IN THE UTAH COURT OF APPEALS

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Deborah Anderson, Petitioner and Appellant, v. Kelly L. Anderson, Respondent and Appellee.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20090741-CA F I L E D (December 30, 2010) 2010 UT App 392

Fourth District, Provo Department, 074402410
The Honorable Darold J. McDade

Attorneys: Gregory B. Wall and Nathan B. Wall, Salt Lake City, for Appellant
Brent D. Young and Dallas B. Young, Provo, for Appellee

Before Judges Thorne, Voros, and Roth.

THORNE, Judge:

Petitioner Deborah Anderson (Wife) appeals from the district court's October 27, 2009 Order and Judgment, challenging several rulings entered over the course of the parties' divorce litigation. We affirm.

Wife first argues that the district court violated her due process rights by not allowing her to present evidence regarding the proper allocation of $7000 the parties had received from the states of California and Nevada for the care of the parties' adopted special-needs children. However, Wife fails to direct us to any place in the record where she raised the due process issue in the district court. Instead, Wife asserts that constitutional issues are always preserved for appeal. Generally, all claims, including constitutional issues, must be raised in the district court in order to be addressed on appeal. See State v. Holgate, 2000 UT 74, ¶ 11, 10 P.3d 346 ("[W]e have held that the preservation rule applies to every claim, including constitutional questions . . . ." (emphasis added)); see also Utah R. App. P. 24(a)(5)(A) (requiring appellate briefs to cite to the record showing that an issue was preserved in the trial court). An unpreserved issue may be considered for the first

time on appeal only if an appellant can demonstrate that "exceptional circumstances exist or plain error occurred." Holgate, 2000 UT 74, ¶ 11 (internal quotation marks omitted). Wife has failed to argue that the district court committed plain error or that exceptional circumstances exist such that review of this unpreserved issue is warranted. Therefore, we do not consider it.

We also note that Wife's bare assertion that she was denied her "day in court" when the district court denied her an opportunity to present evidence at an October 27, 2008 hearing is not supported by the record. Although no transcript of the October 27 hearing is included in the record on appeal, the order resulting from that hearing indicates that Wife's counsel addressed the issue of the $7000 and that the district court heard "[Wife's] argument[,] which was all about [Wife]." The district court subsequently entered a default against Wife for multiple failures to appear at hearings and then declined to hear additional arguments on the $7000 in light of the default. Although we do not reach Wife's due process argument due to her failure to preserve it, we disagree with her characterization that she was denied her day in court and an opportunity to present evidence.

Wife next contends that the district court abused its discretion in ordering her to pay the attorney fees of respondent Kelly Anderson (Husband), the guardian ad litem, and the special master, incurred for attending a January 20, 2009 contempt hearing at which Wife was unprepared to proceed and requested a continuance. Wife argues that the district court erred when it awarded attorney fees without entering findings as to the recipients' needs, Wife's ability to pay, and the reasonableness of the fees. However, Wife relies on cases applying Utah Code section 30-3-3, see Utah Code Ann. § 30-3-3 (Supp. 2010), which generally governs awards of attorney fees in domestic actions. See, e.g., Rhen v. Rhen, 1999 UT App 41, ¶ 22, 974 P.2d 306 ("[A]n award [of attorney fees pursuant to Utah Code section 30-3-3] must be based on sufficient findings addressing the financial need of the recipient spouse; the ability of the other spouse to pay; and the reasonableness of the fees.").

Here, the record indicates that the district court did not award attorney fees pursuant to section 30-3-3, but rather because Wife's unpreparedness and failure to seek a continuance prior to the hearing caused the other parties to appear unnecessarily. Such awards fall within the district court's inherent powers and do not implicate Utah Code section 30-3-3. See generally Griffith v. Griffith, 1999 UT 78, ¶¶ 12-14, 985 P.2d 255 (upholding the trial court's monetary sanction for waste of judicial resources as an exercise of the court's inherent

powers); Barnard v. Wassermann, 855 P.2d 243, 249 (Utah 1993) ("[C]ourts of general jurisdiction . . . possess certain inherent power to impose monetary sanctions on attorneys who by their conduct thwart the court's scheduling and movement of cases through the court."). Wife raises no argument on appeal that the district court exceeded its inherent powers when it awarded attorney fees and therefore fails to address the actual basis of the district court's ruling. Under these circumstances, we will not disturb the district court's attorney fees award. Cf. State v. Hurt, 2010 UT App 33, ¶ 16, 227 P.3d 271 (affirming denial of a suppression motion where appellant failed to acknowledge or address the legal basis for the district court's ruling).

Wife next argues that the commissioner exceeded his authority when he, rather than the district court, found her in contempt of court. However, the record indicates that it was the district court that ultimately entered a finding of contempt against Wife. Because it was the district court and not the commissioner that held Wife in contempt, there is no basis for us to review Wife's assertion that the commissioner exceeded his authority or that "the commissioner's holding of [Wife] in contempt was error."

Finally, Wife asserts that the district court abused its discretion by signing Husband's proposed Order and Judgment without ruling on her objection to Husband's proposed order. Wife asserts, without supporting authority, that public policy should require the district court to rule on objections to proposed orders before entering them. This court has rejected such a rule, however, and instead treats such objections as having been implicitly overruled by the entry of the proposed order. See Rosas v. Eyre, 2003 UT App 414, ¶ 18, 82 P.3d 185 ("[T]he trial court implicitly ruled on Eyre's objection when it signed and entered the October Order."); Morgan v. Morgan, 875 P.2d 563, 564 n.1 (Utah Ct. App. 1994) (noting that when trial court signed plaintiff's proposed order, it implicitly ruled on defendant's objections that were before trial court at the time). Wife's argument that the district court was required to expressly rule on her objection to Husband's proposed order is not adequately briefed, see generally Utah R. App. P. 24(a)(9) (requiring citation to supporting authority), and appears to conflict with established case law, see Rosas, 2003 UT App 414, ¶ 18; Morgan, 875 P.2d at 564 n.1. Accordingly, we decline to disturb the Order and Judgment on this basis.

For the reasons expressed herein, we affirm the district court's Order and Judgment.

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William A. Thorne Jr., Judge

WE CONCUR:

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J. Frederic Voros Jr., Judge

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Stephen L. Roth, Judge