

DAVID W. TRAINOR

v.

KRISTY J. TRAINOR

Submitted on Briefs February 26, 2004  
Decided March 3, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, ALEXANDER, CALKINS,  
and LEVY, JJ.

#### MEMORANDUM OF DECISION

David W. Trainor appeals from an order entered in District Court (Millinocket, *Stitham, J.*) adjudging him in contempt for failing to pay certain child care expenses. He also appeals the denial of his motion in which he sought to hold Kristy J. Trainor in contempt for violating the divorce judgment, and he appeals the denial of his motion to clarify the divorce judgment.<sup>1</sup> Contrary to David's contention, the court did not err in its interpretation of the child support guidelines, 19-A M.R.S.A. §§ 2001-2009 (1998 and Supp. 2003), nor in finding that an

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<sup>1</sup> The docket entries erroneously state that the motion for clarification, identified as "other motion," was granted. The motion itself is endorsed by the judge "motion denied." The District Court clerk is directed to correct the docket entry.

alleged overpayment should not be setoff against the amount owing. Further, the court did not err or abuse its discretion in finding that David failed to prove that Kristy acted contemptuously or had the present financial ability to make a payment arguably due under the divorce judgment. *See Zink v. Zink*, 687 A.2d 229, 232 (Me. 1996).

However, we agree with David that the court abused its discretion in denying his motion for clarification of the provision in the divorce judgment concerning reimbursement to Hartford Insurance Company. The court found that the provision was ambiguous and that it appeared that Kristy was to pay some amount to Hartford, but the court declined to determine the amount or otherwise clarify the judgment. The judge who issued the divorce judgment also presided over the post-judgment motions, including the motion for clarification. Because the divorce court's intent controls in a divorce judgment, *Greenwood v. Greenwood*, 2000 ME 37, ¶ 9, 746 A.2d 358, 361, the court abused its discretion by declining to clarify its intent when a significant provision in the judgment was ambiguous and a party requested clarification.

The entry is:

Order adjudging David Trainor in contempt affirmed. Order denying David Trainor's motion to hold Kristy Trainor in contempt affirmed. Order denying David Trainor's motion for clarification vacated. Case remanded for further proceedings.

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