

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

JULIE ANNE (FERBER) PRATT,

Respondent,

v.

DAVID VICTOR FERBER, III,

Appellant.

DOCKET NUMBER WD72166

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 15, 2011

APPEAL FROM

The Circuit Court of Clay County, Missouri
The Honorable Anthony Rex Gabbert, Judge

JUDGES

Division Two: Mitchell, P.J, and Ellis and Howard, JJ.

CONCURRING.

ATTORNEYS

Michael W. Walker
Kansas City, MO

Attorney for Respondent,

Gary M. Steinman
Gladstone, MO

Attorney for Appellant.



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

JULIE ANNE (FERBER) PRATT,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **March 15, 2011**
DAVID VICTOR FERBER, III,)
)
) **Appellant.**)

WD72166

Clay County

Before Division Two Judges: Karen King Mitchell, Presiding Judge, and
Joseph M. Ellis and Victor C. Howard, Judges

David Victor Ferber (“Father”) appeals the Circuit Court of Clay County, Missouri’s (“motion court”) amended judgment of modification of custody, visitation, and child support. On appeal, Father claims that the motion court’s amended modified judgment was so vague and uncertain as to be unenforceable in that it required Father to pay for half of his daughter’s (“Daughter”) extracurricular activities without further defining those activities or setting an upper limit to their cost. Father also claims that the motion court erred by imputing income to Father without the support of substantial evidence, requiring him to maintain a policy for life insurance for Daughter’s benefit, and awarding his former wife (“Mother”) attorney’s fees.

This court affirms the judgment of the motion court in most respects but reverses the part of the judgment requiring Father to pay half of all of his daughter’s extraordinary expenses without any limitation as to the dollar amount and amends the judgment to impose an upper monthly limit on the cost of extracurricular activities each party is to bear at \$200.

AFFIRMED IN PART; REVERSED IN PART AND JUDGMENT AMENDED.

DIVISION TWO HOLDS:

In this case, the amended modified judgment does not in any way limit the scope of the extracurricular activities in which Daughter is to participate and does not limit the total amount of expense each parent is to bear for Daughter’s extracurricular activities. Nor does the record

contain a Form 14 from which this court can determine whether any of daughter's extracurricular activities went into the fixed amount of monthly child support that Father is to pay. Accordingly, the award is overly broad in this respect and we, therefore, impose an upper limit on each parent's extracurricular activity expense at \$200.

Although a motion court may impute income to a parent if it determines that parent to be underemployed, there is no indication that the motion court did so in this case. The motion court rejected the parties' submitted Form 14s, finding them unjust and inappropriate, and arrived at a monthly amount that it found reasonable and necessary to support Daughter. Because the record does not support Father's claim that the motion court improperly imputed income to Father, his second point is denied.

The motion court did not improperly require Father to maintain a life insurance policy for Daughter's benefit. The original judgment, which was based upon the agreement of the parties, provided for Father to maintain such an insurance policy and this provision was not part subject to modification. Therefore it was not improper for the amended modified judgment to retain this provision.

Finally, in this case, Father has not established that the motion court's award of attorney's fees and costs was not supported by substantial evidence, and so the award is affirmed.

OPINION BY: Karen King Mitchell, Presiding Judge

March 15, 2011

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