No. FD14D00083

Neutral Citation Number: [2015] EWHC 2621 (Fam)
IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice
Monday, 27th July 2015

Before:

MR. JUSTICE MOSTYN

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B E T W E E N :

DL — Applicant

- and -

SL — Respondent

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MS. S. AMAOUCHE (instructed by Dawson Cornwell) appeared on behalf of the Applicant.

THE RESPONDENT appeared in Person.

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J U D G M E N T

MR. JUSTICE MOSTYN:

1 It is my opinion that the law concerning the presence of the media in these private proceedings, which is contained in FPR 27.11 and PD27B, is to enable the press to be the eyes and ears of the public so as to ensure that the case is conducted fairly and to enable the public to be educated in an abstract and general way about the processes that are deployed, but does not extend to breaching the privacy of the parties in these proceedings that Parliament has given to them.

2 Accordingly, for the reasons that are set out in the book **Financial Remedies Practice** (Class Publishing, 2015 Edition) of which I, together with Sir Peter Singer, Lewis Marks QC and Gavin Smith are the authors, at paras 27.38 - 27.63, it is appropriate for me to make an order which preserves the privacy of the parties. Accordingly, I make an order in the following terms:

> "The Media is prohibited from publishing any report of this case that -
>
> (1) Identifies by name or location any person other than the advocates or the solicitors instructing them; or
> (2) Refers to or concerns any of the parties' financial information whether of a personal or business nature including, but not limited to, that contained in their voluntary disclosure, answers to questionnaire provided in solicitors' correspondence, in their witness statements, in their oral evidence or referred to in submissions made on their behalf, whether in writing or orally, save to the extent that any such information is already in the public domain."

That latter order is in fact an exact replication of the order made by Mrs. Justice Roberts in the well-known case of *Cooper-Hohn v. Hohn* [2014] EWHC 2314. The former part of the order replicates the standard rubric attaching to judgments given in the Family Division, which, if the press were not here but if they received a copy of the judgment, they would be bound by.

3 The preceding paragraphs are the reasons given by me orally on 27 July 2015, with imperfections corrected by me. However, I made it clear at the time, particularly to the representative of the media who made two short submissions in manuscript to me seeking that the order for anonymity be lifted, that I would take the opportunity of expanding my reasons when the draft transcript of judgment was received from the transcribers. This I now do.

4 I have already given one arguably over-long judgment on the subject (*W v M (TOLATA proceedings: anonymity)* [2012] EWHC 1679 (Fam)) and Roberts J has given a characteristically comprehensive judgment in *Cooper-Hohn v. Hohn* [2014] EWHC 2314. It is not necessary for me to repeat what is said there or to retread the historical road.

5 The principle of open justice has deep roots. Lord Bingham, writing in *The Rule of Law* (Allen Lane, 2010, p8), stated that at the heart of the concept of the rule of law is the principle that laws should be publicly made and publicly administered in the courts. He was reflecting Jeremy Bentham's famous aphorism that "publicity is the very soul of justice" (*Works, Vol 4, 1843*). Bentham was seeking to answer Juvenal's famous question: *quis custodiet ipsos custodes*? The reason why justice should be administered openly was that "it is the keenest spur to exertion, and the surest of all guards against improbity. It keeps the judge himself, while trying, under trial". By virtue of publicity the corrupt judge would find himself condemned in "the court of public opinion". In this way "justice becomes the mother of security". These sentiments were strongly endorsed by the House of Lords in *Scott v Scott* [1913] AC 417. In more recent times Lord Widgery CJ said much the same thing in *R v Socialist Workers Printers ex parte Attorney General* [1975] QB 637, as did Lord Diplock in *Home Office v Harman* [1983] 1 AC 280 at 303 and Lord Steyn in *Re S (a child)(Identification: Restrictions on Publication)* [2004] UKHL 47 [2005] 1 AC 593 at para 30 ("the glare of contemporaneous publicity ensures that trials are properly conducted"). When Bentham was writing in 1843 there was, however, neither a developed appeal system (with published judgments) nor a regulated system of adjudicating complaints about judicial misconduct (the results of which are published in perpetuity on the internet). It might be thought that these developments have supplied an equally sure guard against improbity and an equally keen spur to exertion.

6 Bentham was of the view that it is not only the probity of the judge that is secured by publicity. He considered it equally "auspicious" to the veracity of witnesses:

> "Environed as [the witness] sees himself by a thousand eyes, contradiction, should he hazard a false tale, will seem ready to rise up in opposition to it from a thousand mouths. Many a known face, and every unknown countenance, presents to him a possible source of detection, from whence the truth he is struggling to suppress may, through some unsuspected connexion, burst forth to his confusion."

Or as expressed more pithily by Justice Brandeis in 1913 (*What publicity can do: Harpers Weekly, 20 December 1913*): "sunshine is said to be one of the best disinfectants".

7 So these are the principal reasons for publicity: to secure the probity of the judge, and to enhance the veracity of witnesses. I would accept, of course, that a subsidiary, but not principal, reason is to promote understanding and debate about the legal process, but that could equally be achieved by education. It obviously follows that if a case is heard openly then the media can publish a full report of it, unless the court makes some kind of reporting restriction order, or a statutory provision restricts it.

8 But publicity of proceedings is not an absolute principle. Surely no-one would suggest that an adoption proceeding, which is heard completely privately, is by virtue of that privacy alone robbed of justice. Or that a civil arbitration, again heard in private, was an unjust process. There are some processes which by virtue of their subject matter should be heard in private. When Bentham wrote over 170 years ago adoption did not exist and I suppose that just about the only matter then justifying secrecy would have been national security.

9 The debate is not confined to the polar alternatives of openness and privacy. There are many cases which are heard publicly, or privately with the media in attendance, but where, by a process of anonymisation, the privacy of the parties, and of their personal and other affairs, is sought to be preserved. This compromise, or balance, between open justice and the privacy of the individual has arisen for two reasons. First, the increased recognition that is given to the interests of children who are caught up in the dispute between the adult parties. And secondly, the rise of the idea that privacy is an independently enforceable right. Privacy was not recognised as a constitutional right in the USA until 1965 (*Griswold v Connecticut* 381 US 479). Canada embraced it in 1982 by Article 7 of the *Charter of Rights and Freedoms*. Here, with the enactment of the Human Rights Act 1998 and the incorporation of Article 8 of the European Convention into domestic law, privacy has become an independently actionable right.

10 It is because of the existence of this right that in many cases the court must undertake the familiar and highly fact specific balancing exercise between the Article 8 right to privacy and the Article 10 right to freedom of expression of proceedings heard in open court or otherwise in the presence of the media: see *Re S.* However, as I will explain, there are some categories of court business, which are so personal and private that in almost every case where anonymisation is sought the right to privacy will trump the right to unfettered freedom of expression. These cases are those where the subject matter of the proceedings can rightly be categorised as "private business". In a case of private business where the media are present (either by virtue of rules of court or a specific court order permitting that) an order for anonymisation will generally be made, if sought: see *Independent News and Media Ltd and others*

v A (by his litigation friend, the Official Solicitor) [2010] EWCA Civ 343, [2010] 2 FLR 1290. Exceptions to this general rule are where the facts demonstrate disgraceful conduct: see *Lykiardopulo v Lykiardopulo* [2010] EWCA Civ 1315, [2011] 1 FLR 1427, or where they are so striking that anonymisation is in effect impossible: see, for example, *McCartney v McCartney* [2008] EWHC 401 (Fam) [2008] 1 FLR 1508. This principle, preserving privacy where the subject matter of the proceedings is private business, will be applied even where the rules provide for the hearing of the case in public: see *JX MX v Dartford & Gravesham NHS Trust & Ors* [2015] EWCA Civ 96, which concerned the approval of a personal injury settlement in favour of a minor, at paras 17, 29 and 35.

11 Ancillary relief (or financial remedy) proceedings are quintessentially private business, and are therefore protected by the anonymity principle set out above. That they are so protected is to be deduced from a number of sources. First, and most obviously, Parliament has in FPR 27.10 specifically provided that the proceedings shall be heard in private. The fact that the media may attend the hearing pursuant to FPR 27.11 and PD27B does not alter the fact that the hearing is in private. Second, the process involves the extraction of highly personal and private information under compulsion which the recipient may not use save for the purposes of the proceedings: see *Clibbery v Allen (No 2)* [2002] EWCA Civ 45, [2002] 1 FLR 565, and *Lykiardopulo v Lykiardopulo*. Therefore, according to those authorities, the media may not report any such information without leave. Third, Article 14 of the 1966 International Covenant on Civil and Political Rights, which the UK ratified in 1976, stipulates that (a) the press or public can be excluded from all or part of the trial when the interest of the private lives of the parties so requires; and (b) that judgment is not required to be public where the proceedings concern matrimonial disputes. In my judgment Article 14 creates a presumption against public judgment in matrimonial disputes, and therefore it logically follows that the proceedings should not be public either as otherwise the privacy of the judgment would be fatally undermined. It is trite law that when exercising a power a court should do so consistently with the state's international obligations. Fourth, it is my firm opinion that the Judicial Proceedings (Regulation of Reports) Act 1926 applies not merely to the suit for divorce itself but also to the proceedings for ancillary relief. At the time it was passed ancillary relief was an intrinsic part of the divorce itself. Since it has been passed it has been extended to cover proceedings for maintenance under section 27 Matrimonial Causes Act 1973, and its civil partnership equivalent: see section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968. It would be bizarre if it applied to the now nearly obsolete form of maintenance proceedings that is section 27 of the 1973 Act but not to mainstream ancillary relief proceedings. In *Clibbery v Allen* [2001] 2 FLR 819 Munby J (as he then was) held that the 1926 Act applied to ancillary relief (now financial remedy) proceedings. In the

Court of Appeal the President thought he may well be right, although Thorpe LJ had his doubts. Since then the judges have skirted around the issue: see, for example, *Rapisarda v Colladon* [2014] EWFC 1406 at [31] to [35] where the President left open the question whether the 1926 Act applied to financial remedy proceedings. He described this uncertainty as a 'truly a disturbing state of affairs'. He suggested that the 1926 Act ought to be repealed. With respect, I do not agree. The Act recognises and protects the private nature of divorce proceedings. It was amended by section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (as noted above); by section 66(1) of, and paragraph 2 of Schedule 8 to, the Family Law Act 1996; by section 280(2) and (3) of, and paragraph 7 of Schedule 26 to, the Criminal Justice Act 2003; and by section 261(1) of, and paragraph 8(1) and (2) of Schedule 27 to, the Civil Partnership Act 2004, and on each occasion Parliament must be taken to have endorsed its policy.

12 These considerations point powerfully to the categorisation of ancillary relief proceedings as private business entitling to the parties to anonymity as well as to preservation of the confidentiality of their financial affairs. Even if the rules provided for ancillary relief proceedings to be heard in public the parties would, in my judgment, be entitled to anonymity and preservation of the confidentiality of their financial affairs.

13 No-one has greater admiration for the wisdom and skill of Mr Justice Holman than me but with great deference to him I cannot agree with his practice of ordering pursuant to FPR 27.10 that every ancillary relief case listed before him should be heard in open court. In *Luckwell v Limata* [2014] EWHC 502 (Fam), [2014] 2 FLR at para 3 he held that rule 27.10 does not contain any presumption that financial remedy proceedings should be heard in private; in his view it is no more than a starting point. I am afraid I do not agree. On the contrary, it is my opinion that the rule does incorporate a strong starting point or presumption which should not be derogated from unless there is a compelling reason to do so. In *Fields v Fields* [2015] EWHC 1670 (Fam) he referred with some force to the fact that in the Court of Appeal and the Supreme Court an ancillary relief appeal will be heard in open court in the full glare of publicity, and questions why the position should be different at first instance. That may be true, although even in appeals anonymisation has been granted where the interests of family life with minor children might be imperilled by publicity – see *K v L* [2011] EWCA Civ 550, [2012] 1 WLR 306, CA at para 26. It does seem to me, however, that the appellate courts may have to reconsider the position in the light of the recent decision of *JX MX v Dartford & Gravesham NHS Trust & Ors* [2015] EWCA Civ 96, referred to above.

14 In *Fields v Fields* at para 5 Holman J stated:

> "I am aware that as it progressed the case attracted considerable coverage in some newspapers and online, which I was told that the parties found distressing. I regret their distress; but it cannot, in my view, override the importance of court proceedings being, so far as possible, open and transparent. Courts sit with the authority of the Sovereign, but on behalf of the people, and the people must be allowed, so far as possible, to see their courts at work. There is considerable current, legitimate public interest in the way the family courts daily operate, and that cannot be shut out simply on an argument that the affairs of the parties are private or personal. Precisely because I am a public court and not a private arbitrator, I must be exposed to public scrutiny and gaze."

I do not dispute the need for transparency, but Parliament has decided that in ancillary relief proceedings (and indeed in all other family proceedings with very few exceptions), the press should act as the "eyes and ears" of the public, but that members of the public themselves should not be admitted. This is a role assumed by the media and recognised by the courts: see Sir John Donaldson M.R. in *Attorney-General v Guardian Newspapers Ltd (No.2)* [1990] 1 A.C. 109 at 183 cited in *JX MX v Dartford & Gravesham NHS Trust & Ors* at para 23. In similar vein in *Re S* at para 18 Lord Steyn referred to the media as being the "watchdog" of the public in court. The reform which resulted in FPR27.11 being made was the result of a campaign to enable the world to see how public law care proceedings were conducted. It was not designed to enable the essential privacy of ancillary relief proceedings to be cast aside. Reporting how a case is conducted, and what legal points are raised, in an abstract way is one thing; laying bare the intimate details of the parties' private lives is altogether another. I recognise that in *Re Guardian News and Media Ltd* [2010] 2 AC 697 at para 63 Lord Rodger stated that stories about particular individuals are simply much more attractive to readers than stories about unidentified people, echoing Lord Steyn's comments in *Re S* at para 34 that:

> "… from a newspaper's point of view a report of a sensational trial without revealing the identity of the defendant would be very much a disembodied trial. If newspapers choose not to contest such an injunction they are less likely to give prominence to reports of the trial. Certainly, readers will be less interested and editors will act accordingly. Informed debate about criminal justice will suffer."

This is all true, but in my opinion the question of whether a party's private affairs should be laid bare in the national press should not depend on whether the report of the case is thereby more newsworthy and therefore likely to gain a higher circulation for the publisher.

15 It is my opinion that the present divergence of approach in the Family Division is very unhelpful and makes the task of advising litigants very difficult. A party may well have a very good case but is simply unprepared to have it litigated in open court. The risk of having it heard in open court may force him or her to settle on unfair terms. In my opinion the matter needs to be considered by the Court of Appeal and a common approach devised and promulgated. Obviously if the view of Holman J is upheld and adopted then the rest of us will have to follow suit.

16 A perhaps unexplored aspect of hearing an ancillary relief case in public is the question of the right of the media to read documents on the court file. FPR29.12 provides that, absent permission, the documents on the court file may not be read by any person save for copies of orders made in open court. This rule is of course premised on FPR27.10 which provides that the proceedings are in private. If the proceedings are in public it is hard to see why the principles under CPR PD5.4C and rule 31.22(1) should not apply, namely that access by a journalist to the document should normally be given where it is sought for a proper journalistic purpose: see, for example, *Re Mobile Voicemail Interception Litigation* [2012] EWHC 397 (Ch) and *NAB v Serco Ltd & Anor* [2014] EWHC 1225 (QB). This is an added reason for the divergent approach to be considered by the Court of Appeal.

17 In this case (the details of which are unremarkable and which are briefly discussed below) I was entirely satisfied that the general rule of anonymity and privacy should be respected and I therefore made the orders referred to above. The order itself is attached to this judgment at Annex A.

LATER

18 The matter was before me on 6th July 2015 for the pre-trial review. The case began when the parties separated on 10th December 2013 and a petition was issued shortly thereafter on 10th January 2014. Since then the case has become almost completely out of control. There have been up to (including today) fifteen court orders made. The husband has, I am told, filed no fewer than eighteen witness statements. In the course of the case he has made a number of ugly threats to the wife and her solicitors, including daring them to take him on and including saying that "this will be the case of the century". This has been supplemented by common abuse so much so that, as I find as a fact, after the pre-trial review on 6th July 2015 in the corridor outside this very courtroom he hurled abuse at the wife's counsel and solicitor saying that they were "fucking cunts". He now says before me, totally unconvincingly, that he has no recollection of saying such a thing, but I am perfectly satisfied that he did.

19 On 6th July 2015 I refused his application for an adjournment, which was not made on medical grounds. However in the last week he made an application to me that the case should be adjourned on medical grounds, which I refused. The medical certificate then was laconic in the extreme and was wholly unsatisfactory. He renewed it with a better medical certificate from the same doctor, which I again rejected as being unsatisfactory. I drew his attention to what to my mind is the principal authority where adjournments of civil proceedings are sought on medical grounds, namely *Levy v. Ellis-Carr* & Others [2012] EWHC 63 (Ch.), a decision of Mr. Justice Norris given on 23rd January 2012. It is that authority which governs the decision that I now make. For my purposes I need only to refer to paras.32-37 of the judgment:

> "(32) I will deal first with the ground of appeal which asserts that the Registrar erred in law in failing to grant an adjournment. This ground is directly related to the Appellant's failure to attend the trial. The decision whether to grant or to refuse an adjournment is a case management decision. It is to be exercised having regard to the 'overriding objective' in CPR 1. Showing that the exercise of discretion was outside the generous ambit within which there is reasonable room for disagreement is not an easy task: see *Khudados v Hayden* [2007] EWCA Civ 1316. In *Fitzroy Robinson v Mentmore Towers* [2009] EWHC 3870 (TCC) Coulson J at paragraph [8] set out some of the factors that might be relevant to an 11th hour application to adjourn a trial. But each case must turn on its own facts (and in particular upon how late the application is made).
>
> (33) Registrars, Masters and district judges are daily faced with cases coming on for hearing in which one party either writes to the court asking for an adjournment and then (without waiting for a reply) does not attend the hearing, or writes to the court simply to state that they will not be attending. Not infrequently 'medical' grounds are advanced, often connected with the stress of litigation. Parties who think that they thereby compel the Court not to proceed with the hearing or that their non-attendance somehow strengthens the application for an adjournment are deeply mistaken. The decision whether or not to adjourn remains one for the judge. The decision must of course be a principled one. The judge will want to have in mind CPR1 and (to the degree appropriate) any relevant judicial guidance (such as that of Coulson J *Fitzroy* or Neuberger J in *Fox v Graham* ('Times' 3 Aug 2001 and Lexis). But the party who fails to attend either in person or through a representative to assist the judge in making that principled decision cannot complain too loudly if, in the exercise of the discretion, some factor might have been given greater weight. For my own part, bearing in mind the material

upon which and the circumstances in which decisions about adjournments fall to be made (and in particular because the decision must be reached quickly lest it occupy the time listed for the hearing of the substantive matter and thereby in practice give a party relief to which he is not justly entitled) I do not think an appeal court should be overcritical of the language in which the decision about an adjournment has been expressed by a conscientious judge. An experienced judge may not always articulate all of the factors which have borne upon the decision. That is not an encouragement to laxity: it is intended as a recognition of the realities of busy lists.

(34) In the instant case the Appellant has to demonstrate that on the material then before her the Registrar exercised her discretion wrongly as a matter of law, and he has also to demonstrate that in fact he had a good reason not to attend the trial.

(35) In my judgment there were ample grounds upon which the Registrar could properly refuse the adjournment (whether she expressly referred to them or not). There was a history of making applications for adjournments at each stage. The hearing before her was itself a re-listed hearing. There was evident non-cooperation in preparing for the trial. Even on the Appellant's own case he had made his application for an adjournment at the last possible moment. He adduced no medical evidence. His solicitor deliberately withdrew instructions from Counsel and told Counsel not to attend the hearing. The solicitor on the record made a conscious decision not to attend the hearing. The application was already a year old (partly because the Appellant had sought adjournments to put in evidence and had then not done so) and related to a bankruptcy that had commenced in 1994. The Court could if the hearing proceeded take into account such evidence as he had adduced (even if it did not have the benefit of the criticisms he wanted to make of the trustee's case all the benefit of any argument he wanted to advance in support of his own). The Appellant would always have available the opportunity afforded by CPR 39.3.

(36) Can the Appellant demonstrate on this appeal that he had good reason not to attend the hearing (as he would have to do under CPR 39.5)? In my judgment he cannot. The Appellant was evidently able to think about the case on 24 May 2011 (because he went to a doctor and asked for a letter that he could use in the case, plainly to be deployed in the event that an adjournment was not granted): if he could do that then he could come to Court, as his wife did. He has made no application to adduce in evidence that letter (and so has not placed before the court any of the factual material necessary to demonstrate that a medical report

could not with reasonable diligence have been obtained before the hearing before the Registrar). But I will consider that additional evidence. In my judgment it falls far short of the medical evidence required to demonstrate that the party is unable to attend a hearing and participate in the trial. Such evidence should identify the medical attendant and give details of his familiarity with the party's medical condition (detailing all recent consultations), should identify with particularity what the patient's medical condition is and the features of that condition which (in the medical attendant's opinion) prevent participation in the trial process, should provide a reasoned prognosis and should give the court some confidence that what is being expressed is an independent opinion after a proper examination. It is being tendered as expert evidence. The court can then consider what weight to attach to that opinion, and what arrangements might be made (short of an adjournment) to accommodate a party's difficulties. No judge is bound to accept expert evidence: even a proper medical report falls to be considered simply as part of the material as a whole (including the previous conduct of the case). The letter on which the Appellant relies is wholly inadequate.

(37) The Appellant complains that the failure to grant the adjournment is a breach of his human rights. The complaint is misconceived. The Appellant's right to a fair trial means that he must have a reasonable opportunity to put his case. He had that right on 9 February 2011 (but asked the Court to postpone it). He was urged to exercise that right by the trustee's solicitors on 23rd May 2011; but he and his legal representatives chose not to avail themselves of it."

20 After having drawn the husband's attention to this authority, he has this morning produced a more expanded medical report which seeks to tick (speaking colloquially) all the boxes in para 36 of *Levy v. Ellis-Carr*. Paragraph 36 (which is set out above) requires a number of matters to be contained in a medical report. The medical report in question is dated 27th July 2015 and is signed by Dr. S. S. a GP Registrar. The report stated this:

"This gentleman has been registered at our practise since September 2014. He presented at the surgery on 13th July 2015 and again on 23rd July 2015 complaining of severe exhaustion … poor sleep, persistent vomiting, poor concentration and attention as well as low mood. I understand he is representing himself in court in his upcoming divorce proceedings. This disadvantages him severely as he cannot perform the necessary preparation to represent himself in court. His symptoms are consistent with a physical response to severe stress from the impact of the situation he is currently in. He feels this level of stress is detrimental

to his mental and physical health. I would be grateful if you could take this into consideration when dealing with this matter as medically it would be in his best interests to postpone this hearing on Monday, 27th July 2015. Please do not hesitate to contact me should you require any further information. He is keen to improve his health and recover and will hopefully be ready for a hearing in a month's time. It is difficult to give a full prognosis in these cases, but, with therapy and following other recommendations given to him, I hope he will recover enough to be declared fit for trial in one to two months' time. He will continue with the treatment thereafter."

21 I have pointed out to counsel that that appears to meet the standards set out in para.36. However, in para.36 at the end, Mr. Justice Norris says this (and this is set out above):

> "The court can then consider what weight to attach to that opinion, and what arrangements might be made (short of an adjournment) to accommodate a party's difficulties. No judge is bound to accept expert evidence: even a proper medical report falls to be considered simply as part of the material as a whole (including the previous conduct of the case). The letter on which the Appellant relies is wholly inadequate."

Counsel refers to the history of this case, where every order has been challenged by the husband most often by way of appeal. Indeed, his most recent applications for permission to appeal against the orders made on 6th February 2015 and 19th March 2015 have both been dismissed by Lord Justice Lewison in the Court of Appeal on 15th July 2015. Almost every other order has been challenged by way of an appeal or by an application for an adjournment. It is pointed out that the case is almost preternaturally simple inasmuch as there are virtually no assets left. The schedule of assets which has been prepared by counsel for the wife suggests that the liabilities vastly exceed the assets by a tune of £44,000 leaving only in this case the value of the pensions in the sum of £185,000.

22 This is argued as an extremely simple case, which the husband (even if he is medically disadvantaged in the way that the letter suggests that he is) should be well able to deal with over today and tomorrow. Moreover, it has become apparent to me as the submissions this morning have been made that the husband is (as I confirmed to myself on the previous occasion) a highly intelligent and articulate man who has every fact and every figure at his fingertips. He probably knows this case better than anyone in this courtroom. In such circumstances, I have reached the conclusion that it is not unfair for the matter to proceed and I reject the application for an adjournment.

LATER STILL

23 On the second day of the hearing the parties reached terms of settlement and I later made a consent order, which is confidential, bringing this matter to a conclusion.

ANNEX A

IT IS ORDERED THAT

1. The media is prohibited from publishing any report of this case that:
   (i) identifies by name or location any person other than the advocates or the solicitors instructing them; or
   (ii) refers to or concerns any of the parties' financial information whether of a personal or business nature including, but not limited to, that contained in their voluntary disclosure, answers to questionnaire provided in solicitors' correspondence, in their witness statements, in their oral evidence or referred to in submissions made on their behalf, whether in writing or orally, save to the extent that any such information is already in the public domain.

2. Subject to the following paragraph, this order binds all persons and all companies or unincorporated bodies (whether acting by their directors, employees or in any other way) who know that the order has been made

3. (i) Except as provided in sub-paragraph (ii) below, the terms of this order do not affect anyone outside England and Wales.

   (ii) The terms of this order will bind the following persons in a country, territory or state outside England and Wales:

      (a) any person who is subject to the jurisdiction of this court;

      (b) any person who has been given written notice of this order within the jurisdiction of this court; and

      (c) any person within the jurisdiction of this court who is able to prevent acts or omissions outside England and Wales which constitute or assist in a breach of the terms of this order;

(d) any other person, only to the extent that this order is declared enforceable by or is enforced by a court in that country or state.

4. This order shall continue until further order. Any person affected by any of the restrictions in this order may make application to vary or discharge it to a judge of the High Court on no less than forty eight hours' notice to the parties. Any such application shall be supported by a witness statement endorsed with a statement of truth.

5. Without prejudice to the terms of para 3 above, copies of this order (which is endorsed with the notice warning of the consequences of disobedience) shall be served by the respondent (and may be served by the applicant):

(i) by service on such newspaper and sound or television broadcasting or cable satellite or programme services as she sees fit, by email or first class post addressed to the editor (in the case of a newspaper) or senior news editor (in the case of a broadcasting, cable or satellite programme service) or website administrator (in the case of an internet website) and/or to their respective legal departments; and/or

(ii) on such other persons as the parties may think fit, by personal service.