

SUPREME COURT OF YUKON

Citation: *K. v. M. and S.*, 2010 YKSC 04

Date: 20100111
Docket S.C. No.: 08-B0053
Registry: Whitehorse

BETWEEN:

R.K.K.

Plaintiff

AND:

B.M.M. and R.S.

Defendants

Before: Mr. Justice L.F. Gower

Appearances:
Debbie Hoffman
Paul Daltrop

Counsel for the Plaintiff
Counsel for the Defendant
B.M.M.

R.S.

Appearing on his own behalf

REASONS FOR JUDGMENT DELIVERED FROM THE BENCH

[1] GOWER J. (Oral): I have discretion under Rule 39(21) to incorporate the terms of an accepted offer into an order. I have heard from all of the parties, including Mr. S., but primarily from counsel for the plaintiff and Ms. M. I am not persuaded that there is any detriment to M.'s best interests to have all of the terms of the accepted offer incorporated into an order. On the contrary, I am satisfied that it would be preferable to do so, given that it would clearly be part of the court record and will give some finality to the precise terms, which have been agreed upon.

[2] In terms of the concern raised by Mr. Daltrop that somehow it may be viewed by a court in the future as being less onerous if Mr. K. was to apply to vary the term regarding the confidentiality of the assessment set out in paragraph 3 of the offer to settle, I want to make it clear that I do not view that as being the case, in comparison with whether that term and the related terms are simply left silent and not made part of the order. Clearly, any future court would have to respect the terms of the agreement regarding the confidentiality of that assessment and I cannot imagine why the court might consider the onus being lessened simply by virtue of the fact that it is incorporated as part of a court order, as opposed to being in a separate collateral agreement.

[3] I am going to direct that a transcript of my reasons on this brief point be placed on the court file so that my view, at any rate, is available to any future court, in the event that I am not deciding the issue.

[4] I am going to make the order incorporating all of the paragraphs, 1 through 8, into an order. I am going to dispense with Mr. S.'s approval of the form of that order, but I will ask Mr. Daltrop to sign his signature approving the form of the order and I will leave it to Ms. Hoffman to prepare that. The order will be sealed.

GOWER J.