

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 1701-0145 AC
TRIAL COURT FILE NUMBER: FL01-17010
REGISTRY OFFICE: CALGARY
PLAINTIFF/APPLICANT: ANNE RENSONNET
STATUS ON APPEAL: RESPONDENT
DEFENDANT/RESPONDENT: JAN UTTL
STATUS ON APPEAL: APPELANT
DOCUMENT: CIVIL NOTICE OF APPEAL

Registrar's Stamp



APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION: JAN UTTL
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WARNING

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed From:

Date pronounced: May 3, 2017

Date entered: Not yet entered

Date served:

Official neutral citation of reasons for decision, if any:
(do not attach copy)

(Attach a copy of order or judgment: Rule 14.12(3). If a copy if not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

2. Indicate where the matter originated:

Court of Queen's Bench

Judicial Centre: Calgary

Justice: G. Marriott

On appeal from a Queen's Bench Master or Provincial Court Judge?:

Yes No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge: (do not attach copy)

(If originating from an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required: Rule 14.18(1)(c).)

Board, Tribunal or Professional Discipline Body

Specify Body:

3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).

Permission not required, or Granted:

Date:

Justice:

(Attach a copy of order, but not reasons for decision.)

4. Portion being appealed (Rule 14.12(2)(c)):

Whole, or

Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.)

5. Provide a brief description of the issues:

This appeal is from 20 minute hearing in morning chambers.

Rensonnet filed an Application to vary parenting time by adding adjacent weekends to Christmas, Spring, and Easter breaks, and to declare Uttl and Rensonnet's Agreement from March 2016, as valid, even though it was superceded by the Judgement Roll from June 24, 2016. Rensonnet's Application was supported by 36 pages of evidence. Uttl filed Reply Affidavit of 40 pages including exhibits. Uttl filed a Cross-Application (1) to obtain compensatory time for 10 days of missed parenting time because of Rensonnet's denial of access, and (2) vary parenting time and decision making because of material changes in circumstances since the Trial ended on

December 3, 2015, or in alternative, simpler parenting time order and determination of parenting time percentage by the Court. Uttl's Cross-Application was supported by Affidavit of 40 pages. Rensonnet did not file any Reply Affidavit and refused to consent to adjournment. Justice Marriott granted Rensonnet's Application to vary parenting time by adding adjacent weekends to Christmas, Spring and Easter breaks, and dismissed Uttl's Cross-Application in its entirety.

Justice Marriott made numerous errors in principle and in law including the following errors:

- a) prejudging the matters without hearing from either party,
- b) ignoring the evidence and refusing to hear Uttl's argument,
- c) failing to adjourn and to recuse herself due to conflict of interest,
- d) relying on Rensonnet's submissions as if they were evidence,
- e) granting Rensonnet's Application to vary parenting arrangements by adding adjacent weekends to Christmas, Spring, and Easter breaks as the matters were res judicata,
- f) applying incorrect test for material change in circumstances,
- g) refusing to hear Uttl's Cross-Application in the morning chambers and refusing to adjourn the matters to domestic special, and
- h) refusing to hear Uttl's Application for compensatory parenting time,

6. Provide a brief description of the relief claimed:

An order setting aside Justice Marriott's order in its entirety.

An order dismissing Rensonnet's Application to add adjacent weekends to Christmas, Spring and Easter as res judicata.

An order granting Uttl's Cross Application paragraphs 1, 2 and 3:

- An order for compensatory parenting time of 10 days.
- An order for parallel parenting schedule on 50/50 percent time basis -- slightly increasing Uttl's parenting time from 43% or 46% (depending on calculation) to 50% -- to eliminate Mother's repeated applications to the Court to re-litigate already determined issues, to dispose with Mother's unwillingness to comply with the current order, to dispose with Mother's unwillingness to fulfil her duties as primary caregiver, to reduce number of exchanges, to minimize a risk of the children's alienation from their Father by their Mother, and to simplify the schedule.

- An order that each party is responsible for day to day decision making during their parenting time.

In the alternate, an order granting Uttl's Cross Application paragraphs 4 and 5:

- Adequately detailed unambiguous parenting order easily understandable even to a person who must be in control and who misperceives the reality, changes her perception of the reality, and repeatedly attempts to re-litigate already determined issues based on her momentary views of the reality and what the Court Order says.
- A determination, by the Court, of the percentage parenting time allocated to each parent by the Trial Justice's Order/the Judgment Roll.

In the alternate, an order that the matter be returned to the Court of Queen's Bench to be determined in one hour domestic special, by a different Justice, preferably by the Trial Justice Poelman.

An order for costs, taking into account Rule 10.33 and (a) Rensonnet's repeated attempts to re-litigate already determined matters; (b) Rensonnet's repeated attempts to re-litigate already determined matters in a piece meal fashion, application by application rather than at the same time; and (c) Rensonnet's mischaracterization of facts and false submissions in the chambers.

7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)

YES

8. Does this appeal involve the custody, access, parenting or support of a child? (Rule 14.14(2)(b))

YES

9. Will an application be made to expedite this appeal?

No

10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

No

11. Could this matter be decided without oral argument? (Rule 14.32(2))

No

12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e), 14.83)

No

If yes, provide details:
(Attach a copy of any order.)

13. List respondent(s) or counsel for the respondent(s), with contact information:

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If specified constitutional issues are raised, service on the Attorney General is required under s. 24 of the Judicature Act: Rule 14.18(1)(c)(viii).

14. Attachments (check as applicable)

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

Earlier order of Master, etc. (Rule 14.18(1)(c))

Order granting permission to appeal (Rule 14.12(3)(a))

Copy of any restricted access order (Rule 14.12(2)(e))

If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record.