

**COURT OF APPEAL FOR ONTARIO**

**BETWEEN:**

**SEAN DOYLE**

**(Respondent)**

**- and -**

**MINTO DISTRICT CATHOLIC SCHOOL BOARD**

**(Appellant)**

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**APPELLANT'S / RESPONDENT'S FACTUM**  
**(Select One)**

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**NAME OF LAW FIRM**  
**Address of law firm**

**Names of Counsel (Include First and Last Names)**  
**Of Counsel for the Appellant / Respondent (select one)**

**Telephone:**

**Fax:**

**Email:**

**PART I:  
INTRODUCTION**

1. This case is about the [insert a 3-4 paragraph summary of the main issue raised by this appeal].

**PART II:  
SUMMARY OF THE FACTS [do not alter]**

2. Sean Doyle is 17 years old, and lives with his family in Newcastleton, Ontario, a mid-sized community in central Ontario. He is in grade 12 at Saint Josemaría Escrivá High School, within the Minto District Catholic School Board (“Minto”). He was baptized in the Roman Catholic faith. He realized that he was gay around age 12. His understanding of the teachings of his Church is that he can be gay and Catholic, and that God loves him. He identifies strongly as a Catholic person. He acknowledges that the Church’s current teaching is that homosexual acts are sinful, but hopes the Church will change its views on the subject one day. He has no interest in leaving the Church or attending a secular school.
3. After the passage of the *Safe Schools for All Act* came into effect, he summoned student support for a GSA, and proposed it to his Principal in November 2011. Principal Spellman refused the request, but offered to permit an anti-bullying club or human rights club, suggesting the name “Open Arms Club.” Sean argued that being gay is as much a part of his identity as being Catholic, and that the name “Minto Gay-Straight Alliance” is vital to the identity and success of the proposed club.
4. As a matter of routine, students in Sean’s Family Life class are encouraged to invite guest speakers. Sean eagerly invited Mary McArthur, a prominent but controversial Catholic speaker. He was subsequently notified by school administration that she was not an acceptable guest speaker and would not be allowed to speak in his class.

5. Sean brought an application to Superior Court of Justice for a mandatory order requiring Minto to permit him to operate a Gay-Straight Alliance under one of three names: (a) Escrivá Gay-Straight Alliance, (b) Minto Gay-Straight Alliance, or (c) Oscar Wilde Society. He also asked for a mandatory order requiring Minto to permit McArthur to be a guest speaker in his Family Life class.
  
6. The trial judge, Elliott J., considered his application, as well as the school board's argument that the application be rejected, in reliance on their rights as a separate school under s. 93(1) of the *Constitution Act, 1867*, and under s. 2(a) of the *Canadian Charter of Rights and Freedoms*.
  
7. The trial judge granted the application in part, finding that:
  - a. extra-curricular clubs are not protected under s. 93(1) of the *Constitution Act, 1867*;
  - b. the *Safe Schools for All Act* does infringe the school board's Freedom of Religion under s. 2(a) of the *Charter*, but is saved under s. 1;
  - c. the actions of the school board in rejecting the name of the school club is a violation of Sean's Freedom of Expression and is not saved under s. 1 of the *Charter*; and
  - d. that s. 93(1) of the *Constitution Act, 1867* applies to decisions about classroom teachings, and therefore the decision not to invite Mary McArthur cannot be challenged under the *Charter*.
  
8. Minto has appealed this decision and is challenging the conclusions on the first three issues. Sean has subsequently counter-appealed the decision on the fourth issue.

### **The Decision at Trial**

9. [This is where you will need to summarize the aspects of the trial judge's decision that are relevant to your perspective, by explaining how the judge decided on each of the four issues. All quotes should be indented and single-spaced (like this paragraph). They must be referenced immediately after the paragraph, noting the page or paragraph number of the quote.]

**PART III**  
**GROUNDINGS OF APPEAL**

**ISSUE ONE: IS THE *SAFE SCHOOLS FOR ALL ACT* VALID LEGISLATION UNDER S. 93(1) OF THE *CONSTITUTION ACT, 1867*?**

10. [Insert your firm's argument on this issue. Refer to the explanatory notes, *How to Prepare a Factum*, for information on how to refer to cases and how to structure your argument.]

**ISSUE TWO: DOES THE *SAFE SCHOOLS FOR ALL ACT* INFRINGE MINTO'S FREEDOM OF RELIGION UNDER S. 2(A) OF THE *CHARTER*, AND IF SO, IS THAT INFRINGEMENT JUSTIFIED UNDER S. 1 OF THE *CHARTER*?**

11. [Insert your firm's argument on this issue. Refer to the explanatory notes, *How to Prepare a Factum*, for information on how to refer to cases and how to structure your argument.]

***Section One Analysis Regarding This Issue***

12. [Insert your firm's analysis on whether s. 1 of the *Charter* justifies the actions relating to this issue only.]

**ISSUE THREE: DOES MINTO'S REJECTION OF THE PROPOSED NAMES FOR THE SCHOOL CLUB INFRINGE SEAN'S FREEDOM OF EXPRESSION UNDER S. 2(B) OF THE *CHARTER*, AND IF SO, IS THAT INFRINGEMENT JUSTIFIED UNDER S. 1 OF THE *CHARTER*?**

13. [Insert your firm's argument on this issue. Refer to the explanatory notes, *How to Prepare a Factum*, for information on how to refer to cases and how to structure your argument.]

***Section One Analysis Regarding This Issue***

14. [Insert your firm's analysis on whether s. 1 of the *Charter* justifies the actions relating to this issue only.]

**ISSUE FOUR: DOES THE INVITATION TO SISTER MARY McARTHUR TO SPEAK IN THE FAMILY LIFE CLASS ENGAGE THE RIGHTS OF THE SCHOOL UNDER S. 93(1) OF THE *CONSTITUTION ACT, 1867***

**AND/OR SECTION 2(A) OF THE CHARTER, OR OF SEAN UNDER S. 15 OF THE CHARTER, AND IF SO, HOW SHOULD THE "CLASH OF RIGHTS" BE RESOLVED?**

15. [Insert your firm's argument on this issue. Refer to the explanatory notes, *How to Prepare a Factum*, for information on how to refer to cases and how to structure your argument.]

**APPLICATION TO THIS CASE**

16. [Insert a concluding statement, summarizing how the preceding arguments support the order you have requested (to grant or deny the Order requested).]

**PART IV  
ORDER REQUESTED**

17. It is respectfully requested that [Explain what it is that you are requesting – whether you are requesting that the appeal be granted or dismissed.]

**ALL OF WHICH** is respectfully submitted by

\_\_\_\_\_  
**Name of all four counsel**  
Of Counsel for the Appellant/Respondent (**Select One**)

**DATED AT (LOCATION)** this \_\_\_\_<sup>th</sup> Day of **(month)**, **(year)**

## APPENDIX A

### AUTHORITIES TO BE CITED

[List all the cases and/or statutes that you have referred to in your factum using proper legal citation. Refer to the explanatory notes, *How to Prepare a Factum*, for formatting guidelines.]