[Cite as *Sturt v. Sturt*, 2026-Ohio-4621.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Willard H. Sturt Appellee v. Diane E. Sturt Appellant	Court of Appeals No. L-25-00255 Trial Court No. DR2014-0071 **DECISION AND JUDGMENT** Decided: November 20, 2026

* * * * *

Joseph W. Westmeyer, III, for appellee.

Jay E. Feldstein, for appellant.

* * * * *

OSOWIK, P.J.

{¶ 1} Plaintiff-appellant, Diane F. Sturt, appeals the September 23, 2025 judgment of the Lucas County Court of Common Pleas, Domestic Division, which vacated a finding of contempt against defendant-appellee, Willard H. Sturt, reduced the amount a

magistrate ordered him to pay as a purge condition, and vacated an award of attorney fees that the magistrate ordered Willard to pay. For the following reasons, we reverse.

I. Background

{¶ 2} Diane Sturt and Willard Sturt were married on June 12, 1993, and divorced January 6, 2015. They have two adult daughters, born in 1993 and 1996. The final judgment entry of divorce provided for the division of property, including real estate located in Minturn, Colorado ("the Colorado Property"). That judgment specified that the Colorado Property would be held in an irrevocable trust for the benefit of Diane and Willard with a right of survivorship to their daughters, with Diane and Willard to be designated co-trustees. Important to the present appeal, the judgment allocated responsibility for expenses associated with the Colorado Property and provided as follows:

> [Diane] shall be permitted to add an alarm system to the Colorado property. . . . *[Willard] shall be responsible for and shall pay and assume, all expenses connected with the Colorado Property, including but not limited to any mortgage, real estate taxes, utilities, and maintenance*; and [Diane] shall reimburse [Willard] either one-half of the actual expenses or $5,000.00, whichever is less, on an annual basis and after presentation to [Diane] by [Willard] of all bills, invoices, and cancelled checks written by [Willard] to pay for said expenses. The parties shall purchase insurance for the Colorado Property and shall divide the cost evenly between them. *[Diane] will purchase the insurance and [Willard] will reimburse [Diane] for one-half of the premium amount*. In the event [Diane] uses any of his family members to perform work at the Colorado Property, written invoices must also be provided and are subject to [Diane]'s review and approval.

Emphasis added.

{¶ 3} On September 19, 2023, Diane filed a motion to show cause why Willard should not be held in contempt for violating the terms of the judgment entry of divorce. Simply stated, Diane alleged that with regard to the Colorado Property, Willard failed to pay maintenance expenses, real estate taxes, insurance premiums, and utilities, forcing Diane to incur these expenses herself. She sought reimbursement for the expenses she incurred.

A. The Trial Evidence

{¶ 4} A trial was held on October 1, 2024 before a magistrate. Diane testified that Willard stopped paying expenses of the Colorado Property in late 2020. She claimed that he had failed to pay utilities, property taxes, and homeowners' insurance and had not performed necessary maintenance. Diane said that some of the utilities were on the verge of being turned off. She insisted that she attempted to inform Willard that bills needed to be paid and repairs were needed. She explained that she had written to Willard at home and tried contacting him at his office, but she received no response. Believing that payment of these bills and maintenance expenses was needed to preserve and protect the property, Diane testified that she paid the utilities, taxes, homeowners' insurance, and maintenance expenses herself and sought reimbursement via her motion to show cause. Diane described that additional work needed to be done, such as carpet replacement and fireplace repair, and additional bills were coming due.

{¶ 5} Concerning utilities, taxes, and insurance, Diane presented evidence—via testimony and/or invoices—that she incurred the following expenses for homeowners' insurance:

Date	Amount	Payee
2020	$3,806	Safeco
2021	$4,217	Safeco
2022	$3,472	Safeco
2023	$4,348	Safeco
TOTAL	**$15,843**	
MINUS 50%	**$7,921.50**	

She presented evidence that she paid the following for real estate taxes:

Date	Amount	Payee
2021	$6,145.02	Eagle County
2022	$6,045.15	Eagle County
2023	$6,103.84	Eagle County
2023	$152.60	credit card fee
TOTAL	**$18,446.61**	

She presented evidence that she paid the following for water bills:

Date	Amount	Payee
2022	$1,060.34	Eagle River Water/Sanitation
2024	$2,500	Eagle River Water/Sanitation
TOTAL	**$3,560.34**	

And she presented evidence that she paid $58 per month to Xfinity for Internet, which she testified was needed to maintain the alarm system that was installed in accordance with the parties' judgment entry of divorce. At some point, Diane did not specify when, the monthly rate increased to $72. One bill for $58 was admitted into evidence at trial.

{¶ 6} Concerning maintenance, Diane presented evidence that she incurred the following expenses:

Date	Amount	Payee	Nature of Work
10/4/2021	$3,200	Kinona Painting	Sand and stain decks
4/15/2022	$13,911	Rocky Mountain Creations	Copper caps on exposed log posts to prevent water intrusion, deck/railing work, railing replacement
7/24/2022	$796.93	Affordable Drain Plumbing	To repair leak in basement ceiling caused by broken backflow
9/10/2022 and thereafter	$48,821	Colorado Cabin Restoration	Two-part exterior log restoration because logs were turning gray/deteriorating, deck railings/posts rotting and falling off
5/7/2022-10/7/2022	$1,300	All Seasons Service, Inc.	Winterize sprinkler system, monthly yard maintenance
11/17/2022	$594.79	The Paint Bucket	Paint deck near girls' bedroom
1/2023	$385	Valley Lock & Key	Address doors that could not be unlocked on upper floors and other issues throughout the home
2/8/2023 to 7/24/2024	$2,128.56	Sundance Plumbing and Heating	Remove/replace failed boiler pump, control board replacement, glycol/annual inspection circulation/zone issues
3/2023	$1,800	Tile Setters	Repair cracked shower floors and leaking
12/9/2023	$163.23	Home Depot	Sealant for stone walls and shower
3/13/2024	$908	Skyline Mechanical	Heating/zone repairs, master bedroom heat and boiler leak repairs
3/15/2024	$3,683.32	Alpine Glass	Install Euro shower due to mold
8/5/2024	$2,700	Erik's Painting	Power wash and stain exterior deck
8/12/2024	$5,000	Umbrella Roofing	Cedar shake/shingle and underlayment leak repair/maintenance
9/11/2024	$8,200	Eagle Valley Electric/Nathan LaCrosse, LLC	Installed heat tape in valleys, gutters, downspouts, and trouble areas
	$2,144	Home Depot	Replace 20-year-old refrigerator
TOTAL	**$95,735.83**		

{¶ 7} Diane testified that for the last two to three years, she and Willard's daughter and son-in-law had been living at the Colorado Property. Diane said that she visits the property about twice a year, but Willard has not been there since their daughter moved in.

She said that even before he stopped paying bills, Willard had performed very little maintenance.

{¶ 8} On cross-examination, Diane confirmed that despite living at the Colorado Property, her daughter pays for none of the utilities. She disagreed that her daughter residing there prevents others from using the property. She conceded that she does not know if Willard ever received her correspondence about the repairs she believed were necessary, and she did not obtain his consent before incurring expenses. She acknowledged that it was not her responsibility to maintain the property, and the judgment entry of divorce does not say that Diane may incur expenses for maintenance and utilities then seek reimbursement from Willard. Diane agreed that Willard spends part of the year in Mexico, yet she tried to reach him at his Ohio residence and workplace.

{¶ 9} Willard testified that he did not remember if he received specific letters from Diane or her attorney, but agreed that he had received some "nasty" letters from Diane. Willard said that he has no phone, but maintained that Diane could have found him at his office; he acknowledged that he no longer goes to his office. Willard explained that Diane could have reached him on his wife's phone, however, he said that Diane and his current wife do not get along. He conceded that if Diane called his wife, his wife would not take the call because she does not want Willard to talk to Diane.

{¶ 10} Willard acknowledged that he had paid the expenses of the property before his daughter moved in. He testified that the house is 4,000 square feet and is heavily landscaped, and water bills routinely run $160 per month. He recognized that the alarm

system may require internet service to operate, which he did not pay for. He did not dispute that he had paid no real estate taxes since 2020. Willard claimed that his daughter moved into the home without his consent. He complained that he could not use the house with his daughter living there, but he acknowledged that at almost 90 years old, he is too old to ski anyhow.

{¶ 11} Willard agreed that work needed to be done on the house in 2021, and said that he would have had it done, but he wanted to do it "at the right time" and "use the right people." He criticized the amount Diane paid to have the work done. He explained that he wanted to use the people who had helped build the house, which he acknowledged were Mexicans who were no longer in the area. He said the younger guys Diane wanted to hire were too expensive. Willard agreed that the work was necessary, but claimed that he could do a lot of the work himself. He just did not like who Diane employed to perform the work.

{¶ 12} When asked what work performed on the house was not necessary, he agreed that much of the work performed was necessary. Nevertheless, Willard denied that the redwood deck needed to be sanded and painted. He conceded that he did not pay anything for insurance and he had not been to the house in at least three years. He acknowledged that railings had fallen off the deck, but claimed that he "always figured on fixing all that stuff when [he] got the right person"; he obtained no estimates for the work—he "was looking for the people that helped [him] put [it] up." Willard recognized that he used the wrong kind of pine when he built the house and it rotted too fast.

{¶ 13} Willard denied that heating coils needed to be installed to prevent ice from forming on the roofline. He acknowledged that ice dams build up in the roof if the roof isn't cleaned, but he said someone just needed to "get up there and clean the roof off," a task he used to perform himself before he started "getting up in age." He claimed that because his daughter was living there with a man, he did not come to trim the trees and clean off the roof like he used to do.

{¶ 14} Willard agreed that winterizing the sprinkler system is regular maintenance. He acknowledged that the fireplace—a large stone Indian fireplace—does not work, but said that it just required a new fan because "they" kept the fan running all the time. He recognized that the large stones needed to be removed to access the fan. Willard agreed that the carpet needs to be replaced, but said that he did not consent to replace the carpet. He didn't believe that a new refrigerator was needed even though the original refrigerator was more than 20 years old. He conceded on cross-examination that if he were living there, he would have bought a new refrigerator. Willard said that he did not know about cracks in the shower floor, but he said that this is something that happens. He also denied being aware of a problem with the shower or with heating, except for the bathroom heating, which he said always had problems, and he denied knowing that there were problems with the locks.

{¶ 15} Willard agreed that the exterior and deck needed work "for a period of time," but he insisted that he wanted the right people to perform the work with the right materials. He claimed that he could fix the deck himself. He complained that Diane did not tell him she was having it fixed before the work was performed. Willard testified that

his consent was not sought before copper caps were installed on the wood posts. He claimed that he could have done that himself for a couple hundred dollars rather than the $4,000 Diane paid for the work. Willard acknowledged that Diane had told him that there were defects with the roof, but denied giving his consent for work to be performed on the roof. He insisted that he had not consented to the house being painted. The bottom line was that Willard wanted to either make repairs himself or hire them out to whom he wanted when he wanted. He just hadn't done so.

{¶ 16} Finally, according to Willard, since 2015, Diane has never paid him anything toward maintenance of the property. He said that he sought reimbursement but Diane complained that he had not sent her the invoices.

B. The Magistrate's Decision

{¶ 17} After the hearing, the magistrate issued her decision. She found that the judgment entry of divorce made clear that Willard was required to pay one half of the home insurance and all expenses for the Colorado property including half the insurance and real estate taxes, utilities, and maintenance, with Diane to pay half of these expenses up to $5,000. Despite these clear obligations and despite notice, Willard admittedly paid nothing toward the property for at least two to three years and paid no taxes or insurance since 2020. The magistrate disapproved of Diane's resort to self-help, but found Diane's claim credible that she had been unable to reach Willard. The magistrate admonished that Diane should have filed a motion or contacted Willard through his attorney rather than incurring expenses and seeking reimbursement.

{¶ 18} The magistrate found Diane credible that she paid insurance on the property for 2021 to 2024 in the estimated amount of $16,868. She found that Willard was responsible for half this, for a total of $8,434.

{¶ 19} The magistrate found that Diane paid real estate taxes of $6,145.02 for 2021, $5,869.08 plus interest of $176.07 for 2022, and $6,256.44 for 2023. She found that 2024 taxes were still owed in the amount of $7,837.28. She awarded the amounts she found were paid but not the amount still owed.

{¶ 20} The magistrate found that Diane paid water bills of $1,060.34 in September of 2022, and $2,500 in March of 2024, and awarded these amounts to Diane.

{¶ 21} The magistrate found that Diane paid $1,450 for internet between December 2022 through December 2024, but only submitted an invoice for $58. She awarded $58 per month for internet from December 2022 through December 2024—a total of $1,450.

{¶ 22} The magistrate distinguished "maintenance" from upgrades, and found that the following bills were maintenance:

Date	Amount	Payee
7/24/2022	$796.93	Affordable Drain Plumbing
4/15/2022	$9,501	Rocky Mountain Creations
10/4/2021	$3,200	Kinona Painting
11/17/2022	$594.79	The Paint Bucket
5/7/2022-10/7/2022	$200 and $1,100	All Season Service
8/12/2024	$5,000	Umbrella Roofing
3/13/2024	$150 and $758	Skyline Mechanical
8/5/2024	$2,700	Erik's Painting

2/8/2023 to 7/24/2024	$2,128.56	Sundance Plumbing and Heating
TOTAL	**$26,129.28**	

{¶ 23} The magistrate subtracted out Diane's required payment toward these expenses, and based on the timing of those expenses, totaled Diane's share at $18,248.73. Between real estate taxes, utilities, and maintenance, then adding in $8,434 for one-half of the home insurance, the magistrate found that Willard owed Diane a total of $40,171.50.[1]

{¶ 24} The magistrate found that Willard failed to comply with the court's judgment of divorce and was, therefore, in contempt. She imposed a sentence of 30 days in the Lucas County Corrections Center. She found that Willard could purge himself of the contempt by paying Diane $40,171.50, plus 2024 real estate taxes by March 10, 2025.

{¶ 25} The magistrate found that Diane failed to present evidence of attorney fees, but considering the time and labor expended in the case, attorney fees of $5,000 were reasonable. She also charged costs to Willard of $150.

{¶ 26} The magistrate instructed that (1) future utility bills and insurance invoices must be provided to Willard for payment through his attorney, and (2) Diane shall provide information concerning future maintenance to Willard through his attorney *before* completing any such maintenance.

C. The Parties' Objections

{¶ 27} Both Diane and Willard filed objections to the magistrate's decision.

[1] We believe that the magistrate made a $400 math error in Diane's favor.

{¶ 28} Diane argued that the trial court should have awarded an additional $7,837.28 for taxes because they had actually accrued in 2023. She claimed that she should have been awarded an additional $2,746.42 for the water bill because Willard stopped making payments at the end of 2020 and Diane paid a total of $6,306.76. Diane claimed she should have been awarded an additional $758 for internet because she paid this bill for 46 months. She claimed that she paid insurance totaling $20,579—not $16,868. Diane argued that cabin restoration was "maintenance"—not an "upgrade"—thus she should have been awarded $47,971 for cabin restoration. She argued that the sprinkler system expenses should have been awarded as maintenance, as should have been the plumbing repairs and new refrigerator. Finally, she claimed that she should have been awarded $11,419.43 for attorney fees and costs.

{¶ 29} Willard argued that attorney fees should not have been awarded at all because no evidence of attorney fees was presented. Willard also claimed that he should not have been found in contempt because the divorce judgment did not specify when maintenance must be completed and there was no evidence of any utility being shut off due to nonpayment. He maintained that there is no provision in the judgment entry permitting Diane to take it upon herself to pay bills or incur maintenance costs without notice to Willard then seek reimbursement. Willard complained that his daughter now lives in the Colorado home, which had previously been used as a vacation home only, and having her as a permanent resident has increased expenses and wear and tear on the house and has hindered Willard from being able to use the property for its intended purpose as a vacation home. He claimed that Diane allowed their daughter to move in

without consulting Willard and has charged her no expenses, instead placing the burden of the expenses on Willard.

{¶ 30} Willard also challenged some of the expenses that the magistrate determined were "maintenance" expenses. He claimed that the work performed by Rocky Mountain Creations was for renovation, not maintenance. He insisted that even to the extent that some of the expenses were maintenance expenses, he should have been given the opportunity to complete the work himself, look for his own contractor, or at least consent to the work before it was performed. He believed that he should not have to pay expenses for work he could have performed himself or that was done without his consent.

D. The Trial Court Judgment

{¶ 31} The trial court resolved the parties' objections in an order journalized on September 23, 2025.

{¶ 32} As to Willard's objections, the trial court agreed with Willard that the judgment of divorce did not authorize Diane to take it upon herself to arrange work to be done then seek reimbursement. It found that Willard was to undertake these expenses then seek reimbursement from Diane for up to half, but not to exceed $5,000 annually. The court agreed that the proper procedure to remedy violation of the court's order was to file a motion to show cause and to compel the party to follow the order. The court found that Diane bypassed proper procedure by unilaterally deciding what work to have done, who would do it, and how much would be paid for the work. As such, Willard was not

able to review, challenge, or pay the bills before Diane made payment. Because there was no clear, specific language in the order authorizing Diane to do this and requiring Willard to reimburse her, the court found that there was no basis to find Willard in contempt. The court characterized Diane's strategy as using the court as leverage to collect money for work that she arranged without his authorization.

{¶ 33} As to Willard's claim that some of the work was for home improvement and not mere maintenance, the court found that Willard was responsible for *all* expenses, including but not limited to maintenance. However, the court found that because it had determined that Willard was not in contempt for violating the court order, the objection was rendered moot.

{¶ 34} As to Willard's claim that attorney fees should not have been awarded, the court found that this issue was moot because it had determined not to award attorney fees in ruling on Diane's objections.

{¶ 35} As to Diane's objection that she should have been awarded attorney fees of $11,419, the court found that this objection lacked merit because she failed to present sufficient documentation or evidence at the hearing and, in any event, it was rendered moot by the court's decision not to award attorney fees.

{¶ 36} As to Diane's objection to the magistrate's failure to award amounts due for 2024 real estate taxes, the court found no merit to this objection because Diane testified at the hearing that she did not think she had yet paid the 2024 taxes because they were due in January.

{¶ 37} As to Diane's objection that the magistrate failed to award additional water bills paid by Diane totaling $6,306.76, the court found that there was insufficient credible evidence in the record to support her claim that she paid this amount on top of the $1,060.34 and $2,500 awarded by the magistrate.

{¶ 38} As to Diane's objection that she should have been awarded an additional $758 for internet service, the court found that there was insufficient credible evidence in the record to establish that this additional amount should have been awarded.

{¶ 39} And as to Diane's claim that she should have been awarded $20,208[2] for insurance rather than the $16,868 recognized by the magistrate, the court found that there was insufficient credible evidence in the record to establish that she should have been awarded this additional amount.

{¶ 40} In sum, the court found that Willard was not in contempt "regarding the work on the Colorado property arranged by" Diane, but the finding of contempt with respect to the payment of real estate taxes, insurance, water bills, and internet bills "remains as ordered, as well as the purge provisions related to the contempt for these issues."

{¶ 41} The court further concluded that its determination not to find Willard in contempt regarding the maintenance and home improvement work to the Colorado Property necessitated reconsideration of the issue of attorney fees and costs. It denied the request for attorney fees and cost. It found that "[n]either party was prevented from fully

[2] Diane's objections actually claimed that $20,579 should have been awarded—not $20, 208.

litigating his/her rights and both parties' legal interests have been adequately protected without an award of attorney fees or costs." The court stated that it had considered all R.C. 3105.73 factors and determined that it was equitable not to award attorney fees or costs.

{¶ 42} The court clarified that the following orders would remain in effect:

> (1) all future utility bills related to the Colorado property are to be provided in a timely manner by Ms. Sturt to Mr. Sturt for payment; (2) yearly invoices for home insurance for the property are to be provided in a timely manner by Ms. Sturt to Mr. Sturt for payment or reimbursement; and (3) Ms. Sturt is to provide information to Mr. Sturt concerning future home maintenance/improvement issues for the property prior to the completion of any such maintenance/improvement.

{¶ 43} Diane appealed. She assigns the following errors for our review:

> ASSIGNMENT OF ERROR NO. 1: The trial court erred by sustaining Willard's objection to the Magistrate's finding of contempt for failing to comply with the parties' Divorce Judgment that required him to be responsible for and pay expenses for the Colorado Property and in failing to adopt the Magistrate's decision in that regard.
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> ASSIGNMENT OF ERROR NO. 2: The trial court erred by failing to order sanctions against Willard in the form of money that Diane paid for maintenance expenses for the Colorado Property as reasonable purge conditions within the discretion of the trial court and in failing to adopt the Magistrate's decision in that respect.
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> ASSIGNMENT OF ERROR NO. 3: The trial court erred by impermissibly modifying the terms of the parties['] Divorce Judgment by finding Willard's consent was required before Diane could pay necessary expenses to maintain the Colorado Property when Willard failed to do so and was on notice such expenses were necessary.
>
> ASSIGNMENT OF ERROR NO. 4: The trial court erred by overruling Diane's objection as to the calculation of reimbursement owed to Diane for the payment of real estate taxes, insurance, maintenance and utilities.

ASSIGNMENT OF ERROR NO. 5: The trial court erred by sustaining Willard's objection as to the Magistrate's award of attorney's fees and costs in favor of Diane and by overruling Diane's objection as to the amount of the award.

II. Law and Analysis

{¶ 44} In her first assignment of error, Diane argues that the trial court erred when it sustained Willard's objection and rejected the magistrate's contempt finding in regard to Willard's failure to pay the expenses of the Colorado Property. In her second assignment of error, Diane argues that the trial court erred when it failed to adopt purge conditions in the amount that Diane paid for expenses. In her third assignment of error, Diane argues that the trial court modified the terms of the divorce judgment by finding that Willard's consent was required before Diane could pay expenses necessary to maintain the Colorado Property. In her fourth assignment of error, Diane argues that the trial court erred when it overruled her objection to the magistrate's calculation of amounts owed to her for the payment of real estate taxes, insurance, maintenance, and utilities. And in her fifth assignment of error, Diane argues that the trial court erred when it sustained Willard's objection to the magistrate's award of attorney's fees and costs and overruled Diane's objection to the amount of that award.

A. Contempt for Failing to Pay Maintenance Expenses

{¶ 45} In her first assignment of error, Diane challenges the trial court's judgment, which found well-taken Willard's objection to the magistrate's contempt finding. She maintains that she presented clear and convincing evidence that Willard violated the

Divorce Judgment by abandoning his obligation to maintain the property despite being aware that such maintenance was necessary.

{¶ 46} "Contempt of court is defined as disobedience of an order of a court." *Windham Bank v. Tomaszczyk,* 27 Ohio St.2d 55 (1971), paragraph one of the syllabus. "Generally, the trial court enforces the provisions of a separation agreement incorporated into a divorce decree through a contempt action." (Internal quotations and citations omitted.) *Liggett v. Liggett*, 2022-Ohio-4700, ¶ 6 (1st Dist.). *See also Andrews v. Andrews,* 2023-Ohio-293, ¶ 15 (6th Dist.). In a contempt action, the movant has the burden to prove by clear and convincing evidence that the non-movant is in contempt of court. *Kelley v. Kelley,* 2022-Ohio-4306, ¶ 15 (6th Dist.). We review the trial court's decision in a civil-contempt proceeding for an abuse of discretion. *Id.,* citing *State ex rel. Cincinnati Enquirer v. Hunter*, 2013-Ohio-5614, ¶ 21. "A trial court will be found to have abused its discretion when its decision is contrary to law, unreasonable, not supported by the evidence, or grossly unsound." *State v. Nisley*, 2014-Ohio-981, ¶ 18 (3d Dist.), citing *State v. Boles,* 2010-Ohio-278, ¶ 16-18 (2d Dist.).

{¶ 47} The trial court agreed with Willard that there was no basis to find him in contempt because the judgment of divorce did not authorize Diane to take it upon herself to arrange work to be done then seek reimbursement. The court found that because there was no clear, specific language in the order authorizing Diane to do this and requiring Willard to reimburse her, there was no basis to find Willard in contempt. We disagree.

{¶ 48} The judgment of divorce made clear that Willard was responsible for paying "all expenses connected with the Colorado Property, including but not limited to

any mortgage, real estate taxes, utilities, and maintenance." At the hearing on Diane's show-cause motion, Willard admitted that he completely stopped paying all expenses relating to the property. He admitted that he knew work needed to be done on the house, yet he obtained no estimates for the work. He claimed that he intended to either perform the work himself—despite being almost 90 years old and despite not having visited the property in more than three years—or hire the original workers, even though he knew those workers were unavailable. Willard admitted that railings had fallen off the deck, he used the wrong kind of pine when he built the house and it rotted too fast, he hadn't performed tree-trimming in years, the sprinkler system required annual winterization, the refrigerator was original to the house and would have been replaced if he was living there, ice dams would build up in the roof if the roof wasn't cleaned, the exterior and deck needed work, and there were defects with the roof that Diane told him about. Willard also conceded that he knew the fireplace did not work, there was a problem with the bathroom heating, and cracks could form in the shower floor. And while Willard criticized Diane for hiring some work to be done—like installing copper caps on the wood posts—his criticism was that he could have done it more cheaply himself, not that the work wasn't necessary.

{¶ 49} Diane testified to her attempts to reach Willard. The magistrate found Diane's testimony credible. Willard admitted that he had received letters from Diane, and he admitted that he was largely unreachable because he had no phone, was usually in Mexico, and his current wife would not accept calls from Diane.

{¶ 50} While the judgment of divorce did not expressly contemplate Diane hiring out the work herself and later seeking reimbursement with the help of the court, neither did it permit Willard to simply ignore his obligation to maintain the property and pay taxes, insurance, and utilities. *See Drake v. Drake,* 2003-Ohio-813, ¶ 6 (12th Dist.) (ordering husband to reimburse wife for debts that he was required to pay under the divorce decree but which she paid in his stead). Because it was undisputed that Willard, in fact, purposefully ignored his obligations, we find that Diane presented clear and convincing evidence of Willard's disobedience of the judgment of divorce, and the trial court abused its discretion when it granted Willard's objection and rejected the magistrate's finding of contempt. The trial court's judgment was unreasonable, not supported by the evidence, and was grossly unsound.

{¶ 51} We find Diane's first assignment of error well-taken.

B. Purge Conditions in the Form of Money Paid for Maintenance Expenses

{¶ 52} In her second assignment of error, Diane argues that the trial court erred when it failed to adopt the purge conditions imposed by the magistrate as sanctions against Willard—i.e., reimbursement to Diane for maintenance expenses that she paid when Willard failed to abide by the terms of the judgment of divorce. Willard responds that Diane was not authorized to incur expenses then seek reimbursement from Willard, and the trial court correctly concluded that there was no basis for sanctions. He maintains that "[i]t is not a question of ability to pay but a question of compliance with the order."

{¶ 53} "'[A] sanction for civil contempt must allow the contemnor the opportunity to purge himself or herself of contempt.'" *Angotti v. Jones,* 2024-Ohio-3222, ¶ 27 (6th Dist.), quoting *Burchett v. Miller*, 123 Ohio App.3d 550, 552 (6th Dist. 1997). A purge condition must be reasonable and compliance must be possible. *Id.* We review the reasonableness of a purge condition for an abuse of discretion. *Id.* "The party who is in contempt bears the burden of presenting sufficient evidence at the contempt hearing to establish that the trial court's purge conditions are unreasonable or impossible for him to satisfy." (Internal citations and quotations omitted.) *Id.*

{¶ 54} For the reasons articulated in the preceding section, we agree with Diane that Willard was properly found by the magistrate to be in contempt for purposefully neglecting his duty under the divorce judgment to pay maintenance and other expenses. Sanctions and purge conditions that include the unpaid maintenance expenses were reasonably ordered by the magistrate. The trial court abused its discretion when it granted Willard's objection and removed the maintenance expenses from the purge conditions.

{¶ 55} We find Diane's second assignment of error well-taken.

C. Consent to Incur Maintenance Expenses

{¶ 56} In her third assignment of error, Diane argues that the trial court erred by finding that Willard's consent was required before Diane could pay necessary expenses to

maintain the Colorado property when Willard himself failed to do so. She maintains that Willard was on notice that these expenses were necessary, and by requiring Diane to obtain Willard's consent before incurring such expenses, the trial court impermissibly modified the terms of the parties' divorce judgment.

{¶ 57} Willard responds that it is Diane who seeks to modify the terms of the agreement. He maintains that there is no language in the divorce judgment that would allow Diane to unilaterally determine what maintenance was needed, hire and pay contractors, then seek reimbursement. "In fact," he argues, "the language states the opposite when it states Willard **shall be responsible for and shall pay** for utilities and maintenance."

{¶ 58} "A separation agreement is a contract and, as such, is subject to the same rules of construction as other contracts." *Brennan v. Brennan*, 1994 WL 518152, *2 (6th Dist. Sept. 23, 1994), citing *Forstner v. Forstner*, 68 Ohio App.3d 367, 372 (11th Dist. 1990); *Uram v. Uram*, 65 Ohio App.3d 96, 99 (9th Dist. 1990). A separation agreement must, therefore, "be interpreted to give effect to the parties' intention." *Id.,* citing *Skivolocki v. East Ohio Gas Co.*, 38 Ohio St.2d 244 (1974), paragraph one of the syllabus. The parties' intention must be ascertained from the language of the agreement. *Id.* " If the terms of the agreement are plain and unambiguous, the words must be given their plain, common and ordinary meaning." *Id.*, citing *Forstner* at 372.

{¶ 59} Under the plain language of the parties' divorce judgment, Willard was responsible for "all expenses connected with the Colorado Property." The agreement does *not* say that Willard's consent was required before expenses could be incurred, it

does not say that only Willard could decide what maintenance was needed, and it does not say that Diane could not incur expenses and seek reimbursement. Certainly, the agreement contemplated that Willard would be proactive, would pay the expenses, and would seek reimbursement from Diane up to $5,000 per year after he himself incurred the expenses. It did not contemplate, however, that Diane would have to litigate before she could front expenses necessary to prevent utilities from being turned off, tax liens from being filed, late fees from being assessed, or the property from falling into disrepair.

{¶ 60} In fact, the trial court apparently concluded that Diane *could* front the expenses for taxes and utilities; she just could not do so for maintenance expenses. It found that with respect to the maintenance expenses, there was "no clear and specific language in the order authorizing Diane to assume responsibility for work to be done on the property or to pay for the work" then seek reimbursement. Yet, it adopted "the finding of contempt for Mr. Sturt's failure to pay the Colorado property's real estate taxes, home insurance, water bills, and internet bills . . . , as well as the purge provisions related to the contempt for these issues." The language of the divorce judgment doesn't justify treating these sets of expenses differently. It uses the same language for dividing responsibility for payment of (1) the taxes and utilities, and (2) the maintenance expenses: "[Willard] shall be responsible for and shall pay and assume, all expenses connected with the Colorado Property, including but not limited to any mortgage, real estate taxes, utilities, and maintenance[.]"

{¶ 61} Because we agree with Diane that the trial court modified the terms of the agreement when it found that Diane was required to obtain Willard's consent before she

could incur expenses required to maintain the Colorado Property, we find her third assignment of error well-taken.[3]

D. Calculation of Taxes, Insurance, Maintenance, and Utilities.

{¶ 62} In her fourth assignment of error, Diane challenges the calculation of the reimbursement owed by Willard for Diane's payment of maintenance, real estate taxes, insurance, and utilities. She maintains that the magistrate undercalculated Willard's payment obligation at $40,171.50, then the trial court further erred when it reduced the magistrate's calculation by removing all maintenance expenses. Diane claims that there is sufficient evidence in the record to support a determination that Willard owes Diane $103,654.89 for his share of the expenses for the past four years.

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[3] Diane emphasizes that under the terms of the parties' trust agreement—which was admitted as an exhibit—both she and Willard were authorized to perform acts that they deemed "needful, desirable or expedient for the proper and advantageous management of the Trust Estate"; she maintains that the Divorce Judgment merely allocated the financial responsibility for the property, requiring Willard to bear most of the expenses.

In *Natl. City Bank v. de Laville,* 2006-Ohio-5909, ¶ 29 (6th Dist.), we construed the terms of a trust document in a declaratory-judgment action. There was an antenuptial agreement that was not specifically incorporated by reference into the trust document, but which directly addressed aspects of the trust. We observed that the two documents demonstrated "not just the reflective and complementary nature of their terms," but also their binding effect upon the trustee's proper distribution and handling of the subject assets. We concluded that those documents should be construed together in determining the declaratory-judgment action.

Here, the divorce judgment contemplated that Willard would pay maintenance expenses. It says nothing to suggest that maintenance could be performed only within Willard's discretion, and the complementary trust document expressly vests *both* Willard and Diane with such discretion.

{¶ 63} In our summary of the trial testimony, we charted the expenses—real estate taxes, insurance, utilities, and expenses—supported by Diane's testimony and/or the exhibits. As to taxes, insurance, and utilities, we agree with Diane's calculation at page 13 of her brief as to the amounts she paid for those particular expenses. Our calculation is the same as Diane's. We note that in her objections to the magistrate's decision, she argued that she should be awarded additional amounts for taxes, insurance, and utilities, but she appears to have abandoned that position on appeal.

{¶ 64} We mainly agree with the magistrate's calculation of amounts paid by Diane for taxes, insurance, and utilities, except that the magistrate *estimated* insurance expenses at $16,868, when there was evidence supporting an *actual* calculation of $15,843. Dividing this between Willard and Diane as required under the judgment of divorce, Willard's share would be $7,921.50—not $8,434 as calculated by the magistrate.

{¶ 65} As to other "expenses," again, we charted above the amounts supported by the record evidence. We agree with Diane that the magistrate undercalculated maintenance expenses, but we will consider only those expenses identified by Diane in her objections to the magistrate's decision:

{¶ 66} (1) Cabin restoration. Diane paid $48,821 for two-part exterior log restoration because logs were turning gray and deteriorating and deck railings and posts were rotting and falling off. Willard recognized that he used the wrong kind of pine when he built the house and it rotted too fast. He also acknowledged that the exterior and deck needed work "for a period of time." He insisted that he wanted the right people to perform the work with the right materials, but he never obtained estimates or took any

action towards making these repairs. We find that based on the evidence presented, this was a maintenance expense for which Diane should be reimbursed. The trial court erred when it overruled Diane's objection as to this expense.

{¶ 67} (2) Railing and deck surfaces. Willard acknowledged that railings had fallen off the deck, but claimed that he "always figured on fixing all that stuff when [he] got the right person"; he obtained no estimates for the work—he "was looking for the people that helped [him] put [it] up." Willard also claimed that he could have installed copper caps on the wood posts for a couple hundred dollars rather than the $4,000 Diane paid for the work, but he never did this. The magistrate awarded $9,501 for work performed by Rocky Mountain Creations, but we conclude that based on the record evidence, Diane should have been awarded the full amount for this work—$13,911—instead of the $9,501 the magistrate awarded. The trial court erred when it overruled Diane's objection as to this expense.

{¶ 68} (3) Roof. The magistrate awarded $5,000 for work performed by Umbrella Roofing, including cedar shake and shingle and underlayment leak repair and maintenance, so the magistrate's decision already granted Diane the relief she requested in this regard. The trial court erred when it granted Willard's objection to this expense.

{¶ 69} (4) Ice dams. Willard denied that heating coils needed to be installed to prevent ice from forming on the roofline, however, he acknowledged that ice dams can build up in the roof if the roof isn't cleaned; he said someone just needed to "get up there and clean the roof off," a task he used to perform himself before he started "getting up in age." If Willard could not get up to clean the roof off, it follows that Diane could also not

perform this task herself. We agree with Diane that she should have been awarded amounts paid to have heat tape installed in valleys, gutters, downspouts, and trouble areas. According to the evidence presented at trial, she paid $8,200 to Eagle Valley Electric for this work. We find that based on the evidence presented, this was a maintenance expense for which Diane should be reimbursed. The trial court erred when it overruled Diane's objection as to this expense.

{¶ 70} (5) Sprinkler systems. It appears to us that the magistrate allowed this expense. She approved payments totaling $1,300 to All Season Service. The trial court erred when it granted Willard's objection to this expense.

{¶ 71} (6) Plumbing repairs, leaks, and mold. We agree with Diane that the repair of leaks is a maintenance expense, and Willard conceded that while he was not specifically aware that there were cracks, this is something that happens. We conclude that based on the evidence in the record, Diane should have been awarded $1,800 to Tile Setters for repairs to the cracked shower floors and leaking, and $163.23 for amounts paid to Home Depot for sealant for stone walls and shower. The trial court erred when it overruled Diane's objection as to this expense.

{¶ 72} (7) Refrigerator. Willard agreed at trial that the refrigerator was more than 20 years old and if he had been living there, he would have replaced the refrigerator. We find that Diane should have been awarded the amount paid for the refrigerator, $2,144. The trial court erred when it overruled Diane's objection as to this expense.

{¶ 73} In sum, based on the trial evidence, we find that these additional maintenance expenses should have been awarded to Diane:

Date	Amount	Payee	Nature of Work
4/15/2022	$4,410	Rocky Mountain Creations	Copper caps on exposed log posts to prevent water intrusion, deck/railing work, railing replacement
9/10/2022 and thereafter	$48,821	Colorado Cabin Restoration	Two-part exterior log restoration because logs were turning gray/deteriorating, deck railings/posts rotting and falling off
3/2023	$1,800	Tile Setters	Repair cracked shower floors and leaking
12/9/2023	$163.23	Home Depot	Sealant for stone walls and shower
9/11/2024	$8,200	Eagle Valley Electric/Nathan LaCrosse, LLC	Installed heat tape in valleys, gutters, downspouts, and trouble areas
	$2,144	Home Depot	Replace 20-year-old refrigerator
TOTAL	**$65,538.23**		

{¶ 74} Now that we have calculated all amounts that should have been awarded to Diane, we break down the expenses by year—like the magistrate did—in order to calculate the amount that should be set-off for Diane's share of the expenses. We note that Diane did not provide the date when the refrigerator was purchased, so we construe this against her and assign it as a 2020 expense, for which she must pay one-half.

	2020	2021	2022	2023	2024	TOTAL
Half of Insurance	$1,903	$2,108.50	$1,736	$2,174		**$7,921.50**
Taxes		$6,145.02	$6,045.15	$6,256.44		**$18,446.61**
Water			$1,060.34		$2,500	**$3,560.34**
Internet			$58	$696	$696	**$1,450**
Maintenance	$2,144	$3,200	$65,423.72	$3,513.61	$16,808	**$91,089.33**
Diane's share (the lesser of the total of 50% of taxes, water, internet, and maintenance *or* $5,000)	($1,072)	($4,672.51)	($5,000)	($5,000)	($5,000)	**($20,744.51)**
Total Owed by Willard	$2,975	$6,781.01	$69,323.21	$7,640.05	$15,004	**$101,723.27**

{¶ 75} Because we agree with Diane that expenses for the Colorado Property were miscalculated, we find her fourth assignment of error well-taken. However, we disagree that Willard owes Diane $103,654.89 for his share of the expenses—i.e., insurance, taxes, utilities, and maintenance. We calculate the amount to be $101,723.27.

E. Attorney Fees and Costs

{¶ 76} In her fifth assignment of error, Diane argues that the trial court abused its discretion when it sustained Willard's objection to the magistrate's award of attorney fees. She also claims that the trial court erred when it overruled her objection to the amount of the attorney fees. Willard responds that the trial court properly concluded that there was insufficient evidence to support an award of attorney fees.

{¶ 77} Under R.C. 3105.73(B), "[i]n any post-decree motion or proceeding that arises out of an action for divorce . . ., the court may award all or part of reasonable attorney's fees and litigation expenses to either party if the court finds the award equitable." "[T]he court may consider the parties' income, the conduct of the parties, and any other relevant factors the court deems appropriate" in determining whether an award is equitable. *Id.* It may not consider the parties' assets. *Id.*

{¶ 78} Here, the magistrate awarded attorney fees of $5,000. Diane complains that her attorney fees actually totaled $11,419.43, and she requested a separate hearing to prove these fees, which the magistrate did not allow. Willard objected to the $5,000 award of fees and the trial court sustained his objection because (1) Diane did not present evidence of attorney fees, (2) the court vacated the finding of contempt with respect to

the maintenance expenses, and (3) the court found that "[n]either party was prevented from fully litigating his/her rights and both parties' legal interests have been adequately protected without an award of attorney fees or costs." The court said that it had considered the R.C. 3105.73(B) factors and determined that the decision not to award attorney fees was equitable.

{¶ 79} Diane points out that regardless of the maintenance expenses, the trial court agreed that Willard had failed to pay insurance, taxes, and utilities, and Diane incurred attorney fees to compel Willard to pay those amounts. She maintains that Willard purposefully disobeyed the court order and his financial obligations, forcing her to bring the show-cause motion.

{¶ 80} Given that the trial court's decision concerning attorney fees was made in conjunction with its conclusion that Willard was not obligated to reimburse Diane for maintenance expenses—a decision we have concluded was error—we remand this matter to the trial court to reweigh the equitable considerations in light of our resolution of Diane's assignments of error and determine whether a hearing on attorney fees is warranted.

{¶ 81} We find Diane's fifth assignment of error well-taken.

III. Conclusion

{¶ 82} Willard undisputedly ignored his obligations under the judgment of divorce when he failed to pay maintenance expenses. Diane presented clear and convincing evidence of Willard's disobedience of the judgment of divorce, and the trial court abused

its discretion when it granted Willard's objection and rejected the magistrate's finding of contempt. We find Diane's first assignment of error well-taken.

{¶ 83} Sanctions and purge conditions that include the unpaid maintenance expenses were reasonably ordered by the magistrate. The trial court abused its discretion when it granted Willard's objection and removed the maintenance expenses from the purge conditions. We find Diane's second assignment of error well-taken.

{¶ 84} The trial court improperly modified the terms of the judgment of divorce when it found that Diane was required to obtain Willard's consent before she could incur expenses required to maintain the Colorado Property. We find Diane's third assignment of error well-taken.

{¶ 85} Additional amounts should have been awarded to Diane for expenses she incurred relating to the Colorado Property. We find that Diane should be reimbursed $101,723.27 for expenses she incurred for insurance, taxes, utilities, and maintenance expenses. We find Diane's fourth assignment of error well-taken.

{¶ 86} The trial court's decision vacating attorney fees was made in conjunction with its conclusion that Willard was not obligated to reimburse Diane for maintenance expenses. Given that we have found that the court erred when it concluded that Willard need not reimburse Diane for maintenance expenses, we remand this matter to the trial court to reweigh the equitable considerations in light of our resolution of Diane's assignments of error and determine whether a hearing on attorney fees is warranted. We find Diane's fifth assignment of error well-taken.

{¶ 87} We reverse the September 23, 2025 judgment of the Lucas County Court of Common Pleas, Domestic Division. Willard is ordered to pay the costs of this appeal under App.R. 24.

Judgment reversed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, J.

JUDGE

Gene A. Zmuda, J.

JUDGE

Myron C. Duhart, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.supremecourt.ohio.gov/ROD/docs/.