

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	1
STATEMENT OF FACTS	2
ARGUMENT	3
 <u>Proposition of Law:</u> A divorce decree which provides for the issuance of a qualified domestic relations order is a final appealable order even if the qualified domestic relations order has not yet issued.	
CONCLUSION	6
CERTIFICATE OF SERVICE	7
APPENDIX	<u>Appx. Page</u>
Notice of Appeal of Appellant, Douglas J. Wilson (Sept. 27, 2006)	Tab 1, P. 1
Judgment Entry, Wayne Co. Court of Common Pleas (Nov. 1, 2005)	Tab 2, P. 8
Magistrate’s Decision, Wayne Co. Court of Common Pleas (July 18, 2005)	Tab 3, P. 9
Decree of Divorce, Wayne Co. Court of Common Pleas (July 19, 2005)	Tab 4,P.19

TABLE OF AUTHORITIES

Cases:

Lemmon v. Lemmon (1988) 42 Ohio App.3d 142 3

Statutes:

Ohio Revised Code 3107.17(C)(9)..... 3, 4

Ohio Revised Code 3105.18 3, 4

STATEMENT OF FACTS

The Appellee agrees with the Statement of Facts given in the Appellant's Merit
Brief.

ARGUMENT

APPELLANT'S PROPOSITION OF LAW:

A DIVORCE DECREE WHICH PROVIDES FOR THE ISSUANCE OF A QUALIFIED DOMESTIC RELATIONS ORDER IS A FINAL APPEALABLE ORDER EVEN IF THE QUALIFIED DOMESTIC RELATIONS ORDER HAS NOT YET ISSUED.

The Appellee has no direct opposition to the assignment of error and proposition of law submitted by the Appellant. The Appellee's position is now, and always has been, that an unvested pension may be considered a marital asset for purposes of R.C. 3105.18 and that an unvested pension is another "factor" that can be considered pursuant to R.C. 3105.17(C)(9) in fashioning an equitable division of property order. *Lemmon v. Lemmon* (1988) 42 Ohio App.3d 142, 537 N.E.2d 246.

In addition, the record of this proceeding shows that there was expert testimony provided by David Kelley of Pension Evaluators addressing this very subject. His testimony with regard to the evaluation of this pension reads as follows:

"As you requested, we have reviewed the pension of Douglas J. Wilson with the Cleveland Bakers & Teamsters Pension Fund (the plan) to determine its present value. After reviewing biographical and plan data which is detailed on the following data sheet, it is our opinion that its present value on April 26, 2005 is \$3,752.67. Because the entire pension was earned during the marriage, the amount subject to equitable distribution remains \$3,752.67.

Please note that this present value is based on the retirement age of 65. Please note that this amount reflects a reduction to account for the fact that the annuitant is not yet vested in this benefit. *Lemon v. Lemon* (1988) 42 Ohio App. 3d 142 held that an unvested pension may be a marital asset under R.C. 3105.18. In determining whether an unvested pension is a marital asset, and in determining the value of it as an asset, the court should take into consideration the time left before the pension becomes vested, and the relevant criteria under R.C. 3105.18(B). Specifically, Mr. Wilson has completed 3 of 5 required years, and we have therefore valued only 3/5 = 60% of the accrued benefit." (Emphasis added) (Trial Exhibit 3)

Thus, there is expert testimony in this record properly evaluating this pension and addressing the correct percentage discount for the time remaining until the pension becomes vested.

The Appellant's Memorandum in Support of Jurisdiction included an argument that an unvested pension could not be considered a marital asset for purposes of R.C. 3105.18, and could not be considered as another "factor" that can be considered pursuant to R.C. 3105.17(C)(9). However, it appears that the Appellant now is limiting his argument to the question of whether a Divorce Decree, which provides for an equitable division of property, including a division of an unvested pension, is a final, appealable order. The Appellee has no opposition to that limited proposition of law.

The Appellee will also note that in this case both parties had submitted their briefs in support of their respective positions on all substantive issues involved with the appeal to the court below. After oral argument was presented by both parties, the court below then dismissed this appeal for a lack of final, appealable order. It is the Appellee's position that the substantive issues addressed by the parties should be immediately addressed. The Qualified Domestic Relations Order can be filed at anytime.

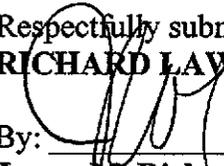
The Appellee further submits that the Appellant's entire argument set forth under sub-paragraph E of its Merit Brief at pages 17 through 22 should be ignored for purposes of this appeal. While the Appellant concedes that the question of whether an unvested pension is a marital asset is not the issue on appeal, he again devotes a substantial amount of time to this very argument. Again, his sole assignment of error is limited to the question of whether a Divorce Decree, which provides for the issuance of a Qualified Domestic Relations Order, is a final, appealable order, even if the Qualified Domestic

Relations Order has not yet been filed. Again, it the Appellee's position that under the circumstances of this case, the appeal should have continued and the remaining substantive issues should have been addressed by the court below.

CONCLUSION

The Divorce Decree in this case made a division of the pension between the parties and addressed the correct percentage or amount to be received by the alternate payee, the Appellee herein. The value of this specific pension was determined by expert testimony. The Qualified Domestic Relations Order can be filed once the appeal is concluded. The fact that the Qualified Domestic Relations Order had not yet been filed does not render the Divorce Decree non-appealable.

Respectfully submitted,
RICHARD LAW OFFICE LLC

By: 

James M. Richard (#0016491)
Attorney for Appellee
127 East Liberty Street, Suite 100
P.O. Box 1207
Wooster, Ohio 44691
Tel: (330) 262-0034
Fax: (330) 262-0080
Email: james@richardlawoffice.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Appellee's Merit Brief was mailed to R.J. HELMUTH, Attorney for Appellant, at JOHNSON & HELMUTH, 343 South Crownhill Road, Orrville, Ohio 44667, by ordinary U.S. mail, this 17 day of March, 2007.

RICHARD LAW OFFICE LLC

By: 
James M. Richard (#0016491)
Attorney for Appellee

IN THE SUPREME COURT OF OHIO

DOUGLAS J. WILSON

Appellant

vs.

JENNIFER R. WILSON

Appellee

On Appeal from the Wayne County
Court of Appeals, Ninth Appellate
District

06-1814

Court of Appeals Case No. 05-CA-0078

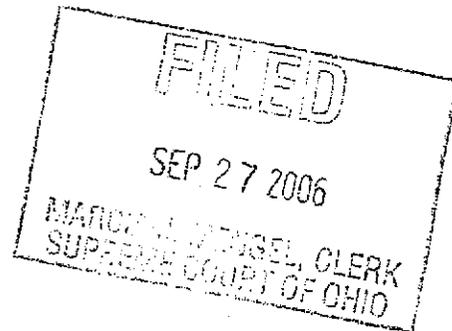
NOTICE OF APPEAL OF APPELLANT DOUGLAS J. WILSON

R.J. Helmuth (#005624)
JOHNSON & HELMUTH
343 South Crownhill Rd.
P.O. Box 149
Orrville, Ohio 44667
Tel: 330-683-0015
Fax: 330-682-4925

COUNSEL FOR APPELLANT, DOUGLAS J. WILSON

James Richard (#0016491)
RICHARD LAW OFFICE LLC
127 E. Liberty Street, Suite 100
P.O. Box 1207
Wooster, Ohio 44691
Tel: 330-262-0034
Fax: 330-262-0080

COUNSEL FOR APPELLEE, JENNIFER R. WILSON



NOTICE OF APPEAL OF APPELLANT DOUGLAS J. WILSON

Appellant Douglas J. Wilson hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Wayne County Court of Appeals, Ninth Appellate District, entered in Court of Appeals Case No. 05-CA-0078 on August 14, 2006.

This case is one of public or great general interest.

Respectfully submitted,

JOHNSON & HELMUTH

By 

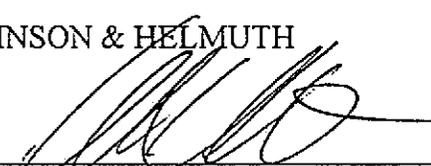
R.J. Helmuth, #0005624
343 S. Crownhill Rd., P.O. Box 149
Orrville, OH 44667
Tel: 330-683-0015
Fax: 330-682-4925

COUNSEL FOR APPELLANT,
DOUGLAS J. WILSON

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice of Appeal was sent to John M. Richard, 127 East Liberty Street, Suite 100, P.O. Box 1207, Wooster, Ohio, 44691, Counsel for Jennifer R. Wilson (Appellee), by regular U. S. Mail on this 27th day of September, 2006.

JOHNSON & HELMUTH

By 

R.J. Helmuth, #0005624

COUNSEL FOR APPELLANT,
DOUGLAS J. WILSON

STATE OF OHIO)
COUNTY OF WAYNE)

FILED IN THE COURT OF APPEALS
9TH DISTRICT NINTH JUDICIAL DISTRICT
COURT OF APPEALS

DOUGLAS J. WILSON

2006 AUG 14 AM 10 09

C. A. No. 05CA0078

Appellant

SUZANNE M. WALDRON
CLERK OF COURTS

v.

JENNIFER R. WILSON

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF WAYNE, OHIO
CASE No. 04-DR-0338

Appellee

DECISION AND JOURNAL ENTRY

Dated: August 14, 2006

This cause was heard upon the record in the trial court and the following disposition is made:

CARR, Judge.

{¶1} Appellant, Douglas Wilson, appeals the judgment of the Wayne County Court of Common Pleas, which overruled appellant's objections to the magistrate's report and proposed decision. This Court dismisses for lack of a final, appealable order.

{¶2} R.C. 2505.02(B)(1) states that an order is a final order which may be reviewed on appeal when that order "affects a substantial right in an action that in effect determines the action and prevents a judgment[.]" Upon review of the record in this appeal, it does not appear that the trial court entered such an order.

JOA 11713-217

If the decision is not final and appealable, this Court does not have jurisdiction to hear the appeal.

{¶3} On July 19, 2005, the magistrate issued a decision out of a final divorce hearing involving appellant and appellee, Jennifer Wilson. On the same date at the same time, the trial court issued a judgment decree of divorce, wherein the court issued orders mirroring the recommendations of the magistrate. Appellant filed objections to the magistrate's decision, and the trial court issued a judgment entry on November 1, 2005, overruling appellant's objections and ordering that the trial court adheres to its July 19, 2005 decision. Appellant appeals from the November 1, 2005 judgment entry, assigning seven errors for review.

{¶4} The trial court's judgment entry purported to address all issues relevant to the parties' divorce. Specifically, the judgment entry purported to divide all marital assets, including appellant's unvested Teamsters pension. During the course of the marriage, appellant was a member of a Teamsters union and he participated in the union's pension plan for three years prior to being permanently laid off from work. Appellant must have participated in the union pension plan for a minimum of five years, before his pension would vest. Notwithstanding the unvested nature of appellant's pension, the trial court ordered the following:

“[Appellee] shall receive one-half of the coverture value of the [appellant's] unvested Teamsters pension if and when it becomes

vested. This division shall be through a qualified domestic relations order (QDRO) prepared and signed at the time of the vesting. The cost of the preparation of the QDRO shall be equally shared between the parties.”

The trial court made no express reservation of jurisdiction to address matters involving the division of appellant’s unvested pension.

{¶5} This Court has recognized that “[i]t is well settled that trial courts in divorce matters should strive to disentangle the parties’ economic partnership whenever circumstances permit.” *Bakota v. Bakota* (May 23, 2001), 9th Dist. No. 20339, citing *Hoyt v. Hoyt* (1990), 53 Ohio St.3d 177, 182. This Court has further recognized that this Court lacks jurisdiction to review a division of marital assets, where the trial court has yet to journalize a Qualified Domestic Relations Order (“QDRO”) ordered by the court to be filed. *Sabo v. Sabo*, 9th Dist. No. 03CA008245, 2003-Ohio-6586, at ¶4. Only after the QDRO is journalized does the divorce decree become a final, appealable order. *Id.* A QDRO has been defined as “a current distribution of the rights in a retirement account that is payable in the future, when the payee retires.” *McKinney v. McKinney* (2001), 142 Ohio App.3d 604, 608. Accordingly, if the QDRO has not been filed, the parties’ rights have necessarily not been fully adjudicated.

{¶6} In this case, no QDRO has been journalized. In fact, it is merely speculative whether a QDRO may ever be properly journalized, because its filing is contingent on whether appellant’s Teamsters pension vests at some time in the future. Nevertheless, it is clear that the trial court considered the unvested pension

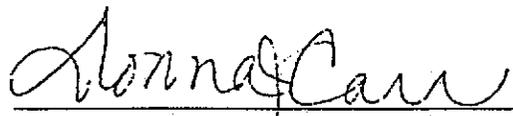
to be a marital asset subject to division. By contingently ordering the preparation and signing, and presumably the filing and journalization, of the QDRO only upon the speculative happening of an uncertain future event, the trial court has failed to dispose of all issues regarding the division of the parties' marital assets.

{¶7} In *Harkai v. Scherba Industries, Inc.* (2000), 136 Ohio App.3d 211, 215, this Court explained that “the primary function of a final order or judgment is the termination of a case or controversy that the parties have submitted to the trial court for resolution.” Because no QDRO has been filed, thereby distributing the parties' current rights in the pension, and because the judgment entry disposes of fewer than all the issues in the parties' divorce, this Court does not have jurisdiction to hear the appeal. Accordingly, this Court dismisses the appeal for lack of a final, appealable order.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to appellant.


DONNA J. CARR
FOR THE COURT

SLABY, P. J.
WHITMORE, J.
CONCUR

APPEARANCES:

R. J. HELMUTH, Attorney at Law, 343 S. Crownhill Rd., P. O. Box 149, Orrville, Ohio 44667, for appellant.

JAMES M. RICHARD, Attorney at Law, 127 East Liberty Street, Suite 100, P. O. Box 1207, Wooster, Ohio 44691, for appellee.

FILED
IN THE COURT OF COMMON PLEAS
WAYNE COUNTY, OHIO

2005 NOV 1 AM 8 33

DOUGLAS J. WILSON,

CAROL WHITE MILLHOAN
Plaintiff/CLERK OF COURTS :

CASE NO. 04-DR-0338

vs. :

JUDGMENT ENTRY

JENNIFER R. WILSON, :

Defendant :

The Plaintiff has filed objections to the Magistrate's Report and Proposed Decision filed July 19, 2005. Having reviewed the Plaintiff's objections the Court finds that they are not well-taken and are hereby overruled.

It is ORDERED, ADJUDGED AND DECREED that the Plaintiff's objections to the Magistrate's Report and Proposed Decision are overruled.

It is further ORDERED, ADJUDGED AND DECREED that the Court adheres to its decision dated July 19, 2005.


Hon. Robert J. Brown, Judge

JOURNALIZED

NOV - 1 2005

CAROL W. MILLHOAN, CLERK
WAYNE COUNTY, OHIO

COPY TO ALL COUNSEL
MAILED
Regular _____
Certified _____
Placed in box HELMUTH. RICHARD
By CPG 11-1-05
Dep. Clerk

DR 258
g 307

FILED

IN THE COURT OF COMMON PLEAS, WAYNE COUNTY, OHIO

JUN 15 10 3 12

Douglas J. Wilson

Plaintiff

Case No. 04-DR-0338

Robert B. Hines, Magistrate

vs.

MAGISTRATE'S DECISION

Jennifer R. Wilson

Defendant

This matter came on for hearing before the Magistrate on the 28th day of June, 2005. The matter is before the court for a final divorce hearing. The plaintiff appeared with his Attorney R.J. Helmuth. The defendant appeared with her Attorney James Richard. Guardian ad litem Denise Estill was also present. The matter went forward on a contested basis.

DECISION

I. General Matters & Uncontested Issues

Based upon the evidence adduced the court finds that jurisdiction and venue are proper. The plaintiff and defendant were residents of the State of Ohio for six months and Wayne County for ninety days immediately preceding the filing of the divorce complaint and counterclaim herein.

The parties were married on October 9, 1993. There are two children born issue of said marriage, to-wit: Dominic J. Wilson, d.o.b. 6/1/95 and Shelby L. Wilson, d.o.b. 2/13/98. The defendant is not currently pregnant.

Both parties testified that they are incompatible as marriage partners. The court finds that the plaintiff and defendant are entitled to a divorce from each other on that ground.

The court received a psychological evaluation from Dr. Marianne

SDR 253

Pg 3. 967-976

Bowden and also a guardian ad litem report from Denise Estill.

Based upon those recommendations and the testimony given, the court finds that the best interests of the children would be served by making the defendant the residential parent of the children. The plaintiff did not contest this determination by the court.

II. Contested Issues Re Allocation of Parental Rights & Responsibilities

The following issues regarding parental rights and responsibilities were contested: The plaintiff asked for extended visitation every Thursday. At the defendant's present job she works late every Thursday night. The plaintiff argues that he should be entitled to parenting time with the children on Thursday evenings instead of the children spending time with a substitute care-giver. He also asks for an order that he take care of the children on Fridays. The plaintiff also argues that the defendant should be required to enroll the children in their present school in Creston, Ohio. This is the St. Peters and Paul Elementary school. The defendant would like to keep the children in private school. However she says that because of financial considerations, she simply cannot afford it. The defendant wants to move immediately from the marital home and in with her parents. This presents a host of issues as far as the plaintiff is concerned. All these issues are discussed below.

Based upon the best interests of the children, the court hereby decides the plaintiff should have extended visitation with the children on Thursdays from after school during the school year or 4:30 p.m. when school is out of session until Friday morning. This is preferable to the children being with a substitute care-giver. When school is in session the plaintiff shall have the responsibility of getting the children to school on Friday mornings. When school is not in session he shall be responsible for

968

seeing that the children get to proper daycare on Friday mornings.

If for some reason the plaintiff is not working on a Friday when the children are not scheduled to be in school, the plaintiff shall be entitled to care for the children during the day.

In all other respects, the plaintiff's visitation shall be consistent with Rule 14 Title 18 attached hereto as Appendix 1. The Thursday visitation as indicated above shall be in lieu of the midweek visitation found in Rule 14 Title 18.

Based upon the income information given to the court, the plaintiff shall pay to the defendant child support in the amount of \$453.92 per month plus a 2% processing fee for a total of \$463 per month. This child support amount shall become effective as of July 15, 2005. See child support worksheet attached as Appendix 2.

Pursuant to the criteria found in Section 3119.82 ORC the defendant shall be entitled to the dependency exemptions for both children.

The defendant has health insurance through her place of employment. The plaintiff is eligible to obtain health insurance on the children after he serves his probationary period. For the time-being the defendant shall be responsible for providing health insurance for children. The parties should endeavor to compare the health plans available to both parties through their places of employment and chose the best policy. The parties might also consider having the children covered under both insurance policies. For the time being, the standard order attached hereto shall apply.

In the temporary order the Magistrate ordered the parties to "birdnest", leaving both parties in the home with the children, but neither in the home at the same time.

The defendant believes that she should move out of the marital home

with the children and move in with her parents. The plaintiff believes that the bird-nesting should continue until the house is sold. He also argues that regardless if the defendant moves from the home, the children should remain in the same school¹. The defendant would like for the children to remain in the same school. However there is an issue about whether the parties can afford the tuition (\$170 per month) and if the defendant moves to her parents home there is an issue of transportation. The plaintiff also says that the defendant's parent's home is not a fit place for the children to live. There is also an issue about who pays the expenses relating to the marital home until the house sells.

The Magistrate decides that the equitable decision would be as follows: The Magistrate believes that because of the dire financial straits of the parties, the defendant should move into free housing available at her parents. The plaintiff was not able to convince the Magistrate that the defendant's parents' home is unfit. Moreover the parents can provide free childcare when the defendant is at work. The parents' home is within a 15-20 minute drive of the marital home. Furthermore, when the marital home sells, the plaintiff may move in with his grandfather or his parents. They all live in close proximity to the defendant's parents. Unfortunately this means the children will not be able to attend the private school in Creston. The defendant agrees that her parents' school district (Akron City) is not preferable. Therefore she will attempt to open enroll the children in Copley Schools.

III. Social Security Benefits

The Neville evaluation shows that the projected social security benefits are relatively equal and are not a consideration in the property division in this case.

¹The children do well there and are well-adjusted.

970

IV. Property Division

A. Issue re Equity in Grand Am

The plaintiff argues that the defendant should be charged with \$2,000 on her side of the ledger for equity that existed in the Grand Am the defendant traded during the pendency of the case. The appraisal made by Jake Gasser as part of the litigation showed \$2,000 in equity. The Gasser appraisal occurred sometime before 11/23/04. Around that time the Pontiac Grand Am malfunctioned such that the defendant was forced to get rid of it. When traded it brought approximately \$4,000. The debt owed was also approximately \$4,000. Therefore the court concludes the value of the vehicle was actually \$4,000, not \$6,000 that the Gasser appraisal showed. Therefore, there is no marital equity.

B. Issue re New Debt

The last temporary order is dated 4/29/05. At that time the plaintiff had just recently lost his job and was due to receive unemployment compensation. The court knew at that time there was not enough combined income between the parties to meet all of their obligations. Therefore deficit spending was inevitable. The question before the court now is how the court should handle this deficiency in the final division of property.

The plaintiff was to pay the mortgage indebtedness on the first and second mortgage to National City and Fifth Third Bank respectively. He failed to do so. The mortgage payments are behind by a total that was not covered in the evidence. This amount plus any interest and penalties as a result of the plaintiff's failure shall hereafter be referred to as the "Temporary Orders Amount".

The defendant was able to keep up with obligations the court required of her by the temporary orders. However she was not able to do so without incurring

971

additional debt by charging credit cards.

The court decides that the most equitable remedy would be to require each party to be responsible for the deficits that each has accumulated. Therefore the defendant will be responsible for \$500 of the Providian Visa xxx4347 credit card as a separate non-marital debt. The plaintiff shall be responsible for all of the mortgage indebtedness, including interest and penalties attributable to his nonpayment of the first and second mortgage (the Temporary Orders Amount), as his separate non-marital debt.

C. Sale of Home

The parties are already in the process of selling the marital real estate. The plaintiff and defendant shall cooperate in this sale. After all the expenses of sale are paid, the proceeds shall be paid as indicated below. If the home is not sold within 9 months, the house shall be sold at auction. The court should reserve jurisdiction to interpret and enforce this provision of the divorce.

The Magistrate decides the financial liability regarding the home during the pendency of the sale as follows: From the date of the finalization of this order until the home sells, the defendant shall be responsible for 25% of some of the monthly expenses related to the home; to-wit: the first and second mortgage, the utilities, house insurance and real estate taxes. The plaintiff shall then be responsible for all other expenses related to the home.

Upon sale, the balance on the mortgage shall be similarly shared: If there is any surplus from the sale of the real estate, the Temporary Orders Amount shall go to the defendant and the balance equally divided between the parties. If there is a deficiency, the plaintiff shall be responsible for the Temporary Orders

972

Amount and the parties shall be equally responsible for any remaining deficiency².

D. Vehicles

Each party shall keep the vehicle in his or her possession and assume the debt thereon. There is no marital equity in either vehicle. The plaintiff has a 1997 Chevy Blazer (value of \$5250 & debt of \$4481) and the defendant has a 2002 Dodge Stratus (value of \$12,368 & debt to Huntington Bank of \$12,798).

E. Other Property Issues

All items that are not separate property as determined below shall be divided between them through the alternate selection method (lottery system). The first selection shall be determined by the flip of a coin.

The defendant testified as to certain items that were her separate property through gifts. Except as indicated otherwise below, the Magistrate finds that the property on Appendix 3 that is circled with the initials "SJ" is the separate property of the defendant. The 12 ga. single shot shotgun and the Emerson stereo are the separate property of the plaintiff. The parties shall equally divide the baby boxes and the photo items. The plaintiff testified the Honda 3-wheeler and engine stand found in the Gasser appraisal are the property of the plaintiff's brother. The defendant disputes this. The Magistrate believes the plaintiff on this issue. These items will be removed from the property list. The balance shall be divided as provided above..

The plaintiff would like to have the parties' boat and motor that was valued at \$1825. The defendant would like for it to be sold and the proceeds of the sale applied to the balance due on the Target Visa card. The Magistrate decides that considering the financial situation of the parties, the boat shall be sold and the

²If either party fails to make his/her share of future mortgage payments, he/she shall be responsible for any decrease in equity as a result of his/her nonpayment.

proceeds used to pay down the Target Visa balance. The defendant shall make the minimum payment on that card until the boat is sold. At that time the balance due will be divided as follows: The defendant shall be responsible for the first \$500 of the balance due. The proceeds of the boat sale shall be used to pay down the balance. The remaining amount shall be evenly divided between the parties.

F. Teamsters Retirement Plan

The plaintiff has a retirement account through his previous job when he was a member of the teamsters. The plaintiff believes the pension is worthless because it is not yet vested. The Magistrate decides that the defendant shall be entitled to one-half of the coverage value of the pension if and when it becomes vested. This shall be through a QDRO prepared and signed at the time of vesting. The cost of the preparation of the QDRO shall be equally shared by the parties.

V. Other Debt

The parties have a Provident Visa acct # xxx4347 with a balance of \$1890. The parties shall each be responsible for one-half of this debt.

The defendant shall be responsible for the two credit cards she opened after the divorce was filed. These are Provident xxx5465 and Old Navy xxx1912.

IV. Other Miscellaneous Assets

Both parties have bank accounts in his/her name with nominal values. Each shall be entitled to the balances in those accounts without any claim from the other.

VII. Spousal Support

The defendant admits that there are not sufficient grounds to award spousal support. The plaintiff's and defendant's incomes are almost identical. The defendant took some time off work to raise the children. However her earning

potential was not substantially compromised. Neither party has any health concerns. The parties are relatively young. The term of the marriage is 11 ½ years. The defendant has a good job in middle management at Target. However the defendant argues that in the past the plaintiff has made more in his jobs than the defendant. She argues that the plaintiff has not attempted to obtain a job commensurate with his previous employment. She claims the plaintiff is merely "sandbagging" until this case is over. According to the defendant after the trial he will obtain a good job and then escape spousal support. The defendant therefore argues the court should retain jurisdiction over spousal support. The defendant's proof fell short in this regard. There was no evidence whatsoever that the plaintiff has any prospects of obtaining a higher paying job than he has now. The defendant's claim for spousal support and request to reserve jurisdiction over spousal support is therefore considered and denied.

VIII. Litigation Expenses

Each party shall be responsible for his/her attorney fees.

The parties shall equally divide the litigation expenses.

IX. Bankruptcy Discharge

The defendant argued that this court should put in a provision in the decree that would make the debts assigned to each party non-dischargeable in bankruptcy. She fears that the plaintiff will try to discharge some of the parties' joint debts through bankruptcy and leave her solely liable.

The Magistrate understands the defendant's argument and agrees that an inequitable result will occur if the plaintiff decides to declare bankruptcy on their joint debts. The Magistrate therefore will recommend the court adopt the following language as part of the final Divorce Decree:

With regard to the joint indebtedness on the first and second mortgage

and the Target Visa, the court orders that each party shall hold the other harmless on the balance that each is to assume hereunder. The court further orders that the balance assumed is in the nature of support or maintenance but is not modifiable absent the agreement of the parties. The marital obligations to pay the balances is an integral part of the support obligations imposed hereunder and therefore these debts are not dischargeable in bankruptcy under sections 523(a)(5) and 523(a)(15) of the U.S. Bankruptcy Code.

X. GAL Fees

The Clerk shall immediately release the Guardian ad litem deposit directly to Denise Estill.

XI. Court Costs

Court costs shall be applied to the deposits.

A party shall not assign as error on appeal the court's adoption of any findings of fact or conclusion of law in that decision unless the party timely and specifically objects to that finding or conclusion as required by (Civ. R. 53(E)(3)). The parties have fourteen days from the date of the filing of this Decision to file written objections with the Clerk of Court's Office. Any such objections must be served upon all parties to this action, and a copy must be provided to the Domestic Relations Court.



Robert B. Hines, Magistrate

Dated:

7/18/05

JOURNALIZED

JUL 18 2005

CAROL W. MILLHOAN, CLERK
WAYNE COUNTY, OHIO

FILED
IN THE COURT OF COMMON PLEAS, WAYNE COUNTY, OHIO

Douglas J. Wilson

JUL 19 2005

Case No. 04-DR-0338

Plaintiff

CLERK OF COURTS

Robert J. Brown, Judge

vs.

Jennifer R. Wilson

**JUDGMENT
DECREE OF DIVORCE**

Defendant

This matter comes on for the court on the Magistrate's Decision dated JUL 19 2005. Upon consideration thereof it is ordered:

The Court having reviewed the Magistrate's Decision, finds that there are no errors of law or other defect on the face of the decision and hereby adopts the same as an Order of this Court.

The plaintiff and defendant are hereby granted a divorce from each other on the grounds of incompatibility.

The defendant is hereby named the residential parent of the two minor children born issue of the marriage, to-wit: Dominic J. Wilson, d.o.b. 6/1/95 and Shelby L. Wilson, d.o.b. 2/13/98.

The plaintiff shall have companionship with the children according Rule 14 Title 18, attached as Appendix 1, except that his midweek visitation shall be from Thursday after school during the school year or 4:30 p.m. when school is out of session until Friday morning. When school is in session the plaintiff shall have the responsibility of transporting the children to school on Friday mornings. When school is not in session he shall be responsible for seeing that the children get to proper daycare on Friday mornings. If for some reason the plaintiff is not working on a Friday when the children are not scheduled to be in school, the plaintiff shall be entitled to

JDR 253
Pgs. 977-995

care for the children during the day.

The plaintiff shall pay child support to the defendant in the amount of \$453.92 plus a 2% processing for a total of \$463 per month. This child support amount shall become effective July 15, 2005. See child support worksheet attached as Appendix 2.

Pursuant to the criteria found in Section 3119.82 ORC the defendant shall be entitled to the dependency exemptions for both children.

For the time being, the defendant shall be responsible for providing health insurance for the children. The parties should endeavor to compare the health plans available to both parties through their places of employment and chose the best policy. The parties might also consider having the children covered under both insurance policies. See standard order attached as Appendix 3.

The defendant shall immediately move to her parents' home. The children shall be enrolled in the Copley School District if at all possible.

The plaintiff shall be responsible for the Temporary Orders Amount as indicated in Section IV.B of the Magistrate's Decision herein as a separate non-marital debt. The defendant shall be responsible for \$500 for the Providian visa xxx4347 credit card as a separate non-marital debt.

The parties shall sell the marital residence. From the date of the finalization of this order until the home sells, the defendant shall be responsible for 25% of the first and second mortgage, the utilities, the house insurance and real estate taxes. The plaintiff shall be responsible for all other expenses related to the home.

Upon sale, if there is any surplus from the sale of the real estate, the Temporary Orders Amount shall go to the defendant and the balance equally divided

between the parties. If there is a deficiency, the plaintiff shall be responsible for the Temporary Orders Amount and the parties shall be equally responsible for any remaining deficiency. If either party fails to make his/her share of the future mortgage payments, he/she shall be responsible for any decrease in equity as a result of his/her nonpayment.

Each party shall keep the vehicle in his or her possession and assume the debt thereon.

The property found in Appendix 4 which is circled with the initials "SJ" is the separate property of the defendant. The 12 ga. single shot shotgun and the Emerson stereo are the separate property of the plaintiff. The parties shall equally divide the baby boxes and the photo albums.

All items that are not separate property as indicated above shall be divided between the parties through the alternate selection method (lottery system). The first selection shall be determined by the flip of a coin.

The parties boat and motor shall be sold and the proceeds applied to the Target Visa credit card. The defendant shall make the minimum payment on that card until the boat sells. At that time the defendant shall be responsible for the first \$500 of the balance due. The proceeds of the boat sale shall be used to pay down the balance on the Target Visa account. The remaining balance shall be evenly divided between the parties.

✓
The defendant shall receive one-half of the coverture value of the plaintiff's unvested Teamsters pension if and when it becomes vested. This division shall be through a qualified domestic relations order (QDRO) prepared and signed at the time of the vesting. The cost of the preparation of the QDRO shall be equally shared between the parties.

Each party shall be responsible for one-half of the balance of the Providian Visa account xxx4347.

The defendant shall be responsible for the two credit cards she opened after the divorce was filed as her separate non-marital debt, to-wit: Providian xxx5465 and Old Navy xxx1912.

Each party shall be entitled to the balances in the bank accounts in his or her name without any claim from the other.

The defendant's claim for spousal support is considered and denied.

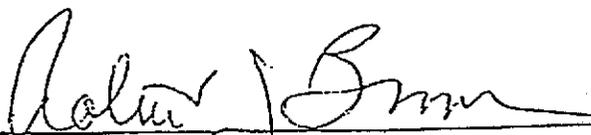
Each party shall be responsible for his/her attorney's fees.

The parties shall equally divide the litigation expenses, including the cost of the Neville report.

With regard to the joint indebtedness on the first and second mortgage and the Target Visa, the court orders that each party shall hold the other harmless on the balance that each is to assume hereunder. The court further orders that the balance assumed is in the nature of support or maintenance but is not modifiable absent the agreement of the parties. The marital obligations to pay the balances is an integral part of the support obligations imposed hereunder and therefore these debts are not dischargeable in bankruptcy under sections 523(a)(5) and 523(a)(15) of the U.S. Bankruptcy Code.

The Clerk shall immediately release the Guardian ad Litem deposit directly to Denise Estill.

Court costs shall be applied to the deposit. Any balance shall be evenly divided between the parties.


Robert J. Brown, Judge

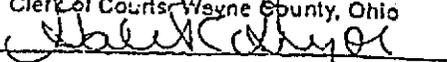
I hereby certify that this is a true copy of the original on file.

WITNESS my hand and seal of the Common

Pleas Court This 20 day of July

20 05 -20-

CAROL WHITE MILLHOAN
Clerk of Courts, Wayne County, Ohio

By: 

JOURNALIZED

JUL 18 2005

CAROL W. MILLHOAN, CLERK 22
WAYNE COUNTY, OHIO

MAILED
COPY TO ALL COUNSEL
Regular
Certified
Placed in box
By: W.C.C.
Dep. Clerk

980

WAYNE COUNTY LOCAL RULE 14

TITLE 18

(Effective 03/01/02)

PARENTING TIME/COMPANIONSHIP/VISITATION SCHEDULES

18.01 PARENTING TIME/COMPANIONSHIP/VISITATION SCHEDULES

Liberal visitation is encouraged by the court, taking into account the number of children, their ages, and the geographic proximity of the parties. The visitation schedule, to the extent possible, should encourage periods of visitation of significant duration and minimize frequent shifting of the children back and forth between their parents.

The parties are encouraged to agree upon a schedule of visitation. If they cannot agree, the court will normally order visitation as set forth in the schedule attached to this Rule unless the particular circumstances indicate that such visitation would not be in the best interests of the children.

In split custody situations, this Rule shall not apply. When split custody is involved, visitation shall be as ordered by the court, consistent with the philosophy of this Rule and provide, to the extent possible, that siblings shall be together during periods of visitation.

1) Flexibility and cooperation by the parents in handling all aspects of visitation is in the best interests of the children. The parties shall make reasonable efforts to accommodate each other's needs, as well as the needs of the children, in implementing the ordered schedule of visitation. The parties may, from time to time, mutually agree to visitation that varies from the ordered schedule of visitation to accommodate their needs and the needs of the children.

2) Basic Visitation Schedule:

(a) Alternate weekends from Friday to Sunday for a period of forty-eight (48) consecutive hours. If the parties are unable to agree otherwise, said visitation shall commence at 6:00 P.M. on Fridays and end at 6:00 P.M. on Sundays;

(b) The nonresidential parent shall have one midweek visitation per week. If the parties are unable to agree, then this midweek visitation shall be every Wednesday evening from 4:30 P.M. (or as soon thereafter as the nonresidential parent is available) until 8:00 P.M.

(c) For the purpose of visitation, there are seven (7) holidays as follows:

- (1) Martin Luther King Day
- (2) President's Day
- (3) Easter
- (4) Memorial Day
- (5) Fourth of July
- (6) Labor Day
- (7) Thanksgiving

In the odd-numbered years, the Mother shall have the children on the odd-numbered holidays; and the Father shall have visitation on the even-numbered holidays. In the even-numbered years, the Father shall have the odd-numbered holidays; and the Mother shall have the even-numbered holidays.

Any holiday falling on Monday or Friday shall be deemed as including the immediately preceding or immediately subsequent weekend, commencing at 10:00 a.m. (on Fridays) and ending at 8:00 P.M. on Mondays.

Thanksgiving shall always be deemed as commencing on the Wednesday before Thanksgiving (after school) until the subsequent Sunday at 6:00 P.M.

All other holiday visitation shall be from 10:00 a.m. until 8:00 P.M. on the day of the holiday.

(d) The non residential parent shall have the children for one-half of the Christmas break. "Christmas break" shall be deemed as commencing the day after the last day of school at 10:00 a.m. until the day before school reconvenes at 6:00 p.m. (including weekends) but not including December 24 and December 25. In the event there is an odd number of days during Christmas break, the nonresidential parent shall have the children for the extra day. The nonresidential parent's choice of dates during Christmas break has priority over the residential parent's Christmas break schedule if the nonresidential parent notifies the residential parent of the dates not later than October 1st. of the applicable year. Absent timely notification by the nonresidential parent, the residential parent's Christmas break schedule shall have priority. For purposes of this paragraph a "day" is all or any portion of one calendar day.

(e) In even-numbered years, the nonresidential parent shall have the children from 9:00 p.m. on December 24 until 6:00 p.m. on December 25. In odd-numbered years, the nonresidential parent shall have the children from 10:00 a.m. until 9:00 p.m. on

December 24 and from 6:00 p.m. to 11:00 p.m. on December 25. The children shall be with the residential parent on December 24 and December 25 at all other times not otherwise specified on these dates.

(f) On Mother's Day and Father's Day, no matter whose turn for visitation, the children will be with the appropriate parent. Visitation shall begin at 10:00 A.M. and continue until 6:00 P.M.

(g) Five (5) weeks, consecutively or separately (for the nonresidential parent), during the school summer recess to be scheduled as early in the calendar year as possible, subject to the following:

(i) The non-residential parent's choice of the duration and dates of summer visitation has priority over the residential parent's summer vacation schedule if the nonresidential parent notifies the residential parent of the duration and dates of summer visitation not later than April 1 of the applicable year. Absent timely notification by the nonresidential parent, the residential parent's vacation schedule shall have priority.

(ii) Each parent shall be entitled to take the children on vacation away from that parent's residence for a period of up to fourteen (14) consecutive days upon advanced written notice to the other parent, accompanied by written agenda indicating the vacation destination, phone numbers where he or she can be reached, times of arrival and departure and method of travel. A complete itinerary with contact telephone numbers must be given to the other parent no later than ten (10) days prior to departure.

(iii) During the extended summer visitation (except the fourteen (14) day away-from-home vacations) children should continue to spend alternate weekends with each parent on the same schedule as the rest of the year. In addition, the residential parent shall enjoy companionship time with the children on the same midweek visitation schedule granted to the nonresidential parent during the balance of the year.

(iv) Child support payable by the nonresidential parent shall abate by fifty (50%) percent during summer visitation of one week (7 consecutive days) or longer. The visitations of the residential parent during the nonresidential parent's summer visitation do not interrupt the nonresidential parent's consecutive visitation days for purposes of calculating this abatement. The nonresidential parent shall apply to the Wayne County Child Support Enforcement Agency for abatement of child support within sixty days of the ending date of the extended visitation for which abatement is requested. Child support abatement does not apply to any visitation other than extended summer visitation.

(v) "School summer recess" is defined as beginning the day after the last day the children attend school and ending the day before school reconvenes.

(h) The child shall celebrate his/her birthday in the home of the residential parent unless it falls on a visitation day. The other parent can make up for the birthday with a separate birthday party, if desired.

(i) When conflicts arise under this Basic Visitation Schedule, the following priority schedule shall apply (in descending order) with lowered-numbered items taking priority over high-numbered items:

- (i) Visitation at Christmas time;
- (ii) Thanksgiving visitation;
- (iii) Extended summer visitation;
- (iv) Mother's Day and Father's Day
- (v) Other holiday visitation;
- (vi) Weekend visitation;
- (vii) Midweek visitation;

(j) The continued participation in extracurricular activities (school related or otherwise) shall continue uninterrupted regardless of this visitation schedule. It shall be the responsibility of the parent with whom the children are with at the time of the activity to provide physical and reasonable economic costs of transportation to these activities. Each parent shall provide the other parent with notice of all extra-curricular activities (school related or otherwise) in which the children participate. Schedules of extracurricular activities (handwritten by the parent if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available) shall also be provided to the other parent. Extracurricular activities of the children shall not be scheduled by the residential parent so as to unreasonably interfere with visitation.

(k) Absent agreement otherwise, the nonresidential parent shall pick up the children at the beginning of each visitation and the residential parent shall pick up the children at the end of each visitation for return to their residence.

(l) If a nonresidential parent is unable to exercise visitation, 24 hours' notice must be provided to the residential parent, absent exigent circumstances. A nonresidential parent more than thirty (30) minutes late for visitation forfeits that visitation. The court may consider frequently missed visitation, with or without notice, as grounds for modification of the visitation schedule and/or contempt.

A residential parent may cancel scheduled visitation due to a child's illness and should give 24-hours' notice, if possible. Any visitation canceled due to illness shall be made up as soon as is practicable.

(m) Visitation is a time for the children to be and do things with the parent with whom they do not live. During visitation, the children should not be left with babysitters, except for short durations or to facilitate work schedules.

(n) Open and free communication by telephone and otherwise shall be permitted between the children and the parent with whom they are not then residing. If long distance telephone charges are involved, calls should be generally limited to not more than 15 minutes.

(o) Upon either parent learning or determining, whichever occurs first, that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by Ohio Revised Code 31.09.051(G) and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information that is necessary to effectuate a smooth transition for the children.

(3) When the Oldest Child Is less than Eighteen Months. The Basic Visitation Schedule shall not apply when the oldest child of the parents is less than eighteen months of age. When the oldest child of the parents is less than eighteen months of age the nonresidential parent shall have two (2) weekly visits with the child(ren).

If the parents cannot agree, these visits shall be every Wednesday from 5:30 p.m. to 8:30 p.m. and every Sunday from 12:00 p.m. to 6:00 p.m.

The general rules of visitation set forth in subparagraphs (i) through (n) of the Basic Visitation Schedule shall apply.

When the oldest child of the parents has attained the age of eighteen months, the visitation schedule shall be pursuant to paragraph (4) of this rule.

(4) When the Oldest Child is Eighteen Months to Three Years. When the oldest child of the parents is age eighteen months to three years, the basic visitation shall not apply. When the oldest child of the parents is age eighteen months to three years, the nonresidential parent shall have two (2) weekly visits, with one (1) being an overnight visit with the child(ren).

If the parents cannot agree, these visits shall be every Wednesday from 5:30 p.m. to 8:30 p.m. and every Saturday from 12:00 noon to Sunday at 6:00 p.m.

The general rules of visitation set forth in subparagraphs (i) through (n) of the Basic Visitation Schedule shall apply.

985

When the oldest child of the parents has attained the age of three years, visitation shall be pursuant to the basic visitation schedule as to all children of the parents.

(5) Travel Distance of 100 Miles or More. If the parents reside 100 miles or more from each other, the Basic Visitation Schedule shall not apply. If the parties cannot agree on a visitation schedule (unless the court otherwise orders), the following will normally be ordered as the visitation schedule by the court:

(a) Five (5) consecutive weeks for the nonresidential parent, commencing the first Sunday of the summer school vacation.

The residential parent shall be permitted to have the children, overnight, one (1) weekend from Saturday at 9:00 a.m. until Sunday at 6:00 p.m. during the five (5) weeks of visitation. This weekend of visitation for the residential parent shall be exercised in the geographic area of the nonresidential parent's residence, unless the parents otherwise agree. The parents shall agree upon the designated weekend with priority given to the nonresidential parent's vacation plans.

Child support payable by the nonresidential parent shall abate 50% during the five (5) weeks of visitation.

(b) Each year at Christmas, the nonresidential parent shall have the children not less than seven (7) consecutive days over the Christmas school vacation. In odd-numbered years, the nonresidential parent shall have the children on Christmas Day in addition to the seven (7) consecutive days provided for herein.

(c) In even-numbered years, the nonresidential parent shall have the children from the Wednesday preceding Thanksgiving (after school) until the Sunday subsequent to Thanksgiving at 8:00 p.m.

(d) The nonresidential parent shall have the children every spring school break from the last day of school (after school) until the day before school reconvenes at 8:00 p.m.

(e) If travel time, by car, is less than three (3) hours one way, the nonresidential parent shall have the children from Friday at 8:00 p.m. until Sunday at 8:00 p.m. the last weekend of each month during the school year. If said weekend is preceded on Friday by a holiday or followed on Monday by a holiday, said weekend shall be deemed as including the holiday and shall commence at 10:00 a.m. (on Fridays) and end at 8:30 p.m. (on Mondays).

(f) Open and free communication by telephone and otherwise shall be permitted between the children and the parent with whom they are not then residing. Long distance telephone calls should be generally limited to not more than 15

minutes. To the extent possible, the parties should arrange to place or receive said calls in a manner that will result in each party bearing approximately equal telephone charges.

(g) Responsibility for transportation costs shall be included in the court's order. If the parents cannot agree on costs of transportation, costs shall be ordered by the court. The court may consider the costs of transportation to effectuate visitation as a factor in deviating from child support calculations.

(h) When a child or children of parents residing more than 100 miles from each other has not yet attained the age of five (5) years, visitation shall be as ordered by the court, consistent with the philosophy of visitation set forth by this Rule.

(i) When a child or children of parents residing more than 100 miles apart from each other has attained the age of fourteen (14) years, the visitation schedule shall be as set forth in this Rule unless the court otherwise orders.

(j) Upon either parent learning or determining, whichever first occurs, that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by Ohio Revised Code 3109.051(G) and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information that is necessary to effectuate a smooth transition for the children.

987

Wayne County Common Pleas Court
Domestic Relations

FILED
DOMESTIC RELATIONS COURT

CHILD SUPPORT COMPUTATION WORKSHEET
SOLE RESIDENTIAL PARENT OR SHARED PARENTING ORDER

Names of Parties: Case No.: 04-DR-0338
Jennifer Wilson Judge: Brown
Douglas Wilson

FILED
CLERK OF COURTS

The following parent was designated as
the residential parent and legal custodian: Mother Father Shared
No. of Minor Children 2

	COLUMN I FATHER	COLUMN II MOTHER	COLUMN III COMBINED
--	--------------------	---------------------	------------------------

1a. Annual gross income from employment or, when determined appropriate by the court or agency, average annual gross income from employment over a reasonable period of years (Exclude overtime, bonuses, self-employment income, or commissions)

	27,040	25,314	
--	--------	--------	--

b. Amount of overtime, bonuses and commissions

	0	0	
--	---	---	--

	FATHER	MOTHER
Year 3 (Three years ago)	0	0
Year 2 (Two years ago)	0	0
Year 1 (Last calendar year)	0	0
AVERAGE	0	0

(Include in Col. I and/or Col. II the average of the three years or the year 1 amount, whichever is less, if there exists a reasonable expectation that the total earnings from overtime and/or bonuses during the current calendar year will meet or exceed the amount that is the lower of the average of the three years or the year 1 amount. If, however, there exists a reasonable expectation that the total earnings from overtime/bonuses during the calendar year will be less than the lower of the average of the three years or the year 1 amount, include the amount reasonably expected to be earned this year.)

2. For Self-Employment Income:

a. Gross receipts from business	0	0
b. Ordinary and necessary business expenses	0	0
c. 5.6% of adjusted gross income or the actual marginal difference between the actual rate paid by the self-employed individual and the FICA rate	0	0
d. Adjusted gross income from self-employment (Subtract the sum of 2b and 2c from 2a)	0	0

3. Annual income from interest and dividends (whether or not taxable)	0	0
---	---	---

4. Annual income from unemployment compensation	0	0
---	---	---

5. Annual income from workers' compensation, disability insurance benefits, or Social Security Disability/Retirement benefits	0	0
---	---	---

988

Appendix 2

	COLUMN I FATHER	COLUMN II MOTHER	COLUMN III COMBINED
6. Other annual income			
a. Other Taxable Inc	0	0	
b. Cash Perks	0	0	
c. Spousal support received	0	0	
7. Total annual gross income (add lines 1a, 1b, 2d & 3-6)	27,040	25,314	

ADJUSTMENTS TO INCOME

8. Adjustment for minor children born to or adopted by either parent and another parent who are living with this parent; adjustment does not apply to stepchildren (number of children times federal income tax exemption less child support received, not to exceed the federal tax exemption)	0	0	
9. Annual court-ordered support paid for other children	0	0	
10. Annual court-ordered spousal support paid to any spouse or former spouse	0	0	
11 Amount of local income taxes actually paid or estimated to be paid	270	253	
12. Mandatory work-related deductions such as union dues, uniform fees, etc (Not including taxes, Social Security or retirement)			
a. Mandatory Work Related/Other Deduction	0	0	
b. Mandatory Work Related/Other Deduction	0	0	
13. Total gross income adjustments (add lines 8 through 12)	270	253	
14. Adjusted annual gross income (subtract line 13 from line 7)	26,770	25,061	
15. Combined annual income that is basis for child support order (Add line 14, Col. I and Col. II)			51,831
16. Percentage of parent's income to total income:			
a. Father (divide line 14, Col.I, by line 15, Col.III)	51.65%		
b. Mother (divide line 14, Col.II, by line 15, Col.III)		48.35%	
17a. Basic combined child support obligation (From schedule on income up to \$150,000 - Amounts between schedule values are calculated)			10,546
17b. <u>Support on Income over \$150,000</u>			0
Income for which support is to be applied	0		
Percent to be used on income over \$150,000	0.00%		
17c. Total child support obligation			10,546

COLUMN I FATHER	COLUMN II MOTHER	COLUMN III COMBINED
--------------------	---------------------	------------------------

18. Annual support obligation per parent		
a. Father-Multiply line 17c, Col.III by line 16a	5,447	
b. Mother-Multiply line 17c, Col.III by line 16b		5,099
19. Annual child care expenses for the children who are the subject of this order that are work, employment training, or education related, as approved by the court or agency (deduct tax credit from annual costs, whether or not claimed)	0	0
a. Less federal child care tax credit	0	0
b. Less OH child care tax credit	0	0
c. Net child care costs	0	0
20. Marginal, out-of-pocket costs, necessary to provide for health insurance for the children who are the subject of this order	0	0

21. ADJUSTMENTS TO CHILD SUPPORT

Father (Only if obligor or shared parenting)

a. Additions: Line 16a times the sum of amounts shown on line 19c, Col II and line 20, Col II	0	
c. Subtractions: Line 16b times sum of amounts shown on line 19c, Col. I and line 20, Col I	0	

Mother (Only if obligor or shared parenting)

b. Additions: Line 16b times the sum of amounts shown on line 19c, Col I and line 20, Col I)		0
d. Subtractions: Line 16a times sum of amounts shown on line 19c, Col. II and line 20, Col II		0

22. OBLIGATION AFTER ADJUSTMENTS TO CHILD SUPPORT

a. Father: Line 18a plus or minus the difference between line 21a minus line 21c	5,447	
b. Mother: Line 18b plus or minus the difference between line 21b minus line 21d		5,099

23. ACTUAL ANNUAL OBLIGATION

a. Line 22 for the obligor parent	5,447	
b. Any non-means-tested benefits, including Social Security and Veterans' benefits, paid to and received by a child or a person on behalf of the child due to death, disability, or retirement of the parent	0	
c. Actual annual obligation (subtract line 23b from 23a)	5,447	

990

24a. Deviation from sole residential parent support amount shown on line 23c if amount would be unjust or inappropriate: (See section 3119.23 of the Revised Code.) (Specific facts and monetary values must be stated.)

0

Reason:

24b. Deviation from shared parenting order: (See section 3119.23 and 3119.24 of the Revised Code.) (Specific facts including amount of time children spend with each parent, ability of each parent to maintain adequate housing for children, and each parent's expenses for children must be stated to justify deviation.)

0

Reason:

25 **FINAL FIGURE:** (This amount reflects final annual child support obligation; line 23c plus or minus any amounts indicated in line 24a or 24b.)

Father Obligor

5,447

0

26 **FOR DECREE:** Child support per month (divide obligor's annual share by 12) plus any processing charge.

453.92

Including 2% processing charge

463.00

Comments:

PREPARED BY:

COUNSEL: _____

PRO SE: _____

Representing

CSEA: _____

OTHER: _____

WORKSHEET HAS BEEN REVIEWED AND AGREED TO:

MOTHER

DATE

FATHER

DATE

991

FILED
IN THE COURT OF COMMON PLEAS, WAYNE COUNTY, OHIO

ORDER FOR HEALTH INSURANCE FOR MINOR CHILDREN

JUL 11 2004
CLERK OF COURTS

Douglas J. Wilson

Jennifer R. Wilson

OBLIGOR

OBLIGEE

Case No. 04-DR-0338

CHILDREN

Dominic J. Wilson
Shelby L. Wilson

d.o.b. 06/01/95
d.o.b. 02/13/98

Judgment Entry Requiring
Obligee to Provide Health
Insurance Coverage for
Children Primarily and
and Obligor Alternatively.

This Court orders as follows:

(1) Obligee shall provide health insurance coverage for the minor children if that insurance is available through a group health insurance plan offered by any of Obligee's employers or through any other group health insurance plan available to Obligee and if that insurance is available at a more reasonable cost than insurance for the children through a group health insurance plan available to Obligor.

(2) Obligee shall designate the minor children as covered dependents on any health insurance plan for which they contract.

(3) If health insurance coverage for the children who are subject to this Order is not available at a reasonable cost through a group health insurance plan offered by any of Obligee's employers or through any other group health insurance plan available to Obligee, Obligor shall provide health insurance coverage for the minor children if that insurance is available at a reasonable cost through a group health insurance plan offered by any of Obligor's employers or any other group health insurance plan available to Obligor and if health insurance coverage for the minor children is not available at a more reasonable cost through a group health insurance plan available to Obligee.

(4) Obligor shall provide health insurance coverage for the minor children if that insurance is available at a reasonable cost through a group health insurance plan offered by any of Obligor's employers or any other group health insurance plan available to Obligor and if health insurance coverage for the minor children is not available at a more reasonable cost through a group health insurance plan available to Obligee.

(5) If Obligor provides insurance under this order, Obligor shall supply Obligee with copies of the insurance forms necessary to receive reimbursement, payment or other benefits under the health insurance plan and with

992

APPENDIX 3

a copy of any necessary insurance cards. Obligor shall notify the insurance company that provides the health insurance coverage for the minor children that any payments for reimbursement of medical, optical, hospital, dental or prescription expenses paid by Obligee are to be paid to Obligee upon the filing of any necessary insurance claim forms.

(6) If health insurance coverage for the children who are the subject of this order is not available at a reasonable cost through a group health insurance plan offered by any of Obligee's employers or through any other group health insurance plan and is not available at a reasonable cost through a group health insurance plan offered by any of Obligor's employers or through any other group insurance plan available to Obligor, the Obligor or Obligee to whom coverage becomes available shall immediately inform the Court of that fact.

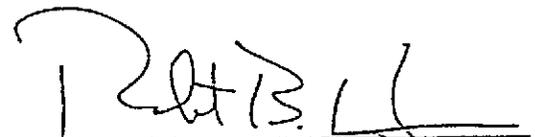
(7) Obligee is required to provide health insurance coverage for the minor children; and if Obligee fails to comply with these requirements, the employer of Obligee, upon written Order from this Court, is hereby required to take whatever action necessary to enroll Obligee in any available group health insurance policy with coverage for the minor children and shall deduct any additional amount from Obligee's earnings necessary to pay the cost for that health insurance coverage.

(8) During the time that this Order is in effect, the employer of Obligee is required to release to the Child Support Enforcement Agency, upon written request, any necessary information on health insurance coverage of Obligee, including but not limited to, the name and address of the insurance company and the policy number, and to otherwise comply with Ohio Revised Code Section 3119.30 et seq. and any court orders issued pursuant to the aforementioned statutes.

(9) Any insurance company from whom the Obligor or the Obligee is required to obtain medical insurance is required to comply with any orders issued pursuant to Ohio Revised Code Section 3119.30 et seq.

(10) Obligor and Obligee are required to comply with Ohio Revised Code Section 3119.31 no later than thirty (30) days after the issuance of this Order.

(11) Obligee shall pay the ordinary medical, hospital, prescription, and dental expenses incurred by the minor children. All extraordinary medical, hospital, prescription, dental, and orthodontia expenses incurred by the minor children shall be divided between Obligor and Obligee equally. Current Ohio Revised Code Section 3119.01(C)(4) defines extraordinary expenses as any uninsured expenses over \$100 per child per calendar year.



Robert B. Hines, Magistrate

JOURNALIZED

JUL 19 2005

CAROL W. MILLHOAN, CLERK
WAYNE COUNTY, OHIO

993

SJ	Entrance table (drop leaf)		\$225.00
	gun cabinet		\$125.00
SP	12 gauge single shot (shotgun) Brazil		\$110.00
	Remington Fieldmaster Model 572, 22 w/scope		\$135.00
	Evolution cross bow		\$125.00
	cross bow		\$100.00
	Misc ammo in gun cabinet		\$15.00
	rocker recliner		\$125.00
SJ	lighted glass cabinet		\$135.00
SJ	dolls	3 X 60	\$180.00
SJ	Gateway computer & desk		\$95.00
	white chest of drawers		\$35.00
	newer day bed		\$65.00
	balance of bedroom--Toys/pictures/knic knacks		\$35.00
	single bed		\$110.00
	chest of drawers		\$35.00
	balance of bedroom-- telescope/guitar/pictures/knick knacks		\$65.00
SJ	king size bed		\$165.00
	night stand		\$55.00
	balance of bedroom--pictures/knic knack shelf		\$20.00
	kitchen table & chairs		\$85.00
	microwave		\$15.00
	balance of kitchen--electric appliances /knic knacks/pictures		\$105.00
	sofa		\$65.00
	coffee table storage chest		\$75.00
	love seat		\$65.00
	floor lamps	2 X 15	\$30.00
	end table		\$5.00