2092/1051

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IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

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CLERK

DANIEL JAMES CAPPANNARI,

Husband,

vs.

MELISSA K. CAPPANNARI,

Wife.

No. 91D-3789

162-13
116

FINAL DECREE

This cause came on to be heard on the 11th day of September, 1992, before the Honorable ~~Muriel Robinson Rice,~~ Dennis Wright Special Judge of the Fourth Circuit Court for Davidson County, Tennessee, on the action for an absolute divorce filed by the husband. Upon hearing the testimony of the husband, statements of counsel for the husband, and upon the record as a whole, the Court finds that the parties have suffered irreconcilable differences;

It is, therefore, ORDERED, ADJUDGED and DECREED that the husband, Daniel James Cappannari, be and is hereby awarded an Absolute Divorce from the wife, Melissa K. Cappannari, on the ground of irreconcilable differences, Section 36-4-101(11), Tennessee Code Annotated, and that each party be and is hereby restored to all the rights and privileges of an unmarried person.

Pursuant to Section 36-4-103(b), Tennessee Code Annotated, the Court affirmatively finds that the wife has been served with proper process and that the parties hereto have made adequate and sufficient provision by written agreement for the equitable and just settlement of any and all property rights, causes of action, and all matters arising during and out of the marital relationship. The Court hereby approves the Marital Dissolution Agreement and the same is hereby incorporated in words and figures as follows:

MARITAL DISSOLUTION AGREEMENT

This Agreement made and entered into by and between MELISSA K. CAPPANNARI, hereinafter called the "wife", and DANIEL JAMES CAPPANNARI, hereinafter called the "husband", in Nashville, Davidson County, Tennessee.

WITNESSETH:

WHEREAS, certain differences have arisen between the parties which appear to be irreconcilable and as a result there is presently pending in the Circuit Court for Davidson County, Tennessee, a suit for Absolute Divorce filed by the husband against the wife bearing Docket No. 91D-3789; and

WHEREAS, these parties are presently living separate and apart and desire to settle their rights and interests regarding disposition of their real and personal property, their obligations of support each to the other, and all other matters arising during the marital relationship, they have agreed upon the following as evidenced by their signatures hereto, and they contract as follows:

The parties further desire that this Agreement be approved by the Court and be incorporated verbatim into any decree of divorce which may be entered dissolving their marriage.

NOW, THEREFORE, in settlement, adjustment and compromise of all property rights, causes of action, and all matters arising during the marital relationship and in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree and covenant as follows:

1. The parties acknowledge that there are no minor children of the marriage and that none is expected.

2. The parties own real property (residence hereafter) located at 421 Cedarmont Drive, Nashville, Davidson County, Tennessee, the deed to said residence being recorded in the Register's Office for Davidson County, Tennessee in Book 8128,

page 260, and said residence being more particularly described as follows:

> Land located in Davidson County, Tennessee.
>
> Being Lot No. 60 on the Plan of Section Two-A, Monte Carlo Estates, of record in Book 4955, page 45, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete and accurate legal description.
>
> Being the same property conveyed to Jeffrey L. Clowdus and wife, Susan B. Clowdus by deed from Ronald F. Williams and wife, Kathy Williams of record in Book 7262, page 780, Register's Office for Davidson County, Tennessee.
>
> Being the same property conveyed to Daniel J. Cappannari and Melissa Kay Mason Cappannari, his wife, by deed from Jeffrey L. Clowdus and wife, Susan B. Clowdus, of record in Book 8128, page 260, Register's Office for Davidson County, Tennessee.
>
> Subject to restrictions of record in Book 5202, page 261, said Register's Office.
>
> This conveyance is subject to any and all existing easements of record.

The husband, Daniel J. Cappannari, shall receive said residence to be his in fee simple absolute, free and clear of any and all interest of the wife, Melissa Kay Mason Cappannari. The husband shall be responsible for paying any and all indebtedness on said residence including, but not limited to, insurance and maintenance costs and shall hold the wife harmless on said indebtedness.

3. The parties acknowledge that they have already divided their household furniture, furnishings, and appliances and each party shall retain the sole and exclusive ownership of said items of personal property in his or her possession at the time of the signing of this Agreement, except that the wife shall receive the following which are not currently in her possession: (a) decanter and glasses, (b) stuffed gray couch and matching recliner, (c) yellow chest of drawers, (d) sewing machine, (e) all flatware, (f) one-half of pots and pans, (g) dishes she brought to the marriage, (h) her clothes, (i) figurines given to wife by her mother, (j) black dresser, (k) papers on Ms. Cappannari's cocker spaniel dog, and (l) all articles of clothing, toys and furniture which belong to the

wife's children, including Jamie's aquarium and Randall's bunk beds. The husband agrees that within ten (10) days after the divorce is granted, he will provide the wife with any and all of the personal property mentioned herein which is in his possession.

4. The wife shall retain the 1990 Subaru automobile, free and clear of husband's interest. The husband shall be responsible for any payments, including interest, still due on the purchase price of said automobile on the date of the execution of this Agreement by the parties.

5. Except as otherwise provided herein, each party agrees to be responsible for any debts or liabilities in his or her name individually and hold the other harmless for said obligation from and after the date of the execution of this Agreement by the parties. It is understood and agreed between the parties that from and after the date of execution of this Agreement by the parties, neither will contract any indebtedness upon the credit of the other and neither shall be compelled to pay any future debt of the other and the party for whose benefit such payments are made will indemnify the other to the full extent of the amounts paid including any interest and legal expenses incurred, if any. It is further understood and agreed between the parties that in the event it becomes reasonably necessary for either party to engage in legal proceedings to procure enforcement of any provision of this Agreement, he or she also shall be entitled to judgment for reasonable expenses, including, but not by way of limitation, attorney fees and court costs.

6. The parties acknowledge that the husband shall not be responsible for the payment of any debt incurred as a result of the wife signing the husband's name on any document, including but not limited to, any checks, credit card slips/ vouchers, or credit applications.

7. Both parties hereby waive any and all claims for alimony against the other.

8. The husband shall proceed to trial to obtain an Absolute Divorce upon the ground of irreconcilable differences.

9. Each party shall be free from interference, authority and control, direct or indirect, by the other, as fully as if he or she were single and unmarried. Neither party shall molest, harass or abuse the other in any manner whatsoever, or compel or endeavor to compel the other to cohabit or dwell with him or her.

10. This Agreement is a transfer of appreciated property between spouses in connection with a divorce and is not a sale or exchange or other disposition, but is a division of property by co-owners.

11. Each party acknowledges that he or she has not received any advice from his or her attorney as to the tax consequences of the provisions of this Agreement and that each party has been encouraged to seek such advice elsewhere.

12. Each party represents and warrants that he or she has made a full disclosure to the other of all their assets and liabilities. Each party acknowledges that the failure to disclose any assets or liabilities would be considered a breach of this Agreement and would subject this Agreement to being reopened at a later time by the Court.

13. It is understood and agreed between the parties as part of the consideration for the execution of this Agreement that each party will willingly execute and deliver any and all instruments necessary or required in order to implement the terms of this Agreement.

14. It is understood and agreed between the parties that this Agreement is intended to be a final settlement of all property rights, support rights, obligations, and claims of the respective parties hereto and shall constitute a discharge from all claims arising out of and during their marital relationship except as provided herein. Each party hereby waives and relinquishes to the other all rights and claims which each may have or hereafter acquire under the law of any

jurisdiction with respect to the other's property including without limitation dower, courtesy, statutory allowance, homestead rights, rights to take against the will, rights to take by dissent and distribution, and rights to act as administrator or executor of the other's estate except as provided by the terms of this Agreement. This Agreement applies to all property now owned by the wife and the husband individually or jointly, or any property that either of them may acquire in the future.

15. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their estates, personal representatives, heirs and assigns.

16. It is understood and agreed between the parties that this Agreement is entered into without undue influence, fraud, coercion or misrepresentation or for any reason not herein stated. The provisions of this Agreement and their legal effects are fully known by each of the parties and each party acknowledges that it is fair and equitable and it is being entered into voluntarily and with advice from counsel.

17. This Agreement contains the entire understanding of the parties. There are no representations, warranties or promises other than those expressly set forth herein.

18. In the event that any provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such individual provision shall not affect the other provisions of this Agreement, said provisions to that extent being severable.

19. This Agreement may be altered, amended or cancelled only by instrument in writing signed by each of the parties.

20. Both parties further acknowledge that this Agreement is subject to the approval of the Court in the event a divorce is granted to either party herein. If approved by the Court, then this Agreement will be incorporated into any final decree of divorce which shall be rendered by the Court. However, in the event that no divorce is granted to either party in this

matter or the Court fails to approve this Agreement, then this Agreement is of no force and effect.

21. The parties agree that the wife shall be restored to her maiden name of Applegate.

22. Upon the entry of the Final Decree in this cause, the attorneys of record shall be released of any further representation of their respective client, and shall no longer be held as surety for subsequent court costs.

IN WITNESS WHEREOF, the parties, after first having read this instrument and familiarized themselves with its contents and its meaning, have signed and executed this Agreement on this the 1 day of Sept, 1992, as to the wife, and the 2 day of September, 1992, as to the husband.

Melissa K Cappannari
MELISSA K. CAPPANNARI

Daniel James Cappannari
DANIEL JAMES CAPPANNARI

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, the undersigned Notary Public in and for said county and state, MELISSA K. CAPPANNARI, with whom I am personally acquainted, and who swore to the contents of the foregoing instrument for the purposes therein contained.

Patricia H. Campbell
NOTARY PUBLIC

My Commission Expires: 9-14-95

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, the undersigned Notary Public in and for said county and state, DANIEL JAMES CAPPANNARI, with whom I am personally acquainted, and who swore to the contents of the foregoing instrument for the purposes therein contained.

Gail D. McMillan
NOTARY PUBLIC

My Commission Expires: 11-26-94

It is further ORDERED, ADJUDGED and DECREED that all provisions of said Marital Dissolution Agreement are hereby approved and made the judgment of the Court.

The final costs of this cause shall be paid by the husband, for which execution may issue, if necessary.

ENTER, this 11th day of September, 1992.

JUDGE

SUBMITTED FOR ENTRY:

John Michael Thompson (10643)
Attorney for Husband
WARD, DERRYBERRY & THOMPSON
Suite 1720, Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37219
615/244-0554

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been furnished by U.S. Mail, postage prepaid, to the wife's attorney, Honorable Patricia G. Campbell, Suite 200, 115 Second Avenue, North, Nashville, Tennessee 37201-1901, this 11th day of September, 1992.

John Michael Thompson

89444
IDENTIFICATION REFERENCE
FEB 4 1 21 PM '93
FELIX Z. WILSON II REGISTER
DAVIDSON COUNTY, TN

36.00 CASH

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Mail
Dan Cappannari
P.O. 210963
37221

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* Eleventh *day of* September, *19* 92, *in Case Number* 91D-3789 *between* Daniel James Cappannari *Plaintiff, and* Melissa K. Cappannari *Defendant, as same remains of record in Book* 209B, *Page* 1051 *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* 4th *day of* February *in the year one thousand nine hundred and* Ninety-Three *and in the* 217th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By _____ *D.C.*

Form #GR-117