
CANADA / JUDGMENT

L.C.C. v. C.B.C.

2020 BCSC 627

COURT

Supreme Court of British Columbia

DECIDED

28 February 2020

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2020 BCSC 627 L.C.C. v. C.B.C.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

L.C.C. v. C.B.C.,

2020 BCSC 627

Date: 20200228

Docket: E53773

Registry: Kamloops

Between:

L.C.C.

Claimant

And

C.B.C.

Respondent

Before: The Honourable Mr. Justice L. Marchand

in Chambers

Oral Reasons for Judgment

Appearing on her own behalf by teleconference:

L.C.C.

Counsel for the Respondent:

J.J. Olynyk

(as Agent for R. Lammers)

Place and Date of Hearing:

Kamloops, B.C.

February 24, 2020

Place and Date of Judgment:

Kamloops, B.C.

February 28, 2020

Introduction

- [1] L.C.C. and C.B.C. began living together on October 1, 2001, separated on February 15, 2016, and were divorced by way of an order made on January 8, 2018.
- [2] The parties have two children, C. who is 13 years old and K. who is 10 years old. At the time of the parties' separation and their divorce, both children were attending St. Ann's Academy. In September 2019, C. enrolled at the Kamloops School of the Arts. K. remains at St. Ann's.
- [3] On February 22, 2017, the parties entered a consent order that:
- provided for the payment of certain family debts from the net proceeds of the sale of the former family home;
 - required C.B.C. to pay interim child support of \$1,128 per month;
 - required C.B.C. to pay \$667 per month to St. Ann's for the children's tuition and uniforms; and
 - required C.B.C. to pay interim spousal support of \$1,103 per month.
- [4] On June 6, 2017, the parties entered a consent order that:
- set out the parties' agreement that C.B.C.'s Federal Child Support Guidelines, SOR/97-175 [Child Support Guidelines] income was \$100,000 and L.C.C.'s imputed Child Support Guidelines income was \$22,000;
 - provided for the parties to share joint custody and joint guardianship;
 - established the time each of the parties would have with the children in their care;
 - required C.B.C. to pay child support of \$1,128 per month;
 - required C.B.C. to pay tuition fees for the children to attend St. Ann's;
 - required L.C.C. to pay all other educational expenses for the children;

- required C.B.C. to pay 82% and L.C.C. 18% of the children's medical and dental expenses and any other s. 7 expenses agreed to in writing in advance or ordered by the court;
- required C.B.C. to pay spousal support of \$1,103 per month;
- provided for a review of spousal support as to both entitlement and quantum after August 2020; and
- finalized the division of family property and debt.

- [5] On December 17, 2019, L.C.C. filed an application seeking to compel C.B.C. to swear and file an updated financial statement, and to vary child support, spousal support, and s. 7 expenses.
- [6] By the time L.C.C.'s application came before me, C.B.C. had sworn and filed an updated financial statement and L.C.C. advised that she was not seeking any variation of spousal support. Accordingly, the live issues raised by L.C.C. are variation of child support and s. 7 expenses.
- [7] C.B.C. takes the position that L.C.C.'s application materials are deficient and that her application should be adjourned to August 2020 to be dealt with alongside a review of spousal support.
- [8] On February 5, 2020, C.B.C. filed an application seeking a declaration that the parties have a shared parenting arrangement within the meaning of s. 9 of the Child Support Guidelines, conduct orders mostly regarding communications, orders regarding the children's passports, enforcement orders, an order compelling L.C.C. to apply for the Catholic Rate Discount for St. Ann's, and increased or special costs.
- [9] L.C.C. disagrees that the June 2017 parenting order establishes a shared parenting arrangement. L.C.C. generally agrees with the conduct orders. She opposes the enforcement and costs orders. L.C.C. also raised a number of additional issues in her response materials, but in the absence of a formal application from her in relation to these matters, I am unable to deal with them.

Analysis

L.C.C.'s Application

- [10] I will begin my analysis with a consideration of L.C.C.'s application. Even though she is no longer pursuing a variation of spousal support, my analysis must discuss spousal support to a certain degree because of the overlapping nature of the financial issues in family law cases.

Legal Principles Regarding Child Support, Spousal Support and s. 7 Expenses

- [11] The June 2017 final orders for child support, spousal support, and s. 7 expenses were made under the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp) [DA]. Under the DA, child support and s. 7 expenses must be determined in accordance with the Child Support Guidelines. Typically, spousal support is determined after a consideration of the Spousal Support Advisory Guidelines [SSAG].
- [12] Under the Child Support Guidelines, basic child support is determined based on the number of children, the parties' incomes, and the time the children spend with each parent. Except in cases of undue hardship or very high incomes, where one parent has the children for more than 60% of the time, the other parent must pay the table amount of child support.
- [13] In cases of shared custody, where each parent exercises a right of access or has physical custody of a child for at least 40% of the time over the course of the year, the court has considerable discretion to determine an appropriate amount of child support. In such cases, under s. 9 of the Child Support Guidelines, child support must be determined by taking into account:
- (a) the table amounts for each parent;
 - (b) the increased costs of the shared custody arrangements; and
 - (c) the conditions, means, needs, and other circumstances of the parents and the children.
- [14] Though the court has considerable discretion with respect to child support in cases of shared custody, very often the parties agree or the court orders that child support is paid by the higher-earning parent at their table amount less the table amount of child support that would be payable by the lower-earning parent. This is called the setoff amount.
- [15] Section 7 expenses, which may include such things as childcare, health-related expenses, school expenses, and extracurricular activities, are generally shared in proportion to the parties' incomes. The sharing of s. 7 expenses is not mandatory and is based on the necessity of the expense in relation to a child's best interests, and the reasonableness of the expense in relation to the parties' means and the family's spending pattern prior to their separation.
- [16] Under s. 15.2 of the DA, the court may order spousal support after taking into consideration the condition, means, needs, and other circumstances of each spouse including:
- (a) the length of time they cohabited;
 - (b) the functions each performed during their cohabitation; and
 - (c) any order, agreement, or arrangement relating to the support of either spouse.
- [17] The objectives of spousal support are to:

- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
 - (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
 - (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
 - (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.
- [18] The SSAG generate ranges for spousal support based on the age of the parties, the length of their cohabitation, and their incomes. The SSAG also set out a number of factors to assist the court in determining where within the range an order of spousal support should be made. As the name implies, the SSAG provide guidance only. They are not mandatory.

Legal Principles Regarding the Variation of Support Orders

- [19] In this case, the final order requires C.B.C. to pay a setoff amount of child support, the children's full tuition at St. Ann's, his proportionate share of health, dental, and other agreed or ordered s. 7 expenses, and spousal support at the bottom of the range generated by the SSAG. The final order requires L.C.C. to pay all other school-related expenses and her proportionate share of health, dental, and other agreed or ordered s. 7 expenses.
- [20] Under s. 17 of the DA, the court may vary these support orders only if there has been a material change in circumstances. To determine whether a change is material, the question is whether the change, if known at the time of the orders, would likely have resulted in different terms. Further, if the change was anticipated at the time of the orders, it cannot be relied on as the basis for a variation. What amounts to a material change will depend on the actual circumstances at the time the order was made. Finally, a material change must have some degree of continuity and must not merely be a temporary circumstance: *Lay v. Lay*, 2019 BCSC 1845.

Conclusion

- [21] I have no hesitation in finding that there have been a number of material changes in circumstances since the final support orders were made in June 2017. These include:
1. C. is no longer attending St. Ann's, which has saved C.B.C. \$3,666 in tuition costs for the current school year;

2. C.B.C. has a new position at Highland Valley Copper which pays him \$2 per hour more, which has contributed to an increase in C.B.C.'s annual earnings. Based on his December 19, 2019 and January 2, 2020, paystubs, his employment income in 2019 net of union dues was approximately \$107,000;
3. C.B.C. has remarried. His partner, S.C., is a licenced practical nurse with employment income of about \$50,000 per year plus unspecified rental income; and
4. L.C.C. has re-partnered. Her partner is a transport truck driver whose annual income was not shared with me.

[22] If the parties' time caring for the children does not amount to a shared parenting arrangement, C.B.C. would be obliged to pay increased child support based on his increased income and the court could then move on to a more nuanced consideration of s. 7 expense issues. On the other hand, if the parties' time caring for the children does amount to a shared parenting arrangement, the court would have to undertake a so-called Contino analysis to determine how to deal with child support issues.

[23] In *C.A.S. v. A.B.S.*, 2019 BCSC 948, I summarized what a Contino analysis entails at para. 56 as follows:

[56] The leading case on s. 9 of the Guidelines is *Contino v. Leonelli-Contino*, 2005 SCC 63. The key principles from Contino are:

- The court must determine child support in accordance with the three listed factors in s. 9 once the 40% threshold is met;
- The court must emphasize flexibility and fairness to ensure the economic reality and particular circumstances of each family are properly accounted for;
- The three factors structure the exercise of the court's discretion but no factor prevails over the others;
- The weight given to each factor varies with the particular facts of each case;
- There is no presumption in favour of any particular award of child support, be that at, above or below the full Guidelines amount;
- The preferable starting point is to determine the straight set-off amount of child support that each party would pay to the other under the Guidelines;
- The court, however, has the discretion to modify the set-off amount where, considering the financial realities of the parents, it would lead to a significant variation in the standard of living experienced by the child as she moves from one household to the other;
- The court is to examine the budgets and actual expenditures of both parents in addressing the needs of the child, determine whether shared custody has resulted in increased costs globally and apportion these costs between the parents in accordance with their incomes;

- Keeping in mind the objectives of the Guidelines to ensure a fair standard of support for children and fair contributions from both parents, the court has broad discretion to analyse the resources and needs of both the parents and the child; and
- The court will look at the standard of living of the child in each household and the ability of each parent to absorb the costs associated with maintaining the appropriate standard of living in the circumstances.

[24] Clearly, much turns on whether the parenting arrangements cross the 40% threshold to be considered a shared parenting arrangement.

[25] The authorities make clear that there is no universally-accepted method of determining whether the 40% threshold has been met. The appropriate method depends on the unique circumstances of each case: see for example, *Berry v. Hart*, 2003 BCCA 659 at para. 10; and *Maultsaid v. Blair*, 2009 BCCA 102 at para. 17. That said, in *Maultsaid*, like in this case, the parenting arrangements were specifically spelled out by the terms of an order and the court determined the threshold issue by calculating the amount of time the children were under the care of their mother both by the hour and by the day. In that case, the threshold was not met either way.

[26] In this case, the results are different. Going by the hour, C.B.C. has the children for 76.5 hours out of every eight days which is 196 hours for 48 weeks per year, plus two uninterrupted weeks in the summer. That is 40.6% of the time. Going by the day, C.B.C. has the children for three days out of eight days for 48 weeks per year plus two uninterrupted weeks in the summer. That is 38.5% of the time.

[27] While L.C.C. now asks the court to count by the day or to consider only the regular (i.e. not the summer) parenting time schedule to conclude that the parenting arrangements are not "shared," that is not the position she took when she consented to the filing of the final parenting order in June 2017. That order requires C.B.C. to pay setoff child support. He was only eligible to do so if the parenting arrangements were considered to be shared in accordance with s. 9 of the Child Support Guidelines. More importantly, in approving the order, the court has already endorsed the view that the final parenting order establishes a shared custody arrangement and nothing has changed in relation to the parenting arrangements since that time.

[28] As I indicated during the hearing, it does not matter that the Canada Revenue Agency ("CRA") has concluded that only L.C.C. is entitled to receive the Canada Child Benefit. The CRA's administration of the Canada Child Benefit is independent of the court's determination of child support. The court is not bound to follow the CRA's determination of what amounts to a shared parenting arrangement for purposes of the Canada Child Benefit just as the CRA is not bound to follow the court's determination of what amounts to a shared parenting arrangement for purposes of child support.

- [29] In any event, because the final parenting order provides for a shared custody arrangement, I must now consider whether I have sufficient information to conduct a Contino analysis. After carefully reviewing all of the information on file, I have concluded that I do not. The biggest gap is with respect to L.C.C.'s earnings.
- [30] L.C.C. was imputed annual income of \$22,000 in 2017. This appears to reflect full-time work at minimum wage rates that were in effect at that time, but neither party has expressly indicated the basis of the imputation of income to L.C.C. in 2017. As for the present, L.C.C.'s December 17, 2019, financial statement indicates that she has an annual income of \$10,912.75 comprised of \$9,525 of self-employment income from teaching piano and \$1,387.75 of employment income from serving part-time for several months at a pub in Chase.
- [31] Knowing L.C.C.'s earnings in 2019 is helpful, but not determinative of her Guidelines income. That is because, for purposes of the Child Support Guidelines, child support is based on ability to pay. In other words, child support is not determined based on what a parent does earn, but on what a parent can earn. Parents have a legal obligation to earn as much as they are capable of earning to meet their obligation to financially support their children: *Earle v. Earle*, 1999 CanLII 6914 (B.C.S.C.).
- [32] As a self-represented litigant, it is not terribly surprising that L.C.C. has not provided the court with the type of information that would be required to determine her income for child support purposes. Much information is missing. For example, without intending to give an exhaustive list, there is incomplete information regarding her education, training, work experience, current hours of work, efforts to build her business, efforts to find full-time employment, and/or any barriers to her finding more remunerative employment.
- [33] It may be that L.C.C.'s role as a homemaker during her relationship with C.B.C., medical issues, mental health issues, addictions, or the need for upgrading have impeded L.C.C.'s ability to earn more than \$11,000 per year. If so, L.C.C. must provide detailed and sworn affidavit evidence to that effect.
- [34] Further, while a new partner's income is not to be taken into account under s. 9(a) of the Child Support Guidelines, household income is properly taken into account when the court considers the effect of payment of table amounts of child support on the children's living standards between the parents' homes: *E.(B.P.) v. E.(A.)*, 2016 BCCA 335. In this case, neither party has provided the court with full information concerning their living situations, shared household costs, and household incomes.
- [35] L.C.C. appears not to have shared information concerning her new living arrangements based on the mistaken belief that is not necessary until she and her partner have cohabited for two years. While that period of cohabitation may have implications with respect to the rights and responsibilities that arise out of the Family Law Act, S.B.C. 2011, c. 25 [FLA] within L.C.C.'s relationship with her new partner, her present application does not engage those rights and responsibilities. Rather, she has an obligation to fully inform the court

about her condition, means, needs, and other circumstances which necessarily includes her current living situation and financial arrangements.

- [36] While C.B.C. has provided more information than L.C.C., I note in particular that he has not clearly stated his new partner's full income including any rental income she earns, nor how household expenses are shared.
- [37] In addition, beyond their ages/grades, C.'s learning challenges and K.'s interest in dance, neither party has provided a full picture of the children's conditions, means, needs, and other circumstances. The parties have not provided the court with a clear picture of who the children are, what they need (within reason) to be their best, nor their standards of living in their two homes.
- [38] Finally, while both parties have set out their household expenses, neither has offered information specifically related to any increased costs related to their shared custody arrangement.
- [39] At paras. 56-57, Contino clearly states that in cases where inadequate information has been provided, the court should either adjourn or dismiss an application under s. 9 of the Child Support Guidelines. The court is to resist the temptation to make "common sense" assumptions which may turn out to be inaccurate.
- [40] In this case, a spousal support review is contemplated after August 2020. In my view, L.C.C.'s application to vary child support and s. 7 expenses should be adjourned to the same date. I say this for a number of reasons.
- [41] First of all, in my view, in the circumstances of this case, in order to ensure a fair and appropriate outcome, all of the financial circumstances ought to be considered together. For example, a straight setoff of child support may appear to be inappropriate given that L.C.C. has the children 60% of the time. I say that because:
- C.B.C. would be obliged to pay the full table amount of child support if he spent just 1.5 hours less time with the children every eight days;
 - He is paying spousal support at the low end of the range;
 - C. is no longer attending St. Ann's; and
 - He is not contributing to dance and tutoring expenses that would appear to be in the children's best interests and affordable for parents who collectively earn more than \$120,000 per year.
- [42] To be fair, on the other hand:
- C.B.C. continues to pay K.'s tuition;
 - L.C.C. has not provided detailed information regarding school-related expenses she incurs;

- L.C.C. has not provided detailed information regarding expected costs and benefits of dance and tutoring; and

- L.C.C. receives 100% of the Canada Child Benefit.

[43] As can be seen, it is very difficult to isolate any one aspect of the support orders from the others.

[44] In addition, by August 2020, the parties will be in a position to provide the further evidence that the court needs to ensure the children enjoy a similar standard of living in both of their homes. In particular, the parties will have filed their 2019 income tax returns and received their 2019 notices of assessment, C.B.C. will be settled into a new position I was informed about during the hearing, and L.C.C. will also be more settled in terms of both her work and educational plans.

[45] Finally, the court will be able to retroactively adjust child support, spousal support, and s. 7 expenses so the adjournment of L.C.C.'s application will not cause undue prejudice to either party or the children.

[46] I do not know the parties' circumstances well enough to list all of the information the parties will need to provide the court when L.C.C.'s application comes on for hearing, but I will be ordering the parties to exchange updated financial statements and further affidavit evidence in advance of the hearing.

C.B.C.'s Application

[47] I turn now to consider C.B.C.'s application.

Declaration of Shared Parenting Arrangement

[48] C.B.C. seeks a declaration that the June 2017 final order establishes a shared parenting arrangement within the meaning of s. 9 of the Child Support Guidelines. He has been honest that he seeks the declaration to advance his dispute with the CRA regarding his entitlement to receive a share of the Canada Child Benefit.

[49] I respectfully decline to make the declaration. The final order and these reasons speak for themselves so no declaration is necessary. Further, in my respectful view, the court's power to make declarations should generally be reserved to settle a dispute between the parties to a litigation and not to advance the interests of one party to a litigation against a third party such as the CRA.

Conduct Orders

- [50] The conduct orders sought by C.B.C. and consented to by L.C.C. are directly from the family picklist of standard orders and relate mostly to the way the parties communicate with the children and with each other. Based on the text messages that have been shared with me, I completely agree with the parties that the proposed conduct orders are appropriate and necessary.
- [51] L.C.C. may be hurting, but her communications have been inappropriately rude, demeaning, and even vulgar. Further, both parties threaten to draw the children into their adult dispute to get what they want. C.B.C. has even indicated that he told the children that they would not go on a trip with him that was many months away because L.C.C. would not provide the children's passports to him immediately. These types of communications between the parties and between the parties and the children must stop now.
- [52] I am certain that the parties both want the children to grow up to be polite, kind, caring, and resilient adults. The best way to ensure that happens is by setting a good example for the children by always treating their children's other parent with the utmost courtesy and respect, and by keeping their adult disputes where they belong, namely, between themselves.
- [53] If they show disdain for the other parent and/or draw the children into their disputes, several things are likely to happen. The children may blame themselves leading to feelings of low self-esteem. The children may feel insecure leading to feelings of anxiety. The children may feel conflicted which may undermine their important relationship with their parents.
- [54] If things do not change right now, when the children become adults, they will remember their childhoods with sadness rather than happiness. Thinking about that should serve as a major wakeup call for both parties.
- [55] I will set out the conduct orders at the conclusion of my reasons for judgment.

Passports

- [56] Possession of the girls' passports has for no apparent reason caused a lot of strife between the parties. That must also stop now.
- [57] L.C.C. applied and paid for the passports. She will continue to hold them. I will, however, make orders to ensure both parties have confidence that they can make and fulfill plans to travel with the children, which both parties acknowledge will be in the children's best interests. I will set out the details in my order.

Catholic Rate Discount

- [58] C.B.C. has applied for an order to compel L.C.C. to apply for the Catholic Rate Discount for K.'s tuition at St. Ann's. L.C.C. explained in her response materials as well as in court that she is not attending church enough to qualify and that she cannot afford the annual \$200 donation to the church that is required to qualify.
- [59] I consider L.C.C.'s response to be entirely reasonable. I will not be ordering her to make an application that will have no effect unless I also order her to attend church more often and make a charitable donation. In my view, such orders would be completely inappropriate.
- [60] Further, as a joint custodian and guardian of the children, C.B.C. is free to apply for the discount himself. He can then hope that L.C.C. makes an adequate donation and attends church often enough to qualify for the discount. If the discount is important enough to him, he can even make the donation and attend church more often himself.

Enforcement

- [61] In the event L.C.C. does not comply with the conduct and passport orders, C.B.C. seeks leave to apply for further conduct orders, orders for enforcement, or a fine under various sections of the FLA on short notice to L.C.C.. I am dismissing this aspect of C.B.C.'s application.
- [62] First of all, leave is not necessary to make the applications contemplated. C.B.C. is free to make such applications if he considers L.C.C. to be in non-compliance with the orders. Second, I am not prepared to prejudge whether short leave will be appropriate or necessary. Short leave can be sought if warranted in the circumstances. Finally, it is premature to make the types of orders C.B.C. seeks. The conduct and passport orders are brand new. L.C.C. must understand that she is to comply or face consequences which could include a fine, or worse. At this stage, there is absolutely no reason for me to think L.C.C. will not abide by brand new orders. While L.C.C.'s communications have been appalling, there is no evidence that she has ever breached any court orders. For example, there is no evidence that she has ever denied C.B.C. time with the children. In short, I expect L.C.C. to comply with the conduct and passport orders. If she does not, C.B.C. can make an enforcement application.

Costs

- [63] C.B.C. seeks increased or special costs to censure L.C.C. for her poor behaviour and communications. I will not be making such orders.
- [64] Costs can only be awarded in accordance with the Supreme Court Family Rules, B.C. Reg. 169/2009 [Family Rules]. Under the Family Rules, there are only two types of costs awards. The court may award "party and party costs" according to a tariff or the court may award special costs: Rule 16-1 of the Family Rules.

- [65] "Party and party costs" typically result in a successful litigant recovering 30 to 40% of their actual legal costs. Special costs typically result in a successful litigant recovering 80 to 100% of their actual legal costs. There is no provision in the Family Rules for "increased costs", although there is a higher scale of costs for matters of more than ordinary difficulty.
- [66] "Special costs" are awarded where a litigant has engaged in reprehensible litigation conduct. The idea is to chastise, punish, and deter that type of conduct: *Mayer v. Osborne Contracting Ltd.*, 2011 BCSC 914; *Gichuru v. Smith*, 2014 BCCA 414.
- [67] In this case, L.C.C.'s application has been adjourned. In the circumstances, I consider it premature to award costs in relation to her application. The costs of L.C.C.'s application will be in the discretion of the eventual hearing judge.
- [68] With respect to C.B.C.'s application, L.C.C. has consented to some orders and success has been divided with respect to other orders. No party has been substantially successful and, as a result, the parties will bear their own costs.
- [69] In the circumstances, I consider it appropriate to add that even if C.B.C. had been fully successful with his applications, there would have been no basis to award increased or special costs. The matters in issue are of ordinary difficulty and special costs may not be used to punish L.C.C. for her non-litigation behaviour. Her litigation conduct has not been reprehensible in any way. In fact, her handling of the applications before the court has been quite good.

Conclusion and Order

[70] For all of these reasons, I make the following order:

1. L.C.C.'s application to vary spousal support is withdrawn.
2. The balance of L.C.C.'s application filed December 17, 2019, is adjourned.
3. L.C.C. may reschedule the balance of her application filed December 17, 2019, to be heard on or after August 1, 2020, by requisition.
4. The parties must swear, file, and exchange updated financial statements in Form 8, including all attachments 21 days in advance of any hearing of the balance of L.C.C.'s application filed December 17, 2019.
5. The parties must file and serve any additional affidavit evidence they intend to rely on 14 days in advance of any hearing of the balance of L.C.C.'s application filed December 17, 2019.
6. The parties must file and serve any response affidavit evidence they intend to rely on seven days in advance of the hearing of the balance of L.C.C.'s application filed December 17, 2019.
7. 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.
8. The parties will not:
- (a) question the children about the other parent or time spent with the other parent beyond simple conversational questions;
 - (b) discuss with the children any inappropriate adult, court, or legal matters; or
 - (c) blame, criticize, or disparage the other parent to the children.
9. The parties will encourage their respective families to refrain from any negative comments about the other parent and his or her extended family and from discussions in front of the children concerning family issues or litigation.
10. Except as provided for in this order, L.C.C. shall retain the children's passports.
11. The parties will cooperate with each other in the provision of passports, consents, and other necessary documents as may be required to allow the children to travel.
12. The parties must give each other as much advance notice as reasonably possible regarding their plans to travel internationally with the children, including by providing detailed itineraries. Except in exigent or unexpected circumstances, they should provide at least 60 days' notice.
13. L.C.C. must provide the children's passports to C.B.C. 30 days in advance of any planned international travel with the children.
14. C.B.C. must return the children's passports to L.C.C. within seven days of his return from any international travel with the children.
15. The balance of the relief sought by C.B.C. in his application filed February 5, 2020, is dismissed.
16. Costs in relation to L.C.C.'s application filed December 17, 2019, will be in the discretion of the hearing judge.
17. The parties will bear own costs in relation to C.B.C.'s application filed on February 5, 2020.
- [71] With the parties' indulgence, I would like to add a few words.
- [72] It is great that the parties have been able to abide by the parenting arrangements and that there are no arrears. Kudos to both of the parties. Regarding the money issues, there have been some significant changes and it is likely that the financial arrangements need to be updated. That is normal. It is expensive and risky to go to court. I encourage the parties to

save their scarce resources for what is most important, namely, their children. They can do that by making full, frank, and timely disclosure of all relevant information, treating each other with respect, and being fair and reasonable.

[73] I wish everyone the best, especially C. and K., and I just wish to note that I am not seized of L.C.C.'s application.

[74] I am ordering a transcript of my reasons for judgment. I think that is important for two reasons: (1) C.B.C. is not here and he should read them; and (2) I hope that it helps both parties, and especially L.C.C., in understanding the type of information that the court needs to deal with the important applications that she has brought forward.

"L.S. Marchand J."

MARCHAND J.

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