

CANADA
PROVINCE OF SASKATCHEWAN

FLD No. 117 of 2006

IN THE COURT OF QUEEN'S BENCH
(FAMILY LAW DIVISION)
JUDICIAL CENTRE OF SASKATOON

BETWEEN:

[REDACTED]

AND:

[REDACTED]

PETITIONER

RESPONDENT

AND:

[REDACTED] and [REDACTED]

THIRD PARTY RESPONDENTS

MEMORANDUM TO THE PRESIDING JUDGE

THIS IS AN EX PARTE APPLICATION brought by the Petitioner, [REDACTED]
[REDACTED] for the following relief:

1. An order pursuant to s. 44.1(9)(c) *The Queen's Bench Act*, 1998 exempting the Petitioner from the requirement to attend a parenting education program.
2. Such further and other relief as counsel may advise and this Honourable Court may permit.

AND FURTHER TAKE NOTICE that the grounds in support of the within ex parte application are as follows:

1. The Parenting Education Program is designed to help individuals through the different stages of separation and divorce. The program specifically tries to provide individuals with skills to minimize the impact of the separation and divorce on

- children; and provide options for parenting in a way that keep children out of parental conflict.
2. The Petitioner has no prior relationship with the Third Party Respondents and will not be in a position to co-parent.
 3. The Respondent, [REDACTED], has apparently given up her rights to parent the child.

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

1. This Memorandum to the Presiding Judge;
2. Affidavit of [REDACTED] dated the 6th day of December, 2006.
3. Draft *Ex Parte* Order.

Dated at Saskatoon, Saskatchewan, this 6th day of December, 2006.

ROE & COMPANY

Per: _____

Mark Vanstone
Solicitor for the Petitioner,
[REDACTED]

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[REDACTED]

Evidence not admissible

43 Except with the written consent of the mediator and all parties to the proceeding in which the mediator acted, the following types of evidence are not admissible in any civil, administrative, regulatory or summary conviction proceeding:

- (a) evidence directly arising from anything said in the course of mediation;
- (b) evidence of anything said in the course of mediation;
- (c) evidence of an admission or communication made in the course of mediation.

2006, c.31, s.2.

Mediator not liable

44 No action lies or shall be commenced against a mediator for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the mediator in:

- (a) the carrying out or supposed carrying out of any duty imposed or the exercise or supposed exercise of any power conferred by this Act; or
- (b) the carrying out or supposed carrying out of any order made pursuant to this Act.

1998, c.Q-1.01, s.44.

PART VII.1 Parenting Education

Parenting education required

44.1(1) In this section:

“designated judicial centre” means a judicial centre designated in the regulations for the purposes of this section; (« *centre judiciaire désigné* »)

“family law proceeding” means a family law proceeding in which custody, access or child support is in issue, other than a proceeding pursuant to *The Inter-jurisdictional Support Orders Act*; (« *instance en matière familiale* »)

“parenting education program” means a parenting education program established pursuant to the regulations for the purposes of this section; (« *cours sur l'art d'être parent* »)

“party” does not include the Minister of Community Resources and Employment, the Public Guardian and Trustee of Saskatchewan or any other public official acting in an official capacity with respect to a child who is the subject of a family law proceeding. (« *partie* »)

- (2) This section applies to all family law proceedings that:
- (a) are commenced in a designated judicial centre after its date of designation; or
 - (b) are the subject of an order made pursuant to subsection (5) or (6).
- (3) Each party to a family law proceeding described in clause (2)(a) must attend a parenting education program unless:
- (a) the party files with the court:
 - (i) a certificate of attendance as proof, in the absence of evidence to the contrary, that the party has attended a parenting education program within the preceding two years; or
 - (ii) a document meeting any requirements set out in the regulations as proof, in the absence of evidence to the contrary, that the party has attended an equivalent program within the preceding two years;
 - (b) the party obtains an exemption pursuant to subsection (9); or
 - (c) both parties certify in writing that they have entered into a written agreement settling all issues between them respecting custody, access and child support.
- (4) A party who commences a family law proceeding described in clause (2)(a) must serve the respondent with a notice of the requirement to attend a parenting education program together with the document commencing the family law proceeding.
- (5) Where a family law proceeding is commenced in a judicial centre that is not a designated judicial centre, the court may order one or both of the parties to attend a parenting education program within any time that the court may specify.
- (6) Where, at the time a family law proceeding is commenced in a judicial centre, the judicial centre is not a designated judicial centre but later becomes a designated judicial centre before the family law proceeding is concluded, the court may order one or both of the parties to attend a parenting education program within any time that the court may specify.
- (7) A party who is required to attend a parenting education program pursuant to this section must file a certificate of attendance with the court before taking any further step in the family law proceeding.
- (8) Where a party fails to attend a parenting education program when required to do so pursuant to this section, the court may, on application:
- (a) strike out the party's pleadings or other documents;
 - (b) refuse to allow the party to make submissions on an application or at trial; or
 - (c) order the party to attend a parenting education program within any time that the court may specify and adjourn the application.

(9) The court may, on an *ex parte* application, exempt a party from the requirement to attend a parenting education program pursuant to this section, or postpone the requirement for a party to attend a parenting education program, where:

- (a) the party is seeking interim custody incidental to an *ex parte* application for a restraining order where there has been domestic violence;
- (b) a child of the party has been kidnapped or abducted; or
- (c) in the opinion of the court, there are extraordinary circumstances.

(10) The court may, on an *ex parte* application, postpone the requirement to attend a parenting education program pursuant to this section where one of the parties has made a unilateral change in a custody or access arrangement.

2001, c.35, s.3; 2002, c.1-10.03, s.49; 2004, c.66, s.7.

PART VIII Particular Proceedings

Actions restraining obscene publications

45(1) An action may be brought by or on behalf of the Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed material, or of any similar material in an electronic medium, that publishes, continuously or repeatedly, writings or articles that are obscene, immoral, or otherwise injurious to public morals.

(2) An action may be brought against anyone who prints, publishes or distributes any publication described in subsection (1).

(3) In an action pursuant to subsection (1), the judge may grant an interlocutory injunction or mandamus on any material that the judge considers appropriate.

1998, c.Q-1.01, s.45.

Certificate of pending litigation

46(1) Commencing an action or matter in which any title to or interest in land is brought in question is not deemed to be notice of the action or matter to any person who is not a party to it until an interest based on a certificate of pending litigation, accompanied by a certificate of pending litigation signed by the local registrar, is registered in the Land Titles Registry.

(2) A certificate of pending litigation must:

- (a) certify that some title or interest in land is called in question by an action or matter pending in the court; and
- (b) describe the land and the parties to the action or matter.