

Editorial note: Certain information has been redacted from this judgment in compliance with the law.



**IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG LOCAL DIVISION, JOHANNESBURG**

Case Number: 2020/13126

- (1) REPORTABLE: YES
(2) OF INTEREST TO OTHER JUDGES: YES
(3) REVISED: NO

A handwritten signature in black ink, appearing to be "RK. PARKER", written over a dotted line.

RK. PARKER (AJ)

14 DECEMBER 2021

in the matter between:

V, K

Applicant

And

V, P

Respondent

The order is made an order of court by the learned Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically by the parties/ their legal representatives via e-mail. This order is further uploaded to the electronic file of this matter on Caselines by the Judge or the Judge's Secretary. The date of this order is deemed to be 14 December 2021.

JUDGMENT

“There are occasions in the course of litigation where it is necessary, in the poignant words of the Chief Justice, ‘for the child’s voice to be heard’.”¹

INTRODUCTION

1. The Applicant and the Respondent have one minor child, A, who has just turned 11 (eleven) years of age.
2. It is noteworthy that pursuant to the Rule 43 Application launched by the Applicant, an interim recommendation made by the psychologist Clare O Mahoney in March 2020, shared residency was agreed upon.
3. The shared residency continues to current, with handovers on a Friday.

ISSUES TO BE DETERMINED

4. The Applicant and the Respondent are predominately concerned about the best interest of their minor child, A.

FOR THE APPLICANT

- 4.1. For the Applicant, the issues to be determined are whether an expert, Anthony Townsend (hereafter referred to as “Townsend”) should re-investigate the matter and provide an addendum; whether the recommendations in his report dated 7th May 2021 should be implemented,

¹ MEC for Education, KwaZulu-Natal, and Others v Pillay 2008 (1) SA 474 (CC) paragraph [56]. See also Christian Education South Africa v Minister of Education 2000 (4) SA 757 (CC) paragraph [53].

with updated recommendations if so required; determining the best interests of the minor child insofar as parental rights and responsibilities are concerned in light of the events that have transpired after such report being rendered;

- 4.2. Whether the cost of Townsend's re-investigation as aforesaid are to be paid by the Respondent;
- 4.3. The Respondent is to attend the family bridges program and is to enroll in such program within five (5) days from the date of this Order;
- 4.4. Dr. Tiaan Kirsten, or a senior mental health practitioner with at least ten (10) years' experience to be appointed as the parenting coordinator.
- 4.5. Mrs. Brownyn Stollarz is to be appointed as the psychotherapist for the minor child.
- 4.6. Dr. Tania Holz is to be appointed as the family reconstruction therapist and to attend parent management training.
- 4.7. Pending finalisation of Townsend's re-investigation and addendum to his report, the recommendations set out in the report, as submitted, of the paragraphs 10.1-10.3; (excluding subparagraphs 10.3.1 and 10.3.2); 10.3.3; 10.4.3; 10.4.5; 10.5 and 10.7 - 10.7.12

FOR THE RESPONDENT

- 4.8. For the Respondent, the submissions were whether a legal representative (Curatrix ad Litem) with powers to appoint experts; act on behalf of the minor representing the minor and the voice of the child (VOTC) should be appointed for A and whether the Applicant's contact should be limited pending a report by the Curatrix ad Litem.
- 4.9. The Curatrix ad Litem is directed to compile a report in respect of the care, contact, and primary residence of the children with this Court within sixty (60) days from the date of this order or as soon thereafter as directed by this Court.
- 4.10. Both the Applicant and the Respondent shall be jointly liable, in equal shares, for the costs of the Curatrix ad Litem and any expert engaged by the Curatrix ad Litem, provided that such an engagement shall take place in consultation with them. Such costs shall be paid within 30 (thirty) days of date of invoice or any such period granted by the Curatrix ad Litem after consultation with all the parties
- 4.11. Costs of this application shall be costs in the cause.
- 4.12. The parties agreed to postpone the maintenance *sine die* and be given leave to file further financial disclosure forms and to file further affidavits in terms of Rule 43(5).
- 4.13. In essence, the Respondent seeks a Curatrix ad Litem whereas the Applicant seeks an order for a re-investigation being conducted by Townsend and having his recommendations implemented in the interim pending such re-investigation.

- 4.14. For the Applicant, the reinvestigation on alienation is to be addressed first, before the VOTC.
- 4.15. This is at the heart of the decision.
- 4.16. An analysis of what transpired to date is crucial to understanding how this matter was forced to be launched for interim relief *pendente lite*.

THE TIMELINE - TOWNSEND'S REPORT – CLINICAL PSYCHOLOGIST

- 5. As early as 4 August 2020, Townsend received a request to provide a quotation from the parties followed by a signed mandate on 22 November 2020. On 26 January 2021, both parties agreed to the terms of his mandate to 'conduct a full psycho-forensic assessment of the Applicant and the Respondent, as well as their minor child, to:
 - 5.1. Evaluate each of the parties' psychological ability to co-parent effectively and in the best interests of the minor child;
 - 5.2. Determine whether either of the parties poses a physical, psychological and/or emotional threat to the minor child;
 - 5.3. Determine the rights of contact to the child including whether such rights shall be restricted and/or supervised, by whom, and the terms thereof;
 - 5.4. Determine each of the parties' parental rights in respect of the minor child and whether or not same are to be limited and/or restricted;
 - 5.5. To propose a dispute resolution mechanism; and
 - 5.6. To provide a report in respect of the above.

6. The Townsend report was finalised on 7 May 2021.
7. Townsend who has years of experience in dealing with similar matters had conducted a series of preliminary assessments for this family unit, including interviews, psychological assessment instruments, house visits and gathered collateral information to enable his report.
8. His findings were
 - 8.1. That the one person being perceived as “all good” and the other “all bad” indicated a psychological splitting with A, which may interfere in social relationships as it may impede his ability to hold a balanced sense of self-esteem and form stable trusting relationships². A presents with unhealthy and inappropriate knowledge of the acrimonious litigation between the parties³ and he is progressing towards an alienated child⁴.
 - 8.2. Regarding the acrimony he found

“The current acrimony and conflict between the Applicant and the Respondent should desist immediately. It is not in A's best interest to be affected by the current stress caused by their acrimonious interactions, as the current conflict between his parents appears to be significant source of anxiety for A, rather than his relationship with either parent. The increased litigation and use of legal interventions to communicate problem areas should cease. This should be dealt with through a parenting co-ordination process (see 10.4 below) that can more easily affect a conciliatory rather than adversarial process between the parties in the best interests of A⁵”.

² Townsend's report – paragraph 6.1.2 – 005-147

³ Townsend's report – paragraph 8.1.11-005-201

⁴ Townsend's report – paragraph 8.1.12-005-201

⁵ Townsend's report – paragraph 10.1 - 005-226

- 8.3. More importantly, that A regarded himself as a “soldier without a team”⁶

UNDUE DELAYS – correspondences between the legal representatives

9. Numerous correspondence were exchanged between the legal representatives culminating with an email dated 21st July 2021 from the Respondent’s legal representative that although the Respondent had financial constraints and issues concerning the cost of the experts, he did not object to the recommendations of Townsend.

- 9.1. Contact was also reduced depriving the Applicant of contact with A because the Respondent was in contact with a Covid positive neighbour and the Applicant was not compensated to make up for this loss of time to spend with the minor.

- 9.2. On the 2nd August 2021 at 14.01 the Respondent agrees to a parental coordinator.

- 9.3. On the 4th August 2021 the Applicant refers to the handovers being fraught with conflict.

- 9.4. The Applicant duly furnishes the Respondent with the hourly rates of experts as requested.

⁶ Townsend’s report – paragraph 6.1.7.4 – 005-15

- 9.5. The Applicant stresses that A was regressing in all spheres, expressing anger, aggression, regressive behaviour, and soils himself, and more particularly the reasons identified in the Townsend report of the fragmenting mother-son relationship.
- 9.6. On 16 August 2021 A refuses to go with the Applicant.
- 9.7. On 18 August 2021 at 14h30 the Respondent agreed to a parental coordinator, and the other three experts and requests the Applicant to obtain mandates and the Respondent acknowledged that the situation is deteriorating.
- 9.8. Between the 25th August 2021 and 9th September 2021, despite the parties agreeing on the parental coordinator, Miss Henig, unfortunately on her becoming no longer available, the Applicant recommends Dr. T. Kirsten, but the latter could not be appointed since the Respondent wanted to have sight of his CV. Despite being furnished with the CV and the contracts for the other experts, the Respondent did not revert.

MEDIATION

10. The foregoing sets out how the Applicant and the Respondent jointly agreed to appoint a clinical psychologist as early as 4th August 2020, acknowledging the need for it, yet four months after the parties had sight of the Townsend report, the recommendations were not implemented.

11. If money was an issue as raised by the Respondent then there were avenues available to the Respondent via the offices of the Family Advocate or the Children's Court.
12. Whilst it is commendable that the parties sought to handle matters on their own, it is clear that the picture is telling, fraught with acrimony and delays. Regrettably, mediation was not considered at an early stage as many of the time-lapses could have been avoided, an intermediary such as a social worker could easily have fulfilled the functions to liaise between the parties to agree on the appointment of experts speedily. An astute mediator would have taken control over the process, ensured compliance on agreed timelines and monitor the progress. A multidisciplinary forum works well with families providing a full scope of assistance to families in transition. Mediation takes the high conflict out of the adversarial arena and shifts the focus on the problem solving where the VOTC can still be heard.
13. The court takes a dim view of the vacuum which has transpired since the Townsend recommendations were made on 7th May 2021 regarding his findings, care and contact and the length of time it took for this application to be launched. This is a deep concern that the best interests of the child may have been neglected.

THE BEST INTEREST OF THE MINOR CHILD

14. Given the lapse of time and delays this begs the question whether the best interest of the minor child was served by both the Applicant and the Respondent.
15. The child is still a far way off till he reaches the age of majority.

16. In the matter of **J vs J**⁷, although the issue in the matter related to which school the minor should attend, the import of this case is that a court is the upper guardian of minors, is empowered and under a duty to consider and evaluate all relevant factors placed before it with a view to decide the issue which is of paramount importance: The best interest of the child.

17. In **Terblanche vs Terblanche**⁸ it was stated when a court sits as upper guardian in a custody matter,

“It has extreme wide powers in establishing what is in the best interest of the minor or dependent children. It is not bound by procedural strictures or by the limitations of the evidence presented or contentious advanced by the respective parties”.

18. In **P and Another vs P and Another**⁹, Hurt J stated that the “Court does not look at the set of circumstances in isolation”.

“I am bound, in considering what is in the best interest of G, to take everything into account, which has happened in the past, even after the close of pleadings and in fact right up to today. Furthermore, I am bound to take into account the possibility of what might happen in the future if I make any specific order”.

19. In **AD and DD vs DW and Others**, the Constitutional Court endorsed the view of the minority in the Supreme Court of Appeal that the interest of minors should not be

“held to ransom for the sake of legal niceties”¹⁰ and held that in the case before it the interest of the child should not be mechanically sacrificed on the altar of jurisdictional formalism¹¹.

20. In **Girdwood v Girdwood**¹² the Court stated: -

⁷ 2008 (6) SA 30 (C)

⁸ 1992 (1) SA 501 (W) at 504C

⁹ 2002 (6) SA 105 (N) at 110C - D

¹⁰ De Gree & Another vs Webb and Others (Centre for Child Law as Amicus Curiae 2007 (5) SA 184 (SCA at 220I paragraph 99

¹¹ [AD and DD vs DW and others 2007 ZACC (2008) 4 BCR 359] (CC) at 370 A Paragraph 30]

¹² 1995 (4) SA 698 (C)

“As upper guardian of all dependent and minor children this Court has an inalienable right and authority to establish what is in the best interest of children and to make corresponding orders to ensure that such interests are effectively served and safeguarded. No agreement between the parties can encroach on this authority”.

THE VOICE OF THE CHILD

21. The Respondent argues that the legal representative is necessary for the voice of the child to be in his corner and to have his voice heard through being represented by a Curatrix ad Litem and relies on the Judgment in:

Soller N.O, v G and Another¹³. This case demonstrates the importance of appointing a legal representative for a child in circumstances where parental alienation is alleged or proven to exist. Therefore, the Respondent argued that the Applicant's opposition to the appointment of a legal representative for A, where she alleges that she is being alienated from A by the Respondent, makes no sense.

22. We are also guided by the provisions of Section 28(1)(h) of the Constitution , which provides that: -

“(E)very child has the right to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result.”

23. As early as 2009 in the matter of **Legal Aid Board v R and Another**¹⁴, Wallis J (as he then was) applied section 28(1)(h) of the Constitution. The acrimonious litigation between the Applicant and the Respondent in that matter led to a 12 year old child sending a mobile phone text message to Childline to request help.

¹³ [2003 (5) SA 430 (w)] 708J

¹⁴ [2009 (2) SA 262 (D)]

The child consulted with the lawyer and indicated that she wanted him to represent her, however, the child's mother objected to the appointment that only the Court or the child's legal guardian or another person who has parental responsibilities and rights in respect of the child has the power to appoint a legal representative for the child.

24. **The Children's Act**

Section 6(5) and Section 10 of the Children's Act recognises and enshrines a child's right "having regard to his ... age, maturity and stage of development" to "be informed of any action or decision taken in a matter concerning the child which significantly affects the child".

25. The Respondent asks the court for the VOTC assessment alleging that since Townsend did not conduct same. Pertinent to the Respondent is the allegations of the prevalence of emotional and physical abuse between the mother and the child. However, according to Townsend this was addressed in his report.

26. Needless to say the Applicant's submission is that a VOTC cannot be considered before addressing the aspect of alienation, whilst the Respondent considers Townsend not to be qualified to do a VOTC.

27. The opposition to Townsend recommendations was discarded by the Respondent and the request for a Curatrix ad Litem was raised **only** when the Respondent filed his opposing affidavit, purporting that the Respondent had no confidence in the Townsend report.

28. There is no doubt that the minor requires the assistance of a legal representative. The question is whether the VOTC is premature unless the underlying “voice” of the Child is investigated by experts.

ALIENATING CONDUCT

29. The Applicant argues that the Respondent’s conduct shows a pattern of influencing the child and his attempts to denigrate the Applicant with the teachers of A, that the conduct of the Respondent influenced the minor to act negatively towards the Applicant. And, they get to a point where A refuses to go to the Applicant.
30. The picture paints a story of an early alienation as described by Townsend, that this cannot continue and immediate intervention is necessitated as the best interest of Arushan is not being served.
31. Despite such warning signals by the expert, the signs of early alienation are not addressed and it remains to be seen whether further damage has been done to Arushan and the extent of failed interventions.
32. Both the Applicant and the Respondent must take the responsibility for this lack of giving the minor child the necessary emotional and psychotherapeutic support.
33. Is it regrettable that the court is now seized with deciding on whether a parenting coordinator as already recommended, should be proceeded with or whether the appointment of a Curatrix ad Litem for the minor child as legal representative to get to the bottom of all these issues are to be channelled.

PARENTING COORDINATOR

34. The parties have not agreed on a parenting coordinator.
35. The Applicant wants a parenting coordinator to be appointed. The role and duties of a parenting coordinator have been dealt with extensively in the Townsend report.
36. **Having said that, can a parenting coordinator represent a child and be a legal representative?**
37. A legal representative is to represent the child and the voice of the child (to be in the child's corner) whereas the parental coordinator is to primarily resolve disputes between the parties.
38. In the matter of **TC V SC**¹⁵ - In an application in terms of Rule 43 for interim relief pending a matrimonial action the core issue was whether the High Court had the power, under its inherent jurisdiction as the upper guardian of minor children, to make an interim order appointing a facilitator to deal with parenting disputes over the objection of one of the parents. The Applicant ("father") and the Respondent ("mother") were in the midst of an acrimonious divorce. They had two young boys, "C", age 9, and "M", age 7. In this case, Acting Judge Diane Davis who presided over the matter observed:

“... sadly often the case in divorce situations, the conflict generated by the breakdown of the marital relationship spilled over into the parenting relationship. The children became an arena of struggle where spousal conflict played out in the form of disputes about care and contact and other parenting issues”¹⁶.

¹⁵ TC vs SC - Case no: 20286/2017 – Paragraph 2

¹⁶ TC vs SC – case no. 20289/2017 – Paragraph 2

At a stage, in the **TC vs SC** case, the parties agreed on a joint report on 15 September 2017, and as is usually the case in divorce cases conflict arose between the mother and the father regarding the status and implementation of the recommendations.

39. Parenting coordination is a non-adversarial dispute resolution service provided by mental health professionals or family law lawyers who assist high conflict parents in divorce situations to resolve child-related disputes in an expeditious and child-focused manner, to minimise parental conflict with its associated risks for children. According to Judge Davis, it was a sui generis process that required legal, psychological and conflict resolution skills, and combines assessment, education, case management, conflict management and decision-making functions.
40. Adv Pincus in that case relied on the decision of the South Gauteng High Court in **Hummel vs Hummel**¹⁷ in which the Court refused an opposed application for the appointment of a Parental Coordinator empowered to make decisions binding on both parents. Sutherland J in that case held that “no court has the jurisdictional competence to appoint a third party to make decisions on behalf of parents who are holders of parental power as contemplated in Section 30 and 31 of the [Children’s] Act”.
41. In Judge Davis’ view “the appointment of and powers conferred on a Parental Coordinator should be limited in a number of essential respects in order to avoid an impermissible delegation of judicial authority”¹⁸.

¹⁷ TC vs SC; case number 20286/2017 - paragraph 41

¹⁸ TC vs SC; case number 20286/2017 – paragraph 50

Judge Davis was of the view that “the answer to the question of whether or not the Court should appoint a Parental Coordinator where the mother is opposed to such appointment was “no”¹⁹.

CONCLUSION

42. The Applicant and the Respondent have not been acting in the best interest of the minor child, despite having agreed to the appointment of a clinical psychologist, having invested time and money, and agreeing that the child is regressing.
43. Despite Townsend’s findings of early alienation, which requires immediate intervention, the parties whilst warring amongst themselves lost their primary focus and overlooked the needs of the child, leaving the child to feel as a “soldier without a team”²⁰.
44. The Applicant spent a considerable time in responding to all requests made by the Respondent asking for her view of the experts, a CV and costings.
45. The Respondent’s conduct is shown to be fraught with delay and disinterest. The correspondence reveals the Applicant playing the proactive role whilst the Respondent plays a responsive role shifting the burden and responsibilities of the experts and their appointment squarely on the Applicant’s shoulders to procure consents and quotations.
46. The Respondent’s conduct as played through the correspondence on record and in his answering affidavit, is far from a parent being concerned about his child’s well-

¹⁹ TC vs SC; case number 20286/2017 – paragraph 65

²⁰ Townsend’s report – paragraph 6.1.7.4 – 005-15

being. He did nothing to advance the restoration or remediate of the regressing relationship between mother and child. The court is concerned whether the alienating behaviour has taken firm root.

47. Both parents acknowledge that the child was deteriorating. The Respondent raises issues of abuse against the Applicant and if he was serious about such abuse he failed to report it to SAPS or take immediate action to protect the minor. Instead, the Respondent raises it after the Applicant launches her Rule 43 application, in his opposing affidavit.
48. Both parties however cannot escape their responsibility towards the minor and must take the blame. The one more than the other. The Applicant had no choice but to approach this court for interim relief.
49. In the circumstances, it makes little sense to appoint a Curatrix ad Litem to appoint experts and to repeat what has already begun. The VOTC however cannot be heard until the issue of the alienating behaviour is addressed. Only and once the experts' reports are filed accepting that the child can think independently, it is not ripe for the VOTC to be heard, to express his opinion and views. At this stage, it is premature as the minor may have been influenced negatively.

Within the time constraints, it is prudent that Townsend reinvestigates the matter and to file an addendum as he is already apprised of the issues and concerns.

50. Since the parties have not agreed on a Parental Coordinator and the court has no power to appoint a Parental Coordinator, in the interest of justice, the minor child and time the court deems it appropriate to appoint a mediator to reach consensus with the Applicant and the Respondent to appoint a Parental Coordinator.

51. Unfortunately, most experts are on an annual break already. Dr. Ronel Dutchen, BSC (Mathematical Science, NHED, BSC (Hon), MA (Psychology) Cum laude, D. Litt et Phil (UJ) has been contacted by the court. She is available to act as a mediator and is able to assist in early January 2022. The court had to make this decision. If the choice of a mediator is left to the parties, given the history of what has transpired; the acrimony being what it is, and in order to protect the interests of the minor, the court deems it appropriate to avoid leaving such decision to appoint a mediator in the hands of the parties, which may, if left to them cause further delay. The mediator's duties are to include consensus on the appointment of the other experts to enable the consultations to proceed.
52. There is no reason why the other recommendations of Townsend of the Parenting Management Training, the Family Reconstruction expert, and the appointment of the psychotherapist for the minor cannot be implemented.
53. In addition, to protect the best interests of the minor child, a legal representative is to be appointed. The court has contacted attorney Beverly Clark (BA Psychology and Drama, UCT 1987 Honours Criminology UCT, Post Graduate LLB 1991) who has years of experience and has held the position as an acting judge. She agreed to act as Curatrix ad Litem.
54. Insofar as the submissions made by the Respondent, to limit the Applicant conduct pending the report by the Curatrix ad Litem²¹. The Court does not deem it appropriate to impose limitations on contact and care which historically since 2020 has been on share residency basis. In addition to do so would impede the already fragile relationship that A has with the Applicant. The purpose of the expert as recommended was to improve the child - the mother – father relationship.

²¹ Respondent's further Affidavit, pp 005-307 – 005-309

COSTS

THE APPLICANT

55. The Applicant requests the court to grant the costs of the experts/courses referred to in the Townsend report to be borne by both parties in equal shares, upon the aspect of maintenance being adjudicated by the court, whereafter the court will decide regarding liability for the costs of the experts. The costs of this application are to be borne by the Respondent on an Attorney-Client scale.

THE RESPONDENT

56. Both the Applicant and the Respondent shall be jointly liable, in equal shares, for the costs of the Curatrix ad Litem and any expert engaged by the Curatrix ad Litem, provided that such an engagement shall take place in consultation with them. Such costs shall be paid within 30 (thirty) days of date of invoice or any such period granted by the Curatrix ad Litem after consultation with all the parties. Costs of this application shall be costs in the cause.
57. Given that the issue of maintenance stands over for later determination and that despite the Respondent raising issues of affordability of the experts, the Respondent has in his prayers asked for the costs to be shared equally of the Curatrix ad Litem and expert engaged by the Curatrix ad Litem.
58. Accordingly, both the Applicant and the Respondent are able to meet the costs of the Curatrix ad Litem, the mediator and other experts, at least until the issue of maintenance is determined.

59. In respect of the costs of this Application, the court is not in a position to order an attorney – client costs as it is not seized with the maintenance evidentiary material and the affordability by the parties and is therefore unable to award such costs order. I see no reason to depart from the usual order, for costs to be in the cause.

ORDER

60. In the result, I make the following order:

- 60.1. The issue of maintenance is postponed sine die.
- 60.2. Both parties are given leave to deliver further Financial Disclosure Forms and supplementary affidavits insofar as necessary to address the aspect of maintenance before the matter being re-set down for the maintenance aspect to be adjudicated upon.
- 60.3. Both the Applicant and the Respondent are granted leave to file further affidavits in terms of Rule 43(5).
- 60.4. The appointment of a mediator Dr, Ronel Duchon to:
- 60.4.1. Resolve the appointment of a parenting coordinator and
- 60.4.2. Resolve the appointment of the other experts.
- 60.5. Anthony Townsend is to re-investigate the matter and provide an addendum to his report provided to the parties on 7 May 2021, with updated recommendations if so required, determining the best interests of the minor child insofar as parental rights and responsibilities are concerned in light of the events that have transpired after such report being rendered.

- 60.6. Both parties are given leave to approach this Court on the same papers, so supplemented, if necessary, upon receipt of Townsend's addendum to his report or if the mediation fails.
- 60.7. To appoint attorney Beverly Clark as Curatrix ad Litem to act and do anything that a Curatrix ad Litem is expected to do on behalf of the child, whenever there is litigation between the Applicant and the Respondent that involves or affects the child.
- 60.7.1. To determine the child's best interests from time to time in relation to the applications brought by the Applicant and/or the Respondent, viz-a-viz, primary residence, care and contact.
- 60.7.2. To investigate the child's living circumstances insofar as it relates or may relate to the present and future care and contact arrangements, including primary residence.
- 60.7.3. To interview the Applicant and the Respondent and any other person or official who has any relevant information about the present care and contact arrangements, including primary residence, of the child.
- 60.7.4. To have unrestricted access to the child.
- 60.7.5. To have access to any and all documentation or records (including official documentation or records) that directly or indirectly pertains to the present care and contact arrangements including primary residence, of the child.

- 60.7.6. To act as the child's legal representative in any legal process that is or may be instituted that relates to them, including but not limited to possible application relating to his care, contact, and primary residence.
- 60.7.7. To approach, on notice to both the Applicant and the Respondent, a judge in chambers of this division for an order clarifying and/or expanding upon any power necessary in order to promote and protect the child's best interests.
- 60.8. The residence of the minor child shall be shared equally by the Applicant and the Respondent in terms whereof the minor child will reside with either party every alternate week, with the handover of the minor child taking place at 08h30 on Fridays at the KFC near both the Applicant's and the Respondent's respective homes in [...].
- 60.9. The party with whom the minor child is not residing in any given week is to have daily telephonic and WhatsApp contact with the minor child between the hours of 18h00 and 19h30 and the party with whom the minor child is residing in such week is to facilitate the aforesaid telephonic and WhatsApp contact.
- 60.10. That Applicant be compensated in time for the loss of one week to make up for the missed contact and care with A.
- 60.11. Costs
- 60.11.1. Both the Applicant and the Respondent shall be jointly liable, in equal shares, for the costs of the mediator, Curatrix ad Litem and

the other experts in the interim until the maintenance dispute is adjudicated on.

60.11.2. Such costs shall be paid within 30 (thirty) days of date of invoice or any such period granted by the mediator, Curatrix ad Litem or experts.

60.11.3. Costs of this application shall be costs in the cause.



*Acting Judge of the High Court
Gauteng Local Division, Johannesburg*

Heard:	1 st December 2021
Judgment:	14 th December 2021
Applicant's Counsel:	Advocate. R. Adams
Instructed by:	Steve Merchak Attorneys
For Respondents:	Advocate F. Bezuidenhout
Instructed by:	Minnie & Du Preez Inc.