IN THE HIGH COURT OF JUSTICE No. FD13D00747

FAMILY DIVISION

[2014] EWHC 1519 (Fam)

Royal Courts of Justice

Thursday, 1st May 2014

Before:

MR JUSTICE HOLMAN

(sitting throughout in public)

B E T W E E N :

PAULINE SIEW PHIN CHAI Petitioner

- and -

TAN SRI DR KHOO KAY PENG Respondent

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MR R. TODD QC and MR N. YATES (instructed by Vardags) appeared on behalf of the petitioner.

MR T. BISHOP QC, MRS R. BAILEY-HARRIS and MISS K. COOK (instructed by Payne Hicks Beach) appeared on behalf of the respondent.

J U D G M E N T

(As approved by the judge)

MR JUSTICE HOLMAN:

1 I have heard this case in public throughout the last two days and now give this judgment in public. I previously heard an application in this case, also in public, on 13th March 2014. The judgment that I gave on that occasion is publicly available and has been for many weeks now on the Bailii website under Neutral Citation No. [2014] EWHC 750 (Fam). Since that judgment is publicly available, I will not repeat anything that is already contained in it. In effect, the judgment which I now give should be treated as a second or subsequent chapter of the same evolving account.

2 It is necessary to stress that I give this judgment entirely *ex tempore*, starting now at 4.45p.m. after this two day hearing. I made crystal clear during the hearing on 13th March 2014 that today would be my last day sitting in family work here in London until some date in July. Starting next week I will be fully engaged in work in the Administrative Court. There is simply no opportunity for me to prepare a more considered reserved judgment. I am, however, very clear indeed about the outcome which I reach today and the essential reasons for it.

3 Since that last hearing there have been a number of developments in this case, some very positive, others less positive if not downright negative. The first

positive development in time is that the appeal that was part-heard during March, before the appellate court in Malaysia, has now been concluded by the written reserved judgment of that court dated 22nd April 2014. I would like to comment that I have read that judgment, not only with respect but also with admiration, for it contains a lucid examination of authorities from both England and Australia as well also of Malaysia itself upon the topic, in particular, of discretionary stays of matrimonial proceedings in circumstances such as these.

4 In summary, the decision of that appellate court was to allow the wife's appeal from the decision of the judge at first instance in Malaysia, who had decided that she is (or on the material date was) necessarily domiciled in Malaysia by application of the wife's dependent domicile rule. Essentially, the appellate court considered that the judge at first instance could not, or should not, have decided that issue of domicile merely on an examination of the statements and documents, and that it required and requires to be decided after hearing appropriate oral evidence as to the facts. The appellate court dismissed the wife's appeal from the decision of the judge at first instance not to grant a discretionary stay of the Malaysian proceedings so as to allow the divorce proceedings here in England and Wales to take priority. It is, to my mind, therefore, a positive development in this case that we now have the reasoned decision of an appellate court in Malaysia on each of those points.

5 Rather less positively, that decision seems to have dissatisfied each of these parties. I have been told that the wife continues to consider that the Malaysian proceedings should be stayed to allow priority to her proceedings here in England and Wales; and that accordingly she will be seeking further to appeal to the Federal Court of Malaysia, which I understand is the ultimate and most supreme court within the Malaysian structure. I have been told that the husband is dissatisfied with the decision of the appellate court on the issue of domicile. He also intends to seek to appeal to the Federal Court of Malaysia and argue that the decision of the judge at first instance that the wife is necessarily domiciled in Malaysia should be reinstated. I understand that each side will need to obtain leave or permission to make such an appeal. So, as I speak today, it is not known whether or not either or both of them will ever even be able to mount an appeal, nor the timetable, nor obviously the outcome if either or both of them is able to appeal. So whilst the decision of the appellate court of 22nd April 2014 appears to give some helpful certainty about the present situation in Malaysia, the prospect of either or both of these parties managing to mount further appeals immediately raises again the spectre of uncertainty; the spectre obviously of some further period of delay; and the spectre of yet further legal expenditure. It is all as part of what I have already referred to in my earlier judgment as "legal manoeuvrings".

6 Another very positive development since the last hearing is that these parties, and their advisers, have met in a determined effort in good faith to try to settle the issues in this case. Any reader of my first judgment will see at paragraph 5 of that judgment that I implored them to sit down and discuss money before this appalling litigation got yet further out of control. It is beyond a peradventure that there is, in the end, only one issue between these parties, and that is the size and composition of the award, or payment, or provision that unquestionably the husband will have to make sooner or later to the wife. Everything else is undoubtedly legal manoeuvrings designed to advantage one or the other side in relation to the size of the ultimate cheque. So I wish to say, with the utmost sincerity, that I was deeply grateful and pleased to learn when we came into court yesterday (which was the very first time I knew anything about it) that there had been a long meeting between these parties in Paris on Monday of this week, 28th April 2014.

7 It does seem a little odd that the meeting had to be in Paris since, so far as I am aware, not a single person participating in the meeting is actually located in Paris. The husband and a friend of his, who was at one time a judge in Malaysia, clearly travelled from Malaysia. He was attended by bodyguards, though where they are based I do not know. Two executives attended from Laura Ashley, being a company in which, directly or indirectly, the husband owns a very considerable share. Everyone else who attended were either

lawyers or an accountant, all based here in London. Travel and hotel costs were clearly incurred and it remains puzzling to me why that meeting had to take place in Paris rather than here in London. At all events, that was what the husband preferred and chose for some emotional or psychological reason of his own.

8 As well as the people I have already mentioned, the husband was attended by his solicitor, Baroness Shackleton of Belgravia, and her assistant, Mr Ben Parry-Smith, and by his Queen's Counsel, Mr Tim Bishop. The wife attended, together with two solicitors from her solicitors, Vardags, although the solicitor with overall conduct of this case, Miss Vardag herself, was unable to attend. Also present was an accountant who is employed by Vardags, and the wife's leading counsel, Mr Richard Todd QC, and her junior counsel, Mr Nicholas Yates. So it can be seen that this was a formidable gathering of some of the most renowned, distinguished and experienced family lawyers in this country.

9 I was told by Mr Bishop, and Mr Todd subsequently expressed complete agreement with it, that the outcome of the meeting was positive although not final or conclusive. They both agreed that there had been constructive discussion and negotiation. At the end of the meeting it was agreed that the husband, in particular, would take certain further steps and that there was a

settled mutual intention to hold another meeting relatively soon, probably during June. So that is hugely positive and, more than anything else in this judgment, I would wish to express and repeat my pleasure and gratitude that that happened, and I sincerely hope that that was the first and a major step towards finally resolving this case.

10 I mention at this point, as I mentioned during the course of the argument this afternoon, that this is a particularly good moment to resolve this case by negotiation. It is a case which obviously has huge areas of uncertainty and litigation risk for both parties. No one knows what the outcome of litigation, either here or in Malaysia, will be. Once there is clarity as to the scale and structure of the husband's means, this ought to be the easiest of cases to settle, subject only perhaps to issues around liquidity. People of relative modest means, who are struggling to be able in some way to finance two modest homes out of a small fund of money, may have the utmost difficulty in settling their cases. But people of the means even remotely of the scale suggested in this case ought not to have the slightest difficulty. The husband is a gentleman already aged 75. He has already had a stroke. The wife is a lady aged 68. Their children are all completely grown up and leading independent lives, apart from one who still lives under the wing of his mother. It should be so easy to settle this case and I sincerely hope that the husband will do whatever it was (and I do not know) that he was asked to do at the

conclusion of the meeting on Monday and that at the further meeting in June massive progress will be made towards overall resolution, such that this enormous haemorrhage of legal costs, and the stress of this very protracted litigation, can draw to a close. Frankly, if they do not reach agreement this summer there is the awful prospect of litigation stretching literally years ahead.

11 Less positively, the husband has not attended this hearing. Rule 27.3 of the Family Procedure Rules 2010 provides as follows:

> "Attendance at hearing or directions appointment
>
> Unless the court directs otherwise, a party shall attend a hearing or directions appointment of which that party has been given notice."

At no stage has the court directed, or even been asked to direct, that the husband be excused from attending this hearing. Further, passages during the course of the hearing on 13th March, and indeed passages in my judgment of that date, clearly indicate my desire, intention and, frankly, expectation that both parties would be present here yesterday and today. The purpose of that rule is precisely to ensure that at every hearing or directions appointment the parties personally are present so that the court can engage directly with them

to the extent appropriate in order, in particular, to discharge the duties upon the court under rules 1.1 and 1.4 of the Family Procedure Rules 2010, namely the overriding objective. It was faintly suggested at one stage by Mr Tim Bishop QC, on behalf of the husband, that the language of rule 27.3 might be satisfied by a party attending not personally but through legal representatives. I have to say that I do not read the rule that way, nor do I think it is intended in that way. Indeed, the footnote to the rule, at page 2054 of the Family Court Practice 2013 (the editors of which are lawyers of the utmost distinction and renown) reads as follows:

> "It is a fundamental aspect of family procedure that, whatever aspect is before the court, the parties should be present as well as their legal advisers. This is an instance of the parties' duty under FPR 2010 rule 1.3 to help the court further the overriding objective."

It was, frankly, a matter of astonishment to me when I came into court yesterday morning and saw that the wife was present but the husband was not. I did not at that stage know that he had been present in Paris as recently as Monday. I asked where he was and Mr Bishop told me that he was in the air at that moment between Paris and Malaysia. That astonished me even more, for if he had been in Paris and yesterday morning was flying to Malaysia, why on earth could he not have travelled from Paris to London? I expressly asked

Mr Bishop when he, or the husband's legal team, first learned or had any awareness that the husband was not intending to be present here yesterday and today. He told me that it was on Monday afternoon, after the joint meeting had ended but before the husband finally parted from his own lawyers. Since the husband is advised by a legal team of unparalleled distinction, I must assume, although I cannot enquire as it would be subject to privilege, that they would have made plain to him the effect of rule 27.3 and that his attendance was required unless a court directed otherwise. Prior to yesterday morning there was no application to the court for a direction otherwise. There has not been a word in statement by or on behalf of the husband explaining why he did not propose to attend, or asking to be excused attendance. Instead, his leading counsel was left to tell me, though this is not evidence at all, that the reason why the husband did not attend was that it was his understanding, based on discussions with his Malaysian legal advisers, that there is a material risk that he would suffer prejudice in respect of the Malaysian proceedings by personally attending the English hearing as he would be at risk of being seen as having submitted to the English jurisdiction. As I have said, I do not have a shred of evidence as to any such discussions or the content of them. I only know what Mr Bishop (of course in the utmost good faith) has told me.

12 On further questioning of Mr Bishop, it appears that the expression "legal advisers" was used advisedly by Mr Bishop because he said that the person

with whom the husband had had the discussions in question was his friend, who is a retired judge of the highest court in Malaysia and, of course, a lawyer, but involved in this case only in the capacity of a friend. There is not a shred of evidence from that distinguished gentleman as to what he said to the husband or the reasons for it.

13 Yesterday, in court, I said in relation to this part of the case that it was "rubbish". I have read a report in The Times newspaper today which might appear to imply that I was saying that the proposition that the alleged discussion took place was rubbish. I wish to make quite plain that I was not saying that, and if I gave that impression I was at fault. I have absolutely no idea what discussion may or may not have taken place between the husband and that distinguished gentleman because, as I have said, I do not have a shred of evidence about it from either the husband or the gentleman in question. I am quite unable to say whether a discussion did or did not take place. I certainly cannot, and did not, dismiss the proposition that a discussion took place as being "rubbish". What I characterised as "rubbish" was the proposition that under any civilised legal system, applying the principles broadly of the common law and Western societies, it could be supposed that a person who protests the jurisdiction of a court can somehow be said to have submitted to it by personally attending a hearing under protest; the more so if his attendance is mandated by a rule of court such as rule 27.3. It is certainly

not the case that a person who protests the jurisdiction of a court can be seen as having submitted to its jurisdiction simply because he funds and instructs lawyers to attend before that court in order to register and argue his protest. Indeed, from first to last in these proceedings, as I understand it, the husband has participated through his team of lawyers of the highest distinction in the land. It could not be suggested that by doing so he was in some way submitting to the very jurisdiction that he challenges and protests. So the proposition is that, although it is not damaging to that case to instruct an army of lawyers, it is somehow damaging to attend personally in order to witness the hearing, or to give instructions as it goes along to the lawyers, or to display respect to a rule of the court in question, such as rule 27.3. Frankly, I simply cannot understand that proposition. Further, if right, it would seem to have the effect that a rich man can challenge and protest a jurisdiction and send an army of lawyers to court in order to argue his case; but a poor man, who cannot afford to pay for any lawyers, would be unable to challenge the jurisdiction for, by his attendance, he might be seen to have submitted to it.

14 There is another point. The challenge that the husband makes to the jurisdiction of this court is ultimately based on a mixture of both law and fact as to the case propounded by the wife as to jurisdiction. In order that he can mount that challenge and that she can seek to establish her case, the long ten day hearing in October 2014 has already been fixed since July of last year.

As I understand it, it is contemplated, and has always been contemplated, that both these parties will attend that hearing, at any rate in their capacity as witnesses, to give oral evidence on the disputed factual issues. But on the logic of the proposition that Mr Bishop says has kept the husband away this week, his attendance even to give evidence as a witness would in some way put him at risk of being seen as having submitted to the English jurisdiction. I simply cannot believe that that could be a proposition of Malaysian law, since I know very well, from the judgment of the appellate court to which I have referred, how steeped the law of Malaysia is in the Western common law tradition.

15 So I have to say that even at this stage of this case, I cannot discern the slightest justification or reason why the husband is not here and, as I have said, I regard it as deeply regrettable that he is not here in defiance of the rule. There are many, many things that have arisen during the course of this hearing, yesterday and today, that I would like to have discussed very directly with these parties, possibly through their advocates but nevertheless face-to-face with them. I have been disabled from doing so in breach of the express purpose of that rule.

16 The last negative to which I wish to refer is the ever escalating legal costs. In order to update the figures that were given in paragraph 3 of my judgment of

13th March 2014, as at that date, I have established that they are now as follows. The costs that the wife has incurred to the conclusion of this hearing, inclusive of VAT and inclusive of the costs referable to the meeting in Paris on Monday, are now £1,092,600. That is an increase of £160,000 in the seven weeks or so since the hearing on 13th March 2014. The costs which she has now incurred to date in Malaysia are £185,000. That is an increase of about £90,000 since 13th March. So the global total costs incurred by the wife to date, inclusive of English VAT, is £1,277,600. She has not paid all those costs. She currently owes her English lawyers £115,663 and owes her Malaysian lawyers £96,370.

17 On the husband's side, his total costs here in England, to the end of this hearing, inclusive of the costs of the meeting in Paris on Monday, are now £745,000. So in the seven weeks since 13th March, his English costs, which are all net of VAT, have increased by £178,000. His total costs to date in Malaysia are the equivalent of £273,000. I cannot say what the increase has been in his case since 13th March, for I was never told on that date what his Malaysian costs were at that date. So the total worldwide costs incurred by the husband to date are £1,018,000. He owes his English lawyers £115,000 and owes his Malaysian lawyers £158,000.

18 Adding up the global figures on each side, the total costs that these two parties have incurred to date on this worldwide litigation are just short of £2,300,000. In fairness to the wife, the point needs to be made and stressed that she is liable to English VAT; the husband is not. So in order that a fair comparison is made between their respective spendings there would need to be added to the husband's total expenditure a notional amount of VAT on his English costs, which would be a further £149,000. So, comparing like for like, he has spent worldwide the equivalent of £1,167,000, which is only about £110,000 or roughly 10% less than the wife. All this, I stress, is on preliminary skirmishes, with the exception only of the meeting in Paris.

19 I had expected that the focus of this hearing this week would be an application by the wife for a *Hemain*-type injunction, restraining the husband from proceeding further with his suit for divorce in Malaysia. That, in fact, has currently been overtaken by events and rendered unnecessary, for the effect of the decision of the appellate court in Malaysia is that currently there is no decision in a Malaysian court that the courts in Malaysia even have jurisdiction in this case. On any view, it would seem that many months are likely to pass before such a decision is reached if, indeed, it ever is. That is because there is first the prospect, which may or may not materialise, of further appeals to the Federal Court of Malaysia, and potentially after that the need for a fact-finding hearing at first instance in Malaysia on the issue of

domicile. So for the time being the husband can no more achieve an actual divorce in Malaysia than the wife can here. To that extent, at least, they are currently in a state of equality or equilibrium.

20 As a result, the focus of this hearing changed to two quite separate and discrete issues. The first issue is an application that the wife first made some time ago to be enabled procedurally to issue a fresh petition for divorce, based on different alleged facts as to the jurisdiction of this court. The second issue is the wife's predictable application for further maintenance pending suit and also legal funding provision, since the limited order that I made on the last occasion was expressly to provide for maintenance and legal funding up to the conclusion of this hearing, but not afterwards.

21 I will now deal with each of these issues. The wife first presented an English petition for divorce on 14th February 2013. Within Part 3 of the prescribed pro forma petition she identified that the court has jurisdiction to hear this case under "Article 3(1) of the Council Regulation (EC) No. 2201/2003 of 27 November 2003" and also under a heading "Other". In amplification of those two headings she, or her solicitors, wrote in the box in the form: "The petitioner has resided in England and Wales for at least a year, or the petitioner has resided in England and Wales for at least 6 months and is domiciled in England and Wales". Within the pro forma boxes she further

identified the following ground of jurisdiction, namely, "The court has jurisdiction other than under the Council Regulation on the basis that no court of a contracting state has jurisdiction under the Council Regulation and the petitioner is domiciled in England and Wales on the date when this application is issued". It can be seen, therefore, that at that stage, namely mid-February 2013, she was propounding jurisdiction on a range of alternative bases. One was that she had been resident here for at least year; another was that she had been resident here for at least six months and, in that case or in the case of the residual jurisdiction, also that on 14th February 2013 she was domiciled in England and Wales.

22 All of that was put in issue by the husband in his acknowledgement of service in this case, in which he said: "The petitioner was not domiciled in England and Wales on the date of her petition or habitually resident for 6 months (or 12 months) prior to the date of the petition, and therefore the court does not have jurisdiction." I mention that that document, like many other documents lodged by or on behalf of the husband, is headed very clearly "Without prejudice or submission to jurisdiction". So from first to last he has always made crystal clear that he does not submit voluntarily to the jurisdiction and protests the jurisdiction of the court. The effect of that acknowledgement of service was that an issue was identified as to whether the grounds of

jurisdiction propounded in the petition in mid-February 2013 did, in fact, exist at that date.

23 The wife has addressed this by various statements that she has made. It is a conspicuous feature of this case that now, over a year into these proceedings, the husband has not yet made a single statement of any kind in these English proceedings, nor himself said a single word directed to these issues of domicile or habitual residence. Instead, his case is to be found only in the copious skeleton arguments and similar documents prepared by his lawyers.

24 As long ago as July 2013, no less than ten court days were identified and booked for a hearing in October 2014. On the agenda for that hearing are currently two essential matters. One is consideration, as a matter of both fact and law, of whether or not on any of the grounds propounded in her existing petition dated February 2013, this court does actually have jurisdiction. As part of that aspect, Mr Tim Bishop QC and Mrs Rebecca Bailey-Harris and Miss Katherine Cook, who all appear on behalf of the husband, have put down the marker that they intend to make a logically prior application at that hearing in October to refer this case to the Court of Justice of the European Union for that court to make some rulings as to the correct interpretation of the relevant parts of the relevant Council Regulation. I do not think it is necessary for the purposes of the present judgment and my decision today to

elaborate the points that Mr Bishop and Mrs Bailey-Harris and Miss Cook have trailed. They relate to a well-known apparent ambiguity in some of the indents in Article 3.1 of Council Regulation EC 2201/2003, upon which indeed there has been some divergence of view amongst English judges. The argument really stems from the fact that each of indents five and six of the regulation first uses the phrase "habitually resident" and then uses the unqualified word "resided".

25 Quite separately from all those issues of fact and law in relation to jurisdiction, and possible referral to the Court of Justice of the European Union, there is also on the agenda for the October hearing an application by the husband mirroring that which the wife has already made (albeit so far unsuccessfully) in Malaysia for a discretionary stay of these English proceedings. There is no doubt that unless, as I desperately hope, this case is settled before then, the courts of both England and Wales and Malaysia are going to have to face up to this issue of whether or not there should be a discretionary stay and, if so, here or there. So as things currently stand, the issue of stay will, on any view, firmly remain on the agenda for October.

26 The wife has, however, now applied for an order or orders which would have the effect of enabling her now to file a completely new or fresh petition of which previous drafts are in the bundle, but the final draft version was handed

to me today. This is a petition that she would wish to issue just as soon as she is administratively able to do so after the conclusion of this hearing. It would accordingly bear a date very early in May 2014. It again ticks the same boxes in the pro forma prescribed form of petition and elaborates her position by the added words: "The petitioner is habitually resident as she has resided in England and Wales for at least a year immediately before the petition was issued. Further or alternatively the petitioner is habitually resident as she has resided in England and Wales for at least 6 months immediately before the petition was issued and is domiciled in the United Kingdom". Pausing there, I am inclined to think that correctly the wording should be "domiciled in England and Wales which is within the United Kingdom", but that is a matter of supreme technicality which is not germane to anything that I have to decide.

27 The essential reason why, and purpose for which, the wife and her advisers seek to issue this fresh petition is, of course, to anchor the issue of domicile not on 14th February 2013 but in early May 2014, and to identify the end date for the periods of either one year or six months of habitual residence as being, not 14th February 2013 but early May 2014. Mr Richard Todd QC and Mr Nicholas Yates very firmly say, on behalf of their client, that neither she nor they in any way resile from the proposition that even as at 14th February 2013 she was domiciled here and had already had a year, or at any rate six months,

of habitual residence here. But the husband, through his lawyers (but not yet through his own words), asserts otherwise, and so the wife, and her legal team, suggest that it would be more economical of time and expense to eliminate a sterile and unnecessary argument and fact-finding with regard to the situation as it was on and before 14th February 2013, and focus instead on the position as it is, and has been for the year preceding early May 2014. They strongly believe, and confidently submit to me, that if the wife is in a position to present this proposed fresh petition, that will eliminate considerable areas of dispute from the hearing fixed for October. They anticipate, indeed, that it must remove altogether any possible continuing dispute with regard to jurisdiction, since the husband himself has apparently accepted that the wife has, on any view, been living here since October 2012.

28 At the hearing on 13th March 2014 the question of substituting a fresh petition was indeed touched upon. Rule 7.7 of the Family Procedure Rules 2010 provides as follows:

> "7.7
>
> (1) Subject to paragraph (2) [which is not in point in this case], a person may not make more than one application for a matrimonial … order in respect of the same marriage … unless -

(a) the first application has been dismissed or finally determined; or

(b) the court gives permission."

29 The original stance on behalf of the wife was that the court should give permission under sub-paragraph (b) for a second petition to be filed and current at the same time as the original petition. Clearly it is possible in some circumstances for there to be two extant, concurrent applications or petitions, since rule 7.7(1) contemplates that possibility. However, I made very clear to the wife's side at the last hearing, and again very early on in this hearing, that I most certainly would not exercise the discretion under paragraph (b) of that rule so as to permit her to have on file two concurrent petitions. It seems to me that such an approach would run quite counter to the overriding objective and would mean that the court had to embrace concurrently a raft of issues of law and fact as to the situation as it was on 14th February 2013, and a separate raft of issues of law and fact as to the situation as it is, in early May 2014. Further, the husband is certainly entitled to know exactly how the wife's case is finally being put and the case that he has to meet. So for those reasons I have, frankly, not permitted any argument to be developed around the concept of the court granting permission under sub-paragraph (b) for two concurrent petitions.

30 Mr Todd has, frankly, very readily and rapidly accepted that. So what he now seeks is a complete termination of the existing petition so that he can immediately thereafter present this proposed fresh petition. It does seem that it is not open to a petitioner in proceedings for divorce to "withdraw" a petition, even though in a number of other contexts of family law orders are often made giving to a party permission to “withdraw” some application. In other words, he cannot get through the absolute embargo in rule 7.7(1) unless the existing application or petition "has been dismissed". The wife cannot dismiss it. Only the court can dismiss it.

31 Accordingly, the present application on behalf of the wife is that I should here and now dismiss her existing petition without, of course, any adjudication upon the merits of any aspect of it, which would then clear the way for the wife immediately to issue a fresh petition (of course paying a fresh fee) just as soon as her solicitors can get to the counter of the registry of issue.

32 Any exercise of a power by the court, including the undoubted power to dismiss the petition, of course involves the exercise of a discretion. It is, however, striking that in a number of passages during the course of the hearing on 13th March 2014 Mr Bishop QC, on behalf of the husband, seemed to accept and agree that if the wife wished to have her present petition dismissed with a view to immediately presenting a fresh one, then there was

little obstacle to that being done. He did, of course, very rigorously oppose the proposition that there might be two concurrent petitions as a result of the court giving permission under sub-paragraph (b). But it is, I think, only fair and appropriate to read some brief passages from the verbatim transcript of that hearing. First, on page 22, in the first part of the page, I was making the point that I could only have two days available for the present hearing and it could not possibly go on beyond … (I said optimistically 4.30 today, although I observe that it is now already 6.05). Mr Bishop replied: "Yes. My Lord, there is an alternative - that is, the two applications made by the wife are the ones that are listed for that occasion, i.e. the one for the issue of the second petition, which should take five minutes, as your Lordship rightly says …". I interjected by saying: "I would have thought that that could be dealt with. If the wife says, 'I wish to substitute - substitute - a petition on a different jurisdictional basis which now obtains, but I accept that it is substitution and my first one is scrapped', I cannot see any rational or legal basis or requirement to refuse that …". Mr Bishop did not at any stage around that express disagreement.

33 Then, at internal page 35 of the transcript, there is a passage in which I was discussing this matter with Mr Todd. I said at line 13: "At the moment, Mr Todd, it seems to me that you are perfectly entitled to dismiss or have dismissed on your application if you choose to make it, your first petition and

then you can immediately pay a fee and present another one. Patently, issues as to costs of and incidental to the first petition might be live issues either way, and at some point they would have to be resolved …". At the end of that page I said, in summary of the discussion on that page: "So I would have thought the way to deal with that is that. Are you happy to do that?" Mr Todd replied: "We are, yes, my Lord". I then turned to Mr Bishop and said: "Mr Bishop, can you resist that?" He replied: "We have no right to resist an application by this wife to withdraw that petition". Mr Justice Holman: "Not withdraw; to dismiss". Mr Bishop: "To dismiss it or have it dismissed". Mr Justice Holman: "Without adjudication of the merits". Mr Bishop: "Yes. Of course in those circumstances we would say that there are profound consequences for her, both in terms of costs and also it must be borne in mind that it is only because she put in that petition that she was able to make applications under the Family Law Act and also in relation to maintenance pending suit".

34 Then there is a passage at the bottom of page 37: Mr Justice Holman: "I am not talking about withdrawal; I am talking about dismissing". Mr Bishop: "Dismissal, apply for it to be dismissed by consent". Mr Justice Holman: "No, not by your consent". Mr Bishop: "The point remains the same, my Lord". Mr Justice Holman: "Nobody is obliged to proceed with a petition for divorce. So she is presenting one, she now wants to present a different one. I

can scarcely stop her". Mr Bishop: "Quite, but if it were to be the case that the court were to approbate a system whereby there were two on track, or someone put one petition in to get a foot in the door, another which is sufficient (the days having been accomplished) to satisfy indent five of Article 3 of Brussels II, we say that does have very profound public policy implications indeed". Mr Justice Holman: "The only way to stop that would be by some rule which does not exist which says if you once presented one petition you could never present another. Mr Todd may be opening himself to a huge row about costs". Mr Bishop: "Of course". …

35 It is fair to say that in that last passage Mr Bishop did finally refer to "very profound public policy implications", but, subject to that one reservation, in passage after passage he himself regarded this as a five minute and frankly open and shut point. Therefore, it is a matter of some interest and surprise that the bulk of the present hearing has in fact been taken up with this issue of whether or not I should accede to the application of the wife to dismiss her first petition and, if so, on what terms. It has indeed generated a most interesting skeleton argument settled by Mr Bishop, Mrs Bailey-Harris and Miss Cook of some 25 pages.

36 The essential argument by all those counsel on behalf of the husband is that if I do exercise a discretion to dismiss the existing petition, so as to enable the

wife, if she chooses to do so, to present a fresh petition, I should do so on terms that the fresh petition is immediately stayed until there is a final determination in Malaysia, which either grants a divorce there or concludes that there cannot be a divorce in Malaysia for some reason, whether as to jurisdiction or otherwise. They do indeed say in their skeleton argument, and by Mr Bishop's sustained submissions today, that this application, which was previously perceived as a five minute application, raises "compelling reasons of public policy" and that what the wife and her lawyers seek to do is a grave abuse of the process of the court.

37 By their written submissions and during the course of Mr Bishop's oral submissions today, we have heard the familiar metaphors of floodgates, and coaches and horses, with some other metaphors, including trying to enter the proceedings by a different back door, and trying to reset the clock. The most colourful metaphor, in paragraph 47 of their written document, is as follows:

> "To file prematurely is the equivalent of laying one's towel at dawn upon the sun lounger of the English court and returning at high noon to bask in the warmth of the law of England and Wales on divorce and financial remedies."

But behind all these metaphors, the essential argument is that what the wife has done, and now seeks to do, is an abuse of the process, and that if I countenance it and give effect to it I would be opening the door or, indeed, floodgates, to a torrent of forum shopping divorce petitions or applications here. Mr Bishop said, indeed, that if I accede to this application I would become "the friend of the forum shopper". I very much doubt whether there is currently any judge of the Family Division who is less of a friend of forum shoppers than myself. I have, I think, made very plain, even in my first judgment in this case, how much I deplore the legal manoeuvrings that are forum shopping at enormous expense, clogging up the courts, and deflecting from focus on the real issue of fair financial negotiation. Nevertheless, I must meet Mr Bishop's challenge that I am at risk of becoming the friend of the forum shopper.

38 He says that there are four very strong reasons indeed why I should not dismiss the present petition so as to permit the wife to present a fresh petition, except upon terms that that petition is immediately indefinitely stayed, as I have already described. First, he says there is a question of principle. He says that I should vigorously discourage any practice that encourages or endorses forum shopping. He says that Article 3.1 of Council Regulation EC 2201/2003, and the well-known Borrás commentary thereon, makes quite clear that there should be no resort at all to the courts of a particular Member

State unless and until the requirements of one or more of the indents of Article 3.1 are established. He says there must be a "genuine connection" with the courts of the Member State in question from the very outset. He says that the principle requiring that genuine connection, and a clear jurisdictional basis, before an application or petition is ever issued would be fatally undermined if in this case I were to now permit the wife to change her petitions. Using counsels' metaphor of the towel on the sun lounger, he says that in February 2013 the wife was merely putting out her towel to reserve her place, and that it is only now, in the high noon of May 2014, that she actually seeks to use it.

39 Second, Mr Bishop says that if this sort of practice or conduct is given the slightest judicial endorsement it would run a risk of severe prejudice to prospective respondents everywhere. That point is elaborated in paragraph 54 of counsels' skeleton argument today, where the three counsel wrote:

> "The respondent may lose the opportunity to obtaining a decree in an overseas jurisdiction within the period before which the petitioner could legitimately present an English petition. For instance, if the marriage were to break down within a day of the arrival of the petitioner in England, and the respondent were forthwith to petition to divorce in the overseas jurisdiction, it is entirely legitimate for him to

be able to progress that petition to a decree prior to the petitioner being able to present an English petition. If, however, a holding petition is filed in England, the petitioner may well succeed in obtaining an *Hemain* injunction to prevent the respondent obtaining the overseas decree to which he is in truth entitled."

40 My answer to that particular paragraph and point is that it is simply not the facts of this case. Even if the wife had not petitioned here at all, the husband has not yet been able to obtain a divorce in Malaysia and may still be a considerable distance from being able to obtain one, if ever. At the moment, following the decision of the appellate court in Malaysia (and the wife would presumably have appealed the point whether or not she had also presented a petition here), the courts of Malaysia have not yet reached any determination that they have any jurisdiction at all. Nor in this case has there been to date any grant of a *Hemain*-type injunction, nor will there be into the foreseeable future. If and insofar as Mr Bishop, Mrs Bailey-Harris and Miss Cook raise the spectre that "the petitioner may well succeed in obtaining an *Hemain* injunction to prevent the respondent obtaining the overseas decree to which he is in truth entitled", they overlook that the grant of a *Hemain*-type injunction is discretionary and, in my view, an important consideration in the forefront of the mind of the court when deciding whether or not to grant a *Hemain* injunction is the apparent jurisdictional strength of the current

petition here. If it can be shown that the jurisdictional basis of the English and Welsh petition is unclear or "dodgy", then that might operate very strongly indeed against a discretionary grant of a *Hemain* injunction.

41 Mr Bishop, Mrs Bailey-Harris and Miss Cook then say at paragraph 55, still as part of the risk of severe prejudice to respondents everywhere, that:

> "It may well be that the timing of the English petition is accorded significant, perhaps decisive significance, by the law of the competing overseas jurisdiction. If that is so, it is plainly unfair for those overseas proceedings to have been derailed by an English 'holding petition' which should never have been issued on the date in question because it was premature. Some jurisdictions, particularly civil law jurisdictions such as Switzerland and Monaco, give clear priority to the consideration of first in time in their rules of private international law."

The references to Switzerland and Monaco are, of course, very erudite, but the facts of this case do not engage either Switzerland or Monaco nor, indeed, any other Member State of the European Union. The facts of this case engage England and Wales, on the one hand, and Malaysia on the other hand. There is no evidence whatsoever that the precise timing of the English petition in the present case, relative to the Malaysian petition in the present case, has been

accorded any particular significance. So again that is simply not part of the facts of this case.

42 Mr Bishop, Mrs Bailey-Harris and Miss Cook then, as their third point, make reference to the law in relation to estoppel. They quote a passage from the judgment of Lord Denning in *Amalgamated Investment and Property Company Ltd (in Liquidation) v Texas Commerce International Bank Ltd* [1982] QB 84, in which Lord Denning said, at page 122:

> "The doctrine of estoppel is one of the most flexible and useful in the armoury of the law … When the parties to a transaction proceed on the basis of an underlying assumption - either of fact or of law - whether due to misrepresentation or mistake makes no difference - on which they have conducted the dealings between them - neither of them will be allowed to go back on that assumption when it would be unfair or unjust to allow him to do so. If one of them does seek to go back on it, the courts will give the other such remedy as the equity of the case demands."

Of course that passage, relating as it does to transactions in a commercial context, is very far removed from the sort of situation with which I am faced in the present case. But, slightly more closely, counsel rely also on a passage

in the judgment of Lord Scarman in *Castanho v Brown & Root (UK) Ltd and Anor* [1981] AC 557. In a passage at page 571, Lord Scarman said:

> "Even if it be illogical (and I do not think it is) to treat determination of legal process as an act which can be an abuse of that process, principle requires that the illogicality be overwritten, if justice requires. The court has inherent power to prevent a party from obtaining by the use of its process a collateral advantage which it would be unjust for him to retain: and termination of process can, like any other steps in the process, be so used …"

Clearly, therefore, one has to be alert in any situation such as this to see whether a party is trying to obtain "a collateral advantage" by "termination of process" of the proceedings before the court. The facts of *Castanho v Brown & Root* were, however, very far removed indeed from the facts in this case. Not only did the case involve civil litigation for damages, but what the plaintiff was seeking to do was discontinue his civil claim in England and Wales altogether so as to enable him to start up a separate claim in respect of the same accident in the courts of Texas. Meantime, however, he had obtained, in the proceedings here, not only an interim payment of damages but also, very significantly, an admission by one of the defendants of liability on the face of the English pleadings. Notwithstanding those facts and that

passage in the judgment of Lord Scarman (with whom all their other Lordships agreed), the outcome of that case was that the plaintiff was able to discontinue his proceedings here.

43 In the present case Mr Bishop says that the wife has already obtained a number of advantages or benefits from the existing proceedings on her existing petition and that it would be an abuse of process, or more precisely, he said a "close cousin of abuse of process", for me now to dismiss the present proceedings, without a term as to an immediate stay of future proceedings, so enabling her simply to start again. He says, correctly, that from the moment the wife issued her petition she obtained a right to apply for maintenance pending suit in February 2013. He says, correctly, that she did in fact apply for maintenance pending suit during April 2013. He says, correctly, that in response to that the husband voluntarily made a payment to her, of the equivalent of £1,850,000. He says, correctly, that the wife has more recently made two further applications for maintenance pending suit and that I myself, at the hearing on 13th March 2014, made an order for maintenance pending suit and a legal services order in the total sum of £170,000. Mr Bishop also says that she has, during the subsistence of the present proceedings, made three applications for *Hemain*-type injunctions, although, as I have previously said, none has ever actually been made by the court. So he submits that the wife has already used that first petition to obtain

considerable advantages or "collateral advantages", which it would be unjust for her now to retain if she now terminates the present proceedings with a view to starting fresh ones.

44 The real advantages that she has undoubtedly obtained have been the payments, first, of £1,850,000 and, second, of £170,000. But, as Mr Todd rightly stresses, all those payments have been made on a very clear recited basis that the payments are made "on account of the petitioner's claims in any jurisdiction for financial provision arising from the breakdown of this marriage". So she has so far received just over £2,000,000. As Mr Todd forcefully points out, these parties were married to each other for around no less a period than 42 years. As the wife is now aged 68, she has been married to this man since her mid-twenties. He was a little older. She has borne five children. There is some dispute as to the scale of his wealth and financial circumstances at the time of the marriage, but the wife asserts (and there is not a shred of evidence yet from the husband at all) that his means at that time were modest and pale into insignificance relative to his wealth now, which she believes to be of the order of £400 million or more. So, as Mr Todd says, this was a marital partnership of 42 years and it was during the course of that partnership, whilst she was his wife and the mother of his children, that he was able to amass his vast wealth, whatever the precise extent of it now. So, as Mr Todd says, in any jurisdiction anywhere in the more Western world, she

has a very substantial claim indeed for capital provision. The wife's side believe that it is a claim measurable in hundreds of millions of pounds but, on any conceivable view, it is a claim measured in several or many tens of millions of pounds. It may or may not be that she would achieve an award of that scale before the courts in Malaysia. But, as Mr Todd points out, there are very substantial assets here in England and Wales, and if it were to be the case that there was finally a divorce in Malaysia and an award for her was so low as not even to run into the low tens of millions of pounds, then she would at once be on very strong ground indeed for making an application for financial provision under the provisions of Part III of the Matrimonial and Family Proceedings Act 1984.

45 So behind all of that is this short point by Mr Todd, which I frankly find very convincing. Mr Bishop says, "Look at the advantages and benefits that this wife has already achieved on the back of her petition issued in February 2013. She has received from him about £2,000,000". But Mr Todd says that she has received it, as I have said, expressly on the basis that it is on account of her claims. So it is, in fact, no more than a payment upfront out of matrimonial assets of a very modest amount relative to the sort of sums that this man must inevitably sooner or later pay to her. She has had no advantages and no benefits at all. She is, on any view, entitled to very considerably more than those sums.

46 The fourth point that Mr Bishop, Mrs Bailey-Harris and Miss Cook make is to refer to what Mr Bishop now describes as "the vast wastages of legal costs". Mr Bishop says that under this heading he is not making a point of principle but, rather, a “pragmatic and economic point” with regard to costs. He says that there have already been these numerous and expensive hearings here, and that they were all "on a premise as to jurisdiction which she now disavows". However, it is not right to characterise her, or her legal advisers, as "disavowing" that jurisdictional premise. Mr Todd has made crystal clear that she and her advisers remain confidently of the view that her existing original petition is well-grounded. It is, indeed, precisely to try to reduce further wastage of legal costs and further quite unnecessary legal arguments around the jurisdictional basis of the petition presented in February 2013, that they now seek to cut through all those arguments by the simple expedient of presenting their proposed fresh petition.

47 I wish to make crystal clear that my decision in this case is utterly fact-specific to the facts and circumstances of this case and no other. I am not a friend of the forum shopper. I have not the slightest desire or intention of opening floodgates or driving perilously on a coach and horses. If I thought for one moment that the wife and/or her advisers had at any stage acted in bad faith, then, of course, I would take a very different view. Mr Bishop makes

plain that he makes no allegation of bad faith against Vardags, nor of course against the wife's team of barristers. But he does say that she has acted in bad faith and that she was deliberately placing her towel on the sun lounger long before she was entitled to do so, as she well knew. I repeat, there is not a word of evidence in this case by or on behalf of the husband. I do not have the least reason to conclude that when the petition was presented in February 2013 either the wife personally or her advisers were acting in bad faith, or intending to act abusively. No doubt they foresaw the possibility of a jurisdiction race and felt that there were advantages in rapidly petitioning here. But it was, and remains, her case that the jurisdictional bases were made out and it has not in any way been established that they were not.

48 In my view, on the facts and in the circumstances of the present case, no real question of principle arises despite the attractive and valiant arguments of Mr Bishop, Mrs. Bailey-Harris and Miss Cook. Rather, I do feel that in exercise of my own duties under the overriding objective and rule 1 of the Family Procedure Rules, I should enable the wife to do what she now seeks to do, which I hope at any rate may eliminate or narrow some of the areas in dispute. So, for those reasons, I do intend unconditionally to dismiss the present petition that was filed on 14th February 2013 and the order must, of course, make express on its face that I do so without any adjudication whatsoever on any of the merits of any aspect of that petition, whether as to jurisdiction or

the unreasonable behaviour alleged, or any other matters within it. I do not then need to say anything permissive at all for the wife to present a fresh petition, for she is simply enabled to go forthwith to the registry, pay the fee and do so.

49 However, I move now to the question of further maintenance pending suit and further legal funding provision. Having now dismissed that petition of 14th February 2013, I do not at this precise moment have any jurisdiction to make any further orders since there are no proceedings before the court. So I wish to make crystal clear that the orders which I now propose to make with regard to maintenance and legal services funding are made upon the express undertaking by the wife, which must be recorded in the order, that she will forthwith issue a fresh petition in, or substantially in, the terms of the draft that was handed up today, and the orders which I will go on to make will only take effect, at the earliest, upon the date upon which that petition is issued. This, of course, is a pragmatic course. The alternative would be for me simply to adjourn this issue of maintenance until next week and deal with it then when the fresh petition had actually been issued and was produced to me. As I have indicated, I am not available next week, and since the cost in this case of everybody assembling in this courtroom seems to be well over £50,000 a day, that would be an extremely time-wasting and cost-wasting step.

50 So the issues that now arise are, first, provision of maintenance pending suit in the next stage of this English litigation between now and the end of the projected ten day hearing in October. At the hearing in March I made an order for maintenance pending suit at the rate of £35,000 per month and, from the outset of the hearing yesterday, Mr Bishop made plain that the husband makes an open offer to continue to pay maintenance pending suit at the rate of £35,000 a month for each of the five months from May to September inclusive. I made plain at a very early stage to Mr Todd that I was highly unlikely to be willing to increase that amount and, when he came to deal with maintenance pending suit, he, on behalf of the wife, did not press that I should do so. So the upshot is that, probably by consent, there will be an order for interim maintenance pending suit at the rate of £35,000 per month to be payable on a date to be identified in the order, which will be around the 13th of each month in the months of May to September inclusive. I observe that that maintenance pending suit, at the annualised rate of £420,000 per annum, net of any tax, is the equivalent under our tax regime of a gross income of around £770,000 per annum. Since the wife is also provided with the use of a £30 million mansion, surrounded by a thousand acres, with all the main running expenses and overheads separately paid, that seems to me to be a very fair and reasonable level of maintenance.

51 So the remaining question relates to further provision of legal funding. Here the resolute position on behalf of the husband is that she has already had more than enough and should have no more. Mr Bishop stresses that she has already incurred no less than £1,277,600 worldwide on these proceedings. That is, of course, a phenomenal sum but, as I have pointed out earlier, it is only about £100,000 or 10% more than the husband himself has incurred. Mr Bishop stresses that quite apart from provision of £950,000 from him towards her costs, she has had, since last April 2013, a sum of £1,070,000 for her general maintenance. He says, and I accept, that the husband's side have asked for bank statements, credit card statements and the like so that they can trawl over them and see where that money has gone. They say that she has completely failed to demonstrate how she has spent over a million pounds on her general maintenance in the space of a year, and it is the belief of the husband and/or his lawyers that she has in fact secreted a significant amount of money away somewhere which she could, in fact, use for costs. If, alternatively, she has not done so, then he says that she has been spending at an excessive rate and that, generally, her expenditure on legal costs has been far too high.

52 As an example, Mr Bishop instances the costs of the trip to Paris this very week. I have been told that the total amount to be billed by the husband's solicitors, Payne Hicks Beach, will be £19,250 plus a small amount for hotel

expenditure. Baroness Shackleton of Belgravia charged herself out at £620 an hour for ten hours, making £6,200. Her assistant, Mr Parry-Smith, was charged out at £245 for ten hours, making £2,450. Mr Bishop himself charged a fee of £10,000. There were some travelling costs totalling £650, making the total of £19,250. By contrast, on the wife's side, the accountant employed by Vardags was charged out at £11,500; Mr Todd charged £25,200; Mr Yates charged £12,600, and the two solicitors from Vardags charged in aggregate £16,220. Those figures total £65,520. It is right to say that they are inclusive of VAT whereas no VAT was charged to the husband. Additionally, there were certain travel and hotel disbursements on the wife's side making the total £68,000. So Mr Bishop says that if you compare the approximate £20,000 that the husband incurred on this day meeting in Paris with the £68,000 that the wife incurred, it really just goes to show how excessive and profligate her lawyers' expenditure has been.

53 It is not, however, as simple as that since, as I have said, if you compare their overall aggregate expenditure worldwide they have, in fact, expended fairly similar amounts. In any event, the answer of Mr Todd to all of this is the same answer that he made in relation to the point that Mr Bishop had made as to the advantages and benefits that the wife had already had under the February 2013 petition. All this expenditure is ultimately expenditure being financed by the wife herself out of relatively small sums that she is receiving

very specifically on account of her final claims. Mr Todd absolutely accepts that if, by final resolution anywhere worldwide, the wife was to receive, just taking a figure out of the air, £20million and she had meantime received, taking another figure out of the air, £5million towards interim maintenance and legal funding, the £5million will be deducted from the £20million. In short, Mr Todd stresses, this is no more than payments upfront of money to which this wife is, on any possible view, entitled after 42 years of marriage to this very rich man. Mr Todd says that there is really very little basis upon which the husband, or Mr Bishop on his behalf, can cavil at the figures. The overarching position of the wife really is that this is a period of supreme importance to her in her life and for her future security and fair distribution of the assets after this very long marriage, and that although the figures may seem, as I have said, eye-watering, from her perspective it is money very well spent.

54 In my view, there must plainly be further provision for legal funding. To leave the wife high and dry at this stage would, frankly, be to do the utmost injustice to her. I propose to consider that funding under three heads. First, Mr Todd asks that I should make one-off provision of £115,000 to enable the wife to discharge the arrears that she currently owes to Vardags. I am not willing to do that at this hearing today. Vardags have already received very considerable sums from her in relation to these proceedings. They are

carrying admittedly £115,000. That is a relatively small amount in proportion to the whole and, as far as I am concerned, unless the wife can find it from some other source, they must for the time being roll that over. In my very long experience, many firms of solicitors in this field have had a willingness to carry sums of that order for the duration of proceedings of this kind. If Mr Todd is right in his overarching proposition that sooner or later this wife will receive tens, if not hundreds, of millions of pounds, Vardags know perfectly well that in the end they will recover that money.

55 The second head is further provision specifically for further negotiations. As is apparent from my first judgment, and again this judgment, I am desperately keen that these parties should continue to engage in these negotiations. As I have said, the outcome of the meeting in Paris this week is agreed by both sides to have been fruitful and positive and, as it were, leading in the right direction. It would frankly be catastrophic, not only for the wife but also for the husband, if further funding was snuffed out for the purpose of at least the next sustained meeting, whether in Paris or anywhere else, during June. Mr Todd has asked that I should provide £50,000 plus VAT thereon of £10,000, namely a total of £60,000 for that purpose. In my view, it is reasonable and right that I should do so. So there will be a requirement that there is an immediate payment, during the course of the next two weeks or so, of £60,000 specifically for that purpose.

56 The third head is funding the future progress of this litigation, including, of course, enabling the solicitors to incur very substantial brief fees for the hearing in October. The original bid on behalf of the wife, in Mr Todd's and Mr Yates' skeleton argument, at paragraph 81, was for a little short of £100,000 per calendar month, or half a million pounds between now and the further hearing in October. That seems to me to be excessive and going beyond the bounds of what I can properly order having regard to the new legislation and earlier authority. In the light of an indication from me that I was unlikely to make an order in that sum, and indeed that if that was what Vardags and the present legal team required then the wife would have to consider instructing cheaper lawyers, Mr Todd revised his proposed figure this afternoon to £60,000 a month inclusive of VAT. That is a total figure of £300,000 between now and the October hearing, inclusive of VAT, or £250,000 net of VAT. To ordinary people such as myself, those also seem like enormous sums but, frankly, in the scale of this case and having regard to the rate at which the husband himself is expending legal costs, both here and Malaysia, it seems to me that a sum in those figures is both necessary and reasonable.

57 So there will be orders for general maintenance pending suit each month at the rate of £35,000 a month; there will be an order for a legal funding

payment specifically of £60,000 to be made within the next two weeks or so, specifically earmarked to fund the next round of negotiations; and in addition to those payments there will be an order for legal funding payments of £60,000 per month, to be payable on the same date as the maintenance pending suit, in each of the months May to September 2014.

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