

ORIGINAL

IN THE SUPREME COURT
STATE OF NORTH DAKOTA
SUPREME COURT NO. 20000194

RECEIVED BY CLERK
SUPREME COURT

OCT 5 '00

Lisa M. Reiser,

Appellee,

-VS-

Jeffrey J. Reiser,

Appellant.

20000194

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

OCT - 5 2000

STATE OF NORTH DAKOTA

APPEAL FROM THE DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT
BURLEIGH COUNTY CIVIL NO. 99-C-1988
HONORABLE BRUCE B. HASKELL, PRESIDING

BRIEF OF THE APPELLANT

Brenda A. Neubauer
105 East Broadway Avenue #3
PO Box 1015
Bismarck, ND 58502
(701) 355-1078
SBB ID No. 05210
Attorney for Appellee,
Lisa M. Reiser

Maury C. Thompson
1720 Burnt Boat Drive
PO Box 1771
Bismarck, ND 58502
(701) 223-9787
SBB ID No. 03127
Attorney for Appellant,
Jeffrey J. Reiser

TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CASES	ii
STATEMENT OF THE ISSUES	1
STATEMENT OF THE CASE	2
STATEMENT OF THE FACTS	3
STANDARD OF REVIEW	5
I. WHETHER THE TRIAL COURT'S AWARD OF PROPERTY TO THE APPELLEE WAS CLEARLY ERRONEOUS?	5
II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN AWARDING ATTORNEYS FEES TO THE APPELLEE?	15
CONCLUSION	17

TABLE OF CASES

	<i>Page</i>
<i>Anderson v. Anderson</i> , 390 NW2d 554 (1986)	13
<i>Anderson v. Anderson</i> , 368 NW2d at 569 n. 3	9
<i>Buchholz v. Buchholz</i> , 1999 ND 36, 590 NW2d 215 (ND 1999)	5, 15
<i>Dalin v. Dalin</i> , 545 NW2d 785 (ND 1996)	5
<i>Dick v., Dick</i> , 414 NW2d 288 (1987)	8
<i>Gaulrapp v. Gaulrapp</i> , 510 NW2d 620 (1994)	14
<i>Jorgenson v. Ratajczak</i> , 1999 ND 65, 592 NW2d 527 (ND 1999)	5, 15
<i>Linn v. Linn</i> , 370 NW2d 536 (1985)	7
<i>Lippert v. Lippert</i> , 353 NW2d 333, 336 (ND 1984)	9
<i>Routledge v. Routledge</i> , 377 NW2d 542 (1985)	7, 8
<i>Rust v. Rust</i> , 321 NW2d 504 (ND 1982)	11
<i>Sauer v. Hayes-Sauer</i> , 493 NW2d 216 (1992)	7
<i>Schneider v. Livingston</i> , 543 NW2d 228 (ND 1996)	5

<i>Spooner v. Spooner</i> , 471 NW2d 487 (1981)	7
<i>VanRosendale v. VanRosendale</i> , 342 NW2d 209 (1983)	14
<i>Wetzel v. Wetzel</i> , 1999 ND 29, 589 NW2d 889 (ND 1999)	6, 8, 13
<i>Whitmire v. Whitmire</i> , 1999 ND 56, 591 NW2d 126 (ND 1999)	5, 15
<i>Winter v. Winter</i> , 338 NW2d 819 (1983)	13, 14

STATEMENT OF THE ISSUES

- I. WHETHER THE TRIAL COURT'S AWARD OF PROPERTY TO THE APPELLEE WAS CLEARLY ERRONEOUS?
- II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN AWARDING ATTORNEY'S FEES TO THE APPELLEE?

STATEMENT OF THE CASE

Jeffrey Reiser is asking for a modification or reversal of the amount of property awarded to Lisa Reiser and the awarding of attorney's fees to Lisa Reiser.

Lisa Reiser filed for divorce by a Complaint dated the 2nd day of August, 1999 (A.

3).

A hearing on the divorce was held by the district court on the 24th day of March, 2000.

On the 25th day of May, 2000, the district court issued its Findings of Fact, Conclusions of Law and Order for Judgment (A. 19).

On the 13th day of June, 2000, the Judgment was entered by the Clerk of Court (A. 21).

On the 7th day of July, 2000, Jeffrey Reiser appealed the district court's decision (A. 25).

STATEMENT OF THE FACTS

The parties were married on October 6, 1995 (T. 3). Lisa Reiser, hereinafter referred to as Lisa, was previously married three (3) times (T. 48), while Jeff Reiser, hereinafter referred to as Jeff, was married twice before (T. 90). No children were born of this marriage, but Lisa had custody of one of her children during the marriage (T. 51).

Jeff has been employed at the Falkirk mine for many years (T. 88) and has also been into farming for a number of years. Lisa has been working for St. Alexius Medical Center as medical secretary (T. 87). Both of the parties have reasonable incomes. In fact, Lisa in the last couple of years has had a greater income than Jeff (T. 47).

Lisa filed for bankruptcy in May 1992 (T. 48). Subsequent to the bankruptcy and prior to the marriage, her credit was still not good (T. 48). In fact, when she attempted to purchase a car just before they were married, she was unable to do so and the loan had to be taken out by Jeff (T. 86). Jeff, on the other hand, has always had good credit.

At the time of the marriage, Jeff had a substantial amount of property including real estate, personal property, and retirement (T. 48). On the other hand, Lisa had very limited assets. In contemplation of getting married, the parties entered into a Premarital Agreement (T. 20). The agreement was at the request of Jeff and Lisa prepared it as she had taken some legal secretarial courses in college (T. 21, 24).

During the marriage, the parties accumulated various personal property including a module home (T. 41). While they were married, Lisa was able to start and accumulate various retirement accounts (T. 43), and, in fact, Jeff even started and contributed \$1,125

to one of the accounts (T. 64). Jeff added substantially to his retirement accounts (T. 30, 64) and Jeff inherited a substantial amount of personal and real property (T. 56).

Initially, the parties lived at the farm owned by Jeff, (T. 5), but later the parties purchased a modular home in Bismarck. (T. 16). Lisa testified to various abuses by Jeff (T. 5, 13, 17), while Jeff refuted many of the allegations (T. 137, 161). There was testimony that the abuse was mutual (T. 46, 47, 137). Also, Lisa admitted to having an affair while the parties were married (T. 139).

STANDARD OF REVIEW

A trial court's property division are findings of fact subject to the clearly erroneous standard of review. *Schneider v. Livingston*, 543 NW2d 228, 230 (ND 1996); *Dalin v. Dalin*, 545 NW2d 785, 788 (ND 1996). A trial court's finding of fact is clearly erroneous if it is induced by an erroneous view of the law, if no evidence exists to support it, or if this court, on the entire evidence, has a definite and firm conviction that the trial court made a mistake. *Id.*

A trial court's awarding of attorney's fees are subject to whether the court abused its discretion or not. This court, on a number of occasions, has looked at the issue of awarding attorney's fees, *Buchholz v. Buchholz*, 1999 ND 36, 590 NW2d 215 (ND 1999); *Whitmire v. Whitmire*, 1999 ND 56, 591 NW2d 126 (ND 1999); and *Jorgenson v. Ratajczak*, 1999 ND 65, 592 NW2d 527 (ND 1999). The principal standards guiding the award of attorney's fees in a divorce action are one spouse's need and the other's ability to pay.

I. WHETHER THE TRIAL COURT'S AWARD OF PROPERTY TO THE APPELLEE WAS CLEARLY ERRONEOUS?

At the trial, both parties agreed to the division of debts so that was not an issue. (T. 2, 107, 108). The parties further agreed that certain property should go to the other, such as the manufactured home, vehicles, checking and savings accounts, etc., (T. 43, 156, 157).

The court was then faced with the issue of the property brought into the marriage and the Premarital Agreement; inherited property; and other real and personal property acquired during the marriage. The court supposedly applied the *Ruff-Fischer* guidelines in dividing up the property (A. 7). The court attempted to make an equitable division of the

property utilizing the above which resulted in Lisa receiving \$139,226.99 and Jeff receiving \$141,278.25 (A. 20). However, in arriving at this division, the court placed too much emphasis on fault, and especially in light of the court's comments at trial (T. 12), and failure to take into account the length of the marriage and where the property came from.

The *Russ-Fischer* guidelines have been utilized for a number of years by the courts in distributing the property and various factors or criteria have been set forth in these cases. In the recent *Wetzel v. Wetzel*, 1999 ND 29, 589 NW2d 889 (ND 1999), case, the Supreme Court provided as follows:

"In distributing the property in an equitable manner the court should consider respective ages of the parties to the marriage, their earning ability, duration of and conduct of each during the marriage, parties' station in life, circumstances and necessities of each, their health and physical condition, their financial circumstances; and duration of the marriage and source of property are two important considerations under these guidelines."

It is important that each of these factors be looked at in the present situation.

Jeff is 42 years of age (T. 142) and Lisa is 33 years of age (T. 87). Lisa is still a relatively young person and certainly has the ability to earn a reasonable living for many years to come.

Lisa, for the last several years, has been working for St. Alexius Medical Center as a medical transcriber (T. 87) while Jeff has been employed by Falkirk mines since 1979 (T. 85) and has also been doing farming on the side for many years. The testimony was very clear that Lisa has been earning more money than Jeff in the last several years, with her earning more than \$60,000 while Jeff earned approximately \$50,000 (A. 6). From all

indications, both parties will be able to continue at their respective employments for a number of years.

The parties were married on October 6, 1995, (A. 3) and Lisa started the divorce action on August 2, 1999 (T. 3). During the marriage, there were times when the parties were separated. From the time of the marriage until the separation is only 45 months. There can be no question that this is a short term marriage. Even though the court indicates this is a short term marriage (A. 6), it is obvious from the court's ruling that the court did not take this into account in its final decision.

Normally, the trial court has tried to place the parties back to their pre-marital status, due to the short duration of the marriage: *Linn v. Linn*, 370 NW2d 536 (1985), the parties were married six years; *Routledge v. Routledge*, 377 NW2d 542 (1985); *Spooner v. Spooner*, 471 NW2d 487 (1981), the parties were married two years; and *Sauer v. Hayes-Sauer*, 493 NW2d 216 (1992).

In *Routledge, Ibid.*, (remanded on another issue), the trial court essentially awarded to the parties what each had brought into the marriage. This division was upheld, given relatively short duration of marriage and source of the property. These parties were married in 1975 and the divorce initiated in 1982.

Both parties in *Sauer, Ibid.*, were previously married, had adult children, brought property into this marriage. The parties were married in 1989 and separated after 27 months. The court awarded each party assets each brought into the marriage, which resulted in wife receiving about one-fourth the total estate. Included were findings on the short duration of the marriage and that this was a marriage without children; the parties'

station in life will remain the same; each party can easily meet their needs; each party enjoys good health and is in good physical condition; each party owned property acquired before marriage and accumulated no property during marriage by their joint efforts. The appellate court commented at 218:

“In affirming an unequal distribution of a marital estate, the North Dakota Supreme Court has said that the short duration of a marriage and the source of marital assets provides a valid explanation for the disparity.”

In marriages of short duration, where there are no children, the appellate court has affirmed distribution of the bulk of the inherited property to the inheriting spouse as in *Dick v. Dick*, 414 NW2d 288 (1987). The parties were married in 1969 and the opinion of the court is dated 1987.

The present case has a lot of similarities to the *Wetzel* case. In the *Wetzel* case, the husband brought in substantial assets to the marriage while the wife began the marriage with a negative net worth. This is exactly the same situation where Jeff brought in substantial assets while Lisa had very little had filed bankruptcy previously, and had a poor credit rating (T. 48). If the court in *Wetzel* made an award of only 14 percent of the marital estate to the wife, and facts very similar to the present one, the trial court should have done likewise and was clearly erroneous by awarding the amount of property it awarded to Lisa. Lisa substantially less than it did and was clearly erroneous by awarding the amount of property it awarded to Lisa. Had the court not awarded Lisa the additional \$102,208.24, it would have still exceeded 14 percent of the marital estate and still be following the case law. The trial court should have awarded

The court in *Routledge*, at page 549, held as follows:

“It is within the discretion of the trial court, after hearing the testimony and applying the *Ruff-Fischer* guidelines, to determine an equitable distribution of the property in each individual case. A property division need not be equal to be equitable. *Anderson v. Anderson, supra*, 368 NW2d at 569 n. 3; *Lippert v. Lippert*, 353 NW2d 333, 336 (ND 1984). Similarly, there is no rule that the trial court equally divide any increase in the net worth of the parties which occurred during the marriage.”

There is no requirement that the division be equal to be equitable, especially when you take into account the age of the marriage and where the property came from. One of the substantial assets that the court divided was the increase in Jeff’s North American Coal retirement which had increased by \$144,416.48 (T. 11) and of which Lisa received \$72,208.24 (T. 11). The testimony was clear that the only reason this retirement increased by such a large amount is due to the fact that Jeff invested wisely in the stock market (T. 126).

Two of the reasons given by the court for awarding Lisa half of the retirement was “...because her financial contributions to the household allowed Jeffrey to contribute substantial amounts to the account. Jeffrey contributed minimal amounts to the household and its bills...” (A. 16). However, if you consider they were only married for 45 months, this would amount to \$1,604.63 per month which he should have contributed towards the household expenses. Based upon their respective incomes and station in life during the marriage, this amount is certainly excessive when you consider that Jeff contributed at least \$500 to \$550 per month towards the household expenses (T. 28).

The conduct of each of the parties during the marriage is another factor the court can look at. Although the court initially indicated that this would not be a big factor (T. 12), it obviously had a large impact on the court’s decision with the court even making

inappropriate remarks by describing Jeff's behavior as "Neanderthal" (A. 15). At the start of the trial we objected to evidence being brought into relative to misconduct or abuse as not being relevant. As a result, the following exchange took place between Ms. Neubauer and the court, at pages 11 and 12 of the transcript:

"MS. NEUBAUER: It's in the line of the abuse, Your Honor, and I do think it directly goes to the domestic portion of that, that there were various abusive acts that were forced on my client. And I think it's relevant.

THE COURT: Relevant to what?

MS. NEUBAUER: Relevant to marital fault, Your Honor, for property distribution.

THE COURT: Thought we were a no-fault state.

MS NEUBAUER: It's a consideration for the Court to determine when distributing the property. It goes into what is equitable under the circumstances, the parties' conduct during the marriage.

THE COURT: Different people have different views what that means, I guess. Some people think it means throw everything in there and see what happens. I guess if that's what you want to do, go ahead."

It was not so much the words or comments that Judge Haskell used in the above exchange, but it was by his tone of voice and manner that Jeff and this writer had the distinct impression that Judge Haskell did not want to get into this area since we were dealing with strictly a property division. As a result of the above comments, we did not go into more detail relative to the allegations made by Lisa, responses to them, nor did we go into other incidents which could have shown misconduct or fault by her. However, in the court's Findings of Fact, Conclusions of Law, and Order for Judgment, it is obvious that he gave a lot of weight to these issues and as a result, gave Lisa more property (A. 10, 11, 15).

Granted, there were problems in the marriage which resulted in various separations (A. 2). Also, there was inappropriate conduct by Jeff (T. 5, 13, 17), but likewise, Lisa was abusive as well (T. 46, 47, 137). Obviously, the court did not take into account her conduct during the marriage nor the fact that she had at least one affair during the marriage (T. 139). Jeff was of the opinion there were others, but was unable to prove them (T. 160).

With regard to many of the alleged incidents there was no proof or documentation to support them. One factor that the court may have failed to take into account was the veracity of the witnesses. Lisa testified that they agreed to stop drinking which she did while Jeff did not (T. 7). However, she admitted she had recently pled guilty to a DUI (T. 46). Obviously, if she had stopped drinking, she would never have been found guilty of a DUI. If Lisa misrepresented or mislead the court relative to this fact, what other facts did she likewise do, including the alleged incidents.

The trial court obviously failed to take into account the ruling in *Rust v. Rust*, 321 NW2d 504 (ND 1982), where the court held as follows:

“Conduct of the parties is only one factor among a number of others to be considered by the trial court when dividing property in a divorce action; conduct is not necessarily the sole or controlling factor and the guidelines for making a property division do not require the division be based on the conduct of the parties, but require the trial court to consider conduct in making the property division.”

Obviously, this is one factor the court could utilize, but the trial court gave entirely too much weight in making its property division.

The court awarded Lisa \$30,000 in cash (A. 15) and \$72,208.24 of Jeff's retirement (A. 16) for a total cash payment of \$102,208.24. The parties were only together for 45

months which works out that Lisa will receive \$2,271.29 for every month of the marriage. Granted, there was some inappropriate conduct by Jeff during the marriage, but this certainly does not justify this type of payments to Lisa when you take into account the other factors of the *Ruff-Fischer* guideline. The court was clearly erroneous in awarding these sums to Lisa.

One factor the court must look at is the parties' station in life. Prior to the marriage, Jeff had worked at Falkirk mine for many years and had been able to accumulate a nice retirement. Also, he had been farming for many years and owned the house where he lived. On the other hand, Lisa had gone through bankruptcy (T. 48), had a poor credit rating, and had very little assets at the time of the marriage. In fact, she was not even able to obtain a car loan until it was put in Jeff's name (T. 86). She did not have her own home. Because of the divorce, Lisa's station in life has dramatically improved since she now has the marital home, all of her retirement, a substantial amount of personal property located at the home, and if the decision is allowed to stand, \$102,208.24 in cash or retirement. This for a marriage that lasted less than four years. On the other hand, because of the marriage Jeff stands to lose \$102,208.24.

Another factor the court can look at are the necessities of each of the parties. As noted earlier, Lisa's financial position has certainly changed and improved since the marriage. She now has a home which is furnished nicely which she did not have before. With her income, she is certainly able to support herself in the future. Therefore, all of her necessities are taken care of and there was no need for the court to award her an additional \$102,208.24.

Both of the parties are in good health (A. 14) and there was nothing to indicate that this will change in the near future. Therefore, this factor is not of any consequences in this case.

As noted above, the financial circumstances of both parties have dramatically changed because of the marriage. Prior to the marriage, Lisa apparently had little or no checking or savings accounts and very little retirement. However, during the marriage that changed and she is much more financially secure, plus she has acquired other personal property including a home, household goods, etc. Without a doubt, Lisa's financial situation has improved dramatically in less than four years. If the current award of the additional \$102,208.24 is affirmed by the court, this will be a financial bonanza to her. On the other hand, Jeff's financial condition will go backwards if Lisa is allowed to keep the above-mentioned amount. Apparently, this would occur merely because of his conduct.

Wetzel further points out that the duration of the marriage and source of property are two important considerations under these guidelines. Obviously, the trial court in this case has not given the same weight to these two factors as the Supreme Court has mandated. As noted before, this is a short-term marriage. It is very obvious that the source of the property that Lisa has been awarded is coming from the efforts of Jeff, either through his accumulation of moneys in his retirement account due to prudent investments or from his inheritance. The trial court was clearly erroneous by not giving the proper weight to these important considerations as required by case law.

Although inherited property can be divided between spouses to make an equitable division as in *Winter v. Winter*, 338 NW2d 819 (1983) and *Anderson v. Anderson*, 390

NW2d 554 (1986), such cases are based on factual circumstances considerably different from the instant case.

In *Winter, Ibid.*, while Mr. Winter's argument was not accepted, the appellate court commented at 822:

"It is appropriate under 14-05-24 for the trial court to award all of the gifted and inherited property to the marriage partner in whose name it was gifted or inherited, provided it is 'just and proper' to do so."

In this situation, it would be "just and proper" to award Jeff the inherited property.

In *Anderson, Ibid.*, there were three minor children, the marriage was 17 years duration, there was little other property in the estate and a significant disparity in earning power of the parties. The appellate court commented the guidelines give the trial court sufficient flexibility to consider source of property as a factor in arriving at an equitable division. Obviously, the facts here are substantially different than the present case.

In *VanRosendale v. VanRosendale*, 342 NW2d 209 (1983), the court granted the wife her inherited property, its character being one factor cited to support this award. In *Gaulrapp v. Gaulrapp*, 510 NW2d 620 (1994), we are again reminded the original of property owned by the parties can be considered under the guidelines; inherited property should be set aside to heir where fairly possible.

Because the court failed to take into account the various factors or considerations of the *Ruff-Fischer* guidelines or have improperly applied these factors in this case, the court has awarded Lisa substantially more property than she was entitled to, namely \$72,208.24 from Jeff's retirement and the award of \$30,000 cash. In particular, the court has failed to take into account the length of the marriage and where the property came from

and put entirely too much weight on the conduct of the parties. Therefore, the court should reverse the decision of the trial court and award the two items to Jeff. By doing so, Lisa will still be getting a substantial amount of property which is in compliance with the case law and the circumstances in this case.

II. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN AWARDING ATTORNEYS FEES TO THE APPELLEE?

The trial court ordered Jeff to pay Lisa's attorney's fees (A. 20) which amounted to the sum of \$7,544.70. Based upon the evidence and case law, that was an abuse of discretion.

At the time of the trial, there was very little testimony and no documentation introduced by Lisa relative to her request for attorney's fees. In fact, the only justification for being awarded her attorney's fees was at page 44 where Lisa stated, "This could have been settled long ago if Jeff could just be fair." The justification the court gave for awarding attorney's fees was Jeff's "behavior was the most significant factor that caused the divorce." (A. 20).

This court, on a number of occasions, has looked at the issue of awarding attorney's fees in divorces, *Buchholz v. Buchholz*, 1999 ND 36, 590 NW2d 215 (ND 1999); *Whitmire v. Whitmire*, 1999 ND 56, 591 NW2d 126 (ND 1999); and *Jorgenson v. Ratajezak*, 1999 ND 65, 592 NW2d 527 (ND 1999).

"The principal standards guiding an award of attorney fees in a divorce action are one spouse's need and the other's ability to pay." *Buchholz, Ibid*, page 127. Here, Lisa did not have the need based upon her income, the amount of property she was awarded,

including liquid assets. Granted, Jeff was awarded a substantial amount of property, however, it is not in liquid form, but consists of real property, personal property, and retirement funds. Therefore, under the circumstances, the court abused its discretion in awarding attorney's fees.

Buchholz, Ibid, page 217, further sets forth certain factors the court must look at,

"In awarding attorney fees in connection with a divorce action, the trial court should consider factors such as the property owned by each spouse, their relative incomes, whether property is liquid or fixed assets, and whether the action of either spouse has unreasonably increased the time spent on the case."

Lisa was awarded all of her property which she brought into the marriage pursuant to the Premarital Agreement. In addition, she received the marital home which was purchased while the parties were married. She retained all of her checking, savings, and various retirement accounts. She received the vast majority of the personal property in the marital home. The court awarded her \$72,208.24 of Jeff's retirement and an additional \$30,000 in cash. Lisa certainly received a sufficient amount of property which would not justify the court in requiring Jeff to pay her attorney's fees. Even if the court had not awarded her the additional \$102,208.24, the court still would not have been justified in ordering attorney's fees based upon the amount of property she received.

The testimony was very clear that in the last several years Lisa's income was greater than Jeff's (T. 47). The testimony further indicated that she will be keeping her same job and with the same amount of salary. With her income, she certainly has the ability to pay her attorney's fees.

Each of the parties received fixed assets in the form of either real estate or personal property. However, Lisa was given all of her checking, savings, and retirement accounts. In addition, she received \$72,208.24 of Jeff's retirement and \$30,000 in cash which would give her sufficient liquid assets to pay her own attorney's fees. Again, if the court determines that she should not have received the additional \$102,208.24, she still has sufficient liquid assets to pay her own attorney's fees.

The only reason given by Lisa is that this could have been settled if Jeff would have only been fair. However, there were substantial amount of assets that had to be divided. There was issue of the Premarital Agreement and the interpretation of the terms. Also, there was the issue of the inheritance. Due to the large amount of property, the legal issues involved, its understandable why this divorce was not settled. Jeff certainly cannot be blamed for any increased time spent in this case in light of the above.

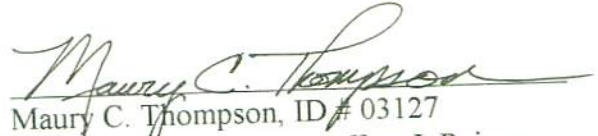
The justification given by the court for awarding attorney's fees was Jeff's conduct during the marriage. However, this is not a factor that the Supreme Court or case law has given as a reason for awarding attorney's fees. Therefore, taking into account the factors the court has set forth, the court abused its discretion in awarding Lisa \$7,544.70 for attorney's fees.

CONCLUSION

Jeff respectfully requests the court to reverse the trial court's decision and (1) give him all of his North American Coal retirement account; (2) award him an additional \$30,000 in cash; and (3) require Lisa to pay her own attorney's fees.

Dated this 5th day of October, 2000.

Respectfully submitted,

A handwritten signature in cursive script, reading "Maury C. Thompson". The signature is written in dark ink and is positioned above the printed name and contact information.

Maury C. Thompson, ID # 03127
Attorney for Appellant, Jeffrey J. Reiser
PO Box 1771
Bismarck, ND 58502
(701) 223-9787