

FAMILY LAW ORDERS CONTRAVENTION Contravention application made by the father against the mother alleging a breach with respect to parenting orders Where the father failed to interpret the wording of the parenting orders Where the father's application that the mother be dealt with for a breach of court orders be dismissed Where the father is ordered to pay the costs of the mother.

APPLICANT: Mr Laracy RESPONDENT: Ms Laracy FILE NUMBER: SYC 855 of 2011 DATE DELIVERED: 10 January 2014 PLACE DELIVERED: Sydney PLACE HEARD: Sydney JUDGMENT OF: Loughnan J HEARING DATE: 10 January 2014 REPRESENTATION SOLICITOR FOR THE APPLICANT: In Person SOLICITOR FOR THE RESPONDENT: Ms Doumit ORDERS

The Contravention Application filed on 5 November 2013 be dismissed. The father pay the costs of the mother of and incidental to these proceedings today as assessed by a Taxing Officer or as agreed between the parties. IT IS NOTED that publication of this judgment by this Court under the pseudonym Laracy & Laracy has been approved by the Chief Justice pursuant to s 121(9)(g) of the Family Law Act 1975 (Cth).

FAMILY COURT OF AUSTRALIA AT SYDNEY FILE NUMBER: SYC 855 of 2011 Mr Laracy Applicant And Ms Laracy Respondent EXTEMPORE JUDGMENT These are proceedings commenced by an Application filed by the father on 5 November 2013. This is the first return date of the Application. It is a Contravention Application, an Application that the mother be dealt with for a breach of court orders affecting a child. The mother is present today and represented. The father is here on his own account. The parties have explained to me what the case is about. Orders were made on 28 March 2013 by a judge after a defended hearing. One of the provisions of the orders was that the child S live with the father during school term from the conclusion of school Thursday on the first Thursday of a two week cycle to the commencement of school the following Monday, and from the conclusion of school on the second Thursday of the two week cycle to the commencement of school the next day. Order 3.1.1.3 says: The alternative weekend cycle will continue from one school term to the next as if the school holidays did not intervene. The father interpreted that to mean that the alternate weekend cycle continued as if the school holidays did intervene. The mother has approached it in accordance with the wording of the orders. On the face of the documents the father's interpretation is incorrect. The mother is correct on the plain wording of

the orders. The father's Application that the mother be dealt with for a breach of court orders cannot succeed and should be dismissed. There is an Application for costs in the sum of \$2,000. I gather that is an estimate. There is no evidence before the court in relation to the costs that have been incurred or how they are calculated. The father says that he should not pay costs because he cannot afford it. There was a property settlement order. It may be that they were made in terms agreed between the parties, a couple of days before 28 March. The father has apparently filed an application or intends to file an application under s 79A to upset those orders. That application is yet to be heard. The father says that he is self-employed. There is no other material in relation to his financial circumstances and he referred to having a debt of \$50,000 being a credit card debt. As I have explained to him, these are the most serious of applications. Contravention applications almost invariably result in a costs order if they are successful because of the breach of the court orders; and if they are not successful, because so serious a step was taken without the applicant being possessed of information that justified the application. I expressed some frustration this morning because this was a completely illogical application and it is a disgrace that it has been brought to a superior court of record. Putting aside the private cost, there is the public cost incurred apparently because the father found it difficult to have his computer work out the contact program under a two week cycle if the school holidays were excluded. As to the relevant matters, importantly the application has been wholly unsuccessful. This is not an application that a respondent can ignore. Unlike any other sort of application apart from money enforcement or contempt, if a contravention application is served and the respondent does not come to court she could be arrested. These are among the most serious of applications and a party should not file an application of this nature without being very sure of the facts alleged. The dispute here boils down to a difference of interpretation. On any view there was no proper basis for a contravention application. The father is in person. We do not know the basis of the quantum of the costs claim, so the costs will need to be as agreed or as assessed by a taxing officer. However, it is appropriate that the order be made. I certify that the preceding thirteen (13) paragraphs are a true copy of the reasons for judgment of the Honourable Justice Loughnan delivered on 10 January 2014. Associate: Date: AustLII: Copyright

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