



**CIVIL COURT
(FAMILY SECTION)**

JUDGE

**Hon. Abigail Lofaro LL.D., Dip. Stud. Rel.,
Mag. Jur. (Eur. Law)**

Today the 2nd July, 2020

Sworn Application: 254/2012 AL

A B C

vs

**Dr. Noel Bartolo and Legal Procurator Gerald Bonello as deputy
curators for the absent D E C**

The Court:

Having seen the application filed by the plaintiff, whereby she premised:

1. That the parties got married on the 1st August 2001 in Newark, Nottinghamshire, United Kingdom, as results from the copy of the marriage certificate hereunder annexed and marked as Doc. JP1;
2. That the parties had a son, F G C who was born in Nottingham, United Kingdom on the 1st July 1998, and who therefore at

present is still a minor, as can be verified from the copy of the birth certificate of same minor hereunder annexed and marked as Doc. JP2;

3. That the parties spouses C established their habitual and permanent residence in Malta when they came to live in Malta in August 2009, however respondent D E C left the matrimonial home on the 17th June 2012 and on the 18th June 2012 left Malta definitively on a one-way ticket to the United Kingdom and has not returned to Malta since; at present the applicant has no idea of the whereabouts of her husband;
4. That the matrimonial life between parties was no longer possible due to reasons imputable to the respondent D E C including abandonment of the family and matrimonial home as well as physical and psychological violence, excesses, threats, cruelty and grievous insults on the part of the respondent towards his wife the applicant;
5. That the applicant was authorised to proceed with a separation suit and this is by virtue of a decree issued by The Civil Court (Family Section) dated 4th September 2012 (no: 1533/2012) and in the acts of the letter of mediation 1093/2012, a copy of which is being annexed with the present sworn application and marked as Doc. JP3;
6. That furthermore by means of a subsequent decree of this Honourable Court dated 3rd October 2012 this Court, after an application filed by the applicant on the 25th September 2012 for the appointment of deputy curators to represent the absent D E C in the acts of the prohibitory injunction impeding the travel of their minor son and bearing number 197/2012 RGM as well as an indication in the same application that it would be appropriate for the curators appointed in the acts of the warrant to be the same curators in the separation suit, acceded to this request and Dr. Noel Bartolo and Legal Procurator Gerald Bonello were appointed as deputy curators. Hence the current procedures are

also being filed against the same deputy curators. A true copy of the application, decree and the appointment of the curators is being annexed and marked as Doc. JP4;

7. That there is no possibility for reconciliation between the parties and this is the reason why this cause is being instituted.

Requested, that further to the abovementioned motives, the defendant declares why this Court should not, saving any declaration that may be deemed necessary:

1. Declare personal separation a mensa e thoro between the parties and this due to reasons imputable solely to the respondent D E C and that include abandonment of the family and matrimonial home, physical and psychological violence, excesses, threats, cruelty and grievous insults on the part of the respondent towards his wife the applicant;
2. Entrust the care and custody of the minor F G C solely and exclusively to the applicant saving rights of access of the respondent towards the same minor child as the case may be, and this subject to all those modalities that this Honourable Court may impose, if necessary even under supervision and this in the supreme interest of the same minor.
3. Fix the amount of maintenance due according to law for the minor F G C and to order the respondent to pay to the applicant maintenance for their minor son as is liquidated by this Court including the expenses related to the health and education of the minor F G C with all those modalities of payment including provision for the periodic increase to make good for the cost of living and an order for the direct debit payment from the wages of the respondent which are to be determined by this Honourable Court;
4. Dissolve and terminate the community of acquests between the parties and to liquidate the same in such a way that portions in division are established and assigned to the parties and that a date is also established from when the respondent is considered of having forfeited his rights to any acquisition made as a result of the work and ability of the applicant and all this if necessary through the

appointment of experts to evaluate the property of the parties and through the appointment of a notary to publish the relative deed and curators to represent the respondent in his eventual default on the same deed;

5. Declare that the debts burdening the community of acquests and made by the respondent are to be borne wholly and exclusively by the same respondent in that they were made without the knowledge and approval of his wife the applicant;
6. Declare that the moneys that were held by the parties together in joint accounts were taken and used by the respondent without the knowledge and approval of the applicant, liquidate the amounts of money which were held by the parties jointly and which were taken by the respondent in this sense and consequently order the respondent to return to the applicant her share of the same moneys and investments taken and used by him as liquidated by this Honourable Court;
7. Liquidate the paraphernal assets of the applicant and assign them to the same applicant;
8. Order the respondent to return to the applicant assets and paraphernal credits pertaining to her;
9. Apply in whole or in part against the respondent the effects of the dispositions of articles 48, 51 and 53 inclusive of the Civil Code, Cap. 16 of the Laws of Malta
10. Authorise the applicant to live in the matrimonial home to the exclusion of her husband the respondent;
11. Authorise the applicant to revert to her maiden surname, this being I;

With all expenses including those of the warrant of prohibitory injunction number 197/2012 RGM and with interests against the respondent who is as of now summoned for the reference of his oath.

Having seen the list of witnesses for the plaintiff;

Having seen the sworn reply filed by the deputy curators, whereby they pleaded (fol. 33):

1. That at that stage they were not aware of the facts of the case, reserving the right to present a further reply, at a later stage, if and when they will be in a position to communicate with the defendant. In this Hard, they are asking plaintiff to provide information relating to any means of communication she might have with defendant.
2. Reserving the right to present a further reply if necessary.

Having seen the list of witnesses of the deputy curators;

Having heard the witnesses brought forward;

Having seen all the documents exhibited, the evidence produced and the acts of the proceedings;

Having seen its decree dated 20th January 2015 whereby Dr. Valentina Lattughi was appointed legal referee in this case;

Having seen legal referee's report, presented by her on the 13th February 2019;

Having seen that the case was adjourned for today for judgement;

Having considered:

CONSIDERATIONS

The Court is hereby reproducing referee's sumB of evidence which was produced from applicant's presentation of affidavits:

“Applicant’s Presentation of Affidavits

That the applicant presented her own affidavit (B A C) together with supporting documentation, which affidavit was originally presented on the 18th May 2015 and marked as Doc JP1:-

Affidavit of A B C, wife of D E C, daughter of H I and J A nee K born in Cannock, United Kingdom and residing at 85/4, John’s Flat, Triq it-Turisti, Qawra, holder of Maltese identity card number XXXX, in the English language and under oath declares the following facts:

I explain that I met D in summer of the year 1990 through my sister’s friend. At the time D was 18 years old and I was 22 years old. I was working in a nursing home, not far from my local village of Edwinstowe: D was not working at this time. I supported him by buying him clothes and all his daily needs. I believe D was on benefits when we got together.

We started to live together in August 1997, when we bought our own house. We subsequently got married three years after the birth of our son F G C who was born on the 1st July 1998. From 2001 to 2009 we lived in the UK and came to Malta in 2009.

At the beginning everything was fine between us, then I started noticing that he did not do much, whether it was housework or going out or working for that matter. He was happy to just stay in and watch loads of TV, which is the only thing he cared about really and truly. I would be the one that would suggest going out of the house and he would go reluctantly. In the end I stopped suggesting that we went out because whenever we did go out, he would sulk or ruin the day with his silences and grumpiness.

I must say that I ended up being a mother to D rather than a wife; I would constantly nag him to wash his hair, take a shower, to change his clothes even such basic things as to put on deodorant. His hygiene was really poor and unless I kept my eyes on him, he would do nothing to keep himself clean. He was worse than a child and this lack of personal hygiene he retained throughout our marriage even as F was growing older. In fact, to make sure that F would not take his father’s steps. I always insisted that F have daily showers,

change his clothes clean his teeth, and groom his hair. At the same time F would see his dad get out of bed and put his clothes right on, and throw water on his face and on his hair only and not bother washing himself. Therefore, when F was between 12 and 14 years old, constant battles prevailed. I stood firm otherwise F would have very easily become like his father and in fact I told D he was dragging his son down, and he was not a good role model for F.

In the several years of my relationship with D, I became so ill because of all the stress that D was putting me through in our life together, that I even had to stop working and was in receipt of Disability Living Allowance because of my medical condition, which I still get to date. This is for my chronic illness, and to help me to cope with it. In the end I would give in and let him do what he wanted as there was very little, I could do to change things.

He would also expect his parents to be taken shopping by us every week, and he would incorporate this with my shopping day too, and this used to get me down. His parents, who lived nearby, would be around our house nearly every evening, and we would be expected to go to their house every Sunday for dinner without fail. I put my foot down on this, and started to cook dinners at home on a Sunday. This did not go down too well with his family, and they would talk and treat me badly too. D never stuck up for me and it caused a lot of friction between us.

He was so stuck in his ways by not wanting to do anything when he came in from work, that a lot of the chores like the gardens often went neglected. I often spoke to his mother about his ways, and he told me she was the same with his father. D made me feel worthless. He would often make fun of me, or claim he was the boss. He would often side with his family in criticizing how I fed and looked after F. He would not support me and tell me I was a 'control freak'.

D would often call me "mental" if I did not agree on something. Usually it was to buy another new item that we couldn't afford. He would be the same if I did not agree about him getting another loan or if I did not want to eat out due to our financial situation. I often felt

that he did not care about me anymore, and that getting married was the worst thing I could have done.

In 2009, we were motivated to move to Malta after coming out to visit my parents Hularly in Gozo where they have been living permanently for a number of years and also because the UK was becoming very violent, with less prospects for youngsters and family ethos had been destroyed.

I wanted D and myself to have a clean break, have a chance to pay off all the debts, move away from his family. I was hoping this would have saved our marriage too. I wanted F to be able to grow and develop, and I felt this would never happen in the UK. Schools were not bothered about their students, family beliefs were all gone now, and I was seen as the old-fashioned person for wanting to have family values for F. After many discussions we all agreed to come out to Malta. However, D did not change - he abandoned me and our son whilst here in Malta and namely from June of the year 2012. He returned to the United Kingdom and never came back again.

Most of my problems with D which led to the breakdown of our marriage, apart from the above, were that he was a completely irresponsible parent who never cared about his son nor helped in any way in his son's upbringing. D also had a problem of overspending money and incur substantial debts which I would end up having to pay for. He also used all of our family savings leaving me and our son in need. All of this is explained in more detail hereunder.

A. D E C - AN IRRESPONSIBLE, UNCARING AND CRUEL PARENT AND HUSBAND

1. Death of our First New-Born on the 31st August 1997 Indirectly Caused by D

I explain that D refused to carry out or complete even mundane maintenance tasks around the house. For instance, he would tidy the front lawn and then leave the rubbish bag of garden waste on the drive for over six months or he would carry out a minor repair on a garden bench and then left his saw on the bench for a year until it rusted away.

His carelessness and irresponsibility led to the loss of our first child when I was still 23 weeks pNnant. I explain that D cut a rose tree beside the path but left a one-foot high stump sticking up where people walked. Even after being repeatedly asked to remove it, on Tuesday the 26th August 1997 I tripped on it and fell heavily onto the concrete drive. I went to hospital with my mother and although at first it was thought that no damage had been done and was sent home, two days later, I felt there was something seriously wrong after the fall.

I told D and begged him to take me to hospital. He refused and went to work instead. When he returned from work in the afternoon, he still refused to take me to the hospital because he had to take his mother shopping instead and he insisted I went along with them as well. He just did not care that I was in pain and sick worried about our baby.

On the 30th August 1997, I called the midwife and was immediately sent to the hospital. At 6 am on Sunday the 31st August 1997 I gave birth to a baby girl, L M. She sadly died shortly after being born.

2. D's complete insensitivity to the loss of our daughter and the Trauma I was having to face

When I lost our daughter "L M C", I felt abandoned emotionally and totally isolated. After I gave birth to her, D went home and came back to the hospital later. When he did return, he sat and read one of the local papers, as if he was doing his normal weekend thing.

D was incapable of showing any sympathy or support for a very distraught me. In fact when my parents arrived at the hospital they were severely critical of him because all he was doing, while sitting on the other side of the room, was to grin and chuckle at items he was reading in the Sunday paper. He seemed to be totally unaffected by the chain of events. On finishing his paper, he declared he had to go home for his Sunday dinner and left. He never once gave me a hug, asked if I was okay, nothing, it was like another normal day for him. When we left the hospital, I clearly wanted him to take me home, so I could be away from other babies and families.

He argued about this stating he wanted his usual Sunday dinner with his family. Instead of taking me home he took me to his mum's home,

where there was my sister-in-law N who was pHnant at the same time as I was. As soon as I saw her, I could not stand it anymore and asked him to take me home, and I told him I could not bear to see the pHnancy of N. He ignored me and carried on talking to his mum, dad and the rest of his family. I asked for the keys to my car, he refused to give them to me, so I walked home by myself. He stayed there to have his ritual Sunday dinner. I could not believe I was made to feel like a villain again, because I could not stay there, after just giving birth to my daughter who had sadly died.

I was so distraught in seeing N and his brother O, I went round to talk with her to explain that it was too painful for me to be around them both whilst she was pHnant for the time being. L was an IVF (Intro Vitro Fertilisation) baby due to my chronic bowel disease, and I never knew if would ever get pHnant again. I felt so alone, and could not understand what sparked so much cruelty from him.

3. My PHnancy with our F in Hospital from 5th January 1998 – 14th July 1998 - D's complete indifference, lack of care and support

My second son F was also an IVF baby. I was very lucky to get pHnant again through IVF a few months after the death of my first new-born. To avoid complications and yet another loss, I had to go into hospital following IVF from the 5th January 1998 until around the 14th July 1998.

I was instructed by my obstetrician to spend all of my pHnancy in hospital due to the fact he did not think that I had the care and attention needed to have a successful pHnancy especially from D. My obstetrician believed that this had contributed to the death of my daughter earlier the previous year.

During all the pHnancy, D would visit me haphazardly and tell me he was really tired when he did visit from work. Every Friday night he would play football, and I would not see him at all, even though I was pHnant with our child and he knew what trauma I had been through with the first one. Every weekend he would visit on Saturday mornings and stay until around 1pm and then he would leave, and not return till Sunday morning till around 11am, he always went home for his dinner with his family.

I was often left feeling depressed, worried whether or not F would survive and go through the full term of my pregnancy; and whether or not D cared about us. At 16 weeks into the pregnancy I had to go to theatre to have a basket stitch placed in the uterus to prevent premature birth. I had developed Gestational diabetes, and had to have some of insulin of a weekend along with Dexamethazone injections used to develop F's lungs in case he was prematurely born.

Whilst pregnant I was so sick, F had crushed my abdominal wall, and everything was so tight, I had to go to theatre once again to have TPN Catheter, this was to be placed around my heart and into my stomach which was going to be used to give nutrition to myself and my unborn child; known at the time as Total Parental Nutrition. During this time I contracted Staphylococcus fever; this resulted in me turning grey and being in a delirious state. I and my F nearly died.

Once again D was not present with us and the police was nearly sent by the sister of the ward to fetch him to be with me. My parents phoned his parents, his mum told my mum he was out and she did not know where he was. He was at the local football club, playing his usual football. I was told this later.

I was in the position of looking out for my son and myself alone D was conveniently absent.

4. D's childish attitude once I went home after giving birth

After a few weeks of being home following the birth of F, I noticed D was not bonding or interacting with F's needs. We got into an argument and he threw a glass directed to me, and when it landed against the wall it was just above where F's carry cot was and therefore just missed him. This frightened me because he had been drinking vodka and lemonade since getting in from work, I knew I had to protect F, so I cradled him into his blanket picked up the car seat and placed F into it and proceeded to pick up my car keys to my car so that I could drive to mum and dad's house getting away from his cold remarks "you are nagging" "I work all day; you stay at home" "You are mental".

D proceeded to follow me outside, pushing me against the car on the driver's side which was on my right side and snatched the keys from me; I stayed outside for a few seconds, and decided to go back inside, where I took F upstairs out of the way. D was cruel because he resented the fact I did not go to work, this decision was made before F was born and we both decided it would be better if I stayed at home with our son. Therefore he did not see the need to help me with F due to this major factor.

Within a week of being at home with our newborn son F, D began to complain how tired he was. I placed F next to my side of the bed, so I could hear him if he needed anything. He was born at 34 weeks, so he was very premature. I would breast feed him, as this was something I wanted to do from the onset. Due to my research there was no way I was going to take the chance and place F in our bed, this was to prevent premature death by either one of us rolling onto him. I would put the light on, sit in my Rocking Chair and continue to breast feed him.

D would get grumpy about this, and told me he was going to fall off a roof, or injure himself at work due to the lack of sleep. He told me to sleep downstairs on the sofa with the lounge fire only to keep us both warm. I only went to bed from Friday to Sunday morning. He blamed me for him being tired. I was at my lowest with him. I often questioned why I was still with him, and hoped against hope he would change!

During the first few months of having F, he changed, became critical of the house, telling me it looked like I didn't do anything all day. He began to come in at 4-30pm, read whilst on the toilet till around 5-15pm, have his dinner, get up from the table straight into the bath with one or two beers until around 7-30 - 8pm. By this time I would have washed up, washed F, fed him, put him into his carry cot downstairs. D would get out of the bath, take the television off me and put on what he wanted, until around 9-00 till 9-30pm and he would go to bed. He would then get up and around 6-30 am; come downstairs, wake me up banging and crashing in the kitchen. The whole routine would start again day after day. This happened in England during the first six months after F was born when I was made to sleep downstairs for fear of disturbing his sleep.

It was like he was angry at me for spending much of my time looking after F rather than spending time with him. He once told me I have changed towards him, and F is all I think of now. I told him F was a little baby and he needed all the care and attention I could possible give him; which I still do to date. D never understood this.

5. D's absence from F's life as he was growing up and his obsession with F's child games and watching TV alone rather than interacting with his son as he was growing up

D was totally different when it was just the two of us before F was born or we were married. He was so care-free, he did not have the responsibilities of being a father or a husband, and take all the responsibilities of running and budgeting for a home. He changed when F was born. I feel he was totally cold towards F from the onset, and fatherhood was totally alien to him. He never helped with any of F's care and showed an inexplicable jealousy towards his own son F, especially when I spent most of my time being a good mum, in caring and nurturing for my son.

I witnessed F being cut off from his father, and he was not a responsible parent, and rarely got involved in any part of F's life. He was quite happy to sit back to let me, along with my parents, mould him to the young man he is today! F is really special and we had to have IVF to have him, and for this reason I cannot understand D not wanting and taking every opportunity to look after his son, whenever possible.

Everything with F was always left to me. I fed, bathed and changed him. I arranged book club at our local library; mother and toddlers swimming, feeding the ducks. At home my lounge would look like a kindergarten with paintings, drawings, play mat. I took care of everything for my son with the help of my parents and I can say that my father, F's grandfather turned out to be more of a father to my son than his own father was.

When D was at home on holiday from work I would ask him to come and get involved with F and he would complain bitterly and cause such an atmosphere. But when F used to stay at my parent's house every

other weekend D used to perk up and stop all his tantrums. It was like he saw F as a chore and not his son and liked to be without him!

On a daily basis D totally refused to get involved with us as a family. He would come in from work, have his bath, eat his dinner, and then watch TV. I used to get angry at him, because I saw no interaction between him and F, and if I had to go out I would come back to find F was just left watching TV.

D always gave me the impression that he could not be bothered to even try and take care of F. He felt it was too much hassle. Due to the worries and concerns I had Harding how D would not look after F properly I used to leave F with my parents whilst I went into hospital due to my chronic illness. This was the only way I could rest assured that F would be looked after correctly. This did not bother D in the least.

I remember that after one spell in hospital I came home in time for F's 1st birthday. Even though my parents were looking after F, D did not organise a party, birthday cake, nothing.

D would say to me on many occasions that he was not going to bathe F, give him his milk, read him a story, because I was the one who was at home all day and he was at work.

I felt often that D starved F of such affections and interactions. He would promise to do things with F, and it never materialised, and F would remember that he broke promises to him, because as he got older he would make such comments to his father. D never once thought of the needs of F and that he needed a father to give him financial, emotional, physical, educational support. It was left to me and my parents to go to parent's evenings at F's schools, and even parents day here in Malta. D never once said he would come and see how his son was doing in school.

I would say to D, if he was at home when F got in from school, ask him if he has got homework, and see if he needs any assistance. D would tell me F does not have any, and I would find out he did have some to do and he needed assistance to do the work. D and I had many arguments Harding this, and D would say "He told me he did

not have any” I would tell him “do what I do and look through his bag and his homework diary” you will find it then. He would then accuse F of lying and I would dispute this, as I have never known F to tell a deliberate lie!

D only cared about his son when I forced it upon him; for example I would tell him I was going shopping by myself, or I was going to my parents for a coffee. I would leave everything ready for him to feed F leaving instructions for him, to make it easier for him, but at the same time making sure F had everything he needed. I would come back to F being parked in front of the TV watching a video. I used to argue with him about this especially when he had not given him his meals. He would tell me he was waiting for me to come back so we could eat together.

The only two things I remember D ever doing for F is when he once booked a trip to Lapland without my knowledge. This caused us more financial problems as we didn't have the money to pay for it! For one of F's birthdays, he booked a train ride on Thomas the Tank Engine. As F got older, I, along with my parents, would organise F's birthday parties, mostly at my parent's house for all his school friends.

When F was growing up as is normal with all children, many children's games were bought for him by everyone except his father. D on the other hand used to spend hours per day playing these children's games on his own to the exclusion of all other family activity rather than together with his son. I remember very clearly one particular episode when for his 11th birthday, F was given the W-ii game as a present by my parents. During the course of the afternoon D had to be repeatedly requested to relinquish the game to his son. Everyone noticed D whilst playing that he had a strange childlike look of glee and what really impressed everyone is that he looked obviously resented at the fact that he had to hand over the game to his son. It was most disturbing to see this irrational behaviour and was witnessed and commented on by many relatives present.

The vast majority of the time that he wasn't playing with F's games, D was watching TV. His first action on coming downstairs in the morning was to switch the television on and his last at night before we went to

bed was to switch it off. The television was constantly on and being watched no matter what else he was supposed to be doing. Even F complained about this as he could never get his father's attention while the television was on. He wouldn't even talk to F or supervise his preparations for school in the morning because he would be watching television, whenever I had left early for work.

6. No inclination towards a father-son relationship throughout the years, the abandonment of his son since June 2012 and the effect this has had on F.

I would say that the relationship between D and F has been very strained, and there has not really been a father-son relationship. Unfortunately however, I feel that F has accepted that this is the way his father is, and that nothing can change this.

F often sees his father as a vulnerable person he has to defend and look out for. Even when D was spiteful to F; If F knew something more than D he would make it known to F that he didn't like it and storm off, especially if F showed him something on the computer. D hated this if F appeared to know more than he did. As F grew D spent less and less time with him. He would flatly refuse to take him to football, fishing, sightseeing, nothing!

F is a very deep and thoughtful boy, not readily given to expressing his thoughts and it is difficult to know what he is thinking. In the last year F has matured a lot and thrown himself into his studies. He achieved 6 firsts in his classes in his half yearly exams this year, and as a result he is being moved up from track 2 to track 3 next year at Mosta Boys Secondary school.

F seems to have learned a lot of valuable lessons from his father on how not to behave and this is the only positive thing to come out of this whole affair. In June 2012, D promised F he would return soon the morning he left Malta but he never gave F the time to say goodbye and D never told us he would not be coming back to Malta. F is often confused and frequently wonders why his father did the things he did to us as a family which necessitated him leaving when it was all found out. Luckily this has not affected F in his studies.

I feel he is coping with the loss of his father successfully although that may be due to the extra support I give him with help from my parents. D could not grasp the concept that what he had done over the years and especially in the year 2012, I did not want him to be part of my life. He would phone me on my landline, after moving from the marital home, text me on my mobile, stating he could not believe I have written him out of my life so easy, this was cruel to state especially when he was the one doing the wrong. He used F sending him text messages and then for F to forward them to me. He wrote a letter stating he was sorry for stealing all our monies and the harm he had caused to the both of us, and yet in the next breath he plays these cruel mind games yet again.

D has taken to texting F to give me messages how he feels towards me: He calls me childish, tells me it is me who has wiped him out of my life so easily. The fact that he ran away back to England, abandoning my son F and myself does not come into his thinking at all.

He knows that this type of intimidation will upset me because he is dragging F into the equation, and this fuels my sadness and isolation because I feel he tries on a Hular basis to put a wedge between F and me.

I know when F has spoken with his dad before he even tells me due to the fact F's whole way of being towards me changes significantly. He can shout with me, swear at me, calls me stupid, mental and even squares up to me face to face, and when F does this I tell him to back off now! This could be D standing where F is and these would be the words and mannerism as described that D would use to intimidate his point to me.

At one stage it got so bad between F and me that I asked my mum and dad to have F in Gozo in order for this to stop happening. The last thing I was going to have happen was to have our relationship suffering. I never got to know the content of their conversations, because he has taken to phoning him whilst I am at work now, and therefore telephones him early afternoon. I came to realise little snippets were being fed for instance "Mum you have lost everything

because you came to Malta with Dad and Me” “Mum you got dad off the Island, you bought his ticket.” I made sure F knew I was asked by D to get his ticket enabling him to get home. I know that F really believes this story and holds me responsible for his Dad leaving the Island, as he only mentioned this a couple of months ago, namely on the 21st December 2012.

In Christmas time, D sent a huge box of Christmas Presents, and it was addressed to F only. When F went through the box, he noticed there was nothing for me at all from any of D’s family. I have known this family for 23 years. F became upset and he phoned me at work, and started to tell me all about it, and he was getting upset. I told him not to worry Christmas is for Children and not for adults. When I arrived home, F had opened all of his presents on the 20th December 2012, he really did not care to the fact that Christmas day was 5 days away. It did hurt me a lot and once again D was being really cruel and this did effect me a lot.

B. D OVERSPENDING, INNUMERABLE UNCONTROLLABLE DEBTS, MISAPPROPRIATION OF FAMILY SAVINGS

1. Overspending of Money

During the 22 years of our relationship, the biggest problem I had to face with D was the fact that he would buy impulsively and spend money left right and centre. This resulted in his making large amounts of debts which I helped him to pay off several times. I became involved in D’s debts when we got married. It was hard for me to live like this because I had been taught to save from a very young age and did so quite successfully. However his uncontrollable overspending was always a problem from before we got married.

D was not capable of saving money, of thinking about the future yet at the same time he would make plenty of plans which never materialised.

He would spend a lot of money especially if he had it available. He would even get his wages paid into a separate bank account and he would then choose to put an amount of money into the joint account

for me to use for housekeeping. What amount of money was made available to me was something he controlled. At the same time he could not control his spending.

D would wear me down. If he wanted to buy anything and I would point out that we were still paying loans, credit cards, or utility bills he would react strangely and badly. He would walk out of a room when I entered it, he would give me plenty of silences, he would even stop any intimacy between us. Somehow it felt like he wanted to punish me.

It often felt like a tap that was “drip, drip” draining me. I was not only physically drained with looking after the house, taking care of F, but mentally drained, worrying about outstanding debt, what D was buying, whether we would have enough money to live on.

2. Total inability to handle household affairs

Soon after we married in 2001, it became apparent to me that D was totally unable or incapable of managing household bills or accounts. He simply ignored any bills that required paying so I had to take over the provisioning and budgeting for all household bills. Whilst still in the UK, D worked as a very poorly paid full-time handyman with the Newark and Sherwood District Council for nearly 14 years; however he would buy anything he wanted to. On challenging this he would tell me he was earning the money, and yet the bills, loans etc were still not paid. D would only give me some of his wages and this was the only money I received from him. The rest that was needed for us to live on was made up from my Disability Living Allowance, which was paid to me to assist with my disability. D refused to show me his pay slips from his place of work and I had to physically put money on the side to pay bills from the money he gave me for groceries.

On many occasions he would take the cash I had saved to pay a particular bill, then he would claim having paid the bill. Months later I would find out that the bill was never paid. At one stage the gas company, due to a large accumulation of unpaid bills, installed a pre-paid meter in our home as the only way to continue the supply of gas. I felt so humiliated that I had to keep going to a local store to purchase credit on a card for this meter.

3. Stealing of Monies Painstakingly Put aside by Myself:

I explain that throughout our relationship. I would use individual savings tins to budget for car bills, holidays, birthdays, Christmas, F's schooling. I would put money away every month getting ready for the big bills that were due. These tins are so designed that once you put the money in these tins you have to use a tin opener to get to the money. It was the only way I could save and stop D using the money for something else.

In 1999, I had been saving cash into one of these boxes from wherever and whenever I could to enable the family to go away for an independent holiday. Up until that time we had only been able to afford to go away for a week each year to a cheap guest house with D's family.

Just weeks from going on holiday I had accumulated over £300 in this box when one fine day D arrived home with a brand new television. He had taken the 'holiday money' and purchased this television which we did not even need as they already had one. We had no holiday that year.

This conduct continued right up to last year, 2011, here in Malta, when once again I was saving for a holiday in Ireland and this time I used a labelled sealed tin purchased locally and which could only be opened with a tin opener. I remember that I had saved in excess of €1,500 and when it was time to pay for the holiday, I duly opened the tin and found only €800 in the tin.

I had also been saving money to pay for the VRT of the car, car tax, and car insurance, however when I went to open this tin, I found that even the money in this tin was less than what I had actually saved. When I told D about this, he denied taking the money and dismissed it stating that I must have been mistaken on how much I had really saved. I ended up doubting myself but today I know this is not true.

When D abandoned F and me in Malta in June 2012 and we had to leave our house and downsize to an apartment. Two months later while packing our belongings I found two of my savings tins, the holiday tin and the car tin hidden behind F's possessions in his play

cupboard with jagged edges which had been opened with a tin opener.

There was no way it could have been F who did this as he is 100% honest in everything he does. He has demonstrated this on many occasions not only to me but to his grandparents in Gozo as well. In fact F was shocked badly to find that not only his father had taken the money but he had left the opened tins in his toy cupboard so he would be blamed.

I was deeply hurt that D had been so cruel to F by planting those tins in his play room. These mind games were very cruel for the both of us. His was really despicable of him.

4. The use of part of the surplus proceeds from the sale of our house in the UK prior to moving to Malta to pay off D's debts

In 2009, we sold our house in England, packed our possessions and sent them to Malta. We were left with a surplus of around £50,000, which was possible due to the intervention of my parents who gave us a gift by paying off the mortgage on the house for us amounting to £40,000 on the agreed proviso that my son F, their only grandson, would benefit financially in the future from the proceeds of the sale of the house. D and I thus agreed that £20,000 of the house surplus money was to be allocated to our son F for his future studies whereas the remainder would be divided equally between D and myself, Mr & Mrs C.

We thus set up bank accounts with HSBC in both Malta and in the UK and invested the surplus money from the sale of our house — approximately around £50,000 was lodged into an investment account with HSBC for a period of 5 years with the intention that it would be available if the move to Malta failed and we returned to England.

Whilst married to D, I was mentally tired from all the credit cards he had. He had cards from American Express, Tesco Finance, Barclays, Lloyds TSB, MMB-Virgin, etc, plus many more whose names I cannot remember. I never had any access to these cards and was never allowed to see any statements from those companies, although I did

find on occasion statements hidden away in drawers and cupboards, always stating D owed large sums of money on them.

We would get one paid in full to find another statement hidden in drawers, he would come clean about it all at the time, I would pay in full and the cycle would be repeated time after time. It was like he could not grasp the concept of debt, and what it meant for us as a family, going without, to pay his debt! It got so bad he stopped paying the utility bill for the electric, and we owed an absolute fortune, and we had to take out a £10,000.00 loan just to clear utility debts. The loan remains outstanding to date.

Once again after moving to Malta, credit card statements started landing in Malta. In March 2010 I discovered that D had again run up thousands of pounds of debts on English credit cards once again and these companies were threatening legal action to recover these debts. I thus had to bail him out as in other occasions so I reluctantly agreed that the 5-year investment account be closed and to transfer the £50,000, after having also to burden financial penalties for prematurely closing the account, into our instant access joint HSBC (UK) account i.e. our normal current account. £9,000 was immediately withdrawn and most of it was used to clear the accumulated debt once more.

5. Withdrawal and disposal of our family savings by D without my knowledge or consent

During our first year in Malta D claimed to have found employment in Marsa and that he worked there five days per week and brought cash back home claiming these were the wages from his work. Six months later in 2010 he admitted to me that he had not had that job for many months but had been pretending to go to work each day. He admitted that the money he had been bringing home was instead the cash from our savings. By this time there was remained only £35,000 of the surplus from the house sale. This was the last time I was allowed to see the money in the account.

Not long after this, D stopped all paper transactions and conducted the business of these accounts online only. He changed the passwords secretly and every time I demanded to see the accounts

online he would say the website was 'down' or his password wouldn't work or any other excuse that came into his head. He even produced home-made bank statements to convince me that all was well with our savings, yet he frustrated every effort I made to go online and see for myself. He had actually changed all passwords and had no intentions of letting me see those accounts.

As records show, D secretly made a total of 58 Global Transfers from our HSBC (UK) joint account (No: 403201 52011247) to our HSBC (Malta) joint accounts (Nos:071-267462-001, 071-267462-002 and 071-267462-003) between the 9th January 2011 (as unfortunately I could not go back to the period prior to this date) to the 24th May 2012 totalling to €22,495.

Most of the transactions took place to our Maltese joint account ending in 003 above-mentioned and in almost every instant as soon as it was transferred from the UK account into this joint account, it was almost immediately transferred to another HSBC (Malta) joint account (No: 071-267462-001) we had from which it was then withdrawn by him using cash machines. I attach hereunder a copy of the Global Transfers History as Doc. A.

Looking at the same situation from the HSBC (UK) joint account records from 19 December 2010 to 19 May 2012, this record shows that he made 74 Global Transfers and Direct Transfers to Maltese accounts totalling to £24,067.76.

He also withdrew cash from cash machines in Malta using the UK Visa card from this account withdrawing direct from this account 44 times totalling another £2,867.69, making a withdrawal total of £26,935.45.

There were hundreds of other smaller payments made as well to PayPal, credit cards, and others direct from this account. On the 19th December 2010 the account balance in our savings in the UK was £25,963.83. By the 19th May 2012, the account balance was £1,492.46 OVERDRAWN!

At no stage throughout this two year period did D possess anything of significant material value that could even remotely account for the massive sums he was disposing of. He has constantly and resolutely

refused to explain what he has done with this money. Furthermore, I was working almost immediately after we arrived in Malta and hence we had income from my job which definitely did not necessitate D pulling out all our savings and making them disappear. I discovered all of this in June 2012 and it was my discovery that prompted D to leave Malta on the 18th June 2012 and to abandon me and our son here in Malta. On the 17th June, a day before he left, D admitted that he had secretly, over a 2 to 3 year period, taken in excess of £35,000 of family savings and disposed of it all along with unpaid credit card debts of over €8,000 having accumulated in Malta and an unknown sum of debts in England totalling at least another £20,000. All this happened while D was assuring me and my parents that our savings were safe and not being messed with. On the 18th June 2012 I managed to obtain an HSBC account overview which clearly shows the debts D left behind when he left together with the last account balance on his HSBC Premier Credit Card (overview and credit card account balance attached to said affidavit as Doc. B and C respectively)

The day that D finally admitted he had disposed of all of our savings and was massively in debt again he booked into a hotel that night before leaving for UK next day. He came back home the next morning and took some possessions. In doing so he retrieved some €3000 from the back of a drawer in the bedroom. I challenged him about this and he said it was some winnings. I insisted he take it to the bank to repay some of the money he had illegally taken, off his credit card. We went to the bank together and repaid this money to them.

To date D has made no effort to repay any of these debts or remit any form of maintenance to support either myself or our son F in Malta. To date, I still cannot understand and do not know where all our savings were spent, what D did with our money and how he managed to use it all up, unless he stashed it elsewhere to keep and use for himself alone without my consent or knowledge.

I feel very hurt and angry that D had total disHard for F and me, and this was a very cruel act on his behalf. Luckily, in June 2012, I managed to recover the sum of €5,000 was recovered from a joint account we had in England and this was safely invested for F by me.

C. D'S UNRELIABILITY, FABRICATION OF LIES

Whilst in Malta, D lied a lot about his employment and this was something that caused a lot of arguments between me and D. He claimed he had many jobs, working in a factory in Marsa, Mecca Marina, Luna holiday Complex. The factory job in Marsa was a blatant lie on his own admission as already explained above and a mere cover up to the withdrawal of our savings.

When my parents heard of his unemployment my father offered him a job with a friend's marine company in St Paul's Bay, Mecca Marine, within walking distance of our home. He accepted it and started work there. It paid good wages, gave him a huge variety of work and he seemed to enjoy it at first. Within months, after coming back from a visit to his family in England on his own, he then started taking time off making up total lies about why he had to have the time off. On one such occasion his employer, on a chance meeting with my father, enquired as to how I was as D had told him that I was in hospital seriously ill and he needed at least a week off work. There was nothing wrong with me at that time. My father immediately went to our home in Qawra and found D lying down on the sofa watching cricket on TV. When challenged about his lies he simply shrugged his shoulders and said he felt like a few days off to watch cricket.

On another occasion he took a number of intermittent days off lying that his son was being bullied at school and he had to go and see the headmaster. This was also totally untrue. In the three years F has been at school in Malta he has had only one altercation with another boy and has never been bullied. D had never been to see the headmaster for any reason as he never cared about his son's schooling.

I found it quite despicable to use my bowel disease in order to get time off, I am the one who lives daily with this debilitating condition, and I do not play this card. I have never lied about being sick. He used F in the same way with the above reference: D never took part in going to any school Harding F's welfare; he was always claimed he was working and could not attend.

I actually went to his place of work and apologised for the lies that D had told them. I also told them that it is true I have a very bad bowel disease which leads me to going in and out of hospital from time to time, and that I am ill. This was very cruel for D to do; my illness is not something to take lightly as he often did.

The marine company finally lost patience with him when he requested less working hours per week part time and he actually requested working mornings only as he didn't like working in the afternoon. When this was refused he suggested he become self-employed and they use him on an ad hoc basis only when they needed him. He left the company of his own accord and never became self employed.

A few months before he left for England in June 2012 he claimed to have found employment in a local hotel. He actually claimed to work there five days a week and brought home cash he claimed was wages. He also claimed they refused to give him a wages slip. This was during the same period when he was secretly withdrawing hundreds of Euro almost daily from cash machines from our accounts. He also continued signing as unemployed with the ETC during this same period. Whether he had an actual job or not at this hotel is unknown!

A month or so before he left for England, abandoning us, he apparently obtained employment at the Luna Holiday Complex in Mellieha on a temporary seasonal basis. He worked there for a number of weeks after the period when he could no longer draw cash out of the cash machines because he had emptied all the accounts as described above. He ceased working there when he simply walked out on this job without giving any notice.

D. D'S MENTAL ILLNESS

I struggled deeply to come to terms with all of the different abuse that I endured daily; this would range from physically, emotionally, mentally and financially.

Whilst in Malta, I decided to seek help for the two of us, hoping to save our marriage. I always believed I married for life and I never considered separating from D because I did not want to jeopardise our son. D willingly decided that we could not carry on in this manner and

therefore agreed to see a Ms. Cynthia Bonnici, a psychologist at Mater Dei Hospital, to talk to someone independently around the issues of debt, our marriage, arguments from his own perception.

We attended this consultation with Ms. Bonnici around May 2010 and during the course of this consultation, Ms. Bonnici was concerned enough to assess and refer D for diagnosis and treatment to Dr. Mark Xuereb, a consultant psychiatrist at Mater Dei Hospital.

After seeing Dr Xuereb, it was determined that D was suffering from depression so he was put on drugs such as Paxetine and sometime later Lithium, to alleviate his depression. However, D would be stubborn and only take the medication when he wanted to and not as prescribed. I fought a constant battle with D to get him to take the drugs as prescribed but overall he did not take them the majority of the time. This frustrated me and arguments prevailed; especially when he would lie to Dr Xuereb, and tell him he was fine when he was not. I stopped going to the appointments when he had to see Dr Xuereb. D claimed he carried on seeing him; I do not know if this is true or not because D has proved to be a liar on too many occasions.

Although D was supposedly going for sessions with Dr. Xuereb, his violence in my home did not stop, I remember that once he returned from this session and was very much on edge, pacing up and down the lounge while I was sitting on the sofa. He incessantly verbally attacked me for all sorts of reasons complaining that he was able to talk to his psychologist and not to me. He then violently grabbed my arm and I decided I had had enough of this and told him I was going to bed.

As I started going up the stairs he grabbed me again and slammed me violently against the wall frightening me badly. Luckily I still had the strength to react so I pushed him back down the last three stairs and warned him that if he ever got physically violent against me again I would leave him instantly. He stormed out of the house and didn't come back home until many hours later.

CONCLUSION

The tR is I am the one who has had the wrong done to me along with F. I feel very lonely, mentally tired from it all, worrying about all the outstanding debt that has occurred. I tried to change this man, before marrying him and as soon as F was born however it has all been in vain and in my interest and that of my son I had no other option but to proceed with legal separation from my husband.

That the applicant presented an affidavit of H I together with supporting documentation, which affidavit was originally presented on the 18th May 2015 and marked as Doc JP2:-

Affidavit of H I, retired mining engineer, son of Thomas P I and Q R nee S, born in Cork, Republic of Ireland and resident at Brereton, Triq il-Bizantini, Xlendi, Gozo, holder of Maltese identity card number XXX in the English language and under oath declares the following facts which he confirms to know personally:

I explain that I am A B C's father and have known her husband D E C for the past 21 years.

I explain that there were many incidents and occurrences during my daughter's marriage to D which gave me grave cause for concern.

A. D'S RELATIONSHIP WITH A

a. No affection or love towards A

In all the years my daughter was with D I never saw any indication of affection by him towards A. In fact quite the contrary was true. He would frequently contradict her inferring she was stupid and not very bright. But on several occasions he let himself go with a flash of wicked temper and during these moments which I only saw twice he looked absolutely evil at her. On asking A about this she told me he was often like that but only there was no one else present.

His lack of concern for A and his ill-treatment of her were felt mostly when A was admitted to hospital on the following three occasions:

i. 1997 Hospital Incident: In August 1997 A tripped over an abandoned rose bush stump beside the drive to her house and fell heavily on the concrete. At that time she was nearing her time for the baby she was carrying. I witnessed this and helped her up. D had been requested on several occasions by me to remove this tree stump before someone tripped over it and injured themselves. He had not done so. As a result of the fall, A came prematurely into labour, gave birth to a girl who subsequently died a short time after the birth.

On the morning of the death of the child my wife and I visited A in the hospital where she had given birth to support and console her. Obviously she was heartbroken and sobbed in my arms for some time. During this time I noticed D sitting in an armchair, apparently unconcerned, reading a Sunday paper and chuckling and smiling at something he found amusing in the paper. He seemed to be totally unaffected by the death of his daughter.

A short time later he declared he had to go as he had arranged to have his Sunday dinner with his parents, and he left. I was shocked by this apparent total insensitivity on his part, along with his total disHard to my daughter's distress.

Later that day I phoned him at his parents' house and had to order him to return to the hospital and be with his wife, my daughter.

ii. A in Hospital in 1998: At the end of 1997 A became pHnant again using IVF treatment for the second time. This time the same consultant insisted that she spend most of the pHnancy in hospital in Nottingham, 15 miles from her home. During these seven or eight months that A was continually in hospital my wife and I visited her and spent 3 or 4 afternoons a week with her. We used to take her out when she was well enough to local parks, leisure areas and even to the cinema. It was a constant battle to get D to even visit her for an hour. He had numerous excuses so as not to go; he would claim to be working late; he would have to play football; he would have to take his mother shopping; etc; etc. He gave very little support to her during what was a very difficult period in her life. Eventually on the 1st July 1998 her son F was born. On the day she left hospital with her baby son, D made some excuse that he couldn't go to collect

her and my wife and I collected her from the hospital and took her home. We had no idea that day where D was.

iii. A in Hospital again in 1999: In January 1999 A was again admitted to hospital for a hysterectomy and other surgery. F was six months old and D refused to look after him. A pleaded with us to have F full time as she was scared of what might happen to F if D was made to look after him. We agreed.

During the weeks that A was in hospital, again in Nottingham 15 miles from home, D visited her as little as possible. And some afternoons he would come straight from work to our house, spend a maximum of 10 minutes sitting with his son (but never picking him up) and then leave. My wife provided him with dinner each time he called which he would bolt down him and leave.

b. D's uncontrollable problems with credit cards, considerable debts and over-spending of monies

Inability to Pay Household bills

D seemed to have a total inability to plan, budget or Hularly pay any form of household bills. He constantly ran up huge debts at the same time claiming to me and to A that he was paying them, when in fact he wasn't.

At one stage before the move to Malta in 2009 the gas company supplying his household heating stopped him using it freely and A had to go to the local shop and purchase credit on a special card which then allowed her to use a certain amount of gas. This humiliation for A continued for some time until D took out a £10,000 loan to clear all the debts he owed at that time.

House Surplus Savings

In 2008 I was aware of their money problems although at that time I did not realise the full extent of D's debts or inability to pay household bills. At that time they were paying £300 per month on a mortgage with which they had bought their house. In order to relieve

them of this burden my wife and I made our daughter a gift of £40,000 to pay off this mortgage and so relieve the necessity of paying that £300 per month.

2009, in preparation to moving to Malta they sold their house and after allowing a considerable sum for the move it left them with £50,000 surplus. This money, on my advice was placed in a three-year investment account in case the move to Malta did not succeed then they would have some money to return to England with.

In June 2012 D left for England never to return after admitting to A that all the money was gone along with a further many thousands of Euros of debt left behind in Malta.

This situation was discovered when in early 2012 I became suspicious of him by little things he mentioned about this money and decided to talk to both of them about re-investing the £50,000 from the three-year investment account. Especially because they had always agreed that £20,000 would be re-invested for F's future.

In June 2012 I brought the matter to a head by making an appointment for me and A to meet with an investment manager in Qormi to arrange for that £20,000 to be invested for F. D told me to my face in front of A that the money would be made available in their joint account that weekend in preparation for it being invested on the following Tuesday. On the Sunday, the 17th June 2012 he admitted to A that there was no money left and in fact the account was overdrawn by thousands of pounds.

A contacted me immediately and I caught a ferry from Gozo to Malta. By the time I arrived D had left and the next day he caught a flight to England. He has not been seen since.

I was requested by A to fully examine all of his and A's finances and the shocking picture emerged. Within three months of moving to Malta D had closed the three-year investment account and had placed the £50,000 in an open current account. At the end of 2009 and into 2010 he systematically withdrew weekly amounts in order to continue the pretence of having a job.

Then in mid-2011 with £35,000 left and into early 2012 he began drawing in cash from cash machines on average €600 several times a week until by March 2012 there was nothing left of the original £50,000. He continued drawing this amount of money using his HSBC credit card during April and May and at one stage even used cash drawn on that credit card to pay off what he owed the previous month on the same credit card. HSBC (Malta) have a full record of this crazy behaviour.

When he finally left he owed HSBC just under €10,000 on the card and the overdrawn account. At no stage has he ever explained what he did with all this money.

Out of Control with Credit Cards

On examination of his finances I soon discovered that he has considerable debts in England as well to the amount of many thousands of pounds. I have seen statements and warning letters from a number of banks. He owes HSBC (UK) nearly £4,000 on a credit card and an overdrawn bank account. He owes a similar amount to Lloyds TSB on another credit card and overdrawn account.

He owes further thousands on a Virgin MBNA credit card and another with Barclays.

The enquires I have made in England recently I know he has had a warning letter from Nat West bank over a considerable unpaid sum on a credit card of theirs and also the same from a Capitol 1 credit card, both taken out since he returned to England. He is still carrying on spending other people's money as if it is his own.

Yet at no time has he explained what he does with all this money. He has no expensive possessions and he has never shown any indication of being addicted to illegal substances. His family in England who live on state benefits have shown some signs of expensive acquisitions such as a new fully fitted kitchen and a motorised wheelchair for his father but little else. He also has a brother and one sister who literally have nothing and frequently live on state benefits.

I believe he has either spent money currying favour with his family or even buying affection from them or he has drawn all this money and hoarded it away somewhere. On the day he left Malta A found €3,500 in a drawer and she used it immediately to pay off some of the HSBC debt in Malta.

In 2012 in the days just before D left for England he actually admitted to me in front of A that he took advantage of A's lack of knowledge of online banking to ensure she could not access any of their bank accounts. He admitted he had stopped all paper statements and changed and concealed all passwords and identities.

He even produced a pathetic bank statement himself, which I have seen, to convince A that all their money was still safe in their accounts. Whereas the tR was, that £35,000 pounds of money from their house sale had been embezzled by him over the previous two years and there was nothing left. To this day he still refuses to say what he did with that money.

B. D'S RELATIONSHIP WITH HIS SON F G C

In my opinion D C was either incapable or unwilling to be a responsible parent in all the years that he has had F as a son and never ever demonstrated that he was otherwise.

i. No Love or Affection

At no time in the 14 years he was with F did I ever see him display any form of love, care or responsibility towards F. Whenever A had to be elsewhere he expressed horror at having to look after F. In most cases he would ask A to take him to us and even on the rare occasion he did have him he immediately took him to his mother's for her to have him. I know of no occasion when he took F out on his own either as a baby, toddler or junior.

He never expressed any love or affection for F in our presence. He would never ever greet him with a kiss or a hug or even pick him up when he was small. He would never do the same on leaving him anywhere. I saw this on many occasions when F was left in our care.

ii. Resentment

Ever since F was born D showed open resentment towards him. This was illustrated on numerous occasions while F was a child by him encouraging A to place him with us as many as several times a week so he could either go out with A or to even have a 'peaceful' evening on their own watching TV. I couldn't understand this at the time as F was always a very well behaved boy and was never ever disruptive. His father just never ever wanted him around.

n in later years when we took them on holiday, once to Menorca, D would be reluctant to Jay on the beach with F. And whenever they came on holiday to Malta and stayed at our villa 'he would refuse to go in our swimming pool with his son. He would sometimes go and swim on his own. On rare occasions F would join him and he would appear to be totally incapable of devising any play with him and would leave the pool. He was very uncomfortable whenever F wanted to play.

iii. Jealousy and Aversion towards F

D was definitely jealous of the attention that A gave to her son and this manifested itself in many ways in front of us. On the 15th July 1998 A's son F was born. On the day she left hospital with her baby son, D made some excuse that he couldn't go to collect her and my wife and I collected her from the hospital and took her home. We had no idea that day where D was.

Because we lived quite close to them before we moved to Malta (F aged from 0 to 7) we had direct contact with them on average of 3 or 4 times per week. In all those seven years I never ever saw F's father hug him, kiss him, feed him, change his nappy, bath him or console him if he cried, even in their own home. On all such occasions he simply shied away from him, it was totally unnatural.

iv. Incapability of Relating to F

On a number of occasions when A was in Hospital his father would encourage A to place F with us so he didn't have to look after him. In all those times (A was in the hospital once or twice a year) he never once looked after F and he never ever took F to visit A. He often

showed reluctance to visit the hospital himself and I heavily criticised him to ensure he went.

D never showed any interest or pride in assisting F in the normal things a 6 or 7 year old would need to learn. At that time F was given his first bicycle for his birthday. It sat unused in their back garden for some months until A asked me to teach him how to ride it. This I did and had great fun and pride in doing it.

F flew his first model aircraft with me, flew his first kite with me, went blackberry picking, mushroom picking, feeding ducks, exploring nature in woods and countryside, etc, etc with me. I used to take him each year to see Santa Claus at Christmas time. I only did all this with him because D wouldn't.

When F was about 11 his father bought a bicycle in order to take him cycling but it sat unused in their garage for several years until it rusted away and was sold. He only took him on a couple of occasions and then only on A's insistence and he insisted she had to come as well.

After moving to Malta D still continued to ignore F's needs as a boy growing up. This caused me great concern, to such an extent that I used to come over to Malta from my home in Gozo several times a week in order to take F out for various activities.

These included going to events like air shows, car events, exploring archaeological sites, fishing trips, fiestas, theatre shows, pantomimes, shows and events at Ta'Qali and even to the local cinema. We used to go and see battleships when in the harbour and re-enactment events. I have even taken him to see Mount Etna in Sicily, Gibraltar, Tangier in Morocco and the Pyramids in Egypt.

I felt the need to do all this because I perceived the way D totally neglected the boy's upbringing. In fact, D has often made the comment that F was lucky he had such a granddad to do all a. these things with him that I did and when challenged on why he didn't do such things with F myself he commented that he never thought of them. He has even (as a 40-year-old man) said how he wished he had me as his father and that I was like a father to him when I took F out and he tagged along and acted like a child. It was weird dealing with

him but I wasn't prepared to see F's upbringing suffer as a result of it so I compensated whenever and wherever I could. I feel he never ever showed any sign of being a normal parent, in fact all the signs blatantly showed quite the opposite. A devoted her entire waking moments to caring for F and he was always her number one priority and when she wasn't available, she turned to us due to D's obvious reluctance to care for his son.

As far as caring for F's education was concerned, D often expressed the opposite during F's school years. He would tell him that his education wasn't important and even today he says this to F about going to university here in Malta. He often said that it had not affected him not having a decent education. This is amply contradicted by

- (a) the fact that the best job he had in the UK for many years was as an odd-job man carrying out minor repairs to council owned houses and
- (b) to this day he still can't write in joined up writing. Because of D's attitude toward education he never showed any interest in F's education and when parent's evening was held at F's school he made all sorts of excuses not to go. A would then ask me to go in his place as she valued my positive advice on F's education.

F's priB education consisted of six years at a private school where he did exceptionally well. In fact, thanks to A's diligence, he went the entire six years without a single day off and has a certificate to show for that. He then continued his education here in Malta at Mosta secondary school and again is doing exceptionally well. In fact, he excels at all subjects except one. That is Maltese, and he is at present correcting that by willingly taking extra Saturday morning lessons at a private school in Floriana.

His own personal goal is to achieve a degree at Malta University. In the last few weeks he has repeated comments from his father who has told him that a degree from Malta University is worthless. This amply demonstrates his father's interest in his son's education and future when he is prepared to rubbish his son's ambitions.

In the last two summers A and I have supported F in successfully completing two six-week aviation courses during his holidays at a flying school at Malta International Airport.

Since June 2012, when D left Malta, F seems to have matured way beyond his years. Not only has he physically grown at least six inches (he is now 6feet 1inch tall) but also mentally he sees himself as the 'man of the family' now.

The only show of emotion from F was when they lost their pet German shepherd due to old age some months after D had left. He cried and sobbed for some time but seemed to feel a great anger towards his father about these circumstances.

He rarely talks about his father except to describe, in his words, 'boring' conversations lasting no longer than a minute where D asks the same things each time he phones on Skype, sometimes daily and sometimes every second day.

One nasty thing D did quite recently was to convince F to "speed up his Computer". This is a Computer set I bought for F costing nearly a thousand euro last Christmas. Bearing in mind that D has no computer training or experience, he persuaded F to alter internal settings on his computer after convincing him it would 'speed it up'. The result was a burnt-out central processing unit which cost several hundred euro to replace. F now realises his father knows nothing about computers.

Although F has some friends from school, he has tended to draw into himself more than previously and it is very difficult to determine what he is thinking. Although when he comes to Gozo to stay with me he rarely mentions his father and deliberately leaves his mobile phone at home so D can't contact him. I have offered him the use of our phone, in private, for his father to contact him while with us but he has declined it.

A and I have operated a deliberate policy to never run D down or say anything derogatory about him in front of F. We don't even discuss these legal steps in front of him. Although A has kept F informed generally speaking as to what is happening.

In conclusion, on describing D's relationship with his son, and on his abilities as a responsible parent, I can only say D C has amply demonstrated in every one of F's 14 years that he is incapable of being a parent and unable to make any responsible decisions Harding F's future or his welfare.

Since D left Malta A has changed considerably. She has very seriously taken on the planning and budgeting of their income for their family which was originally left to D with disastrous results. She feels the burden of responsibility more now that she knows both hers and F's welfare depends entirely on her earnings. She does feel low at times with how her life has worked out but she is a much stronger person as a result. She often feels lonely which is understandable especially when F spends a long time on the computer in communication with friends both here in Malta and abroad.

A has also developed professionally at her work and is a lot more confident after all the years she had spent being put down by D. She has now got clear cut goals and ambitions and I am sure she will be a stronger and more purposeful person out of it all.

A's relationship with F has also changed for the better. They rely heavily on each other for support and F really appreciates the tedious job of budgeting and planning household expenditure which his mother now has to do. He now Hularly saves his packet money in order to pay cash for larger items. He has learnt some valuable lessons. This whole business has certainly drawn them closer together.

C. Laziness

In 1997 I became very concerned about things I had personally seen at my daughter's house where D was not carrying out basic maintenance about their home. Examples of his laziness and scruffy ways were everywhere. Tools abandoned in almost every room and unfinished jobs everywhere:

- a) He would cut the hedges and lawn, bag the cuttings and then leave the full bag on the drive for up to six months, despite

constant requests to dispose of them from me and my daughter. In that time the garden would revert to being a jungle again.

- b) In one incident he used a brand-new saw to cut a piece of wood on a seat on the front garden and then left the saw on that garden seat for over a year until it completely rusted away.
- c) He partially chopped down some rose trees beside the drive and even though they were a danger to everyone making their way to the front door he never completed the job.
- d) The concrete and gravel drive were continuously like a jungle of weeds. He would make half-hearted attempts at clearing them and give up after a couple of yards.
- e) His attitude, which he often expressed to me, was that he went to work and therefore he was entitled to come in from work, drink beer or vodka and spend the entire evening watching TV. He did not believe he had any obligation to do anything with or for his wife or son.

His laziness extended also to work. Before A and her family left England for Malta D seemed to have a Hular job for a number of years. It was as a general handyman fixing minor repairs in council owned properties. He worked on his own and was on his own all day in a van going from one repair to the next. He would simply carry out a couple of such repairs each day. He was paid a very basic wage but he seemed to be satisfied with this job. He had no ambition whatsoever to improve himself so A had to go out to work in order for the family to have enough to live on. During this period, he was driving a very old car which was costing a lot of money in repairs. In order to help them out I paid £6,000 for a newer car and gave it to A as a gift. A year or so later I found out that D had in fact Histered this car in his own name and would rarely let A drive it. This is the same car that A has here in Malta where it was again Histered solely in D's name.

But also, during this period unknown to either A or me D was already running up thousands of pounds in debts mostly on credit cards that he kept secret. When A and her family decided to move to Malta in 2009, she hoped the change would help him to change his ways. She

discussed this with me. His first job was with a factory in Marsa and we believed, and he told us, he was working there for over six months. He used to even describe the work he was doing there on a day to day basis. Six months later he informed A that he had only been there a few weeks and the rest of the time he simply withdrew cash from the bank and pretended it was his wages.

In 2010 I got him a job with a very good friend of mine who runs a boat company in St Paul's Bay, Mecca Marine. It was within walking distance of where they lived and provided a wide variety of work. Work with boats, trailers and building maintenance with property they owned. Everything was fine for three or four months with D claiming he was enjoying the work.

I called in to the Boat Company one morning to discuss my own boat when my friend the owner asked how A was. He explained that D had had to have some days off because my daughter was in hospital seriously ill. I immediately went to their house to find D stretched out on a sofa, can of beer in hand watching cricket on TV. At this time my daughter was working full time at Mount Carmel Hospital and there was nothing wrong with her. When I questioned him, he simply shrugged his shoulders and said he just fancied a few days off.

I went back to the Boat Company and discussed the situation with them further only to find he had been lying about other events as well in order to have time off. On several occasions he lied, telling them he had to have time off because F was being bullied at school and he had to sort it out with the headmaster. F has never ever been bullied and D had never been to the school to see the headmaster or any other teacher.

Several months later D claimed that the Boat Company were saying they had no work for him and were planning to lay him off. When I heard this, in the height of the boat season I spoke to my end the owner who told me quite the contrary. They had to hire more men because of the work load.

Another month later D told me and A that the Boat Company had told him to become self-employed and they would only use him when they needed him. Again, I spoke to the owner and he told me that C had

requested this himself as he claimed he would only be able to work part-time mornings only for them. They then sacked him.

D. Personal Hygiene

His personal hygiene left a lot to be desired and gave my wife and me great cause for concern especially with the perceived peer effect on our grandson F.

D would go many days without a proper wash and sometimes over a week without a shave. He constantly tried to mask his bodily odours with liberal amounts of body spray, sprayed on over his clothes, but it couldn't disguise them. They were revolting at times. I even raised the matter with my daughter on several occasions and she remonstrated with him about it to no avail.

On occasions, when he has stayed at our home on holiday for up to a week he has gone that entire time without a shower or a bath. He would normally get up out of bed, fully dress himself, go to the bathroom and spray his clothes with body spray. He rarely cleaned his teeth or had a shave.

E. ADDICTION TO TV AND CHILDREN'S GAMES

He often related to me how when he was born his parents frequently told everyone that he was a "mistake" late in their lives, and his mother had to spend a year in hospital after giving birth to him. He often told me how throughout all his childhood he spent almost all of his time at home in a bedroom on his own watching TV. His parents used to send him to his bedroom as soon as he came in from school. He claimed his total life then was his TV. Every time we visited A at her home the TV was never ever off. Even if we stayed for dinner, it was constantly on and within D's eyesight. On numerous occasions when I spoke to him, he would answer without taking his eyes off that TV. From what I saw he was totally addicted to the flickering screen. Any time he did come away from it he would be playing children's computer games in front of his computer screen. He often told me that his first act on getting up in the morning was to put the TV on at 6.00am and have some breakfast watching Sky Sports.

One of the most embarrassing events I witnessed in which D demonstrated his obsession with children's games occurred during F's 10th birthday afternoon. This was on the 1st July 2008 and my wife and I spent the afternoon at A's house with my other daughter and her family to celebrate F's birthday.

Among F's many presents from us all we had bought him the new on the market Wii game. D set it up to work with the huge TV they had in the living room and began to play with it. When F asked if he could play with it his father just ignored him and this in front of us all. I couldn't believe the look of childish glee on his face as he played on and on with it. Even A was embarrassed with him. He was totally out of control and completely oblivious to the fact that F was crying to have his birthday present. Eventually I had had enough and I physically took it of him and gave it to F. D sulked like a child for the rest of the afternoon. This was really disturbing to see a man of 30 years of age behaving in such a way.

In his last couple of years in Malta when D was 40, I called at their house whenever I was over in Malta and on many occasions, I found him at home when he was supposed to have been at work. And when he let me in, he would ask me to wait a few moments while he completed one of F's computer games on F's computer.

I sincerely believe he has a severe psychological problem with Hard to TVs and children's computer games.

F. MEDIATION BY MYSELF

During 2011 things got so bad for A that she told us she was planning to split up with him because of all the things which were wearing her down with him. Some of which I have related above. I offered to mediate with the pair of them and they both agreed to this.

During several such sessions we determined that the major problem was of him being lazy and not wanting to do anything around the house. A had been working full time at Mount Carmel hospital and when she came in from work in the evening there would be unwashed crockery all around the house from him during the day and on several

of these sessions he agreed to help more in the home. He never did and the friction continued.

Another problem we discussed in detail was his inability to take F out anywhere as you would expect a father to do with his son. He continued promising to do so but never did. I used to come over from Gozo weekly to take F out. Invariably D would insist on coming along and I frequently felt I had two children with me.

He seemed to be totally reluctant to take F anywhere on his own. From an early age F showed a flair for driving go-karts. He used to love doing it. Before they moved to Malta the only times F went Go-Karting was when I used to take him when I was on holiday in the UK. Since arriving in Malta D still wouldn't take him and I have taken him numerous times to Ta-Qali to drive them. I sincerely believed that he was strongly jealous of anything done with his own son.

I am now firmly convinced that this man has deep-rooted psychological problems stemming from his childhood and needs psychiatric help urgently. My daughter desperately needs to separate from him in order to repair her life and move on for her sake and for her son's sake.

That the applicant presented an affidavit of Dr. Mark Xuereb together with supporting documentation, which affidavit was originally presented on the 18th May 2015 and marked as Doc MX:-

Affidavit of Dr. Mark Xuereb, psychiatrist, son of John and Cecilia nee Dingli, born in St.Julians and residing at Sliema, holder of identity card number 122572M, under oath and in the English language declares the following facts which I confirm to know personally:

I have been summoned by Ms. A B C in court separation proceedings against her husband, in order to give evidence in relation to medical care given to her husband D E C. After having verified that I have been exempted from professional secrecy by the Civil Court (Family Section) to give evidence in this Hard further to

a decree dated 12th May 2014, I hereby state and confirm the following:

I explain that I have been a psychiatrist since 2004 and I currently head the Crisis Team at Mater Dei Hospital and Crisis Resolution Malta Director (private crisis team).

I explain that around the year 2011, Ms. A B C who was also a colleague at Mount Carmel Hospital referred her husband D E C (holder of Maltese identity card number XXX) to my care. I hereby certify that D C was under my care for anxiety and depression. I saw D together with his wife A for a total of about 9 sessions that took place over a period of around 6 months – we used to have one session every 3 weeks. D told me that he was down in the dumps, lethargic and struggled to get going with the day. He could not work effectively and needed time off to recover.

His sleep and appetite patterns were likewise distorted. His problems were work related. He never suggested there were marital issues-nor did his spouse as far as I can recall. A however did imply that his disorder was straining their relationship. She said she did her utmost to support him and counsel him; however, she was making little progress. I usually saw D and A together but saw him alone at times.

D had clinical signs of depression and anxiety. He needed medication so I prescribed antidepressants and anti-anxiety pills. He also needed counselling and as far as I recall I had even sent him for therapy. Therapy would have helped him recover sooner and address his interpersonal issues (work and home). D always said he took the medication and co-operated with therapy to a certain degree.

D stopped attending my sessions without giving a reason. I subsequently discovered from A that he left Malta suddenly and that he had debts.

Curators' Presentation of Affidavits

That the curators presented an affidavit of the absentee D E C, together with supporting documentation, which affidavit was originally presented on the 2nd December 2015.

I D E C of 39 Lansbury Road, Edwinstowe, Nottinghamshire, England,
Driver, WILL SAY AS FOLLOWS: -

1. The Petitioner and I married on 1st August 2011 in Newark, Nottinghamshire, United Kingdom. A copy of the Marriage Certificate is exhibited to the Petitioner's Affidavit and marked "Doc.JP1"
2. There is one child of our marriage namely F C who was born on 1st July 1998 in the United Kingdom. A copy of his Birth Certificate is exhibited to the Petitioner's Affidavit and marked "Doc.JP2". F G C remains living the Petitioner in Malta.
3. The Petitioner and I established our habitual and permanent residence in Malta in August 2009.
4. I travelled back to the United Kingdom on 18th June 2012 and the reason I left Malta was because there were problems in my marriage and I also struggled to find employment. Indeed, when I secured employment, I suffered from bullying from one particular member of staff which caused me a great stress.
5. The Petitioner had constant mood swings and insisted on discussing with her father every aspect of our married life which included all financial matters.
6. If the Petitioner's father disagreed with any of our plans, we simply did not do it.
7. The Petitioner's father made all financial decisions without reference to me which often meant that we spent money on things we did not need.

8. The Petitioner asked me to leave and she purchased a plane ticket for me to return to the United Kingdom.
9. I believed that this was simply to enable us to spend a little time apart so that we could decide whether or not our marriage should continue.
10. However, once I was back in the United Kingdom, the Petitioner told me that she did not want me to return and she commenced divorce proceedings in Malta.
11. The Petitioner does know of my whereabouts because she has spoken to me on the telephone and has corresponded with me at my parent's address in the United Kingdom.
12. I have also provided my son F G C with my full address.
13. I confirm that I have also visited Malta since the date of separation in order to have contact with my son.
14. Although the Petitioner has accused me of being violent towards her, I deny that I was responsible for any physical or psychological violence towards her. I believe that the only domestic abuse that the Petitioner has suffered has been perpetrated by her own father. I understand that her father was charged with an offence in the United Kingdom.
15. I did not choose to leave the Petitioner. The Petitioner asked me to leave. I wanted to be able to stay and try and make our marriage work but the Petitioner would not allow it.
16. I am content for my son to remain living with the Petitioner but I would like to be able to have direct contact with him on at least two occasions each year, on dates and at times to be agreed by myself and the Petitioner. My son is also of an age to be able to telephone me or communicate with me.
17. In relation to maintenance in respect of my son, I have attempted on many occasions to agree an amount with the Petitioner but she has refused to do so.

18. I have sent money over to Malta to help pay for books and School exams and have informed the Petitioner that if anything else is required she should let me know.
19. Currently, I am unable to pay very much maintenance because I am on a debt management program in the United Kingdom and I am also paying money to the HSBC Bank in Malta for debts which were accrued there.
20. I am now working and earn £180 per week. There is now produced to me and marked "SCP1" a copy of my P60 dated 1st April 2015.
21. Since our separation, I have given the Petitioner 6,000 euros in respect of child maintenance. There is now produced to me and marked "SCP2" a copy of a bank statement showing the amount. I was left some money in the Will of my late step-grandfather, which I paid to the Petitioner by way of child maintenance for my son.
22. I state that since separation, I have taken responsibility for the family debt apart from two which the Petitioner already had in her sole name and which were for a credit card debt and a bank loan.
23. During the marriage, the Petitioner and I had a joint bank account. I was authorised to use money from the joint bank account. Some of the money taken out of the account was used to pay some of the debts which had been incurred by both myself and the Petitioner whilst living in the United Kingdom. From that amount, some of the money was spent on holidays, furniture for when we moved to Malta and also credit cards in Malta. The credit cards were used by us to purchase items such as a fridge-freezer which cost nearly 1,000 euros.
24. I do not have any assets or belongings which belong to the Petitioner and I am content for her to keep everything that I have left in Malta.
25. In relation to my mental health, I confirm that I have no mental health issues. I did see a colleague of the Petitioner at Mount Carmel Hospital as a favour to the Petitioner and he saw me for a total of about 30 minutes and decided that I needed medication without carrying out any tests on me at all.

26. Since moving to the United Kingdom I have worked for ASDA stores for 15 Months and have had no absences through illness. Indeed, I have just been invited to 100% attendance record celebration to mark my achievement.
27. The Petitioner has been seeing a Psychologist since about 2002. She has admitted to me on numerous occasions that all of her psychological issues and possible mental health problems' stem from the treatment which she received during her childhood at the hands of her father who still runs her life with an iron fist.
28. I am in agreement with this divorce.

Subsequent Evidence

On the 12th February 2014, the plaintiff appeared in front of Judicial Referee Dr. Nadia Vella and was assisted by Dr. Sarah Sultana. Representatives of the local banks were called in to testify. The said representatives were exempted from their duty of banking secrecy and data protection.

Kristina Farrugia, representative of Banif Bank Malta, testified in English and under oath, produced by the plaintiff (on tape). Banif Bank Malta had been asked to testify about A B C and thus declared that Ms C has no banking relationship with this bank whatsoever. The representative went back with her searches from 2008 to date.

Stephen Cachia, representative of Transport Malta, testified in the English language and under oath, produced by the plaintiff (on tape). Transport Malta had been asked to give evidence about any vehicles Histered in the names of A B C as well as about D E C. This representative declared that no vehicles were found Histered under such names. He also exhibited **Doc TM1** in support to such declaration. The search was carried about vehicles currently Histered under the name of D C and expired Histered license dated 30th November 2013.

David Galea, representative of APS Bank Limited, testified in the English language and under oath, produced by the plaintiff (on tape). He had carried out research about A B C and confirmed that Ms C had never been

a client of APS Bank Ltd and that she never had any account with this bank.

Jeannette Leper, representative of Lombard Bank Malta plc, testified in the English language and under oath, produced by the plaintiff (on tape). This bank was asked to carry out a search Harding A B C and confirmed that Ms C had no banking relationship with it.

Audrey Ghigo, representative of HSBC Bank Malta plc, testified in the English language and under oath, produced by the plaintiff (on tape). A search was carried out Harding bank accounts held in the name of A B C from the year 2011 till the year 2014 and from said search resulted that Ms C had one bank account, numbered 071267454050; which account was still active. A relative statement was exhibited as **Doc. HSBC1**.

Romuald Attard, representative of Bank of Valletta had been also called to testify but was eventually excused, as he was called in front of another court at the same time.

On the 21st March 2014, the plaintiff appeared in front of Judicial Assistant Dr. Nadia Vella and was assisted by Dr. Sarah Sultana.

Graziella Bay, representative of APS Bank Limited, testified in English and under oath, produced by the plaintiff (on tape). The bank had been requested to conduct a search Harding D E C and confirmed that Mr. C held no account with APS Bank Limited and neither did he have any account in the past.

Kristina Farrugia, representative of Banif Bank Malta, testified in English and under oath, produced by the plaintiff (on tape). The bank was asked to conduct a search Harding A B C and D E C. It resulted that both of them never had any account with said bank.

Donna Ellul, representative of Lombard Bank, testified in English and under oath, produced by the plaintiff (on tape). Lombard Bank Malta plc was requested to conduct a search Harding bank accounts held in the names of A B C as well as D E C and after having conducted such a search it resulted that both never had any accounts with Lombard Bank Malta.

Romuald Attard, representative of Bank of Valletta, testified in English and under oath, produced by the plaintiff (on tape). The bank was requested to conduct a search Harding bank accounts held in the name of A B Powel and D E C After having conducted such a search no accounts were found in such names. The search was also carried out according to their ID card numbers and dated back to 1997. Their ID cards credentials were unknown to the computerised system held by said bank.

Audrey Ghigo, representative of HSBC Bank Malta plc, testified in the English language and under oath, produced by the plaintiff (on tape). The bank was requested to conduct a search Harding D E C from the year 2001 till the year 2014. From the search it resulted that Mr C held three bank accounts in his sole name which bank accounts statements were exhibited and marked as **HSBC1** to **HSBC3**. Doc HSBC1 is the statement of a savings account having number 071267447050. This account was still active by the date when the search was carried out. Document HSBC2 is the statement of a loan account having number 07267447340. This account was also active on the date that the search was carried out. Doc HSBC3 is the statement of a Premier credit card account having number 992200000075307. This premier card was withheld on 28th November 2012. Joint bank accounts were also found between Mr. and Mrs. C. Bank accounts statements were exhibited and marked from **Doc HSBC4** to **HSBC7**. The document HSBC4 is the statement of a current account bearing number 071267462001 which was still active on the date when the search was carried out. Doc HSBC5 is the statement of another current number bearing number 071267462002 which account was also active on the date when the search was conducted. Doc HSBC6 is the statement of a current account numbered 071267462003 which account was also active on the date when the search was conducted. The last statement that was exhibited is document HSBC7; the statement of a savings account numbered 071267462451, which account was also active on the date when the search was carried.

On the 12th March 2015, the plaintiff appeared in front of Legal Referee Dr. Valentina Lattughi and was assisted by Dr. Sarah Sultana. The plaintiff declared that she had summoned Dr. Mark Xuereb (Psychiatrist) but despite being duly notified Dr. Mark Xuereb was not present to give his testimony.

On the 27th March 2015, Dr. Sarah Sultana appeared on behalf of the plaintiff informing Legal Referee Dr. Valentina Lattughi that she had communicated with Psychiatrist Dr. Mark Xuereb who had informed her he will be filing his affidavit in the following days, Harding the medical treatment he had given to Mr. C.

On the 4th May 2015, Dr. Sarah Sultana appeared on behalf of the plaintiff informing Legal Referee Dr. Valentina Lattughi that saving documentary evidence, namely the affidavit of Psychiatrist Dr. Mark Xuereb and the affidavit of A C and H I, presented that week, she had no further evidence to produce.

On the 18th May 2015, Dr. Noel Bartolo appeared in front of Legal Referee Dr. Valentina Lattughi, declaring that the last time he had heard from the absentee was through an email in November 2014 and since then there was no further communication.

On the 6th July 2015, Dr. Noel Bartolo informed Legal Referee Dr. Valentina Lattughi that he had filed the absentee's affidavit in the Court's Histry.

That notwithstanding the evidence produced by the same applicant, the respondent D E C and the curators representing him in this case did not carry out any cross-examinations whatsoever of the same evidence produced before this Honourable Court, and hence the evidence tendered remains uncontested from the respondent's end.

On the 2nd December 2016 the plaintiff appeared in front of Legal Referee Dr. Valentina Lattughi and was assisted by Dr. Sarah Sultana. Dr. Noel Bartolo was also present. A Skype call was held in order that the absentee may be cross-examined.

Under oath, the absentee confirmed that he had two children born in wedlock and specified that their first child died as soon as she was born.

He was asked why he had left Malta and replied that he was forced to leave. On being asked who had forced him to buy the flight ticket, he replied that A had bought the ticket for him. When he had asked A whether or not he could return, she denied him such possibility as she felt that there was no longer a family. He stated that after a while he had stopped trying since it was obvious that she didn't want him to return.

He confirmed that the day before leaving Malta A had discovered that £35,000 had been squandered. He stated that did not squander the entire amount as around £20,000 were used to pay bills. He confirmed that he was responsible to pay the bills. He added that he doesn't have any statements or documentation as he had left everything in Malta.

He specifies that by bills he refer to two loans in the UK, car bills and credit card bills. The credit cards were not joint. One was his and one was A's and he added that he was still paying off his credit card bills. According to him, A was responsible for her card. These were English credit cards. There was also an HSBC credit card premium but that was listed under his name.

He also obliged himself to provide relevant documentation for all debts that had incurred and settled, as well as the remaining balances on such debts, both in Malta and in the UK. He confirmed that the debts in Malta have been transferred into a loan and that he was responsible for that loan. Back to the £35,000, he confirmed that he had squandered the remaining £15,000 on various things such as a TV, a holiday in Ireland, furniture etc. He added that he doesn't have any documentation to show in this sense since he had left it all in Malta.

He confirmed that he was happy for his son to remain living with his mother in Malta. He was aware that his son was over 18 years of age and also agreed that any contact with his son would be done by agreement between his son and himself. He stated that on a number of occasions, he tried to reach an agreement with A as Hards to maintenance but never received a reply. However, he has a letter from A, dated 10th September 2014 in which she is refusing maintenance. He states that he never received any court decree vis-à-vis maintenance.

He stated that he was not aware that he's obliged to pay €200 per month as maintenance. He confirmed that as soon as he would be properly notified with such decree, he would start paying maintenance.

He denied never sending money for his son as he stated that he had sent money for his books since A had asked him to do so. Also, although not Hularly, he sometimes even sent cash but has no proof of such transactions He confirms that in all he must have sent a couple of hundreds of Euros. In his affidavit he had stated that he had given €6,000

for maintenance and attached bank statements to this effect. These €6,000 were given by bank transfers. He stated that he had deposited money into a Lloyds joint account that they had once they was in the UK and A withdrew them using a UK card in Malta. He stated that evidence of this resulted from the statements. He was also asked why he hadn't sent the other money by bank transfer instead of cash via mail. He replied that firstly because A asked for it in cash and secondly because the Lloyds account was frozen.

He confirms that he had taken responsibility for the family debts except for a debt in A's name and a bank loan. He was aware that A applied for a bank loan for which he was not responsible. This bank loan was in the UK and she applied for it while they were still in the UK and before they had come to Malta.

He added that A had been seeing a psychologist in relation to her training in counselling. A used to tell him that she used to open up about her childhood problems with this psychologist. It is not true that A told me that she had opened up with the psychologist about their debts.

He was also asked about abusive and violent incidents. The only incident he could remember was when A slept downstairs, but this was out of her own choice. He denied ever throwing glasses or smashing A against walls or cars.

He confirmed that he was seeing a psychologist, Dr. Mark Xuereb. A had arranged all this since he was a colleague of hers. He stated that he was suffering from anxiety and depression and that the psychologist, Dr. Mark Xuereb, prescribed him medication. As soon as he went to the UK, his family doctor took the pills all off.

He stated that at the time he was no longer feeling sick and states that he was on such medication because his wife had set all the psychiatric appointments. In fact, he denied ever having any mental health problems."

The legal referee then went on to make her final submissions and considerations which the court is reproducing as follows:

“Legal Referee’s Final Submissions and Considerations

Before examining the claims brought forth by the applicant in this case, the undersigned feels it is opportune to establish the stance taken by the Courts when confronted with a conflict in evidence. In order to do so the Legal Referee makes reference to local jurisprudence:

The First Hall of the Civil Court in its judgment of the 20th October 2003 in the names George Bugeja v. Joseph Meilak stated the following: ‘Il-konflitt fil-provi huma haga li l-Qrati jridu minn dejjem ikunu lesti ghalha. Il-Qorti ghandha tezamina jekk xi wahda miz-zewg versjonijiet, fid-dawl tas-soliti kriterji tal-kredibilita' w speċjalment dawk tal-konsistenza u verosimiljanza, ghandhiex teskludi lill-ohra, anke fuq il-bilanc tal-probabilitajiet, u tal-preponderanza tal-provi, ghax dawn, f'kawzi civili, huma generalment sufficjenti ghall-konvinciment tal-gudikant. Fil-kamp civili ghal dak li hu apprezzament tal-provi, il-kriterju ma huwiex dak jekk il-gudikant assolutament jemminx l-ispjegazzjonijiet furniti lillu, imma jekk dawn l-istess spjegazzjonijiet humiex, fic-cirkostanzi zvarjati tal-hajja, verosimili. Dan fuq il-bilanc tal-probabilitajiet, sostrat baziku ta' azzjoni civili, in kwantu huma dawn, flimkien mal-proponderanza tal-provi, generalment bastanti ghall-konvinciment. Ghax kif inhu pacifikament akkolt, ic-certezza morali hi ndotta mill-preponderanza tal- probabilitajiet. [...] Mhux kwalunkwe tip ta' konflitt ghandu jhalli lill-Qorti f'dak l-istat ta' perplessita' li minhabba fih ma tkunx tista' tiddeciedi b'kuxjenza kwieta w ikollha taqa' fuq ir-Hola ta' in dubio pro reo.’

Reference is also made to what the Court of Appeal said in its judgment of the 27th February 2004 in the names Nancy Caruana v. Odette Camilleri wherein it was retained that: “Il-piz tal-prova ta' dak li hemm allegat fic-citazzjoni jinkombi fuq l-atturi li qeghdin jaghmlu l-imsemmija allegazzjoni u dana in bazi ghall-principju legali 'ei incumbit probatio qui dicit non ei qui negat'. Il-Qrati taghna pero`, fuq l-iskorta ta' awturi Inglizi eminenti, jaghmlu distinzjoni bejn il-prova li jehtieg li ssir f'kawza kriminali u l-prova li ghandha ssir f'kawza civili fis-sens illi filwaqt illi f'kawza kriminali l-htija ta' l-akkuzat trid tigi ppruvata 'beyond reasonable doubt', f'kawza civili bizzejjed li jkun hemm 'moral certainty', certeza morali f'mohh il-gudikant izda mhux bizzejjed li jkun hemm 'a mere possibility'. Din ic-certeza morali ghandha tigi bbazata fuq fatti ppruvati bi provi espressi u fuq l-inferenzi li naturalment u probabilment jemergu minn dawn il-fatti. Ic-certeza morali, rikjesta f'kawza civili, hija l-effett tal-'balance of probabilities'.”

Having established this basic principle, the Legal Referee can now go on to examine the claims of the applicant.

Applicant's Claims

1) Pronouncement of Separation and Responsibility

That in the first place the Legal Referee notes that by virtue of a decree of this Honourable Court of the 18th January 2017 the same Court acceded to the applicant's request of the 6th December 2016 whereby she asked that her request for the pronouncement of a personal separation be converted into a pronouncement of divorce.

That as Hards responsibility, the applicant states that D E C should be declared responsible for the breakdown of this marriage on the basis of abandonment of the family and matrimonial home, physical and psychological violence, excesses, threats, cruelty and grievous insults on the part of the respondent towards her.

That through her affidavit and that of her father, H Fitzpartick, the applicant sufficiently proves the physical and psychological violence, excesses and cruelty that were exerted by the respondent on the applicant, whether directly or even indirectly through his lack of care and attention towards his wife. The Legal Referee notes that the respondent didn't even rebut the applicant's allegations by virtue of his affidavit and neither did he cross examine his wife and her father.

That the only thing the respondent rebuts is the manner in which he left the matrimonial home. In this respect the applicant submits that the responsibility for such divorce should be attributed to the respondent primarily due to the fact that he abandoned the matrimonial home, thereby leaving behind his wife and their son F G C who at the time was still a minor.

That as it results from the applicant's affidavit, D E C decided to leave Malta for good, thus abandoning his family and the matrimonial home, on the 18th June 2012.

That the respondent confirms that he left Malta for good on the 18th June 2012, however he states that it was his wife, the applicant, who forced him to leave Malta. He states in his affidavit that the applicant herself purchased a ticket for him to return to the United Kingdom and also declares that once he was in the United Kingdom, she did not want him to return.

That confronted with conflicting evidence the undersigned makes reference to what was stated by the Court of Appeal in its judgment of the 27th February 2004 in the names Nancy Caruana v. Odette Camilleri whereby the Court declared that in civil cases it is enough that there is 'moral certainty' and that this moral certainty is the effect of a 'balance of probabilities'.

That on a balance of probabilities the Legal Referee finds that the applicant is more credible in her testimony than the respondent. The undersigned feels that if the respondent's version were true and the applicant really bought him a ticket to the UK, there was nothing impeding the respondent from returning to the matrimonial home. Moreover, even if said version of events were true and such ticket was really purchased by the applicant, there was nothing forcing the respondent to leave and thus it was still his decision to abandon the matrimonial home and his family. Even if the respondent were saying the tR when he states that the respondent didn't want him to return, he could have easily returned to Malta and to his family however there wasn't even one attempt from the respondent's side to this effect. As a matter of fact the respondent never came back to Malta not even to visit his son after he abandoned his family and the matrimonial home on the 18th June 2012.

That in the light of the above the undersigned is of the humble opinion that the applicant sufficiently proved that the respondent is responsible for the breakdown of their marriage and as a result this Court should thus proceed to pronounce the dissolution of their marriage for reasons imputable solely to the respondent D E C. As a consequence, the Court must further impose the forfeitures catered for in Articles 48, 51 and 53 of Chapter 16 of the Laws of Malta against D E C in terms of the ninth claim as contained in the applicant's sworn application.

2) Care and Custody of the parties' son, F G C

That the applicant had requested that this Honourable Court entrusts her with the exclusive care and custody of her son F G C whereas the respondent is to have access rights to his son.

At the time of filing of the sworn application, F G C was a minor however at present he has attained the age of majority and thus this Honourable Court need not pronounce itself on this second claim since F G C is now twenty years old and thus his care and custody need not be entrusted in either parent.

In the same manner this Honourable Court need not establish access rights to the respondent on the basis that F G C has now attained the age of majority.

3) Maintenance for F G C, health and educational expenses

In her third claim the applicant asks this Honourable Court to establish the amount of maintenance payable by the respondent for the needs of F G C including the expenses incurred for his health and education. As Article 7(1) of the Civil Code states: 'Parents are bound to look after, maintain, instruct and educate their children in the manner laid down in article 3B of this Code.' Article 3B states that: "(1) Marriage imposes on both spouses the obligation to look after, maintain, instruct and educate the children of the marriage taking into account the abilities, natural inclinations and aspirations of the children. (2) The obligation of the parents to provide maintenance according to sub-article (1) also includes the obligation to continue to provide adequate maintenance to children, according to their means, and where it is not reasonably possible for the children, or any of them, to maintain themselves adequately, who: (a) are students who are participating in full-time education, training or learning and are under the age of twenty-three; or (b) have a disability, as defined in the Equal Opportunities (Persons with Disability) Act, whether such disability is physical or mental.'

In terms of Article 19 of the Civil Code: '(1) Maintenance shall include food, clothing, health and habitation. (2) In Hard to children and other descendants, it shall also include the expenses necessary for health and education.'

The obligation of the parents is calculated upon their means as established in Article 20 of the Civil Code which states: '(1) Maintenance shall be due in proportion to the want of the person claiming it and the means of the person liable there to. (2) In examining whether the claimant can otherwise provide for his own maintenance, Hard shall also be had to his ability to exercise some profession, art, or trade. (3) In estimating the means of the person bound to supply maintenance, Hard shall only be had to his earnings from the exercise of any profession, art, or trade, to his salary or pension payable by the Government or any other person, and to the fruits of any movable or immovable property and any income accruing under a trust.'

In the case under examination this Honourable Court already pronounced itself in this Hard through a decree awarded pendente lite on the 16th December 2014. In fact, this Honourable Court established that the amount of maintenance to be paid by the respondent unto the applicant for the needs of F G C is of €200 per month as well as half the expenses incurred in relation to the health, education and extra-curricular activities of F G C. In line with said decree the respondent should be ordered to pay €200 per month by way of maintenance for his son F G C as well as half the expenses incurred as Hards his health, education and extracurricular activities. The respondent must pay his share of said expenses on a monthly basis together with said maintenance.

In the Legal Referee's view said maintenance should increase every year as per cost of living index. Also, the undersigned is of the opinion that said maintenance is to be paid into an account provided by the applicant and should be deducted directly from the respondent's salary. Moreover, said maintenance is to be payable until F G C attains the age of twenty-three (23) provided that he remains engaged in full-time studies.

The undersigned points out that the respondent in his affidavit states that since the separation he has given his wife €6,000 in respect of child maintenance (para 21 of his affidavit at folio 550 of the acts of the proceedings). He even produced a document to this effect (Doc. SCP2 at folio 555-564 of the acts) being a bank statement wherein he says that he was left some money from his grandfather's will which he paid to the petitioner by way of maintenance for his son. Said sum is composed of the following: £2200 cash deposit made on the 27th June 2012, £2000 cash deposit made on the 2nd July 2012 and the sum of £1500 cash deposit made on the 9th July 2012. In his cross-examination of the 2nd December 2016, when questioned further about this sum of money he declares to have sent to the applicant, the respondent replies as follows:

"In my affidavit I stated that I gave €6,000 for maintenance. I attached bank statements to this effect to my affidavit. These €6,000 were given by bank transfers. I deposited money into a Lloyds joint account we had once I was in the UK and A withdrew them using a UK card in Malta. This results from the statements."

That the Legal Referee is of the opinion that had the respondent genuinely wanted to contribute to the needs of his son he would have specified when depositing such sums in cash that these represent maintenance for F G C and such description would have appeared on the bank statement.

Moreover, the undersigned feels that the respondent contradicts himself on this point both in his affidavit and under cross examination where he states that he tried several times to agree with the applicant on an amount of maintenance to be paid. Why would someone who is depositing considerable amounts of maintenance claim that there was no agreement on the amount of maintenance to be paid?

That the respondent contradicts himself while under cross examination during a sitting held before the undersigned Legal Referee on the 2nd December 2016 when he states the following:

“A had informed me that there is a Court decree Hulating maintenance, but I didn’t receive anything.

No, I am not aware that I am obliged to pay €200 per month for my son as maintenance. I confirm that as soon as I am informed properly of this Court decree, I will start paying maintenance.”

This goes to show that the respondent is not credible when he states that he made such payments to the applicant. It also goes to show that the respondent never adhered to the decree of this Honourable Court of the 16th December 2014.

Thus, the respondent was not paying any maintenance in terms of the same court decree although he knew of its existence through the applicant. In this Hard the undersigned is of the opinion that the respondent should be ordered to pay arrears in maintenance as from the date of this Honourable Court’s decree, that is as from the 16th December 2014. Likewise, the Legal Referee is also of the opinion that the respondent should be ordered to pay his share of expenses incurred by the applicant vis-a`-vis her son’s health, education and extra-curricular activities from the date of said decree, that is from the 16th December 2014.

4) Dissolution & Liquidation of the Community of Acquests

Legal Referee makes reference to the sworn note at folio 29 of the acts of the proceedings which states that the parties had no immovable assets both in Malta and in the United Kingdom.

Moreover, the respondent declared in his affidavit the following:

“I do not have any assets or belongings which belong to the Petitioner and I am content for her to keep everything that I have left in Malta.”
(paragraph 24)

Therefore, the undersigned is of the opinion that the applicant is to keep in her possession all movables that the respondent left behind in Malta whereas both parties are to retain all movables that are currently in their possession.

That therefore the only assets which have resulted from the evidence produced during these proceedings are the bank accounts which the parties held in their sole names as well as the bank accounts which they held jointly.

As it transpires from the witnesses produced by the applicant, the parties hold bank accounts only with HSBC Bank (Malta) plc.

4.1. Accounts held solely in the applicant's name

That the applicant has only one bank account in her sole name, which account is a savings account bearing number 071267454050. Said account, which was still active when witness Audrey Ghigo testified before Judicial Assistant Dr. Nadia Vella, should be assigned exclusively to the applicant.

4.2. Accounts held solely in the respondent's name

That the respondent has three bank accounts in his name, namely:

(a) A savings account bearing number 071-267447-050 which account was still active when witness Audrey Ghigo testified;

(b) A loan account bearing number 072-67447-340. From the evidence submitted it transpires that said loan account was opened on the 12th November 2012, that is after the respondent left Malta. Legal Referee here refers to the respondent's cross examination where he confirmed that all debts in Malta were transferred into a loan account and that he was responsible for that loan. To substantiate this, on the 15th December 2016 the respondent sent a statement to the undersigned referee (via email) which statement shows that the respondent has been affecting repayments on said loan account personally. Legal Referee therefore recommends that said loan is declared to be the sole responsibility of the respondent;

(c) A premier credit card account bearing number 5522-0000-0007-5307, which card was closed on the 28th November 2012 and an interaccount transfer of €8,200 seems to have been made on the 12th November 2012, this being the date of opening of the loan account.

That the undersigned Legal Referee is of the opinion that the above accounts and loan facility should be assigned exclusively to the applicant.

4.3. Accounts held jointly between the parties

It results from the evidence produced that the parties hold together three current accounts (having numbers: 071-267462-001; 071-267462-002; 071-267462-003) and one savings account (having number 071-267462-451). All said accounts were indicated by the HSBC Bank's representative as being active at the time of testimony (folio 193-447).

Legal Referee is of the opinion that said accounts are liquidated and whatever amounts, if any, contained in said accounts be assigned to the applicant.

It transpires that the current account having number 071-267462-001 was in debit (vide Doc. B annexed to the applicant's affidavit) in the amount of €2,247.29c at the time of presentation of the bank accounts overview. The Legal Referee notes that respondent did not contest this document produced by the applicant at any point. According to the undersigned any overdrawn amount on said joint account should be paid exclusively by the respondent. From said Doc. B it results that the respondent has two HSBC accounts in the United Kingdom namely Premier Bank (having number 40320152011247) which on 18th June 2012 was overdrawn by £1,506.06 and an HSBC Premier Card (having number 5434582147981098) which on the 15th June 2012 was overdrawn by £2,436.41. The undersigned is of the opinion that all debts relative to these accounts held in the United Kingdom should also be borne exclusively by the respondent on the basis that the applicant was completely unaware that the respondent was incurring said debts.

Finally, as Hards the fourth claim, the applicant also asks that this Honourable Court establishes a date from when the respondent is considered of having forfeited his rights to any acquisition made as a result of the work and ability of the applicant. In this respect the Legal Referee is of the opinion that the respondent is to be declared as having forfeited his rights to all acquisitions made as a result of the work and

ability of the applicant as of the 18th of June 2012, being the date on which the respondent abandoned the applicant, his son and their matrimonial home.

5) Debts burdening the Community of Acquests

As Hard the fifth claim the undersigned Legal Referee recommends that all debts incurred by either party without the knowledge of the other party which haven't been catered for above in the dissolution and liquidation of the community of acquests, be burdened solely by said party who contracted or incurred said debt.

6) Monies held by the parties jointly, taken and used by the respondent without the knowledge and approval of the applicant

That the Legal Referee refers to the affidavit of the applicant as well as that of her father, H I, which are both consistent when it comes to stating that the respondent wasted all family savings without the knowledge or consent of the applicant. The amount stated by both the applicant and her father is that of £35,000 which amount of money was taken from joint accounts held by both parties. The applicant as well as her father, who was rather involved when it came to finances of the family since he had given his daughter a substantial sum of money, both state that D E C had complete control over internet banking whereas A C had no access to internet banking and no possibility of managing her accounts. In fact, the applicant states the following in her affidavit:

“By this time there was remained only £35,000 of the surplus from the house sale. This was the last time I was allowed to see the money in the account. Not long after this, D stopped all paper transactions and conducted the business of these accounts online only. He changed the passwords secretly and every time I demanded to see the accounts online, he would say the website was ‘down’ or his password wouldn't work or any other excuse that came into his head. He even produced home-made bank statements to convince me that all was well with our savings, yet he frustrated every effort I made to go online and see for myself. He had actually changed all passwords and had no intentions of letting me see those accounts.”

Whereas H Fitzpartick states the following in his affidavit:

“He actually admitted to me in front of A that he took advantage of A’s lack of knowledge of online banking to ensure she could not access any of their bank accounts. He admitted that he had stopped all paper statements and changed and concealed all passwords and identities.”

That the applicant and her father both consistently refer to the sum of £35,000. The applicant claims to have arrived at said amount since the last time that she was aware of the balance of their savings, in UK Premier Bank Account (having number 40320152011247) was in 2010 when there was a balance of more than £35,000.

Moreover Legal Referee notes that the applicant produced statements (at folio 492 et sequitur of the acts) which show the global transfers history that were made between January 2011 and May 2012 amounting to a total amount of €22,405. The applicant claims that all said transfers were affected by the respondent while logged onto Internet banking from where he would transfer money from an account in the United Kingdom (a Premier account bearing number 40320152011247) to the joint accounts of the parties in Malta, which amounts the applicant claims were subsequently cashed by the respondent while in Malta and all this without the knowledge of the same applicant.

Moreover the applicant stated in her affidavit the following: “On the 17th June, a day before he left, D admitted that he had secretly, over a 2 to 3 year period, taken in excess of £35,000 of family savings and disposed of it all along with unpaid credit card debts of over €8,000 having accumulated in Malta and an unknown sum of debts in England totaling at least another £20,000. All this happened while D was assuring me and my parents that our savings were safe and not being messed with.” The undersigned notes that the respondent never contested the applicant’s claims – neither through his affidavit nor through cross-examination. As a matter of fact, the respondent never cross-examined his wife and father-in-law.

That the Legal Referee points out that the respondent not only does not contest the applicant’s claims but he even confirms the amount of £35,000 in his cross-examination of the 2nd December 2016. In fact, when questioned about this sum he confirms that his wife got to know about the squandering of this substantial amount a day before he left Malta for good:

“I confirm that the day before leaving Malta A had discovered that £35,000 had been squandered.” (sitting number 8 held on the 2nd December 2016).”

He goes on to say:

“I did not squander the entire amount. Around £20,000 were used to pay bills. I confirm that I used to pay the bills. I don’t have any statements or documentation as I left everything in Malta.”

When questioned further about these bills he states the following:

“When I say bills, I refer to two loans in the UK, car bills and credit card bills. The credit cards were not joint. One was mine and one was A’s and I am still paying off my credit card bills. These are English credit cards. There is also an HSBC credit card premium but that is in my name and I am paying that off”.

As the respondent himself said, he has no evidence of the £20,000 that according to him were used to pay bills and in fact absolutely no evidence was produced in this sense by the respondent. The undersigned believes that had the sum of £20,000 really been used to pay car bills and loans then the respondent could have easily produced documentary evidence to sustain this.

In view of the above considerations the Legal Referee feels that the applicant is more credible in her testimony and has no reason to believe that her claims are unfounded. As a matter of fact, the respondent admits that he spent the family savings in a reckless manner – with the difference that instead of £35,000 he declares to have squandered £15,000. He admitted that he spent the family savings on various things such as a television, a holiday in Ireland, et cetera.

That therefore the undersigned is of the humble opinion that the respondent should be ordered to pay unto the applicant her share of the family savings, this being half the amount of £35,000.

7) Liquidate the Paraphernal Assets &

8) Order the respondent to return to the applicant assets and paraphernal credits pertaining to her

That the undersigned Legal Referee notes that no evidence was brought forth in this sense by either party and thus there are no paraphernal assets and/or credits to be liquidated and assigned to the parties in this suit.

9) Apply in whole or in part against the respondent the effects of the dispositions of articles 48, 51 and 53 inclusive of the Civil Code

That in view of the fact that the respondent is believed to be responsible for the breakdown of this marriage, the Legal Referee is of the opinion that the Court should apply against the respondent the sanctions catered for in Articles 48, 51 and 53 of Chapter 16 of the Laws of Malta.

10) Authorise the Applicant to live in the Matrimonial Home to the Exclusion of Respondent.

Legal Referee notes that the respondent abandoned the matrimonial home on the 18th June 2012. In addition, the applicant no longer resides in what was once the matrimonial home of the parties. In fact, she lives in a property together with her son which property was never the matrimonial home of the parties. Thus, this claim may be discarded by this Honourable Court.

11) Authorise the applicant to revert to her maiden surname

The undersigned Legal Referee recommends that this Honourable Court accedes to this request in terms of Article 62 of the Civil Code thereby allowing the applicant to revert to her maiden surname, being I.“

The Court agrees with legal referee’s considerations and conclusions and is therefore making the report its own :

“In view of what has been stated above, and following a decree of the 18th January 2017 whereby the Court acceded to the applicant’s request to convert the demand for separation into a demand for divorce, the undersigned Legal Referee is of the opinion that this Honourable Court should:

1) Pronounce the dissolution of the marriage between the parties due to reasons imputable solely to the respondent D E C and establish the 18th June 2012 as the date in which the respondent is to be declared responsible for the breakdown of said marriage;

- 2) Dismiss the second demand since the parties' son, F G C, has now attained the age of majority;
- 3) Order the respondent D E C to pay unto the applicant A C the sum of two hundred Euro (€200) per month as maintenance for the said F G C. This amount is to increase every year as per cost of living index and remains payable until F G C attains the age of twenty-three (23) years provided he continues to pursue his studies on a full-time basis. The Court should further order the respondent to pay half the expenses incurred by the applicant for F G C's health, education and extra-curricular activities. Moreover the respondent should be ordered to pay unto the applicant all arrears in maintenance and expenses Harding F G C's health, education and extra-curricular activities from the date of this Honourable Court's decree, being the 16th December 2014;
- 4) Terminate the community of acquests existing between the parties and liquidate in the same in the manner provided above and establish the 18th June 2012 as the date in which the respondent is considered of having forfeited his rights to any acquisition made as a result of the work and ability of the applicant;
- 5) Declare that any other debts that haven't been liquidated by this Honourable Court and which were incurred by either party without the knowledge and consent of the other party, be burdened solely by said party who contracted or incurred said debt;
- 6) Order the respondent to pay unto the applicant her share of the family savings, this being half the amount of £35,000;
- 7) Dismiss the seventh and eighth demand of the applicant in that no evidence was brought to this effect by either of the parties;

8) Abstain from taking cognisance of the ninth demand since neither of the parties reside anymore in what was once the matrimonial home of the parties;

9) Order that the effects of the dispositions of Articles 48, 51 and 53 of Chapter 16 of the Laws of Malta apply in whole against the respondent D E C, and this as of the 18th June 2012;

10) Accede to the applicant's request to revert to her maiden surname, that is I.

JUDICIAL COSTS

In view of the above considerations and recommendations, the undersigned Legal Referee is of the opinion that all judicial costs, including those of the warrant of prohibitory injunction having number 197/2012 RGM, should be burdened solely by the respondent D E C.”