What are the most important recent financial remedy cases you need to know about in 2026?

Speaker(s)

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10 September 2026, Southern Family Law Conference

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List of cases and issues explored

1. *Culligan v Rosemin-Culligan* [2026] EWCA Civ 948
2. *Standish v Standish* [2025] UKSC 26
3. *Kroupeeva v Kroupeev* [2026] EWFC 85
4. *LP v MP* [2025] EWFC 473
5. *Lazcano Mendes v Haines* [2026] EWFC 213
6. *Meerna Ali Ghuloom Faraj v Sohail Sultan Ahmad & Anor* [2026] EWCA Civ 962
7. *Awolowo v Awolowo* [2026] EWFC 31
8. *Mazur & Stuart v Charles Russell Speechlys LLP & Ors* [2026] EWCA Civ 369 MH v FD [2025] EWFC 390
9. *MH v FD* [2025] EWFC 390

1. correct approach to Wells sharing
2. matrimonialisation and sharing
3. orders for variation of nuptial settlements and adverse inferences in trust and divorce cases
4. conduct, scope of sharing claim (re matrimonial homes)
5. meaning of domicile of origin/domicile of choice
6. conduct (in particular whether it needs to have a financial consequence and whether non-disclosure needs to be pleaded as conduct)
7. Part III MFPA 1984, non-disclosure, adverse inferences, needs award from visible assets
8. what it means to ‘carry on the conduct of litigation’ under the LSA 2007
9. interim needs in Schedule 1 proceedings

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Culligan v Rosemin-Culligan
[2026] EWCA Civ 948

Court of Appeal (24 July 2026) - appeal against Order of MacDonald J

- Both parties in their 60s, both had a “substantial” earning capacity.
- Met in 1982 - marriage/relationship of approximately forty years (three adult children)
- W is British, H holds dual British and US citizenship - significant tax liabilities arose as a result of the husband’s US citizenship and a dispute arose as to whether (per H) these liabilities should be shared or whether (per W) they should be paid by the H
- Assets with a total net value of approximately £27 million, including H’s shares in Colendi Holdings Ltd (£19m, £13.7m net of tax) and the FMH valued at £7m
- Colendi had acquired H’s interest in a smaller company, SETL, at an earlier stage by way of a share swap. H H had not consulted W about that transaction.

Decision at first instance ([2025] EWFC 1):

- assets allocated to W comprised £9.5 million of liquid (realisable) assets (net of liabilities) – including FMH - and £4.1 million of illiquid assets and a deferred lump sum conditional upon the sale of H's Colendi shares
- assets allocated to H comprised £4.1 million of liquid assets (net of liabilities) and £9.6 million of illiquid assets.
- Net effect was each party departed the marriage with net assets of broadly equal value but 70% of H's share and 30% of the W's share comprised illiquid assets
- Unequal division of illiquid/risk laden assets justified on basis that H had rendered [a substantial matrimonial asset] illiquid and subject to increased risk. The judge considered that it was fair for the husband to "bear the larger share of the consequences of having, without consulting the wife, converted his shareholding in SETL Limited, representing close to half the matrimonial assets, into an illiquid minority interest in a multinational corporation" (Colendi)

Decision on appeal - Order varied so that FMH should be sold with H to receive 40% of proceeds of sale, with W receiving half share of proceeds of sale of Colendi sale

The decision below was flawed in two respects: first the judge had erred in his approach to the fair division of risk-laden/illiquid assets between the parties. Second the factors relied on by the Judge did not justify an unequal division of the risk-laden/illiquid assets in any event.

Per Moylan LJ

On the question of principle:

- Para 55: “when the court is determining its award, it must take into account the nature and quality of the respective assets that each spouse will retain.”

- Para 62: “the extent to which sharing an asset in specie is inconsistent with a clean break will also depend on the facts of the case, in particular the nature of the asset or investment and how it can be shared. If, say, the husband is simply one investor of many and has no other connection with the illiquid and risk laden asset, sharing that investment would not appear inconsistent with effecting a clean break between the parties. On the other hand, if the husband is the sole shareholder in a private trading company in which he works, it would clearly be contrary to the clean break to give the wife shares in that company as well as creating the problems frequently identified with including such a provision in an award.”

Paras 66-67:

- “It can be seen that the expressions adopted by the judge of "last resort" and "minority element" came not from the judgments in the Court of Appeal but from the passage quoted by Lewison LJ from the judgment of Mostyn J in *WM v HM*. I would note that an appeal from that decision was allowed, in part, including because Mostyn J had "failed to consider whether his proposed award 'achieved … a fair division of both the copper-bottomed assets and the illiquid and risk laden assets'", *Martin*, at [138]. I would also note that Lewison LJ merely quoted these passages without comment. What was said in *WM v HM* clearly did not form part of the ratio in *Versteegh* and, indeed, any analysis would have had to address the difference between what was said in the two quoted passages, namely "standard fare" and "last resort".
- In my view, there is no principle that *Wells* sharing is only to be included as part of an award as "a last resort" nor, indeed, that it should only comprise a minority element. I would agree with Mr Southgate's submission that the former is not a helpful expression. I would add that there is, equally, no principle that it should be "standard fare" having regard to the well-recognised disadvantages of *Wells* sharing and to the potential for it to be inconsistent with a clean break. I would repeat King LJ's observation in *Versteegh*, at [151], that "the making of a *Wells* order is something that should be approached with caution" and with "full consideration by the court of its duty to consider whether it would be appropriate" to effect a clean break so that, as phrased by Mr Southgate, the parties are not left joined together financially in any material way if that can be fairly achieved. Much will, of course, depend on the facts of the particular case.”

On the facts:

- Para 79: “It is, therefore, clear to me that, even if the wife had been informed of the proposed sale, it would have taken place in any event. Accordingly, the absence of consultation was not relevant for the purposes of determining how the Colendi shares should be distributed.”

- Para 83: “I also do not consider that the effect of the sale to Colendi was to render a matrimonial asset illiquid. There is, again, no evidence to suggest that the husband's shareholding in SETL was other than an illiquid asset. The effect of the sale was to swap one illiquid asset for another.”

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Standish v Standish

[2025] UKSC 26

Standish v Standish

FACTS

- Marriage of 16 years.
- Second marriage for both parties and both had adult children from those marriages. H was 69 at the final hearing and W was 54 .
- Parties had two children together (16 and 15 at the final hearing) and had lived in Switzerland and Australia (H's country of birth) before moving to England in 2010.
- H had a very successful career in the financial services industry (he was a former CFO of UBS) and generated most of his significant asset base prior to the parties' relationship. He retired in 2007. W was a homemaker throughout the parties' relationship.
- Up until 2017, all of H's wealth, aside from two joint bank accounts and the FMH (a c. £21m property funded by H's wealth but purchased in the joint names of the parties), was held in his sole name.
- **In 2017, H transferred to W investments with a total value of £77.8m (worth c. £80m by the time of final hearing) as part of an inheritance tax planning scheme to benefit from her non-domiciled tax status. It was the express intention and understanding that W would then transfer ownership into discretionary trusts in Jersey to which H could subsequently be added as a beneficiary. Those assets had originally been the husband's non-matrimonial property. W agreed in evidence that the transfer to her was to mitigate tax liability, and that the trusts were discussed, but she never, in fact, established those trusts.**
- When W issued divorce proceedings in April 2020, she argued that the funds now belonged to her. She asserted that they should be treated as her 'separate' property and that they were only available for sharing because she had conceded she was willing to share them with H. By the time of the first instance hearing before Moor J H had £36.9m in his name and W had £95.7m in hers (as a result of the transfers from H).

- Moor J held that the investment funds were H's and were non-matrimonial. However, he found that the transfer of the non-marital assets by H to W 'matrimonialised' them, making them subject to the sharing principle. He held that matrimonialisation does not lead to an automatic equal division of those funds and held that the source of the funds was a magnetic feature of the case and should lead to an unequal division.
- The total assets were found to be c. £132m and the matrimonial property was valued at c. £112m, being a mixture of standard matrimonial acquest and the c. £80m in property matrimonialised through the tax planning scheme. £20m was H's non-matrimonial property (a farm in Australia).
- He decided that there should be a 60/40 division in H's favour of the matrimonial property, 34% of the total assets, and rounded W's share down to £45m. Moor J did not consider there a need to do a needs assessment given W was to receive £45m.

Standish v Standish

C OF A

29 Bedford Row Chambers

Both H and W appealed to the Court of Appeal which held that:

- the judge had incorrectly made the transfer of title from the H to the W the determinative factor in determining how the 2017 assets were characterised;
- ownership/title is not the critical factor in determining the application of the sharing principle, source is key
- there was nothing which justified the conclusion that the importance and relevance of the source of most of the 2017 assets being non-matrimonial was diminished as a result of the transfer of title to those assets to the W;
- the transfer of the 2017 assets had <u>not</u> matrimonialised any of the transferred assets;
- 75% of the 2017 assets remained non-matrimonial property and were not subject to the sharing principle
- the correct figure for all the matrimonial property subject to the sharing principle was £50.48 million;
- the fair outcome on an application of the sharing principle would provide W with approximately £25 million (half of c. £50 million) in place of the judge's award of £45 million, leaving H with approximately £107 million.
- the judge had not carried out a needs assessment and, as the Court of Appeal was unable fairly to conclude that an award of £25 million met her needs, the matter was remitted for a needs assessment.

This is the largest reduction to a divorce settlement ever ordered by the English courts.

Standish v Standish SUPREME COURT

- W appealed to the Supreme Court. She no longer argued that the assets transferred to her in 2017 were her separate property. Instead, she contended that the Court of Appeal was wrong to conclude that the transfer did not result in the funds' matrimonialisation.
- The Supreme Court formulated the *"essential question"* they were required to determine as follows (at para 6):

> *… How does the sharing principle apply where, a relatively short time before the divorce, the husband made a transfer of assets ("the 2017 Assets"), worth some £80 million, to the wife for the purpose of setting up a trust to negate inheritance tax and where, at the date of the divorce, the wife had not set up the trusts and retains the assets?*

- In this case, the assets transferred were H's pre-marital wealth, save for those which were generated between 2004-2007 (which were to be shared equally). W had not shown that, over time, those assets had been shared between them. The transfer was to negate IHT and for the trusts to benefit the children. W was not intended to benefit.
- The Supreme Court rejected W's argument that the transfer was intended to benefit the family, saying it was distinguishable as the intention was to benefit the children. Had H become a trustee for the benefit of the children, there would have been no question of the assets being matrimonialised.
- The Court of Appeal was correct and W's appeal to the Supreme Court was dismissed.

47. **First, it is important to recognise that there is a conceptual distinction between matrimonial and non-matrimonial property. In general terms, this distinction turns on the source of the assets.** Non-matrimonial property is typically pre-marital property brought into the marriage by one of the parties or property acquired by one of the parties by external inheritance or gift. In contrast, matrimonial property is property that comprises the fruits of the marriage partnership or reflects the marriage partnership or is the product of the parties' common endeavour. **It has long been recognised that what is not determinative in deciding what is and what is not matrimonial property is who has title to the property:** see, eg, Lord Nicholls in White at p 611 D–G. Moylan LJ correctly pointed out in the Court of Appeal in this case, at para 152, that **to base an award on title would run counter to the discrimination and sharing principles.**

(emphasis added)

48. Secondly, the time has come to make clear that non-matrimonial property should not be subject to the sharing principle (though non-matrimonial property can be subject to the principles of needs and compensation). With some exceptions (see, for example, XW v XH (Financial Remedy: Non-matrimonial assets) [2019] EWCA Civ 2262; [2020] 4 WLR 22, paras 136-137) the courts have been reluctant firmly to say that non-matrimonial property is not subject to the sharing principle. Indeed, the Court of Appeal in Charman v Charman (No 4) [2007] EWCA Civ 503; [2007] 1 FLR 1246, expressly rejected the proposition that there was such an exclusion (while discussing at some length the merits of the exclusion approach). Sir Mark Potter P said the following at para 66:

> "To what property does the sharing principle apply? The answer might well have been that it applies only to matrimonial property, namely the property of the parties generated during the marriage otherwise than by external donation; and the consequence would have been that non-matrimonial property would have fallen for redistribution by reference only to one of the two other principles of need and compensation to which we refer in para 68, below. Such an answer might better have reflected the origins of the principle in the parties' contributions to the welfare of the family; and it would have been more consonant with the references of Baroness Hale in Miller at paras 141 and 143 to 'sharing … the fruits of the matrimonial partnership' and to 'the approach of roughly equal sharing of partnership assets'. We consider, however, the answer to be that, subject to [some] exceptions …, the principle applies to all the parties' property but, to the extent that their property is non-matrimonial, there is likely to be better reason for departure from equality.

49. However, no example has been given in which there clearly has been, or hypothetically would be, sharing of non-matrimonial property (under the sharing principle as opposed to the needs or compensation principles). It was said in JL v SL (No 2) [2015] EWHC 360 (Fam); [2015] 2 FLR 1202, para 22, by Mostyn J, that "such a case would be as rare as a white leopard". **Although courts have a broad discretion in this area and despite the temptation to "never say never", it is our view that the distinction between matrimonial and non-matrimonial property becomes largely meaningless if the sharing principle applies to the latter as well as the former. The law is also rendered clearer and more certain if one rejects the proposition that there can be sharing of non-matrimonial property**. We therefore accept the submission of Timothy Bishop KC, counsel for the husband in the present case, that **the sharing principle only applies to matrimonial property and does not apply to non-matrimonial property.** *(emphasis added)*

50. Thirdly, the sharing of the matrimonial property should normally be on an equal basis. Although there can be justified departures from that, equal sharing is the appropriate and principled starting position. Indeed, once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away.

51. **What starts as non-matrimonial property may become matrimonial property…The important question on any facts is whether that transformation has occurred.** The leading examination of matrimonialisation (although that term was not used) was in K v L [2011] EWCA Civ 550; [2012] 1 WLR 306. At para 18, Wilson LJ said:

"Thus, with respect to Lady Hale, I believe that the true proposition is that the importance of the source of the assets may diminish over time. Three situations come to mind: (a) Over time matrimonial property of such value has been acquired as to diminish the significance of the initial contribution by one spouse of non-matrimonial property. (b) Over time the non-matrimonial property initially contributed has been mixed with matrimonial property in circumstances in which the contributor may be said to have accepted that it should be treated as matrimonial property or in which, at any rate, the task of identifying its current value is too difficult. (c) The contributor of non-matrimonial property has chosen to invest it in the purchase of a matrimonial home which, although vested in his or her sole name, has—as in most cases one would expect—come over time to be treated by the parties as a central item of matrimonial property. The situations described in (a) and (b) were both present in White v White. By contrast, there is nothing in the facts of the present case which logically justifies a conclusion that, as the long marriage proceeded, there was a diminution in the importance of the source of the parties' entire wealth, at all times ringfenced by share certificates in the wife's sole name which to a large extent were just kept safely and left to grow in value."

52. We agree with those obiter dicta of Wilson LJ. But it is important to note that Wilson LJ's three situations were plainly not expressed to be exclusive categories. In this case in the Court of Appeal, Moylan LJ said, at para 163, that "the concept of matrimonialisation should be applied narrowly". We disagree. There is no good reason to treat matrimonialisation as a narrow concept. **It is neither narrow nor wide. Although this has not previously been clearly spelt out, what is important (leaving aside matrimonial property resting on contributions from each party) is to consider how the parties have been dealing with the asset and whether this shows that, over time, they have been treating the asset as shared between them. That is, matrimonialisation rests on the parties, over time, treating the asset as shared.** This analysis draws on Lord Nicholls' reference in Miller/McFarlane, at para 25, to the way the parties organised their financial affairs as being relevant and to Wilson LJ's references in K v L to the acceptance by the contributor that the asset should be treated as matrimonial property. See also, for example, Mostyn J in N v F (Financial Orders: Pre-Acquired Wealth) [2011] EWHC 586 (Fam); [2011] 2 FLR 533, para 44. **"Over time", which was the phrase used by Wilson LJ in relation to each of his three situations, means that the period of time must be sufficiently long for the parties' treatment of the asset as shared to be regarded as settled.**

53. It further follows that we agree with the essential thrust of the following passage from Peter Duckworth, Matrimonial Property and Finance (2025) at B3[20]: **"a better view may be that matrimonial property is not something that is predetermined at the outset of a marriage, but is governed by the parties' intentions and how they treat the relevant asset over a period of time. Thus where a party has demonstrated an intention to use an inheritance for the benefit of the family, by translating it into actual use and enjoyment, the parties have elected to treat it as matrimonial property, even if its origin was from outside the marriage." (**emphasis added)

54. It is the parties' treatment of the asset as shared over time that underpins at least the second and third situations articulated by Wilson LJ, but plainly there can be such treatment in other situations. In this case in the Court of Appeal, at para 165, Moylan LJ asked himself the question, "Does fairness require or justify the asset being included within the sharing principle?" **We agree that the sharing principle must be tied back to seeking a fair outcome. But putting to one side contributions made by both parties so that the assets in question are matrimonial for that reason, it is our view that it is the parties' treatment of what was initially non-matrimonial property, over time, as shared between them, that is central in deciding the fairness of that property being viewed as matrimonialised.** At least the second and third of Wilson LJ's three situations illustrate that. They are both situations where what was non-matrimonial property has become matrimonial property because of the way in which the parties have been dealing with the asset which shows that, over time, they have been treating the asset as shared between them.

55. **In so far as the first of Wilson LJ's situations is not based on that principle, it rests on a pragmatic assessment that the matrimonial property is so much greater than the non-matrimonial property that it is "not worth the candle" – and, for that reason, it is unfair to the parties – to try to work out what percentage was non-matrimonial. Fairness (in saving needless expense) demands that one should instead simply treat it all as matrimonial property. This was, implicitly, Moylan LJ's preferred explanation of Wilson LJ's first situation because Moylan LJ reformulated that first situation as follows, at para 163: "The percentage of the parties' assets (or of an asset), which were or which might be said to comprise or reflect the product of non-marital endeavour, is not sufficiently significant to justify an evidential investigation and/or an other than equal division of the wealth." We agree that, as a matter of pragmatic fairness, that is a helpful additional reason for applying matrimonialisation.**

56. The fifth and final principle relates directly to matrimonialisation in the context of the facts of this case. **In relation to a scheme designed to save tax, under which one spouse transfers an asset to the other spouse, the parties' dealings with the asset, irrespective of the time period involved, do not normally show that the asset is being treated as shared between them. Rather the intention is simply to save tax.** Tax planning schemes to save income tax, involving transfers of assets from one spouse to another, are commonplace given that there is no capital transfer tax on transfers between spouses. **However, transfers of capital assets with the intention of saving tax, do not, without some further compelling evidence, establish that the parties are treating the capital asset as shared between them.**

Post-*Standish* cases

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- *ED v AP [2025] EWFC 399*
- *RKV v JWC* [2025] EWFC 430 (B) **[NB. non-citeable]**
- *VP v SP* [2025] EWFC 447 (B) **[NB. non-citeable]**
- *LIN v PAR* [2025] EWFC 401, [2026] 1 FLR 712
- *LP v MP* [2025] EWFC 473, [2026] 1 FLR 1089
- *RRE v JPR* [2026] EWFC 7
- *KMR v AER* [2026] EWFC 10 (B) **[NB. non-citeable]**
- *BS v HC* [2026] EWFC 20 (B)
- *BC v BC (No. 2) (Matrimonialisation; Division of Shareholding; Provision for Debt)* [2026] EWFC 37
- *Thirsk v Thirsk* [2026] EWHC 1501 (Ch)

Post-*Standish* cases

In particular, note contrast between the following:

Cusworth J in *LP v MP*:

31. Of course, I recognise that, when the case of *Standish* went to the Supreme Court - [2025] UKSC 26 - Lord Burrows and Lord Stephens made clear at [50] that:

'… the sharing of the matrimonial property should normally be on an equal basis. Although there can be justified departures from that, equal sharing is the appropriate and principled starting position. Indeed, once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away.'

32. I do not take from that expression however that their Lordships intended to move the test away significantly from what had been the established principle enunciated by the Court of Appeal – their use of the word 'normally' can surely be equated very closely to Moylan LJ's use of 'typically' in the passage of his judgment cited above. Whilst they were at pains to express at [52] their disagreement with his formulation that the concept of matrimonialisation should only be applied 'narrowly', by stating that 'It is neither narrow nor wide', there was no suggestion of any correction to other parts of his reasoning.

Garrido J in *BC v BC (No. 2):*

41. In my judgment, either an asset is non-matrimonial, in which case it is excluded from equal sharing, or it is matrimonialised, in which case it is included in equal sharing along with all other matrimonial property (unless there is another, additional justification for departure from equality). I take from paragraph 50 of *Standish* that there is no room for a hybrid treatment of assets that have been matrimonialised: they are subject to the same normal rule of equal sharing as other matrimonial assets, and the same limited justifications for departure, for example and perhaps most commonly, to meet needs, which are not relevant in this case. After 18 years of marriage there is no room for an unprincipled, randomly alighted upon, 5% (why not 4% or 6%?) departure from the equal sharing of what I find to be now entirely matrimonial wealth.

Post-*Standish* cases

<u>And application of *Standish* to pensions by HHJ Hess in *BS v HC:*</u>

34. The issue of matrimonialisation is, in my view, rather a different one. Rights in a pension, unlike cash or property, rarely become *'mingled'* during a marriage. They remain in the sole name of the person who earned the pension rights – that is just a feature of how pensions are held. They are never put into joint names. Where, as here, the pension rights have not been drawn down at all then they remain an un-mixed and un-utilised asset, but the source of future income. What does it take for it to be fair to treat such an asset as having been matrimonialised? Mr Warshaw has argued that, since the pension fund remains untouched, it can in no sense meet the Supreme Court test in *Standish* because it has not yet been translated into *'actual use and enjoyment'.* In my view, whilst I recognise that these words do appear in the *Standish* judgment, this is too literal an interpretation. An actual use and enjoyment provides a clearer example, but a common intention to put the asset into use and enjoyment in the future could also in my view give rise to matrimonialisation if that intention was relied upon by the other party to his or her detriment. As I put it to Mr Warshaw in argument here, if, for example, one spouse said to the other words to the effect of, *"if I contribute my £1,000,000 of cash to purchase a family home in joint names will you agree to treat your £1,000,000 pension as a joint asset, even if it remains in your name"* and the other spouse agrees then (notwithstanding that the pension has not yet been put into actual use and enjoyment) that would amount to matrimonialisation in my view. A different conclusion would not be fair.

35. So has this happened here? What is essentially relied upon here by the wife is a conversation which took place in 2013 when she received the gift of £1,500,000 from her father. It was agreed that there would be a purchase of CD, which was to cost £838,000 plus purchase costs and was then to have substantial refurbishment costs, initially at least funded by the wife to the extent of several hundred thousand pounds, and was eventually sold in 2023 for £1,600,000. This issue arose as to whether CD would be placed in the wife's sole name (since she was paying for it) or in joint names. The wife says, and I accept her evidence on this, that the husband asked for the property to be placed in joint names and said words to the effect of *"it doesn't matter that I am not contributing to the purchase price because we will share everything equally in our marriage, everything comes and goes out of the same pot".* It is not suggested that he made any specific reference to his pension in this conversation and there were other assets to which he could have been, and probably was, referring, most obviously his company shares (which eventually sold for a sum which was broadly equal to the wife's father's gift). It is a difficult question, but I have not been persuaded on the facts of the present case that these words could fairly give rise to the husband's pension rights thereby became matrimonialised. More, in my view, would be required to meet the *Standish* test.

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Kroupeeva v Kroupeev [2026] EWFC 85

KROUPEEVA V KROUPEEV

FACTS

29 Bedford Row Chambers

Family Court (25 March 2026)

James Ewins KC (sitting as Deputy Judge of the High Court)

- Both parties aged 59. Both Russian in origin but now both held UK Citizenship. Married in 1988 – 35 tear marriage.
- Two adult children, the younger living in the FMH in London with W.
- Total family wealth *c.* £300m – entirely matrimonial property.
- The family wealth was generated via H's involvement with Russia's energy sector, held through various trust and corporate structures. Principal holding vehicle was Waterford Finance & Investment, a company created in Guernsey. Later this was relocated to the Seychelles (one month after H's form E).
- The shares in Waterford were held by the Rossini Trust, a discretionary trust settled in 1995 under which H, W and the children were beneficiaries.
- W was removed from the class of beneficiaries at the beginning of the financial remedy proceedings.

Principal issue was whether there was any real value in the Rossini Trust and how it could be accessed. Procedural history involved H failing to comply with orders for disclosure, LSPO and MPS. He also refused to co-operate with valuation orders (properties and business).

KROUPEEVA V KROUPEEV

KEY DICTA

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On the principles concerning variation of settlement cases:

Para 57

- “57.1. A 'settlement' is any arrangement which makes some form of continuing provision for both or either of the parties to a marriage, with or without provision for their children.
- 57.2. Such a settlement is 'nuptial' if it is made upon the husband in the character of husband or in the wife the character of wife, or upon both in the character of husband and wife.
- 57.3. A settlement that had no nuptial element at its inception cannot subsequently become nuptial merely because it makes some form of continuing provision for the parties or their children. However, where a non-nuptial settlement makes such ongoing provision, the arrangement by which it does so may, itself in isolation, be characterised as a nuptial settlement to which s.24(1)(c) applies.
- 57.4. These principles will enable to the court to answer two key questions: whether a nuptial settlement exists and, if so, what is the property within that settlement, for it is only in respect of the property within the settlement that the courts powers of variation under s.24(1)(c) apply.
- 57.5. Whilst the court's power to vary a settlement is in principle unfettered, that power should not be exercised to interfere with a nuptial settlement any further than is necessary to do justice.
- 57.6. 'Doing justice' requires the court to: (i) consider the Matrimonial Causes Act 1973, s.25 factors; (ii) be fair to both parties to the marriage, looking at the matter as a whole; (iii) interfere only to the extent necessary to do justice between the parties; and (iv) be slow to deprive innocent third parties of their rights under the settlement and, to the extent that it does adversely affect their rights, the court should seek to compensate the adversely affected beneficiaries in some suitable way.
- 57.7. As to the 'unfettered' exercise of the court's power to vary a nuptial settlement, the case law shows an extensive range of possible outcomes including the transfer out of property or cash to one spouse absolutely, the granting of a life interest, varying or extending a license, creating an annuity and adding or removing beneficiaries, trustees or protectors.”

KROUPEEVA V KROUPEEV

On the question of how to extract wealth from a trust structure:

Para.s 58-9

- “These cases are therefore authority for the proposition that an arrangement can be characterised as nuptial and is variable pursuant to s.24(1)(c) by virtue of the ongoing provision made by its underlying assets. These assets were mostly, but not always, former matrimonial homes, but where further financial provision was made, the source of that provision was included within the variable arrangement. Thus, where an asset is making such continuing provision, the arrangement by which it does so, which may include an intermediate corporate entity or entities, constitutes a nuptial settlement comprising the nuptial property, all of which is variable under s.24(1)(c).
- It therefore follows that a court can, in circumstances where continuing provision is made to the parties to the marriage by an asset held through an intermediary company, define the nuptial arrangement to include both the nuptial asset(s) (or right(s) over the nuptial asset(s)) and the holding structure, and vary it accordingly. But in doing so, the court cannot impute nuptiality to any part of a settlement or arrangement that extends more widely than that which is making continuing (nuptial) provision.”

Prest?

KROUPEEVA V KROUPEEV

KEY DICTA

29 BEDFORD ROW CHAMBERS

Outcome limited by two factors: enforceability and the position of the children under the trust. Properties to the value of £40m in Englad and Russia were transferred to W. But:

Para 115

- "I have the power to order a transfer to W of Waterford's shares in Serra Gayrimenkul Yatirim and Gulfsands by way of a variation of a nuptial settlement. However, I consider that such provision may prove to be, if not worthless in her hands, nonetheless of significantly impaired value. My reasons are as follows:
- 115.1. as to the Turkish villa, it follows from my finding at ¶80 above that I do not consider that transferring the shares in Serra Gayrimenkul Yatirim to W will necessarily confer on her an enforceable right of ownership or occupation of Villa 8 specifically.
- 115.2. it flows from him my finding at ¶96 above that the ownership of Gulfsands shares may well come with significant concomitant liabilities which W will not be able to discharge, resulting in the dilution or even loss of any such shares."

Moreover (para 116)

- "I must consider the children's rights, and the value of those rights, and exercise caution and consider what compensation they may receive to the extent that my order affects their rights."

Para 117

- "I find that a fair lump sum to award in W's favour is £60m. This would give her total assets of c.£100.6m, being 33% of the total assets as I have inferred them (at least) to be."

LP v MP

[2025] EWFC 473

LP v MP

29 Bedford Row Chambers

- Relationship of c. 12 years. H 72 and W 59 at date of FH.
- One minor child born in 2014 who lived with H at time of FH.
- At the start of cohabitation H's wealth was c. £21.6m. He had effectively retired before the parties met. W brought very modest assets to the marriage and made no financial contribution to any of the main family assets.
- During the marriage, two significant properties were used as family homes and acquired in joint names. The funds used to acquire both properties were entirely non-matrimonial in origin and came from H. There was no meaningful marital acquest. At the end of the marriage, H's wealth was broadly the same as at the start; if anything, it had been depleted by W's financial demands and litigation costs.
- W told H that she was on a fast track to becoming a High Court Judge and her profession on the marriage certificate was a High Court Judge. She was not and had never been a member of the judiciary or even had any legal training.
- W had been convicted of fraud during the marriage. There was extensive evidence that she had extracted substantial sums of money from H under false pretences and transferred funds abroad.
- H asserted that W subjected him to coercive and controlling behaviour, verbal and emotional abuse and serious physical abuse several of which incidents took place in front of their child (there were protracted CA proceedings in which the child was found to have suffered serious emotional harm and H's allegations were found proven).
- W also made false allegations against H including rape and threats to kill which the judge in the CA proceedings found were made maliciously.
- During the FR proceedings the police decided they would prosecute W for coercive and controlling behaviour towards H. The Judge determined he would not delay the FR proceedings and would consider whether H's case had been established to the civil standard.

LP v MP

FINDINGS

29 Bedford Row Chambers

Judge conducted a fact finding. He rejected all of W's allegations against H. He found:

- Marriage was founded on deception and fraud. W demanded and received significant sums to pursue trips and studies, retained by her or spent elsewhere
- W was guilty of coercive, controlling and abusive behaviour. H became afraid of her. W isolated H and H was embarrassed that he was victim of violence.
- W used H's forename and surname on a number of official documents (passport, bank account statements, deeds) but H had not been able to identify a financial benefit W gained from this so no finding that W had used H's name fraudulently.
- W continued after the marriage to provide accommodation for her second husband who she persuaded H to employ as a house-sitter and security consultant at home. Insufficient evidence to make findings about conspiracy.
- H incurred increased insurance premiums on properties following W's convictions.
- H bought 2 matrimonial homes in joint names which he wouldn't have done if he had known of W's deceit. Court held that this purchase was done at least in part as recognition of their marriage but W's behaviour would impact her sharing claim.
- W lied to H about studying for degrees and trips for which she sought payment from H and made numerous financial demands, which H agreed to, e.g.:
    - £50,000 for studies not undertaken
    - £5,000 per month totalling £174,900 (being fund previously paid to the nanny before she was sacked – W demanded this money from H)
    - £167,500 to vacate one of H's pre-marital properties just before its sale
- W assaults on H were witnessed by the child
- W obtained £311,040 for costs, charges and fines in relation to her criminal prosecution for housing benefit fraud, telling H that failure to pay would lead to enforcement against the jointly-owned family home. Despite receiving the payments, she refused to let H attend her sentencing or speak to her probation officer and so he was unaware of the judge's criticisms of her and the fact that W had only been required to repay £74,692.
- H incurred £809,837 in costs in the Children Act proceedings and paid £46,203 of W's costs before she disengaged. Treated differently to the funds which W obtained from H under false pretences.

30. In *Standish v Standish [2024] EWCA Civ 567*, Moylan LJ said from [164] that:

> "… the court will typically conclude that the former matrimonial home should be shared equally although this is not inevitable as shown by cases such as *FB v PS* …
>
> [165] … Does fairness require or justify the asset being included within the sharing principle?
>
> [166] The conclusion that it does, … does not mean that it must be shared equally. The submission by [counsel] that, once an asset is matrimonialised and treated as matrimonial property, it *must* be shared equally is unsupported by any authority and would be contrary to the objective of a fair outcome. This is because, again as Mostyn J said in *JL v SL (No. 1)* at [19], it may be that the *'non-matrimonial source of the moneys in question'* remains *'a relevant consideration'*. In its evaluation of all the relevant factors … it would be perverse if the court could not decide that the non-matrimonial source, in whole or in part, of an asset treated as matrimonial property could not justify an other than equal division."

31. Of course, I recognise that, when the case of *Standish* went to the Supreme Court - [2025] UKSC 26 - Lord Burrows and Lord Stephens made clear at [50] that:

'… the sharing of the matrimonial property should normally be on an equal basis. Although there can be justified departures from that, equal sharing is the appropriate and principled starting position. Indeed, once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away.'

32. I do not take from that expression however that their Lordships intended to move the test away significantly from what had been the established principle enunciated by the Court of Appeal – their use of the word 'normally' can surely be equated very closely to Moylan LJ's use of 'typically' in the passage of his judgment cited above. Whilst they were at pains to express at [52] their disagreement with his formulation that the concept of matrimonialisation should only be applied 'narrowly', by stating that 'It is neither narrow nor wide', there was no suggestion of any correction to other parts of his reasoning.

Cusworth J refers to *Tsvetkov, Goddard-Watts* and *N v J:*

Goddard-Watts:

73. "the proper way to have regard to the conduct is as a potentially magnifying factor when considering the wife's position under the other subsections and criteria. It is the glass through which the other factors are considered"; at [44]. Further, although there are "numerous cases decided in relation to conduct" in the end they are so fact specific to provide very little guidance. The provisions of Section 25 "rules the day".

74. I agree with the husband that there is no direct financial consequence to his fraudulent misconduct so as to enable its monetary evaluation. However, I take the view that the husband's fraud is 'conduct' for the purpose of subsection 2(g) in that it provides 'the glass' through which to address the unnecessary delay in achieving finality of the wife's overall claim, including her unanticipated contribution to the welfare of the family post 2010. I make clear that I do not suggest that this necessarily means that she will receive an increased award, whether on the basis of a 'sharing' or 'needs' approach, but that she is entitled to seek to make her case on a blank page approach.

N v J:
37. I tentatively take the view that the words at para 74 of *Goddard-Watts* do not in fact represent a new departure from the traditional view (endorsed by the Court of Appeal at paras 70 and 71) that financial consequence is invariably a necessary ingredient for conduct to be reflected in the award. In my judgment, there should be an identifiable financial impact even if it is not always easily measurable. And as I said in *Tsvetkov v Khayrova* there must be a causative link between the conduct and the financial consequence.

38.…iv) It is not for the financial remedies court to impose a fine, a penalty, or damages upon a party for conduct…

Paragraph 43 arguably takes a different approach to 'conduct' than that taken by Peel J in *Tsvetkov v Khayrova* and *N v J* re. the need for *"an identifiable (even if not always easily measurable) negative financial impact upon the parties" and "a causative link between the act/omission and the financial loss".*

Per Cusworth J:

- [43] In my judgment, where a party has been found responsible for coercive controlling behaviour within a marriage, especially when that behaviour includes a significant element of violence, the negative financial impact may well not be easily measurable, and any loss will only usually be capable of a very broad evaluation at best. That does not however mean that such an impact will not be present. Whilst the statutory test - that the conduct must be such that it is 'inequitable to disregard' - really means no more in ordinary language than that the behaviour should be taken into account if it would be unfair to ignore it, Peel J is right that the higher courts have set the threshold for applying s.25(2)(g) at a very high level. Nonetheless, I consider that there is a real risk of unfairness to victims of violent or coercive controlling behaviour, if the lack of readily quantifiable financial loss prevents the courts from even considering the fairness of taking their assailant's behaviour into account in determining the outcome of a financial remedy application. Such behaviour may well have hard-to-predict but potentially far-reaching consequences, in some cases for the victim's prospects of achieving self-sufficiency, in others for a fair financial outcome in all of the circumstances. That does not mean that the fact of such behaviour will inevitably lead to a different award, but in the right case, it clearly should do.

45. Here, I acknowledge that the two houses in question are properties which the husband placed into joint names in the marriage, and were used by the couple as matrimonial homes. I remind myself that whilst the husband's wealth has not increased during the marriage, neither has it dramatically reduced. It also remains possible to take into account the funds that the wife has transferred to other jurisdictions when I come to consider whether inferences should be drawn. In his evidence, the husband further identified the principal reason for his not having as much time to focus on his investments being the time which he has needed to devote to X's care, and not the wife's behaviour. Notwithstanding all of that, however, **I am satisfied that the wife's conduct during this marriage as I have found it to have been has been egregious, and so passes the 'obvious and gross' test set by the authorities.** Save where identified above, I have broadly accepted the allegations of conduct which the husband has made in his schedule of allegations, other than in relation to litigation misconduct (and I will consider such allegations within these proceedings under the aegis of costs if any application follows). **Consequently I will consider whether and if so how that conduct, placed alongside to her lack of financial contribution to the marriage, and in particular to the acquisition of the properties, should have an impact upon the proportion in which the family homes are shared, even if conduct is considered only as 'the glass' through which to assess fairness.** (emphasis added)

47. Conclusion on sharing. Overall, I am satisfied that the wife's headline entitlement may be set out as follows, before I come to compute the value of the wife's sharing claim, and the amounts which I should decide that she should be treated as already having available to her, and so which can properly be considered as having been taken by her on account of that claim. The properties are: North Farm, less its farmland which I am taking at one third of its value, so that the matrimonial net value is £1,940,000; Park Street - £4,365,000; and the Leicester property - £339,500. Whilst these have a combined value of £6,644,500, I am satisfied that a fair outcome for both parties is that 40% of the wife's prima facie entitlement is deducted on account of her complete lack of contribution, the absence of which is rendered significantly more acute when considered through the glass of her deplorable conduct. This leaves her with 60% of her notional half-share, and so 30% of the combined value of the properties as a whole. This would be £1,993,350.

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Lazcano Mendes v Haines [2026] EWFC 213

Lazcano Mendes v Haines

FACTS

29 Bedford Row Chambers

Family Court (17 July 2026)

Cusworth J

- H was born in 1960 in Wales. W was born in 1970 in Spain.
- They were never validly married. H and W went through an invalid ceremony of marriage in 2017 involving a ceremony at which 120 guests attended.
- H moved to Germany and married his first wife (A) in 1987. They lived for short periods in Sweden and Russia before returning to Germany in 1995. After a short period living in England they returned once again to Germany in 2004. They then decided to stay permanently in Switzerland in 2010. Their relationship broke down in 2014 and they were divorced in Switzerland (the Swiss court having accepted that H was domiciled in Switzerland) in 2015.
- In 2018 H purchased a house in Belgravia through an offshore structure. He remained registered to vote in London until 2025.
- W issued nullity proceedings in 2025. H's case was that this was a non-marriage, which would not result in a decree of nullity but merely a declaration that the purported marriage was invalid. He also contended that the Family Court lacked jurisdiction to determine that claim as he was not domiciled in England and Wales.

Lazcano Mendes v Haines

KEY DICTA

29 Bedford Row Chambers

Cusworth J held as follows:

Para 24

- The law was as explained by Arden LJ in *Barlow Clowes International Ltd v Henwood* [2008] EWCA Civ 577 who said:

  "(i) A person is, in general, domiciled in the country in which he is considered by English law to have his permanent home. A person may sometimes be domiciled in a country although he does not have his permanent home in it

  (ii) No person can be without a domicile

  (iii) No person can at the same time for the same purpose have more than one domicile

  (iv) An existing domicile is presumed to continue until it is proved that a new domicile has been acquired

  (v) Every person receives at birth a domicile of origin

  (vi) Every independent person can acquire a domicile of choice by the combination of residence and an intention of permanent or indefinite residence, but not otherwise

  (vii) Any circumstance that is evidence of a person's residence, or of his intention to reside permanently or indefinitely in a country, must be considered in determining whether he has acquired a domicile of choice

  (viii) In determining whether a person intends to reside permanently or indefinitely, the court may have regard to the motive for which residence was taken up, the fact that residence was not freely chosen, and the fact that residence was precarious

  (ix) A person abandons a domicile of choice in a country by ceasing to reside there and by ceasing to intend to reside there permanently, or indefinitely, and not otherwise

  (x) When a domicile of choice is abandoned, a new domicile of choice may be acquired, but, if it is not acquired, the domicile of origin revives"

Lazcano Mendes v Haines

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Para 28

- Cusworth J further held:

“i) A finding as to domicile requires a careful evaluation of all the facts: *Barlow Clowes* §16.

ii) A person's domicile of origin is "tenacious" and "less easily shaken off" than a domicile of choice: *Huntly v Gaskell* pp. 66–7; *Barlow Clowes* §85. If they have not made up their mind where to settle permanently, they retain their domicile of origin: *Holliday v Musa* §23.

iii) Acquisition of a domicile of choice will not be "lightly inferred": *CC v DD* §22. It requires both residence in the relevant jurisdiction, and an intention of permanent or indefinite residence there. That intention must be fixed and for the indefinite future. An intention to reside for an undetermined period of time but not permanently is not enough. What is required is for the person to have "a singular and distinctive relationship" with the country in which a domicile of choice is claimed, such that it is intended to be the person's ultimate home or the place where they would wish to spend their last days: *Barlow Clowes* §§10–15; *Holliday v Musa* §74.

iv) That intention must be directed exclusively towards one country: an intention to settle in one of several countries is not sufficient: *Bell v Kennedy*.

v) Citizenship is not decisive. A person may acquire citizenship of a country without becoming domiciled there; and likewise a person may acquire a domicile of choice without being a naturalised citizen of the country in question: *Barlow Clowes* §18.

vi) Statements or declarations as to intentions, and declarations of domicile or residence for tax purposes, should not be relied upon per se without consideration of whether they are corroborated by the actions of the relevant person: *Barlow Clowes* §19, *Holliday v Musa* §§66, 69.

vii) It is relevant to consider where a person has their family life and emotional connections, as well as their other social ties and activities: *Holliday v Musa* §§23, 63, 71; *Proles v Kohli* §§114, 124–133.

viii) Ownership of property is a relevant factor: *Barlow Clowes* §65. This may not, however, carry much weight where a wealthy individual owns and spends time in multiple properties in different countries: *Huntly v Gaskell* pp. 67–8, 70–1. For the same reason the place where a person is registered as resident, under national legal provisions, is likely to carry limited weight where the evidence indicates that they have registered as resident in multiple jurisdictions.

ix) The length of time that a person spends in a particular place is not decisive. The more important factor is the quality of the person's residence: *Barlow Clowes* §§103–4.

Lazcano Mendes v Haines

KEY DICTA

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On the facts:

Paras 56-7

- “It is significant that before he gave up, as he evidently has, his domicile in Germany, he and A had for four years or so been renting in Switzerland, and that when they moved there fully, they did so consciously, to a country with which they were familiar. Despite the earlier failed attempts to break new ground in England, in Russia and in Sweden, which were cut short because of the family's failure to settle, the Swiss move proved enduring, notwithstanding the eventual breakdown of Mr Haines' marriage. This suggests that when the German domicile of choice was surrendered, the legal position of adopting Swiss domicile was also in fact reflected by the true underlying position, that this was where he was now intending to make his permanent and indefinite home. I am satisfied that his family was an international and European family, and that there is sufficient evidence that they chose consciously and for good cause to make what was intended to be a permanent switch of their lives, and with it his domicile, from Germany to Switzerland by the summer of 2010. It is relevant in this, although not I acknowledge determinative, that his divorce from A took place under Swiss law, and on the basis of that Swiss domicile. Other evidence may be gleaned by considering subsequent events.
- By the time that his marriage to A ended, and he met Ms Lazcano, I am therefore clear that Mr Haines had deliberately surrendered his German domicile of choice and replaced it with one in Switzerland, both in Swiss law and in fact. On that basis, I would need to be persuaded as explained above that he had subsequently given up both his intention to reside indefinitely in Switzerland, and also his actual residence there, for Mr Haines' domicile of origin to have revived.”

29 BEDFORD ROW CHAMBERS

Meerna Ali Ghuloom Faraj v Sohail Sultan Ahmad & Anor

[2026] EWCA Civ 962

Meerna Ali Ghuloom Faraj

FACTS

- Long running, high value, FR proceedings. Marriage of c. 9 years. W 53 and H 57. A ”blizzard of litigation” between the parties.
- Cohen J at first instance (*Ahmad v Faraj* [2023] *EWFC 209)* found there to be the following assets:
  - A property in Portugal with an uncertain value, possibly as little as $170,000;
  - £16m in bank accounts subject to this appeal, known as the ‘Disputed Accounts’;
  - The husband’s interest in an investment holding company in Bahrain (IIB Group Holdings), valued at £7.5m;
  - A debt owed to the husband by Ghouse Akbar (“GA”) of $25m with significant uncertainty as to payment and, in any event, which is not payable until 2031. The only asset in the UK is £1.5m secured on a property in London.
- The judge ordered H to pay to W a lump sum of £6,080,000 less the sum she receives from the sale of the Portugal property. This, he held, would provide a home, capitalised maintenance and, £2.25m towards her costs in order to clear her litigation funding (as it stood at the date of the trial).
- Central issues on appeal were whether H had access to the £16m Disputed Accounts (H contended judge wrong to have found this) and whether an agreement between H and IBB Group Holdings (an investment holding company in Bahrain of which H is the majority shareholder and director) to purchase a property in future was a sham (W contended judge was wrong to have found it was not a sham).
- Court of Appeal allowed H, W and the the bank’s appeal.
- Court decided the Court’s findings could not stand and ordered a retrial:

> ***6. This outcome has been reached with considerable reluctance. All agree that the prospect of a retrial is shocking. The costs, which are extraordinary, reflect the bitterness and distrust between this couple at the end of their marriage. Notwithstanding that being the case, there must be a retrial of all the issues and none of the judge’s findings of fact whether the subject of appeal or otherwise can stand.***

W's case relied on two letters prepared by IBB's CFO in 2020 that if accepted supported the existence of significant cash balances in accounts available to H. Those letters were not disclosed until the trial.

Ground 1 of H's appeal:

> i) The wife should, Ms Bangay submits, have pleaded her case pursuant to [36] of *TL v ML and Others (Ancillary Relief: Claim against Assets of Extended Family) [2005] EWHC 2860 (Fam), [*2006] 1 FLR 1263 ("*TL v ML*") which she submitted should apply regardless of whether third parties are involved. Failing that it is submitted that she should, at the very least, have given formal notice to the husband, even if her case depended on evidence that only emerged during trial. This would have allowed the husband to adduce further evidence and, if necessary, apply to adjourn. The husband contends that express representations by the wife's leading counsel on the first day of trial led the husband to believe such a case was not being advanced at the hearing on behalf of the wife.
>
> ii) That the wife's case in relation to the Disputed Accounts (that is to say that the accounts existed and the money held within them was the husband's to withdraw as he thought fit) was not articulated on behalf of the wife until closing submissions. The husband was not therefore given fair notice of the case he had to meet, or an opportunity to challenge that case in cross-examination and in submissions.

- H was successful on this ground. W's case about the sums said to be available to H was not articulated in a way that gave H fair notice to meet it and the late disclosure of the letters compounded the unfairness.
- If intending to rely on litigation misconduct to affect division (as opposed to just costs), plead the case early so there is fair notice and an opportunity to meet it for other side.
- If conduct becomes apparent later, as the case develops, then give prompt, clear notice and bring back before court for correct procedural step. Where a party seeks to rely on non-disclosure at trial without prior notice, the appellate court will scrutinise whether the late raised case caused procedural unfairness. If it did, the trial outcome may be set aside.

Read paras 42-75 – reiterates established principles about drawing adverse inferences – *Moher* is followed. Non-disclosure can be remedied through costs orders or an adjustment to the division between the parties.

66. It follows that I would agree with what Peel J more recently said in *N v J* [2024] 4 WLR 64 ("*N v J*"):

"37. I tentatively take the view that the words at para 74 of *Goddard-Watts* do not in fact represent a new departure from the traditional view (endorsed by the Court of Appeal at paras 70 and 71) that financial consequence is invariably a necessary ingredient for conduct to be reflected in the award*. In my judgment, there should be an identifiable financial impact even if it is not always easily measurable.* And as I said in *Tsvetkov v Khayrova* there must be a causative link between the conduct and the financial consequence." (my emphasis)

67. In my judgment Coleridge J's reference to the glass through which other factors are considered was his way of describing how the impact of the financial damage done by the egregious conduct on the part of the husband would be reflected in the enhanced distribution in the wife's favour by reference to other s25(2) factors. This approach is crystallised by Peel J in *Tsvetkov v Khayrova [2003] EWFC 130,* [2024] 4 WLR 59. ("*Tsvetkov v Khayrova")* At [43] Peel J considered the proper approach to conduct:

> "43. A party asserting conduct must, in my judgment, prove: i) the facts relied upon; ii) if established, that those facts meet the conduct threshold, which has consistently been set at a high or exceptional level; and Iii) that there is an identifiable (even if not always easily measurable) negative financial impact upon the parties which has been generated by the alleged wrongdoing. A causative link between act/omission and financial loss is required. Sometimes the loss can be precisely quantified, sometimes it may require a broader evaluation. But I doubt very much that the quantification of loss can or should range beyond the financial consequences caused by the pleaded grounds. This is stage one.
>
> 44.If stage one is established, the court will go on to consider how the misconduct, and its financial consequences, should impact upon the outcome of the financial remedies proceedings, undertaking the familiar s25 exercise which requires balancing all the relevant factors. This is stage two."

68. I would add, in passing, that when Peel J said "*how* the misconduct … should impact the outcome", he was clearly not mandating that there *will* be an impact because, as he said, the court still has to balance all the relevant factors, including conduct, when determining the fair outcome. The issue of whether and, if so, *how* remains a matter within the court's discretion. Peel J went on at [46] to set out what he says is the appropriate procedure requiring pleading and active case management where there are or may be, conduct issues.

69. Peel J recognised that "in some instances alleged conduct may rear its head after provisions of Forms E" [46(vii)]. He gives the example of add-back, where the dissipation of assets occurs in the lead up to trial. In that instance, he said, the conduct claim "must be brought before the court as soon as possible so that it can be case managed appropriately". He goes on to say that "wherever conduct is relied upon, and the court permits it to be advanced at trial, it should be pleaded" [46(viii)]. It is worth noting that in *Tsvetkov v Khayrova* Peel J at the preliminary hearing that resulted in this judgment, had refused to allow conduct to be argued at trial.

70. He concluded, however, by saying that: "47. Finally, and for the avoidance of doubt, this suggested procedural route will not be necessary or appropriate where a party relies only on litigation misconduct. The court will ordinarily be able to deal swiftly with costs at the hearing in time honoured fashion."

74. *TL v ML* relates to disputes between a spouse and a third party as was the case here as between the wife and IIB. The procedure prescribed by Mostyn J was precisely the procedure which was adopted in relation to consideration of the issues relating to the FAP, even to the extent that initially the matter was listed to be dealt with by way of a preliminary hearing. In my judgment the same procedure could not have been applied to the Disputed Accounts because (i) the only identified *TL v ML* type of dispute arose in relation to the FAP and(ii) the dispute was between spouses not between the wife and a third party namely IIB. **In any event, the wife's case was that the husband had unspecified assets which he had not disclosed and that he could draw funds from IIB, she was not saying that she could identify conduct that would satisfy s 25(2) (g) and required pleading. Rather, she was putting a case of *Moher* type inference and was doing so right up to the closing submissions, asking the judge to make adverse inferences in the light of the husband's alleged non-disclosure. I again endorse Peel J's observation that where there is a straightforward allegation of litigation misconduct, here in the form of non-disclosure, pleadings are neither necessary nor appropriate.**

75. It follows that in my judgment those representing the wife did not have to file formal pleadings and that adequate notice was given from the earliest stage that her case was that the husband had undisclosed resources and could draw on IIB for them. It follows that the judge was not forestalled by the absence of formal pleadings from making any adverse inferences he felt to be appropriate in the light of the husband's non-disclosure and he would have been entitled to penalise this litigation misconduct in costs. Equally, where there is an identified asset, a judge is entitled to make a specific finding of fact as to the value of that identified asset providing the finding is sufficiently supported with reasons.

As to overturning a factual finding:

144. Mr Weale rightly emphasised that a prospective appellant in seeking to overturn a factual finding faces an uphill task (see *Volpi)*). This task, he says, is made all the more formidable insofar as the challenge is against a judge's refusal to make a finding of dishonesty against not only the husband but IIB. Further, Mr Weale reminds the court that a judge cannot and does not need to deal with every point, especially in a case such as this where there are voluminous papers and numerous issues to be resolved.

145. In *Simetra Global Assets Ltd v Ikon Finance Ltd [2019] EWCA Civ 1413*, [2019] 4 WLR 112, Males LJ considered an appeal in a matter where it was said that the judgment failed to address many of the issues which arose at trial, that its conclusions were cursory and its reasoning limited, and that it had failed properly to analyse the witness and documentary evidence on a number of critical issues. From [39] onwards Males LJ reviewed the authorities relating to inadequacy of reasons. Whilst saying that no universal template is possible, he went on to make four points at [46]:

"46....First, succinctness is as desirable in a judgment as it is in counsel's submissions, but short judgments must be careful judgments. Second, it is not necessary to deal expressly with every point, but a judge must say enough to show that care has been taken and that the evidence as a whole has been properly considered. Which points need to be dealt with and which can be omitted itself requires an exercise of judgment. Third, the best way to demonstrate the exercise of the necessary care is to make use of "the building blocks of the reasoned judicial process" by identifying the issues which need to be decided, marshalling (however briefly and without needing to recite every point) the evidence which bears on those issues, and giving reasons why the principally relevant evidence is either accepted or rejected as unreliable. Fourth, and in particular, fairness requires that a judge should deal with apparently compelling evidence, where it exists, which is contrary to the conclusion which he proposes to reach and explain why he does not accept it.

47. I would not go so far as to say that a judgment which fails to follow these requirements will necessarily be inadequately reasoned, but if these requirements are not followed the reasoning of the judgment will need to be particularly cogent if it is to satisfy the demands of justice. Otherwise there will be a risk that an appellate court will conclude that the judge has "plainly failed to take the evidence into account".

146. In my view the judge failed to consider the significance, if any, of a number of matters, including (i) the fact that the husband had accepted in evidence that he had executed sham documents and had been a party to a dishonest scheme in relation to the Disputed Accounts and in respect of which he had subsequently perjured himself in his dishonest witness statements, (ii) failed to consider whether the evidence of the accounting treatment of the FAP which would have resulted in the receivable (namely the FAP) being written off over time without impacting IIB's accounts in the short to medium term after which no doubt the beneficial interest, if it ever had been transferred to IIB, would revert to the husband, (iii) failed to take into consideration that Mr Husain had been content to advance the money as a bonus until it became clear that Bahraini law would have required a top up of capital if such a sum was withdrawn from the Bank, (iv) failed to take into account that, on any view, the value of the house on sale would not cover the advance that had been made to the husband, and (v) found, but did not factor in his findings, that it was never anticipated that the FAP would be enforced, that the Board could agree, and that the company would be amenable to, the longstop date being varied, and that interest could be waived.

147. In my judgment, there must be a real risk that the judge, if only subliminally, was influenced by the offer of IIB. As he said himself at [57], "I do not believe that the husband or Mr Husain wished to see the wife and children homeless". As Males LJ said: "fairness requires that a judge should deal with apparently compelling evidence, where it exists, which is contrary to the conclusion which he proposes to reach and explain why he does not accept it". Even taking into account the merit in a succinct judgment and that, in a case as complex as this, the judge cannot possibly deal with each and every point, in my judgment the judge failed to consider all the relevant evidence which related to the question of the validity of the FAP and did not give sufficient reasons as to why the evidence was either irrelevant, accepted or rejected as unreliable.

Retrial is the remedy not a speculative re weighing of assets on appeal:

Paras 150-156

156. I fail to see how a trial could be unfair to the husband, which is effectively what his grounds of appeal advanced, yet still be fair overall, such that the husband retained the benefit of those findings by the trial judge that he prefers. I would describe this as worse than "island-hopping"; it is more akin to cherry-picking. In my judgment, as a matter of principle, if there has been a serious procedural irregularity that has materially impacted the fairness of a trial, the remedy for this is for that trial to be heard again. Here, these irregularities have impacted the cases advanced both for the wife, and also the husband. Her case concerning the FAP was not properly considered and adjudicated upon as my ladyship has explained; the husband's explanations (such as they were) for the correct characterisation of the Disputed Accounts were not properly given either, and the case not properly put to him.

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CHAMBERS

Awolowo v Awolowo
[2026] EWFC 31

Awolowo v Awolowo

Family Court (16 February 2026)

Peel J

- This was the final hearing of W's application for relief following an overseas divorce. The proceedings had taken a long time not least because of the determination of a preliminary issue as to whether H owed a loan of around £1.6m to his brother, a successful appeal against that and the re-determination of the same issue. (see **Awolowo v Awolowo & Anor [2025] EWCA Civ 641 and Awolowo v Awolowo 2025 EWHC 3346 (Fam).**
- W is 41, H is 63. Both are Nigerian background. They were married in Nigeria in 2004 and had 4 children together. One had serious disability, requiring substantial care from W. The parties moved from Nigeria to the UK in 2009 to enable H to expand his business.
- H issued divorce proceedings in Nigeria in 2018 where a decree was pronounced. W converted her application for financial relief under a English petition into an application for leave under the 1984 Act.
- The principal visible asset in the case was the equity in the FMH in London of around £2m. W owed around £500,000 in relation to unpaid legal fees.

KEY DICTA

Para 48:

- "I cannot be satisfied as to the extent of H's assets beyond a general conclusion that, contrary to his presentation, he has access to undisclosed wealth. Based on the findings I made in my December 2025 judgment, he had substantial assets in 2007, including ownership of a number of properties, before purchase of the FMH. For the purposes of a visa application he deposed to wealth of about £6m assets. That was a long time ago, and it does not necessarily follow that his wealth is of that order now. However, H has offered no explanation for what happened to those assets. H does not assist himself by not producing for the hearing before me (i) a full run of personal bank statements (ii) any credit card statements (iii) business accounts or (iv) any other financial information. He told me that De Skyline (Nigeria) ceased trading three years ago, but produces no evidence. The most recent accounts he produces for that company are from 2018 when it held tangible assets (mainly property) of Naira 2,155,942,000 which was about £4.5m on the then prevailing exchange rates, but does not explain what has happened to the property and other assets. There is not a scrap of independent evidence to assist me in understanding his financial circumstances, nor any attempt to explain the matters referred to at paragraph 75 of my December 2025 judgment about his apparent wealth. Given that he painted a false picture to the court in the preliminary issue proceedings, I am sceptical about his protestations of impecuniosity. I consider it likely that he has assets in Nigeria, but the extent of such assets is impossible to say."

Paras 54-55

- “ W has principally presented her case by reference to needs. I have in mind her housing and income requirements, the needs of the children for who she is the primary carer, the long-standing disobedience of H to court orders to pay interim maintenance, and W's high level of indebtedness which is a product of H's determination to defeat W's financial claims.
- W's alternative housing particulars are in the region of £1m, although in the witness box she told me that she needs about £950,000. With costs of purchase, stamp duty and refurbishment, she seeks £1.1m. H's proposed particulars are at £850,000. W seeks a 5 bedroom property because of the needs of the children. Given their ages, she would in due course be able to trade down as they leave home although I accept she may have continuing responsibilities for their 14 year old son. Having considered various property particulars it seems to me that a reasonable sum for W to have for her rehousing would be £1,000,000 inclusive of stamp duty, purchase costs and refurbishment. As it happens this is about half of the value of the FMH which seems to me to be consistent with her sharing entitlement.”

Para 58:

- " It seems to me that the impact on this case of H's litigation misconduct goes beyond legal costs. Had he accepted the truth about the FMH from the outset, the equity in the FMH would be £1,940,000, and the legal costs would be modest. Instead, W has £650,000 of debt to meet. Since the FMH is the only visible asset, those debts have to come from the net proceeds. That reduces the sum available for distribution from circa £1,940,000 to just under £1,300,000. As a starting point, equal division of the FMH should have netted W £970,000 (50% of £1,940,000). Instead, after top slicing her debts, it would be £650,000 (50% of £1,300,000). Why should W bear the consequences of reduced available equity because her legal fees, caused by H's litigation misconduct, have to be met out of the proceeds of sale? In other cases, the recalcitrant litigant would be expected to pay costs from their own assets. Here, that cannot take place because there are no other visible assets, H has not paid costs orders in the past, and W's debts can only come out of a reduced marital asset."

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Mazur & Stuart v Charles Russell Speechlys LLP & Ors

[2026] EWCA Civ 369

Mazur

FACTS

29 BEDFORD ROW CHAMBERS

- Section 14 Legal Services Act 2007 makes it a criminal offence for a person to ‘carry on’ a reserved legal activity (such as the conduct of litigation) unless authorised or exempt.
- Sheldon J had held at first instance that unauthorised persons may support litigation but may not ‘conduct litigation under supervision’.
- The Court of Appeal had to decide whether this restrictive interpretation was correct.
- Fortunately, the Court of Appeal disagreed with the first instance decision and held that unauthorised staff <u>can</u> perform tasks that constitute the conduct of litigation <u>provided an authorised individual retains responsibility.</u>
- [25] Against this background, my conclusion on the first issue is as follows. **An unauthorised person can lawfully perform any tasks, which are within the scope of the conduct of litigation, for and on behalf of an authorised individual such as a solicitor or appropriately authorised CILEX member. The authorised individual retains responsibility for the tasks delegated to the unauthorised person. The authorised individual is, therefore, the person carrying on the conduct of litigation. The unauthorised person is not carrying on the conduct of litigation and does not commit an offence.** As regards the regulatory position, the delegation of tasks by the authorised individual to the unauthorised person requires proper management supervision and control, the details of which are a matter for the regulators. **In some circumstances the degree of appropriate control and supervision will be high, with approval required before things are done. In other, for example routine, circumstances, a lower level of control and supervision will be required. In such cases, it may be sufficient for the authorised individual to conduct regular meetings with the unauthorised person and to sample their work. The degree of prior approval contended for by the Law Society and SRA is not required by the 2007 Act.** (emphasis added)

As to conduct of litigation:

191. I turn now to the three limbs of the definition of the conduct of litigation at paragraph 4 of schedule 2 to the 2007 Act. The first limb is "issuing proceedings before any court in England and Wales". This is tolerably clear and narrow. It refers to the process of starting court proceedings by issuing an originating document such as a claim form (see, for example, CPR Part 7.2(1)). The third limb in paragraph 4(1)(c) is "the performance of any ancillary functions in relation to such proceedings (such as entering appearances to actions)". That third limb is also limited to formal steps (see AUH at [75] following Agassi at [55]-[56] at [146] above). One example is service of documents such as statements of case.

192. The scope of the second limb ("the commencement, prosecution and defence of such proceedings") in paragraph 4(1)(b) is less clear and cannot be resolved on this appeal. In Ndole at first instance, Coulson J held (at [29]) that preparing a witness statement was a critical step in the prosecution of civil proceedings and amounted to the conduct of litigation. Cavanagh J was of the same view in Baxter at [214], whilst noting there was another decision of the High Court going the other way (Heron Bros v Central Bedfordshire [2015] EWHC 1009 (TCC)).

193. The Law Society provided the court with a list of litigation work which it contended was unlikely to fall within the statutory definition of "conduct of litigation". I have identified 7 items from this list, which were neither challenged nor debated. They can, I think, be regarded as common ground (rather than the product of adversarial argument). The following are, therefore, **unlikely to fall within the statutory definition of "conduct of litigation":**

i. Pre-litigation work. See Heron Bros Ltd v Central Bedfordshire Council [2015] EWHC 1009 (TCC).

ii. Giving legal advice in connection with court proceedings: See Agassi at [56] and JK v MK (E-Negotiation Ltd and another intervening) [2020] EWFC 2, [2020] 1 WLR 5091 at [27].

iii. Conducting correspondence with the opposing party on behalf of clients: See Agassi at [56].

iv. Gathering evidence. See Factortame at [25] to [29].

v. Instructing and liaising with experts and counsel. See Factortame at [28].

vi. Signing a statement of truth in respect of a statement of case. See O'Connor v Bar Standards Board (unreported, 17 August 2012) at [27].

vii. Signing any other document that the CPR permits to be signed by a legal representative, as defined by CPR Part 2.3.

29 Bedford Row Chambers

MH v FD
[2025] EWFC 390

MH v FD

FACTS

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Family Court (22 October 2025)

Justin Warshaw KC (sitting as a Deputy High Court Judge)

- Application for interim relief in Schedule 1 case concerning 4 year old child. M and child lived with M's parents at their home.
- M "comes from what might be described in old fashioned terms as a well-heeled family", F is a high profile entrepreneur" very wealthy and is taking the '*millionaire's defence*' within these proceedings. This is not a defence against the disclosure of resources. Such disclosure must always be made, albeit in attenuated form, as the court is mandated under section 4 (1) to consider those resources when exercising its powers. It is, rather, a defence against the discovery of documents and the interrogation of assertions made through disclosure. The purpose of the defence is to limit unnecessary enquiry into a respondent's resources and consequent legal expenditure, when that respondent has conceded that he or she is capable of meeting any order the court might reasonably make. F has made that concession in this case."
- The trial had been listed expeditiously. The interim provision was therefore required to meet the child's needs for around 4 ½ months.
- W sought provision for past and future legal fees (including provision for costs in contact proceedings) and interim maintenance. Although no maximum assessment had been obtained both parties agreed the court should exercise jurisdiction.

Para 22

- "F is a very wealthy man who has not been paying anything, other than a term's nursery fees, for X. It is unsurprising that M's parents would help her in those circumstances. The fact that they have done this throughout X's life is to my view neither here nor there. X is not their responsibility. He is the responsibility of M and F. I remind myself of the dicta of Mostyn J in *TL v ML* [2005] EWHC 2860, namely that I should look carefully and critically at assertions about the termination of third-party bounty. I think that it is of no application in this case. As Mr Howard KC reminded me, those words were about bounty received by the payer not the payee. Even if Mr Howard is wrong about that, and I do not think he is, this is a case in which F should be making proper provision for X as a matter of principle. And that principle does not apply to M's parents."

On historic legal fees:

Paras 32-34

- "M produced a letter from her solicitor, Ms Hughes, which explained that her firm would not continue to act unless costs incurred were paid off and that the firm would not act on a Sears Tooth agreement in respect of ongoing costs. It was suggested in F's written submissions that the letter produced by Ms Hughes, M's solicitor, fell short of what MacDonald J considered to be necessary evidence in the case of *DH v RH* [2023] EWFC 111. I am not sure that I read that authority as requiring a formal sworn statement in all applications for payment of incurred costs. Regardless of my thoughts, a sworn statement was produced at the hearing before me confirming that M's solicitors would not continue to act unless those incurred costs were paid in full.
- So how should I deal with this head of claim? I can dispatch the claim for £5,000 relating to previous solicitors easily. In line with the general thrust of all the authorities, I do not make any provision for that now. I note that this is not a hard and fast rule. There may well be circumstances in another case where such provision would be appropriate (for instance, if debt collection proceedings had commenced) but it is not so in this case. This small liability can be raised at trial but I decline to make provision for it now.
- As to the claim for £148,834, F complains that this is an enormous sum for M to have incurred up to this hearing. I am told the figure relates to these proceedings and the section 8 proceedings. I have to say that I agree with F. This is an enormous and seemingly disproportionate sum. How do I square my reservations about this sum with Ms Hughes' evidence? I am not a taxing master and I have no detailed breakdown of these sums. I must make an order that I think is appropriate. I remind myself of Peel J's dicta in *KV v KV* [2024] 2 FLR 951, namely that I have a broad discretion in determining this issue. I do not think it is appropriate for me simply to require F to pay this liability in full, whatever assertion has been made by Ms Hughes. I intend to deal with this in rough and ready way. I will order that F pay £90,000 to cover this liability. I am confident that provision of at this level will allow M's solicitors to reconsider their position and continue to act. Were they to do so, I would not consider that Ms Hughes' statement was inaccurate. I take it to be an accurate reflection of her firm's current position, which of course may alter once the firm has considered the totality of the provision I make. If they are not able to reconsider their position, M will have to dip into her personal resources. This is simply an interim order to hold the ring."

On the costs of the s.8 proceedings:

Paras 35-7

- “At the start of the hearing M sought £263,664 for s8 proceedings. As a result of my listing directions, this figure reduced to £48,948 as she will only need funding to the FHDRA in January. To the extent that further funding is needed I will be able to re-consider the position in February.
- F offers nothing and says this figure is, in any event, far too high. He says that he will be instructing a junior for the FHDRA and the junior will not be attended by a solicitor. I find this an unlikely proposition and I suspect that it may be driven by desire to portray the sums sought by M as far too high. Ultimately, I have to make an award which I consider reasonable. In *KV v KV* (supra), Peel J noted that some authorities applied a tariff which mirrored the assessment of costs on a standard basis but he concluded that, although that might be of utility, he preferred to look at figures in the round and assess an overall reasonable figure.
- So what should I do? In my view a reasonable figure to fund M's costs in the section 8 proceedings up to conclusion of FHDRA is £40,000. It represents about 85% of the anticipated costs. I order F to pay that sum.”

On M’s budget generally:

Paras 42-3:

- “The chief difference between M's interim budget, which is said to run to the end of the year, and her future budget, which runs from the beginning of next year, relates to the costs of the property in which she currently lives with her parents. She says that her parents are moving out and for their own personal reasons they need to sell their current home or rent it to M. She says her target for housing provision for her and X is that home. At trial she will ask me to order F to purchase the property from her parents and settle it on X with reversion to F. This may or may not be a sensible solution to X's housing needs.
- I am not going to proceed at this interim hearing on the basis that F should be paying for rent on that property nor for M to be paying the whole of the outgoings on the property from January 2026. I consider it very unlikely that M's parents will cause her to leave her current home before the trial or expect her to meet all the costs on it. I may be wrong but that is how I intend to approach her interim claim. In other words, I intend to limit my consideration to what she describes as her interim budget of £16,365 per month or £196,380 per annum. Even that budget is not a proper interim budget addressed to this interim application. It includes nanny costs of £55,000, whereas it would appear that the current nanny costs are a fraction of this sum. It includes £27,450 for holidays and weekends away. That may or may not be an appropriate annual figure but it certainly does not reflect the likely pro-rated expenditure from now to trial.”

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Thank you

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