

CANADA / JUDGMENT

J.R.J. v. S.V.J.

2025 BCSC 2105

COURT

Supreme Court of British Columbia

DECIDED

27 October 2025

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2025 BCSC 2105 J.R.J. v. S.V.J.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

J.R.J. v. S.V.J.,

2025 BCSC 2105

Date: 20251027

Docket: E62820

Registry: New Westminster

Between:

J.R.J.

Claimant

And

S.V.J.

Respondent

Before: The Honourable Justice Layton

Reasons for Judgment

Counsel for the Claimant:

C.J. Carta

The Respondent, no other appearances:

S.V.J.

Place and Date of Trial:

Abbotsford, B.C.

October 17, 2025

Place and Date of Judgment:

New Westminster, B.C.

October 27, 2025

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[1] These are my reasons in this family law proceeding following a one-day trial.

- [2] The claimant filed her notice of family claim in June 2021, and the respondent filed his response and a counterclaim in October 2021. The claimant filed her response to counterclaim in March 2022. The claimant filed an amended notice of family claim in July 2022, and the respondent filed an amended response to family claim later that same month. The claimant filed a further amended notice of family claim in March 2025.
- [3] As I will explain in more detail below, in June 2024 the respondent fled Canada taking with him most of the family assets and abandoning the parties' two children, who were at that point living primarily with the claimant. Despite having been served and kept apprised of changing dates by the claimant's counsel and court scheduling, the respondent did not attend the trial. I therefore proceeded with the trial in his absence. See Rule 14-7(76), Supreme Court Family Rules, B.C. Reg. 188/2024.
- [4] The claimant was the only witness at trial. She gave oral evidence on a number of matters, including the accuracy of several affidavits she had previously filed in the proceeding. Those affidavits were admitted into evidence for the truth of their contents, to the extent those contents did not otherwise run afoul of a rule of admissibility such as the hearsay rule. See Rule 14-7(59).
- [5] Having heard the claimant's testimony and reviewed the affidavits filed, I accept her evidence as credible and reliable. Accordingly, I can be succinct in setting out my factual findings and the legal conclusions that flow from them. Those legal conclusions relate to a number of issues, the main ones being divorce, parental arrangements, child support, property division and spousal support.
- [6] I will begin my reasons by setting out some of the relevant background, after which I will address each issue that arises for resolution.

Background

- [7] The claimant is 46 years old and the respondent is 48 years old.
- [8] They started a marriage-like relationship in 2005, were married in January 2008, and separated in June 2021.
- [9] The parties' two children are T.J., born in 2009, and J.J., born in 2012. Both T.J. and J.J. attend the same faith-based school.
- [10] When the parties first met, the claimant was working in the United States and, at the same time, pursuing a university degree in international relations. About two years into the relationship, the parties agreed that she would leave her job and studies to live with the respondent in Canada. At that time, she had less than a year of courses left to obtain her degree.

- [11] During the relationship, the claimant worked part-time but was the primary caregiver for the children, while the respondent was the primary income earner, working in the construction industry.
- [12] Both of the parties' children have been diagnosed with autism, which requires a substantial amount of planning and accommodation in terms of schooling, occupational and/or speech therapy, counselling, and so on. J.J. has also been diagnosed with ADHD and takes medication for the condition.
- [13] The claimant has always been the one to support the children regarding these conditions, a significant endeavour with which she is very engaged.
- [14] By contrast, the respondent has played little or no part in this aspect of his children's lives. To the contrary, he has a history of openly denigrating those with autism, including in his communications with his children, and he at one point taught J.J. how to pretend to take ADHD medication without actually doing so. I accept the claimant's evidence that the respondent has often told his children that they are dumb and stupid, and that he has constantly fed them negative impressions of who and what they were; i.e., children with autism. I further find, that as described by the claimant, the respondent would make comments to J.J. that encouraged him to disrespect his teachers, which in turn led to behavioural problems at school.
- [15] The claimant has been working for the same organization since 2018, initially as an administrative assistant, but more recently as an administrator. Her current employment income, plus self-employment income of about \$14,000 per year, gives the claimant an annual income of approximately \$75,000.
- [16] I will discuss the respondent's income later in these reasons.
- [17] Throughout their relationship, the respondent controlled the claimant sexually, demanding that she engage in certain activities or have sex with him even if she was feeling sick, with the threat that if she did not do so he would abandon and leave her penniless or would harm himself. For example, he has put his fist through the wall, threatened suicide and locked himself in a room with a gun. The claimant described incidents where, despite her stating or otherwise indicating her non-consent to sexual activity, he pressed ahead and engaged in that activity. The respondent also pressured the claimant to permit him to make videos of them having sex, directing her actions while he was videotaping. I will come back to this topic shortly.
- [18] The respondent has also controlled the claimant financially. For instance, from the time she moved to Canada, all the family bank accounts were in his name, and she had limited access. He also used her income to pay the family expenses. Prior to separation, he threatened that if she left him he would force her out of the family home, leaving her with no assets and thus no choice but to sell sex for money. When they separated, she was unable to access her own employment income, and he cancelled all of her credit cards so that she

had no access to any funds.

- [19] The evidence further establishes that the respondent would frequently and inappropriately involve the children in adult matters, for example denigrating the claimant in their presence, or speaking to them about his unfounded allegation that the claimant was having a sexual relationship with a spiritual advisor, which on one occasion greatly upset T.J., who believed that the respondent was enroute to physically harm that adviser.
- [20] After the parties separated, they initially continued to live in the family home, which was purchased and registered in only the respondent's name. The family home had a mortgage registered in favour of the respondent's mother. The parties lived in this residence for most of their marriage.
- [21] A number of orders have been made in this proceeding to date. I will mention several of them, and in doing so will also briefly discuss civil litigation relating to the family home, as well as the respondent's decision to leave Canada, essentially abandoning the children, and cease complying with court orders regarding several matters including child support and spousal support.
- [22] On January 11, 2022, Associate Judge Vos made an interim order granting the claimant sole responsibility for specific parental responsibilities under s. 41 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], and also made conduct orders with the consent of the parties. The parental responsibilities in question related to numerous matters including the children's education, extracurricular activities, religion, health-related treatments and passport applications.
- [23] At a judicial case conference on March 2, 2022, Justice Douglas made an order providing that, among other things, the parties were to share net expenses for the children equally, and were also to exchange spreadsheets setting out the household expenses they had incurred after which they were to equalize those expenses.
- [24] In late May 2022, the claimant discovered that the respondent had posted at least some of the intimate videos he had pressured her to make on pornography websites without her consent. Around the same time, she also discovered that he had been attempting to conceal his income from her. In particular, she saw an email the respondent had sent to his father, who is a lawyer and had always acted as his advisor in financial matters, attaching spreadsheets shedding light on his true income. In the email, the respondent commented on his substantial undeclared cash income and bogus business expenses. This subterfuge clearly enabled him to significantly underreport his income. He and his father discussed the need to double-delete this email.
- [25] Based on these discoveries, the claimant applied for a number of remedies without notice, and on July 4, 2022 Justice Ball made the following orders in her favour:
- (a) a protection order against the respondent;

- (b) the claimant would have exclusive occupancy of the family home, and the respondent was required to make all payments for utilities, taxes, house insurance and other expenses related to the property, with the claimant's contribution to be addressed at the trial;
 - (c) the respondent was provided with parenting time on alternate weekends from Friday at 4:00 p.m. until Sunday at 8:00 p.m., or Monday if that was a holiday;
 - (d) the respondent was required to pay the claimant table child support starting on July 1, 2022, based on his Financial Statement income of \$72,647, which amounted to \$1,126 per month; and
 - (e) an Anton Pillar order to preserve evidence of the respondent's financial misconduct and distribution of the claimant's intimate videos.
- [26] On July 7, 2022, the respondent was charged criminally with disobeying the protection order by trying to enter the family home despite the claimant having exclusive occupancy. He was also charged criminally with a firearms-related offence, pertaining to items found by the police when they were assisting the claimant and her counsel in executing the Anton Pillar order.
- [27] The respondent claimed privilege over the materials seized pursuant to the Anton Pillar order, which resulted in the materials being delivered to the office of a supervising solicitor. At this point, he retained a new lawyer, but he generally refused to comply with the Anton Pillar order's terms, which meant that the claimant was unable to access the seized materials. I will come back to this Anton Pillar order shortly.
- [28] In January 2023, the parties reached a settlement regarding a notice of civil claim filed by the respondent's parents in which they asserted that they had purchased the family home for the parties and therefore owned it pursuant to an express or resulting trust. The claimant and respondent were both parties to this action, but the respondent supported his parents' claim.
- [29] Under the settlement, the parties acknowledged that the family home was wholly owned by the respondent's parents and was not family property, but the claimant was paid a settlement of \$475,000 by the respondent's parents, which amounted to 50% of its value after accounting for funds that had been contributed by the parents. The claimant also agreed to leave the family home no later than March 31, 2023. She did so, after which the respondent moved back into the property.
- [30] On May 16, 2023, the claimant brought an application before Associate Judge Krentz seeking an interim order imputing income to the respondent and increasing her support. Associate Judge Krentz made an interim order that, among other things:
- (a) varied the order of Justice Ball so that the respondent was found to have an imputed income of \$130,000;

- (b) required the respondent to pay table child support based on that income starting March 1, 2023;
 - (c) varied the order of Justice Douglas so that section 7 expenses would be shared in proportion to the parties' incomes;
 - (d) required the respondent to pay spousal support of \$200 per month starting March 1, 2023; and
 - (e) deferred until trial the issue of whether the respondent was required to pay the claimant outstanding household expenses.
- [31] In November 2023, the respondent, now self represented, applied to Justice Ball to set aside the Anton Pillar order. The application was dismissed, and he was ordered to appoint independent counsel at his expense to review the seized materials within 28 days. Justice Ball ordered special costs to the claimant from that point onwards regarding all steps relating to execution of the Anton Pillar order.
- [32] The respondent's application to the Court of Appeal for leave to appeal Justice Ball's order was denied in December 2023.
- [33] Due to the respondent's ongoing noncompliance with the Anton Pillar order, the matter was brought back before Justice Ball, who in February 2024 ordered that within 14 days the respondent must nominate three lawyers to act as independent counsel and the claimant would select one of them. The respondent nominated one lawyer, who the claimant agreed could be appointed, but the respondent never retained that lawyer.
- [34] The claimant therefore brought an application seeking various types of relief with respect to the seized materials, as well as a finding of contempt. This application was set for July 2, 2024, and the respondent was served with unfiled and then filed materials. However, he did not file responsive materials, and merely filed a requisition seeking an adjournment on the grounds that he had not been properly served.
- [35] On July 2, 2024, the respondent did not appear for the application, which was therefore adjourned until July 9, peremptorily on him.
- [36] The respondent did not pick up the children for his parenting time the next weekend - his parents did so instead. When the children returned to the claimant, they told her that they had not seen the respondent that weekend and that he had previously told them he would be fleeing Canada. The claimant subsequently independently verified that the respondent had left Canada. The respondent has told the children that he is never coming back to Canada, evidence that I find to be reliable and to accurately reflect his firm intention.

- [37] In line with this intention, the respondent has, to the best of the claimant's knowledge, not returned to Canada since leaving about 15 months ago. The claimant has to some extent been able to track the respondent's location through Instagram postings made by his girlfriend and text messages or emails he sometimes sends to T.J. This evidence establishes that the respondent and his girlfriend have been in various countries including Mexico, Costa Rica and the Ukraine.
- [38] On July 16, 2024, Justice Ball ordered that the respondent's claims of privilege over the materials seized pursuant to the Anton Pillar order be waived, made a payment order against him for \$5,000 under s. 213 of the FLA for non-compliance with three prior court orders, and also ordered special costs. The contempt application was adjourned generally with leave to the claimant to file further materials.
- [39] On July 22, 2024, Justice Stephens granted the claimant's without notice application restraining the respondent from disposing of property for 14 days, and on August 1 Associate Judge Nielsen extended this preservation order.
- [40] On October 15, 2024, Justice Ball ordered that the respondent be found in contempt for wilfully disobeying specific terms in two previous orders. In a separate order made that same day, Justice Ball extended the preservation order pending trial, and vested ownership of various items to the claimant pending the trial of this matter or further court order.
- [41] On December 20, 2024, Associate Judge Robinson ordered that a vehicle in the respondent's name ("Vehicle"), which he had left at the family home, probably because it was immobile, be transferred to the claimant's name, and also gave the claimant liberty to sell it and any other items seized under the vesting orders made by Justice Ball on October 15, 2024, with the proceeds to be held in trust pending trial. The claimant subsequently sold the Vehicle, and the funds are currently held in trust.
- [42] I pause here to move backwards in the chronology, for the purpose of noting that in October 2023 the claimant registered with the BC Family Maintenance Agency ("BCFMA"), at which time the respondent's support arrears were \$10,819.82. Those arrears continued to grow, as he frequently failed to pay the full amounts required under Associate Judge Krentz's order. The respondent has not paid any child or spousal support since shortly before fleeing Canada, and the arrears were \$54,386 as at September 16, 2025.
- [43] Based on the evidence, I find that the respondent abandoned the parties' children in June 2024, and since then has not exercised any of the parenting time afforded him under Justice Ball's order, nor has he exercised any of the parental responsibilities left to him under Associate Judge Vos's order. I also find that he has no intention of ever coming back to Canada.

- [44] The respondent has occasionally emailed or texted the parties' children since leaving the country, it appears primarily T.J., often complaining about his situation and denigrating the claimant or the court system in this province. However, these electronic communications appear to have dropped off significantly in recent times. He has also occasionally phoned the children, and in her testimony the claimant described how at times these calls resulted in the children becoming very upset.
- [45] The documents obtained by the claimant by means of the Anton Pillar order, combined with other documents and evidence, convincingly demonstrate that prior to fleeing Canada the respondent sold his shop machinery and tools, as well as many household items, all without the claimant's knowledge or consent, and converted the proceeds and any other cash at hand to crypto currency. This evidence establishes that he has abjectly failed to disclose his true income and assets to the claimant in these proceedings, and has taken numerous steps to hide that income from her and to successfully put it beyond her reach. Furthermore, when the claimant attended at the family home prior to its sale, she discovered that almost everything had been removed, with the exception of some items belonging to the children such as their beds.
- [46] I accept the claimant's testimony that prior to their separation the parties lived a very comfortable life, with their monthly household expenses exceeding \$10,000 without putting a strain on their finances. Since then, however, the claimant has struggled to provide for herself and the children. She is currently working two jobs, and has no savings, having used much of the settlement from the respondent's parents to buy a new family home, and having burned through the rest in order to pay expenses. To make due, the claimant has relied on cash gifts from her parents and brother, and has also accumulated substantial debt. She is hoping for a promotion at work, which will increase her income, and plans to return to school to finish her university degree, which I infer will likely increase her prospects for a better paying job.

Divorce

- [47] The claimant seeks a divorce, and the evidence supports making this order. She is a long-time resident of British Columbia, the marriage has broken down, and there is no possibility of reconciliation. The parties have lived separate and apart since June 2021. There is no collusion in relation to the request for a divorce. And, as explained below, I have made appropriate arrangements pertaining to the children's parenting arrangements.
- [48] I am thus granting the parties a divorce effective on the 31st day after the date of my order.
- [49] I should add that, at the time of trial the marriage certificate was unavailable because the trial was held in a courthouse other than the one in which it was commenced, but I have since obtained and reviewed the filed marriage certificate from the registry.

Parenting Arrangements

- [50] In determining which parenting arrangements are in the best interests of the parties' children, I have applied the statutory provisions and principles set out in *E.G. v. M.A.*, 2025 BCSC 1463 at paras. 165-185. However, I will make some additional comments regarding the principles applicable when a court is asked to terminate a party's guardianship over a child, as the claimant has done with respect to both T.J. and J.J.
- [51] Only a guardian may have parental responsibilities and parenting time with respect to a child: s. 40(1), FLA.
- [52] Pursuant to s. 51(1)(b) of the FLA, the court may terminate a person's guardianship, but doing so will rarely be in the best interests of the child, and therefore termination will only occur in the most extreme situations. If the reallocation of parental responsibilities will eliminate any risk to a child's best interests, then the guardianship should not be terminated. The only consideration is the best interests of the child, and a party's conduct can only be considered to the extent that it substantially affects the child's best interests. See *G.E.I. v. C.G.B.*, 2023 BCSC 269 at paras. 276-279; *M.A.G. v. P.L.M.*, 2014 BCSC 126 at paras. 43-44.
- [53] In determining whether the respondent's guardianship should be terminated, or alternatively whether there should be a reallocation of parental responsibilities and parenting time, I must therefore begin by considering the children's best interests. In doing so, I have considered all of the factors set out in the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) and FLA, including those set out below.

History of Children's Care

- [54] The claimant has been the children's primary caregiver since their birth, which includes undertaking the entirety of their care with respect to educational and health care matters arising from autism and, in the case of J.J., ADHD.
- [55] The claimant has been the children's exclusive caregiver since June 2024, when the respondent fled the country.

Children's Health, Emotional Well-Being and Need for Stability

- [56] The children both have enhanced needs in terms of health, emotional well-being and stability by virtue of their autism and, for J.J., ADHD. The claimant can meet these needs, and has done so for many years. The respondent cannot, not only because of his history of antagonism towards those with autism and the children's diagnoses, but also because he has left the country with the intention never to return and his precise whereabouts at any particular time are unknown.

Nature and Strength of Relationship between Children and Significant Persons in their Lives

- [57] The children have a very strong relationship with the claimant, and also have a strong connection with her parents and her brother. Since June 2024, they have had little connection with the respondent, limited to some texts and emails, mostly if not entirely with T.J., as well as some phone calls. As noted, these communications appear to have dropped off in recent times. Given the respondent's intention not to return to Canada, there is no indication that this state of affairs will change in the near future, and in my view it is most likely permanent.
- [58] The claimant permitted the respondent's parents to maintain contact with the children even after he fled the country, despite the parents, or at least the father, having taken steps to assist the respondent in evading his financial responsibilities to the claimant and children (e.g., starting legal proceedings in an effort to deny the claimant any share of the equity in the family home; likely assisting the respondent in hiding assets from the claimant).
- [59] However, since late 2024 the claimant has not permitted the children to see the respondent's parents, after discovering that his father had emailed one of the children to ask permission to start legal proceedings against her for the purpose of becoming a guardian and having parenting responsibilities and/or parenting time. Having considered the evidence, in my view as things now stand it is not in the children's best interests to spend time with the respondent's parents.

Ability and Willingness to Exercise Parental Responsibilities

- [60] The claimant is able and willing to exercise her parental responsibilities with respect to the children. The respondent is unable and unwilling to do so by virtue of his decision to abandon the children and his support obligations toward them, and instead to permanently reside outside of Canada. Indeed, it is reasonable to infer that respondent is funding his travels in large part using the money he has saved by not paying child support and by converting the bulk of the family assets into crypto currency for his exclusive use.

Children's Cultural, Linguistic, Religious and Spiritual Upbringing and Heritage

- [61] The claimant has solely exercised this responsibility since shortly after separation, including in relation to the children's faith-based education. The respondent is, once again, unable to play such a role by virtue of having fled the country. I also question whether the respondent would be able to support the children in this way, even were he in the country, given the content of his communications with the children.

Plans for the Children's Care

- [62] In her oral testimony, the claimant reviewed the children's plans for the future and the guidance and support that she intended to provide them in this regard, for example regarding educational opportunities, extracurricular activities and preparing them for employment as adults. She is particularly attuned to how these plans can best accommodate their individual needs.
- [63] There is no evidence before me to suggest that the respondent has any plans for the children's future care, which is unsurprising given his decisions to abandon them by leaving the country and not to attend this trial.

Appropriateness of an Arrangement Requiring Parties to Cooperate on Issues Affecting the Children

- [64] I find that the respondent is unwilling to cooperate with the claimant regarding issues affecting the children. He clearly carries an intense animus towards her, which he expresses openly to the children, and he has fled the country at least in part to evade his obligation to provide her with financial assistance for the children's and her own benefit. In my view, any contact between the respondent and the children creates a real risk that he will attempt to undermine their relationship with the claimant, a relationship that I have found to be supportive, nurturing and wholly beneficial to their best interests.

Consideration of Family Violence

- [65] Based on the trial evidence, I find that the respondent has engaged in family violence against the claimant within the meaning of the FLA and Divorce Act. He has frequently abused and/or acted in a controlling and coercive way towards her sexually, financially, emotionally and psychologically. Furthermore, the children have been directly exposed to some of this family violence, which I conclude is contrary to their best interests, including because I infer that it causes them emotional or psychological harm: *Barendregt v. Grebliumas*, 2022 SCC 22 at paras. 143-146.
- [66] The respondent also appears to have engaged in emotional or psychological abuse of the children by speaking to them in a highly negative way regarding autism, although this finding is not necessary to my conclusion regarding parenting arrangements.
- [67] Although also unnecessary to my conclusion regarding parenting arrangements, the respondent appears to have taken the vast bulk of the family assets and ceased paying child and spousal support in large part with the intention of making the claimant's life substantially more difficult and thereby causing her emotional and psychological harm. He has succeeded in this regard, and his conduct thus arguably fits within the definition of family violence in the FLA and Divorce Act: *J.C.P. v. J.B.*, 2013 BCPC 297 at para. 18. The unfortunate fallout of the respondent's conduct in this respect is that the children are denied financial support that would otherwise be available to them, thus substantially harming

their best interests.

Children's Views Unless it would be Inappropriate to Consider Them

- [68] I have been provided with no information regarding the children's views, apart from the claimant's evidence, which I accept, that phone calls with the respondent since he has fled the country have sometimes caused the children distress.

Determination Regarding Parenting Arrangements

- [69] Having considered the best interests of the children, I conclude that this is one of those rare and extreme cases where terminating the respondent's guardianship regarding the children is in their best interests, and that reallocating parental responsibilities is not sufficient to alleviate the risk of harm to them that will persist if the respondent continues to be a guardian.
- [70] I have come to this conclusion because the respondent has abandoned the children, abdicating all responsibilities towards them, and in the limited contact he now has with the children he continues to inflict family violence from afar by denigrating the claimant via text and phone calls. I further conclude that it is more likely than not that: (a) the respondent will never return to Canada; and (b) his toxic resentment towards the claimant will continue at least until T.J. and J.J. become adults.
- [71] I am also concerned by the respondent's negative views of individuals with autism and his history of conveying these views to his children in a manner that can only undermine their self-confidence and dampen their openness to seeking the many helpful supports available through their school and otherwise. Indeed, the respondent's larger worldview (e.g., his views regarding "alpha males") appears inimical to the best interests of his children if they are to develop into emotionally healthy and happy adults able to navigate society in a prosocial manner.
- [72] For these reasons, I am terminating the respondent's guardianship with respect to the children and ordering that the claimant shall be the children's sole guardian. While terminating the respondent's guardianship necessarily means that he can exercise no parental responsibilities or parenting time with respect to the children, out of an abundance of caution I am also ordering that the claimant have all decision-making responsibilities for the children under both the Divorce Act and the FLA, and that the respondent shall have no parenting time with children.
- [73] In addition, I order that: (a) the claimant can apply for passports and any other travel documents for the children and that the respondent's consent is dispensed with in this regard; and (b) the claimant is permitted to travel within and outside of Canada with the children at any time without the consent of the respondent.

- [74] As a last comment on this topic, had I concluded that the heavy threshold for terminating the respondent's guardianship had not been met, for the reasons set out above I would have allocated all parental responsibilities solely to the claimant and denied the respondent any parenting time. I would also have considered the utility of an order under s. 53(3)(b) of the FLA so that, if the claimant were to die without having appointed a guardian for the children on her death, the respondent would not be permitted to assume any parental responsibilities absent further order of the court.
- [75] Parenthetically, I note that in closing submissions the claimant suggested that if the respondent remained the children's guardian, but was denied any parental responsibilities, the claimant would need his consent to appoint a guardian on her death, which he could and probably would withhold, and that if she then died he would acquire parental responsibilities under s. 53 of the FLA.
- [76] However, having since reviewed the relevant provisions in the FLA, it appears that, were the respondent to remain a guardian, the claimant could make a testamentary appointment of a guardian to act on her death without his consent: *N.H. v. D.H.*, 2013 BCPC 413 at paras. 97. Accordingly, the claimant's concern would not appear to arise unless she failed to appoint a testamentary guardian and died before both children became adults.

Child Support

- [77] The evidence establishes that the claimant's Guidelines income is \$74,299, comprising \$60,299 in employment income and \$14,400 in net self-employment income.
- [78] The claimant asks that I impute income to the respondent of \$200,000 per year under s. 19(1) of the Federal Child Support Guidelines, SOR/97-175 [Guidelines]. As a basis for imputing income, the potentially relevant factors listed in s. 19(1) include:
- (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;
 - (c) the spouse lives in a country that has effective rates of income tax that are significantly lower than those in Canada;
 - (d) it appears that income has been diverted which would affect the level of child support to be determined under these Guidelines;
 - (f) the spouse has failed to provide income information when under a legal obligation to do so;
 - (g) the spouse unreasonably deducts expenses from income.

- [79] On the evidence, I find that each of these factors applies in the case before me. That is, from the date of separation until now, and into the foreseeable future, some or all of the following things have occurred or will most likely occur:
- (a) the respondent has been intentionally underemployed or unemployed;
 - (b) he has lived in countries that probably have effective rates of income tax significantly lower than those in Canada;
 - (c) given his long history of evading taxes, if the respondent has been or in the future starts working in another country he will almost certainly take steps to evade taxes to the extent possible;
 - (d) he has failed to provide income information in this family law proceeding;
 - (e) he has diverted income that would affect the level of child support determined under the Guidelines; and
 - (f) he unreasonably deducted expenses from his income while in Canada and, as noted in subparagraph (c) he will continue to do so if he begins working in another country.
- [80] On this basis, I agree with the claimant's calculations and reasoning justifying imputing an annual income of \$200,000 to the respondent, starting at the time of separation and moving forward. Based on this imputed amount, the respondent's monthly payment of table child support is \$2,855.
- [81] Accordingly, I order that the respondent's retroactive child support obligation be adjusted such that, starting July 1, 2021 and continuing on the first of each month until October 1, 2025, the respondent shall pay to the claimant the sum of \$2,855 for the support of the children.
- [82] The respondent shall also pay to the claimant the sum of \$2,855 per month in child support, starting on November 1, 2025 and continuing on the first day of each subsequent month, for as long as T.J. and J.J. are eligible for support under the Divorce Act, and if one of the children ceases to be eligible for support he shall continue to pay table child support for the other child based on the imputed income of \$200,000.
- [83] I am further ordering that the parties will pay section 7 expenses for T.J. and J.J. proportionate to their incomes, in the respondent's case his imputed income of \$200,000, which as indicated by the DivorceMate calculation provided by the claimant means that the respondent will pay 63% and the claimant 37% of these expenses.
- [84] In her oral and documentary evidence the claimant established that s. 7 expenses for T.J. and J.J. amount to over \$15,000 per year. I am satisfied that, in the circumstances of this case, it is appropriate to excuse the claimant from having to provide monthly receipts to BCFMA supporting this amount of s. 7 expenses. I am therefore ordering that the respondent pay his share of the s. 7 expenses by monthly payment, which is \$815.80 per

month. This "base" payment will commence on October 1, 2025 and continue each and every month thereafter. If, as will likely be the case, at some point only one of the children remains a child of the marriage, this base amount will be reduced by one half.

- [85] Authority for making this type of order is found in s. 7(1) of the Guidelines, which provides in part that, "[i]n a child support order the court may, on either spouse's request, provide for an amount to cover all or any portion of the following expenses, which expenses may be estimated" (emphasis added). See also *J.D.G. v. J.J.V.*, 2016 BCSC 2389 at para. 346.
- [86] In the event that the respondent's share of the children's s. 7 expenses exceeds \$815.80 in any given month, he shall pay that additional amount as well, upon the claimant providing supporting receipts to BCFMA.

Property Division

- [87] The statutory provisions and principles applicable to determining property division are canvassed in *A.T.H. v. W.D.G.*, 2025 BCSC 1302 at paras. 185-201.
- [88] Based on the claimant's oral and documentary evidence, as well as her closing submissions, I accept that the best estimate as to the value of the family property that she has managed to identify is \$505,000, as set out at Tab 9 of Exhibit 5. This estimate is based on the reasonable assumption that the respondent has kept the amounts that the claimant has managed to identify in crypto currency, and that the crypto currency has increased in value by the percentages indicated in the evidence.
- [89] In making this assumption, I am drawing an adverse inference against the respondent by reason of his history of evading taxes, his failure to make disclosure in this proceeding, his absconding with the bulk of the family assets, and his willingness to breach court orders.
- [90] For these same reasons, I infer that the assets the claimant has been able to identify do not constitute all of the family property that the respondent has put beyond her reach. This justifies imputing assets to him and/or reappportioning family assets or debt pursuant to s. 95(2) of the FLA: *Saric v. Banden*, 2017 BCSC 1508 at paras. 52-54. In this case, the claimant asks that I impute double assets to the respondent, rather than reappportioning family assets under s. 95.
- [91] However, while I recognize that sparse evidence may be enough to justify such an imputation, I am not satisfied that the evidence in this case supports imputing to the respondent additional family assets equal in value to the assets the claimant has been able to identify. I come to this conclusion because: (a) the Anton Pillar order allowed the claimant to access at least some financial records that the respondent probably never thought she would be able to see; (b) in the email to his father discussing his actual income over the years, which he also did not expect anyone else would see, the respondent stated that he had "pissed away" material amounts of money; (c) the family was spending between \$10,000 and \$12,000 per month prior to separation.

- [92] Accordingly, while I am satisfied that the respondent managed to hide and dissipate substantial assets not identified by the claimant in this litigation, I have concluded that those assets should be attributed at one-half the value of the assets she has been able to identify, which amounts to \$252,500. The total amount of family assets that the respondent has taken or otherwise withheld from the claimant is therefore \$757,500, of which she is entitled to one half, or \$378,750.
- [93] The respondent shall therefore pay compensation to the claimant of \$378,750 for all family property and debt claims, including property that was disposed of, transferred, converted or exchanged into another form, or hidden.
- [94] The respondent shall also pay to the claimant the sum of \$13,561.06 identified at the first page of Tab 1, Exhibit 5, which the claimant has established he owes to her and represents the outstanding portion of his share of family expenses incurred from separation until the end of February 2022.
- [95] The proceeds of sale from the Vehicle, and any other items seized pursuant to the property vesting order of Justice Ball made October 15, 2024, which the claimant was permitted to sell pursuant to the order of Associate Judge Robinson made December 20, 2024, shall be released to the claimant free and clear of any claim from the respondent.
- [96] The parties unadjusted pensionable earnings under the Canada Pension Plan shall be divided under ss. 55, 55.1 and 55.2 of the Canada Pension Plan, R.S.C. 1985, c. C-8, with length of the relationship being January 5, 2005 until June 30, 2021.
- [97] Pursuant to s. 91(2)(b)(ii) of the FLA, all family property, including chattels, tools, equipment, movable property, or items of any kind registered in the claimant's name or in her possession are hereby vested 100% in the claimant free and clear of any claim from the respondent.
- [98] All property claims made by the respondent against the claimant are dismissed.

Spousal Support

- [99] The relevant statutory provisions and principles regarding spousal support are reviewed in *C.S.K. v. P.K.*, 2025 BCSC 1728 at paras. 253-258, 259.
- [100] Applying those principles to the evidence in this case, I conclude that the claimant has established both compensatory and non-compensatory entitlement to spousal support. I further find that the claimant should receive spousal support at the high-end of the range and for the maximum duration, as indicated on an application of the Spousal Support Advisory Guidelines (Ottawa: Department of Justice, 2008) [SSAG].

- [101] Among other things, the claimant put her career and educational goals on hold for a significant period of time, so that she could be the primary caregiver for the parties' children, and her standard of living has decreased substantially post-separation because she no longer has access to the respondent's income.
- [102] Furthermore, the claimant's efforts to establish self-sufficiency at anywhere near a pre-separation level, including by, as she hopes, completing her education and thus improving her employment prospects, have been significantly hindered because of: (a) the amount of time she is required to spend as a single parent assisting her children with their educational and health care needs; (b) the respondent's failure to pay the required amounts of child and spousal support; and (c) her inability to access her share of the family property due to the respondent liquidating and hiding family assets.
- [103] Accordingly, pursuant to the Divorce Act the claimant has established entitlement to spousal support on compensatory and non-compensatory grounds for a duration of 16.5 years, with a monthly spousal support payment of \$2,251, which is at the high end of the SSAG range, starting July 1, 2021 and continuing on the first day of each subsequent month until and including December 1, 2037.
- [104] The spousal support payments I have ordered shall be reviewable as to quantum only when either of the children becomes ineligible for child support, or otherwise on a material change of circumstances.

Name Change

- [105] Pursuant to s. 5 of the Name Act, RSBC 1996, c. 328, I am granting the claimant's request that her name be changed from what it now is to the name requested in the draft final order her counsel provided in closing submissions.

Conclusion

- [106] I have set out my orders above, and will not repeat them again. In essence, however, I have made almost all of the orders set out in the just-mentioned draft final order, the main exception being that I have made a compensation order for \$378,750 rather than the \$500,000 sought by the claimant.
- [107] I agree with the claimant that this was a matter of more than ordinary difficulty, due to the significant conflict between the parties and the respondent's intransigence in complying with his obligations under the Divorce Act, FLA and several court orders. Although that conduct was reprehensible within the meaning of the case law and is deserving of special costs, because of the terms of the parties' settlement with the respondent's parents in the civil litigation regarding the family home, she is only seeking special costs from November 18, 2022 forward.

[108] Accordingly, the respondent shall, forthwith upon assessment, pay to the claimant her costs of this proceeding as costs for a matter of more than ordinary difficulty from the commencement of this action until November 17, 2022, after which he shall pay the claimant special costs.

[109] The respondent's signature is dispensed with in approving the form of the order to be entered.

"D. Layton J."

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