COURT FILE NUMBER:	**FL03 123456**
COURT:	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE:	EDMONTON
APPLICANT:	PRINCESS BELLE THE BEAUTY
RESPONDENT:	PRINCE ADAM THE BEAST

Book of Authorities

ANNOTATED INDEX

LEGISLATION	
1	*Family Law Act* of Alberta, SA 2003, c. F-4.5, Sections 32, 33, 34, 21, and 18 – Parenting Orders, Variation of Parenting Orders, and Best Interests of the Child.
PARENTING VARIATION	
'Material Change' not required at Trial	
2	*Porochnavy v. Going,* 2013 ABCA 23, [2013] A.J. No. 16, per Conrad, Paperny and O'Brien JJ. at para. 4. The Alberta Court of Appeal clarified that at Trial, a party would not have to establish a material change in circumstances in order to argue for a parenting arrangement that was different than the parenting arrangement that had been ordered in the interim.
3	*V.M.B. v. K.R.B.,* 2014 ABCA 334, [2014] A.J. No. 1131, per Slatter, Wakeling JJA and Jeffrey J (ad hoc) at para.17. The ABCA re-affirmed that there is no legal presumption that the pre-Trial custody regime will be continued: "*The status quo may well create a strong factual argument in favor of continuing the pre-trial regime, but the trial judge is entitled to make the order that he or she finds is in the best interests of the children*".
Best Interests of the Child - General Principles	
4	Excerpts from 2015 *Annotated Alberta Family Law Act* (Carswell) Both Section 16 of the *Divorce Act* and Section 18 of the *Family Law Act* apply the 'Best Interests' test.
5	*Gordon v. Goertz*, [1996] 2 S.C.R. 27, 1996 S.C.J. No. 52, per McLachlin J. at paras. 9-13, 17, and 49. The SCC directed that a change in custody (or primary parenting) involves a two stage inquiry. First, the party seeking a variation must show a material change in the situation of the child. Once this inquiry is done, the Court must enter into a consideration of the merits and make the Order that best reflects the interests of the child in the new circumstances.
6	*Young v. Young*, 1993 CarswellBC 264, [1993] 4 S.C.R. 3, per La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin and Iacobucci JJ, at paras. 209-212. The "best interests of the child" test is the basis upon which custody and access (parenting) disputes are to be resolved.

7	*Cavanaugh v. Balkaron*, 2008 ABCA 423, 2008 CarswellAlta 1963, per McFadyen, Martin, and Slatter JJ., at para. 12. "*To be clear, there are no longer any presumptions or default positions that regulate decisions as to custody and access. The sole determinant is the best interests of the child.*"
8	*W.(L.D.) v. M.(K.D.)*, 2011 ABQB 384, 2011 CarswellAlta 1032, per Jeffrey J. at paras. 28-31. The Court considered additional factors to the factors already enumerated in Section 18 of the FLA for assessing where the child's best interests will lie.

There is a Material Change of Circumstances requiring a Variation

- The mother has become a competent parent in the intervening years since the initial parenting Orders;
- The mother has a well thought out plan for the child;
- The mother is a stable and loving parent;
- The mother is the 'friendly parent';
- The father is an alienator;
- The father lacks parenting skills;
- Although unconfirmed, there are genuine concerns that the father has mental health issues impacting on his ability to parent and to co-parent;
- The child is missing a lot of school to stay home to accompany the father;
- The father has been physically abusive and is verbally, psychologically, and emotionally abusive.

9	*Ruddock v. Williams*, [2013] O.J. No. 5590, per Clay J., at paras. 121-125, 136-139, 144, and 152-157. The Court held that the mother had matured in the intervening years from an earlier time in which she lacked responsibility and judgment to parent effectively. The mother had become a competent and caring parent to her two other children. The mother had a well thought out plan of care that involved living with her mother. The father claimed to be victimized by the mother when she left the child with him and his histrionic testimony about his victimization lacked credibility. The father's entire case to maintain the status quo was built on finding fault with the younger version of the mother. The Court stated that it is not for the Court to decide who was a better parent 6 years earlier, but instead decide upon what is in the best interest of the child at this time.
10	*M.(R.V.) v. L.(W.F.),* 2009 ABQB 138, 2009 CarswellAlta 315, per Martin J.(as she was then) at paras. 82-89. The mother was the 'friendly parent'. The father's allegations against the mother were unfounded and the Court was concerned with the father's mental health and abusive behaviour. He had refused to participate in the Court-directed assessment and the Court was forced to "make do" without expert into to assist. The father had 'used' a sole custody Order to the detriment of the child and the child's relationship with the mother. Variation to the mother having primary parenting.
11	*S.(T.) v. T.(A.V.)*, 2008 ABQB 185, 2008 CarswellAlta 353, per Moen J. at paras. 91-94, 107-122, 125, 136-138, 158, 160, and 172. The Court varied the Parenting Order to remove day to day parenting from the mother, granting it to the father. The mother's constant thwarting of the father's access and her disregard of previous Orders, among other things, satisfy the change in circumstances test.

12	*Simon v. March*, 2012 ONCJ 11, 2012 CarswellOnt 261, per Maresca J., at paras. 42-43. The Court changed primary custody of a 9 year old child from the father to the mother on the basis that the father's continued aggressive behaviour and intentional undermining of the mother's role had a negative impact on the mother-child relationship. The father was unwilling to accept the mother's spouse and importance of the child's relationship with his sibling. The Court found the father could not deal with his own anger and was unable or unwilling to provide the needed supports to the child in his care. The Court held that if left unchanged, the status quo, with the child in the father's care would result in the child losing his relationship with his mother, his brother and step-father, and he will not get the help he needs for behavioural issues.
13	*Rosenow v. Dooley*, 2009 MBQB 2, 2009 CarswellMan 4, per Little J., at paras. 119-129. The Court directed that the child should live with his mother and one factor was the relationship with his step-sibling.
14	*M.D.T. v. K.J.W.,* 2005 ABQB 56, [2005] A.J. No. 78, per Trussler J. at paras. 7, 10-13. The father was found to engage in harmful behaviors including verbal abuse, gross obscenities, was highly paranoid and flouted the law. At Trial the mother was awarded sole custody of the 4 children with certain restrictions on the father's parenting time, and direction to get help. Appearing before Justice Trussler, some time after Trial, the father could not show that he had changed his harmful behaviours in any way and in an unprecedented decision, Justice Trussler found the father was a psychological danger to his children and terminated the father's access completely, allowing only very restricted letter-writing.

The Father is an Alienator

15	*V.M.B. v. K.R.B.,* 2014 ABCA 334, [2014] A.J. No. 1131, per Slatter, Wakeling JJA and Jeffrey J (ad hoc) at paras. 16-17. The ABCA held that there is no rule of law requiring expert evidence to found a finding of alienation. "The best interests of the child" and whether one parent will "facilitate contact" are largely based on findings of fact. Trial judges are entitled to come to conclusions on those issues based on the evidence on the record. The ABCA also re-affirmed that there is no legal presumption that the pre-Trial custody regime will be continued. "*The status quo may well create a strong factual argument in favor of continuing the pre-trial regime, but the trial judge is entitled to make the order that he or she finds is in the best interests of the children".*
16	*S.(T.) v. T.(A.V.)*, 2008 ABQB 185, 2008 CarswellAlta 353, per Moen J. at paras. 119-142, 154, 156, 161, and 172. Justice Moen determined that Shared Parenting was not possible between the parties because of the high conflict nature of their relationship and the driving distance between the parties. The Court conducted a best interests of the child analysis and awarded primary parenting time and decision making of the parties' four year old child to the father because he was more likely to foster a healthy relationship with the mother, and the mother had a history of alienating the child from the father. Justice Moen also concluded that the father would also be more likely to ensure that the child had contact with all of her grandparents and with her half siblings who lived with her mother.
17	*L.A.U. v. I.B.U,* 2016 ABQB 74, [2016] A.J. No. 134 per Michalyshyn J. at paras. 104-111, 201-204, 228-235. This is an alienation case where the Court found the father's position lacking credibility. The Court re-affirmed that it is not necessary to have expert evidence to make out alienation. The father presented himself and the children as victims of racism, bullying and discrimination and raised the children in a world that is threatening thus inducing anxiety, anger, insecurity and fear in the children. Like unproven