



In The Supreme Court of Bermuda

DIVORCE JURISDICTION

2019 No: 133

BETWEEN:

P. T.

Petitioner

and

S. G.

Respondent

RULING

Maintenance Pending Suit; Interim Spousal Maintenance

Date of Hearing: 19 August 2020
Date Draft Circulated: 2 November 2020
Date of Ruling: 19 November 2020

Jackie MacLellan of MacLellan & Associates for the Respondent
Adam Richards of Marshall Diel & Myers Limited for the Petitioner

RULING of Registrar, Alexandra Wheatley

INTRODUCTORY

1. The Petitioner and the Respondent were married on 29 April 2010 and as such have had a long marriage of over 10 years. There are no children of the family.

2. The divorce petition was filed on 16 October 2010 and the Respondent filed an Answer on 12 December 2019. However, it was subsequently agreed between the parties for the divorce to proceed undefended as per the terms of the Consent Order dated 28 February 2020. The Decree Nisi was granted on 22 May 2020. At the time of the hearing the parties agreed the Petitioner will not file his application to make the Decree Nisi absolute.
3. The Respondent filed her Notice of Application for Ancillary Relief on 3 June 2020 along with a Summons ("the Application"). The Application sets out the relief being sought for the purposes of this hearing as follows:
 - “1. That the Petitioner be ordered to pay interim periodical payments to the Respondent for herself including her legal fees on an ongoing basis.
 2. Such further and other reasonable relief as this Honourable Court may deem just.
 3. Costs to the Respondent.”
4. The Application was listed for directions on 28 July 2020. It should be noted the delay in listing the application was due to the extensive backlog of matters which were required to be listed due to the Courts' reduced services between the period 23 March 2020 to 1 August 2020 as a result of the COVID-19 global pandemic. Counsel reached an agreement regarding directions and filed a Consent Order dated 24 July 2020 which listed this matter before me today.
5. I reserved Judgment at the close of submissions, but provided the parties with further directions in the Order dated 19 August 2019 as follows:
 - “(1) The Decision in relation to the interim maintenance application is hereby reserved.
 - (2) The Petitioner shall have 14 days to respond and supply the information requested in the letter from MacLellan & Associates dated 18th August 2020 and attached herewith.”

THE FACTS

Respondent's position

6. The Respondent relies on her first affidavit and corresponding exhibit sworn on 2 June 2020 ("the Respondent's Affidavit"), as her evidence in this application. Pay stubs from her employment at Strands were submitted at the hearing along with evidence of the Government COVID-19 unemployment payments she received in April and May 2020. Subsequent to the hearing, evidence of the Respondent receiving the Government COVID-19 unemployment benefit was submitted by Ms MacLellan via email at 1:24 p.m. on 19 August 2020. The said correspondence set out the entirety of the payments received by the Respondent from the Government during her referenced period of unemployment.

Income

7. The Respondent was unemployed for the period August 2018 to December 2019. At this time her contract ended with Gillian's and she purports it was agreed with the Petitioner she would cease working due to his numerous work travels. The Petitioner states it was agreed that the Respondent make attempts to open her own spa rather than seek alternative employment but that she took no steps to do so. The Petitioner disputes he agreed for the Respondent to be unemployed for this period. His position is that during the marriage whilst the Respondent was working for Gillian's she was earning between \$5,000 and \$8,000 per month. The Petitioner is therefore of the view the Respondent has the capacity to receive this level of income from which she would be able to meet all of her needs.
8. As a result of the COVID-19 global pandemic, the Respondent was "laid off" from her employment. During this period, she received the following payments from the Government in the form of the COVID-19 Unemployment Benefit which was a benefit offered to employees who were made redundant due to the effects of COVID-19:

(a) 2 April 2020	\$438.94
(b) 15 April 2020	\$438.94
(c) 28 April 2020	\$731.58
(d) 28 May 2020	\$365.77
(e) 12 June 2020	\$438.94
(f) 29 June 2020	\$219.47
9. The week ending 24 June 2020 the Respondent recommenced her employment with Strands. As the Respondent's Affidavit was sworn on 2 June 2020 the evidence of her starting her employment again at Strands from this date was not included in her affidavit. Her pay stubs for the period presented at the hearing evidenced a total net salary of \$4,636.59 which is the equivalent of an average of \$579.57 net, per week or approximately \$2,500 net, per month. However, Mr Richards noted that once the Respondent completes her repayments towards her health insurance her monthly net salary will increase to approximately \$3,000 per month.
10. Mrs MacLellan confirmed the Respondent's salary would ordinarily be higher, but as a result of COVID-19 the services offered were reduced and consequently each employee's salary was reduced.
11. Mr Richards noted the Respondent's pay stubs showed her requirement to repay health insurance deductions which shows she was employed prior to her being laid off due to COVID-19. He stated his concern of the Respondent's lack of disclosure of her employment at Strands being set out in her evidence and questioned the fullness of the Respondent's income disclosed to the Court. There was no reference in the Respondent's evidence to her employment at Strands save for a at paragraph 24 of her Affidavit which did not set out the complete scope of her employment, so it is unclear as to when she started this employment.

12. It was also confirmed the Respondent was employed at Just Shirts and North Shore medical; however, there are no details of her earnings from these positions or clarification as to the period she was (or is) employed with these companies. Mr Richards criticized the Respondent for lack of full disclosure particularly when she is attempting to chastise the Petitioner for his alleged failure to do the same.

Expenses

13. Paragraph 28 of the Respondent's Affidavit set out her expenses for the "*for the purpose of interim maintenance*" as follows:

Internet/telephone	\$41.06
Car License	\$57.79
Car maintenance	\$41.66
Car Insurance	\$69.40
Clothing	\$200.00
Credit cards	\$0.00
Dry cleaning	\$60.00
Cablevision	\$120.00
Electricity	\$133.00
Entertainment	\$300.00
Food/Groceries	\$1,000.00
Gas (Car & Bike)	\$225.00
Gas (Cooking)	\$75.00
Hair dressing	\$300.00
Insurance (Health)	NIL ¹
Lunches	\$300.00
Medication	\$50.00
Pocket money	\$300.00
Rent	\$1,000.00
Telephone	\$200.00
Legal fees	\$500.00
Total:	\$4,852.91²

14. The Respondent's expenses were challenged by the Petitioner as generally being excessive and unreasonable. Mr Richards specifically raised concern with the following expenses which he asserted should be removed altogether given the parties' reduced incomes: \$300 for entertainment; \$300 for pocket money; and \$300 for hairdressing. It was further submitted the expenses for groceries was high given the inclusion of \$300 for lunches and the \$425 for health insurance which should be removed as this is a deduction from the Respondent's gross weekly income. With the removal of these expenses save for the \$1,000 for groceries, the Respondent's monthly expenses would be reduced to \$3,952.91 (\$4,852.91 which already takes into account the removal of the health insurance expense, less \$900.00, equals \$3,952.91) which Mr Richards noted puts the Respondent in a much more favourable position than the Petitioner.

¹ It was accepted during the hearing this was a double accounting as this expense is being deducted from the Respondent's salary.

² New total based on removal of health insurance expense.

15. Mrs MacLellan submitted the Respondent is seeking the following relief considering both the Respondent's and the Petitioner's income and expenses:
- (a) \$2,500 per month for interim spousal maintenance to be back dated to 1 June 2020;
 - (b) \$1,500 per month for legal fees; and
 - (c) reserved her right to pursue any further back-dating of maintenance pending suit prior to 1 June 2020 until such time as the Respondent is satisfied she has obtained full financial disclosure from the Petitioner; and
 - (d) Costs of the application.
16. Mrs MacLellan reiterated the content of the Petitioner's Affidavit of Means was not conducive for the determination of this application given the lack of content surrounding his financial circumstances. She drew particular reliance on the large sums of money spent by the Petitioner between January and July 2020. The submission being it was evident based on the Petitioner's disclosure of earning just \$5,000 per month, he must have an alternative source of income which has not been disclosed.

Petitioner's position

17. The Petitioner relied on his affidavit sworn on 13 August 2020 with attached exhibits ("the Petitioner's Affidavit of Means"). In addition, Mr Richards provided the Petitioner's current employment contract, albeit unsigned, at the date of the hearing as well as an unsigned lease for his current accommodations. Mrs MacLellan reiterated throughout the proceedings the Petitioner's lack of full and frank financial disclosure particularly since the first request for financial disclosure was made by the Respondent in October 2019 by letter sent from her offices to the Petitioner's attorneys. Mr Richards maintained financial disclosure has in fact been provided and relied on various correspondence between Counsel.

Income

18. The Petitioner exhibited at pages 100 to 101 a letter dated 27 May 2019 from The Shore Club located in the Turks & Caicos setting out the terms and conditions of his current employment as the General Manager ("the Letter of Employment"). This evidences a net monthly income of \$9,916.67 (\$125,000 per annum, less \$6,000 per annum in service charge fees, equals \$119,000; divided by 12 months, equals \$9,916.67). Additionally, the letter confirms the Petitioner's period of employment for a two-year period with effect from 1 September 2019. It should be noted this agreement is not signed by the employer.
19. Further, at pages 102 and 103 is an agreement named "Variation of Employment Contract – Salaried Employee" which was signed on 24 July 2020 ("the Variation Contract") and effective from 27 April 2020. The Variation Contract confirms that with effect from 19

March 2020 the Petitioner's employer withheld 40% of his monthly income and 50% of his monthly income from 27 April 2020:

"NOW IT IS HEREBY AGREED as follows:

1. *From the effective date hereof, the Employer shall withhold 50% of each periodic payment of salary as and when it falls due and defer payment of the balance in accordance with clause 6.1 of the Contract." [Emphasis added]*
20. Based on the terms set out in the Variation Contract, Mr Richards submitted the Petitioner has been receiving a reduced income of just \$5,000 per month with effect from April 2020. Mr Richards did not take me to any bank statements or the like to attest to this alleged reduction.
21. Mrs MacLellan raised a valid point that the contract referred to in the Variation Contract refers to being dated 1 November 2019 ("the November Contract"). This contract has not been disclosed. Furthermore, Mrs MacLellan pointed out the terms of the Variation Contract only "*defer*" payments to the employees which is a far different scenario from the Petitioner's salary being "*reduced*". She submitted this means the Petitioner will receive the 50% remainder of his salary; however, without disclosure of the contract there is no ability to ascertain the specific conditions set out in relation to these monthly salary deferrals. Moreover, it is unknown whether the terms of the November Contract differ at all from the Letter of Employment. It was also confirmed by Mr Richards during the hearing that the Petitioner had not produced his bank statements for the account where his monthly salary is deposited. There is therefore effectively no evidence supporting his current income.
22. The Petitioner also receives income from his position with the Bermuda Tourism Authority in the sum of \$20,000 per annum which is paid quarterly. It is confirmed in the Petitioner's Affidavit of Means his last payment of \$5,000 for this position will be received in September 2020 and will be at a 10% reduction due to Government's agreement with the Bermuda Public Service Union.
23. Mrs MacLellan believed the Petitioner was also receiving rental income due to an entry in one of the Petitioner's bank statements; however, this was clarified in the Petitioner's Affidavit of Means as relating to property owned by his mother which is rented. The rental income from this property is used to cover his mother's living expenses.
24. Prior to the Petitioner being employed in the Turks & Caicos, he was employed as a General Manager at Tucker's Point. The Petitioner was earning a salary of \$197,000 gross per annum from this position, but his employment ended with them in 2019. The Respondent raised the circumstances surrounding his departure from this employer, but the Petitioner contended that they are irrelevant to the determination of her application. Mrs MacLellan reiterated the high standard of living the parties had during the marriage as well as the Petitioner's income prior to the breakdown of the marriage. It was further contended by Mrs MacLellan the Petitioner's lack of disclosure surrounding his "*redundancy*

package” shed serious doubt on the true financial position. Mr Richards emphasized at numerous times the irrelevance of the Petitioner’s previous income. He submitted I must look at the parties’ current financial circumstances and not what they were over one year ago. Mr Richards stated the Petitioner’s lack of disclosure of his contract and “*redundancy package*” was due to there being a non-disclosure clause in the agreement. Whilst I accept this may be the position, the Petitioner has known for close to one year of the Respondent’s request for evidence surrounding his employment as well as his termination with Tucker’s Point. The Petitioner took no initiative to resolve this issue as he simply could have informed his previous employers of the requirement to disclose his income position in these proceedings which would require him to disclose this contract. It is entirely unacceptable for the Petitioner to wait to appear at this hearing to instruct his Counsel to assert an order must be made by the Court to enable him to make this disclosure.

25. In addition, I questioned Mr Richards regarding the Petitioner’s living circumstances and it was confirmed he resides with his fiancé. This was yet another key fact which was not disclosed in the Respondent’s Affidavit of Means. Whilst Mr Richards confirmed the Respondent’s fiancé is unemployed neither is there evidence of this, nor as it relates to her employment prospects. It could also be the case the fiancé is earning an income other than from employment, such as rental properties, investments, savings and the like. Therefore, the questions of her financial contribution to the household as well as the apportionment of the household expenses are factors which must be considered. Nonetheless, no light has been shed on this whatsoever by the Petitioner.

Expenses

26. Paragraph 55 of the Petitioner’s Affidavit of Means set out his expenses as follows:

Mortgage in Virginia	\$2,500.00 ³
Electricity	\$500.00
Water	\$100.00
Phone	\$400.00
Food and groceries	\$1,000.00 ⁴
Entertainment	\$500.00
Credit card repayments	\$1,500.00
Travel	\$300.00
Internet	\$200.00
Clothes	\$400.00
Online TV subscription	\$60.00
Fuel for car	NIL ⁵
Joint US tax obligations	\$1,000.00
Legal fees	\$500.00
Boat storage fees	\$280.00
Total:	\$9,240.00⁶

³ Payable in accordance with Court Order regarding maintenance payable in relation to his first marriage. The Court Order was not disclosed, but this expense is accepted by the Respondent.

⁴ It was accepted by Mr Richards this could be reduced from \$2,000 to \$1,000.

⁵ Mr Richards accepted this expense is covered in the Petitioner’s current employment contract so should be removed.

⁶ This sum represents the accepted reduction in expenses during the hearing.

27. The Petitioner has provided no evidence supporting his monthly expenses, save for a spreadsheet which he purported to produce based on his bank statements. However, based on the monthly outgoings from his account which he asserts he used to produce this spreadsheet, the spreadsheet does not appear to be accurate. Even the lease he provided for his current accommodations was not signed by the landlord.
28. The Respondent challenged the Petitioner's expenses. Mrs MacLellan drew particular emphasis to the Petitioner's bank statements which illustrate that for the months of January, February, March, June and July 2020, the Petitioner spent a total of \$71,198.47. This was based on the withdrawals from his Common Wealth One bank account alone. Therefore, for these five months, the Petitioner was spending an average of \$14,239.69 per month. Mrs MacLellan further highlighted the lack of disclosure of the statements from this account for the months of April and May 2020. Mrs MacLellan further illuminated the Petitioner high levels of spending by drawing my attention to his Common Wealth One statement for July 2020 which show a total sum of deposits equaling \$18,816.78 as well as withdrawals totaling \$15,024.23.
29. Mr Richards submitted it is the Petitioner's position he currently does not have enough income to cover his monthly expenses, the Respondent earns a salary and she has the capacity to earn more as she did during the marriage. Mr Richards reiterated the Petitioner's income he earned whilst employed at Tucker's Point is irrelevant to this application as only his current financial circumstances should be considered. Additionally, Mr Richards submitted an interim order is not necessary given the Respondent's financial position and taking into consideration these factors there should be no order made for interim maintenance and costs should be awarded to the Petitioner.

The law

30. Section 26 of the Matrimonial Causes Act 1974 ("the Act"), provides the Court with the statutory jurisdiction to grant maintenance pending suit. Section 26 states as follows:

"Maintenance pending suit

26 *On a petition for divorce, nullity of marriage or judicial separation, the court may make an order for maintenance pending suit, that is to say, an order requiring either party to the marriage to make to the other such periodical payments for his or her maintenance and for such term, being a term beginning not earlier than the date of the presentation of the petition and ending with the date of the determination of the suit, as the court thinks reasonable."*

31. Mr Richards relied on the case of *BD v FD* (Maintenance Pending Suit) [2016] 1 FLR 390 as it relates to the principles to consider in granting relief for an application for maintenance pending suit. I considered this case in my judgments of *M v M* [2018] SC (Bda) 80 Div. and *A. B. v F. B.* [2019] SC (Bda) 69 Div. Mr Richards emphasized the principles being the fair and reasonableness of any order as well as being manifestly required. It was submitted the Petitioner has no financial means to which he can contribute. He asserts that as the Respondent is employed, by the "*pruning of both parties' budgets*" their respective needs are met. Mr Richards relied on paragraph 28 where Moyston J commenced setting

out what factors should be taken into consideration in the determination of an application pending suit:

“28....

I would endorse, indeed emphasise, the word ‘immediate’. The purpose of the section is to give the court the power to address income needs which cannot await the final resolution of the substantive claims either by agreement or court determination.”

32. At Paragraph 33, Moyston J set out the complete list of principles which should be applied when considering an application for maintenance pending suit:

“33. ...From these cases I derive the following principles:

- (i) *The sole criterion to be applied in determining the application is “reasonableness” (s 22 Matrimonial Causes Act 1973), which, to my mind, is synonymous with “fairness”.*
- (ii) *A very important factor in determining fairness is the marital standard of living (F v F). This is not to say that the exercise is merely to replicate that standard (M v M).*
- (iii) *In every maintenance pending suit application there should be a specific maintenance pending suit budget which excludes capital or long term expenditure more aptly to be considered on a final hearing (F v F). That budget should be examined critically in every case to exclude forensic exaggeration (F v F).*
- (iv) *Where the affidavit of Form E disclosure by the payer is obviously deficient the court should not hesitate to make robust assumptions about his ability to pay. The court is not confined to the mere say-so of the payer as to the extent of his income or resources. In such a situation the court should err in favour of the payee...*[Emphasis added]

33. I fully accept these are the principles which are the benchmarks for the determination of an application for maintenance pending suit rather than simply the factors of “fair and reasonable” and “manifestly required”.
34. Along with the fourth principle set out by Moyston J in *BD v FD* that “robust assumptions” should be made against a “payer” where he or she has failed to provide satisfactory financial disclosure in applications pending suit, this principle relates to all matrimonial ancillary relief applications (see *Vernetta Mae Shelley Howe v Douglas Colby Howe* (SC) No. 55 of 2012 (14 March 2016) at para. 30). The Petitioner’s failure to provide any financial disclosure of any kind in this matter is a clear-cut case where adverse inferences can be drawn.

Findings

35. Both parties should have been more forthcoming regarding their respective employment position; the Respondent as it relates to recommencing employment with Strands both pre and post COVID-19 and the Petitioner regarding his employment at Tucker's Point as well as his current employment in the Turks & Caicos. However, the Petitioner's lack of disclosure is particularly concerning as his lack of disclosure not only relates to that of his employment, but also to his bank and credit card statements. Counsel for the Respondent reiterated her concerns of this throughout the hearing and rightly so. The Petitioner simply could have eliminated any cause for doubt surrounding his current income by providing the bank statements where his monthly salary is deposited in the event he could not have produced his relevant employment contract, but he failed to do even this. Whilst the Petitioner has purported to set out a summary of his asset position at paragraph 48 of his affidavit, he has failed to produce the documentation to support this position.
36. I accept the Respondent's employment position presented in her evidence and that she earns approximately \$2,500 per month which will increase to approximately \$3,000 once she repays her health insurance contributions to Strands for the period she was out of work due to COVID-19. The Petitioner's suggestion the Respondent can simply earn more given her alleged earnings of between \$5,000 and \$8,000 per month during the marriage is difficult to accept. Given the negative effects of COVID-19 not on just Bermuda's economy, but worldwide, it would be impossible not only to predict at this time how much the Respondent would be able to increase her income or indeed remain employed at all.
37. For the most part I find the Respondent's expenses are reasonable in all of the circumstances. The following expenses I believe are excessive and should be reduced as follows:

Entertainment	\$300.00	Reduced to \$100.00
Lunches	\$300.00	Reduced to \$50.00
Hairdressing	\$300.00	Reduced to \$50.00
Pocket money	\$300.00	Reduced to \$50.00
Gas (Car & Bike)	\$225.00	Reduced to \$175.00

Total reduction of \$1,000.00

Therefore, the Respondent's expenses which I accept are reasonable total approximately \$3,852.91 per month (\$4,852.91 less \$950, equals \$3,852.91).

38. The Petitioner's Affidavit of Means was exceptionally inadequate due to his lack of full and frank disclosure of his financial circumstances. This has been to his detriment as I have drawn adverse inferences in relation to his non-disclosure. As such, I have placed little weight on the Petitioner's evidence. The thought and effort applied in compiling the Petitioner's Affidavit of Means would have been better utilized in providing tangible evidence of his financial disclosure.
39. The complete lack of clarity surrounding the Petitioner's current income as well as to the income he received at Tucker's Point is what only can be described as suspicious. I do not accept the Petitioner's previous employment should not be taken into consideration for this

application. Mr Richards' submissions of the Petitioner's income prior to this application with Tucker's Point as being irrelevant was unconvincing, particularly when the Petitioner's attempts to rely on the Respondent's purported ability to earn a higher income as she did during the marriage.

40. It is evident from the Petitioner's spending habits alone he was receiving a high level of income and the Respondent can challenge how the Petitioner was allocating his income. Indeed, on the Petitioner's own evidence, his monthly expenses were lower than what was shown in his bank statements. Likewise, his lack of proactivity in disclosing his contracts and "redundancy package" with Tucker's Point completely overshadow any reliance on the assertion of the irrelevance of this income at that time.
41. Moreover, the failure of the Petitioner to confirm his co-habitation position with his fiancé as well as her employment position is troubling. The Respondent was clear in setting out her living circumstances regarding her two sons as well as confirming their current employment status. A complete picture must be presented to the Court and the Petitioner has undoubtedly, *prima facie*, attempted to thwart this process.
42. The monthly expenses the Petitioner asserts to have are easily challenged without any proof to support them. Whilst the Respondent may not have provided her utility bills and the like in support of her expenses, as she resides in Bermuda it is easy to determine the reasonableness of what has been presented. As the Petitioner resides in the Turks & Caicos he should have applied himself to showing his expenses are reasonable for that country. I therefore have no ability to truly ascertain the reasonableness of these expenses. Additionally, to further muddy the waters, it is unclear whether the expenses the Petitioner alleges to incur each month encompass are sums for his fiancé as well. I have little choice but to draw adverse inferences regarding the Petitioner's true financial position.
43. Based on the listing of expenses set out in the Petitioner's Affidavit of Means, there are a number of expenses which are unreasonable as well as lack proof as such they should be reduced as follows:

Electricity	\$500.00	Reduced to \$133.00 (unreasonable)
Water	\$100.00	Reduced to \$50.00 (unreasonable)
Phone	\$400.00	Reduced to \$200.00 (unreasonable)
Entertainment	\$500.00	Reduced to \$100.00 (unreasonable)
Credit card repayments	\$1,500.00	Reduced to NIL (double accounting)
Travel	\$300.00	Reduced to NIL (unnecessary)
Clothes	\$400.00	Reduced to \$200.00 (unreasonable)
Joint US tax obligations	\$1,000.00	Reduced to NIL (not a current expense)

Total reduction of \$4,017.00

Therefore, a more reasonable and accurate picture of the Petitioner's expenses is \$5,223.00 per month (\$9,240, less reduction of \$4,017.00, equals \$5,223.00). It is clear the Petitioner's level of spending demonstrated between January and July 2020 is remarkably in excess of this. Given the level of the Petitioner's spending along with the lack of proof of his salary, the lack of evidence of his expenses, the lack of disclosure of his co-habitation with his fiancé

and her contribution to the household and his general overall lack of disclosure I can only surmise this to be luxury, fruitless expenditure.

Conclusion

44. I have considered all of the affidavit evidence which was before me at the hearing, the additional correspondence provided to me by Counsel for the Respondent and submissions made by Counsel. The law is clear on how to determine an application for maintenance pending suit. It requires the application of fairness, consideration of the standard of living during the marriage, the exclusion of dissolving capital assets which may later have to be divided between the parties (not applicable in this case) and robust assumptions being made where the payer has not made full and frank disclosure.
45. Applying my findings of fact to the legal principles, I grant the following relief:
- (i) The Petitioner shall pay to the Respondent \$1,000 per month by way of spousal maintenance to be paid on the 1st of each month. These payments shall be backdated to take effect 1 June 2020. The backdated payments totaling the sum of \$5,000 shall be paid within thirty (30) days from the date hereof or in such other manner as may be agreed between the parties.
 - (ii) The said payments shall continue until further order of the court.
46. Additionally, I find the Petitioner shall pay the costs of this application on a standard basis, to be taxed if not agreed. The Petitioner's markedly inadequate financial disclosure strongly influenced me in reaching this decision. The Petitioner criticized the Respondent for making this application; however, I have little doubt that had the Petitioner provided full and frank disclosure the Respondent would have been able to consider alternative actions or at the very minimum be able to negotiate a resolution on equal footing. I have subsequently acceded to a request from Counsel for the Petitioner to hear submissions limited to the costs issue.
47. I invite Counsel for the Respondent to prepare the order reflecting the terms of this ruling for my review and consideration.

19 November 2020



ALEXANDRA WHEATLEY
REGISTRAR OF THE SUPREME COURT