

CANADA / JUDGMENT

Melich v. Patel

2021 BCSC 694

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Supreme Court of British Columbia

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2021 BCSC 694 Melich v. Patel

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Melich v. Patel,

2021 BCSC 694

Date: 20210331

Docket: E202404

Registry: Vancouver

Between:

Jiri Melich

Claimant

And

Yogitaben Patel

Respondent

Before: The Honourable Mr. Justice Brundrett

Oral Reasons for Judgment

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(by telephone)

Place and Date of Trial/Hearing:

Vancouver, B.C.

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Vancouver, B.C.

March 31, 2021

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Introduction

- [1] The parties in this matter have filed cross-applications related to the jurisdiction of the court in this family matter which is still in its early stages. The claimant father and respondent mother are a physician and nurse respectively who originally met in Montreal in 2011 and dated for several years. They began cohabiting in December of 2015 in Vancouver and had a child together, L, in November of 2019. Over the years, the parties' relationship was occasionally tumultuous, and they ultimately separated in the late spring of 2020. In late May 2020, the respondent relocated with the then seven-month-old L to Ontario where eventually, after a stay in Montreal in August and September, she settled down.

- [2] The claimant submits that the respondent left British Columbia on a temporary basis only and that he never consented to her permanent stay in Ontario with the child. He seeks orders to the effect that this Court has jurisdiction over L.
- [3] The respondent submits that she is the primary caregiver, her continued residency in Ontario is appropriate given her family support there, and that issues such as parenting time are better determined by the courts in Ontario where she recently commenced her own family claim. She seeks a declaration that this Court does not have jurisdiction over the child or parenting-related matters, or alternatively, an order from this Court declining to exercise its jurisdiction. If the respondent's application is dismissed, the claimant has indicated his intention to apply for a parenting order in the form of the return of the child to British Columbia.

Issues

- [4] There are two issues to be decided: (1) whether this Court has territorial competence, also referred to as jurisdiction simpliciter; and if so, (2) whether it should decline to exercise its jurisdiction. The first issue depends in part on whether the claimant impliedly consented or acquiesced to the respondent's move with the child to Ontario. The second depends on a determination of the appropriate forum to resolve the parties' disputes over the child.
- [5] The resolution of the jurisdictional issues is made more challenging by the parties' substantially diverging views about their post-separation relationship, each others' intentions and their views of their own actions. Both parties claim they have been misled by the other.
- [6] Despite the overtones of the parties' applications, I would emphasize that at this stage, the Court is not determining issues related to guardianship, parenting time, or relocation. As only issues of jurisdiction were argued before me, I will not deal with the claimant's requests for orders providing him with preferential authority respecting guardianship, care and decision-making; or his request for the immediate return of the child to B.C. The main issue is merely one of whether the Court can or should exercise jurisdiction respecting the child.

Analysis

- 1) Whether this Court has jurisdiction over the child
- [7] Part 4, Division 7 of the Family Law Act, S.B.C. 2011, c. 25 [FLA] addresses "Extrajurisdictional Matters Respecting Parenting Arrangements". The purposes of this Division of the FLA are set out in s. 73 as follows:

73 The purposes of this Division are as follows:

- (a) to ensure that court applications respecting guardianship, parenting arrangements or contact with a child are determined on the basis of the best interests of the child;

- (b) to avoid the making of orders respecting guardianship, parenting arrangements or contact with a child, respecting the same child, in more than one jurisdiction;
- (c) to discourage child abduction as an alternative to determining by due process the guardianship of, or parenting arrangements with respect to, a child;
- (d) to provide for effective enforcement of orders respecting guardianship, parenting arrangements or contact with a child, and for the recognition and enforcement of extraprovincial orders.

[Emphasis added.]

[8] Under s. 74(2) of the FLA, the court "may" make an order respecting guardianship, parenting arrangements or contact with a child only if one of the following conditions is met:

- (a) the child is habitually resident in British Columbia when the application is filed;
- (b) the child is not habitually resident in British Columbia when the application is filed, but the court is satisfied that
 - (i) the child is physically present in British Columbia when the application is filed,
 - (ii) substantial evidence concerning the best interests of the child is available in British Columbia,
 - (iii) no application for an extraprovincial order is pending before an extraprovincial tribunal in a place where the child is habitually resident,
 - (iv) no extraprovincial order has been recognized by a court in British Columbia,
 - (v) the child has a real and substantial connection with British Columbia, and
 - (vi) on the balance of convenience, it is appropriate for jurisdiction to be exercised in British Columbia;

[Emphasis added.]

[9] As indicated from this definition, the first step is to determine whether the child was habitually resident in B.C. when the claimant filed his application.

[10] The claimant filed the notice of family claim in this matter on October 20, 2020. He filed his application for inter alia determinations of jurisdiction, parenting time, and guardianship on December 8, 2020. These materials were served on the respondent in Brampton, Ontario on January 2, 2021. L's habitual residence at the time the claimant filed his application in late 2020 thus needs to be determined.

[11] The burden of establishing territorial competence rests with the party (here, the claimant) who is seeking to establish its existence: *Aleong v. Aleong*, 2013 BCSC 1428 at para. 80.

- a) Was the child habitually resident in B.C. when the claimant filed his application?

[12] In examining the jurisdiction question under s. 74(2) of the FLA, I am guided by the definition of "habitually resident" in s. 72(2), which reads as follows:

- (2) For the purposes of this Division, a child is habitually resident in the place where the child most recently resided
 - (a) with his or her parents,
 - (b) if the parents are living separate and apart, with one parent
 - (i) under an agreement,
 - (ii) with the implied consent of the other parent, or
 - (iii) under an order of a court or tribunal, or
 - (c) with a person other than a parent on a permanent basis for a significant period of time.

[Emphasis added.]

[13] In addition to the definition of "habitually resident" provided in the FLA, the court may have regard to common law principles when determining a child's habitual residence, but the statutory definition takes priority: *C.L.Z. v. C.G.Z.*, 2018 BCSC 2172 at para. 38 [C.L.Z.]; *Aslanimehr v. Hashemi*, 2019 BCSC 804 at para. 42 [Aslanimehr].

[14] In this case, the child most recently resided with both parents in B.C. (s. 72(2)(a)), which the claimant says is the child's habitual residence.

[15] However, the respondent maintains that habitual residence ought to be decided according to s. 74(2)(b)(ii). That section references the place where the child most recently resided with one parent, while the parents were living separate and apart, with the implied consent of the other parent. Clearly, L more recently resided with one parent in Ontario than two parents in B.C. I turn then to the requirement of implied consent in s. 74(2)(b)(ii) to determine whether this provision is invoked and whether the jurisdiction of Ontario should be given priority.

- b) Did the claimant provide his consent, expressly or impliedly, to the respondent's move to Ontario and/or Quebec?

[16] The parties disagree as to whether the respondent's relocation to Ontario and/or Quebec took place with the claimant's express or implied consent.

[17] The respondent and L departed Vancouver for Toronto on May 28, 2020. She initially moved with L into her cousin's house in Milton, Ontario. The claimant visited her there on June 9 and had subsequent visits in June and July. During one visit in June, the claimant presented the respondent with a proposed separation agreement, which she did not sign.

- [18] After tension grew over increased Covid-19 risks with the respondent living in her cousin's home and the claimant visiting her there, the respondent moved to Montreal on August 7, 2020 to stay with her parents. The claimant met her at the airport upon her arrival, but the respondent asked him to leave, which he did. However, between August 7 and October 12, when she left for Brampton, the claimant visited the respondent four times in Montreal. The parties' relationship improved during this time, and they resumed intimate relations for a time.
- [19] The respondent submits that the claimant verbally consented to her changing L's habitual residence to Ontario and that he later reneged on his consent. She further submits that the claimant's actions before and after the relocation are consistent with his providing consent to the move.
- [20] The respondent argues that the parties separated in mid-April and that they then had discussions about her desire to relocate to Ontario or Quebec to be with family as support for a single mother. She says the parties initially agreed that she and L would move back to Montreal. After speaking with her family, the respondent changed her mind and told the claimant that she wanted to relocate with L to Ontario instead due to her parent's ill health. She says the claimant agreed and even helped her relocate and settle in by assisting her with her move and supporting her financially.
- [21] In support of her submission that the claimant consented to a permanent move, the respondent invites me to consider a settlement proposal that the claimant made in June of 2020. I cannot accede to this submission.
- [22] The nature of the proposal is protected by settlement privilege, which is designed to encourage the settlement of disputes without resort to litigation. Such discussions would be discouraged by the knowledge that anything said in the course of such negotiations could be used to the parties' prejudice in legal proceedings: *Sable Offshore Energy Inc. v. Ameron International Corp.*, 2013 SCC 37 at paras. 11-13.
- [23] The respondent does not dispute that settlement privilege attaches to the claimant's proposal; nevertheless, she submits that any settlement privilege should be removed because the competing public interest in doing justice here outweighs the public interest in encouraging settlement. She argues that evidence of the claimant's proposal will shed light on his true state of mind about reconciliation and the nature of her relocation with L.
- [24] However, I accept the claimant's submission that whatever proposal may have been made by the claimant may well have been a compromise position, was bound up with other proposals in the proposed settlement, and ought not to have evidentiary value at large. Further, whatever the claimant was willing to agree to as a part of a larger settlement does not necessarily speak to his state of mind generally. His position during settlement negotiations may well have depended on specific conditions that never came about. Moreover, I cannot find cause to remove the operation of the privilege in this case to rebut evidence of deceit, misrepresentation or dishonesty by the claimant. I would therefore

decline to have regard to the settlement proposal made by the claimant.

- [25] Returning to the issue of consent, the claimant submits that the respondent promised him that her move to Ontario or Quebec was temporary. Based on their history of breaking up and getting back together, the claimant says he thought that they would reconcile and that she would allow unfettered access when he came to see L, which access he did not subsequently receive. The claimant also points to the parties' resumption of intimate relations as supporting his expectations for possible reconciliation. Contrary to this argument, the respondent maintains that she was clear that her move from British Columbia was permanent.
- [26] Prior to the respondent's move to Ontario in May of 2020, the parties were both deemed to be joint guardians of L. The claimant may have been less involved in L's care due to his busy schedule and the fact that L was breastfeeding, but he was fully involved in L's life and clearly wished to continue to be.
- [27] The evidence before me is not sufficiently compelling to support a finding that the claimant expressly provided his consent to remove L to Ontario or Quebec. While the respondent alleges the claimant verbally consented to the move on the basis of their conversations leading up to May 2020, this is disputed by the claimant. There is no indication of a specific communication by the claimant to the respondent on a specific day providing his express consent to the move. I accept the claimant's evidence that he did not intend to consent to the child moving indefinitely to Ontario or Quebec and did not expressly do so.
- [28] With respect to implied consent, the respondent points to several factors, including the following:
- the claimant was aware that the respondent had no family in B.C. and needed her family in Ontario or Quebec for support;
 - the claimant helped her pack her belongings and ship them to her cousin's address prior to the move;
 - the claimant provided funds on May 10 and 19 to assist with her relocation expenses;
 - the respondent sent the claimant a text message on May 17, 2020 to ensure he was agreeable to the move. She reiterated that she would not be coming back and that she was looking for a permanent home for her and L;
 - the claimant did not protest or object to the respondent's comments;
 - the claimant prepared a draft separation agreement in which he consented to her move (as noted above, I would not have any regard to the draft separation agreement); and
 - the respondent advised the claimant in their August 16-17, 2020 text messages that her stay in Montreal was not a permanent solution and that she was working on moving to Ontario.

- [29] I would not make findings of fact on this important issue except as necessary to determine the issues of territorial jurisdiction and forum non conveniens: Aslanimehr at para. 6.
- [30] However, even accepting the respondent's evidence as to the claimant's actions, her submissions have several difficulties.
- [31] First, the respondent's move to Ontario appears to have been wholly unilateral. While her moving to an area with greater family support is understandable, the respondent made the decision to leave Vancouver on her own, even if she did advise the claimant of her plans and the reasons behind her decision. Her subsequent decisions to move to Montreal, and then to Brampton appear to have been similarly unilateral.
- [32] Second, for the limited purposes of this application, I accept the claimant's evidence as to his subjective understanding that he thought the move could be a temporary one. The respondent had left him four times previously and returned each time. Most recent to May of 2020, the respondent had left the claimant "for good" just over six months earlier. While the respondent maintains that the situation in the spring of 2020 was different, the history of their up and down relationship provided the claimant good reason to believe that it may not be so.
- [33] The idea that the respondent's move might be temporary is reinforced to some extent by the mixed messages the claimant received from the respondent. For instance, the respondent texted the claimant on June 11, 2020 that "I still love you and was hopeful that we may in the future work things out for [L]'s sake but I don't see us working things out." The parties resumed intimacy with each other in September of 2020. They went on trips and vacations and had meals together. In an October 4, 2020 text, the respondent wrote that "I'm beyond grateful for you giving me [L], and I'm beyond grateful he truly does love his papa and we both enjoy spending time with you." The claimant maintained that into the fall of 2020, he remained deeply affectionate toward the respondent and thought, reasonably in my view, though mistakenly, that reunification remained a possibility.
- [34] Third, even on an objective level, it makes little or no sense that the claimant would impliedly consent to the respondent indefinitely moving to Ontario with L. The claimant was involved in the decision to bring a child into this world and, as much as his work commitments would allow, to be part of L's care. He took parental leave. He complied with the respondent's relatively strict requirements to incorporate his involvement in L's routines and schedule. Travelling to Ontario to exercise parenting time was very demanding for the claimant. It is illogical that he would impliedly agree to such a demanding state of affairs, even if he was not more vocal in expressing his opposition to the respondent's wishes because he mistakenly believed that it was a short-term move.

- [35] Fourth, the respondent's move to Brampton from Montreal on October 12, 2020 occurred without any notice to the claimant. Nor did she discuss in advance her intent to sign a one-year lease on a suite in Brampton. This was the case despite the fact that they had spent the entire weekend together the previous weekend. The claimant's lack of knowledge of the respondent's long-term plans weakens her submission that he consented to her long-term move to Brampton.
- [36] In the circumstances, I do not find it necessary to consider whether the implied consent of the claimant to the respondent's relocation was vitiated because it was obtained through allegedly dishonest acts: *Mathews v. Mathews*, 2007 BCSC 1825 [Mathews]. I am satisfied from an examination of the context that the claimant did not impliedly give his consent to the respondent's relocation with L away from Vancouver.
- [37] Therefore, pursuant to s. 72(2)(b)(ii) of the FLA, I find that the claimant did not provide his implied consent to the respondent changing L's habitual residence or remaining in Ontario. Subject to my comments below about the impact of s. 72(3) of the FLA, the respondent's unilateral decision to relocate L without the claimant's knowledge or consent does not alter L's habitual residence: *Aslanimehr* at para. 53.
- c) Did the claimant acquiesce or delay in applying for a court order?
- [38] In interpreting the provisions in Division 7 of the FLA related to jurisdiction, I would additionally consider the impact of s. 72(3) of the FLA. This section operates to prevent one parent from removing the child from the jurisdiction without the consent of the other: *Stebbing v. Greenleaf*, 2017 BCSC 346 at para. 16. It provides as follows:
- (3) The removal or withholding of a child without the consent of a guardian does not affect the child's habitual residence unless the guardian from whom the child is being removed or withheld acquiesces or delays in applying for an order of a court or an extraprovincial tribunal.
- [39] I find that there was no delay by the claimant in applying for relief once the permanency of the respondent's relocation became known in the fall of 2020. However, I must additionally consider the respondent's suggestion that the claimant acquiesced to her move.
- [40] As to acquiescence, the Ontario Court of Appeal in *Katsigiannis v. Kottick-Katsigiannis* (2001), 203 D.L.R. (4th) 386 at para. 47 [Katsigiannis] defined acquiesce as "to agree tacitly, silently, or passively to something" in the context of a jurisdictional challenge under the Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980, Can. T.S. 1983, No. 35 [the Hague Convention].
- [41] I note that in *Mathews*, Mr. Justice Barrow, relying on *Katsigiannis*, suggested at paras. 13-14 that consent or acquiescence in the context of the Hague Convention ought to be supported by clear and cogent evidence of unequivocal consent or acquiescence.

- [42] I would not mistake the claimant's lack of greater resistance to the respondent's move as acquiescence. It appears to me that the claimant chose not to challenge the respondent, continued to support her financially, and otherwise acted responsibly without risking escalation of conflict between the parties over L's residence. During the first visit in Milton, the claimant declined to sign a form for Ontario health care coverage for L, which is an indication of his opposition to the child's more permanent move. I also accept the claimant's evidence that over the summer of 2020 he was under the impression that the respondent's move may not be permanent, and he remained hopeful that the parties could reunite.
- [43] During June and July, the respondent was staying with her cousin in Milton, Ontario. In August, September, and part of October, she was staying with her parents in Montreal. She texted him that this was not a permanent stay and that she was looking to move back to Ontario. The claimant seems to have reasonably believed that the respondent had not yet settled in these locales. The respondent conceded that it crossed her mind that the parties may be able to work things out when their relationship improved. It does seem, then, that the parties were not always clear about the permanency of their separation. When the claimant did find out that the respondent was moving permanently to Brampton in October of 2020, he almost immediately took steps to file his notice of family claim in British Columbia.
- [44] The underlying circumstances indicate a lack of clear or cogent evidence that the claimant acquiesced to a long-term relocation of L's residence to Ontario, or L remaining in Ontario once it became clear to him that the respondent was laying down more permanent roots there. This hesitation over the lack of clear evidence of acquiescence here is consistent with the traditional reluctance of the courts to allow the court's jurisdiction to be easily ousted by the unilateral actions of one parent: *Aslanimehr* at para. 53; *S.C. v. H.S.*, 2017 BCSC 277 at para. 23; *Kular v. Kular*, 2020 BCSC 1782 at para. 26.
- [45] Therefore, I find pursuant to s. 72(3) of the FLA that the removal of L from British Columbia to Ontario does not affect the determination of the child's habitual residence.
- d) Summary of territorial competence
- [46] To summarize, pursuant to s. 72(2)(a) of the FLA, L is habitually resident in B.C. where he most recently resided with his parents. The claimant did not impliedly consent to the respondent's relocation of L's residence outside of B.C., and I cannot find that he acquiesced to the move.
- [47] Accordingly, I find that this Court has jurisdiction over the child pursuant to s. 74(2)(a) of the FLA.
- [48] As a result of this conclusion establishing jurisdiction on the basis of habitual residency, it is unnecessary to consider whether jurisdiction is alternatively established on the basis of s. 74(2)(b) of the FLA in circumstances when the child is not habitually resident in B.C. when the application was filed.

2) Should this Court decline to exercise jurisdiction under s. 74(3)?

[49] The respondent submits that if territorial competence is established, this Court ought to decline to exercise its jurisdiction pursuant to s. 74(3) of the FLA and s. 11 of the Court Jurisdiction and Proceedings Transfer Act, S.B.C. 2003, c. 28 [CJPTA] because Ontario is the more appropriate forum to adjudicate guardianship, parenting arrangements or contact with the child. The claimant takes the opposite position.

[50] Section 74 of the FLA provides as follows:

74 (1) This section applies if an order respecting guardianship, parenting arrangements or contact with a child may be made, respecting the same child, in more than one jurisdiction.

...

(3) A court may decline to make an order under this Part if the court considers that it is more appropriate for jurisdiction to be exercised outside British Columbia.

[51] The forum non conveniens analysis in s. 74(3) engages s. 11 of the CJPTA, which reads as follows:

11 (1) After considering the interests of the parties to a proceeding and the ends of justice, a court may decline to exercise its territorial competence in the proceeding on the ground that a court of another state is a more appropriate forum in which to hear the proceeding.

(2) A court, in deciding the question of whether it or a court outside British Columbia is the more appropriate forum in which to hear a proceeding, must consider the circumstances relevant to the proceeding, including

- (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum,
- (b) the law to be applied to issues in the proceeding,
- (c) the desirability of avoiding multiplicity of legal proceedings,
- (d) the desirability of avoiding conflicting decisions in different courts,
- (e) the enforcement of an eventual judgment, and
- (f) the fair and efficient working of the Canadian legal system as a whole.

[52] On the question of forum non conveniens, the court in C.L.Z. provided as follows:

[52] In considering whether a court should decline jurisdiction, the factors in s.11 of the CJPTA, and the purposes of s. 73 of the FLA are both relevant, given their degree of overlap as stated in Schubert:

- [59] There is overlap between the factors expressed in s. 11 of the CJPTA and the purposes expressed in s. 73 of the FLA. In particular, the CJPTA and the FLA have common goals of avoiding a multiplicity of proceedings and conflicting judgments. The stated purpose of the FLA of avoiding abductions and the wrongful removal of children may be viewed as relevant to a consideration of the fair and efficient working of the Canadian legal system as a whole, as expressed in the CJPTA.
- [53] The onus is on the respondent who is seeking to prove that a more appropriate forum exists and that the Court should decline jurisdiction: *Aslanimehr* at para. 91; *JTG Management Services Ltd. v. Bank of Nanjing Co. Ltd.*, 2015 BCCA 200 at para. 45.
- [54] The question at the forum non conveniens stage is whether another forum exists that is "clearly more appropriate": *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17 at para. 108.
- [55] The respondent submits that Ontario has territorial competence over parenting matters pursuant to ss. 22-23 of the Children's Law Reform Act, R.S.O. 1990, c. C. 12. In addition to the commencement of a family proceeding in Ontario, the respondent points to the factors in s. 11(2) of the CJPTA in support of her position.
- [56] The respondent submits, for instance, that it is more convenient and affordable for the claimant to travel to Ontario to litigate parenting issues rather than vice versa, that the fair and efficient working of the legal system favours Ontario where property issues are also pleaded in the Ontario family action, and that it is not in L's best interests for the respondent to be away and travel to B.C. for long periods to litigate claims here.
- [57] Looking at these and other issues raised by a consideration of the purposes and factors in ss. 73 and 74(3) of the FLA and s. 11 of the CJPTA, I am not satisfied that Ontario is the clearly more appropriate jurisdiction.
- [58] Many of the applicable legal factors, such as choice of law, comparative convenience and enforcement of judgments, are largely neutral. Both jurisdictions have similar regimes with respect to parenting issues based on the best interests of the child.
- [59] With respect to the comparative convenience and expense, it is quite possible that one party or the other may at some point be required to travel to another jurisdiction to testify, though the force of that submission is lessened with advancements in remote video testimony. The respondent's schedule is more flexible than the claimant's because she is not working at the moment.
- [60] The respondent appears to have established some roots by settling in Brampton as of late October 2020. For instance, she has signed a lease there and has applied for an Ontario nursing licence, though she acknowledges that her application for a nursing licence may be denied.

- [61] The respondent argues that it is in L's interests that she not be away for long periods of time litigating claims in B.C. I am not convinced that litigating the parties' claims in B.C. will require the respondent to be away from L for long periods of time. L is still very young, and much of the evidence impacting these issues will come from the claimant and the respondent. As well, the respondent has previously travelled by air with L, and if she did so again, this might facilitate some parenting time on the part of the claimant in British Columbia. In any event, L is not yet of school age, and I am not satisfied that a great deal of fact-finding will be required in either jurisdiction to analyze the issues of guardianship, parenting arrangements and contact with the child.
- [62] With respect to avoidance of multiplicity of proceedings, while the respondent's claims for spousal support and property division are currently brought in Ontario along with her other claims, to the extent it is desirable to litigate those issues simultaneously with child-related issues, the respondent can amend her British Columbia response to include those claims in accordance with the FLA in the British Columbia action. Moreover, I am told that the family property in issue is in British Columbia and that the most relevant financial records related to support are those with respect to the claimant's salary and business in British Columbia.
- [63] Having regard to the applicable factors, including the best interests of the child, it is apparent that either B.C. or Ontario would be an appropriate forum, but I am not satisfied on the whole that the respondent has shown that Ontario is clearly the more appropriate forum. A consideration of the relevant factors leads to a conclusion that jurisdiction ought not to be declined by this Court.

Conclusion

- [64] In the circumstances, s. 72(2)(a) of the FLA applies. The most recent place of residence of L with his parents was British Columbia up until May 28, 2020 when the respondent relocated to Ontario and, for a time, to Quebec as well.
- [65] I am not satisfied that L was habitually resident in Ontario with the implied consent of the claimant pursuant to s. 72(2)(b)(ii) of the FLA.
- [66] In my view, the child's habituation place of residence at the time of application was British Columbia.
- [67] I am not satisfied that it is more appropriate for jurisdiction to be exercised outside of British Columbia.
- [68] In the result, this Court has jurisdiction to decide the issues raised in the action commenced in this Court by the claimant.
- [69] Nothing in these reasons should be taken as binding future decision-makers on the issues of relocation, guardianship, and parenting time.

"Brundrett J."

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