



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

CASE NO: 12816/21

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

30/08/2021

DATE

ahc

SIGNATURE

In the matter between:

MCQUADE, HAYLEY ELIZABETH

Appellant

And

MCQUADE STEWART

Respondent

Date of hearing: 24 August 2021- In a 'virtual hearing' during a videoconference on Microsoft Teams digital platform.

Date of Judgment: 30 August 2021

This judgment is deemed to have been handed down electronically by circulation to the parties representatives via email and uploaded to caselines.

JUDGMENT

GRAF AJ

INTRODUCTION

- [1] This is an application for relief *pendente lite* in terms of Rule 43 of the Uniform Rules of Court. The applicant (the wife) is the defendant and the respondent (the husband) is the plaintiff in a pending divorce action. The application is opposed by the respondent, who in essence, launched a counter application for defined contact with the parties' three minor children.
- [2] In her papers the applicant sets out the relief she requires from this court in the following terms:
- (i) That the respondent pays maintenance in the sum of R 77 505.79 per month in respect of the applicant and the children without deduction or set-off, which amount should be paid to the applicant into a bank account nominated by her on or before the 1st day of the month that follows upon the court order and thereafter on the first day of each succeeding month.
 - (ii) That the maintenance claimed shall increase annually, commencing on the anniversary of the date of the court order, by the equivalent of the weighted average of the Consumer Price Index for the previous 12-month period as published from time to time by Statistics South Africa or its successor, alternatively 8% per annum, whichever amount is greater.
 - (iii) That the respondent be liable for and pay all educational costs of the minor children, including but not limited to the pre-primary and primary education
 - (iv) That the respondent retains the applicant and the minor children as dependents on a fully comprehensive medical aid scheme.
 - (v) That the respondent shall be liable for and pay all reasonable and necessary excess medical expenses not covered by the medical aid scheme.
 - (vi) That the respondent continues to pay the costs in respect of the residence situated at 539 Heron Place, Cedar Lake Estates, Cedar Rd, Fourways, Sandton.

(vii) That in the event that the applicant makes payment of any of the expenses as set out in (iii), (iv), (v) or (vi) above the respondent shall be liable to refund the applicant for such amounts paid on presentation of the invoice and proof of payment of such expense.

(viii) The respondent makes a contribution towards the applicant's costs in the sum of R 130 000.00 within 10 days from the date of the court order.

(ix) That the respondent shall exchange the motor vehicle currently in the applicant's possession for the Land Rover Discovery 5, with registration number HG 38 PY GP, within 10 days from date of the order.

(x) That the parties shall be entitled to supplement their papers, if necessary, for purposes of further relief upon the report of a jointly appointed expert having been filed of record.

(xi) That the respondent pays the costs of the application including the cost of Senior Counsel.

[3] The respondent seeks the following order:

(i) That the respondent pays the applicant the sum of R 42 500.00 per month as maintenance for the applicant and the children without deduction or set-off, which amount shall be paid to the applicant into a bank account nominated by her on or before the first day of August 2021 and thereafter on the first day of each succeeding month thereafter.

(ii) That the respondent shall be liable for and pay all educational costs of the minor children, including but not limited to their pre-primary and primary education.

(iii) The respondent shall retain the applicant and the minor children as dependents on his medical aid scheme.

(iv) That the respondent shall pay all reasonable medical expenses not covered by the medical aid.

- (v) Reasonable contact with the minor children, that includes sleepovers at his house.¹
- (vi) That the Respondent is to ensure that the Trust continues to pay the expenses it currently pays, which expenses are set out in annexure "SM2".
- (viii) A contribution to the Applicant's legal fees in the sum of R 25 000.00 must be made.
- (ix) Cost of the application to be cost in the cause.

[4] The applicant submitted a voluminous founding affidavit in support of the application.² Although the respondent, in his answering affidavit, took issue with the prolixity of the applicant's affidavit, as being an abuse of the court's process, he did not pursue this argument during the hearing of the matter. Having regard to the disputes of fact that were raised in the answering affidavit the applicant was granted leave to file a replying affidavit. Although the prolixity of the application renders it non-compliant with the strict provisions of Rule 43 and the general purpose and spirit of Rule 43 applications³, I have decided to use the discretion conferred upon me in Rule 43(5) to allow the affidavits and the material annexed thereto. The matter involves complex issues that needed to be properly ventilated to enable this court to make a decision that will give effect to the minor children's constitutionally protected right to have their best interests considered as being of paramount importance.⁴

[5] Advocate De Wet (SC), who appeared for the applicant, informed the court that the applicant has reduced the cash amount claimed for her maintenance and the maintenance of the minor children from R77 505-79 to R66 064-54. This was due to

¹ See the respondent's proposed draft order at 012-1 to 012-5 for the precise setting out of the relief sought. For a detailed setting out of the contact sought by the respondent, see page 012-2 to 012-4. The 'reasonable contact' as set out by the respondent amounts to shared residence with the applicant.

² The founding affidavit, including annexures, amounted to 97 pages.

³ Rule 43 contemplates a speedy and cost-effective resolution of disputes. It requires an applicant to deliver a sworn statement, in the nature of a declaration, setting out the relief claimed and the grounds therefore. The respondent is required to deliver a sworn reply in the form of a plea. Lengthy affidavits are generally discouraged and it has often been held that prolixity is an abuse of the process of court.

⁴ S 28(2) of the Constitution of the Republic of South Africa provides that a child's best interests are of paramount importance in every matter concerning the child. In *Ts v Ts* 2018 (3) SA 572 GJ Spilg J considered the impact which s 28 of the Constitution and its adoption into the Children's Act 38 of 2008 may have on the application of Rule 43 and concluded that Rule 43(5) was sufficiently elastic to allow a procedure that can reconcile the other provisions of Rule 43 with both s 28 of the Constitution and the relevant sections of the Children's Act. This approach was also endorsed by the full court of this Division in *E v E and Related Matters* 2019 (5) SA 566 (GJ) where it was held that the presiding judge has a discretion to permit the filing of applications that have departed from the strict provisions of Rule 43(2) and (3) and to direct parties, if it is deemed appropriate, to file supplementary affidavits.

some overlaps between the listed expenses and the separate prayer for educational expenses of the children.

[6] She requested the court to deal with the application, but to postpone the counter application for defined contact with the children, until the parties' jointly appointed expert, Dr Fasser's investigation and recommendations have been finalised. I indicated to the parties that I was not inclined to postpone or stay the respondent's counter application until the expert's investigation was completed, without making an interim contact order, as I deemed it to be in the best interest of the children. After some debate the parties agreed that pending the finalisation of Dr Fasser's report, the respondent would have contact with the three minor children as follows:

(i) Every Saturday from 10h00 to 17h30,

(ii) Every Tuesday and Thursday from 14h00 until 17h30.

(iii) The respondent shall be allowed to remove the children from the applicant's care or fetch them from school to exercise contact as aforesaid.

[7] I therefore confine myself in this judgment to those areas where the parties remain at odds, namely:

(i) Whether the respondent should pay a cash amount of R66 064-54 to the plaintiff in respect of her maintenance and the maintenance for the children, or whether he should only pay the amount of R42 500-00, as tendered.

(ii) Whether the respondent should be ordered to exchange the Toyota Fortuner currently in the applicant's possession with the Land Rover Discovery.

(iii) Whether the respondent should pay an amount of R130 000-00 to the applicant as a contribution to her legal fees, or only the amount of R25 000-00, as tendered.

BACKGROUND

[8] The parties were married on the 15th of December 2013, out of community of property, with the inclusion of the accrual system. They have three young children, aged 6, 5 and 3 respectively. The children reside with the applicant.

- [9] The applicant is a 37 year old woman. She is presently unemployed. She is a qualified sonographer. She has not worked full time since shortly after the birth of the couple's second child, as the respondent was able to maintain the family comfortably. The respondent is a geologist by profession. He is 39 years old. He is also currently unemployed. The respondent left the marital home in November 2019, before instituting divorce proceedings against the applicant.
- [10] According to the applicant the respondent is a wealthy man, who provided for all the maintenance requirements of the family since her resignation from employment in October 2016. The family enjoyed a high standard of living, which included holidays abroad. He was a successful businessman who, together with two business partners, started a company, Bushveld Chrome Resources (Pty) Ltd ('BCR'). The company bought two mines and conducted business in the mining industry. The respondent and his two business partners held equal shares in BCR. They transferred their shares in BCR to their respective trusts. In 2018 the respondent sold his shares in BCR for R30 million and resigned as director of the company. In addition to the funds realised from the sale of the shares in 'BCR' the respondent bought and / or transferred numerous assets, including the former marital home ('Cedar Lake Estates property'), another residential property ('the Weaver Street property') and a Land Rover Discovery into the name of the trust. Although the respondent is no longer employed, he draws sufficient funds from the trust to maintain his extravagant lifestyle. The applicant, who describes the trust as the respondent's '*alter ego*', has joined the trust as a third party to the divorce proceedings.
- [11] The respondent, on the other hand, although conceding that the family had a good lifestyle, maintains that their lifestyle was funded by the monthly income that he derived from his previous employer, BCR. During 2012, and amidst threats of litigation against BCR, the BCR McQuade Business Trust ('the trust') was created to limit his exposure in his personal capacity. The respondent sold his shares in BCR to the trust. The trust was intended to secure the children's future and to ensure that their educational needs were catered for. In 2018 he resigned from BCR and the shares held by the trust were sold. As the respondent had to abide by a restraint of trade for a period of one year, he entered into a loan agreement with the trust in terms of which the trust paid him a monthly income of R40 000-00 to make ends meet. Due to the lockdown brought about

by the Covid 19 pandemic the respondent is still unemployed and he remains financially dependent on the trust in terms of the loan agreement.

- [12] It is against this background that the issues between the parties must be considered. Numerous factual disputes have been raised in the papers. Given the nature of this application, I will deal only with those disputes which are necessary for the resolution of this application.

MAINTENANCE FOR THE APPLICANT AND THE THREE MINOR CHILDREN

- [13] The court is mindful of the fact that the relief granted in terms of Rule 43 is interim in nature and cannot be determined with the same degree of accuracy allowed by detailed evidence adduced at a trial.⁵

- [14] it is trite that when entertaining an application for maintenance the reasonableness of the request, having regard to the applicant's reasonable and actual expenses, and the respondent's capacity to meet such requirements must be taken into account.⁶ The applicant's entitlement to maintenance *pendente lite* is further dependent on the marital standard of living of the parties.⁷

- [15] The considerations enumerated in section 7(2) of the Divorce Act⁸ that deals with claims for spousal maintenance in divorce proceedings are similarly useful in applications in terms of Rule 43. These factors include the existing or prospective means of each of the parties, their respective earning capacities, financial needs and obligations, the age of each of the parties, the duration of the marriage, the standard of living of the parties prior to the divorce, and any other factor which in the opinion of the court should be taken into account.

- [16] The applicant, in furtherance of her application, provided the court with a schedule wherein she listed her and the children's monthly expenses, which amount to a total of R119 771-19.⁹ She informed the court that the respondent pays the amount of R42 265-40 directly to the service providers, leaving a shortfall of R77 505-79. As already alluded to, counsel for the applicant indicated during argument that the cash shortfall had been

⁵ Taute v Taute 1974 (2) SA 675 (E) at p676

⁶ Taute (footnote 5) at p676 D-G and Botha v Botha 2009 (3) SA 89 (W)

⁷ Taute (footnote 5) at p676 D- F

⁸ Divorce Act 70 of 1979

⁹ Caselines 006-36

re-calculated to a total of R66 064-54 to avoid a duplication of the educational expenses that the respondent has tendered to pay in terms of the other prayers.

- [17] Counsel for the respondent contended that some of the applicant's listed expenses were inflated and excessive and that the amount of R42 500-00 tendered by the respondent was fair and reasonable under the circumstances. He referred the court to the matter of *Du Preez v Du Preez*¹⁰ where it was said that:

"...there is a tendency for parties in rule 43 applications, acting expeditiously or strategically, to misstate the true nature of their financial affairs. It is not unusual for parties to exaggerate their expenses and to understate their income...To my mind the practice is distasteful, unacceptable, and should be censured. Such conduct, whatever the motivation behind it, is dishonourable and should find no place in judicial proceedings...Should such conduct occur in rule 43 proceedings at the instance of the applicant, then relief should be denied".

And further that:

"A misstatement of one aspect of relevant information invariably will colour other aspects with the possible (or likely) result that fairness will not be done. Consequently, I would assume there is a duty on applicants in Rule 43 applications seeking equitable redress to act with the utmost good faith...and to disclose fully and all material information regarding their financial affairs. Any false disclosure or material non-disclosure would mean that he or she is not before the court with 'clean hands' and on that ground alone the court will be justified in refusing relief".

- [18] I have scrutinised the applicant's listed expenses, her founding and replying affidavits, coupled with the annexures thereto. Although some of the applicant's expenses appear at first glance to be very high, I cannot find any deliberate misstatement or exaggeration on her side. In his answering affidavit the respondent accused the applicant of deliberately misleading the court, inter alia, regarding her sources of income, his mental health and his use of prescription medication. Counsel for the respondent, quite correctly in my view, did not pursue this line of argument during the hearing. It became

¹⁰ *Du Preez v Du Preez* 2009 (6) SA 28 (T) at 32C-H

very clear from the replying affidavit and the supporting documentation that there was no merit in the respondent's accusations. I do not intend to dwell on these issues as same will no doubt be fully canvassed during the trial.

[19] While assessing the reasonableness of the applicant and minor children's expenses. I had regard to the respondent's listed expenses, including his unlisted rental expense of approximately R68 000-00 per month.¹¹ I am of the view that most of the applicant's expenses are reasonable, taking into consideration the couple's socio-economic and cultural situation. I have, however, reduced some of the applicant's expenses that I regard as a bit high to amounts that strike me as more reasonable. Those are the following:

- Gifts: R1250-00 to R700-00.
- Toiletries: R3890-00 to R3000-00.
- Entertainment: R7420-00 to R5000-00
- Birthday parties: R2500-00 to R2000-00
- Groceries: R15 598-00 to R14 000-00

[20] I have accordingly deducted a total of R5958-00 from the applicant's expenses claim of R66 064-54 leaving a balance of R60 106.64, which I will round up to R60 200.00 which I regard as fair and reasonable for the applicant and her children.

[21] I have pondered over the respondent's averment that he is reliant on an income of approximately R40 000-00 monthly that is paid to him by the trust in terms of a loan agreement. According to the respondent he is unable to pay the amounts claimed by the applicant. He has, however, secured a resolution from the trust to the effect that a payment of R42 500-00 monthly will be made to the applicant.

[22] The respondent has a lavish lifestyle. That much is clear from the following common cause facts:

¹¹ Caselines 006-151 and 008-10

- (i) He spent approximately 3 months in a luxury hotel in the Seychelles from December 2020 to March 2021.
- (ii) Although the respondent owns an unoccupied property, (the Weaver Street property) near the property in which the applicant and the minor children reside, he rents a house for R68 000-00 per month. In terms of the lease agreement six months rental had been paid upfront.

[23] Even if it is accepted in favour of the respondent that his stay in the Seychelles was extended due to circumstances beyond his control and that he lives in a rental home because of renovations to the Weaver Street property, there is nothing in the papers to show that the respondent attempted to secure cheaper accommodation or that he is unable to maintain his chosen lifestyle. The respondent's contention regarding his limited means is simply not borne out by the bank statements annexed to his financial disclosure form. Counsel for the applicant drew the court's attention to numerous transactions that are strongly indicative of the respondent's unfettered access to the trust funds.

[24] This court is not called upon during these proceedings to make a finding regarding the exact nature of the connection between the respondent and the trust and whether the trust should be regarded as the respondent's *'alter ego'*. The applicant has placed facts before me, that if proved at the trial, will demonstrate that the respondent has substantial control over the decisions taken in the structuring of the trust and the utilisation of its funds. The inference is inescapable that if the respondent was able to secure a resolution from the trust to pay an amount of R42 500-00 to the applicant, he is able to secure a resolution to pay an amount in excess thereof.

[25] The applicant has limited assets. She listed her assets as clothing and personal effects, jewellery donated to her by the respondent, a Nedbank current account with a credit balance of R763-87 and a timeshare in the Drakensberg which she had purchased for R15 000-00 during 2017. She owes her mother R40 200-00 in respect of a loan agreement and owes Nedbank money in respect of her credit card. She does not have any source of income, other than money received from the respondent when he deems it fit to make funds available to her.

- [26] I am accordingly satisfied that the applicant and the minor children have a reasonable need for maintenance from the respondent in the sum of R60 200-00 per month and that the respondent has the means to pay this amount.

SHOULD THE RESPONDENT EXCHANGE THE TOYOTA FORTUNER CURRENTLY IN THE APPLICANT'S POSSESSION WITH THE LAND ROVER DISCOVERY?

- [27] The applicant avers that she has been driving the Land Rover Discovery, which is apparently registered in the name of the trust, since 2018. After the Land Rover Discovery was involved in a collision with another motor vehicle in December 2020 the respondent's father collected the said motor vehicle from the panel beaters and he retained it. The respondent and his father refused to return the Land Rover Discovery to the applicant, even though the motor vehicle was purchased to replace the vehicle previously driven by the applicant and to ensure that the children had safe transport. The respondent gave his Toyota Fortuner ('the Fortuner') to the applicant to use instead.
- [28] According to the applicant the Fortuner does not provide safe transport for the children, as the middle seat in the back does not have a proper seatbelt, only a belt over the waist. She prefers that the children sit in the back seat, properly strapped in in their car seats and by the vehicle's seat belts. When travelling with the Fortuner one of the young children must now sit in the boot part where a chair folds up which places that child at risk.
- [29] The respondent contends that the Fortuner had been given to the applicant for her daily use and that the Fortuner was adequate when he used it previously to transport the children. Although he had offered to purchase the applicant a new Haval SUV and to register it in her name, she had declined the offer, because she was concerned with the image it would portray to her circle of friends.
- [30] From the information available to me at this stage it is clear that the applicant is in possession of a reliable motor vehicle that can be used to transport the minor children, even though it is not her motor vehicle of choice. Although it is regrettable that the respondent and / or the other trustees are not prepared to allow her the use of the Land

Rover Discovery, I cannot find that the applicant has established a reasonable need for the court to order the return of the said motor vehicle to her. Her request for such an order will accordingly be denied.

APPLICANT'S CLAIM FOR A CONTRIBUTION TOWARDS COSTS

- [31] In her founding affidavit the applicant alleges that she had to consult senior counsel to prepare her plea and counterclaim, as the respondent had failed in any meaningful way to respond to her settlement proposal. She had to pay her attorneys an initial deposit of R50 000-00, and to this end she borrowed the sum of R40 200-00 from her mother and utilised her credit card to pay the balance. Her legal fees up to the end of March 2021 amounted to R133 732-50. The applicant was forced to sell her Rolex watch (a 30th birthday gift from the respondent) to place her attorneys in funds. She received R55 000-00 from the sale of the watch and transferred R51 044-75 to her attorneys on 26 April 2021.
- [32] The respondent, on the other hand, alleges that he discussed settlement proposals with the applicant, but that her response to his proposals was "I will take you to the cleaners". He tenders an amount of R25 000-00 in respect of a contribution to the applicant's legal fees, as the amount claimed by her is excessive in his opinion.
- [33] The respondent, who was legally represented by senior and junior counsel during the hearing of this application, did not disclose to this court what his legal fees to date amounted to.
- [34] The substantive basis of a claim for contribution to costs in a matrimonial action is the reciprocal duty of support between spouses, which includes the costs of legal proceedings.¹² In order to succeed the applicant must show that she has insufficient means of her own to pay legal fees and that the amount claimed is reasonably necessary to enable her to pursue her defence.¹³

¹² AF v MF 2019 (6) SA 422 (WCC) at [27]

¹³ W v W (469/10) [2010] ZAECELLC 1 (7 September 2010) at [3]

- [35] The quantum of the contribution to costs which a spouse should be given lies within the discretion of the presiding judge. In *Van Rippen v Van Rippen*¹⁴, in explaining how this discretion should be exercised, it was held that:

“...the Court should, I think, have the dominant object in view that, having regard to the circumstances of the case, the financial position of the parties, and the particular issues involved in the pending litigation, the wife must be enabled to present her case adequately before the Court”.

- [36] The applicant’s counsel also referred me to *Glazer v Glazer*¹⁵ where Williamson J said:

“The scale upon which she is entitled to litigate is in my view a scale commensurate also with the means of the parties. People in this position are not expected to litigate upon the basis that they have to watch every penny that is spent in litigation. Litigation can be conducted luxuriously or economically. I do not say that she is entitled to every luxurious expense in litigation, but she is entitled to litigate upon the basis you would expect rich people to litigate. She is the wife of a rich man who is obviously going to litigate against her on a luxurious basis. In this comparatively simple preliminary application he has appeared through senior counsel and junior counsel. I think she is entitled to litigate upon somewhat the same sort of scale as that upon which he can be expected to litigate”.

- [37] In *Cary v Cary*¹⁶ Donen AJ emphasised the importance of exercising the discretion under Rule 43 to give effect to the fundamental right to equality and equal protection before the law. He explained that:

“...applicant is entitled to a contribution towards her costs which would ensure equality of arms in the divorce action against her husband. The applicant would not be able to present her case fairly unless she is empowered to investigate respondent’s financial affairs through the forensic accountant appointed by her. That is applicant will not enjoy equal protection unless she is equally empowered with ‘the sinews of war’. The question of protecting applicant’s right to and

¹⁴ *Van Rippen v Van Rippen* 1949 (4) SA 634 (C) at p.640

¹⁵ *Glazer v Glazer* 1959 (3) SA 928 (W) at p.933

¹⁶ *Cary v Cary* 1999 (3) SA 615 (C) at 621 D-G

respect for and protection of her dignity also arises in the present situation, where a wife has to approach her husband for the means to divorce him. I therefore regard myself as being constitutionally bound to err on the side of the 'paramount consideration that she should be enabled adequately to place her case before the Court'. The papers before me indicate that respondent can afford the amount claimed and that he will not be prejudiced in the conduct of his own case should he be ordered to do so".

- [38] Taking into account the debt already incurred by the applicant to secure legal representation, as well as the complexity of the issues raised in the pleadings, and the scale upon which the respondent is likely to litigate, I am of the view that a contribution of R100 000-00 at this stage of the proceedings will be reasonable and necessary to ensure 'equality of arms' between the parties. The applicant cannot be expected to sell more jewellery in an attempt to pay her legal fees and I am convinced that the respondent can afford to pay this amount.

COSTS OF THE APPLICATION

- [39] I have considered the parties' submissions regarding an appropriate costs order, in as far as the present application is concerned. The applicant argued that she was entitled to the costs of the application, as the respondent's conduct and his failure to provide adequately for her and the children since the institution of the divorce proceedings, left her with no choice but to launch the present application. The respondent submitted that an order that the costs will be costs in the cause of the divorce action will be more appropriate, as such an order is usually given in applications of this nature.
- [40] I cannot ignore the respondent's conduct as evidenced in the papers and his bank statements. Applicant's counsel alerted me to the payments that the respondent made to the applicant that were subsequently reversed and the humiliation that the applicant suffered as a result of the respondent's actions. Even when the applicant, out of desperation, withdrew an amount of R2000-00 from the respondent's account, he removed the cash from her handbag. The unfounded allegations made against the applicant in the respondent's answering affidavit, forced her to file a replying affidavit. I

cannot find any reason why the respondent should not be held liable for the costs of this application, including the costs of senior counsel.

ORDER

[41] It is ordered *pendente lite* that:

(i) The respondent shall pay maintenance in the sum of R 60 200-00 per month in respect of the applicant and the children without deduction or set-off, which amount should be paid to the applicant into a bank account nominated by her on or before the 1st day of September 2021 and thereafter on the first day of each succeeding month.

(ii) The amount in (i) above shall increase annually, commencing on the anniversary of the date of the court order, by the equivalent of the weighted average of the Consumer Price Index for the previous 12-month period as published from time to time by Statistics South Africa or its successor, alternatively 8% per annum, whichever amount is greater.

(iii) The respondent shall be liable for and pay all educational costs of the minor children, including but not limited to the pre-primary and primary education.¹⁷

(iv) The respondent shall retain the applicant and the minor children as dependents on a fully comprehensive medical aid scheme.

(v) The respondent shall be liable for and pay all reasonable and necessary excess medical expenses not covered by the medical aid scheme.¹⁸

(vi) The respondent shall continue to pay the costs in respect of the residence situated at 539 Heron Place, Cedar Lake Estates, Cedar Rd, Fourways, Sandton directly to the creditors and/ or service providers on the due dates.¹⁹

¹⁷ For a detailed list of the costs included in 'educational costs' see Caselines 011-8 (para 3)

¹⁸ For a detailed lists of the expenses included in 'medical expenses' see Caselines 011-8 (para 5) to 011-9 (para 5)

¹⁹ For a detailed lists of the costs in respect of this property see Caselines 011-9 (para 60 to 011-10 (para 6).

(vii) In the event that the applicant makes payment of any of the expenses as set out in (iii), (iv), (v) or (vi) above the respondent shall be liable to refund the applicant for such amounts paid on presentation of the invoice and proof of payment of such expense.

(viii) The respondent shall make a contribution towards the applicant's costs in the sum of R 100 000.00 within 10 days from the date of the court order.

(ix) Pending the report and recommendation of Dr Fasser (the parties' jointly appointed expert) the minor children's primary residence shall remain with the applicant and the respondent shall exercise contact with the minor children as follows:

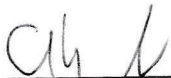
(a) Every Saturday from 10h00 to 17h30,

(b) Every Tuesday and Thursday from 14h00 until 17h30.

(c) The respondent shall be entitled to remove the children from the applicant's home or to fetch them from school to exercise contact as aforesaid.

(x) The parties shall be entitled to supplement their papers and approach this court, if necessary, for purposes of further relief upon Dr Fasser's report having been filed of record.

(xi) The respondent shall pay the costs of the application including the cost of Senior Counsel.



A. GRAF

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearance for the applicant: Adv Adele de Wet SC

advadw@gmail.com

Instructed by Yammin Hammond Inc.

Appearance for the respondent: Adv M Haskins SC with Adv DH Hinrichsen

alex@hininc.co.za

Instructed by Hinrichsen Attorneys