

ONTARIO

Superior Court of Justice

(Name of Court)

Court File Number

at 393 University Avenue, 10th Floor, Toronto, Ontario  
M5G 1E6

(Court office address)

Endorsement

Date	Applicant(s):	<u>Vivian</u>	<input type="checkbox"/>	Present
	Counsel:	<del>Sherry</del> <u>Tweyma</u>	<input type="checkbox"/>	Present
			<input type="checkbox"/>	Duty Counsel
	Respondent(s):	<u>Courtney</u>	<input type="checkbox"/>	Present
	Counsel:	<del>Tweyma</del> <u>Shawyer</u>	<input type="checkbox"/>	Present
			<input type="checkbox"/>	Duty Counsel

Order to go in accordance with minutes of settlement or consent filed.

Facts are required on all motions (two days prior)

Mar 5/12

teleconfer

Counsel for the parties sought to schedule the father's appeal of the order of the A.C.T. dated 17 Nov. 2010.

The A.G. of Ontario did not participate in the teleconference.

I was advised by Mr. Shawyer that he has correspondence from counsel for the A.G. that they do not intend to participate in the appeal at this stage.

The mother's defense of the appeal raised Charter issues. The A.G. appeared on a "watching brief basis" on Dec. 19, 2011 & took a "wait and see" approach accordingly. I thought my decision whether the Charter issue could be raised on appeal for the first time.

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March 5/12

I would it could.

I require from the A.G. a clear position addressed to the court whether they intend to participate. I ask counsel for the partner to show this endorsement with Mr. Guttman at the A.G. + write his response by the end of this week.

Counsel agreed that as a without prejudice basis pending appeal I could stay the support order. I so order. S.D.O. to issue

The father's (appellant's) counsel asks that I schedule the appeal on its merits only, not the Charter issue. He understands that the Charter issue would still continue, but he is attempting to minimize costs to the father.

I am also advised that the father's counsel may have another counsel participate in the Charter issue. Similarly, mother's counsel submitted that there might be an intervenor - request.

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Date

While I am cognizant & sympathetic to the costs for parties, I do see the underlying issues being intertwined with the Charter issues & see no easy or practical separation, particularly since I have stayed support for now.

There fore by the end of March:

1. A.C. of Ontario to advise counsel & the court as to their position in regard to Charter challenge.
2. Any intention requests to be clarified by ~~the~~ parties
3. Parties to outline what additional work they need & proposed timetable to provide evidentiary record.

Thereafter all court involvement to attend for further directions & scheduling to be arranged through f.c.

Ministry Of The Attorney General  
Superior Court of Justice  
Family Law Division  
393 University Avenue 9<sup>th</sup> floor  
Toronto, Ontario  
M5C 1T3

## Facsimile Transmittal Sheet

File Number: FS-10 17103

File Name: VIVIAN - V - COURTNEY et al

FAX NUMBER (s): (below)

FROM: R. PEARSAULT DATE: March 06, 2012

TO:

TO: M. TWYMAN (9-571-1528)

TO: R. SHAWYER (4-398-7396)

TO:

SUBJECT: Endorsement of Certificate, 2

Re: Tele Conf earlier of March 05, 2012

NUMBER OF PAGES INCLUDING COVER PAGE: 4

COMMENTS: Please Review