

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: N. M. G. v. C. F. D., 2013 NSSC 247

Date: 20130801

Docket: SFHMCA-076361

Registry: Halifax

Between:

N. M. G.

Applicant

v.

C. F. D

Respondent

Judge:

The Honourable Justice Beryl MacDonald

Heard:

July 10 and July 15, 2013

Counsel:

Shawna Y. Hoyte, counsel for the Applicant
M. Ann Levangie, counsel for the Respondent

By the Court:

[1] The parties before me are the parents of a two-year-old child. Their daughter will be three years old in January 2014. These parents have never lived together and as a result have no history of cooperative parenting. Their daughter was the result of a casual sexual relationship with neither party having made any commitment to the other. Now, as parents, they are faced with the realization that the birth of a child carries responsibility for continuing involvement with the other party which often is unwelcome.

[2] The Father was in attendance at the birth of this child and, unlike many men in this situation, he did not walk away but wanted to become a parental figure, a Father, to this child. Unfortunately for this couple, both were and are extremely immature. Because of this they have not been able to appropriately resolve how the Father's contact with the child can be managed best for her benefit. These parents have focused a great deal of their energy on their own personal desires, hopes and interpretations of the other's actions without making any appropriate effort to understand the other parent's perspective. I will quote from an eminent Family Court judge Justice Harvey Brownstone who presides at the North Toronto Family Court to explain why parents need to develop maturity in their relationship. In his book "Tug of War" he says on page 4:

In the context of a relationship breakdown, being mature means loving your children more than you dislike your ex partner. Being mature means caring enough about your children that you will force yourself to deal in a civilized way with someone you may hate. Being mature means thinking twice and measuring your words carefully before you speak when you're upset with your ex partner, especially in front of the children. It means always insulating your children from parental conflict so they know your breakup has nothing to do with them. It means doing what is necessary to make the transition in your children's lives as easy for them as possible. Being mature means putting your children's needs ahead of your own. It means truly understanding and accepting that your children are entitled to love and be loved by both of their parents. It means giving your children emotional permission to express and receive that love, even though you and the other parent dislike each other. Being mature means being willing and able to reach compromises so that your children can have peace rather than be caught in a tug of war and conflict of loyalties. Being mature means recognizing that you can be an ex- partner but you are never going to be an ex-parent. True maturity requires parents to appreciate that children need both parents in their lives, working cooperatively to make the best possible decisions for their upbringing.

[3] In resolving disputes between parents judges are directed to determine what is in the best interest of the child. Several cases provide guidance about factors to consider when assessing best interest, *Foley v. Foley* (1993), 124 N.S.R. (2d) 198 (N.S.S.C.); *Abdo v. Abdo* (1993), 126 N.S.R. (2d) 1 (N.S.C.A.); and particularly useful is the comment in *Dixon v. Hinsley* (2001), 22 R.F.L. (5th) 55 (Ont. C.J.):

46 “The best interests” of the child is regarded as an all embracing concept. It encompasses the physical, emotional, intellectual and moral well-being of the child. The Court must look not only at the child’s day to day needs but also to his or her longer term growth and development.

[4] Conflict between parents does not necessarily mean they cannot be awarded joint custody. Joint custody may continue to be appropriate if there is sufficient indication of their ability to place the needs of the child before personal needs and to cooperate on issues of vital importance to the child. The role of the Court is not to determine which parent is better but to decide which plan for the child’s care will best meet the child’s developmental, educational, health and social needs. (*Gillis v. Gillis* (1995) Carswell N.S. 517)

[5] These parents consented to an Interim Order dated December 8, 2011. Because the agreement provided primary care and final decision making to the Mother she is the custodial parent. The Father was to have access every second weekend from Friday at 4:00 pm until Sunday at 12:00 pm, one evening during the week when the child was to be in his care on the weekend from approximately 4:00 pm until 7:00 pm and one weekday in the alternate week, overnight, from approximately 4:00 pm returning the child to her daycare the following morning.

[6] The Mother continues to request custody and primary care of the child because the conflict between the parties prevents the respectful consultation required for a joint custodial arrangement. The Father requests joint custody under a shared parenting arrangement.

[7] Joint custody is a difficult concept for many to understand. It does not refer to physical closeness to the child nor to shared day-to-day parenting. It is perhaps a philosophical concept. It requires parents to remain committed to joint problem solving on behalf of their children. When a child is ill and treatment must be chosen, when a choice must be made about schooling, when there is a decision to be made about religious training, when a child is in trouble with the law or has behavioural problems, joint custody means that parents will discuss these issues and come to a joint decision, as parents do in intact families. Joint custody does not mean one parent has the right to micro-manage the daily care of the child by the other parent. Each has the right to make independent decisions in that sphere when the child is in his or her physical care. Absent evidence to the contrary the expectation is that each parent loves the child and would do nothing to cause harm to that child. Parenting styles may be different, but unless there is clear evidence that the style of parenting harms the best interest of the child in some material way, the style of parenting is generally not relevant to the choice of sole or joint custody.

[8] Shared parenting is the terminology that describes the residential arrangements for child. Because this provides significant contact between the child and both parents, many consider this to be the best parenting arrangement for every child. This is not the presumption in law. There are often many practical reasons why shared parenting is not in a child’s best interest, geographical

distance for example. In addition there are many parenting deficiencies, unresolvable conflict, for example, that may result in a finding that shared parenting is not in the child's best interest.

[9] When parents do not live in reasonably close proximity to one another this creates significant parenting difficulties particularly in respect to younger children. Judges are informed that very young children require frequent but short periods of time in the care of the parent who does not have primary care (the non-residential parent). This allows the child to develop an understanding that the non-residential parent can provide the security and comfort so important to the child's healthy psychological development. A young child does not have the same sense of time as an adult. If a young child is not in frequent contact with the non-residential parent the child may not be able recall or remember that parent so that every contact with that parent may be, for some children, as if they were placed in the care of a stranger, causing them to suffer anxiety and distress. This is why judges are often informed that contact between a non-residential parent and a child from infancy until the child reaches 3 years of age should consist of short frequent opportunities to care for the child, initially with the primary care parent present, so the child does not feel abandoned. Once the child gains and is able to retain memory of the non-residential parent that child can then be in that parent's care for longer periods of time including overnight.

[10] Some children are more resilient than others and can be placed in the care of persons they may consider strangers for longer periods of time without undue distress. Some children can spend overnight with persons with whom they are not significantly familiar without distress. Everything does turn on the personality and resiliency of the child. Most judges know very little about the personality and resiliency of the children who are the subject of court proceedings.

[11] What is known to be damaging to children is conflict between their parents to which the children are exposed or about which they are intuitively aware. This is why it is extremely important that parents, who have significant difficulties communicating respectfully with one another, receive counseling to learn how to parent separately and cooperatively.

[12] In this situation I am faced with a child who does know her Father as a parental figure. This has been accommodated by the Mother but I am not sure it has been fully accepted by her. I say this because her evidence suggests she considers the terms of the Court order, to which she willingly consented, to be suggestions rather than requirements. Clearly court orders cannot cover every possible situation parents may encounter but it is important that a parent explain why particular terms of the order are not being carried out at a particular time with a suggestion about make up time or how the situation may best be managed. The Mother did not always provide explanations or alternatives. When she did do so, the Father has not been as understanding and accommodating as he should have been. Personal animosity prevented mature parenting. Each parent engaged in what I consider to be reprehensible behaviors. The Mother, early in the child's life, offered the Father \$20,000.00 if he would discontinue all efforts to have a relationship with the child. The Mother later violated the ethics of her workplace to access records about the Father and his girlfriend neither of which were relevant to the parenting of their daughter. In doing so she exposed herself to employment termination that may yet occur if her present employer discovers

her unethical behavior in her previous workplace. Because she is the only significant breadwinner for this child I can only hope this does not happen and that she will have learned her lesson from this episode.

[13] The Father must share responsibility for the Mother's precarious employment situation. He is the person who reported her activity to her employer having failed to get what he wanted, shared parenting, as the price of his agreement not to report the incident. The Father also has harassed the Mother with constant texting and messaging. I do not accept the majority of these texts were required to have a completed conversation. The Father's explanation is nothing more than a rationalization for abusive behaviour.

[14] Notwithstanding the parties conflict, this child has a right to continue to develop her relationship with her Father. That now has been put at risk because the Mother has requested removal of the child from the Halifax Regional Municipality. The Mother wants to move to Wentworth, Nova Scotia which is somewhat less than a two hour drive from the Father's residence. This request requires the Court to undertake the analysis provided by the Supreme Court of Canada in *Gordon v. Goertz*, [1996] 2 S.C.R. 27. Relevant to this case are the following principles from that decision:

1. The inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's decision to live and work where she or her chooses is entitled to great respect and consideration.
2. The past conduct of a parent is not to be taken into consideration unless the conduct is relevant to the parent's ability to act as a parent of a child.
3. The parent's reasons for the move are irrelevant absent a connection to parenting ability, as may be the case of a move the sole purpose of which will be to frustrate or interfere with access.
4. The focus is on the best interests of the child or children and not the interests or rights of the parents.

More particularly the judge should consider, amongst other factors:

- (a) the existing custody arrangement and relationship between the child and the custodial parent;
- (b) the existing access arrangement and the relationship between the child and the access parent;
- (c) the desirability of maximizing contact between the child and both parents;

- (d) disruption to the child of a change in custody;
- (e) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.

As the Supreme Court has said in *Gordon v. Goertz* :

50 In the end, the importance of the child remaining with the parent in whose care and custody the child has become accustomed in the new location must be weighted against the continuance of full contact with the child's access parent, extended family and community. The ultimate question in every case is this: what is in the best interests of the child in all the circumstances, old as well as new?

[15] An analysis of the case law on relocation adds detail to the factors to be considered that assist in the determination of the child's best interest and those are:

- the number of years the parents cohabited with each other and with child;
- the quality and the quantity of parenting time;
- the age, maturity, and special needs of the child;
- the advantages of the move to the moving parent in respect to that parent's ability to better meet the child's needs;
- the time it will take the child to travel between residences and the cost of that travel;
- the feasibility of a parallel move by the parent who is objecting to the move;
- the feasibility of a move by the moving parent's new partner;
- the willingness of the moving parent to ensure access will occur between the child and the other parent;
- the nature and content of any agreements between the parents about relocations;
- the likelihood of a move by the parent who objects to the relocation;
- the financial resources of each family unit;
- the expected permanence of the new custodial environment;
- the continuation of the child's cultural and religious heritage;
- the ability of the moving parent to foster the child's relationship with the other parent over long distances;

[16] Some courts also consider it is important for children to be cared for by a well functioning, happy custodial parent. If this is a factor to be taken into account it must be balanced against all the other factors. In addition, it must be reality tested because the parent may be able to explore opportunities that will provide happiness and security not involving a relocation, although they may require some reasonable personal sacrifice, or consideration of other plans, for the best interest of the child.

[17] The Mother has questioned the Father's parenting ability and in particular his attention to the child's health. Both she and the maternal grandmother testified about an incident when the Father failed to take the child's illness seriously. Because I have not accepted that all of the information the Mother has provided is truthful, I have struggled to determine what actually happened on the occasion in question. I do know the maternal grandmother expected the Father, when he picked up the child for his parenting time, to take the child directly to a doctor or to a hospital. However, the Mother and grandmother may have overreacted to the child's sniffles and lethargy because she is an asthmatic child, and I believe she did recover as described by the Father. She later became quite ill when returned to the Mother's care and she required hospitalization. Notwithstanding the Father's immaturity I do believe he loves and cares for his daughter and would not put her health so obviously at risk.

[18] There is no trust between the Father and the Mother. His initial failures to purchase his own medication for the child contributed to the Mother's opinion that he did not care, or was negligent about, the child's health care needs. It was unreasonable for the Father to expect the Mother to provide him with the child's regular medications as she traveled back and forth between homes. It is expected that medication for an irregular infection, for example and ear infection, may need to travel between homes. Regular required medications should not. The Father now has the required medications in his residence.

[19] While the Father's care of the child has not been perfect, perfection is not required. I do not accept that his parenting is inadequate and requires supervision. At one time this was the Mother's request but the evidence indicates that request was driven by her frustration in attempting to deal with the Father and by her own desire to find a way to justify the move to Wentworth.

[20] The Mother has provided information inviting a conclusion that the Father is abusive and she is afraid of him. I agree the Father can be verbally abusive as is evident from his text messages. However, the Mother has frequently responded with inappropriate language that did nothing more than prolong the conflict. I am also satisfied she was a participant in abusive behaviour. Her description of the fight between the parties in the Father's home is indicative of that behaviour. Rather than leave the child in the Father's arms, and seek out assistance to have the child returned to her under a peaceable arrangement, she decided to chase after him, running through his house eventually striking at his neck with her keys while the child was in his arms. This does not suggest she was in any way afraid of the Father. This is further supported by her failure to follow through with the police to have him charged with assault. Both of these parents engage in what has been defined by some as "situationally driven violence". This is violence that occurs when individuals become angry and aggressively strike out at one another. While inexcusable, this type of violence between couples is not the same as the control driven, fear inducing "intimate partner violence" that often leaves victims incapable of protecting themselves or their children. However differentiating between violent acts is only useful to understand the type of counseling that may be required. For children, all violence between their parents is traumatic, and to be caught in the middle, as was this young child, must have been terrifying. Neither of these parents protected her from that consequence.

[21] The Mother owns and had been residing in one side of a duplex in the Halifax Regional Municipality. The remaining unit is rented and the Mother receives that rental income. She wants to move to Wentworth to live with her parents. She has found a job in Truro but it is not full time. It is casual work but she expects to be offered significant additional hours to increase her income. If she moved she would find tenants for her side of the duplex. This will enable her to pay the mortgage and other expenses associated with that property. She will live rent free with her parents in Wentworth. In addition her parents can care for her daughter when the child is not in day care or if she is ill and the Mother considers the rural surroundings are healthier for her daughter. However, as I understand the Mother's evidence, her parents frequently provided child care for the child living in the present location although it may not be as convenient as caring for her in Wentworth would be.

[22] The Mother intends to enroll the child in a daycare facility associated with her workplace. She testified the cost of child care will be less than it has been because she will only be charged for the actual days the child is in the day care facility. She suggests the drive between her parents residence in Wentworth and the child care facility would be approximately 30 minutes. The present drive from her residence to the child's daycare may have taken less time than this, but my review of the distance from the residence of the Mother's parents to Truro suggests the drive would more likely be close to an hour, particularly during winter driving conditions.

[23] The Mother has suggested the Father will not have a greater distance to travel to pick up the child for access because she will meet him in Enfield, rather than require him to travel all the way to Wentworth. The Father suggests this is indeed a greater distance than he previously had to travel. In addition, his ability to travel is complicated by the fact he does not have a drivers license due to an impaired driving conviction. He may soon be able to reapply for his license but presently he relies upon his present partner and others to provide him with transportation. I do considered it preferable for a child to be picked up and returned to the residence of a parent rather than be transferred in coffee shops, shopping centers or other such places. Driving conditions may prevent prompt arrivals and children may be waiting in vehicles in parking lots or in fast food centers etc. far longer than I consider appropriate. Many parents agree to these arrangements but I am not always comfortable imposing those upon parents. I find it more appropriate for children to be dropped off to a parents residence by one parent and returned to a parents residence by the other.

[24] The Father has suggested the primary motivation for the Mother's move is to be closer to her boyfriend who lives in Truro and whose children, from a previous relationship, are in his care, I believe, every second weekend. He also is of the opinion the Mother is moving to Wentworth in order to impede his developing relationship with the child.

[25] The Mother has stated she will not move to Wentworth if she is not permitted to change the child's residence. This is not a factor the Court is to consider when making its decision. (*F.H. v. V.J.* [2003 JQ 671]; *Spencer v. Spencer* 2005 ABCA 262) The decision in *Gordon v. Goertz*, supra, requires the Court to focus on which of two alternatives appear to be in the child's best

interest. The first is for the child to remain with the “parent in whose care and custody the child has become accustomed in the new location”. The second is for the child to remain in the present location to maintain the “continuance of full contact with the child’s access parent, extended family and community”. In order to properly address a request for change in the child’s residence the Court must approach the issue with the expectation that the Mother will move.

[26] In *Gordon v. Goertz*, supra, the Supreme Court stated “the parent’s reasons for the move are irrelevant absent a connection to parenting ability, as may be the case of a move the sole purpose of which will be to frustrate or interfere with access”. This comment has been troubling. What reasons for a move can be considered to have a connection to parenting ability? Since the decision in *Gordon v. Goertz* there appears to be a societal narrative that custodial parents ,who have been living with children for some time in one location, should not move to locations that will impede or complicate children’s relationships with the other parent, extended family, friends, and attendance at a familiar school. There is no such narrative in respect to the non-custodial parent. He or she can move at will and no court ordered permission is required. The implication of this narrative is that there must be some very good reason for a move by the custodial parent. However the Supreme Court indicated the relevant reasons to be examined are those “connected to parenting ability”. The only example given was “ a move the sole purpose of which will be to frustrate or interfere with access”.

[27] There are circumstances that may lead to a finding that a move is solely for the purpose of frustrating access, for example:

- A move to seek alternative employment with no definite job offer in place;
- A move to follow a partner who has made no commitment to the moving parent;
- A move to follow a partner who would be able to join the parent in the present location.
- A move that does not confer significant benefits to the parent and child as compared to previous living arrangements.

As a result the reasons for a move must be considered as will evidence about job opportunities for the custodial parent and, if a partner or intended partner is involved, whether that person can move to the custodial parent’s present location. In addition the reasons for a move will also require analysis when the Court is attempting to balance the benefits of a move against the detriments. In order to understand the benefits the Court must understand whether a parent will, in the new location, have the ability to provide financial security for the children, provide a home situation which will be nurturing and free from conflicts with other persons, whether there will be persons living in the new community who can provide financial, personal and emotional support to the parents and the children. Answers to these questions often involve understanding why a parent is relocating. Because of this parents do provide the Court, and the Court requires, information about why they intend to move.

[28] The Mother has been forced to find employment in another location due to a combination of her own actions and those of the Father. Because the Father filed a complaint with the Mother's employer, she began to seek alternative employment before her original employer decided on its disciplinary action. While one may deplore her conduct the Father should not have used it to apply leverage in respect to his contact with the child. His complaint has not advanced his cause and may well, in future, prevent the Mother from continuing employment in her profession. This will be of no benefit to the child.

[29] The Mother's decision to move was a somewhat impulsive decision resulting from a combination of factors. While she has often been frustrated and angry with the Father I do not find her move to have been motivated by a desire to lessen contact between the Father and the child.

[30] The Supreme Court of Canada has said the custodial parent's decision to live and work where she or he chooses is entitled to "great respect and consideration". Nevertheless if it is in the best interest of the child to remain in the former location, the parent's choice must be ignored. It is no doubt easier for a court to refuse to permit the change of a child's residence when there is a non-residential parent who can, because of previous frequent parenting of the child or because of a shared parenting arrangement, assume primary care of the child. The infrequent contact that will result between the child and the parent who intends to move may appear to have less impact if all other factors, such as the child staying in the same community, attending the same school, and so on, are considered equally or more important to the child's healthy development. In these situations both parents are equally capable of providing the child with the security, psychological stability and comfort frequently associated with care by the primary care parent. The "other" parent is therefore not perceived by the child as a stranger or a friendly acquaintance. The child will be as comfortable and secure with the "other" parent as he or she is with the previous primary care parent. On the other hand placing a young child in the continuous care of a non-residential parent with whom the child may not yet have developed that comfort and sense of security is generally not considered in a child's best interest. A child is assisted in developing this relationship with the non-residential parent when that parent has frequent but not lengthy parenting time. It has been suggested that young children should not remain out of the care of either parent for long periods of time. A residential move, when a child is young, can impede the development of that secure parent child relationship with the "other" parent. This is not usually considered to be in the child's best interest. As a result a court may decide to refuse a request to change a young child's residence but in doing so the expectation must obviously be that the moving parent will not move. There may be reasons why the parent who intends to move, in fact must move or has little realistic prospect from a practical point of view to remain in the former location. In such situations a court may decide to permit the child's residence to be changed notwithstanding the reduction in contact with the "other" parent.

[31] In this case the Mother can continue to live in her former residence and she can drive to her workplace in Truro. The distance is not significantly greater than is the drive between Wentworth and Truro. The child could remain in a day care facility in the Halifax Regional Municipality. There is nothing that will be provided to the child in Wentworth that cannot be made available to

her in the Halifax Regional Municipality. The Mother's financial circumstances will not be significantly improved as a result of a move to Wentworth.

[32] I have decided it is in the best interest of this child to continue her developing relationship with her Father. To do this she will need to have at least the same amount of contact with him she has had in the past. A move to Wentworth would remove the week day parenting and reduce the Father's contact with the child to an every second weekend arrangement. Under the circumstances of this particular case balancing the benefits of this move against the detriments results in my decision to deny the Mother's request to change the child's residence. This child is too young to gain any benefit from telephone or Internet contact. If she is in the care of her Father only every second weekend she may perceive him, if not as a stranger, than likely as nothing more than a friendly acquaintance and may not always feel secure in his care. I see no need to expose her to this potential detriment.

[33] This child's age is an important factor in my decision. If the child was older the usual pattern of every second weekend with telephone or Internet communication during the week, extended periods of time with a parent during the summer and sharing of all holidays would likely be sufficient to maintain the parental relationship.

Parenting Plan

[34] I must determine the appropriate parenting plan for these parents. The Father suggests joint custody under a shared parenting arrangement. Given the level of conflict between these parents they will need to learn how to respectfully communicate with one another before this type of arrangement could be considered in the child's best interest. The Mother is to have custody of the child but the terms of the custodial arrangement are to be as appear in Schedule "A" to this decision.

[35] The Father is to continue to have this child in his care every second weekend but it will be from Friday at 4:00 pm until Sunday at 4:00 pm. During the week when the Father does not have the child in his care on the weekend he shall have her in his care from Wednesday evening at 4:00 pm until Thursday at 4:00 pm. During the week when the Father is to have the child in his care on the weekend he is to have her in his care on Tuesday from 4:00 pm until 7:30 pm when the child is to be returned to the Mother's care.

[36] The Father shall have parenting time with the child on December 25, 2013 and in every succeeding odd year from 10:00 am until 2:00 pm and on December 26 from 4:00 pm until December 27 at 11:00 am. On December 24, 2014 and in every succeeding even year the Father shall have the child in his care from 4:00 pm until December 25 at 10:00 am when the child is to be returned to the Mother's residence and on December 26 from 4:00 pm until December 27 at 11:00 am.

[37] Care of the child during the Easter holiday is to coincide with the parents regular parenting schedule.

[38] In the summer of 2014 each parent may have the child in his or her care for a period of seven consecutive days. In 2015 this will increase to 14 consecutive days. The regular schedule will not apply during this period and will resume at the end of the period. In 2014 and in all successive even-numbered years the Mother is to inform the Father, on or before May 15, about her choice and the Father shall then provide his choice, exclusive of the dates chosen by the Mother, on or before June 15. In 2015 and in all successive odd-numbered years the Father is to inform the Mother, on or before May 15, about his choice and the Mother shall then provide her choice exclusive of the days chosen by the Father, on or before June 15.

[39] Either parent may travel with the child outside of Nova Scotia during his or her parenting time but the traveling parent must provide the other parent with the details about the travel plans and available contact information no later than 48 hours in advance of the travel.

[40] The Father may have such other parenting time, or rearranged parenting time, as the parties have agreed upon in writing and an exchange of e-mail or text messages that can be reproduced will be considered an agreement in writing for this purpose.

[41] For all parenting time to be exercised by the Father, if the Mother is not working, she is to transport the child to the Father's residence at the beginning of his parenting time and he is to transport the child to her residence at the end of his parenting time. If the Mother is working the Father shall pick up the child from the day care provider at the beginning of his parenting time and he shall return the child to the Mother's residence at the end of his parenting time. The Mother must keep the Father informed about her work schedule so the Father will know when he is expected to pick up the child from a child care provider.

Child Support

[42] The Father has not disclosed significant income from which to support the child. He has worked as a painter, he has worked at Walmart and most recently he has worked at the Halifax Shipyard. In 2008 his line at 150 total income from his Notice of Assessment is \$27,389.00. In 2009 his reported earnings were \$13,242.00. In 2010 his reported earnings were \$13,838.00. In 2011 his reported earnings were \$29,179.00. The Father completed a statement of income dated December 4, 2012 disclosing a yearly income of \$13,353.00. On April 18, 2013 he filed a statement of income stating his annual income would be \$6,396.00 because he was attending Eastern College. He had been laid off from his employment at the shipyard. The Mother is highly suspicious of the Fathers information about his income and earning capacity. She considers him to be intentionally unemployed and when working, underemployed. The Father's testimony indicated he could have returned to work at the shipyards but chose not to do so. He now suggests his training through Eastern College should provide him opportunities to earn employment in the accounting field. In the meantime he intends to work part-time as a painter. The Interim Consent

Order issued December 8, 2011 states that his annual income was \$38,000.00 upon which he was required to pay table guideline child-support of \$332.00 per month. I have no income tax return from the Father to inform me about all of the income sources he received for 2012.

[43] The Father has an obligation to provide adequate financial support for the child's benefit. I am not satisfied the choices he has made were required. The best income he has ever earned was while he was employed at the shipyard. So far his education has not provided him with equivalent employment. The estimate of his income for the previous Interim Consent Order was based upon his work at the shipyard. His evidence suggests, if he can obtain an accounting position, he may earn \$16.00 per hour. This would provide him approximately \$31,000.00 total yearly income. I will not retroactively vary the child-support he is to pay for the year 2012. I have decided he is to pay child support for 2013 based upon an income of \$31,000.00 per year and this will require him to pay \$261.00 per month commencing January 1, 2013 as table guideline child support.

[44] The Mother is also seeking contribution to the cost of child care. An accurate assessment of the net cost for childcare is presently unknown. The Mother is to provide that calculation to the Father and upon receipt of that information the Father is to commence paying, monthly, one half of that net cost to the Mother. If that calculation is available prior to the issuing of the Order in this proceeding the Order is to reflect the exact cost amount to be paid by the Father so it may be collectible by the Maintenance Enforcement Program.

[45] If either party is seeking costs the Scheduling Office is to be contacted to obtain a date for a conference call to discuss filing dates for submissions.

Beryl MacDonald, J.S.C.

Schedule "A"

Right to be Informed

The Mother shall inform the Father about any significant changes, problems or recommendations relating to the child's physical and mental health, dental care, physical and social development, and education, and she is to provide copies of all written reports received from service providers about these changes, problems or recommendations.

Right to Contact Third Parties

The Father shall be entitled to directly contact the child's doctors, day care providers, dentists and other third party service providers to request and receive information and consult about the child and the Mother shall advise all service providers about this provision.

Contact Information About Service Providers

The Mother shall provide the Father with the name, address and telephone number, or other contact information for the persons or institutions providing services to the child for example, the child's physician, dentist, day care provider, and she must update him if there are any changes.

Parties' Addresses/ Contact Information

The parents shall provide each other, and continue to provide each other, current addresses, telephone numbers, e-mail addresses and all other contact information.

Relocation

The Mother shall provide the Father 90 days notice of her intention to change the child's residence to a location outside of Halifax Regional Municipality and she shall not change the child's residence to a new location unless she has the Father's consent or an order from a court of competent jurisdiction permitting the move.

Communication

All communication between the parties shall be respectful, to the point and as brief as possible.

Counselling

Both parents shall make arrangements to attend, and shall attend, the Parenting Information Program offered by the Family Law Information Centre located in the Courthouse facility of the Supreme Court Family Division.

Both parents shall make arrangements through Family SOS, or through a Family Service Association to attend, and each shall attend, programs offered to assist parents develop skills to avoid conflict with the other parent after separation and in particular to learn how to engage in effective, respectful communication.