

CANADA / JUDGMENT

L.A.L.M. v. N.M.G.C.

2025 BCSC 880

COURT

Supreme Court of British Columbia

DECIDED

12 May 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 880 L.A.L.M. v. N.M.G.C.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

L.A.L.M. v. N.M.G.C.,

2025 BCSC 880

Date: 20250512

Docket: E220479

Registry: Vancouver

Between:

L.A.L.M. also known as L.A.L.C.

Claimant

And

N.M.G.C.

Respondent

Before: Associate Judge Harper

Reasons for Judgment

Counsel for the Claimant:

T.R. Bell

The Respondent, appearing in person:

N.M.G.C.

Place and Dates of Hearing:

Vancouver, B.C.

February 25 and March 12, 2025

Place and Date of Judgment:

Vancouver, B.C.

May 12, 2025

Table of Contents

Introduction.. 3

Issues. 3

Analysis. 4

1. What are the parties' respective guideline incomes. 4
 - a) M.'s guideline income. 4
 - b) C.'s guideline income. 4
2. Is M. entitled to interim spousal support?. 5
3. Should C. pay retroactive spousal support?. 7
4. Interim child support and special or extraordinary expenses. 8

Summary of Orders. 9

Introduction

- [1] The claimant wife ("M.") seeks orders that the respondent husband ("C.") pay retroactive and prospective interim spousal and child support. M.'s notice of application was filed October 24, 2023 but not heard until February 25, 2025.
- [2] The parties are both lawyers. They met in 2006 in the Professional Legal Training Course in Vancouver. They were called to the Bar of British Columbia in the same year.
- [3] C. practises civil litigation and M. is a family lawyer.
- [4] The parties began living together in March 2008, were married in August 2009, and separated in 2021 (in May or August, the exact date being in dispute but not relevant for the purposes of this application).
- [5] The parties have three children, twins, C. and O., born February 24, 2012, and a younger child, R., born June 2, 2013.

- [6] Further background to this case can be found in the reasons for judgment of Associate Judge Muir dated March 13, 2024 indexed at 2024 BCSC 418.
- [7] C. contests M.'s entitlement to spousal support and argues that she has the ability to earn more income than she actually earns. C. has paid child support, and has contributed to special or extraordinary expenses, but his payments are not pursuant to a written agreement or court order, and there has been no agreement or court determination as to the parties' respective guideline incomes.
- [8] The children are currently in the sole care of M. O. is experiencing serious mental health issues and is currently in the hospital receiving treatment.

Issues

- [9] The issues for determination are the following:
1. What are the parties' respective guideline incomes?
 2. Is M. entitled to interim spousal support?
 3. If M. is entitled to interim spousal support, should C. pay retroactive spousal support?
 4. What is the appropriate amount for child support and special or extraordinary expenses? Should child support be retroactive?

Analysis

1. What are the parties' respective guideline incomes
 - a) M.'s guideline income

[10] Counsel for M. submits that the line 15000 (formerly line 150) income for each party be adopted as their guideline incomes. The line 15000 income for M. for the years 2021 through 2023 is \$110,443, \$108,045, and \$101,139, respectively. M. proposes that her guideline income be set at \$101,000.

[11] C. argues that M. should be imputed additional income up to \$140,000 because she is not working to her full capacity. He points out that he and M. have the same qualifications and argues that if M. put in more effort, she could make more income. In my view, M.'s current income of \$101,000 should be her guideline income. M.'s income for 2024 was not available, but I do not think that, given that the children are solely in her care, her income will be greater than \$101,000. Although M. may well increase her income in the future, she is not able to do so at this time. M. is required to spend significant time attending to O.'s mental health care. Whether M. actually increases her income in the future remains to be seen; whether she should be imputed an income greater than \$101,000 is a matter best left to trial or settlement.
 - b) C.'s guideline income

- [12] Counsel for M. submits that for 2021 through 2023, C.'s income should be determined as his actual dividend income of \$194,000, \$225,000, and \$267,200, respectively. In his written submissions, counsel for M. provided a range of options for M.'s guideline income. In oral submissions, counsel for M. provided a further option of \$250,000. The rationale for using C.'s dividend income was to keep things simple and avoid looking behind the line 15000 income.
- [13] C. says that he has drawn more from his law corporation than he actually earns because he requires the money for living expenses and, therefore, his dividend income is not an accurate reflection of his guideline income. Although I do not necessarily agree that C. has been required to overdraw to meet living expenses (he refused until recently to sell the family residence and bought an expensive vehicle), I agree that C.'s dividend income does not provide the answer to the question of available income for guideline purposes.
- [14] C. says that due to the nature of his practice, his income is volatile and, therefore, a three-year average should be used in accordance with s. 17 of the Federal Child Support Guidelines, SOR/97-175. I agree with this approach. The difficulty is landing on a number that is "fair and reasonable": *Marquez v. Zapiola*, 2013 BCCA 433.
- [15] C. submits that his guideline income be set at \$207,000, which is the average of his net corporate income before tax ("NCIBT") for 2021 through 2023: *Quinton v. Kehler*, 2020 BCCA 254.
- [16] I agree with C. that the average of his NCIBT income for 2021 through 2023 should be used. I would include the COVID relief he received. Therefore, C.'s guideline income will be set at \$207,000.
2. Is M. entitled to interim spousal support?
- [17] C. takes the position that M. is not entitled to spousal support because she has the capacity to earn at least \$140,000, which he says represents an average income for a family lawyer in Vancouver, BC. M.'s lower income was a bone of contention between the parties during their relationship. C. says that M. did not work to her capacity because she was not motivated to work.
- [18] M. acknowledges that she has earned less money than C. because she works less. M. has had health issues that are well-documented in her affidavit material. The health issues have had an impact on her earnings from time to time. M. says that the stress of the litigation has adversely affected her ability to earn more income.
- [19] Associate Judge Muir found that M. was the primary caregiver of the children before separation. As a result, M.'s income-earning ability may have been negatively affected, and C.'s income-earning ability may have been positively affected. However, in 2015, while the children were aged 3, 3, and 2 years, M. generated gross revenue of \$241,568 when she worked in a group practice. In 2016, she generated gross revenue of \$308,228. These high-earning years contradict the theory that M.'s income-earning ability was negatively affected

by her child-rearing responsibilities.

- [20] In 2018, M. became a sole practitioner with the encouragement of C. Her income decreased dramatically. M. now works as a sole practitioner from home. She does not take on any litigation due to her responsibilities for the children. She has had to move more than once since separation which may have impeded her ability to work more.
- [21] M. will need to increase her income in accordance with her duty to become self-supporting. Her current income equates to approximately half-time employment. On a superficial analysis, M. has had sufficient time since the date of separation to attempt to increase her earnings. However, there are pressures on M. that currently impede her ability to increase her income, such as the current crisis regarding O.'s hospitalization and C. having had no contact with the children for about the past year, resulting in M. having the sole responsibility for the care of the children.
- [22] It is difficult on this interim application to resolve the conflicts in the evidence regarding the reasons for M.'s relatively low income before the advent of O.'s mental health crisis and the children ceasing contact with C. It is clear, however, that M.'s duty to become self-supporting has been affected by the dramatic change in the parenting time schedule and by M.'s time-consuming, but necessary, participation in O.'s therapies while O. is underdoing treatment in the hospital.
- [23] I expect that M.'s income will increase over time as the crisis facing the family eases. However, for now, she is entitled to an order for interim spousal support.
- [24] *Robles v. Kuhn*, 2009 BCSC 1163 sets out a list of considerations on an interim application for spousal support. The court does not embark on an in-depth analysis of the parties' circumstances which is best left to trial. Interim support should only be ordered where a prima facie case for entitlement has been made out. I have determined that a prima facie case for entitlement has been made out here. There is a disparity in the parties' incomes and M. is required at this time to spend significant time dealing with O.'s mental health issues. It is possible that M.'s claim is limited to non-compensatory support. A determination of that issue is a matter for trial. For the purposes of this application, and considering the limited duration that spousal support would be payable pending trial, I have determined that C. is obligated to pay interim spousal support. An order for interim spousal support will do "rough justice" between the parties: *Nestor v. Nestor*, 2019 BCCA 203 at para. 18.
- [25] Because the parties require resolution of their family law case, I think it is important to hold their feet to the fire. An order for interim spousal support is only meant to last until trial when the issues can be fully canvassed. Interim orders should not drag on indefinitely. There was no trial date set as of the date of the hearing of this application, but I note from the court file that a notice of trial has now been filed for a trial date commencing June 8, 2026. This is a positive development. It is the court's hope that the parties will settle their issues before trial, but a trial is needed to set an end date for resolution of all issues.

3. Should C. pay retroactive spousal support?

- [26] Both parties provided extensive written submissions, including submissions on retroactive spousal support. I am not able to determine whether retroactive spousal support should be ordered for a number of reasons.
- [27] First, C. may ask the trial judge to adjust spousal support downwards on the basis that he continued to pay the mortgage on the former family residence in the hope that he could buy out M.'s interest. On the other hand, the mortgage payments were about \$10,000 per month which, objectively, C. could not afford. M. made it clear that she wanted the former family residence sold. I cannot predict how the trial judge will resolve this issue.
- [28] Second, it is possible that the trial judge might find that M. should be imputed income for the period of time that the parties had a shared parenting arrangement. During the time that the children were in the care of C., M. arguably had extra time available to pursue more work and obtain a higher income. I note that M. puts forward reasons that explain her income, but I am not able, on the conflicting evidence, to determine why she did not increase her income during the time that the parties shared parenting of the children.
- [29] Third, I have made a determination of M.'s guideline income using an approach that might be different from the approach adopted by the trial judge. Any adjustments that the trial judge determines ought to be made to the interim order should also apply to the assessment of the claim for retroactive spousal support.
- [30] Accordingly, M.'s application for retroactive spousal support is reserved to trial.

4. Interim child support and special or extraordinary expenses

- [31] There is no question that C. is obligated to pay M. child support. C. currently does not have any parenting time with any of the children. C. desperately wishes to reunite with the children and ultimately have a shared parenting arrangement.
- [32] The claim for retroactive child support is difficult to quantify. In the written submissions provided by counsel for C., detailed calculations are set out regarding the months parenting was shared versus not shared, the parties' incomes since separation, and the amount of child support actually paid. The detailed calculations advanced by C. do not lend themselves to the "rough justice" approach the authorities encourage.
- [33] However, the children have been in the sole care of M. since at least April 1, 2024. Accordingly, it is easier to determine retroactive child support from that date because C. is obligated to pay the full table amount of child support without a set-off which would have to take into account M.'s guideline income.

[34] The amount C. owes, if any, for retroactive s. 7 expenses is difficult to assess without a detailed accounting that is not possible at this stage. C. argues that he and M. agreed on s. 7 expenses through counsel (C. has only been self-represented since about August, 2024). I cannot resolve this conflict on the evidence before me. I will make an order for the sharing of s. 7 expenses pro rata based on the parties' respective guideline incomes, but I am not able to ascertain the exact dollar amount that C. should pay.

Summary of Orders

[35] I make the following orders:

- a) From April 1, 2024 onwards and until written agreement of the parties or further order of the court, M.'s guideline income is determined to be \$101,000 and C.'s guideline income is determined to be \$207,000;
- b) C. will pay M. interim spousal support commencing May 1, 2025 and continuing on the first day of each and every month thereafter until June 1, 2026, at which time C.'s obligation to pay interim spousal support will cease;
- c) If the trial scheduled to commence June 8, 2026 does not proceed, M. has liberty to apply for a further order for interim spousal support;
- d) Spousal support will be calculated at the mid-range of DivorceMate calculations using C.'s guideline income of \$207,000 and M.'s guideline income of \$101,000 and on the basis that the children primarily reside with M.
- e) M.'s claim for retroactive spousal support is reserved to trial.
- f) Commencing April 1, 2024 and continuing on the first day of each and every month thereafter until written agreement of the parties or further order of the court, C. will pay M. child support based on C.'s guideline income of \$207,000. The amount of child support will be calculated by the parties and inserted into the formal order. If the parties cannot agree on the amount, they may seek a further hearing before me.
- g) Commencing April 1, 2024 and continuing on the first day of each and every month thereafter until written agreement of the parties or further order of the court, the parties will share special or extraordinary expenses pro rata based on their respective guideline incomes.
- h) Any further claims to retroactive child support, including retroactive special or extraordinary expenses, is reserved to trial.
- i) Any amounts that C. owes M. for retroactive child support arising from this order may be paid to M. out of C.'s share of the net sale proceeds of the former family residence.
- j) Costs will be in the cause.

"Harper A.J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/08/2025BCSC0880.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/l-a-l-m-v-n-m-g-c-2025>

Prepared on 28 October 2026 · Esheria