FAMILY LAW - COSTS INTERIM PROPERTYSETTLEMENT - Between parties Family Law Act 1975 (Cth) HARRIS v HARRIS [1993] FamCA 49; (1993) FLC 92-378 PARIS KINGINVESTMENTS v RAYHILL AND ORS (2006) NSWSC578 ZSCHOKKE and ZSCHOKKE [1996] FamCA 79; (1996) FLC 92-693 APPLICANT: Mr Strahan RESPONDENT: Mrs Strahan INDEPENDENT CHILDRENS LAWYER: Mrs West FILENUMBER: ADF 228 of 2005 DATE DELIVERED: 23 January 2007 PLACE DELIVERED: Adelaide JUDGMENT OF: STRICKLAND J HEARING DATES: 22 & 23 January 2007 REPRESENTATION COUNSEL FOR THE APPLICANT: Mr Ackman QC SOLICITOR FOR THE APPLICANT: Robinson & Mason COUNSEL FOR THE RESPONDENT: Ms Pyke QC Mr Kirk QC SOLICITOR FOR THE RESPONDENT: Watts McCray INDEPENDENTCHILDRENS LAWYER COUNSEL: MrsWest INDEPENDENT CHILDRENS LAWYER SOLICITOR: Ann Bills & Associates IT IS NOTED IN CONNECTION WITH THESE ORDERS that the judgment of theHonourable Justice Strickland delivered this day will for all publication andreporting purposes be referredto as Strahan and Strahan. ORDERS (1) That within 21 days of the date hereof, the husband pay to the wife, or thewife's solicitors on behalf of the wife, the sumof THREE MILLION DOLLARS[$3,000,000.00] by way of interim property settlement. (2) Save and except in relation to those parts of the applications filed by theparties since 1 September 2006, which I have adjourned,those applications andresponses be dismissed and removed from the active pendinglist. FAMILY COURT OF AUSTRALIA AT ADELAIDE FILE NUMBER: ADF 228 of 2005 Mr Strahan Applicant And Mrs Strahan Respondent REASONS FOR JUDGMENT Introduction 1. The formal application before me is the wife's Form 2 Application filed on1 September 2006 and, in particular, the orders soughtin paragraphs 8 to13 of that application. 2. At the commencement of the hearing, though, the wife's counsel indicated thatthe application that was being made in this regardwas not precisely as perparagraphs 8 to 13 of the Form 2 Application. In the outline of argumentpresented by the applicant wife,the order sought is now identified and it is aninterim costs order (by way of interim property settlement) in the sum of$5 million. 3. Why I need to mention that is because there are a number of bases on which aninterim costs order can be made and the originalapplication left it open as toon which basis the order was being sought. Mr Kirk QC has crystallised hisclient's

position in thatregard, and to repeat, I am being asked to make anorder by way of an interim property settlement to provide funds for the wife forpreparation for trial and the ongoing legal work required in this matter. Thesum sought is $5 million. 4. The husband's position is contained in his Form 2 Application filed on28 November 2006 and particularly in paragraph 14 of thatapplication,wherein the order the husband seeks is - and summarising - that he pay to thewife the sum of $1.25 million by way ofinterim propertysettlement. Background 5. The husband was born in March 1962 and is now aged 44 years. 6. The wife was born in October 1962 and is now aged 44 years. 7. The parties married in January 1994. 8. The child S was born in June 1996 and is now aged 10 years. He isautistic, he lives with the wife, and he spends time with thehusband. 9. The parties lived in Switzerland from 1999 until 2002 and then returned tolive in Australia. 10. In August 2003 the wife lent the husband $2,000,000.00 to purchase aproperty at W in South Australia. 11. In September 2004 the husband paid the wife $3,599,700.00 in repayment ofthe said loan. 12. The parties separated in January 2005 when the husband moved to Hong Kong. The husband continues to live there and the wifeand child remain living inAdelaide. 13. At the time of separation the wife had a total of $6,723,695.00 in bankaccounts. 14. The husband commenced proceedings in Hong Kong on 1 February 2005. These proceedings were dismissed with costs on 26 August2005 and asubsequent appeal was also dismissed. 15. The wife filed a Form 1 Application for final orders in this court on15 February 2005. 16. The wife filed an Amended Form 1 Application seeking final orders on9 June 2005. 17. The husband filed a Form 1A Response on 19 July 2005. 18. The husband filed a Form 13 Financial Statement on 10 October 2005 inwhich he deposed to having weekly income of $282,030.00,total personal weeklyexpenditure of $60,570.00, property of $35,504,700.00, liabilities of$852,800.00 and financial resources of$21,205,771.00. 19. The husband filed an Amended Form 1A Response seeking final orders on22 December 2005. 20. The marriage between the parties was dissolved in February 2006. 21. The wife filed a Further Amended Form 1 Application seeking final orders on6 December 2006. 22. The husband filed a Further Amended Form 1A Response on 21 December2006. 23. At the date of the hearing the wife had between $16,000.00 and $20,000.00 ina CBA cash investment account, $1,000,000.00 inbonds,

and $50,000.00 in asavings account with UBS-AG Zurich. She was indebted to her commercialsolicitors DW in the sum of $970,000.00and to her family law solicitors WattsMcCray in the sum of $143,000.00. 24. No evidence was presented as to the husbands current financialposition. However, it was conceded by the husbandscounsel that thehusband would be able to meet the amount sought by the wife if that wasordered. The current state of theproceedings 25. The current state of the proceedings is that the trial in relation to thechildrens issues is listed to commence beforeJustice Bell on5 March 2007 with a time estimate of 5 days and the trial in relation tothe financial issues is listed to commencebefore me on 3 September 2007with a time estimate of 4 weeks. Theevidence 26. For the purposes of this application the wife relied upon the followingdocuments: 26.1 Form 2 Application filed 1 September 2006. 26.2 Affidavit of the wife filed 1 September 2006. 26.3 Form 13 Financial Statement of the wife filed 11 September 2006. 26.4 Affidavit of Mr B filed 11 September 2006. 26.5 Affidavit of Mr D filed 20 September 2006. 26.6 Affidavit of Mr B filed 26 September 2006. 26.7 Affidavit of the wife filed 25 October 2006. 26.8 Amended application for final orders filed 6 December 2006. 26.9 The husbands further amended response seeking final orders filed21 December 2006. 26.10 The Form 13 Financial Statement of the husband filed 10 October2005. 26.11 Affidavit of the husband filed 28 September2006. In addition to the above the wife relied on a letter of 28 September 2006and a letter dated 14 September 2006 which documents weretendered andmarked respectively Exhibits W1 and W2. 27. For the purposes of this application the husband relied upon thefollowing: 27.1 Affidavit of Mr H filed 1 September 2006. 27.2 Affidavit of Mr H filed 28 September 2006. 27.3 Affidavit of Mr H filed 28 September 2006. 27.4 Form 2 Application filed 25 October 2006. 27.5 The husbands affidavit filed 25 October 2006. 27.6 Affidavit of Mr H filed 25 October 2006. 27.7 Form 2 Application filed 28 November 2006. 27.8 Affidavit of Mr H filed 30 November2006. The law 28. This is an application for interim property settlement, and the relevantauthority is the Full Court decision of HARRIS v HARRIS [1993] FamCA 49; (1993) FLC92-378. There the Full Court said this (at p.79,929 top.79,930): We do not doubt that the Court has power in a proper case in s.79proceedings to make what may be conveniently described as an interim order, thatis an order dealing with some of the

property ofthe parties prior to the finalhearing. We do not consider that it is necessary to draw a distinction interminology between aninterim order and a Partialorder. But in the exercise of that power the following matters need to beconsidered:- (1) The exercise of the powershould be confined to cases where the circumstances presented at that time arecompelling. As a generality,the interests of the parties and the Court arebetter served by there being one final hearing of s.79 proceedings. However,circumstances may arise before there can be a final hearing which dictate thatsome part of the property ofthe parties should be the subject of orders. Acommon example is where both parties agree to the disposal of some assetspendingthe trial. However, we do not consider that it is confined to caseswhere the parties consent. Urgent situations may arise whereit is necessary toexercise this power if injustice is to be avoided. Examples include cases whereit is necessary to do so to avoidan asset being eroded or lost in theintervening period, and cases (beyond the maintenance Power) where an order infavour of oneparty is necessary to preserve or obtain a home for or isotherwise necessary for the welfare of the children. As to the position in England under the Matrimonial Causes Act 1973 inrelation to an interim property order in opposed proceedingsand as to thematters to be taken into consideration in the exercise of that discretionincluding the overriding grounds ofindividual or family welfare see the discussion in Barry v Barry [1992] 3 All E.R. 405. (2) It is an exercise of the x.79 power. Consequently it must beperformed within those parameters. Since it is not the final hearingthe Judgeis unlikely to have the final findings, but the exercise must fall within thatgeneral framework and the material availableat that time. (3) Of necessity it is likely to be a somewhat imprecise exercise. Consequently, it must be exercised conservatively and the Judgemust besatisfied that the remaining property will be adequate to meet the legitimateexpectations of both parties at the final hearing,or that the order which iscontemplated is capable of being reversed or adjusted if it is subsequentlyconsidered necessary to doso. It is for this reason that we doubt whether thedistinction which Nygh J drew between interim and partial orders isnecessaryor desirable. Discussion 29. The primary focus of the dispute here is whether the circumstances presentedby the wife are compelling. The wife says in effectthat what is compelling isthat unless she receives $5 million by way of interim property settlement shewill not be able to

securethe legal representation that she needs for thepurpose of achieving justice in these proceedings. In thisregard the wife refers to a decision of Brereton J of the Supreme Court of NewSouth Wales in PARIS KING INVESTMENTS v RAYHILL AND ORS (2006)NSWSC 578, where His Honour said this (paragraph37): It appears probable that the parties in these proceedings will requirea determination of the Court, following a lengthy, complexand expensivecontested hearing to resolve their disputes. They are entitled to no less, andin order for each of them to achievejustice and for the court best to affordthem it, it is highly desirable that they have the benefit of competent legalrepresentation. That necessarily comes at a cost but it is a cost that has tobe incurred if justice is to bedone. 30. The wife says that she needs the funds to meet her outstanding andanticipated legal costs to the conclusion of these proceedings. She says shehas now spent, or committed, almost all of her available funds and yet there isa substantial amount of work stillto be done. 31. The husband says in response that these circumstances are not compelling,within the meaning of HARRIS. He says that the wife has spent orcommitted approximately $5.5 million on legal and other costs in this case todate and thereis no requirement for her to spend another $5 million. He saysthat the wife has spent a significant proportion of that $5.5 millionunnecessarily, for example, as a result of frequent changes to herrepresentation, but mostly by incurring costs with commercialsolicitors, DW, inrelation to the assessment, coding and collation of documents. However, thehusband says that in the interestsof ensuring that this case is able to proceedto trial as planned, he is prepared to pay the wife the sum of $1.25 million bywayof interim property settlement. 32. The wife's costs are divided between those paid and payable to hercommercial solicitors and to her family law solicitors, WattsMcCray. With theformer, she has been billed just over $2 million of which just over $1.1 millionhas been paid. There is alsoan amount of approximately $65,000.00 that has notyet been billed, and the estimate of the costs for this hearing is $22,000.00.The estimate of her commercial solicitors further costs, as at11 September 2006, was $3.6 million, but some of that maybe included inthe amount billed to date. 33. With Watts McCray, they were instructed in this matter in late July 2006. They have billed the wife just over $470,000.00, allof which has been paid. Inaddition, there is currently work in progress of just over $30,000.00 and theestimate of costs for thishearing is

$74,000.00. The estimate of WattsMcCray's total future costs, as at 20 September 2006, was $2,340,000.00 tothe nearestthousand dollars, but again I would expect that some of that isincluded in the amount billed to date. 34. Immediately one can see that there is in fact more than $5 million requiredto meet the wife's future costs in this case. 35. The wife's case is that it has been, and continues to be necessary to incura significant proportion of the costs of her commercialsolicitors because ofher belief that there is "substantial undisclosed property". 36. The husband is a member of what is known as the P Club. The husband says,though, that his only entitlement in that Club isto a percentage of the Club'sbetting floats. He says he has no interest that has any commercial value. However, the wife saysotherwise and she says otherwise on the basis of commentsmade by the husband to her, the movement of substantial amounts of money,andwhat she says has been the husband's failure to provide information anddocumentation which she believes he has and which shebelieves indicates thatthe husband has an interest in the P Club and that it could be worth as much as$150 million. 37. Through her commercial solicitors the wife has been investigating and wantsto continue to investigate the P Club and the husband'sinterest in the same. She says her belief is reasonably held in the circumstances and the issuewarrants the expenditure of thesort of money that has been referred to. However, the question still is whether this is a compelling circumstance. 38. I consider that the need to investigate the P Club as part of the wife'scase is necessary, but on the evidence before me currentlyI am not satisfiedthat it is necessary to expend the amount of money that the wife has expended todate and anticipates to expendin the future. It seems that there is verylittle to show for all the work that has been undertaken to date. There is noevidencebefore me as to the relevance of the documents collated by thewifes commercial solicitors or the necessity to process eachand everyone of those documents. There is also no evidence that money spent onsurveillance, through private detectives, has beenjustified in some way. 39. It is instructive to note, as well, that the husband requested discovery inrelation to the documents being collated by the wifescommercialsolicitors and also sought information in relation to the cost being expended inrelation to that exercise, but that discoveryand that information has not beenforthcoming. Objections have been raised, primarily on the ground of privilege.Whether that isa

proper basis for objection or not, I am not in a position tosay, but it strikes me as odd that such a stance has been taken. 40. In any event, Mr Kirk QC put it that the wife's solicitors are stillsearching for the key which will unlock the door and providethe answers thatthe wife seeks in relation to the P Club. I imply from that that, to date,there has been little if anything foundin relation to that matter. 41. Thus, there has to be a serious question over the value of the work beingundertaken by the wifes commercial solicitors,on the evidence currentlybefore me. Apart from the fact that apparently there is still nothing to showfor the work that has beendone, it does not even seem to have lessened thewife's costs generally. For example, it was suggested that the work being donein relation to the collation, the coding and the assessment of the documents,would save costs in the preparation of this matterfor trial. However, when Ilook at the future work and anticipated costs of Watts McCray, there is nosuggestion of any saving ofcosts in the area of discovery and production. 42. In a sense, the wife has taken the right approach in seeking to fund hercosts by applying for an order for interim propertysettlement. Whereas she maynot have been able to satisfy the court that an interim costs order pursuant toSection 117(2) of the Family Law Act should be paid by the husband,if she receives an interim property settlement, that clearly will be part of herentitlement to propertysettlement in the assets of the parties and she canspend that how she likes, and neither the husband nor this court need have anyconcern about that. However, the catch is that to achieve an interim propertysettlement order she still needs to establish thatthe circumstances arecompelling, and here that entails a consideration of why she needs the funds. The inquiry, though, is notthe same as would be required if the application waspursuant to Section 117(2) of the Act; in other words, for an order forinterim costs. 43. According to the Full Court decision of ZSCHOKKE and ZSCHOKKE[1996] FamCA 79; (1996) FLC 92-693 the relevant considerations on an interim costs applicationare: the respondent being in a position of relative financial strength,acapacity on the part of the respondent to meet his own litigation costs, aninability on the part of the applicant to meet hercosts, complexity in thefinancial affairs and a need for expert investigations into those affairs. Although the Full Court indicatedthat the latter two considerations are notalways required their presence or otherwise carries weight, or should carryweight, indetermining the issue at hand. 44.

Although in my view - and I accept Mr Kirk's submission about this - thoseconsiderations are satisfied in this case, it hasbeen recognised that whilstthey are not irrelevant, or entirely irrelevant, they are less important whenconsidering an interimproperty settlement application. For exampleBrereton J said this in PARIS KING INVESTMENTS (at paragraph33): "Many of the foregoing considerations - referring to the considerations setout in ZSCHOKKE - are less important, though not necessarily irrelevantwhere what is relied upon as a source of power is not s.117 or s.74 but aninterim property order under s.79 and s.80(1)(h). In that respect the FullFamily Court said, in ZSCHOKKE (780-781) that while the requirements ofsection 79(2) and (4) must be observed in the same manner as for any interimproperty order,if it appeared that the applicant would likely receive by way ofproperty settlement a sum sufficient to cover the advance then aninterim ordermay be made. 45. Thus, in summary, I am not satisfied that the wife's alleged need for fundsto meet the outstanding and anticipated costs ofthe wifes commercialsolicitors, at the level sought, is a compelling circumstance. However, that isnot to say that a needfor some funds to further investigate the P Club cannotbe a compelling circumstance, and nor does it say anything about a need forfunds to meet the anticipated costs of Watts McCray, the wife's family lawsolicitors. 46. Mr Ackman QC for the husband has suggested that if a compelling circumstancecan be the need for funds to meet anticipated legalcosts, then that will openthe floodgates and there will never need to be an argument about interim costsagain. However, I do notagree. An obvious and common source of funds to meetlegal costs is the asset pool of the parties. Indeed, in many cases thereisagreement between the parties and orders are made for an interim propertysettlement to specifically provide access to funds tomeet legal costs. Why,then, is it not open to find in a contested case that the need for funds to meetlegal costs can be a compellingcircumstance within the meaning ofHARRIS? It is an exercise of discretion and will depend on theparticular circumstances of each case. 47. As the Full Court in HARRIS said (at page79-929): (1) The exercise of the power should be confined to cases where thecircumstances presented at that time are compelling. As a generality, theinterests of the parties and the Court are better served by there being onefinal hearing of s.79 proceedings. However, circumstances may arise beforethere can be a final hearing which dictate that some part of the

property of thepartiesshould be the subject of orders. A common example is where both partiesagree to the disposal of some assets pending the trial. However, we do notconsider that it is confined to cases where the parties consent. Urgentsituations may arise where it is necessaryto exercise this power if injusticeis to be avoided. Examples include cases where it is necessary to do so toavoid an asset beingeroded or lost in the intervening period, and cases (beyondthe maintenance Power) where an order in favour of one party is necessarytopreserve or obtain a home for or is otherwise necessary for the welfare of thechildren. 48. It is significant to note that the Full Court there specifically refers tothe common example of when both parties agree tothe disposition of some asset pending trial. It is also necessary,in my view, to consider why the Full Court says that the circumstances need tobe compelling, and the reasonfor that is apparent from the quotation above,namely that the interests of the parties and the court are better served bytherebeing one final hearing of Section 79 proceedings. However, a clearneed for two hearings arises if costs are required to preparefor the finalhearing. 49. Here, the wife needs funds to continue her investigations of the P Club andto secure continuing legal representation, and withoutbeing able to do that shemay be severely disadvantaged, given the control that the husband has over thebusiness affairs of theparties. This provides the compelling circumstance. 50. It is also highly significant in this case that the husband offers to pay tothe wife, by way of interim property settlement,the sum of $1.25 million. Whatever Mr Ackman QC may say about the husband's reasons for that, it can beregarded as a concessionthat an order for an interim property settlement isappropriate. In other words, a concession that all the requirements set outinHARRIS have been satisfied, including the presence of compellingcircumstances. Thus, in fact, I do not need to make a finding that thereis acompelling circumstance for the wife to receive $1.25 million by way of interimproperty settlement. However, the wife seeksmore than that, namely, $5million. To repeat, though, I am not satisfied of the compelling nature of theneed for funds to meetall of the costs of the wifes commercialsolicitors. I am satisfied, though, of the need for funds to meet the costs ofWattsMcCray. 51. There was no direct challenge to the reasonableness of the costs of WattsMcCray, but the husband made the followingpoints: 51.1 In the context of the wife's need for funds to meet legal costs, she hasmaintained her high level of

expenditure on such itemsas shoes and clothing,she has continued to employ her brother and her sister and she transferred herinterest in a property at [K]to her sister for no consideration. 51.2 The husband queries transactions that the wife conducted in relation to thebank account of the [the wifes] InvestmentTrust. 51.3 The husband refers to the circumstance, in this context, that the wife hasspent a considerable amount of her available fundson what at this stage appearsto be an unproductive pursuit involving the employment of a private detective toundertake surveillance,and in having her commercial solicitors undertake thework that they have done in relation to documents. 51.4 The husband says there is no need for the wife to have the funds now tomeet the entire cost of her solicitors up to the conclusionof the matter. 51.5 The husband says there is no requirement that fees be paid up front andthere is no evidence that there is no other solicitorwho will act for the wifewithout payment up front. 52. Dealing with those matters seriatim: 52.1 That would be a valid criticism of the wife if what was being sought wasthe husband meeting the wife's costs out of his ownfunds. The wife, to repeat,is seeking an interim property settlement which will comprise part of herentitlement to property settlementout of the assets of the parties. What shedoes with the funds that she has already had, and what she does with the amountshe receivesby way of interim property settlement, again should be of noconcern to the husband. 52.2 In relation to the transactions on the bank account of the [thewifes] Investment Trust, I am satisfied that the wifehas explained thatin her affidavit material and it was no more or no less than moving theavailable funds around different accounts. 52.3 That too can be considered a valid criticism, but again if the wife wishesto spend all of her property settlement entitlementon legal costs which leadsto nothing then that is her prerogative. 52.4 Again that is correct but, to repeat, it is her property settlemententitlement that she will receive and that cannot be ofany concern of thehusband. 52.5 In my view the wife is entitled to have the solicitors of her choice, as isthe husband, and those solicitors have filed anaffidavit where they saycategorically that they are not prepared to continue to act unless they are putin funds by the wife. 53. Thus I find that there are compelling circumstances here but not such as tojustify the full extent of what the wife seeks. 54. Turning to the other requirements from HARRIS. It is still "anexercise of the Section 79 power" and "it must be performed within thoseparameters." However,

no issue has been raised by the husband about thataspect of this matter, and in any event I again refer to what the FullCourtsaid in ZSCHOKKE (at p.83,216),namely: If the order is to be made under s.80(i)(h) it would seem that regardshould be had to the requirement in s.79 that the ordersbe just and equitableand this would require the Court to undertake at least some brief considerationof the matters in s.79(4) includingthose referred to in s.75(2). If, on abrief consideration of those matters, it seems likely to the Court that theparty who isthe applicant for the interim order for an advance of funds fromthe other party will be likely to receive by way of property settlementa sumsufficient to cover the advance that would seem to be sufficient to enable theorder sought to be made. 55. Here, there is on doubt that the wife is "likely to receive by way ofproperty settlement a sum sufficient to cover the advance." Indeed, thatcan be seen from the orders sought by the wife in her form 1 application, butmore importantly by the orders soughtby the husband in his form 1A response. There is of course no agreement as to the extent of the asset pool here, buttaking thehusband's position, he puts the value of the same at $56 million. (See his Form 13 Financial Statement filed on 10 October 2005and AnnexureE to the wife's affidavit filed on 1 September 2006, being thehusband's financial statement filed inthe Hong Kong proceedings.) 56. That of course does not include any amount for any interest that the husbandmay have in the P Club, save and except for hisshare of the betting floats. Italso does not include the wife's bank accounts which at separation contained inexcess of $6 millionbut which are now down to something just in excess of $1million, as a result of the wife meeting her living expenses and payinglegaland other costs, including employing her brother and her sister. The wife ofcourse says that the asset pool should be fargreater because of the husband'snondisclosure. 57. In any event, the orders that the husband seeks are for the wife to havereal estate with an estimated value of $7,720,000, forher to keep what assetsshe has including money that she has, and including money that she has had andspent, and that an adjustmentbe made, as may be necessary, to ensure that thenet assets of the parties are divided 30% to the wife and 70% to the husband. Now,30% of $56 million is approximately $17 million, and although I cannotbe precise at this stage about the figures it seems to methat with the wifegetting the real estate and retaining what she has that would be close to the$17 million, but there may be aneed for

a relatively small additionalpayment to be made, by the husband to the wife, to achieve that result. 58. Thus, even on the husband's case, it is apparent that a payment of even$5 million by way of interim property settlement wouldbe less than whatshe might ultimately receive by way of final property settlement, although, ofcourse, she would be receiving theinterim property settlement in cash ratherthan by way of real estate and she could not then expect to have all of the realestateshe seeks if that payment is made. 59. Of course, it must be borne in mind that these calculations are on the basisof the asset pool turning out to be as the husbandsuggests, as well as theproperty settlement division being as the husband proposes. The wife, ofcourse, puts different figuresand a different division. 60. I note that there is no issue about the ability of the husband to make apayment of even $5 million. 61. It can also be seen from the figures that I have referred to that the thirdrequirement in HARRIS can easily be satisfied. In other words, with apayment of even $5 million by way of interim property settlement the court canbe"satisfied that the remaining property will be adequate to meet thelegitimate expectations of both parties at the final hearing." 62. However, to repeat, I am not satisfied on the evidence currently before methat there are compelling circumstances such thatthe wife should receive$5 million; I am satisfied that she should have sufficient to cover thecosts of Watts McCray, namely, say$2 million, after deducting some of theamount billed to date. In addition, I accept that she should have some furtherfunds tocontinue to instruct her commercial solicitors to investigate the PClub and to provide her with any necessary commercial advice. Doing the best Ican on the evidence before me, and taking into account the nature of the workinvolved, the amounts paid to date,the apparent lack of progress to date andwhat may be required in the future, I consider that an amount of $1 millionis appropriatein this regard. 63. Ironically, though, as I have remarked already, because it will be paid byway of interim property settlement the wife can spendthe money she receives howshe likes. I trust, though, that if she spends it on legal costs she does sowisely. I say that becauseit seems to me that some of the costs incurred bythe wife, as a result of having two sets of solicitors are unnecessary. Forexample,I am told that for the two-day hearing on 22 and 23 January thewife's costs are approximately $100,000.00. She has a partner anda seniorassociate present at court from her commercial

solicitors as well as a partnerand senior associate present from Watts McCray. How there is a need for that,given the issues before the court, is a mystery to me. I certify that the preceding 63 numberedparagraphs are a true copy of the reasons herein of the Honourable JusticeStrickland. The 23rd day of January2007. ..... Associate AustLII:Copyright Policy|Disclaimers|Privacy Policy|Feedback URL: http://www.austlii.edu.au/au/cases/cth/FamCA/2007/139.html