

DARLENE COPP

v.

SCOTT LIBERTY

Submitted on Briefs November 27, 2007
Decided January 15, 2008

Panel: CLIFFORD, ALEXANDER, LEVY, SILVER, and GORMAN, JJ.

MEMORANDUM OF DECISION

Scott Liberty appeals from a judgment of the Superior Court (Cumberland County, *Jabar, J.*) denying his motion seeking permission to file a motion for post-judgment relief on his claim that his divorce judgment impermissibly delegates authority to his wife to determine the best interests of their children.¹

Contrary to Liberty's contention, we previously rejected this exact claim when Liberty raised it in his most recent appeal to this Court. *See Copp v. Liberty*, Mem 05-144 (Oct. 17, 2005). Because Liberty has neither alleged a substantial

¹ Liberty's motion was required by an earlier order of the court issued in accordance with *Spickler v. Key Bank of Southern Maine*, 618 A.2d 204 (Me. 1992), that prohibited either party from filing a motion without prior approval of the court.

change in circumstances justifying modification, *see Cloutier v. Lear*, 1997 ME 35, ¶ 3, 691 A.2d 660, 662, nor that Copp rejected an acceptable and appropriate facility in breach of the covenant of good faith contained within the divorce judgment, *see Black v. Black*, 2004 ME 21, ¶ 10 n.5, 842 A.2d 1280, 1285 (recognizing that relief from enforcement of a divorce judgment may be based on breach of a covenant of good faith), the Superior Court properly denied Liberty permission to file a motion to modify the divorce judgment. Although we decline to impose sanctions on appellant's counsel due to the unique nature of this case, we remand for an award against Liberty of attorney fees and costs on appeal. *See* M.R. App. P. 13(f).

The entry is:

Judgment affirmed. Remanded for determination of attorney fees and costs on appeal.

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