Financial Remedies Update

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Similarly to KV v KV [2024] EWFC 165 in the previous issue, PM v RM [2025] EWFC 11 provides a further illustration of how MPS and LSPO applications should be treated in cases of extensive wealth when provision to the wife is abruptly ended on the breakdown of the marriage and disclosure is found wanting.

The parties had married in 2017 having entered into a pre-nuptial agreement in 2016. There were four children between the parties, including H's two adult children from a previous marriage. In July 2024, W informed H that she wished to divorce. Her position was that the parties had discussions about settlement, and shook on her being provided with a £15m housing fund, £10m to invest, maintenance, holiday funds, school fees and medical expenses. This totalled provision of £33.5m. However on return from holiday, H told W that they had no money save for the family home. H ceased to pay W her monthly allowance, permit use of the Amex card or to invoice U Company for expenditure. He made just one payment to W of CHF 30,000 in October 2024. The staff were not paid their wages and many had resigned.

W was a home-maker with liquid funds of £18,000 to her name and no other resources save for jewellery. She had little understanding of H's work but believed it involved making political connections and introductions. W described a number of documents belonging to H which she found at the Family Home. This included a schedule showing H's wealth to be in excess of £200m. These were sent to H's solicitors in accordance with Imerman. H disclosed the schedule with his witness statement. H said that he did not create it and did not recognise it. He anticipated it was created by an assistant or fiduciary to open a bank account or obtain borrowing. He said that the author likely sought to exaggerate the position. He didn't know when the schedule was produced but said it was not recent. The schedule listed assets and liabilities of:

i. FMH worth £45m with £27.2m borrowing
ii. £150m land in Z City
iii. £17m private equity investments in the US
iv. £8.25m cash
v. £3.15m cars, art and jewellery

Mr Warshaw QC, sitting as a Deputy High Court Judge, concluded that the schedule could not be more than 18 months old. This was because it referred to 'Lender R' in respect of the charge on the Family Home, and Lender R did not become the lender in this respect until July 2023. He was therefore satisfied, for the interim purposes of this hearing, that the table was no more than 18 months old and reflected the resources then available to H. He did not accept H's explanation that the document was a deliberate overstatement as plausible, and concluded that the US equity investments were likely of a great value. Overall, the court therefore had no hesitation in finding that H has resources significantly greater than what he had disclosed for the purposes of this application. He had sufficient resources to meet W's interim claims. The court granted W's (modified) MPS claim for £33,410pcm, mortgage and utility payments, school fees, salaries of one security guard and nanny; medical expenses. In terms of legal services payment, W sought costs incurred of £125,609 and future costs to the end of post FDR directions of £408,336. H offered nothing, stating the application to be premature. It was conceded that the lion's share of W's incurred costs related to an injunction application regarding the Trust which held the Family Home. The relevant costs incurred were therefore £71,374. The court applied a 15% deduction to both the incurred costs and the future costs, and therefore ordered £60,668 and £347,085 to be paid respectively. The latter to be paid in equal monthly instalments in the usual way.

Interim applications were considered again in SM v BA [2025] EWFC 7. In this instance, LSPO was the focus as the MPS element of W's application having been adjourned to a later date. W sought a total LSPO of £1,121,467. This was made up of:

i. £241,269 outstanding costs;
ii. £651,288 in financial remedy proceedings up to and including pFDR;
iii. £46,668 MPS; and
iv. £1811,542 in FLA 1996 proceedings.

H offered to pay W a sum of £250,000, funded by a sale of shares worth £500,000 with the total received to be divided equally between the parties.

The ES2 for the first appointment showed assets of £55m on W's case (she said this was an undervalue) and £16m on H's case. The parties' combined costs at this stage, four months away from the pFDR before Sir Philip Moor, were already in excess of £675,000. The court observed that the descriptions of 'apocalyptic' and 'nihilistic' as applied to the litigation expenditure in Xanthopoulos v Rakshina [2023] 1 FLR 388 and Crowther v Crowther & Ors [2022] 2 FLR 243 may well apply here if the parties' continued at the same rate.

When considering the historic costs, the court refused to make an order in respect of £63,994 in respect of the FLA 1996 proceedings. Those proceedings had already concluded. Furthermore, they had done so on the basis of no order as to costs. It would therefore have been wrong for W to recover through the back door what she could not receive from the front door. The remaining £177,975 of historic costs did relate to financial remedy proceedings. When considering whether it was appropriate to make any deduction to this sum sought, Nicholas Allen KC, sitting as a Deputy High Court Judge, observed that there had been a level of judicial inconsistency in this regard. He considered the approaches taken in BC v DE [2017] 1 FLR 1521, KV v KV [2024] 2 FLR 951 and Williams v Williams [2023] EWHC 3098 (Fam). Mr Allen KC concluded that it was not appropriate to give such a discount on historic costs merely as a matter of principle. He preferred the approach adopted by Peel J in HAT v LAT [2023] EWFC 162, [35]. He noted the starting point, as espoused by Francis J in DR v ES [2022] EWFC 62 should be a presumption that costs have been properly incurred and unless the contrary can be shown, should be met under LSPO. The full figure of £177,975 was therefore awarded.

Similarly, it is reasonable to assume that, as officers of the court, the amount sought by solicitors has been carefully considered and is reasonable when determining prospective legal services awards. The court determined that a figure of £500,000 was reasonable. This was c.£150,000 less than had been sought. An interesting question was raised on H's behalf: any payment made by H towards W's costs should be checked by the fact that it would come from the realisation of funds that are non-matrimonial in nature (on H's case). Whilst this was an interesting and somewhat novel argument, it was not one that required addressing in this judgment.

HA v EN [2025] EWHC 48 (Fam) is the third and final MPS and LSPO decision to be considered in this edition. On this occasion, the parties were post-FDR and approximately five months away from their listed final hearing date. W was 40 and born in Russia but had been a British citizen since

2011. H was 66 years old. He was born in Kenya but had been domiciled in England since 2017. The parties had married in January 2009 having signed a pre-nuptial agreement in December 2008. Both parties had been represented. At the time of the agreement, H said he had wealth of c.£61m. W's provision under the agreement provided for a housing fund, capitalised maintenance and child maintenance. It also included a "stop-loss" clause that W's award would be capped at 50% of the total assets. The children of the marriage were 15 and 13 and attended fee-paying schools. The children's time was divided equally between the parties. The property in which W was still living was worth c.£21m. During the course of the hearing, the parties agreed that the property should be marketed for sale, and a consent order in these terms was made. H argued that he was now worth just £14m. W argued he was worth at least £23m with an annual income of £200,000 p.a.

W's MPS application was unusual. She sought for H to 'maintain the financial status quo', with an unless order that if he did not do so, then MPS was to be awarded in the sum of £20,500pcm plus the meeting of other specified outgoings. (£4,500 went towards the paying of staff). DHCJ Todd KC did not accept this approach: there was either to be an MPS order made or not. The 'unless' position was legally incoherent and refused. An MPS order was therefore considered and made in the usual way. Submissions for W repeatedly called H a liar, but were unable to point to where a paper trail of alleged non-disclosed assets might lead. It was argued that H's decline in funds had not been sufficiently evidenced by his descriptions provided.

W had failed to provide an interim budget. The judge was clear that Rattan v Kuwad did not excuse a party from providing an interim budget. Rather, where the Form E budget was capable of adaption then an interim-specific budget might not be needed. However, in this case the court concluded that it did not have a realistic Form E budget that would assist with interim maintenance determinations. Rather than any attempt to paint with a fine sable, this left the court with a metaphorical 'paint roller' by which to make the broad-brush determination in this matter. However given the short period of time until the April hearing, the court concluded that it was able to exercise its discretion and determine the application. It concluded that W should receive £12,000pcm. H was also ordered to continue his obligations to pay staff in the interim.

There had been considerable changes of legal teams by both parties during the proceedings. W was first represented by Vardags, before Starck Uberoi, and now Harbottle & Lewis. H previously by PHB. There had also been complete changes of counsel with each change. The court noted that W was now on her third full legal team. This came with ramifications: changing both her solicitors and counsel would inevitably come with additional cost. If a party wishes that cost to be borne by matrimonial funds or by the other party, they must show a good reason for the change. The court was not satisfied that H's evidence before the court was obviously deficient. The court had not been drawn to an unanswered question which would reveal the location of siphoned funds, nor could W point to the alleged exit point of such wealth, or indeed an entry point enabling H to maintain a lavish lifestyle. H accepted that he still had wealth, but not as much as he had done previously. However it remained the case that W remained eligible for a legal services award. The court refused to make any order in respect of historic costs owed to Starck Uberoi (£75,776). A historical award was made for costs incurred by W's current solicitors, Harbottle & Lewis. A 30% discount was applied, meaning the figure awarded was £62,717. In addition to this

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figure, the court calculated future costs at £358,668 for solicitors' fees and £189,600 for counsel. The total to be met therefore, as a round figure was £610,000. The court observed that H would also require a fund for representation of £240,600. H was able to find £150,000 and therefore needed a charge to cover the remaining £90,600.

DHCJ Todd KC felt that H was being too pessimistic in what he was able to raise. He concluded that H could raise a total of at least £300,000. This should be divided between the parties, with Harbottle & Lewis being paid £150,000 in three tranches. The remaining £460,000 to be paid to W's legal team was to be settled by way of a charging order in respect of the Family Home (see s.73 Solicitors Act 1974).

AF v GF [2024] EWHC 3478 (Fam) considered questions of matrimonialisation in a post-Standish era, as well as reminding practitioners of the high bar for add-backs and the challenging art of private business valuations. W was 52 and H 62. They had cohabited from 2011 and married in 2017, before separating in Autumn 2021. Both parties had been married previously. A primary challenge for the court was the value of H's business interests. H worked in investment management. In 2007, prior to the relationship, he set up 'Fund 1' with Mr Q. H was the Chief Executive of Leumadair Investment Management Ltd and Mr Q was the Chair. Fund 2 was established in 2017 and Fund 3 in 2018, both were open-ended unit-trusts. Other than a minor interest in the latter two shares, H's wealth in fact derived from an interest in the companies which provided advisory and investment advice to the Funds. These compromised: (i) Leumadair Investment Advice; (ii) First Leumadair Investment; and (iii) Second Leumadair Investment. In 2011, Fund 1 purchased three businesses as part of its strategy. W had been the general manager of those businesses. W to date remained the managing director of Blue Leumadair, whose ambit was to manage the business operations. In an initial SJE report, Mr Isaacs valued First Leumadair Investment to have a value of £15.438m at the date the parties'

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commenced cohabitation (December 2011). The SJE Report valued the Leumadair business interests as at January 2023 to have a value of £17.3m. However the updating SJE report, received in January 2024, suggested an 85% drop in the value of H's Leumadair business interests, which were now assessed at being worth just £2.779m. In those circumstances, W relied on an alternative valuation of Ms Hart. Ms Hart assessed a value for the interests of £4.845m if both the planned and potential developments were taken into consideration. (Mr Isaacs having only included the planned developments in his figure of £2.779m). Ms Hart's valuation on planned developments alone was £3.762m. DHCJ Kingscote KC reminded himself of the GO v YA [2024] EWFC 411 was a final hearing fragility of such company valuations, in particular considering the Court of Appeal in Versteegh v Versteegh [2018] 2 FLR 1417. On this occasion, both parties sought for a finding to be made as to valuation. The court was satisfied that it did have a sufficiently sound basis upon which to determine the value. It accepted the valuation of Ms Hart based upon planned development only, meaning the Leumadair interests were treated as having a value of £3.762m. This valuation was preferred, not only because Ms Hart had already accommodated aspects of Mr Isaacs' view on inflation, but because of the cautiously optimistic outlook which came out, particularly in the oral evidence of H. The court was therefore content to adopt a slightly more positive value of £3.762m.

W argued that as she was in charge of developing all the businesses, her contributions in business development had therefore matrimonialised all of the Leumadair interests. H disputed this and argued that they had not become fully matrimonialised. DHCJ Kingscote KC was struck by W's commitment and pride in her professional achievements, and the considerable success she had had. He concluded however that these developments had not come about purely as a result of W's role. The evidence of Mr Q was that this was achieved via a collective drive through a team of people. W accepted that she had a limited role in securing finance, and that the strategy had been developed by H alone. The court concluded that the First Leumadair Investment fell within the second category set out in Standish v Standish [2024] EWCA Civ 567, i.e. where the extent and manner in which non-matrimonial property has been mixed with matrimonial property mean that it should in fairness be included within the sharing principle. It concluded that the value of this investment was to be divided 75% to H and 25% to W. The other Leumadair assets (i) and (iii) above, were fully matrimonialised and were to be divided equally.

In A v M (No. 3) [2024] EWFC 299, Cohen J refused H's application to strike out W's set aside application. Despite W's application to set aside having not been brought at the same time as W's construction application, the court did not accept the argument that it was an abuse of process. Whilst finality of litigation was an important public policy objective, it was common ground in this case that W had ended up with a smaller award than she would have received if H had not given false information to the court. Cohen J observed that 'it does not sit easily with me to say that an admitted wrong should be unable to be corrected except in the clearest of circumstances, which in my judgment do not arise here.' Any issues regarding duplication of costs by W bringing applications separately could be dealt with at a later stage.

HHJ Hess similarly considered an application to set aside in XY v XX [2024] EWFC 387 (B). In this instance it was H's application to set aside a final order formalised by the same judge in 2023 after a four-day final hearing. The judge's final determination had sought to achieve an equalization of the assets, having concluded that there was no reason to depart from an equal division. H now sought to set aside the decision on the basis of mistake. The mistake being that no calculations for CGT occurring in England for the disposal of H's overseas assets was included. The court considered the determination of Mostyn J in DB v DLJ [2016] 2 FLR 1308. In particular, where the following are said to be applicable principles in relation to the ground of mistake:

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i. (iii) the absence of the true facts must not have been the fault of the claimant.

ii. The claimant must show, on the balance of probabilities, that he could not with due diligence have established the true facts at the time the order as made.'

It was argued on H's behalf that the articulation of the above two subsections should not be considered an accurate reflection of the current law on mistake. This argument was not accepted by the court, who concluded that it was an accurate reflection of the current law. W argued that H was in the highly unattractive position of asking to court to improve its outcome for him with regards to assets that H had done 'everything to hide from W and the court.' Ultimately, it was determined not in the interests of fairness or justice to set aside the order. Of particular significance, was how slow the court would be to assist a litigant where the mistake which had occurred was as a result of the fault of the person seeking to re-open the order. This is especially so when with appropriate diligence that party could have ensured that the court was not given the mistaken information that it was at the trial.

QW v GH [2025] EWFC 19 (B) highlighted an unforeseen consequence of separating the financial remedies case number from the originating divorce suit. In this instance the parties had separated in 2015 after a 22 year marriage. W had since remarried. Decree Absolute was pronounced in

December 2015. However, W did not file a Form A in these proceedings until 8 years later in November 2023. The separate case numbers in this case created an issue of fundamental importance: the court needed sight of W's original 2015 petition to know if she had prayed for a financial order in Part 10 or not. With regards to the substantive dispute, the parties had agreed that the FMH was to be sold in July 2025 when the youngest child of the family completed his GCSEs. They were in dispute as to how the net equity in the FMH should be divided upon sale. Of an agreed net equity of £272,466, the court deducted the first £85,000 as non-matrimonial to the husband, he having met all the mortgage payments since W's departure in 2015. The remaining equity thereafter was to be divided equally and there was no reason to depart from equality in respect of that marital resource. When expressed as percentage terms, this created a division of the net sale proceeds 65.5% to H and 3.4% to W.

In ST v AR [2025] EWFC 4 HHJ Vincent considered a case where the parties enjoyed great wealth as a result of income arising from the husband's inherited wealth. The parties had first started a relationship in 2002. After separating for nine months in 2012, they reconciled and married later that same year. W applied for divorce and financial provision in 2023. The parties remained living together in the Family Home. They had chosen to shield their only child, born in 2015, from their impending divorce until matters were fully resolved. W was 51 and H 70. They had moved to England in November 2020. H was the beneficiary of a large inheritance from his grandparents. This was primarily held in a property portfolio, which was managed by a private equity company, Firm 123. The Grandparents' intention, shared by H and his brother, was that the capital investments were to be preserved, the income to be lived off, enjoyed and also re-invested, whilst the main capital be preserved to provide for future generations. Whilst the parties had enjoyed great wealth without limitation, and never considered budgets or expenses prior to the proceedings, they were not partakers in ostentatious displays of wealth. The parties disagreed as to: (i) the value of H's portfolio; and (ii) whether the same had been 'matrimonialised'. H proposed a global offer to W of £11m. This was made up of: a housing need at £4.4m; £5m capitalised income needs; £300,000 costs and a 'settlement premium' of £1.3m. W sought the Family Home to be transferred into her name. She sought a further lump sum of £19,029,782. This was made up of £14,789,881 income fund; £464,501 for works to the Family Home; £3.5m for a second property; £275,400 to discharge a litigation loan. She further sought child maintenance of £83,351.87 per annum.

W accepted that her claim should be determined by reference to needs rather than sharing. However it was argued that when assessing those needs, the court should have regard to the scale of W's sharing claim. W argued that H's property portfolio had become 'matrimonialised' by virtue of H's active endeavours and engagement during the marriage. H challenged this, arguing that he was no more than a passive investor who was focussed on retaining the inheritance to be enjoyed by future generations, but not actively working to trade with it or expand it. It was highlighted on H's behalf that pursuant to Standish v Standish [2024] EWCA Civ 567 'it would be helpful to make clear, expressly, that the concept of matrimonialisation should be applied narrowly.'

The court found the total liquid assets to be £23,708,713. All but £202,436 of this was held in H's name. This included a property and private staffed yacht in Country C. The court found the total illiquid/non-matrimonial funds to be £120,921,381.

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Of particular significance, was how slow the court would be to assist a litigant where the mistake which had occurred was as a result of the fault of the person seeking to re-open the order.

Save for £37,000, the remaining c.£120.9m was H's. The court did not accept H's argument that his interest should be valued net of all projected capital gains tax liability. HHJ Vincent was clear that H's investments were not the equivalent to holding £12m (the net figure) in an investment fund. His assets were not going to be sold, were worth substantially more than this and generated a substantial income (a lot of which was re-invested). The court accepted the illiquid nature, given the evidence of H's brother that he would not consent to any such sale. The court did however find that H was akin to a passive investor and the funds had not been matrimonialised. Whilst it was difficult to determine a figure with precision, the court concluded that H's income was comfortably in excess of £1m per year. It was observed however that whether this figure was correct or not did not significantly impact the determination to be made, as it derived from a non-matrimonial source.

The court concluded that H's evidence that he would remain in England was persuasive. The court declined to provide funds for a second home for W. Both parties wished to retain the Family Home, it was determined that this should be retained by H. It was within walking distance of H's fully equipped studio as a sculptor (worth c.£1.2m). H did not have a UK driving license. H's assistant lived in the Lodge on the properties' grounds. He has worked as H's assistant for more than 20 years. The court awarded W: A housing fund of £4m; £8m for capitalised income needs; an enhancement figure of £1.5m; and an additional payment of £250,000 towards W's outstanding costs bill. This award provided for W to receive 65% of the liquid assets. Her share of the overall wealth, including the non-matrimonial funds, increased as a result of the award from 1% to 9%, which was a significant move.

GO v YA [2024] EWFC 411 was a final hearing before HHJ Hess. H had been, and to some extent continued to be, a world leading figure and expert in a particular area of art. The value of the art business was central. There were over 3,000 items of artwork held personally or in the business. W selected 375

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to be valued. H's personal art collection was valued at £1.18m (£871,940 after CGT, auction costs and insurance costs) and the 375 items were valued at £14m. The SJE was asked to report on discounts for 'immediate sale' and sales 'staggered over 7.5 years' and likely costs of sale. H did not agree with the SJE reports. There was no Daniels v Walker application. There was then to be some SJE accountancy evidence to place the figures into the context of a business valuation but, both parties obtained their own, partisan, reports. HHJ Hess directed the experts to produce a joint report. Disappointingly, the valuation range was c.£6m-£21m. None of the expert witnesses were called for cross-examination. Following the Supreme Court judgment in TUI v Griffiths [2023] UKSC 48, the general Rule in Browne-Dunn is applicable in family cases: a party is required to challenge by cross-examination the evidence of any witness of the opposing party on a material point which he wishes to submit to the court should not be accepted. H submitted that as the SJE opinion is a mere ipse dixit, then there is no such requirement, but HHJ Hess held that the rule did apply. He was therefore obliged to accept the SJE's valuation figures and observations on the applicable discounts. He valued the business at £13m, on a 7-year staggered assumption. W's share after tax was c.£4.5m and H was ordered to pay a lump sum of £3.1m, discounted for early payment, risk and liquidity.

Ogbedo v Oghenerume-Taiga [2024] EWHC 3193 was a decision of Sir Jonathan Cohen concerning F's application to strike out M's application for nullity pursuant to r4.4 FPR on the basis it is an abuse of the court's process. The case was referred to as 'extraordinary' as, if the parties had gone through a customary marriage ceremony on 16.03.02, they had separated by no later than February 2003 when M lodged her first divorce petition. 21 years of litigation in England and Nigeria followed, under the MCA 1973, Schedule 1 and Part III MFPA 1984. M had amended her divorce petition on 4 occasions between 2003 and 2012. F's position in relation to all petitions was that he had never been married to M nor undergone any relevant ceremony. Following an 8-day hearing in 2005, Charles J stayed the petitions pursuant to DMPA 1973 Schedule 1 to allow the Nigerian courts to determine inter alia the personal status and/or the dissolution or annulment of any marriage or purported marriage between the parties. In 2008 the High Court of Lagos found there was a customary marriage ceremony on 16.03.03, but because of F's subsisting marriage, that was of no legal effect. M and F appealed. In 2012 the Court of Appeal in Lagos set aside the decision that there had been a customary marriage in 2002. In 2013, Charles J dismissed M's petitions (but was unaware she had appealed to the Supreme Court in Nigeria). M's appeal was heard 12 years later, she withdrew it. M then applied in England for a nullity order in 2024. The application related to the same issues considered in 2013 and there was no special reason to permit M to proceed with it, so, applying the test in HMRC v Kishore [2021] EWCA Civ 1565, it was struck out.

MacQueen v MacQueen [2024] EWFC 400 (B) was a decision of DJ Ashby in respect of W's applications in a needs case for a lump sum, global PPs and costs. The crux of the dispute was H's alleged non-disclosure in respect of his income. His Form E was described as '…a fairytale, bearing absolutely no resemblance to the truth' and even during his oral evidence, in front of the Judge, he deleted evidence from his WhatsApp. The Judge found that as a minimum H was earning £150,000 gross p.a but probably more. PPs of £1,000 pcm were ordered and a costs order of £10,224 against H (a modest sum sought in what was one of the most egregious and worst examples of dishonesty the Judge had encountered).

T v B [2024] EWHC 3251 (Fam) was a decision of Trowell J in W's application for a Hermain injunction against H. The injunction was made at a hearing on short notice, but effectively without notice to H. H said that the injunction should be set aside as W had failed to discharge the high duty of candour on that occasion, and a Hermain injunction should not be made on the facts of the case. W had filed an English divorce petition and H had made a divorce application in Territory Y, which was moving quickly. The heart of the dispute was whether '…the conduct of the husband is vexatious, oppressive or unconscionable and that he is trying to steal a march by staying proceedings in this territory to deal with preliminary issues while unfairly proceeding in Territory Y.' Trowell J found that H had mired W's application for divorce in a preliminary issue about jurisdiction by using the notice period to bring proceedings in Territory Y, and requiring the English court to have a case management hearing, leaving W 'stuck in a mire of his making'. The injunction was continued until the determination of the jurisdiction issue.

Re CB (Financial Remedies: Antisuit injunction) [2025] EWHC 427 (Fam) was a decision of HHJ Moradifar. VC applied for an 'anti suit' injunction

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if the parties had gone through a customary marriage ceremony on 16.03.02, they had separated by no later than February 2003 when M lodged her first divorce petition. 21 years of litigation in England and Nigeria followed, under the MCA 1973, Schedule 1 and Part III MFPA 1984.

(s.37 SCA 1981) to prevent DB from pursuing, participating or otherwise continuing any applications for PPs for the children of the family, or any other applications relating to their marriage in the courts of India. The children were joined as parties. A number of applications had been made in England and India, including an application by DB for child maintenance in India. An interim anti-suit injunction was made against both parties preventing them from pursuing further litigation outside of England and Wales. This was an 'alternative forum' case. At all material times DB and the children were habitually resident in England. By a narrow margin, VC was found to be habitually resident in the UK meaning that at the time of the child maintenance application, the English courts had continuing jurisdiction, and the CMS had jurisdiction over issues of child maintenance. The evidence clearly demonstrated that the courts of England and Wales were the natural forum for the parties dispute to be heard. However, DB's pursuit of litigation in India was not vexatious, oppressive (or unconscionable). The application for an antisuit injunction was dismissed, and any award made by the courts in India would be considered when the English Courts reach a decision. HHJ Moradifar invited the courts of India to consider whether it would be appropriate to stay or dismiss the child maintenance application in India.

ON v ON [2024] EWFC 379 was a decision of HHJ Booth (sitting as a High Court Judge) regarding an application to set aside an arbitral award due to alleged non-disclosure and consideration of the duty of full and frank disclosure. The court had to determine 1) if there had been fraudulent non-disclosure by H, 2) if so, was it material to the award and 3) if it was material, what adjustment, if any, should be made to reflect that on disclosure. The arbitrator had determined that the asset base was £4.8m and divided it broadly equally. £1.3m was the value placed on H's business interests. W's case was that the duty of full and frank disclosure is owed by both parties to each other and the court in financial remedy litigation until the court order is sealed. H's case was that the duty ends at the arbitration hearing or with the judgment / award. After reviewing the authorities, HHJ Booth concluded that the answer to the question "can the award be treated as if it were a judgment, so that the duty of full and frank disclosure ends with the award?" may be "it depends". HHJ Booth considered that if the award is followed by an immediate application to the court, with the court asked to make an order in terms of the arbitral award then there is no reason why the duty should not end with the award. However, in this case the award was delivered more than six months after the arbitration hearing and then there was a further 6 months haggling over the terms of the order to implement the award. The duty of full, frank and clear disclosure continued throughout and continues until an order is approved by the court. Following the award, H's business accounts were finalised and W alleged fraudulent non-disclosure of information material to the award and she sought to set it aside. HHJ Booth found that H had misled W and the arbitrator and decided he was not going to share what he regarded as his good fortune with W and this amounted to fraud. W was awarded an additional £1.16m and her costs.

> After reviewing the authorities, HHJ Booth concluded that the answer to the question "*can the award be treated as if it were a judgment, so that the duty of full and frank disclosure ends with the award?*" may be "*it depends*".

GH v H [2024] EWHC 2869 (Fam) was a decision of Simon Colton KC about charging orders. It was decided that it was possible for the court to make a charging order on the application of a party to the marriage, in respect of sums which are due to be paid to a third party, namely the child of the marriage (2/3 was to be paid direct to the child). In respect of whether interest had accrued on payments that had been ordered but gone unpaid, it was unclear from the orders as to the jurisdiction in which the final order was made: some orders referred to the Family Court, and some to the High Court. If in the Family Court, then interest does not accrue (TW v TM (Minors) [2015] EWHC 3054 (Fam)). However, this order was made in the High Court. It was decided that the PPs order gave rise to judgment debts within the meaning of the 1983 Act. When those sums fell due but were not paid, interest began to accrue at 8% p.a. under s.17. The Judge also considered whether the fixed costs regime in Part 45, CPR applies to the making of final charging orders, and, if so, the circumstances in which the court can and should order otherwise. Tables 6 and 7 under CPR r.45.22 and CPR r.45.23 apply to the making of a final charging order under FPR 40.8(2)(a). The fixed costs regime was the starting point, unless the court orders otherwise. H's conduct justified disapplying the fixed costs regime and W recovered her costs, assessed on the indemnity basis.

AJ v FJ [2024] EWFC 356 was a decision of MacDonald J in respect of a successful appeal against the decision of the Maintenance Enforcement Business Centre (MEBC) to register a Polish interim maintenance order obtained by M. F argued that registration was manifestly incompatible with public policy for the purposes of Art 22(a) of the 2007 Hague Convention in circumstances where the effect of reciprocal enforcement of that order would be to finance and entrench the continuing unlawful retention of the children in the jurisdiction of Poland that resulted from a failure by Poland to meet its obligations under BIIa in abduction cases (the children had been in Poland since 2021 despite M's application to remove them permanently being refused and an SIO being in place that M must return them after holidays). In 2021 M applied for maintenance in Poland. F was required to pay PLN 1500 per child, per month as an interim order. F said that the basis for recognition under Art 20 (1) (c) was not made out as the creditor (M) needed to be habitually resident in the state of origin on the date the maintenance proceeding were instituted (27.12.21). MacDonald J interpreted 'creditor' broadly to include the children. The children did not have sufficient connection to Poland, but M did, so Art 20 (1) (c) was made out. However, Art 22(e) (a ground for non-recognition) was also made out – F had not been given proper notice when the interim order was made. MacDonald J declined to exercise the discretion to recognise the order.

Vince v Vince [2024] EWFC 389 was a decision of Cusworth J. H was Dale Vince, green energy entrepreneur. Held to be a marriage of 22 years. H's business had two main subsidiaries, including EGL. The main issues were: how to treat significant donations EGL had recently made to the Labour Party and a charity (effectively directed by H) of c.£12.5m, any value to be ascribed to H's pre-and-post-marital efforts in the business and how they should affect W's entitlement to share in the business value, and in circumstances where H tried to sell the business in 2022, whether he should now be able to claim any discounts for realisation costs, illiquidity or uncertainty against the sum due to W, on the basis he was now choosing to continue running EGL. W made a s37 application to set aside the donations, seeking to side-step the requirement that the disposition has to have been by a party, as opposed to company. They were not added back either, but £4.5m remained in the charity's account and so were treated as still being among H's resources. In respect of pre-and-post-marital endeavour, there had been a significant increase in the valuation of the company in the 3 years post separation due in some part to H's involvement, but also external factors. Cusworth J was satisfied that it was appropriate to add this time to the pre-marital years as periods of historical growth of the business when H's contributions were unmatched. However, to strike the appropriate balance, W's share was calculated against the present value. The SJE valued H's business interests at £153.5m pre-tax. As for pre-marital endeavour, the fair time to pin the origins of H's business successes was April 1995. The period of endeavour was 356 months to trial. The marital partnership had endured for 264 months, i.e. 74.16% of the period during which the value was being acquired. It was this proportion of the value of the business it was fair to calculate

W's share against. In respect of discounts, it was reasonable, before quantifying the matrimonial value of the business, to deduct from the overall value the net cost that would be required to extract that sum by way of dividend – offsetting the potential tax on the dividend against corresponding reductions in sale costs and CGT which would accompany the reduced value. H sought to reduce W's share down to 40% due to illiquidity and risk, as cash is more valuable than a shareholding. Cusworth J did not apply a discount as the business value was not seriously in dispute, and there was no prospect of any immediate illiquidity. H had made the conscious decision not to sell the business. W was therefore entitled to 50% of the marital element (£83.6m). W's total award was £45.64m (50.04% of what was matrimonial and 37.9% of the total asset base).

Vince v Vince (Re Transparency) [2024] EWFC 406 was the accompanying transparency judgment. H's lawyers said that members of the press, who had not attended the PTR, had documents from it and published details from those documents not contained in reports from press who did attend. A question arose as to whether the transparency order / the transparency rules permitted the forwarding of court documents to non-attending journalists by the legal representatives / the extent to which journalists are free to share information. Cusworth J considered the rules and guidance, and decided that whilst drafted in anticipation of dissemination of documents to actual attendees, it cannot have been the intention that once in the hands of one reporter, no one would ever have sight of their contents unless the reporter chose to publish them. He set out the position as follows:

"Cusworth J considered the rules and guidance, and decided that whilst drafted in anticipation of dissemination of documents to actual attendees, it cannot have been the intention that once in the hands of one reporter, no one would ever have sight of their contents unless the reporter chose to publish them.

- Accredited journalists who do not attend the hearing can have access to the same documents as those who attend, provided they have been served with the relevant transparency order. They should not be sent documents which the court has not authorised pursuant to the transparency order. Before such an order is made, the documents remain confidential.

- Regarding whether parties should be able to send position statements out on demand at the request of interested reporters, who do not intend to attend, provided there is a transparency order, and the documents fall within the terms of the order this might be possible with the agreement of the parties if the journalist is appropriately accredited and has been served with the order. However, absent an agreement between the parties, if the request is coming from a journalist who is not proposing to attend, release of documents should only happen after the hearing so the issue can be determined. Attending reporters must have the documents first, so they can understand what they are seeing.

- There is no reason why a reporter should not be able to pass on court documents to others who are suitably accredited and have been served with the transparency order, even if they work for a different organisation. But, such transmission can by definition only happen once a document has been legitimately received by the first reporter and should not happen before the court hearing to which it relates, in case of the need for qualification at the hearing which the attending journalist will be away of but the other will not.