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14 Attorneys for Plaintiff
15 ANDREW EARL FURER

13 IN THE FAMILY DIVISION
14 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
15 IN AND FOR THE COUNTY OF WASHOE

15 ANDREW EARL FURER,
16 Plaintiff,

Case No. DV04-01626

Dept. No. 11

17 vs.

18 ELOISA BESADA FURER

19 Defendant.
20

21 **REPLY IN SUPPORT OF MOTION TO AUTHORIZE**
22 **SALE OF INCLINE RESIDENCE**

23 As this Court understands, the potential buyers have the right to back out of the deal if
24 Mr. Furer has not obtained an Order authorizing the sale by September 18, 2007. In her
25 Opposition, which was faxed to the Court on September 10, 2007, Mrs. Furer states that she is
26 not opposed to the sale of the Incline Residence. Rather, she objects only to Mr. Furer's
27 request that he personally receive the net proceeds from the sale. See, Mrs. Furer's
28

1 Opposition at p. 1, lns. 19-21. Instead, Mrs. Furer, asserting a community property interest in
2 the proceeds, demands that such proceeds be deposited into a blocked account until the Court
3 can resolve the parties' community property interests. Id. at p. 3, lns. 7-12; p. 5 lns. 5-10.
4

5 Mrs. Furer does not have any community property interest in such proceeds.
6 Circumstances have changed since this Court's Order of September 26, 2006. Most
7 importantly, on November 14, 2006, this Court entered its Order affirming the validity of the
8 parties' MSA. Mrs. Furer ignores this Court's November 14th Order and continues to insist
9 upon re-litigating and rearguing the validity of the MSA. The MSA, which this Court has
10 upheld, confirms the Incline Residence, the mortgage and the boats as Mr. Furer's sole and
11 separate property. See, MSA at ¶¶2, 13; PNA at §§ IV.E.(2) and IV.E.(6).
12

13 Thus, it is appropriate for Mr. Furer to receive and invest the proceeds from the sale of
14 his home as his sole and separate property. However, if this Court believes there is an
15 appropriate reason to do so at this time, the proceeds from the sale could be deposited into the
16 Andrew and Eloisa Furer blocked joint account at Credit Suisse First Boston. At some point
17 in the future, however, if the divorce for some reason has not been finalized by then, funds
18 will have to be withdrawn from the blocked account with which to pay the capital gains taxes
19 arising from the sale.¹
20

21 Mrs. Furer also claims that it was unnecessary for Mr. Furer to request the Court to
22 authorize the Clerk of the Court to execute, on Mrs. Furer's behalf, the quitclaim deed, bills of
23 sale, certificates of title and other documents reasonable and necessary to consummate the
24 sale. Mr. Furer is hopeful that is true. His request now, as at the time of his motion, is that if
25 for some reason Mrs. Furer does not sign the documents, the Court Clerk may execute them
26 for her. If Mrs. Furer promptly signs the documents there is no reason for the Clerk to
27
28

¹ There is certainly every reason to believe that the divorce will be finalized before the taxes are due on this sale.

1 become involved. But, the Order must be in place just in case Mrs. Furer changes her mind
2 and refuses to sign the documents.

3
4 Mrs. Furer did not object to the payment of the mortgage, the sale of the boats or the
5 storage of the personal property somewhere other than the Incline Residence. Her failure to
6 object may be treated as an admission that Mr. Furer's requests are reasonable and
7 appropriate.

8 In her Opposition Mrs. Furer devotes substantial time to her various claims, arguments
9 and theories of the case. While Mr. Furer strongly disagrees with many of her claims and
10 comments, they simply are not relevant to the issues at hand, and thus, he will not respond.
11 His silence should not be read as agreement.

12
13 Mr. Furer has attached hereto a draft Order Authorizing Sale of Residence. Counsel
14 will be happy to email the draft document to the Court's staff if doing so would be helpful.

15 DATED this 10th day of Sept, 2007.

16 KENT R. ROBISON
17 ROBISON, BELAUSTEGUI,
18 SHARP & LOW

19 WOODBURN AND WEDGE

20 By Shawn B Meador
21 Shawn B Meador
22 Attorneys for Andrew Earl Furer
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PROPOSED ORDER

1 Code: 3370
2 SHAWN B MEADOR
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13 IN THE FAMILY DIVISION
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15 IN AND FOR THE COUNTY OF WASHOE

15 ANDREW EARL FURER,
16
17 Plaintiff,

Case No. DV04-01626
Dept. No. 11

17 vs.

18 ELOISA BESADA FURER
19
20 Defendant.

21 ORDER AUTHORIZING SALE OF INCLINE RESIDENCE, ETC.

22 On September 5, 2007, Mr. Furer filed a Motion to
23 Authorize Andrew Furer to Sell Incline Residence, etc.
24 (hereafter "Motion to Sell Residence"). On September 10,
25 2007, Mrs. Furer filed her Opposition to Mr. Furer's Motion.
26 On September 10, 2007, Mr. Furer filed his Reply in Support of
27 Motion to Sell Residence and his Request for Submission.
28

1 GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED:

2 1. Mr. Furer may finalize and consummate the sale of
3 the real property located at 949 Lakeshore Blvd., Incline
4 Village Nevada, in a manner generally consistent with the
5 terms set forth in the Residential Purchase Agreement and
6 Deposit Receipt which was attached as Exhibit 1 to the
7 Affidavit of Victor Lockhart which was filed in support of Mr.
8 Furer's Motion to Sell Residence.
9

10 2. Mr. Furer is authorized to pay the outstanding
11 mortgage secured by the residence.
12

13 3. Mr. Furer is authorized to sell, in a reasonable
14 manner and for a reasonable price, the two boats that were
15 awarded to him under the terms of the parties' MSA.

16 4. Mr. Furer is authorized to deposit and invest the
17 proceeds from the sale of the real property and boats in his
18 name as he deems appropriate.

19 5. Mr. Furer shall have the right to remove and store
20 the personal property presently located in the Incline
21 Residence, including but not limited to the disputed personal
22 property to which Mrs. Furer has made claims.
23

24 6. Mrs. Furer shall have 24 hours within which to
25 execute the quitclaim deeds, certificates of title, bills of
26 sale on boats and/or other documents reasonable and necessary
27 to complete these transactions. If she fails or refuses to do
28

1 so for any reason, the Clerk of the Second Judicial District
2 Court of the State of Nevada in and for the County of Washoe,
3 or her designated representative, shall be authorized to
4 execute the deeds, certificates of title, bills of sale and/or
5 other documents on Mrs. Furer's behalf. In the event Mrs.
6 Furer fails or refuses to execute the deeds, certificates of
7 title, bills of sale and/or other documents, Mr. Furer may
8 file a notice of her failure or refusal together with proposed
9 order directing the Clerk of the Court to execute such deeds,
10 bills of sale and/or other documents. Mrs. Furer shall have
11 24 hours to respond, if at all, to such notice.
12
13

14 IT IS SO ORDERED.

15 DATED this _____ day of September, 2007.
16
17

18 _____
19 DISTRICT COURT JUDGE
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Woodburn and Wedge and that on this date I deposited in the United States Mail, with postage prepaid, a true copy of the foregoing document in an envelope addressed to:

Eloisa B. Furer
9812 Winter Palace
Las Vegas, NV 89145
(702) 228-5883

Kent R. Robison, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington Street
Reno, Nevada 89503
(775) 329-7169

DATED this 10 day of September, 2007.

Jenna D. Foyt

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document,

filed in case number:

Document does not contain the social security number of any person

-OR-

Document contains the social security number of a person as required by:

A specific state or federal law, to wit:

-or-

For the administration of a public program

-or-

For an application for a federal or state grant

-or-

Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 9-10-07

Shawn B Meador
(Signature)

SHAWN B MEADOR
(Print Name)

Plaintiff
(Attorney for)