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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0685**

In re the Marriage of:
Debra Christine Brunette,
n/k/a Debra Christine Klein, petitioner,
Respondent,

vs.

Scott David Brunette,
Appellant.

**Filed February 5, 2008
Affirmed in part and reversed in part
Klaphake, Judge**

St. Louis County District Court
File No. 69DU-FA-05-745

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Considered and decided by Toussaint, Chief Judge; Klaphake, Judge; and
Shumaker, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

In this marital dissolution appeal, appellant Scott Brunette argues that (1) the district court abused its discretion by declining to approve the parties' proposed

dissolution stipulation and in declining to vacate the parties' dissolution settlement agreement; (2) the district court erred by failing to address some of his other requests for relief; and (3) the district court abused its discretion by awarding sanctions and attorney fees against him. We conclude that the district court did not abuse its discretion in either declining to approve the stipulation or declining to vacate the settlement agreement, did not err in failing to address some of his requests for relief, and did not abuse its discretion by awarding attorney fees, but the court did abuse its discretion by awarding sanctions. We therefore affirm in part, but reverse the award of \$5,000 in sanctions.

D E C I S I O N

Stipulation

On December 30, 2005, the parties signed a stipulation to dissolve their marriage, but the district court declined to approve the stipulation. Appellant challenges that decision. Courts encourage dissolution stipulations and enforce them “with the sanctity of binding contracts[,]” as a means of “simplifying and expediting litigation” and “bring[ing] resolution” to an “acrimonious relationship.” *Shirk v. Shirk*, 561 N.W.2d 519, 521 (Minn. 1997). Once the parties enter into a valid stipulation, a party needs consent of the other party or “leave of the court for cause shown” to withdraw from the stipulation, “but if a stipulation was improvidently made and in equity and good conscience ought not to stand, it may be vacated.” *Id.* at 522. In *Toughill v. Toughill*, 609 N.W.2d 634, 639-40 (Minn. App. 2000), this court affirmed a district court decision not to vacate a stipulation where the district court’s decision considered such factors as whether the parties were represented by counsel, the extensiveness and detail of their

negotiations, the district court's involvement in approval of the stipulation, and whether "the circumstances of the negotiations did not create any fraud, duress, or mistake."

Here, the court found that respondent was not under duress when agreeing to the December 20, 2005 stipulation, noting that while appellant may have been a "more dominant personality," respondent was an "active participant in the negotiations." But the court also found that the stipulation was "illusory," that "[n]o competent lawyer would advise her to sign" it, and that it would be unfair to enforce the stipulation because respondent was not represented by counsel and appellant's counsel drafted an agreement "that heavily favor[ed] his position."

While appellant urges that a stipulation should be vacated only for fraud, duress, or mistake, the district court has a duty to independently determine whether a marital property division proposal is fair and may apply equitable principles to ensure fairness. *See, e.g., Luthen v. Luthen*, 596 N.W.2d 278, 282-83 (Minn. App. 1999). The district court is a "third party" in dissolutions and has the duty to protect the interests of both parties to ensure that a "stipulation is fair and reasonable to all." *Karon v. Karon*, 435 N.W.2d 501, 503 (Minn. 1989). For this reason, we conclude that the district court did not abuse its discretion in refusing to approve the stipulation.

Settlement Agreement

Appellant also contends that the district court abused its discretion by adopting the parties' November 3, 2006 settlement agreement. In contrast to their earlier stipulation, this agreement was reached under more reliable circumstances: both parties were represented by counsel; the agreement was negotiated over the course of several days;

and the district court approved the agreement. “When parties agree to dissolve their marriage under certain terms, that stipulation is accorded the sanctity of a binding contract,” and parties may bind themselves to terms that a court could not impose. *Gatfield v. Gatfield*, 682 N.W.2d 632, 637 (Minn. App. 2004) (quotation omitted), *review denied* (Minn. Sept. 29, 2004). After signing the settlement agreement, appellant sought to modify or vacate the agreement because he claimed that (1) he did not want Greg Tesdahl to market the homestead sale because Tesdahl was related to respondent; (2) the agreement did not address circumstances related to debt maintenance, including debt prepayment or debt increase due to interest; and (3) the agreement did not include “hold harmless” language for repairs made on the homestead.

As to the use of Greg Tesdahl as a real estate agent, the settlement agreement mandated that each party control one of two properties until the time of its sale and set forth a process for choosing a new agent if the properties are not sold within nine months. The agreement does not authorize appellant to choose an agent for the property controlled by respondent and requires only that the parties “cooperate” during the sales and “keep the other informed about any offers made.” As appellant signed the contract and the court found it to be reasonable and approved it, there is no basis for appellant’s addition of new contract terms. We also note that the record indicates that Tesdahl had represented the parties adequately in prior property sales.

The other contract terms urged by appellant were not essential and were not included in the settlement agreement or decree. The agreement and decree contain identical “hold harmless” language with regard to the homestead, stating that “Husband is

indemnified of any responsibility for repairs Wife recently had performed by Back to Basics Construction on 3631 Crescent View[.]” Under these circumstances, the district court did not abuse its discretion in approving the contract as written by the parties.

District Court’s Failure to Consider Other Issues

Appellant claims that the district court erred by failing to address certain issues he raised in his December 7, 2006 motion to vacate the marital settlement agreement. In an order dated December 18, 2006, the district court denied the motion, noting that the settlement agreement had only been submitted to the court on that day.

Appellant’s motion claims that three items of personal property should be returned to him: a rifle, some home movies, and “Gracie’s box.” These three items were enumerated in the settlement agreement, and it was agreed that they will be returned to appellant. Appellant also requested an accounting of monies spent on home improvements in the form of payments to John Strongen and “some supplemental discovery.” Although the district court’s order denying the motion did not address these issues, the settlement agreement determined them, either directly or indirectly. Therefore, the district court did not err in failing to address these issues in its order denying appellant’s motion to vacate the settlement agreement.

Attorney Fees and Sanctions

Appellant further claims that the district court abused its discretion by ordering him to pay respondent \$5,000 from the property sale proceeds and \$2,500 in attorney fees as a sanction for failing to cooperate in the sale of the properties. Both sanctions and attorney fees may be ordered in the district court’s discretion and are subject to the abuse

of discretion standard of review. *See Jadwin v. Kasal*, 318 N.W.2d 844, 848 (Minn. 1982) (ruling that the district court has broad discretion in awarding attorney fees); *Kellar v. Von Holtum*, 605 N.W.2d 696, 702 (Minn. 2000) (ruling that the district court has wide discretion in awarding the type of sanctions it deems necessary).

As to the sanctions, the court found that appellant was ordered to list the homestead for a real estate commission of 4%, but he refused to sign the agreement without further reduction of the commission. The district court imposed the sanctions in accordance with the settlement agreement, which provided for \$5,000 in sanctions if a party “fails to cooperate, sabotages a sale, or otherwise hinders the sale process.”

We conclude that the imposition of \$5,000 in sanctions constituted an abuse of discretion. While a prior court order required the homestead to be sold at a 4% commission rate, the settlement agreement did not provide for a 4% commission rate and merely set forth in general terms that the property would be sold. Respondent’s motion seeking sanctions was filed less than a month after the settlement agreement was signed and was based on an alleged violation of the settlement agreement. Because respondent’s motion did not establish any facts showing that appellant had violated terms of the settlement agreement, the district court had no basis for imposing the \$5,000 in sanctions provided for by the settlement agreement. We therefore reverse the \$5,000 sanctions award.

As to the attorney fees, the district court found that appellant’s conduct in delaying the sale of the homestead caused respondent “to incur unnecessary attorney fees.” Respondent’s motion for attorney fees requested \$2,500 in fees, which the district court

granted. In contrast to the sanctions, which necessarily were based on the settlement agreement, the attorney fees could be granted based solely on appellant's conduct during the course of the proceedings. *See* Minn. Stat. § 518.14, subd. 1 (2006).

Appellant contends that respondent failed to document the amount of the fees as required by Minn. R. Gen. Pract. 119. While this rule requires documentation of a request for attorney fees, this court has held that, consistent with the advisory committee commentary, the documentation requirement is not designed to inhibit a district court's discretion but to streamline the process, and if "the court is familiar with the history of the case and has access to the parties' financial information, it may waive the requirements of Rule 119." *Gully v. Gully*, 599 N.W.2d 814, 826 (Minn. 1999). Because the district court was aware of the financial status of the parties, the fee award does not constitute an abuse of discretion.

Affirmed in part and reversed in part.