

#### **RELEVANT LAW**

- *Morris v Morris* [1977] 7 Fam Law 244
- *Hardy v Hardy* [1981] 2 FLR 321
- *Davies v Davies* [1986] 1 FLR 497
- *MT v MT* [1992] 1 FLR 362
- *C v C (ancillary relief: Trust Fund)* [2010] 1 FLR 337
- *Joy v Joy-Marancho & Other (No 3)* [2016] 1 FLR 815
- *Joy v Joy* [2019] EWHC 2152
- *Quan v Bray* [2019] 1 FLR 1114
- *AW v AH* [2020] EWFC 22

#### **FURTHER RESOURCES**

- see article co-authored with Edward Boydell in Family Law Journal April 2021 issue; [2021] Fam Law 558-561
- **The Family Law podcast** produced by Pump Court Chambers. 3<sup>rd</sup> December 2020 episode - 'Adjourning Capital Claims': Edward Boydell, Cordelia Williams & Tara Lyons  
<https://podcasts.apple.com/gb/podcast/the-family-law-podcast/id1522264253?i=1000501193983>

#### **WHEN IS THIS AN APPROPRIATE SOLUTION?**

##### ***Non-disclosure***

- Where one party is deliberately putting assets out of reach
- Need adjournment of the other party's lump sum claims to await a clearer picture of capital assets or unlocking of future resources
- Many of the examples in the case law rely on:
  - (i) a specific circumstance or foreseeable event which would, once it occurs, allow capital to become available; or
  - (ii) the Court being satisfied that there are meaningful assets which might be available but have not been disclosed.

### **Valuations**

- Possible solution where uncertain business valuation
- *O'Dwyer v O'Dwyer* [2019] EWHC 1838:  
Francis J, Paragraph 25: "I agree that it would have been possible for the judge, had he thought it right to do so in the exercise of his discretion, to award the wife a capital sum in respect of her half of the business together with some form of balancing payment in the event that the business sold for a substantially different amount than the agreed value. It will be a rare case when it is appropriate to do this, having regard to the statutory steer towards a clean break.  
Alternatively, in rare cases the Judge can adjourn the lump sum claims if it is thought appropriate to do so, for example when ascertaining value is extremely difficult. "

### **DURATION OF ADJOURNMENT**

- There is no 'normal' time frame
- Time limits imposed have varied from 'fairly soon' to '7 years' to indefinite adjournment

### **PRACTICALITIES**

- Consciously decide whether appropriate to pursue application for lump sum order when completing Form A
- No separate application is necessary.
- Signal intent at earliest suitable opportunity that a deferred claim is sought.
- If adjournment – consider whether helpful to seek direction for future disclosure - direction made by Cohen J in *Joy v Joy* [2019]

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