I didn't -- I don't know. I just didn't happen to get one.

**125 Q.** And what were the circumstances that resulted in you getting the apartment you're living at now?

**A.** I've been waiting on a housing list for a number of years and I finally got a call back.

**126 Q.** And so you were able to get an apartment through that housing waiting list?

**A.** Yes.

**127 Q.** You mentioned at the beginning of your affidavit at paragraph 3 that you're in receipt of Ontario disability support. Do you still receive

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any of those places?

**A.** No.

**131 Q.** Where do you go for your appointments? What distance would you have to travel or where would you be travelling to?

**A.** (Inaudible).

**132 Q.** Sorry, where did you say they are?

**A.** The Concurrent Disorders Clinic at West 5th.

**133 Q.** At West 5th, okay. So somewhere that's on the bus line, right?

**A.** Yes.

**134 Q.** All right. And your substance abuse, your fentanyl and methamphetamine use, you agree that that can cause difficulty with concentration, right?

**A.** Yes.

**135 Q.** I asked you about your substance use, but are you also in treatment for your borderline personality disorder or your OCD?

**A.** Not currently, no.

**136 Q.** Okay. Have you sought treatment for those or tried to get treatment?

**A.** I stop periodically.

**137 Q.** Do you have a doctor that you see

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regularly?

**A.** I haven't seen my doctor in quite a while.

**MS. SHORES:** I don't have any further questions. Thank you, Ms. Lauzon, and thank you for especially taking the time and making arrangements in the circumstances to speak with us, we appreciate it.

**BY MS. CROWE:**

**138 Q.** I only have a couple of redirect questions for you, okay. When you first mentioned the assault, you mentioned a Rodney Reid and you said that you were trying to defend yourself. What were you defending yourself against?

**A.** Sexual assault.

**139 Q.** So who was the --

**A.** Ronny Reid.

**140 Q.** Okay. And what was the outcome of -- just to be clear, your charges, are they related to that same incident, the sexual assault?

**A.** It happened at the same time.

**141 Q.** Okay. And then you mentioned that the assault by Rodney was raised by your lawyer. Was that in court?

**A.** Yes.

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**142 Q.** Okay, what was the result of --

**MS. SHORES:** Sorry, can I just interject, counsel. I don't think we're capturing Ms. Lawson's answers.

**MS. CROWE:** Okay, I'm sorry. Which questions are you not sure about the answer?

**MS. SHORES:** The last one that you asked.

**BY MS. CROWE:**

**143 Q.** You mentioned that the sexual assault was raised by your lawyers in court; is that correct?

**A.** Yes, it is.

**144 Q.** Thank you. And so what happened as a result of that information being shared in the court?

**A.** It ended up bringing Rodney back and he ended up getting charged, he ended up being arrested and brought here right at the end of my sentence, but I already did time served for being charged.

**145 Q.** Thank you. When did that assault take place?

**A.** August 2021.

**146 Q.** You mentioned that you got your

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current housing after being on a housing waiting list. What kind of waiting list is that? **A4760**

**A.** Hamilton City Housing.

**147 Q.** What kind of housing do you get?

**A.** I get a subsidized bachelor apartment.

**148 Q.** Subsidized. Your rent is subsidized. How much is your rent?

**A.** \$147.

**MS. CROWE:** Thank you. Those are my questions.

--- Whereupon examination concluded at 10:56 a.m.

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I hereby certify the foregoing to be the evidence of JULIA LAUZON, an applicant herein, given under affirmation before me on the 15th day of October, 2024, recorded verbatim and later transcribed by me.

CERTIFIED CORRECT:

Ann Marie Crowe, CSR

Verbatim Reporter

Commissioner of Oaths (Expires August, 2025)

This document must bear the original signature and certification of the Reporter in Attendance at the examination of the witness in the above-captioned matter. Absence of this certification and signature is indication this document has been reproduced without the permission of Nimigan Mihailovich Reporting.

Court File No. CV-21-00077817-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD ET AL**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF AMMY LEWIS  
(Sworn June 2022)**

1. I, AMMY LEWIS, of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. I am a 43 year old Indigenous woman.
3. I am on the Ontario Disability Support program.
4. My medical conditions include
5. I have been homeless for about five months.
6. Prior to becoming homeless, I rented an apartment in Hamilton. The Landlord was aggressive, intimidating, and attempted to extort sex from me. He was also known to extort sex from many of the female tenants. We were all terrified of him.
7. I attempted to stand up for myself. I even had a lawyer from Hamilton Community Legal Clinic write to him and demand that he stop his offensive conduct. It did not work.
8. I eventually felt so unsafe that I packed up and left with my dog, who has been my constant companion and main source of emotional support.
9. I attempted to go to shelters. They would not accept me because of my dog. My dog is a small mixed breed and is very friendly. I tried to explain that I cannot be

separated from her, and that my doctor considers her to be a therapy dog, but they did not listen and refused to give me a bed.

10. I cannot be separated from my dog. Not only does she provide me with emotional support, she also helps to protect me. It is very dangerous to be a homeless woman. She keeps a lookout and alerts me to possible danger.
11. I started sleeping rough – outside, with no protection – after I couldn't get into shelters. I slept anywhere I could: abandoned cars, dumpsters, and an underground parking lot.
12. I got a tent after police found me sleeping in an underground parking lot. I went to the greenspace around Cathedral Park.
13. I have tried to stay at Carol Anne's Place. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. They open at 10 p.m. They will not allow me in with my dog.
14. I have been assaulted more than once since becoming homeless.
15. I am always worried about when I be forced to move, and where I will go. By-law officers regularly come by and tell me I can't stay there. I know it is only a matter of time before I am forced to leave and it is very stressful.
16. I don't know where I would go because I can't get into shelter, I can't afford rent, and I'm not allowed to stay in a tent.

SWORN BEFORE ME in the City  
of Hamilton, this    day of June, 2022

---

AMMY LEWIS

---

A Commissioner, etc.

Court File No. CV-21-00077817-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD ET AL**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

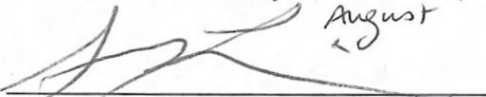
**AFFIDAVIT OF AMMY LEWIS  
(Sworn June 2022)**

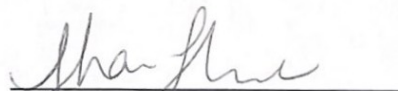
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SWORN BEFORE ME in the City  
of Hamilton, this 14<sup>th</sup> day of June, 2022<sup>August</sup>

  
AMMY LEWIS

  
A Commissioner, etc.

17. This is the Affidavit drafted in June 2022.  
I affirm its contents.



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	<b>(905) 522-1653</b>
1	4
2	---
3	UPON COMMENCING AT 4:59 P.M.
4	AMMY LEWIS: Affirmed.
5	CROSS-EXAMINATION BY MS. SHORES:
6	1 Q. Good morning, Ms. Lewis. Can you
7	2 please state your full name for the record?
8	3 A. Ammy Marie Angela Rose Lewis.
9	4 Q. Okay. How would you like to be
10	5 addressed today? What name would you like to go by?
11	6 A. Ammy.
12	7 Q. Ammy, okay. Do you have any
13	8 pronouns that you use?
14	9 A. I don't even know. No.
15	10 Q. All right. I'm going to ask you a
16	11 series of questions about your affidavit that was not
17	12 sworn, but we understand was made sometime around June
18	13 of 2022. I'm going to assume that you understand my
19	14 question unless you tell me that you don't understand
20	15 it. Is that okay?
21	16 A. Mm-hmm, yes.
22	17 Q. All right. So if you don't
23	18 understand one of my questions, please let me know.
24	19 Okay?
25	20 A. Mm-hmm.
	21 Q. Yes?
	22 A. Yes.
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1	<b>A481</b>



<p style="text-align: right;">5</p> <p>1 7 Q. Okay. We do have to make sure</p> <p>2 that you say yes or no as opposed "mm-hmm" because it's</p> <p>3 not clear what you mean when it's written down. So if</p> <p>4 you forget, one of us will remind you. We're not</p> <p>5 trying to be mean. We're just trying to make sure that</p> <p>6 your evidence comes across clearly. Okay?</p> <p>7 A. Yes.</p> <p>8 8 Q. All right. You've given an</p> <p>9 affidavit but it's not sworn. Have you reviewed this</p> <p>10 affidavit?</p> <p>11 A. I don't know how to -- I got it</p> <p>12 today. Nobody's showed me it.</p> <p>13 9 Q. You just got it today and nobody</p> <p>14 showed you it. So you didn't write it?</p> <p>15 A. I told my doctor all about it.</p> <p>16 10 Q. Which doctor did you tell?</p> <p>17 A. Dr. Lamont and the people that</p> <p>18 were coming to the park and everybody that was coming</p> <p>19 around, the counsellors and everybody. They all know</p> <p>20 it. Like, I told them the issues. There's a lot of</p> <p>21 people that know about my situation.</p> <p>22 11 Q. Okay. You've seen the affidavit</p> <p>23 today, but you haven't had a chance to review it?</p> <p>24 A. Not all of it, no.</p> <p>25 12 Q. Okay. So let's go through that.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">7</p> <p>1 18 Q. All right. Do you remember</p> <p>2 A. No lawyers came to me. No lawyers</p> <p>3 or nothing came to me if that's what you're asking me.</p> <p>4 19 Q. I don't want to know about</p> <p>5 anything you talked to your lawyer about.</p> <p>6 A. I don't have a lawyer, so -- I</p> <p>7 don't know if I have a lawyer, so...</p> <p>8 20 Q. Okay. We understand that you have</p> <p>9 several lawyers in this proceeding. Do you understand</p> <p>10 that you're a party to a court proceeding against the</p> <p>11 City of Hamilton --</p> <p>12 A. Yeah, yes, I do.</p> <p>13 21 Q. Okay. And do you understand that</p> <p>14 you have a lawyer in that proceeding?</p> <p>15 A. Yes.</p> <p>16 22 Q. Okay. Do you know who your lawyer</p> <p>17 is or who your lawyers are?</p> <p>18 A. Not at the moment. I got a bad</p> <p>19 memory and I forgot.</p> <p>20 23 Q. I'm obliged to confirm that the</p> <p>21 lawyers who are in the room with you, who I understand</p> <p>22 are Curtis Sell and Sharon Crowe -- are they your</p> <p>23 lawyers?</p> <p>24 A. I think so, yes.</p> <p>25 24 Q. And you're comfortable giving</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">6</p> <p>1 At paragraph --</p> <p>2 A. I know what I -- I know what I</p> <p>3 said back then, and it's the same thing as what is --</p> <p>4 like, nothing's changed.</p> <p>5 13 Q. Okay. Now, in legal proceedings,</p> <p>6 there is a preference and actually a requirement for</p> <p>7 evidence to be sworn or affirmed. That means that</p> <p>8 you're swearing and affirming that you're going to tell</p> <p>9 the truth.</p> <p>10 A. Mm-hmm.</p> <p>11 14 Q. And so --</p> <p>12 A. I swear.</p> <p>13 15 Q. Okay. I'm going to take you</p> <p>14 through this affidavit that you said you haven't had a</p> <p>15 chance to review yet to make sure that it's correct.</p> <p>16 A. Mm-hmm.</p> <p>17 16 Q. I'll put it up on the screen so</p> <p>18 you can see it. It doesn't have a date, so that kind</p> <p>19 of makes it difficult for us to identify, but it says</p> <p>20 "sworn June" -- blank -- "2022." Do you see that?</p> <p>21 A. Yeah.</p> <p>22 17 Q. Do you remember speaking to your</p> <p>23 doctor about this in June 2022?</p> <p>24 A. I remember speaking to a lot of</p> <p>25 people about this.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">8</p> <p>1 evidence today?</p> <p>2 A. Yes.</p> <p>3 25 Q. Okay. Let's take a look at your</p> <p>4 affidavit. Do you know who typed this?</p> <p>5 A. How would I know who typed this?</p> <p>6 Like, no, I don't know who typed this.</p> <p>7 26 Q. Okay. So I guess you wouldn't</p> <p>8 know when it was typed either?</p> <p>9 A. What kind of question is that?</p> <p>10 Like, I don't get that.</p> <p>11 27 Q. I don't have much more --</p> <p>12 A. It doesn't -- if it didn't say a</p> <p>13 date there, obviously then we don't know the date.</p> <p>14 Right?</p> <p>15 28 Q. Right, exactly.</p> <p>16 A. What are you trying to, like, get</p> <p>17 me to -- I don't get this.</p> <p>18 29 Q. All right. So in June 2022, were</p> <p>19 you 43 years old?</p> <p>20 A. Yeah, yes.</p> <p>21 30 Q. And you're an Indigenous woman?</p> <p>22 A. Yes.</p> <p>23 31 Q. And are you on Ontario</p> <p>24 Disability --</p> <p>25 A. Yes.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

1 32 Q. Are you still on Ontario  
 2 Disability Support --  
 3 A. Yes.  
 4 33 Q. And it says here "my medical  
 5 conditions include," and then it's left blank. Do you  
 6 have any medical conditions?  
 7 A. Yes.  
 8 34 Q. What are they?  
 9 A. I got agoraphobia, I got anxiety,  
 10 depression, I got OCD, I got ADHD, ADD, bipolar, couple  
 11 other things I'm not sure about. That's about it.  
 12 35 Q. Okay. We'll come back to that.  
 13 You say you've been homeless for about five months. As  
 14 you said before, we don't know when this was typed, so  
 15 let me ask. When did you become homeless?  
 16 A. When I got out of the  
 17 penitentiary.  
 18 36 Q. And --  
 19 A. The second day -- the second  
 20 day -- like, the first day I got out of the  
 21 penitentiary, my mom kicked me out of her house, and  
 22 that's where I was supposed to live. But I went out  
 23 with my daughter that night, and she kicked me out and  
 24 I went back, and I lived under the underground where it  
 25 was full of rats, and that's where I lived for the  
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1 remainder of -- until whenever.  
 2 37 Q. What year --  
 3 A. A long time.  
 4 38 Q. What year --  
 5 A. A long time.  
 6 39 Q. What year did you get out of the  
 7 penitentiary?  
 8 A. I told -- I got a -- I got a bad  
 9 memory because I died six times. I don't got a good  
 10 memory. I don't even remember, like, the day I got  
 11 out. I know I got out of a situation a couple years  
 12 ago, pretty sure.  
 13 40 Q. Couple years ago, okay. Sorry,  
 14 you said something about why you have a bad memory and  
 15 I didn't quite catch it. You were speaking about --  
 16 A. I died -- I died in the hospital  
 17 six times, endocarditis and stuff, so I was in a coma,  
 18 so now my memory's all gone. I don't have a good  
 19 memory a little bit, and I can't remember stuff  
 20 sometimes.  
 21 41 Q. How long ago did that happen that  
 22 you had endocarditis and were in the hospital?  
 23 A. About ten years ago.  
 24 42 Q. Okay. So it was before you began  
 25 to experience homelessness?  
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1 A. Mm-hmm, mm-hmm. **A4767**  
 2 43 Q. Yes, okay. I do have to ask --  
 3 well, let me ask. Which penitentiary were you in?  
 4 A. Does it matter? Like, why?  
 5 There's only one penitentiary -- there's only one  
 6 penitentiary for women and -- like, Kitchener.  
 7 44 Q. In Kitchener, okay. Are you from  
 8 Hamilton originally?  
 9 A. Yes.  
 10 45 Q. When you left the penitentiary in  
 11 Kitchener, you came back to Hamilton?  
 12 A. Mm-hmm. Not that I leave  
 13 Kitchener. I was in a halfway house. I left the  
 14 halfway house, I'm pretty sure, and then I came back to  
 15 my mom's house.  
 16 46 Q. The reason that you were in the  
 17 penitentiary, was that for any sort of violent offence  
 18 that you committed?  
 19 A. No.  
 20 47 Q. Okay. Was it for anything that  
 21 happened at a shelter or encampment?  
 22 A. No.  
 23 48 Q. Was it anything involving another  
 24 unhoused person in the City of Hamilton?  
 25 A. No.  
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1 49 Q. When you left the penitentiary,  
 2 you said it was a couple years ago, but you're not sure  
 3 when. I think you said you went to a halfway house and  
 4 then you went to your mother's?  
 5 A. Yeah. Like, that's -- I got  
 6 released -- like, I went to a halfway house -- I was in  
 7 the penitentiary, got released to a halfway house, and  
 8 then went back to the penitentiary, did the rest of my  
 9 time, and then I got released to my mother's.  
 10 50 Q. Okay. And when --  
 11 A. And the first day that I went  
 12 there, I left with my daughter that night and -- she  
 13 wanted to show me where she lived and blah, blah, blah,  
 14 and I went with her and said I didn't feel like she was  
 15 safe out there by herself. So she was homeless as  
 16 well. And I went with her, and I ended up staying  
 17 there with her and really didn't -- really didn't want  
 18 her to die there.  
 19 51 Q. Okay. So you stayed briefly with  
 20 your mother. Your mother's in Hamilton?  
 21 A. My mother passed May 4th this  
 22 year.  
 23 52 Q. Okay. At the time you were  
 24 released from penitentiary, she was still living?  
 25 A. Mm-hmm, yes. **A483**  
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<div>13</div> <div> <p>1 53 Q. Yes, okay. And so you stayed</p> <p>2 there with her briefly, and then you left with your</p> <p>3 daughter, who was also experiencing homelessness at the</p> <p>4 time. Correct?</p> <p>5 A. Yes.</p> <p>6 54 Q. This is what I didn't quite catch.</p> <p>7 Where did you and your daughter go?</p> <p>8 A. I told -- just told you that.</p> <p>9 55 Q. I didn't quite catch it, though --</p> <p>10 A. You didn't catch it? The</p> <p>11 underground.</p> <p>12 56 Q. What do you mean by "the</p> <p>13 underground"?</p> <p>14 A. It's the under -- it's like a</p> <p>15 place. It's where homeless people go. That's what I</p> <p>16 was told. That's where -- that building, the glass</p> <p>17 place building that's been half tore up. It's a</p> <p>18 dangerous, like, hazardous place. Shit's falling from</p> <p>19 the ceiling. There's, like, millions of rats all</p> <p>20 around. You can't sleep because there's rats coming at</p> <p>21 you every couple seconds. You have to be off the</p> <p>22 ground, so they had to build me -- lift my tent off the</p> <p>23 ground, yeah, because you can't be on the floor. The</p> <p>24 only thing that pretty much saved me was my dog. She</p> <p>25 saved me every night because they -- she wouldn't let</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>	<div>15</div> <div> <p>1 After you left the underground, you said the City came</p> <p>2 by and it wasn't safe. They told you to go somewhere</p> <p>3 else and you packed up your tent and moved to the other</p> <p>4 place that they told you to go. Right?</p> <p>5 A. Yeah, because the guy that was</p> <p>6 helping us in the beginning, the guy that was helping</p> <p>7 us, like, he lived on Latorre Street, and he had a</p> <p>8 wife, and he had got real sick, and he said -- I don't</p> <p>9 know. Like, he was Chinese. He was the only one that</p> <p>10 was helping us around there. Like, nobody was, like,</p> <p>11 trying to help us, all of us. There was, like, four or</p> <p>12 five -- five, six people down there, and then we ran</p> <p>13 into people that came there and rob our shit and take</p> <p>14 our stuff. Like, it was not a good place. Like, I</p> <p>15 couldn't -- like, at nighttime, I couldn't see. And</p> <p>16 there was a hill, like a rock and rebar, like, sticking</p> <p>17 out of the ground and shit like that. So if you</p> <p>18 weren't careful, you'd hurt -- you're falling down and</p> <p>19 end up worse. I went there, I fell all the way down</p> <p>20 that hill, man, and I broke my leg because there was a</p> <p>21 piece of rebar sticking out of the ground, and I</p> <p>22 couldn't see, and I had to hold onto something -- like,</p> <p>23 somebody to get down this worse part. And it was a</p> <p>24 building, and it was all tore -- tore, ripped apart.</p> <p>25 There was, like, rebar, rock. The whole building was</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>
<div>14</div> <div> <p>1 the rats come in my tent. And I boarded my door up to</p> <p>2 my tent, and -- I don't know. It was just hell down</p> <p>3 there. And the City actually -- these people came one</p> <p>4 day and seen us -- at least they came to help us. They</p> <p>5 tried to help us and brought us food and stuff like</p> <p>6 that, and then the City found out, I guess, that we</p> <p>7 were living there, under there, and it was really</p> <p>8 dangerous down there, so we got -- we had to get -- we</p> <p>9 were getting kicked out of there, so they moved us to</p> <p>10 another encampment, another encampment down the street,</p> <p>11 down at the end of -- at Barnesdale, at the end of the</p> <p>12 street at this park. And it was me and my friend</p> <p>13 Billie Mallory (ph) and her boyfriend and some other</p> <p>14 couple, and they -- the whole City, like, the whole</p> <p>15 bunch of people from the City came down there and they</p> <p>16 said you should go to that park right there, go to this</p> <p>17 park, so we packed up and we went to that park. We</p> <p>18 pitched our tents there. And from day one, we were</p> <p>19 getting harassed and our tents were getting burned</p> <p>20 down. People were throwing shit at our tents. They</p> <p>21 were wrecking our shit. We had to go -- like, go</p> <p>22 without tents.</p> <p>23 57 Q. Let me just pause you there,</p> <p>24 Ms. Lewis, because I have a few questions and I want to</p> <p>25 ask them before you get too far along in your timeline.</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>	<div>16</div> <div> <p>1 caved in, like, pretty much, but separate, this little</p> <p>2 part. And there was, like...</p> <p>3 58 Q. And --</p> <p>4 A. Like, these -- we pitched our</p> <p>5 tents wherever we could pitch our tents, and we had to</p> <p>6 pitch our tents off the ground because it was the</p> <p>7 winter and it was cold, so we needed to stay away from</p> <p>8 rats, and -- and discuss shit. Right?</p> <p>9 59 Q. Okay. So --</p> <p>10 A. But we tried our best to stay away</p> <p>11 from the -- like, we had to, like, build something so</p> <p>12 our tent would go up high.</p> <p>13 60 Q. Did you try to find anywhere else</p> <p>14 to go, like any of the shelters or --</p> <p>15 A. I tried everything. I got a dog,</p> <p>16 so nobody's trying to help anybody with a dog.</p> <p>17 61 Q. When did you get your dog?</p> <p>18 A. I've had my dog for about 12 years</p> <p>19 now from my mom. She gave her to me for me birthday.</p> <p>20 62 Q. Where did your dog go when you</p> <p>21 were in the penitentiary?</p> <p>22 A. My daughter kept her with her in</p> <p>23 the underground.</p> <p>24 63 Q. Your daughter kept your dog in the</p> <p>25 underground with her?</p> <p>Nimigan Mihailovich Reporting Inc.</p> <p>(905) 522-1653</p> </div>

	17	
1		<b>A. Mm-hmm.</b>
2	64	<b>Q. That's correct?</b>
3		<b>A. Thank god. Thank god, yeah.</b>
4	65	<b>Q. Okay. What's your dog's name?</b>
5		<b>A. Foxy Lady.</b>
6	66	<b>Q. Foxy Lady. And what type of dog</b>
7		<b>is Foxy Lady?</b>
8		<b>A. She's a Jack-chi.</b>
9	67	<b>Q. A Jack-chi, so a Jack Russell</b>
10		<b>terrier and chihuahua mix?</b>
11		<b>A. Jack Russell-chihuahua, yeah.</b>
12	68	<b>Q. Is Foxy Lady trained at all? Does</b>
13		<b>she have any sort of special training?</b>
14		<b>A. No. She's my support -- she's my</b>
15		<b>emotional support dog.</b>
16	69	<b>Q. Okay. Is she certified as an</b>
17		<b>emotional support dog?</b>
18		<b>A. I got a vest and stuff, but I</b>
19		<b>don't think she's certified.</b>
20	70	<b>Q. Okay. She hasn't been for any</b>
21		<b>sort of special training about, for example, how to --</b>
22		<b>A. No, and you don't need training</b>
23		<b>for emotional support dogs, though.</b>
24	71	<b>Q. Okay. But she --</b>
25		<b>A. Training is for -- training, if</b>
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	18	
1		<b>you're a blind dog -- some people -- blind people for</b>
2		<b>things like that, but for emotional support dogs, you</b>
3		<b>don't need a trainer -- to be trained.</b>
4	72	<b>Q. What does --</b>
5		<b>A. Because they're for emotional</b>
6		<b>support.</b>
7	73	<b>Q. What does she do for --</b>
8		<b>A. She helps me. She's, like --</b>
9		<b>she's my life. She's -- if it wasn't for her, I'd</b>
10		<b>probably be dead by now.</b>
11	74	<b>Q. Okay. So having her in your life</b>
12		<b>provides you with emotional support?</b>
13		<b>A. Mm-hmm.</b>
14	75	<b>Q. Yes?</b>
15		<b>A. Yes.</b>
16	76	<b>Q. Okay. But she doesn't have any</b>
17		<b>training about how to be in crowded public spaces or</b>
18		<b>not to get upset if there's something loud or startling</b>
19		<b>happening or anything like that?</b>
20		<b>A. I don't understand that question.</b>
21		<b>What do you mean?</b>
22	77	<b>Q. Well, service dogs --</b>
23		<b>A. What kind of training?</b>
24	78	<b>Q. -- go through a lot of training</b>
25		<b>to --</b>
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	19	
1		<b>A. She's an emotional support dog.</b>
2		<b>She don't need training. She's for me for emotional</b>
3		<b>support. How would you need training for emotional</b>
4		<b>support dog when -- I just told you. She's an</b>
5		<b>emotional support dog. She don't need training for</b>
6		<b>that.</b>
7	79	<b>Q. All right. So before --</b>
8		<b>A. Like, it says it on the Internet,</b>
9		<b>man. All over it.</b>
10	80	<b>Q. Did anyone --</b>
11		<b>A. She was a -- she was a -- she was</b>
12		<b>a -- like, a support dog. Support dogs -- like, if I</b>
13		<b>couldn't see or something, yeah, she'd need training,</b>
14		<b>but she's not. She's not that kind of support dog.</b>
15		<b>She's my emotional support dog, because I had</b>
16		<b>depression and stuff. So how -- she helps me live my</b>
17		<b>life better because I love her. That's what she does</b>
18		<b>for me. She helps me with every day to get by.</b>
19	81	<b>Q. Okay. And has your dog ever</b>
20		<b>snapped at anyone?</b>
21		<b>A. No.</b>
22	82	<b>Q. Has your dog ever attacked anyone?</b>
23		<b>A. No.</b>
24	83	<b>Q. You're sure of that?</b>
25		<b>A. Yeah.</b>
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	20	
1	84	<b>Q. Does your dog act as a guard dog?</b>
2		<b>She protects you from a potential attacker --</b>
3		<b>A. She -- she -- she'll -- if</b>
4		<b>anybody, like, comes around my tent -- like, if</b>
5		<b>somebody was, like -- would come around my tent, first</b>
6		<b>she would -- she'd smell them and she'd -- she'd growl</b>
7		<b>so I'd know. I'd wake right up, right away. And then</b>
8		<b>if they come closer, she'd bark, and then I'd wake</b>
9		<b>right up and I'd go, "Who's there? What the fuck's</b>
10		<b>going on?" I'd wake right up. She's -- she's good</b>
11		<b>like that. She -- that's what -- she protected me.</b>
12		<b>She's a good -- she's a good dog.</b>
13	85	<b>Q. Going back to at the time you went</b>
14		<b>to the underground, did you try to go to a shelter or</b>
15		<b>did you not try because you couldn't take your dog with</b>
16		<b>you?</b>
17		<b>A. I tried, but I couldn't do --</b>
18		<b>everyone wouldn't take me with a dog.</b>
19	86	<b>Q. Did you try to see if Foxy Lady</b>
20		<b>could go somewhere else so that you could get into a</b>
21		<b>shelter?</b>
22		<b>A. Yeah, I tried everything.</b>
23	87	<b>Q. What specifically did you try to</b>
24		<b>see about where Foxy Lady could go?</b>
25		<b>A. I tried everywhere. I tried -- I</b>
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<p>21</p> <p>1 tried getting programs to help me, like, online,  2 like -- and I had to ask my doctor for help, get her --  3 get her -- get help for her because she got into a --  4 people were harassing me and stuff and following me  5 around and stuff like that, and I was getting harassed  6 and followed a lot by -- I don't know who it was, but  7 they were -- I don't know. A lot of people were  8 following me around and trying to hurt me and stuff.  9 It just kept happening and happening, and I went --  10 this is when I -- I just got to the point where my  11 doctor -- I told my doctor everything that happened.  12 And the day that I got kidnapped by a taxi -- the taxi  13 went down Main Street and my methadone clinic was on  14 Main and -- yeah, but anyways, I tried everything. My  15 doctor helped me get my dog into a shelter, and then  16 that got me into a shelter, and that's how I got my  17 place. Because it was the place that I had been  18 sheltered that I went to was Mary's Place, and Mary's  19 Place -- a church thing, went there. And I guess they  20 called and they said that I was -- I -- because of my  21 dog, too, we got into 95 Hess and we got off the  22 streets.</p> <p>23 88 Q. Let me back that up a little bit.  24 You said you tried everything, but I think what you  25 meant was you tried everything to get your dog into the  Nimigan Mihailovich Reporting Inc.  (905) 522-1653</p>	<p>23</p> <p>1 foster?  2 A. Mary's Place. <b>A4770</b>  3 96 Q. In Mary's Place, okay. Do you  4 remember when that was, what year it was?  5 A. No, I don't, sorry.  6 97 Q. Okay. I think if I understand,  7 you eventually were able to bring Foxy Lady with you in  8 Mary's Place?  9 A. No.  10 98 Q. No, okay, you weren't. So you  11 found a foster placement for Foxy Lady and that enabled  12 you to go into Mary's Place. Correct?  13 A. Yes.  14 99 Q. All right. So I want to leave  15 that. I'm going to come back to it, but I still want  16 to talk about the time after, when you went to the  17 underground and where you moved since then. You were  18 at the --  19 A. I told you already. I went to the  20 next park.  21 100 Q. Okay. But I have some more  22 questions. How long were you at the underground?  23 A. For a while, months, months.  24 Like, months.  25 101 Q. You were there for months, okay --  Nimigan Mihailovich Reporting Inc.  (905) 522-1653</p>
<p>22</p> <p>1 shelter. Right? You didn't try to find --  2 A. No. I tried -- I tried -- I  3 probably tried to get programs and everything. Like, I  4 tried to -- I tried everything. I tried asking family  5 members. I tried to ask anybody.  6 89 Q. You tried to ask --  7 A. Like, even my daughter -- even my  8 daughter was going to take her, but I didn't want her  9 outside anymore. Like, it's not -- because it wasn't  10 right for her to stay outside. Maybe inside.  11 90 Q. Okay. And did you --  12 A. And I decided both of us or none  13 of us. Like, one or the other. You can't do that.  14 91 Q. Did you see if anybody could take  15 her into boarding or into a foster?  16 A. She got into a foster, yeah.  17 92 Q. Okay. When was that?  18 A. I don't remember.  19 93 Q. Was it after you came out of the  20 penitentiary?  21 A. Yeah.  22 94 Q. How long was she in foster?  23 A. I'm not sure. It was two,  24 three months.  25 95 Q. Where were you while she was in  Nimigan Mihailovich Reporting Inc.  (905) 522-1653</p>	<p>24</p> <p>1 A. Long time. I got -- like, lots of  2 time went by. And then -- I can't even tell you how  3 many months I've been homeless, really, because I've  4 been, like, for a long time.  5 102 Q. I want you to do your best to try  6 to listen to my questions and answer them, because  7 Lydia's been very nice to stay late today and I want to  8 make sure that --  9 A. You want to just quit and let  10 everyone go home? I'll just quit, then. I don't care.  11 103 Q. No. I want to be as efficient as  12 we can --  13 A. Lydia, you want to go, I'll just  14 stop. I'll just waste my time, make me come out here  15 for nothing and let her go home. Okay?  16 104 Q. Now, Ms. Lewis --  17 A. How about that? Asking me  18 questions and shit like that. If she wants to go home,  19 let her go home.  20 105 Q. I don't think that's fair to our  21 court reporter who's staying after her shift --  22 A. No, she don't have to stay. If  23 she wants to go, she goes, and I'll leave, then she can  24 go.  25 106 Q. Ms. Lewis, I'd like to keep asking  Nimigan Mihailovich Reporting Inc. <b>A486</b>  (905) 522-1653</p>

25

1 you questions, and I'm just asking you to listen to the  
2 questions that I'm asking and give me answers. I'm not  
3 repeating questions, and if you listen to my questions,  
4 you'll see what I'm asking about. You said you were at  
5 the underground for a few months. Do you remember when  
6 it was that you left the underground?

7 **A. I already told you no.**

8 107 **Q. The City of Hamilton told you it's**  
9 not safe to be --

10 **A. Somebody from the City or I don't**  
11 **know who they were from, but about four or five people**  
12 **from different organizations came there.**

13 108 **Q. Okay. And --**

14 **A. This is the second time I told**  
15 **you. Four or five agencies came to the underground**  
16 **and -- because it was so -- it was the old glass**  
17 **company, Dominion Glass. That's where it was. But**  
18 **underneath the top part was all, like, land, like**  
19 **concrete. And when you go down by the other side near**  
20 **the train tracks, there's a hill that goes down like**  
21 **that. It's all gravel in the underground. You go into**  
22 **that building, the old glass company. Well, it has,**  
23 **like, millions of, like, cubbyholes and you got to go**  
24 **deep in there, but I -- we -- I stayed right in the**  
25 **front. And that's where I lived with the rats and the**  
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26

1 **falling shit, the debris from the ceiling and the toxic**  
2 **shit that was down there.**

3 109 **Q. When they told you --**

4 **A. I don't know how many people come**  
5 **down there and tell me it's not safe down there, and**  
6 **they knew it wasn't safe for us down there, so that's**  
7 **why they told us to go to the next park. The next park**  
8 **was nothing but hell because everybody is the same --**  
9 **they started ganging up on us.**

10 110 **Q. All right. So what was the next**  
11 **park that you went to?**

12 **A. I just told you that already.**

13 111 **Q. What was --**

14 **A. It was off of Barnesdale. There**  
15 **was a building on the corner of Barnesdale and -- and**  
16 **Barton.**

17 112 **Q. Barnesdale and --**

18 **A. That we briefly -- that I briefly**  
19 **moved into, that --**

20 113 **Q. And you took your tent with you?**

21 **A. Huh?**

22 114 **Q. You took your --**

23 **A. Yeah, we just -- they helped us**  
24 **get there.**

25 115 **Q. And they helped you get there.**  
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27

1 **A. They helped us get there because**  
2 **it was too much for us. Like, I had -- I'm disabled.**  
3 **Like, I can't -- you can't do it with a lot of stuff.**  
4 **So they helped us get there and they got stuff -- they**  
5 **had stuff for our dogs -- my dog and stuff, and**  
6 **Billie's dog, and they gave us, like, food and stuff,**  
7 **and people would drop food off and stuff for us -- stop**  
8 **it. And...**

9 116 **Q. Sorry, you just said --**

10 **A. The City -- the City knows it was**  
11 **us, we were there, and we were told that we were**  
12 **allowed to be there, but if we were allowed to be there**  
13 **and the City told us that, then there's no reason why**  
14 **we got people breaking our camp down and smashing our**  
15 **tent when we were in there, lighting it on fire and**  
16 **caving our shit and stealing all our stuff. You know?**  
17 **You know, like, just being rude.**

18 117 **Q. What you're saying are members of**  
19 **the public, other people would come by and --**

20 **A. Harass and rip our stuff up,**  
21 **steal, break our tents, rob our tents. We couldn't go**  
22 **out because I was, like, locked to my tent like a jail**  
23 **cell, because I couldn't leave because people would**  
24 **come there and rob my shit. Like, people would drop**  
25 **off food and stuff. Like, we need that. They would**  
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1 **come and steal my dog food. They'd come and steal**  
2 **anything they can get. Anything that was worth money,**  
3 **they'd steal, and they would rip their tent down. If**  
4 **you got to fight with somebody or you mouth somebody**  
5 **off, they'd come there and rip your tent down, burn**  
6 **your tent down, take your stuff, rip you off, say you**  
7 **got nothing, and then you're scared because you**  
8 **don't -- then you don't got nowhere to go because**  
9 **now -- now where the City told you to go, the people**  
10 **around the area start hating on us and they -- and now**  
11 **they're being all mean to us.**

12 **The kids, right in back -- back where**  
13 **our tent was at the back of the fence. I was in the**  
14 **corner, and the tents were right in front of this**  
15 **fencing, and the kids that were in a house, and the**  
16 **family, they were throwing bricks over at us, and they**  
17 **had -- they had this thing in the park for, like -- I**  
18 **don't know. It was Corn Day and we didn't want to go**  
19 **the Corn Day because the people -- the kids were now**  
20 **making fun of us and we didn't want to eat their food**  
21 **because they were throwing apples and shit at our tent.**  
22 **And there was, like, people from the community there,**  
23 **all their kids, and they were making fun of us and they**  
24 **were throwing shit at our tents. Their parents were**  
25 **letting them. So we didn't want to -- like, we felt**  
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1 embarrassed to even go out and eat, and we were  
2 starving. Like, we haven't eaten in weeks, days, and  
3 we didn't want to go out because Mallory started crying  
4 to me because, like, we couldn't go out. She didn't  
5 want to go out because they were throwing stuff at us.

6 118 Q. So how --

7 A. The day we went, they ripped our  
8 whole tents apart. They threw chairs, they just threw  
9 everything. They caved our tents in a million times.  
10 And you're worried for the money for a tent. We got to  
11 wait a whole 'nother month for -- until Disability  
12 comes to get another tent, which I don't get the money  
13 for. I don't know how many tents I had to buy, you  
14 know, just to get a new tent.

15 119 Q. And there are outreach groups who  
16 will also hand out tents. Right?

17 A. Yeah.

18 120 Q. And --

19 A. You can only do it once or  
20 twice -- you can only do it once. Right? So you get  
21 one tent, you're screwed. You can't -- then you got to  
22 go buy your own means to get your own tent.

23 121 Q. Have you tried to get more than  
24 one tent from the outreach workers?

25 A. No. I only got one, and one for  
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1 my daughter.

2 122 Q. How long were you at the park at  
3 Barnesdale and Barton?

4 A. Months.

5 123 Q. Okay, for months. And then did  
6 you leave on your own or did you leave because someone  
7 told you to leave?

8 A. I left because the guy at the  
9 building that -- where I rented, he started sending  
10 people after me, harassing me, and driving around the  
11 block and shit.

12 124 Q. Okay. So --

13 A. And bugging me. I was all scared  
14 in my own tent.

15 125 Q. Okay. So you said the guy --

16 A. And I -- like, I ran -- I ran in  
17 there. I knew they were, like, after me and stuff,  
18 so -- because he was a biker or whatever. So he kicked  
19 me. He tried to sexually assault my daughter and say  
20 something about it, so I told him -- I asked him, "What  
21 are you doing, bro?" And then he kicked us out and put  
22 us at that park. And then the car started, and people  
23 started following me around and harassing me and shit.

24 126 Q. Okay. Ms. Lewis --

25 A. And I'd go to the people or go to  
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1 the guys who could help us down at the underground, and  
2 he wouldn't come to the door and help me. So I went  
3 across to this -- my mom's friend's house, and this guy  
4 pulled over in a car and he pulled right at me and he  
5 seen me go on the porch. He pulled over and he opened  
6 his window up, and I was up knocking on a friend -- my  
7 mom's friend's door, and he starts, like, laughing like  
8 a fucking crazy person, man, like it was a joke. And I  
9 knew it was them. Because I even know it was them now,  
10 because they even got my paperwork from the tax papers,  
11 and I see all these things that they -- that were sent  
12 to his building that I never -- I wasn't there. I was  
13 in the penitentiary at the time they took all them  
14 cheques, and they cashed all these cheques in my name.  
15 And he harassed me for months, and they're still  
16 harassing me. I don't know -- he doesn't know where I  
17 am, but I know that I still see people that were  
18 following me around before at that -- at that park.  
19 They're still doing it.

20 127 Q. And you said --

21 A. They're still chasing me around.

22 128 Q. Okay. So these are people  
23 affiliated with a landlord that you used to rent from?

24 A. Yeah.

25 129 Q. Okay. Back in this written

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1 document that says "prior to becoming homeless, I  
2 rented an apartment in Hamilton. The landlord was  
3 aggressive, intimidating and attempted to extort sex  
4 from me," that's the person you were --

5 A. Yeah, yeah, yeah.

6 130 Q. Do you remember when you were  
7 living at the apartment with that landlord?

8 A. No, I don't remember, sorry.

9 131 Q. Was it before or after the  
10 penitentiary?

11 A. It was after I got out, I think.

12 132 Q. Okay. How long were you living in  
13 that apartment?

14 A. Six months, maybe.

15 133 Q. Okay. And when you --

16 A. I'm not too sure if I remember,  
17 but it -- like, he -- it was bad right when we really  
18 started. When I went and moved in, if I would have  
19 known that guy before in his room had COVID -- he  
20 didn't tell us that the guy had COVID. We all got  
21 COVID. Well, not everybody. I got COVID, and then the  
22 guy in the hall had COVID. He didn't tell us that he  
23 had COVID, and we moved in. I wouldn't even move my  
24 kid in there if they would have -- it's going to kill  
25 us. Right?

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1 134 Q. So it would have been sometime  
2 after 2019, at least, because you're talking about  
3 COVID. Right?

4 A. Mm-hmm.

5 135 Q. Yes, okay. Do you remember if it  
6 was before or after you had stayed at the underground  
7 that you were in the apartment with the landlord?

8 A. That was -- that was -- no, no,  
9 that was before or after -- no, that was after, like, I  
10 got -- after I got out of the penitentiary.

11 136 Q. Okay. But before you told me that  
12 after you got out of the penitentiary, you stayed with  
13 your mom --

14 A. With my mom for one night, not  
15 even a whole day. A couple hours.

16 137 Q. For one night, and then you  
17 went --

18 A. Not even one night, not even one  
19 night. It was like -- I went there. I visited for a  
20 bit, and then me and my daughter, we went out with her  
21 boyfriend, and then she wanted to show me where she  
22 lived, and my mom said -- she gave me an ultimatum --  
23 "If you go with her, then you're kicked out." So I  
24 said, well, whatever. I got to go see where my kid's  
25 living because it's my kid, man. What would you do if

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1 it was your kid? Just let her go live under there,  
2 bro? That's not me, man. I'm going to see it with  
3 them, check it out. I'm going to live with her if --  
4 you know what? That's my kid.

5 138 Q. So you could have stayed with your  
6 mom --

7 A. And that's my job.

8 139 Q. -- but she gave you an ultimatum,  
9 and you chose your daughter and to go to the  
10 underground. Right?

11 A. Yeah.

12 140 Q. And --

13 A. Because my daughter -- my daughter  
14 wasn't safe.

15 141 Q. So that's immediately after you  
16 got out of the penitentiary?

17 A. Yeah.

18 142 Q. So then would you have been in the  
19 apartment with your landlord sometime after the  
20 underground?

21 A. Yeah, I think so.

22 143 Q. What --

23 A. And we didn't -- we didn't last  
24 that long there, because then we're homeless again.

25 144 Q. I'm just trying to clear the  
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1 timeline, because you said after the underground you  
2 went to the encampment at Barnesdale and Barton, and  
3 then at that point you referred to people who were  
4 associated with your landlord coming to harass you.  
5 So --

6 A. I got proof of that. I got people  
7 on that street that live right beside them. I went to  
8 their house on their porch and I cried. They let me  
9 stay in their backyard in my tent.

10 145 Q. So did you --

11 A. They put a thing overtop of my  
12 tent. They went and built a thing over my tent, and  
13 then -- right behind that building. So they know  
14 that -- they even seen the people following me. They  
15 even seen these people following me around and harass  
16 me for months.

17 146 Q. Did you know this landlord or the  
18 people who were harassing --

19 A. Of course I know the landlord.  
20 The landlord was my landlord.

21 147 Q. Did you know them before --

22 A. I moved there. I paid him rent.

23 148 Q. Did you know the landlord  
24 before --

25 A. No, I never met him before in my  
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1 life. It was a one-time deal after I got out of the  
2 pen. It was harder for me to get a place because,  
3 like, all landlords were having -- like, wanted sexual  
4 favours. I'm not like that. Like, I just want to pay  
5 my rent and -- leave me alone. That's all I wanted to  
6 do, was have a normal life. You know? But everyone --  
7 you know, I told my doctor every time, like, this is,  
8 like -- now it's getting into my daughter. Like, don't  
9 talk to her like that. You know?

10 149 Q. Is it possible that you rented  
11 from this landlord before you went to the underground?

12 A. How many times are you going to  
13 ask me that?

14 150 Q. Until I get an answer --

15 A. You already asked me that. You  
16 already asked me that, like, ten times.

17 MS. CROWE: Do you think she's done her  
18 best to establish a timeline to the best that she can?

19 MS. SHORES: I'm still completely  
20 confused.

21 BY MS. SHORES:

22 151 Q. So you went to the underground,  
23 and then you went to the place at Barton and  
24 Barnesdale, and at that --

25 A. At the park.  
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1 152 Q. At the park. And you left the  
 2 park because people associated with your landlord were  
 3 harassing you --  
 4 A. Harassing me, yes.  
 5 153 Q. But you don't remember if you  
 6 stayed at the landlord before then?  
 7 A. I already told you. I stayed -- I  
 8 didn't -- no. I stayed -- I went from my mom's house  
 9 that one night to the underground. Sometime after  
 10 that, I -- we got an apartment at -- at that place  
 11 after we got -- after my mom's house, after the  
 12 underground.  
 13 154 Q. You didn't say that before --  
 14 A. After the park, or something like  
 15 that --  
 16 155 Q. -- and that's what I've been  
 17 trying to clarify. You didn't --  
 18 A. That's all I know. I don't know.  
 19 Man, you're making questions that sound all -- like,  
 20 you're making me confused, like thinking I'm lying or  
 21 something. I don't lie.  
 22 156 Q. I'm trying to do my best to get  
 23 things clear.  
 24 A. You asked me the same questions  
 25 over six, seven times already, the same ones. Like, I  
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1 don't get it. You tell me you want to get this thing  
 2 done, but you're asking me the same question.  
 3 157 Q. Ms. Lewis, respectfully, it's  
 4 because you're not answering the question. You're  
 5 telling me --  
 6 A. Yeah, I am answering the question  
 7 to the best of my ability.  
 8 158 Q. Well, you're saying --  
 9 A. You're trying to slip me up.  
 10 That's what you're trying to do.  
 11 159 Q. Ms. Lewis --  
 12 A. That's not what you're supposed to  
 13 do to somebody that's telling you the truth.  
 14 160 Q. Ms. Lewis, I'm trying to get you  
 15 to answer the question. You're giving me --  
 16 A. I am answering the questions.  
 17 161 Q. -- evidence, but they don't  
 18 respond to the questions that I'm asking you.  
 19 A. Yeah, I am responding to the  
 20 questions. I'm telling you, but you're trying to slip  
 21 me up. You keep asking the same question over and over  
 22 and over again. I told you I can't remember. If I  
 23 can't remember, I can't remember. Then you're  
 24 pressuring me? I feel pressured because you're -- you  
 25 keep going back to something, back and forth, and  
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1 you're making me confused about what question you're  
 2 talking about, because you're saying something about  
 3 this, something about that, and then you're back to  
 4 go -- "I want to go back to this thing, I want to go  
 5 back to that thing." Well, we just talked about that.  
 6 Like, you're confusing me, so...  
 7 162 Q. Ms. Lewis --  
 8 A. Like, I can't be confused. Like,  
 9 I'm trying to answer your questions, like, honestly, to  
 10 the best of my ability. It's all I -- that's all -- I  
 11 don't tell lies. I'm trying to tell the truth. But  
 12 when you try to confuse somebody -- I can't get that,  
 13 because I can't -- like, it confuses me.  
 14 163 Q. I'm trying to get things --  
 15 A. I can't remember when you -- when  
 16 people -- even when you have questions on my doctors  
 17 and stuff, I can't -- that can't happen because it  
 18 makes me think that something's going on.  
 19 164 Q. Ms. Lewis, I am not --  
 20 A. Like, you keep going over the same  
 21 thing over and over again. Like, I just answered that.  
 22 165 Q. You keep talking over --  
 23 A. Or I at least tried to.  
 24 166 Q. -- me, Ms. Lewis, and I'm trying  
 25 to get things clear. I'm not trying to trip you up.  
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1 I'm trying to give you every opportunity to give clear  
 2 evidence about what you do and don't remember.  
 3 A. Well, it's in the affidavit.  
 4 Right? It's right here.  
 5 167 Q. Well, you didn't give an  
 6 affidavit, Ms. Lewis --  
 7 A. Well, whatever it -- when I gave a  
 8 statement, I gave my statement.  
 9 168 Q. This is a typed document that you  
 10 told us before you don't even know who typed it or  
 11 when --  
 12 A. Well, my lawyer's probably -- he  
 13 would have -- if I -- in the beginning I forgot about  
 14 all that. I forgot about the lawyers and stuff. I  
 15 just talked to them today.  
 16 169 Q. Ms. Lewis, is your memory strong  
 17 enough to give you confidence in answering any of the  
 18 questions I've asked you today --  
 19 A. Yup. Yup.  
 20 170 Q. You just told me you forgot about  
 21 your lawyers, and now you're saying that you remember?  
 22 A. Well, I remember something -- them  
 23 saying about it's going to be a while for this to get  
 24 closer to go to -- go through court. Right?  
 25 171 Q. I don't want to know anything --  
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1	<b>A. So now, obviously, I -- I never</b>
2	<b>met nobody and I just recently got told, like, a few</b>
3	<b>days of that about lawyers --</b>
4 172	<b>Q. I am going to interrupt you</b>
5	because I don't want you to tell me anything about any
6	discussions you have with your lawyer. Those are
7	privileged --
8	<b>A. I didn't -- no, I wasn't going to</b>
9	<b>tell you that.</b>
10 173	<b>Q. All right. Well, I needed to stop</b>
11	you in case you were, because that's --
12	<b>A. No, I wasn't. No, no, I didn't --</b>
13	<b>like, I knew all about that -- that -- like, they said</b>
14	<b>it was going to take time, so I waited until somebody</b>
15	<b>came to me to tell me it's time for the court hearing</b>
16	<b>and stuff like that. So it's now that time, so now --</b>
17	<b>like, now that I know it's the time, now I -- I said in</b>
18	<b>the beginning that these guys are working for me. I</b>
19	<b>just forgot, like, that -- about that, that I had a</b>
20	<b>lawyer.</b>
21 174	<b>Q. Okay. So let's pick up the</b>
22	time --
23	<b>A. Because they said I could get my</b>
24	<b>own lawyer, but I just -- I just stick with these ones.</b>
25 175	<b>Q. Let's pick up with the timeline</b>
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	42
1	after you leave the encampment at Barton and
2	Barnesdale. Where did you go after that?
3	<b>A. Barton and Barnesdale. Actually,</b>
4	<b>a few places. We went to -- you know, we were right</b>
5	<b>behind No Frills -- went behind No Frills, Fortinos for</b>
6	<b>a while, a long time.</b>
7 176	<b>Q. Was that a period of weeks,</b>
8	months? Do you remember how long?
9	<b>A. Months, months.</b>
10 177	<b>Q. Months? You had your tent there?</b>
11	<b>A. Yeah.</b>
12 178	<b>Q. And you had your dog there?</b>
13	<b>A. On the train tracks, yes.</b>
14 179	<b>Q. On the train tracks. Did anybody</b>
15	from the rail company --
16	<b>A. No, no, they won't. It's up to</b>
17	<b>you. If you want to get killed on the train tracks,</b>
18	<b>you get killed. You're not supposed be on the train</b>
19	<b>tracks. They're supposed to come get -- tell you not</b>
20	<b>to be there, but they never did come. They never come</b>
21	<b>through this. They never come. They only came --</b>
22	<b>like, they only come one time because somebody took</b>
23	<b>copper and almost derailed the train off the tracks.</b>
24	<b>We would have got killed there, but...</b>
25 180	<b>Q. And you stayed --</b>
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1	<b>A. They stayed -- people from</b>
2	<b>there -- people from there, the railway, never, ever</b>
3	<b>came there. They never bothered me there. I was the</b>
4	<b>only one. And then people started moving around me</b>
5	<b>and, like, tried to take over and shit. Like, they</b>
6	<b>moved to the dog park and they moved across the way,</b>
7	<b>and then they moved to this park that was over there,</b>
8	<b>and then down this thing and down the way. And then</b>
9	<b>there's so many people coming in another area, like,</b>
10	<b>that were homeless. It was crazy. There was lots of</b>
11	<b>people living there and ripping off your stuff, people</b>
12	<b>ripping off your food and everything. It is, like,</b>
13	<b>crazy.</b>
14 181	<b>Q. So other people came around you</b>
15	and were starting to steal from you, and you didn't
16	want --
17	<b>A. And then -- yeah, people were</b>
18	<b>stealing. Everything was -- everything was happening.</b>
19	<b>What wasn't happening when you live outside?</b>
20 182	<b>Q. So you moved?</b>
21	<b>A. No.</b>
22 183	<b>Q. No? What did you do?</b>
23	<b>A. I stayed.</b>
24 184	<b>Q. You stayed --</b>
25	<b>A. I stayed until -- I moved once to</b>
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	44
1	<b>the cathedral, behind the cathedral in a park behind</b>
2	<b>there, and that's when I got -- my dog got put in a</b>
3	<b>shelter, and I went to -- somebody came that night from</b>
4	<b>the people that work for the City or whatever, the</b>
5	<b>ambulance people, or the -- I forget what they're</b>
6	<b>called now. I forget what her name is, but she drives</b>
7	<b>a first-aid vehicle or something and she helps the</b>
8	<b>homeless. And they came that day and got me into a</b>
9	<b>shelter.</b>
10 185	<b>Q. Okay. So you went to Mary's</b>
11	Place. Foxy Lady went to stay with a foster.
12	<b>A. Mm-hmm.</b>
13 186	<b>Q. Why did you leave Mary's Place?</b>
14	<b>A. Because I got an apartment. They</b>
15	<b>found me an apartment.</b>
16 187	<b>Q. Okay. Do you remember when you</b>
17	got your apartment?
18	<b>A. February 15th or 16th.</b>
19 188	<b>Q. Of which year?</b>
20	<b>A. Like, two years ago, I think.</b>
21 189	<b>Q. Okay. And --</b>
22	<b>A. No, a little bit over two years</b>
23	<b>ago. It was over two years ago.</b>
24 190	<b>Q. A little over two years ago, okay.</b>
25	And are you still living in that apartment?
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<p style="text-align: right;">45</p> <p>1                   <b>A. Yes, I am.</b></p> <p>2   191           <b>Q.</b> Okay. How is that apartment</p> <p>3   funded? How do you pay for your apartment?</p> <p>4                   <b>A. I pay market rent.</b></p> <p>5   192           <b>Q.</b> You pay market rent. Do you live</p> <p>6   with anyone else?</p> <p>7                   <b>A. With my dog.</b></p> <p>8   193           <b>Q.</b> Just you and your dog?</p> <p>9                   <b>A. Mm-hmm.</b></p> <p>10 194           <b>Q.</b> And did the outreach worker help</p> <p>11 you find that apartment?</p> <p>12                  <b>A. It's just the church did that. I</b></p> <p>13 <b>prayed for that. And then some organization that works</b></p> <p>14 <b>for the building -- I just found this out, like, not</b></p> <p>15 <b>too long ago that, I guess, apparently that building</b></p> <p>16 <b>in -- it's not even a building. It's an institution</b></p> <p>17 <b>for something, like people that are sick or something.</b></p> <p>18 <b>Like, I didn't even know that. Like, I thought it was</b></p> <p>19 <b>just a normal building, but it's not. And that's why</b></p> <p>20 <b>they're not getting harassed there now. There's just a</b></p> <p>21 <b>bunch of harassment, man.</b></p> <p>22 195           <b>Q.</b> Sorry, at the apartment that</p> <p>23 you're living at now?</p> <p>24                  <b>A. Mm-hmm.</b></p> <p>25 196           <b>Q.</b> Have you reported any of that to</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>	<p style="text-align: right;">47</p> <p>1                   <b>it on camera at the time. I didn't have cameras in my</b></p> <p>2 <b>apartment at the time. I couldn't afford those yet. I</b></p> <p>3 <b>couldn't afford nothing at that point. I was -- I was</b></p> <p>4 <b>totally broke from my -- paying my last month's rent</b></p> <p>5 <b>and everything. I was -- just wanted to get my place</b></p> <p>6 <b>stable and my shit with my dog good so I didn't have to</b></p> <p>7 <b>worry about last month's rent and being outside ever</b></p> <p>8 <b>again.</b></p> <p>9   200           <b>Q.</b> Well, congratulations on finding</p> <p>10 an apartment and staying in it for two years. That's a</p> <p>11 legitimate accomplishment.</p> <p>12                  <b>A. Mm-hmm, thank you.</b></p> <p>13 201           <b>Q.</b> I do want to ask you a couple of</p> <p>14 questions about some doctors' notes. One of them is --</p> <p>15 this is a note from a Dr. Timothy O'Shea. It's not</p> <p>16 dated, so we don't know when he wrote it, or at least I</p> <p>17 don't know when he wrote it. But do you remember ever</p> <p>18 seeing a Dr. O'Shea?</p> <p>19                  <b>A. That's my doctor. I remember,</b></p> <p>20 <b>yeah. He came to me. He was the first doctor -- I met</b></p> <p>21 <b>that doctor right when I had COVID. He come and he</b></p> <p>22 <b>got -- he got -- he's the only person that cared at</b></p> <p>23 <b>that time. When I met him, my life changed, and so did</b></p> <p>24 <b>it when I -- as soon as I met Rachel, and he changed</b></p> <p>25 <b>more.</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>
<p style="text-align: right;">46</p> <p>1   the police?</p> <p>2                   <b>A. Oh, yeah, lots, lots of times.</b></p> <p>3   197           <b>Q.</b> Okay.</p> <p>4                   <b>A. Lots of times.</b></p> <p>5   198           <b>Q.</b> Are these the same people who were</p> <p>6   harassing you because --</p> <p>7                   <b>A. I'm not sure. I don't know. I'm</b></p> <p>8 <b>not sure, but I know weird shit's been going on. Like,</b></p> <p>9 <b>I call -- I got people coming to my door with swords.</b></p> <p>10 <b>I got people trying to kick my door. I had to get</b></p> <p>11 <b>cameras into my house. There were, like, cameras that</b></p> <p>12 <b>have -- I had to buy, like, secret cameras and cameras</b></p> <p>13 <b>that are from Bell that I had -- like, I can't even</b></p> <p>14 <b>really afford, that I had to put up so I got proof of</b></p> <p>15 <b>what they're doing to me.</b></p> <p>16 199           <b>Q.</b> What are the things that they're</p> <p>17 doing? How are they harassing you?</p> <p>18                  <b>A. People just trying to kick my door</b></p> <p>19 <b>in and somebody's leaving garbage by my door. Like,</b></p> <p>20 <b>they'll hit my -- some broad, she heard her girlfriend</b></p> <p>21 <b>in my apartment, and I'm like, "What are you talking</b></p> <p>22 <b>about? Get away from my door, man." And I didn't have</b></p> <p>23 <b>the cameras up at that time, so obviously she started</b></p> <p>24 <b>hitting my door with a sword and it's on camera. They</b></p> <p>25 <b>got it on camera. The building does, but I didn't have</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>	<p style="text-align: right;">48</p> <p>1   202           <b>Q.</b> Okay. So Dr. O'Shea came to you?</p> <p>2                   <b>A. He was the only person -- my mom</b></p> <p>3 <b>and my kids, we -- my mom died -- she was in the</b></p> <p>4 <b>building with me, obviously, but my mom would be</b></p> <p>5 <b>outside in the parking lot and I would be at a window</b></p> <p>6 <b>having her -- "Hello, how are you doing? Nice to meet</b></p> <p>7 <b>you." But Dr. O'Shea came in and pretty much shook my</b></p> <p>8 <b>hand and didn't care if I was sick. He actually had a</b></p> <p>9 <b>heart and didn't care about my -- that I had COVID.</b></p> <p>10 <b>You know, I thought I was dying. Like...</b></p> <p>11 203           <b>Q.</b> And Dr. O'Shea says he first met</p> <p>12 you in March of 2021. Does that sound about right to</p> <p>13 you?</p> <p>14                  <b>A. Yeah.</b></p> <p>15 204           <b>Q.</b> How often do you see Dr. O'Shea?</p> <p>16                  <b>A. Every Tuesday.</b></p> <p>17 205           <b>Q.</b> Every Tuesday? And is he --</p> <p>18                  <b>A. Sometimes -- not every Tuesday</b></p> <p>19 <b>because sometimes I can't get there sometimes, and I'm</b></p> <p>20 <b>sick sometimes. I get a hard time walking around</b></p> <p>21 <b>because I hurt my back and my leg.</b></p> <p>22 206           <b>Q.</b> Where do you see Dr. O'Shea?</p> <p>23                  <b>A. He was at the AIDS clinic over</b></p> <p>24 <b>here, and then from the AIDS clinic, he moved to 554</b></p> <p>25 <b>Main, and now they're moving to somewhere else. I'm</b></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc.</p> <p style="text-align: center;">(905) 522-1653</p>



<p style="text-align: right;">49</p> <p>1 not sure where they're moving to. I'm not sure if</p> <p>2 that's vacant. I'm not sure when they're moving</p> <p>3 either.</p> <p>4 207 Q. But it's his office that you go</p> <p>5 to?</p> <p>6 A. Yeah.</p> <p>7 208 Q. Okay. Dr. O'Shea has written</p> <p>8 down -- he says "to the best of my knowledge, Kristen</p> <p>9 has been homeless for at least the past three years."</p> <p>10 And then he goes on to say "Kristen has the following</p> <p>11 medical conditions." You don't go by the name Kristen,</p> <p>12 do you?</p> <p>13 A. No.</p> <p>14 209 Q. Okay. Maybe that was just a typo,</p> <p>15 but let me ask. Dr. O'Shea goes on to list four</p> <p>16 conditions: HIV infection, opioid use disorder,</p> <p>17 stimulant use disorder and posttraumatic stress</p> <p>18 disorder. Is that accurate you have those things?</p> <p>19 A. Yeah.</p> <p>20 210 Q. What is Dr. O'Shea treating you</p> <p>21 for?</p> <p>22 A. What you just said.</p> <p>23 211 Q. All of those things?</p> <p>24 A. Yeah.</p> <p>25 212 Q. Is there any reason you see him</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">51</p> <p>1 and stealing from you?</p> <p>2 A. Yeah. People that are -- people</p> <p>3 that's -- they're -- I'm pretty sure they stole that</p> <p>4 money off of me, and now I owe the government now.</p> <p>5 218 Q. The people who were coming to your</p> <p>6 tent and taking thing?</p> <p>7 A. Yeah. I have -- like, yeah.</p> <p>8 Some -- there's people -- like, we almost got</p> <p>9 kidnapped, me and my daughter, by the same guy. And I</p> <p>10 knew when I got off the bus. I knew that something was</p> <p>11 up with that white van. And I started -- I went to my</p> <p>12 doctor. That's when my doctor -- I went there. I had</p> <p>13 a routine. Every day I'd get up, I go to the Fortinos,</p> <p>14 I'd go in there with my dog, call a cab, get the cab,</p> <p>15 and come -- and they'd take me to Main Street to my</p> <p>16 pharmacy. Right? And so the cab driver started</p> <p>17 getting to know my route and stuff, my name and</p> <p>18 everything like that. And so the cab that kidnapped</p> <p>19 me, I tried to -- what happened was I tried to get out.</p> <p>20 I go, "Where are you going, bro?" I go, "You're going</p> <p>21 down the wrong way. Why aren't you going down -- my</p> <p>22 clinic's on Main." He sounded -- he was getting --</p> <p>23 "Why are you trying to turn down Queen Street for, bro?"</p> <p>24 We're at Cannon. What do you want to go to Cannon for?</p> <p>25 I'm not going anywhere. Let me the fuck out of the cab</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">50</p> <p>1 weekly? Is there medication that you have to get from</p> <p>2 him every week?</p> <p>3 A. Yeah.</p> <p>4 213 Q. Okay. Dr. O'Shea goes on to</p> <p>5 describe -- just bear with me one moment. On the</p> <p>6 second page, the first paragraph, he says that on at</p> <p>7 least two occasions you've been physically assaulted at</p> <p>8 your camping site.</p> <p>9 A. Yeah.</p> <p>10 214 Q. Do you know what he's referring</p> <p>11 to? Is that the difficulty you had with the people at</p> <p>12 Barton and Barnesdale?</p> <p>13 A. Yeah, those ones and the other --</p> <p>14 yeah, there's many. Like, the one cabbie, there was --</p> <p>15 yeah, there's lots of them. I can't remember which</p> <p>16 ones that he's writing about because there was many.</p> <p>17 215 Q. There were many times, okay. And</p> <p>18 he's talking --</p> <p>19 A. More than -- more than once and</p> <p>20 more than twice.</p> <p>21 216 Q. Okay. Dr. O'Shea says "she has</p> <p>22 lost all of her belongings on multiple occasions" --</p> <p>23 A. There was nothing --</p> <p>24 217 Q. -- "been subjected to verbal</p> <p>25 harassment." Again, is that the people who were coming</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">52</p> <p>1 now. Let me out." I start smashing the window. I</p> <p>2 opened -- I started opening the window and I got --</p> <p>3 able to get this open -- this much open, and I pushed</p> <p>4 my body out halfway out the fucking window and started</p> <p>5 screaming for help. Nobody would help me. Everybody</p> <p>6 would just drive by like it was okay. He was trying to</p> <p>7 get in that store. Then he crushed me in the window</p> <p>8 and broke my ribs and stuff. So then I got away. I</p> <p>9 ran. I got onto a bus. I went to the -- I went to my</p> <p>10 pharmacy. The pharmacy is closed, and then I went to</p> <p>11 the cop shop. Went to the cop shop and went to the --</p> <p>12 from the cop shop, they pretty much humiliated me. I</p> <p>13 said, "What do you guys think? I just got almost</p> <p>14 kidnapped by a cab, man." And then I forgot the cab</p> <p>15 number. Right?</p> <p>16 And then they tried -- I asked them. I</p> <p>17 go, "Why are you guys making me look like a fool, man?"</p> <p>18 Why are you guys, like -- I didn't pay the cab? I paid</p> <p>19 the cab, man. Why wouldn't I pay the cab? And then I</p> <p>20 went to the -- the Wesley Centre. They were closed.</p> <p>21 Then I went to the -- back to the -- I went across the</p> <p>22 street to the firehouse, told them. They humiliated</p> <p>23 me. So then I went to -- back to my doctor's and</p> <p>24 stayed there because I was scared. All day I didn't</p> <p>25 leave. I stayed there all day. I was in the room.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>



1 panicking. And then I got -- one of the people that  
 2 worked there, I got him to come to the pharmacy with  
 3 me, because now the pharmacy's open. I got them to  
 4 walk with me there. And we were -- "I'm going to show  
 5 you these trucks that are following me around, these  
 6 people. Watch." So she came with me and she seen  
 7 them. She seen it for her own eyes. I go, "Watch,  
 8 watch. He's going to come around the corner."  
 9 Watching it come around, watching it again. So she  
 10 seen the people that were following me around. She  
 11 goes, "Yeah, yeah."  
 12 And then I lost my medications that day  
 13 accidentally. I would have heard them fall out of my  
 14 coat, but I didn't hear. I didn't hear my medications  
 15 fall out, and I wasn't asking my doctor for another  
 16 script because I didn't want it to look like -- that I  
 17 lied. Right? Or something. So -- but she knew.  
 18 Like, I -- she even went back to go check for them.  
 19 She -- like, nobody's going to just leave, and then  
 20 they're going to obviously tag them. Right? So we  
 21 asked them if it was on camera, but nothing -- we  
 22 couldn't do nothing anyways. After she seen them, then  
 23 I kind of felt better because now they knew about it  
 24 and now I -- now every time something does happen or go  
 25 down at my house now -- from then, I call my doctor's

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1 about it right away or text him. I wrote everything  
 2 and I got it on camera now, so now nobody cannot not  
 3 believe me because I got cameras on. So I feel a  
 4 little bit safer with the cameras being on now.  
 5 219 Q. So you went to your doctor and  
 6 they helped you?  
 7 A. Yeah, they help me. They're the  
 8 only person -- people I have that are helping me.  
 9 It's -- you know, my mom died, and got the doctor --  
 10 Rachel, she's been, like, the best person in my life  
 11 right now.  
 12 220 Q. Let's talk about --  
 13 A. She helped -- she helped me and my  
 14 mom. Like, my mom was sick with cancer. She went to  
 15 my mom's house to see, like, out of her own time to go  
 16 see my mom and help my mom before she died.  
 17 221 Q. Dr. Rachel has also written a  
 18 letter for you, and I'm going to put it up on the  
 19 screen. Dr. Rachel -- for the record, it's Dr. Rachel  
 20 Lamont. That's who you were talking about. Right?  
 21 The psychiatrist?  
 22 A. Yeah.  
 23 222 Q. She says she's been your treating  
 24 psychiatrist since October 2021. Is that correct?  
 25 A. Yeah.

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1 223 Q. How often do you see Dr. Lamont?  
 2 A. Every time I go into my doctor's.  
 3 224 Q. Every time --  
 4 A. Well, I see one. I see Tim, then  
 5 I see her -- her -- her and then Tim, one of the two.  
 6 225 Q. Okay. So --  
 7 A. When my mom was sick, I wasn't  
 8 going every -- every -- because I couldn't leave my  
 9 mom. I wasn't going -- I was getting my stuff  
 10 delivered because it was that bad. My mom was  
 11 deteriorating that bad. Okay? So it got real bad. It  
 12 got, like, real bad, and then finally -- she finally  
 13 passed -- like, she passed away May 4th. That was the  
 14 worst thing that could happen to me on top of  
 15 everything else.  
 16 226 Q. I'm sorry to hear of your mother's  
 17 passing. And Dr. Lamont was able to help you with your  
 18 grief from your mother's passing?  
 19 A. They were helping me.  
 20 227 Q. Now, Dr. Lamont says that you were  
 21 evicted by the City from a tent in November 2021 which  
 22 led you to have to return to an abusive living  
 23 situation. Do you remember anything like that  
 24 happening?  
 25 A. Yeah.

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1 228 Q. Where were you evicted from? Do  
 2 you --  
 3 A. Everywhere. Everywhere we went we  
 4 were evicted from.  
 5 229 Q. And that's what you were  
 6 describing to me before when the City came and said you  
 7 have to move?  
 8 A. Yeah.  
 9 230 Q. Do you remember specifically which  
 10 one she's talking about --  
 11 A. No. I just remember we got  
 12 harassed by everybody, everywhere we went. We even --  
 13 the City told us to go there. They'd harass us.  
 14 231 Q. But the people who are harassing  
 15 you are other people; it's not the City people. Right?  
 16 A. I don't know if they're City  
 17 people. It could be. I don't know. I had so many  
 18 people harass me. I had to sit in my tent scared every  
 19 single day, man, and watch them watch me. I couldn't  
 20 sleep. I couldn't sleep for weeks, man. I'd stay  
 21 awake, man. I had to --  
 22 232 Q. And what was the abusive --  
 23 A. -- get -- I always leave -- that's  
 24 why I got that couple -- they moved me right in the  
 25 backyard, and then people helped me, man. They know

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<p style="text-align: right;">57</p> <p>1 the truth about everything, man, because there was</p> <p>2 those people who would follow me around. They were</p> <p>3 trying to -- I don't know what they were trying to do,</p> <p>4 but they moved my home. They moved me in -- moved the</p> <p>5 tent into the backyard, which is right behind that</p> <p>6 building on Barnesdale. And then from there, we moved</p> <p>7 to the other place, the other places they moved -- we</p> <p>8 were all over. My daughter would go -- wherever my</p> <p>9 daughter would go -- like, I didn't want to leave my</p> <p>10 daughter behind.</p> <p>11 233 Q. Okay. So what --</p> <p>12 A. I was trying to get it together.</p> <p>13 I needed to take care of her. Right?</p> <p>14 234 Q. All right. Can I just pause you</p> <p>15 there, though? I want to ask because Dr. Lamont says</p> <p>16 you returned to an abusive living situation. Do you</p> <p>17 remember that? What was that?</p> <p>18 A. Everything was abusive. Like, I</p> <p>19 was with -- with the person I was staying with, he</p> <p>20 tried -- it was abusive. Just -- I don't know. Just</p> <p>21 like -- I don't remember. I know that every time -- I</p> <p>22 was living with a few people at my -- several people at</p> <p>23 my camp with me were abusive to me. And then I let</p> <p>24 them come back, and they'd do it again and they did it</p> <p>25 again. And then he just keeps coming around. He's</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">59</p> <p>1 The snow was coming down, bro. All I cared about was</p> <p>2 taking care of my fucking dog. <span style="color: red;">A4779</span></p> <p>3 240 Q. So the people from --</p> <p>4 A. We had to bring her around and put</p> <p>5 her in something. It was cold outside, man.</p> <p>6 241 Q. So the people who were harassing</p> <p>7 and ripped down your tent, took your tent, or ripped</p> <p>8 it -- and you went to sleep in a dumpster, where you</p> <p>9 went to sleep out in the cold with your dog. Correct?</p> <p>10 A. Yeah.</p> <p>11 242 Q. How long would you have done that</p> <p>12 before finding a tent again?</p> <p>13 A. Random times. Sometimes had to</p> <p>14 wait the whole month to get a tent. I couldn't afford</p> <p>15 it all the time. Like, sometimes I got -- couple times</p> <p>16 from ASM (ph), one for my daughter and one for me, and</p> <p>17 one more from them. Thank god I got that. And then I</p> <p>18 was on my own. Sometimes people -- like, I have -- one</p> <p>19 of my friends, he bought a sheet to put up, but it</p> <p>20 wasn't even a tent. It was something else, but I made</p> <p>21 it into a tent.</p> <p>22 243 Q. Did you try to get into shelter at</p> <p>23 that time?</p> <p>24 A. Every day, of course, yeah.</p> <p>25 244 Q. And what happened when you tried</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">58</p> <p>1 still coming around.</p> <p>2 235 Q. Ms. Lewis, you've been very</p> <p>3 patient. I think I'm getting close to being done.</p> <p>4 Have you ever slept in a dumpster?</p> <p>5 A. Yeah.</p> <p>6 236 Q. How many times have you done that?</p> <p>7 A. A lot.</p> <p>8 237 Q. I take it you wouldn't have done</p> <p>9 that since you became housed. Right?</p> <p>10 A. No.</p> <p>11 238 Q. Do you remember when you slept in</p> <p>12 a dumpster, when that would have been?</p> <p>13 A. When I was homeless, lots of</p> <p>14 times.</p> <p>15 239 Q. Why would you stay in a dumpster</p> <p>16 as opposed to in your tent?</p> <p>17 A. Because they fucking ripped my</p> <p>18 tent apart, bro, when we were sleeping in our tent.</p> <p>19 There was shit out there, outside in the woods. I had</p> <p>20 to sleep on the fucking ground, cover up with leaves,</p> <p>21 me and my dog. We were on the snow in wintertime with</p> <p>22 the leaves on us, man, because I learned it from a</p> <p>23 show, like TV. So that's what I did. I put my dog on</p> <p>24 my coat, with skin to skin, and covered us up with</p> <p>25 fucking leaves over us, man. We slept on the snow.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">60</p> <p>1 to get into shelter --</p> <p>2 A. I got a dog.</p> <p>3 245 Q. Because of your dog. Did you stay</p> <p>4 with other people in their tents at any time after your</p> <p>5 tent was torn down --</p> <p>6 A. I don't have any friends because I</p> <p>7 got -- I got that thing that I -- agoraphobia, so I</p> <p>8 can't -- I don't know. I can't be around people, man.</p> <p>9 I'm scared to be around people and stuff. I hardly</p> <p>10 come out of my house, man. I'm scared to come out.</p> <p>11 246 Q. Have you ever slept in an</p> <p>12 abandoned car?</p> <p>13 A. Yeah.</p> <p>14 247 Q. How many times?</p> <p>15 A. Lots.</p> <p>16 248 Q. Are you able to say anything more</p> <p>17 particularly than just "lots"?</p> <p>18 A. No. Just lots, a lot of times. I</p> <p>19 remember I didn't have anywhere else to go, man, so I</p> <p>20 slept on the train tracks, in the back of a -- a door</p> <p>21 was open. There was a place where they had a bunch of</p> <p>22 cars lined up. Mallory was sleeping in a truck, cube</p> <p>23 truck, and that's what she showed me. And I had --</p> <p>24 like, I didn't want to sit there with her boyfriend</p> <p>25 with her, so I had to go somewhere. Right? So I went</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. <span style="color: red;">A495</span> (905) 522-1653</p>

<p style="text-align: right;">61</p> <p>1 to the first car and the door was open, so I -- and</p> <p>2 they had -- there were bags, so I covered the window,</p> <p>3 put some bags in there so you couldn't see me in the</p> <p>4 back, laying in the back there. That's where I stayed</p> <p>5 for maybe three, four weeks.</p> <p>6 249 Q. At any time when you were staying</p> <p>7 in the car, did you try to get into shelter?</p> <p>8 A. Yeah.</p> <p>9 250 Q. Do you remember when that was?</p> <p>10 A. In the winter.</p> <p>11 251 Q. In the winter. Do you remember</p> <p>12 which winter it was?</p> <p>13 A. No.</p> <p>14 252 Q. Okay.</p> <p>15 A. I just know it was one of the</p> <p>16 winters when it was -- when it got really bad. It was</p> <p>17 really bad the whole time, but I can't tell you when.</p> <p>18 I just remember it happened, and I know where it was</p> <p>19 now. I just remembered a cube van. Mallory showed me,</p> <p>20 because she -- we got kicked out of the other place,</p> <p>21 and then...</p> <p>22 253 Q. Which shelter did you go to?</p> <p>23 A. They moved me to Mary's Place. I</p> <p>24 mean, they moved me to -- yeah, Mary's Place.</p> <p>25 254 Q. Okay. You told me about that</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">63</p> <p>1 allowing those records to be disclosed in this <span style="color: red;">A4780</span></p> <p>2 litigation?</p> <p>3 A. Yeah.</p> <p>4 261 Q. That's a yes --</p> <p>5 A. Yes, yeah.</p> <p>6 262 Q. All right. We've already provided</p> <p>7 a copy of the form to your lawyer. We can have that</p> <p>8 arrangement made. Okay, I don't have any further</p> <p>9 questions for you, Ms. Lewis. Thank you.</p> <p>10 A. Thank you.</p> <p>11 RE-EXAMINATION BY MS. CROWE:</p> <p>12 263 Q. I just have a few questions for</p> <p>13 you. Okay?</p> <p>14 A. Mm-hmm.</p> <p>15 264 Q. Can I call you Ammy?</p> <p>16 A. Yeah.</p> <p>17 265 Q. Okay. The first is I just want to</p> <p>18 clarify when you first met with someone about this</p> <p>19 affidavit in June 2022. I realized, Counsel, that we</p> <p>20 are going to waive a very small and distinct portion of</p> <p>21 solicitor-client privilege because we do think it's</p> <p>22 important to understand everyone, that there is a</p> <p>23 retainer and a direction to her knowledge leading up to</p> <p>24 today's examination. So the first thing I want to ask,</p> <p>25 Ammy, is do you remember meeting with me at Wesley</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">62</p> <p>1 before, but I was asking if you tried to go to shelter</p> <p>2 before sleeping in the car --</p> <p>3 A. I've been trying to go to shelter</p> <p>4 the whole time. They won't -- no shelters will take me</p> <p>5 because of the dog.</p> <p>6 255 Q. Okay. So again, you didn't want</p> <p>7 to leave your dog, so you stayed outside. Right?</p> <p>8 A. Mm-hmm.</p> <p>9 256 Q. That's a yes?</p> <p>10 A. Yes.</p> <p>11 257 Q. Are you able to estimate for me</p> <p>12 how many times you've stayed outside, outside of a</p> <p>13 tent?</p> <p>14 A. Lots of times, man.</p> <p>15 258 Q. And --</p> <p>16 A. About 20 -- 20 times, maybe.</p> <p>17 259 Q. About 20 times, okay. Just give</p> <p>18 me a moment. I'm going to take a look and review my</p> <p>19 notes. Let's go off record for a moment.</p> <p>20 --- (Off the record)</p> <p>21 BY MS. SHORES:</p> <p>22 260 Q. Ms. Lewis, the City of Hamilton</p> <p>23 keeps records about your attempts to stay in shelter</p> <p>24 and obtain assistance including shelter stays and</p> <p>25 service restrictions. Will you sign an authorization</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">64</p> <p>1 Centre?</p> <p>2 A. Yeah, I do.</p> <p>3 266 Q. Okay, great.</p> <p>4 A. Yeah, I remember. You were at the</p> <p>5 table.</p> <p>6 267 Q. Yeah. You remember talking about</p> <p>7 encampment evictions?</p> <p>8 A. Yeah.</p> <p>9 268 Q. Okay, great. And then I want to</p> <p>10 fast-forward because I know that was two years ago. Do</p> <p>11 you remember me calling you yesterday to talk about</p> <p>12 this examination?</p> <p>13 A. Yes.</p> <p>14 269 Q. Do you remember me going over your</p> <p>15 affidavit?</p> <p>16 A. Yeah, yes.</p> <p>17 270 Q. Do you remember me asking you if</p> <p>18 it sounded right?</p> <p>19 A. Yes.</p> <p>20 271 Q. I think that's good, then.</p> <p>21 A. Thank you.</p> <p>22 272 Q. Just a couple of very quick</p> <p>23 questions. Just one second. Who is your current</p> <p>24 landlord?</p> <p>25 A. I'm not sure. I do not know their <span style="color: red;">A496</span></p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

		65
1	names.	
2	273	Q. Okay.
3		A. They aren't -- like, I don't do --
4		I give direct payment, so I don't really know who they
5		are. I just know I live at 95 Hess, and the money goes
6		to them.
7	274	Q. 95 Hess, okay.
8		A. It's Vanier Towers.
9	275	Q. Okay. You mentioned that it was
10		market rent.
11		A. Yeah, it's market rent.
12	276	Q. How much is your rent?
13		A. Six-something.
14	277	Q. How much is your income from ODSP?
15	R/F	MS. SHORES: Counsel, I'm going to have
16		to object and I'm going to give some of the same
17		objections that Mr. Diacur gave. This is not
18		clarifying an answer that was given. This is expanding
19		on some of the answers that were given previously,
20		which is not proper scope. Now, I was quite lenient
21		earlier in the day and that does not seem to have been
22		rewarded with a return in courtesy. So again, Counsel,
23		I'd ask you to restrict your re-examination to the
24		proper scope of re-examination, which is clarifying any
25		ambiguities in the answers that were given on the
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		66
1		cross-examination and not expanding the evidence
2		otherwise.
3		MS. CROWE: I think we have a
4		disagreement on whether this is clarifying or
5		expanding, but at any rate, I'll move on.
6		BY MS. CROWE:
7	278	Q. You mentioned that your tents were
8		torn up at different times?
9		A. Mm-hmm.
10	279	Q. You also mentioned being evicted
11		by the City at different times?
12		A. Yeah.
13	280	Q. Did the City ever take your tent
14		in the course of an eviction?
15		A. Yeah, they would, yeah.
16	281	Q. Do you know how many times?
17		MS. SHORES: Counsel --
18		THE DEPONENT: A couple times.
19	R/F	MS. SHORES: Counsel, I'm going to
20		object again. The record will show that Ms. Lewis was
21		taken through this chronology several times to the
22		point where she even complained about it and asked if I
23		was trying to trip her up. Now you're asking her the
24		exact same questions and doing so in a way that
25		suggests --
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		67
1		THE DEPONENT: No, she's not.
2		MS. SHORES: -- a different answer.
3		And in fact, you asked a leading question about whether
4		the City ever took her tent when she gave evidence when
5		asked proper open-ended questions earlier --
6		THE DEPONENT: I never -- what are you
7		talked about, man?
8		MS. CROWE: Number one, I think her
9		frustration was with an entirely different line of
10		questioning.
11		THE DEPONENT: Yeah, it was.
12		MS. CROWE: And number two, my question
13		is not leading if I ask her about what happened in the
14		course of evictions --
15		MS. SHORES: That's not what you asked,
16		Counsel.
17		MS. CROWE: Well, I think I'm --
18		MS. SHORES: The transcript will be
19		quite clear as to what was asked and what was suggested
20		to this witness.
21		MS. CROWE: Right. Well, I --
22		MS. SHORES: And I'll ask you again to
23		constrain your re-examination to the proper scope of
24		re-examination, which is not revisiting evidence and
25		trying to get different answers.
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		68
1		MS. CROWE: I'm not revisiting evidence
2		and trying to get different answers. I am asking
3		questions that are based on both the affidavit and the
4		questioning that was put forward to her in cross.
5		MS. SHORES: Again, the proper scope of
6		re-examination is clarifying ambiguities and dealing
7		with issues that were raised on cross-examination. It
8		is not revisiting the same evidence and attempting to
9		get different answers.
10		MS. CROWE: Well, again, I think we're
11		just going to have to agree to disagree on the scope
12		and the intention behind that question. At any rate,
13		she's given an answer and I understand that you're
14		objecting.
15		MS. SHORES: I'm objecting and I'm also
16		stating on the record that I believe the witness was
17		led to that answer and it has no reliability.
18		THE DEPONENT: She didn't lead me to
19		nothing, man. Nice try, though. She didn't lead me on
20		nothing.
21		MS. SHORES: If this continues, we are
22		going to have to adjourn these examinations to get
23		directions.
24		THE DEPONENT: You're the one...
25		MS. SHORES: Please continue, Counsel.
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A4782

1 MS. CROWE: I think those are my  
2 questions.

3 MS. SHORES: Thank you.

4 --- Whereupon proceedings adjourned at 6:07 p.m.

5 I HEREBY CERTIFY THE FOREGOING  
6 to be a true and accurate transcription  
7 of my shorthand notes  
8 to the best of my skill and ability.

9  
10   
11 [Electronically signed on August 23, 2024]

12 Lydia Pak, Court Reporter  
13 Computer-Aided Transcription  
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A498

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD, ET AL.**

Applicants

-and-

**CITY OF HAMILTON**

Respondent

AFFIDAVIT OF ASHLEY MACDONALD

1. I, ASHLEY MACDONALD, of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
3. I am Indigenous.
4. I am a recipient of the Ontario Disability Support Program but only receive the basic needs portion because I do not have shelter costs while homeless.
5. I have been diagnosed with Obsessive Compulsive Disorder, Fetal Alcohol Syndrome Disorder, Depression and Substance Abuse Disorder.
6. I have been homeless on and off throughout my life. I have not had a home aside from my tent, since 2020 when I was unlawfully evicted from my rental unit.
7. Since 2020 I have been residing in tents in parks throughout Hamilton and have been evicted from them without guaranteed shelter to move into. As a result, I am constantly being moved into other parks and public spaces.
8. However, during the period of the Encampment Protocol, I was entitled to stay in my encampment indefinitely because I was too high acuity to enter shelter. Remaining in one





location during that time created more stability and I was better able to routinely connect to street outreach support such as Indigenous Housing Services through the Homeward Bound program, receive food drop off, and mobile health care provided by Dr. Wiwcharuk. It is difficult to access doctors outside of your immediate area and risk theft of your possessions if you leave your encampment. I have also chosen to encamp close to safe injection sites to prevent the risk of overdose and unsafe injections. Once the Encampment Protocol ended, I was evicted from my encampment with nowhere to go. I have been more transient and less stable since.

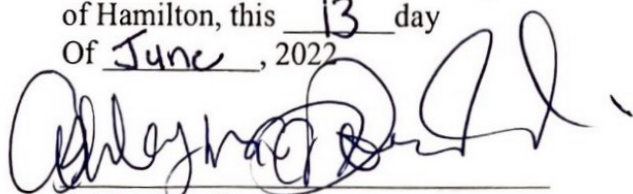
9. Of the times that I am homeless, I am more often than not unable to access shelter because they have been full or I have been service restricted from them.
10. When I was in a relationship, I was unable to enter the shelter system as a couple because I was told there was no space as a couple.
11. Even if my partner is able to enter the men's shelter, it is unsafe for me to remain outside alone when I cannot get into the women's shelter. In one instance, while we were apart and I was on the street alone, I was jumped and assaulted so badly that I sustained a serious head injury.
12. As well, I prefer to remain with my partner because we can help one another survive and this also helps to maintain some stability.
13. I am often without a cell phone which means that reconnecting with a partner once separated can be difficult. Without a cell phone it is also difficult to remain connected to services.
14. In the month of July in the year of 2020, my partner and I lived at the encampment located by the Wesley Day Centre.
15. I was staying at encampments at Sir John A. MacDonald, but were forcefully evicted from that encampment by by-law and had no shelter to enter when this took place because they were all full.
16. I have been evicted by by-law from various encampments even when I cannot get into shelter.
17. I want to avoid confrontation with by-law and the police because they are intimidating, I want to avoid criminal charges and minimize the risk that they tear down my tent despite my protest. For these reasons, when an enforcement is taking place, I have no option but to comply.
18. I have had a VI-SPDT administered and I scored in the high acuity range. I have been told by shelters and transitional housing programs that I am too high needs for their

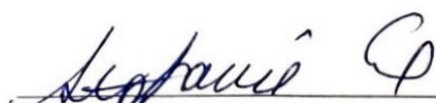


programs. My high needs have been the basis to exclude me from the shelter and transitional housing programs.

19. Evictions from encampments are stressful, intimidating and traumatizing. You don't know where you are going to go to stay safe after them.
20. When my tent is removed and I am moved, I lose connection to health care and outreach supports and am at greater risk of overdose because of the loss of community that comes with an encampment where people will look out for you. I am also at greater risk of assault because I am more alone when these encampment communities are broken up.
21. my ex-landlord is part of a human trafficking ring. When I was living there women were being trafficked through the house. I have been threatened by this ex-landlord. He has followed me around. He recently assaulted me.
22. Despite all authorities knowing that I am a victim, I have been kicked out of CAP; despite being told I need to check in with them to confirm that I am not kidnapped or hurt. They are also routinely full.
23. Since 2020 I have been service restricted from shelters.
24. I have nowhere to go. By-law continues to cuss me from public spaces even without a tent and they threaten tickets. I have been issued roughly 50 tickets between by-law and police.

SWORN BEFORE ME in the City  
of Hamilton, this 13 day  
Of June, 2022

  
Ashley MacDonald

  
Commissioner  
LSUC 65464F



Continuation

24. For example, I have also been issued a ticket <sup>A4786</sup> for being in a park at 6:00pm even though it wasn't dusk.
25. I have had roughly 80-100 cell phones stolen in the past 6 months. My ID has also been stolen 3 times. I have now memorized my health care.
26. I have no where to go to shower and clean myself. If I go to a bathroom in the mall, security will assume I'm doing drugs and will kick me out.
27. I am routinely being jumped and assaulted by men while I am living on the street. Sometimes they are deterred by the male friends with me, other times not because they are bigger.
28. I don't know where I can legally be and exist.
29. I just want to be housed. I'm very tired of being pushed around and in this cycle.

 <sup>A502</sup>

Ashley MacDonald- 1

12:00:53PM

COURT FILE NO. CV-21-77187

SUPERIOR COURT OF JUSTICE

B e t w e e n:

KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH, MARIO  
MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE  
DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA  
JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD,  
COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL  
PIERRE, LINSLEY GREAVES and PATRICK WARD

Applicant(s)

- and -

CITY OF HAMILTON

Respondent(s)

-----

Cross-examination on Affidavit sworn June 13, 2022  
of ASHLEY MACDONALD, an Applicant herein, taken upon  
affirmation in the above action this 10th day of  
October, 2024, via videoconference, through the  
offices of Nimigan Mihailovich Reporting, Hamilton,  
Ontario.

-----

APPEARANCES:

CROWE, SHARON  
SELL, CURTIS FOR THE APPLICANT(S)  
(Community Legal Clinic of York Region)

SHORES, BEVIN FOR THE RESPONDENT  
Also Appearing: Liz Marr  
(Gowling WLG)

NIMIGAN MIHAILOVICH REPORTING INC.

Hamilton, Ontario - nmreporting.ca - (905) 522-1653

## I N D E X

WITNESS: Ashley MacDonald

EXAMINATION BY: PAGE NO.

Ms. Shores.....3

## UNDERTAKINGS

Reporter's note: The following indices of undertakings, under advisements and refusals are provided for the assistance of counsel and do not purport to be complete or binding on the parties herein.

UNDERTAKINGS:

UNDER ADVISEMENTS:

REFUSALS:

## E X H I B I T S

EXHIBIT NO. DESCRIPTION PAGE NO.

**NIMIGAN MIHAIOVICH REPORTING INC.**

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Ashley MacDonald - 3

-- Upon commencing at 1:30 p.m.

ASHLEY MACDONALD, AFFIRMED  
EXAMINATION BY MS. SHORES:

1 Q. Good afternoon, Ms. MacDonald. As I introduced off the record, my name is Bevin Shores; my pronouns are she and her, and I am one of the lawyers for the respondent, the City of Hamilton, in this proceeding, and I will also indicate for the record that we're here for a cross-examination on an affidavit that you swore dated June 13, 2022. Can I start by getting you to please state your full name for the record?

A. Ashley Lynn MacDonald.

2 Q. Okay, and are there any names that you go by other than Ashley?

A. Yes, my step-dad's and my married name, Greene.

3 Q. You said Greene?

A. Yes, with an "e".

4 Q. So G-r-e-e-n-e?

A. G-r-e-e-n-e.

5 Q. Thank you. And do you have any pronouns that you wish to share?

A. No.

6 Q. You confirm that you've just been

**NIMIGAN MIHAIOVICH REPORTING INC.**

Hamilton, Ontario - nmreporting.ca - (905) 522-1653

Ashley MacDonald - 4

affirmed to tell the truth today?

**A4788**

A. Yes.

7 Q. All right. If during this cross-examination you don't understand one of my questions or you don't hear me, please let me know and I can repeat it or rephrase it for you; is that understood?

A. Yeah.

8 Q. Okay. And you can confirm that other than your lawyer, you're alone in the room?

A. Yes.

9 Q. Okay. And you understand that you're not to have any assistance in giving your answers today, that your evidence has to be yours, correct?

A. Yes.

10 Q. All right. And just a reminder as well to please give verbal responses, and keep your voice up so that Ann, our court reporter, can hear you and makes sure she gets down your evidence. If you forget, one of us will let you know, but just try to remember if you can; is that understood?

A. Yes.

11 Q. Okay. Before coming today, have you reviewed your affidavit dated June 13, 2022?

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Ashley MacDonald - 5

A. Yes.

12 Q. And can you confirm that everything in your affidavit is accurate?

A. Yes.

13 Q. How long have you lived in Hamilton?

A. Pretty much my whole life.

14 Q. Okay. And you're attending from Hamilton today? You're at your lawyer's office, I understand?

A. Not at my lawyer's office. I'm on another site, but I'm with my lawyer, yes.

15 Q. Sorry, where are you attending from today?

A. My residence, Dorothy Day.

16 Q. Dorothy Day, okay.

A. Yeah.

17 Q. And that's in Hamilton?

A. Yes.

18 Q. Okay. Now, you said that's your residence. How long have you been staying there?

A. Since June 29th, last year.

19 Q. So that would be June 29th of 2023?

A. Yes.

20 Q. I want to take you to your affidavit. And actually, sorry, I'm just going to

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**A504**

ask you a little bit more about your current status. So you've been at Dorothy Day since about June of 2023. And how did you obtain your housing at Dorothy Day?

**A.** Actually, I don't really know how to answer that because I don't really know; it just kind of came out of nowhere. They kind of -- they asked me to lead by example and advocate for girls. So I'm not really sure of what organization is behind it.

**21 Q.** Okay, but some organization helped facilitate you --

**A.** I believe Social Nav had a lot to do with it.

**22 Q.** And when you say Social Nav, you mean the Social Navigator?

**A.** Yeah, the paramedics.

**23 Q.** So I want to ask you -- and I'll take you to your affidavit; I'm going to share my screen again. All right. So at paragraph 4 of your affidavit you say that you're a recipient of the Ontario Disability Support Program but only receive the basic needs portion "because I do not have shelter costs while homeless."

Has that changed now that you have

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Clinic. My disorders came from there.

**30 Q.** Okay. So would that have been around the same time that you received your obsessive compulsive disorder diagnosis, around the age of 19? **A4789**

**A.** Yeah, yeah.

**31 Q.** Okay. And then the same thing with depression and substance use disorder?

**A.** Yeah, I had depression and substance uses since I was a teenager.

**32 Q.** Okay. Now, at paragraph 6 of your affidavit you describe that you've been homeless on and off throughout your life, and then at the time that you gave this affidavit in June of 2022, you had not had a home aside from your tent since 2020 when you were unlawfully evicted from your rental unit.

Also in your affidavit, if we go down to paragraph 21, you describe your ex-landlord who is part of the human trafficking ring. Was that the same landlord, the one who unlawfully evicted you?

**A.** Yes.

**33 Q.** Okay. And you also say at paragraph 21 of your affidavit that this ex-landlord **NIMIGAN MIHAIOVICH REPORTING INC.**

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housing?

**A.** Yes.

**24 Q.** Okay. So do you get some form of housing benefit for ODSP now as well?

**A.** Yes.

**25 Q.** Okay. Do you remember how much that is?

**A.** 525, I believe.

**26 Q.** And that's per month?

**A.** Yes.

**27 Q.** And at paragraph 5 you describe that you've been diagnosed with obsessive compulsive disorder, fetal alcohol syndrome disorder, depression, and substance use disorder. Do you remember when you were diagnosed with obsessive compulsive disorder?

**A.** Many years ago. Not exactly -- not the exact date. I was 18 or 19, I think.

**28 Q.** And --

**A.** I don't remember clearly that long ago, though.

**29 Q.** Fetal alcohol syndrome, I assume that was something you were diagnosed with at birth?

**A.** No. Well, yeah, it came from birth, but I was diagnosed from St. Joe's Women's Health

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followed you around and recently assaulted you?

**A.** That's correct.

**34 Q.** When did that assault occur?

**A.** I think it was 2020, but I'm not a hundred percent. It was after I was evicted from there.

**35 Q.** Okay, do you remember where the assault happened?

**A.** Yeah, it was in front of the Big B on Caroline and Hunter.

**36 Q.** And what happened during the assault? Like what were you doing, or how did this ex-landlord approach you?

**A.** He came out of a vehicle with a female and approached me with (unclear) I guess, an affidavit from an officer who reiterated what I had said during the raid. So it wasn't my words exactly; it was what the officer said I said, and he punched me in the face for that.

**37 Q.** You said it happened in front of the Big B. Was that where you -- were you hanging out in front of the Big B or were you about to go in there?

**A.** No, we were about to go in there.

**38 Q.** After the assault occurred, did you **NIMIGAN MIHAIOVICH REPORTING INC.**

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seek medical attention?

A. No.

39 Q. Other than the landlord and the woman who was with him, was there anyone else around?

A. Yeah.

40 Q. Anybody that you know? Like were there witnesses?

A. Yeah, there was four of my friends with me.

41 Q. And what did your friends do?

A. Read the affidavit, as silly as that sounds. And they told him that affidavit was what an officer said, not what I said, so doesn't make me a rat. He was accusing me of being a rat, ratting him out.

42 Q. And when this assault occurred, did you contact any authorities about the assault?

A. No.

43 Q. If we go back to paragraph 7 of your affidavit, you described that since 2020 you've been residing in tents in parks throughout Hamilton. I want to just get a little bit more of a timeline, if we may, about where you were living when. So at paragraph 8 you described that during the period of

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the encampment protocol you were entitled to stay in your encampment indefinitely because you were too high acuity to enter shelter.

So let's just start with establishing a timeline. When you were evicted from your rental unit, was the encampment protocol already in place? Do you remember about what time of year it was?

A. No, it wasn't in place yet.

44 Q. Do you remember what time of year it was?

A. I believe it was summer going into fall, but I'm not a hundred percent on that one.

45 Q. And where did you go, do you remember, after you were evicted?

A. Ferguson was the first encampment.

46 Q. Ferguson. And how long did you stay there?

A. Throughout the whole time the encampment was there.

47 Q. Okay. And when did you stop living there?

A. I can't be sure of that.

48 Q. If I suggest to you that the Ferguson encampment was, I'll say disbanded as part

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of an agreement between groups like HAMSMaRT and Keeping Six, would that sound about right to you? **A4790**

Would that be around the time you left or would it be some other time?

A. No, HAMSMaRT and Keeping Six, Dr. Jill, they were all involved. So Social Nav I believe started -- the program started, I think the Social Navigation Team, they just started that program at the end of the, during the Ferguson encampment. So I'm not sure when that was, though.

49 Q. Okay.

A. I would say maybe.

50 Q. Okay, that's fair. All you can do is do your best to give us your memory. And would I be correct in understanding, though, that when you left that encampment, it was part of that agreement?

A. What agreement are we talking about?

51 Q. Well, I'll suggest to you, and you can tell me if you understand differently, that there was an agreement between HAMSMaRT and Keeping Six for the disbanding of the Ferguson encampment about when it was to be done, that people were to be offered shelter, those kinds of things. Does that --

A. They were offering hotels at the end

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of the Ferguson when they were offering hotels. And then they probably did, I believe that's when they probably put couples at one of the hotels. Um, yeah. It was at the beginning of the hotels on Dundurn.

52 Q. And were you one of the people who were offered a hotel?

A. Yeah, for a short time I was offered a hotel at Dundurn; and I was kicked out, but I can't remember exactly why.

53 Q. Okay, the hotel on Dundurn -- we'll come back to that in a minute because I just want to clarify for you. In fairness to you, you say in paragraph 14 of your affidavit that in July of 2020 you lived with your partner at the encampment located by the Wesley Day Centre; is that correct?

A. Yes.

54 Q. So would that have been before you went to Ferguson?

A. I guess that would have been after. It would have been after Ferguson.

55 Q. But if you went into --

A. No, no, no. So we would have been evicted beforehand -- see, I don't know if it was after or before. My memory cannot -- I can't.

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remember if we were there before or after.

**56 Q.** All right. And just focusing again on when you were at the encampment by Wesley Day Centre, do you remember exactly where you were camping? Like was it in a park or a parking lot?

**A.** We were on the street.

**57 Q.** On the street, okay. Like physically on the --

**A.** Yeah, everybody was on the street, on the sidewalk.

**58 Q.** I'm sorry, I didn't catch that?

**A.** All the tents were on the sidewalks.

**59 Q.** On the sidewalk. And how long were you there? How long did you camp there?

**A.** I don't know. It's really hard to put a timeline. I'm an addict; days go into night, night goes into days so I can't -- I'm struggling with the timeline.

**60 Q.** Would you be able to say whether it a number of days, a number of weeks, a number of months?

**A.** That I was at Ferguson?

**61 Q.** At Wesley?

**A.** At Wesley, we were there for months.

**62 Q.** For months. And why did you stop

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at Wesley, and I just wanted to know how much advance notice they gave you? **A4791**

**A.** I don't really -- to be fair, I don't think there was really much of a notice other than when they came and they just offered the hotels. Like they were saying it was going to come, but there was no, like, definite date that it was going to be taken down.

**66 Q.** And did you take the offer of a hotel?

**A.** Eventually I did, yeah.

**67 Q.** Okay. And what did you do with your things? Were you able to take them with you?

**A.** No, we were only allowed to take very few things with us, and they threw the rest of it out.

**68 Q.** Did you tell them that you wanted to keep anything or ask where you could store things that you couldn't take with you?

**A.** Yes.

**69 Q.** And what --

**A.** They said we could get our own storage units, but we needed ID and stuff and that a lot of people didn't have ID. So they ended up offering a month's storage with the city for me and

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camping at Wesley?

**A.** That was when they dismember -- dismantled the tents and offered the hotels.

**63 Q.** So someone -- so when you say dismantled the tents, did they tell you beforehand that they were going to come to do that?

**A.** Yeah, they told us that they would offer tents, um, people offered as they were available, and then somehow we all just ended up going to hotels.

**64 Q.** And do you remember how long it was before, like, when they came to say we're going to come by and dismantle, if that's what they said, how long it was between then and when you got into a hotel?

**A.** I want to say it was probably eight months to a year, but I'm not a hundred percent on that. I know we were there in the winter because I was in the hospital for a surgery, so I know it was still at Wesley Centre in the winter.

**65 Q.** I think I might have phrased my question in a way that was confusing, so let me just in fairness to you make sure you understand. So you said on that one they said they were going to, I think you used the word "dismantle" the encampment

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a few people, but it was only for a month, and then they threw our stuff out anyway.

**70 Q.** So did you take them up on the offer for storage?

**A.** Yeah, for the month I did.

**71 Q.** Okay. And --

**A.** But I lost all my stuff anyway.

**72 Q.** And how did that happen?

**A.** Because we had to be housed by the time, like, the month was up, and we were still in the shelter -- or the hotels.

**73 Q.** Couldn't you get your stuff and bring it with you to the hotel after the --

**A.** You were only allowed to bring very few things, like a few suitcases and stuff with you. You weren't allowed to bring a lot with you.

**74 Q.** So what were the sort of things that were left behind in the storage?

**A.** Mostly things like TVs if we had them, stuff that may have come from our houses, clothes, keepsakes, pictures, teddy bears, just anything you could think of that came out of your house that you wanted to keep.

**75 Q.** And what were --

**A.** Some people (unclear), some people

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didn't. Me personally, I just had pictures and keepsakes and clothes and shoes and a TV and stuff like that that I had in a box, but it all got thrown out.

**76 Q.** And the keepsakes in particular, is there any reason you couldn't bring those with you to the hotel?

**A.** They didn't want too much things, like an overflow of stuff. I don't know why.

**77 Q.** I guess I'm just trying to understand; are you talking about photos or what sort of keep --

**A.** Yeah, photos. It could be from photos, it could be ashes, it could be lots of things. Depends on the person, I guess, what they had in their keepsakes.

**78 Q.** Sorry, I'm talking about --

**A.** Ashes, my photographs, shoes, purses, things that I collected over the years, they all gone thrown out.

**79 Q.** So I'm asking about you in particular. What keepsakes couldn't you --

**A.** I just listed them. I said my sister's ashes, photographs, shoes, purses. Tons of stuff, like lots of things.

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**80 Q.** Your sister's ashes in particular, why couldn't you bring that into the hotel? That would have been in an urn, right?

**A.** It was in a jewelry box full of jewelry and stuff, so it was just mixed in with stuff. Like it was no neat packing kind of thing where you could, like, organize things and bring it wherever. It was kind of like take this and -- it was really high speed and fast. Because they were helping bring people's stuff to the hotel, like the paramedics were, so you could only fit whatever in the back seat and then everything else was gone.

**81 Q.** Okay, but you could go back to the storage and say, hey, my sister's ashes are here, I want to come get them?

**A.** No, you couldn't. Once you sent the stuff, that was it. The only way you could get it was if you got housing and you wanted to put your stuff at the house. If you went to get something, you had to take everything out.

**82 Q.** You said the only way you could get your stuff is if you got housing. Tell me more about that; who told you that?

**A.** It was the city.

**83 Q.** Is it housing in particular, or they

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just said you have to come get your stuff?

**A.** No, the city was housing our stuff for a short-term period of a month. If we wanted to get our stuff, we had to take it all, like, then. **A4792**

**84 Q.** All right.

**A.** They said it would be safe for the month, but it wasn't. Well, I mean it was safe for the month, but then they threw it out anyway.

**85 Q.** How did you learn that your things had been thrown out?

**A.** When I asked for them.

**86 Q.** When did you ask for them?

**A.** I forget the guy in the truck that does Parks, but he was specifically responsible for my stuff, and the agreement was that they house it for a month then they throw it out if you didn't get housed.

**87 Q.** Do you remember when you asked for your stuff, was it before or after the month was up?

**A.** It was after the month.

**88 Q.** Do you know how long after the month was up?

**A.** No.

**89 Q.** Now, at paragraph 15 of your affidavit you also described seeing encampments at

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Sir John A. MacDonald. Do you remember when that was?

**A.** No.

**90 Q.** Do you remember how long you were at Sir John A. MacDonald?

**A.** No, most places we were just there a few weeks to a couple months and then we were pushed out.

**91 Q.** And when you left Sir John A. MacDonald, do you remember specifically what those circumstances were?

**A.** What do you mean, why we left?

**92 Q.** Right.

**A.** We weren't allowed to have our tents up.

**93 Q.** So did someone tell you you couldn't have your tents up?

**A.** The city.

**94 Q.** What did they say?

**A.** Told the police to take down encampments. They had the encampment team -- what I know is the encampment team, police officers and paramedics and whoever, city workers, Parks, trucks, various people, those people are -- I'm not sure who they are exactly, but they go and take the

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encampments down.

**95 Q.** What did they specifically say to you, though?

**A.** They weren't allowed to have it there, there was no guarantee for housing, they didn't know what was going on, they had no answers for us, just that we couldn't have our tents there; and most of the time it ended up them taking it.

**96 Q.** What do you mean when you say that?

**A.** What do you mean?

**97 Q.** You said most of the time it ended up with them taking it. Who --

**A.** Taking the tents from us. They take the tents, they throw them in the garbage.

**98 Q.** So did that happen at John A. MacDonald?

**A.** That happened at John A. MacDonald, that happened at Ferguson, that happened at Urban Core, that happened at City Hall, that happened -- still happens right now.

**99 Q.** So when you say still happens right now, is that something that happened to you?

**A.** Yes, more than once.

**100 Q.** All right. So right now you're living at Dorothy Day; you're not in a tent anymore,

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**A.** I don't know; I can't answer that question. It depends on the week, it depends on the day, it depends on my mood.

**107 Q.** And where is your tent?

**A.** At the park on the next street.

**108 Q.** The next street. And where is Dorothy Day located, or do you know which street?

**A.** Arkledun.

**109 Q.** Arkledun, okay. When was the last time your tent was thrown out?

**A.** My tent? My tent is thrown out every couple weeks.

**110 Q.** Okay, but when was the last time that happened to you?

**A.** A few weeks ago. I can't remember exact dates.

**111 Q.** And what happened when your tent was thrown out a few weeks ago I think, if I heard you correctly?

**A.** Well, they just take your stuff and they throw it in the garbage.

**112 Q.** Where was your tent?

**A.** Before the park it was at the Women's Y.

**113 Q.** I'm sorry?

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right?

**A.** No, I'm still staying in a tent.

**101 Q.** I'm sorry, you're staying --

**A.** I'm transitioning into my apartment; I've been transitioning for the year, but I've been in a tent for many, many years, so. It's hard to go from outside to inside, so I'm transitioning.

**102 Q.** And you told me --

**A.** I moved closer to my building now and I'm staying more inside now than I have, so.

**103 Q.** So you have an apartment that you can stay in, but you're still staying outside in your tent?

**A.** No, no, no, not really. I still go to my tent. I still have it for comfort, I guess. I don't know, it's hard to explain.

**104 Q.** I understand, but I'm hoping that you can help me understand at least a little bit. So you have an apartment at Dorothy Day?

**A.** Yes.

**105 Q.** But you're still staying in your tent, you said, as a comfort thing?

**A.** Sometimes, yes.

**106 Q.** How often are you staying in your tent?

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**A.** It was at the Women's Y.

**114 Q.** The Women's Y, okay?

**A.** YMCA.

**115 Q.** And where specifically was your tent?

**A.** It was across from Women's Y at the heritage spot.

**116 Q.** By Whitehern?

**A.** Yes, Whitehern.

**117 Q.** Like on the sidewalk there?

**A.** Yeah.

**118 Q.** And did they come by and say you can't have your tent there?

**A.** Yes.

**119 Q.** And then what did you do?

**A.** At first we take the tents down and just move a couple feet away, and then they started taking the tents and taking all of our stuff. So then I just put up another tent and do it all over again.

**120 Q.** And how long between when they said you can't be here to when, as you say, they took your tents and your stuff?

**A.** Oh, every couple weeks they come back around.

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**121 Q.** So going back to Sir John A. MacDonald, when that happened, did they come by and say you can't be here?

**A.** Yeah.

**122 Q.** Okay. And then did they come back and, as you say, take your tent?

**A.** At that time, no, they were a little more lenient -- at least with me they were a little more lenient -- and let us take our tent down and stuff and just move along at that time.

**123 Q.** At paragraph 8 of your affidavit, you say that you're too high acuity to enter shelter, and you say that while describing that during the period of the encampment protocol you were entitled to stay in your encampment indefinitely.

Would I be correct in understanding that you had the acuity score that meant under the encampment protocol that you could stay in the encampment?

**A.** I'm not sure exactly.

**124 Q.** Okay.

**A.** I'm not sure. I just know VI-SPDAT was too high to be in, I guess be helped. It was too high to be helped. I was too high of a need to

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be housed I guess. I'm not really sure what the VI-SPDAT was for.

**125 Q.** Okay. Did anyone specifically say you're too high acuity to be helped?

**A.** Yes, the Social Navigator told me that -- I don't know created the VI-SPDAT, but everybody was saying that you couldn't be helped because of my, my, I scored too high to get into the shelter system.

**126 Q.** Scored too high to get into the shelters?

**A.** Yeah.

**127 Q.** Have you ever been told while trying to go into a shelter that you can't go in because of your acuity or your VI-SPDAT?

**A.** For a period, yes. There was a time where I was too high of needs for anyone to help me.

**128 Q.** Okay, so tell me about that. When was that?

**A.** I don't remember exactly when that is. I'm guessing -- I don't know. I can't give you dates. I cannot give you dates. I don't know.

**129 Q.** And do you know where it was that you were trying to get help from that they said they couldn't --

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**A.** Carol Ann's Place.

**130 Q.** Carol Ann's Place at the Women's Y? **A4794**

**A.** The Social Navigator team outreach.

**131 Q.** And what did they tell you specifically?

**A.** That my score was too high; they had to find a way to lower it which meant basically I'd have to lie in order to get my score low.

**132 Q.** And why were they trying to get your score low?

**A.** Because that's what you have to do to get help.

**133 Q.** What help were you trying to get?

**A.** Housing, shelter.

**134 Q.** Okay. In fairness to you, Ms. MacDonald, there have been some other witnesses that suggest that you don't need to have a specific acuity score higher or lower to get into shelter. So is it possible that they weren't telling you you were too high acuity to get into shelter?

**A.** No, they were doing a VI-SPDAT.

**135 Q.** Where were the VI-SPDAT done?

**A.** Social Navigation team did it, and Carol Ann's Place staff had done it, the Y staff done it. I don't think they go off the VI-SPDAT

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anymore, but they did.

**136 Q.** So when you say Carol Ann's and Y staff, were those two different occasions or was that the same time?

**A.** They had the same staff but they had two different I guess parts of the building.

**137 Q.** Okay. And so when it was at Carol Ann's Place, why were they do the VI-SPDAT?

**A.** To get into shelter.

**138 Q.** To get into shelter.

**A.** To get you into housing, to get you into hotels or -- anything, any kind of help at that time, you had to score low on the VI-SPDAT.

**139 Q.** But they weren't saying you have to leave Carol Ann's Place if you don't have a certain score?

**A.** You can't get into Carol Ann's Place. I specifically could not get into Carol Ann's Place; I was too high a need, I had to lower my score. Why? I don't know. You'd have to ask the staff.

**140 Q.** And how many times were you told that you can't get into Carol Ann's Place because you have to lower your score?

**A.** Multiple times.

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- 141** Q. Do you know how many times?  
A. No. Multiple.
- 142** Q. Do you know when that would have been?  
A. No.
- 143** Q. Okay. And how about at the Y, when did they tell you or when did they do the VI-SPDAT at the Y?  
A. I just told you I cannot remember dates. I can't remember things.
- 144** Q. And do you remember why they were doing the VI-SPDAT?  
A. I just told you that too. The answer is the same across the board.
- 145** Q. Ms. MacDonald, can you keep your voice up, please?  
A. I just told you that, I gave you that answer. It's the same for all across the board.
- 146** Q. Well, you said it was different occasions, so I just want to make sure that I understand.  
A. Different occasion, yes. Same results.
- 147** Q. Okay. But the YWCA, I don't

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- A.** I don't know. **A4795**
- 152** Q. Do you know if it was more than once?  
A. Yeah.
- 153** Q. And do you know how many times more than once? Are you able to say or no?  
A. No.
- 154** Q. Do you remember which shelter you would have been service restricted from?  
A. No.
- 155** Q. Do you remember for what?  
A. Not exactly, no.
- 156** Q. And do you remember for how long you would have been service restricted?  
A. No.
- 157** Q. And I just want to confirm because it's come up during another witness's cross-examination. The City of Hamilton does keep records of attempts to get into shelter including service restrictions and homeless assistance, but I want to confirm you have not provided an authorization for the city to disclose those records in this litigation, correct?  
A. Correct.
- 158** Q. Now, at paragraph 8 of your

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- understand, has an actual shelter, so it wouldn't have been to see if you could get into --  
A. Carol Ann's Place is an actual shelter.
- 148** Q. Okay, but you said the YWCA and Carol Ann's Place were different?  
A. No, I did not. I said they were the same, in the same building -- different programs in the same building is what I said.
- 149** Q. And so when you --  
A. The YWCA -- sorry, the Women's Y, Carol Ann's Place is their shelter.
- 150** Q. Ms. MacDonald, is it possible that they were giving you the VI-SPDAT to try to see if there were any services that you would qualify for?  
A. I guess, yeah. I guess that's fair to say, which I didn't qualify for them because I was too high of a VI-SPDAT.
- 151** Q. At paragraph 9 you say: "Of the times that I'm homeless, I'm more than not unable to access shelter because they have been full or I have been service restricted from them."  
I want to ask you about service restrictions. How many times have you been service restricted?

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- affidavit, the part where it continues on to the second page, you state: "It's difficult to access doctors outside your immediate area and risk theft of your possessions if you leave your encampment."  
I just want to confirm what you mean there. So you're concerned about going away from your tent to see a doctor because people might steal things from your tent if you're gone?  
A. Yes.
- 159** Q. At paragraph 10 of your affidavit, you state when you were in a relationship you were unable to enter the shelter system as a couple because there was no space as a couple. On those occasions, did you try to get into a shelter just on your own?  
A. No.
- 160** Q. So on those occasions, did you just not go into shelter because you didn't want to be apart from the person --  
A. Well, the Women's shelter is always full, so you could try but you don't get in. They were full. There was more women on the street than men. It was easier for men to get into the shelters than for women.
- 161** Q. And at paragraph 11 you state that

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in one instance while you were on the street alone you were assaulted and sustained a head injury. When did that happen?

**A.** I don't know. I can't recall what year it was -- or what month.

**162 Q.** Okay. Do you remember where it happened?

**A.** Not exactly, no.

**163 Q.** Do you know the person who assaulted you or do you know --

**A.** I'm not going to answer that.

**164 Q.** What do you mean you're not going to answer that? You know but you don't want to say?

**A.** Out here on the streets we can't talk about certain things, and this is one of those things that we just don't talk about. It's enough to say that I was jumped and assaulted, but to say by who and where, I can't answer that.

**165 Q.** Okay. Well, I'll take your refusal, Ms. MacDonald, but did you report it to law enforcement?

**A.** If you mean law enforcement, Social Nav paramedics, they know a lot about what's going on on the streets and stuff. As for police, no. We don't talk to police at all.

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**A.** I can't answer these questions.

**172 Q.** And why not?

**A.** I just told you. There's a code on the street; we're not allowed to talk about these sort of things.

**173 Q.** When you say you're not allowed, what do you mean? What would happen if you talked?

**A.** I have to live on the street where there are people that, I don't know, it's a -- I don't think I have to say it out loud. There's punishments for people talking to people -- bad things.

**174 Q.** So you fear that the person who assaulted you or someone associated with them will harm you in some way if you say who it is?

**A.** Me, not necessarily. But following the street code it's -- keeping your reputation is important, especially if you're still on the street.

**175 Q.** Ms. MacDonald, you've mentioned a street code, but you have an apartment; like you don't have to be on the street?

**A.** I still have to -- I don't want to -- I don't even think this is appropriate to talk about right now. This has nothing to do with the encampments.

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**166 Q.** Did you get medical attention for your injury?

**A.** Yes.

**167 Q.** What medical attention did you get?

**A.** I don't know if it was Social Nav or the hospital but either/or. And it wasn't when it happened; it would have been days after or -- unless it was with Social Nav -- I don't know exactly when this happened. A lot has happened over the years.

**168 Q.** What did --

**A.** -- I got jumped or assaulted or hurt.

**169 Q.** What did they do for you; do you remember?

**A.** They can't do much with -- I think scan; they might have had a scan on my head, I'm not sure, through Social Nav. They just checked my vitals. I'm not exactly sure when this incident was specifically.

**170 Q.** And so this incident in particular, the person who assaulted you, were they someone that you knew before the assault?

**A.** Quite possible.

**171 Q.** Do you have any knowledge or belief as to their motivation for the assault?

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**176 Q.** Well, Ms. MacDonald, it does because you have a claim for damages in this litigation, and so what your circumstances are are very relevant.

**MS. CROWE:** Ms. Shores, what's your question at this time?

**MS. SHORES:** Well, my question is: Why is she fearing retribution on the street if she has an apartment and no longer has to live on the street? I'm trying to get at the basis for the refusal.

**THE DEPONENT:** Just because I live inside doesn't mean that I am not on the street. I spent the better of 20 years on the street, so just because you're inside doesn't mean -- like half the people from the street are inside where I am, so it doesn't change anything from being outside. It's just safer because you have staff and stuff, but you still have to go out. You still have to walk around with your head held high, if that makes sense.

**BY MS. SHORES:**

**177 Q.** Ms. MacDonald --

**A.** I --

**178 Q.** -- I have to ask because you indicate at paragraph 5 of your affidavit that you were diagnosed with substance use disorder. Do you

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still use substances?

A. Yes.

179 Q. I didn't hear that?

A. I said yes.

180 Q. Is that part of the reason you're still out on the street, procuring substances?

A. Yes.

181 Q. Are you in treatment for your substance use?

A. No.

182 Q. And do you intend to get treat --

A. I'm in harm reduction, but I'm not in treatment.

183 Q. What do you mean by harm reduction?

A. I just safe use.

184 Q. But that doesn't involve actually using less?

A. Yeah, correct. Depends on the day. It goes up and it goes down.

185 Q. What substances do you use?

A. Fentanyl, methamphetamines.

186 Q. Is there any particular reason why you're not intending to get treatment?

A. I don't have my job, I don't have my kids, I don't have anything going for me.

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A. No, I have been relapsed for eight years. Six years before that I was clean. **A4797**

193 Q. I see, okay. At paragraph 16 of your affidavit you describe that you've been evicted by bylaw from various encampments, and you've told me that you can't remember, but I just want to make sure that I've given you the opportunity. So you mentioned staying at Sir John A. MacDonald, at Ferguson and at Wesley and also at Whitehern by the Y. Are there any other encampments that you can recall that you've stayed at?

A. Urban Core.

194 Q. Urban Core?

A. Yeah. City Hall, Go Station. Where the park is now, where they did -- they are just doing it. Before that --

195 Q. I'm sorry --

A. Hold on. Ferguson Station. There was Victoria -- or Tweedsmuir Park, also known as Victoria Park. There is Victoria Park, First Place, the funeral home on Wellington and King. I know there's more in the east end somewhere, but I wasn't down in those ones. Those are all the -- oh, Corktown Park. Those are all the encampments that I -- yeah, I don't think I missed any.

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187 Q. But you don't need any of that to get treatment?

A. Yeah, you do. You need a reason to live, you need a reason to keep going. We all do drugs for -- to mask pain of some sort. Mine is my kids; I lost my kids and stuff. So no, I am not into treatment.

188 Q. Do you not see a benefit to getting treatment and perhaps being able to re-establish contact with your kids?

A. I've already jumped through all the hoops to do that and I still didn't get them back, so no, I don't see a benefit in doing that right now.

189 Q. When you say jumped through the hoops, do you mean you got clean?

A. Yeah. I only relapsed -- I went to Women Kind and I did everything they told me to do and they took my kids anyway.

190 Q. When did you get clean?

A. It was long, like eight years ago.

191 Q. And how long were you clean for?

A. Six years.

192 Q. So you would have relapsed about two years ago, if I understand correctly?

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196 Q. All right.

A. Gore.

197 Q. And Gore Park. So Urban Core, when were you staying there?

A. After Ferguson.

198 Q. How long were you at Urban Core?

A. I'm not sure.

199 Q. And why did you leave Urban Core?

A. We were told we had to leave.

200 Q. And what happened?

A. They moved us all out of there to Women's Y.

201 Q. So you were told to leave. Did you pack up your things and go?

A. Yeah, from there -- from the last part, yeah.

202 Q. When were you at City Hall?

A. That was over the last few years.

203 Q. Do you remember how long you were at City Hall?

A. A month anyway. Almost a year, I think.

204 Q. Okay. And at City Hall did they tell you you have to leave there too?

A. Yes.

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**205 Q.** And did you pack up your things and go?

**A.** Yes, from there I believe we did. There was a little bit of touch and go. Like yes and no. Yes and no. Like they, they kind of threw some stuff out but then they put it in.

**206 Q.** Of your things, did anything get thrown out?

**A.** Yes.

**207 Q.** What?

**A.** A tent and all my belongings, but I just replaced it all.

**208 Q.** So when you say they threw out the tent, were you there or had you left it behind?

**A.** No, I wasn't there at the moment, not when they threw it out. They threw it out when I wasn't there.

**209 Q.** How long had you been gone when they threw it out?

**A.** A couple hours.

**210 Q.** Had they told you they were going to come by and throw things out?

**A.** Yeah, I think they put notices down saying that we had to move on.

**211 Q.** And so you said the Go Station was

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**A.** Yes, that would be right because I'd almost been in a relationship three years. So yeah, yeah. **A4798**

**220 Q.** Did they tell you you have to move from the Go Station?

**A.** Yes.

**221 Q.** Okay. And so what did they say?

**A.** We had to leave or they were going to take our stuff.

**222 Q.** And what did you do?

**A.** We left.

**223 Q.** So you packed up your things and you left?

**A.** Well, sort of, yeah.

**224 Q.** What do you mean by "sort of"?

**A.** We just took what we needed and we left. We left stuff behind.

**225 Q.** Did you replace the stuff that you left behind?

**A.** No.

**226 Q.** Where did you leave the --

**A.** I didn't take everything. Like we didn't take everything with us.

**227 Q.** What did you leave behind when you left the Go Station?

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another place you had stayed. Would that be the one at I think it's called West Harbour up on --

**A.** No.

**212 Q.** -- John Street North?

**A.** It's not West Harbour. It's --

**213 Q.** The one sort of --

**A.** The one that's downtown in the core. Not the West Harbour by the bay, the one that's in the core.

**214 Q.** Sort of by Jackson Street, right?

**A.** Yeah, Hunter and Jackson.

**215 Q.** Hunter and Jackson, okay. And how long were you there?

**A.** A couple months.

**216 Q.** And do you remember approximately when you were staying there?

**A.** Through the winter months.

**217 Q.** And you don't remember which winter?

**A.** The last winter.

**218 Q.** So if it was last winter, that would have been when you still had an apartment at Dorothy Day?

**A.** Okay, the winter before that, then.

**219 Q.** The winter before that, okay. And

--

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**A.** We left clothes. We left various items: other people's stuff, clothes, shoes. Random stuff like make-up, whatever, it was all mixed in. I don't really know, we just took what we could, whatever was manageable to take on foot, wagons or buggies.

**228 Q.** And for Ferguson Station, how long were you there?

**A.** Just a couple months.

**229 Q.** And do you remember when that was?

**A.** It was in the summer, and that was two years ago, three years ago.

**230 Q.** So it would have been for the whole summer?

**A.** Yeah.

**231 Q.** And what happened when you left there? Did someone tell you you had to go?

**A.** Yeah.

**232 Q.** And so what did they say?

**A.** No, that's when they offered the, the -- that's when they offered me the, the storage for the city for the month.

**233 Q.** So that was the first --

**A.** That was a few years ago.

**234 Q.** That was the big Ferguson

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encampment.

A. Yeah.

235 Q. Okay, we've already talked about that.

A. No, the Ferguson encampment at Ferguson Station, not the Wesley Ferguson. This was another one that was at the old train station.

236 Q. Okay. So yeah, at the old train station by Ferguson, how long were you there?

A. A few months.

237 Q. Okay, and do you remember when that was?

A. That was a few years ago, I know that.

238 Q. And so how did you come to leave the Ferguson Station?

A. That was just before the City Hall one, actually. I think I was there before I went to City Hall.

239 Q. Okay. So did someone tell you you had to leave, or were people just going to --

A. Bylaw did.

240 Q. Bylaw, okay. So what did they say?

A. The same notices they gave us, we have to leave, they didn't have an answer for us,

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they don't know what to tell us. But we just --

241 Q. When you say they didn't have an answer for you, they didn't have an answer for you in response to what question?

A. We asked them: "Where are we supposed to go? What are we supposed to do?"

"We don't have an answer for you.

Hopefully they come up with something soon. We don't know, but you just can't be here."

242 Q. Did you try to get into shelter?

A. I tried to get into shelter multiple times, and then I just gave up trying to get into shelter because some people are better at living outside than others.

243 Q. And are you one of the people who are better living outside than others?

A. Yeah, I wouldn't say I'm better living outside because it sucks living outside, but I'm more savvy to live outside than other women.

244 Q. I mean like right now you said you stay in a tent sometimes even though you have an apartment. So can I take it --

A. Yeah.

245 Q. -- that you're more comfortable, at least, in a tent on some occasions?

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A. I have a puppy that is not allowed in the building because they don't allow service dogs in here right now. So there's a whole other lawsuit thing going on over here, whatever is going on, I don't know, human right's thing going on here, that is why I'm still in a tent. I have a puppy that is not allowed in here, so I stay.

246 Q. When did you get your puppy?

A. She's a few months old. She's little yet.

247 Q. And how did you get your puppy?

A. I had to buy it.

248 Q. You bought her?

A. Yeah.

249 Q. What kind of dog is she?

A. She's a bully cross.

250 Q. A bully cross I think you said?

A. Yeah, bull mastiff cross.

251 Q. What's her name?

A. Cula.

252 Q. Sorry, how do you spell that?

A. C-u-l-a.

253 Q. C-u-l-a. And Cula is how you pronounce it?

A. Yes.

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254 Q. Does Cula have any sort of training?

A. She's doing her emotional training. Well, she will be doing her emotional training.

255 Q. So she hasn't done it yet?

A. No, she's getting lined up with that Mike I think his name is, through Good Shepherd I think it is.

256 Q. So someone's going to be giving her training?

A. Well, the vet -- well, the vet is going to be aligning with people to do the training. But yes, she's going to go for her training and her needles and all that.

257 Q. Okay. Why would she be in your care if she doesn't have the training to support you yet? That seems like something that would be harmful because it keeps you out of your apartment?

A. No, it's not harmful. You have to pick a dog -- in order for you to have the animal trained, you have to have a rapport with your animal.

258 Q. Well, Ms. MacDonald --

A. You can't just pick any animal and just be like here, here's your emotional support dog or, you know, whatever the dog may be, a service

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animal --

**259** Q. Ms. --

A. It helps with my anxiety. You can't just throw me any dog and say here, you can have a dog. You have to have a rapport with that dog.

**260** Q. But Ms. MacDonald, I submit to you that the dog should also have training before you start building that rapport so the dog can actually help you?

A. You have to have rapport with the dog first. If you saw my puppy, you would understand why she is going to be great at being an emotional support dog.

**261** Q. So I just want to understand. So you bought a dog yourself?

A. Yeah, after she eased my anxiety and she was mellow and she was calm and she calmed me, and I used up all my substance use and not having any money and anxiety attacks and I'm not on my benzos anymore. So with all saying all that, they're looking for training for our emotional support dog. I don't know if everybody finds their dogs that way, but I found my dog that way.

**262** Q. I want go back to Ferguson Station.

You were telling me that they -- you said they

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didn't have any answers for you, and that was before you went to City Hall. So do I understand correctly that you took your things and moved from Ferguson to City Hall?

A. Yes.

**263** Q. You mentioned staying at Tweedsmuir Park also known as Victoria Park. When was that?

A. That wasn't very long. That was, like, in the past year.

**264** Q. I didn't catch that?

A. It wasn't very long. From the past year. It was just the past year.

**265** Q. So that would have been while you had your apartment at Dorothy Day?

A. Yeah.

**266** Q. Okay, and what happened there? Did someone tell you to move?

A. No, no, not me. I left there before they were all told to move.

**267** Q. And what prompted you to leave there, you just didn't want to be there anymore?

A. Yeah, I went back to the Women's Y.

**268** Q. Sorry, when you say you went back to the Women's Y, did you go there to stay or did you go there for some other reason, like to access

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services?

A. For many reasons. Access services is one of them, I guess. **A4800**

**269** Q. What were the other reasons?

A. (Inaudible).

**270** Q. I'm sorry, I didn't catch that?

A. I don't know how to answer that.

**271** Q. You also mentioned that you stayed in an encampment at First Place. Do you remember when that was?

A. The First Place one I didn't stay at specifically, I just named encampments.

**272** Q. Okay. So you also mentioned the funeral home on Wellington and King. Is that an encampment that you stayed at?

A. No.

**273** Q. And how about --

A. My partner stayed at that one; I didn't stay at that one.

**274** Q. How about Corktown Park, you mentioned --

A. That one I stayed at.

**275** Q. Okay, when did you stay there?

A. Between Ferguson I think -- or after Ferguson. Maybe transition in between City Hall or

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maybe it was after, I'm not sure. I'm not sure of the timeline there.

**276** Q. Do you remember --

A. Maybe around the same time.

**277** Q. Do you remember how long you were there?

A. No.

**278** Q. And do you remember why you left?

A. Had to.

**279** Q. So again, did they tell you you have to leave?

A. Yes.

**280** Q. And so you picked up your things and left?

A. Yeah, I think I did.

**281** Q. And Gore Park was another one that you mentioned. Was that an encampment that you stayed at?

A. Yeah.

**282** Q. When did you stay at Gore Park?

A. Two years ago, and it's just short -- it was just like a week stay. It wasn't long, I didn't stay at that one very long.

**283** Q. Why did you stop staying at Gore Park?

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**A.** Because I knew they were coming to say you couldn't stay there.

**284 Q.** So you left rather than have them tell you?

**A.** Yeah.

**285 Q.** At paragraph 17 you say that you want to avoid confrontation with bylaw and the police because they're intimidating. What do you mean when you say they're intimidating?

**A.** They throw your stuff out.

**286 Q.** So you're afraid that they'll throw your things out, that's what you mean by intimidating?

**A.** Yeah.

**287 Q.** But you'll agree that if you leave when they ask you to, then they don't throw your things out?

**A.** No, that stopped after a while. They started just throwing my stuff out.

**288 Q.** They started just throwing your stuff out without telling you to leave first?

**A.** Yeah.

**289 Q.** When did that happen?

**A.** Just like over the last two years.

**290 Q.** But no, when specifically did that

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thing, they started throwing my stuff out specifically. **A4801**

**293 Q.** Is it possible that they warned you and you don't remember?

**A.** I don't know. I guess. It could be possible, but I doubt it.

**294 Q.** And why do you doubt it?

**A.** Because I don't get along with Parks.

**295 Q.** You don't get along with Parks?

**A.** Yeah.

**296 Q.** Who don't you get along with?

**A.** Specifically your guy in the white truck, whatever the hell his name is. I forget his name now.

**297 Q.** Can you describe him?

**A.** Big, head of Parks, runs Parks. Runs around, checks all the encampments, tells everybody where they are.

**298 Q.** When was the last time you saw this person?

**A.** Every time they run into an encampment.

**299 Q.** Okay, but when was the last time you saw this person?

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happen?

**A.** I already told you I can't recall dates, but over the last two years after City Hall, the Women's Y. It's all mumbled, like, together. Like I was back and forth all over the place. I can't tell you when I was where, what time I was there. I was so everywhere; I was back and forth everywhere.

**291 Q.** Ms. MacDonald, at various points there is evidence from the city that their protocols that says they will warn you and give you opportunities to move your things before throwing your things out. So if you're saying that wasn't done, that's a very serious accusation and we're entitled to get as much information about that as possible?

**A.** I'm an addict and I can't remember the exact dates, Miss, so I can't tell you the exact dates that they came and just through our stuff out.

**292 Q.** Well, is it possible that they gave you warning --

**A.** But they still do it today. So you can ask anybody else and I'm sure they'll tell you. But specifically, I can't remember the dates. I told you over the last two years after the City Hall

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**A.** Three weeks ago.

**300 Q.** And can you describe them: How tall are they? What colour is their hair? Do they have glasses?

**A.** Brown, balding, no glasses, heavyset, white truck, head of Parks.

**301 Q.** Okay, and this last time you interacted with this person, what happened?

**A.** Specifically I told him to go fuck himself.

**302 Q.** Why did you do that?

**A.** Because he takes my stuff and he throws it out.

**303 Q.** Again --

**A.** He takes people's stuff and he throws it out. I don't think you realize how inhumane it is that they're grabbing people's things of -- the only thing that they have and taking it and throwing it away.

**304 Q.** Your things or other people's things?

**A.** My things and other people's things.

**305 Q.** But you have an apartment, so --

**A.** Yeah, my apartment, I am not allowed to bring everything in here. So I have to keep what

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I'm not allowed to bring in here in a tent.

**306 Q.** What aren't you allowed to bring into your apartment?

**A.** Lots of things.

**307 Q.** Like what?

**A.** There's a huge list.

**308 Q.** Okay, give me some examples?

**A.** Anything with wood on it, so there goes photographs and stuff, keepsakes.

**309 Q.** Why aren't you allowed to bring photographs into your apartment?

**A.** I don't know, ask Dorothy Day.

We're trying to figure this out already.

**310 Q.** So your evidence is that Dorothy Day doesn't allow you to bring any photographs into your apartment?

**A.** Not just photographs. Like it depends what they decide. They choose and pick. When I first moved here, they threw all my stuff out, everything, with no reason.

**311 Q.** You're saying Dorothy --

**A.** And then they gave me somebody else's stuff; I don't know whose stuff it is.

**312 Q.** So Dorothy Day --

**A.** -- it's another issue outside this

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issue. But yes, you're not allowed to have shelving units, you're not allowed to have -- whatever they decide, you're not allowed to have. It's on what you bring in and what they decide. I can't give you a list because they have to do that.

**313 Q.** So Dorothy Day, according to you, has a list of things that you're not allowed to have, and so you --

**A.** Is she listening to me?

**314 Q.** I'm trying to understand --

**A.** Hey, I'm really dizzy right now.

**315 Q.** Would you like to take a break?

**A.** Yeah, I would.

**316 Q.** All right, let's go off record for five minutes.

--- (OFF THE RECORD).

BY MS. SHORES:

**317 Q.** So just to confirm, you have not discussed your evidence with anyone while we were on our break?

**A.** No.

**318 Q.** So at paragraph 22 of your affidavit, which I'll place back on the screen, you state that you've been kicked out of Carol Ann's Place despite being told that you need to check in

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with them to confirm that "I am not kidnapped or hurt."

A4802

Tell me what happened when you were kicked out of Carol Ann's place?

**A.** I don't remember exactly why I was kicked out of Carol Ann's Place. I didn't get into a fight.

**319 Q.** Did they tell you how long you had to stay away?

**A.** I don't recall.

**320 Q.** Do you remember when that was?

**A.** About two years ago I thin, maybe three. I'm not exactly sure.

**321 Q.** And at that point in time did you ask for help finding somewhere else to go?

**A.** Yes and no. Like all the shelters were full. They call, like, the shelters for you and stuff, but they were always full.

**322 Q.** So what did you do on that occasion? Do you remember where you went?

**A.** At the Women's Y (inaudible).

**323 Q.** I'm sorry, I think I talked over you; I didn't mean to do that. What did you say?

**A.** Across the street from Women's Y, the heritage place.

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**324 Q.** Okay, did you stay in a tent there?

**A.** Yeah.

**325 Q.** At paragraph 24 of your affidavit, the part where it continues on to the next page, you state that you've been issued a ticket for being in a park at 6:00 p.m. even though it wasn't dusk.

When did that happen?

**A.** I believe it was roughly three years ago. That was when I was at the Corktown Park.

**326 Q.** Corktown?

**A.** Yes.

**327 Q.** Who issued you the ticket, do you know?

**A.** Hamilton Police.

**328 Q.** And what did they give you the ticket for?

**A.** They said I was in the park after dark, or like after, like after dusk even though it wasn't even-- like it wasn't dusk at all.

**329 Q.** But was anything else going on? Did they tell you any other reason that they would give you a ticket?

**A.** No, they said that, they said that, it was like engaged in illegal activity, even though there was no activities going on. Or it would be

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A518

trespassing after dark, and it wasn't even dark. It was just like -- because I don't have them in front of me, but I did end up saving copies of the tickets -- or like my tickets, because they were weird.

**330 Q.** So they said you were engaging in illegal activities but you --

**A.** On one of the tickets, yeah, that I have gotten from them, it said I was engaging in illegal activity, though it didn't say what activity that was, and I wasn't engaging in any illegal activity at all.

**331 Q.** Do you remember what time of year it was, if it was 6:00 p.m. and not dusk?

**A.** It was between summer and fall.

**332 Q.** Were you in a tent at the time?

**A.** Yes, I would have been in a tent, but I don't know if I was in a tent at that spot.

**333 Q.** Do you remember anything else about what was going on when they gave you the ticket?

**A.** No, just that they had to meet their quotas.

**334 Q.** I'm sorry, I didn't catch that?

**A.** They had to meet their quotas. They had to give out some tickets.

**335 Q.** How do you know that?

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**A.** Well, an officer made a comment about the tickets and how we could fight them at City Hall if we could prove that we weren't, like the tickets weren't I guess valid, for better lack of words.

**336 Q.** Okay, but that doesn't say anything about quotas. They were just telling you what to do if you disagreed the ticket, right?

**A.** No, they had -- they had to give it. They give out so many tickets. Could be one of the paramedics from the Social Nav team, like I don't remember exactly, one of the workers, social workers from Keeping Six, I'm not exactly sure who told us that they had to meet quotas. Anyway.

**337 Q.** So what did do you in response to getting those tickets?

**A.** I just kept the tickets.

**338 Q.** Did move your tent?

**A.** Did I move my tent? That didn't involve a tent, but yeah, eventually, yeah, I did move a tent.

**339 Q.** Just not on that particular day?

**A.** Day, no. On that particular day, no.

**340 Q.** And they didn't come back?

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**A.** The officers?

**341 Q.** Correct.

**A4803**

**A.** No, they came back. We got multiple tickets.

**342 Q.** When did they come back?

**A.** They come back every couple of days. At that point they come back every couple of days, sometimes every couple of weeks. It just depends on where we were.

**343 Q.** Okay. And on the time you told me about where they gave you the tickets at 6:00 p.m., when was the next time they came back? Was it a couple days later?

**A.** I can't remember the next time I got a ticket, but they were quite frequent around that time; they were frequent that I was getting tickets.

**344 Q.** And when you say -- you said 6:00 p.m., but how did you know? Did you have a watch or a phone?

**A.** It was morning.

**345 Q.** I'm sorry?

**A.** It was in the morning?

**346 Q.** It was in the morning?

**A.** Yeah.

**347 Q.** So. Okay, so I just want to be

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clear, though. So at paragraph 24 of your affidavit it says for being in a park at 6:00 p.m., but it was in the morning?

**A.** Yeah, it was issued for being in the park at -- I forget exactly how it was worded, but anyway, it was during the day. It wasn't in the evening at all. And another ticket was, like -- I don't know, I'd have to have them in front of me to recall them all properly. It was frequent that we get tickets that -- I never looked at them right away when the officers were standing there for the most part. It was after they (unclear). That doesn't make any sense.

**348 Q.** And what did you do with those tickets? You said the officers told you what to do if you disagreed with them?

**A.** Yeah, I have been to City Hall and there's a process to the tickets and stuff. A few of them I've had thrown out, but I didn't bother doing the rest of them.

**349 Q.** Okay, and does anything happen if you don't bother with them?

**A.** You have to pay more of a fine. If you pay within a certain timeframe -- you either fight the ticket or you pay within a certain

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**A519**

timeframe or you have to pay more money.

**350 Q.** Have you actually paid the fines?

**A.** Paid the fines? Yes.

**351 Q.** How much --

**A.** The last time, like, I had all my fines paid off.

**352 Q.** Okay, sorry. You said the last time you had all your fines paid off?

**A.** Yeah, I had all my fines paid off, but now they've all -- like all the fines they've given me now, I haven't done anything with them yet.

**353 Q.** Did you pay them yourself, or did you have some assistance getting them paid?

**A.** They gave me assistance. They have a thing if you're on ODSP that you don't pay, like, all of them. I don't know if you can (inaudible).

**354 Q.** Sorry, you said you don't know --

**A.** If you can do it twice or not. Like I've used it in the past to get rid of all my tickets and stuff. It would help pay for my tickets, then I get rid of them. They take a percentage off if you're on ODSP. I don't know if that's why it's more than once. I was going to look into it again.

**355 Q.** At paragraph 25 of your affidavit

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**A.** Yes.

**360 Q.** How long did you stay at that hotel? **A4804**

**A.** It was a few months -- I think like a month or two, and then they kicked a lot of people out. I forget exactly why they kicked us out. It seemed like we'd get back in and they would -- like it was a few times that I stayed there, but it seemed like they would get our money from ODSP and then they would kick us out.

**361 Q.** And so you said it was a few times that you stayed there when you said it was a few months. Was that in total or like a few months each time?

**A.** No, no, no, in total.

**362 Q.** In total, okay. And you don't remember when the last time you would have stayed at a hotel would be?

**A.** No.

**363 Q.** All right. You've understood all my questions today, Ms. MacDonald?

**A.** Yes, for the most part, yeah.

**364 Q.** Are there any of your answers that you wish to change?

**A.** Not today that I'm aware of this moment.

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you say you've had roughly 80 to 100 cellphones stolen in the past six months. Were those all stolen from your tent?

**A.** Yes, or my purse or while I was sleeping or while I was away from my tent.

**356 Q.** At paragraph 26 you say you have nowhere to go shower. Could you not go to Carol Ann's or the Women's Y?

**A.** They have rules about the showers. Sometimes they'll just let you go and shower, but for the most part you have to be, like, stay the night or get into the line-up, stay the night to shower.

**357 Q.** How about the other day centres, like Wesley when it was still around or The Hub?

**A.** The Wesley when it was around you could use it, you could use the showers and stuff. The Hub doesn't have showers. They have a bathroom though.

**358 Q.** Just give me a moment.

Ms. MacDonald, did you ever stay in a hotel through one of the city's programs?

**A.** Yeah.

**359 Q.** Do you remember -- sorry, you said I think it was the one over on Dundurn, was it?

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MS. SHORES: Thank you. Those are my questions.

BY MS. CROWE:

**365 Q.** I just have a few questions for redirect, okay?

**A.** Okay.

**366 Q.** We're almost done. So you were talking about when you were told to leave from Sir John A. MacDonald, and you indicated that you were told by the city that there was no guarantee for housing and they didn't have answers for us. Do you remember, what were you asking?

**A.** Where we were supposed to go, what we were supposed to do. And the answers were always the same, they didn't have an answer for us, just -- we just have to move along.

**367 Q.** Ms. Shores asked you why you sometimes still spend time in a tent when you have housing, and you stated that you're transitioning into an apartment and it's hard. What did you mean?

**A.** I spend better than 20 years on the street in tents and homeless off and on. I was housed very, very few times. So what I mean is it's hard when you learn to live a certain way, like in a tent for instance, it's hard to sleep in a bed and

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be alone in an apartment where I am used to being around people. Everyday you're not allowed to have people in your apartment. Now we are, we're allowed to have our friends till midnight night, but that was just recent that that changed. Prior to that we weren't allowed to have anybody in our rooms, so it was very lonely, and from going -- being around people all the time and being able to stay with people, other people's voices, and being lonely, it was very depressing and sad compared to outside where I could be around people and stuff. I struggle with that when you're not allowed to have people in the room. But it was, it was much more difficult.

**368 Q.** Okay, thank you. And when we were talking about your substance use, you indicated that you're involved in harm reduction. What does that involve for you?

**MS. SHORES:** Counsel, that question was asked and answered.

**MS. CROWE:** No, you asked a question about a reduction in drug use, and she said something to the effect of not necessarily for me, but she didn't talk about what is actually involved in harm reduction.

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**MS. SHORES:** I disagree, counsel, but the question before the question that you just described I asked her what she meant by harm reduction.

**MS. CROWE:** Okay, we'll move on.

**BY MS. CROWE:**

**369 Q.** When you were talking about staying at Gore Park, you indicated that you left because you knew the city was coming or they were coming. How did you know that they were coming?

**A.** It became, it's like routine now.

They, you just kind of knew that every couple weeks that they would be coming around again. You can't stay anywhere. Nowhere was allowed. You couldn't stay before they had the compound and the bay beside the compound (inaudible). You kind of knew every few weeks that they were going to come, so it's just easier to move along.

**370 Q.** Okay.

**A.** Just up and go. And Gore Park was one of the places that was going to be taken down, I knew that for sure.

**371 Q.** Okay. You mentioned that you're staying at Dorothy Day. Who is Dorothy Day?

**A.** It's a Good Shepherd's building for

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women.

**372 Q.** Okay, and --

**A.** In the shelter system, like a shelter program.

**373 Q.** What do you mean it's a shelter program?

**A.** It's a residential program for women. I'm not exactly sure what they do for us -- but I guess it's part of the shelter system. I'm not sure how that works exactly, but it's a program that's supposed to transition us into -- I guess to teach us how to live back inside and teach us how to I guess re-rent apartments or places again.

**374 Q.** Okay. Do you know what the eligibility criteria is to get into Dorothy Day?

**A.** I'm not sure what the criteria is now, but I guess you have to be a woman, or identify as a woman. I don't know if you have to be homeless or not, but you do have to be single; you can't have children in your care, you can't have pets, you can't have service animals. When I came in that was the criteria anyway.

**375 Q.** Okay. You were describing it as a program. What's involved in the program?

**A.** I'm not sure. When I was introduced

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to the lease, I was introduced to it as a residence where we would pay rent and it was be under the Tribunal Act. Only recently they say that it was month to month and it is now under a program, so I'm not sure where the switch happened there.

**376 Q.** Okay. Is there programming involved, like things you have to attend?

**A.** I don't know if have to attend, but they do offer groups.

**377 Q.** What kind of groups?

**A.** They offer -- I know they offer like an addictions group. I know Keeping Six has a group that they do here and they do dance, there's like movie nights, like some extra-curricular activities to participate like Halloween night and, like, I don't know, dinner and movies, like, inhouse.

**378 Q.** Okay, how much is the rent?

**A.** 525, I believe, or 555; I'm not a hundred percent sure. It's paid to the landlord, so.

**379 Q.** Is that the same amount that you get from ODSP?

**A.** No.

**380 Q.** For rent?

**A.** For rent, yes.

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A4805

A521



- 381 Q. Okay. Is it a subsidized program?  
A. I think so, yes.
- 382 Q. Okay. And then you mentioned that there was sometimes showers available through Wesley?  
A. Yes.
- 383 Q. Did you use them?  
A. That was at Ferguson, the original encampment. Yes, I did.
- 384 Q. Okay. How often?  
A. Everyday.
- 385 Q. And were there any rules attached to using the showers?  
A. No.
- 386 Q. Okay. Thank you. Those are my questions.
- Whereupon examination concluded at 5:11 a.m.

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Ashley MacDonald- 75

I hereby certify the foregoing to be the evidence of  
ASHLEY MACDONALD, an Applicant herein, given under  
affirmation before me on the 10th day of October, 2024,  
recorded verbatim and later transcribed by me.

CERTIFIED CORRECT:



Ann Marie Crowe, CSR

Verbatim Reporter

Commissioner of Oaths (Expires August, 2025)

This document must bear the original signature and  
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A522

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

---

**AFFIDAVIT OF DARRIN MARCHAND  
(affirmed September 27, 2021)**

---

I, Darrin Marchand, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I am a person that has been living in a tent in various green spaces in Hamilton since I left the Salvation Army men's shelter located at 95 York Blvd. Hamilton, Ontario, on December 17, 2020.
3. My date of birth is October 15, 1966.
4. I am a person living with disabilities and rely on the Ontario Disability Support Program ("ODSP") for income. When I have shelter costs I am entitled to \$497.00 in shelter allowance from ODSP but since becoming homeless I am only entitled to \$672.00 of the "basic needs" portion of ODSP entitlements.
5. I have been diagnosed with Paranoid Schizophrenia.
6. For the past three years I have been homeless and during this time I have been in and out of shelters bouncing between sleeping in a shelter and sleeping on the streets without a roof over my head.


- 7 The last time that I had a roof over my head was when I was renting an apartment in 2017. I was forced to leave this apartment because of the derelict state of repairs that left it uninhabitable and unsafe to live in. I was then connected through the Wesley Urban Ministries Centre to another rental unit but it was in a very unsafe neighborhood where I heard gun shots and my E-bike was stolen. Since 2017 I have been homeless.
- 8 On December 17, 2020 while I was sleeping at the Salvation Army men's shelter I witnessed the end of a brutal and violent attack on the man in the neighboring room. I walked into the room to witness that he had been hacked into pieces as he was attacked by a man with a hatchet.<sup>1</sup> This incident was so traumatizing for me that I have not been able to utilize shelter since and I would rather risk the streets.
- 9 After witnessing this violent incident on December 17, 2021 I was admitted to the Barrett Centre for Crisis Support.
- 10 After my release from the Barrett Centre I discovered that I was barred from all shelters in the City of Hamilton and I have not received an explanation as to why. As a result of being restricted from shelters and unable to afford rent, I was homeless again and without any options other than living on the streets.
- 11 Without anywhere to go for shelter, I pitched a tent at the intersection of Strachan Street and James Street in Hamilton. City By-Law and the Police advised me to move from these locations and I have been moving between green spaces ever since. Recently my tent was stolen from me and I have been sleeping on the streets.
- 12 During the period of 2017 to present I have not been offered affordable housing, or appropriate shelter for a temporary stay. Since the trauma of the attack in the shelter, I am unable to stay in congregate style shelter spaces because of the associated Post Traumatic Stress.
- 13 Aside from my experience with the Salvation Army I have had predominantly negative experiences in shelters. It is loud and I am unable to sleep. I have had my possessions stolen and the overall atmosphere is not healthy for me as I am scared for my safety.
- 14 Routinely being evicted from encampments impacts me negatively both emotionally and physically because I always have to start over abruptly with little to know physical energy as I rarely have adequate sleep and food. I am not given any advance notice and so the turn-around time to move is very quick. I am left to walk around the City with my possessions in search of a new space to stay. It is very emotionally taxing as it is stressful. I have lost belongings in the process of being displaced. Routinely moving also disconnects me from nearby services and supports that I rely on such as health care from the Shelter Health Network, supports offered by Wesley Urban Ministries and food programs with Churches.

---

<sup>1</sup> Nicole Riley, "Man attacked at Hamilton Salvation Army Shelter," *Hamilton Spectator* (18 December 2020) online: <https://www.insidehalton.com/news-story/10292802-man-attacked-at-hamilton-salvation-army-shelter/>

15. I was employed with the International Longshoreman Association for 16 years and have been offered more work but without stability and a roof over my head I cannot return. I need routine in my life to be able to meet my needs.
16. I swear this affidavit in support of the motion and for no other or improper purpose.

**AFFIRMED BEFORE ME** in the  
City of Hamilton, this 27<sup>th</sup> day of  
September, 2021

  
A Commissioner etc. LSUC: 65464F

) **AFFIRMED** at the City of Hamilton, in the  
) Province of Ontario, this 27<sup>th</sup> day of  
) September, 2021.  
)

  
Darrin Marchand

Court File No: CV-21-00077187-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO  
MUSCATO and SHAWN ARNOLD

Applicants

and

CITY OF HAMILTON

Respondent

Teleconference (Zoom) Cross-examination on affidavit  
of

DARRIN MARCHAND  
affirmed on September 27th, 2021,  
taken by Nimigan Mihailovich Reporting Inc.,  
One James St. S., Suite 701, Hamilton, Ontario,  
Canada L8P 4R5,  
on OCTOBER 13, 2021

APPEARANCES:

for Plaintiff: MS. STEPHANIE COX  
Hamilton Community Legal Clinic

For Defendant: MR. MICHAEL BORDIN  
GOWLING



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## EXHIBITS

No exhibits entered.

## GUIDE TO UNDERTAKINGS

This should be regarded as merely a guide  
and does not necessarily constitute a full  
and complete list.

UNDERTAKINGS (U/T) ARE FOUND ON THE FOLLOWING PAGES:

n/a

Under advisements (U/A) are found on the following  
pages:

n/a

Refusals (R/F) are found on the following pages:

3.

1 -- Upon commencing at 1:40 p.m.

2 DARRIN MARCHAND, affirmed

3 EXAMINATION BY MR. BORDIN:

4 BY MR. BORDIN:

5 1 Q. Mr. Marchand, my name is Michael  
6 Bordin and I'm the lawyer for the city; okay?

7 A. Right.

8 2 Q. Okay. If you have any difficulties  
9 understanding or hearing any of my questions, please  
10 let me know; okay?

11 A. Okay.

12 3 Q. It is my understand, Mr. Marchand,  
13 that you are in jail right now?

14 A. That's right.

15 4 Q. And how long have you been in jail?

16 A. At least since the end of  
17 September.

18 5 Q. And were you charged with  
19 something? Is that why you're in jail?

20 MS. COX: I'm going to object to this  
21 questioning; it's irrelevant and it's not contained  
22 in his affidavit.

23 R/F

24 BY MR. BORDIN:

25 6 Q. Mr. Marchand, do you know that you

1 have brought a court case against the City of  
2 Hamilton for an injunction?

3 A. Yes.

4 7 Q. And I understand that you swore an  
5 affidavit or affirmed an affidavit on September 27th,  
6 2021; is that correct?

7 A. That's right.

8 8 Q. So I'm going to ask you some  
9 questions about that affidavit. It's my  
10 understanding you don't have a copy with you; right?

11 A. No, I don't.

12 9 Q. Okay. And just for the record, I'm  
13 going to explain that, Mr. Marchand, unfortunately,  
14 the video feed does not work from the jail and so you  
15 are just calling in on a telephone; is that correct?

16 A. That's right.

17 10 Q. Okay. All right. So I'm going to  
18 then, I'll refer you to paragraphs of your affidavit  
19 and then I'll ask you questions about them; okay?

20 A. Sure.

21 11 Q. All right. So in paragraph six of  
22 your affidavit, you say that you've been homeless for  
23 the past three years, and you've been in and out of  
24 shelters, bouncing between sleeping in the shelter  
25 and sleeping on the streets without a roof over your

1 head; correct?

2 A. That's right.

3 12 Q. All right. And which shelters have  
4 you stayed at for those three years?

5 A. The ones at Community really were  
6 the Salvation Army; the Good Shepherd which is the  
7 brothers of Good Shepherd on Mary Street but they  
8 have an overflow at the Cathedral on Temple and  
9 Main; and I believe that that was it. The other  
10 ones would not allow me to stay in there as  
11 shelters, they had me booked as, they said it was  
12 conflict of interest.

13 13 Q. What was the conflict of interest  
14 they said you had that disallowed you to stay at the  
15 shelter?

16 A. They wouldn't tell me. I asked  
17 them and they wouldn't tell me.

18 14 Q. Okay. But you've been able to  
19 attend the Salvation Army, the Good Shepherd, and the  
20 Good Shepherd overflow at Cathedral?

21 A. Yeah.

22 15 Q. Okay. And you've attended those  
23 from, during the last three years that you've been  
24 homeless; correct?

25 A. Yeah. Yeah. Sure, that's

1 correct.

2 16 Q. Well, in fairness to you, the  
3 overflow centre at Cathedral would only have been  
4 during COVID; correct?

5 A. Yes, you're right, they were able  
6 to, yeah.

7 17 Q. Okay. And I understand -- so  
8 paragraph two of your affidavit says that you've been  
9 living in a tent in various green spaces in Hamilton  
10 since you left the Salvation Army men's shelter at 95  
11 York Boulevard on December 17th, 2020; okay? Do you  
12 remember that in your affidavit?

13 A. I'm sorry, can you just repeat  
14 what you just said there?

15 18 Q. Yes. Paragraph two of your  
16 affidavit says you have been living in a tent, you've  
17 been living in a tent in various green spaces in  
18 Hamilton since you left --

19 A. Yes.

20 19 Q. -- the Salvation Army on December  
21 17th,, 2020; correct?

22 A. Right.

23 20 Q. All right. How long had you been  
24 staying at the Salvation Army prior to December 17th,  
25 2020?



1 A. Prior to 2020?

2 21 Q. Yes.

3 A. Okay. That will be -- what was  
4 the question? How long did I stay there for?

5 22 Q. Yes.

6 A. Well, they kept kicking me out  
7 telling me I couldn't do this, I couldn't do that,  
8 so I just said, you know what, I thought I would  
9 just leave, I'd rather just leave, so I never went  
10 back. I don't believe they ever kicked me out, but  
11 my friend Sage good bludgeoned with an axe in that's  
12 basically why I left. I said I'll take my chance  
13 out on the street. I don't like the way they run  
14 the place. I'm sorry, I didn't go there to change  
15 their policy or nothing, I just don't like the way  
16 they run the place.

17 23 Q. Okay. But what I was asking about  
18 was before the last time you were there in  
19 December 17th, 2020, do I understand from what you  
20 told me before, you would be in and out of the  
21 Salvation Army, sometimes you would stay, sometimes  
22 they would kick you out; is that correct?

23 A. Yeah, I imagine that's pretty fair  
24 to say, yeah. Yeah.

25 But I wasn't, I wasn't a problem, I

1 wasn't really a problem myself. Every time I stood  
2 up for myself is when I got in trouble. I don't  
3 know what you want me to say about that?

4 Before that, my memory doesn't allow  
5 me to go that very far in shelters, you know, I  
6 don't, have a big memory much now.

7 24 Q. Okay. Let me ask you then a couple  
8 of other questions: Before COVID -- actually, let  
9 me -- before you left the Salvation Army for the last  
10 time in December 2020, had you stayed in encampments?

11 A. I never -- no. No, I wasn't in  
12 the encampment before that.

13 25 Q. Okay.

14 A. Pardon me?

15 26 Q. So after you left the Salvation  
16 Army for the last time in December 2020, that's when  
17 you started staying in encampments?

18 A. Well, basically they just gave me,  
19 someone gave me a tent in the, within the last  
20 years; I found myself setting them up, and no sooner  
21 I'd set them up the police would come and tell us,  
22 you know, being nice enough to let us stay there for  
23 two, three weeks, but in two, three weeks they would  
24 show up with the city and tell us to tear it down or  
25 they were going to tear it down, you know. So we

1 had, I was forced to just, you know, basically pick  
2 up and go somewhere. And well, eventually someone  
3 just stole my tent, and the, you know, the whole  
4 idea of having a tent at all just went out totally  
5 right out the window, I don't want a tent no more,  
6 you know. I mean, I rather be out on the sidewalk  
7 and sleep, and you've seen me do that already, I can  
8 do that. But I mean I'm just, you see, I don't have  
9 a tent no more. I never had one, I never really had  
10 one before either, you know.

11 27 Q. Right. So I just want to make sure  
12 I understand. So I think what you're saying is that  
13 before December 17th of 2020 you did not stay in  
14 encampments; correct?

15 A. No.

16 28 Q. Sorry, not correct or no you didn't  
17 stay in encampments?

18 A. No, I didn't stay in a tent  
19 encampment, no.

20 29 Q. Fine. And after December 17th,  
21 2020, someone gave you a tent and then you started to  
22 stay in tents and encampments; right?

23 A. That's right.

24 30 Q. Okay.

25 A. Not encampments, I just set up my

1 tent somewhere.

2 31 Q. Okay.

3 A. That's all. I didn't say it there  
4 was a whole series of tents there. After I set up  
5 my tent, other tents followed, other people came.

6 32 Q. You would set up your tent on your  
7 own and then other people would set up tents after  
8 you?

9 A. Yeah, they would show up.

10 33 Q. And I think from what you said  
11 before, I want to make sure I understand, you would  
12 be in your tent or have your location for a little  
13 while, sometimes for a few weeks and then you'd be  
14 asked to move on; correct?

15 A. That's right.

16 34 Q. When other people would join you  
17 where you had your tent, did you -- how many people  
18 would there be at the places you had your tent?

19 A. One place that -- all really,  
20 there wasn't really more than four or five. So it  
21 wasn't, like it was myself and maybe three, four,  
22 four others, four or five more others, but they  
23 weren't, they weren't all at my location, they were  
24 just in the facility of the same area I was in.

25 35 Q. Okay. Can you tell me where, what,

1 like what locations you stayed at since  
2 December 2020?

3 A. Yeah, I stayed in, I stayed in, by  
4 the train tracks, over by the Go Station on Jane  
5 Street, Strachan. And I stayed in a park up by  
6 Charlton. I stayed in Dundurn Park, which is the  
7 Dundurn -- (inaudible). And I was -- there's a  
8 couple more places I put it up, I'm just trying to  
9 remember. Where did I put that tent? Oh yeah, on  
10 the east side of the tracks where I was, where I was  
11 on Strachan and Jane, I was also on Strachan and  
12 Barry Street, just past Barry Street, on the same  
13 side, hey.

14 36 Q. Okay. And did you meet any people  
15 at the encampments who were from outside the City of  
16 Hamilton?

17 A. Outside of Hamilton? No. Just a  
18 lot of people that shared the same circumstances as  
19 I did that I, I met them, you know, through  
20 conversations at the centres, like the Wesley Centre  
21 or at the Salvation Army. I got to know some of the  
22 people, where they were, just by staying and talking  
23 with them, you know, and where they'd been.

24 37 Q. And you're from, are you from the  
25 City of Hamilton before you ended up homeless?

1 A. Yes, I am, sir

2 38 Q. Okay. Are you vaccinated?

3 A. Twice, yes, I have been.

4 39 Q. Before you were taken to jail did  
5 you have a phone?

6 A. I beg your pardon?

7 40 Q. Before you were taken to jail did  
8 you have a phone?

9 A. My own phone? No. My phone got  
10 stolen; it got stolen almost, I'd say about a year  
11 ago.

12 41 Q. And --

13 A. When it got stolen, I ever had,  
14 like, my mom passed away last year and it just after  
15 be past away my phone got stolen, and I, what I did  
16 was I never bothered getting another phone. I mean  
17 I had too much of my stuff gets stolen, you know  
18 what I mean. I didn't have any interest in buying  
19 anything anywhere because it all gets stolen, you  
20 know. I don't have any interest at all in buying  
21 anything at all.

22 42 Q. Would you sometimes stay -- so let  
23 me ask you this first: You have a brother, sir?

24 A. Do I have a brother?

25 43 Q. Yes.



1 A. I have one brother.  
2 44 Q. And do you sometimes stay with him?  
3 A. No.  
4 45 Q. You never stay with your brother?  
5 A. No.  
6 46 Q. Is it possible that you have a  
7 trespass order against you from a shelter because of  
8 an assault?  
9 A. A trespass order because of an  
10 assault? No.  
11 47 Q. Have you ever assaulted anyone in  
12 the shelter?  
13 A. In the shelter? No.  
14 MR. BORDIN: Okay. Thank you, sir.  
15 Those are or my questions.  
16 WITNESS: You're welcome.  
17 MS. COX: (INAUDIBLE)  
18 COURT REPORTER: Excuse me, I can't  
19 hear you, you're all distorted. Get closer to the  
20 microphone maybe.  
21 MS. COX: Can you hear me now?  
22 COURT REPORTER: Yes.  
23 WITNESS: Who is this?  
24 MS. COX: Darrin, it's Stephanie .  
25 WITNESS: Hi, Stephanie.

1 MS. COX: Hi. So the  
2 cross-examination is complete now so you can hang up  
3 the phone. And thank you very much for  
4 participating, I will follow up with you on another  
5 day after --

6 WITNESS: Okay.

7 MS. COX: -- after this; okay?

8 WITNESS: Okay. Thank you very much.  
9 I'll talk to you later, all right?

10 MS. COX: Okay. You take care. Thank  
11 you.

12 WITNESS: Okay. Bye.

13 MS. COX: Bye.

14 -- Adjourned at 2:01 p.m.  
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1  
2 I HEREBY CERTIFY THE FOREGOING  
3 to be a true and accurate  
4 transcription of my shorthand notes  
5 to the best of my skill and ability.  
6

7 -----

8 MARC BEEBE, O.C.R.  
9 Computer-Aided Transcription  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
SHAWN ARNOLD ET AL**

Applicants

**-and-**

**CITY OF HAMILTON**

Respondent

**AFFIDAVIT OF DARRIN MARCHAND  
(Sworn June 2, 2022)**

I, Darrin Marchand, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I am a person that has been living in a tent in various green spaces in Hamilton since I left the Salvation Army men's shelter located at 95 York Blvd. Hamilton, Ontario, on December 17, 2020.
3. My date of birth is October 15, 1966.
4. I am a person living with disabilities and rely on the Ontario Disability Support Program ("ODSP") for income. When I have shelter costs I am entitled to \$497.00 in shelter allowance from ODSP but since becoming homeless I am only entitled to \$672.00 of the "basic needs" portion of ODSP entitlements. I cannot afford to rent a unit in the private rental market because of my low income. For this reason I have applied to access to housing with the City for subsidized rent, but to date that has not been offered to me.
5. I have been diagnosed with Paranoid Schizophrenia.
6. For the past three years I have been homeless and during this time I have been in and out of shelters bouncing between sleeping in a shelter and sleeping on the streets without a roof over my head.

7. The last time that I had a roof over my head was when I was renting an apartment in 2017. My landlord coerced me to leave the lease because he said I was going to be evicted and I did not want to be evicted. Since 2017 I have been homeless. I went to shelter when I became homeless.
8. On December 17, 2020 while I was sleeping at the Salvation Army men's shelter I witnessed the end of a brutal and violent attack on the man in the neighboring room. I walked into the room to witness that he had been hacked into pieces as he was attacked by a man with a hatchet.<sup>1</sup> This incident was so traumatizing for me that I am unable to return to that shelter.
9. After witnessing this violent incident on December 17, 2020 I was admitted to the Barrett Centre for Crisis Support.
10. After my release from the Barrett Centre I discovered that I was barred from all shelters in the City of Hamilton and I have not received an explanation as to why. As a result of being restricted from shelters and unable to afford rent, I was homeless again and without any options other than living on the streets.
11. Without anywhere to go for shelter, I pitched a tent at the intersection of Strachan Street and James Street in Hamilton. City By-Law and the Police advised me to move from these locations and I have been moving between green spaces ever since.
12. I was verbally told by the police that I had to move in 14 days and I complied to avoid conflict or criminalization and moved to Dundurn castle and then to the Catherine park by Urban Core, Charlton park.
13. Various street outreach workers from non-for-profit agencies provided outreach to me in each of the parks. Sometimes they brought me food, tents, they tried to advocate for me to get into shelter. It was easier for them to connect with me when I was in one constant location compared to various locations when I am routinely forced to move.
14. I tried to return to the Salvation Army I was told that I could not come in because I was restricted. The last time I tried to get into the Salvation Army was in the second last week of April 2022 and I was told that I was restricted – meaning that they would not allow me in.
15. The last time that I attempted to get into Mission Services was the last week in April of 2022 and I was told that I could not enter because of a “conflict of interest.”
16. No one has referred me to the hotel program or sought other temporary shelter for me.

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<sup>1</sup> Nicole Riley, “Man attacked at Hamilton Salvation Army Shelter,” *Hamilton Spectator* (18 December 2020) online: <https://www.insidehalton.com/news-story/10292802-man-attacked-at-hamilton-salvation-army-shelter/>

17. In 2021 I had 3 tents. On one occasion someone took my tent, another I gave my tent to a couple who needed a larger tent and in return I would get their single but they never gave it to me. I forget what happened to the third one.
18. The last time I had a tent was in 2021 in the fall. I can't remember what happened to it.
19. I have had nowhere to go and I do not know where I am expected to go when I am kicked out of every green space and I cannot get into any of the shelters.
20. On December 21, 2021, while homeless and without anywhere to go, I was hanging around the St. Paul's Presbyterian Church on Jackson and James Street, in Hamilton, sitting on the stairs, and a complete stranger walked up onto the stairs and shot me in the shoulder using a magnum 10 gun. I was not in a tent at that time because I did not have one. I was shot for absolutely no reason at all. My life flashed before my eyes. After he shot me he went into a car that was waiting for him and he drove away. I played dead and laid there out of fear that he would shoot me again and kill me.
21. After I was shot, I walked across the street to the YMCA and they called an ambulance.
22. I went to the Hamilton General Hospital and was there for 5 hours and was discharged to the Good Shepherd where they made an exception to allow me to recover there. I was at the Good Shepherd for two months. I was kicked out of the Good Shepherd because a nurse alleged that I threatened them, which is untrue. I had complained about a staff person kicking another shelter dweller to wake them up for sleeping, treating them like a dog and about this nurse pressuring me to change my medication when I had been given treatment by another doctor. This same nurse gave me hard time for playing my guitar.
23. I was never given a warning, I was told I was kicked out and was immediately kicked out of the shelter with nowhere to go. Two nurses, Heather and Nicole, told me that they disagreed with their decision to kick me out.
24. Without a shelter at night or anywhere to stay in the day, there's nothing for me to do. My life consists of wandering pounding the pavement.
25. I would love to have a routine again to work. Get up every morning, have breakfast go to work and go home. But that's impossible to do on the street. I would do better if I was housed.
26. With constantly being restricted and denied access to shelter, I feel that I have been targeted.
27. I would prefer to be in a shelter but I cannot get into one. When I cannot get into a shelter I would prefer to remain in one stable location with a tent rather than out in the open without one. This is because the tent offers the following benefits:




- I believe that if I had a tent in a secure area I would not have been on the church stairs shot
  - the tent provides a bit of a reprieve from the weather and being stuck in the rain where I get very cold and wet and am unable to dry my clothing
  - in a way it helps with a sense of privacy. You can still hear a lot of noise and can't control what is outside but at least you are separated to some degree
  - I don't want to carry too much stuff anymore. I only keep the most important things.
  - I constantly have sleep deprivation, but at least I sleep a little better in a tent
  - I was playing guitar along the wall, leaning against urban core and asked to leave
28. I have been ticketed for being in public space and private space, even when permission was given.
  29. When there's too much time on your hands and you're wandering the streets pounding the pavement with nowhere to sit or sleep without risking interacting with police, your mind and outlook is pretty grim. I want to cook my meals and maybe have a dog again. I just want a home. It's getting depressing and disturbing.
  30. Without a stable location that can allow for a community of street outreach workers or friends to connect with, I can go through a whole day without seeing someone I know and this makes me feel really alone. If someone asks where are you going, my answer is I am just walking around hoping to run into someone I know. The thing that brings me calm and distraction from my stress is playing my guitar.
  31. While I have been homeless, I've had to lie about ailments to get into a hospital to get warm because I am refused entry by all shelters. If I told them I needed to get in because I am cold they would not allow it. I've sat down in a warm room just to get some break. I will hang out at the train station or library.
  32. No city staff person has ever offered me a housing worker to assist with getting me into housing.
  33. During the period of 2017 to present I have not been offered affordable housing, or appropriate shelter for a temporary stay. Since the trauma of the attack in the shelter, it's difficult for me to stay in congregate style shelter spaces because of the associated Post Traumatic Stress.
  34. Aside from my experience with the Salvation Army I have had predominantly negative experiences in shelters. It is loud and I am unable to sleep. I have had my possessions stolen and the overall atmosphere is not healthy for me as I am scared for my safety.
  35. Routinely being evicted from encampments impacts me negatively both emotionally and physically because I always have to start over abruptly with little to no physical energy as I rarely have adequate sleep and food. I am not given any advance notice and

so the turn-around time to move is very quick. It is very emotionally taxing as it is stressful. I have lost belongings in the process of being displaced. Routinely moving also disconnects me from nearby services and supports that I rely on such as health care from the Shelter Health Network, supports offered by Wesley Urban Ministries and food programs with Churches.

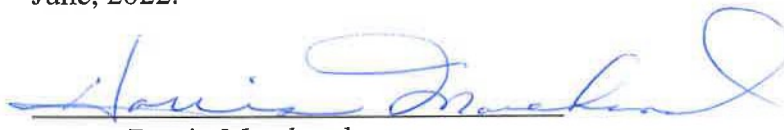
36. Shelter at Good Shepherd would ask why you aren't in the bed sleeping, but I was having insomnia because of pills that made me sleep in the day. I had been given medication that made me dizzy and they would challenge me. I had an argument about this and said I would only get instruction from my doctor. I didn't have a problem with the other nurses but the one was being a prick towards me because of his assertion of authority. I did not feel like he respected me and he was bullying me. I feel like his job was a more important than me being shot and homeless but I took second fiddle to him.
37. When I am in the cold, I can feel my whole head becoming numb because of the cold. My arms, hips and hands hurt. I don't want this kind of living.
38. I have lost trust in the shelter because they let someone in with a hatchet and that person was attacked.
39. I have had my possessions stolen from the shelter. They say they are locking them up but I have had personal heirlooms stolen including my mother's ashes. They just see garbage bags full of things and people rummage through them, or mistakenly given the bag to the wrong person.
40. I swear this affidavit in support of the motion and for no other or improper purpose.

**AFFIRMED BEFORE ME** in the  
City of Hamilton, this 2<sup>nd</sup> day of  
June, 2022

  
\_\_\_\_\_  
A Commissioner etc.

Sharon Crowe  
Barrister & Solicitor

) **AFFIRMED** at the City of Hamilton, in the  
) Province of Ontario, this 2<sup>nd</sup> day of  
) June, 2022.  
)

  
\_\_\_\_\_  
Darrin Marchand

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,  
AND SHAWN ARNOLD, ET AL.

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF Darrin Marchand

I, Darrin Marchand, of the City Hamilton in the Province of Ontario, Affirm and say:

1. Since June 2022 have stayed in the following locations: staying at friend's until Apr 22/23  
April 23rd - staying in various locations (downtown core near Tim Horton's).
2. I was recently allowed to access to Salvation Army but haven't accessed shelter because of my bad experience there where all of my belongings were removed. The only other shelter I have access to is the mission but I have been barred entry due to a "conflict of interest" because my ex-girlfriend from 1987 works in the kitchen. I have no other options for shelter.

Along with the recent experience and resulting trauma from witnessing this horrific act.

3. I'm now staying in various locations downtown in Hamilton near Tim Horton's Field.

4. I have been impacted by on-going encampment evictions since June 2022 in the following ways:


- loss of belongings - guitars, phones, ID, clothing
- sinus and respiratory problems due to winter spent outside.
- frightful of people attacking me while I'm sleeping outside

5. My fear has significantly escalated each time I am forced to sleep outside. I want to get back into a routine and starting working, but being homeless is making that significantly challenging.

AFFIRMED AND DECLARED  
before me at the City of Hamilton,  
in the Province of Ontario,  
this 25 day of April, 2023.

)  
)  
)  
)

at my old job and work  
again. I'm optimistic and  
would like to make my life  
better.

  
A Commissioner etc.



<div>Court File No. CV-21-77187</div> <div>ONTARIO SUPERIOR COURT OF JUSTICE</div> <div>B E T W E E N:</div> <div>KRISTEN HEEGSMa, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES, and PATRICK WARD</div> <div>Applicants</div> <div>- and -</div> <div>CITY OF HAMILTON</div> <div>Respondent</div> <div>-----</div> <div>The Cross-Examination of Darrin Marchand, taken upon affirmation in the above action this 29th day of August, 2024, conducted via Zoom videoconference hosted by the offices of Nimigan Mihailovich Reporting Inc.</div> <div>-----</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	<div>D. MARCHAND-3</div> <div>INDEX OF PROCEEDINGS</div> <div>A4832</div> <div>AFFIRMED: Darrin Marchand</div> <div>EXAMINATION BY: PAGE NO.</div> <div>Ms. Shores.....4</div> <div>-----</div> <div>GUIDE TO UNDERTAKINGS, UNDER ADVISEMENTS AND REFUSALS</div> <div>This should be regarded as merely a guide and does not necessarily constitute a full and complete list.</div> <div>Undertakings are found on the following pages:</div> <div>None entered</div> <div>Under advisements are found on the following pages:</div> <div>36</div> <div>Refusals are found on the following pages:</div> <div>None entered</div> <div>EXHIBITS</div> <table><tr><th>Exhibit No.</th><th>Description</th><th>Page</th></tr><tr><td></td><td>None entered</td><td></td></tr></table> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	Exhibit No.	Description	Page		None entered	
Exhibit No.	Description	Page					
	None entered						
<div>APPEARANCES:</div> <div>Sharon Crowe For the Applicants</div> <div>Community Legal Clinic</div> <div>Bevin Shores For the Respondent</div> <div>Gowing WLG</div> <div>Also Present:</div> <div>Michelle Sutherland - Community Legal Clinic</div> <div>Liz Marr - student with Gowing WLG</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	<div>D. MARCHAND-4</div> <div>---UPON COMMENCING AT 2:30 p.m.</div> <div>Darrin Marchand,</div> <div>having been duly affirmed,</div> <div>was examined and testified as follows:</div> <div>BY MS. SHORES:</div> <div>1 Q. Good afternoon, Mr. Marchand. As I introduced offline, my name is Bevin Shores. My pronouns are she and her. I'm one of the lawyers for the City of Hamilton in this matter and we're here today for your cross-examination on two Affidavits, one dated June 2nd, 2022 and one dated April 25th, 2023. So can we get started by having you please state your full name for the record?</div> <div>A. My name is Darrin Rene Joseph Marchand.</div> <div>2 Q. What did you say your middle name is?</div> <div>A. Rene.</div> <div>3 Q. Rene --</div> <div>A. R-E-N-E.</div> <div>4 Q. -- okay. Spelled the French way, R-E-N-E?</div> <div>A. That's right.</div> <div>5 Q. Okay, thank you. And do you have a name that you'd like to go by?</div> <div>A548</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>						



**D. MARCHAND-5****A. Just Darrin.**

6 **Q.** Okay. And do you have any pronouns that you wish to share?

**A. I beg your pardon?**

7 **Q.** Do you have any pronouns that you wish to share?

**A. No.**

8 **Q.** Okay. You've been affirmed to tell the truth just now; correct?

**A. Yes.**

9 **Q.** You understand that that means that you need to give truthful answers to the questions I'm asking you today?

**A. That's right.**

10 **Q.** Okay. And if during this cross-examination you don't understand one of my questions, please let me know and I can repeat or rephrase it for you. Is that understood?

**A. Understood.**

11 **Q.** Okay. Mr. Marchand, have you reviewed your Affidavit of June 2nd, 2022? Your June 2nd, 2022 Affidavit.

**A. Yes.**

12 **Q.** Okay. And can you confirm everything in that Affidavit is accurate?

**NIMIGAN MIHAIOVICH REPORTING INC.****D. MARCHAND-6****A. That's right.**

13 **Q.** And have you reviewed your April 25th, 2023 Affidavit?

**A. Yes.**

14 **Q.** And you can confirm everything in that Affidavit is accurate?

**A. Yes.**

15 **Q.** Okay. Now, just now you're looking at two documents, which I presume are your Affidavits. One other thing before we get to my questions, you're aware that the only documents that you're to have in front of you are your Affidavits; correct?

**A. That's right.**

16 **Q.** And you're not to have any assistance in giving your answers; correct?

**A. That's right.**

17 **Q.** Okay.

MS. CROWE: Ms. Shores, I do also have Dr. Lamont's report.

MS. SHORES: Okay. I will -- I take it, Counsel, that you'll -- that's only for use if I refer Mr. Marchand to the report and he is not be referring to it spontaneously?

MS. CROWE: That's right. I can put

**NIMIGAN MIHAIOVICH REPORTING INC.****D. MARCHAND-7**

it away for now if you'd like.

MS. SHORES: I don't -- perhaps

that's a good idea just so that things are clear as to what Mr. Marchand should be looking at.

BY MS. SHORES:

18 **Q.** Okay. Mr. Marchand, where is your current residence?

**A. I'm staying at The Salvation Army as of last night. I went back there.**

19 **Q.** Salvation -- which location is that?

**A. It's on York Boulevard.**

20 **Q.** How long have you been staying there?

**A. On and off for the last couple weeks. I go there and I signed in a little over a week ago.**

21 **Q.** Okay.

**A. I've been staying outside again.**

22 **Q.** And Mr. Marchand, since your April 2023 Affidavit, have you been housed?

**A. No.**

23 **Q.** Okay. Mr. Marchand, one of the witnesses for the City of Hamilton, a gentleman named Rob Mastroianni, who I'm fairly confident you've never met, but he looked at some records and

**NIMIGAN MIHAIOVICH REPORTING INC.****D. MARCHAND-8**

he indicated that those records indicated that you had obtained housing in October of 2023; is that possibly correct?

**A. If you tell me where it was. I don't know where it was.**

24 **Q.** I'm afraid that's not indicated.

Just that you had some sort of housing in 2023, so a little under a year ago. Last fall.

**A. Last fall I went back to my parents' house to live for a week.**

25 **Q.** Okay. And where are your parents?

**A. My parents are both deceased and my brother has been taking care of my parents' estate.**

26 **Q.** My condolences. And where was your parents' home?

**A. 1019 Garth Street, Hamilton. On the West Mountain.**

27 **Q.** And is there any reason that you're no longer staying at your parents' home?

**A. Just conflict of interest. Me and my brother, we have a history of violence and discrepancies. We make it -- we don't always get along and I've been asked -- I've been told, more or less, that I'm welcome to come there but just as long as it's in the daytime, not nighttime.**

**NIMIGAN MIHAIOVICH REPORTING INC.**



**D. MARCHAND-9**

28 **Q.** And do you take them up on that invitation to go to your parents' house in the daytime?

**A. Once in a while I build up the nerve to go up there and I knock on the door and I just say hello, is anyone home? And usually someone is home and sometimes nobody is home. I just wait around until someone shows up.**

29 **Q.** And how long ago was that invitation extended to you to go to --

**A. Well, last year about, I believe it was in October or September. I went up there to rake the leaves, took a couple pictures of a tree my mother planted when my father died and took some pictures of my niece and my nephew. My brother's grandchildren live there as well.**

30 **Q.** So your brother lives in your parents' house with his family and his grandchildren?

**A. That's right.**

31 **Q.** Understood. And so if I understand your evidence correctly, sometime around last fall, September or October, that's when you went to stay with them for a week and ultimately they told you you would be welcome to come back during the day?

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**A. I just came back from there the other day. I went up there and -- but I lose things. Like for example, I lost my phone and I lost my contacts with my family so basically I'm forced to, you know, either -- they don't have the same number as they once had before. It used to be a 905-389-9350 number and they don't have that number. Everybody has cell phones up there and it's hard to get a hold of my brother. He's always working and he's always doing his own thing and I don't usually get permission to go up there. I just go up there.**

32 **Q.** And I'm going to change gears for a moment, Mr. Marchand, and you may previously recall giving evidence in a cross-examination back in October of 2021. Do you remember that?

**A. Yes.**

33 **Q.** Okay. And you remember specifically that you were affirmed to tell the truth at that time?

**A. That's right.**

34 **Q.** Okay. And at that time, you gave us accurate answers to our questions?

**A. Right.**

35 **Q.** Now, Mr. Marchand, I do also have to  
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ask, in October of 2021, you participated in your examination from jail and you told us at that time you had been there since September of 2021. When did you get out of jail? **A4834**

**A. The same year. I went in jail three times, one for 50 something days, one for 30 days and one for 3 days.**

36 **Q.** Okay. And do you remember in and around October of 2021 which stay that was?

**A. When I spoke from -- I spoke with a lawyer on the telephone. I didn't know what it was for. I thought it was a criminal charge and I realized it had something to do with my Affidavit. It wanted to be confirmed by a lawyer.**

37 **Q.** I'm not sure you understood my question so let me rephrase it for you. I'm trying to figure out if there's anything that jogs your memory to say when you were released from jail after you had that phone call?

**A. Don't remember.**

38 **Q.** Okay.

**A. I don't recall.**

39 **Q.** All right.

**A. They just called me and said you'll be getting out today and that's it.**

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40 **Q.** And the things that you were in jail for, were any of them due to something that involved a shelter?

**A. I wasn't happy with my living conditions so I just went outside. I prefer to stay outside. Everybody was banging on my doors. I was living at the YMCA and I kept on going outside and playing guitar in the cold and that's all I wanted to do. I just wanted to forget that everybody is bothering me. They just keep coming to my door and bugging me for everything, you know, so I just said, you know, I just rather be outside rather than listening to what's going on in there.**

**In the same sense, those rooms in the YMCA seem like -- well, it seemed like I was still homeless. It didn't seem like a home. It just seemed like a jail cell. I had a hard time sleeping, I had a hard time concentrating or anything at all like going back to work and -- I don't know. I was just slowly deteriorating. My mind was, wasn't focussed and I was abusing drugs and I was, I was pretending that everything didn't bother me, but the more and more I came out, the more and more I found myself getting in trouble until one day, some person came up to me and shot me**  
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**when I was outside -- sleeping outside at the church across from The Salvation Army -- the YMCA back in 2021.**

41 **Q.** And so the incident that you referred to -- well, I'm going to talk, Mr. Marchand, a little bit later about the incident in which you were shot but I just -- going back to the time that you were in jail, let me ask it this way, what were you in jail for?

**A. I crossed an imaginary line. They told me not to go anywhere from, I forget what they call it. It's an Order saying that they don't -- they didn't want me from Ferguson to Hughson, from Cannon to King Street and I had a lot of things I had to do in that area. That's why I stayed there.**

**I fell on a piece of ice and because I got shot, I was lifting myself up on one arm and the next thing I know, I was arrested for being in an area when, in fact, I was permitted to stay down the street at the shelter. I was going through some pain from the gunshot wound and I just -- I couldn't, I couldn't function. I was, I was getting -- I was -- I don't know. I was getting worse. I was getting a little agitated because everything was just frustrating me until they put me**  
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**in a cell and started all my problems over again. You put me in a cell and I feel claustrophobic. I can't breathe and -- I don't know, I just have a problem being locked up. I've been locked up most of my life and it really feels like it's a bad dream.**

**I says there's got to be more to it than this. There's got to be more to it. You know, as soon as I got out I was supposed to report to my probation officer that I forgot to do and I didn't have the energy. I didn't have the energy to even walk over there and cross the street. I can find better things to do than dodging traffic, you know. Some of those cars coming at fast speed and if you're not paying attention, you can get hit by a car.**

**It's, like, I just want to, I just want a home where I don't have to cross the street all the time, you know what I mean? I don't have to go through intersections and crisscross across town. I don't want to get on buses and cross town to see my family all the time. I want to be able to call them and say hello and I can't do that because I don't have a phone. People keep stealing off me all the time. I buy a phone, people steal it. Mostly I**  
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**leave it. I'm so tired that I get, I get** **A4835**  
**disoriented of where I am, where I'm supposed to be.**

**They say I'm getting insubordinate with every law official that comes near me. I don't trust police officers sometimes and meanwhile, it's the police officers that have been helping me. Some of them have been giving me the gears. I got -- I got tasered in a corner one time and they didn't do nothing about it. They just tasered me, threw me, pistol whipped me, threw me in a cop car and I got belligerent with the police officers. I said the rudest things I can possibly think of and I says I'm more, I'm more valuable than that to myself. I mean more than that. That's why I don't like being locked up.**

**In fact, I don't like people touching me sometimes. I get very just, you know, you get very out of place, you know. I get insubordinate -- I've cussed to the police officers, I've cussed, to my own lawyer I've even cussed. I can't stand being locked up. I don't like being, like, probed and fingerprinted and -- I don't like that. Wiping off the stuff. You know what you're in here for? No, I have no clue what I'm in here for. All I know is that when I was a kid I was in**  
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**class and I got, I got put through the ringer, you know. I went through training school, I went through juvenile, I've been through penitentiaries, mental institutions and they call it West 5th here in Hamilton. Well, there's got to be lots of different places they put people that have mental illnesses but, like, I suffer from a mental illness that I can't understand. Maybe call me stupid, I don't know, but I'm getting tired of it. I just want a home and myself, you know. Every time I try to find a home, there's no answer for it.**

42 **Q.** Okay. So Mr. --

**A. There's no answer. Just get going.**

43 **Q.** Mr. Marchand, I'd like to --

**A. I don't understand it.**

44 **Q.** Mr. Marchand, I'd like to ask you

some questions about some of the things that you said. So one thing is you mentioned you don't like being locked up and we talked about when you were in jail in October of 2021. Have you been in jail since then?

**A. No.**

45 **Q.** Okay. And you mentioned mental institutions, have you been in mental institutions or places like West 5th since we last spoke about

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this matter in 2021?

**A. Not lately, no.**

46 **Q.** Not lately. What do you mean by not lately? When was the last time?

**A. To go to my parents house you got to pass by that. If I take the bus, I walk past West 5th. West 5th is -- that's where -- on Fennell --**

47 **Q.** I mean staying in West 5th, not in the area.

**A. Staying in West 5th, no, no. I visited someone in there a while back but that's about it.**

48 **Q.** Okay. Now Mr. Marchand, I put your June 2nd, 2022 Affidavit on the screen. You can also look at it in front of you. At paragraph four, you say that you're a person living with disabilities. What are the disabilities that you have?

**A. I'm clumsy. I don't know. I don't know. I write it up. Do you have anything to declare? I write zero. Nothing to declare. Nothing to declare meaning, like, have you been, have you been working under the table? Well, no, but I've been working over the table down at the International Longshoremen's Association and I feel**  
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like I'm an idiot over there. One time I was doing such a good job that I felt positive that I'd return to the work force and let go of this disability pension that they were giving me. I look at it like a pension but, like, you know, things happen when I was in that, when I was locked up in a mental institution I call it.

**I was in the -- I got assaulted by a patient and they made me undergo electric compulsive therapy for what, because I defended myself? Because I beat someone up? I was sexually assaulted by a patient and I had to look at this piece of shit, you know. I bottled it up for years and that's why I'm so -- I can't, I can't function properly because I've been abusing drugs all my life and I've been thinking, like, this is ridiculous. This is ridiculous. They made me undergo electric compulsive therapy and protected a pedophile that assaulted me when I was 15 years old and I can't get it out of my head.**

**So every time someone comes near me and touches me and all that and tells me what to do, I stand back and I'm wondering whether or not I'll do it or not. I guess you can say I've been living on the street long enough that I can't do it no more**

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**and I don't know where I find myself in the City. Well, I was born in this City and I was born in a hospital in this City and I have to go to that hospital to deal with my, with my personal hygiene that I can't take care of because I don't have my own washroom. I don't have my own facility.**

49 **Q.** Mr. Marchand, you're staying at The Salvation Army. There are washrooms there, though; right?

**A. Yeah.**

50 **Q.** And I just want to go back to something that you said. You mentioned using drugs, is that something that you're still doing?

**A. It's something that I don't want to do no more but I can't break free from it because I'm taking my medication as best I can because I got, I got arrested by the police. They took me to the hospital and they put me in these restraints after I've been pistol whipped and tasered by the police because I was cold. I just wanted to get warm. I was trying to get in and when I got in, they told me I had to go back and I went, what are you talking about? I just got here.**

51 **Q.** Sorry, Mr. Marchand, where were you trying to get into?

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**A. Pardon me?**

52 **Q.** Where were you trying to get into? You said you were trying to get in.

**A. I was trying to get in a shelter. I was talking with workers at the Wesley Centre. They moved their location for their shelter. I was talking with some workers and I was putting all my eggs in one basket, if you want to call it. I wanted to, I wanted to live somewhere.**

**Last time I had an apartment was 2017 and my grandfather passed away and well, I went, I went to his benefit and send my farewells and I came back and I wasn't really quite the same. I tried to forget that, you know, people in my life aren't there no more and I can't always rely on my parents for help because they're not around anymore and so I lean on my brother, and my brother, well, he's tired of me leaning on him. It's about time I stand on my own two feet, right, but I can't do it no more. I can't. I have a hard time. I have a hard time doing normal things because I don't have my own home. I signed off a lease because people were complaining about people that were coming to my house that I couldn't stop -- they were coming to my house and I walk in and they're in my house, you**

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know.

53 Q. Is this the house you had back in 2017?

A. Yeah. That's the last time I remember having my own apartment, and I signed off because I didn't want any more problems there. So they said we'll get you another apartment. Well, I'm still waiting. You know, I'm still going to -- this is enough of this. I can't, I can't do this shelter cycle again. I can't do this. I want my own place. How come I can't get my own place? City of Hamilton, Hamilton Housing doesn't got me on the list. Where's the affordable housing in Hamilton? Where can I go that the rent is not too expensive, you know? I don't know. I've been asking for these questions to my answers and well, I can't find it. I'm always --

54 Q. So Mr. Marchand --

A. -- taking care of someone else's problems.

55 Q. Yeah, let's ask it this way, so you're in The Salvation Army right now and you've got a room and so --

A. I beg your pardon?

56 Q. You're at the --

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A. I'm not in The Salvation Army right now. I'm sitting in this office right here.

57 Q. I'm sorry, you have a space in --

A. I'm sorry to point that out to you, but, like --

58 Q. No, you're correct. I was --

A. Waiting at 10:00 o'clock at night to get a bed, if you get a bed, isn't something that I want to do. I don't want to jump in and out of beds. I want my own bed, you know what I mean? I want my own bed. I want my own things that I, that I'm on disability for and I buy. I buy things for my family if I can. I'll buy someone a cup of coffee. I get kicked out of places.

59 Q. Mr. Marchand, Mr. Marchand. I do understand that you have a story that you want to tell but we're here to ask questions today and we do have other people that we need to get to so --

A. I know, I know.

60 Q. -- I'm going to ask you to -- I'm trying not to interrupt but I --

A. Any ways, they say I suffer from paranoia, they say I'm schizophrenic, well, that's just a word. That's not me. My name is Darrin Rene Joseph Marchand and that's my story and that's the NIMIGAN MIHAILOVICH REPORTING INC.

end of it. I ain't a schizophrenic. I'm just what they say but yeah, I do suffer from a lot of things. A4837

61 Q. So when you say schizophrenic, Mr. Marchand, is that something that you have -- you're getting treatment for?

A. Well, let's put it this way, I suffer -- I'm allergic to bee venom. If I get bit by a bee, my arm will swell out and I'm in a lot of pain so I get a shot every couple of weeks. Sometimes when I'm working, I don't have time to go do that. I don't have to go to the doctor --

62 Q. Mr. Marchand, where are you working?

A. I was working down at the International Longshoremen's Association.

63 Q. Okay, but these days, are you working?

A. I'm not working at all these days, ma'am. I haven't been able to work since I got shot. Even after I got shot -- even before I got shot I try to get back to work and I tried to, I tried to find a way to go back to work and bought a bike that got stolen, I bought a phone that I left it somewhere. I'm always emptying my pockets, seeing what I got in my pockets. Sometimes I have money, sometimes I don't have money. I can't even save two NIMIGAN MIHAILOVICH REPORTING INC.

nickels sometimes.

64 Q. So Mr. Marchand, you also mentioned when I asked you about drug use that there was medication you're taking. Are you in treatment for drug use?

A. No, I'm not.

65 Q. Okay. Is there any reason why not?

A. I don't believe in it.

66 Q. Okay.

A. I don't believe in it. I believe in the people out there that sell drugs to people so they can lose their mind and I believe they're laughing at people like myself and think it's a big joke, you know.

67 Q. Are you talking about the doctors trying to prescribe medication or are you talking about the people who sell you the drugs that you use?

A. I don't know.

68 Q. Mr. Marchand --

A. I'm just trying to forget that a guy shot me. Nearly killed me. That's what I'm trying to do.

69 Q. Okay, we're going to talk about that -- A553

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**A. I'm just trying to erase it. I'm just trying to erase it, you know. A guy nearly killed me. He walked right up to me and put a bullet in my shoulder. It went right through me. Went right out the other side and then it went in a door about that much before they pulled the bullet out of the door.**

70 **Q.** Okay. You're gesturing to your left shoulder? That's where the injury was, Mr. Marchand?

**A. The injury was in my left shoulder and it came out the other side.**

71 **Q.** On the backside?

**A. I couldn't lift my arm. When I fell on a piece of ice, police officer arrested me and put me in handcuffs and put me in the backseat of the car. He had no idea how much pain I was in. I don't think he cared, you know. Well, shame on him. I care. How about I put cuffs on him, you know what I mean? See how he likes it.**

72 **Q.** When did that arrest happen, Mr. Marchand, with the officer?

**A. It happened. It happened.**

73 **Q.** Mr. Marchand, when did that incident happen when the police officer arrested you and

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your shoulder hurt, do you remember?

**A. I've been turned down so many places and I've been excused --**

74 **Q.** Mr. Marchand, I'm not trying -- I would really like not to take more of your time than we need to about this but I need you to answer my questions.

**A. I'm sorry, I lost focus of what I was trying to say. It's just that I have a lot of animosity towards that person that shot me. I don't even know him. For all I know, he probably sees me every day and laughs at me, you know what I mean?**

75 **Q.** You don't know the person who shot you?

**A. Well, I was told who the person was. Do I know the person? No, I don't know him. He looks like any typical person I've ever met before. For all I know --**

76 **Q.** Do you have any knowledge why that person shot you? Did anyone tell you --

**A. Because they think he's whacked upstairs. I think he's missing a few bolts, you know. He's not wired right upstairs.**

77 **Q.** So this was a random attack?

**A. Walked up to a guy and shoot a guy,**

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**you know. I didn't even have a feather. I couldn't even tickle him with a feather if I wanted to.** A4838

78 **Q.** So to your knowledge, Mr. Marchand, it was a random attack, not somebody trying to shoot you specifically?

**A. A random attack. I think he's got his marbles -- I don't think he's all there, but that's okay, neither am I. Maybe it takes one to know one.**

79 **Q.** Mr. Marchand, I want to go back. We were talking about doctors and there's a Dr. Rachel Lamont who has written a letter on your behalf.

**A. Yeah. Anyhow, any ways, I suffer from this. I've been diagnosed with paranoid schizophrenia. Like I said, it's just a word to me.**

80 **Q.** Okay. So Mr. Marchand, but the question I want to ask you is have you actually seen Dr. Lamont for treatment?

**A. No.**

81 **Q.** Okay. Have you -- well, let me ask this, have you ever seen her before?

**A. Have I ever seen her before?**

82 **Q.** Yeah.

**A. No.**

83 **Q.** Okay.

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**A. I don't think I'd even recognize her if she was in this room right now.**

84 **Q.** Mr. Marchand, I want to go to paragraph eight of your Affidavit and now, in this paragraph, you describe something that happened in 2020. You state that you were sleeping at The Salvation Army men's shelter and witnessed an attack on a man in the neighbouring room. Specifically it was a hatchet attack. Now, at paragraph nine you say after witnessing this incident, you were admitted to the Barrett Centre for Crisis Support; is that correct?

**A. That's right.**

85 **Q.** How long did you stay in the Barrett Centre?

**A. Oh, a couple days.**

86 **Q.** A couple days.

**A. I couldn't get it out of my head. Now that I'm reading it, it's coming back to me. I was at the Barrett Centre last night. I walked a friend of mine that was staying there. I knew exactly where it was. It's down the street from my high school, which is another shelter. It's a warming centre that I'm barred from. You know, can't get along with people. I wish people would just** A554

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give me some space, you know. You know that saying --

87 Q. I'm sorry, Mr. Marchand --

A. -- don't call us, we'll call you?

88 Q. -- you're barred from the warming centre because you can't get along with people?

A. I try my best to get along with people. Sometimes I give up. Sometimes I give up.

89 Q. And then what happens?

A. I just snap. I lose it. I lose it. I don't care about nothing but myself and me, myself and I, you know. And I feel like that's the way a lot of people are, but there's a lot of people that have been helping me and I give the people, you know, the people that are out there what you call, you know, there's a lot of good people out there and I'm one of them, you know. I feel like, I feel like, you know, like the guy who shot me, he left me for dead. He didn't care if it hurt.

90 Q. Are the people at the Barrett Centre some of the good people who tried to help you?

A. Well, I don't think they knew exactly -- I don't think they knew exactly what I was going through. I mean, when you see a guy brutally attacked, you don't see it, you just hear NIMIGAN MIHAIOVICH REPORTING INC.

it and then you get on your feet and you go next door and you see someone all chopped up with an axe. You look on the floor, there's blood on the floor and you look at -- and a guy grabbed me like this and, like I said, I have a problem with people touching me and he looked at this guy and I don't know this guy from a hole in the ground. He's got no shoes, no socks and blood all over his feet and there's a hatchet on the floor. Well, I tried to pick the hatchet up because, you know -- he picked it up first so I went to my room and locked my door and he came knocking on my door. I told him get away from my door because I'll take --

91 Q. At that point, did you have the hatchet with you?

A. It won't be nice and instead of doing that, I ran downstairs and I got help for the man that was attacked upstairs --

92 Q. Mr. Marchand, when you went back and you were speaking with the other man, you had the hatchet? You still had the hatchet?

A. He had the hatchet on the floor.

93 Q. He had the hatchet on the floor. So you said you picked it up --

A. It was on the floor and then he NIMIGAN MIHAIOVICH REPORTING INC.

picked it up and now he's got a hatchet. I don't know. I never seen him do anything. I know what I seen. I wasn't imaging things. I knew what I seen. This guy -- whoever did that did that right next door to my room and you kind of wonder, like, I don't want to be there. But that's what, that's what happened there.

94 Q. Okay. Mr. Marchand, The Salvation Army location where this incident happened, is that the same Salvation Army location you're at now or is it a different one?

A. That's right.

95 Q. It's the same one?

A. You can understand I'm having, you know -- I don't want to be there but, you know, I get, I get -- I can't live outside. I can't. I have a hard time breathing today. I take puffers, actually. I don't know what else to say. I just don't -- I just -- like, it's coming back to me. I'm sorry, but I seen -- I may have heard or seen something that I didn't want to see and I couldn't stop talking about it because the guy was --

96 Q. Mr. Marchand --

A. -- next door to me. How can I not say nothing to him? Hello, how are ya? Not bad. NIMIGAN MIHAIOVICH REPORTING INC.

97 Q. Mr. Marchand, in your Affidavit you also say after you got out of Barrett Centre you say you were -- you discovered that you were barred from all shelters in the City of Hamilton and have not received an explanation as to why. Did you ask for an explanation?

A. I tried to.

98 Q. All right. What did they say?

A. They just said get out. Just like the -- they kick you out every day in that shelter.

99 Q. Okay. Well, which shelter because you said in your Affidavit it's all shelters?

A. Well, the ones that are downtown. I lived in the north end of Hamilton down on Wood Street for 20 years. My doctor is around the corner. I just seen him a couple days ago and I got my injection that they want to see me the first week of September.

100 Q. So Mr. Marchand, who is that doctor who gives you the injection?

A. He's my family doctor.

101 Q. What's his name?

A. Dr. Owsianik.

102 Q. Do you know how to spell that?

A. O-W-S-I-A-N-I-K. NIMIGAN MIHAIOVICH REPORTING INC.



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- 103 **Q.** And what does he give you the injection for?
- A.** **Like I said, I'm allergic to --**
- 104 **Q.** To bee stings?
- A.** **-- bee venom.**
- 105 **Q.** So it's an allergy shot?
- A.** **Yeah, it's an allergy shot.**
- 106 **Q.** Now, I want to take you back to when you said you were banned from all the shelters. Do you have any idea why they might have said you were banned from shelters?
- A.** **Yeah.**
- 107 **Q.** And what's that?
- A.** **I went to the police station to give my statement about what I had heard and why I went downstairs to notify the security guard that this guy needs an ambulance upstairs. I said -- I told them like it is. You're the reason why that guy is in the hospital. You let that animal upstairs with the hatchet, not me. I didn't let him. Maybe I should get a hatchet to even it up just so I can -- oh, you're out of here. You're gone. That was it. You're out of here. Why, because I spoke the truth? You let that guy upstairs with that thing.**
- 108 **Q.** Mr. Marchand, you even just said
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- that maybe you should get a hatchet. I mean, you agree with me, someone would take that as a threat?
- A.** **When you see a guy -- I'm sorry. I got to stop talking about this guy. You know, I can close my eyes and I can see it all over again. It's not good even talking about it.**
- 109 **Q.** So Mr. Marchand, have you ever gotten into a fight with anybody at a shelter?
- A.** **Have I what?**
- 110 **Q.** Gotten into a fight with anybody at a shelter?
- A.** **Just an argument. Just an argument. Not a fight. Some guy called me a name and yeah, I went into -- I went into defensive mode. I got kicked out for that, too. You're out of here. I couldn't even have breakfast. Get going.**
- 111 **Q.** Have you threatened anyone at a shelter? Say you were going to do anything --
- A.** **No, I threaten nobody. I not threatening nobody.**
- 112 **Q.** Not even the shelter workers?
- A.** **No.**
- 113 **Q.** Have you ever broken things at a shelter?
- A.** **My own things I have. By accident.**
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- 114 **Q.** Have you ever punched anything or thrown anything?
- A.** **I beg your pardon?**
- 115 **Q.** Have you ever punched anything or thrown anything at a shelter?
- A.** **No.**
- 116 **Q.** Have you ever refused to leave a shelter when they asked you?
- A.** **Yes.**
- 117 **Q.** Okay. How many times has that happened?
- A.** **Once. Once.**
- 118 **Q.** Once. When did that happen?
- A.** **One time I broke the door open because I slipped. I was on ice and my foot went through the window. I broke the window and when I broke the window, I didn't -- I offered to pay for it but it was an accident. I didn't do it on purpose. It was an accident. I just slipped. I'm clumsy, like I said. I'm clumsy. You know, I break things by accident. You can ask for my help but I might not be able to help you. Pretty clumsy, you know.**
- 119 **Q.** So Mr. Marchand, you said in your Affidavit that you didn't get an explanation as to
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- why you were barred from shelters but the City of Hamilton has records of your attempts to access shelters and homelessness services and that also includes things like Service Restrictions. So will you sign an authorization allowing your record to be disclosed in this litigation?
- MS. CROWE: Counsel, we'll take that under advisement.
- MS. SHORES: My position is that it's relevant and that Mr. Marchand's authorization is necessary in order to comply with the relevant privacy legislation.
- ADVISEMENT
- BY MS. SHORES:
- 120 **Q.** Mr. Marchand, at paragraph 11 of your Affidavit you say that you pitched a tent at the intersection of Strachan Street and James in Hamilton. How long did you stay there?
- A.** **Oh, not very long.**
- 121 **Q.** Okay. And then you say that --
- A.** **Some people came over my tent and start bothering me and I just -- it's not like locking your door and someone is knocking on your door and, you know, they won't leave you alone.**
- 122 **Q.** All right. So --
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**A. Because they tend to hang outside your tent, they piss on your tent, they steal things outside your tent. I've come back to my tent and the pegs that were holding the tent up were collapsed and a little note saying you got to move from here. And that's all I need to know because -- like I said, there's no protection in a tent but a tent is not the worst thing in the world.**

123 **Q.** Okay. So Mr. Marchand, you said you came back and there was a note so you didn't see who took up the pegs in your tent; right?

**A. Yeah. People were stealing from, like, taking my tent, taking my tarp.**

124 **Q.** And you don't know who stole from you?

**A. No, I don't know. I don't know.**

125 **Q.** Who left the note?

**A. Pardon me?**

126 **Q.** Who left the note saying you had to move?

**A. Police officers.**

127 **Q.** Okay. And did you move?

**A. Yeah, I packed up my tent. I had to open it up and pull all my stuff out of the tent and then pack the tent in a bag and get going again.**

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**Yeah, I did it quite a bit.**

128 **Q.** Okay. You said you did it quite a bit. Can you tell me from, like, how long you were doing that for or can you explain that a little more?

**A. Well, enough time that I don't want to do it no more.**

129 **Q.** Can you be a little more specific?

**A. I don't like living in a tent.**

130 **Q.** I know, but in terms of how long you've been moving around from your tent?

**A. Well, people just -- like I said, they won't leave me alone, you know what I mean? You know what I mean? Sometimes I just want to sleep. I just want to get some sleep. I can't sleep. That's probably -- that's why I'm probably trying to find ways of staying up. Who wants to go to sleep when, you know, there's fresh air outside.**

131 **Q.** So Mr. Marchand, you say also that you had a stay at -- move to Dundurn Castle and then Catherine Park by the urban core. You were staying in tents there?

**A. Yeah, I was staying in tents there and there was people that were telling me to move from there.**

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132 **Q.** So same thing, when they told you to move, you packed up your tent and you moved? **A4841**

**A. Yeah.**

133 **Q.** Do you know who was telling you to move?

**A. People that were managing the Dundurn Castle.**

134 **Q.** Okay.

**A. Some guy came up to me and said you can't stay here. It's the location where I put my tent. They told me I couldn't stay there so I moved it.**

135 **Q.** All right. He's coming up to you sometime during the day and saying you can't be here?

**A. That's right.**

136 **Q.** In your Affidavit, well, you say that you had a tent last in fall of 2021. Is that still true or have you had a tent since then?

**A. I've had a few tents.**

137 **Q.** Okay.

**A. I've had a few. They were small enough that you couldn't even stand up in it and once they were put up, I had cooperation from people helping me with the tent and they wouldn't stay up.**

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**The trains would go by and the trains would keep me up and I can't sleep.**

138 **Q.** When was the last time, Mr. Marchand, that you had a tent?

**A. I beg your pardon?**

139 **Q.** Let me ask you this way, do you still have a tent?

**A. No, I don't.**

140 **Q.** Okay. When was the last time you had a tent?

**A. Who knows. I don't know.**

141 **Q.** You don't know?

**A. I don't have a clue. My uncle gave me a tent and someone stole it off me.**

142 **Q.** Mm-hmm.

**A. You know, it was there, I turned around and it was gone. Someone walked away with it, and I'm not going to run around the City looking for whose got my tent. You got my tent? I'm not going to -- I ain't running around for nothing no more.**

143 **Q.** So Mr. Marchand, in your Affidavit at paragraph 13 you say that various outreach workers from not-for-profit agencies provided outreach to me in each of the parks. Sometimes **A557**

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they brought me food and tents. They tried to advocate for me to get into shelter. So outreach workers, you can get a tent from them if you need one?

**A. Yeah, sometimes there's outreach workers that will provide you with a tent, yes, there are.**

144 **Q.** Now, Mr. Marchand, you talked to us a little bit about the shooting and I just want to ask you a little bit more about it. You said you were on the stairs at the church across from the Y?

**A. The YMCA, yes, on James and Jackson Street.**

145 **Q.** Okay. Is there a particular reason you were there at the time?

**A. Yeah, I was across the street from where I was staying. I was playing guitar and I was tired.**

146 **Q.** Okay. So you were --

**A. I was tired. I can't stay in Sally, I can't stay in the Y, I can't stay in the Good Shepherd so I'm going to park it right here at that church and that's where I went.**

147 **Q.** So --

**A. I --**

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148 **Q.** Mr. Marchand, sorry, I just want to clarify. So you were staying at the Y at the time and then you went across the street to the church to play your guitar?

**A. Well, yeah, I -- playing guitar is an outlet for me. I learned how to play it and it keeps me -- it takes my mind off things.**

149 **Q.** Were you playing your guitar when the person shot you?

**A. No, I was sleeping.**

150 **Q.** You were sleeping?

**A. I was sleeping.**

151 **Q.** Okay. Is there a reason you didn't go back to the Y --

**A. I was cold, I was tired, I was hungry and I was tired of walking back and forth.**

152 **Q.** So you just wanted to go to sleep there?

**A. Pardon me?**

153 **Q.** So you just decided to sleep there?

**A. Yeah, I was sleeping there. A lot of people go there. They go there to sit down. They go there to talk. This guy who came up to me and just shot me, I was told his name was Ryan Alexander Phillips. That's what I was told. And if**

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**it was, if it ain't, well, shame on you, buddy.**

154 **Q.** So I take it they caught the person who shot you, Mr. Marchand?

**A. I guess so. That's what they told me they had.**

155 **Q.** And you said before that this was a random attack so for all you know, if you had been somewhere else --

**A. It was an isolated gunshot wound.**

156 **Q.** I'm sorry?

**A. It was an isolated gunshot wound.**

157 **Q.** Okay. But in terms of -- so he wasn't trying to shoot you specifically. I think you said that to us before --

**A. He shot me specifically. Yeah, he shot --**

158 **Q.** He targeted you. So he wanted to shoot you in particular?

**A. Oh, yeah. He wanted to shoot me.**

**He said -- he thinks I stole his phone. I did not steal his phone. I told him that and I says I don't know if you're calling me a thief or a liar, whether you're testing my integrity. What's with the trick questions, you know? I didn't steal your phone and my buddy said we didn't see a phone in your hand but**

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**we see the crack pipe in your hand and I said to myself yeah, I see it too, but I didn't say nothing and he probably didn't like that. And he came back and he said -- pardon my -- I don't mean to swear but if I'm going to quote this person what he said, I'd like to.**

159 **Q.** That's okay.

**A. Well, he swore and he says if I don't get my effin' phone back, I'm going to effin' kill you. Well, bring it on because if that's what you want to do, I'm not going to -- I'm not going to let you shoot me again.**

**As a matter of fact, you know, I've even -- when I went to jail, I told them, I says I don't know which one of these assholes, and I was pointing at the police, whose idea it was to put me in jail with the guy who shot me but if he put me on that guy's fucking range or you put me near him, I'll fucking kill him with my bare hands. That's all I have. I don't have a gun, I don't have a knife. I don't fight like that.**

160 **Q.** So you didn't want to be near him in jail?

**A. Of course not. Of course not.**

161 **Q.** But they didn't put you in the same

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cell?

**A. I don't want to be in trouble the rest of my life.**

162 **Q.** They didn't put you in the same cell with him; right?

**A. No. As a matter of fact, they didn't even have him in the same jail but they put me in -- they put me in segregation and I started having -- I said story of my life. Locking me up. You want to question me? They're going to question me. They don't need my permission. They're going to do it any way they want. If they want me -- if they want me to go and take fingerprints, they're just going to throw me in the cop car, handcuff me and take me in and they're going to tell me.**

**I've been bear maced for the stupidest reasons. I've been pistol whipped, I've been tasered, I've been shot, I've been beat up and I don't know. I've asked for help but, like, yeah, I can get violent but who wants to get violent? Who wants to get violent, you know what I mean? I'm not, by nature, a violent person but when, you know, if I don't fight for my rights, who is going to fight for me?**

163 **Q.** So you --

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**A. I'm the only -- I deserve a home just like everyone else does.**

164 **Q.** So you're not a violent person --

**A. There's lots of people on that homeless list here in Hamilton. I see them all the time. I feel sorry that their lives are unmanageable just like my own.**

165 **Q.** So Mr. Marchand, you don't believe you're a violent person but if I understand you correctly, sometimes you need to get violent or sometimes you get violent any way?

**A. No, no. I've been assaulted a few times. I just look at it like you know what, why am I being picked on? I don't know.**

166 **Q.** Mr. Marchand --

**A. I don't know what I'm trying to say to you right now. It's not such a bad idea having a tent. You know, some people have tents and they're able to function and live a normal life but I shut people out. I shut people out. If I don't want to talk to you, I just, I just turn around and I got to go do something different. Change my way of thinking, you know.**

167 **Q.** All right. So Mr. Marchand, I want to talk to you -- I want to take you back to the

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point in time, so after, after the shooting, you went to Good Shepherd, right? You were in Good Shepherd for two months --

**A. That's right.**

168 **Q.** -- according to your Affidavit.

Okay. Now, you say that you were kicked out of the Good Shepherd because a nurse alleged that you threatened them?

**A. Beg your pardon?**

169 **Q.** In your Affidavit, you say that you were kicked out of Good Shepherd because a nurse alleged that you threatened them; is that correct?

**A. That's right.**

170 **Q.** Okay. Now, you say that was untrue. Are you saying that the nurse made it up?

**A. Okay. He was giving me very little for pain and one of the nurses told me that they're giving you nothing for pain, dear, and you've been shot and someone -- they put me in a room with a bunch of other people and this guy, he dropped, I don't know, his lock or something. Something fell and he looked in and I don't know what made the noise but I was in the corner in my own bed and they go -- I go -- it was the guitar that got my arm -- putting my arm up. I couldn't lift my arm over my**  
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**shoulder like I am right now and it was playing the guitar that got my arm back to the use again and started playing guitar again. And I was -- I have to admit, I was pretty, I was pretty petrified when I got shot.**

171 **Q.** Okay, but Mr. Marchand, what I asked about is you said that the nurse said that they were -- that you threatened them and that was untrue so I want to know --

**A. The nurse says that. I say he threatened me. He had me kicked out in the cold. I just got shot and I'm back out in the snow again.**

172 **Q.** Okay, well what happened --

**A. What kind of compassion is that?**

173 **Q.** What happened when the --

**A. Obviously his job is more important**

--

174 **Q.** Mr. Marchand --

**A. -- to him than me; right?**

175 **Q.** -- what I'm asking about --

**A. His job is more important than me; right?**

176 **Q.** Well no, nobody is saying that but what happened when the nurse kicked you out?

**A. I was kicked out because that guy**  
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**had me kicked out and that's the way they plan it.**

177 **Q.** What happened when that nurse kicked you out?

**A. What about it?**

178 **Q.** What happened --

**A. I asked for my medication, he didn't like it. I go out for a cigarette, I come back in, that's not working so now I'm -- now I'm still -- I was in pain. Give me a painkiller. Give me something to take this pain away from me. All I got is a bullet hole. It's right there.**

179 **Q.** Mr. Marchand, is it possible that you said something angrily to the nurse before you got kicked out?

**A. Is it possible what?**

180 **Q.** That you said something angrily to the nurse before you got kicked out?

**A. No, no. I kept asking what's your problem any ways? You don't like me? Did I do something to you? He kept opening the window. What's going on here? Flashing a flashlight in my face. You know, your job is to dispense the medication and see that we're all right. Well, maybe he didn't like working there. I don't know. He didn't like me. You know, I tried to make fun of**  
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**the situation. I tried to make, you know -- so I got shot, you know.**

181 **Q.** Mr. Marchand, you also say that a nurse was pressuring you to change your medication. What happened?

**A. Well, I needed something for pain.**

182 **Q.** No, you say that a nurse was pressuring you to change your medication. What happened?

**A. I don't know. I don't know what happened. I just, I just noticed that I spent five hours in the hospital and got kicked out of the hospital. There was nowhere for me to go. I can't -- what do you want me to do, walk out with a black arm band and --**

183 **Q.** No, Mr. Marchand, the question was --

**A. What do you want me to do, get hit by a car next? Bolt of lightening? What's going to happen?**

184 **Q.** Mr. Marchand, the question was --

**A. I just got shot.**

185 **Q.** -- what happened --

**A. What do you want me to do? What do you want me to do?**

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186 **Q.** All right, Mr. Marchand, I've given you multiple opportunities to answer the question, I'm going to move on. In paragraph 28 you say that you've been ticketed for being in public space and private space even when permission was given. When did that happen?

**A. Ticketed for being -- I've been ticketed. I was given a trespassing where if I don't leave the premises I'm going to be charged with trespassing.**

187 **Q.** Okay. What premises? Where were you --

**A. What's that?**

188 **Q.** Where were you trespassed from?

**A. The YMCA where I was staying.**

189 **Q.** When did that happen?

**A. I said show me a piece of paper with my name on it saying I'm trespassing. Every time I said that, the police got in their car and left. I said see, there is none. There is no trespassing order. You're making it up. You're not the law, you're a police officer.**

190 **Q.** Okay. So you didn't actually get --

**A. You're just a police officer or you're a security guard so show me the piece of**  
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**D. MARCHAND-52**

**paper saying I'm trespassing. I'm sitting here, I've got nowhere to go. I'm getting tired of being pushed around.**

191 **Q.** So Mr. Marchand --

**A. Where am I going to go? You tell me where to go.**

192 **Q.** Mr. Marchand --

**A. You represent the City of Hamilton. I want the City of Hamilton to stand up for me and find me a place to go. You know, wherever it is, I don't care. I'll go. I'll go. I might have to travel farther and longer but where do you want me to go? I want the City of Hamilton to find me a home. I don't want to move to another City. This is where I'm from. This is where I grew up. This is where I live. This is where my family is. My niece and my nephews and my grandchildren live in this City. I should be able to walk down the street without a threat of someone shooting me, you know what I mean? What are you going to do, shoot my grandchildren? I'm going to go get a gun and start shooting people. That's what I'm going to do.**

193 **Q.** Mr. Marchand, that is inappropriate.

**A. (Indiscernible)**

194 **Q.** Mr. Marchand --

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**A. You're going to threaten my grandchildren --**

195 **Q.** Mr. Marchand --

**A. I'm going to take up arms myself and join a gun club and I'm going to buy a gun myself and start walking down the street with a gun.**

196 **Q.** Mr. Marchand, I sincerely hope that you are not being serious when you say that.

MS. CROWE: Counsel, can I suggest that we stand this down for two minutes, five minutes, actually, to allow Mr. Marchand to go outside for a moment and collect himself?

MS. SHORES: That may be appropriate but I'll just remind --

THE WITNESS: I think it's appropriate. All you're doing is bringing up bad things, Counsel.

BY MS. SHORES:

197 **Q.** Mr. Marchand, I'm only asking you questions about what you wrote in your Affidavit.

**A. Well, that's not my fault. You know, I got a guy who left me for dead, walked away, got in a car and drove away. He didn't care. He just put a bullet in me. He didn't care.**

198 **Q.** Mr. Marchand --

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MS. CROWE: We're going to take a break.

MS. SHORES: We're going to take a break. You are not to discuss your evidence with anyone including your lawyer. We're going to come back in five minutes.

THE WITNESS: Okay, thank you.

MS. SHORES: Give you the opportunity to clear your head.

THE WITNESS: Thank you.

MS. CROWE: Thank you.

(OFF THE RECORD AT 3:33 p.m.)

BY MS. SHORES:

199 **Q.** Mr. Marchand, I'm going to direct you to paragraph 35 of your June 2nd, 2022 Affidavit. I'll put it back on the screen here. At paragraph 35, you're describing being in encampments and at the second sentence you say, "I'm not given any advance notice and so the turnaround time to move is very quick." Tell me about that. You're not given any advance notice that people are going to tell you to move?

**A. No because I spend a lot of time trying to sleep. I get pretty lazy. I'm 57 years old and I'm more lazier than I was when I was**

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younger.

200 **Q.** So when they tell you to move, do they tell you when you need to move by?

**A. They sometime -- well, if I don't move and I just leave my tent there, I'll come back and it's not there. Someone takes it. They take it down. They don't --**

201 **Q.** Do you know who takes your tent?

**A. Pardon me?**

202 **Q.** Do you know who takes your tent?

**A. No, I don't.**

203 **Q.** All right. I'm going to go to your April 2023 Affidavit where you say since June 2022, you've stayed in the following locations: Staying at a friend until April 22nd of 2023 and then April 23rd, staying in various locations, downtown core near Tim Hortons. So were you staying in tents there?

**A. Is this the one I signed yesterday? No? This is -- oh, I see. April 25th, 2023. Okay, that was over a year ago. Under a year ago. Where was I?**

MS. CROWE: Ms. Shores, could you repeat the question, please?

BY MS. SHORES:

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204 **Q.** Yes. When you were staying in various locations in the downtown core near Tim Hortons, were you staying in tents?

**A. No, I was staying outside. Just staying outside.**

205 **Q.** Okay. Is there any particular reason you weren't staying in a tent?

**A. No, I just get cold. I feel like I'm trapped in there.**

206 **Q.** You feel like you're trapped inside a tent?

**A. Yeah, and there's no protection. Just elements of nature find their way to -- it's just challenging, you know, living outside.**

207 **Q.** So Mr. Marchand, I just want to be clear. So I'm asking why, why in April of 2023 you weren't staying in a tent?

**A. I didn't have one.**

208 **Q.** You didn't have one. Did you try to get another one?

**A. Well, my uncle gave me one and then I lost it. Someone, like, just took it. I put it down and I went to go get it and it was gone. So I lost it. Someone picked it up and either put it in the garbage or found a use for it. They recycled**

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it. Someone else needed a tent.

209 Q. How long were you gone for when you left your tent, do you know?

A. I beg your pardon?

210 Q. How long were you gone for when you left your tent?

A. Well, I had to find myself a washroom. I had to relieve myself and by the time I come back, it was gone.

211 Q. And you don't know who took your tent?

A. No. I took my time coming back.

212 Q. Mr. Marchand, did you try to get into any shelters?

A. No.

213 Q. And since April of 2023, where have you been staying?

A. I've been staying at a church down on James Street.

214 Q. Staying inside at a church?

A. Yeah, when it's open and then I find my way back out again. I go to, I still go to these shelters. They're still feeding me, they're still helping me out.

215 Q. And do you stay at any of the  
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shelters overnight?

A. I try to but in the morning after breakfast they kick you out again, right. They want you to leave because there's nothing going on. So I just try to find myself something to do.

216 Q. And so when you go to the church, is that -- sorry, Mr. Marchand, when you go to the church, is that during the day or is that somewhere where you can stay overnight as well?

A. I try to stay at my friend's place a couple times. I even tried staying at my daughter's place and she's got no room there. So I just visit my daughter and my grandchildren once in a while and I go visit them.

217 Q. Okay. So your daughter and your friend will let you stay with them sometimes?

A. Yeah, I sometimes have dinner with them. My daughter just got married on August 11th with her boyfriend and my grandchildren were there and I went to the wedding and I was pretty happy to see her. You know, she married someone she loves. She found someone she really loves and I'm so happy for her.

218 Q. Congratulations.

A. You know, I wanted to be there. I  
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didn't want to let her down so I made arrangements to use the telephone at the church because like I said, I lose things when I'm on the street. I can't keep things in my pocket very long.

219 Q. Mr. Marchand, your daughter lives in Hamilton?

A. Yes, she does.

220 Q. Is she in a house or an apartment?

A. She lives in a house.

221 Q. Okay. And your friend who you stay with sometimes, they're also in Hamilton?

A. My friend that I stay -- no, I just hang out with some friends.

222 Q. Okay. So when you say you stay with your friend, there's not someone that you're actually, like, crashing at their place, you just hang out?

A. No, I don't crash in my friend's place. I just, once in a while I'll pass by a friend's place and I'll say hello.

223 Q. Or sometimes people use the phrase couch surfing, like, sleeping on their couch. You don't --

A. That's an old saying, couch surfing. Yeah. Yeah, I stretch out sometimes on the couch,  
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yeah.

224 Q. At your friend's place?

A. Yeah. It's mostly at the centre. I sleep on the floor because it's the only place where I can get comfortable is in a corner.

225 Q. Okay, Mr. Marchand, have you understood all my questions today?

A. Yeah, I understand. It brought back a lot of animosity when you talked about me being shot and I brought it up but I'm more or less forgave the guy that shot me. I don't know why he shot me. I don't know why. I just, I just --

226 Q. Well, thank you for revisiting that for us, Mr. Marchand.

A. I'm sorry I was so, you know, emotional about that. I had a lot of, I had a lot of hate. I had to let go of it, you know.

227 Q. Okay.

A. Sometimes it comes back in me again and I don't like that about myself. I just, like, I just want to forget that I got shot and live the rest of my life peacefully, you know.

228 Q. That's very self-aware, Mr. Marchand, and thank you for that. Are there any of the answers that you've given me today that  
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you wish to change?

**A. No, I just -- you see some of my answers might have been pointless and weren't leading to any conclusion. It's just that it's hard for me to forget that day. I can't forget that day and I can't forget a lot of other days, but sometimes I'm -- I'm still optimistic, like I said. I'm looking for a place to make my life better and one day I will. I can see here from the statement that, you know, I signed it. That's my signature. I can't read without glasses and my friend gave me these glasses last night when I was talking with my lawyer and I --**

229 **Q.** Mr. Marchand, I'm just going to pause you there because I don't want you to say anything that you've discussed with your lawyer, and I'm sure your lawyer doesn't want you doing that either.

**A. No.**

230 **Q.** I'll conclude my questions there, Mr. Marchand. I don't have any more questions for you but I want to say thank you for coming in today and thank you for spending the energy to revisit these things, which I understand have been difficult for you. So those are my questions.

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**A. You're welcome. Thank you very much for listening to me.**

BY MS. CROWE:

231 **Q.** Thank you. Mr. Marchand, we're almost done, I just have a few questions for you, okay?

**A. Okay.**

232 **Q.** So the first is that you mentioned that you were barred from a warming shelter; which one was that?

**A. The Cathedral Warming Centre on Emerald and Main.**

233 **Q.** When did that happen?

**A. Now that it's summertime it's called the cooling centre. It happened -- they said my bar will be over September 17th and I can come back.**

234 **Q.** Okay. This September 17th?

**A. Yeah.**

235 **Q.** When was the bar imposed?

**A. Over a month ago. Months ago.**

236 **Q.** Okay. Ms. Shores asked you if you were ever able to get a tent from outreach workers, when was the last time you were offered a tent from an outreach worker?

**A. Someone gave me a tent for my friend**

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**Dwayne and we put it up. He has a dog and we put it up behind the church and it was only supposed to be temporary. We were supposed to take it down and it was taken down and I don't know what happened to the tent. But it was given -- it was -- I asked for it for my friend and his dog and they gave it to me. It was the HAMSMaRT program.**

237 **Q.** Do you remember when that was?

**A. Over a month ago.**

238 **Q.** Thank you. I know this is difficult and so we're not going to spend too much time on it but I just want to bring you back to the shooting for a moment, okay?

**A. All right.**

239 **Q.** So Ms. Shores was referencing paragraph 20 of your June 2022 Affidavit and she asked you why you were staying at the church and you said it was across from where you were staying at the Y but then you also said you couldn't stay at the Y. What did you mean?

MS. SHORES: Counsel, I think he elaborated quite a bit on that answer.

MS. CROWE: He didn't elaborate on why he couldn't stay at the Y.

MS. SHORES: I believe the record

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will show that he gave quite a lengthy narrative of his reasons for not staying at the Y.

MS. CROWE: I disagree with that so I'm going to ask him to answer the question.

BY MS. CROWE:

240 **Q.** What did you mean when you said you couldn't stay at the Y?

**A. Because they impose a trespassing Order on me and last time I stayed there, I was -- someone pepper sprayed me and I was in the lobby. I was sleeping on the floor, I was cold and that's actually the last time I stayed there. I just walk by there. I don't stick around. I walk down the streets if I have to.**

241 **Q.** Thank you. Thank you, Mr. Marchand, those are my questions.

**A. Okay.**

MS. SHORES: Thank you, Mr. Marchand.

THE WITNESS: You're welcome.

---WHEREUPON THE EXAMINATION CONCLUDED AT 4:01 p.m.

**A563**

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A4848

I hereby certify the foregoing to be the evidence of  
Darrin Marchand, given under oath before me on the  
29th day of August, 2024, recorded stenographically  
and later transcribed by me.



Rachel Thompson

Court Reporter

Commissioner of Oaths (expiring November 2024)

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A564

*Heegsma et al*  
Applicants

*-and-*

**A4849**  
**CITY of HAMILTON**  
Respondents

Court File No. CV-21-00077187-0000

***Ontario***  
**Superior Court of Justice**

PROCEEDING COMMENCED AT HAMILTON

**APPLICANT'S APPLICATION RECORD**  
**VOLUME 2 TABS 19-42**

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**A565**