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Court of Appeals
Division III
State of Washington
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COA No. 36051-2-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

In re the Marriage of:

DENNIS J. ARTMAN,

Respondent,

v.

GWENDOLYN A. ARTMAN,

Appellant.

REPLY BRIEF OF APPELLANT

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I. ARGUMENT

As an initial matter, this case does not involve a relocation decision as stated by respondent Dennis Artman. See respondent's brief at 9. Rather, it involves the parties' separation contract.

With respect to Mr. Artman's argument regarding full disclosure, he acknowledges Ms. Artman asserted at the trial court hearing there were handwritten values written on a document that contradicted those values in the separation contract. Respondent's brief at 11-12. It was Mr. Artman who indicated the different values. (4/18/18 RP 24; CP 13, 63). But contrary to his observation, the court made no ruling as to the admissibility of those handwritten values:

He doesn't have to tell you value which you know, he just has to say this is the asset. If you know what it is, the value, you – you – on your own independent um ability will be able to determine value yourself, so, he's not locked in and so if it's under or over the dollar amount that he used –

. . . Uh but if you just thought I was less because that's your opinion, or thought it was more, that's your opinion, and you went with his number, that's – that's a separate matter. (4/18/18 RP 24-25).

Clearly, the court did not decide the handwritten values were inadmissible. They were part of the record. (CP 13, 63).

More importantly, the court used the wrong legal standard to determine whether the separation contract was unfair at the time of its execution. *In re Marriage of Shaffer*, 47 Wn. App. 189, 194, 733 P.2d 1013, *review denied*, 108 Wn.2d 1024 (1987). It told her Mr. Artman did not have to tell her the value, but only that there was an asset. (4/18/18 RP 24). This is incorrect. The separation contract must not only be entered into voluntarily with full knowledge by the spouse of her rights, but also with full disclosure of the amount, character, and value of the property indicated. *Shaffer*, 47 Wn. App. at 194.

The value of the asset must be disclosed as well as the asset itself. *Grant v. Grant*, 199 Wn. App. 119, 134, 397 P.3d 912 (2017). Mr. Artman's changing values show there could not have been full disclosure of the asset values in the separation contract as even he did not know what they were. There was insufficient specificity in the contract to identify the asset values and their disposition in the decree. *Id.* at 134-35. The court's decision should be reversed.

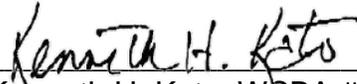
Mr. Artman is not entitled to his fees on appeal since he has no need and Ms. Artman does not have the ability to pay. *In re Marriage of King*, 66 Wn. App. 134, 139, 831 P.2d 1094 (1992).

In reply to his other arguments, Ms. Artman rests on her opening brief .

II. CONCLUSION

Based on the foregoing, Ms. Artman respectfully urges this court (1) to reverse the order enforcing the separation contract, incorporating it into the final decree of dissolution, and awarding advanced obligations and fees under the contract and (2) remand for further proceedings.

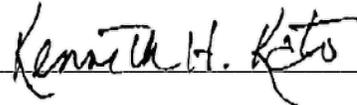
DATED this 12th day of March, 2019.



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CERTIFICATE OF SERVICE

I certify that on March 12, 2019, I served the reply brief of appellant through the eFiling portal on Jason R. Nelson at his email address.



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