

Bell Baker LLP

Barristers & Solicitors / Avocats & Notaires

116 LISGAR STREET, SUITE 700, OTTAWA, ONTARIO K2P 0C2

Phone 613-237-3444

Fax 613-237-1413

Wade L. Smith

613-237-3448 ext. 324

wsmith@bellbaker.com

www.bellbaker.com

August 14, 2018

Delivered by Email Only

deirdre_cfa@icloud.com

Deirdre Moore

7 Vanson Avenue

Ottawa, Ontario

K2E 6A9

Dear Ms. Moore:

Re: Kiska and Moore

Please find enclosed the Applicant's Office of the Children's Lawyer Objection Statement served upon you pursuant to the *Family Law Rules*.

Yours truly,

BELL BAKER LLP



Wade L. Smith

WLS/lah

Encl.

c.c. Jonathan Kiska

James R. McNinch
Roger R. Mills
Wade L. Smith
Patricia A. Lawson
Matthew D. Frye

Geoffrey A. Howard
Helmut R. Brodmann
James D. Wilson
John E. Summers

Martin D. Owens
Cheryl L. Hess
James F. Leal
Mélanie H. Levesque
Damien P. Fannon

Counsel: Paul A. Webber, Q.C.,
John C. Clarke, Q.C. (Ret'd), David C. Thompson, Q.C. (Ret'd)

ONTARIO

Superior Court of Justice, Family Court

(Name of Court)

Court File Number

FC-15-2446-0

at **161 Elgin Street, Ottawa, Ontario K2P 2K1**

(Court office address)

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Jonathan William Kiska
1244 Lampman Cr
Ottawa, Ontario
K2C 1P8**

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Wade L. Smith
Bell Baker LLP
Barristers and Solicitors
700-116 Lisgar Street
Ottawa, Ontario K2P 0C2
Tel: (613) 237-3444
Fax: (613) 237-1413 Box#35
wsmith@bellbaker.com**

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

**Deirdre Moore
7 Vanson Avenue
Ottawa, Ontario
K2E 6A9
Tel: 613-261-3520**

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

deirdre_cfa@icloud.com

**APPLICANT'S OBJECTION STATEMENT TO
THE OFFICE OF THE CHILDREN'S LAWYER
REPORT OF JULY 18, 2018**

Applicant's Objection Statement

1. On January 26, 2018, the Honourable Justice Engelking requested the involvement of the Office of the Children's Lawyer (OCL) to provide such services as it deemed appropriate concerning parenting of the children in this matter, namely:
 - a. Sean Charles Kiska, born May 8, 2006 (presently 12 years old); and
 - b. Cate Stella Kiska, born November 30, 2007 (presently 10 years old).
2. On July 18, 2018, the Office of the Children's Lawyer Report of Katherine Bobula (hereinafter referred to as "the Report") was served and filed upon the parties and with this Honourable Court.
3. The Applicant does not dispute the majority of the material facts set out in the Report. The Applicant does, however, dispute the clinician's recommendation at paragraphs 1, namely that the Respondent have sole custody of the children of the marriage.
4. For the purposes of this statement, the Applicant will briefly outline the basis for his objection.

Respondent Mother's Mental Health


5. At the outset of the litigation, the Applicant sought sole custody. This was due to concerns regarding the Respondent's mental illness, the brief details of which are set out below (further details have been provided to this Honourable Court). The Applicant has tried to balance the safety and security of the children with the importance of their mother in their lives.
6. In early 2013, the Respondent began acting uncharacteristically. She insisted that the family take a vacation and unilaterally booked a trip for March 6, 2013. This, among other actions outside of the norm triggered an argument between the parties. In response, the Respondent became obsessed with writing a book entitled "How I Bullied the Bully out of My Husband". She further developed an idea to start a new not-for-profit mental health company that included websites, books and videos. She approached the children's teachers and Vice-Principal of their school with her elaborate ideas. They became concerned and contacted the Children's Aid Society.
7. On March 1, 2013, Yvonne Munro, a CAS worker, arrived at the parties' home to address the school's concerns. She recommended that the Respondent seek medical assistance.

8. On March 3, 2013, the Respondent was brought to The Ottawa Hospital to be assessed. The Psychiatry Consultation detailed the Respondent's bizarre behaviour. The Respondent remained under observation at The Ottawa Hospital for three days following assessment before being released and returning home.
9. Upon discharge, the Respondent's mental state continued to decline.
10. The Respondent remained at the Ottawa Hospital, Civic Campus, from April 16, 2013 until May 28, 2013. On the date of her admission, The Royal Ottawa Mental Health Centre issued a Letter of Concern, which stated that the Respondent was suffering from delusional beliefs that her husband and the government were going to "get her". The Respondent was also reported to have made statements that she and her children may be better off dead.
11. The Respondent was admitted under a Form 1, which allowed the hospital to hold the Respondent on an involuntary basis for up to 72 hours. Subsequently, a Form 2 (Order for Examination) and Form 3 (Certificate of Involuntary Admission) were completed. She was prescribed Olanzapine, but later admitted to her doctor that she was not taking her medication as prescribed.
12. The Respondent's discharge diagnosis was Bipolar Affective Disorder, with manic episodes and psychotic features. While the Respondent agreed that this diagnosis was accurate, she discontinued her medication immediately upon release.
13. Following her release in May of 2013 until April of 2014, the Respondent's mental health remained relatively stable and the family returned to normal life.
14. In April of 2014, the Respondent began to experience paranoid delusions. This erratic and troubling behaviour continued throughout May to July of 2014.
15. The Respondent was involuntarily admitted to the Ottawa Hospital Civic Campus on July 9, 2014 where she remained until September 5, 2014. She was placed on an involuntary Community Treatment Order as a result of her history of non-compliance with proposed medical treatments plans.

16. During the Respondent's hospitalization she was able to leave on day passes. The Respondent informed the Applicant that she had rented an apartment in Gatineau and had leased a 2014 Murano vehicle from a Quebec dealership. She informed the Applicant that she wanted to establish residency in Quebec where the Community Treatment Order would not apply.
17. In early 2015 the Respondent secured part- time employment at Carleton University.
18. In May of 2015, the Respondent began to experience delusions again. She became suspicious of a number of Italian individuals who she believed may be part of a mafia operation which was monitoring her.
19. On or about October 9, 2015, the Applicant returned home to find that the Respondent and the children were missing. The Applicant called the police, who were able to locate the Respondent by tracking her cell phone to the Lac Leamy hotel and casino in Gatineau.
20. On or about October 10, the Applicant was informed by the Ottawa Police that the Respondent had attended the station in order to file criminal harassment charges against him. The Police later closed their file and no charges were laid. The Respondent later brought herself to the Ottawa Hospital, Civic campus, and was admitted under voluntary observation. She remained in the hospital until November 12, 2015.
21. By mid-September 2017, the Respondent was again making bizarre and erratic statements regarding the Applicant. The Respondent began to accuse the Applicant repeatedly of various criminal offences.
22. In addition, the Respondent has made derogatory statements regarding the Applicant's mental health. The Applicant is concerned that these statements are also made in front of the children and have an impact on their perception of him.
23. Over the following weeks, the Respondent's mental health continued to be a concern for the Applicant and the potential impact on their children. On October 19, 2017, the Applicant received a telephone call from the CAS indicating that his children were at the Ottawa Civic Hospital, and that the Respondent had been issued a Form 1. The Respondent had taken the children from their beds at 5:00 a.m. and went to the Civic Hospital.

24. The Respondent was eventually released from the hospital on October 22, 2017, against her physician's advice.
25. Subsequent to the hospitalization, the Applicant met with the CAS in an effort to develop a 'safety plan' that could be executed if / when the Respondent experienced yet again another mental health episode. The draft plan included the Respondent ensuring the children's safety by bringing them to the Applicant.
26. As the safety plan was still being developed, the Applicant received a call from his daughter on December 10, 2017 from Best Buy on Merivale Road. At the time the children were in the care of the Respondent. Ultimately, the Applicant came to pick up the children as the Respondent was handcuffed out of the store by the Police and given a ticket for trespassing.
27. The Applicant is deeply concerned of the impact the Respondent's behaviour may have on his children. The Applicant will continue to work with the Children's Aid Society and other professionals, if required, to ensure the safety and welfare of his children.
28. The Applicant agrees it is important for the children to have a relationship with their mother; however, the Respondent's mental health issues are of significant concern. The Applicant wants to ensure the Respondent is stable and able to care for the children and that the children are not negatively impacted by her mental illness.
29. The seriousness of the Respondent's mental health issues, including her psychotic episodes, should have been weighed heavily when considering an appropriate custody arrangement. The applicant submits the clinician seemingly downplayed the severity of the Respondent's mental health in recommending she have sole custody.
30. The Applicant continues to be open to a shared parenting schedule; however, he maintains that sole custody to the Respondent mother is not in the children's best interests, given her continued instability (including repeated hospital admissions and the Respondent's continued denial of her illness). The Respondent's psychotic episodes are unpredictable and therefore the Applicant maintains she is not fit to make decisions concerning the children's best interests on her own.
31. The Applicant makes a conscious effort with the children to speak openly about their feelings.

32. The Applicant's allegations against the Respondent are not malicious or formed out of spite. They are genuine concerns and beliefs that his children are at potential risk of harm while in the Respondent's care, particularly when she unexpectedly goes through a psychotic episode. The applicant father's allegations have been consistently reported and documented by numerous authorities, including the police, the CAS and the Respondent's hospital records.



Signature
Wade L. Smith

August 14 / 18

Date of signature