

# You can't move children to Canada, ex-wife is told

Frances Gibb Legal Editor

A "devoted" father has successfully stopped his divorced wife from moving to Canada with their children in a landmark case that will give hope to hundreds of parents a year whose children are taken abroad.

The ruling by the Court of Appeal will make it far harder for one parent to take his or her children to live in another country, causing anguish to the one left behind. It reverses ten years of practice by the courts in which judges have tended to allow parents to move abroad on the ground that, if

forced to stay, they would be unhappy and children would suffer.

In future, if parents share the care of their children, courts will be far more reluctant to grant permission for a move abroad. A parent can remove children permanently from England and Wales only with the consent of the other parent or by a court order.

The family lawyers' group Resolution estimates that there are more than 1,000 cases a year in which a parent, usually the mother, gets permission from the courts to leave the country with children after divorce.

Lisa Fabian Lustigman, a solicitor at

Withers Worldwide, the law firm that acted for the successful father, said that the court's ruling was a "radical, thought-provoking decision" and a "victory for common sense".

The parents in the case are bankers in their 40s who have two young daughters. The mother applied to return to her native Canada after the marriage broke down. A judge ruled in February that she could, although he acknowledged that the father was "devoted to his two little girls", who were aged 4 and 2 had been spending five nights in every fortnight with him.

Overturning that decision after the

husband appealed, Lord Justice Thorpe, who sat with Lord Justice Moore-Bick and Lady Justice Black, said that the judge had not balanced the pros and cons. He urged the parents to consider mediation, and to explore "an immediate future in this jurisdiction, flowing into a planned future move to Canada".

Mark Harper, a senior family partner at Withers, said: "This will encourage fathers to seek shared care in any case where there is an international element, because fathers — or mothers — won't want their children to move to the other side of the world."