

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
(Family and Children Division)**

No. FH00789/2017

Between

A.B.C.

Petitioner

And

A.B.C.D.

Respondent

BEFORE The Honourable Madam Justice Betsy Ann Lambert Peterson

APPEARANCES:

Mr. Alan Anderson for the Petitioner

Ms. Shantelle Rulow¹ for the Respondent

JUDGMENT

Introduction

1. The applications for the Court's determination are the Respondent's application relating to the children and application for financial relief both filed on 17th July 2017 and the Petitioner's application filed on 21st August 2018 seeking injunctive relief and declaratory relief relating to the mortgage loan for the former matrimonial home.
2. This case raised issues of alienation, family violence, new romantic partner and alleged adultery. It is a high conflict case, and a matter ripe for resolution by a collaborative approach. I provided multiple ways in which the parties and their Attorneys-at-Law could have solved this family's problems, to no avail.
3. There are three (3) children of the family. They are boys aged sixteen (16) years, twelve (12) years and ten (10) years and will be referred to as B16, B12 and B10. The

¹ B.D. Hewitt and Company

parties' marriage is of just over sixteen (16) years duration. No decree absolute has been granted.

Issues

4. The issues for determination are:
 - i. What parenting arrangements would likely be for the welfare of each of the children of the family?
 - ii. What financial arrangements would likely be for the welfare of each of the children of the family?
 - iii. What comprises the matrimonial property?
 - iv. How are the matrimonial assets to be allocated to each of the parties to the marriage to provide a fair and just resolution to these proceedings?

Background

5. The Petitioner and the Respondent (hereinafter together referred to as "the parties") began an intimate relationship from which their eldest son, B16 was born on 8th November 2002. The parties subsequently married on 23rd February 2003. In March 2003, having applied for a house through the Housing Development Corporation (H.D.C.) they were selected for a 'rent to own' unit at [Redacted] Morvant (hereinafter 'Almond Court'). The parties entered Almond Court in late March 2003 and rented for six (6) months, thereafter they embarked on a mortgage with the Trinidad and Tobago Mortgage Finance Company (hereinafter 'TTMF').
6. The parties subsequently had two more children, B12 born on 27th July 2006 and B10 born on 17th December 2008.
7. In or around October 2011, the parties took an equity mortgage with TTMF on Almond Court in the sum of \$249,700.00.
8. In May 2015, the parties purchased their second home at [Redacted] (hereinafter 'Santa Cruz') and took another mortgage from TTMF in the sum of \$1,080,000.00. The

family moved into the Santa Cruz home. They then let the Almond Court apartment for a monthly rental of \$3,000.00.

9. The parties' marriage subsequently broke down. Each party contending that the other party's behaviour was the cause of the breakdown. The Petitioner made allegations that the Respondent had an extramarital affair and the Respondent made allegations that the Petitioner was involved in sexual activities with adolescent males.
10. Mutual *decrees nisi* of divorce were granted in this matter, because the actions of both the Petitioner and the Respondent contributed to the irretrievable breakdown of their marriage.
11. On 16th March 2017, both parties were granted interim protection orders against each other at the Port of Spain Magistrate Court. The Petitioner filed his Petition for dissolution of the marriage on 3rd April 2017. The Respondent left the Santa Cruz home on 11th June 2017 with B12 and B10. B16 chose to remain at Santa Cruz with the Petitioner. The Respondent filed an Answer and a Cross-petition on 12th June 2017. After seeking accommodation with close friends for a while, the Respondent gave notice to the tenant in Almond Court and moved into the Almond Court apartment with B10 and B12.
12. The Petitioner's Amended Petition was filed on 26th July 2017. The petition and Cross-petition were heard on 4th August 2017. On 28th May 2018, mutual *decrees nisi* of divorce were granted. The trial of the ancillary relief matter took place on 5th February 2019 and 6th February 2019. Closing submissions were made on behalf of both parties on 7th February 2019, and further submissions were made at the request of the Court on 18th March 2019. Judgment was reserved.

The Order

13. The Court makes the following FINAL orders:
 - a. The Application filed on 21st August 2018 is Dismissed.

- b. The Petitioner and the Respondent are granted joint custody of B12 born on the 27th July 2006 and B10 born on the 17th December 2008, with care and control to the Respondent and reasonable access to the Petitioner as specified below;
- c. The Petitioner shall have access to the said children as follows:
- (i) On alternating weekend from Friday 5:00 pm to Sunday 5:00 pm;
 - (ii) On alternating public holidays from 9:00 am to 6:00 pm;
 - (iii) The first half of all school vacations;
- d. Notwithstanding the above access arrangements, the Respondent shall have retain care and control of the said children on Mother's Day in any event and the Petitioner shall have access to the said children on Father's Day in any event from 9:00a.m. to 6:00p.m.;
- e. The Petitioner shall *on or before 17th May 2019 3:00p.m.* deliver to the Registrar of the Supreme Court by her designate in the Family Court the passports of the children B12 born on 27th July 2006 and B10 born on 17th December 2008;
- f. The order made on 6th February 2019 shall continue, namely:
- (i) The parties are referred to the Social Services Unit of the Family Court for Conflict Management. Thereafter at the discretion of the Social Worker assigned, the parties are referred for co-parenting counselling; and
 - (ii) The child B16 born on the 8th November 2002 is referred to the Social Services Unit of the Family Court for counselling by a Social Worker. At the discretion of the Social Worker, a psychological intervention to be conducted to address:
 - (1) The child's ability to cope with family separation;
 - (2) Parental alienation;

(3) Positive peer bonding and any other socialization issues that may arise; and

(4) Mending the mother/son relationship. The Family Court of Trinidad and Tobago shall bear the cost of any psychological intervention.

The Therapist shall provide the Court with a report no later than four (4) months from the commencement of the counselling, outlining the response of B16 to the counselling and the goals for the counselling or intervention.

- g. The Respondent is granted access to the child B16 for a time, duration and in a manner to be determined by the Social Worker or Psychologist.
- h. The Petitioner shall transfer his half share and interest in the Almond Court apartment to the Respondent subject to the mortgage held in favour of Trinidad and Tobago Mortgage Finance Company (T.T.M.F.);
- i. The Respondent shall transfer her half share and interest in the Santa Cruz home to the Petitioner subject to the mortgage held in favour of T.T.M.F.;
- j. The Petitioner shall bear the full cost and expense of any Memorandum of Transfer, Deed of mortgage or other Instrument with respect to the Santa Cruz property;
- k. The Respondent shall bear the full cost and expense of any Memorandum of Transfer, Deed of Mortgage or other Instrument with respect to the Almond Court property;
- l. The Respondent shall pay the first mortgage and second mortgage in favour of the T.T.M.F. in relation to the Almond Court apartment with effect from the 1st June 2019 until the mortgage debt is extinguished and the Respondent redeems the mortgage held in favour of the T.T.M.F. The Respondent shall reimburse the Petitioner for any sums paid by the Petitioner subsequent to 1st June 2019 towards the Almond Court mortgage;
- m. The Petitioner shall pay the mortgage in favour of the T.T.M.F. in relation to the Santa Cruz house with effect from the 1st June 2019 until the mortgage debt is extinguished and the Petitioner redeems the mortgage held in favour of the T.T.M.F. The Petitioner shall reimburse the Respondent for any sums

paid by the Respondent subsequent to the 1st June 2019 towards the Santa Cruz mortgage;

- n. The Respondent shall retain the contents of the Almond Court apartment;
- o. The Petitioner shall retain the contents of the Santa Cruz home;
- p. The Petitioner shall transfer motor vehicle PCK [Redacted] to the Respondent on or before the 3rd June 2019 and the Respondent shall bear the cost of the transfer;
- q. The Petitioner shall retain motor vehicle PBF [Redacted] and is credited with receipt of the proceeds of sale for motor vehicle PBR [Redacted];
- r. The Petitioner and the Respondent shall retain his and her respective savings and investments;
- s. The orders herein are in full and final settlement of the parties' claims, share, interest or entitlements to ancillary relief from each other inclusive of, but not limited to, property settlement and lump sum payment order;
- t. The Petitioner shall pay to the Respondent the monthly sum of \$1,200.00 per child for the two children of the family B10 and B12 with effect from 1st June 2019 until each child attains age 18 years or further order in the meantime.
- u. The Petitioner shall pay to the Respondent on or before the 1st August 2019 and thereafter on or before the 1st August of each successive year, the annual sum of \$3,500.00 per child towards the educational, medical, dental and optical expenses of the children of the family B10 and B12 until each child respectively attains the age of 18 years or further order.
- v. There shall be liberty to apply.
- w. THE COURT DECLARES THAT arrangements have been made for the welfare of the children B16, B12 and B10 and these arrangements are the best that can be devised in the circumstances.
- x. The matter is adjourned to 21st May 2019 at 1:00p.m. for submissions on the issue of costs.

The Respondent's case

14. The Respondent is seeking sole custody, care and control of B10 and B12, and that the Petitioner be granted reasonable access. She is seeking an order that the Petitioner pay her maintenance for the two younger children of the family. Due to the conflict between the parties, the relationship between B16 and the Respondent is strained. The Respondent is seeking reasonable access to B16.
15. She claimed that during her marriage she became aware of allegations made by teenaged boys against the Petitioner, involving inappropriate sexual allegations. She claimed that this resulted in numerous arguments between the parties. This culminated in March 2016 when the allegations were made on a television show. After that incident, the Respondent told the Petitioner that she intended to seek a divorce, but the Petitioner then became increasingly aggressive towards her. The Petitioner repeatedly immobilised the car that the Respondent had primary use of thereby jeopardising her safety and on one occasion preventing her from being able to move the vehicle from the home.
16. This resulted in a number of altercations between the parties, some of which were witnessed by the children. After a number of violent incidents, the Respondent left the Santa Cruz home with B10 and B12. When the Respondent informed B16 that she was leaving, and asked him to accompany her, B16 chose to remain with the Petitioner at the Santa Cruz home. After the Respondent left the Santa Cruz home, she had no communication with the Petitioner because he blocked her cell phone from contacting his own. Since B10 and B12 have been in her custody and care, the Petitioner has been inconsistent in providing maintenance to assist in the care and well-being of B10 and B12.
17. During the marriage, the Respondent established a Day Care and Pre-school which is her sole source of income. The Respondent claims that the Petitioner is not entitled to a share of the business, and that the business is not a matrimonial asset. The Petitioner and the Respondent are joint owners of the Almond Court and Santa Cruz properties. The Respondent has made direct financial contributions to both premises.

The Petitioner denied the Respondent access to the Santa Cruz property and prevented her from taking any of its contents thereby forcing her to purchase furniture and appliances for the Almond Court apartment. The Respondent wishes to retain occupation of the Almond Court property and transfer her share in the Santa Cruz home to the Petitioner subject to the mortgage.

The Petitioner's case

18. The Petitioner is seeking joint custody of B10 and B12 with care and control to him and liberal access to the Respondent. He wishes a court order that the Respondent pay maintenance to him for the children of the family. The Petitioner claimed that sometime in or around 2016, the Respondent began prioritising her social life over her interaction with the children. She would frequently visit Tobago and go to parties and other social events with friends. The Petitioner claimed that the Respondent stopped cooking and was not adequately caring for the children's needs.
19. He stated that the Respondent was the aggressor in arguments between the parties. She would also provoke him and call him names in the presence of the children. He further claimed that the Respondent was involved in an extra-marital affair with one of his colleagues, X.Y., who was a family friend. The Petitioner admitted that he remotely immobilised the car in which the Respondent and X.Y. were driving at night. He then drove to their location and confronted them.
20. The Respondent left the Santa Cruz home a few months later with B10 and B12. Initially the Petitioner had no knowledge of their whereabouts, and he had no access to B10 and B12. The Respondent now lives with X.Y. who drives her and B10 and B12 to and from their destinations.
21. The Petitioner claims that he and the Respondent had an express agreement that he should share in the profits of the Day care and Pre-school business. He claims that he provided the start-up capital for the business as an investment. He also made non-financial contributions to the business such as writing letters and other administrative functions. The Petitioner seeks an order whereby he would transfer his share in the

Almond Court property to the Respondent and the Respondent would transfer her share in the Santa Cruz property to him. He and the Respondent would be equally responsible for the children's expenses.

WELFARE OF THE CHILDREN

22. This matter involves the custody and upbringing of three minor children and therefore the Court has made the welfare of each child individually, as well as collectively as a sibling group, its first and paramount consideration.

23. B16 is sixteen (16) years old. Having regard to the contents of the Evaluative Report, there would need to be a period of counselling even before care and control of B16 is considered. At the commencement of the trial the Court informed the parties that mindful of growing competencies of children as they move closer to the age of majority it would not be practicable to treat with the issue of care and control of B16 in these proceedings. The Respondent indicated that she would no longer seek a determination of the issue of care and control of B16. The issue of *access* between the Respondent and B16 remained an issue to be determined by the Court.

Analysis

24. When a marriage breaks down and there are minor children of the family, the continued welfare of the children is the Court's first and paramount consideration. I took into consideration all the circumstances of the case, in particular the factors that are outlined in italics below. All factors were considered in light of the tailpiece to section 27(2) of the Matrimonial Proceedings and Property Act.

25. The children's views are outlined in the Evaluative Report. The Report also provides insight from which the Court can determine the nature and quality of parenting by the parties. Rule 11.11(1) of the Family Proceedings Rules 1998 as amended provides that the Court may take into account the contents of a report by an Assessment Officer without that Officer being sworn or giving oral evidence.

Wishes and feelings of the children concerned considered in the light of their ages, understanding, sex, background and any relevant characteristics

26. B16 indicated that he has no desire to interact with the Respondent.² He stated that he feels targeted by the Respondent and she believes that he is the worst person.³ B16 recalled an incident where he claimed that the Respondent contacted his friend's parent and began defaming the Petitioner. He expressed the opinion that the Respondent was purposefully attempting to make him lose all his friends. He admitted that the Respondent messaged him in the past saying "I love you son" and he responded by telling her to stop lying to herself and requested that she cease contacting him.⁴ He blocked the Respondent on all social media to prevent her from contacting him.
27. B16 shared with the Assessment Officer that the Petitioner gives him updates on the litigation and his interactions with the Respondent. B16 "opined that it is important that he is entitled to know what is occurring [in his parent's Court case] because he is an important part of the matter...he also needs to be aware of what is occurring so he could aptly support the Petitioner when he is 'depressed'".⁵
28. The Assessment Officer recommended that B16 and the Respondent may benefit from family counselling which may assist in identifying any negative emotions and potentially processing these feelings to assist in mending the mother/son bond, hence the Court order made on 6th February 2019.
29. B10's and B12's interviews with the Assessment Officer did not reveal that either of them harbour any ill feelings towards either of their parents. B10 expressed affection for both the Petitioner and the Respondent. B16, however, reported to the Assessment Officer that his siblings do not like having to move back and forth between the parties' homes, and stated that they told to him that the Respondent beats them for nothing most of the time. However, neither B10 nor B12 made any similar reports to the Assessment Officer.

² Paragraph 66 of the Evaluative Report

³ Paragraphs 68 and 73 of the Evaluative Report

⁴ Paragraph 70 of the Evaluative Report

⁵ Paragraph 72 of the Evaluative Report

30. B16 indicated that he is very comfortable residing with the Petitioner. Although B16 is sixteen (16) years of age, in his interview the Assessment Officer was of the opinion that he displayed that he has an immature perspective. For example, B16 recalled the incident where the Respondent came to pick him up from school but he refused to leave with her. He described that at the time he had headphones on while the Respondent was speaking to him so she removed his earphones and an argument ensued between them, and the Respondent slapped B16 in his face. B16 divulged that he was very embarrassed because his peers saw the incident. A school official intervened and the Petitioner subsequently collected B16 from school. The school official revealed to the Assessment Officer that B16 had cursed the Respondent and she then slapped him. The school official indicated that B16 displays anger issues when he speaks about his mother and is usually asked to sit outside for at least half hour to regain calm. At the time of the interview, the last time that B16 had such an outburst was during the September – December 2018 school term.⁶

31. B12 is twelve (12) years old. He told the Assessment Officer that he is comfortable living with the Respondent but would like to spend more time with the Petitioner. B10 is ten (10) years old. He also told the Assessment Officer that he is comfortable residing with the Respondent but he enjoys visits with the Petitioner and he enjoys spending time with B16 when he visits the Petitioner.

32. I took into consideration the effect of each parent's respective actions on the overall development and welfare of the children, in addition to the expressed wishes of the children. Neither B10 nor B12 indicated any clear desire to reside with one parent over the other. B16's view of the Respondent does not afford him the balance needed to recognise the likely consequences (on his holistic development and welfare) of being in the care and control of the Petitioner to the exclusion of the Respondent.

The children's cultural and ethnic background

⁶ Paragraphs 81 and 99 of the Evaluative report

33. Cultural and ethnic background were not determinative of this case. In addition, there is no evidence of whether either parent addresses the moral and spiritual upbringing of the children.

The length of time that has elapsed since the parties and children ceased to live together

34. The parties and the children lived at the Santa Cruz home together for approximately two (2) years prior to the breakdown of the marriage. They resided at the Almond court apartment prior moving to Santa Cruz. B16 and the Petitioner have been living together at the Santa Cruz home for almost two (2) years. Likewise, B10 and B12 have been living with the Respondent away from their father and brother for almost two (2) years. Thus, B16 has been separated from his younger siblings B10 and B12 for a period of approximately two (2) years. After leaving the Santa Cruz home, the Respondent and B10 and B12 initially lived temporarily at the homes of R.H., who is a mother figure to her, and G.H. her god sister, at Maracas St Joseph. After this they moved into the Almond Court apartment where the children spent their early childhood.

35. The Petitioner's Attorney-at-Law was critical of the Respondent's level of communication with the Petitioner because the Respondent seldom informed the Petitioner of events occurring in B10's and B12's schools such as the Parent Teacher Association meetings, school functions or sports day. It is my view that this is not necessarily a consequence of the parties living apart. The Petitioner retains his right to attend the respective schools and speak with the teachers, obtain information and school reports, in the same way that the Respondent does so.

The likely effect on the children of any change in their circumstances or the retention of the existing position

36. It is generally desirable to keep siblings together since they usually provide a natural support for each other and a buffer against familial conflict. The Respondent indicated

to the Assessment Officer that B12 reveres B16. The Senior school official stated that B16 has minimal interaction with B12 at school.⁷ B10 enjoys spending time with B16. Given that B16 is their older sibling, they may wish to emulate him. B10 and B12 have not yet been adversely affected by the high conflict relationship between the parties and the strained relationship between B16 and the Respondent. Should B10 and B12 reside with B16 however, there is an unacceptably high risk that he would communicate his animosity against the Respondent to them.

37. By considering each child's welfare distinctly from his siblings, a separation of B16 from B10 and B12 is warranted. There is a four-year age gap between B16 and B12 and a six-year age gap between B16 and B10. The Assessment Officer identified that B16 is at the developmental stage where he is figuring out who he is as a young man. B16 needs to negotiate this stage of adolescence with professional guidance and possible psychological intervention. Whilst he does this, the absence of daily interaction with the younger siblings is likely to be more beneficial to each of them.

38. B10 and B12 are pre-adolescent. Even though they are not yet in B16's stage of development they also have to balance their physical, emotional, academic, developmental and relationship needs. The children's ability to successfully traverse each developmental stage will be affected by the psychological functioning of each parent. It is for this reason that they were referred to the Social Services Unit of the Family Court to learn to manage conflict and co-parent, for the sake of their children's wellbeing. I make a finding that any adverse effect of the separation on the three (3) siblings is likely to be far outweighed by the benefit to B10 and B12 of having healthy interaction with both parents. I make a finding that it is in the children's best interest that the *status quo* with respect the care and control remain.

Housing needs and resources of the parties/Accommodation and material advantages/Stability of home life

⁷ Paragraph 85 of the Evaluative Report

39. The children are familiar with both residences. B16 lives with the Petitioner at the Santa Cruz home while B10 and B12 live with the Respondent at the Almond Court apartment. The parties own both properties jointly, and both properties are subject to mortgages with TTMF. The Assessment Officer did not identify any safety concerns at either of the properties. Both homes were reported to be clean and tidy with their own supply of pipe borne water, electricity and cable. The Santa Cruz home is a flat three-bedroom dwelling with a large yard fenced with walls. It also contains a kitchen, the Petitioner's office, a washroom, a living room and two bathroom facilities with toilets and showers.

40. The Respondent relocated to the Almond court apartment in order to provide stable and consistent accommodation for the children of the family after she left the Santa Cruz home. The Almond Court apartment has two bedrooms. It is located in a block of apartments in an HDC development. It contains a kitchen, a toilet and bath facility, a porch and a living/dining room part of which was partitioned and converted into a bedroom for B16. Although, the Santa Cruz home is larger than the Almond Court apartment, both properties appear to have all the modern conveniences necessary to provide suitable accommodation for the children. Both residences are subject to T.T.M.F. mortgages.

Physical, educational and emotional needs of each child and any harm that the children have suffered or are at risk of suffering

Physical

41. It appears that both parties are able to provide suitable, secure accommodation for the children at their respective homes. The Officer reported that the Santa Cruz home contained a pantry, refrigerator and freezer with adequate food items. B16 has his own bedroom which contains wall to wall cupboards, a guitar, a fan, a television, a table and a chair. Another bedroom was identified as B10 and B12's room. This room contained two single beds, wall-to-wall cupboards, a fan, a drum and a clothes basket. The Petitioner occupies the master bedroom.

42. With respect to the Almond Court apartment, the Officer reported that the front of the apartment is burglar proofed and there were adequate food items in the kitchen. B10 and B12 share a bedroom, which contains two single beds, wall-to-wall cupboards, a television, a ceiling fan and skate boards. The Respondent occupies the second bedroom.

Educational

43. Based on the Assessment Officer's investigation B16's academic performance has declined. The School Official informed that initially B16 displayed an aptitude to perform at a high level, but he is now an average student. B16 requested an interview with the Assessment Officer in January 2019 and informed that he did not do well in his examinations in December 2018. B16 stated that he now recognised that he requires extra assistance with his academic pursuits and informed that the Petitioner registered him in extra classes. He shared that he is serious about passing his exams to prove to the Respondent that he can succeed in the Petitioner's care, because the Respondent told him that he would not.⁸

44. B16's School Official informed the Field Officer that B16 chose an Art Form for upcoming exams that he was underperforming in. The School Official stated that she made every effort to persuade B16 to replace it with one in which he was more proficient. The Official disclosed that she spoke to the Petitioner concerning the matter and he stated that he did that Art Form therefore B16 should do it also. The Official stated that B16 failed and the school made every effort to have him redo the examination in the Art Form in which he is proficient, which he then passed.

45. The Evaluative Report indicated that B10 and B12 are average students. B12's School Official stated that he attends school regularly, punctually and always attired in complete uniform. He attends with all necessary materials. The School Official indicated that he is very outgoing, talkative, into his academics and very respectful to those in authority. B10's School Official shared that he attends school regularly. He is

⁸ Paragraph 73 Evaluative Report

punctual, always well-groomed and attends school with all necessary materials. He interacts well with his peers and is respectful to those in authority.

46. The Petitioner complained that when the Respondent left the Santa Cruz home with B10 and B12, she kept them away from school for two (2) weeks in June 2017. The Respondent contended that B10 and B12 only missed six (6) days of school and prior to keeping them from school, she spoke at length with the Vice-Principal and Class Teachers to inform of the legal proceedings between the parties. The Class Teachers sent B10's and B12's schoolwork via email to the Respondent. The Respondent stated that she made time to ensure that the children did their schoolwork at home and had an ongoing communication with the teachers regarding their schoolwork.

47. While it is ideal that children should attend school each day, there is nothing to indicate that B10 and B12 were adversely affected by being kept away from school in June 2017 during a period of domestic transition. There is no evidence to suggest that the Respondent failed and/or is failing to ensure that B10 and B12 are well educated. The Respondent's claim that she would receive the children's school reports, review their work with them and make them do the corrections is unchallenged. In cross-examination, the Respondent indicated that she was the one who mostly attends Parent-Teacher Association meetings. This is consistent with information provided by the school officials. B10 and B12 are engaged in extra-curricular activities. B12 is involved in cadets and B10 participates in drama classes and football.

Emotional

48. It is a fundamental emotional need of every child to have an enduring relationship with both parents unless to do so places the child at unacceptable risk of harm. The Evaluative Report outlines that B16 has been alienated from the Respondent. Further, the Assessment Officer opined that B16 may be parentified meaning that in the parent/child relationship the child has assumed aspects of the role of a parent. The information provided by B16 suggests that the Petitioner tends to treat him as his

confidante rather than his child, by making him privy to the contentious adult situations and conflicts which occur between the parties.

49. The Petitioner's practice of giving B16 updates on the litigation and his interactions with the Respondent is likely to have contributed towards negatively influencing B16 against the Respondent. Unless this practice ceases, it will continue to contribute to the strained relationship between the Respondent and B16. I make a finding that the Petitioner's discussion of this litigation or of any contention between himself and the Respondent with any of the children of the family is a form of emotional abuse. Such discussion is not in the interest of any of the children and a person who engages in such discussion is unlikely to prioritise the child's welfare above his or her own. I make a finding of fact that such discussions between the Petitioner and B16 is one of the factors leading to the alienation of B16 from the Respondent.

50. I use the term alienation in its routine, common sense meaning of estrangement and detachment. In this case, B16's alienation from his mother manifests in his showing disrespect and hostility towards her; and expressing negative feelings and beliefs about the Respondent that do not accurately reflect B16's prior experience with the Respondent. B16 reported to the Assessment Officer that he was only nice to the Respondent on one occasion when he requested his money that she was saving for him.

51. The Evaluative Report reveal a family dynamic that is adversely affecting B16's emotional and mental health. An Official at B16's school indicated that B16 was referred to the School Social Worker because a teacher was concerned with an outburst where he "stated 'he hates his mother', stormed into the classroom and declared that 'he wished she could be dead'".⁹

52. There is no indication that B10's and B12's emotional needs are suffering. The Respondent claimed in her affidavit of 11th August 2017 that subsequent to leaving

⁹ Paragraph 81 of the Evaluative Report

the home and for fear of causing irreversible mental harm to B12, she engaged the services of a Psychologist to provide individual counselling for him. The Respondent exhibited a report from the said Psychologist which confirmed that the Respondent engaged their services on 28th June 2017, as she reported that she was concerned about B12's mental state due to two incidences when they all lived together where he indicated a potential for self-harm. One of the occasions was the day that the Petitioner took the children to school without any lunch, and only gave B16 a small sum of money. The report stated that B12 attended four (4) psychotherapy sessions and he demonstrated some improvement in his ability to handle his emotional and social challenges. It recommended continued individual counselling to help him appropriately grieve the separation of his parents.

53. The Respondent did indicate her concern about B12's emotional health to the Assessment Officer. The Assessment Officer's interview with B12 and school officials did not reveal any issues regarding his mental and/or emotional health or functioning.

Personality and character of parents or any other relevant person and their interaction with each other or otherwise

54. Both parties have alleged that the other is abusive. They have both accused each other of some degree of inability to meet the children's needs. Much of the Petitioner's case focused on the alleged frequency with which the Respondent began attending social events and visiting Tobago from around June 2016 and her alleged extra-marital affair with X.Y. The Petitioner claimed in his affidavit that the Respondent's socialising resulted in the children. There is no evidence of this or that the Respondent's alleged socializing has adversely affected her parenting skills. She was certainly able to identify that B12 needed professional help and arrange a timely psychological intervention.

55. The Respondent indicated to the Assessment Officer that she has been in a relationship with X.Y. since her separation from the Petitioner. The Respondent denies that she engaged in an extramarital affair with X.Y. before she separated from the Petitioner. She informed that as of 2018, they are in an exclusive relationship. The Assessment Officer indicated that B16 seems to be of the opinion that the

Respondent's relationship with X.Y. is the reason the parties' marriage dissolved. His views are consistent with that of the Petitioner. B16 appears to harbour ill feelings towards X.Y.¹⁰

56. The Assessment Officer identified that B16 is currently "figuring out who he is as a young man and is dealing with normal teenage struggles under an abnormal circumstance".¹¹ The Assessment Officer opined that the Respondent does not appear to be dealing well with having a teenage son who is grappling with wanting to be an adult versus still being under parental direction. Two (2) incidents recalled by B16 tend to support the Assessment Officer's views. Firstly, B16 went to where the Respondent was then temporarily staying with B10 and B12 allegedly with the intention to apologise for his behaviour to her outlined in paragraph 30 (above). The Respondent did not allow him to enter the house. B16 believed that X.Y. was inside the house. Secondly, X.Y. video recorded a confrontation between B16 and his mother¹². The Respondent made a report at the Police Station and showed the video to the Police Officers. The Petitioner and B16 also went to the Police Station and an Officer cautioned B16 about his behaviour.

57. There is no indication that the Respondent's relationship with X.Y. is adversely affecting B10 and B12, or that they are being neglected by the Respondent as a result of her intimate relationship. In fact, B12 shared that the Respondent can be very overprotective at times and she is always anxious about the places they frequent. The example given in paragraph 52 above shows that the Respondent has a better understanding than the Petitioner of what it means to put the children first.

58. Both parties obtained Protection Orders against each other in the Port of Spain Magistrates' Court. The Petitioner stated that in June 2016 the parties had an altercation. He claimed that the Respondent went into details about her extra marital affair, which hurt his feelings. He held the Respondent down on the bed. He then

¹⁰ Paragraph 108 of the Evaluative Report

¹¹ Paragraph 109 of the Evaluative Report

¹² Paragraph 74 of the Evaluative Report

immediately released her and packed a bag with clothes, and left the house. The Petitioner's own affidavit reveals his tendency to be violent.

59. The Respondent recalled an incident whereby the Petitioner attacked her with a Chinese chopper while she was in the shower on 29th January 2017. She filed a Police report at the Santa Cruz Police Station. The Respondent did not exhibit the civilian receipt that is usually issued after a report is made at a police station. The Petitioner denied that there was any physical altercation. He exhibited a copy of the Respondent's application for a protection order in relation to the incident of 29th January 2017 as S.F.8 to his affidavit filed 4th August 2017, which alleged that the Petitioner persistently intimidated the Respondent by the use of threatening language. It is more likely therefore that there was not any physical altercation between the parties on that date.

60. The Respondent recalled that on 8th March 2017 the Petitioner immobilised the car in which she was travelling with X.Y. The Respondent subsequently made a police report and an application for a protection order against the Petitioner. The Petitioner stated that he had attempted unsuccessfully to contact the Respondent via her cellular phone. He then activated the phone system in the car and heard the Respondent having conversations with someone who sounded male. The Petitioner disabled the car using the security system installed in the car. He contacted his immediate Superior A.B. and indicated that he was going to the area where the car was immobilised. The Petitioner left the children in the Santa Cruz home alone, despite A.B. suggesting to him that he should remain at home and not leave the children unsupervised. This incident demonstrates the Petitioner's personality. Having made a deliberate choice he followed through with it even though his decision to leave the children home alone prioritised his desire to confront the Respondent above the children's welfare.

61. A.B. testified that when he arrived at the scene, the Petitioner opened the front door of the immobilised vehicle and a physical altercation ensued between the driver of the vehicle X.Y. and the Petitioner. He stated that when the Respondent exited the vehicle,

the Petitioner attempted to speak with her and he held her hand in a forceful manner. The Petitioner then snatched the phone that the Respondent was holding in her hand and smashed it on the road. A.B.'s account of the incident revealed the Petitioner's tendency for violence.

62. Another incident occurred on 1st June 2017 whereby the Respondent claimed that Petitioner took two frozen juices and threw them at her. This escalated into an altercation between them and resulted in some bruising on her hands. The Petitioner contended that the Respondent took one of the boxes of frozen juice and threw it at him and he threw the same box of juice back at her.

63. On 21st August 2017, after the parties had separated, the Respondent claimed that the Petitioner and B16 came by her workplace to visit B10 and B12. The visit took place in the Petitioner's car. After some time, the Respondent approached the car, knocked on the back left door (passenger side) and opened the door. She claimed that the Petitioner then proceeded to move from the park gear and drove the vehicle forward about 4-6 feet whilst she was standing on the outside of the vehicle holding on to B12's hand. B12 was inside the vehicle at the time. The Respondent stated that she suffered bruising to her left leg as a result of the Petitioner's actions. She sought medical attention. The Respondent exhibited two sets of tablets prescribed to her on the said day (21st August 2017) from the North Central Regional Health Authority and a receipt for a Police Report of assault made on the said day at the St. Joseph Police Station.

64. The Petitioner deposed in his affidavit quite elaborately that the vehicle rolled forward because his foot accidentally lost contact with the brakes and the vehicle was in neutral. He stated that by the time he returned his foot to the brakes the vehicle did not even make a complete wheel rotation. He denied that he caused the Respondent any injuries.

65. In cross-examination, however, the Petitioner was adamant that his foot **did not** slip off the brakes. He stated that the vehicle was parked. The children were not in the vehicle and the Respondent attempted to get into the vehicle.

66. The Respondent's witness, J.B.J. who lives on the same street as the Respondent's business place testified that she heard the Respondent bawling loudly, and saw her on the ground holding on to her foot. She stated that she did not see what happened to cause the Respondent to cry out in that way but she went to assist the Respondent. The Respondent told her in the Petitioner's presence that the Petitioner had just bounced her. The witness said that the Respondent's knees were red. She could not recall if the Respondent was wearing long pants at the time. She could see that the Respondent's leg was injured, but she stated that she could not recall if she observed the redness on the said day of the incident or the following day. J.B.J.'s evidence was helpful and not discredited, as submitted by the Petitioner's Attorney-at-Law. In fact, the Petitioner admitted in cross-examination that at the time he told J.B.J. that the Respondent was pretending.

67. The Evaluative Report indicated that no one from the Petitioner's community was available at the time of the visit to provide the Assessment Officer with social information about him. A Senior School Official at B12 and B16's school told the Assessment Officer that he keeps conversation with the Petitioner at a minimum because it is unproductive and not credible. He did not give any examples. I inferred that the incident relating to the child's choice of Art Forms outlined in Paragraph 44 (above) exemplified an 'unproductive' interaction with the Petitioner. The Evaluative Report indicated that community enquiries revealed that the Respondent is a nice person who is very good with her children. It also revealed that she is very respectable, usually keeps to herself. She was described as a good neighbour.

How capable each parent, and any other person in relation to whom the Court considers the question to be relevant, is of meeting the children's needs

68. The children's needs are both material and non-material. The evidence shows that before the breakdown of the parties' marriage, both parents were adequately meeting the physical, financial and emotional needs of the children.

69. The Petitioner is employed as a soldier in the Trinidad and Tobago Defence Force. On average he earns a gross income of \$15,500.00 per month with his normal take home pay being approximately \$11,945.00 per month. His income was confirmed by the testimony of the Pay Clerk of the Trinidad and Tobago Defence Force. The Petitioner is entitled to receive a terminal grant and a pension when he is discharged from the Defence Force.
70. The Respondent is a self-employed school administrator and the owner of a Preschool and Day-care. Her questionnaire affidavit filed on 17th July 2017 indicated that at that time she earned a gross income of \$12,000.00 per month with her normal take home pay being \$10,000.00 per month. In the Evaluative report, the Respondent reported that she earns a monthly salary of between \$5,000.00 to \$7,000.00 per month. She also shared that she pays a rental of \$6,800.00 for the business premises, a mortgage of \$1,864.00 and takes home \$3,000.00 monthly.
71. Since the parties' separation, the Petitioner has been maintaining B16 without any contribution from the Respondent. The Court made an interim order on 16th October 2017 that the Petitioner was to pay from 31st October 2017 the sum of \$1,800.00 per month, towards the upkeep of B10 and B12. The Petitioner has admitted to being in arrears of those payments. From May 2018, the Respondent has been maintaining B10 and B12 without consistent financial contribution from the Petitioner.
72. While it is accepted that the parties must be able to meet the physical and financial needs of their children, this obligation must be balanced with meeting the children's emotional and non-financial needs. I considered the parenting offered by each party and their respective support systems. B16 informed the Assessment Officer that the Petitioner cares for his daily needs. He indicated that the Petitioner works Monday to Friday and occasionally takes days off. His friends are allowed to visit the Santa Cruz home and one friend who is usually there more frequently than others is allowed to stay occasionally for overnight visits. He stated that the Petitioner does not generally leave him unsupervised. He indicated that the Petitioner enrolled him in extra classes after he (B16) realized that he needed extra assistance. B16's Senior School Official

stated that B16 purchases lunch, travels to school and is sometimes dropped to school.

73. The Petitioner indicated in cross-examination that he has flexibility with his job due to his seniority in the Regiment. He stated that if he attains more seniority and is unable to meet his obligations with the children, he will arrange for his mother to drop off and collect the children from school and she would assist them with their homework. The Assessment Officer interviewed the Petitioner's mother because the Petitioner identified her as part of his support system. She informed that she is seventy-three (73) years of age and shared that she has a close bond with the children and that B16 calls her 'Mommy'. She stated that she cooks for the children when they visit her home and supervises them if the Petitioner is unable to do so. The Assessment Officer also interviewed the Petitioner's cousin who is forty-nine (49) years of age and employed as a teacher. She shared that she assists the Petitioner financially with B16's care, and she assists by supervising him in the Petitioner's absence.

74. B10 and B12 both indicated to the Assessment Officer that they enjoy visits at the Petitioner's home. B12 reported that they do fun activities but also study. He shared that once the Petitioner has money, they visit places such as the arcade and beach. He also indicated that the Petitioner prepares his meals and ensures that his homework assignments are completed. While at the Petitioner's home, he shares a bedroom with B10. B10 indicated that they go on outings or stay at home and play games. He shared that the Petitioner ensures that his homework assignments are completed and he prepares his meals. He indicated that at the Petitioner's home, he shares a bedroom with B12 or at times, he sleeps with the Petitioner because the Petitioner's bedroom has air-conditioning.

75. The Respondent has had little access to B16 since the parties' separation due to their strained relationship. The Respondent is unable to adequately care for B16's non-material needs since the mother/son bond has to be re-established.

76. The Assessment Officer reported that B16 appeared to be very angry particularly with the Respondent¹³. The Officer assessed that the child's anger is being fuelled by information of his parent's situation. In her view the child appears to be very exposed to the Petitioner's account of incidents with the Respondent. The Petitioner's habit of confiding in B16 about the parties' issues seems likely to have played a major part in B16's current emotional condition towards the Respondent. This has led to a high level of alienation between B16 and the Respondent. The child appears to blame the Respondent for the family's division. Like the Petitioner, B16 blames the Respondent's association with X.Y. for the breakdown of the parties' marriage.

77. The Assessment Officer noted that B16 was not performing well academically and he also appeared to have problems with social interactions. The Field Officer's interview with school officials at B16's school revealed that he had an outburst and he stated that he hates the Respondent and wished she could be dead. The School Official indicated that B16 cursed the Respondent at school and she slapped him. On that occasion the Official made arrangements for the Petitioner to collect B16 from school.

78. The Assessment Officer expressed concern about B16's mental and emotional health.¹⁴ There is no evidence that before the breakdown of the parties' marriage, B16 harboured ill feelings towards the Respondent. It is noteworthy that throughout the investigations B16 made no favourable remarks about the Respondent to the Assessment Officer and, he made no unfavourable remarks about the Petitioner.

79. In terms of the non-financial and emotional needs of B10 and B12, the evidence suggests that the Respondent has been meeting those needs since the parties' separation. B12 indicated to the Assessment Officer that he shares a bedroom with B10 at the Respondent's home. He indicated that he does fun activities while in the Respondent's care similar to the activities done while in the Petitioner's care. He shared that the Respondent or X.Y. prepares his meals and the Respondent assists

¹³ Paragraph 107 of the Evaluative Report

¹⁴ Paragraph 106 of the Evaluative Report

with homework. B10 also indicated that he does similar fun activities at the Respondent's home. He shared that there is a savannah near the Respondent's home and he, B12, the Respondent and X.Y. frequent the savannah to play football. He reported that there is air-conditioning at the Respondent's home, and he shares a bedroom with B12.

80. The Field Officer's visits to B10's and B12's schools revealed that the Respondent appears to be meeting their educational needs as they attend school regularly, punctually, well attired and with all necessary materials. Their academic performance has not declined. B10's school official stated that he attends school with lunch from home and is dropped to and picked up from school by the Respondent.

81. The Respondent indicated in cross-examination that whenever she is unavailable to care for B10 and B12, which usually would occur if she leaves the jurisdiction, she leaves them with R.H., who is a mother figure to her, and her god sister, G.H. These ladies are mother and daughter and have supervised the children and assisted with the care of the three boys since their respective births. The Respondent stated in cross-examination that most times she and X.Y. would go to collect B10 and B12 from school. She testified that once or twice X.Y. went alone to pick up B12 when she was doing homework with B10.

82. The Assessment Officer also interviewed X.Y. He stated that he is forty-one (41) years old and is an Officer with the Trinidad and Tobago Defence Force. He indicated that once he is available, he transports B10 and B12 from school. He stated that he also assists financially with their care. There is no evidence as to the amount of financial assistance that X.Y. provides. The Respondent indicated in cross-examination that X.Y. has five (5) children for whom he has joint custody with his estranged wife. The Petitioner in cross-examination testified that B10 and B12 complained to him that the Respondent beats them whenever X.Y. complains. The Assessment Officer noted that throughout the investigation, there were no major complaints about X.Y.'s behaviour from B10 and B12 who interact with him.

Any harm which the children have suffered or are at risk of suffering

83. The most compelling case made against the Petitioner's capacity and disposition to adequately parent is the manner in which he has enmeshed B16 in the parties' relationship, to B16's detriment. The Evaluative Report revealed that B16 has already suffered emotional harm as a result of being enmeshed in the parties' acrimony. The Petitioner is exacerbating B16's animosity towards the Respondent by continuing to involve B16 in the parties' legal matter and interactions. If the Petitioner is granted care and control of B10 and B12 there is a high risk he would also involve them in the parties' interactions and issues as he has done with B16. B16 is their older brother. B10 and B12 may view him as a role model. They may also be adversely affected by B16's animosity towards the Respondent. The Court has ordered that B16 engage in counselling which is intended to ultimately involve the Respondent. Engaging in counselling is intended to reduce the likelihood of emotional and or psychological harm to all the children of the family, and ameliorate the harm already caused. B16 will continue to reside with the Petitioner whilst undergoing counselling. There is a greater likelihood that the counselling will be successful if the Petitioner desists from involving B16 in the parties' conflicts and interactions.

84. There is no evidence to suggest that the children have suffered any physical harm at the hands of either party. The Assessment Officer noted that if the children know the derogatory manner in which their parents speak of each other, as well as the types of things they say about each other, this could negatively affect their social interactions, their mental and emotional health, their academic performance and their overall potential in life.¹⁵ There appears to be some validity in the Assessment Officer's assessment that B16 has been greatly affected because being the eldest child he may have experienced more parental conflict than the other children.¹⁶ Many of the altercations described by the parties occurred in the presence of the children. This has already occurred with respect to B16 who was concerned about "the Petitioner's

¹⁵ Paragraph 111 of the Evaluative Report

¹⁶ Paragraph 108 of the Evaluative Report

stress” and “shared that he felt that he needed to mediate between Parties, given the combative nature of their interactions.”¹⁷

85. I am satisfied that once the parties engage in conflict management and co-parenting counselling they will have the tools to create an environment which fosters healthy psychological well-being for all their children. If the parties choose to co-parent it will likely allow the children to function better.

86. The Respondent made allegations of the Petitioner’s alleged sexual lifestyle but he refuted them and made counter allegations of his own. Neither party was cross-examined with respect to the Respondent’s claims that several allegations of inappropriate sexual behaviour were made by boys against the Petitioner. As part of the Evaluative Report, there was correspondence from the Child Protection Unit signed by the Commissioner of Police, which indicated that the Petitioner came to notice of the Police in March 2016 at the Sub-Unit based at the Morvant Police Station. A minor made a report that while on Charlotte Street, Port of Spain a man dressed in camouflage clothing approached him with a job offer. He accepted the man’s offer and was conveyed by the man to a house, which he described, in Santa Cruz. While at the house, the man who did not identify himself, told him to take off all his clothes and he (the minor) ran away from the house. The minor had initially reported the incident to the Santa Cruz Police Station. The Petitioner was not named as an offender. The Petitioner visited the police station approximately two (2) hours after the minor had made his report. The Petitioner made a report to the police about a suspected intruder at his home. After review, the Police Service has found that there appeared to be a link between the reports of the Petitioner and the minor.

87. The Petitioner informed the Assessment Officer of an incident which occurred in March 2016. The Petitioner explained that while at his home he was approached by a young man, a stranger to the home. The young man sought assistance in becoming a member of a football team. After they spoke about football, the young man asked the Petitioner to transport him to San Juan. The Petitioner agreed but went into his home

¹⁷ Paragraph 107 of the Evaluative Report

to change his clothes. He reported that while in the home “he was still observing the young man’s activities in the yard” via CCTV camera. After some time elapsed, the Petitioner did not have a visual of the young man so he went to investigate the young man’s whereabouts. He discovered that the young man had “breached the premises and fled when he realized he was caught in the home”. The Petitioner chased after him but the young man ran towards some individuals claiming that the Petitioner attempted to sexually assault him.

88. I make no findings of fact of what occurred on that day since the evidence was not tested. There was no cross examination of the Petitioner or the Respondent about the Respondent’s allegations relating to the Petitioner’s sexual behaviour.

Access

89. Prior to the parties’ separation, the children lived at the Santa Cruz home with both parents. The Petitioner’s Attorney-at-Law submits that the Respondent should not retain care and control of the children because she has proven that she will withhold access to the children as she did since 12th June 2017, after she left the Santa Cruz home. The Petitioner stated that on the said day, he dropped B10 and B12 at their primary school and when he returned in the evening to collect them, they were nowhere to be found. He made inquiries and was informed by the school principal that the Respondent signed them out of school that said morning and left with them. The Petitioner stated that the Respondent did not consult with him about what she was doing. When he returned home, he discovered that all their school uniforms were missing and some other items belonging to them. He stated that he was unable to call the Respondent as she claimed that she had lost her cellular phone. He checked the school and noted that B10 and B12 were absent for about two (2) weeks. He claimed that he made several reports to several police stations concerning their whereabouts. He stated that from 12th June 2017 until his Attorney-at-Law showed him a copy of the affidavit served on her office the afternoon of 17th July 2017, he did not know where they were.

90. The Respondent confirmed that she collected B10 and B12 from their school early that day. The Petitioner had stolen her phone while she was at the Santa Cruz home. She did not have a phone on which she could have contacted the Petitioner. The Respondent denied that she has deprived the Petitioner of access to B10 and B12. She exhibited a SMS message from her to the Petitioner's phone to enquire whether he wanted to see B10 and B12. A copy of the message sent by the Respondent on 28th June 2017 is exhibited to the Respondent's affidavit. The message stated "*Co parenting is important... would you like to have the boys this weekend? This is Keisha. Let me know so I can organize to bring them.*" The Petitioner did not respond to that enquiry.
91. It is the right of the children to have access to each of their parents once to do so is not harmful to the children. The Respondent wrote to the Petitioner enquiring whether he wanted to have access to B10 and B12, more than two (2) weeks after she left the Santa Cruz home without informing him of the children's whereabouts. I make a finding that it is unlikely that the Respondent did not have access to any phone from which to contact the Petitioner to arrange for access.
92. The Petitioner also claimed that by the Respondent's refusal to give B10 and B12 the cellular phones that their grandfather gave to them she has also denied him access to B10 and B12. The Respondent indicated that the phones provided were 'smart phones' and she took the phones away from the children while they all lived at the Santa Cruz home because she did not think that it was appropriate for their ages. She further stated that she got a new cellular phone with her known number around the later part of 2017. If the Petitioner had called her number he would have been able to speak to the boys.
93. The Petitioner also claimed that after the Court made the interim order granting him *inter alia* access on public holidays, the Respondent denied the children access to him on certain public holidays. The Respondent admitted that the Petitioner did not get access at Christmas because he did not show up. Instead, he showed up on New Year's Day. The Respondent also admitted that B10 and B12 did not have access to the Petitioner on all of the alternating public holidays. She explained that if a public

holiday fell during the week, the Petitioner would not get access because B10 and B12 would have their homework to complete.

94. While the Respondent has withheld access to the Petitioner from the children from time to time on public holidays, I have weighed her actions against the Petitioner's potential to negatively influence B10 and B12 if he is granted daily care and control of them. The evidence suggests that there is a greater risk to the children's welfare if the Petitioner has day-to-day care and control of B10 and B12. It is likely that he may enmesh them, like B16, in the parties' conflicts. This can affect their welfare and their relationship with the Respondent. It is in their welfare to maintain a healthy relationship with both parents. The parent with the care and control of B10 and B12 has a duty to actively promote their welfare. There is no evidence to suggest that the Respondent does not adequately oversee the day-to-day care of B10 and B12. In addition, there is no evidence that she involves them in or updates them on the parties' conflicts and interactions.

Alienation

95. There has been very limited contact between the Respondent and B16 since the separation of the Petitioner and the Respondent. In the Canadian case of **L.M. v J.B.** [2016] NBQB 93, Mr. Justice Bruce Noble of New Brunswick relied heavily on the Ontario case of **W.C. v. C.E.** [2010] O.N.S.C. 3575 in considering the issue of alienation of parent and child. Canadian case law does not bind courts in Trinidad and Tobago but the dicta is persuasive where relevant. There has been a proliferation of alienation cases in the Family Court of Trinidad and Tobago where alienation is alleged.
96. At paragraph 64 of **W.C. v. C.E.** Dr. Barbara Fidler, an expert in parental alienation confirmed *"a child can reject or resist contact with a parent for many reasons. One reason may be as a result of alienation. A child comes to share a favoured parent's negative view of the other parent. The rejection is not justified or is disproportionate to the rejection which occurs. At some point in time, the child had a reasonable to very good relationship with the other parent."* The expert acknowledged *"even if the favoured parent had not done anything to instil a negative view of the other parent, it*

is important is to know what steps the favoured parent had taken to overcome the child's distorted beliefs and what has that parent done to repair the situation.”¹⁸

97. Dr. Fidler confirmed that in cases involving children from ages 10-12 years of age *“generally it is recognized that the older that a child is, the more weight that should be given the child’s expressed wishes...[but] if there has been a finding of alienation there should be little weight attached to the child’s wishes.”¹⁹*

98. I make a finding that B16 has been alienated from the Respondent. Where alienation exists, I will not place much weight or reliance on the wishes or opinions emanating from the child because one cannot discern whether they are the opinions of the favoured parent or the genuinely held wishes of the child.

99. Dr. Fidler equated the case of an older child’s refusal to see the rejected parent with any other instance where a child is required to do something they may not want to do such as go to school or get vaccinated. The favoured parent’s belief makes the difference. If the favoured parent believes that the child should see the other parent he or she will ensure that it is done. The alienation in the instant case is severe because of the length of time that the alienation has gone unchecked. Although there was a Court order in place for B16 to have access to the Respondent, there is no evidence that the Petitioner took steps to encourage B16’s compliance with that Court order.

100. Dr. Fidler identifies four alternatives available to the Court:

- a. Do nothing and leave the child with the alienating parent;
- b. Do a custody reversal by placing the child with the rejected parent;
- c. Leave the child with the favoured parent and provide therapy; or
- d. Provide a transitional placement where the child is placed with a neutral party and therapy is provided so that eventually the child can be placed with the rejected parent.

¹⁸ Paragraph 143 of W.C. v. C.E. case

¹⁹ Paragraph 139 of W.C. v. C.E. case

101. I have sought to apply option c. With the assistance of counselling and/or therapy B16 can be disenmeshed, but this will require the cooperation of the Petitioner.

FINANCIAL RELIEF

102. Matrimonial property or matrimonial assets are comprised of all the property and financial resources that each party to the marriage has or is likely to have in the foreseeable future. The value of the matrimonial assets or matrimonial property is derived by deducting the financial obligations and liabilities that each party has or is likely to have in the foreseeable future. In determining the issues of financial relief and property settlement. I took into consideration all the circumstances of this case and sections 24, 25, 26 and 27 of the Matrimonial Proceedings and Property Act. The factors from section 27 of the Matrimonial Proceedings and Property Act, are represented in italics below.

103. The matrimonial assets in this case are as follows:

- a. The income, investments and savings of each party to the marriage comprising Guardian life insurance policies valued \$235,000.00 and fluctuating modest sums representing savings;
- b. The Santa Cruz home situate at [Redacted] and its contents comprising approximately \$1,200,000.00. The value of the furnishings and appliances are unknown;
- c. The Almond Court apartment known as [Redacted] and its contents valued approximately \$360,000.00 represents the value of the apartment. The contents are newly acquired on hire purchase and the value cannot yet be attributed to the Respondent.
- d. The Respondent's business known as [Redacted];
- e. The motor vehicles - a Hyundai Accent PCK [Redacted] valued approximately at \$50,000.00 and a Honda CRV PBF [Redacted] valued at approximately \$20,000.00 both registered in the Petitioner's name; and
- f. The proceeds of sale for motor vehicle PBR [Redacted]. The Petitioner indicated that the said vehicle was sold for \$6,000.00.

The income, earning capacity, property and other financial resources which each of the parties to the marriage or the children have or are likely to have in the foreseeable future

- *Income and earning capacity*

104. The Petitioner is employed as a soldier in the Trinidad and Tobago Defence Force holding the rank of Corporal, a position he has held for the last six (6) years. He has been a member of the Defence Force for twenty (20) years. His evidence of financial position filed on 28th July 2017 indicated that on average he earns a gross income of \$15,500.00 per month. He earns a net salary of approximately \$11,945.00 per month as evidenced by "R.D.1".

105. The Respondent is a self-employed school administrator and the owner of a Preschool and Day-care. Her monthly income fluctuates. Her questionnaire affidavit filed on 17th July 2017 indicated that at that time she earned a gross income of \$12,000.00 per month with her normal take home pay being \$10,000.00 per month. The Respondent exhibited a Statement of Accounts for the Day Care and Pre School business as at 31st August 2018, which was prepared by a Chartered Accountant. It compares the net profit for eight (8) months ended 31st December 2017 with eight (8) months ended 31st August 2018. It shows that the net profit for said period in 2017 was \$89,881.00 as compared to net profit of 2018, which was \$20,864.00.

106. On average, in 2017, the Respondent earned a net profit of \$11,235.00 per month whereas on average, in 2018, for the same period, the business earned a net profit of \$2,608.00 per month which shows a sharp decrease in the net profits. In the parties' application to TTMF dated 14th October 2014, the Respondent stated that her monthly income from the business was \$21,593.36. She stated in response to the Court's enquiry that in 2014, she earned that amount because she had approximately sixty-five (65) students enrolled in the Day Care and preschool. She then indicated that currently she has thirty-five (35) students enrolled. Based on this evidence, the Court averages the Respondent's current gross income to be approximately \$11,000.00 per month with thirty-five (35) students. The Court estimates that based on the sums the Respondent expends to care for herself and the children, to rent business premises

and to pay the mortgages her current gross income is approximately \$11,000.00 per month.

107. In terms of earning capacity, the Petitioner will continue to earn his monthly income until he attains the age of retirement or is discharged from the Defence Force. Based on a document tendered by the Defence Force Pay Clerk on 10th July 2018, if the Petitioner was discharged from the Defence Force on 10th July 2018 he would be entitled to receive a terminal grant of \$245,439.71 and an annual pension of \$70,125.63.

108. Once the Day Care and Preschool business continues to operate, the Respondent can continue to earn an income even after she has attained the age of mandatory retirement. The Respondent has a flexible income and has the capacity to earn as much as \$21,000.00 per month as in 2014, depending on the number of children enrolled at the Day Care and Pre-School. The Respondent has a pension plan with Pan-American Life. She did not provide any further details of the pension plan. I made a finding that since the Respondent is thirty-seven (37) years old, consideration of the proceeds of her pension plan at this time may be too remote.

- *Property and other financial resources*

109. The properties and the assets that comprise the matrimonial property are outlined in paragraph 103 above. The Santa Cruz home is valued at \$1,200,000.00. The valuation report dated the 6th March 2019 is evidenced as "A" to the affidavit filed on 14th March 2019. However, the Santa Cruz home is subject to a mortgage in favour of TTMF which both parties are responsible to repay. As at 19th February 2019, the pay-off balance of that mortgage was \$1,088,670.73. The equity is approximately \$111,329.00.

110. The Almond Court apartment is valued at \$360,000.00. The valuation report dated the 1st March 2019 is also exhibited as "A" to the affidavit filed on 14th March 2019. The Almond Court apartment is subject to two (2) mortgages in favour of TTMF which both parties are responsible to repay. As at 18th February 2019, TTMF indicated

that the pay-off balance for the first mortgage was \$64,167.58 and the pay-off balance for the second mortgage was \$206,442.41. The equity is approximately \$89,390.00.

111. Given the definition of matrimonial property (above), I reject the submission of the Respondent's Attorney-at-Law that the Day Care and Pre-School business is not part of the matrimonial assets. I make a finding that the Day care and Preschool business is a matrimonial asset. The Respondent established it during the subsistence of the marriage to make a financial contribution to the welfare of the family.

112. The Petitioner claimed that he provided all the financial resources to allow the Respondent to acquire the requisite certification and to start up the business. He also claimed that he renovated the first location of the Day Care and it cost approximately \$3,000.00 to redo over the roof, build a partition and source cribs. He was not compensated for the bookkeeping and administrative services that he provided to the business. In cross-examination, the Petitioner he stated that he drafted all letters for the school and would be involved in event planning and fund raising ventures. During cross-examination, the Petitioner eventually estimated that he provided about \$3,000.00 towards the Respondent's training and the start-up of the business.

113. The Petitioner claims that he was not adequately compensated for his services to or his initial investment in the business. He agreed that he did not perform payroll, taxes or National Insurance functions. The Petitioner has not provided any cogent or relevant evidence in support of his contention that he financed the Respondent's training and the start-up of her business. I do not accept the Petitioner's case that the parties had an express agreement that he is entitled to a share or has an interest in the Day care and Preschool business. The Petitioner's inability to identify the compensation that was agreed appears inconsistent with his evidence that there was an express agreement between the parties. In addition, the Petitioner claimed that he 'caught' the Respondent using grocery items that were bought for the household to support the feeding program at "her business". Consequently, the Petitioner ceased to buy groceries for the household on a monthly basis. This belies his claim that the business was a family venture.

114. The Respondent denied that the Petitioner provided financial assistance for her training and the start-up of the business. She claimed that she bore all financial and physical responsibility for her business. She deposed that sometime early in the year 2004, she completed a free 3-month course at the Child Welfare League of T&T Inc. Upon completion of the course, the Respondent claimed that she used \$3,000.00 that she received as a severance payment from her previous employer to purchase a few second hand cribs to start up a Daycare Centre sometime between July/August 2004 to ensure that she continued to contribute to the welfare of their family. She indicated in cross-examination that from 2008-2010, she attended at Servol Regional Training and Resource Centre and attained her Early Childhood Care and Education Certificate. The training cost approximately \$3,000.00 to \$5,000.00. She stated that she made payments for this in instalments. She also stated that she never asked the Petitioner for financial assistance with the business because he used to spend his money on the family's needs. The Respondent financed the expansion of the business to a Preschool by acquiring a loan of \$30,000.00 from the National Entrepreneurship Development Company Limited (N.E.D.C.O.) for the purchase of appliances and for the building of furniture. A copy of the promise to pay N.E.D.C.O. and the supporting statutory declaration dated 1st November 2007 were annexed to her affidavit filed on 11th August 2017 as "F". She did indicate that the Petitioner assisted her if she had a special event at the school and the Petitioner would arrange transportation for the children of the school.

115. The Respondent is a sole trader. She deposed in her affidavit that she leased the business premises by way of a Lease Agreement between her and her landlord, and she was solely responsible for making the Lease payments and liable for all debts of the business. A copy of the said agreement was exhibited to her affidavit filed on 11th August 2017 as "D". She indicated that at the expiration of the said agreement the tenancy continued on a month to month basis and she continues to operate her business out of that location to date. Copies of rent receipts from 2007 to most recent were annexed in a bundle to her affidavit filed on 11th August 2017 as "E".

116. The Respondent's business because of the personal goodwill is inseparable from the Respondent. In addition, the business is a going concern. It is the sole source of the Respondent's income. The Respondent has the primary care of B10 and B12 for at least another eight (8) years. It would not be in the children's welfare to jeopardise the Respondent's sole source of income by extracting any profit from the business to give to the Petitioner, in circumstances where the Petitioner does not consistently maintain B10 and B12. I make a finding of fact that the Petitioner provided limited financial assistance for the initial establishment of the Day Care business. That financial assistance did not exceed \$3,000.00. I also make a finding of fact that the Petitioner made non-financial contributions as a means of supporting the Respondent in her business venture.

117. At the time of the filing of the Respondent's Form 8 evidence on 17th July 2017, she indicated that her savings were in the sum of \$22.91. At the time of the filing of the Petitioner's Form 9 evidence of financial position on 28th July 2017, he indicated that his savings were in the sum of \$2,967.56. With the ebb and flow of life, these sums are not static. No recent evidence of savings was given. Both parties indicated that they each hold a life insurance policy with Guardian Group. The Respondent's policy was valued at \$85,000.00 while the Petitioner's policy was valued at \$150,000.00. The designated sums will typically be paid to the beneficiaries, and not be paid personally to the insurance policy holder.

118. The Petitioner's relative, C.E. is a teacher and indicated to the Assessment Officer that she provides financial assistance for B16's care. Neither she nor the Petitioner quantified the sums provided. The Respondent's partner, X.Y., is an Officer with the Trinidad and Tobago Defence Force. He informed the Assessment Officer that he provides financial assistance for B10 and B12's care. The Respondent indicated in cross-examination that X.Y. has five (5) children for whom he shares joint custody with his estranged wife. I make a finding that X.Y.'s contribution to the Respondent's household would be negligible.

The value of 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

119. The Respondent has a pension plan with Pan-American Life. She did not provide any further details of the pension plan. Given that the Respondent is thirty-seven years old consideration of the proceeds of her pension plan at this time are too remote.

The age, physical or mental disability of either of the parties to the marriage or the children of the family, the duration of the marriage and the standard of living enjoyed by the family before the breakdown of the marriage

120. There is no evidence that the parties or the three minor children suffer from any mental or physical disability. The parties shared a long marriage, though at the low end of that category. The Respondent is thirty-seven (37) years old and the Petitioner is a forty-two (42) years old. The Respondent has an average of approximately twenty-three (23) years further work life before attaining the age of retirement. Since the Respondent is self-employed there is no requirement that she retire at age sixty (60) years. There is no evidence of the Petitioner's expected date of retirement or resettlement.

121. Prior to the breakdown of their marriage, the parties pooled together their resources in order to provide a comfortable lifestyle for themselves and their children. This acquired a home with modern conveniences, an investment property, three motor vehicles and were accustomed to international travel. It is not practicable or within the parties' means to place the children or themselves in the financial position in which they would have been had the marriage not broken down and if each party had properly discharged his or her financial obligations and responsibilities to each other and the children.

Contributions 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

122. The Petitioner's Attorney-at-Law's closing submission sought to highlight that the Petitioner made most of the direct financial contributions towards acquisition of the Almond Court apartment and Santa Cruz home. I make a finding that prior to the

breakdown of the marriage, both the Petitioner and the Respondent made full contributions towards the welfare of the family. Each party made contributions that were both financial and non-financial. I make a finding that neither party's contribution during the marriage was greater than the other party's contribution. Given that the youngest child in the Respondent's care is ten years old, the Respondent has a continuing contribution to the welfare of the family by caring for B10 and B12 during their minority.

123. The Petitioner is responsible for making the repayment of the first mortgage monthly instalments in the sum of \$846.57 via a salary deduction. During the period December 2003 to July/August 2004, the Respondent was unemployed and the Petitioner was the sole breadwinner of the family. After the Respondent started her business, the parties would pool their funds to ensure the maintenance of the Almond Court apartment and the servicing of the two mortgages over same. When the parties purchased the Santa Cruz home, the Almond Court apartment was let at a monthly rent of \$3,000.00. The rent proceeds, together with funds from the parties were pooled to meet the three (3) mortgage payments on the two (2) properties. There was a balance of \$1,200.00 of the rent collected from the Almond Court apartment that was used towards the repayment of the mortgage on the Santa Cruz home which left a balance of \$6,600.00 payable on the Santa Cruz mortgage. Both parties repaid this balance equally in the sum of \$3,300.00 each.

124. The Respondent claimed that from mid-2017, the Petitioner stopped providing her with the sum of \$3,500.00 towards maintaining the household. She became solely responsible for the bills that previously both parties shared equally. She claimed that the Petitioner changed the intervals for purchasing groceries and toiletries for the home. The Respondent claimed that the Petitioner also hid some of the items purchased by him. The Petitioner admitted that during the period April 2017 to June 2017, he stopped making the usual monthly groceries and resorted to buying items for a two-day period that was repeated every other day. He explained that he decided to do so after he 'caught' the Respondent using grocery items bought for the matrimonial home to support the feeding program at her business.

125. The Petitioner claimed that the Respondent stopped making any financial contributions towards the Santa Cruz mortgage. Receipts annexed to her affidavit dated 11th August 2017 as “J” show that she made other payments to T.T.M.F. The Respondent explained that due to the failure of the Petitioner to meet their initial payments on the Santa Cruz home mortgage, there were arrears of \$25,400.00 in relation to bridging finance due to TTMF for the first year of the mortgage. She stated that in April 2017, she made arrangements with TTMF to clear the balance by way of a payment of \$14,000.00 made on 18th April 2017 and another payment of \$11,400.00 made on 1st May 2017. The Petitioner admitted in cross-examination that he did not assist with the payment of the said arrears, and gave no further explanation.

The financial needs, obligations and responsibilities which each of the parties to the marriage and the children have or are likely to have in the foreseeable future

126. Each party requires food, housing, utilities and household expenses, clothing, transportation, health care and recreation currently and in the foreseeable future. They have obligations to provide the above for their minor children and also to educate them. Where finances permit they are obligated to repay their respective loans and responsibilities to pay insurance policies and to save a portion of their income where possible as a hedge against incidentals and emergencies.

127. The Respondent indicated that she is indebted to Standards Distributor Limited in the sum of \$31,501.00 and Unicomer (Trinidad) Limited in the sum of \$94,742.99. The hire purchase agreements in relation to those debts were annexed to her affidavit of 11th October 2018 as “K.G.F.6” and “K.G.F.7” respectively. The Respondent entered into the hire purchase agreements after the Petitioner refused to allow her to remove items from the Santa Cruz home for the use of the Respondent and the children in the Almond Court apartment. The Respondent entered into a loan agreement when the Petitioner did not provide his monetary contribution to enable her to purchase the school book, uniforms and school supplies for B10 and B12 at the start of the school year.

128. The furniture in the Santa Cruz home are matrimonial assets. The Respondent testified that she was also not allowed to retrieve her personal items. She intended to retrieve the children's beds, living room chairs and a fridge since there were 2 fridges in the Santa Cruz home. If the parties had divided the furniture and appliances between them there would have been no need for the Respondent to incur as high a debt. It was reasonable for the Respondent to expend sums to create a safe and comfortable environment for herself and B10 and B12. The Respondent also pays the monthly instalments for the second mortgage on the Almond Court apartment in the sum of \$1,864.00. The mortgage instalments will continue until the balance of \$206,442.41 is paid off.

129. The Respondent's personal and household expenditure as stated in her Form 8 is approximately \$8,000.00 per month exclusive of mortgage and hire purchase repayments. These figures for expenditure were provided at a time when the Respondent had just vacated the Santa Cruz home with B10 and B12. She claims that she spends \$450.00 per month on travel to work. She also expends the monthly sum of \$800.00 on gas and oil. These sums appear to have anticipated the Respondent's return to live in the Santa Cruz home.

130. The children's monthly expenses were approximately \$1,800.00 per child as stated in her Form 8. Based on receipts exhibited at "P" to the Respondent's affidavit dated 11th August 2017 for the items purchased in relation to all educational expenses for B10 and B12, their educational expenses total approximately \$6,400.00 per child per year at the beginning of the school term. B12 also requires spectacles that cost approximately \$1,200.00 per year. Since the Respondent has primary care and control of B10 and B12, she will tend to have the greater responsibility both financially and otherwise for them. B10 and B12 have eight (8) and six (6) years respectively before attaining adulthood. The Respondent therefore has a continuing contribution to the welfare of the family by caring for B10 and B12 while the Petitioner has the care of one minor B16 who will be attaining adulthood in two (2) years' time.

131. The Petitioner was ordered as an interim order on 16th October 2017 to pay to the Respondent the monthly sum of \$1,800.00 for the maintenance of B10 and B12.

This represented half of the monthly expenditure of each child of the family, estimated by the Respondent. The Petitioner admitted in cross-examination to have been in default of the maintenance payments from in or around May 2018 but he stated that this was due to the fact that the Respondent stopped paying her share of the mortgage instalment for the Santa Cruz home from in or around November 2017 which he was forced to pay.

132. The aim of the Court when allocating capital assets and income of the marriage, after the dissolution of this marriage, is to place the parties, as far as this is practicable and, having regard to their conduct, just to do so, in the financial position that they would have been if the marriage had subsisted and each party had carried out his or her financial obligations and responsibilities toward the other party. There is no evidence of conduct of either party that is relevant to the manner in which the Court distributes the matrimonial assets.

133. The present value of the former matrimonial home is **One Million Two Hundred Dollars (\$1,200,000.00)**. The outstanding mortgage is approximately *One Million and Eighty-eight Thousand Six Hundred and Seventy Dollars (\$1,088,670.00)*. The value of the equity in the former matrimonial home is approximately **One Hundred and Eleven Thousand Three Hundred and Thirty-Nine Dollars (\$111,329.00)**.

134. The present value of the Almond Court apartment is **Three Hundred and Sixty Thousand Dollars (\$360,000.00)**. The outstanding mortgages are approximately *Two Hundred and Six Thousand Four Hundred and Forty-two dollars (\$206,442.00)*. The value of the equity in the former matrimonial home is approximately **Eighty-nine Thousand Three Hundred and Ninety Dollars (\$89,390.00)**.

135. The value of the matrimonial assets is approximately **Two Hundred and Seventy-six Thousand Seven Hundred and Nineteen Dollars (\$276,719.00)** comprising modest unquantified savings, the value of the motor vehicles \$76,000.00, the equity in Almond Court \$89,390.00 and the equity in Santa Cruz \$111,329.00 and unquantified furnishings in the Santa Cruz home.

136. In distributing the matrimonial assets, the Court allocates to the Respondent the Almond Court apartment, the vehicle she currently drives and the savings and investment held in her name. These assets are valued approximately **One Hundred and Thirty-nine Thousand Three Hundred and Ninety Dollars (\$139,390.00)**. This sum represents the equity of the parties in Almond Court (\$89,390.00) and the value of the motor vehicle (\$50,000.00). This is approximately 50.37% of the value of the matrimonial assets. This is an equitable division of the matrimonial assets given that the Respondent will have the continuing care of minor children for a much longer duration than the Petitioner will.

137. Section 27(1) of the Matrimonial Proceedings and Property Act requires the Court to place the parties 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 *so far as it is practicable* and, having regard to their conduct, just to do so.

138. As a cross check, the Court allocates to the Petitioner the savings and investments held in his name, the motor vehicle in his possession and for which he has received proceeds of sale, the Santa Cruz home together with the value of its contents. These assets are valued at least **One Hundred and Thirty-seven Thousand Three Hundred and Twenty-nine Dollars (\$137,329.00)**. This is approximately 49.62% of the value of the matrimonial assets. This is a fair and just division of the matrimonial assets which gives effect to the tailpiece to section 27(1) of the M.P.P.A.

139. The Petitioner's monthly expenditure according to his Form 9 is approximately \$6,000.00 exclusive of mortgage repayments. The Petitioner indicated in cross-examination that he is solely²⁰ responsible for B16's maintenance. He claims that maintaining B16 is more costly than maintaining B10 and B12. He did not state how much he spends on B16's maintenance.

140. I considered all the circumstances of this case, all the evidence and the law. In addition to the testimonies of the parties and the witnesses, the Court considered the following:

- a. The Respondent's Application Relating to the Children of the Family, the Respondent's application for Financial Relief and affidavit in support all filed on 17th July 2017;
- b. The Petitioner's Evidence of Financial Position and Reply to Application Relating to the Children of the Family both filed on 28th July 2017; and narrative affidavit in response filed on 4th August 2017;
- c. The Respondent's affidavit in reply filed on 11th August 2017;
- d. The Respondent's (affidavit supplemental to the affidavit in reply) filed on 23rd August 2017;
- e. The Petitioner's affidavit filed on 30th August 2017 in answer to the Respondent's supplemental affidavit;
- f. Statement of Agreed facts filed on 29th June 2018
- g. Statement of Agreed Issues filed on 29th June 2018
- h. Documents tendered on 10th July 2018 by Defence Force Pay Clerk and marked 'R.D. 1'
- i. The documents tendered on 10th July 2018 and at the direction of the Court by TTMF;
- j. The Petitioner's affidavit filed on 26th July 2018, without leave;
- k. The affidavit of A.B. filed on 26th July 2018;
- l. The affidavit of J.B.J. filed on 10th August 2018;
- m. The Petitioner's Certificate of Urgency, Notice of Application and affidavit in support all filed on 21st August 2018;
- n. The Respondent's affidavit filed on 11th October 2018 in answer to the application for injunctive and declaratory relief;
- o. The affidavit of the Respondent filed on 26th October 2018 in answer to the Petitioner's affidavit filed without leave; and
- p. The affidavit of Ms. Shantelle Rulow, Attorney-at-Law filed on 14th March 2019 exhibiting the valuations of the Almond Court apartment and the Santa Cruz home.

141. In addition, the Court took into consideration the closing submissions of the Attorneys-at-Law, the case law advanced by Counsel and the Evaluative Report dated 31st January 2019²¹, inclusive of the report from the Child Protection Unit (“CPU”) dated 25th February 2019, which formed part of the Evaluative Report.

142. The Court is not bound to adhere to the recommendations made in the Evaluative Report. I relied considerably on the Evaluative Report in determining the orders that were in the best interest of the children of the family.

Dated 6th day of May 2019

Betsy Ann Lambert Peterson
Judge

²¹ Stamped 5th February 2019