

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS**

IN RE: THE MARRIAGE OF)
MICHAEL EDWARD HASTINGS,)
Petitioner,)
)
vs.) No. 21 D 1097
)
KATHLEEN MARILYN HASTINGS,)
Respondent.)

PETITION FOR CONTRIBUTION TO ATTORNEYS' FEES AND COSTS

NOW COMES Respondent, KATHLEEN HASTINGS ("Kathleen"), by her attorneys, SCHILLER DU CANTO & FLECK LLP, pursuant to Section 5/503, 504 and 508 of the Illinois Marriage and Dissolution of Marriage Act, and in support of her Petition for Contribution to Attorneys' Fees and Costs from the Petitioner, MICHAEL HASTINGS ("Michael"), she states:

FACTUAL BACKGROUND

1. Michael commenced this action by filing a Petition for Dissolution of Marriage on June 21, 2021; however, the parties have been at issue since June 3, 2021 when Kathleen's counsel sent correspondence to Michael's counsel attempting to resolve the case pre-suit and address certain threats that Michael made to Kathleen regarding cancelling her credit cards and liquidating certain bank accounts—Michael ultimately made good on his threats leaving Kathleen with an overdrawn bank account and no access to credit.

2. The parties have two minor children: Mikey, age 6 and Madison, age 2.

3. Throughout this case, three major themes have emerged: (1) that Michael has engaged in unilateral actions to control and stymie Kate (2) he has deployed undue litigiousness to make the divorce process as difficult as possible, and (3) he has continued to completely disregard this Court's orders and thumb his nose at this divorce process. These actions together significantly drove up the cost of litigating this divorce.

4. For these reasons and the reasons set forth more fully herein, as part of the Judgment of Dissolution of Marriage to be entered in this matter, Michael should be ordered to contribute to Kate's attorneys' fees and costs. Further, Michael should be solely responsible for paying his own attorneys' fees and costs, without any contribution from Kate.

MICHAEL'S INCOME IS SIGNIFICANTLY GREATER THAN KATE'S

5. Michael is a State Senator, practicing attorney and consultant. As a result of Michael's employment and income generating efforts, which he was able to undertake as a product of Kathleen's domestic and parental contributions, Michael's income afforded the family a comfortable and carefree lifestyle.

6. On the other hand, since the birth of their son, Kathleen has been a housewife, homemaker, and in many respects sole caretaker of the children, working only sporadically.

7. While Michael worked, Kathleen raised the family — to the detriment of any career and employment aspirations at present.

8. Michael, being the primary breadwinner, has multiple sources of income. The below spreadsheet reflects Michael's income and cash flow in 2020, with the source document for the stated information:

Michael Hastings' 2020 Income and Cash Flow			
Employment	Source	Amount	Notes
Illinois State Senator	2020 Form W2	\$76,257.96	Box 5
Hastings Law Office, LLC	2020 1120-S	\$135,000.00	Officer Compensation (W2)
Hastings Law Office, LLC	2020 1120-S	\$16,921.00	Ordinary Business Income
Geld Solutions, LLC	2020 1120-S	\$108,901.00	Other Deductions: Line 35
VA Benefits	Joint Checking Account	\$46,955.04	Non-Taxable
Total:		\$384,035.00	

9. Notably, at the onset of this case, Michael shut down Geld Solutions, Inc., stopped, eliminated his paycheck being received from Hastings Law Office, LLC (for example,

in 2021, the year the divorce was filed, Michael reported wages of only \$25,000 – all of which was earned prior to June 10, 2021.

10. In comparison, in addition to her parental responsibilities, in 2017, Kathleen began working one day per week, for five hours per day at her brother's company. She earns approximately \$27,000 in gross annual income from working with her brother. Further, Kathleen also "operates" a real estate company which is limited to doing deals for friends and family, which grossed approximately \$4,600 in 2021 (net income of approximately \$3,300). Finally, in June of 2022, Kathleen also began employment with Med Spa Mokena, LLC earning \$16 per hour where she works 5 to 10 hours per week depending on the parenting schedule.

FINANCIAL CONTROL AND ALTERATION OF FINANCIAL STATUS QUO

11. As indicated above, Michael has used his access to cash to control and manipulate Kate both financially and emotionally. On June 3, 2021, Michael liquidated over \$31,307.74 from the parties' joint savings account (and another \$2,000 the same day) and overdrew the parties' joint checking account such that it had a balance of (\$95.24). This liquidation came on the heels of Michael cancelling Kate's credit card, leaving her in the aggregate with \$0.18 in savings, an overdrawn checking account, and no access to her historical credit card. At the same time, Michael cancelled all direct deposits to the joint account, depriving Kate of historically regular base / minimal cash flow deposits of over \$8,100 per month.

12. After the drastic alteration of the financial status quo, Michael then proceeded to file the following motions:

- **Petition for Temporary Support** seeking Kate's (the homemaker) Payment of support to Michael (the breadwinner of the family);
- **Motion for Sale of Marital Residence** (asking the Court to sell the family home because his \$300,000+ income and cash flow alone is apparently no longer sufficient);
- **Motion to Compel Kate to Seek Full-Time Employment** (despite Michael acquiescing for years to Kate's role as a stay-at-home mother and part-time employment capacity);
- **Motion to Set Temporary Parenting Schedule** and to Appoint a GAL (wherein Michael requests an equal parenting time schedule, despite working 60 – 70 hours

per week and having largely absented himself from the home and the family operations in favor of his career and aspirations).

13. On July 16, 2021, after several days and hours of negotiation between all counsel, the parties submitted an agreed order that addressed financial support and allocated a temporary parenting time schedule resolving disputes borne from Michael's drastic alteration of the financial status quo in liquidating all of Kathleen's cash on hand and cancelling her credit cards.

**UNREASONABLE LITIGIOUSNESS, BAD FAITH PARTICIPATION IN
MEDIATION, AND FAILURE TO COMPLY WITH COURT ORDER'S**

14. Michael has done everything in his power to drive up the cost of litigation in this matter by showing no regard for court procedures, driving up the cost of mediation, and filing baseless motions. His actions include but are not limited to the following:

- a. Filing of baseless pleadings and deployment of litigious tactics to increase costs:
 - i. The August 24, 2021 Order specifically granted Michael "leave to Amend Petition to Set Temporary Parenting Schedule or to move to modify the July 16, 2021 Agreed Order by no later than September 3, 2021" To the extent Michael filed his amended petition or moved to modify the July 16, 2021 Order, a hearing on that motion was scheduled for October 6, 2021. Michael did not move to amend the parenting schedule and did not move to modify the July 16, 2021 Order by September 3, 2021. Instead, on October 3, 2021, Michael filed his Emergency Motion for Restrict Parenting and Supervised Visitation and for Modification to the Temporary Parenting Schedule pursuant to 750 ILCS 5/603.10 ("Emergency Motion"). Michael's Emergency Motion made a series of inflammatory and false allegations to support his conclusion that Kathleen places the children's mental, physical and emotional health at risk as part of requested relief under 750 ILCS 5/603.10 in seeking a restriction on Kathleen's parenting time and other rights relative to the children. Despite being warned by the Court on December 9, 2021 to not proceed on the Emergency Motion, Michael forced a multi-day hearing on the issue. In fact, Michael then proceeded to seek to amend his Emergency Motion wherein he claimed NO serious endangerment but attempted to allege that "the minor children will greatly benefit from a sharing parenting time arrangement ... ". While Michael's request to amend the Emergency Motion was denied, and despite being warned of ceasing prosecution on the same, Michael continued to prosecute the claim unnecessarily and increased the cost of litigation. Ultimately, after finally agreeing to Kate's request for mediation, Michael withdrew his pleading but not after tens of thousands of dollars were spent on litigating a serious endangerment petition.

- ii. Michael has filed pleadings to sell the only car that Kate drives and transports the children in and liquidate the children's college accounts to pay for the cost of this litigation while at the same time he continues to vacation and spend money on his paramour.
 - iii. Michael filed pleadings seeking sanctions against Kate and her counsel for not providing notice for a TRIAL subpoena for which no notice is required.
 - iv. Michael has used discovery in this case to conduct a political witch hunt such as seeking audit reports for Frankfort Police Department.
 - v. Despite finally agreeing to mediation, Michael made a mockery out of mediation by showing up late, throwing adult temper tantrums at all parties involved in mediation further wasting time and delaying the process, walking out of mediation, demanding Kate sign an unlawful statement, reneging on agreements reached in mediation, and negotiating (or the lack thereof) in good faith.
- b. Willful failure to follow court order which include withdrawing monies from the joint account without consent from Kate or authority from the Court, failing to facilitate communication between Kate and the children in accordance with court orders, failing to attend high conflict therapy despite being ordered to do so, harassing, intimidating and threatening Kate via OFW despite being ordered not to do so, failing to provide vacation travel itineraries in a timely fashion, and when he did provide the itineraries withholding information about where the children would be travelling out of state, failing to comply with discovery mandates and discovery orders despite raising no objections in his initial discovery response, failing to provide Kate with the right of first refusal and deceiving the GAL and the Court about the same, and failing to contribute his share towards the children's expenses.
- c. In addition to being a lawyer himself, Michael retained the law firm of Berger Schatz that was paid at least \$5,000 in July of 2021 (it remains unknown if the funds were expended or returned to Michael), the Barrett Law Group and now the Law Office of Edward Jaquays to represent him in what should have been a simple dissolution proceeding.

- d. Michael has refused to turnover Kate's deceased mother's personal belongings which are extremely important and irreplaceable non-marital property owned by Kate. Instead, he used these items to leverage settlement on parenting issues and to obtain statements from Kate that benefit Michael's political career.

15. In short, despite numerous efforts by Kate and her counsel, Michael has created a roadblock and distraction at every juncture of this case to increase the fees tremendously. His nonchalance to authority and deceptive tactics cannot be rewarded nor can his continued financial and emotional manipulation of Kate.

LEGAL AUTHORITY

16. For the reasons set forth herein, Michael should be ordered to contribute to Kate's attorneys' fees and costs in this matter. Further, Michael should be solely responsible for paying his attorneys' fees and costs, without any contribution from Kate.

17. 750 ILCS 5/503 and 5/508 grants the inherent authority to require Michael to contribute to Kate's fees and costs incurred in this matter.

18. While the primary obligation to pay attorneys' fees rests on the party who incurred them, Section 508(a) of the IMDMA allows the court to order a party to contribute to the opposing party's fees where one party lacks the financial resources and the other party has the ability to pay. See 750 ILCS 5/508(a); see also *In re Marriage of Sadovsky*, 2019 IL App (3d) 180204, ¶ 54; *In re Marriage of Shen*, 2015 IL App (1st) 130733, ¶ 99 (stating that inability to pay is found where the payment of the fees would strip that party of his or her means of support or undermine the party's financial stability).

19. In determining the allocation of fees in a pre-decree dissolution of marriage case, Illinois courts may properly consider which party precipitated the fees. *In re Marriage of Benjamin*, 2017 IL App (1st) 161862, ¶ 30.

20. A court may also consider undue litigiousness or the frivolity of claims, and award fees and costs accordingly. See *In re Marriage of Mantei*, 222 Ill. App. 3d 933, 942 (4th

Dist. 1991) (stating that the trial court's consideration of the party's refusal to compromise and frivolity were proper).

21. For example, the appellate court in *In re Marriage of Bradley*, 2013 IL App (5th) 100217, ¶¶ 39 – 41, concluded that the trial court's order directing the husband to contribute to the wife's fees was not an abuse of discretion. The husband generally failed to comply with discovery and other court orders, and the action was bitterly contested. See also *In re Marriage of Haken*, 394 Ill. App. 3d 155, 160 – 161 (4th Dist. 2009) (concluding that the trial court's order directing the husband to contribute to the wife's fees was not an abuse of discretion because the husband unnecessarily increased the cost of litigation by employing two expensive custody evaluators and then settling the case without using their testimony); see also *In re Marriage of Kramer*, 211 Ill. App. 3d 401, 413 (1st Dist. 1991) (finding that the trial court's allocation of fees between the parties was not an abuse of discretion because the wife's actions were the cause of a substantial portion of the litigation).

22. In this case, Kate has demonstrated that Michael's income has been and will continue to be substantial and much greater than her own. Michael's actions have been unreasonable, dilatory, and needlessly litigious, which has had a profound effect on the cost and bitterness involved in litigating their divorce, all without compelling cause or justification. In contrast, Kate's fees were reasonable for the services rendered and necessary under the circumstances of this case.

23. For these reasons, not only should Michael be solely responsible for paying his own fees and costs without any contribution by Kate, but he should also be ordered to contribute to all of Kate's fees and costs.

24. Timothy M. Daw and Ishita Saran are the attorneys primarily responsible for the representation of Kate in this matter.

25. Timothy M. Daw is a senior partner with the law firm of Schiller DuCanto & Fleck LLP with primary responsibility of this matter. Mr. Daw's hourly rates are \$495.00 per hour for court time and \$525.00 per hour for office time. Ishita Saran is an Associate with the law firm of Schiller DuCanto & Fleck LLP whose hourly rates are \$315.00 per hour for court time and \$345.00 per hour for office time.

26. As of the filing of June 30, 2022, Kate has paid to Schiller DuCanto & Fleck LLP the sum of \$70,000, and has an outstanding balance of \$247,121.77.

27. The services performed on Kate's behalf and the charges she incurred were reasonable and necessary to adequately and properly represent her interests in this matter.

28. The Affidavits of Kate and Ishita Saran are attached hereto and incorporated herein as Exhibits "A" and "B", respectively.

29. SDF's invoices in this matter and any other documentation required by this Court/Arbitrator relative to determining this Petition will be made available upon request for in camera review and are incorporated into this Petition by reference only.

30. Kate reserves the right to supplement this Petition as additional fees and costs are incurred and this matter develops further.

WHEREFORE, KATHLEEN HASTINGS, respectfully prays as follows:

A. That MICHAEL HASTINGS be ordered to contribute to KATHLEEN HASTINGS' attorneys' fees and costs incurred in this matter, in an amount to be determined by the Court/Arbitrator in its discretion pursuant to the relevant provisions of the Illinois Marriage and Dissolution of Marriage Act and applicable case law but in an amount no less than what is owed to KATHLEEN HASTINGS' attorneys' through the date of closing arguments in this matter;

B. That MICHAEL HASTINGS be ordered to be solely responsible for paying his own attorneys' fees and costs incurred in this matter, without any contribution by KATHLEEN

HASTINGS; and

C. For such other and further relief as this Honorable Court deems equitable and just.

SCHILLER DU CANTO & FLECK LLP
Attorneys for Respondent

Ishita Saran
BY: ISHITA SARAN

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AFFIDAVIT OF ISHITA SARAN

I, Ishita Saran, herein certify under penalty of perjury pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure as follows:

1. I am an attorney of the law firm of SCHILLER DUCANTO & FLECK LLP who is responsible for representing KATHLEEN HASTINGS in the above-captioned matter.

2. The charges as set forth in the pleading hereinabove are reasonable and accepted among the clients we represent, considering our expertise and experience in the field of matrimonial law. My billing rates, and the billing rates of the other attorneys, law clerks and paralegals who have assisted with providing services in the above-captioned matter, are reasonable and accepted among our firm's clients considering their respective expertise and experience in the field of matrimonial law. The services performed for Kathleen Hastings and the charges incurred were necessary to adequately and properly represent her interests in these proceedings.

FURTHER AFFIANT SAYETH NAUGHT.

Under penalties as provided by law to 735 ILCS 5/1-109, I certify that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief and, as to such matters, I certify that I verily believe same to be true.

DATED: July 25, 2022

Ishita Saran

ISHITA SARAN