

CANADA / JUDGMENT

## Sandhu v. Bhella

2025 BCSC 604

### COURT

Supreme Court of British Columbia

### DECIDED

2 April 2025

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2025 BCSC 604 Sandhu v. Bhella

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Sandhu v. Bhella,

2025 BCSC 604

Date: 20250402

Docket: E58233

Registry: New Westminster

Between:

Gurpreet Kaur Sandhu

Claimant

And

Surinderjit Singh Bhella

Respondent

Before: The Honourable Justice Kirchner

Reasons for Judgment

The Claimant, appearing on her own behalf:

G.S. Sandhu

The Respondent, appearing on his own behalf:

S.S. Bhella

Place and Dates of Trial:

New Westminster, B.C.

June 12-16, 2023

December 4, 2023 and

January 16-17, 2025

Place and Date of Judgment:

New Westminster, B.C.

April 2, 2025

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## Introduction

- [1] The parties to this family law case seek orders respecting parenting time and pension division. They have otherwise resolved all other issues between them. Mr. Bhella also seeks an order respecting counselling for the children. Neither party seeks an order for spousal support or child support, although it is necessary to address child support since that is the right of the children and not the parties themselves.
- [2] The parties were married in 2005 and separated on March 31, 2019. Their children are now 14 and 10. The parties represented themselves at trial and it has taken some time to complete. It began in June 2023 but was adjourned near the close of the evidence to obtain a "Hear the Child" report because there was no evidence of the children's views on the parenting issues. The trial resumed and initially concluded in December 2023, but then Mr. Bhella submitted a request to reopen the trial (before judgment) and I directed he bring an application to that effect. That application was heard on April 26, 2024 and I granted the order to re-open the trial for two days of evidence and further argument. That occurred on January 16 and 17, 2025. Mr. Bhella then submitted another request to re-open the trial but I advised that I was not prepared to do that.
- [3] By far the most substantial and important issue is parenting time. Mr. Bhella seeks an order that parenting time be split equally between the parties on a week-on/week-off basis. He also seeks an order that the children attend culturally-appropriate counselling from a Sikh-Punjabi counsellor. Ms. Sandhu argues the existing parenting arrangement that has evolved through a series of orders I have made should largely continue albeit with some adjustments.

## Background

- [4] The parties met while attending university in India. They each have a Ph.D. from that university: Ms. Sandhu's is in physics and Mr. Bhella's is in chemistry. They married in March 2005 and came to Canada for a brief period later that year. They immigrated to Canada two years later in 2007. Their oldest child, R.S.B. was born in 2010. He was 13 when the trial started in June 2023 and 14 when it concluded in January 2025. He is now in Grade 9. The parties' second child, R.K.B. was born in 2015. She was 8 when the trial started and 10 when it concluded. She is now in grade 5.
- [5] Both children were born in Calgary where Ms. Sandhu was doing a residency as a medical physicist and Mr. Bhella did post-doctoral studies at the University of Calgary. Ms. Sandhu took a one-year maternity leave when R.S.B. was born in 2010. After the maternity leave, R.S.B. attended daycare and Ms. Sandhu finished her residency in 2012. She was then offered a job in Regina which she accepted. Mr. Bhella stayed in Calgary with R.S.B. while Ms. Sandhu worked weekdays in Regina and returned home to Calgary for holidays and most weekends.

- [6] Mr. Bhella's parents came from India to live with the parties in Calgary to help with R.S.B. while the parties worked. In September 2013, Mr. Bhella's parents returned to India and Ms. Sandhu took R.S.B. with her to Regina while Mr. Bhella remained working in Calgary. The parties essentially switched their commutes with Mr. Bhella now travelling to Regina on weekends and holidays. Ms. Sandhu became pregnant again in 2014 and she returned to Calgary in December 2014 where R.K.B. was born in January 2015.
- [7] Later in 2015, while on maternity leave, Ms. Sandhu was offered a job with the B.C. Cancer Agency in Surrey where she now works. She moved to Surrey in December 2015 with both children while Mr. Bhella initially remained in Calgary. He travelled to Surrey on weekends when he was able and moved to British Columbia permanently in 2017 when he got his present job. In the meantime, Ms. Sandhu's father had come to stay with her in Surrey to help care for the children and stayed until July 2018. In April 2017 the parties bought a home in Abbotsford.
- [8] The parties separated briefly in May 2018 and permanently on March 31, 2019. Ms. Sandhu alleges that in May 2018 there was an incident of family violence in which Mr. Bhella slapped her during an argument. The police were called, apparently by Mr. Bhella, and he was charged with assault, but that matter was resolved by way of a no-contact undertaking. The parties separated for about four months.
- [9] Mr. Bhella did not initially deny this incident, at least in the June 2023 portion of the trial. He explained that he had gallbladder surgery that day and believed he was still feeling the effects of anesthesia. He said he was also feeling anxious and depressed at the time because he had recently moved to British Columbia and did not know anyone, other than his family. He also said Ms. Sandhu's father, who was still living with the family at the time, had been having a series of behavioural episodes that were highly out of character for him. In some of these he appeared have threatened Mr. Bhella who said this had put him under enormous strain adding to his anxiety. He said "I was not in my state of mind. [Ms. Sandhu's] dad was there. She says I hit her. Maybe I hit her. I don't know. I wanted someone to come and help us. The police came and all this happened."
- [10] To his credit, during the period of this temporary separation, Mr. Bhella began regular counselling sessions. He began to learn about anger management and how to handle anger in a relationship. He had 32 sessions with his counsellor over the next several months. On his suggestion, Ms. Sandhu joined for some eight or 10 sessions of couples counselling. She also started seeing a counsellor on her own.
- [11] In September 2018 the parties tried reconciling but separated again on March 31, 2019. Ms. Sandhu said the period of attempted reconciliation was characterized by threatening and harassing conduct by Mr. Bhella. She said there was no physical violence during that time but Mr. Bhella's behavior in the home was intimidating. She said Mr. Bhella monitored her phone to see who she was speaking with and read her messages. She deleted her call logs and said this caused Mr. Bhella to become angry which he expressed in front of the children.

Ms. Sandhu said the tension in the house was constant.

- [12] On March 30, 2019 the parties had an argument during which Ms. Sandhu felt threatened and called the police. The police told Mr. Bhella to leave the home for a few hours for a "cooling off" period. Ms. Sandhu said when he returned a few hours later Mr. Bhella was still angry. She avoided Mr. Bhella by going to her bedroom with R.K.B. and pretended to nap but Mr. Bhella came into the room and pulled the blanket off her. He shouted at her about some tax papers and cleaning the house. R.K.B., who was 4 at the time, was present for this. Ms. Sandhu said R.K.B. told Mr. Bhella not to get upset and that she would clean.
- [13] These tensions continued over to the next day. Ms. Sandhu again called the police who attended and arrested Mr. Bhella. He was later charged with uttering threats. A no contact undertaking was put in place and the parties separated.
- [14] Following the separation, and while Mr. Bhella was not able to see the children because of the no-contact order, he sought further counselling. He started attending bi-weekly drop-in sessions with an organization called Abby Dads in Abbotsford. He did some 67 sessions over the next two years, attending every second Wednesday. He completed an Anger Awareness program and a Men in Relationships program. He is still involved with Abby Dads today. He also did some 50 sessions with the Abbotsford Mennonite Centre focusing on anger management and relationships. He also attended a session every Saturday that focused on Punjabi men. He said he did all this counselling to try to understand why he and Ms. Sandhu "became very different people than we were after the start of the relationship". He said "I love Ms. Sandhu and I love the kids. I don't know my flaws. I need to dig into myself to figure it out. That is why I did the counselling."
- [15] Mr. Bhella had tremendous difficulty accepting the parties' separation. In the years before trial, he sent deluges of emails, text messages, direct messages, and videos to Ms. Sandhu begging her for forgiveness and asking her to reconcile. In May 2019, Ms. Sandhu retained counsel for these family law proceedings but Mr. Bhella inundated the lawyer with emails and Ms. Bhella's legal costs needlessly piled up so she began representing herself in March 2020. Ravjeet Kour, Ms. Sandhu's sister-in-law (her brother's widow), testified that Mr. Bhella contacted her and Ms. Sandhu's late brother repeatedly, even relentlessly, by phone, email, and direct message wanting to tell them his side of the events that led to separation and trying to enlist their help to persuade Ms. Sandhu to reconcile. Ms. Sandhu heard from other relatives and even her Ph.D. supervisor in India that Mr. Bhella had contacted him for help. Ms. Sandhu was understandably troubled by this behavior in that she felt pressure to explain herself to these friends and relatives, although her brother and sister-in-law were very supportive.
- [16] Mr. Bhella also tried to make in-person appeals to Ms. Sandhu for reconciliation, even while under a no-contact order, causing her to feel threatened and intimidated. On September 9, 2020, Mr. Bhella came to the former family home while Ms. Sandhu was in the car with the children and blocked the driveway with his car. Ms. Sandhu eventually drove into the garage

and tried to close the door but Mr. Bhella followed her in and stood beside the car holding some papers. Ms. Sandhu lowered the window and took the papers and said she was going to call the police. Mr. Bhella remained for a few minutes but eventually left. Ms. Sandhu said the papers were 10 or 12 sheets of handwritten apologies and pleadings for reconciliation. The incident left Ms. Sandhu frightened.

- [17] In another incident on October 23, 2021, Mr. Bhella came to Ms. Sandhu's front door where he removed his turban and left it on the door step before driving away. Ms. Sandhu said the children watched this incident from a window and questioned her about what Mr. Bhella was doing.
- [18] At times Mr. Bhella sent written messages to Ms. Sandhu apologizing to her and begging for forgiveness and reconciliation. Some of these he sent through the children. At times, he also expressed his despair over the separation directly to the children.
- [19] Even at the start of trial in June 2023, Mr. Bhella sought an order adjourning the trial so the parties could seek counselling and a potential reconciliation. However, by the conclusion of the June 2023 trial dates, Mr. Bhella seemed to have accepted that the relationship was over. By consent, I made an order that Ms. Sandhu could buy out Mr. Bhella's interest in the former family home based on the appraised value. This allowed Mr. Bhella to buy his own townhome. He has continued with his counselling and has now stopped his efforts to try to reconcile. He has built his own life in his own home independent of Ms. Sandhu.

## Parenting

### Current Arrangements

- [20] When the trial began in June 2023, Ms. Sandhu had the vast majority of parenting time. Mr. Bhella had parenting time on Tuesday and Friday evenings each week and an overnight stay every other Friday. When the trial was adjourned on June 16, 2023, Ms. Sandhu agreed that Mr. Bhella could have more parenting time and I made an interim order by consent extending his weekend parenting time to start on Friday and end Sunday evening every other weekend. I also ordered by consent that the children would have a telephone or video chat with Mr. Bhella on Wednesday evenings. I also ordered that each parent would have two weeks of uninterrupted parenting time during the children's summer break from school in 2023.
- [21] At that time, Mr. Bhella was still living in a one-bedroom basement suite. This was less than ideal for extended parenting time with two children, although they were able to make it work while the children were younger. However, Mr. Bhella has now bought a three-bedroom townhome in Abbotsford, about ten minutes away from the former family home where Ms. Sandhu still lives. Thus, each child now has their own bedroom at Mr. Bhella's home as they do in Ms. Sandhu's home.

[22] In April 2024, after hearing Mr. Bhella's application to reopen the trial, I made another interim order extending Mr. Bhella's parenting time on the following alternating week schedule:

- Week 1: Tuesday 6:00 p.m. to 9:00 p.m.; Thursday after school to Monday morning school drop-off.
- Week 2: Tuesday 6:00 p.m. to 9:00 p.m.; Thursday after school to Friday at 6:00 p.m.

[23] That schedule has been in place since then.

### The Parties' Position

[24] Mr. Bhella seeks an equal parenting arrangement on a week-on/week-off basis. He points to his history of being a primary parent when the children were infants and argues he is a very good parent now who has a close relationship with the children. He described the activities he does with the children and provided the court with hundreds of photos of these activities. He said the extensive counselling he has done has helped him better understand himself and his family relationships and has made him a better parent. He believes it is in the children's best interest to have equal time with both parents. That said, at the re-opening of the trial in January 2025, Mr. Bhella said he would be content with the existing parenting arrangement as long as the court recognized that he is capable of being a parent with equal parenting time.

[25] At the initial close of the evidence in December 2023, before the application to reopen, Ms. Sandhu said she was not against eventually moving to an equal parenting arrangement but she was not ready to accept that yet. She said Mr. Bhella's conduct over the previous four years, as I have described it earlier, gave her significant concern about the children's psychological well being if they were to spend half their time with Mr. Bhella. She considered that Mr. Bhella's relentless communications with her and her family members about reconciliation suggested that he needed to better stabilize his mental health before taking on parenting of the children half the time. She pointed especially to his efforts to involve the children in his reconciliation efforts and his outward manifestations of despair over the marriage breakdown to and in front of the children. She said this conduct should not prevent Mr. Bhella from having parenting time and she did not try to stop it, but she was "looking for positive change" before embracing an equal parenting arrangement. She said, "I'm not against 50-50 but not until this conduct is addressed. I'm not at 50-50. I'm concerned about the physical and psychological safety so I'm not ready to increase the parenting time."

[26] By the conclusion of the re-opened trial in January 2025, Ms. Sandhu had refined her view of the parenting schedule. She has now come to the view that the current schedule, with some adjustment, is best for the children and she does not believe their best interests are served by moving to an equally-shared parenting arrangement. She suggested the current schedule is working well for the children except that she would like to have Friday afternoons with them on the weekends that she has parenting time. She said the increase in Mr. Bhella's

parenting time since the April 2024 interim order has been good for the children and obviously for Mr. Bhella, but she remains apprehensive that the children's best interests will be met with equal parenting time. She said the children are doing very well with the existing arrangement and she is reluctant to disrupt it, especially since (as I discuss below) the children themselves do not want to move to a fully equal parenting time.

### The Children's Views

- [27] According to the Hear the Child report, the children liked the parenting arrangement as it existed at that time (the extended parenting time I had ordered as at June 16, 2023 but not yet current arrangement). They did not want to extend their parenting time with Mr. Bhella further into school days but valued the time with him on weekends and holidays.
- [28] As the report was somewhat dated by the time the trial re-opened in January 2025, I met with the children directly in an effort to ascertain their current views, including on the schedule I put in place in April 2024.[1]
- [29] As I commented to the parties, the children are remarkable people. They are exceptionally personable and mature for their age. They willingly offered their views with little prompting. It appears to me they have managed their parents' separation as well as one might hope. It seems that the end of daily tensions between the parties upon separation has benefitted them. They both struck me as well-adjusted and accomplished kids. They obviously have tremendous affection for both parents.
- [30] Overall, the children are content with the current parenting schedule except they find the formal Tuesday evening parenting time with Mr. Bhella disruptive to their routines. They say they return to Ms. Sandhu's house on Monday after school following a weekend with Mr. Bhella only to go back to Mr. Bhella's house the next day, albeit just for the evening and not overnight. I interpret this as an expression of wanting more stability and less back and forth between the parents' homes. They also feel strongly that they do not want to move to a 50-50 shared parenting arrangement as they find more stability in spending school nights at Ms. Sandhu's home. They very much like the equally-shared parenting time during school breaks and particularly the summer arrangement in two-week alternating blocks.

### Analysis

- [31] At the initial conclusion of the trial in December 2023, before Mr. Bhella sought to reopen the case, I considered Ms. Sandhu's concerns about moving to equal parenting time well founded. I was troubled by Mr. Bhella's relentless and unwanted pursuit of reconciliation, his involving the children in some of those efforts, and his outward displays of despair to the children over the marriage breakdown. These were not merely incidents of a parent showing emotion in front of a child but overt displays of torment that went to the heart of his relationship with the children's other parent. It undoubtedly created an insecure parenting environment for the children at that time.

[32] Since then, however, Mr. Bhella has adapted to life after separation and accepted that the relationship is over. He continued his counselling and stopped trying to reconcile with Ms. Sandhu. When I heard his application to reopen the trial in April 2024, I was sufficiently confident in the progress he made to that point that I further increased his parenting time.

[33] Keeping that progress in mind, I now assess what parenting arrangement is in the children's best interests going forward.

[34] Under s. 37(1) of the Family Law Act, the court must consider only the best interests of the children when making a parenting order and, in doing so, must consider all of their needs and circumstances including the factors set out in s. 37(2) of the Family Law Act:

37 (1) In making an agreement or order under this Part respecting guardianship, parenting arrangements or contact with a child, the parties and the court must consider the best interests of the child only.

(2) To determine what is in the best interests of a child, all of the child's needs and circumstances must be considered, including the following:

- (a) the child's health and emotional well-being;
- (b) the child's views, unless it would be inappropriate to consider them;
- (c) the nature and strength of the relationships between the child and significant persons in the child's life;
- (d) the history of the child's care;
- (e) the child's need for stability, given the child's age and stage of development;
- (f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time or contact with the child, to exercise his or her responsibilities;
- (g) the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member;
- (h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child and meet the child's needs;
- (i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;
- (j) any civil or criminal proceeding relevant to the child's safety, security or well-being.

[35] Many of these considerations are neutral or inapplicable in this case. That is, I consider both Ms. Sandhu and Mr. Bhella to be capable and loving parents, both of whom have a history of caring for the children and a strong and healthy relationship with them.

- [36] The points that require some detailed examination are the children's views, their need for stability, the appropriateness of an arrangement that requires the parties to co-operate on issues affecting the children, and issues respecting family violence. In the course of addressing those considerations, I will touch on some of the other points, such as the children's health and emotional well-being. I will also address Mr. Bhella's request for an order that the children receive counselling.

## Views of the Children

- [37] Initially, the parties led very little evidence of the children's views and preferences respecting parenting time. Given their age, I considered it to be particularly important to have their views so I adjourned the trial on June 16, 2023 and ordered that the parties retain a professional to prepare a "Hear the Children" report. (In doing so, I took note of the parties' Financial Disclosure Statements and determined that they could incur this expense without significant hardship.)
- [38] A report was prepared by Lisa Low, a counsellor with Crossroads Collective. Ms. Low interviewed Ms. Sandhu and Mr. Bhella separately and then met with the children separately and without their parents on August 24 and August 29, 2023. Both children reported feeling safe in Mr. Bhella's care and that they enjoy their time with him. They noted in particular that splitting their time out of school equally between the parents worked well for them. However, both expressed a fairly strong preference to Ms. Low to stay with Ms. Sandhu during their school week.
- [39] R.S.B. reported to Ms. Low that he liked spending school days at Ms. Sandhu's home because Mr. Bhella did not have a routine like Ms. Sandhu did. As I discuss below, I find that has now changed, although R.S.B.'s preferences have not changed significantly. He said to Ms. Low in 2023, "I like being with Dad, but I'm not sure if he is ready for school days. He isn't as organized as Mom." He also preferred to do his homework at Ms. Sandhu's home because he is "all set up" there. He said he would be fine spending half his time during the summer and other school breaks with Mr. Bhella.
- [40] R.K.B. expressed a similar view. "I don't want to spend more time, I am fine. I wouldn't want to on school days. My mom packs our lunches how we want it. She does our homework properly, spends time on it. She washes our hair properly."
- [41] Ms. Low's report must be read with some caution at this stage. It was prepared in 2023 before Mr. Bhella had bought his townhome and thus the children's living circumstances with Mr. Bhella were considerably different than what they are now. The children are also older and take care of more of their own personal needs.
- [42] In my own meeting with the children in January 2025, they largely reiterated their preference not to move to a 50-50 shared parenting arrangement other than during school breaks. They especially like having the long summer block of holidays split into two-week segments rather than an extended month-long period with each parent. They value and

enjoy their time with Mr. Bhella but still appear to find more stability in spending the school nights at Ms. Sandhu's home. In particular, they find Ms. Sandhu is adept at assisting with their homework and patient when explaining concepts to them. This puts them at ease because they find they are better able to understand their school work with her assistance.

- [43] In view of the age of the children and their demonstrated maturity, I place some considerable weight on their views. I also find it is important to consider those views as they relate to other factors under s. 37(2) as a child's view is often an expression of their emotional well being and of what they find brings them stability.
- [44] I will also keep in mind that the children have spent more time with Ms. Sandhu since separation and this likely contributes to their perceptions of stability in continuing a larger amount of their weekday time with her.

## Family Violence

- [45] Under s. 37(2)(g) and (h), I am required to consider the impact of any family violence on the children's safety, security or well being, whether that violence is directed at the children or another family member. The Family Law Act defines family violence to include (among other things that are not relevant to this case) physical abuse; psychological abuse including intimidation, harassment, coercion or threats, stalking or following of a family member, and intentional damage to property; and direct or indirect exposure of a child to family violence.
- [46] When considering the impact of family violence on the children and whether the actions of the person responsible for family violence impair their ability to care for the children and meet their needs, I am required under s. 38 of the Family Law Act to consider the nature, seriousness, and frequency of family violence. I must consider whether it was directed towards a child, but also consider the effect on children of any violence directed at other family members. I must consider how recently family violence occurred and whether it constitutes a pattern of coercive or controlling behavior. I must consider whether it has harmed a child's physical, psychological or emotional safety. Finally, I must consider any steps taken by the person responsible to prevent the family violence from occurring.
- [47] Much of the trial, both in 2023 and in 2025, was taken up with evidence of family violence. Ms. Sandhu testified that Mr. Bhella was psychologically abusive towards her throughout the relationship and physically violent towards her on six occasions, some of which were witnessed by the children. Two of these involved pulling her hair and four involved slapping her. She also described incidents where she said Mr. Bhella broke things that belonged to her, like a laptop computer. Mr. Bhella denied much of this but not all of it.
- [48] Mr. Bhella testified in the re-opening of the trial that Mr. Sandhu was verbally violent and abusive of him throughout the relationship. He gave extensive testimony that the parties' relationship was characterized by Ms. Sandhu belittling and demeaning him and getting angry at him when he was attempting to be supportive. He described this as "passive

aggressive domestic violence" and "verbal domestic violence" and said he felt bullied by Ms. Sandhu. He argues this evidence is relevant to the parenting issue because he suggests Ms. Sandhu uses these same tactics to train the children against him. He asserted that "the passive aggressive domestic violence of Ms. Sandhu is controlling focused on decreasing [his] parenting time". He also asserted that the children "are under the control of Ms. Sandhu due to this passive aggressive domestic history". He argues that culturally-appropriate counselling by a Sikh-Punjabi counselling is necessary for the children to break this control.

- [49] It is clear that difficulties in this relationship run deep. Without minimizing the evidence of either party and recognizing that I am obligated to consider the impact of any family violence on the children's safety, security or well-being, I ultimately find it unnecessary to deal with many of the allegations to arrive at a decision on parenting.
- [50] I accept Ms. Sandhu's evidence that Mr. Bhella has been quick to anger throughout their relationship and this caused tensions in the house. I also accept there were occasions when he became physically violent towards her by slapping her, pulling her hair, or damaging her property. Some of this occurred in the children's presence. However, I find this has never been typical of Mr. Bhella's behavior towards the children. There was one incident shortly after separation when Mr. Bhella slapped R.S.B. on the back with an open palm after he tracked dirt from his soccer cleats into Mr. Bhella's home. The children relayed this incident to Ms. Low, the author of a Hear the Child report. R.S.B. reported that the slap did not leave a mark and Mr. Bhella apologized after it happened. There was also a more recent incident that Mr. Bhella described at the re-opening of the trial where he grasped R.S.B.'s finger during a dispute they were having over a homework assignment. From descriptions of this incident, I view it as an example of where Mr. Bhella can become easily agitated but not one where he sought to harm R.S.B.
- [51] I am not concerned that Mr. Bhella is at risk of committing physical violence towards the children. He remains dedicated to the counselling he has undertaken since the first separation and has gained insights into his own parenting through those programs. As R.S.B. observed to the author of the Hear the Child report, Mr. Bhella "went to counselling and it really helped."
- [52] I am not persuaded by Mr. Bhella's evidence that Ms. Sandhu has engaged in tactics to control or restrict his parenting time by improperly influencing the children. She has been constructive in suggesting increases to his parenting time throughout these proceedings and has facilitated extended holiday parenting time for him. There is no suggestion in Ms. Low's report that Ms. Sandhu (or Mr. Bhella) spoke to the children about what they might or should say in their meetings with Ms. Low and nor does Ms. Low suggest the views expressed to her were anything other than genuinely expressed sentiments of the children. I am also satisfied from my own meeting with the children that they have expressed their views based on their own free will.

- [53] Thus, while I am obligated to consider the evidence of family violence and its potential impact on the children, I am satisfied it is not a factor that affects their present and future care.

### Stability and Emotional Well-Being

- [54] As I have said, I am satisfied that Mr. Bhella has made significant positive change in the time since the June 2023 portion of the trial and this puts him in a better position now than he was in 2023 to provide stability for the children and support their emotional well being. He has stopped his efforts to persuade Ms. Sandhu to reconcile. He has reduced the volume of his communications with Ms. Sandhu and now contacts her when necessary in writing. Since buying his own townhome he has established his own life for himself independent of Ms. Sandhu. At the reopening of the trial in January 2025, Mr. Bhella gave evidence of the routines he now has with the two children and described them in some detail. This includes preparing meals, packing their lunches, and facilitating their homework. He takes them to extra-curricular activities and has encouraged them to engage in volunteer work, including by joining with him to volunteer at a blood donor clinic. He and the kids have more space and better routines in the new home.
- [55] Both parents have mentioned some instances where R.S.B. has acted out or misbehaved at school or at home but these are rare and isolated instances that are not surprising for a teen-aged boy. It is clear to me that both children enjoy much stability in their lives and their emotional well-being is healthy.

### Cooperation on Issues Affecting the Children

- [56] I am also much more confident now than I was in 2023 with the parties' ability to cooperate on issues affecting the children. Since 2023, the parties have been able to work out between them travel and vacation schedules. They have made some temporary and informal adjustments to parenting schedules to accommodate one another's needs from time to time.
- [57] I have some concern over Mr. Bhella's strong views on how the children should be parented and on how he believes Ms. Sandhu is approaching her parenting. I fear these views risk interfering with the parties' ability to cooperate on issues affecting the children. The views were exhibited at trial in part through Mr. Bhella's request that the children attend culturally-appropriate counselling by a Sikh-Punjabi counsellor. Ms. Sandhu does not agree to that request.
- [58] In my view, this request is driven largely by Mr. Bhella's belief in how the children should be parented and with an ill-founded perception that Ms. Sandhu is influencing the children to resist Mr. Bhella's parenting. It is clear that the children's Sikh-Punjabi culture and heritage is important to them and informs their own identity. That is well-fostered by both parents. However, Mr. Bhella's explanation for seeking this counselling is grounded in a fictional myth or stereotype of Punjabi women and his unfounded projection of that stereotype on

Ms. Sandhu. His submission to the court on this point was as follows:

the type of passive aggressive domestic violence Ms. Sandhu conducted on Mr. Bhella is very common in Panjabi culture against men. What is happening is that if culturally based proper counselling should not be provided to the children of the separated parents, then there are so many bad examples in the society of using and training children against parent (father) by other parent (mother). And in those cases, now when children are in adult phase of their life, they are facing criminal charges or their one of parent died or both adult children and father are in jail.

[59] Apart from the unfounded stereotype in this statement, which the Court flatly rejects, the dystopian picture that Mr. Bhella paints for children of separated parents who do not receive the kind of counselling he suggests (a life of crime or jail) is absurd, particularly for R.S.B. and R.K.B. who could not be further removed from such a trajectory.

[60] Mr. Bhella's expectation appears to be that counselling will guide the children to understand how he believes their parent-child relationship should function. It is not grounded in assisting the children to negotiate their lives after their parents' separation.

[61] Mr. Bhella also suggested that a counsellor can act as a "third party" with whom the parties could discuss what Mr. Bhella perceives as Ms. Sandhu's undue control and influence over the children about Mr. Bhella's parenting. However, I am far from persuaded that Ms. Sandhu is influencing or attempting to control the children in this way. Despite the significant progress Mr. Bhella has made with his counselling, he continues to hold animosity towards Ms. Sandhu from issues in the relationship or from its breakdown. When R.S.B. or R.K.B. push back against Mr. Bhella's parental authority (as teens and pre-teens are prone to do) Mr. Bhella seems to view this as a manifestation of Ms. Sandhu's influence and control. I do not accept that to be true. The children's behaviors as described in the evidence seem to be nothing more than very normal resistance that children sometimes exhibit to aspects of parenting. I find that Mr. Bhella has struggled with some of the challenges of parenting children who are in or entering their teen years. Those are difficult waters to navigate, especially for a single parent. I am not convinced Mr. Bhella fully appreciates the unpredictability of parenting teens, particularly as they act out to assert their own developing identity. The recent incident that resulted in Mr. Bhella grasping R.S.B.'s finger appears to be a manifestation of these tensions. In my view, these are challenges for the parents to meet individually but not ones that necessarily call for counselling for the children. Regardless, counselling for the children is not the proper forum in which to resolve disagreements between the parties over approaches to parenting.

[62] Of course, if either child feels they want counselling they ought to have that opportunity, but neither has expressed that wish or exhibited behavior that would suggest it is needed. My own impression of the children is that they are healthy and doing very well emotionally. Further, it is not in the children's best interest to draw them into a dispute relating to Mr. Bhella's perceptions that Ms. Sandhu is unduly influencing them. It is important that each parent foster their unique connection with the children through their own day-to-day

parenting choices and by recognizing that the children are at a stage in life where they assert their own identity and independence.

## Conclusion on Parenting

- [63] In making a parenting decision, I must consider only what is in the children's best interests. It is clear to me that both parents deeply love their children and are good parents with strong relationships to both children. They are both loving and affectionate parents who want to shape their children to become companionate and successful adults, well grounded in strong family relationships.
- [64] The children and Ms. Sandhu have coped well with the parties' separation. As I have described in these reasons, it has been a more challenging adjustment for Mr. Bhella. One of those challenges is adjusting to single parenthood of teen-aged and pre-teen children. In my view, those issues likely explain the basis for the children's views and preferences on parenting. They love Mr. Bhella a great deal and recognize he has done very well with his ongoing counselling but they find more stability during the school week in Ms. Sandhu's home.
- [65] Having regard to the totality of the factors I must consider, I find the children's best interest is in continuing the current parenting schedule with some adjustment to address the points Ms. Sandhu and the children have brought up.
- [66] One adjustment is to give Ms. Sandhu parenting on Friday afternoons on the weekend she has the children. The reason Mr. Bhella had this time was that he was not needed at work on Friday afternoons whereas Ms. Sandhu had to work. Thus, Ms. Sandhu was not missing out on parenting time after schools on Friday. However, she has now arranged her schedule to be available at that time and would like to have it with the children. As Mr. Bhella will have Friday afternoons on the weekend he has parenting time, I will make the order that Ms. Sandhu will have that time on the weekends she has the children.
- [67] The other adjustment is to address the children's wish to remove the formal Tuesday night parenting. That parenting time was in place when the trial began in 2023 and was part of the very limited parenting time Mr. Bhella then had. Since then, I have expanded his parenting time considerably but in doing so did not adjust this weekly evening-only visit. I find the children's view that this time is disruptive is understandable since it requires a lot of back-and-forth between the two houses. I will therefore end the Tuesday evening parenting time on both weeks. However, if Mr. Bhella already has activities for the children regularly scheduled for Tuesdays, such as R.S.B.'s gymnastics, those should continue until the activities can be rescheduled.
- [68] To make up for these adjustments, I will extend Mr. Bhella's Week 1 parenting time to commence on Wednesdays after school rather than Thursdays.
- [69] For these reasons, I set the following schedule for parenting time while school is in session:

- a) Week 1: Mr. Bhella will have parenting time starting Wednesday after school until Monday morning at school drop-off.
- b) Week 2: Mr. Bhella will have parenting time on Thursday after school until Friday drop-off at school.
- [70] I will also order that the parties have equal parenting time during the children's school breaks in winter, spring, and summer. In the summer breaks the parties are to have alternating two-week parenting blocks. If the parties cannot agree on how to allocate those breaks, then in even number years Ms. Sandhu will have the first choice for summer breaks and Mr. Bhella will have first choice for winter and spring breaks. In odd number years this will be reversed.
- [71] The parties cannot agree on a date by which they are to notify one another of these respective choices for school breaks. Ms. Sandhu says she needs to give her employer lots of notice of when she will be off. She wants the choice for summer breaks to be made by February 28 each year. Ms. Bhella says his employer needs flexibility such that he cannot schedule things until much later. He wants to advise Ms. Sandhu of his choice for summer break 60 days in advance. I can see no real way bridge this dispute so I will simply order that the party making first choice for summer dates must notify the other of the choice by April 1. The choice for winter break is to be communicated by October 1 and for spring break by December 15.
- [72] The parties said they would work out long weekends between themselves so I make no order on that.
- [73] I order that the parties shall be joint guardians of the children under s. 239(1) of the Family Law Act. With respect to decision-making and parental responsibilities, I will order that the parties are free to make routine, day-to-day decisions about the children while the children are in their care during their parenting time. For significant decisions affecting the children, the parties are to make best efforts to reach an agreement. If, after making those best efforts, they cannot agree on a significant decision, either may apply to the court for directions under s. 41 of the Family Law Act.
- [74] I therefore make the following orders under s. 40(2) of the Family Law Act:
- Each party will have the obligation to advise the other party of any matters of a significant nature affecting the children;
  - Each party will have the obligation to discuss with the other party any significant decisions that have to be made concerning the children, including significant decisions about the health (except emergency decisions), education, religious instruction, and general welfare;
  - The parties will have the obligation to discuss significant decisions with each other and the obligation to use best efforts try to reach agreement on those decisions; and

· In the event that the parties cannot reach agreement on a significant decision despite their best efforts, they may apply to the court for directions under s. 49 of the Family Law Act.

[75] Mr. Bhella raised a concern during the 2023 proceedings that he may not have clear access to the children's school records or similar documents. There is no evidence that Ms. Sandhu has prevented or impeded this and it seems it may no longer be an issue. For certainty, however, I will make the following order:

· Each party will have the right to obtain information concerning the children directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

[76] With respect to the children's travel, which had been somewhat contentious at times, I will make the following orders:

· Either parent may travel with the children within Canada during their parenting time without seeking other parent's consent.

· Either parent may travel with the children outside of Canada for up to two days (48 hours) during their parenting time without the other party's consent but must give that other party advance notice of the intention to travel, such notice to include a travel itinerary, contact addresses, telephone numbers and evidence of reasonable travel medical/health insurance coverage obtained for the children for the duration of the trip.

· If a party wishes to travel with the children outside of Canada for more than 48 hours, that party must obtain the consent of the other party, such consent must not be unreasonably withheld.

[77] For the reasons I have explained, I decline to order counselling for the children.

## Child Support

### Basic Child Support

[78] Neither party seeks an order of child support. They both make good incomes and neither wants the support of the other to help with the costs of raising the children. However, child support is the right of the child, not of the parent. Further the parties have not sought a divorce in these proceedings but one of them will likely do so in the future and a divorce can only be granted if the court is satisfied that adequate provision has been made for the care of the children. I therefore propose address child support.

[79] Based on the parenting schedule I have set, which now includes one additional overnight during the week (in place of the Tuesday evenings and Friday afternoons) plus equally shared holiday time, I find the parties' parenting time is now on a close-to-equal basis with Mr. Bhella having more than 40% of the parenting time.

- [80] Based on the parties' most recent financial disclosure, Ms. Sandhu's 2023 income for purposes of the Federal Child Support Guidelines is \$177,342. Mr. Bhella's 2023 employment income was is \$108,030. In addition to this employment income, Mr. Bhella has a real estate licence and a personal real estate company that is very much a side business. It took in \$23,937 in revenue in its last full fiscal year but the company's financial statements show expenses totaling \$35,171 for a net loss of \$11,171. However, some of those expenses should be added back into his income pursuant to s. 18 of the Guidelines as they almost certainly had a personal benefit for him. That includes all or some of the vehicle expense (\$11,171), meals and entertainment (\$4,637), telephone (\$1,099), and probably a large chunk of "supplies" (\$9,298) which are not explained. (That is not a criticism of Mr. Bhella. Since neither party seeks an order of child support, there was little evidence led about the parties' most recent incomes.) Other expenses, such as licencing and insurance, are clearly a business expense without personal benefit. In 2022, Mr. Bhella had business income of \$32,775.
- [81] For the purposes of child support, I find Ms. Sandhu's income is \$177,342 and, having regard to Mr. Bhella's employment and real estate business income over the last two years, I impute it at \$125,000 for Guidelines purposes. The monthly table amount of child support for Ms. Sandhu's income is \$2,482 and for Mr. Bhella it is \$1,781. The offsetting monthly amount is \$637 payable each month by Ms. Sandhu to Mr. Bhella. I will make that order. I will also order that the parties exchange their personal tax returns by June 15 of each year and Mr. Bhella will provide Ms. Sandhu with the annual financial statements for his real estate company by the same date each year so that the parties can adjust child support annually to account for any changes in income.

## Section 7 Expenses

- [82] Section 7 of the Guidelines gives the court discretion to order payment of amounts over and above the regular Guideline table amount for expenses that are found to be either special or extraordinary. The person claiming the expense must prove that it is a special or an extraordinary expense in some way. This is because the basic table amount of child support is designed to cover all the "ordinary" costs of raising a child: *Clarke v. Clarke*, 2014 BCSC 824 at paras. 48 to 49.
- [83] Special or extraordinary expenses are typically shared by the parties in proportion to their income. The income ratios are calculated inclusive of the table amount of child support. The ratio in this case is presently 59% to Ms. Sandhu and 41% to Mr. Bhella.
- [84] Costs such as child care expenses when incurred for reasons of employment, illness, disability or education or training for employment are recognized under s. 7 as special expenses. So too are the portion of medical and dental insurance premiums attributable to the children, health-related expenses that exceed insurance reimbursement by at least \$100 annually, extraordinary expenses for primary or secondary school or other educational programs needed to meet the child's needs, post-secondary education expenses, and

extraordinary expense for extracurricular activities.

- [85] The term "extraordinary expenses" is defined by s. 7(1.1) of the Guidelines as to mean those expenses that exceed an amount that the requesting spouse can reasonably cover, taking into account that spouse's income and the amount that the spouse would receive under the applicable table amount of child support. It may also include expenses the court finds extraordinary having regard to the nature and number of educational programs and extracurricular activities of the child, the special needs or talents of the child, the overall cost of the programs and activities, and any other similar factor the court considers relevant.
- [86] The Guideline table amount of child support accounts for the cost of ordinary extra-curricular expenses for children. It is only those expenses that fall out of what is considered ordinary for an "average child" that rise to the level of being "extraordinary" expenses beyond that which is covered within the Guideline table amount: *S.H. v. L.H.*, 2016 BCSC 353 at paras. 84-85.
- [87] The parties have provided a list of expenses that are claimed as special and extraordinary expenses under s. 7. I will address each of those.
- a) RESP contributions: These are considered to be voluntary payments towards a future expense. A parent cannot be ordered to contribute to an RESP as a special or extraordinary expense: *Pereverzoff v. Pereverzoff*, 2017 BCSC 327; *Widney v. Widney*, 2014 BCSC 1694 at paras. 209-210. However, I am sure the parties can reach an agreement on this since both are keen to see their children pursue post-secondary education but I will not make an order for it.
  - b) Critical Illness insurance: The parties currently pay \$981 per year for critical illness insurance for the children. They both wish to continue this insurance. I order that it will be an extraordinary expense to be shared by the parties based on their proportionate income.
  - c) Soccer, skating, swimming, and hockey. These are all extracurricular sporting activities. Recreational sports and other similar extracurricular activities such as community sports leagues, ordinary skating lessons, and ski trips are generally considered ordinary expenses: *DLC v. FMC*, 2010 BCSC 1312 at para. 67. If a child shows a particular talent in something like skating or hockey that should be fostered at a more elite level for the child's benefit - which typically comes at a higher financial cost - it might be elevated to the level of an extraordinary expense. At this point, while both children show talent in the activities they have chosen, I find these are not beyond the scale of an ordinary expenses. That said, both parents are equally engaged in their children's activities and in the circumstances I find it is reasonable that they share the cost of existing programs (hockey for R.S.B., gymnastics for R.K.B., and soccer for both) in proportion to their incomes. That includes the costs of R.S.B.'s hockey tournaments which sometimes requires travel.

- d) Day Care and Summer Camps: Since these are necessary for child care when parents are working, they may be considered a special expense under s. 7. As both parties work full time, I accept these are necessary special expenses that are to be shared by the parties in proportion to their incomes.
- e) Gifts, school supplies, clothing, and school expenses (including hot lunch and field trips). These are all considered to be ordinary expenses: Clarke at para. 54. I make no order that these items be assessed as s. 7 expense.
- f) Medical expenses: A medical expense, when prescribed by a doctor and not otherwise covered by the Medical Services Plan or either party's medical benefits, are a special expense to be shared by the parties in proportion to their income.

## Property Division

- [88] The parties resolved the equal division of the family home in June 2023 when I made a consent order allowing Ms. Sandhu to buy out Mr. Bhella's 50% interest in the home based on the agreed-upon value as of a May 24, 2023 joint appraisal done by Adlaw Appraisals Ltd. The parties agreed to address other property such as household furnishings between themselves such that no order is needed for that. That leaves only the division of the parties' pension and RRSPs.
- [89] Ms. Sandhu has a pension - a Municipal Pension Plan - with her current employer to which both she and her employer have made contributions both before and after separation. She also has a pension under the Public Employees Pension Plan in Saskatchewan from her time working there but has made no post-separation contributions to it.
- [90] Mr. Bhella has an RRSP through his employer that is managed by Sun Life. He has made contributions to that since separation. He also has an RRSP through Manulife that I understand is connected to his former employment in Calgary.
- [91] Under s. 81, of the Family Law Act, family property (including pensions) existing as of the date of separation are to be divided equally between the parties. While the value of family property is assessed as of the date of trial, courts typically treat post-separation contributions to long-term investments as excluded property (see for example Jean Louis v. Jean Louis, 2020 BCCA 220 at para. 66) but the Family Law Act does not expressly identify them as such. In Yip v. Yip, 2016 BCSC 1595, Justice N. Smith suggested post-separation contributions to an RRSP should be addressed under s. 95 of the Family Law Act, which allows the court to order an unequal division of family property where the court finds it would be "significantly unfair" to divide it equally. In Bennett v. Bennett, 2021 BCSC 1631 at para. 47, Justice McNaughton observed that:

Practically, accounts used by the parties in their day-to-day lives [during the relationship] are valued at the date of separation, while long-term investments are valued as of the date of trial, subject to accounting for contributions and withdrawals.

[Emphasis added]

- [92] However, contributions made after separation should not be conflated with growth after separation that is attributable to the pre-separation value of the pension. It is only the additional contributions by one spouse made after the date of separation (and growth attributed to those additional contributions) that should be credited solely to that spouse. My understanding is that the administrator of Ms. Sandhu's Municipal Pension Plan can account for the appropriate equal sharing of this post-separation growth based when the effective date of dividing the pension is the date of separation.
- [93] Since Ms. Sandhu has made no post-separation contributions to her Public Employees Pension Plan in Saskatchewan, that pension should be divided equally between the parties at source. Likewise, Mr. Bhella has made no post-separation contributions to his Manulife RRSP and so that should also be equally divided between the parties through a spousal rollover.
- [94] Ms. Sandhu's current pension plan and Mr. Bhella's Sun Life RRSP require closer attention due to post-separation contributions.
- [95] In assessing post-separation contributions in this case, I find it would not be fair to use the actual date of separation as the date for division because the parties continued to pool their finances and expenses after separation to the end of 2020. The parties had a joint account into which both their salaries were paid and from which they took their respective household expenses. Ms. Sanhu was living in the family home but Mr. Bhella contributed to the mortgage. Mr. Bhella was living in a basement suite where he paid rent from the parties' joint account. This lasted until December 2020 when they separated their finances.
- [96] The same thing happened in Yip, where the parties had separated but did not disentangle their finances in the six years since separation. Justice Smith found at paras. 16-30 that the parties had effectively agreed to continue the financial arrangements that existed prior to their physical separation and it would be inappropriate for the court to disentangle that effective agreement through an unequal division of property. On this basis, he divided the RRSPs equally based on the value at the date of trial, including the post-separation contributions made by the husband.
- [97] Here, the parties continued to live with shared finances until December 2020, after which time they chose to separate their finances. I will therefore order that Ms. Sandhu's Municipal Pension Plan should be divided at source equally between the parties as of December 31, 2020.
- [98] Mr. Bhella's Canada Life RRSP is not a pension plan so fixing a date for division will not separate his contributions made after December 31, 2020 from growth on the principal since that date. Further, the evidence does not allow me to determine what his post-December 31, 2020 contributions are. It appears, from his 2022 statement that he contributes about \$1,500 annually but I cannot confirm this on the evidence. I will simply order that the RRSP should

be divided equally between the parties through a spousal rollover based on its present value less any contributions that Mr. Bhella has made starting January 1, 2021. Mr. Bhella will need to provide statements to Ms. Sandhu documenting those contributions but I expect Canada Life should be able to give him with that information.

[99] The parties did not address the issue of Canada Pension Plan credits but, subject to some other arrangement they might agree to, these should be equalized as of December 31, 2020.

[100] In summary, as it relates to property division, I will order that:

- Mr. Bhella is entitled to a 50% share or division of Ms. Sandhu's pension administered by the Public Employees Pension Plan in Saskatchewan. Ms. Sandhu will file the necessary applications with the pension plan's administrator and with a Saskatchewan court as necessary to give effect to this division.
- Mr. Bhella is entitled to a 50% share or division of Ms. Sandhu's pension administered by the Municipal Pension Plan from its inception to December 31, 2020. Ms. Sandhu is entitled to the benefit of all contributions to that pension made on and after January 1, 2021. Ms. Sandhu will file the necessary applications with the pension plan administrator to give effect to this division.
- Ms. Sandhu is entitled to a 50% share or division by way of a spousal rollover of Mr. Bhella's Worley RRSP now administered by Sun Life. Mr. Bhella is entitled to the value of all contributions made to this RRSP after December 31, 2020. Mr. Bhella will file the necessary applications with the RRSP administrator to give effect to this division.
- Ms. Sandhu is entitled to a 50% share or division by way of a spousal rollover of Mr. Bhella's Manulife RRSP administered by Manulife. Mr. Bhella will file the necessary applications with the RRSP administrator to give effect to this division.

## Costs and Form of Order

[101] I order that the parties bear their own costs of this trial. I strongly suggest that they seek assistance from a lawyer to prepare the form of order.

"Kirchner J."

[1] I met the children in the courtroom with the court clerk present but inconspicuous. We sat at a table and the interviews were recorded but I ordered the recording sealed. I met the children together initially and then talked to each one on one. I provided the parties with a verbal, high-level summary of what was discussed with the children.

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