

Date: June 20, 1997
Docket: 6101-02806

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

DIANE EMMA PETERSON

Petitioner

- and -

DANIEL LLOYD PETERSON

Respondent

MEMORANDUM OF JUDGMENT

This is an *ex parte* application for a divorce judgment, a corollary relief order for custody, access and child support and an order regarding matrimonial property.

The divorce judgment will issue.

Child support is now governed by the Federal Child Support Guidelines made pursuant to the *Divorce Act*. Although the Guidelines allow me to impute income to a respondent and use the imputed figure to calculate the Guideline amount of support, in my view that can be done only in the circumstances set out in sections 23 and 24 of

the Guidelines: where the Respondent has failed to provide his income information after having been served with an application for a child support order which, under the Guidelines, triggers the requirement for income information.

In this case, the Respondent was served with the Petition for Divorce before the Guidelines came into effect.

I take the view that it is appropriate to serve the Respondent with notice of the application for child support. I therefore direct that counsel for the Petitioner file and serve on the Respondent a Notice of Motion and affidavit material in support of the application for a child support order. The Notice of Motion should be endorsed with a Notice to the Respondent, specifying the requirements of section 21(2) of the Guidelines, including the documents and information required from him by way of section 21(1). The application will have to be scheduled for a return date in regular Chambers which will allow for the 30 days the Respondent has to file his documents: s.21(2).

A corollary relief order for custody and access only will issue upon counsel submitting a new draft, omitting the reference to child support.

The matrimonial property claim requires more detailed affidavit evidence so that the criteria in s.27(4) of the *Matrimonial Property Act* can be addressed. Counsel may re-submit that claim on an *ex parte* basis with further affidavit material. This should include more specific reference to contributions of the parties, title and encumbrance searches and other relevant considerations.

Dated this 20th day of June, 1997.

V. A. Schuler
J.S.C.

To: Charles Thompson
Counsel for the Petitioner

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**REASONS FOR JUDGMENT OF THE
HONOURABLE JUSTICE V. A. SCHULER**
