

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

2021

FAM/DIV/00292

Family Division

BETWEEN

SHANNA IMCA WILLIAMS (nee VAN EER)

Petitioner

AND

VIBERT VERNON WILLIAMS

Respondent

JUDGEMENT

Before: **The Hon. Madam Justice J. Denise Lewis-Johnson MBE**

Appearances: Ms. Cheryl Whyms of Counsel for the Petitioner

Ms. Roberta Quant of Counsel for the Respondent

Hearing Date: 2nd February 2023; 15th February 2021; 28th March 2023; 29th April 2024;
3rd June 2024; 11th July 2024; 20th August 2024

*Family Law-Matrimonial Causes Act-Divorce-Ancillary Relief-Matrimonial Property- Division
of Assets- Multijurisdictional Custody and Access- Custody- Maintenance- Spousal Support.*

Introduction

1. By a Notice of Intention to Proceed with Ancillary Relief filed 2nd April 2024, the Petitioner sought Custody, Maintenance, Spousal Support and a Property Adjustment Order.
2. The Parties filed Affidavits of Means and Supplemental Affidavits outlining their position on custody, access, maintenance, and property division. The Petitioner applied for spousal support.

The Petitioner's Evidence

3. That she gave up her job and moved to Curacao with the Respondent and found a job as a Trading officer while they were living together.
4. That in 2006 after the Respondent resigned from NAGICO, she and the Respondent travelled the world together mostly at his expense.
5. That in 2008 the Petitioner and the Respondent enrolled on Suzhoa University, China and we were offered contracts at the language center and that both of their salaries were considered high for local standards where they frequently traveled and, had beautiful housing and weekly entertainment.
6. The Respondent wanted to be closer to his family resulting in the Petitioner giving up her job, source of income and the ability to advance again.
7. That the Petitioner and the Respondent settled again in St. Marteen where the Respondent was hired again by NAGICO and she got a job as an executive assistant at a Health Care Provider.
8. The Respondent was then transferred to St. Lucia and the Petitioner gave up her job as an executive assistant to her disadvantage.
9. That it was agreed between the Petitioner and the Respondent after the move to St. Lucia that the Petitioner would abandon all future prospects and career aspirations and take up life as a home maker and all assets would be jointly owned.
10. That the Respondent paid all the expenses as he was the only one working and that it was never agreed for the Respondent to retain some or any assets, bank accounts, investments etc. on his own.
11. The Respondent then got an offer to stablish the Bahamas Insurance operation at NAGICO and eventually became Managing Director. It was also the request of the Respondent to move the family to a jurisdiction where the Petitioner could not have gainful employment.
12. That since moving to The Bahamas the Petitioner has been attending online school at the Respondents expense and that Respondent currently provides for all the family expenses
13. That the joint properties of Petitioner and the Respondent are:
 - a. Lot Number 25 Montague Heights Division, The Bahamas with a monthly rental income of \$1,200.00;
 - b. Elizabeth Hall Guyana;

- c. Linden Soesdyke, Guyana with a monthly rental income of \$800.00;
 - d. Non Pariel, Guyana; and
 - e. Uniform Farm, St. Maarteen which is owned by the Petitioner and Respondent company and their business partners
14. That the Respondent pays the real property taxes for the matrimonial home.
 15. That when the Respondent learned of the Petitioner's divorce filing, the Respondent instructed Royal Bank of Canada to open an investigation regarding transactions made by the Petitioner on his account which led to her personal accounts being on hold.
 16. That the Petitioner has no access to funds and is unable to care for herself and the minor children.
 17. That the Respondent refused to send money on many occasions while the Petitioner and the children were travelling with no explanation, resulting in Petitioner asking her mother for funds to take care of herself and the children.
 18. That there are Bank Accounts value or cash in the following banks:
 - a. Scotiabank \$140.00(P) \$2,619.62 (R)
 - b. Royal Bank of Canada "RBC" \$73,009.28 (P) \$668,000 (R)
 - c. RBC Joint Account \$105.95 (P) \$105.95 (R)
 - d. RBC Joint Account \$ 91.04 (P) \$91.04 (R)
 - e. RBC Joint Account \$\$398.16 (P) \$398.16 (R)
 - f. Fidelity Bank \$13.83 (P)
 - g. WIB Account, St. Marteen \$458.39 (P) \$40,000.00 (R)
 - h. WIB Joint Account
 - i. WIB Credit Card Account St. Marteen
 - j. ABN Amro, The Netherlands
 - k. RBC FINCO
 - l. TD Bank Savings
 - m. TD Bank Checking
 - n. Credit Card Balance
 - o. Term Deposit Account
 - p. Bank of America Joint Savings
 - q. Bank of America Joint Checking Republic Bank Guyana

- r. Other
 - s. CG Atlantic Pension
 - t. Colina Life Insurance
 - u. 2004 Mitsubishi Colt
 - v. Jeep Grand Cherokee
19. That during the marriage the assets were treated equally as both parties contributed to the benefit of the family. The Respondents contribution was to work and build and crate a portfolio for them to share 50/50.
 20. That both the Petitioner and the Respondent names are on conveyances of properties purchased locally and internationally.
 21. The Petitioner at some point in the marriage became the sole beneficiary of the Respondents Life Insurance Policy.
 22. That the family live a comfortable upper middle class life in The Bahamas.
 23. The children cost and standard of living monthly for the last past 6-12 years is £5,456.31 and that the tutitoun fes are due in one lupsum payemnt at the start of the school year or in 3 installments which cannot be calculated monthly.
 24. That spousal maintenance is £ 7,476.12 monthly.
 25. That there are repeated acts of violence by the Respondent towards children with constantly threatening to inflict punishment on them.
 26. That the Respondent takes the children away from the home to stay with him and his adulterous partner causing discomfort to the children.
 27. That as a result of the Respondents action the eldest child has engaged in self harm by tearing his toe-nails off.
 28. That the Petitioner wants to relocate to the Netherlands with the children having sole custody and that the Netherlands is a very bureaucratic country and if joint custody is given approval of both parents will be needed when dealing with the children.
 29. That the apartment which the Petitioner's brother have for immediate occupation in the Netherlands of the Petitioner and the minor children is not being occupied by her brother and a female partner and that the Petitioner's brother lives at a different address.
 30. That renting a two bedroom apartment in the Netherlands within the private sector can start from £2,750.00 per month.

31. That the \$2, 5738.74 on the joint account has not been touched and the Respondent can confirm this as he access to online joint account.
32. That she has send numerous emails to the Respondent relating to the move to the UK and the children and that the Respondent has frustrated the process for obtaining safe readily available and affordable accommodation in the UK in a timely manner.
33. That the Amsterdam International Community School are \$6,268.32 for a 6 years old and \$7,468.29 for a 12 year old child which is less than the combined school fee of both children in the Bahamas.
34. That the children Visas for the UK was submitted prior to the 2 August 2023.

The Respondent's Evidence

35. That the Respondent was previously employed at NAGICO as Insurance (Bahamas) Limited with a monthly salary of \$15,945.11 with numerous benefits for him and his family from October 2012 until 12th January 2023.
36. That upon termination from NAGICO the company allowed for the Respondent's family health insurance to remain until the 12th January 2024.
37. That the Respondent's financial circumstances has suffered drastically since his termination from NAGICO where the Respondent received a severance package of approximately \$410,855.77.
38. That after being unemployed for over a year, the Respondent became employed with Bahamas Stripping as Chief Operating Officer earning a salary of \$10,833.33 per month.
39. That the Respondent's monthly expenses are \$10,843.00 and additional funds needed to sustain the family are taken from the family assets.
40. That the Respondent hold a Permanent Residency Permit with UID 712029001 which expires 6th September 2032 and is dependent on my Permanent Residence as the primary permit holder.
41. That the Respondent accept that the Petitioner was homemaker with no right to work but the Respondent did not pay for the Petitioners schooling at his expense but the sums came from a Joint Account of them.
42. That clothing per year for both children is \$500.00 and that grocery for the family is \$1,000.00 per month.

43. That the family took 2-3 vacations per year during the school breaks of Easter, summer and Christmas.
44. That the Petitioner expressed her desire to be a home maker and due to her qualifications and educational background is more than capable of finding gainful employment.
45. That the Respondent no longer have a life insurance policy as the same lapsed in 2023. The Respondent further rejects the sums as laid out in the Petitioner's expenses schedule and suggests that it is not a true reflection of the true position.
46. That the Respondent has no objection to the children of the marriage traveling with the Petitioner to take up residence in the Netherlands once joint custody is maintained.
47. That the Respondent holds the following bank accounts:
 - a. Royal Bank of Canada
 - i. Joint checking account with the Petitioner \$105.95
 - ii. Joint savings account with the Petitioner with the balance of \$1,543.54 (these sums are used solely by the Petitioner as she receives a monthly maintenance of \$2,000.00 on this account)
 - iii. Personal Individual account with a balance of \$1006.31
 - iv. Personal Individual savings account with a balance of \$185,011.63
 - v. Individual Credit Card Account with a balance debt of \$4,327.83 which balance is cleared by using funds from account 7305741.
 - vi. Term Deposit Account with a balance of \$5,069.33
 - vii. RBC Finco joint account with a balance of \$2,505.94 after the Petitioner unilaterally withdrew \$106,510.70.
 - b. Scotiabank at Cable Beach
 - i. A personal individual savings account with a balance of \$2,619.62. This is the account the Respondent's salary is paid into.
 - c. Bank of America
 - i. Joint Checking account with the Petitioner with balance of \$0.44.
 - ii. Joint Saving Account with the Petitioner with a balance of \$49.90
 - d. TD Bank
 - i. Private savings account with a balance of #391.09
 - ii. Private checking account with a balance of \$60.25.

- e. St. Marteen Winward Bank
 - i. Private savings account which was opened prior to meeting the Petitioner with a balance of approximately \$8,000.00
48. That the Petitioner has failed to disclose the following accounts which the Respondent is unaware of the balances on the accounts:
- a. RBC Account No. 7002355 which would contain approximately \$110,000.00
 - b. Fidelity Bank (Bahamas) Savings Account No. 20717385
 - c. Commonwealth Bank
 - d. ABN Amro-Netherlands
 - e. ABN Amro-Aruba
49. That on the 12th May 2023, the Respondent after entering the room which the Petitioner and minor children occupied, found receipts and deposit slips etc of bank accounts which the Petitioner had opened solely in her name from RBC and Finco. Additionally the receipts found by the Respondent reflected the sums that was withdrawn from their joint account and the Respondent's personal savings account.
50. That to date the Respondent was able to recover from RBC after an investigation regarding the withdrawals the sum of \$21,000.00 of the \$127,510 taken from the accounts.
51. That the Respondent has always taken care of the needs of the children and rejects the claim that while the Respondent and children were travelling he refused to send money as the Respondent had access to a Bahamian debit card, a credit card attached to Airbnb and euros she had removed from their safe prior to taking the children to the Netherlands.
52. That the Respondent and Petitioner do not earn a rental income of \$1,200.00 monthly as the co-own home in the Eastern district had an efficiency attached used as an Airbnb which ceased due to Covid 19 and will unlikely be rented again.
53. That the Respondent and the Petitioner do not own property on the East side of the Linden Soesdyke as they are awaiting the transfer of title and would have to pay the outstanding balance of the purchase price to complete the transaction as a deposit was already made.
54. That there is no dwelling home at Yarrowkabra Guyana as this is vacant government leased agricultural land and a non-citizen may not be able to individually own and hold a government lease for agricultural land and as a result should be given to the Respondent.

55. That there is no dwelling home at Elizabeth Hall Guyana as this is vacant land in the ancestral village of the Respondent.
56. That the dwelling home in Non-pariel Guyana should remain with the Petitioner.
57. That the property in St. Marteen is co-owned by the petitioner and another party. The Respondent is not named as an owner of this property.
58. That the Respondent rejects that he is verbally abusive towards the Petitioner and it is usually he Petitioner who continually berates him in the front of the children and that he does not subscribe to any forms of violence, aggression or intimidation in any relationship as his children expressed their love for him.
59. That the Respondent has completed the Center for Divorce Education's Children between Florida Parent Education and Family Stabilization Course parenting class on the 5th April 2024.
60. That the Respondent do not abuse the children but render punishment which includes rare physical punishment when the children disrespect him or the Petitioner and that the Petitioner has never raised the issue of abuse until the divorce in an effort to be granted sole custody of the children by the Court.
61. That the Respondent only raised alleged abuse in relation to the eldest son.
62. That the Petitioner has a laissez-faire approach to children being disrespectful and disobedient to parents and elder and therefore a good cop/bad copy relationship was developed with the children
63. That in March 2023 after the children learned about the difficulties of the marriage, the Petitioner would tell the children negative and often untrue things which resulted in the eldest child being coldly towards the Respondent.
64. That the Respondent and the Petitioner should have joint custody with reasonable access for each child, but sole custody to the Respondent as the Petitioner has proven to be inconsiderate and restricts his access to the children.
65. The Respondent admitted to slapping the eldest son when he was returned to him on the 11th December 2023 as the eldest son did not greet or acknowledged the Respondent.
66. That the Respondent has been a great father and participates fully in the children daily lives.

67. That the Respondent took no issue with the Petitioner and the children going to the Netherlands on the 19th December 2023 as the only condition was that since the Petitioner would not accept the Respondent calls, that the eldest son would call daily and allow the youngest call to do which they didn't.
68. That as a result of the eldest son's actions the Respondent that failing to keep a promise to a parent, ignoring and failing to check up on a parent is disrespectful and uncaring.
69. That the Petitioner ignored the Courts order to give full and timely information when indicating to tell the Respondent that there was a change in their departure flight from the Netherlands.
70. That since the Court ordered the Respondent to live in the efficiency the Petitioner has done things to make the Respondents time there very difficult.
71. That as a result of the intrusiveness and the discomfort of the children in the efficiency when the Respondents spends time with them, they sometimes stay at the home of the Respondent's partner in a normal setting and the Respondent's partner usually assist with picking the boys off from school after the Respondent started a new job as the Petitioner refuses to return the children back to the Respondent.
72. That the Petitioner continues to violate the Court orders and keep the children away from him when she can.
73. That the Respondent is unaware of the manifestations of self-harm from the eldest son and knew the eldest son to have mild anxiety but was never informed of the escalation by the Petitioner.

Issues

74. Custody of the children, and access terms.
75. Maintenance for and of the children.
76. Whether the Petitioner is entitled to spousal support and if so, how much.
77. How should the assets of the Parties, jointly and individually held, be divided.

Law

78. Section 3 of the **Child Protection Act** Chapter 132 provides:-

*“(1) Whenever a determination has to be made with respect to —
(a) the upbringing of a child; or*

(b) the administration of a child's property or the application of any income arising from it, the child's welfare shall be the paramount consideration.

(2) In all matters relating to a child, whether before a court of law or before any other person, regard shall be had to the guiding principle mentioned in subsection (1) and that any delay in determining the question is likely to be prejudicial to the welfare of the child.

(3) In determining any question relating to circumstances set out in paragraphs (a) and (b) of subsection (1), the court or any other person shall have regard in particular to —

(a) the ascertainable wishes and feelings of the child concerned considered in the light of his or her age and understanding;

(b) the child's physical, emotional and educational needs;

(c) the likely effects of any changes in the child's circumstances;

(d) the child's age, sex, background and any other circumstances relevant in the matter;

(e) any harm that the child has suffered or is at the risk of suffering;

(f) where relevant, the capacity of the child's parents, guardians or other persons involved in the care of the child in meeting his or her needs."

79. Section 22 of the Child Protection Act provides:-

"(1) A court may, upon the application of any of the parents of a child or in the course of the hearing of any such application by one parent make such order as it may think fit regarding —

(a) the custody of the child; and

(b) the right of access to the child mentioned in section 14 by either parent; and

(c) any other matter affecting the child, having regard to the age and the best interests of the child and taking into consideration the conduct and wishes of the parents and the child.

(2) Where a court makes an order under subsection (1) or under section 21(4) giving the custody of the child to one parent, it may further order that the other parent pays to the parent having custody of the child a weekly or other periodical

sum towards the maintenance of the child as the court thinks reasonable having regard to the means of the parents.

(3) Where any order as to custody of the child or payment to a parent of a periodical sum for the maintenance of the child had been previously made by another court, a court may, if it is of like or superior jurisdiction to the latter court and it thinks fit, in the exercise of its power to make an order for the custody or maintenance of the child under this section, discharge the previous order and substitute any order as it may think fit.

(4) An order may be made under subsection (1) or (2) as regards the custody or maintenance of a child notwithstanding that the parents of the child are then residing together.

(5) An order under subsection (1) or (2) may be varied or discharged by a subsequent order made on the application of either parent or, in the case of an order under subsection (1), after the death of either parent on the application of any guardian under this Act, without prejudice to the powers conferred by the other provisions of the Act upon an officer of the Department.

(6) A parent granted custody of, or access rights to, the child under subsection (1), may apply to the court to voluntarily give up such custody or access to the child.”

80. Section 29(2) of the **Matrimonial Causes Act** Chapter 125 states:-

“(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.”

81. Section 29(1) provides:-

“(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.”

82. Section 28(1) provides:-

“(1) 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;

(b) an order that a settlement of such property as may be so specified, being property to which a party to the marriage is so entitled, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;

(c) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them any ante-nuptial or postnuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage;

(d) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement;

subject, however, in the case of an order under paragraph (a) to the restrictions imposed by section 33(1) and (3) on the making of orders for a transfer of property in favour of children who have attained the age of eighteen.”

Custody

83. It is only in exceptional cases that a parent should be deprived of custody. That is, for example, when one is not capable of performing the role or task of parenting, or is an unfit parent. That is not the case here.

84. While I find the Respondent’s mode of discipline concerning, the recording of himself disciplining the child was all self-serving and of no credible merit to his case. The Court

found such action bordering on abuse, it is hoped that the Court Ordered parenting class would assist the Respondent in this regard.

85. While the Court accepts different parenting methods and styles as advanced by Bain J. in **Mackey v The Hon. Melanie Griffin**, in quoting Hedley J in **Re L [Care: Threshold Criteria] 2007 1 FLK 2050** *“Society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows that children will inevitably have both a very different experience of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequence of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event is simply could not be done.”*
86. The Respondent claims his method of corporal punishment was simply a different style, his manner of carrying it out was nothing short of demeaning to the child, on top of the physical pain and bruising caused, there was emotional concerns created. In no style of parenting is this considered acceptable.
87. The children have been severely impacted by the breakdown of the family, that once secure, safe and loving environment is gone. It did not help that the Respondent during his custodial periods left the children for significant periods of time alone with his new love interest.
88. The Court takes note of the cases advanced by the Petitioner that do not support joint custody, particularly when the parties will be living in separate jurisdictions and where the relationship between the parties is acrimonious. She relied on Hepburn J in **ORUV v KMV [2011] 1BHS J No.67** where she stated *“There is also the added difficulty that the parties live in two different jurisdictions; he in Switzerland and she in The Bahamas. As observed by Georges CJ in **Coleman v Coleman**, joint custody would be meaningless where easy and immediate contact between the joint custodians is not possible.”*
89. I do not accept that position remains viable or relevant in today’s technological society where communication is instantaneous. Where there exist numerous modes and methods that allow parties to communicate with little to no cost. Where parties can see each other while speaking, text, WhatsApp, FaceTime, allowing for one parent to be in The Bahamas

and the other in the Netherlands and to participate in a doctor's visit or parent/teacher conference. If the test is "easy and immediate contact between the joint custodians" then the modern approach must allow for joint custody as the constraints of the past to easy and immediate communication no longer exist.

90. I therefore find that this is an appropriate case for joint custody.

Spousal Support

91. The Petitioner gave up her career building opportunities to be supportive of the Respondent's career by moving to various countries when he received new jobs.

92. The Court accepts this was a joint decision made for the betterment of the family. There is no doubt that the decision not to pursue a career, build a resume, obtain professional experience, create networking connections placed the Petitioner at a disadvantage, her professional competitiveness is significantly decreased.

93. The agreed decision that the Petitioner would be a homemaker, knowing that she was academically qualified to be employed and contribute financially to the family should not at divorce place her at a financial disadvantage, when dividing assets or her receiving financial support.

94. The Respondent ought not be allowed to disregard the Petitioner's contribution and sacrifice which allowed him to excel to the peak of his career as Managing Director. The Petitioner in these circumstances must be treated fairly. The Court must consider numerous factors, among them the standard of living the Parties have become accustomed to, the skill set of the Petitioner and whether training is necessary for her employment to become financially independent.

95. The Respondent will not be required to support the Petitioner for the rest of her life. However he will be required to support her for a reasonable period. Both parties relied on the case of **SS v NS (Spousal Maintenance) [2015] 2 FLR 1124**. Mostyn J. stated when addressing spousal support "*But the essential task of the judge is not to go through these budgets item by item but stand back and ask what is the appropriate proportion of the husband's available income that should go to the support of the wife?*" The Court accepts the Petitioner's evidence that, prior to marriage she chose to follow the Respondent based on a commitment and promise. This continued in marriage where it was agreed that she would be a stay-at-home mother and wife and that he would support her financially. I find

the Respondent an untruthful witness and his behavior vindictive toward the Petitioner and children when they were not accepting and accommodating of this affair. He used withdrawal of financial support to punish them all. He did this at a time when his financial capability was not in question [when the Petitioner and children were on school holiday as they usually did and he blocked credit cards.] He was employed holding a significant position and earning a substantial salary with benefits.

96. In **SS v NS** Mostyn J. went on further to say that “*a spousal maintenance award should be confined to needs and nothing but needs.*” The Respondent asked the Court to consider the period for spousal support as advanced in **Coleman v Coleman [1987] BHSJ No. 57** where Georges J. in suggesting an appropriate period of spousal support stated “*It seems reasonable that Mrs. Coleman should be maintained for 9 months after her move to Florida during the period while she takes root so to speak.*” The Respondent further advanced the position in Scotland of 3 years as a guide per Mostyn J. in **SS v NS**.
97. The Court found the case of **Coleman**, a Bahamian Supreme Court judgment by then Chief Justice Georges very instructive noting that it was in 1987. While not advanced by the Respondent, the facts of **Coleman** were quite similar to those of this case, the Petitioner was a stay-at-home wife and mother for the majority of, if not all of the marriage, there were children and the parties enjoyed a similar standard of living, the wife was to relocate to another jurisdiction and her earning capacity was considered. The only marital asset in **Coleman** was a home in England and the court ordered it sold and gave two-thirds (2/3) of the proceeds to the wife.
98. Georges CJ in considering the standard and amount of spousal support provided the following guide “*In deciding on the financial provisions to be made, there are what appears to me to be certain important ends to be achieved. Mrs. Coleman should have a capital sum adequate to enable her to make a reasonable down payment on a suitable house in Florida and to furnish it properly. She should also be reasonably free of debt and should receive maintenance for such period as seems adequate to enable her to fit herself for and obtain employment in Florida.*”
99. He went on to further state that “*I am not satisfied that half the proceeds of the sale of the house in England will provide an adequate sum to house and settle her in Florida.*”

Accordingly I order that on the sale of the English house she be paid two thirds of the net proceeds of sale or \$60,000.00, whichever is more.”

100. The Court in **Coleman** additionally increased the monthly support. Finally of note, is that the court considered Mr. Coleman’s finances when it made the awards that he was to cover, tuition for the children, the cost of travel for the children, spousal support, maintenance for the children and awarding two thirds of the sale of the matrimonial home to Mrs. Coleman; Georges CJ said *“On the dispositions I have ordered Mr. Coleman will receive some \$36,000.00 on the sale of the home. This will perhaps do no more than clear his debts but he is well employed and should be able in time to accumulate some capital.”*

101. The Respondent during the hearings was seeking new employment. He told the Court in his oral testimony that he was searching for a new job in other jurisdictions and at that time could not say with certainty that he would remain in The Bahamas. He later obtained employment at a reduced salary. I am satisfied that he has great earning capacity and in time will accumulate sufficient capital as he has done before.

102. The Petitioner also referred the Court to **SS** where Mostyn J stated *“In Miller v Miller; McFarlane v McFarlane [2006] UKHL 24, [2006] 2 AC 618, [2006] 1 FLR 1186, Baroness Hale of Richmond, at para [138], explained that the most common rationale for imposing the obligation to maintain into the future is to meet needs which the relationship has generated. Obviously this is a very sound rationale and it is for this reason that the factors of duration of marriage and the birth of children are so important. It is hard to see how a relationship has generated needs in the case of a short childless marriage, although this is not impossible. But where it can be argued that the relationship has generated hard needs why should meeting them be for longer than, say, the Scottish limit? The answer is best given by Lord Hope of Craighead at para [118] where he explains why the Scottish limit is so unfair: ‘the career break which results from concentrating on motherhood and the family in the middle years of their lives comes at a price which in most cases is irrecoverable.’ For many women the marriage is the defining economic event of their whole lives and the decisions made in it may well reverberate for many years after its ending.”*

103. In this case the career break was at least twelve (12) years. While I accept the Respondent’s position that the Petitioner has significantly higher level degrees, speaks five

languages and is capable of obtaining meaningful employment, I cannot ignore the period of break from the work force and lost opportunities, during what would have been her peak. As Baroness Hale stated "*in most cases is irrecoverable.*" The Petitioner has qualifications but no experience, no resume filled with practicable on the job references. In addition to all stated above and in **Coleman, SS** and the statutory consideration the Respondent is to provide the Petitioner with spousal maintenance in the amount of \$2,500.00 monthly for a period of five (5) years.

Property Adjustment

104. Both parties advanced proposals for the division of marital assets. The parties were married for Thirteen (13) years which is considered a long period and by all accounts they worked as a unit to acquire assets. As is usual in these matters, parties inflate their contributions, diminish the other parties' contributions and conveniently forget agreements [intents that all assets were equally that of the family]. Divorce and particularly contentious divorces results in a desire to get as much as you could. It is the court's job to be guided by Section 29 of the **Matrimonial Causes Act, Chapter 125** and to be fair to each party considering all of the circumstances of the case.

105. The parties start at 50/50 in a long marriage and as the factors are considered the balance can shift giving one party a greater interest than the other. Neither party provided significant authorities on this aspect.

106. The assets are as follows:-

Cash

107. The Respondent in his Affidavit of the 11th July 2024 listed 12 bank accounts in various jurisdictions. The balance in these accounts are to be divided equally between the parties, that is the balance as of the 1st September 2024 save and except the Respondent is to provide the Petitioner with half of the \$400,000.00 removed from accounts between July 2022 and January 2023, being \$200,000.00 and the Petitioner having removed \$106,000.00 from the joint RBC account, half of that sum [\$53,000.00] is to be deducted from the \$200,000.00 owed to her and is to be considered part payment.

Real Property

108. The property at London Terrace, #16 Montague, Nassau, The Bahamas is to be sold and the net proceeds divided as two-thirds to the Petitioner and one-third to the Respondent

per above discussion in **Coleman v Coleman** and Section 29 as considered in **PVL [2011] 2 BHS J. No. 89** where Turner J cited **A v B** the equal sharing principle.

109. The Guyana Property, 36 “Area G”, Elizabeth Hall, East Coast, Demerara, vacant land be conveyed from the Petitioner to the Respondent within 45 days of the Order herein.
110. The Guyana Property, 365 Section C, Non Pariel, East Sea Coast, off the Country of Demerara, residential house and land be conveyed to the Respondent by the Petitioner within 45 days of the Order herein.
111. The Guyana Property, Tract “EB”, Block 2, “Section C”, State Lands, Yarrowkabra, agricultural land/dense forest, vacant leased land goes to the Petitioner.
112. St. Maarten Property, Montevideo, Union Farm, apartment building – Owned by Petitioner and business partners through a company Wess NV goes to the Petitioner.
113. Home in St. Maarten sold and net proceeds divided equally between the parties.
114. The party receiving the property to bear the cost of the transfer. The Registrar to convey should either party fail to execute the conveyance.

Maintenance

115. Section 29 (2) of the **Matrimonial Causes Act** states what the court must consider when determining maintenance:-

“(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.”

116. At present, the only parent employed is the Respondent and he has been the only employed parent for the past twelve (12) years of the marriage. The Court found that it was agreed between the parties that the Respondent would provide financially for the family and the Petitioner be a stay-at-home mother and wife caring for the family. It has long been established that equal consideration should be given to these roles when considering needs of the family and division of assets.

117. It is therefore only the Respondent who can now be ordered to provide maintenance at this time. While the Respondent happily provided for the children all of their life without complaint or issue, the Court has noted his submission of changed circumstances, such as, the move to the Netherlands [which he claims should reduce their monthly expenses], his reduced salary, the Petitioner’s capability of obtaining employment.

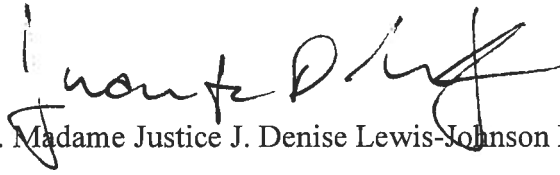
118. Having regard to all the considerations of Section 29(2) of the MCA and the factual circumstances of this case, the Court finds as follows on the issue of custody and maintenance of the children:-

- i. The Petitioner and Respondent shall have joint custody of the minor children of the marriage namely N.O.W. and T.J.W. with primary care, custody and control to the Petitioner and liberal and staying access (i.e. travel, telephone calls, video calls etc.) to the Respondent.
- ii. That the children shall live with the Petitioner in the Netherlands.
- iii. The Respondent shall provide maintenance for the minor children in the amount of Two Thousand Dollars (\$2,000.00) per month until a further Order of the Court.
- iv. The Respondent shall pay the school fees for the minor children until further Order of the Court.

- v. The Respondent will have custody of the children for their Christmas holiday from the 21st day of December to the 29th day of December 2025 and thereafter alternating with the Petitioner annually. The Petitioner to have New Year's 2026.
- vi. That the Respondent shall have the children on alternating school breaks, commencing Easter/Spring 2025 to the Respondent.
- vii. The Petitioner and Respondent shall share access equally during the Summer 2025, and school holidays. The Respondent will alternate annually with the Petitioner, the Respondent shall have staying access for the first half of each holiday, unless otherwise agreed to in writing.
- viii. The Respondent have access to the children on their birthdays on alternate years and access to the children on Father's Day if it is feasible and practicable and the Petitioner shall have them on Mother's Day.
- ix. The Petitioner and Respondent shall permit and facilitate free, unfettered, uninterrupted and unrestricted communication between the children and the other parent. The Petitioner and Respondent shall immediately inform the other of any emergency or incident regarding either or both children upon its occurrence.
- x. The Respondent does not have to pay child support for the children during the Summer Break when he has the children.
- xi. The Respondent shall pay all educational expenses for the children, including but not limited to tuition, registration fees, uniform, and supplies up to completion of high school. Tertiary level education to be shared equally between the parties up to age 22.
- xii. All extra-curricular activities must be agreed between the parties and the cost shared equally between the parties.
- xiii. The Respondent shall pay for all medical, dental and optical expenses of the children up to age 18 and thereafter should either child be enrolled in tertiary level education such medical expenses are to be shared equally between the parties up to age 22.
- xiv. The Parties have liberty to apply.

xv. The Respondent to pay half of the Petitioner's cost to be taxed if not agreed.

Dated this 20th the day of March 2025

A handwritten signature in black ink, appearing to read "J. Denise Lewis-Johnson". The signature is written in a cursive, flowing style with some overlapping letters.

The Hon. Madame Justice J. Denise Lewis-Johnson MBE