

CANADA / JUDGMENT

Deng v. Zhan

2025 BCSC 2194

COURT

Supreme Court of British Columbia

DECIDED

6 November 2025

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2025 BCSC 2194 Deng v. Zhan

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Deng v. Zhan,

2025 BCSC 2194

Date: 20251106

Docket: E221847

Registry: Vancouver

Between:

Mingxia Deng

Claimant

And

Weijia Zhan

Respondent

And

Resco Trading Co. Ltd., Zhixiang Deng and Qi Ang Liu aka Qiang Liu

Respondents by Counterclaim

Before: The Honourable Justice Hoffman

Reasons for Judgment

Counsel for the Claimant and the Respondents by Counterclaim:

J. Kang

W. Liu

Counsel for the Respondent:

J. Cudmore

D. Gorelov

Place and Date of Trial/Hearing:

Vancouver, B.C.

October 15-17, 2025

Place and Date of Judgment:

Vancouver, B.C.

November 6, 2025

Table of Contents

Overview.. 4

Factual Background.. 5

Relationship and Children. 5

The Respondent's Businesses. 5

The Claimant's Finances Since Separation. 7

History of Litigation and Previous Court Orders. 7

Proceedings in China. 8

Relief Sought. 9

Issues. 10

State of the Respondent's Financial Disclosure. 10

Imputation of Income. 14

Imputation of the Respondent's Income for Purposes of Child Support 18

Legal Framework. 18

Analysis: Appropriate to Impute Income for Child Support Only. 19

The Respondent's Imputed Income. 20

Employment Income. 21

Rental Income.	22
Dividend Income.	23
Interest Income.	23
Pension Income.	24
The Respondent's Interim Imputed Income.	24
Calculation of Interim and Retroactive Child Support.	25
Child Support Going Forward.	25
Retroactive Child Support	26
Section 7 Expenses.	29
Bilawich Reinvestment Order..	30
What fines are warranted?.	31
Legal Framework.	31
Fines re s. 7 Expenses.	32
Fines re Lack of Financial Disclosure.	33
Fine re Failure to Comply with the Bilawich Reinvestment Order	34
Costs.	35
Disposition..	35

Overview

- [1] This family law matter involves a high net worth family with substantial assets in both BC and China. In their respective F8 financial statements, they each depose to assets worth in excess of \$20 million in BC, China, and elsewhere. Despite this high net worth and his involvement in companies that import and manufacture emergency response equipment, the respondent deposed in 2022 that his income was just \$65,000 per year.
- [2] The claimant alleges that the respondent has engaged in abusive litigation tactics and delay, is deliberately failing to disclose the true nature of his income, and has repeatedly failed to comply with various court orders.
- [3] Before me are interim applications brought by the claimant to impute income to the respondent in the amount of \$1.3 million and seek very substantial ongoing and retroactive child and spousal support.
- [4] The claimant also seeks orders from this Court to rebuke the respondent's failure to comply with court orders for financial disclosure and the payment of section 7 expenses.

- [5] The respondent submits that the claimant is vastly over-estimating the extent of his income and profitability of the companies at issue. While he acknowledges that further income could be imputed to him, he says that an order for interim spousal support is not appropriate on the facts of this case. Given the complex nature of the parties' capital assets and in the absence of need on the part of the claimant, the respondent's primary submission is that the court ought to defer any consideration of entitlement to and quantum of spousal support to the trial of this matter when a more complete picture of the parties' finances is available.
- [6] In the event that the court finds that it is appropriate to deal with the determination of income on an interim basis, the respondent takes the position that only child support should be ordered and that his income could be imputed at \$166,266. On this basis, he is agreeable to pay child support in the amount of \$1,231 per month on a go-forward basis, pursuant to the Federal Child Support Guidelines, SOR/97-175.
- [7] For the reasons that follow, I find that this is not an appropriate case in which to make an interim award for spousal support. I further find that the respondent has been vastly underpaying child support and that his income should be imputed at \$508,817. Accordingly, \$4,155 is due monthly on a go-forward basis, and retroactive support is payable in the amount of \$109,061. Further, I find that the evidence before me justifies the imposition of two fines totalling \$7,000 payable by the respondent for his breach of orders made in this proceeding for the payment of s. 7 expenses and financial disclosure.

Factual Background

Relationship and Children

- [8] The parties were married on December 12, 2009, in China and separated on July 23, 2022, while residing in Canada. They have one child: J.Z. who is currently 14 years old and has residing with the claimant in Vancouver since separation. J.Z. attends private school.

The Respondent's Businesses

- [9] The respondent currently resides in China and operates businesses that import first responder equipment from Europe and manufacture similar equipment within China. The claimant says that during their marriage, she and the respondent operated five businesses cooperatively and she received approximately \$100,000 as annual employment income from one of these companies.
- [10] It is important at the outset to understand the nature of the five businesses at issue. Two are registered in China: Cybermax Technologies (Beijing) Co. Ltd. aka Xuanwei Technologies (Beijing) Co. Ltd. ("Cybermax") and MVR Technologies (Beijing) Co., Ltd. ("MVR Ltd. Beijing"). There are two additional companies under the name MVR Ltd. registered in Singapore ("MVR Ltd. Singapore") and Hong Kong ("MVR Ltd. Hong Kong") respectively. The final company, Resco Ltd., was registered in British Columbia in May 2020. At present, Resco

Ltd. is not an active company but is holding approximately \$5.8 million in funds (the "Resco Funds") that are frozen by a restraining order granted pursuant to s. 91 of the Family Law Act, S.B.C. 2011, c. 25.

- [11] The main revenue-generator among these companies is Cybermax. This is the company that is engaged in the import and manufacture of first responder equipment. It has been registered since 2014.
- [12] According to the claimant, MVR Ltd. Hong Kong and MVR Ltd. Singapore were incorporated in 2018 and 2020 respectively for accounting and tax purposes. She understands that they were incorporated in response to political instability in China and to take advantage of more favourable tax rates. In 2020, the parties decided to shift their business to B.C., leading to the incorporation of Resco Ltd. Due to separation of the parties in 2022, this plan did not come to fruition. The claimant alleges that the respondent has exclusive control of all five companies, although she is the sole shareholder of MVR Ltd. Beijing.
- [13] The claimant contends that these businesses continue to be very lucrative and that, since the separation, all of the revenue from these companies has been controlled by the respondent.
- [14] In his evidence, the respondent describes Cybermax as being very active up until the COVID-19 pandemic. Its customers are national and provincial management departments, provincial earthquake bureaus, national rescue centres, and national CDC centres, which I take to mean centres for disease control. Since the pandemic and what the respondent describes as a downturn in the Chinese economy, the respondent deposes that Cybermax's operations have been sluggish and that it has been unable to generate income. The respondent says that he has had to lend money to the company so that it can meet its expenses and payroll.

The Claimant's Finances Since Separation

- [15] Following their separation, the claimant says that the respondent terminated the claimant's corporate salary and has refused to pay any spousal support. The claimant has continued to reside in the former family home in Vancouver which is valued in excess of \$6 million and is mortgage free.
- [16] In early 2023, the parties each received an interim distribution of just over \$1.1 million.

History of Litigation and Previous Court Orders

- [17] This proceeding was commenced on August 1, 2022.

- [18] Based on an order at a Judicial Case Conference held on February 28, 2023, the respondent was to pay monthly child support in the amount of \$617 and 50% of those special expenses agreed-upon in advance and documented by invoices (the "JCC Order"). This amount was calculated on the basis of his declared annual income of \$65,165 as disclosed in his December 2022 F8 financial statement which the claimant says is far below his actual income.
- [19] This matter is set for a 19-day trial commencing on September 14, 2026.
- [20] Three previous applications provide important context for the relief sought in respect of the claimant's allegation of the respondent's non-compliance with court orders. On October 29, 2024, Associate Judge Keim heard an application relating to the payment of s. 7 expenses and the disclosure of financial documents. The claimant also sought fines against the respondent for non-payment of child support and the failure to disclose financial documents. Associate Judge Keim ordered some aspects of financial disclosure, the payment of certain categories s. 7 expenses, a \$2,000 fine for the respondent's failure to pay child support for the better part of a year ("the Keim Order"). Associate Judge Keim declined to order a fine for the financial non-disclosure but granted leave to re-set the application, if the respondent failed to comply with her order.
- [21] On January 21, 2025, Associate Judge Bilawich ordered that the frozen Resco Funds, which had been sitting in a non-interest-bearing account, be reinvested into an interest bearing GIC account (the "Bilawich Reinvestment Order"). The claimant alleges that this reinvestment has not taken place because the respondent has failed to provide his authorization required by the bank to complete the transaction.
- [22] Having received only a portion of the financial documents required to be disclosed pursuant to the Keim Order, the claimant set her application before Associate Judge Vos on May 20, 2025, to impose a fine in respect of this non-disclosure.
- [23] At the time this application was heard, the respondent had just switched to his current counsel, his fourth counsel in this proceeding. Associate Judge Vos ordered the respondent to advise the claimant of the documents that were produced by his previous counsel pursuant to the Keim Order and, if any of the documents were not provided, to provide an explanation for their non-disclosure (the "Vos Order").
- [24] Most recently on September 17, 2025, Associate Judge Bilawich granted a without notice s. 91 restraining order on the basis of the evidence from the claimant that the respondent transferred just short of \$2 million in funds owing to the claimant's company without her consent. The funds are from a judgment in a Chinese court relating to a legal proceeding in China commenced by some of the corporate entities at issue in this proceeding against a real estate developer.

Proceedings in China

[25] There is also a parallel family law proceeding in China. The Chinese court issued a judgment on September 30, 2025, dividing the parties' substantial assets in China. The respondent submits that as a result of this judgment, the claimant will assume sole ownership of assets in excess of \$6.7 million. The parties are not in agreement as to the extent to which this judgment can be relied upon in this application.

Relief Sought

[26] Against this backdrop, the claimant has brought a number of applications for interim relief. As only the applications dated March 27, 2025, and July 21, 2025, were properly scheduled by requisition for the three hearing days secured, I did not entertain the additional applications for further orders restraining the dissipation of assets aside from one issue arising from the respondent's lack of cooperation required to implement the Bilawich Reinvestment Order. In particular, the claimant's application for an order that the respondent is to return \$1,950,000 to MVR Ltd. Beijing was not heard and was adjourned generally.

[27] The orders sought in the March 27 and July 21, 2025, applications include the following:

- a) to impute an annual income to the respondent of \$1,317,322;
- b) To vary child support to \$11,189 per month, effective November 1, 2025;
- c) payment of retroactive child support from August 2022 to October 2025 in the amount of \$388,963 and interest;
- d) to vary the share of s. 7 expenses to make the respondent responsible for 95% including 95% of a charitable installment to the private school attended by the parties' son in the amount of \$47,500;
- e) payment of \$243,358 in s. 7 arrears and interest;
- f) that the respondent pay seven fines of \$5,000 each relating to alleged breaches of various aspects of orders made in this proceeding;
- g) that the respondent pay the claimant her legal costs on a full indemnity basis as special costs.

Issues

[28] Broadly speaking, the numerous issues raised in these applications can be broken down into five main questions:

- a) What income should be imputed to the parties for the purposes of determining interim spousal and child support?

- b) Should the existing child support order be varied and, if so, should it be ordered to be paid on a retroactive basis?
- c) Is it appropriate to award interim spousal support and, if so, should this be paid on a retroactive basis?
- d) Is the respondent in breach of the Supreme Court Family Rules and various orders as alleged and should this conduct be rebuked through the imposition of fines?
- e) Is the claimant entitled to special costs?

State of the Respondent's Financial Disclosure

- [29] An overriding issue relevant to almost all of the above issues is the extent to which the respondent has failed to disclose sufficient financial documents to allow the claimant to understand the true nature of his income both from a personal perspective and the income generated by the five companies.
- [30] The parties took diametrically opposed positions on this question. The claimant urges the court to conclude that the respondent has failed to comply with numerous financial document requests in breach of court orders. With respect to Cybermax, the claimant says that the only document disclosed is the company's business license.
- [31] The respondent says that in respect of his personal financial documents, all requests save one have been satisfied, and the one that remains relates to an account that no longer exists. With respect to the documents relating to the relevant corporate entities, the respondent says that the claimant is already in receipt of several of the documents she claims to have never received. The respondent also says that some documents sought have been disclosed in the Chinese proceeding.
- [32] Pursuant to the Vos Order, the respondent's new counsel sent a letter on June 3, 2025, to outline the status of the various document requests and to provide the explanation for documents that had not been disclosed. The claimant says that many of the documents remain outstanding and that the explanations provided for those not disclosed are inadequate and, therefore, are in breach of the Vos Order.
- [33] Based on the evidence before me, I find that the respondent has failed to fully comply with the financial disclosure provided for in the Keim Order and, contrary to the Vos order, has failed to provide an adequate explanation of his lack of disclosure.
- [34] In particular, the respondent was ordered to provide copies of credit card statements and any other bank account statements beyond those specified in paragraph 4 of the Keim Order from January 1, 2020, to present. The respondent's response that he is not aware of all of his bank accounts and credit cards and that the claimant had knowledge of all of these accounts during their marriage is an insufficient explanation. The parties have been separated since 2022. It is incredulous that the respondent is unaware what credit cards are in his name and

that he has presumably been using for the past three years. In this day and age, it is difficult to manage daily living without the use of a credit card. The respondent should be aware of what credit cards and bank accounts he has available to him, and he was required by the Keim Order to identify them and disclose the statements associated with them. This includes credit cards that he is using in other jurisdictions.

- [35] In the respondent's F8 financial statement dated December 6, 2022, he disclosed a CIBC Investment Account by a specific account number with a balance of just over \$308,000. The Keim Order requires the respondent to disclose the statements for this account from January 1, 2020, to present. Despite having disclosed the existence of this account, the respondent now claims that this account no longer exists although his counsel is making inquiries with CIBC to confirm its existence. The explanation does not even attempt to address the fact that the respondent himself disclosed the existence of this account and, therefore, is inadequate. The respondent has had over a year to make such inquiries and, in any event, should be explaining what happened with the funds in this account if the account no longer exists.
- [36] Statements from April 27, 2024 to present for a HSBC account ending in 7454 also remain outstanding, and no explanation is provided as to why the last years' statements have not been provided. The Keim Order required the disclosure of accounts from January 1, 2020 to present. Although not explained in his counsel's June 3, 2025, letter, counsel did advise during submissions that the Royal Bank of Canada took over HSBC effective March 2024. However, this is not in evidence before me. Counsel did not provide this explanation in his June 3, 2025, letter. Nor is it explained if this account was transitioned to an RBC account.
- [37] With respect to the Cybermax disclosure requests, the claimant takes the position that none of these requests have been satisfied despite the respondent's representation that these were disclosed through his previous counsel.
- [38] The explanation in the June 3, 2025, letter is that the Cybermax documents had been disclosed and listed on an amended list of documents by the respondent's previous counsel. The respondent also states that these documents have been disclosed in the Chinese proceeding. The claimant submits that this explanation is untrue and that she had never received disclosure of these documents. I heard submissions regarding the highly disorganized fashion in which previous counsel for the respondent dumped electronic documents on counsel for the claimant and the amount of time that had to be devoted to making sense of what had been provided. Respondent's counsel unable to confirm during submissions that these documents have, in fact, been disclosed which may, in part, be due to difficulties associated with the transfer of the file to his office. Nonetheless, the disclosure obligation is on the respondent. It appears on the evidence that Cybermax is the main income generator for the respondent and, therefore, the importance of disclosing these documents should be apparent to the respondent. Indeed, he admits that they were relevant to and disclosed in the Chinese proceeding. There is no excuse for his failure to disclose them in this proceeding.

- [39] With respect to MVR Ltd. (Hong Kong), the respondent was ordered by the Keim Order to disclose financial statements, securities registers, and general ledgers between 2020 and 2023. The request giving rise to this order was grounded in the respondent's evidence in his December 2022 F8 financial statement that he was the beneficial owner of this company although he claimed that it was no longer operational. The respondent failed to disclose these documents and now offers the explanation that these documents are not in his possession or control because he does not have a controlling stake in the company. He identified his uncle's wife as the controller of the company and says that he is not a director, shareholder, or employee of this company and has never received a salary, commission, or dividends from this company. This explanation is entirely contrary to his previous evidence that he was the beneficial owner of the company, and he does not attempt to explain the contradiction.
- [40] The respondent also notes that the claimant attached the financial statements of MVR Ltd. (Hong Kong) to her affidavit, so it appears that she has access to the documents. The claimant explains in her March 14, 2025, affidavit that she has been involved with preparing income tax returns for MVR Ltd. (Hong Kong). During submissions, her counsel offered this as an explanation for why she has some of the documents. I accept the claimant's submission that her possession of some of these documents does not relieve the respondent of his obligation to fulfill the terms of the Keim order.
- [41] The respondent expresses the view in his July 31, 2025, affidavit that MVR Ltd. (Hong Kong) is not a family business and is not part of the family assets. I infer that the respondent expresses this view to justify why the documents of this corporate entity have not been disclosed. Whether MVR Ltd. (Hong Kong) is family property and what income the respondent has derived from it is the court's decision to make, and the respondent has failed to comply with an order of the court to allow it to make these determinations.
- [42] It does appear that there is some confusion as to whether certain documents have been produced due to the disorganized way in which documents have been produced and owing to the respondent's change of counsel. In November 2024, previous counsel for the respondent provided counsel for the claimant with an unorganized dump of electronic documents with no organization and no updated list of documents. As a result, it is unclear to me from the materials whether the requests in respect of MVR Ltd. (Singapore) have been satisfied. The respondent says that they have while the claimant says they remain outstanding. This disorganization may explain some of the deficiencies in document disclosure; However, I am nonetheless satisfied that the instances detailed above are clear breaches of the Keim and Vos Orders. I will address the consequences of these breaches below.

Imputation of Income

- [43] The first issue to consider is whether it is appropriate to delve into the serious factual disputes between the parties regarding their respective income levels to grant interim relief when a full exploration of these matters will take place at the trial set to take place in less than a year's time.
- [44] Interim applications are primarily focused on obtaining "rough justice" in order to maintain the status quo and address the short-term needs of the parties until trial: *Ducharme v. Rempel*, 2016 BCCA 198 at para. 40. Implicit in this rough justice approach is the reality that the evidence before the judge on an chambers application is often insufficient to permit an in-depth analysis of the wide array of factors relevant to entitlement and quantum of support: *I.F. v. R.J.R.*, 2015 BCSC 793 at paras. 122-126. Accordingly, a general rule has developed that income should not be imputed to a spouse on an interim application unless the evidence is properly developed or there are exceptional circumstances: *Tang v. Cheng*, 2020 BCSC 1341 at para. 108, *Feng v. Fang*, 2024 BCSC 1271 at para. 64; see also *Kouznetsova v. Kouznetsov*, 2014 BCCA 160 at para. 45.
- [45] There are cases, however, in which the court has imputed substantial income on an interim application where the court is satisfied that there is a sufficiently robust evidentiary record to do so: *Devathanan v. Devathanan*, 2017 BCSC 1010 at para. 97.
- [46] While caution is to be exercised in imputing income where the facts are hotly disputed, I am also mindful that the court should guard against a situation where a respondent resists the imputation of income at an interim stage but, at the same time, has contributed to the gaps in the evidence by failing to comply with court orders for financial disclosure. Such a respondent should not be rewarded for his or her non-disclosure.
- [47] I am satisfied that there is a sufficient evidentiary record to impute income to the respondent at least for the purposes of child support and s. 7 expenses on a "rough justice" basis. As set out above, the respondent has not been forthcoming with the necessary documents and financial information to allow the claimant to obtain a clear picture of his overall income. His lack of candour should not be rewarded by deferring the payment of increased child support to trial. The respondent has a parental obligation to ensure that the support he pays for the benefit of his son corresponds to his income, and he has failed to make any adjustments in this regard despite his alternative position on this application that he could be imputed income of \$166,266, a \$100,000 increase of his previously agreed- to income. At least with respect to child support, it is no answer to say that his obligation should be dealt with down the road when the parties' assets are divided.
- [48] With respect to spousal support, I have reached the conclusion that imputation of income for this purpose is best left to trial.

- [49] The court is not expected on interim applications to embark on an in-depth analysis of the parties' circumstances: Devathasan at para. 128, citing Robles v. Kuhn, 2009 BCSC 1163 at para. 12. Notwithstanding the interim nature of this application, the parties, particularly the claimant, have filed voluminous affidavits on this matter reflecting the complexity of their finances and the sources of the parties' substantial wealth.
- [50] Prior to separation and in the years following, neither party earned a traditional employment income. The modest income that each party declares on their tax returns would be vastly insufficient to fund their lavish lifestyle. Rather, it is reasonable to infer that that the companies operated by the respondent permitted the family to amass considerable wealth and that the parties have lived off their substantial capital. Both parties depose to substantial real estate holdings in China in their respective financial statements. In her most recent financial statement, the claimant values the Chinese real estate assets at over \$20 million. From the document disclosure, as it currently stands, it remains unclear how the parties historically drew an income from these companies although there is some evidence that, at times, both parties have drawn dividend and employment income from the companies.
- [51] It will be challenging for the trial judge to sort out the disputed financial issues in this matter. Further, there remains the possibility that any award for spousal support will be satisfied, at least in part, through an unequal division of assets. The Chinese court has now divided the parties' assets in China, although I recognize that this may still be subject to appeal. In my view, making an interim order for spousal support in this context will merely serve to complicate the resolution of this matter either at trial or through a negotiated settlement.
- [52] In arriving at this conclusion, I have considered that this is not a case where the claimant has established a clear and pressing need for interim spousal support. The claimant has access to \$1 million in funds from an interim distribution and lives in a mortgage free house. While I do not have any evidence about how the Chinese judgment will be executed, the claimant will have access to substantial capital when the division is finalized.
- [53] Counsel for the claimant objected to the admissibility of the Chinese judgment at the application because he only became aware of it a few days before this application. He also objected on the basis that the interpretation of the judgment may require evidence of Chinese law. I do not accept that taking the judgment into account for the purposes of assessing whether it is appropriate to determine spousal support on an interim basis visits any unfairness upon the claimant. As a full participant in the Chinese proceeding represented by counsel, it can be reasonably inferred that she is well aware of this proceeding. Further, the claimant deposed in her most recent F8 financial statement that the outcome of the Chinese proceeding relating to the division of properties in China may conclude in 2025 and could impact her financial situation.

- [54] The claimant submits that a departure from the general reluctance to award interim spousal support in the face of contested issues of fact is warranted because a trial may never occur. The claimant acknowledges that the trial is less than a year away but is skeptical that the trial will proceed as scheduled given the lack of cooperation from the respondent in the pre-trial steps necessary to ready this matter for trial. Despite numerous requests, examinations for discovery have not occurred, and financial disclosure has not been forthcoming. Moreover, the respondent has changed counsel three times which the claimant says has been strategic and that this could easily occur again before the next trial in an effort to derail the trial.
- [55] While the claimant's lack of trust is understandable given the respondent's failure to comply with court orders to date, I take some comfort that this matter will progress in light of the recent judgment by the Chinese court. However, if the current trial date is adjourned or does not proceed due to lack of court time, the claimant has leave to renew her application for interim spousal support.

Imputation of the Respondent's Income for Purposes of Child Support

- [56] I turn now to the imputation of the respondent's income for the purposes of child support.

Legal Framework

- [57] Under s.19 of the Federal Child Support Guidelines, the court may impute income in the face of inadequate disclosure, including where the spouse's property is not reasonably utilized to generate income (s.19(e)), and the spouse has failed to provide income information when under a legal obligation to do so (s.19(f)). Section 19(1)(h) permits imputation where a spouse derives a significant portion of income from dividends or other sources which are taxed at a lower rate than employment or business income.
- [58] Sections 22-23 of the Federal Child Support Guidelines also permit the court to draw adverse inferences against, and impute income to, a spouse who fails to provide financial disclosure ordered by the court. Section 213(1)(a) of the Family Law Act confers similar powers.
- [59] Income upon which child support obligations are calculated should reflect the income that a parent has at their disposal: *De Cotiis v. De Cotiis*, 2023 BCSC 1436 at para. 90. The Court of Appeal in *Brown v. Brown*, 2014 BCCA 152, provided this guidance where the determination of income is not straightforward:
- [23] Sections 17-20 of the Guidelines allow courts a degree of flexibility in specific circumstances where parties have unusual forms or patterns of income, or where they are able to manipulate their income for tax purposes in a manner that might frustrate the goals of the Guidelines. It is important, however, in interpreting and applying those sections, that courts recognize the need for consistent and predictable results. Courts should interpret ss. 17-20 of the Guidelines with a view to advancing the objectives set out in s. 1.

- [60] The claimant bears the onus of establishing an evidentiary basis for the imputation of income: *MacCarthy v. MacCarthy*, 2015 BCCA 496 at para. 35.

Analysis: Appropriate to Impute Income for Child Support Only

- [61] In my view, while the record is far from complete, there is sufficient evidence from which to draw a reasonable inference that the respondent draws significantly more income from his assets and corporate interests than the \$65,165 guideline income he previously agreed to.
- [62] In past applications relating to this matter, the parties have been found to have been a high-net worth family prior to separation. The evidence before me is that the family lived mortgage free in a \$6 million house in Vancouver, sent their son to an expensive private school, and seemingly did not spare expenses on his extra-curricular activities including debate, rowing, band, and basketball. They invested in a Steinway grand piano for their son's piano lessons, and he participated in various camps during school breaks, including sailing, snowboarding, and tennis. The claimant and respondent provide different values for the furniture in the Vancouver home (\$180,000 versus \$390,000) but agree that the furniture in their home in China is worth \$390,000.
- [63] Prior to separation, they also had the financial means to pledge a \$250,000 donation in five yearly installments to their son's school to support a campaign to develop a new campus. The respondent initially disputed that he agreed to this donation. Associate Judge Keim found otherwise and concluded that both parties entered into the pledge in what they considered to be their son's best interests.
- [64] Further, the Chinese judgment dividing the parties' Chinese assets suggests that the respondent has or will have access to assets valued in excess of \$6 million, some of which generates rental income.
- [65] The respondent says that none of the five companies at issue are profitable and that the parties are primarily residing off capital. However, he has failed to disclose sufficient documents to allow the court to make any findings as to their profitability. As previously set out, the respondent has also given inconsistent evidence throughout this proceeding as to the nature of his interests in MVR Ltd. (Hong Kong) which appears to be for the purpose of obstructing document disclosure. In the absence of this disclosure, I can draw an adverse inference that the companies are significantly more profitable than the respondent contends.
- [66] In determining that it is appropriate to impute income to the respondent, I do not accept the claimant's submission that I can infer that the respondent has exclusive control of over \$40 million of assets outside of British Columbia. This submission was based on the respondent's affidavit evidence that the vast majority of the parties' assets lie outside of British Columbia. The claimant submits that because the respondent has deposed to having \$18.2 million of net equity in BC, it can be "safely assumed" that the respondent has at least \$40 million in assets elsewhere. In my view, the inference that the claimant seeks to draw

from this statement is simply too speculative and seeks to place a meaning to the phrase "vast majority" that is not apparent on the face of the affidavit.

The Respondent's Imputed Income

[67] Based on the partial document disclosure relating to the respondent's income, the claimant takes the position that the court should impute an income to the respondent in the amount of \$1,317,321.

[68] The respondent takes the alternative position that if his income is to be imputed, the court should use the figure \$166,261.

[69] These respective positions are reflected in the following chart:

Source

Amount Sought by the Claimant

The Respondent's Position based on Approximate 2024 Income

Employment income on 2021 Tax Return

\$211,623.90

\$61,964.70

Dividend

\$602,985.07

\$0

Rental income

\$179,863.80

\$95,781

Investment interest

\$314,333

\$0

Pension income

\$8,515.80

\$8,515.80

TOTAL

\$1,317,321

\$166,261

- [70] For ease of reference, all monetary values in the remainder of his section are rounded up or down as appropriate.

Employment Income

- [71] With respect to employment income, the claimant relies on the \$211,623 reported by the respondent on his 2021 Canadian tax return. The claimant submits this is the year prior to separation and that since this time the respondent has been motivated to minimize his income. The respondent submits that it is unfair to use his highest income from the past five years and says that his income in 2024 of \$61,964 from Cybermax more accurately reflects his pattern of employment income from this source.
- [72] I find that the respondent has not fully explained the nature of this income and has failed to disclose documentation that would allow the court to confirm the extent of this income. For example, in his affidavit, the respondent identifies his only employment income as coming from Cybermax which he claims paid him \$61,622 in 2021. The respondent fails to explain where the remaining employment income declared on his 2021 Canadian tax return came from. With respect to 2022, the respondent in his F8 deposed to income in the amount of \$65,165. However, in the affidavit sworn for this application in July 2025, the respondent deposes that his income in 2022 was \$166,850. The respondent does not explain this discrepancy.
- [73] In the absence of full financial disclosure from Cybermax confirming the extent of the respondent's employment income and in light of the above discrepancies, I impute \$200,000 in annual employment income to the respondent. This is consistent with the income he reported on his 2021 Canadian tax return. I accept the submissions of the claimant that the respondent has likely minimized his employment income since the separation. The claimant received \$100,000 in employment income in 2020 from Cybermax and MVR Ltd. Hong Kong and the same amount in 2021 from Cybermax and MVR Ltd. Singapore. I infer that these income payments were part of a strategy to transfer wealth from the companies to the family. The respondent promptly cut off these income payments to the claimant following separation. This suggests that the respondent can control the amount of these payments. Although the respondent gives evidence that the business of Cybermax has struggled since COVID-19 to justify the more modest income he says he has received since the separation, in the absence of any disclosure that would allow the court to assess how the company is faring financially, I am unable to accept this evidence

Rental Income

- [74] The claimant seeks to impute \$179,863 in rental income on the basis that the respondent receives rental income from three properties in China. Only two of these properties are identified by address and are both located in Beijing: they were referred to as Yurmin Road

and Zone Two respectively. The claimant seeks to impute rental income from a third unidentified property on the basis of the respondent's Bank of China bank statement showing a deposit in amount of CNY 360,000 (\$70,450.10) on April 15, 2022, identified as "rental".

- [75] The respondent agrees for imputation purposes that has received income from only two properties in the amount of \$95,781. He submits that one of these properties, which the parties referred to as the Zone Two property, is in the claimant's name and that, at her request, he received rent on her behalf and transferred it to her. The claimant denies receiving any rental income from the respondent.
- [76] In respect of the third property, I am not prepared to impute a steady source of rental income as the claimant suggests based on a single bank deposit. This deposit does, however, reinforce that the respondent is likely receiving more income generally than he is prepared to have imputed to him.
- [77] I impute rental income to the respondent in the amount of \$95,781.

Dividend Income

- [78] The claimant seeks to impute \$602,985 in dividend income on the basis of a transaction that occurred in June 2022 whereby EUR 404,000 was transferred from MVR Ltd. Singapore to the respondent. A notation on the bank record of this transaction identifies it as dividends for the year 2020. The respondent says that these funds were a loan from MVR Ltd. Singapore to himself that arose from the fact that the MVR Ltd. Singapore account was closed due to a mistake made by the claimant. Although he acknowledges that these funds were paid into his bank account in Vancouver, he says this was temporary and the amount was to be repaid pursuant to a written agreement. While the respondent attached this written agreement to his affidavit, it is in Chinese and has not been translated. In the absence of a translation, this evidence is inadmissible. Despite this explanation, the respondent did not disclose this as a debt in his December 2022 F8 financial statement. This, together with the notation on the bank record of this transaction that these funds were dividends, is sufficient to allow me to impute significant dividend income to the respondent.
- [79] The respondent submits that it would be unfair to assume from this one transaction that payments from his companies were regularly made in this amount. In the absence of document disclosure suggesting otherwise, I find it incredulous that the respondent is not deriving some level of dividend income from his various companies. On an interim basis, I impute \$100,000 in dividend income to the respondent.

Interest Income

- [80] The claimant seeks to impute income in the form of investment interest of \$314,333 calculated based on the respondent's known liquid assets which totals \$3.87 million worldwide. This amount consists of the \$1.1 million interim distribution together with the balances of his various bank accounts for which statements have been disclosed. The claimant's position is that income can be imputed on the basis that if the \$3.87 million is invested, it could be earning substantial income.
- [81] With respect to the \$1.1 million interim distribution, the claimant takes the position the interest rate on these funds should be imputed at 25%. Just over \$603,000 of the respondent's distribution came from the parties' joint investment account that before the division was, in part, invested in a market index fund with an annual return of 25.4% and 23.3% in 2023 and 2024 respectively. She submits that had the respondent left his portion of the investment account invested in this fund, he would have earned \$150,969. For the remainder of the amounts in the respondent's bank account, she submits that he should be imputed income at the rate of 5% which amounts to \$163,364.
- [82] As an alternative position, the respondent is prepared to have interest income imputed to him for the purposes of child support in the amount of \$104,521 which is based on an annual return of 2.70%, based on current GIC rates, on \$3,871,152.
- [83] For the limited purposes of child support, I do not accept the claimant's imputation of interest. In my view, it is based on speculation and 20/20 hindsight that the respondent should have left his portion of the investment account invested in products similar to the make up of the parties' joint investment account. I impute interest income in the amount of \$104,521.

Pension Income

- [84] The parties are in agreement that the respondent should be imputed pension income in the amount of \$8,515.

The Respondent's Interim Imputed Income

- [85] In total, I impute the following income to the respondent for the purposes of determining guideline income for child support:

Employment Income

\$200,000

Rental Income

\$95,781

Dividend Income

\$100,000

Interest Income

\$104,521

Pension Income

\$8,515

TOTAL

\$508,817

[86] The financial picture revealed in the evidence supporting this application is incomplete given the interim nature of this application, the lack of oral discovery, and the challenges in achieving full financial disclosure from the respondent.

[87] Accordingly, this imputation of income is without prejudice to either party to argue at trial that a different income should be imputed to the opposing party.

Calculation of Interim and Retroactive Child Support

Child Support Going Forward

[88] Imputing income to the respondent in the amount of \$508,817 raises the issue of whether the court should exercise its discretion under s. 4 of the Federal Child Support Guidelines to depart from the guideline amount on the respondent's income in excess of \$150,000.

[89] Section 4 of the Federal Child Support Guidelines deals with the determination of child support payable on incomes over \$150,000:

4 Where the income of the spouse against whom a child support order is sought is over \$150,000, the amount of a child support order is

- (a) the amount determined under section 3; or
- (b) if the court considers that amount to be inappropriate,
 - (i) in respect of the first \$150,000 of the spouse's income, the amount set out in the applicable table for the number of children under the age of majority to whom the order relates;
 - (ii) in respect of the balance of the spouse's income, the amount that the court considers appropriate, having regard to the condition, means, needs and other circumstances of the children who are entitled to support and the financial ability of each spouse to contribute to the support of the children; and
 - (iii) the amount, if any, determined under section 7.

[90] The claimant seeks the straight guideline amount on the amount of income imputed to the respondent.

[91] The respondent did not address in his submissions whether the discretion in s. 4 of the Federal Child Support Guidelines should be exercised to depart from the guideline income. There is a formidable onus for wealthy payors to establish that the guideline income is inappropriate: *Hollenbach v. Hollenbach*, 2000 BCCA 620; *Hathaway v. Hathaway*, 2014 BCCA 310, leave to appeal ref'd 2015 CanLII 11719 (S.C.C.). The respondent, given his silence, has not even attempted to satisfy this onus. Accordingly, on a go-forward basis, I order the respondent to pay guideline monthly child support to the claimant in the amount of \$4,155 based on the DivorceMate calculation.

Retroactive Child Support

[92] The claimant seeks retroactive child support to August 2022 on the basis that the respondent has always underpaid child support on the basis of inaccurate guideline income. The respondent has paid a total of \$19,744 of support from March 1, 2023, to October 2025 based on the monthly table amount of \$617.

[93] As set out in *D.B.S. v. S.R.G.*, 2006 SCC 37 at para. 68, a payor parent has an ongoing obligation to pay, and the child has the right to receive, child support in an amount commensurate to the payor's income. This obligation is independent of any previous court order in a proceeding. Where the payor fails to satisfy this obligation, the court may make an order to vary the support in the manner that the payor should have done so independently upon learning of a change to their income.

[94] In considering whether a retroactive award of child support is appropriate in this case, I am required to consider whether the quantum of the retroactive award fits the circumstances. Specifically, I am to consider whether the respondent has provided a reasonable excuse for his delay in paying increased support, his conduct, the circumstances of the child, and any hardship the retroactive award might entail.

[95] The general rule is to make awards retroactive to the date when effective notice was given to the payor parent that a variation was sought. However, an exception to this general rule arises when the payor has engaged in blameworthy conduct. In that case, the court can establish a start date for the retroactive award which reflects when the circumstances materially changed.

[96] In this case, the claimant says that the respondent's conduct in this proceeding amounts to litigation abuse such as his delay tactics designed to drain the claimant's resources, including frequent change of counsel, and repeated breach of court orders.

[97] The Court of Appeal in *L.D.B. v. A.N.H.*, 2023 BCCA 480 at para. 113, held that litigation abuse occurs where one spouse uses the court's process to continue to control, intimidate, embarrass, or harass the other spouse after their relationship has ended.

- [98] For the purposes of this interim application and specifically, to establish a start date for the retroactive award, it is not necessary for me to determine whether the respondent is engaging in litigation abuse. This is a matter best left to trial. At this point, I will only observe that both parties in his litigation are well represented and the number of applications that have been filed by each party suggests that this is a hard fought proceeding on both sides. That said, there is no doubt that the respondent has repeatedly failed to comply with court orders for financial disclosure. From this I infer that he is deliberately obfuscating the magnitude and sources of his income. This constitutes sufficient blameworthy conduct to establish a start date from the date of the original JCC Order on the basis that the respondent has failed since that time to provide sufficient financial disclosure to allow the claimant to verify the very modest guideline income he agreed to for the purposes of child support at the judicial case conference. The respondent's alternative position on this application that he was prepared to have an additional \$100,000 imputed to him underscores his failure to fulfill his parental obligation to ensure that his child support payments are amended on an ongoing basis to reflect changes in his income.
- [99] With respect to the circumstances of the parties' son, the claimant's evidence is that she has cut back on her own expenses but has not done the same for her son. I infer from this that she has done her best not to visit upon her son any reduction in the standard of living he enjoyed prior to the parties' separation.
- [100] This type of situation was identified in D.B.S. as one where an argument for a retroactive award may be less compelling. The court observed as follows:
- [113] Because the awards contemplated are retroactive, it is also worth considering the child's needs at the time the support should have been paid. A child who underwent hardship in the past may be compensated for this unfortunate circumstance through a retroactive award. On the other hand, the argument for retroactive child support will be less convincing where the child already enjoyed all the advantages (s)he would have received had both parents been supporting him/her: see S. (L.). This is not to suggest that the payor parent's obligation will disappear where his/her children do not "need" his/her financial support. Nor do I believe trial judges should delve into the past to remedy all old familial injustices through child support awards; for instance, hardship suffered by other family members (like recipient parents forced to make additional sacrifices) are irrelevant in determining whether retroactive support should be owed to the child. I offer these comments only to state that the hardship suffered by children can affect the determination of whether the unfulfilled obligation should be enforced for their benefit.
- [101] I take from the above that the lack of hardship on the part of a child should be considered but is not determinative of whether a retroactive child support award should be granted.

- [102] The respondent advanced no arguments that he would suffer hardship as a result of being required to pay a retroactive award for child support. This is not surprising as supporting such an argument would require him to be forthcoming with his financial circumstances. His only arguments against such an award was that the determination of retroactive child support should be deferred along with issues of spousal support to trial and that Ms. Deng has sufficient access to capital.
- [103] Having balanced the above considerations and notwithstanding the lack of hardship on the part of the son, I am satisfied that this is an appropriate case in which to make an award for retroactive support. In my view, the respondent's blameworthy conduct in failing to be forthcoming with the true extent of his income and thwarting the claimant's attempts to verify his income through disclosure orders justifies a retroactive award. This same conduct justifies fixing the effective date of this award back to the date of the JCC Order as this is when support based on the respondent's true income should have been paid. As held in D.B.S. at para. 124, blameworthy conduct on the part of a payor parent can justify such an approach. The court observed that:
- [124] Once the payor parent engages in such conduct, there can be no claim that (s)he reasonably believed his/her child's support entitlement was being met. This will not only be the case where the payor parent intimidates and lies to the recipient parent, but also where (s)he withholds information.
- [104] Accordingly, I order that the respondent pay retroactive child support in the amount of \$4,155 commencing on February 28, 2023. The respondent has paid a total of \$19,744 to date in child support. Up until October 31, 2025, the retroactive award covers 31 months. I calculate the retroactive amount owing as \$109,061.

Section 7 Expenses

- [105] As noted above, pursuant to the JCC Order, the parties agreed to cover 50% of section 7 expenses that were agreed upon by the parties in advance and documented by receipts and invoices. The claimant seeks an order for payment of s. 7 expenses not yet paid by the respondent. She also seeks to vary the JCC Order to have the respondent cover 95% of special expenses resulting in an adjustment of the special expenses already paid by the respondent pursuant to the Keim Order. Finally, she seeks 5% interest on unpaid amounts.
- [106] In light of my deferral of the issue of spousal support and the issue of the determination of the claimant's income, any readjustment of the proportion of special expenses should await the trial in this action. Accordingly, the parties are to continue to share equally section 7 expenses until the court otherwise orders.
- [107] Since the Keim Order, the claimant claims \$149,855.12 in special expenses for the period July 1, 2024, to June 30, 2025. This amount includes the 2025 \$50,000 installment of the \$250,000 pledge the parties made to the son's school and is made up of expenses in categories that Associate Justice Keim found as falling within appropriate section 7

expenses. During submissions, the respondent agreed to pay his share of this amount in the proportion as determined by the Court without prejudice to argue at trial that a different proportion is appropriate.

- [108] The respondent must pay the claimant \$74,927.56 which is 50% of the special expenses incurred between July 1, 2024, and June 30, 2025.
- [109] Given that the claimant was put to the expense of obtaining the Keim Order, it is very unfortunate that a further application was required to obtain the respondent's agreement to pay expenses in the categories already ordered to be paid.
- [110] In an effort to simplify the reimbursement of special expenses going forward, the respondent made a proposal during submissions for the parties to settle on a fixed monthly amount of \$1,100 to cover non-school related section 7 expenses and that his share of school-related expenses would be paid forthwith upon being advised that those costs had been incurred. The respondent proposed that these expenses be paid out of the frozen Resco Funds. The claimant agreed in principle with this proposal but did not agree that the respondent's share should be paid out of the Resco Funds. Implementation of this proposal would be a positive development for parties, and I order that the parties use this method to account for the respondent's share of the the non-school-related expenses going forward. Unless the parties otherwise agree, the respondent is not permitted to use the frozen Resco Funds to cover these costs. Unless the parties otherwise agree, this accounting for special 7 expenses will commence effective July 1, 2025.

Bilawich Reinvestment Order

- [111] As noted above, the Bilawich Reinvestment Order provided that the \$5.8 million in frozen Resco Funds was to be reinvested into an interest bearing account. The claimant brought this application on the basis that \$20,000 in interest was being foregone every month that the funds remained uninvested. The claimant made numerous requests to the respondent to address this situation which were apparently ignored, forcing the application to be made. In responding to that application, the respondent opposed the reinvestment of the funds on the basis that the Resco Funds belong beneficially to MVR Beijing and that the claimant had made various transactions involving the Resco Funds in breach of the court order. Associate Judge Bilawich advised the parties that the respondent's arguments would need to be dealt with in a separate application and heard submissions only on the issue of whether the funds should be reinvested and granted the order sought by the claimant.
- [112] Ten months later, and contrary to the best interests of both parties, the funds have not been reinvested. This reinvestment requires action on the part of both the Royal Bank of Canada and CIBC. The claimant submits that while CIBC is prepared to act on the Bilawich Reinvestment Order, the Royal Bank of Canada has taken the position that it cannot reinvest the funds without the explicit authorization of the respondent which has not been forthcoming. The respondent did not explain his failure to do so. In the absence of an

explanation, I am satisfied that an order authorizing this reinvestment to be made without the necessity for direction from the respondent is appropriate.

What fines are warranted?

- [113] The claimant seeks an order imposing at total of \$35,000 in fines to rebuke the respondent for six alleged separate breaches of the JCC, Keim, Vos, and Bilawich Orders and one stand-alone fine for non-disclosure and breach of the Supreme Court Family Rules generally.
- [114] The respondent's primary position is that fines are not warranted. In the alternative, the respondent submits that the only conduct on his part that may warrant a fine relates to the state of the financial disclosure relating to Cybermax.

Legal Framework

- [115] Section 213 of the Family Law Act and R. 5-1(28)(e) of the Supreme Court Family Rules allow for the imposition of fines to sanction non-compliance with court orders and the Rules when a party fails to produce documents to verify their income. These rules recognize the critical importance of financial disclosure. Non-disclosure is a costly impediment to the fair and final resolution of family law disputes, and the court should utilize the tools available to it in a robust and creative fashion to secure proper disclosure while at the same time remaining sensitive to the issues arising in the particular case before the court: *J.D.G. v. J.J.V.*, 2013 BCSC 127 at para. 25.
- [116] The test to establish a breach of a court order is set out in *T.A.O. v. D.J.M.*, 2021 BCSC 1724:
- [48] In order to establish a breach of a court order, the respondent must show that: (1) the order was clear and unequivocal regarding what should or should not be done; (2) the claimant had actual notice of the order; and (3) the breach was intentional. These are the same elements required for a finding of contempt, except that in the case of contempt, the standard of proof is proof beyond a reasonable doubt: *Carey v. Laiken*, 2015 SCC 17 at paras. 33-35.
- [117] Once a breach is established, in assessing the severity of the consequences for the breach, the court should consider the degree of non-disclosure, any reasons provided for late disclosure, and the importance and extent of the disclosure required to resolve the issues between the parties: *J.D.G.* at para. 28.

Fines re s. 7 Expenses

- [118] The claimant seeks two fines of \$5,000 each for the respondent's breach of:
- Paragraph 3 of the JCC Order to pay 50% of his contribution of s. 7 expenses plus the 2024 One + Donation for 2024 that are ordered or agreed-upon after July 1, 2024;
 - Paragraph 2 of the Keim Order for failing to pay his 50% contribution of the One + Donation for 2024.

- [119] In submissions, the respondent submitted that he paid \$79,174.56 in the s. 7 expenses covered by the Keim Order. It is unclear to me on the evidence whether the respondent has paid his portion of the 2024 One + Donation installment. The Keim Order is clear that the respondent's share of this installment was required to be paid in addition to the \$79,174.56 in special expenses. The respondent includes no response in his affidavit regarding the allegations that he has failed to pay section 7 expenses. Therefore, I have no evidence before me that the 2024 installment was or was not paid. The claimant states in her affidavit that the respondent paid the fine and his section 7 contribution as set out in the Keim Order. She is silent regarding the payment of the 2024 installment. This is clearly an expense that needs to be paid, and if it has not been paid, I order that it be paid forthwith. Given the lack of clarity in the evidence on this point, I am not satisfied that there has been a deliberate breach of this aspect of the Keim Order and decline to order a fine in respect of the One + Donation.
- [120] The payment of other expenses, however, is another matter. On February 5, 2024, the claimant, through counsel, sent a detailed accounting to request payment of the same categories of s. 7 expenses dealt with in the Keim Order, complete with invoices covering the period of July 1 to December 31, 2024. This amount went unpaid for several months, leaving the claimant with little option but to bring the application now before this Court.
- [121] The claimant also details the difficulties caused by having to obtain a court order to get the respondent to contribute to significant expenses she had to shoulder on her own. The Keim Order is clear on what categories of expenses the respondent was required to pay, and he has provided no explanation for his failure to pay those expenses upon request. The claimant should not have been put to the expense of bringing yet another application to compel payment. The respondent was well aware that his failure to comply with orders could attract penalties given the fine imposed on him in the Keim Order for failure to pay child support. As this has not deterred the respondent from continuing to breach court orders, the respondent's non-payment of the section 7 expenses claimed in the claimant's most recent application warrants a fine of \$5,000.

Fines re Lack of Financial Disclosure

- [122] The Keim Order is unequivocal that extensive financial disclosure was required of both of the respondent's personal accounts and of the five corporate entities at issue in this proceeding. Given that the parties have assets both in Canada and in China and the use of corporate vehicles to generate and manage their wealth, the disclosure requirements in this matter are necessarily complex and onerous. However, I am satisfied that the respondent, who has been represented by counsel throughout, has the means to meet these requirements and has had ample opportunities to do so.

- [123] As discussed above in the section of my reasons dealing with the status of the financial disclosure, the respondent has failed to provide disclosure and a reasonable explanation for his lack of disclosure as required by the Keim and Vos Orders in several respects. In my view, these are clear and deliberate breaches.
- [124] Although the claimant seeks an order for a fine for each discrete breach of a term of the Keim Order, in my view, this is not appropriate. The claimant justified this approach, at least in part, because the respondent sought multiple fines against her in an earlier application alleging a breach of the Resco Funds freezing order. The respondent sought a separate fine for each transaction that was alleged to be in breach of the order.
- [125] While it is important for the court to utilize the tools at its disposal robustly to enforce orders of the court in appropriate circumstances, caution must also be exercised not to allow parties to a family law proceeding to weaponize breach applications by threatening to seek multiple fines in relation to different terms of a single order either as a negotiating tactic or to wear down the other side. In my view, acceding to the claimant's request would endorse such an approach. In this case, as I have found, the respondent has breached the Keim and Vos Orders by failing to fully comply with his document disclosure obligations as clearly spelled out in those orders, and I am satisfied that one global fine of \$5,000 is sufficient to rebuke this conduct.

Fine re Failure to Comply with the Bilawich Reinvestment Order

- [126] I turn finally to the fine sought by the claimant with respect to the respondent's alleged failure to take the steps necessary to ensure that the Bilawich Reinvestment Order requiring the deposit of \$5.8 million belonging to Resco to be deposited into an interest bearing account could be complied with.
- [127] In my view, the purpose of the Bilawich Reinvestment Order was clear. There is no excuse offered by the respondent as to why any approval on his behalf required by CIBC was not forthcoming. However, as the respondent himself has already lost out on his eventual portion of the foregone interest associated with this account and given my order that the reinvestment can take place without his authority, the imposition of the fine will have no deterrent effect. I decline to order a fine in these circumstances.

Costs

- [128] The claimant also seeks special costs on a full indemnity basis. The respondent says that such an order on an interlocutory application is an exceptional remedy and that the usual practice is that special costs are to be award based upon the entirety of the proceeding: *Cully v. Cully*, 2013 BCSC 2457 at para. 45.
- [129] I was not referred to any authorities to guide the consideration of the court's discretion to award special costs on an interim basis. Similar to the concerns raised by Justice Fleming in *Cully*, given the orders I have made under s. 213 of the Family Law Act to rebuke the

conduct of the respondent, an award of special costs for this application would be somewhat duplicative. Although I recognize that an award of special costs could significantly exceed the fines that I have imposed, this is a matter best left for the conclusion of this proceeding so that the court has the entire context of the respondent's litigation conduct.

[130] The claimant has been substantially successful on this application. Much of the application could have been avoided if the respondent had taken more reasonable positions. Accordingly, the claimant is entitled to her costs of this application in any event of the cause.

Disposition

[131] In summary, I order as follows:

- (a) The respondent's annual income is imputed at \$508,817 per annum for the purpose of child support on an interim basis and without prejudice to either party to either impute or have the respondent's income determined at a different amount.
- (b) The respondent shall pay to the claimant interim child support in the sum of \$4,155 per month on the 1st day of each month, commencing November 1, 2025, until further order of this Court.
- (c) Within 30 days, the respondent shall pay to the claimant retroactive interim child support for the period from August 2022 to October 2025 in the amount of \$109,061.
- (d) The respondent shall pay to the claimant \$74,927.56 which is 50% of the special expenses ordered by Associate Judge Keim incurred between July 1, 2024, and June 30, 2025.
- (e) If the respondent has not already reimbursed the claimant for his 50% share of the One + Donation \$50,000 installment for 2024, this amount is payable to the claimant forthwith.
- (f) Commencing on July 1, 2025, the respondent shall pay to the claimant a fixed monthly amount of \$1,100.00 to cover non-school-related s. 7 expenses ordered by Associate Judge Keim, and the respondent shall continue to contribute 50% to the school expenses previously agreed to and ordered by Associate Judge Keim.
- (g) Within 45 days, the respondent shall pay to the claimant interest on the arrears of child support and his contribution to s. 7 expenses calculated in accordance with the pre-judgment interest rate prescribed by the Court Order Interest Act, R.S.B.C. 1996, c. 79.
- (h) The respondent shall forthwith pay the claimant a fine of \$5,000 for his failure to comply with Associate Judge Keim's order regarding the payment of s. 7 expenses.
- (i) The respondent shall forthwith pay the claimant a fine of \$5,000 for his failure to provide the financial disclosure and explanations for non-disclosure as required by the orders of Associate Judge Keim and Associate Judge Vos.

- (j) The claimant is authorized to solely direct RBC and CIBC to deposit the funds that are subject to the order made by Associate Justice Bilawich on January 21, 2025, for the purpose of complying with that order. For extra clarity, these funds include the following funds at RBC:
- a. CAD account ending in #9865 - \$108,739.19;
 - b. USD account ending in #5120 - \$2,149,691.15; and
 - c. investment account ending in #6070 - \$2,157,899.59.
- (k) The claimant is entitled to her costs of these applications in any event of the cause.

"Hoffman J."

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