

## ***Rhodes & Lewington* [2017] FCWA 75 (6 June 2017) – Family Court of Western Australia**

‘Children’ – ‘Parenting orders’ – ‘People with mental illness \* psychological harm’ – ‘Presumption of equal shared parental responsibility’ – ‘Property settlement’ – ‘Rebutting the presumption’ – ‘Unacceptable risk’

Proceeding: Parenting and financial orders.

Facts: The mother and father had two children and sought parenting and financial orders. The proceedings primarily concerned whether the children should have any contact with their father. The mother sought sole parental responsibility and orders that the children live with her. The father sought equal shared parental responsibility and shared care of the children.

The father often deceived and manipulated the mother, children and people around him during the parties’ relationship, feigning several severe and terminal illnesses. Through this deception, he spent large sums of the parties’ money for personal use (such as travel and accommodation) under the guise of paying for medical treatment. The father also frequently threatened the mother and occasionally their children, leading the mother to apply for a Violence Order.

Issues: What parenting and financial orders are appropriate given the circumstances?

Decision and reasoning: the presumption of equal shared parental responsibility did not apply because of the father’s psychological abuse of the children. Walters J found that that the father’s psychological abuse of the children displaced the presumption of equal shared parental responsibility. He also found that the father’s behaviour amounted to an unacceptable risk to the children’s psychological and emotional wellbeing. As such, Walters J ordered that the mother have sole parental responsibility and that the children not have any contact with the father.

The parties had a net property pool of \$970,381. Upon considering the father’s spending while deceiving the mother along with his limited contributions towards household expenses and the children while the parties were together, Walters J ordered that the mother receive 84% of the net property and superannuation.