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IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

TIMOTHY B. BELLAS,

Petitioner,

vs.

FRANCES P. SABLAN-BELLAS,

Respondent.

civil Action No. 97-141

**PRE-TRIAL ORDER AND
ORDER AWARDING TEMPORARY
SPOUSAL SUPPORT**

THIS MATTER came on for a pretrial **conference** and **hearing** on respondent's Motion for **Temporary Order** at 10:00 a.m., August 20, 1998. The parties and their respective counsel of record were present at the hearing.

L Pre-Trial Conference

I Trial on all remaining issues, including distribution of marital property, child support, and spousal support shall commence on Thursday, August 27, 1998, at 10:00 a.m. The parties shall have all their trial exhibits premarked by Ms. Dora S.N. Decena, Deputy Clerk, not later than August 25, 1998. Petitioner's exhibits shall be identified numerically, Respondent's exhibits shall be identified alphabetically. The parties may not call witnesses other than those identified in the submitted witness lists, except for purposes of rebuttal.

The parties orally stipulate to have Micronesian Appraisal Associates ("MAA") conduct an appraisal of the marital home located on Navy Hill, with the exception that MAA employee

1 Mr. Mike McCart may not perform such appraisal. The parties further stipulate that the appraisal
2 shall be a trial exhibit. If the appraisal is not completed before the trial date, the parties may
3 request a further hearing thereon after it is finished and filed with the court. Thereafter, the court
4 may view the marital home if necessary.
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6 IL Temporary Spousal Support

7 In the Order of June 15, 1998, the parties were directed to brief the court on the issue of
8 whether temporary spousal support is available after the decree of dissolution of the marriage has
9 been entered. The court finds that this is an issue of first impression, and the court is aided by an
10 Illinois Supreme Court decision in its resolution of the issue.

11 In Ylonen v. Ylonen, 117 N.E.2d 98 (1954), the marriage of parties was dissolved in a
12 decree in September 19, 1952, which in the same decree also referred to the master questions of
13 alimony, property rights, fees and costs, and issues of partition. *Id* at 101. The master filed his
14 report in January 1953, which among other things, awarded the wife temporary alimony
15 retroactive to January 1953 until the wife received her fair share of the proceeds from the
16 partition of the parties' real e-state. *Id* at 101,104. On April 9, 1953, the chancellor entered an
17 order confirming the master's report, and the husband appealed from the order. *Id* at 101. On
18 appeal, the husband argued that the Illinois Divorce Act authorizes temporary alimony only for
19 the period before a decree of divorce is entered. *Id* at 104-105. The Illinois Supreme Court
20 examined the section of the statute which states that "in every suit for a divorce the wife or the
21 husband when it is just and equitable, shall be entitled to alimony during the pendency of the suit,
22 . . ." and concluded that, inasmuch as the determination of the ownership of property was pending
23 and the court, by its decree, retained jurisdiction until the order to convey is complied with, the
24 suit is pending within the meaning of the statute to that extent and that it was fair, just and proper
25 for the chancellor to award temporary alimony for that period. *Id* at 105.
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1 The Illinois statute providing for temporary alimony is similar to the language under 8
2: CMC § 1311. Section 1311 provides as follows:

3 **In granting or denying an annulment or divorce, the Court may make such orders for**
4 **custody of minor children for their support, for support of either party, and for the**
5 **disposition of either or both parties' interest in any property in which both have**
6 **interest, as it deems justice and the best interests of all concerned may require.**

7 **While an action for annulment or divorce is pending, the Court may make**
8 **temporary orders covering any of these matters pending final decree. Any decree**
9 **as to custody or support of the minor children or of the parties is subject to revision**
10 **by the Court at any time upon motion of either party and such notice, if any, as the**
11 **Court deems justice requires.**

12 8 CMC § 1311 (paragraphing and emphasis added).

13 Here, on July 25, 1997, the court entered a Decree of Dissolution of Marriage ("divorce
14 decree"), which dissolved the marriage of the parties and stated that custody' of the minor child of
15 the marriage and the division and distribution of marital property remain to be resolve by the
16 parties or by the order of the court. These matters remain unresolved. Thus, as in Ylonen, the
17 action for divorce in this case is pending. Therefore, under section 1311, the court may award
18 respondent temporary spousal support as it deems justice and the best interests of all concerned
19 may require.

20 Based on respondent's testimony at the April 16, 1998 hearing and again at the August
21 20, 1998 hearing, the court finds that respondent has remained unemployed since she lost her job
22 with the government in January 1998, although she has been actively seeking employment which
23 does not require her to relocate from Saipan. The court further finds that respondent's gross
24 monthly income is approximately \$1,400, including approximately \$887 in child support, (see
25 Def's Exhibit H), and her total monthly expenses is approximately \$3,600, (Id), leaving a deficit
26 of approximately \$2,200 per month. The court further finds that respondent is in need of

27 ¹ The issues of child custody and visitation were resolved by stipulation on September 12, 1997.
28 However, the stipulation did not resolve the issue of temporary and permanent child support, which are pending,
although petitioner voluntarily has been paying monthly child support to respondent.

1 continuing medical attention and treatment for cancer, and no medical referral assistance has been
2 forthcoming from the Commonwealth Health Center. The court further finds that petitioner is
3 able to pay respondent temporary spousal support based on his salary as art Associate Judge of
4 the Commonwealth Superior Court earning \$120,000 per annum. See 1 CMC § 3304.

5 Therefore, the court deems it just and in the best interests of all concerned to order petitioner to
6 pay respondent temporary spousal support in the amount of \$1,200 per month, retroactive to
7 January 28, 1998 the date she filed her Motion for Temporary Order, but modified so that
8 payment is due on the first day of each month commencing on February 1, 1998.

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10 This Order shall remain in effect until the date of trial on August 27, 1998. The court may
11 modify this Order pursuant to 8 CMC § 1311.

12 SC) ORDERED this 24th day of August, 1998.

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16 ALBERTO C. LAMORENA, III, Special Judge
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