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SUPERIOR COURT

WASHINGTON COUNTY

Unlike an ordinary settlement agreement and voluntary dismissal, a consent judgment “embodies an agreement of the parties and thus in some respects is contractual in nature. But it is an agreement that the parties desire and expect will be reflected in, and be enforceable as[] a judicial decree that is subject to the rules generally applicable to other judgments and decrees.” *Long v. State of Maryland*, 807 A.2d 1, 7 (Md. 2002) (quoting *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 368 (1992)). “[A] consent judgment is a judgment and an order of court. Its only distinction is that it is a judgment that a court enters at the request of the parties.” *Jones v. Hubbard*, 356 Md. 513, 528, 740 A.2d 1004, 1013 (1999). “In order to have a consent judgment, a party must clearly

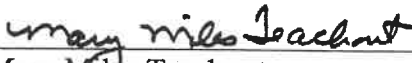
and unmistakably give consent.” 46 Am. Jur. 2d Judgments § 211, at 539. This is the standard for measuring the stipulation and proposed judgment in this case.

The Stipulation and related language on the proposed judgment order give Plaintiff discretion to increase the amount of monthly payments without judicial oversight. That is, Defendant’s ability to stay execution by paying \$100 per month under the Stipulation is illusory because Plaintiff has unchecked discretion to increase the payment amount, and then proceed to execution, even if Defendant continues to pay \$100 per month. The fact that this could occur is not readily apparent, and the court cannot conclude that Defendant unmistakably gave consent to this arrangement. The court cannot accept this portion of the stipulation, and therefore declines to approve the stipulation or enter judgment on it in the form proposed.

ORDER

For the foregoing reasons, the request for judgment is denied. If the parties submit a revised stipulation to judgment without ¶ 4, the court will approve the stipulation and enter judgment in the form proposed by Plaintiff, except that the word “may” will be changed to the word “shall.” If no such stipulation, or new stipulation with clear consent to all terms, is filed by May 15, 2007, the court will schedule a hearing.

Dated at Montpelier, Vermont this 20th day of April 2007.



Mary Miles Teachout
Superior Court Judge