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IN THE HIGH COURT OF SOUTH AFRICA

(NORTHERN CAPE DIVISION, KIMBERLEY)

Case no: 2026-133005

Reportable: YES / NO

Circulate to Judges: YES / NO

Circulate to Regional Magistrates: YES / NO

Circulate to Magistrates: YES / NO

In the matter between:

C[...] G[...] S[...] Applicant

and

J[...] H[...] S[...] First Respondent

Neutral citation: *CG S[…] v JH S[…]* (2026-133005) 30 October 2026.

Coram: STANTON J

Heard: 02 October 2026.

Delivered: 30 October 2026.

Summary: Rule 43 application – Contribution to costs – The discretion conferred by Rule 43 must be exercised consistently with the rights to equality and equal protection of the law – The quantum of a contribution towards costs in the presiding judge's discretion – Discretion to be exercised taking the circumstances of the case, the parties' financial positions and the issues arising in the pending litigation into consideration.

ORDER

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1. The respondent shall pay a first contribution towards the applicant's legal costs in the amount of R259,210.00 (inclusive of VAT), which amount shall be paid into the trust account of the applicant's attorneys of record in eight (8) equal monthly instalments of R32,401.25, the first instalment being payable on 30 November 2026 and thereafter on the first day of each succeeding month until payment has been made in full.

2. The respondent shall pay the fees of the applicant's forensic accountant, upon presentation of the relevant invoice, up to a maximum amount of R230,000.00 (inclusive of VAT).

3. The respondent shall pay the fees of the applicant's industrial psychologist, upon presentation of the relevant invoice, up to a maximum amount of R34,590.00 (inclusive of VAT).

4. The costs of this Rule 43 application shall stand over for determination in the divorce action.

JUDGMENT

Stanton J

Introduction:

[1] In this Rule 43 application, the applicant requested the following *pendente lite* relief, namely that the respondent be:

1.1 Directed to pay cash maintenance in respect of the applicant and the two minor children in the sum of R47,948.00 per month;

1.2 Directed to pay the applicant a further sum of R9,180.00 per month in addition to the R47,948.00 in the event that the Respondent terminates the income of R9,180.00 per month presently paid to the applicant by Azuflash (Pty) Ltd ("Azuflash"), whether by dismissing the applicant or otherwise;

1.3 Directed to pay the medical aid, medical expenses, the rental and running costs of the home, the children's education, aftercare and extra-mural activities, the policies, security and the household insurance;

1.4 Ordered to contribute towards the applicant's costs and disbursements in the divorce action:

1.4.1 An initial amount of R230,000.00 (including VAT) in respect of the deposit and the fees of the applicant's forensic accountant Hannes Swiegers Inc.;

1.4.2 An initial amount of R35,190.00, (including VAT) in respect of the fees of the applicant's industrial psychologist, Mr. Bernard Swart; and

1.4.3 The applicant's legal costs (attorney and counsel) to be incurred up to, but excluding the first day of trial, in the amount of R915,400.00.

[2] Neither the minor children's primary residence nor the respondent's contact arrangements with them are in dispute.

[3] The respondent opposed the Rule 43 application; and tendered the payment of:

3.1 Maintenance in the amount of R20,873.00 per month, to increase with R9,810.00, should the salary cease;

3.2 Continued direct payment of the medical aid and medical expenses, the rental, the rates, taxes, water, electricity, sanitation, the minor children's education and aftercare and the vehicle; and

3.3 A contribution of R25,000.00 in respect of the applicant's legal costs.

[4] According to the respondent, the monthly expenses he pays directly, in addition to the amount he tenders, amount to approximately R39,047.00.

[5] The issues in the Rule 43 application were accordingly confined to the quantum of the maintenance and the respondent's contribution towards the applicant's costs.

[6] Prior to the arguing of the Rule 43 application, the parties agreed that the following order can be made:

'1. The Respondent is ordered to pay maintenance *pendente lite* in respect of the Applicant and the two minor children, H[...] J[...] S[...] and B[...] S[...] ("the minor children"), in the sum of R40,000.00 per month and that in the event that the Applicant's salary from Azuflash (Pty) Ltd is no longer paid to the Applicant, the above amount be increased by R9,810.00;

2. That in addition to the specified maintenance ordered above, the Respondent be ordered to, *pendente lite:*

2.1 retain the Applicant and the two minor children as registered dependants on his medical aid scheme;

2.2 take all necessary steps to ensure that the Applicant continues to have use of the vehicle that the Applicant currently uses and which vehicle is registered in the name of Azuflash (Pty) Ltd;

2.3 continue to pay all reasonable costs relating to the maintenance, servicing and repair of the said vehicle, including any running costs and tyres;

2.4 continue to pay the monthly rental for the residence occupied by the Applicant and the minor children;

2.5 pay 50% (fifty percent) of all costs relating to the minor children's education, including school fees, costs relating to schoolbooks and stationery, school uniforms, sports clothing and equipment (including any sports not part of the school's sports), school outings and tours, extra tuition reasonably required by the minor children, and aftercare;

3. That, *pendente lite,* both parties retain full parental rights and responsibilities with regard to the care of the minor children, as contemplated in Section 18(2)(a) of the Children's Act, 38 of 2005, subject to the following:

3.1 That, *pendente lite,* the primary care and residence of the children is awarded to the Applicant.

3.2 That, *pendente lite,* the Respondent be awarded reasonable physical and telephonic contact with the minor children as requested by the minor children or agreed between the parties at any time and as follows:

3.2.1 having the minor children reside with him on alternative weekends from 16h00 on a Friday to 16h00 on the Sunday;

3.2.2 having the minor children reside with him or taking them on vacation on alternate short vacations and one half of long vacations (provided that in the event that the divorce is not finalised before that, contact with the minor children on Christmas alternate between the parties);

3.2.3 At least three hours' contact to be awarded to the Respondent on the birthday of the child, and the birthday of the Respondent if such an occasion does not fall on a normal access weekend;

3.2.4 Contact on Father's Day from 9h00 to 17h00 if this day does not coincide with a normal access weekend;

3.2.5 The Respondent may maintain reasonable electronic contact with the minor children which contact includes but is not limited to telephonic contact, video calls, Skype or similar platforms and WhatsApp or similar platforms.

3.3 That, *pendente lite,* the parental responsibilities and rights with regard to the guardianship of the minor children, as contemplated in Section 18(2)(c) and 18(3) of the Children's Act, 38 of 2005, be retained by the parties jointly.

4. The quantum of the Respondent's contribution to the Applicant's legal costs and the cost of the application will be determined by the Court.'

[7] The only outstanding issue requiring determination in this Rule 43 application concerned the extent of the respondent's contribution towards the applicant's legal costs.

The divorce:

[8] The parties were married to each other on 22 March 2013 out of community of property, with the inclusion of the accrual system in terms of the Matrimonial Property Act 88 of 1984 ("the Act").

[9] The applicant seeks, *inter alia*, permanent spousal maintenance payable until her death or remarriage, extensive maintenance in respect of the minor children, and an order directing compliance with and implementation of the provisions of the antenuptial contract.

[10] In his counterclaim, the respondent offers to contribute R30,000.00 per month towards the maintenance of the minor children. The tender encompasses the payment of the children's medical aid contributions and medical expenses, their educational costs, and the monthly rental in respect of the residence they occupy, together with rates, taxes, water and electricity charges. Notably, the respondent makes no provision for, nor does he tender any contribution towards, the maintenance of the applicant.

[11] The issues remaining for determination in the divorce action are:

11.1 The quantum of the applicant's accrual claim; and

11.2 Whether the applicant is entitled to maintenance until her death or remarriage, including provision for her medical aid and medical expenses, the acquisition of an immovable property valued at R4,000,000.00, and a motor vehicle valued at R850,000.00, to be replaced every five years.

The applicant's case in the Rule 43 application:

[12] On 9 June 2026, the applicant instituted divorce proceedings against the respondent.

[13] At the time the Rule 43 application was heard, the respondent had already delivered his plea and counterclaim; and the applicant had also filed her plea to his counter claim.

[14] To date hereof, the applicant was reliant on financial assistance from her elderly parents, who funded the litigation. The applicant, however, does not seek a contribution towards her legal costs already incurred, including the amount of R189,913.84 (inclusive of VAT) that was incurred in the urgent application.

[15] Her bill of costs, attached to her founding affidavit, sets out her "*bona fide* estimate" of future costs as follows:

'A. LEGAL FEES (ATTORNEY AND COUNSEL)

Item/attendance	**Hours**	**Amount (Excluding VAT)**
Drafting replication (if necessary), or considering Defendant's plea and counter claim, and consultation with client regarding further instructions:		
Attorney	2	R 8,000.00
Counsel	1	R 2,800.00
Receipt and perusal of defendant's plea and counter claim and/or special plea:		
Attorney	2	R 8,000.00
Counsel	2	R 5,600.00
Preparing brief for counsel, consultation with counsel regarding application to set aside the subpoenas (if applicable), consultation and drafting:		
Attorney	10	R40,000.00
Counsel	10	R28,000.00
Attending court to argue opposed motion (if applicable):		
Attorney	Day-fee	R40,000.00
Counsel	Day-fee	R28,000.00
Request for discovery and simultaneous exchange of financial documents, collating and preparing the bundle, and service of financial documents on the defendant:		
Attorney	10	R40,000.00
Counsel	10	R28,000.00
Drafting Rule 37 questionnaire, Rule 35 notice and request for further particulars for trial purposes:		
Attorney	2	R 8,000.00

Counsel	3	R 8,400.00

Service and filing of the above and reporting to client:

Attorney	2	R 8,000.00

Receipt and perusal of defendant's request for further particulars for trial purposes and Rule 35 notice, and consultation with client:

Attorney	2	R 8,000.00
Counsel	3	R 8,400.00

Drafting reply to request for further particulars for trial purposes, drafting discovery affidavit and attending to signature before a commissioner of oaths:

Attorney	4	R16,000.00
Counsel	4	R11,200.00

Receipt and perusal of defendant's reply to request for further particulars and discovery affidavit, and consultation with client:

Attorney	3	R12,000.00
Counsel	2	R 5,600.00

Drafting further discovery in terms of Rule 35(3) and (6), making copies, delivery and attending to receipt:

Attorney	3	R12,000.00
Counsel	4	R11,200.00

Receipt and perusal of defendant's request for further discovery, consultation with client and drafting reply:

Attorney	3	R12,000.00
Counsel	2	R 5,600.00

Drafting notices in terms of Rule 36 in respect of expert witnesses, making copies, service and filing, and attending to receipt:

Attorney	6	R24,000.00
Counsel	6	R16,800.00

Consultation with expert witnesses in preparation for trial:

Attorney	5	R20,000.00

Counsel	5	R14,000,00

Receipt of Rule 37(8) notice in respect of the pre-trial conference and making the necessary arrangements:

Attorney	3	R12,000.00
Counsel	2	R 5,600.00

Preparation for the Rule 37(8) pre-trial conference, receipt and perusal of index and preparing own file records:

Attorney	4	R16,000.00

Attending court in respect of the Rule 37(8) conference:

Attorney	2	R 8,000.00
Counsel	1	R 2,800.00

Preparing court file bundles for trial:

Attorney	5	R20,000.00
Counsel	5	R14,000.00

Preparing for trial (3 days)

Attorney	3 x day-fee	R120,000.00
Counsel	3 x day-fee	R 84,000.00

Letters and emails written and received (100 pages at R180.00 per page) R18,000.00

Telephone calls made and received (100 calls averaging 10 min, at R180.00
per 5 min) R30,000.00

Attending on making copies (5000 pages at R6.00 per page) R30,000.00

TO FEES	R 796,000.00
TO VAT @15%	R 119,400.00
TOTAL-LEGAL FEES (Incl. VAT)	**R 915,400.00**

B. EXPERT INVESTIGATIONS (ESTIMATED COSTS)

Expert	Basis	Amount (Excl. VAT)
Forensic accountant: investigation, valuations, compiling report and consultation with counsel:	50 hours (at R4,000.00 per hour)	R200,000.00
Industrial psychologist: structured interviews, assessments, collateral evidence and report, as per quotation annexed marked "CS8"		R 30,600.00
TO FEES		R 230,600.00
TO VAT@15%		R 34,590.00
TOTAL- EXPERTS (Incl. VAT)		R 265,190.00

TOTAL AMOUNT (LEGAL FEES & EXPERTS) (INCL. VAT)

R1,180,590.00'

[16] In support of her claim, the applicant advances the following contentions:

16.1 She is entitled to a sufficient contribution to enable her to litigate on an equal footing with the respondent, including by engaging senior counsel, thereby giving effect to her constitutional rights to equality, dignity and a fair hearing;

16.2 A forensic accountant must investigate the respondent's financial affairs to enable her to protect and quantify her accrual claim. The investigation would include tracing and valuing Azuflash, the respondent's loan account and any off-book assets; and

16.3 An industrial psychologist must assess her earning capacity following her eight years of employment in the respondent's company, as this is relevant to both her maintenance claim and the application in terms of s 7(2) of the Divorce Act 70 of 1979.

The respondent's case in the Rule 43 application:

[17] The respondent admits that he is the sole director and shareholder of Azuflash. He alleges that he earns a monthly salary of R15 832,97 from the company and that Azuflash funds the monthly shortfall of R23 222,87 between his income and expenses. He nevertheless denies that he "co-mingles" his personal funds with those of Azuflash.

[18] The respondent raises no objection to any particular item contained in the summary of anticipated legal expenses. His objection is directed at the overall amount claimed, namely R915,000.00, which he describes as "shocking, astonishing and absurd". He submits that it is unreasonable for the applicant to expect the Court to endorse the engagement of an attorney charging R40,000.00 per day, whereas he has retained local attorneys and counsel at substantially lower rates.

[19] The respondent accordingly offers a contribution of R25,000.00 towards the applicant's legal costs, which he submits is both adequate and in accordance with the prevailing practice in this Division, for purposes of funding the first day of the divorce trial.

[20] The respondent contends that the appointment of a forensic accountant is premature and that the applicant must establish its necessity at trial. He further submits that he should not be required to contribute towards that expense on the basis of allegations that he regards as unjustified and unsubstantiated. In the final instance, he states that the appointment of an industrial psychologist is inappropriate, as such evidence is relevant only to third-party claims.

Arguments advanced by counsel:

[21] Mr S Grobler SC, appearing on behalf of the applicant, submitted that the applicant ought to be awarded the full contribution sought. He contended that the respondent had advanced no more than a notional defence to the claim and had failed to take issue with any specific item contained in the estimate of costs. He conceded, however, that an amount of approximately R300,000.00 could be deducted from the sum of R915,400.00 in respect of the provision made for a three-day trial and certain items included in the estimate which would not be applicable to the divorce proceedings.

[22] He nevertheless persisted in his submission that the respondent's refusal to disclose the extent of his estate, alleged to be worth approximately R30 million, coupled with his willingness to litigate every issue arising in the proceedings, justified a substantial contribution towards the applicant's legal costs.

[23] In the applicant's heads of argument, it is submitted that, as the pleadings are on the verge of closing, the irreducible minimum contribution required at this stage of the proceedings is R524,400.00 (inclusive of VAT). This amount comprises: *(a)* the fees of the experts; and *(b)* the legal costs associated with discovery and pre-trial litigation.

[24] Mr Grobler suggested that the respondent's liability for the experts' fees be limited to payment upon presentation of the respective invoices by the experts concerned.

[25] Mrs Sieberhagen, appearing on behalf of the respondent, tendered a contribution of R150,000.00 towards the applicant's legal costs, payable in three monthly instalments. She contended that the agreement reached between the parties is indicative of the respondent's willingness to settle

the matter. She added that the matter was not of such an extraordinary nature as to justify the costs claimed by the applicant and contended that the employment of senior counsel and the appointment of experts were not warranted in the circumstances.

[26] She further submitted that the present Rule 43 application was distinguishable from *H v H* 2023 (6) SA 279 (GJ), in which the Court awarded the full contribution of R830,000.00 claimed by the applicant. According to counsel, the distinguishing feature in that matter was that the Respondent had acquired assets to the value of approximately R17.5 million within a single year, a circumstance not present in the matter before this Court.

[27] She argued that the inclusion of the forensic accountant's fees in the claimed contribution was premature, given that discovery had yet to be completed. She submitted that the projected 50 hours required for the forensic investigation was conjectural and unsupported by the current state of the proceedings. She further contended that the applicant should, where possible, engage suitably qualified experts in Kimberley rather than Cape Town in order to minimise costs.

Applicable law:

[28] Rule 43 regulates the procedure to be followed where a contribution to costs is sought. The substantive basis of the claim is the reciprocal duty of support between spouses, which includes the cost of legal proceedings.[1]

[29] Even before the constitutional entrenchment of equality before the law, the courts recognised that parties should be enabled to litigate on an equal footing. In practice, this often required that wives be provided with the means to present their cases adequately. In *Van Rippen v Rippen*

[1] *AF v MF* 2019 (6) SA 422 (WCC) para 27.

("*Van Rippen*"), Ogilvie Thompson J, as he then was, expressed the governing principle in the following frequently cited *dictum*:

'... the Court should, I think, have the dominant object in view that, having regard to the circumstances of the case, the financial position of the parties, and the particular issues involved in the pending litigation, the wife must be enabled to present her case adequately before the Court.'

[30] In *Cary v Cary*, Donen AJ considered the relevant authorities in the light of the applicable constitutional imperatives. He held that the discretion conferred by Rule 43 must be exercised consistently with the rights to equality and equal protection of the law, and that "*equality of arms*" is necessary for a fair divorce trial. He concluded as follows:

'... applicant is entitled to a contribution towards he costs which would ensure equality of arms in the divorce action against her husband. The applicant would not be able to present her case fairly unless she is empowered to investigate respondent's financial affairs through the forensic accountant appointed by her. That is applicant will not enjoy equal protection unless she is equally empowered with 'the sinews of war'. The question of protecting applicant's right to and respect for and protection of her dignity also arises in the present situation, where a wife has to approach her husband for the means to divorce him. I therefore regard myself as being constitutionally bound to err on the side of the 'paramount consideration that she should be enabled adequately to place her case before the Court'. The papers before me indicate that respondent can afford to pay the amount claimed and that he will not be prejudiced in the conduct of his own case should he be ordered to do so.'

[31] A lack of means to litigate may also impair a spouse's dignity, particularly where that spouse must seek financial assistance from family or friends. The duty of support is reciprocal between spouses. A spouse without sufficient means may therefore look to the other spouse, where the latter has the means, for payment of reasonable litigation costs. This principle applies irrespective of gender.

[32] The quantum of a contribution towards costs is a matter for the presiding judge's discretion, exercised in accordance with the following established principles:

32.1 The applicable legal principles are well established. In assessing a claim for a contribution towards costs, a court is required to consider the circumstances of the case, the parties' respective financial positions, the nature and complexity of the dispute, and the scale on which the parties are litigating or propose to litigate.[2]

32.2 Although the reciprocal duty of support between spouses is gender-neutral, the traditional allocation of childcare responsibilities and the disparity in wealth between men and women have meant that women have more frequently sought contributions towards costs in divorce proceedings;[3] and

32.3 An applicant is entitled to a contribution sufficient to secure equality of arms in the divorce proceedings.[4]

[33] I respectfully agree with the observations of David AJ in *AF v MF*, where the Court explained the purpose and scope of a contribution towards costs as follows:

> 'In my view the obligation to pay a contribution towards the wife's legal costs does not necessarily postulate an obligation only to pay for part of those costs… The extent of the contribution should logically depend on how much, if anything, the wife herself is able to contribute…'

[34] A contribution to costs is not, however, a warrant to litigate at any chosen scale.[5]

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[2] *AF v MF* 2019 (6) SA 422 (WCC) at par 29.

[3] *AF v MF* 2019 (6) SA 422 (WCC) at par 30.

[4] *Cary v Cary* 1999 (3) SA 615 (C) at 621 D.

[5] Unreported judgment *R.D.C.N v C.M.N* (2026/009742) [2026] ZAWCHC 214 (11 May 2026) at para 39.

[35] Mr Grobler referred me to relevant judgments to the issue before Court, which has been of assistance in the determination thereof. These authorities, although unreported, demonstrate that courts have previously granted orders in circumstances where: *(a)* The full amount of the contribution towards costs sought by an applicant was awarded, including contributions in respect of costs already incurred and the costs associated with the employment of senior counsel[6]; and *(b)* Provision was made for the costs of expert witnesses, including industrial psychologists and forensic accountants.[7]

Applying the law to the facts:

[36] Turning then to the evidence in this matter, the following is of relevance:

36.1 Notwithstanding his disclosure that he earns a monthly salary of R15,832.97, the respondent is able to contribute an additional amount of R39,047.00 towards the maintenance of the applicant and the minor children. The evidence further reveals that the applicant enjoyed unrestricted use of the respondent's credit card. However, the respondent failed to make full disclosure of his own personal expenses. In the absence of such disclosure, the Court is unable to assess the true extent of his financial obligations and means, and an adverse inference may be drawn regarding the completeness of his financial disclosure.

36.2 The litigation between the parties appears to be marked by considerable acrimony. This is evident from an urgent application

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[6] Unreported judgment *AF v MF supra,* Unreported judgment *H v H supra.*

[6] Unreported judgment *YM v TJM* [2023] ZAGPPHC 582.

[7] Unreported judgment *KF v MF* [2023] ZAWCHC 253, Unreported judgment *CB v MRB* [2024] ZAGPPHC 805, Unreported judgment *DS v GS* [2024} ZAMPMHC 54, Unreported judgment *MCDCR v APWR* [2025] ZAGPJHC 307.

in which the applicant sought an order interdicting Azuflash from acquiring an immovable property valued at R8,000,000.00 jointly with Ms A. Faber. The application was unsuccessful. Notwithstanding the outcome of those proceedings, the respondent subsequently agreed that the property would be purchased in the name of Azuflash rather than in the name of the contemplated trust. This sequence of events underscores the contentious nature of the dispute between the parties.

36.3 The respondent, relying on the provisions of the Protection of Personal Information Act 4 of 2013 and the Companies Act 71 of 2008, contends that the applicant is not entitled to access the financial information of Azuflash. He argues that the applicant impermissibly conflates his personal means with those of Azuflash, a separate juristic entity. This contention is advanced notwithstanding the fact that the respondent is the sole shareholder and director of Azuflash and exercises exclusive control over its affairs and finances.

36.4 On the respondent's own version, Azuflash is indebted to him in the amount of R4,200,000.00. He further avers that his movable assets have an approximate value of R2,000,000.00. These disclosed assets are not insignificant and must be considered when assessing his overall financial means and ability to meet his obligations and his ability to make a suitable contribution to the applicant's legal costs.

36.5 According to the applicant, Azuflash incurred the following expenditure during the period 12 June 2026 to 10 September 2026;

36.5.1 Legal expenses, of which an amount of R77,500.00 is reflected in annexure "OA1" to the Respondent's answering affidavit;

36.5.2 Expenditure relating to the acquisition of livestock and game, comprising cattle in the amount of R111,090.00, game in the amount of R57,600.00, and sheep in the amount of R10,000.00; and

36.5.3 Expenditure in the amount of R104,825.04 in respect of the farm Blaaubosput.

[37] These expenditures are indicative of Azuflash's ability to incur substantial costs during the relevant period and are relevant to an assessment of the respondent's overall financial position and access to resources.

[38] On the evidence presented, there is therefore no basis for concluding that the respondent is unable to afford a contribution towards costs claimed by the applicant.

[39] I agree that there is no room for adherence to a purported practice that a contribution towards costs should be confined to the costs of the first day of trial. The determination of such a contribution must be informed by the particular facts and circumstances of each case.

[40] Taking into account all the circumstances of this matter, including the nature and complexity of the issues to be determined, particularly those relating to the calculation of the accrual, I am satisfied that it is in the interests of justice to place the applicant in a position to litigate fairly and effectively, on a footing as near to equal as possible to that of the respondent.

[41] Although Mrs Sieberhagen does not hold silk, she is an experienced practitioner with recognised expertise in matrimonial litigation. In the circumstances, I do not consider the applicant's decision to brief senior counsel to be unreasonable.

[42] I am further satisfied that the applicant has adequately substantiated her estimated legal costs and expert fees in the amount of R524,400.00, inclusive of VAT. Having regard to the issues involved, the complexity of the anticipated litigation, and the likelihood that expert evidence will be required in relation to the determination of the accrual claim, I am of the view that the amount claimed is reasonable and justified in the circumstances.

[43] The applicant's right to seek a further contribution towards costs, should circumstances so require as the litigation progresses, remains preserved by Rule 43(6).

[44] The principal issues in the divorce action are the determination of the accrual claim and the applicant's claim for spousal maintenance. The respondent has failed to make full and frank disclosure of his financial affairs, a circumstance that is likely to necessitate a forensic investigation in order to ascertain the true nature and extent of the parties' respective estates. In these circumstances, it is imperative that the value of the parties' estates be accurately determined before the divorce action is finalised. Absent such an exercise, the applicant's ability to pursue and properly quantify her claim for spousal maintenance may be materially prejudiced. It follows that any failure to establish the true value of the parties' estates would not only undermine the adjudication of the accrual claim but could also compromise the fair determination of the applicant's maintenance claim.

[45] The applicant's claim in respect of the fees of an industrial psychologist to assess the applicant's income earning capacity appears reasonable to me, since the applicant's employability will be one of the issues contested in the divorce action.

[46] The contribution awarded towards the applicant's legal costs should, however, not be understood as entitling either the applicant or her legal representatives to incur costs unreasonably or in bad faith in the conduct

of the main divorce proceedings. The parties and their respective legal representatives are expected to ensure that only reasonable and necessary legal costs are incurred. Every reasonable effort should be made to explore avenues for settlement and to avoid the unnecessary escalation of costs through protracted litigation and extended trial proceedings.

The costs of the Rule 43 application:

[47] Although the applicant has achieved substantial success in the Rule 43 proceedings and the respondent has not, there is no reason to depart from the conventional approach followed in this Division, namely that the costs of the Rule 43 application are reserved for determination by the trial court in the divorce action.

Order:

[48] Wherefore, the following order is made:

1. The respondent shall pay a first contribution towards the applicant's legal costs in the amount of R259,210.00 (inclusive of VAT), which amount shall be paid into the trust account of the Applicant's attorneys of record in eight (8) equal monthly instalments of R32,401.25, the first instalment being payable on 30 November 2026 and thereafter on the first day of each succeeding month until payment has been made in full.

2. The respondent shall pay the fees of the applicant's forensic accountant, upon presentation of the relevant invoice, up to a maximum amount of R230,000.00 (inclusive of VAT).

3. The respondent shall pay the fees of the applicant's industrial psychologist, upon presentation of the relevant invoice, up to a maximum amount of R34,590.00 (inclusive of VAT).

4. The costs of this Rule 43 application shall stand over for determination in the divorce action.

STANTON J
JUDGE OF THE HIGH COURT
NORTHERN CAPE DIVISION

Appearances

For the Applicant:	Adv S Grobler SC
Instructed by:	Maurice Phillips Wisenberg Inc.
Care of:	Haarhoffs Inc.
For the Respondent:	Adv AS Sieberhagen
Instructed by:	Engelsman Magabane Inc.