

CANADA / JUDGMENT

R.H.W. v. J.A.M.B.

2024 BCSC 2055

COURT

Supreme Court of British Columbia

DECIDED

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2024 BCSC 2055 R.H.W. v. J.A.M.B.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R.H.W. v. J.A.M.B.,

2024 BCSC 2055

Date: 20241108

Docket: E180519

Registry: Vancouver

Between:

R.H.W.

Claimant

And

J.A.M.B.

Respondent

Before: The Honourable Justice Francis

Reasons for Judgment

The Claimant, appearing in person:

R.H.W.

Counsel for the Respondent:

M. Hoseini

Place and Date of Hearing:

Vancouver, B.C.

October 2, 2024

Place and Date of Judgment:

Vancouver, B.C.

November 8, 2024

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Introduction

- [1] This case involves a dispute about parenting time for an eight-year-old child. In order to protect the privacy of the child, I have anonymized the names of the parties and the child in these reasons for judgment.
- [2] The respondent mother, J.A.M.B. (the "Mother"), has applied to vary a final consent order, as amended by two subsequent amending agreements, dealing with parenting time of the parties' daughter, C.W.B. The claimant father, R.H.W. (the "Father"), opposes any amendments--although in his submissions he indicated that he too was unhappy with the current parenting time arrangements and appears to have plans to apply to change them,

but has not done so to date. Therefore, the only issue before me on this application is whether the final order and amending agreements should be varied on the terms sought by the Mother.

Factual Background

- [3] C.W.B. was 18 months old when her parents separated in January 2018. She is now eight years old. For most of her life, she has resided primarily with the Mother. The Father has faced an ongoing struggle with alcoholism. Under the terms agreed to by the parties, his parenting time with C.W.B. is highly circumscribed in the absence of proof of sobriety. Because he has not provided proof of sobriety in accordance with his sobriety plan since October 2020, he has not had overnight or even unsupervised parenting time with C.W.B. in some time.

Final Order and Amending Agreement

- [4] Commendably, the parties were able to swiftly resolve their issues post-separation, by way of a mediation they attended with Stephanie Fabbro in July 2018. The final order was entered, by consent, on September 14, 2018 (the "Final Order"). Under the Final Order, C.W.B. was to reside primarily with the Mother, with the Father having regular overnight parenting time.
- [5] The Final Order contains a sobriety plan for the Father which stipulates, among other things, that:
- a) the Father will not consume alcohol, marijuana, or psychoactive drugs except as prescribed by a doctor;
 - b) the Father will undergo hair follicle tests for drugs and alcohol every three months and the results will be provided directly to the Mother and the Parenting Coordinator; and
 - c) if the Father tests positive for alcohol or drugs, other than those prescribed by a doctor, his parenting time will be supervised until further order or agreement.
- [6] Paragraph 13 of the Final Order contemplates that, without having to show a change in circumstances, the parties would review the parenting time schedule and the sobriety plan in June 2019. The requirement for hair follicle testing was to cease in June 2019 if all the previous tests for the year were negative.
- [7] On November 20, 2019, the parties entered into an amending agreement with respect to the Final Order (the "First Amending Agreement"). Under this agreement, the parties agreed on an interim parenting schedule for the Father pending review, in which the Father had no overnights with C.W.B. The First Amending Agreement continued to require the Father to provide hair follicle tests every three months and, additionally, to provide a monthly summary of his breathalyzer tests.

- [8] On May 19, 2020, the parties entered into a further amending agreement (the "Second Amending Agreement"). The Second Amending Agreement set out a new parenting schedule for the Father and a new sobriety plan. Under the Second Amending Agreement, the Father started with one overnight with C.W.B. every two weeks, as well as regular day-time parenting time. Commencing in July 2020, his overnight parenting time was contemplated to increase to two consecutive overnights every two weeks. The new sobriety plan under the Second Amending Agreement required that:
- a) the Father will use the BACTrak breathalyzer program and provide the Mother with test results on a regular schedule that coincides with his parenting time with C.W.B.;
 - b) if the Father tests positive for alcohol during his parenting time, he must immediately inform the Mother and allow her to attend and remove C.W.B. from his care;
 - c) the Father will continue to provide hair follicle tests for drugs and alcohol every three months;
 - d) if the Father tests positive for drugs or alcohol, all of his parenting time will be supervised and any overnight parenting time will be suspended; and
 - e) if the Father tests positive for drugs or alcohol, his suspended unsupervised and overnight parenting time will recommence once he has provided the Mother with two quarterly hair tests testing negative for drugs and alcohol during the six-month period following the positive test.
- [9] The Second Amending Agreement stated that the parties will review the parenting schedule and the sobriety plan on or after August 1, 2021. It does not appear that a formal review of either the parenting schedule or the sobriety plan has taken place.

Events since Second Amending Agreement

- [10] It appears that the Father suffered a significant relapse in 2020 to 2021. He was in and out of the hospital and attended a residential rehabilitation facility. He says he is now sober but has not provided a hair follicle test pursuant to the sobriety plan since October 2020.
- [11] Because of the Father's inability to comply with the sobriety plan, almost all of his parenting time has been supervised for the last four years. Generally, the parenting time between C.W.B. and her father is supervised by the Mother. Perhaps, not surprisingly, this has created tension between the parties.
- [12] Since 2023, there has been a serious breakdown in communication between the parties. This has led to a breakdown in the co-parenting relationship. The parties blame their poor communication on one another. The Father claims that the Mother is alienating C.W.B. from him and is controlling all of his interactions with her. The Mother claims that the Father refuses to follow any kind of predictable parenting schedule and that she has no choice but to supervise their parenting time, due to the Father's refusal to comply with the sobriety

plan and provide proof of his sobriety.

- [13] While I am mindful not to place too much emphasis on segments of text messages that might be taken out of context, there is ample evidence on the record (including text messages that the Father has attached to his affidavit in support of his case) that the Father has a habit of sending intemperate, insulting text messages and emails to the Mother when he is unhappy about how she has handled the coordination of his parenting time.
- [14] One of the troubling aspects of the Father's position is his outrage at the Mother, expressed in emails and texts, for insisting that his parenting time be supervised. He regularly accuses her of interfering in his relationship with C.W.B., and even of parental alienation, because she will not agree to him having unsupervised parenting time. The Father's parenting time must be supervised until he can show a sustained period of sobriety, pursuant to the sobriety plan he agreed to in the Final Order, the First Amending Agreement, and the Second Amending Agreement.
- [15] In court, he claimed that he is presently sober, and said he is happy to provide evidence of this to the Mother, but he has not done so to date. He has, however, sent her numerous messages accusing her of being mentally ill, controlling, and failing to act in the best interests of C.W.B. It is confusing, if he has been able to remain sober since his most recent recovery, why he has not simply furnished the required evidence under the sobriety plan so that he can have the unsupervised parenting time he claims to want.
- [16] I observe that, to the extent it is in evidence, the Mother's communication with the Father is generally civil and focussed on C.W.B.'s best interests. The Father's communication with the Mother, on the other hand, is unduly aggressive and often gratuitously insulting. He does not appear to be able to set aside his negative emotions about the Mother in order to focus his communications on productively co-parenting C.W.B. He also does not appear to appreciate that the sobriety plan, which he questions the necessity of and expresses anger about the Mother's insistence that it be complied with, is part of a court order that binds him.

Issues

- [17] There are certain things that the parties agree on, notwithstanding their acrimony and poor communication. Both parties appear to agree that it would be in C.W.B.'s best interests to have a more consistent parenting time schedule with the Father. As well, they both agree that co-parenting is not working and that a new model of decision making needs to be implemented.
- [18] As the only application before me is the Mother's application to vary the Final Order and Second Amending Agreement, I am restricted to considering the issues raised in that application. I have re-ordered and reframed the issues in order to more clearly set out my reasoning in this case. The issues are:

- a) whether a material change of circumstances has occurred such that the court should consider a variation of the Final Order;
- b) whether parenting time should be changed to remove the Father's overnight parenting and provide for a new parenting schedule at which the Father's parenting will be professionally supervised, as well as a new sobriety plan;
- c) whether the Final Order should be varied to implement a "Joyce model" of parental decision making, with the Mother having final decision-making authority;
- d) whether the Final Order should be varied to change its provisions about substitute and standby guardians;
- e) whether the provisions in the Final Order regarding travel authorizations should be varied;
- f) whether the Father should be prohibited from attending C.W.B.'s extracurricular activities, volunteering at her school, or attending performances without the consent of the Mother; and
- g) whether conduct orders should be implemented.

Variation of the Final Order

- [19] The Mother's counsel relies on s. 47 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], and submits that there has been a material change in circumstances justifying a variation of those portions of the Final Order that were not subject to review.
- [20] The Father does not strenuously argue against a variation of the Final Order, although he seeks to have different changes made to the provisions of the Final Order. He does not dispute that a material change of circumstances has arisen that justifies a de novo analysis of the best interests of C.W.B. with respect to the parenting issues that are finally determined in the Final Order.
- [21] The most significant variation of the Final Order sought by the Mother is a move to what is often referred to as a "Joyce model" of parental decision making, in which the Mother must consult with the Father about decisions, but ultimately has final decision-making authority in the event that the parents are unable to agree.
- [22] Notably, the contentious issues about parenting time and the Father's sobriety plan are not subject to the requirement that either party demonstrate a material change of circumstances, as the Final Order contemplates that these provisions will be reviewed periodically, and indeed they have been reviewed and amended under the First Amending Agreement and the Second Amending Agreement.
- [23] I am satisfied that there has been a material change in the needs of C.W.B. and in the ability of her parents to meet those needs as they pertain to decision-making authority. While the parties have never had a particularly positive relationship post-separation, the conflict

between them has escalated in the last year and is far more acrimonious than it was in 2018 when the Final Order was entered. Further, as C.W.B. matures and becomes more aware of the interpersonal conflict between her parents, her need for her parents to have a less conflictual method of parental decision making is far more acute.

- [24] I am satisfied that the complete inability of the parents to cooperatively co-parent constitutes a material change of circumstances. As such, I have engaged in a de novo analysis of the best interests of C.W.B. with respect to all of the relief sought by the Mother, including her proposed variation of the Final Order as well as her proposed changes to the Second Amending Agreement.

Should Parenting Time Be Varied?

- [25] The Father's parenting time has been inconsistent. He blames the Mother for this, and submits that she has limited his ability to spend time with his daughter. The Mother submits that the Father is inconsistent in his availability and incapable of submitting to a regular routine of visits with C.W.B.
- [26] Part of the difficulty facing this family is the fact that the supervised parenting time, required under the sobriety plan, has primarily taken place with the Mother as supervisor, which has led to conflicts and tension between the parties because the Father's parenting time is contingent on the Mother's availability. This has led the Father to perceive that his time with C.W.B. is being dictated by the Mother's schedule, which to a certain extent is true, but is also unavoidable if the Mother is the supervisor of the Father's parenting time.
- [27] It appears to me to be manifestly in the interests of C.W.B. to have a consistent parenting time schedule with the Father. It is also clearly not working to have the Mother as the supervisor of that parenting time.
- [28] The Mother has proposed a new parenting time schedule that has the potential to provide more consistency for C.W.B., as it fits with C.W.B.'s extracurricular activities and provides her with regular parenting time with the Father each week. The Father has not proposed an alternative parenting time schedule; he simply asserts that he should have unsupervised parenting time with C.W.B., although he has not complied with the sobriety plan.
- [29] The parenting time schedule proposed by the Mother has the Father exercising parenting time with C.W.B. every Monday from 4 p.m. to 7 p.m. if school is in session, and 12 p.m. to 6 p.m. if school is not in session. Additionally, she proposes parenting time every other Sunday from 12 p.m. to 6 p.m.
- [30] The Mother's proposed parenting time schedule has the Father spending considerably less time with C.W.B. than what is set out in the Second Amending Agreement (which, in addition to daytime parenting time, had the Father exercising overnight parenting time every second week). However, the parenting time schedule in the Second Amending Agreement was never followed by the parties and the Father's parenting time in the last four years has consisted primarily of two to three hours supervised visits on a Saturday or a

Sunday afternoon. Thus, the Mother's proposed parenting time schedule signifies a marked increase from the current status quo in terms of the amount of parenting time the Father has with C.W.B.

- [31] The evidence supports that the Father is a loving and committed father. C.W.B. is clearly attached to him. In addition to the rather limited in-person parenting time they have had together in recent years, the Father and C.W.B. often play online computer games like Roblox together. Text messages in evidence show that C.W.B. has expressed that she misses her father when she does not see him.
- [32] In my view, it is in the best interests of C.W.B. to spend more time with the Father and, in the longer term, this should include overnights, so long as the Father can comply with a sobriety plan. However, I do not think it is in C.W.B.'s best interest to move to such a drastic change such as overnight parenting time immediately, even if the Father is able to immediately comply with a sobriety plan. Given the length of time that has passed since the Father has even had unsupervised parenting time, let alone overnights with C.W.B., I am concerned that it would be disruptive to C.W.B. for her routine to change suddenly.
- [33] Therefore, I find that the parenting time schedule proposed by the Mother should be implemented immediately. If the parenting time schedule is successfully followed for six months, and if the Father complies with the sobriety plan, then the Father's parenting time shall increase to include one weekend overnight every two weeks.
- [34] The Second Amending Agreement describes the requirements of the sobriety plan. The Father has not complied with the sobriety plan and as such, under that agreement, his parenting time must be supervised. In these circumstances, particularly in the face of evidence that the Father has had at least one major relapse since the Second Amending Agreement, it is eminently clear to me that the Father's parenting time must continue to be supervised until he is able to comply with the sobriety plan.
- [35] I also agree that it is neither practical nor in the best interests of C.W.B. for the Mother to be the supervisor of the Father's parenting time. In the context of this high conflict relationship, having C.W.B. witness the inevitable tension and acrimony between her parents whenever she has parenting time with her father is likely stressful for her. Unless and until the Father complies with the sobriety plan, his parenting time must be supervised by a friend or relative agreed to by the parties, or by a professional supervisor.
- [36] In terms of the sobriety plan, the Mother proposes to change it only insofar as the timing of breathalyser tests should be adjusted to accord with the new parenting time schedule for the Father. This clearly makes sense, and I am prepared to so order. The Father's only objection with respect to the sobriety plan is that he submits that he should no longer be required to submit hair follicle tests as these tests are not accurate. However, the Father has brought no application to vary this component of the sobriety plan and, in any case, absent any evidence that the hair follicle tests are not accurate, I would not be inclined to vary this component of the sobriety plan. With the exception of the Mother's proposed change to the

timing of the breathalyzer tests, the sobriety plan under the Second Amending Agreement should remain in place.

Variation of Decision-Making Authority

- [37] Under the Final Order, the Mother and the Father share parenting responsibilities. However, the Final Order also stipulates that a parenting coordinator will resolve any issues within the parenting coordinator's jurisdiction that the parties are unable to resolve. The Final Order contemplates the appointment of a parenting coordinator for at least 24 months. I understand that, shortly after the Final Order was entered, the parties retained Morag MacLeod, K.C., a family law practitioner, to act in this capacity. She did so until she advised the parties that she was retiring in 2022. Since then, the parties have been without a parenting coordinator.
- [38] The Mother does not wish to retain a new parenting coordinator and, instead, seeks an order that a Joyce model be implemented, with the Mother having final decision-making authority about all parental responsibilities if the parties are unable to agree. The Father takes the position that a new parenting coordinator should be retained in accordance with the Final Order.
- [39] Having reviewed the record of the parties' poor communication, I conclude that the parties are not able to successfully co-parent. The Mother's reasonable requests of the Father, such as her request for a travel authorization for C.W.B., or her request for the Father's consent for C.W.B. to get counselling, tend to escalate into larger conflicts with no resolution. This is not a circumstance that is in C.W.B.'s best interest for two reasons. First, it appears that she is often exposed to tension and conflict between her parents. Second, there are services available that would clearly help her, such as play therapy, that she is unable to access because her parents disagree.
- [40] In my view, giving final decision-making authority to the Mother under a Joyce model is not in the best interests of C.W.B. at this point. There is simply too much conflict between the parties in this case for such a decision-making structure not to lead to more conflict. It seems very likely to me that, if a Joyce model were implemented, the Father and the Mother would disagree about most things, the Mother would make decisions, and the Father would simply apply to court with respect to those decisions that he says are contrary to C.W.B.'s best interests.
- [41] While I recognize that there are costs associated with a parenting coordinator, those costs are likely to be less than those associated with repeated court applications. A parenting coordinator can also make decisions quickly as issues arise. A parenting coordinator can, amongst other things, assist the parties with improving their communication, prevent efforts by either party to disrupt the children's parenting, and resolve disputes concerning the child's activities.

- [42] I am mindful of the remarks of Mr. Justice Groberman (Madam Justice Neilson concurring) in *Fleetwood v. Percival*, 2014 BCCA 502:
- [45] It is apparent, both from the language of the statute and from the legislative debates on the provisions, that the Legislature was interested in establishing a new option for resolving disputes between parents in high-conflict situations.
- [46] Court procedures are not always conducive to the successful resolution of such disputes, and they can become intractable, particularly where animosity between the parties is entrenched. Sometimes, such disputes become bogged down in the complexity and rigidity of litigation processes. A more flexible resolution process may be desirable.
- [47] As well, while judges possess considerable expertise in family law and in dispute resolution, some cases may be more effectively dealt with by specially trained professionals who are dedicated to dealing with high-conflict parental disputes.
- [48] The statute does not set out criteria that must be satisfied before a court will order that a parenting coordinator be engaged to "build consensus" or make determinations. It seems to me that such an order will typically be made only where a judge is convinced that a parenting coordinator will enjoy significant advantages over the court in achieving a resolution that will benefit the parties and their children. As well, because a parenting coordinator will be paid for by the parties, the court must consider the parents' ability to pay, and the economic costs or savings that the appointment of a parenting coordinator will entail.
- [Emphasis added.]
- [43] The Mother opposes the appointment of a parenting coordinator because she does not believe the Father will comply with a parenting coordinator's directions. However, I note that the parties did not have any interaction with the court system between September 2018 and December 27, 2023, when this application was filed. I can only infer that this was in part because, for the first five years post-separation, the parties were able to work out their differences or resolve them with the assistance of the parenting coordinator. There is no evidence of the Father ignoring the directions of a parenting coordinator and, indeed, he took the position on this application that he thought the appointment of a parenting coordinator would be of assistance to the family.
- [44] I am satisfied that nothing would be gained by giving one of the parties final decision-making authority with respect to C.W.B. Thus, I order that the parties share the parenting responsibilities set out in s. 41 of the FLA and consult with each other with respect to all major decisions involving C.W.B. If, after consultation, the parties are unable to agree on what is in C.W.B.'s best interests, the parenting coordinator will decide.
- [45] Therefore, there will be no variation to the relevant provisions of the Final Order, which contemplate the appointment of a parenting coordinator, except that Schedule A, paragraph 44 of the Final Order will be amended to eliminate Ms. MacLeod's name and simply state

that the parties will retain a mutually-agreed member in good standing of the Roster of the British Columbia Parenting Coordinators Roster Society to act as parenting coordinator for a period of no less than 24 months from the date of this judgment. If the parties are unable to agree on a parenting coordinator, they have leave to appear before me and I will make an order appointing one.

- [46] The parties should equally share the cost of the parenting coordinator, subject to any determination by the parenting coordinator that, in respect of a particular dispute, one of the parties should bear a greater proportion of the costs.

Variation of Guardianship

- [47] The Mother seeks to eliminate the following provisions in the Final Order with respect to guardianship:

8. If either guardian dies, the remaining guardian will be the sole guardian of the Child with all of the parental responsibilities.
9. Each of the parties will be at liberty to appoint a guardian under section 53 of the Family Law Act to take effect only on the death of both of them.
10. Neither party will appoint a standby guardian under section 55 of the Family Law Act unless agreed on by both of them.

- [48] In their place, she seeks an order that each party is at liberty to appoint a guardian on the death of the appointing guardian, and to appoint a standby guardian in event of their incapacity. Her reasoning is that, in the event of her death or incapacity, she does not want the Father to be the sole guardian of C.W.B.

- [49] There is no evidence that the Mother is facing illness of any kind, or has reason to believe her death or incapacity is imminent. No cases were brought to my attention with respect to any judicial interpretations of ss. 53 and 55 of the FLA, which are the sections that provide for the appointment of replacement guardians and standby guardians.

- [50] In my view, any change to guardianship on the death or illness of one of the parents is not warranted at present. This is a family in a state of transition as the Father seeks to re-establish a positive parenting relationship with his daughter after a serious relapse of his alcoholism. I accept the Father's evidence that he is building a healthier life for himself and I have no reason to think that won't continue. As such, I am not prepared to find that the Father would be incapable of parenting C.W.B. alone in the event of the death or incapacity of the Mother, and I decline to make the order sought by the Mother in this regard.

Variation of Travel Authorization

- [51] The Final Order requires each party to give the other party notice of any travel with C.W.B. within Canada and the United States, and requires the consent of the other parent to travel anywhere else.
- [52] The Mother seeks to vary these terms. Specifically, she seeks an order that she is able to travel with C.W.B. within Canada, the United States, Mexico, Europe, and the United Kingdom without the Father's consent, but with notice to him of the travel details. She also wishes to vary the provisions of the Final Order so that the Father is required to obtain her consent before travelling anywhere with C.W.B. during his parenting time, domestically or internationally.
- [53] While the issue of the Father travelling with C.W.B. is unlikely to arise in the short term, since he has no overnight parenting time, I have concerns about the dynamic created by the Mother being able to travel with C.W.B. to as far away as Europe without obtaining the Father's permission, but the Father being required to obtain permission to travel with C.W.B. even to other parts of British Columbia. Both parents are C.W.B.'s guardians. It seems to me that the current provisions in the Final Order strike a good balance between giving C.W.B. an opportunity to travel with each parent, and protecting against the risk of a parent acting unilaterally without involving the other parent in important decisions like whether she should go on a major international trip. I therefore decline to vary these provisions of the Final Order.
- [54] Any disagreements that arise with respect to travel, including the unreasonable withholding of consent to travel, should be dealt with by the parenting coordinator.

Order Prohibiting Father's Attendance at C.W.B.'s Activities

- [55] The Mother seeks to vary paragraph 38 of Schedule A of the Final Order that states:
- Either party may attend [C.W.B.]'s extracurricular activities and performances, regardless of whose scheduled time it is with [C.W.B.].
- [56] The Mother wants to replace this provision with a term that says the Father is not entitled to attend any extracurricular activities, volunteer at school, or watch performances without the consent of the Mother.
- [57] In support of this submission, the Mother relies on evidence that the Father has been showing up at school for volunteer duties he has not properly signed up for, or attending performances that the Mother asked him not to attend. She submits that these are attempts to spend time with C.W.B. without supervision and he should be prohibited from doing this.
- [58] I have difficulty seeing the mischief in the Father's actions in this regard. If the school takes issue with the Father's failure to comply with school protocol, that is a matter for the school to deal with. The only evidence I have of this is hearsay of what the Mother says the principal told her. In any case, I fail to see how it is contrary to C.W.B.'s best interests to have

her father doing traffic duty and lunch recess supervision at her school, or attending her sports activities and performances. It seems to me that the Father's volunteering at school and attending extracurricular activities are a means by which C.W.B. can feel supported by both parents, and this should be encouraged rather than discouraged.

[59] The other concern the Mother raises about the Father attending school activities is that he is doing so as a means of having unsupervised parenting time with C.W.B. She points to the example of the Father coming to C.W.B.'s after school club and reading to her. While I accept that when the Father attends the school to read with C.W.B., he is not supervised, it is not clear to me that there is any risk to C.W.B. in spending time with her Father reading books at her after school club, with other students and staff present. This is a safe way that the Father can meaningfully participate in C.W.B.'s day-to-day life and, unless it is disruptive from the school's perspective (and I have no evidence that it is), it should not be discouraged.

[60] I decline to make the order sought in this regard.

Conduct

[61] The Mother seeks conduct orders with respect to the manner in which the Father speaks about the Mother to C.W.B. I am satisfied, particularly in light of the unduly aggressive tone of much of the Father's communication to the Mother, that such conduct orders are prudent and should be mutually binding on both parties.

Conclusion

[62] In sum, I make the following orders:

- a) Paragraph 2 of The Second Amending Agreement is replaced with the following paragraph:
 2. The Father will exercise his parenting time as follows:
 - a. From November 8, 2024 to April 1, 2025:
 - i. Mondays at 4 p.m. until 7 p.m. (if school is in session) or from noon until 6 p.m. (if school is not in session); and
 - ii. Every other Sunday from 12 p.m. until 6 p.m.
 - b. Commencing April 1, 2025, if the Father has been consistently compliant with the sobriety plan, the Father's parenting time will be:
 - i. Mondays at 4 p.m. until 7 p.m. (if school is in session) or from noon until 6 p.m. (if school is not in session); and
 - ii. Every other weekend from Saturday at 6 p.m. until Sunday at 6 p.m.
 - c. Either party must give the other party 7 days notice if for any reasons the above parenting time schedule needs to change.

- b) Paragraph 13 of the Second Amending Agreement will be replaced with the following paragraph:
- 13. The Father will use the BACKTrak program (or such other breathalysing program that the parties agree to) and will provide the Mother with test results according to the following schedule:
 - a. on days that school is in session on Monday at 3:30 p.m. and 6:30 p.m.;
 - b. on days that school is not in session, on Monday at 11:30 a.m. and 4:30 p.m.;
 - c. on Sundays when exercising parenting time at 11:30 a.m. and 4:30 p.m.; and
 - d. if overnight parenting time commences, when exercising weekend parenting time, on Saturdays at 5:30 p.m. and 9:30 p.m. and on Sundays at 11:30 a.m. and 4:30 p.m.
- c) The Father's parenting time will be supervised unless and until he complies with the sobriety plan set out in the Second Amending Agreement, as varied by this order.
- d) Parenting time supervision will be done by an agreed upon friend or family member or, if the parties are unable to agree, a professional supervisor. The Father will be responsible for the costs of a professional supervisor.
- e) Without having to show a change in circumstances, in November 2025, the parties will review the parenting time schedule and sobriety plan contained in this order.
- f) The Mother's application to vary paragraph 5 of the Final Order as it pertains to decision-making authority is dismissed.
- g) Pursuant to s. 15 of the FLA, the parties will forthwith retain a mutually agreed member in good standing of the Roster of the British Columbia Parenting Coordinators Roster Society to act as parenting coordinator for a minimum term of 24 months, on the terms provided in the Final Order, First Amending Agreement, and Second Amending Agreement.
- h) If the parties are unable to agree on a suitable parenting coordinator, they may contact scheduling to arrange a short appearance before me to determine the issue.
- i) The Mother's application to vary paragraphs 8, 9, and 10 of the Final Order with respect to guardians and standby guardians is dismissed.
- j) The Mother's application to vary paragraphs 17, 18, and 20 of Schedule A of the Final Order, pertaining to travel authorization, is dismissed.
- k) The Mother's application to vary paragraph 38 of Schedule A of the Final Order, pertaining to attendance at the child's activities, is dismissed.
- l) The following conduct orders will be made:
 - i. The parties will:

- 1) speak to C.W.B. about the other parent in a positive and respectful manner;
 - 2) make a real effort to maintain polite, respectful communications with the other parent; and
 - 3) refrain from any negative or hostile criticism, communication or argument in front of C.W.B.
- ii. Neither party will discuss with C.W.B. any inappropriate adult, court, or legal matters.

Costs

[63] While the parties had mixed success on this application, I find it is appropriate to exercise my discretion to award costs of this application to the Mother. The record of communications between the parties is clear that she made many efforts to come to an agreement with the Father about all the matters at issue in this application before resorting to court. Unfortunately, the Father generally refused to engage in these discussions with the Mother and responded with hostility to reasonable attempts at dispute resolution. One of the purposes of costs awards is to discourage litigation and promote out-of-court resolution between parties. It is hoped that the Father, having been ordered to pay costs of this application, will in the future make a better effort to engage with the Mother in civil communications when the parties disagree about parenting matters, so that those matters can be resolved without further litigation.

"Francis, J."

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