

In the Matter of the Marriage of

XXX
vs
YYY

District Court

1st District

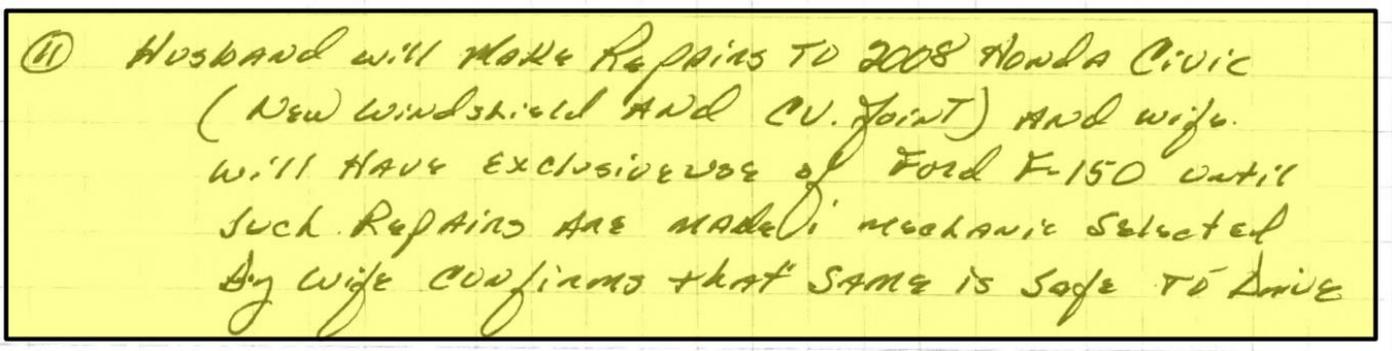
Jasper County, Texas

Interpretation of Settlement Agreement

TO THE HONORABLE COURT:

XXX ("Respondent") respectfully files this Brief on Contract Interpretation.

Language



(11) Husband will make repairs to 2008 Honda Civic (New windshield and CV Joint) and wife will have exclusive use of Ford F-150 until such repairs are made. Mechanic selected by wife confirms that same is safe to drive

Ejusdem Generis

“General words following particular or specific terms are to be construed as extended or restricted in meaning to matters or things ejusdem generis with those mentioned before.” Leake’s 1878.

“The rule ... ejusdem generis means that where there is a listing of specific things followed by more general words relating to the same subject matter, the more general words will be interpreted as meaning the same class of things in the more specific listing” Howard 2014.

Similarly, “... expression unius est exclusion alterius is a maxim of interpretation that the expression of one thing is to the exclusion of another.” Howard 2014.

Thus, the specific listing of CV Joint and Windshield limits the inspection and repairs. YYY just wants to ignore the specific limitation as if it did not exist.

It is always possible to expand an obligation beyond the intended by ignoring the words of limitation, and it is impossible to limit an obligation if the words of limitation are just ignored.

Expressio Unius Exclusio Alterius

“The term expression unius est exclusion alterius is a maxim of interpretation that the expression of one thing is to the exclusion of another.” Howard 2014.

Again, by specifically enumerating the CV Joint and the Windshield, the inspection and repair of other things somehow related to safety is excluded. By the way, almost any defect in a car is arguably related to safety somehow and no car not even brand new is perfect.

Main Purpose Rule

“The Main Purpose Doctrine provides that when interpreting the meaning of an agreement, the primary intent and purpose of the parties must prevail” Howard 2014.

“1st Rule. We ought to examine what was the common intention of the parties rather than the grammatical sense of the terms.” Law of Obligations 1761.

“3rd Rule. When the terms of a contract are capable of two significations we ought to understand them in the sense which is most agreeable to the nature of the contract.” Law of Obligations 1761

The purpose of the contract was to divide property and wind up the marriage not to create an open ended warranty, insurance, or service contract all likely create future disputes and problems. This agreement should be interpreted as a final property division not as creation of new obligations absent clear, unambiguous intention otherwise (such as the CV Joint and Windshield).

All Provisions Should Be Given Effect

“2nd Rule. When a clause is capable of two significations, it should be understood in that which will have some operation rather than that in which it will have none.” Law of Obligations 1761.

“6th Rule. We ought to interpret one clause by the others contained in the same act, whether they precede or follow it.” Law of Obligations 1761.

The interpretation made by YYY makes the itemized list of repairs meaningless.

There would be no reason to itemize repairs if the agreement was to repair everything

Reasonable Interpretation

“[A]n interpretation which renders the contract ... reasonable is preferred” Howard 2014.

“8th Rule. However the general the terms may be in which an agreement is conceived, it only comprises those things respecting which it appears, that the contracting parties proposed to contract, and not other which they never thought of.”

It is unreasonable for a settlement agreement to create an open ended obligation likely to create future problems absent clearly stated intent. If someone starts inspecting any car more than a few years old, there are going to be worn parts and other things arguably related to safety. This type of language creates future disputes rather than finally resolving the marriage.

Interpretation Against Drafter

In choosing among the reasonable meanings of a promise or agreement or a term thereof, that meaning is generally preferred which operates against the party who supplies the words or from

whom a writing otherwise proceeds. Restatement Second Contracts 206.

YYY knows how to clearly say that everything on the car related somehow to safety will be inspected and repaired (as opposed to just the CV Joint and the Windshield). She says exactly that very clearly in her proposed judgment she drafted. She did not say that clearly at all in the settlement agreement. She knew XXX would never agree to that if it had been stated clearly. She knew that XXX would interpret the language as limited to the CV Joint and Windshield.

Conclusions

XXX did not agree to repair anything that might be found wrong with the car somehow related to safety. He agreed to repair the CV Joint and the Windshield. He is not a guarantor, insurer, warrantor, or repair service. According to YYY, who has been driving XXX's truck, XXX's truck is "running like shit." How reasonable would it be to expect her to repair everything on the truck if only two things are identified? The answer is self-evident.

This is a property division not a repair contract. It should be interpreted as a property division. This means she gets the car and he gets the truck. Yes, the parties specifically contracted for two specific repairs, but the main purpose of the contract is a property division. She gets the car essentially as it is just as he gets the truck as it is. Any deviation from the main purpose of the contract should be clearly and unambiguously stated.

Respectfully Submitted,

/s/ David Sibley

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Certificate of Service

On this Tuesday, April 15, 2016, I served this as follows:

Via ECF & Email

Michael Ratcliff
Attorney At Law

/s/ David A. Sibley _____
David A. Sibley