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Judge blasts warring parents who squandered $500,000 on custody battle

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Judge Alex Pazaratz.

It was an astounding plea for sanity from the family court bench — an outspoken Hamilton judge blasted warring parents for squandering $500,000 on their bitter child custody battle.

"How did this happen?" asked exasperated Ontario Superior Court Justice Alex Pazaratz. "How does this keep happening? What will it take to convince angry parents that nasty and aggressive litigation never turns out well?"

Following an incredibly lengthy 36-day trial — longer than some murder trials I've covered — Pazaratz awarded sole custody of the eight-year-old to her father, a Toronto Police ETF officer, in January. Now the judge has released his judgment on the question of legal costs sought by each side — and his comments are scathing.

He opened his ruling by quoting an e-mail from the father to his estranged wife: "We are both reasonable people and I really think we can work this out without spending $40,000 to $50,000 a piece in lawyer fees only to have a judge tell us something we could arrange ourselves. Please I'm begging you to be reasonable."

It was written Aug. 8, 2012. "An e-mail by a father wanting to see more of his young daughter, written more than a year after separation. Months before this court case started." the judge noted.

"Fast forward 3 1/2 years: 'This trial has been financially disastrous for both parties.' That was Feb. 10, 2016. A concluding statement in the mother's written costs submissions following a 36-day trial."

The husband ended up spending $300,000 on legal fees, the wife, $200,000.

"Pause for a moment to consider the overwhelming tragedy of this case," Pazaratz continued. "These are nice, average people. Of modest means (now considerably more modest). They drive old cars and probably pinch pennies shopping at Costco.

"And yet somehow, between them, they spent more than half a million dollars on lawyers 'to have a judge tell us something we could arrange ourselves.'

“No matter what costs order I make, the financial ruin cannot be undone. They’ll never recover. Their eight-year-old daughter’s future has been squandered.”

The judge had particularly harsh words for the “unreasonable behaviour” of the mother, who balked at many settlement offers and ended up getting a deal far worse than those she rejected. He accused her of “poisoning” the child against her father, “manipulating and falsifying evidence” and engaging in “provocative and dangerous behaviour,” such as stalking and driving behind his car after he picked up their daughter.

In denying her sole custody, Pazaratz said the woman became determined to alienate her ex from their daughter as soon as she learned in 2012 that he was moving in with another woman. “A cold war set in — with disastrous consequences” for their only child.

“The (husband) had decided to move on without her. And now he wanted to take his half of the assets with him. The (wife) vowed to punish him for his betrayal; for threatening her world.

“And (their daughter) got caught in the cross-fire,” he wrote in his January custody ruling.

The mother was “overt, manipulative, scheming, deceitful and oblivious to the needless family suffering she perpetuated for at least the last three years,” he added in that 822-paragraph judgment. “Our family court system has zero tolerance for this type of emotional abuse of children.”

He was equally tough on her in this costs ruling. Pazaratz ordered her to pay her ex-husband $192,000.00 to cover almost two thirds of his legal bills.

His judgment should be required reading for all parents contemplating litigation war.

The judge concluded by returning to that initial e-mail of 2012 when the husband urged his ex to settle their issues between themselves.

“In retrospect, his somber warning about ‘spending $40 - $50,000 a piece in lawyer fees’ now amounts to wishful thinking,” Pazaratz said wryly.

“All of this could have been avoided. All of this should have been avoided. Courts have an obligation to deliver that message, so parents will stop pretending that hard-ball custody litigation is ‘for the sake of the child.’”

Justice Alex Pazaratz’s judgments are considered a must read by family lawyers.

His literary prowess can be traced back to his days as a newspaper intern before entering law school. A few of his compelling quotes:

“Somehow, no matter how hard we try, we don’t seem to be getting the message out to separating parents: “Nasty doesn’t work.

“Withholding the child doesn’t work. “Sarcastic e-mails don’t work.

“Bad-mouthing the other parent doesn’t work.

“Twisting the child’s life to create a new status quo ... doesn’t work. “Selfish decisions which may be emotionally satisfying in the short term, never look good in a courtroom.

“In the classic Christmas movie ‘It’s a Wonderful Life’ there’s an extended fantasy sequence where Jimmy Stewart anguishes over how badly things would have turned out if he’d made a reckless, impulsive decision.

“Perhaps family court should fund an instructional movie about this type of custody battle. ‘It’s a Terrible Life.’ There could be a fantasy sequence about how happy a child might have been. If only ...”

“Breaking Bad, meet Breaking Bad Parents,” he wrote about another case in 2014. “The former is an acclaimed fictional TV show ... The latter is a sad reality show playing out in family courts across the country.

“Breaking Bad Parents: When smart, loving, caring, sensible mothers and fathers suddenly lose their parental judgment and embark on relentless, nasty litigation, oblivious to the impact on their children.

“Spoiler Alert,” Pazaratz continued. “The main characters in both of these tragedies end up pretty much the same. Miserable. Financially ruined. And worst of all, hurting the children they claimed they were protecting.”