



**Neutral Citation Number: [2026] CICA (Civil) 5**

**IN THE CAYMAN ISLANDS COURT OF APPEAL  
ON APPEAL FROM THE GRAND COURT OF THE CAYMAN ISLANDS  
FAMILY DIVISION**

**CICA CIVIL APPEAL No. 0001 of 2025  
(formerly FAM 0069 OF 2022)**

**JW**

**Applicant**

**AND**

**SC**

**Respondent**

**Before:** **The Rt Hon Sir John Goldring, President  
The Hon John Martin KC, Justice of Appeal  
The Hon Clare Montgomery KC, Justice of Appeal**

**Appearances:** Mr Gareth Jacques of Priestleys for the Appellant.  
Ms Lynne McDonagh of KSG for the Respondent

**Heard:** **12 September 2025**

**EX TEMPORE JUDGMENT**

**Justice Martin, JA:**

1. This is a renewed application for Leave to Appeal from an order dated 20 January 2025 of Justice Williams.
2. The order was made after a fact-finding hearing into allegations of coercive and controlling behaviour made by the Applicant, (“the mother”), against the Respondent, (“the father”).

*CICA 1 of 2025 – SC v JW – Ex tempore Judgment*

3. The Judge found that none of the allegations proved amounted to instances, or collectively to a pattern, of coercive or controlling behaviour exerted by the father in relation to the mother, or their daughter, (“the child”).
4. The order also directed that 70% of the costs of, and incidental to, the fact-finding hearing should be paid by the mother.
5. In the interest of saving time and costs, and with the consent of both parties, the Judge remitted the mother's application for Leave to Appeal to this Court. Leave was refused on the papers by the President on the 10 April 2025. The mother now renews the application before the full court. For the reasons which follow, Leave to Appeal should, in my view, be refused.
6. The mother and father were in a relationship between July 2016 and December 2017. The child was born on 28 May 2017, and is now 8 years old.
7. The parties have, since their separation, been in dispute about contact with the child.
8. The proceedings were commenced by the father in the Magistrate’s Court on 13 February 2018, seeking a defined contact order and a prohibited steps order, and on 20 February 2018, the mother filed a cross-application for residence, contact and child maintenance orders. Numerous applications have followed.
9. The fact-finding Judgment was made in the context of an appeal from a ruling of Magistrate Hernandez made on the 13 December 2021, making a shared residence order in relation to an application by the mother for an interim sole residence order, and making orders in relation to the parties’ (and in particular the father's) contact with the child.
10. The Judge identified and considered eight general headline allegations set out in a schedule prepared by the father's lawyers, which the Judge said included what the mother claimed to be specific examples of the father's coercive and controlling behaviour and the cumulative effect of which, she argued, amounted to that type of abuse.
11. The general headline allegations were:
  - (i) Litigation abuse - around 13 facts were sought in the schedule to support this general allegation.

- (ii) Defamation and isolation - one supporting fact.
  - (iii) False allegations - around 6 supporting facts.
  - (iv) Neglectful parenting - around 5 supporting facts
  - (v) Emotional abuse - around 7 supporting facts
  - (vi) Financial abuse - around 3 supporting facts.
  - (vii) Breaches of court orders - around 6 supporting facts.
  - (viii) Harassment and stalking - around 9 supporting facts.
12. The Judge's conclusion on the fact-finding exercise was expressed as follows in paragraphs 127 and 128 of his Judgment:

*“Although a number of allegations raised are dated, and that alleged conduct by the father may have now ceased, it does not mean that they should not be taken into account when ascertaining whether there is a pattern of controlling or coercive behaviour.*

*When considering the allegations that have been proved, and whether they establish a pattern of controlling and coercive behaviour, I have regard to the principles and guidance rehearsed by me at paragraphs 46 to 57.*

*I seek to analyze what the intention of the father was, and any harmful impact of his conduct.*

*I am also cognizant that not all inappropriate behaviour amounts to abuse.*

*When I consider the allegations of conduct, I first endeavour to make a finding about whether they occurred.*

*Although I initially consider the nature of each action individually, that is not the end of it.*

*I am aware that individual actions in isolation may not seem particularly serious or insidious. However, when one considers all of the proven allegations together, they may take on a different character, indicating a pattern emerging of controlling or coercive behaviour by a perpetrator.*

*I have therefore considered all the allegations globally when considering whether the mother has established, in the balance of probability, that the father has acted in a coercive and controlling manner towards her.*

*When adopting the above approach, I still do not find there to be convincing evidence of abusive behaviour in the form of controlling and coercive behaviour.*

*Some of the father's conduct may have been illustrative of a lack of parenting skills on his behalf when the child was much younger. It was at times inappropriate, insensitive, and immature, but I am not persuaded that it was malicious."*

13. From the Judge's conclusion in the costs judgment, it is sufficient to quote the following from paragraphs 78 and 80.

*"78. I have found that the mother was unreasonable in the manner in which she brought and conducted the fact-finding proceedings and I have regard to that when exercising my broad discretion concerning costs when considering all the circumstances of this case. When exercising that discretion, I have regard to the responsibility of the Court and of the parties to progress and determine the proceedings in a just, most expeditious and least expensive manner. In the Judgment, I did not find that the father, who can be regarded as having successfully defended the global or primary allegation at the fact finding hearing that he had acted in a coercive and controlling manner towards the mother and child over many years, had engaged in unreasonable litigation conduct in the children proceedings as alleged by the mother and I find that the manner in which he has litigated was reasonable when addressing the fact-finding allegations. In fact, he was compelled to strenuously defend the numerous allegations made."*

*"80. Having regard to the fact that some of the findings of fact about the father's conduct sought were established as set out in the mother's schedule, and whilst acknowledging that the mother failed to prove that the father had acted in a controlling and coercive manner, this is not a case where the mother should be required to pay all of the father's costs of the fact-finding hearing. I am satisfied when exercising my wide discretion about awarding costs that it would be just to order that the mother should pay 70% of the father's costs expended in relation to the fact-finding summons. Those costs are to be subject to detailed assessment if not agreed."*

14. The mother's application is for Leave to Appeal against the whole of the fact-finding Judgment, "save that the findings insofar as they are made against the [father], should remain", and for leave to appeal the costs judgment, so far as it relates to the costs orders made against the mother.
15. The proposed Memorandum of Grounds of Appeal raises five grounds in relation to the fact-finding Judgment.
16. They are:
- (i) *"adopting a linear approach and failing to consider the impact of the father's conduct on the mother and child"*.

- (ii) *“improperly considering the intention of the father”.*
  - (iii) *“failing to properly consider PD 12J and section 1 of the Domestic Abuse Act 2003, and failing to take allegations into account”.*
  - (iv) *“applying the wrong test when considering financial abuse”.*
  - (v) *“failing to deal with the father's allegations of parental alienation”.*
17. In relation to the costs judgment, two grounds are advanced: the costs order was made on the basis of the Judge's determination that the father had been, on balance, successful in defending the allegations, and the mother had been unreasonable in her pursuit of the fact-finding hearing, which basis was wrong in light of the mother's contentions in relation to the fact-finding Judgment; secondly, the Judge was wrong in law to determine that the mother had pursued the fact-finding hearing unreasonably.
18. The Memorandum of Grounds of Appeal also states that other than the present case, there is no authority from the Grand Court or this Court as to how courts in the Cayman Islands should approach and assess allegations of coercive and controlling behaviour in family law cases.
19. The mother's case in relation to the first of her proposed grounds is that the judge erred in law in his approach to the assessment of whether the mother or the child had been subject to coercive and controlling behaviour by adopting a linear approach to the assessment of the allegations made by the mother, rather than taking a holistic view.
20. This error affected the totality of the Judgment, in that despite making significant findings as against the father, the Judge compartmentalised those findings, thus failing to consider the totality of them.
21. Despite having correctly identified that he must adopt a holistic approach, he failed to apply that approach in his assessment of the evidence.
22. The error was demonstrated in each and every heading of findings that the Judge considered.
23. He failed to consider the cumulative effect on the mother and the child of all of the findings that he made, *“instead sticking slavishly to the Scott Schedule prepared by those representing the father, rather than standing back and considering the totality of the conduct evidenced by the appellant and the global findings of fact sought.”*

24. These submissions are elaborated in relation to the majority of the complaints put by the mother before the Judge and have been elaborated orally before us.
25. In my view, these contentions are misconceived.
26. It is impossible to maintain that the judge failed to recognise that he was required to consider whether the allegations which he found established, which are summarised in paragraph 24 of the mother's skeleton argument, amounted to coercive or controlling behaviour on an individual or collective basis.
27. The authorities he cited between paragraphs 46 and 51, in particular the English Court of Appeal decision of *Re H-N, (Domestic Abuse: Finding of Fact Hearings)*, [2021] EWCA Civ 448, emphasise the need to consider whether a pattern of behaviour exists; and it is evident from the conclusions the Judge expressed in paragraphs 127 and 128 of the fact-finding Judgment, which I have already quoted, that he fully understood the necessity to take the allegations in their context, and to consider their significance as a whole. See also paragraphs 55 and 56 of the Judgment.
28. It is also the case that in relation to each of the allegations that he considered, the Judge took care to put them in their proper context, and to consider whether they formed part of a pattern of coercive or controlling behaviour. See paragraphs 63 and 67 in relation to litigation abuse, (“*whether looked at individually or together*”, “*even when considered as a whole*”); paragraph 75, in relation to the allegations of poisoning of the child made by both parents, (“*even when I look at it globally, with all of the other allegations*”); paragraph 84, in relation to allegations of emotional abuse, (“*looked at individually or collectively with all of the other allegations*”); paragraph 106, in relation to the allegations of harassment and stalking, (“*even when I consider it together with all the other allegations being made*”); and paragraph 126, in connection with further allegations by the mother of harassment, (“*either individually or globally*”).
29. In relation to the second proposed ground of appeal, the mother's case is that the Judge was wrong to consider the father's intention as a factor in determining whether or not coercive and controlling behaviour had occurred.
30. It is said that authority makes clear that a specific intention is not required. It is the impact of the behaviour complained about by the victim that is important, see, Mr. Justice Peel in *GK v PR* [2021] EWFC 106.

31. The mother merely had to prove the fact that the incident had occurred as alleged, and the Judge should then have considered the impact that the particular incident had on the mother and on the child.
32. Again, this contention seems to me impossible to maintain. The Judge quoted the statement in paragraph 32 of *Re H-N* that “*much will turn on the intention of the perpetrator of the alleged abuse and on the harmful impact of the behaviour*”.
33. It is implicit in the definitions of coercive behaviour and controlling behaviour recited in paragraph 3 of PD-12J that intention is at least a relevant consideration. “Coercive behaviour” is defined as meaning an act or pattern of acts of abuse, that is, and I emphasise these words, *used to harm, punish, or frighten* the victim, and “controlling behaviour” means an act or pattern of acts, again I emphasise this word, *designed* to make a person subordinate and or dependent.
34. Mr. Justice Peel's statement in *GK v PR* is not in conflict with *Re H-N*. Intention may not be a prerequisite of a finding of coercive or controlling behaviour, as Mr. Justice Peel said, but it is clearly capable of being relevant, and nothing in *GK v PR* says otherwise.
35. The mother relied also on the distinction drawn in s. 3 of the *Protection from Domestic Violence Act* between, “*conduct which caused or is intended to cause*” abuse of specified types, but that distinction does no more than recognize that intention is not a prerequisite for a finding of abuse, and it is notable that certain types of abuse, emotional or psychological abuse and financial abuse, involve intention, see s. 3 (2) of the *Protection from Domestic Violence Act*.
36. In my view, the Judge was fully entitled to follow *Re H-N* and to take into account as an element in the investigation the intention of the father in relation to the acts complained of and proved, and it is abundantly clear that he also took into account the impact of those actions on the mother, and indirectly on the child. See paragraphs 61, 80, 105, 115, 119, and 120.
37. Two examples will suffice to make the point. In paragraph 61, the Judge accepted that the mother would feel unsettled by the father's attorney raising in correspondence an accusation of parental alienation and adding that it might result in the father seeking an order to transfer residence from the mother to the father; and in paragraph 115, the judge said the father's inappropriate attendance at the mother's property had caused her distress, but that she had not satisfied him that the father's attendances had had a lasting impact on the child, resulting in the child “fearing monsters” and a

“bad man”, although it was clearly not in the child's best interests to witness the emotional events and interparental friction that occurred, including the distress caused to the mother.

38. Ground 3 relates to the alleged failure of the judge to take relevant allegations into account. Reference is made to paragraphs 81, 82, and 83 of the fact-finding Judgment.
39. Paragraph 81 deals with allegations by the mother of parental alienation, paragraph 82 with allegations of neglectful parenting, and paragraph 83 with emotional abuse.
40. In relation to the first two of these, the judge did not make a general statement that allegations of alienation or neglectful parenting were incapable of being relevant to findings of coercive or controlling behaviour. His point was merely that the allegations made by the mother were not relevant to that issue. In paragraph 81, he speaks of “*allegations of the nature made*” as being irrelevant, and in paragraph 82 of “*the listed criticisms*” as being irrelevant.
41. In relation to paragraph 83, the Judge said that the allegations, if proved, looked at individually or collectively, would not amount to conduct capable of being characterised as coercive or controlling.
42. He then went on to say this,
- “Again, seeking such findings at a finding of fact hearing is illustrative of the mother's instinctive negative interpretation of most actions taken by the father, and trying to use this hearing as a catch-all hearing to air all her grievances and have the court address them at this juncture, rather than concentrating on more significant events that may if proved actually amount to coercive or controlling behaviour”.*
43. This remark reflects the Judge's remark in paragraph 81, that,
- “I regard the raising of these types of allegations as an example of the mother's desire or expectation that she should have her numerous grievances in relation to the father raised and considered at this fact-finding hearing”.*
44. Both of these remarks are consistent with the remark made in paragraph 40 of the fact-finding Judgment, part of a section in which the Judge is commenting on the way in which the fact-finding hearing developed, as follows:-

*“By the end of the fact-finding hearing, it became increasingly evident that it had been used by the mother as a vehicle for her to seek findings on almost every act of the father, no matter how small, which she has interpreted as inappropriate or which she has a grievance about”.*

45. In light of these remarks, it seems to me to be impossible for the mother to assert that the judge overlooked the significance of some of her complaints.
46. In relation to paragraph 4 of the grounds of appeal – that the judge applied the wrong test when considering financial abuse - it is said that the Judge was wrong to consider references to the Serious Crime Act, reliance being placed on the decision of Lord Justice McFarlane in *Re R (Children) (Care Proceedings: Fact-Finding Hearings)*, [2018] EWCA Civ 198 at paragraph 67, “...it is fundamentally wrong for the Family Court to be drawn into an analysis of factual evidence in proceedings relating to the welfare of children, based upon criminal law principles and concepts”.
47. The Judge is said thus to have applied the wrong test to the allegations of financial abuse; but it is also said that he failed to consider the impact that the father's financial conduct had had on the mother's employment and progression, where the father had failed to make payments that were owed towards the child's maintenance, education, or health costs.
48. It was said that the deliberate failure of the father to pay directly impacted the mother and the child, and was a breach of court orders, but there was no analysis of these allegations.
49. Once again, this allegation is hopeless. The judge did not, by referring at paragraph 48 to the statutory guidance published by the Home Office pursuant to the (English) Serious Crime Act 2015, import or apply any principle or concept of the criminal law.
50. He relied upon that guidance, as *Re H-N* indicated that he should, as a useful identifier of the types of behaviour capable in any context of amounting to coercive or controlling behaviour. He did not, therefore, approach the question of financial abuse from the wrong legal standpoint.
51. It is true that at paragraph 91, having listed the allegations made by the mother, he said that they were not relevant to the current fact-finding hearing. He did not, however, leave that conclusion unexplained.
52. In paragraph 92, he set out in some detail what was meant by financial abuse, and the types of situations in which it might arise; and at paragraph 93, he said this:-

*“The above behaviour can place a victim with little or no financial information or financial resources in an anxious and vulnerable state and make them overly reliant on the other partner. I have gone into the above detail to illustrate that those are the scenarios when financial abuse might exist, and to distinguish the*

*nature of the allegations that the mother relies upon to ground her contention that the father has perpetrated financial abuse. I make no finding of fact that the father has financially abused the mother in this case.”*

53. It is accordingly evident that, having considered the correct legal principles and the nature of financial abuse, the Judge concluded that the mother's allegations fell outside the proper scope of an allegation of financial abuse.
54. The mother complained that the judge took too restrictive a view of what constituted financial abuse, and instead should have adopted the definition of economic abuse in paragraph 1 subparagraph 4 of PD-12J, namely “*behaviour that has a substantial adverse effect on B's ability to acquire, use, or maintain money, or other property, or obtain goods or services*”, or the definition of financial abuse in s.3, ss.2 of the Protection from Domestic Violence Act, “*behaviour which is intended to exercise coercive control over, exploit, or limit a prescribed person's access to financial resources so as to ensure financial dependence*”.
55. In my view, the substance of those definitions is adequately encapsulated by the Judge's examples, and his summary that the behaviour he described “*can place a victim with little to no financial information or financial resources in an anxious and vulnerable state and make them overly reliant on the other partner*”.
56. Ground 5 refers to the judge's failure to deal with the father's allegations of parental alienation.
57. The complaint here is that although the father made it clear that he was not seeking any findings against the mother of parental alienation, the issue was nevertheless raised in the father's closing written submissions, and so was an issue of fact which required to be determined.
58. The Judge decided that the allegations, if they were persisted in, should be dealt with at the final hearing.
59. It is said that he was wrong to leave the issue outstanding, and that the factual question of parental alienation should have been dealt with at the fact-finding hearing. But the purpose of the fact-finding hearing was to investigate allegations made by the mother, not allegations made by the father.

60. The Judge investigated and determined the allegations of parental alienation made by the mother, but those made by the father, even if made out, would have had no relevance to the question whether the father was guilty of coercive or controlling behaviour.
61. The only circumstance in which they might have had some relevance would have been if the Judge had determined that the allegations were unfounded, and that the making of them demonstrated coercive or controlling behaviour; but the father was not pursuing the allegations, and on the face of it they fell outside the scope of the fact-finding hearing.
62. The Judge was, in my view, entitled to leave the matter unless and until it became relevant in the context of the custody arrangements. He did not have to deal with the allegations on the off chance that, depending on his view of their validity, they might provide some support to the mother's assertions.
63. In relation to the costs judgment, the mother bases her main challenge on her contention that the judge was wrong in relation to the fact-finding judgment.
64. If she fails in that, she says that the Judge was nevertheless wrong to decide that she had pursued the fact-finding hearing unreasonably, given that the Judge made a significant number of findings against the father, that it was the father's lawyers who provided the Scott Schedule, and that the mother raised concerns about the possible length of the hearing before it began.
65. The Judge recognised that costs orders in private law children proceedings were very rarely sought or made, and were unusual, and his criticisms of the mother were contradicted by his acceptance that the findings he did make will be relevant to later stages of the dispute.
66. As I have indicated, I do not think that the Judge's approach in relation to the fact-finding hearing or his conclusions can be faulted, so that the principal ground of challenge to the costs order fails.
67. As for the second, the mother is right that the Judge made certain findings at her request against the father, but he was, in my view, perfectly entitled to take the view that overall the father had been successful, that the mother had been unreasonable in her pursuit of her allegations, and that in the circumstances, a substantial proportion of the costs should be borne by her.
68. Her limited success is recognised by the fact that he did not make her pay the full amount of the costs.

69. It is necessary, finally, to mention the contention in the proposed grounds of appeal that there is no other relevant authority in the Cayman Islands. The grounds of appeal do not base any relief on this assertion, and the mother's Counsel disclaimed any suggestion that it was in itself a reason to grant leave to appeal.
70. The relevant principles are well established in the English cases and do not need elaboration from this court in circumstances where the Judge's analysis of the relevant law and his approach to the issues are, in my view, incapable of challenge.
71. Leave to Appeal will be granted only when the proposed appeal has a realistic prospect of success, or there is some other reason why the matter should be considered by the Court of Appeal.
72. For the reasons I have stated, I do not consider that either applies in this case, and I would refuse leave.
73. I would add this. The Judge was faced with allegations of varying degrees of seriousness covering many years. He analysed the position with a realism and wisdom consistent with his long experience of family cases. He was in a position to weigh the allegations in light of the material available to him about the dynamics of the party's short relationship and their subsequent dealings, and to place them in their proper context.
74. This court is much less well-positioned than he was to form a view of the allegations, and I doubt if we would have been in a position to second-guess the findings in his impressive Judgments, even had I not formed the view that he was clearly right.

**Montgomery JA**

75. I agree.

**Goldring JA, President**

76. I also agree. I would just like to add this. The criticisms of these Judgments made by Mr. Jacques on behalf of the mother were, in my view, wholly misconceived. Both Judgments were plainly the product of a great deal of thought by the Judge, but for the reasons expressed by Justice of Appeal Martin, the Judge was unarguably entitled to reach the decisions he did. I would also describe the Judgments in terms of being impressive.