

### **Clarifications to the 2017 Wilson Moot Problem**

#### **Tara and Tamara Keigh (by their litigation guardian Valerie Keigh) v. Winnipeg School Division**

1. The facts are as found by Justice Abbott and contained in the fresh evidence admitted by the High Court. Mooters may conduct any research they see fit in the course of developing their arguments. Mooters are also permitted to refer to any domestic or foreign law in their written and/or oral arguments, aside from the *Religious Exercises in Schools Regulation*, Manitoba Regulation 554/88. However, no reference shall be made, in written or oral arguments, to any facts (legislative or adjudicative) beyond those found by Justice Abbott or admitted on the fresh evidence motion.
2. The parties are agreed that the standard of review is reasonableness, per *Doré v. Barreau du Québec*, 2012 SCC 12. Mooters are free to discuss the content of the standard of review and authorities relevant to it, but leave has not been granted to argue that the standard of review is anything other than reasonableness.
3. Justice Abbott's order requiring Hawerchuk to allow the Keigh sisters to try out for the boys' soccer team was made pursuant to subsection 24(1) of the *Charter*, as requested in their application for judicial review.
4. All physical education classes at Hawerchuk, as at other public schools in Winnipeg, are single-sex.
5. While the Keigh sisters were enrolled at Hawerchuk, there were no other public high schools in Winnipeg at which girls played on a boys' soccer team.
6. The Keigh sisters submitted a written complaint to the Board of Trustees of the Winnipeg School Division. The Board of Trustees reviewed and discussed Principal Vandalay's decision and the procedure he followed. The Board of Trustees of the School Division then voted to affirm his decision. The parties agree that the process and reasons of Principal Vandalay are effectively the process and reasons of the School Division for the purposes of the appeal.
7. The fresh evidence admitted by the High Court did not include any evidence regarding whether the Keigh sisters likely would have been admitted to different universities or obtained more lucrative scholarships if they had been permitted to play and be scouted as members of the Hawerchuk boys' soccer team.