

STATE OF MICHIGAN
COURT OF APPEALS

DELIA J. LAING,

Plaintiff-Appellant,

v

SCOTT D. LAING,

Defendant-Appellee.

UNPUBLISHED

June 29, 2001

No. 228834

Washtenaw Circuit Court

LC No. 98-012858-DM

Before: Griffin, P.J., and Neff and White, JJ.

WHITE, J. (*concurring*.)

The arbitration procedures employed in this case were somewhat unorthodox. Nevertheless, it appears that the parties to a large extent agreed to such procedures and that there were substantial reasons peculiar to this case to employ such procedures. However, courts and practitioners should be mindful that certain procedural safeguards may be necessary to protect the integrity and reliability of the arbitration process to assure that the arbitration results in a decision that is consistent with the best interests of the child.

Further, while the parties apparently agreed that the arbitrator would render her decision in the form of a judgment of divorce, it does not appear that the parties agreed to the manner of entry of the arbitrator's decision, and the manner of entry was directly contrary to that set forth in the written arbitration agreement. This was error. However, I concur in the affirmance because I conclude that plaintiff has not shown that the error was "so material or so substantial as to have governed the award, and but for which the award would have been substantially otherwise." *Gordon Sel-Way v Spence Bros*, 438 Mich 488, 497; 475 NW2d 704 (1991), quoting *DAIIE v Gavin*, 416 Mich 407, 443; 331 NW2d 418 (1982), or that she was otherwise prejudiced.

/s/ Helene N. White