

**MEMORANDUM OF JUDGE
Care of Children Act 2004**

FAM-2017-079-000008
FAM-2017-079-000015(HA)

09 January 2019

From: Courtney Andersen/Brenda Bremner
Act: Care of Children Act 2004
Application Type: S47 Parenting Order

APPLICANTS: Axel Schmidt
Hans-Juergen Schreiner

RESPONDENT: Lisa Hopfengartner

CHILD: Clara Larissa Schmidt 03 July 2007 11 years and 6 months

Lawyer for Children: Dean Blair

Your Honour Judge Cook,

The Interim S133 Report has been received from Dr Calvert.

I refer this report to your Honour for directions as to release, both the Applicant and Respondent are self represented.

This file is proceeding to a Pre Hearing Conference on 07/02/2019 at 15:00 hrs.

**Thank you
Courtney/Brenda**

DIRECTIONS

If Lawyer for Child has no objection then a Direction is made to release the Report to the Parties upon the Condition that the Report is not to be Copied ,shown or discussed with any other party without further court Direction .

If Lawyer for Child signals an objection to the proposed Direction then He is asked to file a brief Memorandum setting out the terms of his opposition ,to be referred back to myself in Box work .

.....

Judge CL Cook
Family Court Judge

Date of authentication: 10/01/2019
In an electronic form, authenticated pursuant
to Rule 206A Family Court Rules 2002.

This report is subject to the privilege of the Family Court. It is confidential and must not be shown to the child/ren or to any other person not involved in the case. The report is not for publication.

3rd January 2019

Interim Report: Schmidt and Hopfengartner. Fam 2017-79-8

Clara Schmidt

(Dob 3.7.2007, aged 11)

Half Sister.

Charlotte - Lotte Hopfengartner (8).

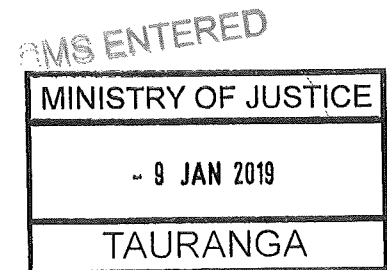
Parents.

Axel Schmidt

Lisa Hopfengartner.

Step Father.

Simon Hopfengartner.



- 1.1 I have been asked to provide a Interim Section 133 Report (Care of Children Act, 2004) with respect to this matter. I am a Psychologist (Clinical Scope of Practice)¹, holding the degree Doctor of Philosophy (PhD). I have expertise in the area of the assessment of children, young people and their families and adult assessments of parenting skills and styles. I have expertise in the area of the impact of family conflict and relationship dissolution on children and young people. I have expertise in the area of the assessment and treatment of trauma and abuse in both children and adults. I have expertise in the area of the assessment of attachment.
- 1.2 I have a Post Graduate Certificate in Child Custody Evaluations from William James College (Boston).
- 1.3 In 2018 I was made a Distinguished Scholar of Waikato University.
- 1.4 I have specific expertise and am a published author in the area of the issues associated with the Hague Convention.
- 1.5 This Report is written with the Principles of the Care of Children Act in mind (see Endnotes). It is also written with attention to the Principles and changes in the Oranga Tamariki (1987) Act.
- 1.6 I am familiar with Schedule Four, High Court Code of Conduct for Expert Witnesses (Rule 330A). I am aware of my obligations in this regard and agree to abide by those rules. I confirm that the opinion evidence I have given in this report is within my area of expertise and professional experience.

SARAH CALVERT PhD
Clinical Psychologist

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¹ Registered under the Health Practitioners Competency Assurance Act 2003. I was first registered as a Psychologist in 1983.

Brief:

- 1.7 In this Report I am asked to provide an opinion in respect to the following Direction
: Dr Calvert to file a Preliminary Sec 133 Report and that is to address her concerns in as much detail as possible as to Clara's circumstances and also what her view would be as to her(Clara's) need to have some therapeutic intervention and some options for the way forward as to how that can be handled.

Methodology.

- 1.8 This report, ordered by the Court (Minute of Judge Cook 17th December 2018) addresses a single issue, my view as to the support needed by the child, Clara, if she is to be able to engage in the normal and necessary processes for the preparation of the substantive Sec 133 Report.
- 1.9 Prior to providing this Interim and Specific Report I have met with each parent, Dr Schmidt by SKYPE. Both parents are now self-represented.
- 1.10 This interim report is not about the issues in the substantive Brief and thus does not address issues the parties have raised with me or data associated with the substantive brief.
- 1.11 Dr Schmidt was not able to be present for the Directions Conference but did indicate to the Court that he could 'find a therapist' for his daughter. He has not provided further information about that.
- 1.12 I have met with Clara. This was in a formal setting in my office.
- 1.13 I have reviewed (as part of my general preparation for the substantive report) all of the materials forwarded to me by the Court and by the parties. Dr Schmidt has forwarded a significant amount of material to me, including video material. I have reviewed that material. The materials I have had access to are listed in Appendix One.
- 1.14 Some of the material provided to me is material that I consider I should not have and which has raised ethical dilemmas for me. I have referred that issue to the Court.
- 1.15 It is also my concern that the complexities associated with Hague proceedings are an issue here as is an understanding by the parties and the child that 'evidence' is a matter for the Court and not for the Court's expert report writer².
- 1.16 In particular the narrow scope of any report provided under what is often referred to as Part One Hague (return or remain) as opposed to the more normal and extensive scope of a Sec 133 under COCA in New Zealand (Part Two Hague).

Disclosure of this Report to the Child.

- 1.8 This report should be discussed with Clara by her counsel, Mr Blair.

² That is it is ultimately a matter for the Court to hear and test all the evidence before it, including that of the report writer and to make determinations in respect to that and the ultimate questions before it.
Sec 133 Family Court Report. Schmidt and Hopfengartner. Fam 2017-79-8. 3rd January 2019. Pg 2

Section Two: Brief Background to the matter.

- 2.1 Clara is the only child of Lisa Hopfengartner and Axel Schmidt.
- 2.2 Axel and Lisa began a relationship in 2006-7. There are disputed accounts of the nature and duration of that relationship but Clara was born in 2007. Lisa and Axel separated in 2009 although the situation between 2009-10 is disputed. Lisa alleges that the separation was occasioned by an incident of Family Violence (Axel towards her).
- 2.3 Lisa and her husband, Simon currently live in Whenuakite, Coromandel.
- 2.4 Clara has a half-sister, Lotte, who lives with Lisa and Simon. Lisa and Simon married in 2013.
- 2.5 Axel has remained living in Germany.
- 2.6 Clara is currently a child subject to legal proceedings in two countries, Germany and New Zealand.
- 2.7 Clara has been involved in various forms of Family Court processes from the age of 2, initially in Germany. As a result she has been subject to forms of assessment associated with such processes.
- 2.8 Clara is a child whose entire life has been (likely) impacted by the conflict between her parents. The genesis of that conflict and the contributions of each parent are a part of the fundamental dispute between her parents and thus a matter for the Court to form a view in respect of.
- 2.9 In 2011 Lisa sought to access psychological intervention for Clara who was described as being distressed by her situation.
- 2.10 There was an incident in 2013 which took place outside of Clara's school. Subsequently in her (Part One) Sec 133 Report Ms. Lightfoot formed the view that Clara suffered from Post-Traumatic Stress Disorder as a result of that incident. That incident is the subject of significant dispute between the parents and rulings in German Courts (which Axel relies on) both about what happened and about the impact on Clara.
- 2.11 Expert opinions are available from the various legal proceedings in Germany which indicate that Clara's situation should be characterised as a 'high conflict' Family Court matter. As such, regardless of ultimate findings by various Family Courts as to the causative factors and potential responsibility for them (by either adult party) there is likely to have been a significant negative impact on Clara.
- 2.12 In addition one expert, Dr Spangler, noted the possibility of 'risk' to Clara's psychological welfare associated with his recommendation of a return to her father's primary care.
- 2.13 In 2014 Clara left Germany with her mother, half-sister and step father. This was prior to a decision of a German Court transferring custody to Axel.
- 2.14 Clara has subsequently lived in New Zealand since 2015.
- 2.15 In June 2017 Mr Blair, Clara's lawyer, indicated his view that Clara needed independent help and support given the situation she found herself in. This was at the beginning of the Hague Part One process. Mr Blair was unsuccessful in having Axel and Lisa agree to this³.

³ In my opinion her position as described by Mr Blair was consistent with those of other similar children with resist/refuse dynamics. I consider that had the Court been in a position to organise appropriate counselling for Clara at Sec 133 Family Court Report. *Schmidt and Hopfengartner*. Fam 2017-79-8. 3rd January 2019. Pg 3

- 2.16 Ms. S Lightfoot, Clinical Psychologist, provided a Sec 133 Report in June 2017 which was focused on the issues associated with Clara's views about a possible return to her father's care in Germany, her maturity and the issue of 'influence (alienation)'. Ms. Lightfoot noted the relationship between Clara's psychological distress and her (Clara's) perception of the event which occurred in 2013. Axel has been critical of Ms. Lightfoot's clinical assessment⁴.
- 2.17 There have been other ancillary issues (such as immigration issues) which are likely to have had an impact on Clara and her psychological wellbeing.
- 2.18 On the 28th September 2017 (following the Decision of Judge Coyle) Axel with other people he 'knew' or engaged uplifted Clara from her school classroom during a school day. The New Zealand Police were involved and Clara was eventually returned to her mother's care after being found in Auckland with her father.
- 2.19 Axel was (and is) of the view that Clara was not upset by the uplift at her school and had consistently asserted that she would not be upset by contact with him. He has said he is the only person who can give evidence as to Clara's response to his uplifting her in the manner that he did⁵.
- 2.20 The substantive report will address, at length, the issues which arise from this event and their impact on Clara⁶.
- 2.21 In his Minute of 17.12.18 Judge Cook noted that the Court had two options available to it, an application for Guardianship or for the Court to have a limited Guardianship with Oranga Tamariki as agent. The Court noted such processes would be beneficial but that no such applications had been made.

Section Three: The need for support for Clara during the preparation of the Sec 133 Report and Court proceedings.

- 3.1. I meet with Clara on 6th September 2018. She was brought to my office by her mother and step father. They did not remain in the building while I interviewed Clara and when Clara become significantly distressed I had to call Lisa and ask her to return to my office urgently.
- 3.2. Clara did have a reasonable understanding of my role and the issues before the Court.
- 3.3. During the initial part of the interview I became increasingly concerned about Clara's psychological well being. I screened her and consider that she was displaying symptoms consistent with trauma. In seeking to conduct the assessment I explained to Clara that I would need to ask her for her opinions and thoughts about matters before the Court. She became increasingly anxious (on both the Childhood Anxiety and the Post Traumatic Stress Disorder screen used used she scored in the

this time it is likely that some form of contact with her father could have resumed. Mr Blair noted that the parents seemed unable to agree on such arrangements.

⁴ The report writer has formed a view about this but considers that it is inappropriate to discuss that in the limited context of this report and in light of the other issues which have been raised with the Court in correspondence.

⁵ Actually, of course, Clara's own evidence is equally critical.

⁶ See Footnote 4.

- clinical range) and I considered that it would be unethical to continue with the normal assessment process.
- 3.4. I do not consider it appropriate to provide more information about Clara's assessment at this time.
 - 3.5. I spoke to Clara about her feelings. I am satisfied that her feelings (and the views she expressed) are genuine. I do not consider that they are a result of direct influence nor did I find evidence (in respect to the specific matters) that she showed signs of alienation. Rather I would describe her as confused, scared and distressed.
 - 3.6. I consider that there are events which have occurred to Clara or which form the environment in which she finds herself which have and continue to cause her anxiety and which now form an aspect of clinically significant Post Traumatic Stress Disorder.⁷
 - 3.7. In forming my view of that I note that this is also the view held by Ms. Lightfoot. Post Traumatic Stress Disorder in children of Clara's age is defined in the DSM-5⁸.
 - 3.8. As a result I spoke to Mr Blair indicating that I consider it unethical to continue to see Clara without her having independent access to counselling to provide her with support during this (likely) lengthy legal process about her future.
 - 3.9. I spoke to both parents about my concerns and understood that both were in agreement to Clara having such support. I note that their views and understanding of Clara and her situation differ significantly and that causative factors are not agreed (as might be expected). Axel in particular was concerned about assumptions that he felt might be made about Clara's presentation, assumptions that differed from his opinion.
 - 3.10. Mr Blair then attempted to make arrangements for counselling for Clara.
 - 3.11. Clara lives in an area of New Zealand which has very limited professional resources for a situation such as this. The nearest Family Court Specialist Report Writers are (possibly) Thames (Dr Sylvia Blood) or Tauranga and Hamilton. While there are counsellors and psychotherapists resident on the Coromandel none of them, in my advice to Mr Blair have the skills or background knowledge for a case such as this.
 - 3.12. In addition there was the question of how any such counselling would be funded.
 - 3.13. Mr Blair was provided with some potential therapists by Ms. Dianne Cameron, Clinical Psychologist, who has previously been a Family Court Specialist Report Writer and who is held in high regard by both the Courts and her colleagues. None of those she suggested were ultimately prepared to accept the Brief for counselling⁹.
 - 3.14. Lisa reported to me (1.10.18) that Clara continued to be distressed and 'unstable' psychologically.
 - 3.15. Mr Blair and the report writer continued to attempt to progress the finding of suitable counselling for Clara.
 - 3.16. I wrote to the Court advising it of my views on 21.10.18.

⁷ Ibid.

⁸ See Appendix 2.

⁹ It is unclear whether one of those recommended subsequently indicated this after contact from Axel. Sec 133 Family Court Report. **Schmidt and Hopfengartner**. Fam 2017-79-8, 3rd January 2019. Pg 5

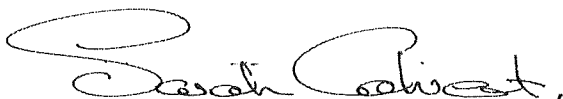
- 3.17. On 23rd October 2018 Judge Coyle noted my concerns and that both parents appeared to have agreed to the counselling occurring.
- 3.18. On the 14th November 2018 Mr Blair, in a lengthy email, outlined the difficulties he was having in progressing the issue of counselling.
- 3.19. Axel responded to Mr Blair on the 14.11.18. He has views about both how a psychologist/psychotherapist or counsellor should be 'found' for Clara.
- 3.20. Although Axel said he accepted the counselling was necessary and had an awareness of the limited counselling resources in the area Clara lives, he sent me, by email, the following comment *"Normally in every task there should be a list of alternatives and evaluation criteria to evaluate the persons or companies on the list. When I select suppliers for clients or for your company I used this method. So I could be proved and can argue why a decision was made"*. He sent the following comment to Lisa's then counsel, Mr Eggleston *"We need to select a psychologist – up to now we have a recommendation of a recommendation. And XXXXX is not able to provide a CV or recommendations or methodologies or methods – we have nothing which could be used for an evaluation of her competences. We need to found the best solution in this case – not a solution"*.
- 3.21. Axel has suggested that a person known to him, resident in Australia, could provide such therapy. For a psychologist to practice legally in New Zealand, they must be registered with the New Zealand Psychologists Board. He has also said he is in contact with other therapists in New Zealand but has provided no information about them.
- 3.22. Axel also wrote to Mr Blair raising the above issues and other issues in respect to funding for any counselling.
- 3.23. It is difficult to access appropriate professional support for Clara because of where she lives. It would be my preference that Clara is seen by an independent professional, I would have preferred a clinical psychologist.
- 3.24. The complexities associated with this matter mean that being able to obtain access to counselling is now very difficult. In part that is because there are a very limited number of professionals available with the required skill set and many of those are reluctant to engage because of the legal issues now involved.
- 3.25. There are also difficulties associated with material that Dr Schmidt wishes the Court, myself and any counsellor to consider (associated with a complaint he has made to the New Zealand Psychologists Board in respect to Ms. Lightfoot). I have raised those difficulties with the Court, considering that any engagement with them is, currently, inappropriate for me (a view supported by the Board which has not, as yet formed any substantive view in respect to the Complaint). I do not consider that those materials should have been provided to me.

Section Four: Summary Opinion: Clara's circumstances and also what her view would be as to her(Clara's) need to have some therapeutic intervention and some options for the way forward as to how that can be handled.

- 4.1. Clara remains living with her mother and step father. She continues to have no contact with her father.
- 4.2. As indicated Clara is a highly vulnerable child because she has been in the midst of intractable parental conflict for most of her life (see 2.2;2.6;2.7;2.9;2.10;2.11). There is a substantial literature which demonstrates the negative impacts of this on children. In addition Harold and Sellers have recently published an authoritative review on this topic¹⁰.
- 4.3. In addition (and the ultimate view of her view on this will be a matter for the Court) Clara reports significant psychological distress associated with two events which have occurred as a result of the inter-parental conflict. Those events are the event on 2013 in Germany and the event in 2017 in New Zealand.
- 4.4. I have screened Clara for both childhood anxiety and Post Traumatic Stress Disorder as a result of my clinical view of her presentation during my first interview with her. I did so because I was concerned at the direct evidence of Post-Traumatic Stress Disorder symptoms which developed when seeking to ask her normal assessment questions in a situation such as this. That is, in my professional expert opinion, I considered (having seen and assessed Clara) that she had developed (for whatever reason, both those she identified and those others may consider relevant) a clinical condition which made her a particularly vulnerable child.
- 4.5. In my opinion there is no indication that at least in the near future, the situation for Clara will resolve in such a way that her psychological distress will be ameliorated. I am aware of the views of both Axel and Lisa and have considered them, and their proposals for Clara.
- 4.6. It is my current professional opinion that if either proposal on its own were put in place that would not resolve the psychological issues for Clara. It is my preliminary view that a considered approach to resolving those issues can only follow the substantive hearing and the Court's findings on various matters of evidence.
- 4.7. I therefore formed the view that it would, in the circumstances, unethical, to continue my assessment of Clara since I would need to directly cause her further psychological distress.
- 4.8. It is my view that the assessments of children and young people in Family Court proceedings (and indeed other legal proceedings) are almost always distressing to them. However that level of distress is usually considered acceptable given the need to obtain accurate information from the child or young person to put before the Court.
- 4.9. In the case of Clara her level of clinical distress and her views about that distress is such that I am not prepared to cause her further distress

¹⁰ Harold, G.T. and Sellers, R. (2018). Annual Research Review: Interparental conflict and youth psycho-pathology: an evidence review and practice focused update. *The Journal of Child Psychology and Psychiatry*. 59. 374-402

- unless she is properly and independently supported in therapy which is not itself a part of the legal process. Any such support needs to be completely protected so that Clara can make appropriate use of it.
- 4.10. I note the consistent expressions of concern for Clara (including concerns raised by experts in Germany, some of whom had seen Clara and some of whom were using literature and clinical experience in forming their view). The failure of both the parents and the wider system around Clara to attend to her wellbeing and welfare is deeply distressing.
- 4.11. It would be my preference that a therapist is selected by Mr Blair, Clara's legal representative. As the Court's expert I would normally consider that I could provide some advice about this, given the neutrality of my role and my understanding of the issues. However Dr Schmidt or Ms. Hopfengartner may oppose that. Whether any involvement would compromise my neutrality is a matter for the Court, whose expert I am.
- 4.12. I am unable to proceed to develop data for the substantive report without access to data that will be provided by Clara.
- 4.13. It is my view, having regard to the history of this matter as outlined, that the Court should consider the use of Guardianship as a vehicle both to ensure the substantive report is able to be prepared and to ensure proper attention to Clara's welfare and wellbeing. I consider that the Court may wish to consider that this should be a substantive Guardianship rather than a limited Guardianship so that the maximum protection is afforded to Clara in the circumstances.
- 4.14. The Court may wish to appoint an agent (such as Oranga Tamariki) to ensure the progression of this matter. If that is the case I would respectfully suggest that there is a proper discussion with Oranga Tamariki about the site office best able to provide a senior and experienced social worker who can case manage this case¹¹.
- 3.26. If a therapist for Clara is found the Court will need to clarify their role, the brief and what background/materials are provided to them. The Court may wish to direct me, as the Court's expert, to engage with Mr Blair about this. It may wish to brief a separate and independent Family Court specialist report writer to engage with Mr Blair about these issues.



Sarah J. Calvert.PhD.
Clinical Psychologist

References will be available to support the professional opinions stated in this Report after the substantive report has been made available.

¹¹ There are two sites which could be involved, Hauraki and Tauranga. Hauraki is a small site office but does have some very experienced staff who might be able to take this as a special case. Tauranga has greater resources and thus more senior and experienced staff. I suggest that if the Court is mindful to use this process Mr Blair is again asked to progress discussions in respect to this.

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A full Curriculum Vitae which details my qualifications, experience and publications will also be made available after the provision of the substantive Sec 133 report.

This Report has been prepared for the Family Court in accordance with a Brief provided to me under Section 133 of the Care of Children Act 2004. The contents of the Report should not be disclosed in any other forum without reference to the Family Court, its agent - Lawyer for the Child or myself. **The Court may wish to direct that this Report is to be made available to appropriate professionals (who have a role with the family or the child) with the following provision, the person/s should be a registered health professional or a member of an appropriate professional body with a Code of Ethics.**

Endnotes: 5: Principles relevant to child's welfare and best interests:

The principles relating to a child's welfare and best interests are that—

(a) a child's safety must be protected and, in particular, a child must be protected from all forms of violence (as defined in section 3(2) to (5) of the Domestic Violence Act 1995) from all persons, including members of the child's family, family group, whānau, hapū, and iwi:

(b) a child's care, development, and upbringing should be primarily the responsibility of his or her parents and guardians:

(c) a child's care, development, and upbringing should be facilitated by ongoing consultation and co-operation between his or her parents, guardians, and any other person having a role in his or her care under a parenting or guardianship order:

(d) a child should have continuity in his or her care, development, and upbringing:

(e) a child should continue to have a relationship with both of his or her parents, and that a child's relationship with his or her family group, whānau, hapū, or iwi should be preserved and strengthened:

(f) a child's identity (including, without limitation, his or her culture, language, and religious denomination and practice) should be preserved and strengthened.

Care of Children Act. 2004.

Appendix One: Materials Supplied by the Court.

1. Minute of Judge Cook (Directions Conference). 17.12.18
2. Memorandum for Telephone Conference. 17.12.18. Dr Axel Schmidt. 17.12.18.
3. Memorandum for Telephone Conference. Dr Axel Schmidt. 13.12.18
4. Memorandum Hearing. Lisa Hopfengartner. 12.12.18
5. Notice of Change of Address for Service Lisa Hopfengartner. 10.12.18
6. Memorandum for Telephone Conference. Dr Axel Schmidt. 9.12.18
7. Memorandum for Telephone Conference. Dr Axel Schmidt. 20.11.18
8. Report of Lawyer for Child. 16.11.18.
9. Memorandum of Judge Coyle. 9.11.18
10. Memorandum of Judge Coyle. 29.10.18
11. Memorandum of Judge Coyle. 20.8.18
12. Memorandum of Judge Coyle. 12.7.18
13. Memorandum of Judge Coyle. 29.6.18
14. Reasons Judgement: Davison. J. 11.6.18
15. Results Judgment: Davison J. 18.5.18.
16. Letter of Appointment. 19.2.18
17. List of Documents (to 19.2.18). 19.2.18
18. Contact Information. 19.2.18
19. Brief. 19.2.18
20. Minute of Judge Coyle. 2.2.18
21. Memorandum of Judge Coyle. 30.1.18
22. Minute of Judge Coyle. 29.11.17
23. Memorandum for Directions Conference. 29.1.18
24. Report of Lawyer for Child. 26.1.18

25. Memorandum for Telephone Conference. Dr Axel Schmidt.26.1.18.
26. Memorandum for Directions Conference.25.1.18
27. Memorandum for Directions Conference. 25.1.18
28. Memorandum of Counsel for the Applicant (Telephone Conference-14.11.17). Undated
29. Report of Lawyer for Child.26.10.17
30. Memorandum of Judge Coyle. 20.10.17
31. Chambers Minute of Judge Coyle. 18.10.17
32. Memorandum of Counsel for Respondent. 31.8.17
33. Reserved Judgment of Judge Coyle.18.8.17
34. Memorandum of Judge Coyle.16.8.17.
35. Chronology of Events,16.8.17
36. Memorandum of Lawyer for Child. 16.8.17
37. Memorandum of Counsel for the Respondent.16.8.17
38. Memorandum of Counsel for the Applicant. 16.8.17
39. Chambers Minute of Judge Coyle.15.8.17
40. Memorandum of Counsel for the Respondent.11.8.17
41. Memorandum of Submissions of Counsel for the Respondent.9.8.17
42. Memorandum of Counsel for the Respondent.9.8.17
43. Affidavit of Michael Lowe. 9.8.17
44. Report of Lawyer for Child. 8.8.17
45. Affidavit of Bruce Currie.8.8.17
46. Memorandum of Opening Submissions for the Applicant. 8.8.17
47. Memorandum of Counsel for the Applicant.8.8.17
48. Affidavit of John McBride. 7.8.17
49. Affidavit of Axel Schmidt in Reply to the Affidavit of Lisa Hopfengartner and the Sec 133 Report (Including Appendices).28.7.17
50. Memorandum of Judge Coyle.24.7.17
51. Memorandum of Counsel for the Applicant, 13.7.17
52. Minute of Judge Coyle.30.6.17
53. Memorandum of Counsel for the Applicant for Pre-hearing Conference.27.6.17
54. Memorandum of Judge Coyle.23.6.17
55. Memorandum of Counsel for the Applicant.23.6.17
56. Sec 133 Report. Ms. Lightfoot. 19.6.17
57. Report of Lawyer for Child.19.6.17
58. Memorandum of Judge Coyle.14.6.17
59. Memorandum of Counsel for the Applicant Seeking an Urgent Order. 9.6.17
60. Affidavit of Camielle Poata. 11.5.17
61. Affidavit of Camielle Poata. 11.5.17
62. Memorandum of Judge Coyle.5.5.17
63. Joint Memorandum of Counsel for the Presiding Judge. 5.5.17
64. Minute of Judge Coyle.1.5.17
65. Translation of Affidavit of Axel Schmidt in Reply to Affidavit of Lisa Hopfengartner(31.3.17). 27.4.17
66. Affidavit of Axel Schmidt in Reply to Affidavit of Lisa Hopfengartner(31.3.17). German. 27.4.17

67. Reporting Memorandum of Lawyer for Child. 24.4.17
68. Translators Affirmation.21.4.17
69. Memorandum of Counsel for Central Authority.21.4.17
70. Memorandum of Counsel for Respondent. 21.4.17
71. Affidavit of Camielle Poata containing the following
 - (i) Arrest Warrant (English) 25.4.16
 - (ii) Arrest Warrant (German).25.4.16
 - (iii) New Zealand Immigration Good Character-Residence
 - (iv) Expert Psychological Report in Regard to Parental Custody. Dr Gottfried Spangled. 4.2.16 (German)
72. Affidavit of Camielle Poata.21.4.17
73. Affidavit of Kevin Clark.3.4.17
74. Affidavit of Michel Lowe (Undated)
75. Affidavit of Lisa Hopfengartner. 31.3.17
76. Affidavit of Simon Hopfengartner. 31.3.17
77. Affidavit of Elizabeth George 31.3.17
78. Minute of Judge Coyle.10.3.17
79. Notice of Defence. 7.3.17
80. Memorandum of Counsel for the Respondent.7.3.17
81. Order Transferring Proceedings to another Court.1.3.17
82. Memorandum of Judge Coyle.1.3.17
83. Application for Return of Child to Germany.23.2.17
84. Affidavit of Camielle Poata in Support of Application for Return of Child to Germany. 22.2.17
85. Letter: Embassy of the Federal Republic of Germany(Wellington). 13.2.17
86. Nuernberg Higher Regional Court Decision (German) 31.5.16.
87. Nuernberg Higher Regional Court Decision (English) 31.5.16.

Notes of Evidence: 30.6.17.

Materials Supplied by Mr Schmidt. (other than those specifically related to the Complaint against Ms. Lightfoot¹²)

- a. Memorandum for Telephone Conference- Dr Axel Schmidt. 20.11.18.
- b. Letter to Counsel for Child.14.11.18
- c. Visa Grant Notice- Dr Schmidt. 31.10.18
- d. Judgment of the Court- Extension of Time (Asher, J.)25.10.18
- e. AAI Discussion and Points. 25.10.18
- f. Application for Leave to Appeal to the (NZ) Supreme Court,. 5.10.18
- g. Minute of Judge Asher. 3.10.18
- h. Educational Competencies (Parenting) Dr Axel Schmidt. 2.10.18
- i. Educational Competencies(Clara Schmidt). Sept 2018.
- j. 38 files from axel.schmidt@batten-company.com via kiteworks.28.9.18
- k. New Zealand Psychologists Board Evaluation of the Expert Report of Sue Lightfoot- document prepared by Mr Schmidt. 5.9.18

¹² Dr Schmidt has repeatedly sent me copies of this documentation (as he has to others). Unless the court requires me to read this I have not considered I should have access to it. None the less it is discussed in many of Dr Schmidt's subsequent affidavits and applications and thus I am aware of his view of the Board's process and views.
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- l. Notice of Reasons Leave to Appeal to the Supreme Court. 4.9.18
- m. CV Axel Schmidt. 22.8.18
- n. Document (Untranslated) Support of parents at Separation- Axel Schmidt. 22.8.18.
- o. Literature Review(Axel Schmidt) 59 pages.22.8.18
- p. Detailed Commentary to the Judgement of the Tauranga High Court. 2.8.18
- q. Application for Leave to Appeal to the Supreme Court of New Zealand.2.8.18
- r. Memorandum of Axel Schmidt.2.7.18
- s. Notice of Discontinuance of Proceedings. 30.5.18
- t. Affidavit of Emma Preece. 1.3.18
- u. Affidavit of Nick Preece 1.3.18
- v. Affidavit of Millicent Preece. 1.3.18.
- w. Memorandum for Directions Conference. 26.1.18
- x. List of Expert Reports for German Courts: Axel Schmidt.
- y. Publication List of Axel Schmidt.
- z. Memorandum of Counsel for Appellant (High Court Appeal).7.11.17
- aa. Assets Document- Clara Schmidt. 18.10.17
- bb. Descriptions of (and photos of) Clara and her father.28.9.17
- cc. Letter C.M.Earl. 28.9.17
- dd. Memorandum of Appellant. 13.9.17.
- ee. Statement of Axel Schmidt.7.9.17
- ff. Compliance Letter: New Zealand Immigration.31.7.17
- gg. Advisory Opinion of Axel Schmidt in Reply to the Sec 133 Report of Sue Lightfoot.3.7.17
- hh. Sec 133 Report: Sue Lightfoot. 15.6.17
- ii. Statement Professor B von Heintschel-Heingg (with annexures).16.5.17
- jj. Arrest Warrant. 25.5.16 and Translation. 30.5.16
- kk. Expert Psychological Report Dr Spangler (part Translated).4.2.16
- ll. Expert Psychological Report Dr Marianne Schwabe-Höllein (part translated): 31.1.13.

Emails which I consider are part of the genera; data collection, that is they are comments Dr Schmidt makes in response to interviews.

Materials provided by Ms. Hopfengartner. (other than those already listed or as indicated not appropriate for me to have)

- i. Email Mr Blair to Counsel.14.11.18.
- ii. Letter to Ms. Hopfengartner's Counsel. 8.11.18.from Dr Axel Schmidt. 8.11.18
- iii. Emails re Funding Counselling.

Appendix Two: DSM-5 Diagnostic Criteria- Children over the age of six.

Children age six years and older

- A. Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:
 - 1. Directly experiencing the traumatic event(s).
 - 2. Witnessing, in person, the event(s) as it occurred to others.
 - 3. Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.
- B. Presence of one (or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred:
 - 1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).
 - Note: In children older than six years, repetitive play may occur in which themes or aspects of the traumatic event(s) are expressed.
 - 2. Recurrent distressing dreams in which the content and/or affect of the dream are related to the traumatic event(s).
 - Note: In children, there may be frightening dreams without recognizable content.
 - 3. Dissociative reactions (eg, flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings.)
 - Note: In children, trauma-specific reenactment may occur in play.
 - 4. Intense or prolonged psychologic distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
 - 5. Marked physiologic reactions to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
- C. Persistent avoidance of stimuli associated with the traumatic event(s), beginning after the traumatic event(s) occurred, as evidenced by one or both of the following:
 - 1. Avoidance of or efforts to avoid distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
 - 2. Avoidance of or efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
- D. Negative alterations in cognitions and mood associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:
 - 1. Inability to remember an important aspect of the traumatic event(s) (typically due to dissociative amnesia and not to other factors such as head injury, alcohol, or drugs).
 - 2. Persistent and exaggerated negative beliefs or expectations about oneself, others, or the world, for example:
 - "I am bad"
 - "No one can be trusted"
 - "The world is completely dangerous"
 - 3. Persistent, distorted cognitions about the cause or consequences of the traumatic event(s) that lead the individual to blame himself/herself or others.
 - 4. Persistent negative emotional state (eg, fear, horror, anger, guilt, or shame).
 - 5. Markedly diminished interest or participation in significant activities.
 - 6. Feelings of detachment or estrangement from others.
 - 7. Persistent inability to experience positive emotions (eg, inability to experience happiness, satisfaction, or loving feelings).
- E. Marked alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:
 - 1. Irritable behavior and angry outbursts (with little or no provocation) typically expressed as verbal or physical aggression toward people or objects.
 - 2. Reckless or self-destructive behavior.

- 3. Hypervigilance.
- 4. Exaggerated startle response.
- 5. Problems with concentration.
- 6. Sleep disturbance (eg, difficulty falling or staying asleep or restless sleep).
- F. Duration of the disturbance (criteria B, C, D, and E) is more than one month.
- G. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- H. The disturbance is not attributable to the physiologic effects of a substance (eg, medication, alcohol) or another medical condition.

Appendix Three: Partial Reference List. High Conflict.

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