

RESPONDENT'S FORMAL BRIEF AND APPENDIX

NO. A08-123

APPELLATE COURT CASE NUMBER
STATE OF MINNESOTA
IN COURT OF APPEALS

CASE TITLE: NO. A08-123

Respondent, Donald Gaylord Hunley

vs.

Appellant. Karen Sue (Hunley) Williams

RESPONDENT'S BRIEF AND APPENDIX

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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TABLE OF AUTHORITIES

Cases

Sheeran v. Sheeran, 481 N.W.2d 578, 579 (Minn. App. 1992)

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STATEMENT OF FACTS

Appellant has been very aggressive in using the Courts to change or modify ALL bench directed orders. Respondent in and out of court around the dates of 6/16/2004, 8/19/2005, 9/22/2005, 1/10/2006, 2/16/2006, 5/30/2006, 3/7/2007 and now 2/19/2008. Appellant is using her considerable large income base and spouses dual income to keep Respondent in the Courts. Appellant has consistently appealed ALL orders from Judge Mack and Reding. Judge Reding gave her reservations during the hearing on March 7 and 8th and June 5 and 6th, 2007 that she will be unable curb the constant litigations of the parties.

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ARGUMENT RESPONSIVE

I.

A Court may not properly relieve an able bodied.....

Respondent is responsible for 34% of unreimbursable medical and school expenses. Respondent is also responsible for expenses related to the care of the children while they are with him 6-7 plus days in a 14 day period which is at times 50% custody and at least 44% of the same period. Respondent is responsible for extra life insurance on himself in case of death for the benefit of the children. Respondent was ordered to return child support for the parties children although, he had his parenting time with them as stated above. Appellant has not paid child support to Respondent for over a year.

The Respondent, in fact, submitted financial disclosure to the Court and to the Appellant. This is evident in the Findings of Fact. These items were provided to the Appellant along with receipts of child support while the children are in the care of the Respondent. The Respondent's parenting time has not changed and is now flexible between the parties. The Appellant was given custodial rights while the Respondent maintains almost a 50/50 parenting time. Respondent was awarded a greater financial benefit to offset expenses, income, high attorney fees, the retraction of child support to the Respondent and the late career start to be a stay-at-home father for the parties children.

Child support guidelines, according to Judge Reding, should include the Appellants long record of bonuses averaging between \$24,000-\$32,000PA. The Respondent's expenses are greater than his income, as provided to the Courts. Judge Reding clearly stated that, "she, Appellant, is not in need of child support from the Respondent to meet her expenses." Also, "Respondent does not have the ability to pay child support to (her) and to meet his living expenses and the expenses of the children when they are with him." "Deviation is in the best interests of the children because (Appellant) can fully meet the children's expenses when they are with her and Respondent needs all his funds to meet the children's needs when they are with him."

The child support guidelines have been repealed and the new guidelines should be applied if changes to financial issues are updated.

II.

Where a Court orders a party's obligation to pay child support terminated.....

Both parties have provided, as record, life insurance as security since the 2/24/2005 Judgment and Decree even though Appellant has paid child support and spousal maintenance to the Respondent. This is in the best interests of the children.

III.

Where both parties have moved for attorney fee awards,.....

Court of Appeals has ruled on this matter, See AA., pp. A-1 thru A-3. Holding that an order for recovery of money, including an order awarding attorney fees, is not appealable, and proper appeal is from resulting judgment. (See *Sheenan v. Sheenan*, 481 N.W. 2d 578, 579 (Minn. App. 1992)

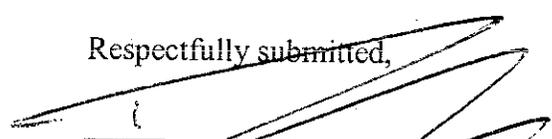
CONCLUSION

The Trial Court's decision is based on the "needs of the children" and the fairness of the parties financial income in relation to basically a 50/50 split between parenting time. These issues should be denied in respect in the best interests of the children and the parties involved.

Judge Reding's Order regarding child support was not an abuse of discretion and was not clearly erroneous and is supported by the findings of fact. Judge Reding's conclusions of law are supported by the findings of fact.

It was not an abuse of discretion to terminate Appellant's child support obligation and reserve Respondent's ongoing child support obligation.

Dated: 7/20/2009

Respectfully submitted,

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