

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JOSEPH LEE MADDICK,**

**Respondent,**

**v.**

**ROBERT (SUE) ANN DESHON (Formerly Roberta (Sue) Ann Maddick),**

**Appellant.**

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**DOCKET NUMBER WD70335  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**Date: November 10, 2009**

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Appeal from:  
Clay County Circuit Court  
The Honorable Kathryn E. Davis, Judge

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Appellate Judges:  
Division One: Alok Ahuja, Presiding Judge, James M. Smart and Lisa White Hardwick, Judges

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Attorneys:  
Jennifer S. Wagner, Esq., Liberty, MO, for appellant.  
Scott L. Campbell, Esq., Platte City, MO, for respondent.

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

**JOSEPH LEE MADDICK**

**Respondent,**

**v.**

**ROBERT (SUE) ANN DESHON (formerly Roberta (Sue) Ann Maddick),**

**Appellant.**

WD70335

CLAY COUNTY

Before Division One Judges: Alok Ahuja, Presiding Judge, James M. Smart and Lisa White Hardwick, Judges

Respondent Joseph Maddick (“Husband”) and Appellant Roberta DeShon (“Wife”) were married in July 1983. Their marriage was dissolved in October 2003. In October 2004, the parties entered a stipulation for modification of Husband’s maintenance obligation, which provided that “The maintenance obligation herein should terminate upon [Wife’s] death.” A handwritten revision to the stipulation, purportedly initialed by both parties, deleted from the end of this sentence additional language which would have provided that the maintenance obligation also terminated upon Wife’s “remarriage or cohabitation to person to whom she is not related, or the death of Petitioner.” The trial court entered a modified judgment reflecting the parties’ stipulation, which provided that “Said maintenance obligation shall only terminate upon the death of Respondent or September 30, 2011, whichever occurs first.”

Wife remarried on September 29, 2007. Shortly thereafter, Husband filed a motion to again modify the dissolution decree, arguing that Wife’s remarriage terminated his maintenance obligation pursuant to § 452.370.3, RSMo 2000.

After hearing evidence in September 2008, the circuit court entered Judgment sustaining Husband’s motion to terminate his maintenance payments, based on its finding “that there was no written agreement or court order extending [Husband’s] obligation to pay maintenance past the date of [Wife’s] remarriage.”

Wife appeals.

**AFFIRMED.**

**Division One holds:**

Section 452.370.3 provides in relevant part:

Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

*Cates v. Cates*, 819 S.W.2d 731 (Mo. banc 1991), holds that § 452.370.3 creates a rebuttable presumption that maintenance terminates on the receiving party's remarriage; in order to defeat that presumption, the dissolution decree must "expressly extend[ ] the obligation to pay future statutory maintenance beyond . . . the remarriage of the receiving party." *Id.* at 734. Later cases repeat *Cates*'s holding that a dissolution decree must expressly extend maintenance beyond remarriage in order to overcome the statute. This holding is confirmed by commentary to § 316(b) of the Uniform Marriage and Divorce Act, from which § 452.370.3 was adopted, as well as by out-of-state caselaw applying similar statutory language.

Here, the October 2004 modified judgment did not refer to remarriage. While the statement in the decree that Husband's "maintenance obligation shall *only* terminate upon the death of [Wife] or September 30, 2011" supports *an inference* that the court intended that no other event would terminate Husband's obligation, such an inference cannot satisfy *Cates*'s requirement that a decree of dissolution "expressly extend[ ] the obligation to pay future statutory maintenance beyond . . . the remarriage of the receiving party."

The parties' stipulation is silent as to the effect of remarriage on Husband's maintenance obligation and is, therefore, also inadequate to defeat the statutory presumption. Although Wife argues that the parties' deletion of language which would have expressly terminated maintenance on her remarriage shows that the parties agreed to the opposite, it is inappropriate to refer to this extrinsic evidence of stricken language without first finding the parties' stipulation ambiguous. The stipulation is not ambiguous, however: it clearly provides that Husband's maintenance obligation terminates upon Wife's death.

**Opinion by: Alok Ahuja, Judge**

November 10, 2009

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