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REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE Number: 31736/2021

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: YES

DATE: 2025/08/29

In the matter between: -

H: PK

Applicant

ID: 83.... 5..6 0..

AND

VDV: J

Respondent

ID: 91.... 0..7 0..

JUDGMENT

Van Niekerk, N, AJ:

Main application for the appointment of a Parental Coordinator - Counter application for the appointment of a Parental Coordinator; the appointment of a Forensic Psychologist; and the variation of Clause 2.3 of the Settlement Agreement which was made an order of Court on the 20th of November 2023, pending the finalisation of Part B of the Counter application.

Introduction:

[1] The Applicant brought an application during March 2025 for an order in the following terms:

- [a] That the parties be directed to comply with Clause 1.5 of the Settlement Agreement forthwith;
- [b] That Jana van Jaarsveld be appointed as a Parenting Coordinator (PC) with such functions and powers as stipulated in Annexure “FA3”, annexed to the Applicant’s founding affidavit, which functions and powers include but are not limited to the duties and responsibilities as stipulated in Clause 1.7 of the Settlement Agreement;
- [c] The Respondent to pay the costs of this application on an attorney and client scale *alternatively* High Court Scale B.

[2] The Respondent filed an answering affidavit, opposing the application, together with a counter application wherein she sought the following relief:

- [a] That condonation be afforded to the Respondent for the late filing of the answering affidavit;
- [b] That pending the finalisation of this application and Part B thereof, the Applicant shall be entitled to exercise contact with the minor child, S, as follows:

- [i] Alternative weekends, contact under the supervision of the Respondent or any other person nominated by the Respondent on a Saturday and a Sunday from 10h00 to 11h00, according to the schedule and routine of the minor child;
 - [ii] Further or alternative contact between the Applicant and the minor child will be scheduled between the Applicant and the Respondent at pre-arranged times and according to the schedule and convenience of both parties;
- [c] That pending the finalisation of this application and Part B thereof, the remainder of the Applicant's contact rights provided for in Clauses 2 and 3 of the Settlement Agreement incorporated in the decree of divorce issued by the above Honourable Court on 20 November 2023 shall be suspended and/or varied:
 - [i] That Lynette Roux, *alternatively* Astrid Martalas, *alternatively* such person as may be nominated by the Family Advocate, Pretoria, be appointed as a Parenting Coordinator (PC) with such functions and powers as stipulated in Annexure "X1" hereto, which functions and powers include, but are not limited, to the duties and responsibilities as contained therein;
 - [ii] That a Forensic Psychologist, being Dr Lõre Hartzenberg of Pretoria, *alternatively* Professor Gertie Pretorius of Randburg, *alternatively* a Clinical Psychologist nominated by the Chair of the Pretoria Bar or his or her nominee, be appointed to investigate and evaluate in regard to the best interests of the minor child born from the marriage relationship between the parties for insofar as care and contact are concerned;
 - [iii] Granting such appointed forensic psychologist permission to conduct the forensic investigation in relation to the Applicant, the

Respondent and the minor child, as well as in relation to all other related persons, for the purposes of enabling such forensic psychologist to provide a written report detailing his or her recommendations regarding:

- The best interests of the minor child born of the marriage relationship between the parties;
- Specifically regarding the manner in which the Applicant and Respondent should share their respective parental rights and responsibilities, as detailed in Sections 18, 19 and 20 of the Children's Act, 2005 in relation to the minor child.

[iv] Ordering the Applicant and the Respondent to cooperate with the investigation to be conducted by the appointed Forensic Psychologist as follows:

- To provide all necessary consents, feedback and information to the Forensic Psychologist as required by such Forensic Psychologist, to enable him or her to conduct the abovementioned investigation and to finalise his or her report in this regard;
- To make themselves and the minor child available to meet with the Forensic Psychologist as and when required by the Forensic Psychologist;
- To provide their full cooperation to the Forensic Psychologist in all other respects in order to enable the Forensic Psychologist to conduct his or her investigation and to issue his or her report in relation to the minor child's best interests.

[v] That the Applicant be ordered to pay the reasonable costs in respect of such Forensic Psychologist.

[d] The parties are permitted to supplement the affidavits filed in this application subsequent to the bringing out of a report by the Psychologist as envisaged *supra*. The Applicant to file such supplementary affidavit within 10 days from date of receipt of the report from the appointed expert and the Respondent within 10 days from date of receipt of the Applicant's supplementary affidavit.

[e] That Part B be postponed *sine die*.

[f] That the Applicant be ordered to pay the costs of this application *alternatively* that costs hereof be costs in the cause.

[3] At the commencement of the hearing of the matter a Draft Order was handed up and the Court was informed that the following were no longer in issue between the parties and that the Court should grant an order as provided for in the Draft Order in respect of the following aspects, that:

[a] Dr L Roux be appointed as Parenting Coordinator ("PC") with such functions and powers as stipulated in Annexure "X1" hereto, which functions and powers include, but are not limited to the duties and responsibilities as contained herein.

[b] The parties shall appoint a Forensic Psychologist nominated by the Chair of the Pretoria Bar and/or his or her nominee to investigate and evaluate in regard to the best interest of the minor child insofar as care and contact are concerned:

[i] Such appointed Forensic Psychologist is directed to conduct a forensic investigation in relation to the Applicant, the Respondent and the minor child as well as in relation to all other related persons, for the purposes of enabling such Forensic Psychologist to provide a written report detailing his or her recommendations regarding:

- [aa] The best interest of the minor child born from the marriage relationship between the parties;
 - [bb] Specifically, regarding the manner in which the Applicant and the Respondent should share their respective parental rights and responsibilities, as detailed in Sections 18, 19 and 20 of the Children's Act, 2005 in relation to the minor child.
- [ii] The Applicant and Respondent shall cooperate with the investigation to be conducted by the appointed Forensic Psychologist as follows:
 - [aa] To provide all necessary consents, feedback and information to the Forensic Psychologist as required by the Forensic Psychologist, to enable him or her to conduct the abovementioned investigation and to finalise his or her report in this regard;
 - [bb] To make themselves and the minor child available to meet with the Forensic Psychologist as and when required by the Forensic Psychologist;
 - [cc] To provide their full cooperation to the Forensic Psychologist in all other respects in order to enable the Forensic Psychologist to conduct his or her investigation and to issue his or her report in relation to the minor child's best interests.
- [c] The parties are permitted to supplement the affidavits filed in this application subsequent to receiving the Forensic Psychologist's report as envisaged *supra*. The Applicant to file such supplementary affidavit within 10 days from date of receipt of the report and the Respondent within 10 days from date of receipt of the Applicant's supplementary affidavit.

[4] At the outset of argument before Court the counsel on behalf of the Applicant (Ms Carstens) recorded and this was confirmed by counsel on behalf of the Respondent (Mr Haskins SC) that the remaining issues to be determined by Court were the following:

[a] Whether or not the Applicant's contact rights to the minor child as stipulated in Clause 2.3 of the Settlement Agreement and referred to as Phase 2 of his contact implementation should be implemented or varied pending the finalisation of Part B of the Respondent's counter application, or at all.

[b] Whether the parties should be liable on an equal basis for the costs of the Forensic Psychologist or the Applicant should be solely responsible for such costs.

[c] Costs of the application.

Common cause facts:

[5] The Applicant and the Respondent were married to each other on 15 October 2016 and they were divorced by way of a decree of divorce, dated 20 November 2023, incorporating a Settlement Agreement entered into between the parties.

[6] From the marriage between the Applicant and the Respondent one minor child was born and for purposes of this Judgment reference to the minor child will be "*the minor child or S*", a girl born on 8 January 2021, currently aged 4 years and 7 months.

[7] In terms of the Settlement Agreement which was made an order of Court the contact of the Applicant to the minor child was structured to be phased in and Phase 1 was to be implemented until the minor child reached the age of 4, whereafter Phase 2 was to commence.

- [8] On the papers it seems to be common cause that Phase 1 was implemented and contact was exercised by the Applicant on alternative weekends, on a Saturday and a Sunday from 09h00 to 12h00 under the supervision of the Respondent or any other person nominated by the Respondent.
- [9] Since the granting of the divorce until May 2024, the Respondent supervised the contact, but due to an incident which the Respondent perceived to be threatening she nominated a Social Worker, a certain Tronel van Rooyen to supervise the contact with her.
- [10] It needs to be mentioned that Ms van Rooyen was previously appointed as the Supervisor in terms of the Rule 43 Court order granted on 11 May 2022 by agreement between the parties.
- [11] Ms van Rooyen attended to the supervision of the contact together with the Respondent until approximately December 2024 when she was not available to supervise contact and an alternative Social Worker, a certain Kim Wright, was nominated to also assist with the supervision. Since December 2024, the visits were supervised by either Ms van Rooyen or Ms Wright, together with the Respondent.
- [12] In terms of the Settlement Agreement, Phase 2 of the phasing in process of the contact between the Applicant and the minor child were to commence when the minor child turned 4 years old in January 2025.
- [13] Before Phase 2 could commence, however, the Respondent, in a letter from her attorney of record, VZLR Attorneys, dated 14 January 2025, recorded that the Respondent instructed them to approach Court to amend the current Court order in the best interest of the minor child and that pending such application Respondent tendered contact between the Applicant and the minor child as per the then *status quo*. This decision by the Respondent was apparently influenced by the Respondent's own observations of the Applicant's conduct during a contact session which took place on 1

December 2024, the test results of the Applicant's urine of the 1 December 2024 and the observations of the Social Worker, Ms van Rooyen.

- [14] It was recorded on behalf of the Respondent that she was concerned for the minor child's safety and that she felt obligated to protect the minor child's overall well-being. As a result, the Applicant's contact to the minor child was not extended as per the Settlement Agreement and he continued to exercise his contact for 3 hours on an alternative Saturday and Sunday, under supervision of the Respondent and either Ms van Rooyen or Ms Wright.
- [15] At some stage during 2025 and seemingly since approximately May 2025, the Respondent further curtailed the Applicant's contact to the minor child to 1 hour visits on a Saturday and a Sunday on every alternative weekend based on a report by Ms van Rooyen dated 30 April 2025, which report is attached to the answering affidavit of the Respondent as Annexure "AA5", and wherein the social worker concluded that future visits should be limited to 1 hour.
- [16] The Respondent did not bring an application to Court, notwithstanding recording in January 2025, that such an application will be launched. She proceeded to limit the Applicant's contact to the minor child and did not allow him to exercise contact as per the Court order without launching an application to Court. Thereafter, without a court order in place amending the settlement agreement she proceeded to unilaterally further curtail the Applicant's contact, to two hours every two weeks. She only launched her Counter application to vary the Court order as part of her Answering affidavit to the Applicant's application, which was filed two weeks out of time, and served on the 23rd of May 2025, more than four months after she unilaterally decided not to comply with the existing Court order.
- [17] It is necessary to note that the Settlement provided for further and alternate contact between the Applicant and the minor child to be scheduled between the Applicant and the Respondent and recorded that the parties agreed to

make every effort to be flexible and accommodating to one another's schedule.

- [18] When Ms van Rooyen, in her report of 30 April 2025, concluded that future visits should be limited to 1 hour, this was immediately implemented by the Respondent without any proposal that although the contact sessions should be limited to 1-hour sessions, the visits should take place more frequently and not only every alternative weekend. As a result of the Respondent's decisions the Applicant is presently only allowed contact under supervision every alternative weekend on a Saturday and a Sunday for 1-hour visits. The result of the Respondent's decisions was that the Applicant's contact, which was supposed to be extended to 16 hours every alternative weekend (at least 32 hours per month), from the 8th of January 2025, was limited to 4 hours per month.

Reports by third parties:

- [19] Attached to her answering affidavit the Respondent filed reports by three third-parties, being the Social Worker, Tronel van Rooyen ("*Ms van Rooyen*"); the Social Worker, Kim Wright ("*Ms Wright*"); and the Play Therapy registered Counsellor, Lianca Fourie ("*Ms Fourie*").
- [20] Ms Carstens, on behalf of the Applicant raised an issue in respect of these reports *inter alia* stating that these reports were compiled by the Respondent's "*guns for hire*". This submission was based on the fact that the two social workers, Ms van Rooyen and Ms Wright were nominated and paid by the Respondent as supervisors. This argument cannot be used in respect of Ms Fourie, because she was not paid by the Respondent but in fact paid by the Applicant's medical aid.
- [21] It needs to be mentioned that Ms van Rooyen, although she was appointed by the Respondent for purposes of the present supervision, was previously appointed by agreement between the parties and as such this Court can accept that the Applicant, at that stage, considered Ms van Rooyen to be a

suitably qualified person to supervise the contact between the minor child and him.

- [22] The fact that the Respondent is footing the bill for the supervision does not mean that these two Social Workers are guns for hire. They are professional people, who has to be paid for their services.
- [23] All three third-parties are professional people and this Court cannot make a finding of bias or subjectivity just because of the fact that in respect of the Social Workers the Respondent is paying their fees.
- [24] Ms Carstens, raised issue with the fact that no confirmatory affidavits were attached by the third parties to confirm the reports provided by them.
- [25] Notwithstanding opposing the admissibility of these reports, when the Court asked her what weight should be given to Ms Fourie's reports, Ms Carstens proceeded to rely on Ms Fourie's reports and indicated that her reports supported the Applicant's contentions. Further in argument she also proceeded to rely on certain portions of Ms Wright's reports as support of her argument on behalf of the Applicant. These submissions lead to the conclusion that the Applicant accepts the contents of these reports, for insofar it substantiates his version. The court cannot on the one hand accept the reports where it is in line with the Applicant's contentions and on the other hand ignore the reports when determining the best interests of the minor child.
- [26] This Court cannot simply ignore the contents of these reports where it is tasked with determining the best interest of a minor child, especially where the minor child is of such a tender age as in the present case. In determining her best interests, the Court has to weigh up all the relevant factors.
- [27] As is stated in the matter of J v J 2008 (6) SA 30 (CPD):

“When a Court sits as upper guardian in a custody matter it has extremely wide powers in establishing what is in the best interests of minor or dependent children. It is not bound by procedural strictures or by the limitation of the evidence presented or contentions advanced by the respective parties. Furthermore, the interests of minors should not be ‘held to ransom for the sake of legal niceties’ and the best interests of the child should not be mechanically sacrificed on the altar of jurisdictional formalism”.

- [28] In the premises this Court cannot ignore the reports of the third parties especially where it contains information pertaining to the best interests of the minor child and possible harm that can befall the minor child if it is ignored.
- [29] Further to the above, it needs to be remembered that the order granted by this Court today, is only an interim order, pending the finalisation of a forensic investigation into the best interests of this minor child, which will hopefully shed more light on her best interests.
- [30] As a result of the above, the Court has to consider what is stated in the reports of Ms van Rooyen, Ms Wright and Ms Fourie when considering the best interests of the minor child. Without these reports the Court is faced with a proverbial “*he said / she said*” scenario which cannot be determined on the papers before it and the Court has to take into consideration the only objective evidence before it.
- [31] The reports furnished by Ms Fourie and Ms Wright were based on their observations of the contact as between the Applicant and the minor child and the minor child’s reaction thereto.
- [32] Significantly these observations correlate with the reports of the minor child’s therapist and her observations as to the minor child’s well-being in relation to the contact with the Applicant.

[33] In this judgment I am not quoting the whole of all the reports provided, but only portions thereof. I did, however, consider the entire contents thereof for purposes of determining the best interests of the minor child, in the *interim*.

[34] In a report of 29 January 2025, Ms van Rooyen wrote:

“The current three hour visit duration appears to be at times too lengthy for S. Her capacity to engage positively diminishes over extended periods, particularly in settings where she feels over-stimulated. Shorter, more thoughtfully structured visits may better accommodate her needs. Some of the visits had to be stopped when S was emotionally overwhelmed and acted out in a way that was detrimental to her mental health and not conducive to building a positive relationship with her father. One visit was also stopped when P[...] did not feel well and almost collapsed during the visit. Being exposed to this had a negative impact on S”.

[35] In her report of 30 April 2025, Ms van Rooyen wrote:

“S often appears emotionally dysregulated and sensitive during visits.

She uses physical gestures (e.g. throwing objects, hitting) when overwhelmed. She frequently seeks out the social worker or her mother for emotional safety.

S expresses verbal discomfort with her father’s action and at times directly states ‘los my’ or ‘stop dit’.

Dr P[...] H[...] frequently engages with his phone or computer during visits. At time appearing disengaged or inattentive, not being present in the moment.

His inconsistent boundary setting and frequent disconnection from S emotional cues complicate effective co-regulation and attachment.

The pattern of interaction during both visits reveals a concerning dynamic between S and her father. Dr H[...]’s unpredictable and at times emotionally harmful behaviour places S’s emotional well-being at risk. Additionally, his conduct towards the supervising social worker raises concerns about the safety and integrity of the supervision process”.

[36] On 22 January 2025, Ms Wright wrote:

“Three hours visits sometimes seem too long for S. She manages these long visits better when Dr H[...] is calm and more emotionally regulated himself, as it creates a more tranquil atmosphere for the visit.

Unless it is agreed on by the parents, no family members or friends should be allowed to join the supervised contact sessions. It creates friction between the parties which S picks up on, and it negatively affects the visit.

I do not believe that S is emotionally strong / mature enough to manage visits with her father without her mother being present. Although Dr H[...] obviously loves his daughter and wants the best for her, S relies on her mother for emotional regulation and support, which Dr H[...] does not always appear able to provide her with.

When Dr H[...] is calm and does not come across as “over-stimulated” himself, S seems calmer and manages the visits better.

The less animosity Dr H[...] shows towards Dr van der Vyver, and the better the communication (verbal and non-verbal) between them when they are with S, the more relaxed S appears and the more pleasant the actual visit is”.

[37] On 7 May 2025, Ms Wright wrote:

“In my professional opinion, the current three-hour supervised visits may be too lengthy for S. While it is important to support Dr H[...]’s involvement in his

daughter's life, the extended duration of these bio-monthly sessions appears to be emotionally taxing and disruptive for S.

A notable shift in S's behaviour has been observed. Previously, she would verbally express discomfort when Dr H[...] encroached on her personal space. However, during the most recent session, she physically pushed him away. This change suggests an increasing level of frustration and a sense of powerlessness, which is concerning.

S tends to respond more positively and engage more freely with Dr H[...] when he presents as calm and emotionally regulated. Conversely, when he appears irritated or displays feelings of victimisation regarding the current circumstances, this negatively impacts the dynamic, often making S anxious and less inclined to interact”.

- [38] The minor child's Play Therapist, Ms Fourie, provided two reports dated 9 January 2025 and 12 May 2025. On 9 January she *inter alia* wrote:

“S expresses emotional and sensory distress related to visitation with her father, describing the experience as emotionally draining and lacking enjoyment. Her play and verbal expressions suggest that current visitation dynamics do not provide the sense of safety and positive engagement she requires.

Shorter high-quality interactions are more aligned with her developmental stage and help her build positive emotional connections without feeling overwhelmed.

Focus should be on shorter visits with meaningful engagement.”

- [39] On 12 May 2025, Ms Fourie wrote:

“She (S) presents with significant sensory sensitivities especially in relation to auditory stimuli and unexpected events, often displaying hypervigilance or withdrawal when overstimulated.

Emotionally, she shows a clear need for predictability, physical and relational safety and low stimulation environments to regulate and feel secure.

Her emotional world centers heavily around her mother who she sees as her primary source of safety and regulation.

She exhibits distress and separation anxiety when separating from her mother.

In multiple sessions S symbolically represented her father as the source of emotional threat and instability.

She has clearly expressed, both in word and symbolic play, that she does not experience her biological father as part of her inner circle of safety. When asked to represent her family through symbolic objects, she excluded him entirely, suggesting that, for S, family is defined by emotional safety and predictability - elements she currently does not associate with him.

Her ability to self-regulate is significantly compromised when faced with emotional threatening play or discussions related to her biological father;

S does not currently associate visitation with her father with emotional safety;

Attempts to support and prepare her for visitation have consistently led to play-based expressions of distress, avoidance, symbolic harm or emotional shutdown;

While my therapeutic intent throughout has been to strengthen the father-daughter relationship in a safe, child-led manner S has shown sustained emotional resistance to this process both symbolically and verbally;

She has shown no intrinsic readiness or motivation to repair or strengthen the relationship from her current emotional state;

Her emotional responses indicate a need for psychological and sensory protection during any planned contact and the recognition of the distress it currently causes her”.

- [40] Notwithstanding the differing versions of the Applicant and the Respondent in the papers before me, the contents of these reports provide concerning observations which cannot simply be ignored. To some extent the observations in the reports accord with the Respondent’s version.

Analysis of the facts before Court:

- [41] The Respondent’s unilateral decisions not to comply with the prevailing Court order and to amend the terms of the phasing in of the Applicant’s contact to the minor child without immediately launching an application to Court cannot be accepted as reasonable conduct.
- [42] It is one thing to act in the best interest of your child by curtailing contact based on one’s perception of her best interest, and then immediately approaching Court for an amendment of an order of Court in line with her perceived best interests, but quite another thing to decide not to implement the clear terms of a Court order and then wait more than 4 months before approaching Court.
- [43] The Respondent took the law into her own hands and then sat back, doing nothing to seek condonation for her unilateral decisions for more than four months.
- [44] Reasonable conduct for the Respondent would have been to approach Court at the same time when she raised her concerns as to the best interest of the minor child and the implementation of the Court order which she failed to do.

[45] Although I am not impressed with the conduct of the Respondent by taking the law into her own hands, I cannot ignore the information contained in the reports by the two Social Workers as well as the minor child's therapist.

[46] The parties have agreed that a Forensic Psychologist be appointed to assess the best interests of the minor child and pending the finalisation of such a report as well as a subsequent Court order, I have to safeguard the best interests of the minor child and the emotional well-being of the minor child taking into account the information available to me.

[47] What is clear is that the minor child is experiencing distress and emotional discomfort as a result of the manner in which the three-hour contact visits with the Applicant have been conducted. The reason for her discomfort is yet to be determined and will hopefully be determined through the forensic assessment.

[48] It is further clear that when the Applicant is calm and regulated during the contact visits, the minor child benefits and the contact sessions are more successful.

[49] Taking into account all the facts of this matter I am of the view that shorter, more frequent visits between the Applicant and the minor child are indicated to build a positive father-daughter relationship. For purposes of these visits to be optimal it will be necessary for the appointed PC, in consultation with the minor child's therapist, Ms Fourie, to assist the parties to structure and develop a visitation schedule that prioritises S's emotional and sensory needs, *inter alia* including:

[a] grounding activities at the start of each visit;

[b] Shorter, high-quality visits to prevent emotional exhaustion;

[c] A balance of structured logical activities and sensory regulation techniques.

[50] The visitation schedule should be developed around the contact granted in the below order.

[51] In respect of the costs of the forensic investigation the Respondent's only submission in this regard was that it is the Applicant's fault that the minor daughter experiences difficulties with the contact and as such he must be liable for the costs. I am not persuaded. It is clear that this child is experiencing difficulties, but it is not clear what the cause thereof is. The parties have different versions in this regard. The forensic assessment is necessary to ascertain the best interests of the minor child, to enable both parties to then act in accordance with her best interests and to assist the Court to determine her best interests. The assessment is for the benefit of the minor child, to determine how to best safeguard and protect her wellbeing. In the premises both parties should be equally responsible for the costs of the forensic investigation.

[52] In respect of the costs of the application: Eventhough I do not consider the Respondent's undue delay in coming to Court to condone her decisions, to have been reasonable, I cannot ignore the fact that her initial decision to interfere with the court order was based on the reports that she received from the third parties involved in the matter and I accept that her decision to interfere with the court order was based on her perception of what was in S's best interests and her desire to protect S. At this stage, I am not in a position to make another determination. The Court hearing the matter, after receipt of the forensic report, will be in better position to determine the conduct of the parties and whether such conduct was necessary and reasonable. For this reason, I will reserve the costs of the application for later determination.

Wherefore I grant the following order:

- [1] Dr L Roux be appointed as Parenting Coordinator (“PC”) with such functions and powers as stipulated in Annexure “X1” hereto, which functions and powers include, but are not limited to the duties and responsibilities as contained herein.
- [2] The PC ’s functions and powers shall, over and above that which is contained in Annexure “X1” also include the following:
- [a] To develop, in consultation with the minor child’s therapist, presently Ms Fourie, a visitation schedule that prioritises S’s emotional and sensory needs, including:
 - [i] Grounding at the start of each visit;
 - [ii] Shorter, high quality visits to prevent emotional exhaustion;
 - [iii] A balance of structured logical activities and sensory regulation techniques.
 - [b] This visitation schedule will be developed around the contact that is ordered in this order. The PC will not have the right to alter the substance of the order granted.
 - [c] To ensure that the minor child continues with regular therapy with Ms Fourie (or another therapist appointed by the PC, if Ms Fourie is no longer available) to support S and to build her confidence and emotional resilience. Such sessions should be at least once a week, until such time as the PC in consultation with the therapist determine that the sessions can become less frequent.
 - [d] To obtain monthly feedback from the minor child’s therapist in respect of how the minor child is responding to the adjustments in the visitation schedule. The PC will use the feedback obtained to amend and/or vary the visitation schedule, without any changes to the substance of the order, to ensure the minor child’s sensory and emotional well-being remains central.

[3] The parties shall, within ten days of such nomination, appoint a Forensic Psychologist nominated by the Chair of the Pretoria Bar and/or his or her nominee to investigate and evaluate in regard to the best interest of the minor child insofar as care and contact are concerned:

[a] Such appointed Forensic Psychologist is directed to conduct a forensic investigation in relation to the Applicant, the Respondent and the minor child as well as in relation to all other related persons, for the purposes of enabling such Forensic Psychologist to provide a written report detailing his or her recommendations regarding:

- [i] The best interest of the minor child born from the marriage relationship between the parties;
- [ii] Specifically, regarding the manner in which the Applicant and the Respondent should share their respective parental rights and responsibilities, as detailed in Sections 18, 19 and 20 of the Children's Act, 2005 in relation to the minor child.

[b] The Applicant and Respondent shall cooperate with the investigation to be conducted by the appointed Forensic Psychologist as follows:

- [i] To provide all necessary consents, feedback and information to the Forensic Psychologist as required by the Forensic Psychologist, to enable him or her to conduct the abovementioned investigation and to finalise his or her report in this regard;
- [ii] To make themselves and the minor child available to meet with the Forensic Psychologist as and when required by the Forensic Psychologist;
- [iii] To provide their full cooperation to the Forensic Psychologist in all other respects in order to enable the Forensic Psychologist to conduct his or her investigation and to issue his or her report in relation to the minor child's best interests.

[c] Both parties shall be equally (50/50%) liable for the associated costs of the forensic psychologist.

[4] Pending the finalisation of the forensic investigation and a subsequent court order, the settlement agreement which was made an order of Court on 20 November 2023, shall remain of full force and effect, except paragraph 2.3.1 thereof, which paragraph is herewith varied and substituted with the following:

2.3.1 -

[a] Contact over every two-week period of at least 14 hours:

[i] The specificities of the visitation schedule shall be developed by the PC as determined above.

[b] Failing a developed visitation schedule by the PC, the Applicant shall exercise contact as follows:

[i] Contact during the first week, for two hours every Saturday **and** Sunday, from 10:00 to 12:00 and every Tuesday and Thursday, from 16:00 to 18:00; and

[ii] Contact during the second week, for two hours on the Saturday **or** the Sunday (the day to alternate), from 10:00 to 12:00 and every Tuesday and Thursday, from 16:00 to 18:00.

[5] The parties are permitted to supplement the affidavits filed in this application subsequent to receiving the Forensic Psychologist's report as envisaged *supra*. The Applicant to file such supplementary affidavit within 10 days from date of receipt of the report and the Respondent within 10 days from date of receipt of the Applicant's supplementary affidavit.

[6] The costs of Part A is reserved for determination at the hearing of Part B.

**JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

Date of hearing: Wednesday the 27th of August 2025

Date of judgment: Friday the 29th of August 2025

Appearance

On behalf of the Applicant: Adv Tonia Carstens

Instructed by Theron Inc.

082 813 5675

shando@divlaw.co.za / micaelap@divlaw.co.za

On behalf of the Respondent: Adv ML Haskins SC

Instructed by VZLR Inc. Attorneys

012 435 9444

cindy@vzlr.co.za / michelle@vzlr.co.za

POWERS, DUTIES AND FUNCTIONS OF THE PARENTING COORDINATOR

1. In order to facilitate the resolution of any disputes arising from the exercise by the parties of their parental rights and responsibilities in respect of the minor child, the parties agree to the appointment of **DR LYNETTE ROUX** (hereafter referred to as "the Parenting Coordinator") to act as the Parenting Coordinator.
2. The Parenting Coordinator will assist the parties in resolving parental issues and/or disputes and will issue recommendations and/or directives on the exercise of the parties' parental responsibilities and rights in respect of the minor child, by emphasising and promoting the best interests of the minor child and minimising parental conflict.
3. The Parenting Coordinator shall perform in line with a consensus building component, involving mediation, facilitation and conflict resolution.
4. Save in case of urgency, the parties shall first approach the Parenting Coordinator to assist in the resolution of disputes before approaching the Honourable Court.
5. The Parenting Coordinator may not be removed from office except by resignation, agreement between the parties or by an order of the Honourable Court.
6. In the event of the Parenting Coordinator having been removed from office in accordance with paragraph 5 *supra*, a new Parenting Coordinator shall be appointed by agreement between the parties.
7. Failing agreement regarding the identity of the new Parenting Coordinator having been reached between the parties within ten (10) days from either party having provided their proposals, a new Parenting Coordinator will, at the request of

either party, be appointed by the Chairperson of the South African Association of Mediators, which appointment, shall be binding on the parties.

8. Neither party shall initiate court proceedings for the removal of the Parenting Coordinator without first meeting or conferring with the Parenting Coordinator in an effort to resolve the grievances and/or requesting the Parenting Coordinator to resign.

9. The Parenting Coordinator is not appointed as a therapist, counsellor or legal representative for either party nor the minor child. No therapeutic and/or representative relationship or privilege is created by the appointment of the Parenting Coordinator between either party or the minor child.

REFERRAL OF DISPUTES

10. In the event that the parties are unable to resolve a dispute concerning the minor child between themselves, either party or the parties jointly may, in writing, declare and refer such dispute to the Parenting Coordinator, which dispute shall then be resolved in accordance with the provisions as set out herein.

11. Prior to the parties referring any dispute to the Parenting Coordinator, the parties shall make a *bona fide* endeavour to resolve such dispute between themselves.

12. If the Parenting Coordinator in the exercise of her sole discretion, regards a particular dispute raised by one or both parties as being trivial or unfounded, the Parenting Coordinator is authorised to decline the referral of such dispute. In this event, the Parenting Coordinator shall inform the party who raised the dispute of the reason for declining the issue.

13. The Parenting Coordinator is appointed in order to protect the best interest of the minor child, in the event of a dispute between the parties. She shall investigate in whatever manner she deems appropriate any dispute which may arise between the parties, mediate between the parties and guide 'them where necessary.

DIRECTIVES & COURT'S JURISDICTION

14. The Parenting Coordinator's directives shall be furnished in writing and shall be accompanied by reasons. The directive of the Parenting Coordinator shall be binding on the parties, and shall be implemented immediately by the parties.

15. The appointment of the Parenting Coordinator does not seek to oust the jurisdiction of the Honourable Court's competent jurisdiction. The appointment seeks merely to ensure that the parties have a "holding position" in the event of any dispute arising between them, which they are unable to resolve until either party obtains a court order regarding the issue.

16. The directives issued by the Parenting Coordinator may be referred back to the Honourable Court by either party if that party is dissatisfied with the directive and/or conduct of the Parenting Coordinator or believes that the directive is not in the best interest of the minor child.

DISPUTES THAT FALL WITHIN THE PARENTING COORDINATOR'S MANDATE TO MEDIATE AND/OR ADJUDICATE

17. The Parenting Coordinator is authorised to mediate issues between the parties and/or make recommendations and/or issue directives in respect of:-

17.1. Contact between the Applicant and the minor child specifically the way and/or manner in which the Applicant is to exercise his contact with the minor child, by either increasing or reducing the contact as deemed necessary, and in the best interest of the minor child involved;

17.2. Referring either party or either of the minor children to undergo therapeutic or medical intervention or independent expert assessment/evaluation;

17.3. Referring either party to appropriate resources on parenting, communication, techniques, dispute resolution or personal coaching therapy or other related services;

17.4. Any other disputes relating to the implementation of and adherence to the terms of the court order relating to the minor child;

17.5. Any issue concerning the welfare and/or affecting the best interest of the minor child;

17.6. The Parenting Coordinator shall however at no stage have the mandate to mediate and/or adjudicate regarding the primary residence of the minor child.

18. Any communication directed to the Parenting Coordinator by any party shall be done with the full disclosure to all the other parties by open copying of such party in all communication.

19. Should the Parenting Coordinator, at her discretion have a private conversation with any party, she need not disclose the content of such conversation but does need to disclose to all relevant parties including their legal representatives that such a private conversation did occur either in person or telephonically and on which date.

PROCEDURE

20. In the event of the parties failing to reach an agreement, be it through the mediation efforts of the Parenting Coordinator, the Parenting Coordinator shall be entitled to issue a directive which shall be effective from the date that the directive is issued, or on a later date as specified by the Parenting Coordinator, or until the Honourable Court sets aside such directive.

21. The Parenting Coordinator shall determine the procedure to be followed for the resolution of any dispute and shall determine whether witnesses may be called.

Any hearing shall be of an informal nature and neither party shall be entitled to legal representation unless specifically ordered otherwise by the Parenting Coordinator in any particular instance.

22. The parties shall be entitled to take advice from their legal representatives during meetings with the Parenting Coordinator, either telephonically or in person.

23. The parties and/or their legal representatives may contact the Parenting Coordinator in writing, provided that the other party and their legal representative is copied in on the correspondence.

24. The Parenting Coordinator may confer individually with the parties and any other persons whom she deems necessary or appropriate, with notice to the parties and their legal representative, including but not limited to step-parents, step-siblings, extended family members and friends, permanent life partners, therapists (including any social worker and/or play therapist) and health care providers of the minor child or the parties, and the parties agree that such persons are authorised to provide the necessary and/or requested information to the Parenting Coordinator.

25. The Parenting Coordinator shall be entitled to obtain expert advice on any matter.

26. The Parenting Coordinator shall use her discretion in considering the weight and sufficiency of the information provided and may expand her enquiry as she deems necessary.

27. In the event that either party fails to participate in any enquiry required by the Parenting Coordinator, despite having been requested to do so on reasonable notice, the Parenting Coordinator shall be entitled to make a decision without the input of that party.

28. The Parenting Coordinator shall determine the protocol of all communications, interviews and sessions, including who shall and/or may attend meetings, TEAMS and/or skype or telephone consultations.

29. Each party shall ensure that the Parenting Coordinator may meet and/or confer with the minor child at reasonable times and places without either party being present, if the Parenting Coordinator so decides.

30. Each party shall provide the Parenting Coordinator with all information requested by her, including any information requested pertaining to the minor child.

31. No information, observations or communications made to or by the Parenting Coordinator shall be deemed to be privileged as to the Honourable Court, the participants, the legal representatives, experts or any mental health professional assisting or treating the parties or the minor child.

32. All participants, including the Parenting Coordinator, the parties and legal representatives shall preserve the confidentiality and privacy of the parties and, more particularly the minor child, and restrict the dissemination of information related to decisions to those who need to know the information. The provisions of this paragraph shall not be applicable to a legal dispute and the resultant legal process.

COSTS

33. The parties shall be responsible for the payment of the costs of the Parenting Coordinator on a 70/30 basis, (The biological father to pay 70% of the costs, the biological mother to pay 30% of the costs).

34. In the event that the Parenting Coordinator deems a dispute frivolous and vexatious the party referring such dispute shall be liable for all the costs occasioned thereby, as determined by the Parenting Coordinator.

RECORD KEEPING

35. Each party shall be entitled to request that any joint meeting or session between the parties and/or the minor child and the Parenting Coordinator be tape-

recorded or minuted, provided that a copy of the recording is provided to the other party and the Parenting Coordinator.

36. Save as provided for in paragraph 35 *supra*, no record need be kept for the Parenting Coordinator, except for any material issues/disputes, findings, decisions and directives made by her.