FAMILY COURT OF NOVA SCOTIA
Citation: *C.B. v. D.M.*, 2017 NSFC 18

Date: 2017-07-14
Docket: Pictou No. FPICMCA-71627
Registry: Pictou

Between:

C.B.

Applicant

v.

D.M.

Respondent

Editorial Note: **Identifying Information has been removed from this electronic version of the judgment.**

Judge:	The Honourable Judge Timothy G. Daley
Heard	June 1 and 2, 2017 in Pictou, Nova Scotia
Final Written Submissions	June 12 and 22, 2017
Counsel:	Mallory Arnott, for the Applicant Judith A. Schoen, for the Respondent

Introduction

[1] This decision is about a wonderful child, C.M., who is 10 years old, and what parenting arrangement serves her best interests. She is blessed with two loving and devoted parents, D.M. and C.B., and is surrounded by extended family on both sides who love her and want what is best for her. Unfortunately, one of her parents lives in Nova Scotia and the other lives in Toronto. The time has come to resolve what has been a difficult circumstance for the family and in doing so, to determine where C.M. will reside and what the parenting arrangements will be.

Positions of the Parents

[2] Both parents seek an order of joint custody for C.M.

[3] C.M.'s father, D.M., lives with his wife, A.M., in Pictou County, Nova Scotia. Since 2012, C.M. has spent September to March of each year with him and he has had some additional parenting time as well. He said that it would be in C.M.'s best interests if she primarily resided with him in Nova Scotia throughout the year and she should have parenting time with her mother in the summers, at Christmas, during school spring break and at other times that her mother is available to come to Nova Scotia. He also seeks child support for C.M.

[4] C.M.'s mother, C.B., resides in Toronto. Since 2012, C.M. has spent April to August of each year with her and she has had some additional parenting time as well. She said that it would be in C.M.'s best interests if she primarily resided with her in Toronto and had parenting time with her father in the summers, at Christmas, during school spring break and at other times that her father is available to come to Toronto. She does not seek child support for C.M. but instead proposes the father use those funds for travel costs for him or C.M. or both.

History of the Proceedings

[5] This matter came before the Supreme Court Family Division in Halifax for hearing in October 2012. D.M. made an application to prevent C.B. from relocating with C.M. to Toronto. After the hearing, Gass J. granted an order of joint custody for C.M. She further ordered that C.M. would be in the primary care of D.M. from September through to and including March of each year and in the primary care of C.B. from April through to the end of August each year. She ordered additional parenting time, including that C.B. could have parenting time with C.M. when she was in the care of D.M. every second weekend for a long

weekend. D.M. could have parenting time with C.M. while she was in the care of C.B. for three weeks during the summer school break.

[6] C.B.'s parenting time with C.M. could be exercised in Nova Scotia or Ontario or other location as might be agreed.

[7] Parenting time during the Christmas school break was granted to C.B. and she was also given parenting time with C.M. for both the school spring break and the spring study break.

[8] D.M. was ordered to pay for the cost of two round-trip tickets to allow C.M. to travel by air to Ontario for parenting time.

[9] Finally, Gass J. ordered that this parenting schedule was subject to review upon C.B. completing her course of studies which was anticipated to be in the spring of 2016.

[10] C.B. filed a notice of variation application before this court on June 23, 2016 and the matter ultimately proceeded to a hearing.

Background of the Parents

[11] Both C.B. and D.M. are from Pictou County, Nova Scotia. They knew each other and dated in high school. They have one child together, C.M., and neither of the parents have any other children.

[12] After C.M. was born, C.B. had primary care of C.M. and lived with her parents. D.M. lived in another community. When C.M. was approximately eight months old, the parents moved in together for approximately one month but separated and remain apart.

[13] C.B. said that after separation, she assumed primary care of C.M. for the first six years of her life. She said that D.M. was not actively involved in parenting C.M. and would only see her on occasion. She said he was not involved in parenting decisions and did not contribute child support until C.M. was more than two years old.

[14] D.M. said that C.B. limited his time with C.M., refusing to allow her to be away from C.B. in his care overnight. There is attached to his affidavit a copy of communication from C.B. to him discussing a proposal for access but not agreeing

to overnight access until C.M. was older. Unfortunately, that communication is not dated but, in context, it appears to be from when C.M. was quite young.

[15] When C.M. was approximately nine months old, C.B. said that she and C.M. moved to an apartment in Halifax so that C.B. could complete her bachelor's degree at St. Mary's University. C.B. and C.M. then moved to Montréal when C.M. was four years old. This was to allow C.B. to begin a master's degree program at McGill University. She said that D.M. did not object to the relocation to Montréal.

[16] C.B. said that at that time D.M. continued to be relatively uninvolved in C.M.'s life. She said that while they lived in Montréal between approximately 2010 and the summer of 2012, he only flew C.M. home for a visit in Nova Scotia on one occasion. She recalled that D.M. called C.M. approximately once per month. C.M. also spent time with her father when C.B. and C.M. travelled to Nova Scotia for summers and holidays.

[17] D.M. again said that his time was limited by C.B. and the distances involved. When C.M. was in Halifax, D.M. said he attended parent days at daycare and picked her up from daycare, spending time together in his home when permitted. He said that C.B. continued to refuse to allow overnight visits.

[18] C.B. and C.M. remained in Montréal until September 2012. During those two years, C.B. only completed one year of the master's program and then worked in Montréal. D.M. said that he did not know that she had left the program and that he only agreed to the relocation to Montréal on the condition that she would complete her education and return to Nova Scotia.

[19] Before returning to Nova Scotia in September 2012, C.B. applied to enter the Midwifery Education Program at McMaster University in Hamilton, Ontario. She ultimately completed that program and is today a licensed midwife practicing in Toronto.

[20] She said that she and C.M. moved back to Nova Scotia in the summer of 2012 with a plan to relocate again to Hamilton, Ontario to begin her midwifery education starting in September 2012. She and C.M. lived with her parents in Pictou County during that summer. C.B. said she worked at Adsum House in Halifax on the weekends and when working, C.M. stayed either with D.M. and his mother at his mother's home or with her parents.

[21] C.B. said that she notified D.M. about her plans move to Hamilton to continue her education and he did not object. She said that she confirmed this by email on August 11 including her moving date of August 22. She said that three days prior to the move, she was served with the application filed by D.M. opposing her relocation. She said she then had to cancel her apartment, childcare, registration at university and moving arrangements. She said that up until that point, D.M. was present in C.M.'s life but had never taken an active role in parenting.

[22] As noted earlier, a hearing was held on September 14, 2012 in the Supreme Court Family Division in Halifax. C.B. said she was devastated by the decision and that this would be the first time C.M. was in D.M.'s primary care since she was born.

[23] Her appeal of that decision was unsuccessful.

[24] She said that after the decision was made, she and D.M. had discussions about the possibility of her remaining in Halifax and whether they could enter a shared parenting arrangement. She said D.M. initially agreed but then changed his mind and sought to enforce the provisions of the order.

[25] D.M. agreed that these discussions took place but said he did not agree to shared parenting because C.B. was proposing that her parenting time would be exercised by her parents in New Glasgow.

[26] C.B. said that she had to make the most difficult decision of her life and decided to complete her midwifery education in Ontario in the interest of securing a better future for her and C.M. She said she took that decision in part because both the order from the hearing and the decision from the Court of Appeal indicated that the parenting arrangement was reviewable upon her completing her education.

Evidence of Parenting Since September 2012

[27] There is general agreement in the evidence that since the fall of 2012, each of the parents has exercised the parenting time under the order. The order terms meant that when C.B.'s parenting time was to begin each year in April, she had to come to Nova Scotia and remain here until C.M.'s school year was completed in June. There were times that she was unable to come in early April and C.M. spent more time with her maternal grandmother and D.M. There were times when C.B.

spent time with C.M. in Nova Scotia or took her to Toronto for the balance of the summer.

[28] There is some disagreement between the parents respecting the three weeks of parenting time that D.M. was entitled to each summer. C.B. took the position that any time that she was unable to be in Nova Scotia after April and C.M. spent time with either D.M. or his mother counted against those three weeks to which he was entitled. D.M. took the opposite view. In the end, they sorted out these issues and I do not find it necessary to determine fault. However, on this and many other issues, unfortunate disagreements arose and the parents impressed me with their ability, albeit with some difficulty and emotion, to resolve almost all issues appropriately.

[29] It also appeared from the evidence that the parents accommodated time with extended family, including grandparents, by adjusting parenting time and extending C.M.'s time in Nova Scotia in the summer to permit her attendance at special events.

[30] C.B. said that she has remained actively involved in C.M.'s education by scheduling appointments with teachers, and attending parent-teacher meetings via phone or in person when she was able.

[31] There was some dispute about who was paying for travel expenses for C.M. This was resolved at the hearing when flight documents were introduced confirming that D.M. had fulfilled his responsibility to pay for flights up to and including 2016. Since then, C.B. has been paying for flights. D.M. said that he stopped paying for flights in 2017 because C.B. was fully employed and he did not have enough money to cover travel costs and all of C.M.'s activities including art, guitar lessons and 4H.

[32] C.B. flew to Nova Scotia many times to spend time with C.M. other than from April to August. To her credit, C.B. also obtained employment in the summers of 2013 and 2014 working at a day camp in Nova Scotia where C.M. was also enrolled, maximizing their time together. C.B. said that she and C.M. communicate regularly via FaceTime every morning and at other times.

[33] There was evidence that C.B. requested special permission in her third year of her midwifery program in Ontario to complete two elective placements in Nova Scotia. This was unusual and not normally allowed. C.B. spent January and

February 2015 in placements at the IWK Hospital in Halifax and at the Aberdeen Hospital in New Glasgow. This allowed additional time with C.M.

[34] There is also evidence that C.B. visited with C.M. in Pictou County approximately once per month for a week at a time.

[35] D.M. gave evidence that C.M. is actively involved in many activities including 4H, has been involved in swimming lessons and many other local opportunities. He disputed the allegation made by C.B. that C.M. is not involved in many activities in Nova Scotia.

[36] C.B. extolled the many opportunities for C.M. in Toronto including cultural activities and events, parks and museums, farmer's markets and many others.

[37] There is an interesting disagreement regarding C.M.'s friends. C.B. said that C.M. has many friends in Toronto that she is close with and enjoys spending time with. D.M. said that these are not friends of C.M.'s choosing but rather are the children of C.B.'s friends and coworkers.

[38] On the other hand, C.B. said that C.M. has few friends in Nova Scotia. Yet D.M. identified several friends though he was unable to confirm their last names or any details about their families.

[39] This is but one example of each parent attempting to find fault with a positive circumstance. C.M. has friends in both Nova Scotia and Toronto that she cares about and enjoys spending time with. To me, it matters not whether children are introduced to friends through a parent's friends or coworkers or whether she comes upon them in her neighborhood or school. Children find friends in a variety of ways, particularly at younger ages. It is not at all unusual that they will be introduced to other children through family, coworkers, friends, school, extracurricular activities or any number of other circumstances largely orchestrated by the parents. Despite this, and as I find throughout this matter, each of the parents failed to appreciate that C.M. is anything but isolated and friendless.

[40] Throughout the evidence there are several points of contention that require review in assessing what is in C.M.'s best interests. For example, C.B. said that she welcomes D.M.'s wife, A.M., as a parenting figure in C.M.'s life but she insists that she and D.M. must discuss all parenting issues without the direct involvement of A.M. This is a very sensitive issue for C.B. She said that she often has parenting discussions with A.M. as opposed to D.M. and he insists on A.M. being present for

any communication or meetings concerning C.M. This was confirmed in written communication between them and reflects the delicate nature of this relationship.

[41] On the other hand, both D.M. and A.M. say that A.M. is entirely appropriate in her interaction with C.M. They say that they are partners in raising C.M. and understand that C.B. is the mother of C.M. Likewise, it is a sensitive issue for both D.M. and A.M. who feel that C.B. does not appreciate that they work as a team in providing day-to-day care for C.M., therefore, they must each be intimately involved in her life and the decisions for her.

[42] As an example of specific issues that have arisen, C.B. complained that she was not consulted when there was a change in some of C.M.'s heath care providers. She has no objection to the care providers now seeing C.M. but said that, prior to her departure to Ontario, C.M. was seeing others and she expected those relationships to continue. She said this is an example of how D.M. is not appropriately co-parenting C.M. with her in a joint custody arrangement.

[43] D.M. and A.M. said that it is been many years since C.B. was in Nova Scotia and taking C.M. to appointments such as this and they were simply unaware that C.M. had different providers years ago. They said they meant no disrespect concerning this issue and did what was reasonable in keeping C.B. informed of any issues as they arose. For example, C.M. had to have some teeth removed which occurred during a routine visit to the dentist and there is evidence of communication between the parents on this and other similar issues.

[44] Again, the parents sorted out these issues as they came forward but it represents another sensitive issue for each side, reflecting the emotions of the circumstances.

[45] Another point of contention was C.B. 's concern that A.M. spends much more activity time with C.M. than D.M. She raises this in the context of 4H activities. While D.M. is a volunteer, A.M. is more heavily involved and spends time with C.M. developing her various skills. There was some evidence that A.M. wrote a speech for C.M. and the suggestion was that this was inappropriate. I am satisfied that the circumstance was quite reasonable. That said, this is yet another example of a sensitive issue for each parent and A.M.

[46] C.B. raised many other concerns including C.M.'s diet, her belief that C.M. over-uses electronic devices in her father's home, that she has poor hygiene, is inactive and does not socialize with other children.

[47] D.M. and A.M. responded to each of these allegations. Without detailing each response, they are examples of concerns raised by one parent based solely on information provided by C.M. In other words, both parents made allegations about what goes on in the other parent's home and did so not from personal information or observation but rather based on what C.M. was telling them. Whenever evidence is adduced based solely on hearsay from a child, I must be very cautious in accepting that evidence as reliable. It is clearly hearsay and there is no opportunity to cross-examine C.M. to test the veracity of those statements.

[48] I find that each parent believes what C.M. told them about what happens in the other parent's home. Yet, on review of all the evidence, I am also satisfied that each parent is either misinterpreting what C.M. tells them or C.M. is telling that parent what she believes that parent wishes to hear. Repeatedly throughout the evidence there is a direct conflict between what one parent said C.M. tells them and what the other parent said C.M. tells them. This is not surprising. I find that for each of the issues in dispute arising from statements made by C.M., those allegations have been reasonably responded to by the other parent.

[49] As one brief example, C.M. told her mother that she has unfettered access to the internet on her devices and uses them as much as she wishes. This would obviously concern any parent. Yet D.M., an IT specialist, said that he placed parental controls on all of C.M.'s devices and reviews her browser history and YouTube video history regularly. He provided copies of communication between himself and C.B. confirming the use of parental controls. I find it extremely unlikely that C.M.'s description to her mother is accurate and accept the evidence of D.M. On the other hand, I can certainly understand the concern of C.B. about the potential of such unrestricted access.

[50] There are some issues of note. C.M. is 10 years old and has begun having her period. She has entered puberty at a young age and has developed body hair and increased body odor. These are all natural events but, understandably, C.B. wants to be fully involved in helping her through this stage of her life.

[51] C.B. has a view of how young women should be educated and made aware of the various issues arising from puberty not only from a physical perspective but also from an emotional and societal perspective. From her evidence, I gather that she has a much broader view of the impact of puberty on young women physically, socially and politically. She wishes to have full opportunity to educate her daughter about these beliefs.

[52] On the other hand, A.M. has taken the lead in her home in dealing with these issues. She has had some conversation with C.M. and assisted her. I am satisfied that she has not had the depth or range of discussion with C.M. that C.B. has had and will have. This is not to be critical of A.M. but simply reflects that she has a more traditional of this experience which is largely focused on the immediate, pragmatic issues arising from puberty.

[53] For example, there is considerable dispute in the evidence regarding how the parents and A.M. dealt with the removal of body hair from C.M.'s underarms. C.B. described C.M. as being extremely upset when A.M. shaved her and said it was without her consent. This would obviously upset her mother whose view is that there is nothing wrong with body hair and the choice to remove it or keep it should be entirely up to the woman involved.

[54] On the other hand, A.M. said that she did have a full discussion with C.M., it was with C.M.'s consent and at her request that she shaved her and that C.M. was satisfied and pleased with the results. I have no way of knowing what happened as this is based on hearsay evidence of what C.M. told each of the adults but I suspect the truth lies somewhere in between.

[55] What this does illustrate, however, is the very different parenting styles and beliefs within each home. D.M. and A.M. have a much more traditional view of parenting, including how to guide C.M. through this significant transition in her life. C.B. has a much broader view of appropriate parenting for a young woman in puberty and has views that go beyond the pragmatic. Each approach is valid. Each is important. Unfortunately, it appears from the evidence that of none of the adults is truly listening to the other and are quite defensive about their perspective and what they believe C.M. is experiencing.

[56] It is also important to note that, to their credit, both parents declined the court's suggestion to obtain a Voice of the Child Report for C.M. on the basis that they wished to isolate her from the litigation. This is commendable but it does make it very difficult to understand C.M.'s perspective and wishes and the court is left with a great deal of hearsay, innuendo and little evidence on which to act around some of these issues.

[57] C.B. said that D.M. and A.M. bribed C.M. to not have birthday parties by promising a big present instead. They say that C.M. hasn't wanted parties in recent years and instead they gave her a bigger present including an iPod which she uses to speak to her mother.

[58] Another issue raised by C.B. is D.M.'s availability and involvement in parenting of C.M. since 2012. D.M. and A.M. were married in September 2014 and reside together with C.M. when she is in her father's care. It was C.B. 's evidence that most of her communication on parenting issues is with A.M., not D.M. She said that D.M.'s work schedule prevents him from spending much time with C.M. and there are many occasions when he is available but C.M. is looked after by her paternal grandparents or A.M.'s parents.

[59] D.M. said that he works in the IT department at [*] and works various times on a two-month rotation. He said he spends significant time with C.M. For example, when he worked a back shift from 8 PM to 7 AM three and four nights per week, he had breakfast with C.M., drove her to school, prepared supper for her and said good night to her before leaving for work in the evening. He said this shift only applied for four months over the last three years.

[60] He said that during a two-month rotation he has no weekends and two weekdays off. This is followed by a two-month rotation during which he has weekends off. He works some evenings and some back shifts. He was currently working from 11 AM to 7:30 PM with weekends off.

[61] A.M. said she is a pharmacist and works weekdays, finishing work between 3:30 PM and 5:30 PM. She said that she often drives C.M. to school, picks her up at H.M.'s home after work and often eats dinner with C.M. at H.M.'s. She said that D.M. works the same shift for two months at a time, including one period from 2 PM to 10 PM, and for that time she cared for C.M.

[62] D.M. agreed that A.M. is a parenting figure in C.M.'s life when he is absent but that he is responsible to take C.M. to school in the mornings, pack her lunch, get her ready for bed and other parenting activities. He said that he and his wife are a team and when one is unavailable, the other picks up on what needs to be done for C.M. As well, extended family steps in when and where required such as when C.M.'s aunt picked her up from school and drove her to art classes last year.

[63] A.M. said she is organized and is often responsible for organizing activities. D.M. said he is involved and, for example, he attended every parent-teacher conference except one, is fully aware of all of C.M.'s activities and always knows where she is.

[64] He agreed that C.M. spends time with her grandparents and A.M.'s parents for daytime and overnight visits. This included A.M.'s mother staying at their

home when A.M. was away at a conference. D.M. said that his work shift required him to be at work before C.M. woke and that A.M.'s mother looked after her in the mornings, got her off to school and he picked her up at his mother's home in Westville after work.

[65] On the issue of available parenting time, I am satisfied that D.M. and A.M., along with their extended families, provide excellent parenting and support to C.M. when that she is in their care. It is, as they described, a team effort. That said, there is also no doubt that D.M. is unable to spend as much one-on-one time with C.M. as C.B. can.

[66] C.B. is a midwife in a private practice. She works a three-week rotating schedule which consists of one week of clinic work, one week on call and one week off. She also has two, four-week vacations available to her. She testified that the midwives in her clinic are very supportive of one another and recognize the flexibility required for family life.

[67] She said that clinic days are usually Tuesday and Thursday starting at 9:00 AM and finishing at 5:30 to 6:00 PM. This allows her four-day weekends during the clinic cycle and she is available to C.M. all mornings and evenings.

[68] The weeks of on-call require C.B. to be available 24 hours a day and her plan includes a child care provider to be available 24 hours each day should she be called out.

[69] Another issue is the fact that C.B. is a gay woman who was a member of the LGBTQ+ community in Toronto. She identified this as a significant circumstance in C.M.'s life and believes the C.M. should be fully educated regarding LGBTQ+ issues and involved in that community to fully appreciate her place in her family. I find this to be an entirely sensible and worthwhile goal for a child who has a parent from that community.

[70] C.B. described her volunteer activities, including roles with national midwifery organizations around issues of diversity, inclusiveness and LGBTQ+ issues. When asked about her time commitment for these activities, she said most are done by teleconference and little preparation time is required.

[71] D.M. and A.M. do not raise any objection to this in principle. On the other hand, other than saying that A.M. has a brother who is gay, there is no evidence before me that they have engaged with C.M. in any discussion or activities around

this issue. It is trite to say that any parent who is a member of the of the LGBTQ+ community faces challenges and, ironically, this presents C.M. with the unique opportunity to understand the challenges of this community and her mother.

[72] When asked about moving to Nova Scotia to practice a profession, C.B. said that Ontario has 1,000 midwives and she has an established practice there. She noted that Nova Scotia has only 10 working midwives and none in Pictou County. She said that she has applied for positions in Nova Scotia but has not been interviewed and the positions that were available were only term positions.

[73] I note that there was evidence given by several others in support of each parent's position. These included S.C., a friend of C.B. and fellow midwife who has known her since August 2015. She has three children ranging from nine years to eight months old and both families spend time together. Her evidence was that she trusts C.B. to care for her children and has no concerns with C.B. 's parenting, describing her as a fantastic mother.

[74] Similar evidence was provided by M.D., a friend of C.B. who resides in Halifax. She said that she provided childcare for C.M. when she was around nine months old until she was around 2 1/2 years old. She and C.B. became friends and she praised her parenting of C.M. It was her evidence that C.B. did most of the pickup and drop-offs at daycare. She said that C.B. did most of the parenting for the first six years of C.M.'s life but admitted in cross-examination that she had limited opportunity to observe D.M.'s parenting.

[75] Evidence was given by D.B., C.B.'s mother, who described her own involvement with C.M. and praised C.B.'s parenting.

[76] She echoed much of the testimony of C.B. regarding the history of care, education and relocation of C.M. with her mother and the changes in parenting after the separation in 2012. She also described that she has a very close relationship with C.M. and spent a great deal of time with her during the first six years of her life. She described a loving and close relationship for her and her partner with C.M. She noted that since C.M. came into the care of her father, she and her partner have seen less of C.M. She supports her daughter's plan to relocate C.M. with her to Toronto.

[77] On cross-examination, she said that she had met with A.M. to discuss issues of C.M.'s behavior and how they might improve the communications between C.B. and D.M. She said the discussion went well but she did not disclose the

conversation to C.B. until sometime later. D.B. agreed that she felt welcome to call or text to request visits with C.M.

[78] She described her observations of communication between C.B. and D.M. respecting parenting time with C.M. and said that D.M. was aggressive and mean to her daughter. She acknowledged that most of these disagreements were over D.M.'s three weeks of summer access under the court order.

[79] She said that she will retire within the next year and will have time to travel to Ontario to see C.M. and C.B. She also plans to maintain contact with C.M. electronically and by phone as she does now. She said they are in touch almost every day.

[80] H.M., D.M.'s mother, provided evidence in support of his position. She described D.M. as being fully involved in parenting C.M. and at no time has she been a primary caregiver for C.M.

[81] She said that D.M. was often distressed when C.B. was in the county because he had difficulty having access with C.M.

[82] It was her evidence that C.M. gets off the school bus at her home every day and plays with the children nearby, including her cousins. When the other children are not around, they bake together or C.M. entertains herself with drawing or playing with toys and watching television. She also swims in their pool.

[83] H.M. described her and her partner having a very close relationship with C.M. They transport C.M. to appointments or to visit relatives. She also said that C.M. visited them when C.B. was home between 2012 and 2015 at C.B.'s request.

[84] Interestingly, she describes issues around C.M. playing with dolls and Barbie dolls. She said that C.M. did not play with such dolls because of concerns expressed by C.B. In cross examination, she admitted that she assumed that dolls were off limits but had not discussed this with C.B.

[85] C.B. said that she has some concerns about the body image presented by Barbie dolls but that she has purchased some dolls for C.M. to play with and has no objection to her using them, though not in her home. This is another example of two different perspectives, one being a more traditional view of dolls, the other being a more socially and politically sensitive position. I find that each is valid but

different. The issue is whether this affects C.M. adversely in any way. H.M. believes that it doesn't and C.B. disagrees.

The Law

[86] To properly assess the evidence in this matter, it is important to review the applicable law, including the applicable legislation and case law.

Parenting and Support Act and Case Law

[87] The governing legislation in this circumstance is the *Parenting and Support Act* 1989 RSNS c.160 as amended. The beginning point in any analysis under that *Act* is Section 18 (5) which directs that

> In any proceeding under this act concerning the care and custody or access and visiting privileges in relation to a child, the court shall give paramount consideration to the best interests of the child.

[88] Section 18 (8) further directs that

> In making an order concerning the care and custody or access and visiting privileges in relation to a child, the court shall give effect to the principle that a child should have as much contact with each parent as is consistent with the best interests of the child.

[89] In determining what I should consider in assessing what is in C.M.'s best interests, Section 18 (6) sets out some of the relevant considerations to be considered, though this list is not exhaustive. The relevant considerations under this subsection include the following:

> (a) the child's physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development;
>
> (b) each parent's… willingness to support the development and maintenance of the child's relationship with the other parent…;
>
> (c) the history of care for the child having regard to the child's physical, emotional, social and educational needs;
>
> (d) the plans proposed for the child's care and upbringing having regard to the child's physical, emotional, social and educational needs;
>
> …

> (g) the nature, strength and stability of the relationship between the child and each parent…;
>
> (h) the nature, strength and stability of the relationship between the child and each… grandparent and other significant person in the child's life;
>
> (i) the ability of each parent… or other person in respect of whom the order would apply to communicate and cooperate on issues affecting the child….

[90] There are other factors listed in this subsection, such as reference to family violence, cultural, linguistic, religious and spiritual upbringing, heritage and the views and preferences of the child, all of which I find inapplicable in this circumstance.

[91] The analysis of C.M.'s best interests, however, does not end with the factors set out under Section 18 (6) of the *Act*. I must also look to what other courts have said in relation to the determination of a child's best interest. The leading decision in Nova Scotia respecting that analysis is *Foley v. Foley* 1993 CanLII 3400 (NSSC), a decision of Goodfellow J. I note that this decision predates the Act and the factors contained in section 18 (6) and I find that the so-called "Foley factors" have been largely subsumed by those amendments. That said, *Foley* supra remains a helpful analysis of the test of best interests. The following are a list of those factors which are relevant to this case:

> **15 …** In determining the best interests and welfare of a child the court must consider all the relevant factors. The diversity that flows from human nature is such that any attempt to compile an exhaustive list of factors that could be relevant is virtually impossible.
>
> **16** Nevertheless, there has emerged a number of areas of parenting that bear consideration in most cases including in no particular order the following:
>
> 1. Statutory direction …;
> 2. Physical environment:
> 3. Discipline;
> 4. Role model;
>
> …
>
> 8. Time availability of a parent for a child;
>
> …
>
> 11. The emotional support to assist in a child developing self esteem and confidence;
> 12. The financial contribution to the welfare of a child.
> 13. The support of an extended family, uncles, aunts, grandparents,

> etcetera;
> 14. The willingness of a parent to facilitate contact with the other parent. This is a recognition of the child's entitlement to access to parents and each parent's obligation to promote and encourage access to the other parent. …;
> 15. The interim and long range plan for the welfare of the children.
> 16. The financial consequences of custody. Frequently the financial reality is the child must remain in the home or, perhaps alternate accommodations provided by a member of the extended family. Any other alternative requiring two residence expenses will often adversely and severely impact on the ability to adequately meet the child's reasonable needs; and
> 17. Any other relevant factors.
>
> **17** The duty of the court in any custody application is to consider all of the relevant factors so as to answer the question.
>
> With whom would the best interest and welfare of the child be most likely achieved?
>
> **18** The weight to be attached to any particular factor would vary from case to case as each factor must be considered in relation to all the other factors that are relevant in a particular case.
>
> **19** Nevertheless, some of the factors generally do not carry too much, if any, weight. For example, number 12, the financial contribution to the child. In many cases one parent is the vital bread winner, without which the welfare of the child would be severely limited. However, in making this important financial contribution that parent may be required to work long hours or be absent for long periods, such as a member of the Merchant Navy, so that as important as the financial contribution is to the welfare of that child, there would not likely be any real appreciation of such until long after the maturity of the child makes the question of custody mute.
>
> **20** On the other hand, underlying many of the other relevant factors is the parent making herself or, himself available to the child. The act of being there is often crucial to the development and welfare of the child.

[92] In this case, there is also the issue of mobility, that is, C.B. ’s request to relocate C.M. with her to Ontario. This requires consideration of the law applicable to such matters. The *Act* includes new, specific provisions respecting mobility. Some of these provisions, including those respecting the requirement to provide adequate notice of relocation and the consequences of a failure to do so, I find are not applicable in this case as the application was brought before the *Act* and these provisions were proclaimed. I find that other provisions as set out below are applicable:

18G
...
(2) On application by

(a) a parent … of the child;

…
the court may make an order authorizing or prohibiting the relocation of a child and may impose terms, conditions or restrictions in connection with the order as the court thinks fit and just.

(3) An application for an order authorizing or prohibiting the relocation of a child may be filed at any time prior to or after the relocation occurs.

18H (1) When a proposed relocation of a child is before the court, the court shall be guided by the following in making an order:

(a) that the relocation of the child is in the best interests of the child if the primary caregiver requests the order and any person opposing the relocation is not substantially involved in the care of the child, unless the person opposing the relocation can show that the relocation would not be in the best interests of the child;

(b) that the relocation of the child is not in the best interests of the child if the person requesting the order and any person opposing the relocation have a substantially shared parenting arrangement, unless the person seeking to relocate can show that the relocation would be in the best interests of the child;

(c) for situations other than those set out in clauses (a) and (b), all parties to the application have the burden of showing what is in the best interests of the child.

....

(3) In applying this Section, the court shall determine the parenting arrangements in place at the time the application is heard by examining

(a) the actual time the parent or guardian spends with the child;

(b) the day-to-day care-giving responsibilities for the child; and
(c) the ordinary decision-making responsibilities for the child.

(4) In determining the best interests of the child under this Section, the court shall consider all relevant circumstances, including

(a) the circumstances listed in subsection 18(6);

(b) the reasons for the relocation;

(c) the effect on the child of changed parenting time and contact time due to the relocation;

(d) the effect on the child of the child's removal from family, school and community due to the relocation;

(e) the appropriateness of changing the parenting arrangements;

(f) compliance with previous court orders and agreements by the parties to the application;

(g) any restrictions placed on relocation in previous court orders and agreements;

(h) any additional expenses that may be incurred by the parties due to the relocation;

(i) the transportation options available to reach the new location; and

(j) whether the person planning to relocate has given notice as required under this Act and has proposed new parenting time and contact time schedules, as applicable, for the child following relocation.

(5) Upon being satisfied that the child's needs or circumstances have been changed because of the order granted under subsection 18G(2), the court may vary a previous order granted under Section 18 or 37.

[93] Prior to the proclamation of the *Parenting and Support Act,* including the provisions in section 18 respecting mobility, courts looked to case law for guidance when dealing with an application to relocate a child. The leading decision on such mobility matters is the Supreme Court of Canada decision in *Gordon v. Goertz*, [1996] 2 SCR 27, 1996 CanLII 191 (SCC).

[94] I find that, with the proclamation of the *Act*, the provisions on mobility contained in section 18 are a complete legislative scheme for considering such matters and these new provisions subsume and override the direction on *Gordon and Goertz* supra. I will therefore not consider that decision in this analysis.

Analysis and Findings

[95] The first step in determining the issue of relocation under the *Act* is to determine where lies the burden of proof concerning the proposed relocation.

Standard of Proof

[96] In doing so, it is helpful to note that the standard of proof in this circumstance remains the same as in all civil matters as set out by the Supreme Court of Canada in *F.H. v. McDougall*, 2008 SCC 53, at paragraphs 40 and 49, as follows:

> . . . I think it is time to say, once and for all in Canada, that there is only one civil standard of proof at common law and that is proof on a balance of probabilities. Of course, context is all important and a judge should not be unmindful, where appropriate, of inherent probabilities or improbabilities or the seriousness of the allegations or consequences. However, these considerations do not change the standard of proof.
>
> …
>
> …I would reaffirm that in civil cases there is only one standard of proof and that is proof on a balance of probabilities. In all civil cases, the trial judge must scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred.

Burden of Proof

[97] Section 18H (1) of the *Act* sets out three possible circumstances of parenting at the time of the application for relocation and identifies a distinct and different burden of proof for each.

[98] First, if C.M. has been in the primary care of C.B. and D.M. has not been substantially involved in her care, he bears the burden to prove, on a balance of probabilities, that the relocation is not in C.M.'s best interests.

[99] Second, if C.M. has been in a substantially shared parenting arrangement with her parents, the burden of proof is on C.B. to prove, on a balance of probabilities, that the relocation is in C.M.'s best interests.

[100] Third, if neither of the first two circumstances applies to C.M.'s parenting arrangement, then the analysis is on a pure "best interest" basis and each parent must establish which plan is in C.M.'s best interests. This, I find, is the same test to be applied in the circumstance of an original application for custody under the *Act*.

[101] In determining if either of the first two circumstances existed at the time of the application for relocation, under section 18H (3) I must consider three things;

1. The actual parenting time each of C.B. and D.M. exercised with C.M.;

2. The day-to-day care arrangements for C.M. in each home; and

3. Who made the day-to-day decisions for C.M.

[102] In doing so, it is important to note that there is nothing in the *Act* to suggest that any one of these factors is of a higher priority than the others and, as a result, one factor may be more relevant for one family than for another. I find that I must conduct a blended analysis of the evidence and these considerations to determine what the parenting arrangements were at the time of the application for relocation.

Analysis and Finding on Burden of Proof

[103] Turning now to the evidence and my findings on the burden of proof, I can immediately dispose of the first circumstance under section 18H (1). The evidence is clear that C.B. did not have primary care of C.M. since the order of 2012. As well, it is equally clear that D.M. was substantially involved in her care since that order. Thus, on either ground, the circumstance under section 18H (1)(a) does not apply.

[104] Turning to the second circumstance under section 18H (1)(b), to determine if the parties were in a substantially shared parenting arrangement I must look to the evidence and the factors under section 18H (3). The order of 2012 granted parenting time to D.M. from September to March and parenting time to C.B. from April to August each year. Within those times, D.M. was entitled to three weeks of parenting time in the summer and C.B. was entitled to parenting time every second weekend "for a long weekend" when C.M. was with her father.

[105] As well, C.B. was entitled to have C.M. with her for the Christmas school vacation (of approximately 10 days) each year except from noon on Christmas day until noon on December 27, a total two days. C.M. was to be with C.B. for the school March break and the spring study break.

[106] If strictly applied, D.M. would have had C.M. in his care for seven months (September to March), an additional three weeks each summer and two days at Christmas. From this would be deducted every second weekend parenting time for

C.B. (totaling approximately 26 to 30 days or more) as well as one week each for March break and spring study break. I find this would amount to a substantially shared parenting arrangement as measured by parenting time under the order.

[107] The difficulty in the evidence is that it is not at all clear how closely the parents followed that schedule in the order. There is evidence that C.B. did not come to Nova Scotia to parent C.M. each year commencing in March. In some years, she did not arrive until June.

[108] It is also not clear whether she came to Nova Scotia every second weekend, though there is evidence that she did come often. The parents did accommodate changes to parenting times for C.M. and this changed the schedule. As well, C.B. worked at summer camps and took education placements in Nova Scotia to enhance her time with C.M.

[109] Moreover, I find that the use of the term "a substantially shared parenting arrangement" implies that the court is not compelled to use the definition of shared parenting under the Child Support Guidelines of between 40 % and 60% of time with each parent. This is reinforced by the requirement that the court consider the three factors under section 18H (3) in determining the parenting arrangement and not just a strict count of days or hours.

[110] As to the second factor of day-to-day care arrangements in each home, I find that the arrangements were very different. When C.M. was with C.B., her mother was primarily responsible for her care and did the bulk of the parenting and decision making on her own. C.M. did spend time with some extended family in Nova Scotia and caregivers in Toronto. But the evidence is clear that when C.M. was with her, C.B. had day-to-day care of her.

[111] In D.M.'s home, the arrangements were different. He and his wife were a team and parented C.M. together. They made decisions together about C.M. A.M. took C.M. to and from activities and appointments as did Daniel MacGregor. A.M. participated with C.M. in 4H and often dropped C.M. off at school, picked her up at and ate dinner with her at H.M. 's home. She otherwise spent significant time parenting C.M. when D.M. was working at various times.

[112] When C.M. was in D.M.'s care she also spent nights and weekends at her grandparent's and A.M.'s parent's homes.

[113] As to the third factor of who made day-to-day decisions, the evidence was that, when C.M. was in the care of C.B., by and large she made those decisions. In D.M.'s home, there was at least a sharing of decisions between him and his wife and there is some evidence that D.M. deferred to A.M. on some issues.

[114] It is of note that one of the complaints of both parents, particularly C.B., was that the parents did not consult on or keep each other informed of major issues for C.M. I find that this was not as significant an issue as described but there was some evidence that communication and information sharing could have been better.

[115] Taking these factors and all the evidence into account, I find that the parents were in a substantially shared parenting arrangement. C.M. spent a substantial amount of time in each parent's home. Even though C.M. spent more time in her father's home, she was often cared for by A.M. or others in his absence. Decision-making was shared with his wife. I find that in this circumstance, there was a substantially shared parenting arrangement.

[116] Thus, I find that this circumstance is best reflected by section 18H(1)(b) and C.B. bears the burden to prove, on a balance of probabilities, that the relocation is in C.M.'s best interest.

[117] In making this finding I have considered that the order of 2012 made clear that this parenting arrangement could be reviewed when C.B. finished her studies. It might be suggested that this provision is akin to an interim order. If so, the parenting arrangements between the granting of the order in 2012 and the application in 2017 should not be a factor in determining C.M.'s best interests.

[118] However, I find that this was a final order and the issue of the parenting arrangement was subject to review, meaning neither party was required to prove a material change in circumstances to permit such a review. I therefore find that I must still apply section 18H and take into consideration the history of parenting from 2012 to today.

Analysis and Finding on Relocation

[119] Now that the burden of proof has been established in this case, I will examine the evidence in the context of the factors set out in section 18(6) and section 18H (4) of the *Act* which I must consider in determining C.M.'s best interests.

[120] I find that C.M. will be cared for and supported in the homes of both of her parents. Though their parenting styles and their day-to-day care of C.M. differ, I find that each parent, A.M., as well as their respective extended families have supported C.M. in her growth and development and provided strong parenting to her throughout her life. Both homes provide loving and supportive environments, she is loved by everyone in her life and either home environment would be a good option for her.

[121] I consider that C.M. is a 10-year-old girl who has entered puberty and is moving into the next stage of her life. For the first six years of her life she was cared for primarily by C.B. Since 2012, she has been in a substantially shared parenting arrangement and has spent substantial time in the care of each of her parents, both in Toronto and in Nova Scotia. By all accounts she is doing well at school, has friends in both communities, enjoys the lifestyles and opportunities offered both in a rural and urban setting and has benefited by those experiences.

[122] Despite some difficulties over the past few years, I also find that each of her parents had been willing to support a close relationship with the other parent. There have been disagreements and challenges. This includes some disputes regarding summer parenting time for D.M., parenting time for C.B. when she is in Nova Scotia and communication challenges around decisions about C.M., her diet, health and related issues. Despite this, I find that the parents have done a good job in reinforcing close relationships with one another and, as compared to many families that come before this court, they have done so to the benefit of their daughter.

[123] C.M. has had the benefit of A.M.'s involvement in her life and the loving support she has provided. Her family has, likewise, been loving and supportive of C.M. This is a significant factor to be considered.

[124] There are substantial differences in the opportunities offered in both communities. In Nova Scotia, C.M. has benefit of a slower pace of life, involvement in 4H and other typically rural activities, friends and family that she spends time with and a school that she is familiar with. In Toronto, she has access to different friends, activities, cultural exposures and a far more diverse community, as well as many services and activities that are unavailable to her in Nova Scotia.

[125] It is also material that her mother is a gay woman and an active member of the LGBTQ+ community within her profession and her broader community in Ontario. This is part of C.M.'s life and her involvement in and understanding of her mother's LGBTQ+ experience and community is something that should be supported and encouraged.

[126] It is also material that C.M. has had benefit of a more traditional perspective on issues such as puberty and toys such as Barbie dolls through her father and his wife as well as a more politically and socially sensitive perspective on the same issues through her mother. Each has its own validity and C.M. should have an opportunity to understand and experience each perspective in the next stage of her life.

[127] It is also relevant that, now that C.B. has completed her education and is practicing as a midwife, there is a difference in the time each parent has available to spend with and parent C.M. C.B. has a very flexible and generous amount of time away from her profession throughout the year and, when on-call, substantial time available to her as well. D.M.'s employment is more structured and traditional which reduces the amount of time he has available to spend with C.M. This is not to criticize him but it is important to recognize that at this stage of C.M.'s life, there is a significant difference in the amount of time each of the parents has available for her.

[128] It is also relevant that C.M. has a stable life in Nova Scotia and is cared for by her father, stepmother and extended family here. In Toronto, she is also well cared for by her mother and the plan on relocation, though not fully formed, is certainly well thought out in terms of living arrangements, medical and dental care, education and activities. I am satisfied that both parents have strong plans for C.M.'s care and there are few gaps of any significance for either parent.

[129] I have considered that C.M.'s extended family on both sides reside in Nova Scotia. I have also considered that C.B. now has the financial means to visit with C.M. in Nova Scotia and, in an appropriately structured order, C.M. will have opportunities to spend extended time in Nova Scotia as well. Thus, these relationships can be maintained if she were permitted to relocate to Toronto.

[130] I am directed to consider the reasons for relocation. Normally, such consideration arises in a circumstance where a parent resides in Nova Scotia and wishes to relocate with the child elsewhere. In this circumstance, C.B. already

resides in Toronto, has for some time and wishes to relocate C.M. there. Therefore, the reasons for relocation really focus on two issues.

[131] First, I am satisfied that C.B. has good and substantial reasons for having relocated for education and for the establishment and continuation of her career as a midwife. There are almost no opportunities for her to practice Nova Scotia and she already has a substantial practice in Toronto.

[132] Second, the reasons for C.M.'s relocation, which are contained elsewhere in the evidence and in this analysis, focus on the advantages to C.M. in living with her mother in Toronto. I am satisfied that those reasons are material and I have considered them carefully.

[133] I have also considered the effect on C.M. of a change in the parenting arrangement and contact time with her extended family if she relocates. I do not minimize the impact this will have on her but in a properly structured order, she will be able to maintain a strong and meaningful relationship with her family in Nova Scotia. She already has relationships and friendships in Toronto, has been involved in in the community there and in activities with her mother. Thus, the transition, if permitted, would be simpler and less traumatic than for a child moving to a new community with which she has no familiarity or connection.

[134] I note that there had been some compliance issues with the previous order but by and large they were resolved through reasonable negotiation and settlement between the parties. As noted earlier, these challenges regarding joint decision-making, parenting time and related issues are significant to the parties but not at all unusual in a parenting arrangement such as this. I find that each parent has reasonably complied with the previous order, with a few exceptions that have been resolved or are not material to the outcome of this decision.

[135] It is also relevant that if C.M.'s relocation to Toronto is permitted, there will be considerable expenses for C.M. to exercise parenting time with her father, stepmother and her extended family in Nova Scotia. This, however, is not different than the current arrangement where substantial costs are incurred already. With an appropriate child support order, such costs can be mitigated and managed appropriately.

[136] Fortunately, C.M. is at an age where she will be able to travel between Nova Scotia and Ontario with relative ease. Though the parents may wish to accompany her, most airlines, for an additional fee, will supervise the child on an aircraft,

particularly in a direct flight circumstance. Therefore, transportation should be relatively straightforward for C.M., whatever the parenting arrangements.

[137] Upon review of all the evidence and applying the burden of proof, the factors set out in *Act* and in the *Foley* decision, I am satisfied that C.B. has met the burden of proof to establish, on a balance of probabilities, that it is in C.M.'s best interest that she relocate with her mother to Toronto and live primarily in her mother's care.

[138] Having said that, it is also in C.M.'s best interest that she maintains a strong and meaningful relationship with D.M., his wife and C.M.'s extended family in Nova Scotia and the order arising from this decision will accommodate that as well.

[139] I am satisfied that the parents have demonstrated an ability to communicate and cooperate on issues concerning C.M. and have demonstrated that a joint custody arrangement is appropriate and in C.M.'s best interest.

[140] I am further satisfied that this is a circumstance where, under section 10(3) of the *Act*, I should exercise my discretion to order that no child support paid by D.M. to C.B. for C.M. so that those funds can be available to him to pay for the cost of transportation for C.M. to spend meaningful time in Nova Scotia on a frequent basis.

[141] C.M. has reached a new stage in her life and, considering all the evidence and circumstances, I am satisfied that it is in her best interests that she spends the next stage of her life in her mother's primary care. She will have the advantage of significant parenting time with C.B., whose career permits that that luxury, and she will have the experience of living in a diverse and vibrant community while returning regularly to Nova Scotia to take advantage of time with her family here and the more tranquil and rural life in Nova Scotia. She will have the benefit of the guidance and care of her mother as she moves through puberty into the next stage of her development and will be exposed to and learn from her mother's experience in the LGBTQ+ community while maintaining a strong connection to the more traditional life she has experienced and will experience in rural Nova Scotia with her father, step mother and extended family.

Order

[142] The order of 2012 will be varied. There will be an order of joint custody.

[143] C.B. is permitted to relocate C.M. with her to Ontario and C.M. will primarily reside with C.B.

[144] D.M. will have reasonable parenting time with C.M. at reasonable times upon reasonable notice including, but not limited to, the following:

> Summer School Break – During the summer school break, D.M. shall have up to five consecutive or nonconsecutive weeks of parenting time. D.M. shall notify C.B. in writing by March 31st of each year of which weeks he wishes to have for parenting time with C.M. during the summer and if such notice is provided, that schedule will apply. If he fails to provide notice as required, the scheduling of his summer parenting time of up to five weeks shall be subject to negotiation and agreement between the parties.
>
> School Spring Break- D.M. shall have parenting time with C.M. for the school spring break each year so long she does not miss any school as a result.
>
> School Study Break- If the school C.M. attends has a school study break, D.M. shall have parenting time with C.M. for that school study break each year so long she does not miss any school as a result.
>
> Christmas - One parent shall have parenting time with C.M. from the beginning of the school Christmas break until December 27 and the other parent shall have parenting time with C.M. from December 27 until the end of the Christmas school break each year so long she does not miss any school as a result. C.B. shall have C.M. with her for parenting time in the first half of the Christmas school break in odd numbered years and D.M. shall have C.M. with him for parenting time for the first half of Christmas school break in even numbered years.
>
> Weekends – During the school year, D.M. shall be entitled to parenting time with C.M. for one weekend each month, which may include a long weekend, so long she does not miss any school as a result.
>
> Ontario – D.M. shall have reasonable parenting with C.M. in Ontario with at least 30 days' notice and so long as C.M. does not miss any school as a result.

> Nova Scotia – If C.B. visits Nova Scotia with C.M., D.M. will have reasonable parenting time with C.M. as agreed between the parties.
>
> Summer 2017 – The current parenting arrangements for C.M. for the summer of 2017 shall remain in place except that C.M. shall be in the care of C.B. at least one week prior to the commencement of school in September of 2017 and from that time on, the parenting arrangements contained herein shall apply.

[145] D.M. may exercise his parenting time with C.M. in Nova Scotia or elsewhere at his discretion.

[146] Either parent may travel with C.M., including travel outside of Canada, upon reasonable notice for reasonable periods of time. Either parent, upon providing notice to the other, may arrange to obtain passports for C.M. Either parent may also obtain picture identification for C.M. as are required by airline authorities. The passports and picture identifications shall be held by C.B. and shall be made available to the party traveling with C.M. from time to time.

[147] Either parent proposing to travel with C.M. shall provide the other parent with reasonable notice and if travel includes travel outside of Canada, the other parent shall provide the traveling parent with a letter confirming the parents have joint custody of C.M. but that the traveling parent is traveling with C.M. with the knowledge and consent of the other.

[148] Should policy regarding travel outside of Canada change in the future, the parents shall modify the arrangements set out herein such that the traveling parent shall receive the cooperation of the other parent as may be necessary to carry out traveling plans. The traveling parent shall provide to the other parent a general itinerary and telephone contact shall be arranged between C.M. and the other parent as is reasonably consistent with the traveling plans and the availability and cost of such telephone contact.

[149] In lieu of payment of child support, D.M. shall be responsible for transportation costs for his parenting time, including the cost of any round-trip flights and travel costs within Nova Scotia. C.B. shall be responsible for the travel costs for C.M. to and from the airport of departure in Ontario for parenting time with her father and for any travel expenses for C.M. if C.B. travels to Nova Scotia to visit her family with C.M.

[150] Each parent will support C.M. in communicating with the other parent and will ensure the C.M. has access to appropriate devices and services to permit regular interaction time with the other parent and extended family members.

[151] Counsel for C.B. will draw the order.

[152] If the parties wish to be heard on costs, counsel will provide written submissions to the court within two weeks.

Daley, JFC