



**CIVIL COURT  
(FAMILY COURT)**

**MR. JUSTICE HON. ANTHONY G. VELLA**

**Sitting of Wednesday, 30<sup>th</sup> March 2022**

**Application number : 208/2016 AGV in the names of;**

**SB**

**v.**

**TLB**

Il-Qorti rat ir-Rikors Guramentat ta' SB (ID nru: 100471M)

datat 23 ta' Settembru 2016, fejn esponiet bir-rispett u bil-gurament iddikjarat:-

1. Illi minn zwieg bejn il-partijiet twieldu zewgt itfal minuri E li twieldet fit-22 ta' April 2004 u K, nhar is-7 ta' Dicembru 2005;
2. Illi z-zwieg ta' bejn il-partijiet sfaxxa u permezz ta' kuntratt datat 14 ta' Frar 2007, fl-atti tan-nutar Patricia Hall, il-partijiet irregolaw il-kura u

kustodja, access u l-manteniment tal-imsemmija minuri, fost affarijiet ohrajn ara Dok. SB 1;

3. Illi sussegwenti s-separazzjoni taghhom, il-partijiet kellhom wild iehor T biex jirregolaw l-kura u l-kustodja tal-minuri izda l-minuri dejjem kien *de facto* fil-kura u l-kustodja tal-esponenti;
4. Illi l-konvenut qatt ma kien prezenti b' mod regolari u konsistenti fil-hajja ta' uliedu, u di fatti kienet dejjem l-esponenti li wehidha hadet hsieb il-bzonnijiet taghhom u dan kif ser jirrizulta mill-provi. Illi di fatti, kien l-konvenut stess illi accetta li l-kura u l-kustodja ta' uliedu, tigi fdata esklussivament f' idejn l-esponenti;
5. Illi nhar il-11 ta' April 2013, l-esponenti fethet proceduri kontra l-konvenut ghal bosta arretrati ta' manteniment kif ukoll ghal hlas ta' spejjez ta' sahha u edukazzjoni relatati mal-bzonnijiet tal-minuri, liema proceduri ghadhom ghaddejjin.
6. Illi l-konvenut kien ferm urtat bil-proceduri hawn fuq surrferiti, u ra kif ghamel sabiex ha l-kura u l-kustodja tal-minuri, billi vvinta u hammeg l-esponenti, tant illi bhala konsegwenza din l-Onorabbli Qorti, ordnat li l-kura u l-kustodja tal-minuri tigi fdata lill-intimata u ordnat lill-minuri jirrisjedu ma' missierhom bl-istess access ghal ommhom, kif kellu l-missier ( ara Dok SB 1);
7. Illi di piu' kif ser jirrizulta mill-provi tal-kawza, l-konvenut iffabbrika stampa tal-esponenti bhala mara irresponsabbli li hija xxellerata u esebixxa materjal fil-proceduri ta' medjazzjoni liema materjal, l-esponenti

qatt ma kellha access ghalihom, jew inghatat opportunita' tiddefendi ruhha, b' konsegwenza li l-minuri ttiehdu mill-kura taghha;

8. Illi l-esponenti ghandha wild iehor bl-isem ta' ET, li twieled fid-29 ta' Settembru 2010 u li ghadu jghix mal-esponenti u li kif ser jirrizulta mil-provi tal-kawza, missier l-minuri ET, ghandu fiducja fil-kapacita' tal-esponenti bhala omm;
9. Illi l-esponenti giet awtorizzata tipprocedi b' kawza mill-Qorti Civili ( Sezzjoni Familja ) permezz ta' digriet datat 25 ta' Lulju 2016 – ara Dok SB. 2;

Ghaldaqstant l-esponenti umilment titlob lil dina Onorabbli Qorti sabiex ghal ragunijiet premissi:-

1. Tordna l-kura u l-kustodja tal-minuri, E, K u T esklussivament f'idejn l-esponenti u l-esponenti tkun awtorizzata tiehu decizjonijiet rigward sahha u edukazzjoni tal-istess, Minghajr il-kunsens tal-intimat;
2. Taghti dawk il-provvedimenti xierqa u opportuni li jikkoncernaw il-minuri E, K u T, fosthom izda mhux limitament dwar kif ghandu jigi regolat, l-attendenza tal-minuri ghall-iskola, u attivitajiet edukattivi ohra u extra-kurrikulari u dan kollu taht kull provvediment xieraq u opportun li joghghoba taghti din l-Onorabbli Qorti.
3. Taghti access lill-konvenut taht dawk il-kundizzjonijiet li joghghoba taghti din l-Onorabbli Qorti.

Bl-ispejjez u imghaxijiet kollha kontra l-konvenut, li huwa ngunt minn issa in subizzjoni.

The Court having seen the sworn Reply of TLB, dated 20<sup>th</sup> December 2016 pleads as follows:-

The Defendant is stating the following in respect of Plaintiff's requests and submits that:-

- 1) During the hearing of the 1st December 2016, during which hearing Defendant was duly notified with Plaintiff's sworn application, this Honourable Court decreed that the proceedings of the suit be carried out in the English language.
  
- 2) It is preliminarily submitted that Plaintiff's sworn application of the 23rd September 2016 is null and void on account of the fact that she was never authorised by Court to present the said act and this as required by law through the dispositions of Legal Notice 379 of 2003. In the decree of this Honourable Court, differently presided, of the 25 July 2016, upon which plaintiff based her suit, the said Court did not in fact grant authorisation to the parties to proceed and simply stated that the mediation was to be closed (DOK A). The Court did not proceed to grant authorisation and, in fact, Defendant, who likewise wished to institute proceedings, requested, by means of an application of the 9th September 2016, that the Court grant authorisation allowing parties to proceed with their respective suits. The latter application was decided by means of another decree of the 20th October 2016 which stated that the mediation in question was effectively closed, without, however, granting the necessary authorisation to proceed which, naturally, had been specifically requested (DOK B). Following yet another application by Defendant of the 28 October 2016, in which Defendant requested authorisation to proceed once more, the Court handed

down a decree of the 31 October 2016 in which it did not grant authorisation, but rather held that the parties were to file fresh mediation proceedings (DOK C). Defendant subsequently filed new proceedings as ordered by Court.

3) Without prejudice to the above, with regards to both Plaintiff's first and second requests, it is humbly submitted that it is absolutely not in the best interests of the parties' minor children, E, K and T, for custody to be entrusted to their mother. As outlined hereunder, while previously in the custody of their mother the said minor children were exposed to immature and scandalous behaviour. This was confirmed by the minor children themselves during their meeting with the child advocate, Stephanie Galea, who reproduced her findings and drew conclusions in her report of the 13 July 2016 (**DOK D**) in which she recommended that the minor children be placed in the custody of their father;

4) Plaintiff's third request is naturally opposed for the same reasons outlined above.

Having examined all the acts and documents exhibited in this case.

Having seen the judgment *in parte* dated 4 May 2017, wherein the Court treated the first preliminary plea raised by Defendant;

Having seen the decree given in the acts of mediation number 622/17;

Having heard all the evidence submitted by the parties;

Having seen that this case was being heard concurrently with the case 72/13 in the same names, and therefore all the evidence produced in one was made applicable to the other;

## **CONSIDERS:**

### **FACTS**

1. On the 14<sup>th</sup> July, 2016, further to an application filed by Defendant, the Court decreed that the care and custody of the children was to be granted to Defendant and access rights were to be exercised by Plaintiff on the same days and times when they were previously given to the Defendant.

On the 23<sup>rd</sup> July, 2016, Defendant went to collect the children and she states that she was totally shocked, because until then, she was the one who took care of the children because there were times when after they had E and K, Defendant would leave the matrimonial home. After the time he left when K was born, she asked for a separation and she had to work as she did not receive any financial support from Defendant.

According to the consensual contract they had signed on the 14<sup>th</sup> February 2007 the access was agreed according to Defendant's wishes and she ended up having them for most of the time, though it was not a problem. In addition, there were many times when Defendant didn't turn up for the access.

Plaintiff states that the children were taken away from her due to the fact that her ex-partner CB wanted to take his revenge after she broke

off their 20-month relationship as a result of abuse. She believes that it was B who contacted the Defendant to frame her, together with his ex-wife IA. Defendant had admitted with her that both of them were sending him personal intimate material and as a result he was sending abusive messages making references to internet porn, sex toys, pornographic photos, stripping and perverted sexual activities that he presumably participated in.

She confirms that this frame-up was also confirmed by the Vice Squad Police Inspector CB. He went on to take sexually sensitive photos of her, some of which without her consent and proceeded to post them online via fake Facebook profiles that he created himself.<sup>1</sup>

Prior to all this, Plaintiff admits that she had a very close relationship with her children, and she was also particularly close to E. When she was five months old, Defendant had left her, and she had to juggle with her job as HR Director at Playmobil. Finding it hard, she decided to change job and she started working at ETC where she could leave her daughter at the childcare centre.

When K was born, she decided to set up her own company to make her more flexible so as to be able to cope with the children. Defendant was always changing jobs. When she launched the company Stem Cells Malta, Defendant had joined her in Gozo, but when she returned to the room, he showed traits of jealousy of her successes. That evening, the argument led to Defendant being violent with Plaintiff. She did not report it, because she was prepared to give him a chance. She admits

---

<sup>1</sup> Doc. BS6

too that this was not the first time he had been violent with her, but again she had decided not to report him.<sup>2</sup>

She managed to juggle work and the children with little support not only from Defendant, but also from members of her family. She did not receive any financial help for herself from Defendant either according to their separation agreement. As to financial help for the children, Defendant was always late to effect payment and when she reminded him, he would become offensive.

Nonetheless she always tried to maintain a positive relationship between the children and their father and when he used to not go for his access, she always made up excuses with the children to justify his absence, so as not to look bad in their eyes. Unlike him she always kept to his access days and hours.

She adds further that a couple of years ago, their daughter E started having difficulties in her relationship with her father and this was mainly because she used to feel lonely, because they always met in the presence of Defendant's girlfriend N and her son J. She tried to encourage her to make an effort to have a positive relationship with her mother. Nevertheless, she kept on being adamant to meet her father and she begged her mother to find excuses, though the latter refused.

She tried to explain her situation to Defendant, since she wanted to help her, but on the other hand, he blamed her for brainwashing the child.

---

<sup>2</sup> Doc. BS 11



However, ignoring Defendant, she took the child to a child psychologist IV to help her sort out her differences and feelings with her father.

Plaintiff goes to state that throughout 22 years, Defendant never attended any school or extra-curricular activities, until recently because he had planned to open the court case. Moreover, he was totally unaware that E was bullied at school and after she was interviewed by The Times about it, Defendant sent a comment to the Times, wherein he publicly criticized her and called her a liar. Although she had contacted the Times and asked them to delete the contract, they had not done so.

Plaintiff also explains that she had a very good relationship with Defendant's girlfriend, and they used to communicate well between them, since she liked N and she treated the children well. Likewise, she always tried to avoid conflict with Defendant and she never spoke negatively of him in front of the children.

Plaintiff gave several reasons that made her fit and responsible a mother. She also explained all the different activities she would involve herself in.

As to Defendant's shortcomings she says that he was not capable of retaining a job and many a time they had financial difficulties. She also states that he caused her emotional abuse.<sup>3</sup>

She also gave him as much access as he wanted, never following the contract they had. He also took long to admit that T was his son.

---

<sup>3</sup> Docs. BS15-BS 3

After the separation, she states that Defendant kept on interfering in her life and once he took care and custody of the children he never informed her that they were unwell and he excluded her from all their activities, contrary to when they lived with her as she was involved in every aspect of their life. However, he still does not attend any school activities and he never informed her, although she did find out through other parents and she would attend herself.

Irrespective of what Defendant states, she confirms that she has been contributing financially to the children.

She explains that Defendant's idea of bringing up children is wrong, and it is built on free will, in the sense that he lets the children make their own decisions in a lot of circumstances. They argued on this several times. They don't even have a sleeping routine, they spend most of their time on their tablets, missing their sports training as well as extra-curricular activities.

He was also letting the children decide whether they wanted to attend the access so much so that she had to file police reports when required. This caused a lot of harm in her relationship with their daughter E. They were not even attending school regularly and this she found out as through the Ministry of Education's intervention she managed to regain access to the iLearn online portal of student management.

Plaintiff also complains that ever since there was a change in the care and custody, they show her very little respect, they mock her and do whatever they want, and she has lost all control over them. She was also

having problems to have access to the children's school records and had arguments with the school authorities because she was not being informed about parents day and other school activities.

She also adds that when she used to meet the children somewhere they would not speak to her whilst they were with their father. They did not even make an effort to show her respect and affection on Mother's Day, like they did for their father.

**E;**

Plaintiff insists that her daughter's attitude towards her started to change when they had planned to spend a weekend in London together for E's birthday and Defendant refused to sign her passport, with the result that they had to cancel the trip.

E blamed Plaintiff for the cancellation of the trip and she became oppositional and attacking and she went to live with her father for a while. She had to take her back with police intervention and she explains that once she was back with her, she became her affectionate self once again. Nevertheless, each time she returned from her access with her father she became nasty once again and they clashed very often.

Defendant did not control her use of social media and many times she made bad use of it such as bullying other children. Also, when she started her relationship with B, E took control over her siblings telling them how they had to behave and interact with her.

She used to refuse to eat the food she gave her and to participate in family outings, thereby upsetting her siblings because she could not take them out. Whenever she was at home, she started destroying property and being vindictive. She would drink excessive amounts of coffee supposedly not to sleep at her mother's house, which left Plaintiff feeling anxious and having sleepless nights too.

E would spend most of the time on the phone reporting to Defendant every single move Plaintiff would make. She addressed her on a first name basis and frequently used foul language to speak. She had abandoned all her friends and showed lack of empathy in general towards others. She also tried to bad mouth with her friends at the time saying that Plaintiff had lost the care and custody of her children because the latter had put up naked photos of herself on the internet.

All this stress was having an impact on Eva's health where she gets loss of breath and according to Plaintiff, they are panic attacks. Moreover, Defendant was letting them sleep out at people she does not even know.

She also explains that she was finding it hard to exercise her authority as a mother because Defendant would contact E directly when she was exercising her access. This makes the children think that she no longer has authority over them.

This was very evident, when after not seeing her for around two months, she saw her at ET's birthday party, and she went to hug her. Immediately, E called her father and falsely told him that she had pushed her against the wall and hurt her. Instead of supporting her, Defendant went for her and took her to lodge a report with the police.

Plaintiff continues to mention the various vindictive actions carried out by E, who always assured her that what she did was to destroy her, even if meant lying before the courts.

Plaintiff also expressed her concern that E might be suffering from an eating disorder.

**K:**

Once again Plaintiff goes to explain that by living with Defendant, K did not have any control over the use of technology and at times she was preoccupied because he was misusing it.

In May 2016, after she went with K to watch a Juventus match, he was very loving and caring towards her and later she realized that this was because Defendant had already started to plan to take the care and custody of the children.

She explains that the fact that K, together with his siblings had moved with their father, made him closer to her as well as more attached. When he is at her, he sleeps and cuddles up with her and chats about several things and tries his utmost to catch up on what they missed.

K was also aware of the contents of Appogg's report and being a child there were things he did not understand so he asked her to explain them to him.

She also adds that in defiance of the decree issued on the 8<sup>th</sup> June 2017, K was in contact with her mother and sister.

**T:**

Although T is 8 years old, he questions her constantly and why she tells him that she loves him. He lacks communication with her and threatens her that she is manipulating them.

She explains that T was usually an affectionate, happy-go-lucky child, but lately he had been acting troublesome over the slightest of things. She feels that this was to have an opportunity to have a good cry and release his anger and then turn to her for kisses and cuddles.

**ET:**

E who still lives with her suffered a great deal from the absence of his siblings, except for E, with whom he seems not to be bothered to communicate with.

**Pole Fitness classes**

Plaintiff explains that she had set up a non-profit organization “Mama knows” which aims to provide support to women during different stages of their lives. Eventually she set up classes related to birth and these were belly dance for birth, postnatal fitness, and pole fitness classes.

She said that the pole was found in her workout room and not in her bedroom, a room where her children spent a lot of time with her and the pole for them represented just another toy to climb on.

These classes became very popular and she was also contacted by local shelters and Inspire clients to provide these classes to battered women.

Plaintiff explains that when she filed the case, she wanted the children to return in her care and custody as per the separation agreement. In cross-examination she admits that she does not know what the children want, but there definitely was a lot of brainwashing and parental alienation going on in the background.

Defendant brainwashed E and she had the skype conversations where he planned it out with her. E had given her the middle finger in the middle of the road and instead of correcting her, Defendant stood next to her smiling. He also encouraged E not to follow the access. He also used to keep her oblivious to her health concerns and school activities. This was all parental alienation.

Plaintiff also explains that these things started to happen when she ended her relationship with CB. At that point she had planned to take her daughter E abroad to London and Defendant refused to sign for the renewal of her passport. Since then she states that her daughter had stopped speaking to her because she blamed her for spoiling their holiday.

Before the children left, she explained that she used to have visitors who were mainly her friends. She also had a nanny and her father was a

regular visitor. Her staff often visited too. She confirmed that she still ran Stem Cells Malta.

She added in cross-examination that she had her office in an adjacent apartment to the one she lived in, she held fitness classes there and she confirmed that she had a pole that was used for pole fitness, not for striptease. Photos were taken by the students to keep track of their progress. She denies advertising pole dancing and stripping together, she said that she did promote pole dancing because it was part of the fitness program. It was associated with gymnastics and her children were aware of these fitness programs taking place at her studio. She also offered classes for pre-pregnancy, pre-birth and post-birth. Through this pole fitness she explains that she helps them recover from their sexuality due to having been subjected to abusive relations.

She admits to not having the qualifications in this respect, but although they are classes, it is not a school, but bringing together women who would not have the incentive to do the exercises at home alone. She explains that she was licensed with the childbirth international institute to be a childbirth educator.

She admits also to having a box of vibrators and dildos, which she kept in a box locked in wardrobe in her office. As to how the children found it, she cannot tell because she was the only one who had keys to it. She also confirmed that they were hers and not available for use by her clients. She adds that Defendant knew where these sexual implements were because her ex-partner Cb knew where they were, and he told him. She had left him in March 2016 and on the 23<sup>rd</sup> July 2016, the children left home.



She denies all the allegations made by Defendant.

Plaintiff explains that C her ex-partner would take photos of her some with her consent and some without and he had passed them on to Defendant. There was a video of them being intimate which he took. She admits to also having photos of C naked too. On the other hand, she never gave naked photos of herself to Defendant.

She also explains that she had a Facebook profile and also her business Mama had a Facebook profile, which she administered, together with one of her employees LB as well as her sister. She denies that there were photos of ladies with poles. Although there was another FB page called Hip Mamas this was for the exercise class, belly dance and fitness which page is in disuse as she had stopped doing the fitness classes.

She denied that the students who went to her studio took photos of themselves topless.

She admits to taking photos of them at times with their mobiles, but not topless and also that she would allow them to use the studio not in her presence, but she would be aware that they would be there.

As to being asked on the allegation that the children found sexual toys at her home, she admits that she was not aware what they found or if they actually found something. Her son had once asked her whether a candle lighter was a dildo.

She denied being aware of a photo taken by a student on the pole and with a yellow dildo.

As to the profile SLJ she states that this was set up by CB and after having drugged her he took photos of her and put them up on this Facebook page. She became aware of this when his ex-wife I informed her. He used to threaten her with these photos when she would say she was going to leave him. He also threatened that he would give them to Defendant, which in fact he did.

Under cross-examination Plaintiff states the children never mentioned whether they had access to this Facebook profile. E never mentioned to her that she had stumbled on this profile. Once she got to know through I V , she asked C to give her the log in details of the account and she entered this Facebook page. She admits to having posted on Facebook that she had been drugged and raped and although she did not mention CB she was referring to him.

She also denies ever having been contacted by the school or teachers regarding the Facebook posts.

Plaintiff explains that she and Defendant had agreed to the payment of maintenance and expenses as stated in the contract of separation dated 14<sup>th</sup> February 2007 in the acts of Notary Patricia Hall. This contract only had agreements reached with regards to E and K.

She explains that as from the date of the contract, Defendant had to pay her the total amount of Lm175 equivalent to €407.64 per month for both children as agreed under clause 5.1 of the separation contract.

Educational and extraordinary health expenses were to be borne by the parties jointly.

With regards to the younger son T, Defendant had agreed to pay the same amount as he paid for the elder children. It was €200 per month.

Therefore, she calculated that, taking into account the cost of living increase from the 2<sup>nd</sup> March 2008, Defendant was meant to pay her €425.01 for E and K as well as €212.51 for the younger son T.

The cost of living had to be increased annually.

She explained further that the children were taken from her on the 23<sup>rd</sup> July, 2016 by means of a decree dated 14<sup>th</sup> July, 2016.

She explains that from January 2008 till June 2009, Defendant did not effect payment except for one payment he made in September 2008. Up to April 2016 (when the children went with their father) Plaintiff claims that the arrears of maintenance, including the cost of living amount to €14,260, 89.

Further to this, Plaintiff exhibited a summary of expenses and dues between 2007 to 2016 from Defendant and these amount to €26,813.73.<sup>4</sup>

---

<sup>4</sup> Fol. 333

She also claims that his share for the childcare and summer school expenses from 2007 till 2011 amount to €6037.69 as well as his share of the extra-curricular expenses that amount to €902.95 are due.

2. The said Court is not going to be taking into consideration the evidence produced by Defendant regarding the care and custody of the child since during the court proceedings, Defendant left Malta and presently, the said minor children are residing once again with Plaintiff.

For purposes of maintenance, this Court shall be taking into consideration the evidence produced in this respect.

Defendant is giving €718 per month for their three children, E, K and T. At the time of the separation they had signed an agreement, whereby they had agreed that he would pay Lm175 per child, but at the time T was not born as yet. Initially the lump sum payment for the two children was about €424 and then when they reconciled for a time, they had T and he increased the lump sum payment to date to €718.

Until the third child was born, he paid her by bank transfer, and this was until he moved in with her again in January 2008. He claims that there were no arrears of maintenance payment although Plaintiff claimed there were. There were only two payments that were made in cash, before he was advised to start paying by bank transfers.

Defendant is a 50% owner in the company Hands On Software. He is also director of the said company.

3. Andreana Gellel, on behalf of Agenzija Appogg, states that she had met Plaintiff and the children on an individual basis around three times each. However, she had met E and K once together during such visits. As to Defendant she only met with him once and another time she carried out a house visit. He wanted her to speak to his mother and aunt before he compiled the report, but when she tried to contact them, they refused to speak to him and the other person sent the contact number after the report was compiled.

As to the reason why her part of the report that related to Defendant was shorter than that referring to Plaintiff, she explained that not everything was relevant to the children.

She also confirmed that one of the visits with Plaintiff was held at her residence in Fgura and although she was aware that Plaintiff was offering striptease services, she did not see the pole, but she saw photos of the pole.

She also confirmed that she had spoken to the therapist IV who had seen E because she was having some problems with seeing her father at the time.

As to Mr. B's sexual perversions, she explains that both parties were not victims. But on the other hand, they were wrong. From what Plaintiff told her B used to like to dress up as a woman during sexual relations and also enjoyed taking photos. Plaintiff initially was against it, but by what was lured into it. Had the situation been different it would have impinged on her recommendations in the report.

She explained further that Plaintiff had informed her that she had terminated her relationship with B because he was stalking her and threatening her with not seeing her children any longer. However, the daughter E was in contact with him through social media.

On Bajada's request, Plaintiff used to send photos of nudes and this was to accommodate him since she realized that he needed help and he had no one to help him.

She was also aware that in her childhood years, Plaintiff had a problematic relation with her mother, and she had also told her that she had been sexually assaulted by a teacher.

She was also aware that through Facebook, Plaintiff and B used to disseminate softcore pornography. She did not take this into consideration for her report because it was something that fell within the competence of the police and in fact the Vice Squad were looking into criminal proceedings against B.

Defendant had told her about the fact that Plaintiff was advertising striptease classes. Gellel believes that she did not take this into consideration.

Regarding photos and pornography and sexual toys around the house, Plaintiff told her that she had one particular tablet which had some photos on them, and she denied leaving sexual toys around. However, she did admit that E told her she would look for these toys under the bed because she knew they were there.

She confirmed that Plaintiff had told her that she had difficult relations with her mother and sister before she left her home.

As to the children she explains that Plaintiff had told her that they had limited access to social media in the sense that it was time-barred. However, she admits that she was not aware whether the children used their mother's Facebook accounts.

She believes that it is better for the children to find out facts through their mother directly and not through her public posts. She also states that Plaintiff had told her that she had opened up about her rape with her daughter.

4. NV confirms that she was in a relationship with Defendant for a period of around five years. It started around 2010 or 2011.

She knew through Plaintiff that Defendant had taken the children and she was very upset about it and she wanted them back. When she last spoke to her she sounded desperate.

V also confirms that she had met the parties' children because they used to join them at the weekend. There were times that their clothes were either dirty or too small.

CB had contacted her on Facebook asking her to get Defendant to call him as he needed to speak to him urgently. It regarded the allegation that Plaintiff was making porno videos and he used to meet B as he used to go to Marsaskala. However, she did not want to get involved in these issues because she had a son of her own to protect. She admits to having seen photos that contained sexy images, but no naked images of

Plaintiff. According to Defendant he had told her that Plaintiff had a website where men paid her and she used to put up porn videos and other sexually related things,

Defendant was also aware that there was a pole in Plaintiff's bedroom used for pole dancing, as well as that E had found a box with sex toys.

5. EC has a child Et from Plaintiff and he considers her to be a good mother, who involves herself in her children's lives and is a very hands-on mother. He confirms that Defendant had contacted him when he was at court with Plaintiff, to help him win the case, but in the end, it turned into nothing and it was a lot of talk.
6. LZ an educational officer for Ethics was a friend of Plaintiff as she used to attend the pre-natal classes organized by the latter. She explains that there was nothing sinister with these classes.

She could also see that Plaintiff had a very good relationship with her children and in particular she was close to E. However, after 2016, when Defendant took the children, things took a turn for the worse, E was very bad and upset the last she saw her and that was two years ago. Since her eldest and youngest child were close in age to the parties' children they used to meet regularly.

7. SG is Plaintiff's friend and she had met her since her daughter C and E were good friends. She always considered Plaintiff to be a good mother, who took good care of her children and above all, they were disciplined children. She was also aware that Plaintiff was very close to E and she was very surprised, when she lost their care and custody. After this, E



became more aggressive and she changed and became more of an introvert. She was also having panic attacks since she was living with her father and she was aware of it because she loved her like a daughter and she tried to give her advice, but her daughter asked her to stop as she caused more panic.

8. JC used to attend the dancing fitness lessons that Plaintiff used to organize, which lessons she used to enjoy a lot as there were different women, they also used to take their children with them, as this was encouraged by Plaintiff. They had all become close and used to hang around together.

The classes were family-orientated, and she learnt a lot from them. There were no strippers. She states that Plaintiff had a close relation with her children, and she set a very good example to all of them, in fact she considered her to be her role model.

After 2016 there was a big change and she could confirm it because the children moved in with their father and when they were at Plaintiff, they were very reserved not as usual. E in particular changed completely. She even lied that her mother hit her at Ethan's party, when they were all present.

She admits having never really been in contact with Defendant, except having seen him when he would come to pick up the children.

9. JP worked as a nanny with Plaintiff between February 2012 till August 2013. She used to take care of Plaintiff's children and she also used to help out twice a week in the evenings when the classes used to take

place, with looking after the children of the mothers who used to attend. E was close to her mother and she used to spend a lot of time with her mother at the office. Plaintiff knew how to balance well her time as a businesswoman and as a mother.

She states that she never saw anything strange happening during the fitness classes. It was more like a gym.

10.FB Plaintiff's father confirms that when Defendant left his daughter, she had to employ a full-time nanny to help her with the children. Defendant did not pay his share of these expenses nor did he pay for the extra-curricular activities that the children used to attend.

Although he had suggested to Plaintiff to file a report for Defendant's failing to pay maintenance, she refused to do so because she did not want to land him in jail on account of the children.

11.LB who has been employed with Plaintiff for the last eight years on a part-time basis as her assistant, confirms that Plaintiff dedicated a lot of her time to her children. When Defendant left her she had to engage the services of a full-time nanny. She also confirmed that many a time, Plaintiff would complain that it was difficult for her to cope because Defendant was not paying his maintenance regularly. Neither did he pay for the children's extra curricular activities and health and education expenses.

**HAVING CONSIDERED**

## **CARE AND CUSTODY**

Throughout the proceedings, after a never-ending saga on the care and custody of the parties' minor children, Defendant left the island and failed other than his affidavit to produce any further evidence.

Presently the minor children are living with Plaintiff once again and there is no further need for this Court to delve into this issue of who is to be granted with the care and custody of the said children.

As to decisions regarding the children's health and education, these are to be taken solely by Plaintiff.

## **ACCESS**

Considering that Defendant left the Maltese islands, obviously access cannot be exercised. Nonetheless, when the said Defendant happens to be in the Maltese islands temporarily, or he moves here once again permanently, the access rights have to be exercised according to what is stated in the separation agreement signed between the parties before Notary Patricia Hall on the 14<sup>th</sup> February, 2007. As to Tristan, considering that he was born after the separation agreement was signed, the same dates and time are to apply.

Having said all this, both E and K today are in their late teens and therefore capable of taking their own decisions. So, in case of disagreement as to access rights, Defendant can communicate directly with the said minors to change the access as per agreement and Plaintiff must always be informed of the said changes. Moreover, while he is still residing abroad, Defendant shall have virtual access by means of any social media platform, at least

twice a week, if not more frequently, for a maximum time of one hour each time.

### **DECIDE**

Having considered all the above, the Court decides as follows:-

1. Upholds Plaintiff's first claim.
2. Upholds Plaintiff's second claim in that Plaintiff is being granted full authority to take decisions regarding the children.
3. Upholds Plaintiff's third claim and confirms access as confirmed in the separation contract dated 14<sup>th</sup> February 2007 and this is to extend to the minor son Tristan.

All costs are to be borne by Defendant.

**Mr. Justice Anthony J. Vella**

**Registrar**