

October 25/06

MADAM JUSTICE J.A. RYAN - FROSLIE

Dale Blenner-Hassett - [REDACTED] & [REDACTED]

Mr. Reynold Robertson - Star Phoenix & CBC

Mr. Vanstone - [REDACTED]

Mr. Robertson given status.

On the publication ban issue, I am going to reserve. There will, however, be an interim order. It is a little like closing the barn door after the horse has left, but I am concerned that the child in issue here and his step-siblings not be subjected to unnecessary publication of their identity.

Pending my decision there shall be an order banning the publication or dissemination by any party through a public forum, including the internet, of information which would tend to identify the child or his step siblings. This would include publishing the names of the child, the step siblings or the parties themselves or other information, for example, addresses which would identify them.

With regard to the issue of striking, I am going to reserve on that matter. There is an important issue of what constitutes proper without prejudice communication and whether it should ever be disclosed in proceedings. I am going to reserve on that issue.

I am going to make the following fiat:

The best interests of the child requires immediate action. There is a very real issue of where this child may end up. What is important is that dad have immediate contact with the child and that this matter proceed as quickly as possible to a hearing. Even if this court excludes the without prejudice correspondence that Mr. Blenner-Hassett objects to, there is sufficient evidence to establish that Justice Smith's order has not been implemented. Given the child's age, delay in implementing that is not in the child's best interest. If this court were to ultimately find that the child should be with his father, such contact is important.

According to Ms. [REDACTED]'s own evidence she was at one time a board member of the Children's Haven. I acknowledge that it was a long time ago. But it is important in matters such as these that there be no question of unfairness or bias. Let me be clear that I am not making any finding of wrong doing by the Children's Haven.

It appears the day of the week and the time of visitation is a problem and that that may not be facilitated, for example, on weekends. It appears that the presence of dad's commonlaw spouse, even though allowed by the order of Mr. Justice Smith, is a problem. It appears that the terms of the access have been a problem, and that the third parties wish to implement restrictions. Finally, it appears that immediate arrangements could not be made through the Children's Haven. For all of these reasons I am going to order that supervised access occur through Family Justice Services in Saskatoon Saturday mornings at 10:00 a.m. commencing this Saturday, October 28, 2006. The third parties, Ms. [REDACTED] and Mr. [REDACTED] shall be responsible for transporting the child to Saskatoon for such visits. The standard terms as set out in Family Justice Services Supervised Access Program Contract shall attach to this order without modification. In accordance with Justice Smith's order, Ms. [REDACTED] shall be entitled to attend the visits.

Should Family Justice Services be unable to accommodate access on any weekend, I note in particular that the office is closed on statutory holidays such as November 11th, Mr. [REDACTED] time with the child shall be increased to two hours the Saturday immediately following the closure to make up for the time missed, that is 10:00 a.m. to 12:00 noon. The standard terms of the Supervised Access Program Contract do not allow Ms. [REDACTED] or Mr. [REDACTED] to be present during Mr. [REDACTED]'s access. The terms do allow for photographs to be taken.

I am going to order that none of the parties provide pictures of or cause the publication of pictures of this child in any public forum, media or over the internet.

I am not going to limit what Mr. [REDACTED] says to this six month old child anymore than I will limit what the third parties say.

I caution the parties that this court has yet to make a determination on the ultimate custodial arrangements for this child. How they conduct themselves may have an impact on that determination.

I am going to request the co-ordinator of Family Justice Services to advise this court in writing if there are any problems carrying out the terms of this order. The Local Registrar shall bring any such communication to my attention and I will reconvene this chamber application to deal with any such problem.

I am going to direct that Mr. Vanstone's client by 4:00 p.m. tomorrow attend at Family Justice Services and sign the contract.

I am going to direct that the third parties attend on Saturday one-half hour before the 10:00 a.m. time specified to sign the contract.

I want to be very clear that in making this order I am implementing the access which to date has not occurred.

This court is deeply concerned that this matter proceed to trial expeditiously. The child is very young and attachment is important. Accordingly, I am going to exercise my discretion pursuant to Rule 191 of the Queen's Bench Rules of Court and order that a pre-trial settlement conference not proceed unless requested by both counsel. I am going to direct that a pre-trial Management Conference occur immediately following these proceedings.

I remind the parties that the rules of confidentiality that attach to pre-trial conferences should be followed and I caution them against breaching those rules.

I am going to order that if the trial of this issue is not scheduled prior to Dec. 31/06, then the issue of access is to be reviewed on Dec. 13/06 in chambers. This court's concern is that increasing contact may be in order to offset any delay in the process given the attachment issue. I am going to ask that Family Justice Services provide a report on the supervised access to the court for that date. Should the matter proceed to chambers on December 13/06 the third parties shall serve and file any further material solely relating to the father's ongoing contact to the child by Dec 1/06 at 4:00 p.m. Mr. [REDACTED] is to serve and file his response by Dec. 8/06 at 4:00 p.m. and any reply is to be served and filed by noon on Dec. 11/06.

With reference to the issue of compensatory access, I am going to reserve on that issue as compensatory access requires some finding of fault. I think that the letters may very well impact that issue.

With reference to the issue of costs, I direct that the costs of today shall be costs in the cause.

