

CITATION: *M.J.L. v. C.L.F.*, 2022 ONCJ 243
DATE: May 24, 2022
COURT FILE NO. D41546/21

ONTARIO COURT OF JUSTICE

B E T W E E N:

M.J.L.

APPLICANT

- and -

C.L.F.

RESPONDENT

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)
) **LINDA J. WILSON, for the**
APPLICANT
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)
) **ANDREW VANKOUGHNETT, for the**
RESPONDENT
)

) **HEARD: MAY 16-18, 2022**

JUSTICE S.B. SHERR

REASONS FOR DECISION

Part One – Introduction

[1] This trial was about the parenting and child support arrangements for the parties’ four-year-old daughter (the child). The child presently lives primarily with the respondent (the

mother) and spends every Tuesday at 10 a.m. until Thursday at 7 p.m. with the applicant (the father).

[2] The father seeks an order that the parties have joint decision-making responsibility for the child. In the event of a disagreement over a major issue, he asks to have the authority to make the final decision.

[3] The father further seeks an order that the child attend a public school near his home in Pickering, Ontario. He also asks for an order that the child be treated by a family doctor chosen by him.

[4] The father seeks a shared parenting time order where the child will live with him from Monday after school until Friday, when the mother will pick the child up after school. He also asks that the child spend one Friday overnight with him on one out of every four weeks. The child would reside with the mother at all other times.

[5] The father made further proposals to share holiday parenting time with the mother and sought various incidents of parenting.

[6] The father asks that there be no order for ongoing child support or for retroactive child support.

[7] The mother seeks an order for sole decision-making responsibility and primary residence of the child. She seeks orders dispensing with the father's consent to obtain or renew government documentation for the child and for her to travel with the child outside of Canada. She also seeks an order prohibiting the father from traveling outside of Canada with the child without her prior consent, such consent not to be unreasonably withheld.

[8] The mother seeks an order that the father have parenting time with the child on alternate weekends from Friday after school until a Monday morning return to school, and on each Wednesday from after school until a Thursday morning return to school. She also proposed a holiday parenting time schedule and various incidents of parenting.

[9] The mother seeks to impute the father's annual income at \$45,000 for support purposes. She seeks child support retroactive to August 1, 2018. She also asks that the father pay 50% of the child's special and extraordinary expenses (section 7 expenses) pursuant to section 7 of the *Child Support Guidelines* (the guidelines).

[10] A global time limit of 15 hours to conduct the trial was set by the case management judge. This included time for opening and closing statements and for all examinations. Counsel were very focused and the entire time allocated for the trial was not required.

[11] The parties each filed affidavits and financial statements as their direct evidence. They both provided additional oral evidence and were cross-examined by each other. The father also filed affidavits from his girlfriend, his former roommate and a friend as their direct evidence.

The father's girlfriend and former roommate were briefly cross-examined by the mother.

[12] Page limits were set by the case management judge for the parties' trial affidavits. The parties filed voluminous document briefs in addition to these affidavits. These document briefs were not admitted into evidence. They were marked as exhibits for the purpose of identification only. Both parties properly admitted specific documents from these briefs into evidence at the trial. These included business records from the Toronto Police Service. The balance of the documents contained in the document briefs were not admitted into evidence.

[13] The issues for the court to determine are:

- a) What parenting orders regarding primary residence, decision-making responsibility, what school the child attends, parenting time, communication, travel and other incidents of parenting are in the child's best interests?
- b) When should the child support order start?
- c) How much child support, if any, should be paid?
- d) If the court finds that support arrears are owing by the father to the mother, how should they be paid?

Part Two – Background facts

[14] The father is 32 years old and resides in Pickering Ontario. The father is an Australian citizen and is living in Canada on a temporary residency permit. He has applied for permanent resident status on humanitarian and compassionate grounds. That application is outstanding.

[15] The father is self-employed and operates two businesses. His main business is AusCan Tactical. This business procures and distributes equipment such as body armour and night goggles. His other business is called Bang Gang Apparel and is an on-line clothing apparel business.

[16] The mother is 30 years old and resides at her parents' home (the maternal grandparents) in Toronto. The mother is a Canadian citizen and is employed in Human Resources.

[17] The parties met in Australia in 2016 and were married there in April 2017.

[18] The parties came to Canada in May 2017. The father entered Canada on a 12-month visitor's visa. The parties lived at the home of the maternal grandparents.

[19] The parties have the one child together. She was born in February 2018. The child is a Canadian citizen. The child also obtained Australian citizenship in April 2019.

[20] The parties disagree over their legal date of separation. The mother states that it was July 30, 2018 – the father says that it was May 27, 2019.

[21] The parties both lived in the maternal grandparents' home after July 30, 2018. The mother stated that she and the father lived in separate rooms.

[22] The mother, father and child left the maternal grandparents' home on April 30, 2019 and rented a home together in Pickering.

[23] The mother and the child left the father on May 27, 2019 and moved back to live with the maternal grandparents. They continue to reside there. The parties have not lived together since May 27, 2019. The father has continued to live in Pickering.

[24] In September 2019, the father started having full day parenting time with the child on three weekdays each week. Starting in April 2020, the father started having parenting time with the child from Tuesdays at 10 a.m. until Thursdays at 7 p.m.

[25] The parties agreed that this was the parenting status quo for a long time.

[26] The father has been asking for equal-parenting time since the mother and child left him on May 27, 2019. The mother has not agreed to this.

[27] In September 2019, the mother issued an application for divorce in the Superior Court of Justice. She did not make any claims for corollary relief.

[28] A Certificate of Divorce was issued on January 10, 2020.¹

[29] On May 25, 2021, the mother called the police after an argument with the father. He was arrested and charged with multiple gun offences.

[30] The father was incarcerated until June 4, 2021. His release terms included non-contact conditions respecting the mother.

[31] The father issued this application on June 21, 2021.

[32] The mother filed her Answer/Claim on August 10, 2021.

[33] On July 27, 2021, the parties consented to a temporary without prejudice order that the father have parenting time with the child twice each week – each visit being for three and one-half hours.

[34] On August 26, 2021, Justice Melanie Sager made a temporary without prejudice order, on consent of the mother, and not on consent of the father. The order provided for a phased-in increase in parenting time for the father. By September 21, 2021, the parenting time would reflect the status quo that had existed prior to the father's arrest – Tuesdays at 10 a.m. until Thursdays at 7 p.m.

¹ The father claimed that he was never served with the divorce application. He has not taken any steps to set it aside.

[35] This remains the operative court order. Neither party has moved to change it. The mother also did not bring a motion for temporary child support.

[36] The parties have complied with the terms of the temporary parenting order.

[37] The father has never paid any child support to the mother.

[38] On August 27, 2021, all of the criminal charges against the father were withdrawn.

Part Three – Parenting

3.1 The father’s position

[39] The father deposed that he has always wanted equal-parenting time and joint-decision making responsibility for the child. He said that the mother has unreasonably resisted this. He said that whenever he raised the issue with her, she threatened to take him to family court.

[40] The father testified that he felt coerced into entering into the parenting status quo. He said that he went along with the parenting time the mother permitted to avoid conflict and court proceedings.

[41] The father said that his perspective changed after the events of May 25, 2021. The events of that day, and the aftermath, were the father’s primary focus at this trial.

[42] The father testified that on May 25, 2021, he learned from the child that the mother was seeing someone and that man had been sleeping over at her home. He said that the parties had previously agreed not to introduce new partners to the child without the other parent meeting them first. He said that he called the mother about this. At first, she accused the child of lying. He had the child on speakerphone and asked the child to confirm what she had told him. The mother then acknowledged the relationship. He admitted that he was upset and that he had messaged the mother “you’re fucked”.² The mother tried to call him and text him. He said that he wanted to focus on the child, not engage in conflict, and that he ignored her.

[43] The father said that later that evening multiple police cars came to his home. He said that they went into his home without a warrant, searched the home, questioned him and arrested him. All they found in the home, he said, were a broken shotgun that belonged to the mother and two knives.³

[44] The father said that the child was frantic and traumatized by the incident. The police called the mother to pick up the child.

[45] The father claims that the mother weaponized the police because she was angry at him. He said that she told the police that he was manufacturing military weapons and explosives, had

² The father produced a number of social media exchanges where the mother had also used this phrase.

³ The father said that he was unaware that the gun had been left in his home.

multiple guns at the premises, had threatened to shoot someone in the head and that he might be carrying a gun. This, he said, put the police on high alert and caused their overreaction.

[46] The father testified that this incident had devastating consequences, including:

- a) He was incarcerated for 11 days.
- b) He had to hire criminal counsel to exonerate himself.
- c) The police contacted immigration authorities as he had overstayed his visitor's visa. He has had to hire immigration counsel and is fighting to remain in Canada.
- d) He was unable to see the child until Father's Day as the mother refused parenting time. He had to hire family counsel and start court proceedings. It took until September 21, 2021 to restore the parenting status quo.
- e) The immigration release terms prevented him from working until November 1, 2021. After that, he could only operate his clothing apparel business until March 1, 2022, when his criminal file was completely purged and he was allowed to operate AusCan Tactical again.
- f) He lost considerable income.
- g) His landlord attempted, unsuccessfully, to evict him.
- h) He has suffered trauma from the incident. He said that he has been provisionally diagnosed with Post Traumatic Stress Disorder and depression. His family doctor has referred him to a psychiatrist.
- i) He said that the child has suffered trauma from this incident. He deposed that the child has become fearful of the police. He has been attempting to have her treated.

[47] The father has started a civil suit against the mother for damages arising out of this incident. He also deposed that a civil suit against the police is in the works – "his team of lawyers is on it".

[48] The father believes that the mother is intent on alienating him from the child. He testified that he has zero trust in her and that he is afraid for his safety around her. He does not want to engage with her unless there is an important matter concerning the child.

[49] The father believes that exposing the child to the May 25, 2021 police incident was indicative of the mother's poor parenting judgment. He believes that he is better suited to make major decisions in the best interests of the child.

[50] The father has been taking the child to a doctor in Pickering and asks for an order that the child be treated by that doctor.

[51] The father seeks the authority to take the child for treatment arising out of her trauma caused by the May 25, 2021 incident.

[52] The father wants the child to attend a public school in his catchment area in Pickering. She starts Junior Kindergarten in September 2022. He said that the school is across the street from his home and the child has friends who will go to that school. He has pre-registered the child in that school.

[53] The father said that the mother and he had previously agreed that the child would not be raised in any religion.

[54] The father testified that he believes that he already has a shared parenting arrangement. He said this is because the mother works full time and the maternal grandmother looks after the child during the day on Mondays and Fridays. He believes that the parenting plan he has proposed most closely mirrors what is happening now. He asked for one overnight every four weekends so that he can also enjoy weekend activities with the child.

[55] The father said that he has more flexibility than the mother in his work schedule. He is able to choose his work hours and can work on weekends and on evenings.

[56] The father also submitted that the court should consider how the outcome of this case might affect his immigration claim and his ability to remain in Canada.

3.2 The mother's position

[57] The mother states that she has always been the child's primary caregiver and that there is no reason to change this. She said that the child is used to the present parenting structure and is doing very well.

[58] The mother testified that she is unable to communicate with the father. She said that he is hostile and secretive and acts unilaterally concerning the child. She said that he involves the child in the litigation.

[59] The mother does not believe that a joint decision-making responsibility or shared parenting arrangement can work and that such orders would not be in the child's best interests.

[60] The mother testified that she has pre-registered the child in a Catholic school across the street from her. While this school is her preference, she said that she would be content that the child attend a public school that is also close to her home. The mother said that the child has a number of friends who will attend school with her.

[61] The mother submits that the parenting plan she has proposed is in the child's best interests. She says that it reflects the reality that the child will be starting school in September 2022 and the status quo parenting schedule needs to be altered. She said that her plan gives the father an increase in parenting time and allows him mid-week parenting time – unlike the

father's parenting time proposal for her.

[62] The mother deposed that she parents the child with the support of her parents. She said that the child has a close relationship with her parents and the team effort has worked well for the child.

[63] The mother said that she has never received any child support from the father and that any request she has made for support has been met with hostility.

[64] The mother offered a very different narrative of the May 25, 2021 incident than the father. She said that the father had previously made threats to harm anyone she sees. She said that he is quick to anger and gets very jealous. She said that in 2018 he had made a threat to shoot her acquaintance in the head after finding flirtatious Facebook messages. He had recently told her that he intended to carry a gun. She said that there were multiple guns in the father's home when she left in May 2019. She denied telling the police that the father manufactured military grade weapons and explosives.

[65] The mother said that the father was very angry when he learned on May 25, 2021 that she was seeing someone else. She said that she perceived the message, "you're fucked" as a threat. The mother said that she was afraid for her safety and the safety of her boyfriend and the child. Her concerns escalated when the father did not respond to her calls or messages. She said that she wanted the police to make sure that the child was safe and that any guns were removed from the father's home. She denied that she called the police out of vengeance or to thwart the father's relationship with the child.

[66] The mother said that after this incident she sought supervised parenting time for the father to ensure the child's safety. She has agreed since July 2021 that supervised parenting time is not necessary.

3.3 Reliability of the parties

[67] One of the court's challenges in this case was that neither party was a reliable witness.

[68] Both parties interpreted events in a manner that favoured their narratives. They both exaggerated concerns and were often over-dramatic. When asked why he did not comply with a court order that the parents use the communication tool "My Family Wizard" that cost \$9 per month,⁴ the father said that "I was already bleeding money trying to keep a roof over my head, and support my daughter". Yet, when asked about his finances at trial, he talked about his ability to procure and supply Ukraine with military equipment, either through his company or a non-profit he had started.

[69] The father's perception is that the mother is out to alienate him from the child and that she will do or say anything to accomplish this. He perceives all her actions through that prism.

⁴ The parties eventually agreed to use the free WhatsApp parenting communication app.

[70] The mother does not trust the father and is on constant guard with him. She perceives all his actions through that prism.

[71] Neither parent had anything positive to say about the other despite both having parenting strengths.

[72] The mother over-stated safety concerns and minor parenting complaints about the father.

[73] The father demonstrated absolutely no insight into his role in the parental conflict and the impact it could have on the child.

[74] The father showed no understanding of how his conduct (even if his version is believed) contributed to the May 25, 2021 incident. He was clearly upset with the mother. He inappropriately inserted the child in the conflict. He sent a vague message that the mother subjectively interpreted as a threat and then ignored her calls that escalated her anxiety and led to what might have been an overreaction by her to the safety concern.

[75] The father has aggressively escalated the conflict since the May 25, 2021 incident. This incident, how it has impacted him and his desire to hold the mother accountable was his focus at this trial.

[76] The father presented a skewed perspective about the present parenting arrangement, saying that it is shared parenting – it is not, the mother is the child’s primary caregiver.⁵ He justified his non-payment of child support on this basis.

[77] The father’s evidence about his financial affairs was inconsistent. When he was concerned about his income being imputed, he minimized his earning ability. When he was challenged about his ability to financially support himself, he suddenly had a tremendous business opportunity that had arisen the Friday before the trial started (an opportunity that was never mentioned during his direct evidence). He was now confident that he could earn \$45,000 annually and likely much more in the future.

[78] The father did not provide the mother with timely or complete financial disclosure about his businesses, despite court orders. He provided no tax disclosure about his Canadian income until one month before the trial despite her multiple requests. He did not produce a 2020 notice of assessment or his 2020 income tax return.

[79] The mother overstated her evidence regarding the father’s finances. She claimed that he was still operating businesses in Australia. She had no evidence of this. She claimed that he historically had hidden income. Again, she had no evidence of this. She claimed that AusCan Tactical was profitable in 2019. However, this business, which was registered in her name only showed a \$2,200 profit in 2019. The mother said that there might have been other invoices that

⁵ To her credit, the father’s counsel did not submit this was the case. It is common for parents to make child care arrangements while they work. The mother is responsible for the child during her parenting time.

the father had not given her. However, if she believed this, she was complicit in not reporting her income accurately to the Canada Revenue Agency.

Part Four - Decision-making responsibility and primary residence

4.1 Legal considerations

[80] Any proceeding with respect to children is determined with respect to the best interests of the particular child before the court in accordance with the considerations set out in section 24 of the *Children's Law Reform Act* (the Act). The court has considered these factors, where relevant.

[81] Subsection 24 (2) of the Act provides that the court must give primary consideration to the child's physical, emotional and psychological safety, security and well-being in determining best interests.

[82] Subsection 24 (3) of the Act sets out a list of factors for the court to consider related to the circumstances of the child. It reads as follows:

Factors

(3) Factors related to the circumstances of a child include,

- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
- (b) the nature and strength of the child's relationship with each parent, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
- (c) each parent's willingness to support the development and maintenance of the child's relationship with the other parent;
- (d) the history of care of the child;
- (e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;
- (f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
- (g) any plans for the child's care;
- (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;
- (i) the ability and willingness of each person in respect of whom the order would apply to communicate and co-operate, in particular with one another, on matters affecting the child;
- (j) any family violence and its impact on, among other things,
- (k) the ability and willingness of any person who engaged in the family violence to care for and

meet the needs of the child, and

- (l) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; and
- (m) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child.

[83] The list of best interests considerations in the Act is not exhaustive. See: *White v. Kozun*, 2021 ONSC 41; *Pereira v. Ramos*, 2021 ONSC 1736. It is also not a checklist to be tabulated with the highest score winning. Rather, it calls for the court to take a holistic look at the child, his or her needs and the persons around the child. See: *Phillips v. Phillips*, 2021 ONSC 2480.

[84] In considering a child's best interests, it will often be important to determine if a parent will follow the terms of a court order. See: *Wiafe v. Afoakwa-Yeboah*, 2021 ONCJ 201.

[85] Subsection 33.1 (2) of the Act addresses the importance of the parties protecting children from conflict. It reads as follows:

33.1 Protection of children from conflict

(2) A party to a proceeding under this Part shall, to the best of the party's ability, protect any child from conflict arising from the proceeding.

[86] The Ontario Court of Appeal in *Kaplanis v. Kaplanis* [2005] O.J. No. 275 sets out the following principles in determining whether a joint decision-making responsibility order is appropriate:

- a) There must be evidence of historical communication between the parents and appropriate communication between them.
- b) It can't be ordered in the hope that it will improve their communication.
- c) Just because both parents are fit does not mean that joint custody should be ordered.
- d) The fact that one parent professes an inability to communicate does not preclude an order for joint custody.
- e) No matter how detailed the custody order there will always be gaps and unexpected situations, and when they arise they must be able to be addressed on an ongoing basis.
- f) The younger the child, the more important communication is.

[87] Mutual trust and respect are basic elements for a joint decision-making responsibility order to work effectively. See: *G.T.C. v. S.M.G.*, 2020 ONCJ 511.

[88] Families that require constant intervention by the police due to high conflict are poor candidates for joint decision-making responsibility orders. See: *S.A. v. Y.M.*, 2020 ONCJ 147.

[89] Courts do not expect communication between separated parties to be easy or comfortable, or free of conflict. A standard of perfection is not required and is obviously not achievable. See: *Griffiths v. Griffiths* 2005 CarswellOnt 3209 (OCJ). The issue is whether a reasonable measure of communication and cooperation is in place, and is achievable in the future, so that the best interests of the child can be ensured on an ongoing basis. See: *Warcop v. Warcop*, 2009 CanLII 6423 (ON S.C.).

[90] Financially supporting one's children in a responsible manner is an important part of being a parent. The failure to do so is a factor militating against a joint decision-making responsibility order as it demonstrates poor judgment and an inability to prioritize the child's interests. See: *Jama v. Mohamed*, [2015] ONCJ 619; *T.P. v. A.E.*, 2021 ONSC 6022; *McBennett v Danis*, 2021 ONSC 3610; *Pinda v Pankiw*, 2018 BCSC 190.

[91] Ultimately, the court must determine if a joint decision-making responsibility order, or an order allocating any decision-making responsibility between the parties, is in the child's best interests. The court also has the option, if it is in the child's best interests, to leave some or all aspects of decision-making responsibility silent. See: *M. v. F.*, 2015 ONCA 277.

4.2 Analysis

[92] The court finds that it is in the child's best interests that she remain in the primary care of the mother and, with the exceptions set out below, that the mother have decision-making responsibility for the child.

[93] There is no basis to believe that the parties can effectively communicate with one another in the best interests of the child now, or in the near future. The father's partner described the parents' relationship as toxic. She attested that the father has no respect for the mother.

[94] The father acknowledged that he does not trust the mother. He does not want to communicate with her. He has stated that he will not work with the mother – "she started it". He said, "I have had enough of her trying to interfere with my life".

[95] The police records filed indicated that the Toronto Police Service had four interactions with the parties regarding domestic conflict, in addition to the May 25, 2021 incident.⁶ Continued police involvement makes the parents poor candidates for joint-decision making responsibility.

[96] The parties disagree on too many important issues regarding the child and communicate too poorly for a joint decision-making responsibility order to be effective. Making such an order would paralyze important decisions being made for the child. The parties disagree about the

⁶ No criminal charges arose from these additional calls to the police.

school the child should attend, the child's religious training, who the child's doctor should be, and whether the child needs treatment for trauma.

[97] The court finds that the father's intense anger at the mother (that was very evident at trial), has interfered in his parenting judgment and his ability to effectively communicate with the mother. For instance:

- a) He did not advise the mother that he has been taking the child to a different doctor in Pickering. This creates the risk of the child receiving conflicting medical treatment.
- b) He did not advise the mother that he had taken the child to the Shoniker Clinic for treatment. She was not accepted by the Clinic due to her age.
- c) He enrolled the child in a Pickering school for September 2022 without advising the mother.
- d) He has told the mother he will only advise her if he tests positive for COVID-19, not if he only has symptoms (the parties blamed each other for the child contracting COVID-19 late in December 2021).
- e) He has involved the child in the litigation.
- f) He wouldn't let the mother speak to the child on the child's birthday.
- g) When the maternal grandmother was recently in the hospital, he was rigid and hostile about exchange arrangements. That day, he also insisted that the mother sign a corporate document and threatened to sue her when she asked him to send it to her lawyer first to review.
- h) Despite the purported agreement that it was in the child's best interests to first introduce any new partner to the other parent (and his anger at the mother for failing to do so), the father did not introduce the mother to his new partner. When asked at trial why, he sarcastically responded that the mother would meet her when she testified on video.
- i) He sent the mother a number of Facebook messages telling her that she is not to contact him unless it is an emergency, even when she made innocent inquiries about the child.
- j) He has not provided the mother with the child's government documentation and insists on holding it.

[98] The father is lashing out at anyone who does not adopt his perspective. He has sued the mother and said that he plans to sue the police. He said that he was contemplating moving to set aside the divorce order. He has made law society complaints against the mother's lawyer and his

former lawyer. He is assessing his former lawyer's account. He wrote a nasty letter directly to the mother's lawyer. He criticized the case management judge in this case.

[99] The father was recently ordered to pay the mother \$2,000 costs in his civil action. He has not paid the costs. He testified that he does not have to pay these costs if they are not being enforced. He said that he plans to offset the costs from the damages and costs he expects to receive from the mother in that case.

[100] The father blames a lot of people for his circumstances. There was no evidence that he ever looks inward or that he has accepted any responsibility for his actions.

[101] The father's anger at the mother has extended to his refusal to pay her any child support. In one Facebook message in October 2020 he writes, "We have her equally and buy her stuff equally so I don't see why the hell I would give you a cent".

[102] The mother's communication with the father has also been poor. She failed to notify the father that she had registered the child in Catholic school in Toronto for September 2022. She has also not communicated with the father about the child's doctor.

[103] However, the mother has been much more conciliatory and child-focused since August 2021. She quickly consented to restore the status quo parenting arrangement that had been in place before May 25, 2021. She has complied with court orders. She facilitated make-up parenting time when the child was sick. She gave the father the child's health card when he asked for it. She made efforts to coordinate the child's extra-curricular activities with him.

[104] The court makes the following findings of fact:

- a) The mother is the parent better able to provide for the child's physical, emotional and psychological safety, security and well-being.
- b) The mother is the parent better able to make major decisions in the child's best interests.
- c) The child has primarily lived with the mother for many years. The child is used to and has done well with this routine. The father never moved to change the parenting arrangement. There is no basis now to interfere with this long-standing arrangement.
- d) The child has an excellent relationship with both parents. Both parents spoke about the child with love and affection. The child also has a very close relationship with the maternal grandparents who are a support for the mother and the child. The child has also developed a positive relationship with the father's partner.
- e) The child is too young to ascertain her views and preference other than she loves and is comfortable with the adults in her life.

- f) The mother has provided the child with a stable home. The father's home has also been stable. His immigration status remains uncertain, which could adversely affect the future stability of his plan.
- g) Both parents are capable of caring for the child and meeting the child's basic needs.⁷
- h) Both parents demonstrated a strong knowledge of the child. They are both attuned to her needs.
- i) Both parents provide appropriate structure and routine for the child.
- j) Both parents have appropriate education plans for the child.
- k) The child should have the opportunity to be taught the different heritages, cultures and backgrounds of the parents.
- l) The mother is the parent more likely to protect the child from conflict.
- m) The mother is the parent more likely to facilitate the other parent's relationship with the child. The father remains very angry at the mother.
- n) The mother is the parent more likely to follow court orders.
- o) The father has not met his parental obligation to financially support the child while the child is in the mother's care.⁸
- p) While the mother has contributed to the adult conflict, this is not a case where a joint decision-making responsibility order is required to correct a power imbalance or to preserve the child's relationship with the father. The mother has not alienated the child from the father. The father and child have a positive relationship. The mother has facilitated the relationship.
- q) The father's submission that this order will adversely impact his immigration proceeding is not relevant. The court must focus on the child's best interests.

[105] The court finds that it is in the child's best interests to attend school in the mother's catchment area since she will be primarily residing with the mother.

[106] The mother expressed a mild preference for the child to go to the Catholic school near

⁷ The parties made minor parenting complaints against the other that do not affect this finding. The mother made complaints about the father regarding the child's clothing and hygiene. The father and two of his witnesses made historical complaints about the mother being brusque with the child at parenting exchanges and on video calls when the child did not want to leave the father.

⁸ The mother expressed a concern that the father would not be able to financially support the child if the child was in his care. The court does not agree. The father appears to be able to access funds when he needs them. He would support the child if she was with him. He just doesn't want to pay child support to the mother.

her. She acknowledged that she is not an actively practising Catholic. She said that she was willing to switch the child to a public school, saying, “I am not 100% dead-set on Catholic school”. She couldn’t recall discussing faith with the father. The father said they had agreed not to raise the child in any religion. He is not Catholic and is strongly opposed to the child attending a Catholic school.

[107] Given these circumstances, it is not in the child’s best interests to attend a Catholic school. There were no identified benefits to Catholic schooling for the child and, if there are any benefits, they are more than offset by how the child attending a Catholic school would increase the conflict between the parties.

[108] The order will provide that each parent will be free to instruct (or not instruct) the child about their religious, cultural or spiritual beliefs while the child is in their care.

[109] The mother shall choose the child’s service providers, including her doctors.

[110] There is no independent evidence that the child requires any form of counseling or treatment. The biggest risk to her emotional welfare is the conflict between her parents. The father shall not take the child to any service provider, including any doctor, without the mother’s consent, except in the case of a medical emergency.

[111] The court order will provide that the mother is to make meaningful efforts to first consult with the father prior to making a major decision for the child.

[112] The court order will permit the father to obtain information directly from the child’s service providers.

Part Five – Parenting time

5.1 Legal considerations

[113] In determining parenting time, the court must consider the relevant best interests considerations contained in subsections 24 (2) to (7) of the Act, as described in Part 4.1 above.

[114] Subsection 24 (6) of the Act states that in allocating parenting time, the court shall give effect to the principle that a child should have as much time with each parent as is consistent with the best interests of the child.

[115] In *Knapp v. Knapp*, 2021 ONCA 305, the court set out that there is no presumption that maximum parenting time equates with equal-parenting time. Every family, it wrote, is different and the court must focus on the child’s best interests in determining the appropriate parenting time order.

[116] In *O’Brien v. Chuluunbaatar*, 2021 ONCA 555, the court noted at paragraph 49 that the maximum contact principle has been replaced by subsection 24 (6) of the Act.

[117] In *Baredregt v. Grebliunis*, 2022 SCC 22, the Supreme Court of Canada wrote the following about the maximum time principle at paragraphs 134 and 135:

[134] Although *Gordon* placed emphasis on the “maximum contact principle”, it was clear that the best interests of the child are the sole consideration in relocation cases, and “if other factors show that it would not be in the child’s best interests, the court can and should restrict contact”: *Gordon*, at para. 24; see also para. 49. But in the years since *Gordon*, some courts have interpreted what is known as the “maximum contact principle” as effectively creating a presumption in favour of shared parenting arrangements, equal parenting time, or regular access: *Folahan v. Folahan*, 2013 ONSC 2966, at para. 14 (CanLII); *Slade v. Slade*, 2002 YKSC 40, at para. 10 (CanLII); see also F. Kelly, “Enforcing a Parent/Child Relationship At All Cost? Supervised Access Orders in the Canadian Courts” (2011), 49 *Osgoode Hall L.J.* 277, at pp. 278 and 296-98. Indeed, the term “maximum contact principle” seems to imply that as much contact with both parents as possible will necessarily be in the best interests of the child.

[135] These interpretations overreach. It is worth repeating that what is known as the maximum contact principle is *only* significant to the extent that it is in the child’s best interests; it must not be used to detract from this inquiry. It is notable that the amended *Divorce Act* recasts the “maximum contact principle” as “[p]arenting time consistent with best interests of child”: s. 16(6). This shift in language is more neutral and affirms the child-centric nature of the inquiry. Indeed, going forward, the “maximum contact principle” is better referred to as the “parenting time factor”.

[118] An equal parenting time plan requires a high level of communication and coordination between the parties, particularly when the child is very young. The parents will have to coordinate schooling, medical appointments and extra-curricular activities for the child. This should not be ordered where the evidence indicates that implementing such a plan, given the dynamics between the parties, would be an invitation to conflict and chaos, and would be destabilizing for the child. See: *L.B. v. P.E.*, 2021 ONCJ 114; *L.I.O. v. I.K.A.*, 2019 ONCJ 962.

5.2 Analysis

[119] The father seeks an equal parenting-time arrangement. This is not in the child’s best interests. The conflict between the parties is far too high and the communication between them is far too poor. There is no basis to believe that the parents could coordinate schooling, medical appointments and extra-curricular activities effectively for the child.

[120] Until school starts in September 2022, the court finds that it is in the best interests of the child to maintain the current parenting schedule, with the father having additional parenting time over the summer months. The court order will extend the father’s parenting time during one week in each of June, July and August 2022. The extended June week will coincide with the Father’s Day weekend. The court will also permit the mother to select an exclusive week to have the child with her in August 2022.

[121] The court finds that it is in the child’s best interests to implement the parenting time schedule suggested by the mother starting in September 2022. The father will have parenting time with the child on alternate weekends that will extend to a Monday morning drop-off at her school. In addition, each week, the father will have parenting time from Wednesday after school until he returns the child to school on Thursday morning.

[122] This parenting schedule will provide the father with an additional overnight with the child every two weeks than he presently exercises. More importantly, it will provide him with multiple opportunities to have contact with the school and meet her teachers. This parenting plan recognizes and builds upon the father's parenting strengths.

[123] The court finds that it is also in the child's best interests to grant both parents extended holiday time with the child. For the most part, the court will adopt the holiday parenting plan proposed by the mother, with more summer holiday ordered for the father than she suggested. The holiday schedule will be set out in the court order.

Part Six – Incidents of parenting

[124] Section 28 of the Act sets out the different types of parenting orders that a court can make. These include orders regarding documentation for children and travel with children.

[125] The mother seeks orders to be able to obtain and renew government documentation for the child and to travel with the child outside of Canada without the father's consent. The father opposes this.

[126] The court finds that making these orders is in the child's best interests. Given his anger at the mother, the court has no confidence that the father will reasonably provide consents for the mother to obtain necessary documentation for the child or to give the child the opportunity to experience traveling with her. The court order will require the mother to give the father notice of any trip with a full itinerary.

[127] The mother seeks an order prohibiting the father from traveling with the child outside of Canada without her written consent. This order is in the child's best interests. The father is an Australian citizen. His ability to remain in Canada remains uncertain. He has few ties to Canada and expressed that he had hoped to return to Australia before the child was born.

[128] The court will order that parenting exchanges take place at the child's school unless school is not in session. Both parents proposed this. When school is not in session, the father shall be responsible for transporting the child for parenting exchanges.

[129] The court will also make communication orders that are intended to reduce the child's exposure to parental conflict.

Part Eight – The start date for support

[130] The mother seeks an order that child support be ordered retroactive to when she says the parties separated – July 30, 2018.

[131] The father asks that there be no order for retroactive child support.

[132] The court's authority to make retroactive support orders is contained in clause 34 (1) (f)

of the *Family Law Act*. This clause reads as follows:

Powers of court

34 (1) In an application under section 33, the court may make an interim or final order,

.....(f) requiring that support be paid in respect of any period before the date of the order;

[133] Any support claimed after an application is issued is prospective support, not retroactive support. See: *Mackinnon v. Mackinnon*, 2005 13 R.F.L. (6th) 331 (Ont. C.A.).

[134] In *Colucci v. Colucci*, 2021 SCC 24, the court set out the framework that should be applied for applications to retroactively increase support in paragraph 114 as follows:

- a) The recipient must meet the threshold of establishing a past material change in circumstances. While the onus is on the recipient to show a material increase in income, any failure by the payor to disclose relevant financial information allows the court to impute income, strike pleadings, draw adverse inferences, and award costs. There is no need for the recipient to make multiple court applications for disclosure before a court has these powers.
- b) Once a material change in circumstances is established, a presumption arises in favour of retroactively increasing child support to the date the recipient gave the payor effective notice of the request for an increase, up to three years before formal notice of the application to vary. In the increase context, because of informational asymmetry, effective notice requires only that the recipient broached the subject of an increase with the payor.
- c) Where no effective notice is given by the recipient parent, child support should generally be increased back to the date of formal notice.
- d) The court retains discretion to depart from the presumptive date of retroactivity where the result would otherwise be unfair. The D.B.S. factors continue to guide this exercise of discretion, as described in *Michel*. If the payor has failed to disclose a material increase in income, that failure qualifies as blameworthy conduct and the date of retroactivity will generally be the date of the increase in income.
- e) Once the court has determined that support should be retroactively increased to a particular date, the increase must be quantified. The proper amount of support for each year since the date of retroactivity must be calculated in accordance with the Guidelines.

[135] This framework in *Colucci* addresses a request to retroactively increase the support contained in an order or an agreement. Courts have found that this framework should also be applied, with necessary modifications, for an original request for retroactive support. See: *M.A. v. M.E.*, 2021 ONCJ 555; *A.E. v. A.E.*, 2021 ONSC 8189.

[136] In an original application for retroactive support, there will be no need to meet the threshold requirement of establishing a material change in circumstances, as required in *Colucci*. The first step will be to determine the presumptive date of retroactivity as described in *Colucci*. The second step will be to determine if the court should depart from the presumptive date of retroactivity where the result would otherwise be unfair. The *D.B.S.* factors will guide the exercise of that discretion, as described in *Michel v. Graydon*, 2020 SCC 25. The third step will be to quantify the proper amount of support for each year since the date of retroactivity, calculated in accordance with the guidelines.

8.2 Analysis

[137] The evidence indicates that the mother first broached the issue of child support with the father in a Facebook message exchange dated October 15, 2020. The father reacted with hostility and the mother retorted that she did not want anything from him. The court finds that this is the presumptive start date for support.

[138] The court must next examine if it should deviate from this presumptive start date, and if so, when child support should start.

[139] The court will not delve too deeply into the parties' contested date of separation. It appears that their relationship was in a state of flux between July 30, 2018 and May 27, 2019. They were together at times and apart at times. They moved in together in May 2019. Their financial affairs were intertwined at times.

[140] The mother provided a partial explanation for her delay in starting her child support claim. She knows the father well and knew he would react with hostility if she sought child support from him. She testified that she was not ready to engage with him after their separation and only sought support once the father started this court action. Her fears were borne out by the father's approach to this case.

[141] The father has engaged in blameworthy conduct by not paying any child support. He knew or ought to have known, by at least January 1, 2020 (when he says that his businesses started earning income), that he had a child support obligation. It was clear at trial that he found the idea of paying any child support to the mother to be offensive.

[142] No evidence was led that the circumstances of the child were disadvantaged due to the father's failure to pay support.

[143] There was no evidence led that a retroactive support order would cause the father hardship that cannot be addressed with a payment order.

[144] The court finds in these circumstances that a fair start date for support is January 1, 2020.

Part Nine – Amount of child support

9.1 Positions of the parties

[145] The mother seeks to impute the father's annual income at \$45,000 retroactive to the start date of support.

[146] The father, in closing submissions, was content to use an income of \$45,000 for the support calculation on a go-forward basis. He asked the court to use his stated income of \$25,000 for 2020 and his 2021 income of \$12,967 for the support calculation.

[147] The father told the court that he ran a marine business in Australia. He accumulated savings before coming to Canada. He deposed that he used those savings for the start-up costs for his two businesses and to support the family while he developed them.

[148] The father testified that AusCan Tactical was originally put in the mother's name. He said that it earned no income in 2018 and only nominal income of about \$2,200 in 2019.

[149] The father deposed that he has lived off his savings and money given to him by his grandparents and friends since the parties separated. He said that he intends to pay back most of the money that has been given to him once AusCan Tactical starts making money.

[150] The father said that he took over ownership of AusCan Tactical from the mother on January 3, 2020.

[151] The father said that his ability to earn income from AusCan Tactical was seriously impaired by the events of May 25, 2021 and that he was unable to operate the business until March 1, 2022.

[152] The father said that he is very optimistic that AusCan Tactical will soon become very profitable. He said that he has discussions in progress for a significant contract for his business.

9.2 Legal considerations for imputing income

[153] Section 19 of the guidelines permits the court to impute income to a party as it considers appropriate.

[154] The jurisprudence for imputation of income sets out the following:

- a) Imputing income is one method by which the court gives effect to the joint and ongoing obligation of parents to support their children. In order to meet this obligation, the parties must earn what they are capable of earning. If they fail to do so, they will be found to be intentionally under-employed. See: *Drygala v. Pauli* [2002] O.J. No. 3731(Ont. C.A.).
- b) The onus is on the party seeking to impute income to the other party to establish that the other party is intentionally unemployed or under-employed. The person

requesting an imputation of income must establish an evidentiary basis upon which this finding can be made. See: *Homsi v. Zaya*, [2009] O.J. No. 1552. (Ont. C.A.). However, in *Graham v. Bruto*, 2008 ONCA 260, the court inferred that the failure of the payor to properly disclose would mitigate the obligation of the recipient to provide an evidentiary basis to impute income.

- c) Once a party seeking the imputation of income presents the evidentiary basis suggesting a prima facie case, the onus shifts to the individual seeking to defend the income position they are taking. *Lo v. Lo*, 2011 ONSC 7663; *Charron v. Carriere*, 2016 ONSC 4719.
- d) As a general rule, separated parents have an obligation to financially support their children and they cannot avoid that obligation by a self-induced reduction of income. See: *Thompson v. Gilchrist*, 2012 ONSC 4137 (CanLII); *DePace v. Michienzi*, [2000] O.J. No. 453, (Ont. Fam. Ct.).
- e) Where a party chooses to pursue self-employment, the court will examine whether this is a reasonable choice in the circumstances. See: *Smith v. Smith*, 2012 ONSC 1116.
- f) A self-employed person has the onus of clearly demonstrating the basis of his or her net income. This includes demonstrating that the deductions from gross income should be taken into account in the calculation of income for support purposes. See *Whelan v. O'Connor*, [2006] O.J. No. 1660, (Ont. Fam. Ct.). This principle also applies where the person's employment income is derived from a corporation that he or she fully controls. See: *MacKenzie v. Flynn*, 2010 ONCJ 184 (CanLII).
- g) The self-employed have an inherent obligation to put forward not only adequate, but comprehensive records of income and expenses, from which the recipient can draw conclusions and the amount of child support can be established. See: *Meade v. Meade* (2002) 31 R.F.L. 5th 88 (SCJ). This includes the obligation to present information in a user-friendly fashion. A recipient should not have to incur the expense to understand it. See: *Reyes v. Rollo*, 2001 CanLII 28260 (SCJ).
- h) The court will usually draw an adverse inference against a party for his or her failure to comply with their disclosure obligations as provided for in section 21 of the guidelines and impute income. See: *Smith v. Pellegrini*, [2008] O.J. No. 3616, (Ont. S.C.); *Maimone v. Maimone*, [2009] O.J. No. 2140, (Ont. S.C.). The parent must make full and complete financial disclosure to ensure that the information required to make a decision on the issue is before the court. *Charron v. Carriere*, 2016 ONSC 4719.
- i) A person's lifestyle can provide the basis for imputing income. See: *Aitken v. Aitken*, [2003] O.J. No. 2780 (SCJ); *Jonas v. Jonas*, [2002] O.J. No. 2117 (SCJ); *Price v. Reid*, 2013 ONCJ 373 (CanLII).

9.3 Analysis

[155] The father did not provide timely or complete financial disclosure about his businesses despite many requests for this information from the mother. The court draws an adverse inference against him for his failure to do so.

[156] The father provided no evidence of his 2020 income. He gave an income estimate and asked the court to accept it.

[157] The father presented as an experienced businessman who had accumulated significant savings in Australia. The court appreciates that it requires some time to start up a new business, but supporting a child cannot be put on hold for too long to pursue business ventures. If the father's businesses were not profitable by 2020, he had an obligation to get a job that would allow him to properly support the child.

[158] The father had the job skills and experience to earn an annual income of at least \$35,000 by January 1, 2020. The court finds that the father was earning or capable of earning this level of income during 2020.

[159] The court recognizes that the father's ability to earn income was disrupted by the May 25, 2021 criminal charges and that these events had a chaotic impact on his life. This situation is different than cases where income is imputed to a support payor because they are at fault for their loss of income.⁹ The court is not making that finding. The criminal charges were dismissed and it wasn't the father's fault that his criminal file was not purged until March 1, 2022. The nature of AusCan Tactical required that this clearance be obtained before he could operate it. This impaired his ability to earn income during this period.

[160] The court will only impute an annual income to the father of \$15,000 for the period between June 1, 2021 and May 30, 2022 for the purpose of the child support calculation. Starting on June 1, 2022, his annual income will be imputed at \$45,000.

[161] The guidelines table amount for one child based on an annual income of \$35,000 is \$304 each month. It is \$79 each month based on an annual income of \$15,000 and \$418 each month based on an annual income of \$45,000.

[162] The mother made a claim asking that the father contribute to the child's section 7 expenses. She provided no evidence of these expenses. The court will not order any contribution to section 7 expenses at this time.

[163] This order will create immediate support arrears. The father will be permitted to pay the arrears at the rate of \$200 each month starting on June 1, 2022. However, if he is more than 30

⁹ See: *Rogers v. Rogers*, 2013 ONSC 1997; *Tillmanns v. Tillmanns*, 2014 ONSC 6773.

days late in making ongoing or arrears support payment, the full amount of arrears then owing shall immediately become due and payable.

Part Ten - Conclusion

[164] A final order shall go on the following terms:

Primary residence, decision-making responsibility and incidents of parenting

- a) The child's primary residence shall be with the mother.
- b) Both parties may make decisions about the child's cultural, religious and spiritual training, as they see fit, when the child is in their care.
- c) The child shall attend the public school closest to the mother's home in her catchment area.
- d) The mother shall choose the child's service providers, including her doctors. The father shall not take the child to any service provider, including any doctor, without the mother's consent, except in the event of a medical emergency.
- e) The mother shall determine what extra-curricular activities the child attends and shall inform the father.
- f) The mother shall otherwise have sole decision-making responsibility for the child.
- g) The mother shall meaningfully attempt to consult with the father before making any major decision about the child.
- h) The mother may obtain or renew all government documentation for the child, including passports, without the father's consent.
- i) The mother may travel with the child outside of Canada for vacation purposes without the father's consent. She shall provide the father with at least 14 days notice prior to the trip, with a full itinerary of when she will be leaving Canada, where she will be traveling and staying with the child and when she will return to Canada.
- j) The father, or his agents, shall not remove the child from Canada without the prior written and notarized consent of the mother, not to be unreasonably withheld, or without a prior court order. If the mother consents to the father traveling with the child outside of Canada for a vacation, the father shall provide the mother with at least 14 days notice prior to the trip, with a full itinerary of when he will be leaving Canada, where he will be traveling and staying with the child and when he will return to Canada.

Communication and information

- k) The parties shall communicate by WhatsApp.
- l) All communication between the parties shall be respectful. Neither party shall criticize, demean or make disparaging comments about the other in the child's presence.
- m) The mother shall advise the father of all appointments with any doctors, teachers or other service providers for the child. She shall keep him updated with their names and contact information.
- n) The father may obtain information directly from the child's doctors, teachers, or other service providers. The mother shall execute any authorizations or consents to give effect to this.
- o) The parties shall immediately notify each other if the child has a medical emergency while in their care. They shall advise the other parent of the nature of the emergency, where the child has been taken for treatment and the name of any doctor treating the child. Both parties shall be permitted to attend while the child is being treated.
- p) The father shall immediately notify the mother if he receives a removal order from Canada.

Parenting Schedule

- q) The current parenting schedule where the child is with the father each week from Tuesday at 10 a.m. until Thursday at 7 p.m. shall continue until the end of August 2022, except as follows:
 - i) The father's parenting time starting on Tuesday June 14, 2022 shall be extended until Sunday June 19, 2022 at 7 p.m.
 - ii) The father's parenting time starting on Tuesday July 12, 2022 shall be extended until Sunday July 17, 2022 at 7 p.m.
 - iii) The father's parenting time starting on Tuesday August 16, 2022 shall be extended until Sunday August 21, 2022 at 7 p.m.
 - iv) The mother may have one exclusive week in August 2022 (other than the week of August 16 to 21) with the child where the father's mid-week parenting time will not take place. She shall notify the father which week she has chosen by June 15, 2022.
 - v) The child shall spend the weekend starting on September 1, 2022 with the mother.

- r) Starting in September 2022, the father shall have parenting time with the child as follows:
- i) Starting on Friday September 9, 2022, on alternate weekends from Friday after school, or at 3:30 p.m., until Monday at the start of school, or at 9:00 a.m. If the weekend falls where there is a statutory holiday, the father shall return the child to school on Tuesday at the start of school, or at 9:00 a.m.
 - ii) Starting on September 7, 2022, each Wednesday, with pickup at the end of school, or at 3:30 p.m., until Thursday morning at the start of school, or at 9 a.m.
- s) If the school is closed, the father will exchange the child at the mother's home.
- t) The holiday schedule shall take priority to the regular schedule and will be as follows:

Winter School Break

- (i) The child shall spend equal time with the parents during the winter school break. The child shall spend the first half of the winter school break with the father and the second half with the mother in even-numbered years. The child shall spend the first half of the winter school break with the mother and the second half with the father in odd-numbered years. This is subject to the division of Christmas Eve and Christmas Day set out below.
- (ii) The parties shall alternate Christmas Day and Christmas Eve each year. In even-numbered years, the child shall be with the father from December 24 at 2 p.m. until December 25 at 2 p.m. and with the mother from 2 p.m. on December 25 until 2 p.m. on December 26. In odd-numbered years, the schedule will be reversed.

March Break

- (iii) The child shall spend March Break in even-numbered years with the father and in odd-numbered years with the mother from after school, or at 3:30 p.m., on the Friday before the March Break starts, until school starts, or at 9:00 a.m., on the Monday after the March Break ends.

Easter Weekend

- (iv) The child shall spend the entire Easter weekend with the mother in even-numbered years and with the father in odd-numbered years, from after school or at 3:30 p.m. on the Thursday before the Easter weekend begins until schools starts, or at 9:00 a.m. on the Tuesday after the Easter weekend ends.

Summer Vacation

- (v) Starting in 2023 (as the 2022 summer schedule has been addressed above) the child shall spend two non-consecutive exclusive weeks with each parent during the summer. In even-numbered years, the father will choose these weeks by April 15th and the mother is to choose her weeks by May 1st. In odd-numbered years, the mother will choose her weeks by April 15th and the father will choose his weeks by May 1st.

Father's Day and Mother's Day starting in 2023

- (vi) If the child is not otherwise with the father on the Father's Day weekend, the child shall stay with him from Saturday at 7 p.m. until school starts on Monday morning, or at 9 a.m.
 - (vii) If the child is not otherwise with the mother on the Mother's Day weekend, the child shall stay with her starting on Saturday at 7 p.m. prior to Mother's Day until the father exercises his parenting time on the following Wednesday after school.
- u) Based on an annual imputed income of \$35,000, the father shall pay child support to the mother of \$304 each month, starting on January 1, 2020. This is the guidelines table amount for one child.
 - v) Based on an annual imputed income of \$15,000, the father shall pay child support to the mother of \$79 each month, starting on June 1, 2021. This is the guidelines table amount for one child.
 - w) Based on an annual imputed income of \$45,000, the father shall pay child support to the mother of \$418 each month, starting on June 1, 2022. This is the guidelines table amount for one child.
 - x) The father may pay the arrears created by this order at the rate of \$200 each month starting on June 1, 2022. However, if he is more than 30 days late in making any ongoing or arrears payment, the full amount of arrears then owing shall immediately become due and payable.
 - y) Nothing in this order precludes the Family Responsibility Office from enforcing arrears from any government source such as income tax or GST/HST refunds, or from any lottery or prize winnings.
 - z) A support deduction order shall issue.
 - aa) The father shall provide the mother with complete copies of his income tax returns and his notices of assessment, as well as the complete corporate returns of any

business he operates, by June 30th each year.

bb) The balance of the claims made by the parties are dismissed.

[170] If either party seeks costs, they shall serve and file written submissions by June 7, 2022. The other party will then have until June 21 2022 to serve and file their written response (not to make their own costs submissions). The submissions shall not exceed 3 pages, not including any bill of costs or offer to settle. They are to be either delivered or emailed to the trial coordinator's office.

[171] The court thanks counsel for their professional presentation of this case.

Released: May 24, 2022

Justice S.B. Sherr