

Ministry of the
Attorney General

Superior Court of Justice

Family Law Office

10th Floor
393 University Avenue
Toronto ON M5G 1E6

Tel/Tél : (416) 327-6192

Ministère du
Procureur général

Cour supérieure de justice

Bureau de droit de la famille

10^e étage
393, avenue University
Toronto ON M5G 1E6

Fax/Télécopieur: (416) 327-6137



FAX COVER SHEET

DATE: March 25, 2011

TO: Mr. Schuman / Ms. Leite

FAX #: 416- 449-7071 / 416-665-8225

NO. OF PAGES (INCLUDING COVER SHEET): 3 pages

FROM: Magdalena Byrne- FAMILY LAW OFFICE

RE: [REDACTED]

Please find attached the endorsement of Mr. Justice Paisley dated March 24, 2011.

Thank you,

Magdalena Byrne
Assistant Trial Coordinator
Superior Court of Justice
Family Law
393 University Ave, 10th FL, Toronto, ON
416-327-6192

ATTENTION

This facsimile may contain PRIVILEGED and CONFIDENTIAL INFORMATION only for use of Addressee(s) named. If you are not the intended recipient of this facsimile or the employee agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for the return or destruction of this document. Thank you.

Ce fac-similé peut contenir l'INFORMATION PRIVILÉGIÉE et CONFIDENTIELLE seulement pour l'usage d'Addressee(s) appelé. Si vous n'êtes pas le destinataire prévu de ce fac-similé ou l'agent des employés responsable de le livrer au destinataire prévu, on vous annonce par ceci que toute diffusion ou copier de ce fac-similé est strictement interdite. Si vous avez reçu ce fac-similé par erreur, svp informez-nous immédiatement nous par téléphone d'arranger pour le retour ou la destruction de ce document. Merci.

Superior Court of Justice, at 393 University Avenue.

Court file number: 07FD331350FIS

Applicant: [REDACTED]

Counsel for Applicant: John Schuman

Respondent: [REDACTED]

Counsel for Respondent: Natacha Reis Leite

Date: Thursday, March 24, 2011

Endorsement

1. The Applicant moves for costs pursuant to my endorsement dated January 27, 2011. The costs in issue include the preparation and attendance at the case conference before Grace J, whose endorsement reserved costs of the conference to the motions judge. The parties next appeared before Conway J who made a temporary order and adjourned the motion to January 27 2011 with costs reserved to the judge hearing the motion.

2. My endorsement of January 27, 2011 provides:

1. The Applicant (wife) requests a restraining order, custody of the children of the marriage [REDACTED] and [REDACTED], child support in the amount of \$1644 monthly based on an imputed income of \$120,000, that the Respondent be ordered to explain his financial dealings with respect to funds allegedly held in trust for the children of the marriage, and to comply with his disclosure obligations within 30 days.

2. The children reside with the Applicant. She states that there is a long history of questionable conduct on the part of the Respondent with respect to the children of the marriage. The Catholic Children's Aid Society of Toronto has previously been involved with this family. The Applicant states that she commenced these proceedings in order to comply with her understanding that the Catholic Children's Aid Society of Toronto expected her to do so (paragraph 34 affidavit sworn November 29, 2010). The Applicant's request for a restraining order is based on an alleged long history of violence by the Respondent towards her and continued stalking and harassment, which continues to date, has begun to escalate and that "continues to terrify me". See paragraphs 54-65 of that affidavit. The Respondent's affidavit states that the Catholic Children's Aid Society of Toronto also had concerns with respect to the Applicant's parenting, and that files were opened and closed in 2007 and 2010. The Respondent requests that the Office of the Children's Lawyer assist.

3. I am concerned that there is a risk of harm to the children if contact or direct communication between the parties continues during pick up or drop off of the children for access.

4. I direct that the Catholic Children's Aid Society of Toronto be provided with a copy of this endorsement.

5. I direct the parties to complete an intake form as required by the Office of the Children's Lawyer, and I request the assistance of that office.

6. An interim custody order is granted as requested by the Applicant.

7. The Respondent appears to have a much greater income than he discloses on his financial statement. See Applicant's affidavits November 29 paragraphs 66-80, and January 24, 2011. The Respondent is able to pay off very large credit card debts

monthly, as high as \$17,000 per month. I impute an income of \$120,000 for child support as requested commencing February 1, 2011, (\$1644 monthly)

8. A restraining order is to issue, requiring that the Respondent refrain from contacting or communicating with the Applicant except through counsel, and remain at least 200 meters from the Applicant's residence or any place where he is aware that she is present, except when picking up or dropping off the children at the applicant's residence and to attend [REDACTED] communion as agreed in writing by the parties. The relevant paragraphs of the Applicant's affidavit are to be attached to that order.

9. The respondent appears to have been the trustee of a trust account maintained for the children of the marriage. It appears that over \$600,000 has been removed from that account. See affidavit of Denielle Boyer dated January 25, 2011 paragraph 4. The Respondent must account for the acquisition and disposition of those funds. The order of Greer J dated August 30, 2007 included a non-dissipation term. Counsel for the Respondent concedes that there is no explanation for these dealings in his material. Counsel requests until March 15, 2010 to comply. I am satisfied that 30 days will suffice. So ordered.

10. Given the substantial nature of what appears to be an improper dealing with trust funds, I direct that the Public Guardian be provided with a copy of this endorsement Making public the names of the parties and the children in this matter and of information that has that effect is prohibited.

11. Access to the court file in this matter is limited to the parties, their counsel and to the Children's Aid Society and Office of the Children's Lawyer.

3. The Applicant was substantially successful on the motion. The Respondent's alleged misconduct as set out above supports an award of costs payable on a substantial indemnity basis. The Respondent would likely have appreciated that costs in the range submitted by the Applicant (\$21,334.70) would be incurred.
4. Costs are fixed in the amount of \$21,000 payable within 30 days.


"Paisley J."