

ONTARIO COURT OF JUSTICE

DATE: 2023 06 14
COURT FILE No.: Brampton 324/20

B E T W E E N :

D.G.
Applicant

— AND —

M.V.
Respondent

Before Justice A.W.S. Sullivan
Heard on April 24 to 26, 2023
Reasons for Judgment released on June 14, 2023

P. Swiderski and M. White..... counsel for the applicant
M.V. on his own behalf

SULLIVAN J.:

[1] This is the decision from a 3-day trial in this matter.

[2] The central issue between the parents is the decision-making and parenting schedule regarding their son M. who is 12 years old, child support retroactive and ongoing is also needed to be decided.

[3] The Office of the Children’s Lawyer conducted a 112 report for this family and the report of Mr. R. Reid dated May 18, 2022, was filed as exhibit 6 in the trial. Mr. Reid testified as well.

Background History of the Family

[4] Ms. D.G. is 42 years of age. Mr. M.V. is 45 years of age.

[5] They began living together in 2010 and separated in November 2018.

[6] Mr. V. testified that he was the one that informed Ms. G. that they should separate. This occurred at a Tim Horton’s as he recalls.

[7] At the time they were living in a condo owned by Ms. G's parents.

[8] I heard that for 5 months, after November 2018, Mr. V. continued to live in the condo but separate, occupying the master bedroom with Ms. G. and their son in a separate room. He had moved on and was dating another woman.

[9] Mr. V. testified that at the time he had no money. He eventually left their condo but insisted before doing so that a document be signed between them both dealing with parenting time with their son M.

[10] Currently Mr. V. receives ODSP for an injury to his back. This is not contested at trial.

[11] Prior to the parties moving apart, they signed an agreement between themselves without legal representation. This was on November 30, 2018. A copy was entered as exhibit 3 in the trial. It sets out a parenting schedule of M. between their homes. The document was handwritten in both parties' handwriting. No legal advice was sought by either party to this document.

[12] A second document was signed between the parties on August 15, 2019. This document was handwritten and had no legal representation for either parent. This was entered as Exhibit 7 to the trial.

[13] Between the separation of November 2018 and March 2020, their son, M., went between the homes and communication between the parents has been strained.

[14] Ms. G. commenced an Application on January 12, 2021.

[15] I heard that in March 2020 Mr. V. kept M. in his sole care at the commencement of the pandemic for some 30 days contrary to their regular parenting schedule. Mr. V. stated at trial he was protecting his son from the world.

[16] The parenting schedule was reset in April 2021 when the parties entered into a temporary order after litigation was commenced. The schedule is effectively a 2-2-1 arrangement with M. with his father 3 days of the week and the parties rotate weekends, Friday to Monday return to school.

Main Evidence that I have Considered Relevant to the Trial Issues

[17] At trial Mr. V. had three friends that testified to his parenting of his son M. They were taken out of order to accommodate their schedules.

[18] Two were close friends that Mr. V. knew from their school days; Mr. D.M. from grade school and Mr. M.P. for the past 12 years meeting in high school.

[19] The third friend, Ms. A.P., has known Mr. V. for about 4 to 5 years having met in a Bass Pro shop.

[20] Each testified more or less to the same subject issues and gave similar evidence.

[21] Each spoke of Mr. V.'s dedication to his son. How Mr. V.'s life centres around everything to do with his son.

[22] I heard how Mr. V. cooks meals for M. and rarely do they eat out at restaurants.

[23] Mr. V. lives in a modest 2-bedroom well-maintained apartment where M. has all his needs met.

[24] The friends knew of Mr. V.'s modest income and financial situation that did not permit for much other than the occasional special event.

[25] Ms. A.P. testified that it was her understanding that Mr. V. at times ate modestly when he did not have his son with him thus saving resources/money for when M. was with his dad.

[26] They each testified that they speak with Mr. V. and his son often each week and know of the child-focused activities that Mr. V. and M. do together, such as games, outings, fishing, walks in the parks, building Lego and assisting M. with homework.

[27] Overall, their testimony was that Mr. V. is a good and loving father.

[28] They each have been to Mr. V.'s home and spent time as family friends together.

[29] Ms. A.P. spoke of having enjoyed Mr. V.'s cooking which Mr. V. prepares for his son each day.

[30] They were each asked by Mr. V. to give their impressions of his son and Ms. A.P. and Mr. D.M. were particular in stating that they found M. to be an anxious child and they both stated that M. had talked to them privately just recently and both stated that M. said more or less the same statement - that is that "Mom made me lie re the schedule and if the schedule changed, I will call the police to call my dad to collect me."

[31] Mr. D.M. noted that M. was an empathic child and that he knew M. since birth.

[32] Ms. A.P. in cross-examination stated that M. had called her stating he was afraid and did not want to speak to the Children's lawyer.

[33] Ms. A.P. and Mr. D.M. both suggested that Mr. V. was not immediately present when M. spoke to them, but he was at home either outside or in the washroom.

[34] Mr. D.M. testified that he was not told what to say but was quick to offer his views on what was best for M. and how M. when picked-up from his mother's appears tired and down and Mr. D.M. offered in testimony that this made him sad. Mr. D.M. made several statements of opinion regarding each parent's abilities which was beyond his ability in this matter.

[35] Mr. M.P. testified that when he spoke to the child that Mr. V. was present, and Mr. M.P. stated that Mr. V. asked his son to tell Mr. M.P., "What do you want to say about the time you spend with your mom and dad? Mr. M.P. also added that Mr. V. was in the room

during this video chat and that M. looked stressed. He was also unaware of a letter that Mr. V. suggested his son wrote on his own recently to the court regarding his wishes.

[36] In cross Mr. M.P. also testified that he had never heard Mr. V. refer to anyone as a "monkey." This reference became relevant in later testimony in this trial set out below.

Ms. G.'s Main Testimony

[37] Ms. G. testified that during her 8.5-year relationship with Mr. G. they resided in a condo in Mississauga, Ontario. This condo is owned by her parents.

[38] Her parents also own/occupy and lived part-time in a 2nd adjacent condo unit - where she now resides, and it is here that her son is parented by her when he is with her. Her son has his own room here.

[39] I heard her parents spend part-time each year at this condo and part-time in Croatia.

[40] When the grandparents are present, Ms. G. sleeps in the living room or in her son's room.

[41] Ms. G. works as an early childhood education worker (ECE) and started this job after graduating from York University in sociology in 2005. She had thought of going to teacher's college but obtained her current employment that has been, as she noted, really good to her.

[42] She earns about \$52,000.00 annually. Her income returns and NOA's were filed from 2019 to 2022 as Exhibit 1 and as well the e-transfers as child support that she has made to Mr. G. as Exhibit 2.

[43] I heard that she has paid Mr. V. child support of about \$180.00 per month from June 2021, given the current parenting schedule. Exhibit 2 was entered being Ms. G.'s e-transfers to Mr. V.

[44] Ms. G. testified about the circumstances at the time the parties entered into the hand-written agreements mentioned above. She described these as "tabletop agreements."

[45] She recalled that when the first was prepared and signed in November 2018 that she was motivated to sign this as a means to have Mr. V. leave the condo unit as he was staying past his welcome after they had separated and demanded that this document be signed before departing. She recalls sleeping in separate parts of the condo away from Mr. V. who was occupying the master bedroom.

[46] At the time Mr. V. was dating another woman and was using the condo as his storage unit and spent time there as well.

[47] She recalled how during the relationship Mr. V. was demanding of immediate attention and was loud. She stated that she was routinely the subject of his anger. He

would, in front of their son, yell at her, calling her a fat F and ugly B...and... "other things under the sun."

[48] She stated that it was mainly being the emotional/verbal put downs, however, on one occasion she remembered that Mr. V. threw spaghetti at her head.

[49] Ms. G. admitted to signing both agreements with Mr. V. but did so to have him leave. She remembers his threats not to leave and she had signed to have him gone. She testified at no time that she signed over the principal care of their son to Mr. V. as he asserts.

[50] She testified that in 2020 after matters between them continued to be difficult both in communication/tone and demands, that she had prepared with the assistance of a lawyer a fulsome Separation Agreement. When this was presented to Mr. V., he refused to engage in any discussions about this document. Text messages to this issue were filed as Exhibit 4.

[51] After this Mr. V. refused to discuss any further time sharing until this litigation commenced and after he kept their son for 30 days at the commencement of the pandemic in March 2020.

[52] When questioned by Mr. V., Ms. G. denied that the tabletop agreement was her indication that Mr. V. was the primary parent to their son.

[53] Ms. G. described her son as a bright, easygoing, carefree boy when with her. He is a child that loves to chat with people and has a passion for building and understanding the world of Lego.

[54] He has in his room some 32 completed Lego sets with another 4 to 5 yet to be built. He has school friends that spend time with him at their home and they go on play dates in the community with each parent. He has not spent overnights anywhere as yet.

[55] Her son does have an IEP at school as he is diagnosed with ADHD, and he does have assistance at school for his short attention span. He does have an accommodation with half-day classes and is doing well at school otherwise. This was a common point in this trial between the parents.

[56] Ms. G. stated that over the past few years of this litigation her son has been drawn into the adult issues by his father. She has seen how the extra lightness in her son's personality has withered and how he seems to bear a weight on his shoulders that he should not have to as a 12-year-old boy.

[57] She gave as an example how when his father calls him while at her place that her son's face changes from carefree to being concerned. He often will retire to his room and lowers his voice when responding to his father's many questions such as who is over at her place to what they have been doing to what he ate while cared for by his mother.

[58] She stated that Mr. V. often when they were together and presently questions their son about her friends and repeatedly stated in messages to her and in front of their son

that she is an N...lover, that she has "monkey friends" and that she is a fat ugly B... and a C...

[59] Ms. G. testified that Mr. V.'s use of the above language was directly related to the black friends that she has and a male friend that she had.

[60] Ms. G. provided examples of text messages and Facebook postings of Mr. V.'s use of this language and derogatory descriptions of her. Some of these were to her directly and others posted for the public to see. These were entered as Exhibits 5 and 10.

[61] Exhibit 4 was a text message from Mr. V. to Ms. G. dated February 15, 2020, in reference to his racist comments towards her black friends where Mr. V. demands that she keep their son away from... "your monkey friends."

[62] When Ms. G. was testifying to this point, Mr. V. interrupted Ms. G. and stated: "I'm not here to talk about animals, I'm here to talk about my child"

[63] Ms. G. testified that such comments found in the texts to her were not unusual for Mr. V. as he has often questioned their son since separation about the colour of her friends that are visiting when she is parenting their son at her place.

[64] His communication with her, she noted, has not improved over time and that she has become the target of his vitriol which has happened in front of their son.

[65] Ms. G. testified that both Mr. V.'s niece and sister were interviewed by Mr. Reid who in the 112 report noted that they both stated to him that Mr. V. often made racist comments about black people.

[66] Ms. G. noted that since this litigation commenced, Mr. V. has involved the CAS and police both in relation to her and her mother. Each time these services have investigated they have concluded that nothing wrong occurred in her parenting of their son or with the grandmother.

[67] Ms. G. testified that Mr. V. is insistent in the face of these investigations through to today's trial that she has exposed their son to a dog allergy and that the maternal grandmother intentionally pinched (assaulted) their son.

[68] This she noted has been a constant theme despite no evidence of this existing which is a concern regarding Mr. V.'s parenting in that he wishes to pursue conflict when none exists and draw their son into the fray impacting their son's emotional well-being.

[69] I heard on one occasion, after the grandparents had been out of Canada, that Mr. V. had their son go to his grandfather to report to him that a black man had stayed over in the condo that they shared with the grandparents. This was not denied by Mr. V. when questioned.

[70] In questioning from Mr. V. about his behaviour since separation and racist comments, Ms. G. gave a further example of how Mr. V. had on one occasion while she had her son out shopping sent her a text asking about what friends she was with... "Were

they black or white?" Then, within a moment of her receiving this text, Mr. V. drove past her and her son in the parking lot of the store they were about to enter. This she noted was another example of Mr. V.'s surveillance of her and their son and whom they associate with, what he eats and what he does while her son is with her.

[71] She testified that and stated that this has been routinely interrogating and questioning their son and she has seen how this has confused their son.

[72] Ms. G. stated that she supports the recommendations in the OCL 112 report as an order that she could work with. Later in the trial this position was modified in light of my questions that I asked below.

[73] Her hope for her son is that M. succeeds and is happy and that he has less anxiety in the future. He wants to build things and be an architect. She wants to support him achieve this goal and that her... "son's light not become any dimmer than it is now ... due to Mr. V.'s involvement of M. in this litigation."

OCL Clinical Investigator – Mr. R. Reid

[74] Mr. Reid's 112 report was entered into evidence as Exhibit 6.

[75] This report was completed in 2022 and filed in May 2022.

[76] I heard that Mr. V. had served and filed an "objection" to this report in an unusual format that the OCL responded to. These documents were located in the file as they were not in the parties' document briefs as potential exhibits for this trial. I gave the parties 15 minutes to review the same before Mr. Reid was questioned.

[77] In his report and main testimony Mr. Reid noted his main concerns as the following:

- The child M.'s independence in comments and conversations with him while at his father's home that caused M. to recant statements, in particular that he was told to say that his mother told him to lie to the OCL investigator.
- How the child M.'s well-being was being compromised by Mr. V.'s manipulation of his son asking him to lie to the OCL.
- How the child when with his father or questioned by his father was having to hide his true feelings and was feeling bad about what to say when directed to do so by his father.
- How Mr. V. has no insight into the above actions and as well little or no concern about the damaging and disrespectful comments Mr. V. has made about Ms. G. in addition to the racist comments made openly by Mr. V. about friends that spend time with Ms. G. All comments which their son has been exposed to.

[78] Mr. V. first questioned Mr. Reid about:

- About how he described M's presentation as being "flat" in his appearance when Mr. Reid met M. at Mr. V.'s home.
- Mr. Reid responded that this notation came from his observations and the notes he took just after each interview.
- This Mr. Reid noted this was in stark contrast to how Mr. Reid remembers M. being at his mom's when they met, which was a child that was outgoing, effervescent, happy and light in manner.

[79] Mr. Reid noted when questioned by Mr. V. that M. seemed guarded at his dad's and... "was not the same robust happy child." Mr. Reid noted this as a stark contrast between each parent's home.

[80] Mr. V. questioned Mr. Reid about how he felt Mr. Reid was upset/angry when he visited his home to observe Mr. V. and his son. Mr. V. accused Mr. Reid of stating during this visit,... "Don't speak to me unless I ask you to." Mr. Reid answered both of these accusations stating that he would not have said such things.

[81] Mr. V. questioned Mr. Reid as to the source of his information that Mr. V. has made racist comments. Mr. Reid agreed that this information in part came from Ms. G. but also from interviews he had with Mr. V.'s sister, niece and as well his son.

[82] Mr. Reid stated that he had about 5 to 6 interviews with M. which were about 2 to 3 more than was usual and he had 3 of these at the child's school which was a neutral location. Mr. Reid testified that the reason for this was that he was concerned about the independence of M.'s statements while with his father.

[83] Mr. Reid notes that M. strongly and bravely expressed his wishes while struggling with managing his feelings he has for his respective parents. M. clearly expressed fear of his father and found his father's conduct at times intrusive, and M. was stressed about how he could share his feeling with his father.

[84] Mr. Reid notes in his report the following insight into Mr. V.:

Mr. V. may continue to fixate and believe that he is not engaging in any behaviour that cause harm to M.

Mr. V. believes that his conduct as a parent is well within his rights, and that he is being a dutiful parent. It is unfortunate that this view will continue to negatively impact his relationship with his son and may ultimately lead to a complete loss in the relationship with his son. It is hoped that this will not come to pass, as clearly his love for M. is strong, as corroborated by various individuals, including family members, who despite their less-than-kind view of Mr. V., acknowledge his parenting of his son M., particularly when he was younger.

Mr. V.'s Main Testimony

[85] He testified that Ms. G.'s parents control her, stating that her father often said in his presence to Ms. G., "you get nothing if you don't listen to me."

[86] He testified that when Ms. G. moved into her parent's condo, she knowingly exposed their son to dog allergies.

[87] He stated that he has been the primary caregiver to their son and that the above noted written agreements attest to this and how Ms. G. effectively gave him their son to raise.

[88] He felt these documents gave him an entitlement to being the primary parent to his son and that one of the two prohibited Ms. G. from having a third person care for their son on her time after school which he complained that she did routinely. This, he suggested, was wrong and that he was always present to care for his son and Ms. G. could not because of her work schedule.

[89] He stated that unlike Ms. G. he spends all his free time caring for M. He described M. as a genius who now that he is 12 years old knows far more than he did when he was 10/11 years old.

[90] This Mr. V. underlined is why his son is telling his friends who testified above and to his paternal grandmother that... "if the parenting schedule changes, he will call the police to come and get him."

[91] Mr. V. stated that his son now realizes that he was manipulated and now that he is 12 he is more knowledgeable and that he will be calling the police if her schedule is changed, that is certain.

[92] Mr. V. repeated the above on several occasions when he testified and as well that his son wrote a letter to this effect just recently for the court. Note Mr. V. spoke of this note but did not attempt to enter this into evidence.

[93] Mr. V. entered into evidence what he described as a "food chart" in his handwriting. It is for a time period from August 2022 to March 2023 entered as Exhibit 8 to this trial. He stated that his family doctor recommended he keep these notes regarding what he feeds his son and what his son eats while at his mother's which he claimed is primarily junk food and that his son is malnourished .

[94] Mr. V., when questioned about how this document came to be, stated that he asked his son about what he eats at his mother's either over the phone when he calls him while at his mother's or when his son is back with him.

[95] Mr. V. denied that he interrogates his son but rather this information comes out, as he claims, naturally in Dad and M. chats that he has with his son regularly each week.

[96] Mr. V. wanted the court to know that unlike Ms. G. he does not feed his son fast food. He stated that Ms. G. does, however, 90% of the time and this he knows. He referred to this "food chart" as proof of his son's malnutrition while being cared for at his mom's.

[97] Mr. V. indicated he devotes his entire days either caring for his son directly or preparing to care for him when he returns from his mother's.

[98] He stated his son is his only job as he cannot work due to a back injury that developed after years of installing drywall in commercial and new build properties which he enjoyed doing and was earning good money. He now has nothing and stated that when he separated from Ms. G., she knew he had nothing. His income is ODSP of \$1,800.00 per month and \$140.00 from Ms. G.

[99] Income evidence was filed by both parties as there is a retroactive claim by Mr. V. to July 2019. Ms. G. filed bank statements from January 16, 2021, to April 15, 2023, showing some monthly child support payments to Mr. V. as a set off in the amounts of \$180.00. These were less consistent in 2021 and monthly from April 2022, in addition to smaller payments for their son's extracurricular activities.

[100] He stated that his son has told him that his mother told him to lie to Mr. Reid and that his son's eczema was exacerbated by Ms. G. exposing their son to a dog when she moved to her parent's condo.

[101] He stated that their son recently told him that Ms. G. was exposing their son to another religion, not Catholic, and that she brought him to this new church that was in a warehouse where there were no other children present.

[102] Mr. V. testified that he fears Ms. G.'s parents want to remove and keep his son in Croatia if Ms. G. is permitted to travel there with their son.

[103] In relation to this issue, Mr. V. recalled dramatically that about 9 months ago he had a talk with his son at the Catholic church he attended traditionally in the Streetsville area of the GTA. He recalled it was a Saturday and that while they were both in the church while kneeling in the pews of the church that he spoke with him about whether he actually wanted to visit Croatia with his grandparents and that he should wait until he is older.

[104] Mr. V. did not regard this conversation in this religious setting to be unusual or dramatic for his son as Mr. V. stated he usually has such son and dad time talks.

[105] Mr. V. denied that in so doing that he is treating his son as an equal and noted that as his son is now 12, he is aware of so much more.

[106] Mr. V. admitted to discussing with his son the OCL 112 Report when he received the same. He suggested it was somewhat spontaneous as he had just received the email with the report. He recalled sitting at home on their couch when he received the email and asked his son why he said what he said in the report to which Mr. V. stated in court that his son told him it was his mother who made him lie to the OCL investigator.

[107] Mr. V. added, "you can only shelter your children from so much, it's not a pretty world."

[108] Mr. V. admitted to telling his son that 12 years of age he gets to choose what he wants regarding a parenting schedule. He then added again that his son is a genius.

[109] When questioned, Mr. V. admitted that he was not afraid to express his feeling about Ms. G., referring to her as the dragon that breathes fire when angry. He noted that in the past they were both immature and Ms. G. would scream at him in front of their son.

[110] Mr. V. was questioned about the text and Facebook messages that he posted entered as exhibits to this trial with derogatory comments about Ms. G. and racist references to her friends. Mr. V. defended sending them and indicated Ms. G. has done the same in the past but did not want to produce these as he felt that was not proper. He stated that it's usual for this to happen when couples separate. He also stated that his reference to monkeys was a joking term that he often called people about him.

[111] When asked if he felt it was usual to invoke racist language to describe Ms. G.'s friends to his son and to others, Mr. V. suggested his son was being manipulated when he stated that Mr. V. had used the N word with him when questioning him about his mother's friends.

[112] Mr. V. stated that he is "entitled" to an order that his son be with him in his primary care and that the schedule as set out from the handwritten agreements indicates that he has been the historical caregiver and provider for his son, and this should not change. Mr. V. often in his testimony referred to statements attributed to his son recently that if the parenting schedule is changed that his son will call the police and ask that his father pick him up and that is why he is here in court for a court order to achieve this for his son's best interest.

[113] I asked Mr. V. about this statement which I heard from him during his testimony several times. Specifically, I ask the following...If this statement from his son is truly coming from his son, as a parent to his son, what would he do, as a parent, if the court changed the schedule? Given he was in court asking for a court order and understanding the significance of a court order?

[114] To this Mr. V. began to answer in relation to his role as a parent to a child but could not complete the thought process in this regard and then repeated what he claims his son has told him, his friends and to his paternal grandmother, that is... "his son will be calling the police and that his role as a father is to go and get him and that's why he is in court today for his son's interests."

Discussion/Reasons and Decision

Part Four – Legal considerations for parenting orders

Statutory considerations

Subsection 24 (2) of the *Children's Law Reform Act* (the Act) provides that the court must give primary consideration to the child's physical, emotional and psychological safety, security and well-being in determining best interests.

Subsection 24 (3) of the Act sets out a list of factors for the court to consider related to the circumstances of the child. It reads as follows:

Factors

- (3) Factors related to the circumstances of a child include,
- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
 - (b) the nature and strength of the child's relationship with each parent, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
 - (c) each parent's willingness to support the development and maintenance of the child's relationship with the other parent;
 - (d) the history of care of the child;
 - (e) the child's views and preferences, giving due weight to the child's age and maturity unless they cannot be ascertained;
 - (f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
 - (g) any plans for the child's care;
 - (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;
 - (i) the ability and willingness of each person in respect of whom the order would apply to communicate and co-operate, in particular with one another, on matters affecting the child;
 - (j) any family violence and its impact on, among other things
 - (k) the ability and willingness of any person who is engaged in the family violence to care for and meet the needs of the child, and
 - (l) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; and
 - (m) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child.

Subsection 24 (4) of the Act sets out factors relating to family violence. It reads as follows:

Factors relating to family violence

- (4) In considering the impact of any family violence under clause (3) (j), the court shall take into account,
- (a) the nature, seriousness and frequency of the family violence and when it occurred;
 - (b) whether there is a pattern of coercive and controlling behaviour in relation to a family member;
 - (c) whether the family violence is directed toward the child or whether the child is directly or indirectly exposed to the family violence;
 - (d) the physical, emotional and psychological harm or risk of harm to the child;
 - (e) any compromise to the safety of the child or other family member;
 - (f) whether the family violence causes the child or other family member to fear for their own safety or for that of another person;
 - (g) any steps taken by the person engaging in the family violence to prevent further family violence from occurring and improve the person's ability to care for and meet the needs of the child; and
 - (h) any other relevant factor.

Subsections 18 (1) and (2) of the *Act* defines family violence as follows:

(1) "family violence" means any conduct by a family member towards another family member that is violent or threatening, that constitutes a pattern of coercive and controlling behaviour, or that causes the other family member to fear for their own safety or for that of another person, and, in the case of a child, includes direct or indirect exposure to such conduct; ("violence familiale")

"Family violence"

(2) For the purposes of the definition of "family violence" in subsection (1), the conduct need not constitute a criminal offence, and includes

- (a) physical abuse, including forced confinement but excluding the use of reasonable force to protect oneself or another person;
- (b) sexual abuse;
- (c) threats to kill or cause bodily harm to any person;
- (d) harassment, including stalking;
- (e) the failure to provide the necessities of life;
- (f) psychological abuse;
- (g) financial abuse;
- (h) threats to kill or harm an animal or damage property; and
- (i) the killing or harming of an animal or the damaging of property.

Subsection 24 (6) of the *Act* states that in allocating parenting time, the court shall give effect to the principle that a child should have as much time with each parent as is consistent with the best interests of the child.

Section 28 of the *Act* sets out the types of parenting orders the court can make.

Subsection 33.1 (2) of the *Act* addresses the importance of the parties protecting children from conflict. It reads as follows:

Protection of children from conflict

(2) A party to a proceeding under this Part shall, to the best of the party's ability, protect any child from conflict arising from the proceeding.

Discussion/Reasons and Order

[115] I have reviewed the evidence in this trial considering the law stated above which relates to the main issue in this matter which is M.'s best interest. When doing so I find that Ms. G. is by far the parent that meets her son's needs and will be granted the decision-making authority for M. I find the evidence supports that she is the parent that meets the best interest criteria in particular sections 24(3) a, b, c, d, h, i and l of the *Children's Law Reform Act*.

[116] The trial evidence revealed that Mr. V. has approached his parenting of M. as a competition with Ms. G. and used his son in the process.

[117] He stated directly that he feels entitled to an order of decision-making and in particular points to the tabletop documents from 2018 filed in this trial and his care for his son.

[118] When it comes to the best interest of a child, such parenting documents/separation agreements are not binding on this court when considering a child's best interest. Without evaluating how the two documents filed, exhibits 3 and 7 came to be drafted or how voluntary each parent signed them and what each understood the document to represent, at best such documents give the court some idea what the parties at the time were thinking, nothing more, and do not bind my ability to assess, based on the whole of the trial evidence, their son's best interest today.

Courts are not bound by parenting terms in domestic contracts although they may give an indication about parental intentions at the time they were entered into. See: *C. (M.A.) v. K.(M.)*, 2009 ONCJ 18; *Libbus v. Libbus*, 2008 CanLII 53970 (ONSC). They can also be reflective of the status quo – an important best interests consideration. See: *B.C.J.B. v. E.-R.R.R.*, 2020 ONCJ 438.

The court has to no jurisdiction to vary a separation agreement about custody. However, under section 56 of the *Family Law Act*, it can disregard any provision in the agreement and make an order, if it is in the child's best interests. *Paulo v. Yousif* 2011 ONCJ 841.

From: *P.D. v. M.C.*, 2020 ONCJ 323:

14 A separation agreement does not have the effect of an order and no material change is required. The court has no authority to vary a separation agreement about custody but can under the Family Law Act disregard any provision in an agreement and make an order if it is in the best interests of the children.

15 The court must consider first and foremost the best interests of children, while being mindful of the importance of parents' autonomy in making their own arrangements to resolve their parenting issues. *Blois v. Gleason*, 2009 CanLII 23109 (ON S.C.).

Section 56 of the *Family Law Act* will not apply unless the agreement qualifies as a domestic contract. See: *B.C.J.B. v. E.-R.R.R.*, 2020 ONCJ 438.

[119] Mr. V.'s three witnesses did testify and the OCL report did show that Mr. V. has provided the necessities and more for M. given Mr. V.'s limited resources. This is not in doubt.

[120] He has provided a clean and safe home, prepared meals and cared for M. both at home and in the community, as has Ms. G.

[121] The significant difference between the parents is their care for their son's emotional and psychological well-being within the context of this separation over the years and this litigation.

[122] Ms. G. has I find the emotional character that meets her son's needs and is not drawn in struggles with Mr. V. when it comes to addressing her son's requirements. An example of this is found in an exchange of text messages filed at trial. Mr. V. was questioning Ms. G.'s choice of friends visiting her and her son, referring to them as monkeys telling Ms. G. to shower before she shares a shower with their son ... "I don't want deseasss (sp) where M. showers." Exhibit 4

[123] In another text Mr. V. insults Ms. G.'s body and tells her to wash her laundry and their son's clothes otherwise he will throw out his son's clothes. Exhibit 5. In reply, Ms. G. focuses on providing information to Mr. V. about their son's progress at school and his individual educational plan (IEP) rather than being drawn into Mr. V.'s racist and controlling behaviour.

[124] Ms. G. was the parent that undertook to arrange for and pay for a psycho-educational assessment of their son that provided information to permit M. to receive a modified educational program at his school to allow him to succeed.

Best interests

The list of best interests considerations in the *Act* is not exhaustive. See: *White v. Kozun*, 2021 ONSC 41; *Pereira v. Ramos*, 2021 ONSC 1736. It is also not a checklist to be tabulated with the highest score winning. Rather, it calls for the court to take a

holistic look at the child, his or her needs and the persons around the child. See: *Phillips v. Phillips*, 2021 ONSC 2480.

An assessment of the best interests of the child must take into account all of the relevant circumstances with respect to the needs of the child and the ability of each parent to meet those needs. See: *Mokhov v. Ratayeva*, 2021 ONSC 5454 (SCJ).

The court must ascertain a child's best interests from the perspective of the child rather than that of the parents. See: *Gordon v. Goertz*, 1996 CanLII 191 (SCC). Adult preferences or "rights" do not form part of the analysis except insofar as they are relevant to the determination of the best interests of the child. See: *Young v. Young* 1993 CanLII 34 (SCC); *E.M.B. v. M.F.B.*, 2021 ONSC 4264; *Dayboll v. Binag*, 2022 ONSC 6510.

In *S.S. v R.S.*, 2021 ONSC 2137, at paragraphs 26 to 28, Justice Renu Mandhane states "[a] human rights-based approach to the amended *Divorce Act* calls on the Courts to recognize, respect and reflect each child as an individual distinct from their parents, and to empower children to be actors in their own destiny. In practice it requires judges to probe into each child's lived experience, to meaningfully consider their views and preferences, and to craft an order that promotes that child's best interests and overall wellbeing."

A party's failure to protect a child from conflict may be an important consideration in granting primary residence or decision-making responsibility to the other parent. See: *Dayboll v. Binag*, 2022 ONSC 6510.

[125] I also find that the facts in this matter and the law below does not support an order for Joint Decision making between the parents. Such an order would require mutual respect and I find that Mr. V. shows contempt of Ms. G. and her role as a parent to their son. Evidence at trial shows that Mr. V. has degraded her in text messages to her and on social media posts available to others. He interrogates his son constantly about how he is cared for by Ms. G. and openly uses racist comments and the N word when referring to her friends both to Ms. G. and when talking to his son about Ms. G.'s friends.

Joint decision-making responsibility

The Ontario Court of Appeal in *Kaplanis v. Kaplanis* 2005 CanLII 1625 (ON CA), [2005] O.J. No. 275 sets out the following principles in determining whether a joint decision-making responsibility order (formerly a joint custody order) is appropriate:

1. There must be evidence of historical communication between the parents and appropriate communication between them.
2. It can't be ordered in the hope that it will improve their communication.
3. Just because both parents are fit does not mean that joint custody should be ordered.

4. The fact that one parent professes an inability to communicate does not preclude an order for joint custody.
5. No matter how detailed the custody order there will always be gaps and unexpected situations, and when they arise, they must be able to be addressed on an ongoing basis.
6. The younger the child, the more important communication is.

Mutual trust and respect are basic elements for a joint decision-making responsibility order to work effectively. See: *G.T.C. v. S.M.G.*, 2020 ONCJ 511; *T.P. v. A.E.*, 2021 ONSC 6022; *Shokoufimgiman v. Bozorgi*, 2022 ONSC 5057; *Jacobs and Coulombe v. Blair and Amyotte*, 2022 ONSC 3159.

Courts will order joint custody rather than sole custody where such an order is considered necessary to preserve the balance of power between the parties, particularly in cases where both parties are caring and competent parents but one party has been primarily responsible for the conflict between the parties. See: *Roloson v. Clyde*, 2017 ONSC 3642, par. 59 for a review of these cases.

Ultimately, the court must determine if a joint decision-making responsibility order, or an order allocating any decision-making responsibility between the parties, is in the children's best interests. The court also has the option, if it is in the children's best interests, to leave some or all aspects of decision-making responsibility silent. See: *M. v. F.*, 2015 ONCA 277.

[126] I further find the following actions of Mr. V. that excludes him as the parent that can meet his son's interests and as well, I also find requires an order shielding M. from this poor parenting.

[127] Mr. V. has openly put his son front and centre as his mouthpiece in this litigation and in so doing has compromised his son's emotional welfare. His actions I find have a pattern and have been controlling and coercive.

[128] This I find is a form of family violence captured in the amended *Children's Law Reform Act* legislation and something that Mr. V. could not understand when confronted with at trial. See section 24(4) of the *Children's Law Reform Act*...

- (b) whether there is a pattern of coercive and controlling behaviour in relation to a family member.
- (c) whether the family violence is directed toward the child or whether the child is directly or indirectly exposed to the family violence.
- (d) the physical, emotional, and psychological harm or risk of harm to the child.

[129] Mr. V. called three witnesses who testified about what M. said to them. I don't doubt that indeed they heard the child tell them that he did not want any changes to the parenting schedule. I do not believe they were lying about what they were told, however,

I do believe their friendship with Mr. V. clouded their better judgment in allowing themselves to be used by Mr. V. in his manipulation of his son.

[130] Two of these witnesses, Ms. A.P. and Mr. D.M., gave somewhat of the same version of the child's statement and each noted that Mr. V. was not immediately present, although at home when M. spoke to them.

[131] Mr. M.P. stated that M. spoke of his wishes when prompted to do so in questioning by his father. This statement was not corrected by Mr. V.

[132] Mr. V. when testifying and in submissions repeatedly did not miss an opportunity to tell the court that if the parenting schedule were to be changed that his son would be calling the police to pick him up. This he said his son wrote to me in a letter and that his son has told his maternal grandmother and others. Mr. V. warned the court that this was certain to happen.

[133] In addition to the above blunt use of his son in this litigation, Mr. V. continued to do so around issues of care between each home and on the issue of international travel as follows:

- Mr. V. entered into evidence what he described as a "food chart" in his handwriting. It covered a time period from August 2022 to March 2023. He stated that his family doctor recommended he keeps these notes regarding what he feeds his son and what his son eats while at his mother's.
- When questioned about how this document came to be, Mr. V. testified that he routinely asked his son about what he eats at his mother's either over the phone when he calls him while at his mother's or when his son is back with him.
- Mr. V. denied that he interrogates his son but rather this information comes out, as he claims, naturally during their ... "Dad and M. chats" that he has with his son regularly each week.

[134] With regards to his son's potential visits to Croatia with his mother to visit his grandparents, Mr. V. dramatically testified as follows:

- That he fears Ms. G.'s parents want to remove and keep his son in Croatia if Ms. G. is permitted to travel there with their son.
- In relation to this issue, Mr. V. recalled dramatically that about 9 months ago he had a talk with his son at the Catholic Church that he had attended traditionally in the Streetsville area of the GTA. He recalled it was a Saturday and that while they were both in the church kneeling in the pews that he spoke with his son about whether he actually wanted to visit Croatia with his grandparents and that he should wait until he is older.
- Mr. V. did not regard this conversation in this religious setting to be unusual or dramatic for his son as Mr. V. stated he usually has such son and dad time talks.

- Mr. V. denied that in doing so that he is treating his son as an equal and noted that as his son is now 12, he is aware of so much more.

[135] I heard from Ms. G. that Mr. V. often calls and repeatedly questions their son when he is in her care. She testified that M.'s face changes from being light and carefree to being stressed and that this has been going on for years.

[136] The OCL report speaks of this as well as I have noted above:

- M.'s presentation was "flat" in his appearance when Mr. Reid met M. at Mr. V.'s home.
- This was in stark contrast to how Mr. Reid remembers M. being at his mom's when they met, which was a child that was outgoing, effervescent, happy and light in manner.
- M. seemed guarded at his dad's and... "was not the same robust happy child." ... this as a stark contrast between each parent's home.

[137] I also heard of the child M. informing the OCL that his father had told him what to say about the parenting schedule. The OCL noted that M. exhibited stress about his father's intrusive behaviour in questioning him about his activities while at his mother's and what friends she associated with.

Commented [SAJ(1):

[138] Between what Mr. V. reported his son to say and wishes and that as reported by the OCL, I find that the OCL version of what M. said to be credible and meets the test set out in *R. v. Bradshaw*, 2017 SCC 35 which permits me to make this finding. I accept the OCL's account of the child's out of court statements as there is sufficient circumstantial and evidentiary guarantees to accept them into evidence.

See also child statements made to society workers met threshold reliability in *Children's Aid Society of Toronto v. G.S.*, 2018 ONCJ 124. The court wrote as follows:

29 In terms of procedural reliability, the court finds that the society workers' accounts of their conversations with the child were recorded accurately. Both workers are experienced and have received training in interviewing children. The workers had a duty to accurately record their interviews with the child. They both recorded their notes within 24 hours of the interviews with the child and were confident that their recordings were substantially accurate. They made these notes pursuant to their professional responsibilities. The FSW testified that he would write down simultaneously any quotes attributed to the child and then transcribe them into the society's computer system within 24 hours. Neither worker had any motive to record the notes inaccurately.

30 The workers are very familiar with the child and were able to assess her demeanour. They both described the child as open and comfortable with them.⁹ They both testified that she spontaneously made statements about her relationship with the father, without prompting, and willingly provided them with information about her life. She would answer their questions without hesitation and provided detailed and coherent answers.

31 Both workers testified that they did not lead the child to make her statements and both were confident that her statements were made voluntarily. The FSW sets out that he recorded the

questions he asked the child and gave examples to the court. The CSW described her discussions with the child as conversational.

[139] Mr. Reid, the OCL clinical investigator, has no distinct interest in the matter.

- Mr. Reid testified at the trial and was questioned by both parties and the Court as a court's witness. I find Mr. Reid provided evidence in a credible and direct manner.
- He presented his evidence in a fair and balanced fashion.
- When questioned by Mr. V. he conceded issues regarding frailties in the OCL investigation process and noted Mr. V.'s objection to the 112 Report by bringing to the court's attention Mr. V.'s written objection which was filed at the trial, something Mr. V. did not enter himself. Mr. Reid's credibility was not shaken by Mr. V.'s questioning.
- Mr. Reid noted that he received forensic training in interviewing children and has done this work for 20 years with the OCL and 10 years before this in general social work. He has a Master's Degree in social work and is a registered social worker in Ontario in good standing.
- He kept notes of his interviews with the child M. whom he described as being thoughtful and emotional in his several interviews and that M. expressed love for both his parents, but also stressed regarding his father's actions and statements at times.
- Mr. Reid asked M. open-ended questions, recorded these and M.'s responses immediately or during sessions.
- He kept notes and had these available at trial and referred to these as required to refresh his memory and answer as accurately as possible when asked to do so.
- He held more interviews with M. than is usual and held several at the child's school, in a neutral setting, given M.'s statements that he was being influenced by his father to lie to the OCL. He also held interviews with the child at both parent's homes and had that context and contrast to be able to evaluate the child's responses and emotions when interviewed.

[140] I find Mr. V. manipulated his son into making statements to many people and has put his interests before his son in this matter. I do not find in assessing Mr. V.'s evidence and that of two of his witnesses, that any of the evidentiary safeguards exists in the way that Mr. V. introduced what he suggests is his son's statements to allow me to accept Mr. V.'s evidence in this regard. Indeed, Mr. A.P., a witness for Mr. V., testified that Mr. V. had M. tell him what he wanted while Mr. V. questioned his son and Mr. A.P.'s evidence was not questioned after it was given. I therefore do not accept Mr. V.'s evidence as to what his son has said and if said I find is being influenced and coerced by Mr. V. into saying.

Where a parent has unduly influenced or poisoned the views and wishes of a child the court is entitled to give them little or no weight. See: *A.M. v. C.H.*, 2019 ONCA 764. In *J.N. v. C.G.*, 2023 ONCA 77, the court wrote at par: 34:

Guidance on how to properly treat a child's views and preferences can be found in *K.K. v. M.M.*, 2021 ONSC 3975. In that case, the court held, at paras. 748-749, that, while the OCL indicated that the 11-year-old child had not been "coached," they were simply repeating what a parent had told them, meaning their views were not independently formed. Accordingly, the child's views were given no weight.

[141] When speaking about M., Ms. G. put her son's happiness first wanting to see him succeed at what he loves at his own pace. She recognizes his needs and struggles given who he is.

[142] Mr. V. in contrast has been prepared to use his son as an instrument in his struggle with Ms. G.

[143] I find that Mr. V. has done so intentionally rather than being misguided, as he refused when questioned in this trial to act as a parent if his son were to call the police as he suggested. When asked what he would do as a parent he declined to guide his son in any other course of action other than the one that he, Mr. V., has set in motion claiming his son knows better, his son is a genius and at 12 years of age can decide what he wants and that he, the father, will respect this and that is what he came to court to defend and he told his son as much.

The OCL noted that:

Mr. V. may continue to fixate and believe that he is not engaging in any behaviour that cause harm to M.

Mr. V. believes that his conduct as a parent is well within his rights, and that he is being a dutiful parent. It is unfortunate that this view will continue to negatively impact his relationship with his son and may ultimately lead to a complete loss in the relationship with his son. It is hoped that this will not come to pass, as clearly his love for M. is strong, as corroborated by various individuals, including family members, who despite their less-than-kind view of Mr. V., acknowledge his parenting of his son M., particularly when he was younger.

[144] In addition to the above evidence, I find that Mr. V.'s racist and misogynist statements found in texts and emails to Ms. G. further disqualifies him as the parent who can address his son's interests in decision-making and helping M. map out his future as a child and young adolescent in a few years to come.

[145] This brings me to what M.'s parenting time should be with his father. I say M.'s time as it is the right of the child to have this time if it can be done in a safe manner, both physically and emotionally safe for the child.

[146] My main concern is how Mr. V. has manipulated his son and how adamant Mr. V. has been in this trial about what his son will do if the current schedule is changed in

addition to exposing his son to racist anti-black statements, denunciations of Ms. G. and questioning his son continuously.

[147] All reports indicate that Mr. V. can provide for his son and that M. enjoys the activities and care that is loving from his father. The serious concern that I have is Mr. V.'s inability to meet his son's emotional needs, if Mr. V. continues, as he has, to involve his son in his campaign against Ms. G.

Parenting Time

A starting point to assess a child's best interests when making a parenting order is to ensure that the child will be physically and emotionally safe. It is also in a child's best interests when making a parenting time order that his or her caregiver be physically and emotionally safe. See: *I.A. v. M.Z.*, [2016 ONCJ 615](#); *J.N. v. A.S.*, [2020 ONSC 5292](#); *A.L.M. v. V.L.S.*, [2020 ONCJ 502](#); *M.R.-J. v. K.J.*, [2020 ONCJ 305](#); *Abbas v. Downey*, [2020 ONCJ 283](#); *N.D. v. R.K.*, [2020 ONCJ 266](#).

The best interests of the child have been found to be met by having a loving relationship with both parents and that such a relationship should be interfered with only in demonstrated circumstances of danger to the child's physical or mental well-being. Moreover, the child has a right to have contact with both parents. See: *Klymenko v. Klymenko*, [2020 ONSC 5451](#).

The party who seeks to reduce normal access will usually be required to provide a justification for taking such a position. The greater the restriction sought, the more important it becomes to justify that restriction. See: *M.A. v. J.D.* [2003 CanLII 52807 \(ON C.J.\)](#), [2003] O.J. No. 2946 (OCJ); *Dayboll v. Biyag*, [2022 ONSC 6510](#)

[148] At the very least there needs to be a cooling-off period or time from the trial and statements made by Mr. V. at trial as to what his son might do depending on the court order.

[149] Mr. V. needs to reflect on his past actions and parenting of his son and stop involving his son in adult matters. Be the father that he can, show his son love and understanding. Continue to provide for him both with his daily care, meals, his education and importantly his emotional wellbeing by keeping things light in discussions and stop completely questioning his son.

[150] As such there is set out below a new parenting schedule that changes the status quo. It will begin with one month of only video /Tel parenting time 3 times a week for 15 minutes that the parties will arrange, and Ms. G. may overhear to supervise.

[151] This will then follow with day visits, then every other weekend one overnight and graduate to 2 overnights.

[152] My order falls short of supervised parenting time which I considered. Parenting time for Mr. V. and his son will be staged in and depends on how Mr. V. takes in hand the court's concerns to avoid absolutely involving his son in adult issues as I have outlined in this decision. If this does not happen this order will be changed with Ms. G. being given

the ability to file, with notice, a 14B motion and affidavit(s) to my attention between now and June 1, 2024.

[153] I also order that Mr. V. within the next two weeks approach Peel Children's Aid Society and provide a copy of this decision and Order to a CAS worker in order that Peel CAS may provide direction to Mr. V. to enroll in 2 programs as follows:

- a) First to enroll and complete a counselling course that has at its core subject how children's emotional welfare is harmed/damaged by using them in domestic differences.
- b) Second, a program that has as its core subject the harm of anti-black racist comments and beliefs.

[154] Ms. G. is at liberty to provide this decision as well to Peel CAS to ensure it is with them if contacted by them after Mr. V. approaches them or independent of what he does.

Child Support Arrears and Ongoing

[155] Given my decision above, Mr. V. would owe ongoing monthly child support to Ms. G. for their son.

[156] This based on Mr. V.'s 2022 income of \$21,086.00, would make his monthly child support payment to be \$169.00 for one child on the *Child Support Guidelines*.

[157] An order to this effect will be made commencing July 1, 2023. A Support Deduction Order will issue with an annual disclosure clause.

Arrears in Child Support

[158] As for the claim for arrears made by Mr. V., I find the parties had a shared parenting arrangement and as such he has made out this claim dating to the time of effective notice within this litigation with disclosure from both parties effective July 2019 to April 1, 2023.

[159] Considering this and the parties' parenting regime and respective incomes, the support would be calculated as a set-off in Mr. V.'s favour with no special cost associated by either party in exercising this shared parenting regime. The calculation is as follows:

[160] First, I have considered the argument that any RRSP withdrawals made by Ms. G. for the years 2021 and 2022 should be excluded from her line 150 income. This I accept as it was not her practice to do so each year as a pattern on her income and this is non-recurring income. I find it was done to sustain this litigation as she is not eligible for Legal Aid given her income. See *Ludmer v. Ludmer*, 2014 ONCA 827 Can LII.

[161] Therefore, based on the disclosed annual incomes of the parties and the mathematical set-off, Ms. G. owes Mr. V. net support amounts of child support as follows:

$$2019 - 6 \text{ months} \times \$487 = \$2,922.00$$

2020 - 12 months x \$418.00 = \$5,016.00

2021 - 12 months x \$254 = \$3,048.00

2022 - 12 months x \$415 = \$4,980.00

2023 - 5 months x \$415 = \$2,075.00

[162] Therefore, Ms. G. owes Mr. V. a total gross arrears in child support of \$18,041.00.

[163] At this stage I have subtracted from this total the payments made by Ms. G. to Mr. V., Exhibit 2 in this trial, which was 12 payments at \$180.00 = \$2,160.00 making the net amount owed by Ms. G. to Mr. V. to be \$15,881.00.

[164] As for how this amount, \$15,881.00, will be satisfied, I will need to consider the issue of costs which needs to be finalized between the parties in this trial given my order. As such, depending on a cost decision how, or if, this money will be paid will await the outcome of submissions from each party on costs and my cost decision. See below regarding submissions on costs.

Order

1. Ms. G. shall have decision-making authority for the child M.V. born 18/02/2011 and this will apply to the child's health, education, religious upbringing and general welfare.
2. The child M.V.'s primary residence shall be with the applicant Ms. G. in the Peel region.
3. Ms. G. may arrange international travel for the child M.V. 18/02/2011 and as well renew or apply for this child's Canadian passport or other Canadian or Ontario government documents that the child may require all without the need to obtain the consent of Mr. V. Ms. G. will advise Mr. V. via email of any such international travel.
4. In the event of an emergency involving the child, the parent who has care of the child shall provide the other with details of the nature of the emergency and the location where the child is. If the child is in hospital the parent who does not have the child in his or her care shall have the right to see the child.
5. Both parties shall have the same right to communicate directly with any service providers who provide service to the child such as the child's school and doctor. Mr. V. must exercise this right in a reasonable manner and if not this will be restricted by this court if required.
6. Mr. V. shall within the next two weeks approach Peel Children's Aid Society and provide a copy of this decision and Order to a CAS worker in order that Peel CAS may provide direction to Mr. V. to enroll in 2 programs as follows:

- a) First to enroll and complete a counselling course that has at its core subject how children's emotional welfare is harmed/damaged by using them in domestic differences.
 - b) Second, a program that has as its core subject the harm of anti-black racist comments and beliefs.
7. Ms. G. is at liberty to provide this decision as well to Peel CAS to ensure Peel CAS understands the context of this matter after Mr. V. approaches them or independent of what he does.
8. Mr. V. and the child M.V. shall have parenting time as follows:
- a) From June 14, 2023, to July 15, 2023, telephone or video calls of 20 minutes three times a week with the dates and times to be set by Ms. G. and provided to Mr. V. via text. Ms. G. may monitor these calls or video chats.
 - b) During any Parenting Time as set out in this order Mr. V. will not discuss or have conversations with his son about this litigation or question his son in a manner that is intended to solicit information about his care while with Ms. G. or her personal life.
 - c) Commencing the week of July 17, 2023, once a week-day parenting time on either a Saturday or Sunday to be set by Ms. G. from 10:00 a.m. to 7:00 p.m. The specific day of the week will be provided to Mr. V. by text.
 - d) When school commences in September for M., Mr. V. shall not attend the child's school in an attempt to visit or exercise parenting time with his son other than the pick-up set out below in this order and to attend parent-teacher interviews or events for all parents at his son's school.
 - e) Commencing September 16/17, 2023, one overnight visit, every other weekend, from 10:00 a.m. Saturday to 6:30 p.m. return Sunday. The exchange location shall be established by Ms. G.
 - f) On the week that there is no overnight visit there shall be an evening visit from after school pick-up by Mr. V. and return no later than 6:30 p.m. Ms. G. will arrange the best day of the week for this and inform Mr. V.
 - g) The exchange location shall be established by Ms. G.
 - h) Commencing Friday, January 5th to January 7th, 2024, two (2) overnight visits every other weekend from after school at 4:00 p.m. or a location of Ms. G.'s choosing to return Sunday at 6:30 p.m.
 - i) On the week that there is no overnight visit there shall be an evening visit from after school pick-up by Mr. V. and return no later than 6:30 p.m. Ms. G. will arrange the best weekday and inform Mr. V.
9. Holiday Schedule:

- a) Christmas 2023 - M.V. will spend December 23rd and 24th until 7:00 p.m. with Mr. V. and M.V. will spend Christmas Day and Boxing Day with his mother. Other times may be arranged at Ms. G.'s discretion and confirmed in an email/text exchange.
- b) School March Break 2024 shall be with Ms. G. unless Ms. G. decides otherwise and at her discretion to arrange time with Mr. V. In subsequent years, March Break may either rotate or be shared with Ms. G. having the discretion to arrange this with Mr. V.
- c) For Mother's Day and Father's Day, if M. is not otherwise with the respective parent on this day, M. will spend the day from 10:00 a.m. to 6:30 p.m. return with that parent.
- d) Summer Vacation:
 - In 2023 Mr. V. and his son will not have any specific summer vacation time. The regular graduated schedule set out above will apply.
 - In 2023 and subsequent years Ms. G. should advise Mr. V. at least 30 days in advance if she wishes to take up to 14 days uninterrupted vacation days with her son.
 - In 2024 Ms. G. will discuss with Mr. V. a summer time vacation period for M. with his father which will depend on how well the above parenting time is meeting M.'s needs and welfare.

General Terms of Communication

1. The parties shall abide by these principles in their relationship with each other and their contact with the child:
 - a. They shall refrain absolutely from denigrating each other or members of each other's household or families in the presence or within earshot, of the child;
 - b. They shall not question the child about the other party's personal life and activities;
 - c. They shall not video or audio record the child for the purpose of recording statements or discussions about the other party, members of their household or family, or other parenting issues;
 - d. They shall refrain absolutely from engaging in any disputes with each other in the presence or within earshot of the child and from involving the child in any manner in conflicts which may arise between the parties;

- e. They shall not use the child to pass messages or documentation on to each other;
- f. They shall encourage the child to have a strong and positive relationship with both parents and shall use all reasonable efforts to foster a meaningful relationship between the child and the other parent;
- g. Neither party shall discuss with the child, or with another party in the presence of the child, present or past legal proceedings or issues between the parties related to the present or past legal proceedings, including any financial issues relating to the parties or the child, or regarding conflict between the parties relating to parenting issues;
- h. The parties shall communicate about the child by email and/or text. Each party will respond promptly by return email or text to the email or text of the other;
- i. Emails/texts shall be brief, respectful, related solely to the child, with no reference to either of the parties or their activities. The party shall not email/text each other excessively;
- j. If one party requests information or a temporary change by email/text, the other party shall respond within 48 hours. Requests made giving less than 48 hours' notice shall be responded to as soon as possible. In the event of an emergency or truly time sensitive matter, the parties shall call each other. If a reply requires more time than 48 hours, and email/text shall be sent advising that the reply cannot be reasonably given within this time period and advising when the response can be expected;
- k. Any discussions between the parties at transition times, activities or other special events where the child is present or nearby shall be limited to brief and cordial interchanges. If one party considers that the discussion is not courteous, he or she shall simply say "I no longer wish to discuss this," and upon one party saying so, both shall immediately discontinue the conversation and shall take up the issue later by email/text.

Monthly Child Support

1. Commencing July 1, 2023, Mr. V. shall pay monthly child support to Ms. G. in the amount of \$169.00 per month for one child M.V. born 18/02/2011 based on Mr. V.'s income of \$21,086.00.
2. A Support Deduction Order shall issue.

Arrears in Child Support

1. Provisionally, Ms. G. owes Mr. V. a total arrears in child support of \$15,881.00.
2. As for how this \$15,881.00 will be satisfied will depend on the resolution of the issue of costs from this trial as set out below.

Costs

1. By July 15, 2023, Ms. G. shall serve and file to my attention via a 14B 3-page max submission on costs attaching a Bill of Costs and any Offer to Settle made regarding this trial.
2. By August 15, 2023, Mr. V. shall serve and file to my attention via a 14B 3-page max submission on costs attaching a Bill of Costs and any Offer to Settle made regarding this trial.

Court to monitor the compliance of this order for 12 months :

Ms. G has leave of the court up to June 1, 2024, to serve and file a 14- b motion to be brought to my attention as per Rule 1(8) with affidavit evidence to support a change to the parenting time as set out in this order or collateral issues re parenting, if not meeting M. interests or not being complied with by Mr. V . Any issue after June 1/ 24 will need to proceed via a motion to change or Application as the case may be.

Released: June 14, 2023

Signed: Justice A.W.J. Sullivan