

CANADA / JUDGMENT

Wickstrom v. Ng

2020 BCSC 788

COURT

Supreme Court of British Columbia

DECIDED

28 May 2020

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2020 BCSC 788 Wickstrom v. Ng

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Wickstrom v. Ng,

2020 BCSC 788

Date: 20200528

Docket: E52601

Registry: New Westminster

Between:

Colleen Marie Wickstrom

Claimant

And

Kenneth Mun Chun Ng

Respondent

Before: The Honourable Mr. Justice Armstrong

Reasons for Judgment

Counsel for the Claimant:

D. Simpson

Counsel for the Respondent:

L. Spencer

Place and Dates of Trial:

New Westminster, B.C.

January 13, 2020

Place and Date of Judgment:

New Westminster, B.C.

May 28, 2020

- [1] This family law trial was centered on the respondent's claims for an equal parenting role with the parties' child, decision making concerning their child and consideration of the respondent's claim to exclude property from division of family property. The trial reasons are indexed as Wickstrom v. Ng, 2019 BCSC 1685.

Background

- [2] After a nine-year relationship the parties' marriage ended in February 2017. Their child Dylan was born in August 2016 and, by the time of trial she had resided mostly with her mother after separation. The respondent had a regular schedule of parenting time with their child but the claimant was the primary care provider.
- [3] The parties were joint owners of a townhouse in Coquitlam that was purchased in May 2016. The respondent had contributed \$67,000 towards the purchase price of their home from savings he had accumulated prior to the parties cohabiting. He sought an exclusion of this sum from the family property before an otherwise equal division. The claimant also claimed exclusion of a small savings/RRSP she had owned prior to living with the respondent.
- [4] Before the trial started, the parties reached compromises on many issues including joint guardianship and financial matters, but disagreed on parenting time, parenting responsibilities, decision-making authority and exclusion of property before dividing the remaining property equally.
- [5] This nine-day trial began November 5 to 9, 2018 and concluded February 22, 2019.
- [6] The respondent contends the final judgment reflected that he was the substantially successful party because the issues concerning parenting time, parenting responsibilities and decision-making were resolved in his favour. Thus, he argued that the fact the issue of excluded property resolved in the claimant's favour did not rise to a sufficient level to permit an award of costs against him.
- [7] The respondent also relied heavily on his settlement offer made November 1, 2018 and reiterated November 15, 2018 (after the first five days of trial); he contends this offer was important and warrants an award of costs and double costs from the date of the offer.

- [8] Conversely, the claimant contends that she was substantially successful in the litigation to a sufficient level justifying an award of costs against the respondent. She contends the respondent sought an equal division of parenting time with recourse to a parenting coordinator to overcome friction and claimed a right to excluded property from the division of their family property.
- [9] She argued that prior to trial the parties had agreed that both would be joint guardians of the child but there was no agreement regarding a mechanism to resolve differences. The parties had difficulties communicating and co-parenting in an effective fashion. She contends the final order reflected her views, consistent with the s. 211 report entered into evidence from Dr. LaTorre. He recommended that the claimant retain final decision making authority, subject to the assistance of a parenting coordinator, with either party having resort to further court applications in the event of disagreement.
- [10] She had argued for a gradual increase in the respondent's parenting time and opposed his claim for equal parenting time and joint decision making.
- [11] She contends the respondent's focus was on his "parenting rights" and his entitlement to equal parenting time with the child. She contends the judgment largely confirmed her position on parenting and the need for gradual changes concerning the respondent's parenting role with the child for two years.

The Decision

- [12] In the court's analysis on this question, I framed the parenting positions as follows:
- [111] The claimant urged the court to adopt Dr. LaTorre's first suggestion creating parenting time for the respondent with Dylan between Sunday and Tuesday mornings and Thursday afternoons for one year. She urges that Dr. LaTorre's second scenario not be put in place until the child commences kindergarten.
- [112] The respondent argues that parenting and joint guardianship of Dylan can be divided equally and that the parenting time schedule should alternate between three days with one parent in week one and four days with that parent in the next week and the reverse in the following weeks. He contends there should be a co-parenting arrangement supported by a co-parenting counsellor and with differences or disagreements referred to parenting coordinator.
- [13] I concluded that it would not necessarily be in the child's best interest to accord equal parenting time to both parties. Her need for stability and certainty coupled with a significant alteration in her current schedule with each parent would be challenging for her and that increased time with the respondent should be gradual: see paras. 119-120.
- [14] The underlying goal of the decision concerning the respondent's parenting role was to ensure the child's best interests by optimizing the time spent with each parent while minimizing the stress and instability that flow from the breakdown of the family unit.

Legal Framework

[15] The basic principle for deciding costs claims in family law litigation is in Rule 16-1(7) of the Supreme Court Family Rules, B.C. Reg. 169/2009 [the Rules], which provides:

Costs to follow event

(7) Subject to subrule (9), costs of a family law case must be awarded to the successful party unless the court otherwise orders.

[16] Subrule 16-1(9) does not apply to this costs application. Rule 16-1(14) provides:

(14) The court may award costs

(a) of a family law case,

(b) that relate to some particular application, step or matter in or related to the family law case, or

(c) except so far as they relate to some particular application, step or matter in or related to the family law case

and in awarding those costs the court may fix the amount of costs, including the amount of disbursements.

[17] The legal framework and leading cases on questions of costs and family matters are well-known: see *Gold v. Gold* (1993), 82 B.C.L.R. (2d) 180 (BCCA), 106 D.L.R. (4th) 452; *Fotheringham v. Fotheringham*, 2001 BCSC 1321 (leave to appeal refused, 2002 BCCA 454) [Fotheringham]; and *Marquez v. Zapiola*, 2014 BCCA 35 at paras. 15 to 20.

[18] In *Fotheringham*, the court summarized the steps to the analysis:

Application of the Gold Principle and Rule 57(9) to this Action

[46] Based on the above interpretation of Rules 57(9), 57(15) and *Gold*, a decision to award or not award costs after a trial might follow a four step inquiry.

1. First, by focusing on the "matters in dispute" at the trial. These may or may not include "issues" explicitly mentioned in the pleadings.
2. Second, by assessing the weight or importance of those "matters" to the parties.
3. Third, by doing a global determination with respect to all the matters in dispute and determining which party "substantially succeeded," overall and therefore won the event.
4. Fourth, where one party "substantially succeeded," a consideration of whether there are reasons to "otherwise order" that the winning party be deprived of his or her costs and each side then bear their own costs.

- [19] In *Litt v. Gill*, 2016 BCCA 288 [Litt], Garson J.A. described the unique problems presented in family law cases involving multiple issues. At para. 53, she pointed out that the concept of "success" may require a more flexible approach in multi-issue family cases for the purposes of assessing costs as follows:
- [53] At its most basic, the successful party is the plaintiff who establishes liability and obtains a remedy, or the defendant who obtains dismissal of the plaintiff's case: *Loft v. Nat*, 2014 BCCA 108 at para. 46. This general principle is more difficult to apply in the context of family cases, where there may be a panoply of claims advanced by each party, and divided success. There, a more flexible "substantial success" test may be more appropriate: see this Court's decisions in *Harras v. Lhotka*, 2016 BCCA 246 at para. 48 and *Marquez v. Ziapola*, 2014 BCCA 35 at para. 16.
- [20] The measure of substantial success was defined in *Fotheringham*, where Mr. Justice Bouck described the standard as follows:
- [45] Gold now seems to say that substantial success in an action should be decided by the trial judge looking at the various matters in dispute and weighing their relative importance. The words "substantial success" are not defined. For want of a better measure, since success, a passing grade, is around 50% or better, substantial success is about 75% or better. That does not mean a court must descend into a meticulous mathematical examination of the matters in dispute and assign a percentage to each matter. Rather, it is meant to serve as a rough and ready guide when looked at all the disputed matters globally.

Settlement Offers

- [21] Offers to settle are not considered in the analysis of a party's substantial success: See *Paul v. Pumple*, 2013 BCSC 1844 [Paul] at para. 16; *Dykman v. Dykman*, 2011 BCSC 1169.
- [22] The court is precluded from taking into account settlement offers in determining issues of "substantial success" and costs findings of substantial success are to be based on comparisons between the positions taken at trial and the judgement: See *Paul* at para. 17; *M.A.N.R v. D.J.S.*, 2019 BCSC 240.
- [23] In *Paul*, Goepel J. said that "an award of costs simpliciter is an essential prerequisite for an order of double costs": see para. 27.
- [24] Claims for costs or double costs stemming from settlement offers are addressed under Rule 11-1(5) and (6).
- [25] Rule 11-1 guides the court on the treatment of settlement offers in family law cases. Rule 11-1(4) enables the court to take into account settlement offers when exercising its discretion to award costs and subrules (5) and (6) set out the options and considerations available as follows:

- (5) In a family law case in which an offer to settle has been made, the court may do one or more of the following:
- (a) deprive a party of any or all of the costs, including any or all of the disbursements, to which the party would otherwise be entitled in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle;
 - (b) award double costs of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle;
 - (c) award to a party, in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle, costs to which the party would have been entitled had the offer not been made;
 - (d) if the party who made the offer obtained a judgment as favourable as, or more favourable than, the terms of the offer, award to the party the party's costs in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle.
- (6) In making an order under subrule (5), the court may consider the following:
- (a) whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any later date;
 - (b) the relationship between the terms of settlement offered and the final judgment of the court;
 - (c) the relative financial circumstances of the parties;
 - (d) any other factor the court considers appropriate.
- [26] The court is permitted to consider settlement offers in exercising its discretion as to costs: see *Paul*. This discretion is, however, restricted and must be exercised within the parameters set out in Rule 11-1(5): see *A.E. v. D.W.J.*, 2009 BCSC 505 at para. 51, *aff'd* 2011 BCCA 279 at para. 14.
- [27] The court may consider the factors in Rule 11-1(6) in making an order under subrule (5): see also *K.M. v. I.M.*, 2017 BCSC 716.
- [28] Where neither party has achieved substantial success at trial, the court may nevertheless make a cost award on the basis of offers to settle: see *S.M.S. v D.M.T.*, 2016 BCSC 339 at paras. 17-19.
- [29] The goals animating settlement offers were summarized in *Hartshorne v. Hartshorne*, 2011 BCCA 29:

[25] An award of double costs is a punitive measure against a litigant for that party's failure, in all of the circumstances, to have accepted an offer to settle that should have been accepted. Litigants are to be reminded that costs rules are in place "to encourage the early settlement of disputes by rewarding the party who makes a reasonable settlement offer and penalizing the party who declines to accept such an offer" [citations omitted]. In this regard, Mr. Justice Frankel's comments in *Giles* are apposite:

[74] The purposes for which costs rules exist must be kept in mind in determining whether appellate intervention is warranted. In addition to indemnifying a successful litigant, those purposes have been described as follows by this Court:

"[D]eterring frivolous actions or defences": *Houweling Nurseries Ltd. v. Fisons Western Corp.* (1988), 37 B.C.L.R. (2d) 2 at 25 (C.A.), leave ref'd, [1988] 1 S.C.R. ix;

"[T]o encourage conduct that reduces the duration and expense of litigation and to discourage conduct that has the opposite effect": *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 at para. 28 (C.A.);

"[E]ncouraging litigants to settle whenever possible, thus freeing up judicial resources for other cases: *Bedwell v. McGill*, 2008 BCCA 526, 86 B.C.L.R. (4th) 343 at para. 33;

"[T]o have a winnowing function in the litigation process" by "requir[ing] litigants to make a careful assessment of the strength or lack thereof of their cases at the commencement and throughout the course of the litigation", and by "discourag[ing] the continuance of doubtful cases or defences": *Catalyst Paper Corporation v. Companhia de Navegação Norsul*, 2009 BCCA 16, 88 B.C.L.R. (4th) 17 at para. 16.

Application of Legal Framework to Family Law dispute

[30] The two issues in this case were the respondent's claim to excluded property and to equal parenting time and decision making responsibility for their child. Equal guardianship was not at issue in this trial.

[31] The positions of the claimant are described in paras. 32 to 37 of the reasons for judgment and the respondent's arguments are summarized in paras. 38 to 43.

[32] The parties advocated for different parenting arrangements within the context of an agreed-upon joint guardianship order. Each party contended they were embracing the recommendations of Dr. LaTorre.

[33] The claimant argued for a schedule that placed the child with the respondent from 9:30 AM on Sundays to Tuesday drop off at school and from 5:30 until 8 PM on Thursdays for a period of two years. She suggested a review of these terms once the respondent's air traffic control training was complete. She invited the court to accept the underlying findings made by Dr. LaTorre.

- [34] The claimant wanted to exercise all decision-making authority for the child and retain primary care of the child.
- [35] The respondent sought shared parenting and joint guardianship. He believed the child should reside with him 50% of the time on a three day/four day alternating schedule. He requested the appointment of a parenting coordinator and counselling for the parties. He conceded the claimant's entitlement to exclusion of \$4,000 from family property before division; he also argued that his contribution to the acquisition of the family home from funds acquired before the relationship began should be excluded property under ss. 84 and 85 of the Family Law Act, S.B.C. 2011, c. 25.

The Order

- [36] Following the trial, judgment was given and included orders for sharing of joint parenting responsibilities with day-to-day decisions decided by the parent in whose care the child was located at the time. The claimant was entitled to make decisions concerning major issues such as schooling, daycare and activities and other significant issues provided that notice was to be given the respondent. In the absence of the respondent's concurrence, unresolved issues were to be referred to a parenting coordinator.
- [37] During the first four months after judgment, the child was to be with the respondent from 9:30 AM Sundays until 7:30 AM on Tuesday and from 5:30 PM to 8 PM on Thursdays. In the second four months, the respondent was to have parenting time with the child from 9:30 AM Sundays until 7:30 AM on Tuesdays and from 5:30 PM on Thursdays to 7:30 AM on Fridays. During the summer months the respondent was to have one full uninterrupted week of parenting time in the month of July and one similar week in the month of August. Beginning in September 2020, the respondent's parenting time would expand to 9:30 AM Sundays to 7:30 AM Tuesdays and 5:30 PM on Thursdays to 5:30 PM on Fridays. Once the child is enrolled in preschool or kindergarten, the parties are required to negotiate an appropriate parenting schedule failing which the issue of parenting time be referred to a parenting coordinator. The parenting coordinator received the authority to increase parenting time to the respondent up to 50% of the child's time as long as such increases were in the best interests of the child.
- [38] The equity in the family home was to be divided equally between the parties and the respondent's claim for exclusion of property described above was dismissed.

Was either party substantially successful with respect to the trial judgement?

- [39] The respondent argued that "he was the more substantially successful party when comparing his offer to settle and the orders made in the court's reasons for judgment". He contends he was the most successful litigant because the order regarding parenting time, parenting responsibilities and decision-making authority compared most favourably to his November 1, 2018 settlement offer.

- [40] The respondent argued the claimant's failure to disclose text messages between herself and another witness is a further basis for awarding costs against the claimant. She had formed a relationship with this person but separated due to his apparent drug problems. He contends that if these texts had been concealed from the court, it would have deprived the court of important information concerning the claimant's behaviour, circumstances and ability to care for the child. In obstructing disclosure of these documents the claimant caused unnecessary delay in completing the trial.
- [41] The claimant contends that joint guardianship or joint parenting was not opposed by her at the trial; the narrow issue was whether the parties had demonstrated an ability to communicate and exercise joint decision-making roles with the consistency required for the child. She contended at trial that, in the face of the parties' inability to communicate, one person needed to be able to make decisions and she should be granted that authority subject to a mechanism for the respondent to challenge those decisions.
- [42] In the reasons, I concluded that the claimant could not permanently retain her current level of control over the child's day-to-day activities and that the respondent could not insist on parenting rights and equal parenting time. The best interests of the child were against both propositions. She contends her position at trial was accepted in the judgment granted.
- [43] Overall, the claimant contends the court rejected the respondent's demand for joint guardianship and equal parenting time immediately. Parenting time was set on a graduated and structured increase to the respondent's parenting time mirroring Dr. LaTorre's recommendations. No order was made granting the respondent equal parenting time; a process was put in place to achieve an increase in the respondent's parenting time as long as any increases are the best interests of the child.
- [44] Finally, the claimant argues that she was entirely successful on the question of excluded property. Although parenting issues were a greater priority for the parties, the respondent's attempt to exclude \$69,300 from the division of family property was significant.
- [45] The respondent's principal argument on the parenting issue was that he was entitled to share equal parenting time with the claimant and that the parties should jointly manage the child's affairs. He argued the plaintiff had put the child at some risk when she formed a union with her then partner who was involved in significant drug use.
- [46] Dr. LaTorre did an exhaustive investigation into both parties and assessed their abilities to care for their child. He recommended a gradual change and increase in the respondent's parenting time with a focus on maintaining the stability and security of the child at all times. He recommended the claimant be equipped with decision making authority regarding the child's needs.
- [47] In the result, I rejected the respondent's request for equal parenting time and imposed a schedule that gradually increased his parenting role with the possibility of achieving equal parenting time after the child began school.

- [48] I also rejected the claimant's request for unfettered decision making authority and her opposition to the appointment of a parenting co-ordinator.
- [49] In my view, the respondent did not achieve substantial success by any measure on the parenting issue. The respondent did not argue that he achieved substantial success in the litigation; his submissions were principally directed at a comparison between the offer he made and the final order made by the court.
- [50] The respondent did not argue that, measured against his submissions at trial, he was substantially successful in the result. As noted in Paul, offers to settle do not play any part in the consideration of substantial success in the cost analysis. Offers to settle are dealt with under Rule 11-1 but do not influence the court's discretion at this stage in the analysis.
- [51] The respondent achieved some success in securing an expanded role with the child and limiting, to a small degree, the claimant's decision-making authority. Nonetheless, the claimant remained the primary caregiver and retained decision-making authority subject only to review by a parenting coordinator. The results achieved by the claimant were not identical but were more consistent with the recommendations of Dr. LaTorre.
- [52] In the context of Fotheringham and Litt, the respondent's success on the parenting issue was not in the order of 75%. More importantly, the respondent was wholly unsuccessful in his excluded property claim. While this latter claim was not the principal focus of the litigation; it occupied the attention of the court and litigation time and was important to both parties.
- [53] In assessing the weight or importance of these matters to the parties, I am not able to find that the respondent's success in securing a parenting coordinator, retaining the right to challenge the claimant's decision-making, and allowing for future parenting changes rose to the level of substantial success.
- [54] On those issues concerning decision making, dividing parenting time 50/50 and establishing primary residence, the claimant was successful. I find that these were the more important issues to the parties.
- [55] Moreover, the respondent was wholly unsuccessful in his claim to exclude \$69,300 from the equity in the family home on the basis it was excluded property. Taking into account the respondent's insistence on achieving equal parenting time and his failure on the excluded property issue, and considering the global aspects of this trial, I find that the claimant was substantially successful.
- [56] Before taking into account the issue of costs stemming from settlement offers, after consideration of all of the evidence and the outcomes, I exercise my discretion to award costs to the claimant.

The Offers to Settle

[57] Rule 11-4(5) sets out the options available when one party has made a settlement offer. Although the respondent did not achieve substantial success in the litigation the court must consider whether his offer to settle should have been accepted at the time it was made: see subrule (6)(a). This question is decided on the facts known at the time the offer was made and not the terms of the final judgment.

[58] However, the court is permitted to consider other factors referred to in Rule 11-4(6) in informing the analysis under subrule (5) including the relationship between the settlement offer and the final judgment, the parties' relative financial circumstances and any other factor the court considers appropriate.

[59] The respondent's November 1, 2018 settlement offer dealing with parenting responsibilities and property included his proposal that:

- a. the parties would share parental responsibilities as indicated in the LaTorre report;
- b. the parties would have joint decision-making authority and a parenting coordinator would be appointed holding final decision making authority;
- c. the parenting coordinator would monitor correspondence and assist the parties with parenting interactions;
- d. the respondent's parenting time would include:
 - i. six months on Dr. LaTorre's option two;
 - ii. six months based on Dr. LaTorre's option three; and
 - iii. following this one year period, the parties would move to equal parenting time.
- e. both parties excluded property claims would be granted.

[60] In response, the claimant offered:

1. the respondent would receive a credit for \$40,000 as excluded property;
2. to waive her claim for occupational rent based on the respondent's continued occupation of the family home after separation;
3. the parties would retain a counsellor to assist the parties with parenting interactions and correspondence;
4. the parties would endeavour to reach agreement on decision-making within a reasonable period but the claimant would have final decision-making authority in the event of a deadlock;

5. the claimant would retain final decision-making authority as recommended by Dr. LaTorre and that final decision making authority would be reviewable after two years unless the parties agreed to earlier changes; and
 6. the respondent's parenting time would include:
 - a) Sunday from 9:30 to Tuesday at daycare drop off;
 - b) Thursday from 17:30 hrs. to Friday 07:30 hours;
 - c) This parenting schedule be reviewable in two years unless otherwise agreed upon by the parties; and
 - d) The parties would retain a counsellor.
- [61] The respondent said it would not have been reasonable for him to accept the claimant's offer because it did not provide any certainty or mechanism to increase his parenting role and would "guarantee that the parties would be back in court in two years' time ". He contends the claimant was adamant that she would not agree to shared parenting.
- [62] He contends the final order granting the claimant decision-making authority subject to the respondent's right to refer issues to the parenting coordinator was a success for him and failure on the claimant's part to accept his reasonable proposal.
- [63] He argued that the parties were able to communicate and had a history of co-parenting decision-making for their child. The claimant did not agree that the parties were sufficiently able to communicate to be co-decision-makers.
- [64] The claimant's proposal reflected Dr. LaTorre's suggestion that she retain final decision making authority if the parties were unable to agree on those decisions. The respondent would have the prerogative of returning to court if he believed important decisions were not made in the child's best interest.
- [65] Overall, I am not satisfied that the claimant acted unreasonably in declining the respondent's settlement offer at the time it was made. The respondent's proposal would have resulted in the parties moving to equal parenting time by October 30, 2019. It would have reflected Dr. LaTorre's suggestion of expanding the respondent's parenting role over six months (in two increments) until that time.
- [66] The claimant's proposal, if accepted, would have created a parenting schedule for the respondent until October 2020 at which point they would have re-assessed the schedule and their decision making roles.
- [67] In considering the relationship between the terms of the parties' offers and the final judgment of the court, I am not persuaded the respondent's offer could be considered a basis for awarding costs in his favour. The differences between the terms of the settlement offers of both parties and the final judgment do not warrant an order granting the respondent costs. If anything, the claimant's offer might reasonably have been accepted by

the respondent given the financial benefit to him considering her concession on the excluded property claim. The practical differences in her offer particularly in light of the age of the child and the fact she had not begun school were important.

- [68] It was not practical or possible in this case to align the two offers and the final judgment. In *H.K. v W.K.*, 2018 BCSC 1447, MacNaughton J. summarized the approach when there are multiple issues confronting the court with difficulty in comparing offers. She said:
- [68] In considering the relationship between the offer and the result at trial, the court should determine whether the "declining" party would have been financially better off, on a global basis, if they had accepted the offer as compared to going to trial: *Kopp v. Kopp*, 2011 BCSC 889 at para. 7. The court in *Kopp* also explained that precise alignment between an offer to settle and the final judgment is not required. The court said:
- [11] It is difficult, and in my view unwarranted, to approach the costs determination by forensic comparison of every offer and counter-offer with the ultimate outcome of the application, and to apply each factor in Rule 11-1(6) to each offer. I reject that approach. ... The costs issue should not be the tail that wags the dog.
- [69] Overall, I am not satisfied the claimant should have accepted the respondent's settlement offer from November 2018.
- [70] Although I would not endorse the claimant's offer and imposition of a two-year schedule, the final order was more marginally restrictive of the respondent's parenting time than that proposed by the claimant for the first three months after judgment and consistent with her proposal for the next six months. In view of her concession regarding exclusion of property it seems to me the respondent acted unreasonably in refusing her offer at that time and the claimant did not act unreasonably in rejecting his offer.
- [71] Moreover, in comparing the offers, the respondent's settlement offer compared with the trial judgment did not persuade me that he had achieved a result that would warrant an award of costs based on the application of Rule 11-4(5). Thus, his offer to settle was not one that could reasonably have been accepted by the claimant at the time it was made nor did the comparison of his offer to the judgment persuade me that the respondent's should be awarded costs.
- [72] Notwithstanding these conclusions, I am satisfied that the claimant's position in opposing introduction of email exchanges between herself and her then partner concerning matters involving the child and the respondent was unreasonable. Production of these documents was opposed unsuccessfully and caused unnecessary delay in the trial. I exercise my discretion to reflect the respondent's success on that evidentiary and deny the claimant costs for one day of trial.
- [73] In the result, the claimant is entitled to her costs of these proceedings at Scale B save and except the costs of one day of trial during which these email issues were contested.

"Armstrong J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/20/07/2020BCSC0788.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/wickstrom-v-ng-2020>

Prepared on 25 October 2026 · Esheria