

Court of Appeals, State of Michigan

ORDER

Thomas E Hildebrand v Elizabeth E Hildebrand

Docket No. 283049

LC No. 06-603620-DM

Kirsten Frank Kelly
Presiding Judge

Kurtis T. Wilder

Christopher M. Murray
Judges

The Court orders that the motion for peremptory reversal is GRANTED. When the parties appeared for trial, the trial court declined to take testimony and instead ruled that the assets would be divided evenly, despite the fact that the parties had placed the property division issue in contention. The court also refused to allow counsel to present their cases, even though most of the issues had been resolved and trial would have been very limited. This method usurped the parties' right to present proofs and to have the trial court properly apply the rules of evidence and the principles of law. See *Watson v Watson*, 204 Mich App 318; 514 NW2d 543 (1994). The parties are entitled to a trial on all unresolved and disputed issues. The judgment of divorce is VACATED and the case is REMANDED to the circuit court for further proceedings consistent with this order.

The Court declines to reassign this matter to a different judge; the procedural error at issue does not warrant disqualification.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 1 2008

Date

Sandra Schultz Mengel
Chief Clerk