

**IN THE COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Family Division**

**2024/FAM/div/00117**

**BETWEEN:**

**J.L.**

**Petitioner**

**AND**

**E.L. (nee M)**

**Respondent**

**Before:** The Honourable Justice C.V. Hope Strachan

**Appearances:** Marylee Braynen-Symonette for the Petitioner  
Cyd Grant for the Respondent

**Hearing Date:** 4<sup>th</sup> March, 2026

**Written Submissions:** By Petitioner, received 27<sup>th</sup> March, 2026  
By Respondent, received 26<sup>th</sup> February, 2026

*Matrimonial proceedings, interlocutory application, failure to give full and frank disclosure, discovery, piercing the corporate veil, overriding objective of the Supreme Court Civil Procedure Rules 2022 (CPR).*

## RULING

### INTRODUCTION

1. This interlocutory judgment determines whether the Respondent's ("the Wife") targeted discovery request is necessary to enable the Court to perform its statutory duty under **S. 29 Matrimonial Causes Act (MCA) Chapter 125** to assess the parties' income, earning capacity, assets, and other financial resources for ancillary relief.

### BACKGROUND

- [1.] The parties were married on 22<sup>nd</sup> May 2021. A Decree Nisi dissolved the parties' short-lived marriage on 30<sup>th</sup> May 2025. The union produced one female child, born on 18<sup>th</sup> October 2023.
- [2.] The divorce has been contentious. This is not the first interlocutory application made thus far in the proceedings.
- [3.] Both the Petitioner ("the husband") and the wife have filed applications for Ancillary Relief. The husband's application relates to financial provisioning for the minor child pursuant to s. 27 of the Matrimonial Causes Act, Statute Laws of the Commonwealth of the Bahamas ("MCA"), several particularized amounts in lump sum payments from the wife. He claims the sum of **Nineteen Thousand Dollars (\$19,000.00)**, representing **one half (½)** of the value of a wedding ring; **Fourteen Thousand Dollars (\$14,000.00)** **one half (½)** of the value of a Honda vehicle; **Seven Thousand Dollars (\$7,000.00)** **one half (½)** of the value of the cost of repairs to the husband's parents' vehicle and **one half (½)** the value of the Russell Island Property, here in the Bahamas, as an equal share with the wife. The wife seeks provision for herself and the child of the marriage pursuant to s. 28, 29, and 30 of the MCA, but she is asking that the husband transfer to her, his interest in the Russell Island property, leaving her with the entirety of the property. On 26<sup>th</sup> January, 2026, the date of the Ancillary Relief Hearing, the wife served the husband with the Extant Summons for Discovery, which is particularized as follows:

*"LET ALL PARTIES concerned attend before The Hon. Justice Madam C.V. Hope Strachan, Justice of the Supreme Court in Chambers, Ansbacher Building, East Street North, Nassau, Bahamas on the day of, A.D., 2026 at o'clock in the - noon or soon thereafter as Counsel may be heard on an application on behalf of the Respondent pursuant to Section 28, 29 and 30 of the Matrimonial Causes Act, 1982, Rules 19, 23(4) and 68 of the Matrimonial Causes Rules, 1957, Parts 1.1, 1,2, 20.1, 20.4(5), 28.2 of the Supreme Court (Civil Procedure Rules), 2022, and under the inherent jurisdiction of the Court for the following Orders, namely;*

1. *An Order that the Respondent's Notice of Intention to Proceed with Ancillary Relief filed herein on the 4th day of July, A.D., 2025 be amended in the matter shown in the draft Amended Notice of Intention to Proceed with Ancillary Relief attached hereto and thereon shown in RED;*

2. *That the Petitioner give a true and accurate accounting of all financial assets, transactions and monies held in all banks within the Commonwealth of The Bahamas and the United States of America.*

3. *That the Petitioner, its servants and/or agents within seven (7) days of the date of the Court's Order file a sworn Affidavit producing evidence of the following financial statements and documents in their possession, namely;*

*i. Financial Statements for Scotiabank (Bahamas) Ltd. Accounts of the Petitioner from 2021-2026 in the Petitioner's name or in the name of LMS Ltd.*

*ii. Financial Statements for Royal Bank of Canada Accounts in the Petitioner's name or in the name of LMS Ltd. from 2021-2026.*

*iii. Financial Statements for the American Express Credit Card of the Petitioner from 2021-2026. iv. Financial Statements for the TD Bank Account located in the United States of the Petitioner or LMS LLC from 2021-2026.*

*iv. Financial Statements for every other financial institution in the name of the Petitioner from 2021-2026.*

*vi. 2021-2026 Annual Company filings of LMS Ltd. showing the Petitioner as majority shareholder.*

4. *That pursuant to paragraph 11, 24 and 25 of the Petitioner's Affidavit of Means filed the 19th day of January, A.D., 2026 that the Petitioner, its servants and/or agents within seven (7) days of the date of the Court's Order file a sworn Affidavit producing evidence of the Agreement for Sale and Proceeds of sale in relation to the 13th November, 2023 sale of Unit 7 Winton Terrace to JML, recorded at the Registry of Records in Volume 14180 at pages 043-051.*

5. *That the Petitioner shall make full and frank disclosure of all his financial resources, whether held solely or jointly, directly or indirectly, including but not limited to income, assets, liabilities, business interests, trusts, disposals, and financial transactions, as required by law in matrimonial proceedings, and shall continue to be under such duty of disclosure until the final determination of ancillary relief.*

6. *That the Respondent shall have liberty to apply.*

7. *That the costs of this Application be borne by the Petitioner herein.*

***The grounds of the application are as follows:***

- a. The Respondent seeks to amend the Notice of Intention to Proceed with Ancillary Relief filed herein on the 4<sup>th</sup> July, 2025 to address the property adjustment of matrimonial property which is now squarely in issue.*
- b. The amendment is sought prior to the final determination of Ancillary Relief in this action.*
- c. The Petitioner, by his Notice of Intention to Proceed with Ancillary Relief filed herein on the 19<sup>th</sup> January, 2026 introduces claims for property adjustment relating to property asserted to be intended solely for the Respondent.*
- d. The Petitioner's Notice and Affidavit filed herein raises new and substantial financial assertions which require verification by documentary disclosure.*
- e. The Petitioner's disposing of matrimonial property during the course of the marriage is a recognized and serious consideration to be determined by this Honorable Court.*
- f. The Petitioners' disposition of the matrimonial property is relevant to the Court's assessment of the parties' financial circumstances and the fairness of any adjustment to be made.*
- g. The partial adjustment and selective inclusion of the matrimonial assets without consideration to the Respondent will create distortion and unfairness.*
- h. The Petitioner further submits at "Exhibit JL-2" a self-created general ledger to this Honourable Court in lieu of verified financial records and/or bank statements and/or an audited account of the actual business profit and loss of LMS Ltd. There is no independent bank corroboration to the Petitioner's evidence.*
- i. The Respondent prepared paperwork and billing for LMS Ltd. during the course of the marriage and has full knowledge of the assets used by the Respondent to create income for the marital unit.*
- j. The Petitioner has failed to give full and frank disclosure, to conceal and/or dissipate assets/property and to mislead the Honorable Court. The Respondent cannot properly respond to or meet the Petitioner's property adjustment claims without full disclosure of disposed and existing matrimonial assets.*
- k. The Respondent's application for disclosure is relevant for the Courts' consideration of the financial resources of each party, non-financial contributions, disposition of property and the parties' conduct only insofar as it affects fairness. The Court cannot fairly exercise its discretion under Sections 28 to 30 of the Matrimonial Causes Act without a complete picture of the matrimonial estate.*
- l. The Respondent seeks such relief to enable the Court to conduct a complete and fair assessment of the matrimonial estate, rather than a partial or selective determination.*
- m. That it is in the interest of justice for the Respondent's application to be allowed.*

**[4.] The Court made a Direction that:**

- 1) The wife is at liberty to file and serve an Affidavit in Response to the husband's Affidavit of Means filed on 19<sup>th</sup> January 2026 on or before the 9<sup>th</sup> day of February 2026.
- 2) The husband is at liberty to file and serve on or before 16<sup>th</sup> February 2026.
- 3) The wife shall lay over to the Court and serve on the husband, written submissions in support of the Summons on or before 26<sup>th</sup> February 2026.
- 4) The husband shall lay over to the Court and serve on the wife, written submissions in response to the Summons on or before 26<sup>th</sup> March 2026.

[5.] The dispute between the parties is appropriately ventilated in their Affidavits filed in connection with the ancillary proceedings, which are summarized hereunder. The wife's central argument is that the husband's financial disclosure is incomplete, inconsistent, and unreliable, and that the Court should require full and frank disclosure of all relevant financial documents to properly assess the husband's means to determine appropriate maintenance and asset division.

[6.] The disputed parts of the husband's affidavits, which precipitated the wife's application, are that while the husband admits that he is a boat captain employed by a limited company, which for these purposes is known as LMS, he gave varying/inconsistent accounts of his income in different affidavits. In April 2024, he claimed he made **Four Thousand Six Hundred Dollars (\$4,600.00)** per month and referred to LMS as "my business." However, in May 2024, he resiled from that amount, claiming that he makes much less than **Three Thousand Eight Hundred Thirty Dollars and Fifty-Seven Cents (\$3,830.57)** per month, while admitting that his business finances are disorganized. In January 2026, this was again altered when he said that he is merely an employee of LMS earning **Thirty-Five Thousand Dollars (\$35,000.00)** per year, which equates to **Two Thousand Nine Hundred Sixteen Dollars and Sixty-seven Cents (\$2,916.67)** per month. He then denied ownership of LMS.

[7.] The Husband claims further that it was his parents who financed his life and lifestyle during the course of the marriage. There is no dispute that the parties resided in his parents' home. He paid only **Nine Hundred Fifteen Dollars (\$915.00)** per month as a rental set-off, which covered the gardener, the pool, general, and generator maintenance. His average monthly financial needs and expenses/obligations total average **Four Thousand Eight Hundred Eighty-eight Dollars and Nineteen Cents (\$4,888.19)**, which included: Electricity: **Thirteen Hundred Dollars (\$1,300.00)**; water & sewerage: **Thirty Dollars (\$30.00)**; cable/internet: **One Hundred Dollars (\$100.00)**; telephone: **One Hundred Twenty-five Dollars (\$125.00)**; health insurance (self and child): **Nine Hundred Thirteen Dollars Nineteen Cents (\$913.19)**; medication: **Two Hundred Fifty Dollars (\$250.00)**; groceries: **Seven Hundred Dollars (\$700.00)**; gasoline: **Two Hundred Forty Dollars (\$240.00)**; car insurance: **One Hundred Fifty Dollars (\$150.00)**; car maintenance: **Seventy-five Dollars (\$75.00)**; clothing: **Fifty Dollars (\$50.00)**; additional obligation to provide for daughter AL.

[8.] The husband spoke of requiring surgery for nasal polyps, which he estimated would cost him **Twelve Thousand – Fourteen Thousand Dollars (\$12,000–\$14,000)**. He indicated that this was unaffordable due to a lack of insurance coverage and the inability to work during recovery. He alluded to a boating accident in September 2024, resulting in 8 weeks of bed rest, and he pointed out again that this resulted in his financial reliance on his parents.

[9.] Speaking of the party's assets and property, the husband claims sole legal ownership of Lot #9, Russell Island (valued at \$500,000+). That there is no other real property. He seeks equal division of that property. He wants the wife to buy out his **Fifty Percent (50%)** share or that the property be sold and the proceeds split between them. He claims **Fifty Percent (50%)** interest in other marital assets, including a **Twenty-Eight Thousand Dollars (\$28,000.00)** wedding ring and a **Ten Thousand Dollar (\$10,000.00)** Honda CR-V (transferred to the wife by court order). As far as those items are concerned, he requests that the wife pay him **one-half (½)** the value of the wedding ring and Honda CR-V, and **one-half (½)** the cost of vehicle repairs.

[10.] As it relates to the issues of child custody and support, the husband proposes joint custody with primary care to the wife and specified access for himself on alternate weekends, holidays, and the like. Emphasizing his inability to support the wife's desired lifestyle and based on his financial position, he offers **Five Hundred Dollars (\$500.00)** per month for child maintenance, **Three Hundred Dollars (\$300.00)** bi-annually for clothing, continued health insurance, and equal sharing of educational and medical expenses not covered by insurance.

[11.] The wife provides detailed examples, documentary evidence, and a clear rationale for why further disclosure is necessary.

[12.] On the issue of the Ownership and Control of LMS, the wife provided an asset search (Exhibit EML-2) showing the husband as the beneficial owner of LMS. She claims the husband has not provided pay stubs, job letters, or formal financial records to substantiate his claimed employment status or salary. Instead, he has submitted self-created ledgers/spreadsheets, which the wife argues are unreliable and not reconciled with primary documents (bank statements, tax filings, invoices, etc.). The wife asks the Court to give little weight to these self-prepared documents unless verified by independent records. The wife contends that the husband has displayed a pattern of Non-Disclosure. He relied on self-generated documents rather than primary evidence. She details her own involvement in the business, stating she has direct knowledge of its operations, client invoicing, and the husband's control over finances and staff. The husband's conduct (hiring staff, running the business from home, making management decisions) is inconsistent with his claim of being a mere employee.

[13.] The wife points to the husband's lifestyle and spending. She contends that his present claims of scarcity belie the lifestyle she experienced with him during the marriage. She provided numerous examples of the husband's discretionary spending on luxury goods, gifts, travel, and household expenses, which she argues are inconsistent with his claimed modest income. For instance, the husband often purchased designer items and luxury gifts (Louis Vuitton, Gucci, Marc Jacobs, Christian Louboutin, Air Pods, etc.). He funded trips, hotel stays, and expensive household items. She says the husband provided loans to friends and employees, and made spontaneous purchases (e.g., buying an iPad for a friend's child). He paid for high-value items

for their daughter (bassinet, stroller, maternity photos, private midwife, etc.). The wife argued that this level of spending cannot be reconciled with the husband's asserted income and supports the need for full disclosure.

### **Undisclosed Assets and Transactions**

[14.] The Wife further alleged the husband has failed to disclose his beneficial ownership and control of LMS, his buy-out from Tour Daddy Limited, which she estimates at around **One Hundred Fifty Thousand (\$150,000.00) USD**. He has further failed to disclose his income from vessel brokerage and charter activities, the sale of a 2016 Dodge Charger purchased during the marriage. She contends that the husband failed also to admit to the true value and use of the MTI vessel Serengeti Gal, which she claims is used for both personal and revenue-generating activities. She provides what she avers is cogent evidence of this and invites the Court to require the husband to produce bank records and other documentation to verify these claims.

[15.] As to the couple's housing and asset transfers, the wife disputes the husband's narrative regarding housing expenses and mortgage default, providing alternative explanations and documentary evidence. She requests that the husband transfer his interest in the Russell Island property to her, arguing it was a gift from her father and the husband's name was only included due to her lack of Bahamian status at the time.

[16.] The wife contends that she has made full and frank disclosure of her own finances, including employment contracts, bank statements, and receipts for expenses related to their daughter. She contrasts her transparency with the husband's alleged lack of disclosure.

### **Summary of Relief Sought by the Wife.**

[17.] The wife seeks Joint Custody with the husband, but a grant of primary care to her. She wants the husband to have liberal access. She wants the husband to contribute **Two Thousand Dollars (\$2,000.00)** per month for child maintenance. The wife also seeks that the husband pays all tuition for the child, share educational expenses, and for him to maintain health insurance for the child and share extracurricular costs. She seeks the return of outstanding personal and child items. As for property adjustment, the wife seeks a transfer of the Russell Island property to her.

### **DISCUSSION OF THE RELEVANT LEGISLATION AND AUTHORITIES**

[18.] Under the Matrimonial Causes (Amendment) Rules s.68 (MCAR), the provisions of the Supreme Court Civil Procedure Rules 2022 (CPR) are applicable where the principal Act is silent. Hence it is appropriate to apply parts 1.1, dealing justly with a case includes, so far as is practicable:

- (a) ensuring that the parties are on equal footing
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate to —

- (i) the amount of money involved;
- (ii) the importance of the case;
- (iii) the complexity of the issues; and
- (iv) the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly;
- (e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases; and
- (f) enforcing compliance with rules, practice directions and orders.

Part 2 (3), wherein proceedings commenced before the date of commencement of the Rules, the Court has to exercise its discretion, it may take into account the principles set out in these Rules and, in particular Part 1 and Part 25. (4) For the purposes of these Rules, "civil proceedings" include judicial review but does not include — (b) family proceedings except proceedings under the Child Protection Act (Ch. 132).

Clearly, S. 68 of the MCAR is applicable to these proceedings and the overriding objective as provided in the CPR, is as pivotal to this courts' decision as the other principles of law discussed herein.

**[19.] The Overriding Objective**

(1) The overriding objective of these Rules is to enable the Court to deal with cases justly and at proportionate cost.

(2) Dealing justly with a case includes, so far as is practicable:

- (a) ensuring that the parties are on an equal footing;
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate to —
  - (i) the amount of money involved;
  - (ii) the importance of the case;
  - (iii) the complexity of the issues; and
  - (iv) the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly;
- (e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases; and
- (f) enforcing compliance with rules, practice directions and orders.

**[20.] S 28. (1) MCA: -**

On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say —

- (a) an order that a party to the marriage shall transfer to the other party, to any child of the family, or to such person as may be specified in the order for the benefit of such a child, such property as may be so specified, being property to which the first-mentioned party is entitled, either in possession or reversion;

[21.] **S 30. (1) MCA: -**

Where a petition for divorce, nullity of marriage, or judicial separation has been presented, then, subject to subsection (2), proceedings for maintenance pending suit under section 26, for a financial provision order under section 27, or for a property adjustment order may be begun, subject to and in accordance with rules of court, at any time after the presentation of the petition. (2) Rules of court may provide, in such cases as may be prescribed by the rules —

- (a) that applications for any such relief as is mentioned in subsection (1) shall be made in the petition or answer.

[22.] The wife’s application is grounded in **The Matrimonial Causes Act, 2001 (“MCA”), ss.23(4)**; which empowers her to apply for discovery. **S.29 (1) MCA** mandates that in determining applications for financial relief in divorces there are specific circumstances and considerations which must be taken into consideration.

### **Resources to Enable the Court to Exercise Its Discretion.**

[23.] At the heart of this dispute lies **S. 29 (1) (a)-(g) of the MCA** - the Court’s statutory duty to examine all relevant financial circumstances (income, earning capacity, assets, needs and contributions) so as to place, as far as practicable and just, each party in the financial position they would have occupied but for the breakdown of the marriage. **MCA Section 29: -**

**(1) 29. (1)** It shall be the duty of the court in deciding whether to exercise its powers under section 25(3) or 27(1)(a), (b) or (c) or 28 in relation to a party to a marriage and, if so, in what manner, to have regard to all the circumstances of the case including the following matters that is to say —

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;

- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contribution made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family;
- (g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring; and so to exercise those powers as to place the parties, so far as it is practicable and, having regard to their conduct, just to do so, in the financial position in which they would have been if the marriage had not broken down and each had properly discharged his or her financial obligations and responsibilities towards the other.

[24.] Similarly, as it relates to determining the issue of financial provision for the child of the marriage s 29 also applies:

**s. 29 (2)** Without prejudice to subsection (3) it shall be the duty of the court in deciding whether to exercise its powers under section 27(1)(d), (e) or (f), (2) or (4) or 28 in relation to a child of the family and, if so, in what manner, to have regard to all the circumstances of the case including the following matters, that it to say —

- (a) the financial needs of the child;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child;
- (d) the standard of living enjoyed by the family before the breakdown of the marriage;
- (e) the manner in which he was being and in which the parties to the marriage expected him to be educated or trained; and so to exercise those powers as to place the child, so far as it is practicable and, having regard to

the considerations mentioned in relation to the parties to the marriage in paragraphs (a) and (b) of subsection (1) just to do so, in the financial position in which the child would have been if the marriage had not broken down and each of those parties had properly discharged his or her financial obligations and responsibilities towards him.

Clearly, while s 29 MCA actually imposes upon the court the duty to consider all of the circumstances of the marriage, accordingly it imposes a duty upon the parties to the marriage to make full disclosure to the court, while it is in pursuit of those considerations.

[25.] There are also other legislative provisions that mandate disclosure. The Supreme Court Civil Procedure Rules 2022 (“the CPR”) Part 28.2 provides that there is a duty to disclose documents that are in the control of the parties. The practical limits are framed as follows:

*“Duty of disclosure limited to documents which are or have been in party's control. CPR Part 28 (1) A party's duty to disclose documents is limited to documents which are or have been in the control of that party. (2) For this purpose a party has or has had control of a document if— (a) it is or was in the physical possession of the party; (b) the party has or has had a right to inspect or take copies of it; or (c) the party has or has had a right to possession of it.”*

This control test focuses narrowly on records that the husband or his company can realistically be compelled to produce and guards against fishing into genuine third-party material.

[26.] **Matrimonial Causes Rules (MCR) Chapter 125 (2017) S.23** empowers the court to compel targeted disclosure in matrimonial proceedings – by permitting interrogatories and ordered discovery on oath – so that the parties and the court might obtain the documentary foundation necessary for fair, efficient and proportionate resolution of financial and ancillary disputes.

*“(1) Any party to a matrimonial cause may with leave deliver interrogatories in writing for the examination of an opposite party. (2) A copy of the interrogatories proposed to be delivered shall be lodged in the Registry when the summons is issued and a further copy shall be served with the summons. (3) Interrogatories shall, unless otherwise ordered, be answered by affidavit to be filed within ten days. (4) Any party to a matrimonial cause may apply for an order for discovery of documents by an opposite party, who may be ordered to make such general or limited discovery on oath as the Registrar may think fit.”*

[27.] **Livesey v Jenkins [1985] A.C. 424** establishes the bedrock principle that ancillary relief proceedings demand full and frank disclosure: where a party breaches that duty – whether by active misrepresentation or passive concealment- the court may set aside orders and fashion remedies to do justice. Quoting from **Minton v Minton [1979] A.C. 593**, it was noted by *Omrod L.J.* at p 787;

*“It is essential in these cases that the Court retains its power to protect both parties against injustice which may arise from failure to comply with their obligations to disclose.”*

[28.] Disclosure is not a random act. **The Court of Appeal in Mitchell et al v Melidor et al SCCiv App. No. 267 of 2015 (“Mitchell”)** the need for discovery depends on the facts and circumstances of each case. The Court affirmed at p. 79

*“In relation to the learned Judge’s order granting discovery of: “all relevant documents including but not limited to letters, policy papers, internal memoranda, minutes, reports, directives in relation to the initiatives, implemented on 1<sup>st</sup> November 2014... ..p. 80 “That aside, my further observation is... ..that the learned judge took no account of the particulars or circumstances of the case in determining the necessity of these documents to the fair resolution of the judicial review application....” p.81 “In the premise, I reiterate that the learned judge’s approach that... .., that the need for disclosure depends on the facts and circumstances of each particular case.”*

[29.] Also, in keeping with Mitchell this Court’s view is that blanket or automatic disclosure is inappropriate unless the applicant shows specific, demonstrable contradictions, inconsistencies or incompleteness, gaps, or reasons why the documents sought are necessary for the fair resolution of the issues.

[30.] The effect of the decisions in **Livesey** and **Mitchell** is to establish clearly that if a party is in breach of the duty of candor, whether by actively presenting a false case or passively failing to reveal relevant facts and circumstances, then the court has the power to set aside the order and do justice, whether or not the order was made by consent.

[31.] The process involves full inquiry and judicial fact finding – as per the dictum of **Collie v Collie 2012/FAM/DIV/00432, His Lordship The Hon. Sir Michael Barnett, Chief Justice** noted p. 48; -

*“It is now well established that in the course of exercising its discretion in relation to ancillary applications under the MCA, a court may draw adverse inferences about the resources of parties who, it is satisfied, are failing to provide the Court with full and frank disclosure regarding their assets.”*

[32.] Where one party has superior knowledge of complex affairs and leaves gaps in disclosure, courts may draw the less favorable inference. In **J- PC v J-AF [1955] P215 Sachs J** stated:

*“In cases of this kind, where the duty of disclosure comes to lie upon the husband; where a husband has, and his wife has not, detailed knowledge of his complex affairs; where a husband is fully capable of explaining, and has the opportunity to explain, those affairs; and where he seeks to minimize the wife’s claim; that husband can hardly complain if, when he leaves gaps in the court’s knowledge, the court does not draw inferences in his favour. On the contrary, when he leaves a gap in such a state that two alternative inferences may be drawn, the court will normally draw the less favorable inference – especially where it seems likely that his able legal advisers would have hastened to put forward affirmatively any facts, had they existed establishing the more favorable*

*alternative.” The Court also affirmed “... it is well to state expressly something which underlies the procedure by which husbands are required in such proceedings to disclose their means to the court. Whether that disclosure is by affidavit of facts, by affidavit of documents or by evidence of oath.”*

[33.] In **Sean Collie v Aneka Collie, SCCrApp & CAIS No. 19 of 2015**, the Court addressed adverse inferences at P. 48 *“It is now well established that in the course of exercising its discretion in relation to ancillary applications under the MCA, a Court may draw adverse inferences about the resources of parties who, it is satisfied are failing to provide the Court with full and frank disclosure regarding their assets.”*

[34.] The husband’s insistence that LMS is a completely different person than he is, is recognized as a general principle in law. **Salomon v Salomon** emphasizes corporate separateness. However, *Lord Sumption* in **Prest v Petrodel Resources [2013] UKSC 34** recognized an exception where a company is a façade used to evade legal obligations *“the proper exercise of these powers calls for a considerable measure of candor by the parties in disclosing their financial affairs, and extensive procedural powers are available to the court to compel disclosure if necessary.”* The question then is whether the company's personality is being used here by the husband to evade the legal obligation to disclose.

[35.] *Justice Ian Winder* stated in **L.C. Holdings Ltd v Klonaris and Branch Holdings Ltd. BS 2016 SC** stated, *“Whilst Salomon is a governing principle of company law it is not an absolute principle. In an appropriate case the courts will lift the veil of incorporation and look to the actors behind a company.”*

Making reference to *Professor Andrew Burgess* in **“Commonwealth Caribbean Company Law”** p. 92, it was reiterated, *“There is no doubt that separate legal personality and limited liability can be and have been abused by incorporators. An important company response to the problem or these abuses is the removal of the veil of incorporation and making the shareholders liable to the debts and other obligations of the company, using what is variously called “piercing the corporate veil” or “lifting the corporate veil.”*

## **ANALYSIS**

[36.] The wife’s disclosure targets the following:

- 1) Comprehensive disclosure of personal and corporate bank statements in The Bahamas and the United States.
- 2) American Express/credit card receipts.
- 3) Company annual filings of LMS Ltd. and affiliated companies, along with shareholder records.
- 4) Proof of sale or transfer of Unit 7 Winton Terrace and
- 5) A full accounting of assets/transactions in The Bahamas and USA.

[37.] The decision to grant disclosure is not granted in a random or adhoc manner. The Court examines whether targeted disclosure is necessary and proportionate to enable the performance of its duties as required under **S. 29 MCA** by fairly assessing the financial position of the parties.

In making a determination as requested by the wife, the Court analyzed the following-

- (1) the necessity of the requested information for the **S. 29 MCA** inquiry
- (2) whether the documents are within the husband's control under **CPR Part 28.2**,
- (3) the proportionality and particularity of the wife's requests in light of **Mitchell v Melidor, SCCiv App. No. 267 of 2015**.
- (4) Whether company records must be reached and, ultimately, whether the corporate veil merits piercing under **Prest v Petrodel Resources Limited [2013] UKSC 34 at p.34 and p.35**.

[38.] **Necessity of Information**

The Court cannot adjudicate what it does not know. **S. 29 MCA** requires the Court to consider income, earning capacity, property and all other financial resources so as to place the parties in so far as practicable and just, in the position they would have been in, but for the breakdown of the marriage.

- a. The categories the Wife seeks include personal and corporate bank statements, payroll records, company registers, proofs of sale and relevant American Express credit card receipts. These documents speak directly to the **S. 29 MCA** statutory factors and to questions of dispositions and contributions materially to ancillary relief.
- b. The Wife alleges that LMS and its affiliates conceal resources. This she says she knows because during the marriage she assisted with billing. The allegations raise the specter of material gaps in the Court's knowledge. The Court must therefore order disclosure to test the allegations. The scope of the disclosure is limited by **CPR Part 28.2** and **Mitchell v Melidor** and **Prest v Petrodel** which focus on control, proportionality and piercing the veil.

[39.] **Control of Documents**

- a. Discovery is confined to what the party can realistically produce. The Court is guided by **CPR part 28 (2)**, which confines disclosure to documents "in the control" of the party – i.e., in physical possession, subject to a right to inspect or to a right to possession. **MCR R.23 (4)** permits the Court to order discovery on oath.
- b. The husband works for and is paid by LMS. The husband first referred to LMS as "my business." Ownership of the business is indicative of an employment and payment

relationship which places certain LMS records within his practical control. Included in his “Control” should necessarily be payroll ledgers and pay slips; company bank records or at the very least access to company bank statements which can be inspected, invoices and billing records should be available to the husband or he can obtain the same. He should have the company’s register of members and directors or can request the same. **[Emphasis Mine]**

- c. The husband’s control also includes records of dividends, loans or distributions to him where he can inspect or obtain the documents.
- d. The wife seeks personal and corporate bank statements which the husband has or may have in The Bahamas and the United States. Requests have also been made for American Express/credit card receipts, LMS statutory records and proof of sale of Unit 7 Winton Terrace. To the extent that those documents are in the husband’s possession which since he describes the business as his own, or he has a right to inspect or obtain from LMS or affiliated entities, they fall within discoverable control as defined under **CPR Part 28 (2)** and must be produced.

**[40.] Proportionality and Particularity**

- a. The court will not permit fishing expeditions. Under **S. 29 (1) MCA** The Court’s inquiry is focused on the needs of the parties in this area - specifically on income, earning capacity, assets and related needs. **Mitchell v Melidor SCCiv App. No. 267 of 2015** establishes that discovery must be tailored to the circumstances of the case and the needs of the parties. In this regard, blanket orders are improper.
- b. An assessment of the Wife’s requests reveals that these are specific and targeted to discrete **S. 29 MCA** issues- salary and payroll, LMS bank statements, company ownership/registration, proof of sale of Unit 7 Winton Terrace, and credit card obligations. This request is also supported by indications of assistance with billing, the Husband’s corrected salary and limited receipts.
- c. Practically, and based on **S. 29 MCA** requirements and the needs of the parties and the circumstances of the case, the Court will therefore order a narrowly framed production of documents. These documents will be limited to those categories and timeframes relevant to the marriage and ancillary proceedings. The Court will refuse requests unrelated to the its scope of inquiries under **S. 29 MCA**.

**[41.] Piercing The Corporate Veil**

- d. The Court treats this area as entirely sensitive. Given this factor, exceptional relief is only provided where the evidence justifies it. The foundation of rules in the area is based on **Salomon and Salomon**, which emphasizes the corporate entity.

[42.] **The Evidence**

- e. The Wife purports that the husband is using the LMS company and affiliates to evade legal obligations. At the same time, the limited purpose of piercing the corporate veil is to prevent the misuse of corporate separateness where a company is employed as a device to frustrate or evade existing legal obligations. It does not seek to undermine ordinary commercial arrangements. The case of **Prest v Petrodel Resources [2013] UKSC 34** makes clear that veil piercing is a remedial tool narrowly aimed at depriving a controller and their company of an improper advantage obtained by interposing the corporate form.
- f. The jurisprudence requires two core-linked elements before the veil may be pierced. First, credible, case-specific evidence that the company is being used as a façade or device to conceal assets or frustrate obligations. Second, a causal connection between that misuse and the legal obligation sought to be enforced, such that piercing is necessary to deprive the company/controller of the advantage of separateness. Piercing is therefore exceptional, factual, sensitive, and strictly purposive.
- g. The wife's considerations and evidence is to be considered. The husband alleges that LMS and affiliated entities are not effectively controlled or beneficially owned by him, notwithstanding that he is employed by and paid through LMS. The wife asserts that she assisted with billing and has knowledge of company operations. She said that she was able to speak about the existence of significant corporate records, registers, bank statements, distributions, and documentation of dispositions, such as Unit 7 Winton Terrace and that they remain undisclosed, these specific allegations, together with the husband's partial disclosure (corrected salary, limited receipts and payroll evidence) and lack of company statutory records, provide a focused evidential foundation to investigate whether LMS is being used to shield resources relevant to the **S. 29 MCA** inquiry.

[43.] **No Blanket Discovery**

- h. Under **Mitchell v Melidor SCCiv App. No. 267 of 2015**, the Court must avoid blanket discovery and require particularity and necessity. The wife's requests are precise, time-limited, and tied to discrete S. 29 issues of income, distributions, ownership, and dispositions. Under **Prest**, the Court need not make a final finding

of misuse before ordering discovery. The Court may require targeted company records where specific evidence gives rise to a legitimate suspicion that the corporate form may conceal assets.

- i. The combination of the husband's LMS payroll linkage, the wife's factual pointers to operational involvement, and the absence of company filings together meet the threshold for a proportionate and focused inquiry to determine whether exceptional grounds for piercing exist.
- j. The Court is mindful of the presumption of separateness as articulated in **Salomon**. The Court declines to pierce the veil at this interlocutory stage. At the same time, and consistent with the obligations under **S. 29 MCA** and **R. 23 (4) MCR, CPR Part 28.2** and **Prest and Mitchell**, the Court will order targeted company disclosure (statutory bank records, corporate bank statements, payroll ledgers, records of loans, distributions and transactions for the period 2021-2026). The provision of these documents allows for a test of the wife's allegations.
- k. Similarly, if the documents establish misuse of the corporate form, or if the husband obstructs or evades disclosure, the Court will then consider piercing the veil, drawing adverse inferences and imposing appropriate remedies or costs.

[44.] **Scope of Disclosure**

1. The scope of disclosure ordered is based on the Court's requirement to test the allegations. In order to effect a proportionate inquiry consistent with the CPR Part 28.2, MCR 23 (4), and **MCA S. 29**, the Court will require LMS documents sufficient to reveal ownership, control, cash flows, and distributions during the marriage period. The husband must produce LMS's certificate of incorporation and business license, annual filings/returns, register of directors (2021-2026), corporate bank statements for LMS and any LMS-named entities (Jan 2021-January 2026), payroll ledgers, pay slips, and records of dividends, loans, or distributions to the husband, and invoices/contracts evidencing billing where the wife asserts involvement. The Court's position is that these documents are proportionate and necessary to determine whether the corporate structures conceal resources relevant to **S. 29 MCA**.

[45.] **Evasive Disclosure**

- m. It is important to be aware that there are serious consequences associated with non-compliance or evasive disclosure. Firstly, the action subjects the offender to

possible adverse inferences and sanctions. In **Livesey v Jenkins, J-PC v J-Af and Sean Collie**, confirm that the Court may draw adverse inferences and impose sanctions where a party with superior knowledge fails to disclose material information.

- n. Should the husband fail to comply fully and promptly with the Court's request, these orders, or if disclosure is evasive or incomplete without particularized privilege, the Court will consider drawing adverse inferences, imposing costs, and employing such other remedies as are necessary to ensure justice. The Court's position is that meaningful compliance is mandatory and that consequences will follow obstructive conduct.

## CONCLUSION

[46.] Balancing the **Salomon** presumption of separateness with the remedial principle in **Prest** and the Court's **S. 29** duty, the wife has demonstrated sufficient specificity and relevance to justify proportionate, targeted discovery of both company and personal records as set out above.

[47.] The Husband's employment by and payment from LMS places key corporate records within the ambit of disclosure if he has the right or practical ability to obtain them. The Court therefore directs the targeted disclosure ordered herein as the necessary, limited means to test the Husband's allegations and to enable fair **S. 29 MCA** assessment. A final determination on veil-piercing will follow only if the produced material establishes misuse of the corporate form or if the Husband obstructs disclosure, in which event, the Court will consider piercing, adverse inferences, and other remedies.

[48.] While an order for discovery will delay the progress and determination of this case, the Overriding Objective is to enable the Court to deal with cases justly and at proportionate cost. Applying the considerations of s (2) chief among the considerations here is (f) ensuring that [this case] is dealt with expeditiously and fairly and; (e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases, trumps efforts to determine this case in ignorance of the evidence contained in the wife's contentions about LMS.

[49.] I have taken into account Counsel Braynen-Symonette's argument that the court should not hesitate in dismissing the subject application and proceed to conclude the substantive application for financial provision and property adjustment. She rationalized this partly on the basis of *Sir Michael Barnett's* dicta in **Richard Stephen Wilson v. Jason Smith et. al.** SCCivApp No. 136 of 2016, where he admonished against undue delay in completing applications as "*completely unacceptable and brings the administration of Justice into disrepute.*"

[50.] Then also relying on **Bond v Dunster Properties Ltd.** [2011] EWCA Civ 45, Counsel pressed home the point of the deleterious effect a long delay could have in the proceedings:-

*“[51.] Litigation is stressful for the parties, sometimes because they are members of the same family and sometimes because the transactions are commercial in nature and their outcome has implications for other transactions that the parties or others need to carry out. Life has to go on before, during and after litigation. In some cases, a delay in producing a judgment may prevent the parties from reaping any benefit from the litigation at all.”*

*“[52.] In this case, one of the parties died before the Ruling. It is precisely because that is one of the risks of delay that judges should make every effort to determine matters timeously.”*

[51.] However, while this court concurs with the clear disadvantages that might be wrought by delay, the court is ever mindful of its mandate to be fair and just to the parties (CPR Part 1.1.) in matters of this nature. Fairness requires full and frank disclosure by the parties as contemplated by the prescribed circumstance in s.29 MCA and in **Livesey v Jenkins** supra.

## **DISPOSITION**

1. The Wife has demonstrated sufficient specificity and relevance to justify proportionate targeted discovery. The Husband’s employment and payment by LMS place key corporate records within the ambit of disclosure, since the business is his he has the right or practical ability to obtain them.

### **Within the time specified hereinafter;**

2. The Husband shall update his Affidavit to reflect all personal and corporate accounts, his precise role and interest in LMS and any LMS named entities, and all assets acquired or disposed of since 1 January 2021 to January 2026, including the particulars of Unit 7 Winton Terrace.
3. The Husband shall produce account statements from Scotia Bank, Royal Bank, along with the US banks indicated (TDS and others) for the period 2021 to 2026.
4. The Husband shall provide payroll records, pay slips, and records of dividends/ loans/ distributions from LMS to the Husband for the period January 2021 – January 2026.
5. The husband shall produce a register of LMS’s members/shareholders and register of directors for the period 2021 through 2026 to reflect a complete chain of ownership over the years. All copies must be certified. Further investigations subject to the Court’s finding from the initial documents produced.

6. The Husband shall produce documents evidencing sale/transfer of Unit 7 Winton Terrace (conveyance, sales contract)
7. The Husband shall produce American Express statements where the Husband or LMS is named or shows legal liability or control. Copies of three-month statements for the period September to November 2025 are to be produced, reflecting the Husband as a secondary card holder.
8. The husband shall file and serve the Affidavit containing the discoverable items as enumerated in paragraphs 2-7 hereof on or before the 9<sup>th</sup> day of July, A.D. 2026, being the time specified.
9. Costs of the Application to the wife to be taxed if not agreed.

Dated the 8<sup>th</sup> Day of June, A.D. 2026



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**C. V. Hope Strachan J.**

**Justice of the Supreme Court of The Commonwealth of The Bahamas**

