

Why the Need for a Period of Protective Separation

1. In cases where the extended family have created a toxic environment destructive to their relationship with the other parent, the imposition of a protective separation (no contact or only therapeutic access or only supervised access) is meant to provide a period of time to heal and bond again with the other parent in a safe and nurturing environment. During the period of protective separation, the children will rediscover the formerly rejected parent through exposure to their caregiving and insulation from the toxicity of the dominant parent and extended family. The period of protective separation is also meant to support appropriate directive therapeutic interventions, which will tackle the emotional abuse, and which will challenge what the children have been hearing. It also provides a period of time for the abusive parent to get counseling, commit to change and demonstrate change.¹
2. Unfortunately, alienating parents frequently lack the capacity for insight and compassion for understanding the children's true needs. Such parents continue to be in denial and refuse to fully accept in a genuine and insightful way the enormity of the damage they have brought on the children. They refuse to accept their being the root cause of the children's behavior. In effect, often such alienating parents, being fully mature adults, are not capable of change.²
3. Protective separation constructs not only require time for the children's relationship with the rejected parent to normalize, but also require the alienating parent to demonstrate that they will no longer taint the child's view of the other parent, nor manipulate or speak about relative parenting

¹ *L. (T.L.L.) v. L. (J.J.)*, 2009 MBQB 148, at para. 83, 84, 88, & 96; *K. (M.) v. M. (P.)*, 1996 CarswellOnt 3353 (Ct. J. (Gen. Div.)), at paras. 164 & 166; *Johnson v. Ross Johnson*, 2009 CarswellOnt 398 (SCJ), at paras. 141, 146, & 151; aff'd *Ross-Johnson v. Johnson*, 2009 NSCA 128.

² *C. (A.S.) v. C. (S.)*, 2008 MBQB 105, at paras. 100-101; additional reasons at 2008 MBQB 250 [costs to mother]; motion to extend the time to appeal dismissed at *C. (S.) v. C. (A.S.)*, 2011 MBCA 70, at paras. 15-17, 20, 38, 44, & 61-62; *Izyuk v. Bilousov*, 2011 ONSC 6451, at paras. 496, 560, & 567; related proceedings 2014 ONSC 915, at para. 51; *Nye v. Carroll*, 2015 ONSC 2087, at paras. 91, 117 180-189; additional reasons at 2015 ONSC 3764 [costs to the father]; *CAS Waterloo 2005 ONCJ 220* ["didn't accept responsibility"]; *AGL v. KPD*, 2009 CanLii 943 (ONSC) [given several opportunities to change"]; *Ampuero v. Ampuero*, 2006 CarswellOnt 7457 (SCJ) [taken "no responsibility"]].

timeshares or otherwise undermine the new primary residence. Strict conditions are usually imposed on the ability of the abusive parent to bring a Motion to Change.³ Successfully completing individual or group counseling is a typical requirement of the abusive parent.⁴ Similarly, therapeutic access only for the abusive parent is a frequent construct of protective separations.⁵

4. Where there are repetitive, unfounded allegations that result in an intrusive assessment and investigation, the offending parent causes real harm to the children and demonstrates an insensitivity to the interests of the children. In such cases no access may be in the best interests of the children.⁶
5. The review of access for the abusive parent will most frequently require an updated psychological parenting capacity assessment as well as counseling for the abusive parent to gain the necessary insight into the reasons for their actions, the impact of their actions on the children and to change their views of the other parent.⁷

³ *Peers v. Poupore*, 2011 CarswellOnt 1461 (SCJ), at para. 151.

⁴ *Children's Aid Society of Waterloo Region v. L. (K.A.)*, 2010 ONCJ 80, at paras. 127 & 129; *Catholic Children's Aid Society of Toronto v. H. (L.D.)*, 2008 ONCJ 783, at para. 347; aff'd 2009 CarswellOnt 8718 (SCJ); appeal allowed in part *L.H. v. Catholic Children's Aid Society of Toronto*, 2009 ONCA 629; later summary judgment proceeding at *Catholic Children's Aid Society of Toronto v. H. (D.)*, 2010 CarswellOnt 10772 (SCJ); aff'd *L.H. v. Catholic Children's Aid Society of Toronto*, 2011 ONCA 385; See also *Children's Aid Society of Dufferin (County) v. T. (A.)*, 2011 ONCJ 52, at para. 42; later reasons at 2012 ONCJ 488, at para. 20 [access to be supervised at the Society's office and at the Society's discretion for 9 months]; See also *Children's Aid Society of Waterloo (Regional Municipality) v. A. (B.)*, 2005 ONCJ 220, at paras. 142-147 [access to be supervised for 6 months]; See also *Dominic v. Bramwell*, 2015 NLTD(F) 39, at para. 3 [after Child, Youth and Family Services became involved, father consented to his access being supervised for 6 months]; *Children's Aid Society of Ottawa-Carlton v. C. (D.)*, 1996 CarswellOnt 1775 (Ct. J.), at paras. 3, 57, & 59; *Reeves v. Reeves*, 2001 CarswellOnt 277 (SCJ), at paras. 33 & 36.; *Filaber v. Filaber*, 2008 CarswellOnt 6548 (SCJ), at para. 58.; *Vucenovic v. Rieschi*, 2012 ONCJ 658, at paras. 62-63, & 66.; *G. (K.) v. S. (S.)*, 2006 BCPC 338, at paras. 30-31.

⁵ *Faber v. Galicano*, 2012 ONSC 764, at paras. 186-187, 197, 227, & 238-243; earlier reasons at 19 April 2010, Ct. File No. 431/10 (Ont. SCJ); motion to extend time to bring motion to set aside dismissal decision dismissed *G. (D.) v. F. (A.)*, 2014 ONCA 436.; *Janjic v. Janjic*, 2015 ONSC 2880, at paras. 174-176.

⁶ *Barbara Jo Fidler, Nocholas Bala, Rachel Birnbaum, & Katherine Kavassalis*, Challenging Issues in Child Custody Disputes: A Guide for Legal and Mental Health Professionals, "Chapter 5: Sexual Abuse Allegation in Child Custody Disputes: (2008), at p. 199.; *Jeanson v. Gonzalez (Watts)*, 1993 CarswellOnt 1803 (Ct. J. (Gen. Div.)) [access to the mother, who made scandalous allegations and spoke negatively about the other parent, was suspended; the respective fathers were granted custody of the two children].; *L. (J.K.) v. H. (J.S.)*, 1997 CarswellOnt 1400 (Ct. J. (Gen. Div.)) [father interrogated child about potential abuse and child should be protected from the father such that no access should occur until there can be sufficient safeguards put in place].; *A.A. v. S.N.A.*, 2007 BCCA 364, at para. 15; additional reasons to 2007 BCCA 363.

⁷ *Faber v. Galicano*, *supra*, at paras. 186-187, 197, 227, & 238-243; earlier reasons at 19 April 2010, Ct. File No. 431/10 (Ont. SCJ); motion to extend time to bring motion to set aside dismissal decision dismissed *G. (D.) v. F. (A.)*, 2014 ONCA 436; *Reeves v. Reeves*, 2001 CarswellOnt 277 (SCJ), at paras. 33 & 36; *Filaber v. Filaber*, 2008 CarswellOnt 6548

6. In consideration of significant emotional risks to the children identified in an adjudication which will be unlikely to resolve because of an intransigent attitude on the part of the abusive parent, Courts will protect the child by prescribing no access and indeed imposing a Restraining Order.⁸
7. Where a parent is in denial of the alienating actions they have undertaken, a Court may deny all access and require the alienating parent to complete counselling and provide evidence that communication with the children has been appropriate prior to applying by Motion to vary for expansion of access.⁹
8. Intentionally engaging in a pattern of behaviour to alienate a child may also result in no contact for an extended period until a Review. Although it is normally in the best interest of the child to maximize contact with both parents, access must support and contribute to the health and best interest of the child.¹⁰
9. Custody reversal with contact deferred until the child's therapist directed that it would be safe because the child had rebuilt resilience can also be Ordered.¹¹ In addition therapy for the alienating parent to help her realize the harm she was inflicting on the children and prepare her for a beneficial relation with her children in the future is recommended.¹²
10. Therapy for the alienating parent should be with a counsellor knowledgeable about the issues

(SCJ), at para. 58; *Child & Family Services for York Region v. S. (A.)*, 2009 CarswellOnt 8751 (SCJ), at Appendix; additional reasons 2010 ONSC 1287 [costs payable by the mother]; aff'd 2011 ONSC 1732 (Div. Ct.); *L. (J.K.) v. S. (N.C.)*, 2008 CarswellOnt 2903 (SCJ), at paras. 210, 212, & 215.

8 *S. (C.) v. S. (M.)*, 2007 CarswellOnt 1267 (SCJ), at paras. 131-139; additional reasons 2007 CarswellOnt 3485 (SCJ) [costs to the mother]; aff'd 2010 ONCA 196 paras. 7-8.

9 *Zanewycz v. Manryk*, 2010 ONSC 726; additional reasons at 2010 ONSC 1168, at paras. 1-2 & 24-32; 2010 ONSC 2766; and 2010 ONSC 2827, at paras. 5-24.

10 *L. (R.A.) v. R. (R.D.)*, 2007 ABQB 79, at paras. 206-207 & 214-216.; *Frost v. Allen*, 1995 CarswellMan 122 (QB), at paras. 13 & 17 [no access because impossible for contact without exposing the child to further conflict and damage; father could write letters but had to be addressed to mother, who had the authority to return any such communication].

11 *L. (N.) v. L. (R.)*, 2008 NBCA 79, at paras. 7-9.

12 *Droit de la famille – 091497*, 2009 QCCS 2821, at paras. 26-28.

arising out of high-conflict custody disputes and artificial child estrangement.¹³

11. Where a specialized program of psychosocial education and/or reunification counseling requires as a condition of accessing its program for there to be a period of protective separation Courts will adopt the program's standard orders requested.¹⁴

12. In high conflict alienation cases, it is often of great benefit to the family if a single Judge seizes themselves of the case and, through a Case Management mandate, is available to deal with the challenges facing these families on a fully informed and expedient basis.¹⁵

13. In cases where no contact or supervised access or therapeutic access has been ordered, generally conditions on reinstating that access are imposed. One such condition is the need for psychiatric assessment and/or psychological testing in a related report concerning the abusive parent¹⁶

13 *Kaverimanian v. Manickam*, 2014 ONSC 1729, at paras. 15 & 55.

14 *L. (A.G.) v. D. (K.B.)*, 2009 CarswellOnt 188 (SCJ), at para. 153, additional reasons at 2009 CarswellOnt 1764 (SCJ) [mother found in contempt] and 2009 CarswellOnt 3273 (SCJ) [costs to the father]; *W. (J.C.) v. W. (J.K.R.)*, 2014 BCSC 488, at paras. 3, 82, & 87; *Frescura v. Castellani*, 2015 BCSC 1089, at para. 52; *W.C. v. C.E.*, 2010 ONSC 3575, at para. 150; *K. (L.D.) v. K. (M.A.)*, 2015 BCSC 226, at paras. 70-76 & 105-112; *Huckerby v. Paquet*, 2014 CarswellSask 899 (QB), at para. 240-269 & 275. See also *Tran v. Chen*, 2013 ONSC 4474 [parties and two children to attend Overcoming Barriers, an intensive program in a summer camp setting in Vermont that was specifically designed for families with a child who was resisting contact with a parent, but was not at the point of absolutely refusing to see the parent].; *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 15-21. Earlier proceedings at *Droit de la famille – 121500*, 2012 QCCS 2787 [re-suspending access]; *Droit de la famille – 12552*, 2012 QCCS 1113; *Droit de la famille – 12276*, 2012 QCCS 529, at paras. 7-8 [access suspended for 90 days after Family Bridges program]; *Droit de la famille – 113914*, 2011 QCCS 6649; *Droit de la famille – 113570*, 2011 QCCS 6054; and *K.D. c. A.K.*, C.S. Montréal, no 500-12-302810-100, 12 septembre 2011, j. Alary; *B. (S.G.) v. L. (S.J.)*, 2010 CarswellOnt 4782 (SCJ), at paras. 9-15, 43-50, 63-64, & 186; additional proceedings at *S.G.B. v. S.J.L.*, 2010 ONCA 578, [mother's motion to set aside the stay dismissed and child granted party status, on terms; note that the parties came to a resolution afterwards and an appeal on the merits was not heard]; *G. (N.R.) v. G. (G.R.)*, 2015 BCSC 1062, at paras. 321-329. See also *M. (K.M.) v. M. (D.R.)*, 2015 BCSC 1126 [joint custody and equal parenting time; family also ordered to participate in the same program, the Family Forward Reunification Therapy Program].

15 *Izyuk v. Bilousov*, 2011 ONSC 7476, at paras. 565 & 605; *A. (A.) v. A. (S.N.)*, 2009 BCSC 387, at paras. 80-87; *A.F. v. G.D.*, 2015 ONCA 290, at paras. 13-15 & 32; *Droit de la famille – 131448*, *infra*, at paras. 8-11 [custody changed to the father after mother alienated children; court proceedings for over 5 years; at least 9 judgments; several provisional orders; a contempt finding; two appeals]; Nicholas Bala, Rachel Birnbaum, & Justice Donna Martinson, *One Judge for One Family: Differentiated Case Management for Families in Continuing Conflict* (2010), 26 Can. J. Fam. L. 395 (WL), at p. 399 & 428-429.

16 *Fernandes v. Vukovic*, *supra*; *L. (T.L.L.) v. L. (J.J.)*, 2011 MBQB 319, at para. 7; *Nye v. Carroll*, 2015 ONSC 2087, at paras. 184 & 187-189; additional reasons at 2015 ONSC 3764 [costs to the father]; *Huckerby v. Paquet*, *supra*, at para. 266-268 & 275; *L. (N.) v. L. (R.)*, *supra*, at paras. 7-9.; *G. (K.) v. S. (S.)*, *supra*, at paras. 30-31; *Children's Aid Society of Waterloo (Regional Municipality) v. A. (B.)*, *supra*, at paras. 144; *Child & Family Services for York Region v. S. (A.)*, 2009 CarswellOnt 8751 (SCJ), at Appendix; additional reasons 2010 ONSC 1287 [costs payable by the mother]; *aff'd* 2011 ONSC 1732 (Div. Ct.).

14. A typical condition placed on the abusive parents as a condition of them bringing a Motion to Change to have unsupervised access is the obligation to engage in counseling with a qualified therapist who has been given copies of the Decisions and worked with the abusive parent on those findings. The specific contents of the required report from the counselor (sometimes even extending to a requirement for counseling for the abusive parent's new partner) may include parenting courses, anger management courses and the completion of counseling to address each of: (i) accepting the changes in the family structure; (ii) facilitating the targeted parent's relationship with the child; (iii) separating from the child; (iv) understanding the child's emotional needs; and (v) resolving conflict. In addition, counseling to specifically address the abusive parent's views of the targeted parent can be ordered.¹⁷
15. A requirement for the abusive parent to demonstrate a complete change in their attitude, a surrendering of previous views and the development of insight into their behavior and its consequences has frequently been recognized as a key issue in regularizing access after a protective separation.¹⁸
16. Considerations for a Court in whether or not to regularize access for the abusive parent include whether they have fully complied with the on contact/therapeutic/supervised Access Order.¹⁹

17 *A.F. v. J.W.*, 2011 ONSC 1868; *Peers v. Poupore*, *supra*, at para. 155; *O. (S.) v. O. (S.C.)*, *supra*, at para. 64; *G. (N.) v. E. (R.)*, 2010 NLTD(F) 18, at para. 153; related proceedings 2010 NLTD(F) 29 [stay pending appeal dismissed but stay until application filed in Court of Appeal for a stay granted]. See also *Leggatt v. Leggatt*, 2015 ONSC 4502 [access could resume after the mother completed a therapeutic program for her alienating behaviour]; *Izyuk v. Bilousov*, 2011 ONSC 6451, at paras. 496, 560, & 567; *Bains v. Bains*, 2009 BCSC 1666, at paras. 148 & 156; additional reasons at 2010 BCSC 463 [costs to the mother]; *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 15-21. Earlier proceedings at *Droit de la famille – 121500*, 2012 QCCS 2787 [re-suspending access]; *Droit de la famille – 12552*, 2012 QCCS 1113; *Droit de la famille – 12276*, 2012 QCCS 529, at paras. 7-8 [access suspended for 90 days after Family Bridges program]; *Droit de la famille – 113914*, 2011 QCCS 6649; *Droit de la famille – 113570*, 2011 QCCS 6054; and *K.D. c. A.K.*, C.S. Montréal, no 500-12-302810-100, 12 septembre 2011, j. Alary; *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 4, 22-27, 70-96, & 132-133; *Bains v. Bains*, 2009 BCSC 1666, at paras. 148 & 156; additional reasons at 2010 BCSC 463 [costs to the mother].

18 *A. (A.) v. A. (S.N.)*, 2008 BCSC 1838, at paras. 30-38; *L. (T.L.L.) v. L. (J.J.)*, 2011 MBQB 319, at para. 7; *L. (T.L.L.) v. L. (J.J.)*, 2012 MBSC 175, at paras. 2, 8-15, 20, & 22; affirmed 2013 MBCA 27; leave to appeal dismissed 2013 CarswellMB 509 (SCC); *L. (T.L.L.) v. L. (J.J.)*, 2015 MBCA 68, at paras. 14-16.

19 *Peers v. Poupore*, 2011 CarswellOnt 1461 (SCJ), at para. 151; related proceedings, 2012 ONCJ 306 (SCJ), at paras. 6-7 & 81-82; See also *L. (T.L.L.) v. L. (J.J.)*, 2015 MBCA 68 [contact through iPod]; *L. (J.K.) v. S. (N.C.)*, 2008 CarswellOnt 2903 (SCJ), at paras. 210, 212, & 215; review 2008 CarswellOnt 5490 (SCJ), at paras. 19, 25, 27-29;

17. A further consideration in terms of regularizing access is whether the alienating behavior continues as evidenced by the children's behavior and the actions and statements of the abusive parent.²⁰
18. There is a recognition in the jurisprudence that often in such cases the abusive parent is unable to change and thus unable to support the targeted parent's relationship with the children and completely resistant to their own treatment. As such, long-term supervised access can be ordered.²¹
19. **For all of the foregoing reasons, as well as the typical makeup of a parent who could so abuse children, Courts frequently rule that it is needed to proceed with caution if access is to be regularized and/or expanded.**²²

Protective Separations Are Successful if Protocols Followed

20. Protective separations work where all other interventions have failed.²³ In effect, these sorts of

additional reasons 2009 CarswellOnt 1017 (SCJ) [costs to the mother]; *Jachimowicz v. Jachimowicz*, 2006 NSSC 82, at paras. 75 & 78; related proceedings 2006 NSSC 392, at paras. 6, 28-29, 40, 63-69, 74, & 77; *Jachimowicz v. Jachimowicz*, 2007 NSSC 242, at paras. 5-6 & 112-117; *L. (N.) v. L. (R.)*, *supra*, at paras. 7-9.

20 *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 15-21. Earlier proceedings at *Droit de la famille – 121500*, 2012 QCCS 2787 [re-suspending access]; *Droit de la famille – 12552*, 2012 QCCS 1113; *Droit de la famille – 12276*, 2012 QCCS 529, at paras. 7-8 [access suspended for 90 days after Family Bridges program]; *Droit de la famille – 113914*, 2011 QCCS 6649; *Droit de la famille – 113570*, 2011 QCCS 6054; and *K.D. c. A.K.*, C.S. Montréal, no 500-12-302810-100, 12 septembre 2011, j. Alary *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 4, 22-27, 70-96, & 132-133; *Milanizadeh v. Zeinali*, *supra*, at paras. 9-11; *Catholic Children's Aid Society of Toronto v. H. (L.D.)*, 2008 ONCJ 783, at para. 347; *aff'd* 2009 CarswellOnt 8718 (SCJ); appeal allowed in part *L.H. v. Catholic Children's Aid Society of Toronto*, 2009 ONCA 629; later summary judgment proceeding at *Catholic Children's Aid Society of Toronto v. H. (D.)*, 2010 CarswellOnt 10772 (SCJ); *aff'd* *L.H. v. Catholic Children's Aid Society of Toronto*, 2011 ONCA 385; *Starko v. Starko*, 1992 CarswellAlta 488 (QB), at paras. 3-8, 43, & 46-48.

21 *Child & Family Services for York Region v. A.S. v. G.S.*, 2011 ONSC 173, at paras. 5, 9-11, 13, 15-17; review to 2009 CarswellOnt 8751 (SCJ); additional reasons 2010 ONSC 1287 [costs payable by the mother]; *aff'd* 2011 ONSC 1732 (Div. Ct.).

22 *Droit de la famille – 131448*, 2013 QCCS 3177, at paras. 37, 39, 68-71, & 73-75; related proceeding *Droit de la famille – 091497*, 2009 QCCS 2821; *Children's Aid Society of Dufferin (County) v. T. (A.)*, 2012 ONCJ 488, at paras. 32, 38, 53-55, 60-61, & 64-66; *rel'd* proceedings 2011 ONCJ 52; *Dominic v. Bramwell*, 2015 NLTD(F) 39, at paras. 31-33, 41, 45-46, 51-63 & 68.

23 *N. (P.K.) v. N. (D.S.)* (*supra*); *G. (N.) v. E. (R.)*, 2010 NLTD(F) 18, at paras. 107 & 153; related proceedings 2010 NLTD(F) 29 [stay pending appeal dismissed but stay until application filed in Court of Appeal for a stay granted]; *Sickinger v. Sickinger*, 2009 CanLII 28203 (ON S.C.), paras. 22, 24, 25-28, 30-32, 37; *Sickinger v. Sickinger*, 2009 ONCA 856, paras. 4-5; *S.G.B. v. S.J.L.*, 2010 CanLII 3717 (ONSC), paras. 42-45; *W.C. v. C.E.*, 2010 ONSC 3575 (CanLII), paras. 129-150; *Huckerby v. Paquet*, 2014 CarswellSask 899 (SKQB), paras. 240-254; *L.M.A.M. v. C.P.M.*, 2012 MBQB 311 (CanLII), paras. 47-55; *N. v. N.*, 2015 ONSC 3921 (CanLII), paras. 55-59.

See also *Family Reflections: A Promising Therapeutic Program Designed to Treat Severely Alienated Children and Their Family System*, The American Journal of Family Therapy; Richard Warshak, *Family Bridges: Using Insights from Social Science to Reconnect Parents and Alienated Children*; *Reclaiming Parent-Child Relationships: Outcomes of*

Protective Separation Orders (which by their nature are meant to be interim with the goal of the child eventually having the benefit of two primary parents in the child's life) empower the child to change and to engage with the rejected parent. If the child does so (and they are in control of their own behaviour and attitudes once removed from the unhealthy influence of the favoured parent), then the child can achieve the child's own goal of having the favoured parent back in their lives. Strong judicial interventions can lead to rapid recovery for the parent-child relationships and are thus in the best interests of the child.²⁴

21. The saga of *Fiorito v. Wiggins* (2016) is highly instructive. After the mother failed to change her behaviour in 2011, Justice Harper changed custody of three children from the mother to the father in 2013 and restricted the mother to therapeutic access. This Court (2015) upheld the custody reversal and therapeutic access, but did allow the appeal on some other issues, including setting a timeline for the review of access. Pursuant to the 2013 decision and 2015 Ontario Court of Appeal decision, Justice Hebner heard a review of access, focusing on the time period subsequent to the transfer of custody from the mother to the father in 2013. The children were now 12, 13, and 14 years old. In reviewing the family's progress, Her Honour held as follows²⁵:

“On the evidence as a whole, I find that ***the change in custody has made a remarkable difference in the relationship these girls have with their father. In fact, I can safely say that the change in custody has saved the relationship.*** Were it not for the change in custody, I have no doubt whatsoever that the children would not have any sort of relationship with their father. The result of the change is that the children have a loving parent/child relationship with both Jefferson [father] and Sarah [step-mother] that can only assist them as they move towards young adulthood. ***The order of Harper J. changing custody in 2013 from Anna [mother] to Jefferson and limiting Anna's access to the children to therapeutic access only was exactly the order that was required for these children and this family at that time.*** [emphasis added]”

Family Bridges with Alienated Children, Richard Warshak, Journal of Divorce and Remarriage, DOI:10.1080/10502556.2018.1529505, October 11, 2018.

²⁴ *Schiavello v. Hudson*, 2017 ONSC 5624, at paras. 210-214; *Kwan v. Lai*, 2017 BCSC 1377, at paras. 1-4 & 21-23

²⁵ *Fiorito v. Wiggins*, 2016 ONSC 3678, at paras. 3-24 [review of litigation history], 28, & 36 [“*Fiorito v. Wiggins*, 2016”]; rel'd proceedings *F. (A.M.) v. W. (J.R.)*, 2011 ONSC 1868; *F. (A.M.) v. W. (J.R.)*, 2013 ONSC 4272; and *Fiorito v. Wiggins*, 2015 ONCA 729.

22. Although there had been some regression following the resumption of access, the children's therapist gave evidence that this was to be expected. The court accepted that the children's behaviours were getting better over time. The children now had a normal father/daughter relationship.²⁶

23. Other cases have also found success with Family Bridges. At a motion heard approximately 6 months after the trial in *X v. Y* (2016), Justice Trimble noted that the Family Bridges program, which was described in detail, **reported "that the children's progress has been nothing short of remarkable."** They had re-formed their bond with the father, settled into their new home and school, and were excelling in school (more so than at their previous school). In later reviewing the mother's access going forward, the children were "thriving" but continued to miss their mother. She was granted limited access to be held in a public place until the mother fully complied with the previous order, with periodic review by Family Bridges and until a further review by the court.²⁷

24. However, if the alienating parent fails to change their behaviour, the reintroduction will lead to regression and ultimately there will need to be a further or ongoing separation. For example, in *Flowerday v. Flowerday* (2018), which was a further access review to *X v. Y*, *supra*, despite the "remarkable improvement" during the access black-out period, the oldest child began to exhibit alienated behaviour again after reintroducing the mother back into her life. She refused to leave her mother's home and threatened to kill herself if removed from her care. The mother continued to discuss the litigation with the children, denigrated the father and his family, and failed to participate in therapy. Justice Trimble concluded that it was in the best interests of the children in terms of psychological health that the mother's access to the children be suspended until such time as the mother satisfies the court that she has complied with all orders and shown clear

²⁶ *Fiorito v. Wiggins*, 2016, *supra*, at paras. 79-83.

²⁷ *X v. Y*, 2016 ONSC 433, at paras. 19-25 & 27-28 [motion]; *X v. Y*, 2017 ONSC 1617, at paras. 17, 22-24, & 76-77 [access review].

improvement in her alienating behaviours and the reasons for them.²⁸

25. In a recent 2019 review of the *Flowerday* situation, the Court extended the non-contact provisions because of the risks to the children. The alienating parent's actual behavior belied her assertions that she had changed her views and understanding.²⁹

26. Other cases have similarly found dramatic, positive changes after a reversal of custody such that the previously alienated child now expressed love and respect for both parents and had strong bonds with both. However, the relationships remained fragile and thus the reunification process was to continue.³⁰

28 *Flowerday v. Flowerday*, 2018 ONSC 360, at paras. 26, 32, 59(d.), 69, & 73-75, 80-83, & 88; previous history *Flowerday v. Flowerday*, 2017 ONSC 7479 [earlier access review].

29 *Flowerday v. Flowerday*, 2019 ONSC 5858

30 *J.A.F. v. J.J.F.*, 2018 BCSC 84, at paras. 22, 59-60, & 74-78; *Droit de la famille – 152031*, 2015 QCCS 3842, at paras. 15-21; *M. (C.L.) v. S. (M.J.)*, 2017 BCSC 799, at paras. 394, 399, 401-402, & 404-411; *M. (C.L.) v. S. (M.J.)*, 2017 BCSC 799, at paras. 394, 399, 401-402, & 404-411.