
CANADA / JUDGMENT

K.L.S. v. K.M.S.

2017 BCSC 1315

COURT

Supreme Court of British Columbia

DECIDED

27 July 2017

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2017 BCSC 1315 K.L.S. v. K.M.S.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

K.L.S. v. K.M.S.,

2017 BCSC 1315

Date: 20170727

Docket: E140638

Registry: Vancouver

Between:

K.L.S.

Claimant

And

K.M.S.

Respondent

Before: The Honourable Mr. Justice Affleck

Reasons for Judgment

Counsel for the Claimant:

M. Patton

Counsel for Respondent:

A. Rose

Place and Date of Trial/Hearing:

Vancouver, B.C.

June 20-21, 2017

Place and Date of Judgment:

Vancouver, B.C.

July 27, 2017

- [1] This family case began in 2011. There has been no trial but numerous applications. The most difficult have surrounded the parenting arrangements for the parties' daughter J.S. born April 13, 2001, and now 16 years old. This litigation is what is commonly described as a high conflict parenting dispute.
- [2] On December 9, 2013, the respondent filed a notice of application seeking a number of orders. In reasons dated January 16, 2014 and indexed at 2014 BCSC 61 I ordered the disclosure of records in the possession of the Ministry of Children and Family Development and the preparation of a report pursuant to s. 211 of the Family Law Act, S.B.C. 2011, c. 25. Until the s. 211 report became available I declined to make an order which is described in the December 9, 2013 notice of application as "an order of the court pursuant to s. 224(1)(b) of the Family Law Act that the parties participate [in] counselling with a qualified counsellor who has experience in reunification counselling, for the purposes of identifying a plan to support and foster reunification between the respondent and [J.S.]".
- [3] The January 16, 2014 order was not entered until June 19, 2014 which delayed receipt of the Ministry documents. There were also considerable delay in the process of determining the appropriate person to prepare the s. 211 report. In early 2015 J.S. voluntarily began to attend counselling with Karissa Longmore, a community services worker.
- [4] On July 30, 2015, the respondent filed a notice of application seeking several orders including an order that Dr. Rebecca England prepare the s. 211 report and an order that J.S. attend on a counsellor agreed by the parties and that she discontinue counselling with Ms. Longmore. An order was made that Dr. England prepare the s. 211 report. No order was made that J.S. attend on a mutually agreed counsellor. I am now told J.S. is no longer counselled by Ms. Longmore.
- [5] After the order was made for Dr. England to prepare the s. 211 report I was told the claimant had not cooperated with Dr. England. At the request of the respondent an order was made on October 26, 2015 that Dr. Paul Eirikson, a registered psychologist, prepare the s. 211 report.

- [6] On June 15, 2017 the respondent filed a requisition resetting the application for the order I had declined to make, referred to in para. 2 above. On June 20 and 21, 2017 a hearing was conducted to consider that application. My decision is that the order ought not to be made.
- [7] The respondent has provided a draft form of order which she submits would be appropriate. It reads as follows:
- 1) The Parties and the Children (this refers to J.S. and her younger sister, T.S.) shall be enrolled in the Family Forward Reunification Therapy Program with Alyson Jones & Associates, including related reunification therapy, and cooperate with the process as directed by the clinical director, Alyson Jones, until agreement by the parties or further order of the Court.
 - 2) Ms. Jones is granted the discretion to determine the process of the Family Forward Reunification Therapy Program, including, without limitation, to determine:
 - a. The parenting schedule:
 - b. Which professionals can provide further services or support;
 - c. To issue directives and treatment recommendations as to the communications and parenting schedule as between the Parents and the Children.
 - 3) The enrollment of the Children in this program shall first commence with [J.S.], and any contact between [J.S.] and the Respondent that is not agreed to by [J.S.], shall first be put to the Court in a directive and suggested plan, which both Parties agree may be subject to further refinement or cancellation by the Honorable Justice Affleck after hearing submissions from the Parties, Ms. Jones and potentially [J.S.].
 - 4) The enrolment of [T.S. the sister of J.S.] in this program shall commence upon the recommendation of Alyson Jones.
 - 5) The Parties are at liberty to apply for police enforcement as to Terms 1 and 2, should either party be alleged to have not complied.
 - 6) Alyson Jones shall report to the court on all aspects of the progress of the Family Forward Reunification Therapy Program and any compliance issues within 6 weeks of the date of this order, and, subject to all parties' availability, a Judicial Case Conference shall be attended by all to review the progress.
 - 7) Alyson Jones and any professionals selected by her shall be at liberty to communicate with each other and exchange information as deemed necessary by Alyson Jones;
 - 8) The parents shall execute any authorizations necessary to allow Alyson Jones and any professionals selected by her to communicate with one another and exchange information.

- 9) The cost of the Family Forward Reunification Therapy Program and the reunification therapy shall be in the first instance, met by the Parties' extended benefit plans, with any remaining costs to be paid by the Claimant by 90% and the Respondent 10%. Either party is at liberty upon the conclusion of the Program to seek a final order with respect to the cost of the program, including seeking an order that the other party shall be reimbursed.
- [8] I have emphasized the portions of the proposed order which I view as particularly inappropriate and impracticable.
- [9] Dr. Eirikson's report is 85 pages in length. He reviews the history of the relationship between the parties and their involvement with their children in detail. The central focus of his report is the complete absence of any relationship in recent years between J.S. and her mother the respondent. In Dr. Eirikson's view counselling and many other measures ought to be put in place to re-establish that relationship.
- [10] A decision was made by J.S. when she was about 12 years old that she did not wish to have any contact with her mother. She has adhered to that decision ever since. The respondent is anxious to find a way to restore the relationship and the present application is her approach to achieving that outcome. In my opinion although the respondent's desire is understandable, it is misguided.
- [11] I will quote the entirety of Dr. Eirikson's "conclusions, opinions and recommendations" from pages 77 through 85 of his report.

All of the available information was reviewed including the documents listed, interviews, psychological testing, child observations and collateral information. The following descriptions are based on the totality of the information available.

The reasons that [J.S.] does not want to see her mother are complex and not from one specific origin, although there is a predominant reason which is identified below.

The referral, in the joint retainer letter, is for a needs of the child assessment under section 211 of the Family Law Act, recommendations as to repairing the relationship between [J.S.] and her mother and parenting time and arrangements for both [J.S.] and [T.S.]

Needs of the children

Given the situation that has evolved, my opinion regarding the needs of the children is:

1. For both [J.S.] and [T.S.] to have relationships with each of their parents, both father and mother, unencumbered by the burden placed on the child by one parent about the other. The evolution of the emotional burden has a long history, of five or more years, and has affected [J.S.] and [T.S.] both, primly (sic) [J.S.]. A goal is to prevent the issues from affecting [T.S.].

2. Other goals are, as for any teenager, for their parents to support their education, their social and recreations activities, for involvement of both parents in these areas. [J.S.] and [T.S.] are typical teenagers who benefit from the guidance their parents offer. It was observed that in the [claimant's] home that [the claimant] defers much of the child involvement and care to [Ms. J.], and a degree of parent teen activity to the tenant [M.].
3. There is an order from the court that the parents not discuss the legal and court procedures with the children, and to not discuss the other parent in negative ways. In my opinion, this is not being followed and has caused (sic) tremendous emotional burdens to the children.
4. [J.S.] was too young, beginning at age 12 and continuing till age 15 to make the choices she has.
5. To arrange a parenting time and guardianship plan which serves the children's needs rather than the parents needs.
6. [T.S.] and [J.S.] need counselling from competent qualified counsellors who can provide services with a full perspective of the circumstances, and to have the children's best interest at the centre. One of the counsellors main focus should be to assist the girls to "not be in the middle" despite what with parent or step parent may be telling them, the latter having occurred far too frequently in this situation. As described below, if the parents cannot agree, and they have shown themselves unable, then an independent source will need to choose for them. It is proposed that either the court itself or a parent coordinator choose for them. A parent coordinator, although it is recommended to be used, is expensive. Therefore in my opinion the parent coordinator should take the role of overseeing the therapy and parent teen camp planning, and ensuring qualified therapists are used who maintain balanced therapeutic roles and use therapeutic means to get both girls "out of the middle" of these two parents battles.

The origin of the issues affecting [J.S.] and her mother, and which also have a direct bearing on [T.S.] and any potential undermining of parent relationships

The origin of these (sic) [J.S.'s] refusal to see her mother, in a partial chronological order are:

1. [J.S.'s] temperament is quiet and of less self confidence, who some described as withdrawn when younger. Her confidence has grown at times.
2. [J.S.] grew as having an affinity for her father, "a daddies girl" as described by many collaterals.
3. [J.S.] witnessed a great many unfortunate marital events, yelling matches and some degree of physical violence over a period of several years, and predominantly in the last 18 months of the marriage. [J.S.'s] affinity for her father, and considerable negative influencing in my opinion has shaped her negative view of her mother. [The respondent's] parent child conflict has been distorted and made into a gross negative, only this view of her mother has presented and discussed openly in the [claimant's] home to her and [J.S.] has absorbed it.

4. [The claimant] developed a hatred and indicating he would not do anything to assist [the respondent]. He showed strong disdain for anything related to the situation and felt he had not made any contribution to [J.S.'s] evolution to refusing to her mother. One beginning point for that seemed to arrive from the "charges (sexual assault shortly after the separation) that everyone knows about". [The claimant's] personality style during the marital relationship was highly dependent (the need to be in on her ladies group and phone calls) on her, with controlling and intimidation, and panic when [the respondent] actually left.
5. [J.S.] has been too young and emotional (sic) vulnerable to cope with hearing the negativity regarding her parents, most particular her mother. [J.S.'s] vulnerabilities have been exploited in the situation. One example among others, is [J.S.] hearing how she was to "make mommy stay" when the marriage was deteriorating.

Over time children who are subjected to this emotional vulnerability become focussed on one parent as the savour (sic) and the other as the problem and succumb to the alienation by adopting the view of the alienating parent or alienating household. When the identification is with the alienating parent, and that parent hates the alienated parent, the child adopts some or all of that. "I hate him / her and you should too" is the theme involved.

The emotional tension for [J.S.] is resolved by making "choices" as [J.S.] has, to live only in one parents sphere, so that emotional issue is made to "disappear", and to displace the alienated parent, in this case [the respondent]. [J.S.] has been "rewarded" with [the claimant's] view of [J.S.] having made "a mature choice" and being informed that "waiting 10 years" to reconnect with her mother may be what it takes, and Ms. J.'s [the claimant's present wife] "standing behind her choice". The end result is this "resolves" the emotional tension [J.S.] experiences and distances herself from being stuck in the middle of warring parents. She stops attending her mothers home by placing all her time into her father's home and displacing her mother. This may work for a period of time but actually accomplishes little to nothing psychologically, it only delays the momentarily anxiety and tension that [J.S.] experiences.

There have been many influences external to [J.S.] for her to make a choice of permanently cutting off her mother and extended family. [J.S.'s] cut-off her extended family also as it is in [J.S.'s] own description emotionally "easier to not relate" to them. She expresses her fear of being pressured, a similar fear of being pressured by her own mother. Extended family should be cautioned should [J.S.] resume contact them, to not engage in presenting "counter facts" or arguments that she was influenced or questions why, as that would only reinforce her fears of being pressured.

6. [The respondent] has made some contributions to this situation, taken far out of context and exaggerated, by engaging in parent child conflict when [J.S.] was younger. The alienation, is by far the greater contribution and the parent child conflict the minor factor.
7. [J.S.] and her mother have had a historically positive relationship, as observed by collaterals, and at times difficult relationship also seen by collaterals. A careful tracing of it would describe a mother who grew in [sic] loud and active house with many siblings. As a mother,

[the respondent], was strict (as was [the claimant]) while they were together but this changed into a more relaxed and less supervised parenting situation when he began with [Ms. J.]. [The respondent] historically had a positive relationship with both her children, as did [the claimant]. It was interspersed with periods of yelling matches and one or two notable events that have very different interpretations, and those interpretations have been heavily used, the Hope chest item being one of them. [The respondent] was demonstrating a safety point and [J.S.] experienced it differently, or at least her current memory of it is different.

8. The words traumatic and abusive have been introduced into this matter in the last 3-4 years. The writer interviewed everyone on the topic. [Ms. J.] refers to [J.S.] as being abused, hit and slapped by her mother, [the claimant] used the same terminology however when asked for details was vague. [The claimant] notes abuse is an exclusionary criteria to the Kelowna parent teen camp. No person interviewed by the writer could point to actual slapping or hitting, other than the idea [J.S.] had been. In my opinion there is no basis for those claims other than "abuse and trauma" having taken on an aura of reality where non [sic] existed.

[J.S.] did not indicate she was hit (other than the Hope Chest incident), her references are to her mothers emotional attitudes. [J.S.] denied being slapped but did refer to the threat of physical punishment should misbehaviour continue, used at age six and seven when both parents were together. [T.S.] said she had never been hit or slapped by [the respondent]. None of the collaterals had ever seen or heard of that, save C.P. who referred to "yelling" by both mother and child. [The claimant], while referring to abuse, was not able to point to any specific matters and during his interview was observed as vague and evasive, where the predominate theme was hatred of [the respondent] and asserting the children know of this hatred. As a result, in my opinion, the idea that [J.S.] was abused and traumatized must be abandoned. The ideas on that have been exaggerated.

9. Based on all the information available the a more [sic] accurate picture: [J.S.] has been led to believe that her mother abused her the source has been [the claimant] and [Ms. J.]. [J.S.] and her mother actually experienced, not atypical, parent child conflict. [J.S.], in my opinion has likely experienced the some (sic) emotional coldness, emotional distance, felt uncared for by mother. [If] [the respondent's] part in healing the relationship is to work on this aspect of the parent child relationship, rather than to try to ensure [J.S.] knows of [the claimant's] faults that have contributed to [J.S.'s] refusal to see her.

Goals related to reversing the alienation

1. [Ms. J.] made a useful comment in response to an inquiry about what she felt [the respondent] could do to help [J.S.] want to have a relationship with her. First [Ms. J.] said she would like to see [J.S.] (and [T.S.]) have a good relationship with their mother and if she were in [the respondent's] shoes she would do anything. Second [Ms. J.] said "she [the respondent] needs to take ownership of what she did". The writer agrees [the respondent] can help [J.S.] want a relationship with her by "taking responsibility for her emotional reactions to [J.S.]" the aspect of having engaged in parent child conflict and creating dramatic scenes in front

of the [the claimant's] home.

However similarly, [Ms. J.] and [the claimant] also have to take ownership and responsibility for their part in the open, negative, exaggerated, unhelpful and alienating behaviour in their own home and attitudes, their own indiscreet family discussions that have been alienating and the attitudes seen in [the claimant] that affected [J.S.] and her mother. [The claimant] needs to assist [J.S.] use a therapeutic venue to accomplish that with her mother, and in my opinion [the claimant] would benefit his daughter and himself in his marriage by getting help to deal with his oft repeated hatred of [the respondent] and his disdain for her.

2. As described below, [J.S.'s] feelings whether as misperceptions or completely accurate are [the respondent's] mountain to climb and to find a new presentation of herself to [J.S.] in new, different, positive, caring light who understands [J.S.'s] needs, so that a positive outcome could arrive. [J.S.'s] concepts of but those concepts of coldness etc. (sic). These feelings have been connected to [J.S.'s] affinity to her father and the manner [Ms. J.] has presented as a parent - pal-confidante.
3. The outright negative talking in the [claimant's] home, in my opinion, must cease and a method of backtracking, in a therapeutic setting should be applied. The basis for this conclusion is several fold: [the claimant] openly discussed how "we hate each other" and the children know it, and how his hatred of [the respondent] is known; the other three teenagers in the home are of hearing about it; a collateral confirmed the open talking; [J.S.] and [T.S.] both discussed overhearing things at the [claimant's] home they should not be subjected to; [Ms. J.] has taken a role of confident - parent - pal with [J.S.] and [T.S.] that usurps her role as parent. While it is expressed acknowledged there is an alternative view related to [the respondent's] parent child conflict with [J.S.], the parent - pal - confinement role and the assistance offered has undermined [the respondent].
4. The idea that [T.S.] now is saying she has a difficult relationship with her mom as said by [Ms. J.] is disturbing, [T.S.] said nothing of that to the writer and in fact the opposite was observed and spoken by [T.S.], she experiences a positive relationship with her mother. A central goals (sic) to resolve this alienation is to prevent [T.S.] from becoming engaged in the same pattern
5. [J.S.] (and [T.S.]) need therapeutic help to "out of the middle" but not by ensuring she has a "an accurate" negative view of both her parents terrible behaviour to each other. [J.S.] in my opinion has heard far too much in the [claimant's] home. If [the claimant] is truthful in his statement to the writher (sic) he wants [J.S.] to have a relationship with her mother, then what has been said, how it was said, and why it was said must be dealt with in the [claimant's] home, so that [J.S.] can "be released" into having a more blanked (sic) and positive view of her mother.

[J.S.] expressed great fear that; the court was "going to order her back to her mother's home. In my opinion that fear is justified in the respect, that simply making orders that [the claimant] follow court order for returning, to her mothers home is a recipe, for getting nowhere.

In my opinion the orders should relate to the recommended plan below:

Recommended Plan

1. [J.S.] concerned she will be "forced" by the court to return to her mother's home. It isn't likely court can force that short of making sole guardianship for [the respondent] but that isn't recommended.
2. [The claimant] attend counselling related to his attitudes and hatred of [the respondent]. [The claimant] and [Ms. J.], in a counselling setting, to take ownership of the manner by which [J.S.] was influenced, so that [J.S.] can be released from being in the middle. The counsellor would be the same one who assists [the respondent] and [J.S.], so there can be a unified approach to understanding and a uniform direction to the therapy.
3. [J.S.] and her mother begin meetings in a safe location of a therapists office. This is not considered a (sic) one or several time approach. It may take many months or longer of sessions.
4. [The respondent] and both girls attend the camp at Kelowna, and the occur (sic) to make arrangements so it can occur. Prior to the camp recommends mother- daughter counselling to begin. [The claimant] to attend the camp as per the recommendations and the program arrangements of the parent - teen camp. In my opinion, a beginning point for [the respondent] is to "come clean" regarding some aspects of her parenting that may have been less than perfect for they have been interpreted into the worst, nonetheless they are contributing factors to [J.S.'s] avoidance. This means, to the maximum degree possible, [the respondent] should take responsibility for her actions in the mother-daughter relationship, as should [the claimant] and [Ms. J.]. [J.S.'s] concerns need to be heard and a conciliatory approach would be most beneficial. [I agree]. [J.S.], on her part, needs a balancing of the information she interprets. While the parenting may have been less than perfect, the same would go for [the claimant], the parenting behaviour by [the respondent] cannot be interpreted as abusive. [The claimant] and [the respondent] should help [J.S.], and a parent coordinator to ensure that, on that account in some manner.
5. Retain joint guardianship. A change in guardianship, in my opinion, would be a capitulation to how [J.S.] was improperly inflected [sic]. Parenting time, in my opinion, should remain about equal between each parent. The parents work schedules are a practical consideration, so that each parent can maximize their time with the children. The current pattern is recommended to continue with 1/2 week at each home, as it reflects work patterns that maximize the children's time with each parent. [T.S.'s] suggested changes were promoted quite strongly by [the claimant's] and [Ms. J.'s] suggestions on how to maximize sibling time in their home. [The claimant] must provide info, monthly to [the respondent] on [J.S.'s]

activities so she has a knowledge base to have positive understanding of [J.S.], and positive communicating with her daughter.

6. Parenting time: For summer vacations, it is recommended a minimum of two weeks for each parent be permitted which sets aside the 1/2 week in each parent home with no make up time. The court has made other orders about birthdays, mother and fathers day, Christmas and Spring break. To the degree these are bat (sic) equal for the child's time with each parent, could not arrive at better solutions. [I have emphasized the reference to "parenting time". There has been none between J.S. and the respondent for about 4 years.]
7. An overseer, such as the court itself or a parent coordinator who assists the recommended plan stay on track, meaning periodic reports to the court, that the alienating behaviour that continued for several years has abated, and more positive approaches are made, with [J.S.] being taken out of the middle and that her "mature decisions" and "we support your choice" approach is dealt with differently.
8. In my opinion the children who have not received qualified counselling, or there have been so many disagreements about counselling, that it is undermined. Counselling offered, to [J.S.] has been supportive of her stated wishes but has lacked an overall accurate picture of the circumstances.
8. [sic] In my opinion [Ms. J.] would best stop the role of being a confidante to the children, for example stop assisting [T.S.] with the relationship with her mother, let her counsellor assist her. The help offered to [J.S.] was not successful. [The claimant] has not involved himself in those areas, he takes a backseat to permitting [Ms. J.] talk with the [J.S.] and [T.S.]. A particular disturbing comment arose from [Ms. J.'s] toward the end of the assessment, where [Ms. J.] "[T.S.] references not having a good relationship with her mother". This was not observed by the writer, in any way, during the assessment and [T.S.] on interviews had not brought this forward. The concern is that [Ms. J.] involving herself in this, could bring [T.S.] to the same place [J.S.] has been brought
9. [sic] Other Recommendations to Parents

[The respondent] to attend a parent teen conflict course. Such courses are offered by Abbotsford Community Services or that organization will know where to find such a course.

Email is essentially the only form of communication available to these two parents. [The respondent] to shorten any communications and express the minimal degree of conflict in her communications with [the claimant]. [The claimant] and [Ms. J.] experience most emails from [the respondent] as conflict. In return [the claimant] and [Ms. J.] to cease making personal remarks or taking negative inferences on [the respondent's] motivation about her plans with [T.S.] (and [J.S.] if she visits).

[Mr. K., the respondent's husband] to be aware that [T.S.] has expressed caution about him touching her back, even in a friendly manner. [Mr. K.] could put as much effort as possible to developing stepfather-teen activities that gain positive traction.

[The claimant] and [the respondent] to attend a mediation to further discuss how they might co-parent the girls in an equal manner and to resolve how and when counsellors will be appointed, and the attendance for [the respondent], [J.S.] and [T.S.] at the Kelowna parent-teen camp. [The claimant's] (and hopefully most importantly [Ms. J.'s]) attendance at the Kelowna camp is needed and where [the claimant] and [Ms. J.] may adopt a way of dispensing with the negativity expressed about [the respondent] and [Mr. K.] so that [J.S.] and [T.S.] can have a more accurate view of their mother. It may require [the claimant] and [Ms. J.] to backtrack on some of the views expressed to the children about their mother.

[Ms. J.] and [the claimant] to dispense with the "all she does is try buy their love" ideas when critiquing [the respondent], and to cease using that language with the children. [J.S.] used identical language when talking with the writer. The blanked (sic) view is that [the respondent], in seeking to have the best relationship possible.

[12] On this application I make no findings concerning the parental "alienation" Dr. Eirikson describes. I am not requested to make such findings by the respondent. This is an instance of complete estrangement but not "alienation" between a mother and her now 16 year old daughter. "Alienation" is a word used in family law to refer to deliberate efforts by one parent to alienate a child from the other parent. I would not be prepared to consider addressing that question without a trial. Dr. Eirikson's emphasis on alleged alienation greatly limits the value of his report on this application. I agree, however, that an order compelling J.S. to resume a relationship with her mother would be, to use Dr. Eirikson's phrase, "a recipe for getting nowhere".

[13] With the consent of the parties, and at her request, I met J.S. on June 12, 2017. The meeting was not lengthy but I came away from it with the firm impression that J.S. is articulate, thoughtful and intelligent. Early in the meeting it became apparent that her purpose in requesting a meeting was to let me know that she will resist any contact with her mother. I was left in no doubt that if an order was made which had the effect of requiring contact, either through counselling or enforced parenting time, J.S. would refuse to comply. That message was conveyed respectfully but definitively. I do not doubt J.S. has reasons which are satisfactory to her for reaching a decision of which many would be critical. She has voluntarily sought counselling. Her decision has not been capricious.

[14] In *Williamson v. Williamson*, 2016 BCCA 87 the Court of Appeal allowed an appeal from an order that children participate in a Family Reflections Reunification Program ("FRRP"). I am told the Family Forward Reunification Therapy Program that the respondent proposes is a different type of program. In *Williamson* the intended purpose of the FRRP was to address parental alienation. That question is not before me. Nevertheless the observation of Madam Justice Stromberg Stein in *Williamson* that the age of a child is important because "[o]nce

the child becomes a teenager, it appears remedial options become increasingly limited" has some application to the difficult matter before me.

- [15] In my opinion an intelligent and thoughtful 16-year-old, must by that age be given a significant measure of autonomy when deciding to refuse contact with one of her parents.
- [16] The only consideration I must have in regard to J.S. is her best interests. I am persuaded that an order of this Court requiring J.S. to undergo counselling with the aim of establishing a relationship with her mother, no matter how skilfully that counselling is handled, and no matter how delicately the re-establishment of a relationship is approached, would be seen by J.S. as coercion. It would not enhance the prospect of developing a useful relationship with her mother. In my view the more promising approach to achieving a satisfactory relationship between J.S. and her mother is to allow the passage of time, if possible, to overcome the wounds of the past, as perceived by J.S. This perception by J.S., whether or not it is acknowledged by others, must be respected. The striving of the respondent, through this Court, to create a relationship with J.S. is counterproductive.
- [17] I agree with Dr. Eirikson that it is unfortunate that J.S. has no relationship with her mother but this Court cannot solve that problem. The respondent must look to means other than a court order to begin a process of reconciliation. Dr. Eirikson is correct when he states that "[J.S.'s] concerns need to be heard and a conciliatory approach would be most beneficial". To seek to compel J.S. to attend a program of counselling which had been initiated by the respondent through this Court, over the objections of J.S., in my opinion would not only be futile, it would diminish the prospect of ever achieving a fruitful relationship.
- [18] Further I cannot ignore the fact that the Family Forward Reunification Therapy Program comes with a heavy cost. The respondent has little means to pay for the program and relies on the claimant to cover most of it. The claimant has an annual income of about \$45,000.
- [19] The parties have spent considerable money, from meagre resources, on this litigation. I have no doubt their respective finances have been stretched to the breaking point. I am told the claimant borrows from his parents to fund this litigation. The burden of the cost of the Family Forward Reunification Therapy Program would be unsustainable. The order the respondent proposes, which would give Alyson Jones and Associates authority to engage professionals and to "issue directives and treatment recommendations" would be impracticable. Moreover, if J.S. refused to accept these directives and recommendations, it is inconceivable this court would compel obedience.
- [20] The application is dismissed. There will be no costs order.

"The Honourable Mr. Justice Affleck"

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