

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

_____ COUNTY

_____-CVD-_____

_____,
Plaintiff,)

v.)

_____,
Defendant.)

**CONSENT JUDGMENT AND
ORDER FOR EQUITABLE
DISTRIBUTION**

THIS CAUSE, coming on to be heard and being heard before the undersigned Judge of the District Court, _____ County, North Carolina, upon the claims of the parties for equitable distribution; and it appearing unto the Court that Plaintiff is represented by _____, and Defendant is represented by _____; and it appearing to the Court that counsel for the parties tendered this Consent Judgment and Order (hereinafter referred to as "this Judgment") to the Court, bearing their respective signatures and the written consent of both parties; and the parties represented to the Court that, as evidenced by their written consents affixed hereto, they have resolved all remaining claims and issues in this case relating to equitable distribution before the Court, and that they desire the Court to enter this Judgment and Order based upon the following Findings of Fact and Conclusions of Law; and the parties having waived the necessity for the Court to make additional Findings of Fact and/or Conclusions of Law in support of this Judgment and Order; and the Court being otherwise duly advised in the matter, makes the following:

FINDINGS OF FACT

1. This is an action pursuant to N.C.G.S. § 50-20 involving a claim for equitable distribution.
2. By his or her signature hereto, each party represents to the Court that he or she, as the case may be:
 - a. Is a mentally competent adult, and is not under any legal disability;
 - b. Has been represented by legal counsel during the various proceedings in this case, including the negotiation, preparation and entry of this Judgment;
 - c. Has carefully reviewed this Judgment with his or her legal counsel before signing the same, and fully understands its contents and legal effect;

- d. Is not acting under any coercion or duress, but on the contrary is freely and voluntarily consenting to the entry of this Judgment; and
 - e. Is presently able to comply with the requirements of this Judgment.
3. By their signatures hereto, the parties have stipulated and agreed as follows:
 - a. There are grounds for the Court to exercise jurisdiction over the persons of the parties and the subject matter of this action;
 - b. There shall be no need for any oral testimony, written affidavits or other evidence to support the entry of this Judgment;
 - c. The parties have waived the necessity for the Court to make Findings of Fact and Conclusions of Law other than those appearing in this Judgment;
 - d. The parties have consented for the Court to enter this Judgment and have waived all right to withdraw their consent to the entry of this Judgment; and
 - e. The parties have waived all right to appeal from the entry of this Judgment.
4. Plaintiff is a resident of _____ County, North Carolina, and Defendant is a resident and citizen of _____ County, North Carolina. Each has been a resident of the state of North Carolina for more than six months next preceding the commencement of this action.
5. The parties are husband and wife, having married each other on _____, and having separated on _____.
6. During the course of the marriage and prior to the date of separation, Plaintiff and Defendant acquired various items of real and personal property constituting marital property. Plaintiff and Defendant expressly waived the necessity for the Court to make any detailed Findings of Fact to identify, classify, value or distribute their marital property and debts, except as expressly made herein.
7. The parties have agreed to the division and distribution of their marital property, their marital debts and the other property and debts as set forth in the decretal portion of this Judgment. The parties acknowledge that such division and distribution is fair and equitable and shall be in complete satisfaction of all claims of the parties to an equitable distribution of property under N.C.G.S. § 50 and all other claims which may exist concerning property and debts of the parties.

Based upon the foregoing Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the subject matter of this action.

2. This Court has personal jurisdiction over the parties.
3. This matter is properly before this Court.
4. Each party is entitled to an equitable distribution of marital property of the parties.
5. The agreements of the parties concerning the division and distribution of their marital property, marital debts, and other property and debts are fair and reasonable, and the performance thereof should be required by the Court.
6. The division and distribution of marital property as set forth in the decretal portion of this Judgment is equitable.
7. Based upon the consent of the parties, it is not necessary for this Court to make any additional Findings of Fact and/or Conclusions of Law to identify, classify, value or distribute the property of the parties.
8. This Judgment constitutes a complete satisfaction of all claims of the parties to an equitable distribution of property under N.C.G.S. § 50 and all other claims which may exist concerning the property and debts of the parties.

Now, therefore, by and with the consent of the parties, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. In general, and as except as specifically provided to the contrary herein, each party shall retain as his or her sole and separate property all items of property which are titled in his or her individual name or which are in his or her possession or under his or her control. Except as specifically provided to the contrary herein, neither party shall have any further right or claim with respect to items of property in the name of or in the possession of or under the control of the other party.
2. The following items of property and debts shall hence forth constitute Plaintiff's sole and separate property, free and clear of any claims by Defendant:
 - a. Real property consisting of a house and lot located at _____; with regard to this property, Plaintiff shall assume and pay the indebtedness owed and shall indemnify and hold Defendant harmless in connection therewith; additionally, Plaintiff shall take all necessary steps, including the refinance of the mortgage, necessary to have Defendant removed as an obligor on the currently outstanding mortgage within 30 days of the entry of this Order
 - b. All shares of stock presently held by him at _____
 - c. All monies on deposit in any checking, savings or money market account presently held in the name of the Plaintiff
 - d. All of Plaintiff's interest in the _____ 401(k) Plan

- e. The _____ Life Insurance Policy held in the Plaintiff's name
 - f. All debts that were individually incurred by Plaintiff prior to the separation of the parties, which he shall assume and pay and hold Defendant harmless in connection therewith
3. The following items of property and debts shall henceforth constitute Defendant's sole and separate property, free and clear of any claims by Plaintiff:
- a. 1991 Toyota Corolla
 - b. All shares currently held in the _____ Mutual Fund; in connection therewith, Plaintiff shall execute all such documents necessary to have said account transferred to Defendant
 - c. All monies on deposit in any checking, savings or money market account presently held in the name of Defendant
 - d. All of Defendant's interest in the _____ IRA
 - e. All of Defendant's interest in the _____ Profit Sharing Plan
 - f. A distributive award in the amount of \$3,000 to be paid by Plaintiff to Defendant upon the entry of this Order
 - g. The following items of personal property in Plaintiff's possession: [*List*]. Defendant may take possession of these items from Plaintiff upon reasonable notice to him/her
 - i. Defendant's personal clothing, photographs, wedding dress and other items of personal property now in Plaintiff's possession
 - j. All debts that were individually incurred by Defendant prior to the separation of the parties, which she shall assume and pay and hold Plaintiff harmless in connection therewith
4. In connection with the _____ 401(k) plan, Defendant shall be responsible for the preparation of an appropriate Qualified Domestic Relations Order (QDRO) to have transferred to her the interest in the Plan granted to her above. Plaintiff shall fully cooperate with Defendant and provide all such documents so as to facilitate the preparation of the QDRO and the transfer of all funds due Defendant from the 401(k) plan. Plaintiff hereby represents to the Court that all the funds in the _____ assigned herein to Defendant are now available for transfer to his/her pursuant to a QDRO.
5. Each of the parties shall execute all such documents necessary to effectuate the purposes of this Consent Judgment. In that connection, Defendant will execute a Special Warranty Deed conveying his/her interest in the property to Plaintiff.
6. Plaintiff shall be solely responsible for the payment of the balance due on all debts incurred by him/her after the date of separation and shall hold Defendant harmless from any liability thereon.

7. Defendant shall be solely responsible for the payment of the balance due on all debts incurred by her after the date of separation and shall hold Plaintiff harmless from any liability thereon.
8. Each party shall be entitled to retain as his or her sole and separate property free of all claims from the other party, all items of real and personal property acquired by him or her after the date of separation.
9. The parties stipulate and the Court orders:
 - a. That the transfer of property hereunder is related to the divorce of the parties;
 - b. That the transfer of property hereunder is a transfer incident to divorce and is related to the cessation of the marriage;
 - c. That the intent and purpose of this judgment is for the transfer of property hereunder to be tax-free pursuant to Section 1041 of the Internal Revenue Code and the applicable provisions of North Carolina law and for no gain or loss to be recognized by either party as a result of such transfer; and
 - d. That Plaintiff and Defendant will file a formal election if necessary or otherwise take such actions as may be required by applicable provisions of the state of federal income tax law regulations to give full force and effect to this stipulation and order.
10. Plaintiff and Defendant each waive any right now or in the future that either may have to appeal this Judgment.
11. Each party will pay his or her own court costs and attorney fees owed in connection with this matter.
12. This Court retains jurisdiction to enter orders to effectuate or enforce the terms of this judgment.

This the ____ day of _____, 20__.

District Court Judge Presiding

WE CONSENT:

Plaintiff

Attorney for Plaintiff

Defendant
NORTH CAROLINA

Attorney for Defendant

COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 20__.

Notary Public

My Commission Expires: _____

* * * * *

NORTH CAROLINA

COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 20__.

Notary Public

My Commission Expires: _____