

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

KAROLYN S. BLYDENBURG-DIXON

Appellant

v.

BARNEY H. DIXON

Respondent

DOCKET NUMBER **WD68898**

DATE: February 24, 2009

Appeal From:

Circuit Court of Clay County, MO
The Honorable James Edward Welsh, Judge

Appellate Judges:

Division Four: Thomas H. Newton, C.J., Harold L. Lowenstein, and Victor C. Howard, JJ.

Attorneys:

Larry V. Swall, II, Liberty, MO

Counsel for Appellant

Attorneys:

J. Michael Murphy, Liberty, MO

Counsel for Respondent

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

KAROLYN S. BLYDENBURG-DIXON, Appellant, v.
BARNEY H. DIXON, Respondent

WD68898

Clay County

Before Division Four Judges: Newton, C.J., Lowenstein, and Howard, JJ.

In 1994 Husband had a work accident that left him a quadriplegic. He filed suit and the parties entered a settlement agreement providing for an initial payment and periodic payments. Monthly periodic payments were payable to Wife and Husband jointly. In 2006, Wife filed for dissolution. All settlement money received during the marriage had been spent. The trial court found the remainder of the periodic payments due were Husband's non-marital property. Wife appeals this portion of its judgment.

AFFIRMED.

Division Four holds:

Missouri determines whether a personal injury settlement is marital or non-marital by classifying what it replaces. Wife argues the remaining payments are marital because the settlement compensated her as well as Husband. However, the record supports the trial court's finding that the post-dissolution payments provided for Husband's post-dissolution wage loss, medical expenses, and noneconomic damages, including pain, suffering, and loss of ability to lead a normal life. Even if the initial settlement had included compensation to Wife, we could not conclude she had not already been compensated. Moreover, while Husband's losses continue after the marriage, Wife's burdens do not. Further, we do not reverse if the trial court reached the correct result and changing the characterization of the payments would not favor awarding anything further to Wife.

Wife also contends the monthly payments are marital property because they were made payable to Wife and Husband jointly. Placing separate property into the names of both spouses creates a presumption that the property has been transferred to the marriage. However, the presumption was refuted by evidence that the payments were joint because of Husband's physical disabilities, including an inability to write or sign his name.

Wife also asserts a right to post-dissolution payments after Husband's death. She first argues we lack jurisdiction because the trial court failed to address this issue. We do not agree; the court awarded all of the remaining settlement payments to Husband. She next argues that she has an independent, contractual right to receive these payments. Wife mischaracterizes the settlement agreement and fails to support her argument. Consequently, she fails to meet her burden of showing error.

Therefore, we affirm.

Opinion by Thomas H. Newton, C. J.

February 24, 2009

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