

Re X (A Child) (2017)

[2017] EWHC 158 (Fam)

27/01/2017

Barristers

Alistair G Perkins

Court

Family Division

Practice Areas

Public Children Law

Judgment of Munby P granting, inter alia, a without notice location order in a case where relief was required to enforce an order made by the Scottish Court.

The father made a without notice application for a location order and disclosure of information order before Munby P.

Background

The family had resided in Scotland. After the mother removed the child to England, the father obtained an order from Lord Brailsford, the Lord Ordinary sitting in the Court of Session in Scotland, which:

- (1) prohibited the mother from removing the child from the UK;
- (2) ordered the mother to surrender the child's passports to the Messenger-at-Arms;
- (3) prohibited the mother or anyone on her behalf applying for replacement passports.

The Judgment of Munby P

Munby P granted the orders requested and commented on the unusual situation. Having crossed the border, it seemed the mother had put herself outside the reach of the Messenger-at-Arms and so it was appropriate to grant the orders to give effect to the relief previously granted by the Scottish Court.

The passports would now need to be seized by the Tipstaff instead (who could then arrange their transfer to the Messenger-at-Arms).

The President considered that, in accordance with re A (A child) [2016] EWCA Civ. 572, it was proper to grant a without notice location order in this case as he considered that there was a very real prospect that the mother "would re-abduct the child, either taking the child abroad or moving to some other place either in this country or some other part of the United Kingdom" if notice of the application was given to her.

Permission

 **Family Law Week**