

CANADA / JUDGMENT

F.C.A.S. v. C.E.S.

2024 BCSC 2569

COURT

Supreme Court of British Columbia

DECIDED

24 September 2024

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2024 BCSC 2569 F.C.A.S. v. C.E.S. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: F.C.A.S. v. C.E.S., 2024 BCSC 2569 Date: 20240924 Docket: E203099 Registry: Vancouver Between: F.C.A.S. Claimant And: C.E.S. Respondent And: EHL Corporate Respondent (By Counterclaim) Before: The Honourable Justice G.C. Weatherill Oral Ruling Re Right of the Respondent to Question Mr. Grondin Counsel for the Claimant: Y. Li-Reilly S.S. Silber M. Walwyn, Articled Student Counsel for the Respondent: L. Rudovica Counsel for the Corporate Respondent (By Counterclaim): F. Lamer Place and Date of Application Within Trial: Vancouver, B.C. September 24, 2024 Place and Date of Judgment: Vancouver, B.C. September 24, 2024

- [1] THE COURT: One of the issues that I am called upon to decide in this trial is whether the marriage agreement should be set aside under s. 93(5) of the Family Law Act, S.B.C. 2011 c. 25, on the basis that it is significantly unfair on consideration of the length of time that has passed since the marriage agreement was made, the intention of the spouses to achieve certainty, and the degree to which the spouses relied on the terms of the marriage agreement.
- [2] A marriage agreement may be fair at the time it was executed but may be significantly unfair at the time it is triggered by separation: C.C. v. S.P.R., 2022 BCSC 1817, at paras. 63 to 64; Hartshorne v. Hartshorne, 2004 SCC 22.
- [3] In the result, the financial circumstances of the parties at the time of separation is relevant to the issue I have to decide in this case. The respondent will be entitled to question the family's accountant, Mr. Brant Grondin, on the income available to the claimant, but the questioning of Mr. Grondin will be generally limited to what is set out in the will say statement at page 5 of the respondent's notice of application filed January 22, 2024. "G.C. Weatherill J."

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