



Stephen Cooke &lt;stephencooke.c@gmail.com&gt;

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**Re: FW: Cooke & Cooke; Parenting**

3 messages

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**Stephen Cooke** <stephencooke.c@gmail.com>

Tue, Jul 23, 2024 at 1:31 AM

To: Matthew Shepherd &lt;mshepherd@ramsdenlaw.com.au&gt;

Good morning Matthew,

Regarding parenting, at this stage, without prejudice, 6 nights a fortnight or 50/50 (because it is the boys wishes)

Consequently, I'm not sure there is any benefit at all in modifying the current application in this regard at this time so the current application remains.

Regards,

Stephen

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On Mon, Jul 22, 2024 at 3:08 PM Matthew Shepherd <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)> wrote:

Ok, I will call you when my 4pm meeting is done. Probably around 5pm.

Regards,

**MATTHEW SHEPHERD**

Acc. Spec. (Family Law) NSW

**D:** (02) 8123 1229**E:** [mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)



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BOOK A  
MEDIATION WITH ME

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**From:** Stephen Cooke <[stephencooke.c@gmail.com](mailto:stephencooke.c@gmail.com)>  
**Sent:** Monday, July 22, 2024 3:07 PM  
**To:** Matthew Shepherd <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)>  
**Subject:** Re: FW: Cooke & Cooke; Property and Parenting

Hi Matthew,

I have the kids until 4:45 today so any time after is fine.

Regards,

Stephen

On Mon, 22 July 2024, 2:03 pm Matthew Shepherd, <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)> wrote:

Dear Stephen

### **Parenting orders**

I will have this discussion with Anna tomorrow re whether Heather is agreeable to continuing 9/5 during terms, and half school holidays ( but with the entirety of the July holiday alternating each year).

### **Family Report**

If an agreement cannot be reached re the final parenting Orders, I need your instructions re the family report raised in my earlier email. I can talk about this prior to 4, and after 5pm today.

### **Property orders**

If we take out her accounts, but leave in paid legals, and we drop the \$80,000, the % becomes 58/42 but I might say it is 57.5/52.5 to the other side. I think that is the next concession you could make.

A further concession of \$80,000 cash from the house (in addition to dropping the super split of \$80,000) makes it 53.8% to you and 46.2% to Heather. I would not make that concession until after we see what they say to just dropping the super. And evben tthen, it might be best broken down into a concession of \$50,000, and then if necessary, a further \$30,000 taking it to \$80,000 cash.

Can I put the concession of dropping the super split to them. A simple further written offer could be:

*WITHOUT PREJUDICE*

*Dear Colleagues*

*We refer to the last written offer made by each of us on behalf of our clients.*

*One difference is the treatment of paid legals. If our client's paid legals are to be included (by adding back the \$40,000 from Praemim Prae and leaving out the Justfund debt of our client) then your client's paid legal expenses should be added back. Alternatively, if your client's paid legals are left out, so should our client's \$43,000 legal expenses from Praemimm Prae and our client's Justfund debt should be included.*

*Another difference is that your client wishes to disregard her bank accounts at separation and the amounts of around \$400,000 withdrawn by her at separation. For the purposes of this offer only, our client is prepared to do so.*

*For this purpose of this offer only, our client is prepared to disregard the item of \$162,000 for your client's accounts at separation on the balance sheet in our offer of 12 July 2024. If our client receives no super split, these accounts of your client are disregarded, and our client receives the net sale proceeds, the overall percentage is 57.5/42.5% approx. This is in the range of likely court outcomes. Given the significant difference in income and income earning ability, 50/50 is out of the range.*

Regards,

**MATTHEW SHEPHERD**

Acc. Spec. (Family Law) NSW

**D:** (02) 8123 1229

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**From:** Stephen Cooke <[stephencooke.c@gmail.com](mailto:stephencooke.c@gmail.com)>  
**Sent:** Monday, July 22, 2024 12:17 PM  
**To:** Matthew Shepherd <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)>  
**Subject:** Re: FW: Cooke & Cooke; Property and Parenting

Thank you for your detailed email and for outlining the next steps.

Regarding the parenting orders, we are looking to firm the current order without any changes. This approach is crucial for maximizing our success in a potential application for costs should the orders be challenged. I am confident in the love my boys have for me and believe they ultimately desire a 50/50 arrangement. I also think Heather will eventually agree to an extra day as the boys will continue to ask for more time with me.

As for the family report, while it may seem on the surface that I am acting inappropriately by pushing my beliefs that a 50/50 arrangement is fair, even if true, it speaks to the incredibly strong bond the boys and I have. For them to make such a comment to a stranger, knowing it may displease Heather, highlights our close relationship and their trust in me. This is before even considering the fact that a cardiologist could not have possibly been as physically present as I have been in the boys' day-to-day lives, potentially influencing their entirely independent views in terms of fairness.

Regarding the property settlement, what would the scenario look like if we proposed \$80,000 less from the sale proceeds and \$80,000 of Heather's super? My biggest priority in terms of property is to get an order for the sale of the home and deposit to land in your trust account. I am very much tired of further litigation and costs, but I am still committed to such if at any time I feel a fair and equitable settlement is in peril. Based on my experience, I am beginning to conclude that a Magistrate and ultimately the reduced settlement might be my only viable option given the previously agreed-to interim property settlement orders, Heather's lack of commitment to follow them, Kent Conveyancing not having a trust account, and me potentially finding out way too late in the game.

Best regards,

Stephen

Follow me on LinkedIn: [[www.linkedin.com/in/stephen-cooke-b853702ab](https://www.linkedin.com/in/stephen-cooke-b853702ab)]

On Mon, Jul 22, 2024 at 11:01 AM Matthew Shepherd <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)> wrote:

Dear Stephen

See below an email exchange between myself and Anna Roberts.

It started with an email from me on Friday suggesting she and I should talk – and the court expects us to do before the directions hearing tomorrow.

Her email suggests there might be a further counter-offer from them re the property settlement on the way. But they made the last offer – so this might be a mistake. They might expect another offer from you.

Her mail suggest she will call me tomorrow morning. I will explore with her whether Heather might be open to the current interim parenting orders – with some modifications – becoming final.

If final parenting Orders cannot be agreed, then the Judicial Registrar will expect us to propose directions for how the parenting matter might proceed. Getting a full family report was raised on the last occasion. This is inevitable given both Heather and you raise issues re the boy's wishes, and the suggestion of a family report in the child impact report. The question is who might do the report. One option is to have Drew Cowen (who did the child impact report) do the family report – or someone else from the [Relationspace](#) where he is based do it. The child impact report shows that interviews were done in Newcastle which saves you and the boys a trip to Sydney. Most of the people at the Relationspace are Sydney based. The court will expect us to have made enquiries re availability and cost. When I last spoke with Anna she suggested one of us proposing three qualified experts to do the report. I presume you would be uneasy with any three Anna proposed – especially if based in Newcastle.

Discussion might also arise tomorrow about property settlement. You are busy with the internship and I know you do not like making decisions under pressure. I therefore set out here some thoughts about further settlement options. The current obstacles to settlement are :

1. Percentage. I have suggested the likely court range might be 50/50 to 60/40. Settlement options do not always need to be framed as percentages. It can be useful at this stage to frame offers as outcomes rather than percentages or formulas.
2. Whether accounts of Heather at separation are include in the calculation. If the matter proceeds to a hearing a judge will normally start with the assets at the hearing date.
3. Treatment of money spent by each of you on legal expenses.

4. Whether there be a supersplit or not.

Your current proposal is you get 100% of the house sale proceeds plus \$80,000 of super.

If there is no super split, using our pool, Heather gets 47% overall but that is including accounts for her of \$162,000. If that is left out, and otherwise using our version of the asset pool, your proposal reflects Heather getting 37% and she will not agree to that. If we leave out the her accounts and there is no super split in your favour, then the percentage is 58% to you. You might want to try and settle the property to avoid the risk of doing worse, costs and delay. If so, I suggest the next offer would be you get all the house sale proceeds but not the extra \$80,000 super. You will spend another \$80,000 of cash if the matter does not settle.

Do you have time to talk today? I have conferences between 12-1, and 4-5.

Regards,

**MATTHEW SHEPHERD**

Acc. Spec. (Family Law) NSW

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**From:** Matthew Shepherd  
**Sent:** Monday, July 22, 2024 9:18 AM  
**To:** 'Anna Roberts' <[aroberts@delaneyroberts.com.au](mailto:aroberts@delaneyroberts.com.au)>  
**Subject:** RE: Cooke & Cooke

Dear Anna

No need for apology re Friday.

Yes, a call Tuesday morning would be good. It might assist us to see if the property matter (and maybe the children) can be settled and if not what directions we might ask from the Court to progress the matter. I have, and will keep, my morning tomorrow clear prior to the directions hearing at 11.30.

We did not receive a reply to our email of 17 July (copy attached). As a result, we have changed into an Application in a Case the Response we had prepared to your client's Application in a Case prior to that being discontinued. I attach filed copies of Stephen's Application, affidavit and financial statement. One of the Orders sought is re the discharge of Order 2(e) of 11 April. If the property matter can be settled on a final basis, this Application in a Case may become redundant. If not, please advise what interim orders sought might be acceptable to Heather.

A date has not yet been allocated to the Application in a Proceeding. I will raise this with the Judicial Registrar tomorrow.

Regards,

**MATTHEW SHEPHERD**  
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**From:** Anna Roberts <[aroberts@delaneyroberts.com.au](mailto:aroberts@delaneyroberts.com.au)>  
**Sent:** Friday, July 19, 2024 5:50 PM  
**To:** Matthew Shepherd <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)>  
**Subject:** Cooke & Cooke

Dear Mr Shepherd

I apologise for my lack of response- I've taken a few days' leave over the school holidays.

We have finalised our client's counteroffer for the property division which will be sent to you on Monday morning. As we have the mention on Tuesday at 11:30am, I was thinking we might set aside an hour or so beforehand (say, from 10am) for some settlement discussions to see if we can progress the matter.

Would you please let me know if you and your client are available? I'm waiting to hear from my client as to her availability.

I look forward to hearing from you.

Yours faithfully

**ANNA ROBERTS**

BComn LLB GradDipLegPrac

M.AppLaw (Family Law) Grad Dip (FDRP)

T 1300 760 773

E [aroberts@delaneyroberts.com.au](mailto:aroberts@delaneyroberts.com.au)

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**Matthew Shepherd** <[mshepherd@ramsdenlaw.com.au](mailto:mshepherd@ramsdenlaw.com.au)>  
To: Stephen Cooke <[stephencooke.c@gmail.com](mailto:stephencooke.c@gmail.com)>

Tue, Jul 23, 2024 at 1:59 AM

That is all part of what you are seeking in your Interim Application that is listed for directions today.

We have never been seeking the liquidation of Southport. Heather retaining it is one of the reasons we say you should get 100% from the house. ,  
Matthew Shepherd  
Shepherds The Family Law & Mediation Specialists  
Integrated with Ramsden Family Law  
Sent from my iPhone

On 23 Jul 2024, at 7:31 AM, Stephen Cooke <[stephencooke.c@gmail.com](mailto:stephencooke.c@gmail.com)> wrote:

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**3 attachments**



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**Matthew Shepherd** <mshepherd@ramsdenlaw.com.au>

Tue, Jul 23, 2024 at 2:13 AM

To: Stephen Cooke <stephencooke.c@gmail.com>

Ok. I will advise the court you are seeking what is in your original Application being that the boys live primarily with you.

I will explore confidentially with Anna if Heather wants to agree to an equal share arrangement for the boys. If she does not, we are back to getting a family report, who might do it and who pays. I propose to the court that we will propose three names and that Heather shoylypay as she has the greater income. I am quite confident the court will say the costs should be shared.

Does the above reflect your instructions re the boys?

Am I still emailing the property offer to Anna this morning being you get 100% of house sale proceeds and no super split from Heather?

Matthew Shepherd

Shepherds The Family Law & Mediation Specialists

Integrated with Ramsden Family Law

Sent from my iPhone

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