

IN THE SUPREME COURT OF OHIO

STATE ex rel., NEIL HEYSIDE, : Case No. 2022-0493
Appellant, :
v. : On Appeal from the Cuyahoga County
: Court of Appeals, Eighth Appellate District
: (Case Originating in Court of Appeals)
THE HON. JUDGE DEENA R. CALABRESE, :
Appellee. : Court of Appeals Case No. 111200

MERIT BRIEF OF APPELLANT NEIL HEYSIDE

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The Hon. Deena R. Calabrese, Judge

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Statement of Facts

On October 27, 2021, an action captioned *Erica Heyside v. Neil Heyside*, Cuyahoga CP No. 954944 (Case No. 954944) was filed in the General Division of the Cuyahoga County Common Pleas Court. The matter was assigned to the Honorable Deena R. Calabrese, Judge (Respondent), a judge in the general division of that court. The complaint sought to enforce the terms of a marital separation agreement which had been incorporated into a divorce decree in the matter captioned *Erica Heyside v. Neil Heyside*, Cuyahoga Dom. Rel. No. 359689 (Divorce Case).

At all times relevant and material herein, Respondent is/was not a judge of the domestic relations division of the common pleas court and there did not exist an entry in the Divorce Case assigning Respondent, for some special reason, to hear and determine issues in Case No. 954944, relating to the Divorce Case. R.C. 2301.03(L)(1).¹

Neil Heyside (Relator), defendant in Case No. 954944, moved to dismiss the matter claiming that the domestic relations division and not the general division of the common pleas court had sole and exclusive jurisdiction over the matter citing *Wolfe v. Wolfe*, 46 Ohio St.2d 399, 350 N.E.2d 413 (1976), paragraph four of the syllabus,² and R.C. 3105.10(B)(3).³

¹ Judges of the domestic relations division of the Cuyahoga County common pleas court “shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.”

² “A separation agreement of the parties loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce.”

³ “If a court of common pleas has a division of domestic relations, all cases brought for enforcement of a separation agreement under division (B)(1) or (2) of this section shall be (continued...)

Respondent denied the motion to dismiss whereupon Relator filed with the Court of Appeals for Cuyahoga County, Eighth Appellate District, a Verified Complaint seeking a Writ of Prohibition. Respondent moved to dismiss the action asserting that the general division has jurisdiction to enforce the separation agreement as an independent contract and that paragraph 4 of the syllabus in *Wolfe* has been superceded by the General Assembly citing *Morris v. Morris*, 148 Ohio St.3d 138, 2016-Ohio-5002, 69 N.E.3d 664.

Relator opposed Respondent's motion to dismiss disputing that *Wolfe* had been superceded by statute or that *Morris* confirmed such. Relator called the appellate court's attention the mandatory "shall" language in R.C. 3105.10(B)(3). And in giving effect to R.C. 3105.10(B)(3), Relator posited that the appellate court must consider R.C. 3105.011(A)⁴ and R.C. 3105.011(B)(2) as applicable exclusively to the domestic relations division per R.C. 2301.03(L)(1).

The appellate court below granted Respondent's motion to dismiss, *State ex rel. Heyside v. The Hon. Judge Deena R. Calabrese*, 8th Dist. Cuyahoga No. 111200, 2022-Ohio-1245. The court below indicated that the "nonexistence of a contract is a defense to a breach-of-contract action" which does not affect the general subject-matter jurisdiction of a court. *Id.*, ¶12. The court below cited its prior decisions as well as decisions from other appellate districts holding that "a separation agreement retains its contract nature following its incorporation into the divorce decree." *Id.*, ¶11, 14-16.

³(...continued)
assigned to the judges of that division."

⁴ R.C. 3105.011(A) grants the domestic relations court "full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters."

The court below further determined that R.C. 3105.10(B)(3) does not clearly intend to deprive the general division of jurisdiction in connection with the enforcement of a separation agreement as a contract. *Id.*, ¶18, 23. Finally, claiming that as Respondent did not patently and unambiguously lack jurisdiction, Relator possessed an adequate remedy at law, i.e., an appeal. *Id.*, ¶24-25.

Relator filed his Notice of Appeal of right with this Court.

Argument

Introduction

Entitlement to a writ of prohibition requires that,

relator must allege the exercise of judicial power, the lack of authority for the exercise of that power, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Elder v. Campese*, 144 Ohio St.3d 89, 2015-Ohio-3628, 40 N.E.3d 1138, ¶13. However, if the absence of jurisdiction is patent and unambiguous, a relator need not establish the third prong, the lack of an adequate remedy at law. *State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶15.

State ex rel. McKenney v. Jones, ___ Ohio St.3d ___, 2022-Ohio-583, ¶13.

It is undisputed that Respondent did and will continue to exercise judicial power for which there was/is a total lack of authority to do so. As the absence of such jurisdiction was and is patent and unambiguous, Relator is entitled to this Court's issuance of the writ of prohibition.

Proposition of Law No. 1: Paragraph 4 of the syllabus in *Wolfe v. Wolfe*, not having been reversed, modified, or superceded by statute, remains controlling law, to wit, a separation agreement of the parties loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce.

Prior to July 1, 2012, “the syllabus of a Supreme Court opinion state[d] the controlling point or points of law decided in and necessarily arising from the facts of the specific case before the Court for adjudication.” Former Rule 1(B) of the Supreme Court Rules for the Reporting of Opinions. The syllabus constituted the controlling law with any precedential effect.

On July 1, 2012, S.Ct. Rep.Op.R. 2.2 replaced former Rule 1(B), providing that the law stated in an opinion of the Supreme Court shall be contained in its text, including its syllabus, if one is provided, and footnotes.

Whereas the current rule applies to cases decided on and after July 1 2012, the former syllabus rule (still) applies to Supreme Court opinions issued prior to July 1, 2012.

Paragraph 4 of the syllabus in *Wolfe v. Wolfe*

Wolfe v. Wolfe, 46 Ohio St.2d 399, 350 N.E.2d 413 (1976) revolved around whether, under the then-applicable law, the trial court had the implied or inherent power to modify the terms of a decree of divorce relating to spousal support. *Wolfe*, 46 Ohio St.2d at 401. Of significance then, and as presented herein, the parties in *Wolfe* entered into a separation agreement for the payment of spousal support, *id.*, at 400, from which this Court unambiguously declared (and which became paragraph 4 of the syllabus),

This court has held that where an agreement is incorporated in a decree, the agreement is superseded by the decree, and the obligations of payment of alimony and child support imposed thereby are imposed not by contract but by decree.

Id., at 417.

This holding was further supported in the concurring opinion of Justice Brown “that a separation agreement merges in a decree of divorce when incorporated therein; and that the decree is thereafter subject to the continuing jurisdiction of the trial court.” *Id.*, at 422.

Thus, per paragraph 4 of the *Wolfe* syllabus, the controlling point of law in relation to a separation agreement incorporated into a divorce decree is that it “loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce.”

Paragraph 4 of the *Wolfe* syllabus has not been overruled, modified, or superceded by statute.

The lower court in mentioning *Wolfe* commented, per *Morris v. Morris*, 148 Ohio St.3d 138, 2016-Ohio-5002, 69 N.E. 3d 664, that the General Assembly abrogated paragraph 4 of the *Wolfe* syllabus. *Heyside*, ¶11. This is incorrect.

The issue in *Morris* concerned whether Civ.R. 60(B) permitted the domestic relations court to modify an award of spousal support where the divorce decree did not specifically retain jurisdiction of the court to do so.⁵ Subsequent to *Wolfe*, the General Assembly enacted legislation that limited the trial court’s power to modify an award of spousal support absent reservation of such. *Morris*, 148 Ohio St.3d, ¶¶25-27. What was “swept away” by the General Assembly, *id.*, ¶28, *Heyside*, ¶11, was the common law in which the trial court retained the inherent or implied authority to modify a support order even although it did not specifically reserve jurisdiction to do so. *Morris* did not mention or effect paragraph 4 of the *Wolfe* syllabus

⁵ The certified question presented for this Court’s resolution in *Morris*, 148 Ohio St.3d ¶1, was,

Does a trial court have jurisdiction under Civ.R. 60(B) to vacate or modify an award of spousal support in a decree of divorce or dissolution where the decree does not contain a reservation of jurisdiction to modify the award of spousal support pursuant to R.C. 3105.18(E)?

whatsoever.

Morris summarized *Wolfe*,

In *Wolfe v. Wolfe*, this court traced the foregoing historical development of the common law granting trial courts authority to modify an award of spousal support on certain conditions when the parties' agreement was silent. 46 Ohio St.2d 399, 415-416, 350 N.E.2d 413 (1976). Relying on that common law, the *Wolfe* court held that when a spousal-support award based on an agreement between the parties is not part of the property division and the decree provides that the remarriage or death of the spouse to whom support is awarded will terminate the support, there is an "implied" reservation of jurisdiction in the trial court to modify the award. *Id.*

Morris, 148 Ohio St.3d, ¶23.

Wolfe allowed such modification, *Wolfe*, 46 Ohio St.2d at 421; *Morris*, citing R.C. 3105.18(E), did not. *Morris*, 148 Ohio St.3d, ¶3.

What *Morris* "swept away" was the domestic relations court's inherent or implied authority to modify a spousal support order where the decree did not reserve jurisdiction to do so,

Therefore, the General Assembly swept away all the common law enunciated in *Wolfe*, including this court's holding in *Law* [v. *Law*] that a trial court had the authority to modify a spousal-support award if there was fraud or mistake even though the decree did not reserve jurisdiction, 64 Ohio St. 369, 60 N.E. 560 [(1954)], and this court's holding in *Newman* [v. *Newman*] that a trial court had the authority to modify a spousal-support award if there was 'mistake, misrepresentation or fraud' even though the decree did not reserve jurisdiction, 161 Ohio St. 247, 118 N.E.2d 649 [(1954)], at syllabus.

Morris, 148 Ohio St.3d, ¶28.

Paragraph 4 of the *Wolfe* syllabus was not at issue in *Morris*. Paragraph 4 of the *Wolfe* syllabus remained and remains unambiguous and untouched, and most relevant to Relator's action. Per paragraph 4 of the *Wolfe* syllabus, a separation agreement loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce. This

was the law when announced in 1976; this remains the law in 2022, notwithstanding decisions of the court below and decisions from other appellate districts holding to the contrary, i.e., that a separation agreement retains its contract nature following its incorporation into the divorce decree. *Heyside*, ¶15-16.⁶

The appellate court's comment that the "nonexistence of a contract is a defense to a breach-of-contract action," *Heyside*, ¶12, is of no moment. If, by operation of law, i.e., paragraph 4 of the *Wolfe* syllabus, the separation agreement loses its nature as a contract as having been incorporated into the divorce decree, then there is nothing for the general division to consider or that it can consider, let alone enforce, as any claim for the compliance with the order of the domestic relations court is within the sole province of the domestic relations court.

The lower court failed and refused to honor and follow this Court's syllabus law in *Wolfe*, which has not been overruled, modified or superceded by legislation. The lower court erred as a matter of law.

Proposition of Law No. 2: A court's judgment is enforced by means of execution; a court's order is enforced by means of contempt.

In addition to holding that once a separation agreement incorporated into the divorce decree loses its nature as a contract, *Wolfe* added that "the [imposed] obligations of payment" are no longer "by contract[,] but by decree." *Wolfe*, 46 Ohio St.2d at 400. This declaration transforms the contractual obligation into the decree/order of a court.

⁶ The court below quoted from *State ex rel. Gray v. Kimbler*, 9th Dist. Medina No. 20CA0077-M, 2021-Ohio 2868, pending appeal of right, Sup. Ct. No. 2021-1216. *Gray* involves the same jurisdictional question, whether a separation agreement incorporated into a divorce decree can be enforced in the general division of the common pleas court where there is a domestic relations division; however, *Gray* invokes a different provision of the Revised Code applicable to the Medina court and not relevant to Cuyahoga County.

The judgment of a court and a court's order may seem synonymous with each other.

They are not. A court's judgment is enforced by proceedings in execution of judgment whereas a court's order/decree is enforced by means of contempt, e.g. R.C. 3105.18(G), *Brandenburg v. Brandenburg*, 11th Dist. Lake No. 2004-L-085, 2005-Ohio-6417, ¶9.

The law is well-established that "a court may enforce its own orders, including divorce decrees." * * * "Under Civ.R. 75(I), the continuing jurisdiction of a court that issues a domestic relations decree 'may be invoked by the filing of any motion by a party.' " * * * "A postdecree show-cause motion filed by a party invokes both the inherent power of a domestic relations court to enforce its own orders and the court's continuing jurisdiction under Civ.R. 75(I)."

Barton v. Barton, 2d Dist. Greene No. 2016-CA-12, 2017-Ohio-980, 86 N.E.3d 937, ¶75, appeal not allowed, 150 Ohio St.3d 1410, 2017-Ohio-6964, 78 N.E.3d 910.

A court's order is "personal" to that court compared to and contrasted with the judgment of a court which can be transferred from court to court, and interstate. This distinction makes all the difference. As *Wolfe* transformed the contractual obligation into the decree/order of a court, this transformation determined the tribunal for the enforcement of the court's order and distinguishes the remedies available in the enforcement of the court's decree vis-a-vis a judgment.

Proposition of Law No. 3: The domestic relations division of the common pleas court has the sole and exclusive jurisdiction over all domestic relations matters which includes the enforcement of the domestic relations court's orders.

Where there are divisions of the common pleas court, i.e., probate, juvenile, domestic relations, each division⁷ is assigned exclusive jurisdiction over its designated area, e.g., probate,

⁷ It is common to refer to each division as a court – probate court, juvenile court, domestic relations or family court.

R.C. 2101.24; juvenile, R.C. 2151.23; and domestic relations, R.C. 3105.011. Accordingly, the probate division cannot preside over criminal felony matters, the domestic relations court cannot admit a will to probate, and the juvenile court cannot try tort cases.

Considered together, several provisions of the Revised Code define the jurisdiction of the domestic relations court in Cuyahoga County, exclusive to that division and to no other division of the Cuyahoga County Common Pleas Court.

R.C. 2301.03(L)(1) establishes the domestic relations division of the Cuyahoga County Common Pleas Court and designates the domestic relations division having “all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases.”⁸ R.C. 3105.011(A) grants the domestic relations court “full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters.” And, R.C. 3105.011(B)(2) includes spousal support in the definition of domestic relations matters per R.C. 3105.18.

Finally, where the common pleas has a division of domestic relations, R.C. 3105.10(B)(3) directs that all cases brought for enforcement of a separation agreement shall⁹ be assigned to the judges of that division.

⁸ That section concludes, “except in cases that are assigned to some other judge of the court of common pleas for some special reason,” which is inapplicable herein as the Divorce Case has not been assigned to some other judge.

⁹ “ ‘Shall’ means must.” * * * And “[t]he word ‘must’ is mandatory. It creates an obligation. It means obliged, required, and imposes a physical or moral necessity.” Thus, we repeatedly have recognized that use of the term “shall” in a statute connotes a mandatory obligation unless other language evidences a clear and unequivocal intent to the contrary. Here, there is absolutely no indication in the statutory scheme that the General Assembly meant “shall” to mean anything other than “must.”

What happens in domestic relations court, stays in domestic relations court.¹⁰

There is no concurrent jurisdiction with the general division to enforce an order of the domestic relations court

In some instances, the Revised Code authorizes concurrent jurisdiction between two divisions of the common pleas court to hear and determine a matter, e.g., R.C. 5802.03 grants concurrent jurisdiction to the probate division and general division to hear and determine any action that involves an inter vivos trust. Such is not the case herein. The domestic relations court that issued the spousal support order is the court that has the authority to enforce it, not the probate court, not the juvenile court, and not the general division.

During the pendency of divorce or dissolution proceedings and prior to its incorporation as part of the decree of divorce or dissolution, “all cases brought for enforcement of a separation agreement under [R.C. 3105.10(B)(2)] shall be assigned to the judges of that division.” R.C. 3105.10(B)(3). As it relates to post-decree enforcement of a claimed violation of a spousal support obligation of a separation agreement incorporated into a decree of divorce or dissolution, such action is in violation of the court issuing such decree, enforceable by that court by means of contempt.

The court below acknowledged that between and among divisions of a common pleas court, a statutory assignment to one division confers exclusive jurisdiction to determine the matter assigned, depriving the court’s other divisions, including its general division of jurisdiction to determine those same matters where the General Assembly clearly intended to

¹⁰ An exception exists where the domestic relations court finds an arrearage due and owed, and renders judgment on that arrearage from which the judgment may be certified and proceedings in execution may take place.

limit the statutory authority of a court. *Heyside*, ¶18-19.

Herein, the legislative intent is clear and in need of no interpretation. Domestic relations matters, which include enforcement of separation agreements and court orders relating to support, are within the sole and exclusive jurisdiction of the domestic relations division of the common pleas court and **shall** be heard by the judges of that court.

It is irrelevant whether designated as a complaint or a motion, enforcement of a separation agreement incorporated into a divorce decree remains solely and exclusively with the domestic relations division of the common pleas court.

Finally, in dismissing Relator's complaint, the appellate court distinguished, as "nontrivial" the nature of the action undertaken. *Heyside*, ¶23,

The statute [R.C. 3105.10] provides that a domestic relations court, where one exists, must hear all motions to enforce a voluntary separation agreement. The action prosecuted by [plaintiff in Case No. 954944] is not a motion, but a complaint for breach of contract. There are nontrivial differences between a motion and a complaint.

In further support of the dismissal of Relator's complaint, the court below stated that the action before Respondent also sought to enforce terms of "another agreement, but it was not brought by motion." *Heyside*, ¶23. What the court below failed to recognize and accept was this so-called other agreement arose exclusively from the claimed arrearage due arising from the failure of Relator to comply with the separation agreement incorporated into the divorce decree.¹¹ *Heyside*, ¶2.

Upon incorporation of the parties' separation agreement into the divorce decree, Relator became subject to the order of the domestic relations court for compliance with that court's order

¹¹ In his answer in Case No. 954944, Relator denied that any balance was due under the so-called other agreement.

for the payment of spousal support and the division of property. The failure to comply with either obligation is not a breach of contract, regardless of any side agreement which the parties may have reached, and were such a modification of the divorce decree, which did not occur herein, enforcement would still reside with the domestic relations court.

Case No. 954944 is entirely based on and seeks enforcement of the terms of the separation agreement incorporated into the divorce decree which belongs solely and exclusively within the domestic relations division of the common pleas court.

The appellate court mentioned that if there were no enforceable contract such would be a defense in the Case No. 954944. Heyside, ¶12. As demonstrated herein, there is no enforceable contract. In essence the appellate court is permitting a party to claim, in an action filed with the general division of the common pleas court, that a non-existent contract has been breached for which relief may be granted. There is only one venue that can provide any relief to that party – that party must go to the court that issued the decree, i.e., the domestic relations court.

Conclusion

There is no concurrent jurisdiction with nor the grant of any jurisdiction to the general division to hear and determine a matter that was, is, and continues to be, patently and unambiguously, subject to and within the sole and exclusive jurisdiction of the domestic relations division of the common pleas court.

Wherefore, for the reasons stated herein, appellant Neil Heyside respectfully prays that this Court hold that the general division of the Cuyahoga County Common Pleas Court, did not and does not have jurisdiction to proceed with Case No. 954944 as such was reserved solely and exclusively to the domestic relations division of that court; reverse the Judgment of the Court of Appeals for the Eighth Judicial District, issue a Writ of Prohibition to appellee, the Hon. Deena A. Calabrese, Judge, precluding her from presiding over Case No 954944; and for the recovery of costs incurred herein.

Respectfully submitted,

/s/Lester S. Potash
Lester S. Potash
Counsel for Appellant Neil Heyside

Certificate of Service

I certify that a true copy of the foregoing Merit Brief of Appellant has been served electronically this 18th day of May 2022, upon Nora E. Poore, Esq., Assistant Prosecuting Attorney, at npoore@prosecutor.cuyahogacounty.us.

/S/Lester S. Potash
Lester S. Potash
Counsel for Appellant Neil Heyside

CASE NO.

IN THE SUPREME COURT OF OHIO

STATE ex rel., NEIL HEYSIDE,	:	On Appeal from the Cuyahoga County
Appellant,	:	Court of Appeals, Eighth Appellate District
	:	(Case Originating in Court of Appeals)
v.	:	
	:	Court of Appeals Case No. 111200
THE HON. JUDGE DEENA R. CALABRESE, :	:	
Appellee.	:	

NOTICE OF APPEAL OF APPELLANT NEIL HEYSIDE

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Counsel of Record for Appellant
Neil Heyside

Notice of Appeal of Appellant Neil Heyside

Appellant Neil Heyside hereby gives notice of his appeal of right to the Supreme Court of Ohio from the judgment of the Cuyahoga County Court of Appeals, Eighth Appellate District entered in Court of Appeals Case No. 111200, on April 8, 2022, a copy of which is attached.

This case originated in the Court of Appeals.

Respectfully submitted,

/s/Lester S. Potash

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Certificate of Service

I certify that a true copy of the foregoing Appellant's Notice of Appeal has been served this 2nd day of May 2022, electronically upon Nora E. Poore, Esq., Assistant Prosecuting Attorney, at npoore@prosecutor.cuyahogacounty.us.

/S/Lester S. Potash

Lester S. Potash

Counsel for Appellant Neil Heyside

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

APR 08 2022

STATE EX REL., NEIL HEYSIDE, :
Relator, :
v. :
THE HONORABLE JUDGE DEENA R. :
CALABRESE,
Respondent. :

No. 111200

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DISMISSED
DATED: April 8, 2022

Writ of Prohibition
Motion No. 552584
Order No. 553465

Appearances:

Lester S. Potash, *for relator.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Nora E. Poore, Assistant Prosecuting Attorney, *for respondent.*

EMANUELLA D. GROVES, J.:

{¶ 1} Relator, Neil Heyside ("Heyside"), seeks a writ of prohibition preventing respondent, Judge Deena R. Calabrese, from exercising jurisdiction in *Heyside v. Heyside*, Cuyahoga C.P. No. CV-21-954944. We grant respondent's



motion to dismiss and dismiss the complaint for writ of prohibition for the following reasons.

I. Background

{¶ 2} On January 12, 2022, relator filed a complaint for writ of prohibition alleging that he and nonparty Erica Heyside (“Erica”) were previously married. In 2016, they litigated to conclusion a divorce proceeding in the Domestic Relations Division of the Cuyahoga County Common Pleas Court. As part of those proceedings, Heyside and Erica entered into a separation agreement that was incorporated into a final decree of divorce.¹ The separation agreement called for various payments to be made to Erica by Heyside. According to the instant complaint, on October 27, 2021, Erica instituted a breach-of-contract action that sought monetary damages from Heyside totaling \$486,679.06. Erica’s complaint in the underlying action, which is attached to relator’s complaint in the present action, points to the separation agreement and divorce decree as the source of her breach-of-contract claim. Erica’s complaint also referenced an additional agreement for payments of \$5,000 per month commencing in September 2019, which Heyside allegedly breached as well. Heyside filed a motion to dismiss the underlying action, which respondent denied. After that, Heyside filed the instant action seeking to preclude respondent from hearing Erica’s claims.

¹ Only partial copies of the divorce decree and separation agreement are in the record before this court.

{¶ 3} In his complaint, Heyside asserted that an action for breach of the separation agreement must be brought in the appropriate domestic relations court, pointing to R.C. 3105.10(B)(3) and the holding in paragraph four of the syllabus of *Wolfe v. Wolfe*, 46 Ohio St.2d 399, 350 N.E.2d 413 (1976). This holding provides that a separation agreement “loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce. (*Law v. Law*, 64 Ohio St. 369, 60 N.E. 560 (1901); *Newman v. Newman*, 161 Ohio St. 247, 118 N.E.2d 649 (1954), and *Mozden v. Mozden*, 162 Ohio St. 169, 122 N.E.2d 295 (1954), modified).”

{¶ 4} On February 15, 2022, respondent timely filed a motion to dismiss the complaint pursuant to Civ.R. 12(B)(6). Respondent argued that prohibition was inappropriate for several reasons. First, she argued that, as a common pleas court judge, she does not patently and unambiguously lack jurisdiction over an action for breach of contract. She further argued that the domestic relations case was litigated to its conclusion, meaning that court no longer had exclusive jurisdiction. Next, respondent argued that the holding in *Wolfe* was abrogated as recognized by the Supreme Court of Ohio in *Morris v. Morris*, 148 Ohio St.3d 138, 2016-Ohio-5002, 69 N.E.2d 664, ¶ 23-27. Finally, she asserted that R.C. 3105.10(B)(3) did not apply to Erica’s claims asserted in the breach-of-contract action.

{¶ 5} On February 17, 2022, relator filed a brief in opposition arguing that *Morris* did not overrule paragraph four of *Wolfe*, which is still valid law in Ohio. He also argued that sole and exclusive jurisdiction to enforce a divorce decree rests with the domestic relations court pursuant to statute.

{¶ 6} Respondent filed a reply brief in support of her motion to dismiss on February 24, 2022.

II. Law and Analysis

Standards Applicable to This Action

{¶ 7} The case is before this court on respondent's motion to dismiss pursuant to Civ.R. 12(B)(6) — failure to state a claim upon which relief can be granted. "Dismissal under Civ.R. 12(B)(6) is appropriate when it appears beyond doubt, after presuming the truth of all material factual allegations in the complaint and making all reasonable inferences in the relators' favor, that relators are not entitled to extraordinary relief in prohibition." *State ex rel. Bohlen v. Halliday*, 164 Ohio St.3d 121, 2021-Ohio-194, 172 N.E.3d 114, ¶ 12, citing *State ex rel. Zander v. Judge of Summit Cty. Common Pleas Court*, 156 Ohio St.3d 466, 2019-Ohio-1704, 129 N.E.3d 401, ¶ 4.

{¶ 8} "[W]ith few exceptions, 'a writ of prohibition "tests and determines 'solely and only' the subject[-]matter jurisdiction" of the lower court." *State ex rel. Thomas v. McGinty*, 164 Ohio St.3d 167, 2020-Ohio-5452, 172 N.E.3d 824, ¶ 26, quoting *State ex rel. Tubbs Jones v. Suster*, 84 Ohio St.3d 70, 73, 701 N.E.2d 1002 (1998), quoting *State ex rel. Eaton Corp. v. Lancaster*, 40 Ohio St.3d 404, 409, 534 N.E.2d 46 (1988), quoting *State ex rel. Staton v. Franklin Cty. Common Pleas Court*, 5 Ohio St.2d 17, 21, 213 N.E.2d 164 (1965). A writ of prohibition will only issue when a relator shows, by clear and convincing evidence, that (1) the respondent "is about to exercise or has exercised judicial power, (2) the exercise of that power is

unauthorized by law, and (3) denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of the law.” *State ex rel. Novak, L.L.P. v. Ambrose*, 156 Ohio St.3d 425, 2019-Ohio-1329, 128 N.E.3d 209, ¶ 9, citing *State ex rel. Elder v. Campese*, 144 Ohio St.3d 89, 2015-Ohio-3628, 40 N.E.3d 1138, ¶ 13. However, where a court patently and unambiguously lacks jurisdiction, a writ will issue regardless of whether an adequate remedy at law exists. *State ex rel. Bohlen* at ¶ 13, citing *State ex rel. Bates v. Court of Appeals for Sixth Appellate Dist.*, 130 Ohio St.3d 326, 2011-Ohio-5456, 958 N.E.2d 162, ¶ 12. A writ will not issue in a doubtful case because a writ is an extraordinary remedy granted with great caution. *Ohio High School Athletic Assn. v. Ruehlman*, 157 Ohio St.3d 296, 2019-Ohio-2845, 136 N.E.3d 436, ¶ 6, quoting *State ex rel. Corn v. Russo*, 90 Ohio St.3d 551, 554, 740 N.E.2d 265 (2001).

{¶ 9} Judges of the Domestic Relations Division of the Cuyahoga County Common Pleas Court have “all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.” R.C. 2301.03(L)(1). However, the general division of a common pleas court usually has subject-matter jurisdiction over matters of breach of contract so long as the claims meet the jurisdictional minimums set forth in R.C. 2305.01. Further, the jurisdictional priority rule is not implicated in this case because both parties agree that the domestic relations case has concluded.

{¶ 10} Heyside argues that the separation agreement is no longer enforceable as a contract and R.C. 3105.10(B) bestows exclusive jurisdiction on a domestic relations court, where one exists in the relevant jurisdiction, to hear and determine the claims raised in the underlying action. Cuyahoga County has a domestic relations court. R.C. 2301.03(L). Heyside asserts, that consequently, respondent patently and unambiguously lacks jurisdiction.

Patent and Unambiguous Lack of Jurisdiction

{¶ 11} Relying on paragraph four of the syllabus in *Wolfe*, 46 Ohio St.2d 399, 350 N.E.2d 413 (1976), Heyside argues the separation agreement lost its nature as a contract when it was incorporated into the divorce decree. Heyside relies exclusively on this case for this point. Respondent argues that *Wolfe* has been overruled by statute as recognized in *Morris*, 148 Ohio St.3d 138, 2016-Ohio-5002, 69 N.E.2d 664, ¶ 28 (“the General Assembly swept away all the common law enunciated in *Wolfe*”). The *Morris* Court specifically mentioned two of the three cases that were modified by paragraph four of *Wolfe* as felled by the General Assembly’s actions in enacting statutes that abrogated the holdings in *Wolfe*. *Morris* at ¶ 28. In fact, Heyside acknowledges at page five of his brief in opposition to respondent’s motion to dismiss that “other courts, including [the Eighth District Court of Appeals], have held that a separation agreement retains its contract nature following its incorporation into the divorce decree.” Heyside objects to these holdings by various courts by arguing that paragraph four of *Wolfe* precludes them.

{¶ 12} However, this argument does not demonstrate that a court patently and unambiguously lacks jurisdiction to hear an action. The nonexistence of a contract is a defense to a breach-of-contract action; it usually does not affect the general subject-matter jurisdiction of a court. The argument that the separation agreement is unenforceable as a contract after incorporation into a divorce decree is a reason to deny the claim in the underlying action. Heyside is essentially asking for immediate appellate review of respondent's denial of his motion to dismiss in the underlying action — something prohibition generally precludes. *See State ex rel. Gross v. Marshall*, 39 Ohio St.2d 92, 314 N.E.2d 170 (1974), syllabus.

{¶ 13} Further, Erica's complaint in the underlying case references an agreement other than the separation agreement whereby Heyside agreed to make certain payments at set intervals, which Heyside is also alleged to have breached. This claim must be considered when determining whether respondent patently and unambiguously lacks jurisdiction. "If a court has jurisdiction of the subject-matter involved in litigation, a writ of prohibition will not issue to prohibit it from exercising such jurisdiction. Issuance of this writ is dependent upon the issue of whether it appears that the court in which an action is sought to be prohibited has no jurisdiction of the matter under adjudication." *State ex rel. Dayton Power & Light Co. v. Riley*, 53 Ohio St.2d 168, 169, 373 N.E.2d 385 (1978), citing *State ex rel. Carmody v. Justice*, 114 Ohio St. 94, 150 N.E. 430 (1926).

{¶ 14} Other courts interpreting various claims related to this area of law have essentially determined that courts have jurisdiction to determine their own jurisdiction.

{¶ 15} The Ninth District Court of Appeals found that remedies might exist in either the domestic relations court or the general division of the common pleas court when confronted with a similar request for writ of prohibition to the one presently before us. *State ex rel. Gray v. Kimbler*, 9th Dist. Medina No. 20CA0077-M, 2021-Ohio-2868. In *Gray*, a husband and wife were granted a divorce into which a separation agreement was incorporated. *Id.* at ¶ 6. The wife passed away and the husband filed a claim in the probate court for alleged violations of the separation agreement. *Id.* at ¶ 7. The husband also filed an action in the common pleas court. *Id.* The executor of the wife's estate filed counterclaims in the common pleas court action alleging breach of the separation agreement related to the division of property. *Id.* at ¶ 8. The husband then sought a writ of prohibition, arguing that the common pleas court judge lacked jurisdiction over the counterclaims because the domestic relations court was the exclusive forum to adjudicate those claims. *Id.* at ¶ 9. In denying a writ of prohibition, the *Gray* Court addressed the same holding in *Wolfe* that Heyside points to, stating:

[Relator] relies on the Ohio Supreme Court's conclusion that "[a] separation agreement of the parties loses its nature as a contract the moment it is adopted by the court and incorporated into a decree of divorce." *Wolfe*, 46 Ohio St.2d 399, 350 N.E.2d 413 (1976), [at] paragraph four of the syllabus.

But that is not the end of the inquiry. This court has held that “[i]t has long been the rule in Ohio that if the parties voluntarily enter into a separation agreement, the agreement becomes a valid and binding contract between the parties.” *Haas v. Bauer*, 156 Ohio App.3d 26, 2004-Ohio-437, 804 N.E.2d 80, ¶ 19 (9th Dist.), quoting *Russell v. Russell*, 5th Dist. Stark No. 98-CA-0127, 1999 Ohio App. LEXIS 2689 (June 7, 1999), citing *Tullis v. Tullis*, 138 Ohio St. 187, 34 N.E.2d 212 (1941). The Seventh District Court of Appeals recognized earlier this year that there may be two remedies: contempt in domestic relations court and breach of contract in the trial court. *Rossi v. Rossi*, 7th Dist. Mahoning No. 20 MA 0086, 2021-Ohio-2348, ¶ 27. Likewise, the Third District Court of Appeals has recognized that a “separation agreement is a contractual agreement.” *Johnson v. Johnson*, 3d Dist. Hancock No. 5-07-34, 2008-Ohio-514, ¶ 12. In another case, the Fifth District, and the trial court, were apparently not persuaded by appellants’ argument that no breach of contract action could exist because the separation agreement could only be enforced through a contempt proceeding. *Boulden v. Estate of Boulden*, [5th Dist. Richland] No. 01-CA-21, [2001 Ohio App. LEXIS 4576], ¶ 1.

A review of the caselaw on this topic demonstrates that courts have taken different approaches to explaining the rights and obligations parties have related to separation agreements. This is significant because, in order to issue a writ of prohibition, this Court must find that [respondent] patently and unambiguously lacks jurisdiction to act. Based upon our review of the caselaw, we cannot conclude that [respondent] patently and unambiguously lacks jurisdiction to act.

Id. at ¶ 14-16.

{¶ 16} Similarly, the Seventh District Court of Appeals determined that the jurisdiction priority rule did not prevent a party to a divorce decree from bringing an action for breach of a stock purchase agreement and guaranty in a common pleas court even though the party also filed a motion for contempt of the separation agreement and divorce decree to which these other agreements were incorporated in the domestic relations court. *Rossi*, 2021-Ohio-2348, 175 N.E.3d 43 (7th Dist.).

The court looked to the agreements at issue and determined that the claims for breach of the agreements related to the separation agreement could be maintained in the general division of the common pleas court. The court analyzed the agreements at issue and the language of the separation agreement. It determined that relief could be afforded in the general division. *Id.* at ¶ 17.

{¶ 17} Heyside does not point us to any case that specifically addresses the jurisdiction of the general division of the common pleas court to hear the underlying breach-of-contract action in the face of the cases raised by respondent. These cases support the proposition that a court has discretion to determine whether it has jurisdiction based on the claims raised in the action. Given Heyside's limited argument, the similar arguments raised and rejected in the above cases, and the disparate treatment by various courts to the same issue, respondent has carried her burden to demonstrate that she does not patently and unambiguously lack jurisdiction based on the arguments presented.

{¶ 18} However, none of these cases addressed R.C. 3105.10(B)(3), and the apparent delegation of jurisdiction to the domestic relations court. Unless a statute conclusively removes jurisdiction, a judge of the common pleas court has general subject-matter jurisdiction and the discretion to determine her own jurisdiction. *Novak*, 156 Ohio St.3d 425, 2019-Ohio-1329, 128 N.E.3d 209, at ¶ 12. ““A statutory assignment to one division of a court confers on that division exclusive jurisdiction to determine the matters assigned, and deprives the court’s other divisions, including its general division, of jurisdiction to determine those same matters.””

State v. Lindstrom, 8th Dist. Cuyahoga No. 96653, 2011-Ohio-6755, ¶ 10, quoting *Perkins Local Dist. Bd. of Edn. v. Wooster City School Dist. Bd. of Edn.*, 183 Ohio App.3d 638, 2009-Ohio-4251, 918 N.E.2d 198, ¶14 (6th Dist.), quoting *Keen v. Keen*, 157 Ohio App.3d 379, 2004-Ohio-2961, 811 N.E.2d 565, citing *Comer v. Bench*, 2d Dist. Montgomery No. 19229, 2003-Ohio-2821. To succeed in prohibition, the removal of jurisdiction must be unequivocal and conclusive. *Novak* at ¶ 15 (“We grant writs of prohibition only when the General Assembly clearly intended to limit the statutory authority of a court.”).

{¶ 19} Heyside claims that R.C. 3105.10(B)(3) bestows exclusive jurisdiction on a domestic relations court, in a county where one exists, to resolve the dispute in the underlying case. Respondent argues that this statute has no bearing on the underlying action because this provision applies to motions brought under R.C. 3105.10(B)(2) — things like contempt motions — not to a breach-of-contract action that relies on the separation agreement.

{¶ 20} R.C. 3105.10, titled “[a]nswer, hearing, and judgment,” provides in part,

(A) The court of common pleas shall hear any of the causes for divorce or annulment charged in the complaint and may, upon proof to the satisfaction of the court, pronounce the marriage contract dissolved and both of the parties released from their obligations.

(B) (1) A separation agreement providing for the support of children eighteen years of age or older is enforceable by the court of common pleas.

(2) A separation agreement that was voluntarily entered into by the parties may be enforceable by the court of common pleas upon the *motion* of either party to the agreement, if the court determines that it would be in the interests of justice and equity to require enforcement of the separation agreement.

(3) If a court of common pleas has a division of domestic relations, *all cases* brought for enforcement of a separation agreement under division (B)(1) or (2) of this section shall be assigned to the judges of that division.

(Emphasis added.)

{¶ 21} Case law interpreting R.C. 3105.10(B)(3) is sparse. Heyside has not directed us to any court that has found the statute to apply to the present situation. At least one court has interpreted R.C. 3105.10(B)(3) to mean that a domestic relations court retains jurisdiction to enforce a separation agreement in postjudgment contempt proceedings. *Kell v. Verderber*, 1st Dist. Hamilton No. C-120665, 2013-Ohio-4223, ¶ 19-20. Also, at least one treatise may support Heyside's interpretation, stating:

[I]f a court of common pleas has a division of domestic relations, all cases brought for enforcement of a separation agreement providing for the support of children 18 years of age or older, and all cases brought for enforcement of a separation agreement voluntarily entered into by the parties, must be assigned to the judges of that division.

46 Ohio Jurisprudence 3d, Family Law, Section 507.

{¶ 22} However, R.C. 3105.10(B)(2) speaks in terms of *motions* to enforce, but R.C. 3105.10(B)(3) indicates that *all actions* for enforcement brought pursuant

to R.C. 3105.10(B)(1) or (B)(2) shall be referred to the domestic relations court where one exists. This apparent incongruity is pointed out by respondent but is not adequately addressed by Heyside.

{¶ 23} The purported removal of jurisdiction in this statute is not unequivocal and conclusive. The statute provides that a domestic relations court, where one exists, must hear all motions to enforce a voluntary separation agreement. The action prosecuted by Erica is not a motion, but a complaint for breach of contract. There are nontrivial differences between a motion and a complaint. *See Martin v. Wayne Cty. Natl. Bank Trust*, 9th Dist. Wayne No. 03CA0079, 2004-Ohio-4194, ¶ 11-12. Erica's action is one that seeks to enforce terms of the separation agreement and another agreement, but it was not brought by motion. Therefore, it is unclear if the statute applies. Because it is unclear, this court cannot say that respondent patently and unambiguously lacks jurisdiction. Respondent has general subject-matter jurisdiction and the ability to determine her own jurisdiction. Respondent may ultimately lack jurisdiction, but from the record and arguments in this case, she does not patently and unambiguously lack jurisdiction.

Adequate Remedy at Law

{¶ 24} As a result of the above determination, that respondent does not patently and unambiguously lack jurisdiction, Heyside must have no other adequate remedy at law to succeed in this action. "In general, appeal is a remedy sufficient to preclude a writ of mandamus or prohibition." *State ex rel. Durrani v. Ruehlman*,

147 Ohio St.3d 478, 2016-Ohio-7740, 67 N.E.3d 769, ¶ 15, citing *State ex rel. Caskey v. Gano*, 135 Ohio St.3d 175, 2013-Ohio-71, 985 N.E.2d 453, ¶ 2. “[T]o be an adequate remedy at law, the remedy must be ‘complete, beneficial, and speedy.’” *Id.* at ¶ 16, quoting *State ex rel. Ullmann v. Hayes*, 103 Ohio St.3d 405, 2004-Ohio-5469, 816 N.E.2d 245, ¶ 8. Heyside does not raise any issue that would lead to the conclusions that an appeal from an adverse judgment in the common pleas court case would not constitute an adequate remedy at law. Generally, “contentions that appeal from any subsequent adverse final judgment would be inadequate due to time and expense are without merit.” *State ex rel. Estate of Nichols v. Russo*, 8th Dist. Cuyahoga No. 107508, 2018-Ohio-3416, ¶ 11, quoting *State ex rel. Lyons v. Zaleski*, 75 Ohio St.3d 623, 626, 665 N.E.2d 212 (1996), citing *Whitehall ex rel. Wolfe v. Ohio Civ. Rights Comm.*, 74 Ohio St.3d 120, 124, 656 N.E.2d 684 (1995); *State ex rel. Gillivan v. Bd. of Tax Appeals*, 70 Ohio St.3d 196, 200, 638 N.E.2d 74 (1994).

{¶ 25} Therefore, an appeal from a final judgment in the underlying case constitutes an adequate remedy at law.

{¶ 26} Respondent's motion to dismiss is granted. Costs assessed against relator. The clerk is directed to serve on the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶ 27} Writ dismissed.

Emanuella D. Groves

EMANUELLA D. GROVES, JUDGE

EILEEN A. GALLAGHER, P.J., and
MARY J. BOYLE, J., CONCUR

FILED AND JOURNALIZED
PER APP.R. 22(C)

APR 28 2022

CUYAHOGA COUNTY CLERK
OF THE COURT OF APPEALS
By GRC 6 HELLIK Deputy



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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

ERICA HEYSIDE
Plaintiff

Case No: CV-21-954944

Judge: DEENA R CALABRESE

NEIL HEYSIDE
Defendant

JOURNAL ENTRY

DEFENDANT'S MOTION TO DISMISS, FILED 11/18/2021, IS DENIED. THERE IS NO DISPUTE THAT THIS CASE WAS FULLY LITIGATED TO CONCLUSION IN THE DOMESTIC RELATIONS COURT. WHILE THIS COURT ACKNOWLEDGES DEFENDANT'S CITATION TO OHIO REV. CODE ANN. § 3105.10(B)(3), THIS CASE IS NOT POSTURED AS A CONTEMPT ACTION TO DIRECTLY ENFORCE A SEPARATION AGREEMENT, BUT RATHER AS A BREACH OF CONTRACT ACTION. SEE, E.G., KASPER V. KASPER, NO. 13AP-428, 2014-OHIO-1256 (10TH DIST.), ¶¶ 20-21. IN THIS SCENARIO, THE EXCLUSIVE JURISDICTION OF THE DOMESTIC RELATIONS DIVISION HAS BEEN TERMINATED, AND THERE IS CONCURRENT JURISDICTION WITH THE GENERAL DIVISION. SEE KHAN V. HUGHES, NO. 102651, 2015-OHIO-4502, ¶¶ 10-14 (8TH DIST.); MERVIS V. ROTHSTEIN, NO. 86090, 2005-OHIO-6381, ¶ 15 (8TH DIST.); PRICE V. PRICE, 16 OHIO APP.3D 93, 95-96, 474 N.E.2D 662 (8TH DIST. 1984); SEE ALSO MORRIS V. MORRIS, 148 OHIO ST.3D 138, 2016-OHIO-5002, 69 N.E.3D 664, ¶ 28 ("THE GENERAL ASSEMBLY [HAS] SWEPT AWAY ALL THE COMMON LAW ENUNCIATED IN [WOLFE V. WOLFE, 46 OHIO ST.2D 399, 350 N.E.2D 413 (1976)]").

Judge Signature

01/04/2022

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Page 1 of 1

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ERICA HEYSIDE)	CASE NO.
2321 NORTH PARK BLVD.)	
CLEVELAND HEIGHTS, OH 44106)	
)	
)	JUDGE:
)	
Plaintiff)	
)	
vs.)	<u>C O M P L A I N T</u>
)	
NEIL HEYSIDE)	
2052 PROSPECT HILL DRIVE)	
MOUNT PLEASANT, SC 29464)	
)	
Defendant)	

1. The Defendant, Neil Heyside, was married to the Plaintiff, Erica Heyside, wherein in 2015 the Plaintiff filed a Complaint for Divorce from the Defendant, Neil Heyside, being case number DR 15-359689 and since the claim for monetary damages being asserted against the Defendant arises thereto, the Cuyahoga County Common Pleas Court has jurisdiction to entertain the filing of the within Complaint.

2. On July 11, 2016 the Plaintiff and Defendant approved a Judgment Entry of Divorce and it was confirmed by the Court along with a Separation Agreement.

3. The pertinent parts of the Judgment Entry of Divorce pertaining to the Plaintiff's Divorce, being pages 1, 2, and 5 are attached hereto as Exhibit "1."

4. The pertinent parts of the Separation Agreement pertaining to the Plaintiff's Divorce, being pages 1, 3, 4 and 8 are attached hereto as Exhibit "2."

5. Under the terms and conditions of the aforesaid described Judgment Entry of Divorce, the Defendant was to pay to the Plaintiff \$10,500.00 per month plus a 2% processing charge for 60 months commencing July 1, 2016.

6. As of June 26, 2019, according to the Payment History Report from the Cuyahoga County Child Support Enforcement Agency, the Defendant was delinquent in the amount of \$264,679.06. A copy of the Payment History Report is attached to as Exhibit "3."

7. For the period July 2019 through June 2021 the Defendant was obligated to pay \$10,500.00 per month for 24 additional months for an additional \$252,000.00 for which the Defendant was obligated to pay to the Plaintiff.

8. Pursuant to the Separation Agreement herein before identified as being Article III, Division of Property (3.07) the Defendant was to pay to the Plaintiff the sum of \$75,000.00 as and for further division of property, which payments were to be made to the Plaintiff in 5 consecutive annual payments of \$15,000.00 each commencing January 15, 2017.

9. The total of the monies due and owing by the Defendant to the Plaintiff as set forth above, is \$591,679.06, consisting of past due payments through the Cuyahoga County Child Support Enforcement Agency in the amount of \$264,679.06; an additional \$75,000.00 pursuant to the Separation Agreement being Article III, Division of Property (3.07) for the period July 2019 through June 2021 and payments under the Separation Agreement totaling \$75,000.00.

10. During the period of time the aforesaid amount were due and owing and to be due and owing, the Plaintiff and Defendant entered into an agreement wherein the Defendant

was to pay \$5,000.00 per month commencing September 2019 and a similar or greater amount each and every month thereafter.

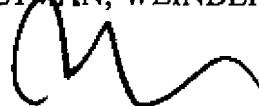
11. During the period of time the Defendant agreed to pay \$5,000.00 per month commencing September 2019 through June 2021, the Defendant has paid \$105,000.00 reducing the balance due and owing by the Defendant to the Plaintiff to \$486,679.06.

12. Due demand has been made upon the Defendant to pay to the Plaintiff all past due amounts and future payments and the Defendant has failed and refused to repay the past due payments and has represented to the Plaintiff that future payments will not be made.

13. Following the payment made in June 2021 the Defendant indicated that no payments would be forthcoming in July and August causing a breach of the Defendant's agreement with the Plaintiff, leaving an unpaid balance due and owing in the amount of \$486,679.06.

WHEREFORE, the Plaintiff prays for a Judgment against the Defendant, Neil Heyside, in the amount of \$486,679.06, together with interest at the statutory rate per annum from July 1, 2021, and costs of the within proceedings, and any other further legal and/or equitable relief that this Court deems just and/or fit.

WELTMAN, WEINBERG & REIS CO., L.P.A



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CUYAHOGA COUNTY
CLERK OF COURTS

COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
CUYAHOGA COUNTY, OHIO

Erica Heyside
PLAINTIFF

CASE NO. DR 15-359689

vs.

JUDGE Francine B. Goldberg

Neil Heyside
DEFENDANT

JUDGMENT ENTRY OF DIVORCE
(NO CHILDREN)
(Separation/ In-Court Agreement Attached)

1172
This cause came on for hearing on the 22nd day of June - July, 2016 and was duly heard before the Honorable Francine B. Goldberg, Judge of the Domestic Relations Division of the Court of Common Pleas or Magistrate _____ to whom this cause was referred by the Honorable _____, Judge of the Domestic Relations Division of the Court of Common Pleas, upon the:

- Complaint of Plaintiff and the evidence, Defendant being in default of Answer or other pleading although duly served with process, according to law.
- Complaint of Plaintiff and the evidence, Defendant having withdrawn his/her Answer or Answer and Counterclaim.
- Complaint of Plaintiff, Counterclaim of Defendant and the evidence.
- Counterclaim of Defendant and the evidence, Plaintiff having withdrawn his/her Complaint.

The Court finds that Plaintiff was a resident of the State of Ohio for more than six (6) months immediately preceding the filing of the Complaint and venue is proper in this county. The Court further finds that it has personal jurisdiction over Defendant.

The parties were married as alleged and there are no minor children of the marriage.

The Court further finds that Plaintiff has Defendant has both parties have established the cause of

- living separate and apart for one year without cohabitation,
- incompatibility, not denied,
-

and by reason thereof Plaintiff is Defendant is both parties are entitled to a divorce.

The Court further finds that the parties have entered into a Separation/In-Court Agreement, which is fair, just and equitable and orders said agreement, a copy of which is attached hereto and for identification purposes marked as Exhibit A, be included herein as if fully rewritten and its terms ordered into execution.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff is Defendant is both parties are hereby granted a divorce from Plaintiff Defendant each other and that the marriage contract heretofore existing between the parties is hereby dissolved and the terms of the attached Separation/In-Court Agreement are ordered into execution.

SPOUSAL SUPPORT
(Check one of the following two boxes)

The Court finds, upon considering the factors set forth in R.C. 3105.18(C)(1), that it is neither appropriate nor reasonable for spousal support to be paid.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that neither party shall pay spousal support to the other party. The Court shall not retain jurisdiction to modify this order.

-OR-

The Court finds, upon considering the factors set forth in R.C. 3105.18(C)(1) and in particular those specified below, that it is appropriate and reasonable for Plaintiff Defendant to pay spousal support to Plaintiff Defendant. The Court finds that the following factors support this award: disparity in income between the parties

For purposes of this order, Plaintiff Defendant is Obligor (pays spousal support) and Plaintiff Defendant is Obligee (receives spousal support).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Defendant shall pay spousal support to Plaintiff Defendant in the sum of \$ 10,500.00 per month, plus 2% processing charge, for a term of 60 months and beyond pursuant to the parties' Separation Agreement, commencing July 1, 2016. The Court shall not retain jurisdiction to modify this order. Pursuant to R.C. 3105.18(B), all payments shall terminate upon the death of either party.

Spousal Support Arrearage
(Check one of the following two boxes)

The Court finds that there is no spousal support arrearage.

-OR-

The Court finds that as of _____ the spousal support arrearage is \$ _____ which sum includes temporary orders, if any.

(If an arrearage finding is made, check one of the following two boxes)

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the support obligor shall pay an additional \$ _____ per month toward the existing arrearage.

-OR-

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is rendered in the amount of \$ _____ as and for support arrears in favor Plaintiff Defendant and against Plaintiff Defendant, upon which execution may issue.

Monthly Payment of Spousal Support \$ 4846.00 every 2 weeks

The support obligor shall pay \$ 10,500.00 per month, plus 2% processing charge. This amount includes spousal support and any payment toward arrearage.

Method to Secure Spousal Support Payments
(Check one of the following four boxes)

The support obligor shall make payments directly to support obligee.

-OR-

The support obligor receives income from an income source or has nonexempt funds on deposit in an account at a financial institution.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that a withholding or deduction notice shall issue to: Appx. Page 023

INCOME SOURCE/
FINANCIAL INSTITUTION Deloitte
ADDRESS 4022 Sells Drive
Hermitage, TN 37076

If withholding from a financial account, the support obligor shall immediately notify the CJFS-OCSS of the number and description of the account from which support shall be deducted, and the name, branch, business address and routing number of the financial institution if not set forth above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the support obligor immediately notify the CJFS-OCSS, in writing, of any change in employment (including self-employment), receipt of additional income/monies or termination of benefits. The support obligor shall include a description of the nature of the employment and the name, business address and telephone number of any employer. The support obligor shall immediately notify the CJFS-OCSS of any change in the status of an account from which support is being deducted or the opening of a new account with any financial institution.

The support obligor has no attachable income source and has the ability to post a cash bond.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the support obligor post a cash bond in the amount of \$ _____ with the Clerk of the Common Pleas Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the support obligor shall immediately notify the CJFS-OCSS, in writing, if the support obligor begins to receive income from a payor. The notice shall include a description of the nature of any new employment, and the name, business address and telephone number of any new employer.

When the support obligor begins to receive income from a payor, he/she may request that the Court cancel its bond order and instead issue a notice requiring the withholding of an amount from income for support in accordance with R.C. 3121.03(A).

When the support obligor begins to receive income from a payor, the Court will collect on the bond if the Court determines that payments due under this support order have not been made and that the amount that has not been paid is at least equal to the support owed for one month under this support order. The Court shall issue a notice requiring the withholding of an amount from the support obligor's income for support in accordance with R.C. 3121.03(A).

The support obligor has no attachable income and has no assets to post a bond.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the support obligor shall seek employment, if able to engage in employment, and shall immediately notify the Cuyahoga Job and Family Services - Office of Child Support Services (CJFS-OCSS), in writing, upon commencement or change of employment (including self-employment), receipt of additional income/monies, obtaining ownership of asset of value of \$500.00 or more, receipt or termination of benefits or the opening of an account at a financial institution. The support obligor shall include a description of the nature of the employment and the name, business address and telephone number of any employer. The support obligor shall immediately notify the CJFS-OCSS of any change in the status of an account from which support is being deducted or the opening of a new account with any financial institution.

Payments shall be made in the manner ordered by the Court. If payments are to be made other than on a monthly basis, the required monthly administration by the CJFS-OCSS does not affect the frequency or the amount of the support payments to be made under the order.

If spousal support is to be paid through CJFS-OCSS, payment shall be made to Ohio Child Support Payment Central (OCSPC), P.O. Box 182372, Columbus, Ohio 43218-2372. Any said payments not made through OCSPC shall not be considered as payment of support, unless states otherwise within Court order. Checks or money orders shall be made payable to "OCSPC" Cash

payments to OCSPC may be made at the Cuyahoga County Treasurer's Office, Whitatch Building, 1st Floor – Cashier, 1910 Carnegie Avenue, Cleveland, Ohio 44115. All payments shall include the following: Obligor's name, Social Security Number, SETS case number and Domestic Relations Court case number. If there is to be a withholding/deduction order, the support obligor shall make payments directly to OCSPC until the income source/financial institution begins withholding/deducting in the appropriate amount.

NOTICES AND GENERAL INFORMATION
(Applicable only if spousal support is to be paid through CJFS-OCSS)

EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER'S LICENSE NUMBER AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE COURT OR AGENCY, WHICHEVER ISSUED THE SUPPORT ORDER. IF YOU ARE THE OBLIGOR UNDER A CHILD SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY BE FINED UP TO \$50 FOR A FIRST OFFENSE, \$100 FOR A SECOND OFFENSE AND \$500 FOR EACH SUBSEQUENT OFFENSE. IF YOU ARE AN OBLIGOR OR OBLIGEE UNDER ANY SUPPORT ORDER ISSUED BY A COURT AND YOU WILLFULLY FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY BE FOUND IN CONTEMPT OF COURT AND BE SUBJECTED TO FINES UP TO \$1,000 AND IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

IF YOU ARE AN OBLIGOR AND YOU FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU: IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE, DRIVER'S LICENSE OR RECREATIONAL LICENSE; WITHHOLDING FROM YOUR INCOME; ACCESS RESTRICTION AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS, AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION.

Failure to comply with this support order can result in a contempt action; and, as provided in R.C. §2705.05, the penalty for which may be imprisonment for not more than thirty (30) days in jail and/or fine of not more than \$250.00 for a first offense, not more than sixty (60) days in jail and/or fine of not more than \$500.00 for a second offense, and not more than ninety (90) days in jail and/or not more than \$1,000.00 fine for a third or subsequent offense.

The following information is provided in accordance with R.C. 3105.72 and R.C. 3121.30:

SUPPORT OBLIGEE (receives support):

Name	<u>Erica Heyside</u>
Social Security Number	<u>xxx-xx-8422</u>

SUPPORT OBLIGOR (pays support):

Name	<u>Neil Heyside</u>
Social Security Number	<u>xxx-xx-7666</u>
Date of Birth	<u>May 2, 1957</u>

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Defendant pay to Plaintiff Defendant, as additional spousal support or property division, the expenses for his/her counsel fees in the sum of \$ _____ for which judgment is rendered and execution may issue.

Retirement Assets

(Check the following three boxes only if retirement assets are being divided in Separation Agreement)

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that any Qualified Domestic Relations Order (QDRO) or Division of Property Order (DOPO) that is necessary to implement the orders herein, and was not submitted at the time of this final hearing pursuant to Local Rule 28(F)(1) of the Court of Common Pleas, Division of Domestic Relations, Cuyahoga County, Ohio, shall be prepared by the party noted in that Rule or Plaintiff Defendant, no later than _____ days from this date.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains jurisdiction with respect to the QDRO or DOPO to the extent required to maintain its qualified status and the original intent of the parties. The Court also retains jurisdiction to enter further orders as are necessary to enforce the assignment of benefits to the non-participant as set forth herein, including the re-characterization thereof as a division of benefits under another plan, as applicable, or to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the participant shall not take actions, affirmative or otherwise, that can circumvent the terms and provisions of the QDRO or DOPO, or that may diminish or extinguish the rights and entitlements of the non-participant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Defendant (DOB: _____) be and is hereby restored to her former name of _____.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all restraining orders previously issued by this Court are hereby dissolved and set aside.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following parties are hereby dismissed from this action: _____.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the costs of this proceeding shall be paid by: *(Check one of the following boxes.)*

- Plaintiff.
- Defendant.
- Both parties equally.
- _____

RECEIVED FOR FILING

IT IS SO ORDERED. JUL 11 2016

CUYAHOGA COUNTY
CLERK'S OFFICE
By _____ Deputy

JUDGE FRANCINE B. GOLDBERG

NEIL HEYSIDE, DEFENDANT

ERICA HEYSIDE, PLAINTIFF

DOMINIC M. ANTONELLI (0038994)

**RIETH ANTONELLI & RAJ
ATTORNEY FOR PLAINTIFF**

DOMINIC M. ANTONELLI
CLERK'S OFFICE
COSTS: + ① 5

SEPARATION AGREEMENT

THIS AGREEMENT is made this 21st day of June, 2016, in the State of Ohio, between Erica Heyside (hereinafter referred to as "Wife") and Neil Heyside (hereinafter referred to as "Husband").

In consideration of the mutual undertakings herein contained, the parties agree as follows:

ARTICLE I STATUS OF PARTIES

- 1.01 The parties were married on the 23rd day of August, 1985 at Liverpool, England.
- 1.02 The parties are parents of two (2) children born as issue of said marriage, both of whom adults.
- 1.03 Differences have arisen between the parties and as a result Husband and Wife have chosen to live separate and apart from the other and desire to settle and adjust all matters relating to their marital duties, past, present and future support of the other, property rights, both real and personal, tangible and intangible, each may have by virtue of their marriage, and payments in the nature of spousal support or other allowances which either might be entitled to in the event of a dissolution of marriage, legal separation or divorce.

ARTICLE II CONSIDERATION AND PURPOSES OF AGREEMENT

- 2.01 The consideration for this Agreement is the mutual benefit to be obtained by both of the parties hereto and the covenants and agreements of each of the parties to the other. The adequacy of the consideration for all agreements herein contained is stipulated and admitted by the parties.
- 2.02 It is the purpose and intent of this Agreement to settle forever and completely the interests and obligations of the parties in all marital and separate property as between themselves, their heirs and assigns, and to determine their mutual obligations for the care and support of their minor children, together with support of each other. The parties have attempted to divide their property in a manner which conforms to a just and right standard and the rights of each party.



ARTICLE III DIVISION OF PROPERTY

3.01 Wife shall retain, free and clear of any claim of Husband, the parcel of real property located at and known as 21949 Calverton Road, Shaker Heights, Ohio 44122 (further known as and described in Exhibit A1 attached hereto and hereby made part hereof). Said real property is unencumbered by any mortgage lien, and Husband hereby warrants that he has not caused or allowed any liens to be placed upon said real property, and that he will not allow any lien to be placed thereon, and to the extent that any such liens are found to exist, then Husband shall be solely responsible for immediate payment and release of the same and will indemnify and hold Wife absolutely harmless thereon. Said real property is presently titled to solely to Wife, and all equitable and legal title will be hereafter maintained by Wife, free and clear of any claim of Husband. Upon request of Wife, Husband shall immediately convey to Wife by Quit Claim Deed all his right, title and interest in and to said real property. In the event of Husband's failure to convey all of his right, title and interest in and to said real property to Wife within thirty (30) days of the journalization of a Decree of Divorce or Decree of Dissolution in this matter, thereupon, this Agreement when incorporated into a Decree of Court of competent jurisdiction shall be, constitute and operate as such conveyance, and the Cuyahoga County Recorder and Auditor is hereby authorized and directed to record same for public record of such conveyance. Wife shall be responsible for and pay all expenses associated with said real property, and she shall indemnify and hold Husband absolutely harmless thereon.

3.02 Wife shall retain as her sole and separate property any and all bank accounts held solely in her name, free and clear of any interest Husband may have therein, and Husband shall retain as his sole and separate property any and all bank accounts held solely in his name, free and clear of any interest Wife may have therein.

3.03 Husband shall retain his Deloitte 401(k) Plan, Deloitte Profit Sharing Plan, Deloitte Pension Plan and Deloitte PSRIP, free and clear of any interest Wife may have therein.

3.04 Wife shall retain exclusive use and enjoyment and leasehold interest in her 2015 Ford Edge currently leased in her name, and she shall be solely responsible for any and all payments and/or expenses, including but not limited to insurance, maintenance and repairs relating thereto, and she shall indemnify and hold Husband absolutely harmless thereon.

3.05 All household goods, furniture, furnishings, appliances, fixtures, books, items of art, linens, silverware, dishes and all other tangible personal property presently located at 21949 Calverton Road, Shaker Heights, Ohio 44122 shall be and remain the sole property of Wife, free and clear of any claim of Husband. All household goods, furniture, furnishings, appliances, fixtures, books, items of art, linens, silverware, dishes and all other tangible personal property located at 203 Belle Point Drive, Mount Pleasant, South Carolina 29464 shall be and remain the sole property of Husband, free and clear of any claim of Wife.

3.06 Husband shall hereafter continue to maintain Wife as a partner and authorized user and named member of his United Airlines Mileage Plus Premier Gold Account HS697849 or any such successor account relating thereto. Appx. Page 028

3.07 Husband shall pay Wife the sum of \$75,000.00 as and for further division of property relating to a partial repayment of those school fees and tuition paid by Wife on the behalf of the parties' children. Said sum shall be paid to Wife in five (5) consecutive annual payments of \$15,000.00 each commencing on January 15, 2017.

3.08 The parties agree that, except as set forth elsewhere in this Agreement, each party shall have and hold as his or her own property any tangible personal property, clothing, jewelry, personal effects and belongings, free and clear of any interest of the other.

Each party hereby represents and warrants that, except as set forth elsewhere in this Agreement, he or she assumes hereby any obligation arising out of the use and/or ownership of any property which has become his or her own exclusive property and that he or she shall indemnify and hold absolutely and completely harmless the other from any and all liability, cost and expense arising out of his or her ownership of any property which has hereby become his or her own exclusive property.

ARTICLE IV DEBTS AND OBLIGATIONS OF THE PARTIES

4.01 Husband shall be responsible for and pay any and all debts, liabilities and credit accounts, held in his name alone or held in the joint names of the parties, and he shall indemnify and hold Wife absolutely and completely harmless from any and all liability, cost, and expense arising therefrom, including, but not limited to all college and student loans acquired relative to the parties' children's education.

4.02 Wife shall be responsible for and pay any and all debts, liabilities and credit accounts, held in her name alone and she shall indemnify and hold Husband absolutely and completely harmless from any and all liability, cost, and expense arising therefrom.

4.03 Except as specifically set forth otherwise elsewhere in this Agreement, each party shall be solely responsible for any debt each has created and/or secured by any property, real, personal or mixed, in his or her possession, and each agrees to hold the other absolutely and completely harmless from any and all liability, cost and expense arising therefrom.

4.04 Each party agrees that, except for the debts and obligations detailed herein, he or she shall pay and hold the other absolutely and completely harmless from any and all liability, cost and expense arising from debts created on or after the date of this Agreement. Neither party shall in any way incur debts in the name of the other after the date of this Agreement.

ARTICLE V SPOUSAL SUPPORT

5.01 Husband shall pay Wife the sum of \$10,500.00 each month as and for spousal support for a period of sixty (60) months subject to earlier termination upon the death of either party. Said spousal support obligation during this sixty (60) month period shall not be modifiable as to amount or duration. Following said sixty (60) month period, Husband shall pay to Wife as and for additional spousal support, the sum of \$10,500.00 each month until further order of Court. Said spousal support shall be paid to Wife monthly pursuant to a wage withholding order upon Husband's salary through his employer. As Husband receives his salary in twenty-six (26) increments each year, each every two (2) weeks, the foregoing spousal support payments shall be withheld from Husband's salary by the Cuyahoga Support Enforcement Agency (CSEA) in the approximate amount of Four Thousand Eight Hundred Forty-Six and 15/00 Dollars (\$4,846.15) every two (2) weeks.

5.02 Husband may retain entirely any bonus which he may receive in any given year from his current or subsequent employer.

5.03 Said spousal support shall be taxable to Wife as income and tax deductible to Husband.

ARTICLE VI LIFE INSURANCE

6.01 Wife owns and has in her possession and in full force and effect a life insurance policy upon Husband's life with the North American Life Insurance Co. with a \$1,000,000.00 death benefit, and she shall continue to own said policy hereafter and shall be and remain the sole beneficiary thereof subject to her right to name any successor beneficiaries thereof.

6.02 Wife shall be solely responsible for and pay the premiums associated with said policy and shall indemnify and hold Husband harmless relative thereto.

ARTICLE VII TAX FILINGS

7.01 The parties shall file joint federal, state and local tax returns for tax year 2015, and any tax liability related thereto shall be the sole responsibility and shall be paid by Husband, and Husband shall indemnify and hold Wife absolutely harmless thereon. Husband may retain as his sole and separate property any refund related to said tax filing and the same shall be his sole and separate property, free and clear of any interest Wife may have therein.

7.02 Husband shall also indemnify and hold Wife absolutely harmless relative to any liability associated with any previous tax filings made by Husband and/or Wife during their marriage.

ARTICLE VIII ATTORNEY FEES AND COSTS

8.01 Each party is aware of his or her right to engage independent counsel of his or her own choice in the negotiation and preparation of this Agreement and in any current or subsequent

9.14 This Agreement may be amended or modified only by a written instrument signed by both parties.

9.15 This Agreement, except as otherwise expressly provided herein, shall be binding upon, and shall inure to the benefit of the respective legatees, devisees, heirs, executors, administrators, assigns and successors in interest of the parties.

9.16 The parties shall enter into good faith negotiations addressing any and all disagreements on all issues concerning the interpretation of, or any failure to comply with, or any other issue concerning the implementation of, this Separation Agreement before seeking relief within the court system.

9.17 This Agreement shall be governed by, and shall be construed in accordance with, the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties hereto have set their respective hands on the date on which they have acknowledged their willingness to enter into this Agreement.

WITNESSES:

Lauren Paige
Lauren Paige

Erica Heyside
ERICA HEYSIDE, WIFE

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

Erica Heyside PERSONALLY APPEARED before me on the 11th day of May, 2016, who acknowledged to me that she had signed the foregoing Separation Agreement and that the same was her free act and deed.

LAUREN M. PAIGE
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.



Lauren Paige
Lauren Paige

July 11, 2016
Erica Heyside
Erica Heyside
NOTARY PUBLIC

Neil Heyside
Neil Heyside
Neil Heyside

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS.

Neil Heyside, PERSONALLY APPEARED before me on the 21st day of May, 2016, who acknowledged to me that he had signed the foregoing Separation Agreement and that the same was his free act and deed.

SOUTH CAROLINA
CHARLESTON COUNTY


NOTARY PUBLIC

My Commission
Expires: 09/29/2024

Order ID: 13732103
Loan No.: 0341511616

EXHIBIT A - /
LEGAL DESCRIPTION

The following described property:

Situated in the City of Shaker Heights, County of Cuyahoga and State of Ohio and known as being Sublot No. 1-B in Mary Van Thun Resubdivision of Sublot No. 1 in the Resubdivision Block X of the Van Sweringen Company's Subdivision No. 28 of part of Original Warrensville Township Lot No. 27 as shown by the recorded Plat in Volume 187, Page 20 of Cuyahoga County Records and being 77 feet front on the Northeasterly side of Calverton Road extending back 198.30 feet on the Northwesterly line, 116.12 feet on the Southeasterly line and having a rear line of 116.12 feet as appears by said Plat be the same more or less, but subject to all legal highways.

Assessor's Parcel Number: 734-07-004

Payment History Report

FINANCIAL TRANSACTION HISTORY PERIOD:

07/01/2017 - 06/26/2019

CUYAHOGA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY
 1640 SUPERIOR AVE. EAST
 P.O. BOX 93318
 CLEVELAND, OH, 44101-5318
 (216)443-5100
 (800)443-1431

Date Printed: 06/27/2019
 Case Number: 7104067132
 Order Number: D035968900 OH180

Obligee Name: Erica Heyside
 Obligor Name: Neil Heyside

Monthly Support

Child: \$0.00
 Additional: \$12,852.00
 Total: \$12,852.00

As of: 06/26/2019

Current Month Unpaid Balance: \$12,852.00
 Total Credits: \$0.00
 Past Due Unpaid Balance: \$253,927.06
 Funds on Hold: \$0.00
 Total Unpaid Balance: \$264,679.06

Transaction Date	Collection Amount	Collection Applied to:		Collection Sent to:			
		Current Support	Past Due Support	Family	Other	Refunded	Fees
09/25/2017				5931.69			
09/25/2017	5931.69	5717.92	213.77				
09/11/2017				4782.08			
09/11/2017	4782.08	4782.08					
08/28/2017				4830.63			
08/28/2017	4830.63	4830.63					
08/14/2017				4843.85			
08/14/2017	4843.85	4843.85					
07/31/2017				4591.85			
07/31/2017							
07/31/2017	4843.85	1042.56	Appx. Page 034 3549.17				252.00

Electronically Filed - 06/27/2021 - 07/21/2021 - CIV-21-954944 - Confirmation Nbr. 2386896 / CLLMD

EXHIBIT 2

Transaction Date	Collection Amount	Collection Applied to:		Collection Sent to:			
		Current Support	Past Due Support	Family	Other	Refunded	Fees
07/17/2017				4843.85			
07/17/2017	4843.85	4843.85					
07/03/2017				4613.47			
07/03/2017	4613.47	4613.47					

Totals for 07/01/2017 - 06/26/2019

Collection Amount: \$34,689.42

Applied to Current Support: \$30,674.48

Applied to Past Due Support: \$3,762.94

Sent to Family: \$34,437.42

Sent to Other: \$0.00

Refunded: \$0.00

Sent to Fees: \$252.00

2019 Year to Date Collections by Obligation Type

Child Support Total: \$0.00

Spousal Support Total: \$0.00

Medical Support Total: \$0.00

Other Total: \$0.00

2386896 / CLLMD

Prior Year Collections by Obligation Type

Child Support Total: \$0.00

Spousal Support Total: \$0.00

Medical Support Total: \$0.00

Other Total: \$0.00

2018 Obligations Paid Total: \$0.00

Electronically Filed 10/27/2021 07:41 / CV 21954944 / Confirmation Nbr.

*This report is intended to provide information regarding financial transactions processed for the report period as indicated above and may NOT reflect all financial transactions of the case. This payment history is not intended to be used for court purposes. Yearly total amounts reflect payments that have been received by child support as of the specified dates, not when they were disbursed.

Explanation of Key Report Fields ▼**Case Number:** A unique 10-digit, system assigned number used to identify a Child Support Case**Order Number:** Court or administrative order number associated with the case number**Date Printed:** Date the report is generated**Obligee / Obligor:** Any person, including a state or political subdivision, owed support / The person who owes support**Monthly Support/Child:** (Current Child Support) The amount designated for the current month's amount of money an

obligor is required to pay to provide support for the child(ren) of the case/order

Monthly Support/Additional: Amount due for other obligations (Spousal, Medical, Past Due Support and Fees)

Monthly Support/Total: Total obligation charged for the current month (The monthly child support amount plus the monthly additional amount)

As of: Date that all information is based on

Current Month Unpaid Balance: Includes any support, payments ordered to reduce past due support (arrearages) and fee obligations due for the current month. The entire amount may not be owed to the family. Support owed to the family, other entities and fee obligations are all included in this amount

Past Due Unpaid Balance: Includes prior period unpaid support (arrearages) and fees (not including any unpaid obligations for the current month) on the As of Date. The entire amount may not be owed to the family. Support owed to the family, other entities and fee balances are all included in this amount

Total Unpaid Balance: Includes total arrearages plus any unpaid obligations for the current month on the As of Date. The entire amount may not be owed to the family. Support owed to the family, other entities and fee balances are all included in this amount. NOTE: This amount will be equal to the Current Month Unpaid Balance + Past Due Unpaid Balance minus any Past Due Support Payments displaying in the Monthly Support Obligations section of the My Support Order(S) and Balance Information page.

Total Credits: The total amount of excess funds remaining after all current monthly obligations have been met. These funds will be used to count as a payment toward next month's obligations

Funds on Hold: Support collections that are temporarily held instead of being issued, usually because there is a court order for the child support enforcement agency to hold the payments, due to a bad address, etc. The amount of these funds may already be included in the reported collections and applied to the unpaid balance

Transaction Date: Date the actual processing took place

Collection Amount: The amount received from the obligor

Applied to Current Support: The amount designated for the current month's obligations

Applied to Past Due Support: Past due, unpaid support owed by the obligor. Payments made towards past due support will reduce the unpaid balance on the order

Sent to Family: Support collection sent to the family

Sent to Other: Support collection sent to an entity due the support other than the family

Sent to Fees: Support collection designated for processing and other fees

Refunded: Collections refunded back to the obligor

Child Support Total: The total amount paid by the obligor to provide support for a child for the time period displayed

Spousal Support Total: The total amount paid by the obligor to provide support owed to a former spouse for the time period displayed

Medical Support Total: The total amount paid by the obligor to provide for a child's health care needs for the time period displayed

Other Total: The total amount paid by the obligor that was sent to an entity due the support other than the family