

Henderson  
15/4

(In Chambers)  
**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**Cause No: FAM 74/2010**

**BETWEEN:**

**PAULA JANNINE ZAPLITNY**

Petitioner

**AND:**

**JEREMY ROBERT OLYNIK**

Respondent

**Coram:** The Hon. Mr. Justice Henderson

**Appearances:**

**Mr. James Kennedy of Samson & McGrath for the Petitioner  
Mr. Robert Olynik, the Respondent in person**

**Heard: 24<sup>th</sup> June 2010**



**RULING**

1. With the consent of the parties, I have made an order disposing of all of the ancillary issues in this matrimonial proceeding. The parties have one child. I have awarded joint custody and given day-to-day care and control of the child to Ms. Zaplitny. Mr. Olynik is entitled to liberal access. He is also to pay child support in the amount of \$325 per month and to maintain the child as a dependant on his health insurance policy.
2. I was asked by both parties to include in the order a term that, if Ms. Zaplitny is obliged to leave the Cayman Islands because of the "roll

over" Immigration policy currently in effect, she is entitled to take the child with her. I am satisfied that Mr. Olynik, who appeared before me on his own behalf, has a clear and accurate understanding of the meaning of that provision. I am satisfied also that he consents to it, and that it was agreed upon as one component of a larger, overall agreement settling all of the ancillary issues. Nevertheless, I have refused to include such a provision in the order, for the following reason.

3. Where two divorced parties share joint custody of a child of the marriage and one party decides to relocate to a foreign jurisdiction, that decision amounts to a material change in circumstances which entitles either party to apply to this court for a variation of a custody order. The court may award sole permanent custody to one party or the other and that decision will in effect determine whether the child relocates to the foreign jurisdiction or remains here. The sole criterion which the court must consider is the best interests of the child. Those interests must be assessed according to the circumstances of the child and her parents as they are at the time of the proposed relocation. It is not in the best interests of a child, and therefore wrong in principle, to prejudice the issue as I am invited to do here.

*Henderson, J.*  
Judge of the Grand Court

