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Attorneys for Petitioner/Appellee

**SUPREME COURT OF THE STATE OF MONTANA**

IN RE THE MARRIAGE OF:

WILLIAM D. JUHNKE,

Petitioner/Appellee,

and

DEBORAH WHITE JUHNKE,

Respondent/Appellant,

and

GEORGE "RUSTY" JUHNKE,

Intervenor.

Supreme Court Cause No.: DA 25-0137

Sixth Judicial District Court Cause No. DR 34-  
2023-18 (Hon. Michael B. Hayworth)

**MOTION TO DISMISS APPEAL**

Petitioner and Appellee William D. ("Bill") Juhnke respectfully requests that the Court dismiss the pending appeal filed by Respondent and Appellant Deborah White ("Debbie") Juhnke due to its prematurity, as follows:

**Factual Background**

Debbie appeals from *Findings of Fact, Conclusions of Law, and Final Decree* entered by the Sixth Judicial District Court, Hon. Michael B. Hayworth, on January 3, 2025. Numerous post-

1 trial motions followed. Debbie filed her *Notice of Appeal* on February 14, 2025. At this time, the  
2 majority of the pending motions had yet to be ruled upon. These include:

3 **1) CR 239, Debbie's January 13, 2025 *Notice of Objection, Notice of Intent to Sell Items,***  
4 ***and Request for Clarification***  
5

6 In this pleading, Debbie seeks amendment of the district court's award of a 1956 Buick  
7 Special to Bill. Debbie indicates she wants the vehicle distributed to her but does not want to be  
8 required to cash Bill out of half its value. Debbie seeks clarification as to her rights and duties vis-  
9 à-vis the parties' rental property, which was awarded to Bill but in which she was granted a life  
10 estate. She requests "the right to use of water and power" for the rental "as has been traditional."  
11 CR 239 at 2.  
12

13 Debbie also objects to Bill's stated intention to exercise the option of selling certain items  
14 of personal property awarded to him. She argues that these items are the rightful property of the  
15 parties' son, Intervenor George "Rusty" Juhnke; indicates that these items will be the subject of  
16 an upcoming appeal; and argues that Bill should be prevented from disposing of them. Debbie  
17 argues that truck parts awarded to her by the district court are not actually in her possession. She  
18 also argues that the washer and dryer awarded to her are no longer in working order. Finally, she  
19 asks for an extension of time to make ordered equalization payments to Bill.  
20

21 In Bill's January 27, 2025 *Response* (CR 244), Bill describes the potential problems caused  
22 by Debbie being granted a life estate in his rental property<sup>1</sup> and proposes an alternate arrangement.  
23 Bill also opposes Debbie's request to be exempted from paying an equalization payment for the  
24 Buick; questions Debbie's standing to object to Bill being awarded items she believes actually  
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27 <sup>1</sup> Including the existence of a no-contact order between the two; the potential for  
28 conflict and further litigation; and the fact that it would make it unduly difficult for him to sell  
the property.

1 belong to Rusty; and notes that Debbie has not actually moved to stay the execution of the  
2 judgment (or taken any steps to obtain a supersedeas bond). Further, Bill also notes that Debbie  
3 only provided a receipt for a new washer, not a new dryer, and that it is unclear whether she is still  
4 wishes to sell these “unrepairable” appliances or if she is asking the district court to amend its  
5 ruling such that she may keep them without making an equalization payment. Finally, Bill opposes  
6 Debbie’s extension request.  
7

8 **2) CR 247, Debbie’s January 20, 2025 *Motion to Compel Petitioner to Complete and***  
9 ***Submit VA Forms***  
10

11 In this pleading, Debbie asserts that Bill (who is a disabled veteran), “unlawfully continues  
12 to claim [her] as a dependent and deny her a share of. . .VA payments that may be owed to her[.]”  
13 CR 247 at 1. Debbie asks the Court to compel Bill to complete an authorization allowing the VA  
14 to disclose Bill’s information to her, as well as a “Mandatory Verification of Dependents” form.  
15

16 In his February 13, 2025 *Response* (CR 252), Bill notes that there is no reason to fill out  
17 the forms in question, as he has already informed the VA that he and Debbie are divorced. Further,  
18 Bill notes that the district court did not award Debbie any of his VA benefits and that she is not  
19 otherwise entitled to any portion thereof. Finally, Bill points out that Debbie attempts to compel  
20 his compliance using Rule 37, M. R. Civ. P., which governs discovery, not post-trial practice.  
21

22 **3) CR 242, Debbie’s January 22, 2025 *Notice of Intent to Sell or Request for Rule 60***  
23 ***Ruling and Motion to Clarify and Request for Order***  
24

25 In this pleading, Debbie asks the district court to amend the value of a safe awarded to her  
26 and asserts that, if it does not, she wishes to exercise the option to sell the safe.  
27

28 Debbie objects to an equalization payment she has been ordered to make to Bill as a result  
of her unreasonable dissipation of marital funds. Debbie claims that the district court made a

1 mathematical error in calculating the amount owed and that the payment requirement is at odds  
2 with the court's other factual findings and with evidence presented at trial. She also claims that  
3 she is financially unable to make the payment.  
4

5 Debbie objects to being required to pay costs associated with partition of the marital real  
6 property, arguing that "the *Final Decree* contradicted [an earlier] order" regarding the allocation  
7 of these costs.

8 Finally, Debbie notifies the Court of an upcoming insurance check for damage to Buick  
9 she is requesting. Debbie asks for an order requiring both parties to sign the check over to a local  
10 auto body shop. She again requests that the Court issue an amended ruling distributing the vehicle  
11 to her and either reducing or eliminating entirely any equalization payable to Bill. She also argues  
12 that the court incorrectly valued the vehicle, claiming that its insurance value is less than the value  
13 assigned by the court.  
14

15 In Bill's February 5, 2025 *Response* (CR 246), he points out that Debbie's pleading is  
16 essentially a motion for reconsideration, which is not one of the post-judgment motions authorized  
17 by the Montana Rules of Civil Procedure. Bill objects to Debbie's stated intention to sell her safe,  
18 noting that it is untimely.<sup>2</sup> Bill sets forth several reasons as to why Debbie should not be relieved  
19 of the obligation to make the \$12,000.00 equalization payment (including that her spending from  
20 just one account totaled \$377,605.66 over a 29-month period). Bill argues that these and other  
21 expenditures prove that Debbie is not unable to make the payment; she is just choosing to prioritize  
22 other expenditures. Finally, Bill points out that the "insurance value" Debbie wishes the district  
23 court to use for the Buick is several years out of date.  
24  
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28 <sup>2</sup> The January 3 ruling allotted the parties 10 days to file notice of their intent to  
exercise the option to sell items of personal property awarded to them.

1           **4) CR 243, Bill’s January 27, 2025 *Verified Motion for Supplemental Order Requiring***  
2 ***Adjustment of Boundary Line***

3           In this pleading, Bill notes that Debbie’s surveyor staked the partition line which will  
4 eventually separate their respective parcels of real property so that it runs through the septic drain  
5 field of the rental property, in violation of Montana’s setback regulations. As such, Bill requests  
6 that the district court order the surveyors to move the boundary line approximately 23 feet to  
7 comport with setback requirements.  
8

9           In her February 11, 2025 *Amended Response* (CR 251), Debbie argues that the boundary  
10 should actually be moved several hundred feet in the other direction, such that Bill receives one  
11 residence and one shop and she receives three residences, three shops, and the majority of the  
12 acreage.  
13

14           **5) Bill’s February 5, 2025 *Motion for Forfeiture of Undisclosed Asset***

15           In this pleading, Bill argues that Debbie failed to disclose the existence of the pending  
16 auto insurance claim or the upcoming payment and that she should therefore be required to forfeit  
17 the insurance proceeds pursuant to §§40-4-253(4) and (5), MCA. In her February 19, 2025  
18 *Response* (CR 256), Debbie argues that she needn’t have disclosed the damage to the Buick or  
19 the pending claim because Bill was aware of them. Further, she argues that Bill’s request is moot,  
20 because he already endorsed the check.  
21  
22

23           **Legal Argument**

24           Parties may only appeal from a final judgment and are specifically prohibited from  
25 appealing “interlocutory judgments” to this Court. Mont. R. App. P. 6(5)(f) and 6(6). Any ruling  
26 “which leaves matters undetermined is interlocutory in nature and is not a final judgment for the  
27 purposes of appeal.” *Kirchner v. W. Mont. Regl. Community Mental Health Ctr.*, 261 Mont. 227.  
28

1 229, 861 P.2d 927, 929 (1993). A “final judgment,” on the other hand, “conclusively determines  
2 the rights of the parties and settles all claims in controversy in an action[.]” Mont. R. App. P.  
3 4(1)(a).

4 An appeal which is premature must be dismissed for lack of jurisdiction. *In re Marriage of*  
5 *Rex*, 199 Mont. 328, 649 P.2d 46 (1982). Debbie’s appeal herein is premature because the district  
6 court’s *Findings of Fact, Conclusions of Law, and Order* leave unaddressed the issues of the  
7 ownership of the Buick (as well as whether any equalization is owed, and, if so, how much); the  
8 parties’ respective rights and duties vis-à-vis the rental property in which Debbie was awarded a  
9 life estate; the ultimate location of the partition line (and whether its location will alter the number  
10 of residences and outbuildings awarded to each party); whether or not the parties may sell certain  
11 items of personal property (and whether equalization is payable for certain items); whether Bill  
12 should be compelled to submit any documentation to the VA; whether and when Debbie should  
13 have to make certain payments to Bill and others; and whether Debbie should be required to forfeit  
14 the value of the insurance check.

15 Accordingly, Bill respectfully moves for the dismissal of Debbie’s appeal. In the  
16 alternative, Bill requests that this Court issue an order permitting the district court to rule on the  
17 aforementioned motions, as the district court has correctly noted that Rule 60(a), M. R. Civ. P.  
18 precludes it from doing so without express leave of this Court. *See* CR 255, *Notice to Parties*,  
19 dated February 18, 2025, and attached hereto as **Ex. A**.

20 Debbie’s counsel has been provided with a copy of this *Motion* and was asked whether she  
21 objects to the same. To date, no response has been received.  
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DATED this 5 day of March, 2025.

**PAOLI & BROWN, P.C.**

  
\_\_\_\_\_  
Kevin S. Brown, Esq.

**CERTIFICATE OF MAILING**

I hereby certify that, on the 5<sup>th</sup> day of March, 2025 a true and correct copy of the foregoing document was duly served upon the following named person(s):

X

Via e-filing

\_\_\_\_\_

Via email

1. Jami Rebsom
2. Adrienne Ellington

  
\_\_\_\_\_

## **CERTIFICATE OF SERVICE**

I, Kevin S. Brown, hereby certify that I have served true and accurate copies of the foregoing Motion - Dismiss to the following on 03-05-2025:

Jami L. Rebsom (Attorney)  
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Electronically Signed By: Kevin S. Brown  
Dated: 03-05-2025