

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Mother 1 v. Solus Trust Company*,
2019 BCSC 200

Date: 20190220
Docket: S171265
Registry: Vancouver

Between:

Mother 1

Plaintiff

And

**Solus Trust Company Limited and Christopher Scott Johnson,
As Administrators of the Estate of Gang Yuan, Deceased,
Mother 2, Child 1, Child 2, Child 3, Child 4, Child 5**

Defendants

Before: The Honourable Mr. Justice Myers

Corrected Reasons: These Reasons for Judgment were corrected on the face page
on February 21, 2019.

Reasons for Judgment

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Place and Dates of Trial:

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November 26–30, 2018;
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I. INTRODUCTION

[1] Gang Yuan was killed on May 2, 2015. He died without a will. He was the father of five children by five different women, none of whom he had married. Mother 1 claims that under the *Wills, Estates and Succession Act*, S.B.C. 2009, c. 13 ("*WESA*"), she is Mr. Yuan's spouse. If Mother 1 is considered Yuan's spouse, then she would be entitled to a "preferential share" plus half the estate; the children would be entitled to the other half. If she is not a spouse under the *Act*, the children would be entitled to share the total value of the estate between themselves.

[2] The estate is estimated to be worth between \$7,000,000 and \$21,000,000 depending on the success of claims made by and against it.

[3] In a separate action tried at the same time, a second mother—Mother 2—also claimed to be Yuan's spouse under *WESA*. However, she settled her claim part way through the trial.

[4] The sole issue in this case is, therefore, whether Mother 1 is to be considered Yuan's spouse under *WESA*. For that to be the case, they had to have lived with each other in a "marriage-like relationship" for at least two years prior to Yuan's death. (As I set out below in the Legal Framework section, this has been interpreted as referring to the two-year period immediately prior to death, and not to any two-year period.)

[5] The facts of this case are unusual, if not unique. Yuan's relationship with the plaintiff was partly concurrent with his relations with the other four mothers, who testified at this trial. For part of the two years prior to his death, his relationship with all mothers was concurrent. For the last eight months of his life, Yuan did not see Mother 1. His relationship with the plaintiff must therefore be viewed in context with his relationship with the other women. That does not mean it is a contest between Mother 1 and the others as to who had the closest relationship with Yuan (indeed it is possible to have more than one spouse under *WESA*); rather, the other relationships inform Yuan's and Mother 1's relationship.

II. FACTS

[6] In this case, because of the concurrent relationships, setting the evidence out chronologically would be disjointed and confusing. I will therefore separately summarise the evidence of each of the mothers and the other witnesses. However, in order to pull the crucial facts together chronologically while still being able to see the overlap in the various relationships, I have prepared the table attached as an appendix, which I hope will assist the reader. Further, in the Analysis section, I synthesize and summarise some of the key facts and add some further facts that are not set out in this section.

[7] All of the witnesses gave their evidence through a Mandarin interpreter. Some of the phraseology used by them is no doubt due to language differences.

A. Background

[8] Yuan was born in China in 1973. When he was killed on May 2, 2015, he was 41 years old. He came to Canada in June 2007 as a permanent resident. He was sponsored by Dan Zhang, whom he married in September 2005 and then divorced in August 2007. The marriage was clearly an immigration fraud.

[9] None of the witnesses, including Yuan's brother—Qiang Yuan—knew much about what he did, other than he was involved in a number of businesses. He clearly led a lavish lifestyle. Several mothers said that he used their bank accounts to hold and transfer his funds.

[10] At the time of his death, Yuan was living in a home in West Vancouver. He had lived there since approximately 2010 with Mr. and Mrs. Li, their daughter and Mrs. Li's mother.

[11] Mr. Li is accused of murdering Yuan. He and his wife gave evidence at the trial. They did not say who owned the home. However, counsel advise it is registered in the Lis name, but Yuan's estate is suing to establish whole or partial beneficial ownership. Not long before his death, Child 2 moved into the home.

[12] Yuan met all the mothers in China and, with the exception of Mother 2 who moved to Canada, the mothers continue to live in China.

[13] As detailed below, Yuan kept his relationships compartmentalised. The mothers mostly had no knowledge of each other or the other children until after Yuan's death. In addition to the five children and their mothers, Yuan had relationships with numerous other women and searched for women through on-line dating sites. Yuan had not been in China since September 2014.

B. Evidence of the Five Mothers

1. Mother 1

[14] Mother 1 was born in 1987. She grew up in Tangshan, China, which is about a 1.5- to 2-hour drive from Beijing.

[15] She first met Yuan in 2004 at a gathering of friends, when she was 16. In the summer of 2004 she moved in with Yuan and his parents who were living in a two-bedroom apartment in Tangshan; she and Yuan occupied one of the bedrooms together. Before moving in together, both sets of parents met.

[16] Mother 1 became pregnant in 2004. After some discussion with Yuan, she had an abortion because she was concerned about a heart issue and her young age.

[17] In December 2004, at Yuan's request, Mother 1 moved out of his parents' house. This was because he wanted to marry another woman—Dan Zhang—in order to be able to emigrate to Canada. It is apparent he wanted to make sure the Canadian consulate did not discover his relationship with Mother 1. Yuan married Ms. Zhang in 2005. Mother 1 said she was not concerned about Ms. Zhang's relationship with Yuan and still trusted him. She said it was understood that Yuan would marry, obtain his immigration papers for Canada, divorce Ms. Zhang, and then marry Mother 1 and bring her to Canada.

[18] In August 2007, Yuan obtained a divorce from Ms. Zhang in China. Mother 1 moved back into his parents' home. She said Yuan still lived there. In the intervening period Mother 1 and Yuan did not have sexual relations. However, she said she saw Yuan and his parents frequently.

[19] In December 2008, Mother 1 gave birth to Child 1. She was 21 and Yuan was 35. She said the pregnancy was planned, and that she, Yuan and their families were happy about it. Mother 1 had previously met several other members of Yuan's family, including his younger brother, Qiang Yuan.

[20] Mother 1 said that in 2008 she was aware that Yuan owned an apartment in Beijing. (As set out below (para. 37), Mother 2 said she sold him the apartment—in a building called "Palm Springs"—in 2006 or 2007.) Mother 1 said she had stayed overnight with Yuan when they were together in Beijing, as recently as 2014.

[21] In 2010, Yuan began travelling extensively to Canada. Mother 1 said that they discussed the prospect of her and their child moving to Canada, which she was not enthusiastic about. Yuan told Mother 1 that he bought a house in Canada. Yuan also travelled within China. Mother 1 recalled staying over at Yuan's Beijing apartment several times but could not remember how frequently.

[22] In 2011, Qiang Yuan bought an apartment through his company and put it in the name of Child 1. Mother 1 and the child moved into the apartment. When Yuan was in Tangshan he stayed at the apartment. Mother 1 continued to visit Yuan's parents.

[23] Mother 1 said that in 2011 Yuan took her to look at new cars before deciding to buy one and that after he bought it, she drove it a few times. She also provided Yuan input into the purchase of another car a few years later.

[24] Yuan's father became ill in 2011 and was taken to the hospital, initially in Tangshan and then Beijing. He was diagnosed with cancer. Mother 1 described frequent visits to the hospital and her assistance with arranging for the father's care. She said he introduced her as his "daughter-in-law"; she called him "dad".

[25] In 2013, Yuan began spending more time in Canada. When he was in Tangshan, Mother 1 said that he stayed in the apartment with her and Child 1. Yuan's mother would also spend some nights in the apartment. When he was out of town Yuan and Mother 1 would keep in touch by text or video. She could not recall how frequent the contact was but said it would not be more than a week apart.

[26] Mother 1's evidence regarding the schooling of the child was somewhat disjointed. There were discussions about him attending kindergarten in Canada. In the meantime he was in a school in Beijing that Yuan selected for him.

[27] In 2014, records show that Yuan was only in China for approximately four weeks in January, four days in February, and five weeks in August–September, for a total of a little more than nine weeks. Communications with Yuan when he was out of town continued "as before". Once again, when Yuan was in Tangshan he would often stay in the apartment with Mother 1 and the child.

[28] Yuan asked Mother 1 to apply for a visa for her and Child 1 so that they could visit him in Canada in January 2015. His mother was also to come. One of the purposes of the trip was to see how they would adapt to Canada. Mother 1 obtained the visas in December 2014, but Yuan called the trip off because "a situation" had developed, which he did not explain to Mother 1. It was later decided that the trip would take place during summer school break. No tickets for any trip were ever purchased.

[29] In 2014, Yuan's mother frequently slept at Mother 1's and Child 1's residence.

[30] At the end of 2014, Mother 1 said that she considered her relationship with Yuan to still be good; nothing had changed. There had been no discussions of a break-up and he still had some personal effects and clothing at the apartment.

[31] In 2015, Mother 1 did not see Yuan before his death. The records show that Yuan spent all that time in Canada and the United States. Once again, Mother 1 said that she and Child 1 stayed in touch with Yuan as before, and that her

relationship with Yuan's mother remained the same. She said that up to the time he died in May she considered themselves to be husband and wife.

[32] Mother 1 said that she would not accompany Yuan on "most" business trips, whether within or outside China. She could not recall the last trip she did go with him.

[33] Mother 1's description of her finances was vague and patchy. She said that in 2013 Yuan paid the expenses by leaving cash when he visited. She did not have a clear recollection as to whether she borrowed money from his mother. She said the source of her spending money in 2014 was Yuan, but because he was out of the country so much his brother also paid expenses. In cross-examination she said that between 2007 and 2013 she also received expense money from her mother.

[34] Mother 1 did not have joint bank accounts with Yuan. She had several accounts in her own name, the statements for which were produced pursuant to a court order. She was unable to explain in and out transactions for substantial amounts.

[35] Throughout the course of their relationship, Yuan gave gifts to Mother 1 of expensive jewellery and other items.

[36] Mother 1 did not learn of the other mothers and children until after Yuan's death.

[37] Mother 1 brought Yuan's ashes back to China and temporarily stored them, arranging for a Buddhist ceremony to release his soul. Yuan's brother did not attend because he was in Canada and his mother did not attend because of health issues. In April 2018 she arranged for a funeral. The delay was due to obtaining funds from the estate. The tombstone engraving notes that it was put up by Yuan's eldest son, namely Child 1. Mother 1 had had discussions with the other mothers before arranging the funeral and some of them had disagreed with the burial.

2. Mother 2

[38] Mother 2 initially met Yuan in 2005, when she was selling apartments in Beijing. In 2006 or 2007, she sold him a unit in an upscale building known as "Palm Springs".

[39] Although he was "pursuing" her, they did not start dating until 2008. In June 2008, Mother 2 fell in love with Yuan when he dove into a river to rescue her dog. Yuan gave her a diamond ring and proposed to her. They travelled to her home town to see her parents. He gave her parents several gifts.

[40] Mother 2 said that although she kept her own apartment in Beijing, she began living with Yuan in his Palm Springs apartment. She said she was there almost every day. When Yuan went to Tangshan he usually came and went the same day. When Yuan was not in Beijing, Mother 2 stayed in her own apartment, which she had kept from before they became romantically involved.

[41] April or May 2009, Mother 2 became pregnant. She told Yuan that she wanted to get an abortion because they were not married. Yuan discouraged her, saying it would be bad for her health and she might not be able to have another baby. Mother 2 said she wanted some security and she and Yuan reached an agreement: he would pay child support and add her name to the title of the Palm Springs apartment. He promised to marry her. Yuan wanted to have the child born in Hong Kong because he saw the passport as more beneficial than a Chinese one. He made the arrangements and Child 2, a daughter, was born in Hong Kong on March 7, 2010. Yuan was in Canada when she was born.

[42] When Yuan returned from Canada he rented an apartment for Mother 2, which was a four-minute walk from the Palm Springs building. Mother 2 said that when Yuan was in Beijing he came to her place for a meal a minimum of three times per week. Sometimes he would spend the night and sometimes she would see him at the Palm Springs apartment.

[43] In 2010, on-line dating profiles of Yuan were drawn to her attention. She raised that with Yuan and he said they were put there by business competitors to embarrass him.

[44] In October 2010, Mother 2 said she dropped by the Palm Springs apartment to collect some of her items. Yuan was talking business with someone in the living room so Mother 2 went into the bedroom to get her items; another woman was there. Mother 2 had a confrontation with Yuan.

[45] After the birth, Mother 2 told Yuan she wanted to get married, as he had promised. He told her he would do a wedding-type ceremony but would not get married. That prompted Mother 2 to go see Yuan's mother for the first time. His mother did not mention that he had a child or was in a relationship with Mother 1.

[46] In 2013, Yuan told Mother 2 that she and their child should move to Canada. Mother 2 was reluctant because she did not speak English well enough. Yuan persuaded her that they should make the move for the benefit of the child. Their daughter enrolled in the Canadian International School in Beijing and Mother 2 applied for visas. She was rejected and applied again, this time for a student visa, which she obtained.

[47] Mother 2 and Child 2 moved to Vancouver on July 21, 2014. They were picked up by Yuan's driver. She saw Yuan on July 22 or the following day. After that he went to China.

[48] Mother 2 lived in an apartment in Richmond, presumably arranged by Yuan. He visited them in September when he returned from China, and came to visit two to four times per week. She did not visit Yuan in the home in West Vancouver where he was living. They had sexual relations on his visits.

[49] In January, 2015 Yuan and Mother 2 had an argument. Mother 2 said she was depressed, drank too much and was taken to Richmond Hospital. Yuan took Child 2 to live at the West Vancouver home. Following this, her contact with Yuan dropped off; she only saw him three or four times before he was killed.

[50] Mother 2 learned of Yuan's death from the police. To that point she had not met his brother but knew of him, and tracked him down. After several court appearances, Mother 2 and Yuan's brother obtained an order appointing them as co-administrators of Yuan's estate.

[51] Mother 2 did not learn of Yuan's other children until after his death.

3. Mother 3

[52] Mother 3 met Yuan at a friend's party in Beijing in July or August 2008. At the time she was living in Zhejiang Province, a two-hour or more flight from Beijing. They exchanged contacts and, Mother 3 said, Yuan started pursuing her by texts asking her to come visit him in Beijing.

[53] By October, Mother 3 had visited Yuan three times in Beijing. Yuan paid for the trips.

[54] By November, Mother 3 thought she had got to know Yuan and that she had a future with him, although it was not clear whether this was what Yuan suggested or something she surmised. Yuan asked her what her parents' hobbies were so he could buy them gifts, which he gave them on a visit.

[55] In November, 2008 at Yuan's urging, Mother 3 moved to Beijing. For the first week she stayed with him at his Palm Springs apartment. Then Yuan rented an apartment for her about a 15- to 25-minute drive away.

[56] In December 2008, Mother 3 complained she was bored so Yuan took her to Tangshan. She met with what she assumed to be his business associates.

[57] Mother 3 said that for most of 2008 Yuan stayed in his apartment and they met often. When he went out of town, she did not know where he was.

[58] In 2009, Yuan tried to persuade Mother 3 to move to Canada. He sent her photos of the scenery to entice her.

[59] In July 2009, Mother 3 met Yuan's mother. The lease for her apartment had expired and Yuan was going to find her a new apartment. In the interim he took her to stay with him at his Palm Springs apartment. His mother was there. He introduced Mother 3 as his "girlfriend".

[60] Yuan wanted Mother 3 to become pregnant to the extent that he calculated her menstrual cycle. She became pregnant in April or May 2010.

[61] In September or October 2010, Mother 3 discovered that several women were trying to find him through a dating website. She also noted several documents on his computer and on-line. Some of these were "marketing" himself on the site. For example:

An entrepreneur with an annual salary of tens of millions and a personal asset of thousands of millions is sincerely looking for a lifetime companion!

I always believe that the progress of a man is not the accumulation of money but the development of his mind! Everyone has his own growth process, with ups and downs on the way. On the path to love we are not only looking for romance but also responsibilities! Come, my friends, let's come together, get to know each other and love each other. Let's go hand in hand and side by side to create hope and make a beautiful future come true!!!

I'm engaged in the petroleum, coal, mining, telecommunication and educational industries. I have mansions of thousands of millions in value, yachts, Rolls-Royce, Bentley and other luxury cars, both in China and Vancouver. I am a low-key person, trustworthy and sincere, and I look forward to creating a beautiful future with a pretty and talented girl!

Tel: 13910108888

YUAN Gang from Tangshan 8888

She discussed these with Yuan who promised not to use on-line dating sites again.

[62] Child 3 was born on February 3, 2011. As with Mother 2, Yuan arranged for the birth to take place in Hong Kong. Prior to the birth and for approximately two months after, Mother 3 lived in Shenzhen, close to Hong Kong. She moved to Beijing, into an apartment that Yuan had arranged, approximately 20 minutes away from his Palm Springs apartment.

[63] Yuan told Mother 3 that he wanted his family to accept her and the child, so he arranged for his mother to visit in Mother 3's apartment. For about a month, his mother visited every second day. She brought gifts for the baby. Yuan's mother never told Mother 3 about other children or women.

[64] In 2011, Yuan tried to persuade Mother 3 to move to Canada. He said she could obtain a student visa. He arranged for her to take a course to enable her to pass an English as a second language proficiency test—the IESLET—and arranged for his driver to take her to and from the course. Yuan gave Mother 3 money to pay for an immigration consultant to apply for the visa. Mother 3 was content to make the move for the sake of their child, and because Yuan was spending more and more time in Canada. She applied twice for visas, but was not successful.

[65] In 2012, Yuan hired Mother 3's brother to do some driving and run errands.

[66] Mother 3 learned of Child 1 after Yuan's father died in July 2012. He explained to Mother 3 that he would like to take her to the funeral, but could not do so because he had another child in Tangshan. Yuan denied to Mother 3 that he wanted to marry Mother 1 and would not do so unless Mother 3 married someone else.

[67] In May 2013, Mother 3's brother told her of what he had seen of the other women visiting Yuan. Mother 3 said she asked Yuan to break up and she moved into a friend's place in June 2013, but reconciled in November 2013.

[68] Apart from the break-up period, Mother 3 said she saw Yuan three times a week from 2009 to 2013, sometimes in his apartment and sometimes in hers. She said they would usually have sex.

[69] Mother 3 said that Yuan left China in February 2014, but they were in touch through text messages. Yuan spent August 25 to 29 with her. (The records indicate he returned to China on July 24.)

[70] Yuan supported Mother 3 and the child financially from 2008 to the time of his death, except for the break-up period. She said she called Yuan "husband" and he called her "wife" and that some of his drivers called her "older sister" and some "sister-in-law".

[71] Mother 3 had three bank accounts. She said that Yuan asked her to open them and "make them available" for his use.

4. Mother 4

[72] In December 2007, Mother 4 was working as a patent agent in Beijing. She met Yuan in respect to a patent application he was filing. After their initial meeting Yuan contacted Mother 4 frequently, often inviting her for meals. In about February 2008, he send her text messages saying he loved her.

[73] February 2008 was Chinese New Year's and Mother 4 usually took a trip around that time. Yuan arranged and paid for a group tour for her, sending her a text with the arrangements.

[74] Mother 4 said that Yuan introduced her to his friends as his "girlfriend" and his drivers would call her "sister-in-law". When he was in Beijing they would meet every week and sometimes she would spend the night in his apartment. She noted she did not see any other women's things in the apartment. When Yuan was out of town they would communicate by text.

[75] Mother 4 said they began sexual relations in February or March 2008.

[76] Yuan told Mother 4 she should get a passport so she could join him on one of his trips to Canada. She did so and obtained a passport in March 2008.

[77] Mother 4 met Yuan's mother in 2008. Initially she did not know it was his mother and thought it was about work she was to do for Yuan's company. She later learned it was his mother. His mother told her that Yuan was at an advanced age, but not married.

[78] Still in 2008, Yuan told Mother 4 they had a good future together. He proposed marriage to her. She did not think she answered him directly; while she wanted to have a good future together, she felt she needed more time because they had just met. Yuan bought her gifts, including an expensive IWC watch, which she refused to accept. They took a trip together to Tangshan.

[79] In 2009 Mother 4 discovered emails from another woman on Yuan's computer. Yuan had given her access to it because she was doing work for him. Mother 4 replied to the email and the woman and her made phone contact. Mother 4 decided to break up with Yuan a few months later.

[80] After the break-up Yuan and Mother 4 were in contact for work, but did not see each other. In February 2012 they got back together and started having sex again. Yuan asked her if she wanted to have a child, so she stopped using contraceptives. After March all their dates were at his Palm Springs apartment. She would go there every week when he was in Beijing. She did not recall whether Yuan paid her expenses at this time.

[81] In December 2012 Mother 4 told Yuan she was pregnant; he was in Canada at the time. She said he seemed happy and said they would talk about where she should give birth when he returned. Yuan hired a nanny for her.

[82] On August 13, 2013, Mother 4 gave birth to a daughter, Child 4. Yuan was in town for the birth. He left for Vancouver approximately three months later. Mother 4 and Yuan had frequent video contact when he was out of town; he wanted to see the child.

[83] Mother 4 said her relationship with Yuan in 2014 was similar to that in 2013, but better because of the child. She said she would describe him as her child's father. When she was asked whether it was different in 2015, she said she was not sure how she could answer that. (As I noted above, Yuan was not in China in 2015.)

5. Mother 5

[84] Mother 5 met Yuan at a friend's party in the summer of 2011 when she was living in Beijing. They had a meal and two months later Yuan called and asked her to come to Vancouver. She refused.

[85] Mother 5 next saw Yuan at the 2014 Spring Festival in January or February. He told her he had been single since he had last seen her, and wanted to settle down and have a family because he was getting older.

[86] In May 2014 Mother 5 and Yuan met in Las Vegas. He paid for her trip. At her request he booked two rooms, but after two nights they began sleeping together. Mother 5 described their relationship as "a couple deeply in love who would go out together and hold hands and see things".

[87] After a few nights in Las Vegas, Yuan returned to Vancouver and arranged to travel to Miami and Cancun with Mother 5 a few days later. She stayed in Las Vegas with a friend and then met him at the Los Angeles airport for the trip. They stayed in Miami for four days and then in Cancun for another three days. Mother 5 returned to Beijing from there; Yuan stayed on for another two days. In Las Vegas Yuan told Mother 5 that friends of his had just been married there and he wanted to do the same with her.

[88] Mother 5 learned she was pregnant in July 2014. She texted Yuan the news. Over video and text messages she told him she was considering an abortion because they were not married. He told her not to because she might not be able to conceive again and it could damage her health.

[89] In July 2014, Mother 5 flew from Nanjing to Beijing to visit Yuan. She asked about marriage plans; he said once the child was born they would be married in Las Vegas. Mother 5 tried to persuade him to get married immediately, but he gave a number of excuses.

[90] In August 2014 Yuan invited Mother 5 to Vancouver but she refused saying she wanted him to meet her parents in Nanjing first. He flew up and met her parents. Mother 5's mother asked Yuan what plans he had with her daughter. He took a diamond ring out and put it on her middle finger and said they would be married in Las Vegas once she had the baby. He gave her parents some gifts.

[91] On September 26, Mother 5 flew to Vancouver. Yuan picked her up and toured her around. He showed her a house in Shaughnessy he said he owned. She stayed with Yuan—sharing a bedroom—in the West Vancouver home.

[92] After a few days, Mother 5 discovered a woman's nightgown in a cupboard. She also went on to his computer, which was not password protected, and discovered photos of him with other women, nude photos of other women, a video of him having sex with a woman and three video clips of him with a child. She also found a numbered list of women's names with their ages and their cities. There were 68 of them.

[93] Mother 5 did not want to confront him at that point but made a decision to return to China to have an abortion. She gave Yuan an excuse that she had to return for an emergency and did so. When she got back to China she did tell him what she had discovered and told him she wanted an abortion. As with the other mothers, he talked her out of it.

[94] Yuan arranged for Mother 5 to give birth in Irving, California, so that the child would have U.S. citizenship. Their daughter—Child 5—was born on March 1, 2015.

[95] On March 11, Yuan flew to Irvine. He had dinner in Mother 5's apartment with her, her mother and the child. He told them he would take them the next day to look at houses. The following day he took Mother 5 and the child to get the child's documents. Mother 5 did not mention any home search. She said in her mind she wanted nothing more to do with him other than his relationship with their daughter. She assumed he would provide her daughter with financial support but it was not discussed.

C. Other witnesses' evidence

1. Yuan's Brother – Qiang Yuan

[96] Mother 1 called Yuan's younger brother—Qiang—as a witness.

[97] Qiang has spent his whole life in Tangshan. He said he observed Mother 1 with his brother frequently and said she and Yuan lived with his parents for a time. When he visited his brother in Beijing he saw them together at the Palm Springs apartment.

[98] Qiang gave similar evidence to that of Mother 1 with regard to his purchase of the apartment that Mother 1 moved into in Tangshan. He did not explain why he put it in the name of their son.

[99] Qiang said that he saw Mother 1 at the hospital visiting his father.

[100] Qiang said that in 2014 his brother mentioned a plan to bring Mother 1, their son and eventually his mother to Vancouver, but the plan never came to fruition because of his brother's death.

[101] Qiang testified that in 2015 he did not have much communication with his brother; then he said it was the same as in prior years, namely two to three times per week.

[102] He said there was nothing to lead him to conclude there had been a change in the relationship between Mother 1 and his brother. He knew nothing of his brother's relationship with the other mothers or the children, until he heard from one of them a few months before his brother was killed. He did not discuss the conversation with his brother or anyone else.

[103] Qiang said his understanding was that his brother's and Mother 1's relationship was one of husband and wife. This was based on the fact that "they were very good with each other and lived together with my parents and they had a child". Qiang said that Mother 1 and his brother called each other husband and wife.

[104] Although Qiang described his relationship with his brother as close, he did not know of the other mothers or children. He did not know much about the businesses that Yuan was in. He said in 2015 he did not have much communication with his brother in the first four months. He added that the amount of contact was similar to his contact with him the previous year.

[105] Qiang took steps to become the administrator of Yuan's estate. Mother 2 intervened in the process and became co-administrator. In spite of this, he said he had no idea what the status was of Yuan's assets in China.

2. Jianbing Sun (Beijing Driver)

[106] Mr. Sun worked as a driver for Yuan in Beijing, occasionally driving him to Tangshan. He testified via video from Beijing on behalf of Mother 1.

[107] Mr. Sun testified that he began working for Yuan in 2005. There was some inconsistency between his direct evidence and cross-examination that may have resulted from either the translation or the video connection from Beijing, but it appears that from 2005 to January 2015, he saw Yuan almost every day when Yuan was in Beijing. He did not meet Mother 1 until 2009.

[108] Mr. Sun also knew Child 1, having driven him together with Mother 1 and Yuan several times. He drove a magician to Child 1's birthday party "every year".

[109] Mr. Sun said that he thought Yuan and Mother 1 were husband and wife because every year during Chinese New Year they would be together having meals and Yuan would stay together in Mother 1's home.

[110] In cross-examination Mr. Sun admitted with some reticence (out of concern for Yuan's reputation), that he met numerous other women through Yuan.

3. Lijiang Wang (Tangshan Driver)

[111] Mother 1 also called Yuan's Beijing driver—Mr. Wang—as a witness. He also testified via video. Mr. Wang worked for Yuan from 2001 to 2015.

[112] Mr. Wang first met Mother 1 in 2004. He said he did not see Yuan much in 2005, 2006 and 2007 because Yuan was dealing with procedures for going abroad. (He did not state how he was aware of this.)

[113] Between 2009 and 2014 Wang saw Yuan and Mother 1 together frequently. He said that they stayed in Yuan's parents' home when in Tangshen and in the Palm Springs apartment when in Beijing.

[114] Mr. Wong called Yuan "elder brother". He called Mother 1 "sister-in-law" because she was the wife of Yuan.

4. Mr. and Mrs. Li

[115] Mr. Li is accused of murdering Yuan. He and his wife were called by the defendants. It was agreed that the circumstances of Yuan's death would not be canvassed and Mr. Li had his counsel present when he gave his evidence.

[116] Mrs. Li was related through adoption to Yuan. Mr. Li met Yuan when he and Mrs. Li were living in Montréal. At Yuan's urging they moved to Vancouver, at first living in Yuan's house in Shaughnessy. They could not remember the date of the move but it was prior to 2010.

[117] Near the end of 2010 they moved with Yuan, the Lis' daughter, and Mrs. Li's mother into the West Vancouver home. They did not give evidence as to who owned the home. Counsel advise it is registered in the Lis name, but Yuan's estate is suing to assert beneficial ownership.

[118] Mr. and Mrs. Li each testified that Yuan brought different women into the home at a frequency that—as put by Mrs. Li—was too much to count. Often the women would stay over and sleep with Yuan in his bedroom. Mrs. Li said that she could remember 10 of the women's names.

[119] Mrs. Li said that when Mother 2 and Child 2 moved into the house in January 2015 (as discussed above), she helped looked after the child. She also recalled Mother 5 visiting for a few days when she was pregnant.

[120] With respect to Mother 1, Mrs. Li had not heard of her until after Yuan was killed. However, Mr. Li said that Yuan's mother asked him to try to persuade Yuan to marry her. He said when he mentioned this to Yuan, he said she was too calculating by trying to please his family and having them ask Mr. Li to persuade him to marry her. He said Yuan stated, "He hated this kind of women the most." That is why he did not want to bring her to Vancouver.

III. LEGAL FRAMEWORK

[121] None of the parties raised any choice of law issues.

[122] Part 3 of *WESA* deals with the distribution of an estate where a person dies without a will. Section 21 deals with situations when there are a surviving spouse and descendants of the deceased. It states, in part:

21 ...

(2) If a person dies without a will leaving a spouse and surviving descendants, the following must be distributed from the intestate estate to the spouse:

...

I will not set out the distribution scenarios contemplated by the statute because at the moment I am dealing with the threshold issue of whether Mother 1 is a spouse.

[123] Section 2 of *WESA* sets out the definition of a spouse:

When a person is a spouse under this Act

2(1) Unless subsection (2) applies, 2 persons are spouses of each other for the purposes of this Act if they were both alive immediately before a relevant time and

- (a) they were married to each other, or
- (b) they had lived with each other in a marriage-like relationship for at least 2 years.

(2) Two persons cease being spouses of each other for the purposes of this Act if,

- (a) in the case of a marriage, an event occurs that causes an interest in family property, as defined in Part 5 [*Property Division*] of the *Family Law Act*, to arise, or

(b) in the case of a marriage-like relationship, one or both persons terminate the relationship.

(2.1) For the purposes of this Act, spouses are not considered to have separated if, within one year after separation,

(a) they begin to live together again and the primary purpose for doing so is to reconcile, and

(b) they continue to live together for one or more periods, totalling at least 90 days.

(3) A relevant time for the purposes of subsection (1) is the date of death of one of the persons unless this Act specifies another time as the relevant time.

[124] With respect to ss. (3), the "relevant time" is the time of Yuan's death.

[125] The cases have interpreted the "at least two years" requirement in s. 2(1)(b) to run backwards from the time of the death, and not to have been at any time in the past: *Connor Estate*, 2017 BCSC 978 at paras. 3 and 9 and *Robledano v. Jacinto*, 2018 BCSC 152 at para. 177. This is consistent with the general approach of the legislature to spousal relationships. As stated in BC Law Institute, *Wills, Estates and Succession: A Modern Legal Framework* (BCLI Report No. 45, June 2006) ("BCLI Report") at 110-111, which contained recommendations, some of which were adopted in *WESA*:

The requirement for a minimum of two years of living in a marriage-like relationship in order for the parties to acquire the status of "spouse" and be treated on the same basis as a legally married person is consistent with other British Columbia legislation touching on spousal relationships. The stipulation that the parties not have been separated for more than two years immediately before the relevant time stems from a policy, also reflected in existing legislation, that the right to inherit based on spousal status alone should not persist indefinitely once the spousal relationship has clearly broken down.

The crucial period here is therefore the two years immediately prior to Yuan's death.

[126] Section 22 contemplates that there can be more than one surviving spouse:

22(1) If 2 or more persons are entitled to a spousal share of an intestate estate, they share the spousal share in the portions to which they agree, or if they cannot agree, as determined by the court.

(2) If 2 or more persons are entitled to apply or have priority as a spouse under this Act in respect of an intestate estate, they may agree on who is to

apply or who is to have priority, but if they do not, the court may make the decision.

[127] This provision, and its predecessor, s. 85.1 of the *Estate Administration Act* R.S.B.C. 1996, c. 122, has been cited in only three cases: *Austin v. Goerz*, 2007 BCCA 586, *Gosbjorn v. Krompocker Estate*, 2008 BCSC 219 and *Connor Estate*.

[128] *Austin* concerned whether a deceased, who was already married, could also be in a common-law relationship under the *Estate Administration Act*. In that case, the deceased began a relationship with Ms. Goerz after separating from his wife, Ms. Austin. No order of divorce was ever granted. The court confirmed the deceased could be in a marriage-like relationship with Ms. Austin, despite lacking the capacity to marry. Justice Frankel, at para. 44, found that s. 85.1 "is a positive indication that the Legislature contemplated that a deceased could leave behind both a lawfully married spouse and a common-law spouse".

[129] In *Gosbjorn*, the deceased was married, but never divorced. After his separation he began a relationship with Ms. Gosbjorn. In confirming that Ms. Gosbjorn was in a common-law relationship with the deceased prior to his death, Gray J. referred to the court in *Austin's* analysis concerning s. 85.1.

[130] In *Connor Estate*, the deceased had been in a 21-year relationship with a married man. The man separated from his wife about three years before the deceased's passing; the divorce order was granted a couple months after her death. Through their marriage, the man hid his relationship with the deceased from his wife. Justice Kent, at para. 5, confirmed that "it is possible for a person who dies without a will to leave behind two or even more persons who might qualify as a 'spouse' under *WESA* for the purposes of intestate estate distribution". He rejected the notion that it was "a legal impossibility to have two co-existing marriage-like relationships that are recognized by the court" and the submission that evidence about the nature of the deceased and the man's relationship prior to his separation was irrelevant to the question of whether a marriage-like relationship existed in the two years prior to her death: paras. 43–45.

[131] It will be noted that these decisions do not involve circumstances akin to those in this case, *i.e.* where the deceased was in concurrent multiple relationships immediately prior to his death.

A. What is a marriage-like relationship?

[132] The term "marriage-like relationship" is also used in s. 3(1) of the *Family Law Act*, S.B.C. 2011, c. 25, and the courts have relied on cases decided under it and *WESA* interchangeably.

[133] The concept of a marriage-like relation is an elastic one. This is illustrated by the following passage from *Yakiwchuk v. Oaks*, 2003 SKQB 124, with which Frankel J.A. agreed in *Austin v Goerz*:

[11] 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 B 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 B 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 B others do nothing together. Some "spouses" vacation together and some spend their holidays apart. Some "spouses" have children B 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.

[134] *Moldowich v Penttinen*, [1980] O.J. No. 1904, (Ont. District. Ct.), set out a list of 22 factors grouped into seven categories that may be taken into account in determining a marriage-like relationship, which has frequently been referred to in this and other courts. It will be seen that they cover virtually every aspect of life a couple could engage in together:

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?

[135] Although, as discussed above, a person can be in more than one marriage-like relationship, it is to be noted that item 2(a) in the above list from *Moldowich* concerns fidelity. Further, in *C.F.M. v. G.L.M.*, 2018 BCSC 815 at para. 21, Baird J. noted that a marriage-like relationship could be sexually "open", but with mutual consent. Counsel for Child 3 pointed out that s. 8(2)(b) of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp) provides that adultery is one of three ways to establish the breakdown of a marriage. However, that represents the view of parliament and not of the B.C. legislature.

[136] Recently, in *McDowell v Andrews*, 2018 BCSC 2216 at para. 23, Matthews J. focussed on five factors:

- a) the parties' intentions, particularly that the relationship will be of lengthy, indeterminate duration;
- b) whether there is financial interdependence;
- c) whether the parties resided together and if so, whether they did so in the nature of roommates or in the nature of a couple;
- d) objective evidence of the parties' lifestyle and interactions; and
- e) whether the parties engaged in sexual relations and were intimate in the sense of fidelity and sharing personal information.

[137] In *Weber v. Leclerc*, 2015 BCCA 492 at paras. 22 and 25 the court cautioned against a "checklist approach". Rather, the court should "holistically" examine all the relevant factors.

[138] The courts have been more definitive in determining what is not required for a more marriage-like relationship. Thus, as discussed in *Austin*, Frankel J.A. concluded the legal capacity to marry was not a prerequisite to being in a marriage-like relationship.

[139] *Austin* also established that financial dependence was not required for a marriage-like relationship.

[140] Nor do the parties have to co-reside, although the definition of "spouse" in *WESA* contains the criteria that the parties "lived together": *Connor Estate*, at para. 45. See also *Coupar v. Roh*, 2014 BCSC 1392 (a case under the *Family Law Act*).

[141] Intention of the parties is a factor that must be considered. While intention is, of course, subjective, the courts have looked to objective factors to test the veracity of the parties' expression of intent. As Schultes J. said in *Dey v. Blackett*, 2018 BCSC 244:

[235] ... While an intention to enter into a relationship similar to marriage – of an indeterminate, lengthy duration – is the essential requirement for finding a marriage-like relationship, a consideration of objective indicators are helpful as a means of testing the parties' professed intentions (or lack of intentions) in that regard, and may also form the basis of inferences as to what their intentions were. Put another way, while intention is the key, a partner who claims or disavows such an intention may not be believed if all of the surrounding circumstances strongly imply the contrary. All of that said, *Takacs* offers the reminder that relationships can fulfill many of the accepted indicators without the couple "intending or in fact entering the kind of psychological and emotional union that one associates with marriage."

And in *Weber*, the court noted:

[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".

[142] 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.

[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.

[144] The difficulty has been the subject of academic comment. For example, Professors Cosman and Ryder write in *What is Marriage-Like Like? The Irrelevance of Conjuality* (2001) 18:2 Can. J. Fam. L. 269 at 280

While the notion of conjuality or marriage-like has become legally ubiquitous in the regulation of non-marital cohabitation in Canada, one searches in vain for legislative guidance on its meaning. It is not defined in any Canadian statute. The task of giving meaning to this crucial relational characteristic has been left to administrators, tribunals and courts. What is marriage-like like? Is there such a thing as a typical or standard marriage? Among the multitude and diversity of relationships between married men and women, can we identify common characteristics of their shared lives apart from the experience of having exchanged vows and signed forms in a religious or civil proceeding? Or, should we abandon the attempt to assign a fixed set of functional characteristics to the state of being married, and acknowledge that it is increasingly unintelligible to speak of a relationship as being "marriage-like"? The absence of a legislative definition suggests that the meaning of conjuality is either self-evident or difficult to pin down. The record of judicial attempts to grapple with the notion supports the latter conclusion.

[145] They make this comment with respect to the *Molodowich* factors:

Many of the seven *Molodowich* factors will be met to varying degrees by most adult domestic relationships. If none is essential, what makes a spouse a spouse? What distinguishes spouses from other interdependent domestic relationships between adults? How many of the factors must co-residents meet before they are considered spouses? Are any of the seven *Molodowich* factors more important than others? The Court gives little guidance, other than to emphasize discretion, flexibility and diversity.

The uncertainties associated with this approach to conjuality are compounded by the Court's observations that a conjugal relationship may exist, even in the absence of a sexual relationship, which is often assumed in ordinary parlance to be a central if not defining feature of a "conjugal" relationship. ...

[146] More recently, in *Polygamy's Inscrutable Criminal Mischief* (2009) 47 Osgoode Hall L.J. 317 Professor Susan Drummond noted at para. 351:

Identifying what the essence of the marriage relationship is for the purposes of determining what is marriage-like, in the absence of the actual solemnization ceremony, has proven to be an increasingly elusive quest. The institution of marriage now contains such an extensive array of variants (*i.e.*,

with or without children, living in the same or separate residences, with or without sexual activity, with traditional, equal, or reverse-traditional gender roles, and so on) that it is difficult to identify anything more than patterns across a range of marriages, rather than a set of essential criteria. Furthermore, the frequency of committed relationships flourishing beyond the boundaries of civil marriage is increasing, with the result that the law has been restructured to attach similar legal consequences to both married and unmarried relationships.

[147] Looking at the matter from a broader perspective, in *Marriage, A History: From Obedience to Intimacy or How Love Conquered Marriage* (New York: Viking Penguin, 2005) at pg. 24, Stephanie Coontz noted:

Long before legislators and judges, under pressure from gay rights activists, began to debate the definition of marriage, anthropologists and sociologists had been passionately debating the same question. After half a century there is still no definition everyone accepts.

[148] I agree with the comments in these articles. Marriage now being so multifarious, one cannot help but wonder if the concept of a marriage-like relationship has outlived its utility. An estate or family trial ought not to be an exercise in sociology in which leaps of judicial notice are often made. That, of course, is a matter for the legislature and *WESA* is to be applied according to its terms.

B. Cessation of a marriage-like relationship

[149] Section 2(2) (quoted above) sets out when people **cease** being in a marriage-like relationship: it is when **one or both** persons terminate the relationship. This is a change from s. 98 the predecessor statute, the *Estate Administration Act*, which applied a "separation" test to all spouses and was, according to the BC Law Institute, "interpreted to mean that there must have been a mutual intention to live separate and apart in order for spouses to have been separated for purposes of intestate succession": BCLI Report at 9 and 15.

[150] Although a marriage-like relationship is different than a common-law relationship, they are sufficiently similar to conclude that they should be terminated

in the same fashion. In *Hodge v. Canada (Minister of Human Resources Development)*, 2004 SCC 65, Binnie J. stated:

I agree with the observation of Morden J.A. in *Sanderson v. Russell* (1979), 24 O.R. (2d) 429 (Ont. C.A.), at p. 432, that, subject to whatever provision may be made in a statute, a common law relationship ends "when either party regards it as being at an end and, by his or her conduct, has demonstrated in a convincing manner that this particular state of mind is a settled one".

While Binnie J. stated that this was, of course, subject to a statutory provision, the wording of s. 2(2)(b) is sufficiently general to not detract from *Hodge*. Gray J. applied this analysis to the *Estate Administration Act. Gosbjorn*, at para. 142.

[151] Finally, I think it is clear that when s. 2(2)(b) refers to a termination of "the relationship" it is referring to the termination of the marriage-like relationship. In other words, a marriage-like relationship may be terminated, in spite of the parties continuing to have a relationship of another kind.

IV. ANALYSIS AND CONCLUSIONS

[152] For the reasons that follow, I conclude that Mother 1 and Yuan did not live in a marriage-like relationship from at least 2011. Alternatively, if they did live in a marriage-like relationship, by at least 2014, when Yuan called off the planned (if it can be called that) trip for Mother 1 to Canada, he terminated the relationship.

[153] As I noted in the introduction, this is not a contest between Mother 1 and the other mothers. However, Yuan's relationship with the other mothers, and other women for that matter, are obviously significant factors in evaluating the nature of the relationship between Yuan and Mother 1. First, the evidence of the other mothers as to where and when they spent time with Yuan affects the credibility and reliability of Mother 1. Second, it shows Yuan's attitude toward his relationship to Mother 1.

[154] It will be seen from the Appendix that from the time Yuan began his relationship with Mother 2 in 2008 (the same year that Child 1 was born) to 2009 (when he temporarily broke up with Mother 4), he was having similar relationships

with at least three other women at the same time. From November 2013 to the date of his death, Yuan was having relationships with the four other mothers.

[155] In addition to his relationships with the five mothers, Yuan continued to post his profile on dating websites. In December, 2008, he took a trip to Las Vegas with another woman. In January 2015, he took yet another woman on a trip to the United Kingdom.

[156] Aside from Mother 1, Yuan provided living accommodation to at least two other mothers. Mother 2 initially lived in the Palm Springs apartment, and in 2010 he rented her a nearby apartment. In 2008, Yuan rented an apartment in Beijing for Mother 3.

[157] Yuan tried to persuade at least two mothers to move to Canada: Mother 2 in 2013 and Mother 3 in 2009 and 2011. Mother 2 actually moved to Canada in July 2014 with her child. As I said, he called off a planned trip by Mother 1 to Canada, most likely because Mother 2 moved here.

[158] Focussing on Mother 1, her evidence in support of the marriage-like relationship was largely confined to their alleged living together and participation in family New Year celebrations and her spending time at the hospital with Yuan's father and Yuan's relationship with their child.

[159] With respect to their living together, as I have said, from 2007 to 2011 she lived in Yuan's parents' home. When not on business trips, she said Yuan lived there as well. However, that portrays a false impression. Yuan purchased the Palm Springs apartment in Beijing in 2007 and spent substantial amounts of time there without Mother 1. While Mother 1 said that she would often stay with Yuan in the Palm Springs apartment, this is not consistent with the evidence of the other mothers. Mother 2 said she moved in there in 2008. Also in 2008, Mother 3 started making trips to Beijing to visit Yuan and in November she said she moved to Beijing and lived in the Palm Springs apartment for a week before Yuan rented another apartment for her.

[160] In 2011 Mother 1 moved from Yuan's parents' home (for the second time) into the apartment in Tangshan, which Yuan's brother had acquired and put in Child 1's name. Once again, Mother 1 said that Yuan lived with her when he was in Tangshan, however, he still spent substantial time in Beijing and elsewhere and carried on his relationships with the other mothers.

[161] I do not accept Mother 1's estimate of the amount of time she spent with Yuan before he left China for the last time on September 3, 2014. Her evidence could only be accurate if the evidence of the other Mothers as to their time with Yuan is rejected. However, as submitted by Children 1 and 5, the other mothers' evidence is corroborated by several facts, including that they each had children with Yuan, Mother 2 moved to Canada, Mother 5 travelled with Yuan and visited Canada and there is no evidence to the contrary as to their respective relationships, where they occurred or when.

[162] Moreover, Mother 1's evidence of her time spent with Yuan was vague in comparison to the other mothers' evidence. In short, she has no evidence that contradicts that of Mothers 2–5 as to when they were with Yuan while in China or in Canada. For example, Mother 1 in her evidence:

- could not recall time she spent with Yuan in 2013;
- could not recall when she was with Yuan in Beijing in 2013 and 2014, with the exception of the late July, August and September 2014 period;
- could not recall whether she was in Beijing with Yuan in January 2014;
- had no memory of spending time with Yuan before July 2014;
- could not recall when Yuan was away on trips during 2013 and 2014, with the exception of the late July, August, and September 2014 period;

- could not recall when she and Yuan slept together or slept apart during 2013 and 2014, with the exception of the late July, August and September 2014 period;
- could not recall when she accompanied Yuan on a business trip within China or the last business trip that she took with him.

[163] Mother 1 emphasized that she had an entry card to the Palm Springs apartment building. She said when she came in through the front door, she would "sometimes" identify herself to the security guard who would call to tell Yuan she was there; most of the time she said she would drive her car to the garage, and from there she would use her access card to go to the apartment. However, she also said that she would get there "by driver", and this was verified by the two drivers who were called as witnesses.

[164] If Mother 1 did, indeed, have a security card to the building, I conclude that her visits had to have been carefully coordinated by Yuan and this is how contact between the mothers was avoided. Mother 1—or the others—could and did not come and go as they pleased.

[165] Jumping ahead to the crucial period of the two years prior to when Yuan was killed on May 2, 2015, Yuan was not in China from September 3, 2014; rather, he was in Canada and the United States. Mother 1 and her child were still living in the apartment in Tangshan and did not join him overseas. As I said above, Yuan had brought Mother 2 and her child to Canada in July 2014, having told Mother 1 that the visit he planned for her to Canada was cancelled because of a "situation". There were no plans put in place to have Mother 1 immigrate.

[166] Sexual relations are one factor to consider. There is no evidence to support a finding that Yuan and Mother 1 had sexual relations in the two years prior to his death, or indeed for years before then. Mother 1 gave almost no evidence on the issue of sex, and did not provide any evidence that she and Yuan had an ongoing sexual relationship in the years leading up to his death. This is in contrast to the

evidence of the other mothers, particularly Mothers 2 and 3, who provided evidence of ongoing sexual relationships.

[167] Yuan's brother's evidence was remarkable in its lack of detail and vagueness. As I said above, in spite of him saying he was close to his brother, he did not know of the other mothers. He knew very little about how Yuan made his living. He did not explain why he provided the apartment to Mother 1 or put it in Child 1's name. He had very little contact with Yuan in the year preceding his death, and probably for some time before that. His claim that he knew nothing of his brother's assets in China detracts from his credibility. Further, he denied attempting to transfer approximately \$6 million from Yuan's Canadian estate while he was administrator. This is inconsistent with the evidence of Mother 2, who was co-administrator at the time. She was not confronted with this issue on cross-examination. Overall, I am unable to give very much weight to Qiang Yuan's evidence about Yuan's relationship with Mother 1, and find it to be of little assistance in assessing the nature of their relationship.

Conclusions

[168] I conclude that Yuan and Mother 1 did not co-habit or reside together from at least 2011 when Mother 1 and her son moved into the apartment bought by Yuan's brother. By that point, Yuan was travelling frequently and spending substantial time—including overnight time—with some of the other mothers (and later adding other women). He had his apartment in Beijing where he spent substantial amounts of time with other women or without Mother 1. Mother 1 did not reside there; rather, she was a visitor, as were the other women.

[169] It is even clearer that Mother 1 and Yuan did not co-habit or reside together after September 3, 2014, when Yuan left China for the last time, some eight months before he was killed. There is nothing to indicate that he planned on returning to China at all, much less for a substantial period in order to begin living with Mother 1. To the contrary, as I noted, he told Mother 1 not to come to Canada and instead brought Mother 2 and Child 2.

[170] With respect to intent, whatever Mother 1's intentions were, Yuan had no intention to live in a marriage-like relationship with her, and certainly not after 2011. Rather, his actions demonstrate that his intentions were to live the life of a wealthy bachelor, or, as submitted by the defendants, a playboy, without being committed in a marriage-like way to any woman. The evidence indicates that he devoted much of his adult life to making money and using that money as a means to have sex with a large number of women, and children with several of them. His common tactic was to tell women he was single, that he wanted to get married and that he wanted to have a child with them. Yuan's bringing Mother 2 to Canada instead of Mother 1 negates the suggestion that he was or wished to be in a lengthy, indeterminate marriage-like relationship with Mother 1.

[171] It is worth pointing out that no evidence was led to the effect that Yuan or Mother 1 adhered to any religious belief or custom that would contemplate Yuan leading the lives (I use the plural deliberately) he had with other women. Insofar as Mother 1 was concerned, she stated that in her conception of a marriage-like relationship, she would expect her husband to have sexual relations with her only.

[172] While it might be the case that Mother 1 and Yuan referred to each other as husband and wife, that is not terribly significant in this case in light of doing the same with two other mothers, who, as I have said, did not know of each other's existence.

[173] Insofar as finances are concerned, there is no evidence of Yuan and Mother 1 having a joint bank account; Mother 1 had bank accounts in her own name.

[174] While Mother 1 was explicit in her evidence regarding gifts received from Yuan, the evidence as to financial support from him, if any, was unclear. As noted, she lived in an apartment obtained from Yuan's brother and put in Child 1's name. There is no evidence as to who actually paid for the apartment or its upkeep. (Mother 1 did testify that she received financial support from Yuan's mother.) There was no commonly owned property.

[175] Mother 1 did have a relationship with Yuan's parents. However, it appears to me that was attributable to her being the mother of Yuan's first child and Yuan's parents' relationship with the child. A remarkable thing about Mother 1's evidence is that it centered on her relationship with Yuan's parents more than with Yuan. Secondly, it focussed on Yuan's relationship their child. It is notable that of the pictures Mother 1 submitted, there are very few of her with Yuan. There were far more of her and the child with Yuan's parents.

[176] It is true that Yuan gave Mother 1 valuable gifts, but he also gave some of the other mothers gifts and took them on trips, which he did not do for Mother 1.

[177] Counsel for Mother 1 argued that a person having an affair does not necessarily detract from a marriage-like relationship. I agree with that. The case here is of a completely different nature. It shows Yuan had no commitment to or long-term relationship with Mother 1 (or any of the other mothers) beyond looking after his children. The relationship with Mother 1 was not agreed to be an "open" one; rather, Yuan carried on the relationships surreptitiously.

[178] Looking at the matter broadly and holistically, I do not think that Mother 1 and Yuan lived in a marriage-like relationship. To hold that otherwise would be to expand the concept of a marriage-like relationship to such an extent that it would be rendered meaningless. While I do not dismiss the possibility of someone having multiple relationships, one or more being marriage-like, I do not find here from at least 2011 onward.

[179] To put the matter differently, if Yuan and Mother 1 were ever in a marriage-like relationship, Yuan terminated it in 2011. In the further alternative, I would conclude that Yuan terminated the marriage-like relationship by at least September 2014. As I said above, this is when he left China for the last time (eight months before his death). Around the same time, he told Mother 1 not to come to Canada and instead brought Mother 2 and Child 2. Yuan may not have terminated his relationship with Child 1, or terminated any relationship with Mother 1 as the mother of their child. Just as divorced parents can continue a different type of relationship

to marriage—as can former common-law marriage partners—so can people in a marriage-like relationship.

[180] The action is therefore dismissed with costs

"E.M. MYERS J."

APPENDIX – TABLE OF KEY DATES

Date	Mother 1	Mother 2	Mother 3	Mother 4	Mother 5	Yuan/Other
2004	Becomes pregnant and has an abortion July: Moves into Yuan's parents home in summer Dec: moves out of Yuan's parents home					Yuan marries Dan Zhang for immigration purposes
2005		Meets Yuan – he begins "pursuing" her				
2006 or 2007		Mother 2 agent for sale of "Palm Springs" apartment unit to Yuan				Yuan buys Palm Springs apartment
2007	August: Moves back into Yuan's parents' home after he obtains divorce from Dan Zhang					August: Yuan divorces Dan Zhang
2008	Dec: gives birth to Child 1	Yuan proposes Mother 2 starts living in Palm Springs apartment	October: Begins relationship w/ Yuan, visiting him in Beijing November: moves to Beijing at Yuan's request; Yuan rents her an apartment in Beijing	February: begins romantic relationship w/ Yuan Yuan proposes		

2009		Becomes pregnant with Child 2	Yuan tries to persuade her to move to Canada Introduces her to his mother	Breaks up with Yuan		
2010		March 7: Gives birth to Child 2 Yuan rents apartment for her close to Palm Springs Discovers Yuan's on-line dating profiles Oct.: discovers another woman in the Palm Springs apartment	April or May: becomes pregnant at Yuan's urging			
2011	Moves into apartment bought by Yuan's brother		Child 3 born Yuan's mother visit mother and child Yuan again tries to persuade her to move to Canada		Sept: Yuan asks her to come to Vancouver; doesn't see him again until 2014	Yuan's brother buys apartment in Tangshan and puts it in Child 1's name
2012				Feb.: Romantic relation re-established		Yuan's father dies
2013		Yuan begins to persuade her to move to Canada	June: breaks up with Yuan November: reconciles	August: Child 4 born		
2014	December: Obtains Visas for	July: moves to Canada with Child 2			May: travels to Las Vegas and	Sept. 3 2014: Yuan's last

	Canada, but trip called off by Yuan				then Miami and Cancun with Yuan; begins sexual relations Becomes pregnant Aug: Yuan visits her parents in Nanjing with Yuan – he gives her engagement ring Sept.: travels to Vancouver	day in China
2015		January: Child 2 moves to Yuan's home in West Van			March: Child 5 born in Irvine CA	May 2: Yuan killed