

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: EJP v SB, 2013 NSSC 174

Date: 20130611

Docket: SFHMCA-85349

Registry: Halifax

Between:

EJP and BLP

Petitioners

v.

SB and LP

Respondents

Judge:

The Honourable Justice Deborah Gass

Heard:

June 6, 2013 in Halifax, Nova Scotia

Counsel:

Nancy G. Rideout, counsel for Petitioners

Krista Forbes, counsel for Respondent

Jean Webb, counsel for the Minister of Community
Services

By the Court:

[1] An oral application for an Order for Production was made by the Applicant grandparents in a proceeding under the *Maintenance and Custody Act*. They have been granted standing as the paternal grandparents applying for custody of their two grandchildren upon termination of the proceedings under the *Children and Family Services Act*.

[2] They seek production of a Parental Capacity Assessment which was ordered under the *Children and Family Services Act* in order to assist them in formulating the access arrangements for the children with their mother. The mother opposes production of the document on the basis that it was prepared for the protection proceeding, is highly invasive and personal, and not necessary for the purpose of working out access. The Minister is not opposing the production of the Report.

[3] While the mother is not opposing the grandparents' application for custody, there is no agreement on how her parenting time with the children should be. To that end, the parties, including the Minister, have agreed to participate in a Settlement Conference.

[4] The Court is mindful of balancing the privacy interests of the respondent with the probative value of the report in formulating an arrangement that is in the best interests of the children.

[5] In order to determine this issue, I examined the report to determine its relevance to the issue at hand, weighing it against the deleterious effects for the respondent mother if it is released to the applicant grandparents.

[6] I have concluded that pages 2 through 12 of the report are minimally, at best, relevant to the issue of access, and that their probative value is also minimal and far outweighed by the privacy interests of the mother.

[7] What is relevant, and would be helpful to the Court and the parties, is the information provided in pages 13-16 of the report, which focuses on the needs of the children and the ability of the adults to meet those needs as well as what is required of the mother to ameliorate the situation.

[8] Therefore I am excluding from production that part of the report which addresses in detail the mother's personal and mental health history, but I will order the production of the portion of the report that addresses the specific needs of the children in the context of the mother's mental health, all of which has been thoroughly summarized on page 1 and in pages 13-16 of the report.

[9] The Minister is therefore ordered to release pages 1 and 13-16 of the report to the Applicants.