

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DEAN SEVERSON,
Plaintiff

vs.

SHARON SEVERSON,
Defendant

:
: No. 07-20,730
:
: CIVIL ACTION – LAW
: IN DIVORCE
:
: Petition for Enforcement of Property
: Settlement Agreement filed March
: March 25, 2007

OPINION AND ORDER

This matter came before the Court on Dean Severson’s Petition for Enforcement of Property Settlement Agreement. After hearings held on June 14, 2007, July 9, 2007 and September 25, 2007 and after review of the written submissions of the parties and submitted documentary evidence, the Court finds as follows:

Basic Factual Dispute

Petitioner Dean Severson and Respondent Sharon Severson entered into a separation and property settlement agreement on May 19, 2006. Provision 10 of the agreement, “Financial Obligations”, required Respondent to assume and be responsible for the debt from the Mastercard number 4977.

In fact, Respondent paid a sum of approximately \$24,358.26 to pay the debt on this card on or about May 21, 2006. However, significant charges have been made on this card in the time frame from June 1, 2006 – December 31, 2006. The charges are in excess of \$20,000, plus interest since June 1, 2006.¹

Petitioner testified that he has not used this card since May 2006. Mrs. Severson admits she used the card during a long trip she took out-of-state with her daughter

Sarah and she accepts responsibility for the charges made on this trip. She testified she would have returned to Lycoming County from trip somewhere around July 18 – July 25, 2006. Respondent also claims she returned the card to Petitioner in September 2006 and could not have incurred charges after that time. To the extent she made charges on the credit card, Respondent claims she had permission from Petitioner to use the card.

The focal point of much of the hearings held by the Court on this matter has been to review specific charges on this Master card from June – December 2006 to try to ascertain which party incurred the charges.

Respondent vehemently denied incurring many of the disputed charges. Some of the disputed charges were relatively small, but some were significant. Each party swore they did not incur the disputed charges.

At the end of the hearing on September 25, 2007, the Court asked counsel for petitioner to try to obtain records from the credit card company as to the numerous disputed charges so the Court could fairly determine which of the parties has been untruthful in regard to the disputed charges. The Court held the record open to October 31, 2007 to receive any additional documentary evidence as to who incurred the charges. The Court gave counsel until November 7, 2007 to submit any written argument regarding many of the disputed charges. The documents were obtained from various vendors. Respondent submitted her reply to the Court by letters dated November 7, and November 13, 2007. With this additional evidence, the Court is better able to resolve the credibility issue between the parties.

In Respondent's testimony, she denied she incurred many of the charges,

¹ The card was closed out in December 2006.

which were the focal point of the hearing. In particular, in her testimony on September 25, 2007, she denied she incurred the charge for two round trip plane tickets to Atlanta Georgia in October 2006. Each ticket cost \$812.18 and was booked through Expedia. Respondent in her testimony denied she ever went to Atlanta and she testified she believed Petitioner and his girlfriend took this trip. She acknowledged she and Petitioner had friends in Atlanta. Respondent denied she incurred a charge at Walmart in December 2006. She denied charges at Best Buy. She also denied a charge at Lowes on July 25, 2006.

There were numerous charges incurred at restaurants. Respondent denied using this card at any restaurant. She denied she incurred a charge at Nevill's Flower Shop in Montoursville.

The documentary evidence submitted belies much of Respondent's testimony. Petitioner's exhibits C and D, ticket facsimiles from U. S. Airways, show the tickets were booked to Sharon Severson and Sarah Severson, her daughter. The tickets were booked through Expedia, Inc.

Exhibits T and V contain purchases from the Best Buy store in Muncy through card no 4977 to Sharon Severson. It appears the purchase was made August 30, 2006. Respondent is listed as the purchaser.

A restaurant receipt of August 9, 2006 for Morrones Lounge is signed by Mrs. Severson. See Respondent's Exhibit E. Additional restaurant receipts for Red Lobster (Exhibits F and G), Olive garden (Exhibits H and I), Benigna's Creek Vineyard (Exhibit J), Hull's Landing (Exhibit K), and TGI Fridays (Exhibit L) were all signed by Sharon L. Severson.

Mrs. Severson denied the WalMart transaction in December 2006; however,

there is a receipt signed by Sharon L. Severson for a purchase at WalMart on December 2, 2006 in the amount of \$257.05. See Petitioner Exhibit M.

Respondent's denial of the Lowe's transaction is belied by Petitioner's Exhibit S, a purchased at Lowe's on July 25, 2006, signed for by Sharon L. Severson.

Petitioner's Exhibit V is a charge on the credit card in question on August 22, 2006 at Nevill's Flowers in Montoursville. It is listed as sold to Sharon L. Severson. The flowers were delivered to a patient at the Williamsport Hospital.

Respondent swore before the Court that she returned this credit card to Petitioner in September 2006. Yet, Petitioner's Exhibits Z, shows a credit purchase at Weis' Market in Sunbury with Sharon L. Severson's signature on November 4, 2006.

Respondent, in her testimony to the Court in denying her use of the credit card in question, has been untruthful regarding many, if not all, of these transactions.² Thus, the Court finds that Respondent is responsible for all the credit card charges to card No. 4977 from June 1 to December 2006.³

Attorney Fees

In light of our findings and conduct of Respondent, the Court will award attorney fees to Petitioner. The Court has looked at Petitioner's Exhibit AA, which lists their attorney fees. The exhibit does not indicate the hourly fee of Petitioner's counsel. The bill also addresses issues other than the credit card issue. The Court does not feel it can award

² The Court cannot pass off Respondent's denials as merely forgetting her use of the card. How could one forget they had flown by airplane to Atlanta? Also, the charges continued well after Respondent testified she returned the credit car to Petitioner (in September). Respondent specifically denied all the particular transactions, which the Court has cited in this Opinion.

³ The Court finds Respondent cashed the Advanta check for \$4,000. The check is dated July 18, 2006. Respondent testified she returned from her out-of-state trip sometime between July 18- 26, 2006. Her local credit card charges seem to begin around this time period.

the entire attorney fee requested. The Court will award attorney fees of \$1,500.

Other Issues

The Court is unclear if there are other issues, which are raised in the petition and are not addressed by the Court.

The Court is aware that Respondent Sharon L. Severson in her answer to this petition included a counterclaim. See Answer and Counterclaim filed April 11, 2007. Several additional issues are raised in the counterclaim, including Petitioner signing a deed to transfer the marital residence to Respondent, transfer of title to Respondent's car to Respondent, adding the parties' daughter, Sarah Severson, to Petitioner's insurance for the daughter's vehicle, and a request to order Petitioner to sell the parties' hunting cabin. The Court does know if the parties resolved these issues. The Court does not recall the parties presenting evidence on these issues. Counsel should notify the Court if these issues still need to be resolved.

In Respondent's correspondence to the Court of November 7 and November 18, 2007, the Court also notes Respondent seems to raise additional issues of college support for Sarah and Petitioner being in arrears on alimony. The Court has not addressed these issues since it does not believe they were part of the hearing held by the Court.

In light of all the above, the following Order is enter:

ORDER

AND NOW, this ___ day of December 2007, the Court **GRANTS** the Petition of Dean Severson for Enforcement of Property Settlement Agreement.

The Court finds that the credit card charges for car No. 4977 for the timeframe

of June 1, 2000 to December 31, 2006, were incurred by Respondent Sharon Severson and shall be paid by Respondent Sharon Severson.

Respondent shall promptly arrange to pay the credit card company or she should pay Petitioner upon his request in order for him to pay the credit card company.

The Court **AWARDS** Petitioner attorney fees in amount of \$1,500 for his prosecution of this action. Respondent shall pay this attorney fee within ninety (90) days of receipt of this Order.

By The Court,

Kenneth D. Brown,
President Judge

cc: Work file
Gary Weber, Esquire (Lycoming Reporter)
Lori Rexroth, Esquire
Janice Ramin Yaw, Esquire