



ONTARIO
Superior Court of Justice, Family Court
(Name of Court)

Court File Number
FC-15-2492

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

Form 25: Order (general)

☒ **Temporary**
☐ **Final**

Applicant(s)

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

Darryl Ross
1266 Marygrove Cir.
Nepean, Ontario
K2C 2C9

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

Allison Lendor
Lendor & Guest LLP
209 - 460 West Hunt Club Road
Ottawa, Ontario K2E 0B8

Tel: 613-247-7964 ext 3
Fax: 613-233-9995
allison@lendorguest.ca

Justice Somji

Judge (Print or type name)

Date of order

Respondent(s)

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

Cynthia Holmes
221 Brambling Way
Ottawa, ON
K2J 0E4

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

Alison Boyce
Mann Lawyers
11 Holland Avenue
Suite 300
Ottawa, Ontario K1Y 4S1
Tel: 613-722-1500
Fax: 613-722-7677
Alison.Boyce@mannlawyers.com

☐ This order is made pursuant to provincial legislation only.

I approve this Order as to its form and content.
Alison Boyce - Solicitor for the Respondent
May 26, 2023

The court heard an application/motion made by (name of person or persons)

The Respondent, Cynthia Holmes

The following persons were in court (names of parties and lawyers in court)

The Applicant, Darryl Ross, and his counsel, Allison Lendor
The Respondent, Cynthia Holmes, and her counsel, Alison Boyce
Shawn Cleroux, for the Ottawa Police Service

The court received evidence and heard submissions on behalf of (name or names)

Both parties

PURSUANT TO THE DIVORCE ACT (CANADA), THIS COURT ORDERS THAT: (if not applicable, cross out this line)

Parenting Time

- 1) The Respondent shall continue to have primary residence of the children, namely Charlotte Olive Holmes, born September 4, 2011, and Alice Harriet Holmes born March 30, 2014.
- 2) Pursuant to s. 16.1(2) of the *Divorce Act*, the Applicant shall have supervised in-person parenting time with the children of the marriage namely, Charlotte Olive Holmes, born September 4, 2011, and Alice Harriett Holmes, born March 30, 2014:
 - a) one day a week for three (3) hours and;

- b) one day on the weekend for four (4) hours every week. These blocks of time will allow the Applicant to have sufficient time to do an activity and share a meal with the children. Thereafter the parenting schedule may be revised in accordance with the recommendations of the reunification therapist.
- 3) In addition, the Applicant shall have virtual parenting time with the children two times a week for a minimum of 20 minutes.
- 4) The Applicant shall have supervised in person parenting time twice a week as follows:
- a) Sunday in person visit from 1:30pm- 7:30pm
- b) Tuesday in person visits from 4:30pm to 7:30pm
- 5) The Applicant shall have virtual parenting time twice a week for a period of at least twenty (20) minutes as follows:
- a) Thursdays at 4:00pm
- b) Saturdays at 10:00am
- 6) The children's paternal grandmother shall be a suitable third party supervisor. The parties are also free to consider other adult supervisors.
- 7) The parenting time in paragraphs 2 to 5 can be gradually expanded depending on the progress of the Applicant's health and the children's comfort levels with the visits. The parenting schedule can be revised in accordance with the recommendations of the reunification therapist.

PURSUANT TO THE CHILDREN'S LAW REFORM ACT, THIS COURT ORDERS THAT:

(if not applicable, cross out this line)

Police Enforcement

- 8) Pursuant to section 36(2) of the *Children's Law Reform Act*, the Ottawa Police Service and any other police service having jurisdiction where the children namely, Charlotte Olive Holmes, born September 4, 2011, and Alice Harriett Holmes, born March 30, 2014, may be found are directed to forthwith locate, apprehend and deliver the child to the party which has parenting time with the children in accordance with the parenting schedule set out in this Order.

- 9) Pursuant to section 36(4) of the *Children's Law Reform Act*, the Ottawa Police Service and any other police service having jurisdiction where the child may be found shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with this Order.
- 10) Pursuant to section 36(5) of the *Children's Law Reform Act*, for the purpose of locating and apprehending the child in accordance with this Order, any member of the Ottawa Police Service and any member of any other police service having jurisdiction where the child may be found may enter and search any place where he or she has reasonable and probable grounds for believing that the child may be, with such assistance and such force as are reasonable in the circumstances.
- 11) Pursuant to section 36(6) of the *Children's Law Reform Act*, an entry or a search referred to in paragraph 5 of this Order shall be made only between 8:00 a.m. and 6:00 p.m., eastern standard/daylight time.
- 12) A copy of this Order shall be delivered to the Chief of Police of the Ottawa Police Service forthwith by the Applicant through email correspondence at OPSLegalServices@ottawapolice.ca.
- 13) The terms of this police enforcement clause shall be limited for a period of six (6) months. Should either party wish to renew it, they may reapply to the court.

PURSUANT TO THE FAMILY LAW ACT, THIS COURT ORDERS THAT: *(if not applicable, cross out this line)*

Decision-making Responsibility

- 14) The parties shall continue to have joint decision-making responsibility on all matters for the children.
- 15) The Respondent shall make reasonable efforts to contact the Applicant in relation to any major decisions. If after reasonable consultation, the Respondent is unable to obtain any response from the Applicant within 48 hours of the decision request, the Respondent may proceed to make the decision. This excludes emergency decisions which may be made by either parent while the children are in their care.
- 16) The parties shall maintain a record of their written communications.

Child Support Arrears

- 17) The Applicant shall pay child support arrears based on the Guidelines and in accordance with his actual income for the years July 1, 2018 to July 1, 2022, in the amount of \$10,884.00.
- 18) The arrears for 2018 to present shall be paid at \$300/month effective July 1, 2022.
- 19) The parties may revisit the child support arrears for the period July 1, 2018 to July 1, 2022 at trial upon further clarification of their respective positions.
- 20) The issue of the payment schedule for the outstanding arrears of \$10,800 for the years preceding July 1, 2018, remains unresolved and may be determined at trial when the parties will be in a position to cross-examine each other on the understanding of their agreement.

Ongoing Child Support

- 21) Going forward, the Applicant shall pay *Guidelines* child support in the amount of \$861/month effective July 1, 2022.
- 22) The Applicant shall provide the Respondent with his income tax return annually by June 1st at which time the child support can be adjusted in accordance with the Applicant's income.

Section 7 Expenses

- 23) The Applicant shall reimburse the Respondent for half of the following:
- a) The children's dental costs - \$634.34; and,
 - b) The youngest child's eyeglasses - \$349.
- The payment shall be made by July 30, 2022.
- 24) The Applicant shall reimburse the Respondent for half the costs of the eyeglasses and dental care for 2020 after contributions from the insurers. The payment shall be made by July 30, 2022.
- 25) Going forward, s. 7 expenses shall be shared proportional to the parties' incomes.
- 26) The Respondent shall provide the Applicant with her income tax returns for 2021 by July 1, 2022, to permit calculation of s. 7 expenses.
- 27) The parties shall exchange income tax returns annually by June 1st for the purpose of calculating

contributions for s. 7 expenses.

28) The Respondent shall obtain advance consent for any future s. 7 expenses. Consent shall not be unreasonably withheld by the Applicant. The Applicant shall reimburse the Respondent within 30 days of obtaining the receipt of the expense from the Respondent.

29) The Respondent may submit requests for reimbursement directly to the Applicant's insurance on behalf of the children.

FRO Enforcement

30) The arrears for 2018 to present and ongoing child support shall be enforceable by the Family Responsibility Office.

31) Unless the support order is withdrawn from the Family Responsibility Office, it shall be enforced by the Director and amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed. A support deduction order shall be issued.

32) The Applicant shall provide to the other party and the Director of the Family Responsibility Office notification of any change in address or employment, including full particulars about the change, within ten (10) days of the change taking place.

THIS COURT ORDERS THAT *(specify legislation, where applicable):*

Dr. Milstone and Dr. Bowling

33) The Applicant shall provide a copy of this decision along with the application materials filed to both Dr. Milstone and Dr. Bowling.

Reunification Therapy

34) The Applicant shall undergo reunification therapy with the children. The therapist shall be approved by both parties.

35) The Applicant and Respondent shall each propose two names of a therapist to each other within 14 days of the date of this Order. Reunification Therapy shall commence within 30 days of the date of this order or as soon as possible thereafter if a therapist is not available within 30 days.

36) The cost of reunification therapy shall be shared between the parties.

37) There shall not be an Order for an OCL assessment, but the Applicant is free to renew his application if required once some reunification therapy has been completed.

Case Management Judge

38) A case management judge shall be assigned by the Ottawa Local Administrative Family Law Judge, Justice Audet.

Transportation

39) An adult third-party other than the Applicant shall be responsible for the transportation of the children to and from the in-person visits.

40) The Applicant shall not drive with the children in the car.

Discussion of Legal Issues

41) Neither party shall discuss legal issues in the presence of the children and neither party shall involve the children in any adult conflicts.

Disclosure

42) The Applicant shall provide the following requested disclosure to the mother's counsel by July 30, 2022:

- a) Copies of all complete hospital records since 2017;
- b) Copies of all treatment reports for alcohol misuse and substance misuse since 2017;
- c) Copies of the urine test the Applicant has been submitting to Dr. Bowling;
- d) Documentation from Dr. Brenhouse about the Applicant's alcohol treatment;
- e) Documentation from Dr. Souci regarding the Applicant's treatment with the sleep clinic at the Royal Ottawa;
- f) Documentation showing the Applicant's consistent attendance at the S.M.A.R.T. Recovery Program;
- g) Documentation about the Applicant's participation and consistent attendance at the RAAM clinic at the Royal Ottawa;
- h) Updated documentation about the Applicant's participation at Rideauwood Addictions;

- i) Documentation from Dr. Harrison outlining what treatment she was providing to the Applicant after she stopped seeing one of the children;
 - j) Documentation from Dr. Milstone pertaining to the care she was providing to the Applicant from 2015-2017;
 - k) Documentation pertaining to any counselling or programs the Applicant has participated at with Family Services Ottawa;
 - l) Documentation pertaining to the Applicant's treatment and duration of stay at Serenity House Addiction Treatment Services from June 2021;
 - m) Additional documentation from Dr. Bowling pertaining to the Applicant's treatment;
 - n) Per the Order of Master Fortier, documents relating to the Applicant's car accidents from November 2016 and March 2017 including but not limited to police reports, accident reports, court documents, photos of the damage, and bills for repairs to the car;
 - o) Information regarding the Applicant's employment status or return to work plan;
 - p) Complete hospital records regarding treatment for any other incidents in 2019, 2020, or 2021; and,
 - q) Disclosure from Dr. Willows of the Substance Use and Concurrent Disorders program.
- 43) The Applicant shall seek the requested disclosure from the relevant third parties by July 10, 2022.
- 44) The Applicant shall provide the requested disclosure to the Respondent's counsel by July 30, 2022. If any of the requested disclosure cannot be provided by that date, the Applicant shall set out in a letter to counsel for the Respondent whether the disclosure has been requested, proof of the date upon which it was requested from the relevant third party, and any responses from the third party regarding the request.
- 45) If the Applicant takes the view that some or all of the requested disclosure is irrelevant or privileged and is not being disclosed for that reason, he shall set this out in a letter to the Respondent's counsel to be provided by July 30, 2022, so that the Respondent can determine next steps, including scheduling a disclosure motion.
- 46) The Respondent shall not disclosure or discuss with anyone other than her counsel the Applicant's medical disclosure.

Costs

47) If the parties are not able to settle the issue of costs, submissions can be filed in writing. They shall not exceed two pages, exclusive of the Bills of Costs and Offers to Settle. The Respondent shall file her submissions by July 8, 2022, the Applicant by July 22, 2022, and the Respondent shall have until July 29, 2022 to reply. Please email the submissions to scj.assistants@ontario.ca and to my attention.

Put a line through any blank space left on this page.

Date of signature

Signature of judge or clerk of the court