

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

BETWEEN:

ANNE RENSONNET

Plaintiff

and

JAN UTTL

Defendant

P R O C E E D I N G S

Calgary, Alberta
October 9, 2014

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TABLE OF CONTENTS

Description	Page
October 9, 2014 Afternoon Session	1
Order	41
Certificate of Record	44
Certificate of Transcript	45

1 Proceedings taken in the Court of Queen's Bench of Alberta, Calgary Courts Centre, Calgary,
2 Alberta

3 _____
4 October 9, 2014 Afternoon Session

5
6 The Honourable Madam Justice Horner Court of Queen's Bench of Alberta

7
8 T. I. Davies For the Plaintiff
9 (No Counsel) For the Defendant

10 B. Apablaza Court Clerk
11 _____

12

13 THE COURT: Okay, so this is just a first meeting, Mr. Uttl. I
14 know you may have -- I -- I know your letter to me requested that perhaps there be some
15 relief granted today. There isn't going to be. Ms. Davies addressed me in a couple of
16 her letters about that and the necessity potentially for other people to be present so today
17 is a -- is a first meeting. We're just going to discuss the outstanding actions, we're going
18 to out -- discuss some of the issues and talk about potential timing for some of the
19 applications, all right.

20

21 Let me just say, right off the bat, right now, the next date for any case management
22 meetings for me, I believe, is either -- I think it's towards the middle of November or
23 later, okay. Everybody here is really, really busy. You know, we are doing -- I -- for
24 instance, I've been conducting a very public jury trial and I've had 1:00 meetings in
25 addition to court from ten until 12:30 and two to 4:30 or five or six or seven, once the
26 jury went out so you know, it -- it doesn't lend itself to a lot of additional time for
27 reading or preparing or for a lot of additional time for complicated, prolonged
28 applications. If that's the kind of thing that's going on here, those will have to wait
29 probably until sometime in the -- into 2015, okay.

30

31 Right now, if judges have a duty week, we are given one day in that week to hear case
32 management applications. Right now, I have one of those days in December and it is
33 fully booked so I don't have any half days that I can advise -- give you until 2015 and I
34 don't have my 2015 schedule nor do I expect it until at the earliest, the end of November.
35 All right, so if we're talking about a complicated, long application, that isn't going to
36 happen until sometime in 2015 and I can't even give you a date until sometime in early
37 December.

38

39 All right, so for today, I have your letter to Chief Justice Wittmann, Ms. Davies, which I
40 believe is dated -- let's just -- I missed -- your letter was for (INDISCERNIBLE)
41 September 25th. Ms. Davies, I have your letter of October 3rd, 2014, and I have a --

1 somewhere here, your letter to Chief Justice Wittmann which is relevant to me because it
2 outlined the -- a little bit of the history and the number of actions outstanding. Just give
3 me a moment to find it. I do not have the pleadings for any of these actions that are
4 outstanding. I don't have affidavits. I haven't read any of them. I do, very vaguely,
5 recall your attendance before me in open chambers for -- and I recall -- as I recall
6 specifically, Ms. Davies, being shocked that you would have thought that anybody in
7 morning chambers could read 15 affidavits and provide you with any relief and that is
8 about all I recall.

9

10 So, I have -- yes, your letter to Chief Justice Wittmann of June 16th, 2014. Okay, so I
11 have that in front of me as well. So, I'm not sure, Mr. Uttl, you asked for this meeting
12 and you asked for it to be earlier rather than later so if you can address me first.

13

14 MR. UTTL: My lady, I have one primary reason why we are
15 here. I understand that you know the circumstances of the ex parte order which was then
16 granted on September 26th which was --

17

18 THE COURT: No, Mr. Uttl, have you listened to nothing. I
19 have three letters in front of me. They mention an order from September of 2013. I do
20 not have it.

21

22 MR. UTTL: Okay, I apologize. I --

23

24 THE COURT: I did not -- I did not grant it. I don't remember
25 anything about it.

26

27 MR. UTTL: Okay.

28

29 THE COURT: I appreciate from what's written in these letters,
30 copies of which you have seen, right, that --

31

32 MR. UTTL: Yes.

33

34 THE COURT: -- there's a letter from September of 2013 ex
35 parte, granted to Ms. Davies and her client that deal with parenting. I am also aware that
36 there was a full half day special in front of Justice Millar where it was revisited and the
37 order of September 2013 was confirmed. That I know.

38

39 MR. UTTL: Okay.

40

41 THE COURT: I have not seen the order. I -- I -- I am

1 aware --

2

3 MR. UTTL: I will give you a short synopsis.

4

5 THE COURT: -- that -- that day to day care and control --

6

7 MR. UTTL: Yes.

8

9 THE COURT: -- of the children currently is with

10 Ms. Rensonnet and I'm aware, from the letters that you have seen, that I -- I understand

11 that you are not happy about that and I understand that Justice Millar told you six months

12 ago to go to trial, that the affidavits are too conflicting and there isn't any relief that

13 somebody in a summary way can give you.

14

15 MR. UTTL: Correct.

16

17 THE COURT: Okay, and I --

18

19 MR. UTTL: Yes.

20

21 THE COURT: -- know you appealed that order and I know the

22 appeal was dismissed.

23

24 MR. UTTL: Correct.

25

26 THE COURT: So where are you with respect to putting that

27 matter down for trial, Mr. Uttl?

28

29 MR. UTTL: So, the action started by the ex parte order

30 being granted to Ms. Rensonnet on September 26th by -- by Justice Millar. It was

31 adjourned for review several times and it was actually heard or reviewed by you on

32 December 5th.

33

34 THE COURT: Okay, I saw yourself and Ms. Davies once in

35 open chambers, correct, morning chambers where I was dealing with a whole host of

36 other matters and I -- I don't recall anything about it, Mr. Uttl. I didn't review --

37

38 MR. UTTL: Yes.

39

40 THE COURT: -- any order.

41

- 1 MR. UTTL: We were -- we were front -- before you twice,
2 once to review the ex parte order, which was on December 5th and second time,
3 sometimes in May where Ms. Rensonnet made the application for child support and
4 impute my income.
5
- 6 THE COURT: Okay.
7
- 8 MR. UTTL: So --
9
- 10 THE COURT: I don't remember -- I remember one occasion --
11
- 12 MR. UTTL: -- it's okay, I -- I've got --
13
- 14 THE COURT: -- I don't remember two.
15
- 16 MR. UTTL: -- the details here so --
17
- 18 THE COURT: Okay.
19
- 20 MR. UTTL: -- I'll -- I'll go through them quickly.
21
- 22 THE COURT: Okay, okay.
23
- 24 MR. UTTL: So when I was for you -- before you on
25 December 5th, you stated that because there (INDISCERNIBLE) affidavits before you,
26 that you cannot do anything about it in morning chambers which is correct, that the -- the
27 children -- the -- the parenting should be shared but because the children are so young --
28
- 29 THE COURT: I don't recall saying that parenting should be
30 shared, Mr. Uttl.
31
- 32 MR. UTTL: -- they go to -- they go to my --
33
- 34 THE COURT: I would not have made a comment like that
35 without having seen everything.
36
- 37 MR. UTTL: -- well, I (INDISCERNIBLE) have the
38 transcript here.
39
- 40 THE COURT: Okay, well I didn't -- I didn't grant any relief,
41 correct?

1
2 MR. UTTL: No, exactly.
3
4 THE COURT: Okay, well, that's all that's relevant.
5
6 MR. UTTL: It was adjourned -- it was adjourned to
7 domestic special.
8
9 THE COURT: Okay.
10
11 MR. UTTL: The domestic special eventually happened
12 before Justice Millar, again on May 2nd, and he essentially said the same thing. There is
13 so much evidence here, it's so conflicting, there is nothing we can do with this, this has to
14 go to trial. (INDISCERNIBLE) evidence --
15
16 THE COURT: Okay, so where are you with the trial, Mr. Uttl?
17 Where are you with putting that down for trial?
18
19 MR. UTTL: So I have not received any disclosure
20 documents and what I'm here for today is to set a trial schedule, a schedule of all the
21 things that (INDISCERNIBLE) happen before you go to trial.
22
23 THE COURT: Okay.
24
25 MR. UTTL: The trial has been ordered by Justice Millar.
26
27 THE COURT: Okay, so do have a trial date, Mr. Uttl?
28
29 MR. UTTL: No, I don't have a trial date but I have a draft
30 order, which I've prepared.
31
32 MS. DAVIES: I may have a copy of this order.
33
34 THE COURT: Do you have a copy --
35
36 MR. UTTL: Yes.
37
38 THE COURT: -- Mr. Uttl?
39
40 MS. DAVIES: Thank you.
41

1 MR. UTTL: So I have chose some -- some generous dates,
2 even though they did (INDISCERNIBLE) for the (INDISCERNIBLE) has passed I think,
3 some months ago. I believe we can make it the (INDISCERNIBLE) on the 7th, then the
4 line for me to disclose close November 21st. The line for questioning would be
5 December 12. The line for any undertaking should be January 9th and the line for further
6 questioning on undertaking -- undertaking should be January 23rd and the trial should be
7 limited to decide the question of custody and parenting of those two children because
8 that's what the initial application was and that's what Justice Millar ordered, to go to
9 trial.

10

11 THE COURT: Okay, do you have a copy --

12

13 MR. UTTL: I am aware that --

14

15 THE COURT: -- of Justice Millar's order with you, Mr. Uttl?

16 I -- I have not seen it.

17

18 MR. UTTL: -- I should do (INDISCERNIBLE) -- do you
19 have that order?

20

21 MS. DAVIES: I do. Mr. Uttl.

22

23 THE COURT: Thank you. Okay, well this -- this order
24 doesn't direct anything for trial.

25

26 MR. UTTL: Yeah, the order's -- and exactly had they
27 discussion with --

28

29 THE COURT: You may have had a discussion with him,
30 Mr. Uttl, but be very careful about the terminology that you use. You -- you just said to
31 me that Justice Millar ordered custody and parenting to a trial. This order does not
32 contain anything like that. This confirms the ex parte order for parenting. It does not
33 direct anything to trial let alone restrict the issues at the trial. So, be careful, Mr. Uttl.
34 You are entitled to be self-represented but you are not entitled to misrepresent the facts,
35 okay. This is -- this is -- there -- this order does -- directs nothing to trial and it certainly
36 doesn't restrict the issues for trial.

37

38 You may have had a discussion with Justice Millar about that. He may have given that --
39 he may have said to you that as a result of there being -- of the issues being too
40 complicated to be resolved by way of affidavit, the matter should go to trial but he
41 certainly, by this, he did not order any such thing.

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So, Mr. Uttl, we don't have a ton of time so if you -- if you want to waste it reviewing transcripts of things that happened in the past, that's fine but I don't -- I have -- I'm leaving here at 2:00, okay.

MR. UTTL: Okay. Well, I guess I misunderstood what takes precedence, what is what Justice Millar said or what was in the order (INDISCERNIBLE)?

THE COURT: What takes precedence is the order. The only thing that matters --

MR. UTTL: Okay.

THE COURT: -- from the hearing is the order.

MR. UTTL: Okay.

THE COURT: Okay, that's the -- that's the relief that was granted in that hearing. That's it. So --

MR. UTTL: So --

THE COURT: -- this order says nothing. This is not an order directing anything to trial and it's certainly not an order restricting any of the issues at trial.

MR. UTTL: Okay.

THE COURT: Okay, so you -- you will need -- if you want this order, which you've just handed to me, granted you need to persuade me that there's a valid reason why the issue should be restricted to parenting and custody because I am aware, from the letters, that there are financial issues that are outstanding as well.

MR. UTTL: There are no financial issues outstanding in the familial action. There are two separate trials. One is for paid utilities which has nothing to do with the family matter --

THE COURT: Okay.

MR. UTTL: -- and there is another trial which is from

1 Biomere Inc. (phonetic) which is -- which is a corporate body --

2

3 THE COURT: M-hm.

4

5 MR. UTTL: -- suing company owned by Ms. Rensonnet and
6 company which Ms. Rensonnet also works for, which also has nothing to do with
7 parenting.

8

9 THE COURT: Okay, so in the familial matter, which you refer
10 to it, there are no issues of property between yourself and Ms. Rensonnet?

11

12 MR. UTTL: Not to my knowledge.

13

14 THE COURT: She makes no -- she makes no demands for
15 equity in the -- in the matrimonial home, nothing like that?

16

17 MR. UTTL: There's no matrimonial home. We were not
18 married. This is not a familial --

19

20 THE COURT: Okay, well, sorry --

21

22 MR. UTTL: -- familial act.

23

24 THE COURT: -- in the -- in the home in which you cohabited,
25 there are no -- there's no claims for financial -- there's no financial claims against you by
26 Ms. Rensonnet, is what you're saying?

27

28 MR. UTTL: Ms. Rensonnet --

29

30 THE COURT: Nothing for child support, no retroactive child
31 support, no ongoing child support claims?

32

33 MR. UTTL: -- there is a -- there's a signed application for
34 child support which you have adjourned to full domestic special.

35

36 THE COURT: Okay, well that's a -- that's a financial matter,
37 Mr. Uttl.

38

39 MR. UTTL: Yeah.

40

41 THE COURT: That is a financial matter arising out of the

1 family action, correct?

2

3 MR. UTTL: Yes.

4

5 THE COURT: Okay.

6

7 MR. UTTL: I'm paying, you know -- I'm paying table child
8 support but Ms. Rensonnet wants some --

9

10 THE COURT: Well, if -- okay, all right.

11

12 MR. UTTL: -- wants more, right.

13

14 THE COURT: Again, Ms. Davies' letter to Chief Justice
15 Wittmann says that your income is very hard to calculate because you purposely keep it
16 that way so when --

17

18 MR. UTTL: That's not true.

19

20 THE COURT: -- you say you're paying table child support,
21 you're paying table child support on the income that you report, is that right?

22

23 MR. UTTL: That's correct.

24

25 THE COURT: Okay, and you know that Ms. Rensonnet and
26 Ms. Davies are of the view that you have additional income you don't report, right?

27

28 MR. UTTL: I have been -- I've been swear the affidavit. I
29 know that --

30

31 THE COURT: Right.

32

33 MR. UTTL: -- that's what their claim is.

34

35 THE COURT: You know that's their claim?

36

37 MR. UTTL: Yes.

38

39 THE COURT: Okay, so you know that there are financial
40 issues arising out of the familial action --

41

- 1 MR. UTTL: Yes.
- 2
- 3 THE COURT: -- other than custody and parenting, correct?
- 4
- 5 MR. UTTL: Yes.
- 6
- 7 THE COURT: Okay, so is there some reason that those
8 shouldn't go to trial at the same time?
- 9
- 10 MR. UTTL: I believe that once we go to trial, the child --
11 parenting's going to be restored to shared parenting and I have no -- I have no claim --
- 12
- 13 THE COURT: No, okay and listen to the question, Mr. Uttl.
14 Listen to the question. Is there a good reason why the financial issues, which we've
15 identified as child support and perhaps others -- we'll let Ms. Davies tell me, do you have
16 a good reason that those should not be at the same trial as the custody and parenting?
- 17
- 18 MR. UTTL: Yes, it will make the trial much larger.
- 19
- 20 THE COURT: Okay.
- 21
- 22 MR. UTTL: It will take much longer to resolve and it's
23 prejudicial to the children who don't see their dad right now.
- 24
- 25 THE COURT: Okay, so they -- you don't see them at all?
- 26
- 27 MR. UTTL: I see them three days out of every two weeks
28 and I was used to see them half the time.
- 29
- 30 THE COURT: Okay, so they see -- again, Mr. Uttl, be very
31 careful what you say. You do see them. You just said they don't see their father at all.
32 Not true.
- 33
- 34 MR. UTTL: (INDISCERNIBLE).
- 35
- 36 THE COURT: They may not see them -- you may not see
37 your children as much as you would like --
- 38
- 39 MR. UTTL: Yes.
- 40
- 41 THE COURT: -- they may not see you as much as you would

1 like, but they see you.
2
3 MR. UTTL: That is correct.
4
5 THE COURT: Right, okay. So, three days out of 14 is what
6 you're telling me.
7
8 MR. UTTL: Yeah, and Thursday in -- in between for a half
9 day.
10
11 THE COURT: Okay, so, I'm -- I'm -- so where are we up to
12 then, four and a half days, four days?
13
14 MR. UTTL: No, we are (INDISCERNIBLE) three and one
15 third of a day.
16
17 THE COURT: Okay.
18
19 MR. UTTL: Three days and one (INDISCERNIBLE) --
20
21 THE COURT: You know, just give me the schedule, Mr. Uttl,
22 if you don't mind --
23
24 MR. UTTL: It is --
25
26 THE COURT: -- your access schedule.
27
28 MR. UTTL: -- Friday, 8:00 AM, 8:00 until Monday 8:00 in
29 the morning and then Thursday between 10:00 and 7:00 PM.
30
31 THE COURT: 10:00 AM and 7:00 PM?
32
33 MR. UTTL: Yes.
34
35 THE COURT: Okay, well what time do your children go to
36 bed, Mr. Uttl?
37
38 MR. UTTL: It depends, in between eight and 9:00.
39
40 THE COURT: How do you -- how do you calculate nine hours
41 as a half a day --

1
2 MR. UTTL: Well, this -- no.
3
4 THE COURT: -- when they're sleeping at least nine hours?
5 You have them for nine hours on Thursday, correct?
6
7 MR. UTTL: Yes.
8
9 THE COURT: How is that half a day, sir?
10
11 MR. UTTL: It's nine hours out of 24, eh?
12
13 THE COURT: Okay, so we'll calculate --
14
15 MR. UTTL: With the --
16
17 THE COURT: -- nothing for sleep?
18
19 MR. UTTL: -- no, once they're to sleep --
20
21 THE COURT: Of their waking hours, sir, you have them for
22 more than a half. You have them for at least 80 percent of the time that they are awake.
23
24 MR. UTTL: Yeah, yeah, that's -- that's true. That's true.
25
26 THE COURT: Okay --
27
28 MR. UTTL: I don't get to (INDISCERNIBLE) to sleep, no.
29
30 THE COURT: -- and sorry, so when you say Friday 8:00 AM
31 to Monday 8:00 AM, is that two weekends a month or one weekend a month?
32
33 MR. UTTL: That's every second weekend.
34
35 THE COURT: Every second weekend, okay.
36
37 MR. UTTL: Yes.
38
39 THE COURT: All right, so you have six nights, four -- and
40 four Thursdays a month, is that right?
41

1 MR. UTTL: Uh, no, just two Thursdays.
2

3 THE COURT: Two Thursdays, okay. Okay, so you have six
4 nights and as far as I can make it out, eight days a week -- or excuse me, a month
5 because you would have Friday, Saturday, Sunday, right, so you get three days twice a
6 month --
7

8 MR. UTTL: Yes, yes.
9

10 THE COURT: -- so that's six days --
11

12 MR. UTTL: Yeah.
13

14 THE COURT: -- plus the -- plus the Thursdays would be
15 another two so that's eight full days, right, and six nights a month, is that right?
16

17 MR. UTTL: Well, I guess I (INDISCERNIBLE) the
18 interpretation of Thursday being a full day. If I had them Thursday 10:00 to Friday
19 10:00, then it's a full day.
20

21 THE COURT: Okay, well --
22

23 MR. UTTL: You know, I need them to bed, I will, you
24 know, be there when they wake up.
25

26 THE COURT: That's why I'm making a differential
27 between --
28

29 MR. UTTL: Yeah.
30

31 THE COURT: -- nights and days. You have eight days and
32 six nights.
33

34 MR. UTTL: Okay.
35

36 THE COURT: Okay.
37

38 MR. UTTL: Yeah.
39

40 THE COURT: All right -- out of every 28. So, sorry. You
41 had said to me that the reason that the financial matters can't be joined in the trial is

1 because it would make the trial longer and which would mean that your children don't see
2 you. Assuming you are successful --

3

4 MR. UTTL: Yes.

5

6 THE COURT: -- in obtaining more access --

7

8 MR. UTTL: Yes.

9

10 THE COURT: -- it prolongs the time in which they don't see
11 you as much as you would like or they -- or it would be good for them, in your view.

12

13 MR. UTTL: Yes.

14

15 THE COURT: Okay.

16

17 MR. UTTL: Yes.

18

19 THE COURT: All right, any other reason?

20

21 MR. UTTL: Well, you know, it's the -- it's the -- the same
22 reason, I guess. I fought so far two applications in this -- in this whole proceeding. Now,
23 Ms. (INDISCERNIBLE) filed nine applications so far, half of them would be -- half of
24 them they're -- almost half of them are ex parte or practically ex parte and she intends to
25 file another eight. You know, you --

26

27 THE COURT: So -- sorry, and she intends to file?

28

29 MR. UTTL: -- she intends to file another eight applications,
30 in her letter which is before you, I believe.

31

32 THE COURT: Yeah.

33

34 MR. UTTL: So, given your availability and dealing with
35 eight more applications, we don't go to trial until two -- 2017 or so.

36

37 THE COURT: Okay.

38

39 MR. UTTL: Of course, I believe that this should go to trial,
40 that's responsible. The ex parte order was never resolved on merits.

41

1 THE COURT:

Okay, you --

2

3 MR. UTTL:

It's been postponed and postponed and

4 postponed.

5

6 THE COURT:

-- okay, but Mr. Uttl, let's be very clear.

7 Mr. Justice Millar, in May, had a half day. He had all of the affidavits in the file to
8 review in advance and he came out of that half day hearing confirming the September
9 2013 order, okay. So, don't say it's never been on the merits. You -- you've been in
10 court on it, twice since it was granted, once in a situation where I could not fully review
11 it, of course, and once with Justice Millar where he could and he confirmed its terms,
12 okay.

13

14 Even though he couldn't make -- even though he directed you to go to trial on the
15 majority of the issues because the affidavits were so conflicting, he didn't interfere with
16 the terms of that order, Mr. Uttl. So, it's been reviewed --

17

18 MR. UTTL:

No.

19

20 THE COURT:

-- right? It has been reviewed on its merits --

21

22 MR. UTTL:

He said very specifically --

23

24 THE COURT:

-- and it needs to go to -- but in terms of the

25 way that we can deal with these family matters here, you've had the most court access we
26 can give you, Mr. Uttl. There's been people look at it. There's just too many conflicting
27 affidavits for somebody to give you final -- a determination or -- but more particularly, or
28 to alter the terms of it.

29

30 MR. UTTL:

I'm not asking for the terms to be altered. I --

31 I understand that there's been so much conflicting evidence, you know. I -- I filed about
32 30 percent of the evidence before the court --

33

34 THE COURT:

M-hm.

35

36 MR. UTTL:

-- like just replying to the affidavits and

37 affidavits and more affidavits which were, I see, from the opposing party and I understand
38 that this needs to go to trial where the evidence can be questioned.

39

40 THE COURT:

Okay, you just want it to be sooner rather than

41 later --

1
2 MR. UTTL: Yes.
3
4 THE COURT: -- and you don't want to deal with the financial
5 issues until afterwards?
6
7 MR. UTTL: Yes, that's correct.
8
9 THE COURT: Okay, so how much longer would it make the
10 trial to deal with the financial issues?
11
12 MR. UTTL: If all those applications come -- come forward
13 and --
14
15 THE COURT: Well, no forget about the applications. The
16 issues are the issues so at trial, we wouldn't be talking about applications. We're talking
17 about calling viva voce witnesses, having issues addressed with submissions and having a
18 decision, right, so --
19
20 MR. UTTL: It'll probably add another -- just the application
21 for the -- for child custody will probably add another day.
22
23 THE COURT: Okay, okay, okay, sorry, custody and
24 parenting -- how many -- how many days --
25
26 MR. UTTL: I mean, no, for -- I apologize.
27
28 THE COURT: -- do you think custody and parenting is going
29 to take? You don't say, in your order, how many days you want the --
30
31 MR. UTTL: Based on how much evidence there is and all
32 the questioning which needs to be done, my guess would be four or five days.
33
34 THE COURT: Okay, and how much longer would it take to
35 deal with the financial issues?
36
37 MR. UTTL: Maybe another three.
38
39 THE COURT: Another three, okay. Okay, I understand.
40
41 MR. UTTL: That's -- that's -- that's my guess.

1
2 THE COURT: Okay, so today, you want me to order a trial
3 and adhere to these deadlines in order to get you there in time, is that right?
4
5 MR. UTTL: Yes, that's correct.
6
7 THE COURT: Okay, all right. Okay, thank you, Mr. Uttl, take
8 a seat.
9
10 MR. UTTL: I have two other items --
11
12 THE COURT: Two other items, okay.
13
14 MR. UTTL: -- which are very quick. Clarification of the
15 order for substitutional service granted by Justice LoVecchio --
16
17 THE COURT: Sorry, justice --
18
19 MR. UTTL: -- LoVecchio, I don't know how to pronounce
20 it.
21
22 THE COURT: -- LoVecchio -- LoVecchio, yeah.
23
24 MR. UTTL: LoVecchio -- or (INDISCERNIBLE) year --
25
26 THE COURT: Of this -- of this year?
27
28 MR. UTTL: -- yes.
29
30 THE COURT: Okay, to you or to Ms. Davies?
31
32 MR. UTTL: To me.
33
34 THE COURT: To you, okay. He granted you an order for
35 substitutional service?
36
37 MR. UTTL: It was going to be ex parte orders which was
38 granted to Ms. Davies and (INDISCERNIBLE) qualification. The order says that --
39
40 THE COURT: Sorry, this is an order granted in favour of
41 Ms. Davies against you --

1
2 MR. UTTL: Yes.
3
4 THE COURT: -- allowing substitutional service by way of
5 e-mail --
6
7 MR. UTTL: Yes.
8
9 THE COURT: -- okay, and your concern with this is what?
10
11 MR. UTTL: I would like a clarification of the order.
12
13 THE COURT: Clarification.
14
15 MR. UTTL: I don't understand it. The order says that it's
16 effected by delivering via e-mail and by sending a true copy of the same in regular mail --
17
18 THE COURT: Yes.
19
20 MR. UTTL: -- which, to me, does -- says that there has to
21 be two conditions which both have to be fulfilled for the order -- for the service to have
22 happened.
23
24 THE COURT: No, Mr. Uttl, in order for this -- yes, you are
25 correct that both means of transmittal need to be -- are required, ie. e-mail and regular
26 mail, okay.
27
28 MR. UTTL: Yes.
29
30 THE COURT: If you will receive the documents in either way,
31 you have been served, okay. The whole point of an -- of an order for service ex juris is
32 to make sure that the person who is the respondent gets notice. If you get the documents
33 in either way, you've been served, consider yourself served, okay. If you don't get
34 them -- if you get them by e-mail but Ms. Davies' office forgets or makes a mistake and
35 doesn't send them to you by mail, you've still been served, sir.
36
37 It's only if you don't get the documents -- if Ms. Davies' offices makes a mistake and
38 only sends them to you in one way, okay, that's an e-mail --
39
40 MR. UTTL: Okay.
41

- 1 THE COURT: -- and you don't receive that, then she --
2
- 3 MR. UTTL: Okay.
4
- 5 THE COURT: -- hasn't achieved notice and she hasn't
6 followed the order so she can't bring any relief against you --
7
- 8 MR. UTTL: Okay, so --
9
- 10 THE COURT: -- but if you show up in court, right -- if she
11 sends you a notice to come to court and you come and you got service by way of e-mail
12 but you didn't get the regular mail, you've still got notice, sir. You're still here.
13
- 14 MR. UTTL: I understand that.
15
- 16 THE COURT: No one wants to hear about whether you got
17 both forms or just one.
18
- 19 MR. UTTL: I understand that --
20
- 21 THE COURT: Okay.
22
- 23 MR. UTTL: -- so what happens to my e-mail for three or
24 four days --
25
- 26 THE COURT: Okay, then --
27
- 28 MR. UTTL: -- and Ms. Davies --
29
- 30 THE COURT: -- then Ms. Davies does not have notice.
31
- 32 MR. UTTL: -- and Ms. Davies --
33
- 34 THE COURT: If she gives you short notice, right,
35 substitutional notice is imperfect and you take a risk if you do it that way. So, if you're
36 supposed to have ten days notice and you don't access your e-mail -- if you can come to
37 court with a letter that -- from your server that says your e-mail was down, right, then you
38 can prove that Ms. Davies doesn't have notice to you but you can't play games with this,
39 Mr. Uttl.
40
- 41 MR. UTTL: I don't want to play games.

1
2 THE COURT: If you received it -- if you received it, then you
3 received it. Then you have notice --
4
5 MR. UTTL: Yeah.
6
7 THE COURT: -- show up.
8
9 MR. UTTL: Yeah.
10
11 THE COURT: Madam clerk, I don't need to see the letter.
12
13 MR. UTTL: What happens -- what happens frequently is
14 that Ms. Davies serves me something on Monday to be heard in courts the next day. I
15 (INDISCERNIBLE).
16
17 THE COURT: Okay, well, then that's short notice and she
18 should not be allowed to do that and the person whose hearing it should not hear it. They
19 should adjourn it --
20
21 MR. UTTL: Okay, okay.
22
23 THE COURT: -- unless there is urgent reasons for it to be
24 heard on 24 hours notice, we don't deal in short notices here, Mr. Uttl. The rules are
25 there for a reason. If it's two days notice and Ms. Davies does not abide by that, you ask
26 the court for an adjournment. You tell them you have not had enough time to prepare
27 and in my courtroom, you would get the adjournment unless there is --
28
29 MR. UTTL: Okay.
30
31 THE COURT: -- a genuine need for rush.
32
33 MR. UTTL: Okay, that is my clarification.
34
35 THE COURT: Okay.
36
37 MR. UTTL: My second question, to the original ex parte
38 order granted by Justice Millar on September 26, that order (INDISCERNIBLE) as a
39 person contacting VMA (phonetic), Ms. Rensonnet's employers and their employees.
40
41 THE COURT: Yes.

1
2 MR. UTTL: And does it also mean that (INDISCERNIBLE)
3 date as an officer of Biomere Inc., from serving VMA with this lawsuit -- with the lawsuit
4 of Biomere against VMA?
5
6 THE COURT: No. How do you propose to serve them,
7 Mr. Uttl?
8
9 MR. UTTL: By mail (INDISCERNIBLE).
10
11 THE COURT: The -- the -- by -- by -- the court -- the rules
12 require personal service but if you're serving a corporation, you serve their registered
13 address --
14
15 MR. UTTL: So, if Biomere sends --
16
17 THE COURT: -- not their business address.
18
19 MR. UTTL: -- if Biomere sends a service to their registered
20 address --
21
22 THE COURT: Right.
23
24 MR. UTTL: -- that's not me contacting VMA. I'm not in
25 (INDISCERNIBLE) of the or -- in -- initial order.
26
27 THE COURT: Sorry, Ms. Davies, I'll hear from you.
28
29 MS. DAVIES: All right.
30
31 THE COURT: Sorry, go -- go ahead.
32
33 MR. UTTL: So, if Biomere Inc., the corporation --
34
35 THE COURT: Sorry, if Biomere Inc. is some company that
36 you're an officer of, is that right --
37
38 MR. UTTL: Yes.
39
40 THE COURT: -- and you want to sue Ms. Rensonnet's
41 employer, is that right?

1
2 MR. UTTL: The lawsuit has been -- the lawsuit has been
3 already filed.
4
5 THE COURT: Right.
6
7 MR. UTTL: The service had -- had not been effected
8 because I was not sure about this order.
9
10 THE COURT: Okay, do you have any family members in the
11 city, Mr. Uttl?
12
13 MR. UTTL: Yes --
14
15 THE COURT: Okay.
16
17 MR. UTTL: -- my brother.
18
19 THE COURT: So one of you have your whoever, your family
20 member, drop the doc -- the document off --
21
22 MR. UTTL: Okay.
23
24 THE COURT: -- at the defendant's address and then take an
25 affidavit of service by that person. Why do you have to be involved?
26
27 MR. UTTL: Thank you. No, I don't have to be involved. I
28 just --
29
30 THE COURT: Okay, well then --
31
32 MR. UTTL: -- I just wasn't sure how -- how that works.
33
34 THE COURT: -- just -- just abide by the order. You can serve
35 them --
36
37 MR. UTTL: Thank you.
38
39 THE COURT: -- in a million different ways, only one of
40 which is having a family member or a friend drop it off.
41

1 MR. UTTL: Okay --

2

3 THE COURT: Okay.

4

5 MR. UTTL: -- thank you.

6

7 THE COURT: Okay, thank you. Ms. Davies.

8

9 MS. DAVIES: My Lady, just on that point. That is a bigger

10 issue. There is very early on in this file, Mr. Uttl took actions that were jeopardizing
11 Ms. Rensonnet's employment so you won't recall this but this took place back in
12 September. (INDISCERNIBLE) one of the things that he did was he said,
13 Ms. Rensonnet, there's been a break-in at our home. Confidential information relating to
14 your employer and to you and to the clients of your employer has been breached.

15

16 You have, he told her this Friday evening, you have until Sunday night to tell your
17 employer or I'll tell them. There was no break-in, no confidential information had been
18 taken. What he was referring to was when Ms. Rensonnet sister moved her out of the
19 matrimonial home and took Ms. Rensonnet's belongings --

20

21 THE COURT: Okay.

22

23 MS. DAVIES: -- so there was no break-in. What that was was

24 an attempt to jeopardize Ms. Rensonnet's employment so Ms. Rensonnet -- that's -- she
25 begged him, please don't because there has been no break-in and that would be very
26 serious for her employer. So, she went to her employer and said this is what -- this is
27 what's going to happen. He's going to tell you this and Mr. -- Mr. Uttl did. He
28 contacted her employer, said there's been a breach and her employer had to take corporate
29 action to touch base with their clients because they were worried Mr. Uttl would do that.

30

31 So, as a result, there was an order put in place, the ex parte order, confirmed by you
32 December 5th, confirmed by Justice Millar at the half day special and the Court of Appeal
33 dismissed the appeal and that says: (as read)

34

35 Mr. Uttl is not allowed to contact Ms. Rensonnet's employer at all

36

37

38 to put a stop to him trying to jeopardize her employment.

39

40 THE COURT: Right.

41

1 MS. DAVIES: So this lawsuit that he wants to serve -- I mean
2 it is a -- it is a -- it is a frivolous lawsuit in my opinion. What he is doing is he is suing
3 Ms. Rensonnet and her employer saying that the contract that Ms. Rensonnet has with her
4 employer -- Ms. Rensonnet promised part of that contract -- I can't remember how many
5 hours, to Mr. Uttl and Mr. Uttl's saying, Hey, I then -- I -- I'm suing your employer
6 because I want \$60,000.

7
8 THE COURT: Okay, it sounds to me like, Ms. Davies, you're
9 going to ask me to prohibit -- to ban, basically, Mr. Uttl from serving a defendant in an
10 action he's commenced, correct?

11
12 MS. DAVIES: More --

13
14 THE COURT: Have I -- have I got that right?

15
16 MS. DAVIES: -- I think he --

17
18 THE COURT: That's -- that's the effect of what you're asking
19 me to do is for a defendant --

20
21 MS. DAVIES: Yeah.

22
23 THE COURT: -- to a lawsuit not to be advised they're a
24 defendant, right?

25
26 MS. DAVIES: I'm asking you until the matter can be actually
27 argued, Mr. Boddy -- Geoff Boddy of JSS, he represents Ms. Rensonnet in that lawsuit
28 because she has been served with that lawsuit and she has --

29
30 THE COURT: Okay, and so when does the year -- when's the
31 year expire, Ms. -- Ms. Davies? When does the year to serve it on the -- Ms. Rensonnet's
32 employer expire?

33
34 MS. DAVIES: This all happened after May -- May?

35
36 UNIDENTIFIED SPEAKER: Yeah, it was in May.

37
38 MS. DAVIES: It was in May so -- so we're not --

39
40 THE COURT: So May of 2015?

41

1 MS. DAVIES: -- yes.
2

3 THE COURT: Okay, all right.
4

5 MS. DAVIES: So and -- and Mr. Uttl brought this application
6 before Justice Hawco and Justice Hawco adjourned it and said you can deal with it and
7 case manage but --
8

9 THE COURT: Yeah.
10

11 MS. DAVIES: -- but, My Lady, if we're going to argue that, if
12 Geoff Boddy could be here because he --
13

14 THE COURT: Okay.
15

16 MS. DAVIES: -- wants to bring a cross application because --
17

18 THE COURT: Okay, okay.
19

20 MS. DAVIES: -- it is very serious (INDISCERNIBLE) --
21

22 THE COURT: Okay, all right. So, that's -- that's number one.
23 What -- what next, Ms. Davies.
24

25 MS. DAVIES: Let me address Mr. Uttl's request that you sign
26 this court order sending us off to trial.
27

28 THE COURT: Well, forget about signing it. He -- he -- this is
29 an outline of the relief that he's seeking.
30

31 MS. DAVIES: Right.
32

33 THE COURT: That's what I'm looking at it at -- as at.
34

35 MS. DAVIES: Right, and that we go -- let me talk about firstly
36 whether we go on to trial on just the parenting issues.
37

38 THE COURT: Yeah, I'm not seriously considering that,
39 Ms. Davies.
40

41 MS. DAVIES: Do I need to address it?

1

2 THE COURT: No.

3

4 MS. DAVIES: Okay. In terms of the moving forward and the
5 lawsuit, we do have a number of steps that we need to move forward and they -- a lot of
6 them do tend to be financial steps. We need to deal with child support.

7

8 THE COURT: No, if the trial deals with child support, what
9 do you need to deal with it? That entire issue, Ms. Davies, is going to trial. I do recall
10 from your attendance in front of me all of the allegations about Mr. Uttl's income. That
11 is not a half day or a one day special matter. That's a trial matter. That is viva voce
12 evidence, that is not an application. That's part of the trial.

13

14 MS. DAVIES: One of the issues we've got is a financial issue
15 from Ms. Rensonnet.

16

17 THE COURT: Okay, let's go back a second. What was in
18 front of Justice Millar? What were the issues in front of Justice Millar that he said --

19

20 MS. DAVIES: Parenting --

21

22 THE COURT: -- needed to go to trial that he could not deal
23 with on an interim basis that needed to go to trial. Parenting --

24

25 MS. DAVIES: -- it would have been parent -- parenting was
26 the only thing in front of him and -- and the ex parte order that also had the restraining
27 order with respect to --

28

29 THE COURT: -- the -- the employer.

30

31 MS. DAVIES: -- Ms. Rensonnet's employer.

32

33 THE COURT: Okay, but none of the financial issues were
34 dealt with by him.

35

36 MS. DAVIES: No.

37

38 THE COURT: That wasn't before him, you didn't make an
39 application. There was no cross application, just parenting -- just a --

40

41 MS. DAVIES: Just parenting was in front of him.

1
2 THE COURT: -- just a review of the order.
3
4 MS. DAVIES: That's right.
5
6 THE COURT: Okay, so why in the year since that was
7 granted, right, since the September -- I know you've got them in front of me, what have
8 you been waiting for? Why would there be a special on that and not on these financial
9 issues when you -- if I recall correctly, you told me in December of last year, it was
10 urgent. So, what -- what's been happening? Why have you not had a special on it?
11
12 MS. DAVIES: Oh, you're -- you're talking about child
13 support?
14
15 THE COURT: Child support.
16
17 MS. DAVIES: That was May.
18
19 THE COURT: Okay, well, whatever it was, where -- did it
20 go -- did you set it down for a special?
21
22 MS. DAVIES: Yeah, we set it down for a special --
23
24 THE COURT: For when?
25
26 MS. DAVIES: -- and then -- going on my mem -- I want to
27 say July.
28
29 THE COURT: Okay.
30
31 UNIDENTIFIED SPEAKER: July 21st.
32
33 MS. DAVIES: There we go, July 21st --
34
35 THE COURT: Okay, and then -- and then what happened?
36
37 MS. DAVIES: -- but then -- but a great -- a number of things
38 have happened, My Lady. So, the biggest problem has been, it's been financial. So,
39 Ms. -- it would have been fine if we could have just proceeded with our half day special
40 on support and then we could have gone to trial on all of the issues but since Justice
41 Millar's order on May the 2nd, many things have happened.

1

2 Mr. Rensonnet (sic) has started two extra court applications and that's hugely expensive
3 on Ms. Rensonnet. Mr. -- Mr. Uttl represents himself. He doesn't have the lawsuits, he
4 doesn't have the legal fees but Ms. Rensonnet has had to retain another lawyer to deal
5 with them and she's had to do statements of defence. There's been questioning on one of
6 the lawsuits. She's had to do -- their affidavit of records have been filed so it is hugely
7 expensive.

8

9 THE COURT: Okay, so an interim application for financial aid
10 to allow her to go to trial, that's what you're talking about.

11

12 MS. DAVIES: That's what I'm talking about --

13

14 THE COURT: Okay, all right.

15

16 MS. DAVIES: -- because, of course, we had the appeal which
17 was very expensive and the costs that you receive in the Court of Appeal are quite small.

18

19 THE COURT: The same as here. Okay, so an interim
20 application for support to go to trial. What else?

21

22 MS. DAVIES: Yes, and interim costs and -- and support.

23

24 THE COURT: When I say support, I mean costs, okay. So
25 Mr. Uttl is making some child support payments, correct?

26

27 MS. DAVIES: Yes, yeah --

28

29 THE COURT: Okay --

30

31 MS. DAVIES: -- I think about 300 and change --

32

33 THE COURT: -- 300 a month.

34

35 MS. DAVIES: -- per month.

36

37 UNIDENTIFIED SPEAKER: Two thirty-eight.

38

39 MS. DAVIES: (INDISCERNIBLE).

40

41 THE COURT: Two thirty-eight. Wow, okay.

1

2 MS. DAVIES: So yeah, so we're looking at that. The other
3 thing is, I think we've got to look at how many of these lawsuits can be put together and
4 gone to trial together --

5

6 THE COURT: Okay.

7

8 MS. DAVIES: -- because we cannot have five separate --

9

10 THE COURT: Okay.

11

12 MS. DAVIES: -- lawsuits.

13

14 THE COURT: There is no way that the utility lawsuit, the
15 Biomere lawsuit and these lawsuits are not going to be joined with the family lawsuit.
16 That's -- the family lawsuit's going to a trial to resolve parenting, access and financial
17 matters of all kinds, ie. child support, retroactive and future as well as any property claims
18 that Ms. Rensonnet may have. I don't recall if she has any or not, I can't remember.
19 Okay, that's all going to be one trial as soon as possible.

20

21 MS. DAVIES: Let me --

22

23 THE COURT: So we are going to focus our -- our efforts on
24 that, okay.

25

26 MS. DAVIES: -- can I just tell you what these other lawsuits
27 are because they are directly related to these parties' relationship.

28

29 THE COURT: Yeah, I've -- I've --

30

31 MR. UTTL: (INDISCERNIBLE).

32

33 THE COURT: -- I've read your -- no, I've heard from you,
34 Mr. Uttl. I've read your letter, Ms. Davies. I understand that there are these other
35 lawsuits, I think -- I can't remember how many there are, four or five, whatever and that
36 you want to bring an application to consolidate some or all of them, okay. I'm just
37 saying to you that cannot include the family one. The family lawsuit's not going to be
38 bogged down with all this other stuff unless you can provide me with a unbelievably great
39 reason, okay, because what's really going on between these parties is the family issues
40 and we need to get it to a trial and resolved and maybe that will help resolve the other
41 matters, I don't know, okay.

1
2 MS. DAVIES: Let -- can I -- if I just --

3
4 THE COURT: So I am going to focus all of my efforts on
5 getting you to trial in the family action.

6
7 MS. DAVIES: -- okay, if -- if I -- that wonderful reason, let
8 me give you that wonderful reason. For example, the lawsuit with the tenants, that
9 directly relates to retroactive child support because it's all one in the same. Mr. Uttl is
10 saying, I paid the utilities in the matrimonial home after you left so that is -- if he's
11 claiming that, that's going to come in as an offset in retroactive child support so that's
12 one lawsuit that I think it doesn't make sense to separate them.

13
14 THE COURT: Well, I don't follow you. What -- what's the
15 other lawsuit with the tenants, what are you talking about?

16
17 MS. DAVIES: Yeah, that's what -- the tenant lawsuit -- one of
18 these lawsuits that Mr. -- Mr. Uttl has sued Ms. Rensonnet and the former tenants of the
19 home, is he's saying, I paid for the utilities on the home so I need to be -- I'm suing you
20 guys because I paid the utilities and I didn't get reimbursed.

21
22 THE COURT: Okay, all right. So, we're in trial on the family
23 matter --

24
25 MS. DAVIES: Yeah.

26
27 THE COURT: -- and we're talking about child support and
28 sorry, how does the former payment of utilities come into that?

29
30 MS. DAVIES: Because it was all during a period following
31 their separation so --

32
33 THE COURT: Right.

34
35 MS. DAVIES: -- Ms. Rensonnet says, I want retroactive child
36 support --

37
38 THE COURT: Right.

39
40 MS. DAVIES: -- and Mr. Uttl will say, I need a credit because
41 I --

1

2 THE COURT: No, and the trial judge says, Sorry, Mr. Uttl,
3 that's the subject matter of a separate lawsuit. When you go to trial on that lawsuit and a
4 judge says that you're entitled to that money, we'll talk about it then. Right now, we're
5 just talking about retroactive child support.

6

7 MS. DAVIES: The biggest concern for Ms. Rensonnet is how
8 can she afford to do four or five separate --

9

10 THE COURT: Right --

11

12 MS. DAVIES: -- trials?

13

14 THE COURT: -- so that's an application for interim financial
15 costs from Mr. Uttl to go to trial. We talked about that. Two, an application to
16 consolidate, we've just talked about that -- of those other actions, not this one, the other
17 ones.

18

19 MS. DAVIES: Oh, you mean them together?

20

21 THE COURT: Them.

22

23 MS. DAVIES: But one other of those lawsuits involves the
24 family home so when you say we're going on the family --

25

26 THE COURT: Again, it's all just accounting, Ms. --
27 Ms. Davies. It's all just accounting. I appreciate this is a Ms. Mulholand (phonetic)
28 thing?

29

30 MS. DAVIES: Yeah.

31

32 THE COURT: Yeah, okay, again, in the family action, the trial
33 judge says, I'm not making any orders which would impact the issues that are in that
34 action which will go to trial with Ms. Mulholand.

35

36 MS. DAVIES: And I agree that Ms. Mulholand will go on its
37 own but it does seem to me, My Lady, with the greatest of respect, the tenant one and
38 also suing Ms. Rensonnet for her -- for her employment, that's directly relevant to
39 spousal -- the issue of spousal support --

40

41 THE COURT: Okay.

1
2 MS. DAVIES: -- and -- and support.

3
4 THE COURT: Ms. Davies, this family action is going to trial
5 alone. There isn't going to -- we are not going to bog it down with four or five other
6 actions. I -- I will allow -- I -- I will hear you on an interim application for costs to go to
7 trial on the family action and for a -- a consolidation application involving the other
8 actions if that lies. I don't even know if it does because it would appear to me there's all
9 kinds of different defendants, I have no idea but I -- I would be -- I would hear those
10 applications. I am not bogging the family law matter down with all these other actions.

11
12 MS. DAVIES: Okay, so when you're saying I can bring an
13 application for consolidation, it's with respect to --

14
15 THE COURT: The other actions, not the -- not joining them
16 into the family law matter.

17
18 MS. DAVIES: -- oh I see, those ones being joined.

19
20 THE COURT: The family law matter -- nothing's going to be
21 consolidated with it. It is going to go forward on its own and go to trial as quickly as
22 possible.

23
24 MS. DAVIES: And I -- but I believe to bring an application
25 for interim costs.

26
27 THE COURT: Yes.

28
29 MS. DAVIES: Is that also dealing with the issue of child
30 support?

31
32 THE COURT: No, Ms. Davies. The child support matter is
33 going to trial, just like Justice Millar said or didn't say or whatever. I -- if I were -- no,
34 child support means finding Mr. Uttl's guideline income, correct --

35
36 MS. DAVIES: Yes.

37
38 THE COURT: -- and that requires viva voce evidence, not
39 affidavit evidence because he's going to just refute, if he hasn't already, everything your
40 client says. So, your client's going to take the stand, Mr. Uttl's going to take the stand.
41 There's going to be a trial over his guideline income as one of the issues that we're going

1 to deal with at trial. That is not an interim application. I think I'd said that when you
2 came to me in chambers. I'm sure Justice Millar had some of that stuff in front of him.
3 It's not -- we can't resolve that by way of affidavits, Ms. Davies. We will stretch the
4 rules and do daily in matrimonial matters to help people but that's way too far. One says
5 black, one says white, cannot resolve that on affidavits, Ms. Davies, which I think you
6 know.

7

8 MS. DAVIES: Okay, and I think one of the things that we
9 need to consider and maybe we have to bring an application is whether we're going to
10 have a bilateral parenting assessment --

11

12 THE COURT: Yes.

13

14 MS. DAVIES: -- conducted pending trial --

15

16 THE COURT: Yes.

17

18 MS. DAVIES: -- and we've been told by many judges --
19 Justice Millar said he highly recommended it. It was needed for a trial so that's one of
20 the other issues I'd like to address.

21

22 THE COURT: Okay, okay. The more help you can give the
23 court in the trial as to parenting the better, in my view.

24

25 MS. DAVIES: In term -- I'm just looking at other applications
26 to be brought before -- so we're sort of ready to be --

27

28 THE COURT: Okay, let's deal with really what's happening.

29

30 MS. DAVIES: -hm.

31

32 THE COURT: Although I'm not going to grant Mr. Uttl the
33 form of order that he has put before me --

34

35 MS. DAVIES: -hm.

36

37 THE COURT: -- can we not talk about some deadlines. Let's
38 get going --

39

40 MS. DAVIES: Yeah.

41

1 THE COURT: -- on getting that family matter to trial, okay.
2

3 MS. DAVIES: Yeah, yeah.
4

5 THE COURT: So have you seen the deadlines that Mr. Uttl
6 outlined? Are they realistic? Do you have -- do you have alternate ones to provide to
7 me?
8

9 MS. DAVIES: Okay, so what Mr. Uttl's asking for is an
10 exchange of financial disclosure --
11

12 THE COURT: Right.
13

14 MS. DAVIES: -- and so I --
15

16 MR. UTTL: (INDISCERNIBLE).
17

18 MS. DAVIES: -- it says deadline of the applicant, Anne
19 Rensonnet, to disclose records shall be November 7th.
20

21 MR. UTTL: All records.
22

23 THE COURT: Yeah, not just financial is his point, everything.
24

25 MS. DAVIES: You mean an affidavit of records, is that what
26 that is?
27

28 THE COURT: I think what he's talking about, I don't know.
29

30 MS. DAVIES: I think it's a notice to disclose.
31

32 MR. UTTL: Any other records pertaining to the -- the
33 (INDISCERNIBLE).
34

35 THE COURT: No, this is an action, an ordinary action, right,
36 so it would be an affidavit of records, Ms. Davies.
37

38 MS. DAVIES: Well, we've served notices to disclose. That's
39 what I thought Mr. Uttl was talking about.
40

41 THE COURT: Okay, he's not talking about that.

1
2 MS. DAVIES: An affidavit of records.

3
4 THE COURT: Right, which would include everything that a
5 notice to disclose includes as well as anything else that's relevant but just in the family
6 action, right, not all that other stuff, just in the family action. So, it would be more or
7 less the same, I would think, but it -- it -- it's more comprehensive. Is there a reason --
8 this is an ordinary action in our courts. Is there a reason an affidavit of records wouldn't
9 be filed?

10
11 MS. DAVIES: No, I mean we don't often do them in family
12 law --

13
14 THE COURT: No.

15
16 MS. DAVIES: -- when we're dealing with parenting as well.

17
18 THE COURT: Right, but there's other issues here so call it
19 what you like --

20
21 MS. DAVIES: Yeah.

22
23 THE COURT: -- affidavit of records or whatever, can you
24 have it done by November 7th, is the question.

25
26 MS. DAVIES: Yeah, no, I can't do it by November 7th, I'm --

27
28 THE COURT: Okay, so give me a date.

29
30 MS. DAVIES: -- I'm in trial. I'm thinking December 15th if
31 both parties exchange their affidavit of records. Ms. Rensonnet is saying to me, she's
32 feeling financially strapped and I know that she would like to bring an application that at
33 least all the other lawsuits, if they're not going to be consolidated, if they can in some
34 way be held because she cannot run four lawsuits, and one, she just can't afford it. I
35 mean, she's going under and I know we've got her application for interim costs and
36 disbursements but she -- she can't run four lawsuits at the same time.

37
38 THE COURT: Okay, so the other application that I'll entertain
39 with your application for costs is an application for a stay of the other matters, okay.

40
41 MS. DAVIES: Okay. So, December 15th of affidavit of

1 records I think --

2

3 THE COURT: Okay.

4

5 MS. DAVIES: -- would be fine.

6

7 THE COURT: Questioning.

8

9 MS. DAVIES: Questioning by --

10

11 THE COURT: End of January?

12

13 MS. DAVIES: -- yeah.

14

15 THE COURT: And undertakings, end of February?

16

17 MS. DAVIES: Yeah. Oh, I think that Mr. -- further
18 questioning on undertakings but I think -- do we need a date for that?

19

20 THE COURT: No?

21

22 MR. UTTL: No.

23

24 THE COURT: Okay, and we're talking about an eight day
25 trial?

26

27 MS. DAVIES: If we're just dealing with parenting, if we have
28 a parenting expert --

29

30 THE COURT: Parenting, no we're not just done with
31 parenting. This is parenting and child support --

32

33 MS. DAVIES: -- and child support.

34

35 THE COURT: -- and matrimonial property. I'm -- I'm calling
36 it the wrong thing but any property claims which Ms. Rensonnet has as well, the whole
37 enchilada between her and Mr. Uttl. I really believe once you get that dealt with, a lot of
38 this other stuff -- a lot of the other actions are going to resolve themselves, maybe not but
39 let's get the main -- let's get the -- the main -- the head of the snake, shall we say, let's
40 get that done and see what happens to the tail after.

41

- 1 MS. DAVIES: I think eight to ten days.
2
- 3 THE COURT: Eight to ten days, okay, so ten days. Okay, so
4 a ten day trial commencing after May 1st, 2015?
5
- 6 MS. DAVIES: Yeah.
7
- 8 THE COURT: Okay. Anything further, Ms. Davies?
9
- 10 MS. DAVIES: We have the mother applications that we would
11 like to bring and they were outlined in my letter.
12
- 13 THE COURT: Okay, do they get you to trial? Are they
14 relevant to trial?
15
- 16 MS. DAVIES: Well, the first one is the New Ways for
17 Families program.
18
- 19 THE COURT: Right.
20
- 21 MS. DAVIES: So we're not -- if we're in trial May or -- or
22 after May, right now, we've been recommended -- the parties have been recommended by
23 Justice Millar to go to New Ways for Family program.
24
- 25 THE COURT: Okay, why didn't he grant you an order then --
26 then, when you were in front of him?
27
- 28 MS. DAVIES: I -- I don't know but Ms. Rensonnet is going
29 but she can't fully participate in it unless Mr. Uttl agrees to go --
30
- 31 THE COURT: Right.
32
- 33 MS. DAVIES: -- or the parties are ordered to go and
34 Ms. Rensonnet -- the children are showing signs of -- of some stress. You know, they've
35 come back to mom and they've -- and -- and they're revealing that they're being told to
36 keep secrets. So, Ms. Rensonnet is working with a psychologist how to -- you know,
37 how to deal with the kids and minimize any of their -- any of the problems that they're
38 having. That's Pat Petrie and Ms. Petrie has recommended, as well, the New Ways for
39 Family program --
40
- 41 THE COURT: Okay, there's a specific --

1
2 MS. DAVIES: -- so we would like --
3
4 THE COURT: -- order you need me to sign. Did you bring it
5 with you?
6
7 MS. DAVIES: -- I didn't bring one with you.
8
9 THE COURT: Okay, all right, so you need that, yeah, what
10 else?
11
12 MS. DAVIES: Okay, so I should prepare that order?
13
14 THE COURT: Prepare that order --
15
16 MS. DAVIES: Okay.
17
18 THE COURT: -- and make an application in front of me as
19 soon as possible, okay --
20
21 MS. DAVIES: Okay.
22
23 THE COURT: -- on the New Ways for Family -- just the New
24 Ways for Families --
25
26 MS. DAVIES: Okay.
27
28 THE COURT: -- because that'll get these -- that'll get Mr. Uttl
29 involved as well and it'll get the children involved in the counselling there but there's a
30 very specific order that --
31
32 MS. DAVIES: Yes.
33
34 THE COURT: -- they require, of which you're aware?
35
36 MS. DAVIES: Yeah, Justice Millar actually gave us the order,
37 that was my memory.
38
39 THE COURT: Okay.
40
41 MR. UTTL: Ma'am, I have an objection to that.

1

2 THE COURT: Yeah, we're not dealing with it today,
3 Mr. Uttl. I'm asking Ms. Davies to bring it on another date so you have notice so you
4 can tell me all the reasons why you don't think you should be involved in a very good
5 program, okay.

6

7 MS. DAVIES: And then another application is just I would
8 like an order -- I'd like to bring an application that there be an order that Mr. Uttl and his
9 family cannot bring any further lawsuits without leave of the court.

10

11 THE COURT: Okay, that's the stay application.

12

13 MS. DAVIES: Okay.

14

15 THE COURT: You're bring an application -- an interim
16 application for costs and a stay of all the other actions and an order prohibiting Mr. Uttl
17 from commencing any further actions without leave of the court, okay.

18

19 MS. DAVIES: Yeah.

20

21 THE COURT: That's all one. New Ways for Family stands
22 alone ASAP, okay.

23

24 MS. DAVIES: So can we bring that, if I get dates -- your next
25 dates, I think it's the end of November.

26

27 THE COURT: Right.

28

29 MS. DAVIES: Okay.

30

31 THE COURT: Okay.

32

33 MS. DAVIES: And I think that's all of the issues that I need
34 to address. Oh, there's a preschool issue. Perhaps I can bring that at the same time as
35 New Ways for Family when --

36

37 THE COURT: Okay. Okay, okay. Now, Mr. Uttl, ordinarily,
38 I would say to you that you can serve Ms. Rensonnet's employer by any means other than
39 your own and be within the confines of the September order but now that I've had it more
40 fully explained to me by Ms. Davies as to what's really going on, you have a year to
41 serve Ms. Rensonnet's employer with that -- with that statement of claim a year from the

1 date that it's issued, okay. Was it issued in May of this year?

2
3 MR. UTTL: Yes, you only heard --

4
5 THE COURT: Okay.

6
7 MR. UTTL: -- her side of the story and you haven't -- my
8 side of the story.

9
10 THE COURT: I don't need to hear your side right now,
11 Mr. Uttl. I don't need to hear your side right now.

12
13 MR. UTTL: I mean she was out of work.

14
15 THE COURT: Because you have a year -- because you have a
16 year to serve that statement of claim on Ms. Rensonnet's employer, you are prohibited
17 from serving it in any way until we have a hearing about whether or not it's required,
18 okay. You have a year so we'll make -- make sure you diarize that date and make sure
19 you bring it to my attention the next time -- not the next time we meet but the time after
20 that.

21
22 The next time we meet, we're going to entertain an application for New Ways for
23 Families and the preschool matter, okay, because I believe -- not because Ms. Davies has
24 asked for them because I think those are the -- the most important of all these applications
25 that are pending, all right.

26
27 MR. UTTL: I -- I understand. So in one hand, Ms. Davies
28 wants to get a order so I somehow give her some advance against the litigation. On the
29 other hand, I'm going to be different court thing --

30
31 THE COURT: We're -- I'm not dealing with that yet, I'm not
32 dealing with that yet, Mr. Uttl. I'm not dealing with that yet, okay. As far as I can make
33 out, you have no burning need to serve Ms. Rensonnet's employer with that claim right
34 away. We're going to wait before we have a whole bunch more meetings and we're
35 going to figure it out, all right, but you're not going to do it right now until I say so.

36
37 MR. UTTL: Okay, I have -- I have four eight thousand
38 dollars to claim that.

39
40 THE COURT: Okay, yeah, well, I'm sure Ms. Rensonnet's
41 employer isn't going to pay you the minute they get that claim. It's going to be some

1 number of years down the road if ever so --

2

3 MR. UTTL: I (INDISCERNIBLE) believe --

4

5 THE COURT: -- you're not serving it.

6

7 MR. UTTL: -- I (INDISCERNIBLE) believe they'll settle
8 the claim very quickly.

9

10 THE COURT: Okay, yeah, well, litigation as leverage is not
11 my -- is not something that I condone Mr. -- Mr. Uttl, so we're going to wait on that right
12 now. So you're not -- your brother's not going to serve it, no one's going to serve it until
13 we have another hearing about it, all right.

14

15 MR. UTTL: Okay.

16

17 **Order**

18

19 THE COURT: For today, I am going to order that the family
20 law action, FLO117010, be set down for a ten day trial anytime after May 1st, 2015, all
21 right. Mr. Uttl, that's something -- it's not the quite the time frame you wanted but it's
22 going to be --

23

24 MR. UTTL: It's close.

25

26 THE COURT: -- pretty quick, okay. Yourself and
27 Ms. Rensonnet are to exchange affidavit of records on or before December 15th of this
28 year. You are to complete your questioning of each other on or before January 31st of
29 2015 and you are to provide each other with your answers to undertakings arising out of
30 those questioning by February 28th of 2015. Okay. Ms. Rensonnet is to bring an
31 application before me right away for one hour on an application to direct both parties to
32 attend the New Ways for Family program at the YWCA as well as to deal with the
33 preschool issue, whatever that is, okay. At that application, we'll talk about the timing
34 because hopefully by then, I'll have some idea of my time in 2015. Then we will talk
35 about the timing for an application for costs to allow Ms. Rensonnet to go to trial and an
36 application for a bilateral assessment and an application to consolidate these other actions,
37 okay, and any applications that you may wish to bring down the road as well, Mr. Uttl,
38 namely the ability to serve that claim on Ms. Rensonnet's employer, okay. So, Ms. --
39 Ms. Rensonnet's --

40

41 MS. DAVIES: And the stay as well?

1

2 THE COURT: -- yeah. Ms. Rensonnet's going to bring an
3 application for costs, an application for a stay of the other actions and an application to
4 prohibit you from bringing any additional actions against anybody related to
5 Ms. Rensonnet or relating to this matters without leave of the court. That's just an
6 application. She'll have to serve you with notice and you'll have your chance to tell me
7 why that should not be granted, okay, and at the next hearing you tell me any additional
8 applications you need other than the ability to serve this claim on Ms. Rensonnet's
9 employer, okay.

10

11 MR. UTTL: Okay.

12

13 THE COURT: Next time. I can't deal with it next time but we
14 can talk about timing, okay.

15

16 MR. UTTL: Okay, thank you, Ma'am.

17

18 THE COURT: Okay, so who's going to prepare that order,
19 Ms. Davies?

20

21 MR. UTTL: Oh, I will.

22

23 MS. DAVIES: I guess that would be me.

24

25 THE COURT: Well, or Mr. Uttl is -- Mr. Uttl says he can.

26

27 MR. UTTL: Well, I -- I wrote a draft and it's probably --

28

29 THE COURT: Okay.

30

31 MR. UTTL: -- going to be done faster.

32

33 THE COURT: Okay --

34

35 MS. DAVIES: Okay.

36

37 THE COURT: -- then here you go. Here you go. So, the only
38 thing in the order, Mr. Uttl, is this trial business and the deadlines. Everything else is
39 just -- we've just been talking. I'm going to make a note but we understand -- it does --
40 it's not some part of my order but I understand we -- the way this case management or
41 the overall umbrella of this case management that I'm doing with you is to get this

1 familial action to trial as quickly as we can --

2

3 MR. UTTL: That's right.

4

5 THE COURT: -- and so, in -- in order to do that, there are a
6 number of preliminary or ancillary applications which we've discussed that I will allow
7 and we will make time for, okay, and I've -- I've outlined them before. I can outline
8 them again but just generally, the New Ways for Family and the preschool matter will be
9 next.

10

11 Then and I'm only saying this because Ms. Davies set it out for me more clearly, then
12 there will be an application for an interim for costs, a stay and a prohibition and then
13 they'll be an application for a bilateral assessment and maybe magically, if I have a half
14 day that opens up or a day, we can deal with all of them together. I'm not sure but those
15 are the ones we're going to deal with and any cross motion you might have, Mr. Uttl,
16 with regard to serving Ms. Rensonnet's employer with a claim or anything else you think
17 is necessary to get the familial action to trial, okay.

18

19 MR. UTTL: Yes, Ma'am.

20

21 THE COURT: Okay, here's the -- here's your draft order back,
22 Mr. Uttl, and so you can send your -- once you get Ms. Davies to approve what it is
23 you've drafted for today, then you send it directly to me and I'll sign it --

24

25 MR. UTTL: Oh.

26

27 THE COURT: -- and send it back to you, okay.

28

29 MS. DAVIES: Thank you, My Lady.

30

31 THE COURT: Okay, thank you.

32

33

34 PROCEEDINGS ADJOURNED SINE DIE

35

36

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41

1 Certificate of Record

2

3 I, Bernardita Apablaza, certify that this recording is the record made of the evidence in
4 the proceedings in Court of Queen's Bench, held in courtroom 1204 at Calgary, Alberta,
5 on the 9th day of October, 20 -- 2014, and I was the court official in charge of the sound
6 recording machines during the proceedings.

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1 Certificate of Transcript

2

3 I, Robin Gemer, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the
6 best of my skill and ability, and the foregoing pages are a complete and accurate
7 transcript of the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record
10 and is transcribed in this transcript.

11

12

13 Digitally Certified: 2014-10-20 13:40:03

14 Robin Gemer, Transcriber

15 Order No. 10283-14-1

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Order No. 10283-14-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	45
Total Pages:	47
Line Statistics	
Title Page Lines:	52
ToC Lines:	4
Transcript Lines:	1904
Total Lines:	1960
Visible Character Count Statistics	
Title Page Characters:	512
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