

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *MacArthur v. Gerrits*, 2020 NSSC 28

Date: 2020-01-21

Docket: SFH No. 1201-067631

Registry: Halifax

Between:

Robert MacArthur

Applicant

v.

Johanna Gerrits

Respondent

Judge: The Honourable Justice Theresa M. Forgeron

Heard: August 28; September 30, 2019; and January 14, 2020 in
Halifax, Nova Scotia

Oral Decision: January 14, 2020

Written Release: January 21, 2020

Counsel: Robert MacArthur, self-represented
Ashley Donald for the Respondent, Johanna Gerrits

By the Court:

Introduction

[1] Eight-year old Simona is the much-loved daughter of former spouses, Robert MacArthur and Johanna Gerrits. Simona is fortunate to have Mr. MacArthur and Ms. Gerrits as parents for they, together with their extended families, provide Simona with love, stability and nurture. In consequence, Simona is a happy, loving, kind, inquisitive, creative and well-adjusted girl.

[2] Unfortunately, life is about to change for Simona. Ms. Gerrits is moving to Barrie, Ontario to live with her fiancé and their new baby. Ms. Gerrits wants Simona to move with them. Ms. Gerrits believes the move is in Simona's best interests. She notes that she was and remains Simona's primary care parent. Ms. Gerrits states that she will continue to meet all of Simona's needs and will ensure that Simona's relationship with her father and his family is maintained.

[3] In contrast, Mr. MacArthur opposes the move. He wants Simona to remain in Nova Scotia where she will continue to live with him, his wife and Simona's five- year old brother. Mr. MacArthur believes that Simona's best interests are served by remaining in his primary care in Nova Scotia where most of her paternal and maternal family live, where her friends live, and where she will continue to attend the same school and activities that she enjoys. In addition, Mr. MacArthur states that he will ensure Simona maintains her relationship with her mother, stepfather and sister.

[4] Because the parties reached agreement on the non-residential parent's parenting time to take effect after Ms. Gerrits moves to Ontario, the only issue which I must decide is whether Simona will live in Ontario with her mother or in Nova Scotia with her father.

Issue

[5] In order to resolve the relocation issue, I will answer the following questions:

- What is the applicable legal test?
- Did Ms. Gerrits prove a material change in circumstances?
- Who is the custodial parent whose views are subject to respect?
- What is the existing parenting arrangement?

- What is the quality of the relationship between Simona and each of her parents?
- How can the maximum contact principle be realized?
- What are Simona's views?
- Are Ms. Gerrits' reasons for moving relevant?
- What disruption would a change in primary care have on Simona?
- What disruption would relocation have on Simona?
- Is it in Simona's best interests to move to Barrie Ontario with her mother or to be placed in the primary care of her father in Halifax, Nova Scotia?

[6] Before delving into these issues, I will review background information to provide context.

Background Information

[7] After living together for about five years, Mr. MacArthur and Ms. Gerrits married on July 25, 2009. Simona was born two years later in the Spring of 2011. Financial struggles created stress and eventually contributed to the parties' separation in 2012.

[8] A separation agreement was signed in 2013. The agreement was based on a joint custody parenting arrangement, with Ms. Gerrits having primary care. This agreement was incorporated into the Corollary Relief Order that issued on January 7, 2015.

[9] After separation, both parties made changes in their personal and financial circumstances. For his part, Mr. MacArthur formed a lasting relationship with Mandy Lapointe. They began to date in November 2012 and eventually married in June 2015. Their son, Merik was born in September 2014. Both Mr. MacArthur and his wife are employed, on a permanent basis, at a local university.

[10] For her part, Ms. Gerrits started dating after the parties' separation. She established several relationships, which she anticipated would be permanent, but which ultimately ended.

[11] In the Spring of 2017, Ms. Gerrits began a relationship with Aaron Jolivet, who is a dentist with the military. Because Mr. Jolivet was posted to Kingston, Ontario soon after the parties began to date, their relationship was a long-distance one. In June 2019, a daughter, named Piper Eloise, was born to Ms. Gerrits and Mr. Jolivet. Ms. Gerrits and Mr. Jolivet are engaged to be married. Ms. Gerrits and

Mr. Jolivet are currently on maternity leave and are living in Halifax pending this decision. Ms. Gerrits is employed in the insurance industry as an adjuster.

[12] In January 2019, Ms. Gerrits sent Mr. MacArthur an email outlining her intention to move, with Simona, to Ontario, where Mr. Jolivet was posted. Mr. MacArthur objected; he filed an Application to Vary on March 14, 2019. Ms. Gerrits filed a Response on June 5, 2019.

[13] The variation proceeding was held on August 28 and September 30, 2019. Before hearing from the witnesses, several sentences were struck from the various affidavits, as was the social science data contained in Ms. Gerrits' written submissions. The evidence that I considered is found in the exhibits and in the testimony of the following people: Amanda MacArthur, Marianne Lohns, Leah Hassin, Robert MacArthur, Aaron Jolivet, and Johanna Gerrits. Oral submissions were also provided to reinforce the parties' extensive written submissions.

[14] The matter returned for oral decision on January 14, 2020.

Analysis

[15] **What is the applicable legal test?**

[16] The law that I must apply to my analysis is stated in *Gordon v. Goertz*, [1996] 2 SCR 27, at paras. 49 and 50, which provide as follows:

49 The law can be summarized as follows:

1. The parent applying for a change in the custody or access order must meet the threshold requirement of demonstrating a material change in the circumstances affecting the child.
2. If the threshold is met, the judge on the application must embark on a fresh inquiry into what is in the best interests of the child, having regard to all the relevant circumstances relating to the child's needs and the ability of the respective parents to satisfy them.
3. This inquiry is based on the findings of the judge who made the previous order and the evidence of the new circumstances.
4. The inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's views are entitled to great respect.
5. Each case turns on its own unique circumstances. The only issue is the best interests of the child in the particular circumstances of the case.
6. The focus is on the best interests of the child, not the interests and rights of the parents.

7. More particularly the judge should consider, inter alia:
- (a) the existing custody arrangement and relationship between the child and the custodial parent;
 - (b) the existing access arrangement and the relationship between the child and the access parent;
 - (c) the desirability of maximizing contact between the child and both parents;
 - (d) the views of the child;
 - (e) the custodial parent's reason for moving, only in the exceptional case where it is relevant to that parent's ability to meet the needs of the child;
 - (f) disruption to the child of a change in custody;
 - (g) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.

50 In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its community. The ultimate question in every case is this: what is in the best interests of the child in all the circumstances, old as well as new?

[17] In *D.A.M. v. C.J.B.*, 2017 NSCA 91, the Court of Appeal held that courts must apply a balanced and comparative approach when deciding relocation cases.

[18] **Did Ms. Gerrits prove a material change in the circumstances?**

[19] Before considering the merits of the relocation application, I must be satisfied that Ms. Gerrits proved a material change in circumstances since the issuance of the CRO. I am so satisfied. Ms. Gerrits' relationship with Mr. Jolivet and her relocation request occurred after the issuance of the CRO. As such, these facts were neither foreseen, nor reasonably contemplated at the time. Ms. Gerrits' relocation will also permanently and substantially change the nature of the parenting arrangement outlined in the CRO. A material change in circumstances was proved.

[20] **Who is the custodial parent whose views are subject to respect?**

[21] In a relocation case, the views of the custodial parent are subject to respect. In *Blennerhassett v. MacGregor*, 2013 NSCA 77, Fichaud, JA held that the custodial parent's views are afforded great respect not because of a legal

presumption, but rather in the child-centered balance, it is often important for a child to remain with the primary custodial parent.

[22] I must therefore determine whether Ms. Gerrits or Mr. MacArthur was the custodial parent. In *Burns v. Burns*, 2000 NSCA 1, Roscoe, JA held that the resolution of this issue involves an examination of two distinct parenting responsibilities. First, the custodial parent generally assumes primary responsibility for making important decisions about the child's health, safety, education and overall welfare. Second, the custodial parent generally assumes primary responsibility for the countless less significant, but obligatory, daily arrangements for the child, such as clothing, hygiene, activities and other mundane affairs.

Position of the Parties

[23] Ms. Gerrits said that she was and is the primary custodial parent whose views are subject to respect. To support her position, Ms. Gerrits made submissions, including the following:

- Simona was born in March 2011. Ms. Gerrits took maternity leave to care for Simona. Ms. Gerrits was primarily responsible for all decision-making because she was physically present more often than Mr. MacArthur.
- Separation occurred when Simona was about a year old. Simona remained in Ms. Gerrits' care. Mr. MacArthur's time with Simona was limited because he spent significant time on employment related activities.
- Ms. Gerrits was primarily responsible for all aspects of Simona's care throughout her life. Mr. MacArthur was not as interested or invested in Simona's life.
- Mr. MacArthur did not always prioritize Simona. Mr. MacArthur's poor history of timely maintenance payments is an example of the lack of priority. Other examples include Mr. MacArthur's creation of a public Instagram account and Mr. MacArthur's failure to support some of Simona's activities.

[24] In contrast, Mr. MacArthur stated that because both he and Ms. Gerrits shared parenting responsibilities, both of their views should be respected. He denied Ms. Gerrits' disparaging allegations and noted as follows:

- Although Ms. Gerrits was Simona's primary care parent, he was always an involved, engaged and appropriate parent since Simona was a baby.

- Ms. Gerrits minimized his parenting time and contributions.
- Child support was an issue when he was not employed or when he was earning considerably less than anticipated. He has been financially secure since he found his current employment in the summer of 2016.
- Mr. MacArthur continued his strong parental involvement as Simona grew. He and his wife moved to Halifax to live in a home across the street from Simona's school. They did so to better meet Simona's needs.
- Simona spent much time with Mr. MacArthur and his family, at times approaching 43%.
- Mr. MacArthur was involved in all aspect of Simona's care and decision-making.
- He and his wife often drove Simona to her appointments because Ms. Gerrits did not have a driver's licence.

Decision on Custodial Parent Designation

[25] I find both Ms. Gerrits and Mr. MacArthur assumed responsibility for decisions affecting Simona. I accept Mr. MacArthur's detailed evidence on this point. I reject Ms. Gerrits' evidence that minimized or disparaged Mr. MacArthur's strong and consistent parenting contributions. I also note that the parties' adoption of joint decision-making is in keeping with the provisions of the Minutes of Settlement and CRO.

[26] Examples of significant decisions made by both Mr. MacArthur and Ms. Gerrits include the following:

- Since Simona was a baby, both parties regularly made and attended health related appointments. Both had prescription filled and vaccinations managed. Both were actively involved in all of Simona's health care needs. Neither parent assumed sole decision-making in this important area. Mr. MacArthur has Simona's health card.
- Daycare at Gracenote and then Excel was the product of joint decision-making.
- Deciding which school Simona would attend was a joint decision. In fact, had Ms. Gerrits' not found an apartment in the desired school district, she was prepared to have Simona register in the school district where Mr. MacArthur lived. The MacArthurs moved to a home across from Simona's

school. These decisions were made to ensure Simona's educational needs were met.

- Both parties regularly participated in school related activities including attending orientation, the first day of school, grading day, parent teacher meetings; monitoring homework and projects; and attending school events.
- Both parties completed the program, Strongest Families, for Simona's benefit.
- Both parties were involved in the bullying incident involving Simona, albeit each had a different perspective and approach.

[27] Examples of some of the many daily and mundane decisions that were made by both parties include the following:

- Both parties provided Simona with her own bedroom, styled to meet Simona's tastes and interests.
- Even though the parenting arrangement is based on primary care and not shared parenting, both parties buy their own food, clothing, toys, books, games and personal items for Simona's use in each of their homes.
- Both parties promote Simona's social life by arranging birthday parties, play dates, sleep overs and ensuring Simona attends activities that she enjoys with children her own age.
- Both parties promote Simona's sense of family by participating in family-based activities and having solid relationships with grandparents and other relatives.
- Both parties spend quality time with Simona, have open and meaningful discussions, ensure consistency and routine, and apply appropriate rules and structure.

[28] Further, although Ms. Gerrits was and remained Simona's primary care parent, Mr. MacArthur played an integral and involved role. Both Ms. Gerrits and Mr. MacArthur exhibit superior parenting skills. Because the parties have superior parenting skills, they generally were able to reach decisions that were in Simona's best interests.

[29] Although both parties were actively involved in decisions affecting Simona's welfare, I nonetheless recognize that Ms. Gerrits likely made more of the daily decisions because she was the primary care provider. As such, I am prepared

to assign weight to the wishes of Ms. Gerrits because she was Simona's primary care parent notwithstanding the equal decision-making role adopted by the parties.

[30] What is the existing parenting arrangement?

Position of the Parties

[31] Ms. Gerrits stated that except for a two-month period in the spring of 2018, she was Simona's primary care giver. She noted that Mr. MacArthur struggled with employment and worked long hours. She said that Mr. MacArthur initially only exercised his parenting time every second weekend. She said that Mr. MacArthur did eventually increase his time with Simona in later years. His parenting time increased to every second weekend, one weekday, PD days, and extra time during holidays and in the summer. The 2018 experiment involving shared parenting failed after two months.

[32] In contrast, Mr. MacArthur stated that Ms. Gerrits minimized his time with Simona. Mr. MacArthur acknowledged that although there were times when he was unable to care for Simona because of work commitments, sometimes working two jobs, he was not an absent father when Simona was a baby. Further, Mr. MacArthur said that as Simona grew and especially after his family moved to Halifax, Simona spent an increasing amount of time with him, often close to 43%. Mr. MacArthur believes that the parenting arrangement is closer to a shared parenting plan than primary care.

Decision on Current Parenting Plan

[33] I find that although the parenting plan was based on a primary care model, that Simona spent increasing amounts of time with the MacArthurs, and at times close to 40% of her time. In reaching this conclusion, I find that Ms. Gerrits minimized the time that Simona was parented by Mr. MacArthur. I find that Simona's parenting time was generally as follows:

- Every second weekend
- Every Wednesday
- Many of the school PD days
- Half of the school holidays
- Close to half of the summer vacation
- Other times as requested for special events or activities

[34] What is the quality of the relationship between Simona and each of her parents?

[35] Both parties recognize that Simona enjoys a loving relationship with the other parent. Ms. Gerrits, however, states that Simona is emotionally closer to her because she was the primary care parent and she is more sensitive to Simona's needs.

[36] As I stated previously, Simona is most fortunate to have Ms. Gerrits and Mr. MacArthur as parents. Although the parties do not parent in the same way, they are both loving, committed and skilled parents. Simona loves both of her parents and will be at a loss should either be removed from her life.

[37] Neither parent has a superior relationship with Simona despite the difference in parenting styles. Simona's relationship with each of her parents is excellent. She feels loved, safe, secure, connected and happy in the care of her mother and in the care of her father. Simona's relationships with her mother and her father are healthy, mature and appropriate.

[38] How can the maximum contact principle be realized?

Position of the Parties

[39] Mr. McArthur and Ms. Gerrits reached agreement on the parenting time to be exercised by the non-residential parent once Ms. Gerrits moves to Ontario. The parenting time will include visits during long weekends; March break; Easter; half of the school break during the December holidays; six weeks in the summer and reasonable access. Parenting time will also include frequent telephone and video conferences. Further, both parties are willing to make concessions on child support given the high cost of access.

[40] Ms. Gerrits is confident that Simona will maintain a strong relationship with her father as a result of this agreement and because she is willing to pay Simona's expenses to travel to Nova Scotia monthly.

[41] Mr. MacArthur disagrees. From his perspective, Mr. MacArthur states that it would be easier for Ms. Gerrits to visit Simona in Halifax than for him to visit Simona in Ontario. He notes that Ms. Gerrits' household has more income and Ms. Gerrits has close friends in Halifax where she can stay.

Decision

[42] Once Ms. Gerrits moves to Ontario, Simona will have less time with one of her parents. That outcome is inevitable given the geography. The agreement outlining the new parenting arrangement for the non-residential parent will ensure ongoing contact between Simona and each of her parents. This schedule, however, is not as optimal as the current parenting arrangement. Further, this arrangement is fraught with logistical challenges, such as financial pressures; adverse weather and flight cancellations; Simona's availability given her educational, social and activity commitments; and the parent's ability to leave work to travel with Simona until Simona can fly unaccompanied.

[43] In reviewing the circumstances, I find that maximum contact is more likely to be achieved if Simona is placed in the residential care of her father rather than in the care of her mother. I make this finding for the following reasons:

- Mr. MacArthur has no family or friends in Barrie, Ontario. Therefore, he will likely incur additional travel expenses such as those associated with cabs, hotels, and restaurants. He likely cannot afford such expenses on an ongoing basis. These expenses will act as a deterrent to regular travel to Ontario.
- Ms. Gerrits will not likely incur many of these expenses when travelling to Nova Scotia because she has friends and family in the area who can provide accommodation and transportation.
- Ms. Gerrits has a higher household standard of living than does Mr. MacArthur. Mr. Jolivet is willing to assist with Ms. Gerrits' expenses.
- Ms. Gerrits can more readily travel with Piper than Mr. MacArthur can with Merik. Piper is a baby. Merik attends school and thus has a reduced opportunity window for travel to Ontario.

[44] **What are Simona's views?**

[45] I have no independent evidence as to Simona's views on the proposed relocation request. I infer, however, that she is likely troubled by the changes that will inevitably flow because of the relocation. The relocation will mean significant changes to Simona's world, no matter where she lives.

[46] **Are Ms. Gerrits' reasons for moving relevant?**

[47] The reasons behind Ms. Gerrits' request to relocate are not relevant because the move was not initiated to thwart Mr. MacArthur's parenting, or for any other

inappropriate motive. Despite this finding, I accept that Ms. Gerrits wants to share her reasons. She wants to move to Ontario to continue her relationship with her fiancé, to form an intact family, and to improve her financial and emotional security. These motives are all positive. Improved family, emotional and financial security will also positively impact Simona. That is a given.

[48] What disruption would a change in primary care have on Simona?

Position of the Parties

[49] Ms. Gerrits states that a change in primary care will be devastating for Simona. Ms. Gerrits detailed the “incredibly strong bond” that she shares with Simona. To underscore her point, Ms. Gerrits points to the failed shared parenting experiment in the spring of 2018. She argues that Simona’s inability to separate from her under a shared parenting regime is proof that Simona won’t manage a change in primary care. Ms. Gerrits believes that Simona flourishes when she lives primarily with her.

[50] In contrast, Mr. MacArthur disagrees with Ms. Gerrit’s premise for three reasons. First, he believes that the shared parenting arrangement ended only when he attempted to make the arrangement permanent. He believes that permanency was difficult for Ms. Gerrits, not Simona. He agreed to relinquish the shared parenting regime after discussions with Simona and to keep the peace. Further, he intended to revisit the issue.

[51] Second, after shared parenting ended in the spring of 2018, Simona continued to increase the amount of time that she spent with the MacArthurs. Mr. MacArthur believes that the parenting arrangement is close to the shared parenting threshold in any event.

[52] Third, Mr. MacArthur states that Simona has a healthy and loving attachment to both of her parents, and not just to Ms. Gerrits. Adjustment issues will inevitably arise no matter what the outcome. Mr. MacArthur states that adjustment issues will be lessened if Simona remains in Halifax.

Decision on Change in Primary Care

[53] I find that Simona will experience adjustment issues once the relocation takes effect. How could it be otherwise given that Simona’s life will fundamentally change. I nonetheless find that Simona will not be devastated,

traumatized or emotionally destroyed if there is a change in her primary care parent. I make this finding for the following reasons:

- Simona has strong, healthy attachments to Mr. and Ms. MacArthur. They are sensitive to her needs and are skilled parents. They will be able to provide love, direction, comfort and support necessary to meet all transitional issues. They are also willing to consult experts. Mr. MacArthur is well-positioned to meet Simona's needs should he be granted primary care.
- Simona is well-adjusted and is resilient.
- In February 2018, Mr. and Ms. MacArthur moved to a home located across the street from Simona's school. Because both parents were living in the same neighborhood, Simona spent more time with the MacArthurs. A week-about shared parenting schedule was attempted about a month after the MacArthurs moved to Halifax. Although the strict week-about schedule quickly ended, Simona continued to spend significant, albeit less structured, time with the MacArthurs.
- Simona is now two years older. Developmentally, she can successfully manage longer periods of time away from one parent, including Ms. Gerrits. Simona is no longer an infant. Simona's needs and abilities changed and will continue to change over time.

[54] I find that Simona will be able to adjust if she is placed in the primary care of either parent. Both will continue to ensure that Simona's physical, emotional, social and general welfare needs are met.

[55] What disruption would the relocation have on Simona?

Position of the Parties

[56] Ms. Gerrits states that the many positive benefits associated with the move will outweigh any disruptive or deleterious effects. According to Ms. Gerrits, the positive benefits that Simona will experience include the following:

- An improved family life with her primary caregiver that will include a loving and supportive stepfather and her new baby sister.
- An improved financial situation given Mr. Jolivet's income and financial commitment to Ms. Gerrits and the children. With greater financial security,

Ms. Gerrits can return to school, save for Simona's future and travel on family vacations.

- Settling into a close-knit community where Simona will continue in the Girl Guide movement and where Simona will live in a four-bedroom home, in a bedroom decorated to Simona's choosing, while living close to parks, recreation centers, pools, sport complexes and cottage country.
- Exposure to better opportunities, programs and activities which are available in the area and which will enhance Simona's self-confidence and self-esteem, including a child psychiatrist if Simona requires help with the transition.
- The development of family relationships with Mr. Jolivet's family while maintaining contact with family and friends in Nova Scotia.

[57] In contrast, Mr. MacArthur believes that relocation will cause considerable disruption to Simona which in turn will negatively impact her health and happiness. Examples provided by Mr. MacArthur include the following:

- Loss of significant time with Mr. and Ms. MacArthur and five-year old Merik, who Simona adores, having lived with him and having also attended the same daycare and school. In addition, Simona has known and loved Ms. MacArthur for seven years.
- Loss of significant time with "grandparents" Marianne and Kevin Lohnes who are grandparents, in every good sense of the word, to Simona as is evident from the many family visits; from the consistent participation in family activities; from their attendance at special events and programs in which Simona is enrolled; and from the childcare and support that they provide when needed.
- Loss of significant time with the MacArthur extended family and friends who are happily part of Simona's life.
- Loss of friendships that Simona enjoys and fosters.
- Loss of her home, school, community and activities and all that is familiar and comforting to Simona.

[58] In addition, Mr. MacArthur argues that the move to Barrie, Ontario will not likely be the final move for Mr. Jolivet, and thus Simona. Mr. Jolivet is employed with the Canadian military. He had three postings in three years. Primary residence with Mr. Jolivet means future moves. In contrast, Mr. MacArthur has a

permanent home and employment in Halifax. He states that his plan offers stability.

Decision on Disruption if Relocation Granted

[59] I recognize that relocation to Ontario will result in the continuation of Simona's loving relationship with her mother, baby sister and new stepfather. Relocation also brings the potential of developing new roots and a new community. Nevertheless, relocation will also assuredly bring significant disruption to Simona for the reasons stated by Mr. MacArthur.

[60] Is it in Simona's best interests to move to Barrie, Ontario with her mother or to be placed in the primary care of her father in Halifax, Nova Scotia?

[61] In *Gordon v. Goertz*, supra, the Supreme Court of Canada outlined the ultimate question to be addressed, as follows at para. 50:

50 In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its community. The ultimate question in every case is this: what is in the best interests of the child in all the circumstances, old as well as new?

[62] After completing a balanced, comparative and child-focused analysis of the plans of Ms. Gerrits and Mr. MacArthur, I conclude that in the circumstances of this case, it is in Simona's best interests to remain in Halifax and in the primary care of Mr. MacArthur once Ms. Gerrits relocates to Barrie, Ontario. My decision is based on the following:

- Although Ms. Gerrits was the primary custodial parent whose views are subject to great respect, Mr. MacArthur was and is an engaged and skilled parent. Mr. MacArthur and Ms. Gerrits were equally involved in all significant decisions affecting Simona. Further, both were actively involved in the daily mundane decisions of Simona's everyday life. Mr. MacArthur will have no difficulty assuming decision-making as a primary care parent.
- Since 2018, Simona has spent considerable time at the MacArthurs' home and in Mr. MacArthur's care, at times approaching a shared parenting threshold. The transition to primary care will therefore be made easier.

- Mr. MacArthur, like Ms. Gerrits, is a parent who is sensitive to Simona's needs and exhibits superior parenting skills. He is well-equipped to monitor and assist Simona with any transition issues.
- Simona enjoys a healthy, loving and stable relationship with both of her parents and with Ms. MacArthur as well. Mr. Jolivet is also a positive influence.
- Simona enjoys healthy, loving and stable relationships with Merik, Mr. and Mrs. Lohnes, and extended family members who live in Nova Scotia and who are present in Simona's life.
- Simona is well-connected to her home, school and community. She has flourished in her current environment.

[63] I find that Simona would experience more negative disruption if she is removed from Halifax than she will experience as a result of a change in primary care. Further, the disruption that she will experience from a change in primary care will be offset by the many visits her mother, baby sister and at times, Mr. Jolivet, will be able to make to Nova Scotia, coupled with the visits that Simona will make to Ontario.

Conclusion

[64] Relocation cases involving strong, loving and capable parents are often the most difficult of cases to decide. This is one such case. However, after completing the balanced, comparative and child-focused analysis, I conclude that it is in Simona's best interests to remain in Halifax in her father's primary care with parenting time to Ms. Gerrits in keeping with the negotiated agreement.

[65] The parties and Ms. Donald are thanked for their respectful, objective and focused presentation. Ms. Donald is to prepare the order.

Forgeron, J.