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FILED

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE, AT NASHVILLE

1998 NOV 16 PM 2:32

RICHARD R. ROOKER, CLERK

B Murray D.C.

WILLIAM BRADLEY KINCAID, III	)	
Plaintiff/Husband,	)	
vs.	)	**DOCKET NO. 97D-2432**
	)	***Notice of Entry Required***
KATHY JO KEMMER KINCAID,	)	
Defendant/Wife.	)	

98 DEC -1 PM 3:55

DAVIDSON COUNTY, TN.

05118796

FINAL DECREE OF DIVORCE

THIS CAUSE came to be heard on the 2nd day of November, 1998, before the Honorable Judge Muriel Robinson on the Husband's Complaint for an Absolute Divorce and the Wife's Amended Counter-Complaint. At the beginning of the trial, Wife's counsel moved to amend her Counter-Complaint to include a prayer for alimony *in solido* and *in futuro*. This oral Rule 15 Motion to Amend was not opposed and granted by the Court. The Court, after hearing the testimony of the parties and reviewing the exhibits, was of the opinion that while there was some degree of fault by both Husband and Wife, pursuant to Tennessee Code Annotated § 36-4-129, the divorce should be granted to the Wife with the Husband having greater fault on the grounds of inappropriate marital conduct and adultery. The Court then issued orders concerning an equitable division of the assets and liabilities of the parties, awarding each their personal property, retirement plans, and bank accounts, finding that the Husband had not proven that Wife had made any charges on the credit card debt, ordered that he pay those debts. The Court awarded the Wife the marital home at 3909 Scotwood Drive, Nashville, Tennessee, and awarded Husband's half (½) of the equity in that home to the Wife as alimony *in solido* based on Wife's lesser earning ability, but such award of the house was subject to the debt thereon that must be kept current. Wife was also awarded alimony *in futuro* at the rate of Four Hundred ($400.00) Dollars per month, with the first payment due on November 5, 1998, and for a total of twenty-four (24) months.

Finally, both parties were awarded their vehicles, and Husband was ordered to pay the Court cost, including a One Thousand Five Hundred ($1,500.00) Dollar attorney's fee to Wife's counsel. It is, therefore,

ORDERED, ADJUDGED and DECREED that the Wife is granted a divorce from the Husband on her Amended Counter-Complaint for Divorce pursuant to Tennessee Code Annotated § 36-4-129 on the grounds of inappropriate marital conduct and adultery, and returned to the rights of an unmarried person, and it is further,

ORDERED, ADJUDGED and DECREED that the Wife is awarded her personal property listed on Trial Exhibit 5 for the trial, and Husband is awarded his personal property listed on Trial Exhibit 4, and it is further,

ORDERED, ADJUDGED and DECREED that Husband is awarded his retirement account with American Express, and Wife is awarded her retirement account with American Express, free and clear of the claims of each other, and it is further,

ORDERED, ADJUDGED and DECREED that each party is awarded their separate bank accounts and any personal property and furniture in their possession, and it is further,

ORDERED, ADJUDGED and DECREED that the Husband shall pay all of the credit card debts of the marriage and any credit card debts which he has incurred since the parties' separation, with those marital charge accounts being:

Citibank Preferred MasterCard, Account No. 5410-6540-5977-2712

Chase VISA, Account No. 4226-1001-3400-5444

GM Credit Card, Account No. 5437-0003-0289-9077

NationsBank VISA, Account No. 4368-0071-0583-2185

Household Bank, Account No. 4625-4920-3811-5875

First Card, Account No. 4250-403-521-302

First Union Gold MasterCard, Account No. 5410-5413-2122-7916

And it is further,

ORDERED, ADJUDGED and DECREED that both parties are **enjoined** and **restrained** from making any further credit charges in the name of the other, and it is further,

ORDERED, ADJUDGED and DECREED that effective from the first day of November, 1998, and henceforth, the Wife is awarded the parties' real property at 3909 Scotwood Drive, Nashville, Tennessee 37211, being more fully described as follows:

> Being Lot Number 54 on the Plan of Section Three Greenwood Hills, of record in Plat Book 5050 at page 10, Register's Office for Davidson County, Tennessee, to which reference is hereby made for a more complete description.
>
> Being the same real property conveyed to William Bradley Kincaid, III and Wife, Kathy K. Kincaid, by Dan Hensley and Tari Hensley and Armand D. Hodges and Donna Hodges, recorded in Deed Book 8118, page 200, of record in the Register's office for said County.

Husband's interest in said real property is divested from him and reinvested solely in the Wife.

And it is further,

ORDERED, ADJUDGED and DECREED that the award of the marital home to the Wife is subject to the mortgage thereon which Wife shall hold Husband harmless from any further liability on the mortgage beginning November 1, 1998, provided, however, that in the event Wife should be delinquent on payments of the mortgage more than ninety (90) days, the house shall be immediately placed for sale and any equity remaining after payment of all mortgage and liens, shall be distributed to the Wife, and it is further,

ORDERED, ADJUDGED and DECREED that the Wife is awarded her 1989 Mercedes 300E automobile, and the Husband is awarded his 1984 Chevrolet C-10 Silverado pickup truck, and each party shall provide the other party with any documents necessary to convey sole title to the vehicles, and it is further,

ORDERED, ADJUDGED and DECREED that the Husband shall pay to the Wife as alimony *in futuro* the sum of Four Hundred ($400.00) Dollars per month for two (2) years beginning on November 5, 1998, and it is further,

ORDERED, ADJUDGED and DECREED that William Bradley Kincaid, III, shall pay to Helen S. Rogers, counsel for the Wife, an attorney's fee of One Thousand Five Hundred ($1,500.00) Dollars, for which execution may issue, and it is further,

ORDERED, ADJUDGED and DECREED that the Wife shall return to the Husband his wedding band which is currently in her possession, and it is further,

ORDERED, ADJUDGED and DECREED that Wife's maiden name of Kathy Jo Kemmer is restored to her, and it is further,

ORDERED, ADJUDGED and DECREED that all costs of this cause are taxed to the Husband, for which execution may issue.

ENTERED this the 16th day of November, 1998.

JUDGE MURIEL ROBINSON

APPROVED FOR ENTRY:

HELEN S. ROGERS, Nº 7025
Attorney for Defendant/Wife
The Wind in the Willows Mansion
2205 State Street
Nashville, Tennessee 37203
Phone: (615) 320-0600
Fax: (615) 320-9933

Mail

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 5th day of November, 1998, a true and exact copy of the foregoing Final Decree of Divorce has been forwarded to the persons listed below:

L. Anthony Deas
509 Lentz Drive
P. O. Box 608
Madison, TN 37116-0608

by the method identified as follows:

✓	U.S. Mail, Postage Prepaid
____	Hand Delivered
____	Overnight Delivery Service
____	Certified Mail, Return Receipt Requested
____	Facsimile

HELEN S. ROGERS

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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 16 day of NOVEMBER , 19 98 , in the Case Number 97D2432 between KINCAID, WILLIAM BRADLEY Plaintiff, and KINCAID, KATHY JO Defendant, as same remains of record in Vol. 378 , Page 69327 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 30 day of NOVEMBER in the year one thousand nine hundred and ninety-eight and in the 223rd year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

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