

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KIM M. EMMONS (N/K/A KIM M. WEBB)

RESPONDENT,

v.

KYLE D. EMMONS

APPELLANT.

DOCKET NUMBER WD71137

DATE: April 6, 2010

Appeal From:

Boone County Circuit Court
The Honorable Cynthia A. Suter, Judge

Appellate Judges:

Division Four: Thomas H. Newton, Chief Judge, Presiding, James M. Smart, Jr., and Cynthia L. Martin, Judges

Attorneys:

Brian Sleeth, Columbia, MO, for respondent.

Stephen S. Wyse, Columbia, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KIM M. EMMONS (N/K/A KIM M. WEBB),

RESPONDENT,

v.

KYLE D. EMMONS,

APPELLANT.

No. WD71137

Boone County

Before Division Four Judges: Thomas H. Newton, Chief Judge, James M. Smart, Jr., and Cynthia L. Martin, Judges

Kyle Emmons ("Father") appeals from the trial court's judgment finding him in contempt of court following Kim Emmons's ("Mother") motion which alleged that Father was not compliant with the terms of the judgment of dissolution and a subsequent modification of the judgment entered pursuant to a settlement agreement. Father claims that the trial court erred in: (1) finding the obligation imposed on him to pay college costs in the original decree enforceable, (2) finding that he is obligated to pay college costs for his daughter, (3) finding that an earlier settlement agreement between the parties did not modify his obligation to pay college costs for his daughter, (4) finding that his son provided Father with timely notice each semester that he attended college, (5) denying his motion to abate child support because daughter failed to provide timely notice of college attendance, (6) denying his motion for emancipation of his daughter due to her failure to provide timely notice of college attendance, (7) finding that he owed \$10,060 for his daughter's college costs due his claim that there was a lack of evidence of credible and sufficient accounting, and (8) awarding Mother attorney's fees.

DISMISSED IN PART; AFFIRMED IN PART.

Division Four holds:

(1) Father's appeal of the contempt judgment is dismissed because it is not a final, appealable order.

(2) Father's motion to abate child support and emancipate his daughter is not an independent motion from which direct appeal is permitted because substantively, it did no more than respond to Mother's motion for contempt.

(3) Father's appeal of the award of attorney's fees, which is included within the contempt judgment, but which is nonetheless independently appealable, is denied. The trial court's judgment awarding attorney's fees is affirmed.

Opinion by: Cynthia L. Martin, Judge

April 6, 2010

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