

CANADA  
PROVINCE OF SASKATCHEWAN

IN THE COURT OF APPEAL FOR SASKATCHEWAN  
ON APPEAL FROM THE COURT OF QUEEN'S BENCH  
(FAMILY LAW DIVISION)  
JUDICIAL CENTRE OF REGINA

BETWEEN:

[REDACTED]

APPELLANT  
(PETITIONER)

AND:

[REDACTED]

RESPONDENT  
(RESPONDENT)

AND:

[REDACTED]

RESPONDENTS  
(THIRD PARTY RESPONDENTS)

**MEMORANDUM TO THE CHAMBERS JUDGE**

**RELIEF SOUGHT:**

1. That the stay of execution imposed pursuant to Rule 15 of *The Court of Appeal Rules* for Saskatchewan, be lifted so that the Appellant's right of access re-commence pursuant to the decision of the Honourable Madam Justice J. A. Ryan-Froslic, dated November 21, 2006. Alternatively, that the Appellant receive a new right of access on similar terms to the said order.
2. That the access of the father, [REDACTED], Appellant (Petitioner) be governed by the terms of the decision of the Honourable Madam Justice J. A. Ryan-Froslic, dated November 21, 2006, with such modification as may be necessary.

3. That costs be awarded to the Appellant (Petitioner), [REDACTED], on the within motion.

**LAW:**

4. The Applicant relies on Rule 15 *The Court of Appeal Rules*:
  - (1) Unless otherwise ordered by the judge appealed from or by a judge, the service and filing of a notice of appeal does not stay the execution of a judgment or an order awarding *mandamus*, an injunction, alimony, or maintenance for a spouse, child or dependant adult. Unless otherwise ordered by a judge, the service and filing of a notice of appeal stays the execution of any other judgment or order pending the disposition of the appeal. (Forms 5a and 5b)
  - (2) Where leave to appeal from an interlocutory order is granted, the judge hearing the application may give directions as to staying proceedings.
  - (3) Where a writ of execution has been issued but is stayed after being issued because of an appeal, the appellant is entitled to obtain a certificate from the registrar that the execution of the writ has been stayed pending the appeal. On the deposit of the certificate with the sheriff, the execution of the writ is stayed but the execution debtor shall pay the sheriff's fees, and the amount so paid shall be allowed to the execution debtor as part of the costs of the appeal.
  - (4) Where a judgment or order is stayed pending an appeal, all further proceedings in the action, other than the issue of the judgment and the taxation of costs under the judgment, are stayed, unless otherwise ordered.
5. The Applicant relies on the substantive provisions governing custody and access as set out in sections 6, 7, 8, and 9 of *The Children's Law Act*, for Saskatchewan.

**GROUND:**

6. The best interests of the child, [REDACTED], militate in favour of a resumption of parental visitation between the Appellant and his son pending the appeal. A resumption of parental contact is consistent with orders below in Chambers and is consistent with the Appellant's position in the within appeal.
- [REDACTED]

The trial decision under appeal in any event does not extinguish outright the Appellant's right of access to said child.

7. Particulars of the foregoing are set out in the Affidavit of [REDACTED] dated the 12<sup>th</sup> day of April, 2007, filed herewith.

**MATERIAL FILED:**

AND FURTHER TAKE NOTICE that in support of this within application will be read the following:

- (a) Notice of Motion to Lift Stay of Execution / Resume Parental Visitation with proof of service.
- (b) The Affidavit of [REDACTED], dated the 12<sup>th</sup> day of April, 2007.
- (c) A Draft Order requiring perfection in accordance therewith.
- (d) This Memorandum specifying the basis for the application.

All of which is respectfully submitted.

DATED at Saskatoon, Saskatchewan this 12<sup>th</sup> day of April, 2007.

**ROE & COMPANY**

Per: \_\_\_\_\_

Mark Vanstone  
Solicitors for the Appellant (Petitioner)

[REDACTED]

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