

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
_____ CVD _____

_____,
Plaintiff,
v.
_____,
Defendant.

**COMPLAINT (EQUITABLE
DISTRIBUTION,
POSTSEPARATION, ALIMONY,
CHILD CUSTODY, CHILD
SUPPORT, ATTORNEY FEES)**

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff is a citizen and resident of _____ County, North Carolina.
2. Defendant is a citizen and resident of _____ County, North Carolina.
3. Plaintiff and Defendant were lawfully married to each other on _____, and separated from each other on _____.
4. There are two minor children born of the marriage, namely: _____, born _____, social security number _____; and _____, born _____, social security number _____.

FIRST CLAIM – EQUITABLE DISTRIBUTION

5. Plaintiff re-alleges and incorporates herein by reference the allegations contained in Paragraphs 1 through 4 as if fully set forth herein.
6. During the parties' marriage and before their date of separation, the parties acquired property and debt that is "marital" within the meaning of N.C.G.S. § 50-20. After the parties' separation, they have acquired property and debt that is "divisible" within the meaning of N.C.G.S. § 50-20.
7. The parties are entitled to an equitable distribution of marital and divisible property and debt.
8. Factors exist pursuant to N.C.G.S. § 50-20 to justify an unequal distribution of marital and divisible property and debt in favor of Plaintiff as equitable.

SECOND CLAIM – POSTSEPARATION SUPPORT

9. Defendant re-alleges and incorporates herein by reference the allegations contained in Paragraphs 1 through 4 as if fully set forth herein.
10. Throughout the parties' marriage, Defendant has worked as _____ and has been the primary wage earner for the family. Defendant is gainfully employed and, upon information and belief, earns a gross annual income in excess of \$_____. [Defendant is capable of greater earnings and is currently voluntarily underemployed to minimize his postseparation support liability.]
11. Throughout the parties' marriage, Plaintiff was the primary caretaker for the parties' children. Plaintiff currently earns a gross annual income of approximately \$_____.
12. Plaintiff is not able to meet her reasonable financial needs without financial support from Defendant as set forth below.
13. Plaintiff is a dependent spouse within the meaning of N.C.G.S. § 50-16.1A, and Defendant is a supporting spouse within the meaning of that statute. Plaintiff is unable to maintain the marital standard of living without support from Defendant.
14. Defendant has the ability to pay support and the resources of Plaintiff are not adequate to meet her reasonable needs considering the factors set forth in N.C.G.S. § 50-16.2A(b).
15. Plaintiff is in need of and entitled to the following postseparation support from Defendant to provide for her reasonable future needs, including:
 - (a) A monthly sum payable to Plaintiff by defendant for her personal support and maintenance.
 - (b) A policy providing medical, dental, and health insurance coverage for Plaintiff.
 - (c) Payment of all hospital, medical, dental, counseling and prescription drug expenses not paid for by insurance.
 - (d) Payment of all debts incurred by the parties prior to the determination of this suit.
16. Plaintiff is in need of and entitled to postseparation support retroactive to _____.

THIRD CLAIM – ALIMONY

17. Plaintiff re-alleges and incorporates herein by reference the allegations contained in Paragraphs 1 through 4 and 8 through 16 as if fully set forth herein.
18. During the marriage of Plaintiff and Defendant and prior to the date of their separation, Defendant has offered indignities to Plaintiff to render the condition of Plaintiff intolerable and her life burdensome within the meaning of N.C.G.S. § 50-16.1A in that:

- (a) Defendant had intimate relationships with numerous women during the parties' marriage, to the embarrassment and humiliation of Plaintiff.
 - (b) Defendant intimidated Plaintiff and committed acts of physical violence against Plaintiff.
19. Plaintiff is informed and believes and upon such information and belief alleges that Defendant, during the marriage of the parties and prior to the date of their separation, committed acts of illicit sexual behavior, as defined in N.C.G.S. § 50-16.1A(3)a, with _____.
20. Defendant has abandoned Plaintiff by moving suddenly from the marital home without Plaintiff's consent and without justification or provocation from Plaintiff.
21. Plaintiff has been a faithful and dutiful wife. Defendant's actions as set forth above were willful, intentional and without just cause, provocation, or fault on the part of Plaintiff.
22. Defendant's actions as set forth in Paragraphs 17, 18 and 19 above constitute marital misconduct as defined in N.C.G.S. § 50-16.1(a)(3).
23. Based upon the factors set forth in N.C.G.S. § 50-16.3A(b), an award of alimony to Plaintiff is equitable and Plaintiff is entitled to an award of alimony from Defendant. Defendant has the ability to pay alimony to Plaintiff.
24. Defendant is gainfully employed and, upon information and belief, earns a gross annual income in excess of \$_____. [Defendant is capable of greater earnings and is currently voluntarily underemployed to minimize his alimony liability.]
25. Plaintiff is in need of the following maintenance and support from Defendant as permanent alimony:
- (a) A monthly sum payable to Plaintiff for her support and maintenance.
 - (b) A policy providing medical, dental and hospitalization insurance coverage for Plaintiff.
 - (c) Payment by Defendant of Plaintiff's hospital, medical and dental expenses that are not paid by insurance.
 - (d) Payment of all debts incurred by the parties prior to the determination of this suit.

FOURTH CLAIM – CHILD CUSTODY

26. The allegations of Paragraphs 1 through 4 are incorporated herein by reference.
27. Attached hereto as Exhibit A and incorporated herein by reference are the Affidavits as to Status of Minor Child as required by statute.
28. North Carolina is the home state of the minor children and this Court has jurisdiction over the matter of custody pursuant to N.C.G.S. § 50A-3.

29. Plaintiff has been the primary caretaker for each of the children from birth to present, attending to their physical and emotional needs on a daily basis, and being the parent primarily involved with their training, discipline and upbringing. Plaintiff has a secure and loving relationship with the children and is capable of providing them with a stable and nurturing environment.
30. Plaintiff is a fit and proper person to have the sole custody, care and control of the minor children, and the children's best interests would be served by vesting their custody in Plaintiff.
31. The best interests and welfare of the minor children would be served by vesting the primary physical custody, care and control of the children with Plaintiff, with Defendant having appropriate visitation times with the children.

FIFTH CLAIM – CHILD SUPPORT

32. The allegations of Paragraphs 1 through 4, 10, 11 and 26 through 31 are incorporated herein by reference.
33. The children are in need of financial support from Defendant, and Defendant is capable of contributing to the financial support of the children.
34. Defendant should be ordered to pay a monthly amount of child support to Plaintiff, as determined by the Court, and also to provide health insurance and to pay the children's medical, dental, prescription and orthodontic expenses not covered or reimbursed by insurance. [Said child support award should be based on Defendant's earning capacity.]

SIXTH CLAIM – ATTORNEY FEES

35. The allegations of Paragraphs 1 through 34 are incorporated herein by reference.
36. Plaintiff is an interested party proceeding in good faith on her claims for postseparation support, alimony, child custody and child support. Plaintiff has insufficient means to defray the expense of pursuing these claims and in meeting Defendant as litigant on substantially even terms.
37. Plaintiff is entitled to an order requiring Defendant to pay her reasonable attorney fees incurred in pursuing her second, third, fourth and fifth claims herein.

WHEREFORE, Plaintiff prays the Court as follows:

1. That the Court make an equitable distribution of the parties' marital and divisible property and debt, granting an unequal distribution in Plaintiff's favor of the parties' net marital estate;
2. That the Court order Defendant to pay an appropriate amount of postseparation support to Plaintiff;
3. That the Court make an award of an appropriate amount of alimony payable from Defendant to Plaintiff;
4. That the Court enter an order vesting the temporary and permanent custody, care and control of the minor children to Plaintiff, with appropriate visitation to Defendant;
5. That the Court determine an appropriate amount of child support to be paid by Defendant to Plaintiff;
6. That the Court order defendant to pay Plaintiff's reasonable attorney fees incurred in pursuing her second, third, fourth and fifth claims herein;
7. That the costs of this action be taxed to Defendant; and
8. That the Court grant unto Plaintiff such other and further relief as the Court deems just and proper.

This the ____ day of _____, 20__.

NC State Bar No. _____
_____, NC _____
Telephone: (____) ____ - _____