

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

---

COMPLETE TITLE OF CASE:

JUDON A. FLEMING,

Appellant

v.

FRANK A. FLEMING.

Respondent

---

DOCKET NUMBER WD76403

DATE: JUNE 10, 2014

---

Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Jack Richard Gate, Judge

---

Appellate Judges:

Division Two  
Victor C. Howard, PJ., Alok Ahuja, Anthony Rex Gabbert, JJ.

---

Attorneys:

Gregory William Vleisides, Jennifer Benedict, Independence, MO, Counsel for Appellant,

---

Attorneys:

Sherrie Lynn Brady, Blue Springs, MO,  
Robert Lee Knapp, Independence, MO,  
Michael Scott Smith, Independence, MO,

Counsel for Respondent

---

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JUDON A. FLEMING,**  
**Appellant,**

**v.**  
**FRANK A. FLEMING,**  
**Respondent**

**WD76403**

**Jackson County**

Before Division Two Judges: Victor C. Howard, PJ., Alok Ahuja, Anthony Rex Gabbert, JJ.

Judon Ungerer (“Mother”), formerly Fleming, appeals the circuit court’s order modifying the dissolution of marriage judgment and awarding Franklin Fleming (“Father”) sole physical and legal custody of their child, child support, and attorney’s fees. Mother argues that the circuit court erred in (1) denying her motion to modify the dissolution of marriage judgment on the ground that deficiencies in the notice of relocation she provided Father were insufficient to render it fatally defective; (2) restricting her rights to the physical custody of her child because the court failed to find that Mother’s visitation would endanger the child’s physical health or impair his emotional development, as required by § 452.400.2, RSMo 2000, and (3) awarding \$4,200 in attorney’s fees to Father because insufficient evidence was presented on the issue for the court to make such an award.

**AFFIRM.**

**Division Two holds:**

The circuit court did not err in (1) finding Mother’s written notice of relocating the child did not strictly comply with § 452.377 because the written notice failed to reference the child relocating, when the child was to be relocated, or provide a proposal for a revised schedule of custody or visitations; (2) modifying the custody decree, despite finding that Mother’s visitation would not endanger the child’s physical health or impair his emotional development, because § 452.400 did not apply; and (3) awarding Father \$4,200 in attorney’s fees because § 452.377 allows for attorney’s fees where proper written notice is not given and there was sufficient evidence on the record to support such an award.

Opinion by Anthony Rex Gabbert, Judge

Date:6/10/14

\*\*\*\*\*

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED**