

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. SJ-2021-0313

Appeals Court
No. 2022-J-0411

Middlesex Probate and
Family Court
No. MI14D0781DR

DEBORAH FISHMAN

v.

VICTOR POLITIS

JUDGMENT

This matter came before the Court, Kafker, J., on a pleading entitled, "Petition for Emergency General Superintendence Pursuant to M.G.L. c. 211, § 3", filed by Deborah Fishman, pro se. The petitioner seeks this Court to stay all proceedings in Middlesex Probate and Family Court docket number MI14D0781DR, refer this matter to the full court, vacate a filing restriction order in the Probate and Family Court, and re-open discovery. I have reviewed the petition, attached exhibits, and the opposition filed by the respondent.

Relief under G. L. c. 211, § 3, is available only under exceptional circumstances, and generally is not available where

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there are alternative remedies. See, e.g., McGuinness v. Commonwealth, 420 Mass. 495, 497 (1995). The petitioner has not demonstrated that such extraordinary relief is appropriate here. There is an adequate alternative remedy in the normal appellate process.

Upon consideration thereof, it is hereby **ORDERED** that the petition be, and the same hereby is, **DENIED** without hearing.

By the Court, (Kafker, J.)

/s/ Maura S. Doyle
Maura S. Doyle, Clerk

Entered: August 12, 2022

From: Appeals Court Clerk's Office AppealsCtClerk@appct.state.ma.us
Subject: 2022-J-0411 - Notice of Docket Entry
Date: August 10, 2022 at 6:00 PM
To: dpmail2018@gmail.com



-COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE

August 10, 2022

RE: No. 2022-J-0411
Lower Ct. No.: MI14D0781DR

VICTOR I. POLITIS

vs.

DEBORAH FISHMAN

NOTICE OF DOCKET ENTRY

Please take note that on August 10, 2022, the following entry was made on the docket of the above-referenced case:

ORDER: The wife in ongoing divorce proceedings has filed two motions. One is titled "Motion for Enlargement of Time" and the other "Motion for Stay of Proceedings While Pending Appeal." In the former, the wife claims to have attempted to file notices of appeal with Probate and Family Court register's office that do not appear on the docket. According to the wife, some of her notices of appeal pertain to final judgments or orders while others are notices of appeal from interlocutory orders. The wife assumes that the failure to update the docket with her notices of appeal indicates that her filings were rejected by the register's office and asks this court to either (1) accept the notices of appeal as being misfiled in this court on the dates on which she claims to have filed them in the trial court, and to transmit them pursuant to Mass. R.A.P. 4(a) or (2) treat her motion as a notice of appeal misfiled in this court on the date of filing and to transmit it pursuant to Mass. R.A.P. 4(a). She also seeks an enlargement of time (thirty days) to file petitions, memorandum, and appendix in her "interlocutory appeals" and to enlarge the time to file briefs in the panel appeals. In the latter, the wife asks a single justice of this court for various relief related to her purported pending appeals and an upcoming trial, as well as the docketing of matters in the Probate and Family Court.

The motion is denied in part, and denied without prejudice in part. I am not willing to assume, based on the purportedly inaccurate docket, that the wife's notices of appeal were rejected by the register's office. See *Skandha v. Clerk of Superior Court for Civil Business in Suffolk County*, 472 Mass. 1017, 1019 (2015) (acceptance of notices of appeal is purely ministerial act for which court clerk has no discretion). For many of the orders that the wife seeks to appeal, there was a significant delay between the judge's signing and dating the order and its entry on the docket. This history makes it more likely that delayed entry of the mother's filings on the docket results from the same type of docketing delay, rather than the register's office disregarding the Supreme Judicial Court's instructions. To the extent that the docket does not accurately reflect the current state of mother's filings, her recourse is a motion to a Probate and Family Court judge to correct or update that court's docket.

The wife identifies several orders that she is seeking to appeal. She indicates that some orders are final orders, appealable to a panel, and that the remainder are interlocutory. Without passing on the accuracy of her identifications, I note two relevant points: First, if the wife seeks review of an interlocutory order by a single justice of this court, she must file a petition directly with the Appeals Court clerk's office within 30 days of entry of that interlocutory order on the Probate and Family Court's docket. G. L. c. 231, s. 118 (first para.) Many of the orders that wife characterizes as interlocutory were entered more than thirty days prior to the filing of wife's motion to enlarge the time in this court. The single justice is without the authority to enlarge the time for filing the petition. See *DeLucia v. Kfoury*, 93 Mass. App. Ct. 166, 169 (2018) (deadline, set by statute, cannot be enlarged by appellate court). There are additional interlocutory orders referenced by the wife which have been entered less than 30 days ago. To obtain single justice review of any of those orders, the wife must file her petition, supporting materials, and entry fee, or motion to waive the entry fee, prior to the expiration of the statutory deadline.

Second, as an alternative to seeking single justice review pursuant to G. L. c. 231, s. 118, a litigant may file a notice of appeal from an interlocutory order in the Probate and Family Court pursuant to G. L. c. 215, s. 9. "Under this provision, a party may claim an appeal from interlocutory orders as well as final judgments, but absent a report from the trial judge, G.L. c. 215, s 13, an appeal from an interlocutory order will not be heard by an appellate court until a final judgment has been entered". *Borman v. Borman*, 378 Mass. 775, 779 (1979). "[T]he register of probate should not issue a notice of assembly of the record in an interlocutory appeal, except in the unusual instances where appellate review on an interlocutory basis is authorized by law." *Mancuso v. Mancuso*, 10 Mass. App. Ct. 395, 401 (1980).

The wife has requested an order staying proceedings in the Probate and Family Court pending resolution of her various appeals. But, as the law makes clear, her interlocutory appeals will not be ripe for assembly and entry until after the entry of final judgment, so they cannot serve as the basis for a stay. Considering the wife's motion as one for a stay pending her panel appeals, pursuant to Mass. R.A.P. 6(a), her motion fails to demonstrate either a likelihood of success on the merits or irreparable harm. See *C.E. v. J.E.*, 472 Mass. 1016, 1017 (2015).

The wife's motion to deem her notices of appeal filed in the Probate and Family Court is denied without prejudice to renewal in the Probate and Family Court. The remaining requests for relief, including the request for an order staying the proceedings in the Probate and Family Court are denied. (Hershfang, J.). *Notice/Attest/Monks, J.

REGISTRATION FOR ELECTRONIC FILING. Every attorney with an appeal pending in the Appeals Court must have an account with eFileMA.com. Registration with eFileMA.com constitutes consent to receive electronic notification from the Appeals Court and e-service of documents. Self-represented litigants are encouraged, but not required, to register for electronic filing.

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ELECTRONIC FILING. Attorneys must e-file all non-impounded documents. Impounded documents and submissions by self-represented litigants may be e-filed. No paper original or copy of any e-filed document is required. Additional information is located on our Electronic Filing page: <http://www.mass.gov/courts/court-info/appealscourt/efiling-appeals-faq-gen.html>

FILING OF CONFIDENTIAL OR IMPOUNDED INFORMATION. Any document containing confidential or impounded material must be filed in compliance with Mass. R. App. P. 16(d), 16(m), 18(a)(1)(A)(iv), 18(d), and 21.
Very truly yours,

The Clerk's Office

Dated: August 10, 2022

To: Victorl.PolitisDeborahFishmanMiddlesexProbateandFamilyCt.

If you have any questions, or wish to communicate with the Clerk's Office about this case, please contact the Clerk's Office at 617-725-8106. Thank you.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX DIVISION

DOCKET NO. MI14D 0781 DR

DEBORAH DIANE FISHMAN,
Plaintiff

v.

VICTOR ISAAC POLITIS,
Defendant

Middlesex SS 6/6/22
The Above Motion is hereby
Allowed - Denied
CDAS
Justice of Probate

EMERGENCY RULE 60(B)(6) MOTION FOR RELIEF

The Plaintiff, Deborah Fishman (herein "Mother"), moves this Honorable Court for relief pursuant to Mass.R.Dom.Rel.P. Rule 60(b)(6) (1975) due to the unconscionable divorce judgment dated 03/17/17. It contains a myriad of abuses of discretion, oppressive terms, and was not conscionable at the time of entry. It is a miscarriage of justice which has caused irreparable harm to the young child, and to Mother, given the magnitude and severity of consequences.

The divorce judgment and abuses of discretion are severe, oppressive, shocking and irreparable other than by vacating the divorce judgment, ordering restorative justice, a new trial, and expeditious and priority case handling due to irreparable harm, among other relief.

The unconscionable divorce judgment traumatized Mother, who was already permanently disabled due to PTSD, and the oppressive and unconscionable terms continue to trigger Mother's disability. Due to litigating Pro Se without disability accommodations, with triggering underlying subject matter, Mother is unable to provide a traditional Emergency Rule 60(B)(6) Motion. As such, Mother requests an Emergency Oral Hearing, prior to any adjudication, as Mother does not have equal access to justice in the written form due to disability.

FILED

MAY 24 2022

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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

PROBATE AND FAMILY COURT
DOCKET NO. MI14D0781-DR

VICTOR POLITIS, Plaintiff

vs.

DEBORAH D. POLITIS, Defendant

MEMORANDUM IN SUPPORT OF JUDGMENT OF DIVORCE
(On *Complaint for Divorce* filed February 24, 2014)

This matter came before the Court (Gorman, J.) for trial on February 13, 2017. Pursuant to the trial order entered on September 26, 2016, the contested issues were identified as custody, parenting schedule, support, division of assets and legal fees. The list of witnesses were limited to the six (6) witnesses identified by the Court.

Plaintiff, Victor Politis, hereinafter referred to as Father, Husband or Mr. Politis was present and represented by Attorneys Victor Theiss and Nicole M. Jorge. Defendant, Deborah D. Politis hereinafter referred to as Mother, Wife or Ms. Politis failed to appear. Attorney Heather O'Connor counsel of record for Ms. Politis and Attorney Karen Shea, acting as Ms. Politis' Guardian ad Litem, next friend did appear. Ms. Politis' brother was also present in the courtroom. This was not the first time that Ms. Politis has failed to appear for a court hearing.

Mr. Politis' arrival at court was delayed.¹ Ms. Politis chose not to appear for trial, however Attorney Karen Shea, who was appointed as Guardian ad Litem, next friend for Ms. Politis, pursuant to G.L. ch.208 §15 was present as well as Attorney Heather O'Connor, her attorney of record. The Court informed counsel that upon Mr. Politis' arrival, the case was going to move forward to trial, regardless of whether or not Ms.

¹ Due to the inclement weather of February 13, 2017 and the fact that schools and daycare centers were closed, Mr. Politis was unable to arrange child care for Daniel until 2:00 and was unable to appear in court until 2:45 p.m.

24/3/17

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Politis appeared. Both sides were able to agree to the introduction of twenty (20) uncontested exhibits.²

Prior to either Party's arrival, the Court, counsel for each Party and Attorney Shea engaged in conversation to discuss the contested issues and possible resolutions given the facts as represented by each counsel and based on the Court's lengthy review of the file. Following the conversation, counsel and Attorney Shea met and spoke of the issues presented. Mr. Politis testified, with Attorney O'Connor having the opportunity to cross examine him. Attorney Shea testified on behalf of Ms. Politis, with Attorney Theiss having the opportunity to cross examine her. A proposed Judgment was drafted with input for both sides and presented to the Court as Mr. Politis' proposed Judgment. A stipulation was entered into and submitted regarding the retention of and utilization of a Parent Coordinator to assist the Parties with parenting plan issues.

After careful consideration of all evidence presented at trial on this matter, including all inferences reasonably drawn therefrom, along with arguments, representations, and submissions, this Court hereby enters the following Relevant Procedural History, Findings of Fact³ and Rationale.

Factual and Procedural History and Findings:

The Parties were married on June 7, 2009. This is the second marriage for Mr. Politis and the first for Ms. Politis. Mr. Politis filed the underlying Complaint for Divorce on February 27, 2014. Ms. Politis was served with the complaint on May 1, 2014. This is a marriage of four years, 11 months, i.e. fifty- nine (59) months in duration.

One child was born of this marriage. [REDACTED] [REDACTED] currently resides primarily with Mr. Politis subject to parenting time with Ms. Politis. Mr. Politis has another child, Mia, age 11, from his first marriage. Mia resides in Panama with her mother. Mr. Politis is in touch with Mia by FaceTime almost daily and in person approximately every six weeks.

Mr. Politis is forty (40) years old. Ms. Politis is forty-three (43) years old. Mr. Politis reports no medical issues. Mr. Politis reported to the GAL that Mother had been

² Although the exhibits begin with Exhibit 1 and end with Exhibit 21, Ms. Politis did not file a signed financial statement on February 13, 2017, the first day of trial so there is no Exhibit 13.

³ Many of the facts in this case were obtained from the agreed upon exhibits, including the Parties financial statements and factual background provided to the Guardian ad Litem as well as testimony by Mr. Politis and representations of counsel. The GAL report submitted as agreed upon exhibit 15. The GAL report was filed on January 20, 2015 and no update was sought by either Party.

diagnosed with depression, PTSD and Border Line Personality Disorder. Ms. Politis reported to the GAL that she has been diagnosed with Depression, PTSD and anxiety. Ms. Politis reports that the PTSD is a result of "lifelong trauma from family." Ms. Politis described herself as an "adult survivor of child abuse" who "let herself get depleted" and was "too weak to stay and too weak to leave" Mr. Politis.

The Parties met on a white water rafting excursion in summer 2007. The Parties began dating after meeting again at a Halloween party in October 2007. The Parties were engaged approximately ten months after they began dating. Mr. Politis reported to the GAL that he was impressed by the way he and Ms. Politis were able to talk through and resolve a disagreement that they had and he decided to propose marriage to her. Unfortunately Mr. Politis also reported that in the past two years they have been unable to work together to resolve issues.

Mr. Politis reports that there were many red flags during their dating period but he did nothing about them. He knew that Ms. Politis was treating with Dr. Lindley on a regular basis for depression and PTSD. Mr. Politis was unaware that Ms. Politis was on medication at that time.

Ms. Politis has been treating with Dr. Charles Lindley throughout the Parties' relationship. In addition, Ms. Politis was treating with Dr. Edmund Neuhaus, when she needed more specialized treatment. Ms. Politis had attended a two week program at McLean Hospital that was run by Dr. Neuhaus. Mr. Politis recalled that the Parties fought most when she was not seeing Dr. Neuhaus. Ms. Politis' treatment with Dr. Neuhaus ended at the end of 2013 when Dr. Neuhaus closed his private practice.

When Ms. Politis left her employment, her brother came to town and Mr. Politis did not see Ms. Politis for an entire week. Following her brother's departure, Mr. Politis met with Dr. Lindley and Ms. Politis and began attending her therapy sessions with her. Ms. Politis reported to Mr. Politis that her family was emotionally abusive. Mr. Politis began facilitating conference calls with Ms. Politis and her family to work together to help resolve their issues.

The Parties marriage was good until approximately 2010/2011 when they purchased the marital home. Ms. Politis was home, not working and Mr. Politis had increased job responsibilities which required him to travel quite a bit. The Parties engaged the services of a cleaning service to help Ms. Politis care for the home.

To Ms. Politis her marriage was a not a partnership. Ms. Politis felt neglected when Mr. Politis was traveling for work. She felt that Mr. Politis was not participating in their lives and their relationship was not teamwork. Ms. Politis left the marriage on two

separate occasions prior to Daniel's birth. The first time she left she stayed at a hotel for a few days. The second time she went to stay with her family for a few days.

The Parties began trying to conceive as soon as they were married. They experienced difficulty conceiving. Ms. Politis did research as to the best way to seek help. Mr. Politis complimented Ms. Politis' ability and skill at researching and finding resolutions for issues they were presented with. The Parties worked with a fertility specialist. As a result of their efforts, Ms. Politis conceived twice but unfortunately miscarried each time. A few months after taking a break from IVF, Ms. Politis became pregnant. Mr. Politis describes the period of time from conception to three months after [REDACTED] birth as "bliss" and the Parties were "on cloud nine." The relationship between Ms. Politis and her family was good during this time. Ms. Politis reported that after [REDACTED] birth, she and Mr. Politis were both "elated" and did things together as a family.

Ms. Politis recognized that she needed help and support. She realized that it was too much for her to have a baby and a dog. The Parties agreed to retain the services of a Nanny/Mother's Helper to assist Ms. Politis. At first the Nanny/Mother's Helper's role was to assist around the house, cleaning, doing laundry and walking the dog. The Parties originally agreed to have the Helper onboard for the first 3-4 months of [REDACTED] life.

Although Mr. Politis had financial concerns, he agreed to continue the services of the Helper after the previously agreed upon end time. As time went on the Helper's role increased. The Helper started assisting with [REDACTED]. The Helper was cleaning, doing laundry, taking care of [REDACTED], cooking and walking the dog. Although Ms. Politis was allegedly starting a business, Mr. Politis questioned what her daily role was in the household.

Ms. Politis reported that the Helper provided "motherly love" for [REDACTED]. She played with [REDACTED], took him for walks, fed him and sometimes bathed him. In September 2013, Ms. Politis increased the Mother's Helper's time to four days per week. In February 2014, the time increased to five days per week. In December 2014, Ms. Politis reduced the Mother's Helper's hours, which provided Ms. Politis with more quality time with Daniel.

Mr. Politis reported many ups and downs between himself and Ms. Politis and Ms. Politis and her family beginning when Daniel turned 3-4 months. In December 2013 he noticed that "something was happening" with Mother. Mr. Politis sought a meeting with Dr. Lindley. Unfortunately Mr. Politis left the meeting with Dr. Lindley feeling the

Dr. Lindley was telling Ms. Politis not to have a relationship with her family. Mr. Politis did not believe this was in the best interest of Ms. Politis or Daniel.

At the same time as Mr. Politis had concerns, Ms. Politis' family did as well. Ms. Politis' family also sought a meeting with Dr. Lindley as they felt she was "headed down a dark path."

Ms. Politis felt that Mr. Politis would not accept her decision on how she managed her family. Ms. Politis also felt that on many occasions her family was not supportive.

The Parties separated in February 2014 when Ms. Politis obtained an Abuse Prevention Order out the Framingham District Court. Although the order was not renewed when it expired on February 12, 2014, the Parties agreed to live separately. Mr. Politis rented a studio apartment. The plan that the Parties worked out with their attorneys was for the Parties to enter into a nesting arrangement. Unfortunately, Ms. Politis did not like the apartment that Mr. Politis rented and therefore would not let Mr. Politis see Daniel for two weeks.

On May 1, 2014, the Parties entered into a Stipulation for Temporary Orders. Pursuant to the terms of the Stipulation that was incorporated into an Order of the same date, the Parties were to have joint legal custody of Daniel and Daniel was to have parenting time with Daniel on Tuesdays, Thursdays and Saturdays overnight. On May 7, 2014, Ms. Politis sought and obtained a second Abuse Prevention Order.

On September 21, 2015, the Court (Abber, J.) sua sponte appointed Attorney Karen Sweeney Shea to act as Guardian ad Litem, next friend for Ms. Politis. Attorney Shea was appointed pursuant to M.G.L. c. 208 § 15. The trial that had been scheduled for October 14, 19 and 20, 2015 was cancelled.

On June 28, 2016 an incident occurred involving Ms. Politis and the police. The incident was reported to DCF and DCF became involved with the family.⁴ On June 30, 2016, a Stipulation for Temporary Orders was filed with the Court and incorporated into an Order of the same date. Pursuant to the Stipulation, Father was to have physical custody of Daniel and Mother was to have supervised parenting time with Daniel. As set out in the Stipulation, Ms. Politis' parenting time was to be Monday, Wednesday and Friday from 2 p.m. to 7 p.m.; the supervisor was to always be present with Mother and

⁴ Exhibit 21 is a letter from DCF dated August 9, 2016 indicating that the allegations of neglect of Daniel by Ms. Politis were unsupported.

[REDACTED] during any of her parenting time; and Mother was not allowed to drive with [REDACTED] in the vehicle. Although Mr. Politis became the primary custodial parent to [REDACTED], Ms. Politis continued to receive the Social Security Dependent Benefits paid on her claim for the benefit of [REDACTED]. In addition, Ms. Politis also receives \$315 per week in child support from Mr. Politis.

Ms. Politis reported to the GAL that the litigation occupied a lot of her time and she was "depleted and suffering." Ms. Politis felt that not having family support made the litigation process very difficult. Ms. Politis felt that she spent a lot of time "trying to explain what happened." She found what she described as the "custody threats" to be really hard for her and she was "panicking." Attorney Shea, Guardian ad Litem/Next Friend provided support for Ms. Politis' statement by reporting to the Court that this litigation had been difficult for Ms. Politis. Ms. Politis would have great difficulty around the time that hearings were scheduled. Attorney Shea reported that the incident involving the police in June 2016 and a more recent incident were brought about by stress due to the proximity of scheduled court hearings.

Employment - Sources of Income- Support:

Mr. Politis is currently employed as a Biomedical Engineer for Becton Dickinson. Mr. Politis has been employed by Becton Dickinson, a medical device company for over fifteen (15) years. Mr. Politis works out of the Billerica office. Mr. Politis' work schedule revolves around his parenting time with Daniel. His employer has been flexible allowing him to work at home two days per week, *i.e.* Tuesdays and Thursdays. [REDACTED] is in preschool at Longfellow Children's Center in Wayland on Mondays, Wednesdays and Fridays.

Mr. Politis has historically been the primary wage earner for the family. On his financial statement, signed and filed on February 13, 2017, Mr. Politis reported weekly salary of \$2,105.77, \$109,500 annually and discretionary bonus income of \$212.83 per week. As indicated in Mr. Politis' footnote #1, he is eligible to receive a bonus each year, the bonus is entirely discretionary and is paid for the prior year, *i.e.* on January 9, 2016, he received a \$10,852.00 bonus for his 2015 performance. Mr. Politis reported annual income from 2015 as \$115,413.66 and income from 2014 as \$114,495.00.

On his February 13, 2017 financial statement, Mr. Politis reported net weekly income, taking into consideration a weekly deduction for a savings incentive plan contribution of \$126.35 of \$1,458.18. Mr. Politis reported weekly expenses of \$1,888.20.

Mr. Politis' expenses include a \$315 weekly payment to Ms. Politis for child support and an average weekly child day care expense of \$390.

Ms. Politis last worked outside of the home in January 2008. Ms. Politis was employed as a pharmaceutical representative. Following her departure from the work force, Ms. Politis began receiving disability benefits. Although Ms. Politis did not provide a signed financial statement for the first day of trial, she last filed a signed financial statement on August 24, 2016.

On her August 24, 2016, signed financial statement, Ms. Politis reported weekly income of \$1,150.32. As set out in footnote one of the statement, this total income consists of disability income from three different sources. Ms. Politis was at that time receiving \$431.04 per week in work related disability income from Hartford Insurance, \$479.52 per week for her disability benefits through Social Security and \$239.77 per week representing Daniel's dependent benefit under her Social Security Claim. At the time of trial, Ms. Politis was not receiving the \$479.52 from Hartford, however it was believed that that amount would be reinstated once additional paperwork was submitted.

On her August 24, 2016 financial statement, Ms. Politis reported weekly expenses of \$2,165. The reported weekly expenses included the current mortgage payment, which Ms. Politis has not been making, child care expenses, which Ms. Politis was not incurring at the time of trial and payment toward outstanding medical expenses, which Mr. Politis believes may be covered if submitted to insurance.

Tangible and Intangible Property and Liabilities:

The marital estate consists of the former marital home, in which Ms. Politis resides, savings and checking accounts, retirement/pension accounts both premarital accumulations and accumulations during the marriage and tangible personal property.

Mother expressed an interest in trying to retain the former marital home. Therefore as set out in the accompanying Judgment, Mother will be provided with an opportunity to do so. In the event Mother cannot secure financing, the house will be placed on the market for sale with the Parties dividing the net proceeds equally.

Mother will be responsible for payment of all costs associated with the former marital home. In the event that the home is sold, prior to Mother receiving her share of the proceeds, Father shall be paid from her share 50% of any unpaid expenses, which caused the total net proceeds to be reduced, *i.e.* non-payment of the mortgage, any late

fees incurred or any fees, including but not limited to legal fees charged by the mortgage holder due to the non-payment of the monthly mortgage.

Mother brought retirement assets into the marriage. Early in the marriage, Mother was found to be disabled and qualified for and began receiving disability benefits. Based in part on the fact that Mother would likely not be contributing additional funds to her retirement funds, Father prioritized contributing to his retirement assets during the marriage. Father continued to contribute to his retirement funds during the Parties' separation. Taking into consideration the source of all retirement funds as well as the prioritization of contribution during the marriage, the Court finds that it is equitable to divide the equally. Based on the balances of the accounts as of the date of trial, in order to equalize the balances and allow each Party to retain ownership of their respective accounts, Father shall transfer to Mother the sum of \$25,414.59 from his Cash Balance Pension Plan. The transfer shall be accomplished by QDRO, with the Parties sharing the cost of having said QDRO drafted.

Father wishes to obtain certain personality from the former marital home, including his tools, religious items, inherited items and sentimental items including pictures given to him by his daughter. The Court finds that it is only fair and equitable that Father be allowed to obtain those items.

In addition to the personality items set out above, the Parties shall each be allowed to retain ownership of any of their pre-marital possessions that they brought into the home as well as 50% of the furnishings in the former martial home that were purchased during the marriage.

The Judgment of Divorce shall include a provision for the appointment of a Master to assist the Parties in the event that they are unable to resolve the division of real and tangible property. Any fee for the Master shall be shared equally by the Parties unless and until the Master seeks a reapportionment of payment due to either Party's unwillingness/unreasonableness in cooperating in the process.

Date: April 7, 2017
Nunc pro tunc to
March 17, 2017



Patricia A. Gorman, Associate Justice
Middlesex Probate and Family Court