

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Quigley v. Willmore, 2008 NSSC 368

Date: 20080627

Docket: 1207-003129

Registry: Halifax

Between:

Karen Agnes Quigley

Petitioner

v.

Gary Willmore

Respondent

Judge:

The Honourable Justice R. James Williams

Heard:

June 2, 3 and 4, 2008, in Halifax, Nova Scotia

Counsel:

Karen Agnes Quigley, Petitioner, self-represented
Gary Willmore, Respondent, self-represented

By the Court:

[1] Ryan Ross Quigley-Willmore is at the centre of a dispute involving his father, Gary Willmore (b. October 1, 1952), his mother, Karen Quigley (b. June 11, 1961) and her partner, J. Edward Scanlan (a Justice of the Supreme Court of Nova Scotia). Ms. Quigley is a Crown Attorney. Mr. Willmore is an engineer who works offshore for extended periods and has had employment with British Forces or Intelligence. Ms. Quigley and Mr. Scanlan live in Milford, Nova Scotia; Mr. Willmore lives in Texas, U.S.A.

[2] Ryan was born November 15, 1999. His parents were married in September 1999. They separated in 2006. Ryan's parents had, to some degree, an unconventional marriage - moving back and forth between homes in Texas (Mr. Willmore's "home") and Nova Scotia (Ms. Quigley's "home"). Mr. Willmore's work often took him away. Ms. Quigley was Ryan's primary caregiver during the marriage.

[3] This is a divorce proceeding. There are a number of outstanding issues between the parties - custody, access, child support, spousal support, property, jurisdiction between U.S. and Nova Scotia Courts. This is an interim hearing dealing with Mr. Willmore's parenting time with Ryan between now and trial dates of December 1, 2 and 3, 2008. The hearing was held on June 1, 2 and 3, 2008.

[4] Both parents issued Divorce Petitions in November of 2006 - Ms. Quigley filed in Nova Scotia, Mr. Willmore in Texas. Since then (and shortly before), they have engaged in disputes which have been problematic and unhealthy for Ryan. Ryan had no face to face contact with his father between November 2006 and March 6, 2008. Mr. Willmore would argue that Ms. Quigley actively discouraged his contact with Ryan. Ms. Quigley would say she was protecting Ryan, that Mr. Willmore could have come to Nova Scotia to see him (under supervised access).

THE DIVORCE ACT

[5] The matter is an Interim Hearing under the *Divorce Act* (R.S.C., 1085 c. 3) - or alternatively under *parens patriae* jurisdiction. The mandate is, broadly stated, to consider the best interests of Ryan, recognizing the order is temporary, bridging matters to trial. Section 16 of the *Divorce Act* provides:

(1) A court of competent jurisdiction may, on application by either or both spouses or by any other person, make an order respecting the custody of or the access to, or the custody of and access to, any or all children of the marriage.

Interim order for custody

(2) Where an application is made under subsection (1), the court may, on application by either or both spouses or by any other person, make an interim order respecting the custody of or the access to, or the custody of and access to, any or all children of the marriage pending determination of the application under subsection (1) ...

Joint custody or access

(4) The court may make an order under this section granting custody of, or access to, any or all children of the marriage to any one or more person ...

Terms and conditions

(6) The court may make an order under this section for a definite or indefinite period or until the happening of a specified event and may impose such other terms, conditions or restrictions in connection therewith as it thinks fit and just...

Factors

(8) In making an order under this section, the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.

Past conduct

(9) In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.

Maximum contact

(10) In making an order under this section, the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such contact.

I have attempted to consider and apply this legislation in reviewing this matter.

RYAN

[6] Ryan is eight and a half years old. He is described by all as bright and articulate.

[7] Ryan attends Maple Ridge Elementary School in Lantz, Nova Scotia. The school vice-principal, Joseph Gerard Alley, described Ryan as “doing very well”. He stated he knew Ryan. He indicated:

...there's nothing in his report card or nothing that I've seen from Ryan or nothing from talking to his teachers that would indicate that Ryan is in any type of serious academic difficulty. None, whatsoever.

...I'm the vice-principal, so if children don't have appropriate social behaviour I usually speak to them. I have certainly never had to speak to Ryan...he's very pleasant, very charming...a very typical young fellow in Grade 3...Ryan's social behaviour is...maybe a little better than some children his age...

Q. ...would it be unusual for students in your school to be taken out of school for vacations or whatever purpose?

A. Not at all...I have no concerns over Ryan if he were to go on a vacation or something like that...

[8] Martin Whitzman is a family therapist. He has seen Ryan since November 2007, sometimes with Ms. Quigley. Mr. Whitzman has positive things to say about Ryan's personality. On March 6, 2008 Mr. Whitzman testified as follows:

...one of the most significant comments that Ryan makes is 'this fighting and the whole situation is giving me a headache'. I don't need to hear much more than that comment to know that something drastically has to change between Mom and Dad that this child is no longer experiencing headaches or emotional pain. This has got to get resolved and the quicker the better. This is not a good position for this boy.

...The conflict has to be resolved. It has to be resolved in a favourable way for Ryan. Ryan has to be able to have contact with his father whatever that source may be and the situation has to move on.

I have approached this matter with Ryan's best interests being my concern. Ryan has been "caught in the middle" of the adult disputes.

MY CONSIDERATIONS

[9] Ryan's contact with his father has been at the centre of the conflict between the adults involved. The parties also have unresolved issues relating to support and property that are not the subject of this hearing.

[10] I have not attempted to analyse in this decision the financial issues between the parties. Those issues are not for resolution before me at this time. They have, however, played a role in the conflict and I have considered the evidence available to me on these issues in that context.

[11] In making this decision I have attempted to thoroughly review the record that is before me. That record includes ten affidavits from Ms. Quigley, one from Mr. Scanlan, one from Mr. Willmore, various other documents filed by both parties, the records of the RCMP and Martin Whitzman, transcripts and materials from the Texas proceeding and the *viva voce* evidence of the parties and others. The material before me, then, includes *viva voce* evidence, affidavits, court orders, transcripts and the records of the RCMP and Mr. Whitzman.

[12] I have chosen to attempt to thoroughly review the documents and evidence before me because:

- (a) The documents, files, affidavits and attachments to affidavits are not temporally organized and are often put forward without dates or context. Any examination of Ryan's best interests here must look at the conflict between the adults. The only way even to begin to see how their conflict has evolved is to see what they have done in some sort of time line or sequence.
- (b) It is in Ryan's best interests that the Court be as informed as possible about the conflict between his parents.

[13] In doing this I have omitted some material or parts of materials. I have, however, reviewed the entire record.

[14] Many of the quotes from e-mails, records and affidavits contain typos. I have reproduced the quotes as I found them.

[15] The RCMP files were brought to Court by Cpl. Bushell, who was subpoenaed by Mr. Willmore on March 7, 2008. Cpl. Bushell referred to the file(s) and notes in them repeatedly when he gave his evidence (both direct- and cross-examination). There are three files involving the parties - three investigations. Cpl. Bushell had copies of the files. He testified that they were photocopies of the original. Ms. Quigley was represented by Mr. Sheppard on March 6 and 7, 2008. Mr. Sheppard had no objection to Cpl. Bushell referring to his notes. I indicated at the end of Cpl. Bushell's testimony:

I am going to direct that the three files be marked as Exhibits. We'll clip them together. They'll be marked as one exhibit.

[16] After this, the following exchange took place:

THE COURT: Mr. Willmore, are you comfortable letting the officer go at this point?

MR. WILLMORE: Yes...

THE COURT: Mr. Sheppard? ...Are you releasing the officer?

MR. SHEPPARD: Releasing the officer, yes.

THE COURT: All right.

MR. SHEPPARD: I should put on the record, we haven't seen those files.

THE COURT: I understand you haven't seen the files.

MR. SHEPPARD: Okay, all right. I have no objection to releasing the officer.

[17] Ms. Quigley wrote the Court on June 16, 2008 to "express some concerns" and object to the Court's use and review of the RCMP file:

...in our most recent court appearance, in one of its comments or questions, the court seemed to make reference to the police file or contents thereof. I understood from the comments of the court that the court had asked that the entire police file be turned over so it could be available for the IWK assessment...

[18] I did at the June appearance state that one reason to have Martin Whitzman's file before the Court was to have it available for the assessment. I wanted the police file before the Court (in March and thereafter) because it had been referred to by Cpl. Bushell, and obviously contained communications from both parties to the police. The RCMP file is made up of three folders concerning three investigations. It has been in the Court file and available to the parties since March 6, 2008. The exhibit is a photocopy of the file. It is a business record.

[19] Ms. Quigley says she does not have a copy of the file. She had not asked for one. One will be provided to her and Mr. Willmore.

[20] In deciding to review the RCMP file in this decision, I have considered the above and these factors:

- (a) The RCMP file was on the Exhibit List provided to Ms. Quigley and Mr. Willmore at the outset of the June 2, 3 and 4, 2008 hearing - no objection was made. I referred to the file more than once over the course of the hearing.

- (b) The file involves numerous communications from the parties that amount to admissions.
- (c) Ms. Quigley could have reviewed the file, and apparently did not. As it is not a final hearing, she will continue to have that opportunity and the opportunity to lead additional evidence.
- (d) I have attempted to err on the side of admitting, not excluding evidence - allowing, for example, Ms. Quigley's Affidavit of May 30, 2008 to be admitted over Mr. Willmore's objection to its lateness, believing that it is in Ryan's best interests that the Court have as complete a picture as possible of what has transpired.
- (e) The vast majority of the communications in the RCMP file are either to or by Ms. Quigley, Mr. Scanlan or Mr. Willmore, or reported to them. There can be little surprise in these communications. Ms. Quigley has acknowledged she made repeated attempts to have Mr. Willmore "charged".

The police records are written, made contemporaneously in the routine of the record keeper - whether admissions, business records or declarations in the course of duty, they are before me. In using them, I have been cautious. I have not relied upon opinions in them. Most, if not all, of the events referred to in them have been spoken to in the *viva voce* evidence before me.

[21] Like the RCMP file, I have Mr. Whitzman's (a counsellor) file before me. He was called by Ms. Quigley. She provided him with e-mails between her and Mr. Willmore which I have also referred to.

THE CONFLICT: NOVEMBER 2006

[22] The record before me discloses the following:

[23] In June 2006 Ryan and Ms. Quigley moved from Texas to Nova Scotia with Mr. Willmore. Mr. Willmore left after a few days to work in Baku. Mr. Willmore returned to Nova Scotia for approximately three weeks in August 2006. Ryan was enrolled in Maple Ridge School here in Nova Scotia at that time. Mr. Willmore visited the school - and appears to have approved of it.

[24] Mr. Willmore returned to Nova Scotia in October 2006. There was talk of divorce. Mr. Willmore has three sons from a previous relationship(s). They reside in Texas. One of them was apparently in a car accident in Texas in November 2006. Mr. Willmore, Ms. Quigley and Ryan went to Texas the first week of November 2006. While there, Ms. Quigley reiterated her view that the marriage was over. They visited a lawyer there to discuss negotiation or a joint petition for divorce (the evidence is somewhat unclear). Ms. Quigley describes Mr. Willmore as becoming “enraged and verbally abusive” at one point (clause 45, her Affidavit of January 30, 2008):

...The Respondent threatened to have Ryan and I (Ms. Quigley) arrested at the airport...and that he would tell authorities that I was kidnapping Ryan.

[25] Ryan witnessed this. She and Ryan left the home. They stayed at a friend’s that night. They returned to their home (in Texas) the next day with friends. Ms. Quigley states that Mr. Willmore (paragraph 47, Ms. Quigley’s Affidavit of January 30, 2008):

...was visibly upset and did not speak to either of us other than Ryan. He told Ryan that he loved him, that he was his only father and gave him a \$100.00 bill. I collected the suitcases we had arrived with and left with Ryan. The Respondent’s behaviour frightened me.

[26] Significantly, the words and emotions at the time of separation describe issues that have stayed with this couple - Ms. Quigley’s fear of Mr. Willmore; he threatening arrest, legal proceedings, innuendo, etc.; Mr. Willmore’s concern that he have contact with Ryan and not be replaced as a father. Both parties, and to some extent Mr. Scanlan, have fed into the fears or concerns of the other since then. The result is not consistent with Ryan’s best interests.

[27] Ms. Quigley left Texas on November 4, 2006 - a Saturday. On November 7, 2006 she filed a Petition of Divorce in Halifax, Nova Scotia. On November 8, 2006, Mr. Willmore filed for Divorce in Texas. Again, from the start, Ms. Quigley and Mr. Willmore have had legal proceedings in different jurisdictions “competing”.

[28] On November 25, 2006 Mr. Willmore sent Ms. Quigley an e-mail (see file of Martin Whitzman) saying:

Yes I have called you and as per the email from last week I told you not to take the truck it is in my name but you went behind my back and removed the truck from the farm as soon as I left for Baku so I called to tell you to return it, Karen you are lucky I did not call the authorities.

[29] Later in this decision I refer to Mr. Scanlan's evidence - acknowledging that he and Ms. Quigley went to Texas and drove a truck back. I am unclear from the record before me when this occurred but Mr. Willmore's complaints about a truck being taken start here. I do not know if it is the same truck.

DECEMBER 2006

- (a) On December 4, 2006 Ms. Quigley filed an Amended Petition for Divorce in Nova Scotia - seeking alternative relief to that under the *Divorce Act*, seeking orders under the *Maintenance and Custody Act* (legislation that covers child custody, access, support, spousal support).

One obvious explanation for this amendment is that Ms. Quigley or her then counsel had concerns about the jurisdictional integrity of the Divorce Petition issued here in Nova Scotia - and particularly the requirement that she have been resident in Canada for one year prior to the issuance of the Divorce.

- (b) On December 8, 2006 Ms. Quigley made an ex parte application to the Family Division of the Supreme Court here in Halifax - requesting that her divorce file be transferred to Antigonish, Nova Scotia. She indicated in her Affidavit of December 5, 2006:

10. The Respondent (Willmore) holds American, British, and Azerbaijan passports and Canadian landed immigrant status...

12. That the Respondent is presently working in job sites in Azerbaijan, Denmark and Scotland and has advised that he does not intend to return to North America until sometime in January 2007...

Ms. Quigley asserted that she wanted the matter transferred from the Halifax Family Division of the Supreme Court of Nova Scotia as she had worked and was seeking work in Halifax and wished to avoid people she knew. Her assertion in the December 5, 2006 Affidavit regarding Mr. Willmore having

Canadian immigrant status differs from her statement in an Emergency Protection Order application that would follow (but is similar to assertions in later affidavits).

Justice Beryl MacDonald transferred the file to Antigonish - and provided that Mr. Willmore should be served with the Order, doing so by substituted service on his lawyer of record in his Texas divorce proceeding, Leta Womack, and by scanning and e-mailing copies of the documents to Mr. Willmore directly. This appears to have been done.

- (c) On December 12, 2006 at 1:15 a.m. Mr. Willmore sent his Texas lawyer (Ms. Leta Womack), Ms. Quigley's Nova Scotia lawyer (Ms. Jane Lenehan) and Ms. Quigley the following e-mail (from the RCMP files):

Leta

Tell the thing that the two horse trailer is in my name and no, same as the two truck and no, again looks like we have a game going hell am up for games copies all her emails to Frank mag. Thanks

Leta Gary

This e-mail appears to be in response to an e-mail from Ms. Quigley of December 11 saying she intended to keep the two-horse trailer, saying "He does not need this since he has no horses and can readily replace same in Texas if he wants..."

Ms. Quigley's e-mail of December 11, 2006 (from the RCMP records) went on to say:

I assure all parties that Willmore has regular daily phone contact with Ryan. Any statements otherwise are incorrect. However, Willmore has not fully utilized the opportunity to email Ryan. This is an excellent form of safe communication that he has available but at this time seems unwilling to access. Ryan would enjoy hearing from his father this way...

Willmore needs to provide his travel dates immediately. I have been holding off with Ryan plans to try to accomodate Willmore but will soon have to finanilze Ryan holiday plans.

This e-mail was sent to Ms. Womack, Ms. Lenehan and Mr. Willmore. Mr. Willmore later admitted sending material to *Frank*

magazine - actions that can only be seen as calculated to embarrass Ms. Quigley and Mr. Scanlan. Mr. Willmore does not appear to have provided or proposed Christmas access in response to Ms. Quigley's inquiry. That said, it appears he was working overseas until after Christmas of 2006.

- (d) On December 12, 2006 Ms. Quigley contacted the RCMP and reported that Gary Willmore had threatened her life, was "unstable". She identified herself as a Crown Attorney. She said Mr. Willmore was an ex-member of "British Secret SAS Forces". She reported that she had applied for an emergency protection order but "at this time refuses to give a statement as she does not want this to become a public issue". Ms. Quigley wanted a RCMP member to come to her home in Milford to pick up some firearms Mr. Willmore had stored there. The police record indicates:

She had told WILLMORE that she did not want the firearms in the house because of the child. She indicated that WILLMORE respected that decision and secured the weapons under the floor in the basement.

The evidence indicates that Ms. Quigley had stored some of these weapons at her office, then moved them to her home and had the storage place for the guns made by a carpenter earlier - basically a box built into the basement ceiling secured by screws. The weapons removed were an old military rifle, a military grade 12 gauge semi-automatic shotgun, three swords, a bayonet - two bows and another bayonet were elsewhere in the house and taken. Ms. Quigley also took the RCMP to her nearby rental property - it was searched - no additional weapons were found. She thought there was a handgun or handguns. Not finding them concerned her. Mr. Willmore believes she hid or gave them to Mr. Scanlan. Mr. Scanlan denies having had them at any time.

- (e) On December 13, 2006 Ms. Quigley sought and obtained an Emergency Protection Order pursuant to the *Nova Scotia Domestic Violence Intervention Act*. It is an ex parte process, done by telephone. The transcript from that application before Justice of the Peace Allison Rose on December 13, 2006 includes the following statements from Ms. Quigley:

- Q. Okay, the first number of questions are just a bit of a checklist with respect to domestic violence; you can just answer “yes” or “no” to these. Has Mr. Willmore ever assaulted you?
- A. No.
- Q. Has he ever threatened you?
- A. Yes.
- Q. Has he ever forcibly confined you? And that would include things like prevented you from leaving the home or from leaving a room in the home?
- A. Umm, he tried to.
- Q. Has he ever sexually assaulted you?
- A. No.
- Q. Has he ever followed you, repeatedly telephoned you, any stalking-type of behaviour?
- A. Yes.
- Q. Okay, can you tell me the most recent date of domestic violence, when the most recent incident occurred?
- A. Umm, the most recent incident would be threats, December 1...
- Q. Okay, and was that in person?
- A. No, that was by telephone....
- Q. Okay, and where were you when you received the telephone call?
- A. I would have been here at my home in Milford
- Q. Okay, and what was the threats?
- A.threats...was that he would have me killed and that I should...you mean particulars...words ... I could get you.
- Q. So, umm, he just called ... what was the ... how did this come about? Like what was the ...?
- A. ...(inaudible)...is in Azerbaidzhan which is in Russia. He was having telephone access with our son. He proceeded to have a conversation with our son that placed our son in absolute tears and I intervened saying “Gary, you can’t talk to Ryan about...you know, stuff between you and I” and he proceed to tell me that...prior to that he told me he would kill me or arrange for somebody else...Special Services to kill me. ...(unclear)...he said that I have to get ready for war; that I need to watch out. That someone is going to disappear and that he would be seeing me soon...with the inference being that...(unclear)...without me knowing...(unclear)...somebody would be seeing me soon. He since made at times continuing threats about seeing me soon. If I am on line he will leave a note on line saying “you are on line”. He would track me. He would call me

and excessively thirty times in an evening. I would have to disconnect my phone

Q. So, since December 1st, have you had other phone calls or ...?

A. Yes....

Q. How many phone calls have you had since then?

A. Well, last night ...I haven't been able to keep track of them. I don't answer them. I see his number come up on the cell and I don't respond...

Q. And are you separated?

A. Yes, we are separate.

Q. Since?

A. November 3, 2006. During the course of our marriage we lived together for three periods of six months. That's it...three different periods.

...

Q. Alright, so when were you last in physical company with him?

A. Ahh, November...the last...(unclear)...November 2.

Q. So he was here then?

A. No, I went to the United States with Ryan.

Q. O.K.... Okay. And he threatened you at that time?

A. He did.

Q. And what sort of threat was made at that time?

A. At that time, he threatened my safety. I had to stay at a friend's house and I had to leave the country early. He knew that I was leaving. He told me that he would be calling immigration authorities to have me arrested. He knew Ryan and I were returning to Canada. We had return tickets for which he had one too. He was choosing not to come back. I was very fearful for my own safety and I had to have people intervene to accompany me back to the residence...he was acting very irrational, very volatile. I did return to Canada....

Q. And you have an interim custody ...?

A. I do not. I've been ... I was before the Supreme Court on Friday, last week, and I have a hearing. Just as I was waiting to call you this afternoon...I have a hearing date now with ...on an **ex parte** basis for an application for exclusive possession...(unclear) for next Thursday, the 21st of December.

Q. O.K.

A. In the meantime Willmore continues to leave e-mail messages saying that he plans to arrive at some point.

Q. So are you ... you say he's in Azerbaidzhan?

A. Yes, he can travel. He has an American passport.

Q. Okay.

A. He has a British passport. He has an Azerbaidzhan ... (inaudible)...visa, it's called a pass..(unclear). He has a ... he did have a Canadian landed immigration status but I believe it's expired or incomplete.

Q. Okay. So, umm, he's telling you now that he's coming?

A. That he refuses to give me any information and that intended to come at some point.

Q. So you have no idea when?

A. In the New Year, umm, but then he has said he won't give me a date so that plans can be made for him to pick up his son. He told me that he intends just to come into the house and take what he wants.

Q. So you had them come and remove whatever weapons were there?

A. There's a number of them, knives, umm, crossbows, ... anyway they are now with the R.C.M.P.... Umm, Mr. Willmore has on many occasions explained to me that through his membership with the British S.A.S., the Special Forces, that he has the ability to arrange for me to be killed; that he wouldn't necessarily have to be in the country.

Q. And do you believe that?

A. I do believe that....

Q. How long has he been acting irrationally?

A. Since ... in November the ...

Q. ... since you decided to finalize this?

A. It was late October when there was discussion about getting divorced.

Q. Okay. Does he have any alcohol, drug problems?

A. No, he doesn't.

Q. No diagnosed psychiatric problem that you're aware of?

A. Not that I'm aware of....

Q. O.K., alright. So now he's working in the oil industry in Azerbaidzhan?

A. Has been in the oil industry for a number of years.

Q. So he's, ahh, he's sending you e-mail or on-line messages? Umm, and are they threatening messages?

A. Some of them are threatening, yes.

Q. Just with respect to ... like, what type of threats?

A. Threats that, umm, threats to our property ... threats

Q. I guess what I'm asking, has he threatened to ... you said that, umm, the most recent one on December 1st, at that time he said he would have you killed?

A. Yes.

Q. Okay, has there been, is he continuing to say things like that?

A. He wouldn't use those exact words. He'd say, "you need to watch out"; that you know, "we're at war"; that "somebody is gonna disappear". Umm, he would make ...that nature..or definitely the inference is...

Q. Okay. And why do you think this is happening? What ...

A. Why?

Q. Yeah.

A. Because we're getting divorced.

...

Q. So since the separation had become official, his threats have gotten worse?

A. Yes.

Q. More irrational?

A. He e-mailed yesterday saying that, umm, that he's filed a complaint with Texas authorities saying that I stole his property and that he's trying to get a warrant issued for me in the United States should I go to return there. He's just, he's acting, ahh, irrationally.

...

Q. Right. So in making this application today, what is it that you're looking for?

A. I'm making this application, umm, what I would ask is that there be an order of exclusive possession of the home, the property at 1822 Highway #2, that I would be the holder..., it's a farm, you know, so he's not on the property. I would ask that there be custody of, interim custody of our son, Ryan. Are you there?

Q. Yes, I am, I am just listening. Okay, and I'm assuming no contact with you?

A. No contact, no. nothing....

...

Q. And are you satisfied that the weapons that were removed today, that that's the ... extent of the weapons? There's no outstanding...

A. No, I'm not satisfied.

Q. You're not?

A. No. I believe he has a hand gun that the police officer and I searched for but have been unable to find it so it's somewhere on the farm property.

The Emergency Protection Order was granted. It would expire in thirty days. It provided Ms. Quigley with:

- exclusive occupation of the parties' residence in Milford, Nova Scotia;

and ordered that:

- Mr. Willmore have no direct or indirect contact with Ms. Quigley or Ryan.

Ms. Quigley has here and throughout this ordeal referred to Mr. Willmore's utilization of legal process available to him in Texas as "irrational", amongst other negative descriptors.

(f) The December 15, 2006 entry on the RCMP file indicates:

Cst. GILLIS advised that based on what we know here, he could initiate one of two things with respect to WILLMORE. In both cases he is entered into an international "big brother" database. Once this is done, he is flagged for either a passive intervention or interdiction. With the passive intervention, once he boards a flight inbound for Canada, notification of same will be sent to us. With the interdiction, notification would be sent and he would be arrested at touchdown. Writer asked that at this time we only activate the passive intervention.

At 10:15 hrs, writer [Cpl. Bushell] spoke to QUIGLEY about this matter. She is still unwilling to provide a statement... She was also advised of the passive interdiction. She advised that she had still not located the outstanding firearm but will continue to look for same.

Mr. Willmore was telephoned by the RCMP on December 15, 2006. He was advised of the Emergency Protection Order. It was sent to him by e-mail. He was in Baghdad, Iraq. The police note of that date indicates:

He volunteered that QUIGLEY is accusing him of threatening to harm her and that he would never harm either her or his son. He remarked that she has been "reading too many Tom Clancy stories." he then remarked that she is wanted in Texas for theft of his truck and hat she has the vehicle in Canada. I advised that he

needs to have the authorities in Texas follow that up with Canadian authorities as we may be able to get the truck back to him if there was the case. I asked him how we could effect service fo the EPO. He said to send it to his lawyer. I did not wish to get into the fact that Mr LALLY had already denied this attempt and asked if there was another way. He advised to send it attached to a personal e-mail to him... The conversation ended very amicably and writer promptly sent...email with the EPO attached as a PDF document.

The evidence suggests Mr. Lally was retained to deal with jurisdiction issues on the Nova Scotia divorce by Ms. Womack (Mr. Willmore's Texas lawyer), not Mr. Willmore directly. Mr. Lally had indicated he could not accept service of the documents.

Mr. Willmore at various times referred to Ms. Quigley and/or Mr. Scanlan being "wanted in Texas" for theft - presumably of "the truck". Ms. Quigley and Mr. Scanlan were in Texas in December of 2007 and there is nothing that occurred to suggest these "charges" existed.

- (g) On December 18, 2006 Mr. Willmore filed an Answer in the Nova Scotia Divorce proceeding. The Answer was simple and straight forward - it contested jurisdiction.
- (h) On December 21, 2006 an Ex Parte hearing took place in Antigonish, Nova Scotia before Justice Douglas MacLellan of the Supreme Court of Nova Scotia. The Order was, on its face, made without notice to Mr. Willmore and provided that:
 - 1. Karen Quigley shall have sole custody of Ryan....
 - 2. Gary Willmore (Willmore) shall have reasonable telephone access to Ryan.
 - 3. Willmore shall have access during his visit to Nova Scotia that shall occur between now and January 30, 2007 on the following terms:
 - (a) prior to any access visit with Ryan Willmore shall surrender all travel documents including all airline tickets, passports and visas to the RCMP Enfield attachments;
 - (b) Willmore shall be entitled to an access visit of a minimum of four hours commencing on the day following Willmore's arrival

to Nova Scotia and such visit shall be held at the residence of Dr. and Mrs. Michael Quigley...

(c) Such visit shall be supervised by Dr. and Mrs. Michael Quigley and shall be arranged directly with them by Willmore.

(d) Willmore shall have such additional access as can be agreed upon by the parties and be supervised by Dr. and Mrs. Michael Quigley; and

(e) All access visits shall terminate immediately in the event that Ryan becomes upset...

The Order also provided for child support (totalling \$3,842.00 per month) and spousal support (\$10,000.00 per month), payable to Ms. Quigley commencing December 1, 2006. This totals \$166,104.00 per year, probably in after tax dollars (Mr. Willmore is not a Canadian residence and would not pay Canadian taxes). By any measure, this is an extraordinary ex parte support order. The Order also provided exclusive possession of the Milford, Nova Scotia property to Ms. Quigley. Apart from this, the Order stated that Mr. Willmore would have supervised access to Ryan by Ms. Quigley's parents for a minimum of four hours, with access to terminate if Ryan became upset. This was very restrictive access - especially if one had to travel from Texas to Nova Scotia to exercise it. The Orders were made under the *Divorce Act* and the *Matrimonial Property Act*. The matter was adjourned to January 30, 2007 for review.

[30] By December 21, 2006 Ms. Quigley had secured three ex parte orders in Nova Scotia - a development that could do nothing but feed into concerns Mr. Willmore might have with the fairness of the Nova Scotia "system". He came to have a significant amount of concern. He came to believe Ms. Quigley was and had been involved with Mr. Scanlan. He was angry about this. He pursued legal recourse in Texas and contested the jurisdiction of the Canadian Court making the December 21st Order.

JANUARY 2007

[31] The various filings, e-mails and records before the Court indicate that events in January 2007 included the following:

(a) January 12, 2007, 11:00 a.m. - from RCMP Records :

Cpl. BUSHELL

QUIGLEY called back and advised that she has changed her mind and will proceed with an interview and wants threats charges. She stated that WILLMORE is now in Texas and things have not been any better. He refuses to allow his lawyers to communicate with her lawyers and he is apparently pushing court proceedings of some type against her in Texas. She advised that he would be able to come in at 4 P.M. today to provide a statement.

(b) January 12, 2007, 4:00 p.m. - from RCMP Records:

Cpl. BUSHELL

QUIGLEY called to report that she was still tied up with other matters and could not attend for the interview. She did however state that she would avail herself tomorrow morning at 10:00 a.m. Writer advised that I would like to conduct the interview here so that it could be video taped.

QUIGLEY called back about 10 minutes later and advised that she was absolutely not comfortable with a video-taped statement and would not provide one. She advised that she was an officer of the courts and as such has great credibility in her personal testimony and in any statements that she would sign. Writer advised that I was not in the position to force her to do anything she was not comfortable with....What will be lost in taking the statement are the fine details, and I explained this to QUIGLEY, however, she stood firm. She will attend tomorrow morning for her written statement.

(c) January 13, 2007 - from RCMP Records:

Cpl. BUSHELL

QUIGLEY attended and quickly advised that she had forgot to mention emails and other correspondence that related to the allegations of threats and stated a better time for taking the statement would be after she disclosed these to writer. She stated that she would collect them all and bring them in as some are at her work....QUIGLEY will collect what evidence she has and provide it (along with her synopsis) to writer in the next few days.

(d) January 18, 2007 - from RCMP Records:

Cpl. BUSHELL

Nothing heard from QUIGLEY to date and expected to hear from her by this evening.

(e) January 18, 2007 - e-mail (from file of Martin Whitzman):

January 18, 2007, 9:57 a.m.

From: Ms. Quigley to Mr. Willmore, copied to Jane Lenehan
Sorry - you don't have time for your son. Guess this is not a new event. I just keep hoping that you might actually change for the positive. Your telephone calls to him have been so irregular and less and less frequent since christmas - this hurts him. You could always leave him a happy positive voice mail at your convenience that he can hear. You could send him an email and i will print it off for him. You could send him a new picture of you and your new dog or horse or truck. These are just suggestions - surley [sic] you can figure these out.

You were an absent Dad for your other three boys and I guess Ryan will be boy number four. BUT if you would just try a little it would be a good thing. You could at least try to keep your status quo with him ... can you at least try to be the "telephone dad" that you have been to him since his birth?

(f) On January 18, 2007, Mr. Willmore's Texas Divorce proceeding was before the Texas Court. Ms. Jane Lenehan, Ms. Quigley's lawyer in the Nova Scotia proceedings, appeared by telephone. Ms. Womack and Mr. Bunyard appeared for Mr. Willmore.

Ms. Lenehan advised that Ms. Prigmore (who had been Ms. Quigley's Texas lawyer) had filed a motion to withdraw and a motion for continuance. Mr. Bunyard objected to Ms. Lenehan appearing by telephone, referring to her as "foreign counsel attempting to practice law". The Court disagreed, saying "I think she's just telling us who she is and who she represents".

Mr. Willmore's counsel was seeking a temporary order. Ms. Lenehan asked the Court in Texas to "consider my client's motion for a continuance so she can retain Texas counsel" The Texas Court did adjourn the matter. Ms. Quigley does not appear to have utilized the adjournment to get counsel. She did not retain Texas counsel again until December of 2007. She would later say she chose not to participate in the Texas proceeding because she was relying on the Nova Scotia orders. Her subsequent suggestions that the

Texas legal process amounted to harassment has to be seen in the context of her having apparently all but abandoned it from this point until December 2007.

When advised that the parties had left Texas in June 2006 and that a Divorce was filed in Texas on November 9, 2006 and in Nova Scotia on November 7, 2006, the following exchange took place in the Texas Court (from the transcript of the Texas proceeding on January 18, 2007 attached to Ms. Quigley's Affidavit of February 28, 2008):

THE COURT: Well, Texas still retains jurisdiction for up to six months after the parties leave. What's the residency requirement in--in Canada for--for them to retain jurisdiction over domestic relations cases?

MS. LENEHAN: Ordinarily, resident for the year prior to the date that the petition was issued. My client's position is that she maintains a residence here in Canada and was originally a resident here and has been since the child was born. So, Mr. Willmore has taken issue with that in Canada but has not set that motion to be heard in Canada.

All involved appear to have been well aware that jurisdiction was an issue in both Nova Scotia and Texas. Judge Cain commented:

THE COURT: You know, if they..if they want competing orders, they can have it in this case, but it's not going to benefit them or the child, and it's going to be one of those situations where everybody is scrambling around trying to steal the child and going to one country or the other. The smartest thing they can do is sit down and reach an agreement and follow it, whether that's in Canada or... I'm just telling you, if you want to fight this battle, that's fine with me. I don't care. But I can tell you, this is a no win situation for the child. But if y'all want to just spend a bunch of lawyer money and fight, that's okay. I don't care. I know who's going to get ripped in half. It's not going to be me or y'all or your bank account. It's going to be that 7-year-old kid. But, anyway, if that's what y'all want to do, it doesn't matter to me. I guess they're going to make a decision whether they want to proceed today with temporary orders; and if they do, then we're probably going to have competing temporary orders.

During this hearing, Ms. Lenehan suggested Mr. Willmore chose not to appear or file documents December 21st in Nova Scotia. The record available to me indicates the December 21st appearance was ex parte. Also during the hearing it is suggested by Ms. Zimmerman that Ryan was removed from Texas “without permission”. The evidence before me indicates he was not, that Mr. Willmore even participated in choosing his school in Nova Scotia in August of 2006.

(g) January 18, 2007 - e-mail exchange (from the file of Martin Whitzman):

From: Ms. Quigley
Date: Thu, 18 Jan 2007 09:57:47
To: Mr. Willmore
Cc: Ms. Lenehan
Subject: Re: RYAN Jan 18, 2007

Sorry - you don't have time for your son. Guess this is not a new event. I just keep hoping that you might actually change for the positive. Your telephone calls to me have been so irregular and less and less frequent since christmas - this hurts him. You could always leave him a happy positive voice mail at your convenience that he can hear. You could sent him an email and i will print it off for him. you could send him a new picture of you and your new dog or horse or truck. These are just suggestions - surley you can figure these out.

You were an absent Dad for your other three boys and I guess Ryan will be boy number four. BUT if you would just try a little, it would be a good thing. You could at least try to keep your status quo with him...can you at least try to be the “telephone dad” that you have been to him since his birth?

Mr. Willmore replied:

Subj: Re: Ryan Jan 18, 2007
Date: 18/01/2007 1:20:54 P.M.
From: Mr. Willmore
To: Ms. Quigley

I just showed the judge your last email and he knows about TED I do love Ryan and Ted will never be his dad just the next man in you life till the next one comes alone Ted has a history of marred woman

Mr. Willmore has, since the start of this conflict, been concerned with his role as Ryan's father - and with Mr. Scanlan's involvement with Ryan. All

three adults involved in this proceeding know and have known this.
Expressing those concerns in this fashion is obviously less than appropriate.

- (h) January 19, 2007 - e-mail (from Karen Quigley's Affidavit of January 30, 2008):

Jan. 19, 2007

To: Mr. Willmore

From: Ms. Quigley

Please tell me what your plans are re: visiting Ryan he would like to know when he can count on seeing you could you see him next time you come back from Baku?

Thanks

Karen

There is little before me to indicate Mr. Willmore replied to this inquiry. Ms. Quigley would say he abandoned access - did not seek to use his access. Mr. Willmore would say the Nova Scotia Order was unfair and restrictive.

- (i) January 20, 2007 - 2:20 p.m. - e-mail (from file of Martin Whitzman):

From: Ms. Quigley

To: Mr. Willmore

Subject: RE: re Bankruptcy in US and CAN for You

Gary

I am NOT trying to keep ryan from you. You called on Thursday night at 9:30 PM ... he was in bed as I told you.

Yesterday, you called and left several messages ... two for me that simply chastised me rather than anything positive for Ryan. The third message you left for Ryan was one that you say to him "see you soon Son...etc..." this will only get his hopes up and crush them as you seem unable to define any real plans for a visit as we have requested NUMEROUS times.

When I spoke to you yesterday I told you that he was out playing. Within a few minutes You called again and Ted went out to find him ... by the time we got back you had hung up. I doubt this was more than a couple of minutes. You emailed me earlier and told me to have Ryan email you after two pm - I assumed as you would be traveling ... wow, why do you have to be SO VERY difficult. I have all the messages and all the emails.

Mr. Scanlan was obviously at Ms. Quigley's home this night.

(j) January 21, 2007 at 10:30 p.m. - from RCMP records:

Cpl. BUSHELL

Writer received a call at home while off duty from Cst. GIBSON. He advised that Supreme Court Justice Ted SCANLON and Karen QUIGLEY was looking to speak to writer regarding this issue. Writer called SCANLON back at the number provided and was advised that WILLMORE had issued threats to SCANLON in an e-mail he had sent to QUIGLEY this date. Writer advised this was a separate incident and as such I would have an investigator contact them in the morning...

(k) January 22, 2007, 8:41 a.m. - from RCMP records:

MILLER, T.

I telephoned Karen QUIGLEY [number] as it relates to this investigation. QUIGLEY advises that she has received what she considers to be a threatening e-mail from her estranged spouse, Garry WILMORE, which she feels threatens harm to her friend Ted SCANLON. QUIGLEY indicates that WILMORE is currently residing in Baku, AZERBAIJAN. QUIGLEY describes that WILMORE is an ex-member of the British Military Special Forces, 22 Regiment SAS, and she further indicated that she feels that WILMORE is emotionally unstable. QUIGLEY advised that although WILMORE is currently not in Canada, he has the financial means and capabilities of returning to Canada to harm her or SCANLON. I requested that QUIGLEY forward a copy of the e-mail. I subsequently received a copy of the e-mail which is copied below;

“I have an appartment in baku you and ryan come here forgive and forget karen I will. And if not you stay with ted he can look after you and as for ryan he is my son and you know I will always look after my kids talked to the judge ih texas and the blackmail on late will go ahead you leave me no options and as for ted he is going down talked to the lodge today he will be historyn so I ask you to come back we can work it out and be better off for it karen its 3 30 here but please call me and let me know
Gary”

...

January 22, 2007, 9:19 a.m.

I telephoned SCANLON...returning his telephone call.

SCANLON advised that he is associated with Karen QUIGLEY,

who is currently separated from her spouse, Gary WILMORE. SCANLON indicated that WILMORE is an ex-member of the British military Special Forces, 22 Regiment SAS, and he has concerns regarding threats which WILMORE has made to QUIGLEY via e-mail. SCANLON indicates that although WILMORE is currently residing in Baku, Azerbaijan, she believes that WILMORE has the financial means and possibly the connections to return to Canada to carry out the threats. SCANLON described WILMORE as being emotionally unstable. I advised SCANLON that I had reviewed the e-mail which QUIGLEY had allegedly received from WILMORE, and the alleged threat was very veiled and non-specific in nature, and was not considered a criminal threat as defined by the Criminal Code. I advised SCANLON that at this point there was insufficient evidence to support charges against WILMORE...

- (l) January 23, 2007, 1:08 p.m. - e-mail (from file of Martin Whitzman):

Subj: re CUSTODY of Ryan

From: Karen Quigley

To: Mr. Willmore

If you really want custody of a child - why don't you being with your son Mark. He needs you right now more than ever. Or - try custody of TYLER - you tell me that you have Joint custody for both these boys. They live in Texas and are older. You have had 21 years to do something affirmative with your alleged "custody" of Mark and 14 years with TYLER...maybe you should start there.

While Mr. Willmore was threatening inappropriately with innuendo or frequent calls, Ms. Quigley did "push back", at times inappropriately.

- (m) January 23, 2007, 6:06 p.m. - e-mail (from RCMP records):

From: Karen Quigley

To: Gary Willmore

Subject: bankruptcy status - crisis situation URGENT Jan 23 2007

I asked you last night for your position on support and you directed me to ask Womack - ...

...you have not called for Ryan - he was wondering why Timmy has moved out when we loose our house and the everything is with the trustee what am I to say to Ryan. Any suggestions ? I guess you will not be here for that crisis - you are just able to create the crisis. if you don't respond with some positive plan

....immediately...I can only say that your abandonment of your financial responsibilities including your son is pathetic and your alleged “care and concern” for Ryan is completely untrue. Gary - This is not a good start for your alleged “new parenting plan “ to have Ryan come and live with you so that you can care for him.... rule number one Gary ...Parents need to feed and provide safe housing for their kids. I guess you are prepared to have your “favoured “ children Tyler and Mark live in a \$350,000 kingwood home and pay legal fees to keep your drug addict kid from jail ..but not the Canadian kid because you hat his mother. What a sin for you to punish Ryan. I know you will just want to respond with a one liner - snapping something - blaming me for this. Well, you can save the small amount of brain power that would require to write....and just be the father you pretend you are to therest of the world. by the way - I have every right to be disappointed by your lack responsibility to your bills and your family. Ryan is going to bed now and we have not heard from you at all.”

(n) January 24, 2007, 2:36 a.m.- e-mail (from RCMP records):

From: Gary Willmore
To: Jane Lenehan and the Nova Scotia Barristers’ Society
Cc: Leta Womack and Karen Quigley
Subject: Fwd: bankruptcy status - crisis situation
URGENT Jan 23 2007

Jane,
Karen removed \$16000 USD out of the US account in January to cover Bills in Canada, When I am not working I do not get paid and she know this, I work six on 6 days a week and three off with no pay I have just got back to work so will not get paid til mid February, please ask Karen to stop emailing me and go through the system as she has asked me to do the same, she go’s on about my son Mark (drug Related Bills) Please ask her about Jerry and His, Is his son still doing it or how she mother run away to leave her for two years when she was a kid, You did not get to see the email about my mother and father nice one Karen, and as you can see she sends all the mail to my blackberry so you are not copied, Ryan and I talked Monday Night Halifax Time for 15 min’s this is Wednesday morning Baku time Tuesday night Halifax time and I see ted was around again giving you advise on how to go forward. This man needs to stay away from my son and be home with his wife and children,

Regards
Gary Willmore

Copying this to the Bar Society was, again, inappropriate.

(o) January 26, 2007, 9:40 a.m. - from RCMP records:

Cpl. BUSHELL

Nothing heard from QUIGLEY and call placed to determine what action she is taking on this matter. She was reached on her cell phone and advised that she has been constantly harassed by WILLMORE and it is causing her distress. Writer asked what the nature of the harassment was and she advised that he has now retained 3 lawyers and has apparently incurred \$80,000.00 in costs starting a legal battle over custody of their son. She is also receiving hand up phone calls. In her words he is attacking her from all angles. Writer asked about providing a statement and she advised that she regrets not coming in as planned, but the recent events have been overwhelming. Writer advised for her to do so ASAP when best for her...

(p) On January 26, 2007 the Texas Court issued an Order (Exhibit B of Ms. Quigley's Affidavit of January 30, 2008). It was lengthy and its provisions included:

- directions for both parents to communicate civilly with each other;
- prohibitions on hiding or secreting the child from one another, making disparaging remarks about each other in the presence of the child, permitting an unrelated adult with whom either party has an intimate or dating relationship to remain in the same residence with the child between 8:00 p.m. and 8:00 a.m. (including but not limited to J. Edward (Ted) Scanlan), or having intimate contact with any unrelated adults of the opposite sex while in possession of the child (including but not limited to J. Edward (Ted) Scanlan);
- for the Court to order parent education for the parties, and amicus attorney for the child (neither was done to my knowledge);
- direction that the child's residence be Liberty County, Texas and that Mr. Willmore have the right to designate the child's residence;

- pages of other provisions.

It is unclear how much notice (from the January 18th appearance) Ms. Quigley had of this. Neither she nor counsel on her behalf appeared. Ms. Quigley had sought a “continuance” from January 18th so she could get counsel in Texas.

(q) January 27, 2007, 5:32 p.m. - from RCMP records:

Cpl. BUSHELL

Ted SCANLON and Karen QUIGLEY contacted writer at Enfield Detachment returning my earlier telephone calls. I updated both SCANLON and QUIGLEY regarding the action taken to date and the current status of this investigation. SCANLON advised that QUIGLEY had received a telephone call from WILMORE earlier today, and WILMORE apparently advised QUIGLEY that he would be travelling from Azerbaijan to Canada in approximately (2) weeks and he would have an arrest warrant for SCANLON. SCANLON and QUIGLEY had no further information to offer. I advised QUIGLEY and SCANLON that WILMORE would be entered on CPIC-SIP Category, with an expiry date of (6) months.

(r) On January 30, 2007, the Canadian divorce process continued before Justice MacLellan. It was the review following the ex parte order of December 21, 2006. An order titled “Interim Order” issued. It recites that Mr. Willmore did not appear and that evidence was heard from Ms. Quigley. It orders:

1. Quigley, as the sole custodial parent of Ryan Ross Quigley Willmore, born November 15, 1999 (“Ryan”), is hereby authorized to travel within Canada and internationally with Ryan without consent from Willmore and that Quigley alone is authorized to sign documents required to allow Ryan to travel in or outside of Canada.

2. Under Section 11(1)(e) of the *Matrimonial Property act* any and all interest, including matrimonial interest, Gary Willmore has in the real property located at 1822 Highway #2, Milford, Nova Scotia shall for all purposes be immediately released and conveyed from Gary Willmore to Karen Agnes Quigley, subject however to Gary Willmore’s right to claim against Karen Agnes Quigley for the value of the said interest or as a credit in the final settlement of the property matters between the parties.

3. This Order shall be subject to and capable of registration pursuant to the provisions of the *Land Registration Act* of Nova Scotia and/or any other applicable legislation required to give the conveyance from Willmore to Quigley full force and effect.

...

5. Quigley shall effect service of this order and the application upon Willmore by forwarding these documents to Leta J. Womack (Gary Willmore's Texas attorney) and to Graydon Lally (Gary Willmore's legal counsel in Nova Scotia) by regular mail and to Gary Willmore directly by scanning and emailing these documents to him.

6. Paragraph 12 of the said order dated December 22, 2006 be deleted [NOTE: paragraph 12 of the previous order provided for the Court file to be sealed.]

7. All other terms of the Interim order dated December 22, 2006 as regards to custody, access, child support, spousal support and interim exclusive possession are hereby continued and confirmed.

[32] It appears the "travel clause" was sought/obtained because Ms. Quigley and Mr. Scanlan had a trip to Florida planned in a matter of days.

[33] The Texas and Nova Scotia Courts had now issued orders which were polar opposites of each other.

FEBRUARY 2007

(a) On February 1, 2007 Ms. Quigley attended the RCMP detachment. Cpl. Bushell's notes from that day include the following:

At approx 15:30 hrs. QUIGLEY called to advise that she had completed her statement and would drop same of in about 20 min's. She attended the detachment and provided same to writer which detailed the threats, specifically:

- He would see her put in the back 40
- His gloves are off
- If I thought he was mean before I have seen nothing yet
- He knows how to go to war and that I better get prepared
- He intends to do everything he can to hurt me
- That someone is going to disappear

The threats were veiled, however, the statement showed that she was being harassed as the contact was repeated and the content of

the contact was obviously intended to scare/intimidate and as a result causing great concern for QUIGLEY.

She also provided an e-mail that she rec'd from WILLMORE on January 29th. Within the e-mail WILLMORE advised that Justice SCANLON is to have no contact with WILLMORE's son Ryan and that "I will have someone keeping an eye on him and you."

E-mail dated Thursday, February 01, 2007 6:39 AM

From: Gary Willmore

To: Cpl. Bushell

Cc: Ms. Lenehan

Subject: Court order Issued on J E Scanlan and K A Quigley

Cpl Bushell,

You and I talked over the telephone last month in Azerbaijan about Karen Quigley at:

...Milford Nova Scotia...

Please be advised a court order was issued on the 26th January In Liberty County Texas, Stating that

J Edward (Ted) Scanlan of the SUPreme Court Nova Scotia, Is not to have contact or stay around my son Ryan at his home in Milford or to stay over night at any other location with scanlan, You did tell me that you would uphold the law regardless, so i ask you to enforce this action from the court of Texas, Quigley and Lenehan have a copy of the Order. and scanlan is aware of this action and as a judge he is ignoring it.

Regards

Gary Willmore

- (b) It appears that Ms. Quigley, Ryan, Mr. Scanlan and his daughter travelled to Florida February 2, 2007 - or very shortly after that.

While there they received text or phone messages from Mr. Willmore saying they would be arrested - apparently in reference to alleged violations of the January 26, 2007 Texas order. This caused great concern to Ms. Quigley and Mr. Scanlan - they felt they had gone to great pains to secret their plans and did not know how he could know they were in Florida. They also around and after this time received text messages, calls or e-mails from Mr. Willmore indicating he knew someone was visiting their home, he knew Mr. Scanlan was outside with Ryan, etc.

They found this unnerving - it fed their stated perception and fear that Mr. Willmore was a British agent, capable of anything dangerous, etc. They reported their concerns to the RCMP and ultimately the RCMP arranged for Ms. Quigley's property in Milford to be swept for electronics by a specialized group from Ottawa. No surveillance devices were found.

Mr. Willmore later acknowledged to the RCMP (August 28, 2007) and in this proceeding that he hired a private eye - and that is how he knew these things.

I conclude that Mr. Willmore knew these actions would upset Ms. Quigley. The effect was to feed into, maintain and exacerbate Ms. Quigley's fear of him and feed the conflict between them. Again these actions were inappropriate and harmful to his relationship to Ms. Quigley, and probably harmful to Ryan and Ryan's relationship with Mr. Willmore.

- (c) In early February, Mr. Willmore was writing Jane Lenehan (Ms. Quigley's Nova Scotia counsel), copying Cpl. Bushell of the RCMP:

February 3, 2007

Ms Lenehan

Due to Karen Quigleys request to send question to you and not her Please provide me with the telephone number, address and School Holiday schedule for Ryan my son, this is the second time I have asked for this information.

And please provide me with Ryans location this coming week as i find he is NOT at [Ms. Quigley's home]...

Under the Texas order which you have received by e-mail karen is required to provide me with this information unless she is planning to hide my son from me. I have not talked to my son in three days so please try not to delay this information thank You.

Regards

Gary Willmore

and

February 6, 2007

Ms. Lenehan,

Please be advised I have had NO contact with my son Ryan In seven Days Can you Have Karen Call so I may talk to him, as i believe he is not in Canada at this time b ut you have contact with her in Florida,

Regards
Gary Willmore

(d) On February 7, 2007, Cpl. Bushell's notes indicate:

...Also this morning, message for writer to call WILLMORE at (international cell number)....

...WILLMORE advised he was in Baku at the time of the call. He asked if he would be arrested if he came to CANADA as he plans to visit his son in March. Writer advised that we are now reviewing the evidence on file and if we determine that charges be laid, a warrant will be sought. This would simply be in order to take him into custody for the purpose of release upon condition and for a court date. he stated he understood but does not think he will come to Canada. At the end of the phone call he advised that if he did plan to come to Canada, he would advise writer before hand so that the process could be undertaken in a smooth manner. During the call we discussed the firearms. He advised that he bought 4 firearms up 7.5 years ago and they were stored by QUIGLEY at her law office in Milford. The firearms consisted of the shotgun, the civil war rifle, a .44 magnum ceremonial pistol that was awarded to him by the S.A.S. upon his release from the forces. It is in a presentation case. And a 1860 .32 cal Beretta pistol (antique). He stated that the firearms were all moved by QUIGLEY to the farm about a year ago and built into a box in the basement by "Bob" the carpenter. WILLMORE stated that he had not seen the firearms in years and was not part of placing them in the box in the basement.

He advised that if he comes to N.S., he wishes to collect some personal items, namely his clothes, personal possessions, personal papers etc. He also needs to take a trailer with him. Writer advised that he must sort this out with the civil lawyers and QUIGLEY. He further advised that his son is a dual citizen of Canada and the US, and he currently has the FBI looking for QUIGLEY in Florida as she is wanted for child abduction related charges in the U.S.

(e) The RCMP file then contains this e-mail from Mr. Willmore to Cpl. Bushell (dated February 7, 2007):

Cpl Bushell,
Thank you for the telephone call last night and to confirm there was four guns at the 1822 HWY #2 Milford, Karen had them for

the last six or seven years at her Law Office in Milford in storage then had them moved to the House, She had Rob the carpenter Cell 902 471-8211 make a locked storage area under the ground floor of the house to keep them in,

1. 1862 Springfield rifle
2. shotgun SPAR 12
3. 1892 Bkt pistol 25/32
4. 44 Mag Pistol given to me on Retirement from the British Army
- 5 No ammunition other than for the shot gun

She still has # 3 and 4

karen and Scanlan handed over the Rifle and shotgun (Scanlan would know which one to hand in) but she has the two hand guns or has give them to Scanlan. Again when I moved up to Canada in 1999 from Texas we had the guns with us and at the time I did not think or no about the gun laws in Canada and i had a license in Texas to keep them. and wstill do to this date, I did apply for the shotgun license some years later in Halifax. and again I have NEVER harmed Karen or Ryan yes we have heated arguments over her spending 6-\$7000 dollars a month on Horses, and this last go around was over Ted staying at the house and her affair with him, But most of the time up till September I would get a love letter each day then the affair with Scanlan that stopped, Then I would call the house to talk to Ryan my son and he would answer the phone and we did have some arguments big time, I was told he is a judge so i did not hav a leg to stand on Karen Has all the tapes from the phone calls and I have the email's to. Now she has changed all the numbers so i can not talk to R yan or Ted the Judge.

Regards

Gary Willmore

- (f) The Crown had reviewed Ms. Quigley's complaints by February 9, 2007. Cpl. Bushell called Ms. Quigley that day - his note of that day indicates:

13:00 QUIGLEY called back and was advised that the crown would like to have a KGB. She was not pleased and refused to provide same for the aforementioned reasons for not giving a taped statement. She advised that she will be speaking to one of the Department heads from the Prosecutors office. I advised that I would speak to the crown and determine if a more detailed written statement would suffice. I advised that I would contact her back with word on same.

...15:30 hrs. Heard back from Crown. Writer explained to him the situation and QUIGLEY's position. He advised that he will not proceed without a KGB on the threats or harassment. He will proceed on the firearms based on what we have but that is it. Writer called QUIGLEY and advised of the crown's decision. Writer advised that we would be proceeding with the prohibited weapons charges and prohibition application next week regardless, but that I would call her next week and determine if she would proceed with the KGB. She understood and asked again about notification if WILLMORE entered Canada. Writer re-iterated that the passive intervention was requested through N-WEST.

I understand a KGB statement to be a videotaped statement given under oath.

- (g) Later, on February 13, 2007, Cpl. Bushell contacted Carl Letourneau at Border Security and sent him a copy of the Warrant that issued for Mr. Willmore on the weapons charge.
- (h) On February 14, 2007, Mr. Willmore sent the following e-mail to Jane Lenehan (Ms. Quigley's lawyer in Nova Scotia). It found its way to the RCMP file:

Just so you Know

1. Anne Broughm Scanlan Called me today we had a real long talk about all of this.
2. Scanlan is not separate nor fill for Divorce from his wife nor has ANN but she will be later down the road after this is all over i am sending her the Texas paper work
3. Ann told me of Karen and Scanlan was at the Horse show in July and August and was out on the town. October seems to be the time he started coming to the House and staying overnight from ANN.
4. My horse trailer we used to move Scanlan's furniture to the old house across from the Farm, Ann had him followed by a friend.
5. Nice photos of Scanlan walking across the road at night to my house after 8pm Texas court Order
6. Karen, Ryan ,Scanlan and his little girl in Florida INS Report.Scanlans girl was the babysitter for Ryan every night scanlan and karen out on the town leaving the kids to look after themselves.

Please let Karen know scanlan has a history with married ladies over the last two years Ann gives Karen 6 months if she is lucky then he will dump her.

Regards
Gary Willmore

It is unclear if or whether Ms. Broughm actually did speak to Mr. Willmore about these matters. She was Mr. Scanlan's wife. She works as a Judicial Assistant at this Court. She remains on the periphery of this case to this day.

Ms. Quigley's Affidavit of March 26, 2008 states at paragraph 11:

That I do verily believe that the respondent since October 0207 has commenced a relationship with Ms. Anne Broughm, the ex-spouse of my partner. That based on information provided to me by my current partner I also have concerns about potential psychiatric issues and the risk of volatility that Ryan may witness if he is in the presence of the respondent and Ms. Broughm during access. That no doubt the IWK assessment will determine the risks of such volatility. To be clear, I am not in any way attempting to comment on the respondent's choice of partners. My only concern is that until the IWK study is completed that the court may not fully appreciate the risks of proceeding with access arrangements without appropriate protections and suitable escape venues for Ryan.

The Affidavit is not factual, contains opinion and hearsay. Still, it is obvious from this paragraph that the relationship between Ms. Broughm and Mr. Scanlan is less than cordial. Ms. Quigley has had two opportunities to cross-examine Mr. Willmore on his relationship with Ms. Broughm and chose not to.

That said, Ms. Broughm, if she is involved with Mr. Willmore, adds another layer of conflict to this already tangled and very strange web. It is not in Ryan's interests that this conflict be allowed to become a tag-team affair between these four adults. There is no reason for Mr. Willmore to cause Ms. Broughm to have contact with Ryan at this point in time when normalizing access with Mr. Willmore remains an issue and priority. Whether Mr. Willmore has contact with her personally is his decision.

- (i) Cpl. Bushell's notes of February 14, 2007 (from the RCMP records) indicate:

Msg rec'd from LETOURNEAU that the watch has been placed in effect for the warrant.

Called QUIGLEY and advised of charges and of warrant. She was further asked about the statement. She advised that she wants that matter to proceed and stand on the original statement. She advised that if she has to give a video statement she will, but believes that a recommendation is coming down from the prosecution service tomorrow that we proceed based on her original statement.

Following e-mail forwarded to WILLMORE to advise:

"Gary,

As discussed, I will keep you up to date on any developments with regards to this case. As a result of the investigation thus far, one charge of illegal possession of a prohibited weapon has been laid regarding the shotgun. The matter of the threats/criminal harassment is still under investigation. Furthermore as discussed, due to the fact that you reside outside the country, a warrant has been issued so that upon your return, you can be furnished with the appropriate court documents which will enable you to speak to the charge in a Canadian Court.

Again, I invite you to contact our office prior to travel into Canada so that your transition over the boarder will be a smooth one.

If you have any questions at all, please contact me or another member of our unit.

Regards,

Cory

- (j) On February 15, 2007 Mr. Willmore replied to the advice that he was being charged with the weapons offence.

Msg rec'd from WILLMORE:

"Thank you for your email, I guess i still don't understand I am being charged and my wife has had the shotgun under her control for the last four years as i have worked out of the country for that time frame, so are you charge her to, as she is a crown attorney in Halifax and understands the rules and laws and again had control of the shotgun.

regards

gary willmore"

Writer's reply this AM [from Cpl. Bushell]:

"Gary,

I understand your concerns, but I am sure you can appreciate the Canadian Government takes firearms very seriously (much more so than the US). We were initially advised by our firearms experts that we were looking at charges for smuggling firearms (including one that is prohibited) into Canada as none of your firearms have been declared at the border. Smuggling is a very serious charge which could impede your future travel to Canada for an indefinite period.

After discussions with you, I believe that the transport of the firearms was part and parcel of the movement of your personal effects to Milford N.S. and the declaration at the boarder was an oversight (which does not absolve someone of criminal liability, but may justify police discretion with respect to charges - which we are exercising at this time).

With respect to the possession, police are acting on a witness statement which provided the evidence to support the current charge.

I understand that this is a particularly difficult time for you and Ms. QUIGLEY. As such, feel free to contact myself at our office at any time if you have further questions.

Cory

Cory Bushell, Cpl.

Supervisor, Team "B"

Mr. Willmore now faced restrictive access orders, significant support orders and a warrant and criminal charges in Nova Scotia. Suggestions made at various times by Ms. Quigley that he should have come to visit here in Nova Scotia have to be seen in the context of these realities. Just as she has had concerns about going to Texas in the face of threats of arrest made by Mr. Willmore - he, I conclude, was reluctant to come here to Nova Scotia. Just as she saw threats of charges and arrest as having a potential impact on her (and Mr. Scanlan's) career and reputation, Mr. Willmore would have (and did, the Provincial Court record shows) the same concerns and fears that a conviction or convictions would affect his employment and ability to travel. Mr. Willmore and Ms. Quigley do not seem to see or have seen the parallels in their respective circumstances and actions.

(k) In late February the RCMP records indicate:

Cpl. BUSHELL
February 28, 2007
Nothing more heard on this matter to date from either QUIGLEY
or the Crown with respect to proceeding with statement as-is.
Writer to follow-up with both soon.

MARCH 2007

- (a) The RCMP records indicate:

Cpl. BUSHELL
March 1, 2007
Spoke with Crown who advised that to date has not heard anything
regarding prosecution.
Msg rec'd to call QUIGLEY. Writer caller her back and she
advised that Senior Prosecutor Sandy FAIRBANKS may be
getting involved in this matter...

- (b) The March 8, 2007 RCMP record indicates:

Cpl. BUSHELL
QUIGLEY was into the office and was updated on the file with
respect to the sweep, the Interpol checks and that it was status quo
on for the crown proceeding. She was asked again if she wished to
proceed with the on camera interview and she declined saying that
she would still have to think on it. She did state however that she
has a sale for the non-restricted weapons that we seized and would
like them back. Writer advised that she could have them at any
time. She will call when it would be convenient for her to pick
them up.

It is unclear from what is before me what happened to these weapons.

- (c) March 8, 2007 discloses the following from the RCMP files:

Cpl. BUSHELL
Following e-mail sent to writer from QUIGLEY as it was
forwarded to WILLMORE by QUIGLEY's lawyer LENEHAN:
...
From: Karen Quigley
Sent: Thursday, March 08, 2007 12:27 PM
To: Ms. Lenehan

Subject: pls send onto GARY WILLMORE

March 8 2007

Gary

you must stop harrassing me - stop chaning emails and trying to trick me into opening your messages . I want nothing to do with you. You are hateful, sick and terribly violent. Go away. Stop contacting me. You have been told this by my lawyer and the police. STOP. I will delete your new email account - it will be the 7th one that I have had to delete. STOP STOP STOP

Ryan does not want to talk to you -am following directions of child psychologist in this regard. Your destructive behaviour has damaged our world - as you planned. You have succeeded. I am just trying to salvage what I can from your aftermath. use your lawyer if you have anything positive to say.

I am fearful of you for my safety and the safety of Ryan. You are very, very ,very sick and you need mental help. STOP pursuing me - your continued efforts by these methods simply confirm the severity of your mental illness and the danger you pose to me and Ryan.

USE your lawyer. STOP harrassing me.”

I do not have any evidence from the child psychologist who was seeing Ryan at this time.

- (d) March 30, 2007 the Texas proceeding was before the Court in Texas. Ms. Quigley did not appear nor participate in this hearing in any way. She had notice of it. The transcript of that appearance is “Exhibit I” of Ms. Quigley’s Affidavit of February 28, 2008. It provides, in part:

MS. ZIMMERMAN: ...I would like to state for the record that the Court is aware that there are some jurisdictional issues in this case... I do want the Court to know that there is a simultaneous proceeding, as we speak, in Canada.

Mr. Willmore’s testimony included the following:

Q. And are you and Karen the parents of Ryan Ross Quigley Willmore?

A. Yes, we are.

Q. How old is Ryan?

A. He’s seven years old.

Q. Now, you have no objection to Ryan continuing to live with Karen, correct?

A. No, I don't.

Q. But you would like the Court to appoint you joint managing conservators with Karen as the primary of Ryan. True?

A. Yes, I do.

...

Q. You also are asking that you have telephone contact with Ryan. Very specifically, you have in your proposal three days a week, and you have a specific time that you wish to have that telephone contact. Correct?

A. That's correct.

Q. And are you asking that the Court order that Karen make Ryan available for those telephone calls for a minimum of 30 minutes?

A. That's correct....

Q. Now, you understand that under a standard possession order the most visitation you will get will be one weekend a month.

A. That's correct.

Q. Okay. And you'll get some time in the summer and you'll get the holidays.

A. Correct.

Q. And are you willing to pay the transportation costs for the exercise of that visitation?

A. I am.

...

Q. Now, sir, also you have a concern about Ms. Quigley's boyfriend. True?

A. Correct.

Q. What is your concern?

A. He is living there full time.

Q. That he's living in the home with Ryan?

A. He is living in the home with Ryan full time.

Q. So, sir, are you asking that the Court enter an injunction that says that neither party –

A. Can I say one thing?

Q. Go ahead.

A. They have also gone on vacation together in Florida.

Q. With Ryan present?

A. With Ryan present.

Q. And he's seven?

A. He's seven.

Q. And you have a concern about that, correct?

A. Yes, I do.

Q. So, are you asking that the Court also issue the additional temporary injunction that neither party shall allow an unrelated adult with whom they have an intimate or dating relationship to remain on the same premises as the child between the hours of 8:00 p.m. and 8:00 a.m.?

A. I am.

I have not, in reviewing this evidence, chosen to review Mr. Willmore's evidence at this hearing as it relates to where/when they lived. These issues have been canvassed in the decision of Justice Wilson of this Court, dated October 22, 2007. Both parties have had their "takes", views as to when they separated - and where they resided at various times. Both (each) have independently tilted those views to attempt to ensure the jurisdiction issues faced were resolved to their satisfaction, and both have accused the other of lying about aspects of the residence/jurisdiction related issues.

Mr. Willmore on March 30th, 2007 (in the Texas Court), and since, has been rather consistent (despite Ms. Quigley's suggestions to the contrary) in saying that Ryan's primary residence should be with her in Nova Scotia - provided he has access that is meaningful - that includes his right to have Ryan at his, Mr. Willmore's, home in Texas.

- (e) Excerpts from the Order of the Texas Court arising from the March 30, 2007 appearance (signed April 5, 2007) is (as taken from Exhibit F of Ms. Quigley's Affidavit of January 30, 2008) include:

Jurisdiction

The Court, after examining the record and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that the Court has jurisdiction of this case and of all the parties.

Child

The following orders are for the safety and welfare and in the best interest of the following child:

Name: RYAN ROSS QUIGLEY WILLMORE

Sex: Male

Birth date: November 5, 1999

Home State: Texas

...

The Court finds that, in accordance with section 153.001 of the Texas Family Code, it is the public policy of Texas to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a safe, stable and nonviolent environment for the child, and to encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage. IT IS ORDERED that the primary residence of the child shall be Hantz County, Nova Scotia or Liberty County, Texas, and the parties shall not remove the child from Hantz County, Nova Scotia or Liberty County, Texas for the purpose of changing the primary residence of the child until modified by further order of the court of continuing jurisdiction or by written agreement signed by the parties and filed with the court. IT IS FURTHER ORDERED that KAREN A. QUIGLEY shall have the exclusive right to designate the child's primary residence within Hantz County, Nova Scotia or Liberty County, Texas. IT IS ORDERED that this geographical restriction on the residence of the child shall be lifted if, at the time KAREN A. QUIGLEY wishes to remove the child from Hantz County,, Nova Scotia or Liberty County, Texas for the purpose of changing the primary residence of the child, GARY WILLMORE does not reside in Hantz County, Nova Scotia or Liberty County, Texas.

Standard Possession Order

...IT IS ORDERED that each conservator shall comply with all terms and conditions of this Standard Possession Order. IT IS ORDERED that this Standard Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Standard Possession Order. IT IS, THEREFORE, ORDERED:

...

(c) GARY WILLMORE shall have telephone access to the child every Sunday of each month, beginning at 5:00 p.m. central standard time, and every Tuesday and Thursday of each month beginning at 5:30 p.m. central standard time, for a minimum of 30 minutes. KAREN A. QUIGLEY is ORDERED to make the child available at those times, and each party is ORDERED not to tape record, listen, or otherwise monitor the other parent's telephone conversations with the child. GARY WILLMORE's telephone access applies regardless of the distance between GARY WILLMORE and the child.

...

(e) Parents Who Reside More Than 100 Miles A part

Except as otherwise explicitly ordered in this Standard Possession Order, when GARY WILLMORE resides more than 100 miles from the residence of the child, GARY WILLMORE shall have the right to possession of the child as follows:

1. Weekends - Unless GARY WILLMORE elects the alternative period of weekend possession described in the next paragraph, GARY WILLMORE shall have the right to possession of the child on weekends, beginning at 6:00 p.m., on the first, third, and fifth Friday of each month and ending at 6:00 p.m. on the following Sunday...

Alternate Weekend Possession - In lieu of the weekend possession described in the foregoing paragraph, GARY WILLMORE shall have the right to possession of the child not more than one weekend per month of GARY WILLMORE's choice beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend. Except as otherwise explicitly provided in this Standard Possession Order, if such a weekend period of possession by GARY WILLMORE begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, or if the period ends on or is immediately followed by a Monday that is such a holiday, that weekend period of possession shall begin at 6:00 [p.m. on the Thursday immediately preceding the Friday holiday or school holiday or end at 6:00 p.m. on that Monday holiday or school holiday, as applicable. GARY WILLMORE may elect an option for this alternative period of weekend possession by giving written notice to KAREN A. QUIGLEY within ninety days after the parties begin to reside more than 100 miles apart. If GARY WILLMORE makes this election, GARY WILLMORE shall give KAREN A. QUIGLEY fourteen days' written or telephonic notice preceding a designated weekend. The weekends chosen shall not conflict with the provisions regarding Christmas, Thanksgiving, the child's birthday, and Mother's Day Weekend below...

2. Spring Break in All Years - Every year, beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6:00 p.m. on the day before school resumes after that vacation.

3. Extended Summer Possession by GARY WILLMORE -

With Written Notice by April 1 - If GARY WILLMORE gives KAREN A. QUIGLEY written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, GARY

WILLMORE shall have possession of the child for forty-two days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, as specified in the written notice. These periods of possession shall begin and end at 6:00 p.m.

Without Written Notice by April 1 - If GARY WILLMORE does not give KAREN A. QUIGLEY written notice by April 1 of a year specifying an extended period or periods of summer possession for that year, GARY WILLMORE shall have possession of the child for forty-two consecutive days beginning at 6:00 p.m. on June 15 and ending at 6:00 p.m. on July 27 of that year.

Notwithstanding the weekend periods of possession ORDERED for GARY WILLMORE, it is explicitly ORDERED that KAREN A. QUIGLEY shall have a superior right of possession of the child as follows:

1. Summer Weekend Possession by KAREN A. QUIGLEY - If KAREN A. QUIGLEY gives GARY WILLMORE written notice by April 15 of a year, KAREN A. QUIGLEY shall have possession of the child on any one weekend beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. on the following Sunday during any one period of possession by GARY WILLMORE during GARY WILLMORE's extended summer possession in that year, provided that if a period of possession by GARY WILLMORE in that year exceeds thirty days, KAREN A. QUIGLEY may have possession of the child under the terms of this provision on any two nonconsecutive weekends during that period and provided that KAREN A. QUIGLEY picks up the child from, GARY WILLMORE and returns the child to that same place and that the weekend so designated does not interfere with Father's Day Weekend.

2. Extended Summer Possession by KAREN A. QUIGLEY - If KAREN A. QUIGLEY gives GARY WILLMORE written notice by April 15 of a year, KAREN Q. QUIGLEY may designate twenty-one days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, during which GARY WILLMORE shall not have possession of the child, provided that the period or periods so designated do not interfere

with GARY WILLMORE's period or periods of extended summer possession or with Father's Day Weekend.

(f) Holidays Unaffected by Distance

Notwithstanding the weekend and Thursday periods of possession of GARY WILLMORE, KAREN A. QUIGLEY and GARY WILLMORE shall have the right to possession of the child as follows:

1. Christmas Holidays in Even-Numbered Years—In even-numbered years, GARY WILLMORE shall have the right to possession of the child beginning at 6:00 P.M. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26, and KAREN A. QUIGLEY shall have the right to possession of the child beginning at noon on December 26 and ending at 6:00 P.M. on the day before school resumes after that Christmas school vacation.

2. Christmas Holidays in Odd-Numbered Years—In odd-numbered years, KAREN A. QUIGLEY shall have the right to possession of the child beginning at 6:00 P.M. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 26, and GARY WILLMORE shall have the right to possession of the child beginning at noon on December 26 and ending at 6:00 P.M. on the day before the child's school resumes after that Christmas school vacation....

(g) Undesignated Periods of Possession

KAREN QUIGLEY shall have the right to possession of the child at all other times not specifically designated in this Standard Possession Order for GARY WILLMORE.

(h) General Terms and Conditions

Except as otherwise explicitly provided in this Standard Possession Order, the terms and conditions of possession of the child that apply regardless of the distance between the residence of a parent and the child are as follows:

1. Surrender of Child by KAREN A. QUIGLEY—KAREN A. QUIGLEY is ORDERED to surrender the child to GARY WILLMORE at the beginning of each period of GARY WILLMORE's possession at the residence of KAREN A. QUIGLEY.

If a period of possession by GARY WILLMORE begins at the time the child's school is regularly dismissed, KAREN A. QUIGLEY is ORDERED to surrender the child to GARY WILLMORE at the beginning of each such period of possession at the school in which the child is enrolled. If the child is not in school, GARY WILLMORE shall pick up the child at the residence of KAREN A. QUIGLEY at 6:00 P.M., and KAREN A.

QUIGLEY is ORDERED to surrender the child to GARY WILLMORE at the residence of KAREN A. QUIGLEY at 6:00 P.M. under these circumstances.

2. Return of Child by GARY WILLMORE—GARY WILLMORE is ORDERED to return the child to the residence of KAREN A. QUIGLEY at the end of each period of possession. However, it is ORDERED that, if KAREN A. QUIGLEY and GARY WILLMORE live in the same county at the time of rendition of this order, GARY WILLMORE's county of residence remains the same after rendition of this order, and KAREN A. QUIGLEY's county of residence changes, effective on the date of the change of residence by KAREN A. QUIGLEY, GARY WILLMORE shall surrender the child to KAREN A. QUIGLEY at the residence of GARY WILLMORE at the end of each period of possession.

If a period of possession by GARY WILLMORE ends at the time the child's school resumes, GARY WILLMORE is ORDERED to surrender the child to KAREN A. QUIGLEY at the end of each such period of possession at the school in which the child is enrolled or, if the child is not in school, at the residence of KAREN A. QUIGLEY at 8:00 A.M.

3. Surrender of Child by GARY WILLMORE—GARY WILLMORE is ORDERED to surrender the child to KAREN A. QUIGLEY, if the child is in GARY WILLMORE'S possession or subject to GARY WILLMORE's control, at the beginning of each period of KAREN A. QUIGLEY's exclusive periods of possession, at the place designated in this Standard Possession Order.

4. Return of Child by KAREN A. QUIGLEY—KAREN A. QUIGLEY is ORDERED to return the child to GARY WILLMORE, if GARY WILLMORE is entitled to possession of the child, at the end of each of KAREN A. QUIGLEY's exclusive periods of possession, at the place designated in this Standard Possession Order.

5. Personal Effects—Each conservator is ORDERED to return with the child the personal effects that the child brought at the beginning of the period of possession.

... 7. Inability to Exercise Possession—Each conservator is ORDERED to give notice to the person in possession of the child on each occasion that the conservator will be unable to exercise that conservator's right of possession for any specified period.

8. Written Notice—Written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due...

This concludes the Standard Possession Order.

Flight Arrangements—IT IS ORDERED that GARY WILLMORE shall make airline reservations for the child only on major commercial passenger airlines on flights having no change of airplanes between the airport of departure and the airport of final arrival (a “nonequipment change flight”). IT IS FURTHER ORDERED that GARY WILLMORE shall make airline reservations for the child on flights that depart from a commercial airport near the residence of KAREN QUIGLEY that offers regularly scheduled passenger flights to various cities throughout the United States on major commercial passenger airlines.

Delivery and Pickup by KAREN QUIGLEY—IT IS ORDERED that KAREN QUIGLEY shall deliver the child to the airport from which the child is scheduled to leave at the beginning of each period of possession at least 2 hours before the scheduled departure time. IT IS FURTHER ORDERED that KAREN QUIGLEY shall surrender the child to a flight attendant who is employed by the airline and who will be flying on the same flight on which the child is scheduled.

IT IS FURTHER ORDERED that KAREN QUIGLEY shall take possession of the child at the end of GARY WILLMORE’s period of possession at the airport where the child is scheduled to return and at the specific airport gate where the passengers from the child’s scheduled flight disembark.

Pickup and Return by GARY WILLMORE—IT IS ORDERED that GARY WILLMORE shall take possession of the child at the beginning of each period of possession at the airport where the child is scheduled to arrive and at the specific airport gate where the passengers from the child’s scheduled flight disembark.

IT IS FURTHER ORDERED that GARY WILLMORE, at the end of each period of possession, shall deliver the child to the airport where the child is scheduled to depart at least 2 hours before the scheduled departure time and surrender the child to a flight attendant who is employed by the airline and who will be flying on the same flight on which the child is scheduled to return.

Missed Flights—IT IS ORDERED that any conservator who has possession of the child at the time shall notify the other conservator immediately if the child is not placed on a scheduled flight at the beginning or end of a period of possession. IT IS FURTHER ORDERED that, if the child should miss a scheduled

flight, the conservator having possession of the child when the flight is missed shall schedule another nonequipment change flight for the child as soon as possible after the originally scheduled flight and shall pay any additional expense associated with the changed flight and give the other conservator notice of the date and time of that flight.

Expenses Paid by GARY WILLMORE—IT IS ORDERED that GARY WILLMORE shall purchase, in advance, the round-trip airline tickets (including escort fees) to be used by the child for the child's flight. IT IS FURTHER ORDERED that GARY WILLMORE shall make the necessary arrangements with the airlines and with KAREN QUIGLEY in order that the airline tickets are available to the child before a scheduled flight. IT IS FURTHER ORDERED that GARY WILLMORE shall pay any other traveling expenses and charges incurred for the child from the time KAREN QUIGLEY surrenders possession of the child by placing the child on the scheduled nonequipment change flight at the beginning of a period of possession until the time KAREN QUIGLEY takes possession of the child at the termination of the scheduled nonequipment change flight at the end of the period of possession. IT IS FURTHER ORDERED that GARY WILLMORE shall reimburse KAREN QUIGLEY for travel expenses of the child if, because of circumstances beyond KAREN QUIGLEY's control, KAREN QUIGLEY is required to pay travel expenses of the child on a nonequipment change flight to or from the possession of GARY WILLMORE.

...Child Support

IT IS ORDERED that GARY WILLMORE pay to KAREN QUIGLEY for the support of RYAN ROSS QUIGLEY WILLMORE \$1,050.00 per month, with the first payment being due and payable on May 1, 2007 and a like payment being due and payable on the 1st day of each month thereafter until further order of this Court...

...Changing Needs of Child

...Notice shall be given to the other party by delivering a copy of the notice to the party by registered or certified mail, return receipt requested. Notice shall be given to the Court by delivering a copy of the notice either in person to the clerk of this Court or by registered or certified mail addressed to the clerk at 404 Washington Avenue, Anahuac, Texas 77514. Notice shall be given to the state case registry to mailing a copy of the notice to State Case Registry, Contract Services Section, MC046S, P.O. Box 12017, Austin, Texas 78711-2017.

...Temporary Injunction

The temporary injunction granted below shall be effective immediately and shall be binding on the parties; on their agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise. The requirement of a bond is waived.

IT IS ORDERED that Petitioner and Respondent are enjoined from:

1. Communicating with the other party in person, by telephone, or in writing in vulgar, profane, obscene, or indecent language or in a coarse or offensive manner.
2. Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.
3. Placing one or more telephone calls, anonymously, at any unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication.
4. Causing bodily injury to the other party or to a child of either party.
5. Threatening the other party or a child of either party with imminent bodily injury.
6. Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.
- ... 29. Disturbing the peace of the child or of another party.
- ... 31. Hiding or secreting the child from the other party.
32. Making disparaging remarks regarding the other party or the other party's family in the presence or within the hearing of the child.
34. Permitting an unrelated adult with whom either party has an intimate or dating relationship to remain in the same residence with the child between the hours of 8:00 P.M. and 8:00 A.M.

It appears clear to me that neither party before me has abided by the word or spirit of this Order. The Order gave Ms. Quigley primary care of Ryan and allowed her to designate his place of residence.

- (f) The same day, March 30, 2007, a proceeding took place in Nova Scotia - Justice Darryl Wilson issued an Order providing:

UPON THE FILING of an Interim Application dated February 16, 2007 by the Petitioner for an order granting the Petitioner

declaratory relief or directions regarding the interpretation of the custody provisions of the Interim orders granted by this Honourable Court dated December 22, 2006 and February 1, 2007; AND UPON reading the application and all other documents on file and having heard evidence on March 30, 2007; AND UPON IT APPEARING that the Respondent has received notice of this application in accordance with the Civil Procedure Rules;

...

NOW UPON MOTION:

IT IS HEREBY ORDERED THAT:

1. The custody provisions contained in the Nova Scotia Interim Orders dated December 22, 2006 and February 1, 2007 are unrestricted and in particular are not in any way impacted by the provisions of the Texas Temporary Restraining Order dated January 26, 2007.
2. Karen Quigley shall effect service of this Order upon Gary Willmore by sending it to his email address, deepwater@aol.com and to his home address by regular mail, 814 Cleveland Road, #2268, Cleveland, Texas 77327 and to his counsel, Marcia Zimmerman, Zimmerman Law Firm at fax # 281-557-1344 and email address, mzim@zimlaw.com.

I do not have a transcript of that appearance. Mr. Willmore, like Ms. Quigley in Texas, did not appear nor have counsel present.

Ms. Quigley and Mr. Scanlan have asserted that he “moved in” to her home April 1, 2007 - after this Order issued.

The Orders in Texas and Nova Scotia as they existed at this point were dramatically different as they related to access, but consistent with respect to Ryan’s primary care.

APRIL/MAY 2007

- (a) On April 2, 2007 (from the file of Martin Whitzman), Mr. Willmore e-mailed the “ryanross” account:

From: Mr. Willmore
Date: Mon, 2 April 2007 18:00:49 EDT
Subject: Dad

To: "ryanross"

Ryan,

How are you doing son, your mother still not let me talk to you but that ok I miss you Ryan but will be talking to you some day. Mark had his birthday this weekend. We had lots of fun and a big party and Lee is getting married August 11th

Love Dad

PS we have asked the judge for arrest warrants for you and Ted in the US now Karen. See you get out of that one and your new US court papers will be in hand this week to you. And as long as you keep ryan from talking to me I will keep going.

Gary

The evidence before me indicates that Ms. Quigley was the primary user of this e-mail account. The message is again inappropriate.

- (b) On April 10, 2007 Mr. Willmore sent Ms. Quigley an e-mail (from the file of Martin Whitzman):

To: "ryanross"

Subject: Re: message from Karen - update

From: "Gary"

Date: Tue, 10 Apr 2007 17:04:11

Karen you are so full of it u keep emailing that ryan will not talk to me but that's you saying that not him you have put me out of the place of his dad and put ted in my place you have lied to him remember you are the one that broke up the family with tedm well that's okay I would not take you back if you was the last woman in the world don't need you in my life you and ted need eachother and good luck you will need it I just need my things and to talk and see my son which I will and not at your mothers house you will not set the place I see my son

Gary

Again inappropriate.

- (c) On April 18, 2007 Ms. Quigley e-mailed Cpl. Bushell of the RCMP:

Subject: re Harassment investigation against WILLMORE

April 18, 2007 URGENT

April 18 2007

CPI, Bushell,

...Willmore has told you that he has two handguns located here in NS. What are they ?? Are these registered ?? If not - why have you not charged him with this ? I acknowledge that Cpl. Miller has told me that there is “not much you folks can do especially given that he is not living here”. However, when did residency become a basis for deciding if an offence has occurred?

Ms. Lenehan has copies of the latest abusive emails Willmore has sent. I ask that you follow up on this matter and that you seek to “marry” the files (threats against me, threats against Scanlan, threats against Lenehan , and gun charges) that are being created by Wilmores and bring them under the control of one central investigation. In the latest letter to Chief Crown Attorney Frank Hoskins - Willmore alleges that Mr. Scanlan somehow “has two hand guns “ that belong to Willmore !! This is absurd. Such allegation are not only false but given solely with an intent to harm Scanlan and myself. His conduct has got to stop. Willmore has copied this to FRANK magazine again in hopes they will publish it. I told FRANK magazine early in the new year when they called my cell and my home number that I do not want them contacting me but they do anyway because Willmore continues to feed them false information. They emailed me on Sunday April 15 2007. There has to be some recourse against this.

...I have been very patient with this whole matter since fall 2006 when I first sought your assistance. Matters have continued to escalate and Willmore seems adamant to disregard our authorities and take all and any steps to cause me harm ,frighten me and threaten me.

I look forward to hearing from you promptly.

Karen Quigley

- (d) Cpl. Bushell’s follow-up on this e-mail is described in his April 18, 2007 note:

Cpl. BUSHELL

Spoke with QUIGLEY this date. She advised that she had been in contact with Sr. Crown Attorney Sandy FAIRBANKS and that I was to contact him regarding this matter. She also sent two e-mails, one dated this date in the form of a letter addressed to me and the second dated the 16th was to me in the form of a memo. Both speak to the ongoing harassment QUIGLEY is receiving from WILLMORE in the form of e-mails, repeated phone calls, the Frank Magazine etc. She has changed her number to a new private number as late as April 11th. On the 13th and 14th of April she rec’d

several hang-up calls. Then on Sunday, the 15th (she wrote the 14th but stated it was Sunday_) she rec'd a call from WILLMORE who stated that the Gov't of Canada gave him the number and he would continue to get it. She called ALIANT and they informed her that someone named "David" called them claiming to be her husband and was trying to set up a new service for her. They gave him the number. This certainly speaks to the ongoing harassment complaint. The question is whether the repeated calls are - as WILLMORE will suggest, in effort to contact and speak with his son. Or conversely, are they strictly to monitor QUIGLEY and continue to place her life as dis-ease. Both letters were printed and placed on the hard file.

E-mail also received from WILLMORE requesting that I view the attachment. The attachment was a temporary order between WILLMORE and QUIGLEY for child custody and support payments of their son. This is a State of Texas document and has been printed and placed on the hard file.

...Writer caled the office of Sandy FAIRBANKS...

Crown FAIRBANKS called back and the matter was discussed.

- (e) On May 2, 2007 the file review with the Crown took place. It is described in Cpl. Bushell's notes as follows:

...based on what we have, there is not enough to proceed. The following is required for this matter to go further:

A detailed statement - preferrably videotaped but written and signed will suffice that outlines the exact death threat(s), when (time/date) they were rec'd, where they were rec'd, how identity of the suspect is known, how they were rec'd (email, phone, inperson) also provide any recordings/emails (with headers turned on).

The same goes with harassment (phone calls/emails). The statement must detail when (time/date) they were rec'd, where they were rec'd, how identify of the suspect is known (called id, recognize voice, content exclusive to WILLMORE), the content of the messages, how they were rec'd (email, phone, text message, watch/beset) also provide any recordings/emails (the headers turned on).

In any case, we need a copy of ALL e-mail correspondence between them with headers turned on. This must include all e-mails from her to him as well.

- (f) On May 2, 2007 Mr. Willmore sent the following e-mail to the address indicated. He appears to be responding to an e-mail from Ms. Quigley. Ms. Quigley, it seems, had created a Yahoo e-mail account for Ryan, with the header "Ryan Quigley" on it, and used the account herself to communicate with Mr. Willmore. Mr. Willmore, not surprisingly, took issue with the name "Ryan Quigley".

The e-mail reads:

To: "ryan quigley"
Subject: Re: your cloths - pick up needed
From: "gary"
Date: Wed, 2 May 2007 15:49:44 +0000GMT

His name is ryan willmore and you have a 14 day notis from fr the texas order for him to come down to texas please advise ready to trivel on the night of the 18th may to houston
Sent via Blackberry from Cingular Wireless

Mr. Willmore would have known this travel would not happen. Ms. Quigley had created this e-mail account and used it to both personally and have Ryan communicate with Mr. Willmore. She would know, or should have known, that using "Ryan Quigley" as a header would "push Mr. Willmore's buttons". This was inappropriate all around.

- (g) May 3, 2007 Cpl. Bushell's notes indicate:

- Meet with QUIGLEY and advise what we need from her to proceed. Full statement with the 5 w's, info in the EPO and all correspondence between her and WILLMORE. If she chooses not to, the investigation will cease.
- Continue with the prohibition hearing.

There is no indication that Ms. Quigley provided "all correspondence" to the RCMP.

- (h) On May 8, 2007 Ms. Quigley accepted the return of some of the weapons that she had turned into the police. Cpl. Bushell's note indicates:

QUIGLEY was in at 08:00 to sign off the 1625 form. She relinquished the Shotgun, .44 mag ammo, and the news article.

She took possession of the other exhibits. She was not able to take them in her car and asked that they be dropped off at her home. Writer and Cst. FAHIE took the items and placed them in her home office (which she left unlocked) where QUIGLEY advised they would be safe until she returned this evening. Hard copy of signed off 1625 on hard file.

- (i) On May 25, 2007 Ms. Quigley e-mailed Mr. Willmore - copying it to his "friends" (from the RCMP records):

Subject: re Calling card request for Ryan

Gary

You continue to refuse to honor the Canadian child support Order for Ryan and have paid only pay only the occasional sporadic contribution. The amount that you have had paid does not even cover the cost of Ryans after school care. Raising a child has real costs like - food, housing, school, clothing etc....

I have borne the complete cost of your telephone access with Ryan without any offer from you. Given that you have also completely abandoned your Court Orders for spousal support and all of our Canadian debt which includes Ryans home !- I am not in a position to continue to cover your telephone access expence. As you know you have completely financially abandoned us and forced me into bankruptcy. I have requested that you pay for Ryan's telephone access with you in the past and you have refused. I am finding this cost difficult to cover -especially since you are in a foreign country most of the time. In the past six months we have called you in Russia, England, Scotland, Paris, Norway ...just to name a few. In order to continue with your telephone access you must provide a calling card for Ryan. I know that your phone company can provide one to you.

Please send this to us in Canada. We will call you when this has been recieved. You can send this by courier overnight. Or alternatively, just provide the access numbers by email and this way we can call as we regularly do (three times per week) Your reply to this email is to go to my lawyer. She will forward to me so long as it is not abusive. I have deleted your latested email from my system as you again sent yet another abusive email. I will not open your emails . Again, you should use your Canadian lawyer in this regard.

If you do not send a calling card number I will accept this as your disinterest in speaking to your son. Also, the child support amount that you ned to pay as per the Canadian Order is \$3482.00 / month.

It is due again on June 01 2007. You are seriously in arrears at this time - I believe your current arrears for support is in excess of \$50,000.00.

I have copied this email to your friends as I know them as honorable people and I am hopeful that they may be able to encourage you to respect your minimal responsibilities towards your child. Certainly, you have ignored my efforts and that of the Courts.

This may be the correspondence Mr. Willmore referred to in his *viva voce* evidence when he suggested that Ms. Quigley “published” information to his friends. Copying the e-mail to his friends was inappropriate.

- (j) Mr. Willmore replied - copying it to these same friends - then sent it on to *Frank* magazine (again from the RCMP file):

Subject: RE: re Calling card request for Ryan
Karen,
The Texas court order is for \$1.050 per month which I have been sending you each month, and the rest of the attached email is BS from December 2006 to March 07 you stole \$40,000 USD from my account in Texas, You have lied over the last four months about money and being bankrupt I have the paper work from the hearing and the paper work from the Banks and the mortgage company and now I see you tried to change my life insurance..so I will continue to follow the letter from the Texas court until I am told to change by them and not you, as I have found out over the last six months you are a liar and a lose woman not fit to rise my son and still living with a married man who has abandon his wife and children to live with a tart. with over a \$1MM of assets from owe marriage, but looking back now this what you did to your last two husbands to so you do have a record of working like this.so I feel sorry for the guys before me and the one's to come..... you have a nice day
Gary

Once again this is all behaviour that is less than appropriate.

- (k) On May 28, 2007 Mr. Willmore appears to have sent Ms. Quigley the following e-mail (from the RCMP records):

Karen,

Over the last six months you have used my son as a pawn in little game of control and hiding him from me and not letting him talk to me other than when YOU decide when and for how long, very controlling of you, (27 minutes last week) I guess I never thought you would steppe that low but knowing you the way I know you now I can look back and see you for what you are. I would like to remind you that I will never give up on Ryan no matter what you or "Ted" do well that's if he stays around much longer and with his track record and your's good luck, You have put Ryan right in the middle of this issue after telling me you would not (still have the email) so when you decide to let him call me again like before the last time five minutes before he go's to bed remember I am tracking all the calls for him, time and dates and one day I will show him what you are really like. I got a call from the Bar Insurance (John) today he told me about your visit, I have gone on and changed my insurance so it will go to the boys and not you, each boy will get 25% lest the expenses outstanding by me, Ryan will get him if something was to happen to me at the age of 18 from a holding account which you will have no access to, The Texas horse trailer now has no insurance on it as you are keeping it out of the US, I have informed the company you have refused to return it so actions will be put in place by them to recover it if you don't return it soon.

Gary

- (l) May 30, 2007 Cpl. Bushell noted, concerning a conversation with Ms. Quigley:

... She understood the position police were in and conceded that she would not be forwarding any other information. Writer advised that the investigation will cease and we will proceed only with the forfeiture order and the application for prohibition. She was fine with this and thanked writer for the work that was done. Writer advised that we will return the other weapons to her as soon as she is ready to receive them...

- (m) On June 8, 2007 Ms. Quigley sent the following e-mail to Gordon Kelly, Mr. Willmore's counsel in Nova Scotia, and Cpl. Bushell:

Dear Mr. Kelly and Cpl Bushell
IMPORTANT - WILLMORE continues to harrass
This afternoon my assistant recieved a suspicious call to my office by a person calling himself "John". He advised staff that he was

in Toronto and calling from a payphone. The caller ID indicated that he was calling from a Bell Payphone. Staff advised that he may have been in an Airporto - given the background noise. He was seeking my contact numbers (ie cell #) and advising that he had important and confidential family information to give to me. Our staff advised that the caller had an different accent. He would not leave a message rather he just wanted to know when I would be available to talk to him so that he could call back.

I expect strongly this is Willmore again trying to make contact with me. He has continued sending harrassing and threatening messages ,as of late via Ted Scanlan. In one of those messages Willmore indicated that he would start calling me work since Scanlan told him that he would not act as a messenger for him . He has tried calling me at work in the past and I have directed staff to advise him that I do not wish to talk to him and that he should use his lawyer for any communication . He ignores these requests.

Mr. Kelly, I have contacted the police this afternoon as Willmore has threatened my life and that of Ted Scanlan and I am very frightened of him. I am frightened for my safety , the safety of our son Ryan and Ted Scanlan. There is a warrant for his arrest here in Canada on prohibited weapon charges. Mr. Willmore is mentally unstable and unpredictable.

Mr. Kelly if you receive contact from Willmore today PLEASE again advise that I do not want him contacting me . Please remind him that he is NOT to attend my home at 1822 Hwy # 2 Milford as I have exclusive possession of this by Court Order. I request that all communications from Willmore go through your office.

I realise there are limitations as to what you may do with respect to these requests but hopefully your sense of ethics will ,at the very least , will enable you to advise Willmore against taking matters into his own hands should he be traveling here to Nova Scotia in the face of his warrant and the current Court Orders.

Regards,

Karen Quigley

Ms. Quigley had called Cpl. Bushell that day - left a message. He called back and she was out. Cpl. Bushell was advised by her receptionist that someone was calling seeking a phone number for Ms. Quigley.

- (n) On June 15, 2007 Ms. Quigley sent the following e-mail to Gordon Kelly (Mr. Willmore's Nova Scotia counsel) and Cpl. Bushell. Mr. Kelly replied (to both of them) on June 20. The e-mails are in the RCMP records.

Dear Mr. Kelly and Cpl. Bushell

Further to my email to you last week on Friday June 8 2007 your client has again been trying to contact me by telephone. When Ryan spoke to him last evening by telephone he asked Ryan to get Mom on the phone. This is very unfair to Ryan as Willmore and places our son in a very difficult position. Willmore knows that I do not want to speak to him.

I did not speak to him on the telephone last evening.

Then, this morning he called my office again asking to speak to me. He tries to intimidate and manipulate the receptionist into putting his call through. Today, he hung up on the receptionist when she requested his full name. His continued behaviour is destructive and harassing. I am exhausted by it.

Please have him STOP. He has your services to assist him. I do not want contact with him.

thank you

Karen Quigley

Date: 6/20/2007 5:12:48 PM

Dear Ms. Quigley

This will acknowledge receipt of your email dated June 15, 2007 at 10:55 a.m. Your email is copied to Corporal Bushell and therefore I am copying Corporal Bushell with my reply.

We appreciate that you have a view with respect to this matter, as does Mr. Willmore. You and Mr. Willmore are Ryan's parents and, given his age, to suggest that Ryan's parents will not have any contact with each other appears impracticable. We appreciate that, at this point, you have complained about direct contact and we have suggested positive and constructive alternatives that have proven effective in high conflict cases. In my email to you dated June 15, 2007, I specifically stated:

Finding a way to communicate with respect to the child is critically important in these matters and currently there is no way to do that. There is a web based service which we have found helpful in these circumstances: www.familywizard.com. We would ask that you consider this service and advise whether you are agreeable to you and Mr. Willmore establishing an account to overcome the current obstacles to communication and information flow.

You have not responded to our request whether you would consider this service. We are interested in problem solving; the determination of fault is for a court.

It would also likely assuage your concerns if Ryan called his father, pursuant to the schedule you have advanced. In my email of June 14, 2007 I stated:

By way of email dated May 30, 2007, you advised that Ryan would continue to call his father on Tuesday, Thursdays and Saturdays. By way of letter dated May 31, 2007, we forwarded to you Mr. Willmore's calling card in accordance with your request. I would ask that you ensure that Ryan telephones his father on Tuesday, Thursdays and Sundays and at other times that he may wish to do so. If there is a time of day that is most convenient for Ryan to call, please advise so that Mr. Willmore will know what time of day to expect the call from his son.

We had hoped that providing Mr. Willmore's calling card would overcome the obstacles to Mr. Willmore speaking with his son by telephone. We would like to establish a consistent and regular schedule for Ryan to speak with his father by telephone. We have not objected to the days you proposed or requested additional telephone calls, but we would ask once again, that Ryan call in accordance with your schedule.

In your email dated June 15, 2007 at 11:29 a.m. you state: "I want very much for Ryan to have the benefit of a positive relationship with his father..." There is common ground as Mr. Willmore wants a positive and beneficial relationship with his son. Perhaps this common ground can be built upon to overcome current obstacles and impediments with adult issue genesis.

...[re birth certificate, other documents]

In your email of June 15, 2007 at 11:29 a.m. you state: "I am disinclined to spend any further time searching for them especially given Willmores disrespectful and threatening conduct towards me." These documents are personal to Mr. Willmore and, in our view, documents in which you would have no property of colour of right. As you know Mr. Willmore travels internationally with his employment and these documents are critically important. We would ask that you reconsider and provide these documents.

In your email of June 15, 2007 at 11:29 a.m. you state your position with respect to the jurisdictional conflict with the District Court of Liberty County, Texas, 253 Judicial District and the Supreme Court of Nova Scotia. It appears that each court has assumed jurisdiction over this matter and it appears that there may be conflicting orders originating out of the respective jurisdictions. further, as we advised in our letter of May 31, 2007, the jurisdiction of the Nova Scotia Court is challenged.

In your email of June 15, 2007 at 11:29 a.m. you state: "I am aware that your office was served by the Sheriff's office regarding

these matters. Any trust funds that Willmore has provided you should be immediately surrendered to the sherrif.” I have obtained a copy of your letter to Sheriff’s Services instructing service of the two Execution Orders upon my office. We have responded to Sheriff’s Services regarding service of the Execution Orders. We do not accept your personal comments as a statement of the law. Your emails contain many complaints with respect to Mr. Willmore. Mr. Willmore also has many grievances with respect to your conduct. I have attempted to ignore the personal cross-complaints, as the circumstance is one that should not be exasperated. Mr. Willmore has provided copies of emails from you to him which contain inflammatory language such as: “Ted and I had a chuckle...do you have a preference if I start with your impotency -...” You and Mr. Willmore are Ryan’s parents and that will never change. A positive problem solving approach will affect change in Ryan’s parental relationships, and in our view, that is in Ryan’s best interest.

Mr. Willmore testified that an e-mail such as that referred to at the end of Mr. Kelly’s’ letter was sent to him by Ms. Quigley and Mr. Scanlan. If it was, it was, again, inappropriate.

At one point Ms. Quigley did not understand how Mr. Willmore could get her phone number. She found this disturbing. It appears that when Ryan used Mr. Willmore’s calling card Mr. Willmore’s phone statements contained the number Ryan called from - Ms. Quigley’s.

JUNE/JULY/AUGUST 2007

- (a) At the end of June, start of July of 2007 there were a series of communications, or rather miscommunications, between Mr. Willmore and Ms. Quigley. Mr. Willmore sent air tickets for summer access at the end of June, start of July; and sent them very tight to the dates. He appears to have been relying on the portion of the Texas Order that provided that if he did not give notice, he would have Ryan from June 15 for 42 days - though the flights do not appear to have been booked for those days. Ms. Quigley was away at the end of June and asserts that he did not get the tickets until after her return and after the flight dates. It is clear that just as he was attempting to rely on his Texas Order, she continued to assert that the Nova Scotia

Order and its very restrictive access provisions. There was no agreement on what the access would be. There was no discussion.

- (b) Ms. Quigley e-mailed Mr. Willmore's Texas and Nova Scotia counsel, and Cpl. Bushell on July 4, 2007 (from the RCMP records):

Dear Mrs. Zimmerman

I received your recent correspondence with attached? (\$38.00 airline point confirmation ticket from Willmore) requesting that Ryan travel? from Canada to Texas on July 1 - 31 ?2007. This was mailed by you? sometime after June 18 and received by me on the evening of July 1 2007. This was the first notice of Willmore's request .?The?departure date had already passed by the time I?actually received the ?letter.?

Willmore? arranged this request when he knew that Ryan and I were actually out of the province. I do not believe that he had any intentions of seeing Ryan but rather simply wishes to try to reduce the already sporadic and partial payments of ? child and spousal support that he has made. Willmore last reported that he would be working in South Africa and or on a ship in the gulf of Mexico. Not that? any of this matters as I have a Supreme Court Order providing ?sole custody of R yan and there are no provisions for Ryan to travel anywhere to visit with Willmore.?

I was advised by my parents?on the evening of July 1 2007 that Willmore had recently called them notwithstanding my explicit and numerous ?requests that he stop contacting myself, my ?family, my workplace and my?friends but rather use his counsel here in Canada or yourself for communication.??

Willmore told my parents that he?knew Ryan and I were out of the province in Ontario.?He advised that he knew when and where Ryan and I were.??He further ?advised them that he ?continues to have me and my household "watched 24/7". He advised that "he knows of my whereabouts at all times "as he?continues to have me surveilled.?

This? continued abusive conduct by Willmore serves no useful purpose other than to confirm his continued mental instability? and questionable ability to act as parent to Ryan.? This conduct by Willmore simply reinforces the need?for?police intervention as to his continued? criminal harassment against both myself and Ryan.? I am frightened by Willmore due to his threatening and?bizarre conduct.

I have copied this email to the police?due to Willmore's relentless harassing behaviour. ?I do not expect a reply from you given that

you have never replied to my past communications when I have specifically requested a response. I have also copied this to Willmore's Canadian lawyer? - who is? operating under a retainer from Willmore? limited to ?jurisdiction issues.

Karen Quigley

- (c) In late August of 2007 the police contact involvement again picked up. On August 28 Ms. Quigley sent Cpl. Bushell the following e-mail:

Cpl Bushell

Ted Scanlan and I continue receive harassing telephone calls and emails from Gary Willmore. Mr. Willmore has repeatedly advised that he is having us watched and photo graphed. A short while ago a car was in our driveway taking photos of us and our property.

The car sped off when we tried to approach the vehicle. We have some id information on the car.

We have gotten a rottweiler guard dog because of un known persons driving into our yard on several occasions when we were not there and going through the out buildings.

We are changing our home number yet again. - I think this is the 3 time since spring.

I have been required to block numerous new email addresses (approximately 7-8) from Willmore - despite my requests to him, and his lawyer to stop but he continues to send unwanted and harassing emails

Willmore advised me on Friday Aug 21 2007 that he plans to come to Canada and that he has been talking to you to arrange his arrest and release. He states that he will come on Sept 23 2007. PLEASE BE ADVISED THAT I AM VERY FRIGHTENED FOR MY SAFETY, MY SONS SAFETY AND THE SAFETY OF OTHERS FROM WILLMORE. WILLMORE STATED THAT HE KNOWS HE STILL HAS TWO HAND GUNS HERE IN CANADA. I DO NOT KNOW WHERE THESE ARE. HE HAS TOLD ME IN THE PAST THAT HE WOULD KILL ME. HE CONTINUES TO BE RELENTLESS IN HIS USE OF THE TEXAS LEGAL SYSTEM TO TRY TO HAVE ME PUNISHED FOR LEAVING HIM HE TOLD ME ON Friday AUG 21 2007 THAT HE WAS SEEKING FULL CUSTODY OF RYAN (7 YEARS) AND THAT HE WOULD GET RYAN RETURNED TO THE STATE OF TEXAS AND THAT I WOULD BE CHARGED WITH KIDNAPING.

I DO NOT WANT WILLMORE TO BE ALLOWED ANYWHERE NEAR MYSELF, MY SON RYAN,

MAPLERIDGE ELEMENTARY SCHOOL, Mr. Scanlan , MY FAMILY, Mr. ScanlanS FAMILY , MY HOME AND OUR WORKPLACES EXCEPT AS ALLOWED BY THE SUPREME COURT OF NOVA SCOTIA. ANY TEXAS COURT ORDER IS NOT LAW HERE IN CANADA . I HAVE VALID NS SUPREME COURT ORDERS GRANTING ME SOLE CUSTODY OF RYAN.

I AM REQUESTING THAT YOU LET ME KNOW IF YOU ARE AWARE OF HIM COMING TO CANADA. I AM SPECIFICALLY ASKING FOR YOUR PROTECTION .WE HAVE SPOKEN ABOUT POSSIBLE FURTHER CHARGES AND I AM VERY MUCH IN SUPPORT OF THIS. I AM CONVINCED THAT WILLMORE IS MENTALLY UNSTABLE AND DANGEROUS.

I REQUIRE YOUR ASSISTANCE AND PROTECTION.

please call my cell number or work

thanks

Karen Quigley

cc: Burnett, Craig

(d) Cpl. Bushell replied by e-mail of the same day:

Hello Karen,

This is news to me regarding WILLMORE's return. I will follow-up with him and see if he is planning to attend.

Regarding the harassment, if you have new information to pass along and wish to have us open a new investigation please contact the detachment directly and an investigator will be assigned. As you know, I have been the recipient of e-mails from WILLMORE's lawyer regarding his repeated attempts to contact your home. They are affirming (of course) that the contact is solely for the purpose of speaking with or about your son. It sounds like WILLMORE (or possibly his council) have hired a private eye to investigate you and your property. WILLMORE's latest e-mail that you forwarded to me certainly suggests that he has been keeping a careful inventory of the farm and it's equipment.

I too have concerns about the outstanding pistols. I would ask that you and Mr. Scanlan may every effort to locate them so that they can be turned over to us for destruction.

I will certainly advise if I get any indication WILLMORE is coming to Canada.

Cory

(e) Cpl. Bushell's note of August 28, 2007 reads:

Msg from QUIGLEY today that she was advised by WILMORE he is returning to Canada on Sept 23rd. Writer called his cell at 18:58 hrs this date to speak to him regarding this. No answer and a msg left for him to call writer back.

Copy of QUIGLEY's E-mail on hard file. It also makes reference to the ongoing harassment by WILLMORE and someone recently taking photos of her and SCANLON. QUIGLEY was reminded to make a new complaint if she wished to have a complaint of harassment investigated.

at 19:45 hrs, WILLMORE called back. He advised writer that he is currently in Nigeria. He plans to return to the US on or about the 23rd and will come to Canada after that. He has given instruction to his lawyer Gordon KELLY that he will be pleading guilty to the possession of the shotgun. he stated to writer "It's my fault, I should not have let it come up (to Canada), but I didn't know the law in Canada."

We also discussed the photos. WILLMORE stated that he had a private eye hired up to 6 months ago. This person did photograph the house, SCANLON and QUIGLEY. He had hired the private eye to support the claims he was making about QUIGLEY in the US courts.

He went on to say that he has charged QUIGLEY for kidnapping and she has been sentenced to 18 mos incarceration and 10 yrs community service (probation?). He later spoke of the same and it sounded as if she "would" be charged and federal marshalls would come to Canade to get her.

He was asked again about the outstanding firearms and stated that he thought they were all together with the shotgun et al. he advised that there was no ammunition for hte .44 magnum and there never was. Writer advised that QUIGLEY produced several rounds of live .44 magnum ammunition. He then advised that those were in the presentation case with the firearm and so if she had the rounds, she also had the firearm. He stated that his beliefs is that once he arrives, she will miraculously locate the outstanding firearms so that more charges will be brought to bare on the spot and he will be sent to jail. Writer advised that we will deal with things as they arise, but in all likelihood, the only way he will go to jail is if he commits a violent offense for which he is charged. At this time, he made a masonic promise that he has never ever made any threats to harm QUIGLEY or his son. He stated that he had certainly thought about harming her in the past, but he never

would. He advised that if he had that intention, he would have done it a long time ago and no one would have ever found the bodies. Also he stated that he received a call from his "former employer" and was told that he "better not harm anyone or do anything stupid." I believe he was referring to the S.A.A. although he did not specify.

Email sent to QUIGLEY to advised of the pending arrival and the info about the private eye. She was also asked to comment on the ammo she located.

Cpl. BUSHELL

The references to kidnapping charges by Mr. Willmore appear to be exaggeration.

- (f) On August 28 Ms. Quigley further sent the following e-mails to Cpl. Bushell - from the RCMP records:

To: Cpl Bushell
From: Ms. Quigley
Subject: see attached recent harassing email from Willmore
This is an email Willmore sent under a new new name? Aug 22 2007?-that I have since blocked. This email is like many many? others as well as ?telephone messages that have absolutely nothing to do with speaking to our son.? Willmore is very angry and continues to use any avenue available to harass us.

----Original Message----

From: Novascotialaw@...
To: Ms. Quigley
Sent: Wed, 22 Aug 2007 12:57 am
Subject: Re: Re: Ryan

Remember Karen you are the one sleeping around, You was the one that broke up the family, you was the one that spent all the money on horse's and what ever Karen wanted, you are the one that leaves Ryan with you mother on weekends so you can play Ms big with the horses, you are the one that would not let me see Ryan or talk to him, you are the one that changes husbands like old socks, and you are the one that had an affair when we was married you even brought him down to Texas and he was sleeping with you and his wife Ann (yes you broke that family up to) at the same time, so your dirty Karen still you did that to your last husben to, you are the one that has lied to me, the judge in Halifax?and GOD..and you are the one that will burn in hell for it.? I love my son and i was the one that told you i will see him in

my life again and you will not stop that, and you are the one that will face the Judge here in Texas. one day you will come to the US then he will get his hands on you and please bring fat boy with you. Its funny i talk to some of your ex friends in Halifax most think you're a gold digger and other things that i will not put in this email, guess people are talking about you behind your back. you turned out to be a peace of work Karen, so im happy for you and fat boy don't think it will last long, then you will be single, old, fat? and no friends in the real world.

?

Regards
Gary

Again this was obviously inappropriate.

- (g) An e-mail of August 29, 2007 from Ms. Quigley to Cpl. Bushell indicated - from the RCMP records:

Cst Bushell

...I would like to have copies of the emails that have been sent to your office from Gary or his lawyer. I have several recorded messages and emails from Gary where he is harassing and abusive. When he speaks to his son he makes him cry and over the last several months Ryan has gotten so he refuses to speak to his Dad. During the calls with Gary one or the other" hangs up" the phone . Ryan invariably ends up in tears stating that he "hates" his Dad and doesn't want to talk to him anymore. I have been to see Dr. Nina Wolfe on several occasions regarding this problem and am following her advise on how to help Ryan. Gary is aware if this and refuses to participate in this process.

...

Karen Quigley

SEPTEMBER 2007

[34] In September of 2007 the charge against Mr. Willmore began to move towards resolution, but at the same time the information coming to the RCMP became, to use a word used in their records, more convoluted.

- (a) The RCMP file includes the following notes of Cpl. Bushell from September:

2007-09-07

Fax memo rec'd from Adrienne BOWERS of the office of BLOIS, NICKERSON & BRYSON. She is representing WILLMORE in the civil and criminal matters. She will be facilitating WILLMORE's return/arrest and release and wished to have a faxed copy of the warrant. She also provided the name and number of "Rob" [number] who was the carpenter what built the box for the guns in the basement as WILLMORE is adamant that ROB would know the whereabouts of the pistols. See memo attached to hard file.

Writer called "Rob" and spoke to him about this matter...

2007-09-12

WILLMORE called and advised he was displeased with the RCMP. QUIGLEY had forwarded some of writer's email's to him and may have indicated that I would be used in some way to her benefit at the upcoming family hearings. He made reference to the evidence that could be provided by "Rob" the carpenter. Writer advised that after speaking with Rob, and finding that Rob contradicted WILLMORE's own accounts, I was not prepared to take anything Rob had to say to court. Writer re-iterated that we (police) have no alliances and that there are no hidden agenda's. After some discussion, WILLMORE appeared to understand that writer has no interest in this matter other than the criminal side. And, that he has been fully advised of our intentions with respect to the criminal investigation.

Spoke with BOWERS, she advised that WILLMORE will be coming up for his hearing in Sydney.... He will plan to arrive via the Halifax Airport on 2007-10-02. They will advise writer in the next few days what the exact flight number and time of arrival will be.

(b) On September 20 Ms. Quigley had sent the following e-mail to Cpl. Bushell:

Cpl Bushell

Thank you for your follow up and recent note....

Mr. Willmore continues with his fervent instructions to seek my arrest in the US based on false allegations. I have changed my telephone number again and as a result have not heard from Mr. Willmore recently. Mr. Willmore has continued in his harassment of both myself and Ted Scanlan - we have dealt with this on an ongoing basis. I have shared much of this with you but have not officially complained as I felt that if Willmore is not in Canada

my (our) safety is not in issue. Notwithstanding this , I am frightened of Willmore.

...Please ensure the Prosecutor knows the following :

1. that Willmore is going through highly litigious divorce with me and he blames Ted Scanlan for many of these troubles - he has accused Ted of stealing his family
- 2.that I am very frightened of Mr. Willmore due to his ongoing threatening and harassing conduct towards me , my home, and my partner Ted Scanlan
3. that Willmore told me in Dec 2006 that he would “bury me in the back 40” - I took this as a threat to kill me that he has been verbally very abusive towards me in the past and has acted violently in our home
4. That I applied and recieved a Emergency Protective Order in December 2006
5. That I am very frightened for the personal safety of our son as well as myself , family and Ted Scanlan
6. that I am fearful for the safety of our son RYAN ,(7 years) as Willmore has told me that he intends to take the child back to Texas despite the current Canadian court Orders
7. that I have had to change my telephone # several times and block numerous new email address's due to ongoing harassment from Willmore, we had to get a guard dog to help keep persons off our property taking pictures of us, Willmore admits to having us watched ‘24/7 “to my mother and to the police, he has written my employer, the courts and many professional organizations making false and scandalous allegations against both Ted and I . He arranged FRANK to publish information on our case and our personal life in an attempt to embarrass and harass Ted and I
8. That Willmore has advised you he still has 2 hand guns in Nova Scotia - although he does not disclose where they are and I cannot find them . Willmore is trained British SAS former service and describes himself as a weapons expert .
9. That there are several a valid Canadian Court Orders dealing with his access by Willmore for our son RYan and Willmore has not availed himself on these Orders - he has not come to seen Ryan for one year despite my invitations and his false promises to our son
10. that he has Canadian and American Counsel in the divorce proceeding
11. that he is in breach of the Canadian Court Order for child and Spousal Support in excess of \$83,000.00 and that he is ignoring and avoiding the Execution Orders of the NS Supreme Court of these monies

12.that he has other outstanding creditors trying to collect money from him in excess of 200,000 \$
...I suggest that the Crown Prosecutor be aware of these facts and be mindful of Mr. Willmores stated intention to disregard Can Ct Orders . Further - his actions of ignoring the existing SC ct orders. I am hopeful that the crown will assign this matter to a senior experienced crown attorney due to its complexity and potential for serious harm to myself, son, and Justice Ted Scanlan
If he was to be released - I would anticipate that a Surety wit cash in a considerable sum should be required .
I request that Willmore be prohibited from any communication direct or indirect with Justice Ted Scanlan, my family (all Quigleys) myself and our son RYAN EXCEPT as allowed by the Supreme Court or through a lawyer.
I request that he be ordered to stay away from (five miles) my residence 1822 Highway 2 Milford, and property located at 1825 Highway #2, Milford, 214 Highway 214 Elmsdale NS.
I request that he provide a current living and working address and employer bname and address .
I suggest that his passport and travel document be surrendered to the RCMP and held until his departure from this country
Any weapons that he says he has here are to be surrendered to RCMP - if he find them ...?I expect that he knows where he placed them
If he was to plead GUILTY - please consider in addition to any sentence imposing conditions as outlined above to offer some protection for myself , family and Ted Scanlan
Thank you
karen Quigley

- (c) The RCMP file further includes the following notes from September-October:

2007-09-20

Writer spoke with Adrian BOWERS. She advised that WILLMORE is going to be arriving on Tuesday the 2nd coming in on Continental Airlines from Newark at 14:40 hrs. Flight number is not known at this time. He will be obtaining a rental at the airport. His civil matter is scheduled for Oct 5th in Sydney. Writer advised that I would arrange for the airport detachment to assist with a descreet arrest upon WILLMORE's arrival. After that, we would proceed to the airport detachment were WILLMORE would

be taken before the JP center (by phone) and released on conditions....

2007-09-20

Spoke to QUIGLEY and advised on WILLMORE's pending arrival.

2007-09-21

Called and spoke to Cpl. Andy OBRIEN at the Hlfx Airport. He assistance was requested with the arrest and JP hearing with WILLMORE. He advised that this was no problem and that he will arrange with customs officers....

Writer Rec'd a call-back from Roxanne MYERS at CBSA. Matter was explined and she will ensure that all steps be taken to ensure a smooth entery for WILLMORE.

2007-09-21

Writer spoke with Rick HARTLEN he has been looking over the file and discussing with his supervisor Sandy FAIRBANKS. HARLENT recommended that we promptly interview "Rob" despite the inconsistencies with WILLMORE's statement. Writer located Rob DOUCETTE working on framing a house on the Meadow Rd., in Chaswood. Rob provided a statement...

2007-09-25

During DOUCETTE's statement on the 21st, he advised that he was in the company of Bob MURPHY (co-worker) at the time he was at QUIGLEY's farm to build the box in the basement. Writer connected with Robert Edward MURPHY this evening and a written/digital-audio statement was obtained....

2007-09-26

Writer called QUIGLEY at 17:30 hrs and advised the following: The file has been sent to NB Prosecutor Jeff MOCKER for review and that based on new evidence, charges may not be proceeding. Writer explained the allegations made by DOUCETTE and supported by MURPHY. Writer further advised that to proceed with the charges, our (police) only recourse at this time is to have her attend for a CAUTIONED statement to speak to the new allegations, and gather evidence to support the charges as they stand. During the discussion, QUIGLEY made the statements "I did not bring those accross the boarder" and "He told me they were just antique weapons." QUIGLEY stated, well, I'm coming in to give a sworn statement. Writer advised it would be a cautioned statement and cautioned QUIGLEY that she is well aware of the perils which could await if she provided same as I would be asking tough questions. She advised that she understood. Writer stated that I would be working nights this week and she could call back any time if she wished to proceed. She stated that she understood.

Cpl. BUSHELL

2007-09-26 19:00 hrs

QUIGLEY attended the detachment and the matter was discussed. She agreed to provide a cautioned statement which was obtained on video tape. QUIGLEY stated the following:

- She and WILLMORE married in 1999. She had her home in Milford, but after she got pregnant she moved in with her parents in Halifax due to complications post delivery.
- WILLMORE was living in Portland Oregon at the time and moved to N.S. in 2000. He brought some of his personal things, but she did not think the weapons were brought at this time. This did not last long and WILLMORE moved out to a home in the States.
- In 2002 WILLMORE moved back to Canada and the farm. he brought much of his personal belongings at this time and told QUIGLEY that his "antique" firearms were part of what he brought. These were stored in the garage at the farm.
- QUIGLEY advised WILLMORE to ensure the guns were all registered - he advised that he would.
- At one point the guns were moved to the basement where they remained on a shelf, wrapped up. Their son was nearly 3 years old and QUIGLEY was not comfortable with the guns being left in the open. She repeatedly asked him to do something with them and he advised he would, but never did.
- In 2003, WILLMORE left again and has not moved back since. QUIGLEY called him about the guns and he advised her to hire Rob DOUCETTE to build a secure box for them. She did just that and in 2003 DOUCETTE attended the house to build the box.
- QUIGLEY advised that DOUCETTE was alone at the time.
- QUIGLEY advised that she did take a trip to Texas with her motorhome, but that it was a year later and she was in the company of her father, a 19-20 year old female named Carrie BUSEY who lived with her at the time and her son Ryan.
- QUIGLEY stated that she did NOT bring anything back from Texas except for a pony in a horse trailer. The trip was a vacation.
- QUIGLEY stated she did NOT have the guns in the motor home, nor did she bring them from Texas. She advised that this was an outright lie.
- QUIGLEY was very emotional during the statement and flatly denied the accusations made by DOUCETTE and MURPHY. She advised MURPHY was not even around at that time as she recalled.

- QUIGLEY challenged writer to go to the spot that MURPHY alleged he observed her carry the “package” from her motor home to the house. She advised that the house is not across from her farm, it is down the road and there is no view of the farm’s back driveway area from there.
 - QUIGLEY believes that WILLMORE has somehow put DOUCETTE and MURPHY up to this.
 - QUIGLEY flatly denied that she gave any firearms to Justice Ted SCANLON.
 - QUIGLEY asserted that she is still very afraid of WILLMORE and believes he will harm her if given the opportunity.
- ...About an hour after QUIGLEY’s departure, writer rec’d a message to call Justice Ted SCANLON. Writer called him and he advised QUIGLEY informed him of the allegations about him having possession of one of the pistols. He advised that this was absolutely untrue and was prepared to give a statement to that affect. Writer advised that it would not be necessary at this time. Point to note...WILLMORE has been very forthright about tarnishing QUIGLEY at every opportunity and to anyone who will listen. However, once confronted with the charges, he never once asserted that QUIGLEY had brought the guns up herself. He argued many times that she should be charged with possession as she had care and control while he was away, and that she was the one who hired DOUCETTE to place them in the box in the basement. But, he did not state that she was the one who brought them to Canada. As stated before, he took responsibility for this and has agreed to plead guilty to the possession charge.

OCTOBER 2007

[35] The charge against Mr. Willmore was dealt with October 2, 2007 before Judge John MacDougall of the Nova Scotia Provincial Court.

- (a) The charge against Mr. Willmore as read into the record was that Mr. Willmore:

Between the 1st of September 1999 and the 13th of December 2006 at, or near Milford, East Hants, Nova Scotia, had in his possession a prohibited weapon, to wit: a Franchi Long 12 semi-automatic shotgun without being the holder of a license under which he may possess it contrary to s. 91(2) of the *Criminal Code*.

On October 2, 2007 the Provincial Court granted a conditional discharge pursuant to s. 731 of the *Criminal Code*. A Probation Order of six months was put in place. Its terms included directions that Mr. Willmore:

- A. KEEP THE PEACE AND BE OF GOOD BEHAVIOUR.
- B. MAKE A DONATION OF \$300.00 TO THE TRURO BOYS AND GIRLS CLUB.
- C. NO CONTACT OR COMMUNICATION WITH KAREN QUIGLEY EXCEPT THROUGH COUNSEL OR AS APPROVED BY A FAMILY COURT ORDER ENFORCEABLE IN THE PROVINCE OF NOVA SCOTIA.

The following exchange had taken place during counsels' submissions to Judge MacDougall.

MR. KELLY: Pursuant to an order of a court of competent jurisdiction or it could word an order...a family court order, small "f", small "c", court order which is enforceable in Nova Scotia, not necessarily a Nova Scotia order because, of course, the Texas order would be enforceable here which is an iss-...So if it's an order which is enforceable in Nova Scotia that will solve the problem in terms of...

THE COURT: Enforceable by a court of...by a Family Court.

MR. KELLY: Sorry, that wouldn't matter where it originated.

THE COURT: Yeah.

MR. KELLY: That would be our submission.

THE COURT: Okay, all right.

and in the Judge's decision:

THE COURT: With respect to not have any communication or contact with Karen Quigley except through counsel or through...

MR. KELLY: As provided in...

THE COURT: As provided by a Family Court order enforceable in Nova Scotia.

MR. MOCKLER: Sure.

MR. KELLY: Yes. Thank you.

The Court indicated (at p. 21 of the transcript):

So he is to keep the peace, be of good behaviour, make that donation and if he satisfactorily completes the period of probation the discharge would automatically follow. No conviction would be entered.

The period of probation expired April 2, 2007.

- (b) Mr. Willmore had filed an Answer to the Nova Scotia Divorce proceeding in December 2006 - his Answer contested the jurisdiction.

That issue was heard by Justice Darryl Wilson of the Nova Scotia Supreme Court Family Division on October 5 and 9, 2007. Justice Wilson's decision was made October 22, 2007 and concluded:

Since June 2, 2006, the evidence establishes that the Petitioner (Quigley) was ordinarily resident in Nova Scotia...

Since the Court finds that the Petitioner was ordinarily resident in Texas from August 2005 to June 2, 2006, which includes the period of time from November 6, 2005 to June 2, 2006 which is within the year preceding the issuance of the Divorce Petition, the Petitioner did not establish that she was ordinarily resident in Nova Scotia for at least one(1) year immediately preceding the commencement of these proceedings. The application to set aside the Petition for Divorce filed by the Petitioner on the grounds that this court has no jurisdiction is granted. Interim Orders issued in this proceeding are void.

It appears from the material before me that Judgments were secured by Ms. Quigley (against Mr. Willmore) premised on his failure to pay support as ordered by these Interim Orders. These judgments, if they have not been, should be vacated by Ms. Quigley.

The Interim Orders in Divorce file No. 1201-061186 were the Orders of Justice MacLellan (from both the December 21, 2006 ex parte hearing and the January 30, 2007 appearance) and that of Justice Wilson (from March 30, 2007). They were voided by Justice Wilson's October 22, 2007 decision.

Ms. Quigley appealed this decision (on jurisdiction) to the Nova Scotia Court of Appeal. That appeal was heard and decided April 10, 2008.

Mr. Willmore was in Nova Scotia for these hearings (October 2, 5 and 9, 2007). He did not see Ryan - initially dealing with the charge against him. Then, he would say, not getting times or arrangements from Ms. Quigley - or not being willing to abide by the supervised access order that was in place until Justice Wilson's decision of October 22, 2007. The evidence surrounding this missed opportunity for a visit is contradictory and incomplete.

NOVEMBER 2007

- (a) On November 26, Mr. Willmore e-mailed Ms. Quigley:

Please have Ryan call me tonight or in the next day or two, as you know I have not talked to him in over a 3 weeks now
Thank you

- (b) Ms. Quigley replied to Ms. Zimmerman (Mr. Willmore's Texas counsel), Mr. Gagnon (her Texas counsel), and Mr. Willmore:

Nov 28 2007

Ms. Zimmerman and Mr Gagnon

I recently recieved a direct email request from Mr. Willmore requesting that Ryan call him. I hav repeatedly told Mr. Willmore that I will not force Ryan to call him if he does not want to . Ryan continues to state that he does not want to talk to his father. this fact has been communicated to Mr. Willmore numerous times. This behaviour by Ryan is solely due to Mr. Willmore negative conduct towards Ryan in the past. Ryan has seen a child pshchologist in relation to this and I continue to follow the advise provided in this regard.

Please ensure that Mr. Willmore understands that I do not wish for him to contact me directly. His direct contact to me is in breach of the criminal probation Order he is on - since October 2, 2007 and such direct contact places him in jeopardy of further criminal charges here in Canada. I again request that he use his lawyer in this regard.

Please ensure Mr. Willmore knows that I have Texas counsel - Mr. Stewart Gagnon and that I request all Ms. Zimmermans communication go through Mr. Gagnon.

I again request that Ms. Zimmerman reply through Mr. Gagnon with Mr. Willmore instructions on the issues raised in my unanswered emails to Ms. Zimmerman of :Aug 31, Sept 30 , Oct 23, 26 and Nov 24 2007.

The issues concern improving Mr. Willmores telephone access and his plans for a christmas visit with Ryan. Christmas is now less than a month away and it would be very helpful if Mr. Willmore could identify the dates he plans to come to Candad to visit with Ryan . I am holding off making our holiday plans to try to accomadate Mr. Willmore. I believe that Mr. Willmore is working in the middle East and could arrange his international flight to go through Halifax. It is imperative that Mr. Willmore provide his suggested plan for a visit in advance . Traveling via Halifax International Airport has been Mr. Willmores practice over the years of our marraige.

I hope Ms. Zimmermans timely response to this email directly to my lawyer - Mr. Gagnon.

Thank you
Karen Quigley

- (c) On November 30, 2007 Ms. Quigley received by e-mail an invitation from “Gary” to join a “iLike.com” internet group of some nature - the invitation appears to have come from “iLike.com” (from the RCMP records).

Mr. Scanlan received a similar invitation the same day at his work e-mail address (from the RCMP records).

DECEMBER 2007

- (a) On December 5, 2007 Mr. Scanlan e-mailed Gordon Kelly - the Nova Scotia lawyer acting for Mr. Willmore (from Mr. Scanlan’s evidence). That e-mail stated:

A couple of days ago I received an email from Mr. Willmore. I did nothing about it in spite of the fact that I had asked many times that he not contact me at the judicom address that you had provided to him. I did not raise it with Karen as she is already stressed about his actions. I knew she had a court order that prohibits him from contacting her. The matter did come up in

casual conversation this morning and she then disclosed to me that he had contacted her twice in the last week or so contrary to the court order and in fact sent the same email with his a picture of himself to both her and me.

Please advise your client that under no circumstances do I want him contacting me at the judicom address and that Karen does not want him continuing to contact her. No matter how subtle the messages are I am convinced they are intended to be nothing more than harassment where Mr. Willmore is somehow trying to suggest or show he can do what he wants in spite of court orders prohibiting contact. I will leave it up to Karen to decide whether she will report the contacts to the police.

Please acknowledge receipt of this email.

- (b) On December 6, 2007, Ms. Quigley applied to the Nova Scotia Court of Appeal, asking that Justice Wilson's order be stayed pending the appeal of his decision. Justice Roscoe of the Nova Scotia Court of Appeal denied the application. She observed:

The appellant argues that she and her son will suffer irreparable harm if a stay is not granted. Her position is that if the stay is refused and all the Nova Scotia interim orders are voided, the Texas court will be the only court with jurisdiction over all matters of custody, access and child support. It would then be necessary for her to travel to Texas to take part in the proceeding there, leaving her practice of law for an extended period and uprooting her son who is settled in school here now. Then if the order of Justice Wilson is reversed on appeal it will be too late to revive the Nova Scotia action at that point. Since she has, to date, not completely complied with the access orders of the Texas court, she fears that she will be found in contempt and imprisoned. A hearing on that issue and to determine whether custody should be changed is scheduled to be heard in Texas on December 20, 2007.

The problem with the appellant's argument in this respect is that the Texas court is free to continue its proceeding whether the stay is granted or not. Until such time as there is a resolution of the conflicts of law issue, it seems that it would be risky not to participate in the process there. Her decision whether to take part in the proceedings there is not logically entirely dependant on whether there is a stay of Justice Wilson's order. Ignoring the Texas hearings and orders invites contempt proceedings even if the appeal of the Justice Wilson's order were allowed and whether or not a stay of that order is granted.

- (c) On December 6, Ms. Quigley received a “reminder” invitation to “iLike.com” (from the RCMP records). “iLike.com” is described as a site to share music, and music tastes with your friends. It appears Mr. Willmore effectively prompted the site to do at least the original, and perhaps this, invitation. Again, it was inappropriate.
- (d) On December 6, 2007 Ms. Quigley wrote Mr. Kelly, and on December 7 he replied (from the RCMP records). She complained of breaches in Mr. Willmore’s Probation Order; he indicated his retainer from Mr. Willmore was only to deal with the appeal (by Ms. Quigley) of Justice Wilson’s decision re jurisdiction.
- (e) The RCMP records contain the following recording by Cst. Clarke on December 7, 2007:

At 1700hrs Karen QUIGLEY and Ted SCANLAN came into Enfield Detachment to speak with a member regarding Garry WILLMORE. QUIGLEY and SCANLAN stated that WILLMORE breached his probation order by making contact with them via 3 emails since November 26th, 2007. QUIGLEY and SCANLAN provided copies of the three emails and their responses to WILLMORE’s lawyer and a copy of WILLMORE’S JEIN’S Offender history report listing his probation order. Cst CLARKE spoke with QUIGLEY and SCANLAN at Enfield Detachment in a interview room. sui to review info and proceed with investigation. Cst CLARKE listened to what QUIGLEY and SCANLAN had to say. QUIGLEY and SCANLAN were being very direct and demanding that WILLMORE be charged. Cst CLARKE tried to explain some options, regarding cases of emails being sent however, QUIGLEY and SCANLAN would not let Cst CLARKE speak they were too persistent in explaining the history of them and WILLMORE. Everything they were speaking of was previous to the order which they claimed was breached except the three emails.

The meeting ended with Cst CLARKE telling the complainants that the information would be reviewed by the supervisors regarding possible charges. QUIGLEY demanded that Cst CLARKE tell Staff Sgt Urquhart to contact the provincial Crown and have the provincial Crown call her. Cst CLARKE stated that

he could speak with the Local Crown, and QUIGELY stated that she might be the local Crown soon.
At 1740hrs the meeting was over.

Ms. Quigley has acknowledged making efforts to have Mr. Willmore charged. The three e-mails appear to be the request to have Ryan call and the two "iLike.com" invitations.

- (f) On December 10, 2007 Karen Quigley e-mailed Cst. Clarke and Sgt. Urquhart of the RCMP, copying it, it appears, to two individuals in the government of Nova Scotia. She said:

Dear Sgt. Urquhart and Cst Clarke
Further to my meeting and recent complaint provided to Cst Clarke last Friday Dec? 7,2007? I am wondering what the status of this is?? Last Friday I attended at the Enfield Detachment , was met by Cst Clarke and provided him with information and complaint ?that Mr. Willmore has? recently contacted me on thre? different?occasions ?in direct contravention of a Probation Order congaing a "no contact " provision that he entered into on Oct 2, 2007. The Probation Order arose from a?weapons ?conviciton to a section ?91 charge (CCC) . I am requesting that the police charge Mr. Willmore for his Breach of his Probation Order.? My partner and I ?have?experienced ?ongoing and relentless problems with harrassment from Mr. W illmore for many months nonw. I reqire? and seek the protection afforded to me by the recent " no contact " provision as set out in Mr. Willmores current Probation Order. Cst Clarke?advised me that??he would? open a file and review my complaint with Sgt. ?Urquhart immediately.?? Given that I am a crown attorney in the Halifax Region ,I have copied Mr. Sandy Fairbanks?and Mr. Rick Hartlen on this note so that steps within our office can be taken in anticipation of a possible?prosecution.
May I please hear from you at your earliest convenience.
Sincerely,
Karen Quigley

- (g) On December 11 a series of e-mails flowed between Ms. Quigley and the RCMP:
- from Sgt. Murray Urquhart to Ms. Quigley:

Karen

Thanks for your message. Sgt. Mike BEZANSON is my Ops. N.C.O. and thus it is his responsibility to monitor, review and provide advise and direction on investigational matters. I have spoken to him and he will review your occurrence and be in contact with you once he has done so. I trust this will alleviate any concerns you may have at this time.

If there after you feel a meeting with me is needed than that can be arranged for a mutually agreed to time.

Murray D. URQUHART, S/Sgt

- from Ms. Quigley in reply:

Thanks for your follow up.

I will await Sgt Bezanson's contact.

Karen Quigley.

- from Sgt. Bezanson to Ms. Quigley:

Karen,

Thank-you for your phone call regarding this matter earlier today. Please know that this office will continue look into your complaint. I acknowledge that you've indicated to me that you might be asked to prosecute full time for this area and this detachment, and that you feel you may have some conflict of interest concerns. As I said, as soon as you feel that we are in a conflict situation, you can write the NCO I/c Enfield Detachment to this effect and request that another office to continues this investigation.

We descussed this particular matter and briefly the history behind this. I advised you that I was pressently reviewing the matter. I agree that it appears more likely than not that your estranged ex, was responsible for the first email, because of the content of the message. What we have to prove however is beyond a reasonable doubt that was actually him. We have to determine who owns that e-mail address, who has access to it, and it was your suspect that sent it.

The other messages however appear harder to explain. They appear to be auto-generated from the business account holder not the address holder. I used the example with classmates.com. If one registers with a site like that, you have to give up your internet address. That address is captured by that site and could be sent to other members of classmates.com. to entice them to apply for other options.

You've told me that the incidents of e-mails have not increased since the Probation order was put in place. The frequency hasn't changed from before or after the order. I've suggested to you to change your email address for two reasons. First, as a deterrent to avoid receiving them, and second to isolate any perception /excuse of accidental transmission and intentional transmission. If the messages continue after the change then something had to be set up so the junk mail could be sent to the new address thus reinforcing the intent on the suspects part.

Cst Ed CLARKE will look into this investigation and he will be supervised by Cpl BUSHELL. Both members advise me that they are familiar with your situation in this regard and they will keep you updated. You should communicate with Cst CLARKE and advise him of any developments and he will do the same with you. Should you encounter any circumstances that require my assistance please feel free to contact me.

Sincerely,

M.S.C.BEZANSON, SGT

- (h) On Friday, December 14, 2007 Ms. Quigley filed a Petition for Divorce (file 1207-003129) in Truro, Nova Scotia requesting that the documents be issued there ("as I reside in your judicial district").

She advised the Prothonotary in Truro that Mr. Scanlan, who sits in that district, could not hear the matter. She requested a date when applications could be heard by an assigned Justice stating "I cannot overstate the urgency of these matters..."

- (i) On Monday, December 17, 2007, the Prothonotary forwarded the file and requests to Chief Justice Kennedy in Halifax. The file was assigned to the writer, Justice Williams, on December 18, 2007. The file was sent to me by the Truro Court.
- (j) I received the file on December 19, 2007. I wrote Ms. Quigley - sending it to her by fax in care of her Texas counsel, Stewart Gagnon.

December 19, 2007

VIA FAX: (713) 651-5246

C/O Stewart Gagnon, Fulbright & Jaworski

Ms. Karen Quigley

1822 Highway #2

Milford, NS B0N 1Y0

Dear Ms. Quigley:

Re: S. T. No. 1201-003129 (056344)

I have been assigned this file. I received it today, December 19, 2007. The Petition for Divorce was filed December 14, 2007.

I would note and direct:

1. It is unclear from the file what the status of the "Texas proceeding" is. An order is referred to. The material filed on this "new" divorce proceeding should detail what the nature of the proceedings in Texas are, what has happened in Texas, when, what is scheduled, and provide certified copies of any Texas orders, and contact information for the Court and counsel involved.
2. An appeal of Justice Wilson's order is referred to. I assume this appeal is being proceeded with. This should be clarified. I am uncertain what the status of this proceeding would be if you are successful in your appeal - and the previous Nova Scotia proceeding reinstated. Mr. Willmore appears (from the Court of Appeal decision of Justice Roscoe to which you refer in your material) to be represented in that process. I would not anticipate difficulty in serving Mr. Willmore in these circumstances.
3. Your correspondence to Ms. Johnson (the Truro Prothonotary) and telephone call to my assistant, Nancy Naylor, spoke of urgency. It is unclear from the file - in part due to the absence of an affidavit, financial statements or details of the other proceedings - just what specific application(s) you are asserting are urgent, nor the nature of the urgency (beyond the service issue which I have addressed). This should be clarified with your future filings. I believe you have been directed to contact Christine Carter, a conciliator at our Court, to work through our normal intake process.
4. If Mr. Willmore agrees, I am prepared to schedule an Organizational Pre-Trial Conference for January 15, 2008 at 2:00 p.m. here at the Devonshire Court to address the scheduling of any applications you make - provided the material in support of the application(s) (including information concerning the status of the proceedings in Texas and our Court of Appeal) is filed and served by December 31, 2007.
5. The Texas Court and Mr. Willmore should be provided with a copy of the material you have filed in this

proceeding (including your correspondence with the Prothonotary's Office in Truro) and this letter immediately. I will be out of the office from noon on December 20th until January 3rd, 2008. I will review the file upon my return.

Yours very truly,

cc Gary Willmore (via Karen Quigley)
Court in Texas (via Karen Quigley)
Christine Carter
Scheduling Office (Devonshire)

(k) On December 20, 2007 I again wrote Ms. Quigley:

Dear Ms. Quigley:

Christine Carter has shown me a copy of your letter of December 19, 2007 addressed to Chief Justice Kennedy and her (Christine Carter).

To clarify:

1. This Divorce Petition was filed in Truro. Your previous Petition was filed in Halifax. As this Petition was filed in Truro, Rule 70 of our Civil Procedure Rules does not apply.
2. You described your applications as "urgent in nature".
3. Rule 37.05(2)(c) provides:

R.37.05

(2) Where a notice of application is to be served upon an opposing party or person, the notice and any support affidavit shall be served before a hearing as follows:

(c) when the notice is to be served on a party outside the jurisdiction, at least thirty (30) clear days or as ordered by the court.

- (a) I have, in my letter of December 19, 2007, attempted to give you a date (January 15, 2008) that significantly abridges this - and allows a matter that is being litigated in multiple Courts to commence with an organizational pre-trial.

If you chose not to attempt or are unable (the January 15th day is subject to Mr. Willmore's agreement and your filing documents as directed) to bring the matter forward in the manner I suggested in my letter of December 19, 2007, that is either your choice or that of Mr. Willmore.

- (b) If you want an alternative date so that you may serve Mr. Willmore pursuant to

R. 37.05(2)(c), I will provide it. Thursday, February 7, 2008 at 9:30 a.m. is reserved for an organizational pre-trial on whatever applications you intend to bring. Thirty minutes has been reserved.

There is no affidavit on the file now. Your affidavit should address the issues referred to in paragraphs 1 and 3 of my letter of December 19th.

4. Rule 37.03 provides:

R. 37.03.

Unless the court otherwise orders, the place of hearing of an application shall be at the place named in the notice of application.

I am ordering that your applications be heard at the Devonshire Court in Halifax. If, at the organizational pre-trial there is a request to have the matter heard at another “place”, I will deal with that motion.

5. I referred you to Ms. Carter thinking she might assist you. If that referral resulted in confusion as to the application of R. 70, I apologize. There is no need for Ms. Carter to have further involvement.

6. I have assumed that serving Mr. Willmore would not, as long as he had counsel in the Appeal proceeding, be a problem. If necessary in those circumstances an application for substituted service could be brought. If I am/was wrong, I again apologize.

7. I would direct that you immediately provide Mr. Willmore and the Texas Court with a copy of this letter and your letter of December 19th to Chief Justice Kennedy and Ms. Carter.

Yours very truly,

cc Gary Willmore (via Karen Quigley)
Court in Texas (via Karen Quigley)
Christine Carter
Scheduling Office (Devonshire)

- (1) On December 20, 2007, Ms. Quigley appeared before the Court in Texas. The motion(s) before the Texas Court appear to have been the enforcement motions regarding access. At this point Mr. Willmore had not seen Ryan since early November 2006. Ms. Zimmerman appeared for Mr. Willmore, Mr. Gagnon for Ms. Quigley - both parties were present in Texas. The only court order in effect at this time was the Texas Order (of March 30, 2007).

The transcript of the December 20, 2007 Texas proceeding includes the following:

THE COURT: Cause No. 72197; Gary Willmore and Karen A. Quigley.

MS. ZIMMERMAN: We're ready.

MR. GAGNON: I'm here on behalf of Mrs. Quigley, and we're ready.

THE COURT: Have you reached an agreement or talked?

MR. GAGNON: We talked and have not reached an agreement.

....

THE COURT: What is the question before the Court?

MR. GAGNON: It's an enforcement of a visitation order, Judge.

...

THE COURT: What did they do in Canada?

MS. ZIMMERMAN: They dismissed it. I have a certified copy of the order.

...They dismissed it and that matter is on appeal.

...

THE COURT: Did they dismiss it for lack of jurisdiction?

MS. ZIMMERMAN: They dismissed it because there was no issue regarding normal residence of Mrs. Quigley for a stated period of time.

THE COURT: Okay. So that's jurisdictional.

MS. ZIMMERMAN: We've got those opinions for your, but they - the issue regarding the jurisdictional part of the child is still pending.

MR. GAGNON: Can I respond to that? Because I don't think that's accurate. I don't think that's accurate at all.

THE COURT: I'll read it, but I think that - I think that - I think I'm in a position where I can act at this point. I didn't do anything, lettering - deferring to - letting the Canadians, letting them - I think they're doing good, and I respected their - their court's side and their jurisdiction, and I think they respected mine. And I think now it's time for me to act.

... You're wanting to get visitation. Is that the bottom line?

MS. ZIMMERMAN: Yes, sir. Yes, sir. That's the bottom line. I'm not seeking to put Ms. Quigley in jail.

THE COURT: Good. Good. I like that.

...

MS. ZIMMERMAN: The next visitation is the 26th at noon under the orders.

THE COURT: Okay.

...Now, bottom line, I've respected the Canadian courts and I think they've respected this court. Now, if there are visitation orders, they need to be followed, bottom line. That's just pure and simple. At some point, if these children reside in Canada, Canada will maintain dominant jurisdiction at some point; but obviously, according to the Canadian courts, not right now. So, it falls back to me. I expect these visitation order to be followed.

No, I suggest y'all go back and reach and agreement, and there shouldn't really be much to agree on if the visitation is supposed to be the 26th, you said.

MS. ZIMMERMAN: At noon, your Honor.

THE COURT: That's when it needs to be. And when the visitation is over, you need to deliver the children back to her.

MR. WILLMORE: No problem.

...

THE COURT: You don't return those kids, I'm going to put you in jail.

MR. WILLMORE: I know, sir.

THE COURT: If you don't deliver those kids, I'm going to put you in jail. It's that simple. You're an attorney, correct?

MS. QUIGLEY: That's correct.

THE COURT: I've shown you the utmost respect and I've allowed you to appear by phone, and I haven't ruled without you being present. Now, I expect you to show that same respect to this Court and to me. Do you understand?

MS. QUIGLEY: I appreciate that.

THE COURT: Now, y'all go talk and y'all work this out. This should not -...

MS. ZIMMERMAN: May I put into evidence, Judge, certified copies of the Canadian order?

THE COURT: None of this is in evidence at this point. If you want to hand them to me, if you want to-

MS. ZIMMERMAN: I have certified copies from the courts of Canada and there are two orders. one is the underlying days -

THE COURT: You're putting the cart before the horse. If we have to try this, we can put all of this in evidence. Y'all work this out.

MR. GAGNON: Thank you, Judge.

...

MS. ZIMMERMAN: Judge, under the temporary orders Mr. Willmore is supposed to have possession beginning at noon on the 26th for -

THE COURT: Of December?

MS. ZIMMERMAN: December 26th until the second half of the holiday. He's required under the temporary orders to give - if he wishes to take possession of the child in an airport, he's required to give written notice to Mrs. Quigley to the things that I'm getting ready to dictate into the record, and I'm asking the Court to take this dictation as written notice, or I will write it out and actually hand it to her on the record, whichever the Court prefers.

THE COURT: Do you -

MR. GAGNON: I'll accept it, Judge. If she will fax it to my office, because my client will be in transit, and I will get it back to you.

...

MS. ZIMMERMAN: Judge, on the 26th at noon, the child is booked - by the way, the confirmation number is AR0ZR9. He's booked to leave Halifax on Continental Flight 2614, which leaves the Halifax Airport at 1:05 p.m. and arrives in Newark at 2:35 p.m. and then from Newark he takes Flight 51, which leaves at 4:25 p.m., arriving Houston Intercontinental Airport at 7:31 p.m. The unaccompanied minor's fee has been paid from Halifax all the way to IAH.

MR. GAGNON: Judge, let me just point out, because I don't want to lay behind the law and I don't want anybody to be upset with Mrs. Quigley, that does not comply with the temporary orders.

THE COURT: What do they say?

MR. GAGNON: They say it has to be on a non equipment change flight.

...There was an order that Ms. Zimmerman had submitted to this Court that had this Court sign, and it has to be - and with this child's age, it has to be - he's eight years old - a non equipment change flight.

...

MS. ZIMMERMAN: Well, Judge, actually, there are no non equipment change flights. That's the problem, number one. Number two, the unaccompanied minor fee has been paid. Like I say, it's one airline and there is a change of planes in Newark, but the unaccompanied minor fee has been paid so that they -

....

MR. GAGNON: The order is the order, Judge.

THE COURT: That's correct.

MR. GAGNON: The order says a non equipment change flight. If she can't comply with that, Mr. Willmore is welcome to go to Canada and visit with that child, as he has told the child he's going to do -

...

THE COURT: Hold on. Hold on. He's right. The order is the order.

...I hate that, but what you need to do is y'all need to either comply with the order - I guess he can fly up to where the equipment change is.

MS. ZIMMERMAN: That's correct. He will pick the child up in Newark, Judge, and he will be there. So, the child will be on a non equipment change flight from Halifax to Newark, and Mr.

Willmore will get the child in Newark.

MR. GAGNON: Which does not comply with your order, and that the problem with her order, Judge. She drafted the order.

...

MS. ZIMMERMAN: And, Judge, I have a writ of attachment today, and I have a writ of attachment that's properly set before the Court where I'm asking the Court to issue a writ of attachment for Ryan's body. And the reason I've gone to that drastic measure, Judge, is because of these games. Obviously this lady doesn't want Mr. Willmore to see his child. Now, I think it complies with the order if Mr. Willmore says to her in a letter or on the record today "I'm picking up the child in Newark at the Newark Airport. he will be flying from Halifax to Newark on a non equipment change flight and - and I will pick him up in Newark."

THE COURT: ...We need to - I mean, they don't live near each other. They're going to have to allow some flights to allow this child to visit.

...

MR. GAGNON: Let me deal with two issues, Judge. First of all, if I may, Ms. Zimmerman insists that she had a writ of attachment set. Ms. Willmore - Ms. Quigley does not have notice of that setting today. I have looked at your docket sheet. Your docket sheet does not say that that is set for today.

THE COURT: I've been real reasonable, I really have. And you know, y'all either work this out or we're going to do it the hard way, and there's no reason to do it the hard way, it's just not necessary.

...

MR. GAGNON: I told her we will comply with the Court's order, and she doesn't - she doesn't want to live by the order that she drafted.

MS. ZIMMERMAN: That's not true.

THE COURT: Do they have a nonstop flight?

MS. ZIMMERMAN: They do not from Halifax.

MR. GAGNON: And she didn't have one when she drafted the order.

MS. ZIMMERMAN: And I used the Texas Family Practice Manual long form distance visitation, Judge, but quite frankly the problem is solved because Mr. Willmore -

THE COURT: There's no reason he can't go up there and meet the plane.

MR. GAGNON: And my client will make the decision to - make the decision to comply with the Court's order.

THE COURT: Go get a reservation for him.
...Go make it and you'll have a confirmation number.

MS. ZIMMERMAN: And I would ask that Ms. Quigley be sworn to re-appear on my writ of attachment in case these orders are not complied with.

MR. GAGNON: Judge, first of all, that matter is not set for a hearing today - ...Let me indicate to the Court that I've indicated before, I will accept service per Ms. Quigley on a Motion for Enforcement, if there's an additional Motion for Enforcement, and I, as an officer of the court, will assure the Court that Ms. Quigley will comply with the motion before this Court and -

THE COURT: Was she sworn in?

MR. GAGNON: She was.

THE COURT: Is that acceptable that your attorney can accept service for you to reappear?

MS. QUIGLEY: Yes, sir.

MR. GAGNON: I'll accept it.

THE COURT: Ma'am?

MS. QUIGLEY: Yes, sir, he can accept service.

...

MR. GAGNON: If I may, Judge, for the purposes of the record, the documents we gave you from Canada indicates that that's an organizational pretrial conference on January the 15th at - at 2 o'clock, and I'm asking Ms. Zimmerman and her client if they will agree to appear at that - at that pre -

MS. ZIMMERMAN: Judge -

MR. GAGNON: - organizational pretrial conference. If they won't, I just need it on the record.

MS. ZIMMERMAN: Judge, I don't represent Mr. Willmore in Canada. And as Ms. Quigley knows, he has an attorney named Gordon Kelly.

THE COURT: You will have to deal with that -

...

MS. ZIMMERMAN: We're going to get a confirmation number.

MR. GAGNON: All they have to do is provide it to us.

MS. ZIMMERMAN: I want this all on the record.

THE COURT: We will do this the hard way and we'll take our time and do it.

MS. ZIMMERMAN: Thank you, your Honor.

...Judge, I have confirmation numbers. I would like to complete Ryan's itinerary, Halifax to Newark, and I have confirmations that Mr. Willmore has made, and understanding he has to make two round trip flights to meet the child in Newark.

All right. First of all, again, for purposes of the record, Ryan's confirmation number is AR0ZR9, and he is scheduled to leave Halifax on the 26th of December at 1:05 p.m. on Continental Flight 2614, which arrives in Newark at 2:35 p.m. Mr. Willmore has confirmation number ASHM66, which he will be flying back - he will be flying to Newark on the morning of December 26th and he will meet Ryan's flight in Newark, and he and Ryan will fly together from Newark to Houston on Flight 51 on that day. Now, returning on January 3rd -

MR. GAGNON: Wait a minute. School resumes January 2nd. You have to return January 1st.

MS. ZIMMERMAN: Okay. It'll be the same confirmation numbers and same flights. We will just book them for January 1st, Judge. We did not know when school resumed.

THE COURT: Okay.

MS. ZIMMERMAN: We will book them for January 1st under the same confirmation number. The flight is Flight No. 81. It leaves Houston at 6:30 a.m. It arrives in Newark at 10:46. Mr. Willmore will be accompanying Mr. - will be accompanying Ryan on that flight. Mr. Willmore's confirmation number is ASHW61.

MR. GAGNON: ASHW61, that's a different one.

MS. ZIMMERMAN: Correct. He had to make two round trip flights.

MR. GAGNON: Okay.

MS. ZIMMERMAN: Mr. - Ryan will leave Newark at - on Flight 2502, again, Continental Airlines, leaves Newark at 11:35 a.m., arrives in Halifax at 2:40 p.m. under the same confirmation number, and that will be on the first - that will be on January 1st.

Judge, I'm also asking that I can hand Mr. Gagnon a copy of my request for writ of attachment, or I can email it to him or fax it to him, however he would prefer, but I would ask that the Court would set a date for sometime in the future...

...

THE COURT: Okay. Make sure it's 30 days out.

- (m) On December 21, 2007, Ms. Quigley wrote Christine Carter, a conciliator here at the Nova Scotia Supreme Court (Family Division):

Dear Ms. Carter

Re: Quigley vs Willmore ST#1201-003129 URGENT
MATTERS

There have been some new developments in Texas which make it necessary that I have an emergency hearing in Canada. I have worked through the night trying to prepare an affidavit explaining the situation and the urgency of the situation. In essence the court here has said if the Canadian Courts are not doing anything on this file they will. Without notice to me or any hearing on the merits the court ordered my son be put on a plane to Texas on December 26th. Mr. Willmore has not seen our son in over a year and has been abusive to him. Our son has been seeing Mr. Martin Whitzman as a result of Mr. Willmore's harmful behaviour. The Texas court also said if that if I did not place the child on the plane to the Texas I would be arrested and jailed. Apparently in Texas they can do that until the Appeal Courts tell them they were wrong, even if it is done without authority.

... I will need some sort of hearing before the 26th in front of a judge so that the issue of the best interests and safety of my son Ryan can be considered by the court. Judge Williams says he is not available until sometime in January so I suggest the matter should be referred to another judge or even Chief Justice Kennedy or ASJ Smith as they are both familiar with the file at least to a certain degree. I do not believe Justice Ferguson would want to be involved in this file as he was a personal friend of mine.

I am in Texas and will be catching the first available flight out today so if you cannot reach me leave a message on my phone. You already have my cell phone number. If a judge is prepared to hear an emergency application I will be in Canada no later than midnight tonight on the 21st weather permitting, earlier if early flights can be arranged. I would then be able to forward a copy of all documents to Mr Willmore by email as well if a hearing is to be held. In other words I would try to do whatever it is that a judge directs to have the emergency hearing proceed before the 26th.

I do not know if you have a duty judge in Family Division over the break but there is one in the General Division if not.

...In summary, I endanger my child if I send him to Texas and I endanger my liberty if I do not.

...Thank you

Karen Quigley

There is some considerable disjunction between Ms. Quigley's words in this letter and those to the Court in Texas the day before, December 20, 2007.

- (n) On December 21, Ms. Quigley faxed the Halifax Court:

Dear Ms. Carter

Re : Quigley vs Willmore ST #1207-003129 URGENT
MATTERS

Please find enclosed the following documents in support of my request for an emergency Ex Parte Application:

- (1) Notice of Application Ex Parte
- (2) Affidavit of Karen Quigley
- (3) Draft Order

I am currently in Texas and the above documents are being faxed to you from here. I seek time before a Justice to hear the above matter as soon as possible before December 26, 2007.

- (o) On December 21 Ms. Quigley filed an unsworn Affidavit asking for an immediate emergency hearing - seeking sole custody and an order that "if there is any access it is to be supervised access exercised only in Canada" (para. 43).

Ms. Quigley was almost simultaneously agreeing to access in the Texas Court and seeking to restrict it through a Nova Scotia court process. It would be very hard to conclude she was sincere in agreeing in Texas that visitation could occur.

The request for an emergency hearing was reviewed by Associate Chief Justice Smith - the Court file indicates that Associate Chief Justice Smith directed that all documents be in their proper form before the matter would be reviewed.

- (p) The Affidavit was sworn and filed that day. The request was reviewed by Justice Clare MacLellan who determined December 22 that the matter was not an emergency - and would not proceed as requested.
- (q) Ryan did not fly to Texas on December 26, 2007. Ms. Quigley has suggested variously that doing so would have endangered him, that Ryan

refused to go, and that the plane tickets were not properly communicated to her.

JANUARY 2008

- (a) On January 2, 2008 Mr. Willmore filed in the Texas Court a Second Motion for Enforcement by Contempt - Mr. Gagnon (Ms. Quigley's Texas counsel) accepted service. The application was made as the December access had not occurred, and was predicable (as Justice Roscoe of the Nova Scotia Court of Appeal had observed). The matter was set for hearing on January 21, 2008. An application for a Writ of Attachment (an order that Ryan be brought to the Texas Court) was set to be heard February 7, 2008. On January 7, 2008 Mr. Gagnon (Ms. Quigley's counsel), wrote Ms. Zimmerman (Mr. Willmore's counsel) asking that both matters be heard February 7th. No agreement to adjust the date was forthcoming. Having two court dates a week apart in Texas would create an obvious hardship for Ms. Quigley in terms of travel.
- (b) On January 8, 2008, Ms. Quigley made an Ex Parte Application to this Court. She sought:
- an order for interim sole custody...of the child Ryan Ross Quigley-Willmore...
 - an order directing Mr. Martin Whitzman to prepare a report for the court - reviewing access issues...
 - an order for substituted service on the Respondent at his e-mail address...
- (c) Ms. Quigley's Affidavit of January 3, 2008 indicated:
2. ...The Respondent...holds passports for the following countries; Great Britian, United States, Russia and Landed Immigracy in Canada.
 18. During the court hearing the Respondent arranged a return flight date of January 3rd 2008. The court said that was not compliant with the Texas order. A new itinerary was to be sent to my counsel by the Respondent. On the evening of December 25, 2007 I had not received any notice of proper ticket arrangements for Ryan from my counsel so I contacted the Respondent by email

asking if we could discuss arrangements for his access with Ryan in Nova Scotia or Texas that might take into account Ryan's needs. Ryan has not seen his father in over one year. The respondent refused to have any discussion and simply demanded that Ryan be placed on the plane as directed by the Texas judge. I was very concerned that the suggested itinerary saw the respondent travel from Houston to Newark airport supposedly to meet Ryan. I would have no way of knowing whether or not the respondent had actually arrived in Newark before I would be required to place Ryan on a plane unaccompanied to Newark where he may or may not have his father waiting. A copy of this brief email exchange between the respondent and I is attached to this my affidavit and marked Exhibit E.

Exhibit E:

From: Gary Willmore

Date: Tue, 25 Dec 2007 19:56:22 EST

Subject: Fwd: message from Karen re tomorrow

To: Ms. Zimmerman, Mr. Kelly, Cory Bushell, "ryanross" e-mail accounts

The court record shows that you were ordered to put Ryan on the plane in the morning 26th Dec, and his return is set for the 1st Jan 08 this is on record in the court house and you know what the judge told you. I will be at the airport in New York to meet him as ordered by the judge.

Regards

.....

From: "Ryanross"

To: Gary Willmore

Sent: 12/25/2007 7:47:20 P.M. Eastern Standard Time

Subj: Re: message from Karen re tomorrow

I do not know who you sent it to. Mr. Gagnon was authorized to accept service from Ms. Zimmerman and this was done on the record in court for a very good reason. I have not received any word from Mr. Gagnon the order has been complied with. Sorry that you do not want to talk on what Ryan wants good bye.

Gary Willmore wrote:

ryan, this was sent on Friday with the return date of the 1st jan, I will see you in new york in the morning

In a message dated 12/25/2007 7:27:59 P.M. Eastern Standard Time,

"ryanross" writes

Gary, please...

The judge advised that Ryan needed to be back on Jan 1 2008 and you were to do this and provide the new ticket confirmation to via our counsel. The tickets do not do this. Do you want to discuss this or not ?. Please stop the BS for once.

Gary Willmore wrote:

The tickets are good I have paid for them and there is a return, I will be in new york to meet him in the morning, per the texas judge's request, I am to call him if ryan is not there.

In a message dated 12/25/2007 7:20:30 P.M. Eastern Standard Time,

"ryanross" writes:

Gary, It is me Karen.

Mr. Gagnon says the tickets are not in compliance and therefore Ryan cannot go. Can we talk about an alternative in Texas or Nova Scotia in the next few days?

Gary Willmore wrote:

I am on aol ryan

In a message dated 12/15/2007 7:15:41 P.M. Eastern Standard Time,

"ryanross" writes:

Gary are you online?

Gary Willmore wrote:

I miss and will see you soon

Love dad

Ms. Quigley's January 3, 2008 Affidavit continued:

19. Ryan is by nature an easy going, well adjusted and communicative boy who uses communication skills well beyond his years. I regularly witness Ryan being frustrated by the anger and hostility expressed by his father on the telephone. the only person that Ryan expresses anger or upset towards, is his father. For the last several months Ryan has had few telephone conversations with his father that do not end up with either Ryan or his father hanging up before the conversation is concluded. That most calls end with Ryan crying by the end of the conversation or shortly thereafter.

21. The respondent did not participate, appeal or abide by the Nova Scotia orders notwithstanding that he had legal counsel in this province since December 2006. The respondent told me and I did verily believe him that he would not accept that the Canadian court had any authority over him, our child or any of these matters . The respondent has told me that he is not interested in any

reasonable resolution of these matters but that he intends to keep these matters tied up in the courts as long as possible so as to frustrate , delay and financially impoverish me.

Mr. Willmore did contest successfully the jurisdiction of the Nova Scotia orders.

22. That our son is frightened of the respondent and describes his father as “Kooky” when the respondent becomes angered. Ryan becomes upset when the Respondent make derogatory comments about many things in Ryan’s life. Ryan is adamant that he does not want to go to Texas to visit the Respondent and he has in almost every conversation with his father stated emphatically that he does not want to go to Texas but rather, wishes his father to come to our home in Nova Scotia to visit where I de verily believe Ryan feels safe. On December 26th 2007 Ryan talked to his father by telephone and told him to “throw away the ticket” as he did not want to go to Texas. This was only after his father continued to insist that Ryan would come for a visit in Texas. Ryan has made it clear repeatedly that he only wants to visit with his father in Canada but the Respondent refuses to come to Canada....

23. That immediately after Ryan told the respondent he did not want to visit him in Texas (December 26th 2007) the Respondent informed me he had two US Marshals en route to arrest me and that the judge told him to call if Ryan was not on the plane....

25. That I do verily believe that it wold be in Ryan’s best interest that any visits with Ryan be in Nova Scotia for the time being so as to give Ryan an opportunity to get to know his father and to ensure that Ryan feels safe in terms of knowing that he is not far from his home and regular support structure. I would add to that that the early visits should be supervised as I am concerned that there have been so few telephone access visits that have gone well for Ryan and that Ryan now challenges his father on many issues. I am concerned that if Ryan challenges his father when he is alone or far away that Ryan, who is only 8 years old, will be put in an extremely difficult situation where he may find it difficult to deal with what he describes as a “Kooky” individual I know frm experience can be extremely overbearing and violent. I recall one incident in Texas where, with Ryan in the house, in January 2006 the Respondent destroyed the Christmas tree and decorations and became very verbally abusive to me in Ryan’s presence. I am

concerned that the Respondent may be hostile with Ryan if Ryan is alone with him for an extended period of time as the Respondent often becomes verbally aggressive with Ryan on the phone and according to Ryan, he refuses to accept Ryan's views on anything substantive....

26. ...The Respondent has threatened to kill me and Justice Ted Scanlan . These threats were given by the respondent verbally, by email and even so far as to communicate through our child Ryan, as a message to be passed along to me. The Respondent has refused to participate in any discussions of possible resolution on the substantive issues....

When Ms. Quigley has elaborated on these allegations of threats, they have been veiled, innuendo-based statements from Mr. Willmore - some without dates; none appear subsequent to October 2007.

28. That I am very concerned that a writ of attachment over our child as well as a warrant for my arrest would seriously jeopardize my position as a crown attorney here in Nova Scotia. I require my employment to care for my self and Ryan and maintain our home. Although the respondent was required to pay in excess of \$3300/month in child support by way of the Canadian child support guidelines he has only paid the sum of \$1050.00/month since May 2007 as set out by the Texas court. The respondent only pays this sum when I request it from him. The respondent has not complied with the Texas court order that he pay the monthly child support through their state automatic program akin to our maintenance enforcement program.

COURT ACTIONS TAKEN

33. That on December 21, 2007 while I was still in Texas, I requested our Nova Scoti court hear an Application for interim custody and access as well as an order for substituted service on an urgent basis. I stayed up all night preparing an affidavit and Application as best as I could and faxed these materials to the Nova Scotia court from Texas. I made this Application as I was very frightened by the threats of imprisonment against me by the Texas court coupled with the Texas courts manner of "railroading" these matters through the Texas court system without due process or any consideration as to the needs and best interests of our child.

34. That I was telephoned on December 22, 2007 and advised by the Nova Scotia court staff that my Application was reviewed and not deemed to be of an urgent nature. I was told that I must provide four days notice to the respondent and his counsel and set the matter down. When I asked what the ruling was on my additional request for substituted service I was told that had not been addressed but that they would get back to me on Monday December 24, 2007.

35. That on Monday December 24, 2007 I was telephoned by staff at the Nova Scotia court and advised that my request for substituted service would have to go before Justice Williams as he had been assigned the file. I was also told that I would likely have to give greater than four days notice given that the respondent was out of the country if I chose not to proceed on an ex parte basis.

36. That on December 24 2007 I again filed another Application for interim relief with my support Affidavit scheduled for February 7, 2008 as directed by the court. I provided a copy of this application to Mr. Willmore, his lawyers in both Canada and the US as well as the Texas court. I have filed with the court my affidavit of service for these documents.

(d) Ms. Quigley's affidavit of January 7 indicated:

1. THAT on Sunday Jan 6, 2008 I received information on a new Motion of Contempt by the Respondent (Willmore) against me (Quigley) filed by the Respondent in Texas. I received this information by email as attachments yesterday. Attached to this my affidavit and marked A is a copy the new Motion for sole temporary custody of our child Ryan. This Motion has been set for hearing on Jan 31 2008 at 9:00am in Texas.

2. THAT the Respondent (Willmore) now seeks the Texas court to order:

- that Willmore be sole managing conservator over our child and
- that Willmore be awarded temporary possession over the child and
- that Quigley to pay \$ 1500.00/month child support per month to Willmore and
- that Quigley is to pay for 100% of any cost of her access costs with the child in Texas and

- that Quigley to pay to Willmore at least the sum of \$ 50,000.00 to cover Willmores interim Texas attorney fees of the Respondent

3. THAT this new Motion for Contempt appears to have been issued by the Texas court at the Respondent's request on January 2, 2008. The first notice I had of this was by email yesterday, January 6 2008.

7. THAT I am very fearful that the Respondent will continue to utilize the Texas court system in his relentless effort to have me found in contempt of a court and seek my imprisonment . I do verily believe that one motive of the Respondent in this regard is to place my employment as a crown attorney in severe jeopardy by having a warrant for my arrest issued in Texas.

11. THAT I do verily believe that the Respondent will continue to repeated seek quick court dates in Texas knowing full well that I cannot be available to attend the dates he selects without jeopardizing my employment and further that each of these Texas Motions will cost me several thousands of dollars in legal fees to respond to - of which I simply do not have.

12. THAT over the past year I have repeatedly tried to have the Respondent discuss through his counsel in both Texas and Canada possible resolution of the substantive issues in these matters including custody and access and he has repeated refused. The respondent has told me and I do verily believe him that he intends to keep these legal matters tied up in litigation in our courts for years for the sole purpose of destroying me financially , professionally and emotionally.

13. THAT our son, Ryan, and I are both Canadian and have always been Canadian residents. All of the material witness's in these matters excepting the Respondent are located here in Nova Scotia . I URGENTLY require our Canadian courts to provide meaningful orders over our child for his protection , safety and best interest. I also require these immediate orders for my own personal security and employment stability. Without my job, I will have no ability to provide a home for my child or myself. That I further require our court provide a series of early hearing dates, convenient for this court, to allow the proper and full evidence to be heard and then resolution of these matters.

(e) Ms. Quigley's *viva voce* evidence on January 8, 2008 included:

... I did not have counsel prior to the 5th of December, and I retained counsel sometime in that week in Texas to respond to the enforcement application that was being ... now mounted on the 20th of December, and I returned to Texas for that date.

The allegations on the 20th of December was that I didn't comply with certain parts of the Order, the temporary Order given in March, in particular that I didn't put the child on a plane in July, and that I didn't present the child to the telephone during a week in early ... late June 2007 for telephone access with his father.

...

A. At the conclusion of that hearing, the judge wouldn't hear evidence, and he simply told me that I had to put the child on the plane or that he would put me in jail.

Q. And you had to put the child on the plane when specifically?

A. On December the 26th.

Q. And you put the child on a plane from Halifax to Texas on December 26th. And what was your understanding as to when the child would be returned?

A. Well, the Texas Order also required that the child had to be back in time for school. When Willmore ... in these Court proceedings, he ran outside with his counsel and started trying to buy tickets to have the child come to Texas for this December 26th visit because he didn't have tickets. And I should say that I had started writing Ms. Zimmerman. I didn't have counsel. I started writing Ms. Zimmerman ...

Q. And Ms. Zimmerman is?

A. Mr. Willmore's counsel. On August 21st I started writing her saying what is his proposal for visits with respect to the child when he's here in Canada in October, and what are his proposals for visits with the child over the Christmas holidays. And they never responded....

In any event, when the Court said he was going to direct that the child be placed on the plane to facilitate that access, he told Mr. Willmore, But you have to have the child back in school. Well, Mr. Willmore didn't have any return ticket for the child to be back in school for the 1st of January ... the 2nd of January. His ticket didn't comply with that, so the judge said, well, that's not going to work.

The other thing was that the Texas temporary Order required that the child be on a no-changing flight. It didn't ... which is impossible because from Canada to the United States,

Houston, you have to change flights, international flights, and terminals in either Toronto or Newark. So the judge said to Mr. Willmore that he could avoid that hiccup in the Order by going to Newark himself and picking up the child....

At the conclusion of that Hearing on December the 20th, Mr. Willmore was told that he had to provide the correct itinerary to his counsel who in turn would provide it to Mr. Gagnon, my counsel, prior to the end of those business days which was the 21st, which would have the return ticket in place.

That didn't happen. Mr. Gagnon didn't ever receive anything from Mr. Willmore, nor did I. And on ... I returned to Canada, but I was fearful, you know, that it still might come together and I needed to prepare for that.

So I spoke with Ryan about it, that there was a possibility that, you know, his dad ... he was going to have a visit with his dad. And Ryan was adamant that he didn't want to go. And so I thought, well, let's wait and see in terms of, you know, what's going to transpire.

So I contacted Mr. Willmore. I still didn't have any return ticket, so according to the Texas Court arguably there was nothing to send the child to. But you know, I was hope ...

Q. So what did you have in terms of a plane ticket for Ryan?

A. I didn't have anything.

Q. You had nothing, all right.

A. I had nothing.

Q. Okay.

A. I had nothing. I had spoken with Willmore, Mr. Willmore, in November. And he had told me that he would come to Canada to see Ryan on his way back to Europe between December 29th, 28th to around the 1st.

So I took it upon myself to e-mail Mr. Willmore on the evening of the 25th to ask, you know, if we could talk about this. And it was at that point that he then sent me the itinerary for this ticket to leave the following morning that I hadn't received and it hadn't gone through my counsel.

And I tried to discuss with him...

Q. Was it a return flight?

A. It was a return flight.

Q. So the flight was to depart Halifax December 26th?

A. And it was to return to Halifax on January the 1st.

Q. All right. So why did you not put your son on the plane for that five-day visit with his father in Texas?

A. Because Ryan wouldn't go. On the morning of December 26th ... he's eight years old ... I talked to him and said today's the

day and he just started crying. And I said, okay, well, we're going to call your dad. So we called Mr. Willmore and we spoke to him.

And Ryan spoke to him, and Ryan told him what he thought - would he please come to Canada, he didn't want to go to Texas. And I have that tape recording; I have it with me today. And Willmore refused to listen to his son. His son hung up ... well, didn't hang up, threw the phone to me and started crying.

...

Q. So your eight-year-old indicated that he didn't want to go.

A. No. He didn't want ... he made that clear to his father.

Q. And he was upset.

A. Yes.

Q. And was there any other reason ... did you have any other concerns other than that your child didn't want to go ...

A. Yes.

Q. ... for your reason not to send him to Texas?

A. I have several serious concerns. The first is that over the last ... since May of 2007, Mr. Willmore has not had any ... has had very, very few healthy conversations with Ryan. His conversations with Ryan result in Ryan crying. They result in Ryan hanging up the phone or Mr. Willmore hanging up the phone on Ryan.

Ryan has become really, really upset at times. I had been seeking the advice of a child psychologist, Dr. Nina Wolfe, over how to help Ryan through this difficult time. And she ... after several times that I had visited her, she thought that I should seek a psychologist for Ryan to go speak with, so I did. Ryan went to see Mr. Martin Whitzman.

And you know, the limited ... the telephone access that Mr. Willmore had, had just really broken down. And quite frankly, it wasn't through Ryan's fault. It was through Mr. Willmore's ... he's just so angry, and his inability to speak nicely or kindly that would result in our son just crying. And he became very upset.

He would ... he started to ... you know, he kicked the dog. He'd say how angry he was. He hated his father. All these kinds of things that I don't want him to feel that way. I don't want that kind of contact to be negative. He'd yell at his father on the phone. I mean, it's just ...

Q. So would it be fair to say, then, your reason for not sending him was that you were concerned about your son's emotional well-being?

A. Absolutely.

Q. Do you have any other concerns?

A. And the other concern ... serious concern I have is that I seriously view Gary's access with Ryan as a flight risk. Gary Willmore has multiple passports. He has citizenship in several countries. He works internationally; he has his whole life. He claims to be a former Special Services for the British forces which I believe him to be.

...

Mr. Willmore made it clear last January that his intention was to seek the custody of our son, that his intention was to have our son removed to live solely in the United States, and that all travel documents with respect to Ryan would be in his total possession, and that I would not be able to have the child come to Canada, but the child would have to remain in the United States, or wherever Mr. Willmore wanted him to remain.

And I'm very concerned that Mr. Willmore would take Ryan to one of the countries that he large ... he lives in, he has apartments and he has bank accounts in. He's paid out of England, for instance. He's not even paid in the United States. He has very little ties to Canada and to the United States financially or otherwise, other than he owns some property there that he does go to.

...

Q. Did you have any concern specifically in sending him to Texas other than Ryan's emotional state and the concern that Mr. Willmore was a flight risk and might, I guess, kidnap the child essentially is what you're saying. Is that correct?

A. Those are the two primary concerns. And I'm just very concerned about Ryan's ... Ryan's stated intention is he'd like to see his dad.

...

Q. All right. So you said that there was those two concerns. Was there any other reason why you were concerned about sending him to Texas?

A. I think that that covers them.

Q. Did you seek legal advice in Texas as to whether or not you should be complying with the Texas Court Order?

A. I did. And certainly Mr. Gagnon indicated to me that, you know, a Court Order is indeed a Court Order. He indicated to me, however, that should the child ... well, what I understood was that, should the child be present in that location, that the Court could seize jurisdiction over the child notwithstanding the jurisdictional challenge that's pending, and that all travel restrictions could be placed on the child that Willmore had been seeking a year ago readily, as well as travel restrictions on me to force me to remain

in that state ... well, in that Liberty County, in the County of Liberty, and that I wouldn't be permitted to leave or travel away from that county.

Q. So then is it correct, then, to say that, despite the return ticket, you had concern that the child would not be put back on the plane on January 1st?

A. Oh, I have absolutely grave concerns that he would not. I don't believe he would be.

Q. What access are you proposing that Mr. Willmore have with his child?

A. I'm proposing that Mr. Willmore have access in Nova Scotia, that it be supervised, that he not be permitted to take the child from the province or the child to be placed on a plane to go anywhere. But that that access should be done here. And you know, I'm quite prepared for that access to readily increase here on a supervised basis as Ryan feels more comfortable, if indeed Ryan does become more comfortable.

But that that's ... he hasn't seen the child ... he was here in October for a whole week. He didn't once ask to see the child until the eve of his departure less than 12 hours before he was going. Meanwhile, I had been writing his Texas lawyer asking them to please send Mr. Willmore's proposal, he's going to be here a week, surely he can see his child. He didn't make any effort whatsoever to see his child.

On the eve of the trial, his counsel asked if he could see the child. I said, yeah, communicate with me which was to be ... we always communicated by e-mail. By 9 p.m. that night, I still hadn't received any proposal from them. I took it upon myself to contact their counsel. No success.

I continued that evening and through the next morning. I voice-mailed Mr. Willmore. I text-messaged Mr. Willmore.

(f) In my decision of January 8, 2008 I stated:

Ms. Quigley today applies on an *ex parte* basis for:

A. an Order for Substituted Service on Mr. Willmore. As I've indicated, Ms. Zimmerman, Mr. Willmore's Texas counsel, would not accept service on his behalf. That is part of the December 20th record in the Texas Court. Ms. Zimmerman is Mr. Willmore's counsel in the Texas proceedings.
Mr. Kelly, counsel for Mr. Willmore on the appeal here (on April 10th, 2008) has indicated that he would not accept service on behalf of Mr. Willmore. The evidence before

me indicates Mr. Willmore travels a good deal throughout the world, and service on him would be difficult.

The position of his two counsel in the two proceedings I've referred to does not suggest that he is or has been particularly cooperative in terms of facilitating service, nor for that matter does the fact that he refused to sign the Petition for Divorce upon its service on him in December, 2007.

I am satisfied that an Order of Substituted Service should be granted.

Ms. Quigley asks for substituted service via Mr. Willmore's e-mail address. I am not going to direct that substituted service be effected in that manner at this time. Mr. Kelly is an officer of this Court. He is a lawyer here in Nova Scotia. He is acting for Mr. Willmore in a separate proceeding that will be heard on April 10th of 2008.

It is reasonable for me to expect that Mr. Willmore will have contact with Mr. Kelly over the coming weeks and months, at least until April 10th. I'm ordering that service on Mr. Willmore be effected through personal service on Mr. Kelly.

I want to make it clear that I am not indicating that Mr. Kelly is receiving these documents as counsel for Mr. Willmore in this proceeding. He is receiving the documents in the same manner as a spouse, mother, grandfather, friend would receive them if the Court had a reasonable expectation that that person would have contact with the person who is to be served.

- B. an Order directing that Mr. Whitzman to prepare a report concerning Ryan and the issues of custody and access. Mr. Whitzman is a counsellor who is/was apparently retained independently by Ms. Quigley through an Employment Assistance Plan. That at least is the suggestion made in the December 1st report of Mr. Whitzman that is filed with this Court and is addressed to Mr. Gagnon (Ms. Quigley's Texas counsel at the December 20th, 2007 appearance). This Court has no jurisdiction over Mr. Whitzman at this point in time. Whether or not a report is prepared at this point would be between Mr. Whitzman and Ms. Quigley who apparently retained him. I would make no order of assessment without at least giving Mr. Willmore an opportunity for input to the nature of that report, assessment, and who would prepare the report. The request

for an *ex parte* Order directing Mr. Whitzman to prepare a report is denied.

- C. Ms. Quigley has also made an Application for interim sole custody. The Nova Scotia Court of Appeal in its decision in the **Attorney General of Nova Scotia v. Lohnes** (1982), 30 R.F.L. (2d) 360 indicated:

That it is only in emergency or very unusual circumstances that any matter should be heard by any Court on an *ex parte* basis if the substantive rights of parties are affected. If an *ex parte* Application should be justified, then it is up to the Court to see that the other party receives notification immediately and is given an opportunity to contest the temporary ruling of the Court.

Given the lengthy background to these proceedings and their complexity, it is perhaps understandable why Ms. Quigley wants this Court to act on an *ex parte* basis. In my view, however, this is not an emergency justifying an *ex parte* Order. The child is within this jurisdiction. Mr. Willmore sought and obtained an Order that places the child in the primary care of Ms. Quigley and gave her the authority to designate the child's place of residence. The Texas Court involved with this family has acknowledged that jurisdiction will be taken by a Canadian Court on the custody issue.

There is a February 7th hearing date in Texas arising from the December 20th, 2007, appearance in Texas. Ms. Quigley was represented by counsel at that proceeding.

She and that counsel made undertakings to the Court in that process. A transcript of that proceeding indicates that she and her counsel indicated that she would comply with the Order or expectations with respect to Christmas access discussed at the December 20th, 2007, appearance in Texas (arising from the March 30th, 2007 Texas Order).

Yesterday, on January 7th, 2008, Ms. Quigley filed a copy of documentation from Texas indicating a contempt hearing has been filed for return on January 31st, 2008, in Texas. This contempt hearing appears to arise primarily from the failure of the Christmas access to occur. Mr. Willmore apparently seeks temporary care of Ryan as part of that claim.

Together Ms. Quigley and Mr. Willmore have created a complex situation that has done and does little to advance Ryan's interests. This Court cannot sit in review of the Texas Court. Ms. Quigley apparently had notice of the March 30th, 2007, Hearing in Texas and did not appear. She was present on December 20th, 2007.

In the Texas transcript of that appearance, she agreed through counsel in Court to abide by the Texas Interim Order. She has notice of further proceedings there. Justice Cain of the Texas Court has acknowledged that at some point the Court in Nova Scotia, Canada will maintain "dominant jurisdiction" on the custody issue over the child.

Ryan is entitled to have both parents participate in a process that addresses his best interests. To this point, Mr. Willmore has in part, perhaps because of the *ex parte* nature of the previous proceeding, participated in the Canadian process only to the extent that he challenged (successfully - subject to Appeal) the jurisdiction of a Canadian Court on Ms. Quigley's original Petition for Divorce.

Ms. Quigley has participated in the Texas proceeding only when forced to. I do not have any information beyond some general statements she gave orally in testimony as to what material was before the Texas Court on December 20th, 2007.

How can Ryan's interests be addressed at this point in time?

1. Mr. Willmore should have notice of the process here.
2. The matter will be set down for a pre-trial on February 19th, 2008 at 9:30 a.m. As he resides outside the province, Mr. Willmore is entitled under our rules to 30 clear days' notice of an appearance. If, upon receiving notice, Mr. Willmore and Ms. Quigley agree the matter should proceed on a date earlier than February 19th, 2008 at 9:30 a.m., this Court will do everything it can to expedite that date.
3. Dates for an interim hearing on outstanding issues, be they *forum conveniens* or the issues of interim custody and access or others, will be set from the pre-trial date of February 19th. The dates of March 6th and 7th will be tentatively held on my docket.

Mr. Whitzman's report of December 1st, 2007 indicates in part that: "Ryan is a very mature and articulate young man who loves his mother a great deal and wants to have regular and consistent contact with his father."

There are a number of very important issues at play. They include the concerns and allegations that Ms. Quigley has expressed concerning Mr. Willmore. Access is also a very important issue. It needs to be resolved. I will hold the March 6th and 7th dates on my docket until February 19th. I note that these dates are prior to the Nova Scotia March Break.

4. The multiple proceedings involving Ryan's care must be resolved.

If Mr. Willmore is successful in changing Ryan's primary care in the Texas proceeding, it could lead to a complex inter-jurisdictional dispute. Delay would be inevitable.

If Mr. Willmore objects to the jurisdiction of this Court despite Justice Cain's comments, he will presumably make appropriate motions. If he does not and he wants an opportunity to be heard on custody and access issues in the jurisdiction where Ryan resides (as a result of the Order obtained on March 30th, 2007, in Texas) Mr. Willmore will have that opportunity through the process that is being initiated with this decision.

If Ms. Quigley's appeal of Justice Wilson's Order is successful, it will potentially affect the viability of this proceeding and create further delay and uncertainty.

I have no control over the decisions Ms. Quigley and Mr. Willmore make in this regard, but can only attempt to set a course in this proceeding that has the potential of dealing with the issues the parties put before the Court as they relate to Ryan's care in particular in an efficient manner.

In my view, Ryan does need to be protected and stabilized within this jurisdictional and procedural quagmire. While I am not prepared to make an Order of custody in the proceeding, I am subject to further Order by this Court making an Order providing that Ryan will not be removed from the Province of Nova Scotia by either party unless both parties agree in writing and - I want to be clear that I'm using the word "and," not "or" - and such removal is expressly approved by this Court.

It is not my intent to limit the process in Texas. I have no control over that proceeding or what that Court may impose on Ms. Quigley or Mr. Willmore. If the Court there determines that there should be consequences visited upon either Mr. Willmore or Ms. Quigley as a result of the events in December, 2007 or before, I would express the hope that those consequences would not involve a change in Ryan's primary care. Doing so would potentially complicate an already overly complex proceeding, and inevitably impact on the ability of this Court to move the matter to a full hearing in an efficient and fair manner. It would have the effect of diverting everybody's concerns and focus to technical legal issues about jurisdiction as opposed to the practical aspects of getting on with a determination of issues of custody and access. I am confident that the Court here can, and if the parties allow it will, hear the matters concerning Ryan's care and access in a timely fashion, giving both parents an opportunity to present evidence and put their positions forward. I have focussed on the issue of custody and access here, as that is the issue before me. I

take no view as to the appropriate jurisdiction to hear other issues between the parties. I have referred to the comments of Justice Cain re: custody jurisdiction.

Finally, I am directing that a transcript of this decision and indeed the entire appearance today be prepared immediately, that three certified copies be provided to each party. Six copies will be provided to Ms. Lenehan. She will presumably provide three copies to Mr. Kelly, and I would direct that she do so. I also direct that Ms. Lenehan file copies of this transcript and decision with the Nova Scotia Court of Appeal and with the Texas Court through Ms. Quigley's Texas counsel, Mr. Gagnon.

As to the issue of whether or not this material is appropriately before the Nova Scotia Court of Appeal or the Texas Court, I am confident that those Courts can make that determination independently. My direction is to ensure that, should they wish to have information concerning the events that have occurred today in this Court, that that information is available to them in as full and detailed and accurate a manner as is possible.

- (g) On January 23, 2008 Ms. Quigley hurt her back. The doctor advised that she was unable to work or travel.
- (h) On January 28, 2008 Mr. Gagnon filed in the Texas Court motions “for continuance of both these matters”.
- (i) On January 30, 2008 in Texas Mr. Gagnon filed “a Plea to the jurisdiction and in the Alternative Motion to Relinquish Jurisdiction Based on Inconvenient Forum”. Ms. Quigley had referred on many previous occasions to opposing the Texas jurisdiction. I am uncertain why this motion was filed at this point or whether such jurisdictional concerns had been formally pled in Texas before this, and simply not followed through on, abandoned.
- (j) On January 31, 2008, a motion for enforcement was brought before the Texas Court by Mr. Willmore. Mr. Gagnon, on behalf of Ms. Quigley, made a motion for continuance (based on her having injured her back and having a doctor’s report saying she could not travel until after her next examination, February 15, 2008). The transcript from that appearance includes the following:

MS. ZIMMERMAN: Judge, what happened was I filed a Motion for Enforcement after our last hearing. Obviously because my client still hasn't seen his son - and the Court, when we had - you know, just through the normal process -

THE COURT: Has your client seen his son since?

MS. ZIMMERMAN: No, sir. He hasn't seen his son in almost 18 months, Judge.

THE COURT: Why didn't the visitation take place?

MR. GAGNON: Because I left this courthouse and, as of Friday evening when I left my office for the Christmas holidays, I had received nothing from Ms. Zimmerman that indicated that there was a flight that was going to be returning this child, as this Court had instructed.

MS. ZIMMERMAN: Judge, I have the confirmation here. Mr. Gagnon was notified four days before Ms. Quigley was scheduled to put the child on a flight. I can't help it if he leaves his office at 5 o'clock and turns off his e-mail and it bounces back. I was in a trial all day from 8 o'clock until 6 o'clock on that Friday. The very first opportunity on Saturday morning that I could get that information to Mr. Gagnon, I did.

THE COURT: Hold on.

MR. GAGNON: that's the Saturday before Christmas, Judge.

THE COURT: Hold on. ...I'll give you two options... But you can get on the telephone and come back in this courtroom and tell me, "Judge, we're going to go forward with this trial today," or you're going to say, "My client will buy the ticket and the child will fly down." And at that point I will recess this hearing to a reasonable time in the future to where your client can get a - reasonably priced ticket to come down here and go to work.

MR. GAGNON: Secondly, your Honor, there is an order -

THE COURT: I told you what I'm going to do.

...

MR. GAGNON: Judge, there is an order out of another court which prohibits that child from - or Mr. Willmore from allowing the child to leave the jurisdiction of Canada - ...So, my client couldn't comply with your order if she wanted to, Judge.

...THE COURT: So, you can call your client or refuse to call your client. Doesn't matter to me.

MR. GAGNON: I will call my client, Judge, but I wanted the Court to be aware of the fact that she cannot comply.

THE COURT: She can comply.

MR. GAGNON: Judge, my client can't comply with this Court's order.

MR. ZIMMERMAN: Judge, I would just request a Writ of Attachment or a capias on Ms. Quigley. I have a motion for Enforcement and Motion for Temporary Orders. My Motion for Temporary Orders is on custody. It's - we're asking for primary temporary conservatorship of the child, and I'm asking the Court issue a capias today on the Motion for Enforcement for Ms. Quigley's failure to appear.

...

MS. ZIMMERMAN: Let me tell you, on the capias, Judge, if you will recall, Ms. Quigley stood before you on the last hearing -

THE COURT: She did.

MS. ZIMMERMAN: - AND SWORE THAT Mr. Gagnon could accept service.

THE COURT: Did you serve her?

MS. ZIMMERMAN: Yes.

MR. GAGNON: And was sworn to return on February the 7th.

THE COURT: Okay.

MS. ZIMMERMAN: Yes, she was sworn to return on February 7th, that's correct.

...But on February 7th was for my request for Writ of Attachment on Ryan. I would like to go forward with my temporary orders today, at a minimum, because we do believe that Mr. Willmore should have - should have temporary custody of Ryan at this point.

THE COURT: I'll tell you what I may do is just reset this for the date she's supposed to be back.

MS. ZIMMERMAN: Issue the capias provisionally today, your Honor?

THE COURT: Uh-huh.

MS. ZIMMERMAN: Meaning I could go ahead and - if I think the Court's order is correct, I could get an order issued today for a capias with the provision we're not going to execute on the capias until after February 8th?

THE COURT: Right.

...I am very disappointed that she did not comply with this Court's order though.

...

MR. GAGNON: Judge, I have -

THE COURT: Yes, sir

MR. GAGNON: - yesterday filed an objection to the jurisdiction of this Court, providing Ms. Zimmerman with a copy yesterday.

THE COURT: Filed what?

MR. GAGNON: Objection to the jurisdiction of this Court regarding parent/child relationship matters pursuant to the UCCJA,

and I would ask the Court to give me a hearing date on that motion also, if we could, and I don't have a problem with being heard on the 7th, if that's what the Court wants to do.

THE COURT: That'll be fine with me.

...

MS. ZIMMERMAN: On the 7th, Judge, originally I had a request for Writ of Attachment. That's set. Now I have a request for temporary orders, and that's being set.

THE COURT: Right.

- (k) The Texas Court dismissed Ms. Quigley's request for a continuance and issued a Capias - effectively an Order that she be brought before the Court.
- (l) On January 31, 2008 the Texas Court - the same Court Ms. Quigley had appeared before in December of 2007 - indicated the matter would be adjourned if Ms. Quigley flew Ryan to Texas for access. Through counsel, she indicated she could not - due to my Order made January 8, 2008 (issued January 14, 2008). That Order provided:

4. Subject to further Order of this Court...Ryan...shall not be removed from the Province of Nova Scotia by either the petitioner or the Respondent unless they mutually agree in writing and such removal is expressly approved by this Court.

If the parties had agreed and the Texas Order was "lined up", my Order would not have stood in the way of access there.

FEBRUARY 2008

- (a) The matter returned to the Texas Court on the 7th day of February, 2008. The Transcript from the Texas proceeding includes the following:

THE COURT: Cause No. 72197; Willmore vs. Quigley.

MR. GAGNON: Here on behalf of Karen Quigley.

MS. ZIMMERMAN: Present. Marcia Zimmerman on behalf of Mr. Willmore.

MR. GAGNON: We have a Plea to the Jurisdiction today, which is the initial thing the Court should hear, and we also have a Motion for Continuance as it relates to Ms. Zimmerman's three motions, and we'll present that to the Court when appropriate.

Ms. Zimmerman was seeking an Attachment Order on Ryan (that he be brought to the Court) and temporary custody - in order, it appears, to facilitate the access that was not occurring.

THE COURT: Was your client ordered to be here today?

MR. GAGNON: She was ordered to be here today, Judge, and that's part of our Motion for Continuance.

THE COURT: Is she here?

MR. GAGNON: She is not here.

...

MS. ZIMMERMAN: So, my request for temporary orders, my request for attachment, and the Motion for Contempt. The request for Writ of Attachment has been on file for quite some time, Judge.

THE COURT: Yeah.

MR. GAGNON: Judge, if it may assist the Court, I have a notebook that has the Plea to the Jurisdiction and all the relevant case law.

THE COURT: Wouldn't hurt.

...

MS. ZIMMERMAN: I can respond to it and I have my legal argument and I've researched the law.

THE COURT: Is this a timely filed motion or plea?

MS. ZIMMERMAN: Well, he can bring a Plea to the Jurisdiction in regard to inconvenient form at any time, Judge. But I think the Family Code is very clear as to jurisdiction and -

THE COURT: Well, let me read his motion and then I'll hear your argument.

MS. ZIMMERMAN: Yes...

...(Court peruses file)...

THE COURT: All right. Texas has the dominant jurisdiction in this case. There's no question about that. Your motion is denied. Also, I think if you come in here and you request that this Court relinquish jurisdiction based on inconvenient form, I think you need to come in here with clean hands; and I think based on the actions of your client, your hands are far from clean. Not as an attorney, but I think your client's hands are far from clean in this instance; and therefore, that motion is denied.

...this divorce was filed on November 9th, 2006, and it appears that at the - that Mr. Willmore continued to maintain his residence here, that the child may - may have been moved in May, but Texas retained jurisdiction. And then on that first divorce hearing,

Canada didn't have jurisdiction because she hadn't been a residence for 12 months pursuant to Canadian law. If that's not the Canadian law, then certainly this Court is - is bound to presume that the - that the law of Canada would be the same as the law of Texas, and obviously she hadn't been a resident of - or in Canada for six months. So, either way you want to look at it, whether it's a 12 month requirement or six month, Texas retained jurisdiction.

Now, I respected the Canadian courts, and I allowed - I allowed her to appear by phone in my courtroom, I stopped my proceedings so that Canada could make a decision. And obviously the Canadian judges did the right thing, they followed their law. Now, obviously Texas has jurisdiction and just the fact that she waited until she had been there 12 months and files a subsequent divorce does not strip Texas of jurisdiction.

Now, I think there are temporary orders in place that make her the primary joint managing conservator and give her husband standard visitation for parents more than 100 miles away. I'm respecting her rights as a mother. Just - just based on what I've seen so far, it looks like the child probably needs to live with her, but that child ought to be able to visit with his father, bottom line. Now, if she doesn't respect this Court, that's fine, and she doesn't respect this jurisdiction, then we'll go through the motions and we'll just see how it shakes out. But what she's doing is counterproductive to the well-being of that young man, bottom line.

Now, what motion do we have to go forward on today?

...All right. What are you requesting on the amended temporary orders?

MS. ZIMMERMAN: I'm requesting that the Court make my client the primary joint managing conservator of the child, and I'm prepared to present evidence on the child's best interest, your Honour.

THE COURT: Le me tell you something, just because she's not doing the right thing doesn't mean that I'm going to do what's not right for that child.

MS. ZIMMERMAN: I understand, your Honor.

THE COURT: So, I don't mind you keeping that motion open, but I'm unlikely to make any changes. He ought to have visitation and the child probably needs to live with her.

MS. ZIMMERMAN: Well, your Honor -

THE COURT: I just really don't want to hear it right now. Word to the wise.... Now, I don't mind you going forward on your contempt. Now that's legitimate and I think that needs to be heard.

MS. ZIMMERMAN: Well, Judge, this is the problem on the contempt, for purposes of the record, and for purposes of what the Court of Appeals, I think, is going to be looking at, and that is the contempt was set for last week and you've granted a capias on that.

THE COURT: Correct.

MS. ZIMMERMAN: So, there is my remedy so far, until she's picked up on her capias and brought before the Court to answer the charges of contempt.

THE COURT: then I think you need to look at what it's going to take to enforce that contempt in Canada and compel her attendance here in Texas.

MS. ZIMMERMAN: You mean enforce the capias in Canada?

THE COURT: Yes, ma'am...I've shown a lot of restraint. And there may be a time that I go ahead and go forward without her attendance, but I would like to have her here.

MS. ZIMMERMAN: So, are you recommending that I go ahead and have her arrested?

THE COURT: Yes, ma'am, absolutely.

MS. ZIMMERMAN: All right.

THE COURT: Absolutely. I'll tell you what, she's - she's an officer of the court up there in Canada, and I have great respect for the Canadian courts and the Canadian system and I - obviously she doesn't, but -

MS. ZIMMERMAN: Judge, simultaneously with that capias, could I get a Writ of Attachment for the body of Ryan?

THE COURT: Yes, ma'am.

MS. ZIMMERMAN: Thank you. I have an order.

...

THE COURT: I don't really want to today. I don't want to proceed on any Motion to Modify, if that's what you're asking. Now, if y'all just want to put on some evidence regarding something, I don't mind, but I really don't want to go through the modification until I have your client here.

MS. ZIMMERMAN: The only evidence that I would be prepared to present today would be in support of the modification. I don't think there's any evidence that I need to present in support of my other requests. I already have my capias and the Writ of Attachment is self-explanatory.

THE COURT: And she's not here and the child is not here.

MS. ZIMMERMAN: She's not here and the child's not here.

...

THE COURT: And y'all both approved the order denying the Plea to the Jurisdiction.

MS. ZIMMERMAN: We did.

MR. GAGNON: Yes, Judge.

...

THE COURT: Stewart, just out of curiosity - Marcia, one question - is it your client's fear that he's going to run off with this kid? Is that what this -

MR. GAGNON: No, sir. No, sir.

THE COURT: Then why doesn't she comply with the Court's order and allow him to visit?

MR. GAGNON: We have mental health testimony regarding the best interest of the child is coming to visit with his father anywhere - she's offered to let him visit in Canada....Didn't say that at all either, and that's not her position. She would like to see - she would like to see him -

THE COURT: She would like to see him the way she wants it, I understand that. All right. Get me the order.

MS. ZIMMERMAN: Mr. Gagnon has it, Judge.

MR. GAGNON: I will, Judge. If I could just say, she would like to have a transition period where he reintroduces himself to the child. He has been absent from this child's life before this petition was filed.

...

THE COURT: It's okay. It tells me a whole bunch about her, it really does.

The material I have before me suggests that Ms. Quigley did fear that Ryan would be caught in a jurisdictional tangle in Texas and has, at times, expressed concern that Mr. Willmore would "run off" with Ryan. The only (then current) mental health evidence I am aware of that was available in early February of 2008 was that of Mr. Whitzman, of which I have had the benefit.

- (b) On February 7, 2007 Mr. Willmore's motions for a Writ of Attachment (order that Ryan be brought to the Court) and to Amend the (Texas) Temporary Order (of March 30, 2007) as well as Ms. Quigley's motion(s) re jurisdiction were before the Texas Court. Judge Cain denied Ms. Quigley's motion opposing the Texas jurisdiction, in part as she was not present. He denied her motion for a continuance. He granted Mr. Willmore's motion for a Writ of Attachment re Ryan - ordering that Ryan be brought to that Court. The request to amend the temporary order (changing Ryan's care to Mr. Willmore) was adjourned to April 3, 2008. I have little evidence on what occurred from that date.

- (c) On February 19 an organizational pre-trial took place before myself. Tammy MacKenzie, a lawyer in Nova Scotia had corresponded with the Court on behalf of Ms. Quigley. She appeared with Ms. Quigley. So did Terry Sheppard - another lawyer, from a different law firm. He advised that he would be acting in the future. Mr. Willmore appeared by telephone. So did his Texas counsel, Ms. Zimmerman. There was no objection to Ms. Zimmerman's participation. Mr. Willmore requested a short adjournment to seek advice from Canadian counsel as to whether or not he would participate in the Canadian proceeding - and our March 6 and 7 hearing dates. It was granted - to February 22, 2008.
- (d) On February 22 Ms. Quigley appeared, again with Mr. Sheppard and Ms. MacKenzie. Mr. Willmore again appeared with Ms. Zimmerman - both of them by teleconference. Ms. Zimmerman advised that Mr. Willmore would attend the March 6 and 7 interim hearing. Filing dates were set.

The Appeal of Justice Wilson's decision (finding that Ms. Quigley's first Divorce Petition lacked jurisdiction) was noted to be scheduled for April 10, 2008 here in Halifax.

MARCH 2008

- (a) On March 6 and 7, 2008 the matter came before me. Mr. Sheppard appeared as counsel for Ms. Quigley. Mr. Willmore appeared and was self-represented.

Evidence was heard from Martin Whitzman (a counsellor who had seen Ryan and Ms. Quigley), Jamie Ferguson (an acquaintance of Mr. Willmore and Ms. Quigley), Gordon Helm (an acquaintance of Mr. Willmore and Ms. Quigley), Karen Quigley, Joseph Alley (the Vice-Principal at Ryan's school), Justice J. Edward Scanlan, Cpl. Cory Bushell (RCMP) and Gary Willmore. Some sixteen Exhibits were filed.

The issues at that time were twofold - the question of whether the court takes jurisdiction with respect to making orders concerning Ryan and secondly the issues of interim custody and access.

Mr. Whitzman, a family counsellor, testified the morning of March 6. I have referred to some of his evidence. He saw Ryan, and at times Ms. Quigley. Ryan told him he did not go to Texas at Christmas, that he did not want to go without his mother. He said there's times his father acts "nuts". Ms. Quigley told him there were times Mr. Willmore was volatile, he can be fun, then "be triggered very quickly". Ryan referred to positive calls with his dad.

Mr. Whitzman was clear in indicating that Ryan wanted regular and consistent contact with his father.

The Court directed that Ryan have a visit with his father at noon March 6. Mr. Whitzman agreed to "observe".

Mr. Whitzman commented on the visit (he was recalled that afternoon) (at p. 53):

MR. SHEPPARD: Mr. Whitzman, can you tell us how the visit with Ryan and his father went over the lunch hour?

A. Summary: Ryan was informed that his father was here. He was not surprised when his dad came down the hall. He ran towards him. They hugged. The visit moved downstairs. Mr. Willmore asked Ryan questions. Ryan exhibited absolutely no signs of anxiety, distress. He was calm, he was relaxed, within minutes was sitting on his father's lap telling his dad he missed him. The visit went very well. It ... there were no problems, there were no concerns noted. Mr. Willmore did not say anything inappropriately to his son.

(at page 54)

Ryan and I were alone for a couple of minutes. I turned to Ryan and asked how things were going and he said, "Very, very well. I miss my dad". As I said, there was spontaneous signs of affection and a clear indication that this boy wanted to see his father, was comfortable seeing his father. The visit went until 1 o'clock with no problems noted.

I was advised shortly after Mr. Whitzman testified that the parties had agreed to access - Thursday evening (March 6), Friday evening (March 7), Saturday (March 8).

Ms. Quigley referred to her affidavits (which I have reviewed). She reviewed Mr. Willmore's affidavit - she denied assertions he made that she had applied for classes to allow her to mediate (work) in Texas (she did take a 40-hour mediation/dispute resolution course in Texas - she denied that she had), filled out forms for British and American passports for her or Ryan, intended to work in the U.S.

She described a volatile argument she and Mr. Willmore had had in December 2005 (It appears that this was a key event in the breakdown of the marriage) - he took a job in Baku after that, Ryan finished "school" in Texas. The separation followed.

She indicated that on December 25, 2007 she hadn't gotten the required notice for Ryan's access - and said (at pages 88 - 89):

And then I proceeded to talk with Ryan again saying, Well, you know, you probably could go to Texas but that's sort of what's going to happen now. And Ryan absolutely refused. He said there's no way. He doesn't want to go to Texas. He wants daddy to come and see him here and would I please just get daddy to come and see him here.

So that next morning, I telephoned Gary and I spoke to Gary. And I tried to express to Gary, you know, could we please talk about this, that Ryan is very clear. You know, he's crying. He doesn't want to get on the plane. He doesn't want to go. He wants you to come here. Ryan wants to tell you this himself. Could ... you know, could we please just be cheerful and try to figure out something that will work. And Gary just refused to talk about it at all.

Ryan did have a conversation with his dad and Ryan was trying to talk to his dad and his father wouldn't listen to Ryan either. Ryan ended up in tears and that conversation ended. Gary, in that conversation, just said, I'm ordered to do that and he is going to ... he's been directed to telephone the judge at home if I don't ... the

Texas judge at home and that he's sending U.S. marshals to come and get me. But, of course, that didn't actually happen but it was just very upsetting. And I wanted to try to facilitate something with Gary. He just wasn't ... he wasn't prepared to talk about it.

Ms. Quigley described the start of the legal process (at page 95):

A. When we initially started the legal process back in November of '06, Gary became very, very angry and I ... it was affecting Ryan because Gary was so angry at me that even when he was talking with Ryan, he would say inappropriate things and make Ryan cry. And Ryan was having a really hard time.

So I initially went to see Dr. Nina Woulff and I asked Gary to please come with me. I'd asked Gary many time to please come with me. And I asked ... I told Gary that it would be paid for through the Bar insurance program, that there would be no charge. Gary would not go.

(at page 96)

And Ryan started to act out at school. He started having problems with, like, our own animals at home. He ... you know, he had a little dog named Too-too that he loves dearly. Well, one day he threw him down the stairs. And that wouldn't be like Ryan to do that. And when I asked Ryan, you know, Why would you do that, he would just say he was so angry inside at his father. And so I said to him, Well, you know, we have to find ways, you know, that we don't be angry and it's going to get better.

But it ... anyway, so when I told Nina Woulff about these sorts of things ... I don't know what to do to help Ryan. And I tried to get Gary to help. He just ... he couldn't ... he just ... he wouldn't believe any of this from me. He'd just say it was a lie.

Ms. Quigley spoke of access (at pages 102 - 103):

A. I would like very much for Ryan and his dad to have access. It just ... it has to be safe and it has to be health for Ryan.

...

Q. What efforts, if any, did you make to arrange for some parenting time between Ryan and his dad for this week?

A. Oh! I have repeatedly made efforts with Mr. Willmore for him to see Ryan. The latest efforts ... there were efforts in January 2008 but the latest efforts were either ... I don't know if they were last week by e-mail or this week where, again, it's the same question that I've been asking Mr. Willmore through his counsel since last summer, Please make your proposal about seeing Ryan. Please ... my concerns are that it just needs to be healthy and safe for Ryan.

(at pages 105 - 108)

MR. SHEPPARD: Do you have any specific issues with regards to Mr. Willmore's proposal that he puts in the last paragraph of his affidavit there, Ms. Quigley?

A. Yes, I do have ... I have significant concern about his initial visits being unsupervised with the attached Texas order. And my concerns are ... there are several of them.

The first concern I have is that Mr. Willmore and Ryan have not had successful telephone access for months, one being Mr. Willmore or; secondly, Ryan end up hanging up on each other. Sometimes it's Mr. Willmore, sometimes it's Ryan. And Ryan often results in tears and then refusal to speak to his dad. The last time they had telephone access was late in January. We had two or three calls that went really quite well, I thought, because Ryan finished the call and said ... you know, I would say, How did it go? And he's day, Oh, that was good, mommy. I'd like to call him again. And every day ... every day I ask Ryan, Would you like to call your dad today? And for the most part, Ryan just says, No, I don't want to.

Q. Okay. Let me put this to you then, Ms. Quigley. If the parenting time between Ryan and his dad goes forward tonight, goes forward tomorrow night, goes forward on Saturday, and as Mr. Whitzman has reported to the Court this afternoon it appears to be healthy, Ryan appears to be comfortable with his father, that he doesn't show any kind of anxiety and that Ryan, in fact, now wants to have some contact with his dad ...

A. Mr. Kelly (sic) if I could comment. Ryan does not want to have access with his dad. I want Ryan to have access with his dad. His dad wants to have access with Ryan. My concern is that things seem to unravel between Gary and Ryan regularly that result Ryan in tears where I'm concerned that if it's unsupervised, that Ryan won't be able to withdraw from that carefully or safely.

I know Mr. Willmore to be volatile. Ryan has seen him be volatile. And it can turn on a hat. I mean it can turn on a dime

how quickly that can happen. I mean I observed that happen today in the courtroom. Mr. Willmore became ... was calm and then became hugely volatile. Mr. Willmore's anger is at me but it seems clear to me that he is unable to separate that and Ryan ends up in the fold and Ryan gets the brunt of it.

Q. Okay. So let me get back to my question, though, Ms. Quigley. If those concerns were addressed and it seemed that the parenting time that Ryan was enjoying with his dad was positive and healthy, what concerns, if any, do you have with regards to Ryan being taken back to Texas?

A. I have significant concerns that Willmore would, indeed, take the child ... if it was unsupervised, that Willmore would ... Mr. Willmore would take the child to Texas. Mr. Willmore has made it very clear to me and he repeated it today that he continues to be very angry with me and that he has these applications on April 3rd, 2007 for custody of Ryan, that ...

Q. What's your understanding about ... now, today, about that application on April 3rd?

A. Well, that that goes ahead, that he plans to be before the Court at that time and that it's a custody application for him to have custody of Ryan. He also told me that as of that date, he's filed new charges for kidnaping against me with Ryan and that he also has new charges in Texas for perjury against me. I think he said 13 counts and that that's just the beginning. And he also made it clear that he in no way, shape, and form is going to abandon those.

(at pages 111 - 112)

MS. QUIGLEY: Mr. Willmore has not had an opportunity, largely because of work, to really have a lot of physical contact with Ryan.

With respect to the December appearance in Texas, Ms. Quigley acknowledged:

(at page 134)

THE COURT: Just a moment, Mr. Willmore. When did school resume?

MS. QUIGLEY: I believe it was January 3rd. I think it was January 3rd.

(at page 135)

THE COURT: You indicated to the Court in Texas that school resumed January 2nd ...

MS. QUIGLEY: I did.

THE COURT: ... through your counsel, did you not?

MS. QUIGLEY: Yes. Mr. Gagnon represented that, "Wait a minutes. School resumes January 2nd. You have to return January 1st.

...

THE COURT: Ms. Quigley, when did school ... when did you tell the Court in Texas school resumed? You said school resumes January 2nd through your counsel, did you not?

MS. QUIGLEY: I would have, yes, My Lord.

THE COURT: All right. And it did not resume until January 3rd. Is that correct?

(at page 137)

THE COURT: If we assume that it started January 3rd, would you have checked that when you came back to Canada?

MS. QUIGLEY: Yes.

THE COURT: And would you have corrected that with anybody?

MS. QUIGLEY: I tried to speak with Mr. Willmore.

Ms. Quigley described the evening of March 6 - after Ryan's visit with his father as follows:

(at page 164)

MR. SHEPPARD: What was Ryan like then, Ms. Quigley, after he got home from his visit from ... first of all, let me back up and say did the visit proceed last night?

A. Yes, the visit proceeded.

(at pages 165 - 166)

A. ...And I just said to Ryan, you know, you're going to get to go with your dad to go to a movie, that's great. And Ryan was very excited and upbeat and positive. And my brother came over and I explained to my brother, you know, when Ryan went out to

get in the car I just explained to my brother that, you know, you don't have to sit right with him. You can just ... you could, you know, stay nearby or, you know, play that by ear. But you know, you don't have to hover over them or anything like that. My brother has a good rapport with Gary.

And he said, Sure, no problem, not to be concerned. And so that was fine. And they left. And then about 9:30 Ryan came back to Grandma's house and he was jovial and happy. David, my brother, didn't stay long. He left to go back home shortly thereafter. He said everything went fine. I said, That's great.

And you know, Ryan is a very bubbly, happy young man. And he had said he was excited because he saw daddy twice and that was great. And he said he had hoped that he was going to get to see him again, that maybe he was going to get to go to a basketball game. And that was great.

And then he asked me if we could have a quiet talk. And I said, Sure. So he asked me to go upstairs with him, which is where he sleeps at Grandma's house, and we did. And he ... we lay down and he just was excited and said, you know, Mommy, I had a nice time, it was so nice to see daddy. I'm sorry, this is hard.

Q. Take your time, Ms. Quigley.

A. I ... he said ... I wrote it ... after Ryan and I had this conversation, I wrote a ... I went and I wrote a note for myself so that I could remember exactly what he said. Am I allowed to refer to that?

(at pages 167 - 168)

MR. SHEPPARD: I haven't seen the note, no, My Lord.

THE COURT: Well, I would suggest that you read the note and then you decide whether you're going to ask your client about it. But ... and that gives you, Mr. Willmore, a chance to look at the note and we will go from there.

And Mr. Willmore, in this proceeding there's material from you and there's material from Ms. Quigley that may be technically over the line in terms of absolutely strictly admissible evidence.

If I'm erring anywhere, I'm erring on letting material in so that this is as full a hearing as possible. And we will go from there. I'm going to allow the questions then Mr. Willmore you'll get a chance to ask her questions about the note, if you have any, and proceed from there.

(at pages 169 - 171)

THE COURT: Yes, she can look at the note. Over the noon hour there will be copies made of the note and provided to you, Mr. Willmore, and to Mr. Sheppard for your files.

EXHIBIT 11 - NOTE HANDWRITTEN BY MS. QUIGLEY
(MARKED AND ENTERED)

THE CLERK: Exhibit 11.

MR. SHEPPARD: I'm just going to give you a moment to review that note that ...(inaudible).

A. Yes, this is a note that I made last night after I spoke with Ryan. A few minutes ago I described, you know, that he was ... he interacted with everybody fine, he was happy, he showed me some toys that he had gotten from playing video games and that was great. And then it was getting late, it was time for him to get ready for bed and he said to me he wanted to have a quiet talk, which is something he and I often have before bed, where we snuggle and lay on his bed before I tuck him in.

And so I said, Okay. And we went upstairs to where he sleeps at Mom's. And we laid down. And he said to me he had a great visit with daddy. But he said, Mommy, I'm still a little mad at daddy. Daddy has not been here for one year and three months to see me. And daddy didn't even tell me he was sorry.

And I said to him, Oh, I would ... I said to him, Oh honey, you have to stop feeling mad at daddy. And then he said, But mom, he hurts me. And I said, Well, why don't you try talking to your daddy about your feelings. And he said, No, because he will get angry at me, mommy. He will yell, No.

And then he said, I didn't say anything bad to daddy. I was very careful. And I said to him, What do you mean? And he said, I didn't say your name or Ted's name. And I just said, Oh. I didn't know what else to say.

And then he said, I think maybe daddy still loves me. And I said, Oh Ryan, daddy always loves you, has always loved you. And I always tell Ryan that. And then he started to cry a little bit. And then I hugged him and I said, Come on, let's ... I wanted to change things. Come on, let's get your jammies on and get you ready for bed. Then he cheered up and he said he might get to see his daddy again. He repeated that. I might get to see him at a basketball game and we might have fish and chips at the waterfront. And he was generally excited about that.

And then he wanted ... he said he wanted to know if Uncle David will be there with them. And I said, Well, I'm not sure if he will be. And he said, I know you're not allowed but he wanted to know

if Ted could come, in case. And he said, You know, daddy gets, you know, angry.
And I said, Well, I'll see if someone else ... you know, if someone can go. And then I just wanted to change the subject with him and try to get him in his ... he stopped crying and just kind of get him focused on getting ready for bed with his pajamas on.
And those statements that he made to me are the kinds of statements he has made in the past many times.

The Court asked Ms. Quigley a series of questions (at pages 172 - 174):

THE COURT: Ms. Quigley, you say that ... you've testified moments ago that on December ... in December when the December visit was scheduled to take place, your words were that you hadn't heard from Mr. Gagnon and that the court record in Texas shows that Mr. Gagnon did not receive the airline tickets. Is that correct?

A. That's what I understood from Mr. Gagnon, yes.

Q. All right. If you go to your ... to Exhibit 3, Tab R, this is your ... an attachment to your affidavit. There is an e-mail dated 12/25/07 7:20:30 p.m. Eastern Standard time from Ryan Ross 1999 at yahoo.ca, ryanross1999yahoo.ca is Ryan's account. Is that correct?

A. That's correct.

Q. That note says, "Gary, it's me, Karen. Mr. Gagnon says the tickets are not in compliance and, therefore, Ryan cannot go.

A. That's correct.

Q. You just have testified that you weren't in communication with Mr. Gagnon.

A. No, when I spoke with ... I called Mr. Gagnon after the hearing before I left Texas because I was in Texas. The hearing was on the 20th and on the 21st I was still in Texas and I left on the night of the 21st. When I spoke with Mr. Gagnon at that point, he was leaving for his Christmas holidays and he said the tickets ... I don't have any copy of any tickets for you, Karen, and I will get hold of you if they come. And he did not get hold of me. He did not send me any tickets or tell me that there was other change other than when I left on Friday ...

Q. So you knew on the 21st that he was going on holidays?

A. Yes, I knew he was going on holidays. So did Ms....Zimmerman.

Q. The second sentence of this e-mail says, "Can we talk about an alternative in Texas in Nova Scotia in the next few days?"

A. Yes.

Q. What alternative would you be proposing in Texas?

A. Well, they're nearby to where Gary ... where the farm is in Texas. I have a girlfriend there and ... that I wanted to talk to Gary about. And I have talked to him in the past about this possibility, that if I was to go there, Ryan could stay there with me if he wanted to. It's nearby. It's only a few minutes from where Gary lives at the farm and that Ryan could possibly go back and forth. So that if Ryan wanted to not be staying with his father, he could do that.

(at page 175)

Q. In e-mail account ryanross1999, are you in the habit of communicating with Mr. Willmore through that?

A. Not always, but sometimes I communicate with him through that. Mr. Willmore is under a direction that he's not to contact me directly. So I would contact his counsel, but I don't get any response from his counsel. So there have been occasions where I would communicate to him through this e-mail address. Not very often, but I certainly have.

(at pages 178 - 179)

Q. Ms. Zimmerman participated in the pre-trials in this proceeding before me. And you have complained to the Nova Scotia Barristers' Society about her.

A. I have.

Q. How is that different from Ms. Lenehan's appearing in Texas on your behalf?

A. My concern with the Nova Scotia Barristers' Society, I don't know if Your Lordship got a copy of the correspondence that I sent, my concern was that she intended to appear with Mr. Willmore at this hearing for the 6th and the 7th, or the 5th and ... whatever date today is, the 7th. The 6th and the 7th. And my concern was that she would be appearing with him during those hearings. Because during the pretrial conferences when she participated, she advocated for Mr. Willmore and she indicated an interest in coming to Canada and asked Your Lordship's opinion as to whether or not she would be entitled and she was directed to, you know ...

Q. She did not ask my opinion. She asked me if I knew the rules.

A. Correct.

Q. And she asked ... and I directed her to the Bar Society.

A. That's correct. But I was concerned, Your Lordship, that she still may come. And I was concerned that she had no entitlement to participate and practice law here and she ... that it would just serve to derail, possibly derail, these hearing dates which I dearly wanted to go ahead.

(at pages 180 - 181)

Q. On December 20th, '07, you're in Texas, you're represented by counsel, and Mr. Gagnon says on your behalf to the Court in Texas that you will comply with the March 30th order. Is that correct?

A. I'm not sure what he said.

Q. You're not sure what he said?

A. I'm not sure if he said that or not.

I have referred to the evidence of Mr. Alley (the vice principal) and parts of that of Mr. Scanlan elsewhere in this decision - I have reviewed all of their evidence.

Mr. Scanlan, in his evidence, did refer to and did play a tape of a phone message from Mr. Willmore from June 2007, and other messages:

(at page 236)

(TAPE RECORDING PLAYED)

A. "I don't appreciate the games you guys are playing, so I'll turn it up a little bit on my end."

"And I have the phone numbers for Karen, and I'll start calling there and calling the office."

"Did she tell you she had herpes. If she didn't, she does all over her body."

"Have a nice day, bye." "Have a nice day, bye."

MR. SHEPPARD: ... (inaudible) court clerk have it marked.

A. You may as well take the case for it, as well. I'm sure the government will appreciate it, but it's an old Dictaphone.

Mr. Scanlan described phone calls between Mr. Willmore and Ms. Quigley:

(pages 239 - 240)

A. I witnessed her cry over and over and over again and plead with him over and over again. But I don't remember her ever yelling or screaming, but just simply saying, "Ryan, really wants to see you, please come, we can arrange it, so long as it's safe," over and over again.

Q. Have you had any ...

THE COURT: I'm sorry, what was it?

A. Over and over again.

THE COURT: No, but before that, what did you say?

A. I said she would plead with him to come and she said she's sure it could be arranged so long as it was safe for Ryan. And when I say that, My Lord, I say it in the context of almost ... I won't say almost every, but the vast majority of phone calls that Ryan had with his father, again, you could usually hear Mr. Willmore on the other end. And I tried not to be around and probably missed most of the phone calls, but since I helped facilitate a lot of them I was present for a lot of them and I could hear and see in the vast majority of them Ryan would cry. I remember the first ...

Concerning calls between Mr. Willmore and Ryan, Mr. Scanlan indicated (at page 240):

A. I remember the first time I saw that was when Ryan was talking to his father and made a mistake and said "Ted" instead of "Dad" and I could hear Mr. Willmore on the other end yelling and screaming. And Ryan was saying, "Please, Daddy, please, it was a mistake, I didn't mean to call you Ted, it was a mistake," and he begged him for a minute and a half before Ryan was in complete and utter tears, completely distraught, and simply handed the phone to me and went off crying. And I just simply hung up the phone.

(at pages 243 - 244)

Q. I'd like to ... let's skip by the e-mails for the time being. Have you ... there came a time when Ryan didn't want to communicate with his father, is that right?

A. Probably ... I don't know when it first started, but after ... as I started viewing Ryan, I told you about the first time that Ryan left the phone crying when ... I could only say he was pummelled by his father for making the mistake of calling me ... him Ted instead of Dad. That happened ... similar incidents happened many times in a sequence

following that. For example, Ryan was out skating on the ice and he come in and he wanted to call his father ... at the pond, by the house. He wanted to call his father and tell him how excited he was because Ryan wasn't a very good skater, but he and I were out on the ice. And Ryan started trying to tell his dad about skating on the pond. I could hear his dad ... and again, I was ... I was actually in the other room, but I could hear his father yelling on the phone and saying that the ice wasn't safe. And I could hear Ryan saying, "But, Daddy, it is." And I could hear him, "It's not." And Ryan said, "Well, Ted checked it. It's really good ice, Dad." And in the end Ryan never got to tell him about playing hockey on the ice. Again, he was just pummelled to the point he handed the phone back ... actually I don't think he handed it back. I think he just threw it on the table and ran upstairs crying. So his mother consoled him then.

(at pages 245 - 246)

THE COURT: Mr. Sheppard, I've got no idea as to time or date or approximate of any of this.

...

MR. SHEPPARD: Let me go back over that with you, Mr. Scanlan. When did these ... (inaudible)

A. The ...

Q. ... (inaudible)

A. ... first call I would estimate, and it's an estimate only, where he called his dad Ted by mistake, that would be probably February of 2007. The pond ice thing was probably late February, as well, 2007. The fights about not going to Texas, they're ongoing and probably as late as a month and a half ago started from the first I started hearing Ryan talk to his father. The motorcycle, the most recent event for that was January of '08 where Ryan left the phone crying.

Q. Was there other conversations about the motorcycle ... (inaudible)

With respect to the March 6 visit Mr. Scanlan's evidence included this part of his conversation with Ryan (at pages 249 - 250):

A. Yeah, praising his dad. So ... and I told him how exciting it was, earlier on, that he got to see his dad and how great it was. So then he said about the fish and chips. And he said, "And I might get to go see some basketball too." And I said that's great. And he said words to the effect, and again, I made notes of it almost immediately thereafter. And he said ... okay, now I lost my train

of thought. He said, "I would like you to come to the basketball game, too." And I said, "Well, that might not be the most fun for your dad." And I said, "Why me?" And Ryan said, "Because my dad ..." "Because you're so much bigger and stronger than my dad and he might not be so cuckoo if I say ..." What was the word he used?

Q. Would it have been ...

A. I wrote it in the notes. It's something about ... a trigger word, a trigger word is what he said. A trigger word. And actually before that earlier in the conversation he said, "The visit went really well, I didn't use any trigger words." And I said, "What do you mean by 'trigger words'?" He said, "Mom or Ted, but especially 'Mom', because if I said 'Mom' Dad gets really really mad."

So then he says about ... returning to the basketball game and he said, "If we go to the basketball game, you're really bigger and stronger than my daddy and he will get ... he wouldn't dare get so upset if I use a wrong trigger word like 'Mom'."

“Trigger” is the word Ms. Quigley used earlier with Mr. Whitzman.

(Pages 251 - 252)

Q. And you'd agree with me that is very positive about his time with his father yesterday?

A. He was. The only concern he expressed was in the future not in the past. In other words, he wasn't at all concerned about the visit he had with the Legos and the pizza. Ryan said he controlled it by not using a trigger word and that ... and he had never said the word "trigger word" to me in my life before, by the way. I didn't realize ... well, I realized from the context exactly what he meant but I had never heard him use the word "trigger word".

Mr. Scanlan also referred to Ryan, in July of 2007, telling his mother that Dad was going to have a package delivered. Ms. Quigley interpreted this as a threat.

Finally Mr. Scanlan was asked about traveling to Texas with Ms. Quigley and driving a truck back (at pages 260 - 261):

MR. WILLMORE: The truck and trailer, sir, you came down to my property in Texas and drove it back with Karen, correct?

- A. Ms. Quigley and I were there, yes.
- Q. And you drove it ...
- A. I drove some.
- Q. Okay. What happened to that truck, sir?
- A. It's still at the farm in Milford.
- Q. The maroon truck?
- A. Yes.
- Q. Were you aware that there was a Texas order saying that you were not to remove anything from (the farm?)
- A. No, in fact, I saw an e-mail that Ms. Quigley had sent you before she went indicating that you had agreed that she would get the red truck, the three-horse trailer and the horse that didn't belong to you or her and she was going down to take them back. And that you had indicated in the e-mail that you wanted to keep the blue truck, which eventually was seized by the Scotia Bank and sold ... repossessed because you didn't pay the payments. That was the only e-mail I had and that was the only knowledge I had, sir.
- Q. Are you aware the red truck is my vehicle, it is registered in my name?
- A. Mr. Willmore, if you want me to give hearsay, the only hearsay I had on it was that Ms. Quigley had a truck prior to the marriage. It was sold so the red truck could be purchased and that Ms. Quigley considered it hers.

It is unclear (from the record I have) when this trip occurred.

I have reviewed Cpt. Bushell's evidence elsewhere in this decision.

Mr. Willmore's evidence on March 7 included the following (at pages 326 - 328):

MR. WILLMORE: The purpose of my coming up to this Court in Nova Scotia was to be able to visit with my son. I have proceedings in Texas that will continue to go on. Ms. Quigley and I started these proceedings in Texas and it got out of hand. There's been multiple charges on both sides, and I understand that. I came up today to sit in this Court and ask for standard visitation rights to my son. I've asked Ms. Quigley four times over the last year for the same visitation rights. Ms. Quigley, as far as I am concerned, with Mr. Scanlan have hidden my son from me. They have taken my son away from me. They have lied. They have perjured themselves.

They have done everything in their power to make it difficult for me to see my son, including using the Canadian Court system. They have changed the rules as it's come forward. There's been multiple charges against me up here. There's been multiple charges to keep me out of Canada by Ms. Quigley and Mr. Scanlan.

And I've come up here to sit down and say that I am here to see my son. If this Court wishes to have me here, I came here to do that, sir. The baseline is, as you've mentioned earlier to me, is to see my son. And that is the only reason I am here today.

I have mentioned to Ms. Quigley that there is a Writ of Attachment in Canada ... in the U.S., and I am willing to get that dismissed. The charges against Ms. Quigley for perjury to the judge, I can't do anything about. She lied to the judge. She has to pay the consequences for that.

THE COURT: The Writ of Attachment you referred to is the Writ of Attachment concerning Ryan, is that correct?

A. That's correct, sir. Ms. Quigley has gone beyond. Any time I have brought a lawyer into the picture, she has threatened them with the Bar Association. She threatened my last lawyer with the Bar Association and personally suing him and his company. And my first lawyer, she blackmailed her.

And this is all documentation in the Texas Court. And the last document you have, sir, that I provided shows the letter from Ms. Quigley to Ms. Zimmerman on the Bar Association that's here that I'd like to put into evidence.

(Pages 348 - 349)

Q. You're aware that there was hearings here in Nova Scotia on December 22nd, January 30th, and March 30th?

A. One of the hearings, I was given 12 hours' notice. One ... the other hearing, I think I was given three days' notice.

Q. Okay.

THE COURT: Which hearing were you given 12 hours' notice of?

A. I was in Azerbaijan, sir, when I got an e-mail to say that I'd have to be in Court the next morning.

THE COURT: When was that?

A. The day before the first trial that Ms. Quigley had.

THE COURT: That would be the December 2006 appearance before Justice MacLellan?

A. It was the first ...

THE COURT: The first Canadian Court process?

A. The first Canadian, yes, sir. And I actually filed paper work from Azerbaijan, faxed it to the Justice saying that I was in Azerbaijan, and this is the first time I knew about it. And because it wasn't a sworn affidavit, I understand the judge did not accept it.

MR. SHEPPARD: This is ... I believe it's Exhibit 1, Tab A. There you'll see in paragraph 3, Justice MacLellan set out a parenting time for you and Ryan between the date of the Order which was December 22nd and January 30th.

He says that you'd be entitled to any access visit, a minimum of four hours commencing the day that you arrive in Nova Scotia, and such visit shall be held ... such visit shall be supervised, et cetera, et cetera. Did you exercise that parenting time?

A. It was hard to do that, sir, when I had an arrest warrant out for me by the RCMP.

Q. This is actually in December of 2006. The arrest warrant was in February of 2007.

A. I was in Azerbaijan in 2006 at that particular time, sir.

(Pages 352 - 353)

MR. SHEPPARD: Okay. I'll move on. You would agree with me, Mr. Willmore, that Ryan has hung up the phone on you in tears?

A. Yes, he has.

Q. On several occasions?

A. I don't know how many. I do know that I was supposed to have 165 conversations with him by the Texas Court, and I've had 36 of them.

Q. Of those 36 telephone conferences, then, how many of them would he have hung up - half, more than half, less than half?

A. Less than half.

...

Q. All right. You asked Ryan about his mom and Ted?

A. Yes, I did. And after I received a lawyer in Nova Scotia, I was told not to do that anymore, so I did. I stopped doing that after I received my lawyer's instructions when I first had a lawyer here in Nova Scotia.

(Pages 358 - 359)

MR. SHEPPARD: Okay. You've sent complaints to Ms. Quigley's employer, the Public Service, Public Prosecution Service?

- A. I filed complaints about Ms. Quigley's conduct as a lawyer to the Bar Association.
- Q. Okay. And to her employer as well, the Public Prosecution Service?
- A. Yes, I did.
- Q. And you recognize, Mr. Willmore, that that could have put her employment in jeopardy?
- A. Well, if she'd have told the truth, she wouldn't have had an issue, would she?
- Q. All right. His Lordship asked you if you had ... what passports you had. And if I recall your testimony, you have a U.S. passport and a British passport?
- A. And I have a British passport and a U.S. passport.
- Q. And you're also a Canadian citizen?
- A. No, I'm not.
- Q. What's your status in this country?
- A. None now. It was cancelled.
- Q. What status did you have before it was cancelled?
- A. I was ... up until 2003, I was a resident alien.
- Q. Did you ever receive Canadian citizenship?
- A. No.

(Page 361)

- Q. Okay. You've sent information to *Frank Magazine* here in Nova Scotia about Ms. Quigley?
- A. Yes, I have.
- Q. And the purpose of that ...
- THE COURT: I'm sorry, the answer was?
- A. Yes, I have, sir.
- MR. SHEPPARD: What information have you sent to *Frank Magazine*?

(Pages 362 - 363)

- A. As of about July of this year, yes, I did. I stopped talking to them.
- Q. Okay. And why did you ...
- A. And I was ordered not to talk to them, and I did not.
- Q. Why did you stop talking to them at that point?
- A. Because at that particular time, I did not have a lawyer and ... in Canada.
- Q. You recognized that those articles might be embarrassing to Ms. Quigley?

A. Is that the same articles that she sent down to the people in Texas, sir?

Q. I'm not asking about any Texas articles.

A. No, I'm just asking you the same thing, sir.

Q. I'm just asking you simply about the *Frank Magazine*.

A. Uh-huh.

Q. The information that you provided to *Frank Magazine* that was published in their magazine. You recognized that that would be embarrassing for Ms. Quigley. Simple question, Mr. Willmore.

A. I'm sure it would be.

(Page 369)

MR. SHEPPARD: ... This is in the second supplemental affidavit date-stamped February 28th....

(Pages 370 - 371)

Q. And if you flip over there to the last page of that exhibit, do you agree with me that you left that message on Ms. Quigley's answering machine? "Just to let you know, I'm going to make a call now, and that the fat boy and you have an arrest warrant out for you," et cetera, et cetera.

A. That's correct.

Q. Okay. "I'm going to go all-out on this one." That's accurate?

A. That's correct.

Q. And if you flip over there to the last page of that exhibit, do you agree with me that you left that message on Ms. Quigley's answering machine? "Just to let you know, I'm going to make a call now, and that the fat boy and you have an arrest warrant out for you," et cetera, et cetera.

A. That's correct.

Q. Okay. "I'm going to go all-out on this one." That's accurate?

A. That's correct.

Q. And when you're talking about the "fat boy," to whom are you referring?

A. Scanlan.

Q. All right.

A. Would you like to see the corresponding e-mail that set that off, sir?

(Pages 384 - 385)

Q. Okay. The tape that we played, Exhibit 13 ...

A. Uh-huh.

Q. ... that's your voice?

A. That's correct.

Q. And you confirm, as our witness Mr. Scanlan had said, how he heard that. Do you confirm that that's in fact what you said?

A. Yes, I do. That's to go on the back side of the e-mail that he sent me about him and Karen having a laugh because they thought I was not able to get it up any more, or they didn't know if they were going to bankrupt me first. I believe that document's in one of the files as well, sir.

Q. Who was going to bank ... who was going to bankrupt you?

A. Yes.

Q. Ms. Quigley was going to bankrupt you?

A. Actually it was said that Ms. Quigley and Mr. Scanlan were having a good laugh about it, and they didn't know if I was able to get it up anymore; they'd bankrupt me first. So they were discussing which way they would go. I believe that's in part of the record.

Q. That's an e-mail from whom to whom?

A. That was Ms. Quigley and Mr. Scanlan to me.

(Page 392)

THE COURT: Once the Texas Court orders primary care to her and allows her to designate where Ryan lives.

A. No, I understand that, sir. And I've never contested that, sir. I have no issue with Ryan living primarily in Nova Scotia.

(Pages 393 - 394)

MR. SHEPPARD: Okay. And you agree that Ms. Quigley attempted to contact you last week to arrange for parenting time between you and Ryan this week while you were in Canada?

A. No, Ms. Quigley didn't, sir; you did.

Q. Well, okay. Let me put it that way.

A. And you asked specifically what day ... what time on Wednesday could I see Ryan, and that was straight to the point. Unfortunately, I returned that I didn't think this was right of you. I thought it was up to the Court to decide that information. But I would be in Thursday, and I would like to have seen Ryan Thursday, Friday, and Saturday.

Q. Okay.

A. And I didn't know what time because I didn't know what time the Court was going to be in session. I did not know what the

schedule was at this time. And I believe you got that e-mail, but you did not respond to me.

Q. Okay. And you agree that Ms. Quigley attempted to contact you last week to arrange for parenting time between you and Ryan this week while you were in Canada?

A. No, Ms. Quigley didn't, sir; you did.

Q. Well, okay. Let me put it that way.

A. And you asked specifically what day ... what time on Wednesday could I see Ryan, and that was straight to the point. Unfortunately, I returned that I didn't think this was right of you. I thought it was up to the Court to decide that information. But I would be in Thursday, and I would like to have seen Ryan Thursday, Friday, and Saturday.

Q. Okay.

A. And I didn't know what time because I didn't know what time the Court was going to be in session. I did not know what the schedule was at this time. And I believe you got that e-mail, but you did not respond to me.

Q. Okay. Well, your e-mail basically ... (inaudible) more to be fair, and I would like to have some parenting time on Thursday, Friday, and Saturday. Actually said you were going to ask the Court to have all day Saturday ... (inaudible).

A. That's correct. That's correct.

Q. And it said that you would let the Court decide.

A. That's correct, I did.

Q. So you weren't really willing to enter into any kind of negotiation about that.

A. It was a ploy by yourself and your client, sir, to show that you were going to give me access to my son the day I turned up in Canada. And I understood that.

(Pages 395 - 396)

A. But I do notice in your e-mail, sir, you didn't mention anything about Thursday or Friday or Saturday access.

Q. Right. You're right, Mr. Willmore. But I initially suggested Wednesday on behalf of Ms. Quigley. You said you weren't going to be in town on Wednesday night. You were going to let the Canadian Court decide that.

A. That's correct.

Q. And then said I'm going to ask the Court for Thursday, Friday, and all day Saturday.

A. It was easier for me to ask the Court for access, sir. Then it would have been up and aboveboard.

Q. Do you recall replying to my e-mail response that:

She and Ted tried to have me arrested and put in jail. She has lied to the Court more than once. She has told my son that I was going to have her arrested. She will never let him see or talk to me per the Texas Order.

A. Yes, I did. And as per Cpl. Busby (sic) had mentioned, it was funny that I come into the country after everything had been cleared through the RCMP and the federal government, and I'm also arrested without them even knowing about it.

Q. All right. Let me be clear about what your position is, okay, Mr. Willmore. You're not asking this Court anyways to order that Ryan be in your full-time care, is that right?

A. No, sir, I'm not.

Q. You are asking the Texas Court for that, though, correct?

A. No, sir, I'm not. What I'm asking for, sir, is this Court and the Texas Court, that they come together and give me reasonable access to my son without the interference of Ms. Quigley and Mr. Scanlan.

Mr. Willmore was asked why he did not negotiate with Ms. Quigley re access. I observed during an exchange with Mr. Sheppard (at pages 397 - 399):

THE COURT: [Your] question is all about that. You're asking him why didn't you rely on ... why didn't you negotiate, why didn't you follow through. What ... you know ...

MR. SHEPPARD: My point is ...

THE COURT: He did negotiate. He was told there would be Christmas access; there wasn't. We can blame all kinds of people. We can blame his lawyer. We can blame her lawyer. We can blame her. We can blame him... He doesn't send the notification in a timely way. The registration number, the confirmation number is read into the Court docket or Court record incorrectly in Texas. Everything is tightly on a timeline. I could blame everybody here for all of that. But the bottom line is that neither one of these people are able to rely on the other. That's very, very clear, that they both feel that way.

MR. SHEPPARD: Right. My ...

THE COURT: So when you say, well, why didn't you do this or ...

MR. SHEPPARD: My point with this line of questions ...

THE COURT: You've asked him about four times about this negotiation about Wednesday. He's said he flew in Wednesday night.

MR. SHEPPARD: That's right. I mean, that's a minor point. I'm just ... my only point that we attempted to negotiate. His response was, well, you did, but it was just a ploy on your part to be able to say that you did.

...

MR. SHEPPARD: ... My point, however, is that there's no negotiating with Mr. Willmore. It's the Texas Order, and that's it. That's what I've been trying to establish.

THE COURT: And he would say there's no negotiating with your client. It's supervised access, or that's it. Here.

In my decision of March 7, 2008 I concluded that I had jurisdiction to deal with Ryan's custody and access. I concluded:

(at pages 436 - 437)

So my jurisdictional findings are, to summarize, based on the following:

- (1) Ryan lives here, goes to school here, and has done so for a timeframe approaching two years; this is where the Hearing should be; there are significant issues with respect to access; if access needs to be enforced, this is where it can be effectively enforced;
- (2) The jurisdiction under the second divorce petition has been issued; and
- (3) There is *parens patriae* jurisdiction, as I have referred.

The issue before me is a question of making an Interim Order. There will be an Interim Order issued from today. The Interim Order will provide that Ryan be in the sole custody of Ms. Quigley. Her care or primary care of Ryan is not disputed by Mr. Willmore except to the extent that he opposes the problems he has had from his perspective in exercising access.

As part of her responsibility as a custodial parent, I am going to direct that Ms. Quigley prepare at the end of this month and at the end of every month until the Court otherwise orders, a brief summary or report of Ryan's activities and interests for Mr. Willmore - that is, both covering Ryan's activities and interests over the past month, and what he is doing in the coming month or months.

(Page 437)

This is a situation that needs control more than it needs anything else. It needs to move forward. There are complaints back and forth to professional organizations concerning various individuals

who have touched this conflict. Those range from judges to lawyers.

(Pages 438 - 439)

With respect to access, until yesterday there had been no face-to-face access between Mr. Willmore and Ryan for an extraordinary length of time, well over a year. Ryan's interests, in my view, dictate that we move to access or to more normalized access be stepped. I believe also that the record demonstrates that it should be subject to control and review by the Court.

The access, as I understand it, has now been agreed to be from approximately, and I apologize, I have from 6 to 8:30 or 6:15 to 8:30 tonight. It's now quarter to 6. Perhaps what we'll say is 6:30 until 9 o'clock...

THE COURT: Today is Friday. On Saturday the access ... tomorrow, Saturday, the access will be from 12 o'clock until a time between 8 and 8:30. I have discussed with the parties the pick-up and drop-off with respect to both.

With respect to tonight, the drop-off will be at the East Side Mario's Restaurant at the Micmac Mall. Mr. Willmore will ensure that he is there at 6:30 and he will ensure that Ryan comes out that exit at approximately 9 o'clock.

With respect to tomorrow, Mr. Willmore will be having coffee at Perk's coffee shop at the Halifax waterfront at 12 o'clock. Ryan will be dropped off and enter. After the basketball tomorrow night, Mr. Willmore will walk Ryan down there, visually identify that either Mr. Scanlan or Ms. Quigley or a relative of Ms. Quigley's is in the coffee shop and ensure that Ryan enters the coffee shop.

(Page 440)

With respect to April, I am going to suggest that Mr. Willmore, if he is able, that he have access with Ryan from 3 p.m. on April 7th which is a Monday to 7 p.m., from 12:30 on April 8th to 8:30 p.m., that there be an attempt to make an appointment with Mr. Whitzman on April 9th for Ryan. That Mr. Willmore have access with Ryan again on Thursday, April 10th, the day of the appeal I have referred to, from 3 p.m. to 8 p.m.

And that this matter be scheduled for a review in this Court on the morning of Friday, April 11th and that Mr. Willmore have

access with Ryan on Friday night, April 11th to Sunday morning, April 13th. That would be the first overnight access in the matter.

We would address the matter of summer access on April 11th. Mr. Willmore, if you are unable to come earlier that week in April, then obviously the access will not occur. If your work dictates that you are unable to come, I am not going to make any assumption any way about it.

(Page 442)

I have considered the evidence that the parties have given. Much of it relates to the relationship with each other. Some of it relates to Ryan. I have considered in particular the anxiety that has been described by Mr. Scanlan and Ms. Quigley that Ryan has around some of the visitation. I have also considered the very, very clear evidence of Mr. Whitzman, indicating that Ryan wants to see and have a relationship with his father.

In the circumstances at this point, I think the access I have ordered is structured, it is limited, and it gets things moving after they have been stalled for an extraordinarily long time.

(Pages 443 - 444)

With respect to Ryan's custody and access, the *forum conveniens* is Nova Scotia.

I want to be very clear, I am, as I indicated in my other decision, making ... I have no control over the Texas Court, nor do I want any control over the Texas Court or the proceedings there. The Texas Court, I believe, has been concerned with getting or re-establishing Mr. Willmore's relationship with Ryan. Again, I believe that we've started that and we'll continue to move forward on that.

(Page 445)

I consider myself seized with the matter. I'm adjourning the interim custody and access matter for review. We will also address the issue of trial dates when we come back April 11th. We will either have a decision from the Court of Appeal or we will have a reserved decision from the Court of Appeal, and we'll deal with the matter accordingly.

- (a) The matter came back to this Court April 11, 2008, the day after the Appeal Court hearing. The parties appears - Ms. Quigley was represented by Mr. Sheppard, Mr. Willmore was self-represented.

The following Conference Memorandum issued summarizing the appearance:

DISCUSSIONS HELD AND CONCLUSIONS REACHED

1. Mr. Sheppard indicated that the appeal before the Court of Appeal was dealt with yesterday, April 10, 2008. The appeal decision has the effect of
 - (a) confirming the decision of Justice Wilson of this Court of October 22, 2007 finding that the previous Divorce Petition filed by Ms. Quigley (No. 1201-061186) on November 6, 2006 was void;
 - (b) leaving in effect jurisdiction under the *Matrimonial Property Act* exercised by Justice MacLellan of the Nova Scotia Supreme Court (filed November 6, 2006) and in particular clauses 2 and 3 of the Order of Justice MacLellan of February 1, 2007 which provide:
 2. Under Section 11(1)(e) of the *Matrimonial Property Act* any and all interest, including matrimonial interest, Gary Willmore has in the real property located at 1822 Highway #2, Milford, Nova Scotia shall for all purposes be immediately released and conveyed from Gary Willmore to Karen Agnes Quigley, subject however to Gary Willmore's right to claim against Karen Agnes Quigley for the value of said interest or as a credit in the final settlement of the property matters between the parties.
 3. This Order shall be subject to and capable of registration pursuant to the provisions of the *Land Registration Act* of Nova Scotia and/or any other applicable legislation required to give the conveyance from Willmore to Quigley full force and effect.
 2. The divorce proceeding in Texas is scheduled to proceed on May 7, 2008.
 3. Mr. Sheppard sought the granting of a divorce (under file 1207-003129) today. The Court was not prepared to do so.
 4. Mr. Willmore was directed to file his Answer (with this Court and Ms. Quigley) in this Divorce proceeding (including income tax returns and current financial information detailed below), pleadings under the *Matrimonial Property Act*, and the custody proceeding under the *parens patriae* jurisdiction on or before May 23, 2008.

5. The final trial dates in these proceedings are scheduled for December 1, 2 and 3, 2008 in this Court.
6. Mr. Sheppard may file an application under the *Maintenance and Custody Act* asking that it be joined with this proceeding. This may be a source of jurisdiction on custody and access issues if this Divorce proceeding is affected by the Texas proceeding.
7. Mr. Sheppard sought to have the Texas order respecting child support be payable through the Nova Scotia Maintenance Enforcement Program. This Court does not have jurisdiction over the Texas Child Support Order.
8. Mr. Willmore filed with this Court certified copies of two Orders from the 253rd Judicial District, Liberty County, Texas, U.S.A. - each dated March 31, 2008. The Orders state respectively that
 - “the capias . . . directing that the Sheriff or peace officer take the body of Karen A. Quigley be and is hereby withdrawn and of no force and effect.”
 - “the Writ of Attachment . . . commanding that the Sheriff or constable take Ryan Ross Quigley Willmore, a child, and deliver him to the possession of Gary Willmore be and is hereby withdrawn and of no force and effect.”
9. Mr. Sheppard questioned whether Mr. Willmore held a Canadian Passport. Evidence was heard from Mr. Willmore confirming that he does not own a Canadian passport in his name or any other, that he will advise Mr. Sheppard should he seek one during the course of these proceedings. He stated that he does not have a Canadian citizenship. Mr. Sheppard requested that Mr. Willmore's passports be photocopied and kept sealed in the Court's file to be addressed at a later date. Mr. Willmore consented. A copy has been retained in the Court file. Mr. Willmore's passports were turned into this office April 10, 2008 and were released in a sealed envelope to Mr. Sheppard today, to be returned to Mr. Willmore on April 13, 2008 (Mr. Sheppard will make arrangements directly with Mr. Willmore).
10. Mr. Willmore requested that Ryan Ross Quigley Willmore's passport be turned into the Court and held until the next proceeding. The Court so ordered. Ms. Quigley shall turn Ryan's passport into this Court before the end of the work day on Monday, April 14, 2008. There is now no restriction on Ryan's travel within Canada - with either party. Neither party shall remove him from Canada (subject to further order in June, 2008).

11. Summer and ongoing access remains in dispute.
 - (a) Mr. Willmore is seeking one long weekend access per month (which would be in Nova Scotia) and four weeks of summer access (in Texas). Ms. Quigley is opposed to access in Texas. She suggested that summer access be one week in July (after July 7, 2008) and two weeks in August (before August 23, 2008). It appears that the long weekend access in Nova Scotia is not in dispute.
 - (b) The interim access issues (including summer access) are scheduled for hearing on June 2, 3 and 4, 2008 commencing at 10:00 a.m. each day.
 - (c) By May 1, 2008, Mr. Willmore will file an indication as to the details of his proposed summer access - what he is seeking, whether he intends to be off work for the four weeks, whether or not he wants the four weeks consecutively, what arrangements for Ryan's care are made if he is working during that access, or a portion of that access, and "alternative arrangements" if access is in Nova Scotia or in the United States.
 - (d) Both parties will file any written material they wish to put before the Court at the June hearing by the close of the workday May 28, 2008. This material will include their proposals for summer access, and other access prior to the December 2008 trial dates. It will also update this Court on any further proceedings, orders made in Texas.
12. The Divorce hearing herein and all other issues are scheduled for final trial on December 1, 2 and 3, 2008 (following receipt of the custody and access assessment from the IWK Assessment Services).
 - (a) The Court directs that Ms. Quigley file an affidavit outlining in specific terms what matrimonial property was held in Nova Scotia and whether or not it has been disposed of and how - to be filed with the Court and Mr. Willmore (through Ms. Zimmerman) by April 24, 2008. That affidavit shall also address the personal items Mr. Willmore seeks to have returned to him.
 - (b) The Court directs that Mr. Willmore file with this Court and Ms. Quigley's counsel:

- (i) by April 18, 2008, Mr. Willmore will file a list of personal possessions he seeks to have returned to him by Ms. Quigley.
 - (ii) On or before May 23, 2008, Mr. Willmore shall file his Answer to the existing Canadian divorce petition and pleadings under the Matrimonial Property Act or other proceedings, including the Court's having taken jurisdiction under the *parents patriae* principle. That affidavit shall also disclose his income tax returns for 2005, 2006 and 2007, and his current income.
13. Telephone access for Mr. Willmore, his sons residing in Texas and Ryan has been arranged for Saturday mornings.
 14. Mr. Willmore indicated that he will be making applications with respect to civil rights violations and the Hague Convention.
 15. Court orders the transcript be prepared from today's proceeding, to be provided to both parties.
 16. The matter returns for hearing on interim access issues on June 2, 3 and 4, 2008, commencing at 10:00 a.m. each day. All other matters will be dealt with at the trial on December 2, 3 and 4, 2008. The June dates will be used to pre-trial or schedule a pre-trial for the final hearing dates and, if necessary, schedule further interim hearings.
- Pursuant to Rule 26.01 (2) this memorandum has the same force and effect as an order.

At one point during this April 11th appearance, Mr. Willmore, obviously frustrated, referred to making applications apart from this Court (Hague Convention, Ottawa references) to try to secure Texas access.

Mr. Willmore had, during his March access with Ryan at Mic Mac Mall, bought him a cell phone. Mr. Willmore's telephone contact with Ryan improved following this. Mr. Willmore also wanted Ryan to have telephone contact with his half siblings in Texas (aged 15 to adult). I am not going to attempt to manage that issue any further in this decision. That should not be seen as this Court feeling it is unimportant - more it is a recognition of the limits of this proceeding at this time.

- (b) The Texas divorce (scheduled for May 7) was apparently adjourned to August 2008. Mr. Willmore did not file an Answer in this proceeding as

directed. Ms. Quigley filed no application under the *Maintenance and Custody Act*.

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[36] The matter returned to this Court on June 2, 3 and 4, 2008. Ms. Quigley advised the court in early May she was self represented. No notice was filed to this effect until after the hearing. Mr. Sheppard had e-mail correspondence with Mr. Willmore well into May. Mr. Sheppard thought he was still acting. Ms. Quigley appeared on her own.

[37] At the start of the hearing there was discussion of service on each other. Ms. Quigley did not want Mr. Willmore communicating with her, and it became clear there were difficulties with Express Post packages to Mr. Willmore if he was not present, was working overseas. Some of the material filed by Ms. Quigley was not received by Mr. Willmore until he came to court. Mr. Willmore was also self-represented.

[38] Mr. Willmore objected to the Affidavits filed by Ms. Quigley - sworn May 21, 2008 and May 30, 2008. He objected to their content, to hearsay within them. He objected to the lateness of her May 30th Affidavit. I have admitted the Affidavits and the material he filed. I have disregarded portions of the Affidavits that are improperly before me.

[39] The evidence heard on June 2, 3 and 4, 2008 included:

(a) Mr. Scanlan's Affidavit of May 20, 2008. It was objected to by Mr. Willmore at this June hearing. I have chosen to admit the Affidavit. That said, it is of very limited utility to me for the following reasons:

(i) It inappropriately contains opinion:

para. 2

...I am satisfied that he has sever [sic] psychiatric problems...

para. 4

...I make these comments only to highlight to the court that Mr. Willmore is prepared to lie to the court and has lied repeatedly in the past.

para. 5

That I am convinced that Gary Willmore has severe [sic] psychiatric problems that that it manifests itself in many ways including a need for absolute control of those close to him. That I do not make this as a statement of opinion but only to set the stage...

(ii) It is not consistent with my view of the record:

para. 14

That I volunteered to participate in the IWK assessment when Mr. Willmore made it a precondition to his participation.

Mr. Willmore agreed to take part in the assessment when asked by the Court. Mr. Willmore made no reference to Mr. Scanlan when he did so. Later when cross-examined by Ms. Quigley's counsel he again agreed - the exchange with Mr. Sheppard was as follows:

Q. If you have to take time off...to come up and meet with the Assessment Services, are you willing to do that?

A. I am, sir. I just need to know the times for schedule.

Q. Okay.

A. And I'd also ask that since it's a three way party here that Mr. Scanlan be involved in that.

THE COURT: So, is Mr. Scanlan nodding his head affirmatively? (from the back of the courtroom)

Mr. Scanlan: I'd be glad to sir.

MR. SHEPPARD: That's fine.

A. I have no objection to this whatsoever, sir...

That was not, in my view a "precondition".

(iii) It makes statements of belief without identifying the source:

para. 13

That I am informed and verily believe....

- (iv) It contains conjecture that is not properly evidence before the court:

para. 14

...Although some might think it of concern that the court has ordered access including overnights and is considering perhaps even extended summer access with Ryan before the IWK assessment has been completed I make no such comment. I do say that Karen Quigley has stated to me that she is accepting of the power of the court to make such orders and has offered compromised solutions in an effort to limit harm or risk to Ryan...

Ms. Quigley's motivations should come from her. Ms. Quigley's position on summer access has been for a separated one-week, then two-week period of access in Nova Scotia.

para. 12

I was present in court before Justice Williams when he chastised both Ms. Quigley and Mr. Willmore suggesting that this case was one where he considered having Children's Services involved and he suggested both parties have been unreasonably litigious. It is not clear what evidence the court was referring to in that regard nor what part of the litigation the court was suggesting that Ms. Quigley should have foregone...

My comments with respect to child welfare involvement were made at the conclusion of the March 6 and 7, 2008 hearing. I do not agree with Mr. Scanlan's characterization of my comments. They were as follows:

...I have attempted to be generous in allowing the parties to explore the past. I know that I've been impatient at times. And to the extent that I have been, I apologize.

I am very concerned about Ryan's welfare in this situation. I think the conflict between the adults here is...perhaps approaches the most serious I have seen. ...I've not seen anything like this before.

I have given serious consideration to making a referral to child welfare authorities. I've decided not to do that, in part because I am ordering an assessment. And I believe that will play itself out. If the conflict continues that's where this is headed. There's not a doubt in my mind...

- (v) It contains hearsay:

para. 16

That since the last appearance in court in Nova Scotia Ryan has told me that Mr. Willmore says...

- (vi) In this Affidavit, Mr. Scanlan puts forward his view of examples of irrational, lying or controlling behaviour by Mr. Willmore related to Ryan - paragraph 5:

5. That I am convinced that Gary Willmore has severe psychiatric problems and that it manifests itself in many ways including a need for absolute control of those close to him. That I do not make this comment as a statement of opinion but only to set the stage as to evidence of things MR (sic) Wilmore has done to exert control or abuse that is inflicted by Mr. Willmore on a regular and continuing basis. He acts irrationally in his dealing with his son Ryan and Karen Quigley. As examples of irrational, lying or controlling behavior related to Ryan I note the following:

a) That the court had ordered that Ryan's access be facilitated by Mr. Willmore dropping Ryan at the door of Perks and then leaving. Instead of leaving Mr. Willmore came into Perks where I was waiting and immediately ordered hot chocolate for Ryan. Mr. Willmore also asked to shake hands and proceeded to tell me that everything was good between he and I. I did not leave but sat for Ryan to have his hot chocolate so as not to upset Ryan because Mr. Willmore had gone directly to the

counter and ordered the hot chocolate before he even approached me. Ryan began to explain to his father about a fishing trip Ryan and I took in the summer of 2007 on my brother's boat. Mr. Willmore explained how big a yacht (sic) he had in Texas and Ryan said my brother's fishing boat was bigger (it is a 46 foot commercial fishing vessel) Mr. Willmore then said he had an even bigger yacht (sic) in New York, having bought it last year and he was just keeping it there for now. I do not believe Mr. Willmore but I let it go without saying a word. I basically remained silent as I just wanted to get out of there without upsetting Ryan as I wanted his experience with his father to be as positive as possible.

b) That a couple of days prior to Easter Ryan said his father told him that he had sent him Easter presents but they would be late getting there because of the mail. A subsequent message came in the form of an email as attached hereto **Exhibit B. and which Ryan read** saying that a card had been sent late but would get there. During the couple of access days Ryan was with his father Mr. Willmore spent perhaps as much as \$1,000 on Ryan. Ryan confirmed that his dad bought him just about anything he wanted. Ryan then said, some of that was Easter stuff, **and that Dad never said that the Easter gifts or a card had been mailed.** I am concerned that Ryan seemed to want to change his storey to make it look like his Dad did not forget his Easter but planned to give him gifts when he arrived. There never were any Easter gifts or card received in the mail.

c) That another example of Mr. Willmore's irrational behavior was that when Ryan returned from his overnight visit as noted above Mr. Willmore gave me three large live lobster and five pounds of live mussels. Ryan was explaining to me at the same time how nice his father was and that we could now be best friends. I first said we did not need the items but then I took the seafood so as not to make Ryan upset. As Ryan got into the car Mr. Willmore then told me to tell Karen "Karen had better come to Texas for court." I told him that I would pass the message on but that so far as I knew

she would be imprisoned if she went to Texas and she was totally broke and could not afford to travel to Texas. I then left with Ryan.

d) That the court directed that Mr. Willmore's children could call Ryan at 12:00 on each Saturday. Every Saturday since that direction was given I have been with Ryan at that appointed time as we were busy doing things together. At first, each Saturday when Mr. Willmore's children did not call Ryan would call his father and let him know later in the day. Eventually Ryan would also call in advance and say this was the day for them to call. That on one particular Saturday (April 26th I believe) Ryan carried his phone with him the entire day waiting for the calls and none were received. The next day I was present **when Ryan called his father** and his father said to Ryan that the boys had all in fact called. I could hear this entire conversation because it occurred in the tractor where Ryan and I were in the confines of a small cab. Ryan's phone displays all calls that are missed and there were no missed calls on the Saturday in question. That over the next week or so I was present on a number of occasions as Ryan walked around the house talking to his father. On one occasion I could hear Mr. Willmore speaking loudly enough that I could hear it perhaps ten of (sic) more feet away. Mr. Willmore was insisting the boys had all called Ryan on the Saturday before, Ryan insisting they had not called. **It was a topic Mr Willmore would bring up at the beginning of each conversation** as Ryan would say "hello" then pause and then say words to the effect, "Dad they did not call" Ryan was reduced to tears on this issue more than once and finally after about four days he said "Dad they did not call and you might as well stop talking about it because what you say will not make it different". Ryan has only raised the issue with me once since then saying "Daddy lies a lot and he lied about the phone calls from Tyler and Mark and Lee". I simply told him it was something he should discuss with Mr. Whitzman who had an appointment to see Ryan a day or so later.

e) That I was present on two occasions when Ryan did talk to his step brother Tyler. On one

occasion Ryan was on the phone and held the phone away from his mouth and said “Tyler is saying he will not talk to me unless Dad buys him a car.” On the second occasion there was a conversation of about one minute and immediately after it ended Ryan said “Tyler did not want to talk to me but Dad made him.”

f) That as noted above Ryan’s phone displays all calls missed. If Ryan is not present when his father calls Mr. Willmore will often call six or eight times in a row. I often heard Ryan trying to explain to his father that he does not carry his phone all the time because he may lose it and he is not allowed to take it to school. On some occasions calls come during school hours, especially just after Ryan got the phone. I believe a cell phone is a positive thing for Ryan so he can talk to his father whenever either one of them wishes and as either one can call the other yet Mr Willmore is not able to leave harassing messages for Ms. Quigley or myself as he has done hundreds of times in the past. Mr Willmore and Ryan had talked often daily and until recently had missed only a few days since Ryan got his cell phone. That has changed in the last couple of weeks in that Ryan often now says he does not want to call his father and things such as **he does not want to argue with his dad** so he does not want to call. That instead of the cell phone being a positive means for Ryan to have easy access with his father it is becoming something of a chain to Ryan so that if he is not there to answer as soon as his father calls there is tension immediately thereafter. Ryan now often opens his conversations with his father saying eg. “Dad why did you call me eight times when I told you I would be fishing and out of range yesterday till evening” Ryan is having difficulty dealing with his father’s attempts at control.

g) That during his last visit Mr Willmore gave Ryan a small chain and medallion telling Ryan, according to Ryan, that he did not have it off his neck for, I think it was 27 years, and that Ryan should never take it off. Ms. Quigley I understand will attest to the fact Mr Willmore had never worn that chain and medallion in the many years of their relationship. I don’t know personally one way or

another but I am concerned at what transpired in relation to the chain and medallion in the several days following. Ryan went swimming on the day he got the chain as we, or Ryan and his mother, usually do each Sunday evening. Ryan took the medallion off before he went in the pool so as not to lose it in the pool. I believe he put it in his swimming bag. I did not know anything of the story and did not pay much attention other than to hear Ryan say he did not want to lose the medallion in the water. Over the next few days I overheard some parts of the conversations Ryan had with his father and Ryan kept saying he was not sure where the medallion was. I could tell the conversation was not going well for Ryan as even when he tried to end the conversation about the medallion it would go on for many more minutes. Finally after a few days I heard Ryan crying after he talked to his father saying he had to lie to his father and say he found the medallion and chain so as to have dad stop going on about it. Ryan was very upset that he felt he had to tell a lie and he cried for some time.

I do not share Mr. Scanlan's interpretation of these events - some do not involve Mr. Willmore directly (the example of calls from Tyler), the others are not, in my view, "examples of irrational, lying or controlling behaviour". The Affidavit suggests Mr. Scanlan almost monitors Ryan's telephone calls with Mr. Willmore.

- (b) The following evidence from Mr. Scanlan on June 2, 2008 (under questioning by Ms. Quigley):

(Pages 35 - 36)

A. Since this Affidavit was sworn, at least I believe it is, Ryan was going with me to my camp for an overnight visit, something he likes to do. He was in the midst of phoning his father as we were ready to depart and actually continued his phone call as we got in the truck to leave.

(Pages 37 - 39)

Q. And that would be the 24th of May?

A. The 24th, I think it is. Yeah. Okay.

So Ryan was talking to his father. I actually wasn't present for most of the conversation and was outside packing up the truck. And Ryan come over to me and asked me how tall he was, and relayed that back to his father. Apparently his father asked him how tall he was, and Ryan came and asked me.

So Ryan took his cell phone in the truck with him, told his father that he wouldn't be available because he'd be out of range on Sunday.

Q. What do you mean by being "out of range"?

A. There's no cell phone coverage at the camp. But he did tell his father that he would be in range - this would be just before lunch time on Saturday.

Q. On that Saturday?

A. Yeah. And - but he did tell his father he'd be in range 'til mid or late afternoon. And that was it in terms of the conversation.

Ryan took his cell phone, put it on the dash of the truck. I asked him to put it in the phone case that was there. And I did note Ryan playing with his phone from time to time as we went to the camp, and...

A. And when you say playing with his phone, what would he be doing with it?

Q. There's games on his phone.

And didn't notice until we got back from the camp the next day, I think it was, that the cell phone was not in the case on the dash. I looked twice through the truck, search every place, every compartment, everything there was in the truck, could not find it.

Realized that Ryan - Ryan's dad would not be able to call him, so I believe it was on that occasion that I actually asked Ryan to - 'cause Ryan would then call using my cell phone to his father. And I asked Ryan to mention in the phone call, the first phone call immediately thereafter, that he had lost his phone and that if his father wanted to call, he could call using my number.

And I then - just as Ryan got his father's voice mail and he handed the phone back to me and said, "You tell him", so I simply left a message saying if his father wanted to get in touch with me - with Ryan, rather, that he could call my cell phone that night.

Q. Mr. Scanlan, I want to back you up for a minute.

Can you comment on when Ryan realized that he lost his cell phone or that he'd misplaced his cell phone?

A. I think it was around the same time, Monday, maybe Tuesday. I'm not sure. Maybe it was even Sunday when we come back.

Q. And can you comment on Ryan's reaction when he misplaced his cell phone?

A. Oh, Ryan was very upset. In fact, I know that a subsequent phone call he had with his father - I didn't hear the phone call, but I heard Ryan say afterwards, "I couldn't face my fear and tell my dad that I lost the phone."

Q. Did...

(Page 40)

Q. Did Ryan offer you any assistance in looking for the cell phone?

A. Oh, yes. Ryan and I searched the truck up and down. We've not been back to the camp. The camp is an hour and a half, hour and 45 minutes each way to drive there, and my work schedule and Ryan's school schedule, et cetera, has been such that I just haven't had time to go back, so it may well be at the, at the camp.

So - and I think I text Mr. Willmore once or twice on that as well saying that if he was trying to contact Ryan - but I text him once before when - so I may be confusing the two.

(Page 42)

Q. Mr. Scanlan, there have been allegations from Mr. Willmore concerning that you have interfered with Ryan's telephone access with him. Do you have any comment regarding that?

A. I have never interfered with Ryan's - intentionally interfered with Ryan's access, telephone access, with his father. I know one day last week I come into the house, didn't know Ryan was talking to his father, and asked Ryan where he was in the house and Ryan came running out of the washroom with his pants down around his knees, actually, said, "Shh, I'm talking to my dad."

If anything, I have gone to great lengths to try and have Ryan call his father as often as he might want to, but quite often he says he doesn't want to.

(Page 45)

Q. Mr. Scanlan, at paragraph 6 of your Affidavit, in that paragraph, you commence that paragraph by describing Ryan as usually happy - very happy young boy. Can you describe what, if anything, you may have observed that would disrupt Ryan's otherwise description that you've depicted in that paragraph 6?

A. I can say to you that I have never witnessed any dispute as between you and Mr. Willmore in Ryan's presence.

(Page 47)

A. I'll get to the point. I've never witnessed any dispute other than the one I just referred to between you and Mr. Willmore. Ryan is a very happy young boy, day in and day out. He wakes up with a smile, he goes to bed with a smile.

And the only time I see Ryan happy - sad or upset is when he has conversations with Mr. Willmore, and that continues probably - I won't say the majority, but close to 50 percent of the phone calls he has with Mr. Willmore. And I reference this in the Affidavit.

(Pages 57 - 59)

Q. What, if any, concerns do you have, Mr. Scanlan, with respect to an extended period of access in the summer in Texas with Mr. Willmore?

A. Well, I think I already started to say before Mr. Willmore jumped up many times, I have witnessed in many of the conversations which I've witnessed that Ryan...

MR. WILLMORE: Objection, Your Honour. Mr. Scanlan has already made clear that he does not listen to conversations. Now he's telling me that he does listen to the conversations.

THE COURT: Let him finish, Mr. Willmore.

A. Just on that point, Your Honour, I make a point of giving Ryan as much space as he can to go on with his conversations with his father, but, for example, last night or the night before, I asked Ryan if he could take a phone call upstairs in his bedroom with his father so the TV wasn't interfering with him. 30 seconds later, he come down and he sat on my chest as I laid watching TV because his father asked him what the temperature was here in Nova Scotia and Ryan wanted to get the Fahrenheit.

Ryan, when he talks to his father, will walk around the house from room to room and, often, when he starts the conversation, he's in another room, but he will end the conversation. Other times, Ryan and I are in very close proximity because we spend a lot of time together, evenings and weekends.

And some calls come from Mr. Willmore and they inevitably occur in my presence. For example, I referred to one, I think, in the - my Affidavit where we were actually in the cab of the tractor, which means we're within six inches of one another. And I don't remember if Ryan called his dad or his dad called him.

So those are the types of conversations I hear, and I encourage Ryan to talk to his father on his own. But Ryan has a habit, like I said, of walking around the house and coming into the rooms where I am, and I do not chase Ryan away. I try and encourage him just to have a good conversation with his father.

But I have witnessed over and over and over again incidents - and I'm not talking about in the distant past. I'm talking about in the immediate past where Ryan has repeated conversations with his father and Ryan ends up with - in tears after the telephone conversations. That's what I witness. And Ryan - although it's hearsay, I can tell you what I witness in different things.

Ryan, for example, in relation to his brothers, I was in the tractor with Ryan...

(Page 67)

MR. WILLMORE: Yes, sir. But I have the message that states, "If you want to talk to Ryan from now on, you tell him to call my cell phone and he can call me and I'll let you talk to him."

Knowing that there's an issue between Mr. Scanlan and myself, Mr. Scanlan wants me to call his cell phone to talk to my son...

Q. Is that not antagonizing the issue, Mr. Scanlan?

A. It wasn't antagonizing. Mr. Willmore, I was concerned you be antagonized if you couldn't contact Ryan, and I was offering the only solution I had because I couldn't go out and buy him another cell phone that night or the next night, or any time since then, quite frankly.

Q. How many times have I talked to Ryan in the last 10 days?

A. My guess is he's probably called you four or five, six times from my cell phone.

(Pages 68 - 69)

Q. You mentioned, Mr. Scanlan, that you took Ryan away for the weekend. Was Ms. Quigley there?

A. No. We had a guys' weekend at the camp for - oh, she came the next morning.

Q. You've mentioned that...

A. She came the next morning, so we spent an overnight together watching a hockey game at my camp on a four-inch TV screen, had a cookout over a camp fire and then Ms. Quigley came the next morning. Oh, no. She came late that night. Excuse me. I'm wrong.

She arrived around 10:00 o'clock that night.

Q. Where else have you taken him on your own?

A. Ryan hangs out with me on a daily basis. If Ms. Willmore - or Ms. Quigley is around, Ryan will hang out with her or me. We'll go out on the tractor for an afternoon ploughing or he goes to Cubs. I take him sometimes. Ms. Quigley takes him sometimes.

(Page 73)

Q. What was published in the United States, sir?

A. Nothing, as far as I know. Absolutely nothing.

Q. Where did this statement come from?

A. You.

(Page 74)

MR. WILLMORE: I think you'll find the transcript says that you sent e-mails, not documentation, to the press.

A. I had no contact with anybody, nor, to my knowledge, has Ms. Quigley, to cause anything to be published in the United States.

Q. Ms. Quigley published e-mails to friends and they have been produced and they are in documentation, and they are in the Court's papers.

Again, Mr. Scanlan, I think if I were to go through this, 99 percent of this is hearsay on your part or your perception.

(Pages 81 - 82)

Q. That's the direction by Mr. Willmore's children to call Ryan at 12:00 p.m. on Saturdays.

A. Mmm hmm.

Q. You've stated they haven't.

A. That's correct. I've been with Ryan almost every Saturday, with Ryan. I don't know if they've ever come in on Saturdays, but I know that on the 25th of April, if that was a Saturday, and I may have got the date wrong - the 26th of April was a Saturday.

I know that Ryan and I were together all of that day. I know he had his cell phone with him that day 'cause he worked around the farm, and that there were no calls that come in and there was no call log indicating he'd missed any calls.

I was present with Ryan the next day. That's the call we were actually in the confines of the tractor. It's a cab tractor, Your Honour, so that you're - there's only, like I say, six inches between Ryan and I. And I could hear both sides of the conversation where

Mr. Willmore was insisting to Ryan that the children had called, and I thought that was the end of it.

But I heard - and I don't know how many calls I missed, Your Honour, 'cause I don't know how often Ryan calls, but I heard Ryan say on two more occasions, at least, "Hello, dad." And then he'd say, "No, they did not call." And on the last call, I heard was when he said, "No, dad. They did not call. And no matter what you say, it will not make it any different", or something, or "You may as well stop talking about it because what you say will not make it different."

(Page 85)

Q. I guess No. 6. You've seen the e-mail that you and Ms. Quigley sent to me stating that you thought it was very funny that you didn't know if it was going to bankrupt me or if I was indigent or I wasn't able to have sex with Ms. Quigley.

(Pages 86 - 87)

A. Mr. Willmore, if that - if you're suggesting to me - and to tell you the truth, I'm not sure what e-mail you're talking about.

Q. You sent it, sir. You should know.

A. Mr. Willmore, I don't think I've ever sent you...

Q. Would you like to stop for five minutes?

A. No, no. I just have a charley horse in my leg.

I don't know that I've ever sent you an e-mail unless it was something about arranging contact with Ryan where I was trying to assist Ryan in communicating with you.

But aside from that, I can tell you, to my knowledge and certainly in my presence, Ryan has never seen an e-mail from Ms. Quigley to you and, in fact, for the most part, Ryan isn't even aware, other than when you use him as a conduit, telling him that "Your mom's going to jail" or that you've got buddies coming to deliver presents, which I understand to be threats.

Other than that, he, for the most part, is only aware that there are Court proceedings and he is not put in the middle of the dispute on a day to day basis. He does not hear you and Ms. Quigley fighting because she has limited her contact with you after having changed the phone number I don't know how many times, after having changed her e-mails because sometimes we get 15, 20, 30 calls a day. I shouldn't say 30. 10, 15 calls a day from you.

- (c) Ms. Quigley's evidence on June 3, 2008 included (under questioning by Mr. Willmore):

(Pages 254 - 255)

Q. Ms. Quigley, there's numerous mentions of violence and dangerous - do you have any documentation to back this up?

A. I'm not sure about your question, Mr. Willmore.

Q. Well, in your Affidavit it states that I'm violent and I'm going to kill you, in fact, at one stage.

Do you have documentation to back that up?

A. Mr. Willmore, you did say that to me.

Q. Do you have documentation to back that up?

A. Numerous, numerous times you made verbal threats to me. As a result of those verbal threats, I got an Emergency Protective Order, Mr. Willmore. And I asked eventually for assistance from the police and had your weapons taken.

(Page 256)

I think, Mr. Willmore, that you're very entrenched in your anger at me and that I'm, I'm at a complete loss, Mr. Willmore, as to what, if anything, I could possibly do, short of turning Ryan over to you in the United States and paying you perhaps millions of dollars that I don't have - I'm not even sure if that would, would subside what I'm going to describe as just the constant abuse that I have received from you, Mr. Willmore.

I don't know how to make you - I don't know how to appease you. I don't know how to stop you. I don't know how to, I don't know how to bring this to closure for you.

All I know is that I want Ryan to be safe and happy and I want him to have a relationship with you, if you could just be kind to him. That's it.

(Pages 269)

Q. The trouble is, Ms. Quigley, is you have so many Affidavits, we lose touch.

Yesterday, Ms. Quigley, Mr. Scanlan made a comment, and I'd like to ask you on that. He said, "Ryan doesn't go as Ryan Quigley Willmore any more. He is referred to - he goes as Ryan Quigley." Is that correct?

A. Do you know, Gary? Ryan's name is Ryan Quigley Willmore. Ryan - let me finish. His passport says Ryan Quigley

Willmore. His birth certificate says Ryan Quigley Willmore. I registered him in school as Ryan Quigley Willmore. And do you know what?

Poor little Ryan, because of the conflict he receives, quite frankly, from you over that, he has announced that he'd like his name to be Ryan Ross and stop there. Do you know that?

So Ryan's name is Ryan's name, Gary. He's eight years old. It's Ryan Ross Quigley Willmore is the full gamut. The little kid knows it's his name. He knows what his name is.

(Pages 270-272)

A. Because you get so angry with people when - if they make a mistake about his name, you know, Ryan sees that all the time from you. It's not just once or twice. You've got upset in, in Texas with his teacher in kindergarten when she inadvertently referred to his name as Ryan Quigley instead of Ryan Quigley Willmore because it couldn't fit on their computer system.

I'm telling you, Mr. Willmore, Ryan knows his name. Ryan's name is Ryan Quigley Willmore. And all his documents are registered as Ryan Quigley Willmore.

And little Ryan knows his name. And I do not take any steps whatsoever to discourage Ryan from using his name or to tell Ryan his name is different. In fact, as I said to you, Ryan has been saying he'd like to just be Ryan Ross so that he's not caught in that conflict.

If you could just understand that he knows his name.

Q. Yesterday, Ms. Quigley, Mr. Scanlan was on the...

THE COURT: Just a minute. Ms. Quigley, this isn't being raised by Mr. Willmore. This is in response to a statement by Mr. Scanlan. The statement was very explicit, and it was...

MR. WILLMORE: He doesn't go by Ryan Quigley Willmore.

THE COURT: ...he doesn't go by...

MR. WILLMORE: He goes by Ryan Quigley.

THE COURT: He goes by Ryan Quigley.

WITNESS: He...

THE COURT: That's what the statement was.

WITNESS: There are...

THE COURT: Now, you've gone off - the question was about Mr. Scanlan's statement and where would that have come from.

WITNESS: Alright. I can explain.

THE COURT: And I would like an...

WITNESS: I'm sorry.

THE COURT: I would like an answer to that.

WITNESS: Certainly.

THE COURT: Quite frankly, it's a provocative statement in this kind of situation, and...

WITNESS: Well...

THE COURT: ...and...

WITNESS: ...Your Lordship, I can only control what I say and what I do. And I can advise the Court that Ryan refers to himself as Ryan Quigley some days. He refers to himself as Ryan Ross Quigley Willmore other days. He refers to himself as Ryan Ross, and only Ryan Ross, some days.

Certainly Ryan has, on occasion, and quite regularly refers to himself as Ryan Quigley, but that's not because anybody's telling him that that's what he has to do.

(Pages 282 - 283)

Q. If the Court - could you tell me if things were in place by the Court in Texas and the Court in Canada, Ms. Quigley, that Ryan could come to Texas for the summer, would you have an issue with that?

A. I'm sorry. What's the question?

Q. If the Court in Canada and the Court in Texas had provision in place for Ryan to be returned, would you have an issue with Ryan going to Texas?

A. I think you need to be more detailed than that, Mr. Willmore.

Q. If there was provisions in place, Ms. Quigley, for Ryan to be returned from Texas by the Court in Texas and provisions in place in Canada for the same issue, would you allow Ryan to go to Texas?

A. And what provisions, precisely, are you suggesting?

Q. The same provisions as were put forward to you in the Court in Texas, Ms. Quigley, in December, that if I did fail to return Ryan...

A. No.

Q. ...to Canada, I would go to jail.

A. No. Clearly, Mr. Willmore, I don't think putting you in jail or threatening to put you in jail serves Ryan's interest in any way, shape or form.

Ms. Quigley spoke of the June 3rd access on June 4th:

(Pages 302)

- Q. Ms. Quigley, Ryan was with me last night. How was his demeanor when he came home?
- A. He was exhausted, but happy.
- Q. Did he have a good time?
- A. He had a great time on the boat, yes.
- Q. Did he talk to you while he was on the boat?
- A. While he was on the boat? Yes, he did. He called.
- Q. Okay. (Inaudible).
- A. He told us all about his trip and, "Gary had a great time". He, he - unfortunately, for your information, he's just, he's sick today. To no fault of yours at all, I'm just telling...
- Q. He had a cold on the boat; he was (inaudible).
- A. Yeah, he had diarrhea this morning and he's, he's si-, he's just exhausted, but he had a great time, Gary.

(Page 305 - 306)

- Q. What time did Mr. Scanlan come and pick up Ryan yesterday, Ms. Quigley?
- ...
- A. Mr. Scanlan and I were in the, in the restaurant, I, I don't know the name of it, and I stayed inside the restaurant and Mr. Scanlan went out about five to 9:00, and then he returned with Ryan.
- Q. Where did Mr. Scanlan pick up Ryan?
- A. At school?
- Q. No, last night.
- A. I was inside the restaurant. I'm assuming that it was out on the sidewalk in front of Perk's.

(Pages 308 - 309)

- MS. QUIGLEY: There's \$1,054 in the account as of...
- THE COURT: Did you transfer it to your...
- MS. QUIGLEY: No, I haven't yet, Your Honour. I was, I was going to ask Mr. Willmore today if, if I - that would be May's - if I could do that today without...
- THE COURT: Well, why wouldn't you transfer it last night?
- MS. QUIGLEY: No, I looked at it this morning just before coming in to Court.
- THE COURT: Why wouldn't you transfer it this morning?

MS. QUIGLEY: Because I'm very concerned that Mr. Willmore will indicate that I've done something wrong, and I, I want...

THE COURT: He's indicated to you he wants you to transfer the money.

MS. QUIGLEY: Then I will do that.

...

THE COURT: You know, again, I...

MR. WILLMORE: Yeah.

THE COURT: ...am really, really frustrated by both of you with this.

Mr. Willmore, the last time we were here I suggested post-dated cheques. If you'd done this, we'd have none of this. She actually looks at it, sees the money there and won't transfer it.

Like I, it sort of - I feel like just throwing up my hands and saying, you know, like...

(Page 310)

THE COURT: ...that's properly before me. And the problem with the odd e-mail or letter from a lawyer from either of you is I don't know what else is going on. And I'm not entitled to assume anything, so the issue is just payment of child support and, you know, both of you are being as passive aggressive as all get-out with each other. And it's sad, but I have very limited ability to do that.

It's not my Order - no, it is not my Order. I made a suggestion to try to make it work better.

(Page 311)

THE COURT: ...the - you know, by the end of the week e-mail Ms. Zimmerman with the details of that account.

Mr. Willmore has indicated he'd give directions to the bank he's depositing the money in to forward it to that account.

I can't order it. It's not my Order to do it. That would resolve this, so would have just taken the money out of the bank this morning for the month of May anyway.

But, you know, that's my suggestion and if it doesn't happen, then the only conclusion I'm left is that the two of you have really far less interest in trying to move this thing forward and somehow perversely enjoy the conflict, but you know - move on Mr. Willmore.

(d) Mr. Willmore's evidence included:

(Pages 318 - 320)

MR. WILLMORE: My access has not changed, sir. I believe that it's agreed that I can have him once a month on the weekends. I will supply somebody with two weekends, which would be a Friday, Saturday and a Sunday, for each month coming up. I have no problem doing that.

I have to check my schedule, my workload, and then Ms. Quigley can decide which weekend is available for Ryan on that.

My summer vacation time, sir, I, I have asked the Court that Ryan be allowed to come to Texas. If Ms. Quigley is having a problem with the four weeks I've asked for, then I would make that change and say that he could come down for two weeks. (Pause) And I say that in front of this Court today that I would be willing to allow - to change my requirement to have two weeks in Texas. That way, Ryan can meet his brothers.

Ryan has indicated that he he would like to come to Texas based on if the Judge gives him permission.

THE COURT: Based on - I'm sorry?

A. If the Judge gives him permission. That is his actual wording, sir.

(Pause) And as Ms. Quigley has stated, I, I would like to see this thing over. For me, to divorce as soon as possible would be great. I understand that she sold most of my assets I have up here or made a statement that she has, so I don't expect to get my personal possessions and assets back.

On the last meeting, Mr. Scanlan did give me my degrees and my diplomas back when I returned Ryan, and he gave me one dress suit.

(Pages 323 - 325) (under questioning from Ms. Quigley):

Q. Mr. Willmore, what does the best interests of the child mean? What does that mean to you?

A. That means he has equal access with his mother and his father, and his father has access to his son so that he can talk to him and he's not hidden from his father, and the health and welfare of the boy. I have three other children, so I'm, I'm very aware what the health and welfare and that is for children, Ms. Quigley.

Q. And so you - in your view, the best interests of the child involves some sort of possessory[sic] capacity, or possessory [sic] right of the parent to actually have the child with them. Is that...

A. I believe that's your...

Q. I'm sorry, sir.

A. ...idea.

Q. I'm, I'm just trying to find out what your thoughts are.

A. It, it's a multitude of issues resolving(sic) around health and welfare of a child, Ms. Quigley. Typically, it's a home, a comfort level, provisions of medical, dental, food, accommodation, clothing, and I can go on and on and on.

Q. Okay. (Pause) How does it serve Ryan's best interest by having an arrest warrant for me?

A. Ms. Quigley...

THE COURT: By having what?

Q. How does it serve Ryan's best interest by having an arrest warrant for me?

THE COURT: Ah...

A. I can answer that, sir. (A) there is no arrest warrant for you at this time. They were actually canceled and the Justice was given the copies of them to show that they were cancelled....(B) I did not put the arrest warrant out, Ms. Quigley, the Court of Texas put the arrest warrant out 'cause of your conflict with the Justice down there, and that you promised him that you would do things. You swore an oath that you would do things and you did not do them. That is why the arrest warrant was put out.

It had nothing to do with me; it was purely between you and the Justice and the oath that you took while you were down there that is on the Texas minutes of that Court proceeding that you swore that you would do things. And you did not do them, so he put arrest warrants out for you. (Pause) As a matter of fact, you lied to the Judge.

(Pages 326 - 329)

Q. How did shortening Ryan's vacation in Disney World serve his best interest?...

THE COURT: I'm not aware that he did shorten Ryan's trip.

MS. QUIGLEY: Yes, Your Honour.

THE COURT: I was under the understanding that you did.

MS. QUIGLEY: Yes, Your Honour.

THE COURT: He wasn't there...

MS. QUIGLEY: The evidence, Your Honour, was...

THE COURT: ...for, I mean, for whatever - you know, this is another - yet another example of some of what is going on here.

I am - you know, it is evident, Mr. Willmore, that at certain points in time (pause) you have dropped some nuggets of information to Ms. Quigley that you must know, or must have known - and I say that because I regard you as an intelligent person - would leave here very, very concerned and wondering about how you got that information.

Some of the Florida information, some of the, you know, the phone calls that say, "I know you're outside". And we know that it was a private detective now and...

MR. WILLMORE: Yes, sir.

THE COURT: ...and all of that. So - and all of that is what it is.

Now, it's not for me to say, at least until I do a decision, you know, whether that behaviour is good, bad or indifferent other than to say very clearly it feeds into the dynamic that's existing between the two of you.

She's - you know, she's clearly very mistrustful of you and, you know, you might say "paranoid" - she would say "fearful" - of your ability to get information about her. And dropping those nuggets feeds into that, which has the effect of, to some degree, of keeping this going.

Now, some of it may be borne of frustration, some of it may be borne of anger, some of it may be borne of revenge, some of it may be borne of whatever, but (pause) both of your - and I think I could point to behaviours for both of you in this - have the ability to treat some of what you do as kind of saying, "Okay, this is over here, this is between myself and Ms. Quigley", or for her to say, "This is over here, this is between myself and Mr. Willmore", and to do one of two things, to either say, "This has nothing to do with Ryan and this is just apart from that", or to say, "This is really to further Ryan's interests" whether it's to protect him or to, you know, whatever.

When - no matter how you cut it from the outside, whatever happens on an ongoing basis that poisons or continues to poison the relationship between you impacts on Ryan. And, you know, you both said to me here today, "I don't know how to stop this", or, "I would like to stop it", or words to that effect with one or the other of you.

And there are only two people can stop it, perhaps three, but, you know, that's where we are. That's where some of these questions are coming from.

THE COURT: Alright, Mr. Willmore, is there anything further you want to say?

MR. WILLMORE: Yes, sir, there is. There's a conflict between myself and Ms. Quigley and Mr. Scanlan over my son, and all I've asked for the last year and a half is to have access, standard access to my son.

I was married 20 years to a previous lady. Twice we had disputes and we got remarried, and I have three sons. Two of them are great boys. One of them, the middle one, I have had issues with all my life and always will. It's a fact of life. But he's clean now and he's doing great.

Ryan has indicated to me that Ms. Quigley and Mr. Scanlan are going to get married. Great, I have no issue with that, sir. They get on with their life and I'm going to get on with mine.

All I ask is that I have access to my son. There is no reason that there cannot be access in Texas. There's plenty of people that get divorced in Canada that have split countries where they live in America and they live in Canada.

As Ms. Quigley has been in Texas where the Judge down there has give her guarantees that I would go to jail if I stopped it. I know you don't want to hear this, sir, but that's, that's what he said. And all I've asked for is access to my son.

I don't care about Ms. Quigley any more. I'm not interested.

There's, there's things in place by both Courts. She a - I was bitter. She kept me away from my son for over a year under false pretenses, and that was with the gun charges and everything else, and the reason she did that was because she was having an affair with a married man.

It had nothing to do with me or what I was doing; it was the fact that she was has an affair with a married man. And she was sleeping with him and he was sleeping with his wife, and I didn't want anything to do with it.

Mr. Willmore acknowledged having been bitter and expressed a desire to “move on”.

(e) Discussions with the court included:

(Page 345 - 346)

THE COURT: See, on that part of it I am left with a situation where it appears that at various times you have both made attempts to have the - if not encourage authorities to charge the other, certainly to have a role in that, and so that's one that may or

may not cut both ways. So I'm more concerned with the Order as it relates to Ryan at this point.

MS. QUIGLEY: My Lord, on that point, and I appreciate that I am not sworn per se, under testimony, but I give my word as a barrister, there is one point of evidence on that remark that Your Honour has made that I, I meant to clarify this morning and I had forgotten to, and that has to do with the police file I haven't seen.

Yesterday, in my evidence, I said that I didn't recall making any efforts to have him charged with charges. I was referring to the gun charges because, very clearly, after that, I wanted the police to lay charges to ensue protection of me with respect to harassment of Mr. Willmore that happened later in time in the winter of 2007...

(Pages 347 - 349)

THE COURT: So what I am interested, Ms. Quigley, is if there was that kind of Order out of Texas whether your position with respect to Texas access changes or not if it's reduced to two weeks.

MS. QUIGLEY: No, Your Honour, my position doesn't change. Certain...

MR. WILLMORE: I'm sorry (inaudible), again, sir?

THE COURT: "No, my position doesn't change".

MS. QUIGLEY: My position doesn't change.

MR. WILLMORE: (Inaudible)

MS. QUIGLEY: My position, to be restated, is that there are a number of issues - that's one of the issues, but there are a number of issues concerning Ryan's best interests. Many of those issues, I'm hopeful, will be addressed such that information can be put before the Court.

In terms of having access with Mr. Willmore, I continue to request that that access take place here in Nova Scotia over the summer months. As I've indicated, I would suggest, you know, a week in July, two weeks in August. I make those suggestions on a graduated process to allow Mr. Willmore and Ryan to have more time together in a graduated way that - you know, that's healthy.

And then, at the conclusion of the fall when we have the benefit of the report and some passage of time, some history built up, that, that - according to whatever concerns are in the report, if there's any concerns in the report, if it can comment more fully on, on the terms of taking the child away from this jurisdiction, that they would be addressed then.

But in the meantime, I can assure the Court that I will - in terms of cell phone access I will - I can't find the cell phone at the camp we've got. Between now and Friday night I will purchase Ryan a

new cell phone and place it on that same plan that Mr. Willmore had engaged for Ryan, the same - hopefully, the same telephone number.

(Page 352)

MR. WILLMORE: I, I have no issue with an eight year old not carrying the cell phone, sir, but I would like to hear - I, I do not believe that this Court has been fair to me based on access, telephone calls and so forth. Ms. Quigley would like it all her way where she can.

Only - I can only call him at certain times. That was tried, sir, already, and Ms. Quigley would purposely not have him there or not have him by the telephone, or there was a case of, "It's time to go now" after three or four minutes when the Court ordered actually a 30-minute timeframe to us.

That does not work with Ms. Quigley, sir. What she says and what she does is two completely different things.

(Page 356)

THE COURT: Service at this point - until we have the Family Wizard thing, service on Mr. Willmore will be in care of Ms. Zimmerman. And, Mr. Willmore, I'm just going to take the Canada Post, the posting to your address out of it just because it hasn't worked...

MR. WILLMORE: Yes, sir.

THE COURT: ...so let's drop it.

(Pages 357 - 358)

THE COURT: Ms. Zimmerman is not acting for...

MR. WILLMORE: That's correct.

THE COURT: ...Mr. Willmore up here, Ms. Quigley, so that it's fine to send stuff to her. She becomes simply a repository and is providing mail to Mr. Willmore.

MS. QUIGLEY: I could...

THE COURT: It...

MS. QUIGLEY: I could inquire with a, with a lawyer in my community, perhaps, to see if they could accept service in their...

THE COURT: I think what - what I'll direct is that - Ms. Quigley, is that you provide Ms. Zimmerman, Mr. Willmore through Ms. Zimmerman, with an address, a fax number, an e-mail address, and by the close of the work day Friday.

Now, if you both decide you want to use our Family Wizard, then all of this becomes unnecessary because it can be there, but at least then there's something in place even in terms of the stuff that gets filed next week. And if our Family Wizard works, then we can use that.

But that, Mr. Willmore, gives you a place to send that, and if it - I mean, it can be as simple as somebody, some third party - and you refer to a lawyer in your community, Ms. Quigley - opening an MSN account, having a fax machine and a postal address to which things can be sent.

MS. QUIGLEY: Yes, Your Honour.

THE COURT: Alright. Mr. Willmore, any questions?

MR. WILLMORE: No, sir. Thank you.

THE COURT: Alright. Thank you.

LOOKING BACK, LOOKING FORWARD

[40] Ms. Quigley and Mr. Willmore have since their separation in November 2006 both played a significant role in creating a legal and personal quagmire that has compromised Ryan's best interests. Some of what has happened includes:

1. Mr. Willmore travelled to Nova Scotia in August 2006 and helped choose Ryan's school.
2. He has asserted that in early November 2006 there was some talk of a joint divorce process in Texas. They and Ryan went to Texas for a visit. They had a fight - Ms. Quigley and Ryan returned to Nova Scotia. he at that time expressed concerns about not being replaced as a father, threatened Ms. Quigley with arrest for kidnapping.
3. Ms. Quigley immediately filed for divorce in Nova Scotia (knowing I would conclude there may be issues with jurisdiction). Mr. Willmore filed a divorce in Texas and he answered her in Nova Scotia Divorce Petition by contesting jurisdiction.
4. Mr. Willmore from near the outset of the separation appears to have suspected that Ms. Quigley was involved with Mr. Scanlan and this exacerbated whatever anger he had over the separation. The evidence concerning the commencement of Ms. Quigley's relationship with Mr. Scanlan appears less than complete. Mr. Willmore, intimidated Ms. Quigley

with threats, veiled threats, repeated phone calls and innuendo. At times he made inquiries of Ryan about “Ted” and Ms. Quigley. Most of this behaviour appears to have subsided since August 2007. His behaviour was wrong, inappropriate. He now says he was bitter. Clearly he was. At times Ms. Quigley “pushed back” with inappropriate e-mails. She repeatedly sought criminal charges against him.

5. There has been little if any constructive communication between the parties.
6. By December 22, 2006, Ms. Quigley had obtained three ex parte orders:
 - one moving her divorce from Halifax to Antigonish;
 - an Emergency Protection Order that restricted Mr. Willmore’s contact with her and Ryan, and gave her possession of their home;
 - an Order giving her custody, providing that Mr. Willmore have supervised access that would terminate if Ryan “got upset”, providing for significant maintenance orders (totalling more than \$166,000.00 per year) and giving her control of all the Nova Scotia property. In addition, Ms. Quigley had made complaints to police about Mr. Willmore’s calls and e-mails - and had weapons, guns of Mr. Willmore’s that were at their home picked up by police. Mr. Willmore was contacted by the RCMP in December 2006.

Ms. Quigley feels she was protecting herself and Ryan.

Mr. Willmore feels he was dealt with unfairly, that if he came to Nova Scotia to exercise access he faced restricted access and criminal charges that would impact on his ability to travel and his livelihood. At times, Ms. Quigley has expressed exactly the same concerns about her ability to go to Texas.

7. As the months went on, the parties continued to exchange communications that were problematic. Mr. Willmore repeatedly spoke of charges against, arrests of Ms. Quigley and Mr. Scanlan in Texas.
8. In January 2007 Ms. Quigley asked that an application of Mr. Willmore’s be adjourned “so she could get legal counsel there”. Mr. Willmore obtained an

Order later that month in Texas that limited Mr. Scanlan's contact with Ryan.

9. In February Mr. Willmore was charged by the RCMP under our Criminal Code.
10. In January 2007 and on March 30, 2007 Ms. Quigley obtained Orders in Canada - Mr. Willmore did not appear - confirming the December ex parte order, allowing her to travel with Ryan, and declaring the January Texas Order not in effect in Nova Scotia.
11. Ms. Quigley and Mr. Scanlan and Ryan travelled to Florida in early February of 2007, undoubtedly feeding into Mr. Willmore's resentment of Mr. Scanlan's growing involvement with Ryan.
12. Through this time period and after Mr. Willmore was securing information about Ms. Quigley, Mr. Scanlan and Ryan - and their day to day whereabouts through a detective. He would then "tease" them with the information - which they naturally found intimidating. Mr. Willmore again fed into and maintained Ms. Quigley's fears of him.
13. Also on March 30 Mr. Willmore obtained a Texas Order - it gave Ms. Quigley primary care, allowed her to designate Ryan's residence, provided for telephone access three times per week, monthly access and block access in the summer, at March Break and at Christmas. It had default summer access - i.e. access if no notice or dates were set.
14. Ms. Quigley "did not participate in the [Texas] proceeding because (she) was relying on the existing Canadian court orders" (her Affidavit of January 3, 2008 - clause 8).
15. Mr. Willmore took the position the Nova Scotia divorce lacked jurisdiction.
16. In early October of 2007 Mr. Willmore appeared in Nova Scotia and pled guilty to a charge under s. 91(2) of the Criminal Code - possession of a prohibited weapon. The disposition included a six-month direction to keep the peace and limits his contact with Ms. Quigley. The gun had been at Ms. Quigley's office, then at her home.

17. After this date Ms. Quigley contacted the RCMP seeking to have Mr. Willmore charged.
18. Mr. Willmore made threats of having Ms. Quigley and Mr. Scanlan arrested - for taking a vehicle from Texas when Mr. Willmore was away (the record is unclear) and from July 2007 forward issued motions alleging contempt (failure of Ms. Quigley to follow the March 30, 2007 Texas Order), and ultimately seeking and getting orders to have Ms. Quigley and Ryan brought before the Texas court - orders that have since been withdrawn, rescinded.
19. On October 22, 2007 the Nova Scotia divorce was found to lack jurisdiction - and the Nova Scotia orders voided. Ms. Quigley appealed this order. The appeal was dismissed on April 10, 2007. The appeal left the 2006, 2007 orders under the *Divorce Act* (concerning custody, access and support) void, but revived the orders made concerning property.
20. Ms. Quigley filed a (second) Divorce Petition in Nova Scotia on December 14, 2007.
21. On December 20, 2007 Ms. Quigley appeared in the Texas Court and through counsel promised to allow Christmas access to go forward. As a result, the contempt hearing scheduled did not proceed. Ms. Quigley has effectively stated that she was bullied into this by the Texas Court. Whether this is accurate or not, it is clear that she was making virtually simultaneous efforts in this Court to restrict access in Nova Scotia. Ryan did not visit his father in December 2007. There were some communication issues between the parties' Texas counsel but nothing, in my view, that would have prevented a visit from occurring if there had been a genuine desire to have it occur.
22. From January through May of 2007 there were various steps taken or threatened in Texas by Mr. Willmore - in response essentially to his absence of access.
23. I was assigned the December 2007 Nova Scotia divorce file in late December.

24. Ms. Quigley's appeal of the dismissal of her first Divorce Petition here meant if she was successful that the Petition I was hearing would be in jurisdictional jeopardy. I accordingly focused on Ryan - not property or support issues.

25. It appears that Courts in both countries have struggled with Ms. Quigley and Mr. Willmore. Issues as simple as service of documents have been problematic. Ms. Quigley may have e-mailed some of his friends inappropriately, he gave *Frank* magazine information about her, e-mailed her superiors and relatives. She complained about his lawyer to the Bar. Both have been aggressive in seeking criminal or quasi-criminal sanctions against the other, or in the case of Mr. Willmore, at least threatening same. Both (and Mr. Scanlan) have engaged in behaviours that the other would see as provocative. Ms. Quigley sees Mr. Willmore's seeking of legal remedies in Texas as harassment. She appeared through counsel in Texas in January of 2007, sought a continuance, got it and abandoned the Texas proceeding until December 2007 when she appeared in Texas, undertook to allow access in Texas, while virtually simultaneously seeking contrary orders in Nova Scotia. He saw the ex parte processes and those that followed in Nova Scotia as unfair. She sees the gun possession charge against Mr. Willmore as protecting herself - he sees it as unfair since she had the guns, moved them and supervised the building of the storage box for them. She sees Mr. Willmore as "unstable", "volatile". He sees her as obstructionist and determined to stop his access and relationship with his son. Mr. Scanlan has been less than a source of calm. Ms. Quigley has, at times, suggested Mr. Willmore was seeking custody of Ryan. The record available to me indicates he has been clear since March of 2007 in indicating that Ryan should be in the primary care of his mother in Nova Scotia and adamant that he should have meaningful access with his son. Ms. Quigley's offers of access here "if it's safe", i.e. supervised, have not been seen by him as meaningful or genuine.

Ryan has been, for all intents, caught in the middle of this. He did not see his father from November 2006 to March 2008.

[41] Mr. Wilmore's "in person" contact with Ryan since November of 2006 has been incidental to the current court process here in Nova Scotia:

1. On March 6 and 7 the hearing on jurisdiction and interim custody took place. Arrangements were made, at the initiative of the Court, for Mr. Willmore to see Ryan at the Court at noon on Thursday, March 6. He also saw Ryan the evenings of March 6, 7 and on March 8, 2008.
2. On April 10, 2008 Mr. Willmore was in Halifax for the hearing of the appeal (of Justice Wilson's Order vitiating the jurisdiction of the "first" Nova Scotia divorce proceeding). Mr. Willmore had access (as ordered March 7) the afternoon and early evening of April 10 and overnights April 11 til noon April 13, 2008.
3. On June 1, 2 and 3, 2008, Mr. Willmore was here in Nova Scotia for this hearing on interim access. He had Ryan the evenings of June 1 and 2.

[42] The primary issue before me is interim access - from this flow other issues.

IN PERSON ACCESS

[43] Mr. Willmore's position at the end of the hearing was two weeks summer access in Texas and one weekend a month here in Nova Scotia. Ms. Quigley's position was one week in July, two weeks in August, one weekend a month.

[44] The principle issue here is where the block access will occur, and its structure.

[45] Ms. Quigley and Mr. Scanlan have suggested that Mr. Willmore is dangerous, mentally unstable. The evidence before me indicates Mr. Willmore has used innuendo and veiled threats to intimidate, called them names, inappropriately involved Ryan by making inquiries about Mr. Scanlan. At times, Ms. Quigley has appeared to have dished back imprudent communications - though clearly no where as often. These behaviours by Mr. Willmore appear to have significantly subsided since October of 2007 or before.

[46] I do not conclude from the evidence before me that Mr. Willmore is irrational or dangerous. He has been inappropriate and, plainly put, wrong in some of his behaviours and actions, particularly prior to October 2007. Some of the behaviours were harassing, verbally abusive. He seems to feel he was lied to about the relationship between Mr. Scanlan and Ms. Quigley, abused by the Nova Scotia

Court's Ex Parte Orders and wrongfully denied contact with his son. Any person feeling this way would be angry and, to use his word, bitter. None of this, even if true, is an excuse for the behaviour he engaged in - behaviour that approached being criminal and has contributed greatly to the conflict that has ensued.

[47] Ms. Quigley may have been less than candid with Mr. Willmore about her relationship with Mr. Scanlan (if so, probably because she had concerns about Mr. Willmore's reaction - concerns he fed into). She has had inappropriate communications with Mr. Willmore - though fewer and none of a personally threatening nature. She has repeatedly complained of Mr. Willmore's using Texas legal processes available to him, seen them as harassing - yet simply "relied on" Nova Scotia orders she appears to have known were jurisdictionally vulnerable. She has invited access as long as it is safe - while a warrant was outstanding for Mr. Willmore - and sees no parallel in her own reluctance to go to Texas to deal with orders against her. She has told the Texas Court she would abide by its order while virtually simultaneously seeking contrary orders in Nova Scotia. I do not accept her characterization of Mr. Willmore's pursuit of legal process in Texas as harassing.

[48] There are inconsistencies in places in the behaviours and evidence of both parties before me. I do not conclude that Mr. Willmore now presents a threat to Ryan that justifies restricting access to Nova Scotia. In fact, the block access I have ordered is somewhat less than the total of three weeks (in Nova Scotia) offered by Ms. Quigley.

[49] There has also been evidence of difficulties with respect to phone contact with Ryan. Ryan has been pressured by his father at times - his father wants Ryan to have contact with him, with his half-siblings in Texas, wants to have the ability to have Ryan with him. The cell phone calls continue to be a problem. Mr. Scanlan has maintained that he does not listen or monitor calls between Ryan and his father, yet has described different calls, and even knowledge of missed calls. I conclude from the evidence before me that these difficulties are not and should not be an impediment to extended access. (Again Ms. Quigley has acknowledged that block access is appropriate in Nova Scotia). In my view the difficulties with phone access are likely to subside as access otherwise normalizes.

[50] Mr. Scanlan is enmeshed in the conflict between Mr. Willmore and Ms. Quigley. Mr. Willmore felt - and feels - that Ms. Quigley and Mr. Scanlan

have been less than candid in describing the beginning(s) of their relationship. Mr. Willmore, for a time, seemed focussed on this to the point of distraction. Ms. Quigley would state - this has nothing to do with Ryan's access - and then, in the next breath or affidavit express concerns about Ms. Broughm. All of this is of interest to the Court only to the extent that the adult behaviours feed into exacerbation or continuation of conflict which ensnares Ryan.

[51] Ms. Quigley has known since November 2006 that Mr. Willmore has been concerned about being "replaced as a father". Mr. Scanlan's testimony has, if viewed from the context of that concern, been provocative.

[52] Examples of Mr. Scanlan's testimony where I see this has included (but is not limited to):

Q. (BY MR. WILLMORE)...you took a trip with Ms. Quigley and my son and your daughter to Florida at the end of February, sir?

A. Yes, we did...

[53] The answer went on to include:

Each day Ryan and I would get up in the morning and I would teach Ryan to swim. That's the first chance he...first time he ever swam underwater he said, and started to swim and float and take strokes. And Ryan was having a great deal of difficulty with school at that point in time and every morning, Ryan and I would get up and spend two hours by the pool and I think Ryan jumped ahead about three levels in a matter of four or five days in terms of his reading skills because of the one-on-one...(pp. 216-217 March 6, 7 Transcript)

...

Q. (BY MR. SHEPPARD) ...what kind of relationship do you have with Ryan?

A. Ryan and I...every night that I'm home he wants to go to bed with me reading or telling him a story. He's very open...and that's been that way for upwards of I suppose a year. He comes to me every day and asks me questions, tells me his problems. We have a routine where we get together, and he'll tell me his day, do it in chronological order...(p. 247 of March 6, 7 Transcript).

...

Q. (BY MR. WILLMORE) Mr. Scanlan, what does you being arrested or Ms. Quigley being arrested got to do with access to Ryan?

A. ...I'm fully convinced when Ryan goes to Texas that you will keep him. And, secondly, if Ms. Quigley or I tried to go down and assist in recovering Mr. - Ryan Quigley that you will do everything in your power to keep her there....

MR. WILLMORE: I object your Honour. The name is Ryan Ross Quigley-Willmore, not Ryan Quigley.

A. Ryan goes by Ryan Quigley. Anyways we know who we're talking about... (p. 64 afternoon of June 2 Transcript).

This sort of testimony would grate Mr. Willmore and feed the conflict.

[54] Mr. Willmore had a visit with Ryan on the evening of June 3, 2008. He described Ryan's being picked up as follows:

We were walking back to the car...and I opened the door and he was getting his things out and he come and sit on my lap. And it was right at about seven, eight minutes to nine o'clock and Ted Scanlan turned up right behind the car and said "come on, son, it's time to go"

Ms. Quigley's testimony confirmed the timing of this. Mr. Willmore was to take Ryan to Perks, a nearby coffee shop to be dropped off at 9:00 p.m.

[55] On June 3, 2008 Martin Whitzman testified. He indicated that Ms. Quigley had told him that one of the sore spots between she and Mr. Willmore was Mr. Scanlan's presence in the home.

[56] Mr. Whitzman was asked about the role of a step-dad in a conflictual custody proceeding. He said:

A. ...you definitely don't want them arguing the case, if you follow me. You don't want a step-dad calling up biological dad and complaining about what he is doing...

Q. ...if the step-parent in that situation appears to, whether intentionally or unintentionally, emphasize his relationship with the child, if you will, in the face of the natural parent, what will that do to the conflict?

A. Oh, it's going to cause problems all over the place with the child. It's going to cause problems with the biological parent, meaning the biological father and then it's certainly going to cause problems between the biological father and the biological mother. It will fuel the flames. You want the step-parent to have a good relationship with the child...But you don't want that person almost describing 'I have a better relationship with the child' than the biological father does. That would cause problems. (pp. 178-179 of the June 3 Transcript)

Mr. Scanlan's testimony and Affidavit appear consistent with the actions that Mr. Whitzman identifies as potentially problematic.

[57] Martin Whitzman testified on June 3, 2008 and was questioned by Ms. Quigley.

Q. ...[There has been] reference to the ongoing conflict between the parents. Is it fair for me to say that - to put to you that, in terms of your involvement, you have not been ad-, you have not been requested to specifically address in any way that aspect of it but, rather, that the primary focus has been to try to assist Ryan in terms of how the obvious conflict is impacting on him?

A. That's correct, but it also speaks to the, the problem. How can you help a child when the parents are in conflict and unable to agree on anything?

One might assume, based on that, that the child is going to continue to have problems, that your ability to help the child is limited as long as that conflict continues.

The solution to the problem is that the conflict between the parents is resolved. Then the child, especially Ryan, will do fine on his own.

Q. In fact, Mr. Whitzman, in the transcript of the last, the March 6th-7th hearing, your words in terms of that were that the conflict has to be resolved, it has to be resolved in a favourable way for Ryan.

A. Mmm hmm.

Q. Ryan has to be able to have contact with his father...

A. Correct.

Q. ...whatever that source may be, and that situation has to move on. Is that fair to say that that's still your perspective?

A. That is correct.

...

THE COURT: Just - when you use the words "revenge or justice", you're suggesting that - I'm taking it, Mr. Whitzman, and treat my question as checking out my perception of what you're saying, that if there is a significant degree of ongoing conflict between parents, often the emotion that fuels that is rationalized by each individual parent on a basis of revenge or justice or doing what's best for the child or whatever...

MR. WHITZMAN: Whatever.

THE COURT: ...but there is a rationalization for the behaviour that perhaps others might see as emotional, and that individual parent would see it as some sort of righteous cause?

MR. WHITZMAN: Yes, Your Honour.

THE COURT: Is that what you mean?

MR. WHITZMAN: Yes, Your Honour.

The adults before me have all rationalized their own behaviours at times.

[58] Mr. Whitzman has also indicated that Ryan has expressed a reluctance about going to Texas without his mother. Ms. Quigley says this too. Mr. Willmore said Ryan wants to go "if the Judge says it's okay".

[59] Mr. Whitzman indicated that access with Ryan should be gradually “normalized”, expanded. It has moved from a supervised noon hour to a loosely supervised evening, to unsupervised, to overnights. Block access would be the next step. Mr. Willmore has exercised access three times in Nova Scotia since early March. The block access should not start with two or three weeks.

[60] Ms. Quigley (and Mr. Scanlan) have, in their evidence and in her submissions, suggested that access should occur in Nova Scotia only until the custody/access assessment from the IWK Assessment Clinic is available. It will not be available until mid-November. It was not my intention when ordering the assessment to put access on hold in any way until I had the assessment. I ordered the assessment seeking information on the parties, Mr. Scanlan and their conflict to aid in addressing long term issues, not to tie the hands of the Court at an interim stage.

[61] There are, to be sure, competing concerns. I am satisfied from all of the evidence that Ryan wants an expanded, more normalized relationship with his father. I am satisfied that, whether intentional or not, it would be almost impossible for Ms. Quigley and Mr. Scanlan not to have telegraphed the concerns they have about Mr. Willmore to Ryan.

[62] The evidence indicates Ryan has no difficulties in school. He has been removed from school to holiday with Ms. Quigley.

[63] On April 11, 2008 I indicated at the pre-trial of that date (p. 21):

...at some point if there is going to be access in the States...the Orders in the two countries are going to be lined up on that custody and access issue...
...that's not complicated. It's just like...the question becomes as simple as this.
Am I, as a judge, going to subject Ryan to two separate court orders in two different countries so that, depending on who has him and where he is, there's an opportunity to extend the back and forth bickering that's gone on? Not a chance.
So...and the reason is simple. The reason is Ryan.

[64] On June 4, 2008 I indicated:

...with respect to the status of the Texas order, if there is going to be a change in that, I would expect that I would be notified of it with a copy of any such Order by the close of the work day Wednesday, June 11.

[65] On Monday, June 9, 2008 this Court received by fax a letter from Mr. Willmore indicating “I have agreed to defer to the Canadian Court’s jurisdiction in regard to my son, Ryan Ross Quigley Willmore, on access and possession only.”

[66] The fax attaches a “Notice of Withdrawal of Requested Relief” and letter asserting that is being filed with the Texas court. The “Notice” is signed by Ms. Zimmerman, Mr. Willmore’s counsel in Texas, and reads:

NOTICE OF WITHDRAWAL OF REQUESTED RELIEF

To the Honourable Judge of this Court:

COMES NOW, Petitioner, GARY WILLMORE, and files this his Notice to the Court and opposing counsel that he withdraws his requested relief from this Court in regard to conservatorship, access and possession of the minor child. Petitioner agrees to defer to the Canadian Court’s jurisdiction in regard to those issues only. Petitioner does not waive his requests to have this Court decide all issues of child support, property division, grounds for divorce, or other issues not involving conservatorship, access and possession.

Respectfully submitted,
ZIMMERMAN LAW FIRM, L.L.P.
Marcia Zimmerman
Attorney for Gary Willmore

[67] While I am not familiar with civil procedure in Texas, I know that this is not an order. The March 30, 2007 Texas Order appears to remain in effect.

[68] While there is every indication that the competing custody/access orders issue will be resolved to my satisfaction, it is not as I write this.

[69] I conclude from what is before me that an order for access as follows is consistent with Ryan’s best interests:

- (a) provided this Court is satisfied that the competing orders issues respecting Ryan’s custody and access is either resolved or that Mr. Willmore has made his best effort to resolve it as directed:

- (i) up to ten (10) days access with Ryan between July 28 and August 30, 2008. Mr. Willmore will travel to Nova Scotia to commence the visit with Ryan. The first night together will be in Nova Scotia. The balance of the visit will be at a location chosen by Mr. Willmore. It may be in Texas. Mr. Willmore will, if the access is exercised outside Nova Scotia, personally return with Ryan at the conclusion of the access. Days 2 and 10 of the visit will be travel days giving Ryan potentially one week in Texas.
 - (ii) up to one week of access from a Saturday (travel day) to a Sunday (travel day) between September 13, 2008 and November 30, 2008. Ryan may fly on an unaccompanied minor program provided he flies no more than one leg of his travel each way in this fashion.
 - (iii) Mr. Willmore will designate the dates for his access in writing to this Court and Ms. Quigley by the close of the work day July 8, 2008. He shall provide Ms. Quigley with an itinerary for the access not less than one week before the access is exercised.
- (b) Pre-trials/reviews will be scheduled July 28, 2008 at 12:00 noon Atlantic Time and on September 9, 2008 at 10:30 a.m. Atlantic Time. Mr. Willmore, Ms. Zimmerman (his Texas counsel) and Mr. Gagnon (Ms. Quigley's Texas counsel) may appear by telephone.

The status of the Texas Order will be reviewed. At the September pre-trial we will address the trial dates scheduled in December.

It would be my expectation that a certified copy of an order from the Texas Court would be filed prior to that day confirming that:

- the primary residence of Ryan Ross Quigley-Willmore is with Ms. Quigley in Nova Scotia;
- the March 30, 2007 Order of the Texas Court is vacated as it relates to issues of custody, access, conservatorship and possession of the child;

- Mr. Willmore defers to the Canadian Court's jurisdiction (Supreme Court of Nova Scotia) with respect to issues of custody, access, conservatorship and possession of Ryan Ross Quigley-Willmore, except as provided herein;
- Mr. Willmore shall return Ryan Ross Quigley-Willmore to the care of Ms. Quigley at the conclusion of access periods ordered by the Supreme Court of Nova Scotia.

If such an order is not available by July 28, 2008, the summer 2008 access will occur in Canada. If such an order is not available by September 9, 2008, the fall block access may be ordered to be exercised in Canada.

- (c) one weekend per month in which block access is not being exercised, access in Canada for up to three days, three overnights - provided no more than one of the overnights is a school night. Mr. Willmore is to give this Court, copied to Ms. Quigley, notice of his weekends to December 1, 2008 by August 29, 2008.

TELEPHONE ACCESS

[70] There have been difficulties in the past with telephone access. The March 30, 2007 Texas Order provided for three nights per week. Ryan is eight years old - restricting calls to certain nights will inevitably lead to problems if he has activities that night. Mr. Willmore bought a cell phone for Ryan, it was lost during an outing with Mr. Scanlan. Mr. Willmore has paid for a cell plan. Ms. Quigley has now replaced the phone. Ryan should be encouraged to call his father. The cell phone bills would disclose outgoing long distance calls. They should be filed here with the Court on a monthly basis as received by Mr. Willmore, copied to Ms. Quigley. Mr. Willmore should be able to call his son - though not repeatedly, time after time. His calls, to Ryan, whether he connects or leaves a message for a call back, should be limited to once a day. That said, there is no need for Mr. Willmore to talk to Ryan every day and Ryan cannot be expected to carry the phone with him all the time. Ms. Quigley will ensure that Ryan has a cell phone - the plan has been paid for by Mr. Willmore. I am not at

this point going to attempt to manage Ryan's telephone access with his siblings. The primary issue at this point is Ryan's relationship with his father.

COMMUNICATION BETWEEN THE PARTIES

[71] The parties will establish an account with www.OurFamilyWizard.com ensuring that:

- (a) this Court or a representative of this Court has access to their accounts. The parties should conduct themselves with the expectation that the Court will have access to their communication through this account. The monthly outlines of Ryan's activities that Ms. Quigley has been previously asked to provide to Mr. Willmore will be posted to this account.
- (b) documentation may be served, posted through the account.

[72] The parties will each contact www.OurFamilyWizard.com to arrange for the opening of their account within two weeks of the date of this decision - and shall confirm with this Court when they have opened their account.

[73] Until the account is established by both of them, they will exchange the notices and documents contemplated by this decision through the offices of Ms. Zimmerman and Mr. Gagnon, their Texas counsel. If one or the other counsel are away, as Mr. Gagnon was in December 2007, then that person (Ms. Quigley or Mr. Willmore) will advise the other of an alternative arrangement in a timely fashion.

PASSPORTS

[74] Mr. Willmore has, when exercising access to this point, been asked to, and has voluntarily done so, turn his passports into the Court while exercising access. He will not be required to do so for future access, if the Texas Orders are resolved as I have indicated. If they are not, Mr. Willmore will file his passports with this Court prior to his visits with Ryan here in Nova Scotia. Ms. Quigley will ensure that Ryan has a birth certificate and picture ID (other than his passport) available should Mr. Willmore wish to travel by air in Canada during his summer access.

She will provide Mr. Willmore with Ryan's passport if the U. S. access is approved. Mr. Willmore will return it to Ms. Quigley after the travel.

MR. SCANLAN

[75] The relationship between Mr. Scanlan and Mr. Willmore has not been healthy. Ryan should not be exposed to interactions (whether direct or indirect) between them. Mr. Scanlan should not be involved in any way in the transfer of Ryan during access. Mr. Scanlan should make a concerted effort to remove himself from being near or proximate to Ryan's interaction (including telephone) with Mr. Willmore.

[76] There is no reason for Mr. Willmore to have any communication with Mr. Scanlan.

IWK ASSESSMENT

[77] The assessment should move forward. The parties should, independently, be making arrangements to participate in the assessment.

NAME

[78] Ryan's name is Ryan Ross Quigley-Willmore. Ms. Quigley should ensure that his identification (passport, school ID, MSI, medical plan, whatever), school registration, registration for programs (whether sport, church, other), registration with doctors and dentists, etc. is with his full name.

FILINGS IN THIS PROCEEDING

[79] It is unclear to me at this time what will happen with the Texas divorce process. My focus since I was assigned the divorce proceeding filed here in Nova Scotia has been to address the custody/access issues, Ryan. Uncertainties arising from the Appeal of Justice Wilson's October 22 decision (resolved April 10) and the status of the Texas divorce proceeding have resulted in my being flexible in bringing issues such as the filing of an Answer (by Mr. Willmore) and an application to consolidate the *Matrimonial Property Act* proceeding that was heard by Justice MacLellan (and was kept "alive" by the decision of the Appeal Court) with this proceeding (by Ms. Quigley).

[80] Our trial dates in this proceeding are December 1, 2 and 3, 2008.

[81] Mr. Willmore, despite my direction in the Pre-Trial Conference Memorandum of April 11, 2008, has not filed an Answer to the Divorce. Ms. Quigley, in her affidavit of May 30, 2008, asks that I require Mr. Willmore to immediately file an Answer in the proper form and points out that he did so in the previous divorce proceeding. The Texas proceeding is currently scheduled for dates in early August. If a divorce is granted, it may well impact on support and property jurisdiction here. I am satisfied that this Court's jurisdiction over Ryan will be continuing.

[82] The multiple affidavits, and their attachments and sharing of some, not all, e-mails and communications with the RCMP and Martin Whitzman create a jigsaw for the Court to piece together. The parties both have had difficulty in the proceedings before me identifying where in documents certain information is - confused by the mount of documents. It appears that they will both continue to be self-represented. My directions should be as clear as possible. Both parties should consult with legal counsel with respect to these directions.

[83] Mr. Willmore has indicated that he defers to the jurisdiction here on custody and access issues and contests the jurisdiction of this Court to deal with support and property.

[84] We need to attempt to move these issues forward with some clarity.

[85] I would order that Mr. Willmore file and serve an Answer to the Divorce Petition before this Court on or before September 2, 2008. The Answer shall be made in accordance with the Nova Scotia Civil Procedure Rule 57.12, using form 57.12A or 57.12B. The Rules and forms are available online at the Nova Scotia Courts website - the direct link to Rule 57 and its forms is http://www.courts.ns.ca/Rules/rule56_61.htm#rule57

If Mr. Willmore does not file an Answer as directed, he will be inviting Ms. Quigley to ask the Court to treat the divorce as undefended pursuant to Rule 57.18, 57.19.

[86] Both these individuals have expressed a desire to have this “end”. Both have suggested they might be prepared to “walk away” from property claims in the respective jurisdictions. Ms. Quigley has suggested she would drop her spousal support claim. If this is what develops - we are left with the child support issue.

[87] I will at the September 9, 2008 pre-trial/review ask in specific terms: what property is in issue and whether spousal support is in issue. I will make orders for further filings accordingly.

[88] Ms. Quigley should consider providing Mr. Willmore with an Application (and Order)(pursuant to Civil Procedure rules 39.01 and 39.02 returnable before me on September 9, 2008) requesting that the *Matrimonial Property Act* claim (made with Ms. Quigley’s first Divorce Petition here and left “alive” by the Appeal) be consolidated with the proceeding(s) before this Court. If she does not, I will assume she chooses to pursue that proceeding in another forum. If she does, the material should be provided to Mr. Willmore by the close of the work day September 2, 2008.

[89] Mr. Willmore may, if he wishes, consent to the consolidation on the basis that it is not attornment to jurisdiction.

[90] Finally, both parties will file Financial Statements in Form 57.13A of the Civil Procedure Rules on or before September 2, 2008.

[91] The Statements will attach:

- (a) copies of Income Tax Returns for 2006, 2007;
- (b) if no income tax return was filed - an assertion confirming that AND a statement from their employer or employers confirming income and deductions. This shall be done for both 2006 and 2007;
- (c) a statement detailing the name, address and contact information of the parties’ current employer, pay rate and year to date income to June 30, 2008.

[92] I recognize that the parties may say we filed some, even all of this before, or that it is in Texas, or whatever. As this moves forward, I do not wish to conduct a

“treasure hunt” through past filings, and the boxes of material filed looking for that material.

[93] Again, this information may be filed by Mr. Willmore on the basis that he does not attorn to the jurisdiction of the Court. The information is not dissimilar to that expected by the Texas Court in its March 30, 2007 Order.

[94] I have directed/requested that Mr. Willmore file material - an Answer, financial information, that is standard, routine. If it is not filed as directed, he will be inviting this Court to impose consequences.

[95] Whatever concerns or uncertainties Ryan has at this time in his relationship with Mr. Willmore is the product of the actions of both Mr. Willmore and Ms. Quigley. I am concluding that Ryan’s interests lie, after all that has gone on, in attempting to put this conflict behind him, spending more time with his father, and being secure in his mother’s home and day to day care. Ryan will remain in her custody.

[96] I have concluded that Mr. Willmore’s primary interest is his relationship with Ryan. I have noted his acknowledgement that he was bitter. There is little that he has been accused of doing that he has not acknowledged. He conveys a message of wanting to move on. If this is so, I will hear little of the suggestion that “Ms. Quigley did this, or Mr. Scanlan did that” as the proceeding moves forward. This is not a game of “gotcha”. The focus will instead be on building his relationship with Ryan - looking forward, not back.

[97] Similarly, Ms. Quigley has expressed a desire to move on, expressed anguish at the circumstances that have enveloped her. She has filed more than a little material with the Court (ten affidavits, numerous attachments, hundreds of pages). I have attempted to view it thoroughly. Its focus has been on Mr. Willmore’s behaviour in the winter and spring/summer of 2006/2007. She has been as fixed in her focus on those events as Mr. Willmore has been, or was, on the development of her relationship with Mr. Scanlan, his (Mr. Willmore’s) perception of the fairness of the ex parte orders and her statements to the Court in Texas in December 2007.

[98] There is little upside for Ryan that I can identify in either parent continuing a campaign of denigration, demonstrating the past mistakes, failings, inadequacies of

the other, or sharing those views with friends, employers or others. That said, each of them, not the Court, will decide how they conduct their part of the proceeding from here.

[99] The Court will issue a formal order shortly.

J. S. C. (F.D.)

Halifax, NS