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IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED
FEB 23 PM 3:42
JEANNE C. ROSNER, CLERK
M. Spurlock D.C.

SUZANNE CAPPANNARI,
Wife

V.

DANIEL J. CAPPANNARI,
Husband

NO. 88D-4289

155-16
28

FINAL DECREE

This cause came on to be heard on February 23, 1989, before the Honorable Muriel Robinson, Judge, upon the complaint for absolute divorce, the executed marital dissolution agreement, and the testimony of Wife, from all of which the Court affirmatively finds as follows:

(1) The parties have irreconcilable differences.

(2) The parties have, in a written marital dissolution agreement, made adequate and sufficient provision for the equitable settlement of property rights between themselves and for the custody and maintenance of their minor child.

(3) The marital dissolution agreement should be approved.

(4) The statutory waiting period has elapsed.

(5) The parties' current residence addresses are:

Mail

Suzanne Cappannari
5090 Moss Road
Nashville, Tennessee 37221

Daniel J. Cappannari
104 Gilman Avenue
Nashville, Tennessee 37205

It is therefore ORDERED that the marital dissolution agreement that is set out in the following pages be approved and made the order of the court.

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IDENTIF. TREFERENCE

AUG 10 12 56 PM '89

FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY TN.

4482 08/10 0101 03CHECK 30.00

MARITAL DISSOLUTION AGREEMENT

'89 FEB 23 PM 3:42

WHEREAS, Suzanne Cappannari ("Wife") has filed an action for absolute divorce against Daniel J. Cappannari ("Husband") in the Circuit Court of Davidson County, Tennessee, entitled Suzanne Cappannari v. Daniel J. Cappannari, Docket No. 88D-4289; and

WHEREAS, these parties have experienced irreconcilable differences in their marriage, and desire to enter into a Marital Dissolution Agreement and tender it to the Court for approval should a divorce be granted in this cause; and

WHEREAS, both parties are aware of their possessions and obligations to one another and their legal rights;

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties agree as follows:

1. REAL PROPERTY. The parties own as tenants by the entirety a house and lot located at 5090 Moss Road, Nashville, Davidson County, Tennessee. The parties' marital residence is located on this real property.

a. Description. The land on which the marital residence is located is more particularly described as follows:

> Land in Davidson County, Tennessee, being Lot No. 36 on the Plan of PASQUO PARK SUBDIVISION, SECTION 2, as of record in Book 3600, page 77, Register's Office for said County.
>
> Beginning on the northwesterly margin of Moss Road at the corner of Lot Nos. 36 and 37; thence with the line between said two lots, northwestwardly 193.3 feet; thence south 70 degrees 12 minutes west 131.9 feet; thence south 32 degrees 46 minutes west 108.1 feet to the corner of Reserved Parcel "A" and Lot No. 36; thence with the line between Parcel "A" and said Lot 36, southeastwardly 134.5 feet to the northwesterly margin of Moss Road; thence with the same, north 68 degrees 29 minutes east 220 feet to the beginning.
>
> Being the same property conveyed to Daniel J. Cappannarri and wife, Suzanne Cappannari, by deed from Anthony L. Springman and wife, Colleen K. Springman, of record in Book 5443, Page 216, Register's Office for Davidson County, Tennessee.

b. Disposition. The parties agree that Husband will be divested of his ownership interest in the above-described property, and that Wife will be vested with sole ownership of the property in fee simple. Wife will occupy the marital residence until December 31, 2008, or until she in her sole discretion decides to place the house on the market for sale, whichever occurs first. Upon the sale of the property, either after Wife's 20-year occupancy or upon her decision to sell the property, Wife will pay to Husband, as a part of the division of the parties' property in this divorce, 40% of the net after-tax profit received from the sale of the property. In this context "net after-tax profit" means cash money received for the property, less any transfer taxes, fees, points, commissions, and other expenses directly associated with the sale of the property together with all income tax payable by Wife as a result of the sale. Income tax payable by Wife must be determined by computing her total tax liability as if she had not sold the property and subtracting that amount from her total actual tax liability. Husband will have a lien against the above-described property to secure the payment of any money which may be owed to him under the provisions of this paragraph. The right of Husband to receive and the duty of Wife to pay money for Husband's interest in the marital residence, as set out in this paragraph, terminates upon Husband's death. In other words, Husband's estate will have no claim to money Husband would have received from the sale of the property if the sale had occurred prior to Husband's death.

c. Option. Nothwithstanding the provisions of the preceding paragraph, Wife, at any time during her period of occupancy or at the end of such occupancy, may purchase Husband's interest in the property by paying Husband 40% of the value of Wife's equity in the property at the time of the proposed buyout. "Equity" means current fair market value of the property, less the balance owed on the principal mortgage at the time of the buyout and less the estimated income taxes

determined by (1) computing the Wife's hypothetical income tax liability for the year of purchase as if she had sold the property and (2) subtracting from that amount her actual income tax liability. The parties will determine fair market value by hiring an appraiser whom the parties have agreed upon. If the parties cannot agree on an appraiser, each will hire his own appraiser, and the appraisers' computations will be averaged in order to determine fair market value.

d. Intent of the parties. The foregoing provisions relating to the disposition of the parties' marital residence are made in order to effect the division of property owned by Husband and Wife at the time of the cessation of the marriage.

2. PERSONAL PROPERTY. The parties have assets of approximately $5,000.00 in cash and $1,000.00 in stocks. Wife will receive 60% and Husband will receive 40% of these assets. Wife will receive the 1984 Peugeot automobile. Wife will receive the furniture, furnishings, and other contents of the house, including the lawnmowers and the washer and dryer. Husband will receive the furniture, furnishings, and contents of the finished basement of the residence, plus the living room rug, the living room couch, his desk, and the stereo system.

3. CUSTODY, SUPPORT, AND VISITATION. Wife will have sole custody of the parties' minor child, Alex Argia Cappannari, who was born on September 24, 1982. Husband will pay directly to Wife as child support 20% of his net income each month, but in no event will he pay less than $500.00 a month. He will maintain major medical and hospitalization insurance coverage for the child, and he will pay any deductible and any healthcare expenses not covered for any reason by insurance. The phrase "healthcare expenses" includes but is not limited to, doctor bills, hospital bills, nursing bills, expenses incurred for drugs and medicine, dental and orthodontics bills, expenses incurred for psychiatric or psychological care, and eyecare expenses. Husband will have reasonable visitation with

the parties' child, such visitation to occur approximately twice a week.

4. ALIMONY. From September 1988 through August 1989, Husband will pay directly to Wife the sum of $1,000.00 a month as alimony. From September 1989 through August 1992, Husband will pay directly to Wife rehabilitative alimony in the amount of $550.00 a month. Husband's alimony obligation as described in this paragraph will terminate upon Wife's death. Beginning in September 1989 and continuing until Wife's death, Husband agrees to pay Wife additional alimony every month in an amount equal to 20% of his monthly net income which is in excess of "base income." "Base income" is $3,000.00 a month during 1988 and 1989. Beginning in 1990, "base income" will increase by $100.00 a month every year. In other words, base income for 1990 will be $3,100.00, for 1991, it will be $3,200.00, for 1992 it will be $3,200.00, and so forth. (As an example of computing this alimony, in 1995, base income will be $3,600.00. If Husband's monthly net income is $5,000.00, the excess will be $1,400.00, and 20% of that amount would be $280.00, which would be paid to Wife.) The parties intend that the alimony payments to be paid by Husband pursuant to this paragraph will be allowed as a deduction from his gross income and included in the gross income of Wife.

5. REPAIRS TO BE MADE TO THE MARITAL RESIDENCE. As a part of the division of marital property, and not for support, Husband agrees to be responsible for major repairs to the marital residence during the period of Wife's occupancy. Such repairs include but are not limited to immediate repair of the roof and the central heat and air system. During the period from September 1988 through August 1989, Husband will also pay all expenses incurred in the day-to-day maintenance of the marital residence. After August 1989, Wife will become responsible for day-to-day repairs, but Husband will be responsible for major repairs. The phrase "major repairs" means any repairs costing $500.00 or more. Money paid by

Husband pursuant to the provisions of this paragraph will not be deducted by him or included in Wife's income for tax purposes.

6. DEBTS. The parties' only outstanding debts are approximately $300.00 in credit card charges and $200.00 for a school loan. These debts will be paid by Husband. Otherwise, except as provided elsewhere in this agreement, each party will be solely responsible for his own debts, present and future, and each agrees to hold the other harmless from liability for such debts.

7. HUSBAND'S BUSINESS. Husband owns one-half of the stock in CCI Computing Inc. In consideration of the other division of the parties' property and of the support being paid by Husband, Wife agrees to make no claim to any ownership interest in Husband's business.

8. ATTORNEY FEES AND COURT COSTS. Husband will pay his own attorney, if any. He will pay to Wife the sum of $ 1,000 to assist her with her attorney fees, of which she has already paid $350.00. Husband will pay the costs of this cause.

9. FUTURE LEGAL PROCEEDINGS. If a creditor of either party makes a claim against the other party, and if that claim is upheld by a court of competent jurisdiction, and if the other party is required to pay a debt for which he is not responsible, either by contract or pursuant to the terms of this agreement, then the party against whom such claim is made will be entitled to recover from the other party the amount of any payment made, plus interest and any expenses incurred in defending the creditor's claim, including a reasonable attorney fee. If either party reasonably institutes legal proceedings to procure the enforcement of any provision of this agreement, then he will also be entitled to a judgment for reasonable expenses, including attorney fees, incurred in prosecuting the action.

10. USE OF THIS AGREEMENT. The parties understand and agree that this agreement will be introduced in the proceedings

now pending in the Circuit Court of Davidson County, Tennessee, and submitted to the Court for approval and incorporation into the final decree of divorce between the parties.

11. AGREEMENT ENTERED INTO VOLUNTARILY. The parties understand and agree that this agreement is entered into without undue influence, fraud, coercion, or misrepresentation, or for any reason not stated herein. The provisions of this agreement and the legal effect of such provisions are fully known by each of the parties, and each party acknowledges that the agreement is fair and equitable and that it is being executed voluntarily and with the advice of counsel.

12. ACCEPTANCE BY THE PARTIES. With respect to each party's responsibility for the payment of certain debts and liabilities and the obligation of each to hold the other harmless from liability thereon, the parties agree that such obligation is a nondischargeable debt under 11 U.S.C. § 523(5) of the Bankruptcy Code, such obligation being part of the final financial support settlement for both parties. This financial obligation is not a part of the property settlement. The division of property is set forth elsewhere in this agreement.

13. ENTIRE AGREEMENT. This agreement contains the entire understanding of the parties, and neither party is relying on any representation, warranty, covenant, or undertaking apart from the language expressly set forth in this agreement.

14. FULL SETTLEMENT OF PROPERTY RIGHTS. This agreement is intended to settle fully and finally the property rights between the parties, and the parties hereby release each other from all other rights and claims arising out of the marital relationship which are not specifically set forth herein. The parties agree to do all things necessary to carry out the full intent and purpose of this agreement. If approved by the Court, this agreement is a full and final settlement of the parties' property rights as between each other.

IN WITNESS WHEREOF, the parties set their signatures below.

Suzanne Cappannari
SUZANNE CAPPANNARI

Daniel J. Cappannari
DANIEL J. CAPPANNARI

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

On this 26th day of October, 1988, before me personally appeared Suzanne Cappannari, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

NOTARY PUBLIC

My commission expires: 1-11-92

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

On this 26th day of October, 1988, before me personally appeared Daniel J. Cappannari, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC

My commission expires: 1-11-92

It is further ORDERED that Wife, Suzanne Cappannari, be awarded an absolute divorce from Husband, Daniel J. Cappannari, on the ground of irreconcilable differences; that both parties be restored to all the rights and privileges of unmarried persons; and that the bonds of matrimony heretofore existing between the parties be hereby forever dissolved.

It is further ORDERED that the child support required by the terms of this decree shall not be reduced or prorated unless specifically ordered by the Court.

It is further ORDERED that the costs of this cause be taxed against Husband.

It is finally ORDERED that execution may issue to enforce any of the provisions of this decree.

This 23rd day of Feb., 1989.

JUDGE

APPROVED FOR ENTRY:

JOHN M. L. BROWN (#5438)
Attorney for Wife
221 Fourth Avenue North
Second Floor
Nashville, Tennessee 37219
615/242-3348

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Final Decree has been mailed or hand-delivered to Mr. Daniel J. Cappannari, c/o C.C.I. Computing, 5090 Moss Road, Nashville, Tennessee 37221 on this 23rd day of February, 1989.

JOHN M. L. BROWN

STATE OF TENNESSEE

I, **GEORGE L. ROOKER,** *Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the Order heretofore entered in the* Fourth *Circuit Court for Davidson County, Tennessee, on the* 23rd *day of* February, *19* 89, *in Case Number* 88D-4289 *between* Suzanne Cappannari *Plaintiff, and* Daniel J. Cappannari *Defendant, as same remains of record in Book* 176B, *Page* 854 *of the Minutes of said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* 25th *day of* July *in the year one thousand nine hundred and* eighty-nine *and in the* 214th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By J M Cornelius Jr *D.C.*

Form #GR-117