

Judge sparks date debate

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BY ABDON M. PALLASCH STAFF REPORTER
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Judges and lawyers at the Daley Center are debating whether one sneaky move by a divorce lawyer deserved another by a Divorce Court judge.

It was a Friday afternoon when Judge Veronica Mathein ordered Mike Hrycko to pay his ex-wife's \$13,418 lawyer bill. She told the ex-wife's attorney to bring her a written order to sign on Monday.

First thing Monday, Hrycko's attorney rushed to federal Bankruptcy Court and secured an order protecting Hrycko from future claims.

He beat the ex-wife's attorney to Divorce Court and told Mathein that because she had not yet signed her order, federal law trumped state law and the \$13,418 claim was unenforceable.

"I think Mr. Hrycko is playing a little trick," Mathein said.

To thwart Hrycko's end run, she tried her own, telling her clerk to roll back the numbers on her date-stamp to Friday so the written order could be marked as though it had been entered Friday, when she gave her oral ruling.

"What Judge Mathein did is say, 'Ha ha, I see what you're trying to do, Hrycko, and I'm going to try to foil your plan. I'm going to back-date the order,' " Hrycko's attorney, Joel Brodsky, said about the 1998 incident. "That's tampering with the official court record . . . to try to circumvent the federal injunction."

Brodsky argued that the proper approach would be to stamp the written order with the current date and note that it was retroactive or "nunc pro tunc" to Friday.

The state Supreme Court has ruled that an order takes effect as soon as a judge utters it. But Brodsky was hoping the federal judge would not recognize that law.

But Mathein stamped the order "Friday, August 28" with no notation that it was actually a "nunc pro tunc" order entered Monday, Aug. 31.

U.S. Bankruptcy Court Judge Jack Schmetterer ruled Mathein's order void, saying the back-dating violated the automatic federal stay that comes with a bankruptcy case.

Brodsky appealed Mathein's rulings to the state Appellate Court. Before the court ruled on the date-stamping issue, Hrycko settled out of court with his wife's attorney, Richard Sorman, for \$5,000 of the original \$13,418 judgement.

The settlement prevented Hrycko from having to sell the Northwest Side home where he lives with his daughter, Brodsky said. Paul Mollica, president of the Chicago Council of Lawyers, said he sympathized with Mathein's goal but disapproved of her methods.

"Maybe it was a misguided attempt to do rough justice," he said. "It shakes your confidence in the accuracy of court records if judges can authorize them to be pre-dated. I've never heard of that. Everyone always wants to roll back the hands of time, usually to reclaim youth."

Mathein's boss, Moshe Jacobius, presiding judge of the Domestic Relations Division, is not bothered.

"My sense is it would be permissible if everybody understood it was to take effect on that particular day," Jacobius said. "I don't think it's a question of tampering if you roll it back if everything else is OK--it's not like an odometer."

The Cook County Circuit Court Clerk's Code of Ethics prohibits clerks from back-dating documents, spokeswoman Carolyn Barry said. However, she said clerks are required to comply with judges' instructions.

Mathein said she did not consider her actions in this case to be "back-dating" since her order was issued and took effect Friday.

"If a trial was held and a judgment was pronounced, it would take effect on the day of articulation of the order, unless a court stated that it would not take effect that day--that is my understanding of the law," she said. "There was nothing ethically wrong with what I did. Have I done it since? I don't know."