

ONTARIO
Ontario Superior Court of Justice – Family Branch
(Name of Court)

Court File Number
FC-15-2492

at **161 Elgin Street, Ottawa, Ontario, K2P 2K1**
(Court office address)

**Form 17A:
Case Conference Brief -
General**

Name of party filing this brief

Date of case conference

Cynthia Holmes – the Respondent

October 4, 2017 at 10:00 a.m.

Applicant(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Darryl Ross
328 Dunlin Ridge
Ottawa, Ontario
K2J 0E3**

Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Respondent(s)

Full legal name & address for service – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Cynthia Holmes
328 Dunlin Ridge
Ottawa, Ontario
K2J 0E3**

Lawyer's name & address – street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Alison Boyce
Delaney's Law Firm, Professional
Corporation
543 Somerset Street West
Ottawa, Ontario
K1R 5J9**

**Tel: 613-233-7000
Fax: 1-866-846-4191
Email: alison@delaneys.ca**

Name & address of Children's Lawyer's agent (street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)) and name of person represented.

PART 1: FAMILY FACTS

1. **APPLICANT:** Age: 38 Birthdate: (d, m, y) February 5, 1979
2. **RESPONDENT:** Age: 40 Birthdate: (d, m, y) March 6, 1977
3. **RELATIONSHIP DATES:**
☒ Married on (date) November 13, 2011 ☒ Started living together on (date) 2010
☒ Separated on (date) November 7, 2015 ☐ Never lived together.
☐ Other (Explain.)

4. The basic information about the child(ren) is as follows:

Child's full legal name	Age	Birthdate (day, month, year)	Grade/Year and School	Now living with (name of person and relationship to child)
Charlotte Olive Holmes	6	September 4, 2011	TBD	Cynthia Holmes, Mother
Alice Harriett Holmes	3	March 30, 2014	TBD	Cynthia Holmes, Mother

PART 2: THE ISSUES5. What are the issues in this case that **HAVE** been settled:

- | | | |
|--|--|--|
| <input type="checkbox"/> child custody | <input type="checkbox"/> spousal support | <input type="checkbox"/> possession of home |
| <input type="checkbox"/> access | <input type="checkbox"/> child support | <input type="checkbox"/> equalization of net family property |
| <input type="checkbox"/> restraining order | <input type="checkbox"/> ownership of property | |
| <input type="checkbox"/> other (Specify.) | | |

6. What are the issues in this case that have **NOT** yet been settled:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> child custody | <input type="checkbox"/> spousal support | <input type="checkbox"/> possession of home |
| <input checked="" type="checkbox"/> access | <input type="checkbox"/> child support | <input type="checkbox"/> equalization of net family property
(Attach Net Family Property Statement,
Form 13B) |
| <input type="checkbox"/> restraining order | <input type="checkbox"/> ownership of property | |
| <input type="checkbox"/> other (Specify.) | | |

7. If child or spousal support is an issue, give the income of the parties:

Applicant: \$74,876 per year for the year 2016
 Respondent: \$79,620 per year for the year 2016

8. Have you explored any ways to settle the issues that are still in dispute in this case?

- ☐ No. ☒ Yes. (Give details.)

The parties have been negotiating amongst themselves.

9. Have any of the issues that have been settled turned into a court order or a written agreement?

- ☒ No.
☐ Yes. ☐ an order dated _____
☐ a written agreement that is attached.

10. Have the parents attended a family law or parenting education session?

- ☒ No. (Should they attend one?.....)
☐ Yes. (Give details.)

PART 3: ISSUES FOR THIS CASE CONFERENCE

11. What are the issues for this case conference? What are the important facts for this case conference?

OVERVIEW

1. The main issues for this Case Conference are custody, access, and disclosure.
2. Ms. Holmes is seeking joint custody of the children at this time, subject to Mr. Ross completing a drug and alcohol assessment (as outlined below) and following any treatment recommendations.
3. The children are living with Ms. Holmes on a full time basis. The parties had previously been exercising access on a 2/2/3 schedule as set out below.
4. Mr. Ross has had a history of alcohol and prescription drug abuse. He was involved in two car accidents consequent to alcohol or drug abuse post separation. Criminal charges were laid against Mr. Ross as a result of the second accident.
5. Further, Mr. Ross has attended pick up/drop off of the children smelling of alcohol. Ms. Holmes has had to refuse releasing the children to his care more than once out of concern for their safety.
6. In July 2017 an incident occurred where Mr. Ross had the children in his care and became severely intoxicated. Mr. Ross's family called Ms. Holmes to come immediately to Mr. Ross's home to pick up the children and keep them in her care on a full time basis until Mr. Ross got treatment for his alcohol and substance addiction
7. Mr. Ross is currently involved with the Children's Aid Society because of his alcohol abuse. He is exercising access in a supervised setting one to two times a week.
8. There is additional disclosure that Ms. Holmes will require from Mr. Ross before she consents to any change in the current access arrangement.
9. Ms. Holmes is seeking an Order that Mr. Ross shall have no unsupervised access to the children until he has satisfactorily completed a drug and alcohol assessment and he has provided evidence of the level of his success in the program.
10. Mr. Ross was represented by experienced counsel until just prior to the case conference.

BACKGROUND

11. The parties began cohabitating in February 2010 and were married on November 13, 2011. The parties separated on November 7, 2015 when Ms. Holmes left the home with the daughters to temporarily reside with her parents. The matrimonial home has since been sold, and the parties were exercising a 2/2/3 access schedule.
12. However, for the past three months the children have been primarily residing with Ms. Holmes.
13. Ms. Holmes is a communications officer with Agriculture Canada. She has been in this senior position for approximately eight (8) years. In October 2015 she left on stress leave due to the deterioration of the situation at home. On November 23, 2015, she has returned to work.
14. Mr. Ross is a professor at Algonquin College. Ms. Holmes is unsure whether Mr. Ross has returned to work on a part time basis or if he is on sick leave for his depression and alcohol abuse.

15. The parties incomes are relatively similar, each earning approximately \$75,000 to \$79,000 per year. As such, neither party has made a claim for child support or section 7 expenses. However, this may change depending on the outcome of Mr. Ross's treatment plan and Ms. Ross may need to amend her pleadings accordingly.
16. On March 1, 2017 Mr. Ross was in a car accident as a result of impaired driving. Mr. Ross pleaded guilty to the criminal charges of attempting to leave the scene of an accident and of impairment while operating a vehicle. His license has been suspended and he is currently on probation.
17. From April until June 2017 Ms. Holmes continued to have concerns with Mr. Ross's behaviour and alcohol use. In July 2017 there was a serious incident where the parties' children were left unsupervised in the home while Mr. Ross was severely intoxicated. Mr. Ross now recognizes that there is an issue, and has agreed to the children living with Ms. Holmes on a full time basis. He is cooperating with the Children's Aid Society and is currently exercising supervised access one to two times a week.
18. The parties have de facto joint custody of the children. Both parties have been actively involved in making decisions on behalf of the children since separation. More recently, Ms. Holmes has been making decisions on behalf of the children regarding their health and well being, daycare, and extra curricular activities.

DISCLOSURE

19. Ms. Holmes is seeking an Order for the following disclosure from Mr. Ross:
 - a. All documents relating to Mr. Ross's car accidents from November 2016 and March 2017 including police reports, accident reports, photos of the damage and bills for repairs to the car;
 - b. A letter from Algonquin college stating:
 - i. Mr. Ross's current employment status;
 - ii. Mr. Ross's current annual salary;
 - iii. Mr. Ross's pay/employment benefits while on sick leave.
 - c. A copy of Mr. Ross's most recent pay stub;
 - d. Confirmation of enrollment in an alcohol and drug addiction treatment program or facility including any treatment recommendations and evidence of his level of success in the program;
 - e. An updated copy of the Society's case file.

CUSTODY AND ACCESS

20. Ms. Holmes has always been the primary caregiver for the children.
21. Ms. Holmes is seeking a continuation of supervised access until Mr. Ross has successfully completed a program or course related to his alcohol addiction. Ms. Holmes is seeking confirmation of rehabilitation for Mr. Ross. Once the Society also provides their recommendations for supervised access, Ms. Holmes may reconsider her position.

22. The parties had previously been attending counselling to assist in their communication skills as a separated family.
23. The parties should continue joint custody and make decisions on behalf of the children together.
24. Therefore, Ms. Holmes is also seeking a consent order for the continuation of the current custody and access arrangement.

12. What is your proposal to resolve these issues?

13. Do you want the court to make a temporary or final order at the case conference about any of these issues?

☐

No.

☒

Yes. (Give details.)

1. Order for disclosure;
2. Order allowing Ms. Holmes to amend her pleadings to request child support and section 7 extraordinary expenses, if required;
3. An Order that Mr. Ross shall have no unsupervised access to the children until he has satisfactorily completed a drug and alcohol assessment and he has provided evidence of the level of his success in the program.

PART 4: FINANCIAL INFORMATION

NOTE: - If a claim for support has been made in this case, you must serve and file a new Financial Statement (Form 13 or 13.1), if it is different from the one filed in the continuing record or if the one in the continuing record is more than 30 days old. If there are minor changes but no major changes in your financial statement, you can serve and file an affidavit with details of the changes instead of a new financial statement. If you have not yet filed a financial statement in the continuing record, you must do it now. The page/tab number of the financial statement in the continuing record is

14. If a claim is being made for child support and a claim is made for special expenses under the child support guidelines, give details of those expenses or attach additional information.
1. Ms. Holmes is currently covering 100% of the children's extraordinary expenses. She is seeking a contribution to the children's daycare and dance lessons in proportion to the parties' respective incomes.
 2. Given the similarity in the parties' incomes, Ms. Holmes is not seeking table child support at this time but this may change depending on the outcome of Mr. Ross's treatment plan.
 3. Ms. Holmes may need to amend her pleadings in order to add these issues of corollary relief.
15. If a claim is made for child support and you claim that the child support guideline table amount should not be ordered, briefly outline the reasons here or attach an additional page.

PART 5: PROCEDURAL ISSUES

16. If custody or access issues are not yet settled:

(a) Is a custody or access assessment needed?

☒

No.

☐

Yes. (Give names of possible assessors.)

(b) Does a child or a parent under 18 years of age need legal representation from the Office of the Children's Lawyer?

☒ No.

☐ Yes. (Give details and reasons.)

17. Does any party need an order for the disclosure of documents, the questioning of witnesses, a property valuation or any other matter in this case?

☐ No.

☒ Yes. (Give details.)

Please see above.

18. Are any other procedural orders needed?

☐ No.

☒ Yes. (Give details.)

Please see above.

19. Have all the persons who should be parties in this case been added as parties?

☒ Yes.

☐ No. (Who needs to be added?)

20. Are there any other issues that should be reviewed at the case conference?

☒ No.

☐ Yes. (Give details.)

October 2, 2017

Date of party's signature

October 2, 2017

Date of lawyer's signature

on behalf of  Signature of party

 Signature of party's lawyer