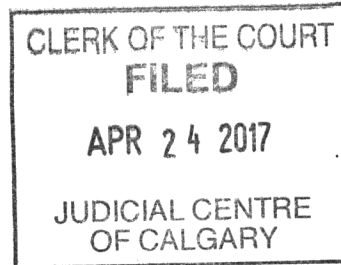


COURT FILE NUMBER FL01-17010
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT ANNE RENSONNET
RESPONDENT JAN Uttl
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Affidavit of ANNE RENSONNET

Affirmed on April 24, 2017

I, ANNE RENSONNET, of the city of Calgary, in the Province of Alberta, **MAKE OATH AND AFFIRM THAT:**

1. I am the Applicant in the within Action, and as such, I have personal knowledge of the facts and matters hereinafter deposed to, except where stated to be on the basis of information and belief, and whereso stated, I verily believe the same to be true.
2. The Respondent, Jan Uttl ("Uttl"), and I were involved in a four and a half year common-law relationship. We have two children resulting from our relationship, one 7 years old and one soon to be 6 years old.
3. The trial of this Action occurred before Justice G.H. Poelman on November 23 to December 2, 2015, dealing with all our issues, including setting out the parenting schedule. The Reasons for Judgment were issued on February 18, 2016. The Judgment Roll (Exhibit A) was released on June 24, 2016.

Interpretation of Judgement Roll

4. At issue today is the interpretation of the parenting schedule as per the Judgment Roll, specifically the meaning of "full Spring Break" and "remainder of the Christmas break". My understanding of those terms is that the breaks are school breaks and go from end-of-school to return-to-school, and as such, include the adjacent weekends.
5. The Parenting Schedule is laid out in paragraphs 1, and 8 to 15 of the Judgment Roll (Exhibit A). Of interest to this Application are the following paragraphs of the order:

11. In odd years:

- a) *The Defendant shall have the Children in his care from the last day of school until December 25 at 3:00 p.m.*
- b) *The Plaintiff shall have the Children in her care from December 25 at 3:00 p.m. until January 1 at 3:00 p.m.*
- c) *The Defendant shall have the Children in his care for the remainder of the Christmas break.*
- d) *The Defendant shall have the Children in his care for the full Spring Break.*
- e) *The Plaintiff shall have the Children in her care for the full Easter Break.*

12. *In even years:*

- a) *The Plaintiff shall have the Children in her care from the last day of school until December 25 at 3:00 p.m.*
- b) *The Defendant shall have the Children in his care from December 25 at 3:00 p.m. until January 1 at 3:00 p.m.*
- c) *The Plaintiff shall have the Children in her care for the remainder of the Christmas break.*
- d) *The Plaintiff shall have the Children in her care for the full Spring Break.*
- e) *The Defendant shall have the Children in his care for the full Easter Break.*

6. Apart from my belief that the intended meaning of “full Spring Break” and “remainder of the Christmas Break” is to encompass all the time the Children have off school, including the weekends, there is also no provision in the order for a pick-up or drop-off time specific to the start or end of the breaks. Pick-up and drop-offs are determined in paragraph 8 as being at the start and end of the school days, at the school.

“8. For the purpose of determining the regular schedule, a weekend shall begin at the end of school on the last day of school before the weekend, and shall include any non-school days immediately adjacent to the weekend. (For example, if the Thursday is a professional development day and the Friday is a statutory holiday, the weekend will be Wednesday 8:00 a.m. to Monday 8:00 a.m.)”

- 7. Furthermore, it is my belief that it is in the best interest of the children to have the weekends included in the breaks, particularly the Spring Break. This will maximize the children's opportunities to do trips with friends, or family out of province.
- 8. The children have family in B.C. on Mr Uttl's side and in Ontario and Quebec on my side of the family.

Events surrounding Christmas Break 2016

- 9. During this past Christmas Break, I had the children in my care from January 1 at 3 p.m. and for the “remainder of the Christmas Break”.
- 10. The children were to return to school on January 9, 2017.
- 11. It was my view that the weekend of January 7-8, 2017 was part of the “remainder of the Christmas Break”. It was Mr Uttl's view that the weekend of January 7-8, 2017 was his parenting time because it is the first weekend of the month.
- 12. Since our disagreement on the definition of that term was known to me, I attempted to pro-actively broach the subject with Mr Uttl and attempt to resolve it before the holiday period. I

emailed him on November 22, 2016 to start a conversation and try to resolve this issue (Exhibit B).

13. In the email exchange, I offered an option which would defer the problem to next year and leave more time to resolve it. I also offered a compromise solution whereby we would use Mr Uttl's definition for the Christmas break (excluding the weekend) and my definition of "full Spring Break" (including the weekends).
14. Mr Uttl would not negotiate on the issue, saying: "If there is something you would like to negotiate with regards to the spring break, we can negotiate when the time comes."
15. The email conversation ended on December 2, 2017 with no resolution. I clearly expressed to Mr Uttl that I intended to make plans for me and the children for the weekend of January 7-8, so he could decide if he wanted to set the matter down.
16. I did not hear from Mr Uttl about this again until January 6, 2017 (Exhibit C) when he emailed me to let me know that he would be coming to my house to pick up the children the next morning at 8 a.m.
17. Despite my informing him that the children would not be going with him and that he should not come to my door, Mr Uttl did come to my house the next morning. The children did not go.
18. On January 10, Mr Uttl attempted to retroactively accept my earlier solution to defer the issue to a later date (Exhibit C). I refused, but I did continue to offer my compromise solution whereby we would use his definition for subsequent Christmas breaks and mine for Spring breaks. To account for the fact that we did not use his definition at Christmas, I offered that he could have a weekend of mine in April (8-9) in lieu.

Agreement of March 2016 re Spring and Easter Breaks

19. I did not hear anything further from Mr Uttl on this issue. With Spring Break approaching (March 25 to April 2), I once again pro-actively emailed Mr Uttl on Feb 23, 2017 (Exhibit D).
20. I once again offered my compromise solution whereby we would use my definition of Spring Break (including adjacent weekends) and Mr Uttl's definition for Christmas break (excluding the weekend) (see p.29 – Exhibit D). I once again offered that since we did not use Mr Uttl's definition this past Christmas and so he missed out on that one weekend, he could have my weekend of April 8-9 for this year.
21. Mr Uttl did not respond until March 13, 2017.
22. To my surprise, he announced that he believed the Spring Break to be his parenting time. This would have the effect of nullifying an agreement we made in March 2016 that he would have the children in his care for the Spring break in 2016, and I would have them in my care for Spring break 2017.
23. See Exhibit **E** for the agreement, made by email on March 9 2016. Mr Uttl accepted as follows:
"I am agreeable to switch the odd and even years for the Spring Break, such that I have the boys this [2016] year for Spring Break and you have them for Easter Break, and the other way around in 2017."
24. The agreement of March 2016 effectively reversed the even/odd year designation for the Spring and Easter breaks which appear in the order. This is how that agreement came about:
 - a) The Reasons for Judgement for our Trial were issued on February 18, 2016 (see Exhibit **F**). Paragraph 309 section j and k are the equivalent to what would become paragraphs

11 and 12 of the Judgement Roll as above.

- b) I was supposed to have the children in my care for Spring break in 2016 (even years) and Easter Break in 2017 (odd years).
 - c) Mr Uttl and I disagreed on the definitions of the breaks already at this point. We did not expect to get a Judgement Roll finalized until after the Spring break of 2016.
 - d) In 2016, the Easter break overlapped with the Spring break, taking place on the last weekend of the Spring Break. That weekend was also the 4th weekend of the month, so normally my parenting time.
 - e) In order to avert any problems, I offered that we reverse the odd/even order for paragraph 309 j/k such that Mr Uttl would have the children in his care for the Spring break of 2016 and me for the Easter Break 2016 and vice versa in 2017 (See Exhibit D).
 - f) This agreement took effect in 2016. Mr Uttl had the Children in his care for the Spring break 2016 and I had them in my care for the Easter break 2016.
 - g) The Judgement Roll was not issued until June 24, 2016. It did not incorporate our agreement. I note that the first paragraph of the order does permit us to agree in writing to changes in the parenting schedule, which covers our March 2016 agreement.
25. Despite my forwarding Mr Uttl a copy of the email in which we clearly agreed that I would have the children in my care for Spring break 2017, Mr Uttl decided that our agreement was no longer valid.
26. I would like to highlight the fact that Mr Uttl expressed this sudden change of heart about the March 2016 agreement only 12 days prior to the Spring Break, despite my having emailed him about the Spring Break on February 23.
27. I would also like to highlight that back on November 22, 2016, when I emailed Mr Uttl about the Christmas break, I very specifically asked him if he still considered our March 2016 agreement to be valid. His answer (page 15, Exhibit B) was:
- "I wrote on March 9, 2016: I am agreeable to switch the odd and even years for the Spring Break, such that I have the boys this year for Spring Break and you have them for Easter Break, and the other way around in 2017... The agreement clearly applies only to the switch for Spring Break and Easter Break."*
- There was absolutely no mention of the March 2016 agreement no longer being valid.
28. Somewhere between November 23, 2016 and March 13, 2017, Mr Uttl changed his mind and decided the agreement was no longer valid. His reasons (or excuses) to view the agreement as invalid is that: 1) my asking him to state his position on the agreement and what the parenting schedule would be during the Christmas break amounted to putting the agreement into question and 2) our agreement does not survive the issuing of the Judgement Roll that came out in June.
29. I generally ask Mr Uttl what he understands our parenting schedule to be at any point where I sense there may be some even minor ambiguity or wiggle room specifically because my experience with Mr Uttl is that he will often find a way to exploit these things.
30. The fact is that I asked Mr Uttl to clarify his position. I did not cast doubt on the parenting schedule or our agreement. I wanted to know if we had a disagreement so we could try to resolve it and so Mr Uttl would be as equally informed as myself so as to make a decision about how to proceed and whether or not to set the matter down.
31. When I received Mr Uttl's March 13 response in which he denies our March 2016 agreement, I responded right away and informed Mr Uttl that I would have the children in my care for the

Spring break as per our March 2016 agreement and as planned. I also pointed out to him that I would be out of province during the break. He had two weeks to set the matter down if he wanted.

32. Mr Uttl kept arguing about this and bringing up all the past issues that were addressed at Trial, but he chose not to make any application to court.
33. When the Easter break approached (April 14-16), Mr Uttl maintained his position that it was not his parenting time even while I repeatedly pointed out to him that it was his parenting time and he could pick up the kids at school for that long weekend.
34. Mr Uttl then asked me to sign a consent order so that he would feel allowed to have the children in his care for the Easter break. I refused to sign the order for the following reasons:
 - a) Easter break was already Mr Uttl's parenting time and there was no consent order required. It made no sense.
 - b) Requiring a consent order frustrates our current Parenting Order: paragraph 1 of our order (Exhibit A) states that the parties may agree in writing to changes to the parenting schedule. I believe that it was one of the objectives of resolving our matter at Trial that we would no longer require the hassle of consent orders to make changes we both agree on. And I very clearly stated, in writing, multiple times, that Mr Uttl could have the children in his care for the Easter break. (page 26, Exhibit D)
 - c) The consent order Mr Uttl asked me to sign implicitly gave reason to his position that our March 2016 agreement was no longer in effect. I do not agree with that.
35. I made it clear to Mr Uttl that I would have the children in my care at Easter ONLY because he was failing to exercise his parenting time. That it was not a trade and there would be no make-up time. (page 25, Exhibit D)
36. In the end, Mr Uttl did not pick up the children at school on Thursday, April 13, 2017 for the start of Easter break and thereby failed to exercise his parenting time.
37. Mr Uttl is now taking the position that both these events are a denial of access and attempts to use this to underpin his request for a Domestic Special, during which he also seems to want to re-litigate all the major issues dealt with at our Trial.
38. Given the absurdity of the situation, I am compelled to make this Application and have the court rule on the straightforward issues of interpreting the definition of "full Spring Break" and "remainder of the Christmas Break" as well as the validity of our March 2016 agreement, in order to put this issue to rest and remove its disruptive potential.

AFFIRMED BEFORE ME)

on April 24, 2017)

at Calgary, Alberta)

[Signature])

Commissioner for Oaths in and for)
the Province of Alberta)

[Signature]

ANNE RENSONNET *or*

Resurrecion M. Fernando
Commissioner for Oaths
In and for the Province of Alberta
My Comm. Expires April 22, 2019

Table of Exhibits

A) Judgement Roll for Action FL01-17010, filed June 24, 2016	7
B) Email trail between Rensonnet and Uttl prior to Christmas Break, Nov 22 - Dec 2, 2016	13
C) Email trail between Rensonnet and Uttl after Christmas Break, Jan 6-11, 2017	19
D) Email trail between Rensonnet and Uttl prior to Spring Break, Feb 23 - Apr 13, 2017	25
E) Email agreement between Rensonnet and Uttl, March 9, 2016	30
F) Reasons for Judgement, Rensonnet v Uttl, 2016 ABQB 95, selected pages	32 33