

## CASE PLAN

Format in accordance with Funding Code Guidance Para 15.3.9.

### NAME OF CLIENT

Mrs. A.A.

### NAME OF FIRM

XY & CO

### NATURE OF PROCEEDINGS

Ancillary Relief

### **CASE INFORMATION**

#### **A. Summary of Case**

The client divorced her husband in 1988 after a 30 years marriage because of his violent conduct and persistent philandering. There are two children aged 23 and 20 who are financially independent. The respondent husband is a Chartered Accountant, very wealthy with several Directorships and has substantial capital assets both within and without the UK including pensions. The assets are valued in the region of £2 million. His income is alleged to be in the region of £750,000 p.a. and his financial affairs are extremely complex. The parties enjoyed an affluent life-style. Before commencing proceedings substantial efforts were made to mediate but they were unsuccessful. Because of the complexity of those issues and the likely size of the client's claim the proceedings, originally commenced in the County Court, have been transferred to the High Court. In view of the complexity and the significant amount of assets involved Leading Counsel and Junior Counsel are representing the client. Disclosure has been difficult to obtain necessitating several applications to the Court resulting in Orders with Penal Notices endorsed. Extensive Affidavits of Means have been filed by both parties. An Accountant has provided a report in respect of the respondent's income situation particularly his Directorships and his pensions. The valuation of the matrimonial home and two properties abroad which are all in the name of the husband have finally been agreed. The petitioner is disabled, aged 55, and has no realistic earning capacity. The ex-husband does not accept the Accountant's report. It has proved impossible to negotiate with the respondent's advisors. Counsel has advised on numerous occasions and is currently considering the basis upon which a Calderbank offer can be submitted. The disclosure process has finally been completed. The case can now move towards trial. There will be a final pre-trial review on 17/7/00. A recent offer to mediate has been rejected. There are no prospects of settlement.

## **B. Objectives**

The primary issues relate to capital provision for the petitioner. The terms of the Calderbank offer are likely to be that the respondent pays a lump sum of £750,000, transfer of the matrimonial home valued at £750,000 and a house in France valued at £100,000, plus costs. It is unlikely that there will be any compromise and the Court will have to determine the issues. The likely order will be capital provision in the region of £500,000, the transfer of the matrimonial home and a contribution towards costs.

## **C. Case Analysis**

The legal issue is one of reasonable financial provision for the petitioner in all the circumstances of the case. The legal and factual issues are summarised below.

### **Case Issues**

#### **The legal issues are:**

- i) The exercise of the powers to provide financial provision pursuant to Section 25 Matrimonial Causes Act 1973
- ii) The Courts powers to order transfer of property outside the jurisdiction
- iii) The impact of the Welfare Reform & Pensions Act 1999
- iv) The application of the Pensions Act 1995 and the 'Duxbury' formula and the principles to be derived from the authorities on 'big money cases'

#### **The favourable facts are:**

- i) The evidence shows the respondent to have substantial assets and significant earning capacity
- ii) Due to the petitioner's disability she has no earning capacity and has substantial financial needs. She is aged 55
- iii) There has been an exceptionally high standard of living for the petitioner
- iv) The petitioner brought up the two children despite her disability allowing the respondent to develop his career
- v) The marriage has lasted 25 years
- vi) The respondent's extremely unreasonable conduct throughout the marriage upon which the petition was based

**The unfavourable facts are:**

- i) The petitioner’s relationship which developed with another party towards the end of the marriage and is continuing

**D. Funding Code Assessment**

The prospects of obtaining substantial orders are very good (Funding Code Decision Making Guidance 11.12.5) and the likely award by the Court fully justifies the costs of bringing the proceedings and is a case which a reasonable private paying client would pursue (Funding Code Decision Making Guidance 11.12.6).

**E. Case Theory**

The client will secure significant financial provision because she can show that the respondent has great wealth and the relevant matters which the Court must take into account favour the client.

**CASE ACTIVITIES AND COSTS INFORMATION**

| <b>F. &amp; G. (i) Costs To-Date</b>   |   |
|--|---|
| <b>WORK</b>  | <b>COSTS</b>  |
| Proceedings have involved an extreme amount of work. The paperwork is substantial and is housed in 8 ring binders. The case is almost ready for trial. Numerous Court hearings. Extensive statements/affidavits. Consideration of complex expert evidence. Protracted disclosure process completed. Constant liaison with Counsel and attendances upon client. | Profit Costs 52,000<br>Counsel’s Fees 15,000<br>Disbursements <u>5,000</u><br><b>TOTAL COSTS</b> <b><u>72,000</u></b> |



|   | <u>SOLICITOR</u> | <u>COUNSEL</u> | <u>£</u>  |
|---|------------------|----------------|---|
|   |                  |                | Travel to pre-trial<br>review 2 hrs @ £18.50 37.00  |
|   |                  |                | Consultation - preparation<br>4 hrs @ £41.00 164.00   |
|   |                  |                | Consultation 5 hrs @<br>£41.00 205.00   |
| Attendance at consultation with Leading<br>and Junior Counsel and Accountancy<br>Expert<br>Panel Member | 5 hours          |                | <b><u>Leading</u></b>   |
|   |                  |                | Preparation for consultation<br>4 hrs @ £90 360.00  |
| Travel and waiting<br>Panel Member  | 2 hours          |                | Consultation 5 hrs @ £90 450.00   |
|   |                  |                | <b>TOTAL COUNSEL 1491.00</b>  |
| Miscellaneous correspondence and<br>attendances on client<br>Panel Member                               | 5 hours          |                | <b><u>Disbursements</u></b>   |
|   |                  |                | Accountancy Experts fees 1000.00<br>(telephone link) for<br>consultation including<br>preparation |
|   |                  |                | <b>Stage One Total £3756.87</b>   |

| <u>Stage Two</u>  | <u>Stage Two</u>  | <u>SOLICITOR</u>     | <u>COUNSEL</u> |   |
|---|---|----------------------|----------------|---|
| Preparation for trial<br>Date: June to October 2000           | Preparation for trial including assembling trial bundle to comply with the latest Practice Direction (22/3/00). Final attendances on client. Liaison with Court: opponent's legal representatives and Accountancy expert<br>Panel Member - 6 hours<br>Assistant Solicitor - 2 hours | 6 hours              |                | <u>Stage Two</u><br><u>Solicitor</u><br>£<br>Solicitor time (preparation)<br>6 hrs @ £66.375                    398.25<br>2 hrs @ £44.25                    88.50<br>Attendance at trial 5 days<br>12 hrs @ £56.25                    675.00<br>18 hrs @ £37.50                    675.00<br><br>Travel 10 hrs @ £32.50 <u>325.00</u><br><b>Total</b> <b><u>2161.75</u></b> |
| Trial<br>Estimated length 5 days<br>Date: Likely October 2000 | Attendance at trial<br>Panel Member - 2 days<br>Assistant Solicitor - 3 days  | 10 hours<br>15 hours |                | <u>Counsel</u><br><u>Junior</u><br>£  |
|   | Travel to trial and waiting<br>Panel Member - 2 days<br>Assistant Solicitor - 3 days  | 4 hours<br>6 hours   |                | Brief fees in respect of<br>12500.00<br>attendance at trial<br>Refresher fees 4 days            4000.00<br>Travel to trial 5 days @<br>2 hrs per day @ £18.50 <u>185.50</u>   |
|   | Correspondence and attendances on client.   | 2 hours              |                | <b>Sub-total</b> <b>16685.50</b>  |

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|--|--|--|--|--|
|  | <p><b>Conclusion - Review of Case Plan</b></p> <p>Report to LSC on:</p> <p>a) Outcome of case.</p> <p>b) Final cost of case.</p> <p>c) Achievement of objectives.</p> <p>d) Lesson learnt in terms of the content of the case plan, or alternative conduct of the case to achieve quicker disposal or better value for money (see Sections 15.3.17 Funding Code Decision Making Guidance).</p> |  |  | <p><b><u>Leading</u></b></p> <p>Brief fees in respect of attendance at trial 25000.00</p> <p>Refresher fees 4 days 8000.00</p> <p>Travel to trial 5 days @ 2 hrs per day @ £50 per hr <u>500.00</u></p> <p><b>Total 33500.00</b></p><br><p><b>TOTAL COUNSEL <u>50185.50</u></b></p><br><p>Disbursement<br/>Expert Accountant (attending trial) 1500</p><br><p>The above rates reflect a claim for enhancement based on a) conduct of the case by a Member of the Family Law Panel and b) the financial complexity of the case and the significant assets involved</p><br><p><b>Stage Two Total £53847.25</b></p> |
|--|--|--|--|--|

|  |                            |                              |                             |                     |
|--|----------------------------|------------------------------|-----------------------------|---------------------|
|  |                            |                              |                             |                     |
| <b>(iii) Costs Summary</b>   |                            |                              |                             |                     |
|  | <b><u>Profit Costs</u></b> | <b><u>Counsel's Fees</u></b> | <b><u>Disbursements</u></b> | <b><u>Total</u></b> |
| Section F. & G. Part (i)<br>Costs  | £52,000                    | £15,000                      | £5,000                      | £72,000             |
| Section F. & G. Part (ii)<br>Costs   | £3,427.62                  | £51,676.50                   | £2,500                      | £57,604.12          |
| <b>Total of F. &amp; G. Part (i) and F. &amp; G. Part (ii) £129,604.12</b> |                            |                              |                             |                     |
| <b>H. Cost Sharing Agreement</b>   |                            |                              |                             |                     |
| None   |                            |                              |                             |                     |

## CASE MANAGEMENT INFORMATION

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| <b>I. Team Personnel (including Solicitors Employees, Experts and Counsel and/or Solicitor Advocate)</b>   |
| The case is being conducted by Mr. X the Head of the Family Law Department. He is a partner in the firm and a Family Law Panel Member. He has concentrated on family law work over the past 20 years and has substantial experience in the field having acted for both private and publicly funded clients. He sits as a Deputy District Judge He has been in charge of strategic decision making in the case. He has attended and advised the client throughout, prepared witness statements, affidavits, instructed the expert and will continue to have primary conduct of the case. He has been helped by a Assistant Solicitor who has provided administrative support and undertaken routine |

attendances on client. He will help in the preparation of Court bundles when required and attend Court on three of the hearing days.

#### Experts

Mr. W. is a Chartered Accountant with 20 years experience in forensic accountancy work. He is on the firm's approved list of experts and has given evidence on a number of occasions on behalf of clients and is a competent and thorough professional.

#### Counsel

Mr. Z. QC is a Member of FL Chambers. He is a well respected family Counsel with a good track record in high profile cases and a Member of the Family Bar Association.

Mr. Q who assists as Junior Counsel is also a Member of the Family Bar Association and is a very able Counsel who conducted the case in the early stages whilst in the County Court and has advised throughout.

**I confirm that a copy of this case plan has been sent to the client. He/She has been advised that if money or property is obtained costs of the work set out in the case plan would be repayable.**