

HONG KONG / JUDGMENT

MJP v. JWP

COURT

Family Court

DECIDED

30 October 2009

CASE / FILE NUMBER

FCMC9154/2008

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bjbj FCMC 9154 / 2008 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION MATRIMONIAL CAUSES NUMBER 9154 OF 2008

BETWEEN MJP Petitioner and JWP Respondent

Coram: Her Honour Judge Sharon D. Melloy in Chambers (Not open to public) Dates of Hearing:
2-4 and 14-16 September 2009 Date of written closing submissions: 28 and 30 September 2009
Date of the Respondent s Reply to the Petitioner s Closing submissions: 6 October 2009 Date of
oral closing submissions: 8 October 2009 Date of Judgment: 30 October 2009

J U D G M E N T

Introduction

AUTONUMOUT This is an application by a Respondent Mother for leave to permanently remove the three children of the family out of the jurisdiction of Hong Kong in order to relocate with them to the United Kingdom. The children are aged 9 3/4, 8 and nearly 6 years old respectively. The Father opposes the Mother s application. He wishes the children to remain in Hong Kong and for their care to be shared between the parties on a more or less equal basis. AUTONUMOUT This is a high conflict case, where three young children have been caught in the middle of an escalating dispute between their parents. The dispute largely centres on them. There are no assets to speak of and money is tight. AUTONUMOUT The parents are both intelligent and articulate people, who started out with the very best of intentions. They intended to do things their way . Understandably they did not wish to involve either lawyers or the courts. For whatever reason this has not been possible and the parties have been in and out of court on a frequent basis since October of last year, seemingly finding it impossible to resolve issues largely

concerned with access. This is despite being ably assisted at times by a very experienced team of professionals, including a highly regarded lawyer mediator, various psychologists and specialist family lawyers. AUTONUMOUT The father has consistently sought more access and in particular staying access and the mother has more often than not resisted, generally because she did not believe that what was being proposed was in the children's best interests. AUTONUMOUT The difficulties were compounded when the Mother went to the United Kingdom over Easter for a holiday and did not return. Consequently the Father issued Hague proceedings in London. The Mother and the children eventually returned to Hong Kong in compliance with Court orders from both jurisdictions. AUTONUMOUT Other factors include the fact that the Father has quickly formed a second family with his cohabitee, with one young child and a second baby being born recently. In addition his original company ran into financial difficulties and has gone into liquidation causing further emotional and financial strain. AUTONUMOUT The children, as I have said, have been caught in the middle of all of this and have on occasions reacted in very extreme ways, to what on the face of it seem to be fairly uncontroversial interim access orders. It has not always been clear why this was so. AUTONUMOUT Against this backdrop the court is now charged with determining the Mother's application for leave to permanently remove the three children of the family out of Hong Kong in order to relocate with them to the United Kingdom. She also seeks sole custody and care and control, with defined access to the Father. The Father seeks joint custody and joint care and control. What then are the main issues? AUTONUMOUT Should permission be given for the children to leave Hong Kong in order to relocate to the United Kingdom with their Mother? How should the issue of custody and care and control be determined given my findings in relation to 1 above? How should the children's time be allocated between their parents? Background to the marriage AUTONUMOUT The parties are both from England. They met in 1984 as students at Manchester Polytechnic. The Father is now 45 and the Mother a few months younger. In September 1985 they started to cohabit and in 1988 they purchased a home together. In 1994 the Father relocated to Hong Kong, with the Mother following shortly thereafter. By all accounts it was a mutual decision, with the expectation initially that they would live in Hong Kong for two or three years. They sold their home in England. Both found jobs in Hong Kong. In September 1997 they eloped and married in Venezuela. It is acknowledged by both parties that they each wanted to have children and that was the main reason for the marriage. The parties have therefore lived in Hong Kong for over 15 years. All three children were born in Hong Kong. AUTONUMOUT The eldest child G, a boy, was born in December 1999, F, a girl, followed in August 2001 and last but not least S, also a girl, was born in November 2003. The children are all British by descent and hold British passports. AUTONUMOUT Both parties acknowledged that significant cracks appeared in their relationship after they had the children, although understandably both saw this from their own perspective. The Mother complained that the Father wished to continue to live a bachelor lifestyle. The Father said in his first affidavit that our relationship broke down in 2002/2003 when it became increasingly difficult for me to get along with J. AUTONUMOUT In any event the Father acknowledged whilst giving evidence, that by the end of 2004 he had begun an affair with his work colleague Ms M, with whom he now lives. They have two small children together. On or about the 1 March 2007 he moved out of the matrimonial home. Ms M became pregnant shortly

thereafter. The first child was born in March 2008. AUTONUMOUT Initially, as I have said, the parties intended to do things their way and it was agreed, although according to the Father somewhat reluctantly, that access was to take place as follows: I was to have 1 full day access with the children and J [the Mother] was to be present. I was allowed general and open access to the former matrimonial home to spend time with the children for meals, bath time, story time and the like. I had access to the former matrimonial home until Easter 2007 at which time J advised me I was no longer welcome in the home. Possible stayovers [staying access] wherever the children were living/holidaying. No restriction on telephone calls. J and I were to have 1 meeting every 2 weeks to discuss the children, financial matters and other general matters as necessary. We started doing this but the meetings then became once a month and ultimately we ceased having them altogether as they became too stressful when we were unable to agree on most matters. AUTONUMOUT As noted above, relations deteriorated significantly when the parties had an argument over plans for the children for the Easter holiday period in 2007. By all accounts the argument became physical and the Father sustained minor injuries. The children witnessed some of the aftermath. After that relations became even more strained. The Father was no longer welcome at the former matrimonial home. The Father generally saw the children on Sundays during family days often in the presence of the Mother. Access continued to be very problematic. Mediation was tried, but failed. The litigation AUTONUMOUT The Father issued divorce proceedings on the 4 August 2008. On the 29 August 2008 he issued a summons for joint custody and joint care and control. He also sought access to be increased on a gradual basis. In the Mother s Form 4 she indicated that she sought sole custody of the children. AUTONUMOUT The consistent theme throughout is that the Father has wanted a clearly defined schedule for access, with regular staying access, ultimately leading to shared care. AUTONUMOUT The Mother s position, which she has also consistently held, is that access has to be introduced gradually and at the children s pace. She denies that she has obstructed access, but rather that she has simply sought to introduce access that was appropriate, gradual and child centric. AUTONUMOUT On the 18 November 2008 I gave an interim Ruling allowing the Father access on Tuesday s and Thursday s after school and on one day over the weekend. At that stage access was extremely difficult, with G in particular refusing at times to see his Father. AUTONUMOUT On the same date the parties decree nisi was pronounced. On the 8 December the Mother started to act for herself. A further order was made on the 11 December 2008. Access was to continue along the same lines as before. AUTONUMOUT It was also agreed inter alia that there should be a jointly appointed experts report prepared to assist the court at the adjourned hearing, which was initially due to take place in February. AUTONUMOUT On the 13 February Dr B filed the jointly requested psychologist s report. She made the following recommendations: RECOMMENDATIONS It is highly recommended that all members of the family work with a therapist who specializes in children and families. This therapist should attempt to aid communication between the parents, assist with calming the emotional levels of adults and children, and address cognitive distortions experienced by the children (e.g. the perception that their mother may disappear or that their father left because he did not care about them). The children may be introduced to the notion that their parents may disagree about many things and still both remain good people, and that the children are not required to agree with either parent at least until they are adults. While both

parents have different beliefs, values and parenting styles, they are encouraged to help the children to view the positives rather than the negatives of the other parent's style. (Even parents who live together often have different methods, as they are rarely clones of each other. Co-parenting often requires parents to be supportive of the other's views or rules even when they admit to disagreeing with them. This is one way in which children learn that they must respect their parents even when they do disagree, which is an important lesson to have learned when they become teenagers.) Although it is usually a good idea to respect and respond to the views of children when considering important life decisions, this should not extend to decisions concerning visitation or access. There are two important reasons for this. First, having a child make the decision about visitation places him or her in an untenable position in which the child perceives that he or she must hurt one parent or the other. This causes serious problems with self-esteem and self-perception, as well as anxiety and guilt. Even adults would have difficulty with such a difficult social problem, if faced with choosing between two friends. To a child, parents are far more important and the rejection of a parent is a very serious undertaking. This is an enormous burden to place on a child and can have serious consequences over time. Second, giving the child a choice of determining access or visitation seriously undercuts the authority of both parents. Over time, parents can become fearful of exerting authority, insisting upon compliance with rules, or requesting the completion of certain duties, chores or homework. When the child is given control over visitation choices, roles within the family become blurred or reversed as parents may avoid displeasing the child in fear that the child will then threaten to discontinue visitation or will threaten to choose to live with the other parent. Hence, it is not good for the children and not good for the parents to allow the children to feel responsible for this choice. It is recommended that the court make these decisions if the parents are unable to come to agreement, and that a gradual increase in access follow a determined timeline. It is recommended that the current level of access be continued through the month of February. At that point, the children will have had several months in which they have visited their father for short periods after school on two days a week and for a longer period during the day on weekends. It is true that these visits are somewhat constrained because the children do not have an opportunity to have a bedtime chat, watch a late movie, get up in the morning and relax through breakfast, or perform any of the normal activities that may serve to increase their comfort level with their father. However, their current level of anxiety concerning having to stay at their father's home means that a move to the next step (overnight stays) must be approached with a degree of caution and sensitivity. During March, it is recommended that the children spend one night and the ensuing day with their father, at a place away from home (e.g. Disneyland or another vacation spot). This might be repeated twice during the month of April, once during the Easter holiday. After two or three of these away-from-home visits, the children should stay at their father's house during two weekends a month. By that time, they will also have benefited from family therapy and from their mother's assurances that she will not be lost to them when they stay with their father. During summer, the children should stay with their father during two week-long visits. Again, it would be helpful if the first of these were away from home and the second were at their father's house. It is recommended that these visits be only one week each, as the children's subjective perception of that time is that it is very long. For the same

reason, it is recommended that any travel outside of Hong Kong that the children might take with their mother be limited to two weeks so that the children do not go without seeing their father for several weeks. Particularly for S, an absence of several weeks will seem very long and will attenuate her relationship with her father and his family. In addition to their two week-long Summer visits, the children should also continue to spend two weekends a month at their father's house when they are in Hong Kong. It is recommended that this level of access (two weekends a month and two after-school afternoons per week) be continued for a period of six months. At that time, the situation should be reviewed and any further necessary adjustments made. For example, longer stays during holidays and half of the following Summer would be appropriate next steps. Parents are encouraged to communicate with each other concerning events or problems encountered during their time with the children. They may use a notebook for this communication, sending it back and forth with the children. It is advised that they read these messages from the other parent in a place away from the children, at least until their emotional level is more calm. Parents are encouraged to make a good faith effort to comply with the daily routines of the children, even when they do not agree with them. For example, the children currently have an early supper when they return to their mother's home after school. Because this occurs three times a week, it would be helpful if they had an early supper (or substantial snack) when arriving at their father's home after school on Tuesdays and Thursdays. Parents are encouraged to reframe potential negative perceptions held by the children. For example, children may recognize that they are lucky to have two homes even if they spend more time in one. If parents note that children are becoming distressed by a topic, they should let the topic rest, note the potential distortion or misunderstanding, and discuss this in therapy. Finally, it is recommended that the parents continue attempts at mediation or other methods for reaching rapprochement in key issues as soon as possible, so as to resolve them and calm the emotional levels currently being experienced on both sides. Children sense and experience these emotional extremes, and they are currently sensing that their parents are in a state of emotional distress or anger. This lessens the parents' effectiveness as caregivers, and it is in the children's interest that parents gain a calm emotional level so as to be able to normalize this difficult situation for the children. AUTONUMOUT Partly on the basis of that report the court made an order, by consent, gradually increasing access over time. There was also a therapeutic element and each party agreed to have therapy with Dr B for four hours per month and to contribute towards the cost of that therapy. The parties agreed to attend that therapy in good faith and to refrain from discussing the Father's access with the children directly. In addition to twice weekly access, staying access was gradually introduced, starting with one overnight and leading to weekend staying access. Two week long periods of access were put in place for the school summer holidays. AUTONUMOUT The Mother went to the United Kingdom over the Easter period and failed to return as agreed. She eventually returned on or about the 19 June 2009. Consequently the terms of the order and the spirit of the recommendations made by Dr B were not complied with. AUTONUMOUT Access resumed on the children's return but remained problematic. Dr B was again called upon to assist. A joint letter of instruction was written, but the Mother opposed the response from Dr B on the basis that it went outside the scope of the original joint letter of instruction. After hearing argument I allowed the letter to be produced. Dr B recommended as

follows: Re: FCMC 9154/2008 To Whom It May Concern: I have been asked by the court to give my professional opinion concerning the visitation access for the children of MP [the Father] and JW [the Mother]. In doing so, I would refer to my psychologist's report submitted in January of 2009 in reference to this case. In that document, I advised a slow but steady increase in access for the father, MP. While both would have been preferable, the emphasis must be on steady (over slow), with an eye towards normalizing the children's relationship with their father and strengthening their bond as quickly as possible. The children are currently in an untenable position one that is causing them great psychological stress and they have been in this position since the inception of this case! The more quickly the relationship with the father is normalized, the more quickly the entire family can move forward to arrangements that suit everyone. My opinion is further strengthened by information I gained during the time that Ms. W was in the United Kingdom. During that time, hours had been reserved for the treatment of the children and, as they were not here, I asked to speak to the family's domestic helper in order to gain more insight into the children's behaviour at both their father and their mother's homes. The domestic helper had lived in the family home, and had accompanied the children to their father's home. It was her conviction that the children enjoyed themselves at their father's home and had arrived at a point where they were no longer nervous about going there. However, she also stated that when she returned to Ms. W's home after visits, she was instructed by Ms. W to write pages and pages of detail about each visit, including such things as seating arrangements at the cinema if the father had taken the children to see a movie, the number of steps in the father's house, and precise details of who spoke to whom and what was said. She said that the children were also asked to verbally recount everything that had occurred at their father's house. When asked if the children were nervous on Saturday mornings, she said that they were because the mother shouted at them, saying 'd better hurry or your father will bully me again. While it is entirely possible that this person was being untruthful to me, if these things are true they signal a great deal of continued emotional stress on the part of Ms. W related to the children's relationship with their father. However, the children must be removed from the middle of this situation and allowed to love both of their parents. This being the case, it is my opinion that the access recommendations should be renewed as vigorously as possible. To resume visitation as it was before their trip would put the timetable for the children back many weeks, causing continued stress and anxiety over a much longer time. Further, as Ms. W has made clear her desire to return to the UK, access over the summer must take into account this intention and ultimate goal on her part. I would strongly recommend against this move until the relationship with their father is firmly established and normalized. Under the current circumstances, if the children moved with their mother to the UK they would subjectively experience the complete loss of one parent. This subjective understanding might indeed approximate reality, as extended visits or the establishment of a relationship would be extremely constrained, expensive, or simply impossible. The children are not yet sufficiently comfortable to leave their mother in one country and travel to another for weeks at a time, and will be even less comfortable if they are visiting a stranger after an extended absence. Once the relationship has been sufficiently strengthened, it will be possible for Ms. W and the children to return to the UK and for the children return to Hong Kong to visit their father for a majority portion of school holidays. For this reason, access

should be proactively increased as quickly as possible so that Ms. W may eventually return to her extended family and home while Mr. P may look forward to long periods of access with the children. This will ultimately benefit everyone. I also recommended that both parents undertake to refrain from asking any questions about the children's time at the other parent's home, and to redirect conversations initiated by the children about their time at the other parent's house. While this is not a recommendation I would make in the long term, because honest and calm communication of each parent's views and feelings is ultimately helpful and clarifying, in the short term the potential for these conversations to be used in court (causing the children to feel guilt) or to cause distress to the parents imparts to the visits a sense of importance that they should not have. Further, the children may believe that they should produce something negative and that this will please their parent. Their anxiety stems in part from a duty to report their experiences and a sense that they are betraying one or the other parent. Ultimately, this will also affect their self-concept as they will find it difficult to explain these dual and conflicting relationships. AUTONUMOUT Dr B made certain specific recommendations. I subsequently gave a ruling, which reintroduced access, but not quite at the pace envisaged by Dr B. Weekend staying access was set in motion and the children also spent a week with their Father in August. In addition the Father was able to take additional time off over the summer and normal access on Tuesday's and Thursday's was increased so that he was able to spend all day with them. AUTONUMOUT This then is where the matter stood at the time of the trial. Access had as far as possible been normalized. The Mother was not reporting the same level of anxiety from the children as before. Discussion AUTONUMOUT I must now turn to consider the issues, the law and the parties' evidence as set out in their affidavits and as given orally by them during the hearing. I also heard evidence from two social welfare officers who each filed a report, the first from Mr L filed in December 2008 and the second from Ms C dated the 26 August 2009. I have also heard evidence from the father's cohabitee, Ms M and from Dr B, who appeared as the father's witness. The parties' former domestic helper, R, also filed an affidavit, but was not called to give oral evidence. The mother called her GP Dr H and I also gave leave for Ms G to give limited oral evidence on behalf of the wife, mainly in relation to possible forms of counselling that might assist the parties going forward. The Children's Behaviour AUTONUMOUT To put this case into its proper context I think it is important to briefly indicate how the children were behaving during the period prior to and following these initial orders. When the matter first came before me there were clear difficulties. G in particular was refusing to see his Father. He was 8 years old at the time. AUTONUMOUT In the Mother's second affirmation she exhibits extracts of a diary in which she records what the children were saying and doing between August 2008 and January 2009. The diary makes for very difficult reading. The children are clearly distressed, G in particular seems very concerned about the court proceedings. There are big emotional scenes with G refusing to go to access. He seems very angry. The constant theme is that Daddy doesn't love us and that he hates Daddy. G also threatens to kill himself and others; he says the Father is mean and bullies him and that he lies. On occasions G and F refused to get dressed on access days. Handovers during access were extremely emotional. On one occasion G and F hid on the school bus when their Father went to school to pick them up. During her evidence the Mother said that she did not know if any of this was actually true or what was really going on, but that this is what the children

were reporting. AUTONUMOUT The reasons for this behaviour have been interpreted differently by each of the parties. AUTONUMOUT The Father maintains that the Mother is alienating the children from him. He says in effect that it is her fault that the children behaved as they did at that time and as they have continued to do at various stages during these proceedings. He says inter alia that she did not promote his role as a parent, that she undermined him and allowed the children to make decisions about the access arrangements. During his oral evidence the Father said that the children were clearly messed up AUTONUMOUT The Mother for her part took the view that the children were acting out because access was progressing too quickly. This is why she consistently tried to slow access down. AUTONUMOUT Ms G for the Mother said that it should not be discounted that this was the children's own reality. AUTONUMOUT Dr H, the Mother's GP recounted an incident in which G was extremely distressed. To a large extent this backs up the Mother's own observations as set out in the diary extracts. AUTONUMOUT In Dr B's report she offers some insight into this behaviour, after having seen both of the parties and the children. She assessed all three children using standardized testing. DISCUSSION The Children are fortunate in that they have two parents who are very concerned with their welfare and who want to be with them, as well as a stepmother who is supportive of them and their relationships with their father and half-sister. They are also fortunate in that attempts have been made in both homes to create an accepting, amusing, and nurturing environment for them. G and F are both within a developmental period in which they reason and perceive moral issues very concretely. They tend to understand these issues as having dichotomous solutions, i.e. right or wrong, good or bad. It is therefore very confusing to them to have two authority figures who are in disagreement or conflict. This is particularly true for G, as he feels even less able than other boys his age to accept opposing views or to believe that others will like him if his views differ from theirs. In addition to the cognitive confusion caused by disagreements between their parents, all parties remain extremely emotional when dealing with each other and with issues surrounding the divorce, visitation and custody. While there may be valid reasons for these feelings, the resultant effect on the children has been a sense of catastrophe and insecurity. They are internalizing a high level of anxiety (in G's case) or guilt (in F's case). When viewing their parents in distress or out of control, children often understand, mimic, and even exaggerate the level of emotion conveyed by the parent rather than the words that are spoken to them. Hence, when they see their father or mother upset or angry, what the children feel is a sense of danger. Because their father participated in family days over a long period of time, his current refusal to participate in these days is perceived by the two older children as a second abandonment. It is of note that they apparently did not fear him or dislike him while he was participating in those outings, and they were not upset to see him on the days he joined them with their mother. Hence, their current emotional turmoil seems more indicative of a perception that she is being excluded or disregarded when she is not included in their father's time with them, rather than an actual dislike of their father or his partner. As is typical in cases of separation anxiety, they may fear that their mother will disappear or become unavailable while they are away from her. It is not unusual that S, at the age of 5, is relatively unaffected by the emotional turmoil surrounding the divorce. Her father moved out of the home almost a year ago, which constitutes about a fifth of her life. At her age, she is still constructing her view of how the world is supposed to look, and

her father's absence from the home forms part of that conceptualization. However, unless the emotional levels of those around her (adults and siblings) are normalized, it is likely that S will begin to reflect the same anxiety or sense of guilt that her brother and sister are experiencing. AUTONUMOUT At the end of the trial, Mr Poll for the Mother ventures to suggest that

10. The phobic reactions are in the past. There is no evidence the Children were or are being alienated from the Father. Quite simply they did not like or approve of the way the Father had behaved in leaving the family. As G said when speaking of his Father he loved her more than he loved all of us and that says it all. The Children have no problem with other people, school etc., only in coming to terms with their Father's behaviour. AUTONUMOUT As is often the case, it seems to me that the real reasons for the children's extreme behaviour may never be truly known. In any event it now seems to be the case that the children are beginning to enjoy their time with their Father and that it is on a more stable footing than before. The Law AUTONUMOUT Both parties have referred me to the same principles on relocation. Reference may also be made to *M v B*, FCMC 6078/2008, presently unreported. Although English authorities are no longer binding on us, they are clearly persuasive and have consistently been relied upon by our own courts when determining relocation cases. In *M v B*, my brother Judge referred to the way in which the case law has developed in this area, beginning with a reference to the 1970's case *Poel v Poel* [1970] 1 WLR and to a number of cases that have followed since. AUTONUMOUT However it is the more recent cases that are of particular interest, especially those where guidelines have been developed in order to assist both practitioners and the courts. In *Payne v Payne* [2001] EWCA Civ 166, the Court of Appeal set out the following guidelines. My fellow Judge has relied on these in *M v B* and I did likewise in *M v M* FCMC 11230/08 also presently unreported and pending cross appeals. Both parties have referred me to the same guidelines when in *Payne v Payne* The Right Hon Lord Justice Thorpe said as follows: To guard against the risk of too perfunctory an investigation resulting from too ready an assumption that the mother's proposals are necessarily compatible with the child's welfare I would suggest the following discipline as a prelude to conclusion: Pose the question: is the mother's application genuine in the sense that it is not motivated by some selfish desire to exclude the father from the child's life. Then ask is the mother's application realistic, by which I mean, founded on practical proposals both well researched and investigated? If the application fails either of these tests refusal will inevitably follow. If however the application passes these tests then there must be a careful appraisal of the father's opposition; is it motivated by genuine concern for the future of the child's welfare or is it driven by some ulterior motive? What would be the extent of the detriment to him and his future relationship with the child were the application granted? To what extent would that be offset by extension of the child's relationships with the maternal family and homeland? What would be the impact on the mother, either as the single parent or as a new wife, of a refusal of her realistic proposal? The outcome of the second and third appraisals must then be brought into an overriding review of the child's welfare as the paramount consideration, directed by the statutory checklist insofar as appropriate. In suggesting such a discipline I would not wish to be thought to have diminished the

importance that this court has consistently attached to the emotional and psychological well being of the primary carer. In any evaluation of the welfare of the child as the paramount consideration great weight must be given to this factor. The President, Dame Elizabeth Butler-Sloss, added- In summary I would suggest that the following considerations should be in the forefront of the mind of a judge trying one of these difficult cases. They are not and could not be exclusive of the other important matters which arise in the individual case to be decided. All the relevant factors need to be considered, including the points I make below, so far as they are relevant, and weighed in the balance. The points I make are obvious but in view of the arguments presented to us in this case, it may be worthwhile to repeat them. The welfare of the child is always paramount. There is no presumption created by section 13(1) (b) in favour of the applicant parent. The reasonable proposals of the parent with a residence order wishing to live abroad carry great weight. Consequently the proposals have to be scrutinised with care and the court needs to be satisfied that there is a genuine motivation for the move and not the intention to bring contact between the child and the other parent to an end. The effect upon the applicant parent and the new family of the child of a refusal of leave is very important. The effect upon the child of the denial of contact with the other parent and in some cases his family is very important. The opportunity for continuing contact between the child and the parent left behind may be very significant. All the above observations have been made on the premise that the question of residence is not a live issue. AUTONUMOUT In this instance of course residence, or care and control, is very much a live issue. AUTONUMOUT I referred in M v M FCMC 11230/08 to a series of cases subsequently decided by the Court of Appeal in England and Wales, from which it can be seen that each case is decided on its own facts, in accordance with the guidelines set out above. It should also be noted that there is no presumption in favour of the parent wishing to relocate. However it is also accepted that, as stated by the Mother in her closing submission in the case of F v H (Children: relocation) [2008] 2FLR 1667 that Held

- (1) The bar as to practicalities to be jumped by a relocation applicant was set at a wide variety of heights depending on the facts and circumstances of the case. In this commonplace category of cross-border family creation in which the primary carer was returning to a completely familiar environment the bar was set considerably lower than in the case of an applicant who in pursuit of some dream or ambition was proposing to take the children to an unknown and untried environment. The bar was set particularly low if the primary carer was returning, as in this case, to a completely familiar home after a brief absence AUTONUMOUT I am also mindful that the welfare of the child is always the court's paramount consideration and that as stated in Payne refusing the primary carer's reasonable proposals for the relocation of her family life is likely to impact detrimentally on the welfare of her dependent children therefore her application to relocate will be granted unless the court concludes that it is incompatible with the welfare of the children Should permission be given for the children to leave Hong Kong in order to relocate to the United Kingdom with their mother? Is the mother's case genuine in the sense that it is not motivated by some selfish desire to exclude the father from the children's life?

AUTONUMOUT It is the Father's case that the Mother's desire to return to the United Kingdom is motivated by a desire to exclude him from the children's lives and ultimately to control and minimize any access that he might have with them. The Father points to the history of these proceedings, including the Mother's seeming reluctance to allow any form of access apart from the family days and the ongoing difficulties once access was court ordered. He also points to the Mother's return to the United Kingdom at Easter when she was aware that she needed to seek the approval of the court in order to leave Hong Kong permanently and when a very structured approach to increased access over time had been put in place. The Father says that what the Mother says and what she does are two very different things. It is the Father's case that although the Mother says that she wants the children to have a meaningful relationship with him that she does very little to actively promote it. The Mother disputes this. The Father says that in part this is because she has not yet come to terms with the end of their marriage. In his 4th affirmation he puts it thus:

4. Before I set out in detail the various aspects of access I wish to confirm my overall view is that the Respondent has an overwhelming capacity to be the best mother for the 3 children if she could resolve some of her heartbreak, devastation and emotions (as described by her in her 1st Affirmation (PB1:95)) in relation to the breakdown of our marriage and as to some of her issues in relation to her own family (discussed in more detail below). I believe that the Respondent is able to provide the children with all of the love and attention that they need, provide for their intellectual growth and development and care for their physical safety, health and nutrition and help all of them make wise and considered decisions throughout the years if she manages to resolve some of her own emotional issues and until such time I think she is somewhat restrained from being the best mother she can be. Whether or not she manages to resolve these matters in her life I am still of the belief that she is a good mother and has the ability to raise the children in a safe and loving home with the appropriate care. I think it is important for me to acknowledge this in these proceedings but it is no admission that the children do not also need me for the exact same reasons and more given I am of the belief I am currently more emotionally and psychologically stable than the Respondent. AUTONUMOUT The Mother for her part says that her application is genuine. She says that there is nothing left for her in Hong Kong and that she wants to start a new life, with the support of family and friends in the United Kingdom. AUTONUMOUT I accept that the Mother's application is genuine in the sense that she now genuinely wishes to relocate and to start a new life afresh in the United Kingdom. Although the Mother says that she had always intended to return to the United Kingdom, I accept that this was probably nothing more than a general desire. Certainly the parties had done nothing to actively put this plan into action and it is interesting to note that there was no mention of this at all in any of the documents before the court, until very late in the day; it also followed the Hague proceedings. It is also true, as Ms Rattigan points out, that the Mother seemed quite surprised by the notion of moving to the United Kingdom, when this was brought up by myself at one of the earlier court hearings. AUTONUMOUT I accept that Dr H suggested that she look into returning to the United Kingdom as a possibility. I also accept that she

most probably had what might loosely be described as a nervous breakdown on her return to the United Kingdom, although the extent of her illness is not known as little evidence has been filed in that respect. However she described panic attacks, loss of hair and toe nails, bleeding gums etc. I accept that she took advice from family and friends, all of whom encouraged her to relocate to the United Kingdom. She says that English lawyers poorly advised her. That may be the case. It is though a matter of some concern that while the Mother enrolled the children in new schools, found somewhere to live, arranged for her things to be packed up and sent to the United Kingdom and apparently arranged for the family dog to be taken care of, no attempt was made to include the Father in any of these decisions or to seek his approval, nor did she make any formal proposals for access. There is a sense that in finding a solution, she was running away from what, for her, had become an unpalatable and untenable situation. Certainly at that time there is no sense that she wished to include the Father in the children's lives in any meaningful way. AUTONUMOUT Going forward she says that she will encourage access and that any order obtained here can be mirrored in an order from England. AUTONUMOUT The Father of course is very concerned that if the Mother leaves that access will become difficult if not impossible and that he will be faced with the prospect of continuing and expensive international litigation. Is the mother's plan realistic, i.e. founded on practical proposals both well researched and investigated? AUTONUMOUT The Mother has filed a detailed affidavit in which she sets out her practical proposals for life in the United Kingdom. The Father complains that they were hastily put together and that the Mother has thrust the children into this new life with little thought for the consequences. Accommodation AUTONUMOUT The Mother found a property that was available for rent in a small village near to her Father. It is by all accounts a nice property with a large garden. It is also affordable. She and the children moved into this property, with the consent of the High Court Judge in England, prior to returning to Hong Kong. I accept that this is an entirely appropriate property in which she and the children could live, in the event that they relocate to the UK. Schools AUTONUMOUT The Mother enrolled the children into the local village school C Primary. The reports indicated that the children settled down well. Given that it is a small school, ages are banded together. This is of some concern to the Father, who sees a Clear Water Bay school a preferable option for the children. Clearly both are good schools and each would serve the children well. Finances AUTONUMOUT The parties finances have remained a constant source of concern throughout these proceedings. It is the Mother's case that whilst the parties were together that they enjoyed a comfortable but not overly lavish ex-patriate life style. They had a joint income in excess of HK\$100,000 per month on which to live, made up of her salary of HK\$24,000, the Father's salary and his commissions, which varied from month to month. They lived in affordable rented accommodation (Marina Cove and then Nam Sham village in Sai Kung), the children were being educated in the ESF system and they enjoyed a number of after school activities. After the Father left the matrimonial home finances became tight. There was a maintenance pending suit hearing. Notwithstanding a court order, the Mother complained of receiving maintenance late or not at all and of having to borrow from friends. Debts mounted. AUTONUMOUT The Father says that even at the time of the breakdown of

their marriage that they were living beyond their means and that they had already accumulated significant debt. On closer examination much of the debt seems to relate to the Father's tax liability. AUTONUMOUT It is clear however that the husband now has significant debts due in part to these proceedings. In addition his company went into liquidation causing further financial difficulty. The Mother also has significant personal debt. AUTONUMOUT The Father makes the following proposal for financial support: Financial proposals My proposal for maintenance if the children are to remain in Hong Kong is as follows: I earn \$100,000 per month and after planning for a tax payment (running at approximately 17%) and MPF (HK\$1,000) the monthly disposable income is HK\$82,000. From the HK\$82,000 income, I propose to contribute, HK\$17,430 as School fees which is the full amount. The available balance will be HK\$64,570. Of this balance I propose 50% being HK\$32,285 as paid as monthly child support. The total child support I propose to pay with School fees is therefore HK\$49,715, which is equivalent to 61% of my total disposable income. However, the total children's expenses including the Respondent's rent and food and utilities for 4 people living in the same house is estimated at \$71,455. I expect that the Respondent will be able to meet the difference of HK\$21,740 from her income as this will essentially represent her meeting her own personal expenses (or part thereof) including her share of the rent and also having her make a contribution to the children's expenses. As S will be starting her second year of junior school. I consider the Respondent to be more available so she can consider full time employment which will increase her earning capacity and I hope raise her esteem as she will be able to work within a higher rank of her profession. I propose that the school fees are paid directly from my account to avoid any non-payment issue as in the past and I propose the Respondent take the new lease in her name. Any extra provisions should be provided by each household that deems it necessary. In principle I have no problem with a request to split all child related expenses 50/50, however I object to a request to pay 100% of the children's expenses when the Respondent has a full capacity to obtain employment. I am of the view that the public health system is first class in Hong Kong and I do not think private medical insurance is necessary. Any previous insurance was for a very basic level of insurance, and ultimately we paid cash and were never able to claim. And later in relation to the parties debts he added: Reduction of debt There are many ways that the Respondent and I can reduce our debts and afford to live in Hong Kong. The Respondent is capable of obtaining a full time job so that she contributes at least \$50,000 per month which I do not think will be difficult given her experience, capability, and network knowledge of Hong Kong after 15+ years. The Respondent can obtain living accommodation that costs around \$10,000 per month as these are available within the Sai Kung area and are single floors with a roof. This will reduce all the monthly utility costs such as electricity charges as the place will require less electricity to keep it cool. I suggest that the Respondent no longer needs her motor vehicle. I do not have one because I do not think it makes financial sense, given the Hong Kong transportation system. By adhering to the above, I consider the Respondent and I will be able to produce a disposable income that can go towards eliminating the outstanding debt. AUTONUMOUT In essence therefore the Father is proposing a significant reduction in the standard of living

previously enjoyed by the children in Hong Kong. It is premised on the Mother earning at least c HK\$21,000 and possibly as much as HK\$50,000 per month, living in a 700 square foot apartment with a roof (as opposed to 1800 square foot duplex previously), relying on the public health system and having no car. There is no reference to domestic help.

AUTONUMOUT The Father says this is a perfectly suitable financial proposal and his Counsel added in her closing that The majority of people in Hong Kong live on far less, the petitioner lives on less. AUTONUMOUT Whilst that may be correct, the reality is that the Father s proposal would lead to a radical reduction in the Mother s standard of living and one that is premised on her eventually working full time, which is not her preferred option. AUTONUMOUT In contrast the Mother estimates her current expenses in the United Kingdom at GBP4,577 or c HK\$58,000 per month. I accept that this does not include the cost of other expenses such as flights etc. It does not include the cost of child care although it is true that the Mother would be able to rely on her family for child-care support. It goes without saying that she would be entitled to free schooling and free medical care.

AUTONUMOUT The father says in his closing submission that this aspect of the Mother s case holds very little weight. I do not agree. All in all, from a financial perspective it seems to me that the Mother s plan has a lot to recommend it. I am also conscious of the fact that the Father is in a start up situation. His financial situation is not guaranteed. He hopes that the new company will do well. This is by no means certain. AUTONUMOUT It is also true, as pointed out by Mr Poll that some Government support is likely to be available to the Mother in the UK in the event that there were further financial difficulties. Future job opportunities AUTONUMOUT The Father says that there are job opportunities for the Mother in Hong Kong. AUTONUMOUT The fact is however, that the Mother lost her job whilst in the United Kingdom. She was working part time as a textile designer with SHE Limited, earning HK\$24,000 per month. There is some dispute over the redundancy, which the Father claims was deliberately orchestrated by the Mother. The Mother denies this. I tend to accept what the Mother says on this point. In any event given the parties parlous financial state it is clear that whether the Mother is in England or Hong Kong, she will need to work in some capacity longer term. She says that it will be easier for her to find part time work in Leicestershire, England, where there is still a demand for her skills in textile design. She says that it would be very difficult to replicate her job with SHE Limited, given the fact that part time work is still relatively unusual in her area of expertise in Hong Kong. I accept what she says in that respect. She has also looked into upgrading her skills which would be possible in England but not in Hong Kong, where such courses are taught in Cantonese. She also talked about possibly studying for a teaching qualification so that she would be able to teach design in schools or in a tertiary institution. Both options seem eminently sensible. I accept that the Mother has a more realistic chance of obtaining work and also of upgrading her skills and possibly re-qualifying in England than in Hong Kong. Access proposals AUTONUMOUT The Mother makes the following proposals for access if she is allowed to relocate with the children. This is on a two yearly cycle. She proposes that the children s school holidays shall be split as follows: October half term - Father Christmas school holiday to be split between the parties with the Father having the children this year from the 26th December 2 January

2010 Chinese New Year/Spring half term Mother Easter school holiday Father Spring half term - Mother School summer holidays to be split between the parties October half term - Father Christmas school holiday to be split between the parties Spring half term Father Easter school holiday Mother Spring half term Father School summer holidays to be split between the parties AUTONUMOUT Alternatively she suggests that the Father have access to the children every Easter instead of alternating Easter with the Spring and Summer half terms. AUTONUMOUT Initially she would prefer access to be in the United Kingdom and she has some concerns about S spending extended periods away from her, given that she is still very young. AUTONUMOUT She also says that she is willing to facilitate access over the telephone and by skype and e-mail. AUTONUMOUT In evidence the father said that realistically if the children were allowed to relocate he would need to work within the longer school holidays and that he would prefer the children to return to Hong Kong for access visits. He checked with various airlines and was able to confirm that they would be able to travel as unaccompanied minors. AUTONUMOUT Although I accept that the Mother has some concerns about access taking place in Hong Kong, it seems to me, given the circumstances, that in the event that the Mother does relocate that access over the longer holidays will need to take place in Hong Kong. Is the Father's opposition motivated by genuine concern for the future of the children's welfare or is it driven by some ulterior motive? AUTONUMOUT There is no doubt that the Father's application is also genuine in the sense that he genuinely believes that if the Mother is allowed to relocate that that will effectively signal the end of his relationship with the children. He believes, rightly or wrongly, that the Mother will not allow him to have proper and meaningful access to them. He anticipates ongoing litigation in the United Kingdom. He believes (and he must be correct in this) that the children have a right to have a relationship with both him and their half siblings. He queries the practical reality of trying to exercise his right to access in the United Kingdom, where he does not have a home and given that his new partner is from the United States. He points out that telephone access was very difficult whilst the children were in the United Kingdom. AUTONUMOUT Although this does not appear to be a case where the Father is trying to prevent the Mother from leaving in an attempt to control her post divorce, the net effect is much the same. Mr Poll puts it thus in his closing: There is no doubt that the Father genuinely loves his Children and wishes to spend more time with them and of course if the Mother and the Children were to remove to the UK this time with the Children would necessarily be reduced and would most likely be during the school holidays. Unfortunately, this is the situation in all cases that involve an overseas relocation. It is the penalty that has to be paid, and is a direct result of the original family splitting and one of the partners wishing to go in a different direction in order to get on with their life. Often the partner who leaves the original family in order to start a new family fails to take into account that the deserted partner has to find a new life and cannot be expected to go into a limbo type existence in order to facilitate the former partner's access to the children. In a situation where both the parents and the children are in their home environment the disruption can be minimized, but in a situation where one of the parents feels it necessary to return to their homeland then the disruption is going to be significant and cannot be avoided but only

contained . And later the Father refused to accept, despite being specifically asked, that the Mother had a right to move on and to lead the life that she wishes. He is saying that he can choose and has chosen but not the Mother. He is saying and did allude in his evidence that the Mother should fit in with his choice. AUTONUMOUT I tend to agree. What would be the extent of the detriment to him and his future relationship with the children, were the application granted? AUTONUMOUT Much of the case was taken up with this issue i.e. to what extent is the Mother to be trusted given her past actions? Is she deliberately, but perhaps unconsciously poisoning the children against their Father alienating them if you will or is she simply a Mother who has been overwhelmed by the enormity of the separation and is trying as best she can to do what she considers to be the best thing for the children? Where her actions calculated to minimize the Father s place in the children s lives? Is her relationship with the children one of control? Is it a toxic relationship as alleged? And are the children really in an enmeshed relationship with her? AUTONUMOUT These are serious allegations and ones that were largely unexpected, coming as they did right before the commencement of the trial. They arose out of the evidence given by Dr B. AUTONUMOUT The Father says that the Mother s actions speak for themselves. I have a great deal of sympathy with the husband s position and I have to say that a lot of what the Mother said and did appears to be disingenuous. Her actions, although perhaps understandable, were regrettable. AUTONUMOUT However, I also do not believe that that necessarily means that the Mother is also guilty of some of the other allegations made against her. Dr B AUTONUMOUT Dr B s ability to give evidence was controversial. Initially she was instructed as a joint expert. Mr Poll pointed out in his closing, that the initial report referred to above was balanced and eminently sensible and went a great way to explaining the dichotomy in the behaviour of the children . I agree. As set out above it was partly on this basis that the order of the 6 April 2009 was made. AUTONUMOUT Both parties expressed that they felt comfortable with Dr B and asked that she be appointed as their therapist. I had some reservations about this, as I did not wish to lose Dr B as the Court s expert, especially given the assistance that she had given the court previously. I explained to the parties at that time, that in the event that agreement could not be reached that there would need to be a second joint expert and that there would be cost implications. Nevertheless the parties asked that she be appointed as their therapist. I concurred. AUTONUMOUT On the 24 June 2009 I gave an order, following the Mother s return, which in part recorded the following agreement AND UPON the Petitioner and the Respondent agreeing to write a joint letter to B in relation to a) access proposals going forward, b) the appointment of a replacement therapist, c) arrangements for F s birthday and d) the appointment of a Court expert for the trial on custody and permanent removal of the children AUTONUMOUT I have now had the opportunity of listening to the transcript of the hearing on the 24 June, the 26 June and the 16 July. At the hearing on the 24 July the Father s solicitor asked that both parties pay for the joint expert. I declined to make that order. Instead it was made clear that the Father would need, in the circumstances (i.e. the fact that the Mother was without funds) to pay. It was confirmed that there would be a joint expert and that the Father would undertake to pay. It was agreed, as set above, that Dr B s advice on the identity of that joint expert would be

sought given her assistance to the parties up until that point and the fact that she could no longer be instructed as she was, by that stage, the parties therapist. AUTONUMOUT The parties returned to Court on the 26th June 2009. There was discussion over whether or not the expert was to be a joint expert or the Father's own expert, given that he was paying. It was again agreed that the expert would be a jointly appointed expert and that the Father would undertake to pay. The parties agreed on the identity of a second joint expert but unfortunately she was not available in the given time frame. Given that, the parties agreed that they would send a joint letter of instruction to Dr B seeking her advice on access going forward i.e. from the 16 July pending the judgment. The parties were to see Dr B the following afternoon. In the concluding remarks from solicitors I was told that it was agreed that the parties would consider alternative joint experts. AUTONUMOUT At the hearing on the 16 July the parties had still not appointed a second joint expert. A number of names were put forward. No joint letter had been written. I indicated that I would not entertain an application for an adjournment on the basis that the parties had not been able to obtain a second joint expert report in the available time frame. I also said, and I accept that this is probably where some of the confusion arose in relation to the appointment of an expert, that I didn't think the appointment of an expert would be a make or break, in the context of this case. AUTONUMOUT I accept that on that basis the Mother may have come to the conclusion that a second joint expert was not really necessary. Nevertheless I had certainly been under the impression that a second joint expert was going to be appointed and that he or she would be available to give evidence at the trial. AUTONUMOUT In any event a second independent joint expert was not instructed or called. I did however allow the Father to call Dr B as his witness but on the basis that her testimony was to be limited to matters pertaining to her first report, when she had in fact been a jointly appointed expert in any event and to the letter with respect to ongoing access set out above. I also allowed questions to be put to her in relation to the Father's own therapy and in relation to the children. I did not allow any questions to be asked in relation to the Mother's own therapy (unless of course the Mother explicitly consented to this). AUTONUMOUT Notwithstanding these directions Dr B did make reference to the Mother's mental health. This was regardless of the fact that she had only seen the Mother once following her return to Hong Kong and seemingly not for therapy or for the purposes of assessment. AUTONUMOUT She said inter alia that the children were in an enmeshed relationship with their Mother, that the relationship was toxic, and further that it needed to be determined whether or not the Mother had a personality disorder or whether she was simply suffering from an adjustment disorder. AUTONUMOUT It is clear from Dr B's testimony that she and the Mother had a falling out on the Mother's return. Dr B said that she was direct with the Mother as the Mother lacked insight. In particular Dr B seemed very concerned that the Mother had not returned from the UK, when Dr B had given her own assurances to the Father, presumably during therapy, that the Mother would in fact return. AUTONUMOUT Mr Poll pointed out that Dr B has not produced anything to substantiate these claims of enmeshment etc. There was no examination; no test results. The only thing that Dr B did produce was a very limited number of notes, taken during her meetings with either the parties or the children. In

themselves they are extremely sparse. Dr B seems to have come to these conclusions about the Mother's mental health based on reading a limited number of the pleadings and on what the Father and possibly the parties' former domestic helper and the children may have told her. Interestingly R, the parties' domestic helper was not called to give oral evidence. Her evidence has not been tested. Therefore I do not intend to attach much weight to R's affidavit or to what she may or may not have told Dr B. AUTONUMOUT I accept that it is not clear if Dr B was aware of the other serious issues that have permeated this case and in particular the financial strain that the parties have been under. There also does not appear to have been any consideration of the fact that the Mother may have been struggling to come to terms with the end of her marriage and with the Father's new relationship and family. AUTONUMOUT Mr Poll ventures to suggest in his closing that Dr B's opinions do not appear to be based upon interactions that she has actually witnessed taking place between the Mother and the Children, but rather upon interpretations that she places on a few comments that the Children have made and upon reports of their behaviour and more recently upon reliance upon the Father's views. AUTONUMOUT I agree. I should add that I found Dr B's first report and subsequent letter extremely helpful. (This is so notwithstanding the fact that I was concerned, as I said at the time, that she did appear to go outside the ambit of the joint letter of instruction). As indicated I have some concerns in relation to the remainder of Dr B's evidence. I do not accept that there is any tangible evidence to support Dr B's findings in relation to enmeshment and toxicity. AUTONUMOUT Dr B supports the Father and recommends that there should be an order for joint custody and joint care and control on a 50:50 basis. In the alternative and on the premise that the relationship between the Mother and children remains toxic, she recommends sole custody to the Father and supervised access to the Mother. She does not recommend that the Mother be permitted to relocate with the children. She fears that a mirror order would not be effective and that the Father's relationship with the children would be completely severed. AUTONUMOUT In the words of Mr Poll Unfortunately, Dr B, in misunderstanding the reasons for the Mother's move to the UK, has misinterpreted many past matters and gone on to devise a theory to fit her

facts

which involves the purported mental instability of the Mother and enmeshment of the Children. This viewpoint is now being projected to cover future events and is manifested in her custody recommendations. Dr B's suggestion that the Father should have sole custody and the mother supervised access, is bizarre and is an indication of just how far off course she has strayed. Apart from Dr B's misconceptions, her recommendations have been made without any investigation by her into the parenting skills of either the Father or his partner or their ability to cope with a young child, a new baby and three other children or the impact of all of these changes on G, F and S. She has made no assessment of the suitability of the accommodation for such a large family nor of the time that the adults will be able to spend with the children in view of the fact that they have just set up a new business and are both working full time. There is no indication

that Dr B has either adequately or at all, made an assessment of the very damaging effect of removing these Children from the primary carer that they have had all their lives. Dr B's recommendations on custody should be ignored because they are not based on firm foundations and quite simply are wrong and would be disastrous. I will refer to this again, when discussing the issue of custody. AUTONUMOUT All in all, for the reasons set out above, I do not intend to attach a great deal of weight to this part of Dr B's evidence. I am more of the view that the Mother may have simply been overwhelmed by the enormity of the separation and the fact that the Father has very quickly formed a new family unit with his cohabitee. It seems to me that she has been trying as best she can to do what she considers to be the best thing for the children, bearing in mind the children's own reactions. In other words she seems to have had difficulties, as have the children, in initially adjusting to the new situation. To what extent would any possible detriment be offset by extension of the children's relationships with the maternal family and homeland? AUTONUMOUT The Mother says that the children would benefit from being in closer proximity with her family in particular her Father and his second wife and her half siblings and their children. AUTONUMOUT The Father complains that the Mother's relationship with some of her family is fractured at best and that she had not had any relationship at all with her own Mother for some considerable time. AUTONUMOUT Whilst this might be true, I have no doubt that the children will benefit from having a closer relationship with their Grandparents, on both sides and those members of the family with whom they already have a relationship and who, historically they would see on their visits back to the United Kingdom over the summer. What would be the impact on the mother of a refusal of her realistic proposal? AUTONUMOUT Although the Mother has filed no psychiatric or psychological evidence I accept that she would be devastated if her application was ultimately refused. This was confirmed by Dr H (see below) Other witnesses Dr H AUTONUMOUT As stated above, Dr H was called on behalf of the Mother. He is the Mother's GP and had been treating her for stress. He confirmed that the Mother had been on anti depressants to help her keep everything together in a very difficult situation . He did not foresee that she would need anti depressants longer term. He also said that he formed the impression that the children were not that happy in their day to day life . He described one incident in particular when he saw G on his own. He describes a very distressed little boy. Although it is accepted that Dr H is not a psychologist or psychiatrist, it seems to me that for whatever reason this is just one more indication of how unhappy G in particular was at this point in time. Dr H advised the Mother to look into the possibility of returning to the UK as an option, just as he had advised other patients in similar circumstances in the past. In his words he suggested that she go on a reconnaissance mission. He described her as being of an excellent previous personality and that she was a good mother . He said that he thought it would be terrible for her if the situation were to go against her. He also confirmed that the Mother had told him that she wanted the Father to see the children. All in all Dr H struck me as being a careful and completely credible witness. Ms G AUTONUMOUT Ms G appeared on behalf of the Mother. Ms G provided some very useful information on parallel parenting as opposed to co-parenting. She said that this was preferable where there was a high conflict situation, as here. She said that there were qualified counsellors in both Hong Kong and the UK who would be able to assist the parties in this respect. Social Welfare Reports AUTONUMOUT Recommendations made to the court in

social welfare reports, although not binding are persuasive. If the court decides not to follow the recommendations made then reasons must be given. Ms Rattigan summarizes both as follows:

2. Mr. L compiled the first report in December 2008, this was at a time just after the Court ordered that the Petitioner have regular access not just the family day access he had been having up to that point. He recommends joint custody and comments that generally speaking, the three children adjusted well at two different homes with good attachment and bondage with their parents. All the children revealed to the investigating officer that they wanted to meet their father although he was a bit strict in supervising them . Mr. L recommended joint custody with care and control to the Mother and defined access to the Father. This was prior to the Mother s application to relocate.
3. Ms. C s report is dated 26th August 2009. This was compiled at a time when tensions have been running high after the return of the Respondent and the children from England. She is unable to make a recommendation on removal. What she does say is that there is a potential risk for the difficulty of the future access to be carried out smoothly with the conflicting relationship between the Petitioner and the Respondent at the present stage
13. The access after the move can only be meaningful and less difficult if stable and close relationship has been established between the children and the staying parent. The consideration is that they are able to maintain their strong bonding with each other while they are living apart miles away. In this regard, whether the children are able to maintain or establish a close and stable relationship with the staying parent before the move is of crucial importance for the consideration of the relocation application I accept that this is a concern. Though the Petitioner has paid effort in mending, the relationship with the children and progress has been reported before the children s leaving Hong Kong in April 2009, it is apparent that the progress has been heavily affected when the children perceived that the father had forced them to come back to Hong Kong from the UK it is sure that their relationship is not firmly established and normalized yet. Such being the case, if the move does take place in this time line, the children may have a possible sense of completely losing the staying parent. There is potential risk to the children s relationship with the Petitioner which is not with the best interests of them (emphasis added)
4. Ms C makes no recommendation on the question of custody care and control.
AUTONUMOUT These sentiments were echoed in Dr B s letter set out above. As I have also said, access has to a certain extent now been normalized, although it is not clear how cemented it is. Undertaking AUTONUMOUT I asked both parties to give an indication of the undertakings that they were prepared to give in relation to therapy in the event that they were either successful or unsuccessful. They responded as follows Mother s Proposals
ONGOING THERAPY FOR FATHER AND MOTHER:- Attending coaching sessions with Father for parallel parenting as soon as possible with G. This constitutes immediate intense sessions to agree boundaries as to how it will work. After initial coaching, to continue with parental support and communicate with Father in the agreed manner e.g. via message book, e-mail. FOR CHILDREN INDIVIDUALLY:- G Emotion and anger management focus F

Emotional Support S Play therapy. If in Hong Kong:- Mother seeks neutral practice for Children. If in U.K.:- Mother would consider RELATE and other NATIONAL HEALTH options. Initial therapy might be every fortnight for each of them and reduced to once a month later, subject to what therapist may guide. FOR MOTHER Mother will continue to see R while in Hong Kong for her own therapeutic purpose. Mother will follow up with the National Health Service Counselling as offered to her by her own GP and Health Centre. In U.K., Mother will also seek out support of local services groups for single mothers to give emotional & practical assistance to single parents. RE: ONGOING THERAPY FOR CHILDREN Mother has been advised that stability and normalization are the most significant factors that determine emotional stability for Children. It is usual to leave the Children to settle in their environment for 3 months of stability prior to any formal therapy. This includes settling into the community, their daily routine and normal activities such as rugby, ballet, swimming, clubs etc. After this period, their needs for therapy can be assessed individually. Father s proposals In Hong Kong The children should continue to receive counselling either on their own with J or with the parties as advised. The Petitioner and the Respondent meet twice per month for counselling on parallel/co-parenting with a professional: H or G. The Respondent should seek therapy herself. Payment for this should be shared between the parties once the Respondent starts working again. In UK The children will require therapy from a psychologist to be agreed by the parties and the Court. This should be twice per month. The Respondent should receive therapy. It is felt after much consideration that any joint mediation parenting sessions are not going to be effective. Mediation/Counselling will be difficult enough in Hong Kong, doing this remotely is not seen as being a realistic option. Conclusion on relocation AUTONUMOUT Having considered all of the factors above, it seems to me that it would be in the best interests of these children to allow them to relocate with their Mother but only after a period of time has elapsed. This is to ensure that as far as possible the children s relationship with their Father has further cemented prior to them relocating. AUTONUMOUT This order is also made on the basis of each parties undertakings as set out above including an undertaking to attend a course in parallel parenting prior to the relocation. I have also noted that the Mother will undertake to continue to receive individual therapy. It seems to me that this is imperative if she is to adjust appropriately to the Father s new situation. The Mother s proposals in relation to individual counselling for the children should also be put into place both here and in the United Kingdom. AUTONUMOUT I will also expect a mirror order to be entered into in the United Kingdom before the Mother relocates. AUTONUMOUT Further it seems to me that it would be sensible if the proceedings for ancillary relief had also been concluded before the Mother leaves. AUTONUMOUT All things being equal the Mother should be able to relocate after Easter, or at the very outside at the end of the summer term. I appreciate that this may cause some difficulty as the Mother is continuing to live with friends. During the hearing I asked the Father how long he thought he would be able to support the Mother at the present level. He said for a few months, but ultimately he would do whatever it takes. I accept that the Mother may need to move into another property on a short term basis and that there will inevitably be cost consequences. Joint Custody v Sole Custody The Law in Hong Kong AUTONUMOUT

In *SEB v ZX (Custody)* [2007] HKFLR I referred to the law on custody in the following terms: Joint custody means that the parents should be able to make the major decisions concerning their children's life together. Although there have been cases where joint custody has been ordered where the parties find it difficult or indeed impossible to co-operate with each other, the general rule of thumb is that joint custody should only be ordered where the parents are able to work together effectively. The report [Law Reform Commission report] describes it thus 2.32 Joint custody is where the court grants custody to both parents, although physical care and control is usually granted to only one of them. Liu explains the rationale behind the joint custody order: that instead of one party being given the right to decide important matters affecting the upbringing of the child, both parties are given that right. Such order symbolizes divorced or separated parents playing a joint role in the upbringing of the child and neither is excluded .

15. Sometimes orders for joint custody are aspirational. They are made in the hope that the parties will be able to work towards co-operating with each other in the future. AUTONUMOUT I did not elaborate on the concept of so called aspirational orders, but will do so now. In *Caffell v Caffell* [1984] FLR 169 the Court of Appeal allowed an appeal where a Judge had granted custody to the Father and care and control to the Mother. The Court of Appeal held that Held It was not necessary, in view of the fact that the mother had care and control of the children, to deprive her of custody. In the circumstances of this case, the appropriate order was joint custody with care and control to the mother. In many cases joint custody of a child should only be ordered if there was a reasonable prospect that the parents would co-operate. But such an order might be equally appropriate to recognize the responsibility and concern of the parent who did not have the day-to-day control of the child; and might ease any bitterness between the parties. AUTONUMOUT Thus the Court of appeal ordered joint custody notwithstanding the fact that the relationship between the Mother and Father was acrimonious. AUTONUMOUT Ormrod LJ added The third point is that the judge as many judges, I think, are was influenced by the case of *Jussa v Jussa* [1972] 1 WLR 881 which is cited in *Rayden* for the proposition that joint orders for custody ought not to be made unless there is a reasonable prospect that the parties will co-operate together. [See *Rayden on Divorce*, 14th edn. P. 1078.] No doubt in many cases that is a perfectly sensible proposition; but there are cases in which the party who has not got the day-to-day control of the children is anxious to preserve as much of his or her contact with them as is possible in the new circumstances where the parties have separated, and there is a good deal to be said for recognizing the responsibility and the concern of the father in this case by making some order which shows that the court recognizes that he is anxious to take an active part in their upbringing. Therefore, a joint custody order meets his problems as far as it can be met in the physical circumstances and should at least help him to get over the bitterness, which he is bound to feel. As Waller LJ has said, the order giving sole custody to the father and care and control to the mother errs in the other direction, in that it is unfair on the mother. But this seems to me to be a case where an order for joint custody would meet the case very well. [1984]FLR 172 AUTONUMOUT There is little case law to assist from

England and Wales after this case, which in part is because in 1989 the Children Act brought in the concept of joint parental responsibility. The Law reform Commission in Hong Kong similarly recommends that Hong Kong move away from using terms like custody and access and replace it instead with the concept of joint parental responsibility, with orders being made for residence and contact as needs dictate. AUTONUMOUT The Hong Kong courts have on occasions adopted a similar approach to Caffell. For example in *H v A FCMP* 186/2003 HH Judge Geiser made an order for joint custody where the parents were unmarried and where the Mother found it impossible to communicate with the natural Father.

24. I turn now to my findings with regard to the question of joint custody and access generally. With regard to custody, I have been ably assisted by both Mr Egerton and Mr Firmin for the cases they have put before me and their helpful analysis. However each case must depend upon its own facts having regard always to the interests of the child Mr Firmin on behalf of the mother urges me not to make an order for joint custody as he says there is for whatever reason a lack of communication on the part of the mother. I have already stated that I have doubts about this, but even if I am wrong, the question must be asked why will she not communicate? . If it is simply a case that she chooses not to because she does not like the idea of the Applicant being the father of D, then this can surely never be accepted. Put another way, is it right for a party (in this case the mother) to stand in the way and deny the other party (in this case the father) fundamental rights over his child by simply asserting that she cannot, or possibly chooses not to speak to him? The answer to this must be no.
25. Of course, a natural element of joint custody involves co-operation, but the mother cannot be allowed to say simply that she is unable to co-operate and thereby have the court endorse her rights to sole custody. In my view she must be encouraged to co-operate and this can be done quite properly by way of a joint custody order, particularly as in this case it brings with it the safeguard of having one parent in Hong Kong to make decisions on behalf of the child, possibly urgent, when the other is out of Hong Kong, flying. AUTONUMOUT Of course each case must be decided on its own facts. In *SEB v ZX (Custody)* sole custody was ordered to the Father with shared care to both parents. Recently in *Y v P* [2009] HKEC 1322, our own Court of Appeal reversed an order for joint custody. Rogers VP made the following points:
24. The important point, nevertheless, is whether given the existence of the lack of co-operation between the parties it would be right to order there be joint custody. The basis upon which the judge so ordered appears to have been what has been referred to as aspirational. In other words it was an order made so as to encourage the parties to co-operate. In my view that is more a matter of wishful thinking than a matter of practical reality. The reality was emphasised in something the judge himself said during the course of the hearing on 10 September 2007
26. Given the current relationship between the parties it appears to me that the only order which could be made as to custody is that one or other of the parents should have sole custody. In this case, clearly it is the petitioner who should have custody of E. As Mr

Recorder Yuen pointed out, that does not mean that all major decisions would be made by the petitioner. If no agreement could be reached about a major decision in respect of E then, no doubt, resort can be had to the court. In respect of other matters, which would not be regarded as major matters, those decisions would no doubt be made by the parent having custody. In so far as the respondent would not have control in respect of such lesser, day-to-day, matters, that is an inevitable consequence of a sole custody order with care and control.

27. It should be remembered that even where there is a joint custody order, it would, inevitably, fall to one of the parents to decide minor everyday matters. The court is able to make a joint custody order when it is satisfied that the parties would co-operate. Co-operation does not mean that the parties are expected to be of the same mind or opinion about everything, but it does entail the parties being able to leave decisions on less important matters to the other party. If that were not the case the joint custody would be unworkable. Each party has to be able to trust the other party to the extent of leaving such decisions to the other party. In a joint custody situation each party has to be prepared not to micromanage every aspect and every minutiae of a child's life. In this case, that clearly cannot happen. It is wrong to attribute the inability for that to happen to the petitioner. The e-mails demonstrate the respondent has attempted to be involved in every minutiae and his e-mails have ranged from the petulant to the offensive in their patronising and, at times, didactic tone.
28. It would appear that one aspect that obviously influenced the judge to a considerable extent was the respondent's wish to continue parenting. By that is understood being involved in every aspect and detail of the child's life. That, however, is a consideration which more directly affects the rights of the parent rather than directly affecting the welfare of the child. As already noted, it was readily conceded that the petitioner had looked after E properly. AUTONUMOUT It seems to me that the present case can be distinguished from Y v P. First and foremost although the Father initially wished to jointly co parent, given the relocation that will no longer be possible. He does however wish quite rightly to be as involved as possible in the children's lives going forward. The Mother has already indicated by the undertakings set out below (para 121), that she understands and is willing to involve the Father. Both parents have also undertaken to attend a course on parallel parenting. Consequently although communication has historically been difficult they each understand that in order to effectively parent the children going forward that there will need to be some level of communication between them and they are willing to look at practical ways of ensuring that this happens. For example the Mother has suggested communication in an agreed manner such as via a message book or e-mail. This can only ultimately be for the children's benefit. How should the issue of custody and care and control be determined given my findings in relation to 1 above? AUTONUMOUT Given my findings above it is inevitable that the Mother will have care and control of the children with defined access to the Father. However before I leave the debate on joint care and control I would like to refer to a very interesting article in the September 2009 issue of Family Law, vol 39 p 831 entitled Shared Parenting: The Law, The Evidence and Guidance From Families Need fathers by Joan Hunt, Judith Masson and Liz Trinder THE RESEARCH EVIDENCE AND SHARED PARENTING

Research evidence now provides some very clear indicators of what parents can do that will best support positive outcomes for children after separation or divorce. The overwhelming message from studies around the world is that relationships with both parents do matter but it is the quality of relationships that parent maintain with children and with each other that are important, not the quantity or frequency of contact (P Amato and J Gilbreth, Non resident fathers and children s well being: a meta analysis

- [1999] Journal of Marriage and the Family 557). Put simply, it is what parents do with children, and their ability to focus on the child s needs that counts, not how much time parents have with children. Expressed in psychological terms, Whiteside and Becker underscore the importance of relationship quality not the clock, noting that: Neither the shape of the care-giving network nor the time-sharing schedule has the most potent effects on children s development. Rather, the quality of the parental alliance and the parents warmth, sensitively, good adjustment, and discipline style make the difference between a well-adjusted child and one who is angry, scared, or limited in cognitive and social skills. (M Whiteside and B Becker, Parental factors and the young child s postdivorce adjustment: a meta-analysis
- [2000] Journal of Family Psychology 23. There is now a small but growing body of research specifically on the outcomes of shared care or 50/50 arrangements. Perhaps not surprisingly, it appears again to be the quality of relationships between parents and between parents and children that influences whether the arrangements work for children or not. Two studies have reported that substantially shared or 50/50 arrangements can work well for children but where relationships are already good. In Australia one major study found that the key ingredients of successful shared care were flexible and child-centred parents who were able to co-operate and, critically, where both parents had opted for shared care rather than having it imposed by a court (B Smyth: <http://www.aifs.gov.au/institute/pubs/resreport9/main.html>, 2004 last accessed 3 August, 2009). A similar message emerges from a study based on interviews with British children (C Smart, B Neale and A Wade, The Changing Experience of Childhood (Polity Press, 2001). This research found that children were positive about shared care again where arrangements were flexible and child-centred and where children s views were heard. Shared care, therefore, is one form of arrangement which can work for children. The great challenge, however, is that parental cooperation are typically absent in litigated or high conflict cases. Indeed, studies of 50/50 shared care report poorer outcomes for children in such cases (J McIntosh and R Chisholm Shared care and children s best interests in conflicted separation
- [2008] Australian Family Lawyer 1). In two recent Australian studies, McIntosh found a link between high levels of emotional distress in children, substantially shared care and ongoing parental conflict and acrimony. In a follow up study McIntosh found that sharing care in this population did not help to reduce parental conflict (J McIntosh, Legislating for Shared Parenting

- [2009] Family Court Review 389). Instead continuously shared care parents remained locked in conflict 4 years after the initial intervention when conflict had reduced in other arrangements. McIntosh also found that while fathers were satisfied with arrangements nearly half of children wanted to change from shared care. This is similar to the British children in Smart's study cited above who were unhappy in inflexible arrangements where parents were hostile to each and where children had no influence about how their time was parcelled out. The evidence base on shared care is small but the findings of these studies are consistent both with one other and with the wider literature on the importance of relationship quality not quantity. The message is that good relationships with both parents can help children thrive where arrangements are child-centred, flexible and co-operative. However, the story is different where parents are locked in conflict. There are no robust research studies that find that children benefit or litigating precisely the opposite, with research finding poorer outcomes for these children. There is also some evidence that shared care arrangements are much less durable than other arrangements in high conflict families (J McIntosh, *Legislating for Shared Parenting*
- [2009] Family Court Review 389). AUTONUMOUT I should also add that I had very real concerns about the Father's proposals for shared care in any event. I agree with a lot of what Mr Poll has said on the subject. For the record it does not seem to me to be sufficient for one domestic helper to be employed to look after five children, even on a one week on one week on basis. The Father said that he intended to take two afternoons off a week. Likewise the Father's cohabitee said that she also intended to take some afternoons off. I question the viability of this when the Father and his partner are in a start up situation and it is imperative that their new company is successful. I have no doubt that it will take a lot of hard work and commitment to make the new company a success. In such circumstances the Father's ability to take off two afternoons a week long term must be questioned. Even in the event that the Father and his partner were able to take some time off, it will still be extremely difficult to manage 5 children and their individual needs (play dates, extras curricular activities etc) without additional help. This is especially so when compared to the alternative i.e. the availability of the Mother, for the time being on a full time basis, especially when it is she who has been the primary care taking parent of the children throughout. Custody AUTONUMOUT There is still however, the issue of custody to determine. The Mother seeks sole custody on the basis that this is usual where the parties are living in different jurisdictions. Although that might be the case in part, there have certainly been other cases where orders have been made for joint custody either by consent or otherwise where the parties are living in different jurisdictions (e.g. *M v B*, FCMC 6078/2008). AUTONUMOUT In this case the Mother is willing to give the following undertakings: I will encourage contact between the Petitioner and the Children. The Petitioner does now and will continue to have open telephone access whenever he wishes to call. I have previously proposed and support weekly webcam access, email access and telephone access of the Children if they are allowed to return with me to live in the U.K. There could be regular times for telephone calls and video conferencing after school and/

or at the weekends. Telephone calls can be made on the landline and the Children's mobile telephones. I will also undertake to:- keep the Petitioner informed of any major illnesses or medical conditions in relation to the Children; provide copies of the Children's school reports; ensure the Children have telephone access to the Respondent on his birthday, M (cohabitee) birthday, J's birthday and that of the coming baby; and ensure the Children have telephone access to the Petitioner on festive occasions when they are not with him or when he requests. AUTONUMOUT I am also conscious of the fact that the Mother will be returning to the UK where the assumption is that all parents have joint parental responsibility in any event. In those circumstances I intend to make an order for joint custody. In part this is to recognize the Father's continual role in the lives of the children going forward. AUTONUMOUT I am also conscious of the fact that this accords with the recommendations made by the first Social Welfare Report, although it is of course true that these recommendations were made before the Mother applied to relocate. As stated above the second welfare officer felt unable to make any recommendations. How should the children's time be allocated between their parents in the short term and in the long term? Short term AUTONUMOUT In the short term it is of course important that the Father continues to have regular access, including staying access, so that he is able to continue to cement his relationship with the children. Initially the Father saw the children twice during the week and once at the weekend. This was also before staying access had been introduced. Now that access is back on track the Mother asks that any access be altered to once during the week and every other weekend. The difficulty with that proposal is that the Father may go a whole week without seeing the children at all, which in the context of this case does not seem reasonable or sensible. In the circumstances it seems to me that Dr B's recommendation on p. 10 (paragraph 6) should be used as a basis for a short term order. AUTONUMOUT Therefore in the short term prior to the Mother relocating the Father will have access as follows on a fortnightly cycle 1st weekend every other weekend from Saturday morning at 10:00 am Sunday at 5:30 pm Tuesday and Thursday after school until 5:30 pm 2nd weekend Sunday from 10 am 5:30 pm Tuesday and Thursday after school until 5:30 pm. Other access to be by agreement between the parties. AUTONUMOUT In addition the children's Christmas school holiday will be shared. The Mother will have the first week including Christmas i.e. from the 19 December - 25 December inclusive. The Father will have the second week i.e. from the 26 December 1 January inclusive. The children have a week off at Chinese New Year. This will be spent with the Father i.e. from 13 February 19 February. The children have two weeks off at Easter. Given that this may be the period just before they relocate the Father will have the first half i.e. from the 27 March 2 April 2010. If they do relocate then, the Easter holiday will be split with the Father having the first half and the Mother the second half. In the event that the children remain in Hong Kong until the end of the summer term, the Father will have holiday access to the children for the first four weeks of the school summer holidays, with some allowance for the children to see their Mother if the children are in Hong Kong at that time. Longer term AUTONUMOUT I am not persuaded that access over the longer holidays should start off first in the United

Kingdom, unless the Father is willing to proceed on that basis. Bearing in mind the situation here it seems to me that the children will need to travel to Hong Kong over the longer vacations and that this should commence either in the summer or Christmas of 2010, depending on when they relocate. I will give leave to the parties to address me on this further. This is partly because any order that I make will have cost implications (i.e. flights etc) and I would like the parties to have an opportunity to give that further thought before I make an order. I should add that otherwise the Mother's proposals have a lot to recommend them. For shorter access periods it seems to me that the Father will need to travel to the United Kingdom to see the children.

Conclusion

AUTONUMOUT Upon the Mother's undertakings given in paragraph 121 above and upon both the Father and Mother undertaking to attend counselling sessions on parallel parenting and upon the children having counselling as proposed by the Mother and upon a mirror order being put in place in England prior to the relocation and upon the issue of final ancillary relief having been resolved, I will give leave for the Mother to permanently remove the children out of the jurisdiction of Hong Kong either at Easter 2010 or at the end of the school summer term 2010. The Father shall have defined access on a short term basis as set out above. I will give leave to the parties to come back to Court to make further submissions on access longer term before I make a final order for access going forward. I will also expect the Father to be able to communicate with the children by phone, e-mail and skype and for this to be expressed in any final court order on longer term access. AUTONUMOUT There shall be an order for joint custody of the children with care and control to the mother and defined access to the father. The Father's application for joint care and control is accordingly denied. AUTONUMOUT Notwithstanding the difficulties in this case I nevertheless intend to make an order nisi that there should be no order as to costs, to be made absolute at the expiration of 14 days. There shall be certificate for counsel. AUTONUMOUT Finally I would like to express my thanks to all involved for their assistance in what has been an extremely difficult and emotionally charged case. (Sharon D. MELLOY) District Judge Ms M Rattigan instructed by Messrs Hampton Winter & Glynn for the Petitioner Mr M Poll instructed by Messrs Stevenson Wong & Co for the Respondent PAGE - PAGE - A B C D E F G H I J K L M N 1udk hjjd hjjd gdJ3 hB0[hB0[&`#\$ &`#\$ hB0[1udk [Content_Types].xml Iw}, \$yi} _rels/_rels theme/ theme/themeManager.xml K Y, sQ}# theme/theme/theme1.xml w toc'v)I`n 3Vq%`#q x}r :TZaG I u3 L+M2 e\O* \$*c?)6-r IqbJ#x ,AGm T[XF64 E)` # R>QD =(K& =al- 4vfa 0%M0 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"/> oa6Tw & 6" CACV Judiciary English.dot setup Microsoft Office Word Judiciary CACV Title Microsoft Office Word 97-2003 Document MSWordDoc Word.Document.8

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