

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Westlake v. Morton*, 2024 NSSC 144

Date: 20240510

Docket: 1201-070109

Registry: Halifax

Between:

Shannon Westlake

Applicant

v.

Sean Morton

Respondent

Judge: The Honourable Justice Theresa M Forgeron

Heard: March 7 and 8, 2024, in Halifax, Nova Scotia

Oral Decision: May 10, 2024

Written Release: May 17, 2024

Counsel: Christopher Robinson, counsel for the Petitioner, Shannon Westlake
Sydney Hull, counsel for the Respondent, Sean Morton

By the Court:

Introduction

[1] Shannon Westlake and Sean Morton are former spouses and the parents of two sons – one who is 14 years old and the other almost 11. Ms. Westlake wants to relocate to the Valley. Mr. Morton opposes the move.

[2] Ms. Westlake states that relocation is in the best interests of the children for four primary reasons:

- Both boys confirmed their desire to move in a Voice of the Child Report (VOC).
- The oldest son is struggling because of significant bullying issues at his current school.
- Both boys love their Valley home and have lived there for significant periods of time. They have transitioned well. They enjoy the community and have an excellent relationship with their mother's fiancé, Gerry Rogers.
- Her financial circumstances will improve which will benefit the children.

[3] Further, Ms. Westlake argues that the move will have little impact on the father son relationship given the boys' ages and the proximity between the Valley and Mr. Morton's home. The proposed move will not disrupt the children's lives.

[4] Mr. Morton opposes the move as not being in the children's best interests for six main reasons:

- Nothing has changed since the court last denied Ms. Westlake's request to relocate to the Valley.
- Relocation will have a negative impact on his relationship with his sons as he will have less time to parent on a day-to-day basis. He is an involved, hands-on father. He has consistently met the boys' social,

educational, psychological, and physical needs. The current parenting plan is based on a shared parenting model. It should not be disturbed.

- The boys lived their entire lives in HRM where they are supported by a solid network of family, adult role models, and friends. Relocation will likely result in the severance or diminishing of these important connections.
- Relocation will substantially increase the children's travel which is problematic, especially in the winter months. The boys will spend a significant portion of their transition days in vehicles.
- Virtual contact is not a meaningful replacement for weekly overnight parenting time as the children will neither be able to participate in their established routines nor enjoy in-person family activities.

[5] I will now address the parties' evidence and concerns through the legal framework to determine if relocation is in the children's best interests.

Issues

[6] The following issues will be addressed in my decision:

- Who bears the burden of proof?
- What is the legal framework that governs relocation requests?
- Is relocation in the children's best interests?
- If so, what parenting schedule is in the children's best interests?

Background Information

[7] After about ten years of cohabitation, the parties married in September 2006. They welcomed their first son in January 2010 and their second son in July 2013. Separation occurred in July 2016.

[8] Following a contested hearing in 2019, a partial and then final corollary relief order issued. During the hearing, Ms. Westlake asked to relocate to the Valley. Her

request was denied. A shared parenting arrangement was found to be in the children's best interests.

[9] After the divorce, Ms. Westlake and the children continued to live in the former matrimonial home in Dartmouth. The children attend school in Dartmouth. They also spend weekends, holidays, and vacations in the Valley with Mr. Rogers.

[10] During the divorce hearing, Mr. Morton was living in Dartmouth. He eventually moved in with his parents, in their home which is situated in Hammonds Plains. During his parenting time, Mr. Morton transports the children to and from school which, depending on traffic, can take between 20 to 40 minutes per trip.

[11] Currently, Mr. Morton is employed as an implementation specialist with Payworks. Ms. Westlake operates an esthetics business from her home in Dartmouth and from her Valley home.

[12] In September 2022, Ms. Westlake applied to vary the parenting provisions of the CRO by requesting to relocate to the Valley with the children. Mr. Morton disputed the application. To better appreciate the children's views, a VOC report was commissioned and completed by Ms. Lana MacLean, MSW, RSW. On July 6, 2023, her report was filed.

[13] The contested relocation hearing was held on March 7 and 8, 2024. Ms. MacLean, Mr. Rogers, Ms. Westlake, Sergeant Kevin Pick, and Sean Morton testified. Further, the affidavits of Dale Morton, Trevor Kellock, Chris Griffen, and Bonnie Jean Cutcliffe were entered as evidence by consent and without the necessity of cross-examination. On March 8, 2024, oral submissions were provided to supplement the parties' written submissions.

[14] On May 10, 2024, I rendered my oral decision and advised that a written decision would be forthcoming. In addition, as neither party suggested that the proposed move to the Valley did not meet the *Divorce Act* definition of "relocation", it was unnecessary for me to address that issue.

Analysis

Who bears the burden of proof?

[15] Ms. Westlake bears the burden of proof pursuant to s.16.93 of the *Divorce Act*, RSC 1985 c. 3 (2nd Supp) as the parties substantially comply with the CRO which provides that the children spend substantially equal time in the care of each

party: *Nova Scotia (Community Services) v SD*, 2022 NSSC 206 at para 92 relying on *KDH v BTH*, 2021 ABQB 548, paras 33 and 34. In the current case, the children spend about 40% of their time in Mr. Morton’s care. Thus, Ms. Westlake must prove that relocation is in the children’s best interests.

What is the legal framework that governs relocation determinations?

[16] The *Divorce Act* directs me to make parenting decisions based on the children’s best interests by examining an extensive list of factors. In addition, in *Barendregt v Grebliunas*, 2022 SCC 22, Karakatsanis J provided an overview of the legal principles which I must apply in relocation cases, noting that the best interests inquiry is highly contextual, with the child’s welfare being at the heart of the inquiry:

[97] But, even with a wealth of jurisprudence as guidance, determining what is “best” for a child is never an easy task. The inquiry is “highly contextual” because of the “multitude of factors that may impinge on the child’s best interest”: *Canadian Foundation for Children, Youth and the Law*, at para. 11; *Gordon*, at para. 20.

[98] The difficulties inherent to the best interests principle are amplified in the relocation context. Untangling family relationships may have profound consequences, especially when children are involved. A child’s welfare remains at the heart of the relocation inquiry, but many traditional considerations do not readily apply in the same way.

[17] Further, Karakatsanis J restated the relocation framework, describing the crucial question as whether relocation is in the child’s best interests, based on a fact-specific review of general best interests factors and those unique to the relocation inquiry:

[152] The crucial question is whether relocation is in the best interests of the child, having regard to the child’s physical, emotional and psychological safety, security and well-being. This inquiry is highly fact-specific and discretionary.

[153] Our jurisprudence and statutes provide a rich foundation for such an inquiry: see, for example, s. 16 of the *Divorce Act*. A court shall consider all factors related to the circumstances of the child, which may include the child’s views and preferences, the history of caregiving, any incidents of family violence, or a child’s cultural, linguistic, religious and spiritual upbringing and heritage. A court shall also consider each parent’s willingness to support the development and maintenance of the child’s relationship with the other parent, and shall give effect to the principle that a child should have as much time with

each parent, as is consistent with the best interests of the child. These examples are illustrative, not exhaustive. While some of these factors were specifically noted under *Gordon*, they have broad application to the best interests of the child.

[154] However, traditional considerations bearing on the best interests of the child must be considered in the context of the unique challenges posed by relocation cases. In addition to the factors that a court will generally consider when determining the best interests of the child and any applicable notice requirements, a court should also consider:

- the reasons for the relocation;
- the impact of the relocation on the child;
- the amount of time spent with the child by each person who has parenting time or a pending application for a parenting order and the level of involvement in the child's life of each of those persons;
- the amount of time spent with the child by each person who has parenting time or a pending application for a parenting order and the level of involvement in the child's life of each of those persons;
- the reasonableness of the proposal of the person who intends to relocate the child to vary the exercise of parenting time, decision making responsibility or contact, taking into consideration, among other things, the location of the new place of residence and the travel expenses; and
- whether each person who has parenting time or decision-making responsibility or a pending application for a parenting order has complied with their obligations under family law legislation, an order, arbitral award, or agreement, and the likelihood of future compliance.

Is relocation in the children's best interests?

[18] I will now analyze the parties' dispute according to the relocation framework, in keeping with the legislative best interests factors, while concentrating on the issues raised by counsel. In so doing, I applied a balanced and comparative approach as mandated in *DAM v CJB*, 2017 NSCA 91. My analysis will address the following subheadings:

- Double Bind Considerations

- Reasons for Relocation
- History of Caregiving and Parental Involvement
- Views and Preferences
- Nature and Strength of Parent Child Relationship
- Nature and Strength of Child's Relationship with Others
- Needs of Child
- Impact of Relocation on Child
- Safety and Security, including Family Violence
- Support of Other Parent's Relationship
- Reasonableness of the Relocating Parent's Proposal
- Compliance with Court Orders
- Geographic Limitations on Residence
- Relocation Notice Requirements

Double Bind Considerations

[19] Ms. Westlake's counsel suggested that Ms. Westlake would not relocate without the children. I cannot consider this statement. Section 16.92 (2) of the *Divorce Act* and ***Berendregt***, *supra*, prohibits me from so doing. Section 16.92(2) states:

(2) In deciding whether to authorize a relocation of the child, the court shall not consider, if the child's relocation was prohibited, whether the person who intends to relocate the child would relocate without the child or not relocate.

[20] Likewise, in ***Berendregt***, Karakatsanis J confirmed that the court is prohibited from considering whether the moving parent will relocate without the children at paras 140 and 154:

[140] The same approach is now reflected in the *Divorce Act*: s. 16.92(2) precludes the court from considering whether the moving parent would relocate with or without the

children. I would add that a responding parent could just as easily fall victim to the problematic inferences associated with the double bind: see *Joseph v. Washington*, 2021 BCSC 2014, at paras. 101-11 (CanLII). Therefore, in all cases, the court should not consider how the outcome of an application would affect the parties' relocation plans.

....

[154]

The court should not consider how the outcome of an application would affect either party's relocation plans — for example, whether the person who intends to move with the child would relocate without the child or not relocate. These factors are drawn from s. 16.92(1) and (2) of the *Divorce Act* and largely reflect the evolution of the common law for over 25 years.

Reasons for Relocation

[21] Although I must consider Ms. Westlake's reasons for the proposed move, I must also be mindful of the comments of Karakatsanis J in *Barendregt*. She cautioned against casting judgment on a parent's reasons for moving, or allowing those reasons to deflect from the true focus of a relocation application:

[129] That said, the court should avoid casting judgment on a parent's reasons for moving. A moving parent need not prove the move is justified. And a lack of a compelling reason for the move, in and of itself, should not count against a parent, unless it reflects adversely on a parent's ability to meet the needs of the child: *Ligate v. Richardson* (1997), 34 O.R. (3d) 423 (C.A.), at p. 434.

[130] Ultimately, the moving parent's reasons for relocating must not deflect from the focus of relocation applications — they must be considered only to the extent they are relevant to the best interests of the child.

[22] I am satisfied that Ms. Westlake's reasons for moving do not reflect adversely on her ability to meet the children's needs. Ms. Westlake seeks to move for four main reasons. First, she believes that relocation is in her children's best interests. Second, she is concerned about the bullying in her son's current school. Third, she wants to live with her fiancé on a full-time basis. Fourth, she believes that her financial circumstances will improve if she moves permanently to the Valley. Improved financial circumstances will also benefit the children. There is nothing in these stated reasons which raise any concerns.

History of Caregiving and Parental Involvement

[23] In *Barendregt*, Karakatsanis J also noted that the history of caregiving is a relevant consideration. However, she held that ultimately the court must determine

the relocation request in the context of the particular child in the particular circumstances of the case. She said that relocation may be appropriate even where there has been an historical pattern of co-parenting:

[123] Therefore, in all cases, the history of caregiving will be relevant. And while it may not be useful to label the attention courts pay to the views of the parent as a separate “great respect” principle, the history of caregiving will sometimes warrant a burden of proof in favour of one parent. Indeed, federal and provincial legislatures have increasingly enacted presumptions, bringing clarity to the law. In all cases, however, the inquiry remains an individual one. The judge must consider the best interests of the particular child in the particular circumstances of the case. Other considerations may demonstrate that relocation is in the child’s best interests, even if the parties have historically co-parented.

[24] Further, Karakatsanis J also discussed the interpretative overreach that courts often applied to the maximum contact principle. In so doing, she noted that the maximum contact principle is better referenced as the “parenting time factor”, and that parenting time must always be consistent with the child’s best interests:

[135] These interpretations overreach. It is worth repeating that what is known as the maximum contact principle is *only* significant to the extent that it is in the child’s best interests; it must not be used to detract from this inquiry. It is notable that the amended *Divorce Act* recasts the “maximum contact principle” as “[p]arenting time consistent with best interests of child”: s. 16(6). This shift in language is more neutral and affirms the child-centric nature of the inquiry. Indeed, going forward, the “maximum contact principle” is better referred to as the “parenting time factor”.

[25] In the present case, both parents were active and involved parents who, since 2016, have followed a shared parenting plan, with Ms. Westlake having the children in her care for slightly more time than Mr. Morton. Both parties were highly involved in their children’s lives and prioritized their needs to the best of their abilities.

Views and Preferences

[26] The children’s views and preferences are but one factor which must be balanced when conducting a best interests analysis. In *McIntyre v Veinot*, 2016 NSSC 8, Muise J relied on *Decaen v Decaen*, 2013 ONCA 218 to provide an overview of relevant factors when assessing children’s wishes:

42 In assessing the significance of a child's wishes, the following are relevant: (i) whether both parents are able to provide adequate care; (ii) how clear and unambivalent the wishes are; (iii) how informed the expression is; (iv) the age of the child; (v) the maturity level; (vi) the strength of the wish; (vii) the length of time the preference has been expressed for; (viii) practicalities; (ix) the influence of the parent(s) on the expressed wish or preference; (x) the overall context; and (xi) the circumstances of the

preferences from the child's point of view: See Bala, Nicholas; Talwar, Victoria; Harris, Joanna, "The Voice of Children in Canadian Family Law Cases", (2005), 24 C.F.L.Q. 221. ..."

[27] Further, in *Parent v MacDougall*, 2014 NSCA 3, Oland JA confirmed that the weight to be ascribed to a child's expressed wishes must be determined based on circumstances unique to that child, and not solely based on the child's age: paras 31 to 34.

[28] In the current case, each child expressed their wishes through a VOC report authored by Ms. MacLean. Each child confirmed that they want to relocate to the Valley with their mother. Ms. MacLean noted at page 8 of the VOC report:

... Overall, the children identify having a more balanced home life under their mother's care. This is reasonable given they spend the majority of their time with Ms. Westlake. Under her parenting time the children describe and experience their time in the Valley with excitement and opportunity to learn new life skills. They have, in some ways, already shifted their thinking from viewing the Valley as a place they visit to a place they now identify as home.

[29] Ms. Westlake asks that the court ascribe significant weight to the children's wishes. In contrast, Mr. Morton argues otherwise. Mr. Morton states that the children's wishes should attract little weight because they are a product of their mother's influence.

[30] I dismiss Mr. Morton's submission for three reasons. First, Ms. MacLean was an objective professional witness who thoroughly reviewed all documents received, conducted multiple clinical interviews, and properly assessed the information gathered according to professional guidelines. I accept her report as balanced, reliable, and accurate.

[31] Second, Ms. MacLean stated that although neither party directly attempted to influence the children's views, the children were nonetheless aware of their father's apprehensions over changes to the current parenting plan as well as their mother's desire to move. At page 10 of her report, Ms. MacLean summarized the impact of parental influence as follows:

The children have been influenced by general family conversation over time. It does not appear to have any significant influence on their preferences and viewpoints but does provide context to their wishes.

[32] Third, I am satisfied that Ms. MacLean accurately assessed the children's maturity in respect of their ability to express their wishes. Ms. MacLean noted that

13-year-old Gregor “presents with a reasonable level of competency to present his viewpoints and preference”: page 10 VOC. She noted that “[i]n terms of maturity, Gregor presents like all youth at his present development stage, with his primary focus on having his needs met:” page 11 VOC. Ms. MacLean also spoke favourable of Gregor being able to draft a list of pros and cons associated with a permanent move to the Valley. Further, Ms. MacLean noted that Gregor had “... the ‘maturity’ to take into consideration Mr. Morton’s feelings” and “is hopeful that additional time with his father over the summer would be a mitigating factor to any potential loss of parenting time”: page 11 of the VOC.

[33] Similarly, Ms. MacLean noted that 9 ½ -year-old Maxwell “presents with a quiet disposition and has the capacity to present his views and preferences”: page 11 of the VOC. She added that Maxwell’s “ability to reflect on the question posed and his thoughtfulness and balanced observation of life experiences with both parents” provided her with “a reasonable level of confidence in his capacity to present to the Court his viewpoint and preferences”: page 12 of the VOC.

[34] I am satisfied that the children’s expressed wishes accurately capture their true preferences about where they want to live. I am satisfied that each child’s preference was thoughtfully reached after fully appreciating the impact that relocation will have on them. I am satisfied that their views were clearly and concisely stated – without ambivalence or hesitation. I am also satisfied that each child was sufficiently mature to provide their wishes without being unduly influenced by either party. As such, I am satisfied that the wishes of each child should be afforded significant weight in the context of this case and these children.

Nature and Strength of Parent Child Relationship

[35] The children have strong relationships with both parents. I find, however, that the children are more closely aligned with their mother. As noted in the VOC report, the children experience a more balanced homelife with Ms. Westlake who provides love, nurture, and opportunities to engage in organized activities, unstructured play and relaxation. In contrast, Mr. Morton, who also provides love and nurture, places too much emphasis on activities. As noted by Gregor at page 8 of the VOC report:

With dad it’s always ‘Go! Go! Go!’ We are always doing something. With mom we have more down time, and when we are in the Valley, Max and I get to do things, but we also just get to relax too. ...

Nature and Strength of Child’s Relationship with Others

[36] The children have loving and supportive relationships with their extended family. They love their paternal grandparents and extended family. They also love Gerry Rogers who is Ms. Westlake's fiancé. They have positive relationships with friends of their parents. Maxwell has a supportive network of friends in Dartmouth and the Valley. Gregor has no positive peer friendships in Dartmouth, but he is forming positive friendships in the Valley. The children will continue to be supported by extended family members regardless of the relocation decision.

Needs of Child

[37] I am satisfied that both parents can meet the children's physical and social needs. They will each ensure that the children have appropriate housing, clothing, and nutritional food. They are both capable of ensuring the children's participation in activities, with Mr. Morton emphasizing more activities and Ms. Westlake encouraging both structured and unstructured play. Mr. Morton also encourages the children's participation in their Celtic heritage, especially during summer visits to Cape Breton.

[38] A more pressing concern, however, has arisen with respect to the oldest child. Gregor is being ruthlessly bullied at school. The issue has been ongoing for about two years. Not surprisingly, Gregor has experienced significant difficulties because he is bullied. In an unsuccessful attempt to fit in, Gregor has made poor decisions and was even suspended from school.

[39] Ms. Westlake and Mr. Morton have taken different approaches to help Gregor manage the situation. I prefer Ms. Westlake's approach. I find that Mr. Morton's approach has not helped Gregor for the following reasons:

- Mr. Morton does not fully appreciate the harm that Gregor has experienced. Mr. Morton minimizes the problem. Contrary to what Mr. Morton stated, Gregor's situation has not improved, and the bullying issues have not dissipated. Minimization has not proven to be an effective or useful parenting tool.
- Mr. Morton believes that, in concert with administration, Gregor should stand his ground and face his fears. This approach does not suit Gregor's personality.

- Mr. Morton poorly handled the vape incident that arose when the paternal grandmother threw out a vape appliance that she found in Gregor's room. Gregor told Mr. Morton that the vape belonged to another student and that he would be in trouble unless the lost vape was replaced. Rather than seeking the principal's help, Mr. Morton purchased another vape and gave it to Gregor to return to the student. Mr. Morton agreed that his conduct was legally and morally wrong. Mr. Morton also agreed that his conduct could have created more issues for Gregor at school.

[40] For her part, Ms. Westlake has not minimized the problems that Gregor has experienced. As a result, she is better equipped to assist. Further, Gregor felt supported by Ms. Westlake and Mr. Rogers.

[41] Relocation will provide Gregor with a fresh start and significant opportunity to forge positive friendships. The evidence confirms that Gregor does not have a positive friend group in Dartmouth and that better opportunities exist for Gregor in the Valley. Gregor has started making friends in the Valley and he feels happier and more secure there.

Impact of Relocation

[42] Relocation will impact the children. Relocation will mean that the children will move from their Dartmouth home. They will change schools. Current friendships will likely be disrupted. They will see their father and grandparents less regularly. Will these impacts be positive or negative?

[43] For Gregor such changes will almost exclusively be positive. He will no longer be the subject of ridicule and scorn at the hands of bullies. His fears and anxieties will likely reduce. He currently has no friends at school. He will likely form prosocial friendships upon his permanent move to the Valley.

[44] Gregor also feels more settled in the Valley. He loves his Valley home and the rural lifestyle. He enjoys learning new skills with Mr. Rogers. He is looking forward to a fresh start. He will miss his father and grandparents, but the parenting plan can be adjusted to ensure lots of quality parenting time with Mr. Morton, especially when school is not in session.

[45] As for Maxwell, although he will miss his father, grandparents, friends, and other adult role models, he also loves the Valley and wants to permanently transition there. Maxwell expressed a strong preference for Valley life.

[46] Valley life is not an unknown as both children have spent considerable time there. They enjoy the more rural lifestyle, where they explore the wilderness and coastline; learn about plants, wildlife, crops, livestock; and learn to safely operate tools and fix small machinery.

[47] In addition, a permanent move will not terminate the children's important familial relationships. The parenting plan will be adjusted to ensure that the children maintain their relationships with their father, extended family, and friends. Further, the children will be relocating to the Valley, not another province or country.

Safety and Security, including Family Violence

[48] I am satisfied that there are no current safety and security issues while the children are in either parent's home.

Support of Other Parent's Relationship

[49] The parties do not communicate well. They mistrust each other. They consistently interpret the other's conduct in a negative light. Their poor communication has not significantly impacted the children.

[50] If relocation is granted, I find that Ms. Westlake will support and encourage the children's relationship with Mr. Morton because she fully appreciates that the children love their father and need to have a positive relationship with him and his family. Further, Ms. Westlake respects court orders.

Reasonableness of the Relocating Parent's Proposal

[51] Ms. Westlake has proposed significant changes in the current parenting plan to ensure that the children's relationship with their father will be maintained. Proposed changes include increased parenting time when the children are not in school. Ms. Westlake also proposes to equally share transportation by meeting half-way between the two homes.

Compliance with Court Orders

[52] Despite their conflict, both parties adhere to the parenting provisions of the CRO. There are occasional difficulties, such as when COVID emerged in the spring of 2020. I don't place much significance on this short-lived period. At the time, Nova Scotians were facing an unforeseen emergency. Governments and parents were struggling to understand the legal and medical ramifications of the pandemic and ever-changing government directives.

Geographic Limitations on Residence

[53] Ms. Westlake's previous application to relocate to the Valley was denied and this prohibition is noted in the current CRO. Despite her desire to move, Ms. Westlake and the children continue to live in the former matrimonial home and the boys attend school in Dartmouth. The children also spend time in the Valley during Ms. Westlake's parenting time when the children are not scheduled to attend school. As noted by Ms. MacLean, because the children spend significant time in the Valley, they already consider the Valley their home and not simply a place to visit.

Relocation Notice Requirements

[54] Ms. Westlake fulfilled all notice requirements as mandated in the *Divorce Act*.

Summary of Best Interests Factors

[55] After weighing the various factors within the relocation framework, I find that Ms. Westlake proved that it is in the children's best interests to relocate to the Valley. Although the current parenting plan is one of shared parenting, Ms. Westlake is equipped to meet the children's needs, especially their emotional needs. Further, the children have expressed a strong preference to live in the Valley with their mother and her fiancé. The children's wishes were based, in part, on their experience of family and community life in the Valley where they spend considerable time.

[56] In addition, many of the impacts associated with relocation will be positive, especially for Gregor who has experienced significant issues at his current school. Ms. Westlake will also ensure that the children's relationship with their father will be maintained by adjusting the parenting plan to provide for quality parenting time, especially when the children are not in school.

[57] What parenting schedule is in the children's best interests?

[58] Each party has presented their proposed parenting plan in the event relocation was approved. I have reviewed their proposals, although I have not

accepted either proposal in its entirety. For example, it is in the children's best interests to alternate weekends with each parent because the children need to have "down-time" with both parents and their friends. I also took into consideration the travel issue.

[59] Unless the parties reach an alternate agreement, the following parenting plan will replace the current plan once Ms. Westlake relocates to the Valley.

Regular Schedule

[60] Mr. Morton will exercise parenting time with the children at the following times:

- During every second weekend, Mr. Morton will have the children in his care from 5:30 PM on Friday until Monday morning at 7:30 AM. Should there be no school on Friday, Mr. Morton's parenting time will commence at 5:30 PM on Thursday. Should there be no school on Monday, Mr. Morton's parenting will extend to Tuesday morning at 7:30 AM. Parenting transitions will occur at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers to reduce opportunities for conflict.
- When Mr. Morton is in the Valley, he will exercise parenting time every Tuesday from after school until 8:00 pm. Mr. Morton must confirm his intention to exercise this parenting time by Monday at 8:00 PM. When he attends, Mr. Morton will pick the children up from school and return them to Ms. Westlake's home, while remaining in his vehicle.
- Mr. Morton may exercise reasonable, virtual parenting time as arranged directly with the children and at times convenient to them.

[61] Ms. Westlake will exercise parenting time for the balance of the time. Ms. Westlake may also exercise reasonable, virtual parenting time when the children are in the care of Mr. Morton.

Holiday and Vacation Schedule

[62] The holiday and vacation schedule will replace the regular schedule.

Christmas

[63] During Christmas of the even numbered years, Mr. Morton will exercise parenting time from 5:30 PM of the last day of school until 2:30 PM on December 25. Ms. Westlake will exercise parenting time from 2:30 PM on December 25th until school recommences. Parenting transitions will occur at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers.

[64] During Christmas of the odd numbered years, Ms. Westlake will exercise parenting time from 5:30 PM of the last day of school until 2:30 PM on December 25. Mr. Morton will exercise parenting time from 2:30 PM on December 25th until 2:30 PM on the day before school recommences. Parenting transitions will occur at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers.

Easter

[65] During every Easter, Mr. Morton will exercise parenting time from 5:30 PM on Holy Thursday until 5:30 PM on Easter Sunday. Ms. Westlake will exercise parenting time for the balance of the Easter holiday. Parenting transitions will occur at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers.

March Break

[66] Mr. Morton will exercise parenting time every March break to include his weekend as well as the school break from Monday to Friday. Thus, if Mr. Morton's regular parenting time is scheduled for the first weekend of March break, he will continue his parenting time until Friday at 5:30 PM. If Mr. Morton's regular parenting time is scheduled for the second weekend of March break, he will begin his March break parenting time at 5:30 PM on Monday and will maintain his parenting time until the following Monday at 7:30 AM. Parenting transitions will occur at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers.

Summer Vacation

[67] Summer vacation includes nine weeks from the first Sunday after school ends in June until the last Sunday before school resumes in September. For 2024, summer vacation begins the week of June 30 and ends the week of August 25th. Mr. Morton will exercise parenting time during five weeks of the summer school

vacation commencing the first week of summer vacation, and continuing every second week thereafter. Ms. Westlake will exercise parenting time during the remaining four weeks of the summer vacation. Parenting transitions will occur at 5:30 PM on Sundays at Exit 8A. Only the children will exit or enter the vehicles during the parenting transfers.

Communication

[68] The only other change to the parenting provisions of the last court order relates to communication. Except in the case of an emergency, the parties will communicate through an agreed-upon Parenting App. Communication will be solely about the children's health, education, and general welfare. Communication must be civil, respectful, child focused, and timely.

[69] Further, Ms. Westlake must supply the names and contact information for the children's new principals, teachers, coaches, and medical professionals as soon as they are determined.

Conclusion

[70] After conducting a balanced and comparative analysis of the relocation framework and best interests analysis, I find that Ms. Westlake proved that it is in the children's best interests to relocate with her to their Valley home with adjustments to the parenting schedule to ensure that the children's relationship with their father is maintained.

[71] Counsel for Ms. Westlake is to draft and circulate the variation order.

[72] If either party seeks an order for costs, they are to file written submissions within 30 days, with a response to be filed 30 days later. I do note, however, that both parties advocated for what they sincerely believed was in their children's best interests and the litigation was conducted, for the most part, in a streamlined and efficient manner.

Forgeron, J.