



Brubacher Law &lt;info@brubacherlaw.com&gt;

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**RE: Urgent Motion Request - Court File No. 237/20**

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**Dicicco, Michele (JUD)** <Michele.Dicicco@ontario.ca>

Thu, Apr 23, 2020 at 10:25 AM

To: Denise Dragani &lt;Denise@csbhllp.com&gt;, "info@brubacherlaw.com" &lt;info@brubacherlaw.com&gt;, "sydney@csbhllp.com" &lt;sydney@csbhllp.com&gt;

Cc: "Hagarty, Doris (JUD)" &lt;Doris.Hagarty@ontario.ca&gt;

Please see below the endorsement of Justice Henderson.

*Michele DiCicco*

Assistant Trial Coordinator

Superior Court of Justice Family

[80 Dundas St.](#)[London, Ontario](#)[519-660-3021](#)

Send this endorsement to counsel:

"The applicant brings this urgent motion pursuant to the Notice to the Public and the Profession issued by the Chief Justice on March 15, 2020 during the suspension of Court operations due to COVID-19.

I have reviewed the applicant's submissions who seeks return of his son to Peru pursuant to Article 12 of the *Hague Convention on the Civil Aspects of International Child Abduction* ("*Hague*"). A similar motion came before Madsen J in *Onuoha v Onuoha*, 2020 ONSC 1815. In that case she found the matter not urgent largely for two reasons. Such a motion while intrinsically urgent required a more expansive hearing than contemplated by the above Notice. Secondly, at this point there was no practical reason to hear the motion in view of the travel restrictions currently in place due to COVID-19.

Following the reasoning of Madsen J I do not find the *Hague* motion to be urgent. However, in the current case, I find the motion to be presumptively urgent but limited to only the temporary relief sought by the applicant in paragraphs 4,5 and 6 of his submissions. This would be without prejudice to the applicant's position in respect of

the *Hague* motion. In my view there is presumptive urgency in addressing the temporary terms requested.

I order as follows:

1. The motion shall be heard by teleconference at a hearing to be scheduled by the trial coordinator on Thursday, April 30, 2020 who shall provide call in details in due course.
2. The motion shall be limited to the relief the applicant seeks in paragraphs 4, 5 and 6 of his written submissions.
3. The applicant shall serve the respondent by email a copy his motion, supporting affidavit and a copy of this endorsement and file the material with proof of service by email to the trial coordinator by 12:00 pm noon, Monday, April 27, 2020.
4. The respondent shall serve the applicant her response by email and file same with proof of service with the trial coordinator by email by no later than Tuesday, April 28, 2020 4:30 pm.
5. The applicant shall serve and file a short reply affidavit if required in the same manner by no later than 12:00 pm noon, Wednesday, April 29, 2020.
6. Subject to the discretion of the hearing judge, no affidavit shall exceed 10 pages in length not including exhibits. Exhibits shall include only those relevant to the urgent motion. There shall be no third party affidavits. References to caselaw shall be by hyperlink.
7. Affidavits may be served and filed unsworn but will be affirmed at the beginning of the hearing.



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**From:** Denise Dragani <[Denise@csbhllp.com](mailto:Denise@csbhllp.com)>  
**Sent:** April 22, 2020 5:08 PM  
**To:** London Family SCJ (JUD) <[London.Family.SCJ@ontario.ca](mailto:London.Family.SCJ@ontario.ca)>

4/24/2020

Brubacher Law Mail - RE: Urgent Motion Request - Court File No. 237/20

**Cc:** [info@brubacherlaw.com](mailto:info@brubacherlaw.com); Sydney Bunting <[Sydney@csbhllp.com](mailto:Sydney@csbhllp.com)>

**Subject:** RE: Urgent Motion Request - Court File No. 237/20

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