

STATE OF NEW YORK : COURT OF CLAIMS

LAURIE A. THURSTON, Individually and
as Administratrix of the Estate of
CHERYL L. THURSTON, Deceased

Claimant,

vs.

AFFIDAVIT OF
LAURIE A. THURSTON

Claim No. 117361

STATE OF NEW YORK,

Defendant.

STATE OF OREGON)

COUNTY OF) ss:
)

Laurie A. Thurston being duly sworn, hereby deposes and states:

1. I am the Administrator of the Estate of my sister, Cheryl L. Thurston. As such I am fully familiar with the facts and circumstances arising in this case.

2. I make this Affidavit in opposition to the Motion of the Office of the New York State Attorney General seeking to dismiss my sister's claim against New York State for the injuries and death she sustained when she drowned in a bath tub while she was improperly supervised at a group home owned, staffed and operated by New York State.

3. My sister Cheryl's death remains the most significant loss I have ever faced. She had the power to touch so many lives. I need the State of New York to understand that Cheryl should never have died. She still had so much living to do and her work here was cut short due to an inexcusable lack of judgment and compassion

and common sense. So, before the Court rules on this case, I respectfully need you to know Cheryl.

4. One of my first memories was teaching Cheryl her letters – actually, it was really more a way for my adolescent self to prove wrong all the doctors who said she'd never learn to walk, never learn to read, never accomplish anything.

5. Before we knew it, Cheryl was outrunning half the neighborhood, exhausting anyone within earshot with her never ending questions and pointing out letters and numbers on every passing sign. I remember driving with my mom on the expressway when Cheryl pointed at a sign and said, "That's a nine." And we said, "No, Cher, that's a six," then we looked at each other and said, "Oh my God, she just identified her first number *and we corrected her!*" Didn't dissuade her, though, she continued to learn. She may not have been earning any money or providing a living for anyone, but she did much more for me, she inspired me. That final day I spent with her, one month before she was left alone in a bathtub to drown, she'd counted to ten out loud for me and we high fived.

6. The three things Cheryl loved most in the world are the three things I love most, so maybe that's why we'll always be connected. For us, there's nothing better than a good book, a long walk and time spent in the company of animals, dogs especially. When I used to pick her up from the group home every month, our routine was an easy one to predict: a stop at Borders for a couple paperbacks (Ernie back in the day and, as she got older, her new beau: Arthur), then on to my house for lunch (her favorite: eggs, chocolate milk, toast, cereal) and finally, outside for our walk with my dogs. Honestly, is there a better way to spend an afternoon?

7. So when I got that first phone call Saturday night in late August that Cheryl had been taken to the hospital, I didn't assume it was dire. She had already weathered so much, but she was strong. Then the unthinkable became my new reality. Each successive phone call from the group home brought a new level of agony: first, they couldn't find a pulse, then they reported she wasn't breathing, next that her heart had stopped, and – finally – that there was no brain activity. I imagine my neighbors

thought I was being attacked when I got that final phone call, screamed and fell to the floor.

8. It's been over four years, and I still cannot find the words to describe what that experience was like. The pain and frustration I felt from having no idea what was happening 3,000 miles away tore me to shreds; no one seemed to know anything that was happening, or they wouldn't tell me. I couldn't get a straight answer from anyone. Cheryl was the closest thing to having my own child, so losing her and *not even knowing what had happened...* Even writing this now, my eyes swim with tears, my stomach clenches, the ache in my soul is indescribable – it just never goes away.

9. What I need the Court to understand is how powerfully alone I have been since that night. Because I got the call while back in Portland, a city I'd been living in not even a year, I was a continent away from people who knew Cheryl and knew *me* – I was literally alone. I could not get a flight back east for over 24 hours and I had no idea what to do. It was as if my entire sense of self had vanished. Cheryl had defined me since the day she was born; my whole life had been about taking care of her because she had taken care of me. She'd taught me how to *be* me, how to become a teacher. She taught me patience and acceptance and compassion. Without her, who was I? I didn't know how to be in the world without her. I still don't.

10. But the grief has not ended. After her death and the criminal trial and my testifying and then the start of the civil case, my mother was diagnosed with ovarian cancer. I flew back home this past August to help her following her surgery. All she could talk about was Cheryl: where all of her notes were, all of the records. She cried over her lost child, over my lost sister. She asked to have her ashes spread where Cheryl's were. I promised they'd be together again. Three weeks later, I got another call. I flew back in mid-September to find my mom in a hospice bed in her living room: my aunts, youngest sister and father surrounding her. She died two days later, on my birthday, clutching my hand.

11. To consider the "economic implications" of my sister's life and pointless death pain me to no end. Inspired by my sister's strength, I developed and directed a

program in Rochester for kids in crisis and living in the context of poverty. Traditional school systems and programs had historically ignored these kids, said they had "no value". Tell that to the hundreds of young people in my community whose lives I've touched because Cheryl touched mine. When I returned to New York this past October to arrange the memorial service for my mother, my former students learned I was going to be in town. I hadn't been in a Rochester classroom for over five years, but they organized a reunion and over 90 of my former students - ranging from 20 to 37 years old, some with *their own kids* and spouses - came to be with me. I absolutely attribute the power of this reach to Cheryl. She taught me to never give up on anyone. Ever. And these young people, now many adults, are contributing members to the very community that never believed they could make it.

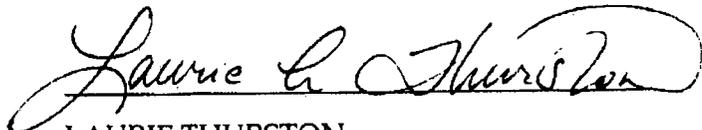
12. What are the financial implications of that? How do you measure helping another person find meaning in their life? How do you put a numerical value on the power of a life?

13. As far as my family's sacrifice, my mother had - by far - given the most. She was a teacher when Cheryl was born, but left her career to provide full time care for Cheryl's needs. To be a woman in the '70s out of the workplace for 11 years set her back tremendously in terms of her career aspirations. We were the family that camped in the summer; there were no trips, no hotel vacations, no 'something extra'. And of course, during the span of months arranging Cheryl's funeral services, testifying at court cases and attending legal meetings, we all spent thousands of dollars repeatedly returning to New York: sacrificing money and time and our heart in bearing the weight and responsibility for a tragedy that, though not *our* fault, was ours alone to carry. And then my mother carried that tragedy to her death. If there were a way to prove causation, I absolutely know in my soul that her cancer stemmed for the unresolved grief of the tragic death of her child. True powerlessness *is* cancer.

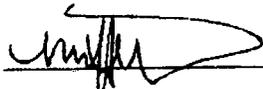
14. Yet the State holds the right to quantify the value of a life. To me, there is no more abhorrent concept. Because I grew up loving Cheryl, compassion and patience and hope are engrained in me. I remained in New York to be close to her and chose to

do the work of being a voice for kids who had no voice. Growing up with a sibling who was profoundly mentally retarded taught me two crucial things: that anyone who tells you that someone else "can't" or "never will" is a coward and a liar, and that to be a voice for those who are not listened to is one of the most important things you can do with your life.

15. So I am asking the Court to do what Cheryl taught me: to stand up for what is right. Her death was an unnecessary tragedy. I am confident that this Court can and will become that voice for the silenced individuals who have died and who will die unnecessarily and far too soon. Cheryl needs an advocate to make a difference: not only for her, but for all the other human beings who have been lost and will be lost due to the negligence and unconscionable actions of others.


LAURIE THURSTON

Sworn to before me this 20 th
day of February, 2013.


NOTARY PUBLIC

