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Family Law Update

May 2008 - No. 23

ISSN 1916-3924

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1. Defining 40% Time-Sharing: C.A.

In *Mehling v. Mehling*, 2008 MBCA 66 (CanLII), the court addressed the question of what constitutes 40% of time-sharing as referred to in s. 9 of the *Manitoba Child Support Guidelines Regulation*. The court rejected a rigid approach to the assessment, stating that:

> The approach must remain flexible to enable the judge to take into account the varied circumstances of different families. By doing so, the assessment will be more realistic, and more holistic, than a strict mathematical calculation of the time with each parent. In my view, this is in keeping with the equitable goals of s. 9.
>
> When more is required than just an assessment of the time, I am of the view that any number of factors may be appropriate for consideration by the judge. Again, it is a matter of discretion how the judge approaches the analysis given the particular circumstances of the case. Having said that, what the judge must do is explain the approach used and the factors considered. As long as the approach is reasonable in the circumstances and the judge has not significantly misapprehended the evidence, the judge's decision will be entitled to deference.

The court went on to enumerate (in paragraphs 45-46) a non-exhaustive list of the factors to consider in making such an assessment.

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2. 45 Days Custody for Unpurged Contempt: Q.B.

The court in *Rogers v. Rogers*, 2008 MBQB 131 (CanLII) ordered a sentence of 45 days in custody, suspended for 3 years for the unpurged contempt of the primary caregiver parent in a case described by the court as follows:

> The evidence overwhelmingly demonstrates that the relationship these two young children were to have had with their father under the terms of that order has gone utterly unsupported by their mother on any standard by which goodwill, or bona fides might be measured. Worse than that, their time with Mr. Rogers has been manipulated, obstructed, and undermined, and with that the terms of an order of this court contemptuously thwarted.

The lengthy decision contains a detailed summary of the facts leading up to the finding of contempt as well as a thorough review of the factors the court must consider in determining sentence in cases of contempt.

3. Declarations of Non-Parentage: ON S.C.

The May 12, 2008 issue of *Law Times* contained the article *Parents, parents . . . and more parents?* by Marta Siemiarczuk and provided some background and commentary to the recent Ontario Supreme Court decision in *M.D. v. L.L.*, 2008 CanLII 9374 (ON S.C.) where that court was asked to make declarations of non-parentage regarding the woman who carried the child as a surrogate and her spouse. Neither was the biological parent of the child and both consented to the order.

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4. Gorging at the Court's Banquet Table: ON S.C.

And, finally, following are some comments from the Ontario Supreme Court in the recent decision *Geremia v. Harb*, 2008 CanLII 19764 (ON S.C.) whereby both parties (parents) were declared to be vexatious litigants:

> Some day, a wise person in a position of authority will realize that a court of law is not the best forum for deciding custody and access disputes, where principles of common sense masquerade as principles of law. Implementing the best-interests-of-the-child precept requires objectivity, not a legal education. Although the parties here have been engaged in numerous legal proceedings over the past seven years, all flow from persistent problems with access….The parties have gorged on court resources as if the legal system were their private banquet table. It must not happen again....Both sides have shown an inability to abide by court orders such that their access to this court should be restricted by the requirement to obtain leave. By requiring leave, I do not think that I am impermissibly fettering access to the courts by either party. If they have a case with merit, I expect that leave will be granted and justice will be done.

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