

CANADA / JUDGMENT

I.A.M.M. v. H.F.S.S.

2025 BCSC 2134

COURT

Supreme Court of British Columbia

DECIDED

29 October 2025

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2025 BCSC 2134 I.A.M.M. v. H.F.S.S. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: I.A.M.M. v. H.F.S.S., 2025 BCSC 2134 Date: 20251029 Docket: E65454 Registry: New Westminster Between: I.A.M.M. Claimant And H.F.S.S. Respondent Before: The Honourable Justice Basran Reasons for Judgment re: Costs The Claimant, appearing in person I.A.M.M. The Respondent, appearing in person: H.F.S.S. Written Submissions of the Respondent: July 28, 2025 Written Submissions of the Claimant: August 11, 2025 Place and Date of Judgment: Vancouver, B.C. October 29, 2025 Table of Contents Introduction.. 3 Legal Principles. 3 The Matters in Dispute at Trial. 5 Divorce. 5 Parenting Arrangements for F.S. 5 Travel Authorization for F.S. 6 Imputation of Income to Mr. S. 6 Child Support and s. 7 Extraordinary or Special Expenses. 6 Spousal Support 7 Division of Family Property and Debt 8 Did Ms. M. Achieve Substantial Success on the Matters in Issue?. 8 Has Mr. S. Discharged the Burden of Proving that Hardship Justifies an Order that the Parties Bear their Own Costs?. 9 Conclusion.. 9

Introduction

- [1] The claimant, I.A.M.M. ("Ms. M."), and the respondent, H.F.S.S. ("Mr. S."), completed a six-day family law trial in March 2024. They have a child, F.S., born in December 2015.
- [2] On July 14, 2024, the Court issued a written decision indexed as 2025 BCSC 1330 (the "Trial Reasons") that resolved the substantive issues and provisionally awarded costs at Scale B to Ms. M., subject to the parties' written submissions on costs. This ruling on costs should be read in conjunction with the Trial Reasons.
- [3] Mr. S. forwarded his written submissions on July 28, 2025. He seeks an order that each party bear their own costs or, alternatively, that any award of costs be significantly reduced due to undue hardship.
- [4] On August 11, 2025, counsel for the claimant provided Ms. M.'s submissions on costs. Ms. M. seeks costs at scale B on the basis that she was substantially successful at trial.
- [5] For the reasons that follow, I conclude that Ms. M. is entitled to her costs at Scale B. Legal Principles

- [6] Generally, costs of a family law trial are awarded to the successful party: R. 16-1(7) Supreme Court Family Rules.
- [7] The following principles govern the award of costs in family law proceedings:
- a) The term "successful" in R. 16-1(7) means "substantially successful";
 - b) A flexible approach to "substantial success" is required in family law cases involving divided success on multiple issues;
 - c) "Success" is measured in broad terms and the court should not finely parse issues;
 - d) The court has broad discretion to take into account a myriad of considerations;
 - e) "Substantial success" is when the prevailing party succeeds on 75% or more of the matters. This is a "rough and ready guide". The court should not attempt to measure the substantial success threshold with mathematical precision;
 - f) The court must assess matters globally, compare the results achieved with the submissions at trial, and recognize that not all issues are equally significant. This assessment is a qualitative exercise; *Jin v. Cheng*, 2019 BCSC 148 at paras. 18-19; *Zhang v. Chen*, 2024 BCSC 285 at para. 19.
- [8] The following four-step inquiry assists in determining whether a party in a family law case achieved substantial success:
- a) Focus on the actual matters in dispute at the trial. This may be different than the issues defined in the pleadings;
 - b) Assess the weight or importance of those matters to the parties;
 - c) Do a global determination with respect to all the matters in dispute and decide which party "substantially succeeded" overall;
 - d) Where one party "substantially succeeded" consider whether there are reasons to "otherwise order" that the winning party be deprived of their costs and each party bear their own costs. *Fotheringham v. Fotheringham*, 2001 BCSC 1321 at para. 46.
- [9] The substantially unsuccessful party has the burden of proving that hardship justifies an order that the parties bear their own costs: *Schuller v. Roback*, 2012 BCSC 8 at para. 23. The Matters in Dispute at Trial
- [10] The primary matters in dispute at trial were:
- a) Divorce;
 - b) Parenting Arrangements for F.S.;
 - c) Travel Authorization for F.S.
 - d) The possible imputation of income to Mr. S.;

- e) Child support and s. 7 extraordinary or special expenses ("s. 7 expenses");
 - f) Spousal support; and
 - g) Division of Family Property and Debt. Divorce
- [11] Ms. M. sought a divorce. In his pleadings, Mr. S. did not resist a divorce but during his closing submissions at trial, he changed his position and submitted that he was opposed to a divorce.
- [12] The parties met the essential requirements so the Court granted a divorce. Ms. M. was successful on this issue. Parenting Arrangements for F.S.
- [13] Ms. M. sought and obtained shared parental responsibilities for F.S. with her having final decision-making authority in the event of a disagreement between the parties. She also received the detailed parenting time orders she requested.
- [14] Mr. S.'s position on parenting arrangements was vague and shifted during the course of the trial. It is likely that less trial time would have been required for this issue if Mr. S. had clearly articulated his position on it.
- [15] Ms. S. was successful in respect of the parenting arrangements for F.S. Travel Authorization for F.S.
- [16] Ms. M. sought an order allowing her to travel with F.S. internationally so she can regularly visit her parents and extended family in Jordan. This was a prominent issue for Ms. M. because she wanted to be able to take F.S. to visit his maternal grandparents and extended family without Mr. S.'s written consent because he withheld this consent in 2024 after providing it in 2023.
- [17] Mr. S. withheld his consent for F.S. to travel to Jordan with Ms. M. in 2024 based on unfounded speculation that Ms. M. would not return to Canada. The Court characterized this as an "exercise of leverage" by Mr. S.: Trial Reasons at para. 46.
- [18] The Court granted the travel authorization sought by Ms. M. so she succeeded on this issue of importance to her. Imputation of Income to Mr. S.
- [19] Ms. M. originally sought to impute an annual income of \$206,000 to Mr. S. based on his earnings from 2020 to 2022. After considering the relevant evidence at trial, Ms. M. revised her position and sought to impute \$30,000 of annual income to Mr. S.
- [20] The Court declined to impute income to Mr. S. based on his extensive, yet inexplicably unsuccessful efforts to find employment. Mr. S. succeeded on this issue. Child Support and s. 7 Extraordinary or Special Expenses
- [21] Based on her position on Mr. S.'s imputed income, Ms. M. sought retroactive and prospective child support and an equal division of s. 7 expenses. Having decided that income imputation was not warranted, the Court ordered that Mr. S. pay the nominal amount of \$100 per month

for child support and that he immediately increase this amount, in accordance with the Federal Child Support Guidelines, SOR/97-175, once he begins earning additional income. Mr. S. will be similarly required to pay s. 7 expenses on a pro rata basis in relation to Ms. M.'s income once he finds employment.

- [22] In my view, Mr. S.'s apparent success on this issue was not significant. It was an extension of the Court's finding on the issue of income imputation. In addition, the Court ordered that Mr. S. immediately commence paying nominal child support with that amount increasing when Mr. S. obtains employment.
- [23] In his written submissions on costs, Mr. S. explained that he recently began driving an Uber and earning approximately \$1,700 per month. He will, therefore, be required to pay child support and s. 7 expenses based on this income. Assuming his income increases in the future, these obligations will increase. Spousal Support
- [24] Ms. M. sought retroactive and prospective spousal support on both a compensatory and non-compensatory basis. This was an important issue for her because she left her career and birth family to support Mr. S.'s career aspirations in North America. Mr. S. denied that Ms. M. was entitled to spousal support.
- [25] The Court concluded that Ms. M. was entitled to spousal support because she gave up her career as a speech pathologist and took on household and child-rearing responsibilities that supported Ms. S.'s career progression as a software engineer with Amazon in Canada.
- [26] After the breakdown of their relationship, Ms. M. quickly retrained to become an early childhood educator and she has worked full-time in this capacity for several years. The Court ordered retroactive and prospective spousal support, largely on the terms sought by Ms. M. She was clearly successful on this issue of importance in the litigation. Division of Family Property and Debt
- [27] Ms. M. successfully sought an equal division of the net family property. Mr. S. opposed this outcome. At trial, the parties agreed that the value of the net family property was approximately \$107,000.
- [28] The Court ordered an equal division of property but at a substantially reduced quantum. In my view, success on this issue was divided because, in principle, Ms. M. received one-half of the net family assets but the amount she received, \$3,709, was significantly lower than the amount sought because of the equal allocation of losses incurred by Mr. S. in a failed coffee retailing business and his previous overpayment of child support. Did Ms. M. Achieve Substantial Success on the Matters in Issue?
- [29] Ms. M. succeeded on the issues of divorce, parenting arrangements, travel authorization, and spousal support. Mr. S. prevailed on the issue of income imputation. Success was either divided or insignificant on the issues of the division of net family property and child support/s. 7 expenses.

- [30] Ms. M. has been the primary caregiver for F.S. throughout his life. Accordingly, the issues of parenting arrangements and travel authorization were important to her as was spousal support in order to secure her financial well being. Specifically, final decision making authority and the ability to travel internationally without Mr. S.'s written consent were significant issues for Ms. S.
- [31] The financial dispute between the parties was material. Ms. M. appropriately moderated her position on income imputation. Mr. S.'s positions that Ms. M. was not entitled to spousal support and an equal division of the net family assets were unreasonable and unnecessarily prolonged the trial.
- [32] Applying a global determination to all the matters in dispute, I am satisfied that Ms. M. substantially succeeded at trial. This is because she succeeded on four issues, three of which were significant to her. On the fourth issue, as previously described, Mr. S. took an unexpected, late in the day, and ill-conceived position opposing divorce. The only significant issue on which he succeeded was income imputation and given the reasonable moderation of Ms. M.'s position on this issue, his success was measured and, in any event, the effect of this determination may imminently change, given his newly realized income as an Uber driver. Has Mr. S. Discharged the Burden of Proving that Hardship Justifies an Order that the Parties Bear their Own Costs?
- [33] Mr. S.'s financial position has apparently improved since the trial based on his recent work as an Uber driver. He reports that his income has moderately increased from the amount he previously received from government benefits. I am not convinced that a costs award, payable over time in monthly amounts, would be of a magnitude that is severe or extreme. Mr. S. has not discharged the burden of establishing hardship in the circumstances of this case.

Conclusion

- [34] Mr. S.'s opposition to the long and well-established parenting arrangements, travel authorization, spousal support, and divorce, necessitated a trial. In my view, the trial would have been shorter and possibly unnecessary, had Mr. S. taken reasonable positions on the matters most in dispute at trial. The issue of income imputation probably could have been resolved by way of summary trial or a short trial with oral evidence.
- [35] Ms. M. is entitled to costs at Scale B. In consideration of Mr. S.'s current financial circumstances, the assessed or agreed upon amount of costs shall be payable in monthly amounts, over 24 months. "Basran J."

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