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

2017 DEC 21 AM 9:52

RICHARD R. ROOKER, CLERK

GARY LEE ODOM,
Plaintiff,

vs.

RACHEL LEA ZAMATA ODOM,
Defendant.

DOCKET NO. 15D-195

D.C.

FINAL DECREE WITH MUTUAL INJUNCTION AND RESTRAINING ORDER

This cause came on to be heard for final hearing on the 5th day of December, 2017, before the Honorable Phillip Robinson, Judge of the Third Circuit Court for Davidson County, Tennessee upon the original Complaint for Divorce filed by the Plaintiff/Husband, Gary Lee Odom, Answer and Counter-Complaint of the Defendant/Wife, Rachel Lea Odom, Motion and Amended Motion with attached Affidavit of attorney for the Wife, Richard Hedgepath, to be relieved as attorney of record for the Wife, testimony of the Husband, exhibits submitted for the Court's consideration, statement of counsel for the Husband and attorney Richard Hedgepath, and the entire record, from all of which the Court makes the following findings of fact and conclusions of law:

The Wife is an attorney licensed to practice law in the State of Tennessee. The final hearing of this divorce action has been set for trial since August 2017, to be heard on December 5, 6 and 12, 2017. On November 22, 2017, Wife filed a Motion to Continue Trial Until the Pending Interlocutory Appeal is Resolved and the Court, in an

Bill Garrett Davidson County
Batch# 57382 DEEDDIV
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Fees: $87.00 Taxes: $0.00
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emergency conference call on November 30, 2017, found there was no basis for a continuance in this matter, and the Court ordered that the trial proceed as scheduled.

With knowledge of the foregoing, the Wife discharged her attorney, Mr. Hedgepath, on Sunday, December 3, 2017, and filed a Notice with the Court that Richard Hedgepath was not going to be her attorney. Mr. Hedgepath filed an Amended Motion with an Affidavit clearly stating that the Wife discharged him, as a result of which the Court finds that the Court could not force Mr. Hedgepath to participate in this divorce action against the Wife's wishes. The Court specifically noted in the record that the Court would not have relieved him otherwise if it was merely on his motion to withdraw. However, based on his statements as an Officer of the Court, his Sworn Affidavit, and his insistence that the Wife specifically discharging him and telling him he was no longer her attorney, the Court granted his motion and allowed Mr. Hedgepath to withdraw. The Court finds and the record will reflect that with full knowledge of the foregoing and being duly noticed of the hearing date, the Wife willfully failed to appear and participate in this final hearing.

The Wife has also requested that this Court recuse itself by motion filed on December 4, 2017. The Court has considered Wife's Motion and the facts and circumstances of this case. The Court has entered an Order respectfully denying the Wife's Motion to Recuse. The Court specifically found the Wife's motion for recusal was for the purpose of delay. Therefore, the Court proceeded with this hearing in the Wife's absence, and based on all the evidence before it, the Court makes the following findings set forth herein.

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The Court finds that these parties were married in approximately May of 2008. This is a marriage of approximately nine (9) years. However, the evidence before the Court is that the parties actually separated in January, 2015, when the Wife, without giving specific notice to the Husband of her intent to do so, moved her residence to the State of New York while the Husband was out of town. The Court finds that the Wife was unsatisfied with the financial resources the Husband made available to her; she demanded that he try to make more money; and that in her anger, she set upon a course of conduct of physical abuse directed toward the Husband. The Court finds that on one occasion, she physically attacked the Husband. On another occasion, in her anger, she grabbed his prescription glasses from his face and threw them out the window of a moving car at night. Efforts by the Husband to find them were unsuccessful. On another occasion in Washington, D.C., while she was attending a conference with the Husband, Wife became upset and physically assaulted the Husband in the hotel room, striking him about the head, face, body, shoulders and back.

The Court finds that the Wife had, without providing the Husband specific notice, planned to relocate from the State of Tennessee without him. The Court finds the Wife has made substantial charges on the Husband's credit card accounts without his knowledge or approval, and continued to do so after he has asked her not to do so. These charges range between $8,400.00 to approximately $4,800.00 per month from January 2014 to approximately March 15, 2015. To preserve his credit, the Husband has been forced to pay these charges.

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Based on the unrebutted testimony of the Husband, the Court finds that the Wife made no financial contributions to the marriage. The Court finds the Husband paid all of the household expenses during the marriage. The Court further finds that the Husband paid for Wife's law school education both before and during the marriage. In addition, the Husband helped Wife set up her law office; paid expenses associated with it, and he referred cases to help launch her law practice so that she could generate income as an attorney. But, based on Husband's testimony, the Court finds that Wife did not use any of her earnings to help maintain the parties' lifestyle or the residence.

The Court finds that, based on all of Wife's behavior, the Husband is entitled to a divorce on the grounds of inappropriate marital conduct. The Husband's testimony on these issues is unrebutted because the Wife chose not to appear and participate in this trial. There is no credible evidence before the Court of any misconduct by the Husband against the Wife which rises to the level of a ground for divorce. The Wife's allegations of inappropriate marital conduct against Husband are dismissed.

In regards to the division of assets, the Court has considered the considerations of Tenn. Code Ann. 36-4-121 regarding the equitable division and distribution of marital property in this cause. The Court first notes Consideration No. 1; this is a marriage of slightly less than nine years, although the parties only lived together approximately six years, from May 2008 until January 2015. The Court has considered the ages of the parties. The Husband is approximately 66 years of age, the Wife is approximately 33 years of age. The Court has heard no evidence of any physical or mental disability that would prevent either of the parties from working, generating income or supporting

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themselves. The evidence before the Court is that the Husband is generating somewhere between $75,000.00 to $105,000.00 annually in W-2 income; and also has retirement benefits in the amount of approximately $2,300.00 per month that he is currently drawing. It appears that the Husband is in generally good health. The Wife is in good health. The Wife is educated as an attorney. She received her law degree during the marriage. The evidence before the Court, based on her website and information she has provided to the Husband, is that she is licensed to practice in Tennessee, Washington, D.C. and the State of New York, and has been admitted to practice before the United States Supreme Court. She maintains three law offices, apparently one in D.C., one in New York, and one in Nashville, Tennessee. Further, based on testimony before the Court, and the Court so finds, the Wife has obtained an additional Master's Degree since the separation of the parties. Based on all of the foregoing, the Court finds that the Wife has the education and training to be able to properly provide for herself and to continue to increase her earning capacity. Because of the Wife's refusal to comply with discovery, it is difficult for the Court to determine what her actual income is, but she has previously waived any claim to alimony and attorney fees in the Order from the August 4, 2017 hearing. The Court has considered the relative ability for each of the parties to acquire future assets and income. The Husband, at 66 years of age, has considerably less future earning capacity than the Wife. The Wife, at age 33, has approximately another 35 years of earning capacity.

The Court has considered the contribution of each of the parties to the acquisition, preservation and appreciation of property. The Court notes that the marital

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residence was owned by the Husband prior to the marriage. Indeed, he acquired that property as a result of his first divorce. The property was solely titled in his name. The Husband did, however, put the Wife on the deed, wherein, he basically gifted to her half of that property. It therefore constitutes marital property. The Court notes, however, that the testimony before the Court is that the Wife has made no contributions to the maintenance and upkeep of the marital residence, or the parties' lifestyle, or the accumulation of other assets. The Court also notes that the Wife, by her excessive spending, has actually dissipated the marital estate. The Court finds that the Wife was spending above the parties' means when she was living both in Nashville and living in New York. Despite the Husband's efforts to ask her to reduce her spending, she refused to do so. The Court has considered the value of each of the parties' separate property. The Husband has some pre-marital separate property and retirement. The Wife has little separate property. The Court finds based on the Husband's testimony that the parties' two dogs were purchased by him prior to the marriage constitute his separate property. However, even if they were not separate property, the Court finds that they have remained in his care and possession since the parties' separation in January, 2015. The Court, from viewing the photographs of the dogs and hearing the Husband's testimony, and receiving no rebuttal testimony on this, finds that the dogs appear to be healthy, well-cared for, and the Wife has moved out of state and does not have an appropriate place to care for them. Therefore, the Court will award the two pet dogs to the Husband.

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The Husband had a considerable marital estate at the time of the marriage. He had retirement that had been accumulated over approximately 37 years. The Court finds that the Wife's estate at the time of the marriage was nominal. The Court has heard very little, if any, testimony regarding any assets she brought into the marriage.

The Court has considered the economic circumstances of the parties at the time of the division of the assets. The Wife purports to be a successful attorney maintaining three offices and is earning income, although she did not provide any discovery responses to questions regarding her earnings. The Court does not see any future tax consequences to either party in dividing assets where the parties are co-owners. The Court does not anticipate any foreseeable tax consequences or the necessity to sell any of the parties' property in the near future. There is no business entity that needs to be sold. The Court has heard no proof of any Social Security benefits available to the parties. Although the Husband is probably entitled to receive Social Security benefits, there's been no testimony as to the value of those benefits.

Having considered all of the foregoing, the Court makes the following division of property. The Court finds, based on the fact that the Husband has owned the Dunham Springs property prior to this marriage, and he received that property from his first divorce, the Court is awarding that property to him. The Court finds the fair market value of the residence to be approximately $710,000.00, pursuant to an appraisal of February 24, 2017, which has been marked as an exhibit. There is indebtedness against that property of approximately $629,341.00 and $54,812.00, leaving equity of approximately $25,847.00. Based on the Husband's contributions to maintaining the property, the lack

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of any such contribution by the Wife and her dissipation of the marital estate by excessive spending, the Court finds it equitable that the Husband will be awarded the property and the equity, free and clear of any claim by the Wife. This is property is more particularly described as follows:

> Land in Davidson County, Tennessee, being Lot No. 10 of the Plan of Dunham Springs Residential PUD of record in Book 6250, Page 936, Register's Office for Davidson County, Tennessee, to which plan reference is hereby made for a more complete legal description.
>
> Being the same property conveyed to Gary L. Odom and wife, Rachel Z. Odom, by Quitclaim Deed from Gary L. Odom filed for record April 14, 2009, as instrument No. 20090414-0033914, Register's Office for Davidson County, Tennessee.
>
> This is improved property, known as 119 Dunham Springs Lane, Nashville, TN 37205.

The parties were gifted property, being Lot 1005, Yucatan Land, Crossville, Tennessee with a tax appraisal value of approximately $4,500.00. This apparently was a gift from the Wife's father to both of the parties. The Court finds it appropriate to award that property to the Wife. She may do with it as she chooses. She shall be responsible for any indebtedness on said property including any tax liability and shall hold the Husband harmless from any indebtedness or liability thereon.

Based on the Wife's proposed division of personal property filed with the Court and what appears to be an agreement of the parties on some items of property, the Court finds the Husband shall be awarded the Land Rover Convertible and 2011 Lincoln Town car now in his possession free from any claim of the Wife. The Court finds the Husband has had possession of both automobiles since the separation of the parties in January 2015 and paid for and has maintained both automobiles during the marriage.

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The Court finds the Town Car to be valued at approximately $12,000.00, and the Land Rover to be valued at approximately $5,000.00. The Wife has a 2012 Mercedes automobile. The Court has no information regarding the value or whether or not there is any indebtedness on this property, but the Court awards it to the Wife, free and clear of any claim of the Husband. The Wife will be responsible for any indebtedness or liability on the Mercedes automobile and will indemnify and hold the Husband harmless thereon.

The Husband shall be awarded the First Tennessee Joint Checking Account, ending in 2895, and the Wife will be divested of any interest. It had a value, as of the end of November 2017, of approximately $10,840.00. The Husband also has a Money Market Account at First Tennessee Bank, ending in 8646, with a value of approximately $1,204.00 as of the end of November 2017. That account shall be awarded to the Husband.

The Husband has a Pinnacle Money Market Account ending in 8158. The Wife's name is not on this account. Upon testimony of the Husband, the Court finds that the funds were accumulated from property the Husband purchased with three business partners prior to the marriage. These funds therefore constitute Husband's separate property. Therefore, the Court shall award the Pinnacle Bank Money Market Account ending in 8158 to the Husband, which apparently is agreed to by the Wife, based on her filings which have been marked as exhibits in this trial.

The Wife will be awarded her personal bank accounts titled in her name, including the Schwab Account, which at one point had approximately $43,571.00 in it.

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The exact amount or value of these accounts at this time is unknown because of the Wife's failure to comply with the Court's discovery orders.

The parties apparently agree, per the Wife's proposed division of property and the Court so finds, that the Husband should be awarded his monthly pension from the State of Tennessee in the amount of approximately $2,300.00, per month. The Court finds that any IRA account the Wife has shall be awarded to the Wife free and clear of any claim of the Husband.

The Court further makes the finding that the Wife was able to obtain her law degree with significant financial help and support from the Husband. The Wife attended law school for a portion of the marriage, graduated, and took the Bar while she was married to the Husband, all with his moral and financial support. The Court finds that the Wife shall be awarded her law practice, the furniture, furnishings and equipment in each of her three offices, and her accounts receivable free and clear of any claim of the Husband. The Wife shall be responsible for any debts associated with the practice and hold the Husband harmless thereon.

Wife is awarded the furniture, furnishings and appliances in any residence that she has maintained (excluding the marital residence), free and clear of any claim by the Husband. Based on the evidence before the Court, it appears that the Husband purchased said furniture and furnishings, but the Court is awarding that to Wife as her share of the marital estate.

The Husband will be awarded the household furniture, furnishings, and appliances located at the marital residence on Dunham Springs Lane free and clear of

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any claim by the Wife, except that Wife shall be awarded her personal books, papers, and documents. She shall further be awarded her wedding portrait. She shall be awarded everything located in her home office, which she has termed the upstairs office, which is not built-in and with the exception of the iMac computer, which the Husband insists he purchased and is requesting, and which is hereby awarded to him. The Wife shall be awarded her British Family Crest framed print. The Court awards the Wife the wedding china that the parties were gifted or purchased at the time of the wedding or completed thereafter. The John Guier photograph shall be awarded to the Husband. The Wife shall be awarded the sailboat art made of nails and wires, if it can be located. The Husband has no objection to her receiving it but does not currently know the whereabouts of this piece of art. But if it is located, the Husband shall restore it to Wife. If it cannot be found, then it cannot be found. The Wife shall be awarded her clothing, shoes, accessories, including purses and scarves, and any jewelry located in the marital residence or now in her possession. The Wife, in her pleadings, indicates that there is no fine jewelry left at the residence but there are some pieces that were made, apparently by local artisans that she has purchased. These shall be awarded to her.

The Court has made a disproportionate division of the marital estate in favor of the Husband. The Court has done so based on the fact that the Husband made the major contribution to the family from his earnings; the Husband provided all financial contributions to the Wife's legal education; the Wife has made only nominal contributions to the family from her earnings; the Wife has in fact dissipated the marital

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estate through her excessive expenditures and, since January 2015, the Wife has not fulfilled her role as a wife or helpmate to the Husband while he continued to provide significant financial support to her. The Court also notes that the parties, although they were still married, only lived together from May 2008 until January 2015. The Court also takes into consideration that the Husband was an established businessman here in this community. Some of the assets that have been awarded to him he actually owned prior to the marriage, or had an interest in prior to the marriage. The Court further considers the fact that at her age and with her education, which has been furthered since the separation of the parties, she has the better likelihood of accumulating future assets. The Court also finds and considers that the Husband cashed in approximately $185,000.00 to $200,000.00 worth of retirement during the marriage to pay for the parties' spending, including the Wife's excessive spending and her education. Based on all the foregoing, the Court finds the division, as announced, is equitable and the Court will make it the Order of the Court.

The Court finds that there are no joint debts at this time. Each of the parties will be responsible for any indebtedness in his or her name and shall indemnify and hold the other harmless thereon.

Notice is hereby given pursuant to Tenn. Code Ann. 36-4-134 that this Final Decree does not necessarily affect the ability of a creditor to proceed against a party or a party's property, even though the party is not responsible under the terms of this Final Decree for an account, any debt associated with an account or any debt. It may be in a party's best interest to cancel, close or freeze any jointly held accounts.

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The Court finds that there have been repeated issues relative to the Wife's complying with discovery during these proceedings. This Court has repeatedly ordered her to provide written discovery as late as its hearing of August 4, 2017.

The Court awards the Husband a portion of his reasonable attorney fees in this cause. Counsel for the Husband has filed an affidavit of attorney's fees marked as Trial Exhibit #16. Based on the experience and expertise of Jacqueline B. Dixon, attorney for Husband, the Court finds her hourly rate of $350 per hour to be most reasonable. The Court finds that this litigation was unduly protracted primarily because the Wife resided out of state and because of discovery issues with the Wife. The Husband filed repeated motions to compel discovery for which the Court reserved fees to the final hearing. The Court finds those fees incurred by Husband related to discovery total $4,500. The Court finds the Husband is entitled to additional reasonable attorney's fees of $32,550 and one half of his discretionary costs of $1,366, for a total award of fees and costs against the Defendant/Wife Rachel Lea Zamata Odom in the amount of $38,416. The Court further awards the Husband a lien against any proceeds currently held in the Wife's name related to any lawsuits where she is entitled to fees that may be held by a court. This is including, but not limited to, the case of *Barnes v. State of Tennessee*, Docket No.14-C-3760, Circuit Court for Davidson County, Tennessee.

Further, based on the Wife's physical assaults on the Husband, and in light of her more recent behavior, testified to by the Husband that in August, 2017, the Wife came to the marital residence unannounced and attempted to gain entry, and the e-mail that was sent by her to the parties' neighbors with derogatory statements and accusations

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against the Husband, the Court finds that it is appropriate to issue a permanent injunction against the Wife. The Court ENJOINS AND RESTRAINS the Wife from coming about the Husband wherever he may be, at work or at home, and from physically or verbally abusing him, threatening him, or assaulting him. The Court further orders that she have no contact with the Husband whatsoever. In order to obtain her personal property, she shall communicate through a third party, preferably through an attorney, who can handle any necessary exchanges. The Court further ENJOINS AND RESTRAINS the Wife from making derogatory comments about the Husband to the Husband's neighbors or his family members, or from posting any negative descriptions or comments about of the Husband on social media, as such behavior may tend to interfere with his ability to earn his living.

Likewise the Husband will be ENJOINED AND RESTRAINED from making any such comments about the Wife or from attempting to communicate with her. The Court notes that it has not heard evidence to indicate that the Husband represents a threat of harm to the Wife, but the Court takes the position that if Wife should not communicate with Husband, the Husband should not communicate with Wife, and he shall not post anything on social media that is derogatory as it may damage her practice of law, nor shall he send any negative e-mails to any of her friends, family, or neighbors. Therefore, there is a Mutual Injunction and Restraining Order against both parties.

In regard to the Husband's Motion to Strike Pursuant to Tenn. R. Civ. P. 12.06 concerning certain statements about Husband contained in pleadings filed by Wife, the Court finds that there has been no proof of any alcohol abuse or substance abuse issue

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of Husband's. There being no credible evidence in the record to suggest that these conditions exist, the Court shall order that all such references to the Husband be stricken from the record and from the pleadings. The evidence before the Court is that Husband is a respected and successful businessman in this community.

In regard to the parties' cellular telephone account, the Court finds that the cellular telephone number used by Husband is a number that is known to friends, family, and business associates, and the loss of the number could be detrimental financially to him. Therefore, the Court will approve the language requested in Husband's pleadings to help maximize the possibility that Husband will receive his cell number so that he can continue to use it, therefore, the Court finds that Husband has been paying for charges on a cellular phone account which is in Wife's name and on which Husband is an authorized user. Wife shall not make any additional charges to this account other than the usual monthly service charges until she has notified the phone company that the bills are to be sent to her and that she is responsible for paying them following Husband's transfer of number (615) 513-1198 to his new, separate account. Within ten business days of entry of the Final Decree, Husband will transfer the number (615) 513-1198, and the service contract for said number, to an account solely in his name and provide Wife proof that this has been accomplished. Wife will do anything necessary to assist in the transfer of Husband's number to his new, separate account and will not cause his service to be interrupted or disconnected. Thereafter, Husband shall have no responsibility or obligation to pay any charges on Wife's cellular phone account as he has done while this matter has been pending. Wife shall pay all

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charges on her cellular account and indemnify and hold Husband harmless thereon. Following entry of this Final Decree, neither party shall charge cellular phone services or equipment to an account on which the other is financially obligated. The Husband shall not prevent or interfere with any effort by the Wife to keep her current cellular telephone number and Husband shall cooperate with same and sign any necessary authorization for the Wife to do so.

Husband has filed the required health insurance notice, and Wife has been properly notified. Therefore, each of the parties shall be responsible for providing his or her own health insurance. Each shall be responsible for any unpaid medical bills of his or her own.

The Court orders the Wife to pay the court costs in this cause.

This shall constitute a final Order in this cause for appellate purposes.

It is accordingly all so ORDERED, ADJUDGED AND DECREED.

This the 21 day of December 2017.

JUDGE PHILLIP ROBINSON

cc: Jacqueline B. Dixon, Esq.
424 Church Street, Suite 2260
Nashville, TN 37219

Rachel Lea Zamata Odom
3200 West End Avenue, Suite 500
Nashville, TN 37203

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 THIRD Circuit Court for Davidson County, Tennessee, on the 21 day of DECEMBER, 2017, in Docket Number 15D195 between ODOM, GARY LEE, Plaintiff, and ODOM, RACHEL LEA ZAMATA, Defendant, as same remains of record in 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 09 day of FEBRUARY in the year two thousand eighteen and in the 241st year of American Independence.

RICHARD R. ROOKER, Clerk,

By: R Thomas
Deputy Clerk

[SEAL]

