

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

GEL, JR.,	: NO. 97-20,348
Petitioner	:
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
CL,	:
Respondent	:

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated September 18, 2001 in which Respondent’s request for removal of an arrearage was dismissed. Argument on the exceptions was heard November 7, 2001.

In her exceptions, Respondent contends the hearing officer erred in dismissing her request for removal of an arrearage, contending a marital settlement agreement dated December 14, 1999, sets forth an agreement of Petitioner that such arrearage would be removed. Petitioner points out that this issue was raised at a hearing in Family Court on May 10, 2001, and the Order issued that date indicated that the arrearage was not to be removed in light of an exceptions Order which had been entered February 9, 2000. While the Court agrees with Respondent that this holding of the Family Court hearing officer may very well have been in error, as Petitioner’s counsel argues, however, the matter was already raised and is thus res judicata, as no exceptions were filed to the Order of May 10, 2001. Respondent’s request of the Court to invoke its “equity powers” cannot be granted in light of the procedural dictates of the law.

Finally, Petitioner has filed a Petition for attorneys’ fees, claiming that Respondent’s request for a hearing in Family Court and the subsequent filing of exceptions to the Family Court Order constitutes vexatious conduct. The Court finds that such conduct does not rise to the level required

for an award of attorneys' fees.

ORDER

AND NOW, this 7th day of November, 2001, for the foregoing reasons, Respondent's exceptions are hereby dismissed and the Family Court Order of September 18, 2001 is hereby affirmed. Petitioner's request for attorneys fees is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Marc Drier, Esq.
William Miele, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson