

Superior Court of Justice, Family Court

(Name of court / Nom du tribunal)

at / au 4 Wellington St., St. Thomas, ON

(Municipality/ Municipalite)

Court File Number / Numero de dossier du greffe

FC133/19

Endorsement Sheet / Page d'inscription

Date

Applicant(s) / Requerant(e)s: J. Shank Present / Comparet

Counsel / Avocat(e): Present / Comparet

Duty Counsel/ Avocat de service

Respondent(s) / Intime(e)(s): J. Hagen Present / Comparet

Counsel / Avocat(e): J. Foster Present / Comparet

Duty Counsel/ Avocat de service

Order to go in accordance with minutes of settlement or consent filed. / Ordonnance conformement au process-verbal de l'audience de transaction ou le consentement depose.

April 30, 2020

ENDORSEMENT

THIS MOTION WAS HEARD BY TELECONFERENCE PURSUANT TO THE PROTOCOL IN PLACE DURING SUSPENSION OF NORMAL COURT OPERATIONS DUE TO THE COVID-19 OUTBREAK.

**APPEARANCES: Applicant, in person
J. Foster, Respondent; Respondent**

This was the first appearance on an urgent motion brought by the Respondent as a result of the Applicant planning to move with the parties' children to New Brunswick, a move with which he does not agree.

The parties have filed their material for the motion. The Applicant's materials were prepared by herself.

The Applicant had indicated earlier that she would be requesting an adjournment to retain counsel. Today, when asked, she initially declined to make that request, apparently believing that if she did, she would not be permitted to see the children during a period of adjournment.

Once assured that she would be permitted to do so, subject to conditions to ensure that the children are not removed from Ontario, the Applicant did request an adjournment for the purpose of retaining counsel.

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Having canvassed a bit of the history of this case, I learned that the Application filed by the Applicant in September 2019 did not seek an order permitting her to move outside of the Province of Ontario with the children. She simply filed a motion in March 2020 requesting that relief. I suggested that she discuss with her counsel, once retained, the need to amend her Application.

After discussing dates and terms of the adjournment, the parties were able to agree on both adjournment dates and terms of the adjournment.

Accordingly, a temporary order will issue as follows:

1. The Respondent's motion, returnable April 30, 2020 pursuant to the procedural order of Justice Campbell as Triage Justice, is adjourned to May 8, 2020 at 10:10 a.m. to be spoken to, with a particular purpose of determining if the Applicant has retained counsel and, if so, to canvass next steps. Call-in information will be provided to the parties by the Trial Coordinator.
2. During the period of the adjournment, the parties shall have the children Clark Alexander Shank-Hagen, born January 22, 2014 and Blake Ulysses Shank-Hagen, born November 14, 2015, in their shared care on the following schedule, subject to the following conditions:
 - a. The Applicant shall have the children in her care continuously during the 48-hour period from 10:00 a.m. on Friday, May 1, 2020 to 10:00 a.m. on Sunday, May 3, 2020;
 - b. The Respondent shall have the children in his care continuously during the 48-hour period from 10:00 a.m. on Sunday, May 3, 2020 to 10:00 a.m. on Tuesday, May 5, 2020;
 - c. The Applicant shall have the children in her care continuously during the 53-hour period from 10:00 a.m. on Tuesday, May 5, 2020 to 3:00 p.m. on Thursday, May 7, 2020;
 - d. The Respondent shall have the children in his care continuously during the period between 3:00 p.m. on Thursday, May 7, 2020 to the end of the hearing in this matter on May 8, 2020, at which time the parenting schedule shall be reviewed and adjusted, if necessary;
 - e. The person who is next to have the children in their care shall pick them up from the person whose time caring for them is ending;
 - f. The Applicant shall not permit her partner, Tyler Schmitke, to have any contact with the children while they are in her care.

- g. Neither party shall take the children more than 30 kilometres beyond the municipal boundaries of London, Ontario or Aylmer, Ontario while caring for them. The parties may, however, transport the children between London and Aylmer and vice-versa after picking them up to begin their parenting time with the children.

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- h. Subject to sub-paragraph (i), the Applicant's parenting time with the children shall occur at the Motel 6, located at 810 Exeter Road in London, Ontario.
- i. If the Applicant makes other arrangements to stay with a friend while the children are in her care, then she shall provide the appropriate details to the Respondent at least 24 hours in advance, in writing, so that he can determine whether he is agreeable to the alternate location.
- j. The Applicant is prohibited from removing the children from the Province of Ontario at any time while they are in her care.
- k. For the purpose of enforcing the parenting provisions and removal prohibitions contained in this Order, the St. Thomas Police Service, the Aylmer Police Service, the London Police, the Ontario Provincial Police and/or the Royal Canadian Mounted Police, and any other police force to whose attention this Order has been brought, shall locate, apprehend and deliver the children to the party requesting the assistance, or a person authorized by that party, pursuant to section 36 of the *Children's Law Reform Act*, R.S.O. 1990, c. C.12.
- l. For the purpose of locating and apprehending the said children in accordance with this Order, any of the Sheriff or police officers may enter and search any place where he or she has reasonable and probable grounds for believing that said children may be with such assistance and such force as are reasonable in the circumstances, and that such search may be done at any time, pursuant to section 36 of the *Children's Law Reform Act*, R.S.O. 1990, c. C.12.
- m. The Sheriff and police officers shall do all things reasonably able to be done to locate, apprehend, and deliver the said children in accordance with this Order, pursuant to section 36 of the *Children's Law Reform Act*, R.S.O. 1990, c. C.12.
- n. The portions of this Order dealing with the location, apprehension and delivery of the children shall expire on October 29, 2020, pursuant to section 36 of the *Children's Law Reform Act*, R.S.O. 1990, c. C.12, unless earlier terminated by court order.
3. The costs of the appearance on April 30, 2020 shall be reserved to the Justice who ultimately

hears the Respondent's motion.

4. The preparation, signing and entry of a formal order in respect of this endorsement is hereby dispensed with. This endorsement shall have the same force and effect as an issued and entered order.

A handwritten signature in black ink, appearing to read 'T. Price', with a stylized flourish extending to the right.

Justice T. Price