

Schedule J

2017 Opinion

from

Renowned Psychologist Dr. Iris Jackson

“... her symptoms occur in response to events that would be markedly stressful to almost everyone in similar circumstances.” [page 4]



Gilmour Psychological Services®

437 Gilmour St. Ottawa ON K2P 0R5 CANADA T-613- 230-4709 F-613- 230-8274 www.ottawa-psychologists.com

Partners

Dr. Iris Jackson	Ext. 24
Dr. Frances Smyth	Ext. 22
Dr. Karen Davies	Ext. 26
Dr. Doreen Gough	Ext. 23

Associates

Dr. Anne Boland	Ext. 30
Dr. Karen Coupland	Ext. 31
Dr. Alex Weinberger	Ext. 36
Dr. Sandy Agos	Ext. 35
Dr. Qadner Ahmad	Ext. 29
Dr. Peter Judge	Ext. 32
Dr. Paul Basowitz	Ext. 33
Dr. Deanna Drahovzal	Ext. 46
Dr. Sarah Pastin	Ext. 150
Dr. Marc Zahradnik	Ext. 42
Dr. Caroline Ostiguy	Ext. 40
Dr. Jessica Henry	Ext. 155
Dr. Deliana Miller	Ext. 43
Dr. Angelina Chupotnikova	Ext. 152
Dr. Douglas Scouler	Ext. 48

Reception

Ms. Agnes Kidd	Ext. 0
Ms. Carole Johnson	Ext. 0

Note highlighted
text on pages
4 & 5.

March 27, 2017

To Whom It May Concern:

Re: Ms. Delrdre Moore, DOB: 28/09/1965

I have been seeing Ms. Moore since January 13, 2016 for consultations on an episodic basis as she goes through several life transitions. The following will clarify my professional opinion about Ms. Moore and some matters that seem to have developed over the past few years.

It must be noted that I have only seen Ms. Moore and read a binder of material that she shared with me. I have not seen her estranged husband, Jonathon Kiska, nor have I seen her children. Therefore, I have no comments to make about the divorce issues and any custody and access issues. I am only focused on my understanding about Ms. Moore, gleaned through my meetings with her and some of her writings. Furthermore, this report should not be interpreted as being an Independent Psychological Evaluation.

The following will begin with a brief description of my professional competence and then explain my understanding of Ms. Moore and what she has experienced. I will then discuss Ms. Moore's results on two Psychological Tests that I administered: the Minnesota Multiphasic Personality Inventory - 2RF (MMPI-2RF) and the Inventory of Altered Self-Capacities (IASC). These tests are described in Appendix A. My formulation will include her diagnosis, an explanation of what it means, and what her personal strengths and weaknesses are.

This report was prepared at Ms. Moore's request and in relation to her recent life experiences, and is most appropriately interpreted and used in this context. Also, my professional opinion expressed in the Formulation and Conclusions section is based on the information and data available to me at this time and could change if other information were to come to light.

Brief Statement of Professional Competence

I am a clinical psychologist, licensed since 1981. I am the founding psychologist of Gilmour Psychological Services® in Ottawa, established in 1983. I have the competency to assess, diagnose, treat and consult about most adult mental

health disorders, as described in the DSM-5 or the ICD-10. I have special interest and proficiency in the diagnosis and treatment of substance use disorders, recognized by my having earned the American Psychological Association's Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders. I have many years of training and experience in the diagnosis and treatment of adult children of dysfunctional families, adult survivors of childhood trauma and adult trauma survivors. I also assess and treat people with codependency, depression, anger disorders, anxiety, adjustment and life transition issues, self-esteem issues, stress, intimacy and major mental illnesses. I have years of experience applying my ethical and jurisprudence knowledge to the assessment of fitness to practice and standards of care. I also have many years of experience in providing Independent Psychological Evaluations in the context of civil suits for psychological trauma, certain retrospective criminal assessments and standards of care tribunals. I have testified as an Expert Witness in a number of civil suits and tribunals. Many of the cases for which I provided evaluation reports have settled out of court. I remain as committed and as enthusiastic as ever in providing the highest level of service in evidence-based counselling, psychotherapy, psychodiagnostics and Independent Psychological Evaluations.

Ms. Moore's Experiences over the Past Four Years

The following discussion of Ms. Moore's recent history is expressed in my words and not Ms. Moore's except where I use quotation marks. Also, the following is not meant to be a verbatim account of the incidents and events of her recent life, but rather a précis of the points that I believe to be salient. The following is based on Ms. Moore's self-reports and the documents that I have read.

In her first interviews with me, Ms. Moore reported that she was going through a divorce precipitated in part because she had learned that her husband had lied to the physicians and psychiatrists about her personal history and her recent past behavior, exaggerating, in her view, her behavior and the length of time that she had been acting strangely. She said the psychiatrists at the emergency department of the hospital asked her husband for information about her (as a collateral source of information) in spite of her having told them that he was verbally and psychologically abusive to her. She said that he listed many of the symptoms of Bipolar Disorder, which led the psychiatrists to diagnose her as having that disorder, and that diagnosis followed her through her various efforts to get help through the medical system and the police.

She said that she only realized what was happening when she obtained copies of her medical files and saw all the misrepresentations that her husband had told the physicians. She also said that her husband alienated her family members from her because of his misrepresentations of what she was going through.

Ms. Moore said that she stumbled on an article about "gaslighting" and realized that her husband was manipulating her so that she would become self-doubtful

and malleable. Gaslighting colloquially refers to a form of emotional abuse that causes the victim to question her experience of reality, resulting in increased control by the gaslighter. The term is a reference to a 1944 movie called *Gaslight*, in which a husband with a secret gradually tries to drive his wife insane. In current parlance, the gaslighter minimizes his victim's concerns and feelings insisting that the victim is too sensitive; "forgets" his promises and suggests that she was making things up; tells the victim that he had told her something or done something that she was sure he had not done; questions the victim's memory; changes the subject to divert her train of thought, and challenges and negated her emotional reactions. Lying about the wife's symptoms to psychiatrists would fall in the domain of gaslighting.

As a result of her feelings that her husband was psychologically abusing her, Ms. Moore left her family and stayed with a friend, seeing her children at the family home before and after school. She said that she realized when her stress got very high, she would have a brief psychotic episode. When she was in hospital, she would be treated with medication for Bipolar Disorder because she had been misdiagnosed based on what her husband had told the physicians. She reported that the side effects of the medications made her ill and she did not feel that the physicians heard her because they were misled by what her husband had told them.

I did not see Ms. Moore between the end of March and December 8, 2016. She told me that due to finances, she attempted to reconcile with her husband for a period between April, 2016 and the fall of 2016. She said that in the fall, she recognized her husband's machinations, and began to feel unsafe with him. She left for an apartment and began a cycle of access with her children.

Ms. Moore said that she had also learned the early warning signs of being stressed to the point of being at risk of a brief psychotic episode. As a result, she takes her medication as prescribed and uses a tablet of clonazepam whenever she feels very anxious. She also tries to control aversive situations so that her stress level remains manageable. She successfully followed legal procedures and had a tenant removed from her house and now is in the process of moving into it.

Psychological Test Results

To clarify Ms. Moore's diagnosis, on February 2, 2017, I administered the MMPI-2RF and the IASC. The MMPI-2RF has validity scales which determine the test-taking attitude of the examinee. Ms. Moore's validity scales indicated that she was open and forthright in answering the questions, which concurs with my clinical impressions. As a result, I am confident that the results discussed below are an accurate reflection of Ms. Moore's current psychological functioning.

On the MMPI-2, most of the scales were in the normal range. There were small elevations on the Ideas of Persecution scale and the Antisocial scale. These were raised because Ms. Moore is very mistrustful of certain people including

her husband and she has felt persecuted and misunderstood by many (but not all) in the health system. The elevated antisocial scale was raised because she truthfully answered that she has had dealings with the police.

All of the Somatic, Cognitive and Internalizing scales were in the normal range. Also all of the Externalizing, Interpersonal and Interest scales were in the normal range, with the exception of the Juvenile Conduct Problems. This scale was raised because of misbehavior as an adolescent and an angry suicide gesture as a teen (not an attempt). All of the Psy 5 (personality) scales were in the normal range, with the exception that she displayed a mild tendency to be introverted rather than extroverted.

Ms. Moore's results on the IASC were all in the normal range except for an elevation of the Interpersonal Conflict scale, raised, in my opinion, because of the conflict with her husband. There was also an elevation on the Susceptibility to Influence scale, which suggests that she can be easily led and was easily influenced by those close to her, such as her husband. Finally, the Affect Skills Deficit scale was elevated, indicating that Ms. Moore feels that she requires help in learning skills to soothe strong emotion.

What is striking about her results is that the vast majority of the scales are in the normal range. This suggests that her basic personality, character structure and usual mental status are normal and sound.

Formulation and Conclusion

In my opinion, Ms. Moore has many psychological strengths. She is a very intelligent, verbally fluent and articulate woman with a prosocial value system and good family values. She has a good work ethic and has very good social skills. She has persevered in the face of adversity and has good insight into her mental illness, which is a relatively small part of her psychological makeup.

It is true, however, that Ms. Moore has a mental illness. She reported that the brief psychotic episodes first appeared in 2013, precipitated by the high conflict with her husband. In my opinion, her diagnosis is Brief Psychotic Disorder, with marked stressors during which she has delusions and disorganized speech and cognitions. Brief Psychotic Disorder is diagnosed when the duration of an episode is at least one day but less than a month. Also, her symptoms occur in response to events that would be markedly stressful to almost everyone in similar circumstances.

Ms. Moore's first two hospitalizations were longer than one month, but, in my opinion, this was due to the repeated and ongoing stress she experienced when the professional staff would not listen to her or consider that her husband was not an accurate informant about her history or symptoms. Ms. Moore was repeatedly told that she was so sick that she was amnesic for her over-spending and other aberrant behavior. Having no one believe her or listen to her stressed

her so much that her psychosis could not remit until she was released and found a place to live where she felt safe.

However, although I believe that the most accurate diagnosis is Brief Psychotic Disorder, the diagnosis that she was discharged with, that of Psychotic Disorder NOS (Not Otherwise Specified), is not in conflict with my overall discussion of Ms. Moore. Furthermore, due to the clinical acumen of Dr. Deanna Mercer, psychiatrist, Ms. Moore is very stable on Lamotrigine 200 mg, Clonazepam as needed and Immovalene when she needs a sleep aid. Due to Ms. Moore's insight, she is able to add the "as needed" medications appropriately to prevent a reoccurrence. Also, she tries to avoid highly stressful situations, but can handle everyday stressors well.

I hope that this report is clear and useful. If you have any questions, please let me know.

Yours truly,

Dr. Iris Jackson, C. Psych.

Schedule K

Letter of Support

from

Ottawa Victim Services

“... discover the true facts ...”

ottawa
VICTIM SERVICES
SERVICES AUX VICTIMES
d'ottawa

August 17th, 2018

Re: Deirdre Moore

To Whom It May Concern:

Ottawa Victim Services (OVS) is a community service that provides emotional support, practical assistance, and referrals to community resources to victims of crime and tragic circumstances. Clients can access our services through community service agencies, the police or self-referrals.

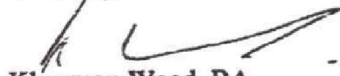
Ms. Moore accessed our program in May of 2017. We have spoken with her a handful of times, most recent being the date this letter is dated for. Ms. Moore and I met to discuss the history of her relationship with her ex-husband, prior to their separation and the events that took place after. We also discussed her desire to work with victims of similar experiences at the hands of intimate partners. This pertains to less-overt forms of abuse such as psychological and emotional abuse.

Ms. Moore has expressed her interest in taking this matter to court to seek damages against her ex-husband regarding criminal harassment and criminal defamation. Ms. Moore showed me extensive efforts to document all ongoing interactions between herself and her ex-husband. It seems that this matter would be best handled in a court of law in order to be able to present her version of these events of the past few years and to discover the true facts of what has taken place.

Ms. Moore has been accessing the appropriate services and making every attempt to ensure her wellbeing. It is my hope that Ms. Moore is able to have this matter taken to court and to be able to present her evidence. *

Please feel free to contact me with any more questions about our services and programs.

Sincerely,

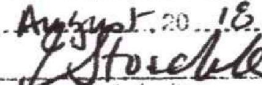

Khayman Wood, BA
Victim Support Worker
Ottawa Victim Services
613-238-2762 ext. 225
ovs-vcu@ovs-svo.com
info@ovs-svo.com



Francois D'Aoust
Staff Sergeant • Sergent d'état-major
Technical Investigations/Enquêtes techniques
Criminal Investigations Directorate/Direction des enquêtes criminelles
T: 613-236-1222 Ext. / Poste: 2659
474 Elgin Street/474, rue Elgin
d'aoustf@ottawapolicy.ca Twitter: @OPSDAoust

ottawapolicy.ca
@OttawaPolice

card provided by Carzelyn Johnston,
Executive Director of OLTEVAW.

This Exhibit ' 9 ' referred to in the
Affidavit of Deirdre Moore
sworn before me at the City of Ottawa, this
24 day of August, 2018.

A Commissioner for taking affidavits

Tab 1 f 1/1 K1/1

Schedule L

Letter of Support

from

VAW Counsellor, Jessica Poloz

“... Longer-term and cost-effective community resources for women affected by all types [of] violence are needed in the Ottawa area.”



August 15, 2018

Re: Deirdre Moore

To whom it may concern,

Eastern Ottawa Resource Centre, Women and Violence program, offers support, short-term counselling and referrals to women who are, or who have been in an abusive relationship.

Ms. Moore first accessed our program in February 2018, when she began meeting with a Violence Against Women Counsellor for individual support. Ms. Moore has attended five in-person counselling sessions to date. Topics that have been addressed in counselling have included types of abuse, safety planning and impacts of violence on children.

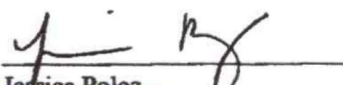
Ms. Moore has also discussed her hopes to provide education, outreach and support to other women who have experienced psychological and emotional abuse. She shared she has been proactive in reaching out to a variety of community organizations to identify the gaps in service in the Violence Against Women sector in the hopes of establishing her own not-for-profit organization or working for an existing one. One such gap that has been identified is a lack of awareness, understanding and resources for those who experience the more subtle forms of abuse, such as psychological and emotional abuse. Women affected by violence often have difficulty accessing services in a timely manner due to the high volume of clients requesting service and the subsequent lengthy waitlists. Ms. Moore herself has been on a waitlist for our Phase II support group for women for several months.

Longer-term and cost-effective community resources for women affected by all types violence are needed in the Ottawa area.

Should you have any questions regarding our services, please contact me at 613-741-6025 ext. 124.

Thank you for your time and consideration.

Sincerely,


Jessica Poloz
Counsellor and Group Facilitator

cc Chantal Cadieux, Program Manager

Jessica Poloz described
Kisk's behaviour as
"textbook" narcissism.

ym

Schedule M

Collage of Evidence

the mother's company, SAQOTU Inc., accepted as an Exhibitor at

2019 Annual Meeting

of the

American Psychiatric Association

The Fragility of Mental Health when in an Abusive Relationship

AND

Taxpayer-funded Domestic Violence & Child Abuse

American Psychiatric Association's 2019 Annual Meeting in San Francisco May 18-22, 2019

(They have had it for months!!)



[CLICK HERE TO VIEW A LARGE MAP](#)

Company Name

100

Booth

10

Product/Service Category

Sort result By

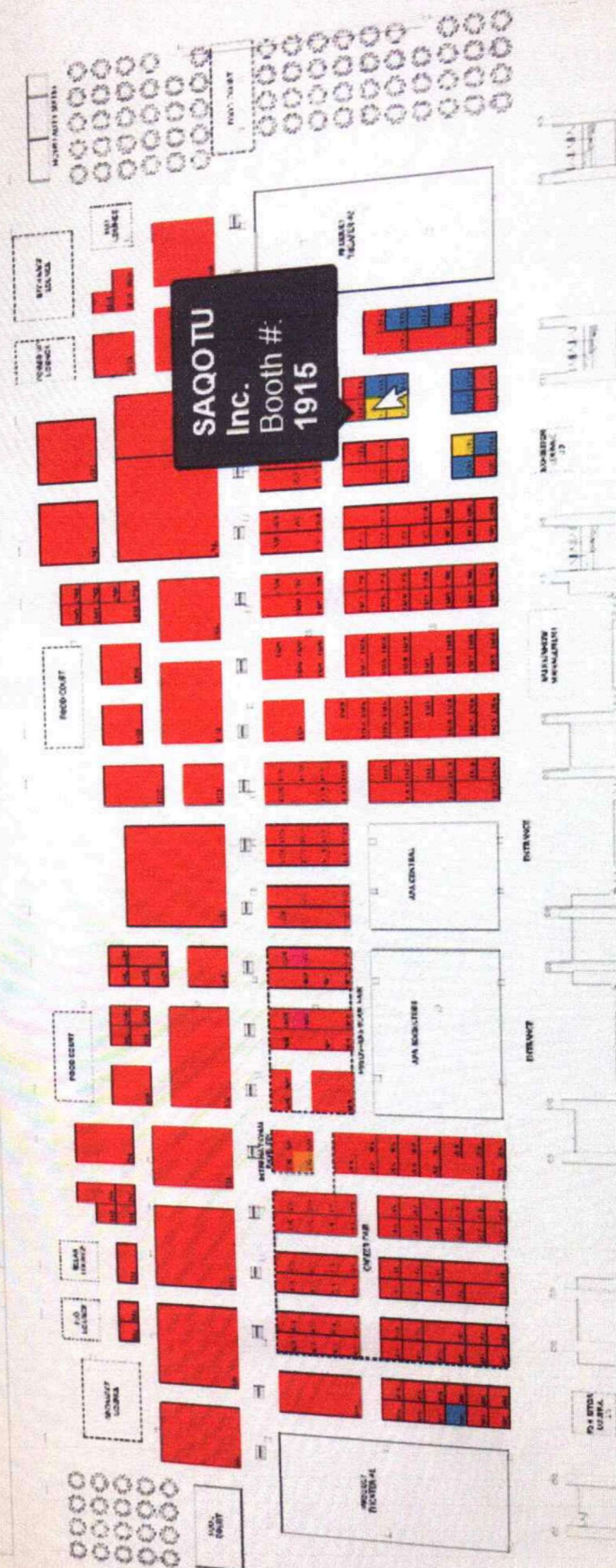
- ☒ Company name
- ☐ Booth

Search

List All

Clear

Download PDF Floor Map


$$m^{2/4}$$

in explore the times
health

FREEMAN RENTAL WORK TICKET



SHOW #: 465270
SHOW NAME: AMERICAN PSYCHIATRIC ASSOCIATION ANNUAL MEETING
TICKET #: 1186
CUSTOMER: SAQOTU INC

BOOTH #:1915

ORDER #: 617
ORDER DATE: 05/17/2019 02:27 PM
USER ID: overfj

QTY	UOM	ITEM	PART NO.
1	EA	9' X 10' CARPET - BLACK	910
1	EA	6'L X 30"H DRAPED TABLE - BLACK	630

Signature: *Derrdre Moore*
Print Name: Derrdre Moore

02:30 PM

SHOW #: 465270

BOOTH: 1915

TICKET #: 1186

Page 1 of 1

M3/4

**SWAP MEETS, FLEA MARKETS, OR
SPECIAL EVENTS CERTIFICATION**CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
STATE OF CALIFORNIA

People who sell merchandise in California are generally required to hold a seller's permit.

You **may not** sell at this event unless you have a seller's permit or are not required to hold a permit. You are required to have a permit if you are selling, even temporarily, new or handcrafted items or used items you purchased for the purpose of reselling to others. You are not required to hold a permit if you are only making "occasional" sales, selling products that are not taxable when sold at retail, or selling on behalf of a section 6015 retailer.

You may electronically register for a seller's permit at no cost to you by visiting our website at www.cdtfa.ca.gov. To find a California Department of Tax and Fee Administration (CDTFA) office near you, call our Customer Service Center at 1-800-400-7115 (TTY: 711) or visit our website. If you obtain a temporary seller's permit, the business address on your temporary permit should be the address of the temporary selling location and the mailing address should be your permanent place of business or residence.

Occasional and Nontaxable Sales—Occasional sellers are usually people who are not required to hold a seller's permit because they will not be making a series of qualifying sales. A person who has cleared their garage of used items *accumulated for their own use* and who sells only those items would usually qualify as an occasional seller, provided they make sales no more than twice in a 12-month period. Some sellers who make only nontaxable sales are also not required to hold seller's permits. Examples include sellers of fresh produce or other cold food products sold "to go." Please note, however, some food sales are taxable, including sales of food for consumption in places where admission is charged.

Section 6015 Retailers—Revenue and Taxation Code section 6015 relieves certain individuals of the requirement to obtain a seller's permit when: (1) the product supplier is a CDTFA approved section 6015 retailer, (2) the product supplier reports and pays tax on the actual "retail selling price," (3) the individual is selling only those items purchased from the section 6015 retailer, and (4) the individual provides the name of the product supplier. Typical section 6015 retailers include multi-level marketing retailers that solicit sales through a network of individual salespeople/representatives (for example, Avon, Tupperware).

Verification of a seller's status is required by law. Please complete all four sections of this form. Please print.

1. EVENT INFORMATION

EVENT NAME AND PLACE

American Psychiatric Association

EVENT DATE(S)

May 18-23

TABLE/BOOTH LOCATION ID NUMBER

#1915

2. VENDOR/EXHIBITOR INFORMATION

OWNER'S NAME

SACOTU Inc.

MAILING ADDRESS (street number or P.O. box)

1466 Claymar Avenue

(city, state and ZIP code)

Ottawa, Ontario

K2C 1S6

TELEPHONE NUMBER

(915) 307-1390

DRIVER LICENSE NUMBER OR STATE ID NUMBER AND STATE

M6509-15916-55928

TYPE OF BUSINESS, DESCRIPTION OF ITEMS TO BE SOLD/DISPLAYED

Consulting & Education

3. STATUS—Check appropriate boxes, and provide requested information

☐ I hold a valid seller's permit. My number is: **S**

☒ No sales of tangible personal property are being made or solicited at this event.

☐ I am not required to hold a seller's permit because:

☐ My retail product sales are not subject to tax

☐ My sales are exempt occasional sales

☐ I sell on behalf of a section 6015 retailer

4. CERTIFICATION—Partners/additional sellers, complete a separate copy of this form

The above statements are certified to be correct to the best knowledge and belief of the undersigned.

NAME (type or print)

Deirdre Moore, CFA, RBA

TITLE

President

SIGNATURE

Deirdre Moore

DATE

May 17, 2019

See reverse for disclosure information.

M4/4

Schedule N

Evidence of the

Father's Psychological and Emotion Abuse of Cate

Excerpt from the CAS files: "... your mum has moved to Texas and she does not want to be your mummy anymore."

replace with Mohammed Said
note in LAS file.

Schedule O

Current 20210129 Release Order

The mother is legally permitted to access her children. What legitimate judge would deny this?

ONTARIO COURT OF JUSTICE

East _____ Region
(Region)
Ottawa of Ottawa _____, Ontario, Canada
(Court location)

0411-998-20-A10006,
0411-998-20-A9910,
Information #(s) 0411-998-19-18130

RELEASE ORDER

ENTERED INTO BEFORE A JUDGE OR JUSTICE OF THE PEACE
(FORM 11)

(Section 2 of the Criminal Code)

Adult

1. Identification of Accused

Deirdre A MOORE _____ Date of birth: 1965/09/28
(Name of the accused) (Date: yyyy/mm/dd)

2. Contact Information

of NFA, Ottawa, ON
(Accused's complete address)

3. Charge(s)

has been charged with the following offence(s):

	Offence Date(s)	Location (City, Town, Township)	Short Wording	Section Number
1	2020/01/17	Ottawa	20-A10006	S. 145(5)(a) CCC
2	2020/03/30	Ottawa	20-A9910	S. 145(5)(a) CCC
3	2019/07/26	Ottawa	19-18130	S. 349(1), 430(4) x2, 127(1), 264(3) x2, 348(1)(a) CCC

IT IS ORDERED THAT YOU BE RELEASED UPON SIGNING:

4. Financial Obligations

In order for you to be released, the obligations that are indicated below must be complied with:

- You promise to pay the amount of \$1,000 if you fail to comply with a condition of this release order.

5. Conditions

You must comply with the following conditions:

- Report to Ottawa Police Service by Phone (613-236-1222) every Wednesday between the hours of 9:00 a.m. and 5:00 p.m. and call in as required commencing October 14, 2020
- Reside at either the Ottawa Inn at 215 Montreal Road, Ottawa, Ontario, or at its associated residence at 251 Hannah Street, Ottawa, Ontario, or 255 Metcalfe Street, Ottawa, Ontario and do not move from these addresses without prior approval from the court.
- Remain in your residence daily between the hours of 9:00 p.m. and 6:00 a.m.

EXCEPT

- for medical emergencies involving you or a member of your immediate family (spouse, child, parent, sibling).

- Remain in The City of Ottawa

- Deposit your passport with Det. Daniel Gervais of the Ottawa Police Service or his designate within 24 hours of your release Do not reapply for a passport or any other travel permits or documents.

- Do not contact or communicate in any way either directly or indirectly, by any physical, electronic or other means, with the following: Jonathan Kiska, Sean Kiska and Cate Kiska.

EXCEPT

- with Sean Kiska or Cate Kiska only if approved in advance and in writing by the CAS or pursuant to a family court order made after today's date

- Do not be within 500 metres of any place where you know any of the person(s) named above to live, work, go to school, frequent or any place you know the person(s) to be EXCEPT for required court appearances.

EXCEPT

- pursuant to a family court order made after today's date

- only if approved in advance and in writing by the CAS or pursuant to a family court order made after today's date

- Do not attend at within 500 metres of 1244 Lampman Crescent in Ottawa

- Do not attend at The Ottawa Airport at 1000 Airport Parkway Private, the Ottawa Train Stations at 3347 Fallowfield Road and 200 Tremblay Road or the Ottawa Bus Terminal at 265 Catherine Street

0 1/2

10. Do not possess

- any weapon(s) as defined by the Criminal Code (for example, but not restricted to, a pellet gun, firearm, imitation firearm, cross-bow, prohibited or restricted weapon or device, ammunition or explosive substance or anything designed to be used or intended for use to cause death or injury or to threaten or intimidate any person).

6. Variation

The conditions of this release order may be varied with the written consent of the prosecutor, yourself and your sureties, if any. In addition, you or the prosecutor may apply to a judge to have any condition in this release order cancelled or changed.

7. Conditions in Effect

The conditions indicated by on this release order (including any obligations imposed on your sureties) remain in effect until they are cancelled or changed or until you have been discharged, sentenced or otherwise detained by the court (sections 763 and 764 of the Criminal Code).

8. Consequences for Non-Compliance

You are warned that, unless you have a lawful excuse, you commit an offence under section 145 of the Criminal Code if you fail to follow any of the conditions set out in this release order, including if you fail to attend court as required.

If you commit an offence under section 145 of the Criminal Code, a warrant for your arrest may be issued (sections 512 and 512.3 of the Criminal Code) and you may be liable to a fine or to imprisonment, or to both.

If you do not comply with this release order or are charged with committing an indictable offence after you have been released, this release order may be cancelled and, as a result, you may be detained in custody (subsection 524(4) of the Criminal Code).

If you do not comply with this release order, the money or other valuable security promised or deposited by you or your surety could be forfeited (subsection 771(2) of the Criminal Code).

9. Return to Court

You are ordered to return to court as directed below, and afterwards as required by the court:

Courtroom #	Court Location	In Person	By Video	Time	Date
8	161 Elgin St., Ottawa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	12:30 p.m.	2021/02/11

10. Signatures/Acknowledgements

Accused:

I understand the contents of this form and agree to comply with the conditions set out above.

I understand that I do not have to accept the conditions and that, if I do not accept the conditions, I will be detained.

Signed on the 29th day of January, year 2021
at Ottawa of Ottawa in the Province of Ontario.
Acknowledged he/she
Understands the terms and
Conditions of the Order - COVID
(Signature of accused)

Judge, Justice or Clerk of the Court:

Signed on the 29th day of January, year 2021
at Ottawa of Ottawa in the Province of Ontario.

N. Bouché for Justice N.D. Bouché
(Signature of judge, justice or clerk of the court)

(Name of judge or justice who has issued this order)

Distribution:

☐ Accused ☐ Surety ☐ Crown ☐ VVAP ☐ Police ☐ Chief Firearms Officer

02/2

Schedule P

Evidence of the

Father's Financial Abuse of the Mother (Part 1)

(as she attempts to make up for the psychological and emotional abuse of Cate)

20180322 Interim Order for a mere \$1,924/month (which was later reduced to \$1,575/month) based on “oral reasons given” and resulted in a cost award to the father, reducing the mother’s net financial support for her and her two children to only \$16,900 for the year ... \$3,322 of which was spent on Cate’s tutoring. (Another \$2,500 was spent on a mini-“staycation” at a local hotel after the father promised Cate that he would take her and Sean on a beach holiday for March Break but then he never booked anything.

20180322 Interim Support

Superior Court of Justice, Family Court
(Name of court / Nom du tribunal)
at / au 161 Elgin Street, Ottawa, ON K2P 2K1
(Municipality / Municipalité)

Court File Number / Numéro de dossier du greffe
FC-15-241

Endorsement Sheet /
Page d'inscription

Date Mar 22 2018 The Hon. Madam Justice Audet	Applicant(s) / Requéant(e)(s): <u>Jonathan Kiska</u>	<input checked="" type="checkbox"/> Present / Comparait
	Counsel / Avocat(e): <u>W Smith</u>	<input checked="" type="checkbox"/> Present / Comparait <input type="checkbox"/> Duty Counsel / Avocat de service
	Respondent(s) / Intimé(e)(s): <u>Deirdre Moore</u>	<input checked="" type="checkbox"/> Present / Comparait
	Counsel / Avocat(e): <u>Self</u>	<input type="checkbox"/> Present / Comparait <input type="checkbox"/> Duty Counsel / Avocat de service
<input type="checkbox"/> Order to go in accordance with minutes of settlement or consent filed. / Ordonnance conformément au procès-verbal de l'audience de transaction ou le consentement déposé. <u>Motion</u>		

For oral reasons given, the following order shall issue:

1. On a without prej. / temp. basis, the father shall pay monthly child support to the wife for the 2 children of the marriage in the amount of \$1,924. This is based on the F's "other taxable income" of 137,000* and the mother's "other taxable income" of \$50,000 + imputed empl. income of \$30,000 (for a total of \$80,000). "other tax income"

The parties are both in receipt of dividend income from their
jt company. The nature and tax treatment of these dividends is
unknown to me as I do not have the parties' ITR before

Superior Court of Justice, Family Court
(Name of court / Nom du tribunal)
at / au 161 Elgin Street, Ottawa, ON K2P 2K1
(Municipality / Municipalité)

Court File Number / Numéro de dossier du greffe
FC-

Endorsement Sheet /
Page d'inscription

Date		
	Applicant(s) / Requéran(t)e(s) :	<input type="checkbox"/> Present / Comparait
	Counsel / Avocat(e) :	<input type="checkbox"/> Present / Comparait <input type="checkbox"/> Duty Counsel / Avocat de service
	Respondent(s) / Intimé(e)(s) :	<input type="checkbox"/> Present / Comparait
	Counsel / Avocat(e) :	<input type="checkbox"/> Present / Comparait <input type="checkbox"/> Duty Counsel / Avocat de service
<input type="checkbox"/> Order to go in accordance with minutes of settlement or consent filed. / Ordonnance conformément au procès-verbal de l'audience de transaction ou le consentement déposé.		

no. Should there show that proper identification of that
income in the support calc would materially affect the
outcome, the matter may be brought back before me based
on relevant evidence.

2- The parties shall share the children's s.7 exp. 60% for
the F and 40% for the M.

3- The M is given leave to bring ~~for~~ a motion for the
sale of the M.H., but only after the OCL has made
its recommendations known.

4- On a W/P basis, the M's claim for Temp. sp sup. is denied.

Superior Court of Justice, Family Court
(Name of court / Nom du tribunal)
at / au 161 Elgin Street, Ottawa, ON, K2P 2K1
(Municipality / Municipalité)

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☐ Duty Counsel /
Avocat de service

Respondent(s) / Intimé(e)(s) : _____ ☐ Present / Comparait

Counsel / Avocat(e) : _____ ☐ Present / Comparait
☐ Duty Counsel /
Avocat de service

☐ Order to go in accordance with minutes of settlement or consent filed. /
Ordonnance conformément au procès-verbal de l'audience de transaction ou le consentement
déposé.

On the issue of costs, and in light of the F's offer to settle, which was more beneficial to the M than the result achieved in this motion, I find that the F is entitled to 2,000\$ in costs. The outcome, however, might very well be different when the nature/tax treatment of the dividends is known. Therefore, I will give the parties ^{or either one of them} 30 days within which to submit to me, if they wish, further written submissions not exceeding 2 pages, in addition to brief affidavits providing me with the additional evidence concerning the nature/tax treatment of the dividends, and I will then make a final decision on the issue of temp. support. My decision re costs may vary depending on that. If no add. submissions are provided

Superior Court of Justice, Family Court
(Name of court / Nom du tribunal)
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	<input type="checkbox"/> Order to go in accordance with minutes of settlement or consent filed. / Ordonnance conformément au procès-verbal de l'audience de transaction ou le consentement déposé.

to me within 30 days, my cost award will stand and
it shall be repaid by the mother at the rate of \$200/month.

[Signature]

Schedule Q

TRANSCRIPT

Father's Financial Abuse of the Mother (Part 2)

(as she attempts to make up for the psychological and emotional abuse of Cate)

Bell Baker's Wade Smith and Ministry of Attorney General's Justice Julie Audet Performance

1. 2018 CIVIL

Court File No. FC-15-00002446-0000

SUPERIOR COURT OF JUSTICE
FAMILY COURT

B E T W E E N:

JONATHAN WILLIAM KISKA

Applicant

- and -

DEIRDRE ANN MOORE

Respondent

P R O C E E D I N G S

BEFORE THE HONOURABLE JUSTICE J. AUDET
on March 22, 2018, at OTTAWA, Ontario

APPEARANCES:

S. Wade

Counsel for the Applicant

Deirdre Ann Moore

Self-Represented

(i)
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SUPERIOR COURT OF JUSTICE

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EXHIBITS

<u>EXHIBIT NUMBER</u>		<u>ENTERED ON PAGE</u>

Legend

[sic] - indicates preceding word has been reproduced verbatim
and is not a transcription error.

(ph) - indicates preceding word has been spelled phonetically.

Transcript Ordered:

March 30, 2018

Transcript Completed:

April 23, 2018

Ordering Party Notified:

April 23, 2018

1.
Kiska v. Moore

THURSDAY, MARCH 22, 2018

5 THE COURT: All right. So I have read the
materials, and Mrs. Moore, I understand that you're
seeking an order for support and also an order for
the appraisal of the matrimonial home and an order
for the sale of the matrimonial home. Pursuant to
the rules, once a settlement conference has taken
place you can't bring motions unless you get leave
of the court. And I've reviewed the previous
10 endorsements. There was a settlement conference -
two, actually - before Justice Engelking and she
only allowed two types of motions; she allowed a
motion for disclosure of medical records by the
father and she allowed you to bring a motion for
support. There's no leave to - there's no leave
15 granted to you to ask for an appraisal or for the
sale of the home and so I'm not going to deal with
that today. In addition to that, I've read both
affidavits and I understand that there's a claim
for division of property in this case and that the
20 father is making a claim for exclusive possession
of the home. Even if you had leave to deal with
these two motions, the appraisal and the
matrimonial home, I find I'm, I'm not certain I
25 have enough information in the motion to make that
order. But I, I have to admit that I quite agree
with the father's position in his affidavit where
he says, you know, this is going to be an issue for
trial and it's better not to waste any money doing
30 appraisals now, let's wait before the trial to make
an appraisal so that we have a recent - we have a,
an accurate and recent valuation of the home. Now,

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Kiska v. Moore

I also understand that you were offered to get one at your own cost if you wanted to. Is this something that's still open to....

MR. WADE: Yes. We'd given permission. I believe Ms. Moore was going to retain Mr. Beauregard. I, I used him on a number of appraisals. We said tell us when Mr. Beauregard wants to attend and my client will be there with him. Ms. Moore insists that she wants to attend inside the matrimonial home. That's just a recipe for disaster...

THE COURT: No.

MR. WADE: ...so we, we've said anytime Mr. Beauregard wants to come, fine. But again, I think it's going to be out of date by the time we get on - we, we're not even on a trial list, and it would be January if we were.

THE COURT: Yeah.

MR. WADE: So to have an appraisal now....

THE COURT: Well, if, if, if Mrs. Moore wants to pay for it herself...

MR. WADE: Then that's fine.

THE COURT: ...then let's let her do that, but your presence in the home is not necessary, Mrs. Moore. I agree that it's a recipe for disaster. You don't need to be present because usually, the appraisers only want to get access to the home, will not listen to either party's arguments about, you know, this works, doesn't work. He'll do his own job, if left alone and then leave. So I'll, I'll - I'm, I'm definitely happy to confirm by way of an endorsement that you may proceed that way. But, but that's the extent of it for today. So I'm

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Kiska v. Moore

going to hear you both on the issue of, of support, however. Okay?

DEIRDRE MOORE: Thank you, Your Honour.

THE COURT: So it's for a motion?

DEIRDRE MOORE: Thank you. And before I get started, then, on those issues, may I request a leave to bring a motion for the sale of the matrimonial home, only because it is my understanding that under rule 16 sub (1), after the respondent has served an answer, they may make a motion for summary judgement for a final order without trial on all or any part of claim made. And because of the fact that Mr. Kiska claims the house has dropped in value from the 700,000 to - from - sorry - 900,000 to 700,000 in two years and is a significant portion of our assets. If that's the case, then with delaying a sale until a trial, which may or may not take place for who knows how long, there's significant real estate market risk by delaying unnecessarily. So I would request Your Honour's leave in bringing a motion.

THE COURT: Okay. I'll hear you on the child and spousal support...

DEIRDRE MOORE: Okay. Thank you.

THE COURT: ...issues.

DEIRDRE MOORE: Thank you, Your Honour. Well, factum number three and number four of the factum which I submitted to my friend, simply states that Kiska - Kiska can't afford the home without my - I mean, it's a million-dollar home, and it's an expensive home to run. I've done analysis through Bank of Montreal and, and he won't be able to

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Kiska v. Moore

receive a mortgage based on his current income and assessment of 700,000 or even a higher income and a higher assessment of 900,000.

5 THE COURT: Okay. I'm sorry, I'm going to pause you there because I'm missing something, I think. Who's living in the home right now?

DEIRDRE MOORE: He has interim sole - Kiska has interim...

10 THE COURT: This....

DEIRDRE MOORE: ...sole possession.

THE COURT: So why are we talking him not being able to afford it without you, et cetera?

DEIRDRE MOORE: Well, when we received the mortgage in the first place from Bank of Montreal...

15 THE COURT: Mm-hmm.

DEIRDRE MOORE: ...they required both of our incomes to - for the mortgage to be approved.

20 THE COURT: Okay. But why are we talking about that, because I'm not dealing with the motion to sell the home today. You've asked for leave to bring that motion and I'll hear Mr. Smith on it and then I'll decide whether or not you can bring that motion, but that, that's all I need. For now, I'm not going to get into the merits of that particular motion.

25 DEIRDRE MOORE: Affordability. You don't want to? Okay.

THE COURT: Well, I'm not sure why affordability is relevant to your claim for support.

30 DEIRDRE MOORE: Okay. Thank you.

THE COURT: Okay?

DEIRDRE MOORE: Sure.

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THE COURT: So what I want to hear you on now is, you know, whether or not you're, you're entitled to support. I mean, child support is, is a given, because I understand that there's a shared parenting agreement. The, the amount of child support, I need to hear you on. I need to hear you on whether or not you're entitled to spousal support and if so, what are you looking for in terms of amounts.

DEIRDRE MOORE: Okay.

MR. WADE: Your Honour, if I may assist to shorten this, the issue of entitlement is not contested.

THE COURT: Okay. Thank you. So the only issue then, is how much.

DEIRDRE MOORE: Certainly.

THE COURT: How much child support and how much spousal support?

DEIRDRE MOORE: Well, this is where gets a little bit troubling, Your Honour. So I will try to summarize the last 16 months. Throughout the continuing record, I've been accused of being severely mentally ill - well, very well documented - refusing to look for work, also, very well documented, refusing legal counsel and now I, apparently, according to these court documents, I am providing the court with false information. For example, I'd like to bring forward the most recent offer to settle.

THE COURT: No. You can't talk about offers to settle.

DEIRDRE MOORE: No? Okay.

THE COURT: No, you're not allowed. So Mrs. Moore,

maybe - just to be helpful...

DEIRDRE MOORE: Sure.

THE COURT: ...I know that you're self-represented and I know that this appears to be a very large - you know, there's lots to talk about. But for the purpose of your motion, we're only talking about how much support should be paid. So Mr. Smith has already said entitlement is not disputed, which means you don't have to talk to me about all the reasons why there should be spousal support. All I need to hear from you is - when I look at spousal support, I want to know what is the income of both parties. And to the extent that entitlement is a given, you know, I need to know what you're looking for in terms of amount. So, so really, the main issue for me right now is just to find out what's the income of both parties, what is your income, what is Mr. Kiska's income and how much have you been receiving in the past and how much do you think you need - how much are you asking for. That's, that's a very, very narrow analysis.

DEIRDRE MOORE: Okay.

THE COURT: So these are the points I'd like to hear you on: income for you, income for Mr. Kiska and how much you're looking for and why.

DEIRDRE MOORE: Certainly.

THE COURT: Okay?

DEIRDRE MOORE: Thank you, Your Honour. Well, for 2017, I have a - I have earned income of just under \$4000.

THE COURT: Okay.

DEIRDRE MOORE: For 2017, it's difficult to assess

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Kiska v. Moore

what Mr. Kiska's earned income is, as he started a new company in the beginning of 2017. He has provided what I believe are net numbers for his company even though the CRA will disallow expenses because it's a personal services business. So I haven't seen any real evidence of what he actually earned. Through desperation, I took out a, a dividend from our joint company savings in order to absorb some of the expenses since separation.

THE COURT: How much was that dividend?

DEIRDRE MOORE: Fifty thousand dollars.

THE COURT: Did you receive it all in one lump sum...

DEIRDRE MOORE: Yes.

THE COURT: ...or did you receive it periodically?

DEIRDRE MOORE: All in one lump sum.

THE COURT: And when did you receive that?

DEIRDRE MOORE: Early January, 2017.

THE COURT: Okay. You haven't received any so far this year?

DEIRDRE MOORE: Not dividends, but I did receive sporadic cheques from Mr. Kiska. However, it's unclear whether or not they were child support - spousal support or even which, which year they fell into. I have a sample of a cheque which says support 2017, 2018. So it's very difficult for me to understand what my actual income was for 2017...

THE COURT: Okay.

DEIRDRE MOORE: ...but I earned \$4,000.

THE COURT: Okay. Do you have an idea of how much of those cheques you have received?

DEIRDRE MOORE: I received - well, somewhere

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Kiska v. Moore

between 35,000 and 45,000.

THE COURT: So that's - that's over and above the \$50,000 dividend that you received?

DEIRDRE MOORE: From my retirement savings, correct.

THE COURT: Okay. Okay.

DEIRDRE MOORE: And Mr. Kiska also received the same \$50,000 dividend.

THE COURT: Okay. And you're joint owners. So you're joint - you're both shareholders of that company?

DEIRDRE MOORE: Correct.

THE COURT: Okay. Okay. Okay, so how much are you looking for?

DEIRDRE MOORE: Well, when I received letters in the past of Divorce Mate calculations, it's come up to about \$4,000 a month, based on an income of his of 200,000 and mine, of 45. Unfortunately, despite my best efforts, it seems - I have not been able to retain employment at all. And this is not just for the past year. This is for, you know, several years. I'll get small contracts or junior positions but nothing compared to the consulting or income that I enjoyed for over 10 years.

THE COURT: So have you - I haven't read in your evidence any - or in your affidavits - any evidence of what you've done, the efforts that you've made to find employment or what are your qualifications? What kind of work did you used to, to do?

DEIRDRE MOORE: Okay. I'm sorry, Your Honour. I did not include those things. I provided my friend with lots of samples.

THE COURT: Okay.

DEIRDRE MOORE: I brought today a, a book of applications that's just a year to date as well as summaries for prior to 2018. I'm a charter financial analyst with an undergrad in business administration. I don't know if I'm being overlooked or screened out because I'm CFA versus a CA. My main client of ten years is no longer interested in my services. The most recent contract which I did have was sporadic and paid me 25 dollars an hour and actually, they still haven't paid the bill. So finding employment is very challenging. It might be due to the widespread stigma that I am severely mentally ill, it might be due to the fact that I'm 52 years old and have a consulting background, so it's difficult to find a job. It could be a variety of reasons. But I do know that Mr. Kiska continues to enjoy a significant income. I did bring a graph of how my income dropped significantly since the kids were born and severely since my onset of mental illness in 2013, while Mr. Kiska's has basically skyrocketed.

THE COURT: Okay. And where do I find the evidence in the affidavit material that would tell me that his income has skyrocketed?

DEIRDRE MOORE: I brought a sample with me. I didn't have time to prepare it for the affidavit.

THE COURT: Okay, a sample of what?

DEIRDRE MOORE: Well, I have my proof of employment and based on the accounting information that was submitted, I came up with a graph that demonstrates

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Kiska v. Moore

my income versus....

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THE COURT: Mrs. Moore, the problem – the problem is that, you see, when, when you bring a motion, you need to file all the evidence that you intend to rely on, by way of affidavit. I can't start accepting briefs and graphs and documents that you have not already filed because that, that would be unfair to Mr. Kiska, who has not had an opportunity to review it and to file evidence that would, you know, contradict it or support it. So I, I can't really rely on these documents that you've prepared based on evidence that's not before me, right?

DEIRDRE MOORE: Okay.

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THE COURT: So I'll leave it at that for now. But – okay, do you have anything else that you wanted to add? So what you're looking for is \$4,000 a month?

20
DEIRDRE MOORE: That's what I've seen produced by a previous lawyer that I had when this separation first started. It was based on an income of \$45,000 imputed to me. Now, currently, my income is zero – my earned income is zero.

25
THE COURT: And you're talking a position that Mr. Kiska's income is in the \$200,000?

30
DEIRDRE MOORE: It's difficult to tell. 150 to 200 is my estimate. He provided a number of a 100 and – he's provided several numbers, most recently, 143,000. But as I mentioned, there's really no deductions permitted for his type of corporation, so I don't know what he's earned for 2017. I would need to see the invoices and they have not been provided.

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Kiska v. Moore

THE COURT: Okay. Okay, thank you.

DEIRDRE MOORE: You're welcome.

THE COURT: Mr. Smith?

DEIRDRE MOORE: Thank you, Your Honour.

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MR. WADE: Yes, Your Honour, thank you. The motion
that's before the court is for spousal and child
support retroactive to January 2018. In 2017, Mr.
Kiska paid support on a voluntary basis and you may
10 have noted Justice Engelking's endorsement in the
settlement conference annotation. Her endorsement
was that spousal and child support can be brought,
if necessary. And that wording reflects that it's
common ground that Mr. Kiska has paid a lot of
money by way of support and this is set out in his
15 affidavit at volume 6, Tab 1, paragraph 12, where
Mr. Kiska sets out all the income that Ms. Moore
was provided. She did receive dividends last year
of \$50,000. He paid support at 43,000. That's in
the range that Ms. Moore, in her submissions,
20 estimates and I think she said 35 to 45. He
calculates 43. There's money she took without
permission from the joint line of credit. And then
she alleges that she earned only 4,000 from her
employment, but that was her income for last year.
25 She doesn't deny that in her reply affidavit. In
2018, Mr. Kiska has already paid 5,000 on a
voluntary basis and Ms. Moore has also received
50,000 as an additional dividend, so that's in this
calendar year.

30
THE COURT: In this...

MR. WADE: Yes.

DEIRDRE MOORE: ...so the this is the second

\$50,000 of dividends that she's received in 2 years?

MR. WADE: That's correct. That's in paragraph 13. So she's received an additional 50,000 that'll be income for her that's not declared on her financial statement, but I factored it in in the Divorce Mate calculations that I've prepared. Ms....

DEIRDRE MOORE: Excuse me, that was a shareholder loan...

THE COURT: Okay, but...

DEIRDRE MOORE: ...and I have evidence of that.

THE COURT: ...we're going to hear from Mr. Smith...

DEIRDRE MOORE: Okay, so....

THE COURT: ...and once he's done, I'm going to let you address some of the things he said, okay?

DEIRDRE MOORE: Okay. Thank you.

MR. WADE: As it was in 2017, it was a - it's a dividend and that's how they take income out of, out of the company. He's taken 50,000 himself, which will go into his income for this year. Last year, he took an, a, a similar dividend and he earned income from his new corporation because he didn't want to continue to be tied in the same corporation as Ms. Moore when he's the only one providing the consulting services. He has varying contracts and his income comes in sporadically, because he has an accounts receivable issue and he pays the 43 on a sporadic basis. When he has money, he gives money to his wife. They are in a shared parenting arrangement and he wants to provide and has provided generously for her on a

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Kiska v. Moore

voluntary basis. This is one of the few times I
can - I have the pleasure, in my long career, of
standing up and saying that a person's overpaid
support compared to the Divorce Mate calculations.
So he does this on, on a periodic basis. He's
already paid 5,000 voluntarily and he still finds
himself in this motion. His income has jumped
around because his consulting income is somewhat
sporadic. It was around 70,000, as his early
notices of assessment say. He estimated it on a
financial statement at 120,000 and this is all
acknowledged by Ms. Moore. And perhaps, Your
Honour, it might be helpful, there's a document I
have here that is entitled, factum. I didn't have
it written on mine, I just got the document so I
wasn't - I was somewhat confused. But if you go to
Tab A of the factum, what Ms. Moore is, is pointing
out in, in, in her support for her motion for the
sale of the home, she's saying Mr. Kiska can't
afford to buy the home because he makes somewhere
in the range of 100 to 120,000 a year. And that's
traditionally what the earnings have been. He says
in his sworn financial statement, last year, I made
a 137,000 in dividends because he's actually
alleging that his income is in excess of what Ms.
Moore puts in her own material. And that will be
the number in dividends that he has on his
financial statement and will be on his income tax
return. He's provided all disclosure. There was
no request for disclosure - additional disclosure -
made at the settlement conference. That is his
income and it's somewhat higher than it has been in

prior years. Based on that, I prepared Divorce Mate calculations and they are in his affidavit, volume 6, Tab 1 D. And what I've done in the first scenario, Your Honour, is I have prepared his income and then I put Ms. Moore's income at 50,000 from dividends and 30,000 imputed income from employment. And then, I had prepared, down the following page, that the dividend income and the employment income as Ms. Moore attests that she made in 2017. Now, the issue of what support should have been paid and was there over or under payment for 2017 isn't before you. The motion is for support commencing January 1, 2018. But it probably will be an issue for trial, but I'm trying to get some kind of assistance to you as to what income to ascribe to Ms. Moore. So those are the two scenarios. And the calculations, given that it's a shared parenting regime, my client has no difficulty in the assumption that there should be equal net disposable incomes in both homes. So I've calculated in - the, the computer automatically has calculated in the first series with the asterisk at the high level is for 50/50 NDI.

THE COURT: Just a question before you continue. I'm, I'm thinking that there may be a mistake in terms of the input in the Divorce Mate calculation because you've only inserted the taxable Canadian dividends all without also including whether or not they are eligible or non-eligible and it, it reduces his income down to \$99,000, which I think....

MR. WADE: And it's unclear. I don't know whether they are eligible or non-eligible....

THE COURT: Do you have any tax returns or financial statements in the continuing record?

MR. WADE: No. There's just the notices of assessment, I believe.

MR. WADE: They are eligible, my, my client's telling me.

THE COURT: They are eligible?

MR. WADE: Yes.

THE COURT: Would you mind, Madam CSO, bringing me my portable computer that's in my office. Do you know to remove it from it's stand and bring it to me? You don't need to close anything. Just push the button and bring it to me. Thank you. I think it's important to, to verify. I'm just - because not making that specific - not including the input of what is eligible or not has a significant impact on his income.

MR. WADE: Yes, Your Honour. As far as Ms. Moore's income, what I've done in the second page is I've inserted a 50/50 NDI split as one of scenarios.

THE COURT: Mm-hmm.

MR. WADE: So that would be how I've done it with the, the minimal income ascribed to her. I've also done a calculation based on the income Ms. Moore herself says in her affidavit material. If you would look, Your Honour, at volume 5, Tab 7, paragraph 43, this is Ms. Moore's second affidavit that was served recently on me, paragraph 43. What happened is and Mr. Moore - or Mr. Kiska - says, look, she's making about over 65,000 as a financial

analyst. She voluntarily left that job.

THE COURT: Mm-hmm.

MR. WADE: She doesn't deny it in her reply material and she's not working to her full potential. However, she says she's applied for jobs, but if she took even a low wage job, it would bring her income up to 45 to 50, 000. So the trick is what income do we impute to Ms. Moore.

THE COURT: Thank you. I'm listening - sorry.

MR. WADE: And I would say the best evidence is the evidence she herself gives it to her at \$45,000. If we input that and add it to the dividend income then we have, certainly, a person who is self-supporting. She should be working full time. The - my client's running out of a contract at the end of July. He's working hard, he's working as hard or harder than he was when they were together in that he's caring for children full time for half the time, plus working very hard and there should be a similar effort made by Ms. Moore to contribute to the support of a family. And my client feels if she would give half the energy to working that she's giving to reading law, then we might be further ahead as a family.

THE COURT: What are your submissions, counsel, with regards to leave to bring a motion for the sale of the home?

MR. WADE: Well, it's not requested in the notice of motion at all. So it's not, in my submission, properly before the court. I get somewhat frustrated at bending over backwards for self-represented people. I'm, I'm cognizant of the

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Kiska v. Moore

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problem that's before the court, but I've got material in the factum that's not in the affidavit and I got things in the affidavit that aren't supported and I've got - so it's, it's very frustrating and I, I know in your experience, that you can separate the wheat from the chaff, but this is an issue that was canvassed at a settlement conference and specific motions were granted leave. And in my submission, it should be restricted to that, just procedurally, you know, why do we have these settlement conferences and directions from the court and then people say, well, that's fine, but let's just override that. I have a problem with that. The second issue I have with respect to the request for leave is, in my submission, you'd have to weigh the possibility of the success of that motion. I had done some research - the *Chaudhary* case and some law I've given to, to Ms. Moore, just to say, you have to show that there is no case before the court. Could the court grant exclusive possession to Mr. Kiska? Well, quite possibly. The office of the children's lawyer is just starting their investigation. They've accepted the appointment and there's, there's - in Ms. Moore's material, they're meeting with the parents this weekend to start that. Are they going to recommend, given Ms. Moore's psychiatric history, that maybe there should be a different parenting regime? She admits in the material, at least three psychotic breakdowns. Is it going to be that Mr. Kiska is going to have the primary care of the children and are the children going to lose

5 their, their home? These are going to be difficult
issues for a trial judge and I think they should be
left to the trial judge and not on a motion, in any
event. So as you assess whether to grant leave for
yet another motion by Ms. Moore, again, exhausting
the finances of this family, I'd ask you to
consider that it's, it's a motion that's not very
likely to succeed, even if leave is granted.

10 THE COURT: Okay. Mrs. Moore, it's your turn. You
have a right to reply. So you have a right to
address new issues that came out from what Mr.
Smith has said, not to reargue your case, however.
So I'm listening to you.

15 DEIRDRE MOORE: All right. Thank you, Your Honour.
I believe I did request the sale of the home in the
notice of motion, whereas you stated I did not.

20 THE COURT: No. What Mr. Smith is saying is that
you did not bring a motion for leave for the sale
of the home. You did bring a motion for the sale
of the home.

DEIRDRE MOORE: Thank you.

THE COURT: Yeah.

25 DEIRDRE MOORE: So I am still requesting leave of
same.

THE COURT: Mm-hmm.

DEIRDRE MOORE: Despite all the imputations [sic]
that my friend wants to put on me, I have been
incapable of receiving employment and....

30 THE COURT: Can you address, specifically,
paragraph 43 of your affidavit, Mrs. Moore, when
you, you did say that accepting a low wage job
could bring her income up to approximately 45 to

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\$50,000?

5 DEIRDRE MOORE: Well, during the case conference,
what was really under attack was my mental health
due to the applicant's notice of motion to receive
sole custody of the children, due to my severe
10 mental illness. There is nothing to support that
at this moment, other than a five-year-old
diagnosis, which have no longer any support. So
the \$45,000 junior position, which I accepted was
due to the judge's - at the time - order that I
needed to get a job and get into my children's
school zone, if I wanted any custody of the
15 children whatsoever. So that's exactly what I did.
And shortly after taking the job, which was to have
me implement a new technology system, it was
discovered that the technology did not fit the
company. So the writing was on the wall, that they
mis hired for something that wasn't going to exist.
Shortly thereafter, an opportunity that paid me a
20 higher hourly rate came up at the hospital with far
more potential for movement upward. So it would
have been foolish for me to stay on with this
junior firm and zero opportunity and turn down this
position at the hospital, which used my expertise.

25 THE COURT: Okay. So what happened to that job?

DEIRDRE MOORE: It was a six-month contract.

THE COURT: Okay.

DEIRDRE MOORE: And it ended. And that was the
last contract I had with - other than another
30 short-term contract of one month towards the end of
September and another contract, which I thought was
going to be much more meaningful that offered about

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5 a hundred hours, and like I said, they haven't paid the invoice yet. I have been putting out dozens and dozens and dozens of CVs. I have emailed these to the client's lawyer and I've brought copies today...

THE COURT: Again, if it....

DEIRDRE MOORE: ...I spoke with a company yesterday.

10 THE COURT: Mrs. Moore, if it wasn't filed before me as evidence, I can't accept it.

DEIRDRE MOORE: I'm sorry, I didn't realize...

THE COURT: That's all right.

DEIRDRE MOORE: ...I needed to file all my job applications.

15 THE COURT: But I'm just - I'm just telling you so that you know next time around. But I certainly can't accept that today.

20 DEIRDRE MOORE: Sure, no problem. I'm sorry, Your Honour. Let's see, Mr. Kiska's affidavit as per Mr. Smith's claim says that expenses - incomes, expenses were not paid - and where is the reference - so he claims expenses were paid, but I ask, where is the proof of that? I brought proof - I didn't put it in my affidavit - of all the expenses for the eyeglasses and the dentist appointments and all sorts of equipment....

25 MR. WADE: I'm....

DEIRDRE MOORE: I haven't seen any proof....

30 MR. WADE: Your Honour, I'm wondering if this is reply?

DEIRDRE MOORE: Yeah. 'Cause, you said that your client has paid a lot of expenses because of the

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shared parenting agreement.

MR. WADE: But I don't - the - I don't believe Ms. Moore raised this in her submissions...

THE COURT: No.

MR. WADE: ...and allowed me a chance to reply to them. So she can't...

THE COURT: No. And I think...

MR. WADE: ...reply to something that wasn't in-chief.

THE COURT: ...there's no - there's no claim that are being made either in the motion materials or in the argument about special expenses or kids' expenses. I'm, I'm, going really, based on the parties' income.

DEIRDRE MOORE: Okay. Well, my income for the last year was under \$4,000...

THE COURT: Yeah.

DEIRDRE MOORE: ...except for the dipping into my retirement savings of \$50,000. There wouldn't be room for another \$50,000 for 2018, as they claimed. There was room for a shareholder loan that we need to, to pay back.

THE COURT: Well, so, you know, I think that the - I hear what you're saying about the money received being a shareholder loan as opposed to dividends, but my understanding is that in 2017, it would - I, I mean, you go with the label on the cheque, right, and how it's been accounted for in the corporate books. And so for the purpose of a temporary order, the reality is, regardless of how this is treated, I've included it as - if I included it as dividend for Mr. Kiska, then I include it as

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dividend for you. If I consider this to be a shareholder loan for you, then I take it out of his income for support purposes as well, right? So it has to be consistent on both. The best evidence before me, based on the income tax returns, that I believe, I've, I've seen one of them, is that they were treated as, as dividends in 2017. So I'm inclined to treat it as dividends for both of you. It's money that you both received.

DEIRDRE MOORE: Okay. The only - the only problem with that is one of the arguments Mr. Smith made is that - and it's in his affidavit - is that Mr. Kiska's income is sporadic...

THE COURT: Mm-hmm.

DEIRDRE MOORE: ...and so he's paid \$5,000 so far this year because, you know, he doesn't know what he's making, but meanwhile, his 13.1 shows there's \$50,000 in the bank. So by using joint company dividends to pay living expenses, he is preventing using his own company's dividends as expenses.

THE COURT: Okay. Thank you. I would need to see any income tax return from your client, Mr. Wade, because if I treat all of your - all of the dividends as eligible dividends, it increases his income to over \$200,000 because of the tax treatment. And so, as you can imagine, it's a significant difference. And so I'm, I'm a bit puzzled. I certainly don't want to impute that kind of income to your client. Now, this being said, it would be the same for the wife, right...

MR. WADE: Yes.

THE COURT: ...the 50,000 dividend, if treated the

5 same, would increase her income - or dividend
income, anyway - to - I'll tell you to what, right
now - to 86,000. So I don't have any financial
statement or income tax returns in front of me and
I think - you know, I have a duty to ensure that
the - that the, the needs of the children are met,
particularly in a shared parenting arrangement.
And that leaves me a little bit worried to use a
strict dividend analysis for both. So I'm open to
10 suggestions as to how I should be dealing with
this.

MR. WADE: The - my client has not filed his 2017
income tax return yet, Your Honour. So - and I
don't have his 2016 - and I don't have Ms. Moore's
15 2016 here. I don't even know if I've got Ms.
Moore's....

THE COURT: Do you have the 2016 because, I mean, I
would think that historically, they would treat
dividends the same way...

MR. WADE: Yes, I....

THE COURT: ...from one year to the next.

MR. WADE: Yes, Your Honour. Perhaps the best way
to do it - I don't know if I've - I've seen Ms.
Moore's 2016, so I'd have to get both, if....

THE COURT: Mm-hmm.

MR. WADE: Did you have a copy of yours, Ms. Moore?

DEIRDRE MOORE: I have provided the 2016, but the
CRA has yet to provide me with the notice of
assessment and I believe it's because our company
is currently being audited and so they have
refused. It might be further audited. They're
looking at 2012 and '13. They're also looking at
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fraud charges and this is why...

THE COURT: I - okay.

DEIRDRE MOORE: ...I'm concerned about the depletions of the assets via dividend. So no, I haven't received an NOA on 2016. I'm not able to file my 2017 because I have no idea what the so-called support refers to, whether it's child support or spousal support, Your Honour.

THE COURT: How many years was this relationship?

MR. WADE: They were....

DEIRDRE MOORE: Exactly 20 years, minus 3 months before the, the applicant served his notice of separation.

THE COURT: Okay. And because I only have two volumes out of all of those that were filed, I'm missing basic information. The kids are how old, again?

MR. WADE: Sean was born on May 8, 2006, he's 11. And Kate was born on November 30, 2007 and she's....

THE COURT: Actually, this is written in the side calculations that you gave me. Sorry, I could have looked there. Thank you

R U L I N G

AUDET, J. (Orally):

So this is a temporary motion for child and spousal support and I find myself with limited information about the parties' income, not having been provided with sworn financial statements and income tax returns. I understand that the parties' 2017

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income tax returns have not been filed yet, as there are issues, whatever those issues are. So I am making a temporary, without prejudice order for child support and spousal support, based on the following information, the following income. First of all, I am going to deem the father's income to be \$137,000. That is the best evidence I have in front of me. That income is comprised of dividends, but I have no information as to whether or not these are eligible or non-eligible dividends. And because I don't know that, I am not sure what the tax treatment is and so the reason why I am making a without prejudice order is so that once this information is confirmed, should this have a significant impact on support, either party will be able to bring the motion back before me for a correction or an adjustment to reflect the proper treatment of these dividend income. I am imputing a \$30,000 income to the wife. I am of the view, I can see from the evidence before me that she is well educated, she has been gainfully employed in the past. A low paying job for her is defined as a job that would pay between 45,000 and \$50,000. This being said, there is evidence, even though it is contested by the wife to a certain extent, there is evidence of mental health issues for the wife, which has impacted, in my view, on her ability to find employment over the past few years. This said, I am not convinced that she is unable to obtain employment even on a part time basis that would provide her with at least a minimum wage income. I am also imputing on her a

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5 \$50,000 dividend income. This is not imputed on
her. I deem it to be her income because I find
that she did receive \$50,000 of dividend income
from the parties' corporation, both last year and
this year. That leads to, I have to admit, that
leads to flawed calculations, because when the tax
treatment is taken into account for both parties,
it brings the husband's guideline income to \$99,275
and the wife's guideline income to \$66,232. I am
10 going to do something, actually, to fix that. To
fix that problem, what I have done is instead of
imputing or including dividend incomes to the
parties, I have calculated support based on other
taxable income of 137,000 for the husband and other
taxable income of \$50,000 for the wife. That
15 allows the income to be fixed at that level as
opposed to arbitrarily reducing it down to 99,000
and 81,000 or 60 - some thousand, which just does
not work, not knowing what the actual types of
dividends were. So with a taxable income of a
20 137,000 for the husband and a taxable income in the
amount of 80,000 for the wife, in light of the
shared parenting arrangement between the parties,
the child support payable by the husband to the
25 wife is in the amount of \$1,924 per month, once
again, on a without prejudice temporary basis. If
I attempt to divide between the parties, the net
disposable income equally, to reflect the fact that
the kids are spending an equal amount of time in
30 both homes, that would lead to a spousal support
amount of zero dollars. And, therefore, I decline,
at this time, to make a spousal support award. So

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retroactive to January 1st, 2018, the husband shall pay the wife, child support in the amount of \$1,924 per month. The parties are to share the children's expenses, special expenses equally and I see in the evidence of the husband that so far this year, he has paid \$5,000 to the wife and that amount shall be deducted from any arrears accruing under the order that I just made. With regards to the issue of leave to bring a motion for the sale of the home, I find it difficult to make a decision on that based on whether or not the motion has any merit. I do not have the evidence in front me that would allow me to determine whether or not it does have merit and I do not know what went on at the settlement conference because - nor should I. But in any event, the rules specifically provide for the ability for a party to bring a motion for leave to bring motions after a settlement conference has been held. And even though the wife's motion did not specifically ask for leave, it did ask for the sale of the home and I find that there is no prejudice to the husband in my dealing with this today. It may very well have no merit, but I can not make that determination today and I am going to grant leave to the mother to bring that motion. But I will only allow the mother to bring that motion after the office of the children's lawyer has completed its report, as I feel that it would be an unnecessary expense before that, not knowing what the recommendations might be. I quite agree with Mr. Smith that in the event that the OCL would make recommendations that would change the actual

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status quo, it would certainly have an important impact on the outcome of the motion for the sale of the home. And for that reason, I am granting the mother leave to bring her motion, but only after the OCL has voiced its recommendations in this matter. I am just going to take the time to draft a very quick endorsement. I am going to correct my oral reasons to provide that the parties are to share the children's special expenses in the proportion of 60 percent for the father and 40 percent for the mother. I proceeded on the basis, originally, that there would be spousal support that would bring the parties' net disposable income to 50/50, but that is not the case. So I am going to follow the guidelines based on the income. So here is my endorsement. For oral reasons given, the following order shall be issued: Number one, on a without prejudice, temporary basis, the father shall pay monthly child support to the wife for the two children of the marriage in the amount of \$1,924. This is based on the father's "other taxable income" of \$137,000 and the mother's "other taxable income" of \$50,000, plus an imputed employment income of \$30,000 for a total of \$80,000. The parties are both in receipt of the dividend income, which I've qualified as other taxable income, from their joint company. The nature and tax treatment of those dividends is unknown to me, as I do not have the parties' income tax returns before me. Should those show the proper identification of that income and the support calculations would materially affect the

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outcome, the matter may be brought back before me based on relevant evidence. Number two, the parties shall share the children's section 7 expenses, 60 percent for the father and 40 percent for the mother. Number three, the mother is given leave to bring a motion for the sale of the matrimonial home, but only after the OCL has made its recommendations known. Number four, on a without prejudice basis, the mother's claim for temporary spousal support is denied.

MR. WADE: Thanks, Your Honour. I have some submissions with respect to costs.

THE COURT: Yes.

MR. WADE: We had served an offer to settle in this matter....

THE COURT: Yes. Madam Registrar?

MR. WADE: Excuse me, Madam Registrar?

THE COURT: Thank you.

MR. WADE: And Your Honour, as I said, my client has overpaid support in an effort to avoid motions like this that keep coming back. He's offered child and spousal support in a combination well in excess of what you have ordered. He has allowed the expert to attend at the matrimonial home and as far as the motion for the sale of the home, I didn't put anything in there because we didn't think it was properly before you, but we had to prepare for that. There was two volumes of material, a extensive case brief that was filed, a factum that was filed. I estimate my time a little over seven hours in total. I was called to the bar in 1986, I charge 375 an hour. The fees would add

up to \$3,178.12, inclusive of HST and I'm requesting an order in that amount.

THE COURT: What's the amount, again?

MR. WADE: Three thousand one hundred and seventy-eight dollars and twelve cents. There is ample ability to pay in that there's property. Ms. Moore owns her own home. We are going to have a lengthy dispute about assets. There's claims for all kinds of things against my client. Damages for emotional stress and everything like that. So Ms. Moore, in my respectful submission, shouldn't be allowed to come to court with impunity with these motions. She should know there are cost consequences to Mr. Kiska, who himself is working hard, trying to support his two kids. He doesn't have the money for this. And he needs these costs to be awarded to pay his lawyer's bill. Thank you, Your Honour.

THE COURT: Thank you.

DEIRDRE MOORE: Excuse me, I own my own home, but unfortunately, I have no access to the equity in my home because my name is on the mortgage for the matrimonial home. And I have zero cash and I have zero income, which is the reason that I brought this motion. I'm supposed to care for my kid - children with zero cash and zero income?

THE COURT: Okay.

DEIRDRE MOORE: Thank you, Your Honour.

THE COURT: The rules provide that a successful party is entitled to his or her costs in any step in the proceeding. While Mrs. Moore is - was successful in bringing her motion for support, the evidence makes it clear that even though there

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wasn't a formal order for support, that Mr. Kiska has provided support, which is more than reasonable - in an amount that was more than reasonable since the parties' separation. He has served an offer to settle on March 19th, which - by way of which he offered to pay more than what the outcome of my decision is and with - in accordance with the rules, he should be entitled to his full costs from that date on. The amount sought is reasonable. I have no problems with the, with the hourly rate charged or the amount for the preparation of this motion, which included two issues that I refused to deal with today and so I'm of the view that Mr. Kiska is entitled to costs and I fix those costs at \$2,000.

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DEIRDRE MOORE: If I may, Your Honour. You, you stated that we could revisit the support amounts if we brought forth some evidence that would significantly change the amount due. I respectfully request that the awarding of costs be deferred until such evidence can be produced, which will clearly show that Mr. Kiska's imputation [sic] of my income is significantly high based on his erroneous treatment of dividends.

THE COURT: It's a good point. Do you want to address that, Mr. Smith?

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MR. WADE: Well, if the issue is the imputation of income, you'd made final determinations on what that is, the \$30,000 and, and also on the dividend income, which is characterized in that fashion. So my client has greatly exceeded the order that you've made and costs should follow the event.

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THE COURT: Mm-hmm. I, I'm not going to change the amount of costs that I've, I've assessed, but I think that Mrs. Moore is bringing an interesting and valid point, which is to the extent that the tax treatment is such that the level of income for both parties is significantly different, it could very well lead to an amount of child and spousal support that far exceeds the offer to settle that you've made. And so what I'm going to do is I'm going to fix costs in the amount of \$2,000, but I'm going to suspend the payment of same until one of two things. If the motion returns before me, I will - and the outcome is different, then I'm going to retain the discretion to vary that amount of cost and - or I'm going to suspend it - I'm going to suspend the payment to trial. So it's, it's going to remain fixed at \$2,000 but the payment will only be required after the trial, after there's a final decision.

MR. WADE: Is Your Honour going to put a time limit on when it would come back to you? I don't want this hanging around for a long time, so perhaps it would be wise to set a limit in order to get it back in front of you? And would it be in writing that we would submit something to you?

THE COURT: Yes, it would be in writing. Okay. Could I have a couple more pages of endorsement, please, Madam Registrar?

DEIRDRE MOORE: Excuse me, that's once the OCL has made a decision, is that correct?

THE COURT: No. My, my endorsement of today makes it clear that because I don't know what's the tax

5 treatment and type of dividends that you both earn, I've, I've treated it differently in terms of income, but I've allowed both parties to come back in front of me to the extent that if - when you determine the nature of these dividends and if it would materially affect the outcome of the motion, then I will allow you both to make written submissions before me, providing me with the tax returns or any type of evidence - additional evidence - that would show to me that the tax treatment is different and that the outcome would be different. And I'll defer - I'll defer the issue of costs to that moment. So I'll, I'll - let me just finish off this endorsement. So I've added the following: On the issue of costs and in light of the father's offer to settle, which was more beneficial to the mother than the result achieved in this motion, I find that the father is entitled to \$2,000 in costs. The outcome, however, might very well be different when the nature and the tax treatment of the dividends is known. Therefore, I will give the parties or either one of them thirty days within which to submit to me, if they wish, further written submissions, not exceeding two pages, in addition to brief affidavits providing me with the additional evidence confirming the nature and or the tax treatment of the dividends and I will then make a final decision on the issue of temporary support. My decision regarding costs may vary depending on that. If no additional submissions are provided to me within 30 days, my cost award will stand and it shall be repaid by the

mother at the rate of \$200 per month.

MR. WADE: Thank you, Your Honour.

DEIRDRE MOORE: Thank you, Your Honour. One last question. I'm not quite sure how I complete 2017 taxes without knowing how Kiska's....

THE COURT: You don't necessarily need to complete your taxes. You should have received, from the corporation, a T5, which gives all the evidence I need about the nature of the tax treatment.

DEIRDRE MOORE: No, I just need to - can't to do my taxes, though and Mr. Kiska won't tell me....

THE COURT: I'm going to leave it to you to get some advice on that. I can't give you advice as to how to find the evidence that you need. But I can tell you that the additional evidence is not limited to just tax returns. You can look up past tax returns, yours as well as, as Mr. Kiska's. You can look at T5s.

DEIRDRE MOORE: Your Honour, he's claiming 40 whatever thousand in support, so I'm not sure if it's taxable spousal support or nontaxable child support or contributions to expenses....

THE COURT: I understand that, but I can't help you with that. That's irrelevant for the purpose of my endorsement.

DEIRDRE MOORE: But what if he won't tell me?

THE COURT: I don't understand the question.

MR. WADE: I'm having some difficulty as well. I think that - I think that....

DEIRDRE MOORE: We've, we've asked several times for....

THE COURT: I know, but as long as a court has not

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made an order for support, ma'am, I don't think
it's possible for the parties themselves, unless
they agree, to determine what is child support and
what is spousal support. So perhaps, based on my
temporary order, the parties should be able to
resolve by subtraction what is child support for
last year versus spousal support. But otherwise,
that's an issue that's going to be determined at
trial.

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DEIRDRE MOORE: Thank you very much, Your Honour.

THE COURT: Okay?

MR. WADE: Thank you, Your Honour,

THE COURT: Thank you.

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...WHEREUPON THESE PROCEEDINGS WERE ADJOURNED

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Certification

FORM 2
CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))
Evidence Act

I, Shabana Hasni, certify that this document is a true and accurate transcript of the recording of Kiska v. Moore in the Superior Court of Justice held at Ottawa, Ontario, taken from Recording No. 0411_MR57_20180322_094138__10_AUDETJ.dcr which has been certified in Form 1.

(Date)

(Signature of Authorized Person)
Shabana Hasni
ACT ID: 2051799430
shasnitranscripts@vptranscription.com