

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**September 18, 2001**

Cornelia G. Clark  
Clerk of Court of Appeals

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**No. 00-2942**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN RE THE MARRIAGE OF:**

**ELAINE H. SORENSEN,**

**JOINT-PETITIONER-RESPONDENT-  
CROSS-APPELLANT,**

**V.**

**PHILIP J. SORENSEN,**

**JOINT-PETITIONER-APPELLANT-  
CROSS-RESPONDENT.**

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APPEAL and CROSS-APPEAL from a judgment of the circuit court for Ashland County: EUGENE D. HARRINGTON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Vergeront, JJ.

¶1 PER CURIAM. Philip Sorensen appeals his divorce judgment and challenges child support, maintenance, property division and attorney fees. His

former wife, Elaine Sorensen, cross-appeals, challenging maintenance, the allocation of debts, and the award of attorney fees. We affirm the judgment.

## BACKGROUND

¶2 The parties were married in 1981 and have two children, who were ages seven and three and one-half at the time of the divorce hearing. Philip, an attorney, is a solo practitioner. Elaine, who previously worked at his office performing secretarial and bookkeeping tasks, now stays at home with their children.

¶3 Elaine testified that she dropped out of college to move to Wisconsin and marry Philip. When they were first married, she worked in retail to help support their household while Philip attended law school.<sup>1</sup> When Philip graduated, they moved to Duluth where Philip obtained employment at the city attorney's office. He earned approximately \$40,000 per year. Elaine continued working in retail and as a seamstress in Duluth, making about \$6 per hour.

¶4 In 1988, Philip left the city attorney's office. Elaine testified that Philip wanted to become a small town practitioner and live near his family. Philip opened an office in Ashland and the parties moved to the town of Highbridge, approximately twenty miles away. Elaine immediately began working for Philip as his legal secretary. Elaine testified: "When we moved to [Highbridge], we didn't have any funds to send me to school because we were putting it into renovating a dilapidated farm house and furthering Phil's business." Elaine noted

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<sup>1</sup> Philip's father paid for law school tuition and fees.

that it took “a good couple of years before [Philip] was making anywhere near what he made in Duluth ....”

¶5 Elaine testified that after their sons were born, in 1993 and 1996, the parties agreed that Elaine would stay home to care for the children and, once they were in school, she would complete her education. Elaine testified that she continued to help Philip at the law office and attended some classes until the parties separated.

¶6 Philip testified that he has a general practice: “I’d say 25 percent is criminal and the rest is general stuff, real estate, wills ... probate ....” His hourly rate varies from \$80 to \$95 per hour. Approximately one-third of his practice is court-appointed and legal aid, for which he receives between \$40 and \$60 per hour. He generally works fifty hours a week.

¶7 Elaine stated that it was advantageous from a tax standpoint for Philip to deduct her income as a payroll expense. In 1999, Elaine reported income of \$5,400 from the office and Philip reported \$37,200. Elaine testified that now that she no longer works at the office, her income is available to Philip. Although Philip claimed that he had to hire additional help to assist him, Elaine disputed that, stating: “As far as I can tell, his secretary is not working any extra days.” Elaine testified further that the bookkeeping tasks she performed could be accomplished by Philip: “He could do them himself. He did them before.”

¶8 Philip’s income fluctuates, but he claimed that his average was \$33,070 annually. He testified that because Elaine no longer works at his office, he needed to pay his secretary more to perform the tasks Elaine previously did. During the first six months of 2000, however, Philip earned income of \$25,800. When asked why his income was higher in 2000 than in previous years, Philip

responded: “I know I’m working harder and longer; but also, you know, hopefully my clientele bas[e] is building. I don’t know, it’s been good. It doesn’t mean it’s going to continue, but it’s been good. I’m exhausted.”

¶9 Philip testified that neither party brought any assets of value to the marriage. He agreed that it would be best for the children to award possession of the home to Elaine. The parties stipulated that the house was worth \$80,000, subject to a \$12,000 home equity loan. Philip believed that including the accounts receivable, the value of his law firm’s assets were approximately \$12,000. In addition, Philip’s ten percent interest in the building that housed his firm was worth \$4,500.

¶10 The trial court found that Philip earned \$42,500 per year. The court ordered that Philip pay \$885 per month in child support. The court further ordered that he pay Elaine \$832.50 per month maintenance. As for property division, the court ordered that the residence be owned as tenants in common and that Elaine remain in possession as the custodial parent. The court ordered that each party shall be liable for one-half of the home equity loan, real estate taxes, insurance, and repairs. It required Elaine to be responsible for utilities.

¶11 With the exception of household goods and furnishings, the court attempted to effectuate an equal property division. The court ordered that each party should retain the goods in his or her possession, noting that Elaine would retain more items to provide a furnished home for the children. The court divided

other property, including individual retirement accounts, securities, and real estate equally.<sup>2</sup>

¶12 The court valued the law practice at \$15,776.03. It awarded Philip the assets of his law practice, including his interest in the partnership that owned the building, but determined that Elaine was entitled to an equalizing payment of

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<sup>2</sup> The court ordered the following property division.

**Elaine**

Personal property in her possession and van

IRA valued at \$47,000

One Madeline Island Lot \$5,000

One-half of jointly held securities

Cash payment of \$7,888

One-half of the 1999 income tax refund \$1,463

One-half of the custodial accounts (held for the children)

**Philip**

Personal property in his possession and truck

His \$47,000 IRA

One \$5,000 Madeline Island lot

One-half of jointly held securities

Law office assets

Cash value of life insurance policy at \$480.52

One-half of the 1999 income tax refund \$1,463.

One-half of the custodial accounts (held for the children)

\$7,888.01. In addition, the court required Philip to pay a \$1,463 contribution to Elaine's attorney fees.

## STANDARD OF REVIEW

¶13 The determination of maintenance, child support and property division requires the exercise of discretion. *See Evenson v. Evenson*, 228 Wis. 2d 676, 687, 598 N.W.2d 232 (Ct. App. 1999); *see also Sharon v. Sharon*, 178 Wis. 2d 481, 488, 504 N.W.2d 415 (Ct. App. 1993). Discretion is the reasoned application of the proper principles of law to the facts that are properly found. *Hartung v. Hartung*, 102 Wis. 2d 58, 66, 306 N.W.2d 16 (1981).

¶14 It is well established that a trial court, in the exercise of its discretion, may reasonably reach a conclusion that another court would not. *Liddle v. Liddle*, 140 Wis. 2d 132, 156, 410 N.W.2d 196 (Ct. App. 1987). We are to look to the record for reasons to sustain a trial court's discretionary decision. *See Brandt v. Witzling*, 98 Wis. 2d 613, 619, 297 N.W.2d 833 (1980).

¶15 We apply the “clearly erroneous” standard to the factual basis for the court’s determination. WIS. STAT. § 805.17(2).<sup>3</sup> The trial court, not the appellate court, judges the credibility of witnesses and the weight of their testimony. *Id.* Appellate courts search the record for evidence to support findings reached by the trial court, not for evidence to support findings the trial court did not but could have reached. *Estate of Dejmal*, 95 Wis. 2d 141, 154, 289 N.W.2d 813 (1980). Appellate court deference considers that the trial court has the opportunity to

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<sup>3</sup> All statutory references are to the 1999-2000 version unless otherwise noted.

observe the demeanor of witnesses and gauge the persuasiveness of their testimony. *Id.* at 151-52.

## DISCUSSION

### 1. Child Support

¶16 Philip argues that the trial court miscalculated his earnings in order to determine child support. We are unpersuaded. The trial court is required to calculate the appropriate award of child support by applying the WIS. ADMIN. CODE § DWD 40 percentage standards to the payor's gross income. *See Evenson*, 228 Wis. 2d at 691; *see also* WIS. STAT. § 767.25(1) and (1n)(b).<sup>4</sup> Section DWD 40.02(14) defines gross income as “(a) All income considered federal gross income under 26 CFR [§] 1.61-1” plus additional sources not relevant here. Section DWD 40.02(13)(a) defines gross income to include “[a]ll income considered federal gross income under 26 CFR [§] 1.61-1.” Gross income as defined in 26 C.F.R. § 1.61-1 (West 1997), means “all income from whatever source derived, unless excluded by law.”<sup>5</sup>

¶17 Here, Philip's testimony supports the court's finding that he earned \$25,800 for the first six months of the year 2000. The court noted the “vagaries” of small town general practice and declined to extrapolate an annual income of \$50,000. Instead, the court took into consideration past years, when Philip earned

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<sup>4</sup> WISCONSIN STAT. § 767.25, “Child support,” provides in part: “(1j) Except as provided in sub. (1m), the court shall determine child support payments by using the percentage standard established by the department under s. 49.22 (9).”

<sup>5</sup> 26 CFR § 1.61-1 (West 1997), defines gross income: “General Definition. Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether money, property, or services ....”

less. For example, in 1999, Philip earned \$37,200 and, in 1998, he earned \$39,550. Nonetheless, the court found a general trend toward increased earnings. The record supports this finding, disclosing Philip's \$23,350 income in 1996 and \$32,450 in 1997. We conclude that the court's finding of \$42,500 is a reasonable figure, reflecting Philip's current work habits and his business trend.<sup>6</sup>

¶18 Philip argues that the court erred because it failed to employ his five-year average between 1995 and 1999 of \$33,070. We disagree. There is no hard and fast rule of calculation. Here, the court took into consideration various appropriate factors. The court's finding is not clearly erroneous.

¶19 Philip next argues that the court erroneously imputed Elaine's previous annual salary to him in order to reach \$42,500.<sup>7</sup> We are unpersuaded. The record provides ample support for the court's finding, independent of any salary that Elaine may have earned previously. Based upon Philip's year 2000 earnings to date, as well as the trend toward increased earnings, an annual income of \$42,500 is not clearly erroneous. Because an independent basis supports the finding, Philip's contention does not provide grounds for reversal.

## 2. Maintenance

¶20 Next, Philip argues that the trial court erroneously awarded excessive maintenance. We disagree. In awarding maintenance, the trial court

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<sup>6</sup> The court noted: "My observation is that 50 hours per week is probably pretty much normal for the country lawyer, the sole practitioner in northwest Wisconsin, as is the feeling of exhaustion, perhaps."

<sup>7</sup> Philip contends that the court added Elaine's previous annual earnings of \$5,000 as his legal secretary to his 1999 income of \$37,200.



must consider the factors in § 767.26, STATS.<sup>8</sup> On review, the question is whether the trial court's application of the factors achieves both the support and fairness

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<sup>8</sup> WISCONSIN STAT. § 767.26 provides:

Upon every judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 767.02 (1) (g) or (j), the court may grant an order requiring maintenance payments to either party for a limited or indefinite length of time after considering:

- (1) The length of the marriage.
- (2) The age and physical and emotional health of the parties.
- (3) The division of property made under s. 767.255.
- (4) The educational level of each party at the time of marriage and at the time the action is commenced.
- (5) The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
- (6) The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and, if so, the length of time necessary to achieve this goal.
- (7) The tax consequences to each party.
- (8) Any mutual agreement made by the parties before or during the marriage, according to the terms of which one party has made financial or service contributions to the other with the expectation of reciprocation or other compensation in the future, where such repayment has not been made, or any mutual agreement made by the parties before or during the marriage concerning any arrangement for the financial support of the parties.
- (9) The contribution by one party to the education, training or increased earning power of the other.
- (10) Such other factors as the court may in each individual case determine to be relevant.

objectives of maintenance. *Forester v. Forester*, 174 Wis. 2d 78, 84-85, 496 N.W.2d 771 (Ct. App. 1993). The support objective is to support the recipient spouse in accordance with the needs and earning capacities of the parties. “The goal of the support objective ... is to provide the recipient spouse with support at pre-divorce standards.” *Fowler v. Fowler*, 158 Wis. 2d 508, 520, 463 N.W.2d 370 (Ct. App. 1990). In a long-term marriage, “it is reasonable to begin maintenance evaluation with [the] proposition that [the] dependent partner may be entitled to fifty percent of the parties’ total earnings.” *Id.* at 520-21.

¶21 The fairness objective is to ensure a fair and equitable financial arrangement between the parties in each individual case. *King v. King*, 224 Wis. 2d 235, 249, 590 N.W.2d 480 (1999). Over a long marriage, parties each contribute to the income stream as marital partners and should share in the rewards. *Fowler*, 158 Wis. 2d at 519. “Sharing the rewards of the stream of income produced in a long marriage is encompassed in the fairness objective of maintenance.” *Id.* A trial court misuses its discretion if it fails to fully consider the dual objectives of maintenance. *Forester*, 174 Wis. 2d at 86.

¶22 To determine the amount of maintenance, the court subtracted the annual amount of child support, \$10,625, from Philip’s income of \$42,500. Next, it subtracted what it determined to be state and federal income taxes of approximately 28% to arrive at the sum of \$19,975 available to support both parties. Relying on *LaRocque*, the court divided that sum in half to reach an annual maintenance award of \$9,987.50 or \$832.50 per month. *See LaRocque v. LaRocque*, 139 Wis. 2d 23, 38-41, 406 N.W.2d 736 (1987).

¶23 We conclude that the record reflects a rational basis for the court’s decision. The nineteen-year marriage was long term, and both parties made

substantial contributions to Philip's increased earnings. *See* WIS. STAT. § 767.26(1) and (9). The court was entitled to believe Elaine's testimony that the parties agreed she should subordinate her education and employment to assisting Philip at his office and caring for the home and family. *See* WIS. STAT. § 767.26(5). Because of the children's ages, Elaine is currently not employed outside the home and has no income other than what Philip provides. *See id.* Under ***LaRocque***, the court could reasonably find that no factor justified a departure from an equal division of Philip's income after taxes and child support.

¶24 Philip argues that the court failed to give sufficient weight to his expenses. We disagree. The court indicated that the available funds were less than necessary to sufficiently support two separate households:

The court recognizes that there is a short fall when you look at [Philip's] financial disclosure statement. His short fall is between his net income left over on a monthly basis is about 832 dollars and his net expenses are about 1200 dollars. When I also compare [Elaine's] child support plus her maintenance, there is a short fall between what she has in expenses of about 2100 dollars to the 16 or 1700 dollars that she's going to receive in child support and maintenance of that similar 4 to 500 dollar range. The pain imposed is approximately equal as well.

¶25 The court observed that each party would have to make approximately equal adjustments to their standards of living or employment choices to accommodate the financial circumstances engendered by the divorce. Because Philip identifies no mistake of fact or error of law, and the court's observations reveal a rational approach to the issue, we do not overturn its determination.

¶26 Philip further claims that the court violated principles of fairness because it provided Elaine with child support and maintenance equaling two-thirds

of his income, while he is forced to survive on only one-third. We are unpersuaded. Elaine's household consists of three individuals while Philip's consists of one. Because Elaine has primary custody of the children, we are not convinced that the combination of child support and maintenance equals an excessive award.

¶27 Philip also challenges the court's award of the indefinite maintenance term. He argues that Elaine has significant employment skills as a legal secretary and that she should be capable of supporting herself when the youngest child starts kindergarten in two years.

¶28 We acknowledge that maintenance is not a permanent annuity but is designed to maintain a party at a standard of living until the party exercising reasonable diligence has reached a level of income where maintenance is no longer necessary. *Vander Perren v. Vander Perren*, 105 Wis. 2d 219, 230, 313 N.W.2d 813 (1982). Nonetheless, we are satisfied that the record provides a rational basis for the indefinite maintenance term.

In determining whether to grant limited-term maintenance, the circuit court must take several considerations into account, for example, the ability of the recipient spouse to become self-supporting by the end of the maintenance period at a standard of living reasonably similar to that enjoyed before divorce; the ability of the payor spouse to continue the obligation of support for an indefinite time; and the need for the court to continue jurisdiction regarding maintenance.

Because limited-term maintenance is relatively inflexible and final, the circuit court must take particular care to be realistic about the recipient spouse's future earning capacity.

*LaRocque*, 139 Wis. 2d at 41.

¶29 The record shows that Elaine is forty-one years old and is in good health. She has had work experience as a seamstress and in retail, earning \$6 per hour, and as a secretary for her husband, earning \$12 per hour. Due to Elaine's custodial responsibilities for the children and the lack of jobs in the immediate area, however, the trial court could find it would be unrealistic for Elaine to join the job market in the near future.<sup>9</sup> Once the children are in school full time, the record indicates that her earnings as a secretary would lag behind Philip's as an attorney.

¶30 As a result, the trial court could reasonably conclude that Elaine's earnings would be insufficient to provide her with adequate support. In the event Elaine would secure employment when the children mature, the court retains jurisdiction to modify maintenance based upon a substantial change in her financial circumstances. *See* WIS. STAT. § 767.32. Because the record reflects a rational basis for the maintenance award, Philip fails to establish an erroneous exercise of discretion.

### 3. Property Division

#### a. Residence

¶31 Next, Philip argues that the court erroneously exercised its discretion when it awarded each of the parties one-half interest in the home, to be held as tenants in common. The court awarded Elaine possession of the house until

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<sup>9</sup> The court stated: "If [Elaine] is pretty adept at law office management and the probate practice, she has certain marketable skills, although there isn't any evidence for a need, whether it be in Highbridge, Wisconsin, Ashland, Wisconsin, or Mellen, Wisconsin, which is the reasonable locale within which she's looking for work."

(1) Elaine remarries, (2) Elaine moves out, or (3) the youngest child reaches age eighteen. Then the house is to be appraised and either purchased by one of the parties or sold to a third party and the sale proceeds to be divided equally. Philip contends that it is error to tie up his equity in the house for potentially fifteen years and that the court compounded its error by ordering him to pay one-half the mortgage, taxes and insurance.

¶32 The court's award of the possession of the home to Elaine as the children's primary custodian is not erroneous. At trial, Philip testified that it was best for the children to remain living in their own home. Philip did not qualify his testimony by putting any time limits on it. We are satisfied that Philip's testimony provides a rational basis for the court's ruling awarding Elaine possession of the house while she is living in it as the custodial parent. *See* WIS. STAT. § 767.255(3)(h).<sup>10</sup>

¶33 With the exception of a \$12,000 home equity loan used to purchase Elaine's van, there is no outstanding indebtedness secured by the home. The court ordered that the home equity loan be shared equally: "The parties are jointly and severally liable for the payment of the home equity mortgage. Whether it used for the purchase of the car or not, it's a marital debt. The only equitable way to divide that debt is to make each one half responsible for it."

¶34 The record reveals a rational basis to support the court's order. The court was entitled to find that the home equity loan was a marital debt and,

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<sup>10</sup> WISCONSIN STAT. § 767.255(3)(h) provides that the court may alter the presumed equal property division after considering various factors, including: "The desirability of awarding the family home or the right to live therein for a reasonable period to the party having physical placement for the greater period of time."

consistent with its equal property division, it should be shared equally. Also, because Philip owns one-half interest in the home as a tenant in common, he should be liable for one-half of the real estate taxes and insurance in order to preserve his share of the asset. When the homestead is sold, Philip will receive one-half of any appreciation in its value. Fairness dictates that he contribute one-half of the basic expenses of the homestead. Because the record reveals a reasonable basis for the court's order, we do not overturn its decision.

b. Law Practice

¶35 Next, Philip argues that the trial court erroneously valued his law practice. He complains that the court failed to consider the firm's debts of \$7,000. We conclude that the record supports the trial court's finding of fact. Philip testified that the value of his interest in the building that housed his office was \$4,500. Also, the record discloses the following testimony:

THE COURT: What do you think the value of the assets in your law practice are; accounts receivable, furniture, fixtures, computers, whatever is there. What's it all worth, gross?

[PHILIP]: 11,276.03, if you include the accounts receivable.

THE COURT: Cash?

[PHILIP]: Cash on hand right now, 800 dollars.

THE COURT: Is that included in the 11,000 dollar number?

[PHILIP]: No, no.

THE COURT: So roughly your estimate today is assets totaling 12,000 dollars. What debts are there against the law practice?

[PHILIP]: Well, there is ongoing overhead and that monthly overhead through the first six months of this year was 7,000 something. And then at the time this exhibit was prepared, I had to pay off a laptop, fax machine, and those

have since been paid off. And then I've had to purchase a new telephone and a Dictaphone playing machine.

THE COURT: All right. Do you have any debts against the law practice, any outstanding loans that you used, either personal note with the bank or financial institution?

[PHILIP]: No.

¶36 On re-direct, Philip was asked if “today there would be at least 7,000 dollars of accounts payable and debt.” Philip replied: “Yeah. If I dropped that today, I'd probably have to pay about that much, or somebody will.”

¶37 Philip's testimony first indicated no indebtedness, and then indicated \$7,000 indebtedness. The trial court, not this court, resolves inconsistencies and conflicts in testimony. *See* WIS. STAT. § 805.17(2). Based on Philip's testimony, the court could have determined that the \$7,000 represented overhead, not indebtedness. Consequently, the court's finding that the law practice had a value of \$15,776 is not clearly erroneous.

#### 4. Attorney Fees

¶38 Finally, Philip argues that the trial court erroneously awarded Elaine \$1,463 contribution to her attorney fees. The court found that Elaine had a need for the contribution because she is presently unemployed and, although she is receiving maintenance, her income falls short of her budgeted expenses. Also, because the record demonstrated that Philip was to receive \$1,463 as his share of the parties' tax refund, the court could reasonably determine that Philip had the ability to pay this sum. *See* WIS. STAT. § 767.262.

¶39 Philip contends that this award is unfair because the court had attempted an equal property division and, in addition, awarded Elaine child support and maintenance equaling more than two-thirds of his income. He relies



on *Kastelic v. Kastelic*, 119 Wis. 2d 280, 350 N.W.2d 714 (1984), for his assertion that when an equal property division is ordered, each party should pay their own attorney fees.

¶40 We conclude that *Kastelic* is factually distinct. In that 1983 case, for property division, the wife, Janet, received the homestead, a cash payment of \$80,000 plus a cash payment of \$86,521 at 10% interest, payable over five years. In addition, she was awarded \$2,300 per month family support for herself and one minor child. “Janet received a large cash settlement and support to enable her to remain in the home and attend college.” *Id.* at 291. Because Janet did not show the requisite need, we concluded that it was not an erroneous exercise of discretion for the court to deny Janet a contribution to her attorney fees. *Id.* Here, Elaine demonstrated the requisite need and, accordingly, the court reasonably exercised its discretion.

## CROSS-APPEAL

### 1. Compensatory Maintenance

¶41 Elaine argues that she has been socially and economically handicapped by virtue of her marriage to Philip and, therefore, she is entitled to “enhanced” maintenance. She argues that the trial court erred when it rejected her request for maintenance to compensate her for the nineteen years she devoted to Philip’s law practice and the family. We reject her argument. The record demonstrates that the court considered the length of the marriage, her age and health, financial need, educational level and job skills, earning capacity, and the feasibility that she can become self-supporting at a standard reasonably comparable to that enjoyed during the marriage. These are proper factors under WIS. STAT. § 767.26. The record demonstrates a reasonable exercise of discretion.

## 2. Prefiling Debt

¶42 Next, Elaine claims that there were \$1,400 in debts existing at the time of filing the petition for divorce and the court erroneously required each party to pay half. She argues that the trial court misapplied the law when it failed to find that the parties were bound by their stipulation requiring Philip to pay these prefiling debts.

¶43 Philip responds that the stipulation to which Elaine refers is a stipulation for a temporary order. Elaine does not refute Philip's response. Therefore, we accept it as admitted. See *Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis.2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (arguments not refuted deemed admitted). Elaine provides no authority for her proposition that a stipulation for a temporary order is binding on the court at the final hearing. Accordingly, it is rejected. See *State v. Shaffer*, 96 Wis.2d 531, 545-46, 292 N.W.2d 370 (Ct. App. 1980).

## 3. Award of Attorney Fees

¶44 Finally, Elaine argues that the trial court erred when it awarded her an inadequate contribution to her attorney fees. She claims that she had no income, and that the court failed to correctly analyze Philip's ability to pay. She contends that Philip had substantial non-tax deferred securities that could have been used to pay her \$2,600 bill. We are unpersuaded.

¶45 The court's analysis took into consideration Philip's substantial child support and maintenance obligations. It determined that, as with Elaine, his monthly expenses exceeded his remaining income. Accordingly, it was not an

erroneous exercise of discretion for the court to limit Philip's contribution to \$1,463.

*By the Court.*—Judgment affirmed. No costs to either party.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

