

CANADA / JUDGMENT

A.K.P. v. I.S.P.

2024 BCSC 1721

COURT

Supreme Court of British Columbia

DECIDED

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2024 BCSC 1721 A.K.P. v. I.S.P.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

A.K.P. v. I.S.P.,

2024 BCSC 1721

Date: 20240917

Docket: E232612

Registry: Vancouver

Between:

A.K.P.

Claimant

And

I.S.P.

Respondent

Corrected Judgment: The text of the judgment was corrected at the front page, in paragraph 35 and the Appendix A on September 20, 2024

Before: The Honourable Justice Kent

Reasons for Judgment

Counsel for Claimant:

S. Jamal

Counsel for Respondent:

P. Virk

Place and Dates of Trial:

Vancouver, B.C.

August 6-9, 12-13 and 26-28, 2024

Place and Date of Judgment:

Vancouver, B.C.

September 17, 2024

Table of Contents

Introduction and Overview.. 3

Section 211 Report. 6

Analysis. 11

Family Violence. 12

Schooling and Parenting Regime Adjustments. 15

Next Steps. 20

Appendix A.. 22

Introduction and Overview

- [1] Attached as Appendix A to these Reasons for Judgment is an interim order made in this family law case on August 29, 2024, one day following the adjournment of the yet-to-be-completed trial in this matter. At that time I informed the parties that Reasons for Judgment respecting the interim order would follow in due course. These are those Reasons for Judgment.
- [2] I have anonymized the names of the parties and their two children in both these Reasons and Appendix A in order to protect the privacy interests of the latter.
- [3] The claimant (the "Mother") is 36 years old. The respondent (the "Father") is 39 years old. They married on July 18, 2014 in Abbotsford, BC. They separated on August 8, 2023. They continued to live for a period of time in the matrimonial home on 17th Avenue, East Vancouver, however on November 17, 2023 the Mother moved to Abbotsford with the children.
- [4] There are two children of the marriage namely:
- a son, A, born June 25, 2017 (currently seven years old); and,
 - another son, Z, born December 18, 2021 (currently two years old).

[5] The Mother issued her Notice of Family Claim in this proceeding on October 13, 2023. The Father filed his Response to Family Claim on December 8, 2023, followed by a Counterclaim on December 12, 2023.

[6] The issues in dispute include:

- divorce;
- parenting of and decision-making responsibilities for the children;
- child support;
- spousal support;
- the division of family property and family debt; and,
- conduct orders.

[7] Numerous court applications have been heard in this matter resulting in at least 10 orders being made by various members of this court. One of the significant disputes between the parties relates to the education of the eldest son. A attended kindergarten and grade 1 at a private school, Pear Tree Elementary School, located in the Kitsilano area of Vancouver.

[8] The Mother's relocation to Abbotsford has further strained the relationship between the parents. The Father continues to live in the matrimonial home in Vancouver. The lengthy commute between Abbotsford and Vancouver and the resulting challenges for parenting time and school attendance have been problematic.

[9] The Father wishes to continue living in Vancouver and wants A to continue attending Pear Tree Elementary School. The Mother wants to continue living in Abbotsford and wishes for A to attend Semath Elementary School in that municipality.

[10] The various pre-trial interim "without prejudice" orders issued by this court include the following:

- on November 24, 2023, Justice Milman ordered the parties to obtain a s. 211 Report under the Family Law Act, S.B.C. 2011, c. 25 ("FLA") and imposed a parenting regime whereby the Father would have the children from Sunday 10:00 a.m. until Monday after school and again on Wednesdays from 7:30 a.m. to 6:30 p.m.;
- on December 29, 2023, Associate Judge Hughes ordered that A would attend Pear Tree Elementary School starting January 8, 2024 until further order of the court, however the Mother was not required to take A to school on Tuesdays, Thursdays and Fridays;
- on January 23, 2024, Associate Judge Robertson varied the parenting regime such that Father had parenting time with the children from Sunday 10:00 a.m. to Tuesday 6:30 p.m., and the Mother was not required to take A to school on Wednesday, Thursday and Friday;

- on April 11, 2024, Justice Gomery ordered that a four-day trial should be set commencing August 6, 2024 to deal with only parenting issues (including school attendance); and,
- on April 19, 2024 Justice Gomery ordered that
 - i. the Father would have sole parental responsibility for enrolling A in school or changing A's schooling;
 - ii. the Father would have parenting time with the children Sunday 10:00 a.m. until Wednesday 6:30 p.m. (week one) and Sunday 10:00 a.m. until Thursday 6:30 p.m. (week two); and,
 - iii. at all other times the Mother would have parenting time with the children and was not obliged to take A to school during that parenting time.

[11] Hence the parenting trial began before me on August 6, 2024.

[12] The trial was briefly adjourned during that first week so that the parties might attend a settlement conference, a resolution effort which unfortunately did not succeed. Additional dates were then secured for the continuation of the trial on other available days during August.

[13] Both the Mother and the author of the s. 211 Report, Dr. Bolgar, were extensively cross-examined for several days and it quickly became apparent that the trial would not be completed before the end of the month. Decisions had to be made regarding the continuation of A's schooling in September and also in light of the recommendations made in the s. 211 Report.

[14] Counsel for the Mother informed the court she would be bringing forward an interim application for an order implementing the s. 211 Report recommendations (parenting and schooling in Abbotsford). The timing of the Father's trial testimony was adjusted so as to permit cross-examination on schooling and parenting matters.

[15] The interim application was heard on the last of the available trial dates (August 28). Judgment was reserved overnight. The interim order (Appendix A to these Reasons) was issued the following afternoon and the trial was then adjourned sine die.

Section 211 Report

[16] Section 211 of the FLA provides in part as follows:

Orders respecting reports

211 (1) A court may appoint a person to assess, for the purposes of a proceeding under Part 4 [Care of and Time with Children], one or more of the following:

- (a) the needs of a child in relation to a family law dispute;
- (b) the views of a child in relation to a family law dispute;

- (c) the ability and willingness of a party to a family law dispute to satisfy the needs of a child.
- (4) A person who carries out an assessment under this section must
 - (a) prepare a report respecting the results of the assessment,
 - (b) unless the court orders otherwise, give a copy of the report to each party, and
 - (c) give a copy of the report to the court.

[17] As has been noted in many cases, s. 211 reports often act as the "eyes and ears" of the Court and provide information that simply cannot be gleaned from affidavits or even viva voce evidence at trial. However, such reports are only recommendations intended to assist the court and are not any sort of binding determination of parenting issues. Ultimately, it is for the trial judge to determine what is in the best interests of the children and how much weight should be given to any s. 211 report.

[18] As noted above, the court ordered the parties on November 24, 2023 to obtain a s. 211 Report. The parties ultimately commissioned Dr. Ellie Bolgar to undertake that task. Her report is dated July 26, 2024. She also attended court as a witness and was extensively cross-examined on the report.

[19] Dr. Bolgar is a Registered Clinical Counsellor. She is originally from Hungary where she first obtained a bachelor of education in 1991 and taught elementary school. In the ensuing years she obtained four other degrees in education and psychology ultimately obtaining a doctorate in clinical psychology in 2015. She has over 25 years experience in family psychotherapy, particularly in high conflict family law matters where she also acts as a Parenting Coordinator, a divorce coach, and a forensic interviewer preparing both s. 211 Assessments and Views of the Child Reports.

[20] For s. 211 Reports, Dr. Bolgar asks the parties to sign a seven-page "Informed Consent Agreement/Contract". Both parties signed such a contract in this case and also initialed each individual paragraph which, among other things,

- explained in detail Dr. Bolgar's role as an independent expert providing assistance to the court in the determination of the children's best interests; and,

- explained how Dr. Bolgar's assessment would include interviews of the parties and their children, observation of parenting, administration of psychological testing, a review of relevant documents and consultation with other collateral resources to be provided by the parents.

[21] Dr. Bolgar's s. 211 Report is 66 pages long. She first addresses the various sources of her information, including the extensive documentation which was provided and reviewed. This included the entire litigation file comprising the pleadings, the parties' various affidavits, the orders granted and the Reasons for Judgment released by some of the presiders.

- [22] The report details Dr. Bolgar's assessment procedures, both the extensive interviews and the psychological testing of both parents, in-home observations of parent-child interactions, her interview of the oldest child, the information obtained from the collateral references provided by each of the parties, and the like.
- [23] The report then proceeds with a discussion of the various assessments and observations, the allegations of family violence, and the psychological factors affecting the parent's ability to satisfy the needs and interests of the children. Finally, the report sets out Dr. Bolgar's recommendations for consideration by the court.
- [24] The one, perhaps only, benefit of having a trial conducted in short tranches over a three week period is that it provides the court ample opportunity to study a s. 211 report such as this one in great detail. As well, of course, the court also observed and took extensive notes of Dr. Bolgar's testimony at trial, including her response to an aggressive cross examination conducted by counsel for the Father.
- [25] In both his detailed written submissions and his oral arguments to the court respecting the interim application heard before the adjournment of the trial, counsel for the Father criticized the s. 211 Report on various grounds including,
- inappropriate diagnoses of a sort that only a registered psychologist is permitted to make (e.g. ADHD, depression or anxiety on the part of the child);
 - use of "outdated" psychological testing and interpretation of testing results that was biased against the Father;
 - inadequate child/parent interaction observations, derived in any event from an artificial context lacking verification;
 - an unbalanced approach to collecting information from the parties' collateral references;
 - failure to adequately consider the multi-generational family residence common to the "South Asian culture"; and,
 - inadequately addressing the various factors required to be considered by the FLA.
- [26] Contrary to counsel submissions, I found Dr. Bolgar to be an impressively professional and neutral witness. She survived cross-examination on the above issues virtually unscathed. Her report is extremely detailed. Her assessments are insightful and generally accord with my own observations of the parents as witnesses. And her ultimate recommendations are for the most part sensible and, in my opinion, appropriate to the circumstances.
- [27] Dr. Bolgar observes, and I agree, that when parents involve children either directly or indirectly in their post-separation conflict, it will usually result in poor outcomes and psychological problems for the children. This is particularly so if, as is occurring in this case, the parents speak negatively about the other parent, and encourage or even implicitly permit children to take a stand against the other parent. On the other hand, Dr. Bolgar

opines and I again agree that when the parenting is consistent, structured and child centred, the negative impacts of parental conflict can be buffered by secure and stable attachment relationships.

- [28] Dr. Bolgar also observes, and I agree, that A and Z need their parents' conflict to end because it is "toxic to A's and Z's immediate and long-term well-being [and that] to avoid them becoming challenging adolescents, co-parenting in a respectful, cooperative and conciliatory manner is critical to navigating the difficult years ahead".
- [29] Dr. Bolgar describes the Father's parenting style as "permissive". This is a non-punitive and accepting style of parenting which often allows the children to regulate their own activities, and involves consulting with the children on policy matters and generally avoiding the exercise of control. She believes that the Father will benefit from parenting coaching and agrees that the Father's present counsellor "appears to be a good fit to support" him.
- [30] On cross examination, Dr. Bolgar acknowledged that the Father is a "good father who loves the children" but also stated that "structure is very important for children this age" and his permissive approach to parenting would be "improved with more structure".
- [31] With respect to the Mother, Dr. Bolgar observes that she displays a more authoritative parenting style, one that has "more stringent expectations around behaviour and routine". She noted that the children were substantially more successful in completing activities and sustaining attention at their Mother's home than was the case at the Father's home. Crucially, she observes that while the children enjoy spending time with each of their parents, it is the Mother who performs better at "providing consistency, structure, and routine the children need to succeed".
- [32] Dr. Bolgar notes that while the Mother presents as a confident and optimistic person, the results of her psychological testing suggest some anxiety and depression related to her rigid thinking and perfectionist expectations. She expresses the opinion that the Mother would also benefit from guided therapy.
- [33] Dr. Bolgar expressly recognized that the "central focus" of her assessment was whether A, and in the future Z, should continue their education in a private school in Vancouver as the Father proposes or if they should start a new school environment in Abbotsford as the Mother proposes. She says, and I agree, that the children's best psychological interests would be served by a shared parenting arrangement which remains relatively consistent and varies according to the school schedule. In her opinion, the children require a schedule that is predictable and which is tailored to help them to be successful in school with both peers and academics.
- [34] Ultimately, Dr. Bolgar recommends that A be transferred to a school in Abbotsford or Aldergrove, and that Z should continue attending his daycare in the same geographic location. On cross examination, Dr. Bolgar stated the main reasons she was making this recommendation was that the children are still very young, their present travel regime

between Vancouver and Abbotsford was "too much" and the children's needs for a stable routine was best met by the availability of the Mother's support for parenting. As well, she stated that the recent (positive) Pear Tree report card did not change her opinion, that being in the community was very important, and that "A will be able to adjust".

- [35] In terms of parenting time, Dr. Bolgar recommends a biweekly schedule whereby in week one the Father would have one Wednesday after school, and in week two he would have three overnights (Friday, Saturday and Sunday) as well as afterschool parenting time on Wednesday. In this fashion, the Father would have the children for three consecutive overnights (Friday Saturday and Sunday) every other weekend, however the children would always be sleeping at the Mother's house during the school week.
- [36] During spring break and summer holidays, Dr. Bolgar proposes that a 60-40 schedule be implemented for both children, and that parenting time during Christmas holiday should be divided equally.
- [37] With respect to parenting responsibilities for the children under s. 41 of the FLA, Dr. Bolgar recommends joint decision-making:

It is critical that neither party make nor implement major unilateral decisions or changes without consulting and coming to an agreement with the other party, except in the case of an objective, acute emergency. A Parenting Coordinator is strongly recommended for these parties, to assist in joint decision-making. This professional should have access to information from [the parents' respective therapists/coaches].

Analysis

- [38] In many family law cases, it is usually worthwhile to re-state the wise observations of Goepel J. in *K.D.P. v. A.R.K.*, 2011 BCSC 1085 as follows:
- [1] No parents are perfect. All have flaws of one kind or another. If families stay together, except in those rare circumstances in which a child is found to be in need of protection, the state and the courts allow imperfect parents to raise their children as best they can. The children, in most cases, are no worse for wear for the experience.
- [2] If families separate, however, and issues of custody and access arise, in the guise of determining the best interests of the child, a parent's flaws of character and conduct are put under a microscope. In such circumstances, care must be taken not to lose sight of the strengths that a party brings to the challenge of raising a child.

[39] So too in this case. In their submissions regarding the in-trial interim application, neither parent made any mention of the strengths and possible positive impacts that the other might bring to the table. The Mother's testimony and submissions in particular were sharply focused on the Father's many perceived shortcomings, with considerable emphasis on repeated non-physical "family violence" mostly in the form of alleged emotional, psychological and financial abuse.

Family Violence

[40] Both the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) ("DA"), and the FLA specifically require the court to consider family violence as an important component of any determination of what parenting arrangement might be in the best interests of any children. For example, s. 38 of the FLA provides:

Assessing family violence

38 For the purposes of section 37 (2) (g) and (h) [best interests of child], a court must consider all of the following:

- (a) the nature and seriousness of the family violence;
- (b) how recently the family violence occurred;
- (c) the frequency of the family violence;
- (d) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at a family member;
- (e) whether the family violence was directed toward the child;
- (f) whether the child was exposed to family violence that was not directed toward the child;
- (g) the harm to the child's physical, psychological and emotional safety, security and well-being as a result of the family violence;
- (h) any steps the person responsible for the family violence has taken to prevent further family violence from occurring;
- (i) any other relevant matter.

[41] The Mother's repeated allegations of continual family violence and abuse appear to be exaggerated. For example, in the very first affidavit she swore in this action on October 23, 2023 she stated:

Throughout our marriage, I experienced financial, psychological, physical and sexual abuse.

However, in her interview with Dr. Bolgar, the Mother told her that "her marriage started off well" and "the first few years were fun".

- [42] Those conflicting statements are difficult to reconcile. I find that family violence, however defined, does not appear to have been an issue in the first stages of the parties' married life.
- [43] There is no evidence that the Father has at any time inflicted physical violence upon either the Mother or the children.
- [44] However it is clear, and I find as a fact, that the quality of the relationship deteriorated over time, likely intensified by the arrival of children and the challenges this often entails. The Mother's perception, genuinely held but not necessarily completely accurate, is that the Father was extremely focused on his work and expected her to do all the meaningful day-to-day parenting leading to her feeling overwhelmed and unsupported. She appears to actively dislike her mother-in-law who, the Father acknowledges, tends to be loud and aggressive. Her father-in-law has a history of mental health issues, although the parties disagree whether that has dissipated. Voluble argument within the extended family was commonplace and frequently occurred in the presence of the children.
- [45] The Mother resented how often her parents in law inserted themselves into their lives, actively encouraged by the Father, and she believes this intrusion has caused "significant harm" to A.
- [46] The Mother describes the Father as being a very single-minded and controlling individual, someone who has "narcissistic gas lighting tendencies". He watches pornography and she is worried the children might gain accidental access to that material on his computer. She says the Father has admitted to infidelity and she produced photos of a box of condoms left on a shelf in the matrimonial home after separation. She also accuses him of spreading false narratives of infidelity on her part, something which has never occurred but which was used by him to stain her reputation in their community.
- [47] Following their initial separation, there was a period of time when the parties were living separate and apart in the matrimonial home, the Mother in the upstairs and the Father in the downstairs apartment. During this time, the Mother accuses the Father of stalking and spying on her. She found microphones he had hidden in the vents of the upstairs premises. She called the police and they took them away. He was blackmailing her with intended distribution to family members of intimate photographs, something she again reported to the police who, she says, were unable to do anything unless actual distribution occurred.
- [48] The Mother also accuses the Father of financial abuse. Following separation, he drew down a further \$1 million on their line of credit without discussion or her approval. He refused to pay child or spousal support until compelled to do so by the order of Justice Gomery on in April 2024 (however, I note it was a consent order). He changed the locks on the matrimonial home and refused to grant the Mother access to collect her belongings until that too was required by the same Gomery order.

- [49] I accept the Mother's evidence on these points and find as a fact that the behaviours and incidents that she describes did occur. I also accept that some of these behaviours are coercive in nature and caused considerable emotional upset to the Mother. Some of the behaviour does indeed amount to "family violence" as that term has been interpreted in the case law.
- [50] However, the parents have now been separated for almost a year. They now maintain separate households in separate municipalities a substantial distance apart. Continued disagreement between the parents is entirely possible in the future, however both parties have been undergoing therapy and coaching, and it is unlikely that family violence will reoccur. There is, in my opinion, no prospect of any family violence being directed towards the children and it is highly unlikely that voluble arguments between the parents will take place in front of the children given the nature of the parenting regime that has been imposed by the court.
- [51] The central question between the parties at this time is where the children should go to school/daycare and what, if any, changes to the interim parenting regime imposed by the court should be made to accommodate the schooling in that regard.

Schooling and Parenting Regime Adjustments

- [52] In making any order respecting schooling or other parenting arrangements for the children, the court is required to consider only the best interests of the children. The court will, of course, take into consideration each parent's wishes and proposals but those considerations are by no means controlling.
- [53] Both the DA and the FLA contains similar provisions governing the determination of what might be in the best interest of the child. For example, s. 37 of the FLA provides as follows:

Best interests of child

37 (1) In making an agreement or order under this Part respecting guardianship, parenting arrangements or contact with a child, the parties and the court must consider the best interests of the child only.

- (2) To determine what is in the best interests of a child, all of the child's needs and circumstances must be considered, including the following:
- (a) the child's health and emotional well-being;
 - (b) the child's views, unless it would be inappropriate to consider them;
 - (c) the nature and strength of the relationships between the child and significant persons in the child's life;
 - (d) the history of the child's care;

- (e) the child's need for stability, given the child's age and stage of development;
 - (f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time or contact with the child, to exercise the person's responsibilities;
 - (g) the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member;
 - (h) whether the actions of a person responsible for family violence indicate that the person may be impaired in the person's ability to care for the child and meet the child's needs;
 - (i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;
 - (j) any civil or criminal proceeding relevant to the child's safety, security or well-being.
- (3) An agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.
- (4) In making an order under this Part, a court may consider a person's conduct only if it substantially affects a factor set out in subsection (2), and only to the extent that it affects that factor.
- [54] In this case, the Mother does not seek to prevent the Father from having parenting time with the children. Indeed, she told Dr. Bolgar that she believed a 2-2-3 schedule would be the ideal arrangement in that regard, an explicit acknowledgement that co-parenting is appropriate and desirable.
- [55] The Mother does, however, have concerns about the possibility (she would say virtual certainty) that supervision of the children during the Father's parenting time will be mostly delegated to the paternal grandmother, something she wishes to avoid in favour of requiring the Father to be much more actively involved.
- [56] It is very clear, and I find as a fact, that both parents love their children dearly and both are equally anxious to promote and protect the children's physical and emotional well-being. The parents may have different personalities and different parenting styles, however they each in their own way bring to the table valuable skills and attributes as a parent.
- [57] The harsh reality, however, as both parents realize, is that the continuation of the children commuting great distances in support of a co-parenting regime involving hybrid traditional/formal and in-home schooling is unworkable and is not in the best interests of the children in the long run. A change to that regime is a necessity.

- [58] The Father is essentially self-employed as a (apparently very successful) software architect. He derives a significant income from that enterprise (approximately \$400,000 per annum) and he has also been engaging in "property development" on the side (purchase of a large lot, subsequently subdivided with two houses recently constructed/completed in East Vancouver, at least one of which will be shortly sold). He works from home but would very much prefer to remain in Vancouver so he can have more convenient access to some of his clients.
- [59] The Father acknowledges that the business demands on his time are significant and that his mother (the paternal grandmother) will continue to play a role in child supervision during his parenting time. He stresses, however, that he can and will organize his working time around the children's schedule and they will have his full attention during their waking hours before and after school/daycare.
- [60] The Father proposes that the Mother move back to Vancouver. He says she could live in either one of the newly constructed homes or in the former matrimonial home, as she wishes. He would then occupy whichever one of the homes into which the Mother declines to move. In this fashion, co-parenting could occur without any meaningful commute and A/Z can continue the same schooling/daycare in which they have been enrolled to date.
- [61] Counsel for the Father also submits that, in unilaterally moving her household to Abbotsford, the Mother has effectively undertaken a "relocation" without the necessary notice/authorization procedures contemplated by one or both of the DA or the FLA. He argues that the Father's proposal would correct this "improper" relocation and this is a compelling legal consideration in the matter.
- [62] For her part, the Mother says she is not going to move back to Vancouver. She has already resigned her previous employment as a social worker with Providence Health Care and has assumed new employment as a social worker with Fraser Health Care. That work is on a "casual" basis at this time but the demand for her services is such that it will shortly be converted into a permanent position initially on a part-time basis and later on for such further hours as she wishes to assume and which would best accommodate her parenting of the children.
- [63] The Mother currently lives in a rented two-bedroom condominium in Abbotsford but she hopes that when the financial issues arising from separation have been resolved between the parties, she will be able to purchase a home in Abbotsford where she can remain in close proximity with her parents who have been and will continue to be regularly involved in the children's lives.
- [64] Needless to say, the Mother endorses and seeks to have the court put in place the schooling/daycare recommendations made by Dr. Bolgar.

- [65] The simple fact of the matter is that the Mother has been working part time and has been the primary caregiver for the children since their birth. Both parents are receiving support from their families and the children have a generally positive relationship with their grandparents on both sides. I agree with Dr. Bolgar, however, that it is highly preferable for the parties' parents to remain "grandparents" and not become "actual parents" to the children. It is also important that the grandparents do not undermine, but instead reinforce, both parties parenting regime, including appropriate boundaries and limits.
- [66] I am satisfied that both the Pear Tree private school in Vancouver and the Semath public school in Abbotsford are capable of providing perfectly adequate education for the children. For sure, the smaller class sizes and programming at Pear Tree may be very beneficial, however attendance at a larger public school not ensconced in the concrete jungle of downtown Vancouver also has a lot to offer.
- [67] Dr. Bolgar was clearly the view, and I am inclined to agree with her, that the Mother's parenting style provides stronger consistency, structure and routine of a sort that the children need to succeed. Both parents are highly intelligent but Dr. Bolgar believes, and I am again inclined to agree, that the Mother tends to be the more insightful parent in terms of recognizing and supporting the children's needs, very probably because of her training and experience in social work.
- [68] On balance, I conclude that the children's long-term best interests would be better served by a full-time attendance at school in Abbotsford where the Mother will be able to devote more time than the Father to their schedule both before and after the school/daycare hours in a consistent and predictable manner. Her part-time employment makes her more readily available to meet the children's needs. And a successful introduction to a new school environment for A will be better promoted, at least in the short term, by an overnight regime with the Mother during the school week.
- [69] The Bolgar report recommends parenting time for the Father with the children after school/daycare until 6:30 p.m. on every Wednesday (in addition to the three overnights every other weekend). There is no rationale offered in the report why this afternoon parenting late afternoon parenting could not occur more frequently, albeit in a manner that might accommodate any of the children's extra-curricular activities.
- [70] Indeed, Dr. Bolgar indicated in her report that,
- Should [the Father] decide to relocate from Vancouver to the Fraser Valley area, he should be actively involved with picking up the children from school and driving them to their activities.
- [71] Dr. Bulgar also recommended that if professional development Fridays or long weekend Mondays fall on the Father's allocated parenting time, then he should be able to pick the children up from school on Thursday afternoons and/or drop them off at school on Tuesday morning, as the case may be. These recommendations are appropriately linked to ensuring consistent school time attendance, however they also are an indication of supporting more

parenting time with the Father that is consistent with and varies according to the school schedule.

[72] The children obviously love their Father and enjoy spending time with him. Equal co-parenting is clearly a desirable goal and, if the Father does indeed relocate from Vancouver to the Abbotsford area in the future, once A has satisfactorily settled into his new school environment in Abbotsford, it may be appropriate to review the parenting schedule to include more overnight parenting with the Father. Dr. Bolgar says a 50/50 regime is not yet appropriate but that a Wednesday overnight would be "no issue".

[73] It is for these reasons that I included paras. 9 and 10 in the order attached to these Reasons as Appendix A.

Next Steps

[74] While I have issued what is in effect a mid-trial interim order, it may well turn out continuation of the trial is unnecessary.

[75] I recognize that the evidence of the Father at trial has yet to be completed and that it was his intention to call several other witnesses in support of his parenting positions. I have, however, already reached a conclusion in this case that the Father is capable of appropriate parenting, albeit in his own way, and that it would likely be in the best interest of the children to have more parenting time with him should he move to the Abbotsford area. It may no longer be necessary for further evidence to be adduced reinforcing the good qualities that he (or others in his circle) bring to bear in this parenting contest.

[76] There may be a few issues related to parenting which have been raised by the parties or Dr. Bolgar which have yet to be addressed. I have in mind such things as mandatory counselling for the parents and, in particular, the recommendation that a parenting coordinator be retained to assist with the resolution of parenting disputes in the future.

[77] Frankly, once the rancor triggered by this litigation settles down, I expect these two highly intelligent parents will be able to agree on parenting issues without too much difficulty. As well, I am in any event reluctant to issue a court order requiring adults to undergo counselling that they resist, and I have serious doubts regarding both the efficacy and cost of any such exercise.

[78] Perhaps the above comments and these Reasons for Judgment as a whole will help the parties resolve their remaining differences on parenting matters and it will not be necessary for the trial to resume. If so, the court would ask the parties to inform the Court that this has occurred. If not, however, the parties are directed to secure a continuation of this trial as soon as possible and, in any event, on dates that will allow it to be concluded before the winter court break.

[79] If the matter does not proceed further, my preliminary views regarding costs are that they should be borne by the parties equally. Should either party disagree and wishes to press for a different outcome, they are at liberty to apply for a hearing on the matter provided that it is also scheduled and concluded before the winter court break.

"Kent J."

Appendix A

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