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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ██████████
FAMILY DIVISION

██████████,

Plaintiff,

vs.

██████████,

Defendant.

Case No. ██████████

Honorable ██████████

██████████ (██████████) Attorney for Plaintiff ██████████, MI ██████████	██████████ (██████████) Attorney for Defendant ██████████, MI ██████████
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MOTION TO STAY ENFORCEMENT OF JUDGMENT OF DIVORCE

NOW COMES the Plaintiff, ██████████ (the "Plaintiff"), by and through his attorney, ██████████ and for this Motion To Stay Enforcement Of Judgment Of Divorce (the "Motion") herein, states as follows:

1. Plaintiff filed a Complaint for Divorce from Defendant ██████████ (the "Defendant").

2. On [REDACTED], 2020, following a trial on Plaintiff's Complaint for Divorce, this Court issued the following orders, *inter alia*:
 - a. The marriage between Plaintiff and Defendant was dissolved;
 - b. Defendant was awarded a [REDACTED] pursuant to an [REDACTED] agreement dated [REDACTED];
 - c. Defendant was awarded monthly spousal support through [REDACTED];
 - d. There was no award of spousal support to Plaintiff;
 - e. Plaintiff was awarded real property subject to payment to Defendant for her share of the property;
 - f. Defendant was awarded her share of Plaintiff's retirement account;
 - g. Both parties were awarded certain personal property;
 - h. Plaintiff was ordered to reimburse Defendant for Defendant's credit card debt. See Judgment Of Divorce, dated [REDACTED] (the "Judgment").
3. Plaintiff believes that the Court abused its discretion when it gave certain evidence presented at the trial in this matter greater weight than is afforded by law, and is filing a Claim Of Appeal to appeal this Court's Judgment.
4. Accordingly, for the reasons set forth in Plaintiff's brief in support of this Motion, enforcement of the Judgment should be stayed pending Plaintiff's appeal.

Respectfully Submitted,

[REDACTED] ([REDACTED])
Attorney for Plaintiff

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Dated: [REDACTED] 2020

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF [REDACTED]
FAMILY DIVISION

[REDACTED],

Plaintiff,

vs.

[REDACTED],

Defendant.

Case No. [REDACTED]
Honorable [REDACTED]

[REDACTED] ([REDACTED]) Attorney for Plaintiff [REDACTED], MI [REDACTED]	[REDACTED] ([REDACTED]) Attorney for Defendant [REDACTED], MI [REDACTED]
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**BRIEF IN SUPPORT OF MOTION TO STAY ENFORCEMENT
OF JUDGMENT OF DIVORCE**

NOW COMES the Plaintiff, [REDACTED] (the "Plaintiff"), by and through their attorney, [REDACTED], and for their Motion To Stay Enforcement Of Judgment Of Divorce (the "Motion") herein, states as follows:

INTRODUCTION

Plaintiff, in the Motion and this Brief In Support Of Motion To Stay Enforcement Of Judgment Of Divorce (the "Brief In Support"), makes a common request to stay this matter to provide Plaintiff an opportunity to appeal the Court's Judgment. On [REDACTED], Plaintiff filed a Complaint for Divorce from Defendant [REDACTED] (the "Defendant"). See Complaint For Divorce, dated [REDACTED], attached hereto as Exhibit A. On [REDACTED], following a trial on Plaintiff's Complaint for Divorce, this Court issued its

orders related to the divorce between the Plaintiff and the Defendant. See generally Judgment Of Divorce, dated [REDACTED] (the "Judgment"), attached hereto as Exhibit B; see also Uniform Spousal Support Order, dated [REDACTED], attached hereto as Exhibit C. Plaintiff believes that the Court abused its discretion when it gave certain evidence presented at the trial in this matter greater weight than is afforded by law, thereby granting Defendant more spousal support than she is entitled to under the law. Now, Plaintiff has requested the transcripts of the trial in this matter and has prepared a Claim Of Appeal in the Michigan Court of Appeals (the "Court of Appeals") to appeal the Court's Judgment. See Request for Transcripts, dated [REDACTED], attached hereto as Exhibit D; see also Claim Of Appeal, attached hereto as Exhibit E. Plaintiff respectfully requests that this Court grant the Motion and stay enforcement of the Judgment pending a ruling on Plaintiff's Claim of Appeal by the Court of Appeals.

BACKGROUND

At this time, Plaintiff does not have a copy of the transcripts from the trial in this matter. See Request for Transcripts, *supra*. So, Plaintiff is unable to provide factual details from the trial in this matter that Plaintiff intends to use to support his Claim Of Appeal. However, generally, the basis of Plaintiff's Claim of Appeal will be that the Court's award of spousal support was inequitable where the Court: (1) abused its discretion and gave improper weight to certain evidence of abuse presented at trial; and (2) issued support that heavily favored Defendant. The above abuse of discretion will cause the Plaintiff harm, particularly where Plaintiff is ordered to pay an inordinately greater share of spousal support than should be allowed by law. As it relates to spousal support and property division, the Judgment set forth the following, *inter alia*: (1) Defendant was awarded a [REDACTED] dollars, pursuant to an [REDACTED] agreement dated [REDACTED]; (2) Defendant was awarded monthly spousal support in the

amount of [REDACTED] dollars through [REDACTED]; (3) there was no award of spousal support to Plaintiff, and Plaintiff shall forever be barred from receiving spousal support, whether Defendant's income is enhanced following the completion of her [REDACTED]; (4) Plaintiff was awarded real property subject to payment of [REDACTED] dollars to Defendant for her share of the property; (5) Defendant was awarded her share of Plaintiff's retirement account, in the amount of [REDACTED] dollars; (6) both parties were awarded certain personal property; and (7) Plaintiff was ordered to reimburse Defendant for Defendant's credit card debt in the amount of [REDACTED] dollars. *Id.*, at [REDACTED].

Now, to avoid harm to Plaintiff and for the reasons set forth below, Plaintiff respectfully requests that this Court stay enforcement of the Judgment while Plaintiff seeks redress in the Court of Appeals.

ARGUMENT

In light of all the facts set forth at the trial in this matter, the division of property by the Court, which weighed heavily in Defendant's favor, was inequitable, and a stay of the enforcement of the Judgment is appropriate while Plaintiff appeals the Judgment. *Piche v Piche*, ___ NW2d ___; 2009 Mich. App. LEXIS 2230, at *11-13 (Ct App, Oct. 22, 2009); citing *Sparks v Sparks*, 440 Mich 141, 158-59; 485 NW2d 893 (1992) ("The division of property in a divorce action is not governed by 'strict mathematical formulations'; rather, 'while the division need not be equal, it must be equitable' in light of all the facts."). The trial court must weigh the following factors should they be relevant to the circumstances of the particular case:

- (1) duration of the marriage,
- (2) contributions of the parties to the marital estate,
- (3) age of the parties,
- (4) health of the parties,
- (5) life status of the parties,
- (6) necessities and circumstances of the parties,
- (7) earning abilities of the parties,
- (8) past relations and conduct of the parties, and
- (9) general principles of equity.

Sparks, 440 Mich at 159-160, *supra*. Further, a "trial court shall make specific findings of fact

regarding the factors it finds to be relevant, even if not on this list, but it may not assign disproportionate weight to any one circumstance.” *Piche*, 2009 Mich. App. LEXIS 2230, at *13; citing *Sparks*, 440 Mich at 158-160, 162-163.

Although the Judgment in this matter, issued on [REDACTED], states that

[REDACTED],

it is arguable that this matter is currently under an automatic stay until [REDACTED]. MCR 2.614(A)(1) (“enforcement of a judgment is automatically stayed for 21 days after the judgment is entered.”); see also Judgment, *supra*, at 2. Nevertheless, “[e]xcept as otherwise provided by law or rule, the trial court may order a stay of proceedings, with or without a bond as justice requires.” MCR 7.209(E)(1). And it is absolutely appropriate for a trial court to order a stay of its own judgment of divorce pending completion of an appeal. See e.g. *Streicher v Streicher*, 128 Mich App 5, 7; 339 NW2d 661 (1983) (where “[t]he trial judge entered an order staying its judgment of divorce and the various responsibilities and obligations of the parties thereunder except as to the dissolution of the marriage, pending completion of this appeal.”).

Plaintiff intends to show on appeal, once he receives the transcripts in this matter, that the Court’s award of spousal support was inequitable, particularly where the Court abused its discretion and gave improper weight to certain evidence of abuse presented at trial. Plaintiff will also show on appeal that the above abuse of discretion lead to the Judgment, which weighed heavily in Defendant’s favor. For example, as it relates to spousal support and property division, the Judgment set forth, *inter alia*, that: (1) Defendant was awarded [REDACTED] dollars, pursuant to [REDACTED] agreement dated [REDACTED]; (2) Defendant was awarded monthly spousal support in the amount of [REDACTED] dollars through

██████████; (3) there was no award of spousal support to Plaintiff, and Plaintiff shall forever be barred from receiving spousal support, whether Defendant's income is enhanced following the completion of ██████████; (4) Plaintiff was awarded real property subject to payment of ██████████ dollars to Defendant for her share of the property; (5) Defendant was awarded her share of Plaintiff's retirement account, in the amount of ██████████ dollars; (6) both parties were awarded certain personal property; and (7) Plaintiff was ordered to reimburse Defendant for Defendant's credit card debt in the amount of ██████████ dollars. See Judgment, *supra*, at ██████████. The above abuse of discretion and the support order stemming from it led to an inequitable Judgment which, if enforced, will inordinately harm Plaintiff. *Sparks*, 440 Mich at 158-59, 162-63.

For the reasons set forth above, Plaintiff respectfully requests that this honorable Court grant the Motion and stay enforcement of the Judgment pending a ruling on Plaintiff's Claim of Appeal by the Court of Appeals. *Sparks*, 440 Mich at 158-59, 162-63; MCR 7.209(E)(1); *Streicher*, 128 Mich App at 7.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this honorable Court grant the Motion to Stay Judgment of Divorce pending a ruling on Plaintiff's Claim of Appeal by the Michigan Court of Appeals.

Respectfully Submitted,

██████████
██████████ (██████████)
Attorney for Plaintiff
██████████
██████████, MI

Dated: ██████████ 2020