IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: Murphy v. Bert, 2007 NSSC 376

Date: January 8, 2008
Docket: 37098
Registry: Sydney, Nova Scotia

Between:

Ralph Murphy

Applicant

v.

Heather Bert

Respondent

DECISION

Justice:	The Honourable Justice Theresa M. Forgeron
Heard:	September 12, 2007 and final submissions received on October 1, 2007
Oral Decision:	November 15, 2007
Written Decision:	January 8, 2008
Counsel:	Ms. Candee McCarthy, counsel for Ralph Murphy Ms. Darlene MacRury, counsel for Heather Bert

By the Court:

(I) INTRODUCTION

[1] Heather Bert and Ralph Murphy are the parents of 15 year old Kathleen Danielle Bert. A Consent Order issued on April 25, 1994. This order requires Mr. Murphy to pay Ms. Bert $275.00 per month in child support. Mr. Murphy seeks to reduce his child support obligation to zero because of the changes which have occurred in his life since the 1994 order issued. In the alternative, Mr. Murphy makes a claim for undue hardship. Ms. Bert contests the applications. She wants the current child support payments to continue.

(II) ISSUES

[2] The following unresolved issues will be determined by the court:

1. Has there been a material change in the circumstances to warrant a variation of the child support order?

2. What is Mr. Murphy's income for child support purposes?

3. If child support is otherwise payable, should Mr. Murphy succeed with his claim for undue hardship?

4. Should a retroactive variation be granted?

(III) Background

[3] In 1994, Mr. Murphy was employed and earned a good salary. This changed in 2002. In 2002, Mr. Murphy was involved in an automobile accident which caused him to endure serious and lasting injuries. He was also a victim of a shooting. Mr. Murphy is now permanently disabled and is unable to work.

[4] Mr. Murphy commenced an action for pain, suffering, and income loss in Ontario where the accident occurred. He has not yet received a settlement from this action. Further, Mr. Murphy has acquired three rental properties. Two properties are held in his name alone. He owns the third property jointly with his girl friend.

[5] Mr. Murphy also collects CPP. Each of his five children receives a monthly CPP payment in excess of $200, which benefit is payable to each child's custodial parent.

[6] Since the 1994 order, Mr. Murphy's personal circumstances have also changed. He became the primary care giver of two of his five children in November 2005. He does not receive child support from the children's mother. Further, Mr. Murphy has a new baby with his current girl friend. Although he and his girl friend do not reside together, Mr. Murphy nonetheless assists with the costs associated with his fifth child.

[7] Mr. Murphy made an application to vary child support in December 2004, followed by an application for undue hardship in May 2006. The applications were tried on September 12, 2007. The court heard from both parties. The last post-trial submissions were received on October 1, 2007.

[8] Ms. Bert contests the applications made by Mr. Murphy. She states that she requires the child support. Ms. Bert is undergoing treatment for cancer and is in receipt of EI benefits for 15 weeks. She then will be in

receipt of social assistance. Once she has recovered from her treatment, Ms. Bert will be able to return to work. She is employed as a continuing care assistant and earns $14.75 per hour. She has a permanent, part time position in which she is guaranteed 25 hours a week.

[9] In 2005, Ms. Bert earned $13,482. She was off work for a portion of 2005 for health reasons. In 2006, Ms. Bert earned $24,665.

[10] Ms. Bert resides with the parties' daughter, Kathleen and a son. Ms. Bert rents through the Cape Breton Regional Housing Authority. She receives no child support for her son as his father is incarcerated. Ms. Bert's financial circumstances are precarious at present.

(IV) ANALYSIS

[11] Has there been a material change in circumstances to warrant a variation in the child support order?

[12] Section 37(1) of the *Maintenance and Custody Act* provides the court with the jurisdiction to vary an existing maintenance order. Section 37(1) states:

> 37 (1) The court, on application, may make an order varying, rescinding or suspending, prospectively or retroactively, a maintenance order or an order respecting custody and access where there has been a change in circumstances since the making of the order or the last variation order.

[13] A material change has been described as one where had the facts existed at the time the original order was made, the judge likely would have made a different order. A material change includes a circumstance where something unexpected happens, or something that was expected to happen does not. A material change must be more than a minor or temporary change. The change must be a substantial, continuing change which impacts the foundation upon which the existing order was made.

[14] I have reviewed the evidence, case law and submissions of counsel. I have placed the burden of proof upon Mr. Murphy. It is the civil burden of proof on the balance of probabilities. I find that Mr. Murphy has proven, on a balance of probabilities, that a material change in the circumstances has

occurred since the rendering of the last order. In particular I find the following factors constitute a material change:

> a) Mr. Murphy is permanently disabled and is unable to work because of injuries sustained in a motor vehicle accident and a shooting. The first order was predicated upon Mr. Murphy's employment income which is no longer available to Mr. Murphy for reasons outside of his control; and
>
> b) Mr. Murphy has assumed primary care of two of his children after he and his former common-law partner separated in 2004. Mr. Murphy is financially responsible for Tyler who is nine and Jade who is seven.

[15] What is Mr. Murphy's income for child support purposes?

[16] The parties do not agree on the amount of income which Mr. Murphy earns. Ms. Bert argues that the court should impute income to Mr. Murphy. Mr. Murphy states that his income is restricted to CPP benefits payable on his behalf.

[17] *Ms. Bert's Position in Favour of Imputation*

[18] Ms. Bert argues that Mr. Murphy's income is approximately $40,000 per annum. She states that Mr. Murphy's income includes the following:

a) the CPP benefits payable on Mr. Murphy's behalf;

b) the CPP benefits payable on behalf of Tyler and Jade;

c) the child tax credit which Mr. Murphy receives on behalf of Tyler and Jade;

d)an imputed gross rental income from Sixth Street, Glace Bay and Munro Street, Reserve Mines. Ms. Bert argues that more income should be imputed because the rent for those properties has not increased in several years; and

e) the gross rental income for the property which Mr. Murphy just purchased with his current girlfriend, although this property had not been rented at the time of trial.

[19] Ms. Bert further suggests that Mr. Murphy's income should be grossed up as the vast majority of his income is not subject to income tax. She therefore argues an income of $40,000.00 should be imputed to Mr. Murphy.

[20] *Mr. Murphy's Position Against Imputation*

[21] Mr. Murphy states that his income is only composed of the CPP benefits which are payable to him in the amount of $8,058 per annum. He states the *Provincial Child Support Guidelines* do not contemplate the inclusion of the child tax credit, nor the child's portion of the CPP payment

for income purposes. He further notes that he derives no net income from the rental properties. The rental income barely meets the rental expenses.

[22] Mr. Murphy states that he acquired the rental properties to provide future security for his five children as he is unable to purchase life insurance because of the lead poisoning he received when he was shot.

[23] Mr. Murphy argues that his income has been reduced by circumstances outside of his control. His income is below the *Guideline* threshold which is required to pay child support. A variation order reducing child support to zero is therefore appropriate.

[24] *Decision on the Income of Mr. Murphy*

[25] *Legislation*

[26] Sections 16 to 20 of the *Guidelines* define how income is to be determined for child support purposes. Annual income is determined by

reference to the sources set out under the heading “Total Income” in the T-1 general form with any necessary adjustments. The court must use the most current information to determine the payor’s annual income.

[27] Section 19 of the *Guidelines* describe the circumstances under which income can be imputed to the payor parent. Ms. Bert relies upon sections 19(1) (b)(d) (e) (g) and (h) which provide:

> **Imputing income**
> **19.** (1) The court may impute such amount of income to a parent as it considers appropriate in the circumstances, which circumstances include the following:
>
> (b) the parent is exempt from paying federal or provincial income tax;
> ...
> (d) it appears that income has been diverted which would effect the level of child support to be determined under these Guidelines;
>
> (e) the parent’s property is not reasonably utilized to generate income;
> ...
> (g) the parent unreasonably deducts expenses from income;
>
> (h) the parent derives a significant portion of income from dividends, capital gains or other sources that are taxed at a lower rate than employment or business income or that are exempt from tax;

[28] Ms. Bert also relies upon ss. 11 and 12 of Schedule III of the *Guidelines* which state:

> 11. **Capital cost allowance for property** - Include the parent's deduction for an allowable capital cost allowance with respect to real property.
>
> 12. **Partnership or sole proprietorship income -** Where the parent earns income through a partnership or sole proprietorship, deduct any amount included in income that is properly required by the partnership or sole proprietorship for purposes of capitalization.

[29] *Child Tax Credit and Children's CPP Payments*

[30] I agree that the *Guidelines* do not contemplate the inclusion of the child tax credit, nor CPP benefits payable for children in the determination of income. I also decline to include such payments pursuant to s. 19 of the *Guidelines*.

[31] *Rental Income*

[32] I agree that the rental income should be included in the determination of Mr. Murphy's income. It is, however, the net, not gross, income which is

utilized. In determining the net expenses, I have reviewed ss. 11 and 12 of Schedule III and s.19(2) of the *Guidelines*. Section 19 (2) states that the reasonableness of an expense in the determination of income is not solely governed by its treatment under the *Income Tax Act*.

[33] I have reviewed the case law presented by the parties and in particular **Ghosn v. Ghosn** (2006), 242 N.S.R. (2d) 84 (SCFD), **Snow v. Wilcox** [1999] NSJ 453 (CA), **Vermeulen v. Vermeulen** [1999] NSJ 193 (CA), **Gossen v. Gossen** (2003), 213 NSR (2d) 217 (SCFD)**, Grant v. Grant** (2001), 92 NSR (2d) 302 (SCFD), and **Coadic v. Coadic (**2005), 237 NSR (2d) 362 (SCFD).

[34] Mr. Murphy bears the civil burden of proof as it relates to deductable expenses. In determining the net, rental income which is available to Mr. Murphy for child support purposes, I find as follows:

> a) The interest portion of the mortgage is properly deductable as an expense, but the principle portion is not. If Mr. Murphy were permitted to deduct both the principle and interest payment from the gross rental income, the children would, in effect, be paying for Mr. Murphy's acquisition of a capital asset. Once the mortgage is paid in full, the rental properties will be owned by Mr. Murphy, not Mr. Murphy and the children. It is therefore inappropriate to reduce the gross rental income by the entire mortgage payment. I will only

permit the interest deduction in the calculation of income in conformity with the *Income Tax Act*;

b) I will not permit a deduction for capital cost allowance. Little evidence was provided on this issue and there was no breakdown proven between personal and real property. There was no evidence led to suggest that the real property was depreciating in value and no evidence provided in relation to the depreciation of personal property;

c) I will permit the fixed expenses relating to insurance, water, taxes, and some of the repair expenses. I recognize that some of the receipts provided by Mr. Murphy were dated, and some related to repairs to his own residence, but I nonetheless find that ongoing repairs are necessary to maintain the rental properties. I will allow $800 in deductions for maintenance and repair for each of the properties. I will not allow expenses for professional fees nor motor vehicle expenses, as no evidence was led on these expenses;

d) I will not impute a greater, gross rental income to the Munroe Street and Sixth Street properties. I accept that the rent charged by Mr. Murphy for both properties is appropriate. I accept Mr. Murphy's evidence that it is difficult to find good tenants. Mr. Murphy has been fortunate to have good tenants who pay on time, and who do not destroy the properties. The rent charged is appropriate to the geographic region where the properties are situate. I make no adjustment to the income which Mr. Murphy receives from these properties; and

e) I will impute income to the third property which Mr. Murphy and Ms. Fraser recently acquired. There is no historical data. I therefore find that Mr. Murphy will earn an average of what he earns from the other two rental properties. As a co-owner, his share will be 50%. I find that Mr. Murphy required Ms. Fraser's involvement in the purchase of the property for financing, and thus both will properly share in the income earned.

[35] Mr. Murphy's net rental income, for child support purposes, from Munroe Street is as follows:

a)	**Annual rent**	**$5400**
b)	**Expenses**	
	Mortgage Insurance	$392
	Taxes	$606
	Water	$314
	Property Insurance	$324
	Mortgage Interest	$1362
	Repairs & Maintenance	$800
	Total Expenses	**$3,798**
c)	**Net Rental Income**	**$1,602**

[36] Mr. Murphy's net rental income, for child support purposes, from Sixth Street is as follows:

a)	**Annual rent**	**$6,600**
b)	**Expenses**	
	Mortgage Insurance	$392
	Taxes	$1,257
	Water	$361
	Property Insurance	$581
	Mortgage Interest	$2,345
	Repairs & Maintenance	$800
	Total Expenses	**$5,736**

c) **Net Rental Income $864**

[37] Mr. Murphy's net rental income for the property recently purchased is based upon the average of the other two properties and equally shared with Ms. Fraser: $1,602 + $864 = $2466/2 = $1,233 / 2 = **$616.50.**

[38] I therefore find that for child support purposes, Mr. Murphy's income is composed of CPP of **$8,057** and net rental income of **$3,083** for a total income of **$11,140.**

[39] I find that Ms. Bert has not proven on a balance of probabilities that further income should be imputed to Mr. Murphy. Given his income, Mr. Murphy is required to pay Ms. Burt child support of $48 per month, subject to the undue hardship claim.

[40] If child support is otherwise payable, should Mr. Murphy succeed with his claim for undue hardship?

[41] *Legislation and Caselaw*

[42] The court must now examine Mr. Murphy's undue hardship claim given my finding that child support is otherwise payable. I have reviewed s. 10 of the *Guidelines* which provides for an undue hardship finding.

[43] In **Gaetz v. Gaetz** (2001),193 NSR(2d)143 (CA), Freeman J.A. stated that a departure from the *Guideline* child support award involves a two-step process at para 15:

> 15 The Guidelines authorize a court to depart from awarding child support as calculated in the tables only when the payor spouse or a child, on whose behalf a request is made, would suffer undue hardship. This is determined by a two-step test. First, s. 10(2)(a) to (e) of the Guidelines, lists circumstances which must be considered: there must be a determination that the spouse has an unusually high level of debts incurred in the family context, high access expenses, or several instances of legal duties of support to a child or other person other than a child of the marriage. Only when circumstances capable of creating undue hardship are found does the second step become relevant - the comparison of the standards of living of the households of the payor spouse and the custodial spouse.

[44] Mr. Murphy bears the burden of proof. As noted by Hood J. in **Poirier v. Poirier** (2004) 220 N.S.R. (2d) 388 (SC), undue hardship is a difficult threshold to meet, at para 21:

> Mr. Poirier must satisfy the court not only that there would be a hardship but that the hardship is undue. In **Mayo v. O'Connell,** Justice Cook said at para. 17:
>
> > Undue hardship is a tough threshold to meet. Synonyms for undue include: excessive, extreme, improper, unreasonable, unjustified. It is more than awkward or inconvenient. ... In other words, the fact that any of the provisions of s. 10(2) of the Guidelines may apply to the Applicant is not, of itself, determinative of the undue hardship issue. The hardship must be undue to satisfy the requirements of the s. 10(1).

[45] In **Hanmore v. Hanmore** 2000 CarswellAlta 144(C.A.), leave to appeal to the Supreme Court of Canada refused at 2000 CarswellAlta 1274(SCC), the Alberta Court of Appeal reviewed the issue of undue hardship in the context of second families at para 17:

> 17 It is evident from these authorities that the burden of establishing a claim of undue hardship is a heavy one. We agree with the comment of Wright J. that the objectives of the Guidelines will be defeated if Courts deviate from the established guidelines without compelling reasons. The hardship must be more than awkward or inconvenient. It must be exceptional, excessive, or disproportionate in the circumstances. Further, it is not sufficient that the payor spouse has obligations to a new family or has a lower household standard of living than the payee spouse. The applicant must specifically identify the hardship which is said to be undue. A general claim regarding an inability to pay or a generic reference to the overall expense of a new household will not suffice. We adopt the words of Prowse, J.A. in V. (J.A.) v. V. (M.C.):

> [51] The onus is on the party applying under s. 10 to establish undue hardship; it will not be presumed simply because the applicant has the legal responsibility for another child or children and/or because the standard of living of the applicant's household is lower than that of the other spouse. The applicant must lead cogent evidence to establish why the table amount would cause undue hardship.

[46] In **Reid v.Nelson** 2002 CarswellOnt 2257 (CJ), the court once again confirmed that cogent evidence, not conjecture or speculation, must be advanced which leads to a reasonable inference that the children of the second family will suffer from some significant deprivation unless the undue hardship application was granted.

[47] Similarly in **Schenkeveld v. Schenkeveld** 2002 CarswellMan 87(CA) the court stated that a successful undue hardship application can only be met if it is established that the hardship is exceptional or excessive, and not just the natural consequences of dividing modest resources between two households. Further, and as noted in other decisions including **Hanmore v. Hanmore,** supra, a finding of a lower standard of living does not automatically result in a successful undue hardship claim.

[48] *First Stage of Undue Hardship Test*

[49] No submission was made that Mr. Murphy does not meet the first stage of the undue hardship test. Clearly he does fall within s. 10 (2) (d) (i) of the *Guidelines*. Mr. Murphy has a legal duty to maintain Tyler who is 9 and Jade who is 7 and who are in his primary care and control. Mr. Murphy also has a legal duty to maintain his new baby.

[50] *Second Stage of Undue Hardship Test*

[51] Mr. Murphy does have a lower standard of living than does Ms. Bert. I nonetheless deny Mr. Murphy's undue hardship claim for the following reasons:

> a) Ms. Bert and Mr. Murphy receive about the same amount of income at this time given Ms. Bert's current state of health. Ms. Bert has no disability insurance. Because of the cancer treatment which she is undergoing, Ms. Bert will collect EI for fifteen weeks and then will be forced on social assistance. This is the second time Ms. Bert had to stop working to receive cancer treatment. Hopefully, her health will improve and she will be able to return to work. I must, however, assess the application at this point in time and use the most current income particulars in reaching my decision. Any changes in income positions can be dealt with by way of a variation application in the future;
>
> b) Ms. Bert and Mr. Murphy each have two children in his/her care. Mr. Murphy receives the child tax benefit and CPP disability benefit for

each of the children in his care. Ms. Bert receives the child tax benefit for each child in her care. Ms. Bert receives CPP disability for only one child;

c) Mr. Murphy can make an application for child support from Ms. King, the mother of Tyler and Jade. He can make such an application despite the agreement which he and Ms. King reached. Parents are not free to barter away child support obligations. Further, the child Kathleen should not have to bear the financial consequences of Mr. Murphy's ill-advised decision not to seek child support from Ms. King;

d) The father of Ms. Bert's second child is incarcerated. Any application filed by Ms. Bert for her son's support would be fruitless at this time;

e) Although Mr. Murphy is not residing with his current girl friend, they do share some expenses, such as the new vehicle which they purchased together. Ms. Bert does not share any expenses with another adult; and

f) Little evidence was provided to confirm the amount of financial contribution made by Mr. Murphy to support his new baby.

[52] As noted in the caselaw previously discussed, a finding of a lower standard of living does not automatically result in a successful undue hardship claim. I find that in all the circumstances, Ms. Bert's financial position is much worse than that of Mr. Murphy. There is no cogent evidence to suggest that Mr. Murphy's household and his second family have, or will suffer, significant deprivation if the undue hardship application

is denied. To the contrary, the evidence clearly shows that if the undue hardship was granted, the parties's daughter, Kathleen, would suffer significant deprivation at this time.

[53] Should a retroactive variation be granted?

[54] In **S.(D.B) v. G.(S.R.)** 2006 SCC 37(SCC), the Supreme Court of Canada dealt with an application for retroactive child support filed by a custodial parent. The factors identified in **S.(D.B) v. G.(S.R.)** are equally relevant to an application made by a non-custodial parent to retroactively reduce the quantum of maintenance payable.

[55] In **S.(D.B) v. G.(S.R.),** Basterache J. held that the court must examine four factors when determining the issue of retroactivity. The first factor concerns the reasonableness of the failure of the applicant to make a timely variation application. The second factor relates to blameworthy conduct. The third factor focuses on the past and present circumstances of the child, and not of the parent, and includes an assessment of the child's standard of living. The fourth factor requires the court to examine hardship claims,

although hardship factors are less significant if the payor parent engaged in blameworthy conduct. The court also held that generally it is inappropriate to make a retroactive award more than three years prior to the date of formal notice.

[56] Mr. Murphy did not give effective notice of his decision to seek a variation in maintenance. Mr. Murphy provided formal notice in December 2004 when he filed his application to vary. His application was not heard until September 2007.

[57] Ms. Bert argues that any variation should not take effect until the date of the decision in the circumstances. Ms. Bert states that Mr. Murphy failed to move quickly with his variation application. Ms. Bert states that she needed and has spent the maintenance which was paid. Ms. Bert notes that she has no ability to refund any overpayment which may otherwise be due.

[58] In response, Mr. Murphy argues that relief should be effective as of December 2004 when he filed his application with the court. Mr. Murphy

states that he should not be penalized for the administrative delay in having his application processed. He states that the first adjournment was occasioned because a child protection case “bumped” his trial date. He then had to request an adjournment because he became seriously ill and was unable to attend court on the next scheduled date. The trial was thereafter scheduled to September 2007. Mr. Murphy states that he had no control over the scheduling of his variation application.

[59] During cross examination, Mr. Murphy appeared to understand the difficult financial circumstances currently facing Ms. Bert. Mr. Murphy acknowledged that he did not expect an order requiring Ms. Bert to refund an overpayment of maintenance.

[60] *Decision*

[61] In determining the date that the new maintenance figure is payable, I have balanced the four factors stated in **S.(D.B) v. G.(S.R.**). First, I find that Mr. Murphy cannot be blamed for the scheduling difficulties which the

parties encountered in having the application heard. These administrative delays are systemic and Mr. Murphy cannot be penalized because of them.

[62] Second, I find that neither party behaved in a blameworthy fashion.

[63] Third, the parties' daughter, Kathleen has enjoyed a good quality of life as a result of the financial sacrifice of both parties, and as a result of financial assistance given by Ms. Bert's family. There is no evidence that there are savings put aside for Kathleen to meet her needs in a time of reduced income. In addition, there is no evidence to suggest that Ms. Bert has other savings available.

[64] Fourth, any refund of the overpayment of maintenance would result in significant hardship to Ms. Bert and Kathleen. Ms. Bert is not in a position to refund child support. She has no financial ability to repay maintenance. Ms. Bert is having trouble meeting Kathleen's day-to-day expenses. Not surprisingly, Ms. Bert lives pay cheque to pay cheque, and her pay cheque is substantially less due to health difficulties.

[65] I also find that Mr. Murphy's financial circumstances are not the best. He, like Ms. Bert, does not have savings. He, like Ms. Bert, struggles financially to make ends meet. Mr. Murphy's financial circumstances, however, are not as desperate as those of Ms. Bert. Mr. Murphy does have investments through the rental properties. He owns his home. His vehicle, although shared, is newer than Ms. Bert's car.

[66] The evidence also indicates that Mr. Murphy may receive a significant personal injury award. It is possible that this personal injury award may include a portion for income which Mr. Murphy would have earned but for the accident.

[67] I have reviewed the evidence, legislation, case law, and submissions. I have balanced the four factors identified in **S.(D.B) v. G.(S.R.**). I have applied the civil burden of proof to Mr. Murphy as it is his application to vary retroactively. It is proof on the balance of probabilities. I grant the retroactive variation sought by Mr. Murphy, but not to the extent requested. A variation retroactive to December 2004 would result in an overpayment of $7,945 [$275 -$ 48 x 35months]. This, in the circumstances would produce

too great a burden upon Ms. Bert. I therefore find that the correct overpayment is $2,500 less any arrears outstanding in the records of the Maintenance Enforcement Program. However, I suspend the refund of the overpayment until such time as Ms. Bert's financial circumstances have improved considerably.

VI. CONCLUSION

[68] I grant the variation application made by Mr. Murphy, but deny the undue hardship application. The overpayment of maintenance is set at $2,500 less any arrears outstanding in the Maintenance Enforcement Records. Ms. Bert will not be required to refund the overpayment until her financial circumstances have improved considerably. The new child support payment of $48 per month will be paid December 1, 2007 and will continue to be paid on the 1st day of every month thereafter.

[69] Both parties shall advise the other, and in writing, of changes in his/her income and employment situation within thirty days of the changes

having occurred. In addition, each will provide the other with a true copy of his/her income tax return with attachments, and Notice of Assessment by June 1st of each year. Mr. Murphy shall include a statement of gross and net rental income with his disclosure. Mr. Murphy shall also advise Ms. Bert of any settlement which he receives and a break down of the various heads of any damage award.

[70] If either party wishes to make an application for costs, such should be made in writing within 14 days, and a response filed by the other party within 14 days of the costs application. For the parties' benefit, however, unless settlement offers have been made in keeping with this decision, it appears that success has been divided.

[71] Ms. McCarthy is to draft the order and provide a copy to Ms. MacRury as to form. Thank you counsel.

_____

Theresa Forgeron

J.