Date: 2013 07 18
Docket: FM 2012 000067

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

VANESSA SANDERSON

Applicant

- and -

KELLY PENNYCOOK

Respondent

MEMORANDUM OF JUDGMENT

[1] This is an application by Ms. Sanderson ("the Applicant") for retroactive child support from her former common-law spouse, Mr. Pennycook ("the Respondent").

[2] The parties have two children. Their son is now independent. The Applicant seeks retroactive support only for their daughter, who is now 18 years old. An order was made on November 1, 2012 that the Applicant have sole custody of the daughter and that the Respondent pay interim support for that child in the amount of $972.00 per month commencing September 1, 2012 until further order of the court. Although the order itself does not state the annual income on which the support is based, $972.00 is the amount payable for one child based on income of $106,000.00 to $106,999.00 pursuant to the *Child Support Guidelines* under the *Children's Law Act*, S.N.W.T. 1997, c. 14.

[3] On the application before me, the Applicant seeks support for the daughter retroactive to July 2002. The Respondent opposes retroactive support, arguing that the parties had an agreement that he would contribute as much as he was able to, and that it would result in hardship should he now have to pay retroactively.

[4] The application was argued on affidavit evidence only. There was no cross-examination on the affidavits, nor did either party submit that because of conflicts in the evidence, the matter should be set for trial. I will identify in this decision where there are conflicts in the evidence that may give rise to credibility issues and cannot be resolved on the affidavit material.

Factual Background

[5] The parties lived in a common-law relationship from May 1992 until November 2000. The Applicant says that the daughter has lived with her since separation and that from time to time the Respondent had access. The Respondent says that for the first two years, both children spent most of their time with him; at another point in his affidavit, he says that they lived with him "off and on". He has not provided details, but in any event, because of the conclusion I have reached, I need not resolve the contradictory evidence of the parties on this point.

[6] While the parties lived together, the Respondent had seasonal work with the Government of the Northwest Territories ("GNWT") in the area of natural or renewable resources. After separation he took a college program in natural resources, from approximately 2001 to 2003. He says that he worked in casual positions during the summers after that, and then obtained a seasonal job with the GNWT in 2006 and then a permanent job with the GNWT in 2007.

[7] The Respondent has not provided any documentation about his income for the years 2000 to 2006. In his affidavit, he says that from 2001 to 2007, his income was "anywhere from" $18,000.00, casual or seasonal. Exhibit "J" to his affidavit is a document which appears to have been taken from a GNWT website, entitled "Compensation History Kelly Pennycook", which shows what appears to be his base salary as follows:

2007 - $68,386.00
2008 - $70,102.00 to $71,896.00
2009 - $73,300.00 to $75,172.00
2010 - $77,044.00 to $79,014.00
2011 - $81,198.00 to $83,284.00
2012 - $84,123.00 to $86,287.00
2013 - $87,574.00

[8] I refer to the above as base salary because of the income tax documentation which the Respondent provided to the Applicant's counsel, and which is an exhibit to the Applicant's affidavit, which discloses a greater amount of income in some

years. For the year 2009, the Respondent disclosed income of $89,801.00 and for 2010, income of $106,329.00.

[9] In a letter to the Applicant's counsel, attached as Exhibit "E" to the Respondent's affidavit, the Respondent adopts the larger figures for 2009 and 2010 and also uses the figure of $106,329.00 for his 2011 income.

[10] The Applicant did not apply to the court for child support until August 2012. She says that she initially made a verbal request to the Respondent to pay child support in 2001, a few months after the separation, and that the Respondent told her he would pay regular support once he was back working after furthering his education. The Applicant says that she continued to request support verbally and by email and there was no agreement made between the parties that the Respondent did not have to pay. She acknowledges that the Respondent made some payments to her, but says they were irregular, averaging $500.00 to $1000.00 per year, including money sent for Christmas, birthdays and school supplies in the fall.

[11] After the Applicant obtained the services of counsel, her counsel entered into communication with the Respondent by way of a letter dated October 18, 2011. From February 17, 2012 through August 2012, the Respondent paid child support in the amount of $250.00 every two weeks, missing one payment. In total, from the separation in 2000 until August 2012, the Applicant says she received $13,144.00 from the Respondent for the support of the children.

[12] The Respondent says that he and the Applicant had an agreement that he would not pay child support on a regular basis, but would contribute when and as he was able, upon request from her. He says that the agreement included that he would give money directly to the children. He has provided documentation from his bank, showing email money transfers to the Applicant as well as some directly to the children. The bank documentation goes back only to September 2008. The Respondent says that the bank was unable to provide him with anything more, however I note that the bank's response to him about bank statements not being available appears to refer only to the period May to September 2002, going from the "re:" line in the email message (Exhibit "D" to the Respondent's affidavit).

[13] Both parties are, and have been for some time, in new relationships. The Respondent has two children from his relationship.

Positions of the Parties

[14] The Applicant seeks retroactive child support for the daughter only, because the son was no longer a minor when this application was filed. She is seeking a total of $63,723.00 for the period July 2002 to August 2012, after credit for what the Respondent has paid. She offers explanations for her delay in seeking support, to which I will refer below. She also submits that the Respondent has engaged in blameworthy conduct by refusing to pay and failing or refusing to disclose his income.

[15] The Respondent takes the position that the parties had an agreement, pursuant to which he paid what he could. including amounts paid directly to the children. He says that the Applicant was, and still is, in a better financial position than he is, and that he has insufficient resources to pay retroactive support. His position is that he should not be required to pay anything, or at the most, a year or two of retroactive support.

The Law

[16] Section 60(1)(e) of the *Children's Law Act* provides that a court may order retroactive child support. The Supreme Court of Canada set out the principles to be applied on an application for retroactive child support in *D.B.S. v. S.R.G.; L.J.W. v. T.A.R.; Henry v. Henry; Hiemstra v. Hiemstra,* [2006] SCC 37 ("*DBS*"). The underlying principle is that children have a right to support from their parents, including after the parents' relationship has broken down.

[17] In *DBS*, the Court said that while it will not always be appropriate for a retroactive award of child support to be ordered, such awards are not to be regarded as exceptional. Although one of the factors that may cause hardship to a payor parent as a result of a retroactive award is unpredictability, the Court pointed out that unpredictability is often justified by the fact that the payor parent chose to bring that unpredictability upon him/herself by not taking appropriate action at the time. The payor parent knows how much income he/she makes and therefore will be aware of how much should be paid under the *Child Support Guidelines*, which mandate a simple calculation based on annual income and number of children. A retroactive award merely enforces an obligation that the parent always had.

[18] *DBS* sets out a number of factors that a court should consider in deciding whether to award retroactive child support, none of which is decisive. Those factors are as follows:

> (1) whether there is a reasonable excuse for the recipient parent not making an earlier application for support;

(2) the conduct of the payor parent;

(3) the circumstances of the children;

(4) any hardship that will result from a retroactive award.

Analysis

[19] In relation to the facts of this case, I assess the foregoing factors as follows.

(1) Reasonable excuse for delay

[20] As I have indicated above, the Applicant first applied for child support by commencing these proceedings in August 2012. In her first affidavit, she states that she did not bring an application before then because she was not in a position to retain legal counsel. She does not say whether she tried to obtain counsel through the legal aid system.

[21] Also in her first affidavit, the Applicant describes her relationship with the Respondent as an abusive one and says that he was convicted of three assaults on her in the late 1990's. In his affidavit, the Respondent states that there were only two assaults. He appears to blame both the Applicant and the lawyer who represented him on the assault charges for the jail term he was ordered to serve. In response, in her second affidavit, the Applicant repeats that the Respondent was convicted of assaulting her three times and she also refers to a fourth assault. She says that the assaults caused her to be afraid of the Respondent, although she does not say that is the reason she did not apply for child support.

[22] In an email she sent to the Respondent dated July 5, 2007, the Applicant tells the Respondent that she is tired of asking him for child support and is working on the "lawyer thing" but has put it on hold until after the summer. This seems inconsistent with the argument made by her counsel that she did not take steps to apply for child support due to fear of the Respondent.

[23] Neither party produced any documentary evidence of the Respondent's convictions for assaulting the Applicant. Bearing in mind the contradiction between their evidence about the assaults, I can conclude that he assaulted her twice because that is what he admits to. However, the evidence is unsatisfactory as to whether the reason the Applicant did not apply for child support earlier is because she was fearful of or intimidated by the Respondent. She herself does not say that is

the reason and the email I have referred to suggests that she was not concerned about letting him know that she was seeking legal advice.

[24] The evidence is also unsatisfactory as to whether lack of financial means stood in the way of the Applicant applying for child support, given the availability of legal aid in the Northwest Territories.

[25] The delay itself is a very significant one, being approximately 10 years. I find that it has not been adequately explained.

(2) Conduct of the payor parent

[26] The Respondent asserts that he and the Applicant had a verbal agreement that he would pay child support to her and directly to the children, as and when he was able to do so. The Applicant says that there was no such agreement.

[27] The Applicant says that she first asked for child support in 2001, a few months after the separation. She says that the Respondent's initial response was that he would pay regularly when he started to work again after attending college. She says that she continued to request support, but the Respondent would never commit to paying on a regular basis.

[28] The Applicant has produced several email messages, ranging in date from 2002 to 2011, in which she repeatedly asks the Respondent for financial assistance. Her email message dated January 28, 2004 is the first that makes it clear that she seeks regular payments (Exhibit "L" to the Applicant's first affidavit):

> Do you think that maybe on Friday you could send some money for the kids? I thought that once you started working you would help out a bit more with [the children]. Do you realize how much it cost to raise two kids? It's hard sometimes for me, but now that Shawn has a good job things will get better, however I think that you should be just as responsible for [the children] as I am, they're your kids, not Shawn's so why don't you put them first? It's not like I am asking you for your whole paycheck but I think that $500 or $600 a month is reasonable, don't you? It is up to you really, would you agree with this or do you think I am wrong for asking for some form of child support from you? ...

[29] There is no evidence as to any reply by the Respondent.

[30] On July 5, 2007, the Applicant wrote the Respondent:

> I was wondering if you could send me some money to help out with the kids this month?? I am so tired of asking you for child support and really I am working on the lawyer thing but have put it on hold until after the summer. You said you would once you started working but yet I still have to ask you. Right now things are a bit tight for me and a couple hundred will help out so much, so let me know ok.

[31] The Respondent's response to the July 5, 2007 message was, "I have $200 left till payday I can put it into your account by noon tomorrow!".

[32] Based on the emails, it cannot be said that there was an agreement between the parties that the Respondent would pay as and when he could. The Applicant made it clear that she wanted regular child support payments. I conclude that the Respondent would not make them and instead responded to her requests in amounts as he saw fit. While he may have undertaken to pay for some expenses relating to the children, he did not always follow through. For example, in an email message dated January 7, 2011, the Applicant refers to the children's monthly internet expenses and says that she will pay, even though he was supposed to, but she needs help with payment for their over-usage. She makes a similar request in July 2011 (Exhibits "O" and "P" to the Applicant's first affidavit).

[33] But for her emails to the Respondent, it might be said that the Applicant acquiesced in the Respondent paying irregularly, in amounts that he felt he could pay. At least, she did not take any steps at the time to force the issue.

[34] The Respondent also says that he made payments directly to the children, which should count as support. He has provided copies of bank documents showing email money transfers from September 2008 to January 2013. Of the amounts transferred, $2552.00 was sent to the Applicant and she acknowledges receiving the money. Many of the transfers are to the daughter's name. Many are also to what the Respondent says is the son's nickname, however many of those are in 2012, after the Applicant says the son moved out to live on his own. Although some amounts are larger, some are small, for example, $40.00.

[35] Money sent directly to a child is generally considered as a gift to the child and such gifts are not considered an appropriate substitute for payments made in accordance with the *Child Support Guidelines*. There are a number of reasons for that. The recipient parent is usually the parent with custody of the child, and must be the one to make decisions about the child's expenditures; where the payor pays the children directly, the other parent is dependant on disclosure by the payor to

know what has been paid; the payor may choose to make payments for recreational or "fun" activities, presenting himself to the children in a more positive light than the parent who pays for more mundane living expenses: *Greene v. Greene*, [2010] B.C.J. No. 2607, 2010 BCCA 595, additional reasons 5 R.F.L. (7th) 253.

[36] In *DBS*, at paragraph 109, Bastarache J. said:

> Finally, I should also mention that the conduct of the payor parent could militate against a retroactive award. A court should thus consider whether conduct by the payor parent has had the effect of fulfilling his/her support obligations. For instance, a payor parent who contributes for expenses beyond his/her statutory obligation may have met his/her increased support obligation indirectly. <u>I am not suggesting that the payor parent has the right to choose how the money that should be going to child support is to be spent; it is not for the payor parent to decide that his/her support obligation can be acquitted by buying his/her child a new bicycle</u> [citation omitted]. But having regard to all the circumstances, where it appears to a court that the payor parent has contributed to his/her child's support in a way that satisfied his/her obligation, no retroactive support award should be ordered. [Emphasis added.]

[37] The Respondent maintains that the Applicant agreed that he would send money directly to the children. While there is some evidence in the email messages that on occasion she asked him to send money to the children, there is no evidence that she told him that she was content that such payments would substitute for child support. The evidence is clear that she requested regular monthly child support from him, which she did not receive.

[38] The issue is whether the Respondent's conduct in failing to make payments in accordance with the *Child Support Guidelines* and choosing instead to make payments directly to the children should be viewed as "blameworthy". Put another way, do the payments made directly to the children make up for what the Respondent would otherwise have had to pay under the *Guidelines*?

[39] Three examples will suffice to show that the money paid directly to the children, even in combination with money paid to the Applicant and for cell service (the latter, according to the Respondent, being cell service for the children), as set out in the bank documents, amounts to far less than what the Respondent was obliged to pay under the *Child Support Guidelines*.

[40] From September to December of 2008, the Respondent paid a total of $1665.00 to the Applicant and their daughter through email transfers. The bank

documents disclose no transfers to the son. Under the *Guidelines*, based on annual income of $70,102.00, his obligation would have been $4224.00 (4 x $1056.00) for two children for those four months. His obligation would have been $2600.00 (4 x $650.00) for one child.

[41] In the year 2009, the Respondent paid a total of $2590.00 to their daughter, the Applicant and for cell service. Under the *Guidelines*, based on his actual income of $89,801.00, his obligation for the year was $15,840.00 (12 x $1320.00) for two children and $9840.00 (12 x $820.00) for one child.

[42] In the year 2010, again according to the bank documents, the Respondent paid a total of $2753.00. Based on his actual income for that year, $106,329.00, his obligation was $18,492.00 (12 x $1541.00) for two children and $11,544.00 (12 x $962.00) for one child.

[43] It is obvious that the amounts paid come nowhere close to the child support that should have been paid. In addition, the Respondent has not offered any explanation as to what the specific email transfers were for, so there is no way of assessing whether they were for things the children needed or for non-essentials.

[44] In his affidavit, the Respondent says that he often gave the children presents; he lists as examples two skidoos, a computer, a laptop, top of the line airsoft guns, paintball guns, digital cameras and video consoles. Neither these presents nor the irregular payments of money to the children can be considered as adequate or appropriate substitutes for his responsibility to share in ongoing expenses to feed, clothe, shelter and raise the children.

[45] As a result, I find that the Respondent did engage in blameworthy conduct in not recognizing and fulfilling his obligation to provide child support. This was particularly so in 2007, when his employment status changed to permanent.

[46] As to whether the Respondent failed or refused to disclose his income, there is no evidence that the Applicant asked him to disclose his income prior to October 2011 when her counsel wrote to him. At that point, he did disclose recent tax returns. In his affidavit he provides income information for several years from a website, but without tax returns or notices of assessment that would disclose his actual income. He has provided no documentary evidence at all of his income prior to 2007. The failure to make full disclosure of his income is also blameworthy conduct to be taken into account.

(3) The circumstances of the children

[47] There is very little evidence before me about the circumstances of the children during the parties' cohabitation or after their separation. There is no evidence that the children suffered any specific deprivation as a result of the Respondent's failure to pay the *Guidelines* amount of support, although the Applicant does say in her second affidavit that with no financial support from the Respondent and with her current common-law spouse having other financial obligations, she has little, if any, disposal income and "The bottom line is that as a family, we have had to work very hard just to make ends meet".

[48] The daughter for whom retroactive support is sought has recently turned 18. When the Applicant swore her first affidavit on July 10, 2012, she stated that the daughter was in grade 11, doing very well in school and taking part in a number of extra-curricular activities, including volleyball and soccer. Whatever her future plans may be, she can still benefit from an award of retroactive support at this stage of her life. The Respondent has not demonstrated that she does not need the financial support. In any event, *DBS* makes it clear that the payor parent's obligation does not disappear where the children do not "need" his financial support (*DBS*, paragraph [113]).

(4) Hardship

[49] I have already referred to some of what was said in *DBS* about an award of retroactive support having the potential to cause hardship to a payor parent and how that hardship is often something that the payor has brought upon him/herself by not having made payments when they were due.

[50] The role of hardship in the context of retroactive child support is not the same as the role of undue hardship in relation to the quantum of support. In the context of whether it is appropriate to order retroactive child support, *DBS* says that a broad consideration of hardship should be undertaken. Circumstances that may lead to hardship include whether the payor can currently afford an amount calculated on past income and whether the payor has a new family and new obligations. A retroactive award should be crafted in a way that minimizes hardship, although the existence of hardship for a payor parent is much less of a concern when it is the product of that parent's own blameworthy conduct.

[51] The Respondent submits that an award of retroactive support has the potential to create undue hardship to him because he and his common-law spouse have two children, eight and five years of age. He says that the Applicant's household has a much higher standard of living than does his. He provides some household expense information, although a significant omission is the lack of any details about his current spouse's annual income. He also says that he and his family live in a house that was almost condemned, has a leaking basement and has required numerous other repairs.

[52] The Respondent's chart of his monthly income and expenses shows a monthly deficit of $168.13. There is no indication that his spouse's income is taken into account in arriving at that deficit. In his affidavit, the Respondent says that his income combined with that of his current spouse, for most of the past ten years, was anywhere from $54,000.00 to $100,000.00. However, that would appear not to take into account the years when his income alone was over $106,000.00. The only information about his spouse's occupation is contained in the Applicant's second affidavit, where she states that his spouse is the senior executive administrator for a First Nation. In light of that, I infer that the spouse earns a reasonable income.

[53] The Respondent also claims to have assumed all the family debt on separation from the Applicant. She denies that, and I cannot resolve the contradiction on the material before me.

[54] The result is that it is impossible to make a firm assessment of the potential for hardship when the Respondent has not provided sufficient information about his household income and financial position. The onus is on the Respondent to establish hardship, which he has not done. I accept that there may be potential for hardship to the Respondent resulting from an award of retroactive support, but I am unable to assess with any degree of certainty the likelihood or extent of any hardship. And any hardship is, in this case, largely due to the Respondent not having fulfilled his obligation to pay child support when he should have.

[55] As to the Respondent's claim that the Applicant's household has a higher standard of living than his, her income has been significantly less than his, especially in 2010 and 2011. While she has not disclosed her spouse's income, the burden, as I have noted, is on the Respondent to demonstrate hardship.

[56] Considering that the Respondent has been able to make in excess of $100,000.00 in recent years, he has the capability of addressing any financial

consequences that arise from an award of retroactive support, especially since this is not a case where he would be paying support calculated on a higher income than he now earns or is capable of earning. In this case, depending on which years support is calculated for, the majority of, if not all payments would be based on lower or equivalent income to what he now earns.

The cumulative effect of the *DBS* factors

[57] In my view, both parties bear some responsibility for failing to ensure that the children had the full benefit of child support from the Respondent.

[58] The Applicant delayed bringing an application for child support and has not adequately explained why. Although I acknowledge that it is desirable that spouses try to work out their differences after separation, and not immediately resort to litigation, the delay in this case is a very significant one. On the other hand, the Respondent engaged in blameworthy conduct in failing to pay child support on a regular basis and in accordance with his income, particularly when he obtained permanent employment.

[59] As I have noted, there is no specific evidence before me that the children suffered from the Respondent’s failure to pay child support, although I will infer from the Applicant’s reference to a having to work hard just to make ends meet that there was some negative effect financially.

[60] The Respondent has not discharged the onus of showing that an award of retroactive child support will create hardship to him. To the extent that there is a potential for hardship, he has created that potential. The evidence indicates that he also has the ability to earn more than his base salary, which should assist him in addressing the financial impact of an order.

[61] Considering all the factors, in my view an award of retroactive child support should be made. The question, then, is the date to which the award should be retroactive.

Date of retroactivity

[62] In *DBS*, at paragraph 118, the Supreme Court of Canada said that there are four choices for the date to which an award of child support should be retroactive: the date when an application was made to a court, the date when formal notice was

given to the payor parent; the date when effective notice was given to the payor parent, and the date when the amount of child support should have increased. *DBS* adopts as a general rule the date of effective notice.

[63] The date of effective notice is defined as the date of any indication by the recipient parent that child support should be paid, or if it is being paid, that the current amount of support needs to be re-negotiated.

[64] The Applicant says that she verbally requested child support from the Respondent in 2001. She emailed a request for money for the children to the Respondent in June 2002 and he replied the next day, indicating awareness on his part of her request. The Applicant says that was effective notice and that child support should be made retroactive to July 2002.

[65] The Respondent says that the date of effective notice is when the Applicant had her lawyer contact him by letter dated October 18, 2011. However, I would characterize that as the date of formal notice. In my view, the Applicant made it clear well before then that she was seeking child support.

[66] I am not, however, convinced that even if effective notice was given in 2002, support should be retroactive to that year. In some of her emails of June and July 2002, the Applicant asked the Respondent to send money to the children, for example, for a vacation and summer clothes. This may have led to or confirmed (in the Respondent's view) his perception that she was content that he send money to the children upon request and as he was able to afford it. Although she made verbal requests, it appears from what is before me that it was not until June 28, 2004 that the Applicant sent an email asking for monthly child support. With that request, the Respondent was clearly on notice that sending money to the children for specific items was not acceptable to the Applicant and did not fulfill his obligations and that regular monthly support was being sought.

[67] Having raised the issue of regular child support in 2004, the Applicant did not, however, take any action to enforce the children's right to that support. On July 5, 2007, the Applicant again emailed to request regular child support after the Respondent became employed on more than a seasonal basis. Still, a few years went by before she had counsel contact the Respondent on her behalf.

[68] In *DBS* it was held that once the recipient parent raises the issue of child support, his/her responsibility is not automatically fulfilled, and a prolonged period

of inactivity after effective notice may indicate that the payor parent's reasonable interest in certainty has returned. Therefore, it will usually be inappropriate to make a child support award retroactive to a date that is more than three years before formal notice was given to the payor parent. However, where the payor parent engages in blameworthy conduct, he/she cannot claim they reasonably believed the child's entitlement to support was being met and that may move the presumptive date of retroactivity back to an earlier date.

[69] Balancing all the factors required to be considered by *DBS*, I have come to the conclusion that support should be retroactive to January 2007. That is the year the Respondent obtained permanent employment and could no longer be under any impression (if indeed he was under the impression) that the Applicant was refraining from formally pursuing child support in recognition of his lack of permanent employment. In my view January 2007 is an appropriate start date given the very lengthy and inadequately explained delay before formal proceedings were started, while also taking into account the Respondent's failure to live up to his obligations. It is more than three years before formal notice was given to the Respondent, but substantially less than the actual number of years in which he failed to pay regular support.

Amount of retroactive child support

[70] Based on the income figures in the evidence, the amount of retroactive child support calculated for one child under the *Child Support Guidelines* would be as follows:

Year		**Amount**
2007	$634.00 per month (based on income of $68,386.00) x 12	$7,608.00
2008	$650.00 per month (based on income of $70,102.00) x 12	$7,800.00

Year		Amount
2009	$820.00 per month (based on income of $89,801.00	$9,840.00
2010	$962.00 per month (based on income of $106,329.00) x 12	$11,544.00
2011	$962.00 per month (based on income of $106,329.00) x 12	$11,544.00
2012	$962.00 per month (based on income of $106,329.00) x 8 (January to August)	$ 7,696.00
	Total January 2007 to August 2012	**$56,032.00**
	Less $1000.00/year paid for 2007 to 2011 inclusive (5 years = $5000.00)	$51,032.00
	Less $3544.00 paid for February 2012 to August 2012	$47,488.00
	Total after credits	**$47,488.00**

[71] The final question is whether the above amount is unfair in all the circumstances. In my view, it is not unfair. It reflects a balancing of all of the factors referred to above.

Order

[72] I order that the Respondent pay retroactive child support in the amount of $47,488.00. I also order that for so long as ongoing child support is payable, he provide the Applicant with a copy of his income tax return and any notice of assessment by July 1 each year for the previous taxation year.

[73] Counsel may arrange to speak to costs if they so wish or may agree on a schedule for written submissions. In either case, they are to contact the Registry in writing within 30 days, setting out their intentions.

V.A. Schuler
J.S.C.

Dated at Yellowknife, NT, this
18th day of July 2013

Counsel for the Applicant: Kenneth Allison

Counsel for the Respondent: J. Rock Matte

S-0001-FM-2012000067

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