

SAINT LUCIA

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

SLUHCv 2009/0485

BETWEEN

PAULA FITZ

Claimant

AND

MAURICE LENNIE

Defendant

Appearances:

Ms. Isabella Shillingford and with her Mr. Horace Fraser for the Claimant.
Ms. Leandra G. Verneuil for the Defendant.

2010: November 29th,
2013: July 4th.

JUDGMENT

[1] WILKINSON J.: Ms. Fitz filed her claim form supported by affidavit on May 25th 2009, and therein she sought the following relief:

1. A declaration that the Claimant is a beneficial owner of a 1/3 share of the property situate at Edgewater, Massade in the Quarter of Gros Islet more particularly described as Block 1256B Parcel 326.
2. A declaration that the Defendant holds on trust for the Claimant her interest in the property situate at Edgewater, Massade in the Quarter of Gros Islet more particularly described as Block 1256B Parcel 326.

3. Alternatively that the Defendant be ordered to pay the Claimant for the value of her contribution to the improvements of the property made in good faith.
4. An order that the Defendant pay maintenance for the two (2) minor children of the family.
5. A declaration that the Claimant is entitled to a half-share of the value of the furniture of the household being held by the Defendant in trust for her.
6. Costs.
7. Interest.
8. Further or other relief.

[2] This is another case of parties who decided to live together in a common-law relationship but apparently failed to formulate their clear intentions on the payment of bills, acquisition of property and other matters that necessarily go with living as a family. At the outset it appears that Mr. Lennie has sole title to the property which was the family home at Edgewater it being in his sole name, however, Ms. Fitz has sought to throw doubt on Mr. Lennie being able to deal with the property as his sole property and claims an interest.

[3] At trial, the affidavits filed by both Parties save those that were struck out and for which leave to file was refused, were accepted as evidence-in-chief and only cross-examination was pursued.

Issues

1. Whether Ms. Fitz's claim in this suit is res judicata as she sought essentially the identical relief in her counterclaim in suit SLUHCV 2008/1168 Maurie Lennie v. Paula Fitz, Lovenna Fitz and Natasha Fitz.
2. Whether Ms. Fitz has demonstrated a common intention by both Mr. Lennie and herself, that she was to hold an interest in the property at the Edgewater notwithstanding that her name was not included in the deed of sale.
3. If a common intention is found that Ms. Fitz was to hold an interest in the property at Edgewater then whether Ms. Fitz has demonstrated

that she acted to her detriment by way of her indirect contributions in support of that common intention.

4. If there has been demonstrated a common intention and Ms. Fitz has shown that she has acted to her detriment in support of that common intention, what share in the property or its equivalent in cash ought the Court to award Ms. Fitz.
5. Whether Ms. Fitz has made any direct contribution to the furniture and fixtures in the house at Edgewater and if so whether she is entitled to a half share of the value of the furniture and reimbursement for money spent on the fixtures.
6. Whether Ms. Fitz is entitled to a refund of money spent to make the motor vehicles driven by her road worthy.
7. What amount of maintenance Mr. Lennie ought to pay for the minor children of the family until they attain the age of 18 years.

The evidence

- [4] It was approximately May 1989 when the Parties met. They pursued a romantic relationship. At that time Ms. Fitz was approximately nineteen (19) years of age and the mother of two (2) young daughters of approximate ages three (3) and two and a half (2 1/2) years. She was residing in her father's house at La Pansee, in the Quarter of Castries together with her two (2) young daughters. According to Ms. Fitz she was then employed as head cook at Harmony Apartel with an income of \$1600.00 per month. (This date of employment with this particular employer conflicts with another date given later in her affidavit.) Mr. Lennie was approximately thirty three (33) years of age, and thirteen (13) years Ms. Fitz senior. He was an accountant and employed as such with the accounting firm of Pannell Kerr Foster and at the same time he operated a private part-time accounting practice. He lived in a rented house at Entrepot in the Quarter of Castries.
- [5] The Parties decided to co-habit and entered into an acknowledged common-law relationship. They commenced their common-law relationship during 1990, and at that time they resided in Mr. Lennie's rented house. According to Ms.

Fitz under cross-examination, Mr. Lennie alone paid the rent for the house and he said that the rent was \$350.00 per month.

- [6] At December 1st 1991, Mr. Lennie purchased in his sole name from the Housing and Urban Development Corporation a lot of land measuring 5,915 square feet together with a three (3) bedroom house thereon (to be constructed) and situate at the Edgewater Housing Development, Massade in the Quarter of Gros Islet for \$115,660.00. The breakdown for the house and land were \$23,660.00 for the land and \$99,000.00 for the house. According to the Corporation's letter dated January 13th 1991, he was required to pay a deposit of \$5,000.00 within fourteen (14) days of the date of the offer letter and pay the balance of the purchase price, \$110,660.00 within sixty (60) days. A mortgage was secured in the sole name of Mr. Lennie from the St. Lucia Mortgage Finance Company Ltd. and executed on December 3rd 1992, for \$100,000.00 with repayment of \$1,095.62 per month. This mortgage payment was later increased to \$1158.12, and then at 2009, it stood at \$1180.20. Mr. Lennie alone has paid the mortgage from inception and continued to pay the mortgage up to the date of trial. Mr. Lennie also paid the mortgage during the period that he was excluded from the house by the Magistrate's protection order at April 11th 2008 through the end of July 2009. The property is registered in the Land Register as Block and Parcel 1256D 326.
- [7] By letter dated June 15th 1992, addressed to the St. Lucia Mortgage Finance Co. Ltd. Mr. Lennie's employer, Pannell Kerr Forster informed the finance mortgage finance company that Mr. Lennie had been employed with the accounting firm since June 1980, and that his salary at that date was \$3500.00. The letter also informed the mortgage finance company that arrangements had been made by Mr. Lennie for a monthly salary deduction to meet his monthly obligation with the mortgage finance company.
- [8] Some two (2) years later, 1993, construction of the house at Edgewater was completed and the Parties together with Ms. Fitz's two (2) daughters and their two (2) children who were born to them by this time all moved into the house.

- [9] The Parties live in a common-law relationship during two (2) different periods. The first period started at 1990 when Mr. Lennie was living in rental accommodation at Entrepot, continued when they moved into the house at Edgewater and ended at July 1999 when Ms. Fitz departed the house at Edgewater. The common-law relationship was broken at this juncture.
- [10] The Parties for a second time entered a common-law relationship during 2004, and once again lived in the house at Edgewater. This period of the common-law relationship ended at April 11th 2008, when Mr. Lennie under an interim protection order made by a Magistrate was prohibited from entering or remaining in the household of Ms. Fitz and which household at that time was located at the Edgewater property.
- [11] When Parties ceased to co-habit at 1999, Mr. Lennie entered into another common-law relationship in 2000 with Ms. Phyllis James. She bore him twin daughters at November 2003. They continued their relationship until 2004, when he and Ms. Fitz for a second time entered a common-law relationship. After Mr. Lennie and Ms. Fitz separated once more in 2008, he once again resumed cohabiting with Ms. James.
- [12] It appears that at some point during the second occasion when the Parties were living common-law that Ms. Fitz's parents and her sister moved into the house at Edgewater. Her sister apparently lived with the Parties for several years.
- [13] During the first occasion when the Parties were living common-law, the Parties had two (2) children, Rajiv Lennie born July 14th 1991, and Maura Lennie born November 4th 1992. Also living with the Parties during this first occasion were Ms. Fitz's two (2) daughters from previous relationships. Ms. Fitz said under cross-examination that Mr. Lennie assisted in caring for her two (2) daughters from her previous relationships and acted as their guardian. During the second occasion of living common-law the Parties had a third child, Joshua Lennie. By the time this suit was filed at 2009, Rajiv Lennie was eighteen (18) years, Maura Lennie was seventeen (17) years and Joshua Lennie was approximately three (3) years old

[14] According to Mr. Lennie when Ms. Fitz left the property at July 1999, she took only her two (2) elder daughters from her previous relationships with her and left behind the two (2) biological children of Mr. Lennie with him.

[15] Ms. Fitz admits to taking only her two (2) elder daughters with her to live at alternative accommodation. She says further that prior to her departure to England at 2001, she informed Mr. Lennie of her departure and they discussed the matter of the children. It was agreed between them that Mr. Lennie would keep his two (2) children and her family would keep her two (2) elder daughters. Mr. Lennie denies that there was any such discussion.

Acquisition of the property at Edgewater

[16] Ms. Fitz alleges that she was very much a part of the decision to purchase the property. Mr. Lennie brought her to see the land that was being purchased and where the house was to be constructed. The Parties she said agreed to work as a team to enable the purchase. Mr. Lennie told her that she would hold the property on trust for their children. She said that she asked Mr. Lennie on more than one (1) occasion to see the Land Register for the property to check for her name and his response was always to ask her if she did not trust him.

[17] Ms. Fitz said that during discussions about purchase of the property, Mr. Lennie told her that she would have to contribute to the purchase by way of purchasing groceries, household items such as furniture and electrical items as well as look after the welfare of the children so that he could pay the mortgage – “the scheme”.

[18] Under cross-examination Ms. Fitz said Mr. Lennie had mentioned the matter of the down payment. She admitted that she did not contribute to the down payment and that she did not go to the mortgage finance company with Mr. Lennie in connection with the arrangements being made for the mortgage.

[19] Ms. Fitz also admitted under cross-examination that after the purchase of the property (and before the house was built thereon) Mr. Lennie alone paid the

rent for both the house at Entrepot where the Parties and their children were living and the mortgage on the property at Edgewater.

[20] Ms. Fitz said that acting on the good faith of representations made to her by Mr. Lennie, she made contributions towards “the scheme” by purchasing food, clothing for the family, furniture for the house and paying medical and educational bills for their children.

[21] Mr. Lennie under cross-examination said he did inform Ms. Fitz that he would be purchasing the property at Edgewater and that he would be purchasing it in his name. He said that while to all intents and purposes he treated Ms. Fitz as his wife, and his plans, aspirations and hopes surrounded her, when he purchased the property, she was not a part of that “house owning” plan. She was not a part of that plan because firstly, they were in a common-law relationship and secondly, she was unable to contribute anything towards the purchase. He accommodated her being in the house because he wanted to provide shelter for his children.

[22] Mr. Lennie said that he had asked Ms. Fitz for financial assistance by way of money towards the down payment and she told him that she had invested her life savings in the purchase of a property for her parents and had her two (2) young daughters to support as their sole provider and therefore she was not in a position to assist him with any money towards the down payment.

[23] Under cross-examination Mr. Lennie said that he had approached Ms. Fitz out of desperation for assistance with the deposit but based on Ms. Fitz’s response, he knew he was on his own in making the purchase of the property at Edgewater. He said that in desperation, he borrowed the money for the deposit from “outsiders” as he wanted to acquire the property.

[24] Mr. Lennie’s evidence under cross-examination contradicted his evidence in his affidavit on the matter of the source of the down payment as in his affidavit filed October 26th 2009, paragraph 13 he deposed:

"It was from the proceeds of my part-time practice that I generated \$30,000.00 down payment for the purchase of my home."

- [25] According to Mr. Lennie, the subject of ownership of the property never came up again between the Parties and he denied that there was any "scheme" as described by Ms. Fitz towards making it more affordable for him to make his monthly payments on the mortgage.
- [26] He said that Ms. Fitz income was not only inadequate to finance their children's schooling and furniture, but she was always unable to help him on request for assistance with even the utility bills for utilities enjoyed by all because she had to provide full support for her two (2) daughters as their fathers failed to contribute to their upkeep. This, he said, was the situation from day one of their common-law relationship.
- [27] According to Mr. Lennie, his income was more than adequate in that subsequent to the purchase of the property, he financed an extension to the house, constructed a concrete wall with gates to secure the property and carried the mortgage payments by himself when Ms. Fitz and himself were no longer living together.

Incomes of the Parties

- [28] During the two (2) periods of their common-law relationship both Mr. Lennie and Ms. Fitz were either employed or self-employed save that Mr. Lennie states that upon Ms. Fitz's return from England at 2004, she was unable to secure full-time employment until November 2005, and during the early stages of her pregnancy with Joshua Lennie she was ill for several months and unable to work. During these periods he said he paid all of the family's bills.
- [29] Ms. Fitz was employed during the two (2) periods of the common-law relationship with several and varied places of employment but all generally within the hospitality industry. She said that from 1985 to 1988, she worked at Harmony Apartel as head cook earning \$1600.00 per month; 1988 to 1990, at Le Sport as a spa supervisor earning \$2000.00 per month; 1990 to 1991, at Avis as a sales representative earning \$1900.00 per month; 1991 to 1992 at

San Antoine as head chef earning \$2000.00 per month; 1993 to 2000 as restaurant manager of Spinnakers Restaurant earning \$2800.00 per month and during 1997, she also held part-time jobs at Antigua and Trinidad to earn extra money. On her return from England at February 2004, she said she did several sewing jobs from April 2004 to July 2004, and she worked with Lime Restaurant as the customer service trainer and then as food and beverage manager earning a net salary of \$3,800.00; July 2004 to September 2004, she worked from home as a seamstress/dressmaker full time and prepared meals which she sold to workers at the Rodney Bay Marina; from October 2004, to October 2005, she was employed by Cara Suites as food and beverage manager earning a net salary of \$3,800.00; from January 2005 to August 2005, she operated a food catering service for Lime Restaurant earning approximately \$2300.00 per month; towards the end of October 2005, she worked with Almond Resorts as boutique manager earning \$3600.00 per month.

- [30] The Court observes at this juncture, that according to the COURTS' invoice disclosed that the purchase of a sewing machine did not occur until May 25th 2006, two (2) years post the time Ms. Fitz said she was sewing to earn an income. There was no evidence of any other sewing machine.
- [31] Ms. Fitz said that she was self-employed by two (2) businesses which she registered under the business names "Tropique Island Treasures" which sold tourist gifts and souvenirs and "The Job Centre HRMS" which provided training for job seekers. Disclosed to the Court were the business name registration certificates. "Tropique Island Treasures" was registered at April 28th 2006, and "The Job Centre HRMS" was registered at March 28th 2008.
- [32] The Court observes at this juncture that the business registered as "The Job Centre HRMS" was registered approximately one (1) month before the Magistrate's protection order causing Mr. Lennie to vacate the house at Edgewater.
- [33] Ms. Fitz said that Mr. Lennie and herself established a joint bank account for the purposes of operating her small businesses. The businesses earned

between \$16,000.00 to \$18,000.00 per year. The income from the businesses she alleged it was agreed would be used for home improvements.

[34] Ms. Fitz disclosed RBC Royal Bank of Canada bank statements and bank transaction inquiry statements showing an account in the names of both Mr. Lennie and herself with the designation 'Tropic Island Treasures'. The period of statement disclosed was June 6th 2007, to June 16th 2008. The only deposits seen on the account statement during the period were made at the instance of Almond Resort and were at May 21st 2007, \$1474; June 12th 2007, \$1,649.00; June 27th 2007, \$439.50; August 22nd 2007, \$1841.25; September 17th 2007, \$2,184.00; November 27th 2007, \$1,564.00; January 25th 2008, \$576.00; February 4th 2008, \$2107.50; March 27th 2008, \$714.00; May 9th 2008, \$1,939.00; May 20th 2008, \$1030.00; and June 3rd 2008, \$850.00.

[35] While the Court observed withdrawals to the account by way of cheques and automatic banking teller machines, there was no way the Court could tell whether it was Mr. Lennie or Ms. Fitz who made those withdrawals. Mr. Lennie did admit to having access to the account but said that he never wrote any cheques on the account. There were no cheques produced bearing his signature.

[36] Mr. Lennie from the letter of the accounting firm of Pannell Kerr Forster dated June 15th 1992, then earned a monthly salary of gross \$3500.00 with a net he said under cross-examination of approximately \$3000.00. Under cross-examination he said that in 1992, he paid from his salary and income from his part-time practice rent of \$350.00, a vehicle loan of \$400.00, utilities of \$350.00, groceries, personal expenses, entertainment and contributed towards the children's milk, pampers and juice \$300.00. Under cross-examination he said that at 1997 he was earning gross \$5000.00. There were no supporting documents for the \$5000.00 and the Court was not informed of what the net income was after taxes and other deductions.

[37] At 1997 Mr. Lennie quit Pannell Kerr Forster he said to concentrate full-time on his own private accounting practice. He operated his practice under his

personal name. Since entering his practice full-time, Mr. Lennie has remained self-employed in his private accounting practice.

[38] Mr. Lennie said that while employed full-time with Pannell Kerr Forster, he also had a part-time practice for his private clients. Ms. Fitz confirmed that he had a part-time practice during their early years before Mr. Lennie quit Pannell Kerr Forster. Ms. Fitz claims that she assisted Mr. Lennie in his private practice both when he was engaged in it part-time and full-time. She further says this was part of her indirect contribution to her interest in the property at Edgewater.

[39] Mr. Lennie disclosed letters from several of his various private practice clients all dated various dates in April 1992, a time when he was still employed with Pannell Kerr Forster. The letters showed annual retainers ranging from \$1000.00 per annum to \$5500.00 per annum. Under cross-examination he said that these retainers were paid by his various clients at different times throughout the year and not on any specific date once per year.

[40] The evidence of Mr. Lennie and Ms. Fitz after this becomes contradictory somewhat. Ms. Fitz claims that she was trained by Mr. Lennie in how to perform certain duties to help him in carrying on his accounting practice both when he was doing it part-time and full-time. Mr. Lennie denies that she was able to assist him with anything other than minor secretarial service as firstly, she did not have the specialized education for the job and secondly, he had, since 1997 retained the services of a local entity managed by Mrs. Lisa Ferdinand for printing and so forth and thirdly, she was occupied in her own full-time job, looking after the children and performing domestic duties. He admitted under cross-examination that on one occasion he paid Ms. Fitz the sum of \$1000.00 for accounting work done in connection with his client, The Anglican Friendly Society.

[41] There were disclosed by Ms. Fitz to the Court several of what the Court believes to be confidential accounting documents for various clients of Mr. Lennie. Disclosure of the documents does not assist the Court in determining who prepared them. In today's environment, lifting documents from computers

anywhere and at any time is of course child's play. The Court therefore disregards the documents and gives them no weight.

[42] Ms. Fitz said that she performed secretarial work for Mr. Lennie from 1991 to 2001, and again from 2004 to 2007. She was not paid any remuneration for the work for the period 2004 to 2007, and although Mr. Lennie had promised to pay her, he never did. She values the work at approximately \$1400.00 per month for a total of \$218,400.00.

[43] The Court observes that Ms. Fitz is claiming to have done secretarial work during a period of approximately 2 years when the Parties were no longer co-habiting i.e. 1999 - 2001, and indeed Mr. Lennie was already engaged in another common-law relationship.

[44] Ms. Fitz said that to assist Mr. Lennie in his private practice she purchased a computer and printer at the cost of \$3000.00. Ms. Fitz disclosed an invoice in her name dated May 2006, for a computer printer costing \$499.00. Mr. Lennie categorically denies that Ms. Fitz purchased a computer and subsequently purchased a laptop computer to assist him in his accounting practice. He said that the first computer was purchased by Ms. Fitz adult daughter, Lovenna Fitz who resided with the family at the time and when she subsequently moved into her own place of residence she agreed to sell the computer to him for the balance of the hire purchase price of \$3,390.00.

[45] Mr. Lennie said that throughout their relationship, he was always the dominant income earner by virtue of his profession and employment as an accountant employed by two (2) leading international accounting firms over the course of twenty seven years (27) years.

[46] Mr. Lennie said that in early 2006, Ms. Fitz requested his services as an accountant to train her and implement an accounting system for her businesses. He willingly assisted her and in this regard he said he used his clients' accounting records to provide her with on the job training.

Expenses of the Parties – monthly and others:

- [47] Aside from the statements made about Mr. Lennie's expenses in 1992, and recorded earlier, the Court has observed that neither Ms. Fitz nor Mr. Lennie gave a full breakdown of their monthly expenses for the household or their personal expenses. The only firm figure of expenditure was the monthly repayment for the mortgage over the years and which at 2009 was \$1180.20.
- [48] Ms. Fitz said that she purchased groceries and in this regard Mr. Lennie acknowledged that Ms. Fitz bought groceries and he benefitted from those groceries. Mr. Lennie said that he was responsible for utilities and he insisted that he paid the utilities. Ms. Fitz countered that it was she who paid the utilities. She Fitz disclosed two (2) paid St. Lucia Water & Sewerage Authority receipts dated February 2nd 2008, and April 10th 2008, for \$235.00 each. She also disclosed a customer arrangement plan with the water authority for the payment of arrears on the account at the sum of \$235.00 per month.
- [49] Under cross-examination on the matter of purchase of food for the family and the children's education and medicals, Ms. Fitz changed her answer somewhat to say the providing of food and contribution to the children's education and medical need was sometimes beyond her means.
- [50] Ms. Fitz claimed that she also paid for a family vacation at Trinidad at a cost of \$4800.00.

England

- [51] After Ms. Fitz and Mr. Lennie separated at 1999, Ms. Fitz migrated to England in 2001, to pursue theology studies and resided there until 2004. While at England Ms. Fitz worked with the London City Church as an Associate Minister and also at Sainsbury Supermarket.
- [52] According to Ms. Fitz while at England she continued to contribute to the "scheme" by sending money via Western Union and barrels of household items, clothing and stationery for the children, and medication for Mr. Lennie.

These contributions she said enabled Mr. Lennie to continue to pay the mortgage for the property at Edgewater. She disclosed copies of two (2) Barclays Bank wire transfers receipts for transfers made at 04.02.04 for £150. and another made at 08.03.04 for £150.

[53] Ms. Fitz produced two (2) bank statements showing wages from Sainsbury, for May 30th 2003, £788.47 and £774.56 and at August 22nd 2003, for £916.85 and £921.17.

[54] Mr. Lennie acknowledged receipt of the two (2) wired sums of money but said that the money was for the benefit of Ms. Fitz two (2) elder daughters whom she had left residing with her parents and the same position applied to the contents of the barrels which he cleared through the Customs Department at his expense.

[55] Mr. Lennie said that he did not need any assistance from Ms. Fitz while she was at England because Ms. James, with whom he was living in a common-law relationship at that time was gainfully self-employed in the agro processing business. He never asked Ms. Fitz for financial assistance.

[56] While Ms. Fitz was at England, the Parties started communicating and by 2003, it appears from certain paragraphs of letters disclosed and written by Mr. Lennie at February 23rd 2003, and September 24th (year indecipherable) that they were contemplating resuming co-habiting even while Mr. Lennie was still in a common-law relationship with Ms. James, who was now the mother of his twin daughters born that very year. At February 23rd 2003, Mr. Lennie wrote:

“...The question of transportation is not a problem in my absence. But like anything else, it is reading a stage where I must do, and when I do I will call you right away. In the meantime proceed with your departure plans...In regards to the furniture, I certainly agree with you, it looks like we will have to get all the bulky furniture in St. Lucia notably the living room chairs will have to come from Cimplex and Courts. Presently we have one bed, the one we slept on which is being repaired and painted over. So I know we will need a new bed for ourselves... The car is there though in need of repair and spraying over, it was always intended for your use but you never saw it that way at the time ...

The jeep is down at the moment I am hoping by the time you get back it will be up and running so you can have the car exclusively for yourself, or both depending on your choice and business involved... Therefore I think you have the right approach to buy a lot of home made stuff and send it down and I will secure it for you that if we become live in partners again...."

At September 24th he wrote:

"...These days things are slow but I hope to see improvements in the coming days to weeks. There is always so much to do around the house that it frustrates me as if I will never finish spending more to improve my living conditions. It would appear that after I complete the house I will have to spend more money furnishing it all over again, and that (is) the distressing part. Since most of the items I had have been rendered useless, damaged etc., by the children and home persons and also by my Lady Friend and her workers. So I need new stuff all over again and"

Repairs to and refurbishing of house and purchase of furniture

- [57] Ms. Fitz said that upon her return from England she found the house at Edgewater to be in a very poor state of repair. She reconstructed the wall fence, installed plumbing and other fittings, repainted the entire house both internally and externally including the wall, fence and gates. These renovations Ms. Fitz said she carried out at the cost in excess of \$15,000.00.
- [58] Ms. Fitz said that during the course of renovations/refurbishment Mr. Lennie either sold or gave away in excess of twelve (12) bags of cement which had a value of \$3200.00.
- [59] The Court was unsure as to what construction exactly was being referred since as the Court understands the house was a completed house at 1993 when Mr. Lennie and Ms. Fitz moved in.
- [60] The Court was not provided with any receipts showing purchase of bags of cement by Ms. Fitz or anyone else on her behalf.
- [61] Ms. Fitz disclosed receipts from Harris Paints and Johnsons Hardware dated 2006, for paint cost totaling \$925.98.

- [62] Ms. Fitz said that although she provided cheque stubs as evidence of her payment for repairs, she also paid cash for several items.
- [63] Mr. Lennie admitted that Ms. Fitz purchased paint for the house but it was his view that the amount of paint work done was in the nature of a 'touch-up'.
- [64] Mr. Lennie said that the house was a newly constructed concrete house in 1993 and was under warranty and comprehensively insured. It was always well maintained by him. The repairs alleged to have been done never existed and from his knowledge and observation the cosmetic work done by Ms. Fitz was blown out of proportion. The fences and walls which have existed for over fifteen years (15) were financed solely by him. The plumbing repairs referred to were pure fabrication. The entire plumbing of the property cost \$3500.00 back in 1993. Even with repairs to plumbing and unidentified fittings it could not cost \$15,000.00. He observed that Ms. Felix had failed to disclose her bills and receipts for any plumbing works.
- [65] As to the furniture in the house, Ms. Fitz said the furniture she bought was for the use and enjoyment of the family including Mr. Lennie, and the items that she bought included such matters as a fan, water hose, stereo, chairs and table. The fan, water hose, stereo, chairs and table were removed from the house by Mr. Lennie.
- [66] On the matter of furniture, and fixtures here too the evidence of the Mr. Lennie and Ms. Fitz was contradictory. Mr. Lennie said that at 1999, when the Parties first separated Ms. Fitz returned to the property with the Police and removed all of the furniture, appliances and personal property which they had acquired during their first common-law relationship.
- [67] In relation to the furniture and fixtures acquired and available at the termination of their common-law relationship at April at 2008, and of which Ms. Fitz, her two (2) elder children and Mr. Lennie's biological children with her had sole use for in excess of one (1) year while Mr. Lennie had cause to vacate the

property under the Magistrate's protection order, Ms. Fitz claims an interest as she says she purchased them.

[68] Mr. Lennie said that when he went back into the house 11/4 years later at July 30th 2009, he found five (5) damaged beds, two (2) damaged mattresses, a hole in a large chair of three (3) piece settee, damaged stove, refrigerator and washing machine. Ms. Fitz denies that she left the furniture, fixtures and appliances in the state described by Mr. Lennie.

[69] Ms. Fitz disclosed a COURTS receipt dated May 2006, for a rug for \$568.50. No other furniture, appliances or fixture receipts were disclosed.

[70] Mr. Lennie's letter of September 24th (year is not discernible) to Ms. Fitz while she was at England confirms that the house was in need of some repairs/refurbishment and furniture to bring it up to their standards.

The motor vehicle

[71] Ms. Fitz said that Mr. Lennie owned two (2) motor vehicles, a Suzuki jeep registration number 7338 and a Nissan Sunny car registration number 9499. He had told her that she could use either of the motor vehicles and any repairs carried out to them, she would be refunded. She said that she carried out repairs on both motor vehicles. At the breakdown of the relationship, Mr. Lennie sold both motor vehicles and never refunded her the money spent on the repairs. These actions of Mr. Lennie she said created severe hardship for the children and herself and as a result she had to raise funds to purchase her own motor vehicle.

[72] Ms. Fitz disclosed invoices dated between January 30th 2006, and June 2007, for car inspection, mirror, brake and interior repairs, interior cleaning, cleaning and polishing, four (4) tyres, coolant and a battery for a total cost of \$3,586.70.

[73] Mr. Lennie said that in relation to his motor vehicles, he gave Ms. Fitz permission to drive his motor vehicle at her pleasure on the condition that she would be responsible for maintenance and repairs if necessary. He had purchased the motor vehicles with his own funds and they were his. He

expressed the view that he did not have to refund her for maintenance or repairs because it never was a term of his agreement with her.

Maintenance of the minor children

[74] Ms. Fitz said that since their separation at 2009, Mr. Lennie had ceased to maintain the two (2) minor children of the family, Maura Lennie and Joshua Lennie. She paid between 2007 and January 2009, for all Caribbean Examination Council (CXC) exams and graduation expenses.

[75] Mr. Lennie denies that he has failed to maintain his children. He says that according to a Magistrate's order at January 2009, he pays \$500.00 (\$166.66 per child) for the three (3) children.

Suit SLUHCV 2008/1168 Maurie Lennie v. Paula Fitz & Others.

[76] Subsequent to Mr. Lennie being prohibited by the Magistrate from entering the house at Edgewater, he filed Suit SLUHCV 2008/1168 Maurie Lennie v. Paula Fitz & Others and therein Justice Ephraim Georges (Ag.) ordered Ms. Fitz to deliver up possession of Mr. Lennie's property on or before 30th July 2009. Ms. Fitz filed a counterclaim seeking substantially the same relief in relation to the property as she does in this suit. Ms. Fitz complied with the Court's order and she and the other defendants vacated the house.

The Law

[77] Definition of a common-law marriage is given in *Dyson Holdings v. Fox* [1975] 3 All E.R. 1030. There Lord Bridge LJ said that a common-law marriage was one arising out of co-habiting as man and wife, based on an informal agreement to form a marriage relationship but without the religious or civil ceremony.

[78] Both Counsel referred the Court to identical authorities and some additional. In *Modern Equity* 13th ed. the authors state:

“(iii) *Inferred Common Intention; Indirect Contributions*. It is important to appreciate at the outset that, since *Gissing v. Gissing*,¹ the court does not decide how the parties might have ordered their affairs; it only finds how they did. “The court cannot devise agreements which the parties never made. The court cannot ascribe intentions which the parties never in fact had.”² (My emphasis)

[79] In *Grant v. Edwards*³ the whole proposition of inferred common intention and indirect contribution was examined. In *Grant v. Edwards*⁴ a couple lived together in a common-law marriage from 1969 to 1980, eleven (11) years, and defendant on purchasing a property told the claimant that if she were to be on the title to the property she could prejudice her pending divorce proceedings and so her name was not included in the title, but rather that of his brother was included. The claimant made substantial indirect contributions to the mortgage by applying her income to the joint household expenses in addition to keeping house and bringing up the children. The claimant was held to be entitled to half-share.

[80] As the authors in *Modern Equity*⁵ state:

“The claimant in such a case must, in the absence of an express agreement or direct contribution, establish a common intention inferred from the parties’ conduct, which she has acted upon. In order to support such an inference, the court must look for expenditure referable to the acquisition of the house. This expenditure will also satisfy the requirements of detrimental reliance. Where, however, the common intention is made plain by oral declarations, all that is necessary is that the claimant should have acted upon it. In this situation, the conduct need not be expenditure referable to the acquisition of the property. What type of conduct would suffice was left open but it was suggested that any detrimental act relating to the joint lives of the parties is sufficient...

Indirect contributions are thus relevant for four purposes (i) as evidence from which a common intention (which has not been expressed) can be inferred; (ii) as corroboration of any direct evidence of intention; (iii) as showing detrimental reliance; and (iv) to qualify the extent of the beneficial interest. In formulating these principles, the view of the court was that the principles of proprietary estoppel afford useful guidance.... (My emphasis)

¹ [1971] A.C. 886

² *Ibid* per Lord Morris of Borth-y-Gest at p. 898.

³ [1986] 2 All ER. 426.

⁴ *Ibid*.

⁵ *Ibid*.p.256

(iv) *Constructive Trust Imposed to Achieve Justice*. We have seen that the guidelines laid down in *Grant v. Edwards*⁶ employ the constructive trust as a means of acquiring an interest in the home. The trust is constructive because it is neither express, nor, in the absence of direct contribution, resulting. It exists only if the conduct of the parties supports the inference of a common intention to share, which has been acted upon. While, of course, the court has a measure of discretion in applying these principles, they are far removed from the notion that the court may impose a constructive trust wherever the justice of the case so requires....

(v) *Substantial improvements*. Some of the problems of indirect contributions arose where one of the parties had made a substantial contribution in time or money to the improvement of the property subsequent to the purchase... As far as unmarried couples are concerned, substantial improvements may give rise to an interest on the basis of agreement inferred common intention or estoppel....

(vi) *Size of the Share*. The size of the share of each party may similarly be determined on resulting trust principles, or on the basis of an agreement inferred by the court. The time of acquisition of the property is the starting point for the ascertainment of the shares, but later event, up to and after separation, can be taken into account. If the question is determined on the basis of past contribution to the purchase price, ownership will be in the proportion in which the price was paid. But the difficulty is very great where contributions have been made to mortgage payments, or to improvements, or where a guarantee is given. The tendency is to divide equally on the principle that Equality is Equity has been criticized. The division should be in accordance with the inferred agreement. But there is little that the court can do except to make a determination on the basis of what seems to be reasonable according to all the circumstances at the time of the decision. Of course, any express declaration as to the size of the shares is conclusive." (My emphasis)

[81] In *Equity and The Law of Trusts* 6th ed. the author stated:

"As is illustrated by *Midland Bank Ltd. v. Dobson*⁷ even if a common intention is established, a claimant (let us assume the woman) will not succeed unless she establishes that she has acted to her detriment on the basis of that common intention. There is little authority on what is necessary for a claimant to prove that she so acted, but there must be some link between the common intention and the acts relied on as a detriment. In *Grant v. Edwards*⁸ Nourse LJ said that in his view the conduct required "must be conduct on which the woman could not reasonably have been expected to embark unless she was to have an

⁶ Ibid.

⁷ [1986] 1 F.L.R. 171 C.A.

⁸ Ibid

interest in the home.” In the same case Browne-Wilkinson VC said: “Setting up house together, having a baby and making payments to general housekeeping expenses (not strictly necessary to enable the mortgage to be paid) may all be referable to the mutual love and affection of the parties and not specifically referable to the claimant’s belief that she has an interest in the house.’ However, he went on, “once it has been shown that there was a common intention that the claimant should have an interest in the house, any act done by her to her detriment relating to the joint lives of the parties is ... sufficient detriment to qualify. The acts do not have to be inherently referable to the house” (My emphasis)

Findings

- [82] In suit SLUHCV2008/1168 Maurie Lennie v. Paula Fitz, Lovenna Fitz & Natasha Fitz, Ms. Fitz in her counterclaim sought essentially the same relief then as she does in this claim. The Court has had sight of the pleadings and therein Ms. Fitz sought the following relief: “(a) a declaration that the Claimant hold the property situate at Edgewater, Massade, Gros Islet, more particularly described as Block 1256 D Parcel 326 in trust for the Claimant, (b) a declaration that the Claimant is entitled to a half-share in the property situate at Edgewater, Massade, Gros Islet more particularly described as Block 1256D Parcel 326, (c) an order directing the Defendant to sell his half share to the Claimant, (d) costs (e) such further and other relief.” Justice Georges (Ag.) ordered Ms. Fitz and the other defendants to deliver up possession of Mr. Lennie’s house. There appears to have been no appeal of Justice Georges’ (Ag) order. The relief being essentially the same as that sought before this Court, it is this Court’s view that Ms. Fitz’s present claim in this suit for a share in the property is res judicata.
- [83] Should this Court be wrong in deeming this matter res judicata this Court goes on to make its own decision as there are other matters besides the interest in the property for consideration before this Court.
- [84] According to the relief which Ms. Fitz now seeks, she seeks to acquire an interest in her own right and this is a change of position from her position when the Parties were cohabiting. Then she said that during the relationship the promise was that Mr. Lennie would have put her name on the Land Register in trust for their children. According to this position, Mr. Lennie would

not have retained any interest in his name. The Court does not believe that it was feasible for Mr. Lennie to give up all of his interest in the property once he had a mortgage on the property.

[85] Ms. Fitz two (2) different positions confuses the Court on what then is being alleged as the common intention between the Parties.

[86] At the outset, the Court puts on record that it did not perceive either Mr. Lennie or Ms. Fitz as being particularly truthful at all times. The Court has already recorded its observations on Mr. Lennie's conflicting evidence about the source of the deposit for the property and will show hereunder why the Court has had some difficulty in also believing some of Ms. Fitz's evidence.

[87] As the Court understands, a common-law relationship is not one created by or in law and which continues to exist until terminated by some action at law as seen with a marriage which is terminated by a divorce. This being the case, when Mr. Lennie and Ms. Fitz separated in 1999, their common-law relationship terminated. Indeed, this situation was confirmed by fact that Mr. Lennie went on to enter into another common-law relationship with Ms. Phyllis James shortly thereafter without any legal impediment. This being the situation, since the first common-law relationship terminated at 1999, a new common-law relationship was entered into at 2004 when the Parties commenced cohabiting once again.

[88] It is important to settle the status of the common-law relationship when the Parties were no longer cohabiting between the period 1999 to 2004 since Ms. Fitz premises her suit on her actions within the context of the Parties common-law relationship. The necessary consequence and conclusion from settling the status of the common law relation during the period 1999 to 2004, is that even if the Court were to accept that Ms. Fitz sent money and barrels to Mr. Lennie for his benefit, which he denies, while she was at England, she not being in a common law relationship, those matters could not count in this Court's view when the Court is looking at whether she has acted to her detriment or not.

- [89] Based on the evidence before the Court, and given the nature of a common-law relationship, namely that it does not continue to exist in the same way as a marriage would continue to exist until the parties are divorced, the Court finds that Mr. Lennie and Ms. Fitz lived common-law for a period of approximately thirteen (13) years and for ten (10) of those years they lived at the property at Edgewater. The approximate ten (10) years in the house at Edgewater being 1993 to 1999, and 2004 to 2008.
- [90] In regards to the accounting assistance/secretarial services which Ms. Fitz says she provided to Mr. Lennie, the Court because of lack of evidence finds it difficult to both quantify and value the assistance and services. The Court however, does believe that there was some accounting assistance and secretarial services provided as Mr. Lennie confirms that he made a \$1000.00 payment to Ms. Fitz in connections with one particular account. The Court will therefore provide for the payment of a sum for the accounting assistance and secretarial services.
- [91] On entry into a common-law relationship, like a marriage there is generally as Browne-Wilkinson VC said, payments made for general housekeeping expenses and raising of children and they may all be referable to mutual love and affection between the parties. Equity has sought to provide assistance to common-law parties who can show that their contribution went beyond this mutual love and affection arrangement.
- [92] For a common-law spouse to move beyond the mutual love and affection arrangement to lay claim to an interest in property there are certain conditions that must be met. As the authorities tell us, Ms. Fitz must first establish that there was a common intention between herself and Mr. Lennie that she would acquire an interest in the property at Edgewater. Secondly, Ms. Fitz must establish that her contribution to the household went beyond that of mutual love and affection and entered into the realm of her acting to her detriment on the basis of the common intention. Thereafter, if the Court is satisfied on those two (2) grounds, the Court would have to consider what would be a satisfactory interest.

- [93] In regard to the consideration of common intention, it is clear from the evidence that both Mr. Lennie and Ms. Fitz hold opposing views. As part of her demonstration of the common intention, Ms. Fitz said that Mr. Lennie took her to see the property. A further part of this common intention she says was that the Parties agreed to a "scheme" whereby she would buy the groceries, pay the household utilities, buy such items as furniture and look after the children's bills for medicals and education so as to afford Mr. Lennie the opportunity to pay the mortgage.
- [94] Mr. Lennie contradicts Ms. Fitz and in a nutshell says that once Ms. Fitz was not able to make a direct contribution at inception, that is a contribution to the deposit, he knew he was on his own in organizing his affairs to acquire the property which he really wanted to do. He therefore bought the property in his sole name. He emphasized that the reason she had no interest in the property was her inability to help him with the deposit.
- [95] Mr. Lennie's statement about Ms. Fitz response on his approach for a contribution to the deposit for the purchase of the property was not disproved under cross-examination and so the Court accepts it. Ms. Fitz also admits that she did not contribute to the deposit. Ms. Fitz further admits that she did not go to the mortgage finance company with Mr. Lennie or submit her income and connected matters when Mr. Lennie was making the arrangements for the mortgage and so it is clear to the Court that her income was not a consideration in determining whether or not Mr. Lennie had the ability to pay the mortgage on the property after paying his regular expenses. He obtained the mortgage without consideration of Ms. Fitz's income.
- [96] It also strikes the Court as odd that after Ms. Fitz and Mr. Lennie separated at 1999 and remained so until 2004, that during the course of those five (5) years, save for perhaps from 2003, when they started communicating with a view to establishing a common-law relationship once again, that nowhere during that period did Ms. Fitz pursue through the Courts or otherwise an interest in the property.

- [97] There is then the Court's earlier observation where in one instance Ms. Fitz says the promise was for her to hold the property in trust for the children and her claim which now seeks a share in her own right and not to hold in trust for the children.
- [98] Overall the Court is of the view that a common intention has not been made out but the Court will give Ms. Fitz the benefit of the doubt for the moment and go on to examine the second requirement of whether she has acted to her detriment on the basis of the common intention of the Parties.
- [99] This brings the Court to Ms. Fitz position on the "scheme". She having put up that there was such an arrangement, the burden is hers to prove it. The "scheme" clearly by its very nature as described by Ms. Fitz required the spending of money to cover all the matters alleged to have been paid for during the two (2) periods of common-law relationship.
- [100] Ms. Felix to the Court's mind has been extremely evasive and disingenuous in relation to her income as she failed to provide a single document to support her alleged levels of income as earned at St. Lucia during the course of the couples two (2) periods of living common-law. She was meticulous in disclosing other bills to show her expenditure but none of her income. It was only on disclosure of a few bank account statements and which were disclosed not to show income but to show that Mr. Lennie was a signatory to a particular Bank account that the Court was given sight of her income earned at Almond Resorts which was recorded on those bank statements. Not a letter from a former employer, not an income slip, not a statement from the National Insurance Corporation setting out income earned and for which National Insurance payments were made. And as it turns out, even the income earned at Almond Resorts was much less than Ms. Felix said that she earned.
- [101] One matter that strikes the Court, is that if there was such a "scheme" as Ms. Fitz says, then there is no evidence that she continued to contribute to the scheme by way of contribution to Mr. Lennie's household and which included her two (2) children with him between 1999 to say 2004, save when she allegedly sent two (2) money orders of £150. each and a couple of barrels,

which Mr. Lennie denies were for his benefit. There was no evidence before the Court that during the absence of Ms. Fitz from the property between 1999 and 2004, that Mr. Lennie had any difficulty in meeting his mortgage payments notwithstanding that during this period he alone bore sole responsibility for their two (2) children whom she had left with him at 1999.

[102] There being not an iota of proof of income, save and except that gleamed from the Bank statement as income from Almond Resorts, and which income is well below the level cited by Ms. Fitz as her income from Almond Resorts, the Court is not convinced that Ms. Fitz earned the levels of income alleged to have been earned, and which income would have enabled her to make all the payments she allegedly made.

[103] There being a failure to disclose documents to support the various incomes alleged, the Court feels free to draw adverse inferences against Ms. Felix because of the withheld information. Proof of her income was at the very heart or root of the Court determining her ability to pay under "the scheme".

[104] The Court having found Ms. Fitz evasive and disingenuous about her income, a matter which under her description of "the scheme", goes to the heart of whether there could ever have been a scheme as described by her, the Court is of the view that Ms. Fitz has not proved on a probability that she acted to her detriment and was therefore entitled to a share in the property at Edgewater.

[105] The Court having found that Ms. Fitz has not proved that she acted to her detriment the Court finds that there was no common intention that Ms. Fitz was to acquire any share or interest in the property at Edgewater.

[106] The Court now turns to the matter of repairs and painting which Ms. Fitz said she carried out on the house. Firstly, Ms. Fitz said that the businesses earned between \$16,000.00 to \$18,000.00 per year and it was agreed between the Parties that this money was to be used for home improvement. There was no proof supplied that the such amounts of money were ever earned by any of the businesses during the second period of the common-law relationship, and which period is the only time that the businesses existed.

[107] The total of the bills for paint provided was \$925.98. The Court finds that it must agree with Mr. Lennie that the amount of money expended represents no

more than a "touch up" job rather than a repainting of the entire house internally and externally. The Court did not gather from Ms. Fitz that she did all of the alleged internal and external painting herself and so if a workman had been hired surely an affidavit from him describing the work undertaken and his wages earned would have been useful in assisting the Court in determining the amount of work done. The receipts for paint were dated December 2006 and Ms. Fitz vacated the house at 2009. It appears that any benefit that Mr. Lennie may have derived from the painting or touch up of his walls would have been enjoyed by the family as a whole and long dissipated by the time he re-entered the house July 2009, 11/4 years after he had to leave the house under the Magistrate's protection order.

[108] As to the concrete work which Ms. Fitz alleged she did, she did not say that she did it herself, and she did not inform the Court as to who might have assisted her with such obviously physical work. There were no invoices to support the installation of a concrete fence, plumbing and fittings, or even for the twelve (12) bags of cement that Ms. Fitz alleged that Mr. Lennie either sold or gave away. There being no proof to assist the Court with this determination, and Mr. Lennie denying these matters, the Court is afraid that it cannot accept that these the works were carried out and paid for by Ms. Fitz or that there was purchased plumbing and fittings.

[109] The Court will make no order for reimbursement for any money spent for painting and other refurbishment claims. This claim is denied.

[110] Turning to the furniture in which Ms. Fitz claims a half-interest, according to Mr. Lennie, and this was not denied by Ms. Fitz, when the Parties separated at 1999, shortly thereafter, Ms. Fitz returned to the property with Policemen and removed all of her furniture.

- [111] In relation to any other furniture and household effects in the house at July 2009, Ms. Fitz has not provided any description of the contents of the house for the Court to consider, and Mr. Lennie describes much of the furniture which he found on re-entry into the house, as either being in need of repair or beyond repair and in need of replacement.
- [112] From Mr. Lennie's letter of September 24th (year not shown) there is suggestion that several items of the furniture in the house and used by himself, Ms. James and their combined children was either in need repair or replacement.
- [113] There was no evidence before the Court as to what if any furniture was replaced as suggested in Mr. Lennie's letter. As noted prior Ms. Fitz has only provided the Court with receipts issued in 2006, in her name for a rug at \$568.50, sewing machine at \$200.00 and a computer printer \$499.99. The microwave bill was in the name of their son and shall be disregarded. The sum total of her receipts is \$1268.49. Ms. Fitz would have had the benefit of these items for approximately three (3) years prior to her departure from the property. These items would have depreciated in value. The Court will therefore direct that if these items are still in the possession of Mr. Lennie that he is to deliver them to Ms. Fitz within seven (7) days of judgment.
- [114] Another place the Court has found Ms. Fitz to be disingenuous is that she disclosed bills and receipts issued in the names of other persons. The Court has disregarded those documents.
- [115] Moving on to the matter of the motor vehicle. In his letter, it is clear that Mr. Lennie agreed to give Ms. Fitz use of his motor vehicles. Every driver knows that there are consequences of using motor vehicles. A motor vehicle holds true to the old saying that there are no free rides. A motor vehicle once in use requires at a minimum third party insurance, tyres, brakes and so forth. These are all part of the ordinary cost of driving a motor vehicle in addition petrol. The Court observes that Ms. Fitz did not claim to have paid the insurance and so it appears that Mr. Lennie paid this.

[116] From Ms. Fitz's invoices, she appears to have spent approximately \$3,586.70.

[117] Mr. Lennie regardless of the ages of the motor vehicles would have provided Mr. Fitz from her own invoice for inspection of one (1) of the motor vehicles at January 30th 2006, with use of a least one (1) of the motor vehicles from that date through to June 15th 2007, when she bought coolant for the vehicles, that is just under 11/2 years.

[118] The Court does not believe that the sum of \$3586.70 was an unreasonable sum for Ms. Fitz to incur for the benefit of driving one of Mr. Lennie's motor vehicles over the course of just under 11/2 years. As the Court stated before, motor vehicles require more than just petrol for their use.

[119] In light of the Court's finding, the Court is not prepared to award Ms. Fitz any sum in relation to her expenditure on Mr. Lennie's motor vehicles.

[120] Addressing now the maintenance of the children, according to Mr. Lennie, at the date of trial he was paying the sum ordered by the Magistrate. The Court has to admit that the sum of \$500.00 for three (3) children is not nearly sufficient for three (3) children. As the Court understands it, at time of trial there was only one (1) minor child. The Court orders that Mr. Lennie pay \$500.00 per month in maintenance, pay half the costs of all school supplies, medicals, dentals and extracurricular activities for the minor child of the family, Joshua Lennie until he reaches the age of eighteen (18) years.

[121] Finally, the Court sincerely apologizes for the delay in delivering this judgment.

[122] The Court orders:

1. Ms. Fitz claim of an interest in the property at Edgewater, Massade in the Quarter of Gros Islet is denied.
2. That the Mr. Lennie do pay to Ms. Fitz the sum of \$20,000.00 for secretarial services rendered during their tw 2 periods of living common-law.
3. Mr. Lennie is to deliver to Ms. Fitz her rug, sewing machine and printer within seven (7) days.
4. The claim for reimbursement of money spent for refurbishment by way of painting, the purchase of fixtures and fittings is denied.

5. That the Mr. Lennie is to pay to Ms. Fitz the sum of \$500.00 per month as maintenance of the child, Joshua Lennie and half ($\frac{1}{2}$) of all costs associated with school supplies, school activities, dental and extracurricular activities
6. Costs to be prescribed costs.

Rosalyn E. Wilkinson
High Court Judge