

CANADA / JUDGMENT

Bogdanic v. Hanna

2022 BCSC 1649

COURT

Supreme Court of British Columbia

DECIDED

30 August 2022

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2022 BCSC 1649 Bogdanic v. Hanna

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Bogdanic v. Hanna,

2022 BCSC 1649

Date: 20220830

Docket: E62284

Registry: New Westminster

Between:

Maja Bogdanic

Claimant

And

Remon Samir Hanna

Respondent

Before: The Honourable Mr. Justice Thomas

Oral Reasons for Judgment

In Chambers

Counsel for the Claimant:

J. Corriero

For the Respondent:

No appearance

Place and Date of Hearing:

New Westminster, B.C.

August 30, 2022

Place and Date of Judgment:

New Westminster, B.C.

August 30, 2022

Summary of facts

- [1] THE COURT: The parties began cohabitating in or about 2010 and were married on June 17, 2018. They have been living separately and apart since February 17, 2021. The parties have two Children arising from their marriage; namely, Stella Hanna, born April 19, 2017 ("Stella") and Emma Hanna born April 19, 2017 ("Emma") (collectively "the Children"). The claimant commenced an action by filing the notice of family claim on April 13, 2021. The respondent was personally served on April 14, 2021. On April 12, 2021 the claimant obtained an order removing the respondent from the family home and granting a protection order.
- [2] To date, the respondent has not participated in the litigation in a meaningful way. He has not filed a financial statement in Form 8 and has not responded to requests for document production.
- [3] Since the commencement of the action the respondent has had two lawyers. The respondent's second lawyer withdrew as counsel on November 14, 2021.
- [4] On November 30, 2021, the claimant obtained an interim order for spousal support, child support and daycare costs payable to her by the respondent. Despite failing to file responding materials, the respondent attended the hearing in person.
- [5] On May 19, 2022 the claimant attended a Judicial Case Conference ("JCC"). The respondent elected not to attend the JCC despite being personally served a notice of judicial case conference.
- [6] There are three family businesses at issue in the family law claim, namely: Advanced Traffic Solutions Inc., JSK Traffic Control Services and All Power Traffic Control (collectively the "Family Businesses"). Throughout the parties' relationship and since separation, the respondent has operated the Family Businesses on Vancouver Island while the claimant raises the Children in West Vancouver.

- [7] Outside the Family Businesses, the parties do not own significant real property together. They did not own the family home, but rented it. The respondent possesses and controls the family's Aston Martin, Range Rover, 45-foot boat worth approximately \$90,000 and the family bank accounts.
- [8] Throughout the parties' relationship, the respondent controlled the family assets and family finances.
- [9] Since separation, the Children have primarily resided with the claimant. The Children are with the claimant from Monday 11:00 am to Saturday 11:00am, they are with the respondent from Saturday 11:00 am to Monday 11:00 am ("Current Parenting Schedule"). The parties have not agreed to a holiday parenting schedule.
- [10] On May 11, 2022 the claimant's mother died in Serbia. The claimant would like to visit her father in Serbia with the Children to mourn the loss of her mother. However, the Children do not have passports and the parties are unable to agree on the respondent's make-up parenting time.
- [11] The claimant has limited financial resources and is struggling to finance her lawsuit.
- [12] The Family Businesses have significant value, two of which were purchased for a combined \$835,000. The family businesses employ approximately 50 to 70 employees and own approximately 50 new F1 50 Sierra Trucks. The balance sheet for the major corporation shows retained earnings in excess of \$500,000 a year. As noted, the respondent has refused numerous requests to provide the relevant financial disclosure for the companies.
- [13] Since the parties' separation, up until July 2022, the respondent has paid for the claimant's car insurance. In July 2022, the respondent notified the claimant that he would no longer pay the claimant's car insurance and began deducting money from his support obligations to reimburse the car insurance previously paid.
- [14] During the parties' relationship, the parties stored two embryos for future family planning. After separation, the claimant requested the destruction of the embryos. The respondent refused to consent to the destruction of the embryos, resulting in the parties receiving invoices for the storage of the embryos.
- [15] In 2021 the parties were billed \$400 for the storage of the embryos. In 2022 the parties were notified that they would be billed \$500 for the storage of the embryos. The claimant wishes to have the embryos destroyed but requires the respondent's consent to do so. Without his consent to destroy the embryos, she will have to pay a yearly amount of approximately \$500.

Current application

- [16] The respondent was served with this application but filed no response and did not attend. The court directed that he be contacted and advised that the application would be proceeding today, and if he would like arrangements to be made for his attendance. The court was advised the respondent would not attend and wanted to retain a lawyer.
- [17] In my view, given the respondent's non-attendance at the JCC and lack of compliance with his disclosure obligations, it is appropriate to proceed with this application.

Disclosure

- [18] There is no question that the respondent has failed to provide the necessary disclosure of his personal and corporate finances. He has sole control over these documents. At one point, he indicated that the documents were in the possession of the claimant at the family home, but no such documents were located there.
- [19] The respondent has a residence in Yaletown and an office through which he operates the business on Vancouver Island.
- [20] I grant the disclosure orders sought under Part 1 of the notice of application:
- a) Within 14 days of the date of this order, the respondent shall produce and deliver a financial statement, with all applicable income documents, pursuant to section 212 of the Family Law Act.
 - b) Within 14 days of this order, the respondent provide disclosure of the following:
 - i. The respondent's T1 General Income Tax Returns, including all attachments for years 2018, 2019, 2020 and 2021;
 - ii. T2 Corporate Income Tax Returns and Corporate Financial Statements for all companies in the respondent's control for the years 2018, 2019, 2020 and 2021;
 - iii. BC Assessment 2022 Assessment Notices for all properties in the Respondent's name or held jointly with someone;
 - iv. The Respondent's Notices of Assessment/Reassessments for the years 2018, 2019, 2020 and 2021 - Personal and Corporate;
 - v. Statements for any and all bank accounts held by the respondent, either solely or with a third party, for the period starting January 1, 2020 to present;
 - vi. Statements for any and all credit cards, line of credit or other loan accounts, including mortgage statements, held by the respondent for the period starting January 1, 2020 to present;

- vii. Statements for any and all investment accounts held by the respondent, either solely or with a third party, including RRSPs, GICs, mutual funds and other stock accounts, for the period starting January 1, 2020 to present; and
- viii. Accountant prepared Financial Statements for all the respondent's companies for the past three years including a list of all assets owned by said companies.
- b) Within 14 days of the date of this order, the respondent provide disclosure of the following, with respect to the three (3) family businesses, namely Advanced Traffic Solutions Inc., JSK Traffic Control Services, and All Power Traffic Control:
- i. T2 Corporate Income Tax Returns for tax years 2018, 2019, 2020 to present for the Family Businesses (including 2021 if prepared);
- ii. Accountant Prepared Corporate Financial Statements for Corporate Fiscal Year 2018 to present for the Family Businesses starting from the 2018 fiscal year to present;
- iii. Central Securities Register(s) for the Family Businesses;
- iv. Copy of the complete minute book(s) for the Family Businesses;
- v. Current income statements and balance sheets for the Family Businesses;
- vi. All lease, rental, finance, or mortgage agreements entered into by you or on behalf of you or the Family Businesses, from 2018 to present; and
- vii. Rental and/or property assessments for any office space and/or storage lots/space for property owned or utilized by or on behalf of the Family Businesses from 2018 to present.

Business evaluator

- [21] The claimant asks for the court to appoint a business evaluator. I have no evidence of the credentials of the requested expert, nor are there any financial documents to provide the evaluator, given the respondent's failure to disclose any records. I adjourn this application generally.

Out-of-country trips

- [22] The claimant seeks an order to compel the respondent to sign a passport application for the children so the claimant may take the children to Serbia. There is evidence suggesting the respondent did not consider the claimant to be a flight risk with the children and wanted additional parenting time in exchange for this trip. However, there is also an indication the respondent may have concerns that the claimant is a flight risk with the children.
- [23] In the circumstances, I adjourn the application for an order to allow the children to travel to Serbia. However, I order the claimant to provide a completed passport application for the children to the respondent and I order the respondent will then sign and return the application within five days of receipt.

Variation in current parenting schedule

[24] The claimant asks for a variation of their current parenting schedule. I am not comfortable ordering such a variation at this hearing in these circumstances and adjourn that application generally.

Holiday parenting schedule

[25] The claimant asks for a holiday parenting time schedule. Given the apparent animosity between the parties and the difficulties in coming to any agreement, in my view, it is in the best interests of the children to make an interim holiday parenting schedule for the next two years.

[26] An interim holiday parenting time schedule for the next two years commencing September 1, 2022, will be as follows:

- a) The Parties' Birthdays: The parties will have the Children on their respective birthdays from 10:00 am to 10:00 am the next day.
- b) Mother's Day: The claimant will have the Children on Mother's Day from 10:00 am to 10:00 am the next day.
- c) Father's Day: The respondent will have the Children on Father's Day from 10:00 am to 10:00 am the next day.
- d) Thanksgiving: The respondent will have the Children on Thanksgiving on October 10, 2022 from 10:00 am to Tuesday October 11, 2022 10:00 am. In the following year, the schedule will be reversed.
- e) Halloween: The claimant will have the Children on Halloween on October 31, 2022 from 10:00 am to November 1, 2022 10:00 am. In the following year, the schedule will be reversed.
- f) Christmas: The Respondent will have the Children on December 22, 2022 from 10:00 am to December 25, 2022 10:00am. The Claimant will have the Children on December 25, 2022 from 10:00 am to December 27, 2022 10:00am. In the following year, the schedule will be reversed.
- g) Orthodox Christmas: The Claimant will have the Children on Orthodox Christmas on January 7 from 10:00 am to January 9 at 10:00 am. In the following year, the schedule will be reversed.
- h) Orthodox Easter: The Respondent will have the Children on Orthodox Easter on Sunday April 16, 2023 from 10:00 am to Tuesday April 17, 2023 10:00 am. In the following year, the schedule will be reversed.

Car insurance

[27] The claimant seeks an order for \$4,000 per year for car insurance. The facts indicate payment of this insurance form the factual basis for the interim order made by Master Cameron. In my view, payment of the insurance is implicit in Master Cameron's order, so there is no variation that needs to be sought with respect to the payment of car insurance. To clarify matters, I make a separate order that the respondent is responsible for an additional \$4,000 per year for car insurance, payable as a lump sum, within 30 days of this order.

Embryos

[28] The claimant seeks an order requiring the respondent to pay the fees for storage of the embryos from 2021 to present and thereafter. In the circumstances, I make the following order:

- a) The respondent will pay the fees for the storage of the embryos from 2021 to present within 30 days of this order;
- b) The claimant will provide the respondent with the form requiring his signature to destroy the embryos forthwith; and
- c) The respondent then will be responsible for the fees for the storage of the embryos from this date until he returns a signed form enabling the claimant to have the embryos destroyed.

Interim distribution

[29] The claimant seeks an interim distribution of \$50,000 from the family assets. The evidence before me is clear that the main corporation was jointly purchased by the parties, has retained profits in excess of \$450,000 and paid over \$350,000 to the respondent in 2019. The respondent has refused to comply with his disclosure requirements and obligations to provide financial information. In considering this issue, I have reviewed *Bartch v. Bartch*, 2018 BCCA 271 at para. 56; *I.F. v. R.J.R.*, 2015 BCSC 793; and *Coglon v. Coglon*, 2021 BCSC 410.

[30] I note there is considerable financial disparity between the parties. The respondent controls all the family's income and savings and has refused to provide the claimant access to funds to assist in obtaining counsel in the past. The claimant secured counsel through the loan of \$15,000.

[31] Given the financial information available to me, I see no risk of harm to the respondent in providing such an interim order. The claimant has not provided any details of what expense she may incur with the litigation, such as a litigation plan. However, given the respondent's lack of compliance to both his financial disclosures and the current rules of court, such a plan at this point would be speculative at best. In my view, given the economic disparity between the parties, it is appropriate for the claimant to receive an interim distribution. Given the respondent's lack of financial disclosure and pattern of non-attendance, in my view an initial interim order of \$50,000 is appropriate. The need for further interim

distributions can be considered once more information becomes available to the claimant.

[32] Finally, costs to the claimant in any event of the cause.

"Thomas J."

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