

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 10, 2004**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-3261-FT  
STATE OF WISCONSIN**

**Cir. Ct. No. 00FA000479**

**IN COURT OF APPEALS  
DISTRICT IV**

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**IN RE THE MARRIAGE OF:**

**DEBRA L. ZENONI,**

**JOINT-PETITIONER-APPELLANT,**

**V.**

**JEFFREY A. ZENONI,**

**JOINT-PETITIONER-RESPONDENT.**

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APPEAL from an order of the circuit court for Dodge County:  
DANIEL W. KLOSSNER, Judge. *Affirmed.*

Before Deininger, P.J., Vergeront and Lundsten, JJ.

¶1 PER CURIAM. Debra Zenoni appeals from an order for contribution to attorney fees. We affirm.

¶2 The divorce judgment between Debra and Jeffrey Zenoni was entered in May 2003. At a hearing that preceded that judgment, Jeffrey sought a contribution to attorney fees related to discovery regarding Debra's potential claim against him for exposure to a sexually transmitted disease, a claim that Debra ultimately filed as a separate action. The court stated that it would consider granting that request, but the court did not know how much the fees were and whether they were reasonable, and therefore declined to rule. The record does not contain a written motion for fees, but a hearing was held on that issue in September 2003. The court awarded fees of \$3000 and entered a written order to that effect in October 2003, which Debra now appeals.

¶3 Debra's first argument is that the circuit court erred by concluding that some of the discovery on the exposure claim in this case was improper. We disagree. The trial court reasoned that it was improper to conduct discovery in this divorce action on a claim that Debra ultimately chose to file as a separate action. We see no error in this reasoning.

¶4 Debra's second argument is that the circuit court lacked authority to award attorney fees. Jeffrey argues that the award was proper under WIS. STAT. § 767.262 (2001-02), which authorizes the trial court to order either party in a divorce action to contribute a reasonable amount to the attorney fees of the other party. Debra replies that neither Jeffrey nor the court expressly relied on that statute, and that the only basis articulated for the award was the impropriety of discovery. We do not regard it as error for the court not to cite the statute, although it may be a better practice to do so. The real question is whether the authority exists, which Debra apparently concedes, and not whether the court or movant expressly cited the authority. In addition, it is clear from the May 2003

hearing that the request for fees was made in the context of the divorce proceeding.

¶5 Finally, Debra argues that the court erred in setting the amount, because it did not review various factors to determine the reasonableness of the fee. However, at the hearing on fees, Debra did not object to the claimed amount on this ground. We therefore do not regard it as error for the court not to have fully articulated an analysis on that point. Furthermore, Debra has not persuaded us that the amount was unreasonable. The circuit court did not grant the entire request of approximately \$5000, but pared it down to \$3000, apparently because it accepted Debra's argument that the discovery would still be of some use in the other action, even if not in the divorce action.

*By the Court.*—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2001-02).

