

MINDSENSE CASE HIGHLIGHT

K.A.S. v J.R.M.: The Cost of Missing Expert Evidence in Family Violence Cases

K.A.S. v J.R.M., 2026 NBKB 154 | New Brunswick

If *Mitchell v Mitchell* shows what an IPV claim can achieve without formal expert evidence, the recent New Brunswick decision in *K.A.S. v J.R.M.*, 2026 NBKB 154 offers the counterpoint: a family law case in which allegations of family violence and PTSD were squarely before the court, but the absence of qualified expert evidence led the judge to decline drawing the clinical conclusions each party was hoping for.

— The Case

K.A.S. v J.R.M. was a family law matter – family violence was not pleaded as a standalone tort claim, but the allegations were central to the analysis. Both parties argued that the other had engaged in acts of family violence, particularly in ways that had affected their children.

Notably, the case included:

- Lay witness testimony offering observations of one party's behaviour and drawing psychological conclusions from it.
- Uncontested evidence that one party had received treatment for PTSD, and that both parties had noticed behavioural changes during and after that period of treatment.

Neither party called qualified psychiatric or psychological expert evidence to explain, characterize, or assess these matters.

— What the Court Said

The court's approach to both categories of evidence is instructive.

On the lay witness testimony offering psychological conclusions, the judge accepted the factual observations but declined to give any real weight to the underlying psychological interpretations. Without expert qualification, those conclusions fell outside the scope of admissible opinion, and were treated as speculative.

On the PTSD evidence, the court accepted that one party had undergone treatment for PTSD, but declined to draw medical conclusions unsupported by expert evidence. Without a psychiatric or psychological expert explaining the nature of the condition, the extent of any ongoing symptoms, or whether PTSD presently affected parenting capacity, the court would not treat the diagnosis as diminishing that party's ability to parent. The judge ultimately found that the evidence in fact showed continued strong parenting.

The relevance of the PTSD, in the court's analysis, was limited to providing context for the deterioration in the parties' communication – not for explaining or excusing subsequent conflict, and not for shifting the parenting analysis.

— Why This Matters

K.A.S. v J.R.M. is a clear demonstration of two things.

First: **lay witnesses can testify to what they observed, but not to what those observations mean clinically.** A partner, family member, or friend describing a person's behaviour may be a compelling witness – but when the case turns on psychological or psychiatric interpretation of that behaviour, courts will not allow lay witnesses to bridge that gap. The clinical interpretation has to come from someone qualified to provide it.

Second: **naming a diagnosis is not the same as proving its effects.** Even where a diagnosis is uncontested – as with the PTSD in this case – the court will not extrapolate from the label to conclusions about function, symptoms, or capacity. That extrapolation is precisely what expert psychiatric or psychological assessment is designed to provide.

For family lawyers, the practical takeaway is that where mental health conditions are relevant to parenting, decision-making, or the characterisation of family violence, an independent expert assessment is often what separates a persuasive argument from one the court is unable to accept.

— The Trauma-Informed Angle

Cases like this also underline the importance of getting the assessment itself right. A family law matter involving allegations of family violence, PTSD, and contested parenting is exactly the kind of context in which a poorly conducted assessment can cause real harm – to the person being assessed, to the reliability of the evidence, and to the outcome for the family.

Trauma-informed assessment is not simply a matter of clinical politeness. It's what produces a report the court can rely on: one that captures the full picture, minimizes the risk of retraumatization during the process itself, and stands up to the scrutiny that these cases increasingly attract.

THE TAKEAWAY

K.A.S. v J.R.M. is a reminder that in family violence and IPV cases, the absence of expert evidence can determine what types of conclusions the Court is allowed and willing to draw. The impact of those conclusions on the outcome of the case is always case dependent, but when any party is seeking the type of legal conclusions that have a clinical component, expert evidence will always be required.

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