

**Court of Appeals, State of Michigan**

**ORDER**

JOHN BRITTON GORDON V CLAIRE SCHROM GORDON

Michael J. Riordan  
Presiding Judge

Docket No. 319062

Kurtis T. Wilder

LC No. 09-114308 DM

Karen M. Fort Hood  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

The Court orders that the motion for stay pending appeal is DENIED.

Judge Wilder would GRANT the motion to stay.

I respectfully dissent. After a lengthy hearing, during which the defendant's counsel repeatedly asked for an evidentiary hearing to ascertain the defendant's income prior to entry of the trial court's May 3, 2013, the trial court denied this the motion requesting this hearing. The trial court ordered defendant to pay plaintiff's counsel attorney fees for what the trial court found was unreasonable conduct in the form of baseless motions and failure to have any reasonable basis for believing that defendant could prevail on the motions.

I disagree with this ruling by the trial court. The 105 page transcript of the October 3, 2013 hearing on this matter contains multiple pages of discussion between both counsel and the trial court concerning the correct income figures to be used in calculating the proper amount of child support plaintiff should have been charged with at the time of the trial court's May 3, 2013 order. In my judgment, rather than discussion by counsel and the trial court, there should have been testimony by plaintiff and any other witnesses with knowledge of relevant facts, after which the trial court could have made her decision based on the evidence introduced during the hearing. I am unclear what, on appeal, this Court has for a record to review on these issues in dispute, when the disputed "facts" are provided by counsel rather than witnesses testifying from documents introduced as exhibits in evidence.



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

December 10, 2013

Date

Chief Clerk