

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

December 27, 2000

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-2279-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN RE THE MARRIAGE OF:**

**JUDI ANN KOONCE,**

**PETITIONER-RESPONDENT,**

**V.**

**GEORGE EARL KOONCE,**

**RESPONDENT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Brown County:  
DONALD R. ZUIDMULDER, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 CANE, C.J. George Koonce, Jr., appeals from an amended judgment requiring him to pay a total sum of \$150,000 pursuant to a previously

entered divorce judgment.<sup>1</sup> It is undisputed that George has already paid his former wife, Judi Koonce, \$75,000 pursuant to the marital settlement agreement that was the basis for the judgment. At issue is whether he is required to pay an additional sum of \$75,000. The trial court concluded that the agreement was unambiguous and required George to pay the additional \$75,000. We agree with the trial court and affirm the judgment.

¶2 The underlying facts are undisputed. At the time of the divorce, George was a football player with the Green Bay Packers. George's player contract provided that he would receive a \$750,000 bonus if he was on the roster on March 15, 2000. Accordingly, George and Judi incorporated the following language in their September 1999 marital settlement agreement:

As a further property division, [George] shall pay to [Judi] the sum of \$150,000.00 on April 1, 2000, from his roster bonus. If for any reason [George] does not receive his roster bonus with the Green Bay Packers due in the year 2000, [George] shall pay to [Judi] the sum of \$75,000.00. If for any reason the Players' Contract between the Green Bay Packers and [George] for the year 2000 is renegotiated by the parties, [Judi] shall receive \$150,000.00 regardless of whether said contract provides for a roster bonus.

¶3 Although George was on the roster on March 15, he did not receive a bonus because he waived his \$750,000 roster bonus on January 26, 2000, when he restructured his contract with the team. In consideration for waiving the bonus, his salary increased for the years 2000 and 2001. The restructured contract included a series of additional bonuses and incentives that could also increase his earnings. On June 2, however, the Green Bay Packers cut George from the team, rendering the restructured contract null and void.

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<sup>1</sup> This is an expedited appeal under WIS. STAT. RULE 809.17 (1997-98).

¶4 Judi contended that although George had been cut from the team, he was nonetheless required to pay her an additional \$75,000 pursuant to the marital settlement agreement because he had renegotiated his contract. When George refused to pay, Judi sought enforcement of the agreement in the trial court. George argued that the second and third sentences of the agreement are in conflict, thereby rendering the agreement ambiguous. Judi argued that there is no conflict and that reading the agreement as a whole, there is only one reasonable interpretation of the agreement: if George renegotiates his contract, she receives \$150,000, regardless of whether George receives a roster bonus. The trial court agreed with Judi and ordered George to pay an additional \$75,000 by December 31. This appeal followed.

¶5 At issue is the interpretation of a marital settlement agreement. A stipulation incorporated into a divorce judgment is in the nature of a contract. *Keller v. Keller*, 214 Wis.2d 32, 37, 571 N.W.2d 182 (Ct. App. 1997). Interpretation of a contract is a question of law that we review independently. *See Demerath v. Nestle Co.*, 121 Wis. 2d 194, 197, 358 N.W.2d 541 (Ct. App. 1984). Likewise, whether an ambiguity exists in the contract is a question of law. *Zimmerman v. DHSS*, 169 Wis. 2d 498, 507, 485 N.W.2d 290 (Ct. App. 1992). A term is ambiguous if it is reasonably or fairly susceptible to more than one meaning. *Borchardt v. Wilk*, 156 Wis. 2d 420, 427, 456 N.W.2d 653 (Ct. App. 1990).

¶6 Having reviewed the agreement, we agree with the trial court that it is unambiguous. The general rule when construing contracts is that the meaning of particular provisions in the contract is to be ascertained with reference to the contract as a whole. *Tempelis v. Aetna Cas. & Surety Co.*, 169 Wis. 2d 1, 9, 485 N.W.2d 217 (1992). We see no ambiguity. The agreement clearly provides for

certain scenarios. The first two sentences address what will occur if George receives or fails to receive his roster bonus. The next sentence provides what will occur if George chooses to renegotiate his contract. In that event, Judi “shall receive \$150,000.00 regardless of whether said contract provides for a roster bonus.”

¶7 As the trial court noted, George was cut from the Green Bay Packers, but not before he renegotiated his contract. Because he renegotiated his contract, the third sentence of the agreement becomes relevant, entitling Judi to the \$150,000. We also agree with the trial court that for purposes of the marital agreement, there is no difference between the meaning of renegotiated and restructured. Here, George elected to waive his \$750,000 roster bonus, which he would have been entitled to if he were still on the roster as of March 15, 2000. Instead, he renegotiated a new contract providing for additional incentives, bonuses and increased salaries in consideration for waiving the bonus. Why he chose to renegotiate the contract or the fact that he was later cut from the team is irrelevant pursuant to the unambiguous terms of the agreement.

¶8 In summary, we conclude that the agreement is not ambiguous and that pursuant to that agreement, George is required to pay Judi a total of \$150,000 because he renegotiated his contract. Accordingly, the trial court correctly concluded that Judi is entitled to the remaining \$75,000.

*By the Court.*—Judgment affirmed.

Not recommended for publication in the official reports.



