

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

_____ COUNTY

_____-CVD-_____

_____,
Plaintiff,)

v.)

_____,
Defendant.)

**COMPLAINT [FOR ALIMONY
GARNISHMENT FROM
SOCIAL SECURITY]**

Plaintiff, complaining of Defendant, says:

1. Plaintiff is a resident of _____ County, North Carolina.
2. Upon information and belief, Defendant is a resident of _____.
3. Plaintiff and Defendant were formerly husband and wife, having divorced on _____.
4. On _____, the parties entered into a valid separation agreement, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.
5. The Separation Agreement has not been incorporated into a judicial decree.
6. Under the terms of Paragraph 10 of the Agreement, Defendant is to pay Plaintiff \$ _____ per month in spousal support and alimony until her death or remarriage.
7. Plaintiff has neither died nor remarried.
8. Defendant has not paid Plaintiff alimony beginning in _____.
9. Defendant is presently in default in the amount of \$ _____ and Plaintiff has been damaged by Defendant's failure to make alimony payments under the terms of the Separation Agreement.

10. A recovery of damages for payments past due is not an adequate remedy for the ongoing damages Plaintiff suffers by Defendant's failure to make monthly payments. Plaintiff is entitled to a decree of specific performance concerning the monthly support and alimony of the separation agreement pursuant to the principle set forth in *Moore v. Moore*, 297 N.C. 14 (1979).
11. Defendant receives regular federal social security payments that are available pursuant to federal law for assignment to satisfy Defendant's alimony obligation.
12. It is appropriate that past-due amount be assigned from Defendant's social security payments to Plaintiff and that Plaintiff be assigned a portion of social security for future payments.
13. The sum owed by Defendant to Plaintiff for spousal support and alimony is "sums of money due by contract" under G.S. § 24-5. Defendant is further indebted to Plaintiff for the amount of interest that has accrued on these sums dating from the time first due.
14. Plaintiff has no adequate remedy at law to protect her entitlement to monthly payments during the pendency of this matter.
15. Plaintiff brings this action to enforce alimony provisions in good faith and is without sufficient means to support herself during the prosecution of this action and to defray the necessary expenses thereof.

WHEREFORE, Plaintiff prays the Court as follows:

1. That she be awarded a judgment against Defendant in the amount of \$_____ and any further amount due under the terms of this agreement at the time this action is heard, plus interest pursuant to G.S. § 24-5.
2. That Defendant be ordered to specifically perform the ongoing support terms of the Separation Agreement and make payments past-due under the Agreement at the time this action is heard.
3. That an appropriate order be entered directing that a portion of Defendant's social security payment be assigned to Plaintiff for payment of past-due alimony and future alimony of \$_____ per month.
4. That she recover reasonable attorney fees related to the collection of alimony.

5. That the costs of this action be taxed to Defendant.
6. For such other and further relief as to the Court may seem just and proper.

This the ____ day of _____, 20__.

By: _____

Attorney for Plaintiff

N.C. State Bar # _____

_____, North Carolina _____

Telephone: (____) ____ - _____

Email: _____