No. 1210-000526

(SFHD-11244)

IN THE SUPREME COURT OF NOVA SCOTIA FAMILY DIVISION
CItation: *Best v. Fraser*, 2002 NSSF 42

BETWEEN:

SHEILA LEE BEST (FRASER)

APPLICANT

- and -

JOHN WILLIAM PAUL FRASER

RESPONDENT

D E C I S I O N

HEARD: **Before the Honourable Justice Deborah K. Smith at Halifax, Nova Scotia**

DECISION: **October 18, 2002**

COUNSEL: **Sheila Lee Best - Self Represented**

Jim M. O'Neil, Esq. - Counsel for the Respondent

SMITH, J.

This case involves an application by Sheila Lee Best (hereinafter referred to as "the Applicant") to vary the terms of a Corollary Relief Judgment issued on the 8th day of September, 2000, in order to allow her to move to Australia with her three children and her present husband. The application is opposed by the children's father, John William Paul Fraser (hereinafter referred to as "the Respondent").

The Applicant and the Respondent were married on the 6th day of July, 1991 and separated in the spring of 1996. They were divorced by Divorce Judgment issued on the 8th day of September, 2000. On the same date, a Corollary Relief Judgment was issued which granted the parties joint custody of the three children of the marriage (Nicholas Alexander Fraser who was born [...], 1982; Kara Dawn Fraser who was born on [...], 1989 and Kelsey Marie Fraser who was born on [...] 1992) with the Applicant being given primary care and

control of the children. The Respondent was granted reasonable access to the said children at all reasonable times, upon reasonable notice to the Applicant.

The oldest child, Nicholas, is not the Respondent's biological son. Nicholas was legally adopted by the Respondent a number of years ago. The evidence establishes that the Respondent has had limited contact with Nicholas since the time of the parties' separation.

The Applicant resides in Bridgewater, Nova Scotia, and is now married to Grant Andrew Best. The Applicant works approximately 32 hours per week as a customer service representative for Sears earning $6.50 per hour. The Applicant's present husband is trained as a telecommunications technical officer and is from Australia. At the time of time of the hearing, Mr. Best was employed in a term position for a local Call Centre working approximately 24 hours per week earning $9.00 per hour.

The Respondent resides in Pickering, Ontario. He is a bricklayer. The Respondent filed a Notice of Assessment which indicates that in the year 2000 (the most recent year for which the Court was provided with financial information) he had a total income for tax purposes of $49,600.00. The Respondent lives with Gail Ann Bowles.

The Applicant has had the primary day-to-day care and control of the children since the time of the parties' separation.

According to the Respondent's evidence, in December of 1996, he moved to Toronto to find employment. Understandably, his ability to see the children was restricted somewhat after this move. According to the Respondent, between December of 1996 and the spring of 2000, he exercised access with the children on six occasions (May of 1997 - 5 days; December of 1997 - spent the holidays with the children; June of 1998 - two weeks; December of 1998 - spent the holidays with the children; October of 1999 - nine days; April of 1999 - extent of the visit not indicated). It appears from the evidence that was presented that the Applicant was present for some of these access visits and that at least a portion of these

visits took place at the Applicant's home. According to the Respondent, he paid the travel expenses incurred in relation to these access visits.

In the summer of 2000, at the Applicant's request, Kara and Kelsey stayed with their father and Ms. Bowles in Toronto. In addition, the children spent approximately one month with their father and Ms. Bowles in February-March, 2001.

In addition to the access referred to above, the Respondent kept in contact with the children on a regular basis via telephone.

It appears that until the spring of 2001, the Applicant and the Respondent worked well with one another when it came to Kara and Kelsey. This is evidenced by the fact that a number of the Respondent's access visits took place in the presence of the Applicant (sometimes at her home) and also by the fact that the Respondent had regular telephone access with the girls.

In April of 2001, the situation changed. The Applicant, her husband and the children had recently moved back to Nova Scotia from British Columbia. Upon arriving in Nova Scotia, Mr. Best (the Applicant's husband) applied for a number of telecommunication jobs in Halifax and the surrounding areas. According to Mr. Best's testimony, he was told that he was either over qualified for the positions that were available or that the employers that he had applied to were not hiring at that time.

In addition, the Applicant and her husband were having difficulty with the apartment that they were staying in. Apparently, the apartment contained mold which was affecting the health of both Kelsey and Mr. Best.

According to the Applicant's testimony, in the spring of 2001, Mr. Best was offered employment in Australia. The Applicant telephoned the Respondent to discuss the possibility of moving the children to Australia so that her husband could take this new job. She explained to the Respondent that Mr. Best had been unable to obtain employment after the family had moved back to Nova Scotia. According to the Applicant, the

Respondent would not agree to the children moving to Australia and told her that if she moved, he would apply for custody of the children.

According to Ms. Bowles' evidence the Respondent told the Applicant that there was plenty of work available in Toronto and the Respondent suggested that Mr. Best come to Toronto and stay with he and Ms. Bowles while looking for work. The Applicant and her husband agreed to this.

The Applicant was intending to move to Toronto in the event that her husband found employment in that city. According to Ms. Bowles' affidavit, the Respondent thought that it would be in the children's best interests for them to travel to Toronto in April of 2001 so that they could be enrolled in school at that time in order to get familiar with their new school and friends (assuming that Mr. Best would find work in that city). The Applicant also agreed to this. Accordingly, in April of 2001, Mr. Best, Kara and Kelsey traveled to Ontario and stayed with the Respondent and Ms. Bowles. With the Applicant's consent, the children were enrolled in a new school. The Applicant remained in Nova Scotia where she was working. The Applicant testified that she viewed this as a temporary arrangement. She said that

she was hoping that her husband would find work in Ontario but that if he was unsuccessful in this regard, the plan was for her husband and the children to return to Nova Scotia.

Mr. Best was in Ontario for only a short period of time when he and the Applicant decided that a move to that province was not a good idea. Mr. Best suggested that he was unable to find work in Ontario, although I am not satisfied that he remained in that province a sufficient period of time to determine whether employment was available to him. Unfortunately, matters then broke down. According to Mr. Best's evidence, he wanted to return at that time to the Province of Nova Scotia with Kara and Kelsey but was advised by the Respondent that the children would not be permitted to leave. According to the Respondent, he was not adverse to the children returning to Nova Scotia but felt that it was best for them to complete the school year before moving again.

According to the Respondent's testimony, in May of 2001, he was contacted by the Halifax Police and was advised that he would be charged with child abduction unless the children were removed from their school

and immediately flown to Nova Scotia. The Respondent retained counsel in order to commence an application to allow the children to complete their school year in Ontario. In the meantime, the Applicant obtained an *ex parte* Order in Nova Scotia requiring the Respondent to return Kara and Kelsey to Nova Scotia forthwith.

According to the Respondent's evidence, after negotiations between counsel it was agreed that the children would remain in Ontario until the end of the school year. The Applicant denies any such agreement and says that the Respondent refused to return the children and in fact, did not return the children to Nova Scotia until June 30th, 2001.

It appears that as a result of this unfortunate incident, the Applicant and the Respondent have been unable to work together cooperatively when it comes to the children and the Respondent has had difficulty exercising access (physical access and telephone access) with the girls. According to the Applicant, Kelsey has refused to visit with her father unaccompanied since returning from Ontario as she fears that he will again refuse to return her to her mother.

In June or July of 2001, Mr. Best was again offered work in the telecommunications field in Australia. According to his testimony, a previous employer that he worked for for ten years (Telstra) offered him a job paying him a base salary of $58,000.00 (Australian) per annum, plus car, petrol, uniform and tools. Mr. Best testified that the entire contract (including benefits) represented remuneration of $80,000.00 Australian dollars or $100,000.00 Canadian dollars per year. Mr. Best testified that this job is available to him if he returns to Australia.

Mr. Best provided the Court with a copy of his Notice of Assessment for the year ending June 30th, 2000. This document indicates that he had a taxable income that year of $83,581.00 (Australian) including $9,921.00 in capital gains. Mr. Best was working for Telstra at this time.

The Applicant has now applied to vary the provisions of the September 8th, 2000, Corollary Relief Judgment to allow her to move with the children to Australia. In response to the application, the Respondent requested that primary care of the girls be transferred to him with the

parties continuing to enjoy joint custody. The Applicant has advised the Court that if it is determined that it is not in Kara's and Kelsey's best interests to move to Australia, the Applicant will not be moving. In light of this concession, the Respondent confirmed that he is no longer requesting a change in the present custody or day-to-day care arrangement. However, he does not consent to the Corollary Relief Judgment being varied in order to allow Kara and Kelsey to move. The Respondent does not object to Nicholas moving.

The Applicant takes the position that a move to Australia is in the best interests of Kara and Kelsey. She notes that her husband has not been able to find employment in Nova Scotia in his field of work (telecommunications) and suggests that the family's financial situation will improve considerably if they are permitted to move. She testified that the increased income that her husband will earn in Australia will mean that she does not have to work. This will allow her to spend additional time with the children and work only part-time if she chooses to do so. The Applicant also testified that both girls want to move to Australia with their mother, step-father and brother. The Applicant suggests that she is seeking a

better life for she and the children and submits that it is in the children's best interests to allow them to move.

According to the Respondent, the children have moved thirteen times since June of 1996 and have attended nine different schools during this period. He is concerned about the children's stability (or lack thereof) and according to his affidavit evidence, is not confident that the children will be provided with a stable environment in Australia. He is of the view that so long as the children remain in Canada, he will have the ability to ensure that their interests continue to be protected. He is not confident that he will be able to protect the children's interests if they move as far away as Australia.

The Respondent also notes that due to Mr. Best's immigration status, he may not be allowed re-entry into Canada in the event that the move to Australia does not work out. The Respondent is concerned that this will discourage the Applicant from returning to Canada with the children in the event that the move does not turn out to be as promising as expected.

The Applicant acknowledges that she and the children have moved on a number of occasions over the years but suggests that each of the moves was made for good reason and that on a number of occasions, the moves were made due to increased employment or educational opportunities for her, thereby providing increased financial security for the family. The Applicant suggests that the Respondent has not been dependable when it comes to the payment of child support and says that accordingly, increasing the family's financial stability has been important to her. The Applicant also points out that in the last year and a half, the Respondent himself has moved on three different occasions.

THE LAW

Sections 16 and 17 of the ***Divorce Act*** set out the principles which govern an application for custody (upon divorce) as well as an application to vary a previously issued custody Order. The relevant provisions are as follows:

> **"Order for custody** **16**. (1) A court of competent jurisdiction may, on application by either or both spouses or by any other person, make an order respecting

the custody of or the access to, or the custody of and access to, any or all children of the marriage.

……

Joint custody or access (4) The court may make an order under this section granting custody of, or access to, any or all children of the marriage to any one or more persons.

.....

Terms and conditions (6) The court may make an order under this section for a definite or indefinite period or until the happening of a specified event and may impose such other terms, conditions or restrictions in connection therewith as it thinks fit and just.

Order respecting change of residence (7) Without limiting the generality of subsection (6), the court may include in an order under this section a term requiring any person who has custody of a child of the marriage and who intends to change the place of residence of that child to notify, at least thirty days before the change or within such other period before the change as the court may specify, any person who is granted access to that child of the change, the time at which the change will be made and the new place of residence of the child.

Factors (8) In making an order under this section, the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.

Past conduct (9) In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.

Maximum contact (10) In making an order under this section, the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such contact.

Order for variation, rescission or suspension 17. (1) A court of competent jurisdiction may make an order varying, rescinding or suspending, prospectively or retroactively,

.....

(b) a custody order or any provision thereof on application by either or both former spouses or by any other person.

.....

Terms and conditions (3) The court may include in a variation order any provision that under this Act could have been included in the order in respect of which the variation order is sought.

.....

Factors for custody order (5) Before the court makes a variation order in respect of a custody order, the court shall satisfy itself that there has been a change in the condition, means, needs or other circumstances of the child of the marriage occurring since the making of the custody order or the last variation order made in respect of that order, as the case may be, and, in making the variation order, the court shall take into consideration only the best interests of the child as determined by reference to that change.

Conduct (6) In making a variation order, the court shall not take into consideration any conduct that under this Act could

not have been considered in making the order in respect of which the variation order is sought.

.....

Maximum contact (9) In making a variation order varying a custody order, the court shall give effect to the principle that a child of the marriage should have as much contact with each former spouse as is consistent with the best interests of the child and, for that purpose, where the variation order would grant custody of the child to a person who does not currently have custody, the court shall take into consideration the willingness of that person to facilitate such contact."

The law surrounding the mobility of children was reviewed in detail in the Supreme Court of Canada case of ***Gordon v. Goertz*** *(1996), 196 N.R. 321 (SCC)*. McLachlin, J. summarized the law as follows at pp. 355-356:

"1. The parent applying for a change in the custody or access order must meet the threshold requirement of demonstrating a material change in the circumstances affecting the child.

2. If the threshold is met, the judge on the application must embark on a fresh inquiry into what is in the best interests of the child, having regard to all the relevant circumstances relating to the child's needs and the ability of the respective parents to satisfy them.

3. This inquiry is based on the findings of the judge who made the previous order and evidence of the new circumstances.

4. The inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's views are entitled to great respect.

5. Each case turns on its own unique circumstances. The only issue is the best interest of the child in the particular circumstances of the case.

6. The focus is on the best interests of the child, not the interests and rights of the parents.

7. More particularly the judge should consider, inter alia:

(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) the views of the child;

(e) the custodial parent's reason for moving, only in the exceptional case where it is relevant to that parent's ability to meet the needs of the child;

(f) disruption to the child of a change in custody;

(g) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.

In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its 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?"

As indicated by McLachlin, J., the ***Divorce Act*** directs that a two-stage inquiry take place when considering whether a child should be permitted to move. First, the party seeking a variation must establish that there has been a material change in circumstances since the granting of the last Order. McLachlin, J. states at p. 335:

> It follows that before entering on the merits of an application to vary a custody order the judge must be satisfied of: (1) a change in the conditio not have been reasonably contemplated by the judge who made the initial order.

In the event that the Court is satisfied that a material change in circumstances has been established, the judge then enters into a consideration of the merits of the case and is to make an Order that best reflects the interests of the child in the new circumstances (McLachlin, J. at p. 333).

McLachlin, J. continued at p. 337:

> The threshold condition of a material change in circumstance satisfied, the court should consider the matter afresh without defaulting to the existing arrangement: **Francis v. Francis** (1972), 8 R.F.L. 209 (Sask. C.A.), at p. 217. The earlier conclusion that the custodial parent was the best person to have custody is no longer determinative, since the existence of material change presupposes that the terms of the earlier order might have been different had the change been known at the time. (**Willick v. Willick**, supra, at p. 688, per Sopinka, J.). The judge on the variation application must consider the findings of fact made by the first judge as well as the evidence of changed circumstances (**Wesson v. Wesson**, supra, at p. 194) to decide what custody arrangement now accords with the best interests of the child. The threshold of material change met, it is error for the judge on a variation application simply to defer to the views of the judge who made the earlier order. The judge on the variation application must consider the matter anew, in the circumstances that presently exist."

The Supreme Court of Canada in ***Gordon v. Goertz,*** supra, has rejected the suggestion that there should be a presumption in favor of the custodial parent in applications to vary custody and access resulting from relocation of the custodial parent (at p. 354). Nevertheless, the views of the custodial parent are entitled to "great weight" (p. 347) and to "great respect and the most serious consideration" (p.354). See also ***Burns v. Burns*** (2000), 182 N.S.R. (2d) 101 (N.S.C.A.) and ***Rafuse v. Handspiker*** (2001), 190 N.S.R. (2d) 64 (N.S.C.A.).

Nevertheless, the views of the custodial parent are not to be given an undue amount of weight. The test always remains - what is in the best interests of the child [see ***Mahoney v. Doiron*** (2000), 182 N.S.R. (2d) 33 (N.S.C.A.)].

The Court must be careful not to give undue weight to any one of the factors listed in ***Gordon v. Goertz***, supra. It is a balanced consideration of the various factors set out by the Supreme Court of Canada that must be undertaken by the Court.

THE COURT'S FINDINGS

I am satisfied that the Applicant's proposed move with Kara and Kelsey to Australia constitutes a change in circumstances which will materially affect the children and which was not foreseen at the time that the Corollary Relief Judgment was issued. Accordingly, the first part of the test referred to in ***Gordon v. Goertz***, supra, has been satisfied. I must now consider whether it would be in Kara's and Kelsey's best interests to remain here in Nova Scotia with their mother or whether it is in their best interests to permit them to move.

As indicated by McLachlin, J. in ***Gordon v. Goertz***, supra, a custodial parent's reason for moving is only considered by the Court in the exceptional case where it is relevant to that parent's ability to meet the needs of the child.

In the case at bar, the evidence establishes that the Applicant's husband has been unable to obtain employment in Nova Scotia in his chosen field. The evidence satisfies me that the Applicant's husband has a job available to him in Australia which will pay him a much greater salary than is available to him here in Nova Scotia. In this case, the Applicant's reason for the proposed move (in order to enhance the family's financial circumstances) is relevant as it relates to the Applicant's ability to meet the needs of the children. Accordingly, it is a factor that I should take into account. (See also ***Woodhouse v. Woodhouse*** (1996), 29 O.R. (3d) 417 (Ont. C.A.)).

I am satisfied that the Applicant's proposed move to Australia will enhance the family's financial security. I am also satisfied that if the Applicant and her husband move to Australia, the Applicant, should she

choose, will have the opportunity to stay at home with the children for greater periods of time than she presently enjoys. Both of these factors are clearly in Kara's and Kelsey's best interests.

The Respondent's concern about the number of moves that the children have made since the time of separation is valid. However, the move to Australia and the subsequent financial benefits that it should provide to the family should help to stabilize the family unit, hopefully avoiding the need for future moves.

While a move to Australia will mean that Kara and Kelsey will live a much greater distance from their father, I am satisfied that in the circumstances of this case, the Respondent's access with the children need not be significantly different than it has traditionally been in the past.

As indicated previously, according to the Respondent, he re-located to Toronto in December of 1996. He visited with or had the children with him twice in 1997 (May and December), twice in 1998 (June and December), twice in 1999 (April and October) and once in 2000 (when the

children stayed with him for the summer). In 2001, the children stayed with the Respondent for various periods of time (initially with the Applicant's consent and, eventually, against her wishes). For the majority of the time since the Respondent moved to Toronto, he has spent time with the children twice a year.

The Applicant has advised the Court that if she and the children are permitted to move to Australia, she will pay the Respondent's expenses to travel to Australia once per year in order to visit with the children. She has also indicated that she and her husband will allow the Respondent to reside in their home during these visits so that the Respondent can spend time with Kara and Kelsey. In addition, the Applicant advised the Court that if she is permitted to move with the children, she and the two girls will be flying to Nova Scotia each year for a visit of at least three weeks. Accordingly, if the move is permitted, the Respondent will be able to continue to see the children for two block periods of time each year. I am therefore satisfied that the Applicant's proposed move need not significantly effect the amount of time that the Respondent has traditionally spent with the children.

The Respondent is also concerned that the Applicant will not attempt to foster a positive relationship between himself and the girls if the Applicant and the children are permitted to move. At the time of trial, evidence was adduced which establishes that since the summer of 2001, the Respondent has had difficulty exercising access, particularly with Kelsey. As indicated previously, Kelsey is apparently reluctant to visit with her father unaccompanied as she is concerned that her father will once again not return her to her mother.

When considering an application to vary a custody Order, I must give effect to the principle that a child of the marriage should have as much contact with each former spouse as is consistent with the best interests of the child and, for that purpose, where the variation Order would grant custody of the child to a person who does not currently have custody, I must take into consideration the willingness of that person to facilitate such contact (See: s. 17(9) of the ***Divorce Act***). In this case, any Order that I may issue will not grant custody to a person who does not currently have custody. Nevertheless, the willingness of the Applicant to facilitate contact

between the Respondent and his daughters is a relevant consideration that the Court should take into account.

I accept the Respondent's submission that he has had difficulty exercising access (particularly with Kelsey) since the summer of 2001. I find that this problem developed as a result of the Respondent's decision in the spring of 2001 to keep Kelsey and Kara in Ontario against their mother's wishes. Up until that time, access appeared to work well.

I am also satisfied that since the summer of 2001, the Applicant has not encouraged access between Kara and Kelsey and their father. The Applicant's testimony at trial satisfied the Court that she now basically leaves it up to the children to decide whether they want to speak with or visit with their father. This puts a great deal of responsibility on the children and allows the Applicant to avoid her responsibility to encourage contact between the Respondent and the girls.

The Applicant has explained that the situation that arose in the spring of 2001 (when the Respondent made the unilateral decision to keep the

children against the Applicant's wishes) caused a great deal of strain on the family. She suggests that once this litigation is over things will go back to normal. She points out the fact that she is prepared to pay the Respondent's travel expenses to Australia once per year and is also prepared to bring the children to Canada once per year in order for the Respondent to exercise access. She suggests that this shows that she is prepared to encourage access between the Respondent and his daughters.

Thirteen year old Kara and ten year old Kelsey are still young children. Despite the incident that occurred in the spring of 2001, they should be encouraged by the Applicant to have a positive relationship with their father. While I accept that the Respondent has had some difficulty since the summer of 2001 exercising access, I am satisfied that the Applicant will be able to put this incident behind her and will now encourage the girls to have a positive relationship with their father.

CONCLUSION

After careful consideration of the factors referred to in ***Gordon v. Goertz****,* supra, I have concluded that it is in the best interests of Kara and Kelsey to allow them to move with the Applicant to Australia. I am not satisfied that the Respondent's concerns about Mr. Best's immigration status in Canada warrants a denial of the children's move. Accordingly, the Corollary Relief Judgment issued on the 8th day of September, 2000, shall be varied to allow the Applicant to move to Australia with all three children.

In order to ensure that the Respondent continues to have meaningful access with Kara and Kelsey, the Order varying the Corollary Relief Judgment shall also contain the following clauses:

(i) The Respondent shall be entitled to exercise reasonable access with Kara Dawn Fraser who was born on [...] 1989 and Kelsey Marie Fraser, who was born on [...]1992, upon thirty (30) days notice to the Applicant. The Respondent shall be entitled to exercise this access a minimum of twice per year for a minimum period of three weeks on each occasion. At the Respondent's discretion, this access can be exercised in either Australia or Canada. The Respondent's access visits in Canada shall be scheduled to take place when the children are not in school;

(ii) the Applicant shall be responsible to pay the Respondent's reasonable travel expenses to Australia once per year should the Respondent decide to exercise access in Australia. The Respondent shall be entitled to stay at the Applicant's residence with the children during his access visits in Australia should he choose to do so;

(iii) the Applicant shall also be responsible to pay Kara and Kelsey's travel expenses to Nova Scotia once per year so that the Respondent can exercise access in Canada. Should the Respondent decide to exercise access in a province other than Nova Scotia, he shall be responsible to pay Kara's and Kelsey's travel expenses from Nova Scotia to the province in which he wishes to exercise access;

(iv) subject to clauses (ii) and (iii) above, the Respondent shall be responsible to pay all other travel expenses incurred in exercising access with Kara Dawn Fraser and/or Kelsey Marie Fraser;

(v) the Applicant shall ensure that Kara Dawn Fraser and Kelsey Marie Fraser each telephone the Respondent once every two weeks for a minimum period of fifteen (15) minutes (per child) the cost of which shall be borne by the Applicant. The Respondent shall be entitled to have additional free and liberal telephone and e-mail access to the said children at all other times at his expense.

The Applicant has advised the Court that the children's school year in Australia begins at the end of January. The Respondent shall have access with Kara and Kelsey for two weeks prior to their departure for Australia. This access can take place in either Ontario or Nova Scotia (at the Respondent's discretion). The Applicant and the Respondent shall determine when this two weeks of access shall take place. I reserve the right to set the dates for this access in the event that the parties are unable to reach an agreement in this regard. The Respondent shall be responsible for the travel costs incurred in exercising this access with the children as he has traditionally done in the past.

An Order will issue accordingly.

J.