

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

KAYLEE-JO JACKSON

Petitioner

- and -

DANIEL JACKSON

Respondent

Transcript of the Oral Decision delivered by The Honourable
Justice S. H. Smallwood, sitting in Yellowknife, in the
Northwest Territories, on the 28th day of July, 2017.

APPEARANCES:

Ms. J. Brunet: Counsel for the Petitioner

Mr. P. Parker: Counsel for the Respondent

Ms. B. McIlmoyle: Counsel for the Children

Official Court Reporters

1 THE COURT: This is an application by the
2 Respondent, Daniel Jackson, to vary the Interim
3 Order of February 2nd, 2017, which set out the
4 Respondent's interim access to the children of
5 the marriage.

6 The Respondent is seeking to increase his
7 access with the children pending the trial of
8 this matter. The Petitioner, Kaylee-Jo Jackson,
9 is opposed to the variation. The issues of child
10 support and spousal support were also addressed
11 at the hearing.

12

13 Background

14 The parties were married in 2009 and have
15 three children together: A.R., who is seven;
16 B.R., who is four; and C.R.J., who is three.

17 The parties lived in Edmonton, Alberta,
18 while the Respondent was employed by the Canadian
19 Armed Forces. They moved to Hay River, Northwest
20 Territories, in 2012. The Respondent left the
21 military and began working for De Beers at the
22 Snap Lake mine site. He has since been relocated
23 to the Gahcho Kué mine site. He works a
24 two-weeks-in-two-weeks-out rotation.

25 The Petitioner was employed while the
26 parties were together, working for the Hay River
27 Health Authority. She is currently unemployed.

1 The parties separated around November 14th,
2 2016. The Respondent left the family home and
3 has rented an apartment in Hay River. The
4 Petitioner and the children remained in the
5 family home.

6 On November 29th, 2016, the Petitioner
7 relocated the children to Edmonton, Alberta,
8 without the Respondent's consent. The Petitioner
9 filed for divorce on November 29th, 2016, seeking
10 custody of the children. The Respondent filed an
11 Answer and Counter-Petition on November 30th,
12 2016, seeking joint, shared custody of the
13 children. The Respondent also filed a Notice of
14 Motion seeking the return of the children to
15 Hay River.

16 On December 20th, 2016, Justice Shaner
17 ordered the return of the children to Hay River
18 no later than December 29th, 2016. The terms of
19 the decision provided that if the Petitioner
20 returned the children to Hay River and she
21 returned with them, that they would be in her
22 interim day-to-day care until further order of
23 the Court or other agreement of the parties. If
24 the Petitioner decided not to return to Hay River
25 with the children, the children would then be in
26 the day-to-day care of the Respondent. Access
27 was also addressed in the decision. The party

1 who did not have day-to-day care would have
2 reasonable in-person, Skype, FaceTime, or
3 telephone access with the children.

4 The Petitioner returned to Hay River with
5 the children on December 29th, 2016.

6 A further Interim Order was made on January
7 12th, 2017, which provided specific interim
8 access to the Respondent. By that time, the
9 Respondent had been charged with assaulting the
10 Petitioner, apparently for incidents which had
11 occurred prior to their separation. The
12 Respondent was subject, at that time, to an
13 undertaking which prohibited contact between the
14 parties, except through a third party for the
15 purposes of arranging access to the children.

16 In addition to specifying access, the
17 Interim Order also provided for a third party to
18 facilitate access. A further Interim Order was
19 made on February 2nd, 2017. This Order, which is
20 currently in place, dealt with access. It
21 provided that the Respondent would have access
22 with the children during the two-week periods
23 where he was in Hay River from Friday at 4 p.m.
24 to Sunday at 7 p.m., that he would have access
25 with B. and C. on Tuesdays and Thursdays from
26 12:30 to 6:30 p.m. and with A. from after school
27 to 6:30 p.m. on Tuesdays and Thursdays. There

1 has been to date no Order made regarding custody
2 of the children.

3 The criminal matters were scheduled for
4 trial earlier this week, on July 25th, in
5 Hay River, and I am advised that the Respondent
6 was found not guilty.

7 A trial in the divorce has been scheduled
8 for October 2nd, 2017, in Hay River. Among other
9 things, custody of the children will be in issue
10 at the trial, as will mobility as the Petitioner
11 desires to move to Edmonton with the children.

12

13 Law

14 Section 16 of the Divorce Act deals with
15 custody and access. It permits this Court to
16 make an Interim Order for custody and access.
17 Section 16(8) of the Divorce Act requires the
18 Court to take into consideration the best
19 interests of the children as determined by
20 reference to their condition, means, needs, and
21 other circumstances.

22 The Court is also required, pursuant to
23 Section 16(10) of the Divorce Act, to give effect
24 to the principle that a child should have as much
25 contact with each parent as is consistent with
26 the best interests of the children and, also, to
27 take into account the willingness of each parent

1 to facilitate contact.

2 In making Interim Orders, the focus is often
3 on preserving the status quo pending a final
4 determination on the issues of custody and
5 access. The status quo is not necessarily the
6 current situation or the situation that has
7 developed following a party's separation.
8 Unilateral actions by a party cannot serve to
9 create a status quo. The courts often instead
10 look to the historical status quo, the situation
11 that existed during the parties' relationship and
12 not one created by the separation.

13 As stated in *Kalaserk v. Nelson*, 2005 NWTSC
14 4, at paragraph 3, the test on an interim
15 application is what temporary living arrangements
16 are the least disruptive, most supportive, and
17 most protective for the children.

18 The purpose of the Interim Order is to
19 provide a reasonably acceptable solution to the
20 issue of custody until trial, and stability for
21 the children is a focal point: *Hamilton v.*
22 *Hessdorfer*, 2012 NWTSC 45.

23 Where there is an interim custody order in
24 place, courts are reluctant to vary them,
25 preferring that matters proceed to trial.
26 *Lafferty v. Larocque*, 2013 NWTSC 10, at paragraph
27 24. An Interim Order can be varied provided

1 there has been a change in circumstances.

2 I have carefully considered whether the
3 arrangements currently in place should continue
4 pending the trial of this matter, given that the
5 trial is scheduled to occur in a couple of
6 months, in October 2017, or whether there should
7 be some adjustment made to the present
8 arrangements. There are only a couple of months
9 until the trial, and the Court could leave these
10 arrangements in place until then when the issues
11 of custody and access will be determined.
12 However, I have, with some hesitation, decided
13 that there should be some adjustment to the
14 current access arrangements and I have decided
15 this for several reasons. First, in this case,
16 no interim custody order has been made. The
17 decision of Justice Shaner ordered the return of
18 the children from Alberta and provided for
19 day-to-day care of the children once they were
20 returned to the Northwest Territories. The Court
21 made no determination regarding custody, interim
22 or otherwise.

23 Given the recent separation of the parties
24 and the unilateral removal of the children from
25 the jurisdiction by the Petitioner, it is likely
26 that the Court's focus was on the return of the
27 children and their short-term living arrangements

1 rather than determining interim custody or access
2 based on the limited information before the Court
3 at that time.

4 The further Orders of this Court addressed
5 access in the weeks following the children's
6 return from Alberta. The issue of custody or
7 long-term access was never specifically addressed
8 by the Court. As this matter has continued to
9 proceed to trial - currently scheduled, as I
10 said, in October - what was a short-term
11 arrangement has become one that has been in place
12 for months now with a couple of months still to
13 go before the trial.

14 Secondly, the interim arrangements and the
15 situation between the parties has caused some
16 disruption. This is a high-conflict situation
17 and the parties' relationship has been volatile,
18 with allegations of physical and emotional abuse
19 as well as allegations regarding alcohol abuse.

20 The criminal charges resulted in the
21 Respondent having to enter into an undertaking
22 which limited contact between the parties. It is
23 apparent that the parties have had difficulties
24 in communicating and have different parenting
25 styles, and the addition of the undertaking,
26 while necessary in the circumstances, added an
27 additional challenge to the communication between

1 the parties. This is something that has been
2 acknowledged by both the Petitioner and the
3 Respondent, that their communication has not been
4 good and that there is room for improvement.
5 Both feel that there can be improvement and they
6 believe that their communication can get better.

7 In addition, both parties testified about
8 wanting to reduce the number of transitions for
9 the children so that they are not going back and
10 forth between the parties as frequently. They
11 both acknowledge that this has been difficult for
12 the children and that their communication
13 difficulties have also posed a challenge.

14 The Petitioner, in her evidence, spoke of
15 wanting to adjust the access regime to provide
16 the Respondent with longer access on the weekend
17 and one access day during the week in order to
18 streamline access. The Petitioner testified
19 about wanting things to be smoother for the
20 children and for the children's time with the
21 Respondent to be a little more consecutive. The
22 children are young, seven, four, and three, and
23 the two months until trial is a significant
24 period of time for a child. The goal of reducing
25 disruption to their lives and attempting to
26 streamline access, even in the short term pending
27 trial, is in their best interests.

1 Evidence

2 Daniel Jackson, Kaylee-Jo Jackson, Trudy
3 Hiebert, and Nicole Klause, testified at the
4 hearing. I do not intend to review the parties'
5 evidence in detail and will refer to it only
6 insofar as it relates to the issues on this
7 application.

8 Daniel Jackson and Kaylee-Jo Jackson
9 testified extensively about their relationship
10 and their parenting of their children. The
11 parties' evidence differed significantly in
12 several aspects. It is apparent from the
13 evidence the parties' relationship was a
14 high-conflict one. There were allegations of
15 arguments, physical violence, emotional abuse,
16 alcohol abuse, and poor parenting. The parties
17 did not agree on the extent of their parental
18 role while they were still together.

19 Turning to the issue of violence, both
20 parties testified about incidents involving
21 violence. Some of these incidents form the basis
22 of the criminal charges that Daniel Jackson was
23 facing.

24 Whether the Respondent had assaulted the
25 Petitioner and was criminally responsible has
26 been decided by the Territorial Court in a trial
27 and the Respondent has been found not guilty.

1 However, it is apparent that there were incidents
2 of violence between the parties. The
3 relationship between the parties was a volatile
4 one, and now that the parties have separated, the
5 no-contact provision in the undertaking had the
6 benefit of prohibiting contact between the
7 parties and hopefully put them in a situation
8 where they had to learn to communicate and
9 interact with each other in a more appropriate
10 manner. In my view, limited communication
11 between the parties should continue until the
12 trial at least.

13 My focus on this application is on the
14 interim parenting of the children and not on
15 determining who might have been responsible for
16 various incidents during the relationship.

17 It appears that the children may have
18 witnessed acts of violence while the parties were
19 together, and it is not healthy or appropriate
20 for a child to witness family violence. That the
21 parties are now separate and their contact is
22 limited is an opportunity for each parent to
23 focus on their relationship with the children.

24 Looking at the alcohol use by the
25 Respondent. The Respondent acknowledged that he
26 drank but testified that he did not abuse
27 alcohol, that he drank around four drinks twice a

1 week, and he testified that his consumption of
2 alcohol was one of the things that he and the
3 Petitioner regularly fought about during their
4 relationship. His evidence was that the
5 Petitioner felt he had a problem with alcohol,
6 and he testified that he quit drinking as a
7 result of this for a period of about six months
8 prior to the parties' separation.

9 The Petitioner testified that the Respondent
10 had a problem with alcohol and that when he was
11 home from work (his two-week periods that he was
12 out) that he would often be drunk. She described
13 the times when he was drinking as being
14 horrifying and that he could be physically and
15 verbally abusive during these times. Other times
16 things would be fine; he could be loving.

17 It appears, upon review of the evidence, the
18 Respondent has minimized to an extent the amount
19 of alcohol that he consumed during the
20 relationship. He acknowledged in
21 cross-examination that there had been occasions
22 where he had drunk to excess. For example, to
23 the point of being denied boarding on a plane.

24 Trudy Hiebert also testified about an
25 occasion where she was present and the Respondent
26 appeared intoxicated. She described him as
27 looking drunk, that he was stumbling, loud,

1 argumentative, and aggressive. So there is some
2 evidence that the Respondent has drunk to excess
3 during the relationship between the parties.

4 On this application, my concern, as I have
5 said, my focus, is on the interim parenting of
6 the children and not assigning blame for the
7 various incidents which may have occurred during
8 the parties' relationship. To that end, I am
9 concerned about the Respondent's consumption of
10 alcohol while the children are in his care. The
11 provision that he not consume alcohol while he is
12 caring for the children will remain in place, so
13 that provision is that the Respondent shall not
14 consume alcohol or be under the influence of
15 alcohol when any of the children are in his care.
16 The other provision that will also continue will
17 be the one that is when any of the children are
18 in the care of the Respondent, the Respondent
19 shall not allow any of his friends or family
20 members to have contact with the children if any
21 of those friends or family members are under the
22 influence of drugs or alcohol.

23 Turning to parenting prior to separation.
24 The parties testified about the role that each
25 played in parenting prior to the separation and
26 the parties' evidence differed in this regard.

27 In the years prior to the parties'

1 separation, they had a nanny and both parties
2 were employed. The parties agreed that while
3 they employed the nanny, that the nanny was
4 primarily responsible for taking care of the
5 children's needs on a daily basis. Each party
6 played a role in parenting the children. The
7 Respondent has been working on
8 two-week-in-two-week-out rotation for several
9 years now. The Petitioner's evidence was that
10 while the Respondent was working, that she and
11 the nanny were responsible for the care of the
12 children and with the nanny doing many of the
13 day-to-day tasks for the children. When the
14 Respondent was home, it appears that the parties
15 and the nanny cared for the children. The
16 parties disagree about who did more for the
17 children, each saying that they took on more
18 responsibility when it came to caring for the
19 children than the other parent.

20 Overall, I find that both parties
21 participated in caring for the children when the
22 Respondent was home. The Petitioner's role in
23 their lives has been more constant and continuous
24 given the Respondent's work schedule. I am not
25 sure that it matters for the purposes of this
26 application the exact extent of each party's
27 involvement.

1 The parties both agree that the Respondent
2 should have access to the children for a period
3 of days, including overnight visits. At this
4 point, the focus is on ensuring that the parties
5 are able to maximize their contact with the
6 children while maintaining stability and
7 minimizing disruption.

8 Turning to communication. The parties agree
9 that the Respondent was on an undertaking which
10 prohibited his contact with the Petitioner except
11 through a third party for purposes of
12 facilitating access. He was on this undertaking
13 for several months. And both parties testified
14 regarding their communication since the
15 separation. It is apparent that there has been
16 communication between the parties that is
17 otherwise than contemplated under the
18 undertaking. The Respondent has communicated
19 through the third party to the Petitioner about
20 issues other than access, such as things having
21 to do with the house. Similarly, the Petitioner
22 has frequently directly contacted the Respondent
23 about the children or other issues, and she has
24 done that through electronic means. But the
25 Respondent has not replied.

26 Communicating about the issues which arise
27 in a divorce can be challenging, particularly

1 when one party is prohibited from contacting the
2 other. At this point, given the issues which
3 exist between the parties, I think that they
4 should continue to communicate through a third
5 party even though the undertaking is not in
6 effect. This issue can be revisited at trial and
7 it can be determined then whether direct
8 communication should occur, whether it is through
9 email or text or in person or by telephone. That
10 is an issue that can be determined at trial
11 seeing how the communication between the parties
12 occurs over the next two months.

13 Parenting since separation. The parents
14 have been parenting pursuant to the Orders made
15 in December and February for several months now.
16 There have been some issues, some involving
17 communication. There have been challenges in
18 trying to coordinate exchanges, ensuring that the
19 children have the proper clothing, that clothing
20 is returned. There is a concern that the
21 Respondent has taken the children to school late.
22 Overall, I do not find that these incidents are
23 significant. They do not raise concerns with
24 respect to parenting. These issues often occur
25 when parties split and there are challenges in
26 parenting in two separate households. Parenting
27 styles differ and no parent is perfect.

1 Within this, I have seen some signs of
2 progress. The parties have been able to agree on
3 some things, like additional access without the
4 Court's involvement, and it is hoped that this
5 will continue.

6 The Petitioner described an injury which
7 occurred to B. while in the Respondent's care.
8 The Respondent denied that anything like that had
9 occurred. No additional evidence was presented
10 regarding this injury. I cannot say what
11 occurred with respect to B., but if he was
12 injured, that is a serious concern, and I want to
13 make it clear that the children must be properly
14 supervised and not left unattended while they are
15 in the Respondent's care. B. and C. are four and
16 three years old and need to have proper
17 supervision and are to be monitored at all times.
18 Injuries that may occur while in a parent's care
19 should be explained to the other parent. This is
20 to ensure that the other parent is aware of what
21 occurred and so that they can monitor the injury
22 in case follow-up is required. Failing to
23 communicate this type of information will only
24 increase the tension and discord between the
25 parties.

26 So turning to the decision. The parties
27 agree that there should be joint custody, so

1 there will be an Interim Order for joint custody.

2 The children will be in the day-to-day care
3 of Mrs. Jackson subject to the following access.
4 In the two-week period when Mr. Jackson is in
5 Hay River, he will have the children as follows -
6 and, in saying this, I have tried to take into
7 account the concerns that have been expressed
8 regarding the disruption to the children,
9 minimizing transitions. So the access will be as
10 follows:

11 Mr. Jackson will have the children each
12 Friday at 8 a.m. until Tuesday at 8 a.m. When
13 school begins, Mr. Jackson will have access to A.
14 when school lets out on Friday and he will be
15 responsible for dropping her off for school on
16 Tuesday morning, and he will also be responsible
17 for providing lunch and whatever else is
18 necessary for her to attend school on that day.

19 The parties will continue to communicate
20 through the third party for all purposes.
21 Whether that party is Christine Ferguson, which
22 has been suggested, and it sounds from the
23 evidence that person is agreeable, so whether it
24 is Christine Ferguson or another mutually
25 agreed-upon third party, all communication will
26 occur through that third party. This will be in
27 place pending the trial date, and that, as I

1 said, can be revisited at the trial.

2 With respect to alcohol use, the Respondent
3 shall not consume alcohol or be under the
4 influence of alcohol when any of the children are
5 in his care, and when any of the children are in
6 the care of the Respondent, the Respondent shall
7 not allow any of his friends or family members to
8 have contact with the children if any of those
9 friends or family members are under the influence
10 of drugs or alcohol.

11 Turning to the other issues: spousal
12 support and child support. The Petitioner is
13 seeking interim spousal support. She was
14 employed during the relationship but left her job
15 when she moved to Edmonton with the children.
16 She had secured a job in Edmonton, one that is
17 apparently being held for her. Since her return
18 to Hay River, she attempted to get her job back
19 with the Hay River Health Authority, but she was
20 not successful in doing so. The Petitioner
21 testified that she had applied for another job
22 but was not successful. It does not appear that
23 she has made other attempts to obtain employment.
24 During her testimony, the Petitioner questioned
25 whether any employment she obtained would
26 outweigh the child care costs she would also
27 occur and also testified regarding the difficulty

1 in obtaining child care in Hay River.

2 The Respondent has been paying most of the
3 household bills since the parties separated,
4 paying the mortgage on the family home as well as
5 for other debts accumulated by the parties.

6 Reviewing the financial statements of both
7 parties, it is apparent that their financial
8 circumstances are strained. There is very little
9 discretionary money available to them, they have
10 a significant amount of debt, and maintaining
11 separate households since the separation has
12 increased the financial strain.

13 In the circumstances, I am not prepared to
14 order spousal support on an interim basis. That
15 issue can be fully explored at trial.

16 With respect to child support. There has
17 been no child support ordered to date. Child
18 support is the right of the children and should
19 be paid. It should be the priority in this
20 situation to provide for the support of the
21 children. And as I have said, I am aware that
22 the parties' financial situation is a tight one.
23 They have significant debt and the Respondent
24 has, to his credit, being paying most of the
25 expenses related to the matrimonial home since
26 the separation. He has paid the mortgage, he has
27 paid the vehicle payment, as well as other

1 expenses, including paying on debt that the
2 parties accumulated during the marriage.
3 However, in my view, there should also be a child
4 support order.

5 Based upon the Respondent's 2015 Notice of
6 Assessment, his income was \$115,698.
7 Mr. Jackson's evidence regarding his 2016 income
8 was that it was \$121,433. Using the 2016 income,
9 child support for three children, according to
10 the tables for the Northwest Territories, is
11 \$2,096 per month.

12 Looking at the Respondent's financial
13 circumstances, I am aware that imposing this
14 amount of child support will be a financial
15 burden and it may be that he could establish a
16 case for undue hardship in these circumstances.

17 I am also mindful that the trial is only a
18 couple of months away and I expect that the
19 financial issues will be dealt with during the
20 trial, including the division of matrimonial
21 assets and debt. Therefore, I am making an
22 Interim Order that the Respondent pay child
23 support for the months of August, September, and
24 October, on the 1st of each month, in the amount
25 of \$1200. It may be at trial that the trial
26 judge will make a retroactive order for child
27 support and adjust this amount, but, in the

1 interim, there should be some support for the
2 children that is paid pending the trial.

3 Thank you, counsel. Is there anything else
4 to address?

5 MR. PARKER: Thank you, Your Honour. The
6 only question I have is regarding contact between
7 the parties. Recently, the undertaking was
8 revised to allow the parties to have contact in
9 the case of mediation or any other kind of ADR
10 and that was done with myself, Ms. Brunet, and
11 the prosecutor. I was wondering if we could have
12 a similar provision. I just want to understand
13 the third-party contact. Are you saying they
14 should not have any contact except for through
15 the third party?

16 THE COURT: Well, that is one of the
17 issues, that is what I have said in the decision,
18 but I was also, in coming to this decision,
19 concerned about what had happened to the
20 undertaking. And listening to both parties
21 testify, they both seemed to be interested in
22 moving towards having communication. But I guess
23 my concern was whether -- what sort of
24 incremental steps should be taken. So at this
25 point what I have said is that it should be
26 through a third party for all purposes, but I am
27 open to hearing from counsel, you know, what you

1 think is reasonable, because I do not want to
2 push -- open it up, wide open and have issues
3 arise. So I would like, if it is agreeable, to
4 have something that is incremental that will
5 improve their communication.

6 MR. PARKER: My suggestion would be that --
7 I think the Court suggested Christine Jackson as
8 a third party.

9 THE COURT: Is it Christine Jackson or
10 Ferguson?

11 MR. PARKER: I'm not --

12 THE COURT: Because I notice in the
13 transcript she had been referred to in both ways.
14 So I am not --

15 MR. PARKER: Maybe we can confirm with one
16 of the parties.

17 THE COURT: Okay. Can someone confirm
18 whether it is Christine Ferguson or Christine
19 Jackson.

20 MS. BRUNET: It's Christine Ferguson.

21 THE COURT: Okay.

22 MR. PARKER: Thank you. So my suggestion
23 would be that that Order be -- the third party be
24 Christine Jackson or another --

25 THE COURT: Christine Ferguson.

26 MR. PARKER: Ferguson. Pardon me. Or
27 another third party mutually agreeable by the

1 parties. And then an additional sub-condition
2 there that the parties may have contact for the
3 purposes of mediation or any kind of -- or any
4 other type of alternative dispute resolution.
5 There's been some discussion recently, Your
6 Honour, since the hearing in June, that the
7 parties may want to have those discussions prior
8 to trial, if not just to narrow some of the
9 issues and maybe to streamline some of the
10 communication issues that Your Honour has been
11 talking about in today's decision. So that would
12 be just kind of a sub-clause just so they
13 wouldn't have to come back to Court to amend this
14 Order for the parties to have contact for the
15 purposes of mediation.

16 THE COURT: Okay. Thank you. Ms. Brunet.

17 MS. BRUNET: Your Honour, I had trouble
18 hearing everything that Mr. Parker said. I
19 understand that he's suggesting that the third
20 party remain in place for the pick up and drop
21 off, which is consistent with your direction, and
22 also -- but that they have face-to-face contact
23 for the purposes of alternate dispute resolution.

24 THE COURT: Yes. What I understand
25 Mr. Parker to be saying is -- so the Order that I
26 have made that the parties are only to
27 communicate with Christine Ferguson or another

1 third party for things like the children or if
2 there are issues with the house, essentially
3 day-to-day things, but that they can have contact
4 for the purposes of pursuing mediation or
5 alternate dispute resolution.

6 MS. BRUNET: Yes, Your Honour. In
7 addition, I had suggested to Mr. Parker, and we
8 haven't fully explored this, but the possibility
9 of putting in place the Family Wizard Program.
10 I'm not sure if you're familiar with it, but it's
11 a program actually designed for divorcing
12 families so that those sort of day-to-day
13 logistical items that need to be discussed can be
14 done through more of a neutral platform, and that
15 would help, perhaps, to alleviate the burden of a
16 third party having to continually pass messages
17 back and forth or to always have it through
18 counsel.

19 THE COURT: Okay. Is that an electronic
20 -- like an app or a program?

21 MS. BRUNET: Yes. Essentially, it's like a
22 -- yeah, program that is set up and actually can
23 involve counsel having access to the
24 communications as well.

25 THE COURT: Okay. Thank you.

26 Mr. Parker, do you have any comments?

27 MR. PARKER: My only comment -- yes. I'm

1 going to speak a little louder. Ms. Brunet has
2 suggested this platform, and I've taken a look at
3 it, my client is aware of it. There are some
4 issues with his ongoing, consistent access to his
5 device while he's at the mine site, so it may not
6 work perfectly or be able to be ruled out, but
7 there could be a general order simply saying if
8 the parties agree, they can have further access
9 for the purposes of, of -- maybe it's not even
10 (indiscernible). Further access through an
11 electronic platform that they agree to. Just
12 something general that permits them to use that
13 kind of tool. Like I said, there may be some
14 difficulties. We're looking into how it could be
15 implemented from Mr. Jackson's end. But a term
16 in the Order that permits the parties to do that
17 without being in contempt of any court order
18 would be useful, I think.

19 THE COURT: Thank you. Ms. McIlmoyle, do
20 you have anything to add?

21 MS. MCILMOYLE: Thank you, Your Honour. I
22 have had clients work with the Family Wizard in
23 the past and there have been some concerns that
24 if one of the parties doesn't respond right away,
25 then the other one will be upset that their
26 communication isn't being considered. So there
27 are glitches in the program, but I do think that

1 it's a good program as long as they both stay on
2 top of things and respond and let each other know
3 what's going on every day.

4 THE COURT: Okay. All right. Thank you.

5 So, the communication through the third
6 party. So the parties will communicate through a
7 third party, whether it is Christine Ferguson or
8 some other mutually agreed-upon third party.
9 There will be an exception that they may have
10 contact with each other for the purposes of
11 pursuing mediation or alternate dispute
12 resolution, and, if the parties agree, they can
13 have further contact through a mutually
14 agreed-upon electronic platform.

15 Does that address, then, the communication?

16 MR. PARKER: Yes. Thank you.

17 THE COURT: Ms. Brunet? Hello.

18 Ms. Brunet?

19 MS. BRUNET: Yes, Your Honour, that sounds
20 -- that sounds good. I did have one other
21 question with respect to finances. The order for
22 child support, is that in addition to
23 (indiscernible).

24 THE COURT: Sorry. I can't --

25 MS. BRUNET: (Indiscernible).

26 THE COURT: Something's happened to the
27 volume, Ms. Brunet. So you kind of faded out

1 there. So I didn't catch what you said. You had
2 a question about the finances and the \$1200?

3 MS. BRUNET: Sorry, Your Honour. Excuse
4 me. Can you hear me now?

5 THE COURT: Yes.

6 MS. BRUNET: Okay. My question was with
7 respect to the child support order. Is that in
8 addition to (indiscernible)?

9 THE COURT: Again, it has kind of died
10 out. I think you are asking if it is in addition
11 to Mr. Jackson continuing to pay what he had been
12 paying previously.

13 MS. BRUNET: Yes. Yes, that's --

14 THE COURT: Yes, it is. It is.

15 MS. BRUNET: Okay. Thank you.

16 MR. PARKER: Just to be clear, Ma'am, we're
17 talking about the carrying cost of the home and
18 mortgage and --

19 THE COURT: Yes.

20 MR. PARKER: -- anything else that he's
21 been paying. I think that -- if I remember
22 correctly from the evidence, Mrs. Jackson is
23 paying things like fuel for the home --

24 THE COURT: Yes.

25 MR. PARKER: -- electricity. So we're
26 talking essentially about the mortgage payments
27 and the property taxes --

1 THE COURT: Yes. The payments that each
2 party had been making previously, what they
3 testified to at the hearing, will continue and
4 the \$1200 is in addition. And as I said, I
5 expect, given that the trial is fairly close,
6 that the financial issues will be sorted out
7 then. This is, as I said, an Interim Order to
8 address the next couple of months.

9 MR. PARKER: Just so my notes are complete,
10 it was -- the months were August, September --

11 THE COURT: And October.

12 MR. PARKER: Thank you.

13 THE COURT: Is there anything else,
14 counsel?

15 MS. BRUNET: There was one other item.
16 When you made the -- sorry. The summertime
17 access starting at -- is it 8 a.m. on Friday?

18 THE COURT: Yes.

19 MS. BRUNET: Till 8 a.m. or 8 p.m. on
20 Tuesday?

21 THE COURT: Eight a.m. on Tuesday.

22 MS. BRUNET: Okay.

23 THE COURT: And I do not know what time --
24 when school starts, whether it starts at eight or
25 later, but essentially the Order is contemplated
26 that once school begins, that Mr. Jackson will be
27 dropping her off. So even though school starts

1 at 8:30, whatever it is, and his access ends at
2 8, it is expected he will be dropping her off
3 rather than returning her to Mrs. Jackson only to
4 have her take her to school, because that just
5 seems that is --

6 MR. PARKER: So, pardon me --

7 MS. BRUNET: Thank you.

8 MR. PARKER: -- taking the child to school
9 on Tuesday mornings?

10 THE COURT: When school starts, yes.
11 Whether school starts at 8 or 8:30 or later.
12 Okay?

13 MR. PARKER: I only have one more query and
14 that is would you like counsel to draft the
15 Order?

16 THE COURT: Yes, please.

17 MR. PARKER: Would you like the Order dated
18 today's date or the date of the hearing?

19 THE COURT: Today's date.

20 MR. PARKER: Thank you.

21 THE COURT: All right.

22 COURT CLERK: And would you like to review
23 this Order?

24 THE COURT: Yes. Thank you.

25 COURT CLERK: Thank you, Your Honour.

26 THE COURT: Is there anything else,
27 counsel.

1 MR. PARKER: No thank you.
2 THE COURT: Ms. McIlmoyle?
3 MS. MCILMOYLE: No.
4 THE COURT: Ms. Brunet?
5 MS. BRUNET: That's everything. Thank you.
6 THE COURT: Thank you, counsel.

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10 Certified Pursuant to Rule 723
11 of the Rules of Court

13 Jane Romanowich, CSR(A)
14 Court Reporter

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