

CANADA / JUDGMENT

K.L.M v. L.K.M.

2023 BCSC 1414

COURT

Supreme Court of British Columbia

DECIDED

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2023 BCSC 1414 K.L.M v. L.K.M.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

K.L.M v. L.K.M.,

2023 BCSC 1414

Date: 20230815

Docket: E24469

Registry: Fort St. John

Between:

K.L.M.

Claimant

And

L.K.M.

Respondent

Before: The Honourable Madam Justice Sharma

Reasons for Judgment

The Claimant, appearing in person:

K.L.M.

The Respondent, appearing in person:

L.K.M.

Place and Date of Trial/Hearing:

Fort St. John, B.C.

October 24 and 28, 2022

February 17 and April 24, 2023

Place and Date of Judgment:

Fort St. John, B.C.

August 15, 2023

- [1] This judgment addresses two issues: whether to award special costs to the respondent mother and whether to order fines against the claimant father under the Family Law Act, S.B.C. 2011, c. 25 [FLA], for breaches of court orders. The issues arise from the mother's application filed October 24, 2022, seeking very specific orders (the "Application").
- [2] The parties are parents to two children: a son born in 2008 (G.) and a daughter born in 2011 (R.).
- [3] The progress of the litigation before me has been somewhat unusual and complex for various reasons that I will now explain.

I. BACKGROUND

- [4] The matter first came before me as an urgent application in general chambers during the assize on October 24, 2022. Neither party was represented by counsel.
- [5] The mother successfully obtained short leave to have the Application heard on October 24, 2022. The father had not filed a response to the Application nor a supporting affidavit, although he appeared to oppose the application. There was insufficient time that day to hear all orders sought in the Application.
- [6] The specific incident that prompted the Application was drastic action taken by the father, who chose not to return R. to the mother's care as required by the parenting arrangement and court order in effect at that time. It is important to note that their parenting arrangements were stipulated in an order filed March 25, 2021 (the "Final Order"), that was granted after a summary trial before Justice Basran held October 29-30, 2020.
- [7] Further complicating the situation was that from the mother's point of view, not long after the Final Order was granted, the father had changed his and G.'s residence without informing her or seeking her approval. She claimed this was a clear breach of his parenting responsibilities and their parenting arrangements pursuant to the Final Order.
- [8] The mother sought the following orders in the Application:

- a) the father return R. to the mother and, if he does not, orders allowing police to apprehend and return R;
 - b) R. remain primarily resident with the mother;
 - c) the father's parenting time with R. be supervised;
 - d) the father be prevented from enrolling R. or G. in school without the mother's written consent;
 - e) the father pay a fine of \$5,000 for wrongful denial of parenting time and reimburse the mother for expenses incurred due to the denial;
 - f) the mother be granted permission to apply for or renew passports for the children without the father's permission; and,
 - g) special costs for this application, or lump-sum costs of \$5,000, payable forthwith.
- [9] Rather than simply adjourn the Application or make a ruling on material prepared by the parties without the benefit of legal representation, some of which was not sworn or filed, I instead dealt with the issue that I determined was the most pressing, requiring that R. be returned to the care of the mother and other related parenting orders (including orders for police intervention and involvement if required to facilitate the return of R.).
- [10] I ordered R. to be returned to the mother and granted associated police enforcement orders to ensure compliance. I had to make an order specify the logistics of when and how R. would be returned to the mother, because the parties live quite far apart. I also granted order sought in paragraph (d) but dismissed the order sought in paragraph (c).
- [11] The remaining orders sought were then adjourned to be heard later that week, court time permitting, or on the next assize.
- [12] The parties again came before me four days later on October 28, 2022. By that point, the father filed his response to the Application and his own application, which I deal with below. At this hearing, I suggested to the parties that we work to resolve issues in a more conciliatory fashion rather than proceed in a formal hearing of the parties' applications. The parties agreed.
- [13] I suggested this approach primarily because of the ongoing high-conflict dispute about parenting between the parties. It was immediately apparent to me that the father's unilateral decision to change G.'s residence, and the manner in which it was done, was contrary both to his parenting responsibilities and to the Final Order. I also saw the father's then-recent failure to return R. to the mother as indicative of a risk of future parenting disputes, perhaps of a serious nature.
- [14] Standing in contrast to the father's misconduct was the mother's restraint. When the father changed G.'s residence, the mother very reasonably did not insist immediately that the child be returned to her care nor any other related order. She did so because she recognized that

doing so would cause additional disruption to the child. This decision also based, at least in part, on the passage of time and her inability to bring the matter to court immediately after the move. It took considerable fortitude for her to abstain from taking action in light of the father's misconduct. I commend the mother for her clear commitment to put her child's best interests above any other concern.

- [15] In light of the risk of future misconduct by the father and the reasonableness shown by the mother, and given neither party at that time was represented by counsel, I seized myself of the action, and I directed that the parties would attend a series of management conferences. The hope was that engaging them in this process would be a way to address what I found to be the serious breaches of the Final Order that had already occurred in a more constructive manner, building on the mother's restraint to encourage the father to comply with future court orders and to adopt a more respectful approach to shared parenting than he had demonstrated up to that point. Importantly, this process also provided some degree of continuity to the litigation, which helped promote some level of stability for the parties' children.
- [16] With these considerations in mind, at the conclusion of the October 28 hearing, I scheduled a further hearing, which I termed a judicial management conference, to be held no earlier than January 30, 2023. That hearing ultimately took place February 17, 2023.
- [17] On October 28, 2022, I also made a number of orders, including:
- a) several of specific orders relating to conduct of the parties;
 - b) a consent order requiring the parties attend to obtaining a s. 211 report from an agreed-upon individual to be available prior to the February 17 hearing; and
 - c) an order requiring the father to immediately swear and file the affidavit he had relied on at the October 28 hearing and send it directly to the mother. (This was necessary as, despite a direction to properly swear or affirm his affidavit and file it before the hearing, the father had failed to do so.)
- [18] Despite those orders, the father unilaterally decided not to use the agreed-upon s. 211 report author and made no arrangements to retain someone else, causing there to be no report available at the February 17 hearing. He also failed to send the mother a copy of his unfiled affidavit.
- [19] Accordingly, at the February 17 hearing, I directed the mother to contact a specific author to prepare a s. 211 report and directed how much each party had to pay. I also made certain other specific orders regarding parenting. I again ordered the father to immediately send a copy of his affidavit to the mother.
- [20] A subsequent hearing was set for April 24, 2023. The parties had leave to file a brief affidavit addressing only outstanding parenting issues.

[21] During the April 24, 2023, hearing it became apparent to me that the time had come for me to decide the outstanding legal issues in the Application and no longer be seized of the parenting issues.

[22] The hearings before me were but the latest events in a longer litigation history. Before addressing the specific issues, I will outline relevant details of this history.

II. LITIGATION HISTORY

A. Summary Trial before Justice Basran

[23] The parties had a two-day summary trial before Justice Basran in October 2020, and the judgment, which is not published, was issued January 6, 2021: 2021 BCSC 17.

[24] Justice Basran determined that the parties are both guardians of the children. In addition, the following income was determined:

- a) The father's income for 2018 was \$195,000 and for 2019 was \$169,064. Justice Basran imputed income to the father for 2020 of \$178,000.
- b) The mother's income for 2018 was nil, for 2019 was \$17,299, and for 2020 was \$35,350.

[25] After a hearing held January 26, 2021, to settle the terms of the order, Justice Basran entered the Final Order. The terms of the Final Order relevant to the issues before me include:

- a) the parties were divorced as of February 6, 2021;
- b) both parties have all parental responsibilities under s. 41 of the FLA;
- c) the parties shall consult each other with respect to any important decisions regarding the children and if they are unable to agree, they shall have liberty to apply to this Court for directions pursuant to s. 49 of the FLA;
- d) the parties' younger child, R., shall reside primarily with the mother and the father shall have generous parenting time as agreed between the parties;
- e) The parties' older child, G., shall reside primarily with the father, subject to G.'s wishes, and the mother shall have generous parenting time as agreed between the parties;
- f) if G. decides to return to reside primarily with the mother, he shall be permitted to do so. In that event, that would be a material change in circumstances for the purpose of varying the Final Order;
- g) the parties shall share holidays, long weekends, and special occasions with the children substantially equally;
- h) the parties shall make every effort to ensure that the children spent holidays, long weekend, and special occasions together;

- i) unless otherwise agreed upon between the parties, the parties shall exchange the children at a specific location that was roughly equidistant from the parties' respective residences at the time;
- j) the father shall pay the mother \$500 as a fine for non-disclosure of financial information under s. 213 of the FLA;
- k) the father shall pay the mother \$4,300 for costs pursuant to the Order pronounced July 27, 2020, forthwith; and,
- l) the father shall pay the mother costs of the summary trial at Scale B, ordinary difficulty.

[26] In his judgment, Justice Basran made the following findings:

- a) In 2013, the parties moved to City 1. I infer this was for the father's employment with a particular company.
- b) The mother was the primary caregiver for the children.
- c) The parties separated on June 16, 2018. Immediately upon separation, the father began dividing his time between City 1 and City 2. By the time of trial (October 2020), he lived full time in City 2.
- d) In February 2019, the father gave notice he was leaving the job in City 1, where his base salary was \$180,000 and he was allowed the use of a company vehicle.
- e) Subsequently, he was employed with a different company for a lower base salary. He also received a vehicle allowance of \$2,000 per month plus benefits.
- f) The mother began a proceeding in the Provincial Court in 2018. This litigation was commenced by the father in September 2018, and the two actions were consolidated into this proceeding in November 2019.

[27] There are several points in the judgment where Justice Basran either comments on or made findings regarding the father's behaviour and compliance with court orders:

- a) The father "underpaid his support obligation since separation" (para. 31).
- b) The father unilaterally reduced his income for the purpose of reducing his child support payments (paras. 28, 35).
- c) The father justified his decision to switch jobs because the latter was considered a "essential service" during COVID-19 (para. 30). (I cannot accept his explanation because he quit shortly before the COVID-19 pandemic had even started.)
- d) Four days before the hearing of the summary trial, the father announced an intention to resign from his job. This was not mentioned in the F8 Financial Statement he filed or an affidavit filed the same date. This resignation was

"imprudent and unnecessary" and seemed aimed at minimizing his support obligations (para. 37).

- e) In October 2019, the father "unilaterally reduced his support payments" (para. 45).
- f) The father brought an application in July 2020 to reduce his support obligations. The mother filed a counterapplication seeking to impute income to him. Both applications were set to be heard in July 2020, but the father successfully obtained an adjournment for not responding to the mother's application, despite having received the material in time to do so (para. 47). The mother was granted costs of that application.
- g) The father was ordered to pay \$5,184 per month starting August 1, 2020, plus an additional \$6,258 in August in order to meet his past and current support obligations. He failed to do so. Instead he paid \$5,000 in August 2020, \$4,292 in September 2020 and \$4,292 in October 2020.
- h) In light of the aforementioned findings, Justice Basran made the following comments on the father's conduct:
 - [81] An expansive view of [the father's] conduct reveals that he consistently understated his 2019 and 2020 income. Irrationally, he argued that his 2019 income was less than the amount he earned in employment income. In 2020, he adamantly refused to include the value of the vehicle allowance and other taxable benefits in his income.
 - [82] [He] also failed to pay the amounts ordered by Master Dick, which included increased spousal support, an amount for retroactive spousal support, and \$4,300 in costs.
 - [83] [The father] has deliberately not complied with his obligation to pay spousal support based on his actual income. His blameworthy conduct, in particular his refusal to pay support based on his actual income, is the reason this summary trial application was necessary.
- i) The father asserted he could not afford to pay retroactive spousal support (para. 85).

B. The Father's Application

- [28] As noted, the father also filed an application in October 2022. As I now explain, his application is fundamentally flawed, and not properly brought.
- [29] The application was filed October 28, 2022, but that date is somewhat misleading, as the father originally believed he could have it heard on October 24, 2022, simultaneously with the Application. However, as noted previously, when he appeared in Court on October 24, 2022, his application was accompanied by an affidavit that was neither sworn nor filed. More importantly, the relief sought was clearly based on the father's assumption that his reasons for failing to return R. were justified, and those reasons also justified a complete change in the parenting arrangements set out in the Final Order. He also sought fines and special costs against the mother.

[30] For clarify, the orders he sought included:

- a) that a psychological review be ordered for all parties;
- b) numerous orders relating to parenting time, including the division of holidays, school breaks and long weekends;
- c) an order requiring the parties communicate with each other regarding the children's medical, dental, psychological and general wellbeing;
- d) that the father exercise his parenting time with R. in City 2;
- e) that R. be permitted to choose to live with the father in City 2 when she turns 12 and, if this occurs, that the father no longer be required to pay child support to the mother;
- f) that G. be permitted to remain in City 2 with the father;
- g) a new transfer point, located halfway between the mother's residence and the father's new residence in City 2;
- h) an order prohibiting the mother from enrolling the children in a school or procuring them passports without the father's permission;
- i) the equal sharing of the children's special and extraordinary expenses; and,
- j) that the mother pay a \$5,000 fine for wrongful denial of parenting time and reimburse the father for expenses incurred due to the denial, a \$5,000 fine for non-disclosure, and the costs of this application.

[31] Once I determined in October 2022 that the father had improperly failed to return R. and I was concerned that his changing G.'s residence was a breach of the Final Order, the relief sought in his application was clearly and obviously inappropriate. It was also unavailable because it purported to drastically amend the Final Order without being supported by filed evidence establishing a material change in circumstances--except those unilaterally imposed by the father.

[32] His application does refer to the preparation of a s. 211 report, but it is defective in its wording (seeking that "all parties" undergo psychological evaluation). As noted, ultimately, I granted an order for the preparation of a s. 211 report by consent, but the father failed to comply with the procedural directions I gave for its preparation.

[33] For all those reasons, his application is dismissed.

[34] I now turn to dealing with the outstanding matters from the Application.

III. SPECIAL COSTS

[35] The mother seeks special costs relating to her Application. The Court must determine two things: whether the facts and circumstances of this litigation justify an award for special costs in her favour, and what other considerations are at play given that both parties are self-represented litigants.

[36] I will first review the applicable legal principles.

A. Legal Principles

[37] A case cited often for its helpful summary of the legal principles relating to special costs is *Westsea Construction Ltd. v. 0759553 B.C. Ltd.*, 2013 BCSC 1352:

[73] [T]he courts have been somewhat inconsistent in their determination of what amounts to reprehensible conduct and that those authorities must be reconciled. Based upon my review of the authorities, I have derived the following principles for awarding special costs:

- a) the court must exercise restraint in awarding special costs;
- b) the party seeking special costs must demonstrate exceptional circumstances to justify a special costs order;
- c) simply because the legal concept of "reprehensibility" captures different kinds of misconduct does not mean that all forms of misconduct are encompassed by this term;
- d) reprehensibility will likely be found in circumstances where there is evidence of improper motive, abuse of the court's process, misleading the court and persistent breaches of the rules of professional conduct and the rules of court that prejudice the applicant;
- e) special costs can be ordered against parties and non-parties alike; and
- f) the successful litigant is entitled to costs in accordance with the general rule that costs follow the event. Special costs are not awarded to a successful party as a "bonus" or further compensation for that success.

[38] Although *Westsea Construction Ltd.* is not a family law case, I am aware that in general, the same principles apply in both contexts.

[39] As noted, both parties are self-represented. A self-represented litigant is entitled to their costs, including consideration for special costs: *McKnight v. Hutchison*, 2014 BCCA 472 at para. 39 [McKnight-CA]. Special costs may be awarded against self-represented litigants, although "the law requires that [courts] exercise restraint in awarding special costs, particularly where a party is self-represented and may not fully appreciate the implications of [their] conduct": *Miolla v. Miolla*, 2018 BCSC 2295 at para. 47.

- [40] Typically, the assessment of costs, including special costs, is an issue put before the Registrar: see Supreme Court Family Rules, R. 16-1(3); *T.K.H. v. M.D.H.*, 2023 BCSC 99 at para. 38-39; *Neural Capital GP, LLC v. 1156062 B.C. Ltd.*, 2022 BCSC 1800 at paras. 106-108 [*Neural Capital*]. While judges have the inherent jurisdiction to assess these costs, this discretion should be used "sparingly [as t]he registrar's extensive knowledge and experience assessing legal bills is seldom matched by that of a trial judge": *Gichuru v. Smith*, 2014 BCCA 414 at para. 106. In addition, a failure to consider all of the statutory factors for assessing special costs is an error of law: see *Gichuru* at para. 155[1].
- [41] There is also a certain lack of clarity within the case law as to how special costs for self-represented litigants should be calculated due to the dearth of decisions considering the issue: see *Neural Capital* at para. 75. The "lost opportunity" approach to assessing the special costs of a self-represented litigant has found favour in Ontario courts, but this approach has been rejected in B.C.: see *Harrison v. British Columbia (Information and Privacy Commissioner)*, 2008 BCSC 979 at paras. 10-15, rev'd on other grounds 2009 BCCA 203; *McKnight-CA* at paras. 42-43; *Neural Capital* at paras. 76, 80, 83.
- [42] Rather, the few published decisions assessing this issue suggest that courts in B.C. have taken a different approach, tending to favour assessing these costs on a quantum meruit basis. In *City Club Development (Middlegate) Corporation v. Cutts*, 26 B.C.L.R. (3d) 39, 1996 CanLII 8486 (S.C.), Master Doolan awarded special costs to a self-represented litigant on a quantum meruit basis, although it is not entirely clear how that approach led to the \$3,500 special costs award: see paras. 22-23. Similarly, in *Easton v. Easton*, 2002 BCSC 1076, the quantum meruit approach was also adopted; however, this was in the context of a self-represented lawyer, which makes the case distinguishable: paras. 58-61.
- [43] In contrast, in *McKnight v. Hutchison*, 2011 BCSC 642 at paras. 40-41, the court awarded special costs to be assessed as double costs pursuant to the Appendix B tariff, at Scale B. However, like *Easton*, this case involved assessing special costs awarded to a self-represented lawyer.
- [44] Also relevant is the object of the Supreme Court Family Rules, which is to help the parties resolve legal issues in a way that takes account of the impact family litigation may have on a child, minimizes conflict and promotes cooperation between the parties, and secures the just, speedy, and inexpensive determination of cases on their merits: R. 1-3(1).

B. Analysis

- [45] The issue is whether the father's conduct in this litigation is one deserving of the Court's rebuke. A secondary issue is, if special costs are warranted, whether there is sufficient information before me to conduct an assessment or if the matter should be referred to the Registrar.

- [46] I am very concerned by several aspects of the father's conduct. Despite including in the recitation of the background certain comments from the Judgment, the only conduct relevant is conduct occurring after the Final Order. Specifically, I make the following findings that all fall into the category of conduct that may be deserving of rebuke:
- a) The father's changing of G.'s residence soon after the Final Order without informing or advising the mother was highly improper, even if he had been correct that the wording of the Final Order regarding residence is ambiguous (a finding I do not make). If he truly believed he had the ability to move with the child without violating the Final Order, there would have been no reason to fail to inform the mother. For that reason, I find it difficult to accept that he genuinely believed he was in compliance with the Final Order. Moreover, as indicated above, I am not persuaded he is correct in his interpretation of the Final Order in the context of Justice Basran's reasons. Regardless of that, a failure to inform another parent of the change in residence is a clear breach. This conduct on its own is clearly deserving of rebuke.
 - b) Failing to return R. was suspicious. While he mentions a concern, in light of how he changed G.'s residence, I find it more probable than not that he would exaggerate any concern. I also find that he failed to discuss the concern that purported to justify his failure to return the child with the mother.
 - c) He failed to comply with my order about the s. 211 report's author. He gives a reason for this failure that I find to be spurious.
 - d) He failed to comply with my orders regarding the filing, swearing, and delivery to the mother of his affidavit.
- [47] There are numerous allegations made by the parties against one another relating to parenting and compliance with court orders. Having reviewed the affidavit material filed by the parties after the judgment, I do not consider it helpful to repeat the allegations or make findings about whether conduct was in contravention of any court order.
- [48] What I do find is that the mother's narration of events is generally accurate. The father's responses to her allegations, in general, provide his explanation for events rather than dispute the events themselves. That is significant because it shows a degree of baseline reliability in the mother's recitation of events. Even if the individual events do not amount to a breach of a court order, I do find that they represent the father's conduct has often been contrary to the spirit of the Final Order and the goals of shared parenting.
- [49] However, I am also mindful that if I were to award special costs, the preferable course for assessment would be to refer the matter to the Registrar. This inherently means further delay, not only because of the processes required to convene a hearing, but also the current challenges this Court faces in ensuring matters are heard in a timely fashion because of a shortage of judges, a problem which necessarily impacts the availability of both masters and the Registrar. That shortage is exacerbated in the smaller court registries of this province.

That concern is not determinative, nor is it irrelevant, being linked to the objective of just, speedy, and inexpensive determination found in R. 1-3.

- [50] I also note the inherent difficulty posed by the lack of case law to guide me or the Registrar as to how to conduct the special costs assessment. Again, that is not determinative, but it is a factor to consider pursuant to R. 1-3.
- [51] Ultimately, despite my grave concerns about the father's conduct, I am not persuaded that this is one of those rare cases where special costs should be awarded.
- [52] Instead, I order costs be awarded to the mother under Appendix B, as I find this has been a matter of more than ordinary difficulty: see *R.J.L. v. T.G.S.*, 2023 BCSC 1002 at para. 23. Specifically, I find that the father has engaged in disregard of the Final Order in changing G.'s residence without informing the mother nor seeking her consent. I also take into account what I found to be his dubious explanation for refusing to return R., which caused the need for the Application. I also cite his non-compliance with my order regarding the s. 211 report and failure to forward material to the mother.
- [53] I acknowledge the court in *R.J.L.* ultimately did not find Appendix B costs were justified, as the conduct was "fairly typical of high-conflict family law litigation where one or more parties are self-represented" (para. 25). I find the present case to be distinguishable, as unilaterally changing a child's residence to another province is not "fairly typical", even in high-conflict family law litigation.

IV. FINE

A. Legal Principles

- [54] Section 230 of the FLA gives courts the authority to enforce an order made under the legislation. Among the remedies available under s. 230 for breach of an order is the power for a court to require the breaching party to pay up to \$5,000 to the other party, or a spouse or child, whose interests were affected by the party's actions: s. 230(b)(ii).
- [55] Section 230 can be used both to secure compliance with existing orders and encourage compliance with future orders: *A.J.F. v. N.L.S.*, 2020 BCSC 26 at para. 85.
- [56] When fashioning a s. 230 remedy, the court's objective is to ensure compliance while addressing the specific situation before the court: *A.J.F.* at para. 86. In cases of repeated infractions, progressively more serious responses--including higher fines--may be necessary: *A.J.F.* at para. 86.
- [57] Generally speaking, s. 230 applies to the enforcement of orders so long as they fall outside the scope of s. 213 (which applies to enforcing orders respecting disclosure) and s. 228 (which applies to enforcing orders regarding conduct, including orders involving case management, dispute resolution and counselling programs, restrictions on communication, the family residence, and conduct generally). Although aimed at different conduct, all three

sections use the exact same language to describe the fines that may be imposed, although ss. 213 and 228 also allow for other remedies relevant to those types of orders.

- [58] In *Nelson v. Woodward*, 2021 BCSC 1035, the court imposed a \$3,500 fine to a "first offender" where the person who received the fine "was fully aware of what his obligations as a litigant are. He ha[d] taken a careless and contemptuous attitude to his obligations in this litigation, and he need[ed] to know that there [were] penalties for such" (para. 10). In the absence of an overarching legal test, this description of the individual's behaviour gives some idea of the sort of conduct that will attract stronger sanctions under s. 230.

B. Analysis

- [59] I rely on my findings regarding the father's misconduct and other factors cited above at paras. 46-48. I also rely on Justice Basran's findings and imposition of a fine for financial non-disclosure.
- [60] In light of the foregoing, I find it appropriate to fine the father \$5,000. His repeated misconduct demonstrates a careless and contemptuous attitude to his litigation obligations that a fine is warranted to secure his compliance with future orders. That he has already been fined once in this litigation warrants the imposition of a higher amount.

V. CONCLUSION

- [61] The father shall pay costs to the mother in relation to the Application, including for the hearing dates of October 24 and 28, 2022, and February 17 and April 24, 2023, at the rate in Appendix B for matters of more than ordinary difficulty. Those costs shall be paid forthwith.
- [62] The father is fined \$5,000 pursuant to s. 230 of the FLA.
- [63] I end by expressing regret that the issuance of these reasons was significantly delayed by my having to take a medical leave.

"Sharma J."

- [1] While *Gichuru* refers to special costs provisions under R. 14-1 of the Supreme Court Civil Rules, these provisions are nearly identical to those listed in R. 16-1(2)(b) of the Supreme Court Family Rules.

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