Jackson v. Jackson, 2017 NWTSC 54 S-1-DV-2016-104503

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.

Official Court Reporters

1

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

Official Court Reporters

2

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

Official Court Reporters

3

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

Official Court Reporters

4

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

Official Court Reporters

5

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

Official Court Reporters

6

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

Official Court Reporters

7

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.

Official Court Reporters

8

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.

Official Court Reporters

9

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

Official Court Reporters

10

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,

Official Court Reporters

11

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'

Official Court Reporters

12

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.

Official Court Reporters

13

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

Official Court Reporters

14

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.

Official Court Reporters

15

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

Official Court Reporters

16

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

Official Court Reporters

17

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

Official Court Reporters

18

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

Official Court Reporters

19

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

Official Court Reporters

20

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

Official Court Reporters

21

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

Official Court Reporters

22

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

Official Court Reporters

23

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

Official Court Reporters

24

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

Official Court Reporters

25

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

Official Court Reporters

26

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 --

Official Court Reporters

27

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

Official Court Reporters

28

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.

Official Court Reporters

29

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.

7 .................................

8

9

10 Certified Pursuant to Rule 723

of the Rules of Court

11

13

Jane Romanowich, CSR(A)

14 Court Reporter

15

16

17

18

19

20

21

22

23

24

25

26

27

Official Court Reporters

30