



DELANEY ROBERTS

SPECIALIST FAMILY LAW

Our Ref: ALR.OS:13629
Your Ref:

11 September 2024

Federal Circuit and Family Court of Australia
GPO Box 9991
NEWCASTLE NSW 2300

By Email only: CaseManager.JRFurner@fcfcoa.gov.au

Dear Judicial Registrar

Re: NCC3896/2023 Cooke & Cooke

We refer to the above matter and confirm we act on behalf of the Respondent, Dr Heather Anne Cooke. Mr Matthew Shepherd of Ramsden Family Law acts on behalf of the Applicant Mr Stephen Christopher Cooke.

The matter was last heard by Judicial Registrar Furner at a Directions Hearing on 23 July 2024. The matter is next listed for a Parenting and Property Family Dispute Resolution before Senior Judicial Registrar Kelly, with Part 1 listed for 13 September 2024 and Part 2 listed for 18 September 2024.

The parties have engaged in negotiations and reached a final agreement to settle their property matter.

We **enclose** for the Court's consideration the proposed Minute of Consent Orders executed by the parties. The parties jointly request that the Orders be considered by Judicial Registrar Furner in Chambers.

These Orders complete the proceedings in respect of property settlement and spousal maintenance. This makes the Interim Hearing on 27 September 2024 redundant and that date can be vacated.

These Orders do not complete the proceedings for parenting Orders. Both parents seek Orders that the children live with them. The Dispute Resolution Conference with a Registrar and Court Child Expert on 18 September 2024 should continue as an opportunity for the parties to see if they can agree on final parenting Orders. If they cannot, there is a Directions Hearing on 15 October 2024.

SYDNEY | NEWCASTLE | ADAMSTOWN

T 1300 760 773

E hello@delaneyroberts.com.au

Telstra Civic, Suite 1, Level 2,
317 Hunter Street, Newcastle NSW 2300

274 Brunker Road, Adamstown NSW 2289

PO Box 206, Adamstown NSW 2289

www.delaneyroberts.com.au

Liability limited by a scheme approved under Professional Standards Legislation.
Roberts Legal Services Group Pty Limited. ABN 14 122 678 599



We have
Accredited Specialists
in Family Law



PROFESSIONAL
STANDARDS SCHEME

In support of the Orders being made, the parties note the Orders were agreed based on a simplified Balance Sheet which consists of:

	Description	Value	Heather's split	Stephen's split
ASSETS				
1	Balance of net sale proceeds of 1/213 Morgan Street, Merewether NSW	\$265,681	\$15,375	\$250,306
2	703/1 Como Crescent, Southport QLD	\$520,000	\$520,000	\$0
3	Westpac account #6533		\$0	\$0
4	Westpac account #6525		\$0	\$0
5	Westpac offset #2136 (Como offset) as at 7 August 2024	\$7,960	\$7,960	\$0
6	2020 Audi Q3 Wagon #EIN83R	\$50,000	\$50,000	\$0
7	2015 Honda CRV #DAI47C	\$14,500	\$0	\$14,500
8	Heather Anne Cooke ABN 79 687 721 943		\$0	\$0
9	Heather Anne Cooke Discretionary Trust		\$0	\$0
10	Telstra Shares - 552 @ \$3.64 on 25.06.24	\$2,009	\$2,009	\$0
11	Praemium Prae investments portfolio #8788	\$100,000	\$0	\$100,000
12	Home entertainment	\$15,000	\$0	\$15,000
13	Praemium Prae managed funds spent on legal fees	\$43,107	\$0	\$43,107
14	Interim property settlement	\$50,000	\$0	\$50,000
15	Interim property settlement to Heather	\$200,000	\$200,000	
16	Interim property settlement to Stephen	\$200,000		\$200,000
	Total	\$1,468,257	\$795,344	\$672,913
LIABILITIES				
17	Westpac home loan #2919	\$222,479	\$222,479	\$0
18	Westpac car loan #6300	\$13,000	\$13,000	\$0
	Total	\$235,479	\$235,479	\$0
SUPERANNUATION				
19	Q Super	\$330,454	\$330,454	\$0

20	Future Super	\$164,304	\$0	\$164,304
	Total	\$494,758	\$330,454	\$164,304
OUTCOME				
	Total (inc. Super)	\$1,727,536	\$890,319	\$837,217
	Percentage (inc. super)		51.54%	48.46%
	Total (exc. Super)	\$1,232,778	\$559,865	\$672,913
	Percentage (exc. Super)		45.41%	54.59%

Based on the above Balance Sheet, the Orders result in a 57%/43% split of the non-superannuation pool in the Applicant's favour, and a 52%/48% split of the pool including superannuation in the Respondent's favour.

The parties make the following submissions in support of the Orders sought:

Background

1. The Applicant was born on 27 October 1981 and is presently 42 years of age.
2. The Respondent was born on 31 July 1978 and is presently 46 years of age.
3. The parties commenced cohabitation in or around May 2012, married on 26 September 2012, and separated on a final basis on 17 November 2023.
4. There are two (2) children of the relationship:
 - (a) Christian Finn Cooke born 20 August 2014 currently 10 years of age, and
 - (b) Joshua Finn Cooke born 27 January 2017 currently seven (7) years of age.

Whilst the parties consent to the enclosed Orders, they do not agree on all aspects of history of the relationship relevant to the financial settlement or arrangements for the children.

Initial contributions

5. At the commencement of cohabitation, the Applicant did not have significant assets or super. The Applicant had a credit card debt and obtained a loan from his parents to pay off the debt.
6. At the commencement of cohabitation, the Respondent asserts she:
 - (a) Owned the property at 703/1 Como Crescent, Southport QLD, which she purchased in approximately 2008 for \$310,000.00 with a 5% deposit and 95% loan.
 - (b) The Respondent made home loan repayments for four (4) years prior to the date of cohabitation.
 - (c) The Respondent otherwise did not have significant assets, liabilities or super.

7. The Respondent asserts that while the Applicant paid off his loan from his parents, the Respondent was financially responsible for the parties' other expenses. This is not agreed by the Applicant.
8. The Applicant asserts he was earning approximately \$80,000.00 per annum working as an insurance broker in Canada. The Respondent asserts she was earning approximately \$55,000.00 per annum in a medical Fellowship position in Canada.

Relationship contributions

9. From the commencement of cohabitation until June 2015, the parties financial, non-financial and homemaker/parent contributions were more or less equal. The parties did not receive any lump sum payments from third parties.
10. On 20 August 2014, Christian was born. The Respondent took leave without pay (as required by her work visa) for eight (8) weeks and used her savings to support the family. The Respondent then returned to her Fellowship position full-time and the parties employed a nanny to care for Christian and perform household duties. The parties each contributed to their expenses and the Respondent asserts she cooked all meals.
11. In July 2015, the parties relocated from Canada to Australia. From this point:
 - (a) The Respondent fulfilled the primary breadwinner role and was exclusively responsible for all family expenses, and the Applicant did not engage in any paid employment, and
 - (b) The parties each assert they were the primary homemaker/parent.
12. In October 2015, the Respondent commenced part-time work in private practice as a Cardiologist and the Applicant obtained Australian residency and a tax file number for the study purposes.
13. In February 2016, the Applicant enrolled in an online IT course run by RMIT in Melbourne. The Respondent asserts she paid the Applicant's university fees and daycare fees for Christian two (2) days each week to facilitate the Applicant's focus on his studies.
14. On 27 January 2017, Joshua was born. The Respondent asserts she took maternity leave from January to April 2017. From January 2017, the Respondent asserts she paid for Christian to attend daycare three (3) days per week and hired a nanny to care for Joshua and perform household duties. In mid-2017, the Applicant ceased his university studies which he asserts was to dedicate himself to parenting and homemaking tasks in circumstances where the Respondent worked full-time and often for long hours.
15. On or around 14 September 2018, the parties purchased the property at 1/213 Morgan Street, Merewether NSW in their joint names for the sum of \$1,224,000.00 funded by a deposit in the sum of \$122,500.00 and three (3) home loans through Westpac Bank.

Post separation contributions

16. Since separation on 17 November 2023, the Respondent asserts she has made greater contributions than the Applicant. The Respondent has generated all family income and asserts she has had primary care of the children.
17. On the date of separation, the Respondent left the Merewether Property with the children and secured rental accommodation in the Newcastle area. The Applicant had exclusive occupation and use of the Merewether Property until settlement of its sale on 27 August 2024.
18. On or around the date of separation, the Respondent removed approximately \$360,000.00 from joint offset and loan accounts and asserts she deposited this sum into accounts in her sole name to ensure she could meet upcoming expenses such as income tax, BAS, home loan and credit card repayments and other living expenses for the family and the Applicant could not remove the funds for excessive personal use. The Applicant asserts he has not been able to determine that all of these funds were applied to the expenses asserted by the Respondent.
19. The Respondent asserts she has been solely responsible for the family's significant expenses, some of which have been paid from the joint funds removed at the time of separation, including:
 - (a) Until the settlement of its sale on 27 August 2024, the Merewether Property home loans repayments, which were approximately \$1,207.00 per week but from 10 June 2024, repayments increased to approximately \$1,700.00 per week due to expiry of the fixed interest period on the home loan,
 - (b) The Southport Property home loan repayments, being \$471.00 per week,
 - (c) Rent, being \$800.00 per week,
 - (d) Since the Interim Hearing on 11 April 2024 until settlement of the sale of the Merewether Property on 27 August 2024, Spousal Maintenance in the sum of \$1,200.00 per week to the Applicant,
 - (e) All children's expenses, and
 - (f) Various other expenses (not including legal fees) totalling \$7,642.00 per week.The Applicant asserts the Respondent has failed to make all payments of spousal maintenance and house mortgage and related payments pursuant to the 11 April 2024 interim Orders.
20. The Merewether Property has been sold pursuant to the Orders dated 11 April 2024. Settlement occurred on 27 August 2024. Both parties communicated with the necessary third parties to facilitate the sale, although the Respondent asserts the Applicant consistently delayed the sale and this assertion is rejected by the Applicant who was primarily responsible for readying the property for sale. The property was listed for sale well before the date required by the 11 April 2024 Orders.

- 5.5st Fund M
21. Pursuant to the Orders dated 11 April 2024, the Applicant received an interim distribution in the sum of \$105,600.00 (\$200,000.00 less ~~Plenti-Finance~~ and some minor adjustments) and the Respondent received an interim distribution in the sum of \$200,040.00 (\$200,000.00 plus some minor adjustments). The balance of the net sale proceeds is held in the Trust Account of Ramsden Family Law.
 22. Since separation, the children have lived with the Respondent Wife and spent time with the Applicant Husband as follows:
 - (a) From separation to 12 January 2024, the Respondent asserts as arranged between the parties' Solicitors. The Applicant asserts the time was as permitted by the Respondent.
 - (b) From the Family Dispute Resolution on 12 January 2024, five (5) nights per fortnight. This arrangement was formalised by the Interim Orders dated 23 April 2024.
 23. On 15 July 2024, the Applicant commenced a three (3) month unpaid internship with Diamond IT with a hope of transitioning in a paid role for approximately \$55,000.00 per annum.

Future needs

24. The parties are of similar age and health.
25. The Respondent acknowledges that she has a greater income earning capacity than the Applicant, even after he secures full-time employment.
26. The Applicant is able-bodied and healthy and can obtain employment and work on a part-time or full-time basis. The children are at school and OOSH can be used for before and after school care as required.
27. The parties are seeking competing live with Orders. The Respondent seeks a sole parental responsibility/decision-making Order. The Respondent asserts that:
 - (a) Based on the arrangements since separation, the Child Impact Report dated 8 March 2024 and the Interim Orders dated 23 April 2024, it is most likely the children will continue to live with the Respondent. This is not agreed by the Applicant.
 - (b) Irrespective of parental responsibility/decision-making Orders, the Respondent will continue to be primarily responsible for organising and meeting the costs of the children's medical, educational and social engagements. This is not agreed by the Applicant.

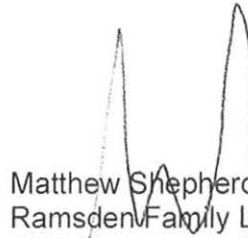
The Respondent submits that the proposed Orders are just and equitable. The Applicant consents to the Order to avoid further delay and costs. The parties ask that the honourable Court make the Orders as executed by the parties.

We look forward to receiving a response as to the making of the Orders.

Yours faithfully



Anna Roberts
Delaney Roberts Family Lawyers
Solicitor for the Respondent



Matthew Shepherd
Ramsden Family Law
Solicitor for the Applicant

Encl. 1