

then it may be appropriate to set-off some or all child support against costs associated with litigating that issue. However, the burden of establishing no adverse impact on the children should rest with the spouse seeking set-off. In such cases it will be a matter of discretion for the trial judge, considering the foregoing principles, to decide if, and to what extent, set-off should be ordered.

Applying these principles to this case and in the face of Ms. Barkhouse's concession that the set-off would not have any adverse effect on the child residing with her, the Court upheld the decision of Justice MacDonald and dismissed the appeal. It is also important to note that the costs due to Mr. Wile arise out of a claim for child support in litigation that was not conducted reasonably by Ms. Barkhouse.

A perfectly sensible result here and a warning to litigants that unreasonable positions have real consequences. It is important to note that set-off will not be allowed when it might well affect the child. Absent that factor, parties who behave unreasonably will indeed suffer the consequences.

THE RAMP PROGRAM - Alcohol Monitoring in Custody and Access Cases - Significant New Development

In a departure from commenting on a case, I use the *Newsletter* as an opportunity to tell you about a recent and most important technological development that will be of great aid in custody and access cases where alcohol or substance abuse is an issue. Quite commonly one parent or the other will allege that access must be curtailed or supervised because the other parent is an alcoholic or a substance abuser, and cannot be trusted to abstain for a reasonable period before and during the period of time that he/she has the care of the children. This has often been dealt with by judges making orders that parties cannot consume alcohol 12-18 hours before a visit or during a visit, but there is no way to monitor that simply by an order. Thus, on some occasions courts have ordered random alcohol testing, blood or urine, breathalyser, and in some cases required parties to wear an ankle bracelet that detects alcohol in the system. The problem with the alcohol bracelet is that it gets confused by perfume and other alcohol substances, and does not accurately measure alcohol content in the blood stream.

Well now there is a new and much more sensible way to test for alcohol. This new system allows a computer monitoring station to send a signal to the parent's cell phone. The recipient has a small hand held instrument into which he or she blows and gives a breath sample, and the instrument takes a simultaneous photograph and transmits the result to the computer station, and wherever else the parties have agreed to send it including the other parent's cell

phone. Thus, if alcohol is detected in the other parent, the monitoring station knows about it immediately and the children can be retrieved. The testing can be set up at specific times, and in addition, the computer will send out random requests for testing to which the parent must immediately respond. The system will work anywhere in North America in which there is cell phone service, and accordingly, if the program is going to be used, the court order or agreement must require the parent with care of the children to be in a cell phone location.

I am told that while the system only tests for alcohol at the present time, within six months, a similar program will allow testing for cocaine and marijuana. This is a very significant development for family law lawyers and the courts. The system costs about \$10 per day. It will reassure a lot of parents to permit access in situations where they would have otherwise denied it, and it will safeguard children from alcohol and substance abuse in a way that we could not do before.

You can learn more about this development by visiting the developers web site www.accu-metrics.com. The company developing this is Viaguard Accu-Metrics in Toronto. All of us with alcohol parenting cases should look into this.

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