DV-512/21

Courts of Justice Act

FACTUM FOR DIVISIONAL COURT

BETWEEN

DEIRDRE MOORE — *Appellant (wife & mother)*

and

JONATHAN KISKA — *Respondent (husband & father)*

FACTUM OF THE APPELLANT

NOTICE OF MOTION SEEKING LEAVE TO APPEAL

PART I – OVERVIEW

1. The Appellant, Deirdre Moore ("Moore") is entering her EIGHTH year ***attempting*** to divorce her abusive spouse, Respondent Jonathan Kiska ("Kiska").
2. However, Kiska appears to have plugged into a white-collar, blue-collar, thug-collar crime ring which has prevented this; driving Moore into poverty and accomplishing the 100% parental alienation from her two teens that he so desired in order to punish Moore to the maximum amount possible.
3. Moore is seeking leave to appeal the three of the four judgments of Justice Pamela MacEachern dated June 9, 2021 (the "Judgements"), specifically:
    a) [the] family matter continues to be stayed pursuant to the orders of Justices Engelking and Audet,
    b) Once the appeal of Justice Fraser's decision has been determined, and there is no further appeal, this matter shall be returned before me on a case management conference to determine next steps to move all outstanding issues to a final resolution,
    c) Costs of the February 25, 2021 motion and [Moore's] May 3, 2021 Form 14B motion reserved to the trial judge.
4. The judgments were made **despite** the fact that:
    a) the family matter was not stayed by Justices Engelking and Audet.
    b) the judge was without jurisdiction as she failed to recuse herself upon request despite the obvious bias that she held against Moore,
    c) there was no Form 14B motion heard as the judge refused to schedule one and instead forced a bizarre "Case Management Conference" which prevented Moore from filing a commissioned Affidavit with evidence and

d) the urgency of Moore's situation and obviousness of Kiska's fraud was well articulated both in writing and verbally.

5. If Moore is granted leave to appeal, she will appeal on the grounds that Justice MacEachern:

a) erred in considering submissions, making findings of fact that did not reflect the degree of cruelty and legal warfare being employed by Kiska and proceeding to issue judgments that were heavily biased against Moore, incorrect and/or illegal,

b) erred in proceeding to make judgments despite being asked to recuse herself because she had broken the law by scheduling a civil matter to be heard in family court (violating S. 126 of the *Criminal Code* of Canada, Disobey a Statute) to Moore's demise during 2020,

c) erred in acknowledging that there was no Form 14B motion at all and that costs are to be awarded at each step in the proceeding and

d) erred in acknowledging her ongoing bias against Moore which, in turn, enabled prejudice against her in the "child protection" appeal.

PART II – THE FACTS

6. This case may be one of the worst cases of domestic-violence-without-the-bruises that Ontario's Superior Court of Justice ("SCJ") has ever seen: the gross negligence, incompetence and/or bias carried out by:

a) the Children's Aid Society of Ottawa (the "CAS"),

b) the Office of the Children's Lawyer (the "OCL"),

c) the Ottawa Police Service (the "OPS"),

d) Ottawa's Crown Attorney's Office (the "OCA") and

e) several SCJ judges

(collectively, the "Syndicate") in order to support emotionally, psychologically, psychiatrically and financially abusive Kiska to the utter demise of Moore—with irreparable harm to her children—is both scandalous and undeniable.

7. Setting aside the torts and crimes of the rest of the Syndicate for the time being, Kiska's lawyer's at Bell Baker LLP ("BellBaker") are equally as liable and guilty: the Rules of Civil Procedure contained within the *Courts of Justice Act* ("*CJA*") were mostly ignored by BellBaker, as were multiple civil laws and the *Criminal Code* of Canada: in other words, ***nothing*** that Kiska and BellBaker have done has been ***remotely*** legal.
8. Moore has been attempting to bring a Motion to Change the Interim Financial Support since the summer of 2019—all without success due to the blatant denial by Justice Audet (see Motion Record Tab 4 pages 6-8).
9. Following a gruelling year when Kiska leveraged the Syndicate to emotionally torture Moore by having her jailed for false allegations of criminal harassment, she was finally in a position to again seek leave to bring a motion to change the interim financial support in January 2021 (see Motion Record Tab 7, page 4).
10. Instead of obtaining leave, however, a bizarre "Case Management Conference" was scheduled by Justice MacEachern (see Motion Record Tab 7, page 2) who instructed that Conference Briefs were to be submitted.
11. Moore did her best to force her affidavit-styled content into the Conference Brief template and attached 26 tabs as "evidence" (see Motion Record Tab 5, pages 2-199).
12. Bell Baker submitted its Conference Brief (see Motion Record Tab 5, pages 221-300) which focused on attempting to coerce the court into forcing the registration of Kiska's 2018—fraudulently-obtained, below-poverty-level—court-ordered support of a mere $1,230/month (with a

50-50 sharing of children's expenses while Moore has been without income since 2017 due to severe, ongoing defamation regarding her mental health and wick allegations of criminal harassment) with the Financial Responsibility Office (the "FRO").

13. The Kiska-BellBaker strategy was simply another type of fraud that attempted to leverage the corruption within the SCJ and a weakness in FRO process in order to further crush Moore.

14. The fraud could not have been better articulated by Moore during the hearing (see Motion Record Tab 6 pages 45-46 where highlighted).

15. Justice MacEachern displayed ***severe*** bias against Moore in each 2019, 2020 and 2021 when she:

    a) ordered that Kiska receive all of her confidential medical files in FC-19-CP08,

    b) scheduled a civil matter to be heard in family court to Moore's demise (see Motion Record Tab 5 pages 202-207 and Tab 7 pages 39-44),

    c) during the Case Management Conference:

        i. refused to schedule a Motion to change Interim Financial Support, etc. falsely claiming ***all*** family matters were stayed when they were not,

        ii. refused to recuse herself on 20210225 (see Motion Record Tab 6 pages 36-37 where highlighted) and provided zero reasons for months and

        iii. refused to order any records for Moore even though Kiska provided consent.

16. As an aside, Justice Julie Audet also show repeated bias against Moore: other than the craziness that was the 2018 Motion for Interim Support (see Motion Record Tab 5 pages 260-262), she also maliciously scheduled a Summary Judgment for Kiska and the when Moore was held in remand (jailed, awaiting trial) following Kiska's false allegations of criminal harassment and had zero access to evidence, resources or any ability to retain legal counsel as she did not qualify for legal aid due to her co-ownership of the $1M+ matrimonial home.

PART III – QUESTIONS ON THE PROPOSED APPEAL

17. Moore submits that Justice MacEachern's decisions did not remotely uphold our judicial system.

18. If leave is granted, the Moore will ask the Divisional Court to consider the following questions:

a) Did Justice MacEachern err in fact when she stated at paragraph 6 that the "parenting and financial issues" were stayed when only the parenting and child support issues were stayed?

b) Did Justice MacEachern err in fact when she stated at paragraph 8 that Moore receiving support via e-transfer would have "compromised the existing restraining orders"?

c) Did Justice MacEachern err in law, fact and/or mixed law and fact when she failed to acknowledge Kiska's attempted fraud via the FRO and stated at paragraph 9 that there was "no urgency" to Moore's relief requested and denied "her leave to bring a motion to lift the stay"?

d) Did Justice MacEachern err in law when she refused to recuse herself even though Moore pointed out that she had broken the law in 2020 when she scheduled a civil matter to be heard in family court to Moore's further demise?

e) Did Justice MacEachern err in law when she ordered that the family matter be returned to her following the completion of the child protection appeal when she has now shown ***severe*** bias against Moore on four separate occasions?

PART IV – LAW AND SUBMISSIONS

The test for granting leave to appeal is well-settled

19. The test for granting Leave to Appeal under rule 62.02(4) is well-settled. It is recognized that leave should not be easily granted and the test to be met is a very strict one. There are two possible

branches upon which leave may be granted. Both branches involve a two-part test and, in each case, both aspects of the two-part test must be met before leave may be granted.

20. Under rule 62.02(4)(a), the moving party must establish that:

    a) there is a conflicting decision of another judge or court in Ontario or elsewhere (but not a lower level court), and

    b) that it is, in the opinion of the judge hearing the motion, "desirable that Leave to Appeal be granted.

21. A "conflicting decision" must be with respect to a matter of principle, not merely a situation in which a different result was reached in respect of particular facts

    Comtrade Petroleum Inc. v. 490300 Ontario Ltd., 1992 CanLII 7405 (ON SC)

22. Under rule 62.02(4)(b), the moving party must establish:

    a) that there is reason to doubt the correctness of the order in question and

    b) that the proposed appeal involves matters of such importance that Leave to Appeal should be granted.

23. It is not necessary that the judge granting leave be satisfied that the decision in question was actually wrong—that aspect of the test is satisfied if the judge granting leave finds that the correctness of the order is open to "very serious debate"

    Ash v. Lloyd's Corp., 1992 CanLII 7652 (ON SC)

24. In addition, the moving party must demonstrate matters of importance that go beyond the interests of the immediate parties and involve questions of general or public importance relevant to the development of the law and administration of justice

    Rankin v. McLeod, Young, Weir Ltd. et al., 1986 CanLII 2749 (ON SC)

Moore's submissions meet one or both tests for granting leave to appeal

25. There are conflicting decisions from other judges; namely:

    a) Audet's 20190729 endorsement (see Motion Record Tab 4 pages 6-8)

    b) Engelking's 20190809 endorsement (see Motion Record Tab 4 pages 9-11)

26. Not only that, on August 28, 2020 during assignment court Engelking implied that the family matter had not been stayed when Moore complained about Kiska's refusal to pay the court ordered support for months on end. She stated that I need to "take that up" with Justice MacEachern, implying that the entirety of the Family file was NOT stayed. (see Motion Record Tab 6 pages 30, lines 3-4)

27. Due to the ongoing fraud, the Ontario taxpayer has had to financially support Moore while Kiska resides with her two, fully gaslit teens (both motherless for 2 ½ years during a stressful pandemic when ***she*** was the stay-at-home parent from birth until school age and every summer until their unlawful 2019 apprehension) in their $1M+ matrimonial home, driving a Volvo wearing Hugo Boss. (see Fee Waiver Certificate with evidence in Motion Book Tab 7, page 47.)

28. Career criminals operating via the CAS have maliciously utilized the fact that Moore has no income—which should have been $7,500/month since 2017—as one of the reasons why she should be denied the right to love, protect and parent her children. (see Motion Record Tab 5 pages 236 paragraph 67)

29. Further exposing this Syndicate as the taxpayer-funded domestic violence and child abuse operation that it is during this appeal should be highly desirable by the court as, among other things, it has wasted a ***mind-blowing*** amount of court resources for six years, intentionally.

30. Moore submits that 62.02(4)(a) has been met: if the panel would like to review more evidence of how the Syndicate facilitates domestic violence, it is readily available upon request.

31. As previously stated, Justice MacEachern was incorrect in multiple ways:

a) Moore's family matter was not stayed: only the custody/access and child support aspects were stayed,

b) Moore's dire financial situation is urgent and

c) no Form 14B motion was ever heard!

32. Moore's attempts to divorce Kiska since 2013 have cost taxpayers millions of dollars as he leveraged the Syndicate: aside from these two appeals, Moore is currently seeking damages from Kiska and the Syndicate via:

a) a civil action due to his collusion with a crooked psychiatrist, Dr. Paule Kemgni who operates out of the Suroit Hospital in Salaberry-de-Valleyfield in the province of Quebec,

b) a civil action due to his participation in a 2019 Eviction Scam and theft of $500,000 worth of Moore's property—everything that she owned. (see Motion Record Tab 5 pages 39-44),

c) a civil action against OPS for enduring years of its negligent investigation, at a minimum and

d) a civil action against one of my former attorney's, Victor Vallance Blais LLP, who set Moore up for financial failure (see Motion Record Tab 5 pages 178-181).

33. Moore has already informed OPS that she intends to file an all-encompassing police complaint on the Syndicate by October 31, 2021 and copied the message to the Mayor and all City Councillors as they consider an increase to the OPS budget while crimes including, but not limited to, fraud, theft

over $5,000, defamatory libel, torture and conspiracy to prosecute, run rampant to the demise of loving mothers and their vulnerable children.

34. Is the Syndicate involved in human trafficking? It seems that ensuring a fresh flow of youth from broken homes would enable human traffickers to more easily convert our beautiful children into bodies for the sex-trade, addict and/or prison industries; so, the answer is, likely, **absolutely**.

35. Moore submits that this appeal will reveal to the court matters of great importance that go ***far beyond*** the interests of just herself and Kiska: both our laws and the administration of justice could be driven to change once this appeal is heard—especially given that which will also be revealed to the court during the child-protection appeal.

36. **Moore submits that 62.02(4)(b) has been met: if the panel would like to review more evidence of how the Syndicate facilitates child abuse, it is readily available upon request.**

RELIEF SOUGHT

37. In light of the foregoing, Moore respectfully request that this Court issue the following:

a) An Order that this motion be heard on November 8, 2021, or as soon as possible thereafter,

b) An Order granting Moore leave to appeal to the Divisional Court from judgments a), b) and d) of Justice MacEachern dated June 9, 2021,

c) An Order granting leave to file as fresh evidence:

i. the materials that were submitted for the February 25, 2021 "Case Management Conference" in proper commissioned affidavit format and

ii. the documents listed in the Notice of Motion as they will provide additional information to the court regarding the breadth and depth of the Syndicate and its utter burden upon many aspects of society

d) An Order granting such further and other relief as counsel may request and this Honourable Court deems just, including the stay of the judgments pending the appeal.

e) An Order for costs of this motion due to the severe Bad Faith of Kiska, BellBaker LLP and the rest of the Syndicate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 15th DAY OF OCTOBER, 2021.

October 15, 2021

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DEIRDRE MOORE and JONATHAN KISKA

Served on October 15, 2021

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT OSGOODE HALL

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