

CITATION: Ross v. Holmes, 2022 ONSC 3769
COURT FILE NO.: FC-15-2492
DATE: 2022/06/24

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Daryl Ross

Applicant

– and –

Cynthia Holmes

Respondent

) Allison Lendor, for the Applicant

) Alison Boyce, for the Respondent

) Shawn Cleroux, for the Ottawa Police
) Service

) **HEARD:** March 31, 2022

MOTION RE PARENTING ORDER

SOMJI J

Overview

[1] The Respondent mother brings a motion for an interim order to have the father’s parenting time with his two children be at her sole discretion and for sole decision-making responsibility. The mother argues the change is necessary because the father has been addicted to alcohol since 2016 and despite several interventions, he has not demonstrated that he can maintain sobriety for extended periods to allow for safe parenting time with the children or for the parties to communicate effectively for joint decisions. The mother also claims that the children are anxious and do not wish to have contact with their father and that is why she has withheld in-person and virtual parenting time for eight months save for two FaceTime visits in contravention of the current parenting Order issued by Master Fortier (as she was then) on October 14, 2017 (“2017 Order”).

[2] The Applicant father opposes the motion. The father acknowledges his alcohol addiction and admits he has had relapses over the years but claims that he has been in treatment and has maintained sobriety since May 15, 2021. Furthermore, he is not seeking unsupervised access. Therefore, any concerns about the safety of the children are addressed by the presence of a third-party adult during access. The father states his mother has acted as a third-party supervisor since 2017, and there is insufficient evidence to demonstrate why she could not continue particularly since the children have a good relationship with her. Finally, the father reports the children were excited to FaceTime with him at Christmas, and there is no evidentiary basis to conclude that they do not wish to see him or that they are anxious either in his physical or virtual presence. He also opposes the mother's request for sole decision-making responsibility.

[3] The parties are also in dispute over arrears and ongoing child support, whether the Office of the Children's Lawyer (the "OCL") should be involved with the matter, disclosure, and the father's request for a police enforcement clause.

[4] The issues to be decided on this motion are as follows:

1. Has there been a material change in circumstances?
2. What parenting time for the father is in the best interests of the children?
3. Should there be a police enforcement clause?
4. Have the requests for disclosure been complied with?
5. What is the status of arrears and ongoing child support and s. 7 expenses?

Evidence

[5] In addition to the parties' factums, I have considered the following evidence:

1. Affidavits of the mother dated October 2, 2021, and February 18, 2022.
2. Financial Statement of the mother dated December 10, 2021.
3. Affidavits of the father dated January 28, March 25, and April 14, 2022.

4. Affidavit of Holly Ross (grandmother) dated March 25, 2022.
5. Affidavit of Todd Ross dated December 9, 2021.
6. Affidavit of Kenneth Fields dated March 17, 2022.

[6] I have also considered the submissions of Shawn Cleroux, Legal Counsel for the Ottawa Police Service, on the use of police enforcement clauses.

Issue 1: Has there been a material change in circumstances warranting a change in the interim parenting order in the manner requested by the mother?

a. History of the proceedings

[7] The parties were married in November 2010 and separated in November 2015. They divorced on June 14, 2018. They have two daughters: C.H., age 11, and A.H., age eight.

[8] In 2016, the year following the parties' separation, the father developed an alcohol addiction. He has struggled with his addiction since that time, but has actively sought help including counselling, medical detoxication, and medication for alcohol addiction. The father has managed to get through periods where he has abstained entirely from alcohol or reduced his intake significantly.

[9] On October 4, 2017, on consent of the parties, Master Fortier issued a temporary without prejudice order that the mother would have primary residence of the children and the father would have a minimum parenting time consisting of three supervised visits and one FaceTime call per week. The father was also ordered not to consume alcohol or non-prescription drugs 24 hours prior to exercising access with the children. Master Fortier ordered that the parties have joint custody (now "decision-making responsibility").

[10] The 2017 Order was modified following a case conference by Master Champagne (as she was then) on January 19, 2018 ("2018 Order"). The children continued to maintain their primary residence with the mother and the father continued to have supervised access with the children. However, the 2018 Order stipulated that the father's parenting time would be agreed upon by the parties and subject to a mutually agreeable supervisor being available until further written agreement by the parties or further order of the court. The father did not have counsel at the time.

The father is not noted as being present for the case conference on the endorsement but does not dispute the 2018 Order. This was also a temporary order.

[11] The parties subsequently appeared before Justice Kershman on June 14, 2018. The divorce was severed from the issue of corollary relief and the parties were divorced on that same date. Primary residence of the children continued to be with the mother. Justice Kershman issued an order with certain terms and conditions, including child support, but Justice Kershman's temporary order was silent on the issue of parenting time for the father. The temporary order was issued on consent of the parties following a three-way meeting between the mother, father, and the mother's counsel. The father was self-represented at the time. I note that the endorsement does not indicate the father was present at the proceeding, but he does not deny the terms and conditions agreed to on the Order: Endorsement of Kershman J. dated June 14, 2018.

[12] The father made significant progress in his sobriety in the months that followed. During the three-way meeting of October 2018, the father understood that a return to a shared parenting schedule was possible, dependent on his progress. In August 2019, the parties had a dispute over this issue. The father wanted shared parenting. The mother wanted to see a longer period of consistent visitation before returning to a shared parenting schedule. On August 20, 2019, the father refused to return the children unless the mother agreed to his schedule. The police were called but would not intervene in the absence of a police enforcement clause. Eventually, the father agreed to return the children, both of whom the mother reports were frightened. According to the mother, the father was hospitalized for substance abuse again in July 2020, October 2020, and November 2020.

[13] In April/May 2021, the father had another relapse and was absent from the children's lives for several months. He commenced treatment in June 2021 and as discussed below, has been engaged in treatment since that time. However, the mother did not resume any scheduled form of parenting time for the father.

[14] In December 2021, the mother brought a motion seeking a new interim parenting order granting her sole decision-making responsibility for the children and sole discretion for determining the father's parenting time. The father retained counsel at the last minute and

requested an adjournment. The mother sought terms of disclosure. Justice Summers ordered the father to provide disclosure of hospital records, income tax returns, and records related to his employment at Algonquin College and adjourned the motion. This is the subject of the present motion before me.

[15] At the time of the December 2021 motion hearing, the father indicated he had not seen the children for many months and sought to reinstitute his parenting time. Justice Summers ordered, on consent of the parties, that the father be permitted to deliver the children's Christmas presents to the mother's home and to have a FaceTime call while the children opened their gifts: Endorsement of Summers J. dated December 20, 2021.

b. Mother's position

[16] The mother argues that the father is addicted to both alcohol and non-prescription drugs for which he has been hospitalized several times. She argues his substance abuse has affected his parenting ability over the years and has endangered the children. She provides several examples.

- a. In 2017, the father was in a car accident on his way to pick up the children while he was under the influence. His car was destroyed, his license suspended, and he was charged with impaired driving. Fortunately, the children were not in the car.
- b. In November 2018, the father had a relapse and was hospitalized. He was discharged in December 2018. He was under the supervision of his family doctor and received medication for alcohol addiction.
- c. On July 8, 2020, the grandmother sent a message to the mother stating that the father was not well, and she should pick up the children. When the mother arrived, the paramedics were removing the father. The father informed the mother he had suffered a seizure. According to the mother, the children reported that the grandmother did not want to call her. I note, however, that the grandmother filed an affidavit disputing that the children witnessed their father collapsing. They were in another room. The grandmother contacted the landlord to call an ambulance as she believed the father was having a seizure. She also contacted the

mother immediately after. The paramedics reassured the girls they would help their dad and she claims they were not stressed or scared. She claims the mother arrived later and was yelling as soon as she got out of her vehicle with little regard for the children's feelings or what had happened to the father.

- d. On October 15, 2020, the father had another relapse. The paramedics contacted the mother. While the mother was on the phone, the father attempted to FaceTime the children, which they found upsetting. Following this, the father did not speak to the children for two months of his own volition.
- e. In April/May 2021, the father had another relapse but did not inform the mother. The mother only discovered something was wrong when the police did a wellness check and the father's roommate indicated he had left with his mother. The grandmother subsequently informed the mother about the relapse and that the father was looking at treatment in late May 2021.

[17] The mother argues that due to his addiction, the father is unable to exercise parenting time consistently and disappears for months at a time without explanation. Therefore, split parenting time has become impracticable. The father has moved homes four times. The mother cites the following time periods when the father stopped communicating with his children:

- i. March 2018 – May 2018;
- ii. October 2018 – December 2018;
- iii. July 2020 – August 2020;
- iv. April 25 – May 23, 2021; and
- v. July 1, 2020 – July 30, 2021.

[18] The mother insists that the father disclose his medical and hospital records and other information relevant to his addiction as well as his treatment plans so that she can develop a parenting plan that allows her to ensure the children are safe when with him. The issue of disclosure is discussed further below.

[19] The mother states that she has supported parenting time when the father has been healthy and sober, but that it is the father's own substance abuse and self-inflicted states of hospitalization that have changed the status quo. When there have been FaceTime calls, they have run on average 45 minutes to an hour. The mother does not accept the father's claims of sobriety in the absence of medical proof.

[20] The mother opposes the filing of an additional affidavit from Holly Ross, the grandmother, because it was served after 5:00 p.m. on March 25, 2022, and was therefore beyond the timeline for service pursuant to the *Family Law Rules*, O. Reg. 114/99. She also takes issues with the psychologist's evidence as it only states what the father told her. She argues the evidence does not comply with the father's court ordered disclosure obligations.

c. The father's position

[21] The father alleges the mother has been in breach of the 2017 Order without cause. She has not permitted the father any communication with the children or any parenting time since August 30, 2021, except for a few hours of virtual time in December 2021. According to the father, these breaches occurred notwithstanding that Justice Summers urged the mother at the motion hearing to follow the 2017 Order when safe to do so and even suggested outdoor visits due to COVID-19. Nonetheless, the mother has continued to deny him parenting time, citing outstanding disclosure as the reason. She has refused requests to coordinate visits with suggested third-party supervisors and refused FaceTime contact. The father alleges the mother's breaches are not related to his sobriety as she has denied him parenting time when he has been sober, when he was in medical care, and when he was in recovery despite having provided medical notes and confirmation of weekly clean urine tests.

[22] The father explains that he has been actively seeking treatment for his alcohol addiction. He has been seeing a doctor specializing in addiction recovery as well as a psychologist. Both have provided letters stating that there are no factors precluding him from having a strong and healthy relationship with his children so long as he maintains his sobriety.

d. Has there been a material change in circumstances?

[23] The issue of parenting was severed from the divorce in 2018 and will proceed to trial or resolve on consent with a final order. The mother seeks a new interim parenting order pending hearing of the parents' application pursuant to ss. 16.1(1) and (2) of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) on the grounds that that the father's addiction has affected his ability to safely parent the children. Sections 16.1(1) and (2) read as follows:

Parenting order

16.1 (1) A court of competent jurisdiction may make an order providing for the exercise of parenting time or decision-making responsibility in respect of any child of the marriage, on application by

(a) either or both spouses; or

(b) a person, other than a spouse, who is a parent of the child, stands in the place of a parent or intends to stand in the place of a parent.

Interim order

16.1 (2) The court may, on application by a person described in subsection (1), make an interim parenting order in respect of the child, pending the determination of an application made under that subsection.

[24] The father argues that before making a variation of an existing parenting order, the court must be satisfied that there has been a change in the circumstances of the children since the making of the order or the last variation of such order. Section 17(1) of the *Divorce Act* states:

Variation order

17 (1) A court of competent jurisdiction may make an order varying, rescinding or suspending, retroactively or prospectively,

(a) a support order or any provision of one, on application by either or both former spouses;

(b) a parenting order or any provision of one, on application by

(i) either or both former spouses, or

(ii) a person, other than a former spouse, who is a parent of the child, stands in the place of a parent or intends to stand in the place of a parent; or

(c) a contact order or any provision of one, on application by a person to whom the order relates.

[25] The change must be material. It must (1) alter the child's needs or the ability of the parents to meet those needs in a fundamental way and (2) should represent a distinct departure from what the court could have reasonably anticipated in making the previous order: *Gordon v Goertz*, [1996] 2 SCR 27, at para 13.

[26] Given the 2017 Order was varied in 2018 by Master Champagne, I find the latter is the governing order on the father's parenting time. In either case, the onus is on the mother. Upon review of the evidence filed, I find the mother has not established a material change in circumstances warranting a change in the parenting order to entitle her to sole discretion of the father's parenting time for the following reasons.

[27] First, at the time the 2017 Order was made, it was known that the father had developed an alcohol addiction. For this reason, the parties consented, and Master Fortier ordered, that the father's parenting time would be supervised. That did not change with Master Champagne's 2018 Order and is still the case now. The father is aware of his addiction issues and relapses and is not seeking to have unsupervised parenting time, but simply an opportunity to have consistent supervised contact.

[28] Second, while it is clear that the father has struggled with his sobriety since the 2017 Order, this is not in and of itself reason to deny him parenting time with his children. The road to rehabilitation is a rocky one and relapses are to be expected. While the father's relapses identify a serious alcohol addiction, they do not reflect all the gains made by the father in addressing his addiction issues. The father has engaged in treatment, which has resulted in lengthy periods where he has abstained from alcohol or reduced consumption significantly including presently. He attended the Serenity House Treatment Clinic for men in June 2021 after the most recent relapse and has been undergoing treatment with a specialist physician since then.

[29] The mother's request that parenting time be at her discretion until the father "completes all substance abuse and alcohol abuse treatment" is unreasonable. The mother is not medically qualified to make such a determination. Furthermore, managing substance abuse addiction can be a lifelong responsibility, and people's course of treatment may vary from intense rehabilitation programs to attending support groups such as Alcoholics Anonymous for the rest of their lives. It is promising that presently the father is engaged in medical treatment as described below. He is also on medical disability, and representatives from his insurance company are working on his recovery with a goal for him to return to work by January 2023.

[30] Third, I disagree with the mother that the failure to provide all the specific medical disclosure requested is justification to withhold the father's parenting time to the children. While the mother is rightly entitled to be concerned about the father's sobriety, insisting on the provision of specific medical documents for him to see the children is unreasonable in the circumstances. The father's email to the mother dated September 2, 2021 provided considerable information on the father's situation, his treatment plan, the names of the physicians and support workers he was working with, and that he was subject to urine tests. The father also communicated his desire to have supervised contact time with the children, for the mother to confirm the best form of communication with the children, and requested to celebrate the children's birthdays. Nonetheless, as of December 2021, it is evident from the correspondence that he was still struggling to have any form of contact with his children and has not seen them now for 10 months.

[31] While I agree with the mother that the court must err on the side of caution to ensure the children's safety, the father's failure to provide specific medical documents is not reason alone to withhold the father's access, particularly supervised visits and virtual access, to the children. The governing factors are the best interests of the children. The determination of the children's safety can be made based on the medical letters the father has filed demonstrating that he is being treated and ensuring the children's safety by having supervisors present for the visits.

[32] Fourth, the medical evidence filed from Doctors Milstone and Bowling establish that the father has his sobriety presently under control and that the doctors monitoring him have no concerns with his ability to parent the children provided he is sober.

[33] The mother argues that the medical disclosure provided by the father is not qualified expert evidence and therefore cannot be relied on at this hearing. I respectfully disagree. This is a motion for an interim order varying the existing interim parenting order. I find the letters from the two qualified doctors are admissible for the purposes of this motion. I am entitled to consider and determine what weight they should be give in light of the totality of the evidence notwithstanding that this evidence has not been tested. It will be for the trial judge to determine if the same information is admissible at trial or whether additional medical or expert evidence will be required. The mother is free to further test the evidence at trial.

[34] Dr. Milstone has a Ph.D. in Clinical Psychology. She has been working with the father since May 2014. The father has attended 45 sessions with her between May 2014 and July 2017. The father resumed therapy with Dr. Milstone in July 2021. As of March 23, 2022, the father has attended 12 additional sessions with her, and his therapy is ongoing.

[35] Dr. Milstone reports on the impact of the dissolution of the marriage on the father, including his struggle with alcohol addiction, his medical treatment and hospitalizations, his finances, and his efforts to reclaim regular access to his children. Dr. Milstone found that the father has expressed clarity and sound judgment in term of the children's best interests as well as his desire to maintain continued contact and a loving relationship with them whether or not they are able to live with him. Dr. Milstone found that based on their visits, she did not see any factors that would preclude the father from having a relationship with the children so long as sobriety was maintained while he is with them.

[36] Dr. Milstone concluded that it was her professional opinion that the father was making strides in reclaiming the lost elements of his adult life and that he is standing up for his rights with regards to his children and their relationship with him. This includes retaining legal counsel with the minimal savings that he has. The father had also demonstrated a renewed commitment to psychotherapy for personal growth.

[37] The father also provided a letter from Dr. Nathaniel Bowling at Recovery Care. Dr. Bowling indicated that the father has been in his care since June 24, 2021 and is in treatment for alcohol use disorder. He notes that the father's condition is currently well controlled. The father

is following the treatment plan, which includes medications as prescribed, attending scheduled appointments every one to two weeks, and submitting urine drug tests every other week. Tests are randomly sent for lab confirmation. Dr. Bowling reports that the father will touch base multiple times in the same week if he has concerns. Dr. Bowling states that at no time has he ever been concerned about the father's ability to care for himself or parent his children. The father is insightful and engaged in a treatment plan that is to continue with the prescribed medications, frequent appointments, and urine drug testing.

[38] I find the letters establish that the father is presently maintaining sobriety, committed to continuous treatment for his addiction, and in a position to have a meaningful relationship with his children. I have considered the weight to be given to these two letters against affidavits from Todd Ross (ex-stepfather) and Kenneth Fields (roommate) about the father's addiction issues, the mother's affidavits, as well as the 2019 letter from Dr. Fraser, and the 2019 letter from Julie Gingras from the Sandy Hill Community Centre.

[39] This is not to say that the mother's concerns about the father's health are unmerited. The affidavit of Kenneth Fields is of particular concern. Mr. Fields lived with the father from September 1, 2020, to March 1, 2022, which partly overlaps with the period in which the father has been undergoing medical treatment with Dr. Milstone and Bowling (since June 2021). Mr. Fields observed the father with symptoms of intoxication including urinating on the floor. He also observed the father engaged in paranoid, delusional, and obsessive behaviour which, if true, is highly disturbing. His affidavit suggests that the father may have more than a substance abuse addiction. In addition, Todd Ross attests the father has not always been truthful to medical practitioners about his issues.

[40] For these reasons, there will be an order that the father provide a copy of this decision along with the application materials filed to both Dr. Milstone and Dr. Bowling. This will permit his specialists to have knowledge of the concerns raised by those who have recently lived with him and to determine if the father is in need of additional forms of treatment.

[41] Finally, the mother identifies 17 sets of medical documents dating back to 2016 that she requires before she believes a parenting plan can be determined. I respectfully disagree. Provided

the father's parenting time is supervised by a third-party adult and conditions exist on the court order to monitor his sobriety before and during visits with the children, I find it is unreasonable to deny the father interim parenting time on the basis of his addiction and past relapses or because of insufficient medical disclosure.

[42] I do not find that the mother has established a material change in circumstances warranting a variation that grants her sole discretion to decide the father's parenting time in her. On the other hand, given the father has not seen his children for 10 months, I do not find that the 2018 Order which allowed for supervised parenting time as agreed upon by the parties has been workable or in the best interests of the children. For this reason, I must determine based on the present factual circumstances what interim parenting order is in the best interests of the children.

e. What parenting order is in the best interests of the children?

[43] The sole consideration for parenting orders including primary residence, decision-making responsibility, and parenting time is the best interests of the children: *Divorce Act*, s. 16. Section 16(3) of the *Divorce Act* sets out the following best-interest factors:

Factors to be considered

(3) In determining the best interests of the child, the court shall consider all factors related to the circumstances of the child, including

- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
- (b) the nature and strength of the child's relationship with each spouse, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
- (c) each spouse's willingness to support the development and maintenance of the child's relationship with the other spouse;
- (d) the history of care of the child;
- (e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;

- (f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
- (g) any plans for the child's care;
- (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;
- (i) the ability and willingness of each person in respect of whom the order would apply to communicate and cooperate, in particular with one another, on matters affecting the child;
- (j) any family violence and its impact on, among other things,
 - (i) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and
 - (ii) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; and
- (k) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.

[44] When determining the child's best interests, a person's past conduct is not to be considered unless the conduct is relevant to the exercise of their decision-making responsibility or parenting time: *Divorce Act*, s. 16(5).

[45] On motions for interim parenting orders, generally the status quo will be maintained absent compelling reasons requiring change to meet the child's best interests: *Grant v Turgeon* (2000), 5 R.F.L. (5th) 326, at para 15. The court's responsibility is to focus on the short-term needs of the child and minimize possible disruptions. This is due to the limited and contradictory evidence untested by cross-examination. The court must attempt to provide the child with certainty and stability in an environment that is safe and secure for them: *M.P.D.S. v J.M.S.*, 2022 ONSC 1212, at para 38.

[46] Based on the evidence provided and upon consideration of the best-interest factors, I find that it is in the best interests of the children that the mother has primary residence of the children

and the father have supervised in-person access and virtual time that can be gradually expanded depending on the progress of his health and the children's comfort levels with the visits.

[47] I also find that it is in the best interests of the children that the parents continue to have joint decision-making responsibility

[48] While I have considered all the best-interest factors in arriving at my decision, I address below the most pertinent factors that have informed my decision.

i. History and stability of care

[49] The mother argues she has been the primary caregiver of the children since birth. Since July 2017, the children have been residing with the mother except for two months where they shared parenting time in the summer of 2019.

[50] It is not surprising that after the father developed an addiction issue in 2016, the children have been residing with her. This was supported by the 2017 Order where both parties had agreed to joint decision-making but primary residency of the girls with the mother.

[51] I do not agree that the status quo warrants an order in the mother's favour. While I agree that the father has contributed to the situation by being unavailable when dealing with his addiction, including unsafe periods, hospitalization, and detox programming, the mother has also contributed to creating the present situation by denying the father an opportunity to see his children for over 10 months save for one virtual visit. That was not what was agreed upon by the parties in either the 2017 or 2018 Orders.

[52] Furthermore, the mother acknowledges in her own affidavit that the father was consistent in the winter of 2018 and the spring of 2019 in exercising his supervised access at the Children's Aid Society offices. On August 6, 2019, the Society subsequently closed its file because they found there were no longer any safety concerns. A safety plan was put in place should the father have another relapse. By the summer of 2019, the parties had agreed to increase the father's unsupervised access including an overnight visit. The history of care demonstrates that the father has been able to parent in periods of sobriety, and to abide by terms of supervised parenting time in difficult periods.

[53] I do not find the fact that the mother has been residing with the children since 2017 is sufficient to warrant an order to grant her parenting time at her sole discretion.

ii. The nature and strength of the child's relationship with each spouse, each of the child's siblings and grandparents and any other person who plays an important role in the child's life.

[54] The father states that on his last virtual visit at Christmas, the children were excited and happy to see him. The mother alleges that the children are anxious around him, but I am not satisfied that this justifies denying virtual time or supervised parenting time. Furthermore, the longer the amount of time that goes by without the father seeing or communicating with his children, the greater the risk that the children's anxiety will deepen. The father will become gradually estranged from his children entirely if the status quo continues.

[55] The children also have a good relationship with their paternal grandmother Ms. Holly Ross, who is proposed by the father as an adult supervisor. Visits in the grandmother's presence will enable the children to maintain a relationship with the father's extended family which is in their best interests. The mother does not approve Ms. Ross as a supervisor. Upon review of the evidence filed to date, including the grandmother's affidavit, I find the mother's objection unreasonable. I am not satisfied that she is an inappropriate third-party adult supervisor and would not ensure the children are safe during their visits with the father.

iii. Each spouse's willingness to support the development and maintenance of the child's relationship with the other spouse.

[56] The father has demonstrated he is supportive of the mother's relationship with the children. He has never objected to the mother's primary residence with the children, but simply wishes to have consistent and meaningful time with his own children.

[57] The father has been working on his addiction issues since 2016. More specifically, he has been in a recovery program for alcohol addiction since June 2021 and has taken weekly urine tests. I trust that if those test results were problematic, Dr. Bowling would have not written the letter that he did. The father is also obtaining psychological support. Despite these efforts, the mother has not permitted the father to see the children for 10 months even in a supervised setting or consistent virtual time. Based on these facts, I have little confidence that the mother would

ensure the father has fair and reasonable parenting time with the children if the matter was left to her sole discretion. While I appreciate the father's issues have been ongoing and a source of stress for the mother, I find the mother has not demonstrated in the last 10 months a willingness to support the development and maintenance of the father's relationship with the children as he works on his sobriety issues.

iv. child's views and preferences

[58] The mother alleges that the eldest child is a mature, 11-year-old girl and capable of expressing her views and preferences. According to the mother, she has expressed that she does not wish to see her father in person. She states that while the younger child has not explicitly expressed the same, both children have experienced fear, as well as psychological and emotional distress, from the conduct of their father. The mother cites, for example, an incident when the father collapsed in front of them due to intoxication, a second visit when they had to go the neighbours for help, and a third incident when the father refused to return them to the mother during an access visit. I note that the paternal grandmother disputes that the father collapsed in front of the children.

[59] The mother reports that the eldest child is seeing a therapist but has not provided any documentation to the father or the court about the concerns identified by the child. Such reports can be prepared while also maintaining the confidentiality of the children's sessions.

[60] Given the passage of time and the events that the children have witnessed in the past, it is important that one, the children be able to re-establish their relationship with the father in a safe setting, and two, that this court ascertain the children's wishes if the matter proceeds to litigation to obtain a final order on parenting. For this reason, there will be an order for reunification therapy with the father and children with a therapist approved by both parties.

[61] The mother takes the position that the father's intermittent absences due to the father's relapses have resulted in sporadic contact by the children with the father which she believes is unhealthy for the children. She states that the children have demonstrated frustration, anger, stress, sadness, and anxiety with respect to their relationship with the father. While I do not

doubt that some of this is true, I am not persuaded that the mother having sole discretion on parenting time will ameliorate the situation. On the contrary, I find it runs the risk of the father being further estranged from his children.

[62] Reunification therapy will provide the children an opportunity to discuss their emotions and frustrations with the father in his presence but in a safe setting overseen by a professional therapist. Given the nature of the father's illness, I find that a reunification therapist will be in a better position to assess how the issues around the father's illness are to be communicated with the children, whether they are in a position to understand the father's illness, and how best to prepare them for the possibility of relapse should one arise.

[63] There will be an order that mother and father each propose two names of a therapist to each other within 14 days of this order. Reunification therapy should commence within 30 days of this order or as soon as possible thereafter if a therapist is not available within 30 days.

[64] The costs of reunification therapy will be shared between the parties given that I find that the current situation where the children have not seen their father in such a long time has been contributed to, in part, by the mother. Even if the mother did not agree to the third-party adult supervisor proposed by the father, she could have offered other supervised settings with her own family or at a supervised access centre or alternatively, some other form of consistent and meaningful parenting time in the last 10 months other than just at Christmas.

[65] Finally, it is sometimes difficult for the OCL to obtain an assessment of the children's views and preferences if the father's parenting has just commenced or if reunification therapy is ordered. Therefore, there will not be an order for an OCL assessment, but the father is free to renew his application if required once some reunification therapy has been completed. I am also mindful of not burdening the children with multiple appointments and changes all at once.

v. s. 24(2) - Safety of children

[66] In determining the children's best interests and the factors above, primary consideration is to be given to the children's physical, emotional and psychological safety, security, and well-being: *Divorce Act*, s. 16(2).

[67] In this case, the father is only requesting supervised access. I find that supervised parenting time along with terms ensuring his sobriety before and during the visits and that his physicians are fully informed of the current issues, is sufficient to maintain the children's present physical, emotional and psychological safety and well-being. In addition, reunification therapy and a graduated access schedule will ensure the children's safety as they attempt to rebuild their relationship with the father.

f. Conclusion

[68] I find that it is in the best interests of the children for the father to have supervised parenting time by an adult third-party. I find the paternal grandmother is a suitable third-party adult in these circumstances. The parties are also free to consider other adult supervisors.

[69] There will be an order pursuant to s. 16.1(2) of the *Divorce Act* that the father have supervised in-person parenting time one day a week for three hours and one day on the weekend for four hours every week. These blocks of time will allow the father to have sufficient time to do an activity and share a meal with the children. Thereafter, the parenting schedule can be revised in accordance with the recommendations of the reunification therapist.

[70] In addition, there will be an order that the father will have virtual parenting time with the children two times a week for a minimum of 20 minutes.

[71] I will leave it to the parties to determine which hours and days of the week they wish to schedule the father's parenting time. However, the precise hours and days must be fixed for in-person time on the draft Order.

[72] Given that I have ordered reunification therapy, there will be an order that a case management judge be assigned by the Ottawa Local Administrative Family Law Judge, Justice Audet. This is commonly requested by therapists in cases before the courts where families are undergoing reunification therapy.

[73] There will also be the following additional orders:

- An adult third-party other than the father will be responsible for the transportation of the children to and from the in-person visits.
- The father will not drive with the children in the car.

Issue 2: Is it in the best interests of the children to have joint decision-making

[74] The mother argues that joint decision-making is not possible because of the father's addiction issues and past absences. I respectfully disagree. When the father is undergoing treatment or hospitalized, it can be expected that he may not be in a position to make major decisions regarding the children. If such decisions are required on an urgent basis and the mother proceeds to make them after reasonable efforts to contact the father, then she could hardly be faulted by the father for making the decision in his absence. I am not satisfied based on the evidence filed that during the father's present recovery under the supervision of two doctors that he cannot have access information about the children and engage in decisions about them.

[75] The mother has not provided any examples of decision-making conflicts. While the father does not appear to have always been forthright about his personal medical condition (i.e., not informing the mother in April/May 2021 of his relapse), there is no evidence that he has been negligent with respect to his communications and decisions around the children.

[76] I do not find that the mother has demonstrated that joint decision-making is not possible so as to justify a variation of the 2017 Order. There will be an order that the parties have joint decision-making responsibility on all matters for the children. There will be a term that the mother will make reasonable efforts to contact the father in relation to any major decisions. If after reasonable consultation, the mother is unable to obtain any response from the father within 48 hours of the decision request, the mother may proceed to make the decision. This excludes emergency decisions which may be made by either parent while the children are in their care. There will be an order that both parties will maintain a record of their written communications.

[77] There will also be an order that neither party will discuss legal issues in the presence of the children and that neither party will involve the children in any adult conflicts.

Issue 3: Should there be a police enforcement clause?

[78] The father requests the court order parenting time to be police enforced. The mother opposes the request. She argues the father made this request after the filing deadline even though this motion on parenting had already been adjourned since December 2021 at the request of the applicant. Furthermore, this is not one of two situations where a police enforcement clause is used, i.e. emergency situation or situation where police assistance is required for schedule changes: *Patterson v Powell*, 2014 ONSC 1419 at paras 11-12.

[79] OPS legal counsel provided submissions. Their position is that s. 36 of the *Children's Law Reform Act*, R.S.O. 1990, c.C.12, as am informs the use of enforcement clauses, and the legislation specifies that an order for police enforcement should only be made where **there are reasonable and probable grounds that a person is unlawfully withholding child**. The threshold is high such that police enforcement clauses should not be relied upon absent the court being satisfied that the situation constitutes an exceptional circumstance warranting such an order.

[80] The statutory authority for the use of a police enforcement clause is derived from s. 36 of the *CLRA* which states:

36(1) Order where child unlawfully withheld

Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his or her behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

36(2) Order to locate and take child

Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return, the court by order may direct a police force, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

[81] As pointed out by Justice Pazaratz in *Patterson*, there is narrow statutory authority for the use of police enforcement clauses, and the legislation does not contemplate that such clauses will be used as a “long-term, multiple use, open ended, and on-demand enforcement tool.” *Patterson* at para 17. Such clauses often arise in high-conflict cases: *Patterson* at para 20. In addition, there are concerns about the emotional and psychological impact on children of police involvement. For this reason, Justice Pazaratz suggests at para 24 that judges carefully consider the positive and negative impact of police intervention on each member of the family unit, including the children themselves, by addressing questions:

- a. Has the child already experienced police involvement in family disputes?
- b. How is the child likely to perceive or react to future police involvement?
- c. Will police presence during access exchanges increase pressure on children to ally themselves with one parent or the other?
- d. Does the child have any special needs or vulnerabilities?
- e. Have any members of the family had involvement with the criminal justice system or child protection authorities?
- f. Have there been previous police calls to the home relating to other complaints, such as domestic violence? Will this impact on dynamics if police attend for a more benign peacekeeper role during access exchanges?

- g. How are these particular parties likely to respond to interaction with police? Could any of the parties be regarded as being “anti-police” -- such that police intervention might inflame, rather than defuse the situation?
- h. Are there mental health issues the police may have difficulty recognizing or responding to?
- i. Is there any history of either party making unfounded complaints to police or other community agencies, for malicious or strategic purposes?
- j. Will police involvement facilitate or compound parental alienation? Will calls to police be used to manipulate children, instill fear, or garner sympathy.

[82] Upon review of the evidence filed to date and having considered the above-noted questions, I find that it is in the best interests of the children that there be a time limited police enforcement clause. A parenting order is being issued at this time with a focus on building the father's relationship with the children through reunification therapy and consistent supervised and virtual access. For the father to be able to repair his relationship with the children, it is critical that there be follow through with that parenting order. A police enforcement clause will serve to ensure that there is some immediate avenue of relief for the father should parenting time be withheld as it has been for the last 10 months.

[83] Furthermore, the mother has also called the police in this case in at least one situation when the father did not return the children to her after his parenting time. The police would not get involved without a court order and the mother had to plead with the father for the return of the children. A police enforcement clause will also address this situation should it arise again.

[84] In arriving at this decision, I am aware that the children have been through considerable stress. However, the presence of a police enforcement clause does not in and of itself add to the children's stress. It is the unnecessary resort to the use of that clause where the parents fail to comply with a court order which will contribute to the stress of the children. The responsibility lies with the parents in ensuring compliance with the order.

[85] One of the problems that arises with police enforcement clauses is that the police can only understand where the child is to be returned if there is a clear parenting schedule in a court

order setting out each parties parenting time. For this reason, the parties will have to stipulate in the draft Order the days and times of the week for the father's parenting time.

[86] The police-enforcement clause will be limited for a period of six months. Should either party wish to renew it, they may reapply to the court.

[87] There will be an order consistent with the language provided by the OPS as follows:

- a. 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 (to be named) 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.
- b. 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.
- c. 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.
- d. Pursuant to section 36(6) of the *Children's Law Reform Act*, an entry or a search referred to in paragraph 4 of this Order shall be made only between 8:00 a.m. and 6:00 p.m., eastern standard/daylight time.
- e. 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.

Issue 3: Have the requests for disclosure been complied with?

[88] The mother argues that the father has failed to provide information regarding hospitalization and treatment. She seeks the following specific records. She states that she and her counsel have been requesting some of these records for over three years. The mother seeks the following, hereinafter the “requested disclosure”:

1. copies of all complete hospital records since 2017;
2. copies of all treatment reports for alcohol misuse and substance misuse since 2017;
3. copies of the urine test the father has been submitting to Dr. Bowling;
4. documentation from Dr. Brenhouse about the father’s alcohol treatment;
5. documentation from Dr. Souci regarding the father’s treatment with the sleep clinic at the Royal Ottawa;
6. documentation showing the father’s consistent attendance at the S.M.A.R.T. Recovery Program;
7. documentation about the father’s participation and consistent attendance at the RAAM clinic at the Royal Ottawa;
8. updated documentation about the father’s participation at Rideauwood Addictions;
9. documentation from Dr. Harrison outlining what treatment she was providing to the father after she stopped seeing one of the children;
10. documentation from Dr. Milstone pertaining to the care she was providing to the father from 2015-2017;
11. documentation pertaining to any counselling or programs the father has participated at with Family Services Ottawa;

12. documentation pertaining to the father's treatment and duration of stay at Serenity House Addiction Treatment Services from June 2021;
13. additional documentation from Dr. Bowling pertaining to the father's treatment;
14. per the Order of Master Fortier, documents relating to the father'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;
15. information regarding the father's employment status or return to work plan;
16. complete hospital records regarding treatment for any other incidents in 2019, 2020, or 2021; and
17. disclosure from Dr. Willows of the Substance Use and Concurrent Disorders program.

[89] The *Family Law Rules*, require full and complete disclosure: *Jackson v Dixon*, 2019 ONCJ 870, at para 12.

[90] The court must balance the competing interests of a parent's privacy against the interest in pursuing the truth to arrive at a sound disposition. However, several cases confirm that a parent's privacy interest, including for medical records, must "take a back seat" or yield in favour of the best interests of the child: *G.L.K.*, at para 74; *Porter v Porter* (2009), 70 R.F.L. (6th) 381, at para 17; *Lewis v Schuck*, 2018 ONSC 3887, 13 R.F.L. (8th) 424, at paras. 24 to 26. *Vecchio v Abdelgawad*, 2017 ONSC 5815, at paras 24 to 25.

[91] On the other hand, disclosure should not be granted when doing so amounts to a fishing expedition on behalf of the requesting party: *M. (A.) v Ryan*, [1997] 1 S.C.R. 157, at para 37; *Lewis*, at para 28.

[92] Furthermore, while the best interests of the child are paramount, not every case where a parent's health is in issue requires unlimited record disclosure: *Atodaria v Gandhi*, 2017 ONSC 6010 at para 31. Production may also be limited to a portion of a person's medical file: *Jackson* at para 38.

[93] Rules 19(1)-19(4) of the *Family Law Rules* require a party to provide, if requested, any document relevant to any issue in the application that is in the party's control or available to the party unless it is protected from disclosure by privilege.

[94] Medical records may be privileged if they satisfy the test for non-class privilege adopted by the Supreme Court of Canada in *Ryan*, at para 20, also known as the "Wigmore test", which includes the following criteria:

- 1) The communication must originate in a confidence;
- 2) The confidence must be essential to the relationship in which the communication arises;
- 3) The relationship must be one which should be "sedulously fostered" in the public good; and
- 4) The interests served by protecting the communications from disclosure must outweigh the interest in getting at the truth and disposing correctly of the litigation.

[95] Ultimately, the court must determine whether "to require production within broad reaching policy considerations affecting all persons while balancing the requirements of fact-finding and full disclosure and privacy of the individual in the specific case before the court and who is the subject of the records sought": *Jackson*, at para 27.

[96] In this case, a tremendous amount of medical disclosure has been requested from the father dating back to 2017. The father's position on the outstanding disclosure is not addressed in counsel's factum. However, he indicates in his Reply affidavit that some medical disclosure has been provided, but that the mother has breached his privacy by sharing it with family members.

[97] I find it is unclear what has and has not been provided, what efforts the father has made to obtain the disclosure, and if it is not being provided, why it is not provided, i.e. whether a claim of irrelevancy or privilege is being asserted by the father.

[98] Should this matter proceed to trial, it is necessary that the court have a full understanding of the father's medical issues to determine a final parenting order in the best interests of the children. This is particularly so given that there is some indication from the affidavits filed, as discussed above, that the father has not been entirely forthcoming about the extent of his health issues with the mother and possibly with his own physicians.

[99] The father has recently obtained counsel. At this juncture, there will be an order that the father will seek the requested disclosure from the relevant third parties by July 10, 2022. There will be an order that the father will provide the requested disclosure to the mother's counsel by July 30, 2022. If any of the requested disclosure cannot be provided by that date, the father will set out in a letter to counsel for the mother 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. If the father 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 mother's counsel to be provided by July 30, 2022, so that the mother can determine next steps, including scheduling a disclosure motion.

[100] There will be an order that the mother will not disclose or discuss with anyone other than her counsel the father's medical disclosure.

Issue 4: What is the status of arrears and ongoing child support and s. 7 expenses?

i. Child support arrears

[101] The father was ordered to pay child support arrears and ongoing child support pursuant to Justice Kershman's order of June 14, 2018. This was on consent following a three-way agreement between the parties and the mother's counsel just before court.

[102] The mother states that the amount agreed upon was less than the *Child Support Guidelines*, O. Reg. 391/97, because the only financial disclosure available was the father's 2016 income tax return, which stated earnings of \$75,615.51. For settlement purposes the mother agreed to \$900/month rather than *Guidelines* support of \$1,148. The mother states she agreed to this amount because the father informed the parties he was on disability from Algonquin College and would be moving residences and therefore, needed additional funds to cover his expenses. However, the mother later learned from his employer on August 22, 2019 that the father was still a full-time professor at the college. Therefore, the mother seeks child support arrears calculated on the basis of his actual income for those years.

[103] Justice Kershman also fixed the father's child support arrears at \$10,800. Unfortunately, the order does not state for what period (years) of arrears. Given that there was an order that the father would pay a fixed amount of child support at \$900/month, I will presume that the arrears referred to the arrears up to that date. Therefore, the child support arrears the mother now seeks are for July 2018 to present.

[104] The father agreed to make payments towards the arrears of \$10,800 at \$300/month and consequently, they would not be enforced through the Family Responsibility Office ("FRO"). The mother has not received any payments for arrears.

[105] The father argues that he and the mother came to an agreement at the counsel's office that his past child support and s. 7 expense arrears would be set at \$10,800. This agreement was based on the parties' understanding that it was in the best interests of the girls to move back to shared parenting at which time the child support amounts would cancel each other in the offset. The father states that because of his debt, he could not get a line of credit and the parties agreed it was important to be able to save rent for an apartment so that he could have the girls return to him. The father does not address the mother's allegation that he had falsely reported a lower income due to disability during their negotiations in June 2018 and therefore, that agreement was not made in good faith.

[106] The father's understanding of the agreement with respect to the payment of \$10,800 for arrears was different from the mother's expectation. He states that the parties agreed to the father paying back the \$10,800 by way of e-transfer at a minimum of \$300/month only after the parties returned to shared parenting and the ongoing child support ended. That did not occur.

[107] Without further examination of the parties, it is not possible to discern what the parties' understanding of the agreement was at the time of Justice Kershman's Order. The father was also not represented at the time. Nonetheless, I find that it would be fair and reasonable for the father to pay child support arrears from July 2018 to present in accordance with his actual income. However, the parties may revisit the child support arrears for this period at trial upon further clarification of their respective positions. The father's income since 2018 has been as follows:

Year	Father's income \$	Child support Payable \$	Child support received as per J. Kershman's order \$	Discrepancy \$
2018	79,164.71	As of July 1, 2018 – 1,198 x 6 months = 7,188	900 x 6 months = 5,400	1,788 payable to the mother
2019	87,462	1,318 x 12 months = 15,816	900 x 12 months = 10,800	5,016 payable to the mother
2020	81,998.84 (not including CERB payment of 8,000)	1,240 x 12 months = 14,880	900 x 12 months = 10,800	4,080 payable to the mother
2021	56,429 (not including unemployment insurance benefits to be paid back)	861 x 12 months = 10,332	900 x 12 months = 10,800	468 credit to the father
2022	56,429	861 x 6 months = 5,166	900 x 6 months = 5,400	234 credit to the father
			Total	10,884 payable to the mother

[108] I have not included a CERB payment of \$10,000 for 2020 as it is unclear if this amount should also be paid back given the father was earning an income.

[109] There will be an order that the father will 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.

ii. Ongoing child support

[110] The mother seeks an interim order that the father pay her \$1,318 per month in child support pursuant to his 2019 income of \$87,462. However, it is clear the father is presently on disability and his current income is \$56,429 until January 1, 2023, when he is scheduled to return to work. Consequently, the father is ordered to pay *Guidelines* child support in the amount of \$861/month effective July 1, 2022.

[111] Given the large amount owed, the father's reduced disability income, and his continued obligation for ongoing child support, the father will require time to pay. There will be an order that the arrears for 2018 to present will be paid at \$300/month effective July 1, 2022.

[112] There will be an order that the arrears for 2018 to present and ongoing child support shall be enforceable by the FRO.

[113] The issue of the payment schedule for the outstanding arrears of \$10,800 for the years preceding July 1, 2018, remains unresolved and should be determined at trial where the parties will be in a position to cross-examine each other on the understanding of their agreement.

iii. s. 7 expenses

[114] The parties also agreed to share in the children's s. 7 expenses equally. The mother states the father has not made any payments towards the extraordinary expenses of the children.

[115] The mother seeks reimbursement for half of the following:

- The children's dental costs - \$634.34
- The youngest child's eyeglasses - \$349.

[116] Both expenses occurred in 2020. The mother does not state if any of these expenses were reimbursed by the parties' insurance and if the amounts claimed are after insurance coverage. The father would likely have had coverage for both through his employer's insurance plan. I will assume that they are.

[117] The father was self-represented at the time of Justice Kershman's order. It is unclear to me why the s. 7 expenses were not shared in proportion to the parties' incomes as is commonly the case. However, since the father agreed to pay half and was fully salaried in 2020, there will be an order that the father reimburse the mother for half the costs of these expenses after contributions from the insurers. The payment shall be made by July 30, 2022.

[118] Going forward, s. 7 expenses will be shared proportional to the parties' incomes. There will be an order that the mother provide the father with her income tax return for 2021 by July 1, 2022. There will be an order that the mother obtain advance consent for any future s. 7 expenses.

[119] To summarize, the following is ordered with respect to child support and s. 7 expenses:

- The father will 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.
- The arrears for 2018 to present will be paid at \$300/month effective July 1, 2022.
- The arrears for 2018 to present and ongoing child support shall be enforceable by the FRO.
- There will be an order that the father provide the mother with his income tax return annually by June 1st at which time the child support can be adjusted in accordance with the father's income.
- There will be an order that the father reimburse the mother 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.
- Going forward, s. 7 expenses will be shared proportional to the parties' incomes.
- The mother will provide the father with her income tax returns for 2021 by July 1, 2022, to permit calculation of s. 7 expenses.
- The mother will obtain advance consent for any future s. 7 expenses. Consent will not be unreasonably withheld by the father. The father shall reimburse the mother within 30 days of obtaining the receipt of the expense from the mother.
- The parties will exchange income tax returns annually by June 1st for the purpose of calculating contributions for s. 7 expenses.
- The mother may submit requests for reimbursement directly to the father's insurance on behalf of the children.

Order

[120] Counsel for the father will draft an Order consistent with this decision. The draft Order will be sent to me for review and signature and can be sent to me by email to scj.assistants@ontario.ca

Costs

[121] The father is the successful party on the issue of parenting time and the mother is the successful party on the issue of child support arrears. 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 mother shall file her submissions by July 8, 2022, the father by July 22, 2022, and the mother will have until July 29, 2022 to reply. Please email the submissions to scj.assistants@ontario.ca and to my attention.

N Somji

Somji J.

Released: June 24, 2022

CITATION: Ross v. Holmes, 2022 ONSC 3769

COURT FILE NO.: FC-15-2492

DATE: 2022/06/24

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Daryl Ross

Applicant

– and –

Cynthia Holmes

Respondent

MOTION RE PARENTING ORDER

Somji J.

Released: June 24, 2022