

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: *Mansfield v. Mansfield*, 2004 NSSF 9

Date: 20040205
Docket: 1201-56370
Registry: Halifax

Between:

Joan Rebecca Mansfield

Petitioner

And

Randy Leon Mansfield

Respondent

Judge: The Honourable Justice Moira C. Legere-Sers

Heard: December 1 & 2, 2003, in Halifax, Nova Scotia

Final written submissions: Petitioner - December 9, 2003; Respondent - December 15, 2003

Counsel: Kay Rhodenizer, for the Petitioner
Randy Mansfield, self-represented

By the Court:

[1] The Petitioner and Respondent met in 1983 and were married on February 18, 1984. There are three children of this union: Jennifer, born [...], 1985; Brandon, born [...], 1990; and Cory, born [...], 1991. Jennifer is 18, Brandon is 13, and Cory is 12 years at the time of this proceeding.

[2] At the time of the divorce hearing all three children lived with the Petitioner.

[3] The Respondent is currently posted in Kingston, Ontario, and will be reassigned to Nova Scotia in June, 2004.

[4] Both parents have had significant involvement with their children. The oldest child has lived with both parents during the course of their separation. The youngest two children have lived with their mother as a primary residence. They have visited extensively with their father prior to his posting away.

[5] The Petitioner is a Statement Administrator with Maritime Life Assurance Company. The Respondent is a First Class Petty Officer with the Canadian Military.

[6] I am satisfied that the jurisdictional elements of the divorce have been proven and I grant the divorce, based on the fact that the parties have lived separate and apart since January 22, 2001.

[7] The parties lived together prior to the marriage. The date that their cohabitation commenced is in dispute.

[8] The Petitioner seeks a continuation of spousal support to December 31, 2003. She seeks the continuation of a nominal spousal award thereafter, while she determines with some degree of certainty the stability of her current common-law relationship with another.

[9] The Petitioner further seeks child support for all three children, in

accordance with the guidelines, and a contribution to section 7 expenses, including university tuition for the oldest child.

[10] The parties agree that they shall share joint custody of the children continuing with their joint responsibility and rights, as it relates to all three children. The children shall reside day-to-day in the residence of the Petitioner. They have agreed on contact between the father and his children.

[11] The Respondent had ample opportunity to obtain representation. He commenced the interim proceedings with counsel. He proceeded at this hearing to represent himself.

FACTUAL HISTORY RELEVANT TO RESOLUTION OF THE ISSUES

[12] The parties agree that child support for the two younger children shall be in accordance with the *Child Support Guidelines*.

[13] Mrs. Mansfield shows income of \$36,999 for the 2002 taxation year. In 2003, evidence was led to suggest her income was \$27,499. However, by letter dated November 12, 2003, her income was said to be \$27,000. In addition, she received a bonus paid in 2003 of \$1,563, and a further bonus payable on December 18, 2003 in the amount of \$425. That would result in an annual income of either approximately \$28,988 or \$29,487, without consideration of spousal or child tax benefit. I will use the figure of **\$29,000** to reflect her current income.

[14] The Respondent's current 2003 income, for the purposes of determining child support, is \$63,816 plus \$204.60 for a clothing allowance, for a total of

\$64,020.

[15] I have not added into the Respondent's income the two month's gross rent of the former family home. I do not have sufficient information on this point. I do not have the expenditures associated with the rental to arrive at an appropriate net, income. The Respondent advised he borrowed \$10,000 to make renovations after the transfer of ownership. The rental agreement is only an interim situation and the tenant has allowed the Respondent the use of the premises to access his children for specific times. Adding the income without the appropriate deductions would result in an inaccurate income picture.

[16] The allowance in July regarding Afghanistan is not a recurring allowance and there is no indication that the Respondent will be returning to Afghanistan.

DIVISION OF PROPERTY ISSUES

The Matrimonial Home

[17] The Petitioner sold her interest in the family home to the Respondent. She received \$25,815.51.

[18] The Petitioner asks that certain adjustments be made to the final balance to allow for an earlier closing date; *a sharing of the cost of home insurance* from the separation date to the date of sale (January, 2001 to October, 2003); *an adjustment* to reflect the fact that during the time between separation and closing she paid three more month's mortgage than he did; *reimbursement for the penalty* charged by the mortgage company, due to the fact the Respondent opted to remortgage with

another carrier; and *a credit for the oil tank inspection.*

[19] I allow only a credit for the oil tank inspection.

[20] Since separation, the Petitioner states she paid the mortgage for 18 months and the Respondent for 15 months. The Respondent asserts it was his wish the home be sold earlier than agreed by the Petitioner. The Petitioner and the two children had the benefit of almost three years of living in the home before sale. From January 26, 2001 to May, 2002, the mortgage and loan were paid by the Respondent. I decline to make that adjustment.

[21] The Respondent lives in Kingston, Ontario and has been posted elsewhere over the course of the separation. He was not well organized in these matters. He appeared to attend to matters at the last minute. However, he was posted in Ontario, attending to these matters on leave.

[22] He was attempting to rent the property out from the date of October 8, 2003 to and including the date when he intends to return to Nova Scotia in June, 2004.

[23] While he promised the Petitioner he would not move a tenant in, prior to the exchange of cash and the official closing, he moved the tenant into the property on or around the weekend of October 25, 2003. On October 26, 2003, the Petitioner attended the home and found the tenant moving into the home. Counsel for the Petitioner calculated that this amounts to an adjustment of \$138.06 owing to the Petitioner.

[24] In the allocation of the purchase price, there was no deduction for real

estate, HST or legal fees associated with the transaction. These costs would likely be covered in the event the home was sold, if the Respondent was still a member of the Forces. The Petitioner had the advantage of this sale price without deductions for disposition costs.

[25] The Petitioner admits in her pre-trial memorandum that the payments for the mortgage, taxes and life insurance, as of December 20, 2000, were an average of \$839.90 and by November 1, 2001 rose to \$982.51. In addition, the Respondent maintained the car loan which was a consolidation of matrimonial debt. His 2001 financial statement indicates the car loan was \$501 per month.

[26] From May, 2002 to the current date, the Respondent stopped the mortgage and car loan payments and paid that which was ordered by way of child support, section 7 expenses, and spousal support. He also contributed to the upkeep of his daughter who was under his care. Once the Respondent began to pay child and spousal support, the Petitioner was responsible for paying the mortgage and upkeep on the home.

[27] She also maintained the car insurance and house insurance in the monthly amount of \$124 to \$130. She ceased payments for the car insurance in January, 2002, and continued to pay the house insurance until the transfer of title in October, 2003.

[28] The Petitioner had the benefit of a vehicle without a loan, although the car she used required maintenance between the separation date and sale.

[29] The Petitioner requests that she be reimbursed for the penalty paid when the

Respondent remortgaged because the Respondent, in purchasing the property, sought to obtain financing from an institution other than their then current carrier. This resulted in a penalty payment of \$1,096.86.

[30] It was the right of the purchaser to get the best deal possible. The Petitioner had the benefit of the home for three years. It would be unfair to expect the Respondent to purchase the property by assuming a mortgage that did not offer him the best financial options, given he has an ongoing obligation for child support and does have to budget accordingly. For these reasons I decline to order any further adjustments.

[31] The Petitioner asks for compensation for the \$51.75 paid to have the oil tank inspected after separation. The Respondent should share that expense.

RRSP'S

[32] The Respondent seeks a credit for the RRSP monies that were cashed prior to and after separation.

[33] Those amounts that were cashed prior to January 22, 2001, during an earlier separation, are not to be included in the asset division. I acknowledge that the Respondent had no knowledge of the withdrawals made during an earlier separation until they reconciled. Both are taken to accept the withdrawal and to have later confirmed the withdrawal by the reconciliation. The Respondent argued for an equal division or accounting by the Petitioner for the amount she withdrew. The Petitioner argued that the asset ought not to be included in the assets and that the debt she incurred by the unauthorized withdrawal ought to be shared.

[34] I neither include this amount in the assets nor include the tax she paid in the debts.

[35] Any amounts taken after the January 22, 2001 date shall be included and shared equally after tax.

[36] The calculation put forward by the Petitioner with respect to the RRSP valued at December 31, 2001 at \$4,306 with a deduction of \$1,325 to allow for tax leaving a balance to be divided \$2981, is acceptable. The Respondent shall be compensated for one-half of the after-tax value.

Tax Refund

[37] Likewise, the 2001 tax refund for both parties, in accordance with the brief, shall be shared.

Rehabilitative Leave Pay (in lieu of severance)

[38] There will be a clause in the Corollary Relief Judgment that allows for a division of a long service or public service award, if and when received in the future. The Petitioner shall be entitled to one-half the after-tax value as calculated and restricted to the period of cohabitation and separation between July 1, 1983 and January 22, 2001.

[39] I direct the Respondent to notify the Petitioner in writing (such notice to be sent at the same time as the Respondent makes any request that would result in the

payment of this amount), in order to allow her to make the proper application or secure the proper assurances that her prorated share will be accounted for prior to payout of the award.

[40] I reserve for the parties the right to apply for an order respecting the appropriate division, in the event they cannot or do not arrive at a consent respecting the division of this award. In the event she does not receive notice, he is to compensate her for any monies received by him which may be determined to be owing to her as a result of this order.

Pensions

[41] For the purposes of effecting an equal division of CPP, the Petitioner's employment pension with Maritime Life Assurance Company, the Armed Forces Pension, the dates of commencement of cohabitation and separation as found above shall be adopted.

[42] The parties had two vehicles at the time of separation: A Jeep, which was paid for and a Volvo. The Volvo was secured by a loan which exceeded its value. The Respondent serviced this loan. Both were matrimonial vehicles. The Petitioner had the use of one vehicle for a portion of the time. The Volvo was sold in or about April 2002. I have accepted the valuation of \$10,000 for the Volvo and \$2,000 for the Jeep, as at the date of separation .

Division of Furniture and Personal Possessions

[43] By email dated October 31, 2003, Mr. Mansfield accepted the terms of the

proposal put forward to him on October 30, 2003 by Ms. Rhodenizer.

[44] While Mr. Mansfield clearly wanted the piano or the dining room set, this was not included in the agreement. The other particulars of the agreement are as stated in the body of the email.

[45] In his pre-trial submission he agreed that the division of property was settled.

[46] Mr. Mansfield at trial decided to reopen this issue. He wished to review the division of property. He testified he agreed to the proposal from counsel for Mrs. Mansfield, hoping this would settle the other matters. There is no such condition in the agreement or expression of intent or conditional acceptance noted in the email.

[47] In addition, there was direction given to the parties at pre-trial. If there was no consensus on the division, an appraisal was to be obtained. There was a process to be followed prior to trial. This was not followed.

[48] I have listened to the evidence as to the exchange of property, item by item, that was elicited in the direct and cross-examination. In reviewing the Respondent's pre-trial memorandum, his position prior to trial was as follows:

They (meaning we) have also agreed on access and division of household furnishings and that the Respondent is to keep a hardtop camper that was bought for \$1200 and (he testified) is now valued at approximately \$100.

[49] I accept that there was an agreement reached. I am satisfied that the parties divided their property and that it is now a settled issue.

[50] The contents of the email shall be the agreement, and the items, if not already exchanged, exchanged in accordance with the contents of Ms. Rhodenizer's email.

[51] There will be no adjustment made to the final accounting for the personal possessions including the hardtop camper. It would be unfair to include a valuation for that which he received and not attribute a value to that which the Petitioner received. I do not have a valuation for what the Petitioner kept, therefore, there will be no adjustment.

Commencement date of cohabitation

[52] Neither the Petitioner nor the Respondent led clear evidence on this point. The Petitioner believes they began to live together on or before May 1, 1983. The Respondent argues that the date of commencement of their relationship, for the purposes of division of pension, ought to be the date of marriage (February 18, 1984).

[53] The Petitioner and the Respondent gave evidence that they lived together prior to the marriage in an apartment leased in the name of the Respondent in July, 1983. During the early months, the Respondent lived onboard ship, including the months of February, March, April and May of 1983. In June, he sailed off the Grand Banks for three weeks. He confirms they began to live together in July in the same apartment (although he may have been at sea intermittently).

[54] There is a T4 issued in the name of the Petitioner from her employer,

Gestetner, directed to her Main Street apartment address where she and the Respondent commenced living together. Her evidence on this point is that she commenced working with Gestetner at the end of June 1983.

[55] The date I can reasonably conclude, with some degree of clarity and certainty, as the **commencement date** for their common-law relationship is **July 1, 1983**. It is this date that is to be used for arguments respecting spousal support and pension division.

[56] They agree that the date of **separation is January 22, 2001**.

Child support

[57] I have decided to separate out the issue of child support for the two boys who have always remained with the mother, from a consideration of child support for Jennifer. There is a greater likelihood that the parents' contribution respecting Jennifer will vary.

[58] Treating the child support issue for the boys separately will result in less variation and reduce the issues to be litigated or considered. Both agree the guidelines apply to the younger boys, in accordance with the parties' annual salaries.

[59] The two boys have lived with the Petitioner throughout. The Respondent alleged in his pre-trial memorandum that between December, 2001 and July, 2002, the two boys were within his parenting charge approximately 40 percent of the time.

[60] He has not provided proof or evidence as to the specific times, to allow me to draw such a conclusion.

[61] However, between January, 2001 and May, 2002, the Respondent paid the car payment and the mortgage, tax, and insurance payment. According to the Petitioner's early statement, this amounted to \$775.30 (starting date December 3, 2001) and, according to her evidence, this payment varied from an average of \$839 as of December 20, 2000 to \$982.51 as of November 1, 2001.

[62] In his statement of June, 2001, the car payment was \$501. This payment was acknowledged to be a matrimonial debt.

[63] In 2001, his T4 reflects earnings of \$58,692 and, in 2002; his T4 earnings were \$63,688 with the special allotment related to his deployment.

[64] When the Respondent was ordered to pay child and spousal support commencing May, 2002, in accordance with Justice Smith's Order dated June, 2002, he ceased paying the mortgage. He then commenced paying child support in the amount of \$511 together with his portion of the special expenses in the amount of \$266.82, as defined by the order, and spousal support in the monthly amount of \$300. Until the car was sold he was responsible for the car payments. He received the benefit of a car as did the Petitioner.

[65] The actual monthly amount paid by the Respondent towards the mortgage and car loan (except for the months of January to March when Jennifer continued to live with the mother) exceeded the amount ordered by the court order dated June

25, 2002.

[66] The Petitioner seeks retroactive support for the months previous to and not included in the June, 2002 order. I decline to order retroactive support preceding the June 25, 2002 order.

[67] I have reviewed the interim order to assess the Petitioner's request for retroactive child support between the months of January to June, 2003.

[68] At the time of this order both the Petitioner and Respondent were represented. Paragraph 7 of that order acknowledges the child support payments and the method of calculation which included a dollar amount with an acknowledgement that Mrs. Mansfield pay the sum of \$354.16 per month for day care and lunch program and \$44.08 per month for medical insurance premiums.

[69] The June order addressed child support, special expenses that existed and spousal support. When the Respondent was stationed in Ontario, he also paid \$400 per month to board his oldest daughter.

[70] From June, 2002 to July, 2003, the Petitioner seeks to have the Court vary the payments to allow for the fact that the Respondent moved to Kingston. She seeks to have the Ontario table used. I also decline to order that change or variation to the order of June 25, 2002. That fact ought to have been known to the parties at the time of the order.

[71] The change that occurred that would require an adjustment was the return of Jennifer to her mother's home July, 2003. That would trigger a change in the

order.

[72] Commencing July, 2003, the base amount of child support owing for the two boys, based on Ontario guidelines and the Respondent's 2003 income, would be \$868 per month for two children and \$1,134 for three children.

[73] I have no information on Jennifer's earnings for that period.

[74] I was not satisfied with the nature of the documentation purporting to set out childcare expenses. The letters from the childcare providers set out a general formula but do not account for actual costs (other than the school cost).

[75] By February 25, 2004, the Petitioner shall provide actual receipts for childcare for the summer months and from September to December, 2003. The Respondent's share of the special expenses designated below for the boys on an ongoing basis will be 50 percent of the actual costs **as receipted**, pending variation or consent of the parties. There is no need to repeat the school receipts.

[76] In calculating the percentage of special expenses to be shared, I am missing some important pieces of information. I know little of the Petitioner's household income. I do not know Jennifer's income to assist in calculating her contribution. I am not able to accurately determine the actual cost of having Jennifer live with her mother, as she attends university. For this reason, I have arbitrarily used the guideline for three children, when another calculation may be more useful for Jennifer.

[77] Thus, when calculating the percentage of special expenses, I must consider

the means and needs of the parties, among other circumstances, after considering that the base amount for three children is \$1134. This requires I exercise caution when dividing the special expenses, especially considering that some of those expenses are yet to be determined. Simply allocating a percentage based on a comparison of salaries could result in hardship to the Respondent, after the guideline amount is imposed.

[78] Next year when the university costs can be ascertained and Jennifer's contribution factored in, as well as the child care costs, tutor costs, et cetera are known, the parties will be in a better position to determine percentage after reviewing disposable income.

[79] For future reference between the parties and for clarity, **actual payments for child care, et cetera, should be receipted for verification of actual costs, whether or not they are submitted for income tax purposes.** Mr. Mansfield shall be entitled to receive quarterly statements outlining the actual expenditures for the supervision of the children.

[80] Included in the expenses shall be costs of childcare provided which allow the Petitioner to ensure the children are adequately supervised. Tutoring shall also be considered a section 7 expense. The lunch program shall be considered a legitimate section 7 expense.

[81] Since both keep their employment medical plan coverage for the children, each shall be responsible for the premiums effective July. They shall not be included in the section 7 expenses.

[82] Hockey is an extra and not to be included unless the parents agree to this. As well, extracurricular expenses are to be shared only if the parents agree.

[83] Jennifer, the oldest child, has been difficult for both of her parents individually. Thankfully, she has finally settled and is currently attending university. As of July 1, 2003, for the purposes of child support, she is currently living with her mother.

[84] The evidence indicates that, during her high school years and during the turbulence between her parents, she did not achieve in accordance with her potential in high school. She now has the opportunity to apply herself in university. Her performance at university over this academic year will be a necessary indicator, in determining whether university is a valuable pursuit for her.

[85] From January, 2001 to December, 2003, I find that Jennifer spent 25 of those 36 months living with or being under the charge of her father. When not living with her father during those 25 months, he paid board for her in the amount of \$400 per month, to ensure she was provided with a residence.

[86] While he was at sea and, in particular, in Bosnia, he left with Mrs. Mansfield postdated cheques to cover the monthly board to be paid to the landlord, provided Jennifer continued to live in the designated third party home provided for her. The Respondent testified that the cheques he paid to the third party were cashed. He shall be credited with any payments made, in the final calculations. He has provided proof of payment up to and including June, 2003.

[87] The Petitioner gave evidence that for the months of April, May and June of

2003, while Jennifer resided in this residence outside of either of her parents' homes, her mother allowed her to commence a plan of reintegration into her mother's home. This gradual reentry was conditional on her behaviour.

[88] Commencing July 2003, the Petitioner testified, Jennifer commenced living primarily with the Petitioner.

[89] I decline to make an order of retroactive support or to make adjustments to the order of June 25, 2002.

[90] Section 3(2)(b) of the guidelines dictates that the Court may consider the condition, means, and circumstances in a particular case, when apportioning the cost for a child over the age of majority. In this situation Jennifer has exhibited conduct which, if not corrected, would remove her from parental authority and, ultimately, parental responsibility.

[91] Both parents believe that Jennifer must contribute to her university education, that it is essential to her motivation to require her to contribute to the cost of her education.

[92] It is important to respect the integrity of the parent-child relationship and support the requirement that their child diligently pursue an appropriate path towards independence and contribute to her own support, in accordance with reasonable parental expectations.

[93] I accept their belief and recognize that Jennifer's attendance at university will be more properly evaluated in April when she completes her first year. She

will be required to work in the summer .

[94] The Petitioner shall provide forthwith and at the end of each term, proof of Jennifer's standing and her marks for the term and the year. She shall also provide documentation as to her summer income and all such necessary income to determine her contribution to her summer care.

[95] In May, the parties shall review the support, having regard to the 2003 income tax returns, Jennifer's standing in school, her summer job, and the parties may then use the Nova Scotia tables.

[96] It is not clear to neither of the parties at this stage or to the Court, whether this course of study will promote her independence appropriately.

[97] This year the cost to provide tuition for Jennifer in university was \$4,000. The Petitioner, in her evidence, has recommended this be divided equally.

[98] This cost has already been incurred. There has been considerable turbulence in Jennifer's living situation. In addition, due to the location of the mother's new residence in August when she commenced living with her fiancé, Jennifer was not in a location which facilitated her job.

[99] For this academic year the Respondent shall absorb 50 percent of the tuition costs. I have only one-half the costs associated with the Petitioner's new family circumstances and I am unable to calculate the actual cost to the mother's new family of Jennifer as an addition to the household.

[100] For the academic year, September to April, 2003-2004 (eight months), the guideline amount for three children will be applied. Child support pursuant to the Ontario table, for three children, at an annual salary of \$64,020 is \$1,134.

[101] This should be reassessed in May, 2004, with the available new information, to account for the need to have Jennifer make a significant contribution to her own academic plans.

[102] While I have, in the absence of a full financial picture, applied the guidelines as if Jennifer were under the age of majority, I do not suggest it is necessarily appropriate for future evaluation.

[103] Jennifer should be contributing on an ongoing basis to her own support. A closer look should be given to actual residential costs.

[104] For the 2003, 2004 academic year, should that be an issue, Jennifer's contribution together with the proportionate share of expenses will have to be calculated, when her earnings and standing in university can be assessed. In addition, her father will be returning to the former matrimonial home in June, 2004, and the question of where Jennifer will live remains to be decided.

[105] Should a review not result in an agreement between the parties, the matter of allocating child support for Jennifer may be brought back on a review.

[106] Each party will cover the costs of maintaining the children on their independent medical benefits package.

[107] There have been other trade-offs in this matter in the interim, in that the Respondent has serviced two months of the interest payments on Jennifer's line of credit.

LIFE INSURANCE

[108] The Petitioner has a group insurance policy and has named her brother as trustee for each child until that child reaches the age of 21.

[109] The Petitioner asks that the Respondent be required to name her as the current named beneficiary on his policy rather than her daughter, until her daughter is 21.

[110] It would be unfair to require of one party that which another party is not prepared to do, in order to guarantee or secure maintenance for children. However, the Respondent would be wise to name an adult as trustee in order to ensure that the funds do not go directly to a child under 21. In addition, he should designate an appropriate trustee of his insurance proceeds, in order that his sons are provided for in the event of his death.

[111] The Respondent agrees to pay his share of the tutoring costs. Consistent with my decision on the apportionment of liability, he shall pay one-half the costs of tutoring. He shall be provided with an estimate of the cost of tutoring and with receipts. He shall compensate the Petitioner within 10 days of receiving a receipt.

[112] The Respondent shall be provided with information to ensure that he shares in the income tax deductions associated with the Petitioner's tuition claim.

SPOUSAL SUPPORT

[113] The Petitioner was 22 years of age when she married the Respondent. She is 41 years old now, self-sufficient, employed, engaged, living with her partner whom she plans to marry in March, 2004. She commenced living with him in August, 2003.

[114] With respect to spousal support, there is neither a predictable future need nor present need and the maintenance will terminate, effective the change in the child support order, September 1, 2003. While I would be inclined to continue the spousal support until December, 2003, as requested, the addition of Jennifer to the child support order effective September, 2003, would result in an onerous payment by the Respondent should the spousal support be continued.

[115] However, there has been a lengthy period of entitlement. The Petitioner is free to apply for spousal in the future, in the event her circumstances change and she can satisfy a court as to her ongoing entitlement and need arising from her then relevant circumstances.

[116] The adjustments shall reflect the following:

<u>Matrimonial Assets</u>	<u>Value</u>	<u>Mr. Mansfield</u>	<u>Mrs. Mansfield</u>
Jeep	\$ 2,000.00	\$ 500.00	\$ 1,500.00
Volvo	10,000.00	10,000.00	
2002 Tax Refund	287.52	287.52	
2002 Tax Refund	578.13		578.13
RRSP Dec. 31/01	4,306.65		4,306.65
2001 Tax Refund	250.86	250.86	

2001 Tax Refund	<u>268.81</u>	—	<u>268.81</u>
	\$17,691.97	\$11,038.38	\$ 6,653.59

Matrimonial Debts

Visa	\$ 898.38	\$	\$ 898.38
Oil Tank	51.75		51.75
Loan	14,380.25	14,380.25	
Line of Credit	3,808.64	3,808.64	
Pay to joint Visa, Feb	40.00	40.00	
Computer Loan	1,100.55		1,100.55
TD Visa	786.15		786.15
Lost 2001 Refund	<u>1,325.28</u>	—	<u>1,325.28</u>
	\$22,391.00	\$18,228.89	\$ 4,162.11

Mrs. Mansfield's lost refund for 2002 - \$2,630

NET ASSETS

- \$ 4,699.03	□ 2 - 2,349.51	- 7,190.51	+ 2,491.48
		<u>+ 4,841.00</u>	<u>- 4,841.00</u>
		- 2,349.51	- 2,349.51

[117] The equalization payment is \$4,841 payable by the Petitioner to the Respondent.

[118] Deducted from that is the difference between that which was ordered up to July, 2003 by the June 25, 2002 order and that which I have ordered.

[119] Commencing July to December, for the boys and Jennifer, the base amount is \$1,134.

[120] In accordance with the order, the Respondent should have paid a base amount of \$3,066. The adjusted base amount is \$6,804.

[121] I did not have a copy of the maintenance enforcement statement. An adjustment will have to be made to account for special expenses paid since July, in accordance with the order and actual receipted child care expenses (even if not claimed through income tax). If there is an underpayment, it shall be added to the amount owing on the base amount. If he has paid more than receipted through school or other, he shall be given credit for this amount against that which is owing.

[122] He shall also be credited with the spousal support he has paid since August, 2003.

[123] He owes \$2,000 for tuition.

[124] The pensions are to be divided and the parties are to forthwith provide the necessary documentation to effect that division.

[125] The Court reserves for the parties the right to seek a remedy from the Court to effect this judgment.

[126] Counsel for the Petitioner shall draft the order.

J.