

CANADA / JUDGMENT

K.M.E.S. v. D.M.S.

2025 BCSC 27

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Supreme Court of British Columbia

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2025 BCSC 27 K.M.E.S. v. D.M.S.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

K.M.E.S. v. D.M.S.,

2025 BCSC 27

Date: 20250108

Docket: E04064

Registry: Abbotsford

Between:

K.M.E.S. also known as K.M.E.H.

Claimant

And

D.M.S.

Respondent

Before: The Honourable Madam Justice Sukstorf

Reasons for Judgment

Counsel for the Claimant:

K.E. McNeilly

Counsel for the Respondent:

J. Dreyer

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Place and Date of Hearing:

Port Coquitlam, B.C.

December 4, 2024

Place and Date of Judgment:

Abbotsford, B.C.

January 8, 2025

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Introduction

- [1] This is an application brought by the applicant father, D.M.S, seeking an interim order under s. 45(1) of the Family Law Act [FLA], formalizing a parenting time schedule pending the completion of a court ordered assessment under s. 211 of the FLA, that is intended to provide recommendations about parenting arrangements that are in the children's best interests. The parties currently operate under an informal arrangement for parenting time, which the father submits is implemented at the sole discretion of the respondent mother, K.M.E.S.

Relevant Facts

- [2] K.M.E.S. and D.M.S. were married on May 6, 2006, in Guelph, Ontario. They met shortly after K.M.E.S. graduated from high school in 2003, began living together a year later, and were together for 18 years. The parties separated on September 7, 2022, with D.M.S. moving out of the family home on October 1, 2022.
- [3] The parties have two children: J.S. (born June 7, 2010) and E.S. (born August 20, 2015).
- [4] Both parties agreed on parenting time arrangements following the separation, with K.M.E.S. having primary parenting time, and D.M.S. originally having overnight parenting time as agreed to by the parties. D.M.S. submits that despite that early agreement, K.M.E.S. now unilaterally limits D.M.S.'s parenting time to be alternate weekends from 10 am to 8 p.m. each day with no overnight parenting time except as agreed to by K.M.E.S. During the week, D.M.S. also takes J.S. to his soccer games and regularly attends his games.
- [5] In October, 2023, following a JCC, a s. 211 report was ordered to be prepared by Dr. Simon Elterman. The parties are currently awaiting for this to be produced.
- [6] Contested Facts.
 - a) Allegations of Family Violence. K.M.E.S. has made several allegations of family violence, including physical, and emotional abuse by D.M.S. These claims involve alleged incidents of rage, threats, physical intimidation, and abuse witnessed by the children. D.M.S. denies these allegations, stating there have been no charges against him, and suggests that these alleged historical claims are not relevant to his parenting.
 - b) Post-Separation Behavior. K.M.E.S. has alleged that D.M.S. engaged in stalking and harassing behavior post-separation, including filming her and the children and driving by her new home. D.M.S. asserts that his actions were related to visiting nearby trails and denies any intent to harass.

Positions of the Parties

Position of the Applicant Father (D.M.S.):

- [7] D.M.S. seeks an interim parenting order to formalize and expand the current informal parenting arrangement, which he argues is unpredictable and subject to the unilateral discretion of the respondent, K.M.E.S. He asserts that his parenting time is presently limited to daytime visits on Saturdays and Sundays, on alternating weekends, totaling approximately 5.95% of the children's time. He contends that this limited arrangement is inadequate to foster a meaningful and consistent relationship with his children.
- [8] D.M.S. emphasizes his historical involvement in the children's lives, both before and after the separation, including his active participation in their extracurricular activities and day-to-day care. He highlights his close proximity to the children's primary residence and his ability to provide stable and suitable accommodations, which he has improved since the

separation. To address the limitations of the current arrangement, D.M.S. proposes an interim schedule that includes alternating weekends with overnight visits and two weekday overnights aligned with one child's extracurricular schedule. While acknowledging the pending s. 211 report, he requests that this expanded schedule remain temporary and be subject to review upon the report's completion. He denies the allegations of family violence raised by K.M.E.S., asserting that they are unsubstantiated and being used to unfairly restrict his parenting time.

Position of the Respondent Mother (K.M.E.S)

- [9] K.M.E.S. opposes the application, citing concerns over D.M.S.'s past behavior, involving allegations of family violence, which she claims have caused emotional harm to both herself and the children. She asserts that the current arrangement, which limits D.M.S. to alternating daytime parenting time, aligns with the children's needs and preferences and provides them with the stability they require. According to K.M.E.S., the children are uncomfortable with overnight visits and have shown signs of anxiety about spending extended time with D.M.S.
- [10] K.M.E.S. emphasizes the importance of awaiting the completion of the s. 211 report, ordered in October 2023, before making significant changes to the parenting schedule. She argues that the existing arrangement was mutually agreed upon and disputes D.M.S.'s characterization of it as unpredictable. She urges the court to prioritize the children's safety and emotional well-being, given her ongoing concerns about D.M.S.'s behavior.

Issues

- [11] The primary issue before the court is whether an interim parenting order should be made to formalize and expand the applicant father's parenting time beyond the existing informal arrangement. D.M.S. seeks increased parenting time to include overnight visits, asserting that the current schedule limits his ability to maintain a meaningful relationship with the children.
- [12] The court must determine whether such an order would balance the children's best interests with the need for stability until the completion of the s. 211 report, which will provide a more comprehensive review of parenting arrangements that are in the best interests of the children.

The Law

- [13] Parenting arrangements under s. 40 of the FLA encompass both parenting time (s. 42) and parenting responsibilities (s. 41).
- [14] Both the Divorce Act [DA] and the FLA contain similar provisions regarding the determination of what constitutes the best interests of the child. Section 37 of the FLA provides:

Best interests of child

37 (1) In making an agreement or order under this Part respecting guardianship, parenting arrangements or contact with a child, the parties and the court must consider the best interests of the child only.

- (2) To determine what is in the best interests of a child, all of the child's needs and circumstances must be considered, including the following:
- (a) the child's health and emotional well-being;
 - (b) the child's views, unless it would be inappropriate to consider them;
 - (c) the nature and strength of the relationships between the child and significant persons in the child's life;
 - (d) the history of the child's care;
 - (e) the child's need for stability, given the child's age and stage of development;
 - (f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time or contact with the child, to exercise the person's responsibilities;
 - (g) the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member;
 - (h) whether the actions of a person responsible for family violence indicate that the person may be impaired in the person's ability to care for the child and meet the child's needs;
 - (i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;
 - (j) any civil or criminal proceeding relevant to the child's safety, security or well-being.
- (3) An agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.
- (4) In making an order under this Part, a court may consider a person's conduct only if it substantially affects a factor set out in subsection (2), and only to the extent that it affects that factor.

[15] S. 16 of the DA reads as follows:

Best interests of child

16 (1) The court shall take into consideration only the best interests of the child of the marriage in making a parenting order or a contact order.

Primary consideration

- (2) When considering the factors referred to in subsection (3), the court shall give primary consideration to the child's physical, emotional and psychological safety, security and well-being.

Factors to be considered

- (3) In determining the best interests of the child, the court shall consider all factors related to the circumstances of the child, including
- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
 - (b) the nature and strength of the child's relationship with each spouse, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
 - (c) each spouse's willingness to support the development and maintenance of the child's relationship with the other spouse;
 - (d) the history of care of the child;
 - (e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;
 - (f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
 - (g) any plans for the child's care;
 - (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;
 - (i) the ability and willingness of each person in respect of whom the order would apply to communicate and cooperate, in particular with one another, on matters affecting the child;
 - (j) any family violence and its impact on, among other things,
 - (i) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and
 - (ii) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; and
 - (k) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.

Factors relating to family violence

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- (4) In considering the impact of any family violence under paragraph (3)(j), the court shall take the following into account:
- (a) the nature, seriousness and frequency of the family violence and when it occurred;
 - (b) whether there is a pattern of coercive and controlling behaviour in relation to a family member;
 - (c) whether the family violence is directed toward the child or whether the child is directly or indirectly exposed to the family violence;
 - (d) the physical, emotional and psychological harm or risk of harm to the child;
 - (e) any compromise to the safety of the child or other family member;
 - (f) whether the family violence causes the child or other family member to fear for their own safety or for that of another person;
 - (g) any steps taken by the person engaging in the family violence to prevent further family violence from occurring and improve their ability to care for and meet the needs of the child; and
 - (h) any other relevant factor.
- [16] Pursuant to s. 37(4), a parent's conduct may only be considered in making a parenting order if that conduct substantially affects a factor set out in s. 37(2), and only to the extent that it affects that factor.
- [17] Allegations of abuse may influence a parenting order if the court finds that they affect the parent's ability to meet the child's needs or responsibilities.
- [18] Where allegations of family violence are made, both statutes require the court to carefully consider the nature, frequency, and seriousness of the violence and its potential impact on the child's safety, security, and well-being. Section 38 of the FLA sets out specific factors to assess when issues surrounding family violence are raised:
- (a) the nature and seriousness of the family violence;
 - (b) the recency and frequency of the violence;
 - (c) whether the violence involved coercive or controlling behavior;
 - (d) whether the violence was directed at or witnessed by the child;
 - (e) the harm to the child's physical, psychological, or emotional safety resulting from the violence; and
 - (f) any steps taken by the perpetrator to prevent further violence or improve their parenting ability.
-

[19] The FLA defines family violence broadly to include physical abuse, sexual abuse, psychological abuse (e.g., intimidation, coercion, and threats), stalking, and intentional property damage. A child's exposure to such violence, even indirectly, is also considered family violence under s. 37(2)(g).

[20] The definition of "family violence" in the FLA is:

"family violence" includes, with or without an intent to harm a family member,

- (a) physical abuse of a family member, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm,
- (b) sexual abuse of a family member,
- (c) attempts to physically or sexually abuse a family member,
- (d) psychological or emotional abuse of a family member, including
 - (i) intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property,
 - (ii) unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy,
 - (iii) stalking or following of the family member, and
 - (iv) intentional damage to property, and
- (e) in the case of a child, direct or indirect exposure to family violence;

[21] Section 62 of the FLA outlines circumstances in which a guardian's denial of parenting time is not wrongful, including when the guardian reasonably believes the child might suffer family violence or harm if parenting time were exercised.

[22] Section 62 of the FLA provides in relevant part:

62 (1) For the purposes of section 61 [denial of parenting time or contact], a denial of parenting time or contact with a child is not wrongful in any of the following circumstances:

- (a) the guardian reasonably believed the child might suffer family violence if the parenting time or contact with the child were exercised;
- (b) the guardian reasonably believed the applicant was impaired by drugs or alcohol at the time the parenting time or contact with the child was to be exercised;
- (c) the child was suffering from an illness when the parenting time or contact with the child was to be exercised and the guardian has a written statement, by a medical practitioner or nurse practitioner, indicating that it was not appropriate that the parenting time or contact with the child be exercised;

(d)in the 12-month period before the denial, the applicant failed repeatedly and without reasonable notice or excuse to exercise parenting time or contact with the child;

(e)the applicant

(i)informed the guardian, before the parenting time or contact with the child was to be exercised, that it was not going to be exercised, and

(ii)did not subsequently give reasonable notice to the guardian that the applicant intended to exercise the parenting time or contact with the child after all;

(f)other circumstances the court considers to be sufficient justification for the denial. [Emphasis added.]

Analysis

- [23] In making this decision, the court is guided by the best interests of the children, as required under s. 37(1) of the FLA and s. 16(1) of the DA. The court has carefully considered the factors outlined in s. 37(2), including the children's emotional well-being, expressed preferences, the importance of maintaining meaningful relationships with both parents, and the need for stability given their ages and developmental stages. Additionally, the court has weighed the impact of the alleged family violence under s. 37(2)(g) and s. 38, recognizing that these allegations remain unproven and will need to be thoroughly assessed before substantial changes are ordered. This decision seeks to balance stability with a gradual expansion of parenting time to promote the children's overall well-being.
- [24] D.M.S. argues that the current informal parenting arrangement is insufficient to maintain a meaningful and consistent relationship with his children. He highlights that this amounts to only 40 hours every 28 days.
- [25] He contends that this limited schedule is inadequate and the lack of overnight visits prevents him from engaging in broader parenting responsibilities, such as evening routines and morning preparations, which are critical to fostering a deeper bond with his children.
- [26] According to K.M.E.S., the children's reluctance to participate in overnight visits stems from the emotional and psychological impact of D.M.S.'s past behavior, including alleged family violence and controlling conduct during the marriage. She asserts that this history has created anxiety for the children, who reportedly feel unsafe or uneasy about staying at their father's home. She emphasizes specific incidents where the children expressed resistance to extended visits, presenting these as evidence of their genuine feelings.
- [27] Additionally, K.M.E.S. argues that the existing daytime-only schedule allows D.M.S. to maintain a relationship with the children without exposing them to unnecessary stress or harm. In her view, expanding parenting time prematurely risks destabilizing the children and undermining their emotional security.

- [28] The court must prioritize the children's best interests as outlined in s. 37 of the FLA and s. 16 of the DA. These provisions require consideration of the children's emotional well-being, relationships with each parent, and the impact of any alleged family violence.
- [29] While the current informal arrangement may provide short-term stability, it does restrict D.M.S.'s ability to develop a consistent and meaningful connection with his children. Over time, this arrangement risks diminishing his parental role. The court must balance the need to protect the children's routine and emotional well-being with the necessity of fostering their relationships with both parents through a gradual and measured expansion of parenting time.

Alleged Prior Family Violence

- [30] As discussed above, the existence of family violence is a critical factor and the court must assess how any alleged prior family violence impacts a parent's ability and willingness to cooperate on parenting matters and whether it affects the children's safety, security, or well-being.
- [31] The recent decision in *K.M.N. v. S.Z.M.*, 2024 BCCA 70, underscores the necessity for trial judges to thoroughly analyze allegations of family violence.
- [32] In *K.M.N.*, the Court of Appeal emphasized that trial judges must meaningfully address evidence of family violence, including making explicit findings on allegations and incorporating them into the best interests of the child analysis. The judgment highlights that family violence must be thoroughly considered in determining parenting arrangements to ensure the safety and well-being of the children are prioritized.
- [33] In this case, K.M.E.S. alleges that D.M.S. engaged in physical, verbal, and emotional abuse during their relationship. While there are no allegations of physical violence by D.M.S. against J.S. or E.S., either during or after the relationship, or against K.M.E.S. since their separation, she claims that the children were exposed to abusive behavior during the relationship and now fear their father.

Allegations of Family Violence During the Marriage

- [34] The respondent, K.M.E.S., has made several specific allegations of family violence against D.M.S. during the marriage. These allegations include the following:

1. Coercive and Controlling Behavior:

- o D.M.S. allegedly used intimidation and threats to control K.M.E.S., including threatening to leave the family and move without them during discussions about relocating to British Columbia.
- o He allegedly restricted her decision-making on family matters, such as the move to British Columbia, and threatened her financially by stating she would be "screwed" if she left him due to her lower income.

2. Physical Violence:

o D.M.S. is alleged to have thrown a frying pan across the room at her head.

o He reportedly strangled her on at least one occasion.

o He allegedly physically removed her from their home during arguments.

3. Verbal Abuse and Threats:

o D.M.S. allegedly yelled at and belittled K.M.E.S., frequently using profanities.

o He allegedly told her he was going to kill her during one argument.

o During her grieving process for her brother's death, D.M.S. reportedly screamed at her, "Your brother is dead, get over it."

4. Rages and Intimidation:

o D.M.S. allegedly engaged in cycles of abuse, which included periods of silence followed by escalating yelling, name-calling, and physical intimidation, such as using his size to make her feel unsafe.

o He reportedly experienced "blackouts" and claimed afterward not to remember his actions.

5. Incidents Involving the Children:

o In 2016, D.M.S. allegedly shook E.S.'s car seat violently while yelling at her to "shut up."

o During a camping trip in 2020, D.M.S. allegedly threatened to leave J.S. in the woods, causing lasting anxiety in the child.

o He allegedly involved the children in conflicts, blaming them or their mother for his actions and telling them he was leaving because of her.

6. Exposure of Children to Conflict:

o D.M.S. allegedly argued with and belittled K.M.E.S. in the children's presence, blaming her for family issues;

o During a conflict in December 2020, D.M.S. reportedly went next door to where J.S. had sought refuge, told the child goodbye, and then disappeared into the woods without his cell phone or wallet. This incident caused distress to both J.S. and K.M.E.S.

o He reportedly told E.S. in December 2021, "I am leaving, you won't see me here anymore. No Christmases, no nothing," prompting her to plead with him to calm down.

[35] In response to the allegations made by K.M.E.S., D.M.S. vehemently denies being an abusive spouse. He asserts that the claims of abuse are largely fabricated, particularly with respect to his relationship with the children. He disputes the assertion that he is unsafe with the children and challenges K.M.E.S.'s claims that he should be denied overnight visits due to alleged physical and emotional abuse. D.M.S. contends that he has never posed any risk to

the children and notes that after their separation, he had multiple instances of overnight parenting time without any issues or objections from K.M.E.S., which, he argues, contradicts her claims of danger.

- [36] D.M.S. highlights instances where, post-separation, K.M.E.S. called on him to care for the children, including overnight stays. He argues that her actions during these times are inconsistent with her portrayal of him as dangerous or abusive. He references text message exchanges, included in his affidavits, in which she requested his assistance with the children, even after separation.
- [37] The affidavit evidence before me suggests that the parenting arrangements that existed immediately post separation were successful and worked between the parties. However, since that time, both parties have re-partnered and there was an incident that unfolded on May 7, 2023 where in the midst of an exchange of the children where D.M.S. was taking the children for a week-long visit to Ontario to visit their cousins, conflict erupted. The exchange occurred in the presence of the new partners and without having to assign blame to anyone, it appears that neither of the parties were ready for the reintroduction of the new partners.
- [38] D.M.S. suggests that since that controversial day, the cooperative co-parenting efforts between the two parties have not recovered and D.M.S. has resisted any of D.M.S.'s overnight parenting with the children.
- [39] Ultimately, D.M.S. maintains that the allegations of family violence are being used to obstruct his ability to maintain a meaningful relationship with the children. He asserts that there is no legitimate basis for restricting his parenting time.
- [40] The court recognizes that allegations of family violence are serious and demand careful consideration under s. 38 of the FLA. While the absence of recent incidents reduces the immediate urgency of restricting D.M.S.'s parenting time, it does not diminish the importance of evaluating these claims further.
- [41] The court acknowledges the serious nature of the allegations of family violence raised by K.M.E.S. and the vehement denials by D.M.S. At this interim stage, the court cannot make conclusive findings on the credibility or factual basis of these allegations. Determinations of this nature require a thorough examination of evidence, including the forthcoming s. 211 report, which is expected to provide a neutral and comprehensive assessment of the children's needs, preferences, and any potential impact of past family dynamics. The court's interim order is therefore made without prejudice to either party's position on these issues and focuses solely on the children's best interests as they currently stand, with stability and safety remaining paramount.
- [42] Nonetheless, the history of the relationship and the allegations of family violence are central to determining the appropriate parenting arrangements. The evidence provided by K.M.E.S. suggests a pattern of coercive and controlling behavior by D.M.S. during the

marriage, including physical intimidation, verbal abuse, and incidents of violence, such as throwing objects and making threats. Specific allegations, including throwing a frying pan, threatening to kill her, and abandoning her and the children at a zoo, if true, illustrate the severity of the alleged conduct.

- [43] The children were reportedly exposed to this violence on multiple occasions. They allegedly witnessed yelling, physical outbursts, and instances where they were drawn into parental conflicts.
- [44] Following the separation, K.M.E.S. argues that D.M.S.'s behavior allegedly continued and she alleges that the children reportedly relied on excuses to avoid visits or asked K.M.E.S. to decline overnight stays on their behalf. Despite these concerns, there is no evidence that D.M.S. has taken meaningful steps to address the behaviors that underlie these issues.

Allegations of Family Violence Post-Separation

- [45] The respondent, K.M.E.S., has made several allegations of family violence and concerning behavior by D.M.S. since the parties' separation. These allegations include the following:

Alleged Harassment and Stalking:

D.M.S. allegedly followed and filmed K.M.E.S. and the children as they left a parking lot. He reportedly drove or walked past her new home, claiming to be accessing nearby trails, even though she alleges that the trails were closed at the time.

Behavior with the Children:

D.M.S. allegedly pressured the children to attend visits or stay overnight despite their expressed reluctance. J.S. reportedly fabricated excuses to avoid visits with his father due to fear or discomfort. E.S. was allegedly yelled at and told she "had to" stay overnight after initially planning to do so but deciding against it.

Involvement of Authorities:

During a disagreement about parenting time in July 2024, D.M.S. allegedly escalated the situation by calling the police to conduct a welfare check on the children

- [46] While the allegations outlined above remain unproven, and K.M.E.S. has not been subjected to cross-examination on her assertions, the court finds that there is sufficient concern to support the s. 211 report being critical tool to be reviewed prior to a comprehensive evaluation of the children's best interests. The s. 211 report will provide an objective assessment of the children's preferences, needs, and the potential impact of the alleged family violence.

- [47] In the meantime, I find that the children's current stability and status quo must be preserved as much as possible while this evaluation is underway. Any significant changes to the existing parenting arrangements risk destabilizing their emotional and psychological well-being. In light of the evidence presented, the court concludes that maintaining a routine which is closely in line with the current parenting schedule is necessary.

Impact on the Children

- [48] Both parties agree on the importance of stability for the children, but they differ on how best to achieve it.
- [49] The children's views and preferences are an important consideration under s. 37(2)(b) of the FLA, particularly given their ages and maturity levels. At 14 years old, J.S.'s opinions carry significant weight in understanding his emotional and psychological needs. E.S., at 9 years old, is also capable of expressing preferences about her comfort and relationship with each parent. As mentioned earlier, K.M.E.S. argues that both children have shown reluctance toward extended or overnight visits with D.M.S., with J.S. reportedly fabricating excuses to avoid visits and E.S. expressing fear and discomfort when pressured to stay overnight. However, the court acknowledges that these perspectives may be shaped by ongoing family dynamics and alleged past incidents of family violence. At this interim stage, the court seeks to balance respecting the children's expressed concerns with fostering their relationship with D.M.S. in a safe and structured manner.
- [50] I recognize that abrupt changes to parenting arrangements can be unsettling for children, but the absence of overnight visits significantly restricts D.M.S.'s ability to engage fully in their lives, which may not align with their best interests. A modest expansion of his parenting time, including one overnight per week, would provide a balanced approach that minimizes disruption while allowing for greater parental involvement.
- [51] Introducing one overnight visit per week strikes an appropriate balance between maintaining the children's stability and status quo while strengthening their relationship with D.M.S. Overnight visits enable the children to participate in broader parenting activities, such as evening routines, morning preparations, and shared weekend experiences, which are essential to sustaining a meaningful parental bond. While the court remains mindful of the children's expressed reluctance and the alleged anxiety associated with overnight stays, a structured and predictable schedule, limited to one overnight per week, minimizes disruption to their routines while providing a safe environment for gradual adjustment to extended visits. Both children are now of the age that they can communicate directly if there is any concerning behaviour by D.M.S. during their parenting time.
- [52] D.M.S. will have one overnight every second weekend during his scheduled weekend parenting time. This adjustment extends his time with the children from 10:00 a.m. on Saturday to 8:00 p.m. on Sunday. This schedule minimizes disruption by aligning with the existing arrangement. By including an overnight, D.M.S. can plan family activities that extend into the evening which may be more appropriate for older children, such that they

can attend evening activities, which is particularly important as both grow older and wish to participate in social, extracurricular, or family activities that naturally conclude later in the day. Weekend overnights also ensure that the transition does not unduly interfere with school schedules, allowing the children to adjust to the expanded parenting time in a low-pressure environment.

- [53] During the alternating weeks when D.M.S. does not have weekend parenting time, he will have one overnight visit per week, ideally aligned with J.S.'s soccer practice. This arrangement allows D.M.S. to continue to actively support J.S.'s extracurricular activities. By incorporating a regular overnight during the off weeks, the children benefit from consistent and predictable weekly contact with their father.
- [54] The court considers this gradual expansion of D.M.S.'s parenting time to be a balanced and prudent approach at this interim stage. This measured adjustment provides the children with opportunities to acclimate to longer visits in a structured environment. The court finds this arrangement appropriate, pending the completion of the s. 211 report, which will offer a more comprehensive evaluation of the children's preferences, needs, and relationships with both parents.

Disposition

- [55] For these reasons, until the completion of the s. 211 Report and a follow up hearing, I order as follows:
1. Parenting Arrangements. K.M.E.S will continue to have primary residence of the children and D.M.S. will have parenting time specified as follows:
 - a) D.M.S will have parenting time on alternate weekends from Saturdays at 10 am until Sundays at 8 pm, commencing on the next weekend he is currently scheduled for parenting time.
 - b) On the alternate weeks that D.M.S. does not have weekend parenting time, during a school day as agreed to by the parties from after school until the next morning school drop off time;
 - c) All other reasonable parenting time as agreed to by the parties;
 - d) K.M.E.S. will have reasonable telephone and/or electronic communication with the children while they are in the care of D.M.S.
 2. Children's Interest Conduct - The parties will:
 - a) put the best interests of the children before their own interests;
 - b) encourage the children to have a good relationship with the other parent and speak to the children about the other parent and that parent's partner in a positive and respectful manner; and

- c) make a real effort to maintain polite, respectful communications with each other, refraining from any negative or hostile criticism, communication or argument in front of the children.

[56] The parties will encourage their respective families to refrain from any negative comments about the other parent and their extended family, and from discussions in front of the children concerning family issues or litigation.

"Sukstorf J."

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