

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case Number: 2019/43894

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

In the matter between:

AS Plaintiff

and

BDLM Defendant

JUDGMENT

DJ Smit, AJ

Introduction

- [1] This is an opposed divorce action. I shall refer to the husband (AS) as the “plaintiff” and to the wife (BDLM) as the “defendant”.
- [2] The matter came before me on 10 June 2025. I shall explain the further procedural history below under the rubric of costs.
- [3] The essential background to the matter is as follows:
- a. The parties married on 10 December 2009 at Midrand in community of property.

- b. One minor child (ABS) was born from the marriage, on 18 May 2011. She is therefore now 14 years old.
- c. The plaintiff left the marital home for the last time on 7 December 2018, and the parties have lived apart ever since. The minor child currently resides with the defendant.
- d. The plaintiff issued the action on 12 December 2019, and it was served at the defendant's residence on 13 December 2019.
- e. The defendant' filed a plea and counterclaim on 20 March 2020; and her amended plea and counterclaim is dated 31 October 2021. She also filed a settlement proposal and a proposed parenting plan. At this stage, she was legally represented.
- f. The matter was delayed by, among other factors, an interlocutory application for discovery against the defendant (in 2021); the abortive nature of the process before the Family Advocate (in 2022); and delays in regard to the pre-trial conferences (2024).

[4] On the merits, the main issues arising in this matter are as follows:

- a. Whether a decree of divorce should be granted.
- b. The division of the joint estate.
- c. Residence, care and contact with the minor child.
- d. Spousal maintenance payable by the plaintiff.
- e. Maintenance of the minor child.

[5] By the time of the pre-trial conferences, held on 16 April 2024 and 4 June 2024 respectively, the defendant had become legally unrepresented. She did not sign the minutes of the first pre-trial conference, but she indicated the following (on 22 October 2024) on the face of the minutes of second pre-trial conference:

- a. She objected against both pre-trial conferences.

- b. It is 100% correct that she chased the plaintiff away from the marital home.
- c. She wished to take legal advice.
- d. She plans on defending her marriage.

[6] When the matter came before me on 10 June 2025, the defendant remained unrepresented. She applied orally for a postponement to obtain legal representation. I refused the postponement application for reasons I set out in the next section, after which I deal with each of the issues in the main action.

The defendant's postponement application

[7] The defendant applied for a postponement without any evidence on affidavit or any explanation why she had lost her previous legal representation.

[8] The defendant also did not adequately explain what steps she took before the trial to procure legal representation. She indicated, vaguely, that she had consulted with various legal representatives including private attorneys, public interest organisations, law clinics and Legal Aid SA. She did not indicate, however, why they refused to assist her.

[9] The court questioned her as to what steps she would take to procure representation if the court were to grant a postponement. She responded that, if the matter were to be postponed, she would try harder to procure legal representation. She gave no indication, however, as to what steps she would take or why the outcome would be any different.

[10] The plaintiff opposed the application for a postponement. His counsel pointed out that the plaintiff had not been living with the defendant and her daughter since 2018. Further delays would prejudice the plaintiff, because he only had sporadic and constrained contact with the minor child. He had also been paying the bond on the house as well as the levies and associated costs. The matter required finalisation.

[11] It is trite that the postponement of a matter set down for hearing on a particular date cannot be claimed as of right. An applicant for a postponement seeks an indulgence from the court. Such postponement will not be granted unless a court is satisfied that it is in the interests of justice to do so. In this respect the applicant for postponement must show that there is good cause for the postponement. In order to satisfy the court that good cause does exist, it will be necessary to furnish a full and satisfactory explanation of the circumstances that give rise to the application.¹

[12] In exercising that discretion, the court will consider a number of factors, including (but not limited to): whether the application has been timeously made, whether the explanation given by the applicant for postponement is full and satisfactory, whether there is prejudice to any of the parties and whether the application is opposed. All these factors will be weighed by the court to determine whether it is in the interests of justice to grant the postponement.²

[13] What is in the interests of justice will be determined not only by what is in the interests of the parties themselves, but also by what, in the opinion of the court, is in the public interest. The interests of justice may require that a litigant be granted more time, but account will also be taken of the need to have matters before the court finalised without undue delay.³

[14] In this case, I refused the postponement for the following reasons:

- a. The application was not timeously made. It seems from the court's records that the defendant had lost her legal representation sometime between September 2022 (when her attorney filed a second objection against the inquiry before the Family Advocate) and 16 April 2024, when the first pre-trial conference was held. By that time, she was on notice that the plaintiff was seeking to enrol the matter for trial. She indicated in the pre-trial conference that she was seeking legal advice.

¹ *National Police Service Union v Minister of Safety and Security* 2000 (4) SA 1110 (CC) para 4.

² *Ibid.*

³ *Ibid.*, para 5.

- b. She received notice of the set down of the trial on 10 December 2024 and responded to it in January 2025 that she “*reserve[s] all [her] rights in totality including the paramount interests of the minor child*”. Despite notice of the trial, she apparently still failed to procure legal representation. It therefore appeared that her predicament was self-made and that it was unlikely that a postponement would assist her in that regard.
- c. The defendant did not give a full and satisfactory explanation for why she did not have legal representation by the time of the trial. She only indicated (without elaboration) that various sets of attorneys had declined to represent her and that she did not want to be represented by Legal Aid SA. She also did not explain the steps that she would take to procure representation.
- d. The matter has already been delayed, partly through the obstructive conduct of the defendant (on which I elaborate under the rubric of costs). It did not seem fair to me to delay it yet further based upon a vague promise (without elaboration) to try harder to obtain legal representation.
- e. It is greatly prejudicial to everyone concerned to delay the trial yet further. The plaintiff was living in uncertainty for more than five years and did not have regular contact with his child. The delays had financial consequences for the joint estate, including mounting legal costs. And the minor child was living in a state of uncertainty for an equally long period in regard to care and contact. Even the defendant is, through the costs to the joint estate, prejudiced by delays. It is also wasteful to the court to convene a trial only for it to be postponed based upon unconvincing grounds.

[15] The prejudice of a postponement to all concerned therefore outweighed the prejudice to the defendant to appear unrepresented in this trial, in which many matters were common cause on the papers.

[16] Thus, there was no good cause for a postponement, and it was not in the interests of justice to grant it.

[17] It transpired during the trial that the defendant (for whatever reason) simply does not want to divorce the plaintiff. For example, having been given the opportunity to file written submissions, and in response to a draft order filed by the plaintiff at the court's request on 23 January 2026, she filed a copy of the draft order on 30 January 2026 on which she wrote by hand, on each page: "Defendant does not want to be divorced." In hindsight, therefore, it appears that the application for a postponement was an attempt simply to postpone the inevitable.

[18] The trial accordingly proceeded before me. The plaintiff only called himself as a witness, while the defendant called herself as well as a Mr Juan Paul de Wall.

The decree of divorce

[19] It is trite that a court must grant a decree of divorce (and does not have a discretion, subject to satisfactory arrangements regarding minor children) once satisfied that a marriage has irretrievably broken down.⁴

[20] The plaintiff sought a decree of divorce and in her plea and counterclaim, the defendant conceded that the marriage has irretrievably broken down. This notwithstanding, she was clearly resistant at the trial to the conclusion that a divorce was inevitable. She adduced no evidence, however, that there was a reasonable possibility that the parties could or would reconcile.

[21] According to the evidence adduced before me, including by the defendant, the marriage had been unhappy from early in the relationship. The defendant experienced mental health difficulties and was, at a stage, hospitalised. There were many heated marital rows with harsh words – indicating a complete lack of trust and affection – being spoken on both sides.

[22] The defendant first sought an interim protection order against the plaintiff in 2013 and, over the years, sought four protection orders. It is common cause that none of them were granted. There was no evidence before me that the plaintiff had physically abused the defendant, although the relationship appears to have been verbally abusive from both sides.

⁴ Section 4 of the Divorce Act, 70 of 1979.

[23] The defendant left the marital home on 7 December 2018 and parties have lived apart since. Under cross-examination, the plaintiff indicated that he was not willing to return to the marital home. The defendant conceded that the plaintiff was forced out of the marital home. This notwithstanding, the plaintiff had continued to pay the bond, levies and associated costs of the marital home (as well as contributions to the maintenance of the defendant and the minor child which I deal with below) from that time until the trial.

[24] Despite the defendant's indication that she did not want to divorce, she indicated in written submissions that the plaintiff must have "*zero association*" with her. This was also the tenor of her evidence before the court. Her wish not to be divorced appears to stem more from anxiety as to the financial consequences of a divorce for her than from any love and affection towards the plaintiff.

[25] I have no doubt that the marriage has irretrievably broken down and a decree of divorce must thus follow as a matter of course, subject to satisfactory arrangements regarding the minor child.

The division of the joint estate

[26] The parties are married in community of property.

[27] It is trite that the standard position for marriages in community of property is that the joint estate is divided equally between the spouses, regardless of their respective contributions to the joint estate. However, the court has a discretionary power to grant a forfeiture order – wholly or partially depriving one spouse of patrimonial benefits – if it is established that, absent such an order, that spouse would be unduly benefited, taking into account the duration of the marriage, the reasons for its breakdown, and any substantial misconduct.⁵

[28] In his particulars of claim, the plaintiff claimed a forfeiture of the benefits of the marriage. He did not persist with this claim at trial and conceded that the estate should be divided in the usual manner.

⁵ Section 9 of the Divorce Act.

[29] In her plea, the defendant denied any marital misconduct. She stated in her counterclaim that each party is entitled to 50% of the net assets of the joint estate.

[30] At the trial the defendant seemed to accept that there should be a division of the joint estate, but raised concerns as to how she would be able to survive on her half of the joint estate (which, on the plaintiff's version, amounts to approximately between R1.6 million and "*in excess of*" R1.9 million). The defendant expressed anxiety as to where she and the minor child would live should the marital home be sold as part of the winding-up of the joint estate. In her written submissions, she asked the court to order that the defendant and the minor child may remain in the marital home forever or until she is able to pay off the mortgage.

[31] It is therefore essentially common cause that the joint estate should be split in half, although the consequences of that for the defendant's residence is in dispute. Given the intense acrimony between the parties, and the importance of a smooth winding-up process to the best interests of the minor child, the order I make provides for the appointment of a liquidator to wind up the joint estate.⁶ The residence of the defendant after the division would depend on how exactly the joint estate is split – a matter which is not for the court to resolve.

Residence, care and contact in respect of the minor child

[32] It was not in dispute that the plaintiff and the defendant would continue to share parental responsibilities and rights in regard to the minor child jointly, and I shall so order.

[33] In regard to residence, care and contact, the plaintiff contended in his particulars of claim that:

- a. It was in the best interests of the minor child that she should reside with him.

⁶ Compare *Malebana v Jordaan* NO2024 (3) SA 124 (GP) para 4.

- b. The defendant should be afforded reasonable rights of contact with her daughter.

[34] The defendant in her plea and counterclaim contended that:

- a. It was in the best interests of the minor child that she would reside with her.
- b. The plaintiff should be afforded reasonable contact with his daughter, but this should be phased in due to the “*relatively major absence of plaintiff from the life of the minor child*”.

[35] Both parties in their pleadings proposed detailed arrangements in regard to contact.

[36] At the trial, the plaintiff had seemingly acquiesced in the arrangement that the minor child would reside with her mother, subject to him being afforded reasonable contact with his daughter. At trial, the major issue in dispute was whether supervised or “*phased in*” contact would be required. The essential evidence in this regard was that:

- a. The minor child had always resided with her mother, who took care of her (although the quality of care was disputed by the plaintiff).
- b. The defendant had afforded the plaintiff relatively limited contact with his daughter since he had left the marital home. This contact had become more limited as the trial approached. While there was in the past contact once a month, in the eight months before the trial, the defendant only allowed three contact sessions, all supervised. The plaintiff accordingly accused the defendant of “*gatekeeping*”.
- c. The defendant and his daughter had frequent and unimpeded contact via telephone and WhatsApp, however.
- d. The Family Advocate convened an enquiry on 7 September 2022 and 14 November 2022. As is set out in detail in the report from the Family

Advocate, the enquiry was abortive. The reason was that the defendant obstructed the process.

- e. The obstruction started with a first objection filed by the defendant's then attorney on 25 July 2022, based upon extraneous factors which had nothing to do with the enquiry.
- f. At the first appointment with the Family Advocate, the defendant and the child arrived an hour late. The Family Advocate recorded that the enquiry could not proceed "*due to time constraints; and also due [to] objections from the defendant and her attorney*". The defendant objected to the Family Advocate interviewing the child without her presence. Subsequent to the first enquiry, the defendant's attorney submitted a second lengthy objection against the process.
- g. At the second appointment, the defendant refused to engage fully with the enquiry on the basis that she was nervous and uncomfortable, and not in an emotional space to make an informed contribution. Again, the defendant refused her consent for the child to be interviewed by the family counsellor.
- h. The family counsellor did, however, report on the child's informal interactions with the plaintiff while the Family Advocate was interviewing the defendant alone (at her request). The family counsellor observed natural and comfortable interaction between the plaintiff and the child in the Family Advocate's waiting area.
- i. The Family Advocate bemoaned the fact that the defendant's actions had "*suppressed and denied*" the child's voice and an opportunity for a professional to objectively consider her views and circumstances. Due to these limitations, the Family Advocate did not make "*definite submissions on [the] best interest of the child with regard to the parties' exercise of parental responsibilities and rights towards the child*".
- j. The parents' marital strife, separation and the divorce proceedings had put major strain on the minor child. In the defendant's words, the child had

been through “*hell*”. Importantly, however, there was no evidence that either parent deliberately abused the child physically or verbally; or deliberately allowed the child to come to harm. There was evidence that the child was being afforded psychotherapy and that this had a beneficial impact on the child.

[37] The plaintiff in his heads of argument contended that it may be appropriate for the child to reside with him, given that the defendant testified that she had raised with her pastor’s wife the possibility of putting the child up for adoption because she felt that she could not care for her adequately. It seemed to the court, however, that this incident was an expression of the defendant’s anxiety about the consequences of a divorce (financial and otherwise) rather than a genuine indication that the defendant was unwilling (or unable) to care for the child.

[38] A child’s best interests are paramount in every matter concerning the child.⁷

[39] Section 7 of the Children’s Act sets out a non-exhaustive list of factors that courts must consider when determining what is in the child’s best interests. These include, among others, the nature of the child’s relationships with parents and other caregivers, the capacity of each parent to provide for the child’s needs, the likely effect of changes in the child’s circumstances, the practicalities of maintaining contact, the child’s age and maturity, the need for stability, and the need to protect the child from harm.

[40] Given the abortive process before the Family Advocate, and because the parties by and large focused on their own wishes at trial, I decided to facilitate the child’s right to participate in decisions regarding her future in a way unimpeded by the parties.⁸

[41] I appointed a curator *ad litem* in the person of Ms Carina du Toit, an advocate at the Johannesburg Bar, to facilitate the process. Ms du Toit interviewed the child (with the cooperation of the defendant) to prepare her for an interview with me. I then interviewed the child on 23 July 2025 in chambers.

⁷ Section 28(2) of the Constitution, 1996 and section 9 of the Children’s Act, 38 of 2005.

⁸ Section 10 of the Children’s Act.

- [42] In coming to my decision, I took into account each factor listed in section 7 of the Children's Act and, in particular, the views of the child as expressed to me. (On the understanding, of course, that such views must be afforded due consideration but are not dispositive of the issues.)
- [43] In my view, it would be appropriate for the child to continue to reside with her mother (the defendant), subject to liberal contact arrangements with her father (the plaintiff). While no arrangement is perfect, it seems to me that this would best facilitate the child's stability. The child has already experienced much upheaval, and further instability should as far as possible be avoided.
- [44] The child is relatively mature and self-aware and is, moreover, already a teenager. Should the need for a different residential arrangement arise, she will no doubt raise this with her parents who will be duty-bound to give proper consideration to her views and the reasons therefor. If needs be, a court may obviously be approached to change the order I make, based upon changed circumstances.
- [45] I do not find there to be any need for "*supervised*" contact with the plaintiff. If anything, the evidence established that the child is comfortable in the presence of her father and that he does not constitute a threat to her in any way. Given that the plaintiff proposed in his draft order that the contact arrangements should be facilitated by a parental coordinator, and the defendant did not raise any pertinent objection, I shall so order.
- [46] Although I make no specific order in that regard, it is of concern that the child has lost some years of schooling due to the defendant's insistence on "*home-schooling*" the child when she was much younger. As a result, the child – although apparently capable of normal progression at school – was (at the time of the trial) in Grade 6 despite being 14 already. It will be in the interests of the child to investigate options for her to be placed in a more age-appropriate grade, obviously subject to her being able to cope academically and emotionally.

[47] Furthermore, it will be important for any arrangements regarding care and contact to respect the child's extramural activities and, within reason, her wishes in that regard.

[48] It will also be in the child's best interests for her parents to cooperate with each other in implementing these arrangements and not to attack one another verbally – either in her presence or in conversations with her.

Spousal maintenance

[49] The plaintiff did not offer any spousal maintenance in his particulars of claim and, as recorded above, claimed forfeiture of the defendant's benefits flowing from the joint estate. He claimed an order that no spousal maintenance is payable by one spouse to the other.

[50] In her plea and counterclaim, the defendant claimed spousal maintenance in an amount of R3,776.50 per month as transitional maintenance for a period of three years following the divorce order (should she and the minor child remain in the marital home) and an amount of R8,176.50 per month, should she not so remain.

[51] In his opening statement, counsel for the plaintiff stated that the plaintiff offered R1,500 per month in rehabilitative maintenance for the defendant for 6 months and for her to stay on his medical aid for 12 months. In the draft order presented after the hearing, however, the plaintiff offered to pay R1,500.00 per month only for three months and maintain the defendant on his medical aid for three months.

[52] The essential evidence at trial regarding the need and ability to pay spousal and child maintenance was as follows:

- a. The defendant would receive between R1.6 million and "*in excess of*" R1.9 million after the division of the joint estate, from which she could derive a decent monthly income should it be appropriately invested.
- b. At the time of the trial, the plaintiff earns a net salary of approximately R30,000 per month. He has a deficit of approximately R12,000 per month,

which is financed by his mother. He currently pays the defendant R2,570 towards maintenance for her and the minor child per month plus R1,270 in respect of groceries. In addition to that, he pays the bond, levies, electricity and security in respect of the marital home. He also maintains medical aid contributions for both the defendant and the minor child.

- c. The defendant also receives a SASSA child support grant in an amount of R530.00 per month.
- d. The defendant has made some efforts recently to seek employment, but she was not hitherto successful. She is trying, however, to start her own business.
- e. The defendant did work when she was married to the plaintiff, but she stopped working shortly after the birth of the minor child. The reasons why she stopped to work was contentious at trial. The defendant contended that the plaintiff forced her to stop work, which indicates to the court that the defendant wishes to work.
- f. The defendant is almost fifty years old, while the plaintiff is almost fifty-five years old.

[53] In terms of section 7 of the Divorce Act, the court may make an order which the court finds just in respect of the payment of maintenance by one party to the other, having regard to the existing or prospective means of each of the parties, their respective earning capacities, financial needs and obligations, the age of each of the parties, the duration of the marriage, the standard of living of the parties prior to the divorce, their conduct in so far as it may be relevant to the break-down of the marriage, the division of the joint estate and any other relevant fact.

[54] It is (now) common cause between the parties that the plaintiff must pay rehabilitative spousal maintenance; it is the amount and duration that is in issue.

[55] The plaintiff had maintained the defendant for almost fifteen years, including after he had left the marital home. Currently, he has far greater earning capacity than the defendant, given her long absence from the labour market. That said, she has more potential years of work ahead of her and there is no evidence that she is permanently incapable of finding work. The defendant will also, to an extent, be able to provide for herself from the assets to be transferred to her upon the division of the joint estate, but such division could take time. The parties appeared to maintain a relatively frugal standard of living before the divorce.

[56] In all the circumstances, it would be fair to order the plaintiff to pay the defendant an amount of R1,500.00 per month in rehabilitative spousal maintenance for a period of six months after the divorce; and to order him to maintain the defendant as a dependent on his medical aid for a period of six months after the divorce.

Maintenance of the minor child

[57] It was not contentious that the plaintiff should pay maintenance in regard to the minor child if her primary residence was to be with her mother. As recorded above, at trial he offered to pay R4,000 per month, as well as to maintain the child as a dependent on his medical aid.

[58] The defendant raised questions whether that would be enough for the child's needs. She did not, however, seek to quantify what amount would be enough. Further, the defendant obviously also retains an obligation to contribute to the child's maintenance from her own means, which will be greatly enhanced by the division of the joint estate.

[59] R4,000.00 per month plus the medical aid benefit seem to be commensurate with the plaintiff's means and the minor child's needs. I shall order that the amount will escalate by 5% every June until the child reaches majority.

Costs

[60] In their respective pleadings and written submissions at the end of the trial, both the plaintiff and the defendant claimed costs of suit.

[61] Section 10 of the Divorce Act provides that, in a divorce action the court shall not be bound to make an order for costs in favour of the successful party, but the court may, having regard to the means of the parties, and their conduct in so far as it may be relevant, make such order as it considers just, and the court may order that the costs of the proceedings be apportioned between the parties.

[62] I have considered whether the defendant should be ordered to pay the plaintiff's costs of suit in light of various delays, some of which may be ascribed to the defendant's dilatory conduct. The essential facts regarding the procedural history of the matter are as follows:

- a. The plaintiff had to obtain an order on 26 July 2021 to compel the defendant to reply to the plaintiff's discovery notices.
- b. The process before the Family Advocate was abortive for the reasons set out above, which were due to the defendant's lack of cooperation.
- c. The defendant delayed signature of the second pre-trial minute for some months, which led to a delay in setting this matter down.
- d. At the outset of the trial, the defendant brought an unsuccessful application for postponement based on her failure to obtain legal representation. This delayed the start of the trial.
- e. The trial started after lunch on 10 June 2025 and then ran until 12 June. While it was also due to run on 13 June, the defendant became indisposed.
- f. The defendant indicated that she wished to present further documentary evidence, and the court ordered her to do so by 30 June 2025. The defendant filed certain further evidence bearing out her and the plaintiff's professional accomplishments, the plaintiff's financial position, and the

value of their joint property. The evidence did not contradict the oral evidence presented by the parties.

- g. The trial resumed on 20 June and finally concluded on 8 August 2025.
- h. The plaintiff was then directed to file heads of argument by 15 September and the defendant by 29 September 2025. It was agreed with the parties on the final day of the trial that I would then indicate if I need oral submissions in addition to heads of argument.
- i. The plaintiff filed heads of argument on 22 September 2025. The defendant did not file submissions at this time.
- j. After perusing the plaintiff's heads of argument, I noted that the plaintiff did not prepare and file an updated draft order, as indicated in his heads of argument. Accordingly, I asked the plaintiff for the draft order and afforded the defendant a final opportunity to make written submissions in response.
- k. The plaintiff filed his draft order on 23 January 2026, and the defendant sent two emails to the registrar on the same day. On 30 January 2026, she filed on CaseLines the annotated draft order indicating that:
"Defendant does not want to be divorced."

[63] While I consider the defendant's conduct to have been dilatory and even irresponsible in some respects, not all the costs of the trial can be ascribed to her conduct. For example, she has been partially successful in regard to spousal maintenance. In these circumstances, I consider the fairest order to be that the joint estate shall bear the costs of suit.

[64] Likewise, the joint estate shall bear the costs of the curator *ad litem*.

Order

[65] I annex to this judgment an anonymised version of the court's order marked "X". The version bearing the parties' names will be sent to them separately.

DJ SMIT
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of trial: 10-12 June 2025; 20 June 2025; 8 August 2025

Plaintiff's heads of argument: 22 September 2025

Submission of plaintiff's draft order: 23 January 2026

Date of defendant's final submissions: 30 January 2026

Date of judgment: 5 February 2026

ANNEXURE "X": COURT ORDER – DECREE OF DIVORCE

HAVING read the documents filed of record, having heard counsel for the plaintiff and having heard the defendant, and having considered the matter, an order is made in the following terms:

1. The bonds of marriage between the plaintiff and the defendant are dissolved by a final decree of divorce.

2. The joint estate shall be divided equally as set out below.
3. The plaintiff and the defendant shall jointly retain full parental responsibilities and rights in respect of the minor child, **ABS** (a girl born on 18 May 2011).
4. The minor child's primary residence shall be with the defendant (her mother).
5. A parental coordinator is appointed, being Dr Tania Holtz (herein referred to as "*the parental coordinator*"), to facilitate the implementation of the contact arrangements concerning the minor child, to assist with the annual holiday schedule, to resolve day-to-day disputes relating to contact arrangements, and generally to act in the minor child's best interests in doing so.
6. The plaintiff (her father) is entitled to reasonable contact with the minor child, which (unless otherwise agreed in writing, or varied by the appointed parental coordinator, or varied by a competent Court) is to be structured as follows:
 - 6.1. Midweek contact every Wednesday from after school to 19h00. The non-residential parent shall collect the minor child from school and return the minor child to the main gate of the residential parent's residence;

- 6.2. Alternate weekends from Friday 17h30 to Sunday 19h00, and collection and return to occur at the main gate of the relevant parent's residence (as applicable);
- 6.3. On a parent's birthday, from 09h00 to 18h00 in the event that it falls on a weekend on which the minor child is not already with that parent; or if it falls on a weekday, from after school until 18h00;
- 6.4. On Mother's Day from 09h00 to 18h00 with the defendant, and on Father's Day from 09h00 to 18h00 with the plaintiff, regardless of whose contact day it is;
- 6.5. On the minor child's birthday from 13h00 to 18h00 (or as otherwise agreed), with the parents alternating annually unless the parental coordinator directs otherwise;
- 6.6. Short school holidays and public holidays to alternate between the plaintiff and the defendant;
- 6.7. Long school holidays to be shared equally between the plaintiff and the defendant, with the December holidays split so that one parent has the minor child from the start of the December school holidays until 27

December at 18h00, and the other parent from 27 December at 18h00 until the day school resumes, alternating annually;

- 6.8. During any holiday period in which a parent does not have the minor child, that parent shall be entitled to: (i) a Thursday visit from 17h00 to 19h00; and (ii) contact on alternate Sundays from 14h00 to 18h00, provided that the parent with whom the minor child is for the holiday period is not away on holiday, and collection and return shall be at the other parent's residence;
- 6.9. If a parent takes the minor child away on holiday, that parent is to (i) keep the other parent fully informed of the minor child's whereabouts; (ii) provide time of departure and arrival; (iii) ensure daily telephonic or video contact with the other parent (unless otherwise arranged); and (iv) if the minor child is taken more than 100km from her usual residence, notify the other parent in advance and confirm safe arrival;
- 6.10. The parent not exercising physical contact shall have reasonable telephonic/video contact with the minor child during reasonable hours, and in any event daily between 18h00 and 18h30 (including via video call / WhatsApp video call), subject to the minor child's activities and needs;

6.11. All contact shall be exercised with due regard to the minor child's cultural, educational, social and extra-mural activities and other needs, and contact arrangements shall be agreed between the parents (or facilitated by the parental coordinator) and should not be discussed with the minor child until finalised, so as not to create expectations that cannot be met;

6.12. The plaintiff and the defendant shall endeavour to minimise changes to previously arranged contact, and requests for changes should, save in emergencies, be made in writing at least 3 (three) days in advance for midweek contact and 4 (four) days in advance for weekend contact, and a counter-proposal (with reasons) shall be made where agreement is not reached;

6.13. Right of first refusal: if either parent is unable to personally care for the minor child during his/her allocated period, the other parent shall first be offered the opportunity to care for the minor child, before any third party is arranged.

7. The plaintiff and the defendant shall share the reasonable costs of the parental coordinator equally, unless the parental coordinator directs otherwise in writing for good cause.

8. The plaintiff shall pay maintenance to the defendant in respect of the minor child in the amount of R4,000.00 (four thousand Rand) per month, payable on or before the 1st (first) day of each month. The amount shall escalate by 5% on 1 June 2026, 1 June 2027, and 1 June 2028.
9. The minor child shall remain as a dependent on the plaintiff's medical aid, and the plaintiff and the defendant shall be liable equally to pay the reasonable and necessary unreimbursed medical expenses of the minor child.
10. The plaintiff shall pay rehabilitative spousal maintenance to the defendant in the amount of R1,500.00 (one thousand five hundred Rand) per month for a period of 6 (six) months after the granting of this Order.
11. The plaintiff shall retain the defendant on his medical aid scheme as a beneficiary for a period of 6 (six) months after the granting of this Order.
12. A liquidator is appointed to liquidate and divide the joint estate, being Olga Kotze of Kaap Vaal Trust, 7[...] S[...] Road, D[...], Johannesburg.
13. The liquidator shall have the following powers and functions:
 - 13.1. To realise the assets of the joint estate;

- 13.2. To demand from each party a true and correct account of all assets belonging to the joint estate and to demand from each party that they furnish her with full details of any assets which they have dealt with and to demand of each party that they indicate which assets of the joint estate are in their respective possession.
- 13.3. To demand from the plaintiff and the defendant the payment or delivery of any such assets of the joint estate which the plaintiff or the defendant may have in their possession.
- 13.4. To discharge the debts and liabilities of the joint estate.
- 13.5. To take possession of all assets, whether movable or immovable or corporeal or incorporeal, of the joint estate (other than personal effects and clothing of the plaintiff, the defendant and the minor child), to collect all debt, monies or other income due to the joint estate and to determine and discharge all the liabilities of the joint estate, and for these purposes, the liquidator shall have the power to investigate, peruse and obtain all documents including documents relating to taxes of the plaintiff and the defendant held at any place including banks, building societies, insurance companies and other financial institutions and, in addition, to investigate and obtain documents and determine the validity of the claims by the plaintiff and the defendant.

- 13.6. To sell any assets either by public auction or by private agreement, whichever may be the most beneficial, and the plaintiff and the defendant or either of them shall be entitled to bid where the division of the assets cannot conveniently or advantageously be effected but the liquidator shall not sell any assets by private treaty unless and until she has afforded the plaintiff and the defendant the opportunity to make such representations as they may deem necessary.
- 13.7. To obtain appraisals for the purpose of determining the value of any assets in the event that the plaintiff and the defendant are unable to agree as to that value.
- 13.8. To engage the services of any suitably qualified person or persons to assist her in determining the proper value of any of the joint community estate assets and to pay such person or persons the reasonable fees which may be charged by them.
- 13.9. Not to realise any assets without giving both the plaintiff and the defendant three weeks' notice of his/her intention to do so.
- 13.10. To afford both the plaintiff and the defendant personally the opportunity to make representations to her about any matter relevant to her duties and to this order and to the identity of any purchaser, as well as the purchase price of any assets, including but not necessarily limited to

the time and/or manner in which any asset should be realised, the price for which any asset should be realised and the sequence in which assets should be realised.

13.11. The liquidator shall be entitled to sell any assets to either of the plaintiff and the defendant hereto for a price that she deems to be the true market value of such assets.

13.12. To sign any documents as may be considered necessary to effect transfer of any assets sold from a person in whose name it is registered to the purchaser thereof.

13.13. To pay all the costs and charges necessary and incidental to give effect to the transfer of any assets sold.

13.14. To apply to the above Honourable Court for special directions in case the liquidator is not satisfied with the information supplied to her by either of the plaintiff and/or the defendant as to the assets or as to the dealings with the said assets or in case of any other difficulty arises and, in that event, to engage the services of attorneys and advocates whose fees and costs shall be a first charge from the proceeds of the said joint community estate.

13.15. To make any demand upon the plaintiff and/or the defendant which she considers appropriate in order to give effect to this order and in this regard the plaintiff and the defendant are directed to comply with any such demand made by him/her within fourteen (14) days of such demand being made upon them.

13.16. To deduct her reasonable fees, costs, charges and disbursements incurred in effecting the liquidation of the said joint community estate in accordance with this order from the proceeds of the joint estate prior to distributing any portion thereof to the plaintiff and the defendant.

13.17. To determine the net value of all joint assets, movable and immovable, as at the date of divorce between the plaintiff and the defendant.

13.18. The liquidator shall be entitled to apply to the above Honourable Court for any further direction that she shall or may consider necessary.

13.19. The liquidator shall be entitled to collect debts due to the joint estate unless such debts are disposed of by sale.

13.20. The liquidator shall be entitled to pay the liabilities of the joint estate.

13.21. To give both the plaintiff and the defendant a first right, for a period of ten (10) days, to purchase any assets of the joint estate at the same terms and at the same price as she is able to obtain from any *bona fide* third party.

13.22. The liquidator shall prepare such interim and/or final accounts between in respect of the joint estate as she may deem necessary from time to time and, when the liquidator has prepared the final account in terms of this order, to send a copy of same to both the plaintiff and the defendant by prepaid registered mail or deliver a copy thereof to the offices of any attorneys representing them and the plaintiff and the defendant shall be entitled to raise objections to the said account within fourteen (14) days from the date of such account having been sent, in which event the liquidator shall rule on such objection and either allow or disallow same, either in whole or in part, and in which event the liquidator shall send to the plaintiff and the defendant her decision which shall be final and binding on the plaintiff and the defendant should they not approach this Court for relief within fourteen (14) days of the date of the liquidator's final decision.

13.23. To prepare the final account and to divide the said assets equally between the plaintiff and the defendant (after discharging all liabilities aforesaid) or to sell such assets and division of the proceeds equally between the plaintiff and the defendant and if a division cannot

conveniently or advantageously be effected: Provided that if either of the plaintiff and/or the defendant object to any proposed division of such assets by the said liquidator then the said liquidator shall be obliged to realise such assets and divide the proceeds therefrom equally between the plaintiff and the defendant.

14. The pension interest (as defined in section 1 of the Divorce Act, 70 of 1979) of the plaintiff in ABSA Pension Fund with policy number 16114732, administered by ABSA Pension Fund, is hereby declared to fall into the joint estate for division, and 50% (fifty percent) of such pension interest is assigned to the defendant in terms of section 7(8) of the Divorce Act.
15. The Registrar is directed, upon request, to notify the administrator of the ABSA Pension Fund of this Order and to furnish the administrator with a copy of this Order. The parties shall, within 10 (ten) days of written request by either party or the liquidator, exchange and furnish the liquidator with all fund and administrator details required to give effect to this paragraph, including the member number / policy number, and shall do all things necessary to procure endorsement and payment by the ABSA Pension Fund.
16. The ABSA Pension Fund must pay or transfer the assigned portion of the pension interest of the ABSA Pension Fund in terms of the provisions of Section 37D(4) of the Pension Funds Act 24 of 1956 to the non-member spouse or an approved fund, or as directed by the appointed liquidator.

17. The pension interest (as defined in section 1 of the Divorce Act, 70 of 1979) of the plaintiff in Momentum Retirement Annuity with policy number 011601033, administered by Momentum, is hereby declared to fall into the joint estate for division, and 50% (fifty percent) of such pension interest is assigned to the defendant in terms of section 7(8) of the Divorce Act.
18. The Registrar is directed, upon request, to notify the administrator of the Momentum Retirement Annuity of this Order and to furnish the administrator with a copy of this Order. The parties shall, within 10 (ten) days of written request by either party or the liquidator, exchange and furnish the liquidator with all fund and administrator details required to give effect to this paragraph, including the member number / policy number, and shall do all things necessary to procure endorsement and payment by the Momentum Retirement Annuity.
19. The Momentum Retirement Annuity fund must pay or transfer the assigned portion of the pension interest of the Momentum Retirement Annuity in terms of the provisions of Section 37D(4) of the Pension Funds Act 24 of 1956 to the non-member spouse or an approved fund, or as directed by the liquidator.
20. For the avoidance of doubt, any income tax (including any amount withheld or deducted pursuant to a tax directive issued by SARS), charges and/or other statutory deductions (if any) which may become payable, are to be withheld or should be deducted in consequence of the payment and/or transfer of the defendant's assigned portion referred to in paragraphs 16 and 19 *supra* shall

be for the defendant's sole account and to the extent that any such tax, charge or statutory deduction is levied against and/or recovered from the plaintiff as the member spouse, the defendant shall reimburse the plaintiff on written demand within 10 (ten) days, alternatively, the liquidator shall make the necessary adjustment by debiting the defendant's share of the joint estate.

21. The joint estate shall bear the costs of suit, taxed on Scale B and the liquidator is directed to deduct the defendant's half portion of such costs from her half of the proceeds of the liquidation of the joint estate.
22. The joint estate shall pay the costs of the *curator ad litem* Ms Carina du Toit upon presentation of her invoice to the liquidator.

For the Plaintiff:

JC Bornman instructed by SKV
Attorneys

For the Defendant:

In person