

2004

Leslie D. Blosch v. Albert B. Blosch : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

Albert Blosch,

Plaintiff and Appellee,

Case No. 20040290-CA

Leslie Blosch,

Defendant and Appellant.

BRIEF OF PLAINTIFF AND APPELLEE

APPEAL FROM A DECREE OF DIVORCE ENTERED IN
THE SECOND JUDICIAL DISTRICT COURT
IN AND FOR DAVIS COUNTY, STATE OF UTAH,
THE HONORABLE RODNEY S. PAGE PRESIDING

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**UTAH COURT OF APPEALS
BRIEF**

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STATEMENT OF JURISDICTION

This is an appeal by Leslie Blosch regarding certain orders set forth in the Decree of Divorce between Albert Blosch (the Petitioner below) and Leslie Blosch (the Respondent below). On February 24, 2004, the Honorable Rodney S. Page of the Utah Second Judicial District Court signed the Decree of Divorce. On February 26, 2004, the Second Judicial District Court entered the Decree of Divorce into the registry of judgments. Accordingly, this Court has jurisdiction over this matter, pursuant to Utah Code Ann. § 78-2a-3(2)(h).

ISSUES FOR REVIEW

1. Whether this Court should reject Leslie Blosch’s appeal in its entirety, based upon her failure to properly marshal the evidence, in regard to all of the issues she raises on appeal. Standard of Review: “To prevail [on appeal] . . . [a party] must first marshal all the evidence that supports [the trial court’s findings] and then demonstrate that the evidence, when viewed in the light most favorable to the court’s ruling is insufficient . . .” State ex rel. W.A., 63 P.3d 607, 620 (Utah 2002). This Court should assume that adequate evidence supports the trial court’s findings, on a specific issue, if the appellant fails to properly marshal evidence on an issue. Id. at 620.

2. Whether this Court should reject Leslie Blosch's appeal in its entirety based upon her failure to properly brief the issues which she raises on appeal.

Standard of Review: "It is well established that a reviewing court will not address arguments that are not adequately briefed." State v. Thomas, 961 P.2d 299, 304 (Utah 1998).

3. Whether the trial court abused its discretion in calculating the monthly alimony award that it ordered Albert Blosch to pay over to Leslie Blosch.

Standard of Review: This Court should "... not disturb the trial court's award of spousal support absent a showing of a clear and prejudicial abuse of discretion." Rasband v. Rasband, 752 P.2d 1331, 1335 (Utah Ct. App. 1988).

4. Whether the trial court abused its discretion in apportioning marital property at trial, as between Albert Blosch and Leslie Blosch. Standard of

Review: "In order to reverse the trial court's distribution of property in a divorce action [this Court] must find that it works such a manifest injustice or inequity as to indicate a clear abuse of discretion." Burge v. Facio, 88 P.3d 350, 352 (Utah Ct. App. 2004). quoting Gibbons v. Gibbons, 656 P.2d 407, 409 (Utah 1982).

5. Whether the trial court abused its discretion in calculating the combined attorney fee award which it ordered Albert Blosch to pay over to Leslie

Blosch. Standard of Review: "Both the decision to award attorney fees and the amount of attorney fees are within the sound discretion of the trial court." Griffith v. Griffith, 959 P.2d 1015, 1021 (Utah Ct. App. 1998).

6. Whether this Court should award attorney fees to either party in connection with this appeal. Standard of Review for Albert Blosch to get attorney fees: The Utah Court of Appeals should award attorney fees to Albert Blosch if he prevails, and he can demonstrate that Leslie Blosch's appeal is frivolous. Utah Rule App. Proc. 33(a). Standard of Review for Leslie Blosch to get attorney fees: Leslie Blosch must have received attorney fees below, and must also prevail on the main issues on appeal. Childs v. Childs, 967 P.2d 942, 947 (Utah Ct. App. 1998).

STATUTES, RULES, AND CONSTITUTIONAL PROVISIONS

1. Utah Code Annotated § 30-3-5(8)(a): The Court shall consider at least the following factors in determining alimony: I) the financial condition and needs of the recipient spouse; (ii) the recipient's earning capacity or ability to produce income; (iii) the ability of the payor spouse to provide support; (iv) the length of the marriage; (v) whether the recipient spouse has custody of the minor children requiring support; (vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or allowing the payor spouse to attend school during the marriage."

2. Utah Code Ann. § 30-3-5(1): "When a decree of divorce is rendered, the Court may include in it equitable orders relating to the children,

property, debts or obligations, and parties . . . (emphasis added).”

3. Utah Code Ann. § 30-3-3(1): “In any action filed under Title 30, Chapter 3, 4, or 6 and in any action to establish an order of custody, parent time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.”

STATEMENT OF THE CASE

A. Nature of the Case:

This case arises from a divorce action between the parties, in the Second Judicial District Court of the State of Utah. During the course of the marriage, the parties did not have any children. As a result, the principal issues before the trial court were alimony, marital property distribution, and attorney fees.

B. Course of the Proceedings:

1. On July 3, 2002, Albert Blosch filed a Verified Petition for Divorce against Leslie Blosch in the Second Judicial District Court. (See trial record at pages 1 through 7.)

2. On July 26, 2002, Leslie Blosch filed an Answer to Petition for Divorce and Counter-Claim, through her first attorney of record Michael Murphy. (See trial record at pages 21 through 30.)

3. On October 7, 2002, Leslie Blosch substituted in her new attorney of record, Denise Larkin, in the place of Michael Murphy. (See trial record at page 133.)

4. On December 9, 2002, the parties held an initial pre-trial conference before the Honorable David S. Dillon. (See trial record at page 166.)

5. On February 6, 2003, the parties, through counsel, conducted depositions of one another in Leslie Blosch's attorney's office. During the course of the proceeding, the parties also otherwise mutually exchanged written discovery. (See trial record at pages 203.)

6. On February 13, 2003, the parties then held a second pre-trial conference before the Honorable David S. Dillon. At such time, Commissioner Dillon certified the case for a one day trial on the stipulated issues of the apportionment of marital real property, marital personal property, the apportionment of Albert Blosch's 401(k) plan, the apportionment of marital debts, and the assessment of attorney fees. (See trial record at page 169.)

7. On September 29, 2003 (after various continuances), the case came on for a one day trial before the Honorable Rodney S. Page. The parties were unable to complete presentation of the case during the one day trial. Therefore, in open court on the first day of trial, Judge Page scheduled a second day of trial for November 7, 2003. (See trial record at page 308.)

8. On October 24, 2003 (between the first and second days of trial),

Leslie Blosch retained her new, and third attorney of record, Stephen Spencer in place of her previous, and second attorney of record, Denise Larkin. (See trial record at page 316.)

9. On November 7, 2003, the case came on for the second day of trial before the Honorable Rodney S. Page. After the conclusion of the presentation of evidence and the conclusion of argument, Judge Page took the case under advisement. Further, Judge Page directed each party to submit an attorney fee affidavit and a corresponding response. (See trial record at page 342.)

10. On December 17, 2003, Leslie Blosch substituted herself in as her own attorney of record in place of her third counsel of record, Stephen Spencer.

11. On December 19, 2003, the Honorable Rodney S. Page issued a written and lengthy trial ruling regarding the various issues. This ruling directed Albert Blosch's counsel to prepare the Findings of Fact and Decree of Divorce.

12. On February 24, 2004, Judge Page signed the Decree of Divorce and Findings of Fact and Conclusions of Law. On February 26, 2004, the trial court entered the Decree of Divorce in to the registry of judgments.

C. Facts Relevant to Issues Prevented for Review:

1. On June 12, 1996, Albert Blosch and Leslie Blosch married. On July 3, 2002, Albert Blosch filed his Verified Petition for Divorce in the Second Judicial District Court. (See trial record at page 1.)

2. During the course of the marriage, the parties never had any children.

Albert Blosch had one older son from a previous marriage, who occasionally visited the parties. Leslie Blosch has never had any children from any relationships. (See trial record at page 1.)

3. On October 23, 1992 (prior to the marriage), Leslie Blosch obtained an associates degree from Stevens Henager College, in the Ogden area, that qualified her to work as a legal secretary. Leslie Blosch worked in this field for a short period of time, prior to the marriage. (See trial record at page 109.)

4. During the marriage, Leslie Blosch then worked in a series of jobs. Leslie Blosch's last job during the course of the marriage was as a full time receptionist for May's Custom Tile and Granite. She earned \$9.00 per hour in that job. Leslie Blosch voluntarily quit that job, not long before Albert Blosch filed his Petition for Divorce. (See trial transcript testimony of Albert Blosch on direct examination, and trial testimony of Leslie Blosch.)

5. Leslie Blosch is able bodied and capable of employment. Leslie Blosch only asserted a claim of post traumatic stress disorder, shortly prior to the trial. (See trial record at page 858, paragraphs 26-30.)

6. At trial, Albert Blosch's economist witness, John Matthews, M.S., from the Utah Department of Workforce Services, testified that Leslie Blosch is capable of increasing her earnings to the \$15.00 hour range, through seeking employment as a legal secretary (her area of education). (See trial record at page 856, paragraphs 18-20.)

7. Leslie Blosch's reasonable monthly financial need, as established by the trial court, was approximately \$2,550.00 per month. (See trial record at page 33.) At an earlier stage of the proceedings, Leslie Blosch provided an answer to discovery indicating that her reasonable monthly financial need was about \$2,141.25. (See Petitioner's Exhibit Number 2.)

8. At the time of trial, Albert Blosch earned \$7,700.00 per month gross and \$5,500 per month net. Albert Blosch's reasonable monthly financial need, as assigned by the Court, was \$2,716.00. (See trial record at page 855, paragraph 15.)

9. Leslie Blosch did not make any direct contribution to Albert Blosch's job skills or education. (See trial record at page 855, paragraph 15.)

10. Leslie Blosch did not work in a business owned by Albert Blosch. (See trial record at page 855, paragraph 15.)

11. During the course of the marriage, the parties acquired a marital condominium. At trial, the parties stipulated to the value of this marital condominium at \$127,175.00, with a loan balance of \$93,946.42, leaving \$33,228.58 in net equity. (See trial record at page 308.)

12. Albert Blosch had a 401(k) through his employment at Skywest. At trial, the parties stipulated to the marital value of this 401(k) at \$87,425.26. This 401(k) also was encumbered by a loan used to procure the marital condominium in the amount of \$25,079.72. (See trial record at page 308, and Petitioner's exhibits

35 through 38.)

13. At the time of trial, Albert Blosch also had 937.64 shares of Skywest stock at 17.80 per share. (See trial record at page 854.)

14. In its ruling, the trial court evenly apportioned the foregoing marital assets between the parties. (See trial record at page 308.)

15. Overall, the Court awarded Leslie Blosch \$6,500.00 in attorney fees. (See trial record at page 862.)

SUMMARY OF THE ARGUMENT

A. The Court should reject Leslie Blosch's appeal in its entirety because she has failed to marshal any evidence on any of the points she raises on appeal.

In order to be heard on appeal, Utah law requires an appellant to marshal the controlling evidence both against, and in favor, of a party's position. This standard requires a party to make a detailed, specific, and comprehensive reference to all favorable and unfavorable controlling facts in the trial court. After assembling such facts, the appellant must then point to a fatal flaw in the evidence. In this case, Leslie Blosch has utterly failed to marshal the evidence. First, Leslie Blosch has failed to support her point of view with facts from the trial court record. Instead, Leslie Blosch simply presents an argument to advocate her point of view. On this basis, this Court should reject Leslie Blosch's appeal, in its entirety.

B. This Court should further reject Leslie Blosch's appeal in its entirety because Leslie Blosch has failed to properly brief any of the issues.

Under Utah law, an appellant has a duty to properly brief her issues on appeal, by citing a detailed analysis of cases, and by applying those cases to the relevant facts. In this case, in her brief, Leslie Blosch has failed to make any detailed legal or factual arguments in support of her position. Instead, Leslie Blosch simply string cites cases, without making any detailed legal or factual supporting argument. On this additional basis, this Court should reject Leslie Blosch's appeal in its entirety.

C. This Court should affirm the trial court's ruling on alimony, because the trial court did not abuse its discretion in calculating the alimony award.

Utah law requires this Court to uphold a trial court's alimony award, unless it finds that the trial court abused its discretion in arriving at the award. Further, a trial court does not abuse its discretion, so long as the trial court makes a proper factual finding on each required alimony element, and each finding is supported by evidence in the record. Further, Utah law specifically allows a trial court to enter an alimony award that is less than the length of the marriage.

In this case, the trial court did not abuse its discretion in arriving at the alimony award. Instead, the trial court made proper factual findings on each required alimony element, in regard to its alimony award. In addition, the

detailed evidence in the trial court record amply and strongly supports the trial court's alimony ruling. Further, the trial court properly assessed the length of alimony.

D. This Court should affirm the trial court's marital property distribution, because the Court did not abuse its discretion and evenly distributed marital property between the parties.

Utah law requires this Court to uphold a trial court's property distribution, unless it finds that the trial court abused its discretion. Under this standard, this Court should not overturn a trial court's property distribution, if it distributed marital property in an approximately equal and just manner.

In this case, the trial court did not in any way abuse its discretion in apportioning marital property. At the outset of trial, the parties properly stipulated to the value of the major marital assets including the marital home, Albert Blosch's 401(k), and even vehicle values. The trial court then distributed the marital property in an equitable manner. Accordingly, Leslie Blosch's claims to the contrary are simply inappropriate and unfounded.

E. This Court should affirm the court's attorney fee award, because the trial court did not abuse its discretion in calculating the award.

Under Utah law, a trial court has broad discretion in whether to award attorney fees to a party, and in what amount. Under this standard, a trial court is free to award less than a party's claimed award, so long as the trial court makes

adequate findings. In this case, the trial court properly exercised its discretion in the amount of attorney fees it awarded to Leslie Blosch.

F. This Court should award Albert Blosch all of his reasonable fees and costs on this appeal, because Leslie Blosch brought this appeal in a frivolous manner. Further, the Court should deny any award of fees to Leslie Blosch.

Utah law provides that this Court can award a responding party attorney fees in responding to a frivolous appeal. In this case, this Court should award Albert Blosch his costs and attorney fees because Leslie Blosch has brought this appeal in a frivolous manner by making unsupported statements, by seeking unjustified legal relief, by failing to marshal the evidence, by failing to brief the issues, and by unnecessarily prolonging this appeal through multiple requests for extension.

In contrast, this Court should specifically deny an award of attorney fees to Leslie Blosch in connection with this appeal. Specifically, the Court should not make any additional award of attorney fees to Leslie Blosch, because it should not designate her as the prevailing party in this action on any of the issues.

G. The Court should decline to hear the remaining issues raised by Leslie Blosch, because they are not real issues for appeal and Leslie Blosch did not preserve these issues for appeal.

This Court should disregard the remaining issues which Leslie

Blosch seeks to raise in her appeal, because they are simply not valid issues to this appeal. First, Leslie Blosch tries to claim that she did not receive adequate discovery responses at the trial court level. In actual fact, Albert Blosch provided Leslie Blosch with ample and voluminous discovery. Further, Leslie Blosch did not preserve this issue for appeal, by filing a motion to compel at the trial court level, despite having had abundant and adequate time to undertake such action, if she thought this was necessary. Further, the tax issue and other referenced issues are not real issue to this appeal.

ARGUMENT

A. The Utah Court of Appeals should reject Leslie Blosch’s appeal in its entirety because Leslie Blosch has failed to marshal the evidence.

It is a pre-requisite for an appellant to marshal evidence, in order for this Court to even consider an issue that the appellant presents to the Court for consideration. The Utah Supreme Court described an appellant’s burden to marshal evidence as follows: “To prevail [a party] must first marshal all the evidence that supports the [trial] court’s findings and then demonstrate that the evidence when viewed in the light most favorable to the court’s ruling is insufficient.” State ex rel W.A., 63 P.3d 607, 620 (Utah 2002).

In order to properly marshal, an appellant must do three specific things. First, the appellant must specifically outline both the negative and positive salient facts related to an issue on appeal. Second, an appellant must make a

detailed and specific reference to the trial record to support every one of these salient facts. Third, the appellant must then point to a fatal flaw in the evidence, that undermines the trial court ruling.

The Utah Supreme Court described these specific requirements, as follows: “A mere reference to where evidence supporting the verdict can be located . . . does not constitute marshaling. Rather, marshaling requires that the party challenging the finding show us where the evidence can be located and list the specific evidence supporting the verdict . . . If the rule were otherwise, the marshaling requirement could easily be circumvented. Indeed, a party could satisfy its marshaling obligation by simply placing the record in our hands and declaring that all of the evidence supporting the verdict could be found therein.” Id at 620.

In her brief, Leslie Blosch has failed to satisfy any of the marshaling requirements. First, Leslie Blosch has failed to outline any of the salient facts in her brief. Further, Leslie Blosch has failed to adequately cite to the trial court record. Further, Leslie Blosch has failed to reference any of the key meaningful findings or facts. On this basis, this Court should reject Leslie Blosch’s entire appeal.

B. This Court should reject Leslie Blosch’s appeal in its entirety because Leslie Blosch has failed to adequately brief the issues.

Under Utah law, this Court does not need to consider issues in an

appellant's appeal, that the appellant does not properly brief. The Utah Supreme Court described this as follows: "It is well established that a reviewing court will not address arguments that are not adequately briefed. In deciding whether an argument has been adequately briefed we look to the standard set forth in rule 24(a)(9) of the Utah Rules of Appellate Procedure. This rule states that the argument in the appellant's brief 'shall contain the contentions and reasons of the appellant with respect to the issues presented . . . with citations to the authorities, statutes and parts of the record relied on.' Implicitly, rule 24(a)(9) requires not just bald citation to authority but development of that authority and reasoned analysis based on that authority. We have previously stated that this court is not a depository in which the appealing party may dump the burden of argument and research." State v. Thomas, 961 P.2d 299, 304 (Utah 1998) quoting State v. Bishop, 753 P.2d 439, 450 (Utah 1988).

In this case, Leslie Blosch has failed to satisfy her burden to adequately brief the issues. She has failed to provide detailed and reasoned legal analysis on any of the issues. Instead, she has simply string cited a number of cases, without demonstrating why these cases would justify the relief that she seeks. Moreover, she has failed to apply the facts to the law. Accordingly, it appears that Leslie Blosch has dumped her burden of argument and research on to this Court. On this basis, this Court should reject Leslie Blosch's appeal in its entirety.

C. This Court should affirm the trial court's alimony ruling, because the trial court did not abuse its discretion in arriving at this alimony award, and the trial court properly considered all relevant alimony factors.

It is a well established principal of law that this Court should affirm a trial court's alimony ruling, unless the trial court abused its discretion in calculating the alimony award. For example, this Court has stated: "Trial courts have broad discretion in making alimony awards. Therefore, we will not disturb a trial court's alimony award so long as the trial court exercised its discretion within the appropriate legal standards . . . and supported its decision with adequate findings and conclusions . . ." Childs v. Childs, 967 P.2d 942, 946 (Utah Ct. App. 1998).

In exercising its discretion, the specific factors that a trial court should examine are: 1) The financial condition and needs of the recipient spouse; 2) the recipient's earning capacity or ability to produce income; 3) the ability of the payor spouse to provide support; 4) the length of the marriage; 5) whether the recipient spouse has custody of minor children requiring support; 6) whether the recipient spouse worked in a business owned or operated by the payor spouse; and 6) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or allowing the payor spouse to attend school during the marriage. Utah Code Ann. § 30-3-5(8)(a).

In the instant case, the trial court properly exercised its discretion in calculating the alimony award, by making findings under each required alimony element, as follows:

1. The trial court made proper findings on Leslie Blosch's financial condition and need.

The trial court made a specific finding regarding Leslie Blosch's financial condition, and need for alimony. Specifically, the trial court found that Leslie Blosch had a reasonable monthly financial need of \$2,550.00. (See trial record at page 859.) Further, the trial court's finding of Leslie Blosch's financial need was supported by the record. The court arrived at its calculation of Leslie Blosch's financial need by examining the financial declaration submitted at trial by Leslie Blosch and by comparing an earlier sheet of expenses that Leslie Blosch submitted to the Court that indicated her monthly expenses were \$2,141.25. (See Petitioner's Exhibit 2 and Respondent's Exhibit 35.) Further, Albert Blosch provided credible testimony that demonstrated that the monthly budget of \$2,550.00 for Leslie Blosch was a high award in light of the parties' standard of living. For example, Albert Blosch testified that he helped Leslie Blosch get debt free, that the parties lived a modest lifestyle in a modest condominium, and rarely went on vacations or incurred exorbitant expenses. (See Albert Blosch testimony on direct, as contained in trial transcript.) Therefore, the Judge's finding in regard to Leslie Blosch's financial condition and need, was amply

supported by the record.

2. The trial court made proper findings on Leslie Blosch's ability to produce income.

In addition, the trial court made a proper finding in regard to Leslie Blosch's ability to produce income. In its findings, the trial court imputed an income of \$9.00 per hour to Leslie Blosch, and indicated that she was immediately capable of earning this amount through immediate re-entry in to the job market. Further, the trial court further found that Leslie Blosch was a trained legal secretary. Impliedly, the trial court found that Leslie Blosch was capable of increasing her earnings to \$15.00 per hour as a legal secretary. (See trial record at 395.)

The trial record amply and abundantly supported the trial court's finding regarding Leslie Blosch's ability to immediately commence work at \$9.00 per hour, and to increase to the \$15.00 per hour range, over a reasonable time period. At trial, Leslie Blosch tried to argue that she had post traumatic stress disorder, and that this condition somehow affected her ability to work. (See Respondent's Exhibit 56 and 57.) Nevertheless, one of Leslie Blosch's two witnesses on this issue, Dr. Victor Cline, testified that Leslie Blosch was immediately capable of full time work. (See trial transcript of Victor Cline testimony.) In addition, Dr. Carol Gage (Albert Blosch's psychologist witness on this issue who had examined Leslie Blosch prior to trial) further testified that

Leslie Blosch was fully capable of immediate full time employment. (See trial transcript of Dr. Carol Gage testimony.) Moreover, John Matthews, (Albert Blosch's economist witness) testified that Leslie Blosch was capable at her skill level of making \$7.90 to \$10.90 per hour as a receptionist in the Salt Lake region. Further, John Matthews testified that, by working in her trained field as a legal secretary, Leslie Blosch could start at \$12.00 per hour, and could increase her hourly wage to \$15.00 per hour, after a reasonable period of training. (See trial transcript of John Matthews testimony.) Thus, the trial court properly exercised its independent discretion in imputing a \$9.00 per hour wage to Leslie Blosch.

3. The trial court made proper findings on Albert Blosch's ability to pay.

In addition, the trial court made a proper finding regarding Albert Blosch's ability to pay Leslie Blosch alimony. Specifically, the trial court found that Albert Blosch received a gross salary in his employment with Skywest Airlines at the time of trial of \$7,700.00 per month. The trial court also found that Albert Blosch earned a net income of approximately \$5,500.00 per month at the time of trial. Further, the Court found that Albert Blosch had reasonable monthly expenses of \$2,716.00 per month. (See trial record at page 308.)

The trial court's findings regarding Albert Blosch's ability to pay alimony was well supported by the trial evidence. At trial, Albert Blosch provided his current financial information, including his recent pay check stubs and tax returns

as Petitioner's exhibits. Further, Albert Blosch provided a financial declaration to the Court, that described his expenses in detail. (See Petitioner's exhibits 3 through 20, and Respondent's exhibit 40.) Finally, Albert Blosch testified on the record in great detail regarding his income, debts, and financial situation. (See trial transcript of Albert Blosch testimony.) Based on this information, the Court properly assessed Albert Blosch's ability to pay Leslie Blosch alimony.

4. The trial court made a proper finding on the length of the marriage.

Next, the Court made a proper finding regarding the length of the marriage. The Court properly found that the parties were married on June 12, 1996. Indeed, both parties agreed in their initial pleadings that they were married on this date. (See trial record page 2.) Further, Albert Blosch testified, without dispute, that the parties were married on such date. (See trial transcript of Albert Blosch testimony.)

5. The trial court made a proper finding on the lack of children.

In addition, the trial court made a proper finding that the parties did not have any children and that none were expected. At trial, both parties testified that they did not have any joint children, and that none were expected. At trial, Albert Blosch testified that it was Leslie Blosch who primarily instigated the decision not to have children. (See trial transcript of Albert Blosch testimony.) At trial, Leslie Blosch did not substantially dispute this testimony. (See trial transcript of Leslie Blosch testimony.) Further, Albert Blosch testified without

substantial dispute that Leslie Blosch had abundant free time on her hands, without significant care obligations to any other persons, and with the ready ability to enter the workforce. (See trial transcript of Albert Blosch testimony.)

6. The trial court made a proper finding that Leslie Blosch did not directly contribute to Albert Blosch's education or work related training. It was also clear that Leslie Blosch did not work in any business owned by Albert Blosch.

The trial court further made a specific finding that Leslie Blosch did not make any direct contribution toward Albert Blosch's earning potential by allowing him to attend school, or for paying for any of his training. (See trial record page 2.) Further, the trial record clearly supported this finding. First, Albert Blosch testified that he was already a trained pilot working for Skywest airlines, at the time he met Leslie Blosch. Albert Blosch then testified in great detail that Leslie Blosch did not in any way pay for any of his employment training, in any fashion. Further, the trial record was also clear that Leslie Blosch never worked in any business owned by Albert Blosch. (See trial transcript of Albert Blosch testimony.)

7. The Court properly established a three year alimony period.

Under Utah law, a trial Court clearly has the authority to fashion an alimony award that is less than the length of the marriage. For example, in Childs v. Childs, this Court specifically observed "The appellant argues that she should have been awarded alimony for a period equivalent to the length of the marriage under Utah

Code Ann. § 30-3-5 (Supp. 1998). We have reviewed section 30-3-35 and find nothing to support the argument that the trial court is required to award alimony for a period equivalent to the length of the marriage. Therefore, we affirm the trial court's alimony award." 967 P.2d 942, 947 (Utah Ct. App. 1998).

Arguably, the instant case presents an even stronger justification for a short term alimony award than the Childs case. As in Childs, Albert and Leslie Blosch were married for a relatively short time period. (See trial record at page 1.) However, unlike the Childs case, Albert and Leslie Blosch did not have any children together. (See trial record at page 1.) Based on this and all of the other combined factors, the trial court's three year alimony award was appropriate in this case.

D. The trial court did not abuse its discretion in apportioning marital property between the parties. Instead, the trial court equitably and evenly apportioned marital property between the parties. Indeed, the trial court's property apportionment was favorable to Leslie Blosch in several respects.

A trial court has broad discretion in apportioning marital property between parties in a domestic case. This Court has articulated this principle as follows: "The trial court in a divorce action has considerable discretion in equitably adjusting the financial and property interests of the parties. Because the court's distribution of property is endowed with a presumption of validity, we will not disturb it on appeal unless it is clearly unjust or a clear abuse of discretion. Rasband v. Rasband, 752 P.2d 1331, 1335 (Utah Ct. App. 1998).

In the instant case, the trial court made an equitable apportionment of the parties' marital property, as follows:

1. The Court properly valued and apportioned Albert Blosch's 401(k).

It is clear that the Court properly valued Albert Blosch's 401(k) with his employer Skywest and properly divided the 401(k). At the outset of trial, the parties stipulated to the marital value of the 401(k) at the time of trial to be \$87,425.56. A simple mathematical calculation on the exhibits showed that \$87,425.56 was the marital value of the 401(k) (\$103,750.86 value of the 401(k) at the time of trial, less Albert Blosch's pre-marital contribution of \$16,325.60, equals \$87,425.26). (See Petitioner's exhibits 35 through 38.) In addition, the trial Court awarded Leslie Blosch precisely one half of the marital value in the 401(k), as of the first day of trial. (See trial record at page 395.)

In addition, the Court found that Albert Blosch had acquired some Skywest stock. Again, the Court awarded Leslie Blosch precisely half of the amount of the stock. (See trial record at page 395.)

2. The trial court properly apportioned the real property between the parties.

Further, it is clear that the trial court properly apportioned the real property between the parties. At the outset of trial, the parties stipulated that there was equity in the marital property in the amount of \$33,228.58. (See trial record at page 308.) In its ruling, the Court then apportioned the \$25,079.72 Skywest

401(k) loan which was used to procure the house toward the house, leaving a net equity in the home of \$8,148.86. Again, the Court apportioned this equity equally between the parties through its method of division of assets. (See trial record at page 395.)

3. The trial court properly apportioned personal property between the parties.

Leslie Blosch has no valid claim that the trial court failed to properly apportion personal property between the parties. In actual fact, the trial court applied great detail and precision in apportioning the personal property between the parties. (See trial record at page 395.) At the outset of trial, the parties stipulated as to the value of the respective parties' vehicles. (See trial record at page 308.) Further, at trial, Albert Blosch's witness, appraiser Jerry Erkelens provided detailed testimony on the value of the parties' remaining personal property items. (See trial transcript in regard to Jerry Erkelens.) The trial court did not accept Jerry Erkelens' testimony on face value. Instead, the trial court made certain adjustments in favor of Leslie Blosch based on rebuttal testimony. The trial court then equitably apportioned the personal property value between the parties and paid attention to the redistribution of certain small items. (See trial record at page 395.) Based upon the foregoing, the trial court fairly and equitably apportioned the marital property between the parties in all respects.

E. The trial court did not abuse its discretion in the amount of attorney fees it ordered Albert Blosch to pay over to Leslie Blosch.

Under Utah law, a trial court has broad discretion in determining whether to award a party attorney fees, and what the amount of the award should be. For example this Court has stated “[A] trial court may award attorney fees in divorce and custody proceedings. The decision to award attorney fees rests primarily in the sound discretion of the trial court. However the trial court must base the award on evidence of the receiving spouse’s financial need, the payor’s spouse’s ability to pay, and the reasonableness of the requested fees. Childs v. Childs, 967 P.2d 942, 947 (Utah Ct. App. 1998).

Under this standard, a trial court has discretion to award a requesting party less than the amount that party has actually incurred in attorney fees. For example, in Rasband v. Rasband, the Utah Court of Appeals affirmed the trial court in awarding a wife only half her requested attorney because the case was not particularly difficult from a legal, factual or discovery standpoint. 752 P.2d 1331, 1335 (Utah Ct. App. 1988).

In addition, it is the requesting party that has the burden of presenting evidence to the trial court regarding the reasonableness of the requested fees. For example, in Sorensen v. Sorensen, this Court stated that: “In order to recover attorney fees in a divorce action, the moving party must set forth evidence, 1) demonstrating that the award is reasonable; and 2) establishing the financial need of the requesting party compels the award. 769 P.2d 820, 832 (Utah Ct. App. 1989).

In this case, the trial court considered all of the requisite factors in arriving at its combined \$6,500.00 attorney fee award to Leslie Blosch.

1. The trial Court did make a finding regarding Leslie Blosch's need for attorney fees.

Specifically, the trial court made the requisite finding that Leslie Blosch did not have the ability to pay her attorney fees without invading the substantial assets the court awarded to her at trial. (See trial record at page 395.)

2. The trial court made a finding regarding Albert Blosch's ability to pay the attorney fees.

The trial court also made the necessary finding regarding Albert Blosch's ability to pay Leslie Blosch's attorney fees. Specifically, the trial court found that Albert Blosch had some ability to assist Leslie Blosch in the payment of her fees. (See trial record at page 395.)

3. The trial court also made specific findings regarding reasonableness.

Further, the trial court made a specific finding that the level of fees claimed by Leslie Blosch was unreasonable in relation to the case. Specifically, the trial court found that Leslie Blosch unnecessarily interjected herself into the proceeding, changed attorneys multiple times, and took action to drive up the cost of the proceeding for both parties. On this basis, the court specifically found that the combined level of attorney fees expended by Leslie Blosch's three attorneys was not necessary or reasonable. Moreover, the trial court specifically found that

the case was not complex in terms of legal issues, factual issues, or discovery. Therefore, the trial court awarded Leslie Blosch an additional \$4,000.00 in attorney fees beyond the \$2,500.00 she had already received from Albert Blosch. (See trial record at page 395.) Further, the trial court based its ruling on detailed attorney fee affidavits submitted by both sides. (See trial record at page 348, 350, and 353.)

4. Leslie Blosch has failed to satisfy her burden that the attorney fee award is unreasonable.

Moreover, Leslie Blosch has failed to provide any adequate explanation to indicate why this generous award of \$6,500.00 in attorney fees was not reasonable, in light of a divorce case of this type. Further, it should be noted that Leslie Blosch has ample ability to pay her own attorney fees, through the marital property apportionment that the Court awarded over to her.

F. This Court should award Albert Blosch his reasonable costs and attorney fees incurred on this appeal as against Leslie Blosch. Further, this Court should specifically decline to award Leslie Blosch any attorney fees in connection with this appeal.

1. The Court should award Albert Blosch his attorney fees on appeal.

The Utah Rules of Appellate Procedure authorize this Court to award attorney fees against an appellant when the appellant brings a frivolous appeal. See Utah Rule App. Proc. 33(a) and (b) (2004). Indeed, In Eames v. Eames, the Court imposed attorney fees under this provision against a man that appealed similar issues to the case at bar. 735 P.2d 395, 397 (Utah Ct. App. 1987). In

arriving at the attorney fee award, the Court set forth a three part test on whether this Court should award attorney fees in a case such as this. Specifically, the Court held that a court may impose attorney fees if: (1) The appellant lacks an honest belief in the propriety of the activities in question; (2) The appellant intends to take unconscionable advantage of the other party; and 3) The appellant has an intent to hinder, delay or defraud others. Id. at 397.

In this appeal, it appears that Leslie Blosch's activities satisfy each of these three prongs. First, Leslie Blosch makes repeated statements in her brief, that she should know are simply not true. Leslie Blosch's inaccurate statements include her statement that she was awarded only 5% of the marital assets, her statement that the 401(k) was not properly apportioned despite the on the record stipulation at trial, and her series of false and personal accusations regarding Albert Blosch's character and demeanor.

Further, Leslie Blosch has simply failed to support her arguments by setting forth any supporting case law, that would justify the relief she is seeking. Further, Leslie Blosch is seeking an exorbitant and unreasonable amount of both alimony, and attorney fees. through this appeal.

Finally, Leslie Blosch has filed multiple motions to continue this appeal. It appears that Leslie Blosch has possibly filed these motions for her own gain and benefit to allow herself extended time to work on this appeal, to the disadvantage of Albert Blosch. Based on these combined reasons, this Court

should assess attorney fees against Leslie Blosch.

2. This Court should decline to award Leslie Blosch any attorney fees on appeal.

In order to ordinarily recover attorney fees on appeal under Utah law, an appellant must have typically received attorney fees at trial, and must also then prevail on the main issues on appeal. See Childs. v. Childs, 967 P.2d 942, 947 (Utah Ct. App. 1998).

In this case, Albert Blosch believes that Leslie Blosch is not entitled to prevail on any of the issues set forth in this appeal. Therefore, Albert Blosch believes that the Court should specifically decline to award any attorney fees to Leslie Blosch in connection with this appeal.

G. Leslie Blosch's remaining referenced issues on appeal are not valid appeal issues. Therefore, the Court should decline to rule on these issues.

In her brief, Leslie Blosch has raised a number of other issues by reference. First, Leslie Blosch claims that she did not somehow receive discovery. In actual fact, Albert Blosch provided Leslie Blosch with voluminous and ample discovery. (See trial Court record at page 464, and 487). Moreover, Leslie Blosch did not preserve this issue by filing any motion to compel in the trial court. In addition, Leslie Blosch somehow claims that taxes are an issue. This simply is not a valid issue in light of the fact that it is customary for parties to file separate tax returns after divorce, and the trial court actually ordered Albert Blosch to hold

Leslie Blosch harmless for any tax consequences of his real estate dealings in regard to past years in which the parties filed joint returns. (See trial record at page 915.) On this basis, the Court should decline to address any further issues raised by Leslie Blosch in her brief.

CONCLUSION

The trial court did not abuse its discretion in entering any provisions of the its final ruling, that is on appeal to this Court. Therefore, this Court should affirm the trial court's final ruling, in every respect. Further, this Court should award Albert Blosch his attorney fees and costs in responding to this appeal, as against Leslie Blosch.

Respectfully submitted this 22 day of February, 2005.

CRIST, CATHCART & PETERSON, L.L.C.

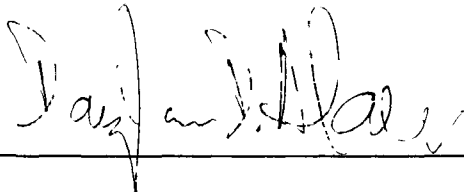


DOUGLAS D. ADAIR
Attorney for Albert Blosch

CERTIFICATE OF SERVICE

I hereby certify that on this 22 day of February, 2005, I caused to be mailed first class postage prepaid two true and correct copies of the foregoing BRIEF OF PLAINTIFF AND APPELLEE to:

Leslie Blosch
Defendant/Appellant
953 Shetland Lane
Farmington, Utah 84025



ADDENDUM "A"

FILED

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SECOND DISTRICT COURT

SECOND DISTRICT COURT, STATE OF UTAH

COUNTY OF DAVIS, FARMINGTON DEPARTMENT

ALBERT B. BLOSCH
Plaintiff,

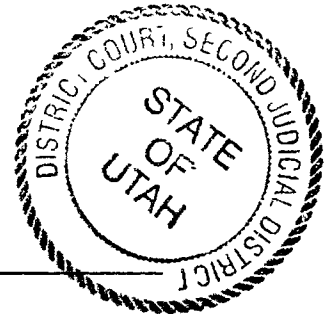
v.

LESLIE DAWN ETHINGTON BLOSCH
Defendant

RULING

Case No. 024701139

Judge: Rodney S. Page



This matter came on for trial on September 29, 2003, and November 7, 2003.

The petitioner was represented by his attorney, Douglas D. Adair. The respondent was represented on the first day of trial by her attorney Denise P. Larkin; and on the second day of trial, by her new attorney, Stephen D. Spencer.

After the first day of trial, the Court granted a Decree of Divorce to the parties, to become final upon entry. Plaintiff was ordered to temporarily continue the respondent on his health insurance, under COBRA and pay the costs thereof. The prior order of the Court was continued on a temporary basis, and all other issues were reserved for further hearing.

The Court having now heard all of the evidence, and the arguments of counsel, and being fully advised in the premises, rules as follows:

The parties were married on the 12th day of June, 1996. No children have been born as issue of the marriage and none are expected.

Shortly after the marriage, the parties moved to San Diego, California to provide the respondent with a change of environment. They returned to Utah a short time later,

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Ruling



VD11402230

024701139 ETHINGTON BLOSCH LESLIE DAWN

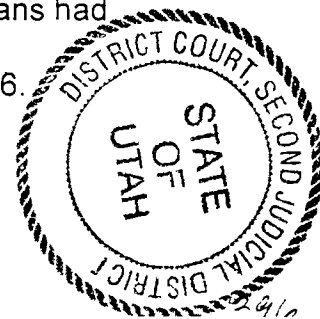
and lived with petitioner's parents. In November, 1999, they purchased a two-bedroom condo in North Salt Lake. They rented the condo and continued to live with petitioner's parents. At some point, they moved into the condo and respondent continues to reside there under a temporary Court order.

Because of respondent's financial condition, the condo was purchased in petitioner's name alone. They financed the condo with a first mortgage to Countrywide Mortgage and borrowed \$29,000 from petitioner's 401K through his employment. The loans are in petitioner's name, alone. There is a balance on the first mortgage of \$93,946, and on the 401K loan of \$25,079. The parties stipulated that the condo has a current market value of \$127,175, leaving a net equity of approximately \$8,150.

During the course of the marriage up to the time of trial, petitioner accumulated approximately \$87,425 in his 401K retirement plan with SkyWest. He also acquired approximately 937.64 shares of SkyWest stock valued at \$17.80 per share. The parties also acquired various other accounts at Smith Barney and Zions Security.

On March 20, 2002, petitioner withdrew from the Smith Barney Account approximately \$2,821 and on March 21, 2002 from the Zions investment account, approximately \$4,934.66. On March 15, 2002, he also withdrew from a Zions investment account, the sum of \$9,486.

When the parties married, the petitioner was essentially debt-free. The respondent had considerable debt, and a number of her debts had gone to collection. Included among her premarital debts, was an RC Willey bill of \$3,435; higher education (student loan) \$3,514 and CTI (student loan) \$5,687. Both of the student loans had gone to collection. The total of these three debts was approximately \$12,636.



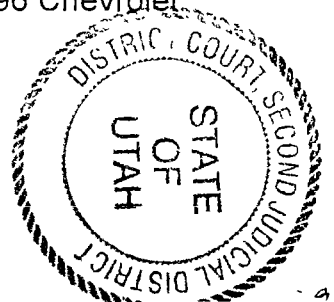
At some point, the parties decided to borrow money from petitioner's father to pay off their debts. They borrowed \$26,000 from petitioner's father and paid off respondent's premarital debts of some \$12,636 and other consumer debt that the parties had acquired during the course of the marriage. The respondent agreed, when they borrowed the money, that she would continue to work outside of the home until the debt was paid. They made regular monthly payments on the loan and at the time this matter was filed, there was a balance owing in excess of \$9,000.

Each of the parties have various items of furniture and fixture and personal items in their possession. These items were appraised by Mr. John Erkelens, Jr., a professional appraiser. He placed a value on the items in petitioner's possession at \$2,595 and those in respondent's possession at \$6,551.

From the testimony, it appeared that the sofa and love seat and hide-a-bed in petitioner's possession were premarital property and that the computer in petitioner's possession, which Mr. Erkelens did not personally inspect, was undervalued by about \$500. With these adjustments, the value of those items in petitioner's possession was approximately \$2,435.

With respect to the items in respondent's possession, it appeared that the sofa and love seat were overvalued by about \$600, that the bedroom set by about \$1,500, and that the seventeen-inch T.V. was a premarital asset. With these adjustments, the value of the items in respondent's possession was approximately \$4,451.

Petitioner has a 1997 Grand Cherokee with a balance owing of approximately \$5,290. It has an equity of approximately \$1,850. Respondent has a 1996 Chevrolet Beretta, that is free-and-clear and valued at approximately \$2,675.



Petitioner is presently employed as a pilot with SkyWest Airlines, and was so employed when the parties married. He has had no additional schooling or training during the course of the marriage, for which the parties have had to pay. He currently receives a gross salary of approximately \$7,700 per month, and net after taxes, health insurance, FICA, Medicare and loan payment, of approximately \$5,500 per month.

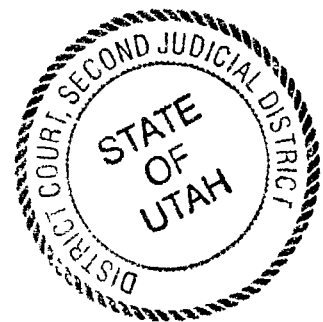
The respondent was working full-time in a nightclub when the parties met and were married in 1996. She had worked steadily up until that time. The respondent also received an Associate Degree in legal secretary training from Stevens-Henager College in 1992. She tried working in that profession, but was let go after a short time.

Following the parties marriage, respondent continued to work full-time, primarily as a receptionist for various businesses. She was an excellent employee and received several letters of recommendation from her employers. She never experienced any health or psychological problems which interfered with her employment.

In the Spring of 2001, she quit her employment and indicated to petitioner that she didn't want to work any longer, even though they still owed a substantial amount to petitioner's father on the loan they had obtained to pay off their debts.

A person working as a legal secretary in our area could expect to make an entry-level wage of approximately \$12.00 per hour with an average, after a period of training, of \$15.00 per hour.

A person working as a receptionist in the area, can expect an entry-level wage of \$7.90, but with experience, can expect an average wage of \$8.60 and \$10.90 per hour. The training period for such employment would be relatively short.

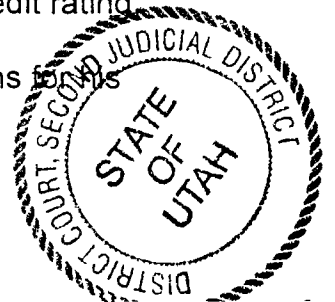


During the marriage and up until just before trial, the respondent had never sought any additional training or education, nor had she indicated any desire to do so. The issue of further education or training is a matter of recent origin, and even up until the time of trial, respondent had taken no formal steps to pursue any goals in that area. There was no evidence of any prior health or psychological problems that interfered with respondent's ability to work. That issue only arose after this matter was filed and just prior to the first trial date. No mention was made of the problem in any affidavits filed in this matter, nor in the deposition taken in February of 2003.

During the marriage, the parties lived primarily in apartments in Midvale and the Bountiful area. They have always resided in a relatively modest neighborhood. The condo they eventually purchased and resided in is in a similar neighborhood. It is a modest two-bedroom condo in North Salt Lake with 1300 square feet of living space. The parties also had a very modest lifestyle with no history of extravagant expenses or any particular vacation pattern.

At an order to show cause hearing in September, 2002, in conjunction with this case, the respondent filed an affidavit through her attorney claiming that her living expenses were \$2,140 per month. That included the condo payment and a car payment of \$195. The car is now paid for. However, that expense statement did not include the sum of \$208 per month which would be required to continue her medical insurance coverage under COBRA.

During the course of the marriage, petitioner had an arrangement with his brother, who is a building contractor, whereby he, because of his better credit rating would co-sign, or in some cases sign in his own name on construction loans for his



brother. As part of the agreement, the petitioner would then be allowed to claim the interest on the construction loan for income tax purposes. That sometime required title to the property covered by the loan being in his name, either alone or with his brother as a co-owner. At one time, this also involved an L.L.C. organized by his brother.

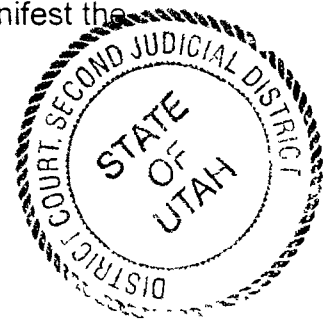
In these instances, the petitioner was not involved in the actual construction or any related matters. The only benefit received, was the tax benefit in which both of the parties participated.

After this complaint was filed, petitioner withdrew \$2,821 from his Smith Barney account and \$4,934 from his Zions investment account and paid that money along with some money from an income tax return to his father to pay off the balance of \$9,000-plus dollars which the parties owed the petitioner's father on the consolidation loan.

About this same time, petitioner withdrew approximately \$9,400 from his Zions investment account for which he cannot specifically account, except that it went to pay family obligations and ongoing expenses.

During the course of the marriage, respondent had no particular health or emotional problems, however, after the complaint was filed and following a deposition taken in February of 2003, respondent raised for the first time the question of her emotional health and the claim that she suffered from a Post-Traumatic Stress Disorder, therefore could not work. In that regard, she had her first visit with Dr. Cline in February of 2003.

All of the experts agreed, that based upon the self-reported symptoms of respondent, supported by certain psychological testing, that she does manifest the symptoms of PTSD, but were unable to indicate the cause.



It was speculated that the source of the symptoms could be a delayed reaction to a prior difficult marriage of the respondent; her memory of a prior lifestyle coming into conflict with her present, changed value system; a conflicted relationship between the parties; or the stress of the present divorce litigation, or a combination of all of these factors.

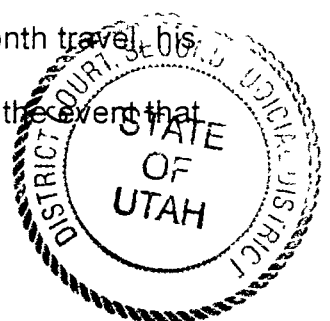
It was evident from the file and the trial, that respondent had been actively engaged in every aspect of the divorce litigation, to the extent that there had been disagreements between herself and her counsel. This has resulted in her changing counsel on three different occasions, the last time, between the first and second day of the trial in this matter. The experts were unable to indicate how long her symptoms would last, however, both Dr. Cline and Dr. Carol Gage indicated that it would be good for respondent to get out and become involved in the workforce in some low stress type of job similar to that of a receptionist.

At trial, the respondent exhibited appropriate demeanor. She appeared very articulate and knowledgeable, and expressed herself very well. She did not seem to be intimidated in any way by the trial setting.

The Court found the testimony of Dr. Peterson, a Family Practitioner, to be less than credible and objective on the psychological issues because of his lack of formal training in the area, and because of the advocacy stance taken by him in respondent's favor.

The petitioner testified that he had living expenses of approximately \$2,458 per month, and that appeared reasonable, except for a claim of \$200 per month travel, his failure to include expense for his car payment of \$207 and for utilities, in the event that

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he did not reside in the condo. The Court finds that utility expenses would reasonably be about \$200 per month, and that \$50 per month would be sufficient for travel expenses. The Court finds that reasonable expenses for the petitioner would be approximately \$2,716 including the utility expense, his car payment, and reduced travel of \$50 per month.

Respondent testified that she had living expenses of \$5,026 per month. The Court finds that those expenses are unreasonable, especially in light of her affidavit claiming expenses of only \$2,141 in September, 2002.

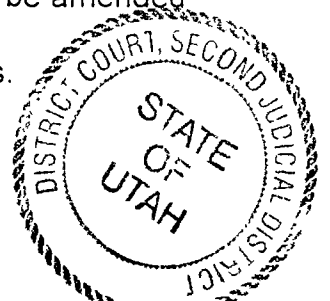
The Court finds that respondent would have reasonable expenses of a house payment of \$898, taxes of \$72, condo fee of \$40, maintenance fee of \$25, real property insurance of \$12, food and household expenses of \$260, utilities of \$125, phone of \$55, cell phone of \$40, personal care \$100, medical including COBRA of \$208, and co-pays for medical and dental in the amount of \$200, entertainment \$50, gifts \$25, auto expenses \$150, installment loans \$250, for reasonable expenses of approximately \$2,550 per month.

The Court finds that her claim for additional expenses are both excessive and speculative.

The Court further finds that respondent's claim for damages to the condominium in the approximate sum of \$1,400, although some of which were claimed to have been caused by petitioner, are primarily maintenance issues.

From the foregoing findings of fact, the Court concludes as follows:

That the Decree of Divorce previously granted in this matter should be amended to provide that the decree is granted based upon irreconcilable differences.



That the sum which accrued in petitioner's 401K at SkyWest should be valued as to those sums which accrued during the course of the marriage up to the date of the trial of September 29, 2003, and each of the parties should be awarded one-half thereof.

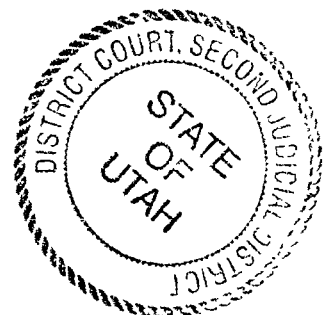
Each of the parties should be awarded one-half of the SkyWest stock, valued on the same date.

The Court concludes that the sums of \$2,821 and \$4,934 withdrawn by the petitioner were used to pay off the balance owing by the parties to petitioner's father, and therefore, was applied to marital debt.

The sum of \$9,400 was withdrawn by the petitioner and used to pay family and miscellaneous expenses. Although this is a marital asset, in light of the petitioner's assuming over \$12,000 of respondent's premarital debt, the Court will require no accounting of this sum.

Each of the parties is awarded those vehicles in their possession subject to any indebtedness thereon. The Court concludes that the equity in each is nearly equal and therefore makes no adjustment.

Each of the parties is awarded those items of personal property in their respective possession. The Court concludes that, based upon the findings of the Court, that the value of those items in respondent's possession, exceeds the value of the items in petitioner's possession by approximately \$1,776. To equalize those sums, the Court orders that the respondent shall bear the expense of any repairs that need to be made to the condominium as provided by the estimate.



The Court awards the condominium to the respondent subject to the first mortgage in the amount of \$93,946. The second mortgage loan on petitioner's 401K is to be paid off from the marital 401K before it is divided between the parties. That will leave an equity in the condo of approximately \$33,229. One-half of that is awarded to the petitioner and shall be deducted from respondent's share of the marital 401K.

Within 90 days of the date of this order, respondent is to refinance the condo and take the petitioner's name off of the loan.

During the 90 day period, the petitioner is to continue to pay the first mortgage and \$1,000 alimony to the respondent. He is also to continue to pay the costs of COBRA coverage. The condominium payment is considered to be additional alimony.

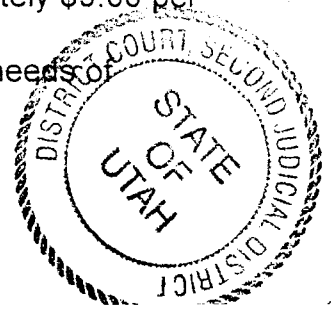
Respondent is to pay the utilities and condo fee and maintenance and maintain the premises during this period and allow no damage or waste to occur thereto except normal wear and tear.

If the respondent is unable to refinance the condo within the 90 days period, then the condo shall be awarded to the petitioner on the same terms and conditions as set forth above.

Petitioner is ordered to return to the respondent any CD's which he has that belong to respondent, and one-half of any CD's that the parties purchased. That order applies to the respondent also.

The petitioner is to return the T.V. guard to the respondent, if he has it.

The Court concludes that the respondent is able to work in a low stress job such as a receptionist. And the Court attributes to her an income of approximately \$9.00 per hour for a total of \$1,550 per month. The Court concludes that she has needs of



approximately \$2,550 per month and that she does not have sufficient income to meet those needs at this time.

The Court considers that petitioner has reasonable expenses of approximately \$2,716 per month and net income of approximately \$5,500 per month, and therefore has the ability to assist the respondent.

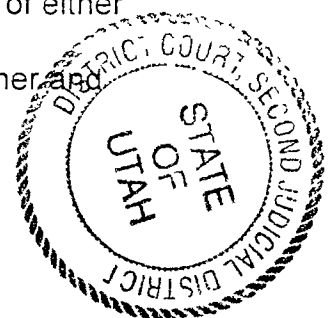
Based upon the foregoing, the Court hereby orders that petitioner pay to the respondent as alimony the sum of \$1,300 per month, provided however, this order shall not become effective until after the condominium is refinanced or for a period of 90 days, whichever occurs first. After that time, this order shall become effective.

Alimony is to terminate at the end of three years, or by operation of law, whichever occurs first. For the purposes of calculating the three year period, that period shall begin to run on October 1, 2003. The Court awards no sums for education or additional training, the Court concluding that such sums are too speculative and not supported by the evidence.

Each of the parties are to pay any debt or obligation they have incurred since the date of separation and hold the other party harmless.

The Court further concludes that each of the parties have incurred attorney's fees and costs in this matter. Respondent claims attorneys' fees in the approximate sum of \$15,298, which includes \$1,430 for her first attorney, \$6,623.10 for her second attorney, and \$5,072.50 for her third attorney, who represented her for less than two weeks and during the second day of her trial.

The Court concludes that this case was not overly complex in terms of either discovery or legal issues; further that the fees in this matter for both petitioner and



respondent were increased as a result of respondent's decision to employ three different counsel in the case and by including new issues in the case late in the proceedings.

The Court concludes that a reasonable attorney's fee, but for the actions of the respondent, would be \$6,500

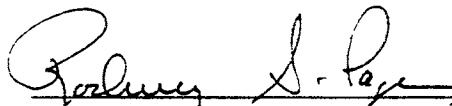
The Court finds that respondent is without sufficient funds to pay those fees without invading the assets awarded to her. That in light of petitioner's superior earning capacity, he has the ability to contribute toward respondent's attorneys' fees. The Court recognizes that petitioner has already paid \$2,500 toward respondent's attorneys' fees and that he has been required to incur additional fees as a result of the actions of the respondent in this matter, and therefore orders that petitioner only pay an additional sum of \$4,000 toward respondent's attorneys' fees.

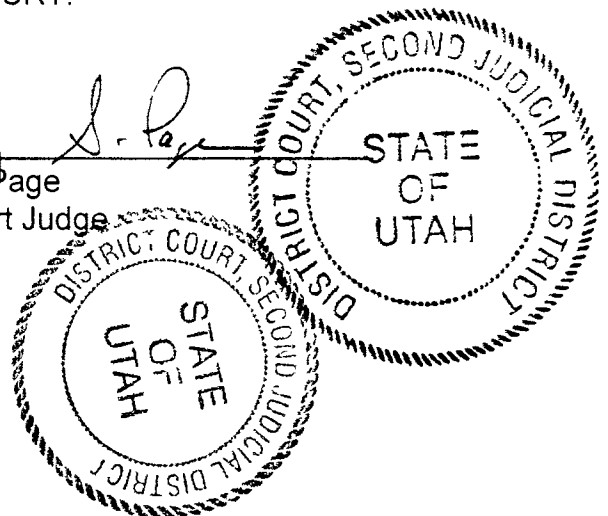
Each of the parties are to bear their own costs.

Plaintiff's counsel is directed to prepare findings and decree in accordance with the Court's ruling, and submit the same to opposing counsel at least five days prior to the time that they are submitted to the Court for signature.

Dated this 19th day of December, AD 2003

BY THE COURT:


Rodney S. Page
District Court Judge



CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing ruling to:

Douglas D. Adair
845 South Main, Suite 23
Bountiful, Utah 84010

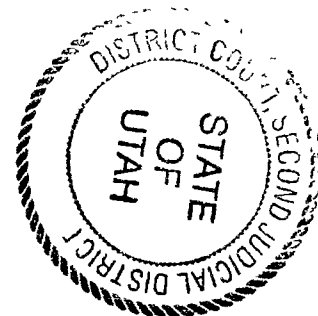
Stephen D. Spencer
47 East Vine Street
Murray, Utah 84107

Leslie Ethington Blosch
402 North 75 East
North Salt Lake, Utah 84054

postage prepaid this 19th day of December, AD 2003.

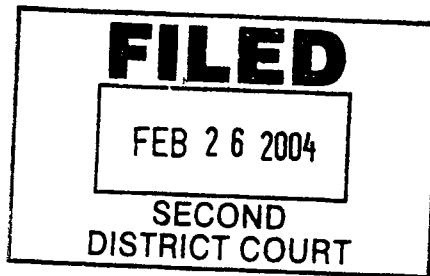
Alyson Brown
Clerk of Court

By 
Tacy Barney
Deputy Court Clerk



ADDENDUM "B"

Douglas D. Adair (#6460)
CRAMER, CRAMER & ADAIR, L.L.C.
Smith Hyatt Building
845 South Main Street, Suite 23
Bountiful, Utah 84010
Telephone (801) 299-9999
Facsimile (801) 298-5161



Attorney for Petitioner

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF UTAH
DAVIS COUNTY, FARMINGTON DEPARTMENT

ALBERT B. BLOSCH,

Petitioner.

v.

LESLIE DAWN ETHINGTON-BLOSCH,

Respondent.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Civil Number 024701139DA

Judge Rodney S. Page

Commissioner David S. Dillon

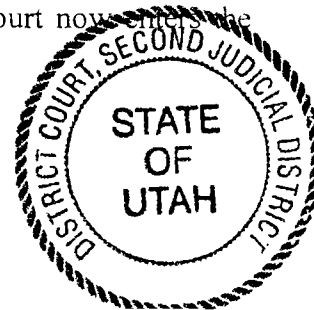
On September 29, 2003 and November 7, 2003, this case came on for trial before the Honorable Rodney S. Page. Petitioner appeared personally on both days of trial together with his attorney of record, Douglas D. Adair. Respondent appeared personally on the first day of trial with her attorney of record Denise P. Larkin, and on the second day of trial with her subsequent attorney of record Stephen D. Spencer. During these two days of trial, the Court had the opportunity to hear evidence from both Petitioner's and Respondent's witnesses, to consider the admitted exhibits, and to hear arguments of counsel. Being fully advised in the premises, the Court now enters the following:

Findings of Fact and Conclusions of Law



VD11503747

024701139 ETHINGTON-BLOSCH, LESLIE DAWN



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FINDINGS OF FACT

1. Petitioner and Respondent are both bona fide residents of Davis County, State of Utah, and have been so for more than three months immediately prior to the filing of this action.

2. Petitioner and Respondent were married on June 12, 1996.

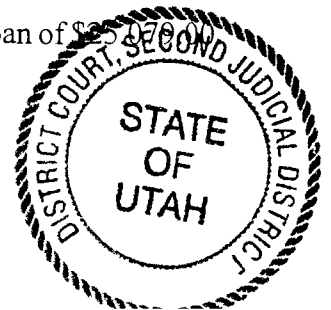
3. During the course of the marriage, the parties experienced difficulties, that cannot be reconciled, which have prevented the parties from pursuing a viable marriage relationship. The Court finds that the grounds for divorce should be amended to be mutual irreconcilable differences.

4. On September 29, 2003 (the first day of trial), the Court granted a Decree of Divorce to the parties to become final upon entry. At such time, the Court ordered Petitioner to temporarily continue Respondent on his health insurance, under COBRA, and to pay the costs thereof. The Court continued other prior temporary orders, and reserved other issues for final disposition on the second day of trial.

5. No children have been born as issue of the marriage and none are expected.

6. Shortly after the marriage, the parties moved to San Diego, California, to provide Respondent with a change of environment. They returned a short time later and lived with Petitioner's parents. In November, 1999, they purchased a two-bedroom condo in North Salt Lake. They rented the condo and continued to live with Petitioner's parents. At some point, they moved into the condo and Respondent continues to reside there under a temporary Court order.

7. Because of Respondent's financial condition, the condo was purchased in Petitioner's name alone. They financed the condo with a first mortgage to Countrywide Mortgage and borrowed \$29,000.00 from Petitioner's 401(k) through his employment. The loans are in Petitioner's name, alone. There is a balance on the first mortgage of \$93,946.00, and on the 401(k) loan of \$25,920.00.



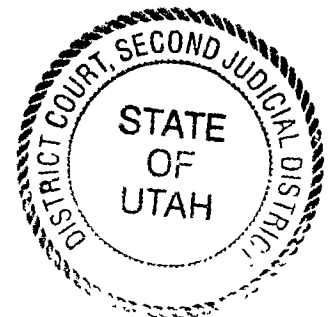
The parties stipulated that the condo has a current market value of \$127,175.00, leaving a net equity of approximately \$8,150.00.

8. During the course of the marriage up to the time of trial, Petitioner accumulated approximately \$87,425.00 in his 401(k) retirement plan with Skywest. He also acquired approximately 937.64 shares of SkyWest stock valued at \$17.80 per share. The parties also acquired various other accounts at Smith Barney and Zions Security.

9. On March 20, 2002, Petitioner withdrew from the Smith Barney Account approximately \$2,821.00, and on March 21, 2002 from the Zions Investment Account approximately \$4,934.66. On March 15, 2002, he also withdrew from a Zions Investment Account, the sum of \$9,486.00.

10. When the parties married, Petitioner was essentially debt-free. Respondent had considerable debt, and a number of debts had gone to collection. Included among her pre-marital debts, was an R.C. Willey bill of \$3,435.00, higher education (student loan) of \$3,514.00, and CTI (student loan) of \$5,687.00. Both of the student loans had gone to collection. The total of these three debts was approximately \$12,636.00.

11. At some point, the parties decided to borrow money from Petitioner's father to pay off their debts. They borrowed \$26,000.00 from Petitioner's father and paid off Respondent's premarital debts of some \$12,636.00, and other consumer debt that the parties had acquired during the course of the marriage. The Respondent had agreed, when they borrowed the money, that she would continue to work outside of the home until the debt was paid. They made regular monthly payments on the loan and at the time this matter was filed, there was a balance owing in excess of \$9,000.00.



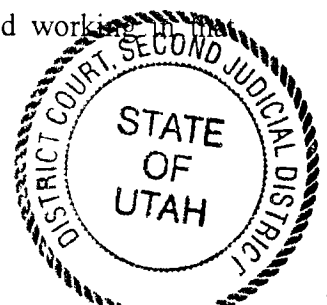
12. Each of the parties have various items of furniture and fixture and personal items in their possession. These items were appraised by Mr. Jerry Erkelens, Jr., a professional appraiser. He placed a value on the items in Petitioner's possession at \$2,595.00, and those in Respondent's possession at \$6,551.00. From the testimony, it appeared that the sofa, love seat, and hide-a-bed in Petitioner's possession were premarital property, and that the computer in Petitioner's possession, which Mr. Erkelens did not personally inspect, was undervalued by about \$500.00. With these adjustments, the value of those items in Petitioner's possession was approximately \$2,435.00.

13. With respect to the items in Respondent's possession, it appears that the sofa and love seat were overvalued by about \$600.00, the bedroom set by about \$1,500.00, and that the seventeen inch TV was a premarital asset. With these adjustments, the value of the items in Respondent's possession was approximately \$4,451.00.

14. Petitioner has a 1997 Grand Cherokee with a balance owing of approximately \$5,290.00. It has an equity of approximately \$1,850.00. Respondent has a 1996 Chevrolet Beretta, that is free and clear and valued at approximately \$2,675.00.

15. Petitioner is presently employed as a pilot with SkyWest Airlines, and was so employed when the parties married. He has had no additional schooling or training during the course of the marriage, for which the parties have had to pay. He currently receives a gross salary of approximately \$7,700.00 per month, and net after taxes, health insurance, FICA, medicare, and loan payment, of approximately \$5,500.00 per month.

16. Respondent was working full time in a night club when the parties met and were married in 1996. She had worked steadily up until that time. Respondent also received an associates degree in legal secretary from Stevens-Henager College in 1992. She tried working in the



profession, but was let go after a short time. Following the parties marriage, Respondent continued to work full-time, primarily as a receptionist for various businesses. She was an excellent employee and received several letters of recommendation from her employers. She never experienced any health or psychological problems which interfered with her employment.

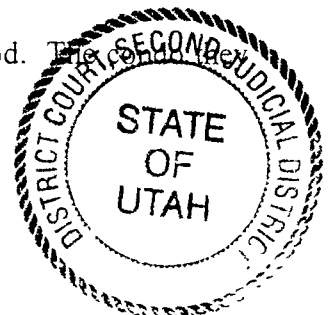
17. In the Spring of 2001, Petitioner quit her employment and indicated to Petitioner that she did not want to work any longer, even though they still owed a substantial amount to Petitioner's father on the loan they had obtained to pay off their debts.

18. A person working as a legal secretary in our area could expect to make an entry level wage of approximately \$12.00 per hour with an average, after a period of training, of \$15.00 per hour.

19. A person working as a receptionist in the area, can expect an entry-level wage of \$7.90, but with experience, can expect an average wage of between \$8.60 and \$10.90 per hour. The training period for such employment would be relatively short.

20. During the marriage and up until just before trial, Respondent had never sought any additional training or education, nor had she indicated any desire to do so. The issue of further education and training is a matter of recent origin, and even up until the time of trial. Respondent had taken no formal steps to pursue any goals in that area. There was no evidence of any prior health or psychological problems that interfered with Respondent's ability to work. That issue only arose after this matter was filed and just prior to the trial date. No mention was made of the problem in any affidavits filed in this matter, nor in the deposition taken in February of 2003.

21. During the marriage, the parties lived primarily in apartments in Midvale and the Bountiful area. They have always resided in a relatively modest neighborhood.



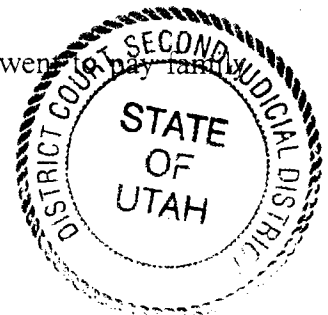
eventually purchased and resided in is in a similar neighborhood. It is a modest two-bedroom condo in North Salt Lake with 1300 square feet of living space. The parties also had a very modest lifestyle with no history of extravagant living expenses, or any particular vacation pattern.

22. At an order to show cause hearing in September, 2002, in conjunction with this case, Respondent filed an affidavit through her attorney claiming that her living expenses were \$2,140.00 per month. That included the condo payment and a car payment of \$195.00. The car is now paid for. However, that expense statement did not include the sum of \$208.00 per month which would be required to continue her medical insurance coverage under COBRA.

23. During the marriage, Petitioner had an arrangement with his brother, who is a building contractor, whereby he, because of his better credit rating, would co-sign, or in some cases sign his own name on construction loans for his brother. As part of the agreement, Petitioner would then be allowed to claim the interest on the construction loan for income tax purposes. That sometime required title to the property covered by the loan being in his name, either alone or with his brother as a co-owner. At one time, this also involved an L.L.C. organized by his brother. In these instances, Petitioner was not involved in the actual construction or any related matters. The only benefit received, was the tax benefit in which both of the parties participated.

24. After this Complaint was filed, Petitioner withdrew \$2,821.00 from his Smith Barney account, and \$4,934.00 from his Zions investment account, and paid that money along with some money from an income tax return to his father to pay off the balance of \$9,000.00 plus dollars which the parties owed Petitioner's father on the consolidation loan.

25. About this same time, Petitioner withdrew approximately \$9,400.00 from his Zions investment account for which he cannot specifically account, except that it went



obligations and ongoing expenses.

26. All of the experts agreed, that based upon the self-reported symptoms of Respondent, supported by certain psychological testing, that she does manifest the symptoms of PTSD, but were unable to indicate the cause.

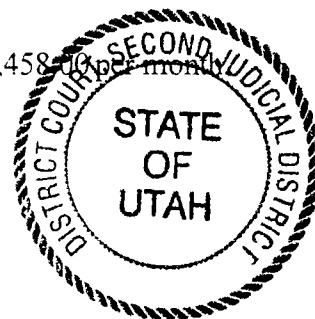
27. It was speculated that the source of the symptoms could be a delayed reaction to a prior difficult marriage of Respondent; her memory or a prior lifestyle coming into conflict with the present; changed value system; a conflicted relationship between the parties; or the stress of the present divorce litigation; or a combination of all of these factors.

28. It was evident from the file and the trial, that Respondent had been actively engaged in every aspect of the divorce litigation, to the extent that there had been disagreements between herself and counsel. This has resulted in her changing counsel on three different occasions, the last time, between the first and second day of trial in this matter. The experts were unable to indicate how long her symptoms would last, however, both Dr. Cline and Dr. Carol Gage indicated that it would be good for Respondent to get out and become involved in the work force in some low stress type of job similar to that of a receptionist.

29. At trial, Respondent exhibited appropriate demeanor. She appeared very articulate and knowledgeable, and expressed herself very well. She did not seem to be intimidated in any way by the trial setting.

30. The Court found the testimony of Dr. Peterson, a family practitioner, to be less than credible and objective on the psychological issues because of his lack of formal training in the area, and because of the advocacy stance taken by him in Respondent's favor.

31. Petitioner testified that he had living expenses of approximately \$2,458.00 per month.



and that appeared reasonable, except for a claim of \$200.00 per month travel, his failure to include his car payment expense of \$207.00, and for utilities in the event that he did not reside in the condo. The Court finds that utility expenses would reasonably be about \$200.00 per month, and that \$50.00 would be sufficient for travel expenses. The Court finds that reasonable expenses for Petitioner would be approximately \$2,716.00 including the utility expense, his car payment, and reduced travel of \$50.00 per month.

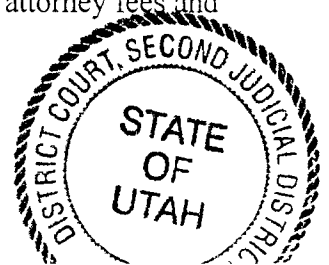
32. Respondent testified that she had living expenses of \$5,026.00 per month. The Court finds that those expenses are unreasonable, especially in light of her affidavit claiming expenses of only \$2,141.00 in September, 2002.

33. The Court finds that Respondent would have reasonable expenses of a house payment of \$898.00, taxes of \$72.00, condo fee of \$40.00, maintenance fee of \$25.00, real property insurance of \$12.00, food and household expenses of \$260.00, utilities of \$125.00, phone of \$55.00, cell phone of \$40.00, personal care of \$100.00, medical including COBRA of \$208.00, and co-pays for medical and dental in the amount of \$200.00, entertainment of \$50.00, gifts of \$25.00, auto expenses of \$150.00, installment loans of \$250.00, for reasonable expenses of approximately \$2,550.00 per month.

34. The Court finds that Respondent's claims for additional expenses are both excessive and speculative.

35. The Court further finds that Respondent's claim for damage to the condominium in the approximate sum of \$1,400.00, although some of which were claimed to have been caused by Petitioner, are primarily maintenance issues.

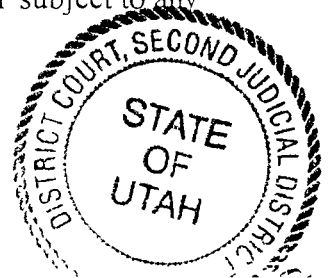
36. The Court further concludes that each of the parties have incurred attorney fees and



costs in this matter. Respondent claims attorney fees in the approximate sum of \$15,298.00 which includes \$1,430.00 for her first attorney, \$6,623.10 for her second attorney, and \$5,072.50 for her third attorney, who represented her for less than two weeks and during the second day of trial. The Court concludes that this case was not overly complex in terms of either discovery or legal issues; further that the fees in this matter for both Petitioner and Respondent were increased as a result of Respondent's decision to employ three different counsel in this case and by including new issues late in the proceedings. The Court concludes that a reasonable attorney fee for Respondent, but for the action of Respondent would be \$6,500.00. The Court finds that Respondent is without sufficient funds to pay those fees without invading the assets awarded to her. That in light of Petitioner's superior earning capacity, he has the ability to contribute toward Respondent's attorney fees. The Court recognizes that Petitioner has already paid \$2,500.00 toward Respondent's attorney fees and that he has been required to incur additional fees as a result of the actions of Respondent in this matter, and finds that Respondent should only pay an additional \$4,000.00 of Respondent's attorney fees. The Court finds that each party should bear their own costs.

CONCLUSIONS OF LAW

1. The Decree of Divorce previously granted in this matter should be amended to provide that the Decree is mutually granted based upon irreconcilable differences.
2. The sum which accrued in Petitioner's 401(k) account at SkyWest should be valued as to those sums which accrued during the course of the marriage up to the date of the trial of September 29, 2003, and each of the parties should be awarded one-half thereof. Each of the parties should be awarded one-half of the SkyWest stock, valued on the same date.
3. Each party should be awarded the vehicles in their possession subject to any



indebtedness thereon. Petitioner should return to Respondent any CD's which he has that belong to Respondent, and one-half of any CD's that the parties purchased. That should apply to the Respondent also. The Petitioner should return the T.V. guard to Respondent, if he has it.

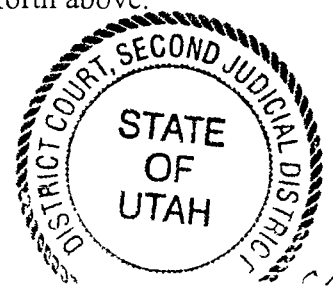
4. Each party should be awarded those items of personal property in their respective possession. The Court concludes that, based upon the findings of the Court, that the value of those items in Respondent's possession exceed the value of the items in Petitioner's possession by approximately \$1,776.00. To equalize those sums, the Court orders that Respondent should bear the expense of any repairs that need to be made to the condominium as provided by the estimate.

5. The condominium should be awarded to Respondent subject to the existing first mortgage in the amount of \$93,946.00. The second mortgage loan on Petitioner's 401(k) should be paid off from the marital 401(k) before it is divided between the parties. That would leave an equity in the condo of approximately \$33,229.00. One half of that should be awarded to Petitioner, and shall be deducted from Respondent's share of the marital 401(k).

6. Within 90 days of the date of this order, Respondent should refinance the condo and take Petitioner's name off of the loan. During the 90 day period, Petitioner should continue to pay the first mortgage and \$1,000.00 alimony to Respondent. Petitioner should also continue to pay the costs of COBRA coverage. The condominium payment should be considered additional alimony.

7. Respondent should pay the utilities, condo fee, and maintenance, and should maintain the premises during this period and allow no damage or waste to occur thereto except normal wear and tear.

8. If Respondent is unable to refinance the condo within the 90 day period, then the condo should be awarded to Petitioner on the same terms and conditions as set forth above.



9. Petitioner should pay to Respondent as alimony the sum of \$1,300.00 per month, provided however, this should not become effective until after the condominium is refinanced or for a period of 90 days, whichever occurs first. After that time, this order should become effective. Alimony should terminate at the end of three years, or by operation of law, whichever occurs first. The three year period should begin to run on October 1, 2003.

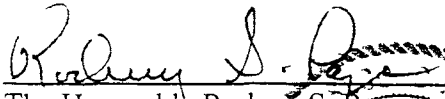
10. Each party should pay any debt or obligation which that party has incurred since the date of separation, and should hold the other party harmless.

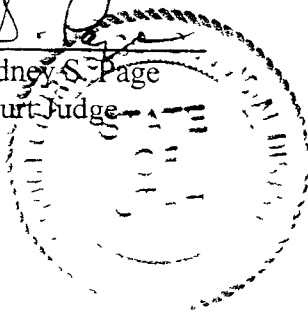
11. Petitioner should pay \$4,000.00 toward Respondent's attorneys' fees.

12. Each party should bear their own costs.

DATED this 24th day of ~~January~~^{Feb.}, 2004.

BY THE COURT:


The Honorable Rodney S. Page
Second District Court Judge



APPROVED AS TO FORM:

Dated this _____ day of January, 2004.

Leslie Dawn Ethington Blosch
Respondent Pro Se

STATE OF UTAH }
COUNTY OF DAVIS } SS

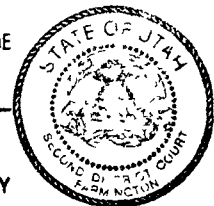
I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE ORIGINAL ON FILE IN MY OFFICE.

DATED THIS 12 DAY OF Nov 2004

ALYSON E. BROWN
CLERK OF THE COURT

BY Cobie Claycomb DEPUTY

PAGE 11 OF 12



NOTICE TO RESPONDENT

PLEASE TAKE NOTICE that in accordance with Rule 4-504(2), Utah Rules of Judicial Administration, the undersigned shall submit the foregoing FINDINGS OF FACT AND CONCLUSIONS OF LAW to the Court for signature and entry upon the expiration of eight (8) days from the date hereof, unless written notice of your objection thereto is submitted to the Court and the undersigned prior to that time.

CERTIFICATE OF SERVICE

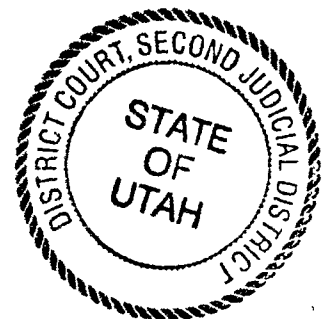
I hereby certify that on this 23 day of January, 2004, I served a true and correct copy of the foregoing Findings of Fact and Conclusions of Law upon the following parties via U.S. mail

Stephen D. Spencer
Attorney at Law
47 East Vine Street
Murray, Utah 84010

Leslie Dawn Ethington Blosch
Respondent Pro Se
402 North 75 East
North Salt Lake, Utah 84054

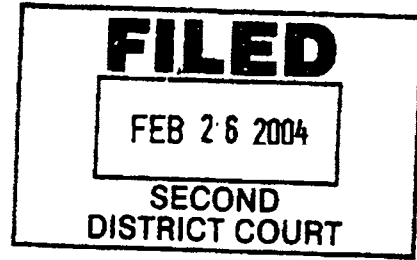
Albert B. Blosch
Petitioner
347 West 3500 South
Bountiful, Utah 84010

Leslie Dawn Ethington Blosch



ADDENDUM "C"

Douglas D. Adair (#6460)
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Bountiful, Utah 84010
Telephone (801) 299-9999
Facsimile (801) 298-5161



Attorney for Petitioner

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF UTAH
DAVIS COUNTY, FARMINGTON DEPARTMENT

ALBERT B. BLOSCH

Petitioner,

v.

LESLIE DAWN ETHINGTON-BLOSCH,

Respondent.

~~DECREE OF DIVORCE~~

Civil Number 024701139DA

Judge Rodney S. Page

Commissioner David S. Dillon

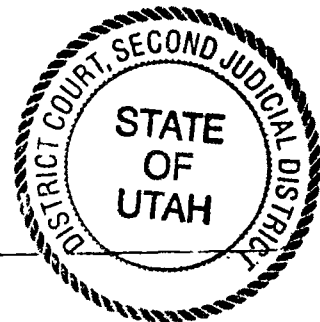
Denise P. Larkin

On September 29, 2003 and November 7, 2003, this case came on for trial before the Honorable Rodney S. Page. Petitioner appeared personally on both days of trial together with his attorney of record, Douglas D. Adair. Respondent appeared personally on the first day of trial with her attorney of record Denise P. Larkin, and on the second day of trial with her subsequent attorney of record Stephen D. Spencer. During these two days of trial, the Court had the opportunity to hear evidence from both Petitioner's and Respondent's witnesses, to consider the admitted exhibits, and to hear arguments of counsel. Being fully advised in the premises, the Court now enters the following DECREE OF DIVORCE:

JUDGMENT ENTERED

BY *KL*

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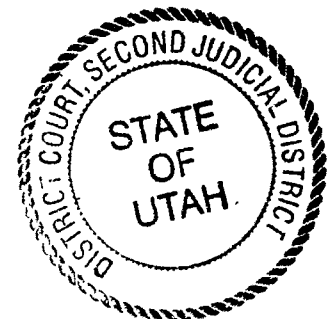


1. On October 21, 2003, this Court granted a bifurcated Decree of Divorce to the parties. The Court granted Petitioner a divorce from Respondent on the grounds of cruelty pursuant to the request in his Petition. The Court granted Respondent a divorce from Petitioner on the grounds of irreconcilable differences. The Court hereby amends this Decree of Divorce to the mutual grounds of irreconcilable differences.

2. The Court finds that Petitioner has acquired a marital interest in a Skywest 401(k) account in the amount of \$87,425.00 (which represents the value of the account as of the time of the first day of trial of September 29, 2003, less Petitioner's pre-marital contribution to the account.) The Court further finds that Respondent has not acquired any retirement or investment accounts during the course of the marriage. On this basis, the Court awards each of the parties one half of the \$87,425.00 marital portion of the Skywest 401(k) account, subject to the following adjustments set forth in the Decree of Divorce. In addition, the Court awards each party one half of the Skywest Stock held as of the first day of trial of September 29, 2003 (937.64 shares valued at \$17.80 per share.). The Court finds that there are not any other marital investment or retirement accounts subject to division between the parties and otherwise awards each party any and all of their own investment, banking, and retirement accounts of any kind.

3. Each party shall be awarded the vehicle(s) in that party's respective possession subject to any indebtedness thereon. Therefore, Petitioner is hereby awarded his 1997 Grand Cherokee, subject to any indebtedness thereon. Respondent is hereby awarded her 1996 Chevrolet Beretta, subject to any indebtedness thereon. Petitioner shall return to Respondent any compact discs which he has, that belong to Respondent, and one-half of any compact discs that the parties purchased. In addition, Respondent shall return to Petitioner any compact discs which she has that

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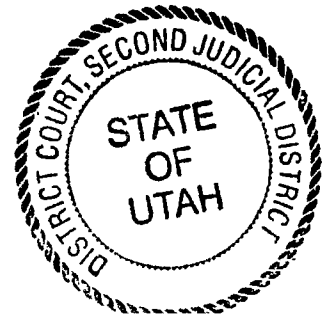


belong to Petitioner, and one-half of any compact discs that the parties purchased. If he has it, Petitioner shall return the television guard to Respondent.

4. Each party is hereby awarded all of the remaining items of personal property in that party's respective possession, not mentioned above. Based upon its findings, the Court concludes that the value of those marital personal property items in Respondent's possession exceed the value of the items in Petitioner's possession by approximately \$1,776.00. To equalize those sums, the Court orders that Respondent shall bear the expense of any repairs that need to be made to the marital condominium as provided by the estimate at trial (which the Court found were primary maintenance issues.)

5. The Court orders that the marital condominium located at 468 North Frontage Road, North Salt Lake, Utah shall be awarded to Respondent (upon the conditions set forth herein) subject to the existing Countrywide first mortgage in the amount of \$93,946.00, and the second mortgage loan on Petitioner's 401(k) account which is \$25,079.00. After the application of these two loans, the Court finds that there is an equity interest in the condominium of \$33,229.00. One half of this equity amount shall be awarded to Petitioner, and shall be deducted from Respondent's marital share of the Skywest 401(k). The Court orders that Respondent shall refinance the Countrywide first mortgage loan, and completely remove Petitioner's name of the loan within 90 days of December 19, 2003. Further, the Court orders that the 401(k) loan shall be paid off from the marital Skywest 401(k), before the marital portion of the 401(k) is divided between the parties.

6. Within 90 days of December 19, 2003, Respondent shall refinance the condominium and take Petitioner's name completely off of the loan. During the 90 day period, Petitioner shall continue to pay the first mortgage on the marital condominium and \$1,000.00



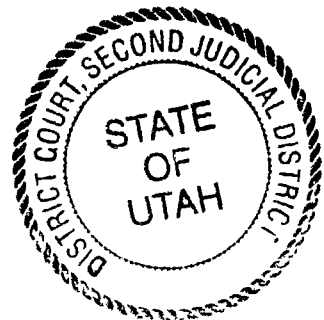
monthly alimony to Respondent. During this period, Petitioner shall also continue to pay the costs of Respondent's COBRA coverage. The marital condominium payment shall be considered additional alimony.

7. During the 90 day period, Respondent shall pay the utilities and condominium fee and maintenance fees, and shall maintain the premises during this period, and shall allow no damage or waste to occur thereto except normal wear and tear.

8. If Respondent is unable to refinance the condominium as specified above and within the 90 day period specified above, then the condominium shall be awarded to Petitioner on the same terms and conditions as set forth above.

9. Upon the soonest of the occurrence of either 90 days from December 19, 2003 or the refinance of the marital condominium whichever first occurs, Petitioner shall begin pay to Respondent monthly alimony in the amount of \$1,300.00 per month in place of the temporary 90 day period financial obligations set forth above. (Upon the commencement of such payments, Petitioner shall not have any additional duty to pay any COBRA payments, condominium payments, or any other payments in relation to Respondent.) Petitioner's monthly alimony obligation shall terminate upon the soonest of the following events: (a) Three years from the date of October 1, 2003; b) Respondent's remarriage; c) Respondent's cohabitation; d) Respondent's death.

10. The parties do not have any joint debts and obligations of any kind. Therefore, each party shall pay all of their own separate debts or obligation incurred at any time, whether prior to the marriage, during the marriage, or after the date of the parties' separation. The Court specifically denies Respondent's request that Petitioner be responsible for any of the debts which she incurred during the course of this action, or any of her other debts of any kind. Each party shall hold the



other party harmless for any such debts.

11. Based upon the different financial positions of the parties, Petitioner shall pay \$4,000.00 toward Respondent's attorney fees, in addition to the \$2,500.00 which he previously paid. Otherwise, each party shall be responsible for all of their own court costs, witness costs, attorney fees, and any other expenses in relation to this action of any kind.

12. Based upon Petitioner's payment of certain portions of the joint marital loan from Petitioner's father as well as other provisions of this Decree, Petitioner shall not be required to provide any accounting for any of the sums which he withdrew and allocated to various expenses, either prior to this action or after the commencement of this action.

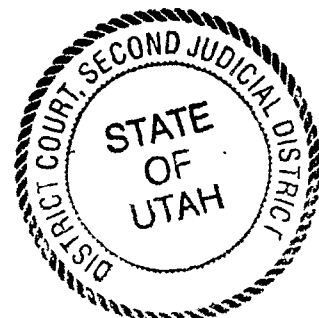
13. The Court orders that neither party shall bother or harass the other party.

14. Other than the obligation to pay certain COBRA payments as specified above, neither party shall have any obligation to carry any kind of insurance of any kind (including but not limited to life or health) either on their own life or on the other party. Further, each party shall be separately responsible for any and all of their own health care costs of any kind.

15. The Court denies Petitioner's request that Respondent be restored to her maiden name, and allows her to continue to use her present surname of Blosch.

16. The Court orders that the parties shall file separate tax returns for the tax year of 2003, and for each and every subsequent year thereafter. Further, neither party shall make any claims to any tax proceeds of the other party. Further, neither party shall make any claims against the other party for any tax liabilities of any kind.

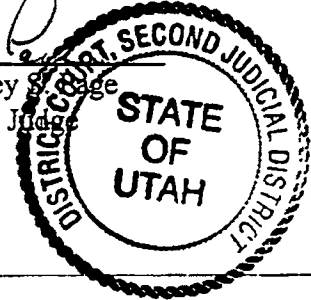
17. Each party shall cooperate with the other party, in order to execute any documents to implement the provisions of the instant Decree of Divorce.



DATED this 24th day of ~~January~~^{Feb.}, 2004.

BY THE COURT:

Rodney S. Page
The Honorable Rodney S. Page
Second District Court Judge



APPROVED AS TO FORM:

Dated this _____ day of January, 2004.

Leslie Dawn Ethington Blosch
Respondent Pro Se

STATE OF UTAH } ss
COUNTY OF DAVIS

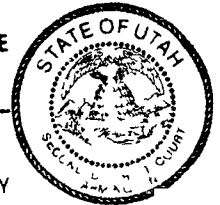
I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE ORIGINAL ON FILE IN MY OFFICE

DATE: THIS 12 DAY OF NOV 2004

ALANNE BROWN
CLERK OF THE COURT

BY Carie Clayton DEPUTY

2004 DE 17



NOTICE TO RESPONDENT

PLEASE TAKE NOTICE that in accordance with Rule 4-504(2), Utah Rules of Judicial Administration, the undersigned shall submit the foregoing DECREE OF DIVORCE to the Court for signature and entry upon the expiration of eight (8) days from the date hereof, unless written notice of your objection thereto is submitted to the Court and the undersigned prior to that time.

CERTIFICATE OF SERVICE

I hereby certify that on this 13 day of January, 2004, I served a true and correct copy of the foregoing Decree of Divorce upon the following parties via U.S. mail

Stephen D. Spencer
Attorney at Law
47 East Vine Street
Murray, Utah 84010

Leslie Dawn Ethington Blosch
Respondent Pro Se
402 North 75 East
North Salt Lake, Utah 84054

Albert B. Blosch
Petitioner
347 West 3500 South
Bountiful, Utah 84010

Melanie Blosch

