

## NEWS

# Step parents on hook for youth's pricey U.S. residential treatment

Biological parents, and spouses of step parents, can't afford to pay

CRISTIN SCHMITZ OTTAWA

The step parents of a troubled teen have been ordered to foot most of his \$72,000 annual bill at a U.S. residential treatment facility because their spouses—the youth's biological parents—can't afford to pay.

Last month Ontario Superior Court Justice Marion Cohen ordered the second wife of H.A., and the second husband of E.M., to pick up much of the tab for supporting H.A.'s and E.M.'s 15-year-old son, J., over the next year.

The divorced pair split up in 1995 when J. was just six months old. Because both parents are currently unemployed they are being supported by their present spouses (J.'s step parents), who each earn in excess of \$130,000 per year.

Justice Cohen rejected the assertion of H.A.'s second wife, K., that she had never shown a settled intention to parent J. in the three years since she married his father.

"In my view, K. committed herself not only to the father, but to parenting his child as well. Her actions went well beyond kindness to [J.]," wrote the judge.

"Notwithstanding that the



Stangarone

father was an access parent for most of the three years of their marriage, [K.] became part of [J.'s] family. She provided financially for [J.] when he resided with her and the father, and through her health plan."

Counsel for E.M. (who was seeking to compel her ex-husband and his new wife to share J.'s U.S. treatment expenses) called the decision "very child-focused."

"It's a rather interesting decision," Michael Stangarone, of Toronto's MacDonald & Partners, told *The Lawyers Weekly*, "because step parents are typically ordered to pay after they separate from their spouses, and not while still married. In this case, Justice Cohen added the new wife as a party to the proceeding, held that she was a 'parent' and ordered her to pay."

Stangarone said the decision is noteworthy too because it makes clear that the new spouse of a parent must make financial disclosure

“It’s a rather interesting decision.”

Michael Stangarone,  
MacDonald & Partners

for child support purposes, even if the new spouse is not deemed to be a "settled intention parent" under s. 2 of Ontario's *Family Law Act* (FLA).

At press time the H. A. family counsel, Jacqueline Peeters of Toronto's Birenbaum, Steinberg, could not be reached for com-

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ment.

Justice Cohen said the new spouse's means are relevant to the parent's ability to pay child support, including contributing to s. 7 "special expenses" under the *Child*

## Support Guidelines.

Stangarone suggested "counsel will need to be very careful in advising their clients that their new partners may have to start disclosing when dealing not only with spousal support issues, but also child support as well."

H.A. and his wife, K., agreed with E.M. and her husband, N., that a therapeutic boarding school in the Berkshire Mountains was probably the best-case scenario for J.

However the H.A. family argued that the \$6,000-per-month U.S. option was simply unaffordable for them. They urged that the teen should instead go to a government-paid residential treatment facility for adolescent

Moreover, she ruled, it would be reasonable to send J. there for one year of treatment, given the means of his step parents.

K. is an open-pit mining engineer who earned \$138,144 in 2009. She denied that she stood in the place of a parent to J. For his part, J. doesn't consider her to be his parent.

She urged that her interactions with J. simply amounted to being a supportive and loving spouse to her new husband — who gets \$13,000 per year in worker's compensation. She is putting her husband through chef school and paid for legal bills flowing from his efforts to get custody of J.

Justice Cohen ordered K. to pay \$1,800 per month as a contribution to J.'s monthly \$6,000 monthly special expenses under s. 7 of the *Child Support Guidelines*. J.'s father is to pay an additional \$200 per month. The balance is to be paid by N. and J.'s mother, who are joint and severally responsible.

N. married E.M. when the boy was 22 months old. N. owns a software company and said he drew a salary of \$130,000 in 2009. He told the court he was committed to getting J. the help the youth needs and thus agreed to be named as a party, and as a "parent" under the FLA.

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