

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2012*

**RITA HARTMAN,**  
Appellant,

v.

**DON LESLIE HARTMAN,**  
Appellee.

No. 4D11-2258

[ April 4, 2012 ]

PER CURIAM.

The former wife appeals a non-final order denying her motion to hold the former husband in contempt for failing to pay his one-half share of the college expenses of the parties' oldest son, pursuant to the parties' Marital Settlement Agreement. We reverse because, absent a pending motion to modify, the trial court lacked authority to modify the terms of the marital settlement agreement by ordering that the former husband be required to reimburse the former wife for only one-half of the cost of the oldest son's college education, based on what the cost would have been if the child had attended a state university in Florida on his Bright Futures scholarship.<sup>1</sup> See *Chaphe v. Chaphe*, 19 So. 3d 1019, 1023-24 (Fla. 1st DCA 2009) (holding that where there was no motion pending before the trial court for modification of the marital settlement agreement or the judgment of dissolution, the trial court lacked jurisdiction to reduce the father's obligations for the children's educational expenses). A trial court is without jurisdiction to modify a final judgment where no petition for modification has been filed. *Torres v. Marzelli*, 657 So. 2d 943, 943 (Fla. 4th DCA 1995); *Leibowitz v. Leibowitz*, 611 So. 2d 629, 629-30 (Fla. 4th DCA 1993); *Sentz v. Sentz*, 548 So. 2d 297, 297 (Fla. 4th DCA 1989); *Anthony v. Snell*, 630 So. 2d 606, 606 (Fla. 1st DCA 1993).

*Reversed and Remanded for further proceedings consistent with this opinion.*

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<sup>1</sup> The oldest son went to an out-of-state university.

POLEN, TAYLOR and HAZOURI, JJ., concur.

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Appeal of non-final order from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lisa S. Small, Judge; L.T. Case No. 502000DR003428XXXXMB.

Rita Hartman, West Palm Beach, Pro Se, and R. Flint Crump of The Law Office of Crump & Dubose, P.A., Gainesville, for appellant.

Nancy Guffey and Peter M. Feaman of Peter M. Feaman, P.A., Boynton Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***