

April 16, 1999

Canadian Judicial Council
112 Kent St.
Ottawa, Ont.
K1A 0W8

Dear Sirs

**JUDICIAL COMPLAINT RE: Judge Mendes Da Costa of the Hamilton Family Court
Court file # D 211/91 in the matter of xxxxxxxxxx vs. xxxxxxxxxx**

I appeared before Judge Da Costa on March 12, 15, and 16, 1999 in the Hamilton Family Court.

As a result of my involvement with this Judge I have the following complaints.

It took three days of litigation for Judge Da Costa to determine if the Court Orders governing the parties were valid or not. The Court had full access to the court file and the Court Orders are official. At this Judges request, I was forced to provide an Affidavit and exhibits to show that the Orders are valid and in full force and effect. The matters of concern dealt with the issue of taking the child out of the jurisdiction, and access. The mother was going to take our child out of the jurisdiction, in violation of a specifically worded Court Order. See attached Order of July 1992. This Judge ignored the Court Orders of his very Court, put an onerous burden of proof on the Parties, unnecessarily adjourned the matter which exacerbated the conflict between the Parties, all at extra cost to the Parties, the Court, and loss of access for our child.

This was an issue where the terms of the Court Orders, and the access therein was specific, and in no way should require the Court to be involved. We were before the Court because the Applicant mother was refusing to comply with the terms of the Orders, was frustrating access, and was acting in contempt of the Court Orders. This is all on the Record. My Motion for relief was adjourned to a date when the relief sought could not be obtained (April 1st 1999). See attached Motion of March 12th 1999. On bringing the issue to this Court once again to obtain the access for our daughter as specified in the Court Orders, now Justice Mazza dismissed my Motion and ordered costs against me for \$200.00. This was for access already entitled to our daughter. This Court Ordered access is yet to be exercised.

This Court took no Judicial notice that the Applicant mother was acting in contempt of the Court Orders of Justice Beckett and Justice Wallace (see attached Orders of July /92, Jan./93, and Oct./95) from the same Court, in their decisions. The Applicant mother was going to take our child out of the country against the provisions of these Orders. This Court has penalized our family from enjoying the rights granted by Court Orders now in full force and effect. .

Before becoming involved in the Court process the parties shared our daughter 50% of the time. As a result of Judge Mendes Da Costa's decision, access for our daughter has been reduced to a mere 6 hours over 25 days. For any Judge to take away further access to our child without just cause, and without considering the child's wishes or best interests is no less than child abuse. Our daughter has indicated to many credible third parties that it is her desire to spend more time with me not less. This is in the Record. The Judges actions go against the best interests of our child.

The decision of Judge Da Costa to adjourn access to our child is also depriving the child's grandmother the right to see her granddaughter. Our child enjoys a close and loving relationship with her paternal grandmother and the actions of the Court have taken away the benefits to our child of that access. This has caused unnecessary upset

for many other members of my family. This child has also been deprived of maintaining the close relationships she enjoys with her friends.

The decision of this Judge to allow the Applicant mother to act in violation of Court Orders shows a bias in favor of the mother. No consideration was given to the Applicant mothers' acting in contempt of the Court Orders. The whole exercise in Court clearly gave my family and I, the impression that the Judge's decisions were based on mother favoritism and marital status, not what is right and just, or in our child's best interests. Clearly the custodial mother was given every benefit of the doubt while I was forced to re-litigate the matter to maintain my relationship with our child, and costs were ordered against me for my efforts.

In summary, the Applicant mother is acting in contempt of the Orders, not in the best interests of our daughter, all in bad faith, and this Court has chosen to ignore these facts that are all on the Record. Judge Mendes Da Costa has legitimized the conduct of the Applicant mother and failed to uphold the integrity of his own Court's Orders. He has placed an onerous burden upon the parties to ensure the Court Orders will be respected and has caused unnecessary delay and costs to the Parties and the Court. Above all the father/daughter relationship has been compromised in a way that may never be remedied, and at a very crucial time in her life.

I am only seeking Justice and our daughter's best interests to be served. Could you please investigate these complaints and assist in putting things right.

Yours truly

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Hamilton, Ont.

c.c. Justice Fedak