

NOV 24/1994

Court File No. 48783/94

ONTARIO COURT (GENERAL DIVISION)

BETWEEN:

CATHERINE L.E. ROSS

Petitioner
(Wife)

- and -

WILLIAM THOMAS ROSS

Respondent
(Husband)

THE PETITIONER'S FACTUM

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THE PETITIONER'S FACTUM**PART I - STATEMENT OF FACT****BACKGROUND:**

1. The parties were married on December 14, 1985 and separated on April 9, 1994. Until the end of June, 1994, they both continued to reside in the matrimonial home, known municipally as 1077 Thomas A. Dolan Parkway. At the end of June, 1994, the Respondent moved out, and he now resides in Kanata.
2. The parties have two children of their marriage, namely, Khierstyn Laurel Emily Ross, born November 16, 1986, and Hilary Lynne Victoria Ross, born January 27, 1989.
3. There is in place a temporary arrangement between the parties, arrived at upon consent, and incorporated into the Order of Mr. Justice Sirosis dated September 28, 1994, as follows:
 - (a) the children would remain in the matrimonial home and be cared for in the evenings and on the weekends, on an alternating daily basis by each parent, until further Order of the Court.
 - (b) that the Wife would reside in the matrimonial home, except at the times that the Husband was to care for the children as set out above, until further Order of the Court.
 - (c) that the Respondent pay interim interim child support to the Petitioner, in the amount of \$700.00 per month, commencing July 1, 1994, until further Order of the Court;
 - (d) that neither party communicate, directly or indirectly, to the other, except for matters to be discussed regarding the children;

- (e) that the Respondent receive all rental payments for Unit 2, 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario, until further Order of the Court;
- (f) that the Respondent shall pay all mortgage, insurance, utility, and related expenses for the operation of the matrimonial home, known municipally as Unit 1, 19077 Thomas A. Dolan Parkway, Dunrobin, Ontario, excluding the following payments, to be made by the Petitioner: telephone, except that each party shall pay their own long distance charges, and household grocery expenses, until further Order of the Court;
- (g) that the Petitioner pay all daycare expenses until further Order of the Court.

CUSTODY AND RELATED MATTERS

- 4. The Petitioner states that she has been the primary caregiver for the children, which is supported by the Affidavit evidence of Diane Nicol, Donna Clement, Jacqueline Bonnar, and Marguerite Day. All named individuals were people who would come into contact with the family on a frequent basis.
- 5. Most people who come into regular contact with the Ross family describe the Petitioner as being an extremely capable parent.
 - (a) Marlon Kennedy (family friend) notes among other things that the Petitioner takes an active interest in schooling and learning for the children, and expresses great concern about their psychological well-being. He also states that the children appear safe and secure with her, and describes her to be a nurturing and caring mother.
 - (b) Nancy Campbell (family friend) describes the Petitioner as an excellent mother who is bubbly and generally full of life. She describes the Petitioner as being very good with the

children, taking time with them even in the presence of company, and praises her communication skills with the children.

- (c) Cathy Sainthill (family friend) describes the Petitioner as being very focused with the children, and very good in her role as a "teacher".
- (d) Cathy Nihei (family friend) describes the Petitioner as having energy, enthusiasm, honesty, loyalty, and common sense, and states that she has a strong sense of family, and is a sensitive, supporting, and nurturing person.
- (e) Carol Taylor-Kardas (family friend) describes the Petitioner as being a loving, caring, and patient mother who gives her children lots of attention, and frequently participates in teaching activities with them.
- (f) Jacqueline Bonnar (neighbour) describes the Petitioner as being a very good mother who is very attentive to her children's needs, careful with their diet, and involves them in various activities such as play groups. She describes her home as being geared for children, full of plenty of books, children's videos, and toys.
- (g) Donna Clement (neighbour) describes the Petitioner as being a very good mother to her children and is attentive to their needs. She states that the children have always been well cared for, and that Mrs. Ross frequently talks about her children, in a manner indicating that she is a loving, caring and involved parent.
- (h) Diane Nicol (family friend) advises that she has every confidence in the Petitioner's parenting abilities, and admires her dedication to her family. She states that the

Petitioner gives her all to the children, and always thoroughly investigates and researches options of the children, whether it be daycare arrangements, doctors or health treatments.

- (i) The children's maternal grandmother, Marguerite Day, describes the Petitioner as being a proficient mother and home-maker, and describes her management of the children's lives as organized, efficient and dependable.
6. The Petitioner initially stayed home with the children of the marriage following their birth. To do so financially, she ran an in-home daycare. Three individuals whose children were cared for by the Petitioner at her day care, Susan Perry, Diane Nicol, and Lorene Rolfe supplied letters of reference confirming the quality child care received. The Respondent, nonetheless states that he was primarily responsible for the care of the children.
7. Prior to the parties' separation, the Respondent assisted with child care and household responsibilities to the extent that he regularly took the girls to their dance lessons, often sent the children to take their baths in the evening, and read a story to them prior to bedtime.
8. Since June, 1994, there have been numerous occasions on which the Respondent failed to properly care for the children during the times he was with them. On one occasion, he forgot to pick up the children at the sitter's, and the Petitioner had to contact him to get him to pick them up. On another occasion, he slept, leaving the parties' then seven year old daughter to care for the parties' five year old daughter. At that time, he forbade them from contacting their mother. He has frequently utilized the time with the children by removing items from the home, sleeping while the children are there,

while watching television with them.

9. The Petitioner, on the other hand took on and continues to look after most of the responsibilities related to the children. She takes the girls to their swimming lessons, has made all arrangements to enrol them in school and day care, and paid for same. She purchases all of the children's clothing, organizes their scheduling, takes them to their doctors' appointments, and puts them to bed. She has been responsible for all of the mending, laundry, and ironing, looking after the animals, cleaning the home, and doing most of the cooking.
10. Although not determinative, there are several indications that the children prefer to continue to reside with their mother. Both children advised the assessor of this through the assessment process. Khierstyn has completed school projects showing preference for her mother. The Petitioner advises the children have expressed preference to reside with her to her directly, and the Respondent acknowledges that Khierstyn would prefer to reside with her mother.
11. The children have been placed in an emotionally difficult position in recent months, and require stability now more than ever. The Petitioner states that to transfer the responsibility of the children to the Respondent at this point in time would be extremely disruptive for them. The Petitioner is able to continue to provide a stable home environment for the children, and in fact, due to her current employment situation, is available in the home during the day, eliminating any need for private daycare.
12. The Petitioner states that it would be in the children's best interest if they were to continue to reside with her in the matrimonial home, being 1077 Thomas A. Dolan Parkway. This

will permit the children to continue to attend the same school and caregiver, and permit them to maintain friendships.

13. The Respondent has accused the Petitioner of alcoholism, and has sought the written support of friends and relatives to support his accusation. All such individuals are people who have infrequent contact with the family.
14. The Affidavits of Diane Nicol, Donna Clement, Jacqueline Bonnar, Nancy Campbell, Kathy Sainthill, and Carol Taylor-Kardas as well as the Statements of Bernard Wilson confirm the evidence of the Petitioner that she does not suffer from alcoholism. The above-named individuals state that they have never seen her in an inebriated state. All are individuals who, at different times, would come into contact with the family on a frequent basis. Further, Dr. Smith expresses his opinion that she does not suffer from alcoholism.
15. The report of Dr. Smith dated November 21, 1994 confirms that the Petitioner is taking tranquilizers as a result of overwhelming stress, under his prescription and supervision. He further confirms that the Petitioner is currently in the process of eliminating her use of tranquilizers altogether, and that in his clinical opinion, she is not addicted to them.
16. The Assessment Report of Dr. McLean dated November 16, 1994 provides, among other things, that both girls have significant behavioral problems. He indicates that Khierstyn, in particular, should have psychiatric or psychological follow up. In addition to therapy, Dr. McLean recommends that a firm behavioral program be put in place, both at home and school.
17. The Petitioner established a behavioral program with the children in the spring of 1994, involving a daily "task", meeting with the children, in which their behaviour was

monitored, and the children were rewarded when they behaved well. The Respondent initially supported this effort, but has let it fall by the way-side since July of 1994. The parties have disagreed on appropriate disciplining methods in the past, and the Petitioner believes that the methods employed by the Respondent are too harsh. These included incidents in which the Respondent removed all possessions from the children's room as a result of misbehaviour, and one in which the Respondent diapered one of the children at age 6 in a towel and took a photograph of the children. He has also disciplined the children by giving them cold showers. These methods concern the Petitioner.

18. The Petitioner wishes to arrange cross-examination of Dr. McLean, and raises numerous concerns with the Assessment report, including:
 - (a) Dr. McLean's conclusion that she is addicted to tranquilizers is in opposition with that of Dr. Smith, who prescribed them, and makes no mention of the Petitioner's plans to reduce reliance on them under the supervision of Dr. Smith.
 - (b) Dr. McLean does not review the background which led the Petitioner to be prescribed with tranquilizers.
 - (c) Dr. McLean's contention her mother's temporary use of valium, in extenuating circumstances (which are not reviewed in detail) has bearing on the Petitioner's susceptibility to addictive behaviour.
 - (d) Some of the factual notations in the report are inaccurate.
 - (e) Dr. McLean infers incorrectly that the Petitioner is unconcerned about sexual behaviours being demonstrated by the children, when in fact she has made contact with various

health care professionals, to seek assessment, and if necessary counselling, with respect to this issue.

- (f) Dr. McLean concludes that the Respondent has better ability to discipline the children based only upon short clinical observation, without reviewing the techniques utilized in the home, including the impact of harsh disciplinary measures on children, which have in the past been utilized by the Respondent.
- (g) Dr. McLean raises a concern about the possibility that the Respondent will not be able to see what positive role the Petitioner can play in the children's lives, but does not deal with this at all in the conclusions, other than on the basis of what he is "hopeful" of.
- (h) Dr. McLean reports his conclusion that the Respondent has a general negative colouring in his perceptions of females. Although both of our children are girls, Dr, McLean fails to deal with how this might affect his caring for the children.
- (i) Dr. McLean dealt only briefly with the children's wishes as to which parent they would like to live with, and suggests that there is no preferential bonding between the children and the Respondent and I, despite evidence to the contrary.
- (j) Although Dr. McLean notes that the Respondent's personality tests showed invalid results, demonstrating defensiveness, no mention is made of the impact this might have had on the assessment report, and the recounting of events by the Respondent in the assessment process.

EXCLUSIVE POSSESSION OF THE MATRIMONIAL HOME / RESTRAINING ORDER

19. The Petitioner states that her continued cohabitation in the matrimonial home is being rendered impossible due to the

Respondent's actions. The Husband taunts and harasses the Petitioner on a daily basis, and has threatened to rape her. He threatens her with destruction and despair. She is told that she is "poison", that she "poisons everything she touches", that she is "a defective human being" and that he knows "what (not who) she is". She states that the Respondent treats this action as a sick game, as though they should compete to prove who is at fault for the breakdown of their marriage, and the innocent party should "win" everything. She describes her marriage as abusive. On one occasion, in early November, 1994, the Respondent placed a notation on the Petitioner's calendar, on November 25th, 1994, describing that date, being the Court date, as being "the Great Reckoning".

20. Following the Respondent's departure in June, 1994, the Petitioner continues to describe her habitation of the home as intolerable in that on almost each occasion the Respondent attends in the home, he taunts the Petitioner. On one occasion, he threatened to hit her, though in the end he did not assault her. He has repeatedly removed belongings from the home, without warning or discussion with the Petitioner, including not only personal items, but food. The Petitioner has not been able to tell in advance, which would be in the home when she returned each day. The Respondent has also left the home in a horrendous state of disrepair on each occasion he has been in the home, leaving the Petitioner to clean up his mess. In addition to ordinary care, he has allowed dog faeces and urine to remain in the home for hours on end, so the Petitioner was forced to clean up crusted pieces from the floor on her return.

21. Dr. Smith states that in his opinion, "to expose Mrs. Ross and her children to such an environment is clearly hazardous and not in the best interests of Mrs. Ross or her children", in his report dated June 20th, 1994. He also states that the

degree of anxiety from which she is suffering is due to the incompatible state of the relationship between Mr. and Mrs. Ross.

22. The parties jointly own the matrimonial home, known municipally as 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario. This is a duplex, and the parties rent out the other half. It is extremely economical, and would provide accommodation to the wife at reasonable cost. Shortly prior to the parties' separation, the Husband unilaterally reduced the mortgage payments.

NON-DEPLETION OF ASSETS

23. The Husband accuses the Wife of reckless depletion of family assets as she had family debt of \$5500.00 repaid through the transfer of assets owned prior to marriage. The Husband, however, has locked the parties' financial records in a room to which the Wife does not have access, sold in excess of \$10,000.00 worth of shares to a friend, and claimed debt that the wife does not believe exists to his family of \$35,000.00.

SUPPORT

24. The Petitioner is employed by Mitel, as a temporary employee. Until November 11, 1994, she earned \$26,000 to \$28,000.00 per annum. On that date she was temporarily laid off, and is awaiting reassignment. She is also awaiting receipt of UIC benefits.
25. The parties have rental income of approximately \$8000.00 per year, but the husband receives and handles the income and expenditures for the rental unit.
26. The Husband is employed by BNR and earns approximately \$67,000.00 per year. In addition, he receives the rental income referred to above, and additional money from time to

time as a computer consultant, and in fixing up old computer equipment for resale.

27. Pursuant to the Petitioner's child care budget, the monthly cost for the children is \$1,761.56, excluding full-time child care for the children, which is not being incurred at the present time. The Petitioner states that the Respondent should be responsible for the payment of his proportional share thereof.
28. The Petitioner states that since her marriage, her career ambitions have always been subservient to that of the Respondent. Initially, this was based on the parties agreement that she remain in the home to care for the children following their birth. However, once the children were old enough to be in school, she wanted to return to school to obtain training in social work, which the Respondent would not agree to. The Petitioner has also done the majority of the housework. She seeks an Order for the payment of spousal support.

CONTEMPT

29. Despite his income and the low level of interim interim support agreed upon by the parties, the Respondent nonetheless has failed to pay child support pursuant to the Order of Mr. Justice Sirois dated November 28, 1994, for the months of September, October, and November, 1994, in the amount of \$2100.00. During this period, the Petitioner incurred numerous expenses for the children, including, but not limited to: dance class registration (\$600.00), school activity fees (\$40.00), the school special meal days for Khierstyn (\$28.00), winter boots and mitts for girls (\$182.00), two pairs of running shoes each (\$75.00), winter and school clothing (\$400.00), school pictures (\$40.00), the expenses covered by the Petitioner. The Respondent's failure to make payments

therefore resulted in hardship to the Petitioner, and the necessity that she borrow additional monies over the past three months.

LEAVE TO AMEND PLEADING

30. The matrimonial home is the only significant asset owned by the parties, and it may become necessary to sell the home.

RETURN OF PERSONAL PROPERTY

31. The Respondent has removed the items listed above from the matrimonial home, without the consent of the Petitioner.

PART II - STATEMENT OF LAW

CONTEMPT PROCEEDINGS

32. A contempt order to enforce an order requiring a person to do an act or to abstain from doing an act, may be obtained on motion to a Judge in the proceeding in which the order to be enforced was made. In disposing of a motion for contempt, the Judge may make such order as is just, and where a finding of contempt is made, the Judge may order that the person in contempt,

- (a) be imprisoned for such period and on such terms as are just;
- (b) be imprisoned if he or she fails to comply with a term of the order;
- (c) pay a fine;
- (d) do or refrain from doing an act;
- (e) pay such costs as are just;
- (f) comply with any other order the judge considers necessary.

Rule 60.11 of the Rules of Court

CUSTODY, ACCESS AND RELATED MATTERS

33. The merits of an application for custody of or access to a child shall be determined on the basis of the best interests of the child.

Section 24(1) of the Children's Law Reform Act

Section 16(8) of the Divorce Act

34. In making an award of custody under The Divorce Act, the Court shall consider the best interest of the child as determined by reference to the condition, means, needs and other circumstances of the child.

Section 16(8) of The Divorce Act

35. In making an award of custody or access under The Children's Law Reform Act, the Court shall consider the following in making a determination as to the best interests of a child:

- (a) the love, affection and emotional ties between the child and each person entitled to or claiming custody of or access to the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessaries of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of the family unit with which it is proposed that the child will live; and
- (g) the relationship by blood or through an adoption order between the child and each person who is party to the application.

Section 24(2) of The Children's Law Reform Act

36. The past conduct of a person is not relevant to a determination of an application relating to custody or access to a child unless the conduct is relevant to the ability of

the person to act as a parent of a child.

Section 24(3) of the Children's Law Reform Act

Section 16(9) of The Divorce Act

37. In making a determination regarding custody of children, the Court should not "rubber stamp" the recommendations of psychologists or other experts. While expert reports may be helpful, they do not relieve the Court of responsibility for making the determinations case upon them by the legislature.

Nanji v. Nanji (1987)

Robinson v. Robinson (1985), 49 R.F.L. (2d) 43

Brown v. Brown (1994) 3 R.F.L. (4th) 135 (Ont. Ct. Gen Div.)

38. Assessment reports should bear less weight on interim motions than at trial.

Genovesi v. Genovesi (1992) 41 R.F.L. (3d) 27 (Ont. Ct. Gen. Div.)

39. In making an award of interim custody, greater preference should be given to the maintenance of the "status quo" than in making an Order for final custody, in assessing the best interests of the children involved. Further, in the absence of material evidence that the welfare of the children demands an immediate change, it is not in the interests of children to be tossed back and forth pending the determination of interim custody.

Neil v. Neil (1976), 28 r.f.l. 257 (Ont. C.A.)

Papp v. Papp, [1970] 1 O.R. 331 (Ont. C.A.)

Serruys v. Serruys (1982), 29 R.F.L. (2d) 215

Robinson v. Robinson (1985), 49 R.F.L. (2d) 43

Brown v. Brown (1994) 3 R.F.L. (3d) 135 (Ont. Ct. Gen. Div.)

CHILD AND SPOUSAL SUPPORT

40. Every parent has an obligation to provide support in accordance with need for his or her unmarried child, who is a minor ... to the extent that the parent is capable of doing so.

Section 31 of the Family Law Act
Section 15(8) of the Divorce Act

41. In making an order for spousal support the Court shall consider the length of time the spouses have cohabited and the functions performed by the spouses during cohabitation, including child care, as well as the desirability that one of the parties remain at home to care for a child.

Section 33(8) of the Family Law Act
Section 16(5) of the Divorce Act

42. The objectives of an order for spousal support include:

(a) The recognition of economic advantages/disadvantages arising from the marital breakdown;

(b) Apportion financial responsibility for the care of children over and above child support obligations'

(c) Relieve economic hardship arising from the marital breakdown;
Section 16(7) of the Divorce Act

43. In an application under s. 33, the court may make an interim or final order,

(a) Requiring that an amount be paid periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;

(i) in an order made under clause (1) (a), the court may provide that the amount payable shall be increased

annually on the order's anniversary date by the indexing factor, as defined in subsection (vi) for November of the previous year;

(ii) the indexing factor for a given month is the percentage change in the Consumer Price Index for Canada for prices of all items since the same month of the previous year, as published by Statistics Canada.

(b) Requiring that sum of all of the money payable under a support order be paid to another person or agency; and

(c) Requiring a spouse to irrevocably designate the spouse or children as beneficiary of life insurance policies;

Section 15(4) of the Divorce Act

Section 34 of the Family Law Act

EXCLUSIVE POSSESSION OF THE MATRIMONIAL HOME

44. Both spouses have an equal right to possession of a matrimonial home. However, the court may on application, by order, direct that one spouse be given exclusive possession of the matrimonial home or part of it for the period that the court directs and release other property that is a matrimonial home from the application of this part.

Family Law Act, s. 19 and 24

45. In considering whether to grant an order for exclusive possession of the matrimonial home, the court shall consider:

(a) The best interests of the children affected, including the possible disruptive effects of a move to alternate accommodations, the views and preferences of the children, if they can reasonably be ascertained; and psychological straining and stresses to a child arising out of friction between the parents;

- (b) The financial position of both spouses;
- (c) The availability of other suitable and affordable accommodation; and
- (d) Any violence by a spouse against the other spouse or children.

Section 24(3) and 24(4) of the Family Law Act

ORDER RESTRAINING HARASSMENT

46. On application, a court may make an interim or final order restraining the applicant spouse or former spouse from molesting, annoying or harassing the applicant or children in the applicant's lawful custody, or from communicating with the applicant or children, except as the order provides, and may require the applicant spouse or former spouse to enter into the recognizance that the court considers appropriate.

Family Law Act, s. 46 (1)

RETURN OF PERSONAL PROPERTY

47. Where property was either unlawfully taken from the possession of the Plaintiff/Petitioner or is being unlawfully detained by the Defendant/Respondent, the Court may on motion, make an order for the interim recover of possession of the property.

Section 104 of the Court of Justice Act

Rule 44 of the Rules of Court

AMENDMENT OF PLEADINGS

48. On motion, at any stage of an action, the Court shall grant leave to amend a pleading on such terms as are just, unless prejudice would result that could not be compensated for by costs or an adjournment.

Rule 26.01 of the Rules of Court

ABRIDGMENT OF TIME FOR SERVICE

49. The Court may, by Order, extend or abridge any time prescribed by the Rules, on such terms as are just.

Rules 3.02 of the Rules of Court

PART III - RELIEF SOUGHT

50. The Petitioner (Wife) seeks an Order for the following relief:

(a) An Order citing the Respondent in contempt of the interim Order of Mr. Justice Sirois dated September 28, 1994, for his failure to:

(i) Make the support payments due under paragraph 1 (c) of the Order in the amount of \$700.00 per month, for the months of September, October, and November, 1994, totalling \$2100.00;

(ii) Pay all mortgage, insurance, utility, and his long

distance charges relating to the matrimonial home, including the following payments, and in particular, failing to pay Hydro and Long distance telephone accounts in the amount of \$521.15;

together with a further Order requiring the Respondent to pay the above amounts within 7 days of the date of the Order, failing which the Respondent's pleadings be struck;

- (b) Interim custody of the children of the marriage, namely, Khierstyn Laurel Emily Ross, born November 16, 1986, and Hilary Lynne Victoria Ross, born January 27, 1989;
- (c) Interim child support in the amount of \$1000.00 per month per child (for a total of \$2000.00 per month) to be paid to the Petitioner (Wife), to be indexed to the cost of living, based on increases in the Consumer Price Index, as published by Statistics Canada;
- (d) Interim spousal support in the amount of \$800.00 per month to be paid to the Petitioner (Wife), to be indexed to the cost of living, based on increases in the Consumer Price Index, as published by Statistics Canada;
- (e) An interim order requiring the husband to designate the wife and the children of the marriage as irrevocable beneficiaries

of his life insurance policy or policies;

- (f) An interim order for exclusive possession of the matrimonial home at 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario, and the contents thereof;
- (g) An order that the Respondent be restrained from harassing, molesting or annoying the Petitioner, pursuant to s. 46;
- (h) An interim order that the Police of any jurisdiction in any municipality, province or in Canada will enforce the above order;
- (i) An Interim Order for the return of personal property located at the residence of the Respondent, being 173 McClintock Way, Kanata, Ontario:
 - (i) Items removed from the matrimonial home by the Respondent that were either gifts to the Petitioner, or acquired by her prior to marriage, including:
 - * Her indian calendars from mom
 - * Cuisinart food processor and accessories
 - * Brown juice jug with white lid
 - * Tupperware measuring cups (4)
 - * Rolling pin (marble with rest pan)
 - * Measuring spoons
 - * Spaghetti tongs (metal)
 - * Brown hand mixer and mixing container that goes with it
 - * Nail clippers
 - * Large flat stainless pan with tray and cups to poach eggs
 - * Spatzel maker
 - * Small Corningware pot with lid (brown)

- (ii) Items belonging to the Petitioner's mother, previously stored at the matrimonial home, and removed by the Respondent, including:
- * Royal Doulton china (11 place settings and a few extra pieces)
 - * Blue blanket
 - * 2 cup pyrex measuring cup
- (j) An Order permitting the Petitioner to amend her Petition for Divorce to seek an Order requiring the sale of the matrimonial home, being real property municipally described as 1077 Thomas A. Dolan Parkway;
- (k) An interim Order restraining the Respondent from disposing of any property in his possession, power, or control;
- (l) An Order abridging the time for service of the Petitioner's Notice of Motion dated November 21, 1994;
- (m) Costs of the within motion on a solicitor and client basis; and
- (n) Such further and other relief as this Honourable Court may deem necessary and just.

DATED AT OTTAWA THIS 24TH DAY OF NOVEMBER, 1994

ALL OF WHICH IS RESPECTFULLY
SUBMITTED:



KATRINA A. PRYSTUPA
SOLICITOR FOR THE PETITIONER

CATHERINE L. E. ROSS
Petitioner

- and -

WILLIAM THOMAS ROSS
Respondent

ONTARIO COURT (GENERAL DIVISION)

Proceeding commenced at Ottawa

THE PETITIONER'S FACTUM

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