
CANADA / JUDGMENT

Unger v. Conrad

2018 BCSC 507

COURT

Supreme Court of British Columbia

DECIDED

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2018 BCSC 507 Unger v. Conrad

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Unger v. Conrad,

2018 BCSC 507

Date: 20180403

Docket: E160576

Registry: Vancouver

Between:

Shawna Unger also known as Shawna Unger-Conrad

Claimant

And:

Darin Dale Conrad

Respondent

Before: The Honourable Madam Justice Morellato

Reasons for Judgment

The Claimant, acting on her own behalf:

S. Unger

The Respondent, acting on his own behalf:

D. Conrad

Place and Dates of Trial:

Vancouver, B.C.

September 27-29, 2017

November 9, 2017

Place and Date of Judgment:

Vancouver, B.C.

April 3, 2018

I. Introduction

- [1] The parties in this family matter both seek a divorce order and related relief following a marriage of almost 16 years in length. The parties, Ms. Shawn Unger ("Mother") and Mr. Darin Conrad ("Father") began living together in August 1999, were married in November 1999 and separated July 4, 2015. The Father is 45 years old and the Mother is 46. There are three children of the marriage; they are 16, 15 and 9 years old respectively ("Children"). The Children live with the Mother. The Father has parenting time with the Children every other weekend from Friday after school to Sunday evening, with additional time during holidays and other special occasions. The Mother resides in North Vancouver. The Father resides in Sechelt.
- [2] No child support payments have been made by the Father to the Mother since the parties separated in July 2015. While the Father has contributed to some section 7 expenses relating to the cost of the Children's hockey activities, there are a number of outstanding medical, dental and orthodontic expenses, as well as other sports-related and educational expenses that the Father has not contributed towards.
- [3] The Father has objected to paying any child support, although at the trial of this matter he agreed to pay an equal share of section 7 expenses and the Mother also agreed to this apportionment. The Father asserted he earned no net income in 2015 or 2016. At trial, he testified he earned \$48,000 in real estate commission in 2017, before business deductions. The Father has not claimed any illness or disability. The Mother has been working full time as an office worker since October 2015, and is currently earning \$42,000 annually.
- [4] The Mother seeks retroactive child support, including section 7 expenses, as well as on-going child support payments, an equal apportionment of family debt and a 100% entitlement to Child Tax Benefits. Although the parties agreed the Mother would stay at home to raise the Children, and she did so for a number of years before returning to work, the Mother is not seeking spousal support. The Father seeks spousal support from the Mother.

- [5] The trial of this matter commenced on September 27, 2017 for three days and resumed on November 9, 2017. The parties are self-represented. At the hearing in September 2017, the parties agreed to provide additional evidence to the Court, and consent orders were issued in this regard. At the November 9th hearing, both parties were provided with another opportunity to submit further materials relating to the issues before the court. They agreed to do so before November 30, 2017.

II. Background Facts

- [6] There are a number of additional court orders of note. On October 31, 2016, Master Harper issued an order ("Harper Order") which provides in part as follows:

Guardianship

1. BY CONSENT, the parties shall continue to be the guardians of the Children with shared parental responsibilities as specified in this Order and as may be codified in the Family Law Act.
5. BY CONSENT, the parties shall continue to consult and cooperate fully in all matters involving or affecting the Children.

Parenting Time

8. BY CONSENT, if the parties are residing more than 30 km from each other, the Children shall be in the primary care of the Claimant, and the Respondent shall have the following parenting time with the Children:
 - (a) from 5:30 p.m. on Friday to 6:30 p.m. on Sunday two weekends per month during months with four weekends and three weekends per month during months with five weekends, with the Claimant dropping off the Children at the Horseshoe Bay ferry terminal for the 5:30 p.m. ferry departing Horseshoe Bay on Fridays and picking up the Children at the Horseshoe Bay ferry terminal for the 6:30 p.m. ferry departing Langdale (the "Regular Parenting Schedule"); and
 - (b) such other times as agreed between the parties.
 9. BY CONSENT, the parties will schedule the Respondent's parenting time in accordance with the Regular Parenting Schedule at least one-month in advance.
 11. BY CONSENT, if the parties are residing 30 km or less from each other, the parties shall have parenting time with the Children on a shared-parenting week-on/week-off schedule (the "Regular Shared Parenting Schedule").
- [7] At trial, the parties agreed to a consent order to the effect that the parties would apportion their Intra-west time share ownership as follows: the Mother would receive 150 units and the Father would receive 160 units; each party agreed to pay their own maintenance fees.

- [8] In addition, on November 9, 2017, the parties agreed that they would disclose their respective annual income, from the prior year, in early June of each year. Accordingly, I issued this consent order at that time. In order to clarify the timing of this exchange of information, I order that such disclosure take place no later than June 7th of each year.
- [9] The Father testified that he did not file income tax returns for 2015 or 2016 because he did not earn any income in 2015 and 2016. He explained that his prior businesses were unprofitable and so he decided to start a new career as a real estate agent. He advised the Court that in 2015 and 2016 he was forced to live on credit and loans. He also confirmed that he did not collect unemployment insurance or welfare during these years.
- [10] The Father stated that he began working with his first real estate firm in March of 2016 and that he started working with a new real estate firm in January of 2017. As previously noted, at the trial in September 2017, the Father asserted he had grossed approximately \$48,000 in 2017 before deducting his expenses. The expenses relating to his real estate practice were not provided to the Court at that time. The Father provided a single sheet with photocopies of some commission slips, for the year 2017, but the information on this document was unclear and looked somewhat cobbled together. At trial, the Father stated that he expected to double his income as a real estate agent in the coming year, and to double it again the year after. I understood him to mean that he expected to earn \$96,000 in 2018 before deducting his business expenses.
- [11] At the trial in September 2017, I asked the Father to provide the Court with confirmation of his income relating to his work as a real estate agent in 2016 and 2017. He agreed to do so. Accordingly, an order was made, by consent, requiring the Father to produce letters, from the real estate firms he has been engaged with in 2016 and 2017, setting out his real estate commissions for those years. The order provided that these letters be submitted to the Court within two weeks time, by October 13, 2017. When the trial resumed on November 9, 2017, the Court expressly asked the Father about the letters he was to provide regarding his commissions in 2016 and 2017 as they had not yet been received. The Father apologized and advised the Court that he would provide the letters. He has not done so.
- [12] Prior to the adjournment of the trial on September 29, 2017, the Mother requested that an interim child support order be put in place pending the completion of the trial of this matter. She emphasized that the Father had not made any child support payments since the parties separated in 2015 and that, while she was working full time, her salary was \$42,000 per year and she was struggling to make ends meet. After considering the record before me at that time, I made an interim order, having regard to the best interests of the Children ("Interim Child Support Order"). My oral reasons stated, in part, as follows:

The trial of this matter commenced two days ago on September 27th and was scheduled to complete today. The parties are self-represented. The trial was not completed this afternoon and must be continued at a later date. The Father has further evidence to give in the form of further disclosure relating to his income, as well as certain debts and expenses he wished the court to consider.

The Mother has expressed significant concern and upset regarding the further delay in concluding these proceedings. She testified she needs the Father to help with child support as soon as possible. The Mother earns \$42,000 annually and is essentially supporting her 3 children on her own, with the exception of the father paying some section 7 expenses. She is not currently claiming spousal support, although the parties were married for 18 [sic] years and she was a "stay at home mom" raising the Children for a number of years until she started working at a family owned business once the children were in school.

The Mother submits that the Father's income should be imputed at a \$100,000 a year and that child support should be set at \$1,923 per month based on the Child Support Guidelines. She also testified that section 7 expenses for the three children average about \$400 a month and submits she would be content with an interim order that the Father pay \$200 per month for s. 7 expenses.

The dispute issue between the parties concerning child support payments centers around the question of the proper assessment of the Father's income. While the trial is not yet over, I am persuaded that I must consider the best interests of the Children in the interim period between today and the conclusion of this trial. That is, I am of the view that the best interests of the Children requires that an interim order be made now and that such an order should require the Father to commence paying interim child support before the conclusion of the trial. Of course, at the conclusion of this trial, I will assess the issues before me, including a review of Father's income, in light of the totality of the evidence before me at that time.

The Father presents as an intelligent and capable businessman. While I recognize, on the evidence before me to date, that his income has been reduced in the last two years, the Father has nonetheless demonstrated an earning capacity which is significantly and consistently greater than that of the Mother. In addition, the Father has been able to build his business as a real estate agent and the evidence currently before me does not support the conclusion that his reduced level of employment is permanent. I am of the view that the Father's earning capacity should be imputed at on an interim basis at \$80,000 annually. I am of the view that he is capable of earning at least this amount and, based on his own evidence, he has in fact done so in the past. In considering the Father's earning capacity, I have considered the cases of *Fuzi v. Fuzi*; *Beissner v. Matheusik*. [Citations omitted.]

Accordingly, based on an imputed income of \$80,000 annually I order that the Father pay interim child of \$1,577 per month, commencing October 1, 2017, and continuing on the first day of each month thereafter until further order of this court, or as otherwise agreed by the parties.

I also make an interim order that the Father pay an additional sum of \$200 per month, also commencing October 1, 2017 and continuing on the first day of each month thereafter, until further order of this court, or as otherwise agreed by the parties.

Should any of the additional evidence provided, between today's date and the conclusion of this trial, prove that the circumstances are materially different than that those currently before me, appropriate adjustments will be made in my final judgment.

[13] After the trial adjourned in September 2017, the Father submitted numerous documents and receipts relating to various expenses which appeared to relate to his real estate practice. However, these receipts were not collated, tallied or explained. As noted above, the letters the Court ordered be provided regarding the Father's real estate commissions were not provided and no explanation was given. As such, even if the Father had taken the time to add together the business expense receipts he submitted, and even if he had put them in context by providing some form of narrative, the Court would nonetheless still be left with a record that is incomplete and confusing regarding the actual real estate commissions he earned in 2016 and 2017.

[14] At the resumption of the trial on November 9, 2017, the Mother stated that the Father had not honoured the Interim Child Support Order issued on September 29, 2017. No child support was received, either on October 1, 2017 or November 1, 2017. Nor had the Father paid section 7 expenses as required by the Interim Child Support Order. The Father explained that he could not afford to make child support payments and that his income was significantly lower than \$80,000 per year. However, he did not take the opportunity to confirm his level of gross or net income in 2016 or 2017 after the Interim Child Support Order was issued; he had the opportunity to do so either before the resumption of the trial on November 9, 2017 or before the end of November when each of the parties were provided with a final opportunity to make further submissions.

A. The Parties' Income, Assets and Debts

[15] In addition to the background information I have just outlined, the record reveals the following facts.

[16] As noted previously, the Mother stayed at home for a number of years to raise the Children. She worked prior to the birth of the Children. She resumed working outside the home after about ten years following the birth of her first child. While she was raising her Children at home, the Mother also assisted with the family's finances for nine of those ten years by taking care of international students. The monies earned in this regard were used for household expenses.

[17] The Mother's income tax returns provide as follows in regard to her line 150 total income:

2013:

\$13,966.68

2014:

\$1,583.56

2015:

\$9,756.17

[18] The Mother testified that she worked for the family business, Shakobe Enterprizes ("Shakobe"), from November 2011 to September 2015 when the business ceased operating but that she did not receive an income from this work. She began working full time as a receptionist with her current employer in October 2015. On September 13, 2016, the Mother swore a Financial Statement stating she had an annual income that year of \$36,000. She has since undertaken additional responsibilities at her place of employment and, as of 2017, is currently earning an annual income of \$42,000.

[19] The Father's income tax returns provide as follows in regard to his line 150 total income:

2011:

\$37,664.27

2012:

\$30,000.00

2013:

\$30,000.00

2014:

\$25,000.00

[20] The Father filed no income tax returns for 2015 or 2016; as previously noted, he asserted he earned no income during those years. On March 17, 2017, the Father swore a Financial Statement stating that he was a real estate broker and that he anticipated no income in 2017.

[21] The Father testified that prior to the time of separation in July 2015, he operated a gas station and store through another family company called Darcon. As I understood his submission, Darcon had a contract with Chevron. He testified that though his declared income was about \$30,000 for the years 2012 and 2013, this amount was determined after "write-offs" such that his income was closer to \$50,000 per year. He submitted that his income was never more than that. The Father acknowledged, however, that one year he made about \$80,000, through Shakobe, from the sale of a rental home. His recollection was that this occurred in 2005.

- [22] Both the Mother and the Father were shareholders in Shakobe. The company bought and sold property for a period of time until it bought a store called the Bone and Biscuit in Deep Cove. As noted previously, the Mother began working for Shakobe in 2011; specifically, she assisted with running their store in Deep Cove. Shakobe stopped operating as a business on September 1, 2015, shortly after the parties separated.
- [23] The contract Darcon had with Chevron ended on February 19, 2015 but the Father explained he was busy until the end of March 2015 finishing the work associated with the contract. The Father recalled that Shakobe was in financial trouble at this time, and so he concentrated his efforts on improving the company's performance. The Father stated that he was also interested in operating another retail store in Kamloops and "taking it over" from his sister. He proceeded with this initiative and became a 90% shareholder in Remmus Enterprises Ltd. ("Remmus"), with his sister holding the other 10% of the shares. The Father testified that the Mother was not included as a shareholder because she was already involved with the store in Deep Cove and her name was on the Shakobe ownership documents, while the Father's was not.
- [24] The Father recalled that the Shakobe business was netting about \$1,300 a month in 2015 and it became apparent he had to supplement his income. In July 2015, he started taking steps to obtain his real estate licence which he says he obtained towards the end of 2015. The Father testified that he applied for 50-100 jobs during this time but could not find work. He was looking for middle management and sales positions, as well as operations management jobs. He applied to Telus, Shaw, a wine company, a beer company and a minor hockey association. He stated he would provide the Court with a list of the jobs he had applied to, but did not do so.
- [25] The Father stated that when he began working as a real estate agent he did not make any sales and did not earn anything. He noted that he received about \$163,000 from the sale of the family home. This assisted with his living expenses, although he testified that he did not receive sale proceeds until 2017.
- [26] While Shakobe is currently no longer operating, it has a number of outstanding debts which have fallen on the Mother's shoulders. The Mother confirmed that only her name appears on Shakobe's business documents and loans; the Father's name was not placed on these documents to protect the family home from creditors. The family home has since been sold but the Mother continues to be pursued by debtors of Shakobe. She seeks relief in this regard, asking for an order that the Father be held responsible for an equal portion of all current Shakobe debts.
- [27] In a submission made at the end of November 2017, the Mother provided proof that she paid the Royal Bank of Canada \$3,300 to settle an overdraft debt owed by Shakobe. The amount paid to settle the overdraft appeared to be significantly less than the original debt. She explained that she needed to pay this debt because it was affecting her credit rating, and that she had to borrow money from a friend to pay it. The Mother also testified that Shakobe took

out a small business loan in the amount of \$24,144.37 which remains outstanding. She further testified that Shakobe was required to pay \$4,000 to settle a small claim action in 2015 and that credit card debts were incurred by Shakobe in the amount of \$5,862.85. In addition, Shakobe owes accounting fees in the amount of \$4,974.65. While the Father does not dispute Shakobe is a family asset, he takes issue with the manner in which the Mother has handled this asset since their separation, although the parties agreed to cease operating the business in September 2015, after separating the previous July.

- [28] The Mother asserts that Remmus is not a family asset, while the Father contends that it is. The Mother testified that Remmus was a business venture pursued by the Father with his sister and that she did not want to be involved with it. The Mother explained that when the Father wished to invest in Remmus, she made it clear to him that she did not want to have anything to do with this venture; she refused to sign any related loan agreements and she did not pursue any ownership interest in the company. She was not sure when the Father bought into this venture. The Mother recalled that around the time period when the Father was pursuing this venture, the marriage was crumbling. She was very stressed and had been working for Shakobe with no pay. As such, she had no interest in becoming involved in another business enterprise with the Father. She did not have her own bank accounts and the Father controlled the family's finances; she testified she "did not understand what was going on". The Mother also testified that the Father is prone to anger outbursts, has had anger management issues before and after their separation, has harassed and emotionally abused her, and has expressly threatened to "rope" and "drag" her into the outstanding debts of the Remmus business. In the Father's words, Remmus "is now defunct".
- [29] The Father submitted that the Mother is responsible for half of all the Remmus debt. The specific debts owed by Remmus were not clearly set out or articulated by the Father during the trial. The record is very unclear in this regard.
- [30] The Father pointed to an email dated December 9, 2014 from the Mother to a Ms. Zaharia, of Cashmore Book Keeping, which states that "Steve and Emma or Darin [the Father] will be coming to Kamloops" (the location of the Remmus store) to "collect relevant book keeping items" and to "get things in order and have all remittances etc ready and submitted on time and before the month end." It is not clear whether this email relates to a transfer of inventory from Shakobe to Remmus. However, the Mother explained that there was product inventory that was transferred from the Shakobe store in Deep Cove to the Remmus store in Kamloops with the intention that Shakobe would be paid for this product. However, Remmus never paid for the product received from Shakobe. The Mother claims that Shakobe is entitled to be reimbursed by Remmus for this transferred product in the amount of \$14,599.01. She considers this sum to be a Remmus debt owed to Shakobe.
- [31] The Mother also initially claimed an apportionment of two family vehicles: a Chevy Tahoe and an F150 truck. The Father still has possession of the Chevy Tahoe and has continued to service the debt on this vehicle in the amount of \$675.89 per month. The F150 truck was sold for \$13,000. Following their separation, the Father gave the Mother a \$5,000 cheque to

purchase a new vehicle. At the hearing, the Mother acknowledged this sum of money was provided to her; she indicated that she would relinquish her entitlement to an equal division of the value in these two vehicles providing the Father did not claim she owed any debt towards them. The Father did not pursue this issue at trial and did not claim the Mother ought to pay for the debt on the Chevy Tahoe.

- [32] The Mother testified that, since the separation, she has lived frugally while the Father has purchased a BMW, enjoyed six Intra-west vacations and, rented a house for \$3,000 a month while he was living in North Vancouver. The Father responded by noting that he is now living in Sechelt where rent is cheaper; he emphasized that the Mother has also taken holidays; and he submitted a document confirming he purchased a 2011 BMW in May 2016 for \$10,700. The Father also testified that his girlfriend earns \$100,000 per year which has assisted in paying for the cost of their vacations; he also stated that one of the holidays, with the Children and his mother, was paid for completely by his mother to celebrate her 70th birthday.
- [33] The Mother's 2017 Financial Statement provides that her expenses and those of her three Children are \$5,065.62 per month, totalling \$60,787.44 annually. The Father's 2017 Financial Statement set out monthly expenses of \$7,236 per month, totalling \$86,832 annually.

B. Section 7 Expenses

- [34] The Mother seeks an order that section 7 expenses be apportioned equally between the parties. She provided receipts regarding the following section 7 expenses and has divided these expenses in half, claiming the following amounts from the Father arising from the date of separation on July 6, 2015 to November 30, 2017:

Dental: total = \$5738.60; 50% = \$2868.30

Sports: total = \$2432.75; 50% = \$1216.37

School and fees: total = \$1806.00; 50% = \$903.00

MSP bill outstanding =\$1650; 50% = \$825

- [35] Accordingly, the Mother asserts the Father owes her \$5,813.67. She forwarded these items and receipts to the Father but received no response. Neither did the Court. In reviewing the materials provided by the Mother, it is apparent that she accounted for those section 7 contributions made by the Father since that separation. The Mother also asked that, should daycare be necessary for her youngest child, that this cost also be split 50/50.

C. Living Arrangements

- [36] It is undisputed that the Mother has had primary care of the Children since the Father moved to Sechelt in July 2016. The Mother testified that the Children have lived with her except for a brief period from April 1, 2016 to June 30, 2016 when the parenting was shared

equally between the parties. The Father testified that the shared parenting arrangement continued into the summer of 2016. The Mother kept a record of when the Children lived with her and when they went to stay at their Father's home. She submitted a calendar which she kept in order to keep track of the parties' parenting schedule. The calendar corroborated the Mother's evidence that the shared parenting arrangement began on April 1, 2016 and ended June 30, 2016.

III. Discussion

A. Issue 1: Child Support

- [37] It is of concern to this Court that the Father, who is clearly intelligent, capable and healthy, has made no child support payments to the Mother since their separation in July 2015. Parents have the important duty to care for their children, including the responsibility to assist with the financial cost of raising them, as they are able. While I have decided, in light of the totality of the evidence before me following the conclusion of this trial, that I ought to amend my Interim Child Support Order (issued on September 29, 2017), I remain of the view that the Father has not met the responsibility to provide child support for his Children as required by law. For the reasons set out below, I have concluded that the Father must nonetheless contribute to the support of his three sons by the payment of monthly child support, albeit at a lesser amount than I originally ordered. I have also concluded that the retroactive child support ought to be paid by the Father, including the payment of certain section 7 expenses. Notably, the Father has agreed to pay 50% of section 7 expenses since the parties separated in July 2017, but he has not specifically responded to the Mother's evidence of what these expenses ought to have been.
- [38] In *D.B.S. v. S.R.G.*, 2006 SCC 37, at paras. 38-60, the Supreme Court of Canada affirmed a number of general, foundational principles that underpin child support payments. These principles include: parents have an obligation to support their children in a manner commensurate with their income; the child support obligation arises at birth, extends beyond a requirement to pay for the simple necessities of life, and exists independent of any statute or court order; and child support is the right of the child such that, even if one parent or both parents fail to vigilantly monitor child support payment amounts, the child should not be left to suffer without a remedy. Further, as much as possible, child support should provide the same standard of living the children enjoyed when their parents were together; the specific amounts of child support owed will vary based on the income of the payor parent.
- [39] The Mother claims child support commencing July 6, 2015 onward. The Father claims an inability to pay any child support up to and including the last day of trial on November 9, 2017, although he has agreed to pay half of the Children's section 7 expenses.

- [40] The question of whether the parental obligation to support one's child compels a parent to make child support payments for those periods of time when the responsibility to do so was never identified or enforced has been coined "retroactive" child support. In D.B.S., the Court observed that such "retroactive" awards are not truly retroactive in the sense that they do not hold parents to a legal standard that did not exist at the relevant time. Rather, they are "retroactive" in that they do not operate on a "go-forward" basis; that is, the parent who owes child support is being ordered to pay what, in hindsight, should have been paid before: see D.B.S. at paras. 1-2. Such circumstances are distinguishable from those involving the non-payment of arrears; retroactive awards concern the enforceability and quantification of child support that has neither been paid nor claimed when payment was allegedly due.
- [41] In D.B.S., the Court provides a helpful analytical framework for assessing the entitlement and quantum of retroactive awards. It reasons:
- [5] Against this backdrop, it becomes clear that retroactive awards cannot simply be regarded as exceptional orders to be made in exceptional circumstances. A modern approach compels consideration of all relevant factors in order to determine whether a retroactive award is appropriate in the circumstances. Thus, while the propriety of a retroactive award should not be presumed, it will not only be found in rare cases either. Unreasonable delay by the recipient parent in seeking an increase in support will militate against a retroactive award, while blameworthy conduct by the payor parent will have the opposite effect .
- [42] In addition, at paras. 99-116, the Court in D.B.S. outlines four factors which inform the question of whether a retroactive order should be made:
1. the reasons for the recipient's delay in asking for child support;
 2. the conduct of the payor (e.g., non-disclosure of income or pressuring the recipient to not ask for more support);
 3. the circumstances of the child; and
 4. any hardship the payor might suffer if required to pay retroactive child support.
- [43] The Court in D.B.S. at para. 5 also provides guidance on the date to which a retroactive child support order should begin:
- [5] Where ordered, an award should generally be retroactive to the date when the recipient parent gave the payor parent effective notice of his/her intention to seek an increase in support payments; this date represents a fair balance between certainty and flexibility.
- [44] More specifically the Court in D.B.S. reasons at para. 121:

- [121] By "effective notice", I am referring to any indication by the recipient parent that child support should be paid, or if it already is, that the current amount of child support needs to be re-negotiated. Thus, effective notice does not require the recipient parent to take any legal action; all that is required is that the topic be broached. Once that has occurred, the payor parent can no longer assume that the status quo is fair, and his/her interest in certainty becomes less compelling.
- [45] Further, the Court reasoned that while the matter is discretionary and fact dependant, an award of retroactive child support should not generally exceed three years before formal notice has been given. The Court reasons:
- [125] The proper approach can therefore be summarized in the following way: payor parents will have their interest in certainty protected only up to the point when that interest becomes unreasonable. In the majority of circumstances, that interest will be reasonable up to the point when the recipient parent broaches the subject, up to three years in the past. However, in order to avoid having the presumptive date of retroactivity set prior to the date of effective notice, the payor parent must act responsibly: (s)he must disclose the material change in circumstances to the recipient parent. Where the payor parent does not do so, and thus engages in blameworthy behaviour, I see no reason to continue to protect his/her interest in certainty beyond the date when circumstances changed materially. A payor parent should not be permitted to profit from his/her wrongdoing.
- [Emphasis added.]
- [46] In this case, the Mother filed her Notice of Family Claim on February 25, 2016 and she claimed, among other relief, entitlement to child support. The record is unclear whether child support was requested prior to this date. In any event, I am mindful of the Father's evidence that in 2015 his Chevron contract ended and his efforts to rehabilitate the Shakobe family business were unsuccessful. I have also considered his testimony that he made numerous unsuccessful efforts in 2015 to find other employment and that he also retrained during this time period in order to obtain his real estate licence. In this light, I decline to exercise my discretion to grant an order for retroactive child support in 2015. While I have not overlooked the effect the non-payment of child support had on the Children, in light of the factors in D.B.S., I am of the view that requiring the Father to pay child support in these circumstance during this time frame would be an unjustified hardship.
- [47] However, the application of the four factors set out in D.B.S. for 2016 and 2017 yield a different result. I have accepted, in part, the Father's submission that it took time for him to retrain and to find gainful employment after the parties separated in July 2015. I am of the view, however, that by the end of March 2016, the Father would have had ample time and opportunity to do so given his particular circumstances. Indeed, the Mother was able to find employment by October 2015. While I have allowed more time for the Father to rebuild his life and his livelihood, I am nonetheless of the view that from at least from April 1, 2016 onward, the Father would have been in a position to earn more income to assist with

supporting his Children financially.

- [48] The Mother submits that in the interests of being reasonable, she has assumed that the Father could at least have earned the equivalent of her current salary of \$42,000 in the months following their separation. On this basis she has submitted that the Father should pay the table amount of child support under the Federal Child Support Guidelines, S.O.R. 197-175 [Guidelines], for three children of \$848 per month commencing the date of their separation in July 2015 until the end of September 2017. The Mother submitted that commencing October 1, 2017, the Father should pay child support based on an income of \$100,000 per year. For the reasons provided, I am of the view that the Father should not be responsible for child support payments before April 1, 2016 but I accept the Mother's submission that the Father was capable of earning at least \$42,000 at this juncture in 2016. However, I do not accept the Mother's submission that the Father's income should be imputed at \$100,000 commencing October 1, 2017. Rather, I have concluded that the Father's income should be imputed at \$42,000 from April 1, 2016 until the end of September 2017. I will address the period commencing October 1, 2018 later in these reasons.
- [49] It is undisputed between the parties that they shared equal parenting time with the Children for three months from April 1, 2016 to June 30, 2016. Based on the Father's imputed income of \$42,000 during this time period, and the Mother's stated income for 2016 of \$36,000, the Guidelines provide that the Father would be required to pay \$113 for each of April, May and June 2016. Other than their agreement that the Children spent equal time with both parents during these three months, there is a dispute between the parties regarding how much time the Children spent with the Father. I accept the Mother's evidence that the Children lived with her for all relevant periods of time, other than these three months, and that she has had primary care of the Children, although I do recognize that the Father has continued to see his Children every second weekend and during holidays. The Mother has kept an accurate record of the respective times the Children spent with both her and the Father; her recollection was also very clear and forthright in this regard. I prefer the reliability of her evidence to that of the Father on this issue.
- [50] Given the finding that, as of July 1, 2016, the Children lived with the Mother, and given an imputed income of \$42,000 for the Father, the application of the Guidelines results in the Father being required to pay \$848 monthly in retroactive child support from July 1, 2016 to September 30, 2017. I so order.
- [51] In my view, imputing income to the Father at \$42,000 for the period of July 1, 2016 to September 30, 2017 is reasonable and appropriate in the circumstances, and likely at the lower end of the range of what could properly be imputed. The Father is experienced in running his own businesses; he did so over the course of the parties' marriage for a number of years. His work experience clearly exceeds that of the Mother who stayed home to raise the Children for approximately a decade. The Father also had the benefit of retraining which the Mother did not. As noted previously, the Father is healthy, intelligent and in the prime of his life. Given the circumstances, I have no hesitation in concluding that the Father had the

clear capacity to earn at \$42,000 during this time frame.

- [52] In such circumstances, the court must consider not simply what has been earned by the payor, which in this case has been admittedly difficult to assess given the Father's lack of full disclosure. In addition, the Court will consider what the payor has the capacity to earn. The principle that I ought to consider not only the amount of income a spouse has actually earned, but also the amount of income a spouse could earn if working to capacity is well established: see *Marquez v. Zapiola*, 2013 BCCA 433 at paragraph 37; *Van Gool v. Van Gool* (1998), 64 B.C.L.R. (3d) 94 (C.A.); *Poursadeghian v. Hashemi-Dahaj*, 2010 BCCA 453; *Barker v. Barker*, 2005 BCCA 177 at para. 19.
- [53] I have not made the decision to impute income lightly. With each income assessment, including the one relating to the period commencing October 1, 2017 addressed later in these Reasons, I have considered the applicable authorities cited above, as well as the decision of our Court of Appeal in *Sullivan v. Struck*, 2015 BCCA 521. In *Sullivan*, the Court reasons as follows at para. 66:
- [66] The first issue revolves around the question of the implications of the adequacy of financial disclosure. At the outset, one should recall that the issue of disclosure is a question of fact for the trial judge and entitled to deference: *Motyka v. Motyka*, 2001 BCCA 18 at para. 11. In my view, the judge was entitled to conclude that Mr. Struck's financial disclosure was incomplete and virtually incomprehensible, as it clearly was. Mr. Struck bore the risk that the judge would impute income to him if he failed to make proper financial disclosure that laid an adequate basis for a reasoned assessment of his Guideline income.
- [54] I note that, in any event, section 19(f) of the Guidelines gives this court the discretion to impute "such amount of income to a spouse as it considers appropriate". In imputing income to the Father, I have done my best to review the entirety of the record before me, including numerous loose-leaf documents that he submitted by email, albeit without any accompanying explanation, relating to a number of invoices the Father stated he incurred in 2016 and 2017. My review also included, but was not limited to, the Father's expense and spending pattern as set out in his 2017 sworn Financial Statement, in addition to his stated earnings and his capacity to earn income.
- [55] In the process of coming to the conclusion that the Father must pay child support as set out above, I have also carefully considered and applied the Supreme Court's reasoning in *D.B.S.* *D.B.S.* requires that I consider not only the possible hardship on the payor but also the best interests of the Children. The continued lack of transparency and full disclosure occasioned by the Father regarding his real estate commissions, or other income he may or may not have received since the parties separated, has made the assessment of the Father's income challenging. The Father committed to disclose his commissions at the trial. He was ordered to do so but he did not. This has not only made it difficult to assess his level of income but this behaviour has also placed the Mother in a difficult position and, ultimately, has not been in the Children's best interest. Moreover, quite apart from the lack of disclosure, the

Children were placed in a position over many months where their care was compromised by the Mother having to attend to their financial needs on her own.

- [56] I found the Mother to be a candid, honest, and clear in the evidence she gave at trial, including the positions she took, most of which were conciliatory and reflected significant compromises on her part. She explained how hard she has worked not only at her full time job, but also as a single mother raising her three boys day by day, shuttling them to various activities throughout the work week and during her days off. She also spoke to how difficult it has been to make ends meet without any child support from the Father.
- [57] I have also given considerable thought to whether imputing a \$42,000 annual income should continue beyond the end of September 2017. Based on the Father's own evidence at trial, and the entirety of the record before me, I am of the view that his imputed annual salary ought to be increased further commencing October 1, 2018.
- [58] Eight years ago, in 2011, the Father earned \$37,664.27 according to his income tax return for that year. His line 150 income for the years 2012 and 2013 was reported to be \$30,000.00. He explained at trial, however, that his income was closer to \$50,000 per year considering he declared \$20,000 in write-offs. In regard to the recent past, the Father stated that he had earned \$48,000 before deductions up to the date of the trial in late September 2017. He also stated that he expected to double his income as a real estate agent in the coming year, and to double it again the year after that. As previously noted, the Father candidly acknowledged that he expected his income to increase significantly. In addition, his stated income of \$48,000 in commissions for 2017 included the period ending September and did not include any commissions that may have been earned after that date. Further, there is a lack of transparency and disclosure relating to the letters which the Father agreed to provide confirming the real estate commissions he received in 2016 and 2017. If his income was as low as he contended, it would have been a simple matter to confirm his commissions through the letters the court ordered he produce, and which said he would.
- [59] Given the Father's evidence of significant anticipated increases in his income, his age, his work experience (as both a businessman and real estate agent), his good health, his intelligence, and the totality of the record before me as a whole, I am of the view that the Father's imputed income should be increased to \$65,000 commencing October 1, 2017. Based on the Guidelines in place in October and November 2017, the Father is required to pay child support of \$1,291 for each of those months. Based on the new Guidelines instituted in mid-November 2017, the Father is ordered to pay \$1,323 on the first of each month commencing December 1, 2018.
- [60] On the issue of section 7 expenses, the parties agreed on a 50/50 apportionment since their separation. The evidence before me establishes that half the section 7 expenses from the date of separation to November 30, 2017 amount to \$5,813.67. To the extent that child care expenses are incurred from December 1, 2017 onward in relation to the youngest child, the Father is required to pay half these expenses.

- [61] An order requiring the payment of half the section 7 expenses by the Father from the date of separation onward is both in alignment with the parties express agreement and also consistent with the evidence before me. The Father's evidence established that he continued to pay for some section 7 expenses throughout the course of the parties' separation and that, during this time period, he was able to: afford several vacations; purchase a BMW as a second car; and also make monthly payments on the Chevy Tahoe. In this light, while he might have been delayed in paying his share of, for example, the Children's dental and medical expenses, he could have paid these expenses had he made it his priority to do so.
- [62] As agreed between the parties, and previously ordered, the parties will exchange their yearly income no later than June 7th of each year. I urge the parties to amicably assess and agree upon any justified alterations to the currently ordered monthly amounts, based on the Guidelines. It is imperative that the history of the Father's non-payment of child support cease. He must meet his obligation to support his Children financially. It is also important for the Children's best interest that the parties develop a healthier co-parenting relationship.

B. Issue 2: Family Debts

- [63] The Mother submitted evidence cataloguing various debts owed by Shakobe which may be summarized as follows:
1. \$24,144.37 which Shakobe received as a small business loan from the federal government;
 2. \$4,000 which Shakobe borrowed to pay a Small Claims action;
 3. \$5,862.85 representing credit card debt which Shakobe incurred the summer it ceased its operation in September of 2015;
 4. \$4,974.68 owed to Shakobe's accountants;
 5. \$5,865.95 representing a business overdraft owed to the Royal Bank of Canada.
- [64] The Mother did not testify that these debts have been paid by her, with the exception of the monies she borrowed to pay settle the Royal Bank overdraft (which she settled at the lesser amount of \$3,300). As most of the Shakobe's debts remain unpaid, I understand that the Mother is simply seeking a declaration from this Court that the Father is responsible for paying 50% of Shakobe's outstanding debts articulated above. Section 81 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], provides that, on separation, each spouse has a right to an undivided half interest in all family property and is equally responsible for family debt (see also section 86 of the FLA). I see no basis on the facts before me to deviate from an equal division of Shakobe's debt: see sections 95(2) and (3) of the FLA. Accordingly, I order that the Father and the Mother are each responsible to pay an equal share of any of Shakobe's outstanding debts. The parties may wish to collaborate in order to negotiate a reduction of these debts or to make whatever arrangements may be available to extinguish them; however, regardless of whether the parties can agree on how to address these debts, they both will be equally responsible for them.

- [65] As previously noted, the Mother submits that Shakobe's Royal Bank debt was negatively affecting her credit rating and so she borrowed money from a friend to settle the debt; documentary proof of the payment made to the Royal Bank was submitted in evidence. As the parties are agreed that Shakobe was family property, and certainly no evidence to the contrary was led by either party, the Father is responsible for paying half the debt paid to the Royal Bank by the Mother; that is, the Father shall pay the Mother \$1,650.
- [66] Should a dispute arise between the parties regarding the specific sums of money currently owed by Shakobe, such disputes may be referred to the Registrar who will quantify the specific amounts owing on the basis that any such debts will be apportioned equally between the Mother and the Father. Again, I would urge the parties to settle such issues without the necessity of further litigation.

C. Issue 3: Remmus Enterprises Ltd.

- [67] As noted earlier in these Reasons, the parties are not in agreement on the issue of whether Remmus constitutes family property. The Mother underscored that the Father undertook this business venture despite her protests, during a time where their marriage was experiencing significant difficulty and she was working without pay for Shakobe's retail store in Deep Cove. The Mother was, understandably, worried about incurring more business debt. As matters unfolded, the Father pursued Remmus as a business enterprise and, although the business is no longer operating, it appears to have incurred debt during its operation. The debt incurred by Remmus was not catalogued or clarified by the Father at trial.
- [68] Section 86(a) of the FLA provides that family debt includes all financial obligations incurred by a spouse during the period beginning generally when the relationship between the spouses commences and ending when the spouses separate. It is not clear from the evidence and submissions of the Father what Remmus debts were incurred before the parties separated. Section 86(b) of the FLA provides that family debt includes all financial obligations incurred for the purpose of maintaining family property. Again, the Father did not provide clear or cogent evidence addressing what debts Remmus incurred before and after the parties separated.
- [69] As recently affirmed by Mr. Justice Harvey in *Chatha v. Uppal*, 2018 BCSC 6 at para. 309, the party alleging the existence of a debt has the onus of establishing it:
- [309] The law is clear that he or she who alleges a debt bears the burden of establishing its existence and that it was incurred during the parties' relationship (or to preserve or maintain property which is family property). See *Jaszczewska v. Kostanski*, 2015 BCSC 727 (varied on other grounds, 2016 BCCA 286); *Asselin v. Roy*, 2013 BCSC 1681.

- [70] The submissions of the Father were unclear regarding the debts he alleges are owed by Remmus and do not, in my view, meet the evidentiary burden placed on him to establish the existence, continued existence, or the quantum of the debts owed or when they were incurred. The evidence is also unclear on what portions of the Remmus debt the Father has or has not paid. It appears, however, that Remmus is no longer operating as a business.
- [71] Even if the Father had tendered sufficient evidence to prove that Remmus debts existed and constitute family debt, which he did not, I am of the view that such debts ought, in any event, to be apportioned under section 95 of the FLA as owed entirely by the Father. While the FLA embodies a presumption of an equal division of family property and debt independent of contribution or use, section 95 provides for judicial discretion to depart from an equal division of debt if it would be significantly unfair to do so.
- [72] I have considered the factors set out in section 95(2) of the FLA which guide the court's analysis on this specific issue. I have concluded, given the unique circumstances before me, that it would be significantly unfair to attribute any of the Remmus debt to the Mother. I accept the Mother's evidence that the years following her separation were difficult ones for her financially and that she struggled to support her Children with little financial assistance from the Father. In addition, I accept the Mother's evidence that the acquisition of the Remmus business and the accompanying debt were matters within the Father's control and knowledge. Based on the evidence before me, the circumstances surrounding the Remmus debts are markedly different than those surrounding the Shakobe debts. The Shakobe debts were debts that were incurred in the normal course of the relationship, as contemplated by subsection 95(2)(d); both parties spoke of the debt they incurred to buy equipment and product for Shakobe's retail store. The evidence clearly establishes Shakobe's income was used for family purposes. The Father spoke, for example, of the need to revive Shakobe's business in 2015 after the Chevron contract ended when Shakobe was only netting \$1,300 per month. By contrast, the Remmus debts appear to be the result of a venture the Father undertook on his own with his sister, in spite of the Mother's protests. Further, it is not clear on the record what income was earned through Remmus or how it was used. All in all, to burden the Mother further with the Remmus debts that may exist, which have not been established on the facts, would be significantly unfair. As in *Appleby v. Marsham*, 2018 BCSC 212 at paras. 96 -97, where Mr. Justice Cullen held that the respondent should be responsible for 100% of the family debt, I find that such a result is also appropriate in the instant case. Accordingly, the Remmus debt ought to be borne by the Father alone.
- [73] The Father's claim that the Mother is responsible for 50% of the Remmus debts is dismissed.
- [74] The Mother has claimed that Remmus owes Shakobe monies representing the value of product transferred from Shakobe to Remmus. The issue of whether Shakobe ought to be reimbursed by Remmus in the amount of \$13,599.01 for the product transferred to Remmus is not properly before me. Remmus is not a party to this proceeding. Accordingly, no order will follow in this regard.

D. Issue 4: Child Tax Credit

[75] The Mother has requested confirmation that she is entitled to the Child Tax Credit. I find that as the Children are living with her and she is the primary care-giver, she is entitled to all of this credit. Of course, the Mother must apply for this credit with the Canada Revenue Agency.

E. Issue 5: Conduct Order

[76] The Mother testified that the Father has been verbally and emotionally abusive towards her and that she continues to have concerns in this regard, including his disrespectful treatment of her in the Children's presence. She has asked for a conduct order to modify the Father's behaviour towards her and to enforce respectful treatment of her when the Children are present. The Mother submitted photocopies of various pieces of correspondence between her and the Father to demonstrate the Father's use of disrespectful language and name-calling against her. The Mother's concerns are well founded. I accept her evidence that a conduct order is warranted. Accordingly, I order that the parties will, at all times:

- a) put the interests of the Children before their own interests;
- b) encourage the Children to have a good relationship with the other parent and to speak about the other parent in a respectful, kind and positive manner; and
- c) make a genuine effort to maintain polite and respectful communications with each other, refraining from negative or hostile criticisms, communications and arguments, including in front of the Children.

F. Issue 6: Spousal Support

[77] The Father has claimed spousal support against the Mother. In *M.C.V. v. F.V.*, 2018 BCSC 96 at paras. 198-204, Madam Justice Dardi summarized the three bases of entitlement to spousal support as compensatory, non-compensatory and contractual, reasoning in part as follows:

[199] The fundamental underpinning for an order of spousal support is the doctrine of equitable sharing of the economic consequences of marriage and marriage breakdown: *Chutter v. Chutter*, 2008 BCCA 507 at para. 49.

[201] The objective of compensatory support is to provide redress to the recipient spouse for his or her efforts which conferred an economic benefit or advantage on the other spouse and for his or her economic disadvantage arising from the marriage or its breakdown: *Chutter* at paras. 50-51; *T.T. v. J.M.H.*, 2014 BCSC 451 at para. 120.

[203] In *Chutter*, the Court of Appeal expressed the objective of non-compensatory support at para. 54:

... Non-compensatory support aims to narrow the gap between the needs and means of the spouses upon marital breakdown, and as such, it is often referred to as the "means and needs" approach to spousal support.

- [204] The assessment of the recipient's needs should be informed by the standard of living enjoyed by the parties prior to separation. In *McEachern v. McEachern*, 2006 BCCA 508, the Court of Appeal affirmed at para. 47 that, while the doctrine of spousal support does not guarantee to either party the standard of living enjoyed during the marriage, consideration of the marital standard of living is a relevant factor in assessing the "needs" of the recipient spouse. This factor should be weighed in light of the length of the marriage.
- [78] Further, in *Ducharme v. Rempel*, 2016 BCCA 198, the D.B.S. factors are used for determining retroactive spousal support as well as retroactive child support. The Court reasoned as follows:
- [17] I begin by noting that the same factors are to be taken into account whether retroactive child or spousal support is in issue. It is the weighing of those factors that will differ: concerns about the applicant's delay and misconduct "carry more weight" in relation to spousal support (Kerr at para. 208). In contrast, the entitlement of a child to support is generally so compelling that those factors will be less significant in the exercise of the court's discretion to make a retroactive award. The underlying facts are, however, relevant to both types of support applications.
- [18] It is to be remembered as well that although the majority in D.B.S. identified four factors to be considered, Mr. Justice Bastarache began by saying:

99 I will now proceed to discuss the factors that a court should consider before awarding retroactive child support. None of these factors is decisive. For instance, it is entirely conceivable that retroactive support could be ordered where a payor parent engages in no blameworthy conduct. Thus, the British Columbia Court of Appeal has ordered retroactive support where an interim support award was based on incorrect financial information, even though the initial underestimate was honestly made: see *Tedham v. Tedham* (2003), 20 B.C.L.R. (4th) 56, 2003 BCCA 600. At all times, a court should strive for a holistic view of the matter and decide each case on the basis of its particular factual matrix. [Emphasis added.]

- [79] In light of the particular factual matrix of this case, I have concluded that the Father is not entitled to spousal support based on both the consideration of the three conceptual models underpinning entitlement, as well as a weighing of the D.B.S. factors. Indeed, while the Mother has not claimed spousal support against the Father, the compensatory model would favour the Mother rather than the Father, as the Mother stopped working for almost ten years to raise the Children. The contractual basis for entitlement to spousal support identified by the case authorities is inapplicable in this case as there is no contract in place. This leaves the non-compensatory basis to be considered and weighed. Given the facts before me, including my findings regarding the parties respective incomes and that the Children have lived with the Mother following separation except for the three month period

when parenting time was shared equally, I see no basis for concluding that the "means and needs" of the Father were greater than that of the Mother, particularly as she was caring for and supporting three Children on a modest salary.

[80] In 2015, the Mother found alternate work towards the end of October after Shakobe's operations ceased in September; her total income for that year was \$9,756.17. Her income the previous year was \$1,583.56. In 2016, the Mother earned \$36,000. Again, the Children lived with her for nine of 12 months and she shared equal parenting time with the Father for the other three months of that year. The Mother received no child support in 2016 other than some contribution from the Father for some section 7 expenses. I have imputed income to the Father of \$42,000 commencing April 1, 2016. I have imputed an income to him currently that exceeds that of the Mother. While the Father stated that he was initially required to live on credit, loans and savings after the separation, the Mother advised she needed to do the same. I see no principled or fair-minded basis in this case to require the Mother to pay the Father spousal support for any period of time. My conclusion in this regard is reinforced by a review of the D.B.S. factors. Balancing each of the factors, it is clear to me that requiring the Mother to pay spousal support would be a hardship on the Mother and would not be in the Children's best interests. The Children are living with her and the additional financial burden on the Mother would effect their standard of living.

[81] The Father's claim for spousal support is dismissed.

G. Issue 7: Divorce

[82] I am satisfied on the evidence and record before me that a divorce order should be granted pursuant to section 8(1) of the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.). I have reviewed the record and I find that the requisite criteria for granting a divorce have been satisfied. Both parties have testified that they wish to be divorced and to settle their affairs; they have lived separate and apart since July 2015; there is no chance of reconciliation; and there has been no collusion.

IV. SUMMARY OF DISPOSITION

[83] In summary, I order as follows:

1. The Father will pay retroactive child support for each of the months of April, May and June 2016 in the amount of \$113 per month (i.e. \$339). In addition, the Father is required to pay retroactive child support for the period from July 1, 2016 to September 30, 2017 in the amount of \$848 per month, (i.e., \$12,720). The total retroactive child support owed by the Father to the Mother is \$13,059.

2. From October 1 to November 30, 2017, based on an imputed income of \$65,000, and the Guidelines in place at the time, the Father will pay child support to the Mother in the amount of \$1,291, for each of those months. As of December 1, 2017 onward, or until a court otherwise orders or the parties agree otherwise in writing, the Father will pay child support in the amount of \$1,323 on the 1st of each month to the Mother in accordance with the new Guidelines amount.
 3. The Father will pay retroactive section 7 expenses in the amount of \$5,813.67. From December 1, 2017 onward, the Father will pay 50% of all section 7 expenses including child care expenses.
 4. The Mother is entitled to the entirety of Child Tax Credit available for the Children.
 5. The parties will, at all times:
 - (a) put the interests of the Children before their own interests;
 - (b) encourage the Children to have a good relationship with the other parent and to speak about the other parent in a respectful, kind and positive manner; and
 - (c) make a genuine effort to maintain polite and respectful communications with each other, refraining from negative or hostile criticisms, communications and arguments, including in front of the Children.
 6. The Father will pay the amount of \$1,650 to the Mother, representing his portion of the Shakobe overdraft debt with RBC that was settled and paid by the Mother.
 7. The Father's claim that the Mother is responsible for 50% of the Remmus debts is dismissed.
 8. The parties shall disclose their respective annual income, in relation to their previous year's income, no later than June 7th of each year.
 9. The Mother will receive 150 units of the parties' Intra-west timeshare and the Father will receive 160 units. Each party will pay their respective maintenance fees.
- [84] The Father is responsible to pay 50% of the following outstanding debts of Shakobe:
- (a) \$24,144.37: a small business loan from the federal government;
 - (b) \$4,000: loan pay a Small Claims action;
 - (c) \$5,862.85: credit card debt of Shakobe; and
 - (d) \$4,974.68: debt owed to Shakobe's accountants.
- [85] As these debts have not been paid by the Mother, no order requiring the Father to pay the Mother these sums will follow. The parties remain free to attempt to negotiate a reduction of these debts or to attend to their extinguishment.

[86] As the Mother has been substantially successful in these proceedings, she is entitled to costs according to Appendix B of the Supreme Court Family Rules.

[87] I will remain seized of this matter until September 30, 2018 for purposes of addressing any outstanding issues which may arise in regard to the implementation of this judgment.

"MORELLATO J."

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