

11/05/2020

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 20-0460

CLERK OF THE
DISTRICT COURT
TERRY HALPERN

2020 OCT 26 P 4:55

FILED

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Attorney for Respondent/Appellee

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE THE MARRIAGE OF)	CASE NO. DA 20-0460
)	
DAVINA ATTAR-WILLIAMS,)	
)	
Petitioner/Appellant,)	<u>APPELLEE'S MEMORANDUM</u>
)	<u>OPPOSING APPELLANT'S</u>
and)	<u>MOTION FOR A STAY OF THE</u>
)	<u>DISTRICT COURT FINDINGS AND</u>
STEVEN THOMAS WILLIAMS,)	<u>DECREE</u>
)	
Respondent/Appellee.)	

COMES NOW Appellee through counsel, and submits the following memorandum for the consideration of the court in opposition to the Appellant's motion for a stay.

Appellant is a lawyer and should know better. So is the Appellee. The nut in this case is that Appellant and her counsel negotiated a parenting plan during the first day of trial. This plan was signed by Appellant and Appellee, and counsel. Appellant even negotiated changes to the plan and initialed those changes. Not surprisingly, the district court adopted this parenting plan. The plan and order of the district court are attached as exhibit 1. From the time she agreed to the parenting plan, Appellant has tried to undo it

1 and the district court properly would have nothing of the sorts. Appellant as a lawyer,
2 surely understood what her signature would mean to a settlement of parenting during a
3 divorce trial. The case proceeded on the remaining property issues. See exhibit 1.
4 Appellant has refused to follow the parenting plan that she signed and initialed. Instead,
5 she filed with the district court and this court everything she could think of to try and make
6 a record for why the parenting plan should be voided. However, nothing of the sort was
7 presented during the trial or related proceedings. She now blames her lawyer (of which she
8 had three different ones during the district court proceedings) and the court itself for
9 adopting the parenting plan.
10

11 Appellant sought a stay from the district court of the findings and decree. The court
12 denied the motion. See exhibit 2. Currently pending before the district court is a hearing
13 on an order to show cause why Appellant should not be held in contempt for refusing to
14 follow the parenting plan that she negotiated, signed, and initialed. See exhibit 3.
15

16 Appellant now seeks a stay from this court and that request should be denied. She
17 first contends that the district court did not understand the evidence and erred in the
18 division of the assets and debt. Both parties are to receive money in the case from the
19 proceeds of the sale of the martial home. Those funds are held in the trust account of
20 Appellee's counsel and will remain there pending an order of a court in this proceeding.
21 Appellant has already indicated she would not accept a payment per the district court order
22 and so those funds remain with counsel. No stay is necessary.
23

24 Next, Appellant contends that the district court failed to consider any evidence
25 regarding whether the parenting plan is in the best interests of the parties' two minor
children. It is no wonder why this happened when Appellant signed, initialed and

1 negotiated a parenting plan. It is not hard to figure that the district court would not buy
2 Appellant's excuses that the parenting plan was the result of coercion or fraud by her
3 lawyer, that she did not understand what she was doing, or that the district court was
4 somehow biased against her and in favor of Steve's counsel. The items set forth in
5 Appellant's affidavit filed with this court do not amount to any sort of bias against her and
6 the record will bear such out. Appellant's real problem here is that she does not care to
7 follow advice that she does not like. Such is evident from her termination of three lawyers
8 during this case and then that she attempted to complete the trial pro se. This had
9 foreseeable adverse consequences for her. Now she has nothing left but to attack an
10 equitable decision, attack her prior counsel, attack the court and the court's assistant (who
11 has not been in the employ of Appellee's counsel's office since April of 2016).

13 Appellant chose not to present any evidence at the trial regarding the best interests
14 of the minor children in the parenting plan. The district court gave her ample opportunity
15 for a hearing on the parenting plan. Appellant chose not to request such a hearing. She
16 cannot be heard to complain now.

18 Since no stay of the decree has been entered and the district court correctly
19 determined that Appellee should be parenting his children, a hearing on the contempt of
20 Appellant was warranted. *State ex re. Kaasa v. District Court of Seventeenth Judicial*
21 *District*, 177 Mont. 547, 582 P.2d 772 (1978). The district court correctly noted that
22 Appellant had not secured a bond pending this appeal. Upon her request that a bond be
23 waived or forgiven, Appellee agreed because the funds to be distributed between the parties
24 are being held in counsel's trust account. Any modification of a decision, or award of costs
25 or interest can be allocated in the distribution of those funds to the parties at the appropriate

1 time. This arrangement protects or secures Appellee's rights during this appeal. *Safeco*
2 *Insurance Company v. Lovely Agency*, 215 Mont. 420, 697 P.2d 1354 (1985).

3 DATED this 26th day of October, 2020.

4 HENDRICKSON LAW FIRM, P.C.
5 P. O. Box 2502
6 Billings, MT 59103-2502

7 By:

8 
9 Kelly J. Varnes
10 Attorney for Respondent

11 **CERTIFICATE OF SERVICE**

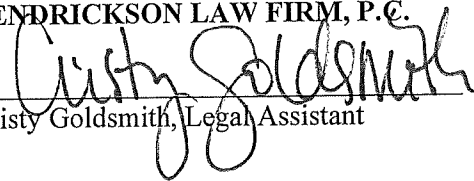
12 This is to certify that a true and correct copy of the
13 foregoing was served by certified U. S. Mail upon
14 all parties and/or counsel of record as follows:

15 Davina Attar-Williams
16 4210 Arrowwood Drive
17 Billings, MT 59106

18 on the 26th day of October, 2020.

19 HENDRICKSON LAW FIRM, P.C.

20 By:

21 
22 Cristy Goldsmith, Legal Assistant

23 cc: Steven Thomas Williams
24
25

1 **KELLY J. VARNES**
2 **HENDRICKSON LAW FIRM, P.C.**
3 208 North Broadway, Suite 324
4 P.O. Box 2502
5 Billings, MT 59103-2502
6 phone: (406) 245-6238
7 kelly@hendricksonlawmt.com

8 Attorney for Respondent

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2020 SEP 11 P 4:45

FILED

DEPUTY

9 **MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,**
10 **YELLOWSTONE COUNTY**

11 IN RE THE MARRIAGE OF

12 DAVINA ATTAR-WILLIAMS,

13 Petitioner,

14 and

15 STEVEN THOMAS WILLIAMS,

Respondent.

No. DR 19-0893

Judge: Donald L. Harris

**NOTICE OF ENTRY OF
DECREE OF DISSOLUTION
OF MARRIAGE**

16 TO: Davina Attar-Williams, 4210 Arrowwood Drive, Billings, Montana 59106:

17 YOU ARE HEREBY GIVEN NOTICE that Decree of Dissolution of Marriage was
18 entered in the Montana Thirteenth Judicial District Court, Yellowstone County, and signed by
19 the Honorable Donald L. Harris on the 9th day of September, 2020, a true and correct copy of
20 which is attached hereto.

21 DATED this 11th day of September, 2020.

22 HENDRICKSON LAW FIRM, P.C.
23 P.O. Box 2502
24 Billings, Montana 59103-2502
25 Attorneys for Respondent

By:

Kelly J. Varnes
KELLY J. VARNES

EXHIBIT

tabbles

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CERTIFICATE OF SERVICE

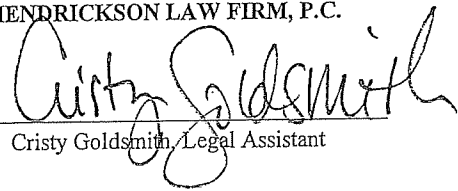
This is to certify that a true and correct copy of the foregoing was served by U. S. Mail upon all parties and/or counsel of record as follows:

Davina Attar-Williams
4210 Arrowwood Drive
Billings, Montana 59106

on the 11th day of September, 2020.

HENDRICKSON LAW FIRM, P.C.

By:


Cristy Goldsmith, Legal Assistant

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8 MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY

9 DAVINA ATTAR-WILLIAMS,

10 Petitioner,

11 vs.

12 STEVEN T. WILLIAMS,

13 Respondent.

) CAUSE NO. DR 19-893

) JUDGE DONALD L. HARRIS

) FINDINGS OF FACT,
) CONCLUSIONS OF LAW, AND
) FINAL DECREE OF
) DISSOLUTION

14
15 On June 2, August 3, and August 14 of 2020 the Court conducted a non-jury trial
16 in this case. Petitioner Davina Attar-Williams and Respondent Steven Williams
17 appeared each trial day. Davina was represented by Joseph Raffiani on June 2, but
18 appeared *pro se* on August 3 and August 14 after consenting to Mr. Raffiani's
19 withdrawal. Steven was represented by his attorney Kelly Varnes throughout the trial.
20 After considering the evidence and arguments presented, the Court makes the following
21 Findings of Fact:
22

23 FINDINGS OF FACT

- 24 1. The parties were married on June 7, 2014 in Helena, Montana.
25
26
27

1 2. Two children were born of the parties' marriage: A.J.W. (Age 5) and
2 A.R.W. (age 1).

3 3. Both parties are attorneys licensed to practice law in Montana. After living
4 and practicing law in Helena, the parties moved to Billings in 2015.
5

6 4. The parties separated in August 2019. At that time, both Davina and
7 Steven were practicing law with private law firms in Billings. Davina was employed by
8 the Brown Law Firm. Steven was employed by the law firm of Knight, Nicastro and
9 MacKay.

10 5. The parties' marriage is irretrievably broken because of serious marital
11 discord and there is no reasonable prospect of reconciliation. Both parties had resided
12 in Yellowstone County for several years preceding the filing of the Petition for
13 Dissolution of Marriage in this case.
14

15 6. The parties' marital estate should be equitably apportioned between the
16 parties as set forth in Exhibit 1 attached hereto.

17 7. The Court finds that both parties contributed to building and maintaining
18 their marital estate through the income they earned as lawyers. Both parties worked
19 full-time as practicing lawyers during their marriage.
20

21 8. The parties agreed upon most of the asset and liability valuations on
22 Exhibit 1. One significant difference is the value of the Wells Fargo 4025 account.
23 Davina valued that account at \$1,000 while Steven valued the account at \$15,000.
24 Steven's valuation was based upon a January 2020 account statement, Exhibit N.
25 Davina testified that she had used the money in the Wells Fargo 4025 account for living
26
27

1 expenses and that \$1,000 reflected the approximate account balance at the time of trial.

2 Neither party produced an account statement for the Wells Fargo 4025 account as of
3 the time of trial. Because the January 2020 account statement is nearly six months old
4 and the Court finds Davina's testimony credible on this issue, the Court finds that the
5 account should be valued at \$1,000.
6

7 9. Though the parties do not dispute the valuation of nearly all of their assets
8 and liabilities, they do disagree on whether monies that they received from Davina's
9 parents over the years should be repaid from the parties' marital estate.

10 10. The Court finds that Davina's parents gave Davina and Steve thousands
11 of dollars during their marriage to help them buy, remodel, and furnish their homes and
12 for clothing, toys, and furniture for their children. Davina's parents also paid for moving
13 costs, house cleaning, repairs, and made car payments. Davina's mother also provided
14 daycare to the parties' children. Davina estimates that her parents provided about
15 \$100,000 in financial help to the parties over the years. Davina requests that her
16 parents be repaid from the marital estate with each party paying 50%.
17

18 11. The undisputed testimony at trial, however, was that the financial
19 assistance from Davina's parents were gifts, not loans. Davina's parents provided the
20 financial assistance without any expectation of repayment or any promise from Davina
21 or Steven that they would be repaid. There are no documents or writings evidencing
22 that Davina's parents were loaning money to Davina and Steven. To the contrary, the
23 only documents in writing about financial assistance from Davina's parents state that
24 they were gifting Davina and Steve the money. "As we've mentioned, my parents are
25
26
27

1 generously paying for the flooring as a housewarming gift, and I believe they weren't
2 willing to pay more than \$19k, but that's something they would have to discuss with you
3 or Terry when the time is right." Exhibit P – October 14, 2016 email from Davina to
4 Steven; Exhibit Q – \$20,000 gift letter from Davina's father to Steven for down payment
5 on Helena home dated June 14, 2012.
6

7 12. Davina's parents have not asserted any claims against either Davina or
8 Steven for repayment of any of the financial assistance they provided to the parties.
9 The Court finds that the financial assistance Davina's parents provided to the parties
10 were gifts made to both parties. Their financial assistance was all of a kind and
11 character to benefit the parties and their children. No evidence was presented that any
12 of the financial assistance provided by Davina's parents was a gift only to Davina and
13 not to Steve. Davina acknowledged that both she and Steven should be equally
14 responsible for repaying her parents.
15

16 13. The Court finds that because Davina's parents gifted their financial
17 assistance to Davina and Steve, there is no legal or equitable basis upon which the
18 Court can order Davina's parents to be repaid from the parties' marital estate.
19

20 14. The parties agree and the Court finds that the parties' student loans are
21 premarital liabilities which should not be included as marital estate liabilities. Each party
22 will be responsible for their own student loans.

23 15. The Court finds that based upon the length of the parties' marriage and
24 their contributions to the marriage, their net marital estate should be apportioned
25 approximately on an equal basis. To accomplish this, Davina will be required to make
26
27

1 an equalization payment to Steven in the amount of \$20,000. This amount should be
2 distributed to Steven from the sale proceeds of the parties' 2039 East Ridge Drive
3 home.

4 16. The parties already divided their personal property and, except for
5 vehicles, have not requested the Court to value and apportion their household
6 furnishings or other personal property.

7 17. On June 2, 2020 the parties agreed upon a parenting plan. The terms of
8 the plan are set forth in a two-page Agreement (the "Parenting Agreement"). Exhibit 2
9 attached. Davina signed and dated both pages of the Parenting Agreement. Steven
10 signed the first page of the Parenting Agreement and his counsel signed the second
11 page of the Parenting Agreement on Steven's behalf.

12 18. On July 14, 2020 Steven moved to enforce the parties' Parenting
13 Agreement. Davina opposes enforcement of the Parenting Agreement on the grounds
14 that her counsel fraudulently deceived and coerced her into signing the Parenting
15 Agreement.

16 19. The parties briefed the issue of whether the Parenting Agreement is
17 enforceable. Both parties agreed the Court should deem the matter submitted for
18 decision based on the briefs. Neither party requested the Court to conduct an
19 evidentiary hearing on whether the Parenting Agreement is enforceable.

20 20. Davina argues that her counsel coerced her into signing the Parenting
21 Agreement based upon his opinion that she would likely do worse if the Court
22 determined the terms of a parenting plan and by assuring her that signing the Parenting
23 Agreement would be in her best interests.

1 Agreement was the right decision. Davina argues her counsel deceived her by telling
2 her she could modify the parenting plan if it did not work out. Davina also claims that
3 her counsel failed to listen to her, failed to follow her instructions, refused to negotiate
4 for better terms, and failed to properly represent her.

5
6 21. In reviewing the parties' Parenting Agreement, the Court finds that it sets
7 forth the essential terms of a parenting plan and provides both parents with frequent
8 and continuing contact with their children. The Court finds that both parties consented
9 to the Parenting Agreement.

10 22. The Court further finds that Davina understood the terms of the Parenting
11 Agreement when she signed the agreement. The terms of the parties' Parenting
12 Agreement are straightforward and unambiguous. Davina is an experienced litigation
13 attorney. The terms of the Parenting Agreement are well within her ability to
14 comprehend.
15

16 23. The Court finds that the Parenting Agreement does not indicate an
17 intention by either party not to be bound by their agreement. The Parenting Agreement
18 reflects that both parties unconditionally agreed to its terms upon signing the
19 Agreement.
20

21 24. The Court finds that Davina's dissatisfaction with her counsel does not
22 support her claims that she was coerced or deceived into signing the Parenting
23 Agreement. By her own admission, Davina was unhappy with her counsel's
24 recommendation that she should sign the Parenting Agreement. That her counsel gave
25 her his recommendation is not evidence of coercion. Davina was free to reject his
26
27

1 recommendation and proceed to trial to establish a parenting plan.¹ The Court also
2 finds no evidence that Davina's counsel somehow deceived her into signing the
3 Parenting Agreement. The Parenting Agreement's terms are clear and readily
4 understandable. Davina does not contend that the Parenting Agreement was modified
5 by adding or deleting terms after she signed the Agreement.
6

7 25. While it is apparent that Davina now regrets signing the Parenting
8 Agreement, the Court finds that Davina failed to provide sufficient evidence for the Court
9 to set aside the Parenting Agreement. The Court finds that the parties' Parenting
10 Agreement is enforceable.
11

12 Based upon the above Findings of Fact, the Court enters the following
13 Conclusions of Law:

14 **CONCLUSIONS OF LAW**

- 15 1. The parties' marriage should be dissolved.
- 16 2. After considering the factors set forth in Mont. Code Ann. § 40-4-202, the
17 Court concludes that the parties' marital estate should be equitably apportioned as set
18 forth on Exhibit 1 attached hereto.
- 19 3. The Court concludes that the parties' Parenting Agreement is an
20 enforceable agreement and, pursuant to Mont. Code Ann. § 40-4-212(1), is in the best
21 interests of the parties' two children. The Court concludes that the Parenting
22 Agreement is enforceable.
23

24 _____
25 ¹ Following the November 13, 2019 hearing to establish an interim parenting plan and a family support
26 order, Davina filed an emergency motion to supplement the record "...Due to [her] Counsel's Unethical
27 Actions, Sabotage of Her Case and Refusal to Represent Petitioner's Best Interests" Davina also was
dissatisfied with the initial attorney who represented her and regretted following his advice. Mr. Raffiani
was the third attorney to represent Davina in this case.

1 Agreement, attached as Exhibit 2, should be approved and adopted as the Final
2 Parenting Plan.

3 FINAL DECREE OF MARITAL DISSOLUTION

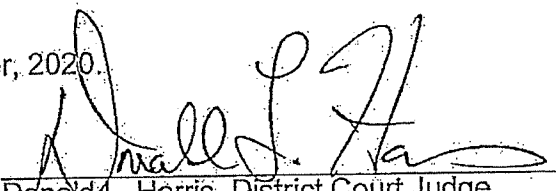
4 Based upon the above Findings of Fact and Conclusions of Law;

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

- 6
- 7 1. That the parties' marriage is **DISSOLVED**;
- 8 2. That the parties' marital estate shall be equitable apportioned as set forth
- 9 on Exhibit 1 attached, that the parties shall promptly execute and deliver all documents
- 10 necessary to effectuate the division of property set forth on Exhibit 1, and that Davina
- 11 shall make an equalization payment to Steven in the amount of \$20,000.00 from the
- 12 sale proceeds of the 2039 East Ridge Drive home within ten (10) days of the date of this
- 13 Final Decree;

- 14
- 15 3. That the parties' Parenting Agreement is approved and adopted as the
- 16 Final Parenting Plan and the parties are ordered to comply with the terms of the
- 17 Parenting Agreement, including the provisions for child support and medical support for
- 18 their children.

19 DATED this 9th day of September, 2020.

20 
21 Donald L. Harris, District Court Judge

22

23 cc: Kelly Varnes
24 Davina Attar-Williams

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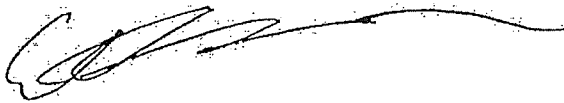
PROPERTY DISTRIBUTION
DR 19-893

EXHIBIT 1

<u>ASSETS</u>			
	<u>Description</u>	<u>Davina</u>	<u>Steven</u>
1	2039 East Ridge Drive, Billings MT	\$ 74,538.22	\$ 74,538.21
2	Wells Fargo 5463 (checking)	\$ -	\$ 2,968.34
3	Wells Fargo 1491 (savings)	\$ -	\$ 781.00
4	Wells Fargo 8328 (savings)	\$ -	\$ 375.00
5	Capital One Savings	\$ 150.00	\$ -
6	Wells Fargo 4025	\$ 1,000.00	\$ -
7	Etrade - Kennedy	\$ -	\$ -
8	Etrade - Davina	\$ 4,255.00	\$ -
9	529 accounts for children	\$ -	\$ -
10	Knight De Castro 401k (Steven)	\$ -	\$ 8,414.19
11	Brown Law Firm 401k (Davina)	\$ 29,000.00	\$ -
12	JP Morgan	\$ -	\$ -
13	2013 VW Tiguan	\$ 10,496.00	\$ -
14	2019 VW Atlas	\$ 44,729.00	\$ -
15	2007 Toyota Corolla	\$ -	\$ 2,500.00
16	Wells Fargo Savings	\$ 87.00	-
	<u>TOTAL ASSETS</u>	\$ 164,255.22	\$ 89,576.74
<u>LIABILITIES</u>			
	<u>Description</u>		
1	STW Closing Credit	\$ 500.00	\$ 5,000.00
2	Steve's Student Loans*	\$ -	\$ 332,288.00
3	Davina's Student Loans*	\$ 326,098.00	\$ -
4	Discover Credit Card	\$ 15,034.00	\$ -
5	Chase Credit Card	\$ -	\$ 2,764.00
6	Discover Credit Card	\$ -	\$ 13,232.00
7	Wells Fargo Visa	\$ 2,336.00	\$ -
8	Steve's 401k Loan		\$ 13,912.19
9	Loan on 2019 Atlas	\$ 44,729.00	-
10	Loan on 2013 VW Tiguan	\$ 10,496.00	\$ -
11	Tax Bill		\$ 3,204.71
12	2016 Tax Bill		\$ 881.04
	<u>TOTAL LIABILITIES</u>	\$ 73,095.00	\$ 38,993.94
	<u>SUBTOTAL (Assets - Liabilities [excluding student loans])</u>	\$ 91,160.22	\$ 50,582.80
	<u>Equalization Payment</u>	\$ (20,000.00)	\$ 20,000.00
	<u>NET MARITAL ESTATE</u>	\$ 71,160.22	\$ 70,582.80

In the summer DA

1. Commencing July 1, 2020, Steven shall be the primary custodian. Davina will parent alternating weekends, from Friday at 6pm until Sunday at 6pm. This arrangement will continue until one week prior to the commencement of the 2020-2021 school year.
2. School year: Davina shall be the primary custodian. Steven shall parent on alternating weekends, from Friday at 6pm until Sunday at 6pm, and every Tuesday and Thursday from 6 until 8pm. The parties will alternate holidays according to the court services/family resource department's holiday schedule.
3. Rose Milbauer, Davina's mother, will provide all daycare services for Atticus and Avery until Avery starts kindergarten, including care when the children are with Steven. *DA*
4. The parties will exercise shared custody on a 50/50 basis, presumably on a week-on, week-off basis, starting in August of 2024.
5. Steven shall pay child support on the 1st of the month, commencing July 1, 2020, in the amount of \$400.00 per month.
6. Steven will continue to pay the children's health insurance premiums. The parties shall split uncovered medical expenses on a 50/50 basis.
7. For calendar years 2020 up to and including 2024, Davina shall declare both Atticus and Avery as her dependents and shall receive any credits for all tax filings. Starting in 2025, the parties shall claim both children in alternating years for said purposes.
8. Davina agrees the order or protection against Steven shall be dissolved by the court.
9. The parties agree that day-to-day decision making regarding the children shall fall to the care provider. Major decisions shall be made through agreement of the parties.



Davina
6/2/2020

~~10/21/21~~
-02024

10. ~~Commencing~~ Summers 2021: Steve shall be the primary custodian starting 1 week after school ends, until 1 week prior to the commencement of ~~school~~ the 2021-2022 school year. Davina will parent alternating weekends from Friday at 6pm until Sunday at 6pm. Davina will have 9 days vacation with the children at a time of her choosing.

Kelly J. Vance Davina Attest
6/2/2020

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8 MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
9 YELLOWSTONE COUNTY

10 DAVINA ATTAR-WILLIAMS,

11 Petitioner,

12 vs.

13 STEVEN T. WILLIAMS,

14 Respondent.
15

} CAUSE NO. DR 19-893

} JUDGE DONALD L. HARRIS

} ORDER RE PETITIONER'S
PENDING MOTIONS
}

16 Trial of this case concluded on August 14, 2020. On September 8, 2020,
17 Petitioner filed a Motion for Leave to Amend Verified Petition for Dissolution of Marriage.
18 On September 9, 2020, this Court entered its Findings of Fact, Conclusions of Law, and
19 Final Decree of Marital Dissolution. On September 17, 2020, the Petitioner filed a Notice
20 of Appeal. On September 18, 2020, the Petitioner filed a Motion to Stay Execution of
21 Decree Pending Appeal.
22

23 I. Motion for Leave to Amend.
24

25 The Petitioner's Notice of Appeal divested this Court of jurisdiction to rule upon her
26 Motion for Leave to Amend. *ABC Collectors, Inc. v. Birnel*, 2006 MT 148, ¶¶ 9, 18-19;
27 *Alpine Buffalo, Elk & Llama Ranch, Inc. v. Anderson*, 2001 MT 307, ¶ 26. The Court

1 declines to rule upon the Petitioner's Motion for Leave to Amend.

2 **II. Motion for Stay.**

3 Rule 22(1)(c), Mont.R.App.P., grants this Court the authority to rule upon
4 Petitioner's Motion to Stay. Petitioner requests this Court to stay enforcement of its Final
5 Decree of Marital Dissolution because (1) one of the parties' children, A.R.W., is not
6 ready for "sleepovers"; and (2) the Petitioner cannot afford reduced child support because
7 she lost her job "weeks before the Court's ruling."
8

9 This case was tried over three days: June 2nd, August 3rd, and August 14th. On
10 June 2nd the Petitioner and Respondent entered into a written Parenting Plan agreement.

11 Both parties were represented by counsel during the negotiations that resulted in their
12 agreement. Under their Parenting Plan, the parties agreed that the Petitioner would be
13 the primary residential custodian of their children, A.J.W. (age 5) and A.R.W. (age 1),
14 during the school year with the Respondent having parenting time on alternating
15 weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. and on every Tuesday and
16 Thursday evening from 6:00 p.m. until 8:00 p.m. Starting July 1, 2020, the Respondent
17 was to become the children's primary custodian with the Petitioner having parenting time
18 on alternating weekends and on Tuesday and Thursday evenings from 6:00 p.m. to 8:00
19 p.m. The Petitioner was also entitled to nine days of vacation with the children each
20 summer. The parties also agreed to alternative parenting time on holidays.
21

22 In their Parenting Plan, the parties also agreed upon child support and health
23 insurance for the children. The parties agreed (1) that Respondent would pay the
24 Petitioner \$400.00 a month in child support beginning July 1, 2020; (2) that the
25 Respondent would continue to pay for the children's health insurance; and (3) that the
26
27

1 parties would each pay for half of all uncovered medical expenses.

2 The Petitioner has refused to follow the parties' Parenting Plan agreement. The
3 Petitioner claims she was coerced and deceived into signing the parenting agreement by
4 her counsel. The Petitioner, who is also an experienced trial lawyer, asserted this claim
5 after her previous attorney withdrew. The parties agreed that the Court could decide
6 whether their Parenting Plan agreement was enforceable based upon the parties'
7 briefing. In its Findings of Fact and Conclusions of Law, the Court found no evidence that
8 Petitioner's counsel had deceived or coerced her into signing the Parenting Plan
9 agreement. The Court concluded that the parties' Parenting Plan agreement was
10 enforceable and was in the children's best interests. The Court approved and adopted
11 the parties' Parenting Plan agreement as the Final Parenting Plan and ordered the parties
12 to comply with its terms.
13

14 In her Motion to Stay, the Petitioner claims that A.R.W. is not ready for sleepovers
15 and that she cannot afford a reduction in child support after losing her job. Though
16 Petitioner now claims A.R.W. is not ready to stay overnight with his father, on June 2nd
17 she agreed to a parenting plan in which A.R.W. would regularly stay overnight with his
18 father. As the Court previously determined in its November 20, 2019 order, the
19 Respondent is not a danger to his children and that they are not at risk of abuse or
20 neglect while in his care. Interim Parenting Plan and Temporary Family Support Order,
21 Doc. No. 32. The Court further found that it is in the children's best interests to have
22 regular parenting time with their father.
23

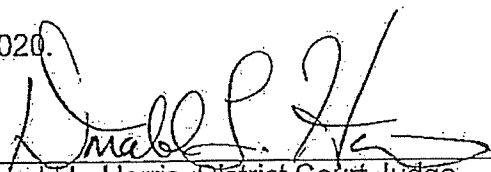
24 After the close of evidence on August 14th, the Petitioner did inform the Court that
25 she had lost her job at the Brown Law Firm. The Petitioner, however, did not request the
26
27

1 Court to modify the child support amount she agreed to in the parties' Parenting
2 Agreement. The Petitioner's Motion to Stay is perfunctory and provides the Court with
3 insufficient information to determine when the Petitioner became unemployed, why she
4 became unemployed, what efforts she has made to become employed, or whether
5 income should be imputed to her. The Petitioner also has failed to comply with the Rule
6 22(1)(b), Mont.R.App.P., requirement of posting a sufficient bond to reimburse the
7 Respondent if her appeal is unsuccessful.
8

9 The Court concludes that the Petitioner has failed to demonstrate good cause for
10 this Court to stay the enforcement of the Final Decree of Marital Dissolution. The children
11 need to have regular parenting time with their father. The Final Decree incorporates the
12 terms of the parenting plan that the Petitioner agreed upon, including child support. The
13 Court also notes that the Petitioner will receive about \$54,000.00 from the sale proceeds
14 from the 2039 East Ridge Drive residence.
15

16 The Petitioner's Motion to Stay Execution of Decree Pending Appeal is **DENIED**.

17 DATED this 6th day of October, 2020.

18 
19 _____
20 Donald L. Harris, District Court Judge

21 cc: Davina Williams
22 Kelly J. Varnes
23
24
25
26
27

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

IN RE THE MARRIAGE OF
DAVINA ATTAR-WILLIAMS,
Petitioner,
and
STEVEN THOMAS WILLIAMS,
Respondent.

No: DR 19-0893

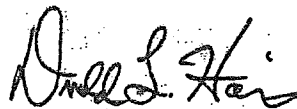
Judge: Donald L. Harris

**ORDER SETTING SHOW CAUSE
HEARING**

Upon motion of Respondent,

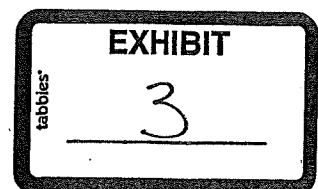
IT IS HEREBY ORDERED that Petitioner shall appear before the Court on the 9th day of November, 2020, at 9:00 o'clock a.m., and show what cause she has, if any, why Petitioner should not be held in contempt for her refusal to follow the parenting plan that was incorporated into the decree of dissolution entered in this case dated September 9, 2020.

DATED this 7th day of October, 2020.



JUDGE DONALD L. HARRIS

cc: Kelly J. Varnes
Davina Attar-Williams



CERTIFICATE OF SERVICE

I, Kelly J. Varnes, hereby certify that I have served true and accurate copies of the foregoing
Other - Other to the following on 10-26-2020:

Davina Attar-Williams (Appellant)
4210 Arrowwood Drive
Billings MT 59106
Service Method: Conventional

Electronically Signed By: Kelly J. Varnes
Dated: 10-26-2020