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## Custody battles in the age of Internet chats

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Daily contact by video conference over the Internet is not sufficient access between a father and his children, a judge in British Columbia has ruled in turning down a mother's request to move to Australia.

The decision issued by B.C. Supreme Court Justice Hope Hyslop last week is the latest in an increasing number of family law disputes where one of the parents has proposed using online software such as Skype when seeking to move with their children a great distance from their former spouse. In at least four other cases in the past year, judges in B.C., Alberta and Ontario have cited Skype as one of the reasons that a parent was permitted to separate a child from the other parent.

"Electronic communication is not as desirable as in-person access, but it does allow for the child to keep in touch with her dad every day if she

so wishes," said B.C. Supreme Court Justice Deborah Satanove in a recent decision.

The judge ruled in favour of a Vancouver woman taking her 12-year-old child to live with her in Spain, for at least one year.

In the case before Judge Hyslop, the couple, who are both in their early forties, met in 1996 when the woman (who can be identified only as L.C.E.) left Australia to travel and work in British Columbia.

She married E.S.B. in 1997 and they took up residence near Vancouver.

L.C.E. testified that her husband had promised to move to Australia within a year of their marriage. She also claimed to be "lonely and isolated" in B.C.

Judge Hyslop accepted that the woman wanted to be closer to her parents in Australia and the children would have a good upbringing in that country. "I have no doubt that there are suitable schools, friends, medical treatment and recreational facilities available to the children in Australia," she wrote.

But the proposal that the father see the children during their more than 10 weeks of annual vacation from school, as well as daily access on Skype by video conference, was rejected by the court. "If [L.C.E.] moves with the children, there is an emotional loss which will be suffered by them. They are only ages 7 and 4. They will grow up with limited physical and emotional affection from their father.

Skype is not enough," Judge Hyslop said.

The father admitted that he agreed last year to move to Australia to save the marriage. He testified that he now believed his wife intended to end the marriage once everyone had arrived in Australia and pursue a relationship with another man she had met in that country while visiting her parents.

The court heard that L.C.E. and the man, identified as J.R., continued their relationship by email and the phone. L.C.E. admitted to the relationship after receiving a text message from J.R. while walking along a beach last year with her husband and children. The woman's Facebook postings also showed her embracing an unidentified man.

During the trial, the judge was presented with emails that the wife sent to friends, which were accessed by her husband. "I am not married to a bad guy, just doubt he'd know what colour my hair is and then, just when I am so out of here, he starts to notice," one email reads.

In reference to one of the emails, Judge Hyslop concluded that the wife attempted to "create a situation" so she could leave with the children once she decided the marriage was over.

While refusing the request to move the children to Australia, the judge granted custody to the mother five days per week while living in B.C. The father was ordered to pay \$7,600 per month in child and spousal support based on his income of \$200,000 annually.