

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

MYRIAM RIVERA SEPULVEDA)
)
 Plaintiff,)
)
 v.) CIVIL ACTION
) FILE NO.: 23CVE0307
)
 MICHAEL GIRARD McADAMS)
)
 Defendant.)

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between, MYRIAM RIVERA SEPULVEDA (hereinafter referred to as the “Wife”), and MICHAEL GIRARD McADAMS (hereinafter referred to as the “Husband”),

WITNESSETH:

WHEREAS, the parties hereto are Husband and Wife, now living in a bona fide state of separation; and

WHEREAS, the parties desire to settle between themselves all issues arising out of the Complaint for Divorce filed in the Cherokee County Superior Court; and

WHEREAS, in view of their intention to live separate and apart from each other, the parties hereto are desirous of settling all questions between them, including financial and property rights existing between them, including, but not limited to, division of personal property, and all other claims each may have against the other, and have agreed upon terms and conditions for settlement of such matters and for the other matters hereinafter recited in this Agreement; and

MRS

Wife

MG

Husband

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WHEREAS, the parties hereto have been fully, separately and independently apprised and advised of their respective legal rights, remedies, privileges, and obligations arising out of the marriage relation and otherwise, and each having in addition thereto, made independent inquiry and investigation with respect to all of the same, and each having been fully informed of the other's assets, property, holdings, income and prospects; and

WHEREAS, the parties hereto each warrant and represent to the other that they, and each of them, fully understand all the terms, covenants, conditions, provisions and obligations incumbent upon each of them by virtue of this Agreement to be performed or contemplated by each of them hereunder, and each believes the same to be fair, reasonable and to his and her respective individual best interest; and

WHEREAS, the parties desire that this Settlement Agreement be made the Order of this Court and incorporated into the Final Judgment in the pending Complaint for Divorce between the parties pending in the Superior Court of Cherokee County, Georgia; and

WHEREAS, each party is acting freely and voluntarily, under no compulsion or duress, and in consideration of the present income, earning capacity, and financial circumstances of each of the parties; and

NOW THEREFORE, in consideration of the mutual promises and benefits to be obtained by each of the parties hereto and other good and valuable consideration, receipt whereof is hereby acknowledged, as set out below:

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

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1.

SEPARATE LIVING

The parties may and shall at all times hereafter live and continue to live separate and apart. Subject to the provisions set forth in this Agreement, each shall be free from interference, harassment, authority and control, direct or indirect, by the other.

2.

SEPARATE PROPERTY

It is particularly agreed, and it is the intention of this Agreement, that each of the parties hereto shall manage, handle, control and deal with his or her own property, both real and personal, and the fruits of his or her own labors to the extent and in the same manner as though the parties hereto had never been married, except as otherwise provided herein.

3.

**EQUITABLE DIVISION – PERSONAL PROPERTY AND BANKING
ACCOUNTS**

The Parties acknowledge that there are no jointly titled banking accounts. The Wife shall have as her sole and separate property, and the Husband transfers, conveys and assigns to Wife, as her sole and separate property, any banking account in her sole name as well as any interest he may have in the Wife's personal property and belongings in her possession or control.

The Husband shall have as his sole and separate property, and the Wife does hereby convey, transfer, and assign to the Husband as his sole and separate property, any banking account in his sole name as well as any interest in Husband's personal property and belongings in his possession or control.

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The Husband shall retain the following items of personal property from the marital home: 1). his tools and yard equipment, 2). hunting equipment, 3). blower, 4). the safe, 5). the ping-pong table, 6). the pool table, and 7). the treadmill. Husband shall remove same from the Marital Residence within thirty (30) days of receiving the funds specified in Paragraph 5(D) below (to the extent Wife refinances the mortgage associated with the Marital Residence) or before the date of closing on the sale of the Marital Residence (if the parties sell the Marital Residence), whichever applicable. All other items remaining in the marital home shall be the property of the Wife. In the event, however, that the parties' daughters decide to live with the Father, they shall be allowed to take their bedroom furniture with them from the marital home.

4.

EQUITABLE DIVISION - RETIREMENT ACCOUNTS

The parties acknowledge and agree that Wife presently has an interest in a Delta 401(K) Plan. As equitable division of marital property, Husband shall receive the sum of \$230,000.00 from Wife's Plan, via a *Qualified Domestic Relations Order*. Said sum shall be subject to gains or losses between June 5, 2024 and the date of distribution or transfer to Husband. Within sixty (60) days from the date of entry of the *Final Judgment and Decree* in this action, Husband shall employ Matt Lundy, Esq. to prepare the *Qualified Domestic Relations Order*, incorporating the terms herein, and the parties shall be equally responsible for and shall pay Mr. Lundy's fees. Said *Qualified Domestic Relations Order* shall be subject to approval of Husband's attorney, Wife's attorney, the Court of proper jurisdiction in this case, as well as the Administrator of the aforementioned plan. Any and all funds contained in Wife's Delta 401(K) Plan, after the aforesaid



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transfer to Husband, shall belong to Wife, free and clear of any claim or interest of Husband.

Except as otherwise provided herein above, the Wife shall have as her sole and separate property, and the Husband transfers, conveys and assigns to Wife, as her sole and separate property, any other retirement and/or investment accounts in her sole name.

The Husband shall have as his sole and separate property, and the Wife does hereby convey, transfer, and assign to the Husband as his sole and separate property, any retirement and/or investment accounts in his sole name, including but not limited to Husband's 401(K) Plan and Roth IRA.

5.

EQUITABLE DIVISION -THE MARITAL RESIDENCE

The parties own certain real property, located at 557 Fairway Drive, Woodstock, Georgia 30189 (hereinafter "Marital Residence"). As equitable division of the Marital Residence, the parties hereto agree as follows:

(A) Commencing immediately, Wife shall have temporary possession in and to said Marital Residence, free and clear of any claim or interest of Husband. Unless the parties sell the Marital Residence pursuant to the terms herein below, Wife shall have exclusive and sole right, title, and interest in and to the Marital Residence upon payment of the funds set forth in Paragraph (D) below.

(B) Commencing immediately, Wife shall be solely responsible for and shall pay any and all expenses associated with the Marital Residence, including but not limited to debt service, property taxes, insurance, utilities, HOAs, lawncare, pest control, maintenance, and

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repairs, and all other expenses associated with the Marital Residence, and she shall fully indemnify and hold Husband harmless with regard thereto.

(C) Within thirty (30) days from the date of entry of this *Settlement Agreement*, Wife shall take any and all necessary measures to have all utilities transferred into her name alone, and Husband shall cooperate with same should Husband's cooperation be necessary.

(D) Within three (3) months from the date of entry of this *Final Judgment and Decree*, Wife either refinances the mortgage associated with the Marital Residence, for purposes of removing Husband's liability therefrom and paying to Husband the sum of \$145,000.00, in exchange for his equitable share of the Marital Residence, or in the event Wife does not refinance the mortgage associated with the Marital Residence within the aforesaid timeframe, the parties shall place the Marital Residence on the market for sale, where it shall remain until sold.

(E) The terms of the sale shall be governed by the *Agreement to Sell Marital Residence*, which is intentionally not filed herewith but nevertheless incorporated herein and shall be made part of the parties' *Settlement Agreement* and *Final Judgment and Decree of Divorce*. The parties are ordered to comply with all terms of the *Agreement to Sell Marital Residence* as if fully set forth herein. The *Agreement to Sell Marital Residence* shall be kept confidential, and shall not be disclosed to any third party for any reason (other than the listing agents, closing attorneys, lenders or other professionals involved with the sale of the residence), except in the event it becomes necessary for one party to enforce the *Agreement to Sell Marital Residence* against the other party, at which time it may be introduced into evidence in a court of competent jurisdiction for that purpose.



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(F) Husband shall not grant any deeds to secure debt conveying to any lender any interest in the Marital Residence, or otherwise use the Marital Residence as security for any loan subsequently obtained by him, and in the event any creditor of Husband has obtained (as of the date of this *Settlement Agreement*) or will obtain (following entry of the *Settlement Agreement*), any lien (excluding the mortgage) against the Marital Residence, Husband shall cause said lien to be removed *instantly*, and he shall be fully responsible for the liability giving rise to said lien, and he shall fully indemnify and hold Wife harmless with regard thereto.

(G) Until such time as Husband's liability is removed from the mortgage Husband has been paid the sum set forth above or as set forth in the *Agreement to Sell Marital Residence*, whichever applicable, and except in conjunction with the above-required refinance, if applicable, Wife shall not grant any deeds to secure debt conveying to any lender any interest in the Marital Residence, or otherwise use the Marital Residence as security for any loan subsequently obtained by her, and in the event any creditor of Wife has obtained (as of the date of this *Settlement Agreement*) or will obtain (following entry of the *Settlement Agreement*), any lien (excluding the mortgage) against the Marital Residence, Wife shall be fully responsible for the liability giving rise to said lien, and she shall fully indemnify and hold Husband harmless with regard thereto.

(H) For 2024 taxes, Wife shall be entitled to the mortgage and property tax deductions associated with the Marital Residence.

(I) Upon request of Wife, Husband shall execute a *Quitclaim Deed*, in favor of Wife, transferring his right, title and interest in and to the Marital Residence. However, said



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Quitclaim Deed shall be held in escrow by Husband's attorney if and until same is needed to effectuate the refinance. It shall be Wife's responsibility and expense to prepare and file said *Quitclaim Deed*.

6.

AUTOMOBILES

Wife shall retain ownership of the 2015 Chevrolet Impala currently in her possession and titled in her name, free and clear of any claim by Husband. Wife shall be responsible for any and all expenses related to said vehicle and shall fully indemnify Husband and hold him harmless from any losses or expenses related to the vehicle.

Husband shall retain ownership of the 2014 Ford F150, and 2016 Harley-Davidson motorcycle free and clear of any claim by Wife.. The parties daughters shall retain the 2015 Chevrolet Malibu LT, and 2006 Honda Pilot 4WD, currently titled in Husband's name free and clear of any claim by either party. Husband shall be responsible for any and all expenses related to his vehicles and shall fully indemnify Wife and hold her harmless from any losses or expenses related to the vehicles.

Each party shall be solely responsible for insurance costs on all vehicles titled in his or her name.

7.

THE 529 COLLEGE SAVINGS ACCOUNT

The parties acknowledge and agree that Wife is the custodian of two (2) Path2College 529 College Savings Accounts, totaling approximately \$39,000.00, for the benefit of the parties'

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children. The funds contained in said Accounts shall be used for the payment of any and all eligible or qualifying expenses allowed by the children's 529 College Savings Accounts.. The parties daughters shall remain the beneficiaries of the 529 accounts for so long as they are eligible. The definition of "eligible" and "qualified" college expenses shall be determined by the policies of the 529 College Savings Accounts. Wife shall not be required to make distributions from said 529 College Savings Accounts for expenses of the children, which are not eligible or not qualified. Any funds remaining in said account after eight (8) years following the entry of the *Final Judgment and Decree of Divorce* shall belong to Wife.

8.

MYRTLE BEACH TIME SHARES

Wife is awarded the parties' two (2) time shares located in Myrtle Beach, South Carolina, free and clear of any claim by the Husband. She shall assume the existing deeds on the properties in her sole name within sixty (60) days of entry of the divorce decree, with any costs associated with removing Husband's name from the deeds to be paid for by Wife. Husband shall promptly cooperate with Wife to have his name removed from the deeds, including by completing and executing any and all transfer forms or substantially similar documents necessary to effectuate this provision. Wife shall indemnify, defend, and hold the Husband harmless from the payment of any expenses or costs for the timeshares.



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9.

MARRIOTT BONVOY POINTS

As equitable division of property, the Husband shall take any and all necessary measures to transfer to Wife's Marriott Bonvoy Points Account 100% of Husband's Marriott Bonvoy Points, within thirty (30) days of the date of entry of this *Settlement Agreement*, for her exclusive use, possession, and ownership, free and clear of any claim by the Husband. In the event it is determined by Marriott Bonvoy that such points are non-transferable, then in such case, Husband shall hold such points for Wife in a constructive trust, for use only by Wife, and upon Wife's desire to use said points, Wife shall provide written notification to Husband (email or text is sufficient), indicating her desire to use said points. Husband shall then, within seven (7) days, provide Wife with any and all information necessary for her to utilize the points, including but not limited to Husband's Marriott Bonvoy Member Number and other account information necessary to access and use said points. At no time shall Husband use the Marriott Bonvoy points awarded to Wife herein.

10.

DEBTS

The Parties acknowledge that they have no joint debts except as to the mortgage referenced in Paragraph Five (5) above. They each shall be solely responsible for any and all debts they have incurred in their names. They warrant and acknowledge that neither of them has contracted in the name of the other or in any way subjected the other to any liability for any debt or debts incurred prior to this agreement. They further covenant and agree that henceforth neither party shall contract

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in the name of the other or in any way subject the other to any liability for any debt or debts incurred subsequent to this agreement. The parties agree to hold each other harmless and entirely free and indemnified of and from any and all debts, charges and liabilities incurred by the parties on an individual basis.

11.

ALIMONY

Each party waives any claims and rights each has or may have to alimony, maintenance and support of any nature, whether in the form of periodic payments, lump sum payments, or awards of property from both parties separate property, separate estate or otherwise. Both parties, in signing this *Settlement Agreement*, intend this to be a knowing and express waiver of their statutory rights of modification of alimony, up or down, pursuant to O.C.G.A. § 19-6-19, or any and all future laws regarding alimony modification as may be enacted in this or any other state, and the parties are specifically relying upon the case of *Varn vs Varn*, 242 Ga. 309. Accordingly, the parties declare and agree that there shall be no payments in this agreement that shall be taxable income to either party nor a deduction to either party for tax purposes; no payments in this agreement, regardless of the character of such payments under the laws of any jurisdiction, shall be included in the gross income of the recipient or allowable as a deduction to the payor under the Internal Revenue Code. The provisions of this section do not change and are not intended to change the character of any payments under this *Agreement* for purposes of any state laws, federal bankruptcy laws, or any other laws of any jurisdiction. Each party forever waives their right to assert a claim for support or alimony against the other party.

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12.

MEDICAL INSURANCE

Each party shall be solely responsible for obtaining, maintaining, and paying for his or her own premiums associated with his or her medical insurance coverage and medical, dental, vision and hospitalization expenses not covered by insurance, including, but not limited to, co-payments, deductibles, and other non-covered services of any nature, and each shall indemnify, defend, and hold the other harmless from the payment of same.

13.

ATTORNEY'S FEES

Each party shall be solely responsible for all attorney fees that they each incur in connection with this matter.

14.

BREACH

If either of the parties breaches any provision of this Agreement, the other party shall have the right, at her or his election, to sue for damages for such breach and maintain an action for separation or seek such other remedies or relief as may be available to her or him. In the event either party employs an attorney to enforce the terms of this Agreement, the breaching party shall pay the nonbreaching party a reasonable sum for attorney's fees and costs of enforcement, whether legal action is commenced.



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GENERAL PROVISIONS


A. **Modification and Waiver** - A modification or waiver of this Agreement or any provision thereof shall not be effective for any purpose unless the same is made in writing and executed with the same formality as this Agreement. The failure of either Husband or Wife to insist upon strict performance of any provision of this Agreement shall not be construed to be a waiver of any subsequent default or performance of the same or similar nature.

B. **Applicable Law** - This Agreement shall be construed and governed in accordance with the laws of the State of Georgia, entirely independent of the forum where it may come up for construction or enforcement by the laws of the State of Georgia.

C. **Partial Invalidity** - If any provision or provisions of this Agreement is or are held to be invalid or unenforceable, all other provisions are, nevertheless, continued in full, force, and effect.

D. **Implementation of Agreement** - Husband and Wife agree to execute any documents required to affect the terms of this Agreement and to perform any other legal act required to implement or effectuate the terms and intentions of this Agreement.

E. **Full Settlement and Release** - The provisions of this Agreement are intended and accepted by Husband and Wife as a full and final settlement of any and all rights or obligations either may have from or to the other arising out of or in any way incidental to their marriage to each other. Husband and Wife acknowledge that each has read the provisions of this Agreement and had the reasonable opportunity for the advice of counsel of his or her choosing, irrespective



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of whether he or she actually sought, accepted or disregarded such professional advice, and further acknowledge that each of them is satisfied with the provisions of this Agreement and enters into same voluntarily and without duress.

Subject to the provisions of this Agreement, each party by this Agreement does for himself or herself, and for his or her heirs, legal representatives, executors, administrators and assigns, release and discharge the other of and from any and all actions, suits, debts, claims, demands and obligations whatsoever, both in law and equity, which each of them ever had, now has or may cause or think up to the date of the execution of this Agreement.

Furthermore, except as herein otherwise provided, each party hereby releases and relinquishes any and all right he or she may hereafter acquire as spouse in the present or future laws of any jurisdiction to share in the Estate of the other party upon the latter's death. This paragraph is intended to constitute a mutual waiver by the parties to take against each other's last wills and testaments under the present or future laws of any jurisdiction whatsoever. Both parties waive any legal right he or she may have to be appointed administrator or administratrix of the Estate of the other. However, nothing herein contained is intended to, or shall, constitute a waiver or release by either party of any voluntary testamentary provision that the other may choose to make for his or her benefit.

F. Non-Use of Other's Credit – Effective on the date of execution of this Settlement Agreement, neither Husband nor Wife may hereafter incur any debt obligations upon the credit of the other, and each shall indemnify defend and save the other absolutely harmless from any debt obligation so charged or otherwise incurred.

G. Acknowledgments, Warranties and Representations - Each party hereto acknowledges, warrants, and represents that he or she:

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1. Read this Agreement in its entirety and fully understands each and every term and provision hereof;
2. Executed this Agreement freely and voluntarily without the interference, duress, or coercion of anyone whomsoever;
3. Fully understands the facts and circumstances surrounding the other party hereto and determined for himself or herself that the terms and provisions hereof are reasonable, fair, and adequate;
4. Fully understands his or her legal rights, duties, responsibilities, and obligations concerning the aforesaid marriage, the other party hereto, and any and all matters encompassed by this Agreement.

H. Paragraph Headings - All paragraph headings appearing herein are intended to facilitate reference to the term and provision hereof and are not in any manner to be deemed to affect the construction or meaning of any term or provision.

I. Equitable Division - The parties have made the settlement and division of assets and liabilities between the parties deliberately and consciously with an express desire that it be equitable. The parties considered this to be an equitable division of jointly owned or marital assets and apportionment of joint or marital liabilities. The settlement and division are not considered alimony or settlement of any property right unless herein specifically so designated. Rather it constitutes an equitable division of property between the parties, a division that both parties find and declare to be fair and equitable. All property received and retained by either party as set forth by this Agreement, whether or not said is specifically mentioned herein, shall be and remains the separate property of the party receiving or retaining same, and may be hereafter freely sold or otherwise disposed of by said party.

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J. Separate Indebtedness - Other than that which is provided for hereinabove, each of the parties shall be solely responsible for any indebtedness incurred by said party and shall indemnify and hold the other harmless from any liability associated with same.

K. Charge Accounts and Credit Cards - Except as set forth herein, Husband and Wife shall immediately, as of the date of execution of this Agreement, either change all credit card and charge accounts jointly held to individual accounts in their own respective names or cancel such accounts. Husband and Wife both represent and warrant to each other that they shall not incur any debts or make any contracts for which the other or the other's estate may be liable from the date of this Agreement. If either party violates this provision, and as a result thereof one party is obligated to make a payment or payments for the other party, the violating party agrees to indemnify the paying party for the amount of such payment and attorney's fees that may be incurred by said party to enforce this indemnity provision. Both parties acknowledge and warrant that each of them has made a full and complete disclosure of all liabilities owned on any unpaid jointly held credit accounts.

L. Separate Property - After the execution of this Agreement, the separate property titled to or in the possession, custody or control of Wife, except as otherwise provided by this Agreement, shall remain hers free and clear of any claims of Husband, and the separate property titled to or in the possession, custody or control of Husband, except as otherwise provided by this Agreement, shall remain his free and clear of any claims of Wife. Neither party shall make any claim, now or in the future, to any property owned, titled or possessed by the other unless otherwise provided for by the terms and provisions of this Agreement. The term "separate property" is used in the context of this paragraph shall include the furniture and furnishings of the parties and any bank accounts, insurance policies, retirement accounts, investments, or investment property,

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personalty, motor vehicles, and any and all other asserts owned by the parties which are not specifically set forth in this Agreement.

M. Legal Representation - Each of the parties acknowledges that the Wife is represented by Stephanie Wilson, Esq., of Stephanie Wilson Family Law, L.L.C., and the Husband is represented by John H. Killeen, of Bodker, Ramsey, Andrews, Winograd & Wildstein, P.C., as of the signing of this Agreement.

N. Joint Efforts - Each party has carefully read and considered this Settlement Agreement and is completely aware not only of its contents but also of its legal effect. Because this Settlement Agreement is a joint effort of the parties, it should be construed with fairness as between the parties and not more strictly enforced against one or the other party.

16.

EFFECTIVE DATE

This Agreement shall become fully effective and binding on the date first above written, which shall henceforth be known as the “date of execution of this Agreement”.

WITNESSETH OUR HANDS AND LEGAL SEALS

IN WITNESS WHEREOF, the parties have hereunto affixed their respective hands and seals, as follows:

Myriam Rivera Sepulveda

MYRIAM RIVERA SEPULVEDA
Plaintiff

Michael G. McAdams

MICHAEL GIRARD McADAMS
Defendant

MRS

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Document History



SENT

06 / 05 / 2024

18:17:45 UTC

Sent for signature to Myriam Rivera Sepulveda (myriamrivera01@gmail.com) and Michael McAdams (michaelgmcadams@bellsouth.net) from kelly@kschifferlaw.com
IP: 75.6.199.37



VIEWED

06 / 05 / 2024

18:18:07 UTC

Viewed by Myriam Rivera Sepulveda (myriamrivera01@gmail.com)
IP: 149.102.242.169



VIEWED

06 / 05 / 2024

18:18:42 UTC

Viewed by Michael McAdams (michaelgmcadams@bellsouth.net)
IP: 96.77.80.225



SIGNED

06 / 05 / 2024

18:21:04 UTC

Signed by Myriam Rivera Sepulveda (myriamrivera01@gmail.com)
IP: 149.102.242.169



SIGNED

06 / 05 / 2024

18:25:46 UTC

Signed by Michael McAdams (michaelgmcadams@bellsouth.net)
IP: 96.77.80.225



COMPLETED

06 / 05 / 2024

18:25:46 UTC

The document has been completed.