

STATE OF MICHIGAN
COURT OF APPEALS

FLORA SCALES,

Plaintiff-Appellee,

v

DABNEY SCALES,

Defendant,

and

GENERAL MOTORS CORPORATION,

Appellant.¹

UNPUBLISHED

January 17, 2006

No. 256455

Wayne Circuit Court

LC No. 98-814758-DO

Before: Donofrio, P.J., and Borrello and Davis, JJ.

PER CURIAM.

General Motors appeals as of right from an order finding General Motors in contempt of court and imposing attorney fees and costs on General Motors. Because the trial court was divested of jurisdiction when the cause of action was removed to federal district court, the trial court improperly held General Motors in contempt of court, and we vacate the trial court's order.

General Motors argues that the trial court erroneously imposed sanctions on it because removal of the case to federal district court divested the trial court of jurisdiction. This Court reviews for abuse of discretion a trial court's decision to hold a party or individual in contempt. However, to the extent that this Court's review requires it to examine questions of law, review is de novo. *In re Auto Club Ins Ass'n*, 243 Mich App 697, 714; 624 NW2d 443 (2000).

A defendant "desiring to remove any civil action . . . from a State court shall file in the district court of the United States for the district and division within which such action is pending

¹ Appellant was not an interested party in the original divorce proceedings. However, the judgment of divorce awarded plaintiff a portion of defendant's pension. Appellant now appeals from the civil contempt order. We refer to appellant as "General Motors" in this opinion.

a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.” 28 USC 1446(a). After the filing of such notice of removal of a civil action the defendant must give written notice to all adverse parties and must file a copy of the notice with the clerk of the state court, which shall effect removal and the state court shall proceed no further unless and until the case is remanded. 28 USC 1446(d).

General Motors followed the proper federal procedural process to remove the case to the federal district court. On May 21, 2003, General Motors filed a notice of filing petition for removal to the federal district court and provided notice to the trial court. On June 6, 2003, the trial court held a show cause hearing. Counsel for General Motors was not present at the hearing. On July 15, 2003, plaintiff filed a notice of presentment of an order granting a motion for costs and sanctions with the trial court. On July 17, 2003, General Motors filed an objection to entry of the order, arguing that the trial court was divested of jurisdiction once the action was removed to the district court. General Motors also argued that it properly rejected the proposed domestic relations order because it failed to satisfy the requirements of the Employee Retirement Income Security Act of 1974 (“ERISA”). On July 31, 2003, the federal district court remanded the case to the trial court citing lack of jurisdiction.

On August 8, 2003, the trial court entered an order granting plaintiff’s motion for costs and sanctions. The trial court found that defendant and General Motors failed to appear at the June 6, 2003, hearing as ordered and found each in contempt of court. The trial court ordered General Motors to pay \$2,000 in attorney fees to plaintiff and her counsel immediately on entry of the order. The trial court also ordered General Motors to pay \$100 per day in sanctions until it complied with the order to pay attorney fees.

The record reflects that the trial court erroneously sanctioned General Motors because the case was removed to the federal district court at the time of the show cause hearing on June 6, 2003. Once a case is removed to federal court and notice is given to the state court, the state court shall proceed no further *unless and until* the case is remanded. 28 USC 1446(d). Since the trial court was divested of jurisdiction when the cause of action was removed to federal district court, the trial court erred when it held General Motors in contempt of court and imposed costs and sanctions including attorney fees.

General Motors further argues that it correctly rejected the trial court’s original qualified domestic relations order. This issue is moot. An issue is moot if events have rendered it impossible for the court to fashion a remedy. *In re Dudzinski Contempt*, 257 Mich App 96, 112; 667 NW2d 68 (2003). Following remand, the trial court conducted a show cause hearing wherein it directed General Motors to assist plaintiff’s counsel in drafting a properly conforming qualified domestic relations order. After a short recess, the parties returned with a properly conforming qualified domestic relations order. Since General Motors accepted the amended qualified domestic relations order, the issue is moot.

The trial court's order finding General Motors in contempt of court and imposing attorneys fees and sanctions on General Motors is vacated. We do not retain jurisdiction.

/s/ Pat M. Donofrio

/s/ Stephen L. Borrello

/s/ Alton T. Davis