

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Han v. Dorje*,  
2021 BCSC 939

Date: 20210517  
Docket: E191921  
Registry: Vancouver

Between:

**Vikki Hui Xin Han**

Claimant

And

**Ogyen Trinley Dorje**

Respondent

Corrected Judgment: The text of this Judgment was  
corrected on May 19, 2021

Before: Master Elwood

## **Reasons for Judgment**

Counsel for the Claimant, appearing via  
teleconference:

J. Kang

Counsel for the Respondent, appearing via  
teleconference:

M. Lokshin

Place and Date of Hearing:

Vancouver, B.C.  
April 15, 2021

Place and Date of Judgment:

Vancouver, B.C.  
May 17, 2021

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## INTRODUCTION

[1] The claimant applies to amend her notice of family claim to seek spousal support. At issue is whether the claimant's allegations give rise to a reasonable claim she lived with the respondent in a marriage-like relationship, so as to give rise to a potential entitlement to spousal support under the *Family Law Act*, S.B.C. 2011, c. 25 ("*FLA*").

[2] The facts alleged by the claimant do not fit within a traditional concept of marriage. The claimant does not allege that she and the respondent ever lived together. Indeed, she has only met the respondent in person four times: twice very briefly in a public setting; a third time in private, when she alleges the respondent sexually assaulted her; and a fourth and final occasion, when she informed the respondent she was pregnant with his child.

[3] The claimant's case is that what began as a non-consensual sexual encounter evolved into a loving and affectionate relationship. That relationship occurred almost entirely over private text messages. The parties rarely spoke on the telephone, and never saw one another during the relationship, even over video. The claimant says they could not be together because the respondent is forbidden by his station and religious beliefs from intimate relationships or marriage. Nonetheless, she alleges, they formed a marriage-like relationship that lasted from January 2018 to January 2019.

[4] The respondent denies any romantic relationship with the claimant. While he acknowledges providing emotional and financial support to the claimant, he says it was for the benefit of the child the claimant told him was his daughter.

[5] The claimant's proposed amendment raises a novel question: can a secret relationship that began on-line and never moved into the physical world be like a marriage? In my view, that question should be answered by a trial judge after hearing all of the evidence. The alleged facts give rise to a reasonable claim the claimant lived with the respondent in a marriage-like relationship. Accordingly, I grant the claimant leave to amend her notice of family claim.

**BACKGROUND**

[6] It should be emphasized that this is an application to amend pleadings only. The allegations by the claimant are presumed to be true for the purposes of this application. Those allegations have not been tested in a court of law.

[7] The respondent, Ogyen Trinley Dorje, is a high lama of the Karma Kagyu School of Tibetan Buddhism. He has been recognized and enthroned as His Holiness, the 17th Gyalwang Karmapa. Without meaning any disrespect, I will refer to him as Mr. Dorje in these reasons for judgment.

[8] Mr. Dorje leads a monastic and nomadic lifestyle. His true home is Tibet, but he currently resides in India. He receives followers from around the world at the Gyuto Monastery in India. He also travels the world teaching Tibetan Buddhist Dharma and hosting pujas, ceremonies at which Buddhists express their gratitude and devotion to the Buddha.

[9] The claimant, Vikki Hui Xin Han, is a former nun of Tibetan Buddhism. Ms. Han first encountered Mr. Dorje briefly at a large puja in 2014. The experience of the puja convinced Ms. Han she wanted to become a Buddhist nun. She met briefly with Mr. Dorje, in accordance with Kagyu traditions, to obtain his approval to become a nun.

[10] In October 2016, Ms. Han began a three-year, three-month meditation retreat at a monastery in New York State. Her objective was to learn the practices and teachings of the Kagyu Lineage. Mr. Dorje was present at the retreat twice during the time Ms. Han was at the monastery.

[11] Ms. Han alleges that on October 14, 2017, Mr. Dorje sexually assaulted her in her room at the monastery. She alleges that she became pregnant from the assault.

[12] After she learned that she was pregnant, Ms. Han requested a private audience with Mr. Dorje. In November 2017, in the presence of his bodyguards, Ms. Han informed Mr. Dorje she was pregnant with his child. Mr. Dorje initially

denied responsibility; however, he provided Ms. Han with his email address and a cellphone number, and, according to Ms. Han, said he would “prepare some money” for her.

[13] Ms. Han abandoned her plan to become a nun, left the retreat and returned to Canada. She never saw Mr. Dorje again.

[14] After Ms. Han returned to Canada, she and Mr. Dorje began a regular communication over an instant messaging app called Line. They also exchanged emails and occasionally spoke on the telephone.

[15] The parties appear to have expressed care and affection for one another in these communications. I say “appear to” because it is difficult to fully understand the meaning and intentions of another person from brief text messages, especially those originally written in a different language. The parties wrote in a private shorthand, sharing jokes, emojis, cartoon portraits and “hugs” or “kisses”. Ms. Han was the more expressive of the two, writing more frequently and in longer messages. Mr. Dorje generally participated in response to questions or prompting from Ms. Han, sometimes in single word messages.

[16] Ms. Han deposes that she believed Mr. Dorje was in love with her and that, by January 2018, she and Mr. Dorje were living in a “conjugal relationship”.

[17] During their communications, Ms. Han expressed concern that her child would be “illegitimate”. She appears to have asked Mr. Dorje to marry her, and he appears to have responded that he was “not ready”.

[18] Throughout 2018, Mr. Dorje transferred funds in various denominations to Ms. Han through various third parties. Ms. Han deposes that these funds were:

- a) \$50,000 CDN to deliver the child and for postpartum care she was to receive at a facility in Seattle;
- b) \$300,000 CDN for the first year of the child’s life;

- c) \$20,000 USD for a wedding ring, because Ms. Han wrote “Even if we cannot get married, you must buy me a wedding ring”;
- d) \$400,000 USD to purchase a home for the mother and child.

[19] On June 19, 2018, Ms. Han gave birth to a daughter in Richmond, B.C.

[20] On September 17, 2018, Mr. Dorje wrote, “Taking care of her and you are my duty for life”.

[21] Ms. Han’s expectation was that the parties would live together in the future. She says they planned to live together. Those plans evolved over time. Initially they involved purchasing a property in Toronto, so that Mr. Dorje could visit when he was in New York. They also discussed purchasing property in Calgary or renting a home in Vancouver for that purpose. Ms. Han eventually purchased a condominium in Richmond using funds provided by Mr. Dorje.

[22] Ms. Han deposes that the parties made plans for Mr. Dorje to visit her and meet the child in Richmond. In October 2018, however, Mr. Dorje wrote that he needed to “disappear” to Europe. He wrote:

I will definitely find a way to meet her  
And you  
Remember to take care of yourself if something happens

[23] The final plan the parties discussed, according to Ms. Han, was that Mr. Dorje would sponsor Ms. Han and the child to immigrate to the United States and live at the Kagyu retreat centre in New York State.

[24] In January 2019, Ms. Han lost contact with Mr. Dorje.

[25] Ms. Han commenced this family law case on July 17, 2019, seeking child support, a declaration of parentage and a parentage test. She did not seek spousal support.

[26] Ms. Han first proposed a claim for spousal support in October 2020 after a change in her counsel. Following an exchange of correspondence concerning an application for leave to amend the notice of family claim, Ms. Han's counsel wrote that Ms. Han would *not* be advancing a spousal support claim. On March 16, 2020, counsel reversed course, and advised that Ms. Han had instructed him to proceed with the application.

[27] When this application came on before me, the trial was set to commence on June 7, 2021. The parties were still in the process of discoveries and obtaining translations for hundreds of pages of documents in Chinese characters.

[28] At a trial management conference on May 6, 2021, noting the parties were not ready to proceed, Madam Justice Walkem adjourned the trial to April 11, 2022.

## ANALYSIS

### A. The Spousal Support Claim in this Case

[29] To claim spousal support in this case, Ms. Han must plead that she lived with Mr. Dorje in a marriage-like relationship. This is because only "spouses" are entitled to spousal support, and s. 3 of the *Family Law Act* defines a spouse as a person who is married or has lived with another person in a marriage-like relationship:

- 3 (1) A person is a spouse for the purposes of this Act if the person
- (a) is married to another person, or
  - (b) has lived with another person in a marriage-like relationship,  
and
    - (i) has done so for a continuous period of at least 2 years,  
or
    - (ii) except in Parts 5 [Property Division] and 6 [Pension Division], has a child with the other person.

[30] Because she alleges she has a child with Mr. Dorje, Ms. Han need not allege that the relationship endured for a continuous period of two years to claim spousal support; but she must allege that she lived in a marriage-like relationship with him at some point in time. Accordingly, she must amend the notice of family claim.

## B. The Test to Amend Pleadings

[31] Given that the notice of trial has been served, Ms. Han requires leave of the court to amend the notice of family claim: *Supreme Court Family Rule 8-1(1)(b)(i)*.

[32] A person seeking to amend a notice of family claim must show that there is a reasonable cause of action. This is a low threshold. What the applicant needs to establish is that, if the facts pleaded are proven at trial, they would support a reasonable claim. The applicant's allegations of fact are assumed to be true for the purposes of this analysis. *Cantelon v. Wall*, 2015 BCSC 813, at para. 7-8.

[33] The applicant's delay, the reasons for the delay, and the prejudice to the responding party are also relevant factors. The ultimate consideration is whether it would be just and convenient to allow the amendment. *Cantelon*, at para. 6, citing *Teal Cedar Products Ltd. v. Dale Intermediaries Ltd. et al* (1986), 19 B.C.L.R. (3d) 282.

## C. Pleadings in Family Law Cases

[34] *Supreme Court Family Rules 3-1(1)* and *4-1(1)* require that a claim to spousal support be pleaded in a notice of family claim in Form F3. Section 2 of Form F3, "Spousal relationship history", requires a spousal support claimant to check the boxes that apply to them, according to whether they are or have been married or are or have been in a marriage-like relationship. Where a claimant alleges a marriage-like relationship, Form F3 requires that they provide the date on which they began to live together with the respondent in a marriage-like relationship and, where applicable, the date on which they separated. Form F3 does not require a statement of the factual basis for the claim of spousal support.

[35] In this case, Ms. Han seeks to amend the notice of family claim to allege that she and Mr. Dorje began to live in a marriage-like relationship in or around January 2018, and separated in or around January 2019.

[36] An allegation that a person lived with a claimant in a marriage-like relationship is a conclusion of law, not an allegation of fact. Unlike the rules governing pleadings

in civil actions, however, the *Supreme Court Family Rules* do not expressly require family law claimants to plead the material facts in support of conclusions of law.

[37] In other words, there is no express requirement in the *Supreme Court Family Rules* that Ms. Han plead the facts on which she relies for the allegation she and Mr. Dorje lived in a marriage-like relationship.

[38] Rule 4-6 authorizes a party to demand particulars, and then apply to the court for an order for further and better particulars, of a matter stated in a pleading. However, unless and until she is granted leave and files the proposed amended notice of family claim, Ms. Han's allegation of a marriage-like relationship is not a matter stated in a pleading.

[39] Ms. Han filed an affidavit in support of her application to amend the notice of family claim. Normally, evidence would not be required or admissible on an application to amend a pleading. However, in the unusual circumstances of this case, the parties agreed I may look to Ms. Han's affidavit and exhibits for the facts she pleads in support of the allegation of a marriage-like relationship.

[40] Because this is an application to amend - and Ms. Han's allegations of fact are presumed to be true - I have not considered Mr. Dorje's responding affidavit.

[41] Relying on affidavit evidence for an application to amend pleadings is less than ideal. It tends to merge and confuse the material facts with the evidence that would be relied on to prove those facts. In a number of places in her affidavit, for example, Ms. Han describes her feelings, impressions and understandings. A person's hopes and intentions are not normally material facts unless they are mutual or reasonably held. The facts on which Ms. Han alleges she and Mr. Dorje formed a marriage-like relationship are more important for the present purposes than her belief they entered into a conjugal union.

[42] Somewhat unusually, in this case, almost all of the parties' relevant communications were in writing. This makes it somewhat easier to separate the

facts from the evidence; however, as stated above, it is difficult to understand the intentions and actions of a person from brief text messages.

[43] In my view, it would be a good practice for applicants who seek to amend their pleadings in family law cases to provide opposing counsel and the court with a schedule of the material facts on which they rely for the proposed amendment.

#### **D. The Legal Concept of a Marriage-Like Relationship**

[44] As Mr. Justice Myers observed in *Mother 1 v. Solus Trust Company*, 2019 BCSC 200, the concept of a marriage-like relationship is elastic and difficult to define. This elasticity is illustrated by the following passage from *Yakiwchuk v. Oaks*, 2003 SKQB 124, quoted by Myers J. at para. 133 of *Mother 1*:

[10] Spousal relationships are many and varied. Individuals in spousal relationships, whether they are married or not, structure their relationships differently. In some relationships there is a complete blending of finances and property - in others, spouses keep their property and finances totally separate and in still others one spouse may totally control those aspects of the relationship with the other spouse having little or no knowledge or input. For some couples, sexual relations are very important - for others, that aspect may take a back seat to companionship. Some spouses do not share the same bed. There may be a variety of reasons for this such as health or personal choice. Some people are affectionate and demonstrative. They show their feelings for their "spouse" by holding hands, touching and kissing in public. Other individuals are not demonstrative and do not engage in public displays of affection. Some "spouses" do everything together - others do nothing together. Some "spouses" vacation together and some spend their holidays apart. Some "spouses" have children - others do not. It is this variation in the way human beings structure their relationships that make the determination of when a "spousal relationship" exists difficult to determine. With married couples, the relationship is easy to establish. The marriage ceremony is a public declaration of their commitment and intent. Relationships outside marriage are much more difficult to ascertain. Rarely is there any type of "public" declaration of intent. Often people begin cohabiting with little forethought or planning. Their motivation is often nothing more than wanting to "be together". Some individuals have chosen to enter relationships outside marriage because they did not want the legal obligations imposed by that status. Some individuals have simply given no thought as to how their relationship would operate. Often the date when the cohabitation actually began is blurred because people "ease into" situations, spending more and more time together. Agreements between people verifying when their relationship began and how it will operate often do not exist.

[45] In *Mother 1*, Mr. Justice Myers referred to a list of 22 factors grouped into seven categories, from *Maldowich v. Penttinen*, (1980), 17 R.F.L. (2d) 376 (Ont. Dist. Ct.), that have frequently been cited in this and other courts for the purpose of determining whether a relationship was marriage-like, at para. 134 of *Mother 1*:

1. **Shelter:**

- (a) Did the parties live under the same roof?
- (b) What were the sleeping arrangements?
- (c) Did anyone else occupy or share the available accommodation?

2. **Sexual and Personal Behaviour:**

- (a) Did the parties have sexual relations? If not, why not?
- (b) Did they maintain an attitude of fidelity to each other?
- (c) What were their feelings toward each other?
- (d) Did they communicate on a personal level?
- (e) Did they eat their meals together?
- (f) What, if anything, did they do to assist each other with problems or during illness?
- (g) Did they buy gifts for each other on special occasions?

3. **Services:**

What was the conduct and habit of the parties in relation to:

- (a) preparation of meals;
- (b) washing and mending clothes;
- (c) shopping;
- (d) household maintenance; and
- (e) any other domestic services?

4. **Social:**

- (a) Did they participate together or separately in neighbourhood and community activities?
- (b) What was the relationship and conduct of each of them toward members of their respective families and how did such families behave towards the parties?

5. **Societal:**

What was the attitude and conduct of the community toward each of them and as a couple?

6. **Support (economic):**

- (a) What were the financial arrangements between the parties regarding the provision of or contribution toward the necessities of life (food, clothing, shelter, recreation, etc.)?
- (b) What were the arrangements concerning the acquisition and ownership of property?
- (c) Was there any special financial arrangement between them which both agreed would be determinant of their overall relationship?

7. **Children:**

What was the attitude and conduct of the parties concerning children?

[46] In *Austin v. Goerz*, 2007 BCCA 586, the Court of Appeal cautioned against a “checklist approach”; rather, a court should “holistically” examine all the relevant factors. Cases like *Molodowich* provide helpful indicators of the sorts of behaviour that society associates with a marital relationship, the Court of Appeal said; however, “the presence or absence of any particular factor cannot be determinative of whether a relationship is marriage-like” (para. 58).

[47] In *Weber v. Leclerc*, 2015 BCCA 492, the Court of Appeal again affirmed that there is no checklist of characteristics that will be found in all marriages and then concluded with respect to evidence of intentions:

[23] The parties’ intentions – particularly the expectation that the relationship will be of lengthy, indeterminate duration – may be of importance in determining whether a relationship is “marriage-like”. While the court will consider the evidence expressly describing the parties’ intentions during the relationship, it will also test that evidence by considering whether the objective evidence is consonant with those intentions.

[24] The question of whether a relationship is “marriage-like” will also typically depend on more than just their intentions. Objective evidence of the parties’ lifestyle and interactions will also provide direct guidance on the question of whether the relationship was “marriage-like”.

[48] Significantly for this case, the courts have looked to *mutual* intent in order to find a marriage-like relationship. See, for example, *L.E. v. D.J.*, 2011 BCSC 671 and *Buell v. Unger*, 2011 BCSC 35; *Davey Estate v. Gruyaert*, 2005 CarswellBC 3456 at 13 and 35.

[49] In *Mother 1*, Myers J. concluded his analysis of the law with the following learned comment:

[143] Having canvassed the law relating to the nature of a marriage-like relationship, I will digress to point out the problematic nature of the concept. It may be apparent from the above that determining whether a marriage-like relationship exists sometimes seems like sand running through one's fingers. Simply put, a marriage-like relationship is akin to a marriage without the formality of a marriage. But as the cases mentioned above have noted, people treat their marriages differently and have different conceptions of what marriage entails.

[50] In short, the determination of whether the parties in this case lived in a marriage-like relationship is a fact-specific inquiry that a trial judge would need to make on a "holistic" basis, having regard to all of the evidence. While the trial judge may consider the various factors listed in the authorities, those factors would not be treated as a checklist and no single factor or category of factors would be treated as being decisive.

#### **E. Is There a Reasonable Claim of a Marriage-Like Relationship?**

[51] In this case, many of the *Molodowich* factors are missing:

- a) The parties never lived under the same roof. They never slept together. They were never in the same place at the same time during the relationship. The last time they saw each other in person was in November 2017, before the relationship began.
- b) The parties never had consensual sex. They did not hug, kiss or hold hands. With the exception of the alleged sexual assault, they never touched one another physically.
- c) The parties expressed care and affection for one another, but they rarely shared personal information or interest in their lives outside of their direct topic of communication. They did not write about their families, their friends, their religious beliefs or their work.
- d) They expressed concern and support for one another when the other felt unwell or experienced health issues, but they did not provide any care or assistance during illness or other problems.

- e) They did not assist one another with domestic chores.
- f) They did not share their relationship with their peers or their community. There is no allegation, for example, that Mr. Dorje told his fellow monks or any of his followers about the relationship. There is no allegation that Ms. Han told her friends or any co-workers. Indeed, there is no allegation that anyone, with the exception of Ms. Han's mother, knew about the relationship. Although Mr. Dorje gave Ms. Han's mother a gift, he never met the mother and he never spoke to her.
- g) They did not intend to have a child together. The child was conceived as a result of a sexual assault. While Mr. Dorje expressed interest in "meeting" the child, he never followed up. He currently has no relationship with the child. There is no allegation he has sought access or parenting arrangements.

[52] The only *Molodowich* factor of any real relevance in this case is economic support. Mr. Dorje provided the funds with which Ms. Han purchased a condominium. Mr. Dorje initially wrote that he wanted to buy a property with the money, but, he wrote, "It's the same thing if you buy [it]".

[53] Mr. Dorje also provided a significant amount of money for Ms. Han's postpartum care and the child's first year of life.

[54] This financial support may have been primarily for the benefit of the child. Even the condominium, Ms. Han wrote, was primarily for the benefit of the child.

[55] However, in my view, a trial judge may attach a broader significance to the financial support from Mr. Dorje than child support alone. A trial judge may find that the money Mr. Dorje provided to Ms. Han at her request was an expression of his commitment to her in circumstances in which he could not commit physically. The money and the gifts may be seen by the trial judge to have been a form of down payment by Mr. Dorje on a promise of continued emotional and financial support for

Ms. Han, or, in Mr. Dorje's own words, "Taking care of her and you are my duty for life" (emphasis added).

[56] On the other hand, I find it difficult to attach any particular significance to the fact that Mr. Dorje agreed to provide funds for Ms. Han to purchase a wedding ring. It appears to me that Ms. Han demanded that Mr. Dorje buy her a wedding ring, not that the ring had any mutual meaning to the parties as a marriage symbol. But it *is* relevant, in my view, that Mr. Dorje provided \$20,000 USD to Ms. Han for something she wanted that was of no benefit to the child.

[57] Further, Ms. Han alleges that the parties intended to live together. At a minimum, a trial judge may find that the discussions about where Ms. Han and the child would live reflected a mutual intention of the parties to see one another and spend time together when they could.

[58] Mr. Dorje argues that an intention to live together at some point in the future is not sufficient to show that an existing relationship was marriage-like. He argues that the question of whether the relationship was marriage-like requires more than just intentions, citing *Weber*, supra.

[59] In my view, the documentary evidence referred to above provides some objective evidence in this case that the parties progressed beyond mere intentions. As stated, the parties appear to have expressed genuine care and affection for one another. They appear to have discussed marriage, trust, honesty, finances, mutual obligations and acquiring family property. These are not matters one would expect Mr. Dorje to discuss with a friend or a follower, or even with the mother of his child, without a marriage-like element of the relationship.

[60] A trial judge may find on the facts alleged by Ms. Han that the parties loved one another and would have lived together, but were unable to do so because of Mr. Dorje's religious duties and nomadic lifestyle.

[61] The question I raised in the introduction to these reasons is whether a relationship that began on-line and never moved into the physical world can be marriage-like.

[62] Notably, the definition of a spouse in the *Family Law Act* does not require that the parties live together, only that they live with another person in a marriage-like relationship.

[63] In *Connor Estate*, 2017 BCSC 978, Mr. Justice Kent found that a couple that maintained two entirely separate households and never lived under the same roof formed a marriage-like relationship. (*Connor Estate* was decided under the intestacy provisions of the *Wills, Estates and Succession Act*, S.B.C. 2009, c. 13 ("*WESA*"), but courts have relied on cases decided under *WESA* and the *FLA* interchangeably for their definitions of a spouse.) Mr. Justice Kent found:

[50] The evidence is overwhelming and I find as a fact that Mr. Chambers and Ms. Connor loved and cared deeply about each other, and that they had a loving and intimate relationship for over 20 years that was far more than mere friendship or even so-called "friendship with benefits". I accept Mr. Chambers' evidence that he would have liked to share a home with Ms. Connor after the separation from his wife, but was unable to do so because of Ms. Connor's hoarding illness. The evidence amply supports, and I find as a fact, that Mr. Chambers and Ms. Connor loved each other, were faithful to each other, communicated with each other almost every day when they were not together, considered themselves to be (and presented themselves to be) "husband and wife" and were accepted by all who knew them as a couple.

[64] *Connor Estate* may be distinguishable from this case because Mr. Chambers and Ms. Connor were physically intimate for over 20 years, and presented themselves to the world as a married couple.

[65] Other decisions in which a marriage-like relationship has been found to exist despite the parties not living together have involved circumstances in which the couple lived under the same roof at previous points in the relationship, and the issue was whether they continued to be spouses after they took up separate residences: in *Thompson v. Floyd*, 2001 BCCA 78, the parties had lived together for a period of

at least 11 years; in *Roach v. Dutra*, 2010 BCCA 264, the parties had lived together for approximately three years.

[66] However, as Mr. Justice Kent noted in *Connor Estate*:

[48] ... [W]hile much guidance might be found in this case law, the simple fact is that no two cases are identical (and indeed they usually vary widely) and it is the assessment of evidence as a whole in this particular case which matters.

[67] Mr. Justice Kent concluded:

[53] Like human beings themselves, marriage-like relationships can come in many and various shapes. In this particular case, I have no doubt that such a relationship existed ...

[68] As stated, Ms. Han's claim is novel. It may even be weak. Almost all of the traditional factors are missing. The fact that Ms. Han and Mr. Dorje never lived under the same roof, never shared a bed and never even spent time together in person will militate against a finding they lived with one another in a marriage-like relationship. However, the traditional factors are not a mandatory check-list that confines the "elastic" concept of a marriage-like relationship. And if the COVID pandemic has taught us nothing else, it is that real relationships can form, blossom and end in virtual worlds.

[69] In my view, the merits of Ms. Han's claim should be decided on the evidence. Subject to an overriding prejudice to Mr. Dorje, she should have leave to amend the notice of family claim. However, she should also provide meaningful particulars of the alleged marriage-like relationship.

**F. Delay / Prejudice**

[70] Ms. Han filed her notice of family claim on July 17, 2019. She brought this application to amend approximately one year and nine months after she filed the pleading, just over two months before the original trial date.

[71] Ms. Han's delay was made all that more remarkable by her change in position from January 19, 2021, when she confirmed, through counsel, that she was not seeking spousal support in this case.

[72] Ms. Han gave notice of her intention to proceed with this application to Mr. Dorje on March 16, 2021. By the time the application was heard, the parties had conducted examinations for discovery without covering the issues that would arise from a claim of spousal support.

[73] Also, in April, Ms. Han produced additional documents, primarily text messages, that may be relevant to her claim of spousal support, but were undecipherable to counsel for Mr. Dorje, who does not read Mandarin.

[74] This application proceeded largely on documents selected and translated by counsel for Ms. Han. I was informed that Mandarin translations of the full materials would take 150 days.

[75] Understandably in the circumstances, Mr. Dorje argued that an amendment two months before trial would be neither just nor convenient. He argued that he would be prejudiced by an adjournment so as to allow Ms. Han to advance a late claim of spousal support.

[76] The circumstances changed on May 6, 2021, when Madam Justice Walkem adjourned the trial to July 2022 and reset it for 25 days. Madam Justice Walkem noted that most of the witnesses live internationally and require translators. She also noted that paternity may be in issue, and Mr. Dorje may amend his pleadings to raise that issue. It seems clear that, altogether apart from the potential spousal support claim, the parties were not ready to proceed to trial on June 7, 2021.

[77] In my view, any remaining prejudice to Mr. Dorje is outweighed by the importance of having all of the issues between the parties decided on their merits.

[78] Ms. Han's delay and changes of position on spousal support may be a matter to be addressed in a future order of costs; but they are not grounds on which to deny her leave to amend the notice of family claim.

**CONCLUSION**

[79] Ms. Han is granted leave to amend her notice of family claim in the form attached as Appendix A to the notice of application to include a claim for spousal support.

[80] Within 21 days, or such other deadline as the parties may agree, Ms. Han must provide particulars of the marriage-like relationship alleged in the amended notice of family claim.

[81] Ms. Han is entitled to costs of this application in the cause of the spousal support claim.

“Master Elwood”