This instrument prepared by:
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FILED
WILLIAMSON COUNTY
CLERK & MASTER
2007 NOV 15 PM 3:47

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE
AT FRANKLIN

JOAN CAROLYN LAMBETH,	)	
Plaintiff/Wife/Counter-Defendant	)	**No. 32735** ENTERED 11-28-07.
Vs.	)	
	)	**JUDGE DAVIES**
BEN AVERY LAMBETH,	)	
Defendant/Husband/Counter-Plaintiff.	)	**NOTICE OF ENTRY REQUESTED**

FINAL DECREE

The Complaint for Divorce filed by the wife, Joan C. Lambeth, and the Counter-Complaint filed by the husband, Ben Avery Lambeth, were heard in open court before the Honorable R. E. Lee Davies on October 31, 2007 and November 1, 2007.

After listening to the testimony of witnesses for both the husband and the wife; arguments of counsel; and the entire record in this cause this Court rules as follows:

The Scenic View home in Brentwood, TN I find has a fair market value of two hundred forty-five thousand dollars ($245,000.00). That property is titled now in the joint names of Mr. and Mrs. Lambeth. That came about as a result of a refinancing in 2004. Therefore, under the Doctrine of Transmutation, I classify that as marital property. That property has a total debt of approximately one hundred seventy-seven thousand dollars ($177,000.00) against it.

In dividing this piece of property I am going to consider that as of the date of this marriage, it was worth one hundred and eighty-eight thousand dollars ($188,000.00). I am going to award Mr. Lambeth eleven thousand dollars ($11,000.00) of the equity and then I am splitting the remaining equity between the parties which would result in thirty-nine thousand five hundred dollars ($39,500.00) to Mr. Lambeth and twenty eight thousand five hundred dollars ($28,500.00) to Mrs. Lambeth out of that piece of property. The piece of property known as 7029 Scenic View Drive, Brentwood, Tennessee 37027 is more fully described as follows:

Land in Williamson County, TN BEING Lot No. 212, on the Plan of Moorland Estates, Section 2, Phase 3 & 4, of record in Plat Book 9, page 41, as amended in Plat Book 9, pages 95 and Plat Book 11, page 45, Register's Office for Williamson County, TN, to which plan reference is hereby made for a complete description thereof.

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283 261

Davidson County DEEDDIV
Recvd: 11/29/07 16:08 7 pgs
Fees:37.00 Taxes:0.00
20071129-0138707

Being the same property conveyed to Ben A. Lambeth by deed from K.P. Properties, Inc. dated July 2, 1997, of record in Book 1540, page 918, and further conveyed to Ben A. Lambeth and Joan Lambeth, as tenants in common by Quitclaim Deed from Ben A. Lambeth, of record in Book 3280, page 265 Register's office for Williamson County, TN.

Effective November 1, 2007 Mr. Lambeth is responsible for the payment of both mortgages and all other expenses related to this condominium.

As for the property located at 947 Patio Drive I find that the Fair Market Value of that piece of property is seventy-five thousand dollars ($75,000.00). That property, is titled in both Mr. and Mrs. Lambeth's name, and was purchased during the marriage. I will consider it marital property. It has a total outstanding mortgage of fifty eight thousand seven hundred ninety two dollars ($58,792.00), of which I find there is approximately sixteen thousand two hundred dollars ($16,200.00) of equity. I divide that equity equally between the parties at eighty-one hundred dollars ($8,100.00) each. The property 947 Patio Drive, Nashville, Davidson County, Tennessee is more fully described as follows:

A certain condominium apartment in Davidson County, TN, described as Lot 21, Unit No. 33, Phase Two, Section Three, Patio Villa, a Condominium, A Horizontal Property Regime, located on Patio Drive, Nashville, TN, as shown on the plat of Phase Two, Section Three, Patio Villa, Condominium apartments, recorded in Plat Book 5200, page 495, said Register's Office, and described in a Master Deed recorded in Book 5970, page 829, as amended in Book 6014, page 978 and Book 6406, page 799, said Register's Office, to which reference is hereby made. The casements, restrictive covenants, conditions and regulations imposed upon and relating to the apartments, property, co-owners and tenants of Patio Villa, Condominium Apartments contained in the Master Deed recorded in Book 5970, page 829, as amended in Book 6014, page 978 and Book 6406, page 799, and By-Laws recorded in Book 5970, page 861, as amended in Book 6016,page 11 and Book 6406, page 799, Register's Office for Davidson County, TN, are incorporated herein by reference and made a part hereof the same as though copied herein.

Being the same property conveyed to Carl Jackson Butcher by deed from Tina Adkins and William K. Adkins and Karen Williams and Aubrey Williams and E. Gary Taylor, unmarried, dated February 22, 1998, of record in Book 10858, page 762, Register's Office for Davidson County, TN.

As to the Brentwood Pointe Condominium, known as 127 Brentwood Pointe, Brentwood, Williamson County, Tennessee that piece of property is titled only in Mr. Lambeth's name. It was a piece of property he owned prior to the marriage. I find it has a fair market value of one hundred seventy thousand dollars ($170,000.00); a mortgage of one hundred twenty-five thousand dollars ($125,000.00); and equity of forty-five thousand dollars

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($45,000.00). I find that this is separate property. I do not find a substantial contribution by Mrs. Lambeth. I award all of it to Mr. Lambeth.

The property known as 127 Brentwood Pointe is more fully described as follows:

A certain condominium apartment in Williamson County, Tennessee, being Unit 39 of Brentwood Pointe Condominiums, Section 1, as of record in Plat Book 8, Page 76, Register's Office of Williamson County, Tennessee, to which plan reference is hereby made for a more complete legal description.

Being the same property conveyed to Robert H. Gurley, by deed from Vicki Brunhoeber, Trustee for the Gurley Children's Trust, of record in Book 1432, page 638, said Register's Office.

As to the Village Loop property, that piece of property was originally titled in Mr. Lambeth's name. Then it, too, was re-titled in 2004 into the joint names of the parties as a result of refinancing. I find that that piece of property has transmuted and now it is marital property.

I find that it has a fair market value of one hundred eighty thousand dollars ($180,000.00) with a mortgage of one hundred twenty five thousand dollars ($125,000.00) and equity of fifty five thousand dollars ($55,000.00). I find that it had a fair market value at the time of refinancing of one hundred sixty thousand dollars. Therefore, I award out of this piece of property the equity of forty five thousand dollars ($45,000.00) to Mr. Lambeth and ten thousand dollars ($10,000.00) to Mrs. Lambeth. That property known as 948 Village Loop, Gatlinburg, Sevier County, Tennessee is more fully described as follows:

LAND in the Eleventh (11th) Civil District of Sevier County, TN BEING lot No. 588, on the Plan of chalet Village North Subdivision, of record in Map Book 22, page 68, Register's Office for Sevier County, TN, to which plan reference is hereby made for a complete description thereof.

Being the same property conveyed to Ben A. Lambeth and wife, Joan C. Lambeth by Quitclaim Deed from Ben A. Lambeth dated July 18, 2003, of record in Book 1747, page173, Register's Office for Sevier County, TN.

For the first ten(10) months of 2007 when the parties were sharing all expenses relating to the Village Loop property, I will allow them to equally divide the allowable deductions for the tax year 2007 for the joint payments made on the Village Loop property, including, but not limited to, interest, taxes, and insurance. I further award Mrs. Lambeth one-half of the net rental income for the months of September and October 2007. As Mr. Lambeth will be

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responsible for the Village Loop mortgage payment effective November 1, 2007 he will be allowed to keep any rental income generated by the property after October 31, 2007.

As to 936 Patio Drive in Nashville, Davidson County, Tennessee that piece of property is titled only in Mrs. Lambeth's name. It is a piece of property she purchased prior to the marriage. It has a fair market value of seventy five thousand dollars ($75,000.00); a mortgage of thirty thousand dollars ($30,000.00); and equity of forty five thousand dollars ($45,000.00) I find that it is separate property. Although the husband testified that he worked on the property and made some payments, I decline to find that there has been a substantial contribution on his part to this piece of property. I award all of that to Mrs. Lambeth. The property known as 936 Patio Drive is more fully described as follows:

Land in Davidson County, Tennessee, being Unit No. 19, Lot No.13, on the site Plan of Patio Villa Condominiums, Phase II, Section 3, as of record in Book 5200, Page 495, and described in Master Deed establishing a Horizontal Property Regime of Patio Villa Condominiums, as of record in Book 5970, Page 829, and recorded in Book 6014, Page 978, Register's Office for Davidson County, Tennessee, to which reference is hereby made for a more complete identification and description of such Unit.

Being the same property conveyed to the Grantor(s) herein by Deed of even date and *being filed for record simultaneously herewith.*

Even if there was some contribution by Mr. Lambeth to that piece of property, I find it to be a wash in the event there was any contribution by Mrs. Lambeth to the Brentwood Pointe condominium.

Now, I am going to award the Scenic View property to Mr. Lambeth.

I am awarding 947 Patio Drive to Mrs. Lambeth.

I am awarding Brentwood Pointe to Mr. Lambeth.

I am awarding the Village Loop property to Mr. Lambeth.

I am awarding 936 Patio Drive to Mrs. Lambeth.

As a result of the different awards of property and values found, I have found at this point that Mr. Lambeth would owe Mrs. Lambeth thirty thousand four hundred dollars ($30,400.00) for her interest in some of these marital properties.

I am awarding both automobiles to Mrs. Lambeth. I find that the X-Terra has no value as its debt is equal to or greater than the equity in that vehicle. I find the Infiniti has a value

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of nine thousand dollars ($9,000.00). As a result, the judgment award to Mrs. Lambeth from Mr. Lambeth is reduced to twenty-thousand six hundred dollars ($20,600.00).

I award all the credit cards in Mrs. Lambeth's name to Mrs. Lambeth. She will be solely responsible for those credit card bills.

I will also award Mrs. Lambeth the items on her list of personal property which she proposed on her exhibit.

I will turn now to the divorce in this case. In this particular case, the way the facts were presented to me, it really turns on the credibility of the parties as to who I need to believe in terms of what one did to the other. There are stories on the same instances that are pretty much black and white.

I do make this observation. There never appeared to be any romance or love expressed on the part of Mrs. Lambeth toward Mr. Lambeth at any time during this marriage. I do not find her claims, whether it be for physical, emotional or mental abuse, to be credible in this case.

Based on Mr. Lambeth's testimony, I find Mrs. Lambeth to be substantially more at fault. I will award Mr. Lambeth the divorce on the grounds of inappropriate marital conduct.

As a result of that and some other factors I'm going to discuss, I'm going to award him attorney's fees, the amount of which I'll reserve until an affidavit in support of his attorney's fees has been filed as a late filed exhibit.

As to Mr. Lambeth's claim that Mrs. Lambeth has dissipated the marital estate, I do find that when she was in charge of the rental property in Gatlinburg, that there are at least 92 days during that period of time that she cannot account for any rentals, whether they were made or not. That finding is substantiated by the fact that while there doesn't appear to be rental on certain days, there clearly was an invoice for cleaning done on that day, on which I draw the conclusion that in fact there were renters.

I find that there were rentals that Mrs. Lambeth did not account for or could not account for. The problem is I don't know what that dollar amount is.

I do also find that she used and had an inordinate amount of credit card expenses paid on her behalf during this five year period of over $100,000.00, and that she did make a lot of payments to her family members.

Again, I am not going to assess any particular number for this, but I do believe she did dissipate the marital estate. I am considering that as a factor in awarding Mr. Lambeth this

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attorney's fees in this case.

As to Mr. Lambeth's claim for alimony, considering the length of this marriage, which I find to be relatively short, and considering his career which been as a salesman all of his life, and considering his ability to earn income, and considering his wife's ability to earn income, I find that he's not a candidate for alimony. I, therefore, deny his claim for alimony.

With regard to the property that I have awarded Mr. Lambeth on which Mrs. Lambeth is a co-tenant by the entireties, I will give him ninety days (90) from the entry of the final decree. That final decree will divest her of any interest in those properties. It needs a proper legal description of each property so that it can be filed in the Register of Deed's Office where the properties are located.

Once that decree has been entered by this Court, Mr. Lambeth will have ninety (90) days to remove her name from the mortgages on these properties. In the event that he is unable to remove Mrs. Lambeth's name within ninety (90) days, then the properties will be immediately listed for sale at the fair market value numbers I have used in this case. Then the equity will be divided based upon the percentages and equity figures that I have provided to you all.

As for the X-Terra currently being driven and paid for by Mr. Lambeth, I order him to return the X-Terra to Mrs. Lambeth no later than the 13th of November, 2007. After that date Mr. Lambeth will not be responsible for any more payments.

In addition, Mrs. Lambeth gets to keep sole ownership and custody of the dog, Happy.

In summary, I have awarded Mrs. Lambeth a judgment in the amount of twenty thousand six hundred dollars ($20,600.00). I am also ordering Mrs. Lambeth to pay Mr. Lambeth's attorney's fees in the amount of 30,000.00. Applying the amount of attorney's fees Mrs. Lambeth owes Mr, Lambeth results in a net judgment in favor of the (husband) (wife) in the amount of 9,400.00 for which execution shall issue if necessary.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Defendant/Counter-Plaintiff, Ben Avery Lambeth, have and is hereby awarded an absolute divorce from the Plaintiff/Counter-Defendant, Joan Carolyn Lambeth, on the ground of Inappropriate Marital Conduct and the bonds of matrimony heretofore existing between the husband and the wife are hereby held for naught and the parties are hereby restored to all the rights and privileges of an unmarried

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person.

IT IS FURTHER ORDERED that each party take all steps necessary to carry out the terms of this Final Decree, including, but not limited to, the execution of documents.

IT IS FURTHER ORDERED that the wife shall be restored to her maiden name of Joan Carolyn Wallace.

This cause is retained in this Court for the enforcement of this decree and the issuance of such future orders as may be necessary. The costs of this cause will be borne by the (husband) (wife) for which execution may issue if necessary.

Signed this 28 day of Nov, 2007.

CHANCELLOR R.E. LEE DAVIES

APPROVED FOR ENTRY:

Vincent Zuccaro
Vincent Zuccaro, #7321
Attorney for the Husband, Ben Avery Lambeth
3326 Aspen Grove Drive, Suite 504
Franklin, TN 37067
(615) 771-7770

STATE OF TENNESSEE
WILLIAMSON COUNTY
I, THE UNDERSIGNED CLERK & MASTER, DO HEREBY CERTIFY THIS TO BE A TRUE COPY OF THE ORIGINAL OF THIS INSTRUMENT FILED IN THIS CAUSE.

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Final Decree has been sent via facsimile and U.S. Mail, postage prepaid, to John D. Schwalb, attorney for the Wife/Counter-Defendant, 1111 Columbia Avenue, Franklin, TN 37064 this 13 day of November, 2007.

Vincent Zuccaro
Vincent Zuccaro

CLERK'S CERTIFICATE
I hereby certify that a true and exact copy o
foregoing has been mailed or delivered to
all parties or counsel of record.

11-28-07 Sharon A Barton, Dep.
Date Clerk & Master