

CANADA / JUDGMENT

A.B. v. C.D.

2025 BCSC 2703

COURT

Supreme Court of British Columbia

DECIDED

18 December 2025

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2025 BCSC 2703 A.B. v. C.D.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

A.B. v. C.D.,

2025 BCSC 2703

Date: 20251218

Docket: E-232132

Registry: Victoria

Between:

A.B.

Claimant

And:

C.D.

Respondent

Before: The Honourable Justice K. Wolfe

Oral Reasons for Judgment re: interim distribution

In Chambers

Counsel for the Claimant:

T.T. Luchies

Z.C. Burrill

Counsel for the Respondent:

K.M. Gale

J.S. Faber

Place and Date of Hearing:

Victoria, B.C.

December 12, 2025

Place and Date of Judgment:

Victoria, B.C.

December 18, 2025

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[1] These oral reasons for judgment have been edited for publication.

[2] THE COURT: These are my oral reasons for judgment in respect of a post-trial interim application in this matter. I have prepared them quickly in the interest of giving the parties an answer. Should either party order a transcript or should I decide to publish these reasons I reserve the right to edit for grammar, clarity, style, case citations and references, but the substance of my decision will not change.

Introduction

[3] These reasons address an interim application brought by the claimant mother pending the release of my decision in the trial of this family law action. In her notice of application filed November 25, 2025, the claimant sought:

- a) an order for the sale of the former family home; and
- b) an order to vary and replace a February 26, 2025 consent order (that entitled her to an interim distribution of \$400,000), with an order for an interim distribution of \$925,000 to be paid from the net proceeds of the sale of the former family home.

In effect, the claimant seeks the sale of the former family home as a means to finance the increased interim distribution.

[4] The claimant says it has been more than nine months since the February 25, 2025 consent order was agreed to, and the initial interim distribution has yet to be realized, to her great detriment. The claimant says an increased interim distribution is required to allow her to pay the significant legal expenses she occurred over the course of the 27-day trial in this matter, fees which she cannot pay and which continue to accrue interest.

[5] As a result of exchanges between the Court and counsel during the hearing of the application last week, the claimant advanced an alternative position seeking an order for interim distribution of \$700,000 by mid-February 2026, failing which the former family home should be listed and sold. The claimant also seeks orders requiring the respondent father to disclose certain financial information for time periods before, during and after the trial.

[6] The respondent opposes the claimant's application. He says until receipt of my final decision from trial on property division, the sale of the home is neither necessary nor expedient as those terms are used in the case law. With respect to an increased interim distribution, the respondent effectively says the existing order for an interim distribution should continue to govern.

[7] With respect to disclosure, the respondent says the claimant did not apply for further disclosure prior to or during the trial and the evidence is now closed. Absent an application to reopen the trial, he says there is no basis for or utility in ordering further disclosure. That said, I note that in the course of the hearing, the respondent consented to disclosure of certain materials in a certain timeframe.

Issues

[8] There are three issues to be decided:

- a) Is the sale of the former family home necessary or expedient?
- b) Should the claimant be granted an increased interim distribution from family property? and

- c) Should the court order the respondent to provide further financial disclosure, and if so for what time period?

Background

Overview of proceedings

- [9] This is a complex, high-conflict family law matter with a lengthy history. I heard the trial of this matter over 27 non-consecutive days between March 5th and June 5, 2025. I made multiple in-trial rulings and delivered oral reasons in respect of certain interim orders sought by the parties on June 13, 2025.
- [10] As indicated in my June 13, 2025 reasons, indexed at 2025 BCSC 1821, the trial of this matter concerns a wide range of complicated issues between the parties. Of particular relevance to the present application, the issues about the division of family property depend, in part, on what I conclude about the validity and enforceability of a marriage agreement the parties entered into before the current Family Law Act, S.C.B. 2011, c. 25 [FLA] was enacted. The respondent's interest in multiple corporate entities may need be addressed, depending on what I decide about the marriage agreement.
- [11] Given the length of the trial and the issues involved, my decision from the trial remains outstanding. I currently anticipate my decision will be released within the first three months of 2026, but I am not able to confirm a date certain. I will keep the parties informed.

Previous orders for interim distribution and non-disposition of assets

- [12] On January 24, 2025, the claimant filed an application seeking an interim distribution of \$400,000 from some combination of the family property, in order to pay her outstanding and upcoming legal fees. At the time, the trial was expected to take four weeks. It obviously took longer than that.
- [13] The claimant's application was not heard on its merits. Instead, the parties agreed to, and I granted, a consent order dated February 26, 2025, which entitled the claimant to an interim distribution of \$400,000, "to fund her legal fees, disbursements and taxes to participate in" the proceedings. The February 26, 2025 order further provided that the respondent would "cooperate with the claimant in borrowing and securing up to \$400,000 against the family residence" and the claimant would make all payments in connection with what was defined as the "interim distribution mortgage", without prejudice to her ability to seek reimbursement of the borrowing costs at trial and up to the pronouncement of judgment. In that order, the parties expressly agreed that the interim distribution would be credited against the claimant's final entitlement to division of property in the proceeding.

- [14] As addressed further below, as of the hearing of this interim application on December 12, 2025, more than nine months later, the claimant has not yet received the interim distribution agreed to on February 26, 2025 to fund the payment of her legal fees.
- [15] In my June 13, 2025 reasons respecting interim orders, I granted an interim order by consent prohibiting both parties from disposing of, transferring, encumbering or converting any property at issue in the proceedings without prior written consent of the other party. However, my order also permitted the parties "reasonable day-to-day living expenses, including payment of legal fees," and permitted the respondent to carry on regular business operations of his companies.

Orders made at the hearing of this application

- [16] The parties each provided extensive evidence of their communications about their attempts to realize the interim distribution mortgage, first with the Royal Bank of Canada ("RBC"), and more recently with the Coastal Community Credit Union (the "Credit Union"). I will not recite the entire chronology of events. While there are minor disputes, for the most part the sequence of events is agreed.
- [17] On July 7, 2025, RBC advised the respondent that it could not provide financing without the parties having a separation agreement. The claimant was not included in those communications and was not informed of this until respondent's counsel sent a letter on July 14, 2025.
- [18] The claimant decided to look elsewhere for financing, and at least from August 1, 2025, the claimant has been corresponding with the Credit Union in an attempt to secure financing through them for the interim distribution. There is some evidence that the claimant's efforts to move this secondary financing application forward have been hampered by the respondent's failure and / or technological inability to respond to communications, and by his failure to provide requested information in a timely fashion.
- [19] To address my concerns in that regard, and to assist with moving matters forward and creating better transparency around the Credit Union financing application, on Friday, December 12, 2025, I made the following orders:
- a) The respondent will provide to Mr. Roberts at the Credit Union the information requested in Mr. Roberts' December 10, 2025 email by 5:00 p.m. on Wednesday, December 17, 2025, specifically:
 - i. an explanation of the structure of the respondent's wages as between T-4 and dividend income for the years 2022, 2023 and 2024, including why he chose to pay himself that way;
 - ii. his personal net worth statement including a list of assets such as real estate, vehicles, investments and cash (but not limited to those items); and

iii. completed financial statements for 2022, 2023, 2024 for the numbered company ending in [redacted].

- b) The respondent will provide any further documents requested by Mr. Roberts as soon as possible, and in any event, within seven days of the request being made or emailed by Mr. Roberts (and I clarified that the deadline was not seven days from when the respondent read the email).
- c) By Wednesday, December 17, 2025, the respondent must either confirm that the issues with his ability to receive email from Mr. Roberts have been resolved or must provide a new email address not connected to the [company] server to be used by Mr. Roberts to communicate with the parties.
- d) Both parties must copy each other on all emails and communications exchanged with Mr. Roberts and provide copies of all documents provided to Mr. Roberts. To the extent the documents have previously been provided to Mr. Roberts but not copied to the other party, copies must be provided by 5:00 p.m. on Wednesday, December 17, 2025.

[20] I also issued a direction to the respondent's counsel as follows:

- a) by Monday, December 15, 2025, at 4:00 p.m., counsel for the respondent is to advise the Court by correspondence through Supreme Court Scheduling whether the respondent would consent to:
 - i. authorizing his bookkeeper and accountant to communicate with Mr. Roberts directly and provide all information and documents that Mr. Roberts might request; and
 - ii. instruct his bookkeeper and accountant to copy the claimant on all communications that they have directly with Mr. Roberts.

[21] On Monday, December 15, 2025, the respondent's counsel confirmed by correspondence that the respondent would consent to the above-noted terms. To facilitate the parties ongoing attempts to obtain financing to achieve the previously agreed to interim distribution, I will therefore make those orders by consent at the end of this decision.

Analysis

Issue 1: Sale of the former family residence

[22] As noted in my June 13, 2025 reasons for judgment, the parties agree that, because of the marriage agreement, the family property issues in this matter are governed by the now repealed Family Relations Act, R.S.B.C. 1996, c. 128 [FRA]. Both s. 66(2)(d) of the FRA, and s. 97(2)(d) of the FLA, provide authority for the Court to make orders giving effect to property division issues, including orders for the partition or sale of property and payments out of the proceeds of sale in specified portions or amounts.

- [23] Rule 15-8 of the current Supreme Court Family Rules provides that the Court may order the sale of property in a family law case if it appears "necessary or expedient that the property be sold". The test was the same prior to the enactment of the current Supreme Court Family Rules, when the former Supreme Court Civil Rules governed family law proceedings. The former rules contained Rule 43(1), which includes the same language permitting the Court to order the sale of property where "it appears necessary or expedient that the property be sold". At para. 31 of *Reilly v. Reilly*, 1992 CanLII 742 (B.C.C.A.), the Court of Appeal confirmed that former Rule 43(1) conferred a discretion on a trial judge to order the sale of real property, including on an interim basis, in a family law proceeding.
- [24] The parties agree the test is disjunctive: the sale of real property can be ordered either on the basis of necessity or on the basis of expediency; both are not required: *N.I. v. J.I.*, 2020 BCSC 1847 at para. 21; see also *Hodgins v. Hodgins*, 2025 BCSC 799 at para. 27.
- [25] The party seeking an order for sale bears the onus of establishing either a necessity or expediency. Whether it is "necessary or expedient" for property to be sold will depend on the circumstances of each case: *Dosanjh v. Lalli*, 2021 BCCA 204 at para. 33.
- [26] The Court's authority to order a sale is discretionary. Relevant factors that may inform the exercise of judicial discretion include but are not limited to:
- a) the financial circumstances of the parties, including if the property is wasting, or if a sale is inevitable, and the capacity of both parties to preserve the assets;
 - b) the availability of alternative accommodation;
 - c) the needs of the children, including stability and access to school, activities and friends;
 - d) the emotional condition of the spouses;
 - e) external economic factors such as a falling market; and
 - f) whether a sale would promote early settlement or defeat a claim for reapportionment and whether the status quo should be preserved at trial.

See *Dosanjh* at para. 33, citing *Bodo v. Bodo*, 1990 CanLII 2291 (B.C.S.C.) and others; and *Hodgins*, at para. 28.

- [27] The claimant's primary position is that the sale of the former family residence is necessary because there are no other means currently available to fund the interim distribution. She says that is true whether the amount of the interim distribution remains at the existing \$400,000 or is increased to \$925,000 as sought.

- [28] The claimant relies on the decision in *Derkatch v. Derkatch*, 2025 BCSC 593, in support of her position that the sale of the former family residence is necessary. She says the manifest intention of the February 26, 2025 consent order for an interim distribution has been frustrated by the parties' inability to refinance the property for more than nine months and by the absence of any other current means to fund the interim distribution.
- [29] On the latter point, the claimant provided some evidence of her concern that other potential sources that could have been used to fund the interim distribution, such as the parties' National Bank investment accounts, appear to have been used by the respondent to pay his own legal bills. However, the claimant does not have financial disclosure about those accounts to substantiate her concerns. I note, as well, that in *Derkatch*, there was evidence the parties had unsuccessfully explored other potential means of funding the interim distribution: see paras. 53-58.
- [30] The respondent disputes that the sale is necessary. He says that until the Court makes its final determination on property division, including the validity and enforceability of the marriage agreement, it is not possible to say if the former family home will need to be sold to finance any equalization payment. He maintains he may well be in a position to retain the home and says he wishes to do so. In this regard, the respondent's argument is essentially that the sale of the former family home is not yet inevitable.
- [31] While there is evidence that the respondent did not pay the property taxes and utilities on the former family home until late October 2025, well past when they were due, there is no objective evidence that the asset is wasting or that the respondent is unable to maintain it despite what he is paying in respect of support each month, which is in excess of \$14,000.
- [32] I agree with the respondent that the claimant has not established that the sale of the home is necessary at this point. Although financing through RBC was not ultimately realized, the evidence demonstrates that the parties are continuing to work toward a second option to finance at least the first \$400,000 of the interim distribution consented to in February 2025. The orders I made on December 12, 2025 are designed to ensure that the missing information the Credit Union requires from the respondent will be provided in a timely fashion (and should have been provided by now), and the claimant is kept informed so she is better able to monitor the progress of that application.
- [33] I accept that the claimant does not have access to the funds to pay her outstanding legal fees at present. There can be no question that the interim distribution she has been waiting to receive for more than nine months was designed to assist her in paying at least some of those costs as they were anticipated at that time. However, based on the evidence before me at trial, the parties have other assets which could be accessed in order to fund an interim distribution, even if the amount of the interim distribution is increased. There may be other funding options that could be explored.

- [34] As a result, I am not satisfied that the sale of the former family home is the only way to secure such funds, and I find the sale of the former family home is not necessary.
- [35] I also agree with the respondent that the sale of the former family home is not expedient. The case authorities are clear that the term expedient means objectively advantageous to both parties: Dosanjh, at para. 33; and Reilly.
- [36] I accept that because the parties are currently in an open mortgage, it may be objectively advantageous on the one hand to sell the home when there would be fewer penalties from a mortgage perspective. I also accept that it would be advantageous to the claimant, in the sense of facilitating the interim distribution she has been waiting for, and it may be advantageous in the sense of allowing both parties to comply with the existing consent order. But sale of the former family home would not be advantageous to the respondent who wishes to keep the home and who deposes that he believes he will be able to do so.
- [37] I also agree that ordering the sale of the former family home at this point, after the trial has completed and while my final decision remains on reserve, could have unintended consequences for that decision. This is not a situation where sale of the former family home is being sought before the trial. The issues at trial were argued on the basis of the status quo with the respondent living in the former family home.
- [38] I also accept the sale of the former family home at this point could negatively impact the parties' younger child for whom the parties share parenting.
- [39] On the whole and reflecting on the factors that must guide my exercise of judicial discretion, I am not satisfied that the sale of the former family home is either necessary or expedient at this point in time.

Issue 2: Request for an increased interim distribution

- [40] The claimant seeks an order to vary and replace the February 26, 2025 consent order for a \$400,000 interim distribution with an order for an interim distribution of \$925,000. She proposed the increased interim distribution be financed through the net sales proceeds from the sale of the former family home, with any balance to be held in trust pending my final decision. The claimant says the increase is necessary to fund her existing legal accounts, which now total more than \$950,000 and which continue to accrue interest.
- [41] At the hearing of this application, I urged the parties to consider alternatives to the specific order sought by the claimant. In reply, the claimant proposed an alternative of varying the order for an interim distribution to \$700,000, and if that distribution is not achieved by February 13, 2026, an order that the property be listed for sale forthwith on a number of conditions.

- [42] The respondent did not have specific instructions on the claimant's alternative request but I understood that the respondent continued to generally oppose the request for an increased interim distribution, including because it was sought in circumstances different than those that led to the February 26, 2025 consent order.
- [43] As I am not prepared to order the sale of the former family home at this time, I must consider whether there is a legal basis for increasing the amount of the interim distribution under the February 26, 2025 consent order, and if yes how that is to be financed.
- [44] The claimant says, consistent with my June 13, 2025 decision, that the test to be applied is the one that evolved through the jurisprudence on the scope of the Court's authority to order interim distributions under s. 66 of the FRA, namely:
- a) is the advance required to mount a challenge to the other spouse's position at trial; and
 - b) will an advance or payment of an interim distribution jeopardize the other parties' position at trial: *Jiwa v. Jiwa*, [1992] B.C.J. No. 3024 (B.C.S.C.), at para. 8.
- [45] At the hearing of this application, counsel for the respondent suggested that because this application is being brought in the present day, and is not a scenario that was contemplated by the parties when they entered into their marriage agreement, this particular application should instead be governed by the FLA, and specifically s. 89 of the FLA. However, respondent's counsel was unable to provide any authority in support of that position and I was not able to find any myself.
- [46] Further, as I noted during the hearing of this application, the wording of the chapeau to s. 89 of the FLA states that that provision applies in respect of "family property that is at issue under this Part" (emphasis added), that being Part 5 of the FLA. In their closing submissions at trial, the parties agreed that the family property claims at issue in this matter are to be addressed under the FRA.
- [47] I am not persuaded that the family property which is agreed to be at issue under the FRA for trial purposes can also simultaneously be "at issue" under Part 5 of the FLA for purposes of an interim application. I will therefore apply the two-part test under the FRA as articulated above.
- [48] Although the respondent framed his opposition in terms of the test that applies under s. 89 of the FLA, I understood his primary arguments to be as follows.
- [49] First, the trial has completed, no further applications are scheduled and the claimant has already incurred the legal fees for which she seeks an increased interim distribution. As a result, the respondent says the increase the claimant seeks cannot be characterized as "necessary" to allow her to advance her position in the litigation. She has already retained counsel who acted for her throughout the trial.

- [50] Second, the respondent says the claimant's application appears focused on the interests of claimant's counsel and its firm in having its bills paid, whereas the only interests that are relevant to the Court's determination are those of the parties themselves. Here, the claimant's interest is merely an interest in being able to pay off an already due and owing debt, although the respondent recognizes it is a significant debt of approximately \$950,000.
- [51] Third, the respondent says the previous consent order which grounds the claimant's request (the February 26, 2025 consent order) was agreed to in very different circumstances which concerned existing and upcoming legal fees for the claimant and which did not engage questions about the possible sale of the former family home.
- [52] I am not persuaded by any of the respondent's arguments in opposition.
- [53] While it is true that the claimant has already incurred the legal fees she now owes, she did so at least in part on the basis of her belief that she would receive the interim distribution to which the parties had agreed in February 2025. There is no question the claimant was not in a position to pay her existing and anticipated legal fees in February 2025. Presumably that realization is what prompted the respondent to agree to the February 26, 2025 consent order. He has not suggested otherwise.
- [54] There is no evidence the claimant's financial situation changed dramatically after the February 26, 2025 consent order was agreed to such that she became able to pay her legal fees during or after the trial and was no longer in need of the interim distribution that had been agreed. Further, there is no dispute that the trial took longer than either party anticipated, resulting in additional costs on both sides. In addition, because the interim distribution has not been fulfilled for nine-and-a-half months, the claimant has incurred additional costs in the form of interest on unpaid legal accounts.
- [55] I accept that applications for interim distributions to pay for legal fees are usually made pretrial, when the ability to retain counsel is a paramount consideration which warrants the making of what the courts have called an extraordinary order.
- [56] However, I agree with claimant's counsel that in a situation like the present one, where the parties commenced trial shortly after the February 26, 2025 consent order was agreed to, and on the reasonable assumption that the agreed-to interim distribution would be forthcoming in a relatively short order, the need to maintain counsel throughout a trial that is already in progress gives rise to similar concerns and grounds a similar rationale for an order for an interim distribution. It would not have been to any party's benefit, in the best interests of the children, or in the interest of justice and fairness, for claimant's counsel to withdraw midway through the trial leaving the claimant without representation in a matter of this nature when an interim distribution had been agreed to.

- [57] I accept the comments of Justice Iyer, as she then was, in *Ostro v. Kotyk*, 2020 BCSC 1004, at paras. 21-22, to the effect that a choice by counsel to continue to represent a client after a retainer has been exhausted cannot give rise to an expectation that counsel will continue to do so through the completion of a trial and does not mean that a party has failed to demonstrate an advance is required to pursue a litigation claim.
- [58] I accept that my focus must be on the interests of the parties. Under both the former and current statutes, the underlying objective of interim distribution orders is to level the playing field between the parties: *Etemadi v. Maali*, 2021 BCCA 298, at para. 50; see also *Bodo and Jiwa*.
- [59] Here, the respondent has greater access to the family property and the evidence suggests he has accessed that property to pay his legal fees. While this is permissible under the terms of my non-disposition order made June 13, 2025, there can be no dispute that the claimant lacks similar capacity to pay her own legal fees. Absent an interim distribution actually being perfected, she has been and continues to be disadvantaged in her position in the litigation. Due to the delay of more than nine months in complying with the February 26, 2025 consent order for an interim distribution, the claimant's legal accounts have been accruing interest over that period. I do not understand the same to be true of the respondent - there is no evidence in that regard before me - and in my view, this is the type of inequity that an interim distribution order is designed to avoid.
- [60] On the application before me, I have evidence that the claimant's costs far exceeded the initial \$400,000 interim distribution that was agreed between the parties. I therefore accept that in order for the claimant to mount a challenge to the respondent's position at trial, an interim distribution of greater than \$400,000 was and is required. The first part of the test has been satisfied.
- [61] On the second prong of the test, there is no evidence before me, nor did the respondent argue, that his legal position would be jeopardized by payment of an increased interim distribution. The claimant has pointed me to the respondent's closing submissions at trial where the respondent estimated that if the marriage agreement is upheld and his claim for excluded property is accepted, the lowest amount the claimant would be entitled to from the family property would be \$852,676.20. This is more than enough to satisfy the claimant's alternative position of an advance of \$700,000.
- [62] Further, if the claimant accepts the respondent's offer to buy her interest in the jewellery, she would be entitled to approximately an additional \$130,000, bringing her total entitlement to over the \$925,000 amount that the claimant initially sought on this application. I therefore find the respondent would not be prejudiced by an increased interim distribution.

- [63] However, in considering the appropriate amount of an increased interim distribution, I am conscious that there are a number of unknowns. My understanding is that the current financing being sought from the Credit Union is the initial \$400,000. I do not have evidence about whether that amount can be increased and if so by how much.
- [64] The claimant's initial request for \$925,000 was premised on the notion that the former family residence would be ordered to be listed and sold. I am not prepared to make that order at the present time.
- [65] Further, my decision on the merits remains outstanding, and while the parties have advanced their views on the appropriate amounts required to equalize the family property, in my opinion it would not be prudent to order an interim distribution that closely approximates one of the parties' figures without leaving an adequate cushion in case my ultimate determination is different.
- [66] In the circumstances, I find it appropriate to accept the claimant's alternative position. I will therefore vary and replace the terms of the February 26, 2025 consent order with an order that the claimant is entitled to an interim distribution of \$700,000 to pay her outstanding legal accounts with Stevenson Luchies & Legh, including fees, disbursements and taxes payable thereunder.
- [67] I am not going to direct how the \$700,000 interim distribution is specifically to be paid as I do not wish to assume what arrangements the parties can make or to foreclose the parties exploring other options that I may not have considered. In saying this, I am conscious that, like the claimant, I do not have updated financial information. I will address that further below. Instead, the order will provide that the interim distribution to the claimant may be paid from a combination of the parties' investments or assets, corporate interests and/or borrowing against the family residence. Given the work to date, and the orders I made last Friday, I would strongly encourage the parties to continue pursuing the financing option with the Credit Union.
- [68] For clarity, the non-disposition order that I made June 13, 2025, does not preclude the disposition of family property for the purposes of paying the interim distribution to the claimant.
- [69] I agree with the claimant that to facilitate the interim distribution order that I am making, it is appropriate to proactively address the possible need for an appraisal of the former family home and to also establish timelines for signing the approval for any financing that is secured. I will therefore also grant the following two orders as sought by the claimant in her reply:
- a) First, if required for purposes of securing financing to pay some or all of the interim distribution, the respondent will facilitate an appraisal of the former family home including having a third party facilitate entry to the property if necessary.

- b) Second, upon approval for financing, the parties are required to sign the approval for financing within three days of being provided with the necessary documents.
- [70] I am not prepared to make a cascading order for automatic listing and sale of the former family home in the event that financing is not secured by a date certain. I agree with the respondent that there may be additional considerations to address if the parties are unable to secure financing or otherwise arrange for full payment of the interim distribution. However, I balance those concerns against the reality that the February 26, 2025 consent order for an interim distribution order was not complied with and the initial interim distribution was not perfected in more than nine months. In my view, a deadline is required to ensure it is clear to both parties that the Court's expectation is there will be no further delay in moving forward with the interim distribution to the claimant.
- [71] I therefore order that if the interim distribution is not provided to the claimant in full by February 28, 2026, the claimant has leave to renew her application for sale of the former family home on five business days' notice and subject, of course, to my availability as I am seized of this matter.
- [72] To facilitate the parties' ongoing efforts to secure financing from the Credit Union, I will, as indicated, make the orders respecting communications with the Credit Union to which the respondent confirmed he would consent. I will set out the specific terms of those orders in my conclusion below.
- [73] Lastly, while it is not an express term of my order, I direct counsel for both parties to provide the Court with an update on the status of the interim distribution by way of correspondence sent to Supreme Court Scheduling at the end of January 2026, and again at the end of February 2026. That correspondence should indicate how the parties have arranged to finance the interim distribution.

Issue 3: Disclosure

- [74] The final issue is the claimant's request for disclosure. She sought two separate orders for disclosure at paras. 3 and 4 of her notice of application.
- [75] Paragraph 3 seeks disclosure of statements from four accounts, two belonging to the respondent and two belonging to the numbered company ending in [redacted], from March 1, 2025, to present, with those documents to be provided within 30 days of the date of the order.
- [76] Paragraph 4 seeks disclosure of statements for one account of the numbered company ending in [redacted], from May 1, 2024, to February 28, 2025, as well as a copy of the general ledger for the numbered company from November 1, 2024, to October 31, 2025.

- [77] The claimant says disclosure of the requested information ought to have been provided and some of it was previously requested at examinations for discovery and again by subsequent letters, but the respondent failed to comply. Evidence of some of those requests is before me.
- [78] The claimant says she is entitled to know the status of the accounts concerning family property and there was communication with the parties' investment manager, the National Bank, in October 2025 that raised concerns the respondent might be dissipating assets in contravention of the non-disposition order. Finally, the claimant says that if the disclosure provides information that she considers relevant for the Court's determination of the issues at trial, the claimant may apply to reopen the trial.
- [79] The respondent initially disputed all requests for disclosure on the basis that the evidence at trial is closed, no application has been made to reopen the trial, and to the extent the claimant considered the requested information relevant, she ought to have applied prior to the close of trial to compel production. However, during the hearing on December 12, 2025, the respondent modified his position and advised he would consent to an order for disclosure of the information sought at para. 3 of the notice of application, but only from the close of evidence (which we determined to be May 30, 2025) to present. However, the respondent remains unclear about what the requested disclosure would supposedly go to.
- [80] The claimant accepts that she could have made an earlier application. She says counsel made a strategic decision to focus on matters at hand during the trial and they have chosen to combine the application for the further interim distribution with an application for further disclosure at this point. The claimant was not able to provide any authorities for orders for post-trial disclosure of documents.
- [81] I agree with the respondent that disclosure concerns ought to be addressed in a timely fashion, but I also accept that my ultimate role is to achieve justice between the parties. I have discretion to make orders that I think are necessary to accomplish that end.
- [82] The respondent has consented to provision of the documents set out in para. 3 of the claimant's notice of application from May 30, 2025 forward. In my view, the documents requested by the claimant in that paragraph may have some relevance to issues concerning the interim distribution. I am conscious there was an extant order for an interim distribution from February 26, 2025, through to and including the May 30, 2025 date from which the respondent consents to provide disclosure.
- [83] Given the fact that the February 26, 2025 consent order was not perfected, I consider it appropriate to order disclosure of the documents sought at para. 3 of the claimant's notice of application from March 1, 2025, to the end of November 2025. Such disclosure is to be provided within 30 days of the date of this order.

[84] On the same grounds, and taking into account there is some evidence to ground concerns about a possible dissipation of assets by the respondent, I find it appropriate to order disclosure of the general ledger for the numbered company from March 1, 2025, to the end of November 2025. This disclosure must also be provided within 30 days of the date of this order.

[85] I decline to make any disclosure orders for periods prior to March 1, 2025.

Conclusion and summary of orders

[86] In conclusion, I will make the following orders.

[87] First, the claimant's application for an interim sale of the former family home is dismissed.

[88] Second, my order of February 26, 2025, is varied and replaced with the following terms:

- a) The claimant is entitled to an interim distribution of \$700,000 to pay her outstanding legal accounts with Stevenson Luchies & Legh, including fees, disbursements and taxes payable thereunder;
- b) The interim distribution to the claimant may be paid from a combination of the parties' investments and assets, corporate interests and / or from borrowing against the family residence;
- c) If required for purposes of securing financing to pay some or all of the interim distribution, the respondent will facilitate an appraisal of the former family home, including having a third party facilitate entry to the property if necessary;
- d) Upon approval for financing, the parties are to sign the approval for financing within three days of being provided with the necessary documents; and
- e) If the interim distribution is not provided to the claimant in full by February 28, 2026, the claimant has leave to renew her application for sale of the former family home on five business days' notice, subject to the Court's availability.

[89] To facilitate the parties' ongoing efforts to secure financing from the Credit Union, I order that:

- a) By consent, the respondent will authorize his bookkeeper, Ms. Bonnie Brown, and his accountant, Ms. Carmen Schmidbauer, to communicate with Mr. Roberts at the Credit Union and to provide all information and documents that Mr. Roberts may request; and
- b) By consent, the respondent will instruct his bookkeeper, Ms. Bonnie Brown, and his accountant, Ms. Carmen Schmidbauer, to copy the claimant on all communications they have with Mr. Roberts.

- [90] I direct (it is not an order) counsel for both parties to provide the Court with an update on the status of the interim distribution by way of correspondence sent to Supreme Court Scheduling to my attention at the end of January 2026 and again at the end of February 2026. That correspondence should indicate how the parties have arranged to finance the interim distribution.
- [91] I order disclosure of the documents sought at para. 3 of the claimant's notice of application filed November 25, 2025, from March 1, 2025, to the end of November 2025, such disclosure to be provided within 30 days of the date of this order.
- [92] I also order disclosure of the general ledger for the numbered company from March 1, 2025, to the end of November 2025. This disclosure is also to be provided within 30 days of the date of this order.
- [93] I decline to order any disclosure for periods prior to March 1, 2025. This disposes of the rest of the claimant's requests at para. 4 of the notice of application.
- [94] Finally, I consider the claimant to have been substantially successful on this application, despite my refusal to order the sale of the former family home at this time. She would therefore presumptively be entitled to her costs of this application payable on the ordinary scale of difficulty. However, pursuant to Rule 16-1(9) of the Supreme Court Family Rules, her ultimate entitlement to costs of this application will be dependent on the award of costs at the trial.
- [95] Subject to any questions from counsel, those are my reasons.
- [96] CNSL T. LUCHIES: Justice, I have only one comment, and it is with respect to the RRSPs, and then I guess my suggestion would be that RRSPs be excluded from that -- that ultimate way of complying with that interim distribution order. I do not have the case law in front of me but based on the case with respect to disposition of RRSPs not being an optimal way of funding.
- [97] THE COURT: Yes, that case is cited in your notice of application at --
- [98] CNSL T. LUCHIES: It is.
- [99] THE COURT: -- para. 11 of Part 3, correct? The decision in *Harper v. Harper*, [2022 BCSC 950 at para. 25]?
- [100] CNSL T. LUCHIES: Yes.
- [101] THE COURT: Any comments from respondent's counsel on that?
- [102] CNSL K. GALE: I am not certain that particular order is necessary. I take my friend's point about the tax implications that would result from the disposition of the RRSP. At this -- I do not have any instructions that either party should dissipate their RRSPs. It simply would not make sense.

- [103] THE COURT: What I will do, counsel, is give you my view, that it would not be appropriate to dissipate the parties' RRSPs for purposes of fulfilling the interim distribution order. If you get to a place where that is suggested by one side or the other to be the only way to go, then you may seek further directions from the Court.
- [104] CNSL T. LUCHIES: Thank you, Justice. I appreciate that.
- [105] THE COURT: All right. I think that is everything that we have to address, subject to anything else the parties may advise. I appreciate the submissions. I appreciate your patience. Once again, not as short of a decision as I would have liked but I think it is important to canvass the issues and why I have made my orders. I think it is important for the parties to know that I have given the issues serious consideration, and that I continue to give this matter serious consideration. I anticipate you will hear from me on timing of the decision towards the end of January. Okay?
- [106] CNSL T. LUCHIES: Thank you, Justice, from our side. I thank the Court for hearing us last week and this week. Thank you, Madam Registrar, and best of the season to everybody.
- [107] THE COURT: Indeed.
- [108] CNSL K. GALE: Thank you.
- [109] THE COURT: All right. We will adjourn.
- "K. Wolfe J."

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