
CANADA / JUDGMENT

Hussein v. Ibrahim

2007 BCSC 1725

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Supreme Court of British Columbia

DECIDED

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2007 BCSC 1725 Hussein v. Ibrahim

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Hussein v. Ibrahim,

2007 BCSC 1725

Date: 20071130

Docket: E025359

Registry: New Westminster

Between:

Shayne Farah Hussein

Plaintiff

And

Mohammed Yunus Ibrahim

Defendant

Before: The Honourable Mr. Justice Scarth

Reasons for Judgment

Counsel for the Plaintiff:

J. Bomhof

Defendant appearing on his own behalf:

Mohammed Yunus Ibrahim

Date and Place of Trial:

October 29 and 30, 2007

New Westminster, B.C.

A. Introduction

- [1] This is a family law proceeding in which claims for custody, guardianship, access, child and spousal support, and a determination of family assets and debts and division of property, are made in the pleadings.

B. Factual Background

- [2] The plaintiff, Shayne Farah Hussein, was born in Fiji in May 1971, and is now 36 years old. The defendant, Mohammed Yunus Ibrahim, was also born in Fiji, in October 1962, and is now 45 years of age.
- [3] The parties never married. They met in Fiji in either October or November 1998 or 1999 (the evidence is contradictory regarding the year), and began living together six to eight months after they met.
- [4] Ms. Hussein testified that she divorced her husband, one Brian Ali, in Fiji in 1998 or 1999. She and Mr. Ali had two daughters: Anshara Ali, born 4 June 1994, and now 13 years of age; and, Requeeba Ali, born 14 February 1997, and now 10 years of age.
- [5] At the time the parties met, Mr. Ibrahim was, and still is, a married man. He and his wife, "Daisy", have two children aged 9 and 16, with whom, Mr. Ibrahim told the Court, he is in regular contact. They and his wife remain in Fiji.
- [6] Mr. Ibrahim, Ms. Hussein and her two daughters immigrated to Canada in August, 2000. Following their arrival, they had a religious ceremony, called a "Nikah", on 26 December 2000 in a Mosque, arranged for by Mr. Ibrahim. According to Mr. Ibrahim, this ceremony does not create a legal marriage and is not recognized at law. On the other hand, in the "Statutory Declaration of Common-Law Union" dated 19 April 2004 and filed with the Minister of Citizenship and Immigration, the parties declared that "we have cohabited in a conjugal relationship for 4 continuous year(s) from [23 July 1999 to 19 April 2004], with the exception of a period of separation from November 13, 2000 to December 25, 2000."
- [7] In their viva voce testimony before the Court, both parties acknowledged that they did not live together continuously from the time of their arrival in Canada in August, 2000 until Mr. Ibrahim left for Alberta in February, 2005. According to Ms. Hussein, there were a "few separations". On 13 November 2000, Ms. Hussein testified, Mr. Ibrahim struck her. They became reconciled before the resulting charge of assault was tried in court. In 2002 Mr. Ibrahim was removed from their home by the Ministry for hitting one of the children. The parties became reconciled six to eight months later. Again, in 2003, there was a further period of separation. Mr. Ibrahim, on the other hand, testified there were "several

separations" during their years of cohabitation and that they lived together for only three to four months at a stretch due to the involvement of the plaintiff's family and a conflict of interests. In his closing argument, Mr. Ibrahim said there were several separations and that he and Ms. Hussein did not live together continuously. He, too, recalled a period of separation for eight months. Ms. Hussein's sister, Rabeena Ali, testified that the parties separated a "couple of times, but were back together in no time." They separated in 2000 after Mr. Ibrahim assaulted Ms. Hussein, and in 2001 the Ministry had him removed from the house for two or three weeks for assaulting one of the children.

- [8] On 15 October 2001, a son, Mohammed Ibrahim, was born to Ms. Hussein and Mr. Ibrahim.
- [9] Although the plaintiff, in her statement of claim, alleges that the parties ceased to cohabit in May 2006, whilst the defendant, in his pleadings, alleges that they ceased to cohabit in October 2005, I find the probabilities are that the parties separated on 31 October 2005. On that day, according to Mr. Ibrahim, Ms. Hussein chased him out of the house and registered the transfer to her name of the 1995 Dodge Caravan which Mr. Ibrahim had given her earlier in their relationship. On or about that day, as well, Mr. Ibrahim moved to Red Deer, Alberta. Although he returned to the parties' home for a brief time in January 2006, in April 2006, during a surprise visit made by Ms. Hussein to Mr. Ibrahim, he told her that he had set up his life elsewhere and did not want to come home. In fact, he has now entered into a new relationship. The events, post 31 October 2005, are part of a continuum which point to October 31 as being the date the parties in fact separated.

C. Issues

- [10] The trial of this action has identified certain issues which must be addressed by the court. These may be summarized as follows:
1. The defendant's relationship at law to the plaintiff and her two daughters;
 2. The appropriate party to have custody of the children;
 3. The parties' annual incomes;
 4. The amount, if any, of the defendant's liability for spousal and child support;
 5. The plaintiff's entitlement, if any, to an interest in the defendant's Fiji National Provident Fund; and
 6. The division of debts.

D. Discussion

1. Defendant's Relationship at Law to the Plaintiff and her Daughters
- [11] There is no issue between the parties regarding Mr. Ibrahim's relationship to the parties' son, Mohammed Ibrahim, born 15 October 2001. He is the child's natural or biological father.

[12] By virtue of the definition of "spouse" in s. 1(1) of the Family Relations Act, R.S.B.C. 1996, c. 128, each of the parties was the spouse of the other. The relevant parts of the definition read:

"spouse" means a person who

(a)

(b) except under Parts 5 and 6, lived with another person in a marriage-like relationship for a period of at least 2 years if the application under this Act is made within one year after they ceased to live together

[13] The evidence establishes that the parties lived in a marriage-like relationship for at least two years, from at least July 2000 until the end of October 2005, notwithstanding their conjugal relationship was interrupted from time to time by periods of separation.

[14] The plaintiff filed her statement of claim on 19 July 2006, and has therefore brought her applications under the Family Relations Act within one year after the parties ceased to live together.

[15] The real issue in this case is whether Mr. Ibrahim is a "parent" of Ms. Hussein's two daughters, Anshara Ali, born 4 June 1994, and Requeeba Ali, born 14 February 1997, as that term is defined in s. 1(1)(b) of the Family Relations Act. The definition of "parent" reads in part as follows:

"parent" includes

(a)

(b) a stepparent of a child if

(i) the stepparent contributed to the support and maintenance of the child for at least one year, and

(ii) the proceeding under this Act by or against the step-parent is commenced within one year after the date the stepparent last contributed to the support and maintenance of the child;

(2) For the purpose of paragraph (b) of the definition of "parent" in subsection (1), a person is the stepparent of a child if the person and a parent of the child

(a)

(b) lived together in a marriage-like relationship for a period of at least 2 years

[16] I find that Mr. Ibrahim's relationship to both Ms. Hussein's daughters was that of a stepparent within the meaning of s. 1(1) and 1(2) of the Act.

- [17] During the time the parties cohabitated Mr. Ibrahim paid the rent for the home in which he, Ms. Hussein and the three children lived, paid for the car insurance, and purchased the more expensive groceries, such as meat, and clothes for all the children. According to Ms. Hussein, although he was at times a harsh disciplinarian with the children, he was warm and loving with her daughters, a kind father, always concerned about their food, clothes and comfort. The children were fond of him.
- [18] In his examination-in-chief Mr. Ibrahim testified that responsibility for Ms. Hussein's two daughters was imposed upon him; that Ms. Hussein's parents went back on their word to keep the two girls when he and Ms. Hussein came to Canada. In cross examination, however, Mr. Ibrahim acknowledged that he was close to the two girls and contributed to the family expenses by paying the rent and helping with clothes for the children when he and Ms. Hussein lived together. As well, when he had the time, he helped with their spiritual education and homework.
- [19] In the words of the plaintiff's sister, Rabeena Ali, Mr. Ibrahim "was a caring, generous, loving father. As a stepfather he was better than a real dad; caring and strict about Islamic rules." During the four to five months the parties and the two girls lived with Ms. Ali after arriving in Canada, Mr. Ibrahim gave Ms. Ali money for their support. During the parties' cohabitation Mr. Ibrahim bought games and clothing for the children, Ms. Ali told the court.
- [20] Plainly, Mr. Ibrahim contributed to the support and maintenance of the plaintiff's daughters during the time the parties cohabited and was therefore their stepparent within the meaning of the Act.

2. The Issue of Custody

- [21] In her statement of claim Ms. Hussein seeks an order that she have sole custody of Anshara Ali, Requeeba Ali and Mohammed Ibrahim, with reasonable access to the defendant.
- [22] In his statement of defence and counterclaim Mr. Ibrahim seeks an order for custody only of the parties' son, Mohammed Ibrahim, with reasonable access being granted to the plaintiff. At the trial however Mr. Ibrahim changed his position and stated to the court that he now seeks custody of both Mohammed Ibrahim and Requeeba Ali. This change in position occurred, Mr. Ibrahim said, because he wanted to protect Requeeba, who had had reconstructive surgery performed on her face, from prejudice.
- [23] In making an award of custody, access or guardianship under Part 2 of the Family Relations Act, the court is required by s. 24 of the Act to give paramount consideration to the best interests of the child. Subsection 24(1) of the Act reads as follows:

Best interests of child are paramount

24 (1) When making, varying or rescinding an order under this Part, a court must give paramount consideration to the best interests of the child and, in assessing those interests, must consider the following factors and give emphasis to each factor according to the child's needs and circumstances:

- (a) the health and emotional well being of the child including any special needs for care and treatment;
- (b) if appropriate, the views of the child;
- (c) the love, affection and similar ties that exist between the child and other persons;
- (d) education and training for the child;
- (e) the capacity of each person to whom guardianship, custody or access rights and duties may be granted to exercise these rights and duties adequately.

[24] I have not had the advantage of a custody and access report by a family counsellor, social worker or other person approved by the court following an investigation under s. 15 of the Act. The conclusions I have reached with respect to the custody and access are therefore based on hearing the parties in court, observing their demeanours, and listening to the testimony of Ms. Hussein's mother, Nisha Hussein, and sister, Rabeena Ali.

[25] In my judgment either Ms. Hussein or Mr. Ibrahim is suitable to parent these children. No issue arose as to Ms. Hussein's suitability, and although Mr. Ibrahim was regarded as a strict parent, the evidence establishes that he was at the same time a loving and caring parent. Whilst the parties cohabitated Mr. Ibrahim babysat the children during the evenings so that Ms. Hussein could go to work, helped them with their studies and religious education, and prepared them for bed. I am satisfied both parties have the best interests of the children at heart.

[26] In determining the issue of custody, I bear in mind that the children have been in Ms. Hussein's care since their respective births. Moreover, it does not seem to me to be in the interests of the children that one or two of them should be separated from the other(s).

[27] Ms. Hussein appears to have the support of her mother, who impressed me as a witness, in raising the children. Mr. Ibrahim, on the other hand, since moving to Alberta in 2005, has entered into a relationship with a Ms. Banu. Whether she is willing to undertake the responsibilities associated with raising Mr. Ibrahim's children is not known to the court. I note as well that since moving to Alberta Mr. Ibrahim has lived in three or four different locations within that province.

[28] Ms. Hussein is able, in my opinion, to provide a more settled living environment for the three children and more adequately to fulfill the needs of these children which are identified in ss. 24(1) of the Act.

[29] Although the matter was not addressed by the parties, I have given thought as to whether an award of joint custody would be appropriate. Upon reflection, joint custody/guardianship would not appear to be workable while Mr. Ibrahim is living in Alberta.

[30] Ms. Hussein is therefore awarded sole custody and guardianship of the three children. Mr. Ibrahim will have liberal and reasonable access. If he experiences difficulty in obtaining access he may apply to the Court on notice to Ms. Hussein for an order specifying the times and places of access.

3. The Parties' Respective Annual Incomes

[31] According to Ms. Hussein's financial statement sworn to 24 October 2007, her total annual income, comprised of employment insurance benefits, child tax benefits and the B.C. family bonus, is \$25,519.80. In her testimony before the Court, Ms. Hussein stated that she is not presently employed; she receives employment insurance which she expects, starting on September 23rd, will amount to \$412 per week. She continues to receive the universal child care benefit of \$100 per month for the parties' son, Mohammed, at least while the child is under the age of six, and child tax benefits of \$826 per month. Based on these figures, Ms. Hussein's total annual income, I find, is \$26,720. I note that by virtue of an amendment, which came into force on 1 April 2007, to the Federal Child Support Guidelines, which British Columbia has adopted for determining child support under the Family Relations Act, the universal child care benefit included in a spouse's income for income tax purposes is to be deducted from income when determining an amount under the Federal Child Support Tables.

[32] Although Mr. Ibrahim challenged Ms. Hussein's items of expense as being excessive in several instances, the figure for her annual income was not seriously challenged in any aspect by the defendant.

[33] Mr. Ibrahim testified that his projected annual income is \$15,000. The plaintiff seeks to have the Court impute Mr. Ibrahim's annual income at \$48,000, on the basis he is intentionally underemployed.

[34] Subsection 19.(1) of the Federal Child Support Guidelines provides in part:

Imputing income

19. (1) The court may impute such amount of income to a spouse as it considers appropriate in the circumstances, which circumstances include the following:

- (a) the spouse is intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child of the marriage or any child under the age of majority or by the reasonable educational or health needs of the spouse;
- (f) the spouse has failed to provide income information when under a legal obligation to do so;

- [35] Mr. Ibrahim filed his financial statement sworn to 16 February 2007, in which he deposes that his annual income, comprised of employment income in the amount of \$20,280, and casual part-time employment with The Advocate in the amount of \$5,000, totals \$25,280.
- [36] Mr. Ibrahim frankly conceded in cross examination that in August 2007 he was requested to file an updated financial statement. He was not able to do so, he testified, because he had been injured, quit his jobs, was under stress and misplaced the request for an updated financial statement.
- [37] Mr. Ibrahim's income tax returns for the years 2003, 2005 and 2006 are before the Court. They respectively show taxable income of \$28,401, \$27,444 and \$23,141.19. His T4 statements of remuneration paid for the years 2002 and 2004, respectively, indicate his employment income was \$26,500.10 and \$38,934. Mr. Ibrahim testified that his 2004 employment income of \$38,934 was the result of 2004 being an "exceptional year" with "lots of overtime". Mr. Ibrahim presently has gross salary income of \$15,435, paid bi-weekly in the amount of \$640. His take home pay is \$568.14, paid every two weeks.
- [38] Mr. Ibrahim attributes the reduction in his income to an injury he sustained to his lower hip and spine. Mr. Ibrahim is presently employed by Park Lane Industries. He runs a gas station, but is able to perform only light duties. The possibility of returning to regular work at this stage is "minimal", he testified. He is paid \$8.00 per hour for a 40 hour week. But this will be reduced during the winter to 20 hours per week, he told the Court.
- [39] His present employment situation is in contrast to his employment by Coast Building Supplies Ltd., where he earned \$26,500 in 2002 and \$38,000 in 2004 (an exceptional year supplemented by overtime), and by Commercial Construction Supply Ltd., where he started in February 2005 as Lead Shipper at an hourly rate of \$17.00.
- [40] There is no medical report before the Court regarding Mr. Ibrahim's lower hip and spine. Mr. Ibrahim concedes he did not obtain a medical opinion. Apart from what Mr. Ibrahim told the Court, the only assistance the Court received with respect to his injury is a letter to him dated 13 June 2007, from the Workers' Compensation Board of Alberta, the opening paragraph of which reads:

The Workers' Compensation Board (WCB) - Alberta has received medical information that you may have been injured at work and we have established a claim for you.

Whether Mr. Ibrahim proceeded to claim compensation from the Board, I do not know.

- [41] Whilst Mr. Ibrahim has worked in construction and as a shipper, he has also performed work of a less strenuous nature, such as work in a bank and the insurance industry and as a branch manager of Coast Building Supplies Ltd.

[42] My assessment of Mr. Ibrahim as a witness is that he is an honest man. In finding that he is "intentionally underemployed" within the meaning of ss. 19.(1) of the Guidelines, I do not suggest bad faith on his part. Bad faith is not required by s. 19: *Hanson v. Hanson*, [1999] B.C.J. No. 2532 (QL) (S.C.), at ¶s 10-11. As Madam Justice Martinson wrote in *Hanson* at ¶13:

Therefore, bad faith is not required. The parent required to pay is intentionally under-employed if that parent chooses to earn less than he or she is capable of earning.

[43] What it comes down to in the case at bar is that Mr. Ibrahim has not met the onus resting on him to demonstrate by convincing evidence that his injuries prevent him from performing work which he has performed in the past, is presently capable of performing, and which yields a higher level of income.

[44] I impute income to Mr. Ibrahim in the amount of \$25,000 annually.

4. Defendant's Liability for Support

[45] With respect to child support, the governing principle under the Family Relations Act is found in ss. 88(1) which reads:

88(1) Each parent of a child is responsible and liable for the reasonable and necessary support and maintenance of the child.

[46] In accordance with ss. 93(1) of the Act, the Court may make an order requiring a party to the proceeding to discharge his or her liability under s. 88 "by paying to the person designated in the order the amount the court ascertains using the child support guidelines".

[47] At the present time, pursuant to an order made by consent at a judicial case conference, Mr. Ibrahim pays \$260 monthly to Ms. Hussein for the support of the parties' son, Mohammed. Having found that he is a "parent", by virtue of his stepfather relationship, of the defendant's two daughters, Anshara Ali and Requeeba Ali, Mr. Ibrahim is liable for their support and maintenance as well. Using the Federal Child Support Guidelines, the total amount payable by him in respect of the three children is \$525 per month.

[48] Mr. Ibrahim asserts, in effect, that he will suffer undue hardship if he is required to pay Guideline child support to Ms. Hussein for three children. He points out that Brian Ali, the natural father of Ms. Hussein's daughters, was ordered by the court in Fiji to pay Ms. Hussein \$35 per week for the support of the two children. He paid only once. She testified that she took steps to enforce the order, but that it was a waste of time. So she "willingly waived" the order against Mr. Ali. It was of no use, she stated. He was on drugs and there was too much "running around" involved in trying to enforce it.

[49] As well, Mr. Ibrahim testified, he is still legally married in Fiji to "Daisy" and obliged to support the two children born of their relationship. He told the Court he sends \$400 or \$100, whatever he can afford, to his wife for her support and the support of their two children. He also sends money to his aged mother: \$100 in March or April; and \$1,200 at the time she needed money for an operation. Mr. Ibrahim claims he forwards cash to his children and

mother in Fiji, usually \$200 to \$250 per month. He has no receipts for the money or statements.

[50] Subsection 10(1) of the Guidelines enables the Court to award an amount of child support that is different from the Guideline amount if the Court finds that the spouse making the request would otherwise suffer undue hardship. Subsection 10(2) identifies the circumstances that may cause undue hardship. These include:

- (d) the spouse has a legal duty to support a child, other than a child of the marriage, who is
 - (i) under the age of majority,
- (e) the spouse has a legal duty to support any person who is unable to obtain the necessities of life due to an illness or disability.

[51] Whilst Mr. Ibrahim, in sending money to his mother, may be responding to a sense of filial obligation, the circumstances are not brought within ss. 10(2)(e) of the Guidelines. There is no evidence that he is under a "legal duty" to support his mother, nor is there evidence she is unable to obtain the necessities of life. Priority must be given to the support of his son and stepdaughters here.

[52] There is no evidence Mr. Ibrahim is subject to a court order or agreement which requires him to pay child support in respect of his two children in Fiji. Subsection 88(1) of the Family Relations Act would appear to create a legal duty on his part to do so. The difficulty here, of course, is that there is no record of the amounts he pays. He sends them money when he is able to afford to do so. Moreover, the Court has no evidence before it of the living circumstances of Mr. Ibrahim's family in Fiji.

[53] Dealing with the matter as fairly as I am able to on the evidence, I set Mr. Ibrahim's obligation to pay child support to Ms. Hussein at \$475 per month for the three children, commencing 1 January 2008.

[54] With respect to spousal support, Mr. Bomhof does not press this if the Court awards child support for the three children. Given the parity of the parties' incomes and the ability of each party to achieve economic self-sufficiency, I am of the view an order for spousal support would not be appropriate. The application by Ms. Hussein for spousal support is refused.

5. Plaintiff's Interest in Defendant's Fiji National Provident Fund

[55] The plaintiff seeks either 75 percent of or an equal division of the Fiji National Provident Fund standing in Mr. Ibrahim's name. According to the statement of account dated 17 August 2006, the balance standing to Mr. Ibrahim's credit as at that date was \$40,377.84 (Fijian \$). I am told this amounts to \$25,000 (Cdn. \$).

- [56] Mr. Ibrahim testified in cross-examination that the money on account was a compulsory contribution by him of 7 percent of his salary whilst he worked in Fiji. He is able to access the money in the Fund upon migration, retirement at age 55 or disability. He acknowledges he would be able to access the money in the account by reason of his immigration to Canada in 2000. But he has no intention of doing so, he told the Court, because he assigned it to his wife and children.
- [57] Ms. Hussein testified that she had an account in her name too, acquired when she worked in Fiji. The amount standing to her credit in April 2006 was \$9,000 (Fijian \$) or \$5,400 (Cdn \$). In that month she withdrew the money and used it for household expenses from April 2006 to February 2007 following the parties' separation.
- [58] Referring to *Wilson v. McDougald*, 2006 BCSC 1155, Mr. Bomhof submits that the elements of unjust enrichment are made out by Ms. Hussein. As was the finding in *Wilson*, Mr. Bomhof acknowledges that in the case at bar the plaintiff cannot show a link between her services or the contributions she made and the money on account in the Fund. Nonetheless, it is argued, the Court, as in *Wilson*, is able to award the plaintiff a monetary judgment as compensation for the unjust enrichment.
- [59] To succeed in establishing an unjust enrichment, Ms. Hussein must show that she conferred a benefit upon Mr. Ibrahim, that she suffered a deprivation that corresponded to that benefit, and that there is no juristic reason to support the benefit and corresponding deprivation. I find that on the evidence unjust enrichment has not been made out by the plaintiff.
- [60] The parties lived in a marriage-like relationship for approximately six years during which Mr. Ibrahim's employment income earned in Canada was used to pay for the major items of expense in the family home. When Ms. Hussein worked in the evenings Mr. Ibrahim babysat the three children, thus saving the cost of a daily sitter. Both of the parties contributed to the house cleaning, preparing the meals and raising the children, including Ms. Hussein's two daughters.
- [61] The plaintiff's claim for a share of the defendant's Fiji National Provident Fund is dismissed.
6. Division of Debts
- [62] It is not in dispute that on 21 August 2007, Mr. Ibrahim received a cash advance of \$2,850 from the parties' VISA account with the Royal Bank of Canada. Under this account Ms. Hussein is the primary cardholder; Mr. Ibrahim is the secondary cardholder. Mr. Ibrahim told the Court that Ms. Hussein had charged over \$7,000 to her card, and that in order to protect himself he obtained a cash advance of \$2,850 which exhausted the card's credit limit of \$10,000. When he and Ms. Hussein separated at the end of October 2005, the indebtedness stood at \$5,345.31. He is prepared to give Ms. Hussein \$5,000 if his name is removed as a cardholder. I understand this proposal is acceptable to the plaintiff.

[63] An order will go directing the defendant to pay the plaintiff \$5,000 in exchange for which the plaintiff will arrange to remove the defendant's name from the VISA account and will indemnify him for claims under the account.

E. SUMMARY

1. The Court finds that the parties are spouses within the meaning of the Family Relations Act; the defendant is a parent of the plaintiff's two daughters, Anshara Ali, born 4 June 1994, and Requeeba Ali, born 14 February 1997, within the meaning of the Act.
2. The plaintiff is granted sole custody and guardianship of Anshara Ali, Requeeba Ali and Mohammed Ibrahim, born 15 October 2001. The defendant is granted liberal and reasonable access to the three children with liberty to apply on notice to the plaintiff to set the times and places of access.
3. The plaintiff's Guideline income for determining child support is \$25,520 annually. The Court imputes annual income of \$25,000 to the defendant.
4. The Court directs the defendant to pay child support to the plaintiff in respect of Anshara Ali, Requeeba Ali and Mohammed Ibrahim in the amount of \$475 per month commencing 1 January 2008; the plaintiff's claim for spousal support is dismissed.
5. The plaintiff's claim for a share of the defendant's Fiji National Provident Fund is dismissed.
6. The defendant will pay the plaintiff the sum of \$5,000 in respect of the parties' debts in exchange for the removal of his name from the parties' Royal Bank VISA account and indemnification of him by the plaintiff for claims under the account.

"Scarth, J."

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