

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20050524
Docket: E040663
Registry: Vancouver

Between:

Kathleen Patricia Irene Neumeyer

Plaintiff

And:

Keith Nicholas Neumeyer

Defendant

Before: The Honourable Mr. Justice Groberman

Oral Reasons for Judgment

In Chambers
May 24, 2005

Counsel for Plaintiff

T.L. Jackson
S.B. Jackson

Counsel for Defendant

F.G. Potts
J.C. Gopaulsingh

Place of Hearing:

Vancouver, B.C.

[1] **THE COURT:** There will be an adjournment of this matter. The adjournment is granted on terms. Firstly, I am extending the period for posting a \$2 million letter of credit. How many days does that need to be extended, Mr. Potts, given that I am going to impose a notice requirement on it?

MR. POTTS: Seven to 14 days, because it's going to have to be dealt with in Switzerland.

[2] THE COURT: I am going to extend the period to June 3, 2005. That letter of credit will be in a form, as I understand it, acceptable to the parties. That has already been put in the draft order, has it not? All right.

[3] I need not make any other order with respect to the letter of credit. I make than this observation, which is not part of the order: the plaintiff should be in a position of knowing in advance if the letter of credit is going to expire or be revoked so that the plaintiff can appear before this court in order to have the letter called upon or replaced before its expiry or revocation. It seems to me the easiest way of doing that is to require the bank to give notice to the plaintiff as well as the defendant before any revocation. The expiry will be on the face of the letter and should not itself pose any difficulty.

[4] It has been requested that I restrain Ms. and Mr. Jackson from bringing applications before the matter concerning the *Anton Piller* is brought back on for hearing. I am not prepared to make that order. I am going to make an order that before any such application is heard, the plaintiff will be responsible for advising the master or judge hearing the application that the current application is outstanding.

[5] Again, although this is not part of the order I would observe that I would not expect applications to be brought on behalf of the plaintiff before this application is heard, except in case of urgency. The reason for that obviously is that this matter has been scheduled for some time. It affects intimately the conduct of the litigation.

[6] With respect to child access, there is currently an order for supervised access. That order will now be for unsupervised access. Subject to the discretion of the Trial Coordinator, this matter will be brought back on for two days on dates to be agreed by counsel in the week of July 11, 2005. Is two days going to be sufficient to hear this matter as well as contempt applications?

MR. POTTS: Not in my view, My Lord. I think this matter will take two days and I think the contempt applications would be two days, as well.

THE COURT: All right. This matter will be set for two days during the week of July 11th. The parties will be at liberty subject to the agreement of trial division to also set down contempt applications during that week.

[7] Contempt applications will be heard separately from this application and the evidence will not be mixed. That is, there will be separate binders dealing with the contempt applications. I am not saying you cannot use the same affidavits for both applications, if necessary, but I want the evidence to be contained in separate binders. Contempt applications should not be heard with other applications.

THE COURT: Is there anything further?

(SUBMISSIONS BY COUNSEL)

[8] THE COURT: With respect to the "no-go" zones, I do not see that as broad a prohibition as is in place could possibly be necessary. I am prepared on an interim basis to decrease the "no-go" zone to Ms. Neumeyer's residence itself.

[9] I want to say for the record that that is not based on any finding that there is danger, but rather on a finding that there is no reason for the order to be as broad as it currently is. I am reducing it. I am not saying that there is necessarily a reason why it should remain in place. It is merely the best we can do in the time we have available this morning.

(SUBMISSIONS BY COUNSEL)

[10] THE COURT: I just want to ensure that the clerk has clearly what it is that is going to continue. The child support will continue. The mortgage payments, Mr. Potts, and the private school tuition?

MR. POTTS: The mortgage and the private school.

THE COURT: Okay.

MS. JACKSON: I had understood that the defendant was not opposed to paying child support. Perhaps I was -- perhaps I was incorrect. I had understood that he was not opposed to the child support. It was simply the spousal support component.

THE COURT: And that's what I understand. Child support --

MR. POTTS: That's what I said.

[11] THE COURT: The mortgage and the private school tuition will continue to be paid.

MS. JACKSON: In accordance with the order of Madam Justice Koenigsberg?

THE COURT: Well, yes --

MS. JACKSON: Right. Except --

THE COURT: -- except that it is being extended.

MS. JACKSON: Right, and no spousal, and just so that we're clear --

[12] THE COURT: I am not making an order for no spousal support. I am just not dealing with the spousal support today.

MS. JACKSON: No, no, I understand that, and just so that we're clear, for the months of May, June and July?

THE COURT: Yes. Is there anything further?

MR. POTTS: Just a date to receive my friend's material, My Lord.

[13] THE COURT: Given that it is unlikely your friend will be arguing the matter, I am not prepared to set a date today. I will hear an application to set a date on limited notice, say two days clear notice. It can be set at nine o'clock in the morning on a day when I am sitting. It can be done by telephone. If you are unable to agree to a date, I will hear an application to set a deadline.

A handwritten signature in black ink, appearing to read 'H. M. Groberman', written in a cursive style.

The Honourable Mr. Justice H. M. Groberman

