

CANADA / JUDGMENT

S.A.P. v. R.S.B.L.

2025 BCSC 1774

COURT

Supreme Court of British Columbia

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2025 BCSC 1774 S.A.P. v. R.S.B.L.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

S.A.P. v. R.S.B.L.,

2025 BCSC 1774

Date: 20250822

Docket: E223308

Registry: Victoria

Between:

S.A.P.

Claimant

And:

R.S.B.L.

Respondent

Before: The Honourable Justice K. Wolfe

Oral Reasons for Judgment

Counsel for the Claimant:

S. Ahuja

Respondent appearing on his own behalf:

R.S.B.L.

Place and Date of Hearing:

Victoria, B.C.

August 18-19, 2025

Place and Date of Judgment:

Victoria, B.C.

August 22, 2025

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- [1] These oral reasons have been edited for publication. In addition, to protect the privacy and well-being of the child, the names of the parties have been initialized in the style of cause and in these reasons, and efforts have been made to avoid or remove identifying personal details.
- [2] THE COURT: These are my oral reasons for judgment on an urgent interim relocation application brought by the claimant, Dr. P. These reasons were prepared on an expedited basis in order to provide the parties with a prompt answer about the question of relocation. I reserve the right to edit this decision for grammar, clarity, style, and case citations or references if I decide to publish the decision or if any of the parties order a transcript, but the substance of my judgment will not change.

Overview

- [3] The parties were married in November 2017. They separated in August 2022. They have one child together, born in 2020, who is almost five years old and whom I will call "K." Dr. P. applies under s. 16.91 of the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.), for an interim order permitting her to relocate with K. to her hometown of Prince Albert, Saskatchewan. She says the proposed move is in K.'s best interests for many reasons, including proximity to family supports and the Ahtahkakoop First Nation (of which both she and K. are members). Dr. P. says that there will also be greater access to and consistency of healthcare, which are critical given K.'s significant special needs.
- [4] Dr. P. says the move would also be better financially. Dr. P. is a dentist; she has a secure employment offer to take over the practice of a retiring dentist in Prince Albert, which will provide her with a higher salary and better flexibility to address K.'s many appointments. The move would also allow her to begin to recover from the financial ruin she alleges she suffered during the parties' relationship. Dr. P. acknowledges that the focus of the legal test is on K.'s interests but says it is a relevant consideration that the move will put her in a better place to care for K.
- [5] The respondent, Mr. L., opposes the application. He says K.'s interests are best served by remaining in Victoria. He says Dr. P.'s proposed relocation would have a significant negative impact on his relationship with K. He says Dr. P.'s proposal to bring K. to Victoria once a month for an extended weekend is not reasonable and he lacks the funds and flexibility to travel to Prince Albert to see K. more frequently. Mr. L. expresses concern about the crime rates and climate of Prince Albert.

- [6] Mr. L. disputes the suggestion that he has been uninvolved in addressing K.'s health needs; he alleges he has been excluded or not informed in a timely manner. He also disputes there will be better access to healthcare in Prince Albert and questions Dr. P.'s assertion that adequate care providers have been secured. Mr. L. acknowledges he has missed some of his parenting time with K. but says he has explained some of those absences.
- [7] The immediate background to the present application is unique. In June 2024, Dr. P. provided the requisite notice of her intention to relocate under the Divorce Act. Mr. L. objected, but expressed some willingness to mediate. There are significant financial issues to be resolved between the parties, including substantial debts. Given the parties' financial situation, efforts were made over the last year to proceed with mediation-arbitration rather than a trial. No trial dates have yet been set and all attempts to get to mediation have been unsuccessful, largely, in my view, due to Mr. L. The issue of Dr. P.'s proposed relocation has therefore already been delayed more than a year.
- [8] Unable to continue solely carrying the financial burden, in early July 2025, Dr. P. brought a number of applications, including for child support and court orders for sale of the former family home as well as her dental practice. She was successful in obtaining an order for prospective child support and orders for sale of the family assets. The home will be listed next week and the dental practice has, I understand, already been listed. It is unlikely there will be much, if anything, left over after payment of debts, and the sale of those assets will leave Dr. P. without both employment and housing in Victoria. In the circumstances, it is urgent that Dr. P. know if she should be searching for new employment and housing in Victoria or if she will be moving with K. to Prince Albert.
- [9] The urgency of this application also arises from the fact that K.'s special needs means she will require significant additional support and assistance over the next year in order to be ready to enter Kindergarten in September 2026. For a child with K.'s special needs, a year is not a lot of time to build her capacity, so it is important to settle the questions of where she will live and access those supports soon.
- [10] For the reasons that follow, I have determined it is in K.'s best interest to permit Dr. P. to relocate with K. to Prince Albert. I will therefore grant Dr. P.'s application for an interim relocation order, subject to agreement between the parties or further order of the Court. I will address the additional orders I am making in connection with the relocation at the end of these reasons.

The legal framework and the issues

- [11] Sections 16.9 to 16.96 of the Divorce Act govern relocation applications where the parties are or were married, as here. Section 16.9 establishes a requirement that the person seeking to relocate provide notice of their intention to relocate. If the other parent objects to the proposed relocation under s. 16.91(2), the parent seeking to relocate may still do so if the Court authorizes the relocation (Divorce Act, s. 16.9(1)(a)). The Court's sole consideration in

determining whether to authorize a relocation is the best interests of the child, which the Court must determine in accordance with both ss. 16 and 16.92(1) of the Divorce Act.

- [12] Section 16(2) of the Divorce Act provides that the primary consideration is the child's "physical, emotional and psychological safety, security and well-being". As Justice Kirchner noted at para. 87 of *K.P. v. S.K.*, 2021 BCSC 1426, that is the "lens through which all factors in s. 16(3) and those in s. 16.92(1), which apply specifically to relocations, are to be considered." Between the two provisions, there are 18 factors that must be considered; I will address them in my analysis below. In undertaking my analysis, s. 16.92(2) of the Divorce Act prohibits me from considering if Dr. P. would still relocate to Prince Albert without K.
- [13] Put simply, the issue to be determined is whether or not relocation to Prince Albert is in K.'s best interests.
- [14] Before leaving the legal framework, I note that the parties attended a Judicial Case Conference ("JCC") on March 27, 2023. The resulting JCC order provides that K. is to reside primarily with Dr. P. and grants Mr. L. parenting time on two weekday evenings per week, as well as alternating weekends from Friday evening to Monday morning. Because K. spends the vast majority of her time in Dr. P.'s care, s. 16.93(2) of the Divorce Act provides that Mr. L. bears the burden to prove the relocation is not in K.'s best interest. However, since the JCC order is an interim order, s. 16.94 grants me discretion not to apply the burden in section 16.93(2). If I choose not to apply the default burden, both parties would have to show what is in K.'s best interests.

Background

- [15] The parties provided the Court with substantial background information on this two-day application. In the interests of time, I have focused on the facts relevant to the issues I must decide. There is further discussion of certain facts in my analysis of the factors below.
- [16] The parties met in the Bahamas in 2017. Mr. L. is from the Bahamas and was living there; Dr. P. was visiting on a holiday. Their attraction was immediate. The relationship progressed very quickly; within weeks of meeting, Mr. L. mentioned marriage. Dr. P. made several more trips back to the Bahamas in 2017. At the time, Dr. P. was living and working as a dentist in Lloydminster, Saskatchewan. She was financially successful, having already paid off the line of credit she had taken out for her education. Mr. L. told Dr. P. he was involved in real estate in the Bahamas. Dr. P. now questions many of the employment claims Mr. L. has made over the years. Those issues may be relevant to the outstanding financial claims between the parties, but I do not need to resolve them for purposes of this application.

- [17] What is clear is that in May 2017, Mr. L. came to Canada on a six-month visa. Dr. P. paid for his flight and had not told her family that Mr. L. was coming for an extended period of time. Looking back, Dr. P. says this was the beginning of a pattern of isolation from her family and friends that led to her suffering various forms of family violence in the relationship, including physical, verbal, and financial abuse. Mr. L. denies all allegations of family violence.
- [18] By June 2017, Dr. P. says it became clear that Mr. L. was not working remotely as he had said he planned to do. This created tension in the relationship, but Dr. P. continued to support Mr. L. Throughout the relationship and prior to the birth of K., the parties took a great number of trips, all paid for by Dr. P. She also paid for Mr. L. to do some further education. Mr. L. was not employed in Canada until after the parties separated. I am advised he obtained his current job in January 2023.
- [19] In late summer 2017, Mr. L. began to suggest the parties purchase a dental clinic and suggested he had funds to contribute. On Dr. P.'s evidence, this was also a recurring pattern: a promise of funds that would never materialize. As indicated, Dr. P. also alleges Mr. L. continued to isolate her from her family and friends, yet, at the same time, took financial advantage of her as he was not working or contributing to the relationship. Dr. P. became pregnant in late summer 2017. By fall 2017, Dr. P. alleges Mr. L. was engaging in emotional and verbal abuse, including calling Dr. P. derogatory names connected to her Indigeneity. Dr. P. also alleges physical abuse.
- [20] Despite this, the parties were married on November 12, 2017, the day before Mr. L.'s visa was to run out. At a high-level, the marriage was punctuated by continuing tension and issues between the parties. Dr. P.'s first pregnancy resulted in a miscarriage. Although there were numerous arguments between the parties, Dr. P. still supported several real estate investments in the Bahamas, including a land purchase that ended up being registered solely in Mr. L.'s name. Particularly material to this application, Dr. P. became pregnant again in December 2019 and K. was born in September of 2020. After becoming pregnant with K., Dr. P. deposes the physical abuse from Mr. L. stopped, but the verbal, emotional, and financial abuse continued.
- [21] The parties eventually separated in August 2022. They lived together for a period of time in the same house before there was a physical separation. In the post-physical separation period, Mr. L. continued to exercise parenting time with K., but Dr. P. was primarily the one caring for K. Dr. P.'s mother would often visit from Saskatchewan to assist with K., so that Dr. P. could attempt to juggle her parenting responsibilities with her dental practice in Victoria.
- [22] With respect to the proposed relocation, at a high level, Dr. P. proposes to relocate with K. to Prince Albert, Saskatchewan, and move into the home that is owned by her parents (K.'s maternal grandparents) in their Prince Albert residential neighbourhood. The house is a large home with four bedrooms and enough space for all. The relocation proposal also involves Dr. P. accepting the secured offer of employment to take over the dental practice of

a retiring dentist. The practice comes with an existing client base and a raise in salary as well as Fridays off, which will afford Dr. P. more time to support K. with her appointments and special needs.

- [23] As I will discuss further below, Dr. P. and her family have done a significant amount of research to attempt to line up healthcare providers to assist K. with her current needs as well as to support her with the extra matters in which she will need to build capacity before she can hopefully begin attending school in September 2026. In my analysis below, I will address the details of the proposal with respect to how Mr. L. would exercise parenting time if Dr. P. and K. relocate.

Analysis

Relocation decisions generally

- [24] Before addressing the relevant best interests of the child factors in detail, it is important for me to recognize that there is no question both of these parents love K. and want what is best for her. As with many issues in family law cases, the conflict arises because their views about what is best for K. are not aligned.
- [25] This Court has recognized that relocation decisions are one of the most impactful and difficult decisions that a Court is asked to make. I concur with that. If permitted, relocation may have a long-term impact on the child's relationship with the non-relocating parent: see *Nolie v. Reece*, 2016 BCSC 2201. That is even more the case where the proposed relocation is far away, as it is here.
- [26] The case law is also clear that where a relocation is sought on an interim basis, and at an early stage of the proceedings, the Court should exercise caution. The Court may not have a sufficient understanding of the situation to properly assess what is in the child's best interests. Further, where the proposed relocation represents a significant geographic change, an ostensibly interim application for relocation may, in practical effect, represent a fairly permanent change if granted.
- [27] I have taken these warnings to heart, but in my view, the particular circumstances of this case, and the very specific challenges that K. faces, make it appropriate to authorize Dr. P.'s relocation to Prince Albert at this time.

The best interests of the child factors

- [28] As required, my analysis focuses on whether the proposed relocation is in K.'s best interest. Instead of dealing with each of the 18 factors individually, where I consider it appropriate on the facts of this case, I have grouped together certain factors under each of ss. 16(3) and 16.92(1) of the Divorce Act that I consider to be interrelated.

- [29] Before turning to the factors, I am not persuaded this is a case in which I should exercise my discretion not to apply the burden in section 16.93(2). Unlike the situation in *Joseph v. Washington*, 2021 BCSC 1014, this is not a case where the parties are recently separated. The JCC order was made more than two years ago and the parties have operated under it for some time. There is no evidence before me that relocation was contemplated at the time the JCC order was made.
- [30] Further, while Mr. L. indicated his informal requests for increased parenting time were refused and he intended to apply for increased parenting time, he has not followed through on that intention. In the circumstances, I find it appropriate to give deference to the parenting arrangement in the interim JCC order. The burden remains on Mr. L. to prove that relocation would not be in K.'s best interests.

Section 16(3) factors

- [31] As there are no other proceedings involving this family, s. 16(3)(k) of the Divorce Act is not engaged. Further, given K.'s young age and significant special needs, this is not a situation where her views can be ascertained. Accordingly, I will not address s. 16(3)(e) any further.

Child's needs, history of care, plans for care, and ability and willingness of parents to meet the child's needs - ss. 16(3)(a), (d), (g), and (h)

- [32] Section 16(3)(a) of the Divorce Act requires the Court to assess the child's needs, given their age and stage of development, including the need for stability. Section 16(3)(d) requires the Court to assess the history of the child's care. Section 16(3)(g) addresses any plans for the child's care, and s. 16(3)(h) addresses the ability and willingness of each parent to care for and meet the needs of the child. I will address these four factors together.
- [33] K. is almost five years old, and has significant special needs as a result of neurological and other related health issues. She was diagnosed in May 2025 with Autism spectrum disorder and various developmental delays after waiting a considerable period of time for her assessment. K. is considered to be non-verbal, although the evidence indicates that, for those who know her, she can communicate to some degree through songs, particularly action songs. She also has significant anxiety and numerous other developmental delays.
- [34] The evidence indicates that for K., a key factor is consistency, including of caregivers and care providers. In terms of her current schedule, K. sees a speech and language pathologist and an occupational therapist several times each week, but there have been difficulties maintaining consistency of her care providers. A number of them have changed over the last several years which, for a child on the Autism spectrum, can be quite disruptive. K. also has significant eczema and life-threatening allergies to peanuts and eggs. She is on a strict regime of allergen microdosing and has a number of required creams to address her eczema.

- [35] Due to K.'s particular needs, she requires one-to-one care as well as someone who is familiar with her communication challenges and her allergy protocols. While Dr. P. did briefly enrol K. in daycare to attempt to assist with socialization, the daycare centre was unable to provide the necessary one-to-one care and K. was not able to continue attending. Although she is turning five next month, K. will not be ready to enter Kindergarten this year. Her developmental delays are too significant and she needs to build her skills and capacity to a greater extent before she can enter school.
- [36] From her birth until separation, both parties were involved in K.'s care. Mr. L. suggests he was primarily responsible because Dr. P. returned to work fairly quickly. As Mr. L. was not working at all, this makes logical, financial sense. He suggests he was responsible for taking K. to appointments and connecting with care providers. Dr. P. does not deny that Mr. L. was involved but disputes the degree of that involvement, noting there were concerns with Mr. L.'s alcohol consumption and Dr. P.'s mother spent a considerable amount of time in Victoria assisting with K., even while the parties were still together.
- [37] More relevant to my consideration of the history of K.'s care and the ability and willingness of each parent to care for her is what has occurred following separation in 2022. The evidence is clear that since separation, and particularly after the parties physically separated, Dr. P. has been primarily responsible for K.'s care. Since the JCC order in May 2023, K. has spent the vast majority of her time with Dr. P.
- [38] As noted, under the JCC order, Mr. L. was granted regular parenting time, consisting of two weeknights from 5:00 to 7:00 p.m. and alternating weekends from Friday at 5:00 p.m. to Monday morning at 7:30 a.m. Dr. P. has provided evidence that Mr. L. has missed a considerable amount of his weeknight parenting time in particular, and has also demonstrated a pattern of being late. Although there is evidence of missed dates going back several years, in submissions, Dr. P. focused primarily on the time that Mr. L. has missed in 2025. In total, there were 16 missed dates between January and July 30, 2025. Dr. P. calculates the respondent as having missed 23.6 percent of his evening parenting time in January 2025. In February 2025, the respondent missed 38.5 percent of his evening parenting time. In March 2025, he missed 36.1 of his evening parenting time. In April, he missed 16 percent of that time. In June, he missed 44 percent of his evening time. And in July, he missed 57.4 percent of his evening parenting time. Dr. P. also indicates that Mr. L. has been late for pick-ups on a number of occasions. She accepts that he is better about exercising his parenting time on the alternating weekends.
- [39] Mr. L. has provided the Court with a number of explanations for his missed parenting time, including that he has work constraints. While he has obtained special permission to leave work 30 minutes early twice a week, he is not able to leave earlier to pick up K. He provided text messages of several occasions when the traffic meant that he was going to be late and at least on one such occasion, Dr. P. responded that she was unable to wait for him to arrive. He also provided evidence of several occasions when K. had fallen asleep, so he thought it more prudent to let her sleep than to wake her up for his parenting time.

- [40] While I accept there are reasons for some of the missed times, there are a lot of times for which there is no explanation at all, and that is only in relation to 2025. There is also no evidence that Mr. L. has requested make-up times for when K. was asleep or requested and been refused an adjustment to his parenting time schedule to allow more time for him to battle traffic after leaving work.
- [41] The evidence also indicates that Dr. P. is the one who has been advocating for K.'s special needs in dealing with care providers, in particular, since separation. In his examination for discovery, the transcript of which was before me, Mr. L. was unable to identify any of K.'s current or former care providers, with the exception of one pediatrician. In his response to this application, Mr. L. identified the name of a pediatrician who has not been involved with K.'s care for several years at least.
- [42] The evidence also indicates that Mr. L. has not participated in K.'s medical care. He missed her Autism spectrum disorder assessment in May 2025. He says he was under the impression from the JCC that only one parent was to attend medical appointments. There is no mention of any such restriction in the JCC order, nor evidence of any attempt to clarify the JCC order.
- [43] Mr. L. also complains that he has not been kept properly informed or was invited too late to attend appointments. There is evidence before me of a detailed Google Calendar maintained by Dr. P. which includes appointment information including for the Autism spectrum disorder assessment. There is also evidence of detailed e-mails sent by Dr. P. following certain appointments and ahead of others advising Mr. L. that he could attend. There is no evidence of Mr. L. asking for clarification or, until this application was filed, even acknowledging those updates. I am not satisfied that blame for Mr. L.'s failure to be involved can be laid at any feet but his own.
- [44] Dr. P.'s mother has also been very actively involved in K.'s care. She has been trained to deal with K.'s allergies and other needs and understands K.'s communication and anxieties. Her affidavits recount an incredible amount of time spent in Victoria. Since August 24, 2022, there are very few dates (and only of a week or two or sometimes several days) between August 2022 and the present when Dr. P.'s mother has not been present physically in Victoria to assist with the care of K. This is necessary so that Dr. P. can attempt to juggle K.'s needs with her work as a sole practitioner in her dental office. In that capacity, Dr. P. deposed she often finds herself required to do the job not just of the dentist, but also that of the dental hygienist, the receptionist, and all other work associated with maintaining the dental practice.
- [45] The affidavits indicate that Dr. P.'s mother is unable to sustain the same level of attendance in Victoria that she has been maintaining since August 2022, which is unsurprising. Dr. P.'s mother deposes she intends to move back to Prince Albert on a more permanent basis in September 2025.

- [46] With respect to plans for care, K. has a care team in Victoria, but, as mentioned, there have been a number of issues with consistency. If permitted to relocate, the evidence indicates Dr. P. and her family have done a lot of research into medical care, including opportunities to access medical care through the Ahtahkakoop First Nation and funding under Jordan's Principle. Dr. P. has already lined up a family general practitioner (GP) and a pediatrician who are willing to take K. on as a patient. Dr. P. has previous experience with the GP. Dr. P. has also lined up a clinic where an occupational therapist has space to take on K. and Dr. P. has made inquiries about speech and language pathology. While a specific occupational therapist and speech and language pathologist have not been identified, Dr. P. says, given K.'s nature, it is important to find the right fit, so it would be unwise to go further unless she is permitted to relocate. I agree.
- [47] In terms of daily care, Dr. P. and her mother have put K. on waitlists for daycare centres with an ability to meet her specific needs and Dr. P.'s parents are willing to care for K. as required.
- [48] Mr. L. has raised concerns about the adequacy of the care team that Dr. P. has attempted to secure in Prince Albert. He provided research on the length of time the GP and the pediatrician have practiced, suggesting there is a risk they might retire soon. This is pure speculation. There is no concrete evidence of such a risk. He has also raised concerns that the pediatrician is not regularly available at the clinics in Prince Albert or at the First Nation. However, the evidence indicates K. does not see the pediatrician regularly and there is a documented commitment from the pediatrician to take her on as a patient.
- [49] Considering the particular challenges that K.'s special needs present, the work Dr. P. and her family have done to research and secure supports for K., and the evidence of Mr. L.'s lower level of commitment to K.'s care and his parenting time with her, I find these factors militate strongly in favour of relocation.

Nature and strength of child's relationships and willingness of each parent to support the development and maintenance of the child's relationship with the other parent - ss. 16(3)(b) and (c)

- [50] Turning to the questions about the nature and future of K.'s relationships, as noted above, there is no question that K. is bonded to both her parents and that those are among the most important relationships in her life. K. does not have siblings and neither party has immediate or extended family who are permanently resident in Victoria. It is also clear from the evidence that K. is very bonded to and dependent on Dr. P.'s mother, who has been a consistent and incredibly present person in her life since birth and more so since separation. Dr. P.'s father is also an important person in K.'s life but his direct contact with K. has been more limited.
- [51] Mr. L.'s family is in the Bahamas. During the hearing, he advised the Court his mother is currently experiencing some health issues. I accept that I do not have specific affidavit evidence on this point, but I do not have reason to doubt what he said. K. has met Mr. L.'s mother on a number of occasions. She has met his father fewer times. While I accept Mr. L.

would like his parents to be part of K.'s life, the evidence does not establish that K. has a significant connection with them at this time. I also accept that Mr. L.'s ability to connect K. to his parents is hindered to some extent by the JCC order which precludes both parties from removing K. from Canada. However, there is no evidence Mr. L. has attempted to vary that term of the JCC order to permit him to take K. to the Bahamas.

- [52] I am satisfied that as the parent with primary care, Dr. P. has been diligent in supporting the development and maintenance of Mr. L.'s relationship with K. She has generally facilitated his parenting time since the JCC order was put in place. While Mr. L. complains that Dr. P. refused to voluntarily increase his parenting time with K., she is not required to consent, and, as noted, Mr. L. has not applied for an increase.
- [53] If permitted to relocate, Dr. P. has committed to bringing K. back to Victoria at least once a month for an extended weekend in order to preserve K.'s relationship with Mr. L. She has also proposed that Mr. L. is welcome to travel to Saskatchewan and Dr. P. will bring K. to Saskatoon to save Mr. L. the extra drive to Prince Albert. She has also proposed video calls, and there is evidence that when K. was younger and Mr. L. was in the Bahamas for several extended trips, Dr. P. facilitated such calls.
- [54] In the circumstances and in appreciating the importance of Mr. L.'s relationship with K., I still find these factors militate in favour of relocation.

Child's cultural, linguistic, religious, and spiritual upbringing and heritage, including her Indigenous upbringing and heritage - s. 16(3)(f)

- [55] Section 16(3)(f) of the Divorce Act requires that I consider K.'s cultural, linguistic, religious and spiritual upbringing and heritage, including her Indigenous heritage. As mentioned, K. and Dr. P. are members of the Ahtahkakoop First Nation. That Nation is located only in Saskatchewan and the particular Cree language associated with the Nation is not readily spoken outside the reserve and its surrounding area, including Prince Albert. There are very limited opportunities for K. to access her particular Indigenous culture in Victoria.
- [56] There is evidence that, in Prince Albert, K. will have greater access to her Indigenous heritage. She will be close to the First Nation's land and territories and its cultural and other services. She will also be close to Dr. P.'s immediate and extended family who can assist K. to learn and appreciate her Indigenous heritage. There is no question this is an important consideration.
- [57] I accept Mr. L.'s submission that K. is also of black Bahamian heritage, which is an important part of her heritage that also deserves to be nurtured. He says he will be more able to nurture that side of K.'s culture and heritage if he is able to spend regular time with her the way he has been to date. Other than his reference to exposure to Bahamian music, it is not clear how Mr. L. has been supporting this side of K.'s culture to date. While I do not have sufficient evidence on this point, I accept that there will be at least some impact on K.'s exposure to her Bahamian heritage if Mr. L.'s regular parenting time with K. is consolidated

into one weekend a month. But I am unable to find that that tips the balance against relocation, particularly when there are significant benefits to relocation on the other side of K.'s Indigenous heritage.

[58] I find this factor weighs in favour of relocation, but not as heavily as it might have were there not downsides in respect of K.'s Bahamian culture.

Family violence and its impacts on the child's care and the parents' ability to cooperate and the ability and willingness of the parents to communicate and cooperate - ss. 16(3)(i) and (j)

[59] I have grouped together the considerations under ss. 16(3)(i) and (j) of the Divorce Act, which concern family violence and its impacts, as well as the ability and willingness of the parents to communicate and cooperate.

[60] Dr. P. alleges significant family violence during the relationship, including physical and verbal abuse, coercive control, and financial abuse. The allegations of physical and verbal abuse largely pre-date the birth of K. The allegations of financial abuse continue after K.'s birth and definitely up to, if not beyond, the point of the parties' separation. Mr. L. did not work in Canada until after separation and he obtained his current employment in January 2023. He did not begin to pay any child support for K. until ordered to do so by Associate Judge Harper after the July 2025 hearing of Dr. P.'s applications that I previously mentioned.

[61] There is no question looking at the parties' financial statements that the financial implications of the relationship, whether ultimately determined to be abusive or not, continue to this day. The parties have significant debt to the point that despite the substantial value of the former family home, there is unlikely to be much left over after it is sold. The same is unfortunately true in relation to the eventual sale of the dental practice.

[62] As indicated, Mr. L. denies all allegations of family violence. If anything, he has suggested that he suffered financially when he was cut off from family funds after separation.

[63] The Court is generally reluctant to make findings on disputed factual matters on the basis of affidavit evidence alone, especially where the disputes involve incidents for which there are often no other witnesses than the parties themselves. I appreciate the submissions of Dr. P.'s counsel that, unlike the case in other interim applications, for purposes of this application I have been provided with Mr. L.'s discovery transcript. However, I do not have access to Dr. P.'s discovery transcript. And even with the transcripts, questions of credibility and reliability would remain difficult to determine.

[64] I accept that I have some evidence of text messages that suggest an unhealthy relationship between the parties in which Mr. L. exerted significant control over Dr. P. But like Justice Brongers in *Murray v. Harrison*, 2022 BCSC 423, I am not persuaded that I am in a position to make conclusive findings on the question of family violence.

- [65] That said, I am conscious that, in the context of a relocation application (and any other application for parenting time), the focus of the family violence provisions in the Divorce Act is on the impact of any alleged family violence on the child and on the ability of the parties to cooperate regarding the child. There is no suggestion here of any direct impacts of the alleged family violence on the child. I accept there may well be indirect impacts, including as a result of the alleged financial repercussions.
- [66] However, even without making express findings on the existence (or not) of family violence, the evidence before me is clear that the relationship between the parties has had a very significant negative impact on their ability to cooperate and communicate. I accept that Dr. P.'s subjective experience in the relationship was one of a loss of control and autonomy and that makes it very difficult for her to be around Mr. L. without appropriate safeguards. To her credit, she has continued to facilitate K.'s relationship with Mr. L., but it is not a comfortable situation for her.
- [67] As I am not able to make conclusive findings regarding family violence, I have considered the potential outcomes if I were able to do so. Had I been in a position to find family violence occurred, that factor would weigh in favour of relocation. Had I been in a position to accept Mr. L.'s position that family violence did not occur, at best that factor would be neutral. However, since I have evidence of the negative impacts of the relationship in terms of the parties' cooperation, I find this factor weighs slightly in favour of relocation.

Section 16.92(1) factors

- [68] There is some overlap between the s. 16.92(1) factors and the s. 16(3) factors which I have already addressed.
- [69] In this case, there is no question that Dr. P. complied with the notice requirements under s. 16.9 of the Divorce Act. Mr. L. accepts that he was given notice and his objection in response is what ultimately led to this application. That sufficiently addresses s. 16.92(1)(d). The only order in respect of K.'s residence is the JCC order. While it does not allow her to be removed from Canada, it would not preclude a move to Saskatchewan. That addresses s. 16.92(1)(e).

Reasons for relocation - s. 16.92(1(a))

- [70] Dr. P. has provided a series of reasons for the proposed relocation. She says that, in Prince Albert, she and K. will both have the support of Dr. P.'s immediate family, including K.'s maternal grandparents. Dr. P. and K., as mentioned, are status members of the Ahtahkakoop First Nation, which is only located in Saskatchewan. The Nation's territory and main services are about an hour's drive outside of Prince Albert. Dr. P. says relocating to Prince Albert will also provide K. with greater access to and more consistency of healthcare, which is key for her special needs. Dr. P. says consistency, in particular, has been elusive in Victoria and, as discussed above, she has taken steps to secure medical supports for K. in Prince Albert that will be able to assist her in preparing for Kindergarten in September 2026. Dr. P. also notes that in Prince Albert and through the First Nation, K. will have access to funding

under Jordan's Principle for healthcare and other supports.

- [71] Living with family in Prince Albert will also ensure consistency of primary care for K. As noted, Dr. P's mother has spent a significant portion of time since August 2022 in Victoria assisting Dr. P. with K., but continuing to live away from her home and community is no longer sustainable and she will return to Prince Albert full-time in September 2025. In Prince Albert, Dr. P's mother can and is willing to continue assisting with K.'s care.
- [72] Dr. P. has also secured an employment offer to take over a dental practice in Prince Albert. The position pays more and has greater flexibility to accommodate K.'s needs than Dr. P.'s current dental practice in Victoria. Economically, Dr. P. says living with her parents and not having to pay rent will allow her to begin to recover from the financial ruin that resulted from the parties' relationship.
- [73] Dr. P. also notes that the former family home will shortly be listed for sale and the dental practice is already listed. When those assets sell, due to the level of the parties' debt, and notwithstanding the financial issues still to be resolved between the parties, there will not be much left over. If Dr. P. were to remain in Victoria, she would face challenges finding a new place to live for her and K. Further, while she likely has employment prospects in Victoria, Dr. P. does not yet have anything specifically lined up.
- [74] For his part, Mr. L. essentially suggests there are opportunities for K. and Dr. P. in Victoria, and if K. remains in Victoria, he is willing to provide further assistance. I note that Mr. L. has had notice of Dr. P.'s desire to relocate and the reasons why since June 2024 and there is no evidence he has taken any steps in the interim to provide further assistance or formally seek to increase his parenting time. I am not persuaded his arguments detract from what I find are Dr. P.'s legitimate reasons for relocation. I find this factor militates in favour of relocation.

Impact of the relocation on the child - s. 16.92(1)(b)

- [75] I accept that relocation will impact K. in the sense of a disruption and reduction at least of the frequency with which she sees Mr. L., if not the overall time. This is unfortunately the practical outcome of many, if not most, relocation applications where one parent relocates with the child and the other parent remains in the current location.
- [76] However, the evidence persuades me that, overall, the relocation will be beneficial for K. Relocation will provide K. with a stable home with Dr. P. and her maternal grandparents and ready access to extended family members and her First Nation's heritage. Dr. P. will be more supported and therefore better able to provide for K.'s special needs and to address the financial repercussions of the parties' relationship, including because she will not have housing costs. I accept Dr. P.'s submission that increasing her well-being and therefore her capacity to care for K. is in K.'s best interests. This factor militates in favour of relocation.

Time spent and level of involvement and compliance with legal obligations - ss. 16.92(c) and (g)

[77] I have already addressed above the level of Mr. L.'s involvement and his compliance with the parenting time provisions of the JCC order. While I accept that he is involved in K.'s care when he has her and has exercised parenting time, there have been gaps in his dedication to both. As indicated above, relocation will reduce at least the frequency of time that Mr. L. has with K., but I still find this factor weighs in favour of relocation.

Reasonableness of the proposal for maintaining contact with the non-relocating parent - s. 16.92(1)(f)

[78] As noted, the proposal for contact with Mr. L. on relocation is that Dr. P. will bring K. to Victoria once a month for an extended long weekend so that Mr. L. can exercise parenting time. As Dr. P.'s employment offer in Prince Albert affords her the flexibility of Fridays off, she proposes that visits be scheduled to coincide with long weekends so there is not an actual reduction in overall time, but, rather, just a consolidation.

[79] When asked about whether travel would be disruptive for K., Dr. P.'s counsel advised that K. has travelled to Saskatchewan before and the main concern is ensuring she has familiar people with whom she is comfortable in order to travel. I am satisfied that if Dr. P. is travelling with her, there will not be a negative impact on K.'s best interests.

[80] Dr. P. is also open to having Mr. L. come to Saskatchewan to obtain additional parenting time with K. if he wishes. He is welcome to go to Prince Albert directly or Dr. P. is willing to take K. to Saskatoon. Dr. P.'s brother lives in Saskatoon and Mr. L. would fly into Saskatoon from Victoria. That would save Mr. L. the drive to Prince Albert.

[81] In recognition of the fact that travel to Saskatchewan would present something of a financial hardship for Mr. L., Dr. P. has offered that she is willing to reimburse Mr. L. up to \$1,000 in costs for each month that he chooses to travel to Saskatchewan to see K. She has provided evidence of the costs for flights, car rentals if necessary, and hotels, which suggest \$1,000 is a reasonable estimate for a weekend trip. Flights will obviously be cheaper if they can be organized in advance, which would be necessary with K.'s schedule anyways. Dr. P. is also willing to facilitate video calls with K. to maintain contact with Mr. L.

[82] Mr. L. says it is doubtful, given his work schedule, that he will be able to take off all or part of a Friday each month to maximize his time with K. He also advised, in response to the Court's questions, that he sometimes has to work statutory holidays if the holiday in Canada is different than that in other countries connected to his investment work. He says it is more likely that his parenting time overall will be reduced rather than being consolidated. He also stressed that this will disrupt the routines he has with K.

[83] While I appreciate the creativity of the proposal Dr. P. has suggested, I accept there is likely to be some reduction in Mr. L.'s time if it is limited to just one visit per month. However, I note that Mr. L. has not made any concrete inquiries at his work about whether, in lieu of

the 30 minutes he takes off early twice each week for evening parenting time, he could instead consolidate that time into a Friday. With respect to potentially increasing his time through travel to Saskatchewan, Mr. L. suggested that he would be unable to take time off to make travel to Saskatchewan worthwhile. That said, he has again made no concrete inquiries at his job at all. He also admitted (in response to a question from the Court) that he does get vacation time but he was unsure of how many days.

- [84] Mr. L. raised concerns about the climate in Prince Albert and the need to potentially drive in the snow if he went to visit K. in Saskatchewan. I am not persuaded that that potential occasional inconvenience to Mr. L. should weigh into my considerations at all.
- [85] Mr. L. also raised concerns about the crime rate in Prince Albert. He provided statistics on relative rates of crime in Prince Albert and Victoria from Stats Can's National Crime Index, as well as news articles about a number of crimes in Prince Albert not far from the maternal grandparents' home. He did not search for articles in the locations where he and Dr. P. currently live in Victoria. While I appreciate the initiative that Mr. L. has shown in this regard, in contrast to his concerns, I have evidence from the maternal grandparents and Dr. P. about the safety of the proposed neighbourhood. I am not persuaded Mr. L.'s has raised realistic concerns in this regard that weigh against relocation to Prince Albert.
- [86] Overall, I find that Dr. P.'s proposal for maintaining contact between K. and Mr. L. is reasonable. She is also proposing to bear the costs of Mr. L. exercising parenting time despite the relocation. I find this factor militates in favour of relocation.

Conclusion

- [87] Having reviewed the evidence tendered by the parties, having carefully considered the submissions made by Dr. P.'s counsel and by Mr. L. over two very full days, and having reviewed the authorities provided to me in light of the 18 relevant factors, I am not persuaded that Mr. L. has met his burden to demonstrate the proposed relocation of K. to Prince Albert, Saskatchewan, is not in her best interests. While this is not a mathematical exercise, I note that of the 14 factors that required substantive consideration, all but one of them weigh in favour of relocation to some extent, and the last factor is neutral because I cannot make findings about family violence.
- [88] As a result, I will issue an order authorizing the interim relocation as requested by Dr. P. Dr. P. has permission to move immediately.
- [89] With respect to Mr. L.'s post-relocation parenting time, I accept that Dr. P.'s proposal for the exercise of parenting time is reasonable and I will make an order varying the JCC order to provide for parenting time for Mr. L. as follows:
- a) at least once a month, with Dr. P. bringing K. to Victoria to visit Mr. L. on a schedule to be arranged in advance by agreement between the parties; and

b) at Mr. L.'s option, and on a schedule to be arranged between the parties, Mr. L. is permitted to travel to Saskatchewan once a month to visit K.

[90] I will make an order that if Mr. L. exercises the option to travel to Saskatchewan for parenting time with K., Dr. P. will reimburse Mr. L. the cost of his travel, including flights, hotel, car rental, and incidentals, up to a maximum of \$1,000 after presentation of all invoices for his travel.

[91] With my thanks in advance, I will leave it to counsel for Dr. P. to draft the order and I grant counsel permission to adjust the wording to make my order as clear as possible for the parties to follow. The order can be sent to me for approval through Supreme Court Scheduling once the parties have agreed on the wording of the order. If there is a concern with respect to the wording of the order, then Dr. P.'s counsel has leave to write to the Court following the usual Practice Directions (including ensuring that Mr. L. is copied and has seen a copy of the letter in advance), to indicate any disputes and I will settle the terms of the order.

[92] In the circumstances, Dr. P. has been successful on her application, which may not have been necessary if Mr. L. had been able to commit to mediation as he had originally proposed. In the circumstances, I award Dr. P. her costs of this application, assessed on the ordinary scale of difficulty, in any event of the cause.

[93] Those are my reasons.

[Discussion re: anonymization of style of cause and parties' names, and requirement for the respondent's signature on the order].

[94] THE COURT: Yes. Thank you for raising that, Mr. Ahuja. I had made a note to myself to ask about anonymizing the names of the parties but I must have left it in my office. I am happy to do so. It is usually my practice in family law matters to at least initialize the names of the parties and then to remove any personal information that could potentially identify the parties or the child in particular, as the child is my focus of concern, so I have no concerns with doing that if I decide to publish the reasons or if any party orders a transcript.

[95] With respect to the request to dispense with the signature on the order, help me, Mr. Ahuja, have there been issues with getting Mr. L. to sign orders in the past?

[Further discussion with counsel and Mr. L. regarding potentially having Mr. L. sign the order electronically.]

[96] THE COURT: Then I will grant permission for Mr. L. to e-sign the order and provide it back to Mr. Ahuja who can submit it for filing and entry that way.

[97] Thank you everyone for your patience.

"K. Wolfe J."

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