



Access Problems by Scott Abel

When one hears about access problems in a separation or divorce, one immediately thinks that the custodial parent is denying access to the access parent. But what about situations where the access parent simply refuses to exercise to which they are entitled?

There is no doubt that children from a separated household will do better if both parents are involved in their lives. The *Divorce Act* specifically recognizes a principle of maximum contact, unless it is not in the child's best interest.

Regular and consistent access ensures a strong and positive bond between the parent and the child. The Court is able to set either minimums or maximums for that contact. The difficulty arises when the access parent does not exercise the access.

Unfortunately, the Courts, and the custodial parent, cannot make the access parent be a "good" parent. Either by agreement, or by court order, periods of access can be set out. But if the access parent does not

show up, there is very little that can be done to make the parent show up.

Child support will be paid, regardless. Child support and access are not to be intertwined. The payment of support does not entitle a parent to more access, nor does a failure to pay disentitle the parent to access. So an access parent cannot barter away their obligation to pay child support, by not showing up.

Counseling and mediation would likely be of benefit to stress and emphasize the importance of the access for the benefit of the children, to the access parent. However, if the access parent is not even showing up for access, it is unlikely that the access parent would show up for counseling or mediation.

The custodial parent could always apply to terminate access, which does not address the fundamental problem, of the access parent not showing up. The custodial parent does not want the access parent to be less involved, but more. Cancelling

all access does not address that issue.

The custodial parent could always seek greater child support, through a greater contribution of the special or extraordinary expenses. For example, rather than the access parent being available during working hours of the custodial parent, day care was required. This would increase the expenses to which the access parent has to contribute towards. But again, this is a financial issue, not one of ensuring access.

Not only does a failure to exercise access negatively impact the child, but the custodial parent is also negatively impacted. There is a greater workload for them, a lack of "down time" from the children, increased expenses, such as meals, never mind the constant worry of whether the access parent will show up for any scheduled access.

Some parents try to make the situation a little better by leaving visitation time non-specific so that the child is not

disappointed every second Friday when the other parent does not show up. Or, setting up visits with extended family can help the child as well.

Ultimately, if the access parent simply refuses to exercise their access, there is no one solution that will resolve that problem. The only certainty is that the children will suffer from the lack of a positive and consistent relationship with both parents.