

# SUPREME COURT OF SOUTH DAKOTA

## Charlson v. Charlson

2017 S.D. 11 (2017) · No. #27943 · Decided March 29, 2017

### SUMMARY

The South Dakota Supreme Court affirmed a circuit court's determination that the parties' premarital agreement was valid and enforceable. The Court held that the agreement permitted tracing separate property through jointly held accounts and treating certain transfers of marital funds toward separate property as marital loans. It also upheld admission of the wife's expert report and rejected the husband's arguments concerning mutual consent.

### CASE DETAILS

|                       |                                                                                                                                                                        |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of South Dakota                                                                                                                                          |
| WRITING FOR THE COURT | Wilbur, Justice; Gilbertson, Chief Justice; Severson, Justice; Zinter, Justice; Kern, Justice                                                                          |
| JURISDICTION          | South Dakota                                                                                                                                                           |
| DECIDED               | March 29, 2017                                                                                                                                                         |
| DOCKET                | #27943                                                                                                                                                                 |
| DISPOSITION           | affirmed                                                                                                                                                               |
| PROCEDURAL POSTURE    | Appeal from a South Dakota circuit court declaratory judgment action concerning the validity, enforceability, and interpretation of the parties' premarital agreement. |
| STANDARD OF REVIEW    | Contract interpretation is a question of law reviewed de novo. The Court examines the contract as a whole and gives its words their plain and ordinary meaning.        |
| PRECEDENTIAL VALUE    | Published South Dakota Supreme Court opinion; precedential.                                                                                                            |
| PARTIES               | Donald M. Charlson v. Angela K. Charlson                                                                                                                               |

### TOPICS

[prenuptial agreements](#) [contract interpretation](#) [equitable distribution](#) [appellate procedure](#) [evidence](#)

### PRACTICE AREAS

[family law](#) [contracts](#) [appellate procedure](#) [evidence](#)

## QUESTIONS PRESENTED

1. Whether the premarital agreement permitted tracing of separate earnings or property through the parties' joint marital account.
2. Whether the premarital agreement supported treating certain transfers of marital property to a party's separate property as marital loans.
3. Whether the circuit court properly admitted and relied on Angela's expert's tracing and marital-loan report.
4. Whether mutual consent was lacking because the parties did not subjectively understand that their transactions would be analyzed through tracing and marital loans.
5. Whether Angela was entitled to appellate attorney's fees under South Dakota law.

## HOLDINGS

1. The premarital agreement permitted tracing of separate property and its proceeds through commingled and jointly held accounts because the agreement expressly preserved the character of separate property despite commingling, failure to segregate, or a change in the form of the asset.
2. The premarital agreement supported treating a contribution of marital property to a party's separate property or debt as a loan payable on demand without interest, absent a written agreement otherwise.
3. The circuit court did not err in admitting Angela's expert's report because the report was based on the unambiguous terms of the premarital agreement rather than on Angela's subjective understanding of tracing or marital loans, and the expert opinion had an adequate foundation.
4. The mutual-consent challenge failed because the circuit court had already determined that the premarital agreement was valid and enforceable, and Donald's argument concerned interpretation of the agreement rather than formation or consent.
5. Angela was not entitled to appellate attorney's fees because the appeal arose from an independent declaratory judgment action interpreting a contract, rather than a case of divorce or another category listed in SDCL 15-17-38, and the premarital agreement contained no fee provision.

## KEY QUOTATIONS

*“The PMA is unambiguous, and we interpret the parties’ intent from the language of the contract.” (¶ 27)*

*“The PMA accounts for commingling, and the circuit court did not err when it interpreted the PMA to allow for tracing.” (¶ 27)*

*“Under the PMA, the transfer of these marital funds created a “loan” and Donald did not present evidence that the parties specifically agreed that Angela’s transfers (at the time of her transfers) were not to be deemed loans.” (¶ 30)*

*“Because this appeal arises from a declaratory judgment action to interpret a premarital agreement and did not concern the categories permitting an award of fees under SDCL 15-17-38, we deny Angela’s request for appellate attorney’s fees.” (¶ 38)*

## FACTUAL BACKGROUND

Angela and Donald married in 1993 after executing a premarital agreement that identified their separate assets and liabilities and addressed separate property, marital property, commingling, and contributions to the other party's property. During the marriage, Angela transferred separate funds into jointly held accounts and the parties used joint funds for various assets and obligations. After the Minnesota divorce court left financial issues unresolved and directed the parties to South Dakota for interpretation of the agreement, the South Dakota circuit court accepted a tracing methodology and treated certain transfers of marital funds to Angela's separate accounts as marital loans.

## PROCEDURAL HISTORY

The parties divorced in Minnesota in 2014, but the Minnesota court left property, debt, spousal-maintenance, and related financial issues unresolved and determined that Butte County, South Dakota, was the proper venue to determine the validity and enforceability of the premarital agreement. Angela filed a declaratory judgment action in South Dakota. The circuit court declared the agreement valid and enforceable, later interpreted it to permit tracing of separate property and use of marital loans, and admitted Angela's expert report. Donald appealed. The Supreme Court of South Dakota affirmed and denied Angela's request for appellate attorney's fees.

## DISPOSITION

affirmed

## CASES CITED

- Temple v. Temple, 365 N.W.2d 561, 567 (S.D. 1985)
- Detmers v. Costner, 2012 S.D. 35, ¶ 20, 814 N.W.2d 146, 151
- Clarkson & Co. v. Cont'l Res., Inc., 2011 S.D. 72, ¶¶ 10, 15, 806 N.W.2d 615, 618-19
- Nygaard v. Sioux Valley Hosps. & Health Sys., 2007 S.D. 34, ¶ 13, 731 N.W.2d 184, 191
- Canyon Lake Park, L.L.C. v. Loftus Dental, P.C., 2005 S.D. 82, ¶ 17, 700 N.W.2d 729, 734
- Poeppel v. Lester, 2013 S.D. 17, ¶ 16, 827 N.W.2d 580, 584
- Spiska Eng'g, Inc. v. SPM Thermo-Shield, Inc., 2007 S.D. 31, ¶ 21, 730 N.W.2d 638, 646
- Bunkers v. Jacobson, 2002 S.D. 135, ¶ 15, 653 N.W.2d 732, 738
- Nelson v. Schellpfeffer, 2003 S.D. 7, ¶ 14, 656 N.W.2d 740, 744
- Johnson v. Albertson's, 2000 S.D. 47, ¶ 25, 610 N.W.2d 449
- Bridge v. Karl's, Inc., 538 N.W.2d 521, 525 (S.D. 1995)
- Lord v. Hy-Vee Food Stores, 2006 S.D. 70, ¶ 35, 720 N.W.2d 443, 455
- Grynberg Exp. Corp. v. Puckett, 2004 S.D. 77, ¶ 33, 682 N.W.2d 317, 324
- Toft v. Toft, 2006 S.D. 91, ¶ 21, 723 N.W.2d 546, 553
- Weekley v. Weekley, 1999 S.D. 162, ¶ 25, 604 N.W.2d 19, 25
- Smetana v. Smetana, 2007 S.D. 5, ¶ 22, 726 N.W.2d 887, 895
- Schieffer v. Schieffer, 2013 S.D. 11, ¶ 55, 826 N.W.2d 627, 644

- Brosnan v. Brosnan, 2013 S.D. 81, ¶ 38, 840 N.W.2d 240, 252
- Osgood v. Osgood, 2004 S.D. 22, ¶¶ 18-22, 676 N.W.2d 145, 151-52

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