SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: Morris v. Harvey, 2013 NSSC 176

Date: 20130611
Docket: SFHMCA017617
Registry: Halifax

Between:

Raven Morris

Applicant

v.

Jason Harvey

Respondent

Judge: The Honourable Justice Moira C. Legere Sers

Heard: April 22, 2013 in Halifax, Nova Scotia

Counsel: Raven Morris, Self-Represented
Steve Hiscock for the Respondent Jason Harvey

By the Court:

[1] Ms. Morris, the mother in this proceeding, alleges that the father was in contempt of the Order of the Court dated November 26, 2010 in that he has not allowed her to have access to her children, Makayla and Jermaine, since October of 2011.

[2] The Order of November 26, 2010 incorporates previous orders of the Court dated October 18, 2010 and October 21, 2009.

[3] The Order of October 21, 2009 includes among other provisions the following:

> Pending a full hearing of this matter, the Respondent Raven Morris, shall have access with the children every Wednesday from 4:30 p.m. until 7:30 p.m. and alternating weekends from Friday 4:30 p.m. until Sunday at 7:30 p.m. ...

[4] The Order of October 18, 2010 incorporates the variation orders of April 29, 2009 and July 9, 2009.

[5] Clause 2 of this order incorporates the Wednesday access provision from the October 21, 2009 order except that it stipulates that weekend access is from Saturday at 7:30 pm to Sunday at 7:30 pm and such other access as may be agreed upon from time to time.

[6] Clause 3 of the October 2010 order also requires as follows:

> The children shall be referred for counseling, which may be arranged as soon as possible by either parent, provided however that the other parent is immediately informed of the agency that has been contacted for the referral and that each parent will have the right to engage in the counseling and to speak directly with the counselor providing the service. Each parent shall contribute to the cost of the counseling according to their plan coverage and shall authorize reimbursement directly to the paying parent; anything over and above their plan coverages shall be shared proportionately by the parents.

[7] The order of November 10, 2010 confirms holiday and special occasion access extending weekends to the holiday Monday for a return at 7:30 pm.

[8] The orders clearly intend the mother to have access/contact/parenting time with her children.

[9] Since the date of the order and on a continuing basis the mother has not been permitted consistent contact with her children in accordance with the order.

[10] She alleges that the children have not been able to communicate or participate in access in a period of time.

[11] The children have not had a holiday or birthday with their mother in this period as well.

[12] She further alleges that she was not advised as to the status of any court ordered therapy. As the non custodial parent she would not be entitled to initiate this therapy without the consent of the father and he had not as of the date of the motion advised her as to whether there was any therapy initiated by him.

[13] Mr. Harvey was represented by counsel in the contempt proceeding. Ms. Morris was not.

[14] Mr. Harvey was advised of his right to remain silent. Should he choose not to remain silent, he was advised of his right to file affidavits in response to the evidence tendered by the applicant.

[15] This Order dated November 24, 2010 arises out of a decision written by the Honourable Justice Deborah Gass on November 10, 2010 as a result of a variation hearing held in conjunction with a contempt hearing.

[16] The evidence in the variation hearing was the then final order arising out of an extremely litigious history between the parties.

[17] The decision and the order together provide for the scheduled of parenting time between the parties.

[18] The evidence of Ms. Morris is that Justice Gass in her oral decision, subsequently augmented by the written decision on the issues of vacation and

holiday time, specifically identified for Mr. Harvey that his failure to abide by the court order would result in contempt and incarceration.

[19] I have reviewed the oral decision.

Witnesses

[20] The mother called two witnesses besides herself: Ms. MacDonald and Ms. Morris, her sister.

[21] Both parties, Ms. Morris and Mr. Harvey, wished to review the business records from child protection relating to the father's explanation for the denial of access. Courtney Maloney, an agent of the Minister of Community Services appeared with counsel and the records.

[22] Both Ms. Morris and counsel for Mr. Harvey consented to the submission of these records as business records.

[23] The Court allowed them some time to review the records and on their return both parties agreed to have Ms. Maloney testify first, in order to have an opportunity to cross-examine her.

[24] The complete record and file of the Halifax District Office of the Department of Community Services, with the exception of solicitor/client confidential information or foster parent information, with respect to Raven Janice Morris, Jason Dawson Harvey, and Andrew James was provided pursuant to a subpoena issued December 21, 2012.

[25] The records speak to the history of child protection concerns with this family.

[26] The father does not deny that he has prohibited access to the mother while she was with her boyfriend. He admits this to the child protection worker and to the Court. He advises he will continue to do so when he feels it is in his children's interests regardless of the court order.

[27] He offers as an explanation the information contained in the records.

[28] The relevant portion of these business records commences on pg. 4 of 18 on September 29, 2011 wherein it is written:

> ... that a few months ago, his (the respondent's) daughter went into his mother's purse and found marijuana, hash and cocaine. He (the respondent) states that this daughter told him that one night a few months ago Ms. Morris and her sisters were passing around crack cocaine in front of the children. Mr. Harvey said he was afraid to call DCS when he received the information because "he does not want to lose my kids."

[29] On September 29, 2011, that same day, the father advised the agency that he had sole custody and that the mother had access on Wednesday and every second weekend. Thus, he had knowledge of her right of contact with the children.

[30] He also alleged that Ms. Morris' boyfriend "Andrew" has made sexual comments toward his daughter, Makayla.

[31] Mr. Harvey said that a few months ago his daughter told him that she was standing under some mistletoe when "Andrew" asked her what she would do with him and kept bugging her about it. Mr. Harvey said that "Andrew" shaves his legs and paints his finger nails. He states that Makayla told him that one day "Andrew" asked her to feel his legs and bugged her several times throughout the day to rub his legs.

[32] The Agency convened a meeting and decided to pursue an investigation.

[33] On September 30, 2011, a Child Abuse Registry Check was completed on the mother and the father. While there were no matching results for the mother, there was a matching result for the father for a conviction from October 30, 1995.

[34] On October 11, 2011, Mr. Harvey was asked to bring the children into the Sackville District Office.

[35] On October 12, 2011, the Agency was informed that Major Crimes would not be conducting a criminal investigation into the matter.

[36] On November 15, 2011, a message was left for Mr. Harvey to contact the Agency to arrange an interview with the child.

[37] On November 16, 2011, the activity report identifies the contents of a phone call held between Courtney Maloney and Mr. Harvey. The notes indicate as follows:

> He reported that as the custodial parent that he had to deal with matters himself related to the concerns of his child while visiting her mother. Mr. Harvey reported that he no longer permits the children to be with their mother overnight as Makayla does not feel comfortable in the presence of her mother's boyfriend. I stated that while the agency supports the parent making arrangements to alleviate risk and reduce the concerns that I am still required to meet with the child. It was arranged that Mr. Harvey and his daughter were to attend the HDO on Friday, November 18.

[38] On November 18, 2011, the social worker met with the 13-year-old child privately. The child confirmed that she was aware that she was meeting today due to her not liking her mother's boyfriend. The contents of the discussion between the social worker and Makayla are contained in the notes on pg. 9 of 18.

[39] When asked directly about any sexually inappropriate behaviour by the mother's boyfriend or any other individual, the child quickly and adamantly denied anything of the source. The child "reassured" the social worker that she would immediately tell her father or his girlfriend if anything at any time was done to her sexually or she was hurt or injured. She explained that her father had already addressed the issue as she no longer spends the night at her mother's and can refuse to attend should she feel uncomfortable by anything.

[40] In addition, she advised the social worker that she had other concerns including that her mother gave away her bedroom and that she had to sleep on the couch when she was visiting.

[41] The child suggested that the mother and her friends were smoking marijuana.

[42] The social worker commented that the child presented as comfortable, mature and engaging in our conversation. She had no concerns regarding her interview with the child.

[43] On November 18, 2011, the social worker reported to the father that there were no disclosures of sexual abuse. She indicated that there were no concerns. She reported that the father said to her that he would not permit overnight access with the children and with their mother at this time due to the child's concerns. He advised that he had attempted to address these issues with the mother by requesting her time with the children not involve her present boyfriend; however, that was not agreed to.

[44] The father suggested that he was concerned that the mother was using crack cocaine based on her weight loss and lack of desire to do many things including being an appropriate parent to her children.

[45] In a meeting with the mother on November 26, 2011 the social worker advised that she asked the child direct questions and there were no concerns relating to her being sexually abused and not disclosing to a trusting adult.

[46] The mother suggested that due to the child's age, she was sensitive, hates everything and at times can be inappropriate and rude.

[47] In an interview with Jermaine on December 12, 2011, Jermaine informed the social worker that the reason he and his sister do not like to go to visit their mother was because they do not like "Andrew", because he is "weird" and "touches my sister's hair and stuff." He advised that his father told him that they do not have to return until "Andrew" is not there. This child reported no child protection concerns to the social worker.

[48] The social worker met with Mr. Harvey again on December 13, 2011 to advise that there were no child protection concerns and to discuss the issues that arose in her conversations with the children. The notes indicate as follows:

> Mr. Harvey stated that he is frustrated with the agency at this time and will continue to withhold access and break the court order.

[49] The social worker advised that "at this time I have insufficient evidence to substantiate the allegations that his children are at risk of sexual harm, physical harm or emotional harm and therefore I will be recommending that the file be closed."

> Mr. Harvey stated that it did not matter what this worker did in regards to meeting with Ms. Morris' boyfriend or not as regardless that he would not resume access between her and the children if her boyfriend was present in the home. He advised that he has previously had to break court orders to protect his children and will continue to do so if necessary.

[50] On December 22, 2011, the social worker received a phone call from the father in which she advised the father of her conversation with Ms. Morris and her boyfriend and the decision to terminate the file at intake.

[51] She confirmed that there were no concerns relating to the conversation between the worker and the boyfriend.

[52] The father advised that he may agree to meet with the boyfriend; however, at this time will not be sending the children for access.

[53] In a collateral investigation, the boyfriend was connected to two previous cases in a manner which remained unexplained by child protection. The Agency contacted the parents to recommend that the boyfriend's contact with the children be supervised. This Court has no information about the nature and extent or reasons for that.

[54] This was communicated to Mr. Harvey on January 11, 2012. Mr. Harvey advised that the children continued to not have contact with their mother.

[55] On January 13, 2012, the mother advised that she terminated her relationship with "Andrew" and that she has not had access since October 11, 2011.

[56] The final outcome summarized at pg. 16 of 18 is that the investigation was reviewed with a supervisor and it was determined that there was insufficient evidence to substantiate risk under ss. 22(2) (b), (g), or (d) of the *Children and Family Services Act.*

[57] Leena MacDonald, a friend and colleague of the applicant, testified. She has known the applicant for seven years and has been friends with her for four.

[58] Her testimony substantiates the failure of the father to make the children available for access. She advised that she went with the mother on several occasions to pick up the children for access at their home on Wednesday and Saturday. The children were not present.

[59] On one occasion they were informed by a friend of Ms. Morris' son that the children and the father had just left their family home.

[60] The mother alleges in her affidavit and on cross-examination that there were many occasions when she would sit outside the home on access times in her car and wait for the children to come out. She did this consistently between October and December 2012.

[61] She advises that she would see her son if she went to school to see him but the children were not made available to her in accordance with the court order. They were not made available to her on Easter or Christmas.

[62] She has attempted to see her son at school, having failed to see him during her scheduled access.

[63] The applicant's sister, Tanya Morris, is a social service worker, working for "The Women Moving Forward" program in Ontario, having thirteen years of experience with abused women and their families. She gave evidence to indicate that seeing the children has been challenging to the family and most importantly that she is aware of the fact that her sister is not able to access her right to have parenting contact in the times prescribed by the court order.

[64] She confirmed that the only way that she, the applicant and the family could see the children is if they attended the children's school. In a conversation she had with the father, he informed her that the family was not welcome to or around his home as they were not family.

[65] Her testimony confirms that the father has restricted any contact with the extended family as well.

The Respondent Mr. Harvey

[66] Mr. Harvey confirmed that he adopted Ms. Morris' first child, Makayla, and had a child, Jermaine, with her. He advises that it was when he learned about the live-in boyfriend and the allegations that there was drinking, etc., that he decided to restrict access.

[67] He confirms that he imposed a condition on the mother that her boyfriend not be present for the purposes of access.

[68] He confirms that he contacted social services and asked them to investigate the home.

[69] However, he further testified that the applicant did not contact him after this investigation until December 23, 2011 nor did she attend any of her scheduled visits with Jermaine or Makayla.

[70] This evidence is directly contrary to the evidence of Leena MacDonald and the mother that they consistently attended in his driveway for the purposes of exercising access on Wednesdays.

[71] The father advised that his son on December 18, 2011 contacted his mother to provide the home and cellular telephone numbers to her. However, he admitted on cross-examination that the home phone number that the child provided to the mother December 19, 2011 was subsequently disconnected in his household in January 2012.

[72] The respondent further alleged that the applicant did not attempt to exercise her access or visitation rights in any way between Christmas of 2011 until June of 2012.

[73] His explanation is that after months of not exercising access he assumed she had no interest. He suggests that when she came to his home to pick up the children for access or visitation she did so unannounced and without notification.

[74] He suggests that after months of not attempting to exercise her access or visitation rights, the children and he stopped attempting to see her. If the children were not home during the applicant's access, it was not because he was trying to prevent the applicant her access, it was because she had not picked up the children for months and he had no reason to believe that the applicant would attempt to suddenly begin exercising those rights without notice.

[75] There are a number of reasons why I prefer the applicant's evidence over the respondent's.

> 1. Documentation in the child protection business records indicates that the mother was extremely emotional and concerned about effecting access and ensuring that she had continual, consistent access with her children.
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> 2. The testimony of Leena MacDonald as to having attended at the home on a regular basis between October and December 2011 and having no success at having the children sent to the car or having anyone home is believable, clear and unembellished.

[76] The mother explains that after being humiliated between October and December, arriving every Wednesday for her access and not having any contact with the children she did not attempt to try other than through court order.

[77] The father's evidence on totality that he did not obstruct access as specified in the court order is not believable.

[78] It is clear on the totality of the evidence and I am satisfied beyond a reasonable doubt that the father has failed to make the children available, refused to facilitate contact, interfered with contact between the children and their mother and will continue to do so if he believes it appropriate regardless of court order. He is in breach of the order.

[79] The mother has brought a contempt proceeding to attempt to enforce her access with her children and has thoroughly presented her case in a reasonable and calm manner. It is evident, however, that she has experienced great sadness at her inability to have contact with her children.

[80] She has expressed with maturity her understanding that the oldest child cannot be forced to visit with her.

[81] However, she continues to fight in order to ensure that she has the ability to communicate with her son, to be present to her son and to assure him that she is a willing and able parent to parent him in accordance with the terms of the order.

[82] Her attendance at the school indicates her intent to try to see him. While it is likely not the best option for the child or the mother, one can understand the desperation at not having access to her child on repeated occasions in the way in which it was designed by the court.

[83] She has attempted to provide presents for Christmas, Easter and for birthdays in a very limited way at the school or in public places simply to ensure that her son knows that she continues to love him.

[84] To suggest, as Mr. Harvey does, that she has simply forgotten and decided not to pursue access is simply unbelievable.

[85] And to suggest as he does in para. 34 that he has never discouraged Jermaine or Makayla from contacting the applicant, the applicant's family or from visiting the applicant or applicant's family and that they have not made any effort to see Jermaine or Makayla is simply untrue.

[86] On cross-examination Mr. Harvey admitted that he understood the order, that he understood the terms and conditions and that despite that he operated in a manner in which he felt was in the best interests of the children.

[87] He informed the social worker that he would continue to do so.

[88] His evidence was clear and concise that he would make these decisions notwithstanding the court order. He has breached it in the past and he will continue to breach it when he determines it is appropriate.

[89] With respect to the counselling, it was clear to me that the mother pushed for this counselling that was ordered by Justice Gass in clear terms in her order of October 18, 2010.

[90] It was not until cross-examination that the mother heard from the father that he had arranged some interim counselling. His explanation for failing to do this until January and February 2013 appears to be more focussed on the contempt proceedings than an intent to comply with the spirit and intent of the court order; notwithstanding that the court order dictated that the children would be referred by October 18, 2010.

[91] It is also clear that he brought the boy to counselling. It is not clear under what terms and conditions and what the results are from either of the counselling efforts.

[92] What is clear in the order is that the parent who arranged this counselling was to inform the other parent. Justice Gass said as follows:

> The children shall be referred for counseling, which may be arranged as soon as possible by either parent, provided however that the other parent is immediately informed of the agency that has been contracted for the referral and that each parent will have the right to engage in the counseling and to speak directly with the counselor providing the service.

[93] Mr. Harvey did not inform the mother that her children had received some sort of counselling as was required by the order of the court.

[94] With the admission on record and with the evidence before me I am satisfied beyond a reasonable doubt that the order was clear and unambiguous, that the father had a copy of this order and knew the terms and these terms were explained on the record by Justice Gass.

[95] There can be no doubt that his decision is taken intentionally. He makes no bones about the fact that he understood he was breaching the order and that he would continue to do so.

[96] His explanation was that he wanted to support his children who were uncomfortable around the boyfriend.

[97] There is no proof that the boyfriend was inappropriate or that the mother could not effectively supervise the children in the boyfriend's presence.

[98] Child protection fully investigated and decided there were no grounds to substantiate a risk.

[99] Child protection advised that if the boyfriend was present he should be supervised although they did not explain why . There is no evidence he was alone with the children.

[100] There is domestic dispute between Ms. Morris and the boyfriend and in fact the couple has separated and there are criminal proceedings between the two of them.

[101] The children were obviously uncomfortable in the presence of the boyfriend.

[102] In addition, the oldest child was uncomfortable because she lost her bed to a boarder in the house, a male boarder who was brought in by Ms. Morris because of the mother's financial circumstances and her need to rent out one of the bedrooms to support herself and to maintain an apartment which would allow her to have her children over.

[103] It would have been preferable had the mother understood the children's reluctance to visit with the boyfriend present. Making his presence an issue was nor productive for either parent or for the mother’s relationship with her children.

[104] It would have been preferable for the father to contact the mother directly and discuss this in an appropriate fashion, rather than to have the children rule.

[105] However, the history of this litigation would indicate that these two parents have been in conflict for a significant period of time.

[106] The father denied access before the allegations and consistently denied access and failed to provide the children to the mother in accordance with the terms of the order.

[107] His failure to make the children available was in part the reason for the absence of the mother at access after December 2012.

[108] The father has not only made sure the children do not appear outside the home, he has taken the children out of the home before the scheduled visit.

[109] This is more than passive resistance. That is actively frustrating the court order.

[110] What has been established by the evidence is that the father knew what the terms of the order were, had control over the children, made a conscious decision to prevent access from happening for his own reasons and stated that he would continue to do so regardless of whether it was a breach of the order.

Penalty Stage

[111] This is not the fist contempt proceeding between these parents. The mother was found in contempt when she had custody for failing to permit one access visit and was charged $100.

[112] In the last contempt proceedings Justice Gass imposed $1,000 cost payable by the respondent to the applicant, with said costs to be applied against unpaid child support.

[113] The previous November 10, 2010 contempt hearing proceeded by consent after the variation hearing.

[114] The affidavit evidence of the mother with respect to the allegations that the court order had been breached stood before the Court.

[115] The father did not contest the breaches. He acknowledged that he breached the court order. He did not act in anger, he simply acted knowing that it was against the court order and that he did what he thought it was best.

[116] In addressing the parties Justice Gass outlined very clearly and specifically to the parties that it was not up to the parents to unilaterally change the provisions of a court order. She noted that it is important that the Court encourage respect for court orders and not allow parents simply to vary the court order unilaterally without having Court endorsement or agreement.

[117] To do so would, in her words, encourage "absolute chaos and anarchy."

[118] She advised both parties and in particular, Mr. Harvey, that there must be respect for the process of court orders or the system could grind to a halt. She emphasized the need and the importance of preserving the integrity of court orders.

[119] She advised Mr. Harvey that there were a number of options as penalties including a change in custody, suspension, imposition of incarceration, suspended sentence with conditions, costs, expenses, etc. all to ensure that the parties comply with the court order.

[120] In this case, the Learned Trial Justice felt that the breach was continuous and on more than one occasion, and therefore, a monetary penalty in the amount she imposed was appropriate.

[121] I reviewed this decision:

> (I) because it was referred to in evidence, and
>
> (ii) due to the direction of Saunders J. in **Godin v. Godin 2012 NSCA 54 (CANLII)** wherein he reviewed the law of contempt and the ethicality of the courts contempt power in the context of family law proceedings.

[122] In **Godin v. Godin** the Trial Judge found the appellant to be in contempt of the previous court order and finding that she failed to purge her contempt ordered her to be in prison for 90 days, but suspended that sentence upon terms and placed her on probation.

[123] The mother successfully appealed this decision. At para. 94 Saunders J. states as follows:

> Before concluding these reasons, I wish to add a final comment about process and proof. To assist trial judges in this vexing area of civil contempt – all the more difficult in the context of family law disputes involving parents in turmoil over custody and access for their children – it may be helpful to keep the following framework of analysis in mind:

– First, before invoking the court's contempt power, is there a less coercive measure such as a sharp rebuke or stern warning that will ensure compliance and curb errant behaviour?

– Second, has the applicant established beyond a reasonable doubt each of the following elements of the offence of contempt?

(I) the terms of the order are clear and unambiguous;

(ii) the contemnor has had proper notice of the terms of the order;

(iii) there is clear proof that the contemnor intentionally committed an act which is in fact prohibited by the terms of the order, and that

(iv) the requisite *mens rea* is proven. In the context of civil contempt proceedings, this means that while it is not necessary to prove a specific intention to bring the court into disrepute, flout a court order, or interfere with the due course of justice, it is essential to prove wilful and deliberate conduct that has the effect of contravening the order. (My emphasis)

– Third, in deciding whether the actions of the alleged contemnor were wilful, deliberate, and contemptuous, or whether a reasonable doubt arises on the evidence with respect thereto, the judge will likely wish to consider such things as the alleged contemnor's explanations for his or her conduct; the efforts made to ensure compliance; and whether there were obstacles not of the alleged contemnor's making, or other reasons which might provide an adequate excuse to the charge.

[124] Having listened to the evidence, reviewed the order, reviewed the tape of the comments made by Gass J. to the parties, it is clear to me, without doubt, that the Learned Trial Judge explained to the respondent the power of the Court to punish for contempt including in her explanation various possibilities.

[125] She explained that the father or mother were not entitled to change a court order without agreement of the parties or without another court order.

[126] I have heard submissions on penalty.

[127] Ms. Morris is not asking for incarceration. She is asking for a $4,000 fine and she wants to ensure that Mr. Harvey does not interfere with access between herself and her son and that the children continue to get counselling.

[128] Mr. Harvey's counsel indicates that a fine of that nature would be onerous and would put hardship on Mr. Harvey's family.

[129] I am afraid that the damage has already been done with respect to the oldest child. The hostility between the mother and the father is evident. The conflict that exists in this case has permeated the parent's relationship such that the child has refused contact with the mother.

[130] The two concerns expressed by Gass J. in her oral decision which were: that the father was now displaying the same disparaging, negative attitude toward the mother as the mother had previously toward the father and that this attitude would negatively infect the relationship between the children and the mother have happened.

[131] For the oldest child it may well be too late. However, the younger child has a right of access/contact with his mother as does she with him by court order. This order is purposefully being thwarted by the father.

[132] I take the explanation given by Gass J. to the father as fulfilling the requirements as to a stern warning regarding the consequences of his behaviour as required by the Court.

[133] I impose a $1,000 fine which shall be placed against arrears of child support, the balance if any to be paid directly to the mother.

[134] I also change the terms of the order as follows:

> The mother shall be entitled to parenting time to the children, including her son each Wednesday from 4:30 to 7:30 pm, alternate weekends from Saturday at noon to Sunday at 7:30 pm and such other access as can be agreed upon.

[135] Given what I have seen I am not optimistic the father will permit other parenting time willingly.

[136] However, I also order the father to transport the child to the mother's home for each visit, that is each Wednesday, Saturdays and such other parenting/access times as set out in the orders of the court governing this family. The mother's parenting time is to begin on time at 4:30 on Wednesdays, noon on every second

Saturday with an allowance of 10 minutes either way only for the purposes of traffic or unforseen events.

[137] Should the father not be available to drive his son, the father shall be responsible for arranging transportation for the child to the mother's home on each visit.

[138] The mother shall be responsible for returning the child to the father's residence.

[139] This is intended to impose a positive duty on the father to comply with the terms of the order by taking action to ensure he gets his son to the mother's home.

[140] The father cannot therefore suggest the mother did not appear, he was unaware, they were not home or such other excuses. His duty is to transport his son and his daughter should she change her mind and wish on occasion to attend.

[141] I also order the father to advise the mother in writing by July 15, 2013 of the name of the counsellor he consulted for the children.

[142] I grant the mother the right to speak to and receive information from all of the third party service providers (for the children) including educators, medical professionals and therapists and to attend, speak to them, provide them with the court order and decisions in order to obtain information concerning the children and to obtain advice regarding reestablishing a healthy relationship with each child.

[143] The father is to advise the mother immediately if the son is in counselling and if so with whom.

[144] If the child is not, the mother may immediately arrange counselling for him in accordance with the directives of Justice Gass in her order of October 18, 2010 as incorporated into subsequent orders. The mother shall be entitled to take him to the appointments.

[145] Any appointments made for the son shall be in addition to the mother's parenting time.

[146] The father should know that while the mother is not now asking for incarceration, further breaches if proven could result in a period of incarceration.

[147] He is cautioned to obtain legal advice to ensure he is fully informed of his rights and responsibilities such that should this be repeated in the future **he has exhausted his warnings and could face more serious penalty**.

[148] The mother is **strongly advised to obtain advice from a therapist to better address the relationship difficulties between her and her daughter and to assist her in successfully maintaining regular parenting time with her son.**

[149] The Court will draft the order.

Legere Sers, Moira C.