IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *I.K.K. v. P.K.*,
2025 BCSC 1897

Date: 20250929
Docket: E73571
Registry: New Westminster

Between:

I.K.K.

Claimant

And

P.K.

Respondent

Before: The Honourable Justice Dion

Reasons for Judgment

In Chambers

Counsel for the Claimant:	J. Boparai
Counsel for the Respondent:	D.J. Sandhu
Place and Date of Hearing:	New Westminster, B.C. August 6, 2025
Place and Date of Judgment:	New Westminster, B.C. September 29, 2025

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Introduction

[1] The claimant mother I.K. and respondent father P.K. are the parents of a four-year-old son, S. On May 27, 2025, I.K. flew to British Columbia ("B.C.") with S (the "Child" or "S"). The parties disagree on whether the claimant came to B.C. permanently with the knowledge and consent of the respondent or whether I.K. and S came temporarily.

[2] On July 3, 2025, Associate Judge Krentz granted I.K. a protection order for her and S with an expiration date of July 25, 2025 ("July 3, 2025, Protection Order"). That day, he also granted an Order Made After Application - Without Notice changing S's primary residence to B.C. on a without prejudice basis ("Residency Order").

[3] The July 3, 2025, Protection Order was terminated on July 17, 2025, and new one was issued ("July 17, 2025, Protection Order") (collectively, the "Protection Orders") without a specific expiry date, but which, among other things, was varied to permit P.K. with some parenting time with S remotely arranged through counsel.

[4] I.K. also filed a Notice of Family Claim ("Family Claim") on July 3, 2025, seeking, among other things, orders of relocation, parenting arrangements and a section 211 Report. In the Family Claim, I.K. claimed that S had been resident in B.C. for one year.

[5] P.K. filed a Response to Family Claim and a Counterclaim on July 18, 2025. On July 8, 2025, P.K. commenced divorce proceedings in Alberta as well as claims of parenting, division of property and debt in the Court of King's Bench of Alberta.

[6] On July 22, 2025, P.K. filed an application seeking to terminate the July 17, 2025, Protection Order entirely, or in the alternative, in respect of S only. He seeks, among other things, an order that S be returned to Alberta. On July 29, 2025, P.K. filed a Jurisdictional Response, disputing this Court's jurisdiction over him.

[7] It is these two latter applications filed by P.K. which are before the Court.

Background

[8] The parties were married in India on December 5, 2017. They entered a pre-nuptial agreement dated November 3, 2017, whereby they agreed to reside in Edmonton, Alberta. The parties have lived in Edmonton since. S was born on July 24, 2021.

[9] The parties agree that they separated in or around the last week of May 2025. On May 25, 2025, I.K. left the family home with S and went to stay with her friend, Davinder, in Edmonton. On May 27, 2025, the parties met in person, with Davinder also present, to discuss their marriage. According to P.K. that conversation did not produce positive results.

[10] The parties agree that I.K. and S flew to B.C. on May 27, 2025, though P.K. says he understood that I.K.'s trip was temporary, as she had travelled to B.C. in the past to visit her sister. I.K. says that P.K. knew she was relocating with S because she told him a few days prior she would be doing so.

[11] On May 27, 2025, P.K. asked I.K. not to take his son away, that he will become an ideal father. He asked for another chance, saying that he loved them both. He said that S did not deserve this.

[12] Up to June 12, 2025, the parties communicated about S and other matters. P.K. asked for photos of S, I.K. sent some on May 30, 2025. I.K. also permitted S to have remote calls with his father.

[13] P.K. says that he found out on June 2, 2025, during a phone call with I.K of her intention to relocate to B.C. with their son. He made inquiries of I.K. on June 3, 2025, in an effort to ascertain if I.K. was serious about relocating. The parties had a video call that day, wherein P.K. asked I.K. to return to Edmonton with S; I.K. did not agree.

[14] On or around June 13, 2025, I.K. asked P.K. for $3000 for clothing, groceries and to enroll S in daycare while she sought employment. P.K. sent the Claimant $500.00.

[15] Also on June 13, 2025, I.K. advised P.K. that he could come to see and spend time with S anytime but that she needed her family around to raise “my” son. The parties continued to communicate up to June 20, 2025. Over that time, P.K. repeated his demands that S be returned to Edmonton and failing that, he would commence legal proceedings, for, *inter alia*, the wrongful relocation of S.

[16] P.K. retained legal counsel who advised I.K. by letter on June 24, 2025, that they intended to bring an application in Edmonton for the unauthorized relocation of S. P.K. requested S be returned immediately to Edmonton. They gave I.K. a deadline to respond on or before June 27, 2025, to avoid further litigation. P.K.’s counsel also advised I.K. in this correspondence that she had not complied with the requirements of the *Notice to Relocation Regulations*.

[17] I.K. responded by email to P.K.'s counsel on June 27, 2025, advising that there was a lot of information to take in. She said she needed more time to fully process everything, and she wished to think things through before responding.

[18] On June 30, 2025, P.K.'s counsel sent I.K. another letter advising that P.K. was agreeable to an extension to 5:00 pm on July 2, 2025, for I.K. to confirm her intention to return to Edmonton with S. The correspondence made it clear that if P.K. and his counsel did not receive a clear answer by the deadline, they would proceed with an urgent application in Alberta to seek relief.

I.K. Affidavit #1 made July 3, 2025

[19] On July 3, 2025, I.K. sought a protection order for her and S. In I.K.’s Affidavit #1, she deposed that throughout her eight-year marriage, P.K. was mentally, physically, and verbally abusive toward her and that the abuse was ongoing and witnessed by S. She deposed that she was subjected to constant humiliation, threats

and derogatory language, which left her feeling isolated, fearful and emotionally broken.

[20] I.K. also alleged that P.K. had multiple extra-marital affairs. She appended, as Exhibit “A”, three screenshots of a person holding a device with wording on its screen suggestive of flirtatious behaviour. The date shown in each screenshot is July 10, 2022. I.K. says the most recent affair occurred “this year” when she found out P.K. had gone to a hotel with another woman.

[21] She also says that P.K. had been convicted of sexual assault in 2023 of a minor child while at a sleep over in the parties’ home. I.K. deposes that P.K. committed the offence when he was under the influence of alcohol. I.K. attaches “court documents and probation order’ as Exhibit “B”.

[22] Two documents are appended as Exhibit “B”. The first is a letter from Alberta Justice and Solicitor General dated October 23, 2023, advising the recipient that P.K. had applied for early release from sentence; the writer sought comments from the recipient. The second is a letter from a probation officer with Alberta Public Safety and Emergency Services dated October 18, 2023, which appears to be addressed to the guardian of the subject child of P.K.’s criminal law proceedings. It indicates that P.K. is bound by probation conditions from October 13, 2023, to January 15, 2025. The writer further advises that P.K.’s conditions stipulate that he is not to communicate directly or indirectly with the subject child, and P.K. is not to attend any personal residence, school, place of worship or employment of the subject child.

[23] I.K. says that P.K. was “prohibited from consuming alcohol, smoking or taking any other drugs, however, he never abided by these terms and consistently drank and smoked.”

[24] Under the heading, “Circumstances if (sic) the current application”, I.K. speaks to P.K.’s court-ordered conditions on sentence and impacts on S. She says

P.K. blatantly ignored probation terms. She says that he “hurled abuses” at her and S and that his substance abuse was getting worse day by day.

[25] I.K. attaches photographs, marked as Exhibit “C”, she says are of alcohol bottles and vape devices throughout their home. Other than one apparent date “January 26” above one of the five photographs, there are no dates or years indicated on any of these photographs. I.K. said that P.K. smoked inside the house and S asked why there was smoke in the house.

[26] I.K. says also that for a few months she observed “stark changes” in S’s behavior. Those changes included him becoming very quiet and reserved; he did not feel confident interacting with others. I.K. says S “seems afraid of the Respondent”, and that S seemed reluctant to go back home after an outing with his mother.

[27] I.K. says that her apprehensions and concerns were confirmed by S’s day care provider, M.M., who made similar observations. I.K. says she googled S’s behaviour and it seemed consistent with a child who is being assaulted. I.K. appended as Exhibit “D” an email from M.M. dated July 2, 2025, sent at 7:21 pm. In it, M. M. speaks of the observations she had made “over the last few days” of S being withdrawn.

[28] I.K. says that the “emotional toll on our child was devastating”; that she felt powerless to protect him in Alberta. She said her constant pleas for P.K. to “abstain from using substances” which was the “root cause in the criminal charges and for their marital discord”, fell on deaf ears.

[29] She says “[A]fter years of begging him to stop and improve his ways”, and seeing the negative impact on S becoming a “potential victim”, is when she decided to distance herself and S from P.K.

[30] Under the heading “Financial and Social Isolation”, I.K. says she has no family support in Alberta. She says that she was financially abused throughout her marriage; working in the family business without pay and having no savings or

assets in her name. Her 2024 Notice of Assessment shows her line 150 income to be $8,099.

[31] I.K. says her only family is her sister, who lives in B.C. I.K. “decided to shield” S and herself from P.K.’s abuse by going to stay with her sister.

[32] On May 22, 2025, I.K. told P.K. of her decision to move to B.C. for her safety as well as the Child’s. She stayed at her friend Davinder’s home in Edmonton before flying to B.C. on May 27, 2025. I.K. says that P.K. came to Davinder’s home to force them to return to the family home.

[33] I.K. said she raised her concerns with P.K.’s about his substance abuse and its impact on their child. She said that P.K. showed no remorse nor had he made any effort to change his ways. According to I.K., P.K. told her to take S to B.C., where he will be safe. I.K. says that her friend Davinder can confirm this conversation.

[34] I.K. says before leaving Alberta, she made a report to the police, who told her she could leave with S if she felt threatened. She said the police encouraged her to press charges, but she was too fearful to do so on account of P.K.’s connections.

[35] Since coming to B.C., I.K. says that P.K. has made “repeated threats” to harm her, her sister’s family and demanded the return of S to Alberta. I.K. says she is in constant fear of P.K.

[36] Since moving to B.C., I.K. says that S’s emotional and psychological well-being has improved significantly. He is more open, communicative and no longer displays fear and reservation he did in Alberta. I.K. says the change in S has been remarkable.

[37] Finally, I.K. deposes that she deeply feared for her and S’s safety. P.K.’s history of violence, substance abuse and criminal conduct, combined with his disregard for court orders, left her in a constant state of anxiety and distress. She says that her primary concern is to protect S from further harm and to provide him

with a safe environment which is only possible with them living in B.C., away from P.K.'s influence and threats.

Protection Orders

[38] I have the benefit of a transcript from July 3, 2025. Then counsel for I.K., Ms. B. Atwal, submitted to the Court on July 3, 2025, that her client's specific concern was that P.K. will, as he threatened, come to B.C. and inflict "some sort" of harm to the Child, I.K. or I.K.'s sister and her family.

[39] The Associate Judge asked Ms. Atwal if the threats made by P.K. were in any form of writing or messages attached to an affidavit or were they verbal. Ms. Atwal advised the Court that she could not get anything in writing and that P.K. never communicated in writing. Her submissions were that P.K. called I.K. and verbally uttered threats.

[40] The Associate Judge granted the July 3, 2025, Protection Order pursuant to ss. 183(3)(a),183(3)(a)(i), 183(3)(a)(ii) of the *Family Law Act*, S.B.C. 2011, c. 25 [*FLA*] in respect of both I.K. and S, with an expiry date of July 25, 2025, unless renewed by further court order upon notice to the respondent.

[41] On July 16, 2025, at approximately 5:08 pm (PST), new counsel for I.K., Ms. J. Boparai, advised P.K. and his Alberta counsel, Mr. K. Broodhagen, separately that she would be proceeding at 9:45 am on July 17, 2025 with a Short Notice Application to shorten the days of service for her intention to bring an application to extend the July 3, 2025 Protection Order before the expiration date.

[42] P.K. had just retained counsel in B.C., Ms. D. Sandhu, who appeared on July 17, 2025, to contest the Short Notice Application.

[43] On July 17, 2025, the Associate Judge terminated the July 3, 2025 Protection Order and issued the July 17, 2025, Protection Order. However, he varied the terms of protection so that P.K. could have virtual contact with S at times arranged between counsel. The July 17, 2025, Protection Order remains in place until further

order of the court or written agreement of the parties. Clause 4 provides that on an interim without prejudice basis, the primary residence of S is with I.K. As noted above, the Associate Judge also made the Residency Order that S's primary residence was in B.C., on an interim without prejudice basis.

Other Court Filings

[44] On July 3, 2025, I.K. also filed her Family Claim. In it, she indicates that S has been habitually resident in B.C. for one year.

[45] On July 8, 2025, P.K. commenced divorce proceedings in Alberta as well as claims of parenting, division of property and debt in the Court of King's Bench of Alberta.

Criminal Conviction and Probation

[46] P.K. made two affidavits. The first, on July 22, 2025, and the second on July 31, 2025.

[47] P.K. says that I.K. relied heavily on his criminal conviction to obtain the July 3, 2025, Protection Order. P.K. says he accepts responsibility for the 2023 conviction, and he deeply regrets it. However, he says he has complied with all court-imposed conditions. His probation officer monitored his behaviour at home and found no concerns. P.K. also says that I.K. did not raise any issues about him with the probation officer and the parties continued to co-parent and co-habitat for over a year after his conviction.

[48] P.K. says it is untrue that he was non-compliant with his probation conditions by smoking, consuming alcohol or using drugs. There were no terms among his probation conditions prohibiting consumption of alcohol or use of nicotine, he says.

[49] Attached to P.K.'s Affidavit filed July 22, 2025, is a letter dated January 13, 2025, from his probation officer confirming that he maintained a positive response to supervision and he fully adhered to his conditions.

Denial of Family Violence

[50] P.K. is adamant in his denial of abuse – physical or verbal - toward I.K. or S. He also denies ever smoking in S's presence. He says that I.K.'s allegations in her Affidavit # 1 that S's behavior is consistent with him being assaulted based on a google search is unfair. He also says there are no child protection investigations in relation to the Child.

[51] Moreover, he says that he spoke with S's former daycare provider, M.M. In an email dated July 29, 2025. M.M. clarified her statements made in her July 2, 2025, email to I.K. M.M. has been S's caregiver since he was one year old. Over that time, S was a happy child, and his father was a good, supportive parent. She said she only noticed S's withdrawn behavior the last few days he was in her care, which was unlike him.

[52] P.K. says he has always been an active, caring and participating parent to S. He says that S has extended family in Edmonton that he is close with. Among his family is his paternal grandfather, who lives in the family home. P.K. says that S's daily routine has been disrupted unilaterally by his mother and her claims are without merit.

[53] To P.K.'s knowledge, there are no open or closed files, or safety plans regarding S with child protective services in Edmonton. There are also no police files related to him and I.K. or the Child in Alberta or in B.C.

I.K. Affidavit #2 made July 29, 2025

[54] In her Affidavit #2, I.K. says that she told P.K. on May 23, 2025 by text message, appended as Exhibit "A", that she intended to fly to B.C. on May 27, 2025, however, I do note that she does not indicate in this text message whether her trip was temporary or permanent.

[55] She also says that P.K. threatened to harm her if she did not remain in contact with him. She says P.K. pressured her to find employment immediately. On June 13, 2025, she asked for financial assistance from P.K. and he sent her $500.

[56] I.K. says that P.K. pressured her to talk to him over the phone on June 13, 2025, in text messages she appends as Exhibit “F”. She says she declined to do so because of his previous threats toward her, which he deleted. In another text message, appended as Exhibit “F”, P.K. reiterates that I.K. needs to bring S back to Edmonton, and he asked I.K. to call him so that they could have a discussion.

[57] I.K. also relies on another text messages, wherein she says she did not want to return home due to safety concerns. In that text message to P.K., which appears to be dated June 14, 2025, and appended as Exhibit “G”, I.K. refers to a previous occasion in their home when P.K. gave her the silent treatment and for S’s second birthday, only when she was present.

[58] I.K. says that P.K. made threats to kill her and her sister, who helped her escape the violence in her home in Edmonton. She was too scared to take legal action in Alberta due to her fear of retribution by P.K. She also says that P.K. used threatening language in front of the Child.

Analysis

[59] While the application before me is to terminate the July 17, 2025, Protection Order, I bear in mind the comments of Justice Fitch (as he then was) in *S.M. v. R.M.*, 2015 BCSC 1344 when the Court is assessing the issue of risk in the context of protection orders:

> [25] … The Legislature has made clear that judges hearing applications of this kind must approach the issue from a broad and contextual perspective, taking into account a variety of factors that frame the risk analysis in determining whether family violence is likely to occur. The inquiry is future oriented but it takes its shape from past conduct and present circumstances that inform the assessment of risk.
>
> [My emphasis.]

[60] Therefore, while the court’s consideration to grant or deny a protection order is future oriented, similarly, the court will, from a broad and contextual perspective, take into consideration, past conduct and present circumstances of the parties, when determining whether to terminate a protection order.

[61] Section 187 of the *FLA* permits a change or termination of a protection order.

> **Changing or terminating orders respecting protection**
>
> 187 (1) On application by a party, a court may do one or more of the following respecting an order made under this Part:
>
> (a) shorten the term of the order;
> (b) extend the term of the order;
> (c) otherwise change the order;
> (d) terminate the order.
>
> (2) An application under this section must be made before the expiry of the order that is the subject of the application.
>
> (3) Nothing in subsection (2) of this section prohibits a person from making a subsequent application for an order under section 183 [*orders respecting protection*].

[62] Family violence is defined in Section 1 of the *FLA*. For the purposes of this application the applicable subsections are (d) and (e):

> (d) psychological or emotional abuse of a family member, including
>
> (i) intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property,
> (ii) unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy,
> (iii) stalking or following of the family member, and
> (iv) Intentional damage to property. and
>
> (e) in the case of a child, direct or indirect exposure to family violence.

[63] Part four of the *FLA* sets out the regime for care of and time with a child. It is divided into divisions. Division 1 deals with the best interests of the child. Sections 37 and 38 provide:

> **Best Interests of child**
>
> 37(1) In making an agreement or order under this part respecting guardianship, parenting arrangements or contact with the child, the parties and the court must consider the best interest of the child only.
>
> (2) To determine what is the best interest of the child, all of the child's needs and circumstances must be considered including the following:
>
> (a) the child's health and emotional well-being;
>
> (b) the child's views, unless it would be inappropriate to consider them;

(c) the nature and strength of the relationships between the child and significant persons in the child's life;

(d) the history of the child's care;

(f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time for contact with the child, to exercise his or her responsibilities;

(g) the impact of any family violence on the child safety, security well-being, with the family violence is directed towards the child or any family member;

(h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child and meet the child's needs;

(i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;

(j) any civil or criminal proceeding relevant to the child safety, security or well-being.

(3) An agreement or order is not in the best interests of a child it unless it protects, to the greatest extent possible, the child's physical psychological and emotional safety, security and well-being.

(4) In making an order under this part, a court may consider a persons conduct only if it substantially affects a factor of set out in (2), and only to the extent it affects that factor.

Assessing family violence

38 For The purposes of section 37(2) (g) and (h) [*best interests of child*], a Court must consider all of the following:

(a) the nature and seriousness of the family violence;

(b) how recently the family violence occurred;

(c) the frequency of the family violence;

(d) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behavior directed at a family member;

(e) whether the family violence was directed toward the child;

(f) whether the child was exposed to family violence that was not directed toward the child;

(g) the harm to the child's physical psychological and emotional safety, security and well-being as result of the family violence;

(h) any steps the person responsible for the family violence has taken to prevent further family violence from occurring;

(i) any other relevant matter.

[64] P.K. submits that I.K. has provided no direct evidence of family violence against her or the Child but makes broad claims and allegations against him. He relies on *A.G.M. v. R.S.M.*, 2018 BCSC 1670 where Madam Justice Donegan (as she then was) had a similar case before her with the parties married for eight years with a three-year-old child who had lived together in Alberta. The mother took the child to family in Kelowna, B.C. under the guise of summer holidays. While the mother was in B.C., she commenced action for relocation and a protection order. Justice Donegan commented that while each case is factually unique, certain general principles emerged from the case authorities. At para 50 she noted as follows:

> [50] I'm mindful of the comments of this court in *L. S. v. G. S.*, 2014 BCSC 187 (aff'd 2014 BCCA 334), that a court must also be careful not to label conduct as family violence where there is no evidence the child has suffered any physical or emotional harm as a result of the parents conduct and for other reasons: para 26. The provisions in the FLA related to family violence, it must be kept in mind, are intended to address serious social issues and to protect children and spouses from actual harm or danger.
>
> …
>
> [53] A's evidence, on the other hand, contains what I considered to be quite inflammatory language. She uses descriptions that simply draw conclusions. She espouses unfounded and uninformed opinions and uses derogatory and offensive language. The overall tenor of her evidence left me with the distinct impression that her evidence is fueled by hurt and anger and must be approached with caution. In her lengthy materials, A. provides no examples of specific conduct that would constitute family violence as that term has been defined and interpreted in the case authorities. She primarily makes broad allegations mirroring the language of the legislation.

[65] In the present case, it is clear from the evidence that the parties' marriage has not been a happy one. There has been friction and mistrust between the parties for some time, and it is not new. After I.K. left Alberta, P.K. told her he would be an ideal father. He asked I.K. to give their relationship six more months and if things did not change, I.K. could do whatever she wanted, that he would not stop her.

[66] I will first address I.K.'s evidence in respect of S, then I will address I.K.'s claims of family violence.

[67] I.K. says that P.K. was consuming alcohol and smoking in the presence of S inside the family home. She alleged that these were two probation conditions P.K. was bound by. She provides no evidence to support those allegations. She provides what she says are photographs of alcohol and vape devices inside the home as proof that P.K. was breaching his probation conditions. However, at least of one of those photographs appear to have been taken on January 26, and assuming it was 2025, P.K.'s probation had ended weeks earlier. There are no dates on the other photographs.

[68] I.K.'s claims that she googled S's behavior which seemed consistent with a child who is being assaulted. She also says that over a few months prior to travelling to B.C., she saw stark changes in S and that he seemed afraid of his father. Other than a vague statement by S's long-time day care provider, I.K. provides no evidence, medical or otherwise, for her highly inflammatory allegations. She also provides no evidence of any steps she took with authorities in Alberta of her concerns about S and his father.

[69] I.K. alleged that days before leaving Alberta she made a report to the police who told her she could leave with S if she felt threatened. It appears that the concern she raised with the Police was over her safety, not that of S. She also says the police encouraged her to press charges but she was too fearful to do so on account of P.K.'s connections. Even if she was too afraid to press charges, by making a report, a file would have been opened and a file number assigned. At the very least, I.K. would have had a police file number; none was provided in her evidence.

[My emphasis.]

[70] The two emails from M.M. are neutral at best. While she may have been of the view that S was withdrawn the last few days she cared for him, she does not attribute S's unusual behavior to P.K. In her email dated July 29, 2025, she praises P.K. as a father.

[71] When assessing family violence in relation to S, I am unable to find any factors referred to in s. 38 of the *FLA* apply to him. I.K. has made inflammatory and unsupported allegations against P.K. There is no evidence that S has suffered actual harm or danger by his father.

[72] Turning now to I.K.'s claims of family violence.

[73] I.K. says that her friend Davinder was present when she and P.K. last spoke in person and he tried to force her to return home. I.K. says that Davinder could confirm that conversation yet I.K. does not provide even the briefest affidavit from Davinder attesting to I.K.'s claims.

[74] I.K. also says that P.K. had been having affairs yet photographs of the handheld device she appends were screenshots taken in 2022. Aside from being dated, there is no way to ascertain who the messages are between.

[75] Ms. Atwal, I.K.'s counsel, failed to advise the court on July 3, 2025, of text message communication between I.K. and P.K. from May 27 to June 20, 2025 when the Associate Judge asked if there were any written communication between the parties. On June 13, 2025, I.K. invited P.K. to come to B.C. to see S and spend time with him "anytime". Ms. Atwal also failed to advise the court of P.K.'s counsel communication between June 24, 2025 and June 27, 2025. Nowhere in the July 3, 2025 transcript does I.K.'s; counsel advise the court of the extension P.K.'s counsel offered to July 2, 2025. I wish to however, acknowledge that I.K. had not appended any of the text messages or communication she had with P.K.'s counsel to her Affidavit #1. Ms. Atwal may not have been aware of that information.

[76] While P.K. did not have direct communication with I.K. since June 20, 2025, there has been indirect communication through legal counsel which the court was not advised of on July 3, 2025.

[77] I.K. did not seek the July 3, 2025, Protection Order for more than a month after her and S's arrival in B.C., and then not until P.K.'s lawyer advised her of the legal steps they anticipated taking in Alberta.

[78] I.K. has made broad claims of family violence. She has provided no examples of specific conduct that could constitute family violence. Much like the Court in *A.G.M.*, I.K.'s evidence must be approached with caution. It may be true that when she spoke to P.K. he was angry when he demanded S be returned to Edmonton, but the text messages in evidence also show that he was civil and tried to reunite the family. On June 19, 2025, he suggested marriage counselling.

[79] I.K.'s evidence is that she had no financial autonomy in her marriage as shown in her 2024 Notice of Assessment. P.K. says that the reason I.K. was not paid was that it was a family run restaurant and there were cash flow issues.

[80] I prefer P.K.'s evidence over that of I.K. because he supports most of his claims with documentary evidence. I.K.'s claims are broad, and in some cases, somewhat exaggerated. As I have already noted, I.K. provides no specific instances of family violence toward her or S. If in fact she made a report to the police over safety concerns for her and S, she would, at the very least a police file number. I accept P.K.'s evidence that there are no MCFD or Police files open that he is aware of.

[81] The evidence shows that I.K. has not been happy in her marriage, particularly with P.K.'s substance issues. However, the factors which constitute family violence in the *FLA* must be applied as they were intended: to address serious social issues and to protect children and spouses from actual harm or danger: *L.S.*, at para. 50.

[82] On the evidence before me, I am unable to find that I.K. or S are in need of protection from actual harm or danger. The July 25, 2025, Protection Order is terminated. I.K. is at liberty to apply for another protection order in future if she determines it is necessary.

Order Made after Application Without Notice

[83] P.K. seeks to set aside and terminate the Residency Order granted on July 3, 2025 pursuant to section 215(1) of the *FLA*. That section provides:

> **Changing, suspending or terminating orders generally**
>
> 215 (1) Subject to this Act, a court on application by a party may change, suspend or terminate an order, if there has been a change in circumstances since the order was made.
>
> …

[84] The Associate Judge granted the Residency Order on July 3, 2025, in conjunction with the July 3, 2025 Protection Order in respect of S. I have determined that S is not in need of protection, which is a change in circumstance since the Residency Order was made. Therefore, the Residency Order also terminated.

Disputed Jurisdiction

[85] The parties disagree whether, by filing a Response to Family Claim and counterclaim, P.K. has attorned to the jurisdiction of this Court.

[86] As noted above, on July 29, 2025, P.K. filed a jurisdictional response, disputing this court's jurisdiction over him pursuant to Rule 18-1 of the *Supreme Court Family Rules,* B.C. Reg. 169/2009 *[SCFR]*.

Position of the Parties

[87] In part, I.K. relies on section 3 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 for her position that P.K. has attorned to this Court's jurisdiction for taking substantive steps such as filing materials that, she says, go beyond a mere jurisdictional objection. She says that P.K. filed a counterclaim which addresses substantive issues outside the scope of the relief sought by I.K. in the Family Claim. This she says, amounts to a submission to the jurisdiction of this Court for both the claims in the Family Claim and the additional issues raised in the Counterclaim.

[88] P.K. says that he has not attorned to the jurisdiction of B.C. and he has consistently relied on Alberta being a proper jurisdiction over this family law matter. This can be seen through his pleadings he has filed to date. Pursuant to *SCFR* 18-2, sub-rule 5(2). In the meantime between filing the application under Rule 18-2 and it

being heard, one can still defend the matter based on merit without it being taken as a direct submission to the jurisdiction of the court.

[89] P.K. also relies on *Walker v. Dowhaniuk*, 2018 BCSC 2189, where the court noted,

> [39] As noted in section 73 of the *FLA*, the very purpose of Division 7 of that Act is to avoid litigation in more than one jurisdiction and to discourage child abduction as an alternative to determining matters by due legal process. These purposes are severely undermined get the court condones the self-help remedy adopted by Ms. Walker in this case. As noted in *Schubert v. Johnson,* 2017 BCSC 1664, albeit in different factual circumstances, such conduct "cannot be countenanced" and "in a case where the other relevant factors clearly do not favor British Columbia, this tips the jurisdictional balance in favour of" Alberta.

[90] The usual starting point in British Columbia for determining questions of jurisdiction is the *Court Jurisdiction and Proceedings Transfer Act*: *Souhaibb v. Javed*, 2023 BCSC 584, at para. 31[*Souhaibb*].

[91] Section 3 of the *Court Jurisdiction and Proceedings Transfer Act*, provides:

> **Proceedings against a person**
>
> **3** A court has jurisdictional competence in a proceeding that is brought against a person only if
>
> a) That person is a plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim,
>
> b) during the course of the preceding the person submits to the courts jurisdiction,
>
> c) there is an agreement between the plaintiff and that person to the effect that the court has jurisdiction in the proceeding,
>
> d) that person is ordinarily resident in British Columbia at the time of the commencement of the preceding, or
>
> e) there is a real and substantial connection between British Columbia and the facts in which they proceeding against the person is based.

[92] Section 3 therefore sets out the circumstances in which a British Columbia court can acquire territorial competence (also referred to as jurisdiction or jurisdiction *simpliciter*) over a party who is a defendant or respondent in a court proceeding.

[93] There is a further expansion of s. 3(e) of the *Court Jurisdiction and Proceedings Transfer Act* in section 10 “by providing a non-exhaustive list of factors where a real and substantial connection is presumed to exist”: *Y.Q. v. J.D.*, 2021 BCSC 943 at para. 38.

[94] Section 11 of the *Court Jurisdiction and Proceedings Transfer Act* addresses circumstances were a court, having territorial competence, may nevertheless decline to exercise jurisdiction (also known as *forum non conveniens*):

> 11 (1) after considering the interests of the parties to a proceeding and the ends of justice, a court may decline to exercise its territorial competence in the preceding on the ground that a court of another state is a more appropriate form in which to hear the proceeding.
>
> (2) A court, and deciding the question of whether it Oregon court outside British Columbia is the more appropriate forum In which to hear a proceeding, must consider the circumstances Relevant to the preceding, including
>
> (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum,
>
> (b) the law to be applied to issues in the proceeding,
>
> (c) the desirability of avoiding multiplicity in legal proceedings,
>
> (d) the desirability avoiding conflicting decisions in different courts,
>
> (e) the enforcement of an eventual judgment, and
>
> (f) the fair and efficient working of the Canadian legal system as a whole.

[95] In *Souhaibb*, Madam Justice Shergill summarized some of the case authorities on the application of the *Court Jurisdiction and Proceedings Transfer Act*, which I find helpful to set out here:

> [35] In *B.C. v. D.E.*, 2022 BCSC 1597 Justice M. Taylor succinctly summarized the analytical framework for determining jurisdiction, as follows:
>
> [23] When a court determines whether to take jurisdiction over a dispute, it must engage in a two-step analysis:
>
> (a) First, the court determines whether it has territorial competence over the dispute, otherwise refer to as jurisdiction simpliciter. The burden of establishing an arguable case for territorial competence rests with the party asserting its existence: *Aleong v. Aleong*, 2013 BCSC 1428 at para. 80;
>
> (b) Second, if the court has territorial competence, it must then determine whether it ought to decline that jurisdiction in favor of another forum that

> is "clearly more appropriate", often referred to as a *forum non conveniens* analysis: *Club Resorts Ltd v. Van Breta*, 2012 SCC 17 at para 103 [*Van Breta*]. The burden of proof in the *forum non conveniens* analysis rests with the party asserting that another forum is clearly more appropriate: *JTG Management Services Ltd v. Bank of Nanjing Co. Ltd.,* 2015 BCCA 200 at para 45.

[36] Territorial competence and *forum non conveniens* are distinctly different concepts: *Nordmark v. Frykman*, 2019 BCCA 433 at para 43. The latter is only considered if territorial competence exists: *Nordmark* at para 44.

[37] The *Court Jurisdiction and Proceedings Transfer Act* recognizes that there may be circumstances in which Parliament or the Legislature have expressly conferred or denied jurisdiction to a court. Section 12 of the *Court Jurisdiction and Proceedings Transfer Act* provides for primacy of the other legislative enactments, as follows:

> 12 If there is a conflict or inconsistency between this Part and another act of British Columbia or of Canada that expressly
>
> (a) confers jurisdiction or territorial competence on a court, or
>
> (b) denies jurisdiction or territorial competence to a court, that other Act prevails.

[38] Thus, while the *Court Jurisdiction and Proceedings Transfer Act* governs determination of territorial competence and *forum non conveniens* in British Columbia, in some instances the *Court Jurisdiction and Proceedings Transfer Act* will be displaced by provisions in either the *Divorce Act* or the *Family Law Act*. Both the *Family Law Act* and the *Divorce Act* expressly confer jurisdiction to the court in some, but not all, circumstances.

[39] Sections 3 to 7 of the *Divorce Act* deal with questions of jurisdiction in divorce proceedings and corollary relief proceedings. Under the *Divorce Act*, a corollary relief proceeding "means proceeding in a court in which either or both former spouses seek a child support order, a spousal support order or a parenting order". Sections 74 and 109 of the *Family Law Act* deal with jurisdiction regarding parenting orders and property division.

[40] In *Y.Q.*, Justice Mathews provided a helpful summary of the interplay between the *Court Jurisdiction and Proceedings Transfer Act, Divorce Act,* and *Family Law Act* provisions, as follows:

> [39] The [*Divorce Act*] displaces s. 3 of the [*Court Jurisdiction and Proceedings Transfer Act*] with regard to territorial competence over parenting orders, child support, and spousal support: ss. 3(1), 4(1), and 6.2(1). Pursuant to s. 3(1) of the [*Divorce Act*], the British Columbia Supreme Court has territorial competence over divorce proceedings where at least one of the spouses was habitually resident in British Columbia for at least one year immediately prior to the commencement of the proceedings. Section 4(1) provides that a court has jurisdiction over a corollary relief proceeding if s. 3(1) is met or if both spouses consent.
>
> [40] The [*Family Law Act*] supersedes s. 3 of the [*Court Jurisdiction and Proceedings Transfer Act]* with regard to territorial competence over parenting orders and property division: ss. 74 and 109. It does not displace the [*Court*

> *Jurisdiction and Proceedings Transfer Act]* with respect to child support or spousal support.
>
> …
>
> [42] Neither the [*Divorce Act*] nor the [*Family Law Act*] displaces the [*Court Jurisdiction and Proceedings Transfer Act*] with regard to *forum non conveniens* for parenting orders, child support, or spousal support. Section 106(4) and (5) of the [*Family Law Act*] supersedes s. 11 of the [*Court Jurisdiction and Proceedings Transfer Act*] with regard to property division. The [*Divorce Act*] does not provide for property division.

[96] In the Family Claim filed on July 3, 2025, I.K. indicates that the Child has habitually been resident in for one year and she seeks:

a) an order respecting relocation of the child

b) parenting arrangements for parenting, such that:

- she will have joint guardianship of the Child and she have sole parenting responsibilities for the Child pursuant to section 41 of the Family Law Act.
- the Child to reside primarily with the claimant.
- the Respondent to have supervised parenting time supervised by a professional agency at his expense.

[97] In Schedule 5 – Other Orders, I.K. seeks additional orders including: (i) protective conditions pursuant to sections 182, 183. 184 and 185 of the *FLA* for herself; (ii) that the Respondent provide his income documents; (iii) that a psychologist be appointed to assess the Child's best interests and provide the results of the assessment pursuant to section 211 and section 37 of the *FLA* and part 13 of the *Supreme Court Family Rules* and costs.

[98] In his Response to Family Claim filed July 18, 2025, P.K. disagrees with all the orders sought by I.K.

[99] Under s. 4 of Schedule 2, in his counterclaim, also filed on July 18, 2025, P.K. seeks shared guardianship of the Child, shared decision making and shared parenting to be determined in the Court of King's Bench in Alberta pursuant to the Notice to Attend Family Docket Court.

[100] Under Schedule 5 – Other orders, P.K. seeks additional orders under the *FLA*:

1) An order pursuant to section 187 of the *Family Law Act* to terminate the protection order pronounced on July 17, 2025, by Associate Judge Krentz **OR IN THE ALTERNATIVE**
2) And order pursuant to section 187(1)(c) of the *Family Law Act* to change the Protection Order pronounced on July 17, 2025, by Associate Judge Krentz so that the child of the marriage [S] born July 24, 2021, is removed from the Protection Order.
3) An order pursuant to section 72 (2) and (3) of the *Family Law Act*, a declaration that the child the marriage, [S] born July 24, 2021, is a "habitual resident" of Edmonton Alberta.
4) An order pursuant to section 74(2) of the *Family Law Act*, that the British Columbia Supreme Court do not have jurisdiction over the child to make orders under part 4 of that Act. **OR IN THE ALTERNTIVE**
5) An order from the court declining to exercise such jurisdiction, whether the *Family Law Act*, or grounded in the doctrine of *parens patriae*, and stays the family law proceeding before this court.
6) An order pursuant to section 77(2)(c) of the *Family Law Act* that the child of the marriage be returned to Edmonton AB with 30 days of the order.
7) An order pursuant to section 215(1) of the *Family Law Act* that the Order Made After Application- Without Notice on July 3, 2025, by Associate Judge Krentz is set aside and terminated.

[101] Neither party seeks relief under the *Divorce Act*. Both parties seek costs.

[102] I find that this Court does not have jurisdiction to make orders in relation to S under section 74(2) of the *FLA*. If I am mistaken in that regard, for the reasons that follow, I would still decline jurisdiction under s. 74(3) of the *FLA*. Considering P.K.'s submissions and the *forum non conveniens* factors that are codified in s. 11 of the *Court Jurisdiction and Proceedings Transfer Act*, these factors weigh heavily in favour of declining jurisdiction in favour of Alberta for the reasons set out herein.

[103] The jurisdictional issue engages Division 7 under Part 4 of the *FLA*, "Extraprovincial Matters Respecting Parenting Arrangements." Section 73 of the *FLA* sets out the purpose of Division 7:

> **Purposes**
>
> 73 The purpose of this Division are as follows:

> (a) to ensure court applications respecting guardianship, parenting arrangements or contact with a child are determined on the basis of the best interests of the child;
>
> (b) to avoid the making of orders respecting guardianship, parenting arrangements or contact with a child, respecting the same child, in more than one jurisdiction;
>
> (c) to discourage child abduction as in an alternative to determining by due process the guardianship of, or parenting arrangements with respect to, a child;
>
> (d) to provide for effective enforcement of orders respecting guardianship, parenting arrangements or contact with a child, and for the recognition and enforcement of extraprovincial orders.

[104] The manner determining whether in British Columbia court should act under Part 4 of the *FLA* where such orders may be made respecting the same child in more than one jurisdiction is set out in section 74(2): *A.G.M.* at para. 61.

[105] Justice Donegan noted in *A.G.M*., section 74(2), provides 3 avenues to the grant orders with respect to a child or such orders may be made respecting the same child in more than one jurisdiction: *A.G.M*., at para. 62.

[106] Section 74(2) and (3) of the *FLA* provides:

> (2) Despite any other provision of this Part, a court may make an order under this Part respecting guardianship, parenting arrangements or contact with a child only if one of the following conditions is met:
>
> (a) the child is habitually resident in British Columbia when the application is filed;
>
> (b) the child is not habitually resident in British Columbia when the application is filed, but the court is satisfied that
>
> (i) the child is physically present in British Columbia when the application is filed;
>
> (ii) substantial evidence concerning the best interests of the child is available in British Columbia;
>
> (iii) no application for an extraprovincial order is pending before an extraprovincial tribunal in a place were the child is habitually resident;
>
> (iv) no extraprovincial order has been recognized by a court in British Columbia;
>
> (v) the child has a real and substantial connection with British Columbia; and
>
> (vi) on the balance of convenience, it is appropriate for jurisdiction to be exercised in British Columbia;

> (c) the child is physically present in British Columbia and the court is satisfied that the child would suffer serious harm if the child were to
>
> (i) remain with, or be returned to, the child's guardian, or
>
> (ii) be removed from British Columbia.
>
> (3) A court may decline to make an order under this Part if the court considers that it is more appropriate for jurisdiction to be exercised outside of British Columbia.

[107] I will now address the three avenues.

A. Habitual Residence in British Columbia

[108] Notwithstanding I.K. indicating in the Family Claim, S was a habitual resident in B.C. when the applications was filed, he was not.

[109] Section 72(2) of the *FLA* sets out the definition of "habitual residence". It provides:

> (2) For the purposes of this division, a child is habitually resident in the place where the child most recently resided
>
> (a) with his or her parents,
>
> (b) If the parents are living separate and apart, with one parent
>
> (i) under an agreement,
>
> (ii) with the implied consent of the other parent, or
>
> (iii) under an order of a court or tribunal, or
>
> (c.) With a person other than a parent on a permanent basis for a significant period of time.

[110] Section 72(3) discusses the effect of a wrongful removal or withholding of a child on the child's habitual residence. It provides:

> (3) The removal or withholding of a child without the consent of a guardian does not affect the child's habitual residence unless the guardian from whom the child is being removed or withheld acquiesces or delays in applying for an order of a court or an extraprovincial tribunal.

[111] As I noted above, there is disagreement about whether I.K. was travelling to B.C. with S temporarily or relocating permanently. Prior to May 27, 2025, S lived in the family home in Edmonton for all his life. His parents raised him there; he has extended family on his father's side. S is close with his paternal grandfather. S had

attended the same childcare centre from the age of one years old. His habitual residence at the time the Family Claim and the July 3, 2025, Protection Order were filed was clearly Alberta.

[112] Much like the facts in *A.G.M*, bringing S to B.C., then enrolling him in daycare does not change S's habitual residence to this Province.

B. *FLA* s. 74(2)(b) factors

[113] The question here is having found that S is not habitually residence in B.C. when the Family Claim was filed, am I satisfied that all of the factors in s. 74(2)(b) have been established? The answer is no.

[114] I am not satisfied that the factors set out s. 74(2)(b)(iii), (v) and (vi) have been established.

[115] With respect to s. 74(2)(b)(iii), I find that there is an extraprovincial application for an order pending in the place of the Child's habitual residence. On July 17, 2025. P.K.'s counsel, obtained a Notice to Attend Family Docket Court with a court date of July 29, 2025, for assistance with jurisdiction and return of the child to Edmonton. P.K. has also filed, *inter alia*, for divorce in Alberta.

[116] With respect to 74(2)(b)(v), I am unable to find that it is established that S has a real and substantial connection to B.C. S has been in this province for a few months with his mother and aunt and her family. S has spent the majority of his life in Edmonton with a regular daily routine, with his extended family resident there.

[117] With respect of s. 74(2)(b)(vi), I find on a balance of convenience, again like the court in *A.G.M.*, it is not appropriate for jurisdiction to be exercised in B.C. Should litigation commence involving S, witnesses may be required and those witnesses will be mostly, if not all, from Alberta. The fact that S may have established some relationships in B.C. in the brief time he has been in this province does not outweigh the familial and community connections he has in Alberta.

C. Serious harm

[118] The question here is, having found that S is not habitually resident in B.C. and having found that some of the factors in s-s (b) have not been established, am I satisfied that S would suffer "serious harm" if he were to be returned to P.K.'s care or be removed from B.C. As above, I find the answer to this question is also no.

[119] At para. 79 in *A.G.M.*, Justice Donegan referred to *J.F.A. v. P.J.A.*, 2017 BCPC 369 for Judge Harrison's summary of the authorities of what constitutes "serious harm" in s. 74(2)(c) at paras. 79-83, which I find useful to set out here:

> [79] This framework was considered in *D.M.S v. C.L.S.*, 2016 BCSC 1551, a decision of Mr. Justice Saunders. In considering s. 74(2)(c) of the *Act*, Justice Saunders said at paragraph 50 the following with respect the burden and standard proof:
>
> > 50 Before making any order, I must therefore be satisfied-which I take to mean, I must find on a balance of probabilities - that the children would - not may, but would - not merely face at risk of serious harm but actually be seriously harmed.
>
> [80] Clearly, the finding of a potential for serious harm to the child will not be sufficient. Neither is the standard one of proof beyond a reasonable doubt. A judge must be satisfied that it is more likely than not that serious harm would occur to the child if they (i) remain with, or return to the guardian, or (ii) are removed from British Columbia.
>
> [81] Mr. Justice Tindale also gave consideration to the meaning of "serious harm" in *Charnock v. Charnock*, 2016 BCSC 44, where the issue was whether or not the children in that case would suffer serious harm if they were removed from British Columbia.
>
> [82] Reflecting on the meaning of "serious harm" Justice Tindale wrote:
>
> > 33 The *FLA* does not define the term "serious harm". As reproduced above, the *FLA* has defined family violence to include physical, psychological or emotional abuse and damaged property. A plain reading of the term serious harm, taken in conjunction with the objectives of the *FLA*, would simply mean significant physical, psychological or emotional abuse or significant damage to property.
> >
> > 34 The determination as to whether "serious harm" would result has to be based on the facts of each specific case. A single incident of family violence that involved a derogatory remark being made to a child may not necessarily lead to a determination that "serious harm" would occur if the child was returned to a particular jurisdiction. However, a single incident of a threat to use firearm against his spouse or child may in itself result in a determination that "serious harm" would occur if the child was returned to a particular jurisdiction

> 35 Likewise, a series of relatively minor derogatory remarks made to a child may by their cumulative effect cause serious emotional damage or harm to the child.
>
> [83] Justice Saunders in *D.M.S.* at paragraph 53 agreed that a determination as to whether serious harm will result to a child is a "highly fact specific process". He also stated that significant abuse falling within the definition of family violence will perforce constitute serious harm. In his analysis, the word "abuse" captured both the conduct of the perpetrator and the effect on the victim, whereas the term "serious harm" was concerned only with the effect on the victim.

[120] As Justice Donegan determined at para. 80 in *A.G.M.,* I too am not satisfied that I.K. has shown on the civil standard of proof that S. would suffer any harm, or serious harm, if he were returned to P.K.'s care in Alberta. P.K. pleaded for the return of not only S, but of I.K., to try to make their marriage work. I have found that P.K. has not perpetuated family violence on S. From M.M.'s July 29, 2025, email P.K. has been a good and participating parent. P.K. appends many family photographs to his affidavit depicting a happy child. The parties shared in parental responsibilities before their separation.

[121] Also similar to Justice Donegan's finding, this Court cannot be seen to endorse I.K.'s conduct, particularly her misrepresenting in court filings that S has been habitually resident in this province for a year when that clearly was not the case. Such conduct, would as Justice Donegan stated, "cannot be said to favour the fair and efficient working of the Canadian legal system."

[122] Therefore, it is my view this court must decline to take jurisdiction of issues involving S. The proceedings in this province pertaining to that issue are stayed.

Section 77 of the *FLA*

[123] Given my decision, P.K. seeks an order that S be returned to his care in Alberta. Section 77 of the *FLA* provides as follows:

> **Wrongful removal of the Child**
>
> 77 (1) This section applies if a court
>
> (a) may not make an order or decline to make an order under section 74 [*determining whether to act under this Part*], or

> (b) is satisfied that a child has been wrongfully removed to, or is being wrongfully retained in, British Columbia.
>
> (2) In the circumstances set out in subsection (1), the court may do one or more of the following:
>
> (a) make any order that the court is satisfied is in the best interest of the child;
>
> (b) Stay an application to the court for an order, subject to
>
> (i) Recondition that a party to the application promptly start a similar proceeding before an extra provincial tribunal, or
>
> (ii) any other conditions the court considers appropriate;
>
> (c) order a party to return the child to a place the court considers appropriate and, in the discretion of the court, order a party to pay all or part of the expenses reasonably and necessarily incurred for travel and other expenses of the child and of any parties to or witnesses in the preceding.

[124] I am satisfied on the whole of the evidence that it is in S's best interests to order that he be returned to his home in Alberta to the care of P.K. within 30 days (as requested by P.K.) from the date of these reasons, pending further court order by the Alberta court or written agreement of the parties. Since I.K. is unlikely to have the financial means to pay all or part of the expenses to return S to Alberta, I will not make an order that she do so. P.K. will bear the expense of returning S to Alberta.

Orders made

[125] In summary, I have made the following orders:

a. Pursuant to s. 187 of the *FLA*, the July 17, 2025 Protection Order is terminated.

b. Pursuant to s. 72(3) and (4), of the *FLA*, the Child is a habitual resident of Edmonton, Alberta.

c. Pursuant to s. 74(2) of the *FLA*, the British Columbia Supreme Court does not have jurisdiction over the Child to make orders under Part 4 of the *FLA*.

d. Court declines to exercise jurisdiction under the FLA, and stays the Family Law Proceeding before this Court.

e. Pursuant to s. 77(2)(c) of the *FLA*, the Child is to be returned to Edmonton, Alberta within 30 days of this order.

f. Pursuant to s. 215(1) of the *FLA*, the Order Made After Application Without Notice on July 3, 2025 is set aside and terminated.

g. The parties to bear their own costs.

"Dion J."