

FILED
Court of Appeals
Division III
State of Washington
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COA No. 36474-7-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

In re the Marriage of:

LINDA LOU MITROVICH,

Respondent,

v.

SVETISLAV MITROVICH,

Appellant.

REPLY BRIEF OF APPELLANT

Kenneth H. Kato, WSBA # 6400
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I. ARGUMENT

Without citation to authority, Ms. Mitrovich claims Mr. Mitrovich waived his appeal because he accepted the property division and transfer payment awarded by the trial court. She cannot cite any authority because there is none for her proposition. It has long been the law in this state that the trial court's orders are in full force and effect unless stayed. *State ex rel. Commercial Electric Light & Power Co. v. Stallcup*, 15 Wash 263, 265, 46 P. 251 (1896). Ms. Mitrovich did not stay the transfer payment so she was obligated to pay it. RAP 8.1(b). Mr. Mitrovich rightfully accepted the payment as ordered by the trial court and his so doing has nothing to do with whether he may appeal. He can and he did. Her argument fails.

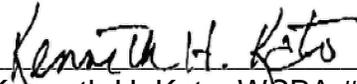
As for attorney fees on appeal, both parties seek them. Mr. Mitrovich is entitled to an award of attorney fees on appeal because he has the need and Ms. Mitrovich has the ability to pay. *In re Marriage of King*, 66 Wn. App. 134, 139, 831 P.2d 1094 (1992); RCW 26.09.140. Ms. Mitrovich has no need; he does. She is not entitled to fees on appeal.

With respect to the rest of her responses, Mr. Mitrovich rests on the arguments made in his opening brief.

II. CONCLUSION

Based on the foregoing facts and authorities, Mr. Mitrovich respectfully urges this court to reverse the trial court's order granting Ms. Mitrovich's motion for reconsideration of the amount of the equalization payment and denying Mr. Mitrovich's motion for reconsideration, reverse the fee award of \$10,000 for intransigence, and remand for further proceedings.

DATED this 1st day of May, 2020.



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CERTIFICATE OF SERVICE

I certify that on May 1, 2020, I served the reply brief of appellant through the eFiling portal on Jonathan Lee at his email address.



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