CITATION: Brazeau v. Lejambe, 2020 ONSC 3117
COURT FILE NO.: 3095/14
DATE: 2020-05-19

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Regean Pierre Brazeau, Applicant

AND:

Regina Marie Lejambe

BEFORE: The Honourable Madam Justice L. Bale

COUNSEL: A. Williams, Counsel, for the Applicant

A. Palazzo, Counsel, for the Respondent

HEARD: May 14, 2020

E N D O R S E M E N T -- COVID 19 PROTOCOL

[1] **AS A RESULT OF COVID-19** which has caused the suspension of regular Superior Court of Justice operations at this time, as set out in the Notice to the Profession dated March 15, 2020, this urgent matter was heard by teleconference. See the Notice to the Profession dated March 15, 2020 available at https://www.ontariocourts.ca/scj/covid-19-suspension-fam/, as updated.

[2] Electronic materials were filed through the Courthouse email address: Hamilton.Family.Superior.Court@ontario.ca.

[3] The following documents have been considered in the determination of this matter:

a. Notice of Motion of the Applicant father dated May 5, 2020;
b. Affidavit of Applicant father sworn May 5, 2020;
c. Affidavit of Respondent mother sworn May 10, 2020;
d. Affidavit of Applicant father sworn May 12, 2020.

[4] Upon the resumption of court operations all materials will be duly filed in the physical record at the courthouse.

POSITION OF THE PARTIES

[5] On urgent motion the father seeks an Order compelling the Respondent mother to comply with the custody and access provisions of the Final Orders of the Honourable Madam Justice D. Chappel (re: regular timesharing) dated September 19, 2016 and the Honourable Madam Justice M. McLaren (re: holiday timesharing) and to deliver the children to the father on a date and time as specified by the court. The father further seeks reasonable make-up time with the children for lost time caused by the Respondent mother and police enforcement of court-ordered parenting terms. The father's Notice of Motion specifically requests an uninterrupted two-week period with the children as make-up time, however, in argument he submitted a flexibility as to the logistics of same. Simply put, he wants to see his children.

[6] The Respondent mother has not brought a motion of her own. She appears to ask the court to disregard her non-compliance with the governing court-orders pertaining to parenting. The essence of her argument is two-fold:

a. The children do not wish to attend at the father's home; and

b. It is unsafe for the children to attend at the father's home.

BACKGROUND

[7] The parties were married in February 2005 and separated in 2012.

[8] There are two children of the marriage, namely Keira Marie Brazeau, born June 29, 2008 and Cade Joseph Brazeau, born August 3, 2011. The children are 11 years of age, and 8 years of age respectively.

[9] The parties share joint custody of the children pursuant to the Final Order of the Honourable Madam Justice Brown dated June 15, 2015. The time-share arrangements have been updated since 2015, such that, at present, the governing court order with respect to the regular time-share arrangement is the Final Order of the Honourable Madam Justice D. Chappel dated September 19, 2016.

[10] The children reside primarily with the Respondent mother. Since October 2016 the children have regularly spent time with the Applicant father on alternating weekends from Friday after school until Monday morning, and on alternate Tuesdays after school until Wednesday morning.

[11] In March 2020, the *status quo* time share arrangement was disrupted:

a. The father last enjoyed his scheduled time with the children on March 9, 2020;
b. The mother thereafter took the children away to Mexico for March Break vacation;
c. The children returned to Canada from Mexico on March 22, 2020;

d. The children were quarantined for 14 days upon their return from Mexico as per Canadian COVID-19 health directives;
e. On April 4, 2020 the mother advised the father in writing that she would not force the children to attend his home against their wishes. To date the children have not returned to the father's home.

LAW AND ANALYSIS

Urgency

[12] By Notice to the Profession dated March 15, 2020, the Ontario Superior Court of Justice (SCJ) advised the profession, the media, and the public that, while the SCJ was suspending court operations, it would continue to hear, amongst other things, urgent family matters. Under that Notice, urgency in non-child protection family law matters specifically included issues that must be determined relating to the well-being of a child.

[13] On May 6, 2020, Justice Pazaratz, in his capacity as triage judge, ruled that this matter was *potentially urgent.* He noted that "any sudden, unilateral interruption of a generous, long-standing timesharing arrangement is potentially urgent".

[14] The following factors are necessary for a finding of urgency at present:

a. The concern must be immediate; that is one that cannot await resolution at a later date;
b. The concern must be serious in the sense that it significantly affects the health or safety or economic well-being of parties and/or their children;
c. The concern must be definite and material rather than a speculative one. It must relate to something tangible (a spouse or child's health, welfare, or dire financial circumstances) rather than theoretical;
d. The concern must be one that has been clearly particularized in evidence and examples that describes the manner in which the concern reaches the level of urgency: *Thomas v. Wohleber,* 2020 ONSC 1965 at para. 38.

[15] I am satisfied that this motion meets the threshold requirements particularized in *Thomas v Wohleber.* The matter is urgent. This view is consistent with a large body of caselaw resulting from the COVID-19 health crisis which supports the position that the purposeful obstruction of access and a failure to support the ongoing relationship between a child and parent, meets the urgency requirements as set out in the Notice to the Profession.

Procedure on this Motion

[16] The Final Orders which govern the custody and access issues in this matter are presumptively correct. Neither party has brought a Motion to Change those Orders. There is no motion before the court to vary the terms of either existing Order, either on a Temporary or Final Basis.

[17] A court Order is not a suggestion; it is to be obeyed. The court has broad remedial powers under the *Family Law Rules* where a party fails to obey an Order of the court:

> FAILURE TO OBEY ORDER
>
> If a person fails to obey an order in a case or a related case, the court may deal with the failure by making any order that it considers necessary for a just determination of the matter, including,
>
> (a) an order for costs;
>
> (b) an order dismissing a claim;
>
> (c) an order striking out any application, answer, notice of motion, motion to change, response to motion to change, financial statement, affidavit, or any other document filed by a party;
>
> (d) an order that all or part of a document that was required to be provided but was not, may not be used in the case;
>
> (e) if the failure to obey was by a party, an order that the party is not entitled to any further order from the court unless the court orders otherwise;
>
> (f) an order postponing the trial or any other step in the case; and
>
> (g) on motion, a contempt order: *R.S.O.* 1990, c. C.43, rule 1(8).

[18] The Final Order of Chappel J. dated September 19, 2016 provides that the children are to be in the care of the Applicant father on alternate weekends from 3:30 p.m. on Friday until 10:00 a.m. on Monday, and on alternating Tuesdays from 3:30 p.m. until Wednesday at 10:00 a.m. There is no dispute that, at present, these provisions are not being honoured. I find that the Respondent mother has been disobeying the terms of this Final Order since March 2019. She believes she is justified in disobeying the order on the basis of (a) safety concerns, and (b) the views and preferences of the children.

[19] The Applicant father is seeking the assistance of the court to enforce the terms of Justice Chappel's Final Order. There is no benefit to ordering a party to comply with an existing order: the party was expected to comply at first instance. However, Rule 1(8) of the *Family Law Rules* provides the court with broad remedial powers to assist in compelling compliance. To that end, the court may make any order that it considers necessary for a just determination of the matter. In my view, the purpose of any Order made on this motion must be crafted to achieve the goal of immediate compliance and to discourage future non-compliance. This would include an order for make-up time for missed time with the children as requested by the Applicant father.

[20] As the party who does not wish to comply with the terms of the governing court orders, it was incumbent upon the mother to bring an urgent motion to address her concerns. She did not.

Instead, the mother chose to engage in unilateral self-help by simply disregarding the court-ordered terms and imposing her own will. That unilateral self-help has now been applied for a period of two months. Courts do not look favourably upon self-help actions of litigants, even in times of a health crisis: see for example *McCumber v. Barnes*, 2020 ONSC 2706 at para. 14. Court intervention is necessary in order to correct the Respondent mother's actions.

Best Interests of the Children

[21] The best interests of the child "as determined by reference to the means, needs and other circumstances of the child" is the test for determination of custody and access issues under the *Divorce Act*: R.S.C., 1985, c. 3 (2nd Supp.), s. 16(8). The test is further enumerated under s. 24 of the *Children's Law Reform Act,* the relevant portions of which are reproduced as follows:

> 24(2) The court shall consider all the child's needs and circumstances, including,
>
> a) the love, affection and emotional ties between the child and,
> i. each person, including a parent or grandparent, entitled to or claiming custody of or access to the child,
> ii. other members of the child's family who reside with the child, and
> iii. persons involved in the child's care and upbringing;
>
> b) the child's views and preferences, if they can reasonably be ascertained;
>
> c) the length of time the child has lived in a stable home environment;
>
> d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessaries of life and any special needs of the child;
>
> e) the plan proposed by each person applying for custody of or access to the child for the child's care and upbringing;
>
> f) the permanence and stability of the family unit with which it is proposed that the child will live;
>
> g) the ability of each person applying for custody of or access to the child to act as a parent; and
>
> h) any familial relationship between the child and each person who is a party to the application.

[22] Notwithstanding that there is no formal motion before the court to vary the timeshare terms of the September 19, 2016 Final Order of Justice Chappel, in my view, it would not be in the best interests of these children to suspend the existing time-share arrangement.

[23] Justice Pazaratz, who during the short period of time that the family courts have been faced with COVID-19 related custody and access issues has written extensively on the topic, directly advised the Applicant and Respondent in his triage endorsement in this proceeding of the general expectation on parents to honour parenting arrangements during the COVID-19 Health Crisis:

> *While COVID-19 is a relatively new and unheard of issue in our lives, during the past weeks our court system has devoted a lot of attention to parenting arrangements during these difficult times. The caselaw is overwhelmingly clear in saying that there is a presumption that parenting and timesharing arrangements will continue – to be modified only as may be required to address health or safety issues in relation to the children and their households. A complete suspension of timesharing is not the starting point – it is the last resort, to be considered only after every possible option has been thoroughly considered. Every case that I've seen says that the objecting parent has to do a lot more than just say "I'm afraid of COVID-19" or "my child is afraid of COVID-19". We're all afraid. Fear is no excuse to abdicate parental responsibility. Parents have an obligation to not only obey court orders but to facilitate and encourage children to accept and comply with arrangements which adults have determined to be appropriate. This is especially true in cases like this where the parties have joint custody. That's not an empty label. It means both parents have been entrusted with an equal responsibility to work together in a mature, creative and child-focused manner*: 2020 ONSC 2843 at para. 15.

[24] I cannot more succinctly or convincingly explain these expectations to the Applicant and Respondent.

[25] On review of the materials filed, I am satisfied that this is one of the unfortunate situations wherein one parent is seeking to capitalize on the public health crisis in order to marginalize the children from the other parent. I have considered both of the arguments advanced by the mother in support of her position, namely the wishes of the children and COVID-19 safety concerns, and I reject both on the facts of this case.

Views and Preferences of the Children

[26] I do not accept the mother's assertion that she "has not denied the Applicant's access to the children" but rather that the children have "refused visits" because they are "too frightened to leave the home". A child's views and preferences is only one factor among many in determining a child's best interests.

[27] A minor's wishes will have greater weight as their maturity increases: *A.M. v. C.J.*, 2019 ONCA 764 (CanLII). Although a child's wishes should certainly be considered by a court prior to making an access order, once the court has determined that access is in the child's best interests a parent cannot leave the decision to comply with the access order up to the child: *Godard v. Godard*, [2015] O.J. no. 4073 at para. 28.

[28] Ontario courts have held consistently that parents have a positive obligation to ensure a child who allegedly resists contact with an access parent complies with the access order: *Quaresma v. Bathurst*, (2008), O.J. No. 4734 (Ont. Sup. Ct. Jus.) at para. 8. See also *Campo v. Campo*, 2015 ONSC 1349; *Stuyt v. Stuyt*, 2009 CanLII 43948 (Ont. Sup. Ct. Jus.); and *Hatcher v. Hatcher*, [2009] O.J. No. 1343 (Ont. Sup. Ct. Jus.). Parents are not required to do the impossible - they are however required to do all that they reasonably can: *Godard v. Godard*, at para. 29.

[29] The mother asserts within her materials that the children have COVID-19 concerns, and specifically that the father's partner works in a long-term care facility and this is "alarming" to the children. She insists that the children are too frightened to attend that father's home and she cannot "drag them into her vehicle" nor does she believe this is in their best interests.

[30] This court is greatly concerned by the mother's evidence for a number of reasons:

1. The mother travelled internationally with the children in direct contravention of the Canadian government's global travel advisory, warning Canadians to avoid all non-essential travel due to the COVID-19 outbreak. If these children are truly concerned with COVID-19 health concerns, as suggested by the mother, it is inconceivable that they would be alarmed by the thought of attending their father's home, but not by the thought of travelling by airplane to a foreign country. The mother appears to have had no difficulty in 'dragging' the children onto the airplane.

2. The mother argues that "even prior to the COVID-19 outbreak, the children have been reluctant to attend visits with the Applicant and have repeatedly demanded to know when they will be able to make that decision for themselves". In my view, the mother is utilizing the COVID-19 health crises as a convenient opportunity upon which to advance that argument. I have reviewed the e-mail communications attached as Exhibits in this proceeding, and I am unimpressed by the e-mail communications of the Respondent mother. Specifically, on April 2, 2020:

    a. The Applicant father wrote to the mother: "Sunday will be the 14 days of isolation for the children returning form Mexico". He thereafter requests to have the children in his care on Sunday, as it would be his regular weekend. The mother's responds: "we returned on Sunday yes, but the 14 days isolation begins on the first full day that you are home. So we started on Monday and it finishes on Monday. They will not be going to your house this weekend. The next scheduled time is on Tuesday, April 14th" (i.e. nine days later).

Notwithstanding that the mother had just enjoyed three uninterrupted weeks of time with the children, she resorts to a technical counting of hours argument in order to deprive the children of any time with their father. In my view, a parent committed to effective co-parenting and a parent respectful of the relationship between the children and the other parent would have suggested alternative make-up time for the period of quarantine which resulted from her travel. Instead, the Respondent mother chose to prolong the absence of contact for a significantly longer period of time. The mother has in my view, resorted to harmful gamesmanship in her approach. It is clear from her communication that *she* does not want the children going to their father's home.

b. In the same e-mail the mother states "I am letting the kids decide as they are old enough and can make an informed decision as to what they want and what they feel comfortable with".

   This is a serious error in judgment on the part of the mother. She is empowering the children – who are 11 and 8 years of age – to believe that they have the authority to disregard a court-ordered term. This indeed supports the court's conclusion that the mother is using this health crisis as an opportune circumstance on which to advance her own agenda.

[31] I note that the 'evidence' of the children is not properly before the court. To allow the views and preferences of the children to disrupt a long-standing regime of regular and generous time between the father and children, the court would require more than the mother's account of the children's wishes. In my view, far too many red flags are present in this case to accept the evidence of the mother on this point. Specifically, even on Affidavit evidence alone, this court has concerns that the children are being unduly influenced by the views of the mother.

[32] The mother relays to the court that she has "reassured the children" and has "encouraged them to attend visits with the Applicant". I do not accept this bald assertion as truthful. The mother offers no detail as to the efforts she has made to ensure that the children know that they are safe in the care of *both* of their parents, and safe in *both* of their homes. In my view, a failure to espouse this sense of safety in a child is a failure in parenting. The mother has not done enough to compel the children to spend time with their father as ordered by the court.

[33] The wishes of the children – as presented on this motion – are not sufficient to excuse the mother's unilateral action of disregarding the court-ordered time-sharing schedule.

COVID-19 Health Concerns

[34] The mother argues that it is unsafe for the children to attend at the father's home by combination of three factors:

a. The father's partner's employment in a long-term care facility;

b. The composition of the father's blended family; and

c. The children's asthma.

A. Employment of Father's Partner

[35] The father's partner, Ms. Gushue, is employed as a dietician in a long-term care facility. The father's Affidavit materials provide that Ms. Gushue is taking great precautions to protect herself and her family from COVID-19. Specifically, in addition to following all social distancing and health protocols expected of all persons I am satisfied that:

1. Strict protocols are in place at Ms. Gushue's workplace wherein:

    a) Family are not permitted to visit residents, except in palliative cases, wherein only one family member may visit, after screening, and with personal protective equipment ("PPE");
    b) External care providers are not permitted into the building unless they are solely devoted to that long-term care facility. No other members of the public are permitted in the facility, including volunteers, suppliers, etc.;
    c) All staff must wear PPE. The facility has a robust stock of PPE at their disposal;
    d) All staff are required to self-screen, and not attend work if they feel ill. Further, all staff is screened when they both enter and leave the facility;
    e) All residents are screened two times per day;
    f) All residents are confined to their residential zone within the facility. Staff are restricted to their assigned zones, and to one facility only;
    g) Social distancing measures within zones apply to all staff and residents;
    h) All group activities have been suspended;
    i) Enhanced cleaning and disinfection procedures have been implemented, particularly on high contact surfaces. Sanitizer is present at every doorway.

2. The clothing worn to Ms. Gushue's work is bagged and washed, and Ms. Gushue bathes immediately upon return from work;

3. There have no positive tests for COVID-19 at Ms. Gushue's place of employment. Each and every resident has been tested.

[36] I am satisfied that Ms. Gushue is taking all necessary and recommended precautions to keep herself and her family safe during this difficult time. Further, I am satisfied that the father is appropriately concerned with the need to maintain health and safety measures in his home. A review of the father's affidavit confirms that his family is taking the COVID-19 health crisis seriously. I am persuaded by the detail provided in relation to social distancing and health protocol measures being honoured in their home. I reject the mother's position that her unilateral suspension of the court-ordered time-sharing arrangement is justified as a result of Ms. Gushue's employment in the specific circumstances of this case.

B. Blended Family

[37] The mother asserts that the status of Ms. Gushue's children, aged 13 and 6, also contribute to the concerns of safety in their home. Specifically, each child resides in different homes, and little information has been provided as to whether their respective families are social distancing and adhering to protocols. I do not share the mother's concerns with respect to this blended family. The father's original affidavit materials (received in advance of the mother's assertion that little information has been shared) speaks to social distancing and adherence to protocols being followed in those homes. It appears that those families are reasonably and respectfully navigating the challenges arising from the health crisis without need of court intervention. This blended family composition does not justify a suspension of the court-ordered parenting schedule.

C. Asthma

[38] The mother asserts that both children have asthma and are prescribed puffers for same. As such, they are at higher risk than most other people. She opines that "this pandemic is life-threatening for the children". In my view, if the mother truly believed this sentiment, there is absolutely no possibility that she would have taken the children to Mexico during this global health pandemic. Her explanation that "at the time the government had put out an advisory, but there were no strict protocols or rules in place. I confirm that I took all necessary precautions that were recommended when travelling and ensured that the children understood and were frequently reminded of same" falls short. If the children's asthma were as concerning to her as she asserts, she would not have exposed these children to the unknown social histories of every single individual these children came into contact with during their travel to a foreign county (i.e. in airports, airplanes, resorts, dining facilities, beaches, pools, etc.), and she would have preferred access to the Canadian medical system in the event of illness. I reject this argument.

[39] Notwithstanding the above, the mother urges this court to follow the decision of Chappel J. in *Blythe v. Blythe* wherein the court modified the time-sharing regime between the father and children because the father was a bus driver for the Hamilton Street Railway, continuing to work on a full-time basis as an essential worker through the pandemic: 2020 ONSC 2871. In my view, the circumstances in *Blythe* are distinguishable. Notably, in *Blythe*, the mother commenced the motion, she did not resort to self-help. In that case, the court concluded that the mother was acting out of concern for the best interests of the children - there was no evidence that the children were being influenced or marginalized by either parent, as is a noted concern in the present case. The governing court order in *Blythe* was Temporary in nature, not the result of a Final and long-standing timeshare arrangement. The mother and children resided in the home of the maternal grandparents (as the property and support issues were still in litigation) and the maternal grandparents suffered serious medical issues. The children would not be permitted to reside in the home of the maternal grandparents if modifications to the temporary schedule were not made. In *Blythe* the father was exposed to far more persons with unknown social histories than Ms. Gushue as a result of his employment; and notably more preventative measures are available and being applied in the case before me. Finally, I note that in *Blythe* the mother provided alternative suggestions for effecting contact above and beyond video contact (e.g.

adjusting the physical location of access, etc.); she remained open-minded to other solutions. By contrast, in this case the mother wrote to the father that she would not force the children to attend the father's home against their wishes: "once this has dissipated and our lives have somewhat gone back to normal, we can revisit the access schedule" and "this is not open for discussion" (*emphasis added*). In my view, the mother is not making an effort to implement child-focused, creative solutions, as urged by Justice Pazaratz in his triage endorsement.

[40] The parties are bound by an order for joint custody. The Respondent mother does not have the authority to disregard court ordered parenting terms or to unilaterally dictate changes to the existing regime. It is clear that court intervention will be necessary to correct the situation.

CONCLUSION

[41] It appears that the Applicant father and the children have been deprived of the following overnights together since the children's return from March Break:

a) Sunday March 22, 2020;
b) Tuesday March 31, 2020;
c) Friday April 3, 2020 to Monday April 6, 2020;
d) Tuesday April 14, 2020;
e) Friday April 17, 2020 to Monday April 20, 2020;
f) Tuesday April 28, 2020;
g) Friday May 1, 2020 to Monday May 4, 2020;
h) Tuesday May 12, 2020; and
i) Friday May 15, 2020 to Monday May 18, 2020.

[42] The father and children have missed seventeen overnight visits with one another since March Break. These missed visits are not justified on the facts of this case. In my view it is in the best interests of the children to adjust the upcoming schedule to make up for this lost time. I have considered the father's request for an uninterrupted two-weeks of time with the children, as well as the upcoming regular schedule. In my view, the order necessary for a just determination of this matter, which arises from the Respondent mother's failure to comply with the Final Order of Justice Chappel dated September 19, 2016, provides for roughly equivalent overnight make-up time for time lost. Further, in my view, reducing the number of exchanges of the children during this modified time period will (a) serve to reduce the number of outings of the children into the community during the COVID-19 health crisis, (b) reduce the number of emotional transitions required by the children between their respective homes, and (c) reduce the number of potential interactions between the parties, and therefore the increased stress that likely flows from those interactions during this time of conflict.

[43] Both parents and their respective families are expected to fully comply with all COVID-19 safety measures recommended by public health advisories, and to implement any additional safety measures recommended by their respective employers. Further, they shall immediately notify and provide full particulars to the other parent if they come into contact with any person who has tested positive for COVID-19.

[44] I decline to Order police enforcement of the terms of this Order. I trust that it will not be necessary, as this is an unreasonable burden on first line responders and an especially problematic time to place children in the back of a police cruiser. However, there is an absolute expectation that the terms of this Order will be enforced. If the Applicant father is required to return this matter to court for further enforcement for any reason including the children's *'refusal'* to attend, the mother is forewarned that far more drastic remedial measures will likely be ordered by the court. While I am not seized of this matter, any difficulties with enforcement of this Order should be scheduled before me, if possible.

ORDER

[45] On the basis of the above, there shall be an Order to go as follows:

1. For the period of May 19, 2020 to July 31, 2020, paragraph 1 of the parenting provisions of the Final Order of Chappel J. dated September 19, 2016 is suspended and replaced with the following:

    a. The children, namely Keira Marie Brazeau, born June 29, 2008, and Cade Joseph Brazeau, born August 3, 2011, shall be in the care of the Applicant father from 3:00 p.m. on Tuesday May 19, 2020 until Monday June 1, 2020 at 10:00 a.m. at which time the children will be returned to the mother's care;

    b. The children shall be in the care of the Applicant father from 3:00 p.m. on Tuesday June 9, 2020 until Monday June 15, 2020 at 10:00 a.m. at which time the children will be returned to the mother's care;

    c. The children shall be in the care of the care of the Applicant father from 3:00 p.m. on Tuesday June 23, 2020 until Monday June 29, 2020 at 10:00 a.m. at which time the children will be returned to the mother's care;

    d. The children shall be in the care of the Applicant father from 3:00 p.m. on Tuesday July 7, 2020 until Monday July 13, 2020 at 10:00 a.m. at which time the children will be returned to the mother's care;

    e. The children shall be in the care of the Applicant father from 3:00 p.m. on Tuesday July 21, 2020 until Monday July 27, 2020 at 10:00 a.m. at which time the children will be returned to the mother's care and the regular time-share schedule pursuant to the Final Order of the Chappel J. dated September 19, 2016, shall be reinstated.

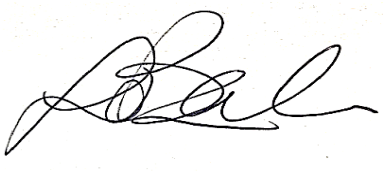
2. Paragraph 4 of the Final Order of Chappel J. dated September 19, 2016 is modified such that in the year 2020 the Applicant father shall not have additional vacation time with the children in July but will have the children with him for two (2) non-consecutive weeks of vacation in August.

3. Both parents and their respective families shall comply with all COVID-19 safety measures recommended by all levels of government and corresponding public health officers, and to implement any additional safety measures recommended by their respective employers.

4. The Applicant and Respondent shall each forthwith notify and provide full particulars to the other parent if they or any member of their extended families come into contact with any person who has tested positive for COVID-19.

5. If costs are in issue, the parties may make submissions as follows:

    a. The party seeking costs shall serve and file written submissions not exceeding two pages in length plus bill of costs on or before June 2, 2020;
    b. The party responding to the request for costs shall serve and file responding submissions not exceeding two pages in length plus bill of costs on or before June 16, 2020;
    c. Reply submissions, if any, shall be limited to one page in length and shall be served and filed on or before June 23, 2020; and
    d. If no cost submissions are filed on or before June 2, 2020, the issue of costs shall be deemed to have been settled.



Bale. J

DATE: May 19, 2020