

**IN THE SUPREME COURT OF NOVA SCOTIA**  
**Citation: Jessome v. Jessome, 2009 NSSC 390**

**Date:** 15/12/09  
**Docket:** 313233  
**Registry:** Sydney

**Between:**

**Jane Jessome**

Plaintiff

v.

**Glenn Jessome**

Defendant

**Judge:** Justice Cindy A. Bourgeois

**Heard:** August 10, 11, 12, 13, 14, 19, 20, 27, 28, 2009

**Place Heard:** Sydney, Nova Scotia

**Written Decision:** December 17, 2009

**Counsel:** William Meehan for the Plaintiff  
Glenn Jessome, self represented

## **By the Court:**

[1] This matter, an application under the ***Maintenance and Custody Act***, was heard over the course of nine days, having originally been set down for four. The Applicant, Jane Marie Jessome and the Respondent, Joseph Glenn Jessome, have very different views as to the correct disposition of the issues before the Court, and in particular, what is in the best interests of their two young daughters, Petra Jane Jessome, born August 5, 2004, and Julia Pauline Jessome, born January 12, 2006. Their positions, and the evidence called in support thereof, is canvassed herein.

## **Background**

[2] A review of the factual and procedural history leading up to the hearing of this matter is helpful to understand not only the position taken by the parties, but their reactions, most notably that of Mr. Jessome, to the Court process and a number of the players within it, including judges, lawyers and court staff. Mr. Jessome has been self-represented during these proceedings, and notwithstanding his diligent efforts to present his case, that did contribute to added difficulties.

[3] The parties separated on September 30, 2007, following a 6 year marriage, and a total relationship spanning in excess of a decade. As noted above, they were blessed with two young daughters, Petra and Julia. It appears that both children are highly intelligent, however, Julia has been diagnosed with Autism, with resulting difficulties with verbal communication. In the months leading up to the separation, specifically in June 2007, Mr. Jessome had been hospitalized due to mental health concerns. The parties have very divergent views on what prompted the hospitalization, and the accuracy of the diagnosis made as a result thereof.

[4] Ms. Jessome made a formal application under the ***Maintenance and Custody Act*** following the separation, seeking primary care of the children. She has remained in the matrimonial home, with Mr. Jessome being requested by her to reside elsewhere. Following the separation, the parties attempted to arrange parenting time between the children and Mr. Jessome. According to the parties, this was not satisfactory, although each have, again, a very different view as to why the visits were either inadequate, or not proceeding well.

[5] Following an incident at the matrimonial home and a subsequent email in March 2008 sent by Mr. Jessome, an Emergency Protection Order was sought by Ms. Jessome. This was granted, and subsequently extended by Justice Edwards until June, 2008. It appears that this order was not further renewed, nor replaced by any form of a more enduring prohibition regarding contact between the parties.

[6] An interim hearing was held in May 2008 to determine what arrangements should be put in place for the children's care. After hearing and considering the evidence, Justice Wilson ordered in July 2008 that the children be in the interim care of Ms. Jessome, who would continue to reside in the matrimonial home. Given the concerns raised by both parties regarding the mental health of the other, a Parental Capacity Assessment of both parents was ordered. Mr. Jessome was ordered to have supervised access with his daughters, to be facilitated through a program at the YMCA.

[7] The above interim order was clearly intended to be a mechanism for providing some form of stability for the parties and their children, while additional relevant information was collected. Following receipt of the Assessment, the matter was to return to Court for a more informed consideration of what arrangements would be in the best interests of these children. The Assessment was undertaken by Ms. Ellen Millman, with her report being filed with the Court on November 14, 2008. A hearing was scheduled for February 4, 2009, which was adjourned at the request of Ms. Jessome's counsel as he was unable to attend due to poor weather. A re-scheduled hearing set for June, 2009 was also adjourned given a conflict being discovered with the presiding Justice.

[8] As was brought into evidence at the hearing before this Court, Mr. Jessome, due to the scheduling difficulties and other factors, has not had any access with his daughters for many months. The supervised access through the YMCA program was only available for a pre-determined number of weeks. When this concluded, the parties were unable to agree to any form of access, and in the absence of a continuing order, and with the scheduling difficulties in having the matter brought back before the

Court, Mr. Jessome found himself unable to compel access with Petra and Julia. His level of frustration with this situation, was clear, both in his words and actions.

### **Issues before the Court**

[9] The issues to be determined in relation to the present application include custody of the children, access, child and spousal support. The only property issue before the Court is the possession of the matrimonial home, both parties seeking exclusive possession. This Court has not been requested to undertake a division of matrimonial property. It would further appear that a Divorce Petition has not been filed by either party.

### **Position of the Parties**

#### **a) Ms. Jessome**

[10] Ms. Jessome is seeking sole custody of the children of the marriage. She submits that Mr. Jessome should have supervised access with the children, with a trained access facilitator, knowledgeable regarding autism. She takes this position due primarily to her concerns regarding Mr.

Jessome's mental health, and in particular that he poses a risk to the children if left unsupervised in his care. Ms. Jessome is also seeking child support and contribution to extraordinary expenses relating to Julia in particular, given her diagnosis of autism. She is further seeking spousal support, and costs.

**b) Mr. Jessome**

[11] Mr. Jessome's position has changed during the course of this matter. Although seeking a shared custodial arrangement at the interim hearing, he is now seeking sole custody of the children. He now also asserts that Ms. Jessome should have supervised access with the children, and also raised concerns with respect to her mental health. Mr. Jessome asserts that Ms. Jessome suffers from Obsessive Compulsive disorder, as well as Parental Alienation syndrome. He fears she will, should she be the primary care giver to his daughters, remove them from the jurisdiction. Mr. Jessome is seeking to reside in the matrimonial home, where he will be the primary care giver to the children.

[12] Mr. Jessome made it clear during the course of the hearing, that he had the ability to financially support the children, and is not seeking financial support from Ms. Jessome.

### **The Evidence**

[13] A great deal of evidence was presented to the Court over the course of the hearing. It is not feasible to review within this decision all of the evidence heard, or even the majority of it. I want to assure the parties however, that all of the evidence has been considered in reaching a decision in this matter, and if a particular fact, argument or witness is not specifically referenced, such should not be taken as an indicator that it was overlooked, or not considered.

#### **a) Ms. Jessome**

[14] Ms. Jessome testified. She believes she should have sole custody of the children of the marriage, and that Mr. Jessome should have supervised access only with the children. Ms. Jessome explained her concerns



surrounding Mr. Jessome, and why she believes her position is in the best interests of Julia and Petra.

[15] Although she testified that during the marriage, Mr. Jessome was often distracted in his care of the children due to business pursuits, Ms. Jessome's primary concern regarding the nature of contact Mr. Jessome should have with the children is centered on the status of his mental health. She testified as to the "bizarre" and troublesome behavior exhibited by Mr. Jessome, in 2007, which ultimately lead to a 28 day hospitalization in the Cape Breton Regional Hospital Psychiatric unit. She also testified regarding the circumstances giving rise to the Emergency Protection order in March of 2008. Ms. Jessome further testified that other than the behavior noted in 2007, she had not had any prior concerns with Mr. Jessome's mental health. She described them as having a good marital relationship, and although she indicated that Mr. Jessome was often pre-occupied with business activities, and thus not as involved with the day to day child care requirements of the family, that there were no serious concerns surrounding his interactions with the children. Ms. Jessome testified that caring for Julia does present challenges, as she is extremely

active, loving to climb and run. Care givers must be mindful to monitor Julia closely, as she appears to have "no fear" and because of this, may be at higher risk of harm than other children her age.

[16] Although initially following the separation, Ms. Jessome was agreeable with Mr. Jessome exercising access with the children in the matrimonial home, and public places, this, according to her, needed to be discontinued due to Mr. Jessome's difficult and controlling behavior. Similarly, the parties had also arranged to have Mr. Jessome communicate with the children via webcam, but Ms. Jessome testified this was discontinued as well, as she felt he was attempting to view what was taking place in the home, other than simply interacting with the children.

[17] More recently, Ms. Jessome has had concerns regarding Mr. Jessome's mental stability due to reviewing a series of emails purportedly written from Mr. Jessome to her legal counsel. She described the e-mails as being disturbing, and what she perceived as being threatening in its content. She read to the Court some passages, which were particularly concerning to her. Paraphrasing, the author was commenting on the age

of Counsel and describing how he would take great delight in urinating on his grave. Mr. Jessome did object strenuously to the emails being introduced into evidence, initially because they were written on a "without prejudice" basis, and subsequently, because there was not requisite proof that he was the author.

[18] With respect to her plan for the care of the children, Ms. Jessome described her work hours and the child care arrangements she has in place to facilitate her employment, as well as the added requirements necessitated by Julia's special needs and activities. Ms. Jessome is fortunate to have what appears to be the ongoing support of her parents and other extended family members. There is no added cost to Ms. Jessome for child care at this time, due to the involvement of her parents. She testified that she presently receives government funding in the amount of \$700.00 monthly, being a combination of the Universal Child Care benefit, as well as additional funds reflecting that she has a child with special needs.

[19] Regarding financial arrangements, Ms. Jessome did not introduce into evidence a formal financial statement as is often seen where spousal support and contribution to extraordinary expenses relating to a dependent child is being sought. In her evidence, Ms. Jessome briefly outlined generally her level of income and expenses, including those relating to the children.

[20] Ms. Jessome sought, and was permitted to also introduce into evidence, the transcript of evidence provided by Dr. Ali, at the interim hearing. This evidence relates to Mr. Jessome's mental health at the time of his hospitalization in 2007. Dr. Ali in his testimony described his involvement with Mr. Jessome during the period of his hospitalization, including that he was "out of touch with reality" during the early part of his admission, and that he was diagnosed with bipolar mood disorder. Further, Dr. Ali testified as to his attempts to provide pharmacological intervention to Mr. Jessome both while in the hospital, and afterwards following his release. Dr. Ali did not treat, or have occasion to further assess Mr. Jessome following his discharge from hospital in June of 2007.

[21] Ms. Jessome also was recalled to provide rebuttal evidence, at which time she introduced an audio recording purportedly taken during a visit Mr. Jessome had with the children. She asserted that the recording disclosed Mr. Jessome discussing with his friend Bill Ivey, his intent to remove the children from the jurisdiction, and the care of their mother. This recording was of extremely poor quality, and although some portions were audible, many others were not. Given the seriousness of the allegation being made, I listened intently to the recording, both during the course of the hearing, and afterwards during my deliberations. I cannot hear anything on that recording that would constitute a threat or plan on Mr. Jessome's part at that time to remove the children from their mother's care. Given that Ms. Jessome also relies upon concerns surrounding the potential for the children to be removed from the jurisdiction as part of her foundation for her seeking supervised access between the children and their father, I am concerned with the quality and nature of the evidence presented in this regard.

**b) Mr. Jessome**

[22] Mr. Jessome called a number of witnesses, and testified himself in the proceedings. He also requested that the transcript of evidence given by Dr. Foley at the interim hearing be introduced, and this was permitted. A primary focus of Mr. Jessome in the presentation of the evidence in support of his case, was refuting the allegations made regarding his mental health, and in particular, the evidence of Dr. Ali surrounding the diagnosis of bipolar mood disorder. He alleges that there was collusion between Ms. Jessome and Dr. Ali in not only his admission and continuing hospitalization, but in the diagnosis, and pharmacological treatment subsequently prescribed.

[23] Mr. Jessome called his family physician, Dr. Peter Poulos to testify, who was qualified to provide opinion evidence as a general medical practitioner. Dr. Poulos testified that he has treated Mr. Jessome since 1987, and has seen him regularly in the last several years. Dr. Poulos described that as part of his practice, he does have the opportunity to assess and treat patients with mental health issues. This includes patients with bipolar mood disorders. Although he does certainly refer some of these patients to specialists, he also explained that there are times when

he does not do so, being able to effectively manage their care himself. In some bi-polar patients, medication is not required to manage their symptoms.

[24] Dr. Poulos testified that he had, since 2007, referred Mr. Jessome to be assessed by psychiatrists Dr. Foley, as well as Dr. Hayek in Halifax. No further treatment suggestions for Mr. Jessome were made as a result of these referrals. Dr. Poulos testified that at present, Mr. Jessome has not been prescribed medication for any mental health issues, and nothing about his state of health would prevent him from parenting his children. On cross-examination, Dr. Poulos indicated that he was fully aware of the 2007 hospitalization, the diagnosis made by Dr. Ali, as well as an earlier hospitalization many years previous, at the Abbey Lane hospital. Further, he was aware of the previous Emergency Protection Order which had been obtained by Ms. Jessome. Dr. Poulos indicated that he had never recommended anger management for Mr. Jessome, as he did not believe that he suffered from a chronic anger problem. However, Dr. Poulos did testify that Mr. Jessome had discussed with him his very specific anger and

frustration focused on the legal system and circumstances surrounding the custody issues before the Court.

[25] Counsel for Ms. Jessome presented Dr. Poulos with the series of emails purportedly written by Mr. Jessome, questioning whether such would alter his opinion regarding Mr. Jessome's present mental fitness. After reviewing only a portion of the document, Dr. Poulos indicated that he could not make a definitive diagnosis based on the document, and that a patient's presentation in clinical interview is the best means of assessing current mental health. He did assert, based on what he read, that the contents were concerning. I do not view however, that this constituted a retraction of Dr. Poulos' prior evidence regarding Mr. Jessome's fitness to parent.

[26] Mr. Jessome called a number of friends and acquaintances to testify. For the most part, the focus of this testimony was to describe the state of his mental health both surrounding the time of his 2007 hospitalization, and presently. Additionally, the Court heard evidence as to Mr. Jessome's character and personality. Several witnesses testified as to Mr. Jessome's



apparent level of upset surrounding the court proceedings, and that he spoke incessantly about it.

[27] I was particularly impressed with the evidence of longtime friends Erin Murphy and John Gibbons, as it related to Mr. Jessome's recent interactions with their own young children, and within their social group. Neither would have any concerns with Mr. Jessome caring for their children or being unsupervised with them. Similarly, Mr. Jessome's cousin Kim Grant Craig testified. Ms. Grant Craig resides in Ontario, but has known Mr. Jessome since childhood, given her regular family vacations back to Cape Breton. Given that Mr. Jessome had been spending increased time in Ontario over the past few years, Ms. Grant Craig had also had the opportunity to interact with him as adults. Ms. Grant Craig impressed me as an honest and conscientious individual. She testified that over the past few years Mr. Jessome has had frequent contact with her three children, presently 12, 10 and 5 years of age. The children apparently like Mr. Jessome a great deal, and have had the opportunity to spend time in his care, including the youngest child. Ms. Grant Craig has seen nothing about

Mr. Jessome's conduct that would give rise to concerns on her part with him having the care of her children.

[28] Jennifer Woodworth, an access facilitator at the YMCA testified that she supervised most of the visits between Mr. Jessome and the children. She described the mechanism by which the visits took place, and that the program is time limited. Once the requisite number of weeks of visits had been undertaken, no further could be arranged without further order of the Court. Ms. Woodworth had noted no concerns regarding Mr. Jessome's interaction with the children, and that he appeared to have a positive and close relationship with both Petra and Julia. He was able to attend to their needs, including monitoring both Julia and Petra during the visit, and interacting individually with each child.

[29] Mr. Jessome testified at length. As previously noted, a great deal of his evidence was focused upon refuting Dr. Ali's allegation that in June 2007, he was delusional. As part of this, Mr. Jessome provided a substantial, and interesting, description of not only the statistical

calculations he undertook to develop a scheme for beating the lottery, but also his invention of a perpetual motion device.

[30] Mr. Jessome also provided his view of the circumstances giving rise to his hospitalization in June 2007. Clearly, he feels it was unwarranted and he believed that the medications he received, prescribed by Dr. Ali, were not helpful, but detrimental to his mental health. He also expressed very strongly that he views there being a level of wrongdoing and collusion between Ms. Jessome and Dr. Ali in terms of his continued hospitalization and level of medication.

[31] Mr. Jessome also provided the Court with his views regarding his level of intellectual development. Mr. Jessome testified that in junior highschool he was identified as being gifted based upon intelligence testing conducted within the school system. Although no evidence was presented of more recent I.Q. testing, clearly Mr. Jessome is an individual possessing impressive intelligence. He asserts that because of his superior intellect, most notably his high non-verbal I.Q., that he processes information differently than most others with lesser abilities. Mr. Jessome believes that

both children possess similar superior intellect. He views Ms. Jessome as being of “average” intellect, and confirmed the he did refer to Ms. Jessome as being “stupid” in the presence of Petra on one occasion. He indicated he recognized such as being inappropriate and that he had apologized to both his wife and daughter shortly following the incident.

[32] Mr. Jessome also testified regarding his employment and financial circumstances. University educated, Mr. Jessome did teach school for a period prior to turning to other pursuits. He explained that Ms. Jessome and her family members have attempted to damage his ability to make a living by making negative comments directed at him in the community. This he asserts, may impact upon his ability to continue his used car sales business, which was highly successful prior to the marital separation, as well as his ability to be approached for teaching positions with the School Board. Since the separation, Mr. Jessome advises he has had little car sales, and minimal substitute teaching opportunities.

[33] Recently, Mr. Jessome has been focused on other pursuits, including developing three new businesses. These efforts have been centered in

Ontario, and he has spent considerable time in that Province for those reasons, although he explained that he still considers Cape Breton his home. Mr. Jessome has also spent considerable time researching autism and potential therapeutic approaches. This has led him to make the acquaintance of an autism advocate and researcher who is in the process of developing technologies which may not only be of assistance to those with autism, but lucrative, as well. Mr. Jessome asserted that he could, if he so chose, be gainfully employed in any number of pursuits, but that he was delaying his efforts in that regard given Ms. Jessome's claim for financial support. In terms of income earned from his companies, Mr. Jessome asserted that there was little income, but that he had specifically instructed his accountant to hold off on the preparation of the financial statements until after the resolution of the support claim.

[34] Mr. Jessome believes that he is best suited to have primary care of Petra and Julia, and that he would have the ability to provide for their daily needs. He indicated that should the children be in his care that he would have ample financial resources to care for them, and would not require financial support from Ms. Jessome. In terms of juggling child care and

business pursuits, Mr. Jessome indicated he would find suitable child care providers. Because of her mental health difficulties, Mr. Jessome requested that Ms. Jessome be awarded supervised access with the children, although he hoped that at some point in future, access could be expanded to a shared parenting arrangement.

[35] Regarding his present mental health, Mr. Jessome indicated he is followed by his physician and he had made arrangements to start seeing a psychologist, who he is prepared to continue seeing so long as his mental health remains an issue.

### **c) Ellen Millman**

[36] Ellen Millman is a practising psychologist and was requested to conduct the Parental Capacity assessment as ordered by Justice Wilson. Neither of the parties had made arrangements to have Ms. Millman testify. It was clear that Mr. Jessome was not prepared to agree with Ms. Millman's report simply being introduced into evidence. He objected vehemently not only to her qualifications to provide expert opinion, but the

accuracy of her findings. Because of this, the Court requested Ms. Millman's attendance to provide viva voce evidence.

[37] After hearing evidence as to her qualifications, Ms. Millman was accepted as an expert to provide opinion regarding parental capacity. I do not view Ms. Millman as an expert in the treatment of psychiatric disorders, which she freely acknowledged was beyond her scope of expertise.

Although Ms. Millman's report and evidence was helpful to the court, I do wish to be very clear, that my decision would have been the same, even in the absence of her input.

[38] Notwithstanding Mr. Jessome's strongly asserted position that Ms. Millman's findings should be completely disregarded by the Court due to her alleged incompetency, her report, in several important ways, was supportive of him. In particular, Ms. Millman's observation of Mr. Jessome's interactions with the children was positive. In fact, she recommended an increase in access time. Additionally, after administering several standardized psychological tests, she was unable to establish the

current existence of a diagnosable mental disorder, and also confirmed that Mr. Jessome would be at low risk of child abuse.

[39] Ms. Millman's primary concern with Mr. Jessome centered upon his behaviours and attitude towards Ms. Jessome, which may impact upon the children.

## **Findings**

### **a) Custody and Access**

[40] Given that both parties have raised concerns regarding the mental health of the other as being relevant to the custodial arrangements, that is the starting point of the Court's considerations regarding the best interests of these children. With respect to Mr. Jessome, I find that he is not presently suffering from bipolar mood disorder, or any other form of identified mental illness. I base this upon the psychological testing in the Assessment, the evidence of Dr. Poulos, and to a lesser extent, the evidence submitted of Dr. Foley's testimony at the interim hearing in May of 2008.



[41] I want to specifically address the significance of the emails introduced into evidence by Ms. Jessome. Mr. Jessome was not prepared to "confirm or deny" whether he was the author of the emails sent to Mr. Meehan. The sentiments contained in the emails however, are certainly ones which he expressed freely during the course of the hearing. I think it is more probable than not, that Mr. Jessome was the author of the emails as suggested. That being said, I am not prepared to place the significance on these emails that Ms. Jessome suggests that I should. I do not view them as confirmation or a "smoking gun" determinative of Mr. Jessome's unstable mental health, for several reasons.

[42] Primarily, the only emails presented to the Court are those written by Mr. Jessome. Many however, appear to be responding to messages sent to him. Without the full context of the exchange, I cannot place the weight upon them as sought by Ms. Jessome. Additionally, Mr. Jessome indicated several times during the course of his testimony that he felt that he was subjected to "psychological warfare" at the hands of the legal system, including lawyers, and because of this, he responded in kind. Without

commenting on the veracity of his views in this regard, I am satisfied that Mr. Jessome as a self-represented litigant believed he was being unfairly treated. His response to that in terms of the nature of the emails to Mr. Meehan was not appropriate and should not be condoned, but I cannot view it as being sinister. Rather, such was more likely the desperate tactics of a frustrated father who was afraid that the "system" would be continuing to prevent him from seeing his daughters. He needs to understand however, that such conduct, if repeated in future, may create more serious difficulties for him. He also needs to understand that continued behaviour in that vein will undoubtedly give rise to questions about his anger and impulse control, which may be a relevant consideration as to the nature of parenting time he should have with the children.

[43] It is clear from the evidence that Mr. Jessome has had mental health concerns on two occasions in the past, both of which prompted hospitalization. Mr. Jessome strenuously refutes the accuracy of a diagnosis of bipolar disorder. What is clear, is that these two episodes occurred 14 years apart. During the interim period, Mr. Jessome married,

started a family, was a productive member of society, including running a successful and profitable business. For the vast majority of their relationship, Ms. Jessome had no concerns with respect to Mr. Jessome's mental health, and did not view this as posing a risk to their daughters.

[44] Although I am certainly mindful of the fact that Mr. Jessome has had past mental health difficulties, it appears that he is regularly monitored by his family physician who is aware of his history and circumstances. Mr. Jessome testified that he intends to start seeing a local psychologist to assure that his mental health is assessed on an ongoing basis, and not used as a means to limit the relationship with his daughters. I must look at what the current situation is, consider current risks of harm to the children and make a decision which is in their best interests. What circumstances may have existed in 2007 regarding Mr. Jessome's mental health, certainly have relevance, but such cannot be determinative of his current status, or what is in the best interests of his daughters.

[45] Ms. Jessome has not presented evidence to satisfy me that Mr. Jessome currently suffers from a mental disorder that would prevent him

from having natural parenting time and contact with his daughters. Although there is evidence that he was hospitalized for 28 days in 2007, there is also evidence that currently, he is stable from a mental health perspective. It is argued that the nature of bipolar illness is such that it could re-occur, and likely will, unexpectedly, and thus place the children at risk should they be in the care of Mr. Jessome. I am not convinced that Petra and Julia should be deprived of a meaningful and natural relationship with their father on that basis, most notably where the evidence establishes that there was 14 years between the only two known incidents of Mr. Jessome allegedly requiring psychiatric treatment. There are precautions which can reasonably address such a risk, which do not unduly restrict Mr. Jessome's parenting of his daughters, and more importantly, the children's right to have a meaningful relationship with their father.

[46] There has been no need for Mr. Jessome to have been prevented from having some form of meaningful contact with his daughters for any period of time due to his mental health. He had, at the date of the hearing, not seen, or spoken to the children in many months. It is not in the best interest of these children to be prevented from having contact with their

father. I do believe Ms. Jessome's concerns were genuinely based on what she felt was in the best interests of the children, and were not vindictive. However, I struggle with why Mr. Jessome could not have had telephone contact, at a minimum, with Petra during this period. Such served to create further frustration on Mr. Jessome's part, feeding into his lack of confidence in the legal system and his suspicions regarding the motives of Ms. Jessome and her counsel. Although I am not endorsing the accuracy of many of Mr. Jessome's views in that regard, the lack of access certainly served to inflame an already conflict ridden situation.

[47] I must add however, that Mr. Jessome's approach to dealing with the matters before the Court has not always been conducive to effecting a positive outcome for these children, or himself for that matter. In his submissions, he himself appears to acknowledge this, stating that he is not the person that the legal process has brought out in him. Although the existence of frustration on Mr. Jessome's part is understandable when looking at the circumstances, I find that he has chosen to react beyond the boundaries of acceptable conduct in some instances. I had the opportunity to view Mr. Jessome's demeanor during the course of the proceedings. His

words and body language often exuded disdain for the legal process, the Court, Ms. Jessome, and certainly her legal counsel both past and present. Custody determinations are highly emotional and often parties do not conduct themselves as one would otherwise expect of them. However, Mr. Jessome's conduct was such that it would not be unreasonable for people interacting with him, such as Ms. Jessome, to view his behavior as aggressive and threatening. I am not convinced that Mr. Jessome intended to threaten or intimidate, but I find at a minimum, that he has at times, lacked the insight to recognize how his conduct may reasonably be interpreted by others.

[48] The behaviour exhibited by Mr. Jessome does give rise to a concern that he may, because of the apparent disdain he feels towards Ms. Jessome, attempt to directly or indirectly impart his views on the children during his interactions with them. Additionally, Mr. Jessome appears to hold very strong views about a number of subjects, and I find that he may have an unwillingness to accept as valid the views of others. This was demonstrated repeatedly within the course of the hearing, both in relation to his evidence, commentary and submissions.

[49] This behavioural “approach” was expressed by Ms. Millman at page 24 of her report when describing information provided to her by Doctor Foley as follows:

“During a rather wide ranging discussion, Dr. Foley referred to Mr. Jessome’s belief in his superior intellect, his belief that psychiatrists, lawyers, his wife, etcetera were engaged in a conspiracy, his refusal to listen to reasonable advice and his insistence that matters should proceed “his way or no way”. He concluded Mr. Jessome tended to be his own worst enemy.”

[50] I agree, after listening to the evidence and watching his demeanour, that Mr. Jessome has been to some degree “his own worst enemy”, making an already difficult situation more so by virtue of how he has chosen to react in some instances. This should not however, preclude him from having a meaningful parental relationship with his children. He has not behaved inappropriately during his access visits, in fact, the descriptions provided of his interactions with the children were very positive. Mr. Jessome clearly knows how to behave in the presence of his children. He needs to understand however, that how he interacts with their mother and others in their lives can also have a serious impact on their well being. Because of this, like in all custody determinations, how these

parents choose to interact with each other, will be a relevant factor for the Court.

[51] As to Ms. Jessome's mental health, Mr. Jessome has asserted that she should not be the primary parent to the children as she suffers from Obsessive Compulsive disorder, as well as Parental Alienation syndrome. Mr. Jessome presented evidence to suggest that Ms. Jessome during the marriage engaged in frequent hand washing, and was overly concerned with the cleanliness and safety of the children. Mr. Jessome also testified as to his view that Ms. Jessome suffers from Parental Alienation syndrome, and that in particular, she posed a risk of fleeing the jurisdiction with the children. Mr. Jessome bases his view on his own research into this area, but did not present admissible evidence to establish that Ms. Jessome suffers from such disorders. Further, even if Ms. Jessome was found to have a mental disorder as alleged, there was no evidence presented to establish that such would materially impact on her ability to parent the children.



[52] Regarding Mr. Jessome's fear that Ms. Jessome will abscond from the jurisdiction with the children, I find that such is completely unfounded. Ms. Jessome has been residing for a number of years adjacent to her parents, and Mr. Jessome himself asserted that there is an extremely close relationship between her and her mother in particular. Ms. Jessome has longstanding employment in the community. It is highly unlikely given the support network she has in the area where she has lived for the entirety of her life, that she would make plans to leave, openly, or otherwise.

[53] I turn now to a consideration of what custodial arrangement is in the best interests of Petra and Julia, starting with whether a shared parenting arrangement is appropriate. Based on the evidence, this is not an appropriate situation for a shared custody, nor even a joint parenting arrangement, where the children would be in the primary care of one parent. At least at the present time. Although I find both parents have the requisite capacity to care for their daughters safely and effectively, shared and joint parenting schemes require parents to possess the ability and willingness to effectively communicate, openly, respectfully, and with a lack of hostility.

[54] I have observed the parties and listened to their evidence. I am confident that there is not, at present, the ability to jointly confer in relation to their daughters, and in particular to make decisions with respect to their day to day, or more long term needs and requirements. In fact, given the conflict to date between these parents, and the allegations raised by both of them, it is advisable that they not, other than at public events as contemplated later in this decision, interact with each other in the presence of the children, at least at the present time. Should their ability to communicate improve, which I hope it does for the sake of their daughters, Mr. and Ms. Jessome may mutually agree that this prohibition be modified.

[55] I am hopeful that both parents will realize that notwithstanding the breakdown of their marriage, that they will continue to be the parents of these young children, and that their daughters will ultimately benefit by their parents displaying civility and cooperation towards each other. At some point, these parents may be able to make decisions jointly regarding their children, but such is not presently the case.

[56] Because of the present circumstances, I find that a joint custodial situation is not beneficial to the children, and would undoubtedly lead to escalated conflict. This is a situation where sole custody to one parent, is warranted. Both parties are seeking to be the custodial parent of these children.

[57] I direct that the children should be placed in the sole care and custody of Ms. Jessome, for a number of reasons. In his evidence, Mr. Jessome focused, successfully, on refuting the allegation that he is presently suffering from a mental disorder. He was persistent in this pursuit, somewhat to the detriment of other issues which are also of concern to the Court. The evidence is lacking on the day to day plan that Mr. Jessome would implement in the event that he was awarded primary care of Petra and Julia. Although he assured the Court that he would have the financial resources to care for them, he was unable to indicate with any degree of specificity his child care plan. He asserted that he sought to return to the matrimonial home with the children, however, child care arrangements, and how he would juggle the day to day responsibilities of parenting was not fully developed. Additionally, given Mr. Jessome's

testimony regarding the acrimony between he, and certain members of Ms. Jessome's family, I find the proposed return to the home, adjacent to his in-laws, would be only setting the stage for further conflict.

[58] Further, I must assess which parent, if awarded custody of the children, would most likely positively foster a relationship with the non-custodial parent. I have grave concerns that Mr. Jessome, would at present, have the ability to overcome his feelings of distrust and betrayal directed at Ms. Jessome. I find, based upon the evidence and my observations of him, that he would have difficulty in considering the views of others, should they not match with those held by himself. I find that Ms. Jessome, although likely not agreeing with all aspects of the Court's decision, will be more open to facilitating Mr. Jessome's interaction and ongoing involvement with the children.

[59] Ms. Jessome has remained in the matrimonial home, and has been financially responsible for the payment of the mortgage and her occupation thereof. Given that the children will remain in her care, Ms. Jessome will continue to have the right to exclusively occupy the matrimonial home with

the children. It is adjacent to the home of her parents, who provide child care when Ms. Jessome works. This does not in any way, displace Mr. Jessome's interest in the home, or his right to claim payment in relation to the equity as part of any future property division.

[60] Mr. Jessome is entitled to meaningful parenting time with the children. As noted above, I find that he has the ability to care for them, and does not presently pose a risk to them due to any mental health concerns. That being said, I am concerned with respect to the existence of his past mental health issues, the potential that such may re-occur in future, and the attitude he has expressed towards Ms. Jessome. Additionally, Petra and Julia have not had the opportunity to see their father for almost a year. There will need to be a period of re-introduction to insure that the interaction is positive for both the children and Mr. Jessome. Unfortunately, due to the time which has passed, Mr. Jessome may not be familiar with Julia's current behavior patterns and reactions. It is therefore prudent, during a period of re-introduction, for him to have the benefit of a second pair of eyes, ears, and hands during visits. Therefore, for an initial period, visits will be "supervised".

[61] Given the conflict between the parties, the Court will outline very specific terms for the gradual expansion of Mr. Jessome's parenting time with the children. Should matters proceed positively, nothing shall prevent the parties, should they both agree, to informally making other arrangements which better suit their schedules, and the needs of their children. To be clear, in the absence of mutual agreement, the terms outlined herein, will take precedence.

[62] I find that the following terms relating to access seek to balance the above noted concerns, and are in the best interests of the children:

a) Commencing immediately, and continuing thereafter, Mr. Jessome is to have regular telephone access with the children, at a minimum of 2 times per week. Given Petra's age and Julia's communication abilities, Mr. Jessome needs to recognize that the calls may, at times, not be long. They should however, serve to re-introduce the children to Mr. Jessome's presence in their lives, and give him an opportunity to convey to them that they are important to him. Ms. Jessome shall indicate the days and times which suit the children's schedule, and Mr. Jessome can call at that time. It

is expected that Ms. Jessome will make the children available for these calls, including at times when she is at work, by virtue of providing direction to her child care providers. Although it is hoped that communications can improve, at present, the communication of this scheduling information should be via email;

b) Given the timing of this decision, Mr. Jessome shall have the opportunity to have a short visit with the children surrounding the Christmas holiday. The exact timing of the visit, in terms of the day, is left to Ms. Jessome to decide, although she should also take into consideration Mr. Jessome's schedule. The visit should be supervised, however the supervisor and the place of the visit, is left to Mr. Jessome. This first visit, should be no longer than 2 hours in duration. I suggest that Mr. Jessome may wish to request one of his friends who has young children themselves, to supervise, but I leave this to him. Ms. Jessome is to be informed of the identity of the supervisor, as well as the proposed location of the visit. If she wishes, she is entitled to contact the supervisor to inquire as to how the visit proceeded;

c) Commencing in January of 2010, Mr. Jessome shall have weekly visits with the children. They shall be supervised, again, by a person of Mr.

Jessome's choosing. The visits shall be for 2 hours, at a location chosen by Mr. Jessome. The visits shall expand to two visits each week during the months of February and March 2010. Ms. Jessome is entitled to be informed of the details surrounding visits as noted above;

d) In April of 2010, some visits should be expanded in duration to provide additional opportunity for Mr. Jessome and the children to interact in a more natural and meaningful way. There shall continue to be 2 visits each week, however, every second week, one of those visits shall be expanded to 6 hours, on a weekend, with the other visits remaining at 2 hours in length;

e) Anticipating that the visits are proceeding positively, Mr. Jessome's parenting time with the children should become unsupervised in May of 2010. This move to unsupervised access is contingent however, on Mr. Jessome producing written confirmation from his doctor, or psychologist, that he has no current health issues, physical or mental, that would prohibit him from parenting the children. A written note on a prescription pad would be sufficient in this regard, it not being necessary to ask the doctor to go to the time to prepare a lengthier report, which would undoubtedly cause delays and unnecessary expense. Unless explicitly waived by Ms.



Jessome, Mr. Jessome is to continue to provide similar confirmation every 3 months, unless and until ordered otherwise by this Court. The visits shall continue at the frequency and duration outlined in paragraph d) for the month of June, 2010; and

f) Commencing in July, 2010, weekend visits, every second week, shall expand to 10 hours in duration.

[63] I would very much like to see Mr. Jessome have overnight visits with the children. Although the Court has outlined a gradual expansion of parenting time, I do not believe I have the necessary information to identify when that may be appropriate. Much depends on how Julia, with her special considerations, fares with visits away from her usual environment. I hope that through the increasing times she spends with her father, that she will have few difficulties. Much also depends on whether Mr. Jessome remains positive and focuses his efforts upon regaining a fully natural relationship with his daughters, notwithstanding that this decision will undoubtedly contain findings with which he disagrees.

[64] It is impossible for this Court to foresee the success of the above arrangement. I have no "crystal ball", and much depends upon the willingness of the parties themselves to implement the changes required to allow Petra and Julia to ultimately enjoy a natural and beneficial relationship with both of their parents. Mr. Jessome testified that should this Court order any form of supervised access, that it was his intention to move to Ontario. I hope that these words were uttered due to the stress and frustration arising from the legal process, and that Mr. Jessome, with sober second thought, will not turn away from the opportunity to engage with his daughters in a regular and consistent fashion. They need a father, and he does have much to offer to them. Should Mr. Jessome seize the opportunity, I see no reason why the parenting schedule could not continue to expand, taking into consideration the needs and best interests of the children as they grow, and the future becomes more certain.

[65] In addition to the specific access terms as noted above, this Court further directs as follows:

a) Neither parent shall, in the presence of the children, undertake discussions, or permit others to undertake discussions, which portray the

other in a negative light or fashion. Such conduct is highly damaging to children, and if such is undertaken, it may trigger the Court re-assessing this custody and access arrangement;

b) Mr. Jessome is to be kept fully apprised of all issues pertaining to the children's health, social, educational, and general well-being. This includes being provided regular written updates, at a minimum of every 3 months, of school progress, medical issues and other developments in the children's lives. Mr. Jessome is to provide a current email address for this purpose, and Ms. Jessome is to forward this information via that mechanism, accordingly;

c) As the sole custodial parent, Ms. Jessome shall have the right to make all decisions pertaining to the children, including those relating to Julia's care and educational programs. That being said, I encourage Ms. Jessome to consult Mr. Jessome where appropriate, as he has obviously taken an interest in better understanding how individuals with autism can lead rich lives, notwithstanding this diagnosis. He may have very valuable information and opinions to consider, which may ultimately be to Julia's benefit; and

d) Notwithstanding the graduated expansion of parenting time directed herein, there is nothing which should prevent Mr. Jessome from having the right to attend public functions involving the children, such as school concerts, piano recitals, or sporting events. Both parents must recognize that their conduct towards one another in such forums, will be viewed by the children, and that they are to interact in a civil and appropriate fashion.

[66] I think both parties have suffered considerable emotional upset, stress and frustration arising from the marital separation and resulting legal proceedings. I am pleased that Mr. Jessome was making arrangements at the time of the hearing to engage the assistance of a psychologist. Although I will not order it, I strongly encourage Mr. Jessome to address, as part of his discussions with the psychologist, the issue of his anger arising from these proceedings. Such may be helpful for him to gain insight into how others may view his behaviour. I also encourage Ms. Jessome to give serious consideration to obtaining counselling to deal with the stress

surrounding the marital separation and challenges of raising the children, although I am not compelling her to do so.

## **b) Child Support**

[67] Child support is the right of the child, not the parent. Mr. Jessome asserts that he has been financially supporting Petra and Julia since the date of separation by virtue of they and their mother occupying the matrimonial home. He has not otherwise provided funds to Ms. Jessome, nor contributed to the children's expenses. Mr. Jessome asserts that he has not been requested to provide additional money, or indirect contribution, such as the purchase of groceries, for the children. I find that should a request have been made, Mr. Jessome would not have been forthcoming with financial assistance, given his views on support.

[68] Mr. Jessome made it clear, repeatedly, through the course of his evidence that he has no intention to provide direct financial support to Ms. Jessome. He forthrightly and unapologetically averred that he would not

seek employment nor declare income, as he did not want to find himself "writing a cheque" to Ms. Jessome. He testified that he is in the process of developing several profitable businesses, but that he would transfer these enterprises to friends or business acquaintances, as opposed to having income to which support obligations may attach.

[69] Many payers view the payment of funds to a former spouse or partner as not truly being support for the children. This mode of child support however, has been accepted as the preferred approach for a non-custodial parent to contribute to the financial support of his or her children. It is the approach adopted for many years by the Courts across the country, and more recently specified within both Federal and Provincial Child Support Guidelines. Notwithstanding Mr. Jessome asserting he will not pay child support to Ms. Jessome, I am obligated to consider the needs of the children and make an appropriate award.

[70] With respect to the proper quantum of support, the documentation before the court is lacking. Mr. Jessome from his evidence, has not worked consistently since the date of separation. He testified that his auto

sales business has effectively ceased operating, and that he has only taught a few days in the past school year on a substitute basis. He further testified that he has been attempting to start a business in Ontario, as well as working on a number of other projects, which have not, as of yet, generated documented income. Mr. Jessome, despite raising concerns that family members of Ms. Jessome have attempted to smear his reputation with the School Board, testified that he could, if he wished, be immediately and gainfully employed. He used an expression several times during the course of his testimony, namely that he has “the capacity to make much (meaning money), but the want to make none”.

[71] I find that Mr. Jessome chooses not to be presently earning a documented income, frankly because of his desire to avoid paying support to Ms. Jessome. He stated that should this Court make a support order against him, that he would live on Social Assistance benefits, with his friends becoming very wealthy from his business pursuits.

[72] The lack of financial documentation establishing a known income, or evidence establishing consistent employment, is not however, a barrier to

an award of child support. The Child Maintenance Guidelines, made under the ***Maintenance and Custody Act*** specifically contemplates such circumstances, and in particular, the imputation of income to a parent.

Section 19 of the Guidelines reads in part:

19(1) The Court may impute such amount of income to a parent as it considers appropriate in the circumstances, which circumstances include the following:

(a) the parent is intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child to whom the order relates or any child under the age of majority or by the reasonable educational or health needs of the parent;

[73] As suggested by Ms. Jessome's Counsel, this is an appropriate circumstance for the Court to impute income to Mr. Jessome. I find that he is purposefully underemployed, and that with his intelligence, skills and experience, he is capable of earning a very good income. Counsel asserts that the Court should impute income of \$18,000.00 to Mr. Jessome, arguing that this amount, being what was claimed in 2007, is appropriate. On review, Mr. Jessome's actual claimed employment earnings in that taxation year was significantly less. The bulk of his taxable income in that



year was derived from the cashing of RRSP investments held by Mr. Jessome. He testified that he did this to cover his basic living expenses.

[74] I disagree that income of \$18,000 should be imputed to Mr. Jessome. As noted above, this is support for the children, and as such, I am not limited to what may be suggested as reasonable by Ms. Jessome. Based on the evidence before me, Mr. Jessome is clearly capable of earning employment, or self-employment income well in excess of \$18,000.00 Mr. Jessome testified regarding the various projects that he is working on, which he expects to be extremely lucrative. This included, according to Mr. Jessome, him successfully negotiating during the same week as the hearing, a business agreement with a German company worth in excess of several millions of dollars. This relates to technology being developed to assist autistic individuals, an interest in which Mr. Jessome has invested considerable time and energy.

[75] As noted above, Mr Jessome advises he would rather give the benefit of his efforts away to his friends and colleagues, as opposed to generating income for Ms. Jessome's benefit. This approach is

unfortunate, as it is not only an attempt to deprive the children of legitimate financial support, but may limit Mr. Jessome's own financial success. Mr. Jessome is clearly highly intelligent and has the ability to work as a teacher, a car salesman, or a host of other careers. His present efforts in the area of autism research is impressive. I find as a fact that if not for the present claim of Ms. Jessome for child and spousal support, Mr. Jessome would be earning a reasonable, if not impressive, income.

[76] In terms of a quantum, I am aware from his own testimony, that Mr. Jessome earned well over \$100,000 annually when his business was fully operational, pre-separation. When employed at a local car dealership a number of years prior to starting his own business, he earned a "low" of \$85,000. Notwithstanding the lack of documented employment income, Mr. Jessome has been able to financially provide for his living and car expenses, has made numerous trips back and forth from Ontario, and is paying a car lease for his mother's vehicle. Although he cashed RRSP savings in 2007, those funds would only go so far, and I find that he has had income from other sources. I am confident that with his ingenuity, an income of \$65,000 is achievable, and likely conservative for Mr. Jessome,

and I impute income to him at that level, for the purpose of the calculation of child support.

[77] Based upon his imputed level of income and applying the Child Support Guidelines, I order that Mr. Jessome commencing January 1, 2009, make monthly child support payments to Ms. Jessome for the benefit of the two children of the marriage in the amount of \$917.00, said amount to continue on the first day of every month thereafter, until varied by the Court. Given that the parties separated in September of 2007, and that Mr. Jessome has not made direct financial contribution to the children, a retroactive award is warranted in these circumstances. It was clear that Ms. Jessome in making the application in the fall of 2007 was seeking child support, and Mr. Jessome purposefully arranged his financial and employment affairs to make the collection of same difficult. However, given the level of imputed income, I determine that it is not reasonable to extend the retroactive payment any further into the past than the date fixed above.

[78] I further direct that as long as one or both children remain a "dependent child" as defined in the ***Maintenance and Custody Act***, that

Mr. Jessome provide annually to Ms. Jessome a copy of his personal income tax return and notice of assessment from the Canada Revenue Agency. He should also disclose such other financial information as may be required pursuant to the Guidelines, depending on his employment situation, or the structure of his business pursuits.

[79] Given the retroactive nature of the above award, arrears of \$11,004.00 including to December 1, 2009, have accrued. Although Mr. Jessome may pay the arrears in a more expedited fashion should he so choose, at a minimum, arrears will be paid down by virtue of an additional \$250.00 per month, added to the ongoing child support, until paid in full. I direct that child support be paid through the Office of the Director of Maintenance Enforcement, P.O. Box 803, Halifax, N.S. B3J 2V2.

### **Extra-ordinary expenses**

[80] In addition to Guideline child support, Ms. Jessome has put forward a claim seeking additional support from Mr. Jessome given the special or extra-ordinary expenses relating to the children pursuant to Section 7 of the

Child Support Guidelines. The relevant sections of that provision reads as follows:

7(1) In a child maintenance order the court may, on a parent's request, provide for an amount to cover all or any portion of the following expenses, which expenses may be estimated, taking into account the necessity of the expense in relation to the child's best interests and the reasonableness of the expense in relation to the means of the parents and those of the child and, where the parents cohabited after the birth of the child, to the family's pattern of spending prior to the separation:

(a) child care expenses incurred as a result of the custodial parent's employment, illness, disability or education or training for employment;

(c) health related expenses that exceed insurance reimbursement by at least \$100 annually, including orthodontic treatment, professional counseling provided by a psychologist, social worker, psychiatrist or any other person, physiotherapy, occupational therapy, speech therapy and prescription drugs, hearing aids, glasses and contact lenses;

(d) extraordinary expenses for primary or secondary school education or for any other educational programs that meet the child's particular needs.

[81] I have carefully considered Ms. Jessome's evidence in support of her claim for extra-ordinary expenses. Given that child care is presently being provided on a gratuitous basis by Ms Jessome's parent's, her claim relates primarily, to those expenses associated with Julia's special needs. I readily accept that Julia has, and will continue to have special requirements in

terms of her care and education due to being an autistic child. Ms. Jessome indicated that there have been two trips necessitated to undertake training at the IWK Children's Hospital in Halifax for her to better address Julia's needs, and that she did, at one point, pay privately for a speech therapist to work with her. Ms. Jessome did not provide any documentary evidence as to the cost of these expenses. Fortunately, most of Julia's appointments are located in the Sydney area, although in future it is foreseeable that she may have follow ups or assessments elsewhere.

[82] Ms. Jessome's Counsel suggested that I order an additional set monthly amount in addition to the baseline child support to reflect these additional expenses. However, I am not prepared to arbitrarily determine and order Mr. Jessome to make a regular monthly payment in recognition of his youngest child's special circumstances. Nor do I have sufficient information regarding the past expenses incurred by Ms. Jessome to order a retro-active contribution.

[83] Notwithstanding the relatively modest expense having been incurred in relation to Julia presently, it is foreseeable that as she ages, her needs

will change, especially as she enters school age, and this will likely result in added expense. However, not all expenses can be automatically determined as being "extraordinary", thus triggering a claim for contribution from a non-custodial parent. I am not prepared to make an order at this time, without having the benefit of knowing the nature of the expenses, the net cost to Ms. Jessome, or whether they are necessary or reasonable.

[84] It would be my hope that the parties will recognize the benefit to Julia of receiving special resources or services, which will likely come with a cost, and reach agreement with respect to how such will be funded. Failing an agreement however, either party can in future, seek the Court's determination on whether expenses are truly "extraordinary", and if so, how much each parent should contribute.

### **Spousal Support**

[85] Ms. Jessome has made a claim for spousal support. Although the Court was advised of her income and expenses generally, no detailed financial statement was introduced into evidence. I am unable, with any

degree of certainty, to ascertain the amount of her monthly deficit, if any, or consider whether all of her claimed expenses are reasonable.

[86] Ms. Jessome has clearly continued to work hard to keep her household afloat financially since the date of separation. She is fortunate to have stable and long term employment, which results in an annual income of approximately \$45,000.00. It should also not be overlooked however, that she has received some benefit from remaining in the matrimonial home.

[87] Given the award of child support, Ms. Jessome will now receive additional funds of \$11,000 annually, which is tax neutral to her. Mr. Jessome has a corresponding deduction to his income. At present, I am unable to determine that there is a sufficient imbalance in the parties' respective household incomes which would justify an award of spousal support, especially given that all of the matrimonial property has yet to be divided. Ms. Jessome is not precluded from advancing this claim in future, and I leave any decision to a Court which may have the requisite evidence to make a decision on this issue.



## **Costs**

[88] The hearing was significantly lengthened given that Mr. Jessome was self-represented. I do not find that this was intentional on his part, but a by-product of him wanting to ensure that all relevant information was before the Court. Given there was a degree of divided success, I am not prepared to make an award of costs.

J.