



1 THE COURT: This is In Re the Marriage of  
2 Jeffrey P. Erbs, Petitioner, and Mary Ann Erbs,  
3 Respondent. The petitioner is here in person without  
4 counsel. The respondent is here in person and with  
5 her counsel Pamela Veith.

6 We have a number of motions and some  
7 scheduling to do on this. As far as -- I believe the  
8 first one we should take out is the motion for the  
9 stay. Mr. Erbs, is there anything you wish to add to  
10 what you've already submitted to the court?

11 MR. ERBS: I still think it's necessary.  
12 It may not be the proper -- proper motion, but I was  
13 denied a stay of proceedings or writ of a stay of  
14 proceedings by the supreme court, so I got that notice  
15 last week, so I don't imagine you're going to do any  
16 different than they did.

17 I still think it's necessary. I think I'm  
18 being discriminated against in this case and treated  
19 unfairly, and in light that I'm disabled, including --

20 THE COURT: Let's break that up a little  
21 bit. Now, you say that you think it's necessary. Why  
22 is it necessary?

23 MR. ERBS: Why I think it's necessary is,  
24 Your Honor, is this: This case has fraud involvement  
25 in it, and that includes the two attorneys Mark Mullen

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and Lester Liptak and the respondent. That has never been addressed by the court yet.

There's certainly motions that have not or request for relief that have not been heard yet, even from as far away as February 26th, and it just seems that this whole event has been quite unlawful, and I just don't -- I don't think there's a chance that I'm ever going to get any fairness or equity out of this court hearing or court proceeding.

THE COURT: Okay. Well, let's break that down a little bit, okay? Now, you've indicated that there are motions that have not been heard. I have gone through --

MR. ERBS: Pardon me, Your Honor --

THE COURT: Excuse me --

MR. ERBS: Not motions.

THE COURT: Excuse me, I'm now going to respond to you, and that is that I'm aware that there is a motion for award of costs for maintaining the action. There's a request for maintenance and that there was a request for a vocational exam and medical records, as well as the stay; that the motion -- and those are the three that I have outstanding.

The motion to disregard -- to disqualify the petitioner's -- I'm sorry, the respondent's

1 attorney was granted. The motion for default judgment  
2 was denied. The April 30th motion to strike documents  
3 was denied.

4 The motion to strike portions of the  
5 temporary order was denied. The disqualification of  
6 Ms. Veith was denied, and there was a discovery  
7 request that was granted on July 8th, 2010.

8 So what other motions besides the three do  
9 you believe are still outstanding?

10 MR. ERBS: Not motions, requests for  
11 relief.

12 THE COURT: Okay. And what requests for  
13 relief do you believe are outstanding?

14 MR. ERBS: On February 26, I had request  
15 for relief that then Judge Cameron would do his duties  
16 according to 60.04(3)(b) and report the two attorneys  
17 to the Office of Lawyer Regulation, and also I asked  
18 for damages, damages and costs of the disqualification  
19 motion.

20 THE COURT: And as I indicated to you,  
21 that's still pending. As far as the relief requested  
22 of Judge Cameron, that is for Judge Cameron to decide  
23 whether or not it should be reported to attorney  
24 regulation agencies, and that is not something I can  
25 do anything about. That is something that an observer

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has to make their own determination. That is not something that another judge can do or require.

What else -- and then as far as the costs, I will reserve that at this time because I'm going to reserve costs on all other motions because I believe we are approaching final hearing where they all can be heard.

Are there any other requests for relief that you believe are outstanding?

MR. ERBS: Not at this time.

THE COURT: Okay. Then as far as the request for a stay of proceedings, I also have had a chance to review the court's decision on your request to them for a stay of this action. Ms. Veith, have you had a chance to see that as well?

MS. VEITH: Is that the response from the Supreme Court?

THE COURT: Yes.

MS. VEITH: Yeah. Just the one-page letter?

THE COURT: Yes.

MS. VEITH: Yes, I did see that.

THE COURT: Okay. Is there anything you would like the court to consider on the motion for stay?

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MS. VEITH: Well, our position, Your Honor, would be that there isn't any basis for a stay in the proceedings. Mr. Erbs hasn't provided the court with any basis today.

His complaints are chiefly that he has or his complaint was chiefly that he had requests for relief out there that hadn't been addressed, and I don't know how those would be addressed if the proceedings are stayed.

So there isn't any basis for the court to stay the proceedings. This is a divorce action. I don't know, why would we stay the proceedings at this juncture?

THE COURT: Okay. Well, here's my ruling on that. That Mr. Erbs, I believe, requested the stay which was tied in to his request to the Supreme Court to do a review of matters subsequent to July 8 of 2000 -- I'm sorry, April -- no, it was July 8th of 2010. Is that correct, Mr. Erbs? You requested that the Supreme Court not only review the writ of mandamus but matters subsequent to that date. Have I got that right?

MR. ERBS: The entire case is going to be reviewed, as I understand, Your Honor.

THE COURT: Well, that's not what they

1 said. Let me just get that in front of me here.  
2 August 24th of 2010, the court, and this is the  
3 Wisconsin Supreme Court, issued a ruling that said the  
4 court, having considered the petition -- the motion of  
5 the petitioner, Jeffrey P. Erbs, to include any and  
6 all additional litigation and court records affected  
7 in Chippewa County Case Number 2010 FA 11 after July  
8 1, 2010, to the file and records in the above case,  
9 the court then ordered that that motion is held in  
10 abeyance and will be considered with the petition for  
11 writ of mandamus.

12 Based on that, the court has said that it,  
13 at this juncture, is not agreeing to review anything  
14 in 2010 FA 11, either before or after July 1st, 2010.

15 As there is nothing at this point that is  
16 being reviewed by the Supreme Court in this file, I do  
17 not believe that there is a basis in law or in fact  
18 for staying this action; that if the court later  
19 decides to review any additional matters, then there  
20 will be a stay, by statute, of this matter, but unless  
21 and until that would occur, I believe that the court  
22 -- the Wisconsin Supreme Court is indicating that this  
23 matter should proceed; and, therefore, I'm denying the  
24 motion to stay.

25 Then, I believe, you stated that you are --

1 believe that you are being discriminated against in  
2 light of your disability. Would you describe to me  
3 how you are being discriminated against in the court  
4 system due to your disability?

5 MR. ERBS: Your Honor, I sent in a request  
6 to the Clerk of Courts, Karen Hepfler, for myself to  
7 get an audio transcript. I was denied by yourself.  
8 An audio transcript is a reasonable accommodation.

9 It's not like the whole building has to be  
10 remodeled, and it certainly would fit underneath the  
11 1990 ADA act as for a reasonable accommodation as it's  
12 -- as it is not very expensive and it's a pretty  
13 simple thing.

14 THE COURT: And the basis in your motion  
15 was is because of your difficulty in handling paper  
16 documents. Is that correct?

17 MR. ERBS: At times, yes.

18 THE COURT: Counsel, do you wish to weigh  
19 in on this topic?

20 MS. VEITH: No.

21 THE COURT: Okay. I made my ruling, and I  
22 believe that the appropriate accommodation is to have  
23 you have, if you request, transcripts that are  
24 provided to you in electronic form rather than in  
25 printed form. You certainly may request that.

1           That way you don't have to deal with the  
2 paper, and so that I believe that that is the  
3 appropriate accommodation here. It's one that's  
4 already been contemplated; and, therefore, you may  
5 proceed in that fashion.

6           MR. ERBS: Your Honor, that is what I  
7 requested.

8           THE COURT: And if you order an electronic  
9 copy, you will receive it. So that's been available  
10 for years through court reporters and so that if you  
11 request a transcript in the future, you should ask for  
12 it in electronic form, and that will be granted.

13           You just have to pay the necessary fees to  
14 the reporter, and the cost of that is no more than the  
15 paper cost.

16           MR. ERBS: Your Honor?

17           THE COURT: Yes.

18           MR. ERBS: Can I order that now?

19           THE COURT: Well, you can order at the end  
20 of the hearing. What the reporter has to do then is  
21 to determine the length of the hearing and the cost.  
22 Then you supply to the reporter the retainer necessary  
23 to cover the cost, and then you will receive it.

24           MR. ERBS: Thank you.

25           THE COURT: The next thing I have is the

1 respondent's request for a vocational exam and  
2 disclosure of medical records. Has that been  
3 accomplished or is that something we need to discuss,  
4 Ms. Veith?

5 MS. VEITH: Is that my request?

6 THE COURT: Yes.

7 MS. VEITH: Are you talking about our  
8 discovery requests?

9 THE COURT: Yes.

10 MS. VEITH: Oh, we haven't -- yeah, that is  
11 a motion the court will have to address today. I  
12 provided the court with my affidavit indicating when  
13 we served the discovery and provided a complete  
14 response, that a copy of the response that we received  
15 from Mr. Erbs, and that's the only thing I've received  
16 from Mr. Erbs.

17 So if the court wants me to go into detail  
18 as to our motions, we may do that.

19 THE COURT: Okay. Well, why don't you do  
20 that at this time.

21 MS. VEITH: Sure. As indicated in our  
22 motion, we served Mr. Erbs with requests for  
23 production of documents, a first and second request,  
24 and also interrogatories. They were served on Mr.  
25 Erbs via mail on May 19th, 2010.

1                   The response answers and response were due  
2                   on June 21st, 2010. At the hearing on July 8th before  
3                   Judge Cameron, Judge Cameron ordered Mr. Erbs to  
4                   provide us with a complete response including answers  
5                   to the interrogatories and response to the request for  
6                   production of documents within ten days.

7                   I've attached to my affidavit the response,  
8                   and I even have the envelope in which they arrived in  
9                   if the court wishes to view it. Essentially what Mr.  
10                  Erbs did was not provide any answer to the  
11                  interrogatories. His response is attached as Exhibit  
12                  C to my affidavit, Your Honor. The affidavit was  
13                  signed July 29th, 2010.

14                  THE COURT: And I have that in front of me.  
15                  Go ahead.

16                  MS. VEITH: Mr. Erbs completely failed to  
17                  provide any answers to the interrogatories, as I  
18                  indicated. He failed and refused, apparently, to sign  
19                  any authorizations, even those authorizations that are  
20                  clearly relevant in this case, including  
21                  authorizations for the release of his records from  
22                  Social Security Administration, authorizations for the  
23                  release of pension or retirement account information.

24                  Pursuant to his financial disclosure  
25                  statement, Mr. Erbs has two retirement accounts, one

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of which is a defined benefit plan.

He did provide a copy of a letter from the plan administrator indicating his years of service, but we have no information as to what his potential benefits under that plan may be.

He also indicated on his financial disclosure statement that he's the owner of at least one life insurance policy. Despite that, he refused to sign the authorization to allow us to get information on the life insurance policy.

He provided no bank statements, no credit card statements, no checking account registers, virtually no documents of any substance.

The documents he did provide he blacked out some portions of the information provided. As the court may be aware, Mr. Erbs was granted Social Security benefits, apparently disability benefits through the Social Security Administration. We asked him to sign an authorization for the release of those records. None of those authorizations or records were provided.

It's now been 112 days since we served the discovery. The discovery are 80 days past due since the original due date of June 21st, 2010. As indicated, Judge Cameron ordered them to be provided

1 within ten days of July 8th, so that would have been  
2 July 18th. So we're now another approximately 40 days  
3 past the July 18th date.

4 So we're asking the court to require Mr.  
5 Erbs to provide complete answers to the  
6 interrogatories. I do have copies of the  
7 authorizations that I need him to execute. I'm asking  
8 the court to order him to execute those so that we can  
9 determine what the assets and the liabilities are in  
10 this case. That's clearly relevant for property  
11 division purposes.

12 And we're also asking that Mr. Erbs provide  
13 copies of his bank statements and his checking account  
14 registers so that we can determine what resources he's  
15 had while this action was pending and even before it  
16 was filed.

17 All of this information, ironically, was  
18 also requested by Mr. Erbs. He requested my client to  
19 provide pretty much the same information, and we did  
20 provide that as ordered by Judge Cameron. So I don't  
21 know what basis Mr. Erbs would have for failing to  
22 provide the discovery of what is obviously relevant  
23 information in this divorce case.

24 THE COURT: Mr. Erbs, as to the  
25 authorizations that you were requested to sign, what

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is your response as to why you did not sign them?

MR. ERBS: I sent -- I've been through a divorce before, and I see the Ann Johnson coming out here, and this is my NBMF. It clearly states, I put the rate as \$32. I have 25 years of service --

THE COURT: Wait a minute. I'm asking you about the authorizations you didn't sign.

MR. ERBS: And I received no authorizations from the opposing party here. I don't have any records of any of respondent's personal assets as far as her cars, her personal effects, anything like that.

THE COURT: Wait, wait, wait. So you're saying that Exhibit C on the affidavit of Ms. Veith is inaccurate, that marking N/A, and you're saying you didn't sign those, that that is not your notation?

MR. ERBS: Where's Exhibit C? And I was told --

THE COURT: Wait, wait. We are going to deal with Exhibit C first. Counsel, do you have a spare copy of that, by any chance?

MR. ERBS: Here's Exhibit C.

MS. VEITH: It's the last exhibit attached to my affidavit.

MR. ERBS: I see here it says Exhibit C, okay.

1 THE COURT: And there's a notation N/A.  
2 You're saying that was not something you did. Is that  
3 correct?

4 MR. ERBS: No, I did that.

5 THE COURT: Okay. And why is it that you  
6 believe that you should not sign these authorizations?

7 MR. ERBS: I got to find that thing first.  
8 I was told on July 8th by Judge Cameron that anything  
9 with blank spaces I was to put N/A on it and the only  
10 information I was to send was about my pensions, and  
11 if I had the transcript quicker than five weeks, I  
12 would have that and I could show you that, Your Honor.

13 THE COURT: Well, then I'm going to  
14 instruct you that at the conclusion of this hearing,  
15 you are to sign the authorizations that were submitted  
16 to you. They may be in blank as to whom they are  
17 addressed. An example of that is the authorization to  
18 release employment information, may be blank. You are  
19 to sign the signature.

20 As far as the authorization to release  
21 credit information, that may not be filled in 'cause  
22 that can be filled in later, depending on information  
23 you supply as to who has credit information, but you  
24 are to sign that and date that and provide your  
25 relevant information including your Social Security

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number.

MR. ERBS: I have to sign blank contracts?

THE COURT: These are not contracts. These are authorizations.

MR. ERBS: Same difference.

THE COURT: No, it's not. And I'm instructing you, and if you fail to do so, then I'm going to find you in contempt. You are to serve 30 days or until you purge your contempt.

MR. ERBS: Is that civil contempt or criminal contempt?

THE COURT: That is civil contempt and is remedial contempt, to further narrow it down. As I indicated, you may purge yourself by signing those documents, and if you refuse to do so, you will serve either 30 days or until you sign those documents.

Now, that's as to the authorizations. Then we have --

MR. ERBS: And which authorizations are those that I have to sign blank contracts?

THE COURT: Again, sir, I'm correcting you. You are misspeaking. These are authorizations, they are not contracts, and those are the authorizations that are contained in Exhibit C.

MR. ERBS: Am I going to get the same

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privilege, Your Honor?

THE COURT: You will get the same privilege. As a matter of fact, my review of the file indicates that Judge Cameron tasked the petitioner for failure to provide timely discovery earlier in this case and that if you do not receive the discovery you feel is appropriate, then you may bring a motion, and if there are authorizations that are legitimate, such as these are, and the respondent does not sign them, then she will be subject to contempt as well.

This is not a situation where you may hide assets from each other. This is a situation where there will be full and complete disclosure of your financial situation.

MR. ERBS: Your Honor, SSDI is exempt from this.

THE COURT: No, it is not.

MR. ERBS: By federal law.

THE COURT: It is not exempt by federal law.

MR. ERBS: And what are the exceptions?

THE COURT: There are no exceptions. You are to give a full and complete disclosure of your income and your assets and your debts.

MR. ERBS: I ask judicial notice for you to

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show me that law, please.

THE COURT: I do not have to. It is -- if you read the statutes, you will find that discovery is allowed in divorce actions. It is up to the court to determine what is relevant, and I have found that the information that is in Exhibit C is relevant; and, therefore, you are required to disclose it.

MR. ERBS: According to the federal statutes, the laws that govern SSDI cannot be garnished, levied or attached and cannot be used in any court of law.

THE COURT: They cannot be levied or garnished, but we are not talking about garnishment. We are not talking about levies. We are talking about disclosure in a divorce action.

MR. ERBS: So it will be used in a court of law.

THE COURT: And that part I disagree with you, sir.

MR. ERBS: We need --

THE COURT: As a matter of fact --

MR. ERBS: We need to find out --

THE COURT: Excuse me, sir, it's my turn to speak now. And if you read the law further, you will notice that there's also an exception for court

1 orders, and this court is ordering it.

2 MR. ERBS: There's only an exception for  
3 existing court orders, judgments. That would be for  
4 alimony --

5 THE COURT: This is now an existing court  
6 order, Mr. Erbs. We are done discussing this. You  
7 have your options. You may either sign the documents  
8 or you will have to effectuate the contempt that I  
9 have found you.

10 Next we are going on to copies of  
11 statements, of bank statements and bank registers.  
12 Why have you not provided copies of those, sir?

13 MR. ERBS: I didn't have time.

14 THE COURT: Between the requested time,  
15 which was some 120 days ago and this time, you have  
16 not been able to gather those documents together for  
17 inspection. Is that what you're telling me?

18 MR. ERBS: Yes.

19 THE COURT: Well, I'm going to allow you  
20 ten days to gather them together and to either deliver  
21 accurate photocopies or the originals to Attorney  
22 Veith's office so they can be inspected or copied.

23 If you do not do so by -- actually, I'll  
24 give you until September 20th at noon, you will be in  
25 contempt, and you may remediate that contempt, which

1 will be for a period of 30 days separate from the  
2 authorization contempt, by providing the documents to  
3 Attorney Veith for her inspection and copying.

4 Next is the answers to interrogatories,  
5 and, Ms. Veith, perhaps if you could indicate to me  
6 the questions that you request answers to that would  
7 not be covered by the authorization and the bank  
8 statements.

9 MS. VEITH: Well, Your Honor, there are 51  
10 interrogatories. We haven't received an answer to any  
11 of them. He hasn't answered a single interrogatory.

12 The bank statements were requested as part  
13 of the request for production of documents.

14 THE COURT: Mr. Erbs, when can you have  
15 answers to those interrogatories prepared?

16 MR. ERBS: Is there any standing for those  
17 interrogatories? The law requires us to go back one  
18 year from the date of filing.

19 THE COURT: No, it doesn't. This is  
20 discovery pursuant to Chapter 804 of the Wisconsin  
21 statutes which is any relevant information. It does  
22 not have a time limit on it.

23 If you believe that information goes back  
24 too far, I will tell you that at least ten years is  
25 going to be relevant and so that within that time

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frame, I will expect that you answer these.

Now, my question is, how long do you think it is that would be fair for you to have to answer these interrogatories?

MR. ERBS: I would guess for all of this would be the end of the month, Your Honor.

THE COURT: I will grant you until the end of the month, which would be September 30th. Anything else on your discovery requests?

MS. VEITH: No, Your Honor. Well, the only other thing related to the discovery request is I do have an affidavit of attorney's fees. As I indicated, initially Judge Cameron ordered Mr. Erbs to provide all of this information, including the answers, the signed authorizations within ten days of July 8th, 2010.

There is no dispute, even based upon the information and statements by Mr. Erbs, that he failed to comply with that order. As I also indicated, these discovery requests have been outstanding for 112 days now. I don't think there's any justifiable reason given Mr. Erbs' situation in that he is not employed on a full-time daily basis. He clearly has time to file motions and --

MR. ERBS: Objection.

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THE COURT: No.

MR. ERBS: Conjecture.

THE COURT: I will take that she is conjecturing. You may continue with your argument.

MS. VEITH: Thank you, Your Honor. File motions in other lawsuits, so I don't know why he wouldn't have sufficient time to provide the information that is, in fact, relevant to this divorce case which, I would note for the record, he filed.

So we are requesting attorney's fees. This is the second time my client has been back in front of the court asking the court to require Mr. Erbs to provide the information, all of which is relevant and all of which he is required to provide pursuant to statute.

So we're asking for sanctions in the amount of the attorney's fees, for a total attorney's fees of \$320 payable within 30 days.

THE COURT: I'm reserving that motion. As I indicated, I'm reserving motions on attorney's fees from both petitioner and the respondent until we have a final hearing on this matter, so that you certainly may revive that at that time, Counsel.

MS. VEITH: Thank you.

MR. ERBS: Your Honor?

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THE COURT: Yes.

MR. ERBS: I'm still waiting for the rest of my discovery or doesn't that count?

THE COURT: It counts. If there are -- what I need from you is what I got from Attorney Veith, which is a statement as to what discovery you believe has not been complied with and provide an affidavit in that form and I will schedule it up for a hearing.

MR. ERBS: Okay. You want me to do that in the form of a motion, then?

THE COURT: Yes.

MR. ERBS: Okay. I'll do that, then, because I am missing all of the personal effects, possessions of the respondent also that was requested, and I put it down as a listing as to what would be required under 767.61, and that would pretty much cover everything. That was in my original motion for discovery, and of that I received nothing. I received nothing about Williams Petroleum.

THE COURT: Okay. As I indicated, Mr. Erbs, I am going to require that both parties do a full and complete disclosure and so that please bring that motion up, and the sooner the better, I will promptly schedule that for a hearing.

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MR. ERBS: And I also have another question concerning this. Miss Veith is saying that she served this. Does she have proof of mailing? It's only deemed served when it's mailed. I have not seen a proof of mailing here.

THE COURT: Let's just take a look at her affidavit. In the affidavit, it states that on May 19th, there was -- she served you with the first set of interrogatories; on May 24th, 2010, served the second request.

MR. ERBS: It's only deemed served by mail, Your Honor.

THE COURT: And so that, Ms. Veith, as an officer of the court, is it your statement that you served by mail?

MS. VEITH: Yes, Your Honor. There's a copy of my cover letter to Mr. Erbs attached as Exhibit A dated May 19, 2010. Additionally, clearly Mr. Erbs received them because he returned to me the authorizations I sent marked up N/A, so I don't know what more proof we could have --

MR. ERBS: There were two mailings.

THE COURT: Well, here's what I'm going to rule on that. Ms. Veith, I'm going to ask you to do a brief supplemental affidavit indicating that you

1 served them by mail and indicating the date that they  
2 were served by mail.

3 As it's obvious that at least some of those  
4 were received by you, I am going to allow her to  
5 supplement the conclusionary remarks in her affidavit  
6 by spelling that out, but on the other hand, there is  
7 a cover letter from her that is consistent with the  
8 date in her affidavit so that I am not going to change  
9 my opinion on finding you in contempt on it, but I  
10 will require her to illuminate that for the purposes  
11 of the record.

12 MR. ERBS: So we're going to make the  
13 record fit what Attorney Veith says, Your Honor?

14 THE COURT: Well, what I'm requiring is  
15 that she provide additional documentation to verify  
16 the conclusionary statement that she served you. All  
17 she has to do is have an affidavit that says I served  
18 by mailing these documents on such and such a date.

19 MR. ERBS: Where is her proof of mailing?

20 THE COURT: The affidavit is sufficient  
21 proof for this court of mailing.

22 MS. VEITH: Your Honor, would also note,  
23 just for the record, I will certainly file the  
24 affidavit, but the other discovery request, the second  
25 request for production of documents was served via

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mail on May 24th, 2010.

My cover letter is attached as Exhibit B. The only document that was addressed in the supplemental request or the second request for production of documents was an authorization for the release of confidential information.

It is also attached to my affidavit already on file, and the authorization that was included in the second request for production of documents Mr. Erbs returned to me with his response with notations of N/A all over the release.

I will certainly file the second affidavit, but I just wanted to note that for the record.

THE COURT: And I appreciate that notation. It certainly indicates that they were received, but for the purposes of the record, I will wish you to nail down that one slightly loose end.

MS. VEITH: Sure.

THE COURT: Then the next thing, I believe, that we have is the respondent's motion in relation to the retirement fund through Midelfort, and I requested my judicial assistant to notify both sides that I wanted to know if, at this hearing, whether there had been a request for an extension and, if so, what were the results; and, Ms. Veith, I'll start with you.

1 MS. VEITH: Sure, Your Honor. Just last  
2 week after I received your letter, I did contact Mayo.  
3 They wouldn't release any information to me because  
4 it's confidential so my client contacted them.

5 When she initially contacted them when she  
6 received the packet of information including the  
7 election form, they told her that the 90 days  
8 extension or the 90-day deadline could not be  
9 extended.

10 Mayo has now essentially reversed their  
11 position and indicated that the deadline can be  
12 extended. I do have a copy of the letter from Mayo  
13 Clinic dated yesterday confirming that the deadline  
14 can be extended.

15 They indicate that they would prefer to  
16 have the election paperwork before the end of 2010. I  
17 don't know if that means that they won't continue the  
18 election out past the end of the year or what exactly  
19 their position is, but given Mayo's essentially  
20 reversal in whether this deadline is -- can be  
21 extended or not, what I would request that the court  
22 do is just reserve this motion at this time pending  
23 when we know what the final hearing date is and  
24 whether my client can continue to extend this deadline  
25 out past the final hearing date.

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THE COURT: Mr. Erbs, I'll hear you on this now, as far as the election and extensions of it.

MR. ERBS: You mean for her motion?

THE COURT: Yes.

MR. ERBS: It is my belief that's the way it should be done anyway because anything done like for orders during the pendency of the action would have to be temporary anyway, according to statute, okay, so the property only gets split up and assets on the dissolution of the marriage because this would be a permanent thing, and my biggest question would be what do I get, if I was going to be forced to sign this, and it's just -- it's just -- it seems frivolous to me that this was even brought up because when you do a QDRO, it doesn't matter what the company policies are.

The pensions, bank accounts, whatever, gets split up by court order. Even insurance companies have to operate at the whim and beck of the court order judgment.

So I would guess, in my belief, that Miss Veith probably made several hundred dollars on this, and it's quite frivolous in my part of the world here.

THE COURT: Well, here's my thought, that there's one thing that the parties do agree on and

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that is that the marriage is irretrievably broken. The petitioner stated that in his petition, and the respondent in the counterclaim alleged that as well.

I feel it would be only fair to both parties that we schedule up and bifurcate this matter so that basically the status portion of this divorce be completed, and I'd like to do that in the near future. Because of the mutual problems with discovery, I think that the property division may be more protracted and so that I think that in order to have this case move forward, I'm going to want to schedule a hearing where we will deal with the status of marriage, and then we will deal with the division of property once the discovery has been completed.

Mr. Erbs, you've indicated that you need information. Ms. Veith has indicated she needs information so that I think that -- and I have stated that I want full discovery, so we will break it up into two pieces.

I think that that will address the concerns of Mayo because then the status is what they appear to be interested in, and so that what I would suggest is that we go off the record briefly, get ahold of my JA and find a date and time that works for everybody as far as -- as far as a final hearing on the status.

1 I want to set that also far enough ahead so  
2 that I can get some feedback from the parties as to  
3 how discovery is going. We will go off the record at  
4 this time.

5 (A discussion was held off the record.)

6 THE COURT: Going back on the record. On  
7 October 18th, 2010, at 9 o'clock a.m., I will hold a  
8 final hearing on the marital status of the parties.  
9 At the conclusion of that, we will do a status  
10 conference as far as setting up a date and time for  
11 the property division portion.

12 Now, I believe I've gone through my list of  
13 things that I believe were pending in front of this  
14 court. Mr. Erbs, have I missed anything?

15 MR. ERBS: Not to my recollection.

16 THE COURT: Ms. Veith?

17 MS. VEITH: No, Your Honor.

18 THE COURT: Okay. Please sign those  
19 authorizations. Deputy, if he fails to do so, I will  
20 instruct you to transport him to the Chippewa County  
21 jail. We stand adjourned.

22 (The proceedings were concluded.)  
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