2546/1190

FILED

96 MAR -8 PM 4:1

RICHARD R. ROOKER, CLERK

D.C.

BOOK 11544 PAGE 856

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

KIMBERLY H. JOHNSON,	)	
	)	
PLAINTIFF,	)	
	)	
VS	)	DOCKET NO. 95D-1162
	)	
DAVID TREGG JOHNSON,	)	
	)	
DEFENDANT.	)	

FINAL DECREE

This cause came on to be heard on the 8th day of March, 1996 before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon the Complaint for Absolute Divorce on the ground of Irreconcilable Differences filed on April 10, 1995; the Marital Dissolution Agreement executed by the parties on February 15, 1996 by Kimberly H. Johnson and February 19, 1996 by David Tregg Johnson; the testimony of the Plaintiff Wife; the statement of her Attorney of Record; from all of which the Court is of the opinion that the Plaintiff Wife has sustained her burden of proof for an absolute divorce based on the statutory ground of irreconcilable differences. The Court also finds that the current home addresses of the parties are:

4206 06/28 0101 03CHECK 34.00

Kimberly H. Johnson

5216 Stallworth Drive

Nashville, Tennessee 37220

David Tregg Johnson

6020 Landmark Place

Brentwood, Tennessee 37026

99 JUN 28 AM 8:58

FILED & REFERENCE

060452

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff Wife, Kimberly H. Johnson, shall be granted an absolute divorce from the Defendant, David Tregg Johnson, and the parties shall be restored to all the rights and privileges of unmarried persons.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the child support payments as provided for in the Marital Dissolution Agreement shall not be reduced or prorated unless specifically ordered by the Court. The notarized Marital Dissolution Agreement duly executed by the parties on February 15, 1996 and February 19, 1996, makes adequate and sufficient provisions for visitation and custody and maintenance of the parties' minor children and complies with the federal and state guidelines regarding child support, and also provides for the equitable settlement of all property rights by and between the parties.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, that the duly executed Marital Dissolution Agreement shall be incorporated and made a part of the Final Decree of this Court, to wit:

MARITAL DISSOLUTION AGREEMENT

FILED
98 MAR -8 PM 4:19
RICHARD R. ROOKER, CLERK
D.C.

WHEREAS, there is presently pending in the Fourth Circuit Court for Davidson County, Tennessee, a Complaint for Absolute Divorce filed by KIMBERLY H. JOHNSON, hereinafter referred to as "Wife" against DAVID TREGG JOHNSON, hereinafter referred to as "Husband" under Docket No. 95D-1162, and

BOOK 11544 PAGE 868

WHEREAS, these parties are presently living separate and apart and desire to enter into a marital dissolution agreement and tender same to the Court for approval, in the event a Decree of Divorce is granted in this cause, and

WHEREAS, both of these parties have been advised of their respective rights and responsibilities, one to the other.

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

(1) **CONSIDERATION:** The consideration for this Agreement is the mutual promises and agreements herein contained.

(2) **NO INTERFERENCE:** 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 shall molest the other, or compel or endeavor to compel the other to cohabit or dwell with him or her.

(3) **TAX EXEMPT STATUS:** 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 represents a division of property by co-owners.

(4) **TRIAL:** Wife shall proceed to Court to obtain a divorce upon the grounds of irreconcilable differences.

(5) **CUSTODY:** There are three minor children born of this marriage, namely Hannah Johnson, date of birth May 25, 1990, presently 5 years of age, Hamilton Johnson, date of birth April 17, 1992, presently 3 years of age, and Hayden Johnson, date of birth June 21, 1994, presently one year of age. Wife shall be awarded the sole care, custody and control of the minor children, with specific visitation privileges reserved to Husband as hereinafter provided:

a. Every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
b. One afternoon each week from 4:00 p.m. until 7:00 p.m.
c. Alternate major holidays, including Easter, Spring Break (to

be split), Memorial Day, July 4th, Labor Day, and Thanksgiving.

d. All day every Father's Day (with wife having the children on every Mother's Day).

e. One half of the Christmas holidays, to be exercised in odd years from the time school is out until December 25 at noon, and in even years from December 25 at noon until January 1 at 5:00 p.m.

f. Four weeks during the summer months to be exercised in two two-week intervals.

g. At least two hours on each child's birthday.

h. Each parent shall have visitation with the minor children for at least two hours on the parents' respective birthdays.

Should Husband remove his permanent residence from the State of Tennessee, the parties agree that Wife shall have the sole care, custody, and control of the parties' minor children. Husband's visitation privileges shall remain the same as set out herein, with Husband being solely responsible for transportation costs associated with his visitation with the children.

Both parties shall cooperate in the rearing of the children, both mentally, emotionally, and physically. Both parties will have equal access to school and medical records. Each party shall keep the other parent advised as to the progress of the children, while in their possession. Wife shall not change the permanent residence of the minor children from middle Tennessee without permission from the Court. So long as Wife resides in middle Tennessee, Husband shall be responsible for transportation to and from the visitation privileges.

Neither party shall have a non-related member of the opposite sex spend the night in the presence of the minor children, unless or until they have remarried.

(6) <u>CHILD SUPPORT:</u> Husband shall pay directly to Wife for the support and maintenance of the minor children, the sum of ONE THOUSAND THREE HUNDRED FORTY-THREE DOLLARS ($1,343.00) per month, said payments to begin on the first day of September, 1995 and be due and payable on the first day of each month thereafter, and continuing on the first day of each month thereafter until the minor children have attained the age of eighteen (18) years or graduated with their class from high school, whichever is the latter event to occur, or further Orders of this Court.

It is affirmatively acknowledged by the parties, pursuant to the provisions of T.C.A. §36-5-101(h), that no action by the parties will be effective to reduce child support after the due date of each payment,

and that they understand that Court approval must be obtained before child support can be reduced, unless such payments are automatically reduced or terminated under the terms of the Agreement.

The parties further acknowledge that the child support, as set forth in this Marital Dissolution Agreement, complies with the support guidelines as adopted by the State of Tennessee.

(7) **HEALTH INSURANCE:** Husband shall maintain in full force and effect health insurance coverage for the benefit of the minor children, until such time as they attain the age of eighteen (18) years or graduate with their class from high school, whichever is the ~~first~~ last event to occur. In addition, Husband shall be responsible for one-half of any and all reasonable and necessary hospital, doctor, medical, dental, orthodontic or optical expense incurred on behalf of the children not covered by the health insurance, including any deductible.

(8) **LIFE INSURANCE:** Husband shall maintain life insurance on his life in the sum of $50,000.00, payable to Wife as Trustee, for the support and maintenance of the minor children, so long as he is obligated to pay child support, pursuant to the terms of this agreement.

(9) **MARITAL RESIDENCE:** The parties own the marital residence located at 5216 Stallworth Drive, Nashville, Davidson County, Tennessee 37220, as joint tenants by the entirety. The parties agree that all right, title, and interest which Husband has in and to the aforementioned property shall be divested from him and the sole and exclusive ownership in and to said property shall be vested in Wife in fee simple, and she shall assume the balance of the mortgage indebtedness thereon and hold Husband harmless therefrom. The parties acknowledge that there is a substantial delinquency in mortgage payments. Wife shall be responsible for payment of these delinquent mortgage payments and shall hold Husband harmless therefrom. The parties acknowledge that Husband is relinquishing his equity in the house in return for Wife's responsibility to assume the mortgage debt and hold him harmless therefrom.

(11) **PERSONAL PROPERTY:** The parties have made an equitable division of personal property, which is more specifically set forth in attached Exhibit A.

(12) **DEBTS:** Each party will be responsible for any and all debts incurred in their sole and separate name since the date of the separation March 16, 1995, and shall hold the other party harmless for any responsibility therefrom. Husband shall be responsible for the outstanding indebtedness owing to Draper Jewelry.

The assumption of the above stated indebtedness and all other indebtedness outlined in this Marital Dissolution Agreement by each party shall be considered a duty directly related to the support and maintenance of the minor children and shall not be considered dischargeable in any bankruptcy proceeding by one party against the non-bankrupt spouse nor the children so as to allow a third party creditor to claim against the non-bankrupt spouse and/or children. The parties specifically acknowledge that the above stated indebtedness was taken into consideration when negotiating the level of child support in relation to the above stated indebtedness and the current income levels. With respect to each party's responsibility for the payment of the above stated indebtedness and liabilities and their obligation to hold the other harmless from payment thereof, the parties understand and agree that their obligation is in the nature of the payment of ordinary child support and is a nondischargeable debt under chapter 11 U.S.C. Section 523(5) of the Bankruptcy Code, this obligation being part of the final Court settlement of both parties regarding child support and is not a part of the division of the personal property of the marital estate.

To the extent of the above stated outstanding debts, securities, or collateral requirements or mortgages for any and all the property retained by Husband and/or Wife pursuant to the terms of this Agreement, except as otherwise provided herein, the parties retaining those property items listed above shall pay such debts, securities, collateral or mortgages and be responsible for said debts or obligations and assume and be solely responsible for paying aid debts or obligations, this same being considered in the nature of ordinary child support and each party agrees to indemnify and hold the other party harmless from the payment of all claims, demands, liabilities and expenses with respect thereto, including, but not limited to, reasonable attorney's fees, costs of collection and Court costs.

(13) TAX EXEMPT STATUS: This Agreement is in the transfer of appreciated property between the spouses in connection with a divorce and is not a sale or exchange or other disposition of property but is an equal division of property by co-owners.

Husband shall be entitled to claim two of the three children as exemptions for purposes of filing his form 1040 Federal Income Tax Return. Wife shall sign the necessary documents required by the Internal Revenue Services to effectuate this claim.

(14) COLLEGE: Husband and Wife shall be equally responsible for payment of the costs of tuition, books, and registration fees, for each child to attend four (4) years of college or university at an expense not exceeding the then prevailing costs to attend the University of Tennessee as an in-state student.

(15) ALIMONY: Husband shall pay directly to Wife, as rehabilitative alimony, the sum of SIX HUNDRED FIFTY-SEVEN DOLLARS ($657.00) per month for two years, or until her death or remarriage, whichever is the first event to occur. The first payment shall be due on January 1, 1996, and be due and payable on the first day of each month thereafter until paid in full. These alimony payments shall be non-modifiable, i.e. the amount cannot be increased or decreased, nor can the term be extended or decreased. These payments shall be tax deductible to Husband and taxable to Wife for the purposes of filing their form 1040 Federal Income Tax Return.

(16) MEDICAL INSURANCE FOR WIFE: Husband shall make available to Wife, health insurance coverage for her benefit so long as same is available pursuant to the COBRA statute. Should Wife elect to obtain this insurance coverage, ~~she~~ Husband shall be solely responsible for payment of the premiums ~~and~~ for Eighteen (18) months from January 1, 1996, and Wife shall pay TIJ all uncovered expenses associated with said coverage, and hold Husband harmless from any responsibility associated therewith. Husband and Wife shall cooperate and sign the necessary forms to convert the insurance coverage after the date of the entry of the decree, if Wife elects to obtain this coverage at her expense.

(17) PENSION BENEFITS: Husband shall retain his pension benefits with EIG, free and clear from any claims from Wife.

(18) ATTORNEY'S FEES: Each party will be responsible for their

respective attorney fees.

(19) COURT COSTS: Husband shall pay the final court costs.

(20) ENFORCEMENT PROVISION: In the event either party has to petition the Court for enforcement of any of the provisions in this Agreement, then the party at fault shall be responsible for reasonable attorney fees, expenses and Court costs in the enforcement of same.

(21) 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 obligation is a nondischargeable debt under 11 USC section 523(5) of the Bankruptcy Code, this obligation being part of the final financial support settlement for both parties. This financial obligation on the part of both parties is not a part of the property settlement. The division of property is set forth elsewhere in the Marital Dissolution Agreement.

(22) FAIRNESS OF AGREEMENT: Wife acknowledges that the provisions of this agreement for her support and maintenance are fair, adequate and satisfactory to her and the minor children and in keeping with her accustomed standard of living and her reasonable requirements.

(23) VOLUNTARY ACCEPTANCE: The provisions of this Agreement and their legal effect have been fully explained to the parties by counsel and each party acknowledges that the Agreement is fair and equitable; that it is being entered into voluntarily and that it is not the result of any duress or undue influence.

(24) ENTIRE AGREEMENT: This Agreement contains the entire understanding of the parties, and there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

(25) COMPLETE DISCLOSURE: Each party has made a full and complete disclosure of his or her assets and liabilities.

(26) ESTATE WAIVER: 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

hereby waives and relinquishes to the other all rights or 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, curtesy, statutory allowance, homestead rights, right 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 Husband and Wife, individually or jointly, or any property that either of them may acquire in the future.

(27) ADDITIONAL INSTRUMENTS: Both parties agree to sign any and all deeds, titles, documents, or instruments necessary to carry out the full purpose and intent of this Agreement. Both parties acknowledge that they have read this Agreement in its entirety prior to the signing thereof, and that they have signed same voluntarily.

WITNESS OUR HANDS, this the 15th day of February, 1996, as to the Wife, and the 19th day of February, 1996, as to the Husband.

KIMBERLY H. JOHNSON

DAVID TREGG JOHNSON

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, the within **KIMBERLY H. JOHNSON**, with whom I am personally acquainted, and who acknowledges that she executed the within instrument for the purposes therein contained.

WITNESS MY HAND and official seal at Nashville, Tennessee, this 15th day of February, 1996.

NOTARY PUBLIC

My Commission Expires: 30 May 1999

STATE OF TENNESSEE

COUNTY OF DAVIDSON

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

WITNESS MY HAND and official seal at Nashville, Tennessee, this 19th day of February, 1996.

NOTARY PUBLIC

My Commission Expires: 5/25/96

JOHNSON v. JOHNSON

MARITAL DISSOLUTION AGREEMENT

EXHIBIT A

FILED
96 MAR -8 PM 4:19
RICHARD R. ROOKER, CLERK
D.C.

Wife's Property

A. From the master bedroom:

a. Master bedroom suite
b. One lamp
c. Bedroom linens
d. One half of all towels

BOOK 11544 PAGE 866

B. All household furniture and furnishings which are in each child's bedroom.

C. From the living room:

a. Floral Sofa and Chair
b. One Coffee Table
c. One Rug
d. One bookcase
e. Entry table and mirror

D. From the kitchen:

a. Microwave
b. Silver pots and pans
c. Kitchen table and chairs
d. All dishes and flatware
e. Washer and dryer
f. Refrigerator

E. From the den:

a. T.V.
b. VCR

F. Etc.:

a. Children's portraits
b. Charleston picture

Husband's Property

All other household furniture and furnishings not hereinabove stated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the cost of this cause shall be taxed against the Defendant Husband before its execution may issue.

ENTERED this the 31st day of March, 1996.

Muriel Robinson

HONORABLE MURIEL ROBINSON
FOURTH CIRCUIT COURT JUDGE

Submitted for entry:

PAUL T. HOUSCH, ESQ.

BY: Paul T. Housch

PAUL T. HOUSCH, ESQ. #11538
211 Third Avenue North
P.O. Box 198288
Nashville, TN 37219
(615) 256-2111

ATTORNEY FOR PLAINTIFF
KIMBERLY H. JOHNSON

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and exact copy of the foregoing has been forwarded, postage prepaid to Mr. Robert L. Jackson and Associates, Mr. Robert L. Jackson, Attorney, One Washington Square, 214 Second Avenue North, Suite 103, Nashville, Tennessee 37201, on this the 31st day of March, 1996.

Paul T. Housch

PAUL T. HOUSCH, ESQ.

BOOK 11544 PAGE 868

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 08 day of MARCH , 19 96 , in the Case Number 95D1162 between JOHNSON, KIMBERLY H. Plaintiff, and JOHNSON, DAVID TREGG Defendant, as same remains of record in Vol. 254B , Page 1190 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 24 day of JUNE in the year one thousand nine hundred and ninety-nine and in the 223rd year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk