
CANADA / JUDGMENT

Henry v. Newton

2014 BCSC 2106

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Supreme Court of British Columbia

DECIDED

29 April 2014

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2014 BCSC 2106 Henry v. Newton

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Henry v. Newton,

2014 BCSC 2106

Date: 20140429

Docket: 11 2812

Registry: Victoria

Between:

Gillian Verona Christine Henry

Claimant

And

James Lyle Newton

Respondent

Before: The Honourable Mr. Justice G. R. J. Gaul

Oral Reasons for Judgment

In Chambers

Counsel for the Claimant:

D. R. McLeod

Appearing on his own behalf:

J. Newton

Place and Date of Trial/Hearing:

Victoria, B.C.

July 26, November 29,

December 9, 2013

28 March, 14 April 2014

Place and Date of Judgment:

Victoria, B.C.

April 29, 2014

- [1] THE COURT: These oral reasons are subject to editorial revisions before their reproduction in final form. Such revisions may include additional references to the evidence, authorities or submissions. In no manner will the results of my decision be changed.
- [2] By Notice of Application filed 14 May 2013, the claimant in this family law case, Ms. Henry, sought a summary trial of her action and in particular her claims for:
- a) an order for divorce;
 - b) an order respecting the division of the parties' matrimonial assets;
 - c) an order that Mr. Newton pay her spousal support;
 - d) an order that Mr. Newton retain her as a beneficiary under his Blue Cross medical and dental plans or, in the alternative, he pay her a supplemental monthly amount beyond the spousal support to compensate her for her own extended-health plans; and
 - e) costs.
- [3] Before proceeding further I should note that I had concerns about whether this matter was one that could be resolved by means of a summary trial given the noticeable clash between Ms. Henry's evidence and Mr. Newton's evidence on certain critical issues, such as the length of the parties' relationship. After hearing further submission from both parties on this specific question and upon being satisfied that both sides of this dispute need and wish to have this matter determined by summary trial, I was persuaded that it was feasible and appropriate in the circumstances to proceed in that manner.

Divorce

- [4] The parties were married in Calgary, Alberta, on 4 August 1995. Ms. Henry asserts that she and Mr. Newton separated on 1 August 2010. Mr. Newton says he and Ms. Henry separated in or around 16 May 2009. Irrespective of which of the two dates the parties actually separated, I am satisfied they have been living separate and apart for at least one year and that there is no reasonable prospect of reconciliation. Consequently, there are justifiable grounds to grant the divorce order both parties seek.

Matrimonial Assets

Applicable Legislative Regime

- [5] Although both parties have accepted that I have jurisdiction to make an order respecting the division of their matrimonial assets, there is a dispute over whether I should apply the relevant legislation of British Columbia or Alberta.
- [6] Mr. Newton argues that the Alberta legislation applies because the parties' matrimonial residence or domicile was always in Alberta. Although the parties purchased property on Gabriola Island, B.C. and Ms. Henry took up residence there in May of 2009, Mr. Newton maintains he never relocated to that property and therefore it never served as the parties' matrimonial residence.
- [7] Ms. Henry does not dispute that the parties spent practically all of their relationship residing in Alberta; however, she maintains that the concept of domicile is irrelevant and of no concern in the present circumstances and that because she moved to British Columbia in 2009, it is British Columbia's legislation that applies.
- [8] Over the course of the hearing of this matter, the parties narrowed the focus of this issue to two items: Mr. Newton's Alberta Teachers' Retirement Fund pension (the "Teachers' Pension") and the severance pay he recently received when he resigned from his teaching position in Alberta (the "Severance Pay").
- [9] In my view, sections 107, 108 and 123 of the Family Law Act, S.B.C. 2011, c. 25 (the "FLA") address the present situation. The relevant portions of those sections provide:

Applicable internal law

107 The applicable internal law for the purposes of section 108 [choice of law rules] is

- (a) the internal law of the jurisdiction in which the spouses had their most recent common habitual residence,

Choice of law rules

108 (1) In this section:

- (2) If the Supreme Court takes jurisdiction under this Division, the Supreme Court must act in accordance with the rules set out in this section.

- (4) If the spouses' first common habitual residence during the relationship between the spouses was in a jurisdiction in which a regime of community of property applies, the property to which that regime applies must be divided at the end of the relationship between the spouses according to
- (a) an agreement between the spouses, or
 - (b) if the spouses have not made an agreement, the applicable internal law of the first common habitual residence.

Extraprovincial plans

123 (1) This section applies if the benefits to be divided are in an extraprovincial plan.

- (2) A spouse is entitled to a division of benefits in an extraprovincial plan as follows:
- (a) subject to subsection (3), if the plan, or the legislation of any jurisdiction establishing or regulating the plan, provides a method of satisfying the interest of the spouse in the benefits, by that method;
 - (b) in any other case, to receive from the administrator during the member's lifetime a proportionate share of benefits paid under the plan until the earlier of
 - (i) the death of the spouse, and
 - (ii) the termination of benefits under the plan.
- (3) If, having regard to the rules respecting the division of benefits under this Part, the method under subsection (2) (a) would operate unfairly, the Supreme Court may order that the spouse's share in the benefits be satisfied in accordance with subsection (2) (b) instead.

- [10] The parties' first common habitual residence as well as their last and most recent common habitual residence was in Alberta. In my view, although they jointly owned property in British Columbia, they never had a common matrimonial residence in British Columbia.

- [11] The parties agree that the Teachers' Pension is an extraprovincial pension, as that term is defined in the FLA. In my view Alberta's Teachers' Pension Plans Act, R.S.A. 2000, c. T1 and its related Teachers' Pension Plans (Legislative Provisions) Regulation, AR 204/95 provide an identifiable and fair method of determining and satisfying Ms. Henry's interest in Mr. Newton's Alberta Teachers' Pension.
- [12] In my opinion the facts of this case require the use of Alberta's matrimonial law regime, and more particularly sections 7 and 8 its Matrimonial Property Act, R.S.A. 2000 c. M-8 (the "MPA"), to determine the division of Mr. Newton's Alberta Teachers' Pension and the Severance Pay he received from his Alberta employer. Those two sections read as follows:

Distribution of property

7(1) The Court may, in accordance with this section, make a distribution between the spouses of all the property owned by both spouses and by each of them.

- (2) If the property is
- (a) property acquired by a spouse by gift from a third party,
 - (b) property acquired by a spouse by inheritance,
 - (c) property acquired by a spouse before the marriage,
 - (d) an award or settlement for damages in tort in favour of a spouse, unless the award or settlement is compensation for a loss to both spouses, or
 - (e) the proceeds of an insurance policy that is not insurance in respect of property, unless the proceeds are compensation for a loss to both spouses,

the market value of that property at the time of marriage or on the date on which the property was acquired by the spouse, whichever is later, is exempted from a distribution under this section.

- (3) The Court shall, after taking the matters in section 8 into consideration, distribute the following in a manner that it considers just and equitable:
- (a) the difference between the exempted value of property described in subsection (2), referred to in this subsection as the "original property", and the market value at the time of the trial of the original property or property acquired
 - (i) as a result of an exchange for the original property, or
 - (ii) from the proceeds, whether direct or indirect, of a disposition of the original property;
 - (b) property acquired by a spouse with income received during the marriage from the original property or property acquired in a manner described in clause (a)(i) or (ii);

- (c) property acquired by a spouse after a decree nisi of divorce, a declaration of nullity of marriage, a judgment of judicial separation or a declaration of irreconcilability under the Family Law Act is made in respect of the spouses;
- (d) property acquired by a spouse by gift from the other spouse.
- (4) If the property being distributed is property acquired by a spouse during the marriage and is not property referred to in subsections (2) and (3), the Court shall distribute that property equally between the spouses unless it appears to the Court that it would not be just and equitable to do so, taking into consideration the matters in section 8.

Matters to be considered

8 The matters to be taken into consideration in making a distribution under section 7 are the following:

- (a) the contribution made by each spouse to the marriage and to the welfare of the family, including any contribution made as a homemaker or parent;
- (b) the contribution, whether financial or in some other form, made by a spouse directly or indirectly to the acquisition, conservation, improvement, operation or management of a business, farm, enterprise or undertaking owned or operated by one or both spouses or by one or both spouses and any other person;
- (c) the contribution, whether financial or in some other form, made directly or indirectly by or on behalf of a spouse to the acquisition, conservation or improvement of the property;
- (d) the income, earning capacity, liabilities, obligations, property and other financial resources
 - (i) that each spouse had at the time of marriage, and
 - (ii) that each spouse has at the time of the trial;
- (e) the duration of the marriage;
- (f) whether the property was acquired when the spouses were living separate and apart;
- (g) the terms of an oral or written agreement between the spouses;
- (h) that a spouse has made
 - (i) a substantial gift of property to a third party, or
 - (ii) a transfer of property to a third party other than a bona fide purchaser for value;
- (i) a previous distribution of property between the spouses by gift, agreement or matrimonial property order;
- (j) a prior order made by a court;
- (k) a tax liability that may be incurred by a spouse as a result of the transfer or sale of property;

- (l) that a spouse has dissipated property to the detriment of the other spouse;
- (m) any fact or circumstance that is relevant.

The Teachers' Pension

[13] I will deal Mr. Newton's Teachers' Pension first.

[14] Since 1985 Mr. Newton has been a music teacher in the public school system in Alberta. As a result of that employment, he has been able to make contributions to the Teachers' Pension. Mr. Newton does not dispute that the pension is a matrimonial asset subject to division between himself and Ms. Henry. That leaves two questions to be answered. The first is when did Ms. Henry's legal interest in the pension begin and end? The second is what portion of the pension is she entitled to?

Joint accrual period

[15] The parties cannot agree on when the period of joint accrual began and when it ended.

[16] Ms. Henry says the period began when the parties started cohabitating in a common-law relationship in Tofield, Alberta, on 28 August 1985. Mr. Newton asserts the period began when the parties were married on 4 August 1995. In my view, Mr. Newton's position is the correct one, as section 7(2) of the MPA exempts the value of the pension plan at the time of the parties' marriage from distribution. As such, I find the beginning of the joint accrual period for the purposes of calculating Ms. Henry's interest in the Teachers' Pension is the parties' date of marriage.

[17] With regard to when the period of joint accrual ended, Ms. Henry says that should be 31 October 2011, the date of the judicial case conference in this matter, when Madam Justice Kloegman made a declaration that there was no reasonable prospect of reconciliation. Mr. Newton submits that the end date of the joint accrual period should be the parties' separation date, 16 May 2009. For all practical purposes, Ms. Henry's and Mr. Newton's marriage relationship came to an end on 31 October 2011 and I accept Ms. Henry's position that that is the date her entitlement to a share of the Teachers' Pension ended.

[18] Consequently, I find the joint accrual period is from 4 August 1995 to 31 October 2011. That is, 5,932 days or 16 years and three months.

Division factor

[19] In *Rands v. Rands*, 2011 ABQB, Justice Hall considered sections 7 and 8 of the MPA in the context of a disputed pension, and explained at paragraph 38:

[38] Pensions differ considerably from other matrimonial property assets, particularly where the parties have been separated for a lengthy period of time. During that period of time, the pensioner has continued to be employed and to make contributions to the pension while the former spouse is making no such contributions. It is because of the pensioner's efforts alone

that the pension increases in value. Accordingly, except in some unusual circumstances, which do not exist here, the factors set out in section 8(a), (b), (c) and (f) are important considerations for the Court, and lead to the conclusion that neither party should share in the appreciation of the other party's pension for the period of time for which the parties were separated.

[20] What I must decide is when did the parties separate? The answer to that question will allow me to determine the fraction of Mr. Newton's pension that Ms. Henry is entitled to.

[21] Ms. Henry says that the parties' matrimonial life was a continuous one when they lived in Alberta, although she acknowledges that for significant periods of time she and Mr. Newton lived in different cities and did not share a common residence. She also asserts that the purchase of the Gabriola Island property in April of 2009 and her relocation there a month later did not equate to a matrimonial separation. Ms. Henry says Mr. Newton attended at the Gabriola Island property during the summer of 2009 as well as a portion of the summer 2010. In her affidavit #10, sworn 4 September 2013, Ms. Henry explained:

[6] I moved from Alberta to Gabriola shortly after we purchased the property for several reasons:

* * *

(b) As I was disabled and not capable of working, it was logical that I moved to Gabriola Island while Lyle kept working and building up our pension in Alberta.

* * *

(e) Lyle did not move with me because he was unable to obtain employment as a teacher in British Columbia. We therefore lived in two different provinces, but we did not separate.

[22] According to Mr. Henry, she and Mr. Newton separated in August 2010, when it was clear to her that their relationship was at an end.

[23] In his affidavit evidence, Mr. Newton asserts the parties separated on 16 May 2009, when Ms. Henry moved to the Gabriola Island property. This evidence contradicts what Mr. Newton asserted in the pleadings he has filed in this action, wherein he claims the separation occurred on 17 April 2010.

[24] In my view the evidence supports Ms. Henry's position over that of Mr. Newton. The fact that Mr. Newton's pleadings indicate a separation date in the spring of 2010, only a few months before the date alleged by Ms. Henry, is a factor that I have considered in reaching this decision. Moreover, the parties had just purchased the Gabriola Island property in April 2009. Mr. Newton attended at the property during the summer of 2009 and for at least a portion of 2010. In my view, it is more likely than not that the parties separated after his visit in 2010.

- [25] With regard to the significant portion of their relationship during which the parties maintained and lived in separate residences in Alberta, I do not find this indicates they were living separate and apart for the purposes of section 8(f) of the MPA. In my view the principal reason why the parties lived in separate residences was to allow Mr. Newton to continue work as a public school teacher in Alberta.
- [26] For the purposes of calculating the division factor for the Teachers' Pension, I conclude that the parties separated as of 1 August 2010. As such, the period of time from 1 August 2010 to 31 October 2011, that is 466 days, does not form part of the calculation of Ms. Henry's entitlement to the Teachers' Pension. In the result, I find Ms. Henry is entitled to 46.15 percent of the Total Pre-Division Benefit of the Teachers' Pension.

Severance pay

- [27] In 2004, Mr. Newton began his employment as a music teacher with the Sturgeon School Division No. 24 (the "School Board").
- [28] On 28 February 2014, Mr. Newton executed a written agreement with the School Board wherein he voluntarily resigned his position. In consideration for his resignation, the School Board paid Mr. Newton \$40,000 in severance pay (the "Severance Pay").
- [29] Ms. Henry argues the Severance Pay is an identifiable benefit Mr. Newton earned as a result of his employment with the School Board and, therefore, it is a matrimonial asset that is divisible along the same lines as the Teachers' Pension. In support of this argument Ms. Henry relies upon two authorities: *Henry v. Henry*, [1992] BCJ No. 1522 (S.C.), and *Kranenburg v. Kranenburg*, 2007 BCSC 921. Respectfully, I do not agree with Ms. Henry's position on this point. In my view the authorities she cites are of little assistance because the severance payments in those cases were entitlements that existed prior to the parties' separation. That is not the case here. There is no evidence before me that suggests Mr. Newton had, during the course of his relationship with Ms. Henry or at any time, any entitlement to the Severance Pay or any severance package. In my view, the Severance Pay was not meant to be a supplemental pension or annuity in recognition of Mr. Newton's past employment with the School Board but instead was a payment designed to induce him to take early retirement and end his employment relationship with the School Board. In such circumstances the Severance Pay is not a matrimonial asset (see: *Read v. Read*, [1993] A.J. No. 173 (Q.B.), and *Witschel v. Sherron*, 2008 BCSC 646).

Spousal support

- [30] Ms. Henry was born in January 1955. She is presently 59 years old. In 1980 she obtained a Bachelor of Fine Arts in the University of Victoria. In 1991 she earned a diploma in arts administration from Grant MacEwan College in Edmonton, Alberta.

- [31] In 2007 Ms. Henry was diagnosed with a psychological disability that precludes her from being gainfully employed. According to her most recent financial statement filed 3 May 2013, Ms. Henry's principal source of income is a disability pension she receives. In 2012 she received \$8,145 in disability benefits.
- [32] Mr. Newton was born in November 1952. He is presently 61 years old. In 1976 he received a Bachelor of Music from the University of Victoria. In 1988 he received a Masters of Education from the University of Victoria. In 1997 he earned a Masters of Music from the University of Calgary. And in 2007, he received his Doctorate in Education from the University of Alberta. Until his very recent retirement from his position teaching in Alberta, Mr. Newton was earning approximately \$96,000 a year.
- [33] At the judicial case conference before Justice Kloegman in 2011, the parties consented, on a without prejudice basis, to an order directing Mr. Newton to pay Ms. Henry interim spousal support of \$3,000 per month commencing November 2011. Mr. Newton has had difficulties making his spousal support payments and at times he had been in arrears, but presently he is not. Ms. Henry submits that Mr. Newton should pay spousal support based on his pre-retirement income of \$96,000. In her affidavit evidence, she has convincingly explained in detail her need for such support and her reliance upon it.
- [34] At the outset of this summary trial Mr. Newton did not oppose paying Ms. Henry spousal support. The issue from his perspective was the quantum and duration of that support. Because of his recent retirement, Mr. Newton has now changed his position on spousal support. He points not only to the unfavourable performance review he received from his employer as one of the reasons for his retirement but also to the fact that he has developed potentially serious health issues himself, including depression and diabetes. For all of these reasons he argues there has been a significant change in his circumstances since the order of Justice Kloegman that justifies vacating that order and relieving him of having to pay Ms. Henry spousal support in the future.
- [35] Having considered all of the evidence and, having heard Mr. Newton over the extended course of this summary trial, I am convinced he is an educated, articulate and capable individual, possessing a not insignificant level of skill and talent. He says in his evidence that he plans on continuing to work in the music field in some capacity, and I have no reason to believe he will not be able to succeed in that endeavour. In my view Mr. Newton's decision to leave his employ as a public school teacher in Alberta was his own and that he was not compelled to take early retirement. In this regard I note that notwithstanding the critical performance review he received from his employer, he still had the option to continue his employment with them, subject to his improving various aspects of his work.
- [36] It is too soon to say what may transpire in the future regarding Mr. Newton's employment status and the income he might earn. For the time being I accept Ms. Henry's argument that it would be unjust to allow Mr. Newton to avoid paying her spousal support based upon his own unforced decision to retire.

- [37] I have no doubt that Ms. Henry has a justifiable need and entitlement to spousal support from Mr. Newton, at least until he has completely retired from the workforce. Because of the noticeable absence of current and reliable evidence regarding the income of either party, in my view it is appropriate to direct Mr. Newton to continue paying Ms. Henry spousal support in the amount set out in Justice Kloegman's order. That is, \$3,000 per month. In three and a half years' time Mr. Newton will be 65 years old. That is when Ms. Henry submits Mr. Newton's spousal support obligations should cease, unless he continues to be gainfully employed and earning an income. I agree with Ms. Henry on this point. I am satisfied that 65 would likely be a realistic age when Mr. Newton will be fully retired from the workforce. Subject to what I am about to say about a future review of Mr. Newton's spousal support obligation, the duration of that support will be until he turns 65 years old, in three and a half years' time.
- [38] There are a number of considerations that have influenced my decision regarding spousal support. There is the fact that Ms. Henry may shortly begin receiving additional income in the form of a pension based on her share of Mr. Newton's Teachers' Pension. There is also Mr. Newton's stated intention to continue working in some capacity for the foreseeable future. Finally, there is the fact that Ms. Henry has arranged her personal affairs based on a not unrealistic belief that she was entitled to monthly spousal support in the range of \$3,000. I note that \$3,000 per month is at the low to middle range of the Spousal Support Advisory Guidelines if Mr. Newton had an annual employment income of \$96,000 and at the high range if his income was something closer to \$85,000.
- [39] Because there are so many factors that may influence Mr. Newton's ability to pay spousal support in the future, including his medical conditions that may at some point preclude or limit him from working and earning a salary, I will allow for a review of his spousal support obligation in 12 months' time. I note that such a review may be initiated at the request of either party. In one year's time the parties should have a much better idea of what Mr. Newton can expect his income to be in the coming years.
- [40] In summary, based upon a Guideline income of \$96,000 for Mr. Newton, and a Guideline income of \$8,145 for Ms. Henry, Mr. Newton will pay Ms. Henry \$3,000 monthly spousal support commencing on 1 May 2014. He will do so for a period of three and a half years, ending with his payment for November 2017.

Mr. Newton's Blue Cross medical coverage

- [41] While an employee of the School Board, Mr. Newton had extended health and dental coverage provided by Blue Cross. For a time Ms. Henry was a named beneficiary under those programs. At some point after the parties separated Ms. Henry ceased being a beneficiary. At the 2011 judicial case conference, Mr. Newton agreed to make his best efforts to have Ms. Henry reinstated on his Blue Cross programs. It is unclear if that ever happened.

- [42] In April 2012 Mr. Newton's Blue Cross coverage was cancelled because he was unable to pay his premium and had fallen into arrears. Apparently, he has not been able to reinstitute his Blue Cross coverage.
- [43] Ms. Henry seeks an order that Mr. Newton re-register with Blue Cross and have her named as a beneficiary under his coverage. In the alternative, she seeks an order that Mr. Newton make additional monthly payments to her so that she can purchase her own extended health-care coverage.
- [44] In my view there are no grounds to make the order sought by Ms. Henry. As best I can determine, she already has some additional medical or dental coverage. Moreover, the amount of spousal support she will be receiving from Mr. Newton should, in my opinion, be sufficient for her to obtain her own extended-health coverage, if she so desires.
- [45] In the result, Ms. Henry's claim in this regard is dismissed.

Costs

- [46] I have not heard any submissions on costs. Counsel for Ms. Henry has indicated submissions may be required. Without in any way prejudging this issue and recognizing that I have not yet heard any submissions on the issue, I will nevertheless let the parties know that I am presently inclined to the view that each party has achieved some success on this summary trial and that an award of costs could reflect that fact. If the parties cannot resolve the issue of costs, then they may set the matter down for hearing before me on a mutually convenient date obtained through the registry.

Order

- [47] Although the parties did not agree on the calculation of Ms. Henry's portion of the Teachers' Pension, they did agree on the specific wording of the order once it was determined.
- [48] The order that I am making today will include the following terms:
- (a) The parties will be divorced, on the usual terms;
 - (b) For the purpose of determining Ms. Henry's percentage of the Teachers' Pension, the joint accrual period is from 4 August 1995 to 31 October 2011 inclusive;
 - (c) The administrator of the Teachers' Pension plan, upon being served with this order, shall transfer to a locked-in retirement account, ("LIRA") which complies with the Employment Pension Plans Act and which is owned by the claimant, 46.15 percent of the Total Pre-Division Benefit, as that term is defined in the Teachers' Pension Plans (Legislative Provisions) Regulation (AR 204/95). Prior to the administrator transferring the claimant's share to the claimant's LIRA, the claimant shall provide to the administrator all information administrator requires to effect that transfer;

- (d) If the administrator of the Teachers' Pension plan is statutorily precluded from transferring the claimant's share to a LIRA pursuant to section 38(3) of the Teachers' Pension Plans (Legislative Provisions) Regulation (AR 204/95) or another provision, the administrator shall pay the claimant's share directly to the claimant in the form of a pension based on an entitlement to 46.15 percent of the Total Pre-Division Benefit;
- (e) Mr. Newton's severance payment is not a matrimonial asset and is therefore not subject to being divided between the parties;
- (f) Commencing 1 May 2014 Mr. Newton will pay Ms. Henry \$3,000 in monthly spousal support and such support will continue until November 2017. Either party may seek a review of the spousal support obligation after the expiry of 12 months from the date of this order;
- (g) Ms. Henry's claim regarding Mr. Newton's Blue Cross medical and dental coverage is dismissed;
- (h) The parties will have liberty to apply for directions in respect to the implementation of any of the terms of this judgment or any matter that has not been addressed, including costs;
- (i) I will remain seized of any application relating to this matter for a period of two years from the date of these reasons.

[49] Those are my reasons.

[50] I will start with you, Mr. McLeod. You were able to hear those reasons, were you?

[51] MR. McLEOD: I was, My Lord. I have one small suggestion.

[52] THE COURT: Yes.

[53] MR. McLEOD: Since Your Lordship has quite wisely, in my view, given liberty to apply for a review after 12 months, that will be after the end of April 2015 and I would suggest that there be a clause that both parties provide their 2014 income tax returns before making any such application.

[54] THE COURT: All right. Mr. Newton -- sorry, anything further, Mr. McLeod?

[55] MR. McLEOD: No, I think that's it, My Lord. That -- if you do -- if you agree with me, that will bring the incomes of the parties right up to date at the time of the application.

[56] THE COURT: Understood.

[57] Mr. Newton, were you -- first off, were you able to hear everything I was saying?

[58] MR. NEWTON: Yes, sir.

[59] THE COURT: Now, you've just heard Mr. McLeod's suggestion for a supplemental term of my order. Your thoughts on that?

[60] MR. NEWTON: I have no objection to providing information to the Court anytime in the future.

[61] THE COURT: All right. Well, it seems like a reasonable proposition if either party is going to seek a review, though what I think would be of assistance to everyone involved is that prior to doing so they file an updated Form F8, Mr. McLeod, as opposed to simply just the tax return.

[62] MR. McLEOD: Yes, I agree, My Lord.

[63] THE COURT: Mr. Newton, you have prepared a Form F8 before. That's the financial statement that includes -- that gives a better a -- broader picture of the financial circumstances of the parties. Do you have any issue that if you bring on an application for a review or if Ms. Henry does, then prior to the hearing both sides must file updated F8s?

[64] MR. NEWTON: That's -- that's acceptable to me.

[65] THE COURT: All right. Well, then I will amend subparagraph (f) of my order as follows:

Either party may seek a review of the spousal support obligation after the expiry of 12 months. In such an event prior to the hearing of the review, the parties are to file updated F8 financial statements.

[DISCUSSION ABOUT THE DRAFTING AND SIGNING OF THE ORDER]

[66] MR. McLEOD: Yeah, I'll give it to Mr. Newton unendorsed by myself, My Lord, and ask him to return it to me and then I'll just bring it up to the Court.

[67] THE COURT: I'll leave it in both of your capable hands to address things from this point.

[68] MR. McLEOD: Thank you, My Lord.

[69] THE COURT: Madam Registrar, clear enough for your purposes?

[70] THE CLERK: Yes, thank you, My Lord.

[71] THE COURT: All right. Anything further, Mr. Newton?

[72] MR. NEWTON: No.

[73] THE COURT: All right. Thank you both, gentlemen. We'll stand down.

"G. R. J. Gaul J."

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