



Scott T. Taylor

Family Lawyer & Mediator

Trading Places

Category: Custody & Access

I was very impressed with the Judge's decision. It showed common sense and a perceptive understanding of the best interests of the children. Children caught between separating parents, each seeking an interim Order that the Judge award them custody of the children, and exclusive occupancy of the family home. Rather than awarding custody of the children to one of the parents over the other, the Supreme Court Judge decided, in view of her finding that both parents were caring parents, to make a "shared parenting" Order.

The Order provided each of the parents with equal access to the children in the family home, rather than the usual arrangement whereby children are transported either to, or from, the residences of both parents. When one parent was exercising access to the children in the family residence for one-half the week, the other parent would be required to vacate the residence and live elsewhere. In effect, the children would benefit from the stability and consistency of remaining in the family residence while the parents would come and go during periods of access.

Regular readers of this column will know that I have often criticized the adversarial, winner take all approach encouraged in most family law proceedings, particularly where parents are battling over issues of custody. The winner is deemed to be the parent awarded custody and primary residence of the children.

For those unfortunate souls familiar with such proceedings there are few events which are more stressful and discouraging, or ultimately more harmful to the children. No doubt the stress and frustration is compounded by the fact that the current family law system encourages each parent to disparage the parenting abilities of the other while emphasizing their own superior parenting abilities. All done in an effort to convince the Judge that one parent is more deserving of custody of the children than the other. A decision which typically destroys or at the very least, severely damages the relationship

of the children to the "losing" parent, relegated to the role of the "access" parent.

This recent "shared parenting" decision, made in a case where I represented one of the parents, offers at least some hope that courts will strive to ensure that children continue to benefit equally from the involvement of two loving and responsible parents.

Unfortunately, as I mentioned in a previous column, the Federal Government recently announced that it does not intend at this time to implement changes to the Divorce Act which would require Judges to make shared parenting Orders, in most circumstances. While the Federal Government continues to drag it's heels to implement "shared parenting" as the new parenting status quo, let's hope that more Judges reject the old stereotypes, and adopt a more enlightened approach to child custody. After all, our children deserve nothing less. 🍀