

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FN 2006-051903

03/05/2014

HONORABLE MICHAEL W. KEMP

CLERK OF THE COURT

J. Bailey

Deputy

IN RE THE MATTER OF  
BENJAMIN EDWARD MACDONALD

BENJAMIN EDWARD MACDONALD  
19209 N SIGNAL BUTTE CIR  
SUN CITY AZ 85373

AND

HELEN MACDONALD

ROSEMARY ANTON

HEARING

Northwest Facility, Courtroom 121

10:33 a.m. This is the time set for a Return Hearing regarding Respondent's Petition for Order to Appear & for Civil Contempt and Sanctions for Non-Compliance with Court Orders filed December 23, 2013. Petitioner Benjamin MacDonald is present on his own behalf. Respondent Helen MacDonald appears by telephone and is represented by counsel, Rosemary Anton, who is present in court.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Benjamin MacDonald and Helen MacDonald are sworn.

Discussion is held regarding status of the case and pending issues.

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IT IS ORDERED affirming the prior orders of the Court regarding payment of spousal maintenance by Petitioner and the division of Petitioner's military retirement.

IT IS FURTHER ORDERED that Petitioner shall send the monthly spousal maintenance payments directly to counsel for Respondent and counsel shall forward the payments to Respondent.

LET THE RECORD REFLECT that Respondent agrees that the issues regarding spousal maintenance are resolved at this time.

IT IS FURTHER ORDERED that Petitioner shall submit a list of three names of professionals that he wishes to be selected for preparation of the Domestic Relations Order, by 5:00 p.m. on March 12, 2014. Respondent may either (1) agree to one of the professionals that Petitioner has proposed or (2) submit her own list of three names of professionals that she wishes to be selected for preparation of the Domestic Relations Order, by 5:00 p.m. on March 19, 2014. Petitioner shall pay for 100% of the preparation costs for the Domestic Relations Order.

IT IS FURTHER ORDERED setting an **Evidentiary Hearing on August 5, 2014 at 10:00 a.m.** (1 hour allotted) before the Honorable Kathleen Mead at the Northwest Regional Court Center, Courtroom 121, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374.

The Evidentiary Hearing will address the issues related to the military payments and preparation of the Domestic Relations Order.

IT IS FURTHER ORDERED that each party will be allowed approximately one-half of the time allotted to present his/her case. The Court will likely reserve a portion of the time allotted to issue its ruling. The time allotted will not be extended absent a timely filed motion granted by the Court.

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a **Joint Pre-Trial Statement** pursuant to Rule 76, A.R.F.L.P., no later than five (5) days prior to the hearing. If the parties are unable to prepare the Pre-Trial Statement together, each party shall file a separate Pre-Trial Statement.

IT IS FURTHER ORDERED that each party shall file a current **Affidavit of Financial Information** and present a copy to this Division no later than five (5) days prior to the Trial. Each party shall ensure that the opposing party receives a copy of the Affidavit of Financial Information in accordance with the discovery and disclosure deadlines set forth herein.

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The Joint Pre-Trial Statement and Affidavit of Financial Information forms may be found at the following website:

**[www.superiorcourt.maricopa.gov/superiorcourt/self-servicecenter/forms/familycourt](http://www.superiorcourt.maricopa.gov/superiorcourt/self-servicecenter/forms/familycourt)**

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. All depositions and discovery contemplated by Rules 49 through 65, A.R.F.L.P., shall be completed and any motions regarding discovery shall be filed no later than 5:00 p.m. on July 14, 2014.

2. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, A.R.F.L.P., including an exchange of all relevant information, documents and exhibits no later than 5:00 p.m. on July 21, 2014.

3. Counsel and/or both parties shall personally meet, face to face (unless there is an Order of Protection in place), at least ten (10) days prior to Evidentiary Hearing, to conduct settlement discussions and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution/company or business/medical or health care provider/employer possessing any relevant information.

IT IS FURTHER ORDERED that the failure of counsel and/or either party to appear at the time of hearing, or to timely present the Joint Pre-Hearing Statement in proper form shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

**NOTICE:** You may request conclusions of fact and law on the following issues, if contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before the trial or evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the Court will make conclusions of fact and law as part of the final decision. If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings must also be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

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**Information regarding trial procedure for parties not represented by counsel:**

The party that filed the initial pleading resulting in the trial/evidentiary hearing being set will present his/her case first. The petitioning party may present his/her own testimony, that is, speak directly to the Court, and/or call witnesses, including the opposing party.

The procedure for questioning a witness is as follows:

1. Direct Examination: The petitioning party asks the witness questions, or acts as a witness and provides testimony directly to the Court.
2. Cross-Examination: The opposing party may ask the witness questions.
3. Re-Direct Examination: The petitioning party may ask the witness follow-up questions but may not raise any new issues with the witness at this point.

When a party calls a witness, the party will be allowed to ask the witness one question at a time that can be answered yes or no. This is not the time for the party to provide his/her own testimony. The party will need to make a mental or written note of the answers the witness provided that he/she does not agree with, and the party will be given an opportunity to provide his/her own testimony after the witness is done testifying. The party will not be allowed to ask a witness a question and immediately thereafter provide commentary. The parties are therefore advised to bring a pen and paper to all hearings.

After the petitioning party presents his/her case, the opposing party will be allowed to present his/her case in the same manner.

**Information regarding exhibits for parties not represented by counsel:**

You will need to tell the Court during the hearing that you have exhibit 1, for example. You will need to explain to the Court the relevance of exhibit 1. You will then need to say to the Court, "I offer exhibit 1 into evidence". The other party will likely be given an opportunity to make a legal objection to the entry of the exhibit into evidence. If no objection is made, or if the objection is overruled by the Court, the exhibit will come into evidence. (If an objection is sustained, the exhibit will not come into evidence.) You must follow this procedure for every exhibit that you wish the Court to see. The Court will only review exhibits that have been received in evidence.

IT IS FURTHER ORDERED as follows:

1. Any and all exhibits shall be delivered to this Division at least five (5) business days prior to the hearing. Exhibits shall not be filed at the Clerk of Court filing counter.

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2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the Trial.

3. Each exhibit shall be stapled if it contains more than one page and shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit.

4. Exhibits will be marked in numerical order, most likely in the order received. The parties will receive an exhibit worksheet at the time of hearing which will be the master list.

5. Each party shall provide the adverse party with a separate copy of all exhibits. Each party should keep a copy of the exhibits for themselves as exhibits turned into the Court are kept by the Court. Copies of exhibits may be obtained from the Exhibits Department at the Customer Service Center after conclusion of the hearing. (Customer Service Center: 602-506-3360)

Counsel and/or the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, A.R.F.L.P.

**WARNING:** Failure of counsel and/or either party to appear at the time of hearing, shall in the absence of good cause shown result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party. The Court may issue a warrant for the arrest of the non-appearing party. If both parties fail to appear, the entire case, or pending pleadings, may be dismissed without further notice to either party.

10:47 a.m. Matter concludes.

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

March 5, 2014

/ s / *Michael W. Kemp*

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HONORABLE MICHAEL W. KEMP  
SUPERIOR COURT JUDGE

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.