HONG KONG / JUDGMENT

CWYW v. CCH

COURT
Family Court

DECIDED
19 August 2016

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FCMP124/2013

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bjbj FCMP 124 / 2013 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION MISCELLANEOUS PROCEEDINGS NUMBER 124 OF 2013

IN THE MATTER of section 10of the Guardianship of Minors Ordinance , Cap13 AND IN THE MATTER OF CTS, the Minor BETWEEN CWYW Applicant and CCH Respondent

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Coram : Deputy District Judge A. N. Tse Ching in Chambers (Not Open to Public) Date of Hearing : 9-13 February 2015 and 8 September 2015 Date of Judgment : 19 August 2016

JUDGMENT

AUTONUMOUT This is the Applicant Mother s application under section 10(2) of the Guardianship of Minors Ordinance (Cap13) (GMO) for the maintenance and benefit of her daughter TS, now almost 5 years old, born out of a very short relationship with the Respondent Father between December 2010 and May 2011. AUTONUMOUT Apart from the Respondent s undertaking to pay for all the educational and medical expenses, the Applicant is now seeking a monthly provision of HK$407,147 for the maintenance of TS, a lump sum for the cost of setting up a new home, the purchase of a car and reimbursement of past expenses totaling HK$7,070,377. The monthly provision includes the Applicant s carer s allowance of HK$50,000 on the basis of the Respondent s standard of living and ability to pay. The Respondent is offering a monthly provision of HK$120,000. AUTONUMOUT The Respondent relied on the millionaire defence . He says that he can meet any reasonable order that the Court may make to avoid a lengthy and expensive discovery process of his means. He only filed a Financial Statement (Form E) and produced some of his credit card statements. Throughout these proceedings, the Respondent has accepted that he should make appropriate and reasonable financial provision for his daughter. AUTONUMOUT Originally, the Respondent argued that both parents should be

responsible for the maintenance of TS and that the Applicant s means should also be taken into account. During the trial, he agreed to be fully responsible for the maintenance of TS but objected to what he claims to be attempts by the Applicant to inflate her claims to a figure far beyond any reasonable level of maintenance which he says was ever increasing. He maintains his position that the Applicant s resources (including financial resources from her family) and her earning capacity should be taken into account when considering the question of her carer s allowance. He asserted that the Mother s disclosure of her means was less than full or frank and that she has deliberately divested herself of assets as a litigation tactic. He also argued that the Applicant has a high earning capacity and could return to employment. AUTONUMOUT Prior to the trial, almost every single head of claim was in dispute. The Respondent made a number of concessions during the trial, some of which have been accepted. He has agreed and has now paid for a debenture for the English Schools Foundation (ESF). He has undertaken to pay for the school fees and a maximum of 1 extra-curricular activity per day. Subject to being allowed to consult with TS s doctors, he is prepared to pay for all medical and dental expenses incurred pursuant to medical advice. As for reimbursement of past expenses, the parties have agreed that after the Court has assessed the reasonable monthly sum , that figure would be backdated, taking into account the amounts already paid by the Father. It was also agreed that the exact mathematical calculation could be left to the parties. AUTONUMOUT Despite those agreements, most of the items of claim remain in issue. Voluminous documents have been produced by the parties, especially by the Applicant in support of her claims. Unfortunately, because of the agreement to backdate the past monthly expenses, there was very little reference to those documents during the trial or in the final submissions. Both parties have made extensive submissions on the credibility of the witnesses. The documents which have been filed are not only relevant to quantum nut also to the issue of credibility. Thus, the Court was left with the unenviable task of trawling through each and every one of those documents by itself. AUTONUMOUT Apart from the cost of setting up a new home and life insurance, the parties final respective positions are helpfully set out by the Mother s legal representatives in their written final submissions. In summary, the main issues are: The Respondent Father s standard of living; The reasonable budget for the maintenance of TS; Whether the Applicant Mother should be provided with a carer s allowance in the light of her resources and if so, what is the reasonable amount and the length of such provision.

Background

AUTONUMOUT The Applicant is 34 years old. There was no dispute that she was from a well off family in Hong Kong. Until she moved to Kwun Tong, she lived with her parents and siblings in North Point. She was educated in Hong Kong until Form 2, when she emigrated to Canada with her family. Thereafter, she received education in Canada and graduated from University with a Bachelor of Arts Degree in economy in 2001. She then started to work for her family business. At the same time, she completed a Master of Business Administration Degree in a local University. She says that her pay package was in the region of HK$140,000 (in fact it was about HK$148,000 per month). Other benefits included a car, HK$3,000 per month for rental of a car park, a

monthly housing allowance of HK$18,000, a Toyota Vellfire and a driver (both for her personal and business use) [A1/9/ 2-7]. AUTONUMOUT The father is the eldest grandson of a prominent tycoon in Hong Kong. His family has a substantial interest in several publicly listed companies including CTFJ and NWD. Because of his parents separation, the Father has been living with his grandfather in an opulent home in Repulse Bay since birth. He graduated with a Bachelor of Arts Degree in Economics from a Canadian University in 1999. He did not join the family businesses immediately upon graduation. He first worked for a third party as a Corporate Finance Executive in 1999. In 2001, he started his own business with a partner and became a minority shareholder of a company called AP Company Limited (AP) with funds raised from outside investors. He subsequently acquired a majority stake in AP with a loan from his grandfather in about 2003. He only joined CTFJ at the invitation of his grandfather in 2007. He became an executive director of NWD in 2010. He is now an executive director of both of those companies. He also holds directorships in many other private companies both in Hong Kong and elsewhere [A1/121-123]. His annual income exceeds HK$15 million which will continue for the foreseeable future [A1/143]. He also has net assets of over HK$140 million (which are liquid or could be made liquid within a reasonable time), as well as other indirect interests in various aspects of his family businesses [A1/143-144]. AUTONUMOUT The parties met in about April 2010. They became intimate in about December 2010. The Applicant discovered that she was pregnant in about April 2011. The Father married his girlfriend (the Wife) in February 2012. He has 2 children with her and they now live in Korea with the Wife s parents [A2/440/ 46]. The Child AUTONUMOUT TS was born prematurely on 20 October 2011 at 28 weeks and 5 days of gestation. She was in a critical condition at birth. She was transferred to the neonatal intensive care unit for further management after she underwent resuscitation by the attending paediatricians. She was hospitalized for 73 days before she was discharged on 1 January 2012. Initially, TS received follow up and treatments at the Princess Margaret Hospital. She was found to have normal growth with very mild gross motor and speech delay. On follow up, she was noted to have progressive enlarging strawberry Haemangioma on the left chest. She was treated with Propanolol between May 2012 and January 2013. The Haemangioma reduced almost by half in size [B1/15, 140]. AUTONUMOUT TS began to consult Dr Barbara Lam on 11 January 2012. She was found to have persistent cholestasis. There was still a cavernous Haemangioma over the upper chest. Signs of chronic chest was resolved with a course of injections. She was also diagnosed with Gastroesphageal Reflux (GER). She was started on reflux medication on 31 January 2012 and her condition continued to improve after the introduction of solids at 6 to 7 months. Reflux medication was stopped in June 2012. Her weight gain was all along quite stable. TS started to show catch up at 12 months after her medical condition was stabilized. Her condition has remained stable except for several episodes of recurrent upper respiratory infection and one episode of otitis media in May 2013 which required oral treatment [B1/144-145]. AUTONUMOUT Dr Fanny Lam and Dr Hannah Tsang were consulted for development assessment. According to her report dated 18 June 2013, Dr Fanny Lam observed that TS was advanced in cognitive development but had mild speech delay. She was also observed to have social anxiety which resulted in passivity in novel social situations and an anxious temperament. She also had hypersensitivity to oral, tactile and vestibular stimulation which underpinned her picky diet and

poor appetite [B1/150-151]. Dr Hannah Tsang found no gross physical abnormalities. She stated that TS only had speech and fine motor delay [B1/532]. AUTONUMOUT According to Dr Fanny Lam s report dated 19 August 2014, TS was in good general physical condition. Her cognitive development was advanced but she still exhibited discrepant language delay. Her gross and fine motor development was borderline delayed [B6/1756]. By early to mid 2015, TS s language development had caught up but she tended to speak in short sentences with phonological errors. She still showed features of developmental co-ordination problems undermining delay in gross motor development [A2/530-531]. Applicable Legal Principles Maintenance of the Child AUTONUMOUT The Applicant s claim is made under section 10(2) of the GMO. The Court s jurisdiction under that section is discretionary. The test under that section is what the court considers to be reasonable having regard to the means of the parent to whom the application is directed. AUTONUMOUT The statutory provisions in England governing financial provision for children are set out in s 15 and Schedule 1 of the Children Act 1989 (the 1989 Act). As was comprehensively pointed out in H v S [2012] HKFLR 236, there are some major differences between the provisions in the GMO and the 1989 Act. AUTONUMOUT In particular, the factors set out in Paragraph 4(1) of Schedule 1 of the 1989 Act do not exist in the GMO. Paragraph 4(1) provides as follows: In deciding whether to exercise its powers under paragraph 1 or 2, and if so, in what manner, the court shall have regard to all the circumstances including- The income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph 4 [either parent] has or is likely to have in the foreseeable future; The financial needs, obligations and responsibilities which each [parent] has or is likely to have in the foreseeable future; The financial needs of the child; The income, earning capacity (if any), property and other financial resources of the child; Any physical or mental disability of the child; The manner in which the child was being or was expected to be educated or trained. AUTONUMOUT Notwithstanding those differences in legislation, it is now clear that the principles and guidelines set out in the line of English cases provide helpful guidance to the Hong Kong Courts in deciding claims under s 10(2) of the GMO [See H v S; WGL v ASB (Child Maintenance under the GMO) [2013] HKFLR 391 at 404 and IDC v SSA [2013] 5 HKC 482]. In exercising its discretion under s 10(2) of the GMO, the Court should have regard to all the circumstances of the case, which include those matters set out in the 1989 Act [See WGL v ASB at 405/ 57]. In IDC v SSA at 496-497/ 37, the learned Judge followed the principles set out in the leading English case of Re P [2003] 2 FLR 865. The Judge s approach was specifically endorsed by the Court of Appeal on appeal [See [2014] 4 HKLRD 220 at 236/ 48]. AUTONUMOUT A summary of the relevant considerations was set out by Bodey J in Re P (supra) as follows: The welfare of the child while a minor, although not paramount, is a very relevant consideration. Consideration as to the length and nature of the parents relationship and whether or not the child was planned are generally of little if any relevance, since the child s needs and dependency are the same regardless (applying J v C (Child Financial Provision) [1999] 1 FLR 152 at 154B). One of the financial needs of the child (to which by para. 4(1)(c) the court must pay regard) is for him or her to be cared for by a mother who is in a position, both financially and generally, to provide that caring. So it is well established that a child s needs for a carer enables account to be taken of the caring parent s needs (applying A v A (A Minor) (Financial Provision) [1994] 1 FLR 657 at 665G). The respective incomes, earning

capacities, property and other financial resources of each of the parents must be taken into account, together with their respective financial needs, obligations and responsibilities. The child is entitled to be brought up in circumstances which bear some sort of relationship with the father s current resources and the father s present standard of living (applying J v C per Hale J). However, one has to guard against unreasonable claims made on the child s behalf but with the disguised element of providing for the mother s benefit rather than for the child (applying J v C). In cases where the father s resources permit and the mother lacks significant resources of her own, she will generally need suitable accommodation for herself and the child, settled for the duration of the child s minority with reversion to the father, a capital allowance for setting up the home and for a car; and income provision (with the expense of the child s education being taken care of, generally, by the father direct with the school). Such income provision is reviewable from time to time, according to the changing circumstances of the parties and of the child. The overall result achieved by orders under Schedule 1 should be fair, just and reasonable taking into account of all the circumstances. AUTONUMOUT Bodey J went on to say in the same case that at least in bigger money cases, the court should paint with a broad brush, not getting bogged down in detailed analyses and categorizations of specific items making up opposing budgetary presentations. Rather, the court should do its best to achieve a fair and realistic outcome by the application of broad common sense to the overall circumstances of the particular case. Carer s Allowance AUTONUMOUT It is well established that the court may include, as part of a periodic payments order for a child, an allowance for the mother, especially if the mother has to give up work or is unable to work because she has to look after the child [See Haroutunian v Jennings (1980) 1 FLR 62 and A v A (A Minor) (Financial Provision) [1994] 1 FLR 657, applied in WGL v ASB (supra) at 194. AUTONUMOUT The applicable principles relevant to the assessment of the carer s allowance are also set out in Re P. A more generous approach to the calculation of the mother s allowance is not only permissible but also realistic. The court must recognize the responsibility, and often the sacrifice, of the unmarried parent (generally the mother) who is to be the primary carer for the child, perhaps the exclusive carer is the absent parent disassociates from the child. In order to discharge this responsibility, the carer must have control of a budget that reflects her position and the position of the father, both social and financial and should not be burdened with unnecessary financial anxiety or have to resort to parsimony when the other parent chooses to live lavishly. On the other hand whatever is provided is there to be spent at the expiration of the year for which it is provided. There can be no slack to enable the recipient to fund a pension or an endowment policy or otherwise to put money away for a rainy day. In some cases, it may be appropriate for the court to expect the mother to keep relatively detailed accounts for her outgoings and receipt. Such evidence would be highly relevant to the determination of any application for either upward or down variation [See Re P at 78-84; WGL v ASB at 198-199; IDC v SSA at 48-49]. The Relationship AUTONUMOUT There was much argument as to the nature of the parents relationship. The Applicant asserts that she did not and would not get involved in casual relationships. She had always intended for this relationship to be a serious and long term one. On the other hand, the Respondent says that this was a very brief and casual relationship. He was drunk on the occasions when the parties were intimate. AUTONUMOUT As was pointed out in Re P and J v C, consideration as to the length and nature of the parents relationship and whether the

child was planned are generally of little if any relevance, since the child s needs and dependency are the same regardless. AUTONUMOUT However, the evidence in respect of the relationship is relevant to the question of credibility. There was no dispute that the Applicant met the Respondent at a group dinner organized by the Respondent s father in about April 2010. In her 1st Affirmation, the Applicant provided details of their alleged courtship . She stated that usually we would order 2-3 bottles of wine ranging from different vintages in one sitting [A1/12]. In her Form E, she said During my relationship with the Respondent, we had a lavish lifestyle, ate at upmarket restaurants, drank vintage wine and enjoyed luxury amenities [A1/107]. The impression that she gave was that the Respondent courted her and they went on romantic dates. AUTONUMOUT When the Respondent denied that they had even been out alone, the Applicant gave a very different story. In her 3rd Affirmation, she agreed that they only met at a few group gatherings (which also included the Respondent s father) after their initial introduction. She explained that she cherished her reputation and was careful not to be seen with the Respondent. She agreed that it was rare for them to have meals outside but alleged that the Respondent would visit her at home. She explained that the Respondent had invited her out but she had refused because it was still too early on in the relationship [A1/186-188]. In the same Affirmation, the Mother described an occasion when she and the Respondent were drinking alone in a wine bar in Happy Valley. She stated that the Respondent had refused to drink house wine as it would ruin his palette. She stated that she had a vivid memory of this incident as typhoon No 8 had been hoisted [A1/196/ 28]. AUTONUMOUT The Applicant s version of the relationship changed again during the trial. She admitted that she had only ever been alone with the Respondent on 3 occasions. On each of those occasions, the Respondent came to her apartment where they were intimate. In other words, the assertion that the Respondent took her to upmarket restaurants, drinking vintage wines and the incident in Happy Valley cannot be true. AUTONUMOUT The Applicant accused the Respondent of stringing her along by concealing his relationship with his then girlfriend. She asserted that she thought that this was a serious relationship and agreed to have unprotected sex because the Respondent had promised to take responsibility in the event that she became pregnant. AUTONUMOUT The Applicant s evidence is very self contradictory. On the one hand, she says that the relationship was in its very early stages and she was not even prepared to be seen with the Respondent in public. On the other hand, she was prepared to take the risk of becoming pregnant. With no disrespect, a promise of financial provision for an illegitimate child alone is no basis for any serious relationship. In the light of the above, it is unsurprising that the Respondent was under the impression that this was a casual physical relationship and felt entrapped. AUTONUMOUT There was no dispute that the Applicant never cohabited with the Respondent. TS never lived with the Respondent. If the Applicant thinks that she can rely on her misleading evidence in respect of her relationship with the Respondent to set a benchmark for TS s standard of living, then she is very much mistaken. AUTONUMOUT I adopt the dicta of His Honor Judge Bruno Chan in IDC v SSA (supra): The parents in that case, however, had never cohabited or shared a common household, unlike the case of F v G [2005] 1 FLR 261, where there had been a period of cohabitation, the standard of living enjoyed by a child is specifically addressed by Singer J as follows:

[34] In some cases, but not this, the standard of living enjoyed by child (and mother) during lengthy pre-separation cohabitation lasting say, into the child s early teens could, I suggest, promote the standard of living so long enjoyed by the child to the positions of an important, if not the dominant, feature of the case

[35] To the extent that this approach may run contrary to the factor isolated by Bodey J at para [76] of his judgment in Re P (that consideration as to the length and nature of the parents relationship and whether or not the child was planned are generally of little if any relevance, since the child s needs and dependency are the same regardless) I suggest that the justification may be that the extent to which the unit of primary carer and child have become accustomed to a particular level of lifestyle can impact legitimately on an evaluation of the child s needs, reasonably to be viewed against his or her history.

[36] The factual matrix of Re P (Child: Financial provision) was that those parents had never shared a common household, nor cohabitated No question of shared living standards accordingly arose in that case, where the disparity of the means individually available to the parents was even starker than here The Respondent s Standard of Living AUTONUMOUT There was no dispute that the Respondent came from a very wealthy family. The Applicant alleges that he enjoyed a very lavish lifestyle which is inaccessible to the merely wealthy. She pointed out that he had access to private jets, private clubs and lived with his grandparents in an opulent home in the South side. She urges the Court to use the Respondent s childhood home as a benchmark of his standard of living. AUTONUMOUT It does not appear to be in dispute that the Respondent only grew up in his grandparents home because of his family circumstances. A party s standard of living means a lifestyle adopted by that party out of choice and that the party pays for or at least makes a financial contribution towards that lifestyle. Although the Respondent and his family may have access to the grandfather s home, there is no dispute that the Respondent s childhood home belongs to his grandfather. There is no evidence or even any suggestion that he makes any financial contribution towards the upkeep of that home. In my judgment, it is wholly inappropriate to use the grandfather s home as a benchmark. AUTONUMOUT The Respondent was married in February 2012 (ie almost 1 years prior to the commencement of these proceedings) and has his own home. His standard of living should be assessed by looking at his own household and expenditure. AUTONUMOUT The Respondent has been criticized for his failure to make full disclosure of his credit card spending. Credit card statements are supposed to provide the court with a snapshot of the parties pattern of spending. Even in Form E, the parties are only required to provide 3 months of credit card statements. The Respondent is relying on the millionaire defence , which implicitly means that he is not required to make full disclosure. Further, credit card expenditure is only one of the factors in considering the Respondent s standard of living. The larger items of expenditure, such as accommodation, cars and travel would provide a sound basis for assessment of his standard of living. AUTONUMOUT Prior to his marriage, the Respondent rented an apartment in Apleichau with his girlfriend (now his wife) at a monthly rental of $16,000. The tenancy agreement for that apartment was produced as evidence [A1/152 37; B1/448]. The Applicant does not accept

that the Respondent was living in this apartment. She commented that that the lease was only for 9 months and alleged that the rental of this apartment was litigation tactics. The tenancy agreement was dated 28 April 2011. Even according to the Applicant s own evidence, she only discovered that she was pregnant in early May 2011. If the Respondent was not even aware that the Applicant was pregnant, it is difficult to see how the rental of the Apleichau apartment could be a litigation tactic. AUTONUMOUT Subsequently, the Respondent purchased a 3,000 sq ft apartment in the Songdo area in Seoul. He lived there with his Wife, 2 children, his parents-in-law and a domestic helper. Although that apartment was described as luxurious, it is in a newly developed area which is very far away from the centre of Seoul. According to the Respondent, the value of this property in October 2013 was estimated to be about HK$9.7 million [A1/296]. There was no challenge to this estimation. The Respondent then moved to Singapore with his family. They lived in a 2,100 sq ft rented apartment with 2 helpers. The monthly rental was HK$62,830 [A1/153; B2/451]. He is now living with his Wife, 2 children, his parents-in-law and a helper in a rented apartment in Korea. The apartment is 2,600 sq ft with 4 bedrooms. The Respondent paid a deposit of HK$20 million which would be returned to him in full at the end of the lease. AUTONUMOUT There appeared to be no dispute that the Respondent has a Hyundai van in Hong Kong and his family car is an Audi A8 (both of which were used vehicles). He does not have a personal driver although he has access to a team of company drivers in Hong Kong. He admitted that he has travelled by private jet for business once upon the invitation of his grandfather. There was no suggestion that the Respondent owns personal luxury items such as sports cars or boats. Although the Respondent admitted that he has used his points to upgrade their tickets on one or two occasions to business class, he and his family travelled by economy class for holidays. Although his assertions were not accepted by the Applicant, they were clearly supported by the e-tickets for their travels. AUTONUMOUT The Respondent was vigorously cross examined on his credit card statements during the trial. It was pointed out that he spent tens of thousands of dollars at karaokes, restaurants and on clothing. He explained that the karaoke and restaurant expenditure were business related. It is most unlikely that the Respondent would be taking his young children to karaokes or to Daniel in New York and are unlikely to be related to his family expenditure. The expenditure referred to in cross examination were few and far in between. It is quite clear that for a man of his means, the Respondent is living comparatively frugally. AUTONUMOUT The Applicant argued that the Respondent has told her that his Wife was from a poor family and was therefore content to have her children brought up frugally. On the other hand, the Applicant herself was from a wealthy family. She argued that this would justify TS to be treated differently. This is highly arrogant and offensive. The Applicant does not in fact know the background of the Respondent s wife. She is relying on hearsay which she said was used to string her along, most of which she alleges to be untrue. The Applicant refuses to have her own resources taken into account in these proceedings but asks the Court to take into account her previous standard of living. AUTONUMOUT I repeat the observations of Hale J in J v C at 155 and 160: The underlying principle was that children should not suffer just because their parents had, for whatever reason, not been married to one another. Equally of

course they should not get more the child in question was entitled to be brought up in circumstances which bore some sort of relationship to the father s current resources and the father s present standard of living. That proposition was preceded by an acknowledgment that the court must guard against unreasonable claims made on the child behalf but with the disguised element of providing for the mother s benefit rather than for the child. AUTONUMOUT In my judgment, the Respondent s standard of living is that of an affluent businessman. It is not as lavish or opulent as alleged by the Applicant. For example, his lifestyle pales in comparison to the fathers in IDC v SSA and WGL v ASB. The provision for TS should be assessed according to that standard. Accommodation AUTONUMOUT Prior to the birth of TS, the Applicant was living in an apartment in Kwun Tong. In February 2012, she purchased an apartment in North Point (the Apartment). She now says that the Apartment was only ever meant to be an investment or temporary arrangement. She is now asking for a monthly provision of HK$130,000 as rental of a home for her and TS on the Peak. She explained that TS is now happily settled in Woodlands Kindergarten on the Peak and has applied for the Peak school. She argued that TS would not be qualified for admission to the Peak school unless she lived within the school catchment area and that it would be in her interests to live as close to the school as possible to minimize travelling time. AUTONUMOUT Throughout these proceedings, the Respondent has agreed that TS should be provided with suitable accommodation in a good residential area. He says that the Apartment is suitable and was in fact purchased by the Applicant as a permanent home for TS. He argued that the Applicant s claims for accommodation were ever escalating and that she only moved TS to Woodlands to inflate her claims. He is prepared to provide HK$50,000 per month as the cost of accommodation, which can be used by the Applicant to repay her mortgage on the Apartment. He says that this must be in the interests of TS as she will have a permanent stable home even after her dependency expires. During the trial, a list of properties the Applicant allegedly viewed was shown to him. He stated that he would be prepared to pay HK$80,000 per month as rental if TS really has to live on the Peak. AUTONUMOUT The Applicant explained the purchase of the Apartment in her 1st Affirmation as follows: Since birth, TS has been through a great deal of pain and suffering, therefore, in order to enable TS to live in a better environment to facilitate her growth and well being, I purchased an apartment at North Point which is around 1,600 total actual square feet at the price of HK$18,800,000 in February 2012 with my own savings. I have paid HK$9.4 million as down payment and have made a mortgage loan of around HK$9.4 million. Coupled with the stamp duty in the sum of HK$100,000 and renovation costs HK$448,801.58, I have spent an additional HK$1 million at the time of the said purchase. Now I have to repay the mortgage loan per month [A1/21]. AUTONUMOUT By the commencement of these proceedings in June 2013, the Applicant wanted to move out of the Apartment. She explained that starting from August 2012 (almost a year before the commencement of these proceedings), there were 2 construction sites near the Apartment which has caused both noise and pollution. She suggested that the Respondent could purchase an apartment in Repulse Bay as TS s accommodation until she reaches the age of 21 or completes full time education (whichever is the later). She also suggested the provision of $1,000,000 as the cost

of setting up the new home. Alternatively, she suggested that such a property could be rented at the rate of $180,000 per month. She said that she wanted to live in Repulse Bay so that they could be close to the Respondent to enable TS to spend maximum time with him [A1/21-23]. AUTONUMOUT At that time, there was no suggestion that the Apartment was intended to be temporary or that it was ever intended to be anything other than a home for TS. To the contrary, the Applicant confirmed in her 3rd Affirmation that apart from being an investment, the Apartment was purchased as a home for TS. She maintained that she was only moving out of the Apartment because of the noise and pollution [A1/209-212/ 68-75]. AUTONUMOUT However, in her 4th Affirmation filed on 12 January 2015 the Applicant alleged for the first time that the Apartment was only ever meant to be a temporary arrangement. She then gave a number of other reasons as to why she did not want to live in the Apartment or in the nearby area. She asserted that the Respondent had promised to purchase a property as TS s accommodation and that she had only purchased the Apartment because it was within her budget. She argued that she had many unhappy memories in the Apartment because the Respondent had failed to turn up for access on over 10 occasions. She said that she suffered from depression after the birth of TS and returning to the Apartment was a risk to her health. More importantly, she pointed out that by that stage, TS was happily settled in Woodlands on the Peak, TS would not be able to apply for the Peak School if she lived in North Point and she would therefore prefer to live on the Peak [A2/418-419/ 72]. AUTONUMOUT The Court has grave doubts as to the veracity of the Applicant s evidence. In her first 3 Affirmations, she stated that the Apartment was purchased as a home for TS. She only needed to move out because of the noise and pollution. Since she has to move, she would prefer to live in Repulse Bay so that TS could be near the Respondent for access. In response, the Respondent suggested in his 1st Affidavit filed on 12 September 2013 that the Applicant moved to temporary accommodation in the same area. This was flatly refused by the Applicant. She argued that the Respondent s suggestion was impractical as the Respondent agreed that it would not be in the interests of TS to be moved around [A1/213/ 80]. The Applicant was adamant about moving. The Respondent was only suggesting that they remained in the same area so that TS would not have to face so many changes. It is difficult to understand why the Respondent s suggestion was impracticable or unreasonable. AUTONUMOUT In response to the Respondent s suggestion, the Applicant moved to Four Seasons Place in October 2013 and moved TS to her present school on the Peak. She then argued that since TS was going to school on the Peak, it would not be practical for her to live in the same area. AUTONUMOUT Prior to the move, TS was attending 3 different kindergartens, all of which were in the North Point area (including Victoria International Kindergarten (Victoria), Montessori (IMS) and Tutor Time). The Applicant complained that the medium of instruction at Victoria was Chinese and TS was unable to cope in the light of her speech delay. It was therefore in her interest to attend a kindergarten which uses English as its teaching medium. Firstly, there are two different streams in Victoria. One stream is English, Cantonese and Mandarin. The other stream is only English and Mandarin. It is therefore wholly incorrect to say that the medium of instruction is Chinese. Secondly, the medium of instruction at both IMS and Tutor Time are

English. Even if TS were unable to manage Victoria, she could have stayed at IMS and Tutor Time. According to the Applicant, it takes about 30 minutes to travel from Four Seasons Place to Woodlands. It takes approximately the same amount of time to travel from Four Seasons Place to IMS and Tutor Time. The move to Central and the change of schools only meant that TS had to cope with many more changes than those under the Respondent s proposal. AUTONUMOUT The Applicant alleged that the Respondent had promised to purchase a property for TS upon receipt of his annual bonus. She agreed that the figure mentioned was HK$20 million. By coincidence, the Apartment was within that budget. If the Applicant only wanted to have temporary accommodation, she could have rented one, instead of spending over $400,000 for renovation. All those renovation costs would be wasted if the Respondent bought her another property. AUTONUMOUT The timing of the move was also telling. The Applicant stated that the noise and pollution commenced in August 2012. Despite that, she remained in the Apartment for over a year. The move took place one month after the Respondent suggested that she could move to temporary accommodation in the same area. AUTONUMOUT The Applicant explained that she only moved into Four Seasons Place because she needed a furnished apartment. This would avoid spending extra money on furnishing and renovation. Otherwise the furniture for the temporary apartment would only be used for a few months. She had viewed other furnished apartments but could not find any that were suitable [A1/213-215/ 80-84; A2/508/ 33]. According to the Applicant, the Apartment was already furnished. If she had been looking for a temporary apartment of a similar size, there was no reason why she could not have moved with her existing furniture. AUTONUMOUT The Applicant accepted under cross examination that she would have stayed in the Apartment but for the nearby construction work. She also confirmed that she was looking to purchase an apartment in the North Point area when the Respondent s bonus of about HK$20 million was available. Although she added that she was also looking at properties in Repulse Bay, she in fact made no attempt to view any property in that area. All 3 pre-nursery groups where TS was enrolled were located in North Point. The Applicant also had hopes of TS being admitted to the Chinese International School (CIS), which is merely minutes away from the Apartment. The Respondent has suggested that TS should apply to the Quarry Bay School (which is an ESF school and is directly opposite to CIS). This was flatly refused by the Applicant. No reasons were given. Under cross-examination, the Applicant stated that she found Woodlands from the internet. No reasons in respect of the suitability of this school were given except that the medium of instruction was English and had small classes. There are Woodlands pre-school in other areas on Hong Kong Island (for example in Happy Valley and Repulse Bay). There was no explanation as to why the school campus on the Peak has suddenly become the only suitable campus. AUTONUMOUT The Applicant explained that the majority of the children at Woodlands eventually attend primary school at the Peak School. Because TS has social anxiety, she would like TS to go to the same school as her friends to reduce the extent of adjustment [A2/414/ 54]. She also argued that a hot lunch could be brought to TS if they lived nearby. AUTONUMOUT Despite the provision of a debenture by the Respondent, there is no guarantee that TS could gain admission to the Peak School. The Applicant has in fact also

applied for 2 other ESF schools for TS. The Applicant asserted that TS enjoyed her previous schools immensely. However, she had no qualms about removing TS from her previous schools in the middle of a school term, thereby taking her away from her many friends and placing her in an entirely new school environment. According to her 4th Affirmation filed on 12 January 2015, TS was admitted to Woodlands on the Peak in November 2014. By 12 January 2015, she was already happily settled in Woodlands. AUTONUMOUT The Applicant stated that TS would not be able to apply for the Peak School if she did not live within the Peak School zone [A2/414/ 53]. She gave the impression that it was imperative for TS to live on the Peak. However, during the trial, it became clear that the Peak School catchment area extended to part of the mid levels. AUTONUMOUT In the light of the Applicant s assertion that TS had a weakened constitution, the Respondent pointed out that it may not be in TS s interests to live in a very humid area like the Peak. The Respondent s view was endorsed by the Applicant s own Chinese medical expert during the trial. The Respondent suggested that the Applicant could look for suitable property in the mid levels, which was still within the catchment area of the Peak School. Although the Applicant alleged that she had tried to locate suitable properties in the mid levels, it was clear from her evidence that no such effort had been made. A property known as Bamboo Grove was mentioned during the trial. However, the Applicant admitted that she dismissed this property as unsuitable without inspection. Another property known as Kennedy Park was mentioned. However, when the Court pointed out that this property was just above a public toilet and adjoined a construction site, Counsel then indicated that this was an example of unsuitable property. It was apparent to the Court that this property was found by Counsel on the internet and that the Applicant had absolutely no intention of considering any property other than those on the Peak. AUTONUMOUT Contrary to what is now suggested by the Applicant, there was every indication that the Apartment was intended to be a permanent home for TS. The move to Central, the sudden change of schools, the new found fondness for the Peak were clearly litigation tactics, designed to present the court with a fait accompli to enable the Applicant to inflate her claims. AUTONUMOUT The Applicant stated that despite an extensive search for properties, she has only been able to identify 3 properties which are suitable for TS [A2/508/ 27; B11/3577]. She is now asking for the provision of rental of a 2,150 sq ft, 3 bedroom apartment at Homestead on the Peak. AUTONUMOUT Under cross-examination, the Applicant admitted that she had only viewed 2 out of the 21 properties listed. The properties she viewed were Vivian Court on Mount Kellet Road [B11/3578] and Homestead [B11/3580]. Her evidence about the search of properties was clearly misleading. AUTONUMOUT The Respondent says that the Applicant s claim for accommodation is ever escalating. He pointed out that the size, location and price of what the Applicant says is suitable accommodation has risen to wholly unreasonable levels during the course of these proceedings. His legal representatives have helpfully listed out the Applicant s claims through the course of these proceedings in their final submission: In February 2012, the Applicant purchased the Apartment. It is 1,700 sq ft (net); In her 1st Affirmation filed on 3 June 2013, she asked the Respondent to purchase or rent an apartment in Repulse Bay with 2,000 actual square feet [A1/22/ 50]; By the time of her 2nd Affirmation filed on 5 August

2013, she wanted a 2,500 sq ft apartment [A1/64/ 17]. She confirmed in her oral evidence that she meant a useable (net) area of 2,500 sq ft in this Affirmation; A month later, in her 3rd Affirmation, she asked for an apartment with a net area of 2,200 to 3,000 sq ft in a good area in Hong Kong; By the time of her 4th Affirmation, she was viewing the following properties on the Peak as potential homes [B6/1786]: 2 townhouses at Strawberry Hill, a town house of 3,600 sq ft (gross)/3,195 sq ft (net); 10 Bluff Path, 4,056 sq ft (gross)/3,760 sq ft (net); 10 Bluff Path, 4.055 sq ft (gross)/3,760 sq ft (net); 51 Mount Kellet Road, 3,510 sq ft (gross)/3,461 sq ft (net); The Applicant has now identified 3 properties which she says are reasonable and suitable accommodation for TS: Homestead, 2.150 sq ft with 3 bedrooms; A town house on Mount Kellet Road, 2,400 sq ft with 3 bedrooms and a roof terrace; and Chelsea Court on Mount Kellet Road, 2,400 sq ft with 3 bedrooms and a roof AUTONUMOUT The amount of the Applicant s claim for rental provision has also evolved during the course of these proceedings: In her 1st Affirmation, she was asking for a monthly rental provision of HK$180,000 [A1/23]; In her 2nd Affirmation, the reasonable monthly rental provision was said to be HK$200,000 to HK$250,000 but averaged at HK$225,000 [A1/64]; By her 3rd Affirmation, the claim was still HK$200,000 to HK$250,000, but she was asking for a provision of HK$250,000; It was only in her 4th Affirmation that the rental provision was reduced back to between HK$155,090 and HK$195,000. AUTONUMOUT There appears to be no dispute that the Respondent is living with his Wife, 2 children and parents-in-law in a 2,600 sq ft apartment. The suggestion that a family of 2 should live in an apartment of 2,150 sq ft (net) in those circumstances is wholly unreasonable. In my view, an apartment of about 1,500 sq ft (net) would be more than reasonable. AUTONUMOUT The Respondent suggested that TS should move back to the Apartment. Although the Apartment was originally purchased as a permanent home, the Court cannot force the Applicant to move back in. Further, the mortgage is only HK$50,000 per month because the Applicant has paid a deposit of over HK$9 million. She would not be able to rent alternative accommodation at that rate. AUTONUMOUT According to the property list produced by the Applicant as CWYW-5-7 and apart from one exceptionally expensive property, the average rental of properties on the Peak is between HK$31 and HK$69 per useable square foot (ie averaged at HK$50 per net square foot). Using that figure, rental for a 1,500 sq ft property would be HK$75,000. Properties on the Peak are already at the highest end of the market. In other words, the Applicant would be able to rent suitable property in any upmarket area with that budget. A provision of HK$80,000 will be awarded under this head to include management fees and car park rental. Cost of Setting Up New Home AUTONUMOUT The Applicant s claim is for a sum of HK$1 million under this head. The Respondent is offering HK$150,000. AUTONUMOUT Since it would be a rental property, extensive renovation would be unlikely. Further, rental properties at the higher end of the market are usually newly renovated with fitted kitchens and air conditioning. The Applicant would only be required to purchase furniture and small electrical items. AUTONUMOUT The Applicant has not produced any quotation for renovation or furnishing in support of her claim. Under cross-examination, she gave very vague answers as to the price of the items she required. She stated that she needed HK$400,000 for furniture and HK$300,000 for electrical equipment. The remainder

of her claim was unaccounted for. The Applicant fully renovated the Apartment at a cost of about HK$450,000. According to the documents she produced, she purchased electrical equipment for the Apartment for HK$62,317 [B2/837-839, 847 &850]. This already includes one of the most expensive vacuum cleaners available [B2/839] which could be used to steam clean furniture and toys. It was also under 12 years warranty [B2/839]. She now says that she has no furniture. She alleged that she only purchased very cheap furniture for the Apartment. According to her claim for reimbursements, she spent over HK$64,000 on children s furniture. This could not in any way be regarded as inexpensive. AUTONUMOUT Her claim of HK$1 million does appear to be very excessive. Taking a common sense approach and bearing in mind the size of the property, a provision of HK$300,000 would be reasonable. General Household Expenses AUTONUMOUT The Applicant is asking for HK$12,000 as general household expenses. The Respondent is offering HK$6,000 per month. AUTONUMOUT In her 1st Affirmation, the Applicant stated that the general household expenses at the Apartment (1,700 sq ft) was HK$10,034.50 [A1/29]. This included rates (HK$1,821) and management fees (HK$2,700). If the Applicant were to rent another property, she would not have to pay rates for that property. Management fees have been provided for in the award for accommodation. In other words, if the Applicant were to live in a property of similar size, her monthly general household expenditure would be $5,513.50. Out of that sum, HK$3,000 was said to be miscellaneous expenses. No receipts were produced. The remaining $163 for homecare insurance has been agreed. AUTONUMOUT In the same Affirmation, the Applicant went on to say that miscellaneous expenditure, including washing powder, disinfectant, soap, toothpaste, tissue paper amounted to about $4,000 per month. She also wanted pest control twice a year at HK$4,000 each time. She estimated that the total of miscellaneous expenses to be HK$4,666.67 per month [A1/28]. AUTONUMOUT By her 2nd Affirmation, the claim for general household expenses had risen to HK$17,220.50 [A1/65]. The Applicant explained that the household expenditure was more than she realized. Instead of HK$1,299 for electricity, it should be HK$3,437. Instead of HK$348 for Cable TV and Internet, it should be HK$679 for Cable TV, NOW TV and Internet. The total amount for utilities was therefore HK$4,464. The most substantial increase was for unparticularized miscellaneous items. She did produce some receipts. However, the bulk of the miscellaneous expenses were replacement of 2 remote controls and outlet grille for an air-conditioner [B1/168], changing of locks for 3 rooms, the supply of 3 sets of lightings for repainting of maid s room. These are clearly not monthly recurring expenses. AUTONUMOUT In her 3rd Affirmation [A1/232/ 111; A1/239/ 129], the Applicant stated that: It is very hard for me to provide an exact estimate of my household expenses per month and it is also very difficult to apportion exactly how much TS benefits from each and every household expense. However, HK$5,000.00 will allow me to cover for months where there might be a drastic increase in need for miscellaneous household expenses such as a sudden need to hire a plumber, electrician or even purchase new household goods and sundries AUTONUMOUT Further on in the same Affirmation, she suggested that the HK$5,000 was in addition to utilities of HK$800 per month was only for her interim maintenance [A1/239/ 129]. In addition to that sum, she was claiming HK$7,000

as utilities for TS. The Applicant is not entitled to interim maintenance. Not only was there no breakdown of the alleged utilities expenses for TS, it was wholly inconsistent with her previous evidence and the receipts produced. According to her previous evidence, the total utility bill for the entire household amounts to just over HK$5,000. AUTONUMOUT In her open offer, she asked for $12,000. This was said to include pest control, cleaning air conditioners, steam cleaning sofas and curtains, dry cleaning TS s coats and toys, miscellaneous repairs of electrical appliances and purchasing other general household items, utilities such as electricity, gas, telephone, water and broadband. AUTONUMOUT In her oral evidence, she stated that the utilities for the Apartment were about HK$3,000 to HK$4,000 per month. The Applicant s claim for general household expenses is exaggerated, unreasonable and contrary to her own evidence, especially when there is a separate claim of over $5,000 for TS s personal household items under baby essentials [A1/228/ 102-104]. No receipts or quotations were produced in respect of dry cleaning, steam cleaning, pest control etc. The Respondent s offer of HK$6,000 is slightly too low. A sum of HK$7,000 would be reasonable. Not only would this amount cover the utilities for the entire household, there would be a balance of HK$3,000 for other household items and expenses. Cleaning utensils and miscellaneous items like tissue would cost no more than a few hundred dollars per month. In other words, there is over HK$2,000 for other items such as repairs, dry cleaning and pest control. Domestic Helpers AUTONUMOUT The Applicant says that she needs 2 domestic helpers and is asking for a provision of HK$12,810. Whilst the Respondent agreed to provide 2 helpers when TS was still a baby, he stated that one domestic helper would be sufficient once TS enters primary school. AUTONUMOUT In her 1st Affirmation, the Applicant explained that TS s Haemangioma may erupt and cause severe bleeding. As a result, she required 2 domestic helpers to provide round the clock care [A1/19]. AUTONUMOUT There was no medical evidence that TS s Haemangioma would erupt. Even if the Applicant s assertions were true, the Haemangioma has now basically been resolved by laser therapy. There is no reason why TS still needs round the clock care from 2 domestic helpers. AUTONUMOUT In her 5th Affirmation, the Applicant argued that the Respondent had two helpers in Singapore. The Applicant had 2 helpers when TS was very young. She explained that one of the helpers was responsible for taking care of TS and cooking. The other helper was responsible for household chores. She submitted that it was wholly unreasonable for the Respondent to only provide TS with one domestic helper when he expected her to resume employment [A2/509/ 35-37]. AUTONUMOUT In Singapore, the Respondent has 2 young children and no driver. The fact that the Applicant had 2 helpers soon after TS s birth does not mean that she needs both helpers at the time of the trial. TS will soon be attending full time education, there is no reason why she would require 2 domestic helpers even if the Applicant were to resume employment. AUTONUMOUT The Applicant explained that one of her helpers was paid HK$6,500 per month because she has undergone nursing training and stays in close proximity with TS to take care of her nearly around the clock. Under cross-examination, the Applicant further explained that she wanted TS to have continuous care, so that one helper would be available even if the other was on holiday. However, it appears from the documents that she produced that one of the domestic

helpers has an increased salary because she is not allowed to have any holidays [B1/100]. This is of course illegal and will not be condoned by the Court. Even if the Applicant were to return to employment, the helper should only be on holiday on the weekend and public holidays. The Applicant would be available for TS. In fact, the presence of the helper is more for the benefit and comfort of the Applicant than TS. Any annual holidays can be scheduled to coincide with the Applicant and TS s overseas holidays. AUTONUMOUT Although the Applicant stated in her 1st Affirmation that 1 of the helpers was responsible for household chores, it appears from her evidence that the Applicant takes 2 helpers with her everywhere with her everyday [A1/27]. She made a claim for admission tickets for Ocean Park and Disneyland for 3 adults. In her evidence, she stated that the 2 helpers pick up TS from school with her. The 4 of them dine out and have tea together. AUTONUMOUT The Applicant s claim is clearly unreasonable. Only one helper will be provided. The Respondent is offering HK$6,000 per month. The Applicant s claim for 2 helpers is HK$12,810. The Respondent s offer is reasonable. For the avoidance of doubt, the HK$6,000 is to include salary (HK$4,110), food allowance ($964) and other incidental costs such as air tickets and insurance. AUTONUMOUT There is a further claim of HK$654 per month as travelling expenses for the helper to go to the market. There is no reason why the helper has to take separate transport when she could easily go to the market in the car when taking TS to school or her extra-curricular activities. No award will be made under this head. Car AUTONUMOUT The Applicant s claim for a car is in two parts. Firstly, she is asking for reimbursement for the purchase of her present car. Secondly, she is asking for the provision of a lump sum to purchase a new car. AUTONUMOUT Prior to the birth of TS, the Applicant worked for her family business. There was no dispute that her employed provided her with a Toyota Vellfire (the Car) for both her business and personal use. Subsequently, she allegedly resigned from her employment. In her Form E, she explained that the Car had been transferred to her. At the time, the Car was valued at approximately HK$280,000. However, in the same breathe, she stated that the purchase price was HK$450,000 and the present estimated value was HK$400,000 [A1/98]. She is now asking the Respondent to reimburse her with a sum of HK$400,000 [A1/101]. AUTONUMOUT The Applicant stated under oath that the Car was valued at approximately HK$280,000 at the time of the transfer. No explanation has been offered as to why she stated that the purchase price of the Car was HK$450,000 and why she stated that the market value of the Car was HK$400,000 at the time of her Form E. If the Applicant and her employer had agreed on a purchase price of HK$280,000, the employer cannot renege on the price, no matter how bad a deal it was. If the Applicant had purchased the Car at HK$280,000, there is no reason why the Respondent should reimburse her with HK$400,000. AUTONUMOUT The Car was allegedly transferred to the Applicant soon after TS was born. No money has been paid until the date of the trial, nor was there any evidence that the Applicant has been asked to pay up. Instead the Applicant s family has been providing her with very substantial financial assistance. The Court does not accept that the Applicant would be expected to pay for the Car. AUTONUMOUT The Car was purchased in 2010 and had a mileage of about 76,000 km. the Applicant claims that there are many problems with the Car. She says TS now needs a new Toyota Vellfire at the cost of

HK$800,000. The Applicant is prepared to trade in the Car estimated by Crown Motors at HK$180,000. In other words, her claim for the new car is HK$620,000 [A2/426-427/ 105-108]. AUTONUMOUT Initially, the Respondent offered $5,000 as transport costs for TS. He explained that he has no personal driver either in Hong Kong or elsewhere. He has a Hyundai van in Hong Kong and an Audi A8 in Singapore. His wife drives his children in the Audi [A1/167/ 83]. Later, he offered to share his car and the company driver. This was rejected by the Applicant who complained that the arrangement was unworkable. Subsequently, the Respondent undertook to provide TS with a car and driver. This was still unacceptable to the Applicant. She wanted the driver to be answerable to her which means that she can terminate his employment in the event that his services were unsatisfactory. She also complained that the Respondent had made no provision for her use of the driver [A2/509-510/ 38-39]. No reasons were put forward as to why a car provided by the Respondent was unacceptable. AUTONUMOUT The Applicant could not explain why TS needed a Toyota Vellfire. This is only one of the models of the Toyota Alphard. When the Court asked about the differences between a standard Alphard and a Vellfire, Counsel could not provide an answer. In fact, there is very little difference between an Alphard and Vellfire. The most obvious difference is that the Vellfire has a body kit (spoilers) and different rear lamps. The body kit and the rear lamps are merely cosmetic differences and have nothing to do with safety or TS s comfort. The similarity in specification between an Alphard and a Vellfire are obvious from the price list the Applicant subsequently provided. Further, the Vellfire 350 does not cost HK$800,000. According to the price list subsequently provided by the Applicant, it costs HK$620,000. If the Applicant s present car were traded in, the cost of the new car would be HK$440,000. This is another clear attempt by the Applicant to inflate her claims. AUTONUMOUT The Court pointed out that there are different specifications for Alpards and asked whether there were any reasons why TS required a more powerful engine. No reasons could be put forward. AUTONUMOUT The Respondent proposed to provide TS with a Honda in the sum of HK$200,000. Although the Respondent only owns a Hyundai van in Hong Kong, it is apparent that he normally rides in his company cars. He also has an Audi A8 in Singapore. AUTONUMOUT According to the price list, an Alphard 250 is HK$535,000. This is not at all unreasonable in the light of the Respondent s car in Singapore. A lump sum of HK$535,000 will be awarded for the purchase of this car. Driver AUTONUMOUT There was no dispute that the Applicant s employer provided her with a driver. She said in her 1st Affirmation [A1/9/ 7]: As my first car, my parents purchased a Mercedes-Benz AMG C36. Since my return to the family business, the Company provided with me a Toyota Vellfire with a driver for both my personal and business use AUTONUMOUT Later on in the same Affirmation, she explained the costs of the driver after her alleged resignation [A1/24/ 57]: I have been retaining the said driver at a monthly salary of HK$15,750 with over time payment of HK$50.00 per hour [my emphasis]. AUTONUMOUT The Respondent pointed out that the Applicant was in fact using the same driver despite her alleged resignation. Although the Applicant admitted that she continued to use her employer s driver after her alleged resignation, she denied that the driver she employed was the same driver. Looking at the wording of her 1st Affirmation, she was obviously talking

about the same driver. Only one driver was ever mentioned and in paragraph 57, she referred to him as the said driver AUTONUMOUT Initially, the Applicant s claim was for HK$40,000 per month for a driver and car related expenses. This was subsequently adjusted to HK$30,000, the breakdown was as follows: Driver s Salary HK$16,250 Petrol HK$7,000 Carpark HK$1,700 Insurance HK$950 Autotoll HK$600 Carwash/waxing/sterilize HK$500 Car repair and maintenance HK$2,000 Miscellaneous unexpected expenses HK$1,000 AUTONUMOUT The Applicant is now claiming HK$28,485 per month for the driver and car related expenses. It is unclear what the salary of HK$16,250 includes. There is no evidence that the Applicant has changed her driver or has increased his salary. According to her Affirmation, the driver s salary was HK$15,750 per month. In the contract of employment, the driver was described as an independent contractor. In other words, the Applicant does not have to make any contributions to the Mandatory Provident Fund. It therefore appears that the extra HK$500 is payment for overtime. The Applicant used to drive a sports car and alleged that she was driving the Car in her 2nd Affirmation [A1/24]. There is no reason why she cannot drive when the driver is off duty. AUTONUMOUT As for her claim for car related expense, TS is no longer attending so many therapies. She is no longer attending the Princess Margaret Hospital and she is now receiving outreach speech therapy. The Auto toll and petrol expenses appear to be on the high side. There is no reason why the driver should not wash and wax the car. It is normally part of his job. As is commonly known, Toyotas are very reliable cars. The Applicant is going to be provided with a new car, it would be under warranty for at least the first year (if not two). The car will have to undergo the scheduled checks to come within the warranty. However the costs would not be as high as HK$2,000 per month. Taking a common sense approach, an award of HK$25,000 would be made under this head. AUTONUMOUT There is a further claim of HK$600 per month as other transport for TS [A2/433]. Since she is being provided with a car and driver, there is no reason why she needs a further sum for other transport. The Child s Personal Expenses Cordyceps Sinesis AUTONUMOUT This is one of the most controversial heads of claim. The Applicant is now claiming a sum of HK$56,600 to cover the cost of cordyceps sinesis (Cordeceps) for TS. The Respondent argued that this is neither necessary nor beneficial. He further submitted that the Applicant s present claim is contrary to advice from her own Chinese medical expert. AUTONUMOUT The Applicant stated in her 1st Affirmation that under the recommendation of a Chinese Herbalist, she has been feeding TS with Cordyceps since June 2012. She produced an alleged prescription from a Chinese Herbalist in support of her claim. She further explained that she had been feeding TS cordyceps 4 times per week at the cost of about HK$35,000 to HK$40,000 per month [A1/19-20// 41, 45; B1/44]. AUTONUMOUT The Applicant has persistently assertion that TS has a weak constitution is contrary to the medical evidence. TS s condition has been improving ever since she was discharged from hospital. Her condition has been stable since she was 12 months old (ie late 2012). The Applicant persistently claimed that TS was prone to upper respiratory infections. This is not surprising. The immune system of very young children is not fully developed. Despite that, the Applicant subjected TS to a grueling schedule by enrolling her in 3 nursery schools at the same time. TS only had half an hour to eat in the car between schools. AUTONUMOUT The

Applicant gave the impression that the cordyceps was given pursuant to the prescription or recommendation of the Chinese Herbalist. The purported prescription produced [B1/44] uBf7 Nt^6 mq\2 yceps per month [A1/63/ 14]. AUTONUMOUT The quantity of cordyceps allegedly consumed was challenged by the Respondent. He pointed out that according to his enquiries at the same shop, a tael of cordyceps was HK$23,800 and not HK$32,337 as alleged by the Applicant. There are about 70 pieces in each tael. Assuming that TS takes 6 pieces every 4 days, one tael of cordyceps should for sufficient for 2 months. In other words, the Applicant s claim was double of the quantity alleged prescribed by the Herbalist. AUTONUMOUT Confronted with the Respondent s calculations (which were clearly correct), the Applicant explained in her 3rd Affirmation that there was a slight mistake in the alleged prescription (my emphasis). She asserted that the herbalist had informed her that she should feed TS with 6 pieces of cordyceps every other day and not every 4 days. A follow up consultation note from Dr Chu was produced [B1/541] which stated: & ,g `RQBf OU g(u vuBfKNT{ e g6 FO,g uwkh s merely reporting what the Applicant told him in his first alleged prescription. There was no suggestion that TS had seen any other Herbalist prior to CWYW-9. The only inference is that the Applicant has medicated TS herself. It was not a slight mistake. In fact the dosage was double the amount the Applicant stated in her 1st Affirmation. AUTONUMOUT By the time of the Applicant s 3rd Affirmation, the dosage had further increased to 8 pieces every other day. The Applicant explained that the dosage was increased pursuant to the recommendations of the Chinese herbalist. A purported prescription was produced as evidence [A1/206/ 58; B2/543-544]. AUTONUMOUT The Applicant gave the impression that the prescription was given by the same herbalist. In fact, it is evident from the different handwriting that the alleged prescription was from another herbalist. She further produced 2 other prescriptions from herbalists at MOCQ ve a maximum dosage. The other herbalist (Dr Lam) only stated that he had recommended 8 pieces of cordyceps but did not mention the frequency. The Applicant further stated that she had consulted Dr Chan Yat Sing, an Associate Professor of Chinese Medicine working for the Chinese Medicine Council and he had told her that cordyceps should be administered at 5 grams per day (ie 9.33 pieces) per day. AUTONUMOUT The Applicant stated that after the consumption of cordyceps, she has noticed that TS regurgitates her food less frequently and has an improved digestive system [A1/208/ 64]. She is therefore convinced that the cordyceps was beneficial to TS and increased her claim to HK$40,000 per month [A1/384.1-384.3]. AUTONUMOUT Firstly, the Applicant has produced documents from a total of 4 herbalists. Yet, no document has been produced in support of Dr Chan Yat Sing s alleged prescription. Secondly, the Applicant s suggestion that the improvement to TS s reflux problem was a direct result of the consumption of cordyceps was contradicted by the medical report from Dr Barbara Lam dated 25 July 2012. According to Dr Lam, TS had a reflux problem. Reflux medication was started in January 2012. The condition continued to improve after the introduction of solids at the age of 6 to 7 months and TS was taken off reflux medication in June 2012 [B1/144-145]. According to the Applicant, the cordyceps was only first introduced in June 2012. It is clear that the resolution of the reflux problem had nothing to do with cordyceps. AUTONUMOUT In preparation for trial, the parties each instructed their own

Chinese medical expert. There is no dispute that the quality of the evidence from Respondent s expert left much to be desired. Counsel for the Respondent conceded that his evidence should not be considered. AUTONUMOUT The Applicant called Dr Wong Kwun Ming as her expert. He produced a total of 3 reports. Dr Wong s first report dated March 2014 stated as follows [A2/384.1-384.3]: [3] VBf6R a(u Nvu NFO '`OP)n +T g g(u sBfd l\#l 8^ gy S8T6e No &N Ni +T g(u sSBf\P(u 9e(u-N and she no longer suffered from flu frequently but was unable to say with any degree of certainty that it was the result of cordyceps. AUTONUMOUT Upon seeing this report, the Respondent s solicitors by a letter dated 26 July 2014 requested the Applicant to cease giving cordyceps to TS. The Applicant refused. She argued that Dr Wong only recommended cessation of cordyceps when TS had flu. That interpretation is wholly unreasonable. Upon reading paragraphs 3 and 4 of that report, it was very clear that Dr Wong was advising the Applicant to immediately cease feeding cordyceps to TS. Not only was he saying that the cordyceps was not beneficial to TS, he was warning the Applicant that it may bring about adverse effects. AUTONUMOUT Dr Wong s 2nd Report was dated January 2014. He stated again refused to comment on the appropriateness of the previous alleged prescription. He further advised as follows [A2/466-467]: [3] NBv a\Oi N N.z b N.z NzfK tJSt^ }v/gce 0eP> T8NI{ W ik k)Y2)Y\O (u*YP[ReP> 0Nq4l khT1 !k\O)Y& AUTONUMOUT It was again very clear that Dr Wong was disagreeing with the dosage the Applicant was administering to TS. On this occasion, TS was no longer suffering from flu. Despite that, the Applicant persisted on her own views [A2/411/37]. She claimed that Dr Chan Yat Sing was TS s treating Chinese Herbalist. Reports from Dr Chan are glaringly absent. The Applicant is bound by the evidence of her own expert. It is evident that the Applicant is refusing to accept the advice of her own (singly appointed) expert. AUTONUMOUT Dr Wong s final report was dated 20 January 2015 [A2/467]. Again, TS was not suffering from flu on this occasion. Dr Wong repeated his views and prescription in his 2nd report. AUTONUMOUT According to this report, not only was TS not suffering from flu, the desired physical condition had already been achieved. Under cross-examination, he stated that in fact the first option of treatment was most beneficial to TS. It is also apparent from the report that whatever option is chosen by the Applicant (or a combination of all 3), that course of treatment is only for a period of 6 months. Should the Applicant choose to adopt the last 2 options, there should be resting periods of between 10 to 15 days between each course. AUTONUMOUT Not only has the Applicant refused to accept the advice from her own expert, she is asking for a sum of HK$56,600 for cordyceps [See Open Offer]. AUTONUMOUT In my Judgment, it is and has never been reasonable or beneficial for TS to consume cordyceps in the light of Dr Wong s reports. No award will be made for cordyceps. Further, many people who have been consuming Chinese medicine find that their mercury levels are unacceptably high. TS s mercury levels should be checked as soon as possible. AUTONUMOUT The Respondent has offered $800 for tonic food. This is reasonable and would clearly cover the treatment recommended by Dr Wong. An award would be made in that amount. Food AUTONUMOUT Originally, the Applicant s claim for food amounted to HK$29,000. She stated that she and TS dine out with 2 helpers twice a week (HK$8,000 per month). The 4 of them have tea after school every day at $400 per day. The cost of food at

home was HK$15,000 [A1/27]. AUTONUMOUT In her 2nd Affirmation, she alleged that the food and household expenses were HK$32,466.67 per month [A1/68]. By the time of her 3rd Affirmation, her claim for food became extremely confusing. AUTONUMOUT In her 3rd Affirmation, the Applicant alleged that the food expenses for TS was HK$40,600 (HK$27,800 for meals at home and HK$12,800 for dining out) [A1/222/ 100-101]. Later on in the same Affirmation, she alleged that she had spent HK$12,984 and HK$15,249.30 on food in July and August 2013 on food respectively for TS. It appeared that those amounts included food for adults [A1/228/ 100-104]. There was no explanation as to why she was claiming HK$27,800 per month as food expenses in those circumstances. Later on in the same Affirmation, under the summaries of her claims, she stated that her claims were HK$12,000 per month for household food expenses and HK$12,800 for dining out [A1/239/ 129-130]. AUTONUMOUT There was no mention or explanation in respect of TS s food expenses in the Applicant s 4th Affirmation. However, she produced an updated budget of expenses. The same claims were repeated in the Applicant s open offer [A2/432]. AUTONUMOUT The claim for food expenses (including dining out) was HK$15,000. However, there was a new claim of Special Food Items for TS alone in the sum of HK$21,200 [B6/1803-1804]. According to explanatory note 23 to this budget, the special food items include: Organic eggs HK$10 each x 31 days Fresh fish HK$300 per fish x 31 days; Organic lean meat/chicken x 31 days at HK$4,340 (ie HK$140 per day) Organic beef HK$42 x 15 days Papaya HK$48 x 15 days Organic orange HK$16 each x 31 days Organic yam HK$25 x 31 days Miscellaneous food items including organic vegetables and fruit HK$150 x 31 days AUTONUMOUT For dining out expenses, there is absolutely no reason why TS required a mother and 2 helpers to go out with her every time. This is wholly unreasonable and excessive. AUTONUMOUT The Applicant explained that the household food relatively high because she would only buy organic food for TS [A1/27]. If the receipts produced by the Applicant were to be accepted, it would be obvious that the Applicant has not been feeding TS with only organic food [B1/180-190; B3/630-769]. A staggering amount of food was allegedly purchased for TS s consumption at home. According to the medical evidence produced by the Applicant, TS has a poor appetite [B1/149]. It is difficult to see how any 5 year old child could consume 1 egg, 1 fish, HK$140 worth of organic lean meat/ chicken, HK$21 worth of organic beef, half a papaya, 1 orange, HK$25 worth of yam and HK$150 of vegetables a day. Even if the vegetables were HK$150 per catty, TS would have to consume 1 catty of vegetables per day. AUTONUMOUT Further, the majority of the receipts related to food that were unsuitable for a young child (for example, pizzas, burgers, Thai salads, curries etc). Most of the receipts produced were for July and August 2013. According to the report from Dr Hannah Tsang dated 15 August 2013, TS has only recently started eating rice. She still needs pureed meats and vegetables [AB2/532]. The Court has every reason to believe that the majority of that food was not in fact consumed by TS. AUTONUMOUT Having regard to her age, the Court is of the view that a provision of HK$6,000 as food expenses for TS and HK$2,000 for dining out would be reasonable. The Applicant s food expenses will be dealt with separately under her claim for carer s allowance. AUTONUMOUT Despite the agreement that reimbursements should be made in accordance with the awards made by this Court, the Applicant argued in her closing

submissions that her claims for past food expenses were supported by receipts and were reasonable. She asked that reimbursements be made in accordance with the receipts. The fact that there are receipts does not mean that the expenses were reasonable. In fact, the Court has found her claimed expenses unreasonable. As was pointed out above, the Court does not accept that all the food was consumed by TS. Clothing/Shoes AUTONUMOUT The Applicant says that she would normally dress TS in some high end couture clothing/and or attire to attend playgroups and gathering with friends. The cost of TS s clothing was HK$20,000 per month. She explained that this was because TS attends playgroups filled with children from affluent families. It was therefore necessary for TS to maintain a certain level of appearance to integrate, socialize and form friendships with the other children [A1/25/ 61; A1/70/ 41]. Subsequently, the Applicant explained that TS suffered from social anxiety. Dressing her in expensive clothing would help TS to meet friends and form friendships [A1/220/ 97-99]. The claim was reduced to HK$15,000 per month in the Applicant s open proposal [A2/433]. AUTONUMOUT I do not think that the Applicant is seriously suggesting that TS should be dressed in couture clothing. Couture means made to measure. It involves flying over to Europe several times to be measured and fitted. A single item of clothing would cost hundreds of thousand dollars. I assume that the Applicant is referring to designer pr t-a-porter (ready to wear). She says that one set of casual clothing alone costs HK$15,870 [A2/220-221/ 97-99]. AUTONUMOUT The Applicant s argument under this head is ridiculous. Children do not care whether you are dressed in designer clothing or not. They will be friends with you if they think you are fun to play with. Further, TS would be going into full time education. There is agreement between the parties that she would attend one extra-curricular activity every day of the week. In addition, she has to continue multi-disciplinary training. In other words, she will be in school uniform most of the time. Under cross-examination, it appeared that it was not TS s schoolmates who are dressed in designer clothing. It was the way that the Applicant s friends dress their children. The Applicant s claim is extortionate. The Respondent s offer of HK$2,000 per month is reasonable. An award in that amount would be made under this head. Baby Essentials AUTONUMOUT The Applicant s claim is for HK$5,590 per month. The Respondent is offering HK$2,000 per month. A breakdown of these baby essentials was given in the Applicant s 3rd and 4th Affirmations [A1/229-230/ 102-104; B6/1843]. The two breakdowns are similar. They include items such as diapers, tissues, detergents, pacifiers and children crockery etc. The claim was maintained in the Applicant s proposal filed in January 2015. AUTONUMOUT Clearly, this claim cannot be justified. Dr Hannah Tsang assessed TS on 1 August 2014. According to her report dated 19 August 2014, TS was already toilet trained. Despite that, the Applicant is maintaining her claim for the cost of 8 diapers per day. It is difficult to see how TS could possibly use 32 pieces of wet tissues, 2 pieces of cleaning cotton, over 10 pieces of face cleansing tissue (75 pieces per week) as well as an unspecified amount of Dettol tissues and handkerchieves per day. AUTONUMOUT The amount of detergent allegedly used by TS is also staggering [B6/1843]. In her 3rd Affirmation, the Applicant stated that TS used 1 bottle of fabric softener, 1 bottle of bleach, 1 bottle of laundry liquid and 2 bottles of dishwashing liquid per month. By the time of her 4th Affirmation, the consumption of these items had at

least doubled, ie 3 bottles of fabric softener, 2 bottles of bleach, 4 bottles of laundry liquid and 3 bottles of dishwashing liquid. In fact, the consumption of laundry liquid had increased 4 fold. No explanation has been given for this increase. The consumption is wholly unreasonable. AUTONUMOUT In addition, the Applicant is also asking for a provision of HK$1,845 per month to cover the cost of TS s personal grooming. The Respondent is offering HK$1,000 per month. At the time, the Applicant stated that TS was using Mustela products (which was estimated to be under HK$1,000 per month). The Respondent agreed to that amount. Then Applicant that allegedly changed the products used by TS and is now claiming HK$1,845 per month. AUTONUMOUT The Respondent s offer of a total of HK$2,000 baby essentials and grooming products is reasonable and an award would be made in that amount. Travel AUTONUMOUT In her 1st Affirmation, contrary to her stance in respect of all other claims, the Applicant alleged that TS s health condition was stable and adequate. She therefore proposed to take her overseas for both educational and leisure trips 4 times a year (2 long haul and 2 short haul). She estimated that each trip would cost HK$35,000 (ie HK$11,666.67 per month). She also proposed to take TS to Ocean Park and Disneyland at HK$2,190 per month for 3 adults and 1 child [A1/28-29/ 71-72]. Further she was planning a 2 day trip to Macau and was also asking for costs of taking TS to play areas like Jumpin gym. AUTONUMOUT In her 2nd Affirmation, she maintained her claim of HK$11,666,67 per month as overseas travelling expenses for TS and her proposal to take TS to Ocean Park and Disneyland. In addition, the Applicant wanted to take TS to Singapore to have access with the Respondent once a month. She asked for a provision of HK$31,500 for this purpose (ie HK$26,000 for a return business class ticket and HK$5,500 for I night stay at the Raffles hotel). Online quotations for the ticket and hotel were produced [A1/68-69/ 33-37; B2/192, 194]. AUTONUMOUT TS was under 2 years of age at the time of this Affirmation. She would not even have to pay full Child s fare at that age. The quotation for the ticket was for full adult fare. The most expensive ticket was just over HK$21,000 and not HK$26,000 as alleged. This is another example of the Applicant s exaggeration of her claim. AUTONUMOUT The claim for overseas travelling expenses was reduced to HK$20,000 in the Applicant s 3rd Affirmation and Open proposal. In her 5th Affirmation, the Applicant argued that there was no evidence that the Respondent and his family only travelled by economy class for holidays. Unlike the Respondent, her relatives are in Los Angeles and Vancouver and she would like to take TS to visit them each year. She also complained that the Respondent was making no provision for TS to be accompanied by a helper during these trips. AUTONUMOUT Contrary to what is alleged by the Applicant, the Respondent has produced e-tickets to show that he himself regularly travels by economy class [B5/1506-1517]. AUTONUMOUT The Applicant says that unlike the Respondent, some of her family are in North America and she wants to visit them with TS every year. The Applicant s immediate family is in Hong Kong. There is no reason why she should visit other family members in North America every year. AUTONUMOUT The Applicant complained that it was wholly unreasonable for the Respondent to pay for a helper to escort TS on holiday. I disagree. The Applicant would be escorting TS on holiday. TS does not need another adult to take care of her. Taking a helper on holiday is for the comfort of the Applicant. AUTONUMOUT In the

circumstances of this case, the claim that TS should only travel in business class in unreasonable. Taking a common sense approach, a sum of HK$5,000 per month (ie HK$60,000 per year) would be awarded under this head. This would enable TS to have at least one long haul and 2 short haul trips per year. Entertainment AUTONUMOUT In her first 2 Affirmations, the Applicant stated that she wanted to take TS to Ocean Park and Disneyland. She asked for a provision of HK$2,190 as admission expenses for 3 adults and 1 child. AUTONUMOUT The Respondent immediately agreed to make provision for TS to visit these parks. However, he pointed out that the Applicant s claims were exaggerated. In fact, the cost of 3 adult annual passes would only amount to a yearly payment of HK$2,520 for Ocean Park and HK$7,560 for Disneyland. As for TS, admission was free, as she was under 3 years of age. He agreed to reimburse the Applicant for TS s annual passes once she is 3 years old. AUTONUMOUT The Applicant then alleged in her 3rd Affirmation that she was not aware of the availability of annual passes. She further explained that she had not exaggerated her claim but had merely taken into account that TS may incur other entertainment expenses that I was not able to predict exactly what TS might require . The Applicant s assertions was very hard to believe. AUTONUMOUT The Applicant also stated that she wanted to take TS to play areas like Jumpin gym. She was asking for HK$1,400 per month. In addition she was asking for HK$500 to attend children s birthday parties and expenses for TS s birthday party at the rate of HK$24,000 per year (ie HK$2,000 per month). Her total claim for TS s entertainment (including the agreed annual passes) was HK$4,924.16 [A1/218-219/ 91-93]. AUTONUMOUT However, by the time of her 4th Affirmation and open proposal, the claim for entertainment had increased to HK$6,280 per month [A2/433]. There was never any explanation for this increase. AUTONUMOUT There is no basis for the Applicant s claim of HK$6,280. The Respondent has already undertaken to provide the Annual passes. The only outstanding amount is HK$3,900. TS would be expected to bring a birthday present to birthday parties. The request for HK$500 per month for this purpose is reasonable. The claim for the cost of TS s own birthday party and other entertainment such as Jumpin gym are on the high side. A sum of HK$2,500 would be awarded. School Books, Stationery, Books and Toys AUTONUMOUT The Applicant originally asked for a sum of HK$8,000 per month for the cost of toys. She is now asking for HK$4,000 per month. The Respondent is offering HK$3,000 per month. AUTONUMOUT There is no dispute that TS would be trying to gain admission to an EFS school. This is an International school. School books and stationery are normally provided by the school. These are usually paid at the beginning of each school year. The Respondent has already undertaken to pay for all school related expenses. It is not necessary to make separate provision for the same. AUTONUMOUT TS would still need toys and some stationery to do homework. However, this would not cost anywhere near HK$3,000 or 4,000 per month. A provision of HK$1,500 would be reasonable. Private Club Membership AUTONUMOUT The Applicant wants the Respondent to rent a membership in a private club for TS. Originally she wanted membership at the Aberdeen Marina Club. However, it was clear from her own documents that such membership was not available for rental [B10/3323-3324]. She is now asking for rental of a membership at the American Club at HK$11,000 per month. AUTONUMOUT The

Respondent says that he and his family have no private club in Singapore or Korea. He admitted that he was a dependent member of the Hong Kong Golf Club and he subsequently became a member himself. He says that he only uses this club for business purposes and that his children do not use it. He has now provided TS with access to the Dynasty Club. AUTONUMOUT The Applicant argued that membership to a private club is a lifestyle where TS could sit around and spend leisure time with her family members. It is unrealistic to expect a child of TS s age to sit around and chit chat with family. She would at most be using the swimming club and playground. As far as the Court is aware, the Dynasty club has 2 swimming pools which cater for children s swimming lessons. There is a huge playground and at least 2 restaurants. AUTONUMOUT The Applicant objected to the Dynasty Club. She says the Respondent s father often uses this club and that she had previously been humiliated by him. She refused to consider any club other than the American Club (for example, the Repulse Bay Club or Parkview). AUTONUMOUT I do not agree that the Respondent s father had humiliated the Applicant in the incident she described. Many Chinese people believe that a person s fortunes can be affected by their name. The Respondent s father (who is also the grandfather of TS) was merely questioning whether TS s Chinese name was auspicious. This was an isolated incident which has not recurred. Further, despite the Applicant s stated wish of avoiding the Respondent s family, she has chosen to hold a birthday party for TS at a hotel owned by one of the listed companies controlled by the Respondent s family. AUTONUMOUT I am of the view that the provision of access to the Dynasty Club is sufficient. No award would be made. Life Insurance AUTONUMOUT The Applicant wants the Respondent to purchase a Life Insurance policy so that provision for TS (up to HK$30,000,000) would be guaranteed should anything untoward happen to the Respondent. At the hearing, the Respondent suggested making a will to provide for TS. That was unacceptable to the Applicant as the Will could be changed at any time. The Court was under the impression that the Respondent was agreeable to purchasing a life insurance policy with a diminishing return. However, it now appears from the Respondent s final submission that this item is still in dispute. The Respondent argued that TS would be protected under the Inheritance (Provision for Family and Dependants) Ordinance, Cap 481. AUTONUMOUT The Court will be making an award in these proceedings. It is difficult to see how any claim (in the sum of the Court s award) under Cap.481 could be disputed (whether in respect of liability or quantum) should anything happen to the Respondent before TS reaches majority. No award would be made under this head of claim. Trust Fund AUTONUMOUT In her 1st and 3rd Affirmations, the Applicant was asking the Respondent to set up a trust fund for TS. She stated that this was in keeping with most affluent families who would provide a substantial trust fund to be used to subsidize living expenses, a purchase of a home or for investment. AUTONUMOUT It appears that the Applicant is no longer pursuing this claim. For the avoidance of doubt, children (whether legitimate or not) is only entitled to be maintained until majority or when they finish full time education. Save in case of disability, they are not entitled to any financial provision beyond that. The Applicant s claim was clearly unsustainable. AUTONUMOUT The Applicant changed her stance in her 4th Affirmation. She asked that a trust fund be set up for non-

recurring expenses going forward. The nature of these non-recurring expenses are unclear. Mother s Allowance AUTONUMOUT In her closing submissions, the Applicant argued that since the Respondent has agreed to be fully responsible for the maintenance of TS, her own resources are irrelevant. I disagree. The Respondent has agreed to be fully responsible for TS. He has maintained his position that the Applicant s resources should be taken into account in respect of the carer s allowance. AUTONUMOUT The Applicant s claim is for HK$50,000 per month as carer s allowance. She says that she has no income or resources. The Respondent asserted that the Applicant had deliberately divested herself of her interests in the family business shortly before the commencement of these proceedings. He says that her resources should be taken into account. He further argued that the Applicant has a very high earning capacity and could return to work once TS is in full time education. AUTONUMOUT There can be no dispute that the Applicant would benefit from the accommodation, car, driver, domestic helper and household expenses which will be provided by the Respondent. Her carer s allowance would only cover her personal expenses. It appears that her food expenses were included under general household food expenses. An award was made for TS. The Applicant s own food expenses would be dealt with here. AUTONUMOUT There was no dispute that the Applicant came from a well off family and that she was the registered owner of a number of assets prior to the commencement of these proceedings. There can be no dispute that the Applicant s disclosure in her Form E was lacking in the extreme. She had failed to disclose her registered shareholding in KWE Co Ltd, various bank statements, security account statements, audited accounts of KWE and CNLG. AUTONUMOUT Apart from the Apartment, she is the registered joint owner of another property in North Point (her parents matrimonial home) with her mother. She estimated that the current market value of this property is HK$25,700,000. The Applicant says that she is merely holding this property on trust for her mother. This is a bare allegation. There are 2 mortgages on this property. The first mortgage is under the Applicant s name. She explained in her Form E that a second mortgage had been taken out by KWE Co Ltd (one of her family companies). The Applicant asserted that she had no knowledge of the details of the 2nd mortgage [A1/95]. There was no explanation was to why part interest in this property had to be held on trust and why the first mortgage was taken out under the Applicant s name. There was also no explanation as to how KWE Co Ltd could have obtained a mortgage without the knowledge or participation of the Applicant. AUTONUMOUT There is now no dispute that the Applicant was a registered shareholder of 50% of the shares in KWE Co Ltd. This was not disclosed in any part of her Form E [A1/90-113]. There was also no dispute that she allegedly transferred her shares to her father shortly before the commencement of these proceedings (on 31 December 2012). The Applicant explained that she was only holding those shares on trust for her father. This was again a bare allegation. AUTONUMOUT The Applicant says that KWE Co Ltd was worthless at the time of the transfer. According to its audited accounts, the company had net assets of over HK$47.5 million. It was evident from the audited accounts that a total sum of over HK$13.6 million was said to have been drawn by the Applicant from this company, with close to HK$5.5 million drawn in 2012 [B4/1297]. In view of those drawings, it was not surprising that the

company had little cash in hand. According to the Respondent, The Applicant refused to provide an explanation as to these drawings. It was only during her evidence at trial that she alleged that these sums were drawn by her father. This assertion is clearly contradictory to her statement of current account with KWE Co Ltd [B6/1629-1670]. The Applicant s father also had a current account with KWE Co Ltd. There was no reason why his drawings should be entered under her name. Further, it appeared from those statements that the drawings were actually made by the Applicant [B6/1629-1632]. AUTONUMOUT Contrary to what is alleged by the Applicant, the website of KWE Co Ltd stated that the company was expanding its business and is going to be the sole supplier of certain products in Hong Kong. The company also had a 10,000 sq ft factory in Dongguan with 100 workers [A1/175/ 103]. This assertion was never denied by the Applicant. AUTONUMOUT There can be no dispute that the Applicant has a high earning capacity. She asserted that she resigned from KWE Co Ltd in March 2012. However, she continued to receive payment of salary until December 2012. The Applicant alleged that these were in fact loans from KWE Co Ltd which have to be repaid. This was contrary to the audited accounts of the company. During this period, not only was the Applicant receiving salary, she was using the Car and the company driver. She alleged that the Car was sold to her. Her account of the purchase price was already inconsistent. There was no mention of any sum was due to the company for the sale of this Car [See related party transactions at B4/1301]. AUTONUMOUT The Applicant said that she would not be able to resume employment until TS s condition is stable. Contrary to what is alleged by the Applicant, it is evident from the medical reports she produced that TS s condition has been stable since the age of 1. She stated that TS would have to be closely monitored. However, TS would be attending full time education. In addition, she has 1 extra-curricular activity every day. This means that TS would be at school or at activities most of the day. It is simply impossible for the Applicant to directly monitor TS during these times. AUTONUMOUT The family business is clearly very accommodating. The Applicant stated that she was intending to take several months of maternity leave. Although she may not be able to resume her former role in the company, there is no reason why she could not take up a reduced position. It would be ridiculous to suggest that she would not even be able to earn HK$50,000 per month if she did resume employment. AUTONUMOUT The Applicant also alleged that she was suffering from depression and goiter [A1/195-196/ 25-27]. There was no suggestion that her goiter was unresolved. To the contrary, she was referred to a specialist. Her thyroid function was found to be normal [B2/523]. According to her 3rd Affirmation filed on 30 September 2013, the Applicant was still under medication for her depression. She did not disclose that she told the doctor that she was feeling better by 25 September 2012 and that she had stopped medication for a few months by 30 October 2012. She also failed to say that she was only then given medication for a further one month and that she did not consult the doctor for her depression again until 23 February 2013. She did not attend follow up until 9 May 2013. She was last seen on 27 June 2013. She was prescribed with 3 weeks of medication and the doctor never heard from her again after 16 July 2013. In other words, she should no longer be on medication when her 3rd Affirmation was filed. AUTONUMOUT The Applicant admitted that her family has been providing her with financial assistance but

insisted that those loans would have to be repaid. She also alleged that her relationship with her family has been strained as a result of these proceedings. It does appear that some of the alleged loans have been repaid to the Applicant s family, but only to be followed by further loans. Contrary to her assertions, it is apparent that not only has her family been condoning her unreasonable and extravagant spending, they are in effect funding these proceedings. The medical reports were clearly produced for the purposes of these proceedings. AUTONUMOUT There was no dispute that the Applicant is the beneficial owner of the Apartment. Shortly before the trial, she estimated that the market price of the Apartment to be HK$30,000,000 (disregarding the alleged additional stamp duty of HK$3,000,000). The mortgage was just over HK$9 million in 2013. It would be much lower in 2015. At the rate of HK$37,000 repayment per month, the outstanding mortgage should have been reduced by a further HK$880,000 by September 2015). Even assuming that the outstanding mortgage were HK$9 million, the net equity in the Apartment would be HK$21 million. AUTONUMOUT Assuming that the Court were wrong in respect of the Applicant s other resources, family loans and ability to resume employment and that she would have to repay her family HK$12.5 million [A2/423], she would still have HK$8.5 million. If her personal expenses were HK$50,000 per month, she would have sufficient resources for over 14 years (by which time, TS would have reached majority). Even if her personal were HK$100,000 per month, she would have sufficient resources for 7 years. AUTONUMOUT This is not a case where a carer s allowance should be awarded. Other Matters Education AUTONUMOUT As explained above, the Respondent has agreed to be responsible for all school related expenses, as well as one extra-curricular activity per day. The only dispute is whether the Respondent should provide the Applicant with a monthly sum, pay the providers directly or the Applicant by reimbursement. AUTONUMOUT For school related expenses, international schools usually ask parents to confirm the method of payment at the beginning of each school year. They will provide the requisite forms for autopay. The Respondent should make payments to the school directly. AUTONUMOUT Extra-curricular activities for young children do change from time to time. It would be unrealistic for the Respondent to pay the providers directly. However, the Applicant appears to have no sense of priorities or proportion. Despite her assertion that TS was fragile, TS s speech and motor delays and social anxiety, she enrolled her in 3 playgroups at the same time and expected her to learn several foreign languages. Her expectations for TS are wholly unrealistic. She seems to only follow what other parents are doing, in total disregard of TS s needs and abilities. In fact, the parents that she referred to are not normal or sensible parents, but what is in Hong Kong commonly referred t *`xs es should be paid by reimbursement. Such reimbursement should be supported by receipts. Medical Expenses AUTONUMOUT The Respondent has undertaken to pay for TS s medical and dental expenses. He would provide his solicitors with a float of HK$100,000. He has also agreed to consult with TS s treating doctors and therapists and to pay for treatment recommended by experts. However, there was still an outstanding claim for treatment of TS s alleged unbalanced skull. It was not clear whether such a claim has now been abandoned. AUTONUMOUT There was no reference to an unbalanced skull in any of the medical evidence produced by the Applicant. No documents were produced in support of the claim.

For the avoidance of doubt, no award would be made under this head of claim. Reimbursements AUTONUMOUT There was an agreement that the award for monthly expenses would be backdated to cover past expenses incurred for TS s benefit. However, some of the items are non-recurring items. AUTONUMOUT The Applicant is claiming HK$545,576 for renovation expenses for the Apartment. According to her 1st Affirmation, the cost of renovation was just over HK$448,000. In her Form E, she asserted that the renovation costs were HK$1,448,805.58 [A1/94]. The basis of her claim for HK$545,576 is unclear. The alleged renovation costs also appear to include the purchase of Samsung Galaxy cellular telephones [B6/848-849]. Two receipts were produced but they appear to be copies of a receipt for the same telephone. The IMBI number of these telephones are the same. It is unclear who was using this telephone. AUTONUMOUT The Court is awarding HK$80,000 as rental for accommodation. In fact, from April 2012 to August 2013, the accommodation costs were only HK$42,620 (ie HK$36,400 for the mortgage repayments, HK$2,700 for management fees, HK$1,700 for car park rental and HK$1,821 for rates). In other words, if the award were backdated, there would be excess reimbursements of HK$635,460 (ie HK$37,380 per month x 17 months). This is already in excess of the alleged renovation costs (be it HK$448,000 or HK$545,000). No award would be made under this head. AUTONUMOUT There is a claim for HK$1,040 for the application of an identity card. This sum is reasonable and would be reimbursed. Security AUTONUMOUT The Applicant is asking that the periodical payments be secured. She says that the Respondent has no assets in Hong Kong and that he has told her that he will leave Hong Kong to avoid payment. AUTONUMOUT Save for the medical and educational expenses which were disputed, the Respondent has complied with the order for interim maintenance dated 18 November 2013. In fact, he has been paying a sum of HK$80,000 since January 2013 (ie prior to the commencement of these proceedings). In those circumstances, it is unlikely that he would fail to comply with court orders. AUTONUMOUT Although the Respondent has no substantial assets in Hong Kong, he receives a salary from both CTFJ and NWD at HK$315,480 and HK$108,750 per month. His salary is more than sufficient to cover the periodical payments for the Child. The Applicant argued that the Respondent could request for payments to be made overseas. If the Respondent defaults in payment, the Applicant could apply for an attachment of earnings order. AUTONUMOUT In my view, there is no reason for the payments to be secured. Accounts AUTONUMOUT It is apparent to this Court that the Applicant s claims were wholly exaggerated. She was in fact trying to obtain benefit for herself to which she was not entitled. This is a clear case where she should be asked to account to the Respondent and provide receipts for TS s expenses. This will be done on a yearly basis. Summary of Award AUTONUMOUT A summary of the award for future expenses is as follows: Periodical Payments for the Child Accommodation HK$80,000 Utilities and General Household HK$7,000 Household insurance HK$163 Domestic Helper HK$6,000 Driver and car expenses HK$25,000 Tonic Food HK$800 Food HK$8,000 Clothing HK$2,000 Baby Essentials HK$2,000 Holidays HK$5,000 Entertainment HK$2,500 Stationery, books and toys HK$1,500 Total HK$139,963 (rounded up to HK$140,000 per month) Lump Sum Cost of Setting up New Home HK$300,000 Cost of New Car HK$535,000 Cost of identity

card HK$1,040 Total: HK$835,040 Costs AUTONUMOUT The Applicant s claims were extortionate. The case would not have come to Court had she been more reasonable. On the other hand, some of the concessions were only made by the Respondent very close to the trial or during the trial (eg the school debenture, payment for outreach treatments, laser treatments, access to private club). In those circumstances, there will be no order as to costs, such order shall be in the form of a costs order nisi, to be made absolute if no objections are received within 14 days.

Orders

AUTONUMOUT Upon the Respondent s undertaking to the Court and the Applicant to consult with the Child s doctors and therapists and to follow their recommendations; and Upon the Respondent s undertaking to the Court and to the Applicant to pay for all of the Child s medical expenses; and Upon the Respondent s undertaking to the Court and to the Applicant to provide his solicitors with a sum of HK$100,000 as a float for reimbursement of medical expenses and cost of therapy and to top up such sum before it is fully expended; and Upon the Respondent s undertaking to the Court and the Applicant to pay for all school related expenses (inclusive of educational tools such as school books and stationery at school and uniforms) directly; and Upon the Respondent s undertaking to the Court and the Applicant to reimburse the Applicant for one extra-curricular activity per day upon the production of receipts; and Upon the Respondent s undertaking to the Court and the Applicant to provide the Child with Annual Passes for 3 adults and 1 child to Disneyland and Ocean Park every year unless varied by consent or until further order; and Upon the Parties agreement and the Respondent hrhr gdC hu.K hu.K hu.K }r}f }r}f zqgq teZeN |q|e vkv_ h`<? h`<? h`<? h`<? h`<? h`<? h`<? gd`<? hDZ% h`<? h`<? h`<? h`<? h`<? hDZ% hDZ% hDZ% hDZ% hDZ% hDZ% hDZ% hDZ% hDZ% ndertaking to the Court and to the Applicant that past expenses incurred for the Child shall be backdated and reimbursed to the Applicant at the rate ordered as monthly periodical payments in these proceedings; and Upon the Applicant s agreement that any previous payments made by the Respondent shall be taken into account in the calculation of reimbursements; and Upon the acknowledgement by the Applicant that any shortfall for the cost of medical treatment and therapy up to 11 March 2015 has been paid by the Respondent; and Upon the acknowledgement by the Applicant that any shortfall of education expenses had been paid on 9 February 2015; and Upon the acknowledgement that a total sum of HK$540,000 had been paid by the Respondent as reimbursement for past general expenses incurred for the Child; and Upon the Applicant s acknowledgement that the Respondent has made payment of interim maintenance for the Child pursuant to the Order of Deputy District Judge S. Lo dated 18 November 2013. IT IS ORDERED THAT: The Respondent shall pay a sum of HK$140,000 per month to the Applicant as periodical payments to the Child until the Child reaches the age of 18 or completes full time education, whichever is the later; The estate agency fees and rental deposit for the rental of future accommodation for the Child shall be borne by the Respondent; The Respondent shall pay a lump sum of HK$834,000 as the cost of setting up a new home and purchase of a new car; The Respondent shall reimburse the Applicant a sum of HK$1,040 for the cost of the Child s identity card; Reimbursement of past expenses shall

be made within 28 days hereof; Liberty to apply; and There shall be no order as to costs, such order to be in the form of an Order Nisi, to be made absolute if no objections were received within 14 days. (A. N. Tse Ching) Deputy District Judge Mr. Benjamin Yu, SC leading Ms. Sara Tong instructed by Stevenson, Wong & Co for the Applicant Mr. Richard Todd QC leading Mr. Jeremy Chan instructed by Chaine Chow & Barbara Hung for the Respondent PAGE - PAGE - A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V umimimimiY &`#$ gdC gdC gdC &`#$:pZB :p4m3 [Content_Types].xml _rels/.rels theme/theme/themeManager.xml K Y, sQ}# theme/theme/theme1.xml $O}) Xp90 +PHI| PP yu 9xu5 fs+W VF7H q=. 8}d- qyI@ j!Q_ jyV` |PZ+ T ""p < 4V O&x$ A8>v ;EUC n 8r *~P(5 .}x E /,EE\} theme/theme/_rels/themeManager.xml.rels 5 6?$Q K(M&$R(.1 [Content_Types].xmlPK _rels/.relsPK theme/theme/themeManager.xmlPK theme/theme/theme1.xmlPK theme/theme/_rels/themeManager.xml.relsPK <?xml version="1.0" encoding="UTF-8" standalone="yes"?> <a:clrMap xmlns:a="http://schemas.openxmlformats.org/drawingml/2006/main" bg1="lt1" tx1="dk1" bg2="lt2" tx2="dk2" accent1="accent1" accent2="accent2" accent3="accent3" accent4="accent4" accent5="accent5" accent6="accent6" hlink="hlink" folHlink="folHlink"/> |xf 3# hL4T :TBmtdH 3# h :TBm 6 Mn u[Ho FEpCi >M6} 4LaG4LaG & 6" CACV Judiciary English.dot Windows User Microsoft Office Word Judiciary CACV Title Microsoft Word 97-2003 Document MSWordDoc Word.Document.8

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