IN THE SUPREME COURT OF THE STATE OF DELAWARE

HELENOR C. KETCHEM,	§	
	§	
Petitioner Below- Appellant,	§	No. 182, 2000
	§	
	§	
v.	§	Court Below—Family Court
	§	of the State of Delaware,
STEVEN A. DISABATINO,	§	in and for New Castle County
	§	File No. CN96-12243
Respondent Below- Appellee.	§	
	§	

Submitted: June 28, 2000
Decided: August 14, 2000

Before **WALSH**, **HOLLAND** and **BERGER**, Justices

O R D E R

This 14th day of August 2000, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) Petitioner-appellant, Helenor C. Ketchem ("Mother"), filed this appeal from an order of the Family Court summarily dismissing her petition to reform a separation agreement. Respondent-appellee, Steven A. DiSabatino ("Father"), filed a motion to affirm the judgment of the Family Court on the

ground that it is manifest on the face of Mother's opening brief that the appeal is without merit.[1] We agree and AFFIRM.

(2) The separation agreement, which was entered as an order of the Family Court on August 6, 1997, states the parties' intention to provide their two minor children with a private school education. On October 27, 1999, Father filed a petition for a rule to show cause seeking funds from Mother for private school tuition for the older of their two children pursuant to the separation agreement. Mother did not file an answer to the petition. However, at Mother's request, the Family Court afforded her an opportunity to present at a hearing all evidence relevant to her claim of an inability to pay private school tuition due to an unforeseen adverse change in her financial condition.[2] Following the hearing on December 16, 1999, the Family Court ruled against Mother on Father's petition for a rule to show cause, finding that she presently had the ability to pay private school tuition in accordance with the parties' agreement.[3]

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[1]Supr. Ct. R. 25(a).

[2]Reformation of a parent's contractual obligation to provide a child with a private school education requires proof of an "unforeseen adverse change of financial condition due to factors beyond the obligor's control, coupled with a finding that enforcement of the original commitment would not be in the child's best interest . . . ." *Solis v. Tea*, Del. Supr., 468 A.2d 1276, 1283 (1983).

[3]In this appeal Mother does not argue that she was not given an opportunity to (continued...)

(3) On December 17, 1999, one day after the Family Court issued its decision, Mother filed a petition to reform the parties' separation agreement on the sole ground that she was unable to pay private school tuition. The Family Court dismissed Mother's petition without a hearing because Mother had previously raised that claim as a defense to Father's rule to show cause petition and had been afforded an opportunity for a full hearing on the merits. Implicit in the Family Court's summary denial of Mother's petition was the finding that there had been no allegation of any unforeseen adverse change in her financial condition between the date of the Family Court's decision on December 16 and the filing of the petition on December 17 and, therefore, a hearing was unnecessary.

(4) The doctrine of res judicata precludes relitigation of claims on the same cause of action.[4] Furthermore, the doctrine extends to all issues that might have been raised and decided as well as all issues that actually were decided.[5]

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[3](...continued)
present all evidence relevant to her claim, but simply that "[s]ufficient evidence was not presented . . . ."

[4]*Cassidy v. Cassidy*, Del. Supr., 689 A.2d 1182, 1185 (1997).

[5]*Id. See also Bradley v. Division of Child Support Enforcement*, Del. Supr., 582 A.2d 478, 480 (1990).

In this case, the Family Court correctly refused to reconsider an issue it had previously afforded Mother an opportunity to fully litigate.[6]

(5) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court 25(a), the motion to affirm is GRANTED. The judgment of the Family Court is hereby AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh
Justice

[6]To the extent Mother wishes to bring to the attention of the Family Court an unforeseen adverse change in her financial condition arising *subsequent to the Family Court's December 17, 1999 decision*, nothing in this Order would prevent her from doing so. *Solis v. Tea*, 468 A.2d at 1283.