



1 THE COURT: I'll call the case of In Re the  
2 Marriage of Jeffrey P. Erbs and Mary Ann Erbs, 10 FA  
3 11. Mr. Erbs appears in person and is  
4 self-represented. Miss Erbs does not appear but her  
5 attorney Pamela Veith appears.

6 This is the time set for a scheduling  
7 conference and we're on the record as we speak. I  
8 believe we need to do what, schedule a date? Anything  
9 else?

10 MS. VEITH: As the court is aware, I was  
11 recently retained by Miss Erbs. Based upon my  
12 discussions with her and the review of the file which  
13 I just received from Mr. Liptak, it appears that the  
14 issues, potential issues are going to be a maintenance  
15 claim by Mr. Erbs and property division, largely a  
16 deviation from an equal property division given the  
17 assets brought to the marriage and the length of the  
18 marriage.

19 In terms of the maintenance claim, we'll  
20 most likely need to have a vocational evaluation done  
21 and potentially secure copies of medical records if  
22 Mr. Erbs is claiming he has -- he's unable to work due  
23 to a medical condition, so it may take us some time to  
24 complete those.

25 THE COURT: How long was the marriage.

1 before he filed?

2 MS. VEITH: I'm just -- I was looking for  
3 the petition. They were married October 6, 2003.  
4 Petition was filed January 12, 2010, so marriage is  
5 approximately seven --

6 THE COURT: Little over six years.

7 MS. VEITH: Little over six years, right.

8 THE COURT: And there's a property division  
9 issue. Do you agree with that, Mr. Erbs?

10 MR. ERBS: No, no, I don't, Your Honor.

11 THE COURT: You don't agree we have a  
12 property division issue?

13 MR. ERBS: Yeah, I agree --

14 THE COURT: Are you requesting maintenance  
15 still?

16 MR. ERBS: Yes, I am.

17 THE COURT: So we have two issues,  
18 maintenance and property?

19 MR. ERBS: Yes, we do. We have another  
20 issue, Your Honor.

21 THE COURT: What would the other issue be?

22 MR. ERBS: We have this -- Attorney Veith  
23 just mentioned that she received a file from Mr.  
24 Liptak. Okay, so how am I being protected from my  
25 violation of confidences by Mr. Liptak if she received

1 the file from Mr. Liptak?

2 THE COURT: What did you get in the file  
3 from Mr. Liptak?

4 MS. VEITH: I received financial disclosure  
5 statements, mostly the pleadings, Your Honor,  
6 financial disclosure statements, the other pleadings  
7 that appear to be filed to date including the motion  
8 filed by Mr. Erbs, and I believe there was, other than  
9 that one letter from Mr. Liptak to our client, Mary  
10 Ann, simply indicating that -- enclosing the amended  
11 temporary order and then advising Miss Erbs of the  
12 hearings, the date of the hearing on the motion filed  
13 by Mr. Erbs to have Mr. Liptak removed. That was  
14 essentially it.

15 THE COURT: Were there any notes in there  
16 from Mr. Liptak, handwritten notes or anything like  
17 that?

18 MS. VEITH: No, there were no notes,  
19 handwritten notes from Mr. Liptak. There were two  
20 envelopes from, it looks like one from Mr. Erbs to my  
21 client and then just an envelope with phone numbers  
22 written on it.

23 THE COURT: Were there any documents that  
24 you received that pertain to his former or previous  
25 divorce?

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MS. VEITH: No.

THE COURT: Do you have any more concerns, Mr. Erbs?

MR. ERBS: That is a very valid concern, that there was no sequestering of the file records from Mr. Liptak to the current attorney, Your Honor.

THE COURT: I'm not following your argument. She received the pleadings and the correspondence relating to the present case. She didn't receive any personal attorney notes from Mr. Liptak. She didn't receive anything that pertained to your former divorce. What does she have that you think is improperly received?

MR. ERBS: Okay. This would be like an errors or lying by omission. What about any possible phone calls to the new attorney or to the respondent, Mary Ann Erbs, from Mr. Liptak or from Mark Mullen or from anyone from the Mullen Law Group, LLC?

MS. VEITH: I personally haven't spoken to Mr. Liptak. My assistant, the only contact she had with Mr. Liptak's office was she called and requested the file. I haven't spoken with Mr. Liptak about this case or any other case.

THE COURT: Any other questions, Mr. Erbs?

MR. ERBS: Traditionally in a

1 disqualification for violations of confidence of a  
2 former client there is no transference of records or  
3 files, Your Honor.

4 THE COURT: That is not the court's  
5 understanding, Mr. Erbs. In this, you've made no  
6 record and I'm not aware of any indication that Mr.  
7 Liptak, first of all, had anything from the previous  
8 hearing that he could have transferred to -- from the  
9 previous divorce that he could have transferred to Ms.  
10 Veith's office.

11 But because of the potential, I granted  
12 your motion to disqualify him. The materials he  
13 supplied or his office supplied to Attorney Veith's  
14 office are the pleadings and some other communications  
15 that pertain only to this case, not to the previous  
16 divorce.

17 She has not talked to Mr. Liptak. I don't  
18 know what else you can be worried about as far as  
19 improper communication. You haven't shown anything  
20 happening except representations that she has received  
21 nothing. If she doesn't get the documents from him,  
22 how does she get the documents? She needs to know  
23 what's happening in the case so far.

24 MR. ERBS: Your Honor, in cases of  
25 attorney/client relationships, it's an irrebuttable

1 presumption that confidences have been exchanged. I  
2 had an attorney/client relationship with Mr. Liptak as  
3 did the respondent, Mary Ann Erbs, so if Mr. Liptak,  
4 it's an irrebuttable presumption he got confidences  
5 from him and also Mary Ann Erbs got confidences from  
6 Mr. Liptak.

7 Therefore, we have more than maintenance  
8 and we have more than property division. I have  
9 motions to be filed today for --

10 THE COURT: For what?

11 MR. ERBS: To strike any and all pleadings  
12 and --

13 THE COURT: Let me address your first  
14 request. Your request is apparently to disqualify  
15 Miss Veith or require her to throw away all the things  
16 she received from Mr. Liptak. There's no basis in  
17 fact for that or no basis in law for that so that's  
18 denied. What's your next motion?

19 MR. ERBS: You're denying this, and there's  
20 fraud in this case.

21 THE COURT: Mr. Erbs, I've made the ruling.  
22 You have to appeal it if you don't like it. What's  
23 your next motion?

24 MR. ERBS: We're going to move for appeal  
25 then right now, Your Honor.

1 THE COURT: You don't talk to me about  
2 that. You can talk to the court of appeals. Do you  
3 have any motions for this morning?

4 MR. ERBS: Yes, I do, vacate the judgment  
5 from the temporary on February 1st. I have a motion  
6 to vacate that order from Commissioner Ferg.

7 THE COURT: We'll schedule that for a  
8 hearing.

9 MR. ERBS: And I have another motion for a  
10 discovery motion.

11 THE COURT: Have those motions been filed?

12 MR. ERBS: No, Your Honor.

13 THE COURT: You need to file your motions  
14 in writing so Ms. Veith gets a copy, the court gets  
15 the original.

16 MR. ERBS: And your order is -- your order  
17 is that -- that you haven't seen a motion that I'm  
18 going to file and you say I can't file it, is that  
19 what --

20 THE COURT: I didn't say that. I said I  
21 won't hear it until the motion is filed.

22 MR. ERBS: Okay. Then I have three motions  
23 to file and I have a contempt motion to file, also. I  
24 have four.

25 THE COURT: What are the three motions

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you're going to file?

MR. ERBS: I have a motion to strike any and all pleadings by the respondent and her attorney.

THE COURT: Okay. What's the next motion?

MR. ERBS: Motion, the second motion is to vacate the order, change the temporary order that happened on February 1st by the respondent.

THE COURT: What's the third motion?

MR. ERBS: Third motion is an order for discovery of financial records, production of documents, and I have contempt charges.

THE COURT: What's the basis for a contempt motion?

MR. ERBS: The respondent came upon the property occupied by myself on the weekend of the 16th and the 17th.

THE COURT: Of what month?

MR. ERBS: January.

THE COURT: Was there a temporary order at that point?

MR. ERBS: Yes, there was.

THE COURT: Okay. Well, file the motions. Do you have them with you?

MR. ERBS: Yes, I do, Your Honor.

THE COURT: Do you have a copy for Ms..

1 Veith as well?

2 MR. ERBS: They're not filed yet. I don't  
3 have any time, court time on them yet, Your Honor.  
4 I'll make sure they're served to her office.

5 THE COURT: Do you want me to schedule  
6 those now, Ms. Veith?

7 MS. VEITH: Might as well.

8 THE COURT: Okay. Before I schedule these,  
9 Mr. Erbs, what's the theory behind your motion to  
10 strike all Ms. Erbs' pleadings?

11 MR. ERBS: Fraud.

12 THE COURT: What do you mean by fraud?

13 MR. ERBS: I have information that Miss  
14 Erbs knew that Lester Liptak was my attorney  
15 previously and she was forewarned that it was probably  
16 illegal for him -- for her to hire him, and certainly  
17 Mr. Liptak knew that as an attorney, a man of the law.

18 THE COURT: Okay.

19 MR. ERBS: He took this representation on,  
20 and --

21 THE COURT: You've explained enough of your  
22 motion. We're going to need about 45 minutes, I  
23 think, for this. I have time on June 25th or late in  
24 the day on the 24th.

25 MS. VEITH: I'm in trial on the 24th and

1 I'm out of town on the 25th.

2 THE COURT: I'm on vacation the next week.  
3 How is the 8th or 9th of July?

4 MS. VEITH: I could do the 8th in the  
5 morning, Your Honor, if that's --

6 THE COURT: That'll work. I can do it at  
7 9:30 or 11 o'clock. What's your preference?

8 MS. VEITH: 9:30, Your Honor.

9 THE COURT: Okay. 9:30, July 8. Mr. Erbs  
10 will file his motions in the next ten days and provide  
11 copies to Ms. Veith. After the motion hearing, I  
12 think I should be in a position to schedule a final  
13 hearing.

14 MS. VEITH: Your Honor, the one pleading  
15 that I did not receive from Mr. Liptak, so I don't  
16 know if it exists, but I have not received a financial  
17 disclosure statement for Mr. Erbs, and I don't know if  
18 he's completed one and filed one.

19 THE COURT: He filed one in the court file.  
20 I'm sorry, that's the petitioner, excuse me. Let me  
21 take --

22 MS. VEITH: It should be in the  
23 confidential file.

24 THE COURT: It should be. That's why I was  
25 kind of surprised. Mr. Erbs filed a financial

1           deciaration on April 8 this year. Did you supply a  
2           copy of that to Ms. Erbs or Mr. Veith -- or Ms. Veith  
3           or Mr. Liptak?

4           MR. ERBS: No, I haven't yet.

5           THE COURT: Do you have a copy you can give  
6           Ms. Veith?

7           MR. ERBS: Yes, I do.

8           THE COURT: Okay. She needs to get a copy  
9           of that.

10          MS. VEITH: Thank you.

11          THE COURT: Is there anything else you want  
12          to bring up, Mr. Erbs, for this morning?

13          MR. ERBS: Are we near dismissal here?

14          THE COURT: What?

15          MR. ERBS: This is being recorded, correct?

16          THE COURT: We're on the record. The  
17          reporter is making a record.

18          MR. ERBS: I require a transcript of this,  
19          please, Your Honor.

20          THE COURT: You need to make a request to  
21          the reporter and arrange to pay her.

22          MR. ERBS: Okay, fine.

23          THE COURT: Ms. Veith, anything else?

24          MS. VEITH: Not at this time, Your Honor.

25          THE COURT: Okay. Scheduling conference is

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over. Court's in recess.

MR. ERBS: Thank you, Your Honor.

MS. VEITH: Thank you, Your Honor.


(The proceedings were concluded.)

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STATE OF WISCONSIN )  
                          ) ss.  
COUNTY OF EAU CLAIRE)

I, Connie G. Dillon, Official Court Reporter in and for the State of Wisconsin, do hereby certify that the foregoing transcript is a true, correct and complete transcript of the proceedings in the foregoing matter to the best of my knowledge.

Dated this 3<sup>rd</sup> day of May, 2010.

  
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CONNIE G. DILLON, RMR, CRR  
Official Court Reporter