

CANADA / JUDGMENT

## Meik (Re)

2024 BCSC 1979

### COURT

Supreme Court of British Columbia

### DECIDED

29 October 2024

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2024 BCSC 1979 Meik (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Meik (Re),

2024 BCSC 1979

Date: 20241029

Docket: S241856

Registry: Vancouver

In the Matter of the Patients Property Act, R.S.B.C. 1996, c. 349

and amendments thereto

And

In the Matter of Fernanda Helena Meik

- and -

Docket: S244927

Registry: Vancouver

In the Matter of the Patients Property Act, R.S.B.C. 1996, c. 349,

and amendments thereto

And

In the Matter of Fernanda Helena Meik

Before: The Honourable Justice Kirchner

## Reasons for Judgment

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Place and Dates of Hearing:

Vancouver, B.C.

September 24-25, 2024

Place and Date of Judgment:

Vancouver, B.C.

October 29, 2024

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## I. Introduction

- [1] This is a dispute between three sisters over who among them should be the caregiver for their mother, Fernanda Meik. Ms. Meik is 79 years-old and has been diagnosed with dementia and paranoid personality disorder. Four doctors opine she is not capable of managing herself and her affairs. All three sisters agree the court should make a declaration to that effect and appoint one or more of them as committee but they cannot agree on who that should be.
- [2] In one petition, Ms. Meik's second daughter, Sabina Ball, seeks to be appointed committee of both Ms. Meik's person and estate. Alternatively, she proposes Heritage Trust Company be committee of the estate and she will be committee of the person. She also seeks an order allowing her to recover from the estate certain expenses she has paid on Ms. Meik's behalf from her own pocket. In the other petition, Ms. Meik's first and third daughters, Kristina Meik and Karina Meik, seek an order that they be appointed as joint committees of Ms. Meik's person and estate, or alternatively that Kristina be appointed committee of Ms. Meik's person and Karina of the estate.
- [3] For the reasons that follow, I accept that Ms. Meik is not capable of managing her personal and financial affairs. I find that it is in her best interests that Sabina be appointed committee of her person and Heritage Trust Company committee of the estate. I am not persuaded that Kristina or Karina should be appointed committee of either. Further, while I find Sabina ought to be repaid or credited for the kind of expenses she claims, I have determined that further proceedings before the Registrar are necessary to determine the full extent of those claims and whether Ms. Meik's estate is entitled to a setoff against some or all of those expenses.
- [4] As several of the parties share the same last name, I will refer to the three siblings by their first names and I intend no disrespect in doing so.

## II. Background

- [5] Ms. Meik was born in 1944. She married in 1966 and had the siblings were born in 1967, 1970, and 1972. The family lived in Coquitlam, B.C. but after Ms. Meik's husband died in 1987, she moved to Victoria in 1990 where she bought a house in the Gordon Head area near the University of Victoria.
- [6] The siblings have been estranged from Ms. Meik for more than 30 years. All three had difficult childhoods and largely chose not maintain regular contact with Ms. Meik after each completed high school and left home. Ms. Meik isolated herself from her family and others. She was generally unresponsive when one of the siblings attempted to contact her or visit her at her home. It appears from some writings that were found in her home that she had much contempt for all three siblings, apparently referring to them as the "Evil 3". From the context of the writings, it is probable that these sentiment had at least some root in her paranoid personality disorder.
- [7] Kristina and Karina have remained close to one another but Sabina's relationship with each of them deteriorated over the years to the point where they stopped communicating. For a time they exchanged emails when necessary to deal with family matters but eventually lost touch. There was, and certainly now is, considerable animosity between them. By 2020, Sabina did not know how to reach Kristina or Karina.
- [8] Although all three sisters did not communicate with Ms. Meik directly, Sabina kept tabs on some of her financial affairs out of concern that important matters were being ignored. In November 2020, Sabina first brought a committee ship application in respect of Ms. Meik. She believed Ms. Meik was struggling with her mental health and had no one to look after her. Ms. Meik had isolated herself from her family and would not answer the door when Sabina and others knocked. She had cancelled her home telephone and redirected mail to a post office box. She had allowed a rental property she owned in Port Coquitlam to fall into disrepair and had evidently stopped collecting rent from the tenants. Sabina received correspondence from the City of Port Coquitlam stating that the rental property had been used for a grow operation. In 2013 Ms. Meik was sued in Provincial Court by a neighbouring property owner in Port Coquitlam over an agreement to develop their two properties together. It appears that Ms. Meik did not file a response to the claim and the claimant took default judgment for almost \$10,000. Between 2011 and 2019, Sabina found that Ms. Meik's tax accounts for her Gordon Head home and the Port Coquitlam property had fallen into arrears. Ms. Meik had also failed to submit exemption forms for the speculation and vacancy tax resulting an assessment of \$10,000. She had also failed to pay a line of credit and mortgage registered against the Port Coquitlam property and Sabina had to make payments to prevent a foreclosure.

- [9] However, Ms. Meik retained a lawyer and swore an affidavit in response to the 2020 committeeship application explaining her circumstances and most of the financial concerns Sabina had raised. As a result, Sabina decided not to proceed with the application at that time. As I discuss below, that decision was regrettable.
- [10] On December 20, 2020, after Sabina had decided not to pursue the committeeship application, the Saanich Police pulled Ms. Meik over. Someone had reported to police that she was swerving all over the road and had run a red light. The officer who pulled her over reported that she appeared confused and did not understand what she had done wrong. While speaking to the police officer, her car evidently rolled backwards and hit the police vehicle, although no damage occurred. The officer invoked s. 28 of the Mental Health Act, R.S.B.C. 1996, c. 288 and had Ms. Meik taken to the hospital for assessment. The assessment did not result in a committal but her licence was revoked based on a concern for cognitive decline.
- [11] Three years later, on December 16, 2023, Sabina received a call from a hospital in Victoria advising her that Ms. Meik had collapsed in a store and had been taken to the hospital. She had been admitted under the Mental Health Act for 30 days and medical personnel believed she was not capable of making decisions for herself.
- [12] Dr. Joshua Budlovsky, a geriatrician and one of the four physicians who assessed Ms. Meik for these applications, reviewed Ms. Meik's medical file which indicated that Dr. Jeannie Marshall, a geriatric psychiatrist who saw Ms. Meik when she was taken to the hospital, believed she had dementia with prominent executive dysfunctions and psychosis. That assessment resulted in the 30-day Mental Health Act committal.
- [13] Dr. Sanjeet Pakrasi, who also examined Ms. Meik for these proceedings, states that when Ms. Meik was admitted to hospital in December 2023 she had been "in a state of neglect and had been unable to pay her utility bills as a result of which she had no electricity".
- [14] The day after receiving the call from the hospital, Sabina flew to Victoria from her home in Prince George. She stayed until December 24, 2023 visiting with Ms. Meik every day and taking steps to arrange for her care. She toured three facilities that provide memory care and that could potentially take Ms. Meik. She ultimately selected Sidney All Care in Sidney B.C., about a half-hour drive from Ms. Meik's home in Gordon Head. Sabina has paid the cost of this care up to the date of this hearing.
- [15] While in Victoria, Sabina found Ms. Meik's home in Gordon Head to be inhabitable. There was no electricity or heat in the home. She found candles around the house that she assumed Ms. Meik had used for light. The carpets were damaged and the plywood underneath was damp with black mould, apparently from a flood. The hot water tank was rusted out and there was evidence of a rodent or pest infestation.

- [16] Sabina also found documents indicating Ms. Meik had not paid MSP premiums or property tax. She found out the home was to be sold in a tax sale unless the arrears were paid by the end of 2023. Sabina paid the taxes and the outstanding balance on the B.C. Hydro account. She also had some emergency repairs done on the house.
- [17] Sabina then prepared her present committee application which she filed on March 19, 2024 and served on Kristina and Karina. That was the first Kristina and Karina heard of Ms. Meik's condition and the events of December 2023. As mentioned, neither of them had seen or been in touch with Ms. Meik for over 30 years and were not in contact with Sabina. Upon receiving the materials they travelled to Victoria to visit Ms. Meik and retained counsel to respond to Sabina's application and prepare one their own. They maintain that Sabina has ulterior motives in seeing to be appointed Ms. Meik's committee. They allege Sabina has spent most of her adult life trying to have Ms. Meik declared incompetent so she can get control over her financial affairs. As I discuss below, these accusations are overstated, largely without foundation, and often contradicted by more reliable evidence.
- [18] The estimated value of Ms. Meik's estate is just over \$3 million. It includes her Gordon Head home with an assessed value of \$1,387,000 and an investment property in Port Coquitlam with an assessed value of \$1,283,000. There are bank accounts and retirement savings totalling almost \$600,000 and the potential for another \$43,000 in unclaimed funds and uncashed cheques. There is around \$75,000 in debt plus potentially money owed to Sabina for expenses she has paid for Ms. Meik since 2023.

### III. Capacity

- [19] I have read the affidavits Dr. Karren McIntyre, Dr. Jeanine Marshall, Dr. Sanjeet Pakrasi, and Dr. Joshua Budlovsky, all of whom have examined Ms. Meik and have concluded she is not capable of managing herself or her own affairs.
- [20] Dr. McIntyre examined Ms. Meik on February 3 and 8, 2024. In her opinion, Ms. Meik suffers from dementia with prominent executive function impairment and psychosis. She meets the diagnosis for a Cluster A personality disorder.
- [21] Dr. Marshall, a geriatric psychiatrist, assessed Ms. Meik on December 21, 2020 and January 2, 2024. She also diagnosed Ms. Meik with dementia and a Cluster A personality disorder, in particular, paranoid personality disorder.
- [22] Dr. Pakrasi, a geriatric psychiatrist, assessed Ms. Meik at Kristina and Karina's request. He opines that Ms. Meik has suffered from paranoid personality disorder with brief periods of psychosis throughout her life. He states she has "demonstrated quite significantly abnormal behavior for a number of decades" and that her condition has deteriorated. While her ability to engage in activities of daily living is "relatively well-preserved" she is unable to engage in any instrumental activities of daily living and it is likely that she is now developing a degenerative major neurocognitive disorder. He says she can manage her hygiene and make simple decisions regarding safety (such as calling for help in an emergency) but it is not

possible to assess if she could carry out these decisions. He opines she should live in a place where her safety is supervised. He says her ability to consent to healthcare matters remains "decision-specific" but she cannot understand the nature and consequences of a number of medical decisions due to her pre-existing personality disorder and subclinical psychosis.

[23] Dr. Budlovsky opines that Ms. Meik has moderate dementia which is not expected to improve and a Cluster A personality disorder that may explain her unusual or erratic behaviors since 2011. He says her underlying personality disorder makes an assessment challenging. She is "tangential, evasive in her answers and has unusual thought patterns." He concludes that she does not have the cognitive ability to independently manage her person or her finances.

[24] I accept the opinions of these four physicians. Pursuant to s. 4 of the Patients Property Act, R.S.B.C. 1996, c. 349. I find Ms. Meik is no longer capable of managing herself or her affairs and I make that declaration as sought by all three siblings.

#### IV. Committeeship

##### A. Legal Framework

[25] The legal framework applicable to both petitions is not in dispute. Section 6 of the Patients Property Act states once the court has found a patient incapable of managing her estate or her person, the court may appoint any person to be the committee of the patient. The Act does not set out criteria for selecting a committee but s. 18 describes the duties of a committee as follows:

18. (1) A committee must exercise the committee's powers for the benefit of the patient and the patient's family, having regard to the nature and value of the property of the patient and the circumstances and needs of the patient and the patient's family.
- (2) A committee must, to the extent reasonable, foster the independence of the patient and encourage the patient's involvement in any decision making that affects the patient.

Obviously, the Court must select a person capable of fulfilling these duties.

[26] In *Stewart (Re)*, 2014 BCSC 2321 at para. 27-29, Justice Masuhara noted that an application under the Patients Property Act invokes the Court's *parens patriae* jurisdiction and the selection of the appropriate committee is governed by an assessment of who will serve the patient's best interests. He identified the following non-exhaustive list of factors that courts might consider in making that assessment:

- (a) whether the appointment reflects the patient's wishes, obviously when he or she was capable of forming such a wish;
- (b) whether immediate family members are in agreement with the appointment;

- (c) whether there is any conflict between family members or between the family and the patient, and whether the proposed committee would be likely to consult with immediate family members about the appropriate care of the patient;
- (d) the level of previous involvement of the proposed committee with the patient, usually family members are preferred;
- (e) the level of understanding of the proposed committee with the patient's current situation, and will that person be able to cope with future changes of the patient;
- (f) whether the proposed committee will provide love and support to the patient;
- (g) whether the proposed committee is the best person to deal with the financial affairs and ensure the income and estate are used for the patient's benefit;
- (h) whether a proposed committee has breached a fiduciary duty owed to the patient, or engaged in activity which diminishes confidence in that person's abilities to properly handle the patient's affairs;
- (i) who is best to advocate for the patient's medical needs;
- (j) whether the proposed committee has an appropriate plan of care and management for the patient and his or her affairs and is best able to carry it out; and
- (k) whether a division of responsibilities such as between the patient's estate and the patient's person to different persons would serve the best interests of the patient, or would such a division be less than optimal for the patient.

[27] In *Haston (Re)*, 2016 BCSC 1962 at para. 32, Justice Brown added some additional factors to consider:

- a) whether the proposed committee resides near the patient;
- b) whether the proposed committee is able to provide transportation for the patient;
- c) whether outside demands on the proposed committee's time and availability will detract from her ability to perform her obligations; and
- d) whether the proposed committee is able and willing to facilitate any recreation or religious practice in which the patient wishes to participate.

## B. Analysis

### 1. General Observations

[28] I do not propose to deal with the Stewart factors one by one. Some may be quickly addressed. Clearly there is disagreement and conflict amongst immediate family members to the point that meaningful consultation in the exercise of the committee's role is unlikely, although I am satisfied that Sabina at least will communicate important matters to Kristina and Karina and give them an opportunity for input. None of the siblings has had significant

involvement or even contact with Ms. Meik over the past 30 years, although Sabina has at least been attentive to concerns about Ms. Meik's capacity and financial affairs. All three have been more directly involved with Ms. Meik over the past six or eight months and appear to be restoring their relationships with her. They say they are willing to put aside the difficult family history and I accept that all three are sincere in this. Thus, all three are willing to give love and support to Ms. Meik.

- [29] The decision turns on whether Sabina on the one hand and Kristina and Karina on the other have engaged in activities in the past which diminishes confidence in their respective abilities to handle Ms. Meik's personal and financial affairs. Also relevant is whether any of them is suited to manage Ms. Meik's financial affairs or whether the committee of Ms. Meik's estate should be separately managed by one of them or by Heritage Trust.
- [30] Of the three siblings, I am satisfied that Sabina has taken on responsibility for trying to manage Ms. Meik's affairs when the need appeared to arise, even if Ms. Meik resisted the help. She has also taken on similar roles for other family members, including serving as administrator for the estates of Ms. Meik's mother and aunt. She was also committee for the aunt and, as I will discuss later, she replaced Kristina in that role when Kristina failed to fulfill her obligations.
- [31] By taking on these responsibilities, Sabina has opened herself up to scrutiny, criticism, and accusations from Kristina and Karina who allege that she was motivated by her own self-interest in gaining control of these estates. They allege Sabina has taken money and property from the family members whom she was entrusted to look after and, since the early 2000s, has been working to have Ms. Meik declared incompetent so she can get her hands on Ms. Meik's estate. They claim they have been deeply disturbed by this conduct and now fear for Ms. Meik's well being if Sabina is appointed committee.
- [32] As I will discuss, I find these allegations are not supported. I find there are significant issues with the credibility and reliability of Kristina and Karina's evidence in this proceeding as many of their allegations are directly contradicted by other evidence which Sabina has led in reply. These includes statements that Kristina and Karina have made in the past in emails and court documents that contradict their evidence here. This suggests they have unreliable memories of events of the past, very likely clouded by their animosity for Sabina.
- [33] In making their allegations against Sabina, Kristina and Karina purport to have Ms. Meik's best interests at heart and say they have been deeply disturbed by Sabina's conduct over the past two decades. Again, most of these allegations do not withstand scrutiny. Moreover, the evidence shows that, at least until very recently, Kristina and Karina have been equally or perhaps more hostile towards Ms. Meik than was Sabina. I accept their recent efforts to reconcile with Ms. Meik are genuine but I am not persuaded they were especially disturbed by Sabina's past activities, at least as they relate to the well-being of Ms. Meik and other relatives.

[34] Overall, I find that Sabina is better placed to be committee of Ms. Meik's person. However, as I will discuss, I have a concern about one aspect of Sabina's conduct as it relates to an inheritance that Ms. Meik was to receive from her aunt. That concern leads me to conclude that Sabina should not be appointed committee of Ms. Meik's estate until the concern can be fully addressed. However, despite that concern, I have concluded that Sabina is best suited of the three sisters to serve as committee of Ms. Meik's person. I find it necessary to appoint a trust company as committee of the estate.

## 2. Specific Activities of the Proposed Committees

[35] With those general comments I now turn to the specific points raised by Kristina and Karina that they claim impugn Sabina's ability to serve as committee. In my view, these points also speak to Kristina and Karina's own suitability to be committees.

### (a) Grandmother's Estate

[36] Kristina alleges that Sabina misappropriated money from their Grandmother, Eugene Silenzi, and acted improperly in administering her estate after she died.

[37] In November 1999, Sabina was appointed by this court (Master Joyce as he then was) to be the administrator Ms. Silenzi's estate. Prior to that, in September 1998, Ms. Silenzi granted Sabina power of attorney (as witnessed by a lawyer) and Sabina deposes that she assisted Ms. Silenzi with paying her bills during her lifetime. Kristina alleges that Sabina attempted to get Ms. Silenzi to sign a \$60,000 cheque to her and claims she saw Sabina holding Ms. Silenzi's hand with a pen over a cheque. There is no evidence, apart from this assertion, to support the accusation. Further, since Sabina had Ms. Silenzi's power of attorney, it would not be necessary to have Ms. Silenzi sign a cheque to her.

[38] Ms. Silenzi died in 1998 leaving a will that named Ms. Meik as executor and a lawyer as alternative executor. Ms. Meik did not take any steps to administer the estate and the alternate executor died in 1999. Thus, Sabina applied to be named administrator.

[39] Kristina now alleges Sabina "convinced me to relinquish the executor duties" and asserts that she "later learned" that Sabina had "ulterior motives" in doing so. She alleges Sabina took a "large fee for being executor" and kept Ms. Silenzi's personal possessions for herself. She also states that she does not know what Sabina did with the money Ms. Meik inherited from Ms. Silenzi's estate.

[40] These accusations are unsupported and contradicted by Sabina's reply evidence. At the time Sabina applied to be appointed administrator of the estate, Kristina and Karina each signed renunciations of administration and consented to Sabina being administrator. Kristina even sent an email to Sabina confirming her advance agreement that Sabina should be paid a fee from the estate should she be appointed administrator. Her email (written in all lower case) reads:

all i can say is that if you end up being executor, the 3% that you get for all your efforts, i think you should get it all. after all you have done all the work and are having the most envious job of all trying to contact mother, so i really think that you should get it all.

[41] In contrast to her evidence here that she was "convinced" by Sabina to relinquish executor duties, Kristiana said at the time she did not want those duties and again confirmed not only that Sabina should receive the administrator's fee but that she deserved it:

and yes i'm certainly glad that you did all the stuff, and i thought i thanked you (if not - thanks, but in more genuine detail than that), and i did acknowledge that i wanted no part in that because it's just part of the whole thing that I would rather not think about. that's why i think you should just take the whole executor fee for yourself. it doesn't compensate emotionally for what you did, but it does not hurt either.

[42] Kristina and Karina (as well as Ms. Meik) each signed a release and discharge in respect of the estate and specifically agreed that "the compensation of SABINA BALL for her services rendered as Administratrix with Will Annexed be fixed and charged at the amount shown on the attached statement." In this proceeding, Sabina has provided a copy of the estate cheque she gave to Ms. Meik and a copy of the bank statement showing it was deposited into Ms. Meik's account. Clearly she was appointed administrator with Kristina and Karina's endorsement, she received the executor's fee with approval from both (and Kristina's enthusiastic endorsement), and she paid Ms. Meik's inheritance to her as shown by the copy of the cheque and bank statement. I find there is nothing in Sabina's handling of Ms. Silenzi's estate that raises a concern with her being Ms. Meik's committee. If anything, this issue puts into question the reliability or credibility of Kristina and Karina's evidence in this proceedings.

(b) Visit to Aunt Mathilda ("Motia") Surjenko

[43] Karina and Kristina allege that in 2000 Sabina "convinced" them that their great Aunt Motia Surjenko in Australia had suddenly become gravely ill because of a fall and the three sisters needed to go to Australia. They suggest that when they got to Australia, Sabina "revealed her true motives for the trip" which were to "carry stuff" belonging to Ms. Surjenko back to Canada. They allege Sabina "rifled through the house and took whatever she could on her own", including a stamp collection that had belonged to Ms. Surjenko's husband who died two years earlier. They claim they were "so disturbed by her intentions and refused to help her." They allege that when Ms. Surjenko died in 2006, Sabina did not disclose her death to them, positioned herself to become the administrator of the estate, and did not keep them informed of what was going on.

[44] Sabina deposes that the trip to Australia had been planned before Ms. Surjenko had a fall. She says she was close to Ms. Surjenko and had visited her in Australia in 1999 after her husband died. Ms. Surjenko asked her to come back in 2000 and Sabina suggested the three sisters visit together. While they were planning the trip, Ms. Surjenko had a bad fall and was hospitalized. Sabina says Ms. Surjenko had accumulated a lot of possessions and the three

sisters agreed they would pack up things that Ms. Surjenko did not want or need. She says they each identified some items that they liked and kept for themselves. She says Ms. Surjenko told them to help themselves to whatever they wanted and, on this basis, she took the stamp collection. However, she later learned that Ms. Surjenko's husband's godson had been promised the collection so she sent it to him.

[45] Kristina and Karina have not recalled matters correctly, have selectively recalled events, or have overstated matters. Their assertions about the trip to Australia are undermined or contradicted by other evidence led by Sabina that is contemporaneous to the events they describe.

[46] For instance, in an email exchange dated March 21, 2000, Karina and Kristina each spoke about going to Australia after Ms. Surjenko was hospitalized. In the emails they speculate that Ms. Surjenko's fall and the condition she was in afterwards was a sign that she was on the cusp of dying. They said they should use the opportunity of her hospitalization to go through her home and pack up her things. Kristina wrote in the email:

Lets just bite the bullet, go there (after talking w/ her if possible), pack up a lot of her stuff and see her.

[47] Karina replied the same day:

I think the consensus is that we go about apr 18th regardless of her condition or where she is. Better if she is in the hospital then we can explore at our own free will through the house.

[48] Thus, contrary to their assertions in this proceeding, it is clear that Karina and Kristina expected to pack up Ms. Surjenko's possessions and, in fact, saw her hospitalization as an opportunity to do so freely.

[49] The evidence also contradicts their assertions that Sabina did not immediately tell Kristina and Karina of Ms. Surjenko's death in 2006. Sabina learned about it on November 22, 2006 when Ms. Surjenko's friend and executor in Australia called her. Sabina then called her sisters and left messages for them. She also sent them an email the same day. Sabina then flew to Australia. By the time of the funeral on November 28, 2006, neither Kristina nor Karina had responded to her messages or email.

[50] Kristina and Karina make other allegations against Sabina surrounding the 2000 visit. These, however, are based on hearsay about the stamp collection and other matters from the godson in Australia. Sabina has answered these allegations with her own evidence to explain the circumstances and why the godson might have accused her of improperly taking the stamp collection. As this point rests entirely on inadmissible evidence, and since it describes events of more than two decades ago, I do not propose to address it further.

(c) Trust Property in Mission

- [51] Kristina and Karina allege that Sabina improperly inserted herself into a trust that their parents had established for them in the 1970s and that she dissolved the trust against Ms. Meik's wishes. Karina and Kristina claim they did not want the trust property sold and Karina deposes she is "not certain how the property got sold." They allege Sabina did this to take control of the trust away from Ms. Meik and suggest that Ms. Meik does not trust Sabina because of these actions. They also allege that when Sabina was taking control of the trust, she suggested to Kristina and Karina that they "band together" to have Ms. Meik declared incompetent. Finally, they claim Sabina maliciously contacted Karina's trustee in bankruptcy in the United States and paid Karina's share of the trust funds to that trustee to prevent Karina from receiving her entitlement under the trust.
- [52] Again, these allegations are contradicted by evidence.
- [53] Ms. Meik and her late husband established the trust in the 1970s. The subject of the trust was a vacant property in Mission B.C. and the three sisters were the beneficiaries. Sabina deposes she was generally aware of the property growing up but did not fully come to understand the trust until after 2000. She says she learned about it when administering her grandmother's estate and then searched the Land Title Office for the property where she found the original trust document.
- [54] By 2006 Sabina was concerned about Ms. Meik's ability and capacity to manage the trust. She retained a lawyer and was advised that the trust should have been wound up because the three sisters were now adults. Sabina therefore began the process, through her lawyer, of applying to have the trust wound up.
- [55] In May 2006 Sabina contacted Kristina by email to inform her of her intentions and to confirm an address where each could serve the court documents. She received a cold response but was able to confirm an address for service. On September 13, 2006, Sabina's counsel filed a petition seeking an order appointing Sabina as trustee and an order to dissolve the trust. The petition and supporting affidavit was served on Karina, Kristina, and Ms. Meik. Ms. Meik retained a lawyer and filed a response taking no position. In a cover letter serving the response, Ms. Meik's counsel stated: "Just so that we are absolutely clear, my client does not really care what happens at this point as between which daughter gets trusteeship over the property." This undermines Kristina's assertion that the dissolution of the trust "set the stage for Mother's intense distrust of Sabina."
- [56] Karina and Kristina each filed petition responses in the trust proceeding. Contrary to their present assertions that they did not want the trust property sold, neither opposed removing Ms. Meik as trustee or dissolving the trust. They did, however, oppose the appointment of Sabina as trustee and sought an order appointing Kristina. Notably, Kristina raised many of the same accusations about Sabina in that proceeding that she now raises here.
- [57] Justice Baker heard the application on February 19, 2007 and granted the relief sought by Sabina (and, by implication, rejected Kristina and Karina's accusations about Sabina). Sabina then had the property sold in a court-approved sale for \$403,000. Kristina and Karina were

served with the application for court approval of the sale. Far from being opposed to the sale as they now assert, they criticized Sabina's lawyer for incurring the expense of seeking court approval. (Interestingly, the court-approval process they complained of generated a sealed bid that was \$25,000 higher than the best offer to the date of the application.)

[58] Sabina was aware that Karina had declared bankruptcy in the United States some years earlier. Thus, before paying out her share of the proceeds of the sale of the trust property, Sabina contacted the trustee in bankruptcy to determine what should be done with Karina's share. It was eventually determined that it should be paid to the trustee in bankruptcy.

[59] Kristina and Karina now assert that Sabina acted maliciously in contacting the trustee in bankruptcy. Kristina deposes that the payment shows an "ulterior motive" on the part of Sabina whom, she alleges, "wanted the asset sold and converted to cash so that she could stop Karina from getting her share of around \$75,000." Kristina goes on to say:

I was forced to hire a lawyer, using my recently received proceeds from the sale of the trust property, to defend Karina from Sabina's next attack. Sabina had collaborated with Karina's ex-husband to force a legally closed bankruptcy to be reopened after 5 years.

[60] These accusations are unsupported. As counsel for Kristina and Karina in this proceeding eventually conceded, it is prudent for a trustee (like Sabina) to determine where Karina's share of the trust proceeds should be paid in light of the bankruptcy. Sabina could have exposed herself to liability if she paid Karina's share to her without regard for the bankruptcy. As it turned out, Sabina was right to be cautious because the trustee in bankruptcy was to receive the payment.

[61] Further, contrary to Kristina's suggestion that she had to retain a lawyer to "defend Karina from Sabina's next attack", the (experienced) lawyer whom she retained wrote to Sabina's lawyer on April 22, 2009 consenting to an interim distribution of the trust property for the three sisters "with Karina Meik's share being paid to the attorney for the Trustee in Bankruptcy in Washington State".

[62] In short, the evidence and court documents relating to the dissolution of the trust and the sale of the trust property contradicts the evidence given by Kristina and Karina in this proceeding and the accusations they make about Sabina acting improperly in managing that trust. These contradictions undermine the credibility and reliability of their evidence and, in my view, this undermines their claims to be suitable committees for Ms. Meik.

[63] Before leaving the issue of the trust, there are two points that give me further hesitation about Kristina and Karina's suitability as committees. First, Kristina's communications to Sabina's lawyer on the trust matter were hostile and accusatory (not unlike her affidavits in this proceeding). She asserted that the lawyer made unnecessary court applications, failed to properly communicate with Kristina and Karina, and unduly delayed the conclusion of the trust. She repeated these allegations in a complaint about the lawyer to the Law Society. The Law Society investigated and dismissed the complaint, finding that the lawyer had acted

properly and diligently throughout the matter which, it noted, was particularly complicated in proportion to its overall value. This, together with the hostility and unfounded (and contradicted) accusations in their affidavits in this proceeding lead me to question whether Kristina and Karina have the temperament and good judgment needed to serve as committees.

- [64] Second, it is significant that in 2007 Kristina objected to Sabina reimbursing Ms. Meik for property taxes and other expenses Ms. Meik had incurred to maintain the trust property before Sabina took it over. Kristina took the position that since Ms. Meik had not participated in the court proceedings and had not asked to be reimbursed for any expenses, Sabina, in her capacity as the new trustee, ought not reimburse anything to Ms. Meik. That evidence undermines any suggestion that Kristina was supportive of Ms. Meik against Sabina's efforts to wind up the trust and contradicts Kristina's assertions that Sabina did not reimburse Ms. Meik from the trust proceeds. The evidence shows that Kristina was well aware that Sabina was going to reimburse Ms. Meik and was opposed to her doing so. Sabina did reimburse Ms. Meik over Kristina's objections.
- [65] In my view, the evidence respecting the trust provides support for Sabina being committee for Ms. Meik as it shows that she was prepared to take charge of a situation and act with legal advice to properly dissolve the trust in a way that was fair to Ms. Meik.
- (d) Committeeship of Irina (Olia) Wolf
- [66] In their affidavits, Kristina and Karina mention that Sabina had been the committee for their great aunt, Irina ("Olia") Wolf. Ms. Wolf was Ms. Meik's aunt. Karina deposes that she is uncertain as to how or why Sabina came to be the committee. Again, this evidence is contradicted.
- [67] In fact, Kristina had been appointed committee of Ms. Wolf before Sabina but the Public Guardian and Trustee (PGT) had to apply to have Kristina removed because she was failing to fulfill her obligations. That fact undermines her claim to now be a suitable committee and the fact that neither she nor Karina brought it up in their affidavits until they replied to Sabina's reply affidavit calls into question the trustworthiness of their evidence. Neither of them saw fit to disclose this highly relevant fact to the court.
- [68] All three sisters say they were close to Ms. Wolf. In 2011, Kristina successfully applied to the court to have Ms. Wolf declared incompetent and to be named as Ms. Wolf's committee of both her person and estate. She did not give notice of that application to Sabina who only learned of the committeeship when she searched the court registry after she tried to visit Ms. Wolf but learned she had been moved into a care home.
- [69] In February 2012, the PGT applied to rescind the committeeship because Kristina was failing to fulfill her obligations. In the affidavit filed in support of that application, the PGT's deponent stated that:

- Kristina failed to make required payments to Ms. Wolf's care home;
- Kristina failed to have Ms. Wolf's tax returns completed;
- Due to the lack of a tax return proving Ms. Wolf's income, the care home had to charge Ms. Wolf the highest rate for care;
- Ms. Wolf did not have adequate clothing at the care home and had no access to her funds to buy the needed clothes or have others buy them for her;
- Kristina failed to return phone calls and answer correspondence from the care home, including with respect to the tax returns;
- When reached by the PGT's office, Kristina asserted she had done everything she could to care for Ms. Wolf while also taking care of her own children as a single mother. She then stopped responding to the PGT; and
- Kristina failed to submit her accounts as required.

[70] Kristina did not respond to the PGT's application to have her removed as committee or appear at the hearing on March 27, 2012. Sabina filed a response together with an affidavit seeking an order that she be appointed committee of Ms. Wolf's person in place of Kristina. Evidently the PGT supported that request and Justice Burnyeat granted the order. He also awarded the PGT special costs from Ms. Wolf's estate and ordered that Kristina reimburse the estate for those costs. Sabina then applied to be appointed committee of Ms. Wolf's estate and that order was made by Master Tokarek. Soon after that she moved Ms. Wolf to a care facility in Prince George where Sabina lives. As far as Sabina is aware, Kristina never reimbursed Ms. Wolf's estate for the costs ordered by Burnyeat J.

[71] Kristina now maintains that Sabina "did everything she could to sabotage my success as our Aunt's committee and relentlessly tried to replace me in this role." She claims she was focussed on Ms. Wolf's care and well-being while she was committee and she attempts to explain away the evidence of the PGT, largely by blaming others, including Sabina for "repeatedly report[ing] me to the PGT" and making various allegations about her conduct. She claims that "someone had changed my address and phone number with the PGT" and suggests this is why she did not respond to the PGT's inquiries. She blames an accountant for failing to complete the tax returns and states there was a problem with a direct payment arrangement to explain her failure to pay the care home.

[72] I find none of these explanations persuasive. Even if I believe Kristina's evidence, it was her responsibility to ensure the accountant completed the tax returns when required and if she was fulfilling her duty as committee it would have been unnecessary for the PGT to reach her. If there was a problem with the direct payments, Kristina ought to observed for herself that the payments were not being processed from Ms. Wolf's accounts which she had a duty to oversee. Overall, Kristina's assertions that she was not given a reasonable opportunity to properly act as committee for Ms. Wolf are unpersuasive. The whole matter raises a

significant concern about Kristina being appointed committee for Ms. Meik.

(e) Ms. Wolf's Estate

[73] Ms. Wolf died in October 2014 without a will and Sabina was appointed administrator of her estate. Ms. Meik was Ms. Wolf's next of kin and thus entitled to inherit her estate which, after administration fees and expenses, was worth some \$350,000. Sabina was not in contact with Ms. Meik at the time but went to some effort to try to reach her to give her the inheritance once the administration of the estate was complete. On January 16, 2016 Sabina wrote to Ms. Meik informing her of the inheritance and asking Ms. Meik to contract her to receive it. She closed the letter with this:

After receiving the clearance certificate from the CR and until you contact me, your inheritance will be kept in a TRUST account in your name.

[74] Sabina eventually saw Ms. Meik in-person at her home in Victoria in March 2016. They went out for coffee and Sabina attempted to give Ms. Meik a cheque for some \$350,000. She refused to accept the cheque. According to Sabina, Ms. Meik had a poor relationship with Ms. Wolf and told Sabina that she did not want the money and that she (Sabina) should keep it. She then asked Sabina to show her identification. It appears that up to this point Ms. Meik had not recognized or understood who Sabina was. When Sabina showed Ms. Meik her driver's licence, Ms. Meik became hostile and upset. She called a taxi and left. That was the last time Sabina saw Ms. Meik before the events of December 2023.

[75] Sabina deposes that she paid the tax assessed on the interest generated by the estate funds and then "used these funds to pay for some expenses for my Mom." She says there are no funds remaining. Sabina has provided no banking records or receipts in respect of this fund and has offered no explanation for how the monies were spent other than to say she spent them on "some expenses" for Ms. Meik. This is surprising since Sabina has provided quite detailed records for all the other matters addressed in her affidavits.

[76] I am troubled by the fact that Sabina claims to have spent some \$350,000 on Ms. Meik without a single receipt or bank statement to show for it. This evidence is especially difficult to understand given that Sabina had no contact with Ms. Meik at the time (other than the encounter just described) and did not contact her again until December 2023. Further, by all accounts Ms. Meik lived a bare existence in that period and it is not apparently how \$350,000 would have been spent on Ms. Meik. As I discuss below, because of this issue I have concluded that Sabina cannot be committee of Ms. Meik's estate, at least until this matter is sorted out through an accounting

(f) Impersonating a Care Aid

[77] Kristina and Karina argue Sabina acted unethically and deceptively in her recent interactions with Ms. Meik by posing as a care aid named "Alice". They describe an incident on May 28, 2024 when they went to visit Ms. Meik at Sidney All Care and found Sabina already there. This was the first time they had seen Sabina in many years. When they arrived

at Sidney All Care they saw Sabina's name in the guest sign-in book and they chose to make a video recording of their interaction with her and Ms. Meik. As seen on the video, Sabina was wearing a floral care-aid's tunic (not "scrubs" as Karina states in her affidavit), was communicating with Ms. Meik in a manner that might be more typical of a care aid than a daughter, and was referring to herself as "Alice". It is also clear from the video that Ms. Meik did not understand who Sabina was. When Sabina left the room to retrieve some toothpicks for Ms. Meik, Kristina and Karina told Ms. Meik that "Alice" was in fact Sabina. Ms. Meik was clearly shocked by this.

- [78] Sabina disclosed in her first affidavit filed in this proceeding that in December 2023 when she came to Victoria in response to the December 11, 2023 call from the hospital that she introduced herself to Ms. Meik as "Alice", although she identified herself to hospital staff as Sabina and Ms. Meik's daughter. Given the difficult family history and Ms. Meik's suspicious and hostile response to Sabina when had coffee together in March 2016, Sabina thought she could avoid upsetting or scaring Ms. Meik if she related to her using the alias. In her second affidavit, she further explained this decision was informed in part from reading she had done about caring for people with dementia and paranoia disorders while she looking after others with a similar condition.
- [79] I express no opinion on whether this is an appropriate way to interact with a person in Ms. Meik's condition (the court is not in a position to make that assessment on the evidence). However, I am satisfied Sabina's intentions were good and she had no ulterior motive. She disclosed her true identity to hospital staff and explained to them how she planned to interact with Ms. Meik and why. She evidently received no resistance to this. She also disclosed this in her first affidavit sworn March 2024 before Kristina and Karina had even learned of Ms. Meik's hospitalization. That affidavit was served on Kristina and Karina and thus it should not have come as a surprise to them on May 28, 2024 to see that that Sabina was relating to Ms. Meik using the alias. That might even explain their decision to video record the incident after seeing Sabina's name in the guest book.
- [80] By contrast, I am troubled by the disturbance Kristina and Karina caused by their own conduct on May 28, 2024. As stated in Karina's first affidavit, they started the video recording before seeing Sabina or Ms. Meik. Thus, it seems, they chose to record the incident simply because they knew Sabina was there. That is conduct that undermines trust among family members and invites conflict. As Justice Gibb-Carsley wrote in *C.C. v. S.P.R.*, 2022 BCSC 1057:
- [40] The practice of secretly recording a party for use in a family law proceeding should be discouraged. The practice is odious because it erodes trust and potential future cooperation between the parties and runs contrary to the fundamental objectives of family law, especially that of reducing conflict between the parties and maintaining and encouraging family relationships.

Though stated in the context of a family law proceeding where parenting was in issue, Gibb-Carsley J.'s words carry equal force here where a relevant consideration is who is most likely to facilitate trust and cooperation amongst the immediate family members caring for Ms. Meik.

[81] Kristina and Karina also immediately disclosed to Ms. Meik that "Alice" was in fact Sabina. A more prudent course would have been to have a private discussion with Sabina to inquire about why she was presenting herself to Ms. Meik in this way.

[82] Further, it is evident from the video that the incident was disruptive and a Sidney All Care staff member had to put a stop to the confrontation as it was interfering with her ability to care for Ms. Meik and others. Sabina did not engage with Kristina and Karina during the incident, other than to ask why they were recording it. On my observation of the video, Kristina and Karina were responsible for the disruption that Sidney All Care staff had to stop.

[83] Thus, as I see it, the only relevance of the video is that it tends to show that Karina and Kristina's conduct that day was driven more by their acrimony for Sabina than considered thought for Ms. Meik's best interests.

### 3. Other Stewart and Haston Factors

#### (a) Ms. Meik's Wishes

[84] Katrina and Karina place considerable weight Ms. Meik's apparent wishes. They rely on Ms. Meik's response to Sabina's 2020 committee application in which she said in her affidavit that if she were to become incapacitated she would "oppose appointing Sabina as the Committee" due to "complicated family issues and a breakdown of trust" between her and Sabina.

[85] While it appears Ms. Meik may have had capacity at the time she made that 2020 affidavit, I do not find it to be of assistance in this proceeding because it says nothing about Ms. Meik's views on Kristina or Karina being committee. The affidavit states that she has not had a close relationship with any of her three daughters and specifically states "I have not seen or spoken to my daughters, Kristina and Karina, for approximately 30 years." There is nothing in the 2020 affidavit to suggest Ms. Meik would have preferred or been content with Kristina or Karina being appointed committee.

[86] Karina and Kristina also rely on the evidence of Dr. Pakrasi and Dr. Budlovsky who each state that Ms. Meik told them during their 2024 examinations that she did not want Sabina making decisions for her but that she would want Kristina and Karina to do so. I place little weight on these aspects of the doctors' affidavits for two reasons.

- [87] First, both doctors reach the conclusion that Ms. Meik lacks capacity. As stated in Stewart (Re) at para. 29(a) and Uragi (Re), 2016 BCSC 1517 at paras. 60-65, the patient's wishes are relevant if they were expressed when she was capable of forming such a wish. I am not convinced that Ms. Meik had that capacity when she was examined by Drs. Pakrasi and Budlovsky given that both doctors opine that she does not have capacity to make decisions for herself.
- [88] Second, Karina and Kristina drove Ms. Meik to the appointments with Dr. Pakrasi and Dr. Budlovsky. It is unsurprising that Ms. Meik would have identified them as persons she would like to have looking after her as they were the ones doing so in the moment. In this respect, it is notable that during Dr. Budlovsky's examination, Ms. Meik said if she could not make decisions for herself, she would want "the two individuals who brought me here today" to make her decisions. She did not identify them as Karina and Kristina or refer to them as her daughters.
- [89] In my view, Ms. Meik's stated preferences for committees do not reliably reflect her best interests
- (b) The Respective Care Plans
- [90] Sabina's current plan is to keep Ms. Meik in Sidney All Care provided she is permitted to stay. (Shortly before this matter was heard, Sidney All Care informed Sabina that Ms. Meik would need to leave the facility at the end of September but it was thought the appointment of an interim committee might head this off. I thus made an interim order appointing Sabina as interim committee of Ms. Meik's person pending this judgment.) Sabina believes that Sidney All Care is a good option for Ms. Meik's condition, considering the need for a secure facility with supervision as suggested in the medical affidavits. She also believes that Ms. Meik wishes to stay in the Victoria area where she has chosen to live for the last 35 years.
- [91] Kristina and Karina would like to move Ms. Meik to Greater Vancouver so she is closer to them. They propose to have her assessed by an occupational therapist who would then assist in finding a care facility that is suited to Ms. Meik's needs. In their view, Ms. Meik has much greater capacity than the general clientele at Sidney All Care and, while they agree that she must live in supervised care, they hope to find a place that is more suited to her needs and abilities.
- [92] I am not in a position to assess whether Sidney All Care is too restrictive for Ms. Meik's needs. It is clear from the medical evidence and the condition of her Gordon Head home as Sabina found it that she cannot live alone and her dementia is likely to worsen with time. Her mental health diagnosis further complicates matters.
- [93] There is some logic in Kristina and Karina's proposal to move Ms. Meik to Vancouver where she would be more accessible to all three daughters. She has no friends or family on Vancouver Island and in Metro Vancouver Kristina and Karina would be more accessible to

her. They could drive her to appointments or places she might like to go. It would also be less travel for Sabina to visit her (although Kristina and Karina do not plan to permit Sabina to visit with Ms. Meik). Further, Sidney All Care is about a 30-minute drive from Ms. Meik's Gordon Head neighbourhood so, for a person who cannot drive or move about the city unaccompanied, living in Sidney does not truly keep Ms. Meik connected to her old neighbourhood. On the other hand, staying closer to Victoria may be a higher priority for her than being more accessible to the daughters with whom, until recently, she has had no contact for some 30 years.

- [94] In my view, the respective care plans would be a neutral factor but for Kristina and Karina's plan to only permit Sabina to see Ms. Meik if Ms. Meik "changes her mind" and wants to see Sabina. By contrast, Sabina agrees that Kristina and Karina should have access to Ms. Meik unless medical professionals advise otherwise. She has proposed a schedule that would ensure their visits would not overlap, thus avoiding the risk of another unpleasant confrontation between the siblings in front of Ms. Meik. The form of order she proposes would also bind her to keeping Kristina and Karina informed of her care and to seek their input in Ms. Meik's care decisions.
- [95] I am not persuaded that Ms. Meik truly does not wish to have contact with Sabina. They have had significant contact with each other since December 2023. Sabina deposes that even after Kristina and Karina exposed the "Alice" alias, she and Ms. Meik have had very pleasant visits during which Ms. Meik knew who Sabina was. It may be that Ms. Meik has told Kristina and Karina that she does not want to see Sabina but I am not persuaded this sentiment was freely expressed. It is in Ms. Meik's best interest to rebuild her relationship with all three of her daughters without inference from one or two of them. Since that is what Sabina proposes as part of her care plan, I find it is more favourable than what Kristina and Karina propose.

#### 4. Conclusions on Committeeships

##### (a) Committee of Ms. Meik's Person

- [96] I find it is in Ms. Meik's best interests that Sabina be appointed committee of the person. I am unconvinced by Kristina and Karina's evidence that Sabina is pursuing the committeeship out of some ulterior motive or self-serving reasons. I find Kristina and Karina's evidence to be unreliable due to their inability to correctly remember events but for the ease with which they have made serious allegations against Sabina that either have no factual foundation or that are contradicted by their earlier statements. It seems their animosity for Sabina has clouded their ability to give forthright and factual evidence. Further, their omission of material facts, such as Kristina's removal as committee for Ms. Wolf, further undermines the reliability of their evidence and the merit of their assertions against Sabina.
- [97] While Sabina has remained largely estranged from Ms. Meik for the last 30 years (as have Kristina or Karina), she has made some attempts to look after her interests during that period. I am persuaded by the condition in which Sabina found the Gordon Head home in

December 2023 that Ms. Meik was in need of care and ought to have had it sooner. When that evidence is considered in light of concerns Sabina raised in the discontinued 2020 committee application, I am persuaded that Sabina had good reason to be concerned for Ms. Meik's ability to look after herself and manage her affairs at that time. It is evident that for at least the last 15 years Ms. Meik has not been able to manage her financial affairs or her own care. Sabina is the only one of the three sisters to have made any attempt to deal with this before now. She also acted quickly and appropriately to get care for Ms. Meik after learning of the December 2023 fall and committal under the Mental Health Act.

- [98] I also find it relevant that that Sabina served as committee for Ms. Wolf while Kristina had to removed from that position. As I have explained earlier, I am not persuaded by Kristina's explanations for failing to meet Ms. Wolf's needs and, while everyone might deserve a second chance, I find it too risky to put Ms. Meik in Kristina's care given that history.
- [99] Finally, I find that Kristina and Karina's unrestrained hostility towards Sabina, including in front of Ms. Meik, is not in Ms. Meik's best interests and I am concerned they will not be able to put their contempt for Sabina above their obligations to act in Ms. Meik's best interest. While Sabina appears to have some ill feelings of her own towards Karina and Kristina, she at least is prepared to include specific terms in the court order that she must seek their input on decisions about Ms. Meik, keep them informed of Ms. Meik's condition, and permit them to have a relationship with her.
- [100] Kristina and Karina suggest that even with the orders Sabina proposes, she could still interfere with them having a relationship with Ms. Meik if she decides to move Ms. Meik to Prince George as she did with Ms. Wolf. However, this can be addressed with the same term I placed in the interim order that Sabina must not relocate Ms. Meik outside of Greater Victoria or Greater Vancouver without the consent of Kristina and Karina or further order of the court.
- [101] As I discuss below, I am concerned about the lack of evidence of how Sabina has spent Ms. Meik's inheritance from Ms. Wolf. If Sabina is unable to account for how she spent this substantial inheritance, it may well put Sabina in a conflict with Ms. Meik. However, as I discuss in a moment, that can be managed by appointing Heritage Trust as committee of Ms. Meik's estate. Even with this potential issue, I remain of the view that of the three sisters, Sabina is still best placed to be committee of the person and I would make that order.

(b) Committee of Ms. Meik's Estate

- [102] As just mentioned, I find it would not be appropriate at this point to order that Sabina be committee of Ms. Meik's estate given the lack of evidence of how she spent Ms. Meik's \$350,000 inheritance from Ms. Wolf. Although Sabina asserts she spent it on expenses for Ms. Meik, there is no evidence to back this up and I am skeptical of that explanation since Sabina was not in contact with Ms. Meik between 2016 and 2023 and Ms. Meik lived a bare existence during that time.
- [103] However, I am also unable to find it in Ms. Meik's interest to have either Kristina or Karina appointed committee of the estate. Kristina's failed committee ship of Ms. Wolf persuades me that she should not be given charge of Ms. Meik's financial affairs. The fact that Karina declared personal bankruptcy in the United States makes me uncomfortable with appointing her committee of Ms. Meik's estate. Further, the evidence indicates that neither of them has seen fit in the past to take an interest in whether Ms. Meik's financial affairs are in hand when, as Sabina saw, there was some serious cause for alarm. Kristina and Karina seem far more interested in how Sabina discovered problems in Ms. Meik's financial affairs than with the alarming problems she discovered.
- [104] For these reasons, I would grant the alternative relief sought by Sabina and order that Heritage Trust be appointed committee of Ms. Meik's estate. As I discuss next, I am ordering that the matter of how the Wolf inheritance was spent be determined by the Registrar. If the Registrar certifies that the inheritance is accounted for and has been spent reasonably on Ms. Meik's expenses, Sabina could then reapply to be appointed committee of Ms. Meik's estate.

## V. Sabina's Expense Claims

- [105] The final matter to address is Sabina's claim to be reimbursed from Ms. Meik's estate for a number of expenditures she has made on Ms. Meik's behalf and for her travel expenses from Prince George to Victoria to care for Ms. Meik. She also claims expenses (interest and a land appraisal) for extending a secured line of credit to finance these recent expenses. Sabina has provided a table detailing each item claimed and a reference to her credit card or bank statement as proof of payment.
- [106] In general, I accept that Sabina should be reimbursed from the estate for her travel and accommodation expenses while attending to Ms. Meik, the medical costs for Ms. Meik (including medications and the ambulance charge), the personal items for Ms. Meik (including multiple newspaper subscriptions as all the siblings agree that Ms. Meik takes much pleasure in reading newspapers), the upkeep on Ms. Meik's home including the yard maintenance, the property taxes and utilities for that home and the Port Coquitlam property and, of course, the cost of Sidney All Care. However, I find it necessary to refer the matter of these claims to the Registrar for an accounting and certification for several reasons.

- [107] First, I would not make an order that Sabina recover the amounts she claims until there has been an accounting and certification for how she spent Ms. Meik's inheritance from Ms. Wolf. I would order that Sabina should establish to the Registrar's satisfaction that the \$350,000 was in fact spent (and spent reasonably) on Ms. Meik's expenses. Only then should she recover additional amounts she now claims. I would add that Heritage Trust should be notified of this issue as it may need to assess whether Ms. Meik is still owed money from Sabina for the inheritance from Ms. Wolf's estate.
- [108] For the same reason, I would not yet order that Sabina recover the cost of borrowing money or extending her secured line of credit to cover the more recent expenses for Ms. Meik until she has satisfied the Registrar that she exhausted the \$350,000 on reasonable expenditures for Ms. Meik. If she did not exhaust that fund, it would have been available for the more recent expenses without Sabina incurring additional financing costs.
- [109] Second, while the expenses Sabina claims generally appear to relate to Ms. Meik's care and upkeep on her property there are a number of items for which the court would benefit from further explanation. I offer these as examples:
- a) There are three payments of \$1,000 each for B.C. Hydro plus three service charge payments of \$17.50, all on December 19, 2023. The bills themselves are not in evidence it is not clear why these three identical payments were separately made on the same day;
  - b) There are a number of expenses simply described as "Mom's personal expense". It is not apparent what all these were for. In some cases inferences can be made based on the store where the charge was incurred but not always. For example, it is not apparent what Ms. Meik would require from Canadian Tire for \$294.42. There also charges at Walmart and Shoppers Mart in Prince George claimed as "Mom's personal expenses". It seems odd that these costs would be incurred on Ms. Meik's behalf in Prince George rather than Sidney or Victoria.
  - c) There are hotel charges in the Lower Mainland (\$733.12 for the Travelodge Vancouver Airport and \$119 for a motel in Abbotsford). Perhaps these were stopovers while traveling between Prince George and Victoria, but the Travelodge stay was three nights. Sabina has not explained why a three-night stay in Vancouver relates to Ms. Meik's care in Sidney or Victoria.
- [110] These items are not individually or even cumulatively substantial in comparison to the overall expenses and particularly Sidney All Care fees. However, since I find it necessary to refer the matter of the Wolf inheritance to the Registrar anyway, the same proceeding can consider further particulars of some of the expenses Sabina now claims. Thus, while I accept the type of expenses Sabina seeks to recover are reasonable, I refer the specific items claimed and the amounts to the Registrar for an accounting and certification.

- [111] Finally, Sabina seeks to be reimbursed for her legal fees for the discontinued 2020 committee application, being \$28,757.29. She has not provided the lawyers' accounts because she wishes to maintain solicitor-client privilege. In principle, I agree that Sabina should be reimbursed for this expense. As I have said, with the clarity of hindsight it is now evident that some measure ought to have been put in place earlier to care for Ms. Meik and her financial circumstances. It is regrettable, though understandable in light of Ms. Meik's 2020 affidavit, that Sabina discontinued the application.
- [112] Thus, I would order that Sabina be reimbursed from Ms. Meik's estate reasonable legal fees for the 2020 application but without the opportunity to review the accounts I am not prepared to order the full amount. Rather, I will also refer that matter to the Registrar for an accounting and certification of the legal expenses that Sabina incurred for the 2020 application and that should now be reimbursed to her from the estate. It seems unavoidable that Sabina will need to disclose the lawyers' accounts so the Registrar can be satisfied that the amounts claimed were all in relation to the 2020 committee application and were reasonable. That will have to be addressed with the Registrar.
- [113] Further, since Heritage Trust is to be appointed committee of Ms. Meik's estate, it would be appropriate for it to have notice of any proceedings before the Registrar and the right to participate in those proceedings.
- [114] Finally, a pre-hearing conference should be scheduled before the Registrar to discuss the proceedings before her.

## VI. Conclusions

- [115] For these reasons, I will make an order in the alternative form proposed by Sabina, namely that Sabina is appointed committee of Ms. Meik's person and Heritage Trust as committee of her estate. I would add a provision that Sabina is not to relocate Ms. Meik outside of Greater Victoria or Greater Vancouver without Kristina and Karina's consent or further order of the court.
- [116] I would further order that Sabina should recover the expenses she claims after an assessment and certification of those by the Registrar on the terms I have described. However, she should only recover those expenses once the Registrar certifies that Sabina spent Ms. Meik's inheritance from Ms. Wolf on Ms. Meik's reasonable expenses. Any amount of the inheritance for which Sabina cannot show was reasonably spent on Ms. Meik's should be set-off against what Sabina now claims to recover from the estate. I would also order that Sabina recover her reasonable costs of this proceeding from the estate on a solicitor-client basis but on the same terms as the other expenses she claims, namely after an assessment of how she spent Ms. Meik's inheritance from Ms. Wolf. As committee of the estate, Heritage Trust should have standing in any proceedings before the Registrar.

[117] Given my concerns with Kristina and Karina's evidence, I am disinclined to award them costs. However, since their response identified the issue of Ms. Meik's inheritance from Ms. Wolf and how Sabina has spent it, it has benefited Ms. Meik and I will order that they receive their reasonable costs from the estate on a solicitor-client basis.

"Kirchner J."

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