

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY
FAMILY DIVISION**

IN RE: THE MARRIAGE OF

**LINDA MARIE BOLLEA,
Petitioner/Wife,**

And

**UCN: 522007DR013355XXFDFD
Ref No. 07-13355-FD-14**

**TERRY GENE BOLLEA,
Respondent/Husband.**

**ORDER ON WIFE'S EMERGENCY MOTION FOR CONTEMPT AND TO
ENFORCE ORDER APPROVING STIPULATION AND ON HUSBAND'S
MOTION TO WITHDRAW FROM STIPULATION AS TO LAS VEGAS
CONDOMINIUM AND OTHER RELATED MATTERS**

THIS CAUSE came before the Court for hearing on July 8, 2008. Notices of Hearing on the following motions appear in the record:

- (1) Wife's Emergency Motion for Contempt and to Enforce Order Approving Stipulation as to Las Vegas Condominium and for Related Matters,
- (2) Wife's Motion to Amend Order Approving Stipulation as to Las Vegas Condominium Contract and for Related Matters,
- (3) Husband's Motion to Withdraw from Stipulation as to Las Vegas Condominium and Other Related Matters Signed on April 22, 2008 and to Set Aside Order Approving Stipulation as to Las Vegas Condominium Contract and for Related Matters Entered on April 22, 2008, Due to Newly Discovered Evidence,
- (4) Wife's Objection and Motion for Protective Order as to Husband's Request for Supplemental Disclosure and Husband's Motion to Compel Production of Documents,

(5) Wife's Motion to Strike Husband's Notice of Hearing on Husband's Motion to Withdraw from Stipulation as to Las Vegas Condominium Contract and Related Matters Signed on April 22, 2008, and to Set Aside Order Approving Stipulation as to Las Vegas Condominium Contract and for Related Matters Entered on April 22, 2008, Due to Newly Discovered Evidence, and

(6) Wife, Linda Marie Bollea's Motion in Limine to Strike and Prohibit All of Husband's Appraisals and Value Opinions.

The Husband TERRY GENE BOLLEA was present as was his attorney Ann Loughridge Kerr, Esq. The Wife LINDA MARIE BOLLEA was also present and represented by John S. Thacker, Esq, A J Barranco, Esq, and Neena Tankha, Esq. Mr. Barranco spoke on behalf of the Wife.

Although there was no testimony, counsel through argument set forth numerous undisputed facts. First, there have been two appraisals of the condominium unit, one obtained by the Wife prior to the April 22, 2008 Stipulation and one obtained by the Husband several weeks thereafter. These appraisals differ by \$1,000,000. The Husband asserts his lower appraisal constitutes a mistake in his relying on the Wife's appraisal when he signed the Stipulation. The Wife does not acknowledge a mistake. It is also not disputed that the Wife was in Las Vegas ready to close on the property on May 30, 2008, and that the Husband could not be reached by her on that date. It is clear that no closing occurred on May 30, 2008 but it has not been established that there was in fact a closing scheduled on that date and/or that the Bolleas are now in default.

Also, the Court is unclear on the legal or financial result of a default by Mr. and Mrs. Bollea and how this would impact the parties financially. Conceivably, if the loss of the deposit was not to be the totality of such consequences, the loss could exceed that suggested by Ms. Kerr in argument.

Finally, the Wife is seeking to amend the Order she wished to enforce against the Husband through her Emergency Motion for Contempt. If there is a factual basis for the claimed impossibility of performance, a factual basis for a claimed inability of the seller to perform because there is no legal designation of tenancy by the entireties in Nevada; or if there is a factual basis for the Order on the stipulation being amended, those need to be addressed and resolved prior to any definitive action by the Court. The law requires that before contempt can be found, the court order violated must be clear, certain and final. See generally, *Keitel v Keitel*, 716 So.2d 842 (Fla. 4th DCA 1998). Therefore, there is no reasonable basis to hold the Husband in contempt and no basis for the court to recede from its April 22, 2008 Order on the parties' stipulation. It is therefore

ORDERED AND ADJUDGED that the Wife's Emergency Motion for Contempt and to Enforce Order Approving Stipulation as to Las Vegas Condominium and for Related Matters is hereby DENIED without prejudice as is the Husband's Motion to Withdraw from Stipulation as to Las Vegas Condominium and Other Related Matters Signed on April 22, 2008 and to Set Aside Order Approving Stipulation as to Las Vegas Condominium Contract and for Related Matters Entered on April 22, 2008, Due to Newly Discovered Evidence.

DONE AND ORDERED in Chambers, at Clearwater, Pinellas County, Florida this 11 day of July, 2008.


GEORGE W GREER
CIRCUIT JUDGE

Copies furnished to:
A J Barranco, Esq, 150 W. Flagler St, Suite 1400, Miami, FL 33130
John S. Thacker, Esq, 407 South Ewing Avenue, Clearwater, FL 33756

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