

Court of Appeals, State of Michigan

ORDER

Kevin S Reffitt v Dawn M Bachi-Reffitt

Docket No. 333148

LC No. 2012-009032-DM

Patrick M. Meter
Presiding Judge

Donald S. Owens

Michael F. Gadola
Judges

The Court orders that the motion for leave to file a reply to the answer to the motion to dismiss is GRANTED.

The motion to dismiss this appeal as of right for lack of jurisdiction is also GRANTED. The trial court resolved the matter of any improperly concealed assets by providing in the consent judgment of divorce for any such asset concealed by one party to be awarded to the other party. Contrary to appellant's position we do not believe it is reasonable to view the April 7, 2016 postjudgment order appealed from as reversing the consent judgment of divorce so as to qualify as a final order under the proviso in MCR 7.202(6)(a)(i) where that order does not include any language modifying the judgment of divorce but rather indicates that it is being entered based on a determination that appellant violated the critical provision of the judgment of divorce. We note that, under appellant's position, an appellant disputing any aspect of a trial court's interpretation or application in a postjudgment order of a judgment that constitutes a final judgment under MCR 7.202(6)(a)(i) could contend that he or she should be allowed an appeal of right based on a claim that the trial court "altered" the judgment by misinterpreting or misapplying it. That would be an unreasonably expansive view of the proviso in MCR 7.202(6)(a)(i). Rather, a trial court's presumably good faith effort to interpret and apply the language of a judgment in a postjudgment order cannot reasonably be considered a reversal of that judgment within the meaning of MCR 7.202(6)(a)(i) regardless of whether the trial court's interpretation is correct.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

AUG 05 2016

Date

Chief Clerk