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**IN THE FAMILY COURT
AT CHRISTCHURCH**

**I TE KŌTI WHĀNAU
KI ŌTAUTAHI**

**FAM-2021-009-001804
[2022] NZFC 8422**

IN THE MATTER OF	THE CARE OF CHILDREN ACT 2004
BETWEEN	[LAYLA HOBBS] Applicant
AND	[SAMUEL HOBBS] Respondent

Hearing: 2 August 2022

Appearances: C Williams for the Applicant
H Beck for the Respondent
S McNulty as Lawyer for the Child

Judgment: 25 August 2022

RESERVED JUDGMENT OF JUDGE T E MCKENZIE

[1] [Jacob] is aged five. His parents [Layla Hobbs] and [Samuel Hobbs] are both US citizens. They met in [date deleted – 2011] and were married on [date deleted – 2013]. They moved to New Zealand in the early part of their marriage and have each obtained New Zealand residency. [Jacob] was born here on the [date deleted – 2017] and so is a New Zealand citizen by birth. The parties separated and [Jacob’s] mother has remained in New Zealand, while his father has returned to [location deleted –

America], where he remains permanently and where the paternal and maternal family reside.

[2] The matter proceeded by way of a defended fixture and I have heard over the course of the fixture, evidence from each of [Jacob's] parents and members of each parents' family.

[3] The central issue for determination is, firstly, whether a final protection order should be made protecting [Jacob's] mother and [Jacob] and, secondly, the nature of the final care arrangements for [Jacob]. There is no dispute that [Jacob] should remain in the predominant care of his mother in New Zealand. The matter at issue is the nature of contact that should occur with his father, whether that should be overnight and in New Zealand or whether it can extend to the father's country of origin and include overnight over prolonged periods. That assessment extends to undertaking a safety assessment pursuant to s 5A.

[4] The hearing took a surprise turn in the final hour of day 2. During questions from me, [Mr Hobbs] conceded that if I could ensure for him certainty that [Jacob] would remain in New Zealand, he would seriously consider returning to live here permanently. That information abruptly changed the landscape.

[5] I needed to be mindful that I did not place any unconscious pressure on [Mr Hobbs] and so, with the agreement of counsel, it was decided that the hearing would proceed uninterrupted by this. I was to make a determination on the matters before me without consideration of this new evidence, counsel would consider their positions within the next 6 weeks and submit a memorandum to the court by no later than the 19th September as to their client's positions. The matter would be allocated a telephone conference with me in the week following, setting out what further directions were still sought to enable final decisions to be made.

[6] I was also able to record that by agreement, [Jacob] could spend an overnight visit with his father on 3rd August subject to the conditions that he be dropped to school, that the paternal grandparents were to be present and that none of the adults were to consume alcohol.

Background

[7] After the parties married in 2013, they holidayed in New Zealand and decided that their family would benefit from a slower pace of life offered here. They elected to move permanently. Ultimately, they arrived in New Zealand on [date deleted – 2014], initially to [city 1] and then to [city 2] for five years. There was subsequently a move to [city 3] for 10 months where the mother commuted for periods for work and finally, in October 2020, a return to [city 1].

[8] It was while they resided in [city 1] that their relationship ended. There is some dispute as to the exact date that occurred, [Mrs Hobbs] stating that it was mid-November 2021 whilst [Mr Hobbs] asserts that it was October 2021. Little turns on this point.

[9] In October 2021, prior to the separation, [Mr Hobbs] and [Jacob] travelled to America together for an agreed period of 3 months. The original plan was for time with [Jacob] to be shared by the paternal/maternal family and towards the end of the 3-month period, [Mrs Hobbs] would travel to America to join them.

[10] The evidence of [Mr Hobbs] was that shortly after his arrival, he came to the realisation that his marriage needed to end. He did not communicate that decision to his wife; however, she became suspicious, and made a quick and unexpected trip to America. She became concerned that [Mr Hobbs] was positioning himself to retain the care of [Jacob] in America and so she left with [Jacob] without notice to any paternal family and returned to New Zealand.

[11] Proceedings then commenced by [Mrs Hobbs] upon her return in December 2021. She sought an on-notice protection order, a without notice order preventing [Jacob's] removal from New Zealand and a parenting order securing to her the primary care of [Jacob]. The latter two orders were made. Since then contact has been exclusively in New Zealand by agreement and subsequently by court order. It is limited to day-time visits at the discretion and upon the terms stipulated by [Mrs Hobbs]. When [Jacob's] father is in America, he can exercise telephone and video contact with [Jacob].

[12] The **applicant's position** is that she is seeking the making of a final protection order. It is her evidence that she remains fearful of the respondent, that there is ongoing family violence and she is both scared and uncomfortable around [Mr Hobbs].

[13] The **respondent's position** is that he does not accept that an order is necessary. He is residing in America. The parties have been able to sustain a civil and polite exchange over [Jacob] since their separation and he does not accept that there is any necessity for the order to be made.

Issue one

Protection order

[14] I am required to determine three matters when considering the appropriateness or otherwise of a protection order:

- (a) That the parties have been in a relationship;
- (b) That there has been family violence within the definition of the Act;
and
- (c) That a final protection order is necessary.

The evidence

[15] There have been multiple allegations of family violence. Throughout the proceedings some of these incidents have been accepted by [Mr Hobbs]. Some have been denied. I intend, at first instance, to refer to the accepted incidents:

- (a) In mid-2011 it was agreed that [Mrs Hobbs] sustained injury to her nose after [Mr Hobbs] threw a purse at her. It was agreed that the assault was intended but that the severity of the injury was not.
- (b) In mid-2012, after returning from a holiday, it is alleged by [Mrs Hobbs] that she was pushed into a window and that [Mr Hobbs] broke her laptop. It is accepted that the laptop was broken but [Mr Hobbs]

denies pushing her. After this incident the parties married and moved to New Zealand.

- (c) In March 2015, while [Mrs Hobbs'] sister and family were on holiday in New Zealand, it was claimed that [Mr Hobbs] pushed the car occupied by [Mrs Hobbs] and her brother and became abusive during a road trip resulting in him walking part way home from Glenorchy to Queenstown. It is acknowledged by [Mr Hobbs] that this incident occurred but that there was no abuse, rather, he was trying to stop the vehicle from travelling on the incorrect side of the road.
- (d) An incident of significance occurred in 2015 when it was claimed by [Mrs Hobbs] that she was grabbed, dragged inside, thrown against a wall and strangled with both hands. This is acknowledged by [Mr Hobbs].
- (e) [Mr Hobbs] has acknowledged 2 serious suicide attempts in 2009 and 2010 and has been receiving therapy irregularly since. There were claims of further threats to suicide allegedly made in New Zealand, but which were denied by [Mr Hobbs].
- (f) In January 21, [Mr Hobbs] told the applicant that he was going to kill himself and told [Jacob] "daddy loves you; I won't see you again, I am going to kill myself, goodbye". [Mr Hobbs] acknowledges his actions were completely inappropriate towards [Jacob] and easily interpreted by [Mrs Hobbs] as a suicidal threat. He denies he had any intention of harming himself.

[16] There were, over the following four to five years, many incidents set out by [Mrs Hobbs]. Those incidents, without in any way limiting their severity or the fear that the incidents would promote, are in general terms described below:

- Threw a phone into a ditch

- Destroyed two cell phones in May 2020 and 2015;
- Kicked a hole in the wall in May 2018;
- Sustained verbal abuse during arguments.
- Threw a laptop and broke it
- Punched a hole in a wall in March 21, although he admits to slapping a wall
- Created an alter ego referred to as [name deleted] which he knew was not liked by [Mrs Hobbs]
- He accepts that he stated he intended to return to the home for the purposes of a property valuation. For reasons advanced later in this judgement, I do not accept that to be family violence.

Denied events

[17] There were also many incidents denied by the respondent in whole or in part. For example, [Mr Hobbs] accepts that the couple shared an iCloud account. This became a means of claimed control by [Mrs Hobbs], however, [Mr Hobbs'] evidence was that, in fact, it was [Mrs Hobbs] who had initiated the linked emails:

- He denies reading her journals;
- He denies any suicide threats other than the two recorded attempts in the United States before the parties came to New Zealand;
- He denies locking himself in his room for four days;
- He denies pretending to be overseas for three to four weeks;
- He denies throwing broken glass;

- Punching [Mrs Hobbs'] brother's car;
- Cutting up a knee brace;
- Dangerous driving with [Jacob] in the car;
- Excessive consumption of alcohol;
- Abuse of ADHD medication.

Family Violence to [Jacob]?

The closet incident

[18] Of importance in both the decisions relating to family violence and the Care of Children Act applications are the circumstances surrounding claims that [Mr Hobbs] shut [Jacob] in a closet in June 2021 and hit him in the shoulder on 21 August 2021.

[19] In June 2021 [Mrs Hobbs'] evidence was that she observed [Mr Hobbs] holding the door of a closet shut and could hear [Jacob] screaming inside. When challenged, she claims the [Mr Hobbs] pushed her against the entranceway and hit her on two occasions in the back with a fist.

[20] The severity of this is denied by [Mr Hobbs]. He acknowledged the incident occurred but not with the degree of severity as described. The door was held shut by [Mr Hobbs] who did not leave his son unattended, and the duration of the time that the child was in the closet is acknowledged as being no more than 30 seconds.

Has Family Violence Occurred

[21] I do not need to categorise the events as described in terms of their severity. Against the background described, I have reached the inevitable conclusion that there has been family violence within the definition of the Act. [Mr Hobbs] acknowledges it himself and the conclusion, therefore, is inescapable. I find that there has been family violence to varying degrees over a prolonged period.

[22] I must now determine if a final protection order is necessary.

The law

[23] I am required to consider a broad-based assessment of the need for protection in the future and I must have regard to the perception of the applicant, the seriousness and nature of the behaviour and the effect of that behaviour on the applicant.

[24] I am required, in addition, to consider the following factors from the decision of *Surrey* and the decision of *SN v MN*:¹

- (a) A person's past conduct has led to reasonable fears of future violence;
- (b) In a predictive assessment, reliance on past behaviour is a good guide;
- (c) The nature and seriousness of the events;
- (d) Even if the events are minor or trivial, I am entitled to take them into account and to consider whether the actions form part of a pattern of behaviour from which an applicant requires protection; and
- (e) The applicant's conduct is not to be taken into account.

[25] The most obvious factor for consideration is that [Mr Hobbs] resides, in the main, in America and I have been referred to the decision of *Taylor v Nudd* where a successful application was made, notwithstanding that the parties resided in New Zealand and Australia separately.² The distinct difference between that decision and the current matter is that the husband continued to contact the applicant with what was described as "irregularity and a determination that the applicant found oppressive".

[26] Whilst I am satisfied that America is a considerable distance away, I am aware that the parties will need to communicate regarding [Jacob] for some considerable

¹ *S v S* [2008] NZCA 565, [2010] 2 NZLR 581; *SN v MN* [2017] NZCA 289.

² *Taylor v Nudd* [2000] NZFLR 391 (FC).

period of time. I am also aware that the parties have yet to resolve relationship property matters, some of which include some quite thorny issues of financial mismanagement and alleged forgery of a bank loan by [Mrs Hobbs].

[27] In summary, despite the distance, I am aware of the necessity of future contact.

[28] The respondent has an obligation to point to factors which mitigate the making of the order. He has provided evidence of attendance a number of courses and therapies that he has undertaken both during and subsequent to the parties' marriage. He has attended and altered his ongoing medication. He has completed four sessions of Stopping Violence which covered the 12 group sessions. He has undertaken cognitive behaviour therapy after his suicide attempts in America and that therapy is ongoing. He continues to undertake alcohol counselling. He no longer consumes alcohol, although that may not be a permanent decision.

[29] I remind myself, however, that a person may undertake any number of courses but that the proof is in their subsequent conduct. I take into account that there has been no evidence of any excessive alcohol consumption, no evidence of any additional suicide attempts (other than those already in evidence) and that throughout there has not been any discourteous communication between the parties.

[30] I am particularly swayed by [Mr Hobbs'] conduct given the extremely limited contact he has been permitted to his son. The uncontested evidence was that it had been agreed that [Jacob] and his mother would spend Thanksgiving with the paternal family. There was evidence from the paternal grandmother that she had confirmed arrangements with [Mrs Hobbs]. She had arranged to hold off contact between paternal great grandparents and [Jacob] and, on that basis, there was much eager anticipation to spend time with him on this special occasion. The paternal family learnt that the mother had left America with [Jacob] on the morning of Thanksgiving. Whatever [Mrs Hobbs'] motivation for that, it was clearly not agreed upon, nor anticipated in any way by [Mr Hobbs]. Despite what must be accepted as extreme provocation, there was no evidence proffered of any lapses in acceptable conduct by [Mr Hobbs].

[31] I am also impressed that [Mr Hobbs] has not reacted in any negative way with the extreme limits that have been placed upon his contact with [Jacob] while in New Zealand. [Mr Hobbs] sought extended overnight contact with [Jacob] while he was in New Zealand. Such contact could have been supervised by either or both paternal grandparents. Despite the reassurance such supervision would provide, contact for [Jacob] was not achieved. Eventually on the last night, and with appreciable reluctance, [Mrs Hobbs] agreed to an overnight visit. Throughout these exchanges, [Mr Hobbs] maintained a cool head.

[32] [Mr Hobbs] has submitted a letter from his therapist, evidence from his mother and his own evidence which points to a more considered and better managed approach to his mental health. I acknowledge that [Mrs Hobbs] has questioned the effectiveness of that claim, however, I note that there is no evidence of any lapses in this regard.

[33] [Mr Hobbs] has taken responsibility for what I consider to be some of the more serious allegations of family violence. He acknowledged, for example, the strangling incident which occurred early in the party's relationship. That was not repeated.

[34] The applicant has taken steps to protect herself. She has undertaken self-defence and psychotherapy. It is clear, and confirmed by her stance in making the application, that she would not tolerate any repetition of family violence. She contacted the [location deleted] Police when she learned that the respondent was returning to New Zealand and she has made it clear in her evidence that she can resist the respondent, if required. She supported her father to obtain a critical purpose visa to support her and [Jacob] when she came back to New Zealand.

[35] I must consider the susceptibility of [Mrs Hobbs]. Her evidence was that she had had a difficult childhood, an inconsistent relationship with her birth mother and a troubled relationship with her stepmother. Given the violence she had endured during their relationship, her fear is entirely reasonable.

[36] I consider the family violence that she endured during the parties' relationship was sustained, and all-encompassing. This is especially more hurtful because the evidence suggested she was a devoted and committed marriage partner.

[37] Her evidence was that she had been subject to ongoing family violence since the party's separation. If that were the case, that would be a weighty factor for consideration by the court. However, I could see only limited evidence of that claim. She claimed that in April 2022 [Mr Hobbs] sent her an email asking for a code for his iPhone and when she didn't replied, he responded with "if you don't respond, I will report fraudulent activity to Apple". It is unclear as to the reason she did not respond or provide the requested code.

[38] She also claimed that he indicated by email an intention to return to the family home and to be present when the property was valued. I do not regard that as threatening. The property is owned jointly by the parties, (albeit occupied by [Mrs Hobbs]) and in the absence of any court orders to the contrary, there was little that stood in the way of him being present while the property was valued. He did not in fact attend. Her request for him to stay away was respected by him. He had a right to be present.

[39] In fact, when faced with what could be considered extreme provocation, the removal of [Jacob] from America without consultation and in the face of the clear and established agreement that the family would remain in America until the end of the year, [Mr Hobbs'] response was measured and considered.

[40] There have been challenges with the separation. The parties have struggled to establish a pattern of positive physical contact and it is [Mrs Hobbs] who has resisted any extension of contact outside the terms of the Court order. Throughout this [Mr Hobbs] has managed a measured response.

[41] Although I am satisfied that there were multiple incidents of Family Violence during the times of the party's relationship, and I am satisfied that violence extended to both physical and emotional, I cannot find that there remains a necessity for the order to be made. It is my view that having considered all of these matters, the test for necessity has not been made out.

[42] The application for a Final Protection Order is dismissed.

Care of Children Act 2004 proceedings

[43] The second application that I am required to determine is the care arrangements for [Jacob]. I must be guided by the provisions of ss 4, 5 and 6 of the Care of Children Act.

[44] Section 4 requires me to consider the welfare and best interests of [Jacob] as the first and paramount consideration. I need to make decisions that are appropriate to his sense of time.

[45] I must have regard to the specific provisions in s 5 when considering what is in the best interests and welfare of [Jacob].

5 Principles relating to child's welfare and best interests

The principles relating to a child's welfare and best interests are that—

- (a) a child's safety must be protected and, in particular, a child must be protected from all forms of violence (as defined in sections 9(2), 10, and 11 of the Family Violence Act 2018) from all persons, including members of the child's family, family group, whānau, hapū, and iwi:
- (b) a child's care, development, and upbringing should be primarily the responsibility of his or her parents and guardians:
- (c) a child's care, development, and upbringing should be facilitated by ongoing consultation and co-operation between his or her parents, guardians, and any other person having a role in his or her care under a parenting or guardianship order:
- (d) a child should have continuity in his or her care, development, and upbringing:
- (e) a child should continue to have a relationship with both of his or her parents, and that a child's relationship with his or her family group, whānau, hapū, or iwi should be preserved and strengthened:
- (f) a child's identity (including, without limitation, his or her culture, language, and religious denomination and practice) should be preserved and strengthened.

[46] Section 5A requires that I must have regard to whether there is or has been a final protection order and I must consider the allegations that have been made in that regard. I must ensure that [Jacob's] safety is protected.

[47] I must have regard to the views of [Jacob]. This does not mean that those views are determinative of what the order should be. I need to have regard to his age, maturity and level of awareness and consider the extent that those views might have been subject to manipulation or improper influence.

[48] I am throughout this evaluation to bear in mind that [Jacob's] welfare and best interests are at the forefront.

[49] In this instance, I note first that the predominant care of [Jacob] is unchallenged. The only issue that I must determine is the nature of the contact that he has with his father that will allow, as [Mrs Hobbs] said, for him to develop a healthy and safe relationship and to enable that to flourish.

Safety – s 5(a) and s 5A

[50] I have not made a final protection order. That does not, however, preclude the requirement that I undertake a safety assessment for [Jacob] in the care of his father. Firstly, I must make a finding of fact as to whether family violence was perpetrated and, secondly, I must determine the risks in those circumstances. Having already found that there was Family Violence within the party's relationship, I address the incidents that directly involve [Jacob].

(a) Family Violence

[51] Regarding [Jacob], [Mrs Hobbs] has made reference to a number of incidents that she claims involve family violence:

- (a) On 13 June 2021, she saw or overheard [Jacob] screaming. The facts behind this seem accepted. The parties had both consumed alcohol earlier in the evening, it was late, [Jacob] was over-tired, and he began to play up. [Mr Hobbs] then placed him in a closet, holding the door to, with the light on inside. The purpose of this was to regain some composure for them both. The incident lasted somewhere between five and 30 seconds. [Mrs Hobbs] says she was opposed to the strategy from the outset.

[Mrs Hobbs] subsequently called the police when [Mr Hobbs] made some suicidal threats, but she acknowledged that her predominant concern was [Mr Hobbs] himself. She acknowledged to the police at page 116 of the evidence that he “Shut the door and held it for like 30 seconds...you know like time-out”.

Although she now expresses considerable dismay at this incident, it did not feature as being particularly concerning at the time in her comments to the Police

- (b) The second incidence of family violence claimed to relate to [Jacob] occurred on 21 August 2021 where she says [Mr Hobbs] slapped [Jacob] on the arm and the shoulder. [Mr Hobbs] denies this entirely. There is no other evidence on this point, and I cannot make any findings of fact.
- (c) She claimed in evidence that [Jacob] had disclosed to friends at school that he had been hit by his father whilst in America. No evidence was provided by [Mrs Hobbs] from these friends or from the school to support this claim. [Mrs Hobbs] was questioned by Ms McNulty as to this. Ms McNulty put to her that the school had advised Ms McNulty that they had no concerns. [Mrs Hobbs] could not explain this.
- (d) [Mrs Hobbs] claimed that she had cancelled [Jacob’s] birthday party because his friend’s parents declined to participate when they became aware that [Mr Hobbs] would be present. No evidence was produced on this point. Again, I can take nothing from this claim except to be saddened for [Jacob] that he missed out on a birthday party due to the conflict between his parents.

[52] [Jacob] was exposed to family violence between his parents. For most of the incidents from 2015 he was not present, but it is clear and accepted by [Mr Hobbs] that there were incidents where [Jacob] overheard family violence, including arguments between his parents and inappropriate comments by his father.

[53] Given that I have made findings of family violence in respect to the protection application and in respect to COCA I must now determine the risks, if any, to [Jacob]. I consider the provisions of s 61(a).

[54] Of the incidents set out above I consider that what is described as the closet incident was an entirely inappropriate parenting strategy. It was late, [Jacob] was overwrought, his father was tired and affected to a lesser or greater extent by alcohol and marital stress. The technique was ineffective. At the time, although [Mrs Hobbs] was clearly unimpressed, that was not the matter that she complained to the police about, she herself described it as time-out. It is only now that it has become more sinister in her view.

[55] The second allegation of assault is denied and without any corroborating evidence I cannot find the incident occurred.

[56] I do find that [Jacob] was exposed to an unacceptable level of verbal abuse between his parents and, given that they have now separated, that should not occur again.

(b) How recently the violence occurred?

[57] [Mrs Hobbs] described an incident where she claimed [Mr Hobbs] drove at dangerous speeds to the airport, thereby putting both herself and [Jacob] at risk. This is denied by [Mr Hobbs] and I cannot then make any findings.

(c) Frequency

[58] No matter how infrequent the family violence was, it is never acceptable. [Mrs Hobbs] has described a number of incidents of damage to property over the years – broken laptops, broken phones, holes in walls – which occurred at irregular intervals, but which should not have occurred at all.

(d) Likelihood of further violence

[59] Both parties describe a very unhealthy and toxic relationship. The violence that is described is limited to events within the marriage. Although [Mrs Hobbs], in

her evidence, referred to [Mr Hobbs] becoming controlling towards his family there was no evidence of violence or aggression to his parents or extended family. This does not make his actions any less serious, to direct behaviour or aggression to the mother of his child is completely unacceptable.

(e) Physical and emotional harm

[60] [Mrs Hobbs] disclosed that [Jacob] play-acted being locked in the closet when he returned from America. She saw that as him working through his “trauma”. She acknowledged that she and [Jacob] had spent a lot of time “talking about the incident” and that as she was present, she felt safe to work through this with him. She had thought for [Jacob] to be referred to a psychologist to deal with the trauma she saw as associated with this incident. She was questioned as to the time delay of some six months between the date that the incident occurred and 26 November when she returned to New Zealand. She could not accept any other reasonable explanations for [Jacob’s] play-acting, if it did indeed occur .

[61] I do not consider the “closet incident” as a trauma. Certainly, [Mrs Hobbs] did not consider it traumatic at the time it occurred. It concerns me that she felt she was the appropriate parent to diagnose trauma and to talk with [Jacob] about the incident.

(f) Whether [Mrs Hobbs] considers [Jacob] to be safe?

[62] It was evident through this that [Mrs Hobbs] does not believe that [Jacob] is safe in the care of his father and, in fact, she does not want [Jacob] to have overnight contact at all at any time until he is 16. If she had a preference, she would prefer that he did not have unsupervised contact at all.

(h) Views of [Jacob]

[63] Given [Jacob’s] age, I must be mindful of the weight to which I attach any stipulated views, however the report from Lawyer for child confirms that he is seeking contact with his father.

[64] There is no doubt that [Jacob] loves both his parents and he is entitled to a relationship with them both that is positive and free from all forms of violence. That can be achieved with the imposition of conditions.

Contact orders

[65] I am satisfied that [Jacob] requires a relationship with his father that is not limited by the constraints of formal supervision and I am satisfied further that there are no safety concerns if that contact should include time in America.

[66] I take into account the following:

- (a) The only opportunity that [Jacob] will have to engage with his paternal/maternal family will be in America unless they choose to travel to NZ. He has a right not only to know his culture, but to be part of it in the home of his origin. With the exception of his mother, all of his family reside in America.
- (b) The transport arrangements that will be required to enable him to travel to America are onerous. They require a 24-hour flight and a transit through 5 airports. That is not for the faint hearted. His time therefore needs to be of sufficient length to enable him to recover from the trip and enjoy his time with his family in America
- (c) He needs to have the opportunity to have time with his mother in New Zealand, notwithstanding that she has the majority of time with him.
- (d) [Mr Hobbs] has said that he intends to travel to New Zealand for regular periods so that he can assimilate into [Jacob's] own life in New Zealand. That is to be encouraged and should include any paternal family members choosing to visit New Zealand.

[67] As counsel have asked, I make the following interim orders as to contact:

In America. Xmas/Summer Holiday

- (a) In odd years from the first Monday of the school holidays until the last Friday prior to the commencement of the school term.
- (b) In either America or New Zealand in the July/August Holidays in each year for a period of no less than 14 days. Such period may extend beyond the official school holiday period for the purposes of travel.

In New Zealand. Xmas/Summer Holiday

- (c) In even years the father may have contact in New Zealand for a 14-day period between 1 and 28 January.

When the father is in New Zealand

- (d) Upon the provision of four weeks' notice to the mother [Jacob] may have overnight and unsupervised contact with his father for a period of up to seven continuous days. That period is not to include Christmas Day or the Mother's contact during the school holiday period.
- (e) If the father is to be in New Zealand for more than seven days, then the seven day contact may extend for ongoing periods alternating for the seven day period.

Travel to America

- (f) On the occasions that [Jacob] is to travel to America he is to be accompanied by his father at all times.
- (g) The travel dates and itinerary are to be provided to the mother no less than six weeks prior to intended departure.
- (h) During the times that [Jacob] is in the care of this father overseas he is to have contact with his mother on at least a weekly basis.

- (i) A minimum of weekly calls with the parent who does not have the care of [Jacob]. such calls may be of Video or Skype connection.
- (j) Such other times as the parties can agree.

Other

- (k) [Jacob's] permanent place of residence as recorded as being New Zealand.
- (l) The order preventing removal is discharged.

[68] The parties are to file a memorandum by 19th September setting out their positions and any further directions sought.

[69] If the parties are seeking a s 133 report, I would ask that the brief be agreed upon prior to the date of the telephone conference.

Judge T E McKenzie
Family Court Judge | Kaiwhakawā o te Kōti Whānau
Date of authentication | Rā motuhēhēnga: 25/08/2022