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— Franks & Zalev - This Week in Family Law

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"Get that Garbage Outta Here!" (But Please Don't Breach the General Duty of Good Faith in the Exercise of Contractual Discretion When You Do It)

Wastech Services Ltd. v. Greater Vancouver Sewerage and Drainage District, 2021 CarswellBC 265 (S.C.C.)

We try to bring to your attention not only the most recent developments in family law, but also recent developments in other specific areas of the law, or the law in general, that impact on family law. And given how many family law situations involve domestic contracts (be they cohabitation agreements, marriage contracts, or separation agreements), any significant change in the law of contract is of interest to us.

Since 2014, the Supreme Court of Canada has been exploring, clarifying, and expanding the duty of honest contractual performance: *Bhasin v. Hrynew*, 2014 CarswellAlta 2046 (S.C.C.); *Churchill Falls (Labrador) Corp. v. Hydro-Québec*, 2018 CarswellQue 9514 (S.C.C.); *C.M. Callow Inc. v. Zollinger*, 2020 CarswellOnt 18468 (S.C.C.).

Wastech is the latest brick in that wall. It deals with the exercise of contractual discretion, and ultimately decides that if a party to a contract exercises its discretion "unreasonably", it breaches a duty of good faith. And, most importantly as this requirement to exercise contractual discretion in good faith is now part of the general "organizing principle" of good faith in contract performance, the duty cannot be negated in the contract itself - one cannot contract out of it.

Wastech Services Ltd. ("Wastech") was a waste disposal company operating in British Columbia. The Greater Vancouver Sewerage and Drainage District ("Vancouver") was responsible for the administration of waste disposal in the district.

Over a period of 18 months, Wastech and Vancouver negotiated a long-term contract for the removal and transportation of waste by Wastech. The contract provided that Vancouver could elect to send waste to three possible disposal sites. Wastech would be paid a different rate depending on which site was chosen for any given load, and it would receive more when delivering to sites that were further away. The contract provided that it aimed to pay Wastech a "target operating ratio" of .89 - or operating profit of 11 percent - but it did not guarantee any specific ratio in any given year. The contract also clearly gave Vancouver discretion to send the waste to the site of its choice.

In 2011, Vancouver decided to send more waste to one of the closer locations, such that Wastech did not reach the target operating ratio. As a result, Wastech claimed that Vancouver breached the contract.

At first instance, an arbitrator decided that the parties had purposely decided not to include a clause in the contract to deal with a situation where Wastech did not/could not reach the target operating ratio. The contract provided that Vancouver was allowed to use its discretion in a way that could have a negative financial impact on Wastech. However, Vancouver had a duty to act in good faith when using this discretion, and it breached that duty by exercising its discretion in a way that prevented Wastech from having any chance of meeting the target operating ratio. Therefore, Wastech was entitled to compensation.

The British Columbia Supreme Court allowed Vancouver's appeal because the duty foisted on Vancouver by the arbitrator contradicted the provisions of the contract. That decision was upheld by the British Columbia Court of Appeal.

Leave to appeal was granted, and the matter was argued before the Supreme Court of Canada at the same time as *C.M. Callow Inc. v. Zollinger*, 2020 CarswellOnt 18468 (S.C.C.), which we discussed in the 2021-03 edition of *TWFL*.

The Supreme Court was clear that there is unquestionably a duty to exercise contractual discretion in good faith. The question was the extent of that duty, and the standard on which an alleged breach of that duty might be based or measured.

While a contracting party should have appropriate regard to the legitimate contractual interests of their contracting partners, the arbitrator viewed this duty too expansively. In exercising the discretion afforded to it under the contract, Wastech was not required to place Vancouver's economic or contractual interests ahead of its own. Rather, "the duty to exercise contractual discretion is breached only where the discretion is exercised unreasonably, which here means in a manner unconnected to the purposes underlying the discretion" - for example, where the discretion is exercised in an arbitrary or capricious manner (something that certainly never happens in matrimonial files).

Importantly, as part of the general organizing principle of good faith in contract law, this duty exists regardless of the wording of the contract. Parties cannot contract out of it by, for example, including an "unfettered discretion" clause. However, the words of the contract may help the court interpret the extent of the duty in any particular case, by making the purpose of the discretion clear. Here, the duty of good faith constrained the exercise of discretion. However, it did not displace the bargain between the parties, which allowed Vancouver to do that which it did, and for a purpose that was clear in the contract itself. Wastech was not alleging that it had been lied to or deceived or that Vancouver had exercised its discretion capriciously or arbitrarily.

The Supreme Court was clear that this good faith duty does *not* require a party to subordinate its interests to their contracting counterparty, and it does *not* require that a party receive a benefit that was not contemplated under the contract. The duty to exercise contractual discretion in good faith is not a fiduciary duty. A party may sometimes cause loss to another, even intentionally, in the legitimate pursuit of its self-interest. And here, Wastech was allowed to exercise its discretion in its self-interest because that was the very purpose of the discretion allowed to it in the agreement.

Nor did the fact that this long-term contract was "relational" impact the inquiry because the specific risk at issue was specifically considered in drafting the contract. (In *Churchill Falls (Labrador) Corp. v. Hydro-Québec*, 2018 CarswellQue 9514 (S.C.C.), the Supreme Court suggested that in a "relational contract" that creates a longer term relationship and sets out rules for cooperation, the parties owe each other the highest duties of cooperation and good faith.)

Therefore, the Supreme Court dismissed the appeal.

Where might this come into play in family law? It is not unusual to find domestic contracts in which a discretion is granted to one or both parties. An example that immediately comes to mind is *Miglin*, where part of the separation documentation included a consulting contract to benefit Ms. Miglin that was renewable after five years "on the consent of the parties" - a discretion that Mr. Miglin ultimately did not exercise in favour of renewing the consulting contract. There are also separation agreements that contemplate the continued employ of one spouse at the discretion of the other.

Some separation agreements also offer discretion to one or both parents to move within a certain geographical radius, exercise a "right of first refusal", or make temporary changes to the schedule, especially for holiday travel. And some allow one party to decide when the matrimonial home will be sold, or to provide substitute security "at their sole and unfettered discretion."

So, to summarize:

1. There is a general duty to exercise contractual discretion in good faith.

2. The exercise of contractual discretion cannot be "unreasonable", which is considered with respect to whether the exercise of the discretion was "unconnected to the purposes for which it was granted."

3. The duty to exercise contractual discretion in good faith cannot be waived. It is part of the general organizing principle of good faith in contractual performance, and it applies to all contracts - including domestic contracts.

Do We Still Have Weekends Anymore?

713949 Ontario Limited v. Hudson's Bay Company ULC, 2021 CarswellOnt 881 (S.C.J.) - Myers J.

Many family law litigants believe their impending motion to be urgent such that the issue cannot possibly be delayed. However, absent *objective* urgency, a litigant's subjective belief cannot trump other important considerations, such as the availability of counsel, the need to ensure that both parties have adequate time to prepare, and the importance of allowing everyone (even family law lawyers) to have a break from work from time to time. This last point, which Justice Myers emphasised in his recent decision in *713949*, is particularly important right now while so many of us are working from home, and the work week tends to bleed into the work weekend.

There are undoubted benefits from being able to work from home. However, one of the major problems with it is that it can blur the lines between work and home, and leave one feeling like you are literally *always* working.

713949 involved a commercial dispute between a tenant, HBC, and the landlord of a shopping mall. The tenant objected to the landlord's attempt to lease part of the mall to a call centre, and claimed it had a consent right over the proposed lease. The landlord asked the Court to decide the issue on an urgent basis as it had signed a conditional lease with the call centre on or about January 19, 2021, and the landlord needed to know if HBC had a consent right over the lease before its ability to exercise the condition in the lease expired on Monday, February 1, 2021.

The landlord's Application was initially scheduled to be heard on Friday, January 29, 2021 (i.e. the Friday before the condition was going to expire). However, HBC requested an adjournment as its lawyer was already scheduled to be in court on another matter that day.

Granting HBC's request for an adjournment would have made it impossible to hear the landlord's Application until after the condition had expired. Accordingly, the question arose about whether there might be any way to argue the matter on Saturday, January 30, 2021. While counsel for the landlord indicated that he was willing to proceed on the weekend, counsel for HBC advised the Court that this was "not his preferred outcome", and expressed concerns about "the effects of [working on weekends and evenings] on younger members of the team who have childcare commitments etc." He also expressed concern that he would not have sufficient time to prepare if it proceeded on January 30, 2021, because of the complexity of his other matter on January 29, 2021.

In finding that it would be neither fair nor appropriate to force counsel for HBC to argue the matter on the weekend, Justice Myers reminds us that subjective urgency to a client does not necessarily equate with objective urgency sufficient to overcome other important considerations, including ensuring that lawyers are able to meet their responsibilities to their own families, and enjoy at least some "down time":

> [15] However, recognizing that there is no objective urgency but, a landlord seeking to narrow its risk profile on an upcoming decision, leaves me less concerned about prejudice to the landlord in considering granting the adjournment sought by [HBC's lawyer]. There is nothing untoward about a commercial party seeking to lessen its risk by obtaining a ruling on its legal rights. However, **absent objective urgency, it is incumbent upon it to bring a proceeding that is fair to the responding party and to the court**.

> [16] The court takes very seriously issues of health and wellness of practitioners, members of the judiciary, and court staff during the pandemic in particular. **While lawyers and the courts are in a service business, there has to be a brake applied to service providers' willingness to compete themselves (or their juniors) into unhealthy states in the ordinary course of business**. Recognizing that young counsel and staff may have other responsibilities or just need down time does not impair access to justice **provided that everyone understands the need to make personal sacrifices when truly urgent circumstances arise**. [emphasis added]

While these words were written in the context of a commercial dispute, they apply with even greater force in the family law context. There are unquestionably many family law motions that need to be heard on an urgent basis - those matters usually involve children being put on airplanes or the transfer of assets across jurisdictional boundaries. But most are not. And there are many where a party's subjectively held but objectively unreasonable belief in the urgency of their matter will impose undue burdens on the opposing party, his or her lawyer, and/or the court.

So, the next time a client asks that you short-serve, refuse reasonable adjournment requests, or otherwise conduct a proceeding in a manner that would not be "fair to the responding party and to the court", just say "no." And the next time opposing counsel proposes to do this type of thing to you, send him or her a copy of Justice Myers' decision.

Custody Assessments? We Don't Need No Stinkin' Assessments!

M.F.W. v. M.A.H., 2020 CarswellBC 2578 (C.A.) - Newbury, MacKenzie, and Willcock JJ.A.

It is sometimes easy to forget that a custody/access assessment is just one piece of evidence about a child's best interests, and that it is not the "final say" on custody/access issues. The ultimate decision, as always, is up to the Court.

In this high-conflict case, the British Columbia Court of Appeal reminds us about the roles of assessors and parenting co-ordinators in determining the best interests of children. On appeal, the Appellant/Father argued that in a high-conflict case, a trial judge should be *required* to follow the recommendations of an assessor if the assessor has not been cross-examined at trial, and that where a parenting co-ordinator has been appointed, a trial judge may not grant final decision-making authority to only one of the parents in circumstances where the parents are unable to agree.

The Father also argued in favour of a presumption that the *status quo* in parenting arrangements was the preferred outcome, and that the presumption should be displaced only with evidence that the *status quo* was not in the best interests of the children.

Finally, the case also dealt with the role of the "maximum contact" principle in s. 16(10) of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.).

The trial was heard over the course of 26 days. It was a "typical" high-conflict case, and the trial judge made adverse findings concerning the behaviour of both parties. The Father was immature and was willing "to lie where it suits him", and the Mother was inappropriately emotional. However, where there were conflicts in the evidence, the trial judge preferred the evidence of the Mother to that of the Father; he found the Father "untrustworthy."

Mr. Finlay was appointed as an assessor in the fall of 2017 to opine on the decision making and the custodial arrangements for the two children, aged nine and ten. Mr. Finlay interviewed and observed the parties at length and carried out psychological testing. His recommendations contemplated a two-stage parenting time schedule by the end of which each parent would have equal time with the children. Mr. Finlay also recommended that parental responsibilities be divided equally and that a parenting co-ordinator be retained.

During the marriage, the Mother had been the children's primary - and often sole - caregiver. She historically took the children to medical appointments, dealt with teachers, and arranged their extracurricular activities. She was very involved in their school-related activities, and she volunteered at the school. The trial judge found the Mother's devotion to the children and seeing to their needs was "deep and unwavering."

In the meantime, the Father made great sacrifices to pursue financial goals to support the family. Only recently had he been able to spend more time with the children. During the marriage, he was clearly less involved with the children's day-to-day care, given his "breadwinner" role.

There was an initial interim Order that provided for the Father to have the children in alternating weeks from Thursday afternoon to Sunday night. However, in early February 2018, the Father's new partner, Ms. O., made serious allegations against the Mother (referred to only as "incidents" in the judgment), and the Mother's parenting time was suspended on an *ex parte* motion.

The matter came before a second judge in chambers later in February. On the return of the *ex parte* motion, the Court provided that the Mother would have parenting time from Sunday evenings to Wednesday mornings each week, and the Father from Wednesday after school until Sunday evenings (that is, that the Father have the children four days, and the Mother three days, each week).

In July 2018, the parties agreed to a week on/week off parenting schedule.

At trial, the Mother asked for primary parenting time with the children, with the Father having from Thursday to Sunday every second week, increasing at a later date to Wednesday to Sunday every second week. The Father sought to restrict the Mother's parenting time from Thursday after school to Monday morning every second week.

Curiously, the Father sought his relief under the provincial *Family Law Act* and the Mother sought her relief pursuant to the *Divorce Act*. Ultimately, this did not matter, as both statutes place the best interests of the child front and centre.

The trial judge reviewed all of his factual conclusions in light of the factors relevant to the children's best interests under s. 37 of the *Family Law Act*. With respect to the need for stability, he found that the Mother had shouldered the vast majority of parenting responsibilities and that stability would be best preserved with the Mother's continued significant involvement.

The trial judge also found that the daughter's behaviour - as reported by her teacher - was causally linked to her being away from her mother for greater periods of time. He found that the Mother's absence from her children's lives was having a demonstrably negative impact on them.

With regard to the ability of each party to exercise parental responsibilities, the trial judge found that apart from some "outbursts" during the marital breakdown and her tendency to worry about the children's well-being, the Mother was a very responsible parent who was completely dedicated to the children.

Ultimately, while the trial judge concluded that the Father had "undoubtedly matured", his past non-attendance at school events, his lack of co-operation in co-parenting, his inclination towards impulsivity, his past "relationship instability", and several negative statements to the children about the Mother indicated he still had "some distance to go in becoming an optimally responsible parent". And the fact that both children were still at an impressionable age tended to heighten the concern that the Father's problematic behaviour would negatively affect the children.

The assessor's recommendations contemplated a two-stage parenting time schedule that provided for equal time between the parties, with parental responsibilities divided equally, and a parenting co-ordinator to ensure meaningful consultation between the parties. However, the trial judge was not inclined to follow Mr. Finlay's recommendations:

> I depart from Mr. Finlay's recommendations in his s. 211 report regarding parenting time and responsibility. In my view, this report does not sufficiently account for the children's historically closer bond with their mother, the fact that she has historically undertaken the vast majority of parenting responsibilities, and the [Father's] encouraging but still relatively modest track record to date in successfully parenting the children. Moreover, the s. 211 recommendations do not adequately reflect the degree to which the [Mother] has sought to support the children in their schooling and the [Father's] historical avoidance of the children's school activities.

> Having regard to all the evidence, and the best interests of the children including the enumerated factors in s. 37 of the *FLA*, I find that the parties ought to share parental responsibilities in respect of day-to-day decisions but that the [Mother] ought to have primary control over parenting responsibilities with respect to the children, pursuant to s. 40 and 41 of the *FLA*.

To meet the Father's suggestion that the "status quo" should be maintained, the trial judge correctly observed that there was no presumption in favour of the *status quo*: *Nunweiler v. Nunweiler* (2000), 5 R.F.L. (5th) 442 (B.C. C.A.) at para. 30.

And, in any event, the current "status quo" was only the result of the allegations levied against the Mother. A dishonestly engineered *status quo* is no *status quo* at all: *Weinrauch v. Weinrauch*, 1998 CarswellAlta 1199 (Q.B.); *Greve v. Brighton*, 2011 CarswellOnt 8814 (S.C.J.); *Horton v. Marsh*, 2008 CarswellNS 371 (S.C.); *Walker v. Walker*, 2004 CarswellNS 167 (S.C.); *Izyuk v. Bilousov*, 2011 CarswellOnt 12097 (S.C.J.); *Jochems v. Jochems*, 2013 CarswellSask 512 (C.A.); *Jean-Francois v. Barnes*, 2012 CarswellOnt 2739 (C.J.); *J. (D.L.) v. L. (D.J.)* (2009), 63 R.F.L. (6th) 30 (P.E.I. C.A.); *Miller v. White* (2018), 10 R.F.L. (8th) 251 (P.E.I. C.A.). A party should not be allowed to benefit from a change that was unilaterally created in the face of a pending proceeding: *H. (T.M.A.) v. G. (J.J.)* (2010), 85 R.F.L. (6th) 263 (N.B. C.A.). This rule is, of course, required to discourage parties from engaging in "self-help."

At trial, the Mother was allotted more parenting time in light of her primary role in the children's lives before and after separation. Ultimately, the Mother was given primary residence of the children and the Father was given specified parenting time, consisting of Wednesdays after school to Sunday evenings every second week during the school year. Both parents were to be the guardians of the children under s. 39(1) of the *Family Law Act* and were to have responsibility for day-to-day decisions during their respective parenting times. In the event they were unable to reach agreement on a "significant" decision despite best efforts, the Mother "as guardian with the majority of parenting time" was to be entitled to make such decisions.

The Father appealed.

The primary ground of appeal was that because Mr. Finlay, the assessor, was not called to be cross-examined at trial, the trial judge erred in law in not following his recommendations.

However, there is no obligation that an assessor be called to testify or be cross-examined. All that is required under s. 211(4)(c) of the *Family Law Act* is that a report be prepared, and that it be provided to the parties and to the Court.

It is clear that a court cannot abdicate its role and delegate a custodial determination to an assessor. An assessment is but one piece of evidence at the court's disposal in the determination of the best interests of the children, and the court is not required to follow the recommendations of an appointed expert. Assessors do not decide custody issues; judges do. See *King v. Borserio* (2018), 12 R.F.L. (8th) 1 (B.C. C.A.) at para. 76; *Strobridge v. Strobridge* (1994), 4 R.F.L. (4th) 169 (Ont. C.A.); *H. (P.R.) v. L. (M.E.)* (2009), 71 R.F.L. (6th) 235 (N.B. C.A.); *Mattina v. Mattina*, 2018 CarswellOnt 11675 (C.A.); and *S.F.D. v. M.T.*, 2019 CarswellNB 369 (C.A.).

As observed by the Court in *A.P. v. J.C.*, 2018 CarswellBC 2200 (S.C.) at para. 118:

> Regardless of the information that goes to the report writer, the court ultimately has the discretion to review the background information presented in the report, carry out an independent assessment based on the evidence at trial, and come to a different conclusion as to the best interests of the child.

At trial, each party's right to call the assessor to the witness stand is an "opportunity" - not an "obligation". In *W. (K.M.) v. W. (L.J.)*, 2010 CarswellBC 3417 (C.A.), the B.C. Court of Appeal acknowledged that a court-appointed expert must attend any trial to explain or defend his report *if* requested to do so by a party or the judge.

The Court of Appeal in this case was far from persuaded that the trial judge erred in proceeding without Mr. Finlay being cross-examined. The trial judge had given due consideration to the assessor's report in reaching his decision, which was fully supported and explained by his reasons. While the fact that the case was "high-conflict" might have made the report more significant, at the end of the day it was the trial judge who had to determine what parenting arrangements were in the best interests of the children.

The Court of Appeal also rejected the Father's argument that the trial judge was obliged to accept the assessor's recommendations because it was "all the trial judge had to go on." There was certainly "more to go on" given that the trial lasted some 26 days. The judge had ample evidence with which to assess the situation - including the assessment - and determine the arrangement that was in the children's best interests. The trial judge considered the assessment report and explained his reasons for reaching a different conclusion. That was all that could be asked of the trial judge.

This ground of appeal, therefore, was dismissed.

The Father raised similar arguments with respect to the trial judge's Order that the Mother have final decision-making authority if she and the Father were unable to agree on certain matters, rather than giving the parenting co-ordinator this ability. Having appointed a parenting co-ordinator, the Father argued that the trial judge then failed to understand the role of a parenting co-ordinator. In making this argument, the Father relied on a passage from *F.J.V. v. W.K.S.* (2019), 18 R.F.L. (8th) 255 (B.C. C.A.), where the Court of Appeal suggested that the court, "should encourage decision-making by parenting co-ordinators in high-conflict cases, where permissible . . . [to] resolv[e] conflict other than through court intervention."

Unlike other provinces, courts in British Columbia are specifically empowered to appoint a parenting co-ordinator. This is not a luxury enjoyed by courts in Ontario [see, for example: *Imineo v. Price* (2011), 14 R.F.L. (7th) 193 (Ont. C.J.) and *Michelon v. Ryder*, 2016 CarswellOnt 8764 (C.J.)]. But perhaps it should be, as many parenting disputes are more suited to parenting co-ordination that to the courts.

That said, even courts in B.C. do not have unfettered jurisdiction to appoint a parenting co-ordinator. In *Fleetwood v. Percival* (2014), 53 R.F.L. (7th) 289 (B.C. C.A.), the B.C. Court of Appeal noted that while the B.C. *Family Law Act* does not set out specific criteria that must be satisfied before a court will appoint a parenting co-ordinator, such an order will typically be made only where:

> . . . a judge is convinced that a parenting coordinator will enjoy significant advantages over the court in achieving a resolution that will benefit the parties and their children. As well, because a parenting coordinator will be paid for by the parties, the court must consider the parents' ability to pay, and the economic costs or savings that the appointment of a parenting coordinator will entail.

In this case, as the trial judge considered the relevant statutory provisions and *Fleetwood*, and was satisfied that a parenting co-ordinator should be appointed for a period for the general purposes of providing guidance, advice, and recommendations to the parties as to how to engage in cooperative parenting. However, there was nothing wrong with the trial judge allowing the Mother final decision-making authority in areas of disagreement. While it was open to the judge to give greater authority to the parenting co-ordinator, he did not do so. Therefore, this ground of appeal was also rejected.

The Father's final grounds of appeal involved the trial judge departing from the *status quo* and not complying with the "maximum contact principle" in s. 16(10) of the *Divorce Act*.

The Court of Appeal was able to dispose of these twin arguments quickly. The trial judge was correct, as noted above, that there is no presumption that the *status quo* is the preferred position. Years ago, custodial decisions had the "benefit" of presumptions - such as maintaining the *status quo* (see, for example, *Poole v. Poole* (1999), 45 R.F.L. (4th) 56 (B.C. C.A.)). However, these types of presumptions are a historical relic. Custodial and parenting decisions are no longer subject to presumptions, primarily because children are entitled to individual justice based only on their best interests: *Nunweiler v. Nunweiler* (2000), 5 R.F.L. (5th) 442 (B.C. C.A.); *Beckedorf v. Beckedorf* (2008), 61 R.F.L. (6th) 265 (Alta. C.A.); *F. (J.) v. E. (T.)* (2010), 82 R.F.L. (6th) 98 (N.B. C.A.). And it certainly did not assist the Father that the claimed *status quo* had been artificially engineered.

Finally, as for the maximum contact principle, the Court of Appeal quoted Justice McLachlin in *Gordon v. Goertz* (1996), 19 R.F.L. (4th) 177 (S.C.C.):

> . . . The "maximum contact" principle, as it has been called, is mandatory, but not absolute. The Act only obliges the judge to respect it to the extent that such contact is consistent with the child's best interests; if other factors show that it would not be in the child's best interest, the court can and should restrict contact . . .
>
> The reduction of beneficial contact between the child and the access parent does not always dictate a change of custody or an order which restricts moving the child. If the child's needs are likely to be best served by remaining with the custodial parent, and this consideration offsets the loss or reduction in contact with the access parent, then the judge should not vary custody and permit the move. This said, the reviewing judge must bear in mind that Parliament has indicated that maximum contact with both parents is generally in the best interests of the child.

In *Nunweiler*, the B.C. Court of Appeal held that this reasoning applied to not only mobility cases, but also to initial custody determinations.

Of note is the fact that the Court of Appeal questioned whether the maximum contact principle even applied here as the trial judge's order was made under the *Family Law Act* and not the *Divorce Act*. While the Court of Appeal suggested that, "[s]trictly speaking, then, the trial judge was not required to consider expressly the maximum contact principle," it then continued to say that, usually, "such an approach is inherent in a court's determination of *any* custody or parenting arrangement." In Ontario, the maximum contact principle has been judicially extended to apply to the provincial *Children's Law Reform Act*: *Woodhouse v. Woodhouse* (1996), 20 R.F.L. (4th) 337 (Ont. C.A.); *Lemon v. Lemon* (2018), 14 R.F.L. (8th) 14 (Ont. C.A.).

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