

SUPREME COURT OF NOVA SCOTIA
Citation: Doncaster v. Field, 2013 NSSC 85

Date: 20130307
Docket: Tru: 1207-003679
Registry:TRUJC

Between:

Ralph Ivan Doncaster

Petitioner/Applicant

-and-

Jennifer Lynn Field

Respondent

Judge: Justice Cindy A. Bourgeois

Heard: November 19, 20, 21, December 18, 2012

**Written
Decision:** **March 7, 2013**

Counsel: Mr. Ralph Doncaster, Self-represented
Ms. Janet Stevenson, for Jennifer Field

By the Court:

INTRODUCTION:

[1] The Doncaster-Field family is, and has been for some time, in turmoil. Caught in the middle, as is unfortunately often the case when parents separate, are four children ranging from 13 to 8 years of age. This however is no "typical" parental separation. At the time of writing this decision, Mr. Doncaster has not seen his children, by Court order, in over a year. That is a rare circumstance. Mr. Doncaster's diagnosis of ADHD and potential Asperger's syndrome also poses unique considerations.

[2] Further, this marital separation has spiralled, sucking into the vortex, friends, neighbours, employers, the RCMP, and even the Girl Guides of Canada. In the middle of this vortex is the Doncaster children, Max – 13, Mia – 12, Grace – 9, and Kate – nearly 8.

[3] This Court is tasked with determining what custody and access arrangements are in the best interests of these children on an interim basis. A

similar task had been undertaken by this Court on March 5, 2012. It is appropriate to review that decision.

THE MARCH 5, 2012 PROCEEDING

[4] On February 6, 2012, Mr. Doncaster, through his then-Counsel, filed a Notice of Motion for Interim Relief seeking interim joint and shared custody of the children of the marriage, as well as costs. The motion asserted the matter could be heard in two hours. The matter was ultimately scheduled for March 5, 2012, before Scanlan, J.

[5] Evidence before the Court at that time consisted of two affidavits sworn by Mr. Doncaster on February 2, and 21, 2012, and an affidavit of Ms. Field sworn March 2, 2012. Both parties testified and viva voce evidence was further called from Ms. Thomson, a child protection social worker with the Department of Community Services, as well as Constable Cheryl Ponee of the RCMP.

[6] At the conclusion of the hearing, Justice Scanlan rendered an oral decision in which he expressed very grave concerns for the well being of the Doncaster children not only due to various incidents when Mr. Doncaster interacted

inappropriately towards the children, but also with respect to Mr. Doncaster's lack of insight into his behaviour. Justice Scanlan found that Ms. Field had been subject to abuse in her relationship with Mr. Doncaster and that her attempts to restrict the nature of access between the children and their father was appropriate in the circumstances.

[7] The Court was particularly concerned that the oldest child, Max, had spoken about suicide in relation to his father's treatment of him, and found that Mr. Doncaster had inappropriately struck Max as a misguided form of discipline and, subjected him to lengthy periods of isolation in his bedroom. Further, the Court concluded that the youngest child, Kate, had on several occasions, been placed outside after dark on a rear deck, as a means of punishing the child for leaving her bed.

[8] The Court also expressed concerns regarding Mr. Doncaster's interaction with third parties and felt that this gave rise to questions regarding his mental health. The Court ordered that Mr. Doncaster undertake a psychological assessment so that the Court could better assess what risks, if any, existed for the children in relation to their father's conduct.

[9] On an interim basis, the Court ordered that the children be placed in the sole custody of their mother, with no access to Mr. Doncaster. The Court impressed upon Mr. Doncaster the importance of his participation in the assessment, and recognizing the impact of his behaviour, particularly in relation to the children. Although an appeal of Justice Scanlan's decision was initially brought by Mr. Doncaster, it was subsequently abandoned.

[10] The terms of the interim order relating to the children are as follows:

Jennifer Field shall have interim sole custody of the children of the marriage:

Name of Child	Date of Birth
Max George Doncaster	December 24, 1999
Mia Lynn Doncaster	August 13, 2001
Grace Emma Doncaster	October 23, 2003
Kate Andrea Doncaster	March 30, 2005

1) All decisions regarding the children of the marriage shall be made by Jennifer Field.

2) Ralph Doncaster shall have no access or any contact, direct or indirect, with the children of the marriage. The children of the marriage may email Ralph Doncaster but Ralph Doncaster shall not respond.

3) Ralph Doncaster shall have completed a full assessment, which includes a parental capacity and psychological assessment, at Gorman and Garland Associates located in Dartmouth, Nova Scotia.

4) Any assessment prepared by Gorman and Garland Associates on Ralph Doncaster shall be sent to the Supreme Court of Nova Scotia, Truro Justice Centre, 1 Church Street, Truro, Nova Scotia, B2N 3Z5.

5) Ralph Doncaster is prohibited from travelling on the No. 2 Highway between Enfield and the intersection of Highway 14 (102 Exit and Highway 14 Exit) except to cross the intersection.

PROCEDURAL CONSIDERATIONS

[11] This matter is before the Court in the context of a divorce proceeding, and as such, is governed by the **Divorce Act**, R.S.C., 1985, c.3 (2nd Supp.). It may be helpful at this juncture to consider the stage of the proceedings, and the nature of the present hearing.

[12] As noted above, the March 5, 2012 hearing was brought about by a Notice of Motion for Interim Relief filed by Mr. Doncaster. The resulting decision of Scanlan, J. is not, accordingly, a final one. As such, it is my view that s. 17(5) of the **Divorce Act**, requiring a change in circumstances does not apply.

[13] The above being said, it is not this Court's function to conduct a re-hearing of the matter before Scanlan, J., or to determine whether his findings were correct. That is the function of the Court of Appeal, not this Court on a subsequent interim hearing. In my view, the findings reached on March 5, 2012 are facts to which I am bound. Even if I am wrong in this regard, I have during the course of the present hearing, been provided with the evidence presented at the March 5, 2012 hearing and of course, additional evidence from both parties. If I am obligated to consider matters on a de novo basis, I agree entirely with the factual findings reached by Scanlan, J., and adopt them.

Olga Komissarova

[14] As noted above, the Court had ordered Mr. Doncaster to undergo a psychological assessment as well as a parental capacity assessment. This was to be conducted by "Gorman and Garland Associates".

[15] The two reports were filed with the Court, both completed by Registered Psychologist Olga Komissarova. The Psychological Assessment report was filed June 1st, 2012, with the Parental Capacity Report being filed October 2, 2012. As Ms. Field's Counsel sought to cross-examine on the reports, Ms. Komissarova was asked to attend Court to provide viva voce evidence. Mr. Doncaster also took the opportunity to cross-examine the witness.

[16] Through the course of the evidence, the Court had the opportunity to hear Ms. Komissarova's testimony, including how she came to be involved in conducting the assessment for the Court, as well as observe her demeanour. I have concerns as to whether Ms. Komissarova is an entirely impartial witness, as is required for any expert, especially one appointed by the Court.

[17] From her evidence, it became apparent that Ms. Komissarova had met with Mr. Doncaster prior to Justice Scanlan's interim order. She does not work for or with "Gorman and Garland Associates", rather rents office space in the same building. Ms. Komissarova testified that she, in undertaking the assessments, viewed Mr. Doncaster as being her client. This is highlighted by the fact that despite being requested to bring her entire file to Court, she declined to do so, stating her reason as being she wished to protect Mr. Doncaster's privacy. The Court adjourned and directed Ms. Komissarova to retrieve her file for the purpose of her examination.

[18] Further, Ms. Komissarova's responses and demeanour towards Ms. Field's Counsel in the course of cross-examination was troubling. Although many witnesses find testifying and cross-examination an uncomfortable experience, Ms. Komissarova's responses and reactions to Ms. Stevenson's entirely appropriate questioning was disconcerting. She was on occasion hostile and evasive in her answers.

[19] All of the above being said, the Court must exercise caution in assessing the weight afforded to Ms. Komissarova's conclusions and ultimate recommendations.

Ms. Field submits the Psychological Assessment on its face is reliable, but the conclusions reached in the Parental Capacity Assessment and some aspects of the witness' viva voce evidence are not.

[20] I do not intend to review in detail the lengthy reports, but will highlight the most significant aspects contained in each.

Psychological Assessment

[21] Ms. Komissarova's report outlines initially, what measures she used to assess Mr. Doncaster, including a clinical interview, along with administering several standardized psychological tests. She outlines the documents reviewed by her, and prepared a lengthy "background" section, a compilation of information from a variety of sources.

[22] In terms of Mr. Doncaster's cognitive abilities, the psychological testing revealed:

The result of this cognitive ability assessment revealed that Mr. Doncaster's cognitive profile indicates he has gifted abilities in verbal, visual- perceptual and working memory areas. At the same time, the significant difference between his verbal and visual- perceptual index along with less developed visual-processing speed resembles cognitive profiles of individuals with the Asperger's Syndrome.

[23] The report discloses that Ms. Komissarova administered the "Sensory Profile Questionnaire" at Mr. Doncaster's request and in aid of confirming a diagnosis of Asperger's Syndrome. Among other things, Mr. Doncaster's scores on this instrument suggest that he has poor frustration tolerance, he has difficulty reading and interpreting the facial expressions of others, he takes excessive risks.

Ms. Komissarova summarizes the results as follows:

Mr. Doncaster's sensory profile indicates social competence problems, impulsivity, distractibility, and sensitivity to light, noise and locomotion. These symptoms are consistent with the Asperger's Syndrome and indicate a certain degree of Attention Deficit.

[24] Mr. Doncaster was administered the State-Trait Anger Expression Inventory – Second Edition (STAXI-2). Ms. Komissarova cautioned that the results of this test may be influenced by outside factors, as follows:

Mr. Doncaster's results on STAXI-2 may have been influenced by his recent life events that increased his stress, social-cultural experience in the expression of anger, use of defensive response style, and a pressure of Mr. Doncaster's current situation against accurately reporting true anger level.

[25] Mr. Doncaster's scores on this standardized assessment tool suggest

- "he has some probability to experience anger with little provocation;"

- "at the same time, he may be able to use his anger experience to develop better problem-solving skills and more adequate assertive behaviours;"
- "he may tell people how he feels about them if they really annoy him;"
- "Mr. Doncaster usually expresses his anger externally and does not try to suppress it, to internalize or to experience anger against himself;"
- Mr. Doncaster has a "significant difficulty to monitor and to control his expression of anger. The combination with Angry Temperament Score suggests the likelihood of impulsive anger expression";
- based on his Anger Expression index score, it suggests "the low probability that Mr. Doncaster's angry feelings can spin out of control".

[26] Ms. Komissarova administered the "Personality Assessment Inventory (PAI)" which provides personality profile relevant to mental health diagnoses and treatment planning. Mr. Doncaster's results on this assessment were felt to be valid. Mr. Doncaster's scores suggest that he is perceived as impatient, irritable and quick-tempered. In inter-personal relationships, he is self-assured, confident,

yet controlling. In terms of openness for treatment, Ms. Komissarova writes:

Treatment Rejection (RXR) scale focuses on attributes theoretically predictive of interest and motivation to make changes of a psychological or emotional nature: feelings of distress and dissatisfaction, willingness to participate, recognition of need for change, openness to new ideas and a willingness to accept responsibility for actions. Mr. Doncaster's T-score on this scale of 62 suggest that generally satisfied with himself, as he sees a little need for major change.

[27] Mr. Doncaster completed the "Millon Clinical Multiaxial Inventory-II (MCMI-III). Ms. Komissarova concluded, based on his scores that "it may be reasonable to assume that Mr. Doncaster is exhibiting psychological dysfunction of mild to moderate severity."

[28] This tool provides an assessment relating to Mr. Doncaster's personality. It is helpful to review Ms. Komissarova's detailed conclusions in this regard:

Mr. Doncaster appears to fit in the following Axis II classification best: Histrionic Personality Features, Antisocial Personality Features, and Narcissistic Personality Features. It is likely that superficially gregarious and friendly, Mr. Doncaster can readily become ill-humoured and touchy if subjected to persistent social discomfort and external demands. He may be disinclined to persevere in routine tasks such as long-term therapeutic compliance, but there may be considerable gain by using short-term treatment regimens that focus on his specific goals and time-limited techniques.

AXIS II: Personality Patterns

Mr. Doncaster's MCMI-III profile shows distinctive contempt for conventional morals. Although he is able to make a good impression on casual acquaintances, he displays characteristics of impulsiveness, restlessness, and moodiness, especially to family members and close associates. Likely to be untrustworthy and unreliable, Mr. Doncaster may persistently seek stimulations and engages in self-dramatizing behaviour. His relationships tend to be somewhat shallow, and he may fail to meet routine responsibilities. His communications may be characterized at times by caustic comments and callous outbursts, and he may act rashly, using insufficient deliberation and poor judgment. Seen by some as irresponsible and undependable, Mr. Doncaster may exhibit short-lived enthusiasm followed by disillusionment and resentment.

Mr. Doncaster is unlikely to admit responsibility for personal or family difficulties. He may deny the full responsibility for the presence of psychological tension or conflict. His interpersonal problems are frequently rationalized; especially those that he engenders, and blame may readily be projected onto others. At times self-indulgent and insistent on getting his way, Mr. Doncaster may reciprocate the efforts of others with only minimal loyalty and consideration.

When Mr. Doncaster's wishes are not fulfilled, when he is subjected to minor pressures, or when he is faced with potential embarrassment, he may be inclined to abandon his responsibilities, possibly with minimal guilt or remorse. Unfettered by the restrictions of social conventions or the restraints of personal loyalties, Mr. Doncaster may be quick to free himself from encumbrances and obligations. He is likely to abandon those who challenge his autonomy or beliefs. More typically, Mr. Doncaster may simply be imprudent and has minimal regard to consequences. Mr. Doncaster can be engaged in the course of irresponsibility, delighting in defying and challenging social conventions. There is a reason to think that Mr. Doncaster may have a poor prognosis for staying out of trouble due to his poor insights and poor social competence skills.

[29] In terms of proposed treatment, Ms. Komissarova provides a thorough approach to treatment which addresses Mr. Doncaster's particular personality. She summarized this as follows:

Mr. Doncaster's treatment could be best geared to short-term goals, re-establishing his psychological balance, gaining insight, and developing necessary social skills. In general, short-term individual and group therapy approaches with Mr. Doncaster are best directed toward building self-control and insight, toward the here and now rather than the past, and toward teaching Mr. Doncaster ways to develop effective cooperative relationships with others.

Parental Capacity Assessment

[30] As noted above, the Parental Capacity Report was filed with the Court on October 2, 2012. As with the earlier report, Ms. Komissarova listed the various documents she reviewed and the tests administered.

[31] Ms. Komissarova placed the following limitations on her report:

The recommendations contained within this report are based upon assessment findings and clinical judgment at the time of this assessment, this client's received education and/or counseling, and after the change of this client's life circumstances since previous report.

Assessment of parental capacity usually includes an observational component of a client interacting with his/her children during the access visit. Therefore this assessment's findings are limited due to the court order that denied this client's access to his children.

[32] Ms. Komissarova interviewed Mr. Doncaster, Ms. Field, the four children, and several collateral contacts. She did not speak directly to the children's therapist Ms. Bird, nor their family physician Dr. Harvey, although she did review material prepared by them.

[33] Ms. Komissarova summarizes her findings as follows:

Mr. Doncaster is a 42 years old male who was referred to this parental capacity assessment to evaluate whether he is capable to meet his children's needs. The major complaints and behaviours of Mr. Doncaster are consistent with the following diagnoses listed in DSM-IV: ADHD and Asperger's Disorder. Difficulties in parenting for these individuals exist due to their inability to see bigger picture instead of focusing on details and short temper. At the same time, research confirms that their family is their only friends.

According to the clinical measures, Mr. Doncaster is not controlling or dominating parent, but rather reinforcing parent who has unrealistic expectations in parenting. It appears that Mr. Doncaster is currently experiences high stress due to the absence of parent-child interactions. Mr. Doncaster's result on CAP inventory indicated that he is not a child abuser. Although, Mr. Doncaster's results suggest an appropriate level of empathy to adolescents, they indicate his tendency to view an independent adolescent as a threat to parenting.

Projective and objective measures indicated that Mr. Doncaster's and Ms. Field's children display slightly elevated aggression with needs in warmth, emotional balance and social support. The children refusal to see Mr. Doncaster may be a result of a high conflict between their parents.

[34] She concludes that "Mr. Doncaster presented as a capable parent who is able to recognize his children's social-emotional needs."

[35] As noted above, both parties cross-examined Ms. Komissarova at the hearing. In response to questioning from Mr. Doncaster, Ms. Komissarova

testified that she had reviewed a psychiatric report prepared by Dr. Kronfli, and agreed with his observations/opinion. The Kronfli report was entered as an exhibit by Mr. Doncaster through this witness. That report, dated April 11, 2012, was prepared in relation to criminal proceedings. Its purpose was to determine whether he was fit to stand trial, and whether he suffered from a mental disorder which would serve to exempt him from criminal responsibility.

[36] Ms. Komissarova agreed with Dr. Kronfli's diagnosis that Mr. Doncaster suffers from ADHD. On that topic, the Kronfli report provides:

Mr. Doncaster does suffer from a clear adult attention deficit hyperactivity disorder that is only partially controlled with medication. In addition, there seems to be many facets of his personality that would also lead to some symptomatology but not full criteria for Asperger's disorder. He clearly does have some inability to perceive his environment clearly and also the way he is perceived when he becomes enmeshed in the minutias and little details. He goes on to be quite obsessive about those details. In essence, he lacks social grace and his personality profile makes him lose track of the "bigger picture". Having said that, it does not appear that Mr. Doncaster has at any time had any malicious intent. He tends to over-analyze and over-rationalize a lot of the behaviour and when he does perceive injustice he tends to not be able to let go.

[37] Ms. Komissarova agreed with the above and in particular, that Mr. Doncaster does not act with "malicious intent". She further agreed with Dr. Kronfli's assessment that Mr. Doncaster is a very low risk for violence.

[38] Ms. Komissarova was asked about parental alienation by Mr. Doncaster. This subject was not addressed in either of her reports. Ms. Komissarova could not definitively assert that there is parental alienation existing in the present case, but indicated that an unwillingness of a parent to permit access, and children expressing negative views about a parent are indicators of that phenomenon.

[39] When asked about how access should be re-instated, Ms. Komissarova opined this should be done gradually, suggesting the process start by Mr. Doncaster writing the children letters. This would involve Mr. Doncaster's therapist as well as the children's therapist. Once matters were ready to proceed to visits, this should be supervised by a counsellor able to direct Mr. Doncaster in terms of his interactions with the children.

[40] On cross-examination by Ms. Stevenson, Ms. Komissarova agreed that her listing of documents reviewed did not include the transcript of the March 5, 2012 proceedings and decision, nor the transcript of an earlier successful Peace Bond

application brought by Ms. Field against Mr. Doncaster. She confirmed she did not request, nor review the Court file in relation to these proceedings.

[41] Ms. Komissarova was questioned as to her knowledge of Mr. Doncaster's medical treatment in relation to controlling the effects of his ADHD. She testified she spoke to Dr. Harvey on May 14, 2012, who confirmed that he had referred Mr. Doncaster to psychiatrist Dr. Birnie because further investigation was required. Ms. Komissarova further testified she was aware Mr. Doncaster had independently arranged to see Dr. Sudak. She testified she contacted neither psychiatrist in relation to either assessment. Although Ms. Komissarova testified she was aware Mr. Doncaster had a new family physician, she testified she did not contact her to inquire as to the status of Mr. Doncaster's treatment.

[42] Ms. Stevenson questioned Ms. Komissarova regarding the affidavit of Sgt. Craig Burnett, which was listed as a document reviewed by her. That affidavit outlined Mr. Doncaster's involvement with the criminal justice system and that he had been assessed by the RCMP as being "at high risk for lethality". Ms. Komissarova testified she placed little consideration on this affidavit as its

paragraphs appeared to be inconsistent. She did not speak to Sgt. Burnett, as she did not feel it was necessary to follow up on this designation, as she had not been asked to undertake a "full psychological assessment" nor to address Mr. Doncaster's risk of lethality.

[43] Ms. Komissarova testified that at the end of September, 2012, she reviewed the draft parental capacity report with Mr. Doncaster. She did not review it with Ms. Field. She further testified that when she started undertaking the psychological assessment, she had been retained by Mr. Doncaster as she was not yet appointed by the Court.

[44] Ms. Stevenson reviewed with Ms. Komissarova various comments attributed to the children in her Parental Capacity reports, in particular, expressions of worry related to seeing their father. Ms. Komissarova testified she could not conclude that the children were worried due to their father's past behaviours. Similarly, the children expressed negative sentiments regarding their father. When questioned whether this was of concern to her, Ms. Komissarova testified that it did raise concern. However, the concern was not due to the

possibility that Mr. Doncaster may have interacted with the children in such a way that they viewed him negatively, but rather, she was concerned that the children were not showing appropriate empathy towards their father especially in light of his ADHD and Asberger's diagnosis.

Mr. Darren Fowler

[45] Mr. Darren Fowler was called by Mr. Doncaster. He is a psychologist, who provided services in the past to Mr. Doncaster initially, and then with Ms. Field. His involvement was prior to the couple's marital separation.

[46] Mr. Fowler identified a letter dated May 9, 2012, which was prepared by him at Mr. Doncaster's request. It outlines Mr. Fowler's involvement with Mr. Doncaster, who had sought out psychological treatment. He was seeking assistance with "controlling his temper, primarily with his children". He confirmed the contents of the letter remained accurate.

[47] Mr. Fowler described Mr. Doncaster's positive approach to his therapy sessions, and his progress. Mr. Fowler's last involvement with Mr. Doncaster was July 27, 2010.

Deborah Bird

[48] Ms. Bird was called to provide evidence by Ms. Field. She is a psychologist providing counselling services to the four children. Ms. Bird's testimony was not called to provide expert opinion, rather to describe her interaction with the children, and provide to the Court any wishes or views the children may have regarding their current family situation.

[49] Given their different ages and development levels, Ms. Bird has undertaken sessions with each child individually. She testified that her goal is to establish rapport with the children, so they are comfortable to express their views and emotions. At the time of this hearing, Ms. Bird had seen each of the children for seven sessions. She is at the early stages of their therapeutic relationship.

[50] Ms. Bird testified that each of the four children present very differently. Max presents as being very self-assured, confident and calm. Mia's presentation is one of being nervous, but her confidence is growing. Grace is having difficulties in expressing her emotions, and wears her "Queen of Scotland" mask. Ms. Bird explained that Grace will present with teary eyes when discussing her family situation, but maintains a fabricated smile. Kate is described as a happy go-lucky girl who is confident and easy going.

[51] The children have expressed to Ms. Bird their views with respect to contact with their father. The older children in particular, were aware that these views may be shared with the Court.

[52] Max does not want to see his father. In a letter dated October 24, 2012, Ms. Bird summarized Max's view as follows:

Max has consistently expressed the desire to not have access to his father due to continuing to fear his anger. In addition, Max has also expressed anger towards his dad based on his dad's actions of continuing to bring his mother to Court and his actions amongst members of the community.

[53] From the time that letter was written to the date of the hearing, Max's view did not change in terms of contact with his father. In the last session immediately preceding the hearing, Ms. Bird testified Max expressed concern as to the safety of his younger siblings should they be in their father's presence. He conveyed to Ms. Bird an example of how his father's behaviour can be unpredictable and upsetting. Max described an incident when walking with Kate, Mr. Doncaster brushed away her hand as she attempted to hold hands with him. After several attempts by Kate to hold her father's hand, Mr. Doncaster brushed the child's hand away with sufficient force to knock Kate into a ditch. She was not seriously hurt, but this prompted Kate to become upset and cry.

[54] Mia does not want to see her father and expressly requested that Ms. Bird make this known to the Court. Mia also expressed to Ms. Bird that she did not want to undertake email communications with her father, as she was fearful he could, given his computer skills, manipulate the messages and misrepresent her views. In the last session with Mia immediately prior to the hearing, Ms. Bird testified she became tearful when discussing potential contact between her father and her younger siblings, as they are not able to read Mr. Doncaster's cues and avoid his anger. Mia disclosed seeing her father become angry and frustrated with

Kate, in particular. On one occasion, Mr. Doncaster reportedly purposefully knocked Kate's head off the floor. On another occasion, Kate wanted to see her mother while at her father's house and began crying. In response, Mr. Doncaster reportedly told Kate that if she didn't stop crying she would never see her mother again.

[55] Mia described to Ms. Bird her father as becoming angry very quickly, and over unpredictable things. She recalled hearing her father yelling and screaming at Max and banging on his bedroom door. Mia expressed that she is fearful her father will abduct her and her siblings.

[56] Ms. Bird testified that the younger children are not as concrete in their views regarding contact with their father. Grace reportedly is open to seeing her father, but only if Mia is present. Kate expresses being uncertain as to whether she wants to see her father.

[57] Ms. Bird testified that at present, she is not addressing reunification, but would be prepared to work with the children in this regard.

Allison Gilby

[58] Ms. Gilby was called by Mr. Doncaster. She is a Sparks leader. She testified as to two interactions with Mr. Doncaster. On one occasion, Mr. Doncaster came to a Sparks meeting looking for Kate, but she was not in attendance. On a second occasion, Kate was present for a sleep over, and at Mr. Doncaster's request, was brought to the door to say goodnight to him. These events took place in January of 2012.

[59] On cross examination, Ms. Gilby indicated that she understood Mr. Doncaster had commenced legal action against the Girl Guides.

Dr. William Harvey

[60] Dr. Harvey was called to testify by Mr. Doncaster. He is a family physician and, until April of 2012, was Mr. Doncaster's family physician for approximately nine years.

[61] Dr. Harvey testified regarding a letter dated February 16, 2012. Although signed by him, Dr. Harvey testified the letter was prepared by Mr. Doncaster. He testified the contents were "essentially correct". It reads:

To Whom it May Concern:

On or about August 18th, 2011 I diagnosed Ralph Ivan Doncaster with ADHD. ADHD is defined in the Diagnostic and Statistical Manual of Mental Disorders. It is a pervasive development disorder with no acute onset and no cure.

The severity of Mr. Doncaster's ADHD is such that it requires medication for effective treatment. Such treatment mitigates the disabling effects of ADHD, but rarely eliminates them. On or about August 18th, 2011 I prescribed 54mg of Concerta to be taken daily for the purpose of treating Mr. Doncaster's ADHD.

[62] In response to questions from Mr. Doncaster as to his compliance with medication prescribed for his ADHD, Dr. Harvey testified that Mr. Doncaster "took a lot of liberties" with how the medication was prescribed. He explained that Mr. Doncaster would alter the dosages on his own initiative, and subsequently discuss this with him. Dr. Harvey testified that although he agreed with most of the changes implemented by Mr. Doncaster, after the fact, he often felt pressured to agree with what Mr. Doncaster was asserting in terms of dosage and medication management.

[63] Dr. Harvey testified that he had referred Mr. Doncaster to a psychiatrist, Dr. Birnie, in March of 2012. Introduced into evidence by Mr. Doncaster, Dr. Harvey identified the referral letter to Dr. Birnie, which provides as follows:

Please see this 41 year old man who I am currently treating for ADHD. He has already been seen "informally" by another psychiatrist who has suggested the referral and requested by the patient. He has a lifelong history of impulsivity which on occasion has resulted in angry and violent outbursts against his family and other actions which have resulted in legal problems in the past. He has no difficulty in focusing extremely well on things that interest him which are many but is unable to force himself to do mundane tasks like taxes. He has always performed exceptionally well academically but does so because of his natural gifts and the careful choice of subject material (computers). He has chosen not to take on a mundane regular employment in recent years. I enclose an ASRS which assisted in the diagnosis.

He also feels he may have Asbergers which I do not feel qualified to evaluate.

He has tried on both Dexedrine and Ritalin SR and found benefit from both in different ways (although this is not the usual way I would treat his condition). He has been quite proactive in researching the medications which he feels are most suitable and has performed some interesting means of objective self evaluation.

[64] Dr. Harvey is not aware of whether Mr. Doncaster has seen Dr. Birnie, testifying that their doctor-patient relationship ceased when Mr. Doncaster commenced legal action against him. Dr. Harvey further testified he was aware that Mr. Doncaster had met with Dr. Sayek, a psychiatrist, but he had received nothing by way of consultation reports to advise of the nature or outcome of treatment.

[65] In cross-examination, Dr. Harvey confirmed that Mr. Doncaster still required medication to control his ADHD when their relationship ceased. He further testified that Mr. Doncaster had actively sought out treatment from Dr. Harvey following an incident in February of 2011 when child protection services became involved with the family. Mr. Doncaster participated in counselling sessions with Dr. Harvey in 2011, for approximately ten sessions.

Margaret Grant

[66] Ms. Grant was called to testify by Mr. Doncaster. This witness testified that she is a psychologist, and has provided services to Jennifer Field since April 28, 2009.

[67] Ms. Grant testified she met Mr. Doncaster once, in an initial interview with the couple. Although Ms. Grant has not administered any psychological tests to Ms. Field, she testified she has been treating her as a victim of domestic abuse.

Cecilla Rossetti

[68] Ms. Rossetti is Mr. Doncaster's maternal aunt. Having no grandchildren of her own, she testified she has enjoyed a close relationship with the four Doncaster children. She also testified she has had in the past, a good relationship with Ms. Field.

[69] Ms. Rossetti testified about a visit in early 2012 when she was travelling from her home in Cape Breton to the Halifax Airport. She decided to "pop in" to say hello to the children. She described Mia appearing to be visibly upset by her presence.

[70] Ms. Rossetti testified she just wanted to say hello and tell the children she loved them. Although she acknowledged she did not call Ms. Field to advise of her intent to visit, she didn't think this was necessary, as she had made unannounced visits to Ms. Field's home in the past.

Jacqueline Parsons

[71] Ms. Parsons is currently engaged to Mr. Doncaster. She testified she has met three of the four children on one occasion, which was a pleasant occasion. She testified she would be willing to assist in caring for the children in the event they are returned to Mr. Doncaster's care.

[72] Ms. Parsons was questioned as to her whereabouts on the evening of February 15, 2012. She testified that she and Mr. Doncaster had went to the Micmac Tavern in Dartmouth that evening for supper, and went shopping afterwards. They returned home later in the evening.

Dr. Lindsey Taylor

[73] Dr. Lindsey Taylor was called by Mr. Doncaster. She is his current family physician.

[74] Dr. Taylor testified that as of the date of her testimony (December 18, 2012) she had seen Mr. Doncaster on three occasions – May 1, 2012, May 23, 2012 and September 27, 2012. She has a copy of Dr. Harvey's chart, as provided to her by Mr. Doncaster.

[75] Dr. Taylor testified that she is aware of Mr. Doncaster being diagnosed as having ADHD, and has had prescriptions in the past in relation thereto. She testified that she has not prescribed Mr. Doncaster with any medication, as she is awaiting the outcome of a psychiatric consultation with Dr. Abdul Aty. At the time of the hearing, she had yet to receive the outcome of Mr. Doncaster's psychiatric referral.

Ralph Ivan Doncaster

[76] Mr. Doncaster testified on a number of subjects, many of which pre-dated the March 2012 hearing.

[77] Mr. Doncaster testified as to the October 2005 incident in which he physically assaulted Ms. Field, the involvement of child protection authorities, and the ultimate closure of their file. He further described his involvement with Dr. Baxter, an Ottawa psychologist, and couples counselling he undertook with Ms. Field.

[78] Mr. Doncaster testified as to his involvement with child-rearing, describing himself as extremely involved in all aspects of his children's care. Mr. Doncaster itemized a number of pleasure trips taken by Ms. Field between 2007 and 2010 when the children were left in his sole care. He testified that when the couple moved to Nova Scotia from Ottawa in 2006, he had assets in excess of \$1,000,000 and as such, a decision was reached that he would stay at home to raise the children.

[79] Mr. Doncaster testified that he was active with the children's healthcare, taking them to a variety of medical appointments. He engaged the children in a number of activities, including ski trips, swimming, horseback riding and team sports.

[80] Mr. Doncaster testified that following the 2005 incident with Ms. Field, he has made a concerted effort to improve their relationship, improve his demeanour and improve his skills as both a husband and father. A list of the educational materials reviewed by Mr. Doncaster since 2005 was provided to the Court.

[81] Mr. Doncaster testified as to the difficulties he has encountered since January 1, 2013, in terms of seeing his children. He testified as to the legal proceedings undertaken, including a Family Court Order issued by Judge Sparks which provided he was to have joint custody of the children and liberal access. Because Ms. Field was restricting his contact with the children, he decided on the evening of February 15, 2012, to attend the Sparks/Brownie meeting to say hello to Grace and Kate. It was held at the Enfield School. Seeing Ms. Field in the parking lot, he immediately left fearing a confrontation and travelled to the Mic Mac Bar and Grill. He denies being anywhere near Ms. Field's home on that evening and submitted his credit card receipt to establish he was in Dartmouth. He asserts that Ms. Field has perjured herself when testifying she saw him parked near her home on that evening.

[82] Mr. Doncaster testified as to additional difficulties he encountered in seeing the children, including February 19th through 23rd and March 1st, all contrary to the Order of Judge Sparks. Further, he was encountering difficulties with contacting the children via email and telephone.

[83] The Court was provided with a review of Mr. Doncaster's efforts to improve his parenting and address any concerns arising from his ADHD. In January 2012, Mr. Doncaster enrolled in a parenting course "The Incredible Years", a twelve-week parenting program. He further attended a two hour information session put on by the IWK regarding behavioural issues with young children. On May 9, 2012, Mr. Doncaster attended the Parent Information Program undertaken by the Supreme Court.

[84] Mr. Doncaster further explained that in May 2012, he and his partner, Ms. Parsons, commenced counselling to deal with the stress associated with being involved in a high-conflict divorce and to address issues arising from their "blended family".

[85] In terms of his medical treatment, Mr. Doncaster testified he started seeing Dr. Lindsey Taylor on May 1, 2012, after being advised by Dr. Harvey that he was no longer willing to see him as a patient.

[86] Mr. Doncaster testified as to the difficulties in obtaining a psychiatric assessment. After attending at the Colchester Mental Health Clinic in late May, Mr. Doncaster was able to meet with Dr. Amr-Aty on September 13, 2012. Mr. Doncaster will be seeing Dr. Amr-Aty in the near future, when the issue of his ongoing medication will be addressed. He further testified as to his attempts to find a therapist following Ms. Komissarova's psychological assessment. It has been a difficult process to find someone with the availability to take new clients and in a timely fashion.

[87] Mr. Doncaster desperately wants to see his children and advises he is willing to follow any restrictions or conditions the Court feels are appropriate. He asserts he has been compliant with all previous Court orders and directions relating to the children.

[88] On cross-examination, Mr. Doncaster confirmed that he has initiated numerous legal proceedings since the March 5, 2012 hearing. This includes a private prosecution against Ms. Field under the Domestic Violence Intervention Act; he filed a judicial review seeking to challenge the RCMP's designation of him

being a "high risk of lethality"; he has filed a motion seeking to have the divorce proceedings transferred from Truro to Halifax; he appealed Justice Scanlan's March 5 decision and made a motion for a stay, which was dismissed by the Court of Appeal; he has made a complaint to the Truro Police alleging perjury against Ms. Field seeking to have her charged under the Criminal Code and is considering undertaking a private prosecution if the police fail to lay charges; he has commenced legal action against the Chignecto Central Regional School Board; he has appealed the decision of the Provincial Court in relation to a Peace Bond sought by Ms. Field; he has commenced legal action against Sgt. Craig Burnett alleging defamation; he has commenced legal action against Ms. Field's legal Counsel Janet Stevenson, alleging defamation; he has commenced legal action against Dr. Harvey in relation to breach of privacy and defamation; he has commenced legal action against the Girl Guides of Canada alleging a breach of contract and confidentiality; he has commenced legal action against Social Worker Patricia Thompson in relation to her testimony at the March 5 hearing, alleging defamation and breach of privacy; he has commenced legal action against Cst. Cheryl Ponee; he has commenced legal action against two individual Girl Guide leaders alleging defamation; he has commenced legal action against Deanna Koch alleging defamation and breach of privacy.

[89] In addition to the above, Mr. Doncaster has commenced legal action in New Brunswick against Susan Ward, alleging defamation. He has further filed a number of professional complaints against individual members of the RCMP, Dr. Harvey and two judges.

Jennifer Lynn Field

[90] Ms. Field is employed as a substitute teacher with the Chignecto Central Regional School Board. She is called in to work on an "as needed" basis, dependent on the unavailability of the full-time teaching staff.

[91] Ms. Field was asked to describe the impact the legal proceedings involving Mr. Doncaster has had on her and the children. She describes 2012 as being "a nightmare". She feels there has been an impact on her ability to work and obtain future employment. This is due not only to the need to be in Court on multiple occasions, but also because of the "baggage" she brings to her employer of choice. Mr. Doncaster has had disputes with the Chignecto Central Regional School Board, including Protection of Property matters and a civil action. Ms. Field fears this will have an impact on her ability to obtain a full-time position.

[92] Ms. Field testified that the multiple proceedings in various forums have been exhausting to her, both emotionally and financially. This involves proceedings involving not only Mr. Doncaster, but his sister and parents as well. She anticipates further legal involvements, stating she has been subpoenaed by the Crown to testify in criminal proceedings involving Mr. Doncaster; she has been subpoenaed by Mr. Doncaster to testify on his behalf in a tax court proceeding; and she has become aware that Mr. Doncaster is considering taking legal action to revoke his status as guarantor on her current mortgage.

[93] Max has been directly impacted by the legal proceedings, having been subpoenaed by Mr. Doncaster to testify at a Peace Bond hearing. Although the hearing judge ultimately prohibited Max from testifying, Ms. Field testified that he was fearful, angry at his father for compelling his attendance, and confused as to why his father wanted him involved in that process.

[94] Ms. Field was asked about Mr. Doncaster's allegation that she has denied him access to the children. She acknowledges the existence of an Interim Order of the Family Court. Although the decision was rendered orally on February 1, a

written Order was not issued until February 29, 2012. That order includes the following terms:

2) Ralph Doncaster shall have reasonable, unsupervised access with the children at the following times:

a) Commencing February 14, 2012, every Tuesday and Thursday from after school until 6:30 p.m.

b) Commencing February 18, 2012, every second Saturday from 10:00 a.m. until 6:00 p.m.; and

c) Commencing February 19, 2012, every second Sunday from 9:00 a.m. until 5:00 p.m.

3) Other reasonable access as agreed, in writing, between the parties.

4) Ralph Doncaster shall not have overnight access until this matter returns to court.

5) The children are to be able to reasonably communicate with Jennifer Field when they are in the care of Ralph Doncaster and with Ralph Doncaster when they are in the care of Jennifer Field.

[95] Ms. Field testified that as contemplated by the order, the two youngest girls went with Mr. Doncaster after school on Thursday, February 16, 2012. They were not, however, returned to her care by 6:30 p.m. or at all that day. Mr. Doncaster, unilaterally decided to keep the children overnight. Given the order had not been

issued, Ms. Field had no enforceable order to compel the return of the children. She met them the next morning at school. Ms. Field testified that they appeared afraid and upset as they had not expected to be staying overnight with their father.

[96] In light of the above, Ms. Field testified she was very concerned with access proceeding on any further dates without a Court order, or written confirmation that an access schedule, including return times, was in place. Ms. Field testified that, through her legal Counsel, she attempted to arrange access with Mr. Doncaster, but nothing was agreed. She did not, in the circumstances, permit access on February 18, 19, 20, 21 or 22, 2012.

[97] Ms. Field further testified that two scheduled access visits, February 23 and March 1, 2012, were cancelled due to Mr. Doncaster being incarcerated.

[98] As to Mr. Doncaster's allegation that she was untruthful in her testimony at the March 5, 2012 hearing, she submits she was truthful. Specifically, she testified that Mr. Doncaster had not given her a GIC in the amount of \$50,000. She acknowledges she had received a bank draft in that amount, but at the time of

the hearing she was nervous and anxious given Mr. Doncaster's action in the courtroom. She had no intention to mislead the Court.

[99] Ms. Field further testified that Mr. Doncaster controlled the vast majority of the financial resources during the marriage, most notably their investment funds arising from the sale of a business in Ottawa as well as the high-interest mortgages they invested in. She did have a bank account at the time of separation in which the child tax credit was deposited, which had an approximate balance of \$13,000.

[100] Ms. Field testified that Mr. Doncaster's conduct has caused her embarrassment. She notes in particular his communication with Frank magazine regarding the details of the divorce proceeding and other legal matters. Ms. Field testified that as a private person, she finds having these matters discussed in a public forum very humiliating. She further testified that the public nature of the disputes surrounding the marital separation has impacted on the children. Mia has overheard people in the community talking about her father. Kate has had school friends whose parents are uncomfortable with permitting their children to come for play dates because of concerns associated with this acrimonious divorce.

[101] Ms. Field testified as to the children's current views and wishes. They are fearful of visiting their father given the unpredictability of his behaviour. Since the March 5th, 2012 hearing the children have provided further information about their father's conduct while in his care, explanatory of their feelings in this regard.

[102] All of the children are presently doing very well in school, are settling into their counselling with Ms. Bird, and are improving on an emotional basis. The children are enjoying friends and extra-curricular activities. Despite the very difficult times the children have experienced in the last year, they are doing remarkably well.

[103] Ms. Field testified that she fully intends to continue the children's counselling with Ms. Bird. They are all becoming increasingly comfortable with her. Ms. Field described that she encountered a delay in commencing the children's therapy. The first two counsellors she met with declined to become involved with the children. This delayed the commencement of therapy until early July 2012.

[104] On cross-examination, Ms. Field was presented with documentation confirming the evidence of the \$50,000 bank draft provided by Mr. Doncaster. She acknowledged receiving it, and believes it was deposited into her CIBC account. She acknowledges she denied receiving a \$50,000 GIC at the March 5 hearing. She further confirmed she did not advise the Court at that time of the \$13,000 bank account.

[105] Ms. Field, in response to questioning re-iterated that the majority of financial resources were held and controlled by Mr. Doncaster.

[106] Ms. Field further confirmed that she sought an Emergency Protection Order within days of a restriction being lifted in relation to Mr. Doncaster's contact with the girls. She further confirmed contacting the police on several occasions to report Mr. Doncaster. Ms. Field testified she was scared for her safety and that of her children, as she had "no idea" what state of mind Mr. Doncaster was in. She was fearful. She further acknowledged making a Peace Bond application on the same day Mr. Doncaster was acquitted of assault charges against Max.

[107] Ms. Field testified both in direct and cross-examination that various statements attributed to her by Ms. Komissarova in her reports are not accurate. By way of example, she never discussed with Ms. Komissarova having elevated blood pressure or low iron. She also never, as noted in the Parental Capacity Assessment, called Andrea Doncaster a “kidnapper”. Ms. Field did discuss with the assessor that she was aware of Mr. Doncaster’s family members taking matters into their own hands regarding a contested custody matter, including Ms. Doncaster assisting her partner in removing his children from their mother in the Province of New Brunswick.

[108] Ms. Field acknowledged on cross-examination that during the marriage, Mr. Doncaster raised several times that he believed Max has ADHD. Ms. Field disagrees. She has never had any indication, including from teachers or others, that Max may have difficulties in this regard. He is doing well academically and socially - she sees no need for testing.

POSITION OF THE PARTIES

[109] Mr. Doncaster desperately wishes to re-establish contact with his children. He believes that Ms. Field is actively alienating the children and fostering his removal from their lives. She is, he asserts, inappropriately abusing the processes of the Court to reach this goal. He asserts that she lacks credibility and has perjured herself before the Court.

[110] Mr. Doncaster wants to meaningfully parent his children, just as he did for the vast majority of their lives. He relies on the parental capacity assessment of Ms. Komissarova as support that he is fully capable of undertaking a full and meaningful parental role.

[111] Mr. Doncaster deeply misses his children, and he states he will abide by any conditions the Court imposes. Although he ultimately seeks a full return to his care, he, at a minimum, wants some form of access.

[112] Ms. Field asserts that the March 5, 2012 order of Scanlan, J. should continue as it relates to the custody and access of the children. She asserts that it is not in the best interests of the children to re-institute access with Mr. Doncaster

given their anxieties and the unsettled nature of Mr. Doncaster's medical/psychological status.

[113] It is submitted that the same concerns surrounding Mr. Doncaster's mental health, as existed at the time of the March 5, 2012 interim order, remain. It is further submitted that Mr. Doncaster lacks insight on fundamental issues as to how his behaviours directly and indirectly impact upon the children.

FINDINGS:

[114] This Court has a tremendous amount of empathy for all members of the Doncaster-Field family, most notably Max, Mia, Grace and Kate. They are all seemingly trapped in a nightmare, although certainly the perspectives of these parents are very different as to the nature and cause of the hardships being suffered.

[115] On a custody and access determination, the best interest of the children is the Court's paramount consideration. Notwithstanding the empathy the Court may have for the parents, this is secondary to the children's needs.

[116] Mr. Doncaster asserts that Ms. Field is an unreliable witness, has perjured herself, is actively alienating the children and has prohibited access. I cannot agree with any of the above assertions. Mr. Doncaster spent considerable effort in attempting to establish the unreliability of Ms. Field's overall testimony, based upon two previous alleged falsehoods in her previous evidence. He asserts she was untruthful in March 2012 when denying her receipt of a \$50,000 GIC, and when testifying Mr. Doncaster was parked near her home on February 15, 2012.

[117] I am not inclined to accept that on either occasion, Ms. Field was purposefully being untruthful to the Court. She could have been mistaken. She could have misunderstood what was being posed to her. I cannot conclude she lied. Even if I am wrong in this regard, Mr. Doncaster appears to believe that if Ms. Field was wrong or untruthful in one aspect of her evidence, Ms. Field's overall credibility is tarnished. Such is not the case. The Court is open to accept all, some or none of a witness' evidence. Assessing credibility is not a rigid exercise.

[118] As it relates to the matters before me, that is custody, access and issues relating to the children generally, I found Ms. Field to be a credible witness. I accept her description of Mr. Doncaster's conduct towards the children in her presence. I further accept she is accurately conveying to the Court the concerns being expressed by the children regarding seeing their father.

[119] Regarding Mr. Doncaster's claim of parental alienation, I do not accept based on the evidence before me that this is such a case. The Courts have consistently denounced parents who actively attempt to undermine the other parent's relationship with a child. Mr. Doncaster points to the children's unwillingness to see him and access difficulties as signs of alienation.

[120] There are, however, reasons why a child may refuse or be reluctant to exercise access with a parent other than parental alienation. Children may be genuinely fearful and have real anxiety surrounding access with a parent, which are based in reality, or at least their perceptions of reality, and not the conduct of the other parent. I find this is such a case.

[121] Mr. Doncaster has acted in a volatile and unpredictable fashion towards, or in the presence of, the children. By way of example, he has struck Max to teach him a lesson; placed Kate on a dark patio at night as a form of discipline; was arrested and handcuffed at Grace and Kate's school in their full view; he has come to their home in the middle of the night banging on doors and bedroom windows; he has, by his own admission, frequently lost his temper with the children, yelling at them, and on one occasion knocking Kate into a ditch. It is Mr. Doncaster's own behaviours which are serving to create an estrangement between himself and his children. \

[122] Regarding Mr. Doncaster's claim that Ms. Field is inappropriately denying access, I cannot agree. Since March 5th, 2012, there has been a Court order prohibiting access, and accordingly Ms. Field cannot be faulted for complying with same. Significant evidence was called regarding access difficulties prior to the March 5th hearing. In his interim decision, Justice Scanlan determined that Ms. Field's denial of access was not only appropriate, but warranted to protect the children. Again, my role is not to revisit findings of fact made by Scanlan, J. If it was, however, I would readily conclude that Ms. Field had ample reason to tread cautiously in terms of the access being implemented. I cannot conclude that she

inappropriately breached the February Family Court order, or otherwise acted inappropriately in her decisions surrounding access. I further cannot conclude that Ms. Field is abusing the processes of the Court in any fashion.\

[123] The evidence before the Court permits me to conclude that Mr. Doncaster suffers from ADHD. Although he believes he also has Asperger's Syndrome, I cannot reach such a conclusion at this time. Mr. Doncaster requires medication to control the consequences of the ADHD, including impulsivity, lack of tolerance and angry outbursts. At the time of the hearing, his medical status was unclear. He had only seen his new family doctor three times and was just commencing psychiatric treatment. Without his condition being properly monitored and his medication appropriately managed, he will remain at risk for volatility, impulsivity and a lack of emotional control. This impacts significantly on his ability to effectively parent the children, and meet their emotional needs.

[124] Mr. Doncaster is clearly highly intelligent. I do not disagree with Ms. Komissarova's description of him as gifted. In her psychological assessment, Ms. Komissarova outlined various personality features which Mr. Doncaster is likely to possess given his standardized testing results. These are noted at paragraph

[28] above. The evidence before the Court supports a conclusion that Mr. Doncaster shows a distinctive contempt for conventional morals, is impulsive, restless and moody. "His communications may be characterized at times by caustic comments and callous outbursts, and he may act rashly, using insufficient deliberation and poor judgment."

[125] In the same report, Ms. Komissarova notes that Mr. Doncaster's results on the STAXI-II suggests "a low probability that Mr. Doncaster's anger (sic) feelings can spin out of control." Although the standardized test results may produce the stated result, I cannot apply this finding to Mr. Doncaster. The evidence before this Court has established that Mr. Doncaster has had, on a number of occasions, his anger get out of control. Without appropriate pharmacological measures, this continues to be a risk.

[126] The treatment plan suggested by Ms. Komissarova in the parental capacity plan included some fairly intensive cognitive behavioural therapy aimed at assisting Mr. Doncaster in "re-establishing his psychological balance, gaining insight, and developing necessary social skills." I agree with the approach

suggested by Ms. Komissarova in terms of Mr. Doncaster's therapeutic needs.

[127] The Court encounters a real difficulty when then turning to the Parental Capacity Assessment. With respect to the author, it would almost seem that the reports are written about two entirely different people. The concerns identified in the psychological assessment are seeming entirely resolved in the parental capacity assessment. This is notwithstanding the fact Mr. Doncaster had little medical follow-up and absolutely no psychological intervention in the intervening period between reports.

[128] I cannot agree with Ms. Komissarova's conclusion in the Parental Capacity Assessment that "Mr. Doncaster presented as a capable parent who is able to recognise his children's social-emotional needs." Although Mr. Doncaster has undoubtedly had much hands-on parenting of these children, there is significant evidence to establish he lacks insight as to their emotional needs. His actions have caused considerable emotional damage to his children. He does not, as of yet, recognize this fact.

[129] I have no hesitancy in concluding that Mr. Doncaster loves his children. I do not believe that he would intentionally want to harm them. He has however, through his impulsivity, poor emotional control and lack of insight, caused them harm. Mr. Doncaster's lack of insight is manifested in a number of ways. Primarily, he seems to not appreciate the connection between his behaviours and the childrens' emotional upset. Mr. Doncaster seemingly points to his ADHD and purported Asberger's Syndrome as the cause of his behaviours. Mr. Doncaster appears to lack insight that although such may help explain his behaviours, it does not excuse them. Nor does it change the impact of his behaviours on those being exposed to it, most notably the children.

[130] Mr. Doncaster appears to be unable to appreciate how his behaviours are being very negatively viewed by others, and the potential ramifications of this. In his unrelenting attempts to prove that his view of matters is correct or justified, he has subjected himself, Ms. Field and their children to incredible public scrutiny. In fact, he has sought it out, oblivious to the potential ramifications for the older children hearing or reading about their parents' legal disputes.

[131] Unless he changes his approach, it is very likely that Mr. Doncaster will continue to alienate people around him who could be sources of support for him and his family. He does not seem to appreciate that when he makes Ms. Field's life difficult, this will very likely impact negatively on his children.

[132] Mr. Doncaster is undoubtedly highly intelligent. It is questionable however, whether this is a "gift" given how this seems to set him apart from most other people. Mr. Doncaster is very much a "square peg" in a round world. It must be incredibly frustrating for him to think and perceive things differently than most others around him.

[133] I am acutely aware of the time which has passed since March 5th, 2012. I am mindful of the "maximum contact" principle contained in s.16 (10) of the **Divorce Act**. I cannot conclude however, that it is in the best interest of these children to re-initiate access with their father at this time.

[134] In order to move towards normalizing his relationship with the children, Mr. Donacaster has much work to do. I accept the recommendations of Ms.

Komissarova in her psychological assessment in terms of the therapeutic approach to be taken with and by Mr. Doncaster.

[135] It is also important however, for all parties to recognize that the overall goal should be to re-integrate Mr. Doncaster into the lives of his children, if it is in their best interests to do so. This is premised however, upon him engaging in therapy and gaining insight into his behaviour and obtaining control over his behaviour. The children need to continue with their own therapy, and when appropriate, be prepared for re-initiating in person contact with their father.

[136] Getting this family out of the vortex and back into some semblance of normalcy will not be easy. The parties and the children will need to continue with their current therapy. It would be prudent for their respective therapists to be provided with a copy of this decision and Ms. Komissarova's psychological assessment. The ultimate success rests squarely with Mr. Doncaster. He needs to understand that if his behaviour and general approach does not change, re-initiating access with the children may be postponed indefinitely.

CONCLUSION:

[137] The children are to remain in the sole care and custody of their mother, Jennifer Field. She will be responsible for all decisions relating to their health, education, social development and all other aspects of their care. Mr. Doncaster will have no access with the children, either directly or indirectly, except as otherwise contemplated in this decision.

[138] Mr. Doncaster is to continue treatment with Dr. Taylor and Dr. Amr-Aty and follow any and all recommendations made by them. Before considering implementing direct access with the children the Court will need to know the status of his ADHD treatment and to what extent his behavioural symptoms are under control.

[139] Mr. Doncaster is to make whatever arrangements necessary to commence cognitive behavioural therapy, the goal of which is to assist him in gaining insight as to how his behaviours are perceived by others, including his children, and for him to gain the necessary tools to conduct himself in a way that will be more

positively and accurately viewed by others. This should also include a component of anger management.

[140] Once Mr. Doncaster commences cognitive behavioural therapy he can, with the guidance of his therapist, begin contacting the children via written letter, to each child, on a twice monthly basis. The letters are to be reviewed by Mr. Doncaster's therapist initially, and are to be sent to Ms. Bird for her review. The letters, if deemed to be appropriate by Ms. Bird in terms of the psychological and emotional well being of the children, will be provided to the children. They may respond, either in writing or by email if they wish. Copies of all letters should be retained for any necessary review by the Court.

[141] I specifically contemplate that Mr. Doncaster's cognitive therapist and Ms. Bird will consult with one another as it relates to Mr. Doncaster's progress, as well as the children's responses, positive or negative, to the written contact with their father. It is important for this communication and feed-back mechanism to be in place so that Mr. Doncaster can understand how his words are being perceived by the children, so he can gain insight in this regard, and be re-directed if necessary.

[142] Ms. Field is to absolutely refrain from, in words, gestures or otherwise, conveying to the children any negative thoughts or feelings pertaining to Mr. Doncaster or any of his family members. I include this direction, not because I believe Ms. Field has conducted herself in such a manner but because the Court recognizes that she has been under tremendous stress coping with the many negative ramifications arising from Mr. Doncaster's conduct. She is human, and it would not be surprising if her frustration got the best of her during weaker moments. A reminder and direction to her to "walk the high road" is warranted in these difficult circumstances.

[143] Additionally, I expect Ms. Field to seek out appropriate professional advice as to how, notwithstanding the period of non-contact between Mr. Doncaster and the children, she can encourage the children to view him as an important and continuing part of their lives. This could be with Ms. Bird. It remains to be seen whether Mr. Doncaster will meaningfully engage in the process directed herein. If he does, and I am hopeful he will, Ms. Field must do her part to facilitate a return of a more normalized relationship between her children and their father. I believe she will comply, because I believe her actions to date have been directed towards protecting her children, not alienating Mr. Doncaster.

[144] I would ask that Ms. Stevenson prepare an Order, reflecting the contents of this decision, for the Court's review. In the event costs are sought, I would ask that written submissions be filed no later than March 28, 2013.

J.

Truro, N.S.