

**SUPREME COURT OF NOVA SCOTIA**  
**(FAMILY DIVISION)**

**Citation:** Smith v. Smith, 2011 NSSC 40

**Date:** 20110201

**Docket:** 1201-064588

**Registry:** Halifax

**Between:**

Ernest "Michael" Smith

Petitioner

v.

Sheila Smith

Respondent

**Judge:**

The Honourable Justice Moira C. Legere Sers

**Heard:**

January 25, 2011

**Counsel:**

William Leahey, for the petitioner, Michael Smith  
Scott Lytle, for the respondent, Sheila Smith

**By the Court:**

[1] Michael and Shella Smith were married on September 4, 2004. They ceased living together May 1, 2010.

[2] This matter is before the court currently as the result of a Notice of Motion, for interim relief dated November 18, 2010, commenced by the applicant, Mr. Smith.

[3] The applicant father seeks an interim division of funds from the sale of the matrimonial home. This has been agreed upon by the parties.

[4] In addition, he is seeking to have access to his two children, Brianna Lynn Smith, born September 6, 2007 and Hope Claire Cross Smith, born July 21, 2010.

[5] Brianna was the subject matter of an emergency access application commenced by the applicant under the umbrella of the Petition for Divorce issued May 21, 2010.

[6] At the time the Petition for Divorce was issued, the second child had yet to be born. Since her birth July 21, 2010 the mother has severely restricted the father's contact with her.

[7] The emergency access order dated June 23, 2010 established very specific visitation between the father and his daughter commencing June 1<sup>st</sup> and specified to date. His access was reinstated gradually commencing June 1<sup>st</sup> whereby on June 8<sup>th</sup> he was to commence every Tuesday and Thursday from 5:00 to 7:00 pm and every weekend from Saturday 12:00 noon through Sunday at 5:00 pm. This schedule should continue until further order of the court.

[8] Telephone contact was reestablished. The mother was ordered to provide to the father her telephone number and, due to her then current concerns about privacy and her wish to keep her residence location secret, she was responsible for arranging transportation for the child.

[9] The father alleges that the conduct of the mother has the effect of "restricting" and on numerous occasions denying access between himself and his

daughter altogether. Further, he alleges that the mother is significantly limiting and prohibiting his access to the newborn infant.

[10] In May of 2010 the father returned from a six-month NATO deployment in the Canadian military to find that the mother had moved herself and the child out of their Lower Sackville home. He had no forwarding address.

[11] He received a letter from the mother's lawyer enclosing a separation agreement which made no provision for contact by way of access between himself and his daughter.

[12] He was presented by mail with a separation agreement which stated as follows:

Parenting Plan

Parent Shella and Michael shall each maintain a home for their children. Shella shall have primary care and control of the children. Michael shall have supervised parenting time with the children upon reasonable notice at reasonable time taking into consideration the ages of the children. Shella shall have the sole discretion to the appointing of the supervisor for Michael's parenting time.

[13] While the proposed separation agreement offered no guarantee of contact between the father and his children, it incorporated general principles normally associated with a joint parenting plan that encouraged and promoted significant involvement and exchange between children and parents. The proposed contact contradicted the general statements of principles.

[14] What resulted from the father's negotiations to obtain access was extremely restricted visitation for the period of time that he was on leave. He was required to return to his ship on June 6<sup>th</sup> although he has subsequently obtained temporary permission to stay in port and is applying for shore leave. He is confident he will be in a position to receive this shore leave. Subsequently filed information confirms he is posted ashore in Halifax as of March 1, 2011.

[15] Their negotiations did not result in an agreement.

[16] The father asserts that he has been a significant parent in his daughter's life and that he was not advised as to the reasons for the imposition of supervised and restricted contact.

[17] The parties tendered affidavits concerning their mutual positions.

[18] The mother voices concerns about reintroducing Brianna to the father after six months' deployment. She also reiterates her concerns as expressed in the emergency hearing about the father's anger and controlling behaviour and treatment of herself and the child.

[19] The mother denies any physical abuse as a result of the father's behaviour and classifies his behaviour as controlling and abusive.

[20] As an example of this she describes an incident where she alleges the father "jolted the child" in order to calm her.

[21] When asked to clarify her evidence, the mother describes the behaviour as jerking the child. When questioned with respect to exactly what that meant, she restricted her interpretation so as not to include shaking the child, where damage would occur, but jerking the child and raising his voice to make sure that the child quieted down.

[22] Obviously, any physical intervention where a child may be jolted or shaken if true, is of concern.

[23] The father gave evidence of his version of events surrounding this incident, where he intervened to stop their child from repeatedly climbing a chair while the mother was occupied on the phone. His version sounded as if it were a reasonable intervention. The conflict escalated in part by the child's unrestrained behavior and the difference of opinion between the parents regarding effective discipline for the young child.

[24] The father forcibly removed the child from the scene. The mother attempted to intervene. The child was hollering, the mother and father's voices raised. Clearly this level of conflict is symptomatic of parental difficulties which produced escalating conflict.

[25] Clearly, shaking a child or yelling at a child to teach boundaries is not appropriate, effective or acceptable. I have insufficient evidence to conclude the father acted inappropriately with the child.

[26] The mother's description as contained in her affidavit and the father's oral explanation do not evidence harm that would support a supervised access order. If the mother has evidence of possible harm, it needs to be better articulated.

[27] The only unknown in relation to the father as raised in the allegations of the mother is his ability to parent an infant and a three-year-old overnight without assistance.

[28] The mother describes some early behaviour that caused her to conclude that the father became very impatient with the child when he could not get her to settle.

[29] The father had an opportunity to respond to those concerns as provided in the mother's affidavit at the interim emergency hearing.

[30] Justice Jollimore issued an order from this emergency order which gradually reintroduced Brianna to her father over a period of time commencing in June 2010 such that overnight access was initiated. I have no new information that would cause me to contradict that order.

[31] Brianna is now three years and five months old. The mother's own proposal for Brianna's contact with the father includes every other weekend, with pickup Friday after work 3:00 pm and return Sunday at 4:00 pm, in addition to other special weekends.

[32] This acknowledges Joan B. Kelly & Michael E. Lamb research findings that children of two (toddlers) are able to tolerate longer separations and can manage two consecutive overnights with each parent without stress. (See Respondent's submissions January 27, 2011, at page 4.)

[33] The mother is also opposed to having the father see the youngest child outside the home until she is eight months old.

## **Transportation**

[34] Subsequent to the court order, the mother and her father engaged in discussions and the drafting of an agreement that would counteract the court order such that the father would obtain a few extra hours on each side of the access in return for which he would do the transportation.

[35] The father testified as to the circumstances in which this agreement was reached, as did the mother.

[36] I am satisfied that the father was in a situation of having minimal access to his infant child and Brianna, which access was being further obstructed when the mother refused to provide the transportation such that he was prepared to travel to the mother's home in return for a few extra hours.

[37] The father also indicates that subsequent to the order of the court regarding the respondent's obligation to provide transportation, she has provided transportation on a very limited basis and refuses to do so in others. The father agreed to provide the transportation, once she released her address, in order to get whatever access he could.

[38] The mother confirms that she does not like to drive the car with two children in the car at the same time without having another adult present. She also advises that her finances are limited and she is unable to equip her car properly with winter tires.

[39] Her interpretation of the order of the court regarding transportation is simply untenable. It is particularly not supported once one reviews the correspondence between counsel and the Justice regarding the reasons for the provision that the mother shall arrange transportation.

[40] The mother interpreted "arrange" to mean "make arrangements for" and not "to provide". The court ordered and confirmed in writing that she was to make the arrangements for transportation (herself or her family) to respect her wish for privacy. That is no longer an issue.

[41] The court ordered the introduction of two hours of access: Tuesdays and Thursdays, between 5:00 and 7:00 pm. Once the father started to do the transportation, the mother indicates that he was entitled to pick up his oldest child

on Tuesdays and Thursdays one-half hour early and drop her off at 7:30 pm for approximately one month.

[42] In essence, the father entered into the agreement under duress. If he wanted more hours with his daughter he would sign the agreement and that would be the only way he would gain the cooperation of the mother and her father in facilitating contact.

### **Obstruction of access**

[43] I have reviewed the affidavit evidence on file, and reviewed the *viva voce* evidence and cross-examination.

[44] I am satisfied that the mother has obstructed the father's access to the infant almost completely and has rearranged the court order to facilitate her position respecting custody and access and is continuing to do so unabated.

[45] The father testified that he has only been allowed to visit his youngest daughter, at the mother's home if the baby is awake when he comes by to drop off Brianna. He is not allowed to take her outside of the apartment and if she is not awake when he drops by contact between he and the baby is refused.

[46] The mother suggests the reason for this is that the baby sleeps in her room and she does not want the father in her bedroom. She is concerned that he has not had sufficient experience, contact and patience with an infant that would address her concerns about his ability to care for the child. Further, as a result of him not having seen the child other than on an extremely limited basis since July 21, 2010, the child has no connection with him.

[47] I have seen no evidence to justify the secrecy surrounding her location. In fact, after the court ordered her to provide the transportation to preserve her secrecy, the location of her residence was released to the father to allow him to attend her residence with her parents to facilitate him taking responsibility for transportation.

[48] The father was not allowed to take the youngest child with him in spite of the fact that his car is equipped appropriately and was expected to spend some of

that limited evening access either waiting for the child to wake up or visit with the infant child in the mother's home.

[49] In mid-July the mother reneged on the original agreement which would allow the father to bring the oldest child back at 7:30 rather than 7:00 pm as noted in the order and stated that if he was going to visit the youngest child, he had to be out of the apartment by 7:30 pm. Given the father gets off work at 4:00 pm to visit one child he would have to take away from his time with the other.

[50] It must also be noted that the father is driving around the city in traffic after 4:00 o'clock. These obstacles unnecessarily complicate the visitation schedule which was set up in order to facilitate a reintroduction of access.

[51] To further complicate matters, when the father would visit the home due to what the mother alleges as her fears of him, she would have her father, brother or other family member in the apartment around his minimal contact.

[52] On one occasion, the court heard evidence from a police officer contacted by the mother and/ or her father asking the police be present during the father's first visit to the home.

[53] This was at the beginning when she finally released her address to the father and both she and her father were concerned about his attendance.

[54] Where the evidence is contradictory and her version of the facts does not accord with the father's and the police, I rely on the police officer's statement as verifying more correctly the father's testimony rather than the mother's.

[55] There is no doubt that the police were engaged initially to be at the home by the mother and her father and were there when the father arrived for his visit with his children at the home. The police officer escorted the father into the home with his consent.

[56] The police officer testified that the mother was reluctant to allow the father to see the infant child, suggesting that the child was sleeping. The police officer asked whether there was a possibility the father could see the child notwithstanding the child was sleeping and was refused. They then heard the child cry and the police officer asked again if the father could see his child now that the child had



awoken. The father was permitted to see the child briefly and the police officer left.

[57] Equally of concern is the fact that as a direct result of the mother's refusal to allow the father sufficient time to be with the infant, the infant now really does not know the father.

### **Missed visits**

[58] The mother complains that the father has not taken advantage of all of the access that he could have.

[59] The father has tendered Exhibit #2 which identifies the visits that he has missed.

[60] All missed visits concern matters relating to his work or matters relating to the sale of the matrimonial home for which he took responsibility. There was also a search and rescue operation in which he was involved which required that he cancel a visit.

[61] **Generally**, the father should understand that parents only miss parenting time if an emergency is in progress, employment demands arise **that cannot be rearranged** or a parent is ill. The father is advised to try to plan in advance to avoid scheduling problems.

[62] The mother has refused out of town overnight visits and has not facilitated with ease paternal extended family contact.

[63] The schedule that has been arrived at is rather arbitrary and has been restricted and confined without regard to the father's employment in the military.

[64] When one or both parents are members of the military, clearly, attention has to be paid to maximize the contact when the parents are available. This is not a situation where a parent is not interested in, not prepared to make concessions, not addressing in priority the needs of the children and their contact with him.

[65] There is no evidence to support a conclusion that this father is not placing appropriate priority on his visitation with the children. He is employed with the military. There are certain restrictions to his availability in these circumstances.

[66] It is common place when working with military parents to draft orders which maximize the time between the children and the parents when the parents are available; to facilitate the continuation of contact between parents and children through communication by way of video and other technological means to assist in the development of a strong bond between the parents and the children when they are unable to be physically present.

[67] There is no evidence to suggest that the father is abusing his work requirements.

[68] If the parties continued to be married, they would have to make adjustments when one or the other parent was not available for work commitments or for commitments that were urgent. There should be no difference now that they are separated.

[69] Should the father abuse his access schedule, the mother has the option of applying to the court to have it changed. However, his conduct since his return to Nova Scotia has been to consistently pursue contact with his children and to negotiate and compromise in order to obtain as much contact as possible.

### **Abusive behavior**

[70] The mother's explanation of controlling and abusive behavior was not supported by the facts. It is clear the parties had marital difficulties, argued frequently, had different opinions on parenting and discipline, and extended their arguments not only in the face of the child but behaved in such a way as to counteract each other's discipline with the child and to escalate the conflict.

[71] The evidence would support that the mother is more permissive with the older child and the father would impose consequences to the child Brianna's behaviour.

[72] The father is concerned that the mother and her father are using corporal punishment to control the oldest child. As a result of their difference of opinion in

disciplining, both parents have agreed to refrain absolutely from any corporal punishment.

[73] It is clear that the oldest child's behaviour has been such that the parents have sought out a specialist's assistance and have been advised as to how to deal with temper tantrums and to deal with what was the father termed a sleep disorder.

[74] However, other than the concern about how the father will respond when on his own if he is responsible for a baby who will not sleep, there was no evidence to support that he was physically abusive to the mother or mentally abusive.

[75] There is evidence to suggest that they clearly disagreed with each other, did not hold the same opinions and each accuses the other of bullying. The final result is that the father has not been able, through means other than court application, to have any satisfactory contact with his children.

[76] I am not clear on what family supports the father has around his residence.

[77] The conflict and the mother's position respecting access have in fact resulted in minimal contact between the two children. This has been alleviated somewhat with respect to Brianna and her father by the court order.

[78] However, we are starting fresh with the infant child.

[79] It is equally clear that the family has become involved in the mother's plight and there is not likely to be a reasonable expectation that there can be objectively within the mother's immediate family to facilitate the reintroduction of the infant to the father.

[80] However, the father has had significant time with his older child from birth to the current date in spite of his time at sea.

[81] In short, other than to remove the children from the conflict between these two parents I have insufficient evidence to conclude that there is any support for supervised access between the father and his children.

[82] There is clear evidence that the parties will be unable in their current frame of mind to negotiate an agreement respecting the evolution of contact in parenting and develop a parenting strategy.

[83] It is clear to me that the mother needs to have some further education about the ages and stages of development of the children and their needs.

[84] It is clear to me that the father would profit from that as well. In particular, he would profit from parent information concerning infants and toddlers.

[85] This matter is before me on an interim motion and it will come before a court should the parties fail to resolve the long-term issues regarding custody and access.

### **Order**

[86] My direction is that both parents do what they can to obtain course materials to address the stresses of the separation and divorce to ensure that they facilitate contact between the other parent.

[87] They should aim to ensure that the children are left out of the conflict between the parents and are provided for in both family homes and that their developmental needs are addressed appropriately.

[88] I direct that evidence of any courses the parties attend that will assist them as they commence their single parenting be provided to the trial judge in arriving at a final agreement.

[89] Both parents obviously have access to these courses and the father certainly would have access through the military resources to parenting young children and other courses that would assist him as he moves into developing a parenting relationship with his daughters.

[90] The father shall have his apartment appropriately child-proofed in order to allow for overnight visits between himself and his daughters. This will include a bed for the oldest child and an approved crib for the youngest and appropriate gates to ensure the children are protected.

[91] I recommend that the father have some member of his family present as he begins this access schedule simply to avoid any difficulties and to ensure that his adjustment to two children is as smooth as possible.

[92] This will benefit him and benefit the children and it will provide the necessary witness should there be further court difficulties. He shall choose the person so involved, preferably a member of his family.

[93] The access that I am describing is to take place with the father and not by anyone designated by him to care for the children for the first number of months. It would be preferable when starting out that he involve his extended family to support him as he reintroduces himself to the oldest and becomes familiar with the youngest. He is entitled to involve his family in the visitation.

[94] The mother will prepare a statement for the father outlining the infant's current diet, her current dietary needs which are specific to her given her early infant difficulties and a schedule she follows regarding the introduction of foods so that the father may adapt similarly to the child's schedule in the mother's home.

[95] For the first six weeks following this decision, should the father be able to arrange with his employer extra day time hours when he can be available to spend time with his infant child, he shall give a schedule of his availability for the next six weeks during the day time to the mother.

[96] He shall have the ability to choose to take the child with him for three hour periods, at least three times during the week, in excess of his current schedule. The reason for this is to reestablish some connection between the father and the child in accordance with the child's perception, to make up for time lost since the infant's birth and to make the transition to visits away from the home easier on both the father and the child.

[97] The father may not be able to maximize on all three visits of three hours. I am simply providing for the possibility of this and I note that it would be in the best interests of the child to facilitate this connection to assist both father and child with the opportunity to establish this connection. Any unreasonable refusal by the mother will be dealt with by subsequent court orders.

[98] This extra three hours at least three times per week for the next six weeks, if possible, is not meant to substitute for or to delay the access schedule of Tuesdays and Thursdays, Saturday and Sunday visitation.

[99] The fact that any of the children are asleep when the father arrives is not to prohibit contact or prohibit the exercise of contact. The father is to use his best judgment in selecting hours which will fit in appropriately with the child's schedule to be the least disruptive and give him and the child an opportunity to be together.

[100] The mother shall have the children ready for each of these specific 3 hour visits during this 6 week period and the father shall return the youngest child on time.

[101] I have reviewed the father's and mother's proposals for parenting time very carefully. The mother's is too restrictive and the father's reflects the parents' interests and scheduling more so than a child of three and an infant.

[102] This is a year of transition for the parents and the children. It is a year when the father's role changes significantly such that he is ashore and available on a consistent basis.

[103] The father has an infant that he needs to establish a solid and secure connection with him.

[104] The father's year has to be primarily focussed on developing a new and expanded relationship with his children. They are his priority in advance of any extracurricular activity.

[105] Except for mandatory employment obligations, all else takes second place.

[106] In reading the literature provided by counsel and combining that with our current state of law the schedule in these circumstances that best represents the children's interests is one that keeps each parent in their lives on a frequent basis.

[107] If I were to separate out the oldest from the youngest schedule (which would be necessary to reintroduce the child to her father), I would be increasing the contact between the mother and father while they transport the youngest child back and forth with more frequency than would be required for the oldest.

[108] Therefore, to reduce this unnecessary complication, the schedule they will operate on will be as follows:

Commencing Saturday, February 5, 2011 the father shall be entitled to have both children with him commencing at noon.

From Saturday at noon to Saturday at 6:00 pm he shall be entitled to have the infant with him. The mother shall pick up the infant at the father's residence at 6:00 pm and he shall continue to have Brianna with him through the night to Sunday at 6:00 pm.

The father will have both children with him on Tuesdays and Thursday every week from **4:30 to 7:30 pm**.

[109] This schedule shall continue for the full month of February.

[110] Commencing the first week of March, the father shall have both children with him each Saturday at noon to Sunday at 6:00 pm.

[111] Should the parties agree, they may move the father's parenting time to Friday at 4:30 pm to Saturday at 4:30. The object is to have the children with their father each weekend for an overnight, the children being together and to allow the children contact with their father consistently through the week so that they have him visually and physically in their lives frequently each week.

[112] It means that neither parent has one full weekend without the children. This schedule better reflects the children's needs.

[113] The mother proposes no visits outside the home with the infant until she is nine months old and then she may go with Brianna during weekday visits. When she is two years old, the mother indicates she can go on an overnight or weekend visit. That is overly restrictive.

[114] Both parties agree that Christmas access should be alternating in such a way to give the children meaningful time with both parents.

[115] Commencing in 2011 until Brianna is in school (after which time she will have a regular Christmas break), the ordinary schedule will continue, commencing

in 2011 and every odd-numbered year with the father having Christmas commencing Christmas Eve at 11:00 am to Christmas Day at 4:00 pm. Thereafter, the mother shall have the children from Christmas Day at 4:00 pm to Boxing Day at 4:00 pm. The parties will then resume the ordinary schedule.

[116] The mother shall have the Christmas overnight schedule on even-numbered years.

[117] It is anticipated when Brianna starts school that Christmas vacation will be a larger block of time, which shall be split between the parties, with Christmas Eve and Christmas Day alternating between the parties.

[118] The applicant seeks to have pre and post deployment extended block access periods. As indicated earlier in this decision, it is anticipated with children of military parents that block access will be facilitated while the parent is in port.

[119] However, due to the age of these children and the fact that the father indicates he is anticipating a shore leave, I will not specifically set out pre and post deployment except that if his request is unsuccessful and he is posted on ship again, the mother is to facilitate block access periods immediately before and post deployment.

[120] The block access immediately before deployment shall be for a minimum of three days as requested by the father or agreed upon by the parents. The post deployment will depend on the amount of time that the father is absent.

[121] Hopefully by that time there will be a greater appreciation of the need to facilitate appropriate contact with the father and the father will have an understanding of the need to reintroduce himself to his children after extensive leaves.

[122] The mother agrees that when the father returns after four weeks or more away on the job, the first weekend back shall be his regardless of whether it was in fact the mother's scheduled weekend and the parties will return to their regular schedule.



[123] Given the ages and stages of these children and particularly the infant, one week at March Break is not an appropriate schedule. The ordinary schedule will continue as described above.

[124] March Break for 2011 in the Halifax Regional Municipality is scheduled to happen in February. By 2012, the parties can either split March break or alternate as they agree.

[125] Easter shall alternate as well. Commencing Easter 2011, the children shall be with the mother overnight Easter night and 2012 with the father overnight.

[126] Halloween will alternate between the parties.

[127] The children will be with the father on Father's Day and his birthday, providing the father is in town; with the mother on Mother's Day and her birthday.

[128] Both parents shall have access to third-party service providers, medical records and educational records upon reasonable request.

[129] Should medical intervention be required, each parent will keep the other fully informed about the nature of the visit as soon as reasonably possible and any recommendations flowing from the visit.

[130] In the event of an emergency, each parent shall immediately take appropriate urgent action as is required and forthwith thereafter notify the other parent.

[131] The parties will share transportation with the father picking up his children from the mother's residence and the mother picking them up from the father's residence to be returned.

[132] Summer block access shall allow for one week with each parent for Brianna. The youngest child is too young to spend one week away from either parent.

[133] Regular access shall continue unless agreed upon by both parents.

[134] It is possible, if the parties wish to arrange a trip for both children with each parent that both parents can agree on a half week option or other option for both for the youngest child as they the parents deem fit and appropriate.

[135] By May 15<sup>th</sup> of this year the father will advise of his vacation plans and if not, the mother has first option of vacation without losing her option the succeeding year.

[136] In even-numbered years, the mother will have first option to advise of her choice in vacation plans.

[137] The parties are free to agree on such other terms and conditions and such further parenting time provided their agreement is in advance and in writing.

[138] This is an interim argument, an interim motion. This schedule is not intended to be a long-term schedule.

[139] I expect that this agreement will evolve as the age and stage of the children develop and in particular as the age of the youngest child develops and the father and she have had an opportunity to be in a closer relationship.

[140] The father is just being effectively reintroduced to his oldest daughter after his deployment and introduced to his infant daughter. This should be reevaluated in summer to work on a longer term plan.

[141] The mother shall advise the father in advance of any medical appointments regarding inoculations or well-baby checks or any information to allow him sufficient time to attend the visits with her and the children.

[142] On any visits that are relating to any emergencies, both parents shall advise the other parent immediately after dealing with the emergency.

[143] Both parties will keep each other informed of all relevant information concerning the child while the child has been in their care.

[144] Both parents shall complete as a minimum the parenting information course offered through the court facilities.

[145] The father shall ensure the children are fully on his medical plan and that the mother is able to access his medical directly to avoid any unnecessary discussion between the two.

[146] The father shall pay child support to the mother through Maintenance Enforcement in accordance with his affidavit which indicates his 2010 income is \$65,628. If this does not include all allowances, an adjustment shall be made to include such allowances while the applicant is in receipt of such allowances unless these allowances are specifically excluded by court order. Correction may be made by retroactive evaluation.

[147] The father advises his income has been reduced by \$1,872 for an annual income of \$63,128.

[148] The monthly support payment for this amount for two children is \$892. If that is in fact his accurate full gross pay inclusive of allowances (the parties simply did not have sufficient time to speak to this issue), the father shall pay on his gross income commencing February 1, 2011 continuing every month thereafter until further order of the court.

[149] The parties did not have full opportunity to examine the financial matters and are free to request an adjustment on this amount and seek retroactive payments in the final hearing.

[150] The father has advised that he has deducted some household payments from the child support in the past due to assuming responsibility for household debts. This is not generally accepted, that is, a mingling of the matrimonial debts with the child support payments and deducting from one to satisfy the other.

[151] Those adjustments in his favor for the payment of bills and in the mother's favor for child support may be discussed and if not resolved between the parties, put before the court for final resolution.

[152] Counsel for the father shall prepare the order with counsel for both parties to signify their consent as to form on the form of order.

Legere Sers, J.

February 1, 2011  
Halifax, Nova Scotia