

CANADA / JUDGMENT

Vlek v. Graff

2013 BCSC 1906

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Supreme Court of British Columbia

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2013 BCSC 1906 Vlek v. Graff

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Vlek v. Graff,

2013 BCSC 1906

Date: 20131022

Docket: E38325

Registry: New Westminster

Between:

Norbert Pieter Vlek

Claimant

And

Candice Lorraine Graff

Respondent

Before: The Honourable Mr. Justice Savage

Reasons for Judgment

Counsel for the Claimant:

M. Ramage

Counsel for the Respondent:

R.A. Simunovic

Place and Date of Trial:

New Westminster, B.C.

September 23-27, 2013

Place and Date of Judgment:

New Westminster, B.C.

October 22, 2013

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I. Introduction

[1] This is a family law proceeding where there are four issues: (1) the parenting schedule; (2) the method of resolving conflicts or disputes regarding the children; (3) entitlement to and the appropriate amount of child support; and (4) the cost of two expert reports.

[2] The parties had a common law relationship from December 2006 until December 2009. There were instances of separation during the relationship, some lasting a few days and one lasting several months. At one point the parties were engaged.

[3] The claimant father, Norbert Pieter Vlek, is 43. The respondent mother, Candice Lorraine Graff, is 35. There are two children from the relationship: Olivia Maria Vlek, born in September 2006 and Keira Violet Vlek, born November, 2008.

- [4] There have been multiple court orders regarding the parties, including: an Order of Master MacNaughton dated August 26, 2011; an Order of Master Baker dated September 9, 2011; an Order of Master Keighley dated September 30, 2011; an Order of Master McCallum dated December 20, 2011; an Order of Master Caldwell dated February 7, 2012; an Order of Master Baker dated April 4, 2012; and two Orders of Justice Brown dated January 23, 2013.
- [5] The issues that separate the parties now are very limited. The amount of child support currently being paid is \$275/month. The cost of the expert reports is less than \$10,000. The amount of parenting time at issue is one day a week, although the underlying issue now concerns whether Ms. Graff will have one weekend every month, or whether she will have one weekend every six weeks.

II. The Parties

A. Mr. Vlek

- [6] Mr. Vlek is 43 years old. He appears as an intelligent, well-groomed, energetic, somewhat anxious man. He thinks Ms. Graff betrayed him. Although the parties agree that they separated in December 2009, they continued to see each other post-separation for a period of approximately six months while undergoing counselling. For some years, both prior to and during the parties' relationship, Mr. Vlek surreptitiously cultivated marijuana for sale. He also smoked marijuana regularly.
- [7] Mr. Vlek says that Ms. Graff was aware of his cultivation business from the outset of the relationship, although she did not know the details. There is some evidence regarding his income from that pursuit. Specifically, Mr. Vlek filed a tax return indicating an income of about \$95,000 and suggesting that he maintained a construction business. Mr. Vlek says that this reflects his income from marijuana cultivation.
- [8] Prior to these proceedings, in July 2010, Mr. Vlek says that Ms. Graff threatened to turn him in to the police. Ms. Graff says that she had previously asked Mr. Vlek many times to cease his involvement in this activity. Mr. Vlek testified that the cultivation business was stressful and after Ms. Graff made threats he determined to abandon that business. As a result, he sold his property in Whonnock which housed purpose-built structures for the cultivation business, and bought a new home in Maple Ridge where he thought Ms. Graff intended to reside. Mr. Vlek then acquired a position as a service technician working for a long time friend. Mr. Vlek has been employed in this position for a couple of years now and earns approximately \$41,000 per year. The job takes him to various locations in the Lower Mainland, mostly west of Maple Ridge.
- [9] During the course of the relationship, especially as it deteriorated towards the end, Mr. Vlek had some behavioural issues. He acknowledges that he was verbally abusive at times, which he certainly was, and which he says he regrets. A text message conversation on February 14, 2011, between Mr. Vlek and Ms. Graff is illustrative of this verbal abuse. Mr. Vlek also acknowledged that when he became angry at Ms. Graff he had thrown things, including

portable phones, and on at least one occasion he punched a hole in the drywall of his house, although not in Ms. Graff's presence. Mr. Vlek says that he was under stress, because of both the relationship breakdown and the weight of his illegal occupation.

- [10] Mr. Vlek suffered from depression at times during the relationship. He was diagnosed with depression in 2007 and received medications including celexa, cipralex, wellbutrin and effexor. He saw a psychiatrist in January 2011. Mr. Vlek weaned himself off medications in the spring of 2011 and reports that he no longer medicates. Mr. Vlek tendered a report from his physician, Dr. Leung, dated April 9, 2012 which recites these and other facts related to his medical history. He also tendered an s. 15 report by a psychologist, Dr. Krywaniuk, dated December 3, 2012.
- [11] These reports suggest that Mr. Vlek's prior diagnosis with depression should not be an impediment to his parenting. Dr. Krywaniuk recommended that the parties develop a shared parenting arrangement that approaches a 50/50 split. As Ms. Graff's circumstances in Mission were uncertain when the report was prepared, Dr. Krywaniuk declined to make a recommendation on primary residence. Ms. Graff does not take general issue with Mr. Vlek co-parenting, although she prefers a schedule that differs from the current one by giving her one weekend a month. Mr. Vlek is prepared to give her one weekend every six weeks.
- [12] Although Mr. Vlek was somewhat critical of Ms. Graff and her parenting, he was not so critical as to suggest she is not a capable parent. The positions he has taken in the litigation to date also do not support serious concerns about Ms. Graff's parenting. For example, he consented to a parenting arrangement which has endured now for some years, in which Ms. Graff had the children about 60% of the time and Mr. Vlek had the children about 40% of the time. In these proceedings he seeks to increase his parenting to 50% of the time.

B. Ms. Graff

- [13] Ms. Graff is a well-presenting, less complicated person and has a grade 12 education. She has worked for many years as a server, but also took an aesthetics course during the relationship. She presently works part-time as a server in Mission. She was the children's primary caregiver throughout the relationship as a "stay-at-home" mother, and the children have primarily resided with her since separation. Ms. Graff says that she expected the parties to marry, but their tumultuous relationship ended that prospect.
- [14] Ms. Graff moved to Mission with the children in 2011. Mr. Vlek opposed the move but Ms. Graff obtained authorisation by court order dated September 30, 2011. At that time she resided with her father in Mission. She was also in a relationship with another person, Shawn Hermus. Ms. Graff is now in a common law relationship with Mr. Hermus, who purchased a home in Mission. An addendum to the purchase agreement gave him the right to put Ms. Graff on title, which he did when the transaction completed at the end of November 2012.

- [15] Ms. Graff's post-separation tax returns indicate income between \$11,000 and \$16,000, although her Form 8 filings indicate income of \$17,700 and a 2013 trial brief stated her income as \$23,504. As a server she receives a substantial amount of income by way of tips. The amount of tips she has received in the past is not well documented. Although Ms. Graff took an aesthetics course she did not pursue a career in that area. She thought it to be less flexible or financially rewarding in her circumstances, as she would probably have to incur daycare costs in order to pursue a career in that area. Her work as a server suits her better because the hours are flexible and she receives higher earnings for less work time.
- [16] Ms. Graff was not critical of Mr. Vlek's parenting skills, although she did criticise his past behaviour, and his behaviour in these proceedings.

C. The Relationship

- [17] The parties described in detail various events in their relationship. It is both parties' evidence that it was tumultuous throughout, with Ms. Graff either being asked to leave and leaving (the first separation) or choosing to leave (the last five or six and final separations). The parties lived together over the course of three years but because of the separations both parties agree that they actually cohabited for only 24 months. The parties also tried to reconcile for a period of about six months following the final separation in December 2009.
- [18] Mr. Vlek was unhappy about the final separation and became convinced that Ms. Graff had developed a relationship with Mr. Hermus either prior to separation or while they were attending counselling. Mr. Vlek used particularly foul and abusive language in a text exchange with Ms. Graff on February 14, 2011, which was the anniversary of their past engagement. Ms. Graff reported her concerns over Mr. Vlek's behaviour to Family Services in April 2011. The resulting investigation was closed in May, 2011 with no action taken. Ms. Graff says she was concerned about Mr. Vlek and the children as he was behaving erratically.
- [19] Mr. Vlek acknowledged planting a listening device in Ms. Graff's purse in an attempt to discover information about her relationship with Mr. Hermus. Mr. Vlek felt that Ms. Graf led him on after separation. He said they continued to have intimate relations after separation, to which Ms. Graff agreed. However, Mr. Vlek said these relations continued, at least twice, after July 2010, and sought to have Ms. Graff admit this by Notices to Admit attaching intimate photographic evidence. Ms. Graff denied this in her Response to Notice to Admit.
- [20] I accept Ms. Graff's evidence that Mr. Vlek behaved aggressively and inappropriately in his car when she parked her small car in front of it. Although Ms. Graff said she mouthed the words "Back Off", I accept Mr. Vlek's evidence that she actually uttered an expletive. I accept Ms. Graff's evidence that Mr. Vlek probably keyed her car after unpleasanties during another exchange. Although Ms. Graff denied it, I accept Mr. Vlek's evidence that Ms. Graff's text to him threatened to turn him into authorities. On one occasion Ms. Graff withheld parenting time when Mr. Vlek reduced child support.

- [21] On another occasion, Mr. Vlek noticed a bruise on Olivia's neck and took her to a physician. This resulted in an investigation of the incident by the Ministry of Children and Family Development in September 2012. Ms. Graff testified that the bruising occurred when she lifted Olivia into her upper bunk bed by holding her hip and neck when Olivia was throwing a tantrum. The Ministry's investigation concluded that the children were not in need of protection.
- [22] Ms. Graff's counsel was critical of the position taken by Mr. Vlek concerning Ms. Graff's move to Mission. Although the precise whereabouts of the move were uncertain at the time of the application, as noted by Master Keighley, I cannot say that the parties' positions on that issue should give rise to as harsh a criticism of Mr. Vlek as counsel suggests. He took a position on a move that he thought would have adverse consequences for their parenting arrangement. Ms. Graff's application was allowed with an order for costs in any event of the cause. I do not think that the positions taken in that proceeding warrants an adverse finding against Mr. Vlek in this proceeding.
- [23] Although the parties related these and other incidents to me at trial, most of this behaviour occurred in the past, closer to separation than today. Furthermore, neither party took the position in their testimony that these events should impact parenting time. In my view, the s. 15 Report also alleviates any concerns about Mr. Vlek's parenting abilities.

III. Issues

A. Payment of Section 15 Report

- [24] The parties dispute who should pay for the section 15 report of Dr. Krywaniuk (the "Report"). They each assert that the other should pay for it.
- [25] There is no doubt that Mr. Vlek displayed aberrant behaviour both during the relationship and at times after the separation. It is clear he had difficulty accepting that the relationship was ending. In light of this history, I find it appropriate that the Report was requested by Ms. Graff through her solicitor. However, the Report confirms that both Mr. Vlek and Ms. Graff are fit parents and that a shared parenting regime is appropriate. The Report's finding in this regard supports Mr. Vlek's position.
- [26] The conclusion of the report is also effectively the position that both parties adopted in the proceedings before me, namely, that shared parenting is appropriate and should be somewhere between 60-40 and 50-50.
- [27] Counsel for Ms. Graff suggests that rather than have the court deal with this issue at trial, the matter should await the assessment of costs. Both parties introduced evidence concerning the circumstances giving rise to the preparation of the Report. I see no reason to defer deciding who will pay for the Report until the determination of costs. In the circumstances here, where it was reasonable to request the Report and the Report's conclusions are effectively adopted by both parties, in my view the parties should share the cost of the

Report equally.

B. Parenting

[28] The parenting regimes proposed by the parties are not very different.

[29] The general parenting regime proposed by Mr. Vlek is as follows:

Week 1:

Mr. Vlek: Thursday at 5:30 pm to Sunday at 7 pm

Ms. Graff: Sunday at 7 pm to Thursday at 5:30 pm

Week 2:

Mr. Vlek: Thursday at 5:30 pm to Monday at 7:45 am

Ms. Graff: Monday at 7:45 am to Thursday at 5:30 pm

Week 3:

same as week 1

Week 4:

same as week 2

Week 5:

same as week 1

Week 6:

Mr. Vlek: Thursday at 5:30 pm to Friday at 2:15 pm

Ms. Graff: Friday at 2:15 pm to Thursday at 5:30pm

The parties would alternate long weekends.

[30] The general parenting regime proposed by Ms. Graff is as follows:

Week 1:

Mr. Vlek: Thursday at 6 pm to Monday at 7:45 am

Ms. Graff: Monday at 7:45 am to Thursday at 6 pm

Week 2:

same as week 1

Week 3:

same as week 1

Week 4:

Mr. Vlek: Thursday at 6 pm to Friday 2:15 pm

Ms. Graff: Friday at 2:15 pm to Thursday at 6 pm.

The parties would alternate long weekends.

[31] As the children are now in school and kindergarten, in my view Ms. Graff's position that she should have one weekend per month, is reasonable. This will allow the children to have both their mother and father participate in weekend extra-curricular activities. This schedule still reasonably minimizes travel time for the children which, because of the parents' locations, is to some extent necessary.

[32] In my view the appropriate parenting regime is as follows:

Week 1:

Mr. Vlek: Thursday at 5 pm to Monday at 7:45 am

Ms. Graff: Monday at 7:45 am to Thursday at 5 pm

Week 2:

same as week 1

Week 3:

same as week 1

Week 4:

Mr. Vlek: Thursday at 5 pm to Friday at 2:15 pm

Ms. Graff: Friday at 2:15 pm to Thursday at 5 pm.

The parties will alternate long weekends.

C. Child Support

[33] Parents have a joint and ongoing legal obligation to support their children: Family Law Act, S.B.C. 2011, c. 25, s. 147(1). The court must determine the amount of child support to be paid in accordance with the child support guidelines: Family Law Act, s. 150(1). The child support guidelines are established by the Lieutenant Governor in Council through regulation: Family Law Act, s. 247(1). In British Columbia, the Federal Child Support Guidelines [Guidelines] established under section 26.1(1) of the Divorce Act are incorporated by reference as the applicable child support guidelines: Family Law Act Regulation, B.C. Reg. 347/2012, s. 8

- [34] In order to meet his or her child support obligation, each parent must earn what they are capable of earning within the specific context and circumstances of the family. This principle is reflected in s. 26.1(2) of the Divorce Act which states that the Guidelines are "based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation".
- [35] Imputing income under section 19(1) of the Guidelines is the mechanism by which the court gives effect to the legal requirement that a parent must earn what the parent is capable of earning. In other words, when determining the child support obligation, the court considers not only the amount of income a spouse actually earns, but the amount of income a spouse could earn if working to capacity. Section 19(1)(a) of the Guidelines states:
19. (1) The court may impute such amount of income to a spouse as it considers appropriate in the circumstances, which circumstances include the following:
- (a) the spouse is intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child of the marriage or any child under the age of majority or by the reasonable educational or health needs of the spouse;
- [36] The legal principles relevant to the issue of under-employment were recently stated by Fisher J. in *Schmidt v. Sucke*, 2013 BCSC 1489, at para. 45:
- [45] There is long-standing jurisprudence in this area, which has established a number of principles. I summarize these principles in relation to the issue of under-employment as follows:
- (a) Parties liable to pay child support cannot avoid their responsibilities simply by virtue of being under-employed (*Van Gool v Van Gool* (1998), 59 BCLR (3d) 395 (CA) at para. 31).
- (b) Parents have a joint and ongoing legal obligation to support their children and must earn what they are capable of earning. The court gives effect to this obligation by imputing income (*Hanson v Hanson*, [1999] BCJ No. 2532 at paras. 8-9).
- (c) Bad faith is not required. A parent is intentionally under-employed if he chooses to earn less than he is capable of earning (*Hanson*, para. 13).
- (d) When imputing income due to intentional under-employment, the court must consider what is reasonable in the circumstances, including the age, education, experience, skills and health of the parent, and other matters such as the availability of work (*Hanson*, paras. 14 and 20).
- (e) A parent who chooses to work less than full time must justify that choice by the needs of the children. (*Mahannah v Mahannah*, 2012 BCSC 403 at paras. 122-123; *McCaffrey v Paleolog*, 2011 BCCA 378 at para. 49).

- [37] Thus, the matters relevant to a parent's capacity to earn income include: (1) what the parent is capable of earning, based on age, health, education, training and experience; (2) the job opportunities that are realistically available to the parent; and (3) the circumstances and requirements of the children.
- [38] In this case, there is no issue raised with respect to Mr. Vlek's income which both parties agree is \$41,000. The issue arises with respect to Ms. Graff's income, which is reported in her tax returns as between \$11,000 and \$16,000, but Ms. Graff acknowledged to actually be higher. The fact that both children are now in school or kindergarten impacts what can reasonably be expected of Ms. Graff with respect to her work schedule. I agree with Mr. Vlek that Ms. Graff's past earnings as a stay-at-home mom, and her recent earnings while caring for one or more children at home are not reflective of what she is reasonably capable of earning in her current occupation as a server now that both children are in school.
- [39] In my view a reasonable income to impute to Ms. Graff, based on average daily tips of \$60 and a reasonable work schedule, is \$27,000 per annum.
- [40] Based on incomes of \$41,000 and \$27,000, and by reference to the applicable child support table under the Guidelines, Mr. Vlek and Ms. Graff's monthly child support obligations should be \$627 and \$420, respectively. However, in a shared custody arrangement where each parent has physical custody of the children more than 40% of the time, as is the case here, the determination of child support allows for other considerations.
- [41] Section 9 of the Guidelines states that where a shared custody arrangement exists, the amount of child support must be determined by taking into account (a) the table amounts, (b) the increased costs of shared custody arrangements, and (c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.
- [42] The leading case on assessing child support for shared custody arrangements under section 9 of the Guidelines is the Supreme Court of Canada decision in *Contino v Leonelli-Contino*, 2005 SCC 63, [2005] 3 S.C.R. 217 [Contino]. The framework of section 9 requires a two-part determination: first, establishing that the 40 percent threshold has been met; and second, where it has been met, determining the appropriate amount of support: Contino at para. 37.
- [43] In this case, there is no question that Mr. Vlek and Ms. Graff have a shared parenting arrangement, with each parent having custody of the children more than 40 percent of the time. As such, I will move straight to determining the second part of the section 9 framework.
- [44] In this analysis, none of the three factors listed under section 9 of the Guidelines are determinative. Rather, consideration should be given to the overall situation of shared custody and the costs related to the arrangement while also paying attention to the needs, resources, and situation of both the parents and children: Contino at para. 27. The weight given to each factor will vary according to the particular facts of each case and the analysis warrants emphasis on flexibility and fairness: Contino at para. 40.

- [45] A simple set-off of the table amounts serves as a useful starting point in determining child support under section 9 of the Guidelines: Contino at para. 49. In this case, a simple set-off would require Mr. Vlek to pay \$207 per month in child support to Ms. Graff.
- [46] However, the set-off amount has no presumptive value in a section 9 analysis. Full consideration must be given to the factors relevant under ss. 9(b) and (c) of the Guidelines: Contino at para. 49. That being said, it is entirely possible that after a consideration of all other factors, the court will conclude that the set-off amount is the appropriate amount of child support: Contino at para. 30.
- [47] In other situations, the set-off amount will be inappropriate in light of the factors considered under ss. 9(b) and (c): Contino at para. 41. In particular, the set-off amount will be modified where its application would lead to a significant variation in the standard of living experienced by the children as they move from one household to another: Contino at para. 51.
- [48] It is important that parties lead evidence relating to the relevant factors under ss. 9(b) and (c): Contino at para. 56. It is not acceptable for the court to make common sense assumptions in this analysis: Contino at para. 57. The analysis that follows is based on the totality of the evidence presented at trial, although there may be specific facts that are not specifically mentioned in these reasons.
- [49] Section 9(b) of the Guidelines recognises the total cost of raising children in a shared custody arrangement and generally requires the court to examine the budgets and actual expenditures of both parents in addressing the needs of the children: Contino at para. 52.
- [50] Section 9(c) of the Guidelines vests the court with broad discretion for analysing the resources and needs of both parents and the children. In this part of the analysis, the court will be especially concerned with the standard of living for the children in each household and the ability of each parent to absorb the costs required to maintain that appropriate standard of living: Contino at para. 68.
- [51] Mr. Vlek urges the court to consider Ms. Graff's common-law relationship with Mr. Hermus as a relevant factor in determining the appropriate amount of child support. In particular, he asks the court to account for Mr. Hermus' income of \$75,000 as part of Ms. Graff's available household income. He argues that this means Ms. Graff's household income is significantly higher than his own so he should not have to pay the set-off amount of child support.
- [52] The case law varies on whether and when it is appropriate to consider the income of a parent's new partner under section 9(c). Some decisions do take the new partner's income into account: *Corsie v. Taylor*, 2006 BCSC 528 at para. 22; *Borrett v. Borrett*, 2006 BCSC 711 at para. 68. Other decisions find that absent strong evidence that the new partner's income was actually available to the parent to meet the children's needs, it is not a relevant consideration: *Bil v. McPherson*, 2009 BCSC 351 at paras. 20-31; *C.N.G. v. S.M.R.*, 2007 BCSC

822 at paras. 47-48.

[53] It is also relevant to consider the assets and liabilities of each parent under section 9(c): Contino at para. 69. In this case, both Mr. Vlek and Ms. Graff own vehicles. Mr. Vlek carries a small mortgage on his residence. A larger mortgage is carried by Ms. Graff's residence to which she shares title with Mr. Hermus. In the particular circumstances of this case, considering the needs, means, and situations of both parents and the children, I conclude that Mr. Vlek should pay \$200 per month in child support.

IV. Orders

[54] In the result, I make the following orders in respect of the three issues argued at trial:

1. Mr. Vlek and Ms. Graff will share the cost of the section 15 report equally.
2. Mr. Vlek will pay Ms. Graff \$200 per month in child support.
3. The parenting regime will be as follows:

Week 1:

Mr. Vlek: Thursday at 5 pm to Monday at 7:45 am.

Ms. Graff: Monday at 7:45 am to Thursday at 5 pm.

Week 2:

Same as Week 1.

Week 3:

Same as Week 1.

Week 4:

Mr. Vlek: Thursday at 5 pm to Friday at 2:15 pm.

Ms. Graff: Friday at 2:15 pm to Thursday at 5 pm.

The parties will alternate long weekends.

[55] I further order that the guardians, Ms. Graff and Mr. Vlek, will exercise all parental responsibilities with respect to the child on the following terms:

4. In the event of the death of a guardian, the surviving guardian will be the only guardian of the child;
5. Each guardian will have the obligation to advise the other guardian of any matters of a significant nature affecting the child;

6. Each guardian will have the obligation to discuss with the other guardian any significant decisions that have to be made concerning the child, including significant decisions about the health (except emergency decisions), education, religious instruction and general welfare;
7. The guardians will have the obligation to discuss significant decisions with each other and the obligation to try to reach agreement on those decisions;
8. The guardians will endeavor to agree on and appoint a parenting co-ordinator. If the parties agree on a parenting coordinator then if there is disagreement on a significant decision they will take the matter first to the parenting coordinator. If either party is dissatisfied with the decision of the parenting coordinator they have the right to apply to the court, under s. 49 of the Family Law Act, for directions on any significant parenting matter;
9. In the event that the guardians cannot reach agreement on a parenting coordinator and cannot agree on a significant decision despite their best efforts, the guardian with the majority of parenting time with the child (in this case Ms. Graff) will be entitled to make those decisions and the other guardian will have the right to apply to the court, under s. 49 of the Family Law Act, for directions on any decision the guardian considers contrary to the best interests of the child; and,
10. Each guardian will have the right to obtain information concerning the child directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

[56] I also make the following order:

11. Neither Mr. Vlek nor Ms. Graff shall speak disparagingly of the other in the presence of either child.

[57] Finally, I make the following orders, which I have adjusted as necessary from those requested at trial by Ms. Graff:

12. Ms. Graff and Mr. Vlek will equally share driving responsibilities related to implementing the parenting regime. The parties will endeavour to accommodate the needs of the other in arriving at a shared driving schedule.
13. Parenting time over the Christmas period will remain as per the Order of Master McCallum dated December 20, 2011.
14. During the children's summer break from school, both Mr. Vlek and Ms. Graff are entitled to an uninterrupted two week block of time with the children. At least 60 days' notice must be provided to the other party regarding the time period when the party seeks to exercise this right of access.

15. On the children's birthdays, the parent who does not have access according to the parenting regime is entitled to a one hour visit if the birthday falls on a school day, or a two hour visit if the birthday falls on a non-school day.
16. Mr. Vlek will have the children on Father's Day.
17. Ms. Graff will have the children on Mother's Day.
18. Mr. Vlek and Ms. Graff will contribute to any section 7 special expenses, including daycare, in proportion to their guideline income amounts.
19. Mr. Vlek and Ms. Graff will hold the children's passports for six months each. Both parties will not withhold the passports when they are reasonably sought by the other.
20. Mr. Vlek and Ms. Graff will not unreasonably withhold consent to travel when it is requested by the other.
21. Neither Mr. Vlek nor Ms. Graff require consent from the other party to travel to the USA for a period of up to 72 hours as long as the other party is reasonably notified of the travel plans.

"The Honourable Mr. Justice Savage"

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