

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

RIKI SATO

Petitioner

- and -

PETER EGLINGTON

Respondent

**MEMORANDUM OF JUDGMENT**

1 The Petitioner has applied *ex parte* for a divorce judgment. She seeks a  
divorce without an oral hearing on the basis of affidavit evidence. The affidavit evidence  
consists solely of the affidavit of the Petitioner sworn November 17, 1995.

2 The affidavit evidence indicates that there are two young children of the  
marriage, both under the age of 10 years. The Petitioner deposes that she and the  
Respondent have entered into an Agreement dated October 31, 1994. A copy of the  
Agreement is attached as an Exhibit to her affidavit. The Agreement provides for joint  
custody of the children and details a number of terms to encourage the involvement of  
both spouses in the lives of the children. The Agreement also provides for the children  
to live for approximately one-half of the year with the Petitioner and the other half with  
the Respondent. From the material before me, it appears that the Petitioner lives in  
Yellowknife and the Respondent in Calgary.

As to child support, the Agreement provides as follows:

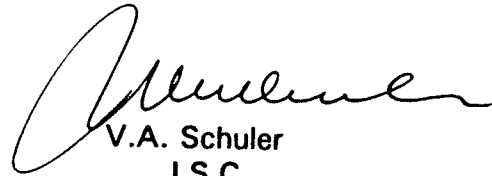
2.1 The Mother and the Father agree that, subject to any significant change in the financial circumstances of either of them, or in the circumstances of the children, or either of them, the parent having actual care and control of the children shall be solely responsible for their day to day financial support, including, though not limited to, clothing, food, lodging, toys, school, daycare, recreation, medical and dental expenses (including medical and dental insurance).

2.2 Notwithstanding Clause 2.1, the Husband and the Wife agree that any extraordinary expenditure in excess of \$400.00 shall be shared equally between the parties provided that the party undertaking the expense has informed the other parent and obtained his or her consent to the expenditure.

Pursuant to section 11(1)(b) of the *Divorce Act of Canada*, I must be satisfied that "reasonable arrangements have been made for the support of any children of the marriage". I am unable to satisfy myself in that regard as no financial information has been provided to me. Without being advised of the respective resources of the parties, I cannot determine whether it is reasonable that each spouse be solely responsible for the day to day financial support of the children while they live with that spouse. One may have far greater resources than the other.

In order to determine whether the support arrangements proposed by the Petitioner are reasonable, I should at a minimum have before me evidence as to the parties' respective incomes. Evidence as to their assets and liabilities as well as evidence as to the amount of money required to support these particular children would also assist the court in fulfilling the duty imposed under section 11(1)(b): *Schultz v. Schultz* (1987), 8 R.F.L. (3d) 22 (Man. Q.B.).

6 Accordingly, until such evidence is received and the court can determine whether the proposed arrangements are reasonable, I stay the granting of the divorce.

  
V.A. Schuler  
J.S.C.

Yellowknife, Northwest Territories  
November 21, 1995

6101-02623

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MEMORANDUM OF JUDGMENT  
HONOURABLE MADAM JUSTICE VIRGINIA A. SCHULER

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