IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2015-485-235

UNDER	**The Declaratory Judgments Act 1908 and the New Zealand Bill of Rights Act 1990**
BETWEEN	**LECRETIA SEALES**
	Plaintiff
AND	**ATTORNEY-GENERAL**
	Defendant

AFFIDAVIT IN REPLY OF PETER LINDLEY REAGAN
AFFIRMED MAY 2015

RUSSELL McVEAGH

A S Butler | C J Curran | C M Marks
Phone +64 4 499 9555
Fax +64 4 499 9556
PO Box 10-214
DX SX11189
Wellington

I, **PETER LINDLEY REAGAN**, of Portland, Oregon, United States of America solemnly and sincerely affirm:

1. I have been asked to address several matters raised in evidence filed on behalf of the Crown to the effect that aid in dying will adversely affect the doctor/patient relationship and the provision of palliative care. In particular, I have been referred to the following:

   (a) Baroness Finlay (paragraph [61]);

   (b) Mary Schumacher (paragraph [27]);

   (c) Dr Donnelly (paragraphs [57]-[69]);

   (d) Dr Chochinov (paragraph [60]);

   (e) Dr Landers (paragraph [14]); and

   (f) Dr McLeod (paragraph [47]-[48] and [61]-[68]).

2. Those concerns overlap considerably, so I do not respond to them individually. Their concerns are not borne out by my experience.

3. I have reviewed again the Code of Conduct for Expert Witnesses and agree to comply with it.

4. I do not believe that aid in dying harmed the physician-patient relationship in general or in specific instances (contrary to the fears expressed, for example, by Dr Donnelly from paragraph [57]). I practised as a leader in this field in Oregon for 15 years after the passage of the Act and my paediatric, obstetrical, medical, and geriatric patient relationships really did not change at all. The existence of aid in dying under Oregon's Death with Dignity Act (**"ODDA"**) does not affect 99% of physician/patient relationships. Everything proceeded entirely as before, with one exception. That exception was that if a patient made a request for aid in dying, that event dramatically deepens and intensifies the relationship that the doctor has with that patient and his or her family. That was my experience, and I consider that to be a good thing. I found providing aid in dying to be tough, and the whole experience to be emotionally draining each time I was involved. That is as it should be. I never found it to be easy. Nor did I become desensitised to aid in dying despite working in the area for 15 years. The suggestion in Baroness Finlay's evidence (paragraph [61]) that doctors would come to see aid in dying as the "solution" is very far from my experience.

5. It was not my experience that palliative care suffers, or that patients become less willing to embrace palliative care. I consider that palliative care improved after the ODDA was passed. The majority of patients are enrolled in hospices and my patients did not become "fearful" as Ms Schumacher (paragraph [27]) and Dr McLeod (paragraphs [47], [63]) fear might occur. Prescribing physicians, like me, would normally refer a patient to hospice care if the patient was not already enrolled, and patients understand that they have control of the process, and greatly appreciate having that control.

6. As I noted in paragraph 10 of my first affidavit, obtaining the prescription can be quite a commitment for a sick person. They have to convince

their doctor that this is something that they want, and they have to meet the criteria. In my experience, it is not easy to persuade doctors of that.

7. In my experience, aid in dying was an important addition to palliative care, for the relatively small number of patients who wanted it. The distinction that Dr Chochinov draws (paragraph [60.4]), by saying that aid in dying is concerned with rationality whereas those opposed to aid in dying focus on relieving suffering, is again very different to my experience. Doctors and other carers remain focussed on relieving distress and identifying and attending to underlying causes of suffering.

8. When a patient possesses an aid in dying prescription they feel much more at ease. This is not a temporary relief that passes within a couple of days, but a lasting and meaningful reduction in their distress. That was the case with every patient that I have been involved with in this way. Simply possessing the prescription is potent palliation for the people that want it.

9. It is true that in Oregon there are a number of doctors who do not prescribe aid in dying. Some of them have personal objections, and others work at institutions (for example, hospitals with particular religious affiliations) that do not support the practice. The doctor's reasons for not wanting to prescribe may be ethical, or they can just be personal - it is a deeply personal and difficult process for the physician. However, in my experience of doctors who do prescribe aid in dying, they all take it extremely seriously and find it a profoundly challenging process. It is not something that is undertaken lightly.

AFFIRMED at Portland, Oregon, United States this 15th day of May 2015 before me:

Peter Lindley Reagan

A person duly authorised to administer oaths in Oregon

OFFICIAL STAMP
OMAR VALENCIA-ORTIZ
NOTARY PUBLIC-OREGON
COMMISSION NO. 929616
MY COMMISSION EXPIRES JUNE 15, 2018