216A/256

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

SERITA NICHOLSON NICKENS,)
)
Plaintiff/Counter-Defendant,)
VS.) NO. 92D-3541
)
DAVID WAYNE NICKENS,)
)
Defendant/Counter-Plaintiff.)

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FINAL DECREE

This cause came on to be heard on the 12th day of April, 1993, before the Honorable Muriel Robinson Rice, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon the Complaint for Divorce filed by the Plaintiff in this cause, Serita Nicholson Nickens. Based upon the testimony of the Plaintiff, statements of counsel for the Plaintiff, the Defendant being before this Court having entered into a written notarized Marital Dissolution Agreement, making specific reference to this action by cause or docket number, and by signing of such Agreement, and upon the record as a whole, the Court finds that the parties have suffered irreconcilable differences; and,

IT IS THEREFORE ORDERED, ADJUDGED and DECREED:

1. That the Plaintiff, Serita Nicholson Nickens, is hereby awarded an absolute divorce from the Defendant, David Wayne Nickens, on the grounds of Irreconcilable Differences, T.C.A. Section 36-4-103, and is hereby restored to all rights and privileges of an unmarried person. Pursuant to T.C.A. Section 36-4-103(b), the Court affirmatively finds that the parties hereto have made adequate and sufficient provisions by written agreement for the equitable settlement of any property rights and obligations between the parties. The Court hereby approves the Marital Dissolution Agreement and the same is hereby incorporated in words and figures as follows:

U320485
IDENTIF. & REFERENCE

97 JUN 27 PM 1:25
FELIX Z. WILSON III REGISTER
DAVIDSON COUNTY, TN.

MAIL ENV.

92D3541

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MARITAL DISSOLUTION AGREEMENT

THIS AGREEMENT is hereby entered into this _____ day of 93 MAR 30 PM 4:16 GEORGE L. [illegible] CLERK 1993, by and between SERITA NICHOLSON NICKENS, hereinafter referred to as "Wife", and DAVID WAYNE NICKENS, hereinafter referred to as "Husband".

W I T N E S S E T H:

WHEREAS, certain differences have arisen between the parties which are irreconcilable and there is now pending in the Fourth Circuit Court for Davidson County, Tennessee, a suit for divorce between the parties captioned as Serita ~~Nicholoson~~ Nicholson Nickens v. David Wayne Nickens, Case No. 92D-3541; and,

WHEREAS, it is the decision of the parties insofar as they are able with the concurrence of the Court, to amicably settle their differences with respect to all property rights, support obligations, obligation for the payment of debts, and to enter into a contract for the settlement of such rights and obligations, not only for the present, but for the future, it being their intention that such contract will be effective with respect to all of their property and other matters and concerns subject to the approval of a Court of competent jurisdiction; and,

WHEREAS, both of these parties have been advised of their respective rights, obligations and responsibilities, one to the other, or have had the opportunity to have been so advised by counsel;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties do hereby agree as follows:

1. Each party shall be free from the interference, authority and control, direct or indirect, by the other as fully as if he or she were single and unmarried. Neither shall molest the other or compel or endeavor to compel the other to cohabit from this date hereafter.

2. The parties hereto acknowledge that there are no minor children born of their marriage and therefore no provision need be made for custody, child support and visitation.

3. The current address of the Wife is as follows:

Serita Nicholson Nickens
1609 Brentwood Terrace
Nashville, TN 37211

The current address of the Husband is as follows:

David Wayne Nickens
1429 Rice Hill Circle
Antioch, TN 37013

4. HEALTH INSURANCE —

Effective as of June 1, 1993, Husband shall be responsible to obtain his own health insurance coverage for Husband and his dependents, either through COBRA, by continuation of coverage through Wife's employer at his expense, or by conversion, or by acquiring a separate policy. Wife will not be required to pay any premium or to take any action to maintain Husband on her coverage, from and after June 1, 1993. Until June 1, 1993, Husband shall reimburse Wife for any health insurance premiums paid for him or his dependents. Any medical expenses or health care expenses incurred by Husband or his dependents shall be the responsibility of Husband since the date of separation of the parties, as well as any outstanding health care expenses owed by Husband for his medical care or child's medical care during marriage. Any medical expenses or health care expenses incurred by Wife during the marriage or separation shall be her sole liability.

5. PERSONAL PROPERTY —

It is agreed between the parties that all right, title and interest to the following personal property of the Wife shall become the sole and separate property of the Wife free of any further claims of the Husband:

(1) Brass bed in the guest bedroom
Glass shelves in the dining room
(1) Dining room table and (4) chairs
(1) Microwave oven
(1) Small color TV in the master bedroom
Her clothing
(1/2) Pictures, kitchen appliances, and pots and pans
(1/2) Linens, towels and sheets

It is likewise agreed that any and all right, title and interest to the personal property of the Husband, or of the parties, not specifically set out herein, shall become the sole and separate property of the Husband free of any further claim of the Wife.

6. AUTOMOBILES —

The Wife shall take the 1988 Grand Prix automobile, presently titled in the Husband's name. Wife will be responsible for the indebtedness to Dominion Bank for the car note (there are approximately 10 payments left to Dominion Bank of $303.00 per month) which are to be paid each month before the 15th day of the month. Upon payment in full of the Dominion indebtedness or upon release by Dominion Bank of Husband from further liability on such indebtedness, Husband shall sign over the title of the car to Wife. In the event Wife fails to pay the Dominion payments as agreed Husband may take possession of the automobile and sell the same to

agreed Husband may take possession of the automobile and sell the same to pay off the loan to Dominion Bank.

7. SAVINGS AND CHECKING ACCOUNTS --

Wife will be entitled to her savings and checking accounts, subject to the terms of paragraph 11 hereof, and Husband will be entitled to his savings and checking accounts.

8. BUSINESS ENTERPRISE -- MID-TENN SHEET METAL

Husband is the owner in a business known as Mid-Tenn Sheet Metal on Dickerson Road, Goodlettsville, Tennessee. It is agreed that Wife has no right, title and interest in said business and that said business is vested in Husband, free and clear of any claims by Wife. Husband will indemnify, and hold Wife harmless from any and all debts acquired by the business.

9. WIFE'S PENSION PLAN --

Wife has a Pension Plan through The Berry Company, which will be presently assumed by South Central Bell, it is believed. Husband does hereby quitclaim any and all right, title, or interest he may have to said pension benefits or other benefits. Both parties agree to enter a Qualified Domestic Relations Order, if necessary, to divest Husband's interest in Wife's Pension Plan.

10. DEBTS --

There are two (2) consolidation debts taken out for Wife's benefit in the Husband's name, for which the Wife has agreed to be responsible. The first note is payable to Dominion Bank in the amount of $113.00 per month. There are presently two (2) months left on payment of this note. Wife will be responsible for that note, and will hold the Husband harmless. There is another Dominion note in the amount of $195.00 per month, with approximately 34 months left in payments on the same. Wife will also assume and hold Husband harmless for this debt. There are no other debts known to the parties which are joint debts, with the exception of the real estate mortgage. It is agreed that Wife will pay such Dominion note payments each month before the 5th of each month in order to protect Husband's credit. Wife further agrees to give Husband a letter for his credit files showing that she is the party responsible for the late payments on these accounts since the date of separation.

11. REAL ESTATE --

The parties own a house and lot located at 1429 Rice Hill Circle, Antioch, Davidson County, Tennessee 37013. Any equity in the house shall belong to Husband, after all closing costs and the costs of sale. Husband shall be responsible for any and all mortgage payments on the property after January 1, 1993 until the time of sale. Wife's interest in the house is hereby divested out of her and into Husband.

12. INCOME TAX --

Husband and Wife agree to file a joint 1992 Federal Income Tax return if there will be a refund due and agree to apply the refund to the Dominion Bank notes on which Husband is liable.

13. ACCEPTANCE BY THE PARTIES —

With respect to each party's responsibility for the payment of certain debts and liabilities, and their obligation to hold the other harmless for the payment thereof, the parties understand and agree that their obligations are nondischargeable debts under 11 U.S.C. 523(5) of the Bankruptcy Code (or any corresponding provision in any other Bankruptcy law), these obligations being part of the final financial support settlement for both parties. These financial obligations on the part of both parties are not a part of the property settlement. The division of the property is set forth elsewhere in the Marital Dissolution Agreement.

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

15. Each party shall be responsible for his or her own debts that each party incurred after the parties' separation, except as provided herein, holding the other party harmless from any liability or obligation thereon. For any indebtedness not herein disclosed or set out, it is agreed that each party shall be responsible for that indebtedness in the same manner and under the same legal relationship and obligation as when those respective debts were incurred, except as otherwise stated in this Agreement.

16. Both parties agree to pay their own respective attorneys' fees for services rendered in this matter. The Court costs shall be paid by the Wife, for which execution may issue if necessary.

17. In consideration of the foregoing covenants, promises, and undertakings, both parties waive any and all claim for alimony against each

other, past or present.

18. The Wife shall be restored to her maiden name of Serita Lynn Nicholson.

19. In the event a creditor of either party seeks to compel the other party to pay any debt for which that party is not responsible either by contract or pursuant to the terms of this Agreement, the party against whom such claim is made shall be entitled to recover from the other party the amount of any payment he or she makes, including interest, and any expenses incurred in defending the creditor's claim or enforcing the provisions hereof for indemnity, including reasonable attorney's fees.

20. In the event it becomes reasonably necessary for either party to institute legal proceedings to procure the enforcement of any provision of this Agreement, he or she shall also be entitled to a judgment for reasonable expenses including attorney's fees incurred in prosecuting the action.

21. It is understood and agreed between the parties that this Agreement is intended to be a final settlement of all property rights and support rights and obligations of the respective parties hereto and shall constitute a discharge from all claims arising out of their marital relationship except as provided herein. Each party waives and relinquishes to the other all right or claims which they 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 of the other, inheritance, descent or distribution, or right 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 parties, individually or jointly, or any property that either of them may acquire in the future.

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

23. In the event any provision of this Agreement shall be held invalid in a Court of competent jurisdiction, such individual provision shall not affect the other provisions of this Agreement, said provisions being severable.

24. It is understood and agreed between the parties as part of the

inheritance, descent or distribution, or right 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 parties, individually or jointly, or any property that either of them may acquire in the future.

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

23. In the event any provision of this Agreement shall be held invalid in a Court of competent jurisdiction, such individual provision shall not affect the other provisions of this Agreement, said provisions being severable.

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

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

26. It is agreed by and between the parties that the Wife may proceed with her Complaint for Absolute Divorce in the Fourth Circuit Court for Davidson County, Tennessee, or any court of competent jurisdiction, on the grounds of irreconcilable differences and present the foregoing Agreement as evidence of the agreement between the parties in distributing the marital estate and resolving all matters involving the martial estate and shall be allowed to obtain a divorce in the Fourth Circuit Court for Davidson County, Tennessee, or any other court of competent jurisdiction upon the grounds of irreconcilable differences.

IN WITNESS WHEREOF, we have hereunto set out signatures this the _____ day of January, 1993.

Serita N. Nickens
SERITA NICHOLSON NICKENS, "WIFE"

David W. Nickens
DAVID WAYNE NICKENS, "HUSBAND"

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, SERITA NICHOLSON NICKENS, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 19TH day of ~~January~~ MARCH, 1993.

NOTARY PUBLIC

My Commission Expires: 10-17-94

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, DAVID WAYNE NICKENS, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 22ND day of ~~January~~ MARCH, 1993.

NOTARY PUBLIC

My Commission Expires: 10-17-94

2. That the costs of this cause shall be assessed against the Plaintiff, for which execution may issue if necessary.

ENTER this 12th day of April, 1993.

JUDGE

APPROVED FOR ENTRY:

PHILIP W. DUER, #4647
ATTORNEY FOR PLAINTIFF
P. O. Box 3348
214 Third Avenue, North
Nashville, TN 37219-0348
(615) 244-2070

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed by U. S. Mail, postage pre-paid, on this the 12th day of April, 1993 to the following:

Ms. Patricia Spicer Carden
Attorney for Defendant
5034 Thoroughbred Lane, Suite A
Brentwood, TN 37027

PHILIP W. DUER

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STATE OF TENNESSEE

I, RICHARD R. 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 12 day of APRIL , 19 93 , in the Case Number 92D3541 between NICKENS, SERITA NICHOLSON Plaintiff, and NICKENS, DAVID WAYNE Defendant, as same remains of record in Book 216A , Page 296 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 23 day of JUNE in the year one thousand nine hundred and ninety-seven and in the 221st year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By Irene Campion
Deputy Clerk

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