

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Fader v. Misner, 2009 NSSC 159

Date: 20090520
Docket: 1201-54724
Registry: Halifax

Between:

Gary Fader

Applicant/Petitioner

v.

Charmaine Misner

Respondent

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Judge: The Honourable Justice Moira C. Legere Sers

Heard: April 25, 2008
March 30 and 31, 2009
April 14, 2009

Subject: Custody and access

Summary: The mother had sole custody with liberal access to the father. The child was significantly connected to both parents. From 2006 forward the mother severely reduced the child's contact with her father by alleging abuse, illness and by distorting ordinary events such that the child was encouraged to fear the father. Two assessments, police and child protection concluded the father posed no risk to the child. Father as capable as mother in parenting child. Father's lifestyle offered certain security of residence.

Issue: Have circumstances changed since the Corollary Relief Judgement that support a change in custody? What is in the best interests of the child?

Result: Primary care with decision making authority to the father particularly relating to school selection to reduce school mobility. Shared parenting time. Conditions imposed to assist in the transition. Opportunity given to the mother to maintain her parenting time providing she complies with, facilitates, and cooperates with maintaining peaceful connections between father and child. Review set to monitor transition.

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