

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA**

FAMILY DIVISION

IN RE:

**Ferrily Dawn Long
Petitioner
and**

**Michael A Long
Respondent**

**CASE NO. 2010-029347-FC-04
SECTION: 33**

**ORDER GRANTING
RESPONDENT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

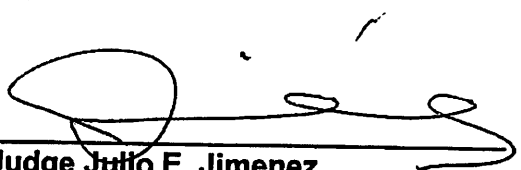
THIS CAUSE having come to be heard on on this the 6th day of July, 2011,
on Respondent's Motion for Partial Summary Judgment and the Court having heard
argument of counsel, and being otherwise fully advised in the premises, it is hereupon,

ORDERED AND ADJUDGED that said Motion is hereby GRANTED. There is
no genuine issue of material fact regarding the fact that the Respondent was married to
Christine Long until October 12, 2004. The Respondent and the Petitioner were legally
married on November 7, 2004, in Miami-Dade County, Florida. Whether the Petitioner
knowingly participated in a sham marriage merely to appease her family or whether the
Respondent deceived the Petitioner into believing that he was divorced from Christine
Long, the controversy herein is one of law and the Respondent is entitled to partial
summary judgment. The Respondent could not legally marry the Petitioner if he was not
legally divorced from Christine Long.

The parties herein were first legally married on November 7, 2004, in Miami-
Dade County, Florida.

DONE AND ORDERED in open court at Miami, Miami-Dade County, Florida
on this the 6th day of July, 2011.

*Handed
in court
7.6.11*



Judge Julio E. Jimenez
Circuit Court Judge

Copies furnished to:

**Helen C Costa 6843 Main ST STE 302
MIAMI LAKES FL 33014**

**Scott A. Ferris One Datran Center, Suite 400
9100 S. Dadeland Boulevard
Miami, Florida 33156**

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

In Re: The Marriage of:

FAMILY DIVISION

FERRILY DAWN LONG,

CASE NO.: 10-29347 FC 33

Petitioner/Wife,

and,

MICHAEL A. LONG,

Respondent/Husband.

THE ORIGINAL FILED
IN THE OFFICE OF THE CLERK
APR 25 2011
CIRCUIT & COUNTY COURTS
MIAMI-DADE COUNTY FLORIDA

RESPONDENT/HUSBAND'S MOTION FOR PARTIAL SUMMARY JUDGMENT

COMES NOW Respondent/Husband, MICHAEL LONG (hereinafter referred to as, "Husband"), by and through his undersigned counsel, pursuant to Rule 12.510, Fla.Fam.L.R.P., Rule 1.510, Fla.R.Civ.P. and Florida law, and hereby moves this Court for the entry of a partial final summary judgment in favor of Husband and against Petitioner/Wife, FERRILY DAWN LONG (hereinafter referred to as, "Wife"), by entering as a matter of law a partial final summary judgment directed against *Wife's Petition for Dissolution of Marriage* (hereinafter referred to as, "*Petition*"), specifically, Wife's plea that the Court should recognize the parties' 1998 "*de facto* marriage," and in support of this motion, Husband states as follows:

INTRODUCTION

A. Factual Background

1. This is a cause of action founded in dissolution of marriage, which includes the issues of alimony, distribution of marital assets and debt, and the question of the length of the marriage, among other things. There are no children born of this union.

2. The parties were legally married in Miami-Dade County on November 7, 2004.

MW
4/25/11

However, in 1998, which is the subject of this motion, the Husband and Wife participated in a purported ceremony simulating marriage in St. Vincent and the Grenadines.

3. Wife asserts in ¶ 3. of her *Petition* that the parties were married on November 7, 2004 in Miami-Dade County. Wife then contends in ¶ 8. of her *Petition* that she was “ ... fraudulently induced into the relationship with the Husband; the parties were de facto married in 1998 in St. Vincent Island in the Caribbean, with a large wedding where family attended. A marriage license was obtained at the time.”

4. In ¶ 3. of *Respondent/Husband's Answer to Petitioner/Wife's Petition for Dissolution of Marriage and Verified Counterpetition for Dissolution of Marriage* (hereinafter referred to as, “*Answer*”) Husband admitted to the allegations in ¶ 3. of Wife's *Petition* that the parties were married to each other on November 7, 2004 in Miami-Dade County, Florida.

5. In ¶ 51. of Husband's *Answer*, Husband pled an affirmative defense to Wife's assertion that the marriage should be considered to have commenced during the 1998 St. Vincent ceremony.

6. It is Husband's position, and the law in Florida, that a marriage is not valid if one of the parties has a legal spouse at the time of marriage. Further, in her *Petition*, Wife neither alleged or plead that the marriage ceremony in St. Vincent and the Grenadines should be recognized as the date of legal marriage.

7. Husband asserts that he was married to *Christine Long* until October 12, 2004, when his (prior) marriage was terminated by divorce. Husband contends Wife was fully aware of Husband's existing marriage when they met, as well as the invalidity of the St. Vincent and the

Grenadines marriage ceremony. [See affidavit of Michael A. Long, identified as, Exhibit "A," hereby attached and incorporated by reference.] In fact, they were both living in Miami-Dade County at the time, so traveling to St. Vincent and the Grenadines to ratify their vows is inherently illogical. Husband's states that the St. Vincent's ceremony was conducted merely to appease Wife's family.

8. Husband points to Wife's attestation in the parties' November 4, 2004 sworn *Application to Marry* in Miami-Dade County (attached as, Exhibit "B" and hereby incorporated by reference), in which Wife states in response to question #32. that she had never been previously married before November 7, 2004. Further, Husband acknowledges in his response to question #28. of the same application that he had been previously married once, and obtained a divorce on October 12, 2004. If Wife believed the parties to have been officially married in St. Vincent in 1998, why would she indicate that she had never been previously married in the 2004 Miami-Dade marriage application? It defies logic how Wife can assert that she was "fraudulently induced" into a relationship in which the Husband had fully disclosed his prior marriage in the parties' 2004 Miami-Dade County *Application to Marry*.

MEMORANDUM OF LAW

B. Applicable Legal Standard

Summary judgment is appropriate where the moving party demonstrates that there is no genuine issue of material fact and it is entitled to judgment as a matter of law. *Volusia County v. Aberdeen at Ormond Beach, L.P.*, 760 So. 2d 126, 130 (Fla. 2000). The reviewing court must draw every possible inference in favor of the party against whom summary judgment is made. *School*

Board of Seminole County v. GAF Corp., 413 So. 2d 1208 (5th DCA 1982). After the movant has met the burden of showing no genuine issue of material fact, the non-moving then has to come forward with evidence sufficient to raise a genuine issue of material fact. *Goode v. Walt Disney World Co.*, 425 So. 2d 1151 (5th DCA 1982). A party opposing summary judgment must do more than assert that an issue exists. *Publix Supermarkets, Inc. v. Austin*, 658 So.2d 1064, 1068 (5th DCA1995). Instead, the Plaintiffs “must demonstrate the existence of such an issue either by countervailing facts or justifiable inferences from the facts presented.” *Harvey Bldg., Inc. v. Haley*, 175 So.2d 780, 783 (Fla. 1965). Failure to do so will result in the entry of summary judgment. *Id.* Where controversy is purely one of law to be decided on undisputed facts, summary judgment may be granted. *Schmidt v. Bowl of America Florida*, 358 So. 2d 1385 (4th DCA 1978).

Husband is entitled to a partial final judgment as a matter of law because there are no genuine issues to any material fact or justifiable inferences from any facts presented.

C. Wife Has Failed to Prove the Existence of a Legal Marriage Prior to the 2004 Miami-Dade Marriage

The law in Florida is that a marriage is not valid if one of the parties has a legal spouse at the time of the marriage. *Lopes v. Lopes*, 852 So. 2d 402, 403 (5th DCA 2003), *see also*, *Jones v. Jones*, 119 Fla. 824 (Fla. 1935). Since the Husband was legally married to Christine Long until their October 12, 2004 divorce, the Husband and Wife’s 1998 St. Vincent and the Grenadines marriage must be declared void under Florida law. Further, it is irrelevant why a previous marriage was still intact when one continues to have a living and undivorced spouse who prevents such person from entering a new, valid marriage. *Id.* Wife states in question #32. of the 2004 Miami-Dade County *Application to Marry* that she had never been previously married before November 7, 2004.

Husband also admits in question #28. of the same application that he had been previously married once, and obtained a divorce on October 12, 2004.

In addition, to assert the 1998 St. Vincent marriage as the date in which the parties were legally married, the Wife must rely on the law of a foreign jurisdiction, specifically, the law of St. Vincent and the Grenadines. The general rule is that when the law of a foreign state is relied on as governing a given transaction it must be pleaded and proved as any other issue of fact; for the local courts will not take judicial notice of it. When the law of a foreign state is not pleaded or established, it must be presumed that the law of the foreign state is the same as the law of Florida. *Id.*, see also, *Columbian Nat. Life Ins. Co. v. Lanigan*, 154 Fla. 760 (Fla. 1944). Wife at no time has mentioned the law of St. Vincent and the Grenadines as it applies to her purported marriage, so the Court must presume that Florida law controls the matter.

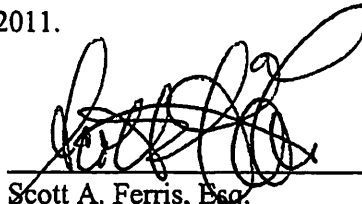
D. Conclusion

Husband is entitled to partial final summary judgment as a matter of law. Since the Wife entered into the November 7, 2004 marriage to the Husband, with the knowledge that Husband had been previously married and divorced on October 12, 2004, as well as affirmatively stating that she had never been married prior to the 2004 marriage, the marriage between the Husband and Wife must be found to have commenced in Miami-Dade in 2004.

Consequently, because the material facts are not disputed and are supported Court must find as a matter of law judgment in favor of Husband. Accordingly, Husband respectfully requests that this Honorable Court enter a final partial summary judgment in favor of Husband and against Wife.

WHEREFORE Husband seeks the entry of a partial final summary judgment in favor of Husband and against Wife, directed against *Wife's Petition for Dissolution of Marriage*, specifically, Wife's plea that the Court should recognize the parties' 1998 "*de facto* marriage,"

I HEREBY CERTIFY that a true and correct copy of the above and foregoing *Respondent/Husband's Motion for Partial Summary Judgment* was delivered by U.S. Mail to: U.S. Mail to: Helen C. Costa, Esq., Costa & Associates, P.A., 6843 Main Street, Suite 302, Miami Lakes, FL 33014 on this 21 day of April, 2011.



Scott A. Ferris, Esq.
Florida Bar No. 694339
Attorney for Respondent/Husband Michael A. Long
LAW OFFICES OF SCOTT A. FERRIS, P.A.
One Dattran Center, Suite 400
9100 S. Dadeland Boulevard
Miami, Florida 33156
Tel: (305) 670-3330
Fax: (305) 670-6992
E-mail: SFerris@FerrisLawFirm.com

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2012
JANUARY 11, 2012

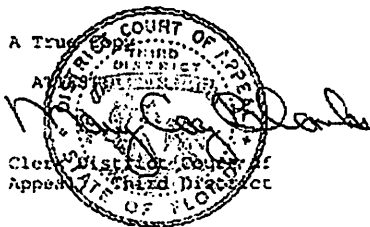
FERRILY DAWN LONG,
Appellant(s)/Petitioner(s),
vs.

CASE NO.: 3D11-2372

MICHAEL A. LONG,
Appellee(s)/Respondent(s).

LOWER
TRIBUNAL NO. 10-29347

ORDERED that appellant's notice of voluntary dismissal is recognized by the Court, and this appeal from the Circuit Court for Miami-Dade County, Florida is hereby dismissed.



cc:
Helen C. Costa
L. Michael Osman
Scott A. Ferris
Hon. Julio E. Jimenez
Harvey Ruvin

la

IN THE DISTRICT COURT OF APPEAL
THIRD DISTRICT OF FLORIDA

FERRILY DAWN LONG, :
: L.T. CASE NO.: 10-29347.FC 33
Appellant/Petitioner, :
: CASE NO.: 3D11-2372
and, :
: :
MICHAEL A. LONG, :
: :
Appellee/Respondent. :
_____ :

MOTION TO DISMISS APPEAL

COMES NOW Appellee/Respondent MICHAEL A. LONG, (hereinafter referred to as, "Appellee"), by and through his undersigned counsel, pursuant to Fla.R.App.P. 9.210(f), and hereby moves this Court for an order dismissing the appeal of this cause because of Appellant/Petitioner FERRILY DAWN LONG's (hereinafter referred to as, "Appellant") failure to file her initial brief, and in support of this motion, Appellee states as follows:

1. This is an appeal from the Circuit Court in and for Miami-Dade County, Family Division, and is founded in the issue of whether the parties' marriage can be declared legal or be ratified, even though the Husband/Appellee was still legally married to another woman at the time.

mw
11/30/11

2. As appears from the files of this case, the *Notice of Appeal* was filed on or about September 14, 2011.

3. Under the provision of Fla.R.App.P. 9.210(f), Appellant was required to serve and file her Initial Brief within 70 days of the filing of *Notice of Appeal*, that is, on or before Wednesday, November 23, 2011, of which, the date has since long past.

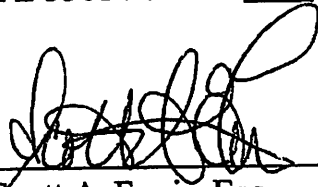
4. As of the date of filing this motion, Appellee has never been served with an Initial Brief on behalf of Appellant, and an examination of the files in this case and the electronic docket also discloses Appellant has not filed her Initial Brief.

5. The undersigned served certain documents on Appellant's attorney, L. Michael Osman, Esq., directed to this appeal, so it is unequivocal opposing counsel is fully aware of what he filed and when.

6. Appellant has made no motion for enlargement of the time for serving and filing her Initial Brief, and no order to that effect has been entered in this proceeding.

WHEREFORE Appellee hereby moves this Court, pursuant to Fla.R.App.P. 9.210(f) for an order dismissing the appeal in this action because of Appellant's failure to file her Initial Brief in a time prescribed by law.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Appellee's *Motion to Dismiss Appeal* was delivered by U.S. Mail to: L. Michael Osman, Esq., L. Michael Osman, P.A., 1474-A West 84 Street, Hialeah, Florida 33014-3363; and, to Helen C. Costa, Esq., Costa & Associates, P.A., 6843 Main Street, Suite 302, Miami Lakes, FL 33014 on this 30 day of November, 2011.



Scott A. Ferris, Esq.
Florida Bar No. 694339
Attorney for Appellee/Respondent Michael A. Long
LAW OFFICES OF SCOTT A. FERRIS, P.A.
9100 S. Dadeland Boulevard
One Datan Center, Suite 400
Miami, Florida 33156
Tel: 305 670-3330
Fax: 305 670-6992
E-mail: SFerris@FerrisLawFirm.com