

CANADA / JUDGMENT

Riou v. Marshall

2025 BCSC 1684

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Supreme Court of British Columbia

DECIDED

29 August 2025

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2025 BCSC 1684 Riou v. Marshall

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Riou v. Marshall,

2025 BCSC 1684

Date: 20250829

Docket: E62447

Registry: New Westminster

Between:

Pascal Herve Antoine Riou

Claimant

And

Maryam Marshall

Respondent

Before: The Honourable Justice Lamb

Reasons for Judgment

Counsel for the Claimant:

T. Hoover

Counsel for the Respondent:

R. Gill

Place and Dates of Trial:

Port Coquitlam, B.C.

April 14-17 and 22-24, 2025

Place and Date of Judgment:

New Westminster, B.C.

August 29, 2025

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Overview

- [1] For a number of years, Pascal Riou and Maryam Marshall lived together in a house owned by Ms. Marshall at 1030 Yarmouth St., Port Coquitlam, B.C. ("Yarmouth St."). The preliminary issues I must decide are the following:
- a) Were the parties in a marriage-like relationship?
 - b) If they were in a marriage-like relationship, when did it start and when did it end?
- [2] Mr. Riou says the parties were in a marriage-like relationship from November 2015 until shortly before he moved out of Yarmouth St. in April 2021. On the other hand, Ms. Marshall says Mr. Riou moved into Yarmouth St. in January 2017. She acknowledges that he continued to live at Yarmouth St. until April 2021, but she claims the parties separated in December 2017, which means their relationship would not have lasted long enough to meet the definition of "marriage-like" under the Family Law Act, S.B.C. 2011, c. 25.
- [3] For the reasons that follow, I generally prefer the evidence of Mr. Riou and his witnesses to that of Ms. Marshall and her son. I find the parties were in a marriage-like relationship during the period asserted by Mr. Riou. I accept that Ms. Marshall now resents that she financially supported Mr. Riou for a number of years and that she was dissatisfied with their intimacy during their relationship, but her resentment and dissatisfaction cannot retroactively change the nature of their relationship or the legal consequences that flow from it.
- [4] As a result of my finding there was a marriage-like relationship, I have assessed Mr. Riou's claim for spousal support and found he is entitled to an award on compensatory and non-compensatory grounds. In the circumstances of this case, I am satisfied that family property and debt should be divided unequally. Finally, I have assessed Ms. Marshall's claim for child support.
- [5] Both parties testified at trial. In addition, Mr. Riou called evidence from his daughter (Sophia Riou), his mother (Monique Riou), a friend and the parties' former foster child about the timing of key events and the nature of the parties' relationship. Ms. Marshall called evidence from her son (Maddex Marshall) and a neighbour for whom she provided childcare services.
- [6] Before turning to the analysis of the issues, I will make some general comments on the credibility and reliability of the witnesses. I will then explain why I find the parties were in a marriage-like relationship before addressing the financial consequences of that finding.

Credibility

- [7] Whether or not the parties were in a marriage-like relationship is a question of mixed fact and law. There is a clear conflict in the evidence regarding when the parties started co-habiting and whether their romantic relationship ended before Mr. Riou moved out of Yarmouth St. in March 2021. As a result, the credibility of the witnesses and the reliability of their testimony are key to finding facts about the parties' relationship.
- [8] Credibility refers to the truthfulness of the witness; reliability relates to the accuracy of the testimony: *Ford v. Lin*, 2022 BCCA 179 at para. 104.
- [9] In terms of assessing credibility, I have relied in particular on the following factors identified as relevant by Justice Dillon in *Bradshaw v. Stenner*, 2010 BCSC 1398, *aff'd* 2012 BCCA 296, leave to appeal to SCC *ref'd*, 35006 (7 March 2013):
- [186] the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness' evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness' testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally... Ultimately, the validity of the evidence depends on whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time....

[Citations omitted.]

- [10] In *Faryna v. Chorny* (1951), [1952] 2 D.L.R. 354 at 357, 1951 CanLII 252 (B.C.C.A.), the Court of Appeal explained the assessment of credibility this way:

In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

- [11] Factors identified by Justice Mayer in *Youyi Group Holdings (Canada) Ltd. v. Brentwood Lanes Canada Ltd.*, 2019 BCSC 739 at para. 92, *aff'd* 2020 BCCA 130, leave to appeal to SCC *ref'd*, 39246 (21 January 2021) as potentially affecting a witness's credibility adversely include the following:
- a) a witness is found to have lied under oath;
 - b) two witnesses have colluded to deceive;
 - c) a witness has failed to produce documents;
 - d) a witness's explanation defies logic or common sense; and
 - e) a witness is evasive, longwinded or argumentative in their responses to questions.

- [12] I found Mr. Riou to be a generally credible witness. For the most part, he gave his evidence in a straight-forward manner and made reasonable concessions. His evidence did not change under cross-examination. His evidence was largely consistent with the available documents.
- [13] Ms. Marshall challenges Mr. Riou's credibility on the basis that he failed to produce documents and that he represented he was "single" on his income tax returns between 2016 and 2021, contrary to the position he takes in this litigation.
- [14] I do not find it likely that Mr. Riou failed to produce relevant documents. I accept that he only produced text messages between the parties from May 26, 2018, to March 4, 2021, because the computer program he used to create the record of text messages only generated a document for the previous three years. I accept that he failed to produce copies of cheques for 2015 and 2016 that he said were made payable to Ms. Marshall because VanCity would not give him copies of cheques from more than five years prior to his request. I accept that Mr. Riou likely did not request records from VanCity until approximately March 2022 (the date printed on the VanCity statements he produced) and that he did not in fact have copies of the cheques as he claimed during an argument between the parties on March 15, 2021, which Ms. Marshall video-recorded and filed in evidence. I find it more likely that he claimed to have copies of cheques when arguing with Ms. Marshall to try to dissuade her from denying he gave her money from the proceeds of the sale of his house in November 2015.
- [15] I will pause for a moment to comment on the video that was made by Ms. Marshall on March 15, 2021. Mr. Riou did not challenge the authenticity or admissibility of the video. He admitted knowing Ms. Marshall was video recording him. I am satisfied the video is admissible.
- [16] Ms. Marshall made no submissions on what use should be made of the video, though she referenced it a number of times in her testimony. The video shows an argument between Mr. Riou and Ms. Marshall in the basement of Yarmouth St. in the aftermath of a pronouncement by Ms. Marshall that Mr. Riou needed to leave Yarmouth St. in short order and that he needed to move the furniture that was in the middle of the room. In the video, Ms. Marshall makes various statements about how long the parties were in a relationship and how long Mr. Riou lived in the basement. At one point, she asserts they were together for two years, and at another she says they were in a relationship for five years but roommates for the last year and a half when he lived in the basement. Mr. Riou appears to agree that he lived in the basement and that they had not had sexual relations for a year and a half. The conflict between Ms. Marshall's statement in the video and her evidence at trial regarding the length of their romantic co-habitation relationship (five years versus 11 months) was not put to her in cross-examination.

- [17] The video was put to Mr. Riou in cross-examination, but he was not cross-examined on nor did he explain his apparent acknowledgement of living in the basement (contrary to his testimony at trial). Mr. Riou said in cross-examination that Ms. Marshall was setting him up by making the video and that she made false claims. Ms. Marshall testified that she made the video to get proof that Mr. Riou was living in the basement, "to protect [her] house, [her] property". The video shows some chairs and a table piled in the middle of the room, which does not make it more likely that Mr. Riou was living in the basement. In short, I am not prepared to place much weight on a video of a heated argument where each party said things that are inconsistent with their testimony at trial but neither was cross-examined on the inconsistencies.
- [18] Returning to Mr. Riou's alleged non-disclosure of documents, Ms. Marshall says Mr. Riou's credibility is adversely affected by his failure to produce credit card statements or transaction records to show he advanced funds to pay her credit card balances in November 2015. However, such documents would be in her possession or control and producible by her and not him. I note that Ms. Marshall's only credit card statement from that period filed in evidence supports Mr. Riou's narrative, in that it shows a \$20,000 payment towards her TD Visa on November 30, 2015. She could not explain the source of funds for that payment. I have no evidence that Mr. Riou could have accessed statements for the TD account for the period prior to when he became an account holder on the TD account in November 2016.
- [19] The designation of Mr. Riou as "single" on his income tax returns is of no moment. Mr. Riou did not file his 2016 to 2021 income tax returns until 2024, long after the parties separated and after he filed this lawsuit. I do not find the "single" designation was an admission by Mr. Riou or a representation that reflects negatively on his credibility. Instead, I accept Mr. Riou's evidence that he paid no attention to that designation on his income tax returns, which were prepared for him by an accountant at a time when he was single.
- [20] I find that Ms. Marshall was not a credible witness. I reach this conclusion for a number of reasons.
- [21] First, I am satisfied that Ms. Marshall failed to produce relevant documents in her possession. As noted, Mr. Riou was not able to get copies of three cheques totalling \$45,000 issued from his VanCity account in November 2015 that he says were made payable to Ms. Marshall to pay her credit card debts, nor could he get copies of various cheques issued in late 2015 and early 2016 in amounts of one or two thousand dollars that he says were likely payments to Ms. Marshall to help cover household expenses. His VanCity account statements from November 2015 to June 2016 confirm he wrote such cheques.
- [22] In an attempt to corroborate his evidence, Mr. Riou asked Ms. Marshall on discovery to produce her TD bank account statement from November 2015 to April 2021. In partial answer to that request, she produced TD account statements that show entries from December 30, 2016, onward. Ms. Marshall claimed that these were all the statements she received from the TD bank. However, the first page of the TD account statements produced

by Ms. Marshall indicates that it was page 69 of 245. Further, the TD bank statements indicate they cover the period January 1, 2015 to March 31, 2021, even though the first entry produced by Ms. Marshall was for December 30, 2016. It defies common sense and I simply do not believe that TD bank would generate a document that starts at page 69 or that TD bank would give Ms. Marshall only part of the package of account statements generated for the time period indicated. I accept the claimant's submission that it is likely Ms. Marshall did not produce TD bank statements from November 1, 2015 to December 30, 2016 because they would corroborate Mr. Riou's evidence that he gave her \$45,000 from the proceeds of his sale of his house in November 2015 to pay off her pre-relationship debt as they launched their life together and that he gave her various smaller amounts over the next few months.

- [23] Second, Ms. Marshall's credibility is undermined because she lied under oath. As I have just outlined, I am satisfied that Ms. Marshall deliberately lied under oath when she testified that she provided all of the available TD bank statements to her lawyer.
- [24] Further, I conclude that Ms. Marshall lied when she testified that Mr. Riou moved in with his parents after he sold his house in November 2015. I find this was a deliberate lie to fit with her story that Mr. Riou did not move into Yarmouth St. until January 2017.
- [25] The proposition that Mr. Riou had moved in with his parents in November 2015 was not put to him, his mother, his daughter or his friend on cross-examination when they testified as part of Mr. Riou's case. To attempt to remedy this violation of the rule in *Browne v. Dunn*, 6 R. 67 (U.K.H.L.), 1893 CanLII 65 (FOREP), Mr. Riou and his mother were recalled to give evidence on that point after the close of the respondent's case. I accept their evidence denying Mr. Riou moved in with his parents in November 2015 because I find them to be credible witnesses and their testimony was corroborated by contemporaneous documents. Most significantly, Mr. Riou processed a Canada Post change of address form forwarding his mail (and that of his business and itinerant son) to Yarmouth St. effective November 23, 2015. In addition, various bills from early 2016 for Yarmouth St. are in his name, and I accept he took on responsibility within the household for paying these bills. Ms. Marshall's attempt to explain why Mr. Riou's name is on these documents defies common sense: it is illogical that he would put utilities in his name for a residence where he did not live to establish residency in a school catchment area for his daughter for a French language school that draws students from across the Lower Mainland, including where his parents live.
- [26] I hesitate to call Ms. Marshall's defective F8 financial statements "lies under oath", as there may be some truth to her claim that she failed to understand all that was required to complete them. However, the defects in her F8 Financial statement were extensive and raise doubts that she attempted to be accurate or make fulsome financial disclosure. For example, despite affirming in her March 20, 2025 and April 9, 2025 F8 financial statements that she had attached copies of every personal income tax return including all attachments for the previous three years, that was not the case. Ms. Marshall attached notices of assessment, but she did not attach copies of her income tax returns nor the attachments that would give details of her various sources of income.

- [27] Ms. Marshall did not disclose all income and assets in her F8 financial statements. In her direct examination, she acknowledged that a F8 financial statement made the week before trial failed to include rental income of \$2,300 per month from her basement tenant. In cross-examination, she acknowledged having a bank account and a pension as of April 9, 2025, but neither was listed as an asset in her F8 financial statement. Ms. Marshall did not disclose in any of her F8 financial statements that became evidence at trial that she disposed of RRSP and TFSA investments shortly after Mr. Riou left Yarmouth St. in April 2021.
- [28] Another defect in Ms. Marshall's F8 financial statements related to a student loan and expenses said to relate to a Masters program she started in September 2021. Ms. Marshall included nothing for educational expenses in her February 9, 2022 F8 financial statement (although she testified she was paying tuition to Fraser Valley University for a Masters program at the time), nor did she include the student loan she says she took out to pay for the Masters program. As her cross-examination continued, it appeared that Ms. Marshall held an RESP for the benefit of her son that was not listed on any of her three F8 Financial statements filed in evidence. I say "appear" because her evidence about the RESP was odd and defies common sense. Ms. Marshall testified she withdrew (with her then-minor son's permission) \$35,000 from her son's RESP to pay off her student loan plus additional funds to pay for flood damage to her house. No documents were disclosed to confirm the existence of the RESP, the student loan or tuition payments. It seems unlikely that funds could have been withdrawn from an RESP for the benefit of her son, Maddex Marshall, to pay for house repairs owned by Ms. Marshall or for her student loan.
- [29] Third, Ms. Marshall was evasive, long-winded and argumentative in cross-examination, particularly when confronted with many examples of text messages that suggested the parties were in a romantic relationship and intertwined their finances long after December 2017 (which is when she claims the parties' romantic relationship ended). When asked about romantic text messages sent to Mr. Riou after December 2017, Ms. Marshall initially said they were probably sent during the two or three times she gave him another chance, none of which lasted more than a week; however, as the large number of romantic texts messages over extended periods of time were put to her in cross-examination, her estimate of the number of "chances" she gave him increased to 20 or 25 or more, and she was forced to concede that the longest "chance" lasted five or six months in recognition of the continuity of romantic messages.
- [30] I note that Mr. Riou was not challenged on cross-examination with any of the 10,000 text messages marked as an exhibit at trial. The parties agreed that all documents were admitted for the truth of their contents. However, it would offend the rule in Browne to give any weight to any potential inconsistency between an isolated text message and Mr. Riou's testimony at trial when he was not given an opportunity to address it in cross-examination. In short, aside from the text messages put to Ms. Marshall in cross-examination, most of the more than 900 pages of text messages filed in evidence have little evidentiary value.

- [31] Returning to Ms. Marshall's cross-examination, she was often long-winded when responding to questions on topics unrelated to the text messages. She often repeated her narrative that the parties did not ever share a bedroom for two consecutive years even when the cross-examination question was not related to that topic.
- [32] Finally, I find that Ms. Marshall and her son colluded in their testimony that Mr. Riou moved into Yarmouth St. in January 2017 and then moved into the basement in December 2017. Both Ms. Marshall and her son repeated these dates as if by rote. As noted, I find Ms. Marshall deliberately lied under oath when she testified that Mr. Riou moved in with his parents in November 2015 after selling his house. Maddex Marshall repeated this lie. The most likely explanation for the consistency between the evidence of Ms. Marshall and her son regarding Mr. Riou's alleged moving in with his parents in November 2015 and Mr. Riou's alleged move to Yarmouth St. in January 2017 is that they colluded to tell the same tale. This conclusion is bolstered by Ms. Marshall's statement in cross-examination that you can bring anyone to court as a witness to say what you want them to say, but that is not evidence: only documents are evidence. Ms. Marshall's apparent lack of respect for a witness's oath or affirmation is concerning.
- [33] The collusion between Ms. Marshall and her son negatively affects the credibility of both. Except where Ms. Marshall and her son made an admission against Ms. Marshall's interest, I am cautious about accepting their evidence where it is not corroborated by documents or consistent with the testimony of other credible witnesses.
- [34] Turning to the other witnesses at trial, I found Sophia Riou (Mr. Riou's daughter) and Monique Riou (Mr. Riou's mother) to be credible witnesses. Their evidence was unshaken and unchanged by cross-examination. They both had some difficulty giving precise dates for certain events, but they were able to relate the timing of those events to other events for which the date is corroborated by documents. Overall, their evidence was largely consistent with Mr. Riou's evidence. I find the evidence of Sophia Riou and Monique Riou to be generally reliable.
- [35] Simon Rogers, a long-time friend of Mr. Riou, was a credible witness who provided reliable evidence regarding his observations of the couple's relationship.
- [36] I found the former foster child was a credible witness who was generally reliable despite a belief that he had seen marriage papers for the parties. The foster child was not challenged on cross-examination on his evidence that he lived in one of two bedrooms in the basement at Yarmouth St. from early 2019, despite later evidence from Maddex Marshall suggesting the two of them occupied the two bedrooms in the basement starting in the fall of 2020, contrary to the rule in Browne. As a result, I give less weight to Maddex Marshall's evidence on this point (which is also appropriate in light of Maddex Marshall's credibility issues).

[37] Ms. Marshall's former daycare client was credible. However, cross-examination revealed some frailties in her recollection of the date she thought Mr. Riou moved into Yarmouth St. The client remembered Mr. Riou moving in close in time to the closure of Ms. Marshall's group daycare, which the daycare client thought was around January 2017 but which both parties testified was in early 2016. In effect, the daycare client's evidence was more consistent with Mr. Riou's evidence that he moved to Yarmouth St. in November 2015.

Were the parties in a marriage-like relationship?

[38] As noted in the overview, I am satisfied the parties were in a marriage-like relationship from November 19, 2015 to March 15, 2021. I will review the legal framework that governs this issue before setting out some basic background facts and my finding of fact regarding the start date for the parties' cohabitation. I will then explain how a holistic examination of the parties' relationship confirms it exhibits the indicia of a marriage-like relationship before turning to the issue of the end date of their marriage-like relationship.

Legal framework

[39] Mr. Riou's claims are governed by the Family Law Act.

[40] By operation of ss. 1 and 3 of the Family Law Act, a person is deemed to be a "spouse" for the purposes of the Family Law Act either if they are in a formal marriage or if they have lived in a marriage-like relationship for a continuous period of at least two years.

[41] As the party asserting a marriage-like relationship, Mr. Riou bears the onus of proving on a balance of probabilities that the parties were spouses: *Voth v. Martin*, 2019 BCSC 834 at para. 8; citing *F.H. v. McDougall*, 2008 SCC 53 at para. 49.

[42] The legal principles that apply when determining whether a marriage-like relationship exists were summarized by Justice Brongers in *Bellerose v. Reda*, 2023 BCSC 748, including:

[48]

- c) The determination of whether a relationship was marriage-like requires a holistic approach in which all of the relevant factors are considered and weighed, but none are treated as being determinative of the question (*Austin v. Goerz*, 2007 BCCA 586 at para. 62).
- d) While a "checklist" approach should not be employed, it can be helpful to consider the presence or absence of commonly accepted indicators of the sorts of behaviour that society, at a given point in time, associates with a marital relationship (*Weber v. Leclerc*, 2015 BCCA 492 at para. 25).

- e) Such indicators of a marriage-like relationship may include: (1) shared shelter; (2) sexual and personal behaviour; (3) services; (4) social activities; (5) economic support and children; and (6) societal perception of the couple (*M. v. H.*, 1999 CanLII 686 (S.C.C), [1999] 2 S.C.R. 3 at para. 59; citing *Molodowich v. Penttinen* (1980), 1980 CanLII 1537 (O.N.S.C.) at para. 16 - these are sometimes referred to as the "Molodowich factors").
 - f) Evidence of the subjective intentions of the parties is important to the determination of whether the relationship was marriage-like. However, this evidence must be tested against objective evidence of their lifestyle and interactions, which will provide direct guidance on the nature of the relationship (*Dey v. Blackett*, 2018 BCSC 244 at para. 195).
 - g) A person is either a "spouse" or is not. There is no middle ground. People may live together interdependently and yet fail to establish that they developed the kind of psychological and emotional union associated with marriage (*C.F.M. v. G.L.M.*, 2018 BCSC 815 at para. 10).
 - h) A marriage-like relationship is akin to a marriage without the formality of a marriage. However, it must be borne in mind that people treat their marriages differently and have different conceptions of what marriage entails (*Mother 1 v. Solus Trust Company*, 2019 BCSC 200 at para. 143).
- [43] The assessment of whether the parties are in a marriage-like relationship is contextual; the subjective intentions of the parties must be considered in light of the objective evidence: *Jones v. Davidson*, 2022 BCCA 31 at para. 24. An intention by the parties that the relationship will continue for a lengthy, indeterminate duration is an essential requirement for finding a marriage-like relationship: *Dey v. Blackett*, 2018 BCSC 244 at para. 235.
- [44] I will now briefly review some background facts before turning to the factors to be weighed in a holistic assessment of the parties' relationship.

Background facts

- [45] Mr. Riou is currently 57 years old. He was previously married, and he divorced his first wife in 2012. He has three children from his first marriage, one stepchild and two biological children. Sophia Riou (now 22 years old) is the youngest of these children.
- [46] Ms. Marshall is currently 57 years old. Ms. Marshall's first husband, Maddex Marshall's father, died in July 2014. Maddex Marshall is 19 years old and continues to live with Ms. Marshall at Yarmouth St.
- [47] Mr. Riou and Ms. Marshall met in November 2014. At the time, Ms. Marshall says she was still grieving for her husband and went online to meet someone at a friend's suggestion. What started as a joke, according to Ms. Marshall, resulted in the parties' meeting. On this and other details regarding the parties' relationship, I prefer the evidence of Mr. Riou.

- [48] Mr. Riou says the parties met through a matchmaking program called LifeMates, which aimed to match people seeking life partners. Mr. Riou enrolled in LifeMates because he was looking for a long-term relationship.
- [49] When they met, both parties owned their own residences. Ms. Marshall owned a house at 1030 Yarmouth St. in Port Coquitlam, B.C. Mr. Riou owned a house at 1075 Western Drive, Port Coquitlam.
- [50] The parties started a dating relationship in late 2014. By mid-2015, Mr. Riou and Ms. Marshall had started to plan a life together. The parties agreed that Mr. Riou would sell his house and move in with Ms. Marshall and her son. He put his house on the market and had a criminal record check done in July 2015 in anticipation of his move to Yarmouth St., where Ms. Marshall ran a daycare.

When did the parties start living together?

- [51] Consistent with the match-making service that introduced them, I am satisfied that by November 19, 2015 the parties were in a committed relationship that both viewed as being of indeterminate duration.
- [52] On November 19, 2015, Mr. Riou sold his house and moved into Ms. Marshall's residence at Yarmouth St. As noted, he had his mail forwarded to Yarmouth St. as of November 23, 2015, and by early 2016, he was added to some of the utility accounts for that residence. In December 2015, he arranged and paid for a home security system for Yarmouth St., and in January 2016, he arranged for home insurance for Yarmouth St., all of which is consistent with his residing there.
- [53] From 2015 until at least late 2019, Sophia Riou lived half-time with Mr. Riou and half-time with her mother. Ms. Riou confirmed that she and her father were living at Yarmouth St. when she travelled to Los Angeles with the parties and Maddex Marshall. Documents confirm the Los Angeles trip occurred in December 2015.
- [54] Mr. Rogers testified that he met Ms. Marshall in the spring of 2016 when he visited Yarmouth St. a few months after Mr. Riou moved in. He was not cross-examined on this evidence.
- [55] In August 2016, the parties started as foster parents after taking a six-month training program through MCFD. All the paperwork reflects that the parties were foster parents together. It makes little sense that MCFD would accept both parties as foster parents together if they were not residing together. Further, Maddex Marshall confirmed in cross-examination that Mr. Riou was living at Yarmouth St. when foster children first started living there.
- [56] In short, I accept that Mr. Riou began living with Ms. Marshall at Yarmouth St. as of November 19, 2015.

Did the parties' relationship after November 2015 have indicia consistent with a marriage-like relationship?

[57] Recognizing that there is no checklist, I find the parties' relationship had many indicia consistent with a marriage-like relationship.

Shared a bedroom

[58] I find that Mr. Riou likely shared a bedroom with Ms. Marshall until March 2021.

[59] There is no dispute that Mr. Riou shared the master bedroom with Ms. Marshall when he first moved to Yarmouth St.

[60] Mr. Riou testified that he continued to occupy the master bedroom with Ms. Marshall until March 2021, when he moved into another bedroom on the main floor because the parties' relationship was very rocky by that point.

[61] Ms. Marshall and Maddex Marshall insist that Mr. Riou moved into the basement at Yarmouth St. in December 2017 and continued to live there until he moved out in April 2021. I am not satisfied this evidence is likely true. For the reasons outlined above, I find Ms. Marshall generally lacking in credibility, and I prefer Mr. Riou's evidence regarding the parties' relationship. I note that Ms. Marshall had great difficulty answering cross-examination questions about where exactly she says Mr. Riou lived in the basement, likely because he did not live there.

[62] Mr. Riou's evidence about sharing a bedroom with Ms. Marshall was corroborated by Sophia Riou and the former foster child, both of whom lived at Yarmouth St.

[63] Sophia Riou lived every second week at Yarmouth St. from the fall of 2015 until late 2019 or early 2020. When she shared the parties' home, Sophia Riou observed that Mr. Riou shared the master bedroom with Ms. Marshall. Sophia Riou continued to visit Yarmouth St. after moving in with her mother full-time and was unaware of any change in Mr. Riou's sleeping arrangements. Sophia Riou's evidence was unshaken on cross-examination.

[64] The former foster child lived at Yarmouth St. from December 2018 until he moved out with Mr. Riou in April 2021. The former foster child testified that Mr. Riou shared the master bedroom with Ms. Marshall. The former foster child denied that Mr. Riou lived in the basement. In fact, the former foster child moved into one of the two basement bedrooms a few months after arriving at Yarmouth St. while Maddex Marshall occupied the other. The former foster child was not cross-examined on this evidence.

[65] Despite Ms. Marshall's best efforts to concoct a story to explain them, a number of text messages suggest that Mr. Riou and Ms. Marshall continued to share a bedroom long after December 2017.

- [66] Mr. Riou confirmed the parties were intimate, though that part of their relationship was complicated by the ostomy bag he had after his colon was perforated during a medical procedure. Mr. Riou testified the parties continued to be intimate to the end of their relationship. I accept that Ms. Marshall was not satisfied with the parties' sexual relationship for a number of years and would have preferred to have more intimacy.
- [67] Significantly, there is no evidence that either party engaged in a romantic or sexual relationship with anyone else from November 2015 until March 2021.

Shared finances

- [68] From November 2015 until early 2021, the parties' finances were intertwined. Ms. Marshall's employment and other earnings and their remuneration for fostering children were deposited into their shared bank account, and they used those funds to pay their household and personal expenses. The parties discussed their financial challenges and made decisions jointly.
- [69] When Mr. Riou sold his house at 1730 Western Drive in November 2015, he netted approximately \$210,000 after paying the outstanding mortgage and selling expenses. Mr. Riou deposited the net proceeds into his VanCity account on November 20, 2015. Mr. Riou used some of those funds to pay off his own credit card debt, and he gave Ms. Marshall approximately \$45,000 by way of three large cheques in late November 2015 (as shown in his bank statement) so that she could pay off her credit card debt at the time. As noted previously, Ms. Marshall failed to produce her bank statements from November 2015 that would have corroborated Mr. Riou's evidence. Further, she was unable to explain the source of funds for a \$20,000 payment she made to her credit card on November 30, 2015. I am satisfied that Mr. Riou paid both of their credit card debts from the proceeds of the sale of his home, which was part of the plan for their future the parties had discussed in mid-2015.
- [70] The parties shared household finances from November 2015 to March 2021. In November 2016, Ms. Marshall added Mr. Riou to her TD bank account, which was her only bank account until January 2021. A large volume of text messages (put to Ms. Marshall on cross-examination) confirms the parties discussed their household budget, their financial obligations (including mortgage payments and credit card debt) and whether they had enough money in their joint account to cover payments that were pending.
- [71] In January 2019, Ms. Marshall took out a second mortgage for \$121,400 on Yarmouth St., in part to pay the parties' credit card debt, which they accumulated by living beyond their means. The parties met with a mortgage broker together. Ms. Marshall claims that she "loaned" \$50,000 to Mr. Riou to pay his credit card debt in exchange for his agreement to move out, which he reneged upon. However, text messages from Ms. Marshall to Mr. Riou in January 2019 confirm she paid \$50,000 toward his credit cards without any reference to his moving out. In February 2019, she texted Mr. Riou while he was out of town that she loved him and missed him. These February text messages are difficult to reconcile with an alleged

agreement that he would move out.

- [72] In cross-examination, Ms. Marshall was taken to numerous text message exchanges with Mr. Riou that confirm the parties discussed their joint finances over the course of their relationship. This financial collaboration ended in January 2021 when Ms. Marshall opened a separate bank account at Scotiabank and re-directed her paycheques to be direct deposited into her Scotia account instead of the parties' joint TD account. She then started transferring funds from their TD joint account into her Scotia account. In early March 2021, Ms. Marshall misrepresented to Mr. Riou that she had very little in her Scotia account as bills became due. It seems clear that Ms. Marshall started to disentangle the parties' joint finances in early 2021 as a prelude to ending their relationship.

Presented to others as a couple

- [73] From November 2015 until the spring of 2021, the parties presented to others, including Mr. Riou's family and friends, as a couple.
- [74] The former foster child who observed the parties on a daily basis described their interactions as "kindly". He said they were very close and very nice to each other. They showed affection for each other by hugging and kissing and called each other pet names.
- [75] Ms. Marshall put Mr. Riou on her extended benefit plan as her spouse.
- [76] Ms. Marshall referred to Mr. Riou's mother, Monique Riou, as "Mom". Ms. Marshall introduced Monique Riou to others as her mother-in-law. Monique Riou testified that the parties were discussing marriage and recalls Ms. Marshall discussing her wedding dress design. Monique Riou testified the parties' relationship continued until after Christmas 2020, because she and her husband celebrated Christmas Eve and Christmas day with the parties in 2020.
- [77] Mr. Rogers, a long-time friend of Mr. Riou's, described the parties as being in a "serious personal relationship" and described them as boyfriend and girlfriend. Mr. Rogers socialized with the parties as a couple. Mr. Rogers described the parties as very affectionate with each other (exchanging hugs and kisses) and observed them use terms of endearment with each other, in person and on social media. Mr. Rogers helped organize a birthday party for Mr. Riou at Ms. Marshall's request in June 2020.

Expressed affection for each other

- [78] The parties expressed affection for each other, including in front of others.
- [79] The parties expressed their feelings for each other in text messages. Ms. Marshall downplayed the significance of her use of terms of endearment, suggesting she called many friends and co-workers "my love". However, some of her more ardent text messages suggest the parties' relationship was more than friends or roommates. For example, a text message from Ms. Marshall to Mr. Riou on October 12, 2020 concluded with the following:

Thank you for believing in me and supporting me, when the whole world was against me. With you and Maddex in my life, I need nothing else. Thank you for being the piece that completes my life. I love you [to] infinity and beyond.

[80] She sent another text message a few minutes later:

I am lucky to have a husband like you who can help heal the wounds of yesterday and give wings for a happier tomorrow. Thank you.

[81] Mr. Riou reciprocated, calling her his queen and telling her he loved her more than life itself.

Celebrated holidays together and exchanged gifts

[82] It is undisputed that the parties bought presents for each other to celebrate birthdays, Christmas, and Valentines Day. Again, Ms. Marshall tried to downplay the significance of the jewelry Mr. Riou purchased for her (often pre-selected by her). Mr. Riou still wears one of the rings she gave him.

[83] Ms. Marshall bought Mr. Riou a new wardrobe when they first got together.

Shared family time

[84] The parties took family trips together and developed relationships with each other's families.

[85] Mr. Riou filled the role of stepfather to Maddex, who was 8 years old when the parties met. Mr. Riou took Maddex camping and fishing, activities in which Ms. Marshall did not participate. The parties took Maddex and Sophia Riou to California in December 2015. Mr. Riou and Maddex travelled without Ms. Marshall to Las Vegas in March 2017 to see Ms. Marshall's sister and mother. Mr. Riou took Maddex and Sofia Riou on another trip to Las Vegas in November 2019 and visited Ms. Marshall's sister and brother-in-law. Mr. Riou took Maddex to his hockey games and practices. Ms. Marshall and Mr. Riou went together to Maddex's graduation from middle school in 2019.

[86] In 2019, the parties travelled to Mexico with Maddex on a vacation with Ms. Marshall's family. Ms. Marshall suggested that Mr. Riou was only on that vacation because he asked at the last minute to join them; however, the parties' text messages reflect Ms. Marshall was consulting Mr. Riou months in advance about the resort they should visit. I accept the parties had a significant argument early on this trip.

[87] Mr. Riou's parents live in Coquitlam. Mr. Riou's parents would visit the parties at least five times per year at Yarmouth St. for family birthdays and dinners. Ms. Marshall organized an 80th birthday party for Mr. Riou's father in November 2020. Ms. Marshall took Monique Riou to get her hair done on a regular basis. Ms. Marshall was very generous when buying gifts for Mr. Riou's parents.

[88] The parties travelled to Hawaii in April 2016. In December 2019, the parties travelled to West Edmonton mall with a foster child and Maddex.

[89] The parties socialized as a couple with friends and family.

Raised children together

[90] As noted, Mr. Riou played the role of stepfather to Maddex Marshall. Of note, Mr. Riou took Maddex on camping trips and taught him outdoor skills.

[91] Mr. Riou and Ms. Marshall parented foster children together.

Shared household responsibilities

[92] The parties shared household responsibilities.

[93] Mr. Riou looked after grocery shopping and was primarily responsible for cooking for the family, including foster children. The parties' 10,000 text messages are replete with mundane exchanges about plans for dinner and grocery shopping lists.

[94] Mr. Riou picked up and dropped off Maddex and foster children at school and drove them to their extracurricular activities. Mr. Riou generally looked after medical and dental appointments for the children. Mr. Riou met with the MCFD and biological parents about the foster children. Mr. Riou supervised the children while Ms. Marshall was at work. Mr. Riou would look after house maintenance and car maintenance. Mr. Riou was primarily responsible for looking after the family's three dogs.

[95] Ms. Marshall did the family's laundry and most of the house cleaning when Mr. Riou lived at Yarmouth St.

The parties did nice things for each other

[96] Ms. Marshall acknowledges that the parties did nice things for each other. Mr. Riou routinely filled Ms. Marshall's car with gas. He delivered meals to her at work on occasion. Mr. Riou ran errands for her, including going to the courthouse for her in December 2020 to adjourn her speeding ticket review.

[97] The parties cared for each other when they were ill. In June 2016, Mr. Riou was diagnosed with non-Hodgkin's lymphatic cancer. His bowel was perforated during a colonoscopy, a complication that led to emergency surgery and a lengthy recovery. Ms. Marshall visited Mr. Riou regularly during his three-month hospital stay and helped to look after him when he returned home to Yarmouth St.

The parties communicated frequently

[98] The large volume of text messages confirms the parties were in regular contact, often many times in the same day.

Summary of the parties' marriage-like relationship

[99] Viewed holistically, the parties were in a marriage-like relationship. They met through a matchmaking program for people seeking life partners. I accept Mr. Riou's evidence that the parties fell in love, planned a future together and took steps to execute that plan. Their relationship had many indicia of a marital relationship. They presented as a married couple and addressed each other as such. Despite Ms. Marshall's attempts to change history, I am satisfied the parties were in a marriage-like relationship from at least November 19, 2015 when Mr. Riou moved to Yarmouth St.

When did the parties separate?

[100] Ms. Marshall insists the parties' romantic relationship ended in December 2017, which is when she claims Mr. Riou moved into the basement at Yarmouth St. I find the parties separated as of March 15, 2021, when Ms. Marshall filmed an argument between the parties. By then, Ms. Marshall had taken steps to separate her financial affairs from Mr. Riou, and she had made it clear that she expected him to move out of Yarmouth St.

[101] Section 3 of the Family Law Act defines what constitutes separation:

- (4) For the purposes of this Act,
 - (a) spouses may be separated despite continuing to live in the same residence, and
 - (b) the court may consider, as evidence of separation,
 - (i) communication, by one spouse to the other spouse, of an intention to separate permanently, and
 - (ii) an action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.

[102] In this case, Ms. Marshall insists the parties separated in late 2017. When asked whether she had notified Mr. Riou that she was "done" in late 2017, Ms. Marshall said they had a conversation, and she said she was "done". She says Mr. Riou moved into the basement in late 2017. This evidence was not put to Mr. Riou, contrary to the rule of Browne. As noted above, I do not accept that Mr. Riou moved into the basement in late 2017 as alleged. Further, I do not accept there was any finality to the parties' relationship as of that date.

[103] At different times in their relationship, the parties had significant arguments. Ms. Marshall expressed her frustrations in text messages to Mr. Riou and threatened to end their relationship. However, Ms. Marshall did not take any steps to back up her threats until early 2021. In January 2021, Ms. Marshall started separating the parties' financial connections, and by March 2021 she told Mr. Riou that he needed to leave Yarmouth St.

- [104] Sometime before March 15, 2021, Mr. Riou learned that Ms. Marshall decided to sell the Yarmouth St. property and move on. He placed a Land Spouse Protection Act lien on Yarmouth St., which led to a significant argument between the parties. Ms. Marshall said she would do what she could to hurt Mr. Riou. She reported allegations of drug and alcohol addiction to MCFD, which led to an investigation that ultimately allowed him to continue fostering alone but precluded their household from fostering.
- [105] For the first time in their relationship, the police were summoned to Yarmouth St. to intervene in the parties' disputes in the spring of 2021. Mr. Riou was charged with assault, but the charges were eventually dropped. Mr. Riou went to Yarmouth St. with a police escort to remove his belongings.
- [106] Ms. Marshall insists the parties separated in December 2017, and she says he moved into the basement at Yarmouth St. Given the frailties in her credibility and the absence of credible corroboration, I do not accept Ms. Marshall's evidence on that point. The text messages exchanged between the parties after December 2017 are not consistent with separation. As noted above, Ms. Marshall referred to Mr. Riou as her "husband" as late as October 2020.
- [107] In her submissions, Ms. Marshall relies on selected text messages she sent in August 2018 and November 2019 to suggest that the parties were no longer in a romantic relationship. In each set of text messages, Ms. Marshall expresses frustration with the state of the parties' relationship and in particular their sex life. However, none of these text messages sent by Ms. Marshall were put to Mr. Riou in cross-examination. Further, after each of these occasions, it appears that the argument blew over and the parties resumed their usual texting relationship: they exchanged messages of affection, texts about family finances, and banal notes about groceries and dinner.
- [108] In summary, I find the parties' marriage-like relationship ended March 15, 2021.

Financial consequences of marriage-like relationship

- [109] Mr. Riou seeks spousal support and an unequal division of family property and debt. He acknowledges an obligation to pay child support in respect of Ms. Marshall's son but says he lacks the financial means to do so.
- [110] Ms. Marshall says an unequal division in Mr. Riou's favour is not justified, but she says Yarmouth St. should be valued as of the date of separation instead of the trial date. Ms. Marshall says income should be imputed to Mr. Riou in the event the court finds the parties were in a marriage-like relationship.
- [111] For the reasons that follow, I find that it would be significantly unfair to divide family property equally.

[112] I will identify family assets and their values and confirm Ms. Marshall's excluded property claim before considering Mr. Riou's submission that equal division of family assets and debts would be significantly unfair in this case, which requires consideration of the appropriate award for spousal support. I will also consider Ms. Marshall's submission regarding Yarmouth St.'s valuation date and her claim for child support.

Family property and debt

Family property

[113] Section 81 of the Family Law Act provides that each spouse has a right to an undivided half interest in all family property as a tenant in common, subject to an agreement or order that provides otherwise. Section 84 of the Family Law Act defines family property to include property that is owned by at least one spouse on the date of separation. Generally, the value of the family property must be based on its fair market value as of the date of trial: Family Law Act, s. 87.

[114] Family property is presumptively divided equally, subject to Ms. Marshall's excluded property claim. As the party seeking unequal division, Mr. Riou bears the onus of proving that equal division of family property would be significantly unfair. The first step in the analysis is to identify and value the family property and family debt to be divided.

Yarmouth St.

[115] The most significant family asset is Yarmouth St. Mr. Riou acknowledges Ms. Marshall's excluded property claim for the equity in Yarmouth St. as of the start of the parties' relationship.

[116] At the start of the parties' marriage-like relationship on November 19, 2015, Yarmouth St. was worth approximately \$734,000 according to an appraisal of the property as of November 1, 2015. The TD mortgage owing as of November 19, 2015 was approximately \$485,571, which means Ms. Marshall's excluded equity is \$248,429.

[117] The appraised value of Yarmouth St. as of the trial date was \$1,459,000. The outstanding mortgage as of December 31, 2024, was \$612,374, and Ms. Marshall deposed the amount owing as of April 10, 2025, was \$609,982.66 (which makes sense in light of bi-weekly mortgage payments shown on her Scotia account statement). I find equity in Yarmouth St. as of the trial date was \$849,017.34. After deducting Ms. Marshall's excluded equity, the net equity in Yarmouth St. to be divided is \$600,588.

[118] Ms. Marshall submits that Yarmouth St. should be valued as of the date of separation: \$1,250,000. The value of family property should be assessed as of the date of trial, unless it would be significantly unfair to do so: Family Law Act, s. 87; Blair v. Johnson, 2015 BCSC 761 at paras. 68-69. Absent compelling evidence, family property should be valued as of the trial date: Rudyak v. Bekturova, 2018 BCCA 414 at para. 35; Jean Louis v. Jean Louis, 2020 BCCA 220 at para. 36, leave to appeal to SCC ref'd, 40008 (12 May 2022). Essentially, a change in

valuation date is considered an unequal division of property: Nicol v. Lau, 2024 BCSC 1866 at para. 146.

- [119] Ms. Marshall says that it would be significantly unfair to value Yarmouth St. as of the trial date because Mr. Riou did not make any financial contribution to the acquisition, preservation or maintenance of the property.
- [120] Ms. Marshall relied on the principles in Nicol and Pisarski v. Piesik, 2019 BCCA 129 to suggest "it is evidence that the division of [Yarmouth St.] at the trial date would be inequitable and inconsistent with the legal framework governing fair property distribution". In neither Nicol nor Pisarski did the court order a different valuation date for family property based on significant unfairness.
- [121] In Nicol, family property was valued as of the trial date, although the value of a property transferred to one party's son was set at the fair market value of the property as of the date of transfer.
- [122] In Pisarski, the issue on appeal was whether the trial judge erred in finding the appellant's contribution to the purchase price of family property was not "excluded property" under s. 85 of the Family Law Act. Although not raised directly by the appellant, the Court of Appeal addressed whether it was significantly unfair to divide family property equally, referring to its decisions in Khan v. Gilbert, 2019 BCCA 80 and Jaszczewska v. Kostanski, 2016 BCCA 286. At para. 36 of Khan, the Court of Appeal noted that basing reapportionment of family property on a comparison of financial contributions "does not reflect the nature of marriage as a family venture". At para. 43 of Jaszczewska, the Court of Appeal said that allowing relative financial contributions during the relationship to become a regular consideration in the significantly unfair analysis under s. 95 of the Family Law Act would add uncertainty and complexity. It is not clear how Pisarski advances Ms. Marshall's position regarding the valuation date for Yarmouth St.
- [123] Turning to the case at bar, Ms. Marshall's contribution to the acquisition of Yarmouth St. is recognized through her excluded property claim.
- [124] For the reasons set out in Khan and Jaszczewska, I do not find any significant unfairness arising from Ms. Marshall's greater financial contribution to the preservation and maintenance of Yarmouth St. during the parties' relationship. During the parties' relationship, Ms. Marshall was the primary breadwinner, and Mr. Riou was the primary stay-at-home parent to Maddex and the parties' foster children. This was the family venture in which they engaged. Acceding to Ms. Marshall's argument to find substantial unfairness for differing financial contributions during the parties' relationship would be contrary to the legislative objectives of the Family Law Act property division regime.
- [125] I am not satisfied that there is compelling evidence to justify a change in the valuation date based on Ms. Marshall's post-separation contributions to the preservation and maintenance of Yarmouth St. There is no evidence that Ms. Marshall spent any money post-separation on

renovations or improvements that increased the value of Yarmouth St. Ms. Marshall gave some evidence that she paid for repairs after a flood in the basement, but there was no specific sum identified, nor any documents provided to support her assertion. Given my concerns about her credibility, I would be reluctant to give much weight to this imprecise and uncorroborated evidence.

- [126] Ms. Marshall's payment of the mortgage and property taxes post-separation does not justify a change in valuation date. Ms. Marshall had exclusive occupancy of Yarmouth St. and received or had the opportunity to receive rental income for the basement suite. Again, her evidence regarding when she received rental income and the amount of rent received was not clear nor was it corroborated by documents.
- [127] In summary, I am not satisfied it would be significantly unfair to set the valuation date as the trial date, which is the presumptive valuation date established by s. 87 of the Family Law Act.

Ms. Marshall's pensions

- [128] Ms. Marshall contributed to a pension through her employer, Coast Mental Health, during the parties' relationship. It was less clear on the evidence whether she contributed to and will be entitled to a pension through the employers for whom she worked as a casual employee. The parties did not obtain a valuation of Ms. Marshall's pension entitlement.
- [129] Ms. Marshall's pension or pensions shall be divided in accordance with Part 6 of the Family Law Act for the period November 19, 2015, to March 15, 2021.

Other family property

- [130] As of March 15, 2021, Ms. Marshall had a Scotiabank account balance of \$19,233.09, which constitutes family property.
- [131] Over the course of the parties' marriage-like relationship, Ms. Marshall accumulated an RRSP in the amount of \$6,630 and a TFSA in the amount of \$3,100, both of which she cashed in after the parties separated. These investments constitute family property.
- [132] Mr. Riou had a SunLife life insurance policy prior to the start of the parties' marriage-like relationship. There was no direct evidence about the cash value of his life insurance policy at the start of the parties' relationship, but I accept Mr. Riou's evidence that all the loans against the policy were taken post-separation. Based on the November 2024 policy statement, I estimate that the cash surrender value of the life insurance policy was approximately \$23,000 when the parties' relationship started (which is excluded property), and the cash surrender value grew through dividends by \$1,800 since November 2015. The growth in value is family property.

Family Debt

[133] As previously noted, Ms. Marshall placed a second mortgage on Yarmouth St. in January 2019, in part to pay the parties' credit card debt.

[134] In January 2020, Ms. Marshall placed a mortgage of \$651,750 with Scotiabank, which she used to pay off the first mortgage with TD bank (\$436,406) and the 2019 second mortgage (\$120,000). Ms. Marshall was not able to explain how the remaining funds advanced to her by Scotiabank pursuant to the January 2020 mortgage (approximately \$95,000) were spent. There were no documents tendered to show how the Scotia mortgage proceeds were disbursed. Mr. Riou did not argue that the family debt should be reduced as a result of this anomaly, but he does raise it as a factor to be considered in the significantly unfair analysis pursuant to s. 95.

[135] As of the parties' separation on March 15, 2021, the following is a list of family debts (other than the Yarmouth St. mortgage):

a)

His AmEx credit card

\$18,144

b)

His CIBC Visa

\$7,540

c)

His RBC Visa credit line

\$8,679

d)

His RBC Visa Classic

\$16,123

e)

Her unknown credit card

\$20,000

f)

Overdraft on TD joint account

\$4,237

- [136] Mr. Riou acknowledges a debt of \$20,000 for an unknown credit card that appears from Ms. Marshall's Scotiabank statement to have been the source of the balance in her Scotiabank account. Ms. Marshall failed to produce documents related to this unknown credit card. However, based on Mr. Riou's reasonable concession, it is included as part of family debt.
- [137] Ms. Marshall failed to prove other family debt related to her credit cards. She failed to produce any account statements for credit card balances as of the separation date nor did she testify in direct about how much was owing on her credit cards as of March 15, 2021. Ms. Marshall did file in evidence a "revised debt management program agreement" dated April 22, 2022, which lists various creditors as of that date; however, the agreement does not identify when the consumer debt was incurred. When asked about debt as of March 2021 in cross-examination, Ms. Marshall listed various credit cards and a line of credit; she estimated the amount owing was \$83,000 but said not to rely on that amount as she is not good at math.
- [138] Mr. Riou suggests that Ms. Marshall's credit card balances were likely nil as of March 2021 based on her bank account activity in that period. Ms. Marshall's Scotia account statement for February 2021 shows the \$20,000 deposit from the unknown credit card and then payment of \$6,500 on a TD visa, \$2194.66 on a Scotia visa, and \$2,817.14 on an American Express, leaving a balance of close to \$14,000 in her bank account. When asked about these payments on cross-examination, Ms. Marshall could not say whether she paid the balance owing on these credit cards or simply made payments. She was not asked about smaller payments on these credit cards in early March 2021. While it might make sense to pay off any balance owing (if any) on her credit cards when she had more than \$18,000 in her Scotia account in March 2021, I am not sure that Ms. Marshall would have done so based on her history of incurring and carrying significant credit card debt and eventually using Yarmouth St. equity to pay such debt.
- [139] In summary, aside from the \$20,000 owing on the unknown credit card, I am not able to determine on a balance of probabilities what was owing (if anything) on Ms. Marshall's credit cards as of the date of separation or to estimate the amount that might have been owing with any reliability. The onus was on Ms. Marshall to prove her credit card or other family debt as of the date of separation. Her failure to provide full and frank financial disclosure may have been to her detriment on this point.

Spousal support

- [140] During their relationship, the parties had a traditional relationship with traditional gender roles reversed: she worked outside the home, and he took care of responsibilities at home so she could advance her career. Mr. Riou advances a spousal support claim primarily on a needs basis for a period of 2.75 years from the date of separation (from March 15, 2021, to December 31, 2023).

Legal framework

[141] Entitlement is a threshold issue to any award for spousal support.

[142] Mr. Riou's claim for spousal support is made pursuant to the Family Law Act. Sections 160 to 162 and 165 of the Family Law Act provide the legislative framework for ordering spousal support. If a spouse is entitled to spousal support after considering the objectives in s. 161 of the Family Law Act, then the amount and duration of spousal support must be determined based on the conditions, means, needs and other circumstances of each spouse: Family Law Act, ss. 160-162. Section 165 of the Family Law Act authorizes the court to order spousal support in the amount it considers appropriate once entitlement is established.

[143] The Supreme Court of Canada has identified that the purpose of spousal support "is to relieve economic hardship that results from [the] 'marriage or its breakdown'": *Moge v. Moge*, [1992] 3 S.C.R. 813 at 848 (emphasis in original). Marital partners "should expect and are entitled to share [the] financial benefits" that are generated from the marriage: *Moge* at 849. Those financial benefits can be equally distributed in many ways, including through spousal support and division of property: *Moge* at 849. The court must consider "the respective advantages and disadvantages of the spouses as a result of their roles in the marriage": *Moge* at 849.

[144] The Supreme Court of Canada has identified three grounds for entitlement to spousal support:

- a) compensatory support, which relates primarily to the first two objectives set out in s. 161 of the Family Law Act;
- b) non-compensatory support, which relates primarily to the final two objectives set out in s. 161 of the Family Law Act; and
- c) contractual support.

[145] Mr. Riou's claim for spousal support was advanced based primarily on non-compensatory grounds; however, I find he is also entitled to spousal support on compensatory grounds.

[146] I will briefly review the employment history and earnings for each party.

Mr. Riou's career path

[147] When the parties first met, Mr. Riou was running Pharstar Equipment and Design Inc., a design and supply business for hair salons. He describes himself as an entrepreneur who was a poor businessman and administrator. Mr. Riou had accumulated credit card debt prior to the sale of his house in November 2015 because he could not cover his personal expenses with his business income.

[148] After the parties started living together, Mr. Riou's business floundered. In 2016 and 2017, Mr. Riou earned no income as he recovered from cancer and complications from cancer treatment. As time went on, he focused his attention on his responsibilities with the foster children and less on his business. Compensation for foster care is not considered taxable income.

[149] By the time the parties' relationship dissolved in the spring of 2021, Mr. Riou had not filed income tax returns for a number of years. An accountant (arranged with assistance of Canada Revenue Agency) helped him file personal tax returns in 2024, which showed the following annual L15000 income:

2015

\$0

2016

\$13,439

2017

\$0

2018

\$0

2019

\$0

2020

\$6,000

2021

\$0

2022

\$11,085

2023

\$5420

[150] Mr. Riou's 2016 earnings were paid by a Montreal-based beauty business looking to expand to B.C., a job that lasted only three months. By then, Mr. Riou had given up on making Pharstar profitable. His taxable earnings in 2020 consisted of CERB payments.

- [151] After the parties separated, Mr. Riou continued to look after one foster child until August 2021, at which point he gave up on finding suitable accommodation that would allow him to continue fostering. He moved back in with his parents.
- [152] In late 2022, Mr. Riou found a job at a car dealership. He was laid off after a few months in early 2023. In 2022, Mr. Riou reported Line 15000 income of \$11,085: \$3,540 from employment, \$1,122 from commission income and the rest from taking additional cash surrender value from his life insurance policy.
- [153] In 2023, Mr. Riou started driving for Uber. He earned \$5,420 in employment income in 2023.
- [154] Mr. Riou estimates his earnings in 2024 were roughly \$11,000. He currently works approximately 15 hours per week.
- [155] Mr. Riou acknowledges that he is capable of working full-time, as long as the job involves no heavy lifting. He would like to go back to school and work toward becoming a social worker.

Ms. Marshall's career path

- [156] When the parties met, Ms. Marshall was running an in-home family daycare, which she closed at the beginning of 2016. She continued to provide before- and after-school care for her neighbour's children.
- [157] In September 2016, Ms. Marshall started attending Vancouver Career College to qualify as a rehab worker. In June or July 2017, after completing her program, Ms. Marshall secured a full-time position as a rehab worker with Coast Mental Health.
- [158] By 2018, Ms. Marshall secured additional part-time employment with Fraser Health Authority ("FHA") and Motivation Power and Achievement Society ("MPA") as a rehab worker. She was employed by FHA and MPA as a casual worker, which meant that she did not have regularly scheduled hours of employment. Between her three jobs, Ms. Marshall routinely worked more than the equivalent of full-time hours.
- [159] From March 2021 to March 2022, Ms. Marshall was off work collecting benefits from WorkSafeBC. On March 13, 2021, close in time to the end of the parties' relationship, Ms. Marshall sustained a back injury at work. In her direct testimony, Ms. Marshall did not mention her WorkSafeBC claim but instead testified that she continued to work full-time and at her two casual positions until September 2021. In cross-examination, Ms. Marshall's February 8, 2022 F8 financial statement was put to her, which indicated that she anticipated returning to work on a gradual basis starting March 2022. Ms. Marshall acknowledged and I find that she had difficulty remembering dates. I find she was off work for approximately a year after her back injury before starting a gradual return to work in March 2022.

- [160] In the meantime, Ms. Marshall started a Masters program through Fraser Valley University in September 2021. Her studies consisted primarily of online courses. While completing her studies, Ms. Marshall eventually returned to full-time employment at Coast Mental Health after recovering from her back injury and maintained her casual status with FHA and MPA by working occasional shifts.
- [161] Ms. Marshall completed her Masters in psychology in mid-2023. She was hired into a full-time position as a social worker with Coast Mental Health and continued to work casually for Fraser Health Authority as a counsellor.
- [162] In May 2023, Ms. Marshall was diagnosed with breast cancer. She had surgery shortly after diagnosis and returned to work soon afterward. Ms. Marshall had further surgeries at the end of 2023. She did not work in 2024 while undergoing further cancer treatment, and she collected long term disability benefits based on 80% of her full-time salary. Ms. Marshall testified in direct that she will return to work in May 2025, though she qualified that answer with "if everything goes well" when her April 10, 2025 F8 financial statement was put to her in cross-examination. In her April 10, 2025 F8 financial statement (affirmed shortly before the start of trial) Ms. Marshall deposed she was unemployed, collecting benefits, with "no anticipated significant changes". I find it is likely Ms. Marshall will have returned to her position with Coast Mental Health by May 2025 and in due course will resume her casual position with FHA.
- [163] Ms. Marshall failed to disclose complete income tax returns and only limited information slips were in evidence. This makes it more difficult to determine her Guidelines income given the different tax treatment of her different sources of income. For example, her 2021 notice of assessment indicates Line 15000 income of \$77,936, but it is difficult to determine where that figure came from when her T4 earnings of \$23,200, CPP survivor benefits of \$7,398, RRSP proceeds of \$8,354, and WorkSafeBC benefits of \$46,957 total \$85,909. For 2021, I will use the information from her 2021 tax slips. There were no tax slips after 2021 for Ms. Marshall filed in evidence, making it difficult to determine her earnings or eligible deduction for union dues.
- [164] Further, in terms of determining Ms. Marshall's Guidelines income, it is also not clear how much rental income Ms. Marshall has earned since Mr. Riou moved out of Yarmouth St. in April 2021. Ms. Marshall claims that she had a tenant for the month of November 2023 and since January 2025 but otherwise she has not received rental income. In direct, Ms. Marshall initially testified that she currently receives rental income of \$2,500 and then modified the amount to \$2,300. There were no rental agreements to substantiate any of these figures.

Non-compensatory grounds

- [165] Justice Rowles summarized the purpose of non-compensatory spousal support as follows in *Chutter v. Chutter*, 2008 BCCA 507, leave to appeal to SCC ref'd, 33002 (28 May 2009):

[54] Where compensatory principles do not apply, need alone may be sufficient to ground a claim for spousal support . . . Non-compensatory support is grounded in the "social obligation model" of marriage, in which marriage is seen as an interdependent union. It embraces the idea that upon dissolution of a marriage, the primary burden of meeting the needs of the disadvantaged spouse falls on his or her former partner, rather than the state. Non-compensatory support aims to narrow the gap between the needs and means of the spouses upon marital breakdown, and as such, it is often referred to as the "means and needs" approach to spousal support.

[Citations omitted.]

[166] Mr. Riou submits that, at the end of their marriage-like relationship, he was left with no savings, no home, debt and no way to continue as a foster parent. He claims entitlement on the basis of need. Ms. Marshall says that income should be imputed to Mr. Riou, which would reduce any disparity in income since separation.

[167] Section 6.1 of the Spousal Support Advisory Guidelines provides that the starting point for determination of income for spousal support purposes is the definition of income in the Federal Child Support Guidelines, SOR/97-175. Section 16 of the Federal Child Support Guidelines provides that a spouse's annual income is determined using the party's Line 15000 income. Section 19(1) of the Federal Child Support Guidelines allows the court to impute income to a spouse as the court considers appropriate. The party asking the court to impute income must provide an evidentiary basis for a finding that income should be imputed: *Marquez v. Zapiola*, 2013 BCCA 443 at para. 36.

[168] Mr. Riou has worked very little since the parties separated. He acknowledges there is no health reason precluding him from working full-time, as long as he avoids heavy lifting. I accept it was reasonable for Mr. Riou to make efforts to continue fostering in the early post-separation period and to give up on fostering in August 2021 when he could not find alternative suitable accommodation. It would be reasonable to expect Mr. Riou would require some time to find employment after his lengthy absence from the workforce. I am satisfied however that he ought to have been able to find the equivalent of 30 hours work per week at minimum wage by March 1, 2022 and continued in that capacity until December 2023 (the period for which he claims spousal support). On that basis, I find Mr. Riou had Guidelines income as compared to Ms. Marshall's Line 15000 income as follows:

Mr. Riou's imputed Guidelines income

Ms. Marshall's Guidelines income

March 15, 2021 to December 31, 2021

\$ 0

\$23,200 (T4) + \$7,398 (CPP), \$8,354 (RRSP) + \$46,957 (WCB)

January 1, 2022 to

December 31, 2022

$15.20 \times 30 \times 21.5 + \$15.65 \times 30 \times 30.5 = \$24,124$

\$67,746

January 1, 2023 to

December 31, 2023

$15.65 \times 30 \times 21.5 + \$16.75 \times 30 \times 30.5 = \$25,420$

\$51,997 (T4) + \$8,092 (CPP) + \$7,960 (EI) + \$381 (RRSP) + \$2,999 (WCB)

January 1, 2024 to

December 31, 2024

$\$16.75 \times 30 \times 21.5 + \$17.40 \times 30 \times 31.5 = \$27,247$

\$43,171 (LTD) + \$8,667 (CPP) + \$3,155 (WCB)

[169] I am satisfied that Mr. Riou suffered economic hardship as a result of the breakdown of the parties' marriage-like relationship, even when income is imputed to him. Mr. Riou had limited income earning capacity at the end of the parties' relationship, and all of his net worth was tied up in Yarmouth St. Even with her reduced income while on LTD, Ms. Marshall was generally able to preserve her standard of living by continuing to reside at Yarmouth St. She was somehow able to access funds to pursue a Masters degree. Meanwhile, Mr. Riou was reduced to living with his parents. I accept that Mr. Riou was entitled to spousal support on a needs basis to assist in the post-separation transition to self-sufficiency.

Compensatory grounds

[170] Justice Rowles summarized the purpose of compensatory spousal support as follows in Chutter:

[50] Compensatory support is intended to provide redress to the recipient spouse for economic disadvantage arising from the marriage or the conferral of an economic advantage upon the other spouse. The compensatory support principles are rooted in the "independent" model of marriage, in which each spouse is seen to retain economic autonomy in the union, and is entitled to receive compensation for losses caused by the marriage or breakup of the marriage which would not have been suffered otherwise . . . The compensatory basis for relief recognizes that sacrifices made by a recipient spouse in assuming primary childcare and household responsibilities often result in a lower earning potential and fewer future prospects of financial success . . .

[Citations omitted.]

[171] I am satisfied that Mr. Riou is entitled to spousal support on compensatory grounds. He conferred an economic advantage on Ms. Marshall by taking on childcare responsibilities for Maddex Marshall and the foster children, which allowed Ms. Marshall to work for Coast Mental Health and take on additional casual positions with FHA and MPA.

[172] Before addressing quantum of spousal support, I will briefly address entitlement to child support.

Child support

[173] Mr. Riou acknowledges that he was stepparent to Maddex during the parties' relationship. He acknowledges that child support is payable until Maddex reached the age of 19 on December 9, 2024.

[174] Ms. Marshall failed to establish child support is payable after Maddex reached the age of majority. Based on her evidence, Maddex had an RESP worth approximately \$100,000 (the annual premiums were insured and paid automatically after Maddex's biological father died). Ms. Marshall may have depleted the RESP for her own purposes, but she acknowledged that would compensate Maddex for the RESP funds she used. I am not satisfied that Maddex could not support himself for local post-secondary studies using the RESP in his name.

[175] For Mr. Riou's 2024 Guidelines income, I am prepared to impute income to Mr. Riou on the same basis that I imputed income for 2022 and 2023, i.e. 30 hours per week at minimum wage. I find Mr. Riou's 2024 annual Guidelines income to be $(\$16.75 \times 30 \times 21.5) + (\$17.40 \times 30 \times 31.5) = \$27,247$.

Quantum of support

[176] I find Mr. Riou is liable to pay retroactive child support totalling \$7884 based on his imputed Guidelines income as follows:

2021

\$0

2022

\$202 per month $\times 12 = \$2424$

2023

\$214 per month $\times 12 = \$2568$

2024

\$241 per month $\times 12 = \$2892$

[177] In his final submissions, Mr. Riou sought an award of \$13,932 based on spousal support for two and half years and his actual earnings. As noted above, I find it appropriate to impute income to Mr. Riou based on 30 hours per week at minimum wage after January 1, 2022. Based on the parties' Guidelines income, the range for spousal support for each year since separation would be as follows:

Low

Mid

High

2021

\$670

\$782

\$894

2022

\$299

\$348

\$398

2023

\$276

\$322

\$368

2024

\$187

\$218

\$249

[178] The SSAG suggests the duration of spousal support should range from 2.75 years to 5.5 years. For the shortest duration, total spousal support would be \$12,447 at the low end of the range for quantum, \$14,514 for mid-range and \$16,593 for the high end of the range. For the longest duration, assuming the 2024 level of spousal support going forward, total spousal support would range from \$18,618 to \$24,810.

[179] In these circumstances, I find the spousal support award sought by Mr. Riou to be reasonable, as it falls slightly less than the mid-range for the shortest duration. Ms. Marshall is required to pay \$13,992 for spousal support with no ongoing obligation.

Would it be significantly unfair to divide family property unequally?

[180] I accept Mr. Riou's submission that it would be significantly unfair to divide family property and debt equally.

Legal framework

[181] Section 94(1) of the Family Law Act allows the court to order unequal division of family property or family debt or both if it would be significantly unfair to divide equally family property or family debt or both.

[182] In *Lan v. Buchanan*, 2024 BCSC 302, Justice Elwood summarized the Court of Appeal's analysis of s. 95 in *Jaszczevska*:

[74] Justice Harris wrote that s. 95 seeks to increase certainty, fairness, and predictability in property division by reducing the discretion of the courts to depart from equal division: at para. 36. The test in the previous legislation (the Family Relations Act, R.S.B.C. 1996, c. 128) only required unfairness, whereas the FLA requires "significant unfairness." In addition, the Legislature more precisely specified the factors to be considered in applying this threshold.

[75] Justice Harris agreed with the analysis in *Remmem v. Remmem*, 2014 BCSC 1552, where the trial judge defined "significant" as "extensive or important enough to merit attention" and something that is "weighty, meaningful or compelling", concluding that to justify an unequal distribution "[i]t is necessary to find that the unfairness is compelling or meaningful having regard to the factors set out in s. 95(2)": *Jaszczevska* at para. 41. Justice Harris held that it would be unwise to attempt to define the meaning of "significant unfairness", but found that reapportionment under s. 95 would require "something objectively unjust, unreasonable or unfair in some important or substantial sense": *Jaszczevska* at para. 42.

[183] In *Singh v. Singh*, 2020 BCCA 21, Justice Garson summarized the legislative intent of s. 95(1) and the meaning of "significantly unfair" as follows:

[134] In summary, it is clear that the Legislature intended the general rule of equal division to prevail unless persuasive reasons can be shown for a different result: *Jaszczevska* at para. 41. Reapportionment will require something objectively unjust, unreasonable, or unfair in some important or substantial sense. This is in contrast to the previous legislation where courts had discretion under s. 65 to reapportion property or debt where it would be simply "unfair" not to do so. The threshold for "significant unfairness" is high. There must be a real sense of injustice that would permeate the result if the court did not deviate from the presumptive equal division.

[Emphasis added.]

[184] Section 95(2) sets out various factors the court may consider when assessing whether equal division of family assets and debt would be significantly unfair, including the following:

- (a) the duration of the relationship between the spouses;
- (b) the terms of any agreement between the spouses, other than an agreement described in section 93 (1) [setting aside agreements respecting property division];
- (c) a spouse's contribution to the career or career potential of the other spouse;
- (d) whether family debt was incurred in the normal course of the relationship between the spouses;
- (e) if the amount of family debt exceeds the value of family property, the ability of each spouse to pay a share of the family debt;
- (f) whether a spouse, after the date of separation, caused a significant decrease or increase in the value of family property or family debt beyond market trends;
- (g) the fact that a spouse, other than a spouse acting in good faith,
- (i) substantially reduced the value of family property, or
- (ii) disposed of, transferred or converted property that is or would have been family property, or exchanged property that is or would have been family property into another form, causing the other spouse's interest in the property or family property to be defeated or adversely affected;
- (h) a tax liability that may be incurred by a spouse as a result of a transfer or sale of property or as a result of an order;
- (i) any other factor, other than the consideration referred to in subsection (3), that may lead to significant unfairness.

[185] The Court of Appeal recently confirmed at para. 69 of *Healey v. Healey*, 2024 BCCA 68, that "[i]n considering a claim for unequal division of family property, the court should proceed by first making a notional equal division of property, and then determine whether such an equal division would be significantly unfair, given the factors in s. 95(2) and, where applicable, s. 95(3) of the [Family Law Act]".

[186] Section 95(3) allows the court to consider the extent to which the financial means and earning capacity of a spouse have been affected by the responsibilities and other circumstances of the relationship if, on making a determination respecting spousal support, the Family Law Act objectives of spousal support are not met.

Notional equal division of family property and debt

[187] Based on the findings of fact I have made, after accounting for Ms. Marshall's excluded property claim, equal division of family property and debt would result in each party receiving one half of:

Equity in Yarmouth St.: \$600,588

Plus: value of other family assets: \$30,763

Less: family debt (other than Yarmouth St. mortgage): \$74,723

[188] Based on my findings, equal division of family property and debt would result in each party receiving \$278,314 after payment of family debts.

Analysis of significant unfairness factors

[113] I will review the relevant s. 95(2) factors to assess whether either Mr. Riou or Ms. Marshall has met the threshold of establishing significant unfairness if family property and debt are divided equally.

Mr. Riou's contribution to the career of Ms. Marshall - s. 95(2)(c)

[189] As outlined above, Mr. Riou took on household responsibilities that allowed Ms. Marshall to focus on her career. In 2016, after Ms. Marshall's daycare closed, the parties relied in part on the proceeds of the sale of Mr. Riou's house to pay living expenses, which allowed Ms. Marshall to return to school to train as a rehab assistant and start her career with Coast Mental Health and FHA in particular.

[190] Mr. Riou's contribution to Ms. Marshall's career is a factor in favour of unequal division.

Family debt not incurred in the normal course of the marriage-like relationship - s. 95(2)(d)

[191] Ms. Marshall is not able to account for approximately \$95,000 in family debt that she took on when refinancing the mortgage on Yarmouth St. in January 2020. Ms. Marshall's failure to explain or produce records that show what happened to the balance of the proceeds from the Scotia mortgage raises questions about her financial disclosure. Ms. Marshall's inability to establish that the additional \$95,000 in family debt was incurred in the normal course of the parties' relationship weighs in favour of unequal division benefitting Mr. Riou.

Change in parties' relative financial position from start of relationship to end - s. 95(2)(i)

[192] The parties had a similar net worth at the start of their relationship. Equal division of family property and debt will leave Ms. Marshall with a much higher net worth than Mr. Riou. This factor weighs in favour of unequal division benefitting Mr. Riou.

- [193] When the parties started their relationship in November 2015, the difference between each party's net worth was approximately \$19,081. Mr. Riou had proceeds from the sale of his house (\$210,848), the cash value of his life insurance policy (\$23,000) and credit card debt (\$49,500). As of November 2015, Ms. Marshall had equity in Yarmouth St. (\$248,429) and credit card debt (at least \$45,000). As a result, Mr. Riou's net worth was approximately \$184,348, and Ms. Marshall's net worth was approximately \$203,429.
- [194] If family property and family debt are divided equally, the parties' current balance sheets will look very different when the parties' excluded assets are considered: Ms. Marshall would have a net worth of \$526,743 and Mr. Riou would have net worth of \$282,067 (his share of family equity plus the current cash surrender value of his life insurance policy) - a difference of \$244,676, i.e. more than ten times the difference in their net worths as compared to the start of their relationship.
- [195] This difference can be explained by the fact that the funds that represented Mr. Riou's equity in the Western Drive property were used to pay off the parties' pre-relationship debts and to pay family living expenses during their first year of living together, when the parties did not earn enough to keep up with their expenditures. Ms. Marshall's pre-relationship equity in Yarmouth St. was preserved in part because the parties spent Mr. Riou's pre-relationship equity.

Mr. Riou's lack of financial contribution to Yarmouth St. - s. 95(2)(i)

- [196] Ms. Marshall raised Mr. Riou's lack of financial contribution primarily as grounds for using the date of separation as the valuation date for Yarmouth St. For completeness, for the same reasons I did not find it significantly unfair to use the trial date as the valuation date, I do not find any significant unfairness in Ms. Marshall's favour in terms of division of family property and debt based on her greater financial contribution to acquiring, preserving and maintaining Yarmouth St.
- [197] I have discretion to consider the parties' relative financial contributions pursuant to s. 95(2)(i); however, the circumstances in which this factor should be considered are limited. In *Banh v. Chrysler*, 2022 BCCA 74, leave to SCC ref'd, 40156 (12 January 2023), the Court of Appeal explained the extent to which this factor is relevant under the Family Law Act:
- [33] In *Jaszczewska v. Kostanski*, 2016 BCCA 286 at paras. 43-44, Justice Harris noted that the principle of relative contribution found in s. 65(1)(f) of the former Family Relations Act, R.S.B.C. 1996, c. 128 [FRA], is not included in s. 95(2) of the FLA. Instead, s. 95(2) refers only to contributions to the career or career potential of the other spouse (s. 95(2)(c)) and to contributions that caused a significant post-separation increase in the value of family property beyond market trends (s. 95(2)(f)). He concluded that allowing relative contribution to become a regular consideration under s. 95(2) would, contrary to the intention of the legislation, "likely create uncertainty and complexity." That said, Harris J.A. concluded that some discretion remained under s. 95(2)(i) to consider unequal contributions, although the

circumstances in which the discretion could be exercised "are intended to be much constrained."

[198] In this case, for the same reasons I found it was not appropriate to change the valuation date, I am not satisfied there is any substantial unfairness in Ms. Marshall's favour in terms of dividing family property and debt.

Lack of fulsome financial disclosure by Ms. Marshall - s. 95(2)(i)

[199] Ms. Marshall's failure to make full financial disclosure is a factor that weighs in favour of unequal division in Mr. Riou's favour, though it is not a significant factor in the analysis.

[200] As noted above in the discussion of Ms. Marshall's credibility, her F8 financial statements were at best incomplete. Further, she failed to explain or disclose documents that would allow a tracing of the \$95,000 in mortgage funds advanced to her in January 2020.

Objectives of spousal support not met - s. 95(3)

[201] In this case, not unlike in Healey, Mr. Riou's standard of living will decline as a result of the breakdown of the relationship, whereas Ms. Marshall will likely be able to maintain or improve her standard of living because she has a greater earning capacity and will no longer be supporting Mr. Riou financially. Her relatively stronger financial position is due in part to his support for her re-training and the early days of her public health career.

[202] In this case, the spousal support objective of reducing the economic hardship arising from the breakdown of the marriage-like relationship will not be accomplished based on the relatively small amount of spousal support payable to Mr. Riou, especially when off-set by his obligation to pay child support based on imputed income.

Conclusions regarding division of family property and debt

[203] After weighing these factors, I find it would be significantly unfair to divide family property and debt equally. If family property and debt were divided equally, Mr. Riou would be left with limited financial resources and with limited likelihood of attaining financial self-sufficiency. While not every difference in post-separation financial status justifies a finding of significant unfairness, the disparity in this case is dramatic, especially upon comparison of the parties' pre- and post-relationship net worth: he would have significantly less net worth than Ms. Marshall after entering the relationship with a similar net worth. The disparity is likely to grow as time goes on given her greater income-earning capacity, achieved in part during the relationship with his support.

[204] I accept Mr. Riou's submission that it is appropriate to reapportion family property by \$45,000 in his favour. This would lead to Mr. Riou receiving \$323,314 from net family property and debt and Ms. Marshall receiving \$233,314. Viewed differently, Mr. Riou will receive 58% of net family property and Ms. Marshall shall receive 42%.

[205] Mr. Riou holds \$1800 in family property and \$50,486 in family debt in his name. To effect the unequal division of family property and debt, Ms. Marshall shall pay \$372,000 to Mr. Riou.

[206] Mr. Riou seeks an order pursuant to s.97(2) that if Ms. Marshall does not pay the amount owing within 45 days, then Yarmouth St. shall be listed for sale. I accept that it is reasonable to make an order for sale to avoid further court applications; however, in my view, it is reasonable to give Ms. Marshall 90 days to find alternative financing that may allow her the opportunity to retain Yarmouth St.

Conclusion

[207] In summary, I find the parties were in a marriage-like relationship from November 19, 2015, until March 15, 2021.

[208] Ms. Marshall shall pay retroactive spousal support to Mr. Riou in the amount of \$13,992 with no ongoing obligation to pay spousal support.

[209] Mr. Riou shall pay retroactive child support to Ms. Marshall in the amount of \$7884 with no ongoing obligation to pay child support.

[210] Ms. Marshall's interest in her employment pension or pensions shall be divided equally between the parties for the period November 19, 2015, to March 15, 2021.

[211] The parties' credits in the Canada Pension Plan shall be divided equally for the period November 19, 2015, to March 15, 2021.

[212] Ms. Marshall shall pay Mr. Riou the sum of \$372,000 to effect division of family property and family debt.

[213] In the event Ms. Marshall fails to pay Mr. Riou the sum of \$378,696 (the net amount owing to give effect to these reasons) within 90 days, Yarmouth St. shall be listed for sale. The parties shall have joint conduct of sale. Disbursements from the proceeds of sale shall be as follows:

- a) Realtor commissions and related taxes;
- b) Adjustments with the purchasers;
- c) Amount to pay and discharge the Scotiabank mortgage;
- d) Legal fees for the conveyance;
- e) Payment to Ms. Marshall of \$248,429 less any amount by which principal of Scotiabank mortgage exceeds \$609,982.66;
- f) The balance to be divided equally between the parties, subject to Ms. Marshall paying to Mr. Riou from her share:

- i. \$26,706 to equalize family property and family debt retained by each party;
 - ii. \$13,932 for spousal support payable to Mr. Riou less \$7884 for child support payable by Mr. Riou; and
 - iii. \$45,000 to reappportion family property and family debt.
- [214] The parties shall otherwise retain the assets in their own name and remain solely responsible for the debts in their respective names.
- [215] The parties have leave to make further submissions on costs. Any party seeking an order for costs must contact Supreme Court Scheduling within 30 days to schedule a hearing date.
- "Lamb J."

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Prepared on 26 October 2026 · Esheria