IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

CASE NO. 2007-CA-00192

MARINA Y. ASANOV HUNT — PLAINTIFF/APPELLANT

VERSUS

ALEXANDER N. ASANOV — DEFENDANT/APPELLEE

On Appeal from the Chancery Court of Oktibbeha County, Mississippi
Cause No. 01-0063

BRIEF OF PLAINTIFF/APPELLANT MARINA Y. ASANOV HUNT

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MARINA Y. ASANOV HUNT **PLAINTIFF/APPELLANT**

VERSUS

ALEXANDER N. ASANOV **DEFENDANT/APPELLEE**

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies the following listed persons have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualifications or recusal.

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The Honorable Kenneth M. Burns
Chancellor, District Fourteen
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Okolona, MS 38860

SO CERTIFIED, this the 20th day of July, 2007.

DEWITT T. HICKS, JR., MSB #2431

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TO THE HONORABLE COURT OF APPEALS OF THE STATE OF MISSISSIPPI:

The Appellant, Marina Y. Hunt, a/k/a Marina Y. Asanov Hunt ("Hunt"), files this her Brief in this Court to seek a judgment for delinquent child support, for an equitable division of BioElectroSpec, Inc. as a marital asset, and for sanctions against Hunt's ex-husband, Alexander N. Asanov ("Asanov").

I. STATEMENT OF ISSUES

At the outset of the trial, which has given rise to this appeal, the key issues to be determined and heard were succinctly set forth as follows:

1. The first issue addressed was the issue of child support. The Russian divorce decree that ended the marriage between Hunt and Asanov had been recognized by the original Chancellor and specifically affirmed on appeal. *See* Opinion of Court of Appeals, attached as Exhibit 1; *see also* Order *Nunc Pro Tunc*, attached as Exhibit 2.[1] There had been no judgment for the amount of child support arrearage under the Russian divorce decree and the amount of arrearage had still not been paid by Asanov. *Id.* No judgment was entered when the child support payments were reduced under the original Chancellor. *Id.* The accrued amount of unpaid child support under the Russian divorce decree was $77,000, based on Asanov's annual income at the time, which was $45,000 per year. Under the clean hands doctrine, the reduction was inappropriate until the accrued amount of child support had been paid or until a judgment had been entered. Neither was done.

2. The second issue addressed was the equitable division of BioElectroSpec. Before Hunt

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[1] All exhibits referenced in this Brief are contained in the Record and, for the Court's convenience, are attached to the Brief. The only exception to this statement is the Motion for Injunction, for Dismissal and to Hold Plaintiff in Contempt attached as Exhibit 3, which is not part of the Record, but is provided to broaden the Court's knowledge of Asanov's contemptuous behavior.

and Asanov moved to the United States, they owned a Russian research company named Aqua-M. Technology and equipment belonging to Aqua-M were brought from Russia to the United States and became vital parts of BioElectroSpec. (T.T.. Page 3, Line 5 through T.T. Page 5, Line 9). Documentary proof also showed that, prior to the parties' divorce, Asanov had declared that BioElectroSpec was owned by his wife, Hunt.

The Trial Court awarded only a twenty-five percent (25%) interest in BioElectroSpec to Hunt even though the proof showed that technology and equipment used to establish BioElectroSpec came from Aqua-M and Asanov had stated that Hunt owned BioElectroSpec. It was error for the Court not to award Hunt at least a 50% interest in BioElectroSpec and its successors as equitable distribution based on the compelling facts.

Further, the Lower Court also erred in its valuation of BioElectroSpec. The Court gave Asanov the option of purchasing Hunt's 25% interest in BioElectroSpec for an amount of $12,500 within a designated time. That time has expired without any attempt or offer to purchase by Asanov.

3. The third issue on appeal is that of contempt of court. Asanov should be held in contempt of Court for continuously failing to pay back child support and for constantly filing suits making false and totally unsupported allegations of criminal conduct by Hunt, her attorneys, and several Federal Judges. *See* Motion for an Injunction, for Dismissal and to Hold Plaintiff in Contempt, filed in the U.S. District Court for the Northern District of Mississippi, attached as Exhibit 3.

II. STATEMENT OF THE CASE

This suit was originally filed in the Chancery Court of Oktibbeha County, Mississippi and was previously appealed to this Court. In the prior decision of this Court dated November 8, 2005, this Court recognized the validity of the Russian divorce decree granted to Hunt on May 29, 2000

and specifically pointed out that the Chancery Court's final judgment left the issue of child support unresolved. Specifically, this Court stated:

> "As evidenced by the Chancellor's Amended Order, Hunt is correct in asserting there is no judgment regarding child support . . ." *See* Opinion of Court of Appeals attached as Exhibit 1.

The Opinion further noted that the original Chancellor "by her own pen acknowledged there had been no judgment for child support." *Id.* This Court further held that a cross appeal was not the proper avenue for "extracting a judgment from the Chancellor on unresolved issues" and that, under Rule 15 of the Mississippi Rules of Appellate Procedure, the proper action would be to file a Petition for Mandamus. *Id.* A Petition for Mandamus was duly filed and the original Chancellor summarily overruled the Petition and appointed a substitute Chancellor shortly thereafter. *See* Order on Plaintiff's Petition for Mandamus attached as Exhibit 5 ; *see also* Order Transferring Case attached as Exhibit 6 . Thereafter, the matter proceeded to trial with the new Chancellor presiding.

III. SUMMARY OF ARGUMENTS

A. Child Support.

The proof presented at trial showed that the child support awarded to Hunt under the Russian divorce decree was $1,250, or 33% of Asanov's income, per month, based upon annual earnings of $45,000. (T.T. Page 13, Lines 3-16). In later years, Asanov's salary increased to $60,000 per year. (T.T. Page 101, Lines 1-29). In March of 2002, the Trial Court reduced the child support from $1,251.25 to $625 per month. (T.T. Page 13, Lines 24-27). At the time that the support reduction was made, the accrued amount of back child support owed, as reduced, was $18,283.43. This amount was never paid. (T.T. Page 14, Lines 1-9). As this Court noted in its Opinion, no judgment was ever rendered for the sum of $18,283.43 or any other sum or amount to date. *See* Exhibit 1.

The accrued amount of unpaid child support under the Russian divorce decree, as of the date of the trial, was $70,775.70. (T.T. Page 14, Lines 25-29).

The undisputed facts are that the amount of delinquent child support at the time the support was reduced, $18,283.43, has never been paid and no judgment has ever been entered for this amount. The total amount accrued as of the date of trial under the Russian divorce decree was $70,775.70 based upon earnings of $45,000, even though Asanov has admitted an annual salary of $60,000. Hunt's witness, Dr. Philip Oldham, testified that the salary of Asanov should have been between $75,000 and $120,000 per annum. (T.T. Page 24, Lines 24-28). Dr. Oldham is the co-inventor of patented technology with Asanov. He worked with Asanov on his research projects and had personal knowledge of the earnings therefrom.

B. Division of BioElectroSpec, A Marital Asset.

During Hunt and Asanov's marriage in Russia, a company known as Aqua-M was created. Hunt was a 32% owners of Aqua-M. (T.T. Page19; Lines 9-11). Aqua-M invented "total internal reflection flourescent technology" (TIRF), which shows moleculars on different surfaces and their interaction. (T.T. Page 20, Lines 6-16 and Lines 21-27). Hunt was the bookkeeper and accountant for Aqua-M and she managed the company's import/export operations in addition to filing the company's income tax returns. (T.T. Page 1, Lines 14-18). After the parties moved to America, Hunt did accounting work for J.B. Johnson, an accounting firm, and was the production manager for Aspen Bay Company, a candle manufacturer. (T.T. Page 22; Lines 1, 3-11).

BioElectroSpec was created in September of 1997. *See* Certificate of Incorporation, attached as Exhibit 4. The initial incorporators and directors of BioElectroSpec were Hunt and Asanov. *Id.* *See also* (T.T. Page, Line 24). BioElectroSpec inherited all of the assets of Aqua-M. (T.T. Page

24; Lines 19-23). In addition to performing the functions that she had at Aqua-M, Hunt also contributed her industrial engineering skills. Hunt obtained her industrial engineering degree from the University of Management in Moscow. (T.T. Page 21; Line 6). Hunt's experience and skills included accounting, production and management. (T.T. Page 25; Lines 4-13). Asanov had no industrial engineering education or experience, no accounting skills or business managerial skills. (T.T. Page 25; Lines 14-20). Hunt never received any pay from BioElectroSpec. (T.T. Page 26; Lines 1-4). However, Asanov received large annual salaries from grants. The grants consisted of seven grants from 1999 until February of 2007. (T.T. Page 102, Lines 15-24). BioElectroSpec was thus co-founded by Hunt and owns extremely valuable technology for medical research and homeland security (as pathogenic agents are a current security threat). (T.T. Page 75; Lines 2-5; T.T. Page 139, Lines 2-29). Asanov states unequivocally by letter dated July 11, 1998 that BioElectroSpec is *his wife's* company. (T.T. Page 77; Lines 20-29); *see also* P-1, Hunt 00046-00048, attached as Exhibit 7. This document sets out in bold caps that assets of BioElectroSpec constitute family property. (T.T. Page 80; Lines 15-29). When BioElectroSpec was created and established in America, it consisted of family members: Hunt, Asanov, and their two children, Kate and Dmitry. (T.T. Page 88; Lines 17-26). "TIRF cell and electro-chemistry" were developed and manufactured by Aqua-M from 1989 until 1991. (T.T. Page 81; Lines 1-22). Aqua-M operated in Russia and Eastern and Western Europe from 1989 to 1994. (T.T. Page 82; Lines 3-12). It is undisputed, and Asanov has admitted, that the most valuable asset of BioElectroSpec is the intellectual property that Aqua-M acquired and developed in Russia. (T.T. Page 86; Lines 16-22).

The original Chancellor declined to rule on a division of BioElectroSpec. *See* Exhibits 1 and 5. Consequently, Hunt filed suit in Federal Court for the Northern District of Mississippi seeking

a division of marital assets. Judge Glen Davidson was the assigned to the case and, although he ruled that the Court did not have subject matter jurisdiction, Judge Davidson found that Hunt should be entitled to an interest in BioElectroSpec. *See* Opinion Sanctioning Defendants and Dismissing Case, attached as Exhibit 8. Under the facts of this case, it is clear that BioElectroSpec is a marital asset subject to equitable distribution. The Chancellor awarded only 25% of BioElectroSpec to Hunt and did not compensate Hunt with other marital property sufficient to offset his failure to award her 50% of BioElectroSpec. *See* Opinion and Judgment issued by Oktibbeha County Chancery Court, attached as Exhibit 9.

C. Contemptible Behavior.

This Court, in its previous Opinion, states "Dr. Asanov claims that the divorce papers were falsified and were part of a criminal conspiracy, but these spurious allegations are unfounded." *See* Exhibit 1. This Court further noted "his brief presents only unsubstantiated allegations and disrespectful accusations deriding Hunt, her attorney, and various other individuals. We decline to perpetuate Dr. Asanov's accusations by reproducing them in the Opinion of this Court, and we hereby strike the offensive portions of his brief." *Id.* In Judge Glen Davidson's ruling sanctioning Asanov, he found "in light of defendants' unreasonable, vexatious, and often bizarre, behavior, sanctions are appropriate and defendants are ordered to pay the plaintiff's reasonable fees as outlined herein." *See* Exhibit 8. In this proceeding, Asanov stated he would not pay criminals for crimes and has sued Hunt and her husband, Federal Judge Glen Davidson, Magistrate Judge Jerry Davis, the IRS, the FBI, Gholson, Hicks & Nichols and members of its firm in Pennsylvania and North Carolina. *See* Exhibit 3.

Appellant respectfully requests that all appropriate sanctions should be imposed upon Asanov for this vexatious behavior and spurious allegations against Hunt, her attorneys, and the Judges and Courts of this State.

IV. ARGUMENT

A. Clean Hands Doctrine and Child Support.

The amount of child support Asanov owes Hunt under the Russian divorce decree is $70,775.70. When the child support was reduced from $1,251.25 per month to $625 per month, the *reduced amount* of back child support was never paid and no judgment has ever been entered for that amount. In fact, this Court specifically found, in its prior decision, that no judgment has ever been entered regarding child support. *See* Exhibit 1. The reduction to $625 per month was made on March 11, 2002, while the sums were delinquent and no judgment had been granted for the delinquent child support. From March, 2002 to date, the reduced sum of $625 per month has been paid. The reduced amount was predicated on a salary of $45,000, although the proof shows conclusively that Asanov has been making a salary of $60,000 since that time. The reduction in child support was made in response to Asanov's argument that he could not afford the child support. Asanov made this argument only after Hunt filed a motion for contempt against Asanov.

In *Cook v. Whiddon*, 2000-CA-01776-COA (Feb. 24, 2004), the clean hands doctrine was reviewed. There, the Court held:

> "The doctrine of 'unclean hands' declares that 'he who comes into equity must come with clean hands.' *Thigpen v. Kennedy*, 238 So.2d 744, 746 (Miss. 1970). In other words, the clean hands doctrine prevents a complaining party from obtaining equitable relief in court when he is guilty of wilful misconduct in the transaction. Our

> supreme court has set out the proper course a party should take when he is unable to meet his support obligations. Gambrell v. Gambrell, 644 So.2d 435, 441 (Miss. 1994). *If a party is unable to comply with a divorce decree, he should, with reasonable promptitude, make that fact known to the court by proper petition and have the decree modified or suspended, and not wait until he has been cited for contempt.* (Emphasis added.)
>
> . . . .
>
> Here, Cook was in arrears at the time he filed his motion for modification of child support which was not filed until after Whiddon had filed her motion seeking to have him held in contempt for failure to make child support payments. . . . The evidence supports the finding that Cook came into the court with unclean hands."

The 2004 Court stated:

> "We must now determine if he left with unclean hands so as to prevent any modification of his future child support obligations until after he has paid all arrearage."

The Court then carefully analyzed the decision of Brennan v. Brennan, 605 So.2d 749, 753 (Miss. 1972). The Court held that if there is a judgment of delinquent child support obligations, the entry of the judgment cleansed the petitioner's unclean hands and revived the issue for consideration of modification. The Court, in Brennan, stated as follows:

> "We affirm the judgment of the lower court in those respects [dismissing the parties' petitions] but hold that by entry of the final judgment, the lower court cleansed the hands to the parties from and after the date of the final decree, the matter of modification of the previous divorce decree dated October 25, 1984, may be revived in this case and the cause is remanded to the lower court for that purpose."

This Court, by the former Chancellor's own pen, and the Court of Appeals' express language, determined there has not been any entry of judgment for child support. *Therefore, the arrearage remains unpaid and there has been no entry of judgment to date.* Accordingly, because Asanov has

never paid the arrearage in child support, no judgment was ever entered regarding child support and Asanov did not request a reduction or otherwise argue that he could not afford to pay the child support ordered under the Russian decree until Hunt filed a motion for contempt, *Asanov did not come to court with clean hands.* According to the case law, he was not entitled to a reduction in child support at the time such reduction was made due to his unclean hands. Therefore, this Court should, by *stare decisis,* hold that the Russian decree, which required withholding one-third of Defendant's earnings, is subject to enforcement at this time.

Asanov's filed tax returns[2] show that one-third of his earnings from the entry of the Russian decree through December 1, 2006 totals $70,775.97. Accordingly, judgment should be granted to the Plaintiff against the Defendant in the sum of $70,775.97. Trial Exhibit P-2, a calculation of this sum, is attached as Exhibit 10.

In *Lane v. Lane*, No. 2000-CA-01554-COA, the Court made clear that a modification cannot be made retroactive and must be made only from the date of judgment:

> "This court cannot eviscerate the 'bedrock' principle that neither child support nor alimony arrearage can be forgiven. *Williams v. Rembert*, 654 So.2d 26, 29 (Miss. 1995). Thus, we are not at liberty to modify child support retroactively . . ."

In *Lane,* interest was awarded on each delinquent payment at the legal rate of 8% per annum. *Id.* In this matter, interest should have been awarded on the delinquent child support payments at the rate of 8% per annum. The delinquent child support in the amount of $70,775.70, together with interest at 8% per annum, on each delinquent installment and Hunt requests judgment for this sum and requests the Court for judgment for such additional amounts as may be disclosed by any current

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[2] Judge Colom earlier required by court order that defendant provide tax documents every year.

tax returns.

B. Equitable Division of BioElectroSpec.

Hunt should have been awarded at least a 50% interest in BioElectroSpec.

The first step in the division of property in divorce cases is the classification of each asset as either "marital" or "non-marital" in compliance with *Hemsley v. Hemsley,* 639 So.2d 909 (Miss. 1994). *See Fogarty v. Fogarty,* 922 So. 2d 836 (Miss. App. Ct. 2006). Next, all assets that have been determined to be marital assets are divided using the *Ferguson* factors. *Id.* (citing *Ferguson v. Ferguson,* 639 So. 2d 921 (Miss. 1994)); *see also Hemsley,* 639 So. 2d at 915.

As with any type of asset, a business interest must first be classified as either a marital, non-marital or mixed (marital and non-marital) asset. *Fogarty,* 922 So. 2d at 839. The Supreme Court of Mississippi defined marital property as "any and all property acquired or accumulated during the marriage." *Hemsley,* 639 So. 2d at 915. Such property is to be classified as a marital asset and is subject to equitable distribution. *Id.* In *Wideman v. Wideman* the Mississippi Court of Appeals interpreted the Mississippi Supreme Court decision in *Hemsley* to create a presumption that all property acquired or accumulated during marriage is marital property. 909 So. 2d 140, 144 (Miss. Ct. App. 2005). The presumption may be rebutted by proving that the asset(s) is/are "attributable to one of the parties' separate estate prior to the marriage or outside the marriage" or that one "spouse's contribution is so negligible as to not require division." *Wideman,* 909 So. 2d at 144 (citing *Hemsley,* 639 So. 2d at 915 and 915). The burden is on the spouse claiming property to be non-marital to prove that it is not marital property. *Id.* (citing *A & L, Inc. v. Grantham,* 747 So. 2d 832, 839 (Miss. 1999)).

With respect to any business established during the marriage or operating during the marriage, it is presumed that the business, and the spouse's interest therein, is marital property.

Hemsley, 639 So. 2d at 915. If the business is established during the marriage, the spouse's entire interest is presumed to be marital property subject to equitable distribution. *Id.* In fact, failure to classify a business established by either spouse during marriage as a martial asset is manifest error and grounds for reversal. *See Johnson v. Johnson,* 877 So. 2d 485, 492 (Miss. Ct. App. 2003). In *Johnson v. Johnson*, the Court held that:

> the stock of both of these [closely- held business] corporations should have been classified as marital property because each corporation was organized, incorporated and began operations during the term of the marriage. Each corporation was funded with assets from the parties' marriage or income earned during marriage. Therefore, the chancellor was clearly in error in denying an equitable division of the stock of [these corporations].

In regard to businesses established prior to marriage, an owning spouse's interest, with respect to any growth or acquisition of assets or income (any accumulation of value in the company), from the time of marriage until either the entry of a temporary order, order of separate maintenance or divorce decree, is marital property subject to equitable distribution. Deborah H. Bell, Mississippi Family Law § 8.06[3][a] (1st ed. 2005) (citing *Pittman v. Pittman,* 791 So. 2d 857, 865 (Miss. Ct. App. 2001)); *see also Johnson,* 877 So. 2d at 492. In fact, a business acquired or established during marriage is always martial property unless the non-owning spouse's contributions were "so negligible as to not require division" of the asset. *Id. See also Wideman v. Wideman*, 909 So. 2d 140 (Miss.Ct.App. 2005). Proving that a business that was acquired or established during the marriage is not marital property, because the non-owning spouse's contribution to the company was so negligible as to not require division, is quite hard.

First, it is presumed that "the contributions and efforts of the marital partners, whether economic, domestic or otherwise are of *equal value.*" *Id.* (emphasis added). Thus, if one spouse

stays home and performs domestic duties while the other establishes and runs a business, the court must assume that both spouses' contributions to the business during the marriage are of equal value. *Id.* In most cases businesses established or growing and accumulating assets during the marriage are deemed to be marital property subject to equitable distribution even if the non-owning spouse's role was solely domestic. *Id.; see also Johnson,* 877 So. 2d at 492-3. An example of one of the few instances when this is not the case is *Wideman v. Wideman,* 909 So. 2d 140 (Miss. Ct. App. 2005). In *Wideman* the Mississippi Court of Appeals found that Mrs. Wideman's contributions to her husband's business were so negligible that the business was not marital property. *Wideman,* 909 So. 2d at143-4. However, it should be noted that Mr. Wideman established the business before the legal termination of the marriage, but *after* the parties' separated. *Id.* The Court did not state whether or not the business was established using assets acquired during the marriage, but it was noted that during the second half of the marriage Mrs. Wideman did not work and had domestic help at home. *Wideman,* 909 So. 2d at 142-4. Further, their children were grown at the time the business was begun and therefore, at that point, she was also not contributing domestically to the marriage by performing domestic chores or in the form of child rearing. It is therefore possible that the court's determination that her contribution to the business was negligible was based on a finding that, for the last several years of the marriage, she did not contribute to the marriage economically *or* domestically. *Id.* Also, the chancellor could have countered Mrs. Wideman's lack interest in the business with his finding that all assets acquired before the couple separated were deemed to be marital assets and awarding Mrs. Wideman both the lion's share of the marital property as well as significant periodic alimony. *Id.*

In the matter at hand, it is undeniable that BioElectroSpec is a marital asset due to its creation during the marriage, with assets from a company owned by both parties, as well as Hunt's financial and domestic contributions to both the marriage and BioElectroSpec directly. The Lower Court had a duty to divide *all* of the martial assets equitably. The first chancellor erred in failing to consider the distribution of BioElectroSpec at all. After remand from the Court of Appeals, the second Chancellor, while correctly finding that BioElectroSpec was a marital asset subject to equitable division, erred in failing to divide BioElectroSpec in an equitable manner.

First, all of the other martial assets had already been equitably divided without considering the division of BioElectroSpec. *See* Exhibit 9. Therefore, the Chancellor should have made some finding as to why, considering Hunt's substantial direct contribution to BioElectroSpec, she was not equitably entitled to 50% of the company. The Chancellor's failure to make findings explaining his award of only 25% of the company to Hunt was an abuse of discretion.

The current market value of BioElectroSpec was attempted to be determined through discovery as well as during trial. It was clearly established that the value of BioElectroSpec lies in the future application of its technology. The following proof is compelling:

The Court asked Marina:

Q. "What is the value of BioElectroSpec?

A. I don't know. I don't have records." (T.T. Page 69, Lines 5-13).

The Chancellor then further asked Asanov about the value of equipment owned by BioElectroSpec:

"Q. . . . I understood your testimony . . . you probably could sell it for 500 bucks, but because of the business at the time it was worth millions of dollars . . .

A. Yeah." (T.T. Page 189, Line 27; T.T. Page 190, Lines 1-2).

Q. You have told the Court that there is great potential value –

A. Yes.

Q. – both in homeland security and in anti-terrorism and in medical science ...

A. Yes, yes." (T.T. Page 192, Lines 24-29; T.T. Page 193, Line 1).

Asanov further explained the lack of current market value to realistic potential value by stating that the BioElectroSpec technology, medical science and anti-terrorism technology can be advanced far beyond where it is today. None of the traditional valuation methods generally employed by courts to determine the value of closely-held companies for the purposes of equitable distribution apply to BioElectroSpec. The true value of BioElectroSpec is, for practical intents and purposes, unascertainable at this time, as it was at the time of trial. However, a chancellor must either determine the value of a company, based on accepted valuation principles, or award an ownership interest with no assignment of value. *Johnson*, 877 So.2d at 501 (citing *Ferguson*, 639 So.2d at 929). A chancellor is not permitted to assign an arbitrary value to a company, even when the actual value is difficult to ascertain. Id. In such situations, the Court should just award an interest in the company.

Further, the proof is compelling that BioElectroSpec was owned by Hunt in its entirety. By Asanov's own admission, BioElectroSpec was his wife's company. *See* Exhibit 7. She brought the industrial engineering experience into Aqua-M which was founded and operated in Russia, together

with her skills in accounting, production and management. Hunt then performed these same functions and contributed the same skills to BioElectroSpec. (T.T. Page1, Lines 14-18; T.T. Page 21; Line 6; T.T. Page 25; Lines 4-13).

Asanov has attempted to transfer the ownership, all assets, and all the customers of BioElectroSpec to his newly formed company, TIRF Technologies, Inc. (T.T. Page 92, Lines 24-29; T.T. Page 93; Lines 1-16). The proof shows, and Asanov admits, that this new company was formed as a result of the Federal Court litigation regarding the equitable distribution of BioElectroSpec and in an attempt to prevent Hunt from being awarded an interest in BioElectroSpec. T.T. Page 93; Line 6). Any such transfer is fraudulent and should be set aside as an attempt by Asanov to defraud Hunt. *See A&L, Inc. v. Grantham,* 747 So.2d 832, 843 (Miss. 1999). In *Grantham*, this Court specifically stated that "in a divorce action, a chancellor is justified in setting aside, as fraudulent, a conveyance made by one of the spouses where the conveyance was made with the exclusive intent of cheating the other spouse out of their share of marital assets." *Id.* (internal citations omitted).

Furthermore, because ample proof was offered at trial to show that TIRF Technologies is the same company as BioElectroSpec or comprised of and established using the assets of BioElectroSpec, both companies should be subject to equitable distribution. The Chancellor erred in failing to find that TIRF Technologies is a marital asset subject to equitable distribution for two reasons: 1) TIRF Technologies is the same company as BioElectroSpec and has simply been renamed; and 2) TIRF Technologies was created using marital assets from BioElectroSpec and other assets acquired during the marriage.

C. Contempt of Court.

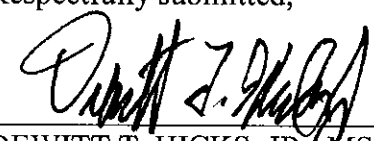
Asanov's conduct in bringing numerous suits against Federal Judges, federal agencies, Hunt, her husband, and her attorneys has been condemned by this Court and by two Federal Courts. *See* Exhibits 1 and 3. Notwithstanding, on July 16, 2007, the Appellee filed an Amended Complaint in the Federal Court of North Carolina, again falsely accusing Hunt, her husband, her attorneys, and three Federal Judges, of being corrupt criminals. *See* Amended Complaint filed in the United States District Court for the Eastern District of North Carolina, attached as Exhibit 11. Clearly, the admonishments Asanov has received in the past have not deterred him from further contemptuous behavior. Further, Hunt's motion for contempt was never decided by the Chancery Court and Asanov has never been held in contempt of court for this failure to pay child support. Asanov must be sanctioned at this time, in the form of fines and jail time, in order to cause him to purge his contempt by paying the delinquent child support he owes Hunt and to deter him from further contemptuous conduct. Hunt should also be awarded reasonable attorney's fees incurred in bringing her motion for contempt due to Asanov's failure to pay the amount of back child support owed and Asanov's other contemptuous acts.

V. CONCLUSION

Hunt respectfully requests the Court to order Asanov to pay his delinquent child support pursuant to the Russian decree, award her no less than 50% ownership interest in BioElectroSpec and TIRF Technologies, direct Asanov not to attempt to transfer the customers and assets of BioElectroSpec to the newly formed company of TIRF Technologies or otherwise, and to impose sanctions for continuously failing to pay delinquent child support, and to deter future contemptible

acts by Asanov, as well as reasonable attorney's fees incurred as a result of Asanov's contempt. Such conduct may be permitted in Russia, but should not be allowed in the United States of America.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned attorney, DEWITT T. HICKS, JR., hereby certifies that he has this day mailed by United States first class mail, postage prepaid, a true and correct copy of the foregoing **Brief of Appellant** to the following:

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Defendant/Appellee

The Honorable Kenneth M. Burns
Chancellor, District Fourteen
Post Office Drawer 110
Okolona, MS 38860

SO CERTIFIED, this the 20th day of July, 2007.

DEWITT T. HICKS, JR.

CERTIFICATE OF MAILING

The undersigned, Vicki Ray, Legal Secretary for Gholson, Hicks & Nichols, hereby certifies that this day the original and three copies of the **Brief of Appellant** was mailed via United States first class mail, postage prepaid, to:

Betty W. Sephton, Clerk
Mississippi Court of Appeals
Post Office Box 22847
Jackson, MS 39225
(Paper and Disc)

and further certifies that a true and correct copy of the **Brief of Appellant** was mailed via United States first class mail, postage prepaid, to the following:

Alexander N. Asanov, *Pro Se*
1414 Preston Grove Avenue, #1414
Cary, NC 27513
Defendant/Appellee
(paper only)

The Honorable Kenneth M. Burns
Chancellor, District Fourteen
Post Office Drawer 110
Okolona, MS 38860
(paper only)

SO CERTIFIED, this the 20th day of July, 2007.

Vicki Ray
VICKI RAY