

2015

**ROBBEN A. OLDROYD, Petitioner/Appellant, vs. FARRELL L.
OLDROYD, Respondent/Appellee. : Reply Brief of Appellee and
Cross-Appellant**

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

ROBBEN A. OLDROYD,

Petitioner/Appellant,

vs.

FARRELL L. OLDROYD,

Respondent/Appellee.

REPLY BRIEF OF APPELLEE
AND CROSS-APPELLANT

Appeal No. 20150451-CA

On Appeal from:

The Honorable Noel S. Hyde
Second Judicial District Court
Trial Court Case No. 134500028

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ARGUMENT

- I. THE BUSINESS SHOULD HAVE BEEN VALUED BASED ON THE EXPERT EXHIBIT AND NOT BASED ON THE FINANCIAL DECLARATION.**

The Appellant does not give any significant argument to the Court’s division of Oldroyd Custom Woodworks. In fact, if the Appellant believed their argument her appeal

would fail on its face because it is not clearly erroneous for the Court to find a premarital interest in the marital home. In essence, what the Appellant argues is that experts and evaluations can be overcome by a value listed on a financial declaration that is not based on any information. Therefore, if that argument were to be accepted in theory Mr. Oldroyd could have listed his business as worth \$0.00 and the Court could have ignored any expert Appellant put forth. Such argument fulfills the very meaning of clear error.

“We will determine there was clear error ‘only if the factual findings made by the trial court are not adequately supported by the record.’ Id. State v. Comer, 2002 UT App 219, ¶ 12, 51 P.3d 55, 61. In the present case, it is clear error as the Court skipped and it seems forgot about the expert exhibit that had been admitted into evidence. Therefore, the Court based the value on an old financial declaration which is not supported by the facts of the case in any manner.

II. THE EQUALIZATION OF THE ASSETS CONCERNING THE VEHICLES WAS DONE IN CLEAR ERROR.

The Court was equalizing the Parties concerning the vehicles and said such in the transcript. (Closing Page 71-72: 20-9). This was brought to attention of opposing counsel, but he refused to make the change. Therefore, it had to be agreed to upon the form of the order because that is what the Court ordered. For the Appellant to now state that such was agreed upon is laughable.

The Appellant then tries to divert the Court's attention by discussing a Chrysler 300 that had nothing to do with the equalization of the Parties respective vehicles. In fact, by stating "(i)t is possible that the district court was considering broader issues related to the Parties vehicles" is a misstatement of fact that is clearly rebutted by the record.

The Court in fact used the very word "equalize" when only ordering the division of the Honda Civic and Harley Davidson and did not even mention the Chrysler 300 when making the order. "The Court further awards to the Respondent the motorcycle, the Harley Davidson. The Court finds that the value of the Harley Davidson, again, only giving a small amount of weight, to the internet testimony, and having considered all the testimony that's out there, the Court will value the Harley Davidson at \$10,000.00, and as a result of that value find that there is a disparity between the value of the vehicle (Honda Civic) awarded to the Petitioner and the value of the vehicle awarded to the respondent and order that the petitioner will receive an additional \$8,000 interest in the net distributable proceeds from the sale of the home to equalize the interest in the vehicles." (Closing Page 71-72: 20-9).

CONCLUSION

The Court should uphold the judgment of the trial court and find the Petitioner has not prevailed on their presented issues. The Respondent should prevail for the above stated arguments and reverse the judgement of the trial court on the value of the business and the equalization of the Honda Civic and Harley Davidson.

DATED this 13 day of July, 2016.

ARNOLD, WADSWORTH & COGGINS

A large, stylized handwritten signature in black ink, appearing to read 'Brian E. Arnold', written over a horizontal line.

Brian E. Arnold
Lauren Schultz
Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this 13 day of July, 2016, I caused a true and correct copy of the foregoing to be served via US Postal Service, postage prepaid, to:

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