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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CHOO WASHBURN - PETITIONER

V.

JUANA QUICO CLARK - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
COURT OF APPEALS FOR THE FOURTH CIRCUIT

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APPENDIX

choo washburn

CHOO WASHBURN

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Vienna, VA 22181

301-532-5369

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SEPTEMBER 17, 2021 JUDGMENT OF THE US COURT OF APPEALS FOR
THE FOURTH CIRCUIT & ITS OPINION

FILED: September 17, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1692
(8:20-cv-02123-TDC)

CHOO WASHBURN

Plaintiff - Appellant

v.

JUANA QUICO CLARK

Defendant - Appellee

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-1692

CHOO WASHBURN,

Plaintiff - Appellant,

v.

JUANA QUICO CLARK,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Theodore D. Chuang, District Judge. (8:20-cv-02123-TDC)

Submitted: September 14, 2021

Decided: September 17, 2021

Before THACKER and RICHARDSON, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Choo Washburn, Appellant Pro Se. Martin Harold Schreiber, II, LAW OFFICE OF MARTIN H. SCHREIBER II, LLC, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Choo Washburn appeals the district court's order dismissing her complaint. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

**APPENDIX B: MAY 21, 2021 ORDER OF THE US DISTRICT COURT (lower court) FOR MARYLAND
& ITS MEMORANDUM OPINION**

Supplemental Order of the U.S. District Court for the District of Maryland, dated May 21, 2021, in Case No. 21-cv-00001, regarding the Motion to Dismiss filed by the Defendant, [Name], and the Motion to Stay filed by the Plaintiff, [Name].

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

CHOO WASHBURN,

Plaintiff,

v.

JUANA QUICO CLARK,

Defendant.

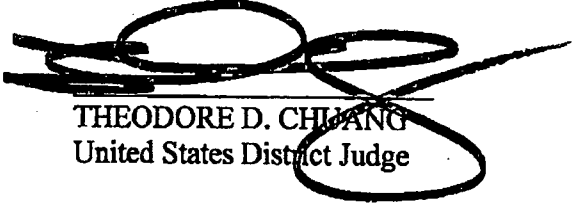
Civil Action No. TDC-20-2123

ORDER

For the reasons stated in the accompanying Memorandum Opinion, it is hereby ORDERED that:

1. Defendant's Motion to Dismiss, ECF No. 20, is GRANTED.
2. Judgment is entered in favor of Defendants.
3. Plaintiff's Motion for Appointment of Counsel, ECF No. 18, is DENIED.
4. Plaintiff's Motion for Judgment as a Matter of Law, ECF No. 27, is DENIED.
5. The Clerk is directed to close this case.

Date: May 21, 2021


THEODORE D. CHIANG
United States District Judge

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

CHOO WASHBURN,

Plaintiff,

v.

JUANA QUICO CLARK,

Defendant.

Civil Action No.: TDC-20-2123

MEMORANDUM OPINION

Plaintiff Choo Washburn ("Ms. Washburn") has filed this civil action against Defendant Juana Quico Clark, seeking the return of Ms. Washburn's share of certain residential property sold to Clark pursuant to a divorce proceeding in a Maryland state court between Ms. Washburn and her ex-husband. Presently pending before the Court is Clark's Motion to Dismiss, as well Ms. Washburn's Motion for Appointment of Counsel and Motion for Judgment as a Matter of Law. Having reviewed the filings, the Court finds no hearing necessary. See D. Md. Local R. 105.6. For the reasons set forth below, Clark's Motion to Dismiss will be GRANTED, and Ms. Washburn's Motions will be DENIED.

BACKGROUND

On January 11, 2016, Ms. Washburn's then-husband, Larry Washburn ("Mr. Washburn"), initiated a complaint for divorce against Ms. Washburn ("the Divorce Proceeding") in the Circuit Court for Montgomery County, Maryland ("the Circuit Court"). See *Washburn v. Washburn*, No. 133326-FL (Cir. Ct. Montgomery Cty. filed Jan. 11, 2016), available at <http://casesearch.courts.state.md.us/casesearch/>. On May 24, 2016, Ms. Washburn filed an

amended counter-complaint for divorce. Both Ms. Washburn and Mr. Washburn were given the opportunity to file statements identifying the marital and non-marital property held prior to any divorce proceedings. On January 30, 2017, the Circuit Court held a trial, at which Ms. Washburn appeared, to resolve the complaints for divorce. On March 23, 2017, the Circuit Court issued a Judgment of Absolute Divorce ("the Divorce Judgment"), formally granting a divorce between Ms. Washburn and Mr. Washburn. In the Divorce Judgment, the Circuit Court made several findings and judgments as to marital property, including directing the sale of the real property located at 11532 Soward Drive, Wheaton, Maryland ("the Property"), as well as another property located in Chevy Chase, Maryland, with the proceeds to be divided equally between Ms. Washburn and Mr. Washburn. To facilitate the sale, the Circuit Court appointed attorney David Driscoll ("the Trustee") as a trustee to sell the Property.

On June 21, 2017, pursuant to the Divorce Judgment, the Trustee filed a Report of Sale and Request for Ratification for Waiver of Publication and Request to Shorten Time to Ratify the Sale ("the Report of Sale") relating to the Property. The Trustee reported that although Mr. Washburn initially wanted to purchase the Property, when he was unable to obtain financing, the sale fell through. The Property had been appraised at a value of \$309,000 and was listed at a sale price of \$300,000. After the Trustee received four offers, he accepted the best offer in the amount of \$315,000. Pursuant to the Divorce Judgment, after the proceeds were used to pay off the mortgage and to cover the costs of sale and other expenses, the remaining proceeds would be divided equally between Mr. Washburn and Ms. Washburn.

On July 3, 2017, Ms. Washburn filed a Motion to Stay the sale of the Property. However, on July 13, 2017, the Circuit Court entered an order approving the request and ratifying the sale ("the Order of Ratification") pursuant to the stated terms of the Report of Sale. By deed dated July

#1
20, 2017, the Trustee conveyed the Property to Clark. A day later, on July 21, 2017, the Trustee filed a Trustee's Accounting which itemized the costs paid and the distribution of the sales proceeds.

#1
On August 3, 2017, the Court ruled that Ms. Washburn's Motion to Stay the sale of the Property was moot. Although Ms. Washburn filed a Motion to Stay the Order of Ratification on September 7, 2017, the Circuit Court denied that motion as moot on November 29, 2018. The Circuit Court approved the Trustee's Accounting on April 2, 2018. The Divorce Proceeding concluded in June 2019 and was subsequently closed.

On July 20, 2020, Ms. Washburn filed the Complaint in this case. Ms. Washburn has asserted a state law detinue action seeking the return of her share of the Property, Md. Rule 12-602 (LexisNexis 2020), in which she alleges that the sale of the Property was illegal and that Clark is not the legal owner of the Property. She also appears to assert a claim of elder abuse in violation of the Older Americans Act of 2006, 42 U.S.C. §§ 3001-3058ff (2018).

DISCUSSION

In her Motion, Clark seeks dismissal of the Complaint on the grounds that (1) the Complaint fails to state a claim upon which relief can be granted; (2) Ms. Washburn's claims are barred by *res judicata* based on the litigation in the Divorce Proceeding; (3) Clark is a bona fide purchaser for value; (4) Ms. Washburn failed to join a necessary party, her court-appointed guardian, and lacks standing to bring this action while she is subject to a court-appointed guardianship; and (5) the Court lacks jurisdiction because the case involves domestic relations.

#1
Because the Court finds that Ms. Washburn's detinue claim is barred by *res judicata* and her elder abuse claim fails to state a plausible claim for relief, the Motion will be granted, and the Court need not address Clark's other arguments for dismissal.

I. Legal Standard

To defeat a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), the complaint must allege enough facts to state a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is plausible when the facts pleaded allow “the Court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Although courts should construe pleadings of self-represented litigants liberally, *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), legal conclusions or conclusory statements do not suffice, *Iqbal*, 556 U.S. at 678. The Court must examine the complaint as a whole, consider the factual allegations in the complaint as true, and construe the factual allegations in the light most favorable to the plaintiff. *Albright v. Oliver*, 510 U.S. 266, 268 (1994); *Lambeth v. Bd. of Comm’rs of Davidson Cty.*, 407 F.3d 266, 268 (4th Cir. 2005).

On a Rule 12(b)(6) motion, documents attached to the complaint or motion may be considered if “they are integral to the complaint and authentic.” *Sec’y of State for Defense v. Trimble Navigation Ltd.*, 484 F.3d 700, 705 (4th Cir. 2007). Thus, the Court may consider the motions, orders, and other documents from the Divorce Proceeding attached to the Complaint or the Motion, the authenticity of which has not been questioned. Courts may also consider facts and documents subject to judicial notice without converting a motion to dismiss into a motion for summary judgment. *Clatterbuck v. City of Charlottesville*, 708 F.3d 549, 557 (4th Cir. 2013). “Under this exception, courts may consider ‘relevant facts obtained from the public record,’ so long as these facts are construed in the light most favorable to the plaintiff along with the well-pleaded allegations of the complaint.” *Id.* (quoting *B.H. Papasan v. Allain*, 578 U.S. 265, 283 (1986)). When considering a Rule 12(b)(6) motion based on *res judicata*, the courts may “take judicial notice of facts from a prior judicial proceeding” when the assertion of preclusion as a

defense “raises no disputed issue of fact.” *Andrews v. Daw*, 201 F.3d 521, 524 n.1 (4th Cir. 2000). Accordingly, in resolving the Motion, the Court will take judicial notice of, and consider the docket and record of, the Divorce Proceeding.

II. *Res Judicata*

Clark argues that Ms. Washburn’s detinue claim relating to the Property is barred by the doctrine of *res judicata*. *Res judicata* mandates that “once a matter—whether a claim, an issue, or a fact—has been determined by a court as the basis for a judgment, a party against whom the claim, issue, or fact was resolved cannot relitigate the matter.” *In Re Microsoft Corp. Antitrust Litig.*, 355 F.3d 322, 325 (4th Cir. 2004). Collateral estoppel, also known as issue preclusion, is a subset of *res judicata*. *Id.* at 326. Under Maryland law, collateral estoppel applies where (1) the issue to be precluded is identical to one previously decided; (2) there was a final judgment on the merits; (3) the party against whom estoppel is to be applied was a party or in privity with a party in the prior adjudication; and (4) the party against whom estoppel is to be applied was given a fair opportunity to be heard on the issue. *Leeds Fed. Sav. & Loan Ass’n v. Metcalf*, 630 A.2d 245, 250 (Md. 1993); see *Laurel Sand & Gravel, Inc. v. Wilson*, 519 F.3d 156, 162 (4th Cir. 2008) (holding that the “preclusive effect of a judgment rendered in state court is determined by the law of the state in which the judgment was rendered”). *Res judicata* may be raised on a Rule 12(b)(6) motion to dismiss if the defense raises no disputed issues of fact. *Andrews*, 201 F.3d at 524 n.1; *Thomas v. Consolidation Coal Co.*, 380 F.2d 69, 75 (4th Cir. 1967).

Here, Ms. Washburn seeks the return of her 50 percent share of the now-sold Property through a claim of detinue, a common law action “for the recovery of personal chattels unjustly detained by one who acquired possession of them either lawfully or unlawfully, or the value of them if they cannot be regained in specie.” *Durst v. Durst*, 169 A.2d 755, 756 (Md. 1961).

Because this cause of action is necessarily predicated on the claim that the Property was not lawfully sold to Clark during the Divorce Proceeding, it is precluded by collateral estoppel. On the first element, this issue was fully litigated during the Divorce Proceeding. The sale of the Property during the Divorce Proceeding occurred in two parts. First, the Circuit Court ordered, after a trial, that the Property, a home owned by Ms. Washburn and Mr. Washburn during their marriage, was to be sold by the Trustee appointed for that purpose. Second, in enforcing this part of the Divorce Judgment, the Circuit Court ratified the sale of the Property to Clark based on specific information provided by the Trustee. Where the Circuit Court was required to decide at the first stage whether the Property was to be sold, and at the second stage whether the Property was sold in a fair and authorized manner, the Court finds that the Divorce Proceeding previously examined, and resolved, the specific issue of the lawfulness of the sale of the Property to Clark and the distribution of proceeds to Ms. Washburn.

As to the second element, there has been a final judgment on the merits. "Actions for the judicial sale of property . . . may be regarded as comprising . . . sequential, but distinct types of proceedings." *Morgan v. Morgan*, 510 A.2d 264, 270 (Md. Ct. Spec. App. 1986). The first stage involves proving to the court that the sale of the property is appropriate, which results in a court order directing the sale. *Id.* In Ms. Washburn's case, that came in the form of the Divorce Judgment. The second stage involves showing that the sale was conducted fairly and in accordance with necessary procedural requirements, resulting in a court order ratifying the sale. *Id.* In the third stage, the court must determine that the proposed distribution of the proceeds is proper. *Id.* Because "each [stage] culminates in a separate order of court," Maryland courts have found that they "may be separately challenged and adjudicated." *Id.* For example, if a party challenges "the right to sell prior to the sale and the court actually determines that right after a proper hearing, that

→ issue cannot be relitigated in a subsequent phase of the action.” *Id.* Indeed, under Maryland law, an order directing the sale of property is immediately appealable and can be considered a final order. *See* Md. Code Ann., Cts. & Jud. Proc. §§ 12-301, 12-303(3)(v) (LexisNexis 2020); *Morgan*, 510 A.2d at 270; *see also Martin v. Dolet*, No. 1218, 2019 WL 449829, at *3 (Md. Ct. Spec. App. Feb. 5, 2019) (holding that the denial of a party’s action to rescind a court order to sell marital property was immediately appealable under the plain language of section 12-303(3)(v)). Thus, a

→ final ratification of the sale of property has preclusive effect. *Cf. Jacobsen v. Barrick*, 250 A.2d 646, 648 (Md. 1969) (holding that under Maryland law, “the final ratification of the sale of property in a foreclosure proceeding is res judicata as to the validity of such sale”); *Scott v. Bierman*, 429 F. App’x 225, 230 (4th Cir. 2011) (finding that under Maryland law, an order of

ratification “provided a final resolution of all matters relating to the foreclosure sale”).

Accordingly, the Circuit Court’s Order of Ratification approving the sale of the Property and the division of the proceeds was a final judgment on the merits for purposes of res judicata and collateral estoppel. Beyond the procedural finality of the sale of the Property, the Court further

notes that the Divorce Proceeding was fully concluded as of June 2019 and the case is now closed.

Accordingly, whether based on the Order of Ratification specifically or the completion of the Divorce Proceeding generally, the requirement of a final judgment on the merits has been met.

As for the third and fourth elements, Ms. Washburn was a party to the Divorce Proceeding, and she had a full and fair opportunity to be heard on the prior adjudication of the sale of the Property. During that case, Ms. Washburn presented statements on the roster of marital property, participated in the trial resulting in the Divorce Judgment ordering the sale of the Property, and filed a motion seeking a stay of the sale of the Property, which was ultimately denied as moot. She also filed a motion to stay the Order of Ratification which was also denied. Because Ms. Washburn

was a party to the Divorce Proceeding and fully litigated the issue of the sale of the Property, all elements necessary for the application of collateral estoppel have been established.

Where the Circuit Court's decision on the validity of the sale of the Property was "adequately deliberated and firm," and the Divorce Proceeding has fully concluded, there is "no really good reason for permitting it to be litigated again." *Morgan*, 510 A.2d at 270 (quoting *In Lummus Co. v. Commonwealth Oil Refining Co.*, 297 F.2d 80, 89 (2d Cir.1961)) (finding that issue preclusion barred the relitigation of a court determination after a divorce that the marital home would be sold by a trustee rather than subject to partition). Here, Ms. Washburn's detinue action necessarily depends on her claim that the sale of the Property, and the calculation and division of proceeds, were improper and illegal. *E.g.*, Compl. ¶¶ 2-20, ECF No. 1. Because that issue was decided against Ms. Washburn in the Divorce Proceeding and she is precluded from relitigating it in the present action, her detinue claim necessarily fails and will be dismissed. *See Johnston v. Johnston*, 465 A.2d 436, 445 (Md. 1983) (holding that when a settlement agreement establishing a division of property was incorporated into a divorce decree, the validity of the agreement was "conclusively established and the doctrine of *res judicata* operates so as to preclude a collateral attack on the agreement").

III. Failure to State a Claim

Even if the detinue claim were not barred by collateral estoppel, it also fails because, under Maryland law, a detinue action is available to seek the return of "personal property," Md. Rule 12-602, which consists of "personal chattels," *Durst*, 169 A.2d at 756 (holding that a detinue action seeks "the recovery of personal chattels unjustly detained"). Where Ms. Washburn is seeking the "return of . . . 11532 Soward Drive, Wheaton, MD 20902," Compl. at 5, which is real property,

not personal chattel, the Court finds that the detinue claim must also be dismissed because it fails to state a plausible claim for relief.

→ Ms. Washburn's references to the Older Americans Act of 2006 and other federal state statutes and legislative bills also do not state a plausible claim for relief. The Older Americans Act ("OAA"), first enacted in 1965, established a program of federal grants for state and community social services designed to assist needy older persons. Legal Servs. of N. California, Inc. v. Arnett, 114 F.3d 135, 137 (9th Cir. 1997); 42 U.S.C. § 3001 (stating that the objectives of the OAA include assisting the nation's older people "to secure equal opportunity to the full and free enjoyment" of objectives such as adequate income in retirement, positive physical and mental health, suitable housing, institutional care services, and efficient and cost-effective community services). Although Ms. Washburn references the definition of "exploitation" of older individuals set forth in the 2006 amendments to the OAA, Pub. L. No. 109-365, 120 Stat. 2522, 2524 (2006), that term is used in the statute's directive to the Department of Health and Human Services to engage in elder abuse prevention and services, *id.* at 2527. That language does not provide a private right of action against private individuals for alleged discrimination or exploitation of older individuals. *See Want v. Shindle Properties, LLC*, No. PWG-18-2833, 2018 WL 5392521, at *5 (D. Md. Oct. 29, 2018) (holding that "the Older Americans Act, 42 U.S.C. § 3001 et seq., does not provide for a cause of action for [age] discrimination"). Moreover, Ms. Washburn does not provide facts supporting a plausible claim that Clark's actions in purchasing the Property pursuant to a court-authorized sale, at a price approved by the court, constituted financial exploitation of the elderly or otherwise violated any provision of the OAA.

Likewise, Ms. Washburn's references to 18 U.S.C. § 241, a federal criminal statute; section 8-801 of the Criminal Law Article of the Maryland Code, a state criminal statute; and Maryland

→ House of Delegates Bill 956, H.B. 956, 2018 Leg., 438th Sess. (Md. 2018) ("H.B. 956"), which was never enacted by the state legislature, do not state plausible causes of action against Clark. See *Iqbal*, 556 U.S. at 678. The Court will therefore grant the Motion as to any claims under the Older Americans Act or the other identified legislative authorities.

IV. Other Motions

Ms. Washburn has also filed a "Petition to Appoint an Attorney for the Plaintiff in the Above Civil Action No. TDC-20-cv-2123," ECF No. 18, which the Court construes as a Motion for Appointment of Counsel, and a "Motion for Judgment as a Matter of Law, Pursuant to Fed. R. Civ. P. Rule 50(a)(2) and Maryland Law, Rule Section 8-801(6)(i)(b)(2)(c)(1)(iii)2(f), and Maryland Law Rule Section 7-101 (Definitions), and Pursuant to Md State, Bill Number: H.B. 956" ("Motion for Judgment as a Matter of Law"), ECF No. 27. Given that the Court has found that this case is subject to dismissal because Ms. Washburn's claims in this case are barred by collateral estoppel and she otherwise fails to state an actionable claim, the Court will deny Ms. Washburn's request for appointment of counsel.

For the same reasons, Clark's Motion for Judgment as a Matter of Law necessarily fails. Moreover, as Clark correctly notes in opposing the Motion for Judgment as a Matter of Law, Federal Rule of Civil Procedure 50 authorizes a motion seeking judgment as a matter of law during or in relation to a jury trial and thus is inapplicable at this stage of the case. Fed. R. Civ. P. 50(a). Finally, Ms. Washburn's references to the various identified provisions of state law likewise do not provide any basis for judgment as a matter of law.

CONCLUSION

For the foregoing reasons, Clark's Motion to Dismiss will be GRANTED. Ms. Washburn's Motion for Appointment of Counsel and Motion for Judgment as a Matter of Law will both be DENIED. A separate Order shall issue.

Date: May 21, 2021


THEODORE D. CHUANG
United States District Judge

**APPENDIX C: MARCH 23, 2017 JUDGMENT OF ABSOLUTE DIVORCE, THAT WAS ENTERED IN
THE CIRCUIT COURT FOR THE MONTGOMERY COUNTY, MARYLAND**

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

LARRY WASHBURN

Plaintiff

v.

CHOO WASHBURN

Defendant

Case No. 133326-FL

JUDGMENT OF ABSOLUTE DIVORCE

THIS MATTER came before the Court on Plaintiff's Complaint for Absolute Divorce (Dkt. No. 1) and Defendant's Amended Counter-Complaint for Divorce (Dkt. No. 104) for a merits trial on the issues of divorce, marital property, and alimony. Having taken the matter under advisement, the Court now enters judgment as follows:

DIVORCE

UPON CONSIDERATION of Plaintiff's Complaint for Absolute Divorce (Dkt. No. 1), Defendant's Amended Counter-Complaint (Dkt. No. 104), the answers thereto, the evidence presented, and for reasons as set forth on the record in open court, it is therefore this 20th day of March, 2017, and the same is hereby

ORDERED that Plaintiff's Complaint for Absolute Divorce (Dkt. No. 1) be and hereby is GRANTED; and it is further

ORDERED that Defendant's Amended Counter-Complaint for Divorce (Dkt. No. 104) be and hereby is DENIED; and it is further

ORDERED that Plaintiff shall be granted an absolute divorce from Defendant on the grounds of one-year separation.

ENTERED

MAR 23 2017

Clerk of the Circuit Court
Montgomery County, Md.

MARITAL PROPERTY

UPON CONSIDERATION of the evidence presented and for reasons as set forth on the record in open court, the Court finds that the following items are marital property: Plaintiff's annuity from the Office of Personnel Management (hereafter "OPM Annuity"), which the Court finds is in pay status and currently pays \$8,065.00 per month; Plaintiff's Vanguard 401K, which the Court finds has a value of \$21,174.00; a 2004 Toyota vehicle, which the Court finds has a value of \$1,160.00, is titled under both parties, and is currently in the possession of Plaintiff; a 2010 RAV-4 vehicle, which the Court finds has a value of \$6,308.00, is titled under both parties, and is currently in the possession of Defendant; real property located at 11532 Soward Drive, Wheaton, MD 20902 (hereafter "the Wheaton Property"), which the Court finds has a value of \$338,574.00 and has a lien of \$236,579.00, amounting to net equity of \$101,995.00; real property located at 3521 Cummings Lane, Chevy Chase, MD 20815 (hereafter "the Chevy Chase Property"), which the Court finds has a value of \$856,648.00 and has two liens in the amounts of \$299,690.00 and \$40,000.00, amounting to net equity of \$516,958.00; and computer equipment that is currently in the possession of Plaintiff, which the Court finds has a value of \$3,500.00. The Court finds that no other marital property exists between the parties; it is further

ORDERED that Plaintiff shall be entitled to keep the 2004 Toyota vehicle and that Defendant shall transfer title from her name to Plaintiff's name and execute any documents necessary to effectuate the transfer of title; and it is further

ORDERED that Defendant shall be entitled to keep the 2010 RAV-4 vehicle and that Plaintiff shall transfer title from his name to Defendant's name and execute any documents necessary to effectuate the transfer of title; and it is further

ENTERED

MAR 23 2017

**Clerk of the Circuit Court
Montgomery County, Md.**

ORDERED that Plaintiff shall retain the computer equipment that is currently in his possession; and it is further

ORDERED that Defendant is awarded a 36.28% interest of Plaintiff's gross OPM Annuity, and that Plaintiff shall execute any documents necessary to effectuate the transfer of interest; and it is further

ORDERED that Plaintiff shall designate Defendant as the recipient of the Former Spouse Survivor Annuity; and it is further

ORDERED that Defendant is awarded the maximum Former Spouse Survivor Annuity; and it is further

ORDERED that Defendant is awarded a 50% interest in Plaintiff's Vanguard 401K, and that Plaintiff shall execute any documents necessary to effectuate the transfer of interest; and it is further

ORDERED that the Chevy Chase Property and the Wheaton Property shall be sold, with the proceeds to be divided equally between the parties; and it is further

ORDERED that the Court shall appoint David Driscoll, Esq., whose telephone number is (301) 838-3205, as trustee to sell the Chevy Chase Property and the Wheaton Property; and it is further

ORDERED that the parties shall fully cooperate with David Driscoll, Esq. throughout his efforts to sell the Chevy Chase Property and the Wheaton Property. To the extent that any action taken by either party subsequent to the appointment of the trustee increases sale costs or decreases the value of either property, the Court reserves the right upon motion of either party to order that any such loss be levied against the other party's share of the sale proceeds; and it is further

ENTERED

MAR 23 2017

**Clerk of the Circuit Court
Montgomery County, Md.**

ORDERED that the Court shall appoint Wendy Widmann, Esq., whose telephone number is (410) 649-4752, to prepare a Qualified Domestic Relations Order (hereafter "QDRO") to facilitate the transfer of Defendant's 36.28% interest in Plaintiff's OPM Annuity, as well as Defendant's 50% interest in Plaintiff's Vanguard 401K; and it is further

ORDERED that the parties shall fully cooperate with Wendy Widmann, Esq. in providing any documentation and/or signatures necessary to facilitate the entry of the QDRO; and it is further

ORDERED that the costs of Wendy Widmann, Esq. shall be borne by Plaintiff with funds from his share of the sale proceeds, except that Plaintiff may personally provide the funds before the sale of the properties should he wish to do so.

ALIMONY

UPON CONSIDERATION of the evidence presented and for reasons as set forth on the record in open court, and whereas the Court finds that Defendant is entitled to indefinite alimony, the evidence showing that she lacks the ability to become self-supporting and that, given her age, language difficulties, and limited work experience, there is no reasonable expectation that she will be able to find meaningful employment; it is further

ORDERED that Plaintiff shall pay \$1,500.00 per month directly to Defendant on the first of each month as indefinite alimony; and it is further

ORDERED that Plaintiff's alimony obligation shall not commence until at least one of the properties cited herein has been sold and closings have occurred; and it is further

ORDERED that, in the event that both properties are not sold at the same time, the following provisions shall apply: if the Chevy Chase Property is sold first, upon the closing of the

ENTERED

MAR 23 2017

Clerk of the Circuit Court
Montgomery County, Md.


sale, Plaintiff's alimony obligation shall be \$1,000.00 per month until such time as the Wheaton Property is sold. Upon the closing of the sale of the Wheaton Property, Plaintiff's full alimony obligation of \$1,500.00 shall take effect. If the Wheaton Property is sold first, upon the closing of the sale, Plaintiff's alimony obligation shall be \$500.00 per month until such time as the Chevy Chase Property is sold. Upon the closing of the sale of the Chevy Chase Property, Plaintiff's full alimony obligation of \$1,500.00 shall take effect. If closings on either property occur after the first of the month in which the property is sold, Plaintiff's alimony obligation shall be prorated for that month; and it is further

ORDERED that Plaintiff shall continue to pay the principal, interest, tax, and insurance on each property until such time as each property sold, and that Plaintiff shall not be entitled to a credit for any such payments from the proceeds of the sale of the properties.

UPON CONSIDERATION of the division of marital property as set forth above, the Court determines that neither party shall be entitled to a monetary award; and it is further

ORDERED that this Court shall retain jurisdiction to enter and to amend any Order for the purpose of its acceptance by the applicable plan and to amend any Order to effectuate the terms of this Judgment of Divorce.

It is so ORDERED.


MICHAEL D. MASON, Judge
Circuit Court for Montgomery County, MD

ENTERED

MAR 23 2017

Clerk of the Circuit Court
Montgomery County, Md.

**APPENDIX D: MAY 3, 2017 COURT ORDER ACCEPTABLE FOR PROCESSING, THAT WAS
ENTERED IN THE CIRCUIT COURT FOR THE MONTGOMERY COUNTY, MARYLAND**

LARRY WASHBURN

Plaintiff

v.

CHOO WASHBURN

Defendant

* IN THE
* CIRCUIT COURT
* FOR
* MONTGOMERY COUNTY,
* MARYLAND

* Case No.: 133326 FL

COURT ORDER ACCEPTABLE FOR PROCESSING
(CSRS)

This Court finds, this 3rd day of May, 2017 as follows:

1. The parties hereto were husband and wife, married on October 30, 1981 and this Order is entered incident to a final Judgment of Absolute Divorce dated March 20, 2017 in that action pending in this Court at the above number.

2. This is a Qualifying Court Order under Part 838, Title 5 of the Code of Federal Regulations ("CFR"). The terminology used in this Order is governed by the standard conventions established in said Part.

3. The Employee hereinafter named is retired and receiving benefits from the Civil Service Retirement System (CSRS) on account of employment with the United States government.

4. The parties are identified as follows:

Please Note: Due to privacy policy requirements, social security numbers and dates of birth are included in the letter transmitting this order to the OPM.

The Employee is identified as follows:

Name:

Address:

LARRY R. WASHBURN
2158 Astoria Circle
Apartment 104
Herndon, VA 20170

ENTERED

MAY 03 2017

Clerk of the Circuit Court
Montgomery County, Md.

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The Former Spouse (the "Former Spouse") is identified as follows:

Name: CHOO K. WASHBURN
Address: 3521 Cummings Lane
Chevy Chase, MD 20815

5. The administrator of the CSRS is:

United States Office of Personnel Management
Retirement and Insurance Group
Post Office Box 17
Washington, D.C. 20044

(hereinafter referred to as "OPM").

6. To accommodate the marital property distribution between the parties, IT IS ORDERED, ADJUDICATED AND DECREED AS FOLLOWS:

A. Determination of Marital Property. That the Employee's interest acquired in the CSRS during the marriage is marital property under Maryland Code Family Law Article Section 8-201.

B. Former Spouse's Share of Employee Annuity. The Former Spouse's Share shall be 36.28% of the monthly gross¹ annuity of the Employee, together with cost of living or post-retirement or termination benefit increases at the same time and the same rate as such increases are granted to the Employee.

C. Method and Timing of Payment of Former Spouse's Share. The OPM is hereby directed to make payments of the Former Spouse's Share pursuant to this Order directly to said Former Spouse. Payments of the Former Spouse's Share shall be made if, as and when payments of Employee's monthly annuity are made to Employee.

¹ "Gross annuity" is defined in Title 5 of the U.S. Code of Federal Regulations, Part 838.103 and includes any phased or composite retirement annuity.

ENTERED

MAY 03 2017

Clerk of the Circuit Court
Montgomery County, Md.

D. Death of Employee; Death of Former Spouse.

(1) The Former Spouse's Share of the monthly annuity payable to the Former Spouse shall terminate upon the first to occur of the Former Spouse's death or the Employee's death.

(2) If the Former Spouse predeceases the Employee, the Former Spouse's Share shall revert to the Employee.

(3) The parties' Judgment of Absolute Divorce dated March 20, 2017 and entered March 23, 2017, which is the first Order dividing marital property, awarded the Former Spouse the maximum Former Spouse Survivor Annuity under United States Code, Title 5, Section 8341(h)(1). This Order does not award, reduce, eliminate, modify, replace, clarify, explain, or interpret that first Order dividing marital property.

(4) If, for any reason, the OPM denies the award in the Judgment of Absolute Divorce of the Former Spouse Survivor Annuity, the Retiree's execution of this Order shall constitute his election within 2 years of the date of the Judgment of Absolute Divorce to provide the Former Spouse the Former Spouse Survivor Annuity, and the Retiree shall timely complete and file with the OPM all forms necessary or advisable to provide therefor.

E. Obligations of Employee.

(1) The Employee shall timely make all elections necessary or advisable to carry out the terms of this Order. The Employee shall not diminish the benefits to be provided to the Former Spouse or in any way take any action which would adversely affect the Former Spouse's Share or survivor annuity benefits nor omit to take any action required for the Former Spouse to receive the Former Spouse's Share of the Employee's employee annuity benefits.

(2) If the OPM distributes any part of the Former Spouse's Share or the

ENTERED

MAY 03 2017

**Clerk of the Circuit Court
Montgomery County, Md.**

Former Spouse's survivor annuity benefits directly to the Employee, the Employee's estate or any designated beneficiary of the Employee, the recipient shall pay said part to the Former Spouse immediately upon receipt of said part (adjusted, however, so that the tax consequences to such recipient are the same as if such payments had been made directly to the Former Spouse by the OPM) and such part shall be subject to a constructive trust for the benefit of the Former Spouse, and any such part shall be subject to all the terms of this Order as if it were being paid directly to the Former Spouse by the OPM. The provisions of this Paragraph shall not be binding upon the OPM but shall be binding on the Employee, the Employee's estate or any designated beneficiary.

(3) If the Employee pays any payments directly to the Former Spouse pursuant to the provisions of the parties' Judgment of Absolute Divorce, and if the OPM pays any payments to the Former Spouse under this Order retroactive to a date for which the Employee has already made payment to the Former Spouse, or, if for any reason the OPM distributes any payment of the Employee's remaining share directly to the Former Spouse or the Former Spouse's estate, then the recipient shall pay said payments to the Employee immediately upon receipt (adjusted, however, so that the tax consequences to such recipient are the same as if such payments had been made directly to the Employee by the OPM) and such payments shall be subject to a constructive trust for the benefit of the Employee, and any such payments shall be subject to all the terms of this Order as if it were being paid directly to the Employee by the OPM. The provisions of this Paragraph shall not be binding upon the OPM but shall be binding on the Former Spouse and the Former Spouse's estate.

7. The Former Spouse shall notify the OPM of any change of Former Spouse's address. Notification shall be made to the address stated above or such other address as the OPM may specify

ENTERED

MAY 03 2017

**Clerk of the Circuit Court
Montgomery County, Md.**

by written notice to the Former Spouse.

8. This Order is intended to meet the requirements of Section 414(p)(11) of the Internal Revenue Code of 1986 as amended, such that all payments made to the Former Spouse by OPM shall be includable in the taxable income of and taxable to the Former Spouse to the extent required by law.

9. This Court retains jurisdiction to enter additional Orders and to amend this Order for the purpose of its acceptance by the OPM, to effectuate the terms of the parties' Judgment of Absolute Divorce and to settle any and all disputes between the parties relative to the benefits provided in this Order.

Michael P. Macon
JUDGE

This is a Proper Order to be Entered:

Magistrate

Consented As To Form:

Larry R. Washburn
LARRY WASHBURN

CHOO WASHBURN

ENTERED

MAY 03 2017

Clerk of the Circuit Court
Montgomery County, Md.

**APPENDIX E: NOVEMBER 22, 2017 ORDER FOR APPOINTMENT OF TEMPORARY
GUARDIAN OF PROPERTY IN THE CIRCUIT COURT FOR
THE MONTGOMERY COUNTY, MARYLAND**

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

IN THE MATTER OF CHOO KIM WASHBURN *
FOR THE APPOINTMENT OF A GUARDIAN *
OF THE PROPERTY *

FL No. 149491FL

ORDER FOR APPOINTMENT OF TEMPORARY GUARDIAN OF PROPERTY

Upon consideration of the foregoing Petition for Capacity Evaluation and Appointment of Temporary and Permanent Guardian of the Property of Choo Kim Washburn filed herein, the Court finds that, for the purposes of this Order, the Respondent is unable to manage her property and affairs effectively due to mental disability which interferes with the effective and proper administration of her property and financial affairs; that she has income and property which should be preserved and applied for her sole benefit and protection; and that she is entitled to funds on deposit in the Court Registry but that she has refused to accept such funds; and that a temporary guardian of property is necessary to assist her in securing and maintaining a suitable residence, as she must vacate the premises in which she currently resides. It is, therefore, by the Circuit Court for Montgomery County, Maryland, this 22nd day of Nov, 2017, by the Circuit Court for Montgomery County, Maryland,

ORDERED that Robert McCarthy 4405 East West Hygh
Suite 201, Bethesda, MD phone (301) 654-3730

be and hereby is appointed temporary guardian of the property of Respondent, with all the rights, duties and powers set forth in §13-203 of the Estates and Trusts Article, Maryland Code Annotated, including the specific authority to: preserve and apply Respondent's income and


assets for her sole benefit and protection; to close any accounts in any financial institutions and/or re-title such accounts in his/her name as guardian; and it is further

ORDERED, that the issue of bond be deferred until the final hearing; and it is further

ORDERED, that the temporary guardian is hereby authorized and directed to record this Order for Appointment of Temporary Guardian of Property among the Land Records of Montgomery County, Maryland, in order to preserve and safeguard Respondent's interest in real property if the temporary guardian determines that such action is necessary; and it is further

ORDERED, that the temporary guardian be provided with five certified copies of this Order; and it is further

ORDERED, that this Order shall remain in effect until a ruling on the Petition for Appointment of a Guardian.


The Honorable Michael D. Mason
JUDGE, Circuit Court for
Montgomery County, Maryland

SECRET//NOFORN : THIS DOCUMENT CONTAINS INFORMATION FROM THE NATIONAL DEFENSE AGENCY AND IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

LARRY WASHBURN

Plaintiff

v.

CHOO WASHBURN

Defendant

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Case No. 149491-FL

Case No. 133326-FL

ORDER PROHIBITING FILING OF VEXATIOUS PLEADINGS

This matter came before the Honorable Michael D. Mason on December 19, 2017 for a Show Cause hearing in Case No. 149491-FL (guardianship), and a status hearing 133326-FL (divorce). At the outset of the hearing, Judge Mason informed the parties that, at its conclusion, he would determine whether to recommend to the Administrative Judge that Defendant Choo Washburn be prohibited from filing future pleadings without prior permission of the court.

The undersigned Administrative Judge has reviewed the audio recording of the December 19 hearing. The testimony at the hearing, which came from a social worker from the Montgomery County Department of Health and Human Services, included a recitation of various allegations that Defendant has made against her former husband, Plaintiff Larry Washburn. Among other things, Defendant has suggested that Plaintiff is poisoning her water. As a result, Defendant uses bottled water to bathe and drink. The social worker made the observation that Defendant lacked executive functioning skills, and during the hearing Judge Mason told Defendant, "I don't think you know what you are doing." At the conclusion of the hearing,

ENTERED

FEB 02 2018

Clerk of the Circuit Court
Montgomery County, Md.

ENTERED

FEB 02 2018

Clerk of the Circuit Court
Montgomery County, Md.

Judge Mason recommended to the Administrative Judge that Defendant be required to seek court approval before filing any future pleadings.

Since the inception of 149491-FL, a guardianship case in which she is represented by Nine Helwig, Esq., Defendant has filed eight motions on her own, all of which were denied by Judge Mason on December 19. Since that date, Defendant has filed three additional motions at Docket Entries 40, 41, and 43.

In between the filing of the motions at DE 41 and 43, at DE 42, Judge Mason entered an Order for Evaluation of Defendant because of his concern about her mental state. In addition, the court has received certificates from two physicians who were present in court on December 19, suggesting (among other things) that Defendant is delusional and has a mental disability that interferes with her ability to make responsible decisions concerning her person and property.

A review of the file in 133326-FL (which now consists of 14 volumes amassed in two years' time) reveals numerous frivolous, stream-of-consciousness pleadings filed by Defendant containing multiple scandalous and impertinent allegations, including suggestions that members of the bar committed various crimes in carrying out their duties. Those allegations have previously been found meritless by Judge Mason, yet Defendant persists in disputing these issues. She has filed 11 separate motions in the last three months, essentially raising the same arguments.

This Court has the authority and obligation to protect the public from vexatious litigation and to ensure the efficient administration of justice by issuing a pre-filing order limiting a litigant's future filings, provided due process is afforded prior to the issuance of such an order. *Riffin v. Circuit Court for Baltimore Cty.*, 190 Md. App. 11, 35, 985 A.2d 612, 626 (2010).

FEB 02 2018

Clerk of the Circuit Court
Montgomery County, Md.

Based upon the record developed by Judge Mason, and reviewed by the Administrative Judge, the court is satisfied that the *Riffin* requirements have been satisfied.

Each time an impertinent, immaterial or scandalous pleading is filed, the court must expend its resources, at considerable cost to the community. The court has the authority and obligation to protect the public from meritless and duplicative pleadings, and to ensure the efficient administration of justice.

Having reviewed Defendant's filings in 149491-FL, listened to the audio recording of the December 19 hearing and Judge Mason's comments and findings, and having reviewed the reports of the physicians who observed Defendant in court on that day, it is this 31st day of January, 2018, by the Circuit Court for Montgomery County Maryland,

ORDERED, that Defendant Choo Washburn is enjoined from filing as a self-represented litigant any new pleadings or motions in these cases or any new case involving Defendant or her family without first filing a motion for permission from the Administrative Judge of this Court, and it is further

ORDERED, that such motion for permission shall be captioned "Motion for Permission to File Pursuant to Court Order" and shall have attached to it a copy of this Order, and it is further

ORDERED, that such motion must describe the pleading proposed to be filed and certify under the penalties of perjury that the pleading or motion is not frivolous or duplicative of relief requested in this case, providing reasons therefor, and it is further


ORDERED, that the failure of Plaintiff to strictly comply with the requirements of this Order shall be sufficient grounds for denying permission to file and shall constitute contempt of this court, and it is further

ORDERED, the Clerk of this court and her employees are hereby directed not to accept further pleadings filed by Plaintiff in this case or any other case involving Defendant or her family, with the exception of the Motion for Permission, until the Administrative Judge so orders, and it is further

ORDERED, that this Order shall not apply to any pleadings or papers necessary to perfect an appeal from this or any other Order of this court in the case, and it is further

ORDERED, that the motions filed by Defendant at DE 40, 41, and 43 in 149491-FL are hereby **DENIED**, and it is further

ORDERED, that any pending motions in 133326-FL shall be decided by Judge Mason, either with or without a hearing, at his discretion.


ROBERT A. GREENBERG
 Administrative Judge,
 Circuit Court for Montgomery County, Maryland

ENTERED

FEB 02 2018

Clerk of the Circuit Court
 Montgomery County, Md.

APPENDIX G: APRIL 2, 2018 ORDER OF THE CIRCUIT COURT FOR TRUSTEE'S ACCOUNTING

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

LARRY RICHARD WASHBURN

Plaintiff,

v.

Civil Case No. 133326FL

CHOO KIM WASHBURN

Defendant.

ORDER

The Trustee's Accounting and the ALTA Settlement Statement and Agreement as to the Distribution of Proceeds attached thereto having been filed with the Court on July 21, 2017, copies of said filing having been mailed to the parties on the same date, the Court having reviewed the Trustee's Accounting and having considered any opposition filed thereto and the record herein, it is this 28th day of March, 2018, by the Circuit Court for Montgomery County

ORDERED, that the Trustee's Accounting of the sale of the property located at 11532 Soward Drive, Silver Spring, Maryland 20902 is hereby Approved.


JUDGE, Circuit Court for
Montgomery County, Maryland

Copies to:

David C. Driscoll, Jr., Esquire
25 West Middle Lane
Rockville, Maryland 20850

Larry Richard Washburn
2158 Astoria Circle
Apartment 104
Herndon, Virginia 20170

STEVEN SPERLING BENNETT
OF JONG DRISCOLL PC

ATTORNEYS AT LAW
15 WEST MIDDLE LANE
ROCKVILLE, MARYLAND 20850

TELEPHONE 301-340-0000

ENTERED

APR 02 2018

Clerk of the Circuit Court
Montgomery County, Md.

**Additional material
from this filing is
available in the
Clerk's Office.**