

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

DADDY DOGG,

Plaintiff,

vs.

Case No.: 02-XXXXXXX-DM

Judge XXXXXXXX

MOMMY DOGG,

Defendant.

XXXXXXXXXXXXXXXXXXXX

COLBERT, SHEPARD & SADOWSKI, LLP

BY: XXXXXXXXXXXXXXXXXXXX

BY: ELIZABETH A. SADOWSKI (P34991)

Attorney for Plaintiff

Attorney for Defendant

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DEFENDANT'S ANSWER TO MOTION TO TERMINATE DOG SUPPORT

Defendant says:

1. The property settlement provision of the Judgment of Divorce provides in part as follows:

The Golden Retriever, "Bob", belongs to the minor child.

The parties shall equally divide the food and veterinary expenses for the dog.

Plaintiff seeks to terminate this provision because Bob does not visit Plaintiff. Visitation rights with Bob, however, were not preserved in the Judgment, which was entered April 13, 2003, nearly two years ago. It is not in the best interest of Bob that Plaintiff be allowed visitation, because Plaintiff has threatened to kill him. Moreover, it is well established that support cannot be predicated upon visitation. *Richardson vs Richardson*, 122 Mich App 531 (1983).

2. The Judgment into which this provision was incorporated was a consent judgment. "Absent fraud, mistake, or unconscionable advantage, a consent judgment cannot be set aside or modified without consent of the parties." *Walker vs Walker*, 155 Mich App 405 (1986). Property allowances made in divorce judgments are final and conclusive, and cannot be altered except under extraordinary circumstances, none of which exist in this action. *Norman vs Norman*, 201 Mich App

182 (1993). The property settlement cannot now be modified to include visitation between Bob and Plaintiff. In any event, during a weekend last November, Bob was at Plaintiff's home. Plaintiff told Defendant that Bob had misbehaved, and that if Bob ever came over again, Plaintiff would kill him. Bob was remorseful.

3. Bob is past the age of majority in canine years, and thus this Court cannot modify, but can only enforce, Plaintiff's obligation to support him. MCR 652.605(b). Further, termination of Bob's support would be detrimental to Bob not only physically, but also psychologically, as Bob's treating physician and therapist, Dr. John Doolittle, Ph. D., will attest.

4. Plaintiff owes \$179.52 for Bob's outstanding food and veterinary expenses. Receipts are attached.

Accordingly, Defendant asks;

- A) Plaintiff's motion be dismissed;
- B) Plaintiff pay Defendant the sum of \$179.52, immediately, for current expenses.
- C) Plaintiff be required to pay suitable cost and attorney fees which Defendant has incurred as a result of this meritless motion. Defendant has incurred costs and fees in the past in seeking to enforce this provision of the judgment.

ELIZABETH A. SADOWSKI
Attorney for Defendant

I declare the above statements are true to best of my knowledge, information and belief:



Bob