

CANADA / JUDGMENT

J.I.M. v. J.M.M.

2024 BCSC 2375

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Supreme Court of British Columbia

DECIDED

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2024 BCSC 2375 J.I.M. v. J.M.M.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

J.I.M. v. J.M.M. ,

2024 BCSC 2375

Date: 20241209

Docket: E232636

Registry: Victoria

Between:

J. I. M.

Claimant

And:

J. M. M.

Respondent

Before: The Honourable Justice Wolfe

Oral Reasons for Judgment

Counsel for the Claimant:

A.J. Duncan

Counsel for the Respondent:

J.M. Reid

Place and Date of Hearing:

Victoria, B.C.

December 9, 2024

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- [1] These reasons have been edited for publication. To protect the privacy and well-being of the child, the parties' names have been initialized in the style of cause.
- [2] THE COURT: These are my oral reasons for judgment. If either party orders a transcript, I reserve the right to edit for grammar, clarity, and to address or add citations and case references but the substance of my judgment will not change.

Introduction and background

- [3] The parties appeared before me on interim cross-applications in this family law proceeding. It is currently set for an eight-day trial beginning August 18, 2025. The parties were together for approximately four years and there is one child of the marriage who is seven years old and in Grade 2. The applications concern the parties' interactions and parenting time for the respondent.
- [4] Up until an incident in May 2023, the respondent had parenting time with the child at least several times a week, including some overnights, and may potentially have had parenting time more frequently. There are disputes in the evidence with respect to the amount of time and the nature of the relationship between the respondent and the child over that period. As a result of the May 2023 incident -- in which the respondent is alleged to have made threats against the claimant, the child, and the claimant's adult daughter, as well as threats against his own safety -- the claimant suspended the respondent's parenting time.
- [5] In June 2023, the claimant obtained an ex parte protection order from the B.C. Provincial Court. Among other things, that order:

- 1) prohibited the respondent from direct and indirect contact and communications with the claimant, her adult daughter, and the claimant's mother, as well as the child;
 - 2) prohibited the respondent's attendance at the residence of the claimant and places where the claimant and the child might be; and
 - 3) prohibited weapons possession, except for food prep and work purposes.
- [6] The original protection order was cancelled and replaced in January 2024 by Judge Rogers of the B.C. Provincial Court. The replacement protection order incorporated a new term permitting the respondent supervised electronic access with the child at the claimant's discretion. The second protection order is currently set to expire January 18, 2025. As a result of that protection order, in early February 2024, the respondent began having 30-minute FaceTime calls with the child, once per week, which were supervised by a family member. The respondent did not have in-person visits with the child for a period of some 17 months. That has only changed very recently.
- [7] As noted, there are two applications before me. The claimant effectively applies under section 183 of the Family Law Act, S.B.C. 2011, c. 25 [FLA] to extend the existing protection order at least until trial. The claimant also seeks a police enforcement clause under section 188 of the FLA.
- [8] The respondent applies for orders respecting parental responsibilities and parenting time.

Recent developments

- [9] There have been a number of developments between the filing of the parties' applications and the hearing before me today. Most significantly, the parties appeared before Justice Gaul on September 17, 2024. Justice Gaul granted a consent order that the claimant have sole parenting responsibilities for the child on an interim and without-prejudice basis. He also granted an order that the child reside with the claimant and he consolidated the Provincial Court proceedings (under which the protection order was originally issued) with the Supreme Court proceedings. The orders sought by the claimant with respect to the extension of the protection order were adjourned to today's date.
- [10] The parties reached the following interim agreements after that appearance:
- 1) that they would jointly appoint Dr. Anita Snell to assess and prepare a Section 211 report to address the child's needs and views and each parents' ability and willingness to satisfy the child's needs;
 - 2) that the respondent will pay for the costs of Dr. Snell's report at first instance without prejudice to his ability to seek a different allocation of those costs in the future; and
 - 3) that in addition to electronic access, the respondent can have in-person visits with the child, supervised by an agreed-upon supervisor, on a schedule to be agreed in writing.

The terms of those agreements were incorporated into a consent order entered November 27, 2024.

- [11] At the hearing before me, the Court was advised of the current schedule for the respondent's time with the child. There is one, 1-hour, in-person visit on Wednesdays, which is supervised, and one, 2-hour, in-person visit on Saturdays, which is supervised. The parties have agreed to have Ms. Kathleen Bellamano supervise the visits, although the claimant expressed some concerns that Ms. Bellamano's fees are significantly higher than some other parenting coordinators.
- [12] The Court was also advised that Dr. Snell's Section 211 report is expected to be prepared by some point in March 2025. Obviously both parties, and eventually the Court, will be interested in what Dr. Snell recommends respecting the child's best interests and how they may best be addressed. The question then becomes what to do in the interim while waiting for completion of the Section 211 report and in the period before the trial. That includes questions regarding what to do about the respondent's parenting time over the upcoming December holidays as well as the March break from school.
- [13] At the Court's request, the parties discussed matters further on a court break and were able to narrow the issues on which they disagree. The Court is grateful to the parties and counsel for their efforts to do so. The parties have agreed as follows respecting the respondent's parenting time:
- 1) that they will maintain the current schedule until December 20, 2024, (which means the Wednesday, 1-hour supervised visits, and the Saturday, 2-hour supervised visits);
 - 2) that on December 26, 2024, the respondent will have an extended visit from noon until 6:00 p.m. that will also include the respondent's parents; and
 - 3) that for the two weeks of the Christmas break, there will be two extended visits per week. The exact duration of those visits was not agreed; the claimant said four hours, the respondent said six hours, but those extended visits during the Christmas break were agreed to be in addition to the December 26, 2024 visit.
- [14] The parties also agreed that as of January 2025, when the child returns to school, there will be 2-hour visits on Wednesdays (provided that those visits conclude by 6:30 p.m. to facilitate bedtime), and a 6-hour visit on Saturdays, for which the claimant proposed to keep the current 10:00 a.m. start time. Both of those sets of visits will continue to be supervised at least for a period of time. The claimant noted that the proposed schedules are subject to Ms. Bellamano's availability.

- [15] The respondent also agreed to pay the costs of Ms. Bellamano's supervision at first instance without prejudice to the ability to seek an order for up to half of the cost of her services in future. Further, the respondent agreed to adjourn the request for shared parental responsibilities either generally or until Dr. Snell's report was received. The parties both agree that there should be a review of the parenting time arrangements once Dr. Snell's report is received.

Issues

- [16] As a result of the further agreements reached between the parties, the issues that remain in dispute are as follows:
- 1) whether the respondent's visits over the Christmas break should be four hours long or six hours long;
 - 2) whether the January schedule continues until Dr. Snell's report is received, as the claimant proposed, or should change to unsupervised access time in mid-February, as the respondent proposed;
 - 3) whether the protection order should be extended, subject to modifications for increased in-person contact, or whether it should be cancelled and replaced with conduct orders under sections 222 and 225 of the FLA prohibiting contact, communication, and attendance; and
 - 4) if the protection order is replaced by a conduct order, whether there should be a police enforcement clause, potentially under section 228(d) of the FLA.

The parties' positions

- [17] The claimant says that the Court's primary concern must be keeping everyone safe and that the best way to achieve that is to extend the protection order and have a more gradual re-introduction of parenting time. The claimant says parenting time should remain supervised until Dr. Snell's report is received and the parties can consider the recommendations therein. The claimant says 4-hour visits with the child over Christmas are appropriate given the lengthy period of time the child has been away from the respondent and the addition of the December 26, 2024 extended visit. The claimant says Dr. Snell is in the best position to assess (after conducting psychological testing and interviews, including with collaterals) whether there is any risk that warrants continued supervision of the respondent's time with the child and whether there is a likely risk of family violence.

- [18] For the same reason and given conflicts in the evidence which will not be resolved until trial, the claimant says it would be better to err on the side of caution by maintaining the protection order which, in accordance with section 37(3) of the FLA, prioritizes the child's physical, psychological, and emotional safety, security and well-being. The claimant says this is not a situation where parenting time and offering appropriate protections are mutually exclusive and the claimant is not suggesting that they should be.
- [19] The claimant appreciates that the incident in May 2023 is now somewhat dated but maintains that it was of such significant seriousness that it is appropriate to maintain some form of protective measures. The claimant submits that when the evidence as a whole is considered in context, the factors under section 184(1) of the FLA suggest some form of protectionary measure is warranted.
- [20] In response to the Court's question about whether there is a lesser instrument that could achieve the same purpose as a protection order, the claimant submitted that the combination of a conduct order and supervision for the child could accomplish that purpose. According to the claimant, if conduct orders are granted, they should mirror the terms of the protection order and should include some form of police enforcement clause. However, the claimant's counsel candidly admitted that the authority to include such a clause in a conduct order is not entirely clear and would probably have to be rooted in the Court's inherent jurisdiction. The claimant says supervision for the respondent's visits with the child should continue until Dr. Snell's report is received. The claimant says it is not that much longer to wait past the mid-February timeframe that the respondent suggested, rather than taking a risk with the child's safety.
- [21] For his part, the respondent says there is no evidence the child was harmed or at risk as a result of the May 2023 incident. The child was at school at the time. The respondent characterizes the statements that were made to the claimant by phone as utterances on which he had no intention of acting, made in a moment where he was not in his normal state of mind as a result of having overdosed on mushrooms. The respondent says, further, even if there was a cause for concern at that time, there is no evidence those concerns persist. There have been no further incidents or allegations of family violence. There is a significant gap between the October 2018 physical family violence incident that led to the parties' separation and the May 2023 verbal incident and there have been no further physical incidents at all. As a result, the respondent disagrees with the characterization of the May 2023 incident as an escalation of family violence.
- [22] The respondent says this is not a situation where there has been any non-compliance with the terms of the protection order. There has been no stalking nor any inappropriate communications, and the respondent has now provided significant evidence of the work that he has done to better himself in the intervening period of time. In that regard, the Court has before it evidence that the respondent has engaged in a treatment program with respect to mood disorders, taken parenting courses, and engaged in Narcotics Anonymous (having attended over 300 meetings, and having provided an affidavit from a sponsor in support of

his progress). The respondent is also engaged in ongoing therapy with a counsellor, and has continuing involvement with Dr. Song, who is a psychiatrist, who attests to the respondent's lengthy period of stability.

- [23] The respondent says that any remaining concerns can be addressed as they were in *B.H.C. v. F.G.J.P.*, 2017 BCPC 378, through carefully-crafted conduct orders or supervision for a reasonable period of time. In that regard, the respondent agrees that some supervision is appropriate given the period of estrangement from the child (although the respondent submits that period was longer than it ought to have been). However, the respondent submits that supervision orders are only one step removed from terminating a parent's relationship with their child, relying on *F.K. v. M.K.*, 2010 BCSC 563 at para. 147. As a result, supervision orders should be used in exceptional circumstances and only as long as warranted. The respondent is willing to abide by conduct orders, including conditions for no communication and no attendance, but says there should not be any conduct orders respecting his contact with the child. Instead, the respondent says there should be an incremental increase in parenting time such that by mid-February the respondent has unsupervised visits with the child. The respondent says this will also assist the Section 211 report writer to provide an accurate assessment and to be able to accurately assess his parenting capacity.

Analysis

- [24] Having considered all of the evidence and the helpful submissions of counsel today, I first want to commend the parties for their efforts to focus on what is in the child's best interest. I appreciate it can be hard to do that when there are fears and high emotions, but it is critical for parents to maintain that focus.
- [25] I will deal first with parenting time. I am satisfied that the schedule agreed to by the parties at today's hearing is in the child's best interests as far as there was agreement. In my view, it allows for reintroduction of in-person visits between the respondent and the child up to Christmas, some extended time during the holidays, and then a further increase in January when school is back in order. As a result, I make the following orders.
- 1) From today until December 20th, 2024, the respondent will have one, 1-hour supervised visit on Wednesdays, and one, 2-hour supervised visit on Saturdays.
 - 2) Subject to the parenting coordinator's availability, for the two weeks of Christmas break, from December 20, 2024 to January 6, 2025, the respondent will have two extended visits per week with the child. In the first week of the Christmas break, those visits will be four hours long. In the second week of the Christmas break, those visits will be five hours long. In addition to those two extended visits, on December 26, 2024, the respondent and his parents can have an additional extended visit from noon until 6:00 p.m., all of which is subject to the parenting coordinator's availability.

- 3) As of January 2025, when the child returns to school, and again subject to the parenting coordinator's availability, the respondent will have the following parenting time: two hours of time on Wednesdays, provided that those visits must conclude by 6:30 p.m., and on Saturdays, the respondent will have 6 hours of visiting time with the child, and those visits will start at 10:00 a.m., again, subject to the parenting coordinator's availability.
 - 4) The respondent will pay the costs of the parenting coordinator's supervision at first instance without prejudice to his ability to seek an order for up to half of the costs of her services in future.
 - 5) The respondent's request for shared parental responsibilities will be adjourned until after receipt of Dr. Snell's Section 211 report and will be revisited as part of the review of parenting time at that time.
 - 6) There will be a review of the parenting time arrangements once Dr. Snell's report is received.
- [26] I will ask counsel at the end if you want a direction for how quickly the review of parenting time is to be conducted. I did not have information from counsel about whether you wanted a timeframe, but I am conscious that there have been concerns about timeliness in the past. I think this particular set of counsel have done excellent work to address those concerns, but I would like to make sure that I keep that on track.
- [27] With respect to supervised time, I take the claimant's submissions seriously that my role is to balance both sets of interests. I am aware that this Court has indicated the need to use supervised parenting time sparingly and also that it creates a kind of unnatural relationship for the child and the parent who are involved in supervised parenting. However, I also need to balance concerns for possible risk.
- [28] I accept that the evidence of risk to the child physically dates from October 2018 in circumstances that are in dispute and will have to await resolution through the full trial process. I accept that the claimant continues to have fears about safety. But I also accept that there is a need to work towards normalizing the parent-child relationship and that supervised parenting time for an extensive period of time can disturb and interrupt the ability to normalize the parent-child relationship. In these circumstances, I consider it appropriate to order that as of Wednesday, February 26, 2025, the respondent will have Wednesday visits unsupervised. Saturday visits will continue to be supervised. This will provide the respondent three Wednesdays unsupervised time of a shorter duration leading up to March break.
- [29] For the 2025 March break, the respondent will have two visits of six hours from 10:00 a.m. to 4:00 p.m. each week with the addition of a third such visit each week subject only to the parenting coordinator's availability. For clarity, if the parenting coordinator can make a third visit happen, then the respondent is entitled to that. One of the visits each week during March break will be unsupervised. In my view, this strikes the appropriate balance between

the need to ensure continuing safety but also to move incrementally towards normalizing the parent-child relationship. In that regard, I am going to direct, although I do not anticipate these counsel need it from me, but I will direct that all observation reports from the parenting coordinator are to be provided promptly to counsel for the claimant so that if there are any concerns that are expressed or that are raised, a further application can be brought before the first unsupervised visit is to occur to revisit the order that I have made today.

- [30] With respect to the protective measures, I have considered carefully the information that has been provided before me today. I have considered the requirements under sections 183 and 184 of the FLA which require me to balance concerns about safety and risk against the evidentiary basis that exists before me. I make no comment on, nor am I being asked to revisit what circumstances existed in June of 2023 or January of 2024 when the previous protection orders were put in place. I can only take into account the information of current circumstances in considering whether a protection order in that form should continue.
- [31] On the basis of the evidence before me, I am not satisfied that a protection order in the current form should continue. As a result, I am going to grant an order cancelling the protection order of January 2024 in its entirety. In its place, I am going to substitute conduct orders under sections 222 and 225 of the FLA. In my view, there is not sufficient evidence before me that family violence is likely to occur, particularly given the other measures that I am putting in place. Those measures include supervision of the child's time with the respondent for an extended period, which will allow the parties to assess how the respondent's relationship with the child re-establishes. The protective measures also include the conduct orders. In my view, the orders that I can grant under sections 222 and 225 of the FLA are sufficient to address the concerns.
- [32] The conduct orders will mirror the most recent protection order that was granted by the court. And counsel, to the extent you need to adjust the specific wording to make it more standard, I will trust you to do that. But the essence of the conduct orders will be as follows:
- 1) The respondent is to have no direct or indirect communication with any of the claimant, the claimant's mother, L.M., and the claimant's adult daughter, S.M., in any form.
 - 2) The respondent is not to attend any place where the claimant lives, works, attends school, or worships or happens to be, even if the respondent otherwise has a right to possess or enter such place. To the extent the respondent sees the claimant at any of those places, the respondent must leave the claimant's presence immediately without any words or gestures. This includes a requirement that the respondent not attend at the claimant's place of residence.

THE COURT: And I am assuming, Ms. Duncan, maybe you can help me, the other locations that were listed in the protection order, are those the residences of the claimant, L.M. and S.M.?

CNSL A. DUNCAN: I would need to double-check. Yes. Heads are being nodded. Thank you.

- [33] THE COURT: So then the three residences where the respondent is not permitted to attend are: XXX G. Street, Esquimalt, B.C.; XXX S. J. Street, Esquimalt, B.C., and XXX C. Avenue, Saanich, B.C.
- [34] I am not going to make a conduct order respecting weapons possession. There is no evidence before the Court at the present time that would require that type of order to be made and, with respect, given the no communication, no contact and no attendance orders, I do not feel that such a term is required at this point in time.
- [35] I am also not going to include an order for an enforcement clause by the police. This is a court order to have no contact and not to attend certain locations. To the extent there is a breach of the court order, there are remedies that can be sought under the FLA. To the extent any serious concerns arise, enforcement can be sought from a police agency in any event.
- [36] I make the conduct orders with a view to the comments I made during the hearing that if there were to be a breach, I anticipate that would have very significant consequences for the respondent going forward, including for any parenting rights that he may seek. And I am trusting you, Mr. M., not to disappoint me.
- [37] Those are the orders that I am prepared to make today, subject to the parties' further submissions or comments.

THE COURT: Counsel, the one piece I was uncertain how to address was the question of how to facilitate exchanges of the child once the visits are unsupervised. I do not know how to address that and I would like to provide guidance so that there are no questions.

CNSL A. DUNCAN: I can say with confidence that Ms. M. will have a third party facilitate that. Who that will be is not for us to know today. She will have to canvass her helpers, but it will be arranged through a third party.

- [38] THE COURT: So I will say that for the orders with respect to unsupervised visits, the place and location of the exchange of the child are to be agreed in writing through counsel before those unsupervised visits take place. I want to make sure that arrangements are made far enough in advance that if there are any concerns about where the child is to be exchanged, that can be addressed.

CNSL A. DUNCAN: I have two questions, if I may?

THE COURT: Please.

CNSL A. DUNCAN: So you have made reference more than once, Justice, to adjourning Mr. M's application for shared parenting.

THE COURT: Yes.

CNSL A. DUNCAN: His application is actually for shared parenting responsibilities.

THE COURT: Yes. Sorry.

CNSL A. DUNCAN: Not parenting.

THE COURT: If I misspoke, it's the order that was sought --

CNSL A. DUNCAN: Paragraph 6.

THE COURT: Yes.

CNSL A. DUNCAN: Of the notice of application, it is not for shared parenting in the sense of time, which is what you think of.

THE COURT: Yes.

CNSL A. DUNCAN: But shared parenting responsibilities.

THE COURT: That is correct.

CNSL A. DUNCAN: So that is the first thing. So that is just perhaps a correction -- or clarification. And the other is a question and that is what about attendance at [the child's] school? And we had suggested that it should be a term of the conduct order that at least until we come back before the Court, that Mr. M's contact with [the child] be confined to the time set out in the order so that he is not -- so there is no confusion, for example, if he shows up at school or - I am going to use that as the example I have for you this time of the day -- that there is no question that would not be okay, right?

[39] THE COURT: The orders that I -- thank you, Ms. Duncan for the question. So first of all, you are correct. If I said "parenting time", I meant "parenting responsibilities" under section 41 of the FLA, so that is the aspect, paragraph 6 of Mr. M's notice of application filed November 22, 2024, that is being adjourned until after receipt of the 211 report. So thank you for that clarification.

[40] With respect to the attendance at other locations, Mr. M's ability to access the child is as set out in the order and nothing further. I hope that provides sufficient clarity. To the extent the respondent is entitled to have access time with the child, it is as per the order that I have set out. I am not aware of whether any of that access time involves attending at the child's school. Certainly while Ms. Bellamano is facilitating the visits, I understand she is doing the transportation, but maybe you can help me out.

CNSL A. DUNCAN: Yes, I mean, it may be evolving. I just really want to ensure that to the extent that we're talking about his contact, it is limited to... And with your permission, we could say pending further order of the Court or written agreement, his contact with [the child] is limited to the following, and then that should suffice.

THE COURT: Ms. Reid.

CNSL J. REID: Just with respect to the school, so Mr. M. is [the child's] guardian and so should he want to attend a parent / teacher interview on his own with a teacher, there should be no reason why he should not be allowed to go to the school and speak to [the child's] teacher or something like that. He does not have to obviously go and visit [the child] at that point, but he should not be precluded from having contact and being aware of what is happening with [the child's] school. So that is the one comment with respect to that. There was another comment that you made about the sharing of Ms. Bellamano's reports. I do not know if you were aware, but we both get the reports at the same time.

THE COURT: I was not aware, no.

CNSL J. REID: Yeah, so both parties -- like, Ms. Duncan must not have been able to get on to her e-mail before she came to court this morning because we had them in our inbox this morning and everybody -- I think Ms. M. would have got it, Mr. M. got it, I got it, and Ms. Duncan, would have all had it at the same time. And this is - that is a condition of Ms. Bellamano's contract is that all of the communications are shared.

[41] THE COURT: Thank you for that clarification. I think that is why I said I was not certain if these counsel required a direction from me, but if you did, it is to be made clear that you are both to get access to the observation reports. It is helpful that it does not need to be a specific term of the order, then. You can consider that I am content with the terms of the retainer.

THE COURT: With respect to the school, so I think then the clarification that you would be seeking is that the respondent should not be permitted to attend at the school for purposes of visiting with the child outside the terms of the access orders, and that the -- maybe you can help me, Ms. Duncan. It is 4:15.

CNSL A. DUNCAN: Yes to all of that. And it has been a bit of a day, and I think we could come up with something. I do not think we are talking at cross-purposes frankly any of us.

THE COURT: Right.

CNSL A. DUNCAN: He shall not attend at the school for the purposes of engaging with either [the child] or any of the other M's named in the conduct order.

[42] THE COURT: I think that is fine, but he is not precluded from engaging with third parties as a guardian of the child.

CNSL A. DUNCAN: I cannot stop him.

CNSL J. REID: The only other thing Mr. M. would like clarified, and I do not know what Ms. M's position is with respect to this because Ms. Duncan will not have had a chance to canvass it with her, is whether or not his parents can join for some of the parenting times.

CNSL A. DUNCAN: I would want to check that with Ms. Bellamano. She may have a thought about that. I feel like we can have a discussion about that. There is certainly a joining at Christmas. We will see how that goes. I know if somebody wants to -- and I have not actually had a request for any contact between [the child] and the grandparents for over a year, so if there is a specific request, and we can canvass with Ms. Bellamano what her policy is about that, I mean, the grandparents are not parties to the action, so we will do our best.

CNSL J. REID: So can I pin that down a little bit further, that subject to Ms. Bellamano's approval, parenting time -- or Mr. M's parents may be allowed to attend during some of his parenting time, subject to Ms. Bellamano's approval, rather than leaving it up in the air, because the M's have repeatedly asked for contact with [the child] and it has been denied.

CNSL A. DUNCAN: Again, with respect, my friend has not been involved in the file and I am here to say that has not happened for some time. And fairly recently I was contacted by someone who said they were going to be acting for the grandparents. So I am somewhat concerned that there may be independent claims being advanced by them. I got a call saying that they were going to be retained. So I do not want to be (indiscernible). We can work this out, I think. But I would want to talk to Ms. M. at the very least. They are not parties to the action and --

[43] THE COURT: They are not and they have not been represented here before me and I have not heard any evidence specific to that. I do not feel I am in a position to make an order. What I am going to do is ask that counsel continue what you have been doing that I have seen in the correspondence over the last couple of months. I do not see -- let me say this on the record in the event that it assists the parties. I do not see anything in the evidence before me that would suggest there is a need to preclude the child from seeing his paternal grandparents, subject to that fitting within what the parenting coordinator can deal with. I think that is probably more likely to be something that could be facilitated on the occasional Saturday when there are some longer time periods, but I am not going to make an order on that. I do not see anything in the order that I have made that would preclude the parental grandparents from being involved, but I am going to leave it with counsel, please, to talk to each other and see what you can work out. I am conscious as well that the parenting coordinator has signed up to facilitate supervised visits with the respondent and may or may not feel comfortable facilitating visits with multiple people. If that has to be the subject of further communications with the Court and a request to appear at 9:00 a.m. at some point, I hope it does not come to that, but that is not something that I can make an order on today.

CNSL J. REID: The last order I am requesting Madam Justice, is an order with respect to costs.

THE COURT: And your submissions on that would be?

CNSL J. REID: That Mr. M. has had to fight tooth and nail to get here and expend a whole lot of money in order to get what he has requested. He has been successful today for the most part and should be getting his costs for the day. I think it is -- I have to look at the sections that refer to costs, but I believe it is section 16 of the Supreme Court Family Rules.

THE COURT: Ms. Duncan.

CNSL A. DUNCAN: I would characterize today as a divided success and urge you to make an order that costs are in the cause. I mean, ultimately there are so many unknowns here in terms of the merits of the positions taken by these parties that it would be premature to assume -- we do not know how this is going to go. This is such a placeholder type hearing. And certainly Ms. M. sought and obtained a protective order and was reasonable in terms of the parenting time that was offered which was largely agreed to in the final analysis. I would characterize this as a divided success. Supervision continues far beyond that which was asked or requested.

THE COURT: I am just looking at Rule 16-1.

CNSL J. REID: There are other tables. Normally it is \$500 for a half day, I think. That the protection order was terminated and he got --

THE COURT: The protection order was terminated but a conduct order on mirror terms was put in place.

CNSL J. REID: But that is not the same thing.

THE COURT: No, it is not the same thing, but the entirety of the relief sought by your client was also not granted. I have not granted unsupervised access in December, as you were seeking.

CNSL J. REID: Right.

[44] THE COURT: In my view, the parties have had divided success on the applications before me and each party should bear their own costs for these applications.

CNSL J. REID: Okay, thank you, Madam Justice.

THE COURT: I thank the parties for your patience today. It has been a long day. I thank Madam Registrar for always sticking with me until the end of a long day. And I wish the parties continued success. I hope that you can continue to move forward in the best interests of [the child].

CNSL J. REID: Do we have to set a date for March? That was the other thing. A March date. Should we be directed to go to Supreme Court Scheduling to schedule the review date?

CNSL A. DUNCAN: My friend has my word that we can communicate on that tomorrow when we have our calendars in front of us. I am happy to communicate with you about getting a date for the JCM.

CNSL J. REID: Okay.

CNSL A. DUNCAN: I will say on the record I am away for a portion of March, but it is the earlier portion of March.

CNSL J. REID: Okay.

[45] THE COURT: I will leave it with counsel to coordinate on that and ensure that there is a date so that the parties can have a review. And if the assistance of the Court is necessary after the receipt of Dr. Snell's report, that that review can be conducted in a timely fashion.

"K. Wolfe, J."

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