



Family Law

CALL US - BEFORE
YOUR EX DOES!



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LAWYER

Q

I just learned that my girlfriend registered our daughter's name using only her last name.

I have asked but she refuses to add mine. Can I do something about this? I want our daughter to have my last name too.

A

Your question is timely; a recent case in the Ontario Court of Justice called *Schaafsma v Eaton*, 2019 ONCJ 423 took on this exact subject.

In this case, the unmarried couple had two daughters aged nine and eight years. The couple had separated in 2015. At the time of the application, the mother had sole custody. She sought to change the children's last name from *Schaafsma* to *Schaafsma Eaton*.

The father objected to this. He argued that the children had always had his last name and it was well recognized in the community. The children were known in school with his last name, and there was no reason to change it.

The mother argued that she had always used her own name and the children should have the opportunity to use her name as well. She also pointed out that the children had begun to independently use both names at school, even though they were registered with only the father's last name.

S. 5(1) of the Change of Name Act permits a custodial parent to apply to the Registrar General to change a child's name, unless a court order or separation agreement prohibits the

change; the father was seeking a court order which would prevent the mother from making such a change.

Justice Paull decided that the mother could apply to change the children's last names. When disputed, the onus of proof fell on the person opposing the change, that this would not be in the children's best interest. The mother did not have "an improper motive" in seeking to include her own name in the children's names, and the father's position reflected "hurt pride" rather than a child-focused approach. Justice Paull chose to permit the children to have names which included both parents, as you want to do.

Should your girlfriend prove intractable on this point, Justice Paull helpfully lists eight factors a Court should consider in a name change application; I encourage you to proceed with the assistance of a Family Lawyer.

Your friends at Shank Law.



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