

CANADA / JUDGMENT

J.M.I. v. B.G.I.

2024 BCSC 1270

COURT

Supreme Court of British Columbia

DECIDED

15 July 2024

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2024 BCSC 1270 J.M.I. v. B.G.I. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: J.M.I. v. B.G.I., 2024 BCSC 1270 Date: 20240715 Docket: E58496 Registry: New Westminster Between: J.M.I. Claimant And B.G.I. Respondent Before: The Honourable Mr. Justice Ball Reasons for Judgment on Costs Counsel for the Claimant: M.C. de Guzman The Respondent, appearing in person: B.G.I. Place and Dates of Trial: New Westminster, B.C. August 23-26, 2021 Place and Date of Judgment: New Westminster, B.C. July 15, 2024

- [1] This matter was heard as a family law claim with judgment pronounced on June 29, 2022, in reasons indexed at 2022 BCSC 1097. At para. 126, the Court found that the claimant was substantially successful based on *Fotheringham v. Fotheringham*, 2001 BCSC 1321. Subject only to a contrary order, the claimant was entitled to costs of a three-day trial as a matter of ordinary difficulty. The order further provided that if the parties wished to make submissions on costs, they were to do so within 30 days in a document of not more than ten pages in length, double spaced.
- [2] On July 29, 2022, the claimant's counsel submitted written submissions on costs. On August 2, 2022, the same counsel sent further submissions addressing typographical errors. Pursuant to the order aforesaid, because of the claimant's success on the issues in this case, the claimant submitted that she was entitled to ordinary costs from the commencement of this action up to and including August 2, 2021, and double costs thereafter pursuant to Rule 11-1 of the Supreme Court Family Rules, B.C. Reg., 169/2009. Rule 11-1(5)(b) provides that the Court may "award double costs of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle". In this family law case, the offer to settle was delivered to the respondent on August 3, 2021, and was never revoked.
- [3] The claimant also sought the Court's consideration of the respondent's offer to settle dated August 15, 2021, which would have resulted, if accepted, in a negative number being paid on account of property division and spousal support, and both a higher income attributed to the claimant and a lower income for the respondent, which would have resulted in lower amounts of child support payable by the respondent. None of the respondent's offers made were accepted by the claimant. Substantially higher amounts were found due to the claimant in the reasons aforesaid as noted in paras. 75, 86-90, 100, 109-113, and 120.

- [4] No response was received from the respondent to the claimant's July 29, 2022 submissions on costs.
- [5] Unfortunately, the court file was misfiled and could not be located in a timely fashion.
- [6] Once this matter was again drawn to the attention of the Court, the file was reviewed. The Court has come to the following conclusions.
- a) With regards to costs on the basis of ordinary difficulty and the Court's exercise of judicial discretion, it is determined that:
 - i. costs shall follow the event; ii. the claimant was substantially successful at trial and should be awarded her costs throughout; and iii. such costs should be awarded on Scale C because of the respondent's failure to make timely financial disclosure.
 - b) The claimant is entitled to an order for costs on Scale C as a matter of more than ordinary difficulty up to and including August 2, 2021, and double costs after that date.
 - c) The claimant requested that the Court fix the amount of costs, without any reference to the Registrar. That noted, I direct that the claimant's Bill of costs, once completed, be assessed by the Registrar as costs on Scale C or as double costs depending on the date the costs were incurred.
 - d) The Registrar is authorized to conduct a pre-hearing conference to establish the documents necessary in the Registrar's opinion to conduct the assessment noted above. This Court is satisfied that the disbursements listed by the claimant plus applicable taxes of \$6,366.88 in the claimant's draft Bill of Costs be accepted by the Registrar without further review.
 - e) The parties shall within 30 days of these reasons schedule a hearing to assess costs on Scale C or double costs, and the Registrar shall provide a report of the assessment of costs together with disbursements as fixed above to this Court upon completion of the assessment.
 - f) If the parties can agree on the amount of costs and disbursements following the assessment by the Registrar, a consent order may be filed to confirm the report of the Registrar. Otherwise, the parties shall schedule a one-hour hearing to review the report of the registrar aforesaid.
- [7] The claimant is also awarded the costs and disbursements of this application payable as a matter of more than ordinary difficulty on Scale C to be assessed by the Registrar in the assessment referred to above and reported to the Court as aforesaid. "Ball J."

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Prepared on 26 October 2026 · Esheria